



Andhra Pradesh Vigilance Commission Government of Andhra Pradesh

VIGILANCE MANUAL VOLUME - II

(Updated 2022)

CIRCULARS AND FORMS

**Printed and Published by
Director General, A.P. H.R.D. Institute**

For official use only



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Y.S. JAGAN MOHAN REDDY



AMARAVATI

CHIEF MINISTER
ANDHRA PRADESH

MESSAGE

Shouldering responsibility to steer the State of Andhra Pradesh towards a clean and corruption free State, steady efforts have been made by my Government to ensure that all the stakeholders act with integrity, accountability and transparency to fulfill the aspirations of the people. A comprehensive anti corruption strategy including robust legal frameworks, effective enforcement mechanisms and public awareness has been built up to "Leave no one Behind" for reaping the benefits of development and welfare schemes in fair and transparent manner. Continuous steps have been taken towards institutional strengthening, leveraging technology and innovation to promote transparency and accountability in Government processes. Setting up of Village and Ward Secretariats towards effective service delivery to the public, identification of beneficiaries through surveys conducted by Village & Ward volunteers with display of lists for social audit and unprecedented volume of Direct Benefit Transfer (DBT) have instilled confidence in people about the fair and transparent working of the Government. To encourage and facilitate public participation, feedback systems and citizen led monitoring, mechanisms such as dedicated toll-free number, Mobile application for reporting corrupt practices in Government Offices and జగన్నాకు చెబుదాం (JKC), a dedicated public grievance redressal system, have been developed to ensure citizen centric administration.

Government seeks the commitment and action of all the stakeholders including the Government institutions, development partners, civil society and citizens with special emphasis on ethics and integrity to join hands to fight against corruption and keep up the spirit of clean and corruption free governance in the State.

I am happy to note that Vigilance Commission has made in-house efforts in presenting the second edition of the comprehensive Vigilance Manual incorporating the provisions of various Acts, Rules, regulations and executive instructions issued during last two decades. Their commitment is greatly valued and appreciated. I am sure this will improve the capacity of the functionaries to deal with vigilance matters in fair and efficient manner.

I assure my continued support to all the stakeholders in their future endeavors to fight against corruption.

(Y.S. JAGAN MOHAN REDDY)

FOREWORD

I am happy to note that Andhra Pradesh Vigilance Commission is presenting the second edition of the Comprehensive Vigilance Manual (Volumes I to IV). The first edition of the Manual was published in the year 2003. Since then, there have been several amendments made to the Acts and Rules pertaining to Vigilance matters. Many new Regulations, Circulars, Instructions & Memoranda have been issued from time to time and many landmark judgments have been given by various Courts. Hence, it was essential to have an updated edition of the Vigilance Manual as a comprehensive reference book on Acts and Rules pertaining to prevention of corruption, criminal misconduct, disciplinary proceedings and other such vigilance matters as a ready reference for the Vigilance functionaries.

The comprehensive volumes have been systematically presented with indices to enable the reader to locate the legal provisions, judicial pronouncements and executive instructions on almost all the relevant aspects of vigilance administration. The updated Manual is the result of thorough consultation with the Anti-Corruption Bureau and the departments of General Administration, Finance and Law. The four volumes of Draft Manual were published by General Administration Department on its website to invite suggestions & comments from the departments.

It is essential for vigilance functionaries including investigating agencies, disciplinary authorities, inquiry officers and others dealing with disciplinary proceedings and criminal prosecution of public servants to have a thorough knowledge of the relevant statutes, rules, procedures and the latest instructions on the subject. This updated Manual will act as a guide to build their capacity to deal with the disciplinary proceedings in professional and accurate manner.

I am confident that the vigilance functionaries will find the updated version of the Comprehensive Vigilance Manual very useful in discharging their responsibilities more effectively and efficiently.

While I place on record my appreciation for the inhouse efforts of AP Vigilance Commission in bringing out the latest version of Vigilance Manual (updated till December, 2022), I compliment all other stakeholders for their contribution.

Dr. K.S.JAWAHAR REDDY

Chief Secetary to Government
Andhra Pradesh

PREFACE

Andhra Pradesh Vigilance Commission published its first edition of Vigilance Manual in the year 2003 (Volume-I to IV) comprising of various Acts, Rules, Regulations, instructions and guidelines pertaining to vigilance administration.

During the last two decades, many new developments have taken place. Number of instructions, guidelines and memoranda have been issued by the Government from time to time. Some amendments have also been introduced in A.I.S. (D&A) Rules, 1969; A.I.S. (Conduct) Rules, 1968; A.P.C.S. (CC&A) Rules, 1991 and A.P.C.S. (Conduct) Rules, 1964. The Prevention of Corruption Act, 1988 has been amended. The A.P. Special Courts Act, 2016 and the A.P. Special Courts Rules, 2017 have also been introduced. The A.P.C.S. (DPT) Act, 1960 has been repealed by the Act 29 of 2022. Number of judgements have also been pronounced by various courts on the various issues related to Vigilance Administration.

Therefore, it was felt essential to publish an updated edition of the Vigilance Manual as a knowledge resource on vigilance matters for the use of vigilance functionaries. The updated Manual in four volumes serves as a comprehensive reference book with ready access to the relevant literature on prevention of corruption, criminal misconduct, disciplinary proceedings and related matters of vigilance as on 31.12.2022. Both physical and electronic forms of Manual are made available to Investigating Officers, Vigilance and Administrative Functionaries and Disciplinary & Inquiring Authorities etc for their ready reference.

Volume-I of the Manual deals comprehensively with all aspects of vigilance particularly relating to investigation and prosecution of cases of bribery and corruption and disciplinary proceedings in relation to misconduct by public servants. Volume-II has two parts. Part-I contains G.Os., Memoranda, U.O. Notes etc., issued by the Government from time to time on vigilance and related matters. Part II contains 'Forms'

prescribed for use while dealing with disciplinary proceedings and for various other purposes. Volume-III 'Digest of Case Law' incorporates important cases decided by the Supreme Court of India, the High Courts and the Central Administrative Tribunals on vigilance matters. Volume-IV contains text of various Acts and Rules pertaining to vigilance matters.

Commission wishes that the vigilance functionaries find this as a valuable knowledge resource to deal with the vigilance matters.

Looking forward to the feedback and suggestions for improvement of the Manual in its future edition.

VEENA ISH

Vigilance Commissioner

ACKNOWLEDGEMENT

The Andhra Pradesh Vigilance Commission would like to express its sincere gratitude to Dr. Sameer Sharma, I.A.S., former Chief Secretary to Government of A.P. and Dr. K. S. Jawahar Reddy, I.A.S., Chief Secretary to Govt. of A.P. for their generous support through APHRDI to assist the Vigilance Commission in taking up this work.

Commission would like to thank Sri J.S.V. Prasad I.A.S (Retd.), Sri J. Syamala Rao, I.A.S., former Director Generals of A.P.H.R.D.I., and Sri R.P.Sisodia, I.A.S., Director General, Sri P.S.Pradyumna, I.A.S., Joint Director General, A.P.H.R.D.I. for their due contribution in providing support of Experts, manpower and in printinting of the Manual.

Commission would like to thank Sri H. Arun Kumar, I.A.S., Sri Mutyala Raju Revu, I.A.S., Dr. Pola Bhaskar, I.A.S., Secretaries to Government, General Administration Department for their cooperation towards the completion of process of updating A.P. Vigilance Manual.

Commission also acknowledges the support and cooperation extended by Sri P.S.R. Anjaneyulu, I.P.S., Sri K.V.Rajendranath Reddy, I.P.S., Director Generals of A.C.B. Commission appreciates the efforts of Sri G.V.G. Ashok Kumar, I.P.S., Additional Director of A.C.B., and Sri Ch. Ramachandra Murthy, Chief Legal Advisor of A.C.B., for providing legal citations for Volume - III of Manual.

Commission acknowledges the valuable assistance rendered by Sri V. Sridhar, Chief Technical Officer, A.P.V.C. in coordinating with all agencies and bringing these volumes to the final shape.

Commission would place on record its appreciation for detailed study, hard-work and the time spent by Sri S.Subrahmanyam, Assistant Secretary to V.C. towards this project right from initiation till its successful completion.

Commission also recognises the efforts and services of Assistant Secretaries to the Vigilance Commissioner, Smt V. Padmavathi,

Sri G. Srinivasa Rao, Sri C. Vinaya Srinivas, and appreciates their dedication in ensuring the successful completion of this project.

Commission also acknowledges the vital contributions of Section Officers Sri A. Vasu Kishore Reddy, Smt. P. Ratnaveni, Sri H.K. Ramesh, Sri A.H. Prasad Sarma, Sri D. Jithendranath Reddy, Smt. R. Rajya Lakshmi and Assistant Section Officer Sri C. Raghavendra Kumar and Private Secretaries Sri Ch. Sambasiva Rao, Sri G. Venkata Swamy and all others who extended their services to complete the task.

Finally, the Commission wishes to extend its special appreciation to Sri B. Ramachandra Rao, Deputy Secretary to Government, (Political) for his exceptional services in compilation of this Manual.

DISCLAIMER

1. Vigilance Manual in four volumes (updated 2022) is intended only to be a reference book and it cannot be a substitute for Acts, Rules, Orders, Instructions etc. of various authorities.
2. Commission has taken great care to provide accurate and updated information in the Vigilance Manual. However, Commission will not be responsible for any loss or damage caused to any person on account of any errors or omissions which might have crept in.
3. Commission does not take responsibility for accuracy and completeness of third - party Circulars/ Citations, etc. referred in the Manual.
4. Commission welcomes suggestions on content or form and inadvertent errors or omissions in this Manual for further improvement.

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PART - I

1. LIST OF CIRCULARS

G.Os., Memoranda, U.O.Notes etc issued by Government of Andhra Pradesh

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1.	U.O.Note No.11145/55-2 Home (Ser-C) Dept., dt.01.06.1955 regarding Public Service Commission; deviation from advice to be circulated to Governor. Subject Heading: Andhra Pradesh Public Service Commission - deviation from advice	1
2.	U.O.Note No.6929/58-1 of Law Department, Government of Andhra Pradesh, dt.14.04.1958 regarding claiming of privilege in Courts in respect of official records. Subject Heading: Documents - claiming of privilege	1
3.	G.O.Ms.No.949, Genl.Admn. (Ser.A) Dept., dt.15.06.1959 regarding Government Servant seeking permission to sue Government in respect of matters relating to conditions of service etc. Subject Heading: Suing Government - by Government Servants	7
4.	G.O.Ms.No.677, Genl.Admn. (Ser.D) Dept., dt.30.05.1961 regarding enquiries against Government Servants in cases of corruption - consolidated instructions. Subject Heading: ACB - consolidated instructions on enquiries / investigation of corruption cases	8
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7.	Memo.No.864/63-5 Genl.Admn. (Ser.D) Dept., dt.01.10.1963 regarding making use of statements recorded earlier to contradict witnesses, if they turn hostile, in departmental inquiries. Subject Heading: Hostile witnesses - appreciation of evidence	22
8.	Memo.No.2083/SC.D/63-6, Genl. Admn. (SC.D) Dept., dt.22.11.1963: Clear cases of misappropriation to be referred to Crime Branch, C.I.D. instead of Anti-Corruption Bureau. Subject Heading: Misappropriation - clear cases refer to C.I.D.	22
9.	Memo.No.2568/Ser.C/63-3, Genl.Admn. (Ser.C) Dept., dt.27.11.1963 (as amended by Circular Memo.No.1361/Ser.C/65-2, G.A.(Ser.C) Dept., dt.28.09.65) regarding action to recover loss from concerned authority for failure to comply with mandatory provisions before terminating service or reducing to a lower post. Subject Heading: Loss - recovery of	23
10.	Memo.No.3037/64-3, Genl.Admn. (Ser.C) Dept., dt.26.11.1964: Deterrent measures to be taken against corrupt and inefficient officers and penalty of dismissal be normally imposed. Subject Heading: Corruption - deterrent measures Subject Heading: Administrative action - where prosecution or departmental action not possible	24

11.	Memo.No.380/65-1, Genl.Admn. (Ser.C) Dept., dt.24.02.1965 regarding taking of action against disciplinary authority for failure to follow procedure.	27
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13.	D.O.Lr.No.418/65-2, Genl.Admn. (Ser.C) Dept., dt.16.04.1965 regarding observance of courtesies by Officers in their dealings with MLAs and MPs.	29
	Subject Heading: MLAs, MPs - observance of courtesies and promptness	
14.	Memo.No.1072/65-1, Genl.Admn. (Ser.C) Dept., dt.19.05.1965 regarding procedure for submission of petitions.	32
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15.	Memo.No.2044/65-2, Genl.Admn. (Ser.C) Dept., dt.17.08.1965 regarding effect of release on bail after detention in custody on a criminal charge or otherwise for a period exceeding 48 hours.	33
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PART - I

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GOVERNMENT OF ANDHRA PRADESH**

(1)

U.O.Note No.11145/55-2, Home (Ser-C) Dept., dt.01.06.1955 regarding Andhra Pradesh Public Service Commission; deviation from advice to be circulated to Governor.

Subject Heading : Andhra Pradesh Public Service Commission - deviation from advice

Under rule 31(1)(xxxiv) of the Madras Government Business Rules as applied to the State and Andhra, all cases in which it is proposed to deviate from the advice tendered by the State Public Service Commission shall be circulated to the Chief Minister before issue of orders. In 1952, the Special Officer for re-organisation of the Secretariat of the Composite Madras State suggested that in view of the importance attached by the Constitution to the State Public Service Commission, it seems but proper that all cases in which it is prepared to deviate from the advice tendered by the State Public Service Commission should be circulated to the Governor before issue of orders and that Business Rule 31(2) may be amplified accordingly. The suggestion has been examined and it has been decided that it is not necessary to provide for this by a rule but that it will be sufficient if a convention is established that all cases, in which it is proposed to differ from the advice tendered by the Commission, are circulated to the Governor for information.

Departments of the Secretariat are requested to bear in mind the above convention in dealing with cases in which it is proposed to deviate from the advice given by the Commission and circulate such cases to the Governor also, before the issue of orders

(2)

U.O.Note No.6929/58-1, of Law Department, dt.14.04.1958 regarding claiming of privilege in Courts in respect of official records.

Subject Heading : Documents - claiming of privilege

Privilege in Courts in respect of official records

I. Questions often come up before the Government in regard to the scope and extent of privilege that can be claimed in

courts under the Indian Evidence Act 1872 (Central Act 1 of 1872) in respect of official records.

Section 123 of the Act enacts that no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

Section 124 ordains that no public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

Section 162 enjoins that a witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility, that the validity of any such objection shall be decided on by the Court and that if it sees fit, may, inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

II. General principles underlying Sections 123, 124 and 162 :

1. The principle underlying Section 123 is that disclosure of confidential and secret information contained in unpublished official records relating to the affairs of State would be prejudicial to public interest. Section 124 is also founded on public policy that communications made to a public officer in 'official confidence' should not be disclosed. The communication may be oral or in writing and the confidence reposed may be express or implied. Under Section 124, which is confined to public officers, the public officer is the person who has to decide as to whether a disclosure will or will not be against the public interests. Under Section 123, which embraces every person, the discretion rests with the head of the department concerned. If a document comes within the ambit of Section 123, the Court cannot inspect it, though it can take other evidence to determine the character attributed to the document. But if the document falls within the scope of Section 124, the Court can inspect it to determine the claim of privilege.
2. It is manifest from Section 162 that where a privilege is claimed under Section 123 or Section 124, the question is one for the Court to decide and not the head of the department or the public officer concerned. The

position, therefore, is that when a public officer is summoned to produce a document in respect of which he desires to claim privilege under those sections, he is bound first to produce it in court under Section 162, notwithstanding any object that he may have as to its admissibility, and then claim privilege for it in the proper way by an affidavit. But once the court finds that the document is of the kind in regard to which privilege can be claimed, namely, that it is an unpublished official record relating to any affairs of State or that it is a communication made in official confidence, the question whether disclosures of contents would be against the public interests and whether privilege should be claimed for it or not, is entirely within the discretion of the head of the department or the public officer concerned. If, on the other hand, the Court holds that the document does not relate to any affairs of State or that it is not a communication made in official confidence no privilege can be claimed under Section 123 or Section 124, as the case may be.

III. Legal position with regard to the claim of privilege under Section 123 and the procedure to be followed in respect thereof :

1. For a privilege under Section 123, two questions are involved, namely, (i) whether the document in respect of which privilege is claimed is a document of the kind described in that section, that is, unpublished official record relating to affairs of State; and (ii) whether the disclosure would be against public interest. No privilege can be claimed in relation to documents the contents of which have already been published. Where a report is circulated to a limited circle of officials, the circulation of the report being limited, does not amount to publication.
2. The expression “affairs of State” includes any matters of a public nature with which the State is concerned. It can be emphatically stated that note files are in fact the most confidential and secret documents of the State in which the views of the several Departments and Ministers are expressed most candidly and unreservedly. A Court of law should uphold an objection taken by a public Department when it is called upon to produce such a document, if the public interest requires that it should be withheld. If a public department comes forward and says that the production of a document is detrimental to the public service, it is a very strong step indeed for the Court to overrule that statement by the Department. The question whether the publication of a document is or

is not detrimental to the public service depends upon various points of view from which it may be regarded and it cannot be said that the Court is in possession of these various points of view. A Department of Government to which the exigencies of the public service are well known must determine a question of this kind for itself and as such no indulgence should be shown to a party who claims the production of documents like note files. Production of note files can be withheld either because of their actual contents or because they are a class of documents which should be kept secret for the proper functioning of the public service. In such a case, the Court should not require to see the document for the purpose of ascertaining whether disclosure would be injurious to the public interest - vide Duncan vs. Camell, Daird & Co., (1942-A.C. 624).

3. As indicated already, production of documents should be withheld only when the public interest would by their disclosure be injured, as where disclosure would be injurious to national defence, or to good diplomatic relations or where the practice of keeping a class of documents secret is necessary for the proper functioning of the public service. Some High Courts have pointed out the circumstances under which no such privilege should be claimed, e.g. privilege is not to be claimed on the mere ground that the documents are State documents or are official or marked confidential or, if promoted, would result in Parliamentary discussion or public criticism or would expose dearth of efficiency in the administration or tend to lay a particular department of Government open to a claim for compensation.
4. For the purposes of Section 123, the expression 'officer at the head of the department' may be held to mean the officer who is in control of the department and in whose charge the records of the department would remain. Ordinarily, such an officer would be the Secretary to the Government in the Secretariat or other Heads of Departments like Board of Revenue, Inspector General of Police, Inspector General of Local administration, Director of Agriculture etc. The mere fact that the officer at the head of the department concerned does not wish the documents to be produced, is not an adequate justification for taking objection to their production. Before claiming privilege, the head of the department should examine the relevant document carefully and his affidavit should contain an indication as to the nature of the document, as to why privilege is claimed, what injury to public interests is apprehended, or what affairs of State are involved. A bare statement that in his opinion the disclosure

would be against public interest is not enough. He should indicate the nature of the suggested injury to the interests of the public, and it is desirable that a statement should be put in saying that he has considered the document carefully and has come to the conclusion that it cannot be produced without injury to public interest.

5. It has been held by the Madras High Court in Narayanaswamy vs. State of Madras, 1952 M.L.J. 375, that it is desirable but not indispensable that the records should be sent in a sealed cover through the officer of the department claiming privilege and that the statement of the head of the department would be considered conclusive unless for compelling reasons to the contrary and the privilege will be upheld. So, the safe working principle under section 123 is to produce the records in question in a sealed cover and reiterate the claim of privilege. While claiming privilege, the grounds on which the claim is based must be set out by the concerned Secretary to the Government or the head of department in an affidavit in Form No.I appended to this U.O.Note. The Court will generally accept the statements in the affidavit and uphold the privilege claimed.
6. A Government Servant other than the Head of a Department who is summoned to produce an official document should first determine whether the document is in his custody and he is in a position to produce it. In this connection, it may be stated that all official records are normally in the custody of the head of the department and it is only under special circumstances that an official document can be said to be in the custody of an individual Government Servant. If the document is not in the custody of the Government Servant summoned he should inform the court accordingly. If, under any special circumstances, the document is in the custody of the Government Servant summoned, he should next determine whether the document is an unpublished official record relating to affairs of State and whether privilege under Section 123 should be claimed in respect of it. If he is of the view that such privilege should be claimed or even if he is doubtful of the position, he should refer the matter to the head of the department, who will issue necessary instructions and will also furnish the affidavit in Form No.I. The Government servant who is to attend a Court as a witness with official documents should, where permission under Section 123 has been withheld, be given an affidavit in Form No.I duly signed by the head of

the department. He should produce it when he is called upon to give his evidence, and should explain that he is not at liberty to produce the documents before the Court, or to give any evidence derived therefrom. He should, however, take with him in a sealed cover the papers which he has been summoned to produce.

IV. Legal position with regard to the claim of privilege under Section 124 and the procedure to be followed in respect thereof :

1. Courts have adopted a basic principle for deciding whether a particular document is a communication made in official confidence to a public officer or not, namely, whether the document produced or the statement made was under the process of law or not. If the former is the case, it would be difficult to say that a document produced or statement made under the process of law is a communication made in official confidence. If, on the other hand, a document is produced or a statement is made in a confidential departmental enquiry not under the process of law but for the gathering of information by the department for guiding them in the future action, if any, they have to take, it would be a case of communication made in official confidence. The question whether a communication was made in official confidence is for the court to decide but the public officer concerned is the sole judge whether it should or should not be disclosed.
2. A Government Servant who is summoned to produce an official communication which is made to him in official confidence should first determine whether the public interests would suffer by its disclosure. If he considers so, he should claim privilege under Section 124 in Form No.II appended to this U.O.Note. In case of doubt, he should seek the advice of the head of the department. When he is not attending the court himself to give evidence, he shall have it sent to the court along with the documents. The person through whom the documents are sent to court should submit the affidavit to the court when called upon to produce the documents. He should take with him the documents which he has been called upon to produce but should not hand them over to the court unless the court directs him to do so. In such a case, privilege should be claimed under Section 124 and the documents should not be shown to the opposite party, nor they should be marked as exhibits in

any proceedings. If the document is not in his custody, he should inform the court accordingly.

(Note: See Part II for Proformae (Nos. 37, 38)

(3)

G.O.Ms.No.949, Genl.Admn. (Ser.A) Dept., dt.15.06.1959 regarding Government Servant seeking permission to sue Government in respect of matters relating to conditions of service etc.

Subject Heading : Suing Government - by Government Servants.

Read :

G.O.Ms.No.2413, Home (Ser-A) Department, Government of Andhra, dt.19.11.1954.

ORDER :

In the Government order read above instructions were issued that whenever a Government Servant threatens to seek redress in a Court of Law in respect of any matter connected with his employment or conditions of service, he may simply be informed that the threatened suit is awaited and that if he goes to court before exhausting the normal official channels of redress, disciplinary action can be taken against him.

2. The Government of India in their office Memorandum No.F.25/3/59-Ests (A), dt.21.04.1959 have expressed the view that the Government Servants in the matter of grievances arising out of their employment or conditions of service should, in their own interest and also consistently with official propriety and discipline, first exhaust the normal official channels of redress before they take the issue to a Court of Law and where permission to sue Government in a court of law for the redress of such grievance is asked for by any Government servant either before exhausting the normal official channels of redress or after exhausting them, he may be informed that such permission is not necessary and that if he decides to have recourse to a court of law, he may do so on his own responsibility. The Government of Andhra Pradesh agree with the Government of India and direct in supersession of the orders issued in the G.O. cited as follows :

- a) Government Servants seeking redress of their grievances arising out of their employment or conditions of service should, in their own interest and also consistently with official propriety and discipline, first exhaust the normal official channels or redress before they take the issue to a Court of Law;
- b) whenever a Government Servant asks for permission to sue Government in a Court of Law for the redress of his grievances either before exhausting the normal official channels or redress or after exhausting them, he may be informed that such permission is not necessary and that if he decides to have recourse to a Court of Law, he may do so on his own responsibility.

(4)

G.O.Ms.No.677, Genl.Admin. (Ser.D) Dept., dt.30.05.1961 regarding enquiries against Government Servants in cases of corruption - consolidated instructions.

Subject Heading : ACB - consolidated instructions on enquiries / investigation of corruption cases

Read :

G.O.Ms.No.5, G.A.(Ser.D) Dept., dt. 2-1-61.

ORDER :

The Government have recently enacted the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 and the rules under the Act will be issued shortly. They have also constituted a new Anti-Corruption Bureau with effect from 02.01.1961 to deal with cases of corruption on the part of Government servants and issued certain instructions regarding the scope and functions of Anti-Corruption Bureau in the G.O. cited. The following consolidated instructions are issued for the general guidance of all Heads of Departments and Departments of Secretariat in dealing with cases of corruption :

PART – I

I. Definition and meaning of corruption :

The word “corruption” has not been defined specifically in any enactment. Rule 2(a) of the A.P.C.S. (Disciplinary Proceedings Tribunal) Rules, 1953 defines corruption as follows:-

“Corruption shall have the same meaning as criminal misconduct in the discharge of official duties under section 5(1) of the Prevention of Corruption Act (Central Act II of 1947)”

The following are some of the forms in which corruption is generally noticed :

- a) Money paid in return for an official favour. For example, money paid to an Engineer by a contractor for favourable check-measurement of the work.
- b) Money extorted under duress, or threat or false pretences. For example, a Police Officer arresting one of the parties in a civil dispute and taking money to drop further action.
- c) Exacting money by refraining to take action required by law or departmental orders, for example, refraining from taking action against persons engaged in illicit distillation of arrack or dealing in adulterated food stuffs, etc.
- d) Mamools paid not for any favour, but in pursuance of an established practice and usually for the enjoyment of a legitimate right, for example, money paid by ryot to Public Works Department officials on the basis of acreage for the supply of water irrigation.
- e) Supplies given by subordinate officers to their superiors in camps or headquarters.
- f) Money or other supplies received by an officer in power from a subordinate for his transfer to a particular station, or for his inclusion in promotion list etc.

II. SOURCE OF INFORMATION :

- (i) The Chief sources of information are petitions received by the Government, Heads of Departments and the Anti-Corruption Bureau. These petitions may be anonymous or pseudonymous or signed.
- (ii) Anonymous or pseudonymous petitions should not ordinarily be relied upon. Where, however, such petitions contain specific allegations or

factual allegations capable of verification, a probe into which is likely to disclose an act of corruption, action may be proposed. Cases where there are persistent allegations of corruption, and the officer has been of bad reputation over a long period may also be referred to the Bureau, but such cases should be rare.

- (iii) Occasionally, information against an officer may become available to the Anti-Corruption Bureau or to any other investigating officer while conducting an enquiry against another officer.

PART – II

I. Procedure to be followed on petitions received :

1) Petitions received by Government :

Casual petitions i.e., petitions which are not sufficiently precise and which make allegations against officers of considerable standing whose integrity has not been previously suspected, should be examined on their merits in the Departments concerned and a decision reached as to whether or not there is prima-facie case or adequate grounds for further examination. Petitions engineered by disgruntled elements against officials with a good reputation should be rejected and ignored. Vexatious enquiries which are likely to become an unnecessary source of irritation, annoyance or embarrassment should be avoided. Consultation with Subordinate Officers may in certain cases help the Government in taking decision quickly but in no case should such consultation be with officers below the level of the Head of the Department. Where Heads of Department are so consulted this should be distinctly told that the matter should not go beyond them without the specific orders of Government. The Head of the Department should also at the same time be informed that if he feels that he cannot send any useful remarks without consulting his subordinates, he should report the fact to Government and suggest the particular officer or officers who is to be consulted. The Government will then consider the matter and issue suitable instructions either authorising the Head of Department to consult the officer or officers suggested by him or suggesting some other alternative. If the petitions are against the Head of Departments themselves, the administrative departments should not refer the petitions to them but examine whether there is a prima-facie case or adequate grounds for further investigation.

In the case of subordinates of the Board of Revenue, the District Collector may be consulted directly instead of through the Board. In cases where the allegations are against Non-Gazetted Officers or Gazetted Officers other than the Collectors or District Heads, the petitions may be forwarded to the District Heads for enquiry and report to Government through the Board of Revenue.

Where it is considered that there is a case for investigation by the Anti-Corruption Bureau, the case should be first examined in the administrative department concerned and sent to the General Administration (SC) Department for advice. Cases against I.A.S. and I.P.S. (including select list of officers holding cadre posts) and Heads of Departments should be submitted to Chief Secretary for orders before referring them to the Anti-Corruption Bureau. If it is considered that investigation by the Anti-Corruption Bureau is necessary, against Gazetted Officers orders should be obtained in circulation to the Minister or the Ministers concerned and the Chief Minister. In the cases against Non-Gazetted Officers it is not necessary to obtain orders in circulation. The Administrative Departments concerned themselves may address the Anti-Corruption Bureau direct for further investigation.

In all cases, before a petition is referred to the Anti-Corruption Bureau for enquiry, it is desirable that the Head of the Department should be consulted in the first instance unless it is felt that a reference to the Head of the Department may lead to the loss of secrecy or the allegations are numerous and specific or are of a very serious nature and may be true.

When Departments of the Secretariat take action or forward such petitions to the Anti-Corruption Bureau for investigation, they are requested to inform the Heads of Departments etc., when there is a definite indication that copies of the petitions have been forwarded to them, not to make enquiries in regard to those cases independently of the Anti-Corruption Bureau, in view of their direction to the Anti-Corruption Bureau for doing the same.

Where it is proposed to take action on anonymous or pseudonymous petitions it must be authorised by a Minister or an Officer, not lower in rank than the Secretary to Government. Where an I.C.S. or an I.A.S. Officer (including a select list officer holding a cadre post) or Heads of Departments are involved, the Chief Secretary to Government should be consulted first. No action need be taken at Government level on copies of anonymous or pseudonymous petitions received by Government where the original is addressed to a Departmental officer.

2) Petitions received by Heads of Departments and District Heads :

In all cases where petitions alleging specific instances of corruption against Gazetted Officers are received by the Heads of Departments or District Heads, the administrative officers should submit them to the Government in the concerned administrative department, with their recommendation. In making these recommendations the administrative officers are expected to make a close examination of the petitions taking into consideration the past reputation of the official complained against. In respect of Non-Gazetted Officers, the administrative departments for the Heads of Departments should first satisfy themselves on their own knowledge or through departmental enquiries that there is a prima facie case, before they refer the matter to the Anti-Corruption Bureau for enquiry. It must be remembered that as a rule only cases where there are reasonable grounds for suspicion against the Government servants will be referred to the Anti-Corruption Bureau for enquiry. Where persistent allegations are made against an officer with a generally bad reputation over a long period such a reference may also be made but such instances will be rare. Petitions prima facie engineered by disgruntled elements against honest officials should be ignored and rejected. Personal enquiries into cases of corruption against officials of Revenue Department by Collectors may usually be restricted at their discretion to cases against officers of the rank of Deputy Tahsildars and above and those relating to the officers below the rank of Deputy Tahsildars, may be investigated by the Revenue Divisional Officers or Tahsildars concerned.

3) Petitions received by Anti-Corruption Bureau :

Petitions containing allegations against Government servants received by the Anti-Corruption Bureau staff, should in respect of Gazetted Officers be submitted to Government along with the preliminary report after discreet enquiries have been made suo-moto. In respect of Non-Gazetted Officers, the petitions received by the Anti-Corruption Bureau may be forwarded to the Heads of Departments direct along with preliminary report for necessary action. However in cases where the Director, Anti-Corruption Bureau considers that no further action is necessary on any petition, he need not submit it with any report to Government or to the Heads of Departments as instructed earlier.

II. Investigation of cases by the Anti-Corruption Bureau :

The Bureau should conduct an open or regular enquiry in the case of Gazetted Officers only after obtaining the orders of the Government. In the case

of non-Gazetted Officers, the Director of the Bureau may order such an enquiry with the concurrence of the Head of the Department concerned. In the case of any difference of opinion between the Director and the Head of a Department, the Director may refer the matter to the Government for decision.

In investigation of cases by the Police Officers of the Bureau, the Officers of other Departments drafted into the Bureau should assist or guide the Police Officers in the investigation of cases of their respective or allied Departments. They should also assist the Bureau in gathering of intelligence about the existence of corruption and the lacunae, if any, in the administrative and financial procedures followed in the Departments concerned and suggest measures for reducing the scope for corruption.

It is the duty of the Director, Anti-Corruption Bureau to satisfy himself in the first place that the persons who come forward to give evidence are themselves reliable and are not inspired by personal motives, such as revenge etc.

During the regular investigation of a corruption case, the accused officer, may, if he wishes, be given an opportunity to explain the circumstances or case against him before a responsible officer of the Anti-Corruption Bureau so that the truth could be elicited and further investigation into the allegations which are satisfactorily explained need not be pursued. Such opportunity should be given only during a regular investigation and not during the preliminary and discreet enquiry. The accused officer should be contacted personally at home or office and should not be summoned for the purpose unless he agrees to meet an officer of the Bureau anywhere in the state at his office. In the case of Gazetted Officers, the contact should be by a gazetted officer of equivalent or preferably higher rank.

III. Traps :

It is considered that well-planned and well-directed traps have gone a long way in apprehending corrupt public servants in flagrante delicto and in successfully prosecuting them in a Court of Law. An Officer who is notorious for corruption and an adept in that art cannot easily be booked in the usual way and corruption charges proved against him successfully unless there is a direct trap. Such extreme cases will, therefore, require special treatment. Therefore, the Anti-Corruption Bureau may also resort to laying of traps, using their discretion well in choosing cases for laying traps and observing the other usual formalities required for resorting to such a course. Traps in the case of Gazetted Officers should be with the permission of the Chief Secretary.

IV. Assistance to Anti-Corruption Bureau and production of official records :

In the course of investigation the Anti-Corruption Bureau may require official records for reference. The Heads of Offices concerned should hand over the official records to the requisitioning officer of the Anti-Corruption Bureau when demanded and the permission of the Head of the Department is not ordinarily required for this purpose. The Head of the office should render all such assistance as may be required by the investigation staff. When the Head of the office is away on tour and if he is not likely to return to the Headquarters soon, the ministerial head of the office should obtain the orders of the Head of the office by post urgently for producing records to the Anti-Corruption Bureau. The records should not only be produced on the spot for perusal but should also be handed over to the officer of the Anti-Corruption Bureau if he desires.

Regarding the requisition of records of Government for purposes of investigation against a non-Secretariat Officer, the request should come from the Director of Anti-Corruption Bureau who should be in a better position to decide whether such records are strictly essential for the purposes of investigation. As Government records often contain minutes of Ministers, Cabinet decisions etc., they should not be made available to the Anti-Corruption Bureau without sufficient justification.

In respect of records from the offices of Heads of Department or Collectors, a Gazetted Officer of the Anti-Corruption Bureau should alone call for the records when the investigation is against Gazetted Officers and an Inspector of Police or his equivalent in ranking in the Anti-Corruption Bureau, when the investigation is against Non-Gazetted Officers.

V. Officers authorised to give assurance to the witnesses: (omitted)

PART – III

Report of the Anti-Corruption Bureau :

On completion of investigation and open or regular enquiry, the Director, Anti-Corruption Bureau should send his final report to Government through the Vigilance Commission both in the case of Gazetted and Non-Gazetted Officers in two parts i.e. Parts 'A' and 'B' in duplicate. Part 'A' should contain a secret report given in complete confidence containing full particulars of the investigations for the information of the Government, and Part 'B' should contain confidential report of only relevant information and also the statements of witnesses to be

communicated by Government to the Heads of Department or the Tribunal for Disciplinary Proceedings for taking disciplinary action. The duplicate copy of Part 'B' and the statements of witnesses should not contain any signature or indication as to who took the statements. The Vigilance Commission will forward the original copy of Part 'A' and both copies of Part 'B' (together with the statements of witnesses) with its advice to the administrative department concerned.

The Director, Anti-Corruption Bureau should also send simultaneously a copy of Part 'A' to the concerned administrative department for any comments which it may wish to forward to the Commission. Similarly a copy of Part 'A' should be sent to the Chief Secretary, General Administration (SC) Department for information and circulation to the Chief Minister and the Minister concerned in advance. After circulation the report will be filed in General Administration (SC) Department. An extract of the minute of the Minister concerned or the Chief Minister, if any, should be communicated to the Administrative Department concerned by the General Administration (SC) Department. The Director, Anti-Corruption Bureau may also send direct to the Head of the Department Part 'B' of the report in cases relating to the Non-Gazetted Officer.

The administrative department should send only the copy of part 'B' report either to the Head of the Department or to the Tribunal, as the case may be, along with one set of copies of statements of witnesses for further formal enquiry. The latter should be attested by an officer in the concerned administrative department before transmission to the Tribunal or the Head of the Department. Part 'A' of the report should not be communicated to any of them.

When making references to Heads of Departments about enquiries made the Anti-Corruption Bureau or while issuing orders in cases of corruption against Government Servants etc., the sources of investigation should not be divulged. So, instead of using the expression "It has been ascertained by the Anti-Corruption Bureau etc." the following expression may be used :

"It has been ascertained by discreet enquiries through the appropriate departments etc."

PART – IV

Action to be taken in the Secretariat Department on the report of the Anti-Corruption Bureau.

After the report of the Anti-Corruption Bureau is received, the Government in the Administrative Department concerned in the case of Gazetted Officers or the Head of the Department in the case of Non-Gazetted Officers will decide:

- 1) whether criminal prosecution should be launched ; or
- 2) whether departmental proceedings will be sufficient ; or
- 3) whether the enquiry should be entrusted to the Tribunal for Disciplinary Proceedings

If Criminal prosecution is to be launched in the case of Gazetted Officers, the Government will take appropriate action in consultation with the Director, Anti-Corruption Bureau. In the case of Non-gazetted Officers, the Heads of Department will take further action for the prosecution in consultation with the Director, Anti-Corruption Bureau. In a case in which the Director of the Bureau, himself proposes launching of criminal prosecution direct he should obtain the sanction of the Government in the case of Gazetted Officers and the appointing authority concerned in the case of Non-Gazetted Officers.

If Departmental action alone is considered sufficient, in the case of Gazetted Officers, the Government will take appropriate action under the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules. In the case of Non-Gazetted Officers the Head of the Department will take similar action.

In the case of Gazetted Officers, the Government will decide whether the matter should be referred to the Tribunal for Disciplinary Proceedings and if they decide so, they should send all the relevant records to the Tribunal for Disciplinary Proceedings for necessary action.

In respect of the Non-Gazetted Officers, drawing Rs. 150 and above, the Head of the Department will consider the report of the Director, Anti-Corruption Bureau and forward it to the Government in the administrative department concerned for orders if he consider that such cases need be referred to the Tribunal for Disciplinary Proceedings.

Where the enquiry is to be entrusted to the Tribunal for Disciplinary Proceedings, the staff of the Anti-Corruption Bureau and the Departmental Heads should help it in securing the necessary documents and production of witnesses.

After the enquiry, by the Tribunal for Disciplinary Proceedings, or by the Departmental authority, as the case may be, is over and a provisional conclusion

as to the punishment to be imposed is reached, appropriate action should be taken as indicated in the Andhra Pradesh Civil Services (Classification Control and Appeal) Rules, or the corresponding disciplinary rules issued for the purpose.

*[A copy of the report of the forum that has conducted the enquiry, whether it be the Tribunal for Disciplinary Proceedings or the Commissioner for Departmental Enquiries, should be communicated to the Director, Anti-Corruption Bureau, along with a copy of the final orders passed by the Government. As the report is intended only for the information of the Anti-Corruption Bureau, the Director, Anti-Corruption Bureau should not, however, comment on the report of the Tribunal for Disciplinary Proceedings or the Commissioner for Departmental Enquiries.]

* substituted by Memorandum No. 2317/Ser.D/73, G.A.(Ser.D) Dept., dt.25.06.74.

The above instructions will not apply to the officers in the Judicial Department of and above the rank of Judicial Second Class Magistrates and the Officers and staff of High Court.

PART – V

MISCELLANEOUS

1. Government Servants against whom the Anti-Corruption Bureau are making enquiries, should not be granted leave, except under exceptional circumstances, to prevent them from tampering with the course of an enquiry. Where leave on Medical Certificate is asked for, the Medical Certificate should be got scrutinised by the proper Medical Officer of the Government before leave is granted.

2. If a Government Servant against whom charges of corruption are pending, attains the age of superannuation and if the charges are not so serious as to necessitate suspension i.e., charges likely to entail removal or dismissal, he may be permitted to retire on a provisional pension. In the final orders that are to be passed on the charges a suitable reduction in pension may be made, if necessary.

If however, the charges are so serious as to entail removal or dismissal, the Government servant should not be required or permitted to retire, but placed under suspension. Where a Government servant is placed under suspension he should be specifically informed that he would not be allowed to retire on the date on which he is due to retire, pending conclusion of the departmental proceedings.

CIRCULAR NO. (5)

The enquiry should naturally be expedited, and the Bureau therefore informed of the action taken.

(Paras 3 and 4 regarding assurance to witnesses omitted)

5. Where there is good reason to believe that the allegations made against a Government servant are false or malicious and he wishes to take legal proceedings against the person making them, the Head of the Department or the District Head of the Office, in which the Government servant is employed, as the case may be, may arrange for the necessary legal aid by the appropriate law officer of the Government. The sanction of the State Government or of the Head of the Department as the case may be, is necessary for granting legal aid in cases where the person defamed is the Head of the Department or the District Head.

APPENDIX

ASSURANCE FORM TO BE GIVEN TO WITNESSES WHO ASK FOR IT IN WRITING

(omitted)

(5)

Memo.No.4923/61-1, Genl.Admn. (Ser.D) Dept., dt.27.12.61: Government Servants to render assistance to Anti-Corruption Bureau as mediator witnesses in laying of traps.

Subject Heading : Traps - Government Servants as mediator witnesses

It has been the practice to take the assistance of some private individuals as witnesses whenever traps are laid for corrupt Government Servants. In some cases these private individuals who acted as witnesses during the trap, have been gained over by the accused officers and have turned hostile when examined in Courts, or by the Tribunal for Disciplinary Proceedings or Departmental authorities, with the result that the accused officers escaped punishment. Successful investigation of cases of corruption is the utmost importance and the witnesses chosen should be very reliable. To ensure this, the Government

direct that all Government Servants, particularly Gazetted officers, should cooperate with the officers of the Anti-Corruption Bureau or the Special Police Establishment, whenever they are approached by these officers to assist or witness a trap. The Heads of Departments will please bring these instructions to the notice of their subordinates. The officers of the Anti-Corruption Bureau and the special police establishment may show a copy of this memorandum to any officer when they approach for assistance in these matters.

(6)

**Memo.No.2004/SC.C/62-2, Genl.Admn. (SC.C) Dept., dt.03.10.62:
Laboratories / experts to extend facilities to Anti-Corruption Bureau in
conducting enquiries / investigation.**

Subject Heading : ACB - laboratories to extend facilities

The conference of the Special Police Establishment and State Anti-Corruption Officers held at New Delhi in November, 1960 discussed the question of the creation of a central pool of technical experts to help in the investigation of corruption cases. At the instance of the Conference, the Government of India appointed a Sub-Committee to examine this question. One of the terms of reference of the Sub-Committee was to consider the adequacy of existing facilities and make suggestions for action to be taken to improve them. After examining this item the Sub-Committee recommended that it would be necessary to send general directive to the institutions and organisations which offer technical assistance and conduct laboratory tests to extend the facilities available with them and to give full cooperation to the investigating agencies whenever approached for expert opinion, laboratory tests of technical advice.

2. A statement showing the institutions and organisations existing in this State which offer technical assistance and conduct laboratory tests is enclosed. The officers in-charge of these institutions and organisations are requested to extend facilities available with them and to give full cooperation to the Anti-Corruption Bureau to this State, the Special Police Establishment of the Government of India, Hyderabad, and the Anti-Corruption Agencies of other States whenever they approach them for expert, laboratory test or technical advice.

EXPERTS WHO MAY BE CONSULTED ARE LISTED HEREUNDER

S.No.	Technical assistance Name of the centre	Test Laboratories Name of the centres	Articles undertaken for test
1	State Public Works Dept., including Highways etc.	Engineering Research Dept., Red Hills, Hyderabad.	Bricks, Cement, Mortar stone.
2	_____	Forensic Science Laboratory, Hyderabad.	Paints
3	_____	Engineering Research Dept., Red Hills, Hyd. & Agricultural Dept.	Soil, Water etc.
4	Technical Experts of Departments like Engineering, Electri city, Agriculture etc.	_____	Quality standard, make etc., of (a) Machinery tools, implements etc. and (b) Electrical goods installations and stores
5	Technical Experts of the Departments such as Jail, Textiles, Industries, and purchase Organisations	Forensic Science Laboratory and Departmental Laboratories in the State such as Textile Experts etc.	General assessment of quality and cost of stores like furniture, cloth, equipment etc.
6	Technical Officers of the State Transport Departments like Motor Vehicle Inspectors, State Motor Workshops and	_____	Opinion and assessment regarding Motor Vehicles, Motor parts, approximate

	Technical Officers of the State Transport Service and recognized and reputed motor garages.		mileage that a vehicle has done, condition of tyres, consumption of petrol, life of parts etc.
7	—	State Finger PrintBureau, Hyderabad.	Examination of thumb impressions and finger prints.
8	—	Examiner of questioned documents and recognised and reputed private experts.	Examination of handwriting.
9	—	State Forensic Science Laboratory, Chemical Examinerand Examiner of Questioned Documents.	Examination of age of Documents, seals,interpolations, over-writing and erasersand types of paper.
10	—	Public Analyst, StateHealth Laboratory,Chemical Examinerand State Forensic Science Laboratory	Analysis of medicinesand drugs.
11	Printing and Stationery Department, Hyderabad.	Forensic Science Laboratory and Govt. Chemical Examiner.	Quality of stationeryand paper etc.
12	Technical Officers of the State Department concerned.	Public Analyst,State Public Health Laboratory, Stage Agricultural Laboratory, ForensicScience Laboratory and Chemical Examinerand ChemicalExaminer	Quantitative andqualitative analysisof food grains,cereals, oils,fodder, etc.

(7)

Memo.No.864/63-5 Genl.Admn. (Ser.D) Dept., dt.01.10.1963 regarding making use of statements recorded earlier to contradict witnesses, if they turn hostile, in departmental inquiries.

Subject Heading : Hostile witnesses - appreciation of evidence

A question has been raised whether the statements recorded by the Anti-Corruption Bureau could be made use of by the Enquiry Officer for contradicting or cross-examining the prosecution witnesses and if so, whether copies of the same can be given to the accused officers. After careful consideration, it is clarified that there is no objection to the enquiry officer furnishing copies of the said statements to the Accused Officer if he asks for them. The Enquiry Officer can also make use of the statements recorded by the Anti-Corruption Bureau to contradict the witnesses, if they turn hostile during the departmental enquiry.

(8)

Memo.No.2083/SC.D/63-6, Genl.Admn. (SC.D) Dept., dt.22.11.1963: Clear cases of misappropriation to be referred to Crime Branch, C.I.D. instead of Anti-Corruption Bureau.

Subject Heading : Misappropriation - where to refer to C.I.D.

Ref : 1. From the Director, A.C.B., Hyd., Lr.Rc.No.18/Mis/63, dt.12-9-63.

2. From the I.G. of Police, Lr. L.Dis No. 1132/T3/63, dt.22-10-63.

The Director, Anti-Corruption Bureau has suggested in his letter first cited, that all cases of clear misappropriation of Government moneys may be referred to the Crime Branch, C.I.D. instead of the Anti-Corruption Bureau so that the disposal of several other cases might not be delayed. The suggestion has been examined in consultation with the Inspector General of Police and it has been decided that only clear cases of misappropriation or fraud in which a *prima facie* case has been made out should in normal way be referred to the Crime Branch, C.I.D. for investigation instead of the Anti-Corruption Bureau.

(9)

Memo.No.2568/Ser.C/63-3, Genl.Admn.(Ser.C) Dept., dt.27.11.1963 regarding action to recover loss from concerned authority for failure to comply with mandatory provisions before terminating service or reducing to a lower post.

Subject Heading : Loss - recovery of

Ref: 1. Govt., Memo.No.1753/58-15, G.A.(Ser.C) Dept., dt.19-6-60.

2. From the Chief Conservator of Forests, Lr.No.5433/63-A2, dt.6-8-63.

In the Government Memo 1st cited, instructions have been issued in regard to the procedure to be followed in disciplinary cases and the Heads of Departments and the Departments of Secretariat were requested to follow those instructions scrupulously while conducting departmental enquiries against Government employees under Civil Services (CC&A) Rules. It has been brought to the notice of Government that in regard to the procedure to be followed in disciplinary cases, the officers empowered to impose major as well as minor penalties generally commit procedural irregularities resulting in ultimate loss to Government by way of pay and allowances paid to the persons wrongfully discharged or dismissed when they are reinstated.

2. It is emphasised that, if the mandatory provision of Article 311 (2) of the Constitution of India, embodied in Rule 17(b) and Rule 22 of the Andhra and Hyderabad Classification, Control and Appeal Rules, respectively and the detailed instructions laid down in memo cited, are not followed by any of the punishing authorities, the discharge, dismissal or reduction in rank of a Government servant might be held void and status quo ante would have to be maintained. This, in turn, results in loss to Government, because the setting aside of the order of dismissal, removal or reduction to a lower post means either payment of full salary or subsistence allowance for the period between the invalid order and the order setting it aside. The penalty of "recovery from pay of loss thus caused to Government" may be imposed upon such officer under the Andhra or Hyderabad Civil Services (CC&A)Rules. The responsibility for non-compliance with the requirements of article 311 may be fixed upon the officer by taking proceedings under the C.C.&A Rules against him on a charge of willful default or gross negligence in observing the requirements of the said article and the C.C.&A Rules.

3. The Government have therefore decided that in all cases where the circumstances leading to a Government servant's reinstatement reveal that the authority which terminated his service, either wilfully did not observe, or though gross negligence failed to observe the proper procedure as laid down in the A.P.C.S.(CC&A)Rules, 1963, before terminating his vice, proceedings should be instituted against such authority under Rule 19 of the said rules and the question of recovering from such authority the whole or part of the pecuniary loss arising from the reinstatement of the Government Servant should be considered. (Substituted vide Circular Memo. No.1361/Ser.C/65-2, G.A.(Ser.C) Department, dt.28.09.1965).

4. The Heads of Departments are, therefore, requested to endorse a copy of this circular to each of the Heads of Offices or officers empowered to impose the particular penalties on Government Servants for their information and guidance.

(10)

Memo.No.3037/64-3, Genl.Admn. (Ser.C) Dept., dt.26.11.1964 : Deterrent measures to be taken against corrupt and inefficient officers and penalty of dismissal be normally imposed.

Subject Heading : Corruption - Deterrent measures

Subject Heading: Administrative action - where prosecution or departmental action not possible

Government have examined measures to intensify action against corruption and inefficiency, with a view to cleaning the administration and ensuring integrity and efficiency in higher ranks. Corruption, especially, in higher ranks is of a rather devious nature and, therefore, very often, it may be difficult to get sufficient evidence for proving a specific offence in a court of law or in a departmental enquiry even against an officer who has a reputation of being corrupt. Again though an officer may be in the latter part of his service when the demands of his family will be highest, reports of inefficiency will be undesirable. Therefore, cases of officers of the above categories should not be viewed leniently. In order to deal with such cases of corruption and inefficiency, the following instructions are issued :

1. Confidential reports on corrupt officers: The officers, who become notorious for corruption, generally, start their corrupt practices in a small way and gradually enlarge their activities if they are not checked in the initial stage.

If the Head of the Department is vigilant and makes efforts to know what his subordinates are doing, not only inside their office, but outside, he will often get information, soon after an officer starts indulging even in small corruption and if at that stage the officer is called and reprimanded he will most probably reform himself. In those cases, in which an officer has been reprimanded once, but is again complained of, some more severe action viz., transfer to a less important charge or an adverse remark in the confidential annual report, could be taken. For this purpose it would be useful if each officer, maintains a confidential register in which he may enter all the information that comes to his notice and which has a bearing on the integrity of the officers immediately subordinate to him. This register will also come in handy at the time of writing annual confidential reports. In this connection, an officer should keep a careful eye on the standard of living and social habits, etc., of his immediate subordinates of Gazetted rank, so as to know if any of them are living beyond their means. Remarks about integrity are not always made freely in confidential annual reports. Even when something damaging is known it is not mentioned because, if challenged, the entry may have to be justified. It is necessary that there should be no reservation in making such, entries in the Personal Files.

2. Expedited action to be taken in disciplinary cases of corruption: In most of the disciplinary cases delay could be avoided, if the disciplinary proceedings are pursued from day to day, by the concerned officers. This is necessary because a time lag of a few years between the starting of the investigation against an officer and the punishment awarded to him, reduces much of the effect of the punitive action. As for the actual conduct of disciplinary proceedings, delays could be avoided by entrusting important cases, especially against Gazetted Officers, to one of the Senior Officers in superior ranks. In Departments where the number of disciplinary proceedings against Non-Gazetted Officers is high, special enquiry officers could be appointed for conducting oral enquiry in such cases.

3. Punishment to be imposed on officers in proved cases of bribery and corruption : In most of the departmental inquiries the charges relate to some departmental misdemeanour or negligence in the discharge of duties. Quite often, however, such negligence in the shape of failure to take some action or breach of departmental rules is attributable to corrupt motives, even though it may be impossible to prove actual mala fides. Such corrupt motives come into play in most of the cases, in which some pecuniary advantage has been given to some contractor etc., at the cost of Government. In all such cases viz., involving a substantial loss to Government and a corresponding gain

to the Contractor etc., severe punishment which should generally be dismissal, should be awarded even though the charge which is established, relates only to negligence or breach of departmental rules. The importance of awarding adequate punishment in proved cases of corruption cannot be over-emphasised. Administrative consideration should not be allowed, as a general rule, to influence the action to be taken in such cases. No punishment other than that of dismissal should be considered adequate in proved cases of bribery and corruption; and if any lesser punishment is to be awarded in such cases, adequate reasons should be given for it in writing.

4. Action to be taken against officers with respect to whom evidence for prosecution or departmental action may not be available:

It is desirable that some action should be taken even against those officers, with respect to whom sufficient evidence for prosecution or departmental action may not be available. Such action can only be administrative and can broadly be classified as follows :

- (i) Expression of displeasure by the Head of the Department or the Government ;
- (ii) Transfer to a less important charge ;
- (iii) Reversion to substantive rank, where it is possible without resort to regular Disciplinary Proceedings ; and
- (iv) Premature retirement.

5. The Measures at items (i) to (iii) above, may be adopted wherever possible. As regards item (iv) above, all the gazetted officers against whose integrity there is slightest doubt or those Government servants who have not been coming up to their responsibilities and who are found inefficient, and especially cases of officers of all categories who merely mark time and actually clog the wheels of administration should not be viewed leniently. Action may be taken to retire them from service, under Article 465-A of the Andhra Pradesh Pension Code or under rule 293 in the Hyderabad Civil Service Rules Manual, if they have completed 25 years or 30 years of qualifying service, as the case may be according to the pension rules, applicable to them. Heads of Departments and Departments of Secretariat are requested to undertake annual reviews of the cases of this type. Action taken by each Head of Department may be reported to the concerned department of Secretariat, and action taken by the Secretaries to Government in respect of their establishment to Chief Secretary in the month of February each year.

(11)

Memo.No.380/65-1, Genl.Admn.(Ser.C) Dept., dt.24.02.1965 regarding taking of action against disciplinary authority for failure to follow procedure.

Subject Heading : Disciplinary Authority - action against, for failure to follow procedure

Ref : Govt. Memo. No. 2568/63-3 G.A.(Ser.C) Dept., dt.27-11-63.

In the Government Memo cited, orders were issued that in all cases, in which the circumstances leading to a Government servant's reinstatement or restoration reveal that the punishing authority, either wilfully did not observe or through gross negligence failed to observe the proper procedure, before terminating his service or reducing him to a lower post, the Officer(s) concerned shall be held responsible for the financial loss, if any, caused to Government, on account of the payment of the salary and allowances for the intervening period.

2. A question has been raised whether action should be taken against the officers concerned, according to the instructions issued in the Memorandum cited, even in cases where the procedural irregularities have been committed before the date of the said Memorandum i.e., 27-11-1963, which came to notice after that date.

3. Rules 8 and 12 of the Andhra & Hyderabad Civil Services (C.C.&A) Rules, respectively, which were in force before they were repealed by the Andhra Pradesh Civil Service (Classification, Control and Appeal) Rules, 1963, provided for recovery of loss caused to Government. Thus even under the aforesaid old rules, the loss caused to Government in the circumstances such as those mentioned in para 1 above could be recovered from the officer found responsible for passing the faulty order. Hence even in cases of failure to observe proper procedure, in disciplinary cases, which were finalised before the date of the Memo. (27.11.63) and which came to notice after that date, action against the officers concerned may be taken, by taking proceedings under the Andhra Pradesh Classification, Control and Appeal Rules, for recovery of the loss caused to Government by the payment of pay and allowances to the employees, who had to be restored or reinstated in service.

(12)

Memo.No.401/65-1, Genl.Admn. (Ser.C) Dept., dt.27.02.1965 regarding circumstances in which and types of misdemeanour where Government Servants may be placed under suspension.

Subject Heading : Suspension - consolidated instructions

Ref : From the Government of India, Ministry of Home Affairs, Office Memo.No.431/56/AVD dt.22-10-64.

Under rule 13(1) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 a member of a service may be placed under suspension from service, pending investigation or enquiry into grave charges, where such suspension is necessary in the public interest. In para 18(b) in Appendix-VI to the said rules, it has been clarified that the object of placing an officer under suspension is generally to facilitate easy collection of evidence from witnesses, who may hesitate to depose against the Officer, as long as he is in Office, or to prevent the officer from tampering with witness or records.

2. The Government of India have stated that recommendation No.61, of the report of the committee on Prevention of Corruption has been considered and it has been decided that Public Interest shall be the guiding factor in deciding the question of placing a Government Servant under suspension and the disciplinary authority should have the discretion to decide this, taking all factors into account. The Circumstances in which a disciplinary authority may consider it appropriate to place a Government Servant under suspension as indicated by the Government of India, are detailed below for the guidance of the concerned authorities in this Government. These are only intended for guidance and shall not be taken as mandatory :

- (i) Cases where continuance in office of the Government Servant will prejudice the investigation, trial or any inquiry (e.g. apprehended tampering with witness or documents)
- (ii) where the continuance in office of the Government Servant is likely to seriously subvert discipline in the office in which the Public Servant is working.
- (iii) where the continuance in office of the Government Servant will be against the wider public interest (other than those covered by (1) and (2) such as there is a public scandal and it is 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 allegations have been made against the Government Servant and the preliminary inquiry has revealed that a *prima facie* case is made out which would justify his prosecution or his being proceeded against in departmental proceedings and where the proceedings are likely to end in his conviction and/or dismissal removal or compulsory retirement from service.

NOTE :

- a) In the first three circumstances the disciplinary authority may exercise his discretion to place a Government Servant under suspension even when the case is under investigation and before a *prima facie* case has been established.
- b) Certain types of misdemeanour where suspension may be desirable in the four circumstances mentioned are indicated below:-
 - (i) any offence or conduct involving moral turpitude;
 - (ii) corruption embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal again;
 - (iii) Serious negligence and dereliction of duty resulting in considerable loss to Government;
 - (iv) Desertion of duty; and
 - (v) refusal or deliberate failure to carry out written orders of superior officers.

In respect of the types of misdemeanour specified in sub-clauses (iii) (iv) and (v) discretion has to be exercised with care.

(13)

D.O.Lr.No.418/65-2, Genl. Admn. (Ser.C) Dept., dt.16.04.1965 regarding observance of courtesies by officers in their dealings with MLAs and MPs.

Subject Heading : MLAs, MPs - observance of courtesies and promptness

I am to state that complaints are being received frequently from the members of the Legislature that when they go to see officers, they are kept waiting long and that in some cases they do not get an interview even after waiting for a long time. The Chief Minister desires that unless the officers are engaged in an official meeting, the members of the Legislature should be allowed to see the officers as soon as possible after they are announced.

2. As will be appreciated, Members of the Parliament and of the State Legislature have important functions to perform under the Constitution. It should be the endeavour of every officer to co-operate and if necessary assist them, to the extent possible, in the discharge of their functions. In this connection, I am to invite a reference to the instructions contained in G.O.Ms.No.1293 General Administration (Services.A) dt.22.08.1958, which inter alia direct that :

- (i) For purpose of interview, Members of Parliament and Members of State Legislature should be given preference over other visitors, and in very rare cases where an officer is unable to see a Member of Parliament or State Legislature, at a time about which he had no previous notice, the position should be politely explained to the Member and another appointment fixed in consultation with him.
- (ii) When an officer is unable to accede to a request or suggestion of a Member of Parliament or State Legislature the reasons for the inability to do so should be courteously explained to him and where compliance with his request for information would be inexpedient, the officer should send a courteous reply that he is unable to furnish the information.
- (iii) When a request for information is received from Members of Parliament or State Legislature, on details of administration or any other factual information, the officer should immediately acknowledge it in a letter and tell the Member that a reply would be sent shortly and accordingly send it as soon as possible.
- (iv) The Collectors may, ordinarily, furnish Members of the Legislature or Parliament at their request with information within their cognizance such as statistics or facts relating to local matters or public concern.
- (v) No information shall ordinarily be given except by the principal officer of a department in the District.
- (vi) At public functions, seats befitting their position should be reserved for Members of Parliament and State Legislature

3. I would also invite your attention to the gist of instructions in Appendix II to the Indian Civil Services Manual (enclosed), which lay down certain broad principles governing the treatment of visitors. The instructions provide that it is one of the most important duties of all Government Officers and particularly of District Officers to be freely accessible to all who desire to see them on official business and that visitors should be received, whenever possible, unless some definite reason for refusal exists.

4. I am to request that the above instructions may be strictly followed and the officers under your control be told that complaints of uncivility to Members of Parliament or Members of Legislature or for that matter any visitor will be seriously viewed by Government.

A GIST OF INSTRUCTIONS IN APPENDIX II TO THE INDIAN CIVIL SERVICES MANUAL CONTAINING BROAD PRINCIPLES GOVERNING TREATMENT OF VISITORS.

1. It is one of the most important duties of all Government officers and particularly of District Officers to be freely accessible to all who desire to see them on official business or as a matter of courtesy, on important occasions. However, efficient an officer may be on paper or in his court, he is a failure, if he is not personally known to the people of his district or division. Also there is nothing which a person appreciates more than an opportunity of personal access to the officer concerned for representing orally his grievance or his point of view. Even when it is a foregone conclusion that the reply to a representation must be in the negative, it is a mistake on that account to decline to listen to argument within reasonable limits or to terminate curtly a discussion. A refusal or an inpalatable order is accepted with much greater resignation when the officer who has to issue it has listened to all that is to be said on the other side.

2. Visitors should invariably be received, whenever possible, unless some definite reason for refusal exists. On no account should peons or servants be permitted to refuse access to the officer, without his personal orders. They should have positive orders to announce by card or otherwise, every visitor who calls, and to leave it to the officer to say if he is unable to receive visit. Suitable arrangements should be made to provide a room or verandah or other suitable place for visitors to wait in. If an officer lets it be known that he prefers to receive visitors with certain hours, he will find that visitors will generally conform to his wish.

3. If, owing to unavoidable circumstances, it is impossible to receive a visitor at the time when he calls, a verbal message should not be sent by a peon or servant. A few words written on the back of the visitors card will be appreciated, and unless it is intended definitely to decline the visit, they should be accompanied by a civil request to call again at a named time.

4. When receiving a visitor by appointment, or when returning a call, an officer should be properly dressed. If he is working without a coat when a visitor is announced, he should have the civility to resume his coat before admitting him.

5. The length of the visit depends upon the visitor's business. If it is merely complimentary, ten minutes are ample. The host must therefore, himself indicate when he considers that it is time to terminate the visit or interview, which is easily done by merely rising with the remark that it has given pleasure to make visitor acquaintance or see him again, that the hour is late, that work is pressing or a few similar civil words.

6. Peons and servants very often demand, openly or impliedly money presents from visitors and, failing compliance, are apt to offer passive, if not active insolence. The greatest care should be taken to check this tendency, and detection should be followed by severe punishment. The visitors have a keen dread of the humiliation which it is sometimes in the power of menials to inflict upon them.

(14)

Memo.No.1072/65-1, Genl.Admn.(Ser.C) Dept., dt.19.05.1965 regarding procedure for submission of petitions.

Subject Heading : Petitions - procedure for submission

According to the proviso to rule XI of the Petition Rules, a person may send a copy of his petition direct to the Minister in charge if the representation is made after exhausting such of the statutory remedies as were open to him. The proviso to rule 21(3) of the Andhra Pradesh Civil Services (Conduct) Rules also provides for submission of a copy to the Minister in charge if the representation is made to Government after exhausting the normal channels. It has been decided that a Government employee should not submit advance copies of petition to higher authorities, except to the authority immediately above him, unless he has exhausted the available remedies. Even in such cases, a

Government employee should not submit a copy of petition to a higher authority unless he is told that his petition has been withheld. Therefore, as soon as a petition addressed to a higher authority through proper channel is received, the competent authority should inform the employee concerned, the action proposed to be taken on the petition within a fortnight from the date of receipt of the petition. If it is withheld, the fact should be intimated to the petitioner. Only after receiving an endorsement to this effect, it will be open for him to submit a copy of his petition to the higher authority.

2. It has also been decided that Government employees should not be allowed to forward complaints about other officers to the Vigilance Commissioner. In matters of administrative irregularities where a corrupt motive on the part of an officer is suspected a Government servant may represent to the higher authorities through proper channel. In this connection a reference is invited to item (5) in Memorandum No. 5171/53-1, General Administration (Services-D) Department, dated 4-3-1964.

3. All Heads of Departments and the Departments of Secretariat are requested to follow the above instructions carefully. They are also requested to bring these instructions to the notice of all the employees under their control.

4. Necessary amendments to Petition Rules and Government Servants' (Conduct) Rules will be issued separately.

(15)

Memo.No.2044/65-2, Genl.Admn.(Ser.C) Dept., dt.17.8.1965 regarding effect of release on bail after detention in custody on a criminal charge or otherwise for a period exceeding 48 hours.

Subject Heading : Suspension - deemed suspension on detention

A question has been raised whether a member of a service who was detained in custody on criminal charge or otherwise for a period exceeding forty eight hours and who, under sub-rule (2) of Rule 13 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules is deemed to have been suspended with effect from the date of detention, has a right to be restored to duty if he is granted bail.

2. It is clarified that a member of a service, who is deemed under the said sub-rule to have been suspended by an order of the competent authority to

suspend him, remains under suspension until further orders. The further orders contemplated by the said sub-rule are those of the competent authority or of a higher authority; under sub-rule (5) thereof. The competent authority or the higher authority, need not necessarily revoke the order of suspension when the member of a service, who is arrested and detained on a criminal charge or otherwise, for a period exceeding forty eight hours is released on bail, but the said authority may revoke the orders of suspension and admit him to duty, or grant him leave during the period, if applied for by him, if the said authority thinks fit to do so, having regard to the nature of the charge and the other circumstances of the case. The mere fact that the member of a service has been granted bail does not give him a right to be restored to duty.

(16)

Memo.No.1649/65-2, Genl.Admn.(Ser.C) Dept., dt.23.09.1965: Consultation with other officers in disciplinary cases, not permissible.

Subject Heading : Disciplinary Authority - consultation with others

An instance has come to the notice of Government, where in a disciplinary case against a Government employee, the authority competent to impose the penalty obtained the remarks of the intermediary officer on the explanations of the accused officer to the charge memo. and to the show cause notice, served on him, before passing final orders of dismissal. The Court of Law held that the competent authority did not exercise its independent judgment on the record of enquiry and that there was mechanical dependence upon the intermediary officer's remarks and conse-quently, the officer was denied the reasonable opportunity as envisaged in article 311 (2) of the Constitution of India. The procedure to be followed in every case, where it is proposed to impose on a Government employee any of the penalties specified in items (iv), (vi), (vii) and (viii) of Rule 8 of the A.P.Civil Services (CC&A) Rules 1963, has been prescribed in rule 19(2) of the said rules. The said rule does not provide for consultation with any other officer. The competent authority is, therefore, required to apply its mind independently to the record of enquiry, including the report of enquiry, if any, and come to the conclusion, whether the charges have been established or not, and if established, the quantum of provisional penalty that he considers to be consistent with the gravity of the charges held to have been proved.

2. The disciplinary proceedings against an officer are made up of two parts: (1) the enquiry (which involves a decision of the question whether the allegations made against the delinquent are true or not) and (2) taking action (i.e., in case, the allegations are found to be true, whether the delinquent should be punished or not and if so, in what manner). It is now well settled from the judicial pronouncements that the departmental proceedings taken against a Government employee are in the nature of judicial proceedings, in as much as, in the first part of the proceedings, referred to above, charges have to be framed, notice has to be served and also an opportunity to elect for a personal hearing or an oral enquiry has to be given. Consequently, any decision regarding the action to be taken against a Government employee, found guilty of misconduct, is judicial order.

3. It is, therefore, clarified that the punishing authority should apply its mind independently, at both the stages of disciplinary proceedings, as explained in para 2 above. The punishing authority should not call for the remarks of any officer, other than enquiry officer, at any stage of the case, before passing final orders.

4. The above instructions should be followed meticulously, so as to avoid the contingency of the proceedings being challenged in a court of law, on account of such consultation with other officers, who are not connected with such proceedings. The Departments of Secretariat should, therefore, give up the practice of consulting Heads of Departments on the report of the enquiry officer or of the Tribunal for Disciplinary Proceedings, in a routine manner, where the Government is the punishing authority. There is, however, no objection to consult the Heads of Department on any specific issue, other than the findings or the quantum of penalty, if such consultation is considered absolutely necessary. Similarly, the Heads of Departments also should give up the practice of consulting any officer, other than the enquiry officer.

(17)

Memo.No.2598/65-2, Genl.Adminn.(Ser.C) Dept., dt.25.09.65 regarding whether orders of penalty imposed in departmental action be reviewed consequent on acquittal in court.

Subject Heading : Departmental action and acquittal - Departmental action following regular procedure not affected by subsequent acquittal

A question has been raised whether an order passed imposing any major penalty on a Government employee after following the procedure prescribed in rule 19(2) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963, need be reviewed consequent on his acquittal in a Criminal court, if he was prosecuted, in addition to the departmental action taken against him. It is clarified that in a case where Government employee is removed or dismissed or reduced in rank after complying with the requirements of article 311(2) of the Constitution of India or of the provisions of rule 19(2) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, then the order of removal, dismissal or reduction in rank is not affected by his acquittal in a criminal court, if he is prosecuted in addition to the departmental action taken against him. If, however, a Government employee is removed or dismissed or reduced in rank, solely on the ground of conduct which led to his conviction on a criminal charge, without complying with the requirements of the aforesaid article or rule and if his conviction is eventually set aside by the appellate court or by the High Court, in revision, then, the order of removal, dismissal, or reduction in rank as the case may be cannot stand, and that order will have to be reviewed.

(18)

Memo.No.1933/65-4, Genl.Admn. (Ser.C) Dept., dt.28.12.1965 regarding discharge or reversion of temporary Government Servant or probationer in terms of appointment.

Subject Heading : Probationer - removal of

Subject Heading : Temporary Government Servants - removal of

Ref : G.O.Ms.No.848, G.A. (Ser.A) Dept., dt. 11-6-60.

In the G.O. cited instructions were issued that a probationer or a temporary Government employee may be discharged from service in accordance with the terms of his appointment. It was also laid down therein that in the case of temporary appointment or appointment on probation the appointment order should be worded carefully, indicating the condition therein that his services are liable to be terminated at any time, without notice, and without assigning any reason. It was also impressed that the grounds of discharge should not be specified in the order and the order should be non-committal and innocuous and should merely direct the reversion or discharge, invoking the particular provision in the terms of appointment.

2. An instance has come to the notice of Government where an emergency employee was placed under suspension pending enquiry against him. It is impressed that where the work and conduct of such employees are not satisfactory they should not be placed under suspension pending enquiry as it involves financial loss to Government, nor should disciplinary action be initiated against them but they should be discharged in terms of their appointment, by an innocuous order so as to avoid complication.

(19)

Memo.No.2676/65-12, Genl.Admn. (Ser.C) Dept., dt.20.05.1966 regarding implementation of penalty of withholding of increments in respect of Government Servants promoted before expiry of the period.

Subject Heading : Withholding increment - effect, in case of promotion

Under rule 8(1) of the Andhra Pradesh Civil Services (CC&A) Rules, 1963, the penalty of withholding of increments, among others, may be imposed on a member of a service, for good and sufficient reasons. The question was considered as to how to give effect to the penalty of withholding of increments, imposed on a Government employee, if he has been promoted to a higher post, before the expiry of the period for which his increments were withheld.

2. It is clarified that the intention of the above penalty is to inflict monetary loss to the Government servant concerned and it has therefore to be ensured that he does not escape this loss by his subsequent promotion. In such cases the following course of action may be adopted.

- a) the penalty may be reviewed by the authority to whom an appeal lies against the penalty imposed in the post from which he was promoted or by an authority, higher to that authority and an alternative penalty may be imposed on the promotion, namely, (i) in a case where on promotion to a higher post the delinquent officer's pay has been fixed at an intermediary stage in the time scale of pay of the post, the penalty of withholding of increments may be modified by reducing his pay in the higher post to a lower stage, for a specified period, keeping in view the amount of monetary loss that he would have sustained in the lower post had he not been promoted. The following illustration makes it clear. 'A'

at the time of imposing the penalty of withholding of increment was drawing a pay of Rs.410 in the time scale of pay of Rs.250-20-450-25-500. On promotion to a post carrying a scale of pay of Rs. 375-25-500-30-800, his initial pay is fixed at Rs. 425 and the total monetary loss which he would have suffered in the lower post, but for promotion is Rs. 240 (12 X 20). If the punishment is modified so as to reduce ‘A’s pay in the time scale of Rs. 375-800 from Rs. 425 to the stage of Rs. 400 for a period of nine or ten months, the officer would have been subject to the same monetary loss, which he would have suffered, had he not been promoted, (ii) if the pay of such officer has been fixed at the minimum of the scale of pay of the post to which he has been promoted and the minimum of the scale of that post is higher than his pay in the lower post his increment for a specified period, so as to entail the monetary loss that he would have sustained in the lower post, had he not been promoted, may be withheld.

- b) in cases where the officer on whom it is proposed to impose the penalty of withholding of increments is likely to get promotion, the authority competent to impose such penalty may in the show-cause notice and in the final orders imposing the penalty clarify that the intention is that the increments that may accrue in the time scale of the post to which the delinquent officer may be promoted shall also be withheld.

3. The modified penalty should be imposed under rule 31(1)(c) of the said rules by the aforesaid authority after issue of show cause notice against the proposed modified penalty and after considering the explanation of the officer thereto.

(20)

Memo.No.1017/66-1, Genl.Admn. (Ser.C) Dept., dt.18.06.1966 regarding review of penalty in cases of corruption, bribery, moral turpitude, by higher officers.

Subject Heading : Dismissal - in cases of corruption, bribery

It has been brought to the notice of Heads of Departments including Secretaries to Government in item (3) of the Circular Memorandum No.3037/64-3, dt.26.11.1964, General Administration (Ser.C) Department, that in proved cases

of bribery and corruption, no punishment other than that of dismissal should be considered adequate and if any lesser punishment is awarded in such cases, adequate reasons should be given for it in writing. Government have reason to believe that those orders are not being implemented fully. Government therefore, reiterate again that in all such cases there should be no hesitation to impose the maximum penalty viz., dismissal from service.

2. In order to ensure that the above instructions are being followed scrupulously inspecting officers are requested to review at the time of their inspecting the offices all cases of corruption and bribery, where the maximum penalty has not been awarded by the competent authority.

(21)

Memo.No.4106/SC.C/65-3, Genl.Admn. (SC.C) Dept., dt.21.06.1966 regarding entrustment of only important and complicated cases to Anti-Corruption Bureau.

Subject Heading : ACB - types of cases to be referred

- Ref : 1. From the Director, ACB., Lr.No.76/S2/65 dt. 15-11-65.
2. From the Director, ACB., Lr.No.85/S2/65 dt. 24-12-65.

While reviewing the monthly progress reports of the Director, Anti-Corruption Bureau, Hyderabad, it was observed that while some time would be required for completing investigation, there could be no justification for keeping cases relating to corruption, pending too long, as delay in such cases would have a demoralising effect. The Director, Anti-Corruption Bureau was, therefore, requested to take steps to arrest the increase in pendency and also to reduce the number of pending cases, especially old cases.

2. In his letter first cited, the Director, Anti-Corruption Bureau has stated that he has been impressing often on all the officers concerned in the Anti-Corruption Bureau, both orally and in writing, to give priority to enquiries pending over one year and cases in which the accused officials are under suspension and complete them with utmost expedition. He has also stated that the number of fresh cases received every month has been very large and that even if the disposal of cases is stepped up further, fresh cases received for enquiry would

still outnumber the cases disposed of and thus, the pendency is steadily increasing every month. It is observed that unless the present rate of fresh enquiries entrusted to the Anti-Corruption Bureau is reduced, it is not possible to arrest the pendency of cases.

3. The question of strengthening the staff of the Bureau to arrest pendency of cases has been deferred in view of the Emergency and the need to maintain economy. Under the terms of G.O.Ms.No.677, General Administration (Services-D) Department, dt.30.05.1961, normally, reference to the Anti-Corruption Bureau is made only after the case is carefully examined and the concerned Head of the Department or Department of the Secretariat is satisfied that there is a case for investigation by the Anti-Corruption Bureau. However, to meet the present situation, the Departments of Secretariat and Heads of Departments are requested that only important and complicated cases may be entrusted to the Anti-Corruption Bureau, for enquiry. This, it is felt, will not only arrest the increase in the pendency but will also afford time to investigating officers to complete long pending and urgent cases more expeditiously.

(22)

U.O.Note No.1713/Ser.C/66-1, Genl.Admn.(Ser.C) Dept., dt.01.07.1966 regarding imposition of more than one penalty for a single lapse.

Subject Heading : Penalty - imposition of more than one penalty

A copy of the Law Department's opinion on the above subject is forwarded to all Departments of Secretariat for information and guidance.

Copy of Extract of Law Department's opinion taken from the file bearing C.No.3286/63 Ser.C. of General Administration (Ser.C) Department.

Sub : Public Services - Civil Services (CC&A) Rules - Procedure to be followed in cases of minor penalties - Regarding.

Law Department

The scope of the expression "any of the penalties" occurring in rule 12 and 14 of the Andhra C.C.A. Rules and in rules 14 and 15 of the Hyderabad C.C.A. Rules, cannot be cut down by understanding the same to mean as any one of the penalties. When a particular expression is used in a statute or statutory

rule, it has to be presumed that the Legislature or the rule making authority, as the case may be has used that expression in the sense in which it has been understood or interpreted by courts of Law, unless a contrary intention appears from that statute or statutory rule. "The word 'any' may have one of several meanings; according to the circumstances, may mean 'all' ; 'each' ; 'every'; 'some' or one or more out of several"— vide the Law Lexicon by Ramanatha Iyer. If the rule makers had intended that for any single lapse of which a Government servant has been found guilty in any disciplinary proceeding, only one, but not more than one, of the several penalties specified in the C.C.A. Rules should be imposed upon that Government servant, that intention should have been brought out clearly in the relevant C.C.A. Rules. There is nothing in the Andhra C.C.A. Rules or the Hyderabad C.C.A. Rules from which such an intention can be gathered by implication, either.

2. It may, however, be pointed out that imposition of several penalties indiscriminately for a single lapse on the part of a Government servant could not have been contemplated by the rule making authority. The imposition of multifarious effect of those penalties is for out of proportion to the gravity of the dereliction. The imposition of a single major penalty may be more severe in its effect than the imposition of two or more minor penalties. In a case where a severe penalty is called for, it is open to the punishing authority to impose two or more less severe penalties instead of the severe penalty, taking a lenient view of the magnitude of the delinquency. In a case where the delinquency on the part of a Government Servant consists in, say misappropriation of Government funds the penalty of recovery from the pay of that Government Servant of the loss caused to the Government may merely compensate the Government for the loss sustained by it, but that by itself may not be a sufficient punishment for the delinquency. In such a case, the punishing authority, while ordering recovery of the loss caused to the Government from the pay of the delinquent officer, may impose upon him some other penalty while the former may be intended to compensate the Government the latter may, may be intended to make the delinquent suffer the consequences of his misdemeanour. As the rules stands at present, there does not seem to be any objection to the imposition of some penalty, in addition to the recovery from pay of the loss caused to the Government upon a Government servant who is found in disciplinary proceedings to have caused loss to the Government as a result of his negligence or misconduct.

(23)

Memo.No. 2848/SC.D/66-2, Genl. Admn. (SC.D) Dept., dt.28.10.1966: No parallel enquiry by Department in case of preliminary / regular enquiry taken up by Anti-Corruption Bureau.

Subject Heading : ACB - no parallel enquiry by departments

An instance has come to the notice of the Government where a head of the department, when requested by the Director, Anti-Corruption Bureau, with reference to the direction issued to him by the Vigilance Commissioner to conduct a preliminary enquiry into a petition containing allegations of corruption and malpractices against an officer not to conduct any enquiries against that particular officer departmentally and also to hand over the record of enquiry, if any enquiry was conducted earlier, objected to the initiation of enquiry by the Anti-Corruption Bureau. In that connection, the head of the department is said to have invited the attention of the Director, Anti-Corruption Bureau, to the instructions contained in G.O.Ms.No.677, Genl.Admn.(Ser.D) Dept., dt.30.05.1961, which lays down that before a petition is referred to the Anti-Corruption Bureau for enquiry it is desirable that the head of the department should be consulted in the first instance unless it is felt that the reference to the head of the department may lead to the loss of secrecy or the allegations are numerous and specific or are of a very serious nature and may be true and also that in respect of non-gazetted officers the petitions received by the Anti-Corruption Bureau may be forwarded to the heads of departments direct along with the preliminary report for necessary action. He has also requested the Director, Anti-Corruption Bureau, to stop further proceedings, in case preliminary enquiry has not been initiated, to enable him to make a departmental enquiry for the reason that he is of the opinion that a departmental enquiry is sufficient and to send the report to him if preliminary enquiry was conducted.

2. On an examination of the points raised by the head of the department, it has been noticed that the head of the department has relied mostly on the instructions issued in G.O.Ms. No.677, G.A.(Ser.D) Dept., dt.30.05.1961 although the instructions stood modified to a certain extent by the instructions issued in G.O.Ms.No.1071, G.A.(SC.C) Dept., dt.25.09.64. Instructions have also been issued in Memo.No.620/65-2 G.A.(Ser.D) Dept., dt.22.11.1965 that the instructions issued in G.O.Ms.No.677, G.A.(Ser.D) Dept., dt.30.05.1961 should

be deemed to have been modified by the instructions issued in G.O.Ms.No.1071, G.A. (SC.C) Dept., dt.25.09.1964 to the extent the instructions issued in the former Government Order and subsequent clarifications issued from time to time which are at variance with the scheme of the Vigilance Commission as enunciated in the later Government Order. The attention of all Heads of Departments and all Departments of Secretariat is invited to the scheme of the Vigilance Commission as enunciated in G.O.Ms.No.1071, G.A.(SC.C) Dept., dt.25.09.1964 as subsequently modified in G.O.Ms.No.1016, G.A.(SC.A) Dept., dt.08.06.1965 and G.O.Ms.No.290, G.A.(SC.A) Dept., dt.08.03.1966 as also to the Procedural Instructions issued by the Vigilance Commissioner, with the approval of the Government and communicated by him in his letter No. 39/VC/ 64-28 dt.23.08.1966, and they are requested to see that in cases where the Vigilance Commission gives a direction to the Anti-Corruption Bureau to conduct preliminary or regular enquiries they should not proceed with parallel enquiries and they should hand over all the connected records and also cooperate with or assist the officers of the Bureau during the course of the enquiries.

(24)

Memo.No.2213/Ser.C/66-8, Genl.Admn.(Ser.C) Dept., dt.30.11.1966 regarding avoidance of suspension for simple reasons, and taking of action against concerned authority where suspension is held wholly unjustified.

Subject Heading : Suspension - where held wholly unjustified, action against suspending authority

- Ref : 1. From the A.P.N.G.Os Association Lr. dt.19.06.1966.
2. Govt., Memo.No.2568/Ser.C/63-3 Genl.Admn.(Ser.C) Dept., dt:27.11.1963 as amended by Memo.No.1361/65-2, Genl.Admn. (Ser.C) Dept., dt.28.09.1965.

In the Government Memo 2nd cited, instructions have been issued that in all cases, where the circumstances leading to a Government Servant's reinstatement reveal that the authority which terminated his service, either wilfully did not observe, or through gross negligence failed to observe the proper procedure, as laid down in the A.P.C.S. (C.C.A) Rules, 1963, before terminating his service, proceedings should be instituted against such authority, under Rule 19 of the said rules and the question of recovering from such authority the whole

or part of the pecuniary loss arising from the reinstatement of the Government servant should be considered.

2. It has been brought to the notice of Government that in certain cases suspensions were resorted to, for simple reasons, in contravention of the rules and the instructions on the subject. According to Rule 13(1) of the C.C.A. Rules, 1963, a Government employee may be placed under suspension, pending investigation into grave charges, where such suspension is necessary in the public interest. In para 18 in appendix VI to the said rules, it has been clarified that the object of placing a Government servant under suspension is generally to facilitate easy collection of evidence from witnesses, who may hesitate to depose against an officer, so long as he is in office, or to prevent an officer from tampering with witnesses or record. Under rule 20 of the C.C.A. rules, an appeal may be preferred to higher authority against placing an officer under suspension. Under F.R. 54, if the authority competent to order the reinstatement of an employee from suspension is of the opinion that it was wholly unjustified, the Government servant may be given full pay and allowances to which he would have been entitled to had he not been suspended. It is, therefore, necessary to ensure that suspension is resorted to, only where it is absolutely essential and in public interest.

3. In order to ensure that suspension is not resorted to for simple reasons, the Government have decided that action, as indicated in para 3 of the Memo cited, may be taken i.e., where the reinstating authority held that the suspension of the employee was wholly unjustified and it made an order that for the period of suspension the employee concerned be paid full pay and allowances, proceedings should be instituted, under rule 19 of the said rules, against the officer who suspended the employee, and the question of recovering from the pay of such officer the whole or part of the pecuniary loss caused to Government, due to payment of pay or allowance under F.R. 54, should be considered.

(25)

Memo.No.2016/66-3, Genl.Admn.(Addl.Cell) Dept., dt.12.12.1966 regarding preparation of lists of focal points and transfer of Government Servants.

Subject Heading : Focal points - retention, transfer of employees

- Ref : 1. G.O.Ms.No.1289 G.A.(Ser.A) Dept., dt.06.11.63.
 2. G.O.Ms.No.210 G.A.(Ser.A) Dept., dt05.02.65.

In the Government Orders cited, instructions were issued among others that "as a rule no Government servant should be transferred from one place to another before he has put in at least three years in the post" and in cases of deviation, "a report with reasons should go to the next higher officer" etc. This amounts in effect to a transfer being given after one has put in three years of service in a post.

2. In this connection it has been pointed out that every Government Office may have a house keeping section, which generally deals with the purchase of stores, etc., that there may be certain other items of work also in the Departments or offices which entail dealing with the public and present opportunities for corruption, and that it may not be desirable to continue Government employees indefinitely in such posts.

3. The matter has been examined and it is considered that as a preventive measure, a list of such focal points (posts) should be made out in all Government Departments / Offices and suitable steps taken to ensure that the employees in such focal points are not allowed to continue indefinitely. This may be certain extent, prevent the establishment or of malpractice corruption. The Heads of Departments in respect of Gazetted Officers and appointing authorities in respect of Gazetted Officers are requested to take necessary action accordingly.

4. No Government Officer or employee should be kept in the same post listed as focal point for more than three years and where it is proposed to deviate from this principle, the authority concerned should obtain the approval of Government in the administrative department concerned in respect of Gazetted Officers and of the next higher authority above the appointing authority in respect of non-gazetted officers. The authority approving the retention of an officer in a focal point beyond the prescribed period should record clearly the reasons therefor.

(26)

Memo.No.3408/Ser.C/66-1, General Admn. (Ser.C) Dept., dt.16.01.1967 regarding clarification on sub-rule (1) of Rule-19 of A.P. Civil Services (Conduct) Rules, 1964.

Subject Heading : Association of Government Servants with R.S.S. and Jamaat-e-Islami.

The attention of the Heads of Departments etc., is invited to sub-rule (1) of Rule-19 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 under

which no Government employee shall be a member of or be otherwise associated with any political party or any organisation which takes part in politics, nor shall he participate in, subscribe in aid of, or assist in any other manner, any political movement or activity.

2. As certain doubts have been raised about Government's policy with respect to the membership of and participation in the activities of the Rashtriya Swayam Sewak Sangh and the Jammat-e-Islami by Government servants, it is clarified that Government have always held the activities of these two organisations to be of such a nature that participation in them by Government servant would attract the provisions of sub-rule (1) of Rule-19 of the A.P. Civil Services (Conduct) Rules, 1964. Any Government servant, who is a member of or is otherwise associated with the aforesaid organisations or with their activities is liable to disciplinary action.

(27)

Memo.No.904/Ser.C/67-1, Genl.Admn.(Ser.C) Dept., dt.29.05.1967: Order of suspension to recite that Government Servant is suspended until further orders.

Subject Heading : Suspension - until further orders

Under rule 13(1) of the Andhra Pradesh Civil Service (Classification, Control and Appeal) Rules, 1963, a member of a service may be placed under suspension pending enquiry into grave charges, where such suspension is necessary in the public interest. Under the proviso to the said rule, where an employee has been suspended by an authority subordinate to Government and suspension is continued beyond a period of six months; the fact shall be reported to Government for such orders as it deems fit. Instances have come to the notice of Government where orders issued placing certain employees under suspension or extending suspension period virtually resulted in retrospective operation being given to such orders.

2. It is clarified that if an employee is arrested and kept under detention for a period of more than 48 hours, before he secures his release on bail or on a personal bond, the fiction in Rule 13(2) of the above rules is attracted and he is deemed to have been suspended from the date of detention. In a case where the period spent under arrest is less than 48 hours and the appropriate authority makes an order placing him under suspension pending enquiry, retrospective operation cannot be given to such an order.

3. The necessity for continuance or otherwise of a Government employee under suspension is required to be reviewed by the Government at intervals of not more than six months in accordance with the instructions issued in para 18(c) in Appendix VI to above rules. The object of these instructions is only to ensure that a Government employee placed under suspension pending enquiry is not continued under suspension indefinitely and that the necessity or otherwise for his continuance is reviewed periodically by the Government, so that if, in any case, it is felt that further continuance, of the Government employee involves undue hardship, necessary relief may be granted either by revoking the order of suspension and restoring him to duty or allowing him to proceed on leave. If on account of administrative reasons, it cannot be ensured that such review of the necessity for continuance of an employee under suspension is made before the expiry of the period of suspension and such reviews are made long after the expiry of the period of suspension, the object of the instructions in para 18(c) is defeated. In order that no vaccum may be created where the Government is not able to review a case of suspension in time, the following procedure may be adopted hereafter.

- a) Where an employee is suspended the order may be so drawn up that he is suspended, pending enquiry, until further orders.
- b) When upon a review which may be ordinarily made at intervals of not more than six months, it is considered that he should be continued under suspension, the order that may be made after such review may be as follows:-

"The Government have reviewed the case of Sri who is under suspension pending enquiry and they have decided that he shall continue under suspension. The next review will be taken up at the end of six months from the date of this order".

(28)

Memo.No.1733/Ser.C/67-2, Genl.Admn.(Ser.C) Dept., dt.03.08.67 regarding desirability of transferring Government Servant to some other place or to allow him to go on leave instead of placing under suspension.

Subject Heading : Suspension - transfer or leave as alternative

Ref : Govt.Memo.No.2213/Ser.C/66-8, G.A.(Ser.C) Dept., dt. 30.11.1966.

In para 2 of Memo. cited, it was clarified that a Government employee may be placed under suspension pending investigation into grave charges where such suspension is necessary in the public interest and the object of placing the Government servant under suspension is generally to facilitate easy collection of evidence from witnesses who may hesitate to depose against the officer so long as he is in office or to prevent an officer from tampering with witnesses or records.

2. The question whether an employee should be transferred to another place instead of placing him under suspension was considered by Government. Apart from the two purposes viz., (1) he should not be able to get at the various records on which charges would be based, (2) his capacity to tamper with witnesses or to hamper the investigation should be blocked; a third reason in some cases would be that his propensity for corruption etc. does not get further scope. As regards the first two reasons, it is felt that suspension does not really serve the purpose, as the individual under suspension may actively try to bring pressure and impede the investigation. In regard to the third reason, it is felt that when enquiries are afoot, the chances of his indulging in those practices are reduced to the minimum, if not stopped altogether. Therefore, keeping a person far away from the place where the enquiry is going on may be desirable. There may, however, be some cases where other practical difficulties may exist. In such cases this course of action may not be practicable. According to the instructions in para-18 in Appendix-VI to the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1963 it should be considered at an early stage whether sending the officer on leave (if he is willing to take it) will not be a suitable step to take. There are no instructions prohibiting transfer of an employee to a distant place to enable the concerned authorities to conduct smooth investigation.

3. The Government therefore, direct that instead of placing an employee under suspension pending investigation into grave charges, the desirability of transferring him to some other place or to allow him to go on leave may be considered.

(29)

G.O.Ms.No.178, Finance (Pen.I) Dept., dt.02.09.1967: Government is the authority to withhold or withdraw pension under Article 351-A of Civil Service Regulations (corresponding to Rule 9 of A.P.Revised Pension Rules, 1980).

Subject Heading : Pension - withholding, withdrawing of

Read the following :

1. G.O.Ms.No.322 Finance (Pension.I) Dept., dt.15.12.1965.
2. From the Government of India, Ministry of Finance (Department of Expenditure) Office Memorandum No.F.19(9)-E.V./66 dt.06.06.1967.

ORDER :

1. Recorded.
2. The Government of India's decision in their Office Memorandum cited shall apply to Government Servants under the rule making control of this Government also.
3. The orders issued in the G.O. cited are hereby cancelled

Copy of Office Memo.No.F.19(9)-E.V./66, dt.06.06.1967 from the Government of India, Ministry of Finance, Department of Expenditure, New Delhi, addressed to all Ministries of the Government of India,

Sub : withholding and withdrawal of pension under Article 351-A, C.S.R.

According to proviso (a) of Article 351-A, CSRs, departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment shall, after the final retirement of officer, be deemed to be proceedings under the said article and shall be contained and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service. A question has been raised whether in the case of an officer whose case falls within the purview of the aforesaid proviso

and proceedings against whom were instituted by an authority subordinate to the President, order for withdrawal/ withholding of pension can be passed by the subordinate authority on the conclusion of the proceeding, or that authority should refer the case to the President for final orders. The matter has been considered in consultation with the Ministry of Home Affairs and the Law Ministry and the undersigned is directed to clarify that the function of the Disciplinary authority is only to reach a finding on the charges and to submit a report recording its findings to the Government. It is then for the Government to consider the findings and take a final decision under Article 351-A, C.S.Rs. In case Government decide to take action under Article 351-A, C.S.Rs., in the light of the findings of the Disciplinary authority, the Government will serve the person concerned with a show-cause notice specifying the action proposed to be taken under Article 351-A, C.S.Rs., and the person concerned will be required to submit his reply to the show-cause notice within such time as may be specified by the Government. The Government will consider the reply and consult the Union Public Service Commission. If as a result of such consideration in consultation with the Commission, it is decided to pass an order under Article 351-A, C.S.Rs., necessary orders will be issued in the name of the President.

2. The procedure outlined in the preceding paragraph in regard to the issue of show cause notice will also apply to a case where the President functions as the Disciplinary authority.

3. This Ministry's Office Memorandum No.F.17(2)-E.V(B)/64 dt.02.04.1964 and 30.10.1965 may be treated as cancelled.

4. In their application to the persons serving in the Indian Audit and Accounts Department, those orders have been issued after consultation with the Comptroller and Auditor General.

(30)

**Memo.No.963/Ser.C/67-5, Genl.Admn.(Ser.C) Dept., dt.21.10.1967
regarding recording of adverse remarks in confidential reports.**

**Subject Heading : Adverse remarks - assessment in case of non-
communication**

Ref : 1. G.O.Ms.No.1385, G.A.(Ser.C) dt.31.10.61.

2. Memo.No.943/Ser.C/66-1, G.A.(Ser.C) dt.02.06.67.

Instances have come to the notice of Government where adverse remarks recorded in the confidential reports were found to be vague or of a general nature. The scope of enquiry into representations against such remarks has been examined. According to Note (iii) to instruction 4 in the said G.O. adverse remarks should be supported by specific evidentiary examples or instances as far as possible and recording of impression based on adequate contacts would not, however, be ruled out altogether. According to note (v) to the said instruction, as amended in the memo cited the concerned authority should decide the scope of enquiry to be held on the representation having regard to the reporting officers remarks and the contentions in the representation. The concerned authority may also in such cases ask the reporting officer to substantiate his remarks which are of general nature. It would be proper that the adverse remarks are supported by the report officer by specific evidentiary examples and that he makes it clear in the confidential report that the remarks of a general nature, if any, are based on adequate contacts.

(31)

**Memo.No.3426/SC.D/66-9, Genl.Admn. (SC.D) Dept., dt.01.07.1968:
Prosecution of persons making false complaints against public servants;
consultation with Vigilance Commission.**

Subject Heading : Complainant - prosecution for false complaint

Ref : G.O.Ms.No.1071, GA (SC.C) Dept., dt.25.09.1964.

According to para-12 of the Scheme of the Andhra Pradesh Vigilance Commission, as enunciated in the G.O. cited, the Andhra Pradesh Vigilance Commission will take initiative in prosecuting persons, who are found to have made false complaints of corruption or lack of integrity against Public Servants. The object of this provision is to see that the Vigilance Commission, while its main function is to assist in the maintenance of integrity and morale on the part of Public Servants, also assists in taking steps against persons making malicious, vexatious or totally unfounded complaints against Public Servants, as they would result in harassment and demoralisation of the services.

2. A false complainant can be prosecuted under Section 182 of the Indian Penal Code. Under Section 195(1)(a) of the Code of Criminal Procedure, 1898, A court will take cognizance of an offence under Section 182 of the Indian Penal Code only on a complaint, in writing, of the Public Servant to whom such a false complaint was made or of some other Public Servant to whom he is subordinate. According to the instructions, complaints charging the Public Servants and servants under the employ of public undertakings, with corruption, lack of integrity, misconduct, malpractices or misdemeanour may be made to the following authorities:

1. Chief Secretary to Government and Secretaries to Government.
2. Vigilance Commissioner.
3. Heads of Departments.
4. Director, Anti-Corruption Bureau.
5. Collectors of Districts.
6. Heads of public sector undertakings.

whenever any false complaint against a Public Servant is made to any of the above authorities, a complaint will have to be lodged in writing with a Court of competent jurisdiction by the authority to whom such false complaint was made or by some other Public Servant to whom the authority is subordinate.

3. Having regard to the manner in which it functions, the object can be fulfilled by the Vigilance Commission.

- (i) by advising appropriate action on its own initiative when such cases of malicious, vexatious or totally unfounded complaints come to its notice while the Commission is dealing with the matters that come before it; and
- (ii) when a Department / Undertaking refers such a case to the Commission for advice, after considering the expediency or propriety of prosecuting the complainant and coming to a firm conclusion.

In either case, the administrative authorities should keep in mind that the Commission has to look into the circumstances of each case and, after examining it, arrive at the conclusion whether the matter is one which calls for prosecution or other appropriate action. In cases referred to the Commission for advice, the Commission does not proceed merely on the basis of the decision

arrived at by the Department concerned, but has to apply its own mind and come to a conclusion. It is, therefore, necessary that in such cases also the Commission should be consulted. If a complaint of corruption or lack of integrity, etc., against a Public Servant is found to be false complete record should be sent to the Vigilance Commission, which will advise whether the complainant should be prosecuted in a Court of Law or some other appropriate action be taken against him.

4. The heads of departments, Collectors, etc., are requested to take action as indicated above whenever they consider it expedient to prosecute complainants for an offence punishable under section 182 of the Indian Penal Code.

(32)

Memo.No.3301/SC.D/66-9. Genl.Admn. (SC.D) Dept., dt.24.08.68 regarding role of Collectors in the Districts as Chief Vigilance Officers.

Subject Heading : CVOs - role of Collector

- Ref : 1. Govt.Memo.No.958/SC.C/65-5 G.A.(SC.C) Dept., dt.15.11.65.
 2. Govt.Memo. No. 4271/SC.C/65-5 G.A.(SC.C) Dept., dt.07.03.66.
 3. Govt.Memo. No.3308/SC. D/66-3 G.A.(SC.D) Dept., dt.03.10.67.
 4. From the D.G, A.C.B., Lr.Rc.No.125/S1/67 dt.28.10.67.
 5. From the Vigilance Commission Lr.No.3095/VC/67-8 dt.21.02.68
 6. From the Director, A.C.B., Lr.Rc.No.125/S1/67 dt. 10.07.68.
 7. From the Vigilance Commission Lr.No.971/VC/65-3 dt.06.08.68.

The Government have carefully considered the points raised and suggestions made at the District Collectors' Conference held in August, 1968 regarding the role of District Collectors in the Districts as Chief Vigilance Officers in consultation with the Director, Anti-Corruption Bureau and the Vigilance Commissioner, Andhra Pradesh Vigilance Commission. The Government feel that specific action is called for only on the suggestion pertaining to the Anti-

Corruption Bureau officials apprising the Collectors of the state of corruption in public services in the districts. In continuation of the instructions issued in Memorandum first cited, the Director, Anti-Corruption Bureau, is requested to issue suitable instructions to the officers of the Anti-Corruption Bureau that they should invariably meet the Collectors periodically, not less than once in a month and acquaint them personally with the progress of enquiries and the state of corruption in public services in the districts and follow any lines of action as may be decided upon, as the result of the discussions held with the Collectors.

(33)

G.O.Ms.No.578, Genl.Admn. (Ser.C) Dept., dt.17.09.1968 regarding consideration of past bad record for purposes of imposition of penalty.

Subject Heading : Past bad record - consideration for deciding penalty

Read :

From Government of India, Ministry of Home Affairs, Office Memo. No.134/20/68-AVD, dt.28.08.68.

ORDER :

Recorded.

Communicated to all Departments of Secretariat, Heads of Departments for information and guidance.

Copy of Office Memorandum No.134/20/68-AVD, dt.28.08.1968 from the Government of India, Ministry of Home Affairs, New Delhi, addressed to all Ministries of the Government of India.

A question has arisen whether past bad record of service of an officer can be taken into account in deciding the penalty to be imposed on the officer in disciplinary proceedings, and whether the fact that such record has been taken into account should be mentioned in the order imposing the penalty. This has been examined in consultation with the Ministry of Law. It is considered that if previous bad record, punishment etc. of an officer is proposed to be taken into consideration in determining the penalty to be imposed, it should be made a specific charge in the charge sheet itself, otherwise any mention of the past bad record in the order of penalty unwittingly or in a routine manner, when this had

not been mentioned in the charge sheet, would vitiate the proceedings, and so should be eschewed.

"We held that it is incumbent upon the authority to give the Government servant at the second stage reasonable opportunity to show cause against the proposed punishment and if the proposed punishment is also based on his previous punishments or his previous bad record, this should be included in the second notice so that he may be able to give an explanation.

In the present case the second show cause notice does not mention that the Government intended to take his previous punishments into consideration in proposing to dismiss him from service. On the contrary, the said notice put him on the wrong scent, for it told him that it proposed to dismiss him from service as the charges proved against him were grave ... the order of dismissal indicate that the show cause notice did not give the only reason which influenced the Government to dismiss the respondent from service. This notice clearly contravened the provisions of Art. 311(2) of the Constitution as interpreted by Court".

These observations were made by the Supreme Court in the context of the provisions of Article 311(2) of the Constitution before its amendment by the Constitution (Fifteenth Amendment) Act, 1963. Under the amended Article, at the stage of show-cause notice, the Government servant has to be given a reasonable opportunity of making representation on the penalty proposed but only on the basis of evidence adduced during the enquiry. This would indicate that at the second stage, the procedure should be limited only to the proposed penalty on the basis of the proved charges and additional material in the form of past bad record etc. can not be introduced. If such matter is to be introduced, the Government servant must have a right to make his representation on those matters and for that purpose to call for confidential record and even witnesses to establish mitigating circumstances like his subsequent good conduct. This will be contrary to amended Article 311(2) which clearly limits the right of representation "only on the basis of evidence adduced during such enquiry". This cannot be one-sided restriction and presupposes that the penalty is proposed only on the basis of the charges inquired into, without any additional factors being taken into consideration. Accordingly if past bad record is proposed to be taken into account in determining the penalty to be imposed, it should be made subject matter of a specific charge in the charge sheet itself. If it is not so done, it cannot be relied upon after the enquiry is closed and the report is submitted to the disciplinary authorities, and/or at the time of imposition of penalty.

(34)

G.O.Ms.No.582, Genl.Admn. (Poll.B) Dept., dt.20.09.1968 regarding direct correspondence between Heads of Departments of Government of Andhra Pradesh with their counterparts in other States.

Subject Heading : Heads of Department - correspondence with counterparts in other States

Read :

G.O.Ms.No.1755, G.A. (Poll.B) Dept., dt.30.09.65.

ORDER:

Orders were issued in the G.O. cited permitting all Heads of Departments of this State to correspond direct with their counterparts in the Governments of Madras, Mysore and Maharashtra on purely routine and non-controversial matters on reciprocal basis. The question of extending the orders issued in the G.O. cited to other States and the Government of India and also to cover routine technical matters like exchange of printed technical publications, furnishing copies of tables of fees, extracts from Standing Orders etc., has been examined in consultation with the State Governments concerned and the Government of India.

2. The Government hereby permit all Heads of Departments of this State to correspond with their counterparts direct in all other States except Bihar, Nagaland and Manipur and also with the Central Government on purely routine (including routine technical matters) and non-controversial matters on reciprocal basis subject to the condition that all such direct correspondence should be scrutinized by the Heads of Departments with special care and issued over their own signatures.

3. In respect of all other matters more particularly, those purporting to give an interpretation or seek a clarification of the provision of statutory laws and rules and those having a bearing on policy matters, the correspondence should invariably be routed through the concerned administrative Departments of the Secretariat only.

(35)

Memo.No.1552/Ser.C/1969, General Admn. (Ser.C) Dept., dt.07.06.1969 regarding instructions on maintaining political neutrality by the Government servants.

Subject Heading: Political Organisations – Participation.

Ref : Memo.No.3408/Ser.C/66-1, G.A. (Ser.C) Dept., dt.16.01.1967.

The attention of the Heads of Departments etc., is invited to sub-rule (1) of Rule 19 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 under which no Government employee shall be a member of or be otherwise associated with, any political party or any organisation which takes part in politics, nor shall participate in, subscribe in aid of, or assist in any other manner, any political movement or activity. The attention of the Heads of Departments etc., is also invited to sub-rule (4) of the said rule under which if any question arises as to whether any movement or activity falls within the scope of the said rule, the decision of the Government thereon shall be final.

2. In the Memo. cited, Government have clarified that they have always held the activities of Rashtriya Swayam Sewak Sangh and Jamaat-e-Islami organisations to be of such a nature that participation in them by Government servants would attract the provisions of sub-rule (1) of Rule 19 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 and that any Government servant who is a member of or is otherwise associated with the aforesaid organisations, or which their activities is liable for disciplinary action.

3. The Government have reviewed the policy, to be followed in regard to the social, cultural and similar other organisations known to be connected with political parties. Government consider that it is essential that Government servants should not only maintain political neutrality but should also appear to do so. Government, therefore, direct that if there is the slightest reason to think that any organisation has a political aspect, a Government servant should keep away from it so that no doubt may be created about his neutrality.

(36)

Memo.No.42240-A/977/Pen-I/69, Finance (Pen.I) Dept., dt.21.07.1969 regarding action to withhold or withdraw pension, on conviction.

Subject Heading : Pension – withholding / withdrawing, on conviction

The attention of all the Heads of Departments and of the Departments of Secretariat etc. is invited to Article 351 Civil Service Regulations and rule 238 of Hyderabad Civil Service Rules according to which future good conduct is an implied condition of the grant of pension and Government have the right to withhold or withdraw a pension or any part of it if the pensioner is convicted of a serious crime or found guilty of grave misconduct. It is, therefore, necessary to ensure that cases where pensioners are convicted by a court of any crime are brought to the notice of the Government. All the Heads of Departments and Collectors are therefore requested to ensure the prompt intimation of such cases to the Government in the concerned administrative department as well as the Finance Department. The Collectors are also requested to bring these instructions to the notice of all prosecuting officers.

(37)

Memo.No.715/Ser.C/71-1, Genl.Admn. (Ser.C) Dept., dt.22.06.1971: Practice of issuing of testimonials of good work and conduct to subordinate officials, deprecated.

Subject Heading : Testimonial - issuing of

Ref: 1. G.O.Ms.No.1385, G.A.(Ser.C) Dept., dt.31.10.61.

2. Govt.Memo.No.3578/64-1, G.A.(Ser.C) Dept.,dt.23.12.64.

An instance has come to the notice of the Government, wherein testimonials regarding the good work and conduct issued to a Government servant by officers competent to write his personal file were produced by him to counteract the adverse remarks recorded in his annual confidential report.

2. The Government have examined the propriety of the Reporting Officers issuing testimonials commending the work and conduct of their Subordinate Officers. The instructions issued in the G.O. 1st cited do not contemplate the issue of testimonials by Government Officers to subordinates even for the purpose of appointment to posts outside the Government. Also, in the Memo. cited, the Government directed that the practice of issuing proceedings commending the work of officers should be discontinued and that the practice of awarding 'red-

entries' or 'good-service entries' should also be discontinued and that the good work deserving a red entry might be recorded in the personal files of the officers concerned.

3. Government now direct that Reporting Officers should not issue to their subordinates testimonials for good work and conduct lest these testimonials should be used to nullify the effect of the confidential report. The Government also direct that where any testimonials issued by an officer are attempted to be used by the employees adversely reported upon as material for the expunction of the adverse remarks made in their confidential reports, the testimonials should be disregarded.

(38)

Memo.No.2496/Ser.C/71-5, Genl.Admn. (Ser.C) Dept., dt.25.07.1972 regarding confiscation of property in cases of possession of disproportionate assets.

Subject Heading : Attachment of property

Ref : From the Vigilance Commission, Lr.No.888/VC.C2/70-1, dt.07.03.70.

The Vigilance Commissioner in his letter cited, has suggested that the Government might consider the desirability of making a suitable provision to enable the Government to forfeit the assets held by its employees where they may be obtained by bribe or abuse of powers and to effect an interim attachment of the assets, on the lines of Criminal Law Amendment Ordinance, 1944.

2. A Government Servant who is in possession of pecuniary resources or property disproportionate to his known sources of income is said to commit the offence of criminal misconduct, as defined in clause (e) of sub-section (1) of Section 5 of the Prevention of Corruption Act 1947 and is punishable under Section 5(2) thereof. Under Rule 2(b) of the A.P.C.S. (Disciplinary Proceedings Tribunal) Rules, 1961, 'misconduct' has been defined to have the same meaning as Criminal misconduct under Section 5(1) of the said Act. Under Rule 4(2) of the said rules, the Government has to take a decision whether the case against a Government Servant involving misconduct shall be tried in a Court of Law or enquired into by the Tribunal or by a departmental authority. The Government consider that where there are reasons to believe that an employee has amassed wealth or property disproportionate to his means by way of bribe or abuse of powers, sanction may be accorded straight away for prosecution of the employee

in the court of law for an offence punishable under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 and that an application may be made under Section 3(1) of the Criminal Law Amendment Ordinance, 1944, to the District Judge concerned with the authorisation of the Government for attachment of the property which is believed to be procured by the employee by Commission of the offence. If the prosecution ends in conviction, the District Judge will make an order under Section 13(3) of the Ordinance forfeiting to the Government the property procured by the convicted employee by means of the offence committed by him.

3. The Heads of Departments, Collectors etc. may bear in mind the above position in dealing with the cases of Government Servants in possession of assets beyond their known sources of income.

(39)

U.O.Note No.3170/Ser.C/71-3, Genl. Admn. (Ser.C) Dept., dt.03.10.1972: Government alone empowered to refer cases to Tribunal for Disciplinary Proceedings and place under suspension.

Subject Heading : Suspension - Government to pass order in TDP cases

Ref : From the Vigilance Commission's Lr.No.2264/LA/71-1, dt.03.06.1971.

In the letter cited, the Vigilance Commissioner has stated that Rule 13(1) of the A.P.C.S. (CC&A) Rules provides that a member of a service may be placed under suspension pending investigation or enquiry into grave charges, where such suspension is necessary in the public interest and that since the order of suspension is a quasi-judicial order, appealable under Rule 22 of the Rules, it is necessary to observe the following points in issuing an order of suspension:

- 1) It should be ensured that the order of suspension should state -
 - a) that there is a pending investigation or enquiry against the Government employee;
 - b) that the alleged investigation or enquiry is into grave charges; and
 - c) that the suspension is necessary in public interest.
- 2) The order should indicate the subsistence allowance which should be paid to the delinquent officer.

2. The Vigilance Commission has also stated that it was observed that in some cases referred to the Tribunal for Disciplinary Proceedings, the Government directed a subordinate authority (who was also competent to place the officer under suspension) to place the officer under suspension and when the latter complied with those instructions, the High Court held that the latter surrendered its judgment to the former and accordingly struck down the order of suspension. He has, therefore, suggested that in cases referred by the Government to the Tribunal for Disciplinary Proceedings for enquiry and report, the Government themselves should pass the order of suspension and not direct a subordinate authority to place the officer under suspension and requested the issue of suitable instructions in this regard to all Departments of the Secretariat.

3. The power to suspend a member of a service is concurrently vested in the Government and in the authorities specified in Rules 14 and 15 of the A.P.C.S. (CC&A) Rules, 1963. The Vigilance Commission has sought to emphasize that when the Government decide to refer a case to the Tribunal for Disciplinary Proceedings and to suspend the Government employee concerned, pending enquiry by the Tribunal, the order of suspension should be passed only by the Government and not by any subordinate authority. In order to avoid orders of suspension issued by a subordinate authority, in pursuance of the directions of the Government, being struck down by a Court of Law, the Government accept the suggestion of the Vigilance Commissioner.

4. The Government accordingly direct that in cases of employees referred by the Government to the Tribunal for Disciplinary Proceedings for enquiry and report and where the Government employees concerned are to be placed under suspension, the orders of suspension are passed by the Government themselves and that in no such case should the Government direct a subordinate authority to place the Government employee under suspension.

(40)

Memo.No.2035/Ser.C/72-3, Genl.Admn. (Ser.C) Dept., dt.07.05.1973: Officer who conducted preliminary enquiry not disqualified from being appointed as Inquiry Officer for conducting regular inquiry.

Subject Heading : Inquiry Officer - preliminary enquiry officer can conduct regular inquiry

A question has been raised whether, in a case of disciplinary proceeding initiated against a Government employee under the A.P.C.S. (CC&A) Rules, an

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officer who conducted preliminary enquiry against him with a view to gathering sufficient evidence, is disqualified to be appointed as a regular enquiry officer to conduct enquiry under the said rules.

2. Government have examined the question. In instruction 2 in appendix VI to the (CC&A) Rules, the principle of natural justice applicable in disciplinary cases against Government employees has been clarified as follows:-

"It is the fundamental principle of natural justice that the officer selected to make an enquiry should be a person with an open mind and not one who is biased against the delinquent or one who has prejudged the issue".

Regarding the applicability of the above principle to a disciplinary case, it is open to delinquent officer to contend that the person appointed as an enquiry officer did not or could not have an open mind, having regard to the fact that it was he that had gathered evidence against the delinquent by way of preliminary enquiry and reported the matter to the higher authority for appointing him as an enquiry officer to conduct regular enquiry. There is a distinction between personal bias, in the sense that an officer is personally so situated with reference to a dispute that he cannot bring to bear upon the subject of the enquiry that independence of mind and impartiality which one associates with an adjudicator and an official connection with a dispute at anterior stage which officer may have upon a matter in the discharge of his official duties. It cannot be said that, in all cases where an officer has dealt with a matter at an anterior stage, he becomes disqualified to deal with that matter at a subsequent stage on the basis of principle of bias. Whether he should be so considered to have been biased would depend upon the facts and circumstances of each case.

3. It is, therefore, clarified that an officer who conducts a preliminary enquiry is not precluded from being appointed as an enquiry officer, unless the circumstances show that he has a personal bias against the accused officer.

(41)

**Memo.No.1085/Ser.C/72-3, Genl.Admn.(Ser.C) Dept., dt.10.05.1973
regarding date of taking effect of order of suspension, dismissal, removal,
compulsory retirement.**

Subject Heading : Dismissal - date of coming into force

Subject Heading : Suspension - date of coming into force

A question has often been raised as to the date from which an order of suspension pending inquiry will take effect, i.e., whether it is the date on which the competent authority has passed the order, whether it is the date of despatch of the order, or whether it is the date on which the Government servant concerned has actually been served with the order of suspension.

2. Except in cases where a Government servant is deemed to have been placed under suspension under rule 13(2) of the Andhra Pradesh Civil Services (C.C.&A.) Rules, 1963, the order of suspension will ordinarily be communicated to the Government servant immediately after it is passed. A difficulty may, however, arise in determining the date from which the Government servant is under suspension, if the Government servant placed under suspension is -

- a) stationed at a place other than that where the competent authority passes the order of suspension;
- b) on tour and it may not be possible to serve the order of suspension on him immediately;
- c) one holding charge of stores, cash, warehouses, seized goods, bonds, etc., and he has to be relieved of the charge; and
- d) on leave or absent from duty without permission or availing joining time.

3. The Government have examined the question and they issue following instructions:

- (i) In cases referred to in items (a) and (b) above, it will not be feasible to give effect to an order of suspension from the date on which it is passed, owing to the fact that during the intervening period, a Government servant may perform certain functions lawfully exercisable by him or may enter into contracts, etc. In such cases, the order of suspension takes effect from the date of its service on the Government servant concerned.
- (ii) In cases referred to in item (c) above, the concerned Government servant may not be able to hand over charge immediately on receipt of suspension order by him, without checking and verification of stores, cash etc., and the order of suspension takes effect from the date of formal handing over of the stores, cash etc., by the Government servant concerned.

(iii) In cases referred to in item (d) above, the order of suspension takes effect from the date of its despatch from the office of the authority which passed it. Where a Government servant on leave is suspended, it is not necessary to recall him from leave, but it is sufficient if the unexpired portion of the leave is cancelled by an order to that effect

4. It may be borne in mind that no order of suspension should be made with retrospective effect, as a retrospective order of suspension is illegal.

5. The Government also direct that the above orders will apply mutatis mutandis to an order imposing the penalty of dismissal, removal or compulsory retirement on a Government servant

6. The Heads of Departments etc., are requested to follow the above instructions in determining, the date of suspension of a Government servant pending inquiry, or the date of his dismissal, removal or compulsory retirement, as the case may be.

(42)

Memo.No.1300/SC.D/73-1, Genl.Admn. (SC.D) Dept., dt.06.09.1973 regarding production of records before A.C.B. by Heads of Department / Office.

Subject Heading : ACB - securing of records / documents

Instructions were issued in G.O.Ms.No.677, GA (SC.D) Department, dt.30.05.1961 and in the procedural instructions issued by the Vigilance Commissioner with the concurrence of the Govt., that the Heads of Departments or offices concerned shall, when called for, normally, furnish the relevant official records for reference to the requisitioning officer, viz., the Vigilance Commissioner (or a gazetted officer in the Commission authorised by the Vigilance Commissioner), the C.V.O., Vigilance Officers, the Director, Anti-Corruption Bureau or a gazetted officer of the Anti-Corruption Bureau in respect of cases against gazetted officers duly authorised in this behalf. It was provided however, that in case of extremely confidential or privileged documents, orders of the Government shall be taken before the records are handed over to the requisitioning authority. Instructions were also issued that the Heads of offices shall render such assistance to the Vigilance Commission or the officers of the Anti-Corruption Bureau as may be required by the Investigation Officers, in connection with the enquiries.

2. Thus, the existing rules require (a) the production of records by the Heads of Departments/Heads of Offices on a requisition by the Director, Anti-Corruption Bureau or a gazetted officer of the Anti-Corruption Bureau in respect of cases against gazetted officers, and (b) a reference to records and original documents by the Anti-Corruption Bureau is expected to be undertaken at the Regular Enquiry stage and not at the stage of a preliminary enquiry which is to be conducted discreetly.

3. In view of these existing instructions it is clarified that when production of records from a Head of Department / Office is sought the Anti-Corruption Bureau should —

- a) state that the records are required in connection with a Regular Enquiry; and
- b) make the requisition on the authority of a Gazetted Officer of the Bureau in regard to enquiries concerning Gazetted Officers.

The records of Government may be furnished for reference if requisitioned by the Vigilance Commission or the Director, Anti-Corruption Bureau after obtaining orders of the Secretary to Government concerned with reference to existing instructions.

(43)

**Memo.No.702/SC.D/73-5, Genl.Admn.(SC.D) Dept., dt.15.02.1974:
Application of mind and recording of reasons necessary while issuing
sanction order.**

**Subject Heading : Sanction of prosecution - should be speaking order,
showing application of mind**

The Departments of Secretariat and Heads of Departments are aware that in respect of cases investigated into by the Anti-Corruption Bureau in which criminal prosecution of a public servant under the provisions of the Prevention of Corruption Act (Act II of 1947) is contemplated, the prior sanction of the competent authority to launch the criminal prosecution is mandatory. In respect of Gazetted Officers, the Government in the Administrative Department and in respect of Non-Gazetted Officers the authority competent to dismiss the public servant or

any other higher authority are the authorities competent to sanction criminal prosecution under section 6(1)(b) or (c) of the Prevention of Corruption Act, as the case may be.

2. At present in all such cases the reports of the Anti-Corruption Bureau are received by the Departments of Secretariat concerned together with the advice of the Vigilance Commission, whereupon the competent authority is requested to sanction prosecution based on the material made available to him. It has however been represented that in respect of cases in which the competent authorities are subordinate to the Government, such sanction is questioned in the Courts as having been given by them on the direction of Government without exercising their discretion and that therefore, the evidence tendered by the sanctioning authorities during the trial of cases in Courts is liable to be treated as of little value.

3. The Government have carefully examined the matter and have decided that, in future the Departments of Secretariat while addressing the competent authorities to sanction prosecution under Section 6(1)(c) of the Prevention of Corruption Act, should inform the competent authorities that they have to apply their mind to the facts and circumstances of the case before sanction is accorded to the prosecution and that the competent authority should record the reasons that weighed with him in taking the decision in the sanction order itself.

(44)

Memo.No.2317/Ser.D/73, Genl.Admn.(Ser.D) Dept., dt.25.06.1974 regarding furnishing of copy of Tribunal for Disciplinary proceedings / Inquiry Officer's report to Anti-Corruption Bureau and other concerned authorities.

Subject Heading : ACB - to furnish inquiry report with final orders

Subject Heading : ACB - TDP report to be furnished with final orders

Ref : G.O.Ms.No.677, G.A.(Ser.D), dt.30.05.61.

The penultimate sentence of part IV of the consolidated instructions issued in the G.O. cited reads as follows :

"A copy of the report of the Tribunal for Disciplinary Proceedings should be communicated to the Director, Anti-Corruption Bureau, along with a

copy of the final orders passed by Government in cases of corruption investigated by the Anti-Corruption Bureau and enquired into by the Tribunal".

2. In view of the above provision, the Director, Anti-Corruption Bureau has requested the Government to make available to him a copy of the report of the Commissioner for Departmental enquiries so as to enable him to know whether all the evidence presented during the enquiry has been taken into consideration by the forum that has conducted the enquiry while arriving at a provisional conclusion and whether the presenting officer has committed any irregularities in presenting the prosecution and also to know where the case failed so that future investigations can be improved.

3. After careful consideration of the above request of the Director of Anti-Corruption Bureau, Government have decided that the agency that has conducted the investigation as well as the prosecutions be furnished with a copy of the report of the forum that has conducted the enquiry, whether it be the Tribunal for Disciplinary proceedings or the Commissioner for Departmental Enquiries for information. The Government have also decided that the Director, Anti-Corruption Bureau should not make any comments on it. Therefore, the following sentence shall be substituted for the penultimate sentence of Part IV of G.O.Ms.No.677, G.A.(Ser.D), dt.30.05.1961, referred to above.

"A copy of the report of the forum that has conducted the enquiry, whether it be the Tribunal for Disciplinary proceedings or the Commissioner for Departmental Enquiries, should be communicated to the Director, Anti-Corruption Bureau, along with a copy of the final orders passed by the Government. As the report is intended only for the information of the Anti-Corruption Bureau, the Director, Anti-Corruption Bureau should not, however, comment on the report of the Tribunal for Disciplinary proceedings or the Commissioner for Departmental Enquiries".

(45)

Memo.No.1112/Ser.C/74-2, Genl.Admn. (Ser.C) Dept., dt.06.07.1974 regarding opportunity to be given to complainant in disciplinary cases.

Subject Heading : Complainant - opportunity to be given

The question whether an opportunity should be given to complainants to substantiate the allegations made by them against Government employees where the charges levelled against Government employees are specific has been examined by Government. The Government consider that there should be no objection at the stage of preliminary enquiry to elicit information from the complainant in respect of the allegations made by him against any Government official, and if there is sufficient evidence which can form the basis for a charge, it can be included in the memorandum of charges against the officer complained against. Further, even in a regular enquiry, there should be no objection to the complainant being made a witness, who can be examined at an oral enquiry, allowing at the same time an opportunity to the accused officer to cross-examine the complainant. Such a step would, besides giving a chance to the complainant to furnish material in support of his allegations, also afford an opportunity to the charged officer to present his side of the case in his defence during the course of the enquiry.

2. The Heads of Departments, the Collectors etc., are requested to follow the above procedure while dealing with the disciplinary cases initiated on the basis of complainants against the Government employees.

(46)

**Memo.No.1818/Ser.C/74-1, Genl.Admn. (Ser.C) Dept., dt.17.07.1974 :
Government Servants not to conduct enquiry into allegations against
themselves.**

Subject Heading : Allegations against oneself - not to conduct enquiry

An instance has come to the notice of the Government where a Government servant conducted enquiries on the receipt of petitions containing allegations of corruption against himself. Instruction 1(b) of the instructions in Appendix VI to the Classification, Control & Appeal Rules provides that the preliminary enquiry may be made by an officer under whose administrative control the officer alleged to be at fault is working or was working at the time the acts complained of were committed. In view of this, the preliminary enquiry should be made only by an officer who is superior to the officer alleged to be at fault and it should not be made by the officer alleged to be at fault.

2. It is therefore, clarified that no Government servant should conduct enquiries on the receipt of petitions containing allegations against himself.

(47)

Memo.No.1886/SC.D/74-1, Genl.Admn.,(SC.D) Dept., dt.29.10.1974 regarding disciplinary action against Government Servants for resiling from their statements given to Investigating Officers.

Subject Heading : Hostile witnesses - disciplinary action

Instances have come to notice wherein Government Servants giving evidence before the Tribunal for Disciplinary Proceedings go back on statements given by them before the Officers of the Anti-Corruption Bureau during enquiry, notwithstanding the fact that the statements are signed by them. The discrepant evidence has often led the Tribunal to hold that the charge is not proved. When an employee is approached by an Officer of the Anti-Corruption Bureau during enquiry into the conduct of a Government Servant, he should carefully recapitulate the facts known to him and make a well considered statement which is true to the best of his knowledge. There should then be no occasion for him to give before the Tribunal, evidence which materially differs from his earlier statement made to the Anti-Corruption Bureau officials during enquiry. There have been quite a few instances in which Government employees were found to have given before the Tribunal evidence materially different from what they stated during the Anti-Corruption Bureau enquiry.

2. After careful consideration, the Government have decided that such misconduct cannot be allowed to pass without notice. The Departments of Secretariat and Heads of Departments and District Collectors are informed that in all cases where a Government Servant has given evidence which is materially different from that recorded and signed by him earlier, disciplinary action under rule 8(1) of the Andhra Pradesh Civil Services (CCA) Rules should invariably be taken against the employee responsible for such discrepant statements for contravention of provisions of rule 3(1) and 3(2) of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

(48)

Memo.No.2358/Ser.C/74-1, Genl.Admn. (Ser.C) Dept., dt.05.02.1975: Filing of charge sheet in court, serving charges, passing final orders, disposal of appeals in disciplinary proceedings should be within three months at each stage.

Subject Heading : Charge sheet etc - time limits

- Ref : 1. G.O.I. Cabinet Secretariat, O.M.No.39/33/72-Ests.(A) dt.16.12.72.
2. G.O.I. Cabinet Secretariat, O.M.No.39/43/70-Ests.(A) dt.08.01.71.
3. G.O.I. Cabinet Secretariat, O.M.No.39/42/70-Ests.(A) dt.15.01.71.

The need for quick disposal of cases of Government Servants under suspension and in particular, the completion of investigation for filing the charge sheet in the court whose prosecution is sought to be launched can hardly be over emphasised. The Government of India have issued orders in the O.M. first cited that every effort should be made to file the charge sheet in court or serve it on the Government Servant concerned as the case may be, within three months of the date of suspension and in cases in which it may not be possible to do so, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay.

2. In the O.M. second cited, the Government of India have directed that while in the public interest as well as in the interest of employees, no avoidable delay should occur in the disposal of disciplinary cases, it is necessary that sufficient time is available to the disciplinary authority to apply its mind to all relevant facts which are brought out in the inquiry before forming an opinion about the imposition of a penalty, if any, on the Government Servant. While, therefore, it has to be ensured that the prescription of any time limit for the disposal of the inquiry report by the disciplinary authority by making a provision in this regard in the C.C.S.(CCA) Rules should not lead to any perfunctory disposal of such cases, taking all relevant factors into consideration, it was felt that in cases which did not require consultation with the Central Vigilance Commission or the Union Public Service Commission, it should normally be possible for the disciplinary authority to take a final decision on the inquiry report within a period of three months at the most. In cases where the disciplinary authority feels that it is not possible to adhere to this time limit a report may be submitted by him to the next higher authority indicating the additional period within which the case is likely to be disposed of and the reasons for the same. In cases requiring consultation with the Central Vigilance Commission and the Union Public Service Commission also, every effort should be made to ensure that such cases are disposed off as quickly as possible.

3. In the O.M. third cited, the Government of India, have stated that although the appellate authorities are expected to give a high priority to the

disposal of appeals, there might be cases in which the hands of the appellate authority are too full and it may not be able to devote the time and attention required for the disposal of appeals within a short period. In such cases, the appellate authority can be relieved of his normal work to such an extent as would be necessary to enable him to devote the required time and attention to the disposal of the appeals pending before him, by redistribution of that work amongst other officers. In order to achieve quicker disposal of appeals, the Central Government have directed that a detailed statement of appeals pending disposal, for over a month, should be submitted by the appellate authority to the next authority, indicating the reason on account of which the appeal could not be disposed of within one month and further time likely to be taken for disposal of each such appeal along with the reason therefor, to enable the higher authority to go into the reasons for delay in the disposal of appeals pending for more than one month and to take remedial steps wherever necessary to have the pending appeals disposed of without further delay. In cases where the appellate authority is the Government, the aforesaid statement should be submitted to the Secretary to the Government in the concerned Ministry.

4. The Government have decided to adopt the above instructions of Government of India and direct:-

- (i) that every effort should be made to file the charge sheet in court or serve it on the Government Servant, as the case may be, within three months of the date of suspension and in cases in which it would not be possible to do so, the matter should be reported to the next higher authority explaining the reasons for the delay;
- (ii) that in cases which do not require consultation with the Vigilance Commission or the Andhra Pradesh Public Service Commission, a final decision on the enquiry report should be taken within a period of three months at the latest, and where it is not possible to adhere to this time limit, a report should be submitted to the next higher authority indicating the additional period within which a case is likely to be disposed of and the reasons for the same. In cases requiring consultation with the Vigilance Commission and the Andhra Pradesh Public Service Commission, every effort should be made to ensure that such cases are disposed off as quickly as possible; and
- (iii) that a detailed statement of appeals pending disposal for over three months should be submitted by the appellate authority to the next higher authority indicating the reasons on account of which the appeals could

not be disposed of within three months and the further time likely to be taken for the disposal of each such appeal along with reasons therefor to enable the higher authority to take necessary action. In cases where the appellate authority is the Government, the aforesaid statement should be submitted to the Secretary to the Government in the concerned Department.

(49)

Memo.No.1964/SC.D/73-4, Genl.Admn. (SC.D) Dept., dt.15.03.1975 regarding direct approach by I.Os. of A.C.B. to Departments for information and records, in enquiries.

Subject Heading : ACB - securing of records / documents

Ref : Govt. Memo. No.1300/SC.D/73-1 G.A.(SC.D) Dept., dt. 6-9-73.

In this Departments Memo. cited, instructions were issued, inter alia, that the Anti-Corruption Bureau can seek production of records from a Head of Department / Office only when the records are required in connection with a regular enquiry. After careful reconsideration of the issue, it has been decided that the Officers of the Anti-Corruption Bureau may be permitted to peruse the records during the course of preliminary enquiries also. Accordingly it is further clarified that when production of records from a Head of Department/Office is sought, the Anti-Corruption Bureau should:

a) state the particulars of records which are required in connection with a preliminary enquiry/regular enquiry, indicating the reasons for perusal for each of such records;

b) state that it is not a Suo Motu enquiry; and

c) make the requisition from an Officer not below the rank of a Deputy Superintendent of Police of the Bureau.

2. The Director, Anti-Corruption Bureau and the Heads of Departments are requested to bring these instructions to the notice of the officers under their control for their information and guidance.

3. The Director, Anti-Corruption Bureau, is also informed that all the preliminary enquiries should be completed within three months.

(50)

Memo.No.2974/Ser.C/74-2, Genl.Admn. (Ser.C) Dept., dt.04.04.1975 regarding supply of copies of statements of witnesses to charged officers, instead of synopsis, in disciplinary proceedings.

Subject Heading : Statements of witnesses – supply of copies of statements of witnesses to Charged Officers is Disciplinary Proceedings

Ref : Memo.No.3056/61-1 G.A.(Ser.C) Dept., dt.27.11.61.

With reference to the Memorandum cited, a copy of Government of India's letter No.30/5/61-AVD, dt.26.08.61 was communicated to all Heads of Departments, Collectors etc., for information and guidance on the point of furnishing documents asked for by a Government servant involved in a departmental enquiry. In para 7 of this letter, it was clarified that the Government Servant concerned should be given access to the statements of such of the witnesses as were examined in the preliminary enquiry or investigation made by the police and as are proposed to be examined in proof of the charges or the facts stated in the statement of allegations.

2. The question whether the requirements of Article 311(2) of the Constitution of India to provide a reasonable opportunity to the delinquent officer would be satisfied if a synopsis of the statements of the witnesses examined during investigation or preliminary enquiry in respect of charges levelled against the Government Servant were furnished to him has come up for consideration before the Supreme Court in State of Punjab Vs. Bhagat Ram (A.I.R. 1974 2335). The Supreme Court held as follows:

"The meaning of providing a reasonable opportunity of showing cause against the action proposed to be taken is that the Government servant is afforded a reasonable opportunity to defend himself against charges on which the enquiry is held. The Government Servant should be given an opportunity to deny his guilt and establish his innocence. He can do so when he is told what the charges against him are. He can do so by cross-examination of the witnesses produced against him. The object of supplying statements is that the Government servant will be able to refer to the previous statements of the witnesses proposed to be examined against the Government Servant. Unless the statements are

given to the Government servant he will not be able to make an effective and useful cross-examination".

3. For those reasons the Supreme Court considered that it would be unjust and unfair to deny a Government Servant copies of statements of witnesses examined during investigation and produced at the inquiry in support of the charges levelled against him and that the supply only of a synopsis does not satisfy the requirement of giving the Government servant a reasonable opportunity of showing cause against the action proposed to be taken.

4. The Heads of Departments, Collectors etc., are requested to keep in mind the above observation of the Supreme Court in conducting disciplinary enquiries and to communicate a copy of this Memo. to all disciplinary authorities working under them for their guidance and necessary action.

(51)

Lr.No. 144/Ser.C/75-2, Genl. Admn. (Ser.C) Dept., dt.29.05.75 regarding date of initiation of disciplinary proceedings before Tribunal for Disciplinary Proceedings, for purpose of continuing proceedings after retirement.

Subject Heading : TDP - continuance of proceedings after retirement

I am to state that in the case of an officer placed on his defence before the Tribunal for Disciplinary proceedings, a view was taken by the Division Bench of the High Court that once he had retired, the Tribunal would cease to have competence to further continue the proceedings, but another Division Bench of the Andhra Pradesh High Court was not inclined to agree with this view and the matter was referred to the full bench of the High Court, which held that, notwithstanding the retirement of an officer, disciplinary proceedings, if launched prior to the date of an officer's retirement, would still be valid and could be continued by the Tribunal for Disciplinary proceedings after the date of retirement of the delinquent officer. A question has arisen as to what the term 'initiation of proceedings against a delinquent officer implies, and from what date the proceedings are deemed to commence' i.e. whether it is the date of the communication of the order to the delinquent officer that he is placed on his defence before the Tribunal for Disciplinary Proceedings or whether it is the date of actual framing of the charges and communication thereof to the said officer.

2. The above point has been examined in consultation with Law. The Law department have advised as follows:-

"A full bench of the High Court of Andhra Pradesh decided in the decision reported in Sri K. Satyanarayana Vs. the State of Andhra Pradesh (AIR 1973 AP223) in W.A.No.210/68 that there is no direct or indirect conflict between the provisions of the Andhra Pradesh Civil Services (Disciplinary proceedings Tribunal) Act, 1960 (A.P.Act. 2 of 1960) and those of article 351 A of the Civil Service Regulations and that the departmental proceedings instituted against a Government servant while the officer was in service might be deemed to be a proceeding under article 351 A and could be continued in view of proviso under that article as if the officer had continued in service. Proviso (a) to article 351 A no doubt speaks of the authority which commenced the disciplinary proceedings against a Government servant but under that proviso the Departmental proceedings that could be continued and concluded must have been instituted while the officer was in service, whether before his retirement or during his re-employment. The explanation under that article states that the departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner or date on which the officer has been placed under suspension. The date of institution of departmental proceedings for the purpose of article 351 A is therefore either (1) the date on which the statement of charges or the Memorandum of charges is issued to the Government Servant; or (2) the date from which the officer was placed under suspension".

In a case where an officer was placed under suspension while he was in service, the departmental proceedings must be deemed to have been instituted on the date on which he was placed under suspension by the competent authority. In any other case, the date on which the departmental proceeding is instituted against a Government Servant is the date on which a Memorandum or the statement of charges is issued to the officer by the Tribunal. The necessary corollary of this view is that in a case where the misconduct against a Government Servant is referred to the Tribunal while he is in service but not under suspension and the statement of charges is not communicated to him or he is not placed under suspension before retirement from service, the requirement of proviso (b) to article 351-A should be complied with.

3. I am to add that the Government agree with this view taken by Law, viz., that "institution of proceedings against a delinquent officer" should be construed to commence on the date:

- (i) on which the statement or Memorandum of charges has been issued to the Government Servant; or
- (ii) from which the officer has been placed under suspension.

(52)

G.O.Ms.No.342, Genl. Admn. (Ser.C) Dept., dt.31.05.1975 : In case of non-communication of adverse remarks entered in personal files; procedure to be followed in assessment of suitability.

Subject Heading : Adverse remarks - assessment in case of non-communication

Read :

From the A.P.P.S.C. Lr.No.1058/B-1/74, dt.02.12.74.

ORDER :

The Secretary, Andhra Pradesh Public Service Commission has, in the letter cited, stated that the responsibility to communicate adverse remarks to the officers concerned and disposing of the representations, if any, received from those officers rests primarily with the departments concerned, but it was noticed, in some cases, that such decisions were not taken well before sending proposals for recruitment by transfer to the Commission. It would be difficult, if not impossible, for the Commission to enter into correspondence with the Heads of Departments over these matters, especially in the case of selections, which were delayed or where a large number of candidates are involved for consideration. The Commission felt that adequate procedure should be devised to deal with cases of review of promotions consequent on the expunction of adverse remarks.

2. The Government have examined the procedure to be followed in assessing the suitability of candidates against whom adverse remarks have been made which remain uncommunicated and where promotion is proposed to be withheld only on account of the said uncommunicated adverse remarks. The Government direct that in such cases viz., where there are uncommunicated

adverse entries in the confidential records of a Government servant, and where promotion is proposed to be withheld only on account of the uncommunicated adverse entries, consideration of the claims for promotion of such Government Servant be postponed, until adverse entries in the confidential roll have been communicated and an opportunity afforded to the officer for being heard or for making a representation against those entries. Where, however, an employee is considered unsuitable for promotion even without taking into consideration the uncommunicated adverse remarks, no postponement of consideration would be necessary.

3. The Heads of Departments, Collectors, etc., are requested to keep in view the above Government orders while assessing the suitability of candidates for promotion or appointment by transfer to higher posts. They are also requested to communicate a copy of these orders to all appointing authorities under their administrative control.

(53)

Memo.No.292/SC.D/75-4, Genl.Admn. (SC.D) Dept., dt.26.08.1975 regarding utilisation of services of Government Servants by Anti-Corruption Bureau in connection with traps; dispensing with need for prior permission of Head of Department / Office.

Subject Heading : Traps - Government Servants as mediator witnesses

- Ref : 1. Govt.Memo No.4923/61-1, G.A. (Ser.D) Dept., dt.27.12.61.
 2. Govt.Mmo No.930/SC.D/74-3, G.A.(SC.D) Dept., dt.16.8.74.
 3. From the Director, A.C.B. Lr. Rc. No. 42/ACB/74, dt. 28.06.75.

In the memo. second cited, orders were issued to the effect that the Director, Anti-Corruption Bureau should obtain prior permission of the Head of the Department / Office before indenting on the services of a Government employee especially when it means an interference with his own duties. He need not, however, divulge the details regarding the person to be trapped and where the trap is to be laid.

2. In view of the request of the Director, Anti-Corruption Bureau in the reference third cited, in modification of the instructions issued in the reference second cited, the Government have decided that Director, Anti-Corruption Bureau need not obtain prior permission of the Head of the Department / Office as

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required in the memo. second cited. However, he is requested to inform after the trap is over, the Head of the Department / Office to which the officer (taken as mediator) belongs, of the fact that the officer has been used as a mediator indicating the period of utilisation and the places where utilised.

(54)

Memo.No.168/Pen.Code/75-1, F&P (Fin.Wing.Pen.Code) Dept., dt.01.10.1975: Procedure for premature retirement of Government Servants under suspension.

Subject Heading: Compulsory retirement - while under suspension

- Ref : 1. G.O.Ms.No.188, F&P (Fin.Wing-Pension-I) Dept., dt.29.07.75.
2. G.O.Ms.No.198, F&P (Finance Wing-Pension I) Dept., dt.04.08.75.

In connection with the retirement of Government Servants under the Premature Retirement Rules promulgated through the G.Os. cited, a doubt has been expressed whether a Government Servant who is under suspension could be retired without the suspension order being revoked and the officer restored to duty.

2. It is hereby clarified that there is no necessity of revoking the order of suspension and restoring such an officer to duty before serving the notice of retirement under the above orders. An officer under suspension, proposed for retirement under the Premature Retirement Rules, may be served with a notice of retirement straight away without revoking the order of suspension and restoring him to duty.

(55)

Memo.No.1973/AC/75-1, Genl.Admn., (A.C.) Dept., dt.29.10.1975 regarding transfer of corrupt Government Servants from focal points.

Subject Heading : Focal points - retention, transfer of employees

- Ref : 1. Memo.No.2016/66-3 G.A.(A.C) Dept., dt.12.12.66.
2. Memo.No.1402/AC/72-1 G.A.(A.C) Dept., dt.20.09.72.

In the references cited instructions for the transfer of officers and staff holding focal points were issued. According to these orders, no Government Officer or employee is to be kept in the post listed as focal point for more than 3 years and where it is proposed to deviate from this principle, the authority concerned has to obtain the approval of Government in the Administrative Department in respect of Gazetted Officers and of the next higher authority above the appointing the returning has to record clearly the reasons for such retention.

2. It has been considered that persons with bad reputation should not be retained in the posts declared as focal points and they should be transferred whenever such instances come to notice. The following instructions are therefore issued.

- (i) Whenever instances of corruption and malpractices come to the notice of higher authorities against officers or subordinates working in posts declared as focal points, they should be shifted immediately from the posts ordered as focal points. This should done even though the three years period of service of the individual officer in the post is not completed.
- (ii) No officer with doubtful integrity or against whom enquiries relating to charges of corruption are pending should be posted in the posts declared as focal points.

(56)

Memo.No.1718/Ser.C/75-1, Genl.Admn., (Ser.C) Dept., dt.22.11.1975 regarding penalty to be imposed on persons involved in corruption, bribery, and action on ground of conduct leading to conviction.

Subject Heading : Departmental action and conviction

- Ref: 1. Circular Memo.No.3037/64-3, G.A.(Ser.C) Dept., dt.26.11.64.
2. Memo.No.2598/Ser.C/65-2, dt.25.09.65.
3. Memo.No.1017/66-1 G.A.(Ser.C) dt.18.06.66.

In item (3) of the Circular Memorandum first cited, instructions were issued that in proved cases of bribery and corruption, no punishment other than that of dismissal should be considered adequate and if any lesser punishment

is awarded in such cases, adequate reasons should be given for it in writing. In the Memorandum 2nd cited, it was clarified that if, however, a Government employee is removed or dismissed or reduced in rank, solely on the ground of conduct which led to his conviction on a criminal charge, without complying with the requirements of article 311(2) of the Constitution of India or rule 19(2) of the Classification, Control and Appeal Rules and if his conviction is eventually set aside by the appellate court, or by the High Court, in revision, then the order of removal, dismissal or reduction in rank, as the case may be, cannot stand and that order will have to be reviewed. Since Government had reasons to believe that instructions issued in item (3) of the Circular Memorandum 1st cited were not being implemented fully, it was reiterated in the Memorandum 3rd cited and in all such cases there should be no hesitation to impose the penalty of dismissal from service and it was ordered that in order to ensure that those instructions were being followed scrupulously, Inspecting Officers should review at the time of their inspection of the offices all cases of corruption and bribery where the maximum penalty had not been awarded by the competent authority.

2. It has been brought to the notice of the Government that prompt action is not being initiated as directed above by the competent authorities against officers convicted by the special Judge for S.P.E. on the ground of conduct which led to their conviction on a criminal charge apparently for the reason that the appeals filed by them were not disposed of by the Courts and this has led to avoidable payment of subsistence allowance to the accused officers.

3. The Heads of Departments, Collectors, etc. are informed that officers convicted in criminal cases should normally be dismissed from service and it is not necessary either to await the outcome of an appeal or the expiry of the appeal time, where an appeal may have been preferred. They are accordingly requested to ensure that in proved cases of bribery and corruption, the penalty of dismissal from service is imposed, without waiting for the disposal of the appeal, if any, filed by them.

(57)

U.O.Note No.2498/SC.D/75-4, Genl.Admin. (SC.D) Dept., dt.25.11.1975: Issue of sanction of prosecution of Government Servants, State and Subordinate services, by Government alone.

Subject Heading : Sanction of prosecution - Government to issue against State as well as Subordinate Services

The Committee of the Secretaries to the Government in its meeting held on 02.09.1975 observed that prosecution in trap cases was not being sanctioned in time. The delay, it was pointed out had been occurring on account of the Government referring the matter to the Heads of Departments. A point was therefore made whether prosecution could not straight-away be sanctioned by the Government themselves. Clause (1) of article 311 of the Constitution of India prohibits the removal or dismissal of a Government servant by an authority subordinate to that by which he was appointed, and under rule 12 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, the Government may impose the penalties of removal and dismissal specified in clauses (vii) and (viii) of rule 8 of the said rules, on members of the State services. Rule 15(b) of the said rules also provides that the authority which may impose on a member of the Subordinate service, the penalties of removal and dismissal from service shall be the appointing authority or any higher authority. It is, therefore, competent for the State Government to remove or dismiss any member of a State Service or a Subordinate Service. Thus, sanction for prosecution required under section 6(1)(b) of the Prevention of Corruption Act, 1947, may be accorded by the State Government in the case of any member of a service, State or Subordinate even though in the case of certain Government servants the authority to accord sanction under the said Act may be the authority subordinate to Government. In the circumstances, the Departments of Secretariat are informed that in future in cases where the reports of the Anti-Corruption Bureau together with the advice of the Vigilance Commission for criminal prosecution of Government servants are received by them, they may themselves issue sanction order for prosecution instead of sending the case to the concerned subordinate authorities.

2. Similarly in the cases of employees of Zilla Parishads, Panchayat Samithis, and Municipalities, sanction for prosecution under the Prevention of Corruption Act, 1947 may be accorded by the Government in respect of Public servants who cannot be removed or dismissed except by or with the sanction of the Government. But in the case of those employees who may be removed or dismissed from service, only by an authority other than the Government, it is only that authority that can accord sanction for prosecution under the said Act. Therefore the Departments of Secretariat may take action in such cases.

(58)

**Memo.No.2705/Ser.C/74-1, Genl.Admn. (Ser.C) dept., dt.28.04.1976
regarding submission of advance copies of petitions, to higher authorities.**

Subject Heading : Petitions - submission of advance copies

In Memo.No.1072/65-1, General Administration (Ser.C) Department, dt.19.05.1965, instructions were issued that as soon as a petition from a Government servant addressed to a higher authority through proper channel is received, the competent authority should inform the employee concerned the action proposed to be taken on the petition within a fortnight from the date of receipt of the petition, and if it is withheld, the fact should be intimated to the petitioner, and that only after receiving an endorsement to this effect, it will be open to the petitioner to submit a copy of his petition directly to the higher authority.

2. It has been brought to the notice of Government that representations submitted by the employees through proper channel have received no attention in several cases and that they have not been informed by their superior officers of the action taken on their representations.

3. Government have decided that employees, who fail to receive intimation of the action proposed to be taken to their representations addressed to higher authorities submitted to the forwarding authorities, may, after the expiry of two months from the date of submission of the representations submit copy, of their representations to the next higher authority. The Heads of Departments and the Departments of Secretariat are requested to bring these instructions to the notice of all the officers and employees under their control and to ensure that representations received from employees are promptly attended to.

(59)

G.O.Ms.No.424, Genl.Admn. (Ser.C) Dept., dt.25.05.1976 regarding sealed cover procedure -promotion to higher posts of officers facing inquiry in departmental proceedings or prosecution in a criminal court or whose conduct is under investigation and against whom departmental proceedings or criminal prosecution is imminent.

Subject Heading : Sealed cover procedure

Read the following :

1. G.O.Ms.No.790, G.A.(Ser.C) Dept., dt.29.09.70.
2. G.O.Ms.No.211, G.A.(Ser.C) Dept., dt.31.03.75.

ORDER :

Government have carefully considered the existing instructions regarding consideration of the claims for promotion of officers who are facing enquiry in any departmental proceedings or before a Criminal Court or whose conduct is under investigation and against whom Departmental proceedings or Criminal Prosecution is about to be instituted, and have decided that the following procedure shall be followed in such cases.

2. Officers who are facing enquiry, trial or investigation can be categorised into the following groups based on the nature of the allegations / charges pending against them or about to be instituted.

- (i) an officer with a clean record, the nature of charges / allegations against whom relate to minor lapses having no bearing on his integrity or efficiency, which, even if held proved, would not stand in the way of his being promoted;
- (ii) an officer whose record is such that he would not be promoted, irrespective of the allegations / charges under enquiry, trial or investigation; and
- (iii) an officer whose record is such that he would have been promoted had he not been facing enquiry, trial or investigation, in respect of charges which, if held proved, would be sufficient to supersede him.

3. The suitability of all officers eligible for promotion including those mentioned above should be assessed at the time of consideration of promotion by the Departmental Promotion Committee or other authority, as the case may be. The Departmental Promotion Committee or other authority may consider promotion of officers coming under category (i) above and indicate the rank to be assigned to such officers in the promotion list, notwithstanding the enquiry, trial or investigation. Similarly, supercession may be recommended straight away in respect of officers coming under category (ii), on grounds of their being unfit for promotion. In the case of officers coming under category (iii) the Departmental Promotion Committee or other authority should consider whether such an officer would have been recommended for promotion, if the officer had his conduct not been under enquiry, trial or investigation, and make its recommendations and the rank to be assigned to him in the promotion list. In such cases the Departmental Promotion Committee may make a specific recommendation that their promotion should be deferred until after the termination of the disciplinary proceedings or criminal prosecution.

4. In the event of there being an officer whose promotion has been recommended to be deferred, the vacancy that could have gone to the officer should be filled only on a purely temporary basis by the next person in the approved list of candidates for promotion. If the officer concerned is completely exonerated, he should be promoted to the post filled on a temporary basis, restoring him his rightful place in the list of promoted officers with retrospective effect.

5. In cases where an officer is under suspension pending enquiry, investigation or trial the provisional withholding of promotions would be justified and the instructions issued in G.O.Ms.No. 790, General Administration (Ser.C) dt. 29.09.1970 would continue to apply.

6. This order issues in supercession of the order issued in G.O.Ms.No.211, General Administration (Services.C) Department dt.31.03.1975.

(60)

**Memo.No.204/Ser.C/76-3, Genl.Admn. (Ser.C) Dept., dt.31.05.1976
regarding need to place officers trapped, under suspension immediately.**

Subject Heading: Suspension - in trap cases

Ref : 1. Memo.No. 401/Ser.C/65-1, G.A.(Ser.C) Department, dt.27.02.1965.

2. D.O.Lr.No. 248/AC/75-6, G.A. (AC) Department, dt. 28.01.1976.

In the Memo. cited, the instructions of the Government of India were communicated to the effect that the public interest shall be guiding factor in deciding the question of placing a Government Servant under suspension and the disciplinary authority should have the discretion to decide this taking all factors into account. The circumstances in which a disciplinary authority may consider it appropriate to place a Government servant under suspension, as laid down by the Government of India, were also indicated. These instructions include cases where the continuance in office of the Government servant will be against the wider public interest, such as public scandal, particularly corruption, etc.

2. The Director, Anti-Corruption Bureau has brought to the notice of Government that in many cases trapped officers are not being straight away

relieved on suspension due to delay in issue of suspension orders and relief of such officers leading to destroyal of material evidence by the accused officers. He has suggested that officers trapped be immediately shifted out of their charge, if any interregnum between the trap and the actual relief after being placed under suspension is anticipated, so that material evidence is not destroyed.

3. The matter has been considered by Government and they hereby direct that the officers trapped be placed under suspension immediately, that if there is likely to be any interregnum between the trap and the actual relief of the trapped officer after being placed under suspension, the competent authorities should consider whether the officers could be transferred immediately so that material evidence is not destroyed and that arrangements should be made to relieve trapped officers forthwith.

(61)

Memo.No.1483/SC.D/76-1, Genl.Admn. (SC.D) Dept., dt.14.07.1976 regarding issue of sanction of prosecution in cases investigated by A.C.B., within two months.

Subject Heading : Sanction of prosecution - to issue within 45 days

Ref : From the Government of India, Cabinet Secretariat, Department of Personnel and Administrative Reforms, New Delhi, Lr. No.126/26/75-AVD-I, dt.14.06.76.

The Government of India, Cabinet Secretariat, Department of Personnel & Administrative Reforms, New Delhi, in their letter cited, have stated that on the question of delay in the issue of sanction for prosecution of public servants in cases investigated by the State Anti-Corruption Bureau which came up for discussion at the Joint Conference of Central Bureau of Investigation and State Anti-Corruption Bureau Officers held in July, 1975, the Conference recommended that there should be administrative instructions to the effect that the sanction should be given or refused within a period of two months, as otherwise there is avoidable delay in putting the case in Court, and consequent injury to its proper presentation. The Government of India have accordingly requested the State Governments to consider the question of issuing necessary administrative instructions in the matter as recommended by the Joint Conference of Central Bureau of Investigation and State Anti-corruption Officers.

2. After careful consideration of the above question, the Government accept the suggestion of the Government of India, and accordingly, direct that the Department of Secretariat / Heads of Departments and concerned competent authorities should take necessary steps to see that sanction for prosecution is issued or refused, as the case may be, within a period of two months from the date of receipt of the advise of the Vigilance Commission on the final report of the Director, Anti-Corruption Bureau.

3. The Director, Anti-Corruption Bureau, should see that the final reports in all cases in which criminal prosecution were to be sanctioned, are sent within two months from the date of registration. He should also ensure that along with the final report, part 'B' reports, the draft sanction order as also the connected records viz, statements of witnesses, Case Diary File and all other

records are invariably sent to the Vigilance Commission who would pass them to the competent authority along with its advice.

(62)

Memo.No.132/Ser.C/77-1, Genl.Admn. (Ser.C) Dept., dt.21.01.1977 regarding eliciting information from complainant in preliminary enquiry.

Subject Heading : Complainant - opportunity to be given

Ref: Memo. No.1112/Ser.C/74-2, G.A.(Ser.C) Dept., dt.06.07.74

Instructions were issued in Memo.No.1112/Ser.C/74-2, General Administration (Ser.C) Department, dt.06.07.1974 that there should be no objection at the stage of preliminary enquiry to elicit information from the complainant in respect of the allegations made by him against any Government official and if there is sufficient evidence which can form the basis for a charge it can be included in the Memorandum of charges against the officer complained against. Further even in a regular enquiry, there should be no objection to complainant being made a witness, who can be examined at an oral enquiry, allowing at the same time an opportunity to the accused officer to cross-examine the complainant.

2. It has come to the notice of the Government that in one case where a Member of Legislative Assembly had sent a letter alleging irregularities on the

part of an officer, evidence of the M.L.A. was not taken. Therefore, the Heads of Departments and Departments of Secretariat are informed that whenever a Legislator gives a written complaint against a Government servant the Legislator may be examined during the enquiry so that he may furnish material in support of his allegations.

(63)

Memo.No.81/Ser.D/77-2, Genl.Admn.(Ser.D) Dept., dt.10.05.1977 regarding avoidance of reference to Anti-Corruption Bureau and Vigilance Commission in charge memo etc.

Subject Heading : ACB - not to quote in references or charges

Subject Heading : Vigilance Commission - not to mention in references

Ref: G.O.Ms.No.677, G.A.(Ser.D) Dept., dt. 30-5-61.

Instructions were issued in Part III of the G.O. cited to the effect that when making references to the Heads of Departments about enquiries made by the Anti-Corruption Bureau or while issuing orders in cases of corruption against Government Servants etc., the sources of investigation should not be divulged. So instead of using the expression "It has been ascertained by the Anti-Corruption Bureau etc.", it was ordered that the expression "It has been ascertained by discreet enquiries through the appropriate Departments etc." may be used.

2. It has been brought to the notice of the Government that in the charge Memos. Suspension orders, transfer orders issued to the delinquent officers, reference is being made to the Anti-Corruption Bureau or Vigilance Commission inspite of the instructions referred to above.

3. All Heads of Departments and Departments of Secretariat etc. are therefore, requested to avoid any reference to the source of report viz., Anti-Corruption Bureau/Vigilance Commission in the charge Memo. or suspension order, or transfer order issued to the delinquent officer and follow the prescribed wording as laid down in the said G.O.

(64)

Memo.No.3000/Ser.C/76-4, Genl.Admn. (Ser.C) Dept., dt.28.06.1977 regarding need to impose penalty of dismissal normally in proved cases of misappropriation; need to distinguish cases of delayed remittance.

Subject Heading : Misappropriation - normally to impose dismissal

According to Rule 8(1) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963, the penalties specified in the said rule may be imposed on a member of a service for good and sufficient reason. The above rule also provides that the whole or any part of the pecuniary loss caused to the Government etc., by negligence or breach of orders may be recovered from the pay of the person concerned.

2. Instructions were issued in confidential Memo No.1718/ Ser.C/75-1, General Administration (Services-C) Department, dt.22.11.75 that officers convicted in criminal cases should normally be dismissed from service and it is not necessary either to await the outcome of an appeal or the expiry of the appeal time.

3. Several cases of misappropriation by Government employees of Government money have come to the notice of the Government. In one case, the employee concerned encashed a fixed deposit receipt and instead of depositing the amount realised by him to the Government account, he absconded from duty. Action has been taken for the recovery of the amount from the employee. A criminal case has also been filed against him. In another case, seven drafts of the Reserve Bank of India, for a huge amount were reportedly encashed in a sub-treasury. The certificates of payment disclosed that the drafts had been issued by the Reserve Bank of India, Madras, for payment at the sub-treasury to different parties. The matter was referred to the Reserve Bank of India, Madras. According to the particulars furnished by the Bank, except for the serial numbers of the drafts and the office of the issue, the particulars of the amounts, the dates of issue, the names of the parties and the places of the payment were different from the particulars of drafts stated to have been encashed in the sub-treasury. The investigating officer observed, inter-alia, that the sub-treasury officer in connivance with his subordinate staff made some fictitious entries in the sub-treasury records and managed to withdraw the amount in two instalments. The sub-treasury officer and the staff of the sub-treasury had been placed under suspension and the case is pending trial in the court.

4. It was observed by the Public Accounts Committee that there is a wide disparity in the scales of punishment meted out in misappropriation cases as stated in the above para. The question of prescribing uniform scale of punishment in such cases has been considered by the Government. It has been decided that ordinarily cases of proved misappropriation would justify

dismissal from service and action should accordingly be taken. There may, however, be rare cases where attendant circumstances, such as trivial amount, short duration, immediate payment on detection, all of which may raise a presumption that it was an error in accounting, which may justify a different punishment. A clear distinction should be drawn between the cases of "delayed remittance" and "misappropriation" having regard to the fact that in proved cases of misappropriation no punishment short of dismissal is normally justified and accordingly the case of 'delayed remittance' need not always be classified for the purpose of audit as a case of misappropriation.

(65)

U.O.Note No.1484/SC.D/77-1, Genl.Admn.(SC.D) Dept., dt.01.07.1977 regarding referring of complaints against Government Servants to Anti-Corruption Bureau for Discreet or Regular Enquiry.

Subject Heading : Complaints - referring to ACB for PE/RE

The Departments of Secretariat are informed that the enquiries conducted by the Anti-Corruption Bureau are of 2 kinds viz.; (1) preliminary enquiries, and (2) Regular Enquiries. In a Preliminary enquiry which is a discreet and confidential enquiry an attempt is made to enquire into allegations (contained in the complaint) or a substantial part thereof with the help of available records or by discreetly contacting persons, if any, referred to in the complaint. Such an enquiry is normally ordered in order to find out whether a *prima facie* case exists and in order to decide whether or not a detailed probe into a complaint is necessary. On the other hand a regular enquiry is an open enquiry (detailed probe) and during such an enquiry usually relevant records are obtained, statements or witnesses recorded, and, if considered necessary, accused officer is given an opportunity to explain his case. A regular enquiry is usually preceded by a preliminary enquiry though such a course is not essential and a regular enquiry can also be ordered straight away without a preliminary enquiry preceding it if it is so considered necessary.

2. The Departments of Secretariat are therefore informed that when it is decided to forward any petition / complaint to the Director, Anti-Corruption Bureau, specific orders may be given to the Director, Anti-Corruption Bureau whether the Bureau should conduct a preliminary enquiry or a regular enquiry. They should ensure that any petition/complaint is not forwarded to the Director, Anti-Corruption

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Bureau with vague orders such as “for enquiry”, “for such action as considered necessary” or “for necessary action”, etc. They are also informed that if on any petition / complaints / there are orders/minutes of Minister or Chief Minister or Secretary to Government etc., only copies of such petition/complaint omitting orders/minutes should be sent to the Director, Anti-Corruption Bureau for preliminary enquiry or regular enquiry as the case may be.

3. On receipt of orders, the Director, Anti-Corruption Bureau will conduct a preliminary enquiry/regular enquiry as the case may be and sends his report to the Government in the administrative department through the Vigilance Commission with an advance copy marked to the administrative Department. As laid down in the procedural Instructions of the Vigilance Commission, in the case of a regular enquiry, it will await the remarks of the administrative Department on the findings and recommendation of the Director, Anti-Corruption Bureau, in his report (presently for 3 weeks) and thereafter the Vigilance Commission will tender advice to the Government in the administrative Department as to further action to be taken. The Departments of Secretariat are therefore required to send their remarks (in either case whether they have remarks or no remarks) to the Vigilance Commission within the specified time on receipt of the advance copy of the regular enquiry report from the Director, Anti-Corruption Bureau.

(66)

G.O.Ms.No.517, Genl.Admn. (Ser.C) Dept., dt.27.07.1977 regarding need to send particulars in proforma two months in advance for extension of suspension beyond six months.

Subject Heading : Suspension - under old APCS (CC&A) Rules

Read :

Memo.No. 737/64-4, G.A. (Ser.C) Dept., dated 15-9-1964

ORDER :

In the Memorandum cited, amendment was issued to the instructions 18(c) of Appendix VI of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, requiring the enquiry officer to report to Government in case the officer placed under suspension is to be continued beyond the period of 6 months with a view to enable the Government to review these cases. Based on a number of cases which have been received by Government, it is seen that

reasons are not being given exclusively as to why there is need for continuance of suspension beyond 6 months. Apart from this the state of enquiry and the period by which it will be completed and such other relevant details are also not mentioned by the various concerned officers and as a result Government is put to difficulty in deciding on the question of extension of suspension period. It is, therefore, decided that a proforma should be prescribed in order to enable the Government to take a decision on each case based on common information given by the various officers requesting for extension of suspension of officers.

2. The proforma is annexed to this order and it should be filled in with reference to the existing cases beyond 6 months wherever the request for extension is likely to be sent to Government. It is not necessary to fill the proforma in case it is felt that the case will be decided within a period of 6 months or within the extended period of suspension. In any case, the establishment officer will have to take a view on the question of extension of suspension and if he feels that within the extended period or within 6 months the case cannot be decided, then he has to send a report in this proforma about 2 months in advance of the period so that after following all the procedures, orders may be issued extending the period of suspension so that the suspended officer is not put to any inconvenience on account of non-payment of subsistence allowance.

3. The Government have laid down some guidelines which have already been issued in Government Memo.No.904/Ser.C/ 67-1, General Administration Department, dt.29.05.1967 and Memo.No.365/Ser.C/69-1, General Administration Department, dt.11.06.1970. (copies are enclosed for information).

(Note: See Part II for Proforma (No.6)

(67)

**Memo.No.1994/SC.D/77-1, Genl.Admn. (SC.D) Dept., dt.07.10.1977
regarding advice of Vigilance Commission as to further action on
Judgments.**

**Subject Heading : Judgments - Vigilance Commission's advice, not
necessary**

Ref: 1. Memo.No.1206/SC.D/71-3, G.A.(SC.D) Dept., dt.22.11.71.

2. From the Vigilance Commissioner Lr.No.3952/VC.C2/77-1.
dt.08.08.77.

In the Memo. 1st cited among others, instructions were issued to the Director, Anti-Corruption Bureau that since the final reports in all the enquiries are received by the Government through the Vigilance Commission with its advice as to further action and since the Government acts on such advice, the Director, Anti-Corruption Bureau, should furnish to the Government in administrative department of Secretariat through the Vigilance Commission (with a copy to this Department) within three weeks after a case is acquitted in the Court together with the opinion of the Legal Advisor, a report as to whether there are grounds for appeal against acquittal. He was also requested to furnish a draft of the grounds also in cases where the case is fit for appeal.

2. In his letter 2nd cited, the Vigilance Commissioner has stated that it is not necessary for the Vigilance Commission to advise on the Judgments of the criminal courts and it is for the Government to take a decision as to further action to be taken in consultation with the Law Department and other Law Officers. He has also stated that it is enough for the Vigilance Commissioner to know what action the Government have taken when prosecution has been advised by the Commission, and if a copy of the final orders of the court and the Judgment is sent to the Vigilance Commission for its record. Therefore, the Vigilance Commission has suggested that necessary instructions may be issued to the Director, Anti-Corruption Bureau to send all such judgements direct to the administrative department concerned for taking necessary further action with a copy of the reference along with the Judgment to the Vigilance Commission.

3. The Government have considered the matter carefully and decided that it is enough if the copy of the Judgement in such cases with the views of the Director, Anti-Corruption Bureau is sent to the Secretary to Government in the administrative department with a copy of the letter and the Judgment copy to the Vigilance Commission and to this department. The Director, Anti-Corruption Bureau is therefore requested to take action accordingly in all such cases. The instructions issued in Government Memo. 1st cited should be deemed to have been modified to the extent indicated above.

(68)

**Memo.No.1396/SC.D/77-6, Genl.Admn. (SC.D) Dept., dt.27.10.1977
regarding impleading of Vigilance Commissioner as respondent in representation petitions / appeals before Administrative Tribunals.**

Subject Heading : Vigilance Commission - impleading before APAT

- Ref: 1. From the Vigilance Commissioner, D.O.Lr.No.1836/VC/A/77-4, dt.25.5.77.
2. From the Vigilance Commissioner, D.O.Lr.No.1836/VC/A/77-4, dt.27.7.77.
3. From Sri Sardar Ali Khan, Government Pleader for G.A.D.,D.O.No.nil, dt.29.7.77.

The Vigilance Commissioner has stated that in Representation Petition Nos.185/77 and 290/77 filed before the Andhra Pradesh Administrative Tribunal, he has been impleaded as one of the respondents and that the Tribunal has issued Rule Nisi in these cases to him for production of records. He has further stated that the Vigilance Commission is only a recommendatory body and not the disciplinary authority vested with the power of imposing any punishment on the delinquent officers. So far as the records of the Commission are concerned, there will not be anything which either the petitioner or the Government or the Competent authority concerned do not have with them and that the report of the Tribunal for Disciplinary Proceedings and the advice of Vigilance Commission will always be available both with the Government as also with the petitioner. Except for the the observations made by the Vigilance Commissioner in the note file leading to the advice tendered by him, there will not be any other relevant papers which may be required by the Tribunal or any Court having jurisdiction. He has also added that the Vigilance Commission has not been impleaded so far as a respondent in any Writ Petition filed before the High Court. As it appears that there is an increasing tendency to implead the Vigilance commissioner as a respondent, he has requested that the matter may be taken up with the Administrative Tribunal.

- (i) to ensure that the Vigilance Commissioner is not impleaded as a respondent in any of the Representation Petitions filed before the Administrative Tribunal unless the petitioner claimed any relief from the Vigilance Commissioner;
- (ii) as the records of the Vigilance Commission are of secret nature and copies of the reports of the Tribunal for Disciplinary Proceedings and the advice tendered by the Vigilance Commission would always be available both with Government and the petitioner, it may not be necessary for the Vigilance commissioner to cause the production of the records before the Tribunal and if for any reason the Tribunal deems it fit to call for the records, to claim privilege under the Indian Evidence Act;

(iii) to impress on all the Government Pleaders concerned that even at the admission stage, they should take care to point out to the Tribunal how a petitioner cannot pray for any relief from the Vigilance Commissioner, as he does not pass any final order in any matter relating to the petitioner and to see that the cause title of the R.P. is suitably amended to delete the Vigilance Commissioner from the list of Respondents.

2. Rule.12(1) of the Rules to regulate the proceedings under Article 226 of the Constitution made by the High Court of Andhra Pradesh by virtue of Article 225 of the Constitution which is applicable to the proceedings before the Andhra Pradesh Administrative Tribunal by virtue of para 6(4) of the Andhra Pradesh Administrative Tribunal order, 1975 provides that the Court may, at any stage of the proceedings, either upon or without any application and on such terms as may appear to be just, order that the name of any party improperly joined be struck out, and that the name of any person who ought to have been joined or whose presence may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions in the petitions, be added. By virtue of the provisions of the said Rule 12(1) of the Andhra Pradesh Administrative Tribunal has power at any stage of the proceedings before it either upon or without any application in this regard, to order that the name of any party improperly joined be struck out. Similarly, it has power to order that the name of any person who ought to have been joined be added.

3. In view of this all Government Pleaders are, therefore, requested for the following reasons, to urge before the Tribunal at the admission stage itself for striking off the name of the Vigilance Commissioner whenever he is impleaded as respondent in Representation Petitions and to claim privilege under Section 123 or Section 124 of the Evidence Act whenever the Tribunal calls for records of the Vigilance Commission:

- a) In a R.P. no relief could be sought against the Vigilance Commissioner and therefore, he is not a necessary party to a case like the one heard by the Administrative Tribunal. Moreover he exercises only an advisory jurisdiction.
- b) A Rule Nisi issued to the Vigilance Commissioner may not have any greater advantage as there is no record available with the Vigilance Commissioner which he can produce and which is not otherwise available with the Government, or the petitioner.
- c) The disclosure of a confidential record of the Vigilance Commission if any, such as a note file or other, will not be in the public interest, since

the very object of setting up Vigilance Commission is to eliminate corruption and other like evils from public life which necessarily need certain amount of secrecy failing which the functioning of the Vigilance Commission is bound to be hampered.

4. The Government Pleaders are further informed that this issue is also being taken up with the Registrar, Andhra Pradesh Administrative Tribunal separately.

(69)

Memo.No.2106/Ser.C/77-1, Genl.Admn. (Ser.C) Dept., dt.27.10.1977 regarding criterion for making distinction between temporary misappropriation and misappropriation.

Subject Heading: Misappropriation - temporary misappropriation, distinction

Ref: Memo.No.3000/Ser.C/76-4, G.A.(Ser.C) Dept., dt.28.06.77.

Instructions were issued in the Memorandum cited that ordinarily cases of proved mis-appropriation would justify dismissal from service and action should be taken accordingly. It was also clarified that distinction should be drawn between the cases of "delayed remittance" and 'mis-appropriation' having regard to the fact that in proved cases of mis-appropriation, no punishment short of dismissal is normally justified and accordingly the case of delayed remittance need not always be classified for the purpose of audit as a case of mis-appropriation.

2. In this connection, the issue has arisen as to the criterion for making a distinction between 'temporary misappropriation' and 'mis-appropriation'. It is clarified that the cardinal test to treat a case as a case of misappropriation would be whether the amount has been put to use for the benefit of the person who has mis-appropriated it. It should be the intention and purpose that should be the criterion and not whether the amount has been ultimately made good voluntarily. If there are cases where the attendant circumstances do not render it as mis-appropriation, then such cases should not be classified for the purpose of audit as cases of mis-appropriation.

(70)

Memo.No.169/Ser.C/77-8, Genl.Admn. (Ser.C) Dept., dt.10.02.1978 regarding action to be taken in cases, where Government Servants are convicted on a criminal charge.

Subject Heading : Departmental action and conviction

Ref: Lr.No.11018/7/75-AIS (III), dated 8th March, 1976 from the Government of India, Cabinet Secretariat, Department of P&AR, New Delhi.

Sub-rule (3) (a) of Rule 19 of the Andhra Pradesh Civil Services (CCA) Rules, 1963, provides that the provisions of sub-rules (1) and (2) shall not apply, where it is proposed to impose on a member of a service any of the penalties mentioned in Rule 8 or Rule 9 on the ground of conduct which has led to his conviction on a criminal charge. Instructions were issued in Memo.No.2598/65-2, General Administration (Services.C) Department, dt.25.09.1965, that if a Government employee is removed or dismissed or reduced in rank after complying with the requirements of article 311 (2) of the Constitution of India or of the provisions of Rule 19(2) of the Andhra Pradesh Civil Services (CCA) Rules, then the order of removal, dismissal or a reduction in rank is not effected by his acquittal in a Criminal Court, if he is prosecuted in addition to the departmental action taken against him. If however, a Government employee is removed or dismissed or reduced in rank, solely on the ground of conduct which led to his conviction on a criminal charge, without complying with the requirements of the aforesaid article or rule and if his conviction is eventually set aside by the Appellate Court, or by the High Court, in revision, then the order of removal, dismissal or reduction in rank, as the case may be, cannot stand and that order will have to be reviewed. According to Rule 13(4) of the Andhra Pradesh Civil Services (CCA) Rules, 1963, where a penalty of dismissal, removal or compulsory retirement, from service imposed upon a member of a service is set aside, or declared or rendered void, in consequence of or by a decision of a court of law, and the authority competent to impose the penalty on a consideration of the circumstances of the case, decides immediately thereafter to hold a further inquiry against him on the allegation on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the member of the service shall be deemed to have been placed under suspension by the authority competent to impose suspension from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

2. The Government of India have issued self-contained instructions regarding action to be taken in cases where Government servants are convicted on a criminal charge or where an appeal / revision in a higher Court succeeds. Keeping them in view, the following instructions are issued:-

- A. The disciplinary authority may, if it comes to the conclusion that an order imposing a penalty on a Government Servant on the ground of conduct, which had led to his conviction on a criminal charge should be issued, pass such an order without waiting for the period of filing an appeal, or, if an appeal has been filed, without waiting for the decision in the first court of appeal (Standard Form-I for such an order is annexed). Before such an order is passed the Andhra Pradesh Public Service Commission should be consulted, where such consultation is necessary.
- B. (a) where an appeal or a revision in a higher court i.e., the court higher than the first court of appeal, against conviction, succeeds and the Government Servant is acquitted the order imposing a penalty on him on the basis of conviction, which no longer stands, become liable to be set aside. A copy of the Judgment of the higher court should, therefore, be immediately procured and examined with a view to decide -
 - (i) whether the acquittal should be challenged in a still higher court, or
 - (ii) whether, despite the acquittal, the facts and the circumstances of the case are such as to call for a departmental action against the Government Servant on the basis of the misconduct on which he was previously convicted.
- b) If it is decided to take the matter to a still higher court under item (i) above, action to institute proper proceedings should be taken with the least possible delay, and the order imposing penalty need not be set aside during the pendency of such proceedings. If, however, it is considered expedient that the Government Servant should not be allowed to discharge his duties during the pendency of such proceedings, he may be placed under suspension as soon as he reports to duty after his acquittal by the court of appeal.
- c) If, on the other hand, it is decided that departmental action may be taken under item (ii) above, a formal order should be made,-
 - (i) Setting aside the order imposing the penalty on the basis of conviction; and
 - (ii) Ordering such departmental inquiry (Standard Form No.II for such order is annexed).

In case where the penalty imposed on the basis of the conviction was dismissal, removal or compulsory retirement from service, the order should also state, that under Rule 13(4) of the Andhra Pradesh Civil Services

(CC&A) Rules, 1963, the Government Servant is deemed to be under suspension with effect from the date of dismissal, removal or compulsory retirement from service.

- (3) For appreciating properly the scope and implication of the term “on the basis of the misconduct on which he was previously convicted” occurring in sub-para (2) (a) (ii) above, the point to be taken note of is that one identical set of facts and allegations may be sufficient to constitute a criminal offence, as well as misconduct not amounting to criminal offence, but punishable under the Andhra Pradesh Civil Services (CC&A) Rules, or similar other rules. If the facts or allegations had come to be examined by a Court of competent jurisdiction and the Court has given a finding that the allegations are not true, then it is not permissible to hold a departmental inquiry in respect of a charge based on the same allegations. If on the other hand, the Court had merely expressed a doubt as to the correctness of the allegations then there may be no objection to hold a departmental inquiry on the same allegations, if better proof than what was produced before the Court or was then available is forthcoming. Then again, if the Court has held that the allegations are proved but do not constitute the criminal offence with which the Government Servant is charged, then also there would be no objection to hold a departmental inquiry on the basis of the said allegations if such proved allegations are considered good and sufficient reason for taking disciplinary action. So also, it is permissible to hold a departmental inquiry after the acquittal in respect of a charge which is not identical with or similar to the charge in the criminal case, and is not based on any allegations, which have been negated by the Criminal Court. Further more, where an allegation has not been examined by a Court of law, but it is considered good and sufficient reason for taking disciplinary action, there is no bar to taking such action.
- (4) In case, where neither of the courses mentioned, in sub-para (2) is followed, a formal order should be issued setting aside the previous order imposing the penalty (Standard Form No.III for such order is annexed).

(Note : See Part II for Proformae (Nos. 29 to 31)

(71)

**Memo.No.372/Ser.C/78-1, Genl.Admn. (Ser.C) Dept., dt.09.03.1978
regarding observance of courtesies by officers in their dealings with MLAs / MPs.**

Subject Heading : MLAs, MPs - observance of courtesies and promptness

Instructions are being issued from time to time regarding observance of courtesies by the officers in their dealings with the Members of the State Legislature and Parliament. Consolidated instructions in the matter were supplied to all Departments recently. The instructions, inter-alia, provide that when a request for information is received from Members of Parliament or State Legislature on details of administration or any other factual information, the officer should immediately acknowledge it in a letter and tell the Member that a reply would be sent shortly and accordingly send it as soon as possible. But still there are complaints that there is delay in sending replies to the letters from the Legislators. It is, therefore, emphasized once again that there should be no delay in attending to the letters from the Members of Parliament and State Legislature and every effort should be taken to send a reply expeditiously.

(72)

**G.O.Ms.No.433, Industries & Commerce (T&C) Dept., dt.27.05.1978
regarding Code for banning of firms etc.**

Subject Heading : Banning of Firms

Read again :

1. G.O.Ms.No.663, Industries Department, dt.26.06.68. Read also:
2. Government of India, Ministry of Works and Housing, New Delhi, Lr.No.13001/1/72-W4 dt.20.09.76.

ORDER :

In supersession of the standardised code communicated with the G.O.first read above, a copy of the letter 2nd read above from the Government of India, Ministry of Works and Housing along with revised standardised code for registration, demotion, renewal, suspension of and banning of business etc. of building contractors/firms is communicated to the Departments of Secretariat, all Heads of Departments and all Collectors for information and guidance.

**STANDARDISED CODE FOR REGISTRATION, DEMOTION,
REMOVAL, SUSPENSION OF AND BANNING OF BUSINESS ETC. OF
BUILDING CONTRACTORS.**

1. STANDARDISED CODE FOR BUILDING CONTRACTORS:

- 1.1. This code is for dealing with building contractors. All Ministries, Departments and Offices of the Central Government shall follow this Code and shall not maintain any separate code of their own. This code enunciates the broad guiding principles governing registration, promotion, demotion, removal, suspension of business and banning of business of contractors.
- 1.2. No reference to this code shall be made in any circumstances in any communication to any party outside the Government or in any pleading or affidavit filed in a Court.

2. REGISTRATION :

- 2.1. Every Engineering Department which is required to undertake construction work, should maintain lists of approved contractors of various categories and classes, and normally work for execution should be entrusted to contractors on approved lists only. For this purpose, every Engineering Department should have a system of registration of contractors of different categories and classes based on the financial resources, technical capability, past performance, and dependability of each contractor.
- 2.2. It is also desirable that lists of registered contractors in different categories and classes should be periodically reviewed by registering authorities for weeding out from the approved lists such contractors as have not secured any work during a period of three consecutive years.

3. DEMOTION TO A LOWER CLASS :

The registering authority may demote a contractor to a lower class if he:-

- (i) Fails to execute a contract or executes it unsatisfactorily or is proved to be responsible for constructional defects; or
- (ii) has no longer adequate equipment, technical personnel for financial resources; or
- (iii) Litigious by nature.
- (iv) is found to have given false information at the time of registration; or

- (v) is declared or is in the process of being declared bankrupt, insolvent, wound up, dissolved or partitioned ; or
 - (vi) persistently violates the labour regulations and rules.
- 3.1 The decision regarding removal from registration/suspension of business/ removal from approved list taken after the issue of a show cause notice and consideration of representation, if any, in reply thereto should be communicated to the firm concerned. (kindly see Appendix.I)
- 3.2 Copies of the orders of demotion/suspension of business/removal from the approved list, with a Memorandum of reasons therefor shall be sent by the concerned Department, through its administrative Ministry, to the other Ministries, responsible for major construction works for such action as they may deem necessary.
- 3.3 In respect of a contractor registered for various categories of works viz., Building and Roads, furniture, electrical, sanitary and water supply orders regarding removal would apply only to one category unless otherwise specified.
- 3.4 The Ministries of Defence, Railways, Works and Housing, Irrigation and Power, Shipping and Transport, Information and Broadcasting are the Ministries concerned with major construction works.

4. BANNING :

- 4.1 Banning of business dealings with a firm/contractor shall be of two types:-
- (i) Banning by one Ministry including its attached and subordinate offices.
 - (ii) Banning by all Ministries of the Government of India including their attached and subordinate offices.
- 4.2 The Head of the Department may ban business with a firm/contractor where an offence is not considered serious enough to merit a banning order of the second type, but at the same time, an order removing the name of the contractor from the approved list of contractors is not considered adequate. It shall not be circulated to other Ministries/ Departments but shall cover all the attached / subordinate offices of the Ministry issuing the order. It shall be extended to the allied firms and partners also. No contract of any kind whatsoever shall be placed with a banned firm including its allied firms or partners by the Ministry /

Department issuing the order and its attached and subordinate offices after the issue of a banning order. Contract concluded before the issue of the banning order shall, however, not be effected by the banning order.

4.3 BANNING BY ALL MINISTRIES :

An order of the second type for banning business dealing with a contractor implies that all Ministries / Departments/Offices of the Government of India are forbidden from dealing with that contractor. Banning of this and revocation thereof shall be ordered with the approval of the Ministry of works and Housing. It shall be extended to all its allied firms and partners, and the banning order should specify the names of such allied firms and partners. No contract of any kind whatsoever shall be placed with a banned firm including its allied firms by any Ministry/Department/Office of the Government of India after the issue of a banning order.

4.4 Banning of business by all Ministries may be ordered where:-

- a) there are sufficient and strong evidence on record to believe that the contractor or his employee has been guilty of malpractice(s) such as bribery, corruption, fraud including substitution and interpolation in tenders, pilfering or unauthorised use or disposal of Government materials issued for a specific work, obtaining income tax clearance certificate by underhand means, obtaining official information or copies of official documents by adopting questionable methods etc.

or

- b) a Contractor contumaciously refuses to pay Government dues without showing adequate reasons and where the Head of Department IS SATISFIED that no reasonable dispute attracting reference to arbitration or a court of law exists for the contractor's action;

or

- c) a contractor or his partner or his representative has been convicted by a Court of Law for offences involving moral turpitude in relation to business dealings; or

- d) Security considerations including suspected disloyalty to the state so warrant.
- 4.5 The decision regarding removal from registration/suspension/banning of business dealings taken after the issue of a Show Cause Notice and consideration of representation, if any, in reply thereto should be communicated to the firm concerned, but reasons may not be disclosed in such communication (kindly see Appendix.I)
- 4.6 Fifty copies of such orders together with reasons for the action taken as also names of partners and list of allied concerns coming within the effective influence of the contractor, will be forwarded by the administrative Ministry concerned to the Ministry of works Housing and Supply for transmission to the other Ministries of Central Government responsible for major construction works and to State Governments, who will issue necessary instructions to the departments under their control for immediate cessation of all future business with the contractor.
- 4.7 Action for banning business with a Contractor should be taken only where it is established that the offence was committed in order to secure advantage to the contractor and not where the object may be to secure advantage to any employee or representative of the contractor personally.
- 4.8 Care should be taken to see that the banned contractor does not transact business with Government under a different name or title or through a benamdar.
- 4.9 Once the banning orders are issued, they should ordinarily not be revoked, unless:-
 - a) on a review, the administrative Ministry concerned is of the opinion that the punishment already undergone is adequate in the circumstances of the case; or
 - b) in respect of the same offence the accused has been honourably acquitted by a Court of Law.

5. MAINTENANCE OF UPTO DATE LIST :

The Engineering-in-Chief, Central Public Works Department shall be responsible for keeping an upto-date list of contractors with whom business has been banned and circulate the list periodically to all the Ministries of the Government of India concerned. The Engineer-in-Chief, Central Public Works

Department will also circulate every quarter a list of additions and revocations during the previous quarter.

6. RESTORATION :

Upgrading a demoted contractor, lifting the ban on business, restoring registration, withdrawal of business may be considered at an appropriate time on the merits of each case by the authority who had passed the original orders. Copies of restoration orders should also be furnished by the administrative Ministry concerned to the Ministry of Works and Housing.

THE GUIDELINES ABOUT THE CONTENTS AND PROCEDURE TO SHOW CAUSE NOTICE REFERRED TO IN CLAUSE 6.1 AND 7.5 OF THE STANDARDISED CODE.

a) which officer should give show cause notice	The registering authority is competent to issue show cause notice
b) Period of notice	The period of notice should be 30 days
c) Manner of service	Notice should be served by Registered post
d) Persons to be served with the notice	Notice to be served on the contractor concerned
e) Brief ground for giving the show cause notice	Be indicated enumerating instances of bad work-manship and other specific allegations for action proposed.
f) Manner of considering the reply	The registering authority should consider the replies and take decisions in consultation with the authorities mentioned in the Code.
g) How and to what the decision is to be communicated	The decision be communicated to the concerned party by the registering authority by Registered Acknowledged due.

(73)

Memo.No.443/SC.D/78-2, Genl.Admn. (SC.D) Dept., dt.03.06.1978 regarding photostating of records or files required simultaneously by Anti-Corruption Bureau and departments.

Subject Heading: ACB - where records are required by departments also

Subject Heading : Records - where required by both department and ACB

In a case in which disciplinary action against a village officer was contemplated, action could not be taken even though the enquiry against him was over, because the connected files were taken by the Anti-Corruption Bureau in some other connection and there was delay in taking disciplinary action against the village officer. It has been suggested that in cases where the connected records are required simultaneously by the Anti-Corruption Bureau and also the Department, Photostat copies of the relevant papers may be taken by the Department for pursuing further action. The question has been examined carefully. Photostating of records or files will not be required in each and every case that is under investigation by the Anti-Corruption Bureau as the same records will not be simultaneously required in all cases both by the Department concerned and the Anti-Corruption Bureau. If in any disciplinary proceedings, the receipt of files taken by the Anti-Corruption Bureau cannot be awaited and further action is urgently called for without loss of time, the Departments or Collectors may obtain authenticated extracts or Photostat copies of the relevant portions of the record with a view to dispose of pending disciplinary cases or any other urgent matter which cannot wait till the return of files by the Anti-Corruption Bureau.

(74)

Memo.No.1396/SC.D/77-9, Genl.Admn. (SC.D) Dept., dt.03.06.1978 regarding impleading of Vigilance Commissioner as respondent in representation petitions / appeals before Administrative Tribunals.

Subject Heading : Vigilance Commission - impleading before APAT

CIRCULAR NO. (75)

- Ref : 1. Government Memo. No.1396/SC.D/77-6, dt.27.10.1977.
2. From the Registrar, APAT, Lr.No.1301/APAT/Con./77, dt.28.11.1977.
3. From the Government Pleaders for Revenue (S) and (E.H) Lr.No.143/Admn./77, dt.07.12.1977.

In the Government Memorandum 1st cited, all Government Pleaders have been requested among others to urge before the Tribunal at the admission stage of the Representation Petition itself for striking off the name of the Vigilance Commissioner whenever he is impleaded as a respondent in the Representation Petition and to claim privilege under Section 123 or Section 124 of the Indian Evidence Act whenever the Tribunal calls for records of the Vigilance Commissioner.

2. In the reference 3rd cited, the Government Pleaders for Revenue (S) and (E &H), have pleaded that they have no locus standi to argue for the removal of the name of the Vigilance Commissioner from the Cause Title at the admission stage of the Representation Petition.

3. The Government have again examined the matter and are advised that it is open to the law officers to urge before the Tribunal that the name of any particular respondent be struck off on the ground that such respondent has been wrongly impleaded. Accordingly, the Government Pleaders are requested to take all requisite action in the matter.

(75)

**U.O.Note No.1755/Ser.C/78-1, Genl.Admn. (Ser.C) Dept., dt.08.11.1978
regarding delay in submitting inquiry report by Inquiry Officer.**

Subject Heading : Inquiry report - delay in submission

According to Rule 19(2)(a) of the Andhra Pradesh Civil services (Classification, Control and Appeal) Rules, in every case where it is proposed to impose on a member of a service any of the penalties specified in items (iv), (vi), (vii) and (viii) in Rule 8, the authority competent to impose the penalty shall appoint an enquiry officer or shall himself hold an enquiry either suo moto or on a direction from a higher authority. It has been observed that enquiry officers are taking considerable time to complete the enquiry, as a consequence of which in

certain cases the proceedings of enquiry continue for two or three years. It was, therefore, suggested that a time limit be fixed for completion of enquiry by the Enquiry Officer and that, if he does not adhere to that time limit, disciplinary action should be initiated against the enquiry officer for his failure to complete the enquiry within the time allowed.

2. The matter was discussed in the Secretaries meeting held on 02.08.1978. It was felt that it is always open to the competent authorities to critically review the work of enquiry officers and to take suitable action where there is reason to believe that the enquiry is being prolonged unnecessarily. It was considered that each case may be examined on its merits and a view taken in the matter. It may happen that under the circumstances beyond the control of the Enquiry Officer, he may not be able to complete the enquiry within the stipulated time. It will not, therefore, be administratively convenient and desirable to fix a time limit in the conduct of enquiries. The aim and objective should, however, be that all enquiries are completed with expedition and speed and avoidable delay eliminated.

3. Secretaries to Government, Heads of Departments, etc., are accordingly requested to critically review the work of enquiry officers and ensure that no avoidable delay occurs in the completion of enquiries by enquiry officers and that where there is reason to believe that the enquiry is being prolonged unnecessarily, suitable action may be taken in the matter.

(76)

**Memo.No.182/SC.D/79-2, Genl.Admn. (SC.D) Dept., dt.28.02.1979:
Investigating Officers, Anti-Corruption Bureau not to take up investigation
where complainant or accused officer is in any way related to him.**

**Subject Heading : Investigation - where complainant or accused is related
to Investigating Officer**

Ref : From the Vigilance Commissioner, Lr.No.16/TR/A1/ 78-7 dt.07.11.78.

An instance has come to the notice of the Government where an Inspector of the Anti-Corruption Bureau investigated into a case, on a complaint filed by a close relative of his. In this case it was contended by the Advocate for defence that the Anti-Corruption Bureau Inspector played into the hands of the

complainants and manipulated the exhibits at their instance. The Tribunal for Disciplinary proceedings had occasion to point out that the argument of the Advocate for defence is not without force. Consequently no reliance could be placed on the exhibits filed by the Investigating Officer.

2. To avoid such situations and the possible embarrassment to the Government, the Director, Anti-Corruption Bureau, Hyderabad, is requested to issue suitable instructions to his subordinate officers, that no investigating officer should take up investigation of cases when either the complainant or the Accused Officer is, in any way, related to him. In such cases, the Investigating Officer should immediately report to the Director, Anti-Corruption Bureau, about his relationship with the complainant/Accused Officer and obtain orders as to the further action.

(77)

Memo.No.2261/Ser.C/79-2, Genl.Admn. (Ser.C) Dept., dt.23.10.1979 regarding taking of simultaneous action of prosecution and disciplinary proceedings in cases of misappropriation.

Subject Heading : Misappropriation - simultaneous prosecution and departmental action

Ref : Memo.No.4845/59-2, G.A.(Ser.C), dt.13.02.960.

The Committee on Public Accounts (1976-77) in its Seventh Report on Appropriation Accounts 1973-74 recommended as follows:-

4.(iii) In all cases of misappropriation, when detected where a prima facie case is made out, simultaneous action should be taken by the Department according to Classification, Control and Appeal Rules and relevant records should be handed over to the Police for launching criminal proceedings. The Department may also initiate action to prevent the delinquent officer from alienating his properties. The Committee had heard from some of the Officers that misappropriation cases could not be immediately handed over to the Police since the connected records were required for conducting departmental enquiry. In such cases, the Committee recommends that the departmental officers should obtain Photostat copies of the documents and hand over the originals to the Police so that simultaneous action at the level of Police in regard to criminal proceedings and at the level of enquiry in the Department for disciplinary action

can be processed without loss of time. This is necessary since delays result in manipulations, loss of evidence and ultimately in acquittal of cases".

2. In the Memo cited it was clarified that there is no legal objection to departmental enquiry being conducted, while the Police are making an investigation, but when once a court has taken cognizance of a criminal case, the departmental authority should stop all further proceedings.

3. The question whether the departmental proceedings can be finalised and orders issued even though the case is pending in a court of law was examined. Having regard to the decision of the Himachal Pradesh High Court in Khushiran Vs. Union of India (1973 (2) SLR. PP.564-565), it was considered that it is not obligatory that the departmental proceedings should be stayed when the case is pending in a court of Law, except when it is expedient to do so in the interest of fair play. It is necessary that criminal proceedings and departmental action should be processed without loss of time with a view to avoiding manipulation and loss of evidence.

4. The Government, therefore, direct that the departmental officers should obtain Photostat copies of the documents and hand over the originals to the Police, so that simultaneous action in regard to criminal proceedings and disciplinary action may be taken.

5. All the Departments of the Secretariat and the Heads of Departments are, therefore, requested to ensure that quick action is taken in cases of misappropriation of Government moneys by Government employees.

(78)

U.O.Note No.1750/SC.D/79-4, Genl.Admn. (SC.D) Dept., dt.02.01.1980 regarding taking action to complete inquiries before retirement of charged officials.

Subject Heading : Departmental action - completion before retirement

An instance has been brought to the notice of the Government wherein completion of an enquiry into certain allegations against an officer, for facilitating institution of proceedings, was badly delayed, and it was not possible to take any action against the accused officer on certain charges since the officer retired on superannuation and the charges pertain to a period more than four years

before the date of superannuation. In this connection attention is invited to the provisions contained under Articles 351-A of Civil Services Regulations/239 of Hyderabad Civil Services Rules and the instructions issued thereunder by the Finance and Planning (Finance Wing. F.R.II)Department in their circular Memo.No.76412-C/1331/F.RII/79-3, dt.01.03.79 wherein the rule position has been explained in such cases. If Departmental proceedings or judicial proceedings are not instituted in such cases before retirement of the accused officer, it cannot be instituted in respect of any cause of action which arose or any event which took place more than four years before such institution. It is therefore quite essential to ensure that action is taken in all such cases for completion of necessary enquiries with utmost expedition, and seek the advice of the Vigilance Commission well ahead of superannuation of the accused officers, wherever necessary. Any lapse in this regard on the part of any officer should be viewed seriously.

2. All Secretaries to Government are requested to ensure that the above instructions are scrupulously followed, and also advise suitably all Heads of Departments and Heads of Public Sector Undertakings etc. under their administrative control in the above matter.

(79)

Memo.No.1936/Cts.C/79-4, Law (Courts.C) Dept., dt.01.05.1980: Legal opinion to be given promptly by Public Prosecutors / Addl. Public Prosecutors.

Subject Heading: Public Prosecutors - to offer opinions promptly

It has been brought to the notice of Government that in a case where a false complaint was made against a public servant and the complainant could have been prosecuted for doing so, the Public Prosecutor concerned did not give his opinion in time for launching the prosecution. Due to the delay on the part of the Public Prosecutor, no action could be taken against the complainant as the case was barred by limitation, with the result that the offender went scot free.

2. Public Servants who perform their duties conscientious require to be protected from false allegation from interested parties. It is, therefore, necessary that such cases are not allowed to be lost by default.

3. All the Public Prosecutors/Additional Public Prosecutors in the State are requested to pay special attention to such cases and communicate their opinion promptly.

(80)

U.O.Note No.646/Ser.C/80-1, Genl.Admn. (Ser.C) Dept., dt.21.07.1980 regarding taking of action for attachment of property under Criminal Law Amendment Ordinance, 1944.

Subject Heading : Attachment of property

The Public Accounts Committee, in its seventh Report on Appropriation Accounts 1973-74 has recommended that while proceeding against an accused employee for misappropriation of Public money, action may also be taken to prevent him from alienating his properties. In this connection a reference is invited to criminal Law Amendment ordinance, 1944. Section 3 of the said ordinance, contemplates that if any person commits any offence punishable under section 406 (criminal breach of trust) or section 408 (criminal breach of trust by clerk or servant) or section 409 (criminal breach of trust by clerk or servant etc.) of the IPC, the Government may, whether or not any court has taken cognisance of offence, authorise the making of an application to the district judge concerned for attachment of the money or other property which the State Government believe the said person to have procured by means of the said offence or if such money or property cannot for any reason be attached, of other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.

2. In view of the above provision, if any Government employee commits any of the offences aforesaid in respect of property belonging to Government, action may be taken for the attachment of the said property or any other property of the said employee of value as nearly as may be equivalent to that of the property, in the manner specified in section 3 of the said ordinance.

(81)

Lr.No.844/Ser.C/80-1, Genl.Admn. (Ser.C) Dept., dt.06.08.1980: Tribunal for Disciplinary proceedings, not to refer 'Part-B' Report of A.C.B. in charges or Inquiry Report.

Subject Heading : TDP - not to refer 'Part-B' Report in charges or Inquiry Report

I am directed to state that the Director of Anti-Corruption Bureau sends his final report to the Government through the Vigilance Commission both against Gazetted and Non-Gazetted Officers in two parts i.e. part 'A' and part 'B' in duplicate. Part 'A' contains a secret report given in complete confidence containing full particulars of the investigation for the information of the Government and part 'B' contains confidential report of only relevant information as also the statements of witnesses to be communicated by the Government to the Head of the Department or the Tribunal for Disciplinary proceedings for taking further action. The duplicate copy of part 'B' and the statements of witnesses do not contain any signature or indication as to who took the statements. Thus, part 'B' report is an unsigned one supplied to the enquiring authority viz., Head of the Department or the Tribunal for disciplinary proceedings for use in framing the charges using his / its Judgment. If a reference is made to the part 'B' report by the Tribunal or the Head of the Department, it is quite likely that the charged officer may agitate for the supply of the part 'B' report and also contend that the Tribunal did not use its independent Judgment but merely depended on the part 'B' report only, as the charged officer is to be supplied with a copy of the report of the Tribunal for Disciplinary Proceedings under Rule 7(2)(iii) of A.P.Civil Services (D.P.T.) Rules, 1961.

2. I am therefore, to request you not to make a reference to part 'B' report of the Anti-Corruption Bureau in the Memorandum of charges communicated to an accused officer or in the report of the Tribunal.

(82)

**Memo.No.743/Ser.C/80-1, Genl.Admn. (Ser.C) Dept., dt.20.08.1980
regarding withholding of promotion permanently; rule position clarified.**

Subject Heading : Promotion - withholding, distinct from debarring

Withholding of promotion is a penalty prescribed in Rule 8(1) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules. In a case, the penalty of permanent debarment from promotion was imposed. The

implication of the said penalty was examined in consultation with Law Department. It was observed that the penalty imposed in the above case was not strictly withholding of promotion, but debarring the person from promotion. The person was debarred from being considered for promotion for all time to come. In other words, the eligibility for promotion was completely made unavailable to him for the rest of the service.

2. The question whether the expression "withholding of promotion" in the above rule would mean permanent negation of promotional prospects or withholding the chances of promotion for a specified period was considered. The word "withhold" implies temporary suspension rather than total and final denial—vide 97 CJS P.329. If the said connotation is taken into consideration, debarring a person from further promotion would not fall within the ambit of the penalty specified in the said rule and it is beyond the purview of the rules.

3. The above rule position is clarified for information and guidance of all disciplinary authorities.

(83)

Memo.No.2572/Cts.C/80-3, Home (Courts-C) Dept., dt.03.10.1980 regarding proof of sanction of prosecution.

Subject Heading : Sanction of prosecution - proof

It has been brought to the notice of Government that in cases filed before the Court of Special Judge for S.P.E. and A.C.B. cases, the Counsel for the accused are insisting upon cross-examining the authorities, which accorded the sanction for prosecution, and the Courts are issuing summons to the sanctioning authorities. In such case, the Public Prosecutors are also agreeing for such requests. The Government have examined the question as to whether it is necessary for the prosecution to examine as a witness, the authority which has accorded sanction under Section 6 of the Prevention of Corruption Act, 1947 to prove the order of sanction.

2. There is no requirement in Law that in order to prove the document by which sanction was accorded, the authority that passed that order alone should figure as witness. The view taken by the Supreme Court in AIR 1954 SC 637 is as follows:

"The burden of proving that the requisite sanction has been obtained rests on the prosecution, and such burden included proof that the sanctioning authority had given the sanction in reference to the facts on which the proposed prosecution was to be based; and these facts might appear on the face of the sanction or might be proved by extraneous evidence".

This position of Law has been restated by the Supreme Court in AIR 1973 SC 2131 as follows:

"So far as this aspect of the matter is concerned we find that the position of law is that the burden of proof that the requisite sanction had been obtained rests upon the prosecution. Such burden includes proof that the sanctioning authority has given the sanction in reference to the facts might appear on the face of the sanction or it might be proved by independent evidence that sanction was accorded for prosecution after these facts had been placed before the sanctioning authority".

3. The views of the Courts in the following rulings accord with the principles stated above (vide AIR 1974 CAL 318; AIR 1955 PUN 65; AIR 1958 SC 148 and AIR 1972 MP 151). In none of the above cases the sanctioning authority has been examined in order to prove the order according sanction for prosecution.

4. The above decisions show that in order to prove whether the necessary sanction under Section 6 of the said 1947 Act, has been accorded or not, it is not necessary to examine the authority which accorded the sanction. All that is necessary for the prosecution to prove is that all the facts constituting the offence are before the sanctioning authority and that the sanctioning authority gave the sanction by applying its mind to the facts before it. If the facts constituting the offence are specified in the order to sanction and if it indicates that the sanction is accorded by the sanctioning authority after examining the material before it, it is sufficient proof to show that the sanctioning authority has accorded sanction by applying its mind to those facts and in such cases it is not necessary for the prosecution to prove by producing any independent evidence to show whether the sanction was properly accorded or not. The question of proving sanction by adducing independent evidence arises only in cases where the order of sanction does not disclose facts constituting the offence and in such cases, in order to prove that the facts constituting the offence are before the sanctioning authority, it appears to be necessary that the sanctioning authority should be examined as a witness.

5. In view of the position stated above, there is no need to examine the sanctioning authority as a witness to prove that necessary sanction has been accorded validly. The concerned Assistant Secretary or Section Officer conversant with the file and signature of the sanctioning authority may be asked to attend the Court as a witness in order to prove the said order of sanctioning prosecution. If the Court has been apprised of the legal position aforesaid, it would not have inclined to comply with the request of the counsel for accused for issue of summons to the sanctioning authority.

6. If inspite of such appraisal, the Court chooses to issue summons, it is desirable for the authority summoned to attend the Court in order to dispel any possible suspicion from the mind of the Court which his non-appearance might create.

7. The Legal Adviser-cum-Special Public Prosecutors working in the S.P.E. and A.C.B. Courts are requested to follow the above legal position in all cases of this kind.

8. All the District Collectors are requested to bring the above instructions to the notice of all the Public Prosecutors/Additional Public Prosecutors working in the District.

(84)

Memo.No.104/Ser.C/81-1, Genl.Admn. (Ser.C) Dept., dt.07.02.1981 regarding recording of evidence of Legislators in enquiries instituted on their complaints or information.

Subject Heading : MLAs, MPs - to be examined in cases instituted on their complaints

Ref : Govt.Memo.No.132/Ser.C/77-1, G.A.(Ser.C) Dept., dt.21.01.1977.

In the Memo. cited, instructions were issued that whenever a Legislator gives a written complaint alleging irregularities against a Government Servant, the Legislator may be examined during the enquiry so that he may furnish material in support of his allegations.

2. The Committee on Government Assurances (Council) has observed in its fifteenth report that it has noticed while scrutinising the implementation

reports that in almost all cases of enquiry, the Enquiry Officer did not hear the Legislators who gave the petition or information in the House about the case. The committee has recommended that the Legislator concerned may be invited during the enquiry to help the enquiry.

3. The Government have accepted the recommendation of the Committee. The Heads of Departments and the Departments of Secretariat are requested to invite the Legislators concerned whenever any enquiry is instituted as a result of a complaint or information filed by the Legislators on any matter during the enquiry in such case and their evidence should also be taken into account. Their help in the conduct of enquiry should also be taken.

(85)

Memo.No.1436/Ser.C/80-2, Genl.Admn. (Ser.C) Dept., dt.07.02.1981 regarding withholding of increment with / without cumulative effect and its effect on pension.

Subject Heading : Withholding increment - effect on pension

Imposition of the penalty of stoppage of increments with cumulative effect:

The withholding of increments is a penalty under the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963. Fundamental Rule 24 provides that in ordering the withholding of an increment, the withholding authority is required to state the period for which it is withheld and whether the postponement shall have the effect of postponing future increments. According to Ruling (4)(a) under the said Rule, where it is proposed to withhold an increment in an officer's pay as a punishment the authority inflicting the punishment should before the order is actually passed, consider:-

- 1) whether it will effect the officer's pension, and
- 2) if so, to what extent.

It is further laid down therein that if it is decided finally to withhold the increment, it should be made clear in the order that,

- 1) the effect of the punishment on the pension has been considered, and
- 2) that the order is intended to have this effect.

2. It has come to notice that in a case, the order withholding the increment of an employee did not make it clear whether the effect of the punishment on the pension of the employee was considered and whether the order was intended to have that effect. This is an omission of the requirement which should have been considered and specified in the order imposing the penalty of withholding of increment, with cumulative effect.

3. As per Ruling (1) under F.R.24, if the order does not state that the withholding of the increment shall have the effect of postponing future increments, it shall be assumed that the individual's pay is restored to what it would have been had his increment not been withheld from the next natural date. It may thus be construed that in the above case the pay of the employee is restored to what it would have been had his increment not be withheld at the time of his retirement by giving the benefit of the omission to the affected person.

4. All the Heads of Departments and the Departments of Secretariat are therefore requested to follow the requirement of the above rule scrupulously while imposing the penalty of withholding of increments with cumulative effect.

(86)

U.O.Note No.32/Ser.C/81-2, Genl.Admn. (Ser.C) Dept., dt.09.02.1981 regarding continuance of investigation by Anti-Corruption Bureau where misappropriation is revealed, instead of referring to Crime Branch, C.I.D.

Subject Heading : ACB - where to pursue investigation in misappropriation

According to the existing instructions, an officer should not be placed under suspension for a period exceeding six months normally and the disciplinary proceedings should be finalized within that period. In order to ensure that suspensions are not continued indefinitely without justification, the cases of officers placed under suspension should be reviewed every six months and the orders of Government obtained for continuing the period of suspension for a specified period not exceeding six months at a time. Despite these instructions, it is noticed that six monthly reviews are not effectively made at a higher level regularly and appropriate orders of Government are not obtained.

2. The matter has been examined in consultation with the Director General of Police and Director of Anti-Corruption Bureau and it is considered that while an officer placed under suspension for serious and grave charges like

corruption and misappropriation should not be reinstated in public interest particularly those against whom prosecution has been launched in the Court, there is need to cut procedural delays and speed up the investigation in these cases. The following steps should be taken to speed up the investigation by Anti-Corruption Bureau / Police.

- (i) Under the existing procedure, the Anti-Corruption Bureau, which investigates the cases of corruption, remit the cases to Director General of Police in Crime Branch, if the investigation reveals misappropriation. The Crime Branch again takes up the investigation afresh. This procedure is time consuming and involves delay. As the Anti-Corruption Bureau Office is a police station under Law, such cases which are initially investigated by the Anti-Corruption Bureau for corruption, and if the investigation revealed misappropriation, the Anti-Corruption Bureau itself should initiate action for prosecution instead of again referring the matter to the Director General of Police in the Crime Branch.
- (ii) In a number of cases, the Departments, while entrusting them to the Director General of Police/Anti-Corruption Bureau for investigation, are not making available all records required, which impede the investigation. The Departments should therefore ensure that all material needed for investigation is made available to DGP/Director of Anti-Corruption Bureau promptly when the cases are entrusted to him for investigation. Where there is delay on the part of the department in making available the records for investigation, the Director General of Police/Director of Anti-Corruption Bureau should review such cases every month and bring it to the notice of the concerned Secretary to Government.
- (iii) Investigation in these cases drag on for years for some reason or other. It was felt that however complicated a case may be, the investigation should not take more than one year after it is entrusted to the Police or Anti-Corruption Bureau. The Secretary to the administrative department should review every month cases pending for more than a year with the Police / Anti-Corruption Bureau in a meeting and write to the Director General of Police / Director of Anti-Corruption Bureau for speeding up the investigation.

(87)

Memo.No.488/Ser.C/81-1, Genl.Admn. (Ser.C) Dept., dt.21.04.1981 regarding need to consider desirability of placing Government Servant under suspension where charges are framed by court.

Subject Heading: Suspension - where charges are framed by court

- Ref: 1. Confidential Memo.No.401/Ser.C/65-1, G.A. (Ser.C) dt:27.02.65.
 2. Memo.No.904/Ser.C/67-1, G.A.D., dt.29.05.1967.
 3. Lr.No.129/16/81-AVD.I, dt.26.03.81 from the Government of India, Ministry of Home Affairs, New Delhi.

According to Rule 13(1) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963, a member of a service may be placed under suspension from service pending investigation or enquiry into grave charges, where such suspension is necessary in the public interest. In the memo. 1st cited, the guidelines indicated by the Government of India, relating to the circumstances in which a disciplinary authority may consider it appropriate to place a Government Servant under suspension, were communicated. It will be seen from the said guidelines that the 'Public interest' should be the guiding factor in deciding the question of placing a Government Servant under suspension. Instructions have also been issued in the Memo. second cited that in order to ensure that suspensions are not continued indefinitely without justifications, the cases of officers placed under suspension should be reviewed every six months and orders of Government obtained for continuing the period of suspension for a specified period not exceeding six months at a time.

2. The Supreme Court in the case of Niranjan Singh and others vs. Prabhakar Rajaram Kharote and others (SLP No. 393 of 1980) have made some observations about the need / desirability of placing a Government Servant under suspension against whom serious charges have been framed by the Criminal Court, unless exceptional circumstances suggesting a contrary course exist. Consequent on the above Judgment of the Supreme Court, the Government of India have issued instructions that as and when criminal charges are framed by a competent court against a Government servant, the disciplinary authority should consider and decide the desirability of placing such a Government Servant under suspension, 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.

(88)

Memo.No.1865/SC.D/80-1, Genl.Admn. (SC.D) Dept., dt.27.04.1981: Anti-Corruption Bureau to pursue investigation, if misappropriation of public funds is revealed in the course of investigation instead of transferring to Crime Branch, C.I.D.

Subject Heading : ACB - where to pursue investigation in misappropriation

- Ref: 1. Government Circular Memo.No.2083/SC.D/63-6, General Administration (SC.D) Department, dt.22.11.1963.
2. From the Director, Anti-Corruption Bureau , Hyderabad, Lr.Rc.No.1730/S3/80, dt.21.08.1980 & 03.09.1980.

According to the instructions issued in the Government circular memorandum first cited, only clear cases of misappropriation or fraud in which a prima facie case has been made out should in normal way be referred to the Crime Branch, C.I.D., for investigation instead of the Anti-Corruption Bureau.

2. It has been considered that since the offices of the Anti-Corruption Bureau are declared as Police Stations, such cases of misappropriation which are initially investigated by the Anti-Corruption Bureau for corruption, may be prosecuted by the Anti-Corruption Bureau itself instead of again referring the matter to the Crime Branch, C.I.D., which entails delay to start investigation afresh. The Director, Anti-Corruption Bureau, in his letter second cited has however stated that no change in the present investigating agency is warranted and that these cases may continue to be dealt with by the Crime Branch, C.I.D. The Government have carefully considered the matter and have decided that in the cases investigated by the Anti-Corruption Bureau for corruption, if any misappropriation of public funds is revealed, the Anti-Corruption Bureau, should themselves take up further action for prosecuting the concerned instead of entrusting the cases to the Crime Branch, C.I.D.

3. The Director, Anti-Corruption Bureau is therefore requested to follow the above instructions in future and also send up draft amendment to the Anti-Corruption Bureau Manual in this regard.

(89)

Memo.No.1413/SC.D/81-1, Genl.Admn. (SC.D) Dept., dt.03.07.1981: A.C.B. report not to give the impression that case is referred to Tribunal for Disciplinary Proceedings as the trap failed.

Subject Heading : Traps - departmental action, not because of failure of trap

An instance has come to notice in which the Bureau has recommended, as a matter of course, placing of an Accused Officer on his defence before the Tribunal for Disciplinary proceedings as the evidence in a trap case is not sufficient to prosecute the Accused in a court of Law. A reading of the report would seem to give an impression that as the trap failed, a chance is taken to place the Accused Officer on his defence before the Tribunal for disciplinary proceedings for whatever it is worth. The Director, Anti-Corruption Bureau, Hyderabad is requested to see that before submission of the enquiry reports the available evidence is examined and discussed more thoroughly to convince the Government / Vigilance Commission that action would become sustainable before the Tribunal for Disciplinary proceedings or under the A.P.C.S (CC&A) Rules, 1963. If no sustainable evidence is forthcoming in a case, the same fact may be indicated in the report.

(90)

Memo.No.1184/Ser.C/81-1, Genl.Admn. (Ser.C) Dept., dt.05.08.1981: Disciplinary action in false Leave Travel Concession claim cases, no need to resort to suspension.

Subject Heading : Suspension - no need in LTC claim cases

Under Rule 13(1) of the APCS (CC&A) Rules, a member of a service may be placed under suspension from service pending investigation or enquiry into grave charges, where such suspension is necessary in public interest.

2. In the process of verification of some claims relating to Leave Travel Concession recently it was found that some of them are not genuine and in some cases receipts of having performed journeys in the same vehicle by different employees were produced. Such cases are being reported by the Pay and Accounts Officer to the Government for suitable action. In some cases, the employees concerned were placed under suspension. The Employees' Associations have requested that suspension orders issued in those cases may be revoked and that orders of suspension in such claims made in future and reported by the Pay and Accounts Officer, need not be issued. They have also suggested that a suitable procedure should be evolved whereby production of receipts in token of having performed journeys could be made easier.

3. After careful examination of the matter, the Government have decided that in all such cases of alleged malpractices, suspension need not be resorted to but disciplinary action may, however, be initiated and that depending upon the outcome of the disciplinary action, necessary further action may be taken either to recover the amount fraudulently drawn or/and award suitable punishment

(91)

Memo.No.295/SC.D/80-10, Genl.Admn. (SC.D) Dept., dt.02.03.1982 regarding strengthening and improving the functioning of Chief Vigilance Officers and Vigilance Officers.

Subject Heading : CVOs, VOs - suggestions for efficient functioning

It is observed that the Chief Vigilance Officers and Vigilance Officers have sufficient powers under the 'Andhra Pradesh Vigilance Commission Procedural Instructions' but they are not properly exercised. To emphasise the utilisation of powers delegated to them, the following suggestions are made to them:

- 1) that the Chief Vigilance Officers / Vigilance Officers should identify the points and places of corruption in their respective departments;
- 2) that the Chief Vigilance Officers should maintain a list of officers of doubtful integrity who should be watched carefully;

- 3) that the Departmental Vigilance Officers should conduct surprise checks at places and points of corruption identified by them and joint surprise checks along with the officers of Anti-Corruption Bureau also;
- 4) that the Vigilance Officers should maintain liaison with the Anti-Corruption Bureau and conduct periodical meetings in which they should exchange intelligence regarding the points and places of corruption and officers of doubtful integrity;
- 5) that periodical enquiries into the assets of the officials occupying key posts in sensitive areas and whose reputation comes to question should be made;
- 6) that the Vigilance Officers should be imparted training in the course on the subject of disciplinary and vigilance procedure; and
- 7) that all the complaints should be examined at the level of Chief Vigilance Officers.

2. The Chief Vigilance Officers and Vigilance Officers are requested to follow the above suggestions for the efficient functioning of Vigilance organisations under them.

(92)

**Memo.No.1524/Ser.C/80-11, Genl.Admn. (Ser.C) Dept., dt.20.05.1982
regarding posting to a far away place where Government Servants are
under suspension for long periods.**

**Subject Heading: Suspension - on reinstatement, to be posted to far off
place**

Ref: U.O.Note No.1524/Ser.C/80-1, GA (Services.C) Dept., dt.17-3-1981.

According to Rule 13(1) of the A.P.C.S (CC&A) Rules, 1963, a member of a service may be placed under suspension from service pending investigation or enquiry into grave charges and where the period of suspension exceeds six months, the matter should be reported to Government for such order as they deem fit. In order to ensure that suspensions are not continued indefinitely without justification, the cases of officers placed under suspension have to be

reviewed every six months and the orders of Government obtained for continuing the period of suspension for a specified period not exceeding six months at a time. As quite a number of employees were under the suspension pending enquiry and as in some cases more than one year had elapsed, the Departments of Secretariat and the Heads of Departments were requested in the U.O. Note cited to review all cases where the period of suspension of employees had exceeded six months and to take appropriate action.

2. The matter was considered in the Secretaries meeting held on 05.04.1982. It was observed that in some criminal cases in which employees under suspension were involved the Police Department did not file charge sheets even after two years on the ground that investigation was not completed. In such cases, it was considered advisable to enquire from the Vigilance Commission or the Anti-Corruption Bureau or the concerned Police authorities whether there is any objection to those employees being reinstated and posted to places far away from the station where the alleged crime was committed. The Heads of Departments and the Departments of Secretariat, are requested to take action accordingly, wherever necessary.

(93)

G.O.Ms.No.369, Genl.Admn. (SC.D) Dept., dt.21.07.1982 regarding taking up cases of corruption relating to University employees.

Subject Heading : University employees - taking up cases of corruption

Read the following :

1. From the Vigilance Commissioner, APVC, Hyderabad, Lr.No.1947/ VC.C2/79-1, dt.07.05.79.
2. From the Director, Anti-Corruption Bureau, Hyderabad, Lr.Rc.No.585/ S2/79, dt.09.10.79.
3. From the Registrar, Andhra Pradesh Agricultural University, Rajendranagar, Hyderabad, D.O.Lr.No.188/D.C/75, dt.17.01.80.
4. Proceedings of the meeting of the Vice Chancellors conference held at Hyderabad on 05.01.81 communicated with Lr.No.3707/C1/80-5, dt.05.02.82 from Joint Secretary to Government, Education Department.

ORDER :

The Andhra Pradesh Agricultural University, Rajendranagar, Hyderabad, has sent up proposals for creating a special cell in the office of the Director, Anti-Corruption Bureau exclusively to investigate into the cases of corruption against the employees of the University. The general issue relating to entrustment of cases to Anti-Corruption Bureau against University employees of all the Universities in the State has been discussed in the Vice-Chancellor's conference held on 05.01.1981 at Hyderabad and it was resolved by them to request the Government to permit the Anti-Corruption Bureau to take up cases referred to it by the University.

2. The Government after careful consideration agree with the resolution of the Vice-Chancellor's conference and accordingly direct that the Director, Anti-Corruption Bureau to take up the cases of corruption against the University employees including Registrars, which are referred to the Anti-Corruption Bureau by the Universities and submit the reports to the concerned authorities through the Vigilance Commission.

3. The question of sanction of additional staff to Anti-Corruption Bureau in this regard will be considered depending upon the actual number of cases that will be referred to the Anti-Corruption Bureau by the Universities.

(94)

Memo.No.1676/SC.D/82-3, Genl.Admn. (SC.D) Dept., dt.10.11.1982 regarding issue of sanction of prosecution of Government Servants, State and Subordinate services, in corruption cases, by Government alone - instructions reiterated.

Subject Heading : Sanction of prosecution - Government to issue against State as well as Subordinate Services

- Ref : (i) Government U.O.Note No.2498/SC.D/75-4, GA (SC.D) Department, dt.25.11.1975.
- (ii) Government Memo.No.2498/SC.D/75-6, GA (SC.D) Department, dt.17.03.76.

- (iii) From the Director, Anti-Corruption Bureau, Hyderabad, L.R.C.No.37/ACB/76-S1, dt.04.08.1982.

Under the instructions in force on the above subject sanction for prosecution of the accused under Section 6(1) of the Prevention of Corruption Act, 1947, may be accorded by the State Government, in the case of any member of a Service, State or Subordinate even though in the case of certain Government Servants the authority to accord sanction under the said Act may be the authority subordinate to Government.

2. The Director, Anti-Corruption Bureau, Hyderabad, in his letter third cited, has brought to notice of the Government of a case pertaining to an Upper Division Clerk (Senior Assistant) in the Office of the District Medical and Health office wherein the Medical and Health Department of the Secretariat have instructed the Anti-Corruption Bureau to address the Director, Medical and Health Services to get sanction orders for the prosecution of the said employee. Thereupon the Director of Health and Family Welfare, issued sanction orders for prosecution of the accused in a court of law.

3. Consequently, the Director, Anti-Corruption Bureau, has come up to Government with a proposal to review the existing system and issue necessary instructions in the matter, on the ground that the existing instructions are contrary to legal provisions in as much as the provisions of Section 6 of the Prevention of Corruption Act, 1947, enjoins that sanction for the prosecution of a public servant other than a public servant who is not removable from his office by the State Government should be issued by the prescribed authority competent to remove such public servant from his office.

4. Since the existing instructions are clear the Director, Anti-Corruption Bureau, ought to have apprised the Medical and Health Department of the existing instructions on the subject and sought for issue of sanction of prosecution orders by Government in the Medical and Health Department in the said case.

5. However, the proposal of the Director, Anti-Corruption Bureau has been examined again carefully in consultation with the Law Department. It is considered that the Heads of departments are the appointing authorities in respect of many categories of Non-Gazetted Officers and also in regard to initial Gazetted posts unless specified otherwise, and that the Government are the appointing authority in respect of remaining Gazetted posts. Sanction required under section 6(1) of the Prevention of Corruption Act, 1947 may be accorded by the State

Government in the case of any member of the Service, State or Subordinate. Further the State Government are also competent to remove or dismiss any member of the State Service or the Subordinate Service. The number of cases in which criminal prosecution is normally sought for is limited and no difficulty in following the existing instructions of the Government was brought to notice.

6. In the circumstances, it has been decided that the existing system should continue in that the sanction of prosecution of a person under Section 6(1) of the Prevention of Corruption Act, 1947, who is employed in connection with the affairs of the State whether he is a member of State or Subordinate Service shall continue to be issued by the Government, as at present, scrupulously.

7. The Director, Anti-Corruption Bureau is therefore requested to bring to the notice of the Chief Secretary to Government for suitable orders, if any deviation is ordered by any department.

(95)

**D.O.Lr.No.2457/SC.D/82-1, Genl.Admn. (SC.D) Dept., dt.19.11.1982
regarding proof of sanction of prosecution.**

Subject Heading : Sanction of prosecution - proof

I am to invite attention to the instructions issued in Government Memo. No.2572/Courts.C/80-3, Home (Courts.C) Dept., dt.03.10.1980 wherein, it has been clarified that there is no need to examine, as prosecution witnesses, the authority which accorded sanction of prosecution of a public servant where the order of the Government by which sanction was accorded for prosecuting a public servant contains reference to the facts on which the proposed prosecution was to be based. It has been brought to the notice of the Government that the Court of IInd Additional Special Judge for S.P.E. & A.C.B. Cases, in a case relating to Sri P.Sambasivarao (formerly Manager, Andhra Pradesh Government Text Book Press) has issued summons to the former Secretary, Education to appear before the Court to produce the order and to testify about the order issued in G.O.Ms.No.1066, Education (P) Department, dt.21.12.1979 which is self explanatory.

2. I am therefore to request you to issue suitable instructions to the Legal Adviser-cum-Special Public Prosecutors of Anti-Corruption Bureau suitably in the light of the legal position contained in the Government memo referred to and see that the concerned Assistant Secretary to Government or Section Officer, conversant with the file and signature of the sanctioning authority may be asked to attend the court as a witness in order to prove the order sanctioning prosecution.

(96)

Memo.No.2331/SC.D/82-1, Genl.Admn. (SC.D) Dept., dt.18.12.82 regarding supply of records to Investigating Officers of Anti-Corruption Bureau by Heads of Department / Offices within a fortnight or at the most a month.

Subject Heading : ACB - Securing of records / documents

Ref: Government Memo.No.1964/SC.D/73-4, GA (SC.D) Department, dt.15.03.1975.

The attention of all Heads of Departments is invited to the Government memorandum cited, in which instructions regarding supply of records to the Anti-Corruption Bureau were issued. It has been brought to the notice of the Government that the Heads of Departments/Offices are not supplying records to the Investigating officers of the Anti-Corruption Bureau in most of the cases in time, due to which delays are occurring in completion of enquiries/investigations. It is considered that the delays in supply of requisitioned records to the Anti-Corruption Bureau should be avoided and that the bureau shall be supplied with the records within a fortnight or at the most within a month, on receipt of a requisition from the Anti-Corruption Bureau so as to ensure completion of investigations / enquiries in time.

2. The Heads of Departments are requested to ensure compliance with these instructions and also issue suitable instructions to the Heads of offices under their control to see that requisitions received from the officers of the Anti-Corruption Bureau are complied with accordingly.

(97)

Memo.No.1940/SW/1982, General Admn. (SW) Dept., dt.04.01.1983 regarding instructions on strike by the employees and lunch hour demonstrations.

Subject Heading : Prohibition of strike and lunch hour demonstrations by the employees of Secretariat.

It has been observed that some employees of the Secretariat are occasionally resorting to loud and indecent demonstrations and sometimes against individual officers to intimidate or coerce them. This behaviour is uncalled for and offends the image of the Secretariat and serenity of atmosphere expected in it, disturbing normal functioning of offices and causing apprehension to the visiting public. It has, therefore, been decided to prohibit all demonstrations including lunch hour demonstrations and slogan shouting by Government employees within the office premises. Severe action will be taken against the Government Servants who resort to such demonstrations in future. Apart from taking disciplinary action against such employees, action will also be taken for de-recognising of the Association, if any of the Service Associations encourage any of its members to resort to such demonstrations.

(98)

U.O.Note No.2063/L/83-1, Law (L) Dept., dt.20.03.1983: Vakalat to be sent to Advocate-on-Record in the Supreme Court within prescribed time.

Subject Heading : Supreme Court - entrusting cases to Advocate-on-Record

It has been brought to the notice of the Government by Sri G.Narayana Rao, Advocate-on-Record, Supreme Court, that in almost all cases, where Government are impleaded, he has to seek condonation of delay as most of the departments of the Secretariat and the Heads of Departments are not following the prescribed procedure in entrusting the cases to the Advocates-on-Record in the Supreme Court. There is difference in the procedure followed in the High Court and in the Supreme Court; in the High Court the notice is served on the concerned Government Pleader while it is not so in the Supreme Court. In cases, where the Government desire to contest a case, the notice of the advocate

appearing for the petitioners together with a vakalat may be sent to the Advocates-on-Record in the Supreme Court to enable them to file vakalat within the prescribed time, instead of sending a copy of the counter affidavit filed by the petitioners, which will be lengthy and take sufficient time.

2. All the Departments in the Secretariat and all Heads of Departments are therefore requested to follow the above instructions scrupulously, which helps the Advocates-on-Record in Supreme Court in filing the vakalat within the prescribed time and thereby they can avoid seeking condonation of delay in each case.

(99)

Memo.No.163/SC.D/83-2, Genl.Admn. (SC.D) Dept., dt.30.03.1983 (as amended by Memo.No.163/SC.D/83-3, G.A.(SC.D) Dept., dt.10.06.83) regarding delegation of suo motu powers to Anti-Corruption Bureau for effective functioning.

Subject Heading : ACB - suo motu powers

Ref: 1. Government Memo No.163/SC.D/83-1, dt.07.02.1983.

2. From the Dharma Maha Matra, D.O. Lr.No.2/DMM/83-1, dt.14.02.1983.

The question of delegating more powers to the Director of Anti-Corruption Bureau for effective functioning of the Bureau and also the question of restoration of suo motu powers to him has been re-examined on certain suggestions received from the Dharma Maha Matra and the following instructions are issued:-

1. Anti-Corruption Bureau will have full powers of collecting source information against all officers;
2. Permission for preliminary or regular enquiries or registration of cases or laying of traps etc. should be given personally by the Director, Anti-Corruption Bureau and not by any other functionary; (Item (2) as amended by Memo.No.163/SC.D/83-3 G.A.(SC.D) Dept., dt.10.06.83)
3. In respect of the All-India Service Officers and Heads of Departments, the Director, Anti-Corruption Bureau should obtain prior permission of

the Chief Secretary before initiating a preliminary or regular enquiry or registering a case or laying a trap etc.

2. The Director, Anti-Corruption Bureau is requested to follow the above instructions scrupulously.

(100)

Memo.No.3295/L/83, Law (L) Dept., dt.07.04.1983 regarding procedure in appeals in High Court.

Subject Heading : Appeal - before High Court, procedure

It has been brought to the notice of Government by Special Officer, Government Pleader's Office, High Court, that papers for filing appeals are being sent to the Special Officer, Government Pleaders' Office, High Court of Andhra Pradesh, Hyderabad after the expiry of the period of limitation or leaving very short time for filing an appeal in the High Court and the Government Pleaders' Office is finding it very difficult to deal with such cases effectively for want of time. It has also been brought to the notice of the Government that several appeals are lost at the threshold due to expiry of limitation and the High Court is generally not condoning the delay. The Special Officer states that it has been suggested by the Government Pleaders in the High Court that whenever a subordinate court delivers a Judgment the concerned Government Pleader in the District should obtain an urgent copy of the Judgment immediately, and send the same to the Government Pleaders' Office, High Court for obtaining the opinion of the Government, Pleader concerned whether there are good grounds for filing appeal in the High Court and simultaneously, the Government Pleader in the District Court may also inform the concerned authorities about this fact so as to enable the authorities to pursue further action with reference to the opinion given by the concerned Government Pleader in the High Court and the above procedure will avoid, to a greater extent, the possibility of the Government cases being lost on the ground of delay in filing appeals in the High Court.

2. In the above circumstances, the Government Pleaders in the districts are therefore requested to obtain urgent copies of the Judgments of the District courts immediately after their pronouncement, send them to the Government Pleaders in the High Court concerned through the Special Officer, Government Pleaders' Office, High Court of Andhra Pradesh for their opinion whether there

are good grounds for preferring appeal in the High Court and simultaneously inform the concerned authorities about the fact so as to enable those authorities to pursue further action with reference to the opinion given by the Government Pleader concerned whether to prefer an appeal in the High Court or not.

(101)

U.O.Note No.446/Ser.C/83-1, Genl.Admn. (Ser.C) Dept., dt.27.05.1983: Requiring Government Servant to go on leave under threat of suspension, deprecated.

Subject Heading : Suspension - forcing leave under threat of suspension

Ref : 1. Memo.No.1733/Ser.C/67-2, dt.03.08.67.

2. From the F.R.&D (Ser.IV) Dept., U.O.Note No.59918/Ser.IV/82-4, dt.15.04.83.

It has been brought to the notice of the Government by the Andhra Pradesh Administrative Tribunal that in a case an employee was served with an order that "pending enquiry into certain grave charges he was directed to go on leave in lieu of suspension in public interest and he was asked to submit the leave application at once failing which he is deemed to have been placed under suspension and also to acknowledge on the duplicate copy" and the Andhra Pradesh Administrative Tribunal is of the view that the type of order is somewhat misleading in that it creates an impression that the authorities have a right to ask the persons serving under them to go on leave forcibly even though the main requirement of Rule 13(1) of the A.P.C.S (CC&A) Rules, 1963 on the basis of which suspension could be ordered, by the authority, has been satisfied in that an enquiry on a grave charge is pending against the petitioner. Hence it is necessary to avoid such impression and therefore, it would be desirable not to issue orders of suspension in this manner.

2. As per instructions No.18 given in Appendix VI of the Classification, Control and Appeal Rules which deals with the object etc. of placing the Government Servants under suspension there is a provision made under sub-para (III) of the instructions, according to which it should be considered at an early stage whether sending the officer on leave (if he is willing to take it) will not be a suitable step to take. It is also laid down that such a step shall not be applied in every serious case where there is a good *prima facie* case.

3. The above provision of allowing the Government Servant to go on leave is one of the steps the competent authority may take in lieu of suspension of Government Servant in case the incumbent is willing to do so. But as rightly observed by the Tribunal the type of order issued in the case is mis-leading as it creates an impression that the authorities have a right to ask the person serving under them to go on leave forcibly.

4. The departments of Secretariat are therefore requested to bring the above observations of the Andhra Pradesh Administrative Tribunal to the notice of all the concerned and see that no such type of orders are issued in future in the matter.

(102)

Memo.No.2331/SC.D/82-7, Genl.Admn. (SC.D) Dept., dt.23.06.1983 regarding supply of classified documents to Investigating Officers of Anti-Corruption Bureau.

Subject Heading : ACB - Securing of records / documents

- Ref: 1. Govt.Memo.No.1300/SC.D/73-1, GA (SCD) Dept.,dt.06.09.1973.
2. Govt.Memo. No.1964/SC.D/73-4, G.A. (SCD) Dept., dt.15.03.1975.
3. Govt.Memo. No. 443/SC.D/78-2, G.A. (SCD) Dept., dt.03.06.1978.
4. From the Director, Anti-Corruption Bureau, Rc.No. 2348/S-3/82, dt.14.10.1982.
5. Govt.Memo.No.2331/SC.D/82-1, G.A. (SCD) Dept., dt.8.12.1982.

In the reference first cited instructions were issued, *inter alia*, that the Anti-Corruption Bureau can seek production of records from Heads of Departments / Offices during the course of Regular Enquiry only.

2. In the reference second cited, it was clarified, inter-alia, that the Anti-Corruption Bureau may be permitted to peruse the records during the course of Preliminary Enquiries also.
3. In the reference third cited, it was further clarified that if in any disciplinary proceedings, the return of the files taken by Anti- Corruption Bureau, cannot be awaited and further action is urgently called for without loss of time,

the Departments of Secretariat or Heads of Departments or Collectors may obtain authenticated extracts or Photostat copies of the relevant records, to the extent necessary, with a view to dispose of pending disciplinary cases or any other urgent matters.

4. In the reference fifth cited, all the Heads of Departments/Offices were requested to ensure that the requisitions received from the Anti-Corruption Bureau for supply of records are complied with within a fortnight or at the most within a month, positively.

5. In continuation of above instructions, the following further instructions are issued regarding supply of records requisitioned by the Officers of Anti-Corruption Bureau in connection with their enquiries subject to the condition laid down in para 6 below:

- (i) 'Top Secret' documents should be handed over only to the Gazetted Officers of the rank of Deputy Superintendent of Police and above in the Anti-Corruption Bureau.
- (ii) 'Secret' and 'Confidential' documents should be given to the Gazetted Officers of the Anti-Corruption Bureau or to an Inspector, Anti-Corruption Bureau if he is specially authorised by the Deputy Superintendent of Police, Anti-Corruption Bureau to obtain such documents.
- (iii) A temporary receipt should be obtained whenever any classified document is handed over to an officer of the Anti-Corruption Bureau (Top Secret, Secret and Confidential documents are Classified documents).
- (iv) The Originator of the classified documents / records should also be informed.
- (v) Where original documents cannot be made available to the investigating officer for any reason, he should be supplied with photostat copies or attested copies thereof and a certificate should be given by an officer of the appropriate rank that the originals are in safe custody and out of the reach of the suspect Official and will be produced whenever required.
- (vi) The Inspectors in the Bureau can give requisitions to the Heads of Departments / Officers for supply of 'Secret' and 'Confidential' records when the enquiries / investigations are against Non-Gazetted Officers.

A Gazetted Officer of and above the rank of Deputy Superintendent of Police alone should requisition the records from the Heads of Departments / Officers in respect of enquiries / investigations against Gazetted Officers.

6. There are however certain classified documents held in personal custody of the officers and they cannot be made over at the discretion of the officers. Any general instructions issued in the matter will not absolve such officers of their responsibilities to keep the records in their personal custody without disclosure to outside agencies. In case of doubt in handing over such classified documents, the matter should be referred to the Chief Secretary to Government and express clearance obtained. The instructions issued in para five above in regard to furnishing of records to the Anti-Corruption Bureau in connection with the enquiries are subject to the above condition.

7. The Heads of Departments are requested to bring the above instructions to the notice of their subordinates for their guidance.

(103)

Memo.No.637/Ser.C/83-1, Genl.Admn. (Ser.C) Dept., dt.28.06.1983 regarding action, where Government servant is acquitted on a criminal charge.

Subject Heading : Departmental action and acquittal

Ref : Govt.Memo.No.169/Ser.C/77-8, G.A.(Ser.C) Dept., dt.10.02.1978.

In the Government Memo. cited instructions have been issued keeping in view of the self contained instructions issued by Government of India in regard to the action to be taken in cases where Government Servants are convicted on a criminal charge or where an appeal / revision in a higher court succeeds.

2. Now it has been brought to the notice of the Government that an employee who was dismissed on conviction in a lower court is reinstated later, on the setting aside of the conviction order by the Appellate Court without any proper examination by the department whether despite the acquittal the facts

and circumstances of the case would warrant a departmental enquiry on the basis of the same allegation on which conviction was ordered in the beginning.

3. Where the court gives a finding on each of the allegations to the effect they have no base, then any departmental enquiry in respect of such allegations would not be in order. Where, however the Court gives the benefit of doubt about the commission of offence or the Court's finding is that though the allegations are established they did not constitute a criminal offence, a departmental inquiry could be held. Departmental enquiry could also be ordered in respect of allegations which are not the same as have been the subject to trial in criminal case and have no basis in the allegations negated by the criminal court.

4. The question of departmental enquiry in the circumstances indicated above will arise of course, only when an appeal is not being considered and proceeded with.

5. Government while reiterating the instructions issued in the memo. cited request the Departments of Secretariat and Heads of Departments to examine the cases in the light of what has been stated in the above paras and to ensure that every proposed case of reinstatement should invariably be referred to General Administraion (Services) Department in order to examine the merits and the aspect of departmental disciplines, public interest, loss to Government, gross misconduct etc.

(104)

U.O.Note No.1150/SC.D/83-2, Genl.Admn. (SC.D) Dept., dt.25.07.1983: Complaints to be forwarded to Anti-Corruption Bureau for 'Discreet Enquiry', and Anti-Corruption Bureau to take up enquiry or investigation thereon.

Subject Heading : Discreet enquiry

Ref: 1. U.O.Note No.1484/SC.D/77-1, G.A. (SC.D) Dept., dt.01.07.77

2. Memo.No.163/SC.D/83-2, G.A.(SC.D) Dept., dt.30.03.83.

3. From the Director, Anti-Corruption Bureau, D.O.Lr.No.S5/Manual/76, dt.26.05.1983.

In the U.O. Note first cited, the Departments of Secretariat were informed, inter alia, that while forwarding the petitions/ complaints to the Director, Anti-

Corruption Bureau for enquiry, it should be stated clearly whether the Bureau should conduct a Preliminary Enquiry or Regular Enquiry.

2. In the Memo. Second cited, the following suo-moto powers have been given to the Director, Anti-Corruption Bureau:

- (i) Full powers of collecting source information against all officers;
- (ii) Permission for Preliminary or Regular Enquiries or Registration of cases or laying of traps etc. should be given personally by the Director, Anti-Corruption Bureau and not by any other functionary;
- (iii) In respect of the A.I.S. Officers, and Heads of Departments the Director, Anti-Corruption Bureau should obtain the prior permission of the Chief Secretary before initiating a preliminary or Regular enquiry or Registering a case or laying a trap etc

3. In the reference third cited, the Director, Anti-Corruption Bureau has suggested certain charges in the nature of enquiries conducted by the Bureau keeping in view the enquiries/ investigations in vague in C.B.I., Ministry of Home Affairs.Government of India, with a view to simplify the procedure involved in the enquiries conducted by the Bureau at various stages and to expedite the final reports.

4. The suggestions made by the Director, Anti-Corruption Bureau have been carefully considered and in modification of the instructions on the subject of ordering enquiries to the Anti-Corruption Bureau the following instructions are issued:

- (i) while forwarding the petitions/complaints to the Anti-Corruption Bureau for enquiry, it need not be mentioned for Preliminary Enquiry/ Regular Enquiry. They should be forwarded for "Discreet Enquiries" only. The instructions issued in the U.O.Note first cited are modified to this extent.
- (ii) If a prima facie case is established during the discreet enquiry by the Anti-Corruption Bureau, either in whole or in respect of few of the allegations, the Bureau will convert the discreet enquiry into "Regular Enquiry" under intimation to the Department concerned and the Dharma Maha Matra without waiting for the completion of the enquiry on all the allegations.

- (iii) If a cognizable offence is found during the discreet or regular enquiry, the Anti-Corruption Bureau itself will register the case under the provisions of I.P.C. and P.C. Act as the case may be and proceed with the further investigation under intimation to the Department concerned and the Dharma Maha Matra.
- (iv) In respect of A.I.S. Officers and the Heads of Departments the Director, Anti-Corruption Bureau would continue to obtain the prior permission of the Chief Secretary to Government for initiating any enquiry viz. Discreet Enquiry / Regular Enquiry / Registering a case / Laying a trap.

(105)

**U.O.Note No.1515/SC.D/83-1, Genl.Admn. (SC.D) Dept., dt.18.08.1983
regarding declaration of cash by employees in check posts etc.**

Subject Heading : Cash - declaration at the time of reporting

Ref: From the Director, Anti-Corruption Bureau, Lr.No.1490/S.3/83,
dt.14.07.1983.

A copy of the reference cited is enclosed. All the Departments of the Secretariat, who have got Check-Posts and offices under their Heads of Department dealing with cash transactions are requested to take necessary action regarding issue of instructions through the concerned to the officials in Check-posts and Sub-Registry Offices, Transport Offices etc., as desired by the Director, Anti-Corruption Bureau. Copy of the instructions so issued may be marked to the Director, Anti-Corruption Bureau and to this Department also.

Copy of:

Secret :

From	To
Sri Sushil Kumar, I.P.S., Director, Anti-Corporation Bureau, Hyderabad.	The Chief Secretary to Government, General Administration (SC.D) Dept., Andhra Pradesh, Hyderabad.

Lr.Rc.No.1490/S.3/83, dt.14.07.1983

Sir,

**Sub : Instructions to the Officials of Commercial Tax, Forest and Transport
Department check posts etc. regarding declaration of amounts**

taken by the Officials at the time of reporting for duty at the check-posts - Reg.

During the surprise checks conducted by officers of the Anti-Corruption Bureau in the offices of Sub-Registrars, Regional Transport Officers and check-posts of the Commercial Taxes and Transport Departments it was noticed that the officials were found in possession of excess amounts sometimes to the tune of several thousands, In the absence of instructions of the Government that the officials of the check-posts, Sub Registry Offices, Regional Transport Officer Offices or other officers dealing with cash transactions with the public, should declare the amounts on their person at the time of reporting for duty, it is not possible to know whether the money found at the time of check on the person of the officers, actually belongs to them or are bribe amounts collected from parties.

2. In the circumstances, the Government may please consider issuing clear instructions to all Departments concerned to direct their staff members dealing in cash transactions with the parties to declare the amounts on their person at the time of reporting for duty at their places in a register prescribed for the purpose. If the staff declare the amounts on their person by making entry in the Register, it would be easy for the officers of this Bureau to detect excess amounts collected by them in the discharge of their duties. This practice of declaring the personal money is in vogue in the Railways and Central Departments, which facilitates joint surprise checks by officials of the Central Bureau of Investigation and the concerned Departments.

(106)

Memo.No.768/Ser.C/83-1, Genl. Admn. (Ser.C) Dept., dt.25.08.1983 regarding consolidated instructions on placing Government Servants under suspension.

Subject Heading : Suspension - consolidated instructions

Ref : Govt., Memo.No.1470/Ser.C/77-2, dt.26.12.77.

Several executive instructions were issued by Government to supplement the provisions of the Andhra Pradesh Civil Services (CCA) Rules on

the question of the circumstances which would justify, placing a Government employee under suspension pending enquiries etc. The gist of some of the important instructions was communicated in Memo.No.1470/Ser.C/77-2, dt.26.12.1977. A few other instructions on the subject of suspension were also issued from time to time. Inspite of the above, enquiries are being received on the question, frequently, from the Departments of Secretariat. It is, therefore, considered desirable to communicate the following important and frequently required instructions, some of which have already been included in the Memorandum cited, for information of the Departments of Secretariat and Heads of Departments. These instructions are only to supplement and clarify the provisions contained in the Andhra Pradesh Civil Services Classification, Control and Appeal) Rules, 1963.

2. In Memo.No.401/Ser.C/65-1, G.A. (Ser.C) Dept., dt.27.02.65 instructions were issued that Government Servants may be placed under suspension under the following circumstances:

- (i) Cases where continuance in office of the Government Servant will prejudice the investigation, trial or any inquiry (eg., apprehended tampering with witness or documents);
- (ii) Where the continuance in office of the Government Servant is likely to seriously subvert discipline in the office in which the public servant is working;
- (iii) Where the continuance in office of the Government Servant will be against the wider public interest (other than those covered by (i) and (ii)) such as there is a public scandal and it is 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 of corruption.
- (iv) Where allegations have been made against the Government Servant and the preliminary inquiry has revealed that a *prima facie* case is made out which would justify his prosecution or his being proceeded against in departmental proceedings and where the proceedings are likely to end in his conviction and / or dismissal, removal or compulsory retirement from service.

NOTE :

- a) In the first three circumstances the disciplinary authority may exercise his discretion to place Government Servant under suspension even when the case is under investigation and before a *prima facie* case has been established.
- b) Certain types of misdemeanour where suspension may be desirable in the four circumstances mentioned are indicated below:
 - (i) any offence or conduct involving moral turpitude;
 - (ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain;
 - (iii) Serious negligence and dereliction of duty resulting in considerable loss to Government.
 - (iv) Refusal or deliberate failure to carry out written orders of superior officers.

3. In Confidential Memo.No.204/Ser.C/76-3, G.A. (Ser.C) Department, dt.31.05.76, it has been directed that the officers trapped in corruption be placed under suspension immediately and that if there is likely to be any interregnum between the trap and the actual relief of the trapped officer after being placed under suspension, the competent authorities should consider whether the officers could be transferred immediately so that material evidence is not destroyed and that arrangements should be made to relieve trapped officers forthwith.

4. In Memo.No.488/Ser.C/81-1, G.A. (Ser.C) Department, dt.21.04.81, it was clarified that public interest should be the guiding factor in deciding the question of placing a Government Servant under suspension. It was also clarified that as and when criminal charges are framed by a competent court against a Government Servant, the disciplinary authority should consider and decide the desirability of placing such a Government Servant under suspension if he is not already under suspension.

5. In Memo.No.2213/Ser.C/66-8, G.A. (Ser.C) Department, dt.30.11.66, instructions were issued that in order to ensure that suspension is not resorted to for simple reasons the Government have decided that where the reinstating authority held that the suspension of the employees was wholly unjustified and

it made an order that for the period of suspension, the employee concerned be paid full pay and allowances, proceedings should be initiated under rule 19 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules against the officer who suspended the employee and the question of recovery from the pay of such officer the whole or part of the pecuniary loss caused to the Government due to payment of pay and allowances under F.R.54 should be considered.

6. According to Memo.No.1993/Ser.C/65-4, G.A. (Ser.C) Department, dt.28.12.65, where the work and conduct of an employee who is appointed temporarily are not satisfactory he need not be placed under suspension pending enquiry as it involves financial loss to Government nor should disciplinary action be taken against him but he should be discharged in terms of his appointment, by an innocuous order so as to avoid complications.

7. In Memo.No.1733/Ser.C/67-2, G.A. (Ser.C) Department, dt.03.08.67, instructions were issued that instead of placing an employee under suspension pending investigation into grave charges the desirability of transferring him to some other place or to allow him to go on leave may be considered.

8. As per the instructions issued in the Memo.No.904/Ser.C/67-1, GA (Ser.C) Department, dt.29.05.1967, the necessity for continuance or otherwise of a Government employee under suspension is required to be reviewed by the Government at intervals of not more than 6 months. The object is to ensure that Government employee placed under suspension is not continued under suspension indefinitely and that the necessity or otherwise for his continuance is reviewed periodically by Government so that if in any case it is felt that the further continuance of the Government employee involves undue-hardship, necessary relief may be granted, either by revoking the order of suspension and restoring him to duty or allowing him to proceed on leave.

9. It was laid down in the Memo.No.904/Ser.C/67-1, dt.29.05.1967 that in cases of suspension and review the following procedure may be adopted:

- a) Where an employee is suspended the order may be so drawn up that he is suspended, pending enquiry, until further orders;
- b) When upon a review which may be ordinarily made at intervals of not more than six months, it is considered that he should be

continued under suspension, the order that may be made after such review may be as follows:-

"The Government have reviewed the case of Sri who is under suspension pending enquiry and they have decided that he shall continue under suspension. The next review will be taken up at the end of six months from the date of this order".

10. According to the instructions issued in Memo.No.365/Ser.C/79-1, G.A.(Ser.C) Department, dt.11.06.1970, the cases of all officers who are, under suspension for six months irrespective of the fact, whether the cases are under investigation by the Anti-Corruption Bureau or pending enquiry before the T.D.P. or a departmental authority or pending trial before the court of Special Judge for Special Police Establishment and Anti-Corruption Bureau cases or pending with the Government will have to be reviewed by the Government and the Government should have adequate and sufficient material before them to judge the necessity or otherwise of the continuance of the suspension. The Director, Anti-Corruption Bureau should send his reports to the Government not only in respect of cases which are under investigation by the A.C.B. but also in cases pending enquiry before the Tribunal for Disciplinary Proceedings and trial in the court of the Special Judge for Special Police Establishment and Anti-Corruption Bureau Cases. He need not, however, send reports in cases where enquiries are being conducted by Departmental Authorities or in cases pending with the Government after the receipt of the Tribunal for Disciplinary Proceedings and the Judgment of the Special Judge for the Special Police Establishment and Anti-Corruption Bureau cases.

11. In Memo.No.1640/81-1, G.A. (Ser.C) Department, dt.02.01.82, instructions were issued, that in all cases of alleged malpractices relating to Leave Travel Concession suspension need not be resorted but disciplinary action may however, be initiated and that depending upon the outcome of the disciplinary action necessary further action may be taken either to recover the amount fraudulently drawn or / and award suitable punishment as per Classification, Control and Appeal Rules.

(107)

**Memo.No.697/Ser.C/83-1, Genl.Admn. (Ser.C) Dept., dt.21.11.1983:
Subordinate officials cannot complain against superiors to Dharma Mahamatra.**

Subject Heading : Dharma Mahamatra - complaining against superiors

- Ref: 1. Memo.No.5171/63-1, G.A.(Ser.C) Dept., dt.04.03.64.
2. Memo.No.1072/65-1, G.A.(Ser.C) Dept., dt.19.05.65.

In continuation with the petitions being filed by public servants before Dharma Mahamatra, the following points have been raised for clarification:

- a) whether the existing employees are entitled to complain directly to the Dharma Mahamatra about alleged irregularities committed by their superiors in the same organisation and whether such complaints would not amount to "misconduct".
- b) whether action could be initiated against such employees if enquiry shows that the complaints were not established.

2. According to the instructions issued in Government Memo.No.5171/63-1, General Administration (Services.C) Department, dt.04.03.1964, a public servant is not prohibited from giving information leading to the detection of corruption of his superior officer. According to the above Memorandum any allegation by a Government servant against a superior should be made through the officer immediately superior to the officer complained against. Instructions have also been issued in Memo.No.1072/65-1, General Administration (Services.C) Department that, Government employee should not be allowed to forward complaint about other officers to the Vigilance Commissioner (at present Dharma Maha Matra). In the light of the above instructions previously issued, it is clarified that a subordinate officer though he can make a complaint about the alleged irregularities to an officer immediately superior to the officer complained against cannot complain to the Dharma Maha Matra directly about the alleged irregularities committed by his superiors in the same organisation. If any such complaint is given it has to be construed as misconduct and disciplinary action taken under the provision of the Classification, Control and Appeal Rules.

(108)

Memo.No.442/SC.E/83-1, Genl.Admn. (SC.E) Dept., dt.27.12.1983 regarding furnishing of property statements of suspect officers, to A.C.B.

Subject Heading : Disproportionate Assets - proforma statements, pay and service particulars

Subject Heading : Property statements - furnishing to ACB

It has been brought to the notice of the Government that the property statements of the suspect officers called for from the concerned Disciplinary authorities are not being furnished to the Anti-Corruption Bureau promptly resulting in in-ordinate delay in investigating the cases. Government consider that the investigation of these cases should be taken up on top priority basis and charge sheets against the delinquent officials should be filed as expeditiously as possible without further loss of time.

2. All Heads of Departments and District Collectors, are therefore, requested to see that property statements in all cases of disproportionate assets of the suspect officers are furnished by the concerned Disciplinary authorities to the Anti-Corruption Bureau as quickly as possible.

(109)

U.O.Note No.108/SC.D/84-1, Genl.Admn. (SC.D) Dept., dt.28.01.1984: Prior orders of Chief Minister should be obtained, where recommendation of Director, Anti-Corruption Bureau is deviated from.

Subject Heading : ACB - to discuss in inter-departmental meeting and obtain prior orders of C.M., in case of deviation from recommendation

All the Departments of Secretariat are informed that where it is proposed to deviate from the recommendation of the Director, Anti-Corruption Bureau on his reports, prior orders in circulation to the Chief Minister should be obtained.

(110)

Memo.No.284/Ser.C/84-1, Genl.Admn. (Ser.C) Dept., dt.22.03.1984: Subordinate officer complaining to Lokayukta / Upa-Lokayukta directly, liable for action.

Subject Heading : Lokayukta - complaining direct, actionable

Ref: From the Registrar, A.P.Lokayukta and Upa-Lokayukta Lr.No.49/84, dt:19.01.1984.

Instructions were issued in Government Memo.No.697/Ser.C/83-1, dt.21.11.1983 that a Subordinate Officer though he can make a complaint about the alleged irregularities of his superior officer to an officer immediately superior to the officer complained against, he cannot complain to the Dharma Maha Matra directly about the alleged irregularities. It was also clarified that if any such complaint is given it has to be construed as misconduct and disciplinary action taken under the provision of Classification, Control and Appeal Rules.

2. It was examined by the Government whether the above instructions should apply even to the petitions to be filed before Lokayukta and Upa-Lokayukta.

3. Government after careful examination of the above issue have decided that a Subordinate Officer though he can make a complaint about the alleged irregularities to an officer immediately superior to the officer complained against cannot complain to the Andhra Pradesh Lokayukta and Upa Lokayukta directly about the alleged irregularities committed by his superiors in the same organisation. If any such complaint is given it has to be construed as misconduct and disciplinary action taken under the provision of the A.P.C.S (CC&A) Rules, 1963.

(111)

G.O.Ms.No.260, Genl.Admn. (Ser.C) Dept., dt.24.04.1984 regarding disciplinary action in cases of misappropriation, losses etc, of Government funds.

Subject Heading : Misappropriation - administrative and legislative steps to be taken

ORDER :

The Public Accounts Committee 1978-79 in its fifth report on misappropriations, losses etc., made certain recommendations which inter-alia suggested that a special enactment be brought for detection, investigation, enquiry, trial and imposition of various liabilities and appropriate punishment. The Committee met on 6.2.1984 and reviewed the action taken by Government on the recommendations made by it. The measures that were taken and were proposed to be taken were explained by the representatives of Government. The various administrative and legislative steps proposed to be taken in respect

of points raised in the recommendation of the Public Accounts Committee have been further examined by Government carefully and the following orders are accordingly issued :-

ADMINISTRATIVE MEASURES :

1. there should be periodical office inspections by the Heads of Department and such inspections should invariably cover financial aspects, accounts and cases of mis-appropriation of funds, if any. In the office of Heads of Department, one officer may be nominated as Vigilance Officer to keep track of cases involving misappropriation of Government funds.
2. at the Secretariat level, Secretary of the Department of concerned should review every month cases of misappropriation detected in subordinate offices and Chief Secretary will review these cases with all Secretaries to Government, once in six months to find out whether there are any bottle-necks in expediting cases of misappropriation;
3. A Special Officer will be nominated in Finance Department to collect the data of all cases of misappropriation and watch the action being taken and to review from time to time the progress of disposal of such cases;
4. If any case of misappropriation suspected, the head of office should take action to report to Head of Department and also simultaneously to Police as envisaged in the relevant articles of Andhra Pradesh Financial Code.
5. in cases of misappropriation reported, Departmental proceedings shall be pursued simultaneously with the criminal proceedings and the former need not be held as instructed in Memo. No.2261/Ser.C/79-2, dated 23.10.1979. Photostat copies of document will be taken for Departmental enquiry:
6. Strengthening of Economic offences investigating wing in Crime Branch, C.I.D. or the investigating agency (ACB) would be taken up for consideration.
7. Special Cells will be created in the investigating agencies for Departments where the number of misappropriation cases are large and persons from these cells of the Investigating agency would maintain close liaison with the Departments so that they can tender necessary guidance to expedite cases:

8. The existing instructions on the subject would be consolidated and communicated to all.

ACTION TO BE PURSUED ITEM - WISE :

1. There is a questionnaire for inspection of an office by the various inspecting authorities. This requires to be amplified by including the item relating to financial and accounting aspects (like A.C.Bills, mis-appropriation cases, Accounts etc.) General Administration (IC) Department who are dealing with the matters relating to inspection of offices, are requested to take steps to elaborate the questionnaire in consultation with the Finance Department.

Regarding nomination of Vigilance Officers in each office of Heads of Department, to keep track of the cases involving misappropriation of Government funds, all the Departments of Secretariat are requested to issue instructions for nomination of an officer as a Vigilance Officer in each of the Secretariat Department and also Heads of Departments under their administrative control to keep track of the cases of misappropriation of Government funds by Government employees.

The Secretary of each Department should review each month all cases of misappropriation in his Department and send a copy of the review containing full details to the officer nominated for the purpose in the Finance Department.

2&3 The Finance Department will nominate an officer specially to monitor the pendency and watch progress with reference to statistics that will be furnished to him by the other Departments. This officer would place the statistical data regarding out-standing misappropriation cases for a review by Chief Secretary to Govt., with Secretaries of Departments periodically.

4. The Finance Department will issue circular orders bringing out therein the provisions of the Andhra Pradesh Financial Code relating to misappropriation cases for guidance of all concerned.

5 & 8 Copies of all related instructions on the subject issued by Government are being communicated to all concerned separately.

6. The Home Department is requested to take action in consultation with Finance (Expr. HG) Department.

7. The officer of Finance Department nominated with reference to point 2 above will be collecting statistical data in respect of misappropriation cases pending in each Department, the statistical data so collected will be furnished by the officer through Principal Secretary, Finance, to Chief Secretary to Government for decision about the strengthening the investigating agencies in various Departments.

LEGISLATIVE MEASURES :

Point (1) to amend Section 4 of the Prevention of Corruption Act 1947 to provide for presumption in cases of misappropriation of Government funds covered by Section 5(1)(c) of the said Act. This will also enable the special judges or courts which are now handling corruption cases to take cognizance of misappropriation cases also.

Point (2) to undertake suitable amendment to Sec.3 of the Criminal Law (Amendment) Ordinance, 1944 to authorise the I.O. to file the application before the concerned District Judge for attachment of property without obtaining prior permission of Government in each and every case.

The General Administration (SC.D) Department who are concerned with the administration of Prevention of Corruption Act, 1947 are requested to take further action.

The Law Department is requested to take action in regard to the amendment of the Criminal Law (Amendment) Ordinance, 1944.

(112)

Memo.No.289/SC.D/84-1, Genl.Admn. (SC.D) Dept., dt.01.05.1984: Anti-Corruption Bureau not to be saddled with trivial enquiries and departmental irregularities.

Subject Heading : ACB - matters which are not fit

Ref : From the Director, Anti-Corruption Bureau Lr.No.177/RPC/84, dt.20.02.84.

The Director, Anti-Corruption Bureau has brought to the notice of the Government that in addition to complaints regarding corruption, cases involving

administrative lapses are being referred to the Anti-Corruption Bureau for enquiry or investigation after a preliminary enquiry by the Department and that such references to Anti-Corruption Bureau, which is already over burdened, taking a toll on its resources and entailing in delays and requested that instructions may be issued to all Departments that Departmental irregularities which are already enquired into by the Department, need not be referred to the Bureau for enquiry unless there is *prima-facie* case for registration and prosecution or otherwise they could be dealt with by the Departments themselves.

2. The matter has been examined by the Government. The Anti-Corruption Bureau is a specialised institution created with trained staff for the specific purpose of conducting enquiries into cases of corruption among public servants. It is therefore, necessary that the Bureau is not saddled with trivial enquiries and cases relating to Departmental irregularities. In view of this, it is necessary and desirable that only cases involving corruption, lack of integrity etc. are referred to Anti-Corruption Bureau for enquiry / investigation, leaving Departmental irregularities / administrative lapses for enquiry by the concerned Departments themselves.

(113)

Memo.No.620/Ser.A/84-1, Genl.Admn. (Ser.A) Dept., dt.01.05.1984 regarding need to follow instructions issued regarding retention / transfer of employees in focal points.

Subject Heading : Focal points - retention, transfer of employees

According to instructions issued in G.O.Ms.No.1289, GA (Ser.A) Department, dt.06.11.1963, no Government Servant should be transferred from one place to another before he has put in at least three years of service in the post except on grounds of promotion, or as a measure of penalty or at the Officer's own request in very special cases. If transfers are effected by the competent authority within a period of three years, the sanction of the immediate higher authority should be obtained before such transfer is effected.

2. In Memo.No.2016/66/3, GA (AC) Department, dt.12.12.1966, it has been stipulated that no Government officer or employee should be kept in the same post, listed as a focal point, for more than 3 years and when it is proposed

to deviate from this principle the approval of Government in the Administrative Department concerned in respect of Gazetted Officers and of the next higher authority above the appointing authority in respect of non-Gazetted Officers should be obtained.

3. The authority approving the retention of any officer in a focal point beyond the prescribed period should record clearly the reasons therefor. Wherein, a Department of Secretariat, it is proposed to retain a Gazetted Officer for more than 3 years in a post, listed as a focal point, orders should be obtained in circulation to the concerned Minister and Chief Minister.

4. It has been brought to the notice of the Government that transfers are being made in deviation of the above instructions.

5. All the Departments of Secretariat are requested to bring the above instructions to the notice of all concerned again and ensure that no Government servant is transferred from one place to another before they put in at least 3 years of service except in the circumstances mentioned in G.O.Ms.No.210, GA (Ser.A) Department, dt.05.02.1965 or on the instructions of Government. Where, any deviation from instructions is to be made, prior sanction of the immediate higher authority should be obtained before such transfer is effected. Any breach of these instructions will be viewed seriously and disciplinary action will be taken against the concerned officers.

(114)

Memo.No.193/SC.D/84-4, Genl.Admn. (SC.D) Dept., dt.07.05.1984 regarding Lokayukta / Upa-Lokayukta taking assistance of Anti-Corruption Bureau.

Subject Heading : Lokayukta - Assistance of ACB

- Ref: 1. From the Director, A.C.B. Lr.No.16/RPC/84 dt.18.02.84 and 28.02.1984.
2. From the Registrar, Andhra Pradesh Lokayukta and Upa-Lokayukta, Lr.No.893/Lok/1984, dt.19.03.84.

With reference to his letter 1st cited, the Director, Anti-Corruption Bureau is informed as below:-

Sub-section (1) of Section 14 of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 provided that the Lokayukta may appoint, or authorise

Upa-Lokayukta or any officer subordinate to the Lokayukta or Upa-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Upa-Lokayukta in the discharge of their functions under the Act. Sub-section (3) of the said Section lays down that without prejudice to the provisions of sub-section (1), the lokayukta or Upa-lokayukta may, for the purpose of conducting investigations under this Act, utilise in such manner as may be prescribed, the services of (1) any officer or investigation agency of the State Government or the Central Government with the concurrence of that Government or (ii) any other person or agency. Similar provision is made in sub-rule (7)(i) of rule 7 of the A.P.Lokayukta and Upa-Lokayukta (Investigation) Rules, 1984. No doubt, sub-rule (2) of Rule 5 of the said rules provides that the Lokayukta or Upa-Lokayukta may utilise the services of such law officers or other legally trained persons as may be attached to his establishment in the course of the preliminary verification. Sub-rule (7)(i) of Rule 7 of the said rules also provides that for the purpose of conducting any investigation under the Act, the Lokayukta or Upa-Lokayukta may utilise the services of any officer or investigation agency of the State Government or the Central Government with the concurrence of that Government. Preliminary verification and investigation are integral parts of every inquiry conducted under the Act though they relate to two different stages of that inquiry. The words "for the purpose of conducting investigations under this Act" occurring in Section 14(3) of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 are wide enough to include preliminary verification, which is only an integral part of every inquiry conducted under the act. Rule 7(7)(i) of the Andhra Pradesh Lokayukta and Upa-Lokayukta (Investigation) Rules, 1984 only reproduces the provisions contained in Section 14(3) of the Act by virtue of which the Lokayukta or Upa-Lokayukta derives the power to utilise the services of any officer or investigation agency of the State Government or the Central Government with the concurrence of that Government. Rules 5(2) of the said rules which is made to give effect to Section 14(1) or the definition of the words "preliminary verification" contained in Rule 2(viii) of the said rules cannot curtail the power conferred on the Lokayukta or Upa-Lokayukta by virtue of Section 14(3) of the Act. The Lokayukta or the Upa-Lokayukta has, therefore, the right to take the assistance of the Anti-Corruption Bureau at the stage of preliminary verification also.

(115)

**Memo.No.570/Ser.C/84-1, Genl.Admn. (Ser.C) Dept., dt.01.06.1984
regarding sealed cover procedure - promotion of officers facing inquiry
in departmental proceedings or prosecution in criminal court or whose
conduct is under investigation and against whom departmental**

proceedings or criminal prosecution is about to be instituted - earlier instructions reiterated

Subject Heading : Sealed cover procedure

Ref : G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05.76.

In the G.O. cited the following instructions were issued in regard to promotion / appointment of employees to higher posts while investigation into allegation / disciplinary proceedings initiated against them are pending:-

- 1) In the case of an officer with a clean record, the nature of charges/ allegations against whom relate to minor lapses having no bearing on his integrity or efficiency which even if held proved would not stand in the way of his being promoted; he may be included in the panel and appropriate place assigned;
 - 2) In the case of an officer whose record is such that he would not be promoted irrespective of the allegations / charges under enquiry, trial or investigation he may straight away be overlooked as being unfit for promotion; and
 - 3) In the case of an officer whose record is such that he would have been promoted had he not been facing enquiries, trial or investigation in respect of charges which if held proved would be sufficient to supercede him may be considered for promotion without reference to the enquiries, trial or investigation pending and he may be assigned appropriate rank in the panel. However actual promotion of such an officer should be deferred until after the termination of the disciplinary proceedings or criminal proceedings. If the officer concerned is completely exonerated he should be promoted restoring him his rightful place in the list of promoted officers with retrospective effect.
2. It has come to the notice of the Government that the above instructions are not being followed by the Departmental Promotion Committees / appropriate authorities.

3. The Departments of Secretariat and Heads of Departments are therefore, requested to bring the above instructions to the notice of the members of all Departmental Promotion Committees so that the above instructions are kept in view while making their recommendations.

(116)

Memo.No.352/SC.E/84-1, Genl.Admn. (SC.E) Dept., dt.14.06.1984 regarding furnishing of property statements in six proformae along with pay and service particulars of suspect officers to Anti-Corruption Bureau expeditiously.

Subject Heading : Disproportionate Assets - proformae statements, pay and service particulars

Subject Heading : Property statements - furnishing to ACB

Ref: 1. Govt.Memo.No.442/SC.E/83-1, dt.27.12.83.

2. From the Director, ACB., Lr.Rc.No.14/RPC/84, dt.11.05.84.

In the reference 1st cited, instructions were issued to all the Heads of Departments and District Collectors to the effect that property statements in all cases of disproportionate assets of the suspected officers should invariably be furnished by the concerned Disciplinary authorities to the Anti-Corruption Bureau as quickly as possible.

2. The Director, Anti-Corruption Bureau in his letter second cited has brought to the notice of the Government that inspite of clear instructions the property statements in six proformae and pay and service particulars of the suspected officers are not being furnished to the Investigating officers of the Anti-Corruption Bureau promptly, resulting in inordinate delay in the completion of enquiries/ investigations.

3. All Heads of Departments and District Collectors are therefore once again requested to furnish property statements in six proformae and pay and service particulars of accused officers to the Investigating Officers of the Anti-Corruption Bureau within a fortnight ordinarily or at the most within a month, failing which, they may take action against the Accused Officers, under A.P.C.S (CC&A) Rules and also stop sanctioning enhanced subsistence allowance to the Accused Officers as the delay in finalisation of the enquiry / investigation can be attributed to the Accused Officers. They are requested to issue suitable instructions to their subordinate officers in this regard.

(117)

**Memo.No.2170/SC.D/83-5, Genl.Admn. (SC.D) Dept., dt.21.07.1984
regarding Anti-Corruption Bureau conducting joint surprise checks on
Government offices in cooperation**

with departmental authorities, on their own initiative.

Subject Heading : Surprise checks

- Ref: 1. Government Memo No.295/SC.D/80-10, GA (SC.D) Dept.,
dt.02.03.1982.
2. From the Director, Anti-Corruption Bureau Lr.No.1788/S5/83, dt.
22.10.1983.
3. From the Commissioner of Commercial Taxes, D.O.Lr.No.4420/ 83,
dt.27.10.1983.

In the Memo. first cited, it was suggested, among other things, that the Departmental Officers should conduct surprise checks at places and points of corruption identified by them and joint surprise checks along with the officers of Anti-Corruption Bureau also. In view of this, the initiative for the joint surprise checks rests with the administrative Department.

2. The point whether such joint surprise checks on offices have to be organised by the Anti-Corruption Bureau with the cooperation of the Administrative Department has been examined and it is hereby clarified that though the joint surprise checks on Government offices should be conducted by the Departmental Vigilance Officers along with the officers of the Anti-Corruption Bureau, in cases where Anti-Corruption Bureau propose to conduct any surprise checks on Government offices, it should do it in cooperation with the officers of the concerned Department. The Departmental officers are also requested to extend the required cooperation to the Anti-Corruption Bureau as far as possible.

(118)

Memo.No.127/SC.E/84-6, Genl.Admn.(SC.E) Dept., dt.24.12.1984: Trivial matters and departmental lapses not fit for A.C.B.

Subject Heading : ACB - matters which are not fit

- Ref : 1. Govt.Memo.No.289/SC.D/84-1 G.A.(SC.D) Dept., dt.01.05.84.
 2. Govt.Memo.No.127/SC.E/84-3 G.A.(SC.E) Dept., dt.17.09.84.
 3. From the Director, ACB., D.O.Lr.No.12/RPC/84 dt.07.11.84
 addressed to the Chief Secretary to Govt., Hyderabad.

The attention of the Director, Anti-Corruption Bureau, Hyderabad, is invited to para-3 of the reference third cited and he is informed that the need to reiterate the instructions issued in Government Memo 1st cited has been examined and the Government consider that it may not be necessary to reiterate these instructions.

2. However, he is requested to accept only those cases which are specified in the reference 1st cited for enquiry and return the cases of trivial enquiries and those relating to Departmental irregularities to the Departments concerned drawing their attention to the above instructions.

(119)

Memo.No.1905/SC.D/84-1, Genl.Admn. (SC.D) Dept., dt.15.01.1985 regarding precautions to be taken against impersonation of Anti-Corruption Bureau officials.

Subject Heading : ACB - precautions against impersonation

It has been reported that some impostors had feigned their identity as officials of the Anti-Corruption Bureau and tried to extract money from Government servants in the Districts. It has also been brought to the notice of the Government that some persons claiming themselves to be officers of the Anti-Corruption Bureau are moving about in the Secretariat and trying to get some favours from the various Departments.

2. All officers and employees working in the Heads of Departments and the Departments of Secretariat are requested to guard themselves against the activities of such impostors and to satisfy themselves about the identity of the Anti-Corruption Bureau officers by asking for their identity cards, before transacting any official work with them. They are also advised to bring to the notice of the higher authorities and also the Police through a written complaint if any instance of impersonation comes to their notice.

(120)

Memo.No.1095/Ser.C/84-4, Genl.Admn. (Ser.C) Dept., dt.27.04.1985 (as amended by Memo.No.638/Ser.C/86-3, Genl.Admn. (Ser.C) Dept., dt.16.08.1986) regarding suspension of officers involved in traps / disproportionate assets cases.

Subject Heading : Suspension - in trap cases

Subject Heading : Suspension - in disproportionate assets cases

- Ref : 1. Govt.Memo.No.204/Ser.C/76-3, GA (Ser.C) Dept., dt.31.05.76.
2. Memo.No.365/Ser.C/69-1, GA (Ser.C) Dept., dt. 11.06.70.
3. Memo.No.1524/Ser.C/80-4, GA (Ser.C) Dept., dt.20.05.82.

In the references cited, instructions were issued in regard to suspension of the Government employees on the basis of reports received from the Director, A.C.B.

2. The matter regarding suspension of Government Servants involved in cases of traps and possession of disproportionate assets taken up for investigation by the Anti-Corruption Bureau has been reviewed and the following instructions are issued:

- 1) In trap cases, the officers trapped should be placed under suspension immediately and if there is likely to be any interregnum between the trap and the actual relief of the trapped officer consequent upon suspension, the trapped officer should be immediately shifted out of his charge so that he will not have any opportunity to tamper or destroy material evidence. In this connection, attention is drawn to the instructions issued in G.A. (Ser.C) Department, Memo.No.204/Ser.C/76-3, dt.31.05.1976.

- 2) As regards the cases of possession of disproportionate assets, the following will be circumstances in which the Government Servant involved in the case should be placed under suspension:
 - a) When the disproportionate assets detected are *prima-facie* sufficiently large taking into consideration the income from all sources and the likely expenditure of the Government Servant concerned. The Director, A.C.B., should mention in his report, the rough estimate of income, expenditure and assets and how the disproportion was arrived at, while recommending suspension in such cases.
 - b) If a Government Servant is not placed under suspension immediately after the registration of a case of possession of disproportionate assets and searches conducted in pursuance thereof, he may subsequently be placed under suspension, if,-
 - (i) during the course of investigation of the case, the Government Servant is found to be not cooperating with the investigating authorities in the conduct of investigation such as not furnishing the property statements and other required information; or
 - (ii) the Government Servant is found interfering with the investigation of the case of tampering with witnesses or documents; or
 - (iii) a charge sheet is filed against him in the said case after the completion of investigation.
3. Once a Government Servant has been placed under suspension in an A.C.B. enquiry of the nature contemplated supra, while revoking or continuing suspension, the disciplinary authority should have regard to the stage of investigation and progress achieved. In respect of cases where the A.C.B. has submitted a final report and where criminal prosecution is not envisaged, the continuation of suspension or revocation shall be considered by the competent authority keeping in view the gravity of charges held substantiated. (Para-3 as amended by Memo.No.638/Ser.C/86-3, Genl.Admn. (Ser.C) Dept., dt.16.08.1986).
4. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above instructions scrupulously and also communicate the above instructions to the concerned disciplinary authorities for their guidance while dealing with the above type of cases.

(121)

Lr.No.H.Qrs.I/Con/84-85, of Commissioner of Income Tax, A.P., Hyderabad dt.30.04.1985 regarding furnishing of information to A.C.B. by Income Tax Officers.

Subject Heading : ACB - securing information from Income Tax Department

It has been brought to our notice that some of the Income-tax Officers have not been furnishing the information called for by the Inspectors of Police, Anti-Corruption Bureau of Andhra Pradesh, inspite of requisitions issued by them under Section 91(1) Cr.P.C. In this connection attention of the Income-tax Officers is invited to a note of Law Ministry, dt.28.10.1981 (copy enclosed) in which it is stated that if the Department receives any communication under Section 91/94 of the Cr.P.C., it may have to be complied with. Section 138 of the Income-tax Act does not create a bar on that account as sec. 91/94 gives definite power to a court or to an officer-in-charge of a Police Station for the purpose of seeking the production of documents. In this connection it may be pointed out that the Government of Andhra Pradesh by their Notification in G.O.Ms.No.341, dt.23.05.1984 declared that the office of the Director, Anti-Corruption Bureau, Hyderabad and all other District Offices are Police stations. Accordingly, any requisition received from the officers concerned will have to be complied with, in view of the specific powers conferred on them under Section 91/94 of the Cr.P.C.

Encl : Note of F.No.225/124/80-ITA.II, Government of India, Ministry of Law.

Reference proceeding note.

2. A perusal of Section 138 of the Income-tax Act, 1961 would indicate that it is an enabling provision under which the competent authority can pass on the information with respect to the assessees, whereas, Sectioon 91/94 of the Criminal Procedure Code gives definite power to an officer, to a court or to an officer-in-charge of the police station for the purpose of seeking the production of documents. If the Department receives any communication under Section 91/94 of the Cr.P.C., it may have to be complied with. Section 138 does not create a bar on that account. This section only in addition, that empowers the specific authorities to give the information. Therefore, there does not appear to be any conflict between the two provisions.

(122)

**Memo.No.510/Ser.A/85-1, Genl.Admn. (Ser.A) Dept., dt.14.05.1985
regarding retention / transfer of employees from focal points.**

Subject Heading : Focal points - retention, transfer of employees

- Ref : 1. G.O.Ms.No.1289, G.A.(Ser.A) Dept., dt.06.11.63.
2. Govt.Memo.No.2016/66-3, G.A.(A.C) Dept., dt.12.12.66.
3. Govt.Memo.No.2741/Ser.A/68-2, G.A.(Ser.A) Dept., dt.21.01.69.
4. G.O.P.No.543, G.A.(AR&T.II) Dept.,dt.09.08.77.
5. Govt.Memo.No.620/Ser.A/84-1, G.A.(Ser.A) Dept., dt.01.05.84.

Instructions have been issued from time to time in regard to the transfer of Government Servants from one place to another. According to instructions issued in the reference first cited no Government Servant should be transferred from one place to another before he has put in atleast three years of service in the post except on grounds of promotion, or as a measure of penalty or at the officer's own request in very special cases. If, however, transfers are to be affected by the competent authority before expiry of three years, instructions have also been issued to the effect that the sanction of the immediate higher authority should be obtained. In the reference second cited instructions have also been issued that no employee should be kept in the same post, listed as a focal point, for more than 3 years.

2. The entire matter relating to postings and transfers of Government employees has been reviewed and after careful examination, the Government direct that as a rule no transfer be effected before completion of 3 years of service rendered in focal point posts as well as in non-focal point posts except on grounds of promotion or as a measure of penalty or at the officer's own request in very special cases with the orders of the competent authority viz., Government in the case of Gazetted Officers and next higher authority above the appointing authority in the cases of Non-Gazetted Officers. However, persons working in the focal point posts or non-focal point posts whether in the same place or not, may be subjected to transfer immediately after completion of 3 years except in the case of solitary posts in a unit of appointment.

(123)

Memo.No.864/Ser.A/85-1, Genl.Admn. (Ser.A) Dept., dt.03.07.1985 regarding review by Head of Department, of transfers in focal points made by lower authorities.

Subject Heading: Focal points - retention, transfer of employees

- Ref : 1. G.O.Ms.No.1289, G.A.(Ser.A) Dept., dt.06.11.83.
2. Govt.Memo.No.2016/66-3 G.A.(AC) Dept., dt.12.12.66.
3. Govt.Memo.No.2741/Ser.A/68-2, G.A.(Ser.A) Dept., dt.21.01.69.
4. G.O.(P) No.543 G.A.(AR&T.II) Dept., dt.09.08.77.
5. Govt.Memo.No.620/Ser.A/84-1, G.A.(Ser.A) Dept., dt.01.05.84.
6. Govt.Memo.No.510/Ser.A/85-1, G.A.(Ser.A) Dept., dt.14.05.85.

Instructions were issued in the references cited that no Government Servant should be transferred from one place to another before they put in atleast three years of service except on grounds of promotion or as a measure of penalty or at officers' own request in very special cases. Instructions were also issued in Memo.No.620/Ser.A/84-1, dt.01.05.1984 that where any deviation from the guidelines has to be made prior sanction of immediate higher authority should be obtained before such transfer is affected.

2. Inspite of the above instructions it has come to the notice of the Government that transfers are being affected in deviation of the above guidelines. It has, therefore, been decided that in respect of all transfers made by competent authorities below the Head of Department level, the transfers should be reviewed by the Head of Department and a copy of the review should be sent to the concerned Administrative Department in the Secretariat. For the purpose of review, the authority competent to effect the transfer should send a monthly periodical report in the proforma given below so as to reach the Head of the Department and the Government before 10th of every month indicating the position as on the last day of the previous month. In respect of transfers effected by the

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Head of Department, the concerned Administrative Department should review the transfers effected. All the Departments of Secretariat and Heads of Departments are directed to take disciplinary action against persons responsible if any transfer has been made in deviation of the guidelines referred to in para-1 above.

3. All the Departments of Secretariat and Heads of Departments are requested to follow the above instructions scrupulously and bring these instructions to the notice of concerned.

(Note: See Part II for Proforma (No.45)

(124)

**Memo.No.56/PA&GB/85-1, Genl.Admn. (PA&GB) Dept., dt.12.07.1985:
Representations from MLAs and MPs, to be attended to promptly.**

Subject Heading : MLAs, MPs - representations

The M.L.As / M.Ps while on tour in their respective constituencies will be receiving representations from the public. Some of these representations might be passed on to the concerned officers by them.

2. The Collectors / Heads of Departments are requested to take prompt action in respect of all representations passed on to them by the MLAs / MPs. In cases where they are themselves not competent to settle the issues, they may send necessary proposals to the concerned authority to dispose of the cases.

(125)

**Memo.No.490/Ser.C/85-2, Genl.Admn. (Ser.C) dept., dt.01.08.1985
regarding observance of courtesies by officers in their dealings with MLAs / MPs.**

Subject Heading : MLAs, MPs - observance of courtesies and promptness

Ref:- 1. Memo.No.372/Ser.C/78-1, G.A.(Ser.C) Dept., dt.09.03.78.

2. Memo.No.710/Ser.C/78-1, G.A.(Ser.C) Dept., dt.29.04.78.

3. Memo.No.882/Ser.C/78-1, G.A.(Ser.C) Dept., dt.24.05.78.
4. Memo.No.1426/Ser.C/80-1, G.A.(Ser.C) Dept., dt.20.12.80.
5. D.O.Lr.No.587/Ser.C/81-1, G.A.(Ser.C) Dept.,dt.04.05.81 from the C.S. to Government.
7. Memo.No.433/Ser.C/84-1, G.A.(Ser.C) Dept., dt.09.05.84.

In the references 1st to 7th cited, instructions were reiterated regarding the observance of courtesies by the Officers in their dealings with the Members of State Legislature and Parliament. Inspite of the above instructions, it was represented by the M.L.As of Prakasam District, during the course of the discussions, which the Chief Minister had with them on 28.04.1985 that officers are not giving replies to the letters addressed by them and that no action is being taken on their letters.

2. All the officers are once again instructed to show due courtesies towards MLAs, MPs by promptly acknowledging their letters. Any communication received from them should be replied with utmost expedition. In cases, where it is not possible to send a full reply to the Member, an interim reply should be sent acknowledging the receipt of the letter indicating, wherever possible, the action initiated thereon. The final reply should follow quickly.

(126)

**Memo.No.782/Ser.C/85-1, Genl.Admn. (Ser.C) Dept., dt.06.08.1985:
Suspension and revocation in A.C.B. cases to be intimated to A.C.B.**

Subject Heading : Suspension - revocation in ACB cases

Ref: From the Director, A.C.B., D.O.Lr.No.110/RPC/85, dt.25.05.85 addressed to Addl.Secy. to Govt.(Genl.), G.A.D.

The Director of Anti-Corruption Bureau has since brought to the notice of this department that the departments are not communicating copies of orders relating to either suspension or release from suspension at a latter date to the Anti-Corruption Bureau in respect of personnel involved in Anti-Corruption Bureau cases / enquiries. He has also stated that the above particulars are required for incorporation in its reports to Government.

2. All the Departments of Secretariat, Heads of Departments and District Collectors are, therefore, requested to communicate the copies of the orders relating to either suspension or release from suspension at a latter date, invariably to the Directorate of Anti-Corruption Bureau in respect of Anti-Corruption Bureau cases / enquiries.

(127)

Memo.No.778/Ser.C/85-1, Genl.Admn. (Ser.C) Dept., dt.14.08.1985: Report of Tribunal for Disciplinary Proceedings to be furnished to Anti-Corruption Bureau with copy of final orders.

Subject Heading : TDP - copy of report to ACB with final orders

Ref : From the Director of A.C.B., Lr.No.1491/83-RPC/93, dt.17.05.85.

With reference to his letter cited, the Director, Anti-Corruption Bureau is informed that the Government, after careful consideration of the matter, have decided that the existing practice of sending a copy of Tribunal for Disciplinary proceedings report along with the copy of the final orders issued, do not require any change.

(128)

U.O.Note No.910/SC.D/85-1, Genl.Admn.(SC.D) Dept., dt.26.08.1985: Final reports of Anti Corruption Bureau not to be referred to Law Department for advice except where specific questions of law are involved.

Subject Heading : ACB - referring ACB report to Law and others, clarifications

It has been brought to notice that several Departments of Secretariat are referring the final reports of the Anti-Corruption Bureau, Hyderabad, to Law Department for advice as a matter of routine. In this connection, all the Departments of Secretariat are informed that the Anti-Corruption Bureau sends the final reports after obtaining the opinion of Legal Officers in the Bureau. Hence, the reports have to be examined by them independently and further course of action taken on the recommendations made by the Anti-Corruption Bureau. For this, it is not necessary to refer the final reports of Anti Corruption Bureau to Law Department for advice except where specific questions of Law are involved. If any information is found necessary during the course of examination of the final

report of the Anti-Corruption Bureau, it may be called for from the Anti-Corruption Bureau and the course of action i.e. prosecution in a Court of Law or Enquiry by Tribunal for Disciplinary proceedings or Departmental action or dropping of further action may be decided.

2. In cases where it is considered necessary to have advise in deciding the matter, the reports may be referred to the Vigilance and Enforcement Department, General Administration Department for advice wherever considered necessary, in terms of the orders issued in G.O.Ms.No.269, GA (SC.D) Department, dt.11.06.1985 and further clarified in Memo.No.660/SC.D/85-7, GA (SC.D) Department, dt.25.06.1985.

3. In the circumstances, all the Departments of the Secretariat are informed that the final reports of the Anti-Corruption Bureau may not be referred to the Law Department for advice as a matter of routine except where specific issues of law are involved.

(129)

Memo.No.1251/SC.E/85-1, Genl.Admn. (SC.E) Dept., dt.03.10.1985: Prompt departmental action to be taken on Anti-Corruption Bureau reports.

Subject Heading : ACB - prompt departmental action to be taken on ACB report

Ref: From the Director, A.C.B., Lr.Rc.No.64/RE/KKU/85,dt. 9-9-85.

It has been brought to the notice that on the detailed report against Accused Officer sent by the Director, Anti-Corruption Bureau, the concerned Departments and Heads of Departments are not taking prompt action in the matter to initiate proceedings against the Accused Officers under APSCS (CC&A) Rules, with the result the Accused Officers are escaping major punishment due to time lag.

2. All Heads of Departments and Departments of Secretariat are therefore requested to initiate immediate action against the Accused Officer on the reports received by them from the Director, Anti-Corruption Bureau under APSCS (CC&A) Rules so that major punishment could be awarded to the Accused Officer expeditiously within a month or two and deterrence of punishment made to be felt to ensure visible impact and decrease in the incidence of corrupt activities.

(130)

**U.O.Note No.463/Ser.C/85-4, Genl.Admn. (Ser.C) Dept., dt.20.12.1985:
Departmental action to be completed well before launching prosecution.**

Subject Heading : Departmental action and prosecution

- Ref : 1. Memo.No.2261/Ser.C/79-2, dt.23.10.79.
2. G.O.Ms.No.260, G.A.(Ser.C) Dept., dt.24.04.84.
3. Memo.No.149/Ser.C/84-2, dt.24.04.85.
4. From the G.A.(Genl.C) Dept., U.O.Note No.534/Genl.C/85-7,
dt.19.04.85 / 15.05.85 together with its enclosures.

Instructions were issued in the Memo first cited directing that the departmental officers should obtain photostat copies of the documents and hand over the originals to the Police so that simultaneous action would be taken in regard to criminal proceedings and disciplinary action.

2. The Public Accounts Committee in its report 1983-84 and also in its special report has recommended, among other things, that in all cases where it is intended to hand over the cases to the police for prosecution, the departmental action should be taken up and completed urgently, invariably before the police investigations are completed and so that they are in a position to prosecute.

3. The Government accept the above recommendation and direct that the concerned authorities should ensure that departmental action is completed well before launching of the prosecution undertaken by the police and at any rate not exceeding 3 or 4 months.

(131)

Memo.No.1354/Ser.C/85-1, Genl.Admn. (Ser.C) Dept., dt.03.01.1986: Copy to be retained while forwarding original complaint to Investigating Authority.

Subject Heading : Petitions - signed copy to investigating agency, retaining Photostat

It is brought to notice that petitions containing allegations against public servants when received, are being forwarded in original to the concerned authorities for enquiry and report. But, it is often found that these petitions sent in original are reported to be missing though they are sent by registered post and requests are being made for furnishing copies of the petitions. In the absence of original petition or a copy of it, further action is not possible. Therefore, to obviate the above situation, it is decided that the original petitions be sent to the Investigating authority retaining photostat or typed copy of the petition for taking action.

(132)

Memo.No.1054/Ser.C/85-1, Genl.Admn. (Ser.C) Dept., dt.21.01.1986: Copy of order of suspension to be sent to Director, Anti-Corruption Bureau in A.C.B. cases.

Subject Heading : Suspension - copy of order to be sent to ACB

Ref : From the Director, A.C.B., Lr.C.No.110/RPC/85,dt: 13-9-1985.

The Director, Anti-Corruption Bureau has brought to the notice of the Government that though the High Court and the Andhra Pradesh Administrative Tribunal have upheld the right of Disciplinary Authorities to keep Government employees under suspension, pending enquiry in public interest, non-adherence to the instructions of the Government by some of the Departments is leading to avoidable litigation. He has, therefore, requested that the Government may reiterate the instructions to all the Departments of Secretariat and Heads of Departments, with particular emphasis on the following aspects:

- (i) to invariably send a copy of the orders through which a Government Servant is placed under suspension to the Bureau;
- (ii) to intimate the date from which suspension has been given effect to;
- (iii) the Disciplinary Authority may send a report to the Government atleast 2 months in advance to the date of expiry of the initial period of suspension and similarly 2 months in advance thereafter for extending the period of suspension in all cases being handled by the Bureau, marking copies of such letters without fail to the Bureau, so that, the Bureau can also offer remarks in the matter separately to the Government.

(iv) the Government may also examine the desirability of amending the provision relating to the stipulation that cases of suspension of Government Servants who figure in all cases/investigations of the Bureau should be reviewed every six months and instead, stipulate that such review should be made at the end of the one year initially and every six months thereafter. This is necessary in view of the fact that various processes of enquiries / investigations, approval of final reports by the concerned Departments of the Government issue of sanction orders, filing charge-sheets in the Special Courts or part-B reports in Tribunal for Disciplinary Proceedings etc., is a time consuming process, extending to about 1 ½ to 2 years.

2. The above proposals of the Director of Anti-Corruption Bureau have been examined and the following instructions are issued for strict compliance by all the authorities concerned:

- a) The concerned authorities should invariably send to the Director of A.C.B., a copy of the order of suspension through which a Government Servant is placed under suspension. The Director may also be intimated of the date from which the suspension has been given effect to;
- b) In regard to item (iii) in para 1 above attention is invited to the instructions issued in G.O.Ms.No.517, G.A.(Ser.C) Department, dt.27.07.1977 according to which the establishment officer will have to take a view on the question of extension of suspension and if he feels that within the extended period or within 6 months the case cannot be decided, then he has to send a report in the proforma prescribed about 2 months in advance of the period, so that after following all the procedure, orders may be issued extending the period of suspension so that the suspended officer is not put to any inconvenience on account of non-payment of subsistence allowance. However, all the authorities concerned are again advised to follow the instructions issued through the said Government Order scrupulously.
- c) In respect of the suggestion at item (iv) in para 1 above, attention is invited to rule 13(1) of APSC (CC&A) Rules, 1963, which envisages that a member of service may be placed under suspension from service pending investigation or enquiry into grave charges and where the period of suspension exceeds six months, the matter should be reported to Government for such orders as they deem fit. In order to ensure that suspensions are not continued indefinitely without justification, the cases

of officers placed under suspension have to be reviewed every six months and the orders of Government obtained for continuing the period of suspension for a specified period not exceeding six months at a time. In view of the above, Government do not consider it necessary to accept the proposal of the Director of Anti-Corruption Bureau in this regard. The Director is, therefore, advised to follow the existing instructions strictly.

(133)

**Memo.No.1132/Ser.C/85-2, Genl.Admn. (Ser.C) Dept., dt.24.01.1986:
Government Servant not to inquire into or deal with a case of a person
who had earlier conducted inquiry against him.**

**Subject Heading : Inquiry - not to conduct against one who conducted
inquiry against him earlier**

Ref : U.O.Note No.490/SC.D/85-2, G.A.(SC.D) Dept.,dt.19.07.85.

The former Dharma Maha Matra has suggested that no Government employee should either enquire or deal with the case of a person who has had to do with any enquiry against him.

2. The matter has been examined having regard, to the provisions of APCS (CC&A) Rules and the instructions issued there under from time to time. According to the instructions on the subject the Enquiry Officer should have an open mind and should not be prejudiced against the officer involved in an enquiry. In view of the above it is reasonable to presume that an officer against whom an enquiry was conducted by another officer, would not be fair when he had to conduct an enquiry against the latter officer who enquired against him previously.

3. Therefore, in order to avoid such unpleasantness or misapprehension, the Government have decided to accept the suggestion of the former Dharma Maha Matra and they accordingly direct that no Government employee should either enquire or deal with the case of a person who has had to do with any enquiry against him.

4. All the departments of Secretariat, and Heads of Departments are requested to follow the above instructions scrupulously and also communicate the above instructions to the concerned authorities for their guidance while dealing with the above type of cases.

(134)

**U.O.Note No.849/SC.E/85-7, Genl.Admn. (SC.E) Dept., dt.22.04.1986:
Investigating Officer, Anti-Corruption Bureau to offer para-wise remarks
on petitions before High Court / A.P.A.T.**

**Subject Heading : APAT / High Court of AP - para-wise remarks of ACB
on petitions**

As the Departments of Secretariat are aware, a few Accused Officers who are placed under suspension have been filing petitions in the High Court / A.P.A.T questioning the validity of their suspension etc. In such cases, though it may not be desirable to implead the A.C.B. for the purpose of filing counter-affidavit, it is felt necessary that the concerned Departments keep the A.C.B. informed of such matters furnishing copy of the Representation Petition / Writ Petition so that the concerned Investigating Officer could be directed to give draft part-wise remarks to the Government and also assist the Government Pleader wherever it becomes necessary.

2. All the Departments of Secretariat are, therefore, requested to issue suitable instructions to the Heads of Departments under their administrative control in this regard so that the Representation Petition before Tribunal / Writ Petition before the High Court is not disposed off without the full facts being placed before the Tribunal/ High Court.

(135)

**Memo.No.574/SC.D/86-1, Genl.Admn. (SC.D) Dept., dt.21.05.1986:
Departments to extend co-operation to Anti-Corruption Bureau in
investigation of cases.**

Subject Heading : ACB - departments to extend cooperation

Ref: 1. D.O.Ref.No.691/SC.E/85-1, G.A.(SC.E) Dept., dt.21.06.85.

2. From the Director General, Anti-Corruption Bureau, Hyderabad,
Lr.No.50/RPC(C)/86, dt.05.05.986.

In the reference first cited, all the Secretaries to Government have been requested to issue necessary instructions to all concerned to cooperate with the Anti-Corruption Bureau officers in furnishing pay and service particulars of accused officers, documents, proformae statements and other information that is required during the course of investigation of cases to expedite the investigations / enquiries by Anti-Corruption Bureau.

2. It is since reported in the reference second cited, that in some cases, the accused officers are not cooperating with the investigating Officers of Anti-Corruption Bureau in furnishing the required information and in appearing before the Investigating Officers to depose their defence version

3. Since it is decided to get all the investigations / enquiries conducted by the Anti-Corruption Bureau completed very quickly and under any circumstances within six months period, all Departments of Secretariat and all Heads of Departments are requested to take immediate steps to instruct their subordinate offices for extending full cooperation to the Anti-Corruption Bureau officers at every stage of the enquiry / case on priority basis so as to enable to complete the investigations as early as possible and also ensure that the officers/ employees cooperate with the Anti-Corruption Bureau officers in furnishing the required information and appearing before the Investigating Officers of Anti-Corruption Bureau for giving their defence version. If it is noticed that the Officers are not cooperating, they should be held personally answerable.

(136)

Memo.No.762/SC.D/86-1, Genl.Admn. (SC.D) Dept., dt.10.07.1986: Service particulars, pay particulars, proformae statements etc, to be furnished to Anti-Corruption Bureau, in two months time.

Subject Heading : Disproportionate Assets - proformae statements, pay and service particulars

Subject Heading : Property statements - furnishing to ACB

Ref: Government Memo.No.574/SC.D/86-1, GA (SC.D) Department, dt.21.05.1986.

In continuation of the instructions issued in the reference cited, all Heads of Departments, all Departments of Secretariat and all Collectors are informed

that any information required by the Anti-Corruption Bureau authorities (viz., service particulars, pay particulars, six proforma statements etc.) pertaining to an accused officer in Anti-corruption cases shall be furnished forthwith by the Office concerned and in any case within the outer time limit of two months.

(137)

**Memo.No.1496/SC.E/86-1, Genl.Admn. (SC.E) Dept., dt.16.07.1986
regarding entrustment of departmental inquiries to Commissioner of Inquiries.**

Subject Heading : Commissioner of Inquiries - entrustment of inquiries

Ref: G.O.Rt.No.2290 G.A.(Spl.A) Dept., dt.05.06.86.

While reviewing the disposal of Enquiries by the Anti-Corruption Bureau, it has been noticed that in several cases, the Bureau has been recommending departmental action against the accused officers. It is also seen that in some major departments, a number of departmental enquiries are being instituted. A review of pending departmental enquiries has shown that the progress of disposal of such enquiries has not been satisfactory. The main reasons for such pendency is due to the change of enquiry officers due to transfers etc., and also due to preoccupation with their normal work routine of the department. The Government, therefore, considered it necessary to appoint a full time Commissioner for departmental enquiries so that he can attend to all major inquiries promptly. It was also considered that depending on the work load, Commissioners could be appointed at regional level as and when necessary.

2. According to Rule 19(2)(a) of A.P.C.S.(CC&A) Rules, 1963, in every case where it is proposed to impose on a member of a service any of the penalties specified in items (iv), (vi), (vii) and (viii) in Rule 8, the authority competent to impose the penalty shall appoint an Inquiry Officer, who shall be superior in rank to the person on whom it is proposed to impose the penalty or shall itself hold an enquiry either suomotu or on a direction from a higher authority.

3. As a full time Commissioner for Departmental Enquiries has been since appointed, the Competent Authorities may, hereafter, refer disciplinary cases to the Commissioner for Departmental Enquiries by appointing him as an Inquiry Officer in terms of Rule 19(2)(a) of APSCS (CC&A) Rules, 1963. If there are any cases wherein Inquiry Officers have been appointed already and if such enquiry has not commenced, there may be no objection in entrusting such cases also.

(138)

**Memo.No.1496/SC.E/86-2, Genl.Admn.(SC.E) Dept., dt.08.08.1986:
Clarifications on entrustment of departmental inquiries to Commissioner
of Inquiries.**

Subject Heading : Commissioner of Inquiries - entrustment of inquiries

Ref : Govt.Memo.No.1496/SC.E/86-1, G.A.(SC.E) Dept., dt.16.07.86.

In the Memo cited instructions were issued to appoint the Commissioner for Departmental Enquiries as Inquiry Officer for conducting departmental enquiries in terms of Rule 19(2)(a) of the A.P.C.S (CC&A) Rules, 1963.

2. The issue was further examined and the following clarifications are issued for guidance and necessary action:-

- (i) All the cases enquired into by the Anti-Corruption Bureau and recommended for departmental action would henceforth be referred to the Commissioner for Departmental enquiries. These cases would be adequately documented and presented by the Investigating Officer of the Anti-Corruption Bureau in accordance with Rule 19(2)(a) of the A.P.C.S.(CC&A) Rules, 1963.
- (ii) The other category of cases that could be referred to the Commissioner for Departmental Enquiries would be those attracting major punishment, if the delinquency alleged is proved, and will be confined to cases of officers for whom the appointing authority normally would be the Government. In such cases, Departments concerned will have to ensure that well conceived charges are framed against the delinquent officers and refer the cases to Commissioner for Departmental Enquiries only after adequate documentation. It should further be ensured that the cases thus referred would not require detailed enquiry at field level. Further, wherever the Commissioner for Departmental Enquiries requires technical assistance in the above cases for appreciation of any aspect of evidence, the concerned department should provide the same promptly and adequately. The departments concerned should, therefore, exercise restraint in selecting the cases for reference to the Commissioner for Departmental Enquiries. In other words, references to the Commissioner should not be routine. In such

cases, the departments concerned shall arrange to supply adequate number of copies of connected documents and also make available official witnesses, records etc.

- (iii) As indicated in sub-para (ii) above, the Commissioner for Departmental Enquiries would by and large enquire into clearly investigated cases where documentation is already available for establishing the delinquency of the officer and he will not be required to conduct Enquiries suo motu, to establish *prima facie* case, for taking a decision to proceed against the delinquent officer.

(139)

U.O.Note No.1496/SC.E/86-8, Genl.Admn. (SC.E) Dept., dt.30.08.1986 regarding entrustment of inquiries to Commissioner of Inquiries.

Subject Heading: Commissioner of Inquiries - entrustment of inquiries

- Ref : 1. Memo.No.1496/SC.E/86-1, G.A.(SC.E) Dept., dt.16.07.86.
 2. Memo.No.1496/SC.E/86-2, G.A.(SC.E) Dept., dt.08.08.86.

The attention of the departments of Secretariat is invited to the references cited. It has been observed that certain departments of Secretariat are referring their files with draft order appointing the Commissioner for Departmental Enquiries as Enquiry Officer under Rule 19(2)(a) of the APKS (CC&A) Rules, 1963, to this Department for scrutiny. It is clarified that this department need not see the files with draft order(s) appointing an Enquiry Officer and such files need not therefore, be sent to this department.

(140)

Memo.No.3325/SC.E/86-1, Genl.Admn. (SC.E) Dept., dt.02.12.1986 regarding entrustment of inquiries to Commissioner of Inquiries.

Subject Heading : Commissioner of Inquiries - entrustment of inquiries

- Ref : Govt.Memo.No.1496/SC.E/86-2, G.A.(SC.E) Dept.,dt.08.08.86.

In para (2)(i) of the Memorandum cited, instructions havebeen issued among others, that all cases enquired into by the Anti-Corruption Bureau, and

recommended for departmental action would henceforth be referred to the Commissioner for Departmental Enquiries under the APCS (CC&A) Rules, 1963.

2. In view of the above, all cases of enquiries irrespective of the category recommended for departmental action have to be referred to the Commissioner for Departmental Enquiries for enquiry and report. This is likely to result in heavy work load to the Commissioner for Departmental Enquiries.

3. In the circumstances, the matter has been further examined and it has now been decided that only disciplinary cases of persons recommended for departmental action after enquiry by Anti Corruption Bureau, in whose case the appointing authority is either the Government or the Head of Department, should be referred to the Commissioner for Departmental Enquiries. In all cases other than the above which have been enquired into by the Anti-Corruption Bureau and recommended for departmental action, the Department may entrust the matter in consultation with the Anti-Corruption Bureau to the appointing authority concerned for disposal in accordance with Rule 19(2) of APCS (CC&A) Rules, 1963.

(141)

Memo.No.14796/L/86-4, Law (L) Dept., dt.03.12.1986 regarding appearance of Counsel on behalf of Anti-Corruption Bureau and Government, in Writ Petitions.

Subject Heading : Writ petitions - appearance on behalf of ACB and Government

Ref : From the D.G., A.C.B., Lr.C.No.65/RPC(C)/86, dt.19.11.86.

The attention of the Director, Anti-Corruption Bureau, is invited to the reference cited. The Standing Counsel for A.C.B., may appear in all cases where the A.C.B. is made co-party and the Government may be represented by the Government Pleader separately. Where the interests of the Government and the A.C.B. are not adverse, both the Counsel for the Government and the A.C.B. should act in co-ordination with each other. There is therefore no necessity to appoint the Standing Counsel for A.C.B. as ex officio Government Pleader.

(142)

Memo.No.90/SC.D/87-1, Genl.Admn.(SC.D) Dept., dt.21.02.1987 regarding precautions to be taken against impersonation of Anti-Corruption Bureau officials.

Subject Heading : ACB - precautions against impersonation

Ref : Govt. Memo.No.1905/SC.D/84-1 G.A.(SC.D) Dept., dt.15.01.85

In the Government Memo cited, all Heads of Departments, District Collectors and Departments of the Secretariat were requested to guard themselves against the activities of impostors claiming to be officials of the Anti-Corruption Bureau and to satisfy themselves about their identity by asking for their identity cards, before transacting any official work with them. They were also advised to bring to the notice of the higher authorities and also the Police through a written complaint if any instance of such impersonation comes to their notice.

2. It has been reported that instances have occurred recently wherein some persons reportedly feigned identity of Anti-corruption Officers and met public servants with a view to getting some favours done.

3. All Departments of Secretariat and Heads of Departments are once again requested to issue instructions to all concerned in their offices and also to Subordinate offices, to guard themselves against the activities of such impostors and to satisfy themselves about the identity of the Anti-Corruption Bureau officers by asking for their identity cards before transacting any official work with them. They are also advised to promptly report such instances to Civil Police through a written complaint or contact the nearest Anti-Corruption Bureau Office, so that, any unscrupulous trying to cheat the people can be nabbed and prosecuted.

(143)

Memo.No.84/V&E/87-1, Genl.Admn. (V&E) Dept., dt.13.03.1987: Provision of honest, efficient administration, responsibility of supervisory officers.

Subject Heading : Honest, efficient administration - responsibility of supervisory officers

A public servant is expected to keep his character above board and maintain a high standard of integrity.

2. Rule 3 of the APCS (Conduct) Rules, 1964 lays down that 'every Government employee shall be devoted to his duty and shall maintain absolute integrity, discipline, impartiality and a sense of propriety'.

3. Rule 14 of the said rules emphasises that 'no Government employee shall, except in accordance with any general or special order of Government communicate directly or indirectly any official document or any of its contents, or any official information, to any Government employee not authorised to receive the same, or to any non-official person or the press'.

4. Instructions were also issued that as a measure of preventing the occurrence of mal-practices and corruption every Government department / office should make out a list of focal points (posts) which generally deal with items of work entailing dealings with the public and presenting opportunities for corruption and that it should be ensured that no Government officer / employee was kept in a post listed as a focal point for more than three years.

5. It is the primary responsibility of the immediate superior officers, Heads of Offices and the Heads of Departments to take all possible steps aimed at/in the direction of preventive vigilance to contain corruption and to provide honest and efficient administration. They may in this connection utilise to the optimum the services of the vigilance and / or Chief Vigilance Officers concerned.

6. It has, however, come to notice that the supervisory officers, etc. are not discharging this primary responsibility presumably under the mistaken impression that all action in this regard will be initiated, pursued and a report will be furnished either by the A.C.B. or the Vigilance and Enforcement Department and that their task is confined to the dealing and procession of such reports and issuing final orders. This is not the intention.

7. All the Departments of Secretariat and Heads of Departments are, therefore, directed to be alert and vigilant, take cognizance of the lapses noticed on the part of the staff and officers working under them or their administrative control, enquire into allegations levelled against them promptly duly avoiding reference to Anti-Corruption Bureau in a routine manner and pursue appropriate action expeditiously and vigorously in preventing the menace of corruption, improving the efficiency and establishing a healthy and honest administrative set up / machinery. The assistance / co-operation of the Anti-Corruption Bureau or the Vigilance and Enforcement Department may be sought only when the investigation is beyond their scope or where a reference to them had otherwise been prescribed.

(144)

Memo.No.490/SC.E/87-1, Genl.Admn.(SC.E) Dept., dt.13.03.1987 regarding entrustment of inquiries to Commissioner of Inquiries - check-list prescribed.

Subject Heading : Commissioner of Inquiries - entrustment of inquiries

- Ref: 1. U.O.Note No.910/SC.D/85-1, G.A.(SC.D) Dept.,dt.26.08.85.
2. U.O. Note No. 531/SC.D/86-1, G.A.(SC.D) Dept., dt.06.05.86.
3. Govt.Memo.No.1496/SC.E/86-1, G.A.(SC.E) Dept., dt.16.07.86.
4. Govt. Memo. No.1496/SC.E/86-2, G.A.(SC.E) Dept., dt.08.08.86.
5. Govt.Memo. No.3325/SC.E/86-1, G.A.(SC.E) Dept., dt.02.12.86.

Attention is invited to the references cited.

2. In the first two references cited instructions have been issued regarding the examination of A.C.B. reports by the Departments of Secretariat independently. In the last three references cited instructions have been issued regarding entrusting of Departmental Enquiries to the Commissioner for Departmental Enquiries.

3. The Departmental Enquiries so far entrusted to the Commissioner for Departmental Enquiries have been reviewed and also discussed in a meeting of Secretaries held on 25.02.1987. As a result, the following further instructions are issued regarding entrusting of departmental enquiries to the Commissioner for Departmental Enquiries.

4.1. In modification of the orders issued in the references fourth and fifth cited, only cases of employees in whose case the appointing authority is the Government should be referred to the Commissioner for Departmental Enquiries. However, in respect of cases enquired into by the Anti Corruption Bureau and recommended for Departmental action, all cases of Gazetted Officers irrespective of whether the appointing authority is the Government or the Head of Department, shall be referred to the Commissioner for Departmental Enquiries.

4.2. Only those cases which may require the imposition of a major penalty should be referred to the Commissioner for Departmental Enquiries in respect of cases covered by para 4.1 above.

4.3. In cases enquired into by the Anti-Corruption Bureau which may require the imposition of a major penalty, the A.C.B. while recommending departmental action by the Commissioner for Departmental Enquiries should enclose draft charges with statement of imputations (allegations on which each charge is based), list of witnesses and Documents for consideration by the appropriate disciplinary authority. When the disciplinary authority, after examination of the report, comes to a conclusion that the matter may be referred to the Commissioner for Departmental Enquiries, the draft charges furnished by the A.C.B. may be scrutinised and Memorandum of Articles of charges may be finalised.

4.4. To ensure uniformity in referring the cases to the Commissioner for Departmental Enquiries and also to ensure expeditious disposal of the cases referred to the Commissioner for Departmental Enquiries, a check-list is given in annexure(I) to this Memorandum for the use of the Departments. Charges have to be framed by the appointing /disciplinary authority and served on the Charged Officer together with the grounds on which the charges are based along with list of witnesses and documents, if any, relied upon. The appointing / disciplinary authority will receive and consider the written statement of defence before referring a case to the Commissioner for Departmental Enquiries. If the charges are admitted, the appointing authority can record its findings and issue an order imposing an appropriate penalty. If the Charged Officer gives a satisfactory explanation, the appointing authority may make an order dropping the charges. For cases falling under these two categories, there will be no need to hold an enquiry. Only when the charges have not been admitted by the Government servant or when no written statement is received by the date prescribed, the appointing / disciplinary authority may appoint the Commissioner for Departmental Enquiries as an Enquiry Officer to arrive at the truth or falsity of the charges. The check list indicates the material / information to be sent to the Enquiry Officer for an expeditious disposal of an Inquiry.

(Note: See Part II for Check List (No.28)

(145)

**U.O.Note No.551/Ser.C/87-1, Genl.Admn. (Ser.C) Dept., dt.26.06.1987
regarding action on petitions received by Ministers.**

Subject Heading : Petitions - received by Ministers

Ref : U.O.Note No.154/Ser.C/87-1, G.A.Dept., dt.04.06.87.

Government consider that existing instructions on the subject of referring petitions by Ministers against employees for enquiry by the Anti-Corruption Bureau require to be amplified.

2. Accordingly in supersession of the U.O.Note cited the position is clarified as below:

3. Whenever a Minister receives a petition containing allegations against an employee who is not working in the Department under his control, such petitions with the endorsement of the Minister will be circulated to the Chief Minister. The papers will be routed to the Chief Minister through the concerned Department of the Secretariat under whose administrative control the employee is working.

4. All Private Secretaries and Personal Assistants of Ministers are requested to bring the above instructions to the kind notice of the Hon'ble Ministers.

(146)

**U.O.Note No.664/SC.D/87-1, Genl.Admn. (SC.D) Dept., dt.29.06.1987
regarding A.C.B. reports etc - to ensure secrecy and safety.**

Subject Heading : ACB - to ensure secrecy and safety of ACB report

All the references / reports from the Anti-Corruption Bureau, are Secret / Confidential and are classified documents and hence misplacement of the reports / references from the Anti-Corruption Bureau, is a serious matter and attracts the provisions of Official Secrets Act. It has been brought to notice that the reports sent by the Anti-Corruption Bureau in some cases have been

misplaced. It has also been brought to notice that the references / reports from the Anti-Corruption Bureau, are handled in a very casual and routine manner resulting in misplacement of the above and that in some cases the contents of the Anti-Corruption Bureau reports have come to the knowledge of the Accused Officers which is a serious matter.

2. According to the orders issued in G.O.Ms.No.677, GA (Ser.D) Dept., dt.30.05.1961 (Part III), on completion of Investigation / Enquiry, the Anti-Corruption Bureau, has to send final report to Government in two parts i.e., Part 'A' and 'B' in duplicate. Part 'A' should contain a secret report given in complete confidence containing full particulars of the investigation for the information of the Government and part 'B' should contain confidential report of only relevant information and also the statements of witnesses to be communicated by the Government to the Authority concerned for taking disciplinary action. The duplicate copy of part 'B' and statements of witnesses should not contain any signature or indication as to who took the statement. Further, Part 'B' reports are sent to the Enquiry Officers by the Government to enable them to frame charges etc., and it is a confidential document and therefore, not to be furnished to the delinquent officer(s).

3. In the circumstances all the Departments of Secretariat are requested to guard against the misplacement of the Anti-Corruption Bureau reports and unauthorised persons coming into possession of the reports and also against the leakage of the Anti-Corruption Bureau reports to the Accused Officers.

4. The Departments are, therefore, requested to ensure that Anti-Corruption Bureau References/Reports are handled and accounted for properly.

(147)

U.O.Note No.670/SC.D/87-1, Genl.Admn. (SC.D) Dept., dt.29.06.1987: Final reports of Anti-Corruption Bureau, not to be referred to Law Department for advice except where specific questions of law are involved.

Subject Heading: ACB - referring ACB report to Law and others, clarifications

Ref : U.O.Note No.910/SC.D/85-1, G.A (SC.D) Dept.,dt.26.08.1985.

In the reference cited, instructions have been issued that it is not necessary to refer the final reports of Anti-Corruption Bureau, to Law Department for advice except where specific questions of Law are involved and in cases where it is considered necessary to have the advice of the GA (Vigilance & Enforcement) Department, it may be done in terms of the orders issued in G.O.Ms.No.269, GA (SC.D) Department, dt.11.06.1985 and further clarified in Memo.No.660/SC.D/85-7, GA, dt.25.06.1985.

2. It has been brought to the notice by the Director-General, Anti-Corruption Bureau, that some of the Departments have not been following the above instructions leading to a conflict of opinion, and delays in processing of the reports sent by the Anti-Corruption Bureau.

3. In view of the above, all departments of Secretariat are requested to follow the instructions issued in the matter in para-1 above, in taking further action on the reports of the Anti-Corruption Bureau.

(148)

U.O.Note No.450/SC.D/87-1, Genl.Admn. (SC.D) Dept., dt.20.07.1987: Sanction order to be issued in 45 days and other procedural requirements to be fulfilled.

Subject Heading : Sanction of prosecution - to issue within 45 days.

Ref : 1. Memo.No.1676/SC.D/82-3, G.A. (SC.D) Dept.,dt.10.11.1982.

2. From the Director-General, Anti-Corruption Bureau, Letters C.No.76/ RPC(C)/87, dt.28.4.1987 and 112/RPC(C)/87, dt. 25.06.1987.

In the reference first cited, it was stated that sanction for prosecution of a person under Section 6(1) of the Prevention of Corruption Act, 1947, who is employed in connection with the affairs of the State whether he is a member of State or Subordinate Service shall continue to be issued by the Government.

2. During the conference of Chief Secretaries held at New Delhi on 16th and 17th February, 1987, it was recommended among others, that a time limit should be prescribed for grant or refusal of sanction for prosecution as it was delayed frequently.

3. The Director-General, Anti-Corruption Bureau has in the references second cited also brought to notice certain defects in some of the orders issued

by the Government sanctioning prosecution of Government Servants involved in corruption charges and requested to issue general instructions in the matter besides fixing time limit for according sanction for prosecution.

4. The following instructions are, therefore, issued :-

- (i) Sanction of prosecution has to be issued by Departments of Secretariat within 45 days (forty five) from the date of receipt of the final report from the Anti-Corruption Bureau;
- (ii) References of Government as well as the Anti-Corruption Bureau are mentioned and copies of the sanction order are being marked to other Departments. The sanction order is intended only to the Director-General, Anti-Corruption Bureau. Hence copies need not be marked to other Departments. It is also not necessary to cite the references of the Government / Anti-Corruption Bureau in the order.
- (iii) Though correct sections of the relevant Codes / Acts are mentioned in the draft sanction order sent to Government by the Bureau, the sections are wrongly mentioned in the sanction order. Care should, therefore, be taken to correctly quote the section as indicated by the Anti-Corruption Bureau.
- (iv) The bribe amounts / illegal gratifications are wrongly mentioned in the sanction orders which should be avoided.
- (v) The sanction orders have to be authenticated by the Principal Secretary / Secretary.

5. The Departments of Secretariat are requested to issue the orders sanctioning the prosecution of the Government Servants correctly keeping in view the above instructions.

(149)

D.O.Lr.No.1310/Genl.C/87-1, Genl.Admn. (Genl.C) Dept., dt.21.07.1987 regarding creation of Legal Cell in Departments of Secretariat and Heads of Departments, to deal with court cases.

Subject Heading : Legal Cell in Departments - for court cases

- Ref: 1. D.O.Lr.No.1227/Genl.C/85-1, dt.09.07.85 of Addl.Secy.,to
Govt., G.A.D.
2. U.O.Note No.13998/L/86-1, dt.28.02.87 from Law Department.

In the reference 1st cited it was ordered that one of the Assistant Secretaries to Government be appointed as Legal Officer of the Department-cum-Liaison Officer in certain Departments of Secretariat and Heads of Departments to deal with the Court cases.

2. It has now been decided to create a legal cell and to nominate a Senior Officer to act as Legal Officer-cum-Liaison Officer in all Departments of Secretariat and Heads of Departments.

3. The Legal Officer so appointed would attend to the following works.

- (i) He would be in touch with the concerned Government Pleader and would act as a liaison between the Department and concerned Law Officers in each matter.
- (ii) He would attend to the cases in the High Court, Andhra Pradesh Administrative Tribunal, Supreme Court and Litigation in other Courts.
- (iii) He would be in-charge of preparing para-wise remarks for counters and watch the progress.
- (iv) He would be in constant touch with the Joint Secretary/ Additional Secretary to Government in Law Department who exclusively looks after the litigation in Supreme Court cases.

4. The Legal Cell should be constituted by drafting persons from within the Departments who are well versed in Legal Affairs.

5. I am to request you to nominate a senior officer as Legal Officer-cum-Liaison Officer immediately and furnish the name, designation, telephone No. etc., to Law Department, Advocate-General, Andhra Pradesh Hyderabad and to the concerned Government Pleader with a copy to this Department.

(150)

**Memo.No.588/Ser.C/87-1, Genl.Admn. (Ser.C) Dept., dt.29.07.1987:
Government Servants reinstated from suspension under orders of
Administrative Tribunal / High Court to be posted to far off places.**

**Subject Heading : Suspension - on reinstatement, to be posted to far off
places**

Ref : From the Director General, A.C.B., Hyderabad Letter Rc.No.107/
RPC(C)/87, dated.17.06.87.

The Director General, Anti-Corruption Bureau, has brought to the notice of the Government that there are several instances where the accused officers managed to get postings to nearby areas as against the specific advice that they should be transferred to far off places and that the Accused Officers when reinstated on the orders of APAT / High Court are not being posted to a place other than that where the offence has been committed. He has, therefore, requested that suitable instructions may be issued to all concerned to keep in view the gravity of offence committed by Accused Officers and also the place of offence while reinstating the Accused Officers and transferring them. He has also suggested that such officers should invariably be posted to far off and distant places.

2. The above suggestion of the Director General, Anti-Corruption Bureau, has been examined and it has been decided to accept it. The Heads of Departments and Departments of Secretariat are requested to keep in view the above, while posting the Accused Officers after reinstatement and ensure that these instructions are followed scrupulously. Any deviation in implementing the above instructions will be viewed seriously.

(151)

**Memo.No.824/SC.D/87-1, Genl.Admn. (SC.D) Dept., dt.30.07.1987: Trivial
cases not to be referred to Anti-Corruption Bureau.**

Subject Heading : ACB - matters which are not fit

Ref : 1. Government Memo.No.289/SC.D/84-1, GA (SC.D) Department,
dt.01.05.1984.
2. From the Director General, Anti-Corruption Bureau, Hyderabad
Lr.No..10428/SB- ACB/87-S5, dt.10.07.1987.

In the reference first cited, Government have issued instructions to all Heads of Departments and Departments of the Secretariat not to saddle the Anti-Corruption Bureau with trivial enquiries and cases relating to Departmental irregularities and to entrust only cases involving corruption, lack of integrity etc., to the Bureau for enquiry / investigation leaving departmental irregularities and administrative lapses for enquiry by the concerned Departments themselves.

2. The Director General, Anti-Corruption Bureau, Hyderabad, has brought to the notice of the Government that inspite of the above instructions, some of the Heads of Departments and Secretariat Departments are still forwarding petitions pertaining to departmental irregularities and also matters relating to the administration of Departments concerned to the Bureau for enquiry and report, which would delay matters and impede important investigations of the Anti Corruption Bureau.

3. All Heads of Departments and the Departments of Secretariat are therefore, requested to ensure that only cases involving corruption, lack of integrity etc., are referred to the Anti-Corruption Bureau for enquiry / investigation, leaving departmental irregularities / administrative lapses for enquiry by the concerned Departments themselves.

(152)

G.O.Ms.No.419, Genl.Admn. (Ser.C) Dept., dt.01.09.1987 regarding preferring of appeal to Supreme Court in cases of promotion to higher posts during currency of disciplinary proceedings, under orders of A.P.A.T.

Subject Heading : Promotion - preferring appeal against court orders

Read the following :

1. G.O.Ms.No.424, Genl. Admn. (Ser.C) Department, dt.25.05.76.
2. G.O.Ms.No.187, Genl.Admn.(Ser.B) Department, dt.25.04.85.

ORDER :

Instructions were issued in the G.O. second read above specifying the procedure to be followed in evaluating the cases of persons against whom enquiries are pending in order to avoid any ambiguity in the application of the orders issued in the G.O. first read above detailing the procedure to be followed in the matter of consideration of the claims for promotion of officers who are

facing enquiry in any departmental proceedings or before a criminal court or whose conduct is under investigation and against whom departmental proceedings or criminal prosecution is about to be instituted.

2. Of late, the Andhra Pradesh Administrative Tribunal has been holding the view that pendency of disciplinary proceedings is no bar to consideration for promotion and that the officers who are facing disciplinary proceedings and whose names have been included in the panel but whose promotions were deferred with reference to the instructions issued in the G.O. first read above should be promoted.

3. Government have examined the matter in the context of the sealed cover procedure obtained in the Government of India which is similar to the procedure laid down in the G.O. first read above and have decided that whenever the Andhra Pradesh Administrative Tribunal or High Court or any other Court directs to promote officers against whom disciplinary cases are pending and whose promotions are deferred, an appeal in the Supreme Court of India on such orders should be preferred invariably, so that an authoritative decision of the Supreme Court can be obtained.

4. All the departments of Secretariat and Heads of Departments are, therefore, directed to keep in view the above decision of the Government and act accordingly. They are also requested to bring the above decision of the Government to the notice of all concerned.

(153)

U.O.Note No.808/Ser.C/87-1, Genl.Admn. (Ser.C) Dept., dt.01.09.1987 regarding taking of follow-up action on revocation of suspension by Administrative Tribunal.

Subject Heading: Suspension - to move Supreme Court against revocation

It has come to the notice of the Government that in cases where the Andhra Pradesh Administrative Tribunal has passed orders revoking suspension orders issued by the Government, there have been abnormal delays in processing the cases and sometimes they are being put up for orders just before the expiry of the limitation period. There is no justification for such delays. Obviously, the

departments are not realising the urgency of the matter and the matters are left to the subordinate officers to deal with in a routine manner.

2. Therefore, it is considered, that whenever the Andhra Pradesh Administrative Tribunal or any Court pronounces an order revoking a suspension order, the Government Pleader concerned should be contacted to obtain a copy of the order together with his comments within a week. Thereafter, the department should process the case and take a decision as to the further course of action within another week. Where it is considered that the matter should be taken to the Supreme Court, steps should be taken to file S.L.P. and obtain stay of the orders of Andhra Pradesh Administrative Tribunal instead of reinstating the official. The file should be dealt with personally at least at the level of a Deputy / Joint Secretary to Government. The file should be circulated with a tag indicating "TOP PRIORITY" and also specifying the limitation period, so that it could be processed quickly at different levels.

3. Similar steps should be taken with regard to the matters relating to other court cases and time bound matters.

(154)

U.O.Note No.1798/SC.E/87-1, Genl.Admn. (SC.E) Dept., dt.20.10.1987 regarding avoiding of reference to Anti-Corruption Bureau in correspondence.

Subject Heading : ACB - not to quote in references or charges

- Ref: 1. G.O.Ms.No. 677, GA (Ser.D) Department. dt.30.05.61.
2. U.O.Note No.664/SC.D/87-1, GA (SC.D) Department, dt.29.06.87.
3. Memo.No.490/SC.E/87-1, GA (SC.E) Department, dt.13.03.87.

In the reference 1st cited relating to consolidated set of instructions regarding enquiries against Government Servants into cases of corruption, it has been stated as follows:-

"When making references to Heads of Departments, about enquiries made by the Anti-Corruption Bureau or while issuing orders in cases of

corruption against Government Servants etc. the sources of investigation should not be divulged. So, instead of using the expression "it has been ascertained by the Anti-Corruption Bureau etc" the following expression may be used:-

"It has been ascertained by discreet enquiries through the appropriate departments etc",

2. Based on the above, it has been clarified in the reference second cited, that on completion of investigation / enquiry, the Anti-Corruption Bureau will send final report to Government in two parts i.e., Part - 'A' and 'B' (in duplicate) - Part 'A' containing a secret report given in complete confidence containing full particulars of the investigation for the information of the Government and Part 'B' containing a confidential report of only relevant information and also the statements of witnesses to be communicated by the Government to the authority concerned for taking disciplinary action. Part-B reports are sent to the Enquiry Officers by the Government to enable them to frame charges etc. and it is a confidential document not to be furnished to the delinquent officer(s). The Departments of Secretariat have been requested to guard against the misplacement of Anti-Corruption Bureau reports and unauthorized persons coming into possession of the report and also against leakage of the Anti Corruption Bureau reports to the accused officers.

3. The Commissioner for Departmental Enquiries has brought to the notice of the Government that the orders of the Government appointing him as Enquiry officer are not only marked to the delinquent officer but also marked to the Director General, Anti-Corruption Bureau and a reference is also made to the Anti-Corruption Bureau in the order, thus enabling the delinquent officers to know about the Anti Corruption Bureau enquiry in the matter and leading to their asking for a copy of the Anti-Corruption Bureau report for preparing their defense, refusal of which will be against the principles of natural justice. He has also stated that the Enquiry Officer has to be appointed only after the written statement of defence is received from the Charged Officer by the disciplinary authority and after consideration of the same as per the instructions contained in the Memo. No.490/SC.E/87-1, dt.13.03.1987. He has, therefore, requested to issue suitable instructions for guidance.

4. In view of the above, the Departments of Secretariat are requested not to make mention of the correspondence with the Anti-Corruption Bureau in their order appointing the Inquiry Officer and also not to mark a copy of the order to the Anti-Corruption Bureau but send a copy of the order to the Anti-

Corruption Bureau separately. Similarly a separate communication should be sent to furnishing documentation to the Inquiry Officer. Further, the Departments have to take action as per Memo.No.490/SC.E/87-1, dt.13.03.87 and appoint Inquiry Officer only after the written statement of defence is received from the charged officer and considered by them.

(155)

**Memo.No.1944/SC.E/87-4, Genl.Admn. (SC.E) Dept., dt.21.11.1987
regarding publicity in Press; Departments not to issue counter statements.**

Subject Heading : Publicity in Press - Departments, not to issue counter statements

The Director General, Anti-Corruption Bureau, Andhra Pradesh, Hyderabad, has brought to the notice of the Government an instance wherein a Senior Officer of a Department and the General Secretary of the concerned Staff Association have issued counter-press statements to the official press statement issued by the Anti-Corruption Bureau, on the irregularities noticed in certain Government Institutions during the joint surprise checks conducted by the Anti-Corruption Bureau, on the plea that the image of the Department and morale of the staff working in the Institutions was seriously damaged.

2. The matter has been examined by the Government. The Anti-Corruption Bureau is a specialised Institution with trained personnel for the specific purpose of conducting enquiries into the cases of corruption and malpractices among the Public Servants. The press statement issued by the Anti-Corruption Bureau referred to in the preceding para was in respect of the short-comings and irregularities noticed during the joint surprise checks of the Institutions conducted by the Bureau along with the Departmental Officers. If the Officer who had chosen to issue the counter-press- statement had any points to clarify, the proper course of action for him would be to bring to the notice of the Government through his Head of the Department his objections and points requiring clarification, for further action. The action of the officer in issuing a counter press statement, however well intended, was hasty and improper.

3. All the Heads of Departments are, therefore, requested to desist from issuing any counter press statements either by themselves or through their subordinates to any official press statement issued by the Anti-Corruption Bureau.

(156)

**U.O.Note No.907/Ser.C/87-4, Genl.Admn. (Ser.C) Dept., dt.30.11.1987:
Prompt action to be taken to get abeyance of orders of revocation of
suspension issued by Administrative Tribunal / Courts, and file appeals.**

**Subject Heading : Suspension - to move Supreme Court against
revocation**

Ref: U.O. Note No.808/Ser.C/87-1 G.A.(Ser.C) Dept., dt.01.09.87.

It has come to the notice of the Government that in cases where the Andhra Pradesh Administrative Tribunal has passed orders revoking suspension orders issued by the Government, the concerned Departments, where it is considered necessary to file an S.L.P. are not taking prompt action immediately after the pronouncement of the orders by the Tribunal but are doing so at the fag end of the 3 months period of limitation or long after the expiry of the limitation period.

2. Therefore, it is considered that whenever the Andhra Pradesh Administrative Tribunal pronounces an order revoking suspension orders issued by the Government, the Departments concerned should approach the Tribunal with a request to keep the orders of the Tribunal in abeyance for a limited period, in order to enable the Government to move the case in the Supreme Court. Whether the order is kept in abeyance or not, the Departments concerned, where it is considered to file an appeal, should take steps to file S.L.P. in the Supreme Court without any loss of time, as the Courts would not countenance inaction in the implementation of the order. The Advocate on Record in the Supreme Court at New Delhi should be impressed to make an urgent motion for early listing of the case and obtain stay orders.

(157)

**U.O.Note No.1045/SC.D/87-3, Genl.Admn. (SC.D) Dept., dt.30.11.1987
regarding records that should be sent by Anti-Corruption Bureau for issue
of Sanction Order by the competent authority.**

Subject Heading : Sanction of prosecution - furnishing of records

Ref: From the Director General, Anti-Corruption Bureau, Hyderabad,
Lr.No.134/RPC(C)/87, dt.29.08.1987.

The Director General, Anti-Corruption Bureau, in his letter cited has stated that in the Central Government in cases investigated by the Central Bureau of Investigation, the investigation reports (final reports) are sent for according sanction for prosecution of the Accused Officers under the Prevention of Corruption Act, 1947 and that the Law also does not contemplate the sending of Case Diary Files to the authorities for sanction of prosecution, that in the final reports of investigation of Anti-Corruption Bureau the statements of witnesses, references of various documents and important contents of all documents including oral evidence are reflected and hence there is no need to send the Case Diary Files and requested to issue instructions to all concerned in the matter.

2. The matter has been considered with reference to the Law and the practice prevailing in the Central Government. For according sanction for prosecution under section 6 of the Prevention of Corruption Act, the sanctioning authority has to apply its mind to the facts of the case and satisfy itself whether a case is made out against the accused officer and for this, the authority concerned should have all the material in regard to the case before it. However, in view of the reflection in the final report of Anti-Corruption Bureau regarding statements of witnesses, references of various documents and important contents of all documents including oral evidence, it is considered not necessary to call for the Case Diary Files from the Anti-Corruption Bureau. However, if the sanctioning authority calls for the Case Diary Files to further satisfy itself in regard to the existence of a prima facie case, where so required the Director-General, Anti-Corruption Bureau, will furnish the Case Diary Files to the concerned sanctioning authorities.

3. All the Departments of the Secretariat are requested to follow the above in the matter of calling of Case Diary Files from the Anti-Corruption Bureau for according sanction for prosecution of public servants.

(158)

**Memo.No.12400-A/162/OP.SC/87, F&P (Fin.Wing.OP. Spl.Cell) Dept.,
dt.04.12.1987 regarding declaration of personal cash by staff and officers
at the time of reporting to duty in Treasuries and Accounts Department.**

Subject Heading : Cash - declaration at the time of reporting

- Ref : 1. From the Director of Treasuries & Accounts, Circular Memo.No.P3/10728/85, dt.15.03.85.
2. From the D.G., ACB., Lr.No.33/RE.WVP/87 dt.01.05.87.

Instructions were issued in the reference first cited for declaration of personal cash by the staff of Treasury Department who deal with cash transactions every day and also to maintain a personal cash declaration Register.

2. The matter has been considered again by the Government and the following procedure is prescribed to be observed by all officers and staff of District Treasury Offices/Sub-Treasury Offices/ Assistant Treasury Offices and Pension Payment Offices while declaring their personal cash.

- 1) The total amount of cash brought by an employee from his house to office every day must be declared by him and deposited in the cash chest to be kept separately for this purpose.
- 2) The officer and staff member may be allowed to keep upto Rupees 10/- (ten) to meet incidental expenses etc., and this fact also may be made clear in the declaration register which shall be deposited in the cash chest along with the amount keptin cash chest.
- 3) The money deposited in the cash chest may be permitted to be taken at the time of leaving the office but the declaration Register must be maintained in the office.
- 4) The above procedure is applicable to all officers and staff of District Treasury Offices / Sub-Treasury Offices / Assistant Treasury Offices / Pension Payment Offices of Treasuries and Accounts Department.
- 5) The inspecting officers of Treasuries and Accounts Department should check up the declaration Register at the time of inspection of the Treasury Offices.

(159)

Memo.No.16689/L/87-1, Law Dept., dt.09.12.1987 regarding need to move Administrative Tribunal for keeping orders of revocation of suspension in abeyance pending filing of appeal before Supreme Court.

Subject Heading : Suspension - to move Supreme Court against revocation

Ref : U.O.Note No.808/Ser.C/87-1, G.A.(Ser.C) Dept.,dt.01.09.87.

It has come to the notice of the Government that in cases where the Andhra Pradesh Administrative Tribunal has passed orders revoking suspension orders issued by the Government, the concerned Departments, where it is considered necessary to file an S.L.P. are not taking prompt action immediately after the pronouncement of the orders by the Tribunal but are doing so at the fag-end of the 3 months period of limitation or long after the expiry of the limitation period.

2. It is considered that whenever the Andhra Pradesh Administrative Tribunal pronounces an order revoking suspension orders issued by the Government, the Government Pleader concerned should approach the Tribunal with a request to keep the orders of the Tribunal in abeyance for a limited period, in order to enable the Government to move the case in the Supreme Court and intimate the department concerned in the Government immediately so as to enable the Government to take prompt action for moving the Supreme Court in the matter.

(160)

Memo.No.16556/LSP/87-1, Law Department, dt.14.12.1987 regarding implementation of Judgments and filing of appeals to avoid contempt proceedings.

Subject Heading : Judgments - implementation of

Of late the Government have come across several instances where contempt cases are filed against officers for non-implementation of the Judgments of the Andhra Pradesh Administrative Tribunal, High Court or the Supreme Court. Hence the Government are compelled to bring to the notice of the subordinate authorities the need to follow the Judgments of the High Court or the Supreme Court scrupulously.

2. In one of the contempt cases, the Andhra Pradesh High Court observed that in recent times the authorities are not implementing the judgements of the Courts with impunity on a variety of grounds such as that an appeal was actually filed in the Supreme Court and is pending in the Supreme Court; that a

special leave petition is filed in the Supreme Court seeking leave to appeal against the Judgment of the High Court and it is pending in the Supreme Court; and that the Department has not accepted the decision of the High Court and is taking steps to file an appeal before the Supreme Court. The High Court observed that whenever a decision of the High Court is found to be unacceptable to the authorities the simplest course to follow is to carry the matter in appeal to the Supreme court by following the necessary statutory procedure and seek suspension of the orders appealed against. If the Supreme Court suspends the operation of the Judgment or order appealed against it is clear that the authorities in the State are under no legal obligation to follow the Judgments so suspended till the matter is decided by the Supreme Court. The High Court further observed that what is really happening is that without following the above course the authorities are light-heartedly declining to follow the Judgments of the High Court on the ground that either an appeal was filed or steps are being taken to file an appeal. Several judicial pronouncements lay down that the authorities and the Tribunals functioning within the jurisdiction of the High Court in respect of whom it has the power of superintendence under article 227 of the Constitution of India are bound to follow the decision of that court unless on an appeal the operation of the Judgment is suspended. It is not permissible for the authorities and the Tribunals to overlook the decisions of the High Court or to refuse to follow the decisions of that Court on the pretext that an appeal is filed in the Supreme Court which is pending or the steps are being taken to file an appeal. If any authority or Tribunal refuses to follow any decision of the High Court on the above grounds it would clearly be guilty of committing contempt of it and is liable to be proceeded against. The High Court finally warned all authorities concerned that it would not hesitate to take stern action for contempt if its decisions are disregarded unless the operation of the Judgments of that Court is suspended by the Supreme Court.

3. The Government are also aware of the fact that the appeals filed in the Supreme Court some times do not come up for admission immediately. It is also true that unless the Judgment comes up for admission in the Supreme Court and that Court admits the appeal, no stay is granted. If no stay is granted by the Supreme Court after admitting the appeal the Judgment of the lower court operates and it should be given effect to.

4. All Departments of Secretariat and Heads of Departments are directed to keep in mind the observations of the High Court in para.2 above and take suitable action as indicated in para.3 above. In all cases where the judgements

are against the interest of the Government and implementation is time bound, immediate action should be taken to file an appeal either in the High Court or in the Supreme Court along with stay petition and such appeal should be pursued vigorously. In cases of urgency, and where appeal has to be filed in the Supreme Court the concerned authorities may personally approach the Advocate-on-Record, Government of Andhra Pradesh, New Delhi, and impress on him the need to obtain early stay orders in the Supreme Court. Generally, if such efforts are made it is noticed that it is possible to obtain early stay. But if such appeals are pursued by corresponding with the Advocate-on-Record without approaching him personally it is difficult to obtain early stay orders. However, there should not be any delay in filing appeals in such cases.

(161)

Memo.No.1053/Ser.C/87-3, Genl.Admn. (Ser.C) Dept., dt.29.12.1987 regarding sealed cover procedure - action to be taken to represent before Administrative Tribunal / High Court / Courts in respect of promotion / appointment to higher posts while investigation / disciplinary proceedings are pending.

Subject Heading : Promotion - preferring appeal against court orders

Ref: G.O.Ms.No.419, G.A.(Ser.C) Dept., dt.01.09.87.

In the G.O. cited, instructions were issued that whenever the Andhra Pradesh Administrative Tribunal or High Court or any other Court directs to promote officers against whom the disciplinary cases are pending and whose promotions are deferred, an appeal in the Supreme Court of India on such orders should be preferred invariably so as to obtain an authoritative decision of the Supreme Court.

2. Supreme Court of India in Civil Appeal No.2964 of 1986, in Union of India and Anr. Vs. Tejinder Singh inter-alia, held in its order dated 26-9-1986 as follows:-

"We are also not satisfied as to the correctness of the view expressed by the Tribunal that a contemplated departmental enquiry or pendency of a departmental proceeding cannot be ground for withholding

consideration for promotion or the promotion itself. We are not aware of any rule or principle to warrant such view."

3. In view of the above decision of the Supreme Court of India, it is requested that by citing the law laid down in the aforesaid Civil Appeal R.Ps / W.Ps filed in A.P.A.T / High Court involving the above aspect of the matter be opposed. Inspite of this, if the Andhra Pradesh Administrative Tribunal or the High Court or any Court orders/directs that officers facing disciplinary cases whose promotions / appointments by transfer may be promoted, an appeal may be preferred in the Supreme Court simultaneously moving the A.P.A.T / High Court / other Court to suspend operation of its order until the Supreme Court admits the appeal and grants stay or otherwise of the orders appealed against.

(162)

Memo.No.3073/SC.E/87-1, Genl.Admn. (SC.E) Dept., dt.08.01.1988 regarding publicity in Press - department has right to issue correction / clarification.

Subject Heading : Publicity in Press - Department to issue correction / clarification

Ref: 1. From the D.G., ACB., Lr.No.8867/JSC-ATP/87, dt.14.08.87.

2. Govt. Memo.No.1944/SC.E/87-4, G.A.(SC.E) Dept., dt.21.11.87.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the correspondence cited on the above subject. Consequent to the issue of the instructions a point has been raised that when Anti-Corruption Bureau publicises its raids, in the press, some times without adequately ascertaining from the concerned Departments the correct facts, it may result in damage to the public image of the Government and that even if a belated clarification is issued, the damage is first done in the public mind by the original news flashed by the Bureau, thereby affecting the morale of the officers of the Department concerned. It has, therefore, been suggested that revised instructions may be issued in the matter as follows :

Where the press release is issued on the basis of inadequate details or incomplete information without ascertaining the actual data from the concerned Department, the Government in that Department reserves the right to issue a correction or clarification to the press. The Anti-Corruption Bureau also may be advised due restraint while publicising the alleged corruption cases, unless the facts are well authenticated after due verification with the Departmental Head concerned or the Secretary to Government as the case may be. Failure to do so often results in great damage to the reputation of the department and ultimately to the Government itself, in the eyes of the public.

(163)

Memo.No.44/SC.D/88-1, Genl.Admn. (SC.D) Dept., dt.01.12.1988 regarding Anti-Corruption Bureau reports - dealing of.

Subject Heading : ACB - ACB Report, a classified document

- Ref : 1. U.O.Note No. 664/SC.D/87-1, G.A.(SC.D) Dept., dt. 29-6-87.
2. U.O.Note No. 1798/SC.E/87-1, G.A.(SC.E) Dept., dt. 20-10-87.

In the reference first cited, all the departments of the Secretariat have been informed that Anti-Corruption Bureau references / reports are classified documents and requested to guard against the mis-placement or leakage of Anti-Corruption Bureau reports and also against unauthorised persons coming into possession of the reports and leakage of Anti-Corruption Bureau reports to the accused officers. It was also emphasised that Anti-Corruption Bureau reports should be handled carefully.

2. In the reference second cited all the departments of Secretariat were requested not to make mention of the correspondence with the Anti-Corruption Bureau in their order appointing the Inquiry Officer and also not to mark a copy of the order to the Anti-Corruption Bureau but send a copy of the order to the Anti-Corruption Bureau separately, that similarly a separate communication should be sent to the Anti-Corruption Bureau regarding instructions for furnishing documentation to the Inquiry Officer. Further, the departments have to take action as per Memo.No.490/SC.E/87-1, GA (SC.E) Department,

dt.13.03.87, and appoint Inquiry Officer only after the written statement of defence is received from the charged officer and considered by them.

3. However, instances have come to notice wherein a petitioner got the Secret / Confidential reports of the Anti-Corruption Bureau and confidential communication of Government from the Inquiry Officer and produced the same in the A.P.A.T, Hyderabad, through his Counsel. The A.P.A.T viewed this matter as most unfortunate and ordered that the matter be investigated. The above is due to lack of knowledge on the part of the Inquiry Officers.

4. As per Rule 14 of the APCS (Conduct) Rules, 1964, no Government employee shall, except in accordance with any general or special order of Government communicate directly or indirectly any official document or any of its contents, or any official information, to any Government employee not authorised to receive the same, or to any non-official person or the press.

5. The supply of such classified documents or disclosure of such information to the accused officer or to any unauthorised person or agency amounts to official misconduct and the officer involved is liable for major penalty. Unauthorised supply of copies of such documents, if proved beyond all reasonable doubt, amounts to criminal breach of trust punishable under Section 409 I.P.C.

6. In the circumstances, all the Heads of Departments and Departments of Secretariat are requested to guard against the mis-placement or leakage of the Anti-Corruption Bureau reports and confidential communications of Government and unauthorized persons coming into possession of classified documents and also to ensure that such reports / communications are handled and accounted for properly. They are also requested to follow para-2 above while initiating disciplinary action.

(164)

G.O.Ms.No.52, Genl.Admn. (Ser.C) Dept., dt.04.02.1988 regarding Annual statements of immovable and movable property under Rule 9(7) of APCS (Conduct) Rules, 1964 - revised proformae prescribed.

Subject Heading : Annual Property Returns - revised proformae

Read :

G.O.Ms.No.705, G.A.(Ser.C) Dept., dt.28.11.84.

ORDER :

According to sub-rule (7) of Rule 9 of APCS (Conduct) Rules, 1964, every Government employee, other than a member of the Andhra Pradesh Last Grade Service and a Record Assistant in the Andhra Pradesh General Subordinate Service, shall on first appointment to the Government Service submit to Government a statement of all immovable property/properties irrespective of its value and movable property/ properties whose value exceeds Rs.5,000. He shall also submit to Government before 15th January, of each year, through the proper channel, a declaration in the form given in the Annexure, of all immovable property owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or, in the name of any other person. But no form has been prescribed for submission of statement in respect of immovable / movable properties at the time of first entry into service. There is also no provision for submission of declaration in respect of movable properties exceeding Rs.5,000 every year, as in the case of immovable property. However, every Government employee is required to report to Government in respect of any transactions concerning the movable property exceeding Rs.5,000 by way of purchase or sale, as per sub-rule (2) of Rule 9 of the said rules. Further the single proforma in which the annual statement of immovable property is obtained from Government employees consists of some unnecessary details.

2. Therefore, the entire issue has been examined by Government in detail and it has been decided to amend this rule suitably making it obligatory on the part of the Government employee to declare at the time of entry into Government service and also every year in the month of January, immovable property / properties in proforma as in Annexure-I and movable property / properties whose value exceeds Rs.5,000 in the proforma as in Annexure-II to these rules.

3. The following notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the APCS (Conduct) Rules, 1964.

AMENDMENT

In the said rules :

(1) for sub-rule (7) of Rule 9 the following sub-rule shall be substituted, namely:-

"(7) Every Government employee, other than a member of the Andhra Pradesh Last Grade Service and a Record Assistant in the Andhra Pradesh General Subordinate Service, shall on first appointment to the Government service submit to Government a statement of all immovable property/ properties irrespective of its value and movable property/ properties whose value exceeds Rs.5,000 owned, acquired, or inherited by him or held by him on lease or mortgage either in his own name or in the name of any member of his family, in the forms prescribed in Annexure-I and II separately. He shall also submit to Government before 15th January of each year, through the proper channel, a declaration in the forms given in the Annexure-I and II of all immovable / movable, property/ properties owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family. The declaration shall contain such further information as Government may, by a general or special order, require. If, in any year, a Government employee has not acquired or disposed of any immovable or movable property or any interest therein, he shall submit declarations to that effect.

Provided that every Head Constable, Police Constable and every person of the corresponding rank in the Armed Reserve and Special Police Battalions and every Non-Gazetted Officer of equal rank in other branches of the Police Department, shall submit the statements in forms prescribed in Annexures I and II and the declaration aforesaid to the Superintendent of Police or the Commandant concerned, as the case may be.

(Note : 1. Value of movable property since raised to Rs. 20,000)

2. See Part II for Proformae (Nos. 41, 42)

(165)

**Memo.No.1798/SC.E/87-4, Genl.Admn. (SC.E) Dept., dt.17.02.1988
regarding entrustment of departmental inquiries to Commissioner of Inquiries.**

Subject Heading : Commissioner of Inquiries - entrustment of inquiries

Ref : Govt.Memo.No.490/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.

In the reference cited, it has been clarified to the Heads of Departments and Departments of Secretariat, that only cases of employees for whom the appointing authority is the Government should be referred to the Commissioner for Departmental Enquiries and however in respect of cases enquired into by the Anti-Corruption Bureau and recommended for departmental action, all cases of Gazetted Officers irrespective whether the appointing authority is the Government or Head of Department shall be referred to the Commissioner for Departmental Enquiries. Such reference of cases to the Commissioner for Departmental Enquiries should be in respect of cases which require the imposition of major penalty. It has also been clarified that the disciplinary authority after examination of the Anti-Corruption Bureau report should frame charges, obtain explanation from the Charged Officer and after consideration of the explanation, refer the matter to the Commissioner for Departmental Enquiries, if enquiry is found necessary, furnishing the required information/documentation.

2. The Commissioner for Departmental Enquiries has brought to the notice of this Department that the Departments are not following the instructions contained in the Memorandum cited and are entrusting the cases to him without furnishing the relevant information. He has, therefore, suggested that to enable him to expeditiously dispose of the cases entrusted, the Departments of Secretariat may,

- (i) ensure compliance with the instructions contained in Memo.No.490/SC.E/87-1, dt.13.03.87 while entrusting the cases to the Commissioner for Departmental Enquiries.
- (ii) Ensure that the name and the address of the Presenting Officer is sent while entrusting the cases to the Commissioner for Departmental Enquiries.
- (iii) Furnish the address of the Charged Officer and witnesses while referring the cases to the Commissioner for Departmental Enquiries.
- (iv) Ensure that all the records relevant to the enquiry are collected before the case is referred to the Commissioner for Departmental Enquiries.

3. The Departments of Secretariat are requested to ensure that the above requirements are fulfilled while entrusting the cases to the Commissioner for Departmental Enquiries.

(166)

Memo.No.2665/SC.E/87-3, Genl.Admn.(SC.E) Dept., dt.23.02.1988: Commissioner of Inquiries to be appointed as Inquiry Officer by designation, not by name.

Subject Heading : Commissioner of Inquiries - appointment by designation

Sub-rule (2) of Rule 19 of the A.P.C.S (CC&A) Rules, 1963 states inter-alia that the authority competent to impose penalty shall appoint an Inquiry Officer who shall be senior in rank to the person on whom it is proposed to impose the penalty. The said rule does not specify whether the Inquiry Officer should be appointed by name or by office. It has been brought to the notice of the Government, that in several cases the, Inquiry Officer has been appointed by name, which has resulted in the stoppage of enquiry by Commissioner for Departmental Enquiries.

2. All the Departments of Secretariat are, therefore, requested to appoint the Commissioner for Departmental Enquiries as Inquiry Officer by designation in future while entrusting the cases to him.

(167)

Memo.No.35/SC.D/88-2, Genl.Admn. (SC.D) Dept., dt.25.02.1988: Anti-Corruption Bureau to send Final Reports in cases against retired Government Servants, to Government for sanction under Section 197 Cr.P.C.

Subject Heading : Sanction of prosecution - under Section 197 Cr.P.C.

Ref: From D.G., ACB., Rc.No.1/RPC(C)/88, dt.04.01.-88.

The attention of the Director General, Anti-Corruption Bureau is invited to the reference cited and he is informed that the final reports of the Anti-Corruption Bureau in respect of retired Government Employees have to be sent to the Government for according sanction under Section 197 Cr.P.C. while sanction under Section 6 of the Prevention of Corruption Act is not necessary. Final reports of the Anti-Corruption Bureau in respect of private individuals need not be sent to the Government for prosecution etc.

(168)

Lr.No.398/SC.D/87-1, Genl.Admn.(SC.D) Dept., dt.06.04.1988 regarding publicity by mass-media in cases against corrupt public servants.

Subject Heading : Publicity in Press - counter statements by accused

I am directed to state that as a part of the vigorous anti-corruption drive launched by the State Government, adequate publicity is being given to the detection, prosecution, conviction etc. of the corrupt activities of public servants involved in Anti-Corruption Bureau cases with the twin objective of (a) increasing awareness on the part of the general public about the anti-corruption drive so that more number of people come forward with complaints against corrupt public servants and (b) to inculcate due deterrence among other corrupt public servants and for this purpose, Press Statements are being issued by the State Anti-Corruption Bureau and copies sent to the Press as well as All-India Radio and Doordarshan, Hyderabad. The response from the above is satisfactory.

2. However, some of the notoriously corrupt public servants have been issuing counter statements some of which have been published by the Newspapers and also broadcast over the All India Radio and Doordarshan, Hyderabad, concrete instances being those issued by Sri S.A.Kalam, Superintending Engineer, Panchayat Raj, Kurnool broadcast on 12.04.87 during the Telugu News at 7.30 P.M. by Doordarshan, Hyderabad and that of Sri D.Muralikrishna, I.A.S., Regional Iron & Steel Controller, Hyderabad. Sri S.A.Kalam had disputed the official statement issued by the Anti-Corruption Bureau regarding the disproportionate assets acquired by him through corrupt practices. He is a notoriously corrupt officer who was already awarded the punishment of postponement of increment on the basis of enquiry made by the State Anti-Corruption Bureau into allegations of corruption etc. He is also facing an enquiry before Tribunal for Disciplinary Proceedings on the basis of another enquiry conducted by the Anti-Corruption Bureau in the matter of needless purchases by diverting Government funds earmarked for developmental works. Again on credible information, the Anti-Corruption Bureau registered a case under provisions of I.P.C. and P.C.Act and conducted searches of his house and those of his relatives and the investigation revealed that he is in possession of

disproportionate assets worth about Rs.10 lakhs. The State Anti-Corruption Bureau issued a Press statement regarding the above on 08.04.1987 and it was also broadcast on 09.04.1987 by Doordarshan Hyderabad during Telugu News at 7.30 P.M.

3. While it is open to any accused officer to dispute statements made by the Government Agencies, any publicity by the Doordarshan and All-India Radio given to unverified statements of the individuals figuring as Accused officers in Anti-Corruption enquiries would naturally confuse the people at large and help such accused officers to gain undue publicity besides tarnishing the fair image of the Bureau.

4. In the light of the circumstances set out above, I am directed to request to examine and issue necessary clarification to Doordarshan and All-India Radio not to entertain statements from individual public servants issued as Counter statements to official Press Releases by the State Anti-Corruption Bureau.

(169)

G.O.Ms.No.214, Genl.Admn., (Ser.C) Dept., dt.06.04.1988 regarding referring of Anti Corruption Bureau cases to Tribunal for Disciplinary Proceedings.

Subject Heading : TDP - entrustment of ACB cases

Read :

G.O.Ms.No.526, G.A.(Ser.C) Dept., dt. 15.10.86.

ORDER :

In the G.O. read above, the Departments of the Secretariat and the Heads of Departments were requested not to refer any fresh cases to the Tribunal for Disciplinary Proceedings consequent on the appointment of Commissioner of Enquiries. The question whether or not to refer fresh cases to the Tribunal for Disciplinary Proceedings has been examined by the Government in detail. It has been decided, in partial modification of the orders issued in the G.O. read above, that the cases enquired into by the Anti-Corruption Bureau which the Government consider fit to be referred to the Tribunal for Disciplinary Proceedings may henceforth be referred to the Tribunal for Disciplinary Proceedings.

(170)

Memo.No.1085/SC.D/87-1, Genl.Admn. (SC.D) Dept., dt.20.04.1988 regarding declaration of personal cash by Government officials at the time of reporting to duty - reiteration of instructions.

Subject Heading : Cash - declaration at the time of reporting

Ref: From the D.G., A.C.B., Lr.C.No.52/RPC(C)/87, dt.07.09.87.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the reference cited and he is informed that his request to issue instructions to all Departments requiring all members of the staff where Government taxes, revenues etc. are collected to declare their personal cash at the time of reporting for duty everyday in the prescribed register, is considered as not expedient to implement. The present instructions that persons who are actually dealing with cash transactions should declare their personal cash before they enter to perform their duty in the offices / checkposts, will continue.

(171)

Memo.No.2899/SC.F/87-1, Genl.Admn. (SC.F) Dept., dt.20.04.1988 regarding Commissioner of Inquiries - cases of NGOs involved with Gazetted Officers also to be referred for Joint Inquiry.

Subject Heading : Commissioner of Inquiries - entrustment of inquiries

Ref: Memo.No.490/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.

In the Memorandum cited, it has been clarified to the Heads of Departments and the Departments of Secretariat, that only cases of employees for whom the appointing authority is the Government should be referred to the Commissioner for Departmental Enquiries and however, in respect of cases enquired into by the Anti-Corruption Bureau and recommended for Departmental action, all cases of Gazetted Officers irrespective of whether the appointing authority is the Government or the Head of the Department shall be referred to the Commissioner for Departmental Enquiries.

2. There may be cases enquired into by Anti-Corruption Bureau where the allegations are common in respect of both Gazetted and Non-Gazetted

Officers and thereby the records also be common. The question as to how to deal with such cases has been examined in the context of Rule 19(5) of the APCS (CC&A) Rules, 1963, extracted below:-

"19(5)(a) Where two or more members of the same service or different services are concerned in any case, the Government or any other authority competent to impose the penalty of dismissal from service on all such members may make an order directing that disciplinary action against all of them may be taken in a common proceeding:

Provided that if the authorities competent to impose the penalty of dismissal on such members are different, such authorities not being the Government, an order for holding such inquiry in a common proceeding may be made by the highest of such authorities with the consent of the other authorities competent to impose the said penalty on others.

(b) Subject to the other provisions of these rules, every such order shall specify the authority that may impose any of the penalties specified in Rule 8 on all the members concerned in the

common proceeding and whether the procedure laid down in sub-rule (1) or sub-rule (2) shall be followed in the proceeding".

3. After careful consideration, it is decided that in cases where a joint enquiry becomes necessary due to the records and evidence etc. being common, the cases of non-gazetted officers also may be entrusted to the Commissioner for Departmental Enquiries along with that of Gazetted Officers, wherever necessary.

(172)

Memo.No.735/SC.D/87-1, Genl.Admn. (SC.D) Dept., dt.27.04.1988 regarding action on petitions against Government Servants.

Subject Heading : ACB - suo motu powers

- Ref: 1. G.O.Ms.No.677, G.A. (Ser.D) Dept., dt.30.05.1981.
2. Memo.No.163/SC.D/83-2, G.A. (SC.D) Dept., dt.30.03.1983.
3. U.O.Note No.551/Ser.C/87-1, G.A. (Ser.C) Dept., dt.26.06.1987.

In the reference first cited, the following procedure was prescribed to be followed on petitions received alleging corruption on the part of Government Servants.

i) Petitions received by the Government

Where it is considered that investigation by the Anti-Corruption Bureau is necessary against Gazetted Officers, orders should be obtained in circulation to the Minister or the Ministers concerned and the Chief Minister.

In the cases against Non -Gazetted Officers, it is not necessary to obtain orders in circulation. The Administrative Department concerned may address the Anti-Corruption Bureau direct for further investigation.

When Departments of the Secretariat take action or forward such petitions to the Anti-Corruption Bureau for investigation, they are requested to inform the Heads of Departments etc., when there is a definite indication that copies of the petitions have been forwarded to them, not to make enquiries in regard to these cases independently of the Anti-Corruption Bureau, in view of their direction to the Anti-Corruption Bureau for doing the same.

ii) Petitions received by Heads of Department and District Heads.

In all cases whether petitions alleging specific instances of corruption against Gazetted Officers are received by the Heads of Department or District Heads, they should submit them to the Government in the concerned Administrative Department with their recommendations, after close examination of the petitions taking into consideration the past reputation of the official complained against. In respect of Non-Gazetted Officers, the Administrative Department should first satisfy themselves on their own knowledge or through departmental inquiries that there is a prima facie case for enquiry by the Anti-Corruption Bureau. Petitions prima-facie engineered by disgruntled elements against honest officials should be ignored and rejected.

2. In the reference 3rd cited, the instructions on the subject of referring petitions by Ministers against employees for enquiry by the Anti-Corruption Bureau have been revised and clarified as below :-

"Whenever a Minister receives a petition containing allegations against an employee who is not working in the Department under his control, such petitions with the endorsement of the Minister will be circulated to the Chief Minister. The papers will be routed to the Chief Minister through the concerned Departments of the Secretariat under whose administrative control the employee is working".

3. The matter relating to the referring of petitions against Government Servants both Gazetted Officers and Non-Gazetted Officers to the Anti-Corruption Bureau, for enquiry has been considered and it is hereby clarified that all petitions against the Gazetted Officers should be referred to the Anti-Corruption Bureau by the Administrative Department of Secretariat only, after obtaining the orders in circulation to the Minister concerned and the Chief Minister through the Chief Secretary.

4. In respect of cases against Non-Gazetted Officers, the petitions should be referred by the Administrative Department of the Secretariat to the Anti-Corruption Bureau after obtaining orders in circulation to the concerned Minister through the Chief Secretary.

5. The above are in addition to the suo motu powers given to the Anti-Corruption Bureau in the reference second cited, to take up enquiries / investigation except in cases of All-India Service Officers and Heads of Departments in whose cases the prior permission of the Chief Secretary is necessary.

(173)

Memo.No.143/SC.D/88-4, Genl.Admn. (SC.D) Dept., dt.09.05.1988 regarding furnishing of property statements in corruption and disproportionate assets cases to Anti-Corruption Bureau.

Subject Heading : Disproportionate Assets - proforma statements, pay and service particulars

Subject Heading : Property statements - furnishing to ACB

- Ref :
1. Memo.No.1964/SC.D/73-4, G.A.(SC.D) Dept., dt.15.03.75.
 2. Memo.No.442/SC.E/83-1, G.A.(SC.E) Dept., dt.27.12.83.
 3. Memo.No.352/SC.E/84-1, G.A.(SC.E) Dept., dt.14.06.84.

4. Memo.No.3265/SC.E/86-2, G.A.(SC.E) Dept., dt.06.01.87.

In the Govt.Memo. 1st cited, the Heads of Departments were requested to permit the Officers of Anti-Corruption Bureau to peruse the records during the course of preliminary enquiries also.

2. In the Government Memos 2nd and 3rd cited, the Heads of the Departments and District Collectors were requested to furnish the property statements in six proformae and pay and service particulars of the suspected officers to the Anti-Corruption Bureau expeditiously.

3. In the Government Memo. 4th cited, the Heads of the Departments were requested to ensure that in the disciplinary cases initiated on the basis of the report of the Anti-Corruption Bureau the concerned investigating officials of the Anti-Corruption Bureau are invariably associated with the enquiry to adduce evidence etc., as provided for in Rule 19(2) (a) of the APCS (CC&A) Rules, 1963.

(174)

Memo.No.143/SC.D/88-5, Genl.Admn. (SC.D) Dept., dt.09.05.1988 regarding supply of records to Investigating Officers of Anti-Corruption Bureau; Heads of Departments, Collectors and Administrative Departments in Secretariat to follow instructions issued already.

Subject Heading : ACB - securing of records / documents

- Ref :
1. Govt. Memo.No. 1300/SC.D/73-1, G.A.(SC.D) Dept., dt.06.09.73.
 2. Govt. Memo.No. 1964/SC.D/73-4, G.A. (SC.D) Dept., dt.15.03.75.
 3. Govt.Memo.No. 443/SC.D/78-2, G.A.(SC.D) Dept., dt.03.06.78.
 4. Govt. Memo No. 2331/SC.D/82-1, G.A.(SC.D) Dept., dt.18.12.82.
 5. Govt.Memo.No. 2331/SC.D/82-7, G.A.(SC.D) Dept., dt.23.06.83.

In the reference first cited instructions were issued inter-alia, that the Anti-Corruption Bureau can seek production of Records from Heads of Departments / Offices during the course of Regular Enquiry only.

2. In the reference second cited, it was clarified, inter-alia, that the Anti-Corruption Bureau may be permitted to peruse the records during the course of Preliminary Enquiries also.

3. In the reference third cited, it was further clarified that if in any disciplinary proceedings, the return of the files taken by Anti-Corruption Bureau cannot be awaited and further action is urgently called for without loss of time, the Department of Secretariat or Heads of Departments or Collectors may obtain authenticated extracts or photostat copies of the relevant records, to the extent necessary, with a view to dispose of pending disciplinary cases or any other urgent matters.

4. In the reference fourth cited, all the Heads of Departments were requested to ensure that the requisitions received from the Anti-Corruption Bureau for supply of records are complied with, within a fortnight or at the most within a month positively.

5. In the Government memo fifth cited, instructions were issued regarding supply of classified documents / Records to Anti-Corruption Bureau Officers, at the time of enquiry as below : -

In continuation of above instructions, the following further instructions are issued regarding supply of records requisitioned by the Officers of Anti-Corruption Bureau in connection with their enquiries subject to the condition laid down in para 6 below:

- 1) 'Top Secret' documents should be handed over only to the Gazetted Officers of the rank of Deputy Superintendent of Police and above in the Anti-Corruption Bureau.
- 2) "Secret" and "Confidential" documents should be given to the Gazetted Officers of the Anti-Corruption Bureau or to an Inspector, A.C.B., if he is specially authorised by the Deputy Superintendent of Police, Anti-Corruption Bureau to obtain such documents.
- 3) A temporary receipt should be obtained whenever any classified document is handed over to an officer of the Anti-Corruption Bureau (Top Secret, Secret and Confidential documents are classified documents).
- 4) The originator of the classified documents / records should also be informed.
- 5) Where original documents cannot be made available to the investigating officer for any reason, he should be supplied with photostat copies or attested copies thereof and a certificate should be given by an officer of the appropriate rank that the originals are

in safe custody and out of the reach of the suspect official and will be produced whenever required.

- 6) The Inspectors in the Bureau can give requisitions to the Heads of Departments / Offices for supply of "Secret" and "Confidential" records when the enquiries, investigations are against Non-Gazetted Officers. A Gazetted Officer of and above the rank of Deputy Superintendent of Police alone would requisition the records from the Heads of Departments / Offices in respect of enquiries / investigations against Gazetted Officers.

6. There are however certain classified documents held in personal custody of the officers and they can be made over at the discretion of the Officers. Any general instructions issued in the matter will not absolve such officers of their responsibilities to keep the records in their personal custody without disclosure to outside agencies. In case of doubt in handing over such classified documents, the matter should be referred to the Chief Secretary to Government and express clearance obtained. The instructions issued in para five above in regard to furnishing of records to the Anti-Corruption Bureau in connection with the enquiries are subject to the above condition.

7. It has been brought to the notice of the Government that in some cases, inspite of clear indications in their matter, there has been considerable delay in making available the required records / documents to the Officers of the Anti-Corruption Bureau, at the time of enquiry and even disappearance of files, thus causing considerable delay in completing the enquiries.

8. All the Departments of Secretariat / Heads of Departments and Collectors are, therefore, requested to ensure that whenever requisitions are received from the Anti-Corruption Bureau for supply of documents / records in connection with the enquiry against Public servants, they should be complied with and the records duly numbered / docketed and supplied within a fortnight or at the most within a month positively. They are also requested to issue suitable instructions to the Officers under their control in this regard.

(175)

**Memo.No.12400-A/162/OP.SC/87, F&P (FW.OP.SPL.CELL) Dept.,
dt.13.06.1988 regarding declaration of personal cash by those dealing in cash.**

Subject Heading : Cash - declaration at the time of reporting

Ref : 1. Memo.No.12400-A/162/OP.SC/87, dt.04.12.87.

2. G.A.D. U.O.Note No.1085/SC.D/87-2, dt.20.04.88.

The Andhra Pradesh Treasuries Subordinate Service Association have represented that declaration of cash by all Staff members of the Treasury as prescribed in the Memo., 1st cited is demoralising and creating a sort of stigma on the character of the members. They have requested that revised instructions be issued on the lines of the instructions issued by the General Administration Department wherein it is prescribed that staff members who deal with cash should declare their personal cash everyday.

2. After careful consideration of the representation and also keeping in view the instructions issued by the General Administration Department in the reference 2nd cited, it is ordered that staff members who deal with cash (shroffs) in District Treasuries and Sub-Treasuries shall declare their personal cash every day and for the purpose, follow the detailed procedure laid down in the Memo. 1st cited.

(176)

G.O.Ms.No.367, Genl.Admn. (I&PR) Dept., dt.24.06.1988: Press releases to be routed through Director, Information & Public Relations.

Subject Heading : Publicity in Press - press releases

ORDER :

In order to coordinate press releases of various Government Departments and other officials of Government, it is felt necessary to designate the Director, Information & Public Relations, Hyderabad, as Official Spokesman of Government of Andhra Pradesh on the pattern existing in the Government of India.

2. Accordingly, Sri S.V.Prasad, I.A.S., Director, Information & Public Relations, Hyderabad is designated as the Official spokesman of the Government of Andhra Pradesh with immediate effect. He shall be responsible for issuing all Press Releases on behalf of the State Government.

3. All the Departments of Secretariat and all Heads of Departments are requested to route their Press Releases through the Director, Information & Public Relations, Hyderabad / Official Spokesman only. They are also requested to issue suitable instructions to all Officers under their administrative control.

(177)

Memo.No.1506/Cts.B/88-1, Home (Courts.B) Dept., dt.02.07.1988 regarding furnishing of certified copies etc, in appeals before High Court.

Subject Heading : Appeal - before High Court, procedure

Ref: From the Public Prosecutor, High Court of A.P., Hyderabad D.O.Lr.No.Dis. 2199, dt.10.06.88.

A copy of the reference cited is enclosed.

All the Departments of Secretariat and Heads of Departments are requested to issue necessary instructions to their subordinate offices to send the certified Judgment copies and other C.D. files etc, as desired by the Public Prosecutor for filing Appeal petitions in the High Court.

Encl : D.O.Lr. Dis.No. 2199, dt.10.06.88 of Public Prosecutor, High Court of Andhra Pradesh, Hyderabad addressed to the Deputy Secretary to Government, Home (Courts-B) Department, Government of A.P., Hyderabad.

I found in several cases that the concerned authorities who send proposals to us to prefer appeal in the High Court are not enclosing certified copies of the Judgments. We cannot file an appeal in the High Court without certified copy. The certified copy must be sent to the required to file an appeal in the High Court.

Several times we found that the concerned authorities are not enclosing required number of the neatly typed copies of the Judgment when they are sending the proposals to us to file an appeal in the High Court.

We also found that the certified copy of the Judgment which are send to us are not at all legible. It is causing a great lot of difficulty and waste of time.

Therefore, I request you to direct all the concerned authorities who send the proposals to our office to file an appeal in the High Court to send the following:

1. Certified copy of the Judgment.
2. Three neatly typed copies of the Judgment.

3. C.D. Files / connected records file along with the above documents and also with the opinion tendered by the P.Ps. or A.P.P.Os.

Apart from the Home Department, from various other Departments also we get proposals to file appeals. Therefore, I request you to issue the necessary circular to all the other Directorates and Departments.

(178)

U.O.Note No.756/SC.F/88-2, Genl.Admn. (SC.F) Dept., dt.08.07.1988 regarding entrustment of A.C.B. cases to Tribunal for Disciplinary Proceedings.

Subject Heading : TDP - entrustment of ACB cases

- Ref: 1. G.O.Ms.No.526 G.A.(Ser.C) Dept., dt.15.10.86.
2. G.O.Ms.No.214 G.A.(Ser.C) Dept., dt.06.04.88.

In the G.O. 1st cited, the Departments of the Secretariat and the Heads of Departments were requested not to refer any fresh cases to the Tribunal for Disciplinary proceedings consequent on the appointment of Commissioner of Enquiries. In partial modification of these orders, in the G.O.2nd cited, orders were issued that the cases enquired into by the Anti-Corruption Bureau which the Government consider fit to be referred to the Tribunal for Disciplinary proceedings may be referred to the Tribunal for Disciplinary proceedings.

2. Now, it has been decided that cases which have to be placed before the Commissioner for Departmental Enquiries, but where action has not been initiated so far viz., where a charge memo has not been issued, could be referred to Tribunal for Disciplinary proceedings. The departments are, therefore, requested to consider referring such cases to Tribunal for Disciplinary proceedings in consultation with the Director General, Anti-Corruption Bureau.

(179)

Memo.No.1073/SC.D/88-1, Genl.Admn. (SC.D) Dept., dt.01.08.1988 regarding appeal in criminal cases - need to refer to Law Secretary and Home Department.

Subjec t Heading: Appeal - to refer to Law and Home

Ref : From the D.G., A.C.B., Lr.C.No.19/RPC(C)/87, dt.03.03.87 addressed to the Prl.Secretary to Govt., Home (Cts) Department.

The attention of the Director General, Anti-Corruption Bureau, is invited to the reference cited wherein he has made the following two suggestions:-

- 1) to issue instructions to all Departments to process his proposals relating to filing of appeals in the High Court or Supreme Court on the acquittal order of the Trial Court without referring to Law Department or the State Public Prosecutor or the Standing Counsel of the Bureau in the High Court as the judgements of trial courts in all A.C.B. cases are scrutinised by the Chief Legal Adviser in the Bureau, who is a senior Law Officer, and
- 2) to discontinue the present practice of the administrative departments referring the proposals received from the Anti-Corruption Bureau to Home Department to save delay.

2. The above two points have been examined by the Government and the position is clarified below :

- (i) The subject of Criminal Procedure including all the matters in the Constitution is allotted to Home Department - vide first schedule read with Rule 4 of the A.P. Government Business Rules. Where in a particular case an appeal against an order of acquittal recorded by any Court other than High Court is to be filed or not is a matter of discretion of the Government. This discretion has to be exercised by the Government in the Home Department as per the Business Rules aforesaid. In exercising this discretion, it is open to the Government to seek, if need be legal advice from the legal officers of the Government viz., Law Secretary, Advocate General and Public Prosecutor at High Court. The existence of a Legal opinion of the Chief Legal Adviser of Anti-Corruption Bureau on the question of filing an appeal against an order of acquittal should not be a bar to the Government from seeking independent Legal Advice from legal advisers like Law Secretary, Advocate General or Public Prosecutor.
- (ii) The Administrative Departments are referring cases of appeal pertaining to Anti Corruption Bureau to the Home Department, because the subject "Criminal Procedure" is allotted to Home Department under the Business Rules.

(180)

Memo.No.190/Ser.C/88-2, Genl.Admn. (Ser.C) Dept., dt.06.08.1988 regarding acknowledgment of annual property statements and reports of property transactions - proformae prescribed.

Subject Heading : Annual Property Returns - proformae of acknowledgement

Subject Heading : Property transactions - proformae of acknowledgement

Ref: G.O.Ms.No.468, G.A.(Ser.C) Dept., dt.17.04.64.

Sub-rule (1) of Rule 9 of the APCS (Conduct) Rules, 1964, lays down that no Government Servant should except after previous intimation to Government, acquire or dispose of, or permit any member of his family to acquire or dispose of, any immovable property by exchange, purchase, sale, gift or otherwise, either by himself or through others. Sub-Rule(2) of Rule 9 of the said rules lays down that a Government employee who enters into any transaction concerning any movable property exceeding Rs.5,000 in value, whether by way of purchase, sale or otherwise, shall forthwith report such transaction to Government.

2. According to sub-rule (7) of Rule 9 of the APCS (Conduct) Rules, 1964, as amended in G.O.Ms.No.52, GA (Ser.C) Department, dt.04.02.1988, it is obligatory on the part of every Government employee other than those in Andhra Pradesh Last Grade Service and Record Assistants in the Andhra Pradesh General Subordinate Service to declare at the time of entry into Government service as also every year before 15th January, the statements in respect of all immovable properties and movable properties inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family in the forms prescribed in the Annexure I and II respectively to Government through proper channel.

3. The authorities mentioned in sub-rule (10) of Rule 9 of the said rules have been declared as Government for the purpose of receiving, verifying and recording the said statements of the employees under their control.

4. It has been brought to the notice of Government that prior intimation given by Government employees in respect of any transactions relating to sale or purchase entered under sub-rules (1) and (2) of Rule 9 or the property statements submitted by them and received by the competent authorities, are not being acknowledged.

5. It was considered necessary to prescribe proforma acknowledgments and to make it obligatory on the part of competent authorities to issue acknowledgments to the Government employees on receipt of intimations of sale or purchase of property statements.

6. It has, therefore, been decided that the competent authorities may issue acknowledgments to the Government employees in the forms prescribed in Annexure I and II to this memo.

7. Where it is not possible for the competent authority to issue acknowledgments over his signature for all the Government employees under his control, such authority may identify and nominate an officer under his control to receive property statements and issue acknowledgements on his behalf. The fact of such nomination and subsequent changes, if any, therein may be brought to the notice of all concerned.

(Note : See Part II for Proformae (Nos. 43, 44)

(181)

Memo.No.1316/SC.D/88-1, Genl.Admn. (SC.D) Dept., dt.22.09.1988 regarding records to be forwarded by Anti-Corruption Bureau with preliminary report for considering whether suspension is warranted.

Subject Heading : ACB - Preliminary Report - records required to be enclosed.

Ref: 1. From the Director General, Anti-Corruption Bureau, Hyderabad, Lr.No.134/RPC(C)/87, dt. 29.08.1987.

2. U.O.Note No.1045/SC.D/87-3, G.A.(SC.D) Dept., dt.30.11.1987.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the references cited and he is informed that in cases recommended

for suspension after Traps / Searches pending enquiry / investigation, it is necessary to have the following vital documents also for proper consideration before arriving at a decision whether there is a *prima facie* case :-

- (i) Copy of the F.I.R.
- (ii) Copy of Mediator's report prepared at the time of traps / searches.

2. He is, therefore, requested to furnish copies of the above to the concerned authorities along with the Preliminary Report for consideration whether suspension is warranted or not.

(182)

**D.O.Lr.No.2943/Poll.A/88-1, Genl.Admn. (Poll.A) Dept., dt.16.12.1988
regarding extending courtesies to MLAs and MPs.**

Subject Heading : MLAs, MPs - observance of courtesies and promptness

Ref: From the Chief Secretary to Govt., D.O.Lr.No.2053/Poll.A/88, dt,18.08.88.

Please find enclosed a copy of the D.O. letter cited on the subject mentioned above addressed to the Collectors of all the Districts. The instructions contained therein may kindly be observed strictly and suitable instructions may also kindly be issued to all your subordinate officers for similar action to ensure that the complaints of non-observance of the instructions therein are not received from Members of Legislative Assembly / Members of Parliament and other public representatives.

Copy of D.O.Lr.No.2053/Poll.A/88, dt.18.08.1988

Instructions have been issued from time to time on the observance of courtesies by officers in their dealing with the Members of State Legislature and Parliament and also on the participation of officials in Public Functions. However, certain instances have been brought to the notice of the Government where some officers have not shown adequate courtesies and respect to the non-officials and there is a growing feeling that the official machinery has been functioning without any meaningful interaction with the public representatives.

2. I would like to reiterate the importance of being courteous and polite to the public representatives made by the people's representatives which, very often, reflect the felt needs of the people in their respective areas. In a democratic frame-work, it is imperative that officers should work in close conjunction with the people and the representatives of the people. It is desirable that the schemes and projects being implemented in the districts are formulated and implemented by taking the people's representatives into confidence.

3. It has also come to the notice of the Government that certain officers have been over projecting themselves and taking extraordinary interest in inaugurations and laying foundation-stones for various buildings, schemes and in some cases have even allowed certain schemes to be named after them. This tendency would not be in consonance with the detached, impersonal image which the civil service is expected to project. I would suggest that in all public functions the local prominent non-officials should be actively involved and they should have the sense of active participation in formulation and implementation of Government programmes. I would request you to adhere to the above guidelines and give no room for complaints.

(183)

Memo.No.1317/Ser.C/88-1, Genl.Admn. (Ser.C) Dept., dt.31.12.1988 regarding taking of departmental action in cases where Government Servants are acquitted in a criminal case.

Subject Heading : Departmental action and acquittal

Ref: 1) Memo.No.169/Ser.C/77-8, G.A.D., dt.10.02.1978.

2) Memo.No.637/Ser.C/83-1, G.A.D., dt.28.06.1983.

In the Government Memo. 1st cited, instructions have been issued on the action to be taken in cases where a Government servant convicted on a criminal charge is acquitted on appeal / revision filed in a higher court. In the Government Memo. 2nd cited, while reiterating the above instructions departments were requested to examine the cases in the light of the above instructions and to ensure that every proposed case of reinstatement is invariably referred to GA

(Ser.C) Department in order to examine the merits and the aspect of departmental discipline, public interest, loss to Government, gross misconduct etc. It has, however, come to the notice of the Government that some of the Departments are not following the above instructions in certain cases.

2. It has also been brought to the notice of the Government that the Supreme Court of India in Corporation of Nagpur Vs Ramachandra, (1981)(2 SC 714 - AIR 1984 SC 626) has decided in clear and unambiguous terms observed as follows :

"The other question that remains is if the respondents are acquitted in the criminal cases whether or not the departmental inquiry pending against the respondents would have to continue. This is a matter which is to be decided by the Department after considering the nature of the findings given by the criminal court. Normally where the accused is acquitted honourably and completely exonerated of the charges it would not be expedient to continue a departmental enquiry on the very same charges or grounds or evidence, but the fact remains, however, that merely because the accused is acquitted, the power of the authority concerned to continue the departmental inquiry is not taken away or is its discretion in any way fettered. However, as quite some time has elapsed since the departmental enquiry had started the authority concerned will take into consideration this factor in coming to the conclusion if it is really worthwhile to continue the departmental inquiry in the event of the acquittal of the respondents. If, however, the authority feels that there is sufficient evidence and good grounds to proceed with the inquiry, it can certainly do so"

3. In the light of the above Judgment of the Supreme Court of India it is clear that the acquittal of the Accused Officer by the Competent court is no bar to initiate departmental enquiry against the delinquent officer.

4. Government, while reiterating the instructions issued in the references cited request the Departments of Secretariat and Heads of Departments to examine the cases on merits in the light of what has been stated in the above paras and to ensure that the above instructions are followed scrupulously without any exception by all the concerned.

(184)

Memo.No.700/SC.D/88-4, Genl.Admn. (SC.D) Dept., dt.13.02.1989 regarding measures to expedite investigation in Anti-Corruption Bureau cases.

Subject Heading : ACB - measures to expedite investigation

Ref : From the Director General, A.C.B., D.O.Lr.No.87/RPC(C)/86, dt.14.06.88.

Complaints are often levelled that investigations / enquiries by the Anti-Corruption Bureau are taking long time resulting in Officers placed under suspension pending enquiry continuing to be under suspension for long periods. Government, have reviewed in detail the measures necessary to streamline the investigations / enquiries in Anti-Corruption Bureau cases with a view to ensure their expeditious completion. The following guidelines are issued for strict compliance.

1. Trap Cases :

In trap cases, the investigation should be completed within three months.

2. Assets disproportionate to Income :

- (i) In disproportionate assets cases, the investigation should normally be completed within six months. If the investigation could not be completed for any unavoidable reasons, the time limit may be extended upto another three months and in no case the investigation should go beyond nine months since the burden of proving his defence rests on the Accused Officer in view of the legal presumptions to be raised against the accused under the Prevention of Corruption Act, 1988.
- (ii) One of the reasons attributed for the delay in completion of the investigation in disproportionate assets cases is that the Accused Officer fails to give the required proforma statements to the Anti-Corruption Bureau inspite of several reminders. A time limit may be fixed for filing the statements and it should be made clear to the Accused Officer that if he fails to submit the statements within the prescribed time, it will be construed that he does not intend to avail the opportunity. If the Accused Officer likes to persue any documents seized from his possession by

the Anti-Corruption Bureau during investigation, he may be allowed to peruse the same to enable him to prepare the proforma statements.

Attention in this connection is invited to the instructions issued in Memo.No.574/SC.D/ 86-1, G.A.(SC.D) Department, dt.21.05.86 and Memo.No.762/SC.D/86-1, G.A.(SC.D) Department, dt.10.07.86 wherein the Heads of Departments of Secretariat have been requested to furnish the pay particulars, proforma statements etc. to the Anti-Corruption Bureau expeditiously within a period of two months on requisition by the Anti-Corruption Bureau.

- (iii) After the investigation is completed a notice in writing should be given to the Accused Officer to appear before the Investigating Officer on a prescribed date and submit his explanation, if any, for the possession of disproportionate assets found to have been disclosed during the investigation. Wherever possible such explanation may be received in writing from him so that he may not contend at a later stage that he was not given sufficient opportunity to explain his case.
- (iv) In deciding whether a case of disproportionate assets is fit for prosecution or not, the Anti-Corruption Bureau must take into account the tenure of the service of the accused Government Servant, his general reputation, his habits and style of living and the extent of disproportion and other facts and circumstances of the case. Considering the fact that it is not possible for a Government Servant to prove his defence with mathematical exactitude, it is desirable to take a liberal view of the excess of the assets over the receipts of the known sources of income and a reasonable margin upto 20% of the total income of the Accused Government Servant may be allowed, while computing the disproportionate assets, after taking the above mentioned factors into consideration.

3. Sanction of Prosecution :

As soon as an Investigation report of the Anti-Corruption Bureau is received by the Department regarding prosecution, the matter should be dealt with on top-priority basis and sanction for prosecution should be given without undue delay. In any case, the sanction order should be issued within 45 days from the date of receipt of the report of Anti-Corruption Bureau.

Attention is invited to the instructions issued in U.O.Note No.450/SC.D/87-1, dt.20.07.87 wherein the Departments of Secretariat are requested to issue orders sanctioning prosecution of the Government Servants within 45 days from the date of receipt of the final report from the Anti-Corruption Bureau among others.

4. Suspension of Officers :

As regards the suspension of Accused Officers in cases investigated by Anti-Corruption Bureau the following guidelines may be followed:-

- a) In trap cases, the Government Servant should be suspended immediately after the trap basing on the preliminary report of the Anti-Corruption Bureau.
- b) In disproportionate assets cases, the Accused Officer need not be suspended immediately following the registration of the case. But he may be transferred to a far off non-focal post to avoid likelihood of his tampering with the records and influencing the witnesses.
- c) If, however, the Anti-Corruption Bureau finds during investigation that there is reasonable ground for believing that the Accused Officer has deliberately failed to cooperate with the Investigating Agency or that he is trying to tamper with the official records or influencing the witnesses or bringing pressure on the Investigating Officers, it is open to the Anti-Corruption Bureau to recommend suspension of the Accused Officer at that stage.
- d) In cases other than those mentioned above, the Accused Officer should be suspended when a charge-sheet is filed against him in the court.
- e) Where after investigation, it is decided to initiate Regular Departmental action for imposing any of the major penalties and a charge-memo is served on the delinquent Government Servant, alleging specific acts of corruption or gross misconduct involving moral turpitude, he may be suspended immediately after the charge-memo is served on him.

5. The Director General, Anti-Corruption Bureau is requested to take the above into consideration while making recommendations for suspension and sending the final reports to Government for further action viz., Prosecution / Tribunal for Disciplinary Proceedings / Departmental action. Necessary proposals, if any, for the amendment of Anti-Corruption Bureau Manual in the light of the above instructions, may be sent to Government for further action immediately.

(185)

**Memo.No.1737/SC.D/88-4, Genl.Admn. (SC.D) Dept., dt.17.02.1989
regarding training courses and nomination of participants.**

Subject Heading : Training Courses - nomination of participants

- Ref: 1. Memo.No.1598/SC.D/85-2, G.A.(SC.D) Dept.,dt.27.12.85.
2. Memo.No.1330/SC.D/87-1, G.A.(SC.D) Dept.,dt.20.01.88.
3. From the D.G., A.C.B., D.O.Lr.No.6/ACB/TRG/88, dt. 21.01.89.
4. From the D.G., A.C.B., D.O.Lr.No.21/ACB/TRG/88, dt.21.01.89.

The attention of all Heads of Departments and Departments of Secretariat is invited to the reference 2nd cited, wherein they were requested to ensure the attendance of the officers nominated by them for the training courses conducted by the Anti-Corruption Bureau and to take necessary action against such officers who fail to complete the programme.

2. The Director General, Anti-Corruption Bureau has again brought to the notice of the Government that the response from various departments for nomination to the Training Courses is very poor, that some of the Departments are cancelling the nominations at the last moment without notice, that these Training courses are being organised by the Anti-Corruption Bureau after elaborate preparations for which senior officers of the Anti-Corruption Bureau are drafted for teaching work in addition to their regular duties and if the Training courses are not utilised to the maximum, it would amount to wastage of limited resources and expertise of the Bureau.

3. All the Heads of Departments and Departments of Secretariat are therefore requested to ensure nomination of good number of officers for the Training course conducted by the Anti-Corruption Bureau promptly and their attendance also to the courses without fail. Failure on their part or on the part of the officer would be taken serious notice of and necessary action taken against such officers. If any of the officers nominated could not be sent due to administrative reasons, the Anti-Corruption Bureau should be informed suitably.

(186)

G.O.Rt.No.732, Genl.Admn. (SC.F) Dept., dt.22.02.1989 regarding setting up of Commissionerate of Inquiries for conducting departmental inquiries.

Subject Heading : Commissionerate of Inquiries - setting up of

Read the following :

1. G.O.Rt.No.3134, G.A.(Spl.A) Dept., dt.01.08.86.
2. G.O.Rt.No.867, G.A.(SC.D) Dept., dt.11.03.88

ORDER :

Government have reviewed the existing institutional arrangements in regard to disposal of disciplinary cases against Government Servants under the APCS (CC&A) Rules, 1963, in respect of State Government officers and under the All-India Services (Discipline and Appeal) Rules, 1969 in respect of All-India Service Officers serving in connection with the affairs of the State. Disciplinary cases initiated on the basis of enquiry into misconduct of public servants conducted through the Anti-Corruption Bureau are presently entrusted either to the Tribunal for Disciplinary proceedings or to the Department for entrustment to the Inquiry Officers appointed by the Department. Departments also initiate other disciplinary proceedings against officers for serious administrative lapses. Government have noted with concern the inordinate delay in the matter of disposal of such disciplinary cases entrusted to part-time Departmental Officers and the consequential ineffectiveness of the whole procedure.

2. Government are anxious that disciplinary proceedings entrusted to the Departmental Inquiry Officers are disposed off in accordance with the rules and procedure laid down with promptitude.

3. Accordingly, Government have decided that there shall be a Commissionerate of Inquiries for conducting disciplinary proceedings against Gazetted Officers in respect of misconduct warranting major punishments, other than those referred to the Tribunal for Disciplinary proceedings.

4. Government accordingly constitute a Commissionerate of Inquiries for conduct of disciplinary proceedings against Gazetted Officers of State

Government and All-India Service Officers serving in connection with the affairs of the State. For the time being, the Commissionerate shall comprise of Chairman and one Member. Orders appointing the Chairman of the Commissionerate will issue separately from General Administration (Special.A) Department.

5. Detailed instructions and working procedures to be observed in the entrustment of cases by the Departments to the Commissionerate of Inquiries will issue separately.

6. Sri T.Padmanabhan, IAS appointed as Commissioner for Departmental Inquiries in the G.O. 1st read above shall be the Member of the Commissionerate. The cases entrusted to him shall stand transferred to the Commissionerate and shall continue to be dealt with by him as Member of the Commissionerate.

7. The post of the Commissioner of Inquiries held by Sri R.H.Heeraman Singh, Retired District & Sessions Judge, Grade-I, last sanctioned in the G.O. 2nd read above shall stand abolished from 28.02.1989 AN.

8. The disciplinary cases entrusted to Sri V.Sundaresan, IAS (Retired), One Man Commission, will be transferred to the Commissionerate of Inquiries.

9. The existing staff attached to the Commission of Inquiry (Sri R.H.Heeraman Singh) and the Commissioner for Departmental Enquiries (Sri T.Padmanabhan, IAS) will stand transferred to the Commissionerate of Inquiries.

(187)

Memo.No.220/Ser.C/89-1, Genl.Admn. (Ser.C) Dept., dt.08.03.1989 (as amended by Memo.No.1419/Ser.C/89-1, G.A.(Ser.C) Dept., dt.25.10.1989) regarding suspension of officers involved in traps and disproportionate assets cases.

Subject Heading : Suspension - in trap cases

Subject Heading : Suspension - in disproportionate assets cases

- Ref: 1. Memo.No.401/Ser.C/65-1, GAD dt.27.02.65.
2. Memo.No.204/Ser.C/76-3 GAD dt.31.05.76.
3. Memo.No.1095/Ser.C/84-4 GAD dt.27.04.85.
4. Memo.No.700/SC.D/88-4 GAD dt.13.02.89.

In the reference first cited, instructions of the Government of India were communicated to the effect that the public interest shall be the guiding factor in deciding the question of placing a Government Servant under suspension and that the disciplinary authority should have the discretion to decide this taking into consideration all aspects of the case. The circumstances in which a disciplinary authority may consider it appropriate to place a Government Servant under suspension, as laid down by the Government of India, were also indicated. These instructions include cases where the continuance in office of the Government Servant will be against the wider public interest, such as public scandal, particularly corruption, etc.

2. In the references 2nd and 3rd cited, detailed instructions have been issued in regard to suspension of the Government employees involved in trap cases and possession of disproportionate assets on the basis of reports received from the Director of Anti-Corruption Bureau.

3. The matter regarding suspension of Government employees involved in cases of traps and possession of disproportionate assets taken up for investigation by the Anti Corruption Bureau has been reviewed and the following instructions are reiterated and further instructions are issued :

- a) In trap cases, the Government Servant should be suspended immediately after the trap basing on the preliminary report of the Anti-Corruption Bureau.
- b) In disproportionate assets cases, the Accused Officer need not be suspended immediately following the registration of the case. But he may be transferred to a far off non-focal post to avoid likelihood of his tampering with the records and influencing the witness. Attention is in this connection invited to Government Memo.No.1733/Ser.C/67-2, dt.03.08.1967.
- c) If, however, the Anti-Corruption Bureau finds during investigation that there is reasonable ground for believing that the Accused Officer has deliberately failed to co-operate with the Investigating Agency or that he is trying to tamper with the official records or influencing the witnesses or bringing pressure on the Investigating Officers, it is open to the disciplinary authority to place the Accused Officer under suspension, at that stage, based on the recommendation of the Anti-Corruption Bureau to that effect.

- d) In cases other than those mentioned above, the disciplinary authority should consider and decide the desirability of placing the accused officer under suspension, if he is not already under suspension as and when a charge sheet is filed against him in the court or where after investigation, it is decided to initiate regular Departmental action for imposing any of the major penalties and a charge Memorandum is served in this regard.
4. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above instructions scrupulously and also communicate the same to the concerned disciplinary authorities under their control for their guidance.

(188)

**U.O.Note No.567/Ser.A/89-1, Genl.Admn. (Ser.A) Dept., dt.09.03.1989:
Government Servants, Gazetted and Non-Gazetted - not to be transferred
within 3 years, normally.**

Subject Heading : Transfer - not within 3 years

- Ref : 1. G.O.Ms.No.1289, G.A.(Ser.A) dept., dt.06.11.83.
 2. Govt.Memo.No.2741/Ser.A/68-2, G.A.D., dt.21.01.69.
 3. Govt.Memo.No.620/Ser.A/84-1, G.A.D., dt.01.05.84.
 4. Govt.Memo.No.510/Ser.A/85-1, G.A.D., dt.14.05.85.
 5. Govt.Memo.No.864/Ser.A/85-1, G.A.D., dt.03.07.85.
 6. Govt.Memo.No.956/Ser.A/86-1, G.A.D., dt.26.06.86.
 7. Govt.Memo.No.882/Ser.A/87-2, G.A.D., dt.15.12.88.

Instructions were issued in the references cited that no Government Servant should be transferred from one place to another before they put in atleast three years of service, except on grounds of promotion, or as a measure of penalty or at the officer's own request, in very special cases. Instructions were also issued in the reference third cited that where any deviation from the guidelines has to be made, prior sanction of immediate higher authority should be obtained, before such transfer is effected. Instructions were also issued in the reference fifth cited that, in respect of all transfers made by competent authorities, below

the Head of Department level, the transfers should be reviewed by the Head of Department and a copy of the review should be sent to the concerned Administrative Department in the Secretariat; that for the purpose of review, the authority competent to effect the transfer should send a monthly periodical report in the proforma prescribed therein so as to reach the Head of the department and the Government before 10th of every month. It was also ordered therein that in respect of transfers effected by the Head of Department, the concerned Administrative Department should review the transfers effected. Instructions were further issued in Government Memorandum sixth cited that the Heads of Departments and the Departments of Secretariat should undertake the review regularly and bring cases of transfers which have been made in deviation of the guidelines on the subject to the notice of the Chief Minister through Chief Secretary atleast once in a quarter if not every month.

2. The instructions issued in the references cited are hereby reiterated and the Collectors of all Districts are requested to report the particulars of the transfer of officers, made by them, to the concerned secretaries to Government, before 10th of every month. Heads of Departments shall also submit monthly return of transfers effected by them and officers subordinate to them by the 15th of every month to the Secretary to Government concerned. In case, there are any deviations from the guidelines relating to any transfers, they should explain the reasons for doing so and shall be held responsible for the transfers made by them.

3. All the Secretaries to Government are requested to review the transfers effected in various Departments under their administrative control every month and wherever it is found that the transfers are unwarranted, they should take prompt action to cancel the orders of such transfers. They are also requested to ensure that guilty persons are properly dealt with by taking departmental action, since mere transfer of an official does not serve the purpose nor transfer of an official does not have the effect of punishment.

(189)

Memo.No.215/SC.D/89-1, Genl.Admn. (SC.D) Dept., dt.03.04.1989 regarding disciplinary action in Anti-Corruption Bureau cases - furnishing of records.

Subject Heading : ACB - to furnish draft charges and records etc with report

The attention of the Director, Anti-Corruption Bureau, Hyderabad, is invited to Government Memo.No.490/SC.E/87-1, Genl. Admn. (SC.E) Department, dt.13.03.87, wherein instructions were issued that in cases enquired into by the Anti-Corruption Bureau and which may require the imposition of a major penalty, the Anti-Corruption Bureau while recommending departmental action by the Commissioner for departmental enquiries should enclose draft charges with statement of imputations, list of witnesses and documents for consideration by the appropriate disciplinary authority.

2. The above instructions were issued with a view to avoid delay in initiating disciplinary proceedings against the Government employee concerned, once a decision is taken by the competent authority on the recommendation of the Anti-Corruption Bureau.

3. It has now been brought to the notice of the Government that in some cases, the accused officers are asking for perusal of the relevant records to submit statement of defence and that it should be felt that the disciplinary authority has applied its mind in framing charges by referring to records.

4. Government have examined the above position carefully and consider it necessary for the disciplinary authority to have original records also along with the final report of the Anti-Corruption Bureau, draft articles of charge, statement of imputations etc., to enable the disciplinary authority to take a decision by referring to records also.

5. The Director, Anti-Corruption Bureau, Hyderabad, is, therefore, informed that along with the final report suggesting disciplinary action, the relevant records should also be sent to the concerned disciplinary authorities under proper acknowledgment together with draft articles of charge, statement of imputations, lists of records and list of statement of witnesses.

6. The Departments of Secretariat are requested to take great care of the records received from the Anti-Corruption Bureau and keep them in safe custody of a responsible officer to avoid tampering with.

(190)

**Memo.No.2866/SC.F/87-3, Genl.Admn. (SC.F) Dept., dt.13.07.1989:
Disciplinary authorities to furnish charge memo, statements of witnesses
and final order to A.C.B., on request**

Subject Heading : ACB - to nominate Presenting Officer

**Subject Heading : ACB - charge memo, witness statements, final orders
to be furnished**

Ref: From the D.G., A.C.B., Lr.Rc.No.32/RC.CR/83, dt.23.11.87.

Government have decided that in disciplinary cases instituted on the basis of enquiry conducted by the Anti-Corruption Bureau, the concerned Disciplinary authority / Inquiry Officer, as the case may be, should furnish on request from the Anti-Corruption Bureau, the following documents:

- 1) Copy of the Charge Memo served on the Accused Officer;
- 2) Copies of statement of witnesses; and
- 3) Copy of the final order passed.

2. Government have also decided that in disciplinary cases instituted based on enquiry by Anti-Corruption Bureau, the Anti-Corruption Bureau may be requested to nominate a Presenting Officer before the Inquiry Officer.

(191)

**Memo.No.33663-C/42/TFR/88, F&P (FW.TFR) Dept., dt.31.07.1989 regarding
Joint Surprise Checks - depositing of sealed packet of cash.**

Subject Heading: Surprise Checks - depositing of cash

Ref: From the D.G., A.C.B., Lr.C.No.178/RPC(C)/87 dt.30.10.87.

The Director General, Anti-Corruption Bureau, Hyderabad, has stated that the Departmental Traps and Joint Surprise Checks are being organised by his staff through out the state frequently wherein small amounts are being seized.

Such seized cash amounts have to be safe-guarded by being deposited in the treasury duly sealed in a packet for a short period i.e., until the concerned department appoints an Inquiry Officer. Immediately after appointment of Inquiry Officer, the concerned Deputy Superintendent of Police, Anti-Corruption Bureau will withdraw the sealed packet. He has therefore requested the Government to issue instructions to the Treasury Officers to accept the packets containing seized articles when brought to deposit in treasuries.

2. Government after careful consideration hereby direct that all the District Treasury Officers / Sub-Treasury Officers should accept the sealed packets deposited by the Anti-Corruption Bureau Officers of the rank of Deputy Superintendent of Police for safe custody. However, the District Treasury Officers / Sub-Treasury Officers are not responsible for contents but only for safety of the seals.

(192)

U.O.Note No.1041/SC.F/88-4, Genl.Admn. (SC.F) Dept., dt.16.08.1989 regarding entrustment of departmental inquiries to Commissionerate of Inquiries - framing of charges.

Subject Heading : Commissionerate of Inquiries - framing of charges

Ref : 1. Memo.No.490/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.

2. From the former Commissioner for Departmental Inquiries, D.O.Lr.No.165/CDI /87-11, dt.10.02.89.

It has been brought to the notice of the Government that due care and caution is not being taken by the Departments while framing charges against delinquent officers. As a charge Memo is the essence of an allegation setting out the nature of the accusation in general terms, such as negligence in the performance of official duties, breach of conduct rules, misconduct etc., it is necessary to frame the articles of charge with great care. All Departments of Secretariat are requested to keep the following important aspects in view while framing charges against the delinquent officers hereafter:-

a) Each charge should be expressed in clear and precise terms and should not be vague.

- b) A separate charge should be framed in respect of each separate transaction / event or a series of related transactions/events amounting to misconduct/misbehaviour.
- c) If the transaction/event amounts to more than one type of misconduct then all the misconducts should be mentioned.
- d) If a transaction / event shows that the Government Servant must have been guilty of one or the other of misconducts depending in one or the other set of circumstances, then the charge can be in the alternative.
- e) Multiplication or splitting up of charges on the basis of the same allegation should be avoided.
- f) The wording of the charge should not appear to be an expression of opinion as to the guilt of the delinquent official.
- g) A charge should not relate to a matter which had already been the subject matter of an inquiry and decision, unless it is based on benefit of doubt or on technical consideration.
- h) The charge should not refer to the preliminary investigation.
- i) The articles of charge should first give plain facts and then mention the nature of misconduct / misbehaviour.
- j) The statement of imputations should give full and precise recitation of the specific and relevant acts of commission or omission on the part of the Government Servant in support of each charge including any admission or confession made by the Government Servant and any other circumstances which it is proposed to take into consideration. In particular, in cases of misconduct / misbehaviour, it should mention the conduct / behaviour expected or the rule violated. It should be precise and factual. While drafting the statement of imputations it would not be proper to mention the defence and enter into a discussion of the merits of the case. Wording of the imputations should be clear enough to justify the imputations inspite of the likely version of the delinquent.
- k) The list of witnesses should contain the names of only those witnesses who will be able to give positive evidence to substantiate the allegations.

- I) The list of documents should mention documents containing evidence in support of the allegations which are proposed to be provided during the inquiry on behalf of the disciplinary authority.
2. All material particulars given in the allegations, such as dates, names, figures, totals of amounts etc., should be carefully checked with reference to original documents and records.

(193)

U.O.Note No.1798/SC.F/87-12, Genl.Admn. (SC.F) Dept., dt.22.08.1989: No reference to be made to A.C.B. in charges etc.

Subject Heading : ACB - not to quote in references or charges

Ref : U.O.Note No.1798/SC.E/87-1, G.A.(SC.E) Dept., dt.20.10.87.

Instructions have been issued from time to time that while making references to Heads of Departments about the enquiries made by the Anti-Corruption Bureau or while issuing orders in cases of corruption against Government Servants etc., the source of investigation should not be divulged. In the U.O.Note cited, instructions were issued that Departments of Secretariat should not mention correspondence with the Anti-Corruption Bureau in their order appointing Inquiry Officer and that Departments should not mark a copy of the order to the Anti-Corruption Bureau, but send a copy of the order separately to the Anti-Corruption Bureau. Similarly, instructions were also issued to the effect that a separate communication should be sent to the Anti-Corruption Bureau regarding instructions for furnishing documents to the Inquiry Officer. Inspite of these instructions, it has come to notice that in certain cases, the Departments of Secretariat have quoted the reference of the Anti-Corruption Bureau in the charges framed and in the order appointing Inquiry Officer etc., leading to the demand by the Charged Officer for furnishing of copies of Anti-Corruption Bureau reports etc. The Anti-Corruption Bureau reports are considered as 'classified documents' and cannot be furnished to the delinquent officer for purpose of preparing his defence. They are meant only to assist the Disciplinary authority to come to a firm conclusion about the action to be taken against the delinquent officer.

2. All Departments of Secretariat are, therefore, requested to scrupulously follow the instructions and strictly avoid any reference to the Anti-Corruption Bureau correspondence in the Charge Memos, orders appointing Inquiry Officer etc., to be issued in future in the disciplinary cases against Government Servants.

(194)

**U.O.Note No.2397/SC.F/89-1, Genl.Admn.(SC.F) Dept., dt.25.09.1989
regarding handling of A.C.B. reports - to ensure safety and secrecy.**

Subject Heading: ACB - to ensure secrecy and safety of ACB report

Ref : U.O.Note No.664/SC.D/87-1 G.A.(SC.D) Dept., dt.29.06.87.

The attention of the Departments of Secretariat is invited to the reference cited. In the circumstances stated therein, the Departments have been requested to guard against the misplacement of the Anti-Corruption Bureau reports and unauthorized persons coming into the possession of the reports and also against the leakage of A.C.B. reports to the accused officers. They have been requested to ensure that the A.C.B. references / reports are handled and accounted for properly. Despite these clear instructions, classified documents emanating from the Anti-Corruption Bureau like the Draft Final Reports are being continued to be misplaced in the Departments. Recently an instance has come to notice where in a Department has asked for a copy of the Draft Final Report of the Anti-Corruption Bureau after a lapse of 3 years on the ground that the one sent earlier was not received. Such improper handling of classified documents need to be checked.

2. All the Departments of Secretariat are once again requested to guard against the misplacement of A.C.B. Reports and unauthorized persons, i.e., the accused officers coming into the possession of reports. They are also requested to ensure that the A.C.B. reports are handled and accounted for properly.

(195)

Lr.Rc.No.Con.Vig.No.I/88 (Vol.III) of the Chief Commissioner of Income-Tax, A.P., Hyderabad, dt.09.11.1989 regarding furnishing of information of assessees by Income Tax Department.

Subject Heading : ACB - securing information from Income Tax Department

It is seen that requests for supply of information relating to persons being assessed under direct Tax Laws were being addressed to this office. All the officers working in this department were being advised, time-to-time, to furnish the information called for by the C.B.I., State Vigilance and Police authorities etc. In this connection this office Memo.H.Qrs.-I/Con/84-85, dt.30.04.1985 copy

of which was sent to Director, A.C.B., may please be seen (see Document No. 118). In view of the above, in order to avoid delay in furnishing the information called for, it is requested that requisitions for supply of information, extracts etc. under Section 91/94 of Cr.P.C. may be addressed to the Assessing authority concerned in this department.

(196)

Circular Memo.No.1563/Ser.C/89-1, Genl.Admn. (Ser.C) Dept., dt.11.11.1989 regarding A.P.C.S. (Disciplinary Proceedings Tribunal) Rules, 1989 - clarification under new Rules.

Subject Heading: TDP - types of cases to be referred to TDP

Ref : G.O.Ms.No.304, G.A.(Ser.C) Dept., dt.03.06.89.

The attention of Departments of Secretariat and Heads of Departments etc., is invited to the revised APCS (Disciplinary Proceedings Tribunal) Rules, 1989 issued through the reference cited. The cases of the officers involved in misconduct as defined in Rule 2(b) will be referred to the Tribunal for Disciplinary proceedings for enquiry and report under Section 4 of the APCS (Disciplinary Proceedings Tribunal) Act by the Government subject to the provisions in Rules 3(1) and 4(1) of the said rules which are extracted below for reference:-

“3(1) The Government may subject to the provisions of Rule 4, refer to the Tribunal for enquiry and report under section 4 of the Act—

- a) cases relating to Gazetted Officers in respect of matters involving misconduct; and
- b) cases relating to Non-Gazetted Officers in respect of matters involving misconduct committed by such Government Servants either jointly with Gazetted Officers or in the course of the same transaction involving misconduct committed by Gazetted Officers.

4(1) In a case of the type referred to in sub-rule (1) of Rule 3, on completion of enquiry or investigation, as the case may be, the Anti-Corruption Bureau or the departmental authority shall, where it is necessary that an inquiry by the Tribunal is called for, submit a report of the case to the Government.”

2. Therefore, the cases of the officers of the type indicated in Rule 3(1) referred to above and where it is considered necessary that an enquiry by the Tribunal is called for alone have to be sent to Government for taking further action under sub-rule (2) of Rule 4 of the said rules. In other words, cases relating to:-

- 1) Gazetted Officers in whose cases, the Anti-Corruption Bureau or the Departmental authority considers it unnecessary on completion of enquiry or investigation; and
- 2) Non-Gazetted Officers other than those referred to in Rule 3(1)(b) need not be referred to Government for placing them on their defence before the Tribunal for Disciplinary proceedings in respect of matters involving misconduct committed by such Government Servants. In all such cases action can be taken by the competent authorities under the APCS (CC&A) Rules.

(197)

Memo.No.398/SC.D/87-3, Genl.Admn. (SC.D) Dept., dt.24.11.1989 regarding publicity by mass media in cases against corrupt public servants.

Subject Heading: Publicity in Press - counter statements by accused

Ref : From the Director, A.C.B., Lr.C.No.44/RPC(C)/87, dt .11.89.

The attention of the Director, Anti-Corruption Bureau is invited to the reference cited, and he is informed that Government of India, Ministry of Information & Broadcasting, New Delhi has already been addressed in Lr.No.398/SC.D/87-1, dt.06.04.88 (see Circular No.165), not to entertain statements from individual public servants issued as counter statements to official press releases by the Anti-Corruption Bureau.

(198)

U.O.Note No.1336/SC.D/89-1, Genl.Admn. (SC.D) Dept., dt.27.11.1989 regarding cut in subsistence allowance for failure to furnish required information to Anti-Corruption Bureau.

Subject Heading : Disproportionate Assets - proforma statements, pay and service particulars

Subject Heading : Property statements - furnishing to ACB

The Andhra Pradesh State Vigilance Advisory Board in its meeting held on 21.07.1988 discussed, among others, the following points:-

- 1) Difficulty is being experienced by the Anti-Corruption Bureau in view of the abnormal delay in the departments in complying with its

requests for supply of documents and information, especially pay particulars etc., and

- 2) Inspite of instructions issued by the Government, there is reluctance on the part of the authorities to take action against recalcitrant accused officials by initiating disciplinary action for failure to furnish proforma statements and imposing a cut in the subsistence allowance.

2. In regard to point (1), the Genl.Admn. (Vig.&Enf.) Department are informed that instructions have already been issued to all departments of the Secretariat, Heads of Departments and Collectors that they should supply necessary documents requisitioned by the Anti-Corruption Bureau within a fortnight or at the most within a month vide Govt.Memo.No.143/SC.D/88-5, dt.09.05.1988.

3. In regard to point (2) above, the Genl.Admn. (Vig.&Enf.) Department are informed that the matter has been examined in consultation with Finance & Planning (FW) Department and Law Department and the position is that a cut in subsistence allowance for failure to furnish information as aforesaid, is not possible.

(199)

G.O.Ms.No.77, General Administration (Services-C) Department, dt.08.02.1990 regarding Andhra Pradesh Civil Services (Conduct) Rules, 1964 - Amendment to sub-rule (1) of Rule 19 - Orders -Issued.

Subject Heading : Andhra Pradesh Civil Services (Conduct) Rules, 1964 - Amendment to sub-rule (1) of Rule 19 - Orders - Issued.

Read :

G.O.Ms.No.468, General Administration (Services.C) Department, dated 17.04.1964.

ORDER :

The following notification shall be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 :

AMENDMENT

For sub-rule(1) of Rule 19 of the said rules, the following sub-rule shall be substituted, namely :

“(1) No Government employee shall be a member of, or be otherwise associated with, any political party or any organisation in respect of which there is a slightest reason to think that the organisation has a political aspect and takes part in the politics; nor shall he participate in, subscribe in aid of, or assist in any other manner, any political movements or activity”.

(200)

G.O.Ms.No.104, Genl.Admn. (Ser.C) Dept., dt.16.02.1990 regarding sealed cover procedure – promotion / appointment of employees to higher posts while investigation into allegations / disciplinary proceedings initiated against them are pending.

Subject Heading : Sealed cover procedure

Read the following :

1. G.O.Ms.No.790, G.A.(Ser.C) Dept., dt.29.09.70.
2. G.O.Ms.No.211, G.A.(Ser.C) Dept., dt.31.03.75.
3. G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05.76.
4. O.M.No.22011/2/86-Estt.(A), dt.12.01.88 Govt.of India, Department of Personnel and Training.

ORDER :

In the G.O. third read above, instructions have been issued, among other things, for consideration of the claims for promotion of officers who are facing enquiry in any Departmental proceedings or before a criminal court or

whose conduct is under investigation and against whom Departmental proceedings or criminal prosecution is about to be instituted as per the procedure laid down therein. It has also been ordered in para 2(iii) of the said G.O. that in the case of an officer whose record is such that he would have been promoted had he not been facing enquiry, trial or investigation, in respect of charges which, if held proved, would be sufficient to supersede him, the Departmental Promotion Committee or other authority should consider whether such an officer would have been recommended for promotion, if the officer, had his conduct not been under enquiry, trial or investigation, and make its recommendations and the rank to be assigned to him in the promotion list. In such cases, the Departmental Promotion Committee or other authority may make a specific recommendation that their promotion should be deferred until after the termination of the disciplinary proceedings or criminal prosecution.

2. However, there are no instructions to defer promotion/ appointment to higher post of an officer included in the panel, if between the date of such inclusion in the panel and actual date of promotion, investigation / inquiry / trial has been taken up against an officer so included in the panel and the charges are serious enough to warrant categorisation of that officer into the group referred to in para 2(iii) of the G.O. third read above. The Government of India, have issued instructions in their O.M. fourth read above to defer promotion/appointment in such cases, until after the termination of such proceedings.

3. The Government have examined the issue, keeping in view the instructions issued by the Government of India in this regard, and decided that promotion / appointment by transfer to higher post of an officer included in the panel, if between the date of inclusion in the panel and the date of actual promotion, disciplinary proceedings / investigation / inquiry / trial has been taken up against such officer, whose case falls under the group referred to in para 2(iii) of the G.O. third read as mentioned in para 1 above shall be deferred, until after termination of all such proceedings. In the event, the officer concerned is completely exonerated, he should be promoted / appointed to the post restoring him his rightful place with retrospective effect viz., with effect from the date on which his immediate junior was promoted or from the date on which he would have been promoted, held the inquiry / investigation / trial not been initiated against him, as the case may be.

(201)

G.O.Ms.No.168, General Administration (Services-C) Department, dt.06.03.1990 - Andhra Pradesh Civil Services (Conduct) Rules, 1964 - Amendments to Rule 25 – Orders – Issued.

Subject Heading : Andhra Pradesh Civil Services (Conduct) Rules, 1964 - Amendment to Rule 25 – Orders – Issued.

Read :

G.O.Ms.No.468, G.A.(Services-C) Department, dated.17.04.1964.

ORDER :

According to sub-rule (1) of Rule 25 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, no Government employee who has a wife living shall contract another marriage without first obtaining the permission of the Government notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

2. It has been brought to the notice of the Government that certain Government employees in whose cases personal law permits second or subsequent marriage while the first or former wife is living, are approaching the Government for permission before contracting another marriage, with the plea that they have pronounced "Talaq" and intimated the same to their wives. No documents in support of the pronouncement and communication of "Talaq" are produced.

3. The Government have, after careful examination, considered that while the method of divorce is a matter of personal law, it is considerable to make it obligatory that the employees must intimate appointing authority / Government in advance, the fact of the 'Divorce or Talaq' in respect of the previous marriage and the manner in which the same was pronounced and intimated to the wife by producing relevant documentary evidence in support of it, while seeking permission to contract second marriage.

4. According to sub-rule (2) of Rule 25 of Andhra Pradesh Civil Services (Conduct) Rules, no female Government Servant shall marry any person who has a wife living without first obtaining the permission of the Government. As

the above sub-rule is not free from doubt, it has been decided to recast the said sub-rule, so as to bring out the intentions more clear.

5. Accordingly the following notification will be published in Andhra Pradesh Gazette :

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services. C) Department, dated.17.04.1964.

AMENDMENTS

In Rule 25 of the said rules :

(a) to sub-rule (1), the following proviso shall be added namely :-

"provided that where the personal law provides for second or subsequent marriage, the Government employee shall, while seeking permission to contract another marriage, produce documentary evidence in support of "Divorce or Talaq" in respect of previous marriage and the manner in which the same was secured or pronounced and intimated to the first or former wife".

(b) for sub-rule (2), the following shall be substituted, namely:-

"No female Government Servant, whether unmarried or widow or divorced, as the case may be, shall marry any person who has a wife living without first obtaining the permission of the Government, though the parties are governed by the personal law which otherwise permits contracting more than one marriage while the prior marriage is subsisting"

(202)

G.O.Ms.No.194, Genl.Admn. (Ser.C) Dept., dt.15.03.1990 regarding conducting of ex parte inquiry in disciplinary cases.

Subject Heading : Inquiry – ex parte

Read :

G.O.Ms.No.1376, G.A.(Rules) Dept., dt.28.11.63

ORDER :

It has been brought to the notice of the Government, that in some disciplinary cases, the disciplinary authorities concerned are not strictly following the procedure laid down regarding the conduct of oral enquiry under Rule 19(2) of the APCS (CC&A) Rules, 1963.

2. According to Rule 19(3)(a) of the said rules, among other things, where the authority competent to impose the penalty is satisfied that for some reasons to be recorded by that authority in writing, it is not reasonably practicable to hold such enquiry or give such opportunity, the provisions of sub-rules (1) and (2) of the said rules shall not apply. Further as per Rule 19(4)(a) of the said rules all or any of the provisions of sub-rules (1) and (2) may, in exceptional cases and for special and sufficient reasons to be recorded by competent authority in writing be waived, where there is a difficulty in observing fully the requirements of these sub-rules and those requirements can be waived without causing any injustice to the person charged. The provisions of these rules are intravires the second proviso under article 311(2) of the Constitution of India.

3. As Rule 19(2) of APCS (CC&A) Rules, stipulates that an oral enquiry may be held, if such an enquiry is desired by the person charged or is so decided by the enquiry officer, holding of an oral enquiry becomes mandatory, if the charged officer desires it.

4. The question whether in case where charged officer has not desired an oral inquiry, an oral enquiry is obligatory or not depends upon the facts of each case and is to be determined by the competent authority or inquiry officer. In view of this, no hard and fast rule can be laid down that in all cases where the charged officer does not desire an oral enquiry, it is not necessary to have any such enquiry. The facts of each case will have to be looked into.

5. Instruction (5) in Appendix-VI to the APCS (CC&A) Rules inter alia lays down that if the delinquent officer absents himself, the Inquiry Officer can conduct the inquiry ex parte to satisfy himself about the truth of the charges.

6. After due consideration, it has been decided to enlarge these instructions to cover other types of situations also.

7. Accordingly, the following amendment is issued to Appendix-VI to the APCS (CC&A) Rules, 1963 :

AMENDMENT

In the said Appendix after item (b) under instruction (5), the following shall be added, namely :

“(c) The cases of loss and fraud are usually reported to the Police and the officials involved who are placed under suspension continue to be under suspension till they surrender or are apprehended by the Police and prosecuted, resulting in either the cases dragging on for a long time or if and when the absconding officials are for apprehended and proceeded against, they are required to be paid the subsistence allowance, if they produce a certificate of non-employment.

In such cases, the disciplinary authorities shall take the following action:-

- (i) A certificate should be obtained from the local Police authorities to the effect that the whereabouts of the officials concerned are not known. This certificate should be placed on record in the connected file.
- (ii) A brief statement of allegations and charges should be prepared and kept on the file.
- (iii) The disciplinary authority should himself record on the file the fact that the whereabouts of the officials concerned are not known and that the Police authorities have also certified to that effect and, therefore, it is not reasonably practicable to hold the inquiry contemplated under Rule 19(2) of the APSCS (CC&A) Rules, 1963. The disciplinary authority can then take recourse to Rule 19(3) and 19(4) of the said rules, wherein enquiry has to be dispensed with. Reasons for not holding inquiry should then be recorded in writing and the disciplinary authority should issue orders imposing such penalty as it deems fit. The allegations and charges have to be briefly discussed in the punishment orders. Normally in such cases, the punishment that could be meted out would be either removal or dismissal from service.
- (iv) Ex parte enquiry :

Whenever an official continues to remain absent from duty or overstays leave without permission and his whereabouts are not known, or fails to reply to official communications, the disciplinary authority may initiate action under Rule 19(2) of APSCS (CC&A)

Rules, 1963. In all such cases, the competent authority should, by a Registered Acknowledgment Due letter addressed to the official at his last known address, issue a charge sheet in the form prescribed for the purpose and call upon the official to submit a written statement of defence within a reasonable period to be specified by that authority. If the letter is received undelivered or if the letter having been delivered, the official does not submit a written statement of defence on or before the specified date or at a subsequent stage does not appear in person before the Inquiry Officer, or otherwise fails or refuses to comply with the provisions of APCS (CC&A) Rules, the inquiring authority may hold an ex parte inquiry. The notices of all hearings should be served on the accused or communicated to him unless the first notice says that the inquiry will continue from day to day. In ex parte proceedings, the entire gamut of the enquiry has to be gone through. The notices to witnesses should be sent, the documentary evidence should be produced and marked, the Presenting Officer if appointed, should examine the prosecution witnesses and the inquiring authority may put such questions to the witnesses as it thinks fit. The inquiring authority should record the reasons why he is proceeding ex parte and what steps he had taken to ask the accused official to take part in the enquiry and avail of all the opportunities available under the provisions of Rule 19(2) of the APSC (CC&A) Rules. In such a case, the details of what has transpired in his absence, including depositions, should be furnished to the accused officer. During the course of enquiry, the accused is free to put in appearance and participate in the enquiry. If the accused appears in the enquiry when some business has already been transacted, it is not necessary to transact the same business again unless the accused official is able to give justification to the satisfaction of the Inquiry Officer for not participating in the enquiry earlier. The competent authority may, thereafter, proceed to pass the final orders dismissing or removing the official from service after following the prescribed procedure.

(203)

G.O.Ms.No.205, Genl.Admn. (Ser.C) Dept., dt.17.03.1990 regarding authorities empowered to undertake review of orders of suspension for continuance beyond six months.

Subject Heading : Suspension - review of cases.

Read :

G.O.Ms.No.204, G.A.(Ser.C) Dept., dt.17.03.1990.

ORDER :

Sub-rule (1) of Rule 13 of the APCS (CC&A) Rules, 1963 lays down that in the following circumstances, a member of service may be placed under suspension:-

- a) Pending enquiry into grave charges or when disciplinary proceedings are contemplated against him; or
 - b) Pending investigation, inquiry or trial relating to a Criminal charge.
2. Until the conclusion of the disciplinary proceedings or termination of all proceedings relating to the Criminal charge where such suspension is necessary in the public interest.
3. The intention of the above rule is that a member of service should be kept under suspension in circumstances mentioned therein for the period absolutely necessary and that suspension should not be prolonged for an unduly long time. For this purpose instructions have been issued from time to time in the past that case of suspension should be reported after expiry of six months and at intervals of six months, whenever necessary, to Government for such action as they deem fit.
4. Prior to issue of amendment to Rule 13(1) of APCS (CC&A) Rules, 1963, there existed a proviso under the said rule which required that where a member of service had been suspended by an authority other than the Government and enquiry or the investigation, inquiry or trial relating to criminal charge or the disciplinary proceedings have not been completed and the action proposed to be taken in regard to him has not been completed within a period of six months from the date of suspension, the fact shall be reported to the Government for such orders as they deem fit. The executive instructions contained in para 18(c)(i) of Appendix-VI to the APCS (CC&A) Rules, prior to the issue of orders in the order read above also contained instructions to that effect. The need for (i) review of cases of suspension at periodical intervals and (ii) delegation of powers to the authority other than Government has been under consideration of the Government for some time past.
5. After careful consideration, it has been decided that it is not necessary to insist that all cases of extension of suspensions should be reported to Government and action taken at Government level; and that instead the review of suspensions after the specified period can be entrusted to the concerned

authorities at the appropriate levels, both in respect of gazetted and non-gazetted officers. Accordingly amendment has been issued to APCS (CC&A) Rules in the order read above deleting the proviso under Rule 13(i) of the said rules. Orders have also been issued in the said order for deletion of instruction 18(c)(i) of the instructions in Appendix-VI to the rules.

6. It is further ordered that review of the orders of suspensions after a period of six months should be undertaken as specified below :

GAZETTED OFFICERS

(1) In the case of gazetted officers, the first review of the orders of suspension beyond a period of six months shall be undertaken by the Head of the Department, provided the original order of suspension was not issued by Government, and orders issued, if so decided, to continue the officer under suspension until further orders. In such cases the second and subsequent reviews at intervals of six months will be undertaken and orders for continuance of the officer under suspension until further orders will be issued by the Government.

(2) If the original order of suspension was issued by the Government, all the reviews including the first review shall be undertaken by the Government themselves and orders for continuance of the officer under suspension until further orders will be issued by the Government.

NON-GAZETTED OFFICERS

(1) In the case of Non-Gazetted Officers first review of the orders of suspension beyond a period of six months shall be undertaken either by the authority next above the appointing authority or by the Head of the Department, as the case may be, and orders issued if so decided, to continue the officer under suspension until further orders.

(2) The next review beyond a period of one year from the date of suspension shall be undertaken by the Head of the Department and orders issued by him, if so decided to continue the officer under suspension until further orders.

(3) Any further review for continuing or otherwise of an officer under suspension beyond a period of one and half years from the date of suspension at intervals of six months shall be undertaken by the Government and orders for continuance of the officer under suspension until further orders will be issued.

7. At the end of the review as laid down above, if it is decided by the competent authority / Head of the Department / Government as the case may be that the member of the service need no longer be kept under suspension, orders should issue forthwith revoking the order of suspension and reinstating him to service.

8. All the disciplinary authorities are informed in this connection that the object of placing an officer under suspension is generally to facilitate easy collection of evidence from witnesses who may hesitate to depose against an officer so long as he is in office, or to prevent an officer from tampering with witnesses or records. In many cases it is not quite necessary to keep the officers under suspension after a certain period. Further it may not be desirable to place an officer under suspension for a long period or indefinitely. Therefore, in all cases where a member of service is placed under suspension, action, regarding investigation or enquiry, as the case may be, should be undertaken on priority basis with utmost speed at all levels and the disciplinary proceedings should be finalised and orders issued within a period not exceeding ordinarily one year as far as possible. Even in respect of criminal cases filed in the special Courts for S.P.E. and A.C.B., cases, efforts should be made by authorities concerned that the trial is completed at the earliest possible period so that the member of service is not continued under suspension for longer period.

9. All the Departments of Secretariat, Heads of Departments etc. are requested to follow the above instructions scrupulously and also bring them to the notice of all concerned. Failure to follow the above instructions will be viewed seriously.

(204)

**Memo.No.1387/SC.D/89-2, Genl.Admn. (SC.D) Dept., dt.08.08.1990
regarding permission for disposal of property to Government Servants
involved in A.C.B. cases - A.C.B. and Genl.Admn. (SC.F) Department to
be consulted.**

**Subject Heading : Property - refusal of permission for disposal where
involved in ACB cases**

Instances have come to notice where officers facing enquiry by the Anti-Corruption Bureau etc., are approaching the Heads of Departments for permission under Rule 9(1) of the APCS (Conduct) Rules, 1964 to dispose of their immovable properties, which are the subject matter of enquiry by the Anti-Corruption Bureau etc.

2. Requests of this type have to be examined in-depth based on the facts and circumstances of each case before a decision is taken, as it is not possible to lay down general guidelines in such matters for the reason that the circumstances under which permission is sought for disposal of properties of accused officers vary from case to case.

3. All the Heads of Departments and the Departments of Secretariat are therefore requested to ensure that whenever the Accused Officers involved in Anti-Corruption Bureau cases approach the concerned Heads of Departments for permission to dispose off their immovable property or movable property (which is the subject matter of investigation / enquiry / charge) either during investigation or departmental enquiry or Court trial, a decision by the appropriate authority should be taken only after consulting the Anti-Corruption Bureau.

4. In all such cases, Genl.Admn. (SC.F) Department should be consulted before a decision is taken in the matter.

5. These instructions will apply to the cases of Officers of the All-India Services also.

(205)

**Memo.No.655/Ser.C/90-1, Genl.Admn. (Ser.C) Dept., dt.17.08.1990:
Proposals to be sent to Andhra Pradesh Public Service Commission for
advice under Regulation 17 of APPSC Regulations, 1963, in disciplinary
cases.**

**Subject Heading : Andhra Pradesh Public Service Commission -
consultation**

- Ref: 1. G.O.Ms.No.194, G.A.(Ser.C) Dept., dt.15.03.90.
2. From the Secretary, A.P.P.S.C. Lr.No.1475/RT/5/90, dt.19.07.90.

The attention of the Departments of Secretariat and the Heads of Departments is invited to the Regulation 17 of the Andhra Pradesh Public Service Commission Regulations, 1963 and the G.O. first cited wherein certain instructions have been issued on the procedures laid down under Rule 19(2)(a) of APSCS (CC&A) Rules, 1963 for conducting Departmental Inquiries.

2. It is hereby reiterated that according to Regulation No.17 of Andhra Pradesh Public Service Commission Regulations, 1963, the Commission should be consulted on disciplinary matters affecting a person serving under the Government of a State in a Civil capacity and the concurrence by the Andhra Pradesh Public Service Commission in such cases is a statutory requirement. Having regard to the importance attached to this function, it is needless to say that there should not be any delay in finalising the cases. The Andhra Pradesh Public Service Commission has pointed out that on several occasions several Inquiry Officers appointed either by the Government or Heads of Departments have invariably not followed the procedures laid down under the statutory provisions for conducting Departmental inquiries under Rule 19(2)(a) of the APSCS (CC&A) Rules, particularly the Personal Files of the delinquent officers and proforma containing detailed particulars of the delinquent officers etc. are not being sent along with the proposals to the Andhra Pradesh Public Service Commission. Even when records are sent, they do not contain the relevant information connected with the case referred to. The Commission has felt that there is unnecessary correspondence leading to delay. Where complete records are not received, the Commission has decided not to entertain any such case, but to return them to the Government for resubmission with all relevant records. It has also been observed by the Commission that some Departments are taking unduly long time for supplying the records required by the Commission.

3. With a view to hasten the process of finalising the cases, it is considered necessary that the Department concerned should forward the proposals in complete shape, including information on all the items referred to in the check list appended. This may go a long way in curbing the delays both at Government level and in the office of the Andhra Pradesh Public Service Commission.

4. In the G.O. referred to above, an amendment has been issued to the APSCS (CC&A) Rules, 1963, for conducting ex parte oral enquiry when there is no reply from the delinquent officer for the Charge Memorandum. The Commission has pointed out that while examining the disciplinary cases pertaining to cases of unauthorized absence, in many cases Inquiry Officers are not conducting ex-

parte oral enquiry when there is no reply from the delinquent officer to the Charge Memorandum when served on him or returned undelivered. The Commission has even felt that an ex-parte oral enquiry should be conducted by the Inquiry Officer when there is no reply from the delinquent officer for the Charge Memorandum even though it was got published in the Andhra Pradesh Gazette. The Commission has also pointed out that in respect of cut in pension of the retired employees, the period for which the cut is imposed is not indicated in several cases.

5. All Heads of Departments and the Departments of Secretariat are therefore requested to adhere to the instructions issued under Classification, Control and Appeal Rules in this regard scrupulously and bring these instructions to the notice of their subordinates. Information and papers relating to disciplinary cases may be furnished to the Commission as per the check list appended.

(Note : See Part II for Check Lists and Annexure (No.34)

(206)

U.O.Note No.1033/SC.D/89-2, Genl.Admn. (SC.D) Dept., dt.04.09.1990 regarding quoting of provisions of law in Sanction Order.

Subject Heading : Sanction of prosecution - to quote provisions of law

Ref : 1. U.O.Note No.450/SC.D/87-1, G.A.(SC.D) Dept.,dt.20.07.87.

2. From the Director, A.C.B., D.O.Lr.No.65/RPC(C)/89, dt.11.07.89.

The Director, Anti-Corruption Bureau, Hyderabad has in the reference second cited informed that in the orders sanctioning prosecution of the Accused Officers in respect of the trap cases and disproportionate assets cases investigated by the Anti-Corruption Bureau, correct provisions of Law are not mentioned though given in the draft sanction order sent by the Bureau and requested to issue necessary instructions to all concerned.

2. The Anti-Corruption Bureau is the prosecuting agency to Government and to enable it to discharge the duty as per law and to over come the difficulties in successfully prosecuting the Accused Officers on technical grounds, it is necessary that sanction orders are issued incorporating all the provisions of law required by the Bureau as otherwise it becomes difficult for the Law officers of the Bureau to defend the sanction orders.

3. In the U.O. Note first cited (copy enclosed), instructions were issued to all departments of Secretariat, among others, to quote correct provisions of law indicated by the Anti-Corruption Bureau in the order sanctioning the prosecution of Government servants involved in corruption cases.

4. Criminal offences on the part of Public Servants attract provisions of the Prevention of Corruption Act, 1947 and also Sections 161 and 165 of the Indian Penal Code and Section 197 of the Criminal Procedure Code, depending on the circumstances of the case concerned.

5. The Prevention of Corruption Act, 1988 (Central Act 49 of 1988) came into force with effect from 09.09.1988. The question as to whether the provisions of the repealed Prevention of Corruption Act, 1947 may also be included in the order sanctioning the prosecution for the offences of corruption on the part of Government Servants has been considered in consultation with the Law Department.

6. The act of the member of service involved in trap cases may constitute an offence punishable under either Section 161 of the Indian Penal Code (Section 7 of the new Prevention of Corruption Act, 1988) or Section 165 of the Indian Penal Code (Section 11 of the said 1988 Act) or sub-clauses (i) or (ii) of clause (d) of sub-section (1) of Section 13 of the said Act. The offences punishable under Section 161 of the Indian Penal Code, Section 165 of the Indian Penal Code and Section 13(1)(d) of the said Prevention of Corruption act, 1988, are distinct and separate and are not the same. Therefore, though an act of a member of service involved in a trap case constitutes an offence punishable under any of the sections aforesaid, the said Act cannot constitute simultaneously an offence punishable under all the said sections. However, the Director, Anti Corruption Bureau has suggested that in trap cases, sanction may be accorded by the Government both under Sections 161 and 165 of the Indian Penal Code or both under sub-clauses (i) and (ii) of clause (d) of sub- section (1) of Section 13 of the Prevention of Corruption act, 1988, in order to ensure that the prosecution of members of service in such cases does not fail for want of sanction. The Director, Anti Corruption Bureau has also requested that for the reasons stated above, all the Departments in the Secretariat may be instructed to accord sanction for prosecution of the Accused Officers under Section 19(1)(b) of the new Prevention of Corruption Act, 1988 and also Section 6(1)(b) of the repealed Prevention of Corruption Act, 1947 in respect of offences committed by the accused persons prior to the repeal of the Prevention of Corruption Act, 1947. Further, sanction

order under Section 197 Cr.P.C. also may be issued whenever that provision is mentioned in the Draft Sanction Order.

7. Government have carefully examined the suggestions of the Director, Anti-Corruption Bureau and all the Departments of Secretariat are therefore, instructed that while according sanction of prosecution of Government Servants involved in corruption cases, penal provisions and other provisions of Law suggested by the Director, Anti-Corruption Bureau should invariably be incorporated in the order sanctioning the prosecution duly adopting the sanction order furnished by the Bureau.

(207)

**Memo.No.747/Courts.E/90-3, Home (Courts.E) Dept., dt.23.10.1990:
Sanction of prosecution should be a speaking order.**

**Subject Heading : Sanction of prosecution - should be speaking order,
showing application of mind**

An instance has come to the notice of Government wherein the sentence imposed by a Lower Court was set aside by High Court for the reason that sanction for the prosecution granted is not in accordance with the Law.

2. According to the latest Law laid down by the Supreme Court the authority sanctioning prosecution is not only required to apply its mind to the facts of the case but it should satisfy itself that there is *prima facie* case and should also record its reasons for launching prosecutions and also specify that it is necessary in the public interest.

3. In view of the above position, the heads of Departments are requested to ensure that a speaking order is issued when sanction for prosecution is being given.

(208)

**U.O.Note No.1418/SC.D/90-2, Genl.Admin. (SC.D) Dept., dt.05.11.1990
regarding employees convicted by Court - expeditious action to be taken
for dismissal from service.**

Subject Heading : Departmental action and conviction

- Ref : 1. Memo.No.1017/66-11, G.A.(Ser.C) Dept., dt.18.06.66.
2. Memo.No.1718/Ser.C/75-1, G.A.(Ser.C) Dept., dt.22.11.75.

Attention of all the departments of Secretariat is invited to the references cited wherein, among other things, instructions have been issued for taking prompt action for dismissal of employees convicted by the Courts, particularly the Special Courts for A.C.B. and S.P.E. Cases. Inspite of these instructions, instances have come to notice wherein employees who have been convicted by the Courts have been allowed to be continued under suspension for long periods and steps were not taken for their immediate dismissal from service.

2. While reiterating the instructions issued in the references cited, all the departments of the Secretariat are requested to ensure that prompt action is taken against the employees who have been convicted by the Courts on the grounds of conduct and they are dismissed from service without any delay keeping in view the instructions contained in the reference second cited.
3. The departments of Secretariat are also requested to bring the above instructions to the notice of all concerned under the control of their Departments.

(209)

U.O.Note No.785/Ser.C/90-1, Genl.Admn. (Ser.C) Dept., dt.08.11.1990: Inquiries against suspended employees to be completed in time and periodical review undertaken.

Subject Heading : Suspension - need to complete inquiries in time and review cases

- Ref : 1. U.O.Note No.1742/Ser.C/68-8, GAD dt.16.10.1968.
2. Memo.No.365/Ser.C/69-1, GAD dt. 11.06.1970.
3. U.O.Note No.1524/Ser.C/80-1, GAD dt. 17.03.1981.
4. Memo.No.1524/Ser.C/80-11, GAD dt.20.05.1982.
5. G.O.Ms.No.205, G.A.(Ser.C) Dept., dt.17.03.1990.

According to Rule 13(1) of APKS (CC&A) Rules, 1963, a member of a service may be placed under suspension from service, pending investigation or inquiry into grave charges, where such suspension is necessary in public interest.

In the references 1st to 5th cited above, instructions / orders have been issued to the effect that the inquiries should be completed expeditiously and that, the cases where the suspension exceeds six months have to be reviewed by the authority concerned at an interval of six months to decide the need or otherwise to continue the individual under suspension.

2. It has been brought to the notice of Government that the inquiries are not being completed within a reasonable time for one reason or the other. In cases, where the inquiries are pending for more than two years and the individuals concerned are denied promotion, on the ground that the inquiry is pending, the Courts are taking a view that if the disciplinary proceedings or trial is not concluded within a period of two years, there cannot be any justification on the part of the authority to deny promotion for no fault of the member of service. In this connection attention is invited to the instructions issued in the penultimate para of the G.O. fifth cited to the effect that in all cases where a member of service is placed under suspension, action regarding investigation or inquiry, as the case may be, should be undertaken on priority basis with utmost speed at all levels and the disciplinary proceedings should be finalised and orders issued within a period not exceeding ordinarily one year as far as possible. Even in respect of criminal cases filed in the special courts for Special Police Establishment and Anti-Corruption Bureau cases, efforts should be made by the authorities concerned that the trial is completed at the earliest possible period so that the member of service is not continued under suspension for longer period.

3. In view of the above, all the Departments of Secretariat are requested to bring these instructions to the notice of the concerned for completion of inquiries expeditiously to avoid interference by the Courts in the matter of promotions / continuing the individual under suspension for long periods. They are also requested to compile a list of cases where inquiries are pending for more than two years and review them periodically for taking decision at the appropriate level.

(210)

**U.O.Note No.732/Ser.C/90-2, Genl.Admin. (Ser.C) Dept., dt.18.12.1990
regarding common proceedings in disciplinary cases - uniformity in
imposing penalties.**

Subject Heading : Common Proceedings - guidelines

It has been brought to the notice of the Government that when employees of different Departments were involved in disciplinary cases for certain lapses which were common to all of them, it is possible that one of the Departments may inflict a penalty on the delinquent officers, while the other Departments may let off the officers involved with a warning by taking a lenient view.

2. In this context, the feasibility or otherwise to prescribe a yardstick / guidelines in awarding penalties uniformly on all the persons involved in a joint enquiry, has been examined.

3. According to clause (a) of sub-rule (5) of Rule 19 of the APSC (CC&A) Rules, 1963 where two or more members of the same service or different services are concerned in any case, the Government or any other authority competent to impose the penalty of dismissal from service on all such members may make an order directing that disciplinary action against all of them may be taken in a common proceeding. If the authorities competent to impose the penalty of dismissal on such members are different, such authorities not being the Government, an order for holding such inquiry in a common proceeding may be made by the highest of such authorities with the consent of the other authorities competent to impose the said penalty on others.

4. In view of the above rule, it is for the highest authority who orders joint enquiry to see that the penalty imposed is proportionate to the seriousness of the charges held proved, keeping in view their degree of culpability / seriousness of lapses held proved while imposing the penalty in such cases.

5. When two or more persons are involved in one case, the magnitude or involvement of all the delinquent officers may not be the same and the degree of culpability may also vary from person to person. As such, it may not be possible to impose the same penalty uniformly on all the charged officers, irrespective of the degree of their involvement. If the same penalty is imposed on all such delinquent officers involved in a case, ignoring their degree of culpability and magnitude of involvement, such action is liable to be questioned. As such, it is considered that it may not be legally valid to prescribe any guidelines or yardsticks for imposing penalty in such cases. In view of the above, the competent authority who orders such a joint enquiry should ensure that the members of service involved in disciplinary cases are imposed the penalties keeping in view their degree of culpability / seriousness of lapses / charges held proved.

6. In view of the above position and also sub-rule (5) of Rule 19 of the APSC (CC&A) Rules, 1963, the disciplinary authority should take a comprehensive view by taking into account the totality of the circumstances and the extent of involvement of each of the delinquent officers while inflicting the penalty.

(211)

Memo.No.1444/SC.D/90-1, Genl.Admn. (SC.D) Dept., dt.17.01.1991: Margin of 20% of income applicable in cases of disproportionate assets where prosecution is launched or inquired into by T.D.P. or Department.

Subject Heading : Disproportionate Assets - margin of income

Ref: Government Memo.No.700/SC.D/88-4, G.A.(SC.D) Dept., dt.13.02.89.

The attention of the Director General, Anti-Corruption Bureau is invited to para-2(iv) of the instructions contained in the reference cited, wherein it has been stated among other things, that a reasonable margin upto 20% of the total income of the Accused Government Servant may be allowed, while computing the disproportionate assets.

2. On the above, a point has arisen whether the 20% margin referred to above, be made applicable only to the cases where prosecution is contemplated or it should be applicable to cases in which Departmental enquiry or T.D.P. enquiry is proposed.

3. The rationale behind the above guideline is that it is not possible for the Government Servant to prove his defence with mathematical exactitude and intended to be applied by the Anti-Corruption Bureau while sending final reports to the Government for further action either for prosecution or for placing the Accused Officer before the T.D.P. or for initiating departmental action. In other words, the guideline is intended to be taken into consideration for deciding the forum of action against the Accused Officer.

4. Government after careful consideration clarify that the 20% of the margin referred to in para one above will be applicable to all cases irrespective of whether the case of the Accused Government Servant is proposed to be prosecuted or referred to the T.D.P. for enquiry or Departmental action.

5. The Director General, Anti-Corruption Bureau, is therefore, requested to keep in view the above clarification, while dealing the disproportionate assets cases against Government employees.

(212)

G.O.Ms.No.66, Genl.Admn. (Ser.C) Dept., dt.30.01.1991 regarding sealed cover procedure – promotion / appointment of employees to higher posts while investigations / disciplinary proceedings initiated against them are pending.

Subject Heading : Sealed cover procedure

Read the following :

1. G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05.76.
2. G.O.Ms.No.187, G.A.(Ser.B) Dept., dt.25.04.85.
3. G.O.Ms.No.104, G.A.(Ser.C) Dept., dt.16.02.90.

ORDER :

In the G.Os first and second read above, instructions have been issued, among other things, for consideration of claims for promotion of officers who are facing inquiry in any Departmental Proceedings or before a Criminal Court or whose conduct is under investigation and against whom departmental proceedings or criminal prosecution is about to be instituted, as per the procedure laid down therein. In the G.O. third read above, instructions have been issued that promotion / appointment by transfer to higher post of an officer included in the panel, if between the date of inclusion in the panel and the date of actual promotion, disciplinary proceedings / investigation / inquiry / trial has been taken up against such officer whose case falls under the group referred to in para 2(iii) of the G.O. first read above, shall be deferred, until after termination of all such proceedings.

2. The Supreme Court in State of Madhya Pradesh vs. Bani Singh, 1990 Cri.L.J.1315 has observed as follows:-

"Normally, pendency or contemplated initiation of disciplinary proceedings against a candidate must be considered to have absolutely no impact upon, to his right to be considered. If the departmental inquiry had reached the stage of framing of charges after a prima-facie case has been made out, the normal procedure followed as mentioned by

the Tribunal was ‘sealed cover’ procedure but if the disciplinary proceedings had not reached that stage of framing of the charge after prima facie case is established the consideration for the promotion to a higher or selection grade cannot be withheld merely on the ground of pendency of such disciplinary proceedings. Deferring the consideration in the Screening Committee Meeting held on 26.11.1980 on this ground was therefore unsupportable.”

3. In another case, in C.O.Armugam and others vs. State of Tamil Nadu and others, 1990(1) SLR p.289, the Supreme Court observed that:

“.....it is necessary to state that every civil servant has a right to have his case considered for promotion according to his turn and it is a guarantee flowing from Arts. 14 and 16(1) of the Constitution. The consideration of promotion could be postponed only on reasonable grounds. To avoid arbitrariness, it would be better to follow certain uniform principle. The promotion of persons against whom charge has been framed in the disciplinary proceedings or charge sheet has been filed in criminal case may be deferred till the proceedings are concluded. They must, however, be considered for promotion if they are exonerated or acquitted from the charges. If found suitable, they shall then be given the promotion with retrospective effect from the date from which their juniors were promoted.”

4. It is obvious from the above observations of the Supreme Court that a promotion of member of service can be deferred if in the departmental inquiry or criminal case instituted against him a charge has been framed or a charge sheet has been filed against him, as the case may be.

5. Government, however, hereby direct that promotion/ appointment by transfer to a higher post in respect of officers who are facing disciplinary proceedings or a criminal case or whose conduct is under investigation and whose case falls under the group referred to in para 2(iii) of the G.O. first read above, shall be deferred, only when charges of misconduct are framed by the competent authority and served on the concerned delinquent officer; or a charge sheet has been filed against him in criminal court, as the case may be.

6. The instructions issued earlier in the G.Os. read above which are not consistent with these orders, should be deemed to have been modified to the extent necessary.

(213)

U.O.Note No.779/Ser.C/90-4, Genl.Admn. (Ser.C) Dept., dt.30.01.1991 regarding sealed cover procedure - Deferring of promotion / appointment by transfer of employees to higher posts while prosecution / disciplinary proceedings are pending - Departmental Promotion Committee / Screening Committee to be intimated of factual position.

Subject Heading : Sealed cover procedure

- Ref : 1. G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05.76.
 2. G.O.Ms.No.187, G.A.(Ser.B) Dept., dt.25.04.85.
 3. G.O.Ms.No.104, G.A.(Ser.C) Dept., dt.16.02.90.
 4. G.O.Ms.No.66, G.A.(Ser.C) Dept., dt.30.01.91.

Orders have been issued in the G.O. 4th cited to the effect that promotion / appointment by transfer to a higher post in respect of officers who are facing disciplinary proceedings or a criminal case or whose conduct is under investigation and whose case falls under the group referred to in para 2(iii) of the G.O. first cited, shall be deferred, only when charges of misconduct are framed by the competent authority and served on the concerned delinquent officer; or a charge sheet has been filed against him in criminal Court, as the case may be.

2. In view of the above orders, all the Departments of Secretariat and Heads of Departments are requested to take immediate action to frame charges in all Anti-Corruption Bureau cases and disciplinary cases and serve them on the delinquent officer before the Departmental Promotion Committee / Screening Committee meets. While sending their proposals to the Departmental Promotion Committee / Screening Committee as the case may be, it should also be confirmed that in all disciplinary cases, action has been taken against the delinquent officer to prosecute him or place him on his defence before the Tribunal for Disciplinary proceedings or that charges have been framed and served on the delinquent officer under Rule 19(2) of the APSCS (CC&A) Rules, as the case may be.

3. All the Departments of Secretariat and Heads of Departments are requested to follow the above instructions while sending their proposals to the concerned Departmental Promotion Committee as the case may be.

(214)

**U.O.Note No.310/SC.E/91-1, Genl.Admn. (SC.E) Dept., dt.26.03.1991
regarding deviation from Anti-Corruption Bureau recommendations.**

Subject Heading : ACB - to discuss in inter-departmental meeting and obtain prior orders of C.M., in case of deviation from recommendation

Ref : U.O.Note No.108/SC.D/84-1, G.A.(SC.D) Dept., dt.28.01.84.

The attention of the Departments of Secretariat is invited to the reference cited and they are informed that in ACB cases wherever it is proposed to deviate from the recommendation of the Director General, Anti-Corruption Bureau, it has been considered appropriate to have the views of the ACB, before government takes final decisions. Therefore in ACB cases, wherever it is proposed to differ from the recommendation of the Director-General, Anti-Corruption Bureau, the matter should be first discussed in inter-departmental meeting at appropriate level with the representative of the Anti-Corruption Bureau, before taking final decision by obtaining orders in circulation to the Chief Minister, as per the instructions contained in the reference cited.

(215)

**U.O.Note No.400/SC.D/91-1, Genl.Admn. (SC.D) Dept., dt.30.03.1991
regarding sanction of prosecution - further instructions issued.**

Subject Heading : Sanction of prosecution - guidelines issued

Ref : 1. U.O.Note No.450/SC.D/87-1, G.A.(SC.D) Dept., dt.20.07.1987.
2. U.O.Note No.1033/SC.D/89-2,G.A.(SC.D) Dept.,dt.04.09.1990.

The attention of the Departments of Secretariat is invited to the references cited (copy enclosed) wherein certain instructions / guidelines were issued for processing the orders sanctioning prosecution of Government Servants involved in corruption charges. Inspite of these instructions, it is noticed that sanction is not issued for the prosecution in the proper format furnished by the Anti-Corruption Bureau after obtaining the orders of the competent authority.

2. In the circumstances, while reiterating the instructions already issued in the reference first and second cited, the following further instructions are issued :-

- a) the orders in circulation to the Minister / Chief Minister should be obtained wherever necessary as per the provision under Rule 22 and 32(1) of the Government Business Rules and Secretariat instructions;
- b) in all Anti-Corruption Bureau cases, wherever it is necessary, to obtain the orders of Chief Secretary, such cases should be submitted to Chief Secretary through the Secretary (Political), General Administration Department:

and

- c) wherever it is proposed to reconsider the cases of prosecution already sanctioned in Anti-Corruption Bureau cases, the views of Anti-Corruption Bureau have to be obtained before a decision is taken by the Government.

3. All the Departments of Secretariat are requested to list out the cases in the Anti-Corruption Bureau Courts in the proforma annexed and confirm that there are no cases where proper sanctions have not been taken.

ANNEXURE

(to U.O.Note No.400/SC.D/91-1, Dated:30.03.1991)

Sl. No	Name of the Government Servent	A.C.B. Report No. & Date	Whether sanction for prosecution has been accorded if so, the .O.No. and date.	Remarks (Reasons for not according sanction for prosecution).
(1)	(2)	(3)	(4)	(5)

(216)

Memo.No.410/SC.D/91-1, Genl.Admn. (SC.D) Dept., dt.18.04.1991 regarding Lokayukta / Upa-Lokayukta communications to receive prompt compliance.

Subject Heading : Lokayukta - communications to receive prompt compliance

The attention of the Departments of Secretariat, Heads of Departments and Collectors, is invited to the provisions contained in Section 11(1) and (3) of Andhra Pradesh Lokayukta and Upa-Lokayukta Act and Rule 5(4)(i) of the Andhra Pradesh Lokayukta and Upa-Lokayukta (Investigation) Rules, 1984 extracted below :

"Section 11(1) of the Act :

Subject to the other provisions of this section, for the purpose of any investigation (including the preliminary verification if any, before such investigation made under this Act, the Lokayukta or Upa-Lokayukta may require any Public Servant or any other person, who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(3) Any proceedings before the Lokayukta or Upa-Lokayukta shall be deemed to be a judiciary proceeding within the meaning of Section 19 of the Indian Penal Code, 1860.

Rule 5(4)(1) :

If the Lokayukta or Upa-Lokayukta, as the case may be, does not reject a complaint under sub-rule (3) or sub-rule(4) of Rule 4, and if in his opinion the complaint contains verifiable details justifying further action, he may,

(i) call for remarks, information or report after a confidential probe, from the concerned Departmental authority or officer about the truth or otherwise of the allegations made in the complaint and fix a time for submission of such remarks, information or report, and / or... “.

2. It has been brought to the notice of Government that the communications issued from the Institution of the Andhra Pradesh Lokayukta

and Upa-Lokayukta calling for reports, information and summons in connection with complaints / cases being enquired into by it are not complied with promptly and in some cases the departments are taking their own time, resulting in delay.

3. All the Departments of Secretariat, Heads of Departments, Collectors, are, therefore, requested to ensure that action is taken on all the communications received from the Institution of Andhra Pradesh Lokayukta & Upa-Lokayukta, calling for reports / information summons, etc., on priority basis and the information, etc., furnished with least delay.

(217)

Memo.No.229/SC.D/91-2 Genl.Admn. (SC.D) Dept., dt.12.06.1991 regarding Lokayukta / Upa-Lokayukta - priority to be given to references.

Subject Heading : Lokayukta - communications to receive prompt compliance

It has been brought to the notice of the Government in some cases undue delay has been caused in responding to the Orders / references received from Andhra Pradesh Lokayukta & Upa Lokayukta.

2. All the Departments of Secretariat and Heads of Departments are, therefore, requested to give priority in responding to the Communications received from the institution of the Andhra Pradesh Lokayukta and Upa-Lokayukta and dispose off the pending cases, expeditiously.

(218)

Memo.No.78/1/Accts./91, F&P (FW.Accounts) Dept., dt.22.06.1991 regarding procedure for obtaining original documents from Accountant General.

Subject Heading : ACB - securing documents from AG

Ref: From the Accountant General, A.P., D.O.Lr.No.SSC I90-91/VI/69, dt.31.12.90.

In the reference cited, the Accountant General, Andhra Pradesh, Hyderabad, has brought to the notice of Government that according to the procedure prescribed by Comptroller & Auditor General, Original Vouchers required by the Police for investigation are being made available on receipt of requisition therefor from the Director General of Police, indicating that Photostat / Xerox copies would not serve the purpose of investigation. The Officer nominated to receive the original vouchers has to attest the photocopies of the Vouchers to be preserved in Accountant General's Office, till the original vouchers are returned.

2. The Accountant General has reported that in some cases, instead of following the prescribed procedure, Courts have issued summons to his office to produce Vouchers to the Departmental Officers. The Accountant General has suggested to issue necessary General Instructions in the matter of obtaining original vouchers for the purpose of police investigation.

3. After careful examination, Government hereby issue the following instructions :

4. In the majority of cases, the facility of inspection of the original documents within the audit office and the taking of copies (including Photostat / Xerox copies) will be found to be adequate for the purpose of Police Investigation, including identification of handwriting. Even where the original documents have to be shown to witness during investigation, it may be possible in many cases to have that carried out at the audit office.

5. In cases in which the Investigating Officer feels that the investigation cannot proceed on copies of documents including Photostat / Xerox copies, he will move the Director General of Police or the Inspector General, Special Police Establishment or Director of Anti-Corruption Bureau, as the case may be, to address the Accountant General personally to hand over the original documents to the Investigating Officer, indicating that photostat/xerox copies will not serve his purpose. The Accountant General will then hand over the documents, keeping for his records Photostat / Xerox copies of the documents which should be retained till such time as the originals are returned to him.

6. Before handing over the original documents to the Investigating Officer, the photostat/ xerox copies of the vouchers should be compared with the originals and certified to be correct by the Accounts Officer concerned and the Officer.

1. Requisitions for the vouchers, documents etc. in the possession of Accountant General's Office can be accepted and acted upon only when—
 - a) The Inspector General, Special Police Establishment or Director General of Police, Director of Anti-Corruption Bureau, personally addresses Accountant General's Office to hand over the documents in original to the Investigating Officers; and
 - b) It is indicated in the requisition that photostat/xerox copies would not serve his purpose of investigation.
2. The originals of the official documents should be handed over to the Investigating Officials nominated for the purpose by the Inspector General (Special Police Establishment) or the Director General of Police or Director of Anti-Corruption Bureau, only after keeping Photostat / xerox copies for the record of Accountant General's Office. Before handing over the original documents to the Investigating Officer, the Photostat / Xerox copies of the vouchers should be compared with the originals and certified to be correct both by the Accounts Officer concerned and the Investigating Officer who comes to take delivery of the vouchers etc.

(219)

Memo.No.1271/SC.F/90-1, Genl.Admn. (SC.F) Dept., dt.06.07.1991: No need to furnish inquiry report and file to A.C.B. in disciplinary proceedings.

Subject Heading : ACB - not necessary to furnish inquiry report or file to ACB

Subject Heading : Departmental action - not necessary to furnish inquiry report or file to ACB

- Ref : 1. Memo.No.2865/SC.F/87-3, G.A.(SC.F) Dept., dt.13.07.89.
2. From the Director, A.C.B., Lr.Rc.No.75/RE-NZB/84-54, dt.19.12.89.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the reference second cited, regarding furnishing of the file relating to the disciplinary case in the inquiry conducted by the Inquiry Officer on the

recommendation of the Anti-Corruption Bureau to take departmental action. The matter has been examined and it is felt that the Anti-Corruption Bureau is nothing more nor less than an Investigating Organ of Government that it is not a Judge or an Ombudsman and cannot derive the type of over-seeing functions it perhaps seeks to possess and once an enquiry is entrusted to Departmental functionaries, it would be inappropriate for the Anti-Corruption Bureau to ask for the record of the enquiry etc., other than those provided for in the reference first cited viz., copy of the Charge Memo., copies of statement of witnesses, and copy of the final order passed. Such an approach has the flavour of a sense of over-lordship for the conduct of inquiries. The Anti-Corruption Bureau should have trust in capability and impartiality of the role of other Government Departments, the disciplinary authority playing the role of a Judge.

2. In the circumstances, it is considered not necessary to furnish the disciplinary case file including the report of the Inquiry Officer to the Anti-Corruption Bureau on requisition.

(220)

U.O.Note No.1298/SC.D/91-1, Genl.Admn. (SC.D) Dept., dt.30.08.1991 regarding Anti-Corruption Bureau reports - not to furnish copy to accused official.

Subject Heading : ACB - not to furnish ACB report to accused official

Ref : 1. U.O.Note No. 1798/SCE/87-1, G.A.(SC.E) Dept., dt.20.10.87.

2. U.O.Note No. 1798/SC.E/87-1 G.A.(SC.F) Dept., dt.22.08.89.

The attention of Departments of the Secretariat is invited to the instructions issued in the references cited intimating that the reports of the Anti-Corruption Bureau are “**classified documents**” and cannot be furnished to the delinquent officer for purpose of preparing defence in disciplinary cases. They are meant only to assist the Disciplinary Authority in regard to the action to be taken against delinquent officers. The Departments of Secretariat also requested to guard against the mis-placement of Anti-Corruption Bureau reports and any unauthorised persons coming into possession of the reports and also against leakage of the reports to the accused officers.

2. Inspite of the above clear instructions, it has been brought to the notice of the Government that a Secretariat Department furnished a copy of the

final report of the Anti Corruption Bureau to the Accused Officer for submitting his representation which is not correct and against the instructions referred to above.

3. In the circumstances, all the Departments of Secretariat are requested to scrupulously follow the instructions and ensure that the Anti-Corruption Bureau reports are not furnished to the accused officers for preparing their defence.

(221)

**U.O.Note No.1411/SC.D/91-1, Genl.Admn. (SC.D) Dept., dt.17.09.1991
regarding Lokayukta / Upa-Lokayukta - prompt compliance with
communications.**

**Subject Heading : Lokayukta - communications to receive prompt
compliance**

It has been brought to the notice of the Government that the communications issued from the Institution of A.P. Lokayukta and Upa-Lokayukta calling for reports, information, reply, etc., in connection with the complaint cases enquired into by it are not complied with promptly and in some cases the subject matter is being tossed from one Department to another involving various Departments for unduly long period, thereby causing inordinate delay in the matter of disposing of the complaints by the Institution, where time factor is infinitely important as the Institution is expected to dispose of the matters within six months from the date of registration of the complaint.

2. All the Departments of Secretariat are, therefore requested to avoid delay in tossing the subject matter of the complaints referred to by the A.P. Lokayutka and Upa-Lokayukta for certain information, from one Department to another, and ensure that replies are sent to A.P.Lokayukta and Upa Lokayukta promptly to enable the Institution to dispose of the matters within the stipulated period. Attention is in this connection invited to the instructions issued in Memo.No.229/SC.D/91-2, GA (SC.D) Department, dt.12.06.91. If the subject matter referred to by the Institution, does not relate to the particular department to which it is referred to, that department is requested to see that the reference is sent to the Department appropriately concerned as per the Business Rules, without any delay.

(222)

**Memo.No.853/Ser.C/90-1, Genl.Admn. (Ser.C) Dept., dt.23.09.1991
regarding suspension or transfer to far off places pending investigation
into allegations.**

Subject Heading : Suspension - transfer or leave as alternative

- Ref: 1. Govt.Memo.No.401/Ser.C/65-1, G.A.(Ser.C) Dept.,dt.27.02.65
2. Govt.Memo.No.1788/Ser.C/67-2, G.A.(Ser.C) Dept., dt.03.08.67
3. Govt.Memo.No.204/Ser.C/76-3, G.A.(Ser.C) Dept., dt.31.05.76
4. Govt.Memo.No.488/Ser.C/81-1, G.A.(Ser.C) Dept., dt.21.04.81
5. Govt.Memo.No.1095/Ser.C/84-4, G.A.(Ser.C) Dept., dt.27.04.85
6. Govt.Memo.No.588/Ser.C/87-1, G.A.(Ser.C) Dept., dt.29.07.87
7. Govt.Memo.No.220/Ser.C/89-1, G.A.(Ser.C) Dept., dt.08.03.89
8. Govt.Memo.No.1419/Ser.C/89-1, G.A.(Ser.C) Dept., dt.25.10.89

The question whether Government employees against whom investigation or enquiries into grave charges are pending should necessarily be placed under suspension or whether they should be transferred to far off places and posted in non-focal posts and whether the existing instructions in this regard need revision and modification has been examined by Government. It is considered that the existing instructions are sufficient but they should be reiterated for proper guidance and strict adherence to the instructions.

2. In the reference first cited, instructions of Government of India were communicated to the effect that the public interest shall be the guiding factor in deciding the question of placing a Government Servant under suspension and that the disciplinary authority should have the discretion to decide this taking into consideration all aspects of the case. The circumstances in which disciplinary authority may consider it appropriate to place a Government Servant under suspension as laid down by the Government of India was also indicated therein. These instructions include cases where continuance in office of the Government Servant will be against the wider public interest, such as Public Scandal, particularly corruption etc.

3. In the references second and sixth cited, instructions have been issued in regard to transfer of Government Employees to far off places instead of placing them under suspension.

4. In the Government Memorandum third, fourth and fifth cited, detailed instructions have been issued in regard to suspension of the Government employees involved in trap cases and in cases of possession of assets disproportionate to the income of the employees on the basis of reports received from the Director General, Anti-Corruption Bureau. These instructions have been reiterated and further instructions issued in Government Memoranda Seventh and Eighth cited.

(223)

U.O.Note No.1224/SC.D/91-1, Genl.Admn. (SC.D) Dept., dt.08.10.1991 regarding declaration of cash by officials at the time of reporting to duty at check posts.

Subject Heading : Cash - declaration at the time of reporting

- Ref : 1. U.O.Note No.1515/SC.D/85-1, G.A. (SC.D) Dept., dt.18.08.1983.
2. U.O.Note No.1085/SC.D/87-2, G.A. (SC.D) Dept., dt.20.04.1988.
3. From the Director General, Anti-Corruption Bureau, Hyderabad
Lr.C.No.89/RPC(C)/91, dt.03.08.1991.

In the references 1st and 2nd cited, all the Departments of Secretariat, who have got check posts and offices under their Heads of Departments dealing with cash transactions, were requested to issue necessary instructions through the concerned officials to the staff in check posts and Sub-Registry Offices, Transport Offices etc., to declare the amounts on their person at the time of reporting for duty in the office/check post in a register prescribed for the purpose.

2. After careful consideration of the experience gained in the implementation of the above instructions, it has been decided to restrict the possession of personal cash at the time of reporting to duty at the Check Posts, to Rs. 200 (Rupees Two Hundred only) for each person and it should be recorded in the prescribed register. If any one carries more than two hundred rupees, he should record the reasons in detail in the personal cash declaration register for carrying such heavy amount.

(224)

Circular Memo.No.C-9101-4/8/FR.I/91, F&P (Fin.Wing. F.R.I) Dept., dt.25.12.1991 regarding willful and prolonged absence from duty without proper leave - guidelines for action.

Subject Heading : Absence - prolonged absence - clarification on action to be taken

In Circular Memo.No.4481/A/128/FR.I/88, F&P (Fin.Wing.F.R.I) Department, dt.07.07.1988, Government have issued instructions ordering concerned departmental authorities to initiate disciplinary action against those employees who remained absent from duty without proper leave and pass appropriate orders on the basis of the disciplinary proceedings by following the procedure laid down in A.P.C.S. (CC&A) Rules, 1963 read with instructions in Appendix-VI to the said rules. Inspite of these instructions, number of cases are being referred to Finance Department for clarification on some of the following questions:-

- (i) Whether a member of service who remained absent from duty without proper leave can be permitted to join duty if he gives joining report pending further action to determine or regulate the period of absence by taking disciplinary action or otherwise;
- (ii) Whether the resignation tendered or request for voluntary retirement made by a member of service who has remained absent without proper leave can be accepted without determination of the period of unauthorised absence.

In view of this, a need is felt for issuing further instructions in the matter as guidelines in continuation of the instructions issued in the Circular Memo. aforementioned.

2. According to F.R. 18, and rule 5-A of the A.P.Leave Rules, 1933 and the Notes-I thereunder, no Government Servant should be granted leave of any kind for a period exceeding five years and that willful absence from duty not covered by grant of any leave shall be treated as 'dies-non' for all purposes viz., increments, leave and pension.

3. Neither F.R.18 nor Rule 5 of the A.P.Leave Rules, can be construed to mean :

- a) that the member of service who remains absent from duty without proper leave cannot be permitted to join duty if he gives a joining report; or
- b) that such member of service ceases to be in service by such absence so as to discharge him from service in terms of F.R.18.

What therefore follows from this is that if a member of service who remains absent without any leave gives a joining report it should be ensured by the competent authority that he is permitted to join immediately pending initiation of the disciplinary action for unauthorised absence, in case such action has already not been initiated against him and in all such cases the period of unauthorised absence has to be treated as dies-non in accordance with the Notes-I under F.R.18 and Rule 5-A aforesaid. This treatment of unauthorised absence as 'dies-non' is distinct from disciplinary action taken or to be taken against the employee concerned.

4. Action against Regular Employees :

What F.R.18 and Rule 5 of the A.P.Leave Rules mandates is that no member of service shall be granted leave of any kind for a continuous period exceeding five years without the specific approval of Government. No inference can be drawn from these rules that disciplinary action against a member of service cannot be taken unless he is continuously absent for more than five years without any leave. It is therefore clarified that it is not at all necessary for the authority competent to initiate disciplinary action to wait for a period of five years to initiate disciplinary action against the member of service for his absence from duty willfully or unauthorisedly. In all such cases the disciplinary proceedings can be initiated against such member of service who remained absent without any leave straight away by following the procedure laid down in Rule 19(2) of the A.P.C.S. (CCA) Rules, 1963 read with instruction 5(c)(iv) of instructions in Appendix-VI to the said rules for unauthorised absence without leave which constitutes good and sufficient reason for initiating disciplinary action under the said rules and such other misconduct as having secured gainful employment elsewhere during his absence from duty without leave. In all such cases the enquiry officer has to be directed to complete the enquiry within a fixed time say within a period of 1-2 months. The charges framed against the employees concerned should be communicated by Registered Post Acknowledgment due. If however the employee is not available at the last address given by him the Charge Memo should be got published in the A.P.Gazette and enquiry should be conducted ex parte for taking necessary action against him. Even in such

cases where an employee reports back to duty he should be permitted to join duty without prejudice to the action contemplated or pending against him. If the employee applies for leave on medical grounds along with the joining report and extends leave on the same grounds beyond three months he should be referred to Medical Board for examination and necessary action may be taken against him on the basis of the medical report.

5. Temporary employees :

According to the note under Rule 6-A of A.P.Leave Rules, read with proviso to F.R.73, a temporary Government Servant working under emergency provisions who remains absent from duty after applying for leave or extension of leave to which he is not entitled to under the Rules shall be deemed to have been discharged from duty with effect from the date from which he is not entitled to any leave unless the leave applied for is granted in relaxation of relevant rules. Where such a temporary employee absents himself unauthorisedly or without sufficient justification, action should be taken immediately for discharging him from service invoking this rule, by issuing an innocuous order indicating the provisions under which the employee stands discharged.

6. Request for “resignation” while absent unauthorisedly :

Resignation by a member of a service is governed by general Rule 39. General Rule 39 which is relevant for the purpose reads as follows :

“39. Resignation

(a) A member of a service may resign his appointment and the acceptance of his resignation by the appointing authority shall take effect-

- (i) in case he is on duty, from the date on which he is relieved of his duties in pursuance of such acceptance;
- (ii) in case he is on leave, from the date of communication of such acceptance to the member or if the said authority so directs, from the date of expiry of leave; and
- (iii) in any other case, from the date of communication of such acceptance to the member or from such other date, not being earlier than the date on which he was last on duty, as the said authority may, having regard to administrative exigencies, specify :

Provided that a resignation of a member of a service, who is placed under suspension from service or pending investigation or enquiry into grave

charges or who is deemed to have been suspended under Rule 13 of the APCS (CC&A) Rules, 1963, shall not be accepted during the period of such suspension; and

Provided further that no withdrawal of resignation shall be permitted except with the sanction of the Government after the date of its actual acceptance by the appointing authority.

b) A member of a service shall, if he resigns his appointment, forfeit not only the service rendered by him in the particular post held by him at the time of resignation but all his previous service under the Government.”

The consequence of the resignation as laid down in General Rule 39 (b) is that not only the service rendered by the member of service in a particular post held by him at the time of resignation but also all his previous service under the Government will stand forfeited. In view of this consequence, the regulation of the period of unauthorised absence would be of no consequence and the acceptance of such resignation tendered by the member of service who remained absent from duty without leave need not wait the determination of unauthorized absence.

7. Request for “voluntary Retirement” while absent unauthorisedly:

Instances have also come to notice where Government Servants, while being unauthorisedly absent or where their leave was refused, have sought for voluntary retirement on completion of 20/33 years of qualifying service in accordance with Rules 43 and 44 of A.P.Revised Pension Rules, 1980, respectively, the competent authorities concerned have failed to take action to accept them promptly, resulting in unintended benefit to the employees concerned. In case of retirement on completion of 20 years of qualifying service as provided under Rule 43 of A.P.Revised Pension Rules, 1980, a Government Servant who gives a notice in writing of his intention to retire voluntarily shall not retire unless the notice given by him is accepted by the competent authority, provided that the competent authority shall issue an order before the expiry of the notice period accepting or rejecting the notice. In case of voluntary retirement on completion of 33 years of qualifying service as provided under Rule 44 of A.P.Revised Pension Rules, 1980, the appointing authority has to issue orders permitting the Government Servant to retire from service. In normal course, in either case, the voluntary retirement can be accepted / permitted as the case may be, pending determination of the period of unauthorised absence. In cases

where it is contemplated to take disciplinary action against the employee concerned, it would be appropriate to frame a charge against him before he retires from service so that further action may be pursued in accordance with Rule 9 of A.P.Revised Pension Rules unless the charges are grave and acceptance of such notice would not be in public interest. As such, acceptance of notice of voluntary retirement need not await the determination of the period of absence, provided the Government servant concerned has rendered 20/33 years of qualifying service.

Even in cases where an employee is permitted to retire voluntarily, departmental proceedings can be instituted with the sanction of Government in respect of a cause of action which arose or an event which took place not more than four years before such institution, in terms of Rule 9 of A.P.Revised Pension Rules.

8. The Departments of Secretariat and all the Heads of Departments are therefore, requested to keep these guidelines in view while dealing with cases of unauthorised absence, and to communicate them for implementation by their sub-ordinate officers who may be appointing authorities of posts, the holders of which may attract the provisions of rules referred to in these guidelines.

(225)

Memo.No.2025/SC.D/91-2, Genl.Admn.(SC.D) Dept., dt.30.12.1991: Surprise checks not to be undertaken in extraordinary situations like NGOs strike.

Subject Heading : Surprise checks not to be undertaken in extraordinary situations like NGOs strike

- Ref :
1. Memo.No.295/SC.D/80-10 GAD dt.02.03.82.
 2. Memo.No.2170/SC.D/84-5 GAD dt.21.07.84.
 3. From the D.G., A.C.B., Lr.No.18055/MRG/86-3, dt.31.01.87.

In the references first and second cited, it was suggested among others, that the departmental vigilance officers should conduct joint surprise checks along with the Officers of the Anti-Corruption Bureau and in cases where A.C.B. propose to conduct any surprise checks on Government offices, it should do it in co-operation with the Officers of the concerned Department. In pursuance of this, the Anti-Corruption Bureau, is conducting surprise checks in the offices of

the Sub-Registrars, Regional Transport Offices, and check posts of the Commercial Taxes and Transport Departments, etc., which deal with Cash Transactions with the Public with a view to curb the corrupt practices of the staff concerned.

2. The report of the Director General, Anti-Corruption Bureau on the surprise checks conducted on the CT check post, at Medchal on the intervening night of 19/20.12.1986 at 2.15 A.M., vide reference third cited, has been examined by the Government in the context of the N.G.Os., strike and it is considered not desirable to conduct surprise checks during the extra-ordinary situations like NGOs strike, by the Anti-Corruption Bureau and the inspections should be left to the concerned Heads of Departments.

3. The Director General, Anti-Corruption Bureau, Hyderabad is therefore, requested to issue suitable instructions to the concerned not to undertake surprise checks on the said officers and the check posts during the extra-ordinary situations, such as NGOs Strike, etc., under intimation to this Department and Revenue Department.

(226)

Memo.No.15/Ser.C/92-2, Genl.Admn. (Ser.C) Dept.., dt.23.01.1992 regarding disciplinary cases against Government Servants - proposals to be sent to Andhra Pradesh Public Service Commission for advice under Regulation 17.

Subject Heading : Andhra Pradesh Public Service Commission - consultation

Ref: 1. Memo.No.655/Ser.C/90-1 GAD dt.17.08.90.

2. From the Chairman, A.P.P.S.C., D.O.Lr.No.2140/RT/1/91, dt.23.12.91.

In the Memo cited all the Heads of Departments and Departments of Secretariat have been requested to adhere scrupulously to the instructions issued under the APCS (CC&A) Rules before referring the disciplinary cases to Andhra Pradesh Public Service Commission for Commission's advice. The Departments concerned have also been requested to forward the proposals in complete shape including information on all the items referred to in the check list appended to the said Memo.

2. In the reference second cited, the Chairman, Andhra Pradesh Public Service Commission has observed that in a majority of cases the, Inquiry Officers are not following the procedure scrupulously as laid down in Rule 19(2) of the APSC (CC&) Rules, in the absence of which it is difficult to the Public Service Commission to construe whether the principles of natural justice have been followed which is the prime requirement of any Domestic enquiry. The Chairman, Andhra Pradesh Public Service Commission has therefore requested that further instructions be issued to all the Departments for scrupulous implementation of the instructions issued in the Memo cited as well as the procedure prescribed in the APSC (CC&A) Rules so as to ensure speedy and judicious disposal of cases.

3. All the Heads of Departments and Departments of Secretariat are therefore requested to adhere to the instructions issued in the Memo cited scrupulously before referring the cases to the Andhra Pradesh Public Service Commission for advice and avoid delays.

(227)

**U.O.Note No.43/SC.D/92-1, Genl.Admn. (SC.D) Dept., dt.25.01.1992
regarding A.C.B. Reports - Departments to ensure safe custody.**

Subject Heading : ACB - to ensure secrecy and safety of ACB report

Ref : U.O.Note No.664/SC.D/87-1 G.A.(SC.D) Dept., dt.29.06.87.

The attention of the departments of the Secretariat is invited to the instructions issued in the reference cited intimating that the reports of the Anti-Corruption Bureau, are "Classified Documents" and should not be handled in a casual and routine manner resulting in their misplacement. The Departments of Secretariat are also requested to guard against mis-placement of Anti-Corruption Bureau reports and any unauthorized persons coming into possession of the reports and also against leakage of the reports to the Accused Officers.

2. In spite of the above clear instructions, it has been brought to the notice of the Government that a Secretariat Department mis-placed the final report of the Anti-Corruption Bureau and addressed the Anti-Corruption Bureau to make available a copy of the same. The final report of the Anti-Corruption

Bureau is classified document and will be sent to the highest officer duly closed and sealed. Its mis-placement is therefore a serious matter.

3. In the circumstances, Government reiterate the above instructions on the subject. All the Department of Secretariat, are, therefore, requested to scrupulously follow the instructions and ensure proper receipt and safe custody of the reports of the Anti-Corruption Bureau.

(228)

U.O.Note No.15/SC.F/92-1, Genl.Admn. (SC.F) Dept., dt.27.01.1992 regarding disciplinary cases referred to Commissionerate of Inquiries - disciplinary authorities to avoid delays.

Subject Heading: Commissionerate of Inquiries - avoidance of delays

- Ref : 1. Memo.No.490/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.
2. Memo.No.2462/SC.E/87-6, G.A.(SC.E) Dept., dt.05.03.88.
3. G.O.Rt.No.3661, G.A.(SC.F) Dept., dt.27.07.91.
4. U.O.Note No.328/COI.M/91-1, G.A.(COI.M) Dept., dt.30.12.91.

Instructions have been issued from time to time in regard to processing of the disciplinary cases recommended for Departmental action. It has been brought to notice that still some of the Departments are not following these instructions clearly with the result disposal of the cases is delayed. The instructions issued are therefore summarised below for guidance and follow up action.

2. In the reference first cited, instructions have been issued, regarding entrusting of Departmental Enquiries to the Commissioner for Departmental Inquiries later Commissionerate of Inquiries and the procedure to be followed in this regard. In the reference second cited, it was clarified to the Departments of the Secretariat to associate the Investigating Officer of the Anti-Corruption Bureau, during the course of the inquiry before the Inquiry Officer as provided for in APCS (CC&A) Rules. In the reference third cited, the Government have approved a panel of five Advocates to work as presenting officer in the inquiries before the Commissionerate of Inquiries.

3. In respect of cases enquired into by the Anti-Corruption Bureau and recommended for Departmental action by the Commissionerate of Inquiries, the

Anti-Corruption Bureau will nominate an officer for appointment as presenting officer to present the case on behalf of the Government / Department concerned. The Director General, Anti-Corruption Bureau is also required to furnish the records, draft articles of charge with statement of imputations, list of witnesses by whom and list of records by which the charges are to be substantiated to the appropriate authority for consideration and issue of charge memo. There should not therefore be any time lag for framing of charges, obtaining the written statement of the defence of the Charged Officer and reference to the Enquiry Officer with all material.

4. The Member, Commissionerate of Inquiries has stated that in many cases Disciplinary authorities in disregard to the instructions issued in the Memo. 1st cited, are allowing considerable time / intervals to occur in initial stages of disciplinary action before referring such cases to the Commissionerate of Inquiries resulting in delay in commencement of inquiries. The following are some of the important cases of delay by the disciplinary authorities while processing the disciplinary cases:-

- a) Framing of charges without reference to Memo. first cited.
- b) Indefinitely waiting for explanations by the Charged Officer without following the time limit.
- c) Lack of immediate or prompt response to requests made by the Charged Officer for permission to peruse records to enable him to submit explanation.
- d) Failure to secure access to all connected Records even before framing/issue of charges.
- e) Even after issue of charge memo, indefinitely waiting for the outside agencies like Anti-Corruption Bureau to send connected records.
- f) Failure to appoint presenting officer in time.
- g) Delays in the forwarding even of the basically important documents like served copies of the charge memo. or a photo copy thereof, with enclosures thereto.

5. A statement showing the cases pending with certain Departments viz., Revenue, Social Welfare, Energy, Forest, Environment Science and Technology, Industries and Commerce, Education and Municipal Administration Department, indicating the action due from the Departments is appended.

6. All the Departments of Secretariat are therefore, requested to ensure that such causes of delay are avoided in the disciplinary matters referred to Commissionerate of Inquiries and prompt steps are taken in all the pending disciplinary cases to complete the requirements expeditiously before referring them to Commissionerate of Inquiries for inquiry. The Departments mentioned in para 5 above are particularly requested to ensure that action due from them is completed in all respects urgently by taking prompt steps for expeditious disposal of the disciplinary cases referred to Member (Commissionerate of Inquiries) as it is necessary and the importance to do so need not be emphasised.

(229)

Circular Memo.C.No.12/RPC(C)/92, of Director General, A.C.B., dt.30.01.1992 regarding declaration of personal cash by temporary R.O.R. staff of Sub-Registrar's Offices.

Subject Heading : Cash - declaration at the time of reporting

Ref : Lr.No.X2/35666/91, dt.03.01.92 of the Inspector General of Registration and Stamps, A.P. Hyderabad and his office Memo.No.X2/35666/91, dt.21.12.91.

It has been reported that the temporary staff recruited in the R.O.R. Scheme and working in the Sub-Registrar's Offices are not declaring their personal cash as per rules. Hence they have become a source for Sub-Registrar's for collecting illegal money from the Public and concealing the bribe amounts. It was therefore suggested that the temporary staff recruited in the R.O.R. scheme should also declare their personal cash like other regular staff members of the Sub-Registrar's Offices. The I.G. of Registration & Stamps has agreed with the suggestion and suitable instructions were issued by him to all concerned through the reference cited.

(230)

U.O.Note No.192/SC.D/92-1, Genl.Admn. (SC.D) Dept., dt.14.02.1992: Sanction of prosecution to be issued within 45 days from the date of receipt of A.C.B. report.

Subject Heading : Sanction of prosecution - to issue within 45 days

Ref : 1. G.O.Ms.No.269, Genl.Admn.(SC.D)Dept., dt.11.06.85.

2. U.O.Note No.450/SC.D/87-1, dt.20.07.87.

3. From the Director General, Anti-Corruption Bureau, D.O.Letter No.8/ RPC(C)/92, dt.23.01.92.

The Director General, Anti-Corruption Bureau, Hyderabad, in his D.O. letter third cited, has stated that in spite of the instructions issued in the reference second cited to issue orders on the final reports of the Anti-Corruption Bureau sanctioning prosecution within 45 days, there has been an increasing number of cases where the issue of final orders of the Government is abnormally delayed and in a number of cases, no orders have been issued even for an year and more and such abnormal delays have been successfully used as a ground to get a prosecution withdrawn or quashed.

2. According to para 22 (v) of the G.O. first cited, one of the functions of the Chief Vigilance Officer is to take follow up action on the reports of the Anti-Corruption Bureau in the matters of departmental action or sanction of Prosecution.

3. In view of the above position, the Director General, Anti-Corruption Bureau, Hyderabad, has proposed conducting periodical meetings once in a quarter by the Chief Vigilance Officers of the Department of Secretariat concerned with a representative of the Anti-Corruption Bureau to sort out and arrange for early disposal of the pending cases.

4. Government, after careful consideration, agree with the above proposal of the Director General, Anti-Corruption Bureau, Hyderabad, for holding periodical meetings once in a quarter by the Chief Vigilance Officers in the Departments of Secretariat to review and sort out all the pending Anti Corruption Bureau cases and ensure issue of orders within a reasonable time. However, in view of the fact that in each Department of Secretariat, the Vigilance and Anti-Corruption Bureau cases are dealt with by each middle level officers viz., Deputy Secretary / Joint Secretary / Addl.Secretary and not necessarily by Chief Vigilance Officer only as per the work distribution, the concerned middle level officer besides the Chief Vigilance Officers may also be present at the meeting.

(231)

U.O.Note No.154/SC.E/92-1, Genl.Admn. (SC.E) Dept., dt.18.02.1992: Cases that can be referred for enquiry / investigation to Anti-Corruption Bureau.

Subject Heading : ACB - types of cases to be referred

- Ref : 1. Circular Memo.No. 2083/SC.D/63-6, G.A.(SC.D) Dept., dt.22.11.63.
2. Circular Memo.No. 1865/SC.D/80-1, G.A. (SC.D) Dept., dt 27.04.81.

3. Memo.No.289/SC.D/84-1, G. A. (SC.D) Dept., dt.01.05.84.
4. Memo.No.824/SC.D/87-1, G.A. (SC.D) Dept., dt.30.07.87.
5. From the Director General, Anti-Corruption Bureau, Hyderabad Letter C.No.4/RPC(C)/82, dt.13.01.92.

Government have issued specific instructions in the reference first cited, to the effect that only clear cases of mis-appropriation or fraud in which a prima facie case has been made out should normally be referred to the Crime Branch, C.I.D., for investigation instead of the Anti-Corruption Bureau. However, Government in the reference second cited, have clarified that in the cases investigated by the Anti-Corruption Bureau for corruption, if any mis-appropriation of public funds is revealed, the Anti-Corruption Bureau should themselves, take up further action for prosecuting the concerned instead of entrusting the cases to the Crime Branch, C.I.D. In the references third and fourth cited, Government have issued further instructions to the effect that the Anti-Corruption Bureau is a specialized institution created with trained staff for the specific purpose of conducting enquiry / investigation into cases of corruption among Public Servants and that the Bureau should not be saddled with the trivial cases, etc. It was mentioned therein that it is necessary and desirable that only cases involving corruption, lack of integrity, etc., are referred to the Anti-Corruption Bureau for enquiry/ investigation.

2. Inspite of the above clear instructions it has been brought to the notice of the Government by the Director General, Anti-Corruption Bureau, Hyderabad, in the letter fifth cited, that a Secretariat Department, has entrusted the case of embezzlement of funds in a co-operative institution of Guntur District to the Anti-Corruption Bureau for detailed investigation instead of referring the case to crime branch, C.I.D. or Local Police and he has requested to issue suitable instructions to all the Departments.

3. In the circumstances, while reiterating the above instructions, all the Departments of Secretariat are requested not to refer trivial cases, embezzlement, forgery, fraud or mis-appropriation cases etc., to the Anti-Corruption Bureau for investigation. Only the cases involving corruption, lack of integrity, etc. are to be referred to the Anti-Corruption Bureau for enquiry / investigation.

(232)

Lr.C.No.18/RPC(C)/92, dt.19.02.92 of the Director General, Anti-Corruption Bureau addressed to the Chief Secretary to Government, G.A. (SC.D) Department regarding sanction of prosecution - name of sanctioning authority should be legible.

Subject Headin : Sanction of prosecution - name of authority to be legible

The signatures of the Sanctioning Authority in the Sanction Orders are not legible and the Bureau is facing much difficulty at the time of citing the witness i.e., the Section Officer of the concerned Department to identify the signatures of the Sanctioning Authority i.e., Principal Secretary / Secretary / Joint Secretary etc. when the name of the Sanctioning Authority in the Sanction Order is not clear, it is difficult to know whether the concerned Section Officer is really conversant with the signature of that Sanctioning Authority.

2. In order to obviate the above difficulty, which is being encountered in the Courts, I request that suitable instructions may be issued to all Departments of the Secretariat to type the name of the Principal Secretary / Secretary / Joint Secretary underneath the signature in the Sanction Orders.

(233)

Memo.No.442/SC.D/92-1, Genl.Admn. (SC.D) Dept., dt.03.04.1992 regarding disciplinary proceedings in A.C.B. cases - final orders to be communicated to A.C.B. by Departments.

Subject Heading : ACB - charge memo, witness statements, final orders to be furnished

Ref : From the Director General, Anti-Corruption Bureau, Hyderabad,
Lr.C.No.26/RPC(C)/92, dt.04.03.1992.

The Anti-Corruption Bureau, is sending reports to the Government, after conducting discreet enquiries recommending in appropriate cases, departmental action against the suspect officer. The Director General, Anti-Corruption Bureau, Hyderabad, has brought to the notice of the Government vide letter cited, that

after completion of the enquiries ordered on the A.C.B. reports, many departments are not furnishing a copy of the final orders passed in such enquiries to the Bureau, as a result of which the Bureau is not aware of the disposal of such departmental enquiries. He has, therefore, requested to issue suitable instructions to all Departments in this regard.

2. All Departments of Secretariat and all Heads of Departments, are requested to mark a copy of the final orders issued on the reports of the Anti-Corruption Bureau, to the Bureau, in all such cases.

(234)

Memo.No.3924/L2/92, Law Dept., dt.20.05.1992 regarding decision of Supreme Court upholding order of suspension.

Subject Heading : Suspension - Supreme Court upholding suspension

Ref: Lr. No.1/RPC(C)/92, dt.29.04.1992 from the Director General, ACB, A.P. Hyderabad.

A copy of the Judgment of the Supreme Court of India in Civil Appeal No.2480/91 which arose out of S.L.P.No.14205/88 filed by the Government of Andhra Pradesh, against Sri K.K. Satyanarayana, Executive Officer-cum-Deputy Commissioner, SVVSS Devasthanam, Annavaram, is communicated to all the Government Pleaders and Assistant Government Pleaders in the Andhra Pradesh Administrative Tribunal, for reference in future.

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.2480/91**

(Arising out of S.L.P.(C) No.14205/88)

Govt. of A.P. & Anr. Appellants

VS.

K.K. Satyanarayana Respondent

ORDER :

Leave granted.

After hearing learned counsel for the parties and having regard to the facts and circumstances of the case, we are of the opinion that the tribunal

committed serious error in quashing the order of the Government placing the respondent under suspension pending enquiry. While considering the order of suspension pending inquiry, the Tribunal is not entitled to enter into the merit of the allegations of the defence at that stage. The tribunal thus committed grievous error in interfering with the order of suspension.

We accordingly allow the appeal and set aside the order of the tribunal. The State Govt. should proceed with the enquiry without any future delay.

There will be no order as to costs.

Sd./- K.N. Singh,

Sd./ K. Ramaswamy,

New Delhi,

May 8th 1991.

//True Copy//

(235)

**U.O.Note No.1135/SC.F/92-1, Genl.Admn. (SC.F) Dept., dt.25.06.1992
regarding framing of charges in departmental inquiries.**

Subject Heading : Charges - framing of

Subject Heading : Departmental action - framing of charges

- Ref: 1. Memo.No.490/SC.F/87-1, G.A.(SC.F) Dept., dt.13.03.87.
2. U.O.Note No.1798/SC.E/87-1, G.A.(SC.E) Dept., dt.20.10.87.
3. U.O.Note No.1798/SC.F/87-12, G.A.(SC.F) Dept., dt.22.08.89.
4. From the G.A.(COI-M) Dept., U.O.Note No.196/COI-M/92-1, dt.26.05.92.

Attention of all Departments of Secretariat is invited to the reference 1st cited, in which instructions were issued that in cases enquired into by the Anti-Corruption Bureau when the disciplinary authority after examination of the Anti-Corruption Bureau report comes to a conclusion that the matter need reference

to Commissioner of Inquiries the draft charges furnished by the Anti-Corruption Bureau should be scrutinised and finalised before they are served on the Charged Officer.

2. The Member, Commissionerate of Inquiries has brought to the notice of the Government in the reference fourth cited, that certain Departments are sending to the charged officers the draft charges and the statement of imputations of misconduct, etc., received from the Anti-Corruption Bureau along with the Memorandum of Articles of charges and it is causing confusion in the mind of the charged officer. Sending of articles of charges received from the Anti-Corruption Bureau duly signed besides the charge Memo. prepared by the disciplinary authority will not only reveal the source of investigation but also give rise to demand from the Inquiry Officer for a copy of the report of the Anti-Corruption Bureau which is meant only for the disciplinary authority as an aid to frame the charges. The Member (Commissionerate of Inquiries), therefore, desired to issue suitable instructions in the matter.

3. All Departments of Secretariat are, therefore, requested to follow the instructions issued in the reference 1st cited scrupulously while issuing Memorandum of Articles of charges and ensure not to send to the charged officers as enclosure to the charge memo. anything other than the statement of imputation, list of witnesses, list of documents prescribed under rules along with the Memorandum of Articles of charges i.e., Articles of charges received from the Anti Corruption Bureau and meant for disciplinary authority is not to be sent to the charged officer in any case.

(236)

**U.O.Note No.943/SC.D/92-1, Genl.Admn. (SC.D) Dept., dt.09.07.1992:
Declaration of cash by officials at the time of reporting to duty at check
posts should be in both figures and words.**

Subject Heading : Cash - declaration at the time of reporting

- Ref : 1) U.O.Note No.1515/SC.D/83-1, G.A. (SC.D) Dept., dt.18.08.83.
 2) U.O.Note No.1085/SC.D/87-2, G.A. (SC.D) Dept., dt.20.04.88.
 3) U.O.Note No.1224/SC.D/91-1, G.A. (SC.D) Dept., dt.08.10.91.

- 4) From the Director General, Anti-Corruption Bureau,
Hyderabad., letter C.No.50/RPC (C)/92, dt.04.06.1992.

In the references 1st and 2nd cited, all the Departments of Secretariat, who have got Check Posts and Offices under their Heads of Departments dealing with cash transactions, were requested to issue necessary instructions through the concerned officials to the staff in Check Posts and Sub-Registry Offices, transport Offices, etc., to declare the amounts on their person at the time of reporting for duty in the offices / check posts in a register prescribed for the purpose.

2. In the reference 3rd cited, instructions were issued restricting the possession of personal cash at the time of reporting to duty at the Check posts to Rs. 200/- (Rupees Two Hundred only) for each person.

3. In the reference 4th cited, the Director General, Anti-Corruption Bureau, Hyderabad, has reported that it has been observed during the surprise check conducted by the Bureau on 24.04.1992, One official had altered the figures in the Personal cash declaration Register to adjust the ill-gotten money as if it was his personal cash. He has, therefore, requested the Government to issue suitable instructions in the matter to all the concerned to declare the amount in the Register prescribed both in figures and words.

4. In view of the above circumstances, all the Departments of Secretariat are, requested to issue necessary instructions to the offices under their administrative control to the effect that the staff have to declare the amounts on their person at the time of reporting for duty in the Office / Check Posts in the register prescribed both in figures and words to minimise the scope of any alteration or manipulation.

(237)

**Memo.No.1245/SC.D/92-2, Genl.Admn. (SC.D) Dept., dt.22.12.1992
regarding disproportionate assets - assets of Hindu Undivided Family etc.**

Subject Heading : Disproportionate Assets - in case of Hindu Undivided Family

Ref: From the Director, ACB, Hyd., D.O.Letter C.No.98/ RC/ KKU(TCD)/87, dt.15.07.1991 addressed to C.S.

The issue raised by the Director General, ACB in the reference cited, has been examined by obtaining legal opinion including the considered opinion of the Advocate General. For the purposes of prevention of corruption act, no distinction can be drawn between a Hindu Undivided Family or any other family professing some other religion or a Hindu Divided Family. The approach should be that in the first instance only the assets standing in the name of the official concerned will have to be taken into consideration plus any monies discovered in a search of his residence or the furniture or other assets which are found in his possession. Secondly, the prosecution can take into account the assets standing in the names of other members of the Hindu Undivided family, if there is prima facie evidence that the said assets are disproportionate to the known sources of income of the Joint Family and were acquired from the monies furnished by the Accused Officer.

2. The question as to what type of evidence has to be let in by prosecution to prove its case depends upon the circumstances of each case and there cannot be a particular rule or method regarding the manner in which the material capable of proving the case of prosecution has to be collected. Therefore, the prosecuting agency has to adopt its own method of collecting the required material to prove its case in a court of law depending upon the circumstances of each case.

(238)

Memo.No.12798/LSP/L1/92, Law Dept., dt.12.01.1993 regarding A.C.B. cases before Supreme Court - A.C.B. to be informed by Advocate-on-Record.

Subject Heading : Supreme Court - Advocate-on-Record to liaise with ACB

It has been brought to the notice of the Government that the Advocates-on-Record, Supreme Court of India, New Delhi is not evincing much interest in the cases in which S.L.Ps. are filed either by the State or by the Accused Officers and after filing the S.L.Ps. there is no further information regarding the

dates of hearing etc. to the Anti-Corruption Bureau by the Advocates-on-Record to enable the Bureau to brief the investigating officers concerned to assist the Advocates-on-Record in the matter for effective representation

2. The Advocates-on-Record for Andhra Pradesh in Supreme Court of India, New Delhi are therefore requested to inform the dates of hearing and other developments of the cases in which the S.L.Ps. filed either by the State or by the Accused Officers well in advance to the Anti-Corruption Bureau or other authorities concerned so that the concerned officers could be deputed to assist the Advocates-on-Record for better results.

(239)

Memo.No.223/SC.D/92-6, Genl.Admn. (SC.D) Dept., dt.15.03.1993 regarding allowing margin of upto 20% of total income in disproportionate assets cases.

Subject Heading : Disproportionate Assets - margin of income

- Ref: 1. Memo.No.700/SC.D/88-4, G.A.(SC.D) Dept., dt.13.02.89.
2. Memo.No.1444/SC.D/90-1 G.A.(SC.D) Dept., dt.17.01.91.
3. From the D.G., ACB., D.O.Lr.No.7/RPC(C)/92, dt.23.01.92.
4. From the D.G., ACB., Lr.C.No.7/RPC(C)/92, dt.09.03.92 and even number dt.08.04.92.
5. Govt.Memo.No.223/SC.D/92-4, G.A.(SC.D) Dept., dt.28.07.92.
6. From the D.G., ACB., Lr.C.No.7/RPC(C)/92, dt.20.08.92.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the references cited.

2. The proposal from the D.G., A.C.B. for reconsideration of the 20% margin allowed in the references 1st and 2nd cited, has been examined in detail, keeping in view the legal aspects and other allied issues in accordance with the decisions taken in the meeting held in the Chambers of Chief Secretary on 25.04.92.
3. Considering the fact that the difficulty and the possibility of honest Government servants to prove their defence with mathematical exactitude of the income, expenditure & assets with required proof and the manner in which the investigating Agency is calculating the income, etc., in the cases of

disproportionate assets and also taking into consideration the number of cases in which the Government Servants are convicted either in the Courts or in the Departmental enquiries in the TDP, it is considered necessary and appropriate to continue the 20% margin prescribed, while computing disproportionate assets, as per the instructions contained in the references 1st and 2nd cited. It should not be construed as Government permitting corruption to the extent of 20%. It is, however, clarified that the 10% margin allowed in the Supreme Court Judgment and the 20% margin allowed by the State Government, are, based on the same principles of natural justice. The intention is, however, not to add both the percentages i.e., 10 plus 20% margin in such cases.

(240)

Circular Memo.No.13431-160-A/F.R.II/93, F&P (F.W-F.R.II) Dept., dt.01.04.1993 regarding payment of subsistence allowance during period of suspension.

Subject Heading : Suspension - payment of subsistence allowance

It has come to the notice of Government that the employees who are kept under suspension beyond 6 months are not receiving subsistence allowance beyond 6 months on the ground that the suspension has to be reviewed by the competent authorities. In this connection, the following instructions are issued for implementation by all the competent authorities who place a Government Servant under suspension in public interest:

2. According to Rule 13 of APCS (CC&A) Rules, 1963, an Officer should not be kept under suspension for a period exceeding 6 months normally and the disciplinary proceedings should be finalised within that period. The cases of officers who are placed under suspension should be reviewed by the authorities higher or by the Government themselves every six months, in order to ensure that suspensions are not continued indefinitely without justification.

3. According to F.R. 53 (i) (ii) (a), subsistence allowance at an amount equal to the leave salary which the Government Servant would have drawn, if he

had been on leave on half average pay, or half pay has to be paid, apart from the admissible allowances as per Rules. In terms of provision thereto, the amount of subsistence allowance can be enhanced or reduced by an amount not exceeding 50% of the subsistence allowance already admissible under the circumstances mentioned at (i) / (ii) under the above provision. Under Fundamental Rules, there is no bar or restriction limiting payment of subsistence allowance upto a period of six months in cases when the period of suspension is to be reviewed. In other words, the subsistence allowance according to F.R. 53(i)(ii)(a) and in terms of proviso thereto, depending upon the situation of the case specified in item No. (i) and (ii) under the proviso, as the case may be, has to be paid, as long as a person is continued under suspension even if the period is extended by undertaking a review or not.

4. Thus, the subsistence allowance shall not be denied to the suspended employee on any ground unless, the suspended employee is unable to / does not furnish a Certificate that he is not engaged in any other employment, etc., during the period to which the claim relates.

5. According to the instructions revision of subsistence allowance in terms of proviso to clause (ii) (a) of Sub-Rule (i) of F.R. 53 should not be given retrospective effect.

6. It is observed that payment of subsistence allowance is being delayed on the ground that the suspension is being reviewed. In this connection, the attention of the Departments of Secretariat, and Heads of Departments is invited to the orders issued in G.O.Ms.No.205, G.A.(Ser.C) Dept., dt.17.03.1990. There is no need for withholding subsistence allowance pending review as, even if the higher authority decides, that it would no longer be necessary to continue the employee under suspension, the reinstatement will be only with prospective effect. In view of this, even if a review is pending with a higher authority, which is a non-statutory review it is not necessary to withhold the payment of subsistence allowance.

7. The Departments of Secretariat and the Heads of Departments are requested to follow the above instructions scrupulously and also to bring them to the notice of all concerned under their administrative control for implementation without any deviation.

(241)

Circular Memo.No.115/Ser.C/93-1, Genl.Admn. (Ser.C) Dept., dt.26.04.1993 regarding issue of press statements by Government employees against Government.

Subject Heading : Press statements - against Government

Ref : G.O.Ms.No.468, G.A.(Ser.C) Dept., dt.17.04.1964.

According to Rule 17 of APCS (Conduct) Rules, 1964, no Government Employee shall by any Public utterance, written or otherwise, criticise any Policy or action of Government, or any other State Government or the Central Government; nor shall he / she participate in any such criticism. However instances have come to the notice of the Government wherein Government employees are indulging in criticising the policy or action of the Government and giving press statements. This involves violation of the above mentioned rule and attracts disciplinary action against the Government Servant concerned.

2. It is, therefore, reiterated that no Government employee either Gazetted or Non-Gazetted, shall violate the provisions of APCS (Conduct) Rules, 1964 and any violation of conduct rules would be viewed seriously and disciplinary action as deemed appropriate be taken against such employee.

(242)

Memo.No.564/SC.A/93-1, Home (SC.A) Dept., dt.28.04.1993 regarding taking of departmental action in traps which end in acquittal in court.

Subject Heading : Departmental action and acquittal

In cases of trap by the Anti-Corruption Bureau, where the prosecution fails (**), departmental action is normally being ordered by the Government. It is noticed that the departmental inquiries which are so ordered are unduly prolonged giving scope for gaining over the witnesses, resulting in their turning hostile. In the cases of traps, even if the witnesses turn hostile, there is normally ample tell-tale evidence available about delinquency by the Accused Officer. A

careful scrutiny of the evidence recorded would reveal circumstances that link the Accused Officer with the acceptance of bribe amount. If witnesses turn hostile, it does not necessarily mean that all evidence has disappeared. The evidence of officer laying the trap and proceedings of the trap cannot be ignored merely because of witnesses turning hostile. It is found that the Inquiry Officers are giving findings exonerating the Accused Officers simply because the witnesses turn hostile. In some cases even where the witnesses have not turned hostile they are being exonerated on the ground that there is no corroborating by other witnesses against the Accused Officer. Departmental inquiry is not to be treated as a trial in a criminal offence. The Inquiry Officers should weigh the evidence in the circumstances and should not lightly set aside the evidence of the officer who laid the trap and contemporaneous record. The appointing authorities who dispose of such cases have to apply their mind by going through the evidence on record and coming to a reasoned decision. Instead, in several cases they are stating generally that they agree or disagree with the findings of the Inquiry Officer and proceed to exonerate the Accused Officer. It is not necessary that the competent authority invariably agrees with the findings of the Inquiry Officer. A.P.C.S.(CC&A) Rules, 1991 do provide for competent authority to disagree with the findings of the Inquiry authority and issue show cause notice for such appropriate punishment as they consider proper after recording reasons for such action. It is necessary that the orders issued by the appointing authorities are subject to review by the Officer of Revision / Reviewing authorities under Rule 40 of A.P.C.S.(CC&A) Rules, 1991. All cases involving traps by the Anti-Corruption Bureau or other cases instituted as a result of Anti-Corruption Bureau enquiry, the disposals should be reviewed by the Revision / Reviewing authorities. Suitable arrangements may be made to comply with these instructions and henceforth the Government would invariably insist whether cases of this nature have been reviewed by the Revision / Reviewing authorities and call for the record of such review.

(243)

Memo.No.22/Ser.C/93-3, Genl.Admn.(Ser.C) Dept., dt.01.05.1993 regarding appointment of Presenting Officer.

Subject Heading : Presenting Officer - to be senior to Charged Officer

Ref : 1. G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.92.

2. U.O.Note No.27/CH.COI/93-1, dt.18.01.93.

According to sub-rule 5(c) of Rule 20 of the APCS (CC&A) Rules, 1991 where the disciplinary authority itself inquiries into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Government servant or a legal practitioner to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

2. The Chairman, Commissionerate of Inquiries in his U.O.Note 2nd cited, while quoting a case where the disciplinary authority has appointed a Government Servant as "Presenting Officer" who is lower in rank than the Charged Officer, has stated that such difference between the Charged Officer and Presenting Officer might result in putting the Presenting Officer under pressure, which would impair the effectiveness of the Presenting Officer. He has, therefore, suggested to issue instructions to all concerned, that, whenever a disciplinary authority, under Rule 20 (5) (c) of the APCS (CC&A) Rules, 1991 proposes to appoint a Government Servant as Presenting Officer, such Presenting Officer should be senior to the charged officer and occupying a higher rank than the charged officer in the hierarchy.

3. The suggestion of the Chairman, Commissionerate of Inquiries, has been examined in consultation with Law Department and it is decided to accept the suggestion of the Chairman, Commissionerate of Inquiries. The Departments of Secretariat and Heads of Departments are therefore, informed that whenever a disciplinary authority, under Rule 20 (5) (c) of the APCS (CC&A) Rules, 1991 proposes to appoint a Government servant as "Presenting Officer", it should be ensured that such Presenting Officer should be senior to the Charged Officer and occupying a higher rank than the Charged Officer in the hierarchy. In the departments where there are no higher level positions / functionaries, disciplinary authority may consider to appoint a legal practitioner as Presenting Officer, under the existing provision in Rule 20 (5) (c) of the APCS (CC&A) Rules, 1991.

4. All the Departments of Secretariat and all the Heads of Departments are requested to adhere to the above instructions scrupulously and bring these instructions to the notice of their subordinates.

(244)

G.O.Ms.No.335, Genl.Admn.(Ser.C) Dept., dt.14.06.1993: Withholding of increments with cumulative effect, is major penalty.

Subject Heading : Withholding increment with cumulative effect - major penalty

Read : G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.92.

ORDER :

In "Kulwant Singh Gill vs. State of Punjab" (1990(3) SLJ-135) the Supreme Court held, "withholding of increments" of pay simpliciter without any hedge over it certainly comes within the meaning of Rule 5(iv) of the Rules. (Corresponding to Sub-Clause IV of Rule 9 of the APCS (CC&A) Rules, 1991). But when penalty was imposed withholding two increments i.e., for two years with cumulative effect, it would indisputably mean that the two increments earned by the employee was cut off as a measure of penalty forever in his upward march of earning higher scale of pay. In other words the clock is put back to a lower stage in this time scale of pay and on expiry of two years the clock starts working from that stage afresh. The insidious effect of the impugned order by necessary implication, is that the appellant employee is reduced in his time-scale by two places and it is in perpetuity during the rest of tenure of his service with a direction that two years increments would not be counted in his time-scale of pay as a measure of penalty. Considering from this angle we have no hesitation to hold that the impugned order would come within the meaning of Rule 5(v) of the said rules; (corresponding to Sub-Clause (iv) of Rule 9 of the APCS (CC&A) Rules, 1991); it is major penalty and imposition of the impugned penalty without enquiry is per se illegal".

2. The Andhra Pradesh Administrative Tribunal in O.A.No:8527/1991, dt.04.06.1991, while relying on the above judgment of the Supreme Court, has set aside the orders issued by the Government in G.O.Rt.No.73, HM&FW Dept., dt.11.01.1990 on the ground that Rule 9(1)(iii) of the APCS (CC&A) Rules, 1963 does not empower the disciplinary authority to impose penalty of withholding increments of pay with cumulative effect except after holding an inquiry and following the prescribed procedure and considered that the said order issued by the Government is without jurisdiction or authority of Law.

3. The APCS (CC&A) Rules, 1991, have been issued through G.O.Ms.No.487, dt.14.09.92. The said rules came into force from 01.10.92. Rule 22 of the said Rules deals with the procedure for imposition of Minor penalties. Among others, according to sub rule (2) of Rule 22, notwithstanding anything contained in Clause (b) of sub-rule (1), if in a case it is proposed, after considering representation, if any made by the Government Servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government Servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (23) of Rule 20, before making any order imposing on the Government Servant any such penalty. In other words, for imposing the penalty of withholding of increments of pay with cumulative effect for any period, the elaborate procedure prescribed under Rule 20 of the said Rules for imposition of a major penalty, have to be followed. The penalty of stoppage of increments with cumulative effect, therefore amounts to a major penalty under the A.P.C.S. (CCA) Rules, 1991, and the procedure for imposition of major penalty prescribed in these rules will have to be followed.

4. All the Departments of Secretariat and Heads of Departments are requested to keep in view the above rule position while dealing with cases where it is proposed to impose the punishment of stoppage of increments, keeping in view the provisions of sub-rule (2) of Rule 22 of APCS (CC&A) Rules, 1991.

(245)

G.O.Ms.No.368, Genl.Admin. (SC.D) Dept., dt.29.06.1993 regarding reconstitution of Andhra Pradesh Vigilance Commission.

Subject Heading : Vigilance Commission - reconstitution of

Read :

G.O.Rt.No.218, G.A. (AR&T) Dept., dt:15.01.1990.

ORDER :

In the G.O. read above, the Government have constituted a Committee to examine the various aspects of Administration.

2. The above Committee on Administrative Reorganisation recommended as follows :

"The Institution of Vigilance Commission as it existed in the past may be revived and restored its original role and functions. Consequently, the Inspectorate General of Vigilance and Enforcement will be redundant. The Anti-Corruption Bureau would be the Investigating arm of Vigilance Commission. Cases Investigated by the Anti-Corruption Bureau would be referred on the advice of the Vigilance Commission, to the Special Court for Special Police Establishment and Anti Corruption Bureau, or the Tribunal for Disciplinary Proceedings or to the Department for Departmental enquiry. The Institution of Lokayukta which was revived recently may have jurisdiction over public men and public servants jointly involved with public men in any investigation."

3. The above recommendation of the Committee on Administrative Reorganisation has been under active consideration of the Government for some time past. After careful consideration, the Government have decided to revive the Vigilance Commission, as it existed in the past. The body will be called "ANDHRA PRADESH VIGILANCE COMMISSION" and the person appointed to the post will be designated as "THE VIGILANCE COMMISSIONER".

4. The Governor of Andhra Pradesh is pleased to appoint SRI K.V.NATARAJAN, I.A.S. (Retd.) to be the Vigilance Commissioner for the State of Andhra Pradesh, for a period of

THREE YEARS from the date of assumption of Office.

5. The following appointment is Notified :

NOTIFICATION

Sri K.V. Natarajan, I.A.S. (Retd.) is appointed as Vigilance Commissioner for the State of Andhra Pradesh for a period of three years from the date of his assumption of Office.

(246)

Circular Memo.No.3/29292/X1/93 of State Transport Authority, Hyderabad dt.24.07.1993 regarding disposal of unclaimed cash recovered in surprise checks of Transport Check posts- orders to be issued by Inquiry Officer.

Subject Heading : Surprise checks - unclaimed cash

Ref : C.No.216/S7/88, dt.26.05.93 from the D.G., ACB., Hyderabad.

During surprise checks conducted by the officials of Anti-Corruption Bureau on the check posts and offices they are seizing relevant records and some unclaimed amounts. When the case was referred to departmental inquiry the records and unclaimed amounts were being filed before the Inquiry Officer during the inquiry.

2. The Director General, Anti-Corruption Bureau in his letter cited has stated that after completion of Departmental inquiry, the Inquiry Officers will have to pass an order or mention about the disposal to be given to the records and also unclaimed amounts. After the issue of final orders on the enquiry reports the records can be returned directly to the concerned from whom they were seized and the unclaimed amounts if any will have to be credited to Government account.

3. In order to have a uniform policy all the Gazetted Officers of this department are requested to take a note of the position whenever they are appointed as Inquiry Officers they should invariably mention in their report about the disposal to be given to the records and unclaimed amounts so that action could be taken accordingly.

(247)

G.O.Ms.No.411, Genl.Admn. (Ser.C) Dept., dt.28.07.1993 regarding orders of suspension - formats prescribed.

Subject Heading : Suspension - proforma prescribed

Read :

G.O.Ms.No.487, G.A.(Ser.C) dept., dt.14.09.92.

ORDER :

Under Rule 8(1) of the APSCS (CC&A) Rules, 1991, a member of service may be placed under suspension from service:

- a) Where a Disciplinary proceeding against him is contemplated or is pending; or

- b) Where in the opinion of the authority competent to place the Government Servant under suspension, he has engaged himself in activities prejudicial to the interest of the security of the State; or
 - c) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial.
2. The authority competent to order a Government Servant to be placed under suspension should apply his mind before passing such an order and the order of suspension should be in the legally correct format. If the orders of suspension issued are defective and not in the correct format such orders are liable to be challenged in courts merely on technical grounds.
3. With a view to avoiding such situations and to bring uniformity in the forms of orders of suspension, having regard to the provisions contained in the APSC (CC&A) Rules, 1991, it has been considered desirable to prescribe model formats of order for the guidance of the competent authorities who are empowered to pass suspension orders against the delinquent officers.
4. Government accordingly direct that the competent authority should issue order of suspension after due consideration, in the relevant proforma annexed to this order as indicated below :

- a) Where charge sheet has been issued, the form in Annexure-I to this order may be considered for adoption;
- b) Where disciplinary proceedings are contemplated, the form in Annexure-II to this order may be considered for adoption; and
- c) Where a case has been registered and it is under investigation, the form in Annexure-III to this order may be considered for adoption.

(Note: See Part II for Proformae (Nos. 1, 2, 3)

(248)

G.O.Ms.No.421, Genl.Admn. (SC.D) Dept., dt.03.08.1993 regarding scheme defining jurisdiction, powers etc., of Vigilance Commission.

Subject Heading : Vigilance Commission - scheme defining jurisdiction, powers etc.

Read the following :

- 1) G.O.Rt.No.218, G.A. (AR&T-Desk) Dept., dt.15.01.1990.
- 2) G.O.Ms.No.368, G.A. (SC.D) Dept., dt.29.06.1993.

ORDER :

The Government after careful consideration of the recommendation of the Committee on Administrative Re-organisation have decided to revive the Vigilance Commission as it existed in the past. The body will be called "A.P.Vigilance Commission", and the person appointed to the post will be designated as the "Vigilance Commissioner".

2. Accordingly, Orders have been issued in the reference second read above, reviving the Vigilance Commission and appointing the Vigilance Commissioner.
3. The Government, after careful consideration, have decided upon the Scheme of the "A.P.Vigilance Commission" as appended to this order.

APPENDIX TO G.O.Ms.No.421, GENL.ADMN. (SC.D) DEPT.,
dt.03.08.1993.

SCHEME DEFINING JURISDICTION AND POWERS OF THE ANDHRA PRADESH VIGILANCE COMMISSION.

PREAMBLE :

1. The Government have decided to revive the Vigilance Commission as it existed in the past and restore its original role and functions.

CONSTITUTION :

2. The State Vigilance Commission shall be called as "ANDHRA PRADESH VIGILANCE COMMISSION" and the person appointed to the post will be designated as "THE VIGILANCE COMMISSIONER" and he is a full time Officer (hereinafter referred to as the Commission).
3. The Commission will address the Chief Secretary, Principal Secretary, Ex-Officio Principal Secretary, Special Secretary, Secretary and Ex-Officio Secretary as the case may be in relation to the subjects/reports concerning them. In exercise of its powers and functions, it

will not be subordinate to any Department and will have the same measures of independence and autonomy as the Andhra Pradesh Public Service Commission.

THE VIGILANCE COMMISSIONER :

4. The Vigilance Commissioner –
 - a) Shall be appointed by the Governor by a warrant under his hand and seal.
 - b) Shall not be removed or suspended from the Office except in the manner provided for the removal or suspension of the Chairman or a Member of the Andhra Pradesh Public Service Commission.
5. The Vigilance Commissioner will be responsible for the proper performance of the duties and responsibilities assigned to the Commission from time to time and for generally co-ordinating the work and advising the Departments / Government Undertakings/ Government Companies and such other Institutions as may be notified by the Government from time to time, in respect of all matters pertaining to the maintenance of integrity and impartiality in the Administration.

JURISDICTION AND POWERS OF THE COMMISSION:

6. The Commission will have the jurisdiction and powers in respect of the matters to which the executive power of the State extends. The powers and functions of the Vigilance Commission will be as follows :
 - (i) to cause an enquiry into any transaction in which a public servant including a member of an All-India Service is suspected or alleged to have acted for an improper purpose or in a corrupt manner.
 - (ii) to cause an enquiry or an investigation to be made into :
 - a) any complaint that a public servant had exercised or refrained from exercising his powers for improper or corrupt purposes;
 - b) any complaint of corruption, misconduct or lack of integrity or other kinds of malpractices or misdemeanour on the part of a Public Servant.

EXPLANATION :

Corruption as used in the foregoing clauses shall have the same meaning of Criminal misconduct in the discharge of official duties under the provisions of the Prevention of Corruption Act, 1988 (Central Act No.49 of 1988).

- (iii) to call for records, reports, returns and statements from all Departments / Government Undertakings / Government Companies / and such other Institutions as may be notified by the Government from time to time so as to enable the Commission to exercise a general check and supervision over the Vigilance and Anti-corruption work in the Departments / Government Undertakings / Government Companies and such other Institutions as may be notified by the Government from time to time.
- (iv) to make over under his direct control such complaints, information or cases as he may consider necessary for further action which may be either:
 - a) to ask the Anti-Corruption Bureau to register a regular case and investigate it; or
 - b) to entrust the complaint, information or case for enquiry :
 - 1) to the Anti-Corruption Bureau or
 - 2) to the Department / Government Undertaking / Government Company concerned and such other Institutions as may be notified by the Government from time to time.
- (v) In cases referred to in paragraph (iv)(b)(1) and also in all other cases where the Anti-Corruption Bureau has made enquiries including suo-moto enquiries, the preliminary report of the enquiry will be forwarded by the Anti Corruption Bureau to the Vigilance Commission. A copy may be sent by the Bureau to the Genl. Admn. (SC.F) Dept., and the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time. The Vigilance Commission will consider whether or not a regular enquiry is called for. If a regular enquiry is considered necessary by the Vigilance Commission against public servants other than those concerning members of the All-India Services

and Heads of Departments, it will authorise the Bureau to conduct a regular enquiry under intimation to the General Administration (SC.F) Dept., and the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time. If, however, a regular enquiry is not considered necessary the Commission will advise the Department / Government Undertaking / Government Company / such other Institution as may be notified by the Government from time to time concerned as to further action.

"Provided that in cases taken up by the Anti-Corruption Bureau, suo motu in which the finding of the Bureau is that there is no basis to proceed further in the matter, the preliminary / discreet enquiry reports shall be forwarded to the Vigilance Commission while making copies to the General Administration (SC.F) Department in duplicate for advice."

(G.O.Ms.No.424, G.A.(SC.D) Dept., dt.26.08.1994)

In respect of cases concerning members of the All-India Services and Heads of Departments, if a regular enquiry is considered necessary by the Commission, it will authorise the Bureau to conduct a regular enquiry only after consultation with the Chief Secretary to Government under intimation to the Genl.Admn. (SC.D) Dept., and Department of Secretariat concerned. If, however, no regular enquiry is considered necessary the Commission will advise the Chief Secretary to Government as to further action.

The final report of the enquiry by the Bureau in all cases will be forwarded to the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time through the Vigilance Commission provided that such reports against the Members of All-India Services Officers, and Heads of Departments will be forwarded to the Chief Secretary to Government through the Commission so that on a consideration of the report and other relevant records it may advise the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time/ Chief Secretary to Government, as the case may be, as to further action. A copy of report of the enquiry will be sent by the Bureau to the General Admn. (SC.F) Dept., and the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time / Chief Secretary to Government, as the case may be.

The cases referred to in paragraph (iv) (b) (2), the report of the inquiry by the Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time will be forwarded to the Vigilance Commission for its advice as to further action.

The Anti-Corruption Bureau shall conduct discreet enquiries / Regular enquiries / Investigation and register cases in accordance with the suo-moto powers delegated in Govt.Memo.No.163/SC.D/83-2, G.A. (SC.D) Dept., dt.30.03.1983 read with Memo.No.163/SC.D/83-3, dt.10.06.1983.

- (vi) The further action on the final reports of the Anti-Corruption Bureau, Government Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time, as the case may be, will be as follows:-
- a) Prosecution in a Court of Law.
 - b) Enquiries by the Tribunal for Disciplinary Proceedings in respect of all Gazetted Officers except All-India Services Officers.
 - c) Enquiry by the Commissioners for departmental Inquiry as may be appointed by Government.
 - d) Departmental Inquiry otherwise than by the Commissioners for departmental Inquiry.
- (vii) The Anti-Corruption Bureau will forward the final reports in all cases investigated by the Bureau in which it considers that a prosecution should be launched to the Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time concerned through the Vigilance Commission and simultaneously send a copy to the General Admn. (SC.F) Department and to the Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time concerned for any comments within 21 days from the date of receipt of the report by the Department / Government Undertaking / Government Company/and such other institution as may be notified by Government from time to time, which the latter may wish to forward to the Commission.

- (viii) The Commission after examining the case and considering any comments received from the concerned disciplinary authority will advise the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time with a copy to the G.A. (SC.F) Dept., whether or not prosecution should be sanctioned. Orders will thereafter be issued by the concerned Administrative Department in the Government in the cases of all Gazetted Officers and Non Gazetted Officers and Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time as the case may be. A copy of the final orders issued by the Government / Government Company and such other Institution as may be notified by the Government from time to time shall in all such cases be furnished to the Commission.
- (ix) The final report of the Tribunal for Disciplinary Proceedings in all cases referred to it, will be referred to the Commission by the Administrative Department concerned for advice both before arriving at a provisional conclusion and final conclusion in respect of the penalty to be imposed on the Government employee concerned. The Commission will examine the entire record and advise the Administrative Department as to further action. A copy of the final orders issued by the Government shall in all such cases be furnished to the Commission.
- (x) The Government in consultation with the Commission prepare a panel of Commissioners for Departmental Inquiry for all Departments. The Commission may advise the Government to refer to one of the Commissioners for conducting an enquiry against a Public Servant in such of those cases not referred to Tribunal for Disciplinary Proceedings. The Final report of the Commissioner shall be referred to the Vigilance Commission for advice. The Government Department concerned after consideration of the Report of the Commissioner for Departmental Inquiries and advice of the Vigilance Commissioner thereon will issue final orders imposing the penalty under APCS (CC&A) Rules or All-India Services (D&A) Rules. A copy of the final orders issued by the Government will in all such cases be furnished to the Commission for record.

- (xi) The Commission having regard to the fact of a particular case may advise the Government or the Government Undertaking / Government Company / such other Institution as may be notified by the Government from time to time to have the inquiry conducted departmentally otherwise than by the Commissioner for Departmental Inquiries or Tribunal for Disciplinary Proceedings. The final report of such Departmental enquiry shall be referred to the Vigilance Commission for advice. The Government Department concerned after consideration of such report and the advice of the Vigilance Commissioner thereon will issue final orders imposing the penalty under the A.P.C.S.(CC&A) Rules. A copy of the final orders issued shall in all such cases be furnished to the Commission for Record.
- (xii) In any case, where it appears that the discretionary powers had been exercised for improper or corrupt purposes, the Commission will advise the Department / Government Undertaking / Government Company and such of the Institution as may be notified by the Government from time to time that suitable action may be taken against the Public Servant concerned and if it appears that the procedure of practice is such as affords scope or facility for corruption or misconduct, the Commission may advise that such procedure or practice be appropriately changed or altered in a particular manner.
- (xiii) The Commission may initiate at such intervals as it considers suitable review of the procedure and practice of Administration in so far as they relate to the maintenance of integrity in the Administration in all departments of administration.
- (xiv) The Commission may collect such statistics and other information as may be necessary.
- (xv) The Commission may obtain information about action taken on its recommendations.
- (xvi) The Commission will submit an annual report to the Government in the Genl.Admn. (SC.D) Department about its activities drawing particular attention to any recommendations made by it, which had not been accepted and acted upon and the report together with a memorandum explaining the reasons for non acceptance of any recommendations of the Commission will be laid by the Genl.Admn. Department before the State Legislature.

STAFF

7. The Commission will be provided with such staff as may be necessary for the proper discharge of its duties and responsibilities in consultation with the Vigilance Commissioner. The staff may include administrative, technical and legal officers.

VIGILANCE OFFICERS :

8. There will be one Chief Vigilance Officer for each Secretariat Department and Vigilance Officers in all Subordinate and attached Offices and in all Government Undertakings / Government Companies and such of the Institutions as may be notified by the Government from time to time. The Chief Vigilance Officer may not be lower than the rank of a Deputy Secretary to Govt., and the Vigilance Officer shall be selected from among the senior officers of the department. In Government Undertakings / Government companies and such of the Institutions as may be notified by the Government from time to time the Vigilance Officers may be of such rank as may be decided by the Head of the undertaking in consultation with the Commission. The Chief Vigilance Officers shall be appointed in consultation with the Commission and the Vigilance Officers in sub-ordinate and attached offices shall be appointed in consultation with the Chief Vigilance Officer of the Department concerned. No person whose appointment as Chief Vigilance Officer is objected to by the Commission shall be so appointed.

9. The Chief Vigilance Officer and the Vigilance Officers besides being the link between the Commission and the departments should be the special assistants to the Secretary to the Government, in the Department or Head of the Government undertaking / Government Company / such of the Institution as may be notified by the Government from time to time concerned in combating corruption, misconduct and malpractices in the Department / Government undertaking / Government Company/ such of the Institution as may be notified by the Government from time to time. The Chief Vigilance Officer will be responsible for co-ordinating and guiding the activities of other Vigilance Officers in the attached and sub-ordinate offices and other organisation for which his department is responsible to the Legislature.

10. Collectors of District shall be the Chief Vigilance Officers within their jurisdiction. Their functions will be :

- (i) to entrust any complaint, information or case for expeditious enquiry to the concerned departmental officers at the district level as per the instructions to be issued from Government from time to time :

Provided that in respect of Gazetted Officers the Collector shall himself conduct such enquiry :

Provided further that where the Collector considers it necessary to entrust such enquiry to the Anti-Corruption Bureau, he shall forward the complaint, information or case with his views to the Vigilance Commission as to further action ;

- (ii) to co-ordinate with the officers of Anti-Corruption Bureau in his jurisdiction, the efforts to prevent corruption; and
- (iii) to ensure that the existing procedures in the district offices are examined with a view to eliminate factors which provide opportunities for corruption and malpractices.

(G.O.Ms.No.522 G.A.(SC.E) Dept., dt.15.11.1994)

11. The Vigilance Commissioner will assess the work of the Chief Vigilance Officers and the assessment will be recorded in the character roll of the said officers according to the procedure prescribed by the Government from time to time.

FALSE COMPLAINTS :

12. The Commission will take the initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against Public Servants.

(249)

G.O.Ms.No.470, Genl.Admn. (SC.D) Dept., dt.02.09.1993: Vigilance Commissioner is Head of the Department.

Subject Heading : Vigilance Commission - Commissioner, Head of the Department

CIRCULAR NO. (250)

Read the following :

- 1) G.O.Ms.No.368, G.A. (SC.D) Dept., dt.29.06.93.
- 2) G.O.Ms.No.395, G.A. (SC.D) Dept., dt.17.07.93.
- 3) G.O.Rt.No. 3728, G.A. (SC.D) Dept., dt.31.07.93.
- 4) From the Vigilance Commissioner, Hyderabad Lr.No.8/APVC/93, dt.03.08.93.

ORDER :

In the G.O. first read above, orders have been issued reviving the A.P.Vigilance Commission as it existed prior to its abolition in February, 1983 and Vigilance Commissioner has assumed Office on 30.06.93.

2. The Government, hereby declare the A.P.Vigilance Commissioner as the Head of Department for all purposes including financial matters. The Vigilance Commissioner will be the Drawing and Controlling Officer for himself for drawing his pay and allowances and T.A. Claims etc.

3. The Secretary to Vigilance Commissioner shall be the Drawing Officer in respect of himself, the Officers and staff and for purposes of T.A., Contingent and other expenditure etc.

4. This Order issues with the concurrence of Finance and Planning (Finance Wing-FR-I) Department vide their U.O.No.528/F.R.-I/93, dt.17.08.93.

(250)

G.O.Ms.No.480, Genl.Admn. (Ser.C) Dept., dt.07.09.1993 regarding review of orders of suspension for continuance beyond six months - authorities empowered to undertake review and issue orders

Subject Heading : Suspension - beyond six months, review of

Read the following :

1. G.O.Ms.No.205, G.A (Ser.C) Dept., dt.17.03.1990.
2. G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.1992.

ORDER :

Sub-rule (1) of Rule 8 of the APCS (CC&A) Rules, 1991, lays down that a member of a service may be placed under suspension from service :

- a) Where disciplinary proceedings against him are contemplated, or pending;
- b) where in the opinion of the authority competent to place the Government Servant under suspension he has engaged himself in activities prejudicial to the interest of the security of the State; or
- c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial.

Sub-rule (5)(a) of Rule 8 of the said Rules lays down that an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority which made or is deemed to have made the order or by an authority, to which that authority is sub-ordinate. Under sub-rule 5(b), of Rule 8 it is specified that 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 proceedings 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.

2. In its order dt.20.04.1993 in O.A.No.7109/92, the Andhra Pradesh Administrative Tribunal has observed as follows :

"We wish to observe that the order of suspension needs to be reviewed by the authorities periodically. The criminal trial or disciplinary proceedings may take a long time and the Government is to review the need for continued suspension on relevant grounds periodically. The observation in para 5 of the impugned order that the applicant shall continue under suspension until the termination of all proceedings relating to the criminal charge does not imply that till the trial, if any, is concluded, the order of suspension need not be reviewed or revoked. It will be for the Government to review the need for continued suspension at reasonable periodical intervals say six months".

3. In the G.O. 1st read above, executive instructions were issued for review of suspension at periodical intervals. Subsequently, the new APCS (CC&A) Rules, 1991 have come into force with effect from 01.10.1992 repealing the old APCS (CC&A) Rules, 1963. Consequently it, has been decided to issue revised instructions for review of suspensions at periodical intervals.

4. Accordingly, the following instructions are issued for review of the suspension cases :

I. Gazetted Officers :

- (i) In the case of Gazetted Officers, the first review of the order of suspension beyond a period of six months shall be undertaken by the Head of the Department, provided the original order of suspension was not issued by Government, and orders issued, if so decided, to continue the officer under suspension until further orders.
- (ii) The second and subsequent reviews at intervals of six months will be undertaken and orders for continuance of the officer under suspension until further orders will be issued by the Government.
- (iii) If the original order of suspension was issued by the Government, all the reviews including the first review shall be undertaken by the Government themselves and orders for continuance of the Officer under suspension until further orders will be issued by the Government.

II. Non-Gazetted Officers :

- (i) In the case of Non-Gazetted Officers first review of the orders of suspension beyond a period of six months shall be undertaken either by the authority next above the appointing authority or by the Head of the Department as the case may be, and orders issued, if so decided, to continue the Officer under suspension until further orders.
- (ii) The next review beyond a period of one year from the date of suspension shall be undertaken by the Head of the Department and orders issued by him, if so decided, to continue the officer under suspension until further orders.
- (iii) Any further review for continuing or otherwise of an officer under suspension beyond a period of one and a half years from the date of suspension at intervals of six months shall be undertaken by the

Government and orders for continuance of the officer under suspension until further orders will be issued.

- III.** At the end of the review as laid down above, if it is decided by the competent authority / Head of the Department/ Government, as the case may be, that the member of the service need no longer be continued under suspension, orders should be issued forthwith revoking the order of suspension and he shall be reinstated into service immediately.

(251)

U.O.Note No.240/SC.D/93-3, Genl.Admn. (SC.D) Dept., dt.05.10.1993 (as amended by U.O.Note No.1595/SC.D/93-6, G.A.(SC.D) Dept., dt.16.11.1994) regarding guidelines for suspension of officers, in Trap cases (superseded by U.O.Note No.1818/Spl.B/2000-2, Genl.Admn. (Spl.B) Dept., dt.21.11.2001)

Subject Heading : Suspension - in trap cases

- Ref : 1. Memo.No.220/Ser.C/89-1, G.A.(Ser.C) Dept., dt.08.03.1989.
 2. Memo.No.1419/Ser.C/89-1, G.A.(Ser.C) Dept., dt.25.10.1989.

In the references cited, instructions, among others, have been issued for placing the Government Servants, who involved in Trap Cases, under suspension, immediately on receipt of the preliminary report from the Anti-Corruption Bureau. On scrutiny of the preliminary reports furnished by the A.C.B. in Trap Cases, it is, however, observed that the Trap cases could be classified into the following two categories :

- 1) Where the Accused Officer is caught red-handed in the act of accepting bribe and where the phenolphthalein test has yielded positive result and such cases can be classified as successful trap ;
- 2) The other cases are where the Accused Officer is not caught red-handed and where the phenolphthalein test has not yielded positive result and the case depends mostly on circumstantial evidence leaving room for benefit of doubt and such cases can be classified as other type which depends mostly on evidence to be gathered later.

2. The above categorisation has been examined by Government in detail taking into consideration the various aspects of the issues involving sanction of prosecution, departmental action, etc., based on the final reports furnished by the Anti-Corruption Bureau, in such cases and considered that it would be appropriate and convenient to categorise the Trap cases into two types as indicated in para one above.

3. Accordingly, a decision has been taken regarding the stages at which the Government Servants, who are involved in Trap Cases, should be placed under suspension on receipt of preliminary enquiry reports from the Anti-Corruption Bureau. The stages are explained below :

- 1) Where the Accused Officer is caught red handed in the act of accepting bribe and where the phenolphthalein test has yielded positive result and such cases can be classified as successful trap and the Charged Officer has to be placed under suspension based on the preliminary report received from the Anti-Corruption Bureau.
- 2) In other cases, where the Accused Officer is not caught red handed and where the phenolphthalein test has not yielded positive result and the case depends mostly on circumstantial evidence leaving room for benefit of doubt, decision for suspension or otherwise of the Accused Officer may be taken taking into account the advice tendered by the Vigilance Commissioner.

4. The General Administration (Services.C) Department are requested to issue suitable general instructions in modification of the instructions issued by them in para 3(a) of the reference 1st cited, immediately.

(252)

Memo.No.510/Ser.C/93-2, Genl.Admn.(Ser.C) Dept., dt.18.11.1993: Common proceedings, guidelines.

Subject Heading : Common Proceedings - guidelines

- Ref : 1. U.O.Note No.732/Ser.C/90-2, G.A.(Ser.C) Dept.,dt.8.12.90.
2. G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.92.

In the U.O.Note 1st cited, instructions were issued under Clause (a) of sub-rule (5) of Rule 19 of the APCS (CC&A) Rules, 1963 for holding inquiry in a common proceedings, when two or more persons are involved in one case and

when employees of different Departments are involved in disciplinary cases for certain lapses which were common to all of them. The APCS (CC&A) Rules, 1963 are repealed by the APCS (CC&A) Rules, 1991 which came into force with effect from 01.10.1992 necessitating the reissue of the said instructions under the new C.C.A. Rules.

2. According to sub-rule (1) of Rule 24 of the APCS (CC&A) Rules, 1991, where two or more Government Servants of the same service or different service concerned are involved in any case, the Government or any other authority competent to impose the penalty of dismissal from service on all such Government Servants may make an order directing that disciplinary action against all of them may be taken in a common proceedings. Provided that if the authorities competent to impose the penalty of dismissal on such Government servants are different, such authorities not being the Government, an order for holding such inquiry in a common proceedings may be made by the highest of such authorities with the consent of the other authorities competent to impose the said penalty on the others.

3. In view of the above rule, the following instructions are issued :

- (i) When two or more Government Servants of the same service or different service concerned are involved in one case, the highest authority competent to impose the penalty of dismissal from service on all such Government Servants may make an order for holding regular inquiry against them in a common proceedings, with the consent of the other disciplinary authorities / authority.
- (ii) Having regard to the findings in the inquiry report in the common proceedings, it is for the disciplinary authority concerned to issue final orders inflicting the punishment duly following the procedure.

4. When two or more persons are involved in one case, the magnitude of involvement of all the delinquent officers may not be the same and the degree of culpability may also vary from person to person. As such it may not be possible to impose the same penalty uniformly on all the charged officers, irrespective of the degree of their involvement. As such it may not be legally valid to prescribe any guidelines or yardsticks for imposing penalty in such cases. Therefore, the competent authority who orders such a joint inquiry should ensure that the members of service involved in disciplinary cases are imposed the penalties keeping in view their degree of culpability / seriousness of lapses / charges held proved.

(253)

Memo.No.745/Ser.C/93, Genl.Admn. (Ser.C) Dept., dt.24.12.1993: Inquiry Officers to be cautious in making remarks on Government institutions and officials (Cancelled by G.O.Ms.No. 257, GA (Ser.C) Dept., dt.10.06.99).

Subject Heading : Departmental Inquiry - inappropriate comments against Government officials and Institutions to be avoided

The House Committee of the 8th Legislative Assembly, in their report have observed, among others that the Inquiry Officers before making remarks, on Government Institutions and Government Officials should be cautious and such remarks should be established with facts and evidence.

2. Keeping in view the above, it is reiterated that the Inquiry Officers conducting inquiry into the disciplinary cases, while recording their findings in the inquiry report should be cautious in making remarks on Government institutions and on Government Officials and that such remarks should be based only on facts established on the basis of evidence in their inquiry.

(254)

G.O.Ms.No.74, Genl.Admn. (Ser.C) Dept., dt.24.02.1994 regarding sealed cover procedure - promotion / appointment to higher posts - further orders (Cancelled by G.O.Ms. No.257, GA (Ser.C) Dept., dt. 10.06.99)

Subject Heading : Sealed cover procedure

Read the following :

1. G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05.76.
2. G.O.Ms.No.104, G.A.(Ser.C) Dept., dt.16.02.90.
3. G.O.Ms.No.66, G.A.(Ser.C) Dept., dt.30.01.91.

ORDER :

In the G.Os. read above, instructions have been issued for consideration of the claims for promotion of officers who are facing enquiry in any Departmental

proceedings or before a Criminal Court or whose conduct is under investigation and against whom Departmental proceedings or criminal prosecution is about to be instituted.

2. During the meeting of the Secretaries to Government held on 07.07.1992, the issue of inordinate delays in finalising enquiries both Departmental and Anti-Corruption Bureau resulting in hardship to the employees, was discussed and an Officers Committee was constituted, to examine among others, the issue of "Promotion of Officers" involved in Inquiries and to submit proposals for review of the existing instructions. The Committee has accordingly made certain recommendations which have been accepted by the Standing Sub-Committee of Secretaries to Government in their meeting held on 06.12.1993.

3. Keeping in view the said recommendations and the procedure and guidelines issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, Government of India vide their Memorandum No.22011/4/91, Estt.A, dt.14.09.1992, Government direct that the following procedure be followed for promotion of Officers against whom disciplinary cases are pending.

4. The appointing authorities concerned should specifically bring to the notice of Departmental Promotion Committee / Screening Committee the following categories of disciplinary cases:-

- (i) Officers under suspension
- (ii) Officers in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending
- (iii) Officers in respect of whom prosecution for a criminal charge is pending.

5. The Departmental Promotion Committee / Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned above, along with other eligible candidates following the procedure prescribed in G.O.Ms.No.424, G.A.(Ser.C) Department, dt.25.05.1976.

6. In cases where the Officer's promotion is deferred in terms of G.O.Ms.No.424, GA (Ser.C) Department, dt.25.05.76 and the proceedings have not been disposed off, such cases should be reviewed by the Departmental

Promotion Committee in its next meeting to ascertain the progress made in the Disciplinary proceedings / Criminal Prosecution and further measures taken to expedite their completion.

7. There may be some cases, where the disciplinary case / criminal prosecution against the Officers is not concluded even after the expiry of two years from the date of the meeting of the first Departmental Promotion Committee. In such a situation, the appointing authority may review the case of the Officers, provided they are not under suspension, to consider the desirability of giving them 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 any 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 officer concerned.
- e) Whether there is any likelihood of misuse of official position which the officer may occupy after ad hoc promotion, which may adversely affect the conduct of the departmental case / criminal prosecution.

8. If the disciplinary proceedings arose out of the investigations conducted by the Anti-Corruption Bureau, the Anti-Corruption Bureau should also be consulted and its views should be taken into account.

9. In case the appointing authority consider that it would not be against the public interest to allow ad hoc promotion to the officer concerned, his case should be placed before the next Departmental Promotion Committee held in the normal course to decide whether the officer is suitable for promotion on ad hoc basis. Where the officer 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 / her.

10. If a decision is taken to promote an officer 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 orders that the Government reserve the right to cancel the ad hoc promotion and revert at any time the officer to the post from which he was promoted.

11. If the officer 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 officer 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 Departmental Promotion Committee Proceedings, and the actual date of promotion of the person ranked immediately junior to him by the same Departmental Promotion Committee, he would also be allowed his due seniority and benefit of notional promotion.

12. If the Officer 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 officer is not exonerated in the departmental proceedings, the ad hoc promotion granted to him should be brought to an end.

13. The orders issued in the G.Os. read above shall be deemed to have been modified to the extent necessary as per these orders.

(Note: This G.O.Ms.No.74, G.A. (Ser.C) Dept., dt.24.02.1994 has been cancelled by G.O.Ms. No.257, Genl.Admn. (Ser.C) Dept., dt.10.06.1999)

(255)

G.O.Ms.No.86, Genl.Admn. (Ser.C) Dept., dt.08.03.1994 regarding review of orders of suspension against Government Servants - further orders.

Subject Heading : Suspension - review of cases

Read :

G.O.Ms.No.480, G.A. (Ser.C) Dept., dt.07.09.1993

ORDER :

In the G.O. read above, instructions have been issued for review of the suspension cases of Gazetted and Non-Gazetted Officers, indicating the authorities empowered to undertake such reviews of orders of suspension for continuance beyond the period of six months.

2. During the meeting of the Secretaries to Government held on 07.07.1992, the issue of inordinate delays in finalising enquiries both departmental and A.C.B. resulting in hardship to the employees was discussed and an Officer's Committee was constituted to examine, among others, the issue of "Suspension of Public Servants" and to submit proposals for review of the existing instructions. The Committee has accordingly made certain recommendations which have been accepted by the standing sub-committee of Secretaries to Government in their meeting held on 06.12.93.

3. Keeping the said recommendations, in view, the following further orders are issued for review of suspension orders against the Government Servants :

- (i) The order of suspension against a Government Servant shall be reviewed at the end of every six months ;
- (ii) The appropriate reviewing authority should take a decision regarding continuance or otherwise of the employee concerned under suspension, with reference to the nature of charges, where delay in finalisation of enquiry proceedings cannot be attributed to the employees or when there is no interference from the employee in facilitating the enquiry.
- (iii) An outer limit be provided as two years from the date of suspension, failing which the Public Servant may have to be reinstated without prejudice to the proceedings being pursued. However, in exceptional cases, considering the gravity of the charges, one could be continued under suspension even beyond a period of two years, especially in cases where there is deliberate delay caused due to non-cooperation of the employee concerned.

- (iv) The concerned Principal Secretary / Secretary of the Department should review the suspension on cases of their department at an interval of six months with the representative from the A.C.B. if the proceedings arose out of the investigations conducted by the Anti-Corruption Bureau and make suitable recommendations as to the desirability or otherwise for the further continuance of the officers under suspension.
4. The above benefit may be given to all existing cases, as and when their half yearly review is taken up.

(256)

**U.O.Note No.1700/SC.D/92-4, Genl.Admn. (SC.D) Dept., dt.09.03.1994 :
Expeditious action to be taken for dismissal of employees convicted by
courts.**

Subject Heading : Departmental action and conviction

- Ref : 1. Memo. No.1017/66-14, G.A. (Ser.C) Dept., dt.18.06.1966.
 2. Memo.No.1718/Ser.C/75-1, G.A. (Ser.C) Dept., dt.22.11.1975.
 3. U.O.Note No.1418/SC.D/90-2, G.A. (SC.D) Dept., dt.05.11.1990.
 4. From the Director General, Anti-Corruption Bureau, Hyderabad,
Lr. C.No.61/RPC(C)/92, dt.29.10.1992 and 29.06.1993.

The attention of all the Departments of Secretariat is invited to the references 1st and 2nd cited, wherein, among others things, instructions were issued for taking prompt action for dismissal of employees convicted by the Courts, particularly by the Special Courts for A.C.B. and S.P.E. Cases. In spite of these instructions, instances are brought to the notice of Government wherein employees who have been convicted by the Courts are allowed to continue under suspension for long periods and steps were not taken for their immediate dismissal from service. These instructions have been reiterated in the U.O.Note 3rd cited. It has been stated specifically therein that all the Departments of Secretariat are requested to ensure that prompt action is taken against the employees who have been convicted by the Courts on the grounds of conduct and they are dismissed from service without any delay keeping in view the instructions contained in the reference 2nd cited.

2. In spite of the above clear instructions issued in this behalf, the Director General, Anti Corruption Bureau, Hyderabad, has brought to the notice of the Government an instance in which one of the departments of Secretariat has decided to continue the convicted officer under suspension till the appeal filed by him before the High Court is disposed of. He has also stated that other Government Departments have taken prompt action and dismissed the convicted accused officers under similar circumstances. He has, therefore, requested in his letter 4th cited, to issue suitable instructions to all concerned to adopt uniform policy in the matter.

3. All the Departments of Secretariat are, therefore, requested to adopt uniform policy and ensure that the Employees who have been convicted by the Courts are dismissed from Service without waiting for the disposal of the appeals filed by them in the courts.

4. The Departments of Secretariat are requested to bring the above instructions to the notice of all the Heads of Departments under their Administrative control.

(257)

**U.O.Note No.266/SC.D/94-2, Genl.Admn. (SC.D) Dept., dt.18.03.1994:
Vigilance Commission to tender advice on A.C.B. reports.**

**Subject Heading : Vigilance Commission - no need to discuss, where
advice on ACB report is in deviation with recommendation**

Ref: 1. U.O.Note No.310/SC.D/91-1, G.A.(SC.D) Dept.,dt.26.03.91.

2. G.O.Ms.No.368, G.A.(SC.D) Dept., dt.29.06.93.

3. From the D.G., A.C.B., Lr.C.No.35/RCT.TCT/92, dt.16.02.94.

The attention of the Departments of Secretariat is invited to the reference 1st cited, wherein instructions were issued to the effect that whenever it is proposed to differ from the recommendations of the Anti-Corruption Bureau by the Departments of Secretariat, the matter should be first discussed in inter-departmental meeting at appropriate level with the representative of the Anti-Corruption Bureau before taking final decision by obtaining orders in circulation to Chief Minister.

2. The above procedure has been reviewed in view of the revival of Andhra Pradesh Vigilance Commission in the G.O.2nd cited. The Vigilance Commission is an apex organisation in so far as the vigilance against corruption in the Government Services is concerned. The Anti-Corruption Bureau is the investigating wing of the Vigilance Commission. On receipt of the reports from the Anti-Corruption Bureau, the Vigilance Commissioner, after weighing the entire evidence and the records advises the Departments concerned as to the penalty to be imposed on the accused or delinquent officers. As such, the present practice of conducting inter-departmental meeting with the representative of the Anti-Corruption Bureau when there is deviation from the recommendation of the A.C.B. is dispensed with.

3. There is also no need for the Vigilance Commissioner to discuss with the Officials of the Anti- Corruption Bureau whenever his advice is in deviation from the recommendation of the Anti- Corruption Bureau.

4. The instructions issued in the reference 1st cited, may be treated as withdrawn.

(258)

Memo.No.283/SC.D/94-1, Genl.Admn. (SC.D) Dept., dt.19.03.1994: Traps to be reported to District Collectors by Radio Message by Investigating Officers.

Subject Heading : Traps - to inform District Collector by Radio Message

Ref: From the Secretary to Vigilance Commissioner, A.P., Lr.No.46/VC.F1/94-1, dt.19.03.94.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the reference cited and he is requested to issue instructions to all the Officers that whenever a trap is successfully laid in a district, a message should be sent to the Collector of the District also by wireless immediately, after the trap. He is also requested to verify and inform as to how the trapping of an MRO in Mahabubnagar District was not intimated to the Collector & District Magistrate, Mahabubnagar, for 15 days after the trap.

2. The Director General, Anti-Corruption Bureau, Hyderabad, is also requested to issue suitable instructions to the effect that the Inspectors / Deputy

Superintendents of Police of Anti-Corruption Bureau should meet the Collectors regularly as suggested by the Vigilance Commissioner, whenever the Collectors pass on information on corrupt officials, all the officers of Anti-Corruption Bureau should receive the same, get the clearance of their superior officers and initiate action in view of the fact that the Collectors are the Chief Vigilance Officers in the Districts.

(259)

**Memo.No.2139/SC.F/92-1. Genl.Admn. (SC.F) Dept., dt.07.05.1994:
Impleading of Inquiry Officers to be opposed.**

Subject Heading : Court cases - inquiry officers not to be impleaded

Ref : U.O.Note No.426/COI-CH/92-1, G.A.(COI.CH) Dept., dt.07.12.92.

The Chairman, Commissionerate of Inquiries had informed that in many proceedings initiated in a Court of Law / Tribunal by the Government Servant in service or retired they are impleading the Inquiring Authority as a respondent. All Heads of Departments and Departments of Secretariat are aware that the Inquiring Authority is a quasi-judicial Authority with a role limited to enquiring into and reporting upon a matter of alleged misconduct by a Government Servant, and it is open to the Disciplinary authority either to accept or to reject the inquiry report. Also it is open to the Disciplinary authority to award major or minor punishments or drop action based on / in disagreement with findings of the Inquiring Authority. The Inquiring Authority's report is not binding on the Disciplinary authority. The final outcome of disciplinary action is entirely within the discretionary jurisdiction of the disciplinary authority. Generally, the Disciplinary authority along with the show cause notice provides a copy of the inquiry report to the Charged Officer. In referee, in many proceedings initiated by the Aggrieved Officers, on the final orders of the Disciplinary authority, they are impleading both the Disciplinary authority and Inquiring Authority as respondents. It is not appropriate or correct to implead the Inquiring Authority as a respondent considering the facts that (a) the Inquiring Authority is a quasi judicial authority (b) he has a limited role, that is a role limited to inquiry into and report upon a matter of misconduct tentatively held by the Disciplinary authority to have been evidenced by a Government Servant (c) giving full appraisal of evidence and its line of reasoning and conclusions / findings (d) without any recommendations / as to punishment, even where there are adverse findings and (e) considering

further that it is open to the Disciplinary authority to accept or reject the inquiry report either in whole or in part, either unreservedly or with qualifications.

2. In the circumstances stated above, all Heads of Departments and Departments of Secretariat are requested to advise their respective Government Pleaders to point out at the very first appearance in any such case before a Court of Law / Tribunal the incorrectness of impleading the Inquiring Authority as a respondent by a Charged Officer feeling aggrieved with punitive action by the disciplinary authority.

(260)

Memo.No.17757-A/216/A2/Pen.I/94, F&P (FW.Pen.I) Dept., dt.24.05.1994 regarding procedure to be followed to withhold or withdraw pension.

Subject Heading : Pensioner - taking of departmental action

According to Rule 9 of A.P.Revised Pension Rules, 1980, the State Government reserves to themselves the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from a pension of the whole or part of any pecuniary loss caused, to the Government and to the local authority if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement.

2. If departmental proceedings had been initiated against a Government Servant under the APSCS (CC&A) Rules while he was in service, including re-employment, the proceedings will be deemed to be proceedings under Rule 9 of A.P. Revised Pension Rules, 1980 and will be continued and concluded by the authority by which they were commenced in the same manner as if the Government Servant had continued in service. In case, where departmental proceedings had been initiated by an authority subordinate to Government, that authority will submit a report recording its findings to the Government, as the power to pass orders in such cases vests only with the Government under Rule 9 of A.P.Revised Pension Rules,1980.

3. If departmental proceedings had not been instituted while a Government Servant was in service including the period of his re-employment, if

any, proceedings can be instituted under Rule 9(2)(b) of A.P.Revised Pension Rules, 1980 subject to the following :

- a) shall be with the sanction of Government ;
- b) for a misconduct or misbehaviour in respect of any event which took place not earlier than four years before the institution of such proceedings; and
- c) proceedings shall be conducted by such authority and at such place as the Government may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the Government Servant during his service

4. To ensure that uniform procedure is followed and also to avoid procedural irregularities which may vitiate the proceedings initiated, it is considered that standardised forms which are annexed to this Memo are adopted for dealing with such cases.

(Note : See Part II for Proformae (Nos. 32, 33)

(261)

**Circular Memo.No.290/Ser.C/94-2, Genl.Admn. (Ser.C) Dept., dt.01.06.1994:
Disciplinary authority to frame charges and appoint Inquiry Officer only
after receipt of statement of defence.**

Subject Heading : Inquiry Officer - stage of appointment

The Departments of Secretariat, Heads of Departments and Collectors are aware that the A.P.C.S (CC&A) Rules,1963 have been repealed by the A.P.C.S (CC&A) Rules, 1991 which came into effect from 01.10.1992.

2. The new Rule 20 of the A.P.C.S (CC&A) Rules, 1991 corresponds to old Rule 19(2) which deals with the procedure for imposing a major penalty. The new Rule 20 of the A.P.C.S (CC&A) Rules, 1991, prescribes entirely a new procedure for conducting an inquiry by the disciplinary authority where it is proposed to impose a major penalty prescribed under the said Rules. Some of the salient features of the new rule are given below for immediate guidance of the disciplinary authority / inquiry authority :

- (i) For imposition of a major penalty, an inquiry should be conducted either under the APCS (CC&A) Rules, or the Public Servants (Enquiry Act).
- (ii) The disciplinary authority may itself conduct the inquiry or appoint an inquiry authority to conduct the inquiry.
- (iii) The disciplinary authority itself can prepare or cause the preparation of the articles of charges, statement of imputations of misconduct or misbehaviour.
- (iv) The articles of charges, statement of imputations of misconduct and list of witnesses and documents should be served on the Government Servant by the disciplinary authority or at its instance and the Government Servant should be required to submit the statement of defence and to state whether he desires to be heard in person.
- (v) The disciplinary authority on receipt of statement of defence or where no statement of defence is received within the stipulated time, conduct the inquiry itself or appoint an inquiry authority to do so.

3. It may be noted from the above that as per the old rules, the Inquiry Officer used to be in the picture right from the start of the disciplinary proceedings, whereas under the new rules he comes into picture only when the disciplinary authority, after considering the statement of defence submitted by the Government Servant, decides to appoint an Inquiry authority for conducting an inquiry.

4. It is brought to the notice of Government that the disciplinary authorities appointing the Inquiry Officers straight away on receipt of a complaint against a Government Servant without following the procedure prescribed in Rule 20 (3) (4) of the new A.P.C.S (CC&A) Rules 1991 in the first instance. Such a course of action evidently which is not in accordance with the procedure prescribed under the new rules, is liable to be set aside when questioned in a Court of Law. It is, therefore, impressed on the disciplinary authorities that they should invariably follow the procedure prescribed under Rule 20 (3) (4) of the APCS (CC&A) Rules, 1991 before they consider the appointment of an inquiry authority. Non-compliance with the prescribed procedure will be viewed seriously.

5. As per the provision of the new APCS (CC&A) Rules, 1991, articles of charges etc., will have to be prepared or got prepared by the disciplinary authority. Needless to say that the articles of charge form the basis of inquiry.

Therefore utmost care and diligence is required to be taken while drawing up the articles of charges, as any defect or deficiency in the articles of charges will ultimately lead to vitiation of the entire proceedings. The disciplinary authority / inquiry authority should see that the charges are specific without any ambiguity and are fully supported by documentary evidence.

6. All the Departments of Secretariat, Heads of Departments and Collectors are requested to strictly follow the above procedure prescribed in the APCS (CC&A) Rules, 1991, whenever an inquiring authority is to be appointed for conducting inquiry under the said rules. They are also requested to bring these instructions to the notice of their subordinates for their guidance and compliance.

(262)

Memo.No.18/SC.D/94-3, Genl.Admn. (SC.D) Dept., dt.01.06.1994: MROs not to be taken as witnesses outside their jurisdiction in traps.

Subject Heading : Traps - MROs not to be taken outside jurisdiction

Ref: 1. Govt.Memo.No.4023/61-1, G.A.(Ser.D) Dept.,dt.27.12.61.

2. From the Collector, Adilabad, Lr.No.42/7150/93, dt.28.09.93.

In the Memo 1st cited, instructions were issued to the effect that all Government Servants, particularly Gazetted Officers should cooperate with the Officers of the Anti-Corruption Bureau or the Special Police Establishment whenever they are approached by those Officers to assist or witness a Trap.

2. The Collector, Adilabad District, Adilabad in his letter 2nd cited, has informed that the District of Adilabad is fully infested with the Extremists Activities and the Mandal Revenue Officers are supposed to stay constantly at their respective Headquarters for maintaining Law and Order and they have to take up tours within their Mandals as per the importance of the entrusted works. He has further stated that the MROs are not supposed to leave the Headquarters without prior permission of the District Collector and therefore requested the Government to issue necessary instructions to Anti-Corruption Bureau officials not to take the services of MROs in Trap Cases out of their jurisdiction in Adilabad District so that Law and Order could be maintained effectively by the Mandal Revenue Officials in their respective Mandals.

3. After careful examination of the matter, Government have decided that not only in Adilabad District but in all the Districts of the State, the Services of the Mandal Revenue Officers should not be taken by the Anti-Corruption Bureau officials in trap cases out of their jurisdiction either within the District or out of the District in the interest of maintenance of Law and Order.

(263)

U.O.Note No.314/SC.D/94-3, Genl.Admin. (SC.D) Dept., dt.07.06.1994 regarding withdrawal of prosecution in misappropriation and other vigilance cases only with advice of Vigilance Commission.

Subject Heading : Prosecution - withdrawal, only with advice of Vigilance Commission

Ref: 1. U.O.Note No.400/SC.D/91-1, G.A.(SC.D) Dept., dt.30.03.91.

2. G.O.Ms.No.368, G.A.(SC.D) Dept., dt.29.06.93.

Instructions were issued in the U.O.Note 1st cited regarding sanction of prosecution against Government Servants involved in Corruption Charges (i.e., in Anti-Corruption Bureau cases). It was also mentioned therein that whenever it is proposed to reconsider the cases of prosecution already sanctioned in Anti-Corruption Bureau cases, the views of the Anti-Corruption Bureau have to be obtained before a decision is taken by the Government.

2. The Vigilance Commission that existed prior to its abolition in 1983, was revived in the G.O. 2nd cited, and the Commission started functioning with effect from 30.06.1993. The Vigilance Commission is an apex organisation to help the Government in its vigilance activities.

3. The withdrawal of prosecution in cases of misappropriation comes under the ambit of vigilance. Hence, it is considered that in all cases of vigilance which include the cases of withdrawal of prosecution in misappropriation cases, no prosecution shall be withdrawn without the advice of the Vigilance Commissioner.

4. All the Departments of Secretariat, are, therefore, requested to see that whenever it is proposed to reconsider the cases of vigilance which include the cases of withdrawal of prosecution in misappropriation cases, no prosecution is withdrawn without the advice of the Vigilance Commissioner.

(264)

U.O.Note No.814/SC.D/94-1, Genl.Admn. (SC.D) Dept., dt.14.06.1994 regarding Supreme Court decision that Tribunals should not interfere with orders of suspension in serious cases of misconduct.

Subject Heading : Suspension - Tribunals not to interfere in serious cases

A copy of the Supreme Court's Judgment in State of Orissa vs. Sri B.K.Mohanty in which the Supreme Court held that "where serious allegations of misconduct are alleged against an employee, the Tribunal would not be justified in interfering with the orders of suspension of the disciplinary authority pending enquiry" is enclosed (copy not enclosed). The Supreme Court further observed that in this case that the Tribunal appears to have proceeded in haste in passing the impugned orders even before the ink is dried on the orders passed by the Appointing Authority. The contention of the respondent, therefore, that the discretion exercised by the Tribunal should not be interfered with and this Court would be loath to interfere with the exercise of such discretionary power cannot be given acceptance.

2. It may be worth-while bringing this decision of the Supreme Court dt.21.02.1994 to the notice of the Andhra Pradesh Administrative Tribunal, Central Administrative Tribunal and of High Court whenever orders of suspension passed by the appointing authority based on serious allegations of misconduct against an employee are sought to be challenged, in these forums. A copy of the forwarding U.O.Note from the Chairman, Commissionerate of Inquiries, is also enclosed.

Copy of U.O.Note No.112/COI-CH/94-1, Genl.Admn. (COI-CH) Dept., dt.31.05.1994 regarding forwarding a copy of the Judgment by Hon'ble Supreme Court of India regarding Administrative Tribunals to G.A. Department.

It is considered desirable to bring a very interesting Judgment by the Hon'ble Supreme Court of India passed as recently as 21.02.1994 to the Notice of the General Administration Department for circulation among all the Departments of the Government so that the principle (that when the Charges are serious the Tribunal should not use discretion to thwart disciplinary action) and its logical extensions are brought by whichever department is concerned to the notice of the Tribunal (A.P.Administrative Tribunal, Central Administrative

Tribunal, etc., as the case may be) and when the Tribunal feels like staying the proceedings particularly the enquiry proceedings which are not in themselves final, for reasons that may be in particular connected with the technicalities of the Evidence Act and if one may say so the technicalities of the C.C.A. themselves on the basis of a mere allegation of prejudice to defence. Though the Judgment is mainly in connection with a case which involved suspension of an employee pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct the principle itself will undeniably permit of extension to the cases where even the process of disciplinary inquiry is brought to a close by an order of the Tribunal for the reason of alleged prejudice to defence.

(265)

U.O.Note No.973/SC.D/94-1, Genl.Admn. (SC.D) Dept., dt.30.07.1994 regarding Chief Vigilance Officers holding of quarterly meetings with A.C.B.

Subject Heading : ACB - quarterly meetings with CVOs

- Ref: 1. U.O.Note No.192/SC.D/92-1, G.A.(SC.D) Dept., dt.14.02.92.
 2. U.O.Note No.322/SC.D/94-1, G.A.(SC.D) Dept., dt.10.04.94.

The attention of the Departments of Secretariat is invited to the reference 2nd cited, in which specific instructions were issued reiterating the earlier instructions (issued in the reference 1st cited) that the Chief Vigilance Officers of the Departments of Secretariat should conduct periodical meetings once in a quarter with the Director General, Anti-Corruption Bureau to review and sort out all pending A.C.B. cases in their respective departments and communicate copies of proceedings of such meetings to the Vigilance Commissioner / General Administration (SC.D) Departments promptly.

2. Despite issuance of specific instructions, most of the Departments of Secretariat are not conducting the periodical meetings quarterly and not furnishing proceedings of such meetings to this Department.

3. All the Departments of Secretariat are, therefore, once again requested to adhere to the instructions issued in the references cited, conduct periodical meetings quarterly and send the proceedings of the meetings regularly. They are requested to send the proceedings of the meetings for the quarter ending 31.03.1994 and 30.06.1994 to this Department, immediately.

(266)

Memo.No.357/Ser.C/94-1, Genl.Admn. (Ser.C) Dept., dt.04.08.1994 regarding suspension of officers involved in trap and disproportionate assets cases - expeditious action within 15 days of receipt of advice of Vigilance Commission.

Subject Heading : Suspension - in trap cases

- Ref: 1. Memo.No.220/Ser.C/89-1, dt.08.03.89.
2. Memo.No.1410/Ser.C/89-1, dt.25.10.89.

In the references cited, instructions were issued regarding suspension / transfer of Government Servants involved in cases of trap and possession of disproportionate assets taken up for investigations by the Anti-Corruption Bureau.

2. It has been brought to the notice of Government that there are abnormal delays in taking action to suspend / transfer the Government Servant concerned on receipt of advice tendered by the Vigilance Commission in cases taken up for investigation by the A.C.B. Due to the delay, the A.C.B. is handicapped in taking up the regular enquiry.

3. While reiterating the instructions issued in the references cited, all the Departments of Secretariat / Heads of Departments are once again requested to take expeditious action to place the Accused Officer under suspension or transfer them as the case may be within a period of 15 days without fail and ensure that no delays occur in this regard.

(267)

G.O.Ms.No.417, General Administration (Services-C) Department, dt.24.08.1994 - Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 – Provisio to sub-rule (1) of Rule 8 – Deletion – Amendment - Issued.

Subject Heading : Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 – Provisio to sub-rule (1) of Rule 8 – Deletion – Amendment - Issued.

Read :

G.O.Ms.No.487, Genl.Admn. (Ser.C) Department, dated.14.09.1992.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following Amendment to the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services.C) Department, dated 14.09.1992 and published in Part-I No.235 Extraordinary Andhra Pradesh Gazette dt.01.07.1992 :

AMENDMENT

In the said rues, the proviso to sub-rule (1) of Rule 8 shall be omitted.

(268)

Lr.No.66/VC.A2/93-3, dt.10.10.1994 of A.P.Vigilance Commission communicating Andhra Pradesh Vigilance Commission Procedural Instructions.

Subject Heading : Vigilance Commission - Procedural Instructions

Ref: G.O.Ms.No. 421, G.A. (SC.D) Dept., dt.03.08.1993.

In the G.O. cited, Government issued the scheme defining the powers, functions and jurisdiction of the Andhra Pradesh Vigilance Commission. To give effect to the provisions of the scheme of the Commission, a comprehensive set of procedural instructions have been drafted and approval of the Government obtained. Copies of the Andhra Pradesh Vigilance Commission Procedural Instructions as approved by Government are enclosed.

2. The procedural instructions booklet is a confidential document which may be kept in the safe custody and used strictly for official purposes only.

Enclosure :

1. Introduction

The Andhra Pradesh Vigilance Commission has been revived in G.O.Ms.No.368, GA (SC.D) Department, dated 29th June, 1993. G.O.Ms.No.421, GA (SC.D) Department, dated 3rd August, 1993, lays down the scheme of the Vigilance Commission which inter-alia provides that the Vigilance Commission has jurisdiction and powers through out the State of Andhra Pradesh in respect of matters to which the executive power of the State extends to check prevent and eradicate corruption in the public services and to deal with any complaint, information or case that public servants including members of All-India Services had exercised or refrained from exercising their powers for improper or corrupt purposes; and any complaint of corruption, misconduct, lack of integrity or other kinds of malpractices or misdemeanour on the part of the public servants.

2. Procedural instructions give effect to the scheme

The procedural instructions contained in the following paragraphs will be observed in giving effect to the scheme set out by the Government in G.O.Ms.No.421, GA (SC.D) Department, dated 3rd August, 1993.

3. Authorities to which complaints may be made

Complaints charging public servants and the servants under the employ of Government Undertakings / Government Companies and such other institutions as may be notified by Government from time to time, with corruption, lack of integrity, misconduct, malpractices or misdemeanour may be made to any of the following authorities :

- (1) The Vigilance Commission ;
- (2) The Secretaries / Principal Secretaries to Government and Chief Secretary to Government ;
- (3) The Heads of Departments ;
- (4) The Director-General, Anti-Corruption Bureau ;
- (5) The Collectors of the Districts ; and
- (6) The Heads of Government Undertakings, Government Companies and such other Institutions as may be notified by the Government from time to time.

4. (a) The form of complaints and petitions

Petitions charging the public servants with corruption, lack of integrity etc. and addressed to any one of the authorities aforesaid shall ordinarily be in writing. In cases where persons give oral information, such information shall be reduced to writing by the authority or an officer designated in that behalf by the authority before which the information is laid. On the complaint being so reduced into writing it shall be read over to the informant and an endorsement or attestation of the information shall be duly taken. Where the informant is not willing or is desirous of concealing his identity, he shall not be obliged to sign or attest the information. In such cases the information shall be treated as an anonymous or pseudonymous complaint and shall be dealt with accordingly.

(b) Anonymous and pseudonymous complaints

Normally allegations contained in an anonymous petition ought not to be taken notice of except in cases where the details given are specific and, therefore, verifiable and the authority that receives such complaints may make such preliminary examination as may be necessary.

In the case of petitions which are pseudonymous in character and where a specific address has been given in the complaint it shall be open to the authority which received the petition to address a communication to the person purporting to be the sender of the petition for further information. If it transpires that there is no person of the name at the address given, then it may be considered that the petitioner's name is a pseudonym and the petition dealt with in the same manner as an anonymous petition.

(c) Complaints against public servants of known integrity

A large number of disgruntled and disappointed persons are apt to make serious allegations against public servants out of malice or frustration. Such people generally do not reveal their identity and prefer to file anonymous or pseudonymous complaints even against public servants of known integrity and good repute. Care must, therefore, be exercised in dealing with such petitions.

5. Register of complaints

There shall be maintained in the offices of the Chief Vigilance Officers, Vigilance Officers and Anti-Corruption Bureau, a permanent register of all complaints, information or cases of corruption, lack of integrity, misconduct etc. against public servants received. It shall be maintained in form No.I by the Departments of Secretariat, and in Form I-A by Collectors and Vigilance Officers of the Heads of Departments / Undertakings etc.

A register will also be maintained in the Office of the Vigilance Commission in Form No.II.

6. Complaints, information or cases received or taken notice of by the Vigilance Commission

In addition to complaints or information received directly, the Vigilance Commission may call for any complaint or case filed before the Government, Heads of Departments, the Anti-Corruption Bureau, the Collectors or Heads of Government Undertakings / Government Companies and such other Institutions as may be notified by Government from time to time, as the case may be, and take such complaint or case under its direct control or advise the concerned authorities as to further action.

7. Action to be taken on complaints, information or cases received or taken notice of by the Vigilance Commission

- a) Where it appears to the Vigilance Commission that the complaint does not contain specific, ascertainable or verifiable allegations or where the complaint contains allegations of a frivolous, fantastic or vexatious character, it shall be open to the Vigilance Commission to direct / advise that the complaint shall be lodged and that no further action shall be taken and wherever possible the party (complainant) may be so informed.
- b) In respect of petitions, the originals of which are addressed to the Government, Heads of Departments etc. and copies thereof are received by the Vigilance Commission, it shall be open to the Vigilance Commission to enquire whether action is being taken by the authority to which the original petition was addressed or in appropriate cases take action suo motu on the copy and if deemed necessary or desirable intimate the concerned accordingly.

8. Course of action to be taken where Vigilance Commission considers it necessary

In cases where the Vigilance Commission is of the opinion that action should be taken on a complaint or information, as the case may be, the Commission may adopt any of the following courses:-

- 1) The Vigilance Commission may entrust the complaint or information for a preliminary enquiry to the administrative department of the Secretariat, to the Chief Vigilance Officer of a district or the Vigilance Officer of the

Head of the Department, Government Undertaking, Government Company and such other Institution as may be notified by Government from time to time, concerned. In such cases, the Chief Vigilance Officer / Vigilance Officer concerned will immediately make a preliminary enquiry to verify the allegations and submit his report in Form III to the Vigilance Commission together with relevant records for advice as to further action to be taken.

- 2) The Vigilance Commission may, wherever it considers it expedient to do so, ask the Anti-Corruption Bureau to make a discreet and confidential (Preliminary) enquiry for ascertaining whether there are any *prima facie* grounds for the complaint. However, in respect of All-India Service Officers and Heads of Departments the concurrence of the Chief Secretary to Government shall be obtained before referring the case to the Anti-Corruption Bureau. Where the Anti-Corruption Bureau is requested to make a preliminary enquiry, it shall make discreet and confidential enquiries as it may consider necessary and expedient and forward a brief report containing the result of its investigation, indicating whether a regular enquiry is called for or not.

The Anti-Corruption Bureau will forward all its reports to the Vigilance Commission in duplicate in Form No.III with the least possible delay.

- 3) The Anti-Corruption Bureau will assist the Vigilance Commission in dealing with complaints of corruption etc. against public servants and the servants under the employ of Government Undertakings, Government Companies and such other Institutions as may be notified by Government from time to time.
- 4) (a) On receipt of reports of preliminary enquiries in respect of complaints against members of the All-India Services serving in connection with the affairs of the State, including Select List Officers and Heads of Departments, the Vigilance Commission shall, on a consideration of the report and other relevant records, if any, and after consultation with the Chief Secretary to Government, authorise the Anti-Corruption Bureau to conduct a regular enquiry, if in the opinion of the Commission such an enquiry by the Bureau is called for. The General Administration (SC.D) Department in respect of Indian Administrative Service Officers including Select List Officers. General Administration (SC.C) Department in respect of Indian Police Service Officers including Select List Officers and General

Administration (IFS) Department in respect of Indian Forest Service Officers including Select List Officers will be kept informed in such cases. If, however, a regular enquiry is considered not necessary, the Commission will advise the Chief Secretary to Government as to the further action to be taken.

- b) On receipt of reports of preliminary enquiries in respect of complaints against public servants other than members of the All-India Services including Select List Officers and Heads of Departments the Vigilance Commission shall, on a consideration of the report and other relevant records, if any, direct the Anti-Corruption Bureau to conduct a regular enquiry if in the opinion of the Commission such an enquiry by the Bureau is called for. In such cases the Vigilance Commission will intimate the fact to the General Administration (SC.F) Department and the concerned Department, Government Undertaking / Government Company and such other Institution as may be notified by Government from time to time. If, however, it is considered that a regular enquiry by the Bureau is not necessary, the Commission will advise the concerned Departments etc. as to the further action to be taken.
- c) The final report of enquiry by the Anti-Corruption Bureau shall be forwarded to the Chief Secretary to Government in respect of enquiries against members of All-India Services and Select List Officers through the Vigilance Commission with an advance copy to the Chief Secretary to Government. In respect of others, the final report of enquiry shall be forwarded to the concerned Principal Secretary / Secretary to Government or the Head of the Government Undertaking / Government Company or such other Institution as may be notified by the Government from time to time, through the Vigilance Commission, with advance copy to the General Administration (SC.F) Department and the concerned Principal Secretary / Secretary to Government. In cases involving employees of Government Undertakings etc. advance copies may be sent to the Head of Government Undertaking etc. also. The Chief Secretary to Government / Principal Secretary to Government / Secretary to Government / Head of the Department / Undertaking may forward his comments, if any, to the Commission within two weeks from the date of receipt of the copy of the report from the Anti-Corruption Bureau.
- d) The Regular / Final enquiry reports referred to in sub-clauses (a), (b) and (c) above shall be furnished to the Commission in Form No.VIII in

duplicate and copies sent to the concerned as laid down in the said sub-clauses.

- 5) In cases investigated into by the Anti-Corruption Bureau, suo-motu or otherwise, where the Director General, Anti-Corruption Bureau, is satisfied that there is a case for criminal prosecution, he shall forward his report of enquiry in duplicate in Form No.VIII together with other relevant records, if any, to the administrative department of Secretariat / Undertaking etc. concerned through the Vigilance Commission with a copy to the administrative department of Secretariat and to the Head of the Department/ Undertaking / Company and an advance copy to the General Administration (SC.F) Department. The administrative department of the Secretariat/Head of the Department / Undertaking / Company shall, on receipt of the copy of the report of the Anti-Corruption Bureau, forward its/his comments, if any, to the Vigilance Commission within two weeks from the date of its receipt by the Department / Head of the Department / Undertaking / Company. The departments of Secretariat, while forwarding their comments, shall indicate the designation of the authority empowered to sanction prosecution.
- 6) In all cases where the Commission, after considering the regular/final reports, advises for launching criminal prosecution, the concerned Principal Secretary / Secretary to Government or the concerned Head of the Government Undertaking etc. shall take action to issue sanction of prosecution within a period of forty five (45) days from the date of receipt of the regular / final report with the advice of the Commission.
- 7) In the case of All-India Service Officers serving in connection with the affairs of the State Government, Central Government's sanction is required for prosecution, under Section 19(1) of the Prevention of Corruption Act, 1988. It would be appropriate that before moving the Central Government for sanction in such a case, the State Government should themselves take a firm decision that, in their opinion, a case for prosecution is made out and they should either issue their sanction under section 197 Criminal Procedure Code or they should, before moving the Central Government, obtain the firm orders of the competent authority in the State Government hierarchy that the State Government would issue their sanction simultaneously with the Central Government's decision to sanction the prosecution under the provisions of the Prevention of Corruption Act, 1988. There is otherwise also the risk that

courts may take a view, that the State Government had not really applied its mind before according sanction in terms of section 197 Cr.P.C., in case the State Government's sanction just follows the Central Government's sanction under the provisions of the Prevention of Corruption Act. This might result in a lacuna leading to the legal proceedings being quashed or held up. (Note : Amendment under way as per sub-para (7))

- 8) Where the Vigilance Commission is of the opinion that the case does not warrant the filing of a criminal prosecution, it may advise the Government to refer to the Tribunal for Disciplinary Proceedings for enquiry and report under Section 4 of A.P.C.S. (Disciplinary Proceedings Tribunal) Act, 1960.
 - a) cases relating to Gazetted Officers including Select List Officers in respect of matters involving misconduct ; and
 - b) cases relating to Non-Gazetted Officers involving corruption / integrity, enquired into by Anti-Corruption Bureau including cases of misappropriation / embezzlement investigated by Anti-Corruption Bureau or emanating otherwise and which are considered not appropriate for prosecution in a Court of Law. (Note : Amendment is under way as per cl.(b))
- 9) The Departments of Secretariat, shall, while referring cases to Tribunal for Disciplinary Proceedings for enquiry, send a copy of such reference to the Vigilance Commission. In all cases, the final report of the Tribunal for Disciplinary Proceedings shall be sent to the Vigilance Commission in duplicate together with all the relevant records by the administrative department of the Secretariat for its advice both before arriving at the provisional conclusion and after receiving the representation of the delinquent officer and before arriving at a final conclusion in respect of the penalty to be imposed on the Government Servant concerned. The Vigilance Commission will examine the record and forward the same to the concerned administrative department of Secretariat with advice as to further action. A copy of the final orders issued by the Government in all such cases shall be furnished to the Vigilance Commission.
- 10) Where the Vigilance Commission is of the opinion that a case does not warrant filing of criminal prosecution or inquiry by the Tribunal for Disciplinary Proceedings, as the case may be, it (the Commission)

may advise for taking departmental action in accordance with the procedure laid down in the A.P.C.S. (CCA) Rules, 1991, against the officers concerned, both Gazetted including Select List Officers and Non-Gazetted. After conclusion of the inquiry, the concerned department shall forward to the Vigilance Commission a report of its conclusion together with relevant records for such advice as the Vigilance Commission may think fit to give on a consideration of the conclusions of the disciplinary authority and the relevant records in the case.

- 10) (a) In cases relating to All-India Service Officers where the Vigilance Commission is of the opinion that a case does not warrant filing of criminal prosecution, the Commission may advise for taking Departmental action in accordance with the procedure laid down in All-India Services (D&A) Rules, 1969. After conclusion of the inquiry, the concerned Department shall forward to the Vigilance Commission a report of its conclusion together with relevant records for such advice as the Commission may think fit. (Note: Amendment under way, as per sub-para (10)(a))
- 11) In respect of reports against servants in the employ of Government Undertakings etc. the Vigilance Commission may, if satisfied that a criminal prosecution is inexpedient, direct the head of the Undertaking etc. to conduct necessary departmental enquiry. The advice of the Vigilance Commission shall be obtained after the conclusion of the departmental enquiry, regarding the findings on the delinquency and the penalty to be imposed on the charged officer, both before arriving at the provisional conclusion and after receiving the representation of the delinquent officer. The result of the action taken on the advice of the Vigilance Commission by the Head of the Undertaking etc. shall be reported to the Vigilance Commission together with a copy of the proceedings of orders issued in the case.
- 12) In cases investigated by the Anti-Corruption Bureau suo-motu or otherwise, where the Director General, Anti-Corruption Bureau, is satisfied that there is case for taking action other than criminal prosecution, he shall forward his report in duplicate in Form No.VIII together with other relevant records, if any, to the administrative Department of Secretariat/ Undertaking etc. concerned through the Vigilance Commission with a copy to the administrative department of the Secretariat and to the Head of the Department / Undertaking etc. and an advance copy to the General Administration (SC.F) Department. In the report, the Anti-Corruption

Bureau may suggest whether the delinquent officer may be placed on his defence before the Tribunal for Disciplinary Proceedings or he may be proceeded against departmentally without indicating the specific penalty to be imposed. The administrative department of Secretariat/ Head of the Department / Undertaking etc. shall, on receipt of the copy of the report of the Anti-Corruption Bureau, forward its/his comments, if any, to the Vigilance Commission within two weeks from the date of its receipt by the administrative department of Secretariat/Head of the Department / Undertaking etc. On consideration of the report of the Anti-Corruption Bureau, the Commission will advise the Department/ Undertaking etc. on the nature of the proceedings to be instituted.

- 13) The Vigilance Commission will take action to eliminate the chances of Government Servants having to face parallel enquiries by the various authorities referred to in paragraph 3 above on the same or substantially the same material, as far as possible. However, when the Anti-Corruption Bureau is conducting an enquiry / investigation, no other authority shall cause parallel enquiry / investigation, without obtaining the advice of the Vigilance Commission.

9. Complaints, information or cases received by the Departments of Secretariat, Heads of Departments / Government Undertakings / Government Companies and such other institutions as may be notified by the Government from time to time, Collectors and the Anti-Corruption Bureau

- a) Complaints of corruption, misconduct, misdemeanour, lack of integrity etc. against Government Servants received by the Departments of Secretariat, Heads of Departments/ Government Undertakings / Government Companies and such other institutions as may be notified by Government from time to time, Collectors, and the Anti-Corruption Bureau, or referred to them by the Vigilance Commission, shall be dealt with by them. Complaints received by them shall be examined in the first instance in the manner provided for in paragraph 4 above. In order to decide whether or not a detailed probe into a complaint is necessary, a prima-facie case should exist. For this purpose, the authority concerned shall conduct a preliminary enquiry. At the preliminary enquiry an attempt should be made to enquire into the allegation or a substantial part thereof with the help of available records or by discreetly contacting persons, if any, referred to in the complaint. The report of the preliminary enquiry shall be sent to the Vigilance Commission in duplicate in form No.III for advice as to the further action.

- b) Complaints referred to the Chief Vigilance Officers / Vigilance Officers etc. by the Vigilance Commission shall be enquired into by the officer to whom they are referred. If, for any reason, the authority concerned considers that he cannot enquire into it / them himself, he should return the complaint to the Vigilance Commission with the reasons therefor and suggest the manner in which the complaint may be enquired into.
- c) The Chief Vigilance Officers in the departments of the Secretariat will be the link between the Vigilance Commission and the department in which they function as Chief Vigilance Officers. They shall be responsible for helping the Vigilance Commission in unearthing corruption in the respective departments. They shall bring to the notice of the Vigilance Commission such practices or procedures which in their opinion give or likely to give rise to corruption, malpractices or lack of integrity on the part of the members of the establishment in their respective departments.
- d) The Chief Vigilance Officers shall conduct enquiries into allegations against the members of the staff under their charge either on a complaint received by them or by the Principal Secretary / Secretary to Government or on a reference by the Vigilance Commission. The Chief Vigilance Officers shall have the right to conduct the enquiry against any Government servant in their departments irrespective of the fact whether he is under the administrative jurisdiction of the Chief Vigilance Officer as Deputy Secretary / Joint Secretary / Additional Secretary to Government. In conducting the enquiry the Chief Vigilance Officers will have the right to call for any file or document, including the property statements and confidential files of the persons concerned. They shall also have the right to examine the files of the person concerned. They shall also have the right to examine persons orally. If, in the course of conducting the enquiry, it appears to the Chief Vigilance Officer that it will be more advantageous to have the investigation conducted by the Anti-Corruption Bureau he shall have the power with the concurrence of the Principal Secretary / Secretary to Government of the Department concerned to refer the case to the Anti-Corruption Bureau under intimation to the Vigilance Commission. After the conclusion of the enquiry referred to supra, the Chief Vigilance Officer should forward his report in duplicate in Form No.III to the Vigilance Commission with the comments of the Principal Secretary / Secretary to Government, if any. In exercising their powers and performance of duties, the Chief Vigilance Officers shall carry out the advice and instructions given by the Vigilance Commission from time to time.

As far as may be, all correspondence between the Vigilance Commission and the concerned departments of Secretariat shall be initiated, conducted and routed through the Chief Vigilance Officer, so that the provision of the scheme that the office of the Chief Vigilance Officer shall be the link between the department of Secretariat and the Vigilance Commission may be fully effectuated.

e) Complaints relating to subordinate and attached offices :

Where a complaint of corruption, malpractice or lack of integrity on the part of a member of the staff of a subordinate or attached office or Government Undertaking or Government Company or such other Institution as may be notified by Government from time to time is received by the Chief Vigilance Officer, he shall call upon the concerned Vigilance Officer to make an investigation and furnish a report to him. On receipt of the report from the Vigilance Officer concerned, the Chief Vigilance Officer shall forward that report to the Vigilance Commission in duplicate together with the comments, if any, through the Principal Secretary / Secretary to Government for advice as to further action.

f) The Vigilance Officers shall not be directed to make investigations into allegations against officers drawing higher pay or belonging to a higher cadre than the Vigilance Officer himself. In such cases, the Chief Vigilance Officer himself shall conduct the enquiry. The Chief Vigilance Officer shall have the right to comment upon the work of the Vigilance Officers and give them advice, guidance and instructions, from time to time.

10. Complaints received by Collectors

Collectors, as Chief Vigilance Officers for their respective jurisdictions, may receive complaints not only against the officers and subordinates of the Revenue Department but also against those of other departments within their territorial jurisdiction. In respect of complaints against Gazetted Officers, the Collector shall himself conduct a preliminary enquiry and in respect of complaints against Non Gazetted Officers, he may direct the concerned Revenue Divisional Officer or the concerned District Head of the Department to enquire into the allegations and submit a report. The District Head of Departments shall render all necessary assistance and co-operation to the Collectors in this regard. The report of the preliminary enquiry of the Collector and/or those furnished by the

Revenue Divisional Officers or District Heads of Departments shall be forwarded in duplicate in Form No.III to the Vigilance Commission together with his recommendation as to further action. If the Collector considers that he is unable to conduct a preliminary enquiry or direct his subordinate or district head of department concerned to conduct a preliminary enquiry or is of the view that an enquiry by the Anti-Corruption Bureau is called for, he shall forward the complaint together with any relevant records to the Vigilance Commission with his views as to further action.

11. Complaints received by the Anti-Corruption Bureau

- a) In all cases referred to or received by it, the Anti-Corruption Bureau shall conduct such discreet and open enquiries as it may consider necessary and expedient and forward its reports to the Vigilance Commission with its findings and recommendations in duplicate for orders as to the further action to be taken.
- b) In the course of a preliminary enquiry where the Anti-Corruption Bureau is satisfied that there is material for a regular enquiry, it shall do so with the concurrence of the Vigilance Commission. At any stage of the preliminary enquiry if the Anti-Corruption Bureau is satisfied that there exists a case for launching criminal prosecution, or there is the likelihood of collecting evidence to deal with the officer, the Bureau shall register a case and proceed with the investigation so as to obviate the necessity of going through the same process of enquiry / investigation once again and the resultant delay and exclude the possibility of witnesses being won over or evidence disappearing or being tampered with.

12. Reports of the Anti-Corruption Bureau

- a) All reports of preliminary enquiry conducted by Anti-Corruption Bureau shall be forwarded by it to the Vigilance Commission in duplicate in Form No.III. A copy of such report shall also be forwarded by the Bureau simultaneously to the General Administration (SC.F) Department and concerned department / Government Undertaking / Government Company and such other Institution as may be notified by Government from time to time.

Provided that in cases taken up by the Anti-Corruption Bureau suo motu and in which the finding of the Bureau is that there is no basis

to proceed further in the matter, the Preliminary / Discreet Enquiry reports shall be forwarded only to the Vigilance Commission in duplicate for advice.

- b) On completion of investigation and open or regular enquiry, the Director General, Anti-Corruption Bureau, should send his final report to Government, through the Vigilance Commission in two parts, i.e. parts 'A' and 'B' in duplicate. Part 'A' should contain a secret report given in complete confidence containing full particulars of the investigation for the information of the Government, and Part 'B' should contain confidential report of only relevant information and also the statements of witnesses to be communicated by Government to the Head of the Department or the Tribunal for Disciplinary Proceedings for taking further action. The duplicate copy of Part 'B' and the statements of witnesses should not contain any signature or indication as to who took the statements. The Vigilance Commission will forward the original copy of Part 'A' and both copies of Part 'B' (together with the statements of witnesses) with its advice to the administrative department concerned

The Director General, Anti-Corruption Bureau should also send simultaneously a copy of Part 'A' to the concerned administrative department for any comments which it may wish to forward to the Commission. Similarly, a copy of Part 'A' should be sent to the Chief Secretary to Government, General Administration (SC.F) Department for information.

13. Procedure in the case of complaints against All-India Services Officers and Heads of Departments

a) Complaints against AIS Officers / HODs

No complaint against a member of the All-India Services including select list officers and Heads of Departments shall be referred to the Anti-Corruption Bureau for enquiry without prior consultation with the Chief Secretary to Government.

b) Procedure in the case of complaints against Gazetted Officer

The Vigilance Commission shall be consulted in respect of all complaints against Gazetted Officers which are received by the Departments of Secretariat, Heads of Departments, Collectors etc.

- (i) If in any case the administrative authority does not think that a preliminary enquiry is necessary, the complaint together with the views of the administrative authority shall be forwarded to the Vigilance Commission for its advice.
- (ii) When an authority has, after a preliminary enquiry, come to the conclusion that no further action is necessary, the report of such enquiry together with the relevant records and the views of the administrative authority shall be forwarded to the Vigilance Commission for its advice.
- (iii) Where the administrative authority proposes, after a preliminary enquiry, to initiate disciplinary proceedings, the report of the preliminary enquiry, together with other relevant records, shall be forwarded to the Vigilance Commission for advice as to the further action to be taken.

14. Traps

- a) In extreme cases of public servants who are notoriously corrupt and against whom charges of corruption cannot be easily booked in the usual way unless there is a direct trap, the Anti-Corruption Bureau may resort to laying of traps using its discretion well in choosing cases for laying traps. In respect of All-India Services Officers including select list officers and Heads of Departments, the Director General, Anti-Corruption Bureau shall obtain prior permission of the Chief Secretary to Government before laying a trap.
- b) After the trap is laid, and the public servant concerned is arrested, the Anti-Corruption Bureau shall forthwith inform the Vigilance Commission, the Chief Secretary to Government, the authority competent to suspend the delinquent officer, and the immediate superior authority of the delinquent officer, and send the preliminary report within a week from the date of laying the trap.
- c) The Anti-Corruption Bureau should strive to successfully deal with complaints of corruption etc. against the higher ranks and organised rackets of bribery and corruption in the Services, instead of concentrating mostly on complaints of petty corruption.

15. Powers of ACB to collect information, register cases etc.

The Anti-Corruption Bureau will have full powers of collecting source information against all officers. Permission for preliminary or regular enquiries

or registration of cases or laying traps should be given by the Director General, Anti-Corruption Bureau personally and not by any other functionary as laid down in Government Memo.No.163/SC.D/83-2, G.A.(SC.D) Dept., dated 30th March, 1983 read with Memo.No.163/SC.D/83-3, G.A.(SC.D) Dept., dated 10th June, 1983. However, in respect of All-India Services Officers including select list officers and Heads of Departments permission of Chief Secretary for conducting preliminary or regular enquiry or for registering cases shall be obtained through the Vigilance Commissioner.

16. Assistance to the Vigilance Commission, Chief Vigilance Officers, Vigilance Officers and the Anti-Corruption Bureau

- a) The Heads of Departments or officers concerned shall, when called for, normally furnish the relevant official records for reference to the requisitioning officer, viz., the Vigilance Commissioner (or a Gazetted Officer in the Commission authorised by the Vigilance Commissioner), Chief Vigilance Officers, Vigilance Officers, the Director General, Anti-Corruption Bureau or a Gazetted Officer of the Anti-Corruption Bureau in respect of cases against Gazetted Officers and an Inspector of Police or his equivalent in rank in the Anti-Corruption Bureau in respect of cases against the Non-Gazetted Officers duly authorised in this behalf. Provided, in case of extremely confidential or privileged documents, orders of the Government shall be taken before the records are handed over to the requisitioning authority.

The records of Government may be furnished for reference if requisitioned by the Vigilance Commission or the Director General, Anti-Corruption Bureau if these records are relevant and are strictly essential for the purpose of investigation. As Government records often contain minutes of Ministers, Cabinet decisions, etc. they should not be made available without sufficient justification.

- b) The Heads of offices whose assistance is sought shall render such assistance to the Vigilance Commission, or to the officers of the Anti-Corruption Bureau, as may be required by the investigating officers, in connection with the enquiries.

17. Secrecy

If an informant desires that his name shall not be published, care shall be taken by the Vigilance Commission, Department, Government Undertaking, Government Company and such other institution as may be notified by Government

from time to time, the Anti-Corruption Bureau, or the Collector, as the case may be, to see that there is no disclosure of the informant's identity.

18. Protection of certain persons

(Note : Not printed)

19. Statement of Returns

- 1) Every department of Secretariat, Head of Department, Government Undertaking, Government Company and such other Institution as may be notified by Government from time to time and the District Collectors shall forward to the Vigilance Commission the following statistical returns every six months as on 31st March and 30th September of every year, so as to reach the Vigilance Commission by the 15th of the succeeding month :
 - (i) Statement showing the disposal and pendency of complaints regarding corruption, appeals or memorials in connection therewith, in Form No.IV ;
 - (ii) Statement showing the details of public servants under suspension for more than 6 months in Form No.V ; and
 - (iii) Details of cases referred to the Tribunal for Disciplinary Proceedings, reports received from the Tribunal for Disciplinary Proceedings and their disposal and cases pending at the end of each quarter with reasons therefor in Form No.VI.
- 2) The Anti-Corruption Bureau shall submit six monthly / annual reports on the progress and disposal of enquiries undertaken and criminal prosecutions filed in Courts of Law as on 30th September / 31st March of every year so as to reach the Commission by 15th of succeeding month in Form No.VII. The Anti-Corruption Bureau shall also send to the Commission monthly progress reports in the form of an abstract by 15th of every month.

20. Procedure in respect of Government Undertakings etc.

The procedure in regard to entertainment of complaints, the furnishing of statistical information and reports referred to in the foregoing paragraphs shall mutatis-mutandis apply to the Government Undertakings, Government Companies and such other Institutions as may be notified by Government from

time to time under the control of the State Government. The Departments of Secretariat and General Administration (PE) Department will issue suitable procedural instructions to the said Undertakings etc. with a copy to the Vigilance Commission.

21. Chief Vigilance Officers and Vigilance Officers

- a) No Officer against whom there have been any punishments or against whom allegations of misconduct are pending investigation shall be nominated as Chief Vigilance Officer or Vigilance Officer, as the case may be.
- b) It is enough to have Vigilance Officers in the Offices of Heads of Departments for the present. It is not necessary to have Vigilance Officers at the Regional, District, Mandal and lower levels. The Collector, who is the Chief Vigilance Officer of the district, will function without any Vigilance Officers.
- c) All changes regarding transfers, leave etc. of the Chief Vigilance Officers and Vigilance Officers in any department / undertaking etc. should be intimated to the Vigilance Commission as soon as they take place.

22. Correspondence with the Vigilance Commission

Correspondence with the Vigilance Commission shall be in the form of a letter. Correspondence of a routine character may, however, be addressed to the Secretary to the Vigilance Commissioner by a letter. Similarly the Vigilance Commission will address the Government, the Heads of Departments, Collectors etc. by a letter.

23. Blacklisting of Firms

Any proposal to blacklist a Firm or to withdraw a blacklisting order shall be referred to the Vigilance Commission for advice before issue of final orders. In any case, it shall be competent for the Vigilance Commission to suggest suo motu the blacklisting of any Firm, contractor or supplier.

24. False complaints against public servants

Where, in the opinion of the Vigilance Commission, any person has made intentionally or knowingly a false complaint against a public servant or an employee of Government Undertaking, Government Company or any other

Institution notified by Government from time to time, charging him with corruption or lack of integrity, or after making the complaint there is reason to believe that he acted in a manner jeopardising the course of inquiry, it shall be lawful for the Commission to advise the Government / concerned authority to prosecute the person or the persons who such a complaint.

(Note : Forms not printed)

(269)

**U.O.Note No.1166/SC.D/94-1, Genl.Admn. (SC.D) Dept., dt.13.10.1994:
Vigilance Commission to be consulted for withdrawal of T.D.P. cases,
Departmental Inquiries and Court Prosecutions.**

**Subject Heading : Departmental Inquiry - withdrawal of - advice of
Vigilance Commission**

- Ref : 1. U.O.Note No.314/SC.D/94-3 G.A.(SC.D) Dept., dt.07.06.94.
 2. From the Vigilance Commissioner Lr.No.102/VC.C1/93-9, dt.16.08.94.

The attention of the Departments of Secretariat is invited to the U.O.Note 1st cited, wherein they were requested to see that whenever it is proposed to reconsider the cases of Vigilance which include the cases of withdrawal of prosecution in misappropriation cases, no prosecution is withdrawn without the advice of the Vigilance Commissioner.

2. The Vigilance Commissioner has now requested in his letter 2nd cited that similar instructions may be issued to the Departments of Secretariat, to obtain the advice of the Commission whenever it is proposed to withdraw the cases other than those of prosecution in a Court of Law also, i.e., TDP cases and Departmental Inquiries, etc.
3. Government, after careful examination of the matter, have accepted the above proposal of the Vigilance Commissioner.
4. All the Departments of Secretariat, are, therefore, requested to see that whenever it is proposed to withdraw the cases other than those of prosecution in a Court of Law also, i.e., TDP cases and Departmental Inquiries etc., the Advice of the Vigilance Commissioner, Andhra Pradesh, Hyderabad, is obtained before taking a final decision.

(270)

G.O.Ms.No.541, Genl.Admn. (Ser.C) Dept., dt.02.11.1994 regarding Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 - officers authorised to exercise power under the Act notified.

Subject Heading : Departmental Inquiries Act for witnesses and documents

ORDER :

The Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Document) Act, 1993, Act No.7 of 1993 came into force from 2nd February, 1993.

2. According to Section 4 of the Act, where in any departmental inquiry, it is necessary to summon as witness, or to call for any document from, any person or a class or category of persons, the Inquiring Authority may exercise the power specified in Section 5 of the said Act in relation to any such person or a person within such class or category, at any stage of the departmental inquiry, if he is authorised by an order in writing in this behalf by such an officer not below the rank of Secretary to Government as the State Government may, by notification, in the Official Gazette designate, and different Officers of such rank may be designated for different class or classes of Departmental inquiries or for different local areas of the State.

3. Government after careful consideration have decided to designate the Principal Secretaries to Government and Secretaries to Government to authorise the Inquiry Authorities to exercise the power under Section 4 of the said Act.

4. The following notification will be published in the Andhra Pradesh Gazette :

NOTIFICATION – I

In exercise of the powers conferred by Section 4 of the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents Act, 1993. (Act.No.7 of 1993) the Government hereby designate the Principal Secretaries to Government and Secretaries to Government to

authorise the Inquiring Authority to exercise the powers specified in Section 5 of the said Act in respect of the Departmental Inquiries pertaining to their Departments.

NOTIFICATION – II

In exercise of the powers conferred by Section 4 of the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents Act, 1993, (Act No.7 of 1993) the Government hereby designate the Chairman, Commissionerate of Inquiries to authorise the Inquiring Authority to exercise the powers specified in Section 5 of the said Act in respect of Departmental Inquiries entrusted by the Government.

(271)

Memo.No.554/Ser.C/93-6, Genl.Admn. (Ser.C) Dept., dt.26.12.1994 regarding suspension in traps and disproportionate assets cases - consolidated instructions (superseded by U.O.Note No.1818/Spl.B/2000-2, Genl.Admn. (Spl.B) Dept., dt.21.11.2001)

Subject Heading : Suspension - in trap cases

Subject Heading : Suspension - in disproportionate assets cases

- Ref:
1. Memo.No.220/Ser.C/89-1 G.A.(Ser.C) Dept., dt.08.03.89.
 2. Memo.No.1419/Ser.C/89-1, G.A.(Ser.C) Dept., dt.25.10.89.
 3. U.O.Note No.240/SC.D/93-3, G.A.(SC.D) Dept., dt.05.10.93.
 4. U.O.Note No.1595/SC.D/93-6, G.A.(SC.D)Dept., dt.16.11.94.

Instructions were issued in the references first and second cited regarding suspension of Government Employees involved in cases of trap and possession of disproportionate assets on the basis of reports received from the Anti-Corruption Bureau.

The question of placing the Government Servants, who are involved in trap cases, under suspension, has been reviewed by Government and revised instructions have been issued in the references third and fourth cited.

The following instructions, in supersession of the instructions issued in memo 1st and 2nd cited, are hereby issued, in regard to suspension of Government Employees involved in cases of traps and possession of disproportionate assets taken up for investigation by the Anti-Corruption Bureau.

I. TRAP CASES :

- (i) Where the Accused Officer is caught red handed in the act of accepting bribe and where the phenolphthalein test has yielded positive result such cases can be classified as successful trap and the Charged Officer has to be placed under suspension based on the preliminary report received from the Anti-Corruption Bureau.
- (ii) In other cases, where the Accused Officer is not caught red handed and where the phenolphthalein test has not yielded positive result and the case depends mostly on circumstantial evidence leaving room for benefit of doubt, decision for suspension or otherwise of the Accused Officer may be taken taking into account the advice tendered by the Vigilance Commissioner.
- (iii) Amended as per Memo.No.713/Ser.C/94-1, dt.24.04.1995 the competent Authorities are further instructed to suspend the Accused Officer even without waiting for recommendations of the Vigilance Commissioner in cases where the Accused Officer is caught red handed and the phenolphthalein test yielded positive result.

II. DISPROPORTIONATE ASSETS CASES :

- (i) In cases of disproportionate assets the Accused Officer need not be suspended immediately following the registration of the case. But he may be transferred to a far off non-focal post to avoid the likelihood of his tampering with the records and influencing the witnesses.
- (ii) If, however, the Anti-Corruption Bureau finds during investigation that there is reasonable ground for believing that the Accused Officer has deliberately failed to co-operate with the investigating Agency or that he is trying to tamper with the official records or influencing the witnesses or bringing pressure on the Investigating Officers, it is open to the disciplinary authority to place the Accused Officer under suspension at that stage, based on the recommendations of the Anti-Corruption Bureau to that effect.

- (iii) In cases other than those mentioned above, the disciplinary authority should consider and decide on the desirability of placing the Accused Officer under suspension, if he is not already under suspension, as and when a charge sheet is filed against him in a court of law or where, after investigation, it is decided to initiate regular Departmental action for imposing any of the major penalties and a charge memo is served in this regard.

All the Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above instructions scrupulously and also communicate the same to the concerned disciplinary authorities under their control for their guidance.

(272)

Memo.No.263/SC.D/94-2, Genl.Admn. (SC.D) Dept., dt.04.01.1995 regarding situations where department should not conduct parallel enquiry when A.C.B. is seized of the matter.

Subject Heading : ACB - no parallel enquiry by departments

- Reg : 1) Govt., Memo.No.2848/SC.D/66-2, G.A (SC.D) Dept,dt.26.10.66.
- 2) From the Vigilance Commissioner, Andhra Pradesh,Hyderabad, letter No.30/VC.1/93-10. Dt. 28.11.1994.
- 3) From the Vigilance Commissioner, Andhra Pradesh,Hyderabad,letter No.104/VC-G2/94-15, dt.29.11.1994.

Instructions were issued in the Memo. 1st cited to all departments of Secretariat to the effect that in cases where the Vigilance Commission gives a direction to the Anti-Corruption Bureau to conduct preliminary or regular enquiry, the Department should not proceed with parallel enquiries and they should hand over all the connected records to Anti-Corruption Bureau and also cooperate with the officers of the Bureau during the course of the enquiries.

2. The Vigilance Commission, Andhra Pradesh, has brought to the notice of the Government that despite these instructions certain departments are initiating parallel departmental enquiries and quoted some specific instances wherein the Anti-Corruption Bureau has also requested the Heads of Departments concerned to stop parallel department enquiry. The Vigilance Commission has informed that in these cases, the action of the Department is contrary to the instructions issued in the Memo 1st cited and the procedural instructions of the Vigilance Commission and therefore held them irregular. He has, therefore, requested that suitable instructions in the matter reiterating the earlier instructions may be issued.

3. In this context, the issue as to the stage at which the departmental inquiries already in progress could be stopped in cases where the Anti-Corruption Bureau has taken up the enquiry or intends to take up the enquiry on its own or on the instructions of Andhra Pradesh Vigilance Commission, has been examined in consultation with the Vigilance Commission of Andhra Pradesh .

4. The instructions issued in the Memo. 1st cited are once again reiterated and the Departments of Secretariat and Heads of Departments are requested to follow the aforesaid instructions scrupulously. They are also informed that if the investigation / enquiry is exclusively with reference to the records available, the Department may take it up and frame charges. But in the matter of investigation especially where corruption is involved, the Anti-Corruption Bureau should undertake the enquiry. However, in cases where the department has conducted the investigation / inquiry and reached the stage of oral inquiry after framing charges under relevant disciplinary rules and the departmental inquiry is in progress, the Anti-Corruption Bureau, need not take up the case afresh for investigation.

(273)

**Memo.No.650/Ser.C/94-3, Genl.Admn. (Ser.C) Dept., dt.06.01.1995
regarding examination of Charged Officer by Presenting Officer –
clarification - furnished.**

**Subject Heading : Departmental Inquiry - examination of charged official
by Presenting Officer - clarification**

Ref: From the Director of Treasuries and Accounts, Lr.No.K1/29602/94-3, dt.15.11.94.

With reference to the letter cited, the Director of Treasuries and Accounts is informed that the Departmental inquiry is not a dispute between two parties to be decided by a third party. It is only a proceeding instituted by the Government as employer, to satisfy itself if the employee has committed misconduct. Technicalities of Criminal Law and the proof prescribed by Evidence Act are not applicable to Departmental inquiries; but the Inquiry Officer has to follow the Rules governing departmental inquiries and also the principles of natural justice.

2. Rule 20 of the APCS (CC&A), 1991 lays down the procedure to be followed during departmental inquiry. Sub-Rules 16 to 18 of Rule 20 of APCS (CC&A) Rules, 1991 operate after the "Presenting Officer" adduces the evidence in support of the charges framed against the delinquent officer. Rule 20 (16) lays down that after the case of the disciplinary authority is closed, the Government Servant (i.e., delinquent) shall be required to state his defence orally or in writing, as he may prefer. Thereafter, as per Rule 20 (17), evidence on behalf of the delinquent officer should be adduced. As per Rule 20 (18), if the Government Servant has not examined himself, the inquiring authority may generally question the delinquent on the circumstances appearing against him in evidence, for the purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him. The object of examining the delinquent is only to give him an opportunity to explain the circumstances appearing against him in the evidence adduced against him (i.e., the delinquent).

3. In view of the above, the points raised in the letter cited are clarified as follows ;

(i) Whether the Charged Officer can be examined / cross examined by the Presenting Officer, to elicit truth in support of the Articles of Charge; when the Charged Officer does not	<p>"No"</p> <p>The Charged Officer cannot be examined or cross examined by the Presenting Officer or the Inquiry Officer to elicit truth in support of the</p>
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prefer to the examination of himself as a Defence Witness and when there are no other defence witnesses in this case.	articles of charge when the charged officer does not prefer to examine himself or examine any witnesses.
(ii) Whether the Inquiry Officer can examine and cross-examine, if necessary the Charged Officer in detail in the absence of any specific provision for examination of charged officer by the Presenting Officer.	Defence Asssistant for one Charged Officer can examine the other Charged Officer only if the other charged officer volunteers to give evidence. But a Charged Officer cannot be compelled to give evidence at the instance of the other Charged Officer. When one Charged Officer chooses to examine himself as a witness, the defence assistant of, (or) the other Charged Officer, can cross examine him, especially when such charged officer (who choose to examine himself) were to speak anything incriminating against the other Charged Officer.
(iii) Whether the Defence Assistant for one Charged Officer can examine-cross examine the other Charged Officers in the same case, when he press to do so.	

(274)

Letter, dt.24.02.1995 of Special Counsel for ACB addressed to Director General, Anti-Corruption Bureau: Examination-in-chief of witnesses and cross-examination of them later not proper.

Subject Heading : Witnesses - cross-examination, all at one time

The Honourable High Court in Crl.Rc.No.77/95 has held that the Special Judge for A.C.B. Cases has no power to defer cross-examination of the witnesses produced on behalf of the prosecution. Such a procedure is held to be contrary to the provisions of Criminal Procedure Code. The practice of deferring cross-examination at the instance of the defence counsel and recalling them at a subsequent stage for the purpose of cross-examination is very much advantageous for the defence for more than one reason. By gaining time, the

defence would not hesitate in eliciting admissions from the material witnesses in support of their defence. There is every possibility of gaining over material witnesses and thereby shake the very foundation of the prosecution case.

2. It is fortunate that one learned Judge of the Hon'ble High Court Hon'ble Justice Sri Ramesh Madhav Bapat has given a decision in Crl.Rc.No.77/95 holding that such a procedure as indicated above is contrary to the provisions of the Cr.P.C. This Judgment in my considered opinion is very much helpful to us (ACB). Considering the importance of the matter, I request you to kindly direct the office to circulate the copy of the Judgment to all the Law Officers in the State.

(275)

Memo.No.657/Ser.C/94-4, Genl.Admn. (Ser.C) Dept., dt.09.03.1995 regarding taking of retired Government employees as defence assistants.

Subject Heading : Defence Assistant - taking retired Government employees

Rule 20(8)(b) of the APSCS (CC&A) Rules, 1991 provides that the Government Servant may also take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf.

2. In O.M.No.11012/5/92-Estt.(A), dt.22.05.1992, the Department of Personnel & Training, Ministry of Home Affairs, Government of India, have stipulated certain conditions for engaging retired Government employees by the delinquent Government Servants, to present their case in departmental proceedings. Keeping this in view, the following conditions are stipulated in regard to taking of assistance of retired Government employees by the delinquent Government Servants to present their case in departmental proceedings in terms of Rule 20 (8) (b) of APCS (CC&A) Rules, 1991 :

- (i) The retired Government employee concerned should have retired from service under the Government of Andhra Pradesh.
- (ii) If the retired Government employee is also a legal practitioner, the restrictions on engaging a legal practitioner by a delinquent Government Servant to present the case on his behalf, contained in Rule 20 (8) (a) of APCS (CC&A) Rules, 1991 would apply.

- (iii) The retired Government employee concerned should not have, in any manner, been associated with the case at investigation stage or otherwise, in his / her official capacity.
- (iv) The retired Government employee concerned should not act as defence assistant in more than five cases at a time. The retired Government employee should satisfy the Inquiry Officer that he / she does not have more than five cases at hand including the case in question.

(276)

G.O.Ms.No.59, F&P (FW-FR.I) Dept., dt.27.03.1995 regarding treatment of period of suspension

Subject Heading : Suspension - treatment of period

Read the following :

1. G.O.Ms.No.238, G.A. (Ser.C) Dept., dt.07.04.92.
2. G.O.Ms.No.182, Finance & Planning (FW.FR.II) Dept., dt.31.10.92.

ORDER :

In the Government Order first read above orders were issued based on the Government of India Memo.No.11012/15/85, Estt.(A) dt.03.12.1985 amending the instruction 19 in APPENDIX-VI to APCS (CC&A) Rules, 1963. It was also indicated therein that necessary amendment to Fundamental Rules will be issued separately. Government have issued orders in the G.O. second read above amending the F.R. 54-B adding proviso to sub-rule(5) allowing the benefit of these orders to the cases where suspension orders are passed on or after 07.04.1992. Government have been receiving number of cases seeking benefit of these orders where the suspension period pertains prior to 07.04.1992 i.e. pending settlement so far, irrespective of date of suspension. The Andhra Pradesh Administrative Tribunal while disposing off O.A.No.3056/93 has observed as follows :

“Suspension should be resorted to in extreme cases and the authority should take the steps to suspend the employee only when the charges

are grave, which may result in imposition of major penalty and not otherwise."

2. The matter has been examined in the light of the orders of the Tribunal. Law Department have advised that the order of the Tribunal may be implemented as there are no grounds or chance of carrying an appeal to the Supreme Court which will not entertain the SLP and it would be a futile exercise to go in for appeal. The Law Department have further advised that the order of the Tribunal is sound as they have applied the principle in the F.R. 54-B as amended in G.O.Ms.No.182, Finance & Planning (FW.FR.II) Department, dt.31.10.92 so as to avoid miscarriage of justice and it may be seen that what is applied is a principle which was already decided by several courts even prior to the amendment and that the amendment itself is intended to implement the principle already established by the court of law.

3. Accordingly, after careful consideration of the matter and to be in conformity with the orders issued in G.O. 1st read above it has been decided to amend the proviso to sub-rule (5) of F.R. 54-B suitably.

4. The following notification will be published in the Andhra Pradesh Gazette : :

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 read with article 313 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to Fundamental Rules.

The amendment hereby made shall be deemed to have come into force with effect from 07.04.1992.

AMENDMENT

In Rule 54-B of the said rules, in sub-rule (5) in the proviso, the expression "on or after 07.04.1992" shall be omitted.

(Note: It may be noted that the proviso to sub-rule (5) of F.R. 54-B, proviso itself was omitted by G.O.Ms.No. 214, Finance & Planning (FW.FR.II) Department, dt.22.12.1997.)

(277)

Circular Memo.No.5/26418/X1/92 of Transport Commissioner, A.P, Hyderabad, dt.21.07.1995 regarding surprise checks on Transport Check posts - Inquiry Officer to pass orders on disposal of cash.

Subject Heading : Surprise checks - disposal of cash

Ref : This Office Circular Memo.No.3/29292/X1/93, dt.24.07.93.

In the reference cited instructions were issued to all the Gazetted Officers of the Department to the effect that whenever they are appointed as Inquiry Officers to conduct regular inquiries, they should invariably mention in their report about the disposal to be given to the records and unclaimed amounts if any so that action could be taken accordingly.

2. But it is noticed that none of the Gazetted Officers of the Department are following the instructions issued in the reference cited making it difficult to decide about the disposals to be given to the amounts and records seized by A.C.B. officials during their raids.

(278)

**U.O.Note No.2751/SC.E/95-1, Genl.Admn. (SC.E) Dept., dt.16.09.1995:
Sanction of prosecution to be issued within stipulated time.**

Subject Heading : Sanction of prosecution - to issue within 45 days

Ref: 1. U.O.Note No.450/SC.D/87-1, G.A.(SC.D) Dept., dt.20.07.87

2. Memo.No.700/SC.D/88-4, G.A.(SC.D) Dept., dt.13.02.89.

The attention of all the Departments of Secretariat is invited to the U.O.Note 1st cited wherein instructions were issued to the effect that orders according sanction of prosecution shall be issued within 45 days from the date of receipt of the final report of the Anti-Corruption Bureau. In para 1(3) of the Memorandum second cited, these instructions were reiterated. Now that the Andhra Pradesh Vigilance Commission is functioning and the Scheme of Vigilance Commission provides for routing the reports of Anti-Corruption Bureau through the Vigilance Commission, this 45 days period is to be reckoned from the date of receipt of the advice of the Vigilance Commission along with the report of Anti-Corruption Bureau. The Director General, Anti-Corruption Bureau has brought to the notice of the Government that the issue of sanction orders for prosecutions are being delayed inordinately by the Departments of Secretariat and that therefore, the Anti-Corruption Bureau could not take further action against the Accused Officers concerned. All the departments of Secretariat are, therefore, requested once again to take prompt action on the recommendations of the

Director General of Anti-Corruption Bureau, as reviewed and advised by the Andhra Pradesh Vigilance Commission and to ensure that necessary orders on such recommendations are issued within the time stipulated as above, under intimation to Director General, Anti-Corruption Bureau and Andhra Pradesh Vigilance Commission.

(279)

**U.O.Note No.2965/SC.E/95-1, Genl.Admn. (SC.E) Dept., dt.09.10.1995
regarding Lokayukta / Upa-Lokayukta - attendance of witnesses
summoned.**

Subject Heading : Lokayukta - attendance of witnesses

Ref: From the Registrar, Institution of Lokayukta and Upa-Lokayukta, Hyderabad, Lr.No.6502/Lok/B2/95, dt.22.09.95.

According to provisions in sub-section (1) of Section 11 of the A.P. Lokayukta and Upa Lokayukta, Act, 1983 (Act No.II of 1983), the Lokayukta and Upa-Lokayukta, is empowered to require any public servants or any other person, who is in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents for the purpose of any investigation (including the preliminary investigation, if any before such investigation). As per Section 11(2) of the said Act read with Rule 7(8) (vi) of the Rules made thereunder, the Lokayukta and / or Upa Lokayukta shall have all the powers of a civil court while trying a suit under the code of Civil procedure 1908 in respect of the following matters for the purpose of investigation under the Act :

- A. Summoning and enforcing the attendance of any person and examining him on oath.
- B. Requiring the discovery and production of any document;
- C. Receiving evidence on affidavits ;
- D. Requisitioning any public record or copy thereof from any court or office ;
- E. Issuing commissions for the examination of witnesses or documents;

F. Such other matters as may be prescribed.

Sub-section (3) of Section 11 of Act. No. II of 1983 declares any proceedings before the Lokayukta and Upa lokayukta as proceedings with in the meaning of section 193 of the IPC 1960. The Lokayukta or Upa Lokayukta may issue summons to any public servant or any other person whose attendance is required either to give evidence or produce documents.

2. While it is permissible for a person to cause the production of a document either by himself or through any of his subordinates if the summons is only for the production of such documents, a person summoned for the purpose of giving evidence or summoned for making his personal appearance before them, such person shall personally appear before the Lokayukta or Upa Lokayukta on the date fixed for the purpose. Failure to do so amounts to disobedience of the summons and the Hon'ble Lokayukta or Upa Lokayukta may be constrained to issue arrest warrants to enforce the attendance of the persons summoned.

3. While the provisions of the A.P. Lokayukta and Upa Lokayukta Act, 1983 and the Rules made thereunder for the enforcement of appearance of the person summoned are so stated above, a case of disobedience of the summons has been brought to the notice of the Government. In that case, the officer on whose the summons were served, to appear before the Institution of A.P. Lokayukta and Upa Lokayukta has wilfully disobeyed the summons and failed to attend the Court and sent a letter signed by his Office Superintendent, directing one of his subordinate officers to attend the Institution and even the said subordinate officer did not attend the Institution but deputed his subordinate without taking any prior permission therefor. The Institution of Andhra Pradesh Lokayukta and Upa Lokayukta have observed that the conduct of the Officer to whom the summons were sent initially by them, is unbecoming of public servants and that he has not even had the courtesy to personally sign the letter addressed to the Institution.

4. The Special Chief Secretaries / Principal Secretaries / Secretaries to Government / Ex Officio Secretaries to Government of all the Departments of Secretariat are, therefore, requested to issue instructions to all the Heads of Department under their administrative control to ensure that all the concerned to whom the summons are issued by the Institution of A.P. Lokayukta and Upa

Lokayukta honour the summons and attend the former without fail unless the summons received by such persons is only to produce documents in which case they can depute a sub-ordinate for production of documents as otherwise the Hon'ble Lokayukta or Upa Lokayukta may be constrained to invoke their powers and issue arrest warrants for the appearance of the person summoned. Besides, all the correspondence addressed to the Institution of Andhra Pradesh Lokayukta and Upa Lokayukta shall be signed by the concerned Officer and not by their sub-ordinate staff.

(280)

Memo.No.320/SC.D/95-3 Genl.Admn. (SC.D) Dept., dt.10.11.1995 regarding avoidance of parallel enquiry by Departments when the case is under investigation by Anti Corruption Bureau.

Subject Heading : ACB - no parallel enquiry by departments

- Ref : 1. Memo.No.2848/SC-D/66-2, G.A.(SC-D) Dept., dt.26.10.1966.
 2. Memo.No.263/SC-D/94-2, G.A. (SC-D) Dept., dt.04.01.1995.
 3. From the Director General, Anti-Corruption Bureau, letter C.No.18/ RPC(C)/95, dt.25.03.1995.
 4. From the Vigilance Commissioner, A.P. Vigilance Commission, Hyderabad, Letter No.516/VC-F1/95-1, dt.18.09.1995.

Instructions were issued in the Memo. first cited to all departments of Secretariat to the effect that in cases where the Vigilance Commission given a direction to the Anti-Corruption Bureau to conduct preliminary or regular enquiry, the Departments should not proceed with parallel enquiries and that they should hand over all the connected records to the Anti-Corruption Bureau and also cooperate with the Officer of the Bureau during the course of the enquiries.

2. On the advice of the Vigilance Commissioner, the instructions issued in the Memo. first cited, have been reiterated in the Memo. Second cited. Besides reiterating the instructions already issued on the subject, the Departments of Secretariat and heads of Departments were also informed that if the investigation / enquiry is exclusively with reference to the records available, the Departments may take it up and frame charge. But in the matter of investigation especially where corruption is involved, the Anti-Corruption Bureau should undertake the enquiry. However, in cases where the Departments have conducted the

investigation / inquiry and reached the stage of oral enquiry after framing charges under relevant disciplinary rules and the departmental inquiry is in progress, the Anti-Corruption Bureau need not take up the case afresh for investigation.

3. The Director General, Anti-Corruption Bureau, Hyderabad, has stated in his letter third cited, that in case where investigation is taken up by the Anti-Corruption Bureau in a cognizable offence and is under process, any enquiry in respect of the same allegation by any other agency is not desirable, and such enquiry tantamounts to interfering with the investigation. The Director General, Anti-Corruption Bureau, has brought to the notice of the Government, three such cases. It is also stated therein that if at all any information is available, it should be brought to the notice of the investigating officer of the Bureau. In addition to this, any representation made by the accused officer should also be forwarded to the investigating agency for consideration and for further verification.

4. In view of the above position, the Director General, Anti-Corruption Bureau, has requested the Government that in order to avoid contradictions in the findings and conclusions, which the accused officers are certain to take advantage during the trials in courts or departmental inquiries, instructions may be issued in continuation of the instructions issued in the Memo. Second cited, to all departments to the effect that parallel enquiry by the departments should under no circumstances be taken up when cognizable offence is taken up for investigation by the Anti-Corruption Bureau on a specific complaint.

5. The above proposal of the Director General, Anti-Corruption Bureau, has been examined in consultation with the Vigilance Commissioner, Andhra Pradesh, Hyderabad. The Vigilance Commissioner, in his letter fourth cited, has advised the Government to issue necessary instructions in the matter, as proposed by the Director General, Anti-Corruption Bureau.

6. After careful consideration of the matter and keeping in view the advice of the Vigilance Commissioner all the Departments of Secretariat and the Heads of Departments are requested to see that parallel enquiry by them should, under no circumstances, be taken up when the Anti-Corruption Bureau is seized of the matter on any specific complaint.

(281)

Memo.No.3431/SC.E/95-1, G.A.(SC.E) Dept., dt.11.12.1995 regarding entrusting departmental inquiries to Commissionerate of Inquiries.

Subject Heading : Commissionerate of Inquiries - type of cases which can be referred

- Ref: 1. Govt. Memo.No.190/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.
2. U.O.Note No.1798/SC.E/87-1, G.A.(SC.E) Dept., dt.20.10.87.
3. Memo.No.1798/SC.E/87-4, G.A.(SC.E) Dept., dt.17.02.88.
4. Memo.No.2899/SC.F/87-1, G.A.(SC.F) Dept., dt.20.04.88.
5. U.O.Note No.1041/SC.F/88-4, G.A.(SC.F) Dept., dt.16.08.89.
6. D.O.Lr.No.9/COI/95, dt.13.11.95 of Sri V.K.Srinivasan, IAS.,
Commissioner of Inquiries and i/c.Chairman, C.O.I., G.A.Dept.

Attention is invited to the references 1st to 5th cited, wherein, certain instructions were issued as to the entrustment of the cases to Commissioner for Departmental Inquiries for investigation and report.

2. While instructions as to the nature of cases to be entrusted to the Commissionerate of Inquiries are very clear, the Commissioner of Inquiries and In-charge Chairman, Commissionerate of Inquiries, General Administration Department in his letter 6th cited, has brought to the notice of Government that some of the Departments are entrusting to the Commissionerate of Inquiries cases of preliminary enquiries and investigation against Government Servants as also cases of investigation into various allegations made by the public.

3. While reiterating the instructions already issued in the references first to fifth cited, all the Departments of Secretariat / Heads of Departments are requested to follow the instructions issued on the subject scrupulously and to avoid entrusting preliminary enquiries and investigation against Government servants as also cases of investigation into various allegations made by public, to the Commissionerate of Inquiries. Such cases may be dealt with by the Administrative Departments or through specialised agencies such as Anti-Corruption Bureau and Vigilance & Enforcement instead of entrusting them to the Commissionerate of Inquiries.

(282)

**Memo.No.3148/SC.E/95-1, Genl.Admn. (SC.E) Dept., dt.19.12.1995
regarding Vigilance Commission's advice - deviation to be avoided.**

Subject Heading : Vigilance Commission - recommendation, advice to be given due consideration; deviation to be avoided

According to the scheme of the A.P.Vigilance Commission approved in G.O.Ms.No.421, General Administration (SC.D) Department, dt.03.08.1993 and instruction 8(6) of the Procedural Instructions of the said Commission, the final report on the allegation of corruption against Government Servants from the Anti-Corruption Bureau, C.B., C.I.D., and other departmental investigating authorities will have to be sent to the A.P.Vigilance Commissioner. The Vigilance Commissioner, after consideration of the said reports, advises the Departments, etc. among others, regarding the prosecution of the Accused Officer in the Court of Law.

2. According to the provision in Business Rule 32(1) (xxxii) read with Secretariat Instruction 68(d), all cases in which it is proposed to deviate from the advice of the A.P.Vigilance Commissioner shall be submitted to the Chief Minister through the Chief Secretary and the Minister in charge. According to the Note inserted after Secretariat Instruction 65, the provisions of the said Instruction 65, which stipulates the procedure for obtaining and taking action on the advice of the A.P.Public Service Commission in disciplinary matters, will mutatis-mutandis apply to the cases in which the advice of the A.P. Vigilance Commissioner is to be sought. The extracts of Business Rule 32 (1) (xxxii), Secretariat Instructions 65 and 68(d) are enclosed for ready reference.

3. While the procedure for dealing with the proposals, if any, for deviating from the advice of the A.P.Vigilance Commissioner is as referred to in para 2 above, it has been brought to the notice of the Government that some of the Departments of Secretariat are occasionally deviating in some cases from the advice of the Vigilance Commissioner at two stages viz.,

- (i) issuing orders in deviation to the advice of the Vigilance Commission for prosecution of Accused Officers in the first instance; and
- (ii) withdrawing the prosecution orders issued against the Accused Officers against the advice of the Vigilance Commission after consideration of the representation submitted by the Accused Officers, etc.

4. The Departments of Secretariat are aware that any deviation from the advice of the Vigilance Commission will figure in the Annual Reports of the A.P.Vigilance Commission which will be laid on the Table of the State Legislature

and the Government will have to explain the reasons for the deviation from the advice of the Vigilance Commissioner to the Legislature.

5. The Government have carefully reviewed the matter and in order to minimise if not to eliminate the cases of deviation from the advice of the Vigilance Commissioner in such matter and to avoid embarrassment of explaining the reasons for deviations to the Legislature, it has been decided that the procedure stipulated in the A.P.Government Business Rules and Secretariat Instructions referred to in para 2 above shall be followed scrupulously by all concerned in all cases in which it is proposed to deviate from the advice of the A.P.Vigilance Commissioner. Any departure to the above procedure will be viewed seriously.

(283)

Circular Memo.No.100/Ser.C/93-22, Genl.Admn. (Ser.C) Dept., dt.23.12.1995 regarding implementation of recommendations of Public Accounts Committee on cases of misappropriation, losses etc.

Subject Heading : Misappropriation - follow up action

- Ref : 1. D.O.Lr.No.100/Ser.C/93-1, dt.02.04.93 from Secretary to Government (Ser.C),G.A.D.
2. D.O.Lr.No.100/Ser.C/93-5, dt.01.06.93 from Chief Seccretary to Government and subsequent reminders thereon.

The Public Accounts Committee in its para 377 of 9th report of VIII Legislative Assembly (1986-87) have recommended that the Government should strictly implement its recommendations and report the result to the Committee.

2. The Public Accounts Committee, among others, made the following recommendations relating to misappropriation, losses, etc.

"The Public Accounts Committee recommended that immediate and effective steps should be taken to ensure that necessary enquiries in all the cases of misappropriation are completed expeditiously and suitable action taken against the Officials concerned.

The Public Accounts Committee recommended that the tendency to prolong the enquiry should be curbed and if necessary training facilities

be provided for certain selected officers in every Department in the matter of departmental enquiry so that there may not be any lacunae in the matter of conducting enquiries”.

3. The Committee considered the reply furnished by General Administration (Ser.C) Department and made further observations and recommended as follows

“In this para the Committee clearly observed that in certain cases the legal counsel for the Government totally failed to make use of the material available and successfully conduct the prosecution. In such cases Government’s interests have suffered by defaults. With a view to remedy this position the Committee recommended that the Government should prescribe that all such cases should be reviewed once in six months and responsibility for the failure fixed up which should be a guiding factor for ordering appointments of Government pleaders and their continuance. The Department did not reply as to the action taken on this particular recommendation and simply satisfied themselves by mere issuing instructions to all the sub-ordinate officers and Heads of Departments for strict compliance and observance.

When the Committee expected to know as to the actual action taken by the Government regarding the review of the cases once in 6 months..... how many such cases were found where the Government’s interests have, suffered, and whether any responsibilities were fixed for the failure, etc. there was no answer, for this.

The Committee while reiterating their earlier recommendation, further recommend that the Government should strictly implement this recommendation and report the result to the Committee”.

4. Accordingly, the Administrative Departments were addressed in the reference 1st cited requesting them to review all the pending cases relating to the respective Departments where prosecution has been launched against employees for committing misappropriation, especially as to whether such cases are being pursued in the courts effectively in the light of observations of the PAC. They were also requested to inform the action taken in this regard and furnish half yearly reports for periods ending 30/6 and 31/12 of every year.

5. The response to this, (20) Departments have responded out of which 7 Departments have indicated the number of pending cases with details, while the remaining Departments furnished 'NIL' reports. In respect of the Departments which have furnished information, it is seen that in cases where criminal action has been initiated and after completion of investigation by the police there is no indication regarding :

- (i) the status of cases,
- (ii) in cases where the trial is completed and cases ended in acquittal, whether the Department has taken action to file an appeal ; and
- (iii) if no appeal is sought to be preferred, whether Government's interests have suffered and whether any responsibility could be fixed for the failure on the part of the prosecuting officer in presenting the case properly before the court, even though there was sufficient material to be relied upon and whether any responsibility was fixed for such failure.

6. Even in respect of departmental enquiries, it is necessary that the departmental enquiries are expedited and appropriate penalties inflicted based on the circumstances of each case.

7. In view of the above position, the following instructions are issued for guidance of the Departments:

In all cases of misappropriation, after investigation is completed by the Police and charge sheets filed, such cases should be pursued effectively to ensure that there is no let-up in prosecuting the cases effectively and that there is no failure on the part of the Asst. Public Prosecutor, etc. in conducting the prosecution properly. In cases, where the trial ultimately ends in acquittal, immediate action may be taken to file appeals, after obtaining legal opinion. In cases, where it is felt that the prosecution was conducted improperly and the prosecuting officers have not taken adequate interest, responsibility must be fixed for their failure to conduct the prosecution successfully. To ensure a proper watch, the Departments should review all such cases periodically for the half years ending 30/6 and 31/12 of every year and furnish their reviews to the General Administration (Ser.C) Department. Even when there are no such cases, a 'NIL' report has to be furnished.

8. Likewise, action should be taken to ensure that departmental inquiries are completed expeditiously, wherever departmental action has been initiated. The Departments should ensure that charges are framed by the disciplinary authority in accordance with the procedure prescribed under the Rule 20 of APSCS (CC&A) Rules, 1991 and action is completed expeditiously observing the prescribed procedures to ensure that there are no procedural infirmities.

9. The Institute of Administration has been conducting training programmes on disciplinary procedures and the Departments may ensure that the senior officers of the department who are likely to be appointed as Inquiry Officers are exposed to such programmes so that they are well versed in such procedures.

(284)

U.O.Note No.3362/SC.E/95-1, Genl.Admn. (SC.E) Dept., dt.29.01.1996 regarding disposal of mercy petitions under Pension Rules.

Subject Heading : Petitions - mercy petitions, disposal of

Ref : U.O.Note No.875/SC.D/94-1, G.A.(SC.D) Dept., dt.25.08.94.

Instructions were issued in the U.O. Note cited to the effect that the Departments of Secretariat have also to send all the cases in disciplinary matters, which were initiated (but not completed) on the basis of Enquiry reports of Anti-Corruption Bureau received prior to 1st July, 1993 (i.e. prior to the revival of Vigilance Commission), to the Vigilance Commissioner for his advice before taking final decision in the matter.

2. An instance has come to the notice of the Government that a disciplinary case, initiated on the basis of the recommendations of the Anti-Corruption Bureau made prior to the revival of the A.P. Vigilance Commission and disposed off resulting in awarding a penalty which was upheld in appeal preferred to Government was reopened on the basis of a mercy petition submitted by the Government Servant after a lapse of 2½ years and the penalty, which became final when the appropriate authority rejected his appeal, was set aside. The Vigilance Commissioner was not consulted. This is unusual and would send wrong signals in the matter of disposal of disciplinary cases. According to the provision in Rule XV(14)(c) of Petitions Rules in Appendix-I to the Business Rules and Secretariat Instructions, such mercy petitions are liable for summary rejection.

3. The Government, therefore, while reiterating the instructions issued in the U.O. Note cited, direct that the mercy petitions of such nature shall first be examined under Rule XV(14)(c) of the Petitions Rules in Appendix-I to Business Rules and Secretariat Instructions and thereafter to seek the advice of the Vigilance Commissioner if considered necessary. In no case, the penalty that became final shall not be set aside without consulting the Vigilance Commissioner.

4. The Departments of Secretariat are requested to follow the above instructions without any let up while dealing with the mercy petitions relating to disciplinary matter.

(285)

Circular No.19/95/CPE/SR, O/o. Commissioner of Prohibition & Excise, A.P., Hyderabad, dt.07.02.1996 regarding declaration of cash by officials of Prohibition & Excise Stations at the time of reporting to duty.

Subject Heading : Cash - declaration at the time of reporting

Ref : Govt.Memo.No.3646/SC.E/95-1, G.A.(SC.E) Dept., dt.30.12.95.

It has been brought to the notice of the Government that during a Surprise check conducted by the A.C.B. officials over a Prohibition & Excise Station, it was found that the staff of the Prohibition and Excise Station were in possession of huge amounts, for which they could not satisfactorily account for, which obviously appears to have been collected illegally.

2. To ensure probity on the part of all officers and staff of the Prohibition & Excise Department, it is required that they should declare their personal cash at the time of reporting for duty every day in the prescribed register which will facilitate both the Superior Officers of the Department and as well as the Investigating Officers of the A.C.B. to check any misconduct on the part of erring officials.

3. Hence, all the officers in the address entry are requested to follow the instructions given below without fail.

- (i) to declare their personal cash at the time of reporting for duty every day in the prescribed Register ;

- (ii) to restrict the possession of personal cash at the time of reporting to duty at the Excise and Prohibition Station to Rs. 200/- (Rupees Two Hundred only) for each person ; and
- (iii) to declare the cash possessed by them at the time of reporting to duty in the prescribed register both in figures and words to minimise the scope of alteration or manipulation.

4. All the Unit officers of Prohibition and Excise Department are requested to strictly follow the instructions without fail, and also issue instructions to their subordinate officers in this regard.

(286)

G.O.Ms.No.56, Genl.Admn. (Ser.C) Dept., dt.13.02.1996 regarding Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 - officers authorised to exercise power under the Act notified.

Subject Heading : Departmental Inquiries Act for witnesses and documents

ORDER :

The Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993, Act No.7 of 1993 came into force from 2nd February, 1993.

2. According to Section 4 of the aforesaid Act, where in any departmental inquiry, it is necessary to summon as witness, or to call for any document from, any person or a class or category of persons, the Inquiring Authority may exercise the power specified in Section 5 of the said Act in relation to any such person or a person within such class or category, at any stage of the departmental inquiry, if he is authorised by an order in writing in this behalf by such an officer not below the rank of Secretary to Government as the State Government may, by notification, in the Official Gazette designate, and different Officers of such rank may be designated for different class or classes of Departmental inquiries or for different local areas of the State.

3. Government after careful consideration have decided to designate the Registrar, Andhra Pradesh High Court to authorise the Inquiry Authorities to exercise the power under Section 4 of the said Act.

4. The following notification will be published in the Andhra Pradesh Gazette :

NOTIFICATION - I

In exercise of the powers conferred by Section 4 of the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1993. (Act.No.7 of 1993) the Government hereby designate the Registrar, Andhra Pradesh High Court to authorise the Inquiring Authority to exercise the powers specified in Section 5 of the said Act in respect of the Departmental Inquiries pertaining to Judicial Department.

(287)

U.O.Note No.3269/SC.E/95-7, Genl.Admn. (SC.E) Dept., dt.23.02.1996 regarding short-comings noticed and suggestions on framing of charges in disciplinary cases.

Subject Heading : Charges - framing of

- Ref: 1. Memo.No.490/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.
2. U.O.Note No.1798/SC.E/87-1, G.A.(SC.E) Dept.,dt.20.10.87.
3. U.O.Note No.1798/SC.E/87-12, G.A.(SC.E) Dept., dt.22.03.89.
4. U.O.Note No.1135/SC.F/92-1, G.A.(SC.F) Dept.,dt.25.06.95.
5. From the G.A.(COI.CH) Dept., U.O.Note No.398/COI.CH/92-1, dt.16.11.92.

Instructions were issued in the Memo. 1st cited to the effect that in cases enquired into by the Anti-Corruption Bureau, where the disciplinary authority, after examination of the Anti-Corruption Bureau Report, comes to a conclusion that the matter need a reference to Commissioner of Inquiries, the draft charges furnished by the Anti-Corruption Bureau should be scrutinised and finalised, before they are served on the Charged Officer.

2. On a reference from the member, Commissioner of Inquiry, General Administration Department, instructions were issued in the U.O.Note 4th cited to the effect that the instructions issued in the reference 1st cited shall be followed scrupulously while issuing Memorandum of articles of charges and to ensure

not to send to the Charged Officers as enclosure to the Charge Memo. Anything other than the statement of imputations, list of witnesses, list of documents prescribed under rules along with Memorandum of articles of charges, i.e., articles of charges received from the Anti-Corruption Bureau and meant for disciplinary authority is not to be sent to the Charged Officer in any case. The intention is to ensure that the source of investigation is not known to the Charged Officer.

3. The General Administration (COI.CH) Department in their U.O. Note 5th cited has brought certain short comings noticed in the certain suggestions relating to framing of charges in disciplinary cases. The Chairman, Commissionerate of Inquiries has stated that unless the charges are ensured to be fool proof they are likely to fail if challenged in a Court of Law. He has therefore suggested certain guidelines regarding framing of charges and requested this Department to issue general instructions in the matter.

4. Government, after careful examination of the matter, have decided to issue the following guidelines :

- 1) The disciplinary authorities should ensure specificity, precision, definiteness, etc., in framing charge Memos. so at to avoid likely inconsistencies (some time contradictions) between the main Charge Memo. and statement of imputations of misconduct either on the scope or substance of the charge or on the score of wording / description of the sounds of action.
- 2) To the maximum extent possible the disciplinary authority should limit itself to a plain statement of the omissions and commissions held by them to constitute misconduct and also to a plain description of the misconduct. The larger the number of adjectives used in the charge Memo. (as some of the adjectives may qualify the person the actor and not merely the act) the stronger the chance of the target of the disciplinary action maintaining that the disciplinary authority has brought a closed mind to the issue.
- 3) The disciplinary authority should ensure evidence of complete congruence between the charge Memo. and the statement of imputations of misconduct on one hand and the order of enquiry on the other. To avoid delays in disciplinary process, the disciplinary authority has to issue an additional charge Memo. to the Charged Officer. The disciplinary authority should also frame

the charges only after study of the records connected with the case.

- 4) It is noticed in some charge memos. that there is a reference to the "habit" of act, displayed by the target of disciplinary action. Whenever any such habit constituting misconduct is mentioned in a Charge Memo. it is obligatory on the part of the disciplinary authority to mention the specific instances in which the habit is inferred as a conclusion and it may not be enough to cite one or two instances to give rise to any conclusion about the alleged habit; habit is something which is generally to be viewed in terms time factor (i.e., habit indicated by practice over a period of time) and the number of instances factor.
- 5) The disciplinary authority has to hold a functionary to be guilty of and that the disciplinary authority should have a clear conception of the prescribed role of the functionary being proceeded against.
- 6) The disciplinary authority whenever feels like using the expressions such as 'Collusion' and 'Connivance' to describe the manner and extent of the suspected participation of each level functionary in what was held to be misconduct, it will do well to study the significance of the term only after deriving full satisfaction that the use of a particular expression alone will reflect its own reasoning.

It is noticed in a case that the charge Memo. contains a reference to misconduct by Gazetted functionary 'in collusion' with two non-gazetted functionaries. The disciplinary proceedings initiated by disciplinary authority through the charge Memo. are however against only Gazetted functionary. The Non-Gazetted functionaries in collusion with whom the Charged Officer is supposed to have acted in violation of A.P.C.S (Conduct) Rules, 1964 do not find a place in the list of witnesses and they have not been given by defence as defence witnesses and it appears that the disciplinary action such as might have been separately initiated against them was dropped. Needless to say that this produces a very strange impression about the significance of wording of the charge which at a few points therein refers to collusion with those two subordinates.

- 7) The disciplinary authority before use of the expression like "collusion" "connivances" etc., by the Charged Officer with others in the same or a different Department should do some active thinking with a view to enabling it to determine.
 - a) Whether such expressions have necessary and rightful place at all in the charge memo ;
 - b) Whether the word to be used in the one or the other, after thoroughly acquainting themselves with the meaning of the word itself and after satisfying themselves about the nature and extent of suspected culpability of each of the charged persons ;
 - c) In the same case, there is a confused use of words by the disciplinary authority to the effect that a certain Gazetted functionary in dereliction of his duties indulged in collecting gratification other than legal remuneration and in the entire charge memo. there is no clear description of the nature and extent of dereliction, such dereliction as it alleged being left as a matter for inference. Such imprecise description of suspected misconduct should be avoided.

5. All Departments of Secretariat are therefore requested to follow the instructions already issued on the subject, keeping in view the above guidelines, while framing charge memo. to be served on Charged Officer.

(288)

Memo.No.557/SC.D/95-2, Genl.Admn. (SC.D) Dept., dt.26.02.1996 regarding disproportionate assets - 20% margin reiterated.

Subject Heading : Disproportionate Assets - margin of income

- Ref: 1. Memo.No.700/SC.D/88-1, G.A.(SC.D) Dept., dt.13.02.89.
2. Memo.No.1444/SC.D/90-1, G.A.(SC.D) Dept., dt.17.01.91.
3. Memo.No.223/SC.D/92-6, G.A.(SC.D) Dept., dt.15.03.93.
4. From the D.G., A.C.B., Lt.C.No.60/RPC(C)/95, dt.24.05.95 and even number dt.13.02.96.

5. From the Vigilance Commissioner, A.P., Lr.No.590/VC.A1/95-1, dt.06.02.96.

The attention of the Director General, Anti-Corruption Bureau, Hyderabad, is invited to the reference 4th cited and he is informed that the issue relating to allowing of 20% margin of the total income while computing disproportionate assets cases, has been examined in consultation with the Vigilance Commissioner, Andhra Pradesh, Hyderabad and it has been decided to continue the existing instructions issued in the references 1st and 2nd cited.

(289)

Memo.No.265/SC.X/96-1, Genl.Admn. (SC.X) Dept., dt.26.02.1996 regarding perusal of property statements of All-India Service Officers by Anti-Corruption Bureau on production of letter in writing, quoting orders of Government giving permission for discreet or regular enquiry.

Subject Heading : Property statements - of AIS Officers, furnishing to ACB

The Director General of Anti-Corruption Bureau is informed that the investigating officers of Anti-Corruption Bureau are frequently approaching this Department and requesting for perusal of the property returns of certain All-India Services officers without bringing any requisition from the Anti Corruption Bureau or concerned Department. The discreet or regular enquiry against a Member of Service is conducted by the Anti-Corruption Bureau after prior approval of the Chief Secretary to Government. Hence the Director General, Anti-Corruption Bureau is informed that whenever it is required to peruse the property statements of any member of the All-India Services, they should furnish a letter in writing to this Department after quoting the orders of the Government wherein permission for discreet or regular enquiry by the Anti-Corruption Bureau is accorded.

(290)

G.O.Ms.No.77, Genl.Admn. (Ser.C) Dept., dt.27.02.1996 regarding empowering District Collectors for initiating disciplinary proceedings against District Officials under A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Departmental action - against District officials, initiation by District Collectors

Read :

G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.92.

ORDER :

The need for effective Coordination of administration at District level and for smooth implementation of various Programmes / Schemes is keenly felt. The District Collectors were stating that in many cases, the District Officers were not keeping the Collectors informed when going on leave. The Collectors were also mentioning that some minimum powers of taking disciplinary action should be given to the Collectors so that the Collectors would be able to exercise effective control over the District Officers. Their submission was that even if they initiate action and if it is followed up by the Head of the Department, it would still serve the desired objective.

2. The District Collector is empowered to impose on Tahsildars now called the Mandal Revenue Officers the penalties of censure, withholding of increment for a period of three months without cumulative effect. According to the APSCS (CC&A) Rules, 1991, the District Collector is not empowered with any disciplinary powers on any other Departmental Official. The District Collector is the nodal authority at the District level to coordinate, monitor and supervise the activities of the different departments to ensure smooth and effective implementation of the Government policies. To achieve the desired objective, it is considered necessary to empower the District Collector with disciplinary powers on the Government Officials irrespective of the Department to which they belong whenever there is serious lapse on their part.

3. Under the APCS (CC&A) Rules, 1991, 'disciplinary authority' means the authority competent under the rules to impose on a Government Servant any of the penalties specified in Rule 9 or Rule 10. While usually the appointing authority is the disciplinary authority, Rule 11 of the APCS (CC&A) Rules, 1991, specifies the various disciplinary authorities to inflict specified penalties in respect of the State Services. According to sub-rule (27) thereunder :

- (i) every Head of Department may impose on a member of the State Services under his control, the penalty specified in clause (iii) of Rule 9, except in the case of such member holding a post immediately below his rank; and
- (ii) every Head of Department declared to be the appointing authority may impose on a member of the State Service holding an initial

Gazetted post under his control, any of the penalties specified in clauses (i) to (vii) of Rule 9.

4. According to Rule 12, notwithstanding anything in Rule 11, the Government may impose any of the penalties specified on the members of the State Services. By virtue of this provision, the State Government may inflict any penalty on a member of either a State or Subordinate Service, irrespective of the fact whether it is the appointing authority or not.

5. According to Rule 19(1) of the APCS (CC&A) Rules, 1991, the Government or any other authority empowered by it by general or special order may institute a disciplinary proceedings against any Government Servant.

6. Government, therefore, hereby authorise the District Collectors to initiate disciplinary action against erring District Officials by issuing Show Cause Notice and obtain their explanations. Thereafter, basing on the merits of the explanation, the District Collectors should send the material to the concerned Head of the Department or Government for taking further necessary action. The District Collectors are advised to resort to the aforesaid process sparingly and in exceptional circumstances only.

(291)

G.O.Ms.No.82, Genl.Admn.(Ser.C) Dept., dt.01.03.1996 regarding suspension - consolidated instructions issued and proformae prescribed.

Subject Heading : Suspension - proformae prescribed

Read :

G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.92.

ORDER :

Under the provisions of APCS (CC&A) Rules, 1991, the competent authority should issue orders in disciplinary cases after due consideration, in the relevant proformae annexed to this order as indicated below :

- 1) Under F.R.53(2) the suspended official shall submit to the competent authority, a certificate that he/she is not engaged in any other employment, business profession or vocation. The format of

certificate to be submitted shall be in the format as shown in Form-I annexed to this order.

- 2) The competent authority shall frame the Articles of Charges in a disciplinary case in the format as shown in Form-II annexed to this order.
- 3) The competent authority shall issue an order of revocation of a suspension order in the format as shown in Form-III annexed to this order.
- 4) The competent authority shall issue orders for appointing Inquiry Authority in a disciplinary case in the format as shown in Form-IV annexed to this order.
- 5) The competent authority shall issue orders for appointment of a Presenting Officer under Rule 20(5)(c) in the format as shown in Form-V annexed to this order.
- 6) The competent authority shall frame the Memorandum of Charges for imposing Minor Penalty in the format as shown in Form-VI annexed to this order.
- 7) The competent authority shall initiate Minor Penalty Proceedings in the format as shown in Form-VII annexed to this order.
- 8) The competent authority shall initiate disciplinary action in common proceedings in the format as shown in Form-VIII annexed to this order.

(Note: See Part II for Proformae (Nos. 5, 8, 10, 11, 12, 13, 15, 16)

(292)

**Memo.No.689/Ser.C/95-3, Genl.Admn. (Ser.C) Dept., dt.16.03.1996
regarding taking disciplinary proceedings simultaneously with investigation and court prosecution.**

Subject Heading : Departmental action and investigation

Subject Heading : Departmental action and prosecution

Ref : Memo.No.2261/Ser.C/79-2, G.A.(Ser.C) Dept., dt.23.10.79.

Instructions were issued in the Memo cited to the effect that there is no legal objection to departmental enquiry being conducted, while the Police are making an investigation, but when once a court has taken cognizance of a criminal case, the departmental authority should stop all further proceedings; that it is not obligatory that the departmental proceedings should be stayed when the case is pending in a court of law, except when it is expedient to do so in the interest of fair play. It is necessary that criminal proceedings and departmental action should be processed without loss of time with a view to avoiding manipulations and loss of evidence.

2. The Public Accounts Committee in its earlier reports from V Legislative Assembly to IX Legislative Assembly has recommended inter alia that procedure should be laid down by which after initial production of original records, departmental action or police investigation could proceed by using photostat copies etc.

3. The Government accept the above recommendation and the instructions issued in the reference cited are therefore reiterated.

(293)

Circular Memo.No.560/Ser.C/95-3, Genl.Admn. (Ser.C) Dept., dt.21.03.1996 regarding payment of subsistence allowance during suspension.

Subject Heading : Suspension - payment of subsistence allowance

Ref : 1. Circular Memo.No.13431-60-A/FR.II/93, dt.01.04.93, F&P (FW.FR.II) Department.

2. G.O.Ms.No.411, G.A.(Ser.C) Dept., dt.28.07.93.

Instructions were issued in the Circular Memo first cited regarding payment of subsistence allowance to the Government employees placed under suspension.

2. In the G.O. second cited, formats for placing Government Servants under suspension were communicated, whenever a Government Servant is placed under suspension, under the provisions of the APSCS (CC&A) Rules, 1991, it shall be necessary to make a mention in the suspension order about the payment

of subsistence allowance to these officers placed under suspension under F.R.53 i.e., for the first 3 months of suspension period, subsistence allowance at an amount equal to leave salary which the Government Servant would have drawn, if he had been on half average pay, or half pay has to be paid, apart from the admissible allowances as per rules. If the suspension is continued beyond six months, then the amount of subsistence allowance can be enhanced or reduced by an amount not exceeding 50% of subsistence allowance already admissible under the circumstances mentioned at (i) / (ii) under the provision to F.R. 53 (i) (ii) (a) as per the instructions issued in the Circular Memo first cited.

(294)

U.O.Note No.680/SC.E/96-1, Genl.Admn. (SC.E) Dept., dt.08.04.1996 regarding unaccounted / unclaimed / excess cash seized during surprise checks - specific orders of disposal to be passed by disciplinary authorities, TDP etc.

Subject Heading : Surprise checks - disposal of cash

It has been brought to the notice of the Government that during the surprise checks conducted by the A.C.B., the Investigating Officers are seizing some unaccounted or unclaimed or excess amounts, and in most of such cases the Bureau is recommending for Departmental Inquiry and the Departmental Authorities in most of the cases are closed by imposing minor penalties like warning, censure etc., to the delinquents and in some cases inflicting a major penalty. But after disposing of the Departmental Inquiries, the authorities are not giving any instructions as to how the unaccounted or unclaimed or excess cash seized by the Investigating Officers of the Bureau during the surprise checks shall be disposed off. Such cases shall not be closed without obtaining a certificate from the concerned authority on the disposal of the seized amount and in no case the period of disposal should exceed 3 months time.

2. All the Departments of Secretariat / Heads of Departments / Disciplinary Authorities / Chairman and Members of T.D.P. are requested to issue specific orders in such cases after finalising the Departmental enquiries regarding disposal of the seized unaccounted / unclaimed / excess amounts and if such amounts are proposed to be credited to Government Accounts the relevant head of account may also be indicated in the said order.

(295)

**Memo.No.1032/SC.E/96-1, Genl.Admn. (SC.E) Dept., dt.09.04.1996:
Intercession of Administrative Tribunal in matters of suspension of
accused officers in A.C.B. cases is against decision of Supreme Court.**

Subject Heading : Suspension - intercession of APAT

A copy of the Supreme Court Judgment in Civil Appeal Nos.911-12 of 1994, dt.21.02.1994 is enclosed (not enclosed).

2. The Advocate General, Andhra Pradesh High Court is informed that the Supreme Court in State of Orissa vs. Sri B.K.Mohanthy held that “where serious allegations of misconduct are alleged against an employee, the Tribunal would not be justified in interfering with the orders of suspension of the disciplinary authority pending enquiry”. The Supreme Court further observed that the Tribunal appears to have proceeded in haste in passing the impugned orders even before the ink is dried on the orders passed by the Appointing Authority. The contention of the respondents, therefore, that discretion exercised by the Tribunal should not be interfered with and this Court would be loath to interfere with exercise of such discretionary powers cannot be given acceptance.

3. The above Supreme Court Judgment was communicated to all the Departments of Secretariat through U.O.Note No.814/SC.D/94-1, GA (SC.D) Department, dt.14.06.94 with the instruction to bring the said Supreme Court decision to the notice of the Andhra Pradesh Administrative Tribunal, Central Administrative Tribunal and High Court whenever orders of suspension passed by the appointing authority based on serious allegations of misconduct against an employee are sought to be challenged in these forums.

4. As already mentioned in para 2 above, all Departments of Secretariat have been requested to bring the above ruling of the Supreme Court to the notice of the Andhra Pradesh Administrative Tribunal, Central Administrative Tribunal and High Court, whenever orders of suspension are challenged in the forums referred above. These instructions were also communicated to all Heads of Departments and all District Collectors. The Advocate General, High Court of Andhra Pradesh, is therefore, requested to bring this to the notice of the Government Pleaders and to issue instructions to them to lay stress on the Supreme Court decision in such matters while opposing matters in appropriate Judicial forums.

(296)

U.O.Note No.1184/SC.E/96-1, Genl.Admn. (SC.E) Dept., dt.22.04.1996: Cases of deviation from Vigilance Commission's advice to be circulated to Chief Minister, not Governor.

Subject Heading : Vigilance Commission - deviation, to be circulated to C.M.

Ref: Govt.Memo.No.3148/SC.E/95-1, G.A.(SC.E) Dept., dt.19.12.95.

The attention of the Departments of Secretariat is invited to the instructions issued in the reference cited.

2. Based on the instructions contained in U.O.Note No.1145/55-2, dt.01.06.1955 of Home (Services.C) Department of ex-Andhra Government, U.O.Note No.1672/Ser.C/81-1, GA (Ser.C) Department, dt.19.11.1981 read with those in Government Memo.No.3148/SC.E/95-1, dt.19.12.1995, one of the Departments of Secretariat proposed to circulate a file in which the proposal of the Department is in deviation to the advice of the Vigilance Commissioner to the Governor.

3. The instructions contained in the two U.O.Notes referred to in para 2 above (not Govt.Memo.), covers only cases in which it is proposed to differ from the advice of the A.P.Public Service Commission and are required to be circulated to the Governor, for information, as a matter of convention and not in accordance with any provision in the Business Rules.

4. It is hereby clarified that the instructions issued in the reference cited do not envisage circulation of the cases involving deviation from the advice of the Vigilance Commissioner through the Chief Minister to the Governor. The Business Rule 32(3) specifies classes of cases which the Chief Minister is required to circulate to the Governor. The cases wherein it is proposed to deviate from the advice of the Vigilance Commissioner are not covered in the subjects referred to in the said Business Rule. Such cases should, however, be circulated to the Chief Minister through the Chief Secretary and the Minister concerned as already reiterated in the Government Memo. cited.

(297)

Memo.No.404/SC.D/96-1, Genl.Admn. (SC.D) Dept., dt.06.05.1996 regarding suo-motu powers of A.C.B - revision of.

Subject Heading : ACB - suo-motu powers

- Ref : 1. Govt.Memo.No.163/SC.D/83-2, dt.30.03.83 read with Memo.No.163/SC.D/83-3, dt.10.06.83.
2. Govt.Memo.No.735/SC.D/87-1, dt.27.04.88.

In para 1(3) of the reference first cited, instructions were issued, among others, to the Director General, Anti-Corruption Bureau, in regard to collecting of source information in respect of the officers of the All-India Services and Heads of Departments for obtaining prior permission of the Chief Secretary, before initiating a preliminary or Regular Enquiry or registering a case or laying a trap, etc. These instructions were reiterated in para 5 of the Government Memo. second cited.

2. The above instructions, however, are not in conformity with the provision of Business Rules 32(1) (xxi) of the A.P.Govt.Business Rules and Secretariat Instructions, according to which orders of the Chief Minister in all the cases in which the work and conduct of Officers of the All-India Services and Heads of Department has come up for adverse notice are required before issue of orders.
3. In view of the said rule position in Business Rules and Secretariat Instructions, the Instructions contained in para 1(3) of the reference 1st cited and reiterated in para 5 of the reference second cited are amended as follows:

"The Director General, Anti-Corruption Bureau, A.P., Hyderabad will send confidential reports in respect of All-India Service Officers and Heads of Departments to the Chief Secretary, who will obtain the orders of Chief Minister, thereon".

(298)

Memo.No.404/SC.D/96-2, Genl.Admn. (SC.D) Dept., dt.10.05.1996 regarding enquiry into petitions against Gazetted Officers, Non-Gazetted Officers by A.C.B - Chief Secretary to give permission and obtain ex post facto orders of CM / Minister.

Subject Heading : ACB - suo motu powers

- Ref: 1. Government.Memo.No.735/SC-D/87-1, dt.27.04.1988.
2. From the Vigilance Commissioner, APVC, Hyderabad, Lr.No.2037/VC.F1/95-2, dt.04.04.1996.

In Government Memo. first cited, the following instructions were issued in paras 3 and 4 thereof, among others:

- (i) All petitions containing allegations of corruption against the Gazetted Officers should be referred to the Anti-Corruption Bureau by the administrative Department of the Secretariat only, after obtaining the orders in circulation to the Minister concerned and the Chief Minister through the Chief Secretary;
 - (ii) The petitions containing allegations of corruption against non-gazetted officers should be referred to the Anti-Corruption Bureau after obtaining orders in circulation to the concerned Minister through the Chief Secretary;
2. The Vigilance Commissioner, held a review meeting to review among others the above instructions issued in the reference first cited and with a view to simplify the procedure suggested to the Government to empower the chief Secretary to approve such investigation by the Anti-Corruption Bureau and to obtain post-facto orders in circulation, in suitable cases, so as to avoid delays.
3. The suggestion of the Vigilance Commissioner has been carefully considered and it has been decided by the Government to modify the instructions contained in paras 3 and 4 of the reference first cited as follows:

"The Chief Secretary to Government will accord permission to the Director General, Anti-Corruption Bureau to enquire into the petitions containing allegations of corruption against Gazetted and Non-Gazetted Officers and thereafter will obtain post-facto orders in circulation to Chief Minister or the concerned Minister as the case may be."

(299)

Memo.No.394/Ser.C/96, Genl.Admn. (Ser.C) Dept., dt.03.07.1996 regarding Departmental Inquiries (Enforcement of attendance of witnesses and production of documents) Act, 1993 - proforma prescribed and procedure clarified.

Subject Heading : Departmental Inquiries Act for witnesses and documents

Ref: From the D.G., A.C.B., Lr.No.67/RPC(C)/96, dt.16.06.96.

The attention of the Director General, Anti-Corruption Bureau is invited to the reference cited and he is informed that in G.O.Ms.No.241, General Administration (Services.C) Dept., dt.31.05.1996 orders were already issued in this regard. A copy of the same is enclosed for reference.

Copy of G.O.Ms.No.241 Genl.Admn.(Ser.C) Dept., dt.31.05.1996

The Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act No.7 of 1993, came into force on 2nd February, 1993. Section 7(1) of the Act empowers the State Government to frame rules for the purpose of giving effect to the provisions of the Act. But on examination it is considered that it is not necessary to issue any rules under the said Act, and that the Act, can effectively be implemented by issuing suitable executive instructions.

2. Under Section 5(1) of the said Departmental Inquiries Act, every inquiring authority authorised under Section 4 thereof shall have the same powers as are vested in a civil court under the code of Civil Procedure, 1908 in respect of (a) the summoning and enforcing the attendance of any witness and examining him on oath, (b) requiring the discovery and producing of any document or other material which is producable as evidence etc. The powers in relation to the summoning and enforcing attendance of a witness are dealt with in order XVI of the code of Civil Procedure, 1908. The procedure laid down in these orders be adopted (copy of order XVI is enclosed), mutatis mutandis for summoning and enforcing attendance of any witness and examining him on oath etc., before a departmental inquiry. For the facility of the competent authorities mentioned in the said Act, the following standard forms are enclosed; namely :

- (i) Form of Summons to witnesses ;
- (ii) Form of Request for transmitting of Summons to be served on a witness in a Departmental Inquiry ;
- (iii) Form of Authorisation to the Inquiring authority to exercise powers specified in Section 5 of the Act ; and
- (iv) Form of Authorisation to an authority not lower than the appointing authority to exercise the power specified in sub-section 4 of the Act.

- 2) According to the procedure laid down in the Code of Civil Procedure, 1908, every summons by the authorized inquiring authority shall :
 - a) be in duplicate ;
 - b) be signed by the officer constituting such authority ;
 - c) be sealed with the seal of such officer or bear a stamp bearing his name and designation ;
 - d) specify the date on, and the time and place at, which the specified person summoned is required to attend and also whether his attendance is required for the purpose of giving evidence or to discover and produce a document or material or for both the purposes ; and
 - e) be endorsed and signed by such authority by post to the District judge within the local limits of whose jurisdiction the specified person, on whom such summons is to be served, actually and voluntarily resides or carries on business or personally, works for gain for service. To enable the District Judge to take cognizance of the summons, a copy of the notification issued under Section 4 of the Act authorising the inquiring authority to exercise the powers specified in Section 5 of the Act may also be enclosed.

3. It may be noted that attendance of witnesses and production of documents before a departmental inquiry will or continue to be secured in the manner as hitherto followed. Where, in the case of a departmental inquiry, the inquiring authority is satisfied that it is necessary to summon a person as a witness or to call for a document from him and that the attendance of such person as a witness or production of such documents may not otherwise be secured, it may, after recording the reasons for doing so, make a reference to the competent authority, or where there is no competent authority, to the Government seeking authorisation under Section 4 of the Act, to exercise the powers specified in Section 5 in relation to such person. The power to authorise an inquiring authority to exercise the power specified in Section 5 of the Act ibid, may be exercised by the Government/the competent authority suo-motu, also if it is of the opinion that for the purpose of any departmental enquiry it is necessary to do so.

(Note: See Part II for Proformae (Nos. 24 to 27)

(300)

Circular Memo.No.408/Ser.C/95-8, Genl.Admn. (Ser.C) Dept., dt.23.08.1996 regarding receipt of foreign currency / goods of Rs.10,000/- value.

Subject Heading : Misconduct - receipt of foreign currency

Ref : G.O.Ms.No.354, Genl.Admn. (Ser.C) Dept., dt.08.08.1996.

In the G.O. cited, orders were issued to the effect that every Government employee shall intimate to the competent authority within fifteen days from the date of receipt of any foreign currency foreign goods of value of more than Rs.10,000/- . In case, the same officer is showing constantly remittance from abroad, the competent authority may take up discreet enquiry against such an official by the Anti-Corruption Bureau.

2. All the Departments of Secretariat and Heads of Departments are requested to bring these instructions to the notice of the concerned authorities under their control.

(301)

G.O.Ms.No.296, F&P (FW.FR.II) Dept., dt.14.10.1996 regarding payment of subsistence allowance during the period of suspension.

Subject Heading : Suspension - payment of subsistence allowance

Read the following :

1. Cir.Memo.No.13431-160-A/F.R.II/93, F&P (F.W.F.R.II) Dept., dt.01.04.93.
2. G.O.Ms.No.411, G.A. (Ser.C) Dept., dt.28.07.93.
3. G.O.Ms.No.480, G.A. (Ser.C) Dept., dt.07.09.93.
4. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt.08.03.94.
5. Cir.Memo.No.29730-A/458/A2/FR.II/96, dt.15.09.94 of F&P (FW.FR.II) Department.
6. G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.04.96.
7. Govt.Memo.No.560/Ser.C/95-3, G.A.(Ser.C) Dept.,dt.21.03.96.

ORDER :

According to FR-53, subsistence allowance at an amount equal to the leave salary which the Government Servant would have drawn, if he had been on leave on half average pay or half pay has to be paid apart from the admissible allowances as per rules.

2. In the references read above, various instructions have been issued on the procedure of keeping a Government servant under suspension and to pay subsistence allowance promptly without causing inconvenience to the Government Servant concerned. It was also ordered that there is no need for withholding payment of subsistence allowance even if a review of suspension is pending at any level. Instructions were also issued to make a mention in the suspension order about the payment of subsistence allowance under FR-53. Further, instructions were also issued in the reference 1st read above that subsistence allowance shall not be denied to the suspended employee on any ground unless, the suspended employee is unable to / does not furnish a certificate that he is not engaged in any other employment during the period of suspension. In the reference 5th read above, it was made clear that non-payment of subsistence allowance during the period of suspension for any reason except for want of non-employment certificate from the suspended employee, is an offence punishable under APKS (CC&A) Rules.

3. Inspite of clear instructions on payment of subsistence allowance during the period of suspension, it has been brought to the notice of the Government that the employees who were placed under suspension were not being paid subsistence allowances and were subjected to hardship and harassment.

4. The matter has been carefully examined by the Government. In order to avoid delays in sanctioning subsistence allowance, it was felt necessary to incorporate a provision in the orders of suspension in the form prescribed as Annexure-I to the G.O.2nd read above.

5. Accordingly, the following may be added as para 4 of the proforma of suspension order prescribed in the G.O. 2nd above.

“It is further ordered that during the period of suspension,

Sri/Smt..... (Name and designation of the Government servant) shall be paid subsistence allowance equivalent to the leave salary on half pay leave. The D.A. and other compensatory allowances shall be paid along

with subsistence allowance. The quantum of subsistence allowance will be reviewed and revised in terms of FR-53(i) after 3 months. Pending review he shall continue to draw the subsistence allowance now sanctioned."

6. This order issues with the concurrence of GA (Ser.C) Department vide their U.O.No.563/Ser.C/96, dt.30.09.96.

(302)

Circular Memo.No.2222/SC.E/96-1, Genl.Admn. (SC.E) Dept., dt.14.11.1996 regarding Section Officers and ASOs not to offer first person suggestions or opinion.

Subject Heading : SOs, ASOs - not to offer first person suggestions

Ref: From the Vigilance Commissioner, A.P.,Lr.No.587/VC.F2/96-1, dt.15.07.96.

In the letter cited, while referring a case of I & C.A.D. Department, the Vigilance Commissioner, Andhra Pradesh Vigilance Commission, Hyderabad has brought to the notice of the Government that while examining the cases, noting at Section level are giving opinions and suggestions deviating certain decisions taken earlier in circulation, and requested to issue instructions to all the Departments of Secretariat to prevent such notings in Secretariat files.

2. In this connection para 95(v) of the A.P.Secretariat Office Manual is extracted below:

"(v) Office not to give suggestions or opinions in notes:- In noting Section Officers and Clerks should bear in mind that opinions and suggestions, unless they are specifically founded on statute, rule or precedent or are clear from the nature of the case are the province of Gazetted Officers. It is therefore presumptuous for Section Officers and Clerks to give expression to personal views unless specially asked to do so. Hence it follows that in writing notes, Section Officers and Clerks should refrain from making use of the first person".

3. Thus according to para 95(v), it is not permissible to the Section Officers and Assistant Section Officers to give opinions or suggestions in the note file while examining cases as to the decision to be taken unless specifically asked for to do so.

4. The Departments of Secretariat are therefore requested to issue necessary instructions to all the Section Officers and Assistant Section Officers working under their administrative control to follow the instructions issued in para 95(v) of the Secretariat Office Manual scrupulously while dealing with the cases.

(303)

Circular Memo.No.1374/SC.D/96-2, Genl.Admn. (SC.D) Dept., dt.19.11.1996 regarding court orders - prompt compliance to be ensured.

Subject Heading : Court cases - prompt compliance with orders

An incident has come to the notice of the Government wherein an appeal filed in the Sub Court for enhancement of compensation amount in a Land Acquisition case, the Sub-Court passed orders fixing the market value per square yards as against the amount fixed by the Land Acquisition Authority. The matter was taken in appeal to the High Court of Andhra Pradesh. The Hon'ble High Court of Andhra Pradesh issued interim stay orders on 28.10.1991 on the condition to deposit compensation amount within two months in the Sub-Court. In order to comply with the said interim orders of the High Court, the concerned executive of the Society was addressed for release of compensation amount so as to deposit the same in the Sub-Court. The Managing Director of the Corporation had also accorded permission to the Executive Director to utilise the compensation amount from the Society funds for depositing the same in the Sub-Court. But the Executive Director did not release the compensation amount from the Society funds within the time stipulated by the High Court. Subsequently, the Hon'ble High Court of Andhra Pradesh, extended the time for another ten days from 18.12.1992 for complying with the Court orders dated 28.10.1991 also ordered that the interim directions issued in the case on 28.10.1991 shall stand vacated in case of default of depositing the compensation amount within the extended time. Though the extended time limit expired on 28.12.1992, the concerned Executive Director did not release the compensations amount. The compensation amount was subsequently released on 28.01.1994 by the successor of the Executive Director and it was deposited in the Sub-Court on 30.01.1994.

2. The petition filed for condoning the delay in the matter, was dismissed by the High Court and earlier stay orders of the High Court also stood vacated. As such, the Sub-Court issued orders to attach the properties of Government for realisation of compensation amount. Thereupon, a petition was filed before

the High Court of Andhra Pradesh to expedite the hearing of Appeal pending in the High Court. But, inspite of several requests, the High Court have not posted the case for hearing and as such a S.L.P. has been filed in the matter before the Hon'ble Supreme Court of India.

3. The Hon'ble Supreme Court of India in its Record of Proceedings observed that there have been enormous and unexplainable delays at every stage and they, therefore, desired to know whether any effort have been made to find out as to which Officer or employee is responsible for these delays and what action, if any, has been taken against them. They further desired that as to what action Government of Andhra Pradesh have taken against the erring officers be reported to them and that only then they will consider passing any orders in the matter.

4. The said incident, which could have been easily avoided by taking prompt action and subsequent observations of the Hon'ble Supreme Court of India in the matter have put the Government of Andhra Pradesh in a very embarrassing situation. As such, it has been decided to issue instructions to all concerned to take prompt action for complying with any Court order and failure to do so will be viewed seriously and deterrent action will be taken in such cases.

5. The Special Chief Secretaries to Government / Principal Secretaries to Government / Secretaries to Government and all Heads of Departments are requested to bring the above instructions to the notice of all the concerned authorities / officials working under their control.

(304)

Memo.No.12008/Genl.C/96-1, Genl.Admn. (Genl.C) Dept., dt.03.12.1996 regarding filing of counter affidavits promptly.

Subject Heading : Court cases - filing of counter affidavits

The High Court of Andhra Pradesh in contempt case No.924/96 in W.P.No.29012 of 1995 has observed, among others, that it has been the frustrating experience of the Court that many a time Counter Affidavits are not filed in time for which the situation results of the case being held up from disposal and that it is the common experience that Counter-Affidavits, as a matter of fact, are not filed in the first instance and are filed only after successive adjournments. A copy of the said order is enclosed.

2. All the Heads of Departments, Departments of Secretariat and District Collectors are requested to take immediate action in the Court cases to comply with the directions of Courts for filing counter-affidavits. They are also directed to avoid recurrence of any such non-filing of Counter affidavits before the Courts, whenever the Courts direct them to file Counter-Affidavits and to bring the above orders to the notice of all their sub-ordinate Offices under their control.

(305)

G.O.Ms.No.53, G.A.(Ser.C) Dept., dt.04.02.1997 regarding effect of censure on promotion - further clarification.

Subject Heading : Penalty - minor penalties, effect on promotion

Read the following :

1. G.O.Ms.No.187, G.A.(Ser.B) Dept., dt.25.04.85.
2. Memo.No.322/Ser.B/87-6, GAD dt.08.02.88.

ORDER :

According to sub-rule (i) of Rule 9 of the APCS (CC&A) Rules, 1991, "Censure" is declared as a minor penalty. Para 11 of the G.O. first read above provides that an individual, who is undergoing punishment, should not be recommended for promotion and where the period of punishment imposed is already over, each period of punishment imposed is already over, each case has to be evaluated by Departmental Promotion Committee on merits. In the Government Memo. second read above, instructions were issued to the effect that solitary instance of minor punishment such as censure, fine, withholding of increments or recovery from pay of the pecuniary loss caused to the State Government or Central Government undergone or being undergone by a Government employee by itself does not automatically render a person unfit for promotion to a non-selection post.

2. The Government of India, Ministry of Home Affairs, in its instructions issued in O.M.No.39/21/56, Ests.(A), dt.13.12.56 has clarified that an order of "Censure" is formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment and nothing can amount to a "censure" unless it is intended to be such a formal punishment and imposed for 'good and sufficient reason' after following the prescribed procedure and that

a record of the punishment so imposed is kept on the officer's confidential roll and the fact that he has been 'Censured' will have its bearing on the assessment of his merit or suitability for promotion to higher posts.

3. As the penalty of censure has a bearing on the assessment of the Government Servant about his merit or suitability for promotion to higher posts and as the currency of punishment based on previous record stands as an impediment for promotion, it is considered necessary to specify the time limit during which the said penalty of "Censure" is effective besides defining the penalty.

4. Hitherto, there are no specific orders in regard to definition of "Censure" and its implications. After careful consideration, the Government decided to issue the following orders in regard to definition of "Censure" and its implications in assessing the "merit" and suitability of the Government Servant for his promotion / appointment by transfer.

Definition : "Censure" is a formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment, and nothing can amount to a "Censure" unless it is intended to be such a formal punishment and imposed for "good and sufficient reason" after following the prescribed procedure.

Effect : Every censure awarded shall debar a Government Servant for promotion / appointment by transfer for one year to both Selection and Non-Selection posts.

(306)

Memo.No.4707/SC.E/96-1, Genl.Admn. (SC.E) Dept., dt.10.02.1997: Prior permission of Government necessary for filing appeal.

Subject Heading : Appeal - prior permission of Government necessary

Ref : From the Vigilance Commissioner D.O.Lr.No.1359/VC.C1/96, dt.21.12.96.

In the D.O. letter cited, it is brought to the notice of the Government that the Anti-Corruption Bureau without obtaining prior orders of the Government has filed an appeal in the High Court against an order of acquittal passed by the III Addl.District & Sessions Judge-cum-Special Judge for Anti Corruption Bureau cases, Visakhapatnam and thereafter sought ratification of its action in having filed the appeal.

2. Even after instructions were issued by the Andhra Pradesh Vigilance Commission in its letter No.437/VC.C1/94, dt.04.07.1994 to the effect that it is the exclusive prerogative against such orders of acquittal and that the A.C.B. has to device its own methods to secure in time prior orders of the Government for filing an appeal, the Director General, Anti-Corruption Bureau is noticed to have filed appeals in anticipation of the orders of the Government in as many as four cases and sought for ratification of his action in having filed appeals in the following cases:-

- 1) A.C.B. Lr.No.18/RCT.VKI/92, dt.17.12.1996 relating to acquittal of Sri Md. Habeebullah, M.R.O., Chandralapadu Mandal, Krishna District.
- 2) A.C.B. Lr.No.11/RCT.WVP/92, dt.12.12.1996 relating to acquittal of Sri M.Rambabu, D.C.T.O., Visakhapatnam.
- 3) A.C.B. Lr.No.109/RCO.WVP/89, dt.05.12.1996 relating to acquittal of Sri S.Satyanarayana, Divl.Co.op.Officer, Yalamanchili.
- 4) A.C.B. Lr.No.18/RCT.WVP/89, dt.05.12.1996 relating to Sri K.T.Kondal Rao, A.E., P.R.Department.

3. As rightly pointed-out by the Vigilance Commissioner in his letter, dt.14.07.1994, it is needless to emphasise that it is the exclusive prerogative of the Government to decide whether or not to file an appeal against an order of acquittal having regard to the circumstances and merits of each case. Section 378 of the Cr.P.C. empowers the Government to take a decision at its discretion and to direct the concerned P.P. to prefer an appeal in the High Court against the orders of acquittal passed by a court. Even though the Anti-Corruption Bureau is at liberty to make a suitable recommendation recommending to Government to exercise the power vested in them U/s.378 of the Cr.P.C. and to issue orders for filing an appeal in High Court through the concerned P.P. the Government may decide on the need or otherwise of filing an appeal keeping in view the Bureau's recommendation, the advice of the Andhra Pradesh Vigilance Commission thereon and other implications involved in the matter. As such, the action of the Anti-Corruption Bureau in having filed appeals and later seeking ratification of its action goes contrary to the powers vested in Government as also to the instructions issued to him by the Andhra Pradesh Vigilance Commission on the subject.

4. The Director General, Anti-Corruption Bureau is therefore requested to ensure that prior orders of the Government for filing an appeal against the orders of acquittal passed by the courts on the Special Judge for A.C.B. cases are invariably obtained by sending proposals well in advance. He is also requested to avoid filing appeals in anticipation of the orders of the Government.

(307)

U.O.Note No.23552/Ser.C/97-1, Genl.Admn. (Ser.C) Dept., dt.07.05.1997:
Penalty to be commensurate with gravity of charge substantiated and
there should be clear application of mind.

Subject Heading : Penalty - should be commensurate with gravity of misconduct

Ref: From the Vigilance Commissioner, A.P.V.C., Lr.No.1167/VC.F2/96-3,
dt.31.03.97.

A copy of the letter cited together with its enclosures is communicated
to all the departments of Secretariat for information (not enclosed).

2. The disciplinary / appointing authorities are requested to keep in view the observations of APAT / Supreme Court of India / Law Department that there shall be clear application of mind to the evidence available, before coming to the conclusion on the quantum of punishment proposed to be imposed on the delinquent officer. In dealing with disciplinary cases, the disciplinary authority shall keep in mind that the penalty proposed to be imposed under Rule 9 of APCS (CC&A) Rules, 1991 is commensurate with the gravity of the charge established.

(308)

U.O.Note No.1007/SC.E/97-1, Genl.Admn. (SC.E) Dept., dt.09.05.1997: Not necessary to refer statement of defence to Vigilance Commission.

Subject Heading : Vigilance Commission - not necessary to refer statement of defence

Ref: G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.93.

It has been brought to the notice of this Department that of late some of the Secretariat Departments are circulating explanations / statements of defence etc., received from the Accused Officers to the A.P.Vigilance Commission for its advice even though the Commission has already tendered its advice regarding the further course of action in terms of the scheme of Commission approved in the G.O. cited. This is causing unnecessary correspondence and avoidable delay.

2. The Commission having tendered its advice once initially as to the course of action, it is not necessary to refer the explanations / written statements of defence submitted by the Accused Officers in reply to the charges framed against them unless the Department concerned takes a view to drop the disciplinary case on considering such explanations etc.

3. All the Departments of Secretariat are therefore requested to ensure that the explanations / statements of defence etc., received from the Accused Officers are not referred to the Commission for its advice.

(309)

U.O.Note No.2782/SC.E/96-1, Genl.Admn. (SC.E) Dept., dt.30.06.1997 regarding dealing with representations of accused officers in A.C.B / Vigilance Commission cases.

Subject Heading : ACB - referring ACB report to Law and others, clarifications

Ref: 1. U.O.Note No.910/SC.D/85-1, G.A.(SC.D) Dept., dt.26.08.1985.

2. From the Vigilance Commissioner, A.P.V.C., Hyderabad Lr.No.262/VC.C1/93-9, dt.07.09.96.

The attention of all Departments of secretariat is invited to the reference 1st cited, wherein, all the Departments of Secretariat are informed that the reports of Anti-Corruption Bureau have to be examined independently and further course of action taken on the recommendation made by the Anti Corruption Bureau and that for this purpose it is not necessary to refer the final reports of Anti-Corruption Bureau to Law Department for advice except where specific questions of law are involved as the Anti Corruption Bureau sends its final reports after obtaining the opinion of Legal Officers in the Bureau. Further if any information is found necessary during the course of examination of the final report of A.C.B. it may be called for from the A.C.B. and the course of action i.e., prosecution in a court of law or enquiry by Tribunal for Disciplinary Proceedings or Departmental action or dropping of further action may be decided. It is also informed therein that in cases where it is considered necessary to have advice in deciding the matter, the reports of A.C.B. may be referred to the Vigilance Enforcement Department, General Administration Department for advice wherever considered

necessary in terms of orders issued in G.O.Ms.No.269, G.A.(SC.D) Department, dt.11.06.1995 and further clarified in Memo.No.660/SC.D/96-7, G.A (SC.D) Department, dt.25.06.1985. Therefore instructions were issued therein that final reports of Anti-Corruption Bureau may not be referred to the Law Department as a matter of routine reference for advice, except in the cases where specific issue of law are involved.

2. In the D.O. letter 2nd cited, the Vigilance Commissioner has brought to the notice of the Government, that the Departments of Secretariat on different occasions have referred Anti-Corruption Bureau cases to Law Department and less often to Advocate General for their advice / views in a rather routine manner and are taking departmental action against the Accused Officer, as against the recommendation of Anti-Corruption Bureau and as advised by the Vigilance Commission which is in contravention of the instructions contained in the U.O. Note first cited. The Vigilance Commissioner has therefore requested the Government for the issue of suitable instructions to the Departments in this regard.

3. Government after careful examination of the matter have decided to issue the following instructions to the Departments of Secretariat to adhere to the following instructions strictly while dealing with Anti-Corruption Bureau / Vigilance Commission cases :

- 1) To strictly follow the instructions issued in the U.O.Note No.910/ SC.D/85-1, G.A. Dept., dt.26.08.1985. It is however clarified that it is not necessary to refer the cases to Vigilance and Enforcement Department for advice.
- 2) Not to prejudge the merits of Anti-Corruption Bureau cases as far as possible and where they cannot avoid such a course of action, they may invariably obtain the remarks of Director General, Anti-Corruption Bureau before acting favorably on the representations, if any, put in by the accused officer for dropping prosecution / departmental action.
- 3) To obtain the view of the Public Prosecutor in Criminal cases rather than that of the Advocate General which would be the procedure envisaged in such cases.

(310)

Circular No.42050/AR&T.III/97-7, Genl.Admn. (AR&T.III) Dept., dt.26.07.1997 regarding surprise checks - CM's instructions regarding list of records to be maintained.

Subject Heading : Surprise checks - CM's instructions regarding list of records to be maintained.

Ref: 1. From the C.M., D.O.Lr.No.705/N/CMP/97, dt.08.04.97.

2. From the Chief Secretary D.O.Lr.No.214/CSP/N/97, dt.16.05.97.
3. D.O.Lr.No.42050/AR&T.III/97-5, dt.21.06.97.

It is informed that the C.M. has emphasised the need to carry out surprise inspections atleast four times each month and such inspections would go a long way in improving the quality of service delivered to the public. The inspections should be systematically carried out by the Ministers with a view to addressing deficiencies and guiding officers in the proper discharge of their duties. All the Ministers should conduct inspections in respect of their own departments as also in respect of Districts assigned to them. Similarly Secretaries and Heads of Departments should conduct surprise inspections for their respective departments. In the case of Supervisory Officers for districts, in addition to their own Departments, they should also conduct inspections of other Departments in the districts assigned to them. Collectors would be required to carryout surprise inspections in respect of various Departments within their districts.

2. C.M. has directed that for gearing up performance of Government agencies and Departments, it would be desirable to attend to the following items.

1. Details of the records to be maintained in each office shall be communicated to all offices concerned. A list of such records shall also be made available to the inspecting officer so that records can be properly checked as to whether it is being properly maintained. It has come to the notice of the C.M. during his visits to districts that the subordinate officers are not even aware of the records that they should be maintaining.
2. Standard inspection proformae shall be designed for each office and circulated to all concerned. In the case of certain offices standard proformae for inspections were finalized some time ago

in consultation with the Planning Department. All inspection proformae shall be positioned on the Secretariat Computer Network as also with the NIC Centres in the districts; and

3. While designing inspection proformae, care shall be exercised to ensure that the proformae are capable of computerisation. After each inspection the results shall be computerised and made available to both the Planning Department and the C.M's Office. Such data could eventually be used to identify areas requiring attention on the part of Government.

(311)

G.O.Ms.No.342, Genl.Admn. (Ser.C) Dept., dt.04.08.1997 (as amended by G.O.Ms.No.431, G.A.(Ser.C) Dept., dt.14.10.1997) regarding effect of minor penalties.

Subject Heading : Penalty - minor penalties, effect on promotion

Read the following:

1. G.O.Ms.No.187, G.A.(Ser.B) Dept., dt.25.04.85.
2. G.O.Ms.No.53, G.A.(Ser.C) Dept., dt.04.02.97.

ORDER :

Under Rule 9 of APCS (CC&A) Rules, 1991, the following are the minor penalties :

- (i) Censure.
- (ii) Withholding of Promotion.
- (iii) Recovery from pay of the whole or part of any pecuniary loss caused by him to the State Government or the Central Government or to a Local Authority or to a Corporation owned or controlled by the State or the Central Government by negligence or breach of orders, while working in any department of the State or the Central Government local authority or Corporation concerned.

- (iv) Withholding of increments of pay.
 - (v) Suspension, where a person has already been suspended under Rule 8 to the extent considered necessary.
2. As per para 111 of G.O.Ms.No.187, GA (Ser.B) Department, dt.25.04.1985, the individual who is undergoing punishment, should not be recommended for promotion. In case, where the period of punishment imposed is already over, each case has to be evaluated by Departmental Promotion Committee on merits.

3. The need for issue of comprehensive instructions on the currency and effect of minor penalties on Government employees who were involved in disciplinary cases and who come up for consideration for promotion to higher categories has been examined and further instructions are issued as follows:

PENALTY	EFFECT
(i) Censure	In terms of orders issued in G.O.Ms. No. 53, G.A.(Ser.C) Dept., dt.04.02.97 every Censure awarded shall debar a Government employee for promotion / appointment by transfer for one year to both selection and non-selection posts.
ii) Withholding of Promotion	(This penalty awarded to Government employee shall debar the individual for promotion / appointment by transfer to a higher post during the period of subsistence of penalty which shall be indicated in the order imposing the penalty subject to a minimum period of one year both for selection and non-selection posts.
(iii) Recovery from pay of the whole or part of any pecuniary loss	Whenever a Government employee is awarded the penalty of recovery from

<p>caused by him to the State Government or the Central Government or to a local authority or to a Corporation owned or controlled by the State or Central Government by negligence or breach of orders while working in any department of the State or the Central Government, Local authority or Corporation concerned.</p>	<p>pay, it shall debar the individual for promotion / appointment by transfer to a higher post during the period of penalty which shall be indicated in the order imposing the penalty subject to a minimum period of one year both for selection and non-selection posts. Even if an employee remits the amount in one lumpsum, he / she shall not be recommended for promotion / appointment by transfer for minimum period of one year.</p>
<p>(iv) Withholding of increments of pay</p> <p>a) With cumulative effect</p>	<p>(i) In G.O.Ms.No.335, G.A.(Ser.C) Dept., dt.14.06.93 orders were issued to the effect that the penalty of stoppage of increments with cumulative effect amountd to a major penalty under the Andhra Pradesh Civil Services (CC&A) Rules, 1991 and the elaborate procedure prescribed under Rule 20 of the said rules is to be followed.</p>
	<p>(ii) In terms of G.O.Ms.No.968, G.A.(Ser.C) Dept., dt.25.10.95 whenever any Government employee is awarded the penalty of stoppage of increment with cumulative effect, the cases of such employees shall not be recommended for promotion / appointment by transfer for twice the period for which the increment(s) is / are stopped with cumulative effect, both for selection and non-selection posts.</p>

b) Without cumulative effect	<p>(iii) Whenever any Government employee is awarded the penalty of stoppage of increment without cumulative effect, the individual shall not be recommended for promotion / appointment by transfer for twice the period with a minimum of one year both for selection and non-selection posts.</p> <p>This penalty awarded to Government employee shall debar him / her for promotion / appointment by transfer to a higher post during the period of subsistence of penalty which shall be indicated in the order subject to a minimum period of one year both for selection/non-selection posts.</p>
(v) Suspension Where a person has already been suspended under Rule 8 to the extent considered necessary	Where suspension is revoked exonerating a person fully his / her case may be considered for promotion with retrospective effect. Where the disciplinary proceedings finally resulted in a penalty he / she will be debarred during the period of penalty and subject to a minimum period of one year from the date of reinstatement. In case the suspension period itself is treated as substantive penalty, he/she shall be debarred for promotion / appointment by transfer for a period of minimum one year both for selection / non-selection posts.

(312)

U.O.Note No.962/SC.E/97-1, Genl.Admn. (SC.E) Dept., dt.04.08.1997: Not to mention reference of A.C.B. or Vigilance Commission in correspondence.

Subject Heading : ACB - not to quote in references or charges

Subject Heading : Vigilance Commission - not to mention in references

Ref: 1. U.O.Note No.1798/SC.E/87-1, G.A. (SC.E) Dept., dt.20.10.87.

2. U.O.Note No.1798/SC.E/87-12, G.A. (SC.E) Dept., dt.22.08.89.

3. G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993.

4. From the Vigilance Commissioner, A.P.Vigilance Commission,
Hyderabad Lr.No.507/VC.F1/97-1, dt.24.03.1997.

The attention of all the Departments of Secretariat is invited to the references 1st to 3rd cited.

2. In the references 1st and 2nd cited, all the Departments of Secretariat have been instructed:-

- a) not to mention correspondence with the A.C.B. in their order appointing Inquiry Officer;
- b) that they should not mark a copy of the order to the A.C.B. and to send the copy of the order separately through a covering letter to the A.C.B. and
- c) that the A.C.B. to be addressed separately for furnishing documents to the I.O. as the ACB reports are considered as 'Classified documents' and cannot be furnished to the delinquent officer for purposes of preparing his defence and are meant only to assist the Disciplinary Authority to come to a firm conclusion about the action to be taken against the Delinquent Officer.

3. As per the orders issued in the G.O. 3rd cited, all final reports of enquiry by the A.C.B. will be forwarded to the concerned Departments through

the Vigilance Commission and that the Vigilance Commission on consideration of the reports of the Anti Corruption Bureau and other relevant records may advise the concerned departments as to the further action to be taken.

4. Inspite of above clear instructions the Vigilance Commissioner has reported, in the reference 4th cited, that in quite a few cases, the Departments of Secretariat are still mentioning the reference number of the Commission's advice in their instructions / orders pertaining to disciplinary cases where the Commission's advice in the instructions / orders pertaining to disciplinary cases where the Commission's advice was sought for. As the advice of the Commission is based on the final report of the A.C.B. (i.e., Part-A report) which contains secret report it should not also be divulged by the Government in their correspondence or orders. The advice of the Commission is equally confidential and need not be mentioned in Government orders in disciplinary cases. Any indication of the source of advice would lead to disclosure of A.C.B. reports in litigations before courts and hence should be avoided. The Vigilance Commissioner has therefore requested the Government to issue general instructions to all the Departments in the matter.

5. The Government have examined the matter and have agreed to issue instructions as requested by the Vigilance Commissioner.

6. The Government, therefore, while reiterating earlier instructions issued in the matter, request all the Departments of Secretariat not to mention the correspondence made with the A.P. Vigilance Commission in their order appointing the Inquiry Officer.

(313)

U.O.Note No.1005/SC.E/97-3, Genl.Admn. (SC.E) Dept., dt.27.09.1997 regarding cases which can be referred to Commissionerate of Inquiries.

Subject Heading : Commissionerate of Inquiries - type of cases which can be referred

- Ref: 1. Govt.Memo.No.1496/SC.E/86-4, G.A.(SC.E) Dept., dt.16.07.86.
2. G.O.Rt.No.732, G.A.(SC.F) Dept., dt.22.02.89.
3. G.O.Rt.No.2172, G.A.(SC.E) Dept., dt.15.05.97.

4. G.O.Rt.No.4394, G.A.(Spl.A) Dept., dt.16.08.97.
5. G.O.Rt.No.4816, G.A.(SC.E) Dept., dt.30.08.97.

The attention of all Departments of Secretariat is invited to the references cited.

2. In the reference 1st cited, instructions were issued to the appointing authorities to appoint the Commissioner for Departmental Inquiries as Inquiry Officer for conducting departmental inquiries in terms of Rule 19 (2) (a) of A.P.C.S. (CC&A) Rules, 1963. These rules were replaced by A.P.C.S. (CC&A) Rules, 1991.

3. In the G.O. 2nd cited, orders were issued constituting a Commissionerate of Inquiries consisting of a Chairman and one Member for conducting departmental inquiries against the Gazetted Officers of the State Government and All-India Service Officers serving in connection with the affairs of the State. In the G.Os third, fourth and fifth cited, orders were issued strengthening and making the Commissionerate a full-fledged one. The full-fledged Commissionerate comprises of a full-time Chairman and six members.

4. It has been decided to entrust all disciplinary cases pending and future requiring inquiries under the provisions of AIS (D&A) Rules, 1969 and APSCS (CC&A) Rules, 1991 to the Commissionerate of Inquiries.

5. The Chairman, Commissionerate of Inquiries will allocate the cases, entrusted to the Commissionerate by the disciplinary authorities for conducting inquiry under the relevant disciplinary rules to any of its members including himself. Besides, he coordinates the work among the members. He will also interact with the Departments concerned to ensure that the pending and future cases are entrusted to the Commissionerate of Inquiries strictly in terms of the provisions of AIS (D&A) Rules, 1969 or APSCS (CC&A) Rules, 1991 as the case may be. The Chairman will review the progress of action taken by the concerned Departments on the final reports of the Commissionerate of Inquiries. The Chairman will also coordinate the work of appointment of Presenting Officers by the concerned departments to present the case on behalf of the Disciplinary authority before the Chairman and other members of the Commissionerate. (Para 5 of the U.O.Note No.1005/SC.E/97-3, G.A.(SC.E) Dept., dt.27.09.97 is modified to the effect that “the disciplinary authorities will take the suggestion of the Chairman, Commissionerate of Inquiries with regard to the Inquiring Authority to be appointed, prior to issue of order of appointment of Inquiring Authority after completing the entire procedure prescribed under Rule 20 of A.P.Civil Services

(CC&A) Rules, 1991 or Rule 8 of the All-India Services (D&A) Rules, 1969 as the case may be". Modified by U.O.Note No.800/ SC.E1/98-1, Genl.Admn.(SC.E) Dept., dt.23.11.1998).

6. All Departments of Secretariat, and other disciplinary authorities are, therefore, requested to entrust all pending and future disciplinary cases of Gazetted Officers of the State Government, Non-Gazetted Officers of the State Government wherever considered necessary by disciplinary authorities of the Government and, the Heads of Departments (other than All-India Service Officers) to the Commissionerate of Inquiries, duly following the procedure such as framing of charges, obtaining the written statement of defence, consideration of the written statement of defence etc., as laid down in the provisions of APCS (CC&A)Rules, 1991 Commissionerate of Inquiries in terms of the relevant provisions of AIS (D&A) Rules, 1969.

7. The disciplinary cases against All-India Service Officers serving in connection with the affairs of the State where major or minor penalties are proposed will also be entrusted to the Commissionerate of Inquiries in terms of the relevant provisions of AIS (D&A) Rules, 1969.

(314)

U.O.Note No.1005/SC.E/97-5, Genl.Admn. (SC.E) Dept., dt.01.10.1997 regarding Commissionerate of Inquiries - appointment of Presenting Officer.

Subject Heading : Commissionerate of Inquiries - appointment of Presenting Officer

Ref: U.O.Note No.1005/SC.E/97-3, G.A.(SC.E) Dept., dt.27.09.97.

The attention of the Departments of Secretariat is invited to the reference cited regarding the entrustment of disciplinary cases to the Commissionerate of Inquiries for Inquiry under the provisions of APCS (CC&A) Rules, 1991 and A.I.S.(D&A) Rules, 1969.

2. According to the provision in Rule 20(5)(c) of APCS (CC&A) Rules, 1991 the Disciplinary authority, which may itself inquire into any articles of charge or appoint an inquiry authority for holding an Inquiry into such charge,

may appoint a Government Servant or a legal practitioner as Presenting Officer to present on its behalf the case in support of the articles of charge. Similar provision is also available in Rule 8(6)(c) of AIS (D&A) Rules, 1969 in the case of Inquiries into articles of charge against All-India Service Officers.

3. All departments of Secretariat and the competent disciplinary authorities, who may entrust the disciplinary cases to the Commissionerate of Inquiries for the purpose of enquiry, shall also send a panel of names to the Chairman or to any one in the Commissionerate of Inquiries who may be authorised by the Chairman along with the cases entrusted to the Commissionerate for appointment of one of the Members of the panel as Presenting Officer to present the case on behalf of the Disciplinary authority before the Inquiring Authority. It is needless to emphasise that non-appointment of presenting officer at the earliest opportunity may result in unavoidable delay in conducting inquiry by the Inquiring Authority. (Para 3 of U.O.Note No.1005/SC.E/97-5, Genl.Admn.(SC.E) Dept., dt.01.10.97 is modified to the effect that "the Disciplinary authority may take the advice of the Chairman, Commissionerate of Inquiries while preparing panel of persons for appointment of presenting officer but the selection and appointment of presenting officer shall be by the disciplinary authority. Modified by U.O.Note No.800/SC.E1/98-1, Genl.Admn. (SC.E) Dept., dt.23.11.1998).

(315)

**U.O.Note No.75025/Ser.C/97-1, Genl.Admn. (Ser.C) Dept., dt.14.10.1997:
TDP report to be sent to A.C.B. with final orders.**

Subject Heading : TDP - copy of report to ACB with final orders

Ref: 1. G.A.(Ser.D) dept., Memo.No.2317/Ser.D/73 dt.25.06.74.

2. From the Director General, A.C.B., C.No.63/RPC(C)/97, dt.05.06.97.

In the reference 1st cited instructions were issued to the effect that copy of the Inquiry Report of the Tribunal for Disciplinary proceedings should be communicated to the Anti-Corruption Bureau, in respect of cases which emanated from the A.C.B., along with a copy of the final orders passed by the Government. However, it is brought to the notice that only a copy of the final order passed in

the matter is being sent to the Anti-Corruption Bureau without a copy of the inquiry report of the Tribunal for Disciplinary proceedings.

2. To have analytical study as to how the evidence collected during the course of investigation by the Investigating Officer was appreciated by the Tribunal for Disciplinary Proceedings and also to know whether there is any lacunae in the investigation and to check if there has been any failure on the part of prosecution to take suitable remedial measures, there is imperative need for the Anti-Corruption Bureau to have a copy of the inquiry report of the Tribunal.

3. Government reiterate the instructions issued in the reference 1st cited and direct that the departments of Secretariat are requested to ensure that the inquiry report of the Tribunal for Disciplinary proceedings in respect of disciplinary cases emanated from the Anti-Corruption Bureau are invariably sent to the Anti-Corruption Bureau along with final orders passed in the matter.

(316)

G.O.Ms.No.448, Genl.Admn. (SC.E) Dept., dt.23.10.1997 regarding seeking of opinion of Law Department in A.C.B. cases where legal issue is involved.

Subject Heading : ACB - referring ACB report to Law and others, clarifications

ORDER :

It is informed by the Andhra Pradesh Vigilance Commission that during the course of an enquiry by the Anti-Corruption Bureau it has come to light that an officer involved in a criminal case was convicted and sentenced to undergo Rigorous Imprisonment for one year and also to pay a fine on 25.07.1985 by the Addl. Judicial First Class Magistrate. The Accused officer filed an appeal in the Court of Additional Sessions Judge. The Sessions Judge passed orders suspending the sentence of imprisonment alone and upheld the conviction part of the Lower court. When the administrative department referred the file to Law Department to advice whether the Accused officer could be dismissed from service as his conviction was upheld, the Law Department opined that it is not safe to dismiss the officer on the mere grounds of imposition of fine and advised the Department to await the Judgment of the appeal filed by the Officer. While giving the above opinion on 28.01.86, the file was not seen by the Secretary, Law Department. Final Judgment in the above case was, however, delivered on 17.06.1986 setting aside the sentence awarded by the Addl. Judicial First Class Magistrate and the appellant accused was directed to be released on probation.

When the Administrative Department again referred the file to the Law Department, on further course of action, the Law Department, having realised the mistake in their earlier opinion 28.01.86, advised the Department to impose any of the penalties specified in Rule 8 of A.P.C.S.(CC&A) Rules, 1963. Instead of dismissing the accused officer from service, the Administrative Department have appointed an Inquiry Officer to conduct inquiry, into the matter. Based on the Inquiry Officer's findings, the Administrative Department have proposed whether further action in the case may be dropped.

2. The above matter was discussed by the Vigilance Commissioner with the Secretary to Government, Law, Joint Secretary to Government of the Administrative Department and Senior Officer of Anti-Corruption Bureau in a meeting held on 25.07.1997 and observed that though the Law Department gave its revised advice as far back as on 20.04.1989, the Administrative Department failed to take action to dismiss the accused officer from service and has thus continued him in service till his retirement on 31.07.96 i.e., for a period of 7 years. The Vigilance Commissioner has also observed further that the Administrative Department did not mark the file specifically to the Secretary to Government, Law, but merely marked it to Law Department, and consequently correct advice could not be tendered to the Administrative Department in the first instance resulting in the continuance of the accused officer in service for 11 years after he was convicted by a Court of Law on 25.07.85. The Andhra Pradesh Vigilance Commission, Hyderabad has therefore requested the Government to issue suitable instructions to all Departments of Secretariat to mark their files specifically to Secretary, Law for seeking opinion of Law Department in all Anti-Corruption Bureau initiated cases where a legal issue is involved.

3. Government, after careful examination of the matter, have considered the advice of the Andhra Pradesh Vigilance Commission to issue instructions to all Departments of Secretariat to mark their files specifically to Secretary (Law) for seeking opinion of Law Department where a legal issue is involved in all Anti-Corruption Bureau initiated cases.

4. Accordingly, all Departments of Secretariat are directed to mark their files specifically to Secretary (Law) for seeking opinion of the Law Department in all Anti-Corruption Bureau initiated cases where legal issue is involved instead of marking the files to Law Department in a routine course.

(317)

G.O.Ms.No.504, Genl.Admn. (V&E-A) Dept., dt.25.11.1997 regarding Single Directive of Vigilance & Enforcement Department.

Subject Heading : V&E Department - single directive

Read :

G.O.Ms.No.269, G.A.(SC.D) Dept., dt.11.06.85.

ORDER :

Instructions have been issued by the Government from time to time to the administrative Departments of Secretariat, Heads of departments, District Collectors, and other Officers, to extend co-operation and assistance to the Officers of Vigilance & Enforcement Department, G.A.D. during the course of their enquiries by making over records and material information required by them. Of late, the Government have been entrusting the Department of V&E with a variety of enquiries and the role of this organisation has now become quite comprehensive. It is, therefore, necessary to consolidate all the instructions issued so far in the form of a single directive to all the Government Departments / Government Undertakings / Quasi Government Organisations clearly defining their responsibilities in relation to V&E Department.

II. ROLE OF THE VIGILANCE & ENFORCEMENT DEPARTMENT

The Vigilance & enforcement Department is an agency which was constituted in G.O.Ms.No.269, G.A.(SC.D) Department, dt.11.06.85 by the Government to conduct enquiries / investigations into specific allegations affecting public interest and to take effective measures through its own machinery and with the help of other vigilance bodies, organisations and departments of the Government to achieve the following objectives.

- 1) Prevention of leakage of revenues due to Government;
- 2) Detection of misuse or wastage of Government funds, resources, materials and properties;
- 3) Prevention of loss of State's wealth and natural resources;
- 4) To prevent losses / wastage & graft in public sector undertakings and Government Companies;
- 5) To advise the Government regarding the changes needed in laws and rules with a view to simplifying and streamlining the procedures;
- 6) To refer any complaint / allegation to the Anti-Corruption Bureau for investigation / enquiry; and

- 7) To advise the Government on any matters that may be referred to it from time to time.
2. In other words, it is expected to carry out Vigilance functions where Government spending is involved and enforcement functions in respect of the revenues due to Government.

III. ORGANISATION :

The V & E Department is part of G.A.D. The Department is headed by an Officer designated as Director General (V&E), who is Ex-Officio Prl.Secretary to Government. He is assisted by Director (V&E), who is of the rank of Inspector General of Police.

3. Keeping in view the various objectives set for the V&E Department, the Head Office of V&E was reconstituted into the following four wings vide Office Order No.283, G.A.(V&E) Department, dt.03.08.95 :

- 1) Revenue Wing ;
- 2) Engineering Wing ;
- 3) Development Works Wing ; and
- 4) Natural Resources Wing.

4. Each of these wings is headed by a Joint/Addl.Director.

5. The V&E Department has 12 Regional Offices headed by Regional Vigilance & Enforcement Officers with headquarters at and jurisdiction consisting of:

- Hyderabad (Hyderabad City),
- Secunderabad (Secunderabad and R.R.Dist.),
- Warangal (Warangal, Khammam and Nalgonda Districts),
- Nizamabad (Nizamabad and Medak Districts),
- Karimnagar (Karimnagar and Adilabad Districts),
- Visakhapatnam (Visakhapatnam, Vizianagaram and

Srikakulam Districts),
Rajahmundry (East and West Godavari Districts),
Vijayawada (Krishna District),
Guntur (Guntur District),
Nellore (Nellore and Prakasam Districts),
Tirupathi (Chittoor and Cuddapah Districts),
Kurnool (Kurnool and Ananthapur Districts).

6. The Officers working in V&E Department both at Headquarters and in field Units are not to be transferred without prior consultation with and concurrence of the D.G. (V&E), GAD, to avoid dislocation of work. The V&E Department is a mixed set up with Officers from all the three All-India Services and different departments of the Government working on deputation. By virtue of the responsibilities of the Department it is necessary that Officers of proven integrity are spared for service in the Department. The Heads of Depts. should extend all co-operation to the Director General (V&E) in this regard.

IV. JURISDICTION

The V&E Department has jurisdiction and powers throughout the State of Andhra Pradesh irrespect of matters to which the executive authority of the State extends. The jurisdiction of the V&E Department extends to all Departments of the Government, State Public Sector Undertakings, State Government companies, all local bodies like Municipalities and Zilla Parishads and Quasi-Government bodies and organisations receiving the aid or assistance of the State Government in any form.

V. FACILITIES & CO-OPERATION TO BE EXTENDED TO THE VIGILANCE & ENFORCEMENT DEPARTMENT :

Full co-operation and facilities should be extended by the administrative authorities and the individual public servants to the Officers of V&E Department during the course of their enquiries. The following instructions are issued in this regard:

a) Making over Records :

The Secretaries to the Government/Heads of Departments/ Officers and Chief Executives of Government Undertakings shall ensure that full co-operation is extended to the Officers of V&E

Department and the records required by them are made over for scrutiny. Enquiries are often held upon account of delays in making over the records required by V&E Officials. In asking for the original documents, particularly those forming part of the current files, the V&E Officers will however, exercise due discretion so as to ensure that the day-to-day work in the Department concerned is not affected. On their part, the departmental authorities should ensure that the documents requisitioned by V&E Department should be made available to them without any delay. Where necessary, the departments may keep attested or photostat copies of the records for meeting the urgent departmental needs, without prejudice to the enquiry/investigation being carried out by the V&E Department.

2. The records required by the V&E Department should be made available to them as early as possible, in any case positively within a week from the date of receipt of the requisition. If, for any special reason, it is not possible to make over the records within a week, the matter should be brought by the authority in possession of the records to the notice of the Director General (V&E) / Director (V&E) / Regional Vigilance & Enforcement Officer concerned, giving in writing the reasons for not making over the records within the specified period.

b) Witness :

Whenever the V&E Officers desire the presence of an official for examining him in connection with any investigation / enquiry, the administrative authority will direct the official concerned to report at the V&E Department at the appointed date, time and place. If for any reason, it is not possible for him to appear on the specified date and time, a request may be made in writing by him for postponement. Such request would be given due consideration by the Officers of V&E Department.

VI) TRANSFER OF AN OFFICER AT THE REQUEST OF THE DEPARTMENT :

In cases where the V&E Department are enquiring into serious charges and makes a request for the transfer of a public servant, such requests should be complied with. The V&E Department will recommend transfer only when it is

absolutely necessary for the purpose of enquiry and such requests will be made by an Officer not lower in rank than Regional Vigilance & Enforcement Officer after obtaining the concurrence of the Director General (V&E) / Director (V&E).

2. Where the Department concerned has some administrative difficulty in complying with the request, the matter should be settled by discussion.

3. While it is recognised that the discretion of the Administrative Department should not be taken away in matters of this kind, it is equally necessary that there should not be impediments to proper investigation of the allegations of corruption, irregularities and misutilisation of funds etc. These considerations should be borne in mind by all concerned.

VII) ASSISTANCE TO THE V&E DEPARTMENT BY TECHNICAL OFFICERS:

In respect of enquiries of technical nature, the V&E Department may need the assistance of technical Officers like engineers, doctors, accountants etc. for elucidation of technical details of cases under investigation. Government Departments, Municipal Bodies, Local Bodies and Government Undertakings etc., should render full cooperation and assistance on receipt of such requests from the V&E Department. The concerned Department should spare the services of such Officers, as and when the services of specified Officers are requisitioned by the V&E Department for conducting enquiries of sensitive nature. The samples / specimens collected by the V&E Department during the course of enquiries, when sent to Laboratories / Institutes for analysis, the concerned should examine them at the cost of the Department concerned and send their reports on priority. The expenditure should be borne by the concerned Departments.

VIII) SUSPENSION :

The V&E Department may either during the course of enquiry or while recommending departmental action, suggest to the Disciplinary authority that the Officer concerned may be transferred or suspended giving reasons for recommending such a course of action. On receipt of such a request, the matter should be carefully examined. The disciplinary authority may exercise his discretion and initiate appropriate action. The authority concerned, in the event of disagreement with the recommendations of V&E department may refer the matter to the Vigilance Commissioner for advice.

IX) PROSECUTION :

Prosecution should be the general rule in cases of bribe, corruption and in matters of criminal misconduct like causing wrongful loss to the Government or wrongful gain to a person. In such cases the V&E Department will make out a report to Government or Director General, Anti-Corruption Bureau suggesting that a case be registered by A.C.B. and investigated into.

X) POWERS :

The V&E Department will not normally take up any enquiry on anonymous petitions or pseudonymous petitions and on petitions containing allegations of corruption against individual Officers. Where, however, such petitions contain specific or factual allegations capable of being verified, a suo-moto enquiry may be undertaken on the specific orders of the Director General (V&E).

2. The petitions or complaints received from the Vigilance Commissioner/Lokayukta/Chief Minister's Office/Chief secretary addressed to the Director General (V&E) will be enquired into and reports submitted.

3. Normally, the V&E Department would not entertain requests from Departments to conduct enquiries on petitions received against their Officers. It is for the senior Officers of the Depts. concerned to conduct such enquiries. It is the charter of V&E Officers to act on the intelligence gathered by them. In exceptional cases, very important enquiries may be entrusted to them by the Departments with the approval of the Chief Secretary to Government and giving reasons why their own Officers cannot conduct such enquiries.

4. The Director General (V&E) may convene meetings with the Principal Secretaries / Heads of Departments or with their representatives for reviewing the follow up action taken on the reports of the Department and on such matters which come under the purview of V&E Department. Besides, the Departments should initiate action on all the reports of V&E Department by giving them TOP PRIORITY and keep the V&E Department informed of the action taken. The Director General (V&E) is authorised to call for Action Taken Reports (ATRs) from the Departments concerned.

5. In view of the above, the administrative departments in the Secretariat, Heads of Departments, District Collectors, Heads of State Government Undertakings, Officers of Municipalities and Panchayatraj Bodies and other Quasi-Government Organisations and other field Officers are requested to extend

necessary cooperation to the V&E Staff/Officers and make over the required records, files or material under proper acknowledgment without causing any delay to enable early finalisation of the enquiries relating to their departments.

6. All the Departments of Secretariat are requested to issue necessary instructions to the Heads of Departments, Public Sector Undertakings, Statutory Bodies, Quasi-Government Organisations, etc. under their administrative control bringing the above instructions to their notice and for their effective compliance.

(318)

G.O.Ms.No.536, Genl.Admn. (Ser.C) Dept., dt.08.12.1997 regarding withholding of increments with cumulative effect - consultation with A.P.Public Service Commission for concurrence.

Subject Heading : Withholding increment with cumulative effect - consultation with A.P.Public Service Commission

Read the following :

1. G.O.Ms.No.335, G.A.(Ser.C) Dept., dt.14.06.93.
2. From the Vigilance Commissioner, APVC Lr.No.124/VC/E.II/95-7, dt.20.11.96.

ORDER :

In the order first read above, it is ordered that for imposing the penalty of stoppage of increment with cumulative effect the procedure laid down in Rule 20 of the APCS (CC&A) Rules, 1991 shall be followed. It was also ordered therein that the penalty of stoppage of increment with cumulative effect shall be treated as a major penalty.

2. In Rule 17 of the Andhra Pradesh Public Service Commission Regulations, 1963, it is mentioned that consultation with the Andhra Pradesh Public Service Commission shall be necessary where the State Government propose to pass an original order imposing any of the following penalties:

- 1) reduction to a lower rank in the seniority list or to a lower post or time-scale whether in the same service or in another service, State or Subordinate or to a lower stage in a time scale;

- 2) recovery from pay of the whole or part of any pecuniary loss caused to the Government or to a local body by negligence or breach of orders;
- 3) compulsory retirement otherwise than under Article 165(2) or under Note 1 to Article 465-A of the Civil Service Regulations;
- 4) removal from service; or
- 5) dismissal.

3. Since the stoppage of increments with cumulative effect is treated as a major penalty, it is necessary to consult the Andhra Pradesh Public Service Commission before imposing the said penalty.

4. Accordingly, it is ordered that where it is proposed to impose the penalty of stoppage of increments with cumulative effect, it is necessary to consult the Andhra Pradesh Public Service Commission as per Rule 17 of the Andhra Pradesh Public Service Commission Regulations, 1963.

5. The General Administration (Services.A) Department will issue suitable amendments to the regulation 17 of the Andhra Pradesh Public Service Commission Regulations, 1963.

(319)

G.O.Ms.No.214, F&P (FW.FR.II) Dept., dt.22.12.1997: Suspension cannot be said to be wholly unjustified for treatment of period of suspension for consequential benefits, where disciplinary proceedings result in imposition of a minor penalty.

Subject Heading : Suspension - not wholly unjustified even if acquitted

Read the following :

1. G.O.Ms.No. 238, G.A. (Ser.C) Dept., dt.07.04.1992.
2. G.O.Ms.No.182, F&P (FW.FR.II) Dept., dt.31.10.1992.
3. G.O.Ms.No.59, F&P (FW.FR.II) Dept.,dt.27.03.1995.

4. D.O.Lr.No.277/LSP/RL/58/97, dt.28.05.1997 of the Secretary to Government, Legal Affairs.

ORDER :

In the Government Order first read above orders were issued based on the Government of India Memo.No.11012/15/85 Estt.(A), dt.03.12.1985 amending the instruction 19 in APPENDIX-VI to the APCS (CC&A) Rules, 1963. It was also indicated therein that necessary amendment to Fundamental Rules will be issued separately. The Government have issued orders in the Government Order second read above, amending the FR.54.B adding proviso to sub rule(5) allowing the benefit of these orders to the cases where suspension order is passed on or after 07.04.1992. Orders were issued in the Government Order third read above omitting the expression “on or after 07.04.1992”.

2. The Hon'ble Supreme Court of India have pronounced a Judgment in K.R. Bibhavnekar vs. State of Maharashtra reported in 1997(3) SCALE 180 on the question of entitlement of an employee to consequential benefits on reinstatement following acquittal in Criminal trial. The gist of the Judgment is as follows :

“.....When the suspension period was treated to be a suspension pending the trial and even after acquittal he was reinstated into service, he would not be entitled to the consequential

benefits.... He is also not entitled to be treated as on duty from the date of acquittal for purpose of computation of pensionary benefits”.

3. Further while interpreting FR.54.B, the Andhra Pradesh High Court by its Judgment in M.V.Narasimhacharyulu vs. Registrar (Administration), High Court of Andhra Pradesh (1995(1) An.W.R.165) has observed as follows:-

“Where a Government Servant departmentally proceeded against has been found guilty of the charges and penalty is imposed and during the pendency of the inquiry or for a part of it he had continued under suspension, the suspension could not be said to be wholly unjustified. The use of the word “wholly” as qualifying the word “unjustified” signified that for the Government servant to become entitled to the full pay and allowances, the suspension must have been completely irrational without there being any material to support the action of suspension. While such a conclusion is possible to be reached where the Officer is fully

exonerated, it will not be possible to say the same thing when in fact he has been found guilty and punished."

4. In view of the above observation of the High Court, suspension can be termed as "wholly unjustified" when the delinquent is fully exonerated in disciplinary proceedings and then only he is entitled to full pay and allowances for the suspension period. On the other hand, where a penalty has been imposed in the disciplinary proceedings, the suspension can be treated as justified and delinquent employee in such case will be paid such pay and allowances as the competent authority may determine keeping in view the facts and circumstances of the case. This view is fortified in view of the recent Judgment of the Supreme Court in Krishnakant Raghunath Bibhavnekar vs. State of Maharashtra (1997(3) SCALE 180) wherein the court held that acquittal in a criminal case followed by reinstatement will not entitle for grant of consequential benefits to a suspended employee, as a matter of course.

5. Keeping in view the above Judgments, the Government have examined the issue in detail and decided to amend the sub-rule (5) of Rule 54.B of the Fundamental Rules.

6. The Government also direct that these orders shall come into force from the date of these orders. Past cases already decided, need not be reopened.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 390 read with Article 313 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Fundamental Rules.

2. The amendment hereby made shall come into force with immediate effect.

AMENDMENT

In Rule 54.B of the Fundamental Rules, in sub-rule (5) the proviso shall be omitted.

(320)

**Memo.No.2490/SC.E/96-2, Genl.Admn.(SC.E) Dept., dt.30.12.1997
regarding co-operation to be extended by departments to A.C.B.**

Subject Heading : ACB - departments to extend co-operation

Ref : Government Memo.No.574/SC.D/86-1, GA (SC.D) Department, dt.21.05.1996.

In the Government memo. cited, all Departments of Secretariat and all Heads of Departments were given certain instructions in the matter of extending their cooperation to the Anti Corruption Bureau officials at every stage of investigation in furnishing the required information and appearing before the investigating officer of Anti-Corruption Bureau for giving their defence. It is also ordered therein that if it is noticed that the officers are not cooperating they should be held personally answerable.

2. It is since reported that in some cases the instructions issued in the Memo. Cited are not complied with by the Departments of Secretariat / Heads of Departments and as such the Anti-Corruption Bureau is not in a position to conduct an independent enquiry.

3. Since the investigations / enquiries conducted by the Anti-Corruption Bureau are to be completed in time, all Departments of Secretariat and Heads of Departments are once again requested to follow the instructions issued in the Government memo annexed to this Memo scrupulously. They are also requested to cooperate with the Anti-Corruption Bureau in the smooth conduct of its enquiries by complying with the instructions of Government.

(321)

U.O.Note No.2381/SC.E/97-1, Genl.Admn. (SC.E) Dept., dt.05.01.1998 regarding advice of Vigilance Commission - safe custody to be ensured.

Subject Heading : Vigilance Commission - safe custody of advice

Ref : G.O.Ms.No.421, G.A.(SC.D) Dept., dt.03.08.93.

The attention of all Departments of Secretariat is invited to the orders issued in the G.O. cited. They are informed that as per the Scheme of Vigilance Commission envisaged in the G.O. cited, all the final reports of enquiry by the Anti-Corruption Bureau will be forwarded to the concerned Administrative Department through the Vigilance Commission and that the Vigilance Commission on consideration of the reports of the A.C.B. and other relevant records, advice the concerned Administrative Department as to the further action to be taken. As the advice of the Commission is based on the final report of the A.C.B. (i.e., Part-A report) which contains secret report, the advice tendered by

the Vigilance Commission is equally Confidential and is also a 'Classified Document' and will be sent to the highest officer duly closed and sealed. It's misplacement is therefore a serious matter. It is however, brought to the notice of this Department that one of the Departments of Secretariat misplaced two letters of A.P. Vigilance Commission wherein the Commission tendered advice in two separate cases of that Department which is a serious lapse and the possibility of unauthorised persons coming into possession of such secret communications cannot be ruled out.

2. All the Departments of Secretariat are therefore requested to ensure proper receipt and safe custody of the advice of Vigilance Commission and all such communications should not be handled in a casual and routine manner resulting in misplacement.

(322)

Circular Memo.No.95941/Ser.C/97-2, Genl.Admn. (Ser.C) Dept., dt.08.01.1998 regarding appointment of Inquiry Officer -instructions reiterated.

Subject Heading : Inquiry Officer - stage of appointment

Ref : G.A.(Ser.C) Dept., Circular Memo.No.290/Ser.C/94-2, dt.01.06.94.

In the reference cited (copy enclosed) instructions were issued to the effect that the procedure laid down in sub-rules (3) and (4) of Rule 20 of A.P.C.S (CC&A) Rules, 1991 shall be followed before appointing the Inquiry Officer to conduct inquiry against any Government Servant.

2. Instances have come to notice of the Government that the procedure detailed in sub-rules (3) and (4) of Rule 20 of the APCS (CC&A) Rules, 1991 is not being followed before appointing Inquiry Officer. In most of the cases, the Inquiry Officers are appointed even without framing and serving articles of charge on the delinquent officer which do not stand for legal scrutiny. Consequently, the entire process is vitiated resulting the delinquent officer scotfree due to their retirement.

3. Keeping the above in view, it is reiterated that the procedure detailed in sub-rules (3) and (4) of Rule 20 of A.P.C.S (CC&A) Rules, 1991 shall be

followed scrupulously before taking a decision on the appointment of Inquiry Officer and the instructions issued in the reference cited shall be followed strictly.

4. The Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the instructions issued in the reference cited and bring the same to the notice of all concerned for strict compliance. Any deviation / lapse in following the instructions shall be viewed seriously and responsibility fixed on the erring authorities and suitable disciplinary action initiated.

(323)

Memo.No.87878/Ser.C/1997-2, General Admn. (Ser.C) Dept., dt.09.01.1998 regarding procedure for dealing with the Government servants attempting to further their service interests through non-Governmental influence.

Subject Heading : Canvassing of non-official or other outside influence by Government servants.

- Ref : 1. Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions, Govt. of India Lr.No.11013/12/94, Estt. (A) Dept., dt.12.01.1995.
2. Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions, Govt. of India Lr.No.11013/11/97, Estt. (A) Dept., dt.06.11.1997.

ORDER :

Copies of the reference cited are communicated herewith for taking necessary action.

2. The Department of Secretariat, Heads of Departments, District Collectors are requested to bring these instructions to the notice of all concerned for strict compliance.

Copy of :

G.O.Ms.No.11013/12/94. Estt. (A)

Government of India, Ministry of Personnel P.G. and Pensions Department of Personnel and Training, New Delhi, dated 12.01.1995

OFFICE MEMORANDUM

Procedure for dealing with the Government Servants attempting to further their service interests through non-Governmental influence instructions with reference to Rule 20 of the CCS (CONDUCT) Rules, 1964

Rule 20 of the CCS (Conduct) Rules, 1964 provides that no Government Servant shall bring or attempt to bring any political or any other outside influence to bear upon any superior authority to further his/her interest in respect of matters pertaining to his/her service under the Government. The Government of India has, from time to time, emphasised that Government Servants should not approach Members of Parliament or State Legislatures or other political/outside authorities to sponsor their cases in respect of service matters. As per the existing instructions, vide O.M.No.11013/7/95-Estt. (A), dated 22.05.85, the following action should be taken against Government Servants approaching Members of Parliament or State Legislatures for sponsoring individual cases:

(i) A Government employee violating the aforesaid provisions of the Conduct Rules for the first time should be advised by the appropriate disciplinary authority, to desist from approaching Members of Parliament/Members of State Legislature to further his/her interest in respect of matters pertaining to his/her service conditions. A copy of this advice need not, however, be placed in the CR dossier of the employee concerned.

(ii) If a Government employee is found guilty of violating the aforesaid provisions of the

Conduct Rules a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him/her by the appropriate disciplinary authority and a copy thereof should be placed in his/her CR dossier.

(iii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules, despite the issue of warning to him/her, disciplinary action should be initiated against him/her, by the appropriate disciplinary authority under the provisions of CCS (CCA) Rules, 1965.

2. Inspite of these instructions, cases of individual Government Servant continue to be sponsored by public representatives/outside authorities. After

careful consideration of all aspects of the matter, it has been decided that the following procedure may be adopted for dealing with communications from public representatives/outside authorities relating to the service matters of Government employees.

- (a) Communications received from public representatives regarding problems of groups/ categories of Government functionaries must be entertained and dealt with on a time bound basis. In all such cases, after due examination, appropriate replies would continue to be issued at the level of the Minister concerned.
- (b) All communications from public representatives relating to the grievances of the retired personnel should receive the same consideration and be dealt within the same way as outlined in (a) above.
- (c) In cases in which a public representative sponsors the cause of an individual Government Servant (eg. recruitment, appointment, promotion, posting to a particular station, appointment to a specific position, complaints against supersession expunction of adverse remarks, allotment of Government accommodation, etc.) a formal reply should continue to be sent from the Minister acknowledging the receipt of the communication stating that the contents of the letter have been noted and where necessary, suggesting that the person whose case has been recommended, may be advised to represent his case through proper official channels. All such communications addressed to the Minister shall be replied to at his/her level. In all such cases, the formal reply given by the Minister shall be deemed to dispose off the communication unless there are further directions from the Minister in the matter.

3. All Ministries/Departments/Offices, etc., are requested to bring the above instructions to the notice of all concerned under their control and take action against the Government servants who violate the provisions of the Conduct Rules as prescribed in para 1.

Copy of :

No.11013/11/97-Estt. (A)

GOVERNMENT OF INDIA, MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (DEPARTMENT OF PERSONNEL AND TRAIMNG), NEW DELHI, DATED 06.11.1997

OFFICE MEMORANDUM

Sub: Canvassing of non-official or other outside influence by Government Servants.

As the Ministries/Departments are aware, bringing or attempting to bring any political or other outside influence by a Government servant to bear upon any superior authority to further his interest in respect of service matters pertaining to his service under the Government is prohibited under the provisions of the Conduct Rules. Detailed procedure for dealing with the Government Servants attempting to further their service interests through non-governmental influence has been prescribed in this Department's O.M. No.11013/12/94- Estt(A.), dt.12.01.1995.

2. Inspite of these instructions, it has come to the notice of this Department that certain Government Servants are bringing to bear the outside influence indirectly to further their service interests. It is clarified that bringing of indirect influence by Government Servant would also attract the provisions of the Rule 20 of the CCS (Conduct) Rules, 1964.

3. All Ministries/Departments/Offices etc., are requested to bring the existing instructions/ Rules to the notice of all concerned under their control and to take effective action against the Government servants who bring or attempt to bring outside influence to further their service interests as prescribed in the O.M. dated 12.01.1995.

(324)

G.O.Ms.No.26, GA (Ser.C) Department, dt.20.01.1998: Andhra Pradesh Civil Servies (Conduct) Rules, 1964 – Amendment to Rule 9 – Orders – Issued.

Subject Heading : Amendment to Rule 9 of APSCS (Conduct) Rules, 1964.

Read the following :

1. APVC Lr.No.1348/VC/F1/94-6, dt.02.04.1997.
2. APVC Lr.No.661/VC-E2/94-7, dt.04.04.1997.

3. APVC Lr.No.661/VC.E2/94-8, dt.03.06.1997.

ORDER :

The following Notification will be published in the next issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964, issued in G.O.Ms.No.468, General Administration (Ser.C) Department, dated the 17th April, 1964 and as amended subsequently from time to time.

AMENDMENTS

In sub rule (1) of Rule 9 of the said Rules,

- (I) for the first proviso, the following shall be substituted, namely ;
- “Provided that any such transaction conducted otherwise than through a regular or reputed dealer viz.,
- (i) Banking institutions, including Co-operative Banks;
 - (ii) Financial Corporations set up by the State Governments which provide loans for house constructions ;
 - (iii) Apex Co-operative Housing Finance Institutions such as Delhi Co-operative Housing Finance Society; and
 - (iv) Public Companies formed and registered in India with the main object of carrying on the business of providing long term finance for construction or purchase of houses in India for residential purposes like the Housing Development Finance Corporation Limited, LIC., CANFIN and Nationalised Banks.

shall be with the previous sanction of the Government.’

- (II) after the second proviso, the following shall be added namely ;

“Provided further that the Government employee shall submit the particulars giving prior intimation or seeking prior sanction, in the following format :

- (1) Name and Designation

- (2) Scale of pay and present pay
- (3) Purpose of application - sanction for transaction / prior to intimation or transaction
- (4) Whether property is being acquired or disposed of
- (5) Probable date of acquisition / disposal of property
- (6) Mode of acquisition / disposal
- (7)
 - (a) Full details about location viz., Municipal No. Street / Village, Mandal, District and State in which situated.
 - (b) Description of the property, in the case of cultivable land, dry or irrigated land.
 - (c) Whether free hold or leasehold
 - (d) Whether the applicant's interest in the property is in full or part (in case of partial interest, the extent of such interest must be indicated).
 - (e) In case the transaction is not exclusively in the name of the Government Servant, particulars of ownership and share of each member.
- (8) Sale / purchase price of the property
- (9) In cases of acquisition, source or sources from which financed / proposed to be financed :
 - (a) Personal savings
 - (b) Other sources giving details
- (10) In the case of disposal of property, was requisite sanction / intimation obtained / given for its acquisition. A copy of the sanction / acknowledgement should be attached.
- (11)
 - (a) Name and address of the party with whom transaction is proposed to be made.
 - (b) Is the party related to the applicant?
If so, state the relationship.
 - (c) Did the applicant have any dealings with the party in his official capacity at any time, or is the applicant likely to have any dealings with him in the near future?

(d) How was the transaction arranged?

(Whether through any statutory body or a private agency through advertisement or through friends and relatives. Full particulars to be given.

(12) Any other relevant fact which the applicant may like to mention.

DECLARATION

I, hereby declare that the particulars given above are true. I request that I may be given permission to acquire / dispose of property as described above from / to the party whose name is mentioned in item 11 above.

(OR)

I, hereby intimate the proposed acquisition / disposal of property by me as detailed above. I declare that the particulars given above are true.

Station :

Signature :

Date :

Designation :

Note: 1. In the above form, different portions may be used according to the requirement

2. Where previous sanction is asked for the application should be submitted atleast 30 days before the proposed date of the transaction

"Provided also that the Government employee shall submit the request to Government seeking prior permission duly obtaining acknowledgement of having made such a request and if no permission is received within one month, he / she may go ahead with the transaction".

(325)

Circular Memo.No.3824/Ser.C/98-2, Genl.Admn. (Ser.C) Dept., dt.09.02.1998 regarding Government employees convicted in corruption cases - action to be taken.

Subject Heading : Departmental action and conviction

- Ref: 1. G.A.(Ser.C) Dept., Cir.Memo.No.3037/Ser.C/64-3,, dt.26.11.64.
2. G.A.(Ser.C) Dept., Memo.No.1017/Ser.C/66-1, dt.18.06.66.
3. G.A.(Ser.C) Dept., Memo.No.1718/Ser.C/75-1, dt.22.11.75.

4. G.A.(Ser.C) Dept., Memo.No.3000/Ser.C/76-4, dt.28.06.77.
5. G.A.(Ser.C) Dept., U.O.Note No.32/Ser.C/81-2, dt.09.02.81.
- 6 . G.A.(Ser.C) Dept., Memo.No.169/Ser.C/77-8, dt.10.02.78.
7. G.A.(Ser.C) Dept., Memo.No.637/Ser.C/83-1, dt.28.06.83.
8. G.A.(Ser.C) Dept., Memo.No.1317/Ser.C/88-1, dt.31.12.88.
9. G.A.(Ser.C) Dept., Cir.Memo.No.100/Ser.C/93-22, dt.23.12.95.
10. From the Vigilance Commissioner, APVC Lr.No.2024/VC.C2/97-2, dt.06.01.98.

In the reference 1st cited, instructions were issued, among others that, in proved cases of bribery and corruption, no punishment other than that of dismissal should be considered adequate and if any lesser punishment is to be awarded in such cases, adequate reasons should be given for it in writing. It is also mentioned therein that a close watch on corrupt officials shall be maintained and there should be no reservation in making entries in the personal files of the employees about their integrity and for expeditious disposal of the disciplinary cases, it is suggested to pursue the cases on day to day basis. In the reference 2nd cited, in order to ensure that the instructions on disciplinary action against Government employees involved in corruption, bribery or moral turpitude are followed scrupulously, the Inspecting officers were requested to review at the time of their inspecting the offices all cases of corruption and bribery where the maximum penalty has not been awarded by the competent authority. The Heads of Departments and District Collectors were informed in the reference 3rd cited, that officers convicted in criminal cases should normally be dismissed from service and it is not necessary either to await the outcome of an appeal or the expiry of the appeal time, where an appeal may have been preferred. In the reference 4th cited, it has been directed that a clear distinction should be drawn between the cases of "delayed remittance" and "mis-appropriation" having regard to the fact that in proved cases of misappropriation no punishment short of dismissal is normally justified and accordingly the case of "delayed remittance" need not always be classified for the purpose of audit as a case of misappropriation.

2. To minimise the delay in investigation of cases of corruption and mis-appropriation, the Secretaries to Government of the Departments of Secretariat have been directed in reference 5th cited to review every month the cases pending for more than a year with the Police / Anti-Corruption Bureau in a meeting and write to the Director General of Police / Director of Anti-Corruption

Bureau for speeding up the investigation. It was a fact that however complicated a case may be, the investigation should not take more than one year after it is entrusted to the police or Anti-Corruption Bureau.

3. In the Memo. 6th cited, instructions were issued regarding action to be taken in cases where Government Servants are convicted on a criminal charge or where an appeal / revision in a higher court succeeds. Similarly, instructions were issued in the references 7th and 8th cited regarding action to be taken in cases where Government Servants are not convicted in a criminal case.

4. Pursuant to the recommendations of the Public Accounts Committee the following instructions have been issued in the Circular Memo. 9th cited.

In all cases of misappropriation, after investigation is completed by the police and Charge sheets filed, such cases should be pursued effectively to ensure that there is no let-up in prosecuting the cases effectively and that there is no failure on the part of the Asst. Public Prosecutor, etc. in conducting the prosecution properly. In cases, where the trial ultimately ends in acquittal, immediate action may be taken to file appeals, after obtaining legal opinion.

In cases, where it is felt that the prosecution was conducted improperly and the prosecuting officers have not taken adequate interest, responsibility must be fixed for their failure to conduct the prosecution successfully. To ensure a proper watch, the Departments should review all such cases periodically for the half years ending 30/6 and 31/12 of every year and furnish their reviews to the General Administration (Ser.C) Department. Even when there are no such cases, a "Nil" report has to be furnished.

5. In the reference 10th cited, the Vigilance Commissioner, A.P. Vigilance Commission has stated that while interpreting Rule 19 of the Central Civil Services (CC&A) Rules, 1965, the Apex Court in Union of India vs. Shri Ramesh Kumar (1997(5) SCALE 660) has held that

"A bare reading of Rule 19 shows that the Disciplinary authority is empowered to take action against a Government Servant on the ground of misconduct which has led to his conviction on a criminal charge. The rules however do not provide that on suspension of execution of sentence by the Appellate court, the order of dismissal based on the conviction stands obliterated and dismissed Government Servant has to be treated under suspension till disposal of appeal by the appellate court. The rules also do not provide for the disciplinary authority to await disposal of the appeal by the Appellate Court filed by the

Government Servant for taking action against him on the ground of misconduct which has led to his conviction by a competent court of law. Having regard to the provisions of the rules, the order dismissing the respondent from service on the ground of misconduct leading to his conviction by a competent court of law has not lost its sting merely because a criminal appeal was filed by the respondent against his conviction and the Appellate Court has suspended the execution of sentence and enlarged the respondent on bail. The matter may also be examined from another angle. Under Section 389 of the Code of Criminal Procedure, the Appellate Court has power to suspend the execution of sentence and to release an

accused on bail. When the appellate court suspends the execution of sentence and grants bail to an accused, the effect of the order is that, sentence based on conviction is for the time being postponed or kept in abeyance, during the pendency of the appeal. In other words, by suspension of execution of sentence under Section 389 Cr.P.C. an accused avoids undergoing sentence pending criminal appeal. However, the conviction continues and it is not obliterated and if the conviction is not obliterated, any action taken against a Government Servant for misconduct which led to his conviction by the Court of Law does not lose its efficacy merely because Appellate Court has suspended the execution of sentence."

6. The Vigilance Commissioner has further stated that the Law Department has observed that in the light of the Judgment of the Supreme Court of India a delinquent Government Servant who has been dismissed / removed from service on the ground of misconduct which has led to his conviction on a Criminal charge, is not entitled to reinstatement into service merely because a criminal appeal was filed by the delinquent Government Servant against his conviction, and the appellate court has suspended the execution of sentence and the accused has been released on bail pending the appeal. The Vigilance Commissioner also desired to reiterate the existing instructions for strict compliance.

7. Accordingly, the instructions issued in the references 1st to 9th cited are reiterated for strict compliance. A book containing the copies of the above instructions has already been made available to all Departments of Secretariat, Heads of Departments and District Collectors for their guidance in dealing with disciplinary cases. The A.P.C.S (CC&A) Rules, 1963 have been reissued and the new A.P.C.S (CC&A) Rules, 1991 have come into force with effect from

01.10.1992. Wherever, it is proposed to initiate disciplinary action, the same shall be taken up strictly as per provisions contained in the New Rules, 1991.

8. It is the earnest endeavour of the Government to root out corruption and deal sternly with the corrupt officials. The employees convicted in criminal cases / corruption cases should be punished in the least possible time.

9. Government, therefore, direct that the above instructions shall be followed scrupulously and any lapse on the part of the concerned authority in implementing the orders shall be viewed seriously and disciplinary action initiated against such erring officials.

(326)

Memo.No.1798/SC.E/87-4, Genl.Admn. (SC.E) Dept., dt.17.02.1998 regarding Commissionerate of Inquiries - procedure required to be followed by Departments for entrustment of cases.

Subject Heading : Commissionerate of Inquiries - procedure to be followed by Departments

Ref : Govt.Memo.No.490/SC.E/87-1, G.A.(SC.E) Dept., dt.13.03.87.

In the reference cited, it has been clarified to the Heads of Departments and Departments of Secretariat, that only cases of employees for whom the appointing authority is the Government should be referred to the Commissioner for Departmental Inquiries and however in respect of cases enquired into by the Anti-Corruption Bureau and recommended for departmental action, all cases of Gazetted Officers irrespective whether the appointing authority is the Government or Head of Department shall be referred to the Commissioner for Departmental Inquiries. Such reference of cases to the Commissioner for Departmental Inquiries should be in respect of cases which require the disciplinary authority after examination of the Anti-Corruption Bureau report should frame charges, obtain explanation from the Charged Officer and after consideration of the explanation, refer the matter to the Commissioner for Departmental inquiries, if enquiry is found necessary, furnishing the required information / documentation.

2. The Commissioner for Departmental Inquiries has brought to the notice of this Department that the Departments are not following the instructions contained in the Memorandum cited and are entrusting the cases to him without

furnishing the relevant information. He has, therefore, suggested that to enable him to expeditiously dispose of the cases entrusted, the Departments of Secretariat may,

- 1) ensure compliance with the instructions contained in Memo.No.490/SC.E/87-1, dt.13.03.87 while entrusting the cases to the Commissioner for Departmental Inquiries.
 - 2) ensure that the name and the address of the Presenting Officer is sent while entrusting the cases to the Commissioner for Departmental Inquiries.
 - 3) Furnish the address of the Charged Officer and witnesses while referring the cases to the Commissioner for Departmental Inquiries.
 - 4) Ensure that all the records relevant to the enquiry are collected before the case is referred to the Commissioner for Departmental Inquiries.
3. The Departments of Secretariat are requested to ensure that the above requirements are fulfilled while entrusting the cases to the Commissioner for Departmental Inquiries.

(327)

Memo.No.3037/SC.E/97-1, Genl.Admn. (SC.E) Dept., dt.27.04.1998 regarding Commissionerate of Inquiries - types of cases that can be referred.

Subject Heading : Commissionerate of Inquiries - type of cases which can be referred

- Ref:
1. Govt.Memo.No.1496/SC.F/86-4, G.A.(SC.F) Dept., dt.16.07.85.
 2. G.O.Rt.No.732, G.A.(SC.F) Dept., dt.22.02.89.
 3. G.O.Rt.No.2172, G.A.(SC.E) Dept., dt 15.05.97.
 4. G.O.Rt.No.4394, G.A.(Spl.A) Dept., dt.16.08.97.
 5. G.O.Rt.No.4816, G.A.(SC.E) Dept., dt.30.08.97.
 6. U.O.Note No.1005/SC.E/97-3, G.A.(SC.E) Dept., dt.27.09.97
 7. From the Chairman, COI., D.O.Lr.No.72/COI.CH/97-5, dt.17.11.97.

In the U.O. Note 6th cited, instructions were issued among others, to all Departments of Secretariat and other Disciplinary authorities to entrust all pending and future disciplinary cases of Gazetted Officers of the State Government, Non-Gazetted Officers of the State Government wherever considered necessary by disciplinary authorities or the Government and the Heads of Departments (other than AIS Officers) to the Commissionerate of Inquiries duly following the procedure as laid down in the provisions of APSC (CC&A) Rules, 1991 and also the disciplinary cases against AIS Officers serving in connection with the affairs of the State where major or minor penalties are proposed will also be entrusted to the Commissionerate of Inquiries in terms of relevant provisions of AIS (D&A) Rules, 1969.

2. Through reference 7th cited, the Chairman, COI had made certain suggestions to restrict the jurisdiction of the Commissionerate to cases involving major penalty and against officers appointed by Government to enable the Commissionerate to be made effective. Government have considered and accepted the above proposals and accordingly issue the following further guidelines in modification of the instructions already issued in the U.O. Note 6th cited in the matter of entrusting cases to the Commissionerate of Inquiries:-

- a) Cases of Gazetted Officers appointed by Government and cases against Gazetted officers enquired into by A.C.B. and recommended for Departmental action;
- b) All cases of Gazetted Officers in Revenue earning departments viz., Commercial Taxes, Excise, Registration and Transport Departments where the pendency of disciplinary matters over long years causing much concern to the Government;
- c) Cases of N.G.Os. where a joint inquiry both against NGOs and Gazetted Officers is necessary as well as the cases of N.G.Os involving grave charge and where the Government consider it necessary to entrust such cases to the Commissionerate of Inquiries. It is the intention that all cases as a matter of routine should not be referred to Commissionerate of Inquiries.

3. All the Departments of Secretariat and Heads of Departments are, therefore, requested to refer only such cases referred to in para (2) above to the Commissionerate of Inquiries. They may also ensure that in all the cases referred to the Commissionerate of Inquiries, relevant records and material are produced before the Commissionerate of Inquiries promptly without any delay to avoid return of records and cases referred to the Commissionerate for want of material.

(328)

Memo.No.26788/Ser.C/98-1, Genl.Admn. (Ser.C) Dept., dt.18.05.1998 regarding suspension - Supreme Court decision on jurisdiction of Tribunal.

Subject Heading : Suspension - Supreme Court on jurisdiction of Administrative Tribunal

- Ref : 1. A copy of Supreme Court Judgment in Civil Appeal Nos.911-12 of 1994, dt.21.02.94.
2. U.O.Note No.814/SC.D/94-1, G.A.(SC.D) Dept., dt.04.06.94.
3. From the D.G., ACB., Lr.No.16/RPC(C)/98, dt.21.04.98.
4. U.O.Note No.818/SC.E/98-1, G.A.(SC.E) Dept., dt.01.05.98.

In the reference 2nd cited instructions were issued, referring to the Judgment of the Supreme Court of India as follows :

In State of Orissa vs. Sri B.K.Mohanty in which the Supreme Court held that where serious allegations of misconduct are alleged against an employee, the Tribunal would not be justified in interfering with the orders of suspension of the disciplinary authority pending enquiry is enclosed. The Supreme Court further observed in this case that the Tribunal appears to have proceeded in haste in passing the impugned orders even before the ink is dried on the orders passed by the Appointing Authority. The contention of the respondent, therefore, that the discretion exercised by the Tribunal should not be interfered with and this court would loath to interfere with the exercise of such discretionary power cannot be given acceptance.

2. The observations of the Hon'ble Supreme Court in the above C.A. No.911-12 of 1994, dt.21.02.94, are as follows:

In the case of charges framed in a disciplinary inquiry, the Tribunal or Court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity

alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the Tribunal has no jurisdiction to go into the correctness or truth of the charges. The Tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to Court or Tribunal, they have no jurisdiction to look the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the Court / Tribunal is one of judicial review.

3. The Director General, Anti-Corruption Bureau has brought to the notice of Government that the Government Pleaders concerned are not seriously contesting by specifically mentioning in the Counter Affidavits that A.P.A.T. has no jurisdiction to go into the factual aspects for the purpose of revocation of orders of suspension as clearly laid down in the Supreme Court in more than one occasion and despite the Government instructions.

4. The Director General, Anti-Corruption Bureau has further stated that the Government Pleaders are not bestowing any attention, consequently, orders are being passed by the A.P.Administrative Tribunal revoking the orders of suspension with directions to reinstate the Public Servants facing serious charges of corruption and pending investigation and in some cases pending trial also.

5. In view of the above, the instructions issued in the reference 2nd cited are hereby reiterated and all the Departments of Secretariat / Heads of Departments and Government Pleaders of Andhra Pradesh Administrative Tribunal, High Court of A.P., are requested to follow the instructions in disciplinary cases wherein the suspension of the delinquent officer is challenged.

(329)

Memo.No.5310/259/L2/98, Law Dept., dt.30.06.1998 regarding Supreme Court decision on suspension.

Subject Heading : Suspension - Supreme Court upholding suspension

Ref : Lr.No.1144/VC.C1/94-12, dt.02.06.98 from the Vigilance Commissioner.

While forwarding a copy of the Minutes of the Meeting held on 22.05.1998 (not enclosed) all Government Pleaders of High Court / Andhra Pradesh Administrative Tribunal are hereby requested to pay their attention to the subject cited and to follow the ratio decided by the Supreme Court in R.Ranadhir Singh vs. State of U.P. reported in 1990(3) SLJ, P.No: 43(SC). Government Pleaders are requested to appraise the matter before the High Court and Administrative Tribunal and see that no interim orders be passed in a ordinary manner while dealing such type of cases.

(330)

Circular Memo.No.35676/Ser.C/98, Genl.Admn. (Ser.C) Dept., dt.01.07.1998 regarding Departmental Inquiries - time limits fixed

Subject Heading : Departmental Inquiry - time limits

Ref : 1. U.O.Note No.1755/Ser.C/78-1, G.A.(Ser.C) Dept.,dt.08.11.78.

2. U.O.Note No.1005/SC.E/97-3, G.A.(SC.E) Dept., dt.27.09.97.

3. Memo.No.3037/SC.E/97-1, G.A.(SC.E) Dept., dt.27.04.98.

In the reference 1st cited, instructions were issued for expeditious completion of inquiries initiated against the delinquent officers. It was mentioned therein that the concerned authorities should critically review the disciplinary cases to watch the progress in order to ensure that the delinquent officers are awarded the penalty at the right time. It was also mentioned that any undue delay on the part of the Inquiry Officers shall be viewed seriously and whenever the delay is attributed to the Inquiry Officers suitable action shall be initiated against them.

2. In Rule 20 of A.P.C.S. (CC&A) Rules, 1991 which deals with the procedure for conducting the inquiry, time limit was to be prescribed to call for explanation from the delinquent officers on the charges made against them and also to make available the documents sought for by the delinquent officer, in order to minimise the time for completion of inquiry. Inspite of all clear instructions, it is noticed that there was "undue delay" in finalising the inquiries, thereby the delinquent officers are not awarded the penalty at appropriate time. This led to inefficiency and also a sense of callousness is developed in administration. It

was keenly felt that there is need to fix the time in normal cases and complicated cases, so as to ensure that the inquiries are completed in time.

3. In the references 2nd & 3rd cited, comprehensive guidelines were issued on the nature of cases to be referred to Commissionerate of Inquiries.

4. The delay in completion of inquiries is mainly attributed for non-presence of witnesses and also the relevant documents required to conduct inquiry. In this context, it is brought to the notice of all concerned that the A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 empowers the Inquiry Officers to summon any individual to depose before Inquiry Officer and also for production of documents. The Secretaries of departments concerned and also the Chairman of Commissionerate of Inquiries were designated to authorise the Inquiring Authority to summon the witnesses and also production of documents as per Section 4 of the said Act.

5. It has been decided that in all simple cases the enquiry initiated shall be completed within three months either by Departmental Officers or Commissioner of Inquiries. In complicated cases, it shall be ensured that the enquiry should be completed within five to six months.

6. The Secretaries to Government shall review the progress of the enquiries ordered in all disciplinary cases and submit a note on the cases pending beyond the stipulated time indicated in para 5 above, to Chief Secretary to Government and also the Chief Minister. The object is to ensure timely action in all disciplinary cases and also to adhere to the time limit prescribed.

(331)

Lr.No.13729/Ser.C/98-4, Genl.Admn. (Ser.C) Dept., dt.03.09.1998: Not necessary to associate Investigating Officer, A.C.B. with Departmental Inquiry.

Subject Heading : ACB - no need to associate Investigating Officer, with inquiry

Subject Heading : Departmental Inquiry - no need to associate Investigating Officer, ACB with inquiry

Ref: 1. Govt.Memo.No.1455/SC.F/94-5 G.A.(SC.F) Dept., dt.30.08.94.

2. From Vigilance Commissioner Lr.No.1538/VC.F1/97-1 dt.26.09.97.

3. From Vigilance Commissioner Lr.No.1689/VC.F1/95-9 dt.31.03.98

I am directed to invite attention to the references cited.

2. The issue to associate the investigating officer of Anti-Corruption Bureau during the course of inquiry has been examined.

3. According to 19(2)(a) of the A.P.C.S (CC&A) Rules, 1963 in the case, where disciplinary action is initiated on the report of Anti-Corruption Bureau the Inquiry Officer may allow the concerned Investigating Officer to adduce evidence to examine the witnesses with a view to proving the charges. This rule dealt with the procedure for imposing major penalties.

4. The A.P.C.S. (CC&A) Rules have been reissued in 1991 which came into force w.e.f. 01.10.1992. Rule 20 of these rules deals with the procedure for imposing major penalties. Rule 20(5)(c) says where the disciplinary authorities itself inquiries into any article of charge or appoints an Inquiring Authority for holding an inquiry into such charge, it may, by an order, appoint a Government Servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge. In Memo.No.22/Ser.C/93-3, G.A.(Ser.C) Dept., dt.01.05.1993 instructions were issued on the status of Presenting Officer". In this rule, the issue associating the investigating officer of Anti-Corruption Bureau in the course of inquiry, was provided in the disciplinary action which was initiated based on the reports of Anti-Corruption Bureau.

5. The A.P.C.S. (CCA) Rules have reissued in 1991 based on the report of the Officer on Special Duty. The recommendations corresponding to Rule 20 are as follows:

As per the old rule, Rule 19 of A.P.C.S. (CC&A) Rules, 1963, no pleader or agent shall be allowed to appear on behalf of the Government, except under very special circumstances and where disciplinary action is initiated on the report of Anti-Corruption Bureau, the Inquiry Officer may allow the concerned investigating officer to adduce evidence, to examine the witnesses and to cross-examine the defence witnesses with a view to proving the charges.

Presentation of the case in support of the charges by the Investigating Officer of the Anti-Corruption Bureau is open to attack, as courts have deprecated this practice. Central Bureau of Investigation discontinued this practice of appointment of the Investigating Officer, who investigate the case as Presenting Officer and started deputing an officer other than the one who had investigated the case, to present the case in support of the charges.

Old rule does not provide for appointment of a Presenting Officer in disciplinary proceedings a matter of course and it merely allows Investigating Officer to do so in cases investigated by the Anti-Corruption Bureau.

It is essential that a Presenting Officer should present the case in support of the charges. Performance of this function by the Inquiring Authority detracts from the impartial, unbiased stand he is required to take in conducting the proceedings. Presenting Officer is necessary to examine witnesses in support of the charges and cross-examine those examined by the charged Government Servant and submit arguments. He can render useful assistance to the Inquiring authority in securing witnesses and documents, giving inspection of documents to the charged Government Servant and in performing such other functions. Presenting Officer can contribute to efficient expeditious disposal of inquiries. Appointment of a presenting officer is thus essential"

6. The Anti-Corruption Bureau is an Investigating agency and the agency shall submit the report to the Vigilance Commissioner who will advise the concerned administrative department on the course of further action to be taken. Accordingly the department shall take necessary action to entrust the disciplinary proceedings to the appropriate authority.

7. The issue has been examined in consultation with Law Department, the opinion of Law Department is as follows:

Similar issue relating to C.B.I. came up for consideration before the Division Bench of Calcutta High Court in B.C. Basak vs. Industrial Development Bank of India and others reported in 1989(1) SLR 271 and held that a member of the Investigating agency at whose instance an investigation was conducted, cannot be allowed to be present in the departmental inquiry and if any member of investigating agency is allowed to examine a witness in such domestic enquiry even on a single occasion the disciplinary proceedings stands vitiated. The observations of the said High Court are usefully extracted below:

"When Sri A.B. Mukherjee was examined an Inspector of Central Bureau of Investigation was allowed to be present to assist the enquiring officer and the presenting officer in case of need. Delinquents in a departmental enquiry are not expected to be nor are they normally conscious of and conversant with their statutory rights and consequently

they might not be knowing that they might object to the presence of an outsider.

But then whether any objection is raised or not about the presence of an outsider the adage that justice must not only be done but it must appear to have been done has to be followed in all judicial and quasi-judicial proceedings. Judged in that context we must hold that the presence of an officer of CBI during the entire proceeding, and, as the records indicate, to assist the enquiring officer and presenting officer in case of need clearly violated the basic norms of a disciplinary proceeding. In making this observation, we have taken into consideration the fact that the witnesses who were examined during enquiry supposedly made statements before the CBI which statement could not be statutorily signed by the makers thereof and those statements were sought to be relied upon as correctly recorded. If therefore a senior officer of the CBI is present there then the witnesses whose purported statements made before the Investigating Officer were being treated as their evidence in examination-in-chief in the enquiry, certainly would not dare say that the statement were not correctly recorded.”

“As in our view the presence and participation of the senior officers of CBI, Calcutta in the enquiry violated the entire proceedings of enquiry we need not delve into or decide the question whether the findings of the appellate authority independent of the statements of Sri Chatterjee and Sri Mitra, who were not examined during enquiry, could be sustained or not. For the foregoing discussions the proceedings of the enquiry which culminated in the order of the appellate authority must therefore be quashed”.

8. In view of the above position, the Government felt that there is no need to associate the Investigating Officer of A.C.B. during the course of enquiry initiated on the reports of the Anti-Corruption Bureau.

(332)

**U.O.Note No.1615/SC.E1/98-1, Genl.Admn. (SC.E) Dept., dt.11.09.1998 :
Hostile witness, need not be rejected totally.**

Subject Heading : Hostile witnesses - appreciation of evidence

It has been brought to the notice of the Government that in departmental inquiries, the punishments imposed on the Government Servants are being set aside by the appellate authorities in general in most of the departments on the ground that the private persons appointed by the Government Servants have resiled from their earlier statement given before the Mediators etc.

2. In this regard, it is informed that the Law is well settled by various decisions of the Supreme Court as well as High Court that simply because the witness is declared hostile by the Prosecution, having resiled from his previous statements, the evidence of such witness should not be brushed aside. The remaining part of such witness, if reliable and credible, can be taken into consideration for arriving at a just and proper conclusion along with the other oral, documentary and circumstantial evidence available on record. When such is the legal position with regard to the trial in Criminal Courts, there is no point in not adopting the same principle of Law in disciplinary proceedings where the evidence has to be weighed by preponderance of probabilities and where strict proof beyond reasonable doubt is not required.

3. In the above background it would be proper not to disregard the evidence of hostile witnesses totally and to try to make some efforts in appreciation of their evidence, wherever, it is possible particularly when the part of their evidence can be relied upon along with other facts and circumstances, as it is legally permissible to hold the charged officer guilty.

4. The above mentioned legal position with regard to evidence of hostile witnesses is brought to the notice of all the departments in the Secretariat for issuing necessary instructions in the matter to all the Heads of the Department etc. under their control.

(333)

**Circular Memo. No.56412/Ser.C/98, Genl.Admn. (Ser.C) Dept., dt.18.09.1998
regarding misconduct of raising subscriptions, funds.**

Subject Heading : Misconduct - raising subscriptions, funds

Rule 7 of the A.P.C.S (Conduct) Rules, 1964 reads as follows:-

"No Government employee shall, except with the previous sanction of Government, ask for, or accept, or in any way participate in the raising of, any subscriptions or other pecuniary assistance in pursuance of any object whatsoever."

2. It has come to the notice of the Government that some of the Government employees are resorting for raising subscriptions/ funds for the public purposes without previous sanction of Government which expenditure is incurred from out of the budget only.

3. It is reiterated that the above rule shall be strictly complied with by all the employees and any violation of rule attracts disciplinary action.

4. Departments of Secretariat, Heads of Departments and District Collectors are requested to bring to the notice of all the employees the above rule position and ensure that the same is followed strictly.

(334)

Lr.No.ILM/APBCL/Cash.reg/96-99/1296, A.P.Beverages Corporation Limited, dt.09.10.1998 regarding declaration of cash by officers working in IML Depots, at the time of reporting for duty.

Subject Heading : Cash - declaration at the time of reporting

The attention of the Depot Managers is invited to the subject cited and they are hereby instructed to comply with the following instructions:

- (i) The Depot Managers are hereby instructed to open a register (machine numbered pages) at the depot with immediate effect with the following details. (This register will be called as "register for declaration of amounts by the employees of APBCL")
- (ii) All the employees working at the IML Depot including the Excise Supervisory staff shall declare the amount (cash) held by them at the time of reporting to the IML Depot in the prescribed register as mentioned above.

- (iii) On every day the Depot Manager shall invariably countersign the above register and shall ensure that all employees including Excise Supervisory staff enter the details daily without fail.
- (iv) This register will be made available for Inspecting officers for scrutiny.

2. The receipt of the circular be acknowledged and compliance report be sent duly mentioning the date of receipt of the circular and date of maintenance of this register.

(335)

Memo.No.1849/SC.E3/98-1, Genl.Admn. (SC.E) Dept., dt.20.10.1998: State Industrial Promotion Board, excluded from Vigilance Commission jurisdiction.

Subject Heading : Vigilance Commission – exclusion of jurisdiction over State Industrial Promotion Board

To expedite decision making in the State Government, particularly where large financial commitments are involved and to bring about attitudinal changes among the concerned in the Government so as to look upon industrialists as partners in progress of the State and to render all possible help to the entrepreneurs investing in the State so that projects in industry and infrastructure sector are executed at a faster pace and to take sound decisions which are in the economic interest of the State, and in order to ensure that the decisions taken by the State Investment Promotion Board in the economic interest of the State, are not dragged into controversies and subsequent enquiries, it has been decided to exclude such decisions of the State Investment Promotion Board from the purview of enquiry by Anti-Corruption Bureau.

2. Accordingly, Government, hereby order that the decisions of the State Investment Promotion Board will not be subject matter of enquiry by Anti-Corruption Bureau, henceforth.

(336)

G.O.Ms.No.968, G.A.(Ser.C) Dept., dt.26.10.1998 regarding promotion / appointment to higher posts, of officers who are involved in Inquiries.

Subject Heading : Withholding increment - effect on increments and promotion

Read the following :

1. G.O.Ms.No.187 G.A.(Ser.B) Dept., dt. 25.04.85.
2. G.O.Ms.No.335 G.A.(Ser.C) Dept., dt. 14.06.93.

ORDER :

In para 11 of the G.O. first read above, orders were issued that an individual who is undergoing punishment should not be recommended for promotion. In cases, where the period of punishment imposed is already over, each case has to be evaluated by the Departmental Promotion Committee on merits. In the G.O. second read above, orders were issued to the effect that the penalty of stoppage of increments with cumulative effect amounts to a major penalty under the APCS (CC&A) Rules, 1991 and the elaborate procedure prescribed under Rule 20 of the said rules is to be followed.

2. A question arose whether the punishment of stoppage of increment with cumulative effect constitutes a permanent bar for promotion and also whether it is with or without cumulative effect, the punishment should be deemed to be subsisting to the extent of the number of annual grade increments stopped. There is a suggestion that if it is a case of stoppage of increments with cumulative effect, the punishment should be deemed to run for twice the period for which the increment is stopped for. For example, if the punishment is the stoppage of two increments with cumulative effect, the Officer should be denied of his promotion/appointment by transfer for four years.

3. After careful consideration, it has been decided that since the fact that the stoppage of increment with cumulative effect is a major penalty under the APCS (CC&A) Rules, 1991, the Government direct that whenever any Government servant is punished with the stoppage of increment with cumulative effect, the cases of such Officers shall not be considered for promotion / appointment by transfer for twice the number of years for which the increment(s) is/are stopped with cumulative effect.

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**Memo.No.2486/SC.E/98-1, Genl.Admn. (SC.E) Dept., dt.17.11.1998
regarding disproportionate assets cases - departments to cooperate.**

Subject Heading : Disproportionate Assets - departments to cooperate

- Ref : 1) Govt.Memo.No. 442/SC.E/83-1, dt.27.12.83 of G.A. (SC.E) Dept.
2) Gov.Memo.No. 352/SC.E/84-1, dt.14.06.84 of G.A. (SC.E) Dept.
3) Govt.Memo.No. 574/SC.D/86-1, dt.21.5.86 of G.A. (SC.D) Dept.
4) Govt.Memo.No. 762/SC.D/86-1, dt.10.07.86 of G.A. (SC.D) Dept.
5) From the D.G., A.C.B., A.P., Lr. C.No.40/RPC(C)/94, dt.05.03.94.

In the reference 1st cited, instructions were issued to see that property statement in all cases of disproportionate assets of the suspected officers are furnished by the concerned disciplinary authorities to the Anti-Corruption Bureau as quickly as possible.

2. In the reference 2nd cited, while reiterating the instructions issued in the reference 1st cited, further instructions were issued to furnish property statements in six proformae and pay and service particulars of Accused Officers to the Investigating Officers of the Anti-Corruption Bureau within a fortnight ordinarily or at the most within a month, failing which, it was instructed to take action against the Accused officers under CCA rules etc., and also to stop sanctioning enhanced subsistence allowance to the Accused Officers as the delay in the finalisation of the enquiry / investigation can be attributed to the accused officers, the concern were also requested to issue suitable instructions to their subordinate officers in this regard.

3. In the reference 4th cited, while reiterating the earlier instructions of the Government, instructions were issued to furnish information such as service particulars, pay particulars, six proformae statements etc., of the Accused Officers in Anti-Corruption Bureau cases to the Bureau, forthwith, and in any case within the outer time limit of two months.

4. But, the Director General, Anti-Corruption Bureau, in his letter 5th cited has brought to the notice of the Government that in many cases the Heads of Department concerned are not co-operating in furnishing the six proformae statements, service particulars, pay particulars etc., of the Accused Officers within the prescribed time. He has also intimated that the Heads of Department are not taking action against the Accused Officers who are not submitting their six proformae statements as per the instructions issued in the reference 2nd cited and that this is resulting in inordinate delay in investigating the cases, especially the disproportionate assets cases.

5. The Government, therefore, while reiterating the instructions issued in the references 1st to 4th cited, direct all the Departments, Departments of Secretariat, all District Collectors and other concerned authorities to extend full co-operation to the Anti-Corruption Bureau Officers at every stage of enquiry on priority basis so as to enable them to complete the investigation of cases as early as possible.

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Memo.No.2487/SC.E/98-1, Genl.Admn. (SC.E) Dept., dt.19.11.1998 regarding traps - accused officer to be transferred pending suspension.

Subject Heading : Traps - to transfer, pending suspension

- Ref : 1. Govt.Memo.No.204/Ser.C/76-3 G.A.(Ser.C) Dept., dt.31.05.76.
2. Govt.Memo.No.1095/Ser.C/84-4 G.A.(Ser.C) Dept., dt.27.04.85.
3. Govt.Memo.No.220/Ser.C/89-11 G.A.(Ser.C) Dept., dt.08.03.89.
4. Govt.Memo.No.853/Ser.C/90-2 G.A.(Ser.C) Dept., dt.23-9-91.
5. From the D.G, ACB.,A.P., Lr.C.No.96/RPC(C)/93 dt.16-11-93.

In the reference first cited, instructions were issued among others that in 'Trap Cases' if there is likely to be any interregnum between the trap and the actual relief of the trapped officer after being placed under suspension, the competent authorities should consider whether the officers could be transferred immediately so that the material evidence is not destroyed and that arrangements should be made to relieve trapped officers forthwith. In the reference second cited and from time to time, the said instructions were reiterated, among others.

2. The Director General, Anti-Corruption Bureau in the reference fifth cited has brought to the notice of the Government that some Departments are not following the said instructions of the Government and are waiting till the Government orders are received by them, without shifting the trapped officers from the places of their work. He has stated that as it would take about two to four weeks time for the Government to take a decision on the preliminary report of the Bureau, the trapped officers tend to remain at the same posts and as a consequence thereof, there is every likelihood of their destroying or tampering with the records / evidence. The Director General, Anti-Corruption Bureau has

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further stated that in some cases, the witnesses are not coming forward to give evidence especially when the trapped officer is their immediate superior and he / they continue to work at the same place.

3. The Director General, Anti-Corruption Bureau, has therefore requested to reiterate the Government instructions in the matter and also to issue further instructions to the effect that trapped officers should be transferred out of their work by the competent authorities, immediately, on receipt of Radio Message etc. by them from the Bureau so as to ensure that there is no tampering with evidence / destruction of records by the trapped officers.

4. As such, the matter has been reconsidered by the Government in the light of facts brought out by the Bureau in the reference fifth cited and the request made therein. The Government, while reiterating the instructions issued in the references first and second cited, also direct that the trapped officers should be transferred out from the place of their work by the Head of the Department concerned / appointing authority/competent authority, immediately, on receipt of intimation about the trap by them by way of Radio Message etc. from the Anti-Corruption Bureau.

5. However, a decision to place the trapped officer under suspension can be taken as per the instructions issued by the Government on the subject from time to time.

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**Memo.No.2491/SC.E1/98-1, Genl.Admn. (SC.E) Dept., dt.20.11.1998
regarding traps, disproportionate assets cases - utilisation of officials as
mediators.**

**Subject Heading : Disproportionate Assets - Government officials as
mediators**

Subject Heading : Traps - Government Servants as mediator witnesses

Subject Heading : Surprise checks

Ref : 1. Govt.Memo.No.4923/61-1, G.A. (Ser.D) Dept., dt. 27.12.1961.

2. Govt.Memo No.930/SC.D/74-3, G.A. (Ser.D) Dept., dt.16.08.1974.
3. Govt.Memo No.292/SC.D/75-4, G.A. (Ser.D) Dept., dt. 02.08.1975.
4. From the D.G., A.C.B., Lr. C.No.177/RPC(C)/88, dt. 10.12. 88 & 30.10.98.

In the memo first cited, instructions were issued to the effect that all Government Servants, particularly Gazetted Officers, should cooperate with the Officials of Anti-Corruption Bureau or the Special Police Establishment, whenever, they are approached by these Officers to assist or witness trap. In the Memo. third cited, in modification of the instructions issued in the reference second cited, instructions were issued to the extent that the Director, Anti-Corruption Bureau need not obtain prior permission of the concerned Head of the Department/ Office for utilising the services of Government Servants as mediators and that he, however, has to inform after the trap is over, the Head of the department / Office to which the Officer (taken as mediator) belongs, of the fact that the Services of the Officer has been used as a mediator indicating the period of utilisation and the place where utilised.

2. Though the Government instructions in the matter are clear, it has been brought to the notice of the Government that there is negative response from some of the Heads of the Department / Officers in the matter, informing that their staff are busy and attending to important work, when they are approached by the Officials of Anti-Corruption Bureau for utilisation of the services of their employees as mediators.

3. It is felt that utilising the services of Government Employees as mediators is imperative for successful investigation of cases of corruption. The Government, therefore, while reiterating the instructions issued earlier in the memoranda 1st and 3rd cited, direct that all principal Secretaries to Government / Secretaries to Government, Heads of the Department, District Collectors and all other Officers concerned should respond positively without fail to the requisitions made by the officials of Anti-Corruption Bureau for utilisation of the Services of Government Employees under their control as mediators in arranging traps, conducting searches in disproportionate assets cases and organising surprise checks etc. and extend full cooperation in the matter.

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**U.O.Note No.800/SC.E1/98-1, Genl. Admn. (SC.E) Dept., dt.23.11.1998
regarding Commissionerate of Inquiries - suitable modification of
procedure.**

**Subject Heading : Commissionerate of Inquiries - procedure to be
followed by Departments**

- Ref: 1. U.O.Note No.1005/SC.E/97-3 G.A.(SC.E) Dept., dt.27.09.97.
2. U.O.Note No.1005/SC.E/97-5 G.A.(SC.E) Dept., dt.01.10.97.
3. From the Chairman, COI, G.A.(COI) Dept., D.O.Lr.No.207/COI.CH/97,
dt.29.11.97.
4. Memo.No.3357/SC.E/97-1, G.A.(SC.E) Dept., dt.11.03.98.
5. From the G.A.(COI) Dept., U.O.Note No.207/COI.CH/97-3,
dt.31.03.98.
6. From the Chairman,COI, G.A.(COI) Dept., D.O.Lr.No.26/COI.CH/97-
1, dt.31.03.98.

In the U.O.Notes 1st, 2nd and 4th cited instructions were issued among others to all the Departments of Secretariat and Disciplinary authorities with regard to entrustment of disciplinary cases to the newly appointed Members of Commissionerate of Inquiries and the procedure for appointment of Presenting Officers.

2. In the references 5th and 6th cited, the Chairman, Commissionerate of Inquiries has suggested certain modifications to the instructions issued in the U.O.Notes 1st and 2nd cited to facilitate for conducting smooth inquiry proceedings.

3. The Government, after careful consideration of the suggestions made by the Chairman, Commissionerate of Inquiries, General Administration (COI) Department and in conformity with APKS (CC&A) Rules, 1991 and AIS (D&A) Rules, 1969, hereby, effect certain modifications to the instructions issued in the U.O.Notes 1st and 2nd cited as follows :

- (i) Para 5 of the U.O.Note No.1005/SC.E/97-3, G.A.(SC.E) Dept., dt.27.09.97 is modified to the effect that “the disciplinary authorities will take the suggestion of the Chairman, Commissionerate of Inquiries with regard to the Inquiring Authority to be appointed, prior to issue of order of appointment of Inquiring Authority after completing the entire procedure prescribed under Rule 20 of A.P.Civil Services (CC&A) Rules, 1991 or Rule 8 of the All-India Services (D&A) Rules, 1969 as the case may be.”
- (ii) Para 3 of the U.O.Note No.1005/SC.E/97-5 Genl. Admn. (SC.E) Dept., dt.01.10.97 is modified to the effect that “the Disciplinary authority may take the advice of the Chairman, Commissionerate of Inquiries while preparing panel of persons for appointment of presenting officer but the selection and appointment of presenting officer shall be by the disciplinary authority.

4. Instructions were issued in the Government Memo.No.3037/SC.E/97-1, General Administration (SC.E) Dept., dt.27.04.1998 that all the Departments of Secretariat, Heads of the Department and Disciplinary authorities should ensure that in all the cases referred to the Commissionerate of Inquiries, relevant records and material were produced before the Commissionerate of Inquiries promptly without any delay to avoid return of records by the Commissionerate of Inquiries for want of material. In addition to it, the concerned disciplinary authorities should also ensure to forward the order of appointment of Presenting Officer, Charge Memo/Order, written statement of defence of the Charged Officer etc. along with the order of appointment of Inquiring Authority to the Inquiring Authority.

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U.O.Note No.2670/SC.E3/98-1, Genl.Admn. (SC.E) Dept., dt.02.12.1998 regarding Vigilance Commission's advice in departmental inquiries.

Subject Heading : Vigilance Commission - stage of advice in departmental inquiries

- Ref: 1. G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993.
2. Procedural Instructions of APVC communicated through Lr.No.66/VC.A2/93-3, APVC, dt.10.10.1994.

3. From the VC, APVC, Hyd., D.O.Lr.No.1883/VC.F1/98-1, dt.17.11.1998 addressed to the CS to Government.

The attention of all Departments of Secretariat is invited to the orders issued in the G.O. first cited defining the scheme, jurisdiction and powers of the Vigilance Commission and also to the reference second cited, wherein, the procedural instructions of the A.P.Vigilance Commission were communicated by the Vigilance Commission. As per the said instructions, the advice of the Vigilance Commission shall be obtained after the conclusion of the departmental inquiry regarding the findings on the delinquency and the penalty to be imposed on the charged officer, both before arriving at the provisional conclusion and after receiving the representation of the delinquent officer.

2. But, it has been brought to the notice of the Government by the A.P.Vigilance Commission that the above instructions are not being followed in many cases by the Government Departments.

3. All Departments of Secretariat are therefore once again requested to obtain the advice of the Vigilance Commissioner without fail after conclusion of the departmental inquiries i.e. after receipt of the report of the Inquiring Authority and the representation of the Government Servant / MOS thereon. Thereafter, considering the advice of the Vigilance Commissioner vis-a-vis the findings of the Inquiring Authority and the representation of the Government Servant / MOS thereon, the Government department should obtain the orders of the concerned competent authority either for imposition of any of the penalties as stipulated under the relevant disciplinary rules or otherwise.

4. The Departments of Secretariat are also requested to communicate the above instructions to all the subordinate offices and Undertakings under their administrative control for their guidance and compliance.

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**U.O. Note No. 2776/SC.E/98-1, Genl. Admn. (SC.E) Dept., dt.03.12.1998
regarding suspension - review of cases.**

Subject Heading : Suspension - review of cases

- Ref : 1. G.O.Ms.No.480, G.A. (Ser.C) Dept., dt.07.09.1993.
2. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt.08.03.1994.

3. From the Vigilance Commissioner, A.P.V.C., D.O.Lr.No.1974/VC.F1/ 98-1, dt: 27.11.1998.

In the G.O. 2nd cited while reiterating the instructions issued in the G.O. 1st cited, further orders were issued with regard to review of orders of suspension against Government Servants as follows:

- (i) The order of suspension against a Government Servant shall be reviewed at the end of every six months.
- (ii) The appropriate reviewing authority should take a decision regarding continuance or otherwise of the employee concerned under suspension, with reference to the nature of charges, where delay in finalisation, of inquiry proceedings cannot be attributed to the employees or when there is no interference from the employee in facilitating the enquiry.
- (iii) An outer time limit be provided as two years from the date of suspension, failing which the Public Servant may have to be reinstated without prejudice to the proceedings being pursued. However, in exceptional cases, considering the gravity of the charges, one could be continued under suspension even beyond a period of two years, especially in cases where there is deliberate delay caused due to non co-operation of the employee concerned.
- (iv) The concerned Principal Secretary / Secretary of the Department should review the suspension cases of their Department at an interval of six months with the representative from the Anti-Corruption Bureau, if the proceedings arose out of the investigations conducted by the Anti-Corruption Bureau and make suitable recommendations as to the desirability or otherwise for the further continuance of the officers under suspension.

2. With regard to the above mentioned orders, the A.P. Vigilance Commission have made the following observations :

- 1) that the Departments of Secretariat are referring the cases for reinstatement into service of the suspended employees in a routine manner to the Vigilance Commission;
- 2) that the Government Departments do not appear to be conducting the half yearly reviews of suspension of Government Servants

(Accused Officers) with the representatives of Anti-Corruption Bureau and that whenever such reviews are conducted, the cases are referred to the Vigilance Commission without furnishing the following information :

- (i) Whether the delay in finalisation of enquiry proceedings cannot be attributed to the employees ;
- (ii) whether the suspended employee is co-operating with the prosecution agency in facilitating the enquiry ;
- (iii) Whether the suspended employee is attending the Court whenever summoned for hearing.

3. The matter has been carefully considered by the Government and the Government while reiterating the orders issued in the G.O. 2nd cited also direct that all the Government Departments should obtain the information as mentioned in sub para 2(i), (ii) and (iii) of para 2 above from the Anti-Corruption Bureau whenever necessary and then propose action as to whether to continue the Government Servant (Accused Officer) under suspension or to reinstate him as the case may be.

4. The Departments of Secretariat are also directed to consult the Andhra Pradesh Vigilance Commission invariably before taking a decision in the matter as per the scheme of the Vigilance Commission.

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Circular Memo.No.76883/Ser.C/98- Genl.Admn. (Ser.C) Dept., dt.12.12.98 regarding submission of Annual Property Returns.

Subject Heading : Annual Property Returns - submission and scrutiny

According to sub rule (7) of Rule 9 of A.P.C.S (Conduct) Rules, 1964, every Government employee other than a member of the A.P. Last Grade Service and a Record Assistant in the A.P.General Sub-ordinate Service, invariably submit their statement of all immovable/movable (exceeding Rs.20,000) properties owned, acquired or inherited by him / her or his / her family members in the prescribed proforma to the said rule as Annexure I & II before 15th January of each year.

2. According to sub rule (2) of Rule 9 of A.P.C.S. (Conduct) Rules, 1964, the Government or any authority empowered by them in this behalf may at any time by general or special order, require a Government employee to submit within a specified period, a full and complete statement of all immovable properties and movable properties.

3. The Vigilance Commissioner, A.P. Vigilance Commission in his annual report pertaining to the year 1996-97 has requested to issue suitable instructions to all the Secretariat Departments and Heads of Department on the issue of submission of Annual Property Returns by the Government Servants and members of All-India Services as contemplated under A.P.C.S. (Conduct) Rules, 1964.

4. The controlling officers or the Chief Vigilance Officer / Vigilance Officers of concerned departments are requested to scrutinise thoroughly the Annual Property Returns submitted by their sub-ordinates and call for the clarifications from the Government Departments in case of doubts. They must ensure submission of the returns by all concerned as such scrutiny would help to some extent check the corruption of the Government employees at the initial stage itself.

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Memo.No.991/SC.E1/98-5, Genl.Admn. (SC.E) Dept., dt.17.12.1998 regarding disproportionate assets cases, 20% margin reiterated.

Subject Heading : Disproportionate Assets - margin of income

- Ref :
1. Govt.Memo.No.700/SC.D/88-4, G.A.(SC.D) Dept., dt.13.02.89.
 2. Govt.Memo.No.1444/SC.D/90-1, G.A.(SC.D) Dept., dt.17.01.91.
 3. Govt.Memo.No.223/SC.D/92-6, G.A.(SC.D) Dept., dt.15.03.93.
 4. Govt.Memo.No.557/SC.D/95-2, G.A.(SC.D) Dept., dt.26.02.96.
 5. From the D.G., ACB., Lr.No.19/RPC(C)/98, dt.04.05.98 & 29.10.98.

The attention of the Director General, Anti-Corruption Bureau, Andhra Pradesh, Hyderabad is invited to the references cited. He is informed that his

proposal for reviewing the instructions of allowing a margin upto 20% of the total income of the Accused Government Employees, while computing the disproportionate assets has again been carefully considered by the Government. The permissible extent of 20% prescribed by the State Government was a result of detailed deliberation including those with the Vigilance Commission. Taking all facts into consideration, Government did not deem it necessary to reduce the margin to a lesser level. The facts and assumption in which this decision was made again and again have not undergone any change.

2. The Director General, Anti-Corruption Bureau, is therefore requested to follow the instructions issued earlier in the references 1st and 2nd cited.

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Memo.No.2983/SC.E3/98-1, Genl.Admn. (SC.E) Dept., dt.23.12.1998 regarding court cases - Chief Secretary not to be made respondent, only Secretary.

Subject Heading : Court cases - Chief Secretary not to be impleaded

Ref : From the Chief Secretary to Govt., D.O.Lr.No.296/CSP/N/98, dt.14.12.98.

In several court cases at different levels, the petitioners make Government of Andhra Pradesh a respondent apart from other respondents. In making the Government of Andhra Pradesh respondent, the Government should be represented by the Secretary to the Government in the Department concerned. However, in some cases, the petitioners make the Government of Andhra Pradesh a respondent indicating that the Government is represented by the Chief Secretary. In such cases, the Director General, Anti-Corruption Bureau, A.P., Hyderabad is requested to take action on the following lines:

2. Where Government is a respondent in any case it should be represented by the Secretary to the Government in the department concerned and not by the Chief Secretary. Even where the General Administration Department is concerned, there are several Secretaries in General Administration Department and they can be made respondents and not the Chief Secretary. When the petitioners make the Chief Secretary the respondent to represent the Government, the other respondents who are Government officers should file a petition in the court to delete the Chief Secretary as a respondent and to make

the Secretary of the Department concerned in the Government a respondent. After filing such a petition, a copy of the same along with a copy of the petitioner's affidavit should be sent to the Chief Secretary's Office along with a draft affidavit to be sworn by the Chief Secretary to get his name deleted as a respondent. After the sworn affidavit is received from the Chief Secretary, the same should be filed in the Court and necessary orders obtained.

3. The Director General, Anti-Corruption Bureau, Hyderabad is also requested to communicate the above instructions to all Range and District offices for compliance.

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**U.O.Note No.2985/SC.E1/98-1, Genl.Admn. (SC.E) Dept., dt.04.01.1999:
Reference of A.C.B., Vigilance Commission - not to be mentioned in
orders.**

Subject Heading : ACB - not to quote in references or charges

Subject Heading : Vigilance Commission - not to mention in references

Ref: 1. U.O.Note No.2518/SC.E/96-1, G.A. (SC.E) Dept., dt.04.07.1997.

2. U.O.Note No.962/SC.E/97-1, G.A.(SC.E) Dept., dt.04.08.1997.

In the reference 1st cited, detailed instructions were issued with regard to dealing with Anti-Corruption Bureau reports.

2. In the reference 2nd cited instructions were issued with regard to dealing with A.P.Vigilance Commission reports and while reiterating the earlier instructions issued in the matter, it was requested not to mention the correspondence made with the A.P.Vigilance Commission in the orders etc., issued by the Secretariat Departments.

3. Inspite of the above clear instructions, it has come to the notice of the Government that some Departments of the Secretariat have mentioned the references of the Director General, Anti-Corruption Bureau and the Vigilance Commission in their orders and on account of this the Courts of Law / A.P.A.T. / C.A.T. on occasions have set aside the orders of the Departments on the plea of non application of their mind in such orders.

4. The Government have reconsidered the matter, and have decided to reiterate the instructions issued in the references 1st and 2nd cited, and also direct all the Departments of Secretariat not to mention the correspondence made with the Anti-Corruption Bureau and the A.P.Vigilance Commission in their orders etc., and any violation of these instructions would be viewed seriouslyand action taken accordingly.

5. All the Departments of Secretariat are requested to bring the above instructions to the notice of all subordinate offices under their control.

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G.O.Ms.No.2, Genl.Admn.(Ser.C) Dept., dt.04.01.1999 regarding penalty of dismissal in cases of bribery.

Subject Heading : Dismissal - in cases of corruption, bribery

Read the following :

1. G.A.(Ser.C) Dept., Cir.Memo.No.3037/Ser.C/64-3, dt.26.11.64.
2. G.A.(Ser.C) Dept., Govt.Memo.No.1718/Ser.C/75-1, dt.22.11.75.
3. G.A.(Ser.C) Dept., Cir.Memo.No.3824/Ser.C/98-2, dt.09.02.98.

ORDER :

In the Memo. first read above, instructions were issued, among others, that in proved cases of bribery and corruption, no punishment other than that of dismissal be considered adequate and if any lesser punishment is to be awarded in such cases adequate reasons should be given for it in writing. In the Memo second read above, instructions were issued to the effect that the officers convicted in Criminal Cases should normally be dismissed from service. The above instructions have been reiterated for strict compliance vide the reference third read above.

2. It is the earnest endeavour of the Government to ensure a clean and transparent administration. To have this policy transcended to the grass root level it is keenly felt that the officers with doubtful integrity and involved in criminal offences shall be weeded out in order to ensure efficient functioning. To ensure clean and efficient administration, the Government direct that in all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed.

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**G.O.Ms.No.10, General Administration (SC-E) Deptt. Dt.07.01.1999
regarding authorisation to Inspectors of A.C.B. to conduct investigation.**

Subject Heading : ACB - authorisation to Inspectors to investigate

Read the following :

1. G.O.Ms.No.170, G.A. (SC-D) Deptt., dt.20.03.1968.
2. From the DG,ACB Lr.Rc.No.56/RPC(C)/96, dt.09.05.1996.

ORDER :

The following Notification will be published in the Andhra Pradesh Gazette :

NOTIFICATION

In exercise of the powers conferred by the first proviso to Section 17 of the P.C. Act., 1988 (Central Act 49 of 1988), the Governor of Andhra Pradesh hereby authorises the Inspectors of Police of Anti-Corruption Bureau of Andhra Pradesh to investigate all the offences punishable under the Prevention of Corruption Act, 1988 without the order of a Metropolitan Magistrate or a Magistrate of the first class.

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**U.O.Note No.598/SC.E3/99-1, Genl.Admn. (SC.E) Dept., dt.26.02.1999
regarding Vigilance Commission - consultation at lower than Government level to be ensured.**

Subject Heading : Vigilance Commission - consultation by disciplinary authorities at lower level than Government.

- Ref: 1. G.O.Ms.No.421, G.A.(SC.D) dept., dt.03.08.93.
- 2 Procedural instructions of A.P. Vigilance Commission communicated through Lr.No.66/VC.A2/93-3, dt.10.10.1994.
3. U.O.Note No. 2670/SC.E3/98-1, GAD, dt.02.12.1998.
4. From the Vigilance Commissioner, A.P., Hyderabad, D.O. Lr.No.163/VC.E1/94-12, dt.18.02.1999 addressed to the Chief Secretary to Government.

In the U.O. Note third cited, while inviting attention to the orders issued in the G.O. first cited, all Departments of Secretariat were requested, once again, to obtain the advice of the Vigilance Commissioner without fail after conclusion of the departmental inquiries i.e. after receipt of the report of the Inquiring Authority and the representation of the Government Servant / Member of Service thereon. Thereafter, considering the advice of the Vigilance Commissioner vis-a-vis the findings of the Inquiring Authority and the representation of the Government Servant / Member of Service thereon, the Government Departments were requested to obtain the orders of the concerned competent authority either for imposition of any of the penalties as stipulated under the relevant disciplinary rules or otherwise.

2. The Departments of Secretariat were also requested to communicate the above instructions to all the subordinate offices and Undertakings under their administrative control for their guidance and compliance.

3. In spite of the above instructions, it has come to the notice of the Government that Vigilance Commissioner is being consulted by and large only by Secretariat Departments where the disciplinary authority is the Government, and in cases where the disciplinary authority is the Head of the Department some cases are being referred to the Vigilance Commissioner and many other cases are not being referred, to the Commission at all. Where the disciplinary authority is at the Regional / District level, the Secretariat Departments are not ensuring consultation with the Vigilance Commission at all. It has been brought to the notice of the Government, that in a case where the disciplinary authority is the District Authority, final orders were issued in the case by the District Authority without consulting the Vigilance Commission through the concerned administrative Department in the Secretariat.

4. All the Departments of Secretariat are therefore, once again, requested to communicate the instructions issued the reference third cited, to the Heads of Departments, Regional / District and subordinate offices and Undertakings under their administrative control and to ensure compliance of the said instructions.

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**U.O.Note No.11107/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.01.03.1999:
Disciplinary authority not to consult HOD or A.C.B. on inquiry reports.**

Subject Heading : Disciplinary Authority - consultation with others

Rule 21 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 lays down the procedure, on further action to be taken on receipt of the report of the Enquiry Officer. The Disciplinary authorities shall take an independent view based on the findings in the Inquiry Report with reference to the record after due consultation with Andhra Pradesh Vigilance Commission / Andhra Pradesh Public Service Commission wherever such consultation is necessary.

2. It has been brought to the notice of the Government that certain Departments of Secretariat are obtaining the remarks of the Heads of Departments on the report of the Inquiry Officer which is not contemplated in the APCS (CC&A) Rules, 1991. This practice is also delaying the issue of final orders on the disciplinary case. As per rules, the Departments as a disciplinary authority have to examine the findings of the Inquiry Officer independently and come to its own conclusion.

3. It is also brought to the notice that some departments are referring the report of Inquiry Officer to the Director General, Anti-Corruption Bureau for remarks which is also not provided for in the APCS (CC&A) Rules, 1991 and therefore, such action is not in order.

4. All the Departments of Secretariat are requested to ensure that in all disciplinary cases, final decision on the inquiry report shall be taken by the concerned Disciplinary authority alone and in consultation with the Andhra Pradesh Vigilance Commission / Andhra Pradesh Public Service Commission, wherever it is necessary as per rules and they shall not seek the views / remarks of the Heads of Departments on the reports of Inquiry Officer.

5. However, after issue of final orders on inquiry report, such order shall be communicated to the delinquent officers through the Heads of Departments under intimation to the Director General, Anti-Corruption Bureau, Hyderabad.

(351)

**U.O.Note No.530/SC.E1/99-1, Genl.Admn. (SC.E) Dept., dt.05.03.1999:
A.C.B. to be informed of decision to file appeal, expeditiously.**

Subject Heading : Appeal - ACB to be informed of decision

Instructions were issued to the Anti-Corruption Bureau earlier to ensure that prior orders of the Government should invariably be obtained for filing an appeal before the High Court against the orders of acquittal passed by Courts of the Special Judges for Anti-Corruption Bureau cases. The Anti-Corruption Bureau was also requested to send proposals to the Government well in advance. The Anti-Corruption Bureau was further requested to avoid filing of appeals in anticipation of the orders of the Government.

2. Now an instance has come to the notice of the Government wherein, the Anti-Corruption Bureau has sent proposals to the Government in a Department on 10.11.1998 requesting for permission to file an appeal before the High Court in a particular case which ended in acquittal in the Trial Court. The Anti-Corruption Bureau have also reminded the Government Department several times. But, the Government Department have not given any reply to the Anti-Corruption Bureau and that in the meantime, the appeal time had expired.

3. The Government have examined the matter in detail. They hereby direct that the proposals of the Anti-Corruption Bureau for filing appeals before the High Court should be processed well in time before the expiry of appeal time and that the Anti-Corruption Bureau be informed of the decision of the Government as expeditiously as possible.

4. Government also direct that action should be initiated, in respect of defaulting cases, against the persons responsible for the delay.

(352)

Memo.No.17689/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.25.03.1999: A.P.C.S. (Conduct) Rules, 1964 - Rule 3B regarding promptness and courtesy incorporated.

Subject Heading : MLAs, MPs - observance of courtesies and promptness

- Ref: 1. Govt.Memo.No.303/Ser.C/91-1, G.A.(Ser.C) Dept., dt.27.08.91.
2. G.A.(Genl.C) Dept., Endt. No.3/Genl.C/93-1, dt.20.01.93.
3. Govt.Memo.No.144/Ser.C/93-1, G.A.(Ser.C) Dept., dt.30.04.93.
4. Govt.Memo.No.404/Ser.C/93-1, G.A.(Ser.C) Dept., dt.19.08.93.
5. Govt.Memo.No.568/Ser.C/93-1, G.A.(Ser.C) Dept., dt.03.11.93.
6. Govt.Memo.No.572/Ser.C/95, G.A.(Ser.C) Dept., dt.20.11.95.
7. Govt.Memo.No.9620/Ser.C/96-1, G.A.(Ser.C) Dept., dt.27.11.96.
8. G.O.Ms.No.72, G.A.(Ser.C) Dept., dt.03.03.98.
9. G.A.(IC) Dept., U.O.Note No.7318/IC-2/98-1, dt.22.04.98.

Instructions were issued from time to time in regard to observance of courtesies to the Members of State Legislature/ Members of Parliament and Non-Officials, for prompt action on the letters/references received from them. These instructions have been reiterated in the references 1st and 6th cited. The guidelines/ instructions issued by the Ministry of Personnel, Public Grievances and Pensions, Government of India have been adopted and brought to the notice of all concerned for strict compliance.

2. In the reference 8th cited, orders were issued incorporating the following rule in A.P.C.S (Conduct) Rules, 1964. Rule 3B: "promptness and courtesy No Government Servant shall -

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

3. In the reference 9th cited, certain guidelines were prescribed in the Secretariat Office Manual, for prompt response to the letters from the Members of Parliament / Members of State Legislature.

4. Inspite of the above instructions and rule, it has been brought to the notice of Government that prompt action is not being taken on the letters received from the MLAs / MPs particularly by the District Officers.

5. Government reiterate the instructions issued on observance of courtesies to Members of State Legislature / Members of Parliament, Non-Officials and direct that the same shall be followed scrupulously by all concerned.

Any lapse on the part of any official shall be viewed seriously and suitable disciplinary action initiated.

6. The Departments of Secretariat, Heads of Departments and District Collectors are requested to bring the instructions to the notice of all concerned and ensure their strict compliance.

(353)

G.O.Ms.No.189, Genl.Admn. (Ser.C) Dept., dt.20.04.1999 regarding suspension - filling up of vacancies.

Subject Heading : Suspension - filling up of vacancies

ORDER :

It has been brought to the notice of the Government that whenever any Government employee is placed under suspension in any disciplinary case, the consequential vacancy is being filled up either by promotion or appointment by transfer by an eligible person. It is further noticed that inordinate delay is being caused to dispose of such disciplinary cases. Thereby the person promoted or appointed by transfer is being continued in such vacancy for a long time.

2. Government had an occasion to review the above position. After careful examination of the issue the Government have decided that the additional charge arrangements may be made in the vacancies arising due to placing the Member of service under suspension in any disciplinary case and shall not be filled up by promotion or appointment by transfer. Accordingly the Government hereby order that the vacancies arising due to placing of a member of service under suspension in any disciplinary case, shall not be filled up by promotion or appointment by transfer but only additional charge arrangement shall be made under Rule 49 of the Fundamental Rules.

(354)

Circular Memo.No.37989/A/494/A2/Pen.I/98, F&P (FW.Pen.I) Dept., dt.21.04.1999 regarding settlement of pensionery benefits in time - avoiding penal interest for delay.

Subject Heading : Pensionery benefits – to sanction in time.

Ref: Cir.Memo.No.18982-A/183/PSC/88-1,2&3, dt.23.07.89 of F&P (FW.PSC) Department.

A detailed procedure for processing of pension papers was prescribed and appended to A.P.Revised Pension Rules, 1980 as Append.I for payment of Retirement Gratuity and pension in time without any delay.

2. Role of Govt. Employee: According to para 2(a) of the said Appendix, every Government Servant shall submit the necessary pension forms including list of family members descriptive rolls etc., duly filled in, 18 months in advance to the date of his retirement. The forms shall be arranged to be supplied to the Government Servants free of cost. Thus, it is obligatory on the part of the individual to submit pension papers before 18 months of his retirement.

3. Role of the Head of the Office / Dept.: The Head of the Department / Office shall send the prescribed application form for pension to the Government Servant 18 months in advance of the date of retirement with instructions to submit the forms duly filled in within two months.

4. It is the responsibility of the Head of the office to prepare the pension papers of an employee due to retire from service. The responsibility of the employee is restricted only to submission of formal application for pension, descriptive rolls, List of family members and any other declaration certificates necessary.

5. According to para 11(6) of the said Appendix, the pension papers have to be forwarded to the pension issuing authorities viz., Accountant General / Director of Local Fund Audit, as the case may be, 6 months in advance to the date of retirement along with the Service Register together with pension papers and No Dues Certificates.

6. Immediately after retirement of a Government Servant, the Head of the office in respect of a Non-Gazetted Officer and Head of the Department in respect of a Gazetted Officer shall send the Last Pay Certificate to Accountant General / Local Fund Audit as the case may be. No specific sanction for release of pensionary benefits after issue of pension verification report by the Accountant General, is necessary.

7. Instructions have been issued in the reference cited with a view to get every retired employee pension on the date on which he would have received his salary but for his retirement.

8. If any delay is anticipated in sanctioning final pension due to unavoidable reasons, anticipatory pension shall have to be paid by the Head of office to the retiree @ 4/10th of the last drawn emoluments countable for pension, if the Government employee puts in 33 years of qualifying service, if not proportionately, under Rule 51-(A) of A.P.Revised Pension Rules, 1980. Same is the case of gratuity also as 80% of the amount worked out by the Department shall be paid as anticipatory gratuity under Rule 51(B) of RPRs 1980. This can be sanctioned even without waiting for the forwarding of pension papers to the Audit officers.

9. Where departmental or judicial proceedings are pending against any Government Servant, he shall be sanctioned provisional pension under Rule 52 of A.P.Revised Pension Rules, 1980, by withholding gratuity. In these cases, the department will send pension papers to the Accountant General with such mention and with a request for only indicating the quantum of pension that would be admissible and not to release the same till further orders. Pension sanctioning authorities are competent to sanction provisional pension to the non-gazetted officers. It shall be sanctioned by the Government in the case of Gazetted officers. Necessary clarifications are issued in this regard vide Cir.Memo.No.37254/361/A2/Pen.I-98, dt.04.07.1998 of Fin. & Plg. (FW.Pen.I) Department.

10. Further interest shall be allowed on delayed payment of retirement gratuity. The rate of interest is 7% p.a. beyond 1 year after the gratuity becomes due and payable till the end of the month preceding the month in which the payment is actually made. The interest is allowed on the following conditions:

- (i) should be sanctioned by the administrative Department concerned with the concurrence of Finance Department
- (ii) where disciplinary or judicial proceedings are pending, interest is payable from the date of conclusion of the proceedings
- (iii) the delay should be on account of administrative lapse or for reasons beyond the control of the Government Servant concerned.

11. Inspite of availability of liberal provisions for the expeditious settlement of pensions as stated above, the delays are taking place in sanction of pension / Anticipatory pension / provisional pension on the pension sanctioning authorities due to not following the procedure prescribed in the rules. The affected parties are approaching the Courts. In many cases, courts are directing concerned

authorities to pay interest on the pension, Gratuity and other terminal benefits causing heavy loss to Government. But as stated above, interest at the rates specified in Rule 46 of A.P.Revised Pesnion Rules, 1980 is payable on the delayed payment of gratuity only. A.P.Revised Pension Rules, 1980 do not provide for payment of interest on pension.

12. In the above circumstances, all the pension sanctioning authorities and Head of the offices are directed to settle pension cases as per the procedure stated above without giving scope for payment of interest on pension benefits.

13. Instances have come to the notice of the Government that interest was paid on pension following the Court Orders, evidently due to the fact that pension sanctioning authority has failed to process the pension case as per the guidelines and consequent delay in finalising the pension on the date of retirement of a Government Servant.

14. The matter has been examined, the Government have decided that in all cases where interest was paid on pension, the amount of interest paid shall be recovered from the pension sanctioning authority.

(355)

G.O.Ms.No.203, Genl.Admn. (Ser.C) Dept., dt.05.05.1999 regarding promotion - over-all performance to be taken in case of punishments.

Subject Heading : Promotion - guidelines

Read :

G.O.Ms.No.187, G.A.(Ser.B) Dept., dt.25.04.85.

ORDER :

According to the orders issued in the G.O. read above, an individual who is undergoing punishment, should not be recommended for promotion. In cases, where the period of punishment imposed is already over, each case has to be evaluated by Departmental Promotion Committee on merits.

2. It has come to the notice, that where an officer had undergone a number of punishments, but they are not subsisting at the time of the meeting of the Departmental Promotion Committee or the Screening Committee and the

Committees are not very comfortable in recommending his name but the existing instructions are such that they are interpreted to mean that a person can be recommended for promotion if there is no subsisting punishment besides there being no charges or adverse entries even though he might have undergone a number of punishments in the past. It is noticed that in some Screening Committees or Departmental Promotion Committees where the presiding officer is very strict they do not recommend a person if in the past there are punishments even though at the time of the meeting there is no punishment subsisting. Government considers that this is the correct stand because a person who undergoes a number of punishments does not deserve to be promoted to a selection post even though at the time of Departmental Promotion Committee or Screening Committee meeting no punishment is subsisting. It is therefore decided to modify the existing instructions to the Departmental Promotion Committees or Screening Committees to the effect that they should take into account the overall performance of the officer concerned which includes past punishments and not merely be guided by the fact whether a punishment is subsisting as on the date of the meeting of the Departmental Promotion Committee or Screening Committee or on the qualifying date for the preparation of the panel.

3. The Departments of Secretariat, Heads of Departments, and the District Collectors are requested to follow the above guidelines for preparation of list of candidates for promotion or appointment by transfer to next higher categories.

(356)

Memo.No.32667/Ser.C/98-8, Genl.Admn. (Ser.C) Dept., dt.13.05.1999 regarding consultation with Andhra Pradesh Public Service Commission.

Subject Heading: Andhra Pradesh Public Service Commission-consultation

Ref : From the Secretary, A.P.P.S.C., Lr.No.1359/RT.I/1/98, dt.07.05.99.

Under sub-regulation (i) of Regulation 17 of the Andhra Pradesh Public Service Commission Regulations, 1963, it shall be necessary to consult the Commission, where the State Government propose to pass an original order imposing any of the following penalties, as per Rule 9 of the APCS (CC&A) Rules, 1991.

- (i) reduction to a lower rank in the seniority list or to a lower post or time scale whether in the same service or in another service, State or Subordinate or to a lower stage in a time scale,
- (ii) recovery from pay of the whole or part of any pecuniary loss caused to the Government or to a local body by negligence or breach of orders,
- (iii) compulsory retirement otherwise than under Article 465(2) or under Note 1 to Article 465-A of the Civil Service Regulations,
- (iv) removal from service,
- (v) dismissal,
- (vi) stoppage of increment(s) with cumulative effect.

Date	Name of the employee	Designation	Time of reporting	Amount of cash held	Signature of the employee	Counter signature of D.M
1	2	3	4	5	6	7

2. It has been brought to the notice of the Government, that the disciplinary authorities/ appointing authorities, at District level and at the level of Heads of Departments are either addressing the Andhra Pradesh Public Service Commission for concurrence to award the above mentioned penalties on the delinquent officers or approaching the concerned administrative department to obtain the concurrence of Andhra Pradesh Public Service Commission and pass it on to them for passing final orders.

3. It is clarified that consultation with the Andhra Pradesh Public Service Commission under Regulation 17 of the Andhra Pradesh Public Service Commission Regulations, 1963 shall be necessary only where the departments of Secretariat, at Government level propose to pass an original order of penalty against a delinquent employee as mentioned in para 1 above. Therefore, to pass an order imposing penalty in Rule 9 of the APCS (CC&A) Rules, 1991 by any authority other than the departments of Secretariat at Government level, it shall not be necessary to consult the Andhra Pradesh Public Service Commission, under Regulation 17 of Andhra Pradesh Public Service Commission Regulations, 1963.

(357)

**Circular Memo.No.3026/18/A2/Pen.I/99 Finance & Planning (FW.Pen.I)
Dept., dt.01.06.1999: Disciplinary proceedings under Rule 9 of A.P.Revised
Pension Rules, 1980 can continue after retirement even where there is
no pecuniary loss to Government.**

Subject Heading : Retirement - continuation of proceedings

According to sub-rule(1) of Rule 9 of the A.P.Revised Pension Rules 1980, inter-alia, empowers the Government reserves to themselves the right of withholding pension or gratuity or both, either in full or in part, or withdrawing a pension in full or part whether permanently or for a specified period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement.

2. The Government have been receiving representations seeking clarifications whether disciplinary proceedings pertaining to a serious or grave misconduct or negligence committed by a Government Servant can be continued or instituted in terms of rule 9 of the A.P.Revised Pension Rules, 1980 even if no pecuniary loss was caused to the Government.

3. According to Ruling 8 under Rule 9 of the Central Civil Services (Pension) Rules, 1972, action can be taken under Rule 9 of the Central Civil Services (Pension) Rules, 1972 (Similar to Rule 9 of A.P.Revised Pension Rules 1980) and as per the clarification issued by the Government of India, Department of Pension and Training in O.M.No.28027/3/87-Estt(A), dt.29.06.1990 even in the absence of any pecuniary loss to Government, the pension of the pensioner can be withheld or withdrawn after following due procedure for an act of misconduct or negligence committed while in service.

4. The Supreme Court of India, in the case of 'Union of India and others vs. B.Dev, AIR 1998 SC 2709, while explaining the scope of rule 9 of the Central Civil Services (pension) Rules, 1972 observed as follows :

"Rule 9 gives to the President the right of

- 1) withholding or withdrawing a pension or part thereof ;

- 2) either permanently or for a specified period ; and
- 3) ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government. This power can be exercised if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service. One of the powers of the President is to recover from pension, in a case where any pecuniary loss is caused to the Government, the Loss. This is an independent power in addition to the power of withdrawing or withholding pension. The condition of the respondent, therefore, that Rule 9 cannot be invoked even in cases of grave misconduct unless pecuniary loss is caused to the Government, is unsustainable".

5. In view of the clarification given by the Government of India, Department of Pension and Training and the rulings of the Supreme Court, the Government hereby clarifies that disciplinary proceedings pertaining to a serious or grave act of misconduct / negligence committed by a Government Servant can be continued or instituted in terms of Rule 9 of Revised Pension Rules, 1980 or other corresponding rules, even if no pecuniary loss was caused to the Government.

(358)

G.O.Ms.No.257, Genl.Admn. (Ser.C) Dept., dt.10.06.1999 regarding sealed cover procedure.

Subject Heading : Sealed cover procedure

Read the following :

1. G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05.76.
2. G.O.Ms.No.104, G.A.(Ser.C) Dept., dt.16.02.90.
3. G.O.Ms.No.66, G.A.(Ser.C) Dept., dt.30.01.91.
4. From the Dept. of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions, Government of India, Memo.No.22011/4/91-Estt.(A) dt.14.09.92.
5. G.O.Ms.No.74, G.A.(Ser.C) Dept., dt.24.02.94.

6. G.O.Ms.No.203, G.A.(Ser.C) Dept., dt.05.05.99.

ORDER :

In the G.Os 1st to 3rd read above orders were issued enunciating guidelines for consideration of employees who are facing disciplinary enquiries in regard to their appointment by promotion or transfer to higher categories.

2. In the reference fourth read above, the Ministry of Personnel, Public Grievances and Pensions, Government of India have issued guidelines in regard to consideration of Government servants against whom disciplinary or court proceedings are pending or whose conduct is under investigation, for promotion to next higher categories. Keeping in view the said guidelines, orders have been issued in the G.O. fifth read above, for consideration of employees for ad hoc promotion where the disciplinary case / criminal prosecution against the Government employees is not concluded even after the expiry of two years from the date of the meeting of the first Departmental Promotion Committee, in which the employee was considered, in case the employee is not under suspension.

3. It has come to the notice of Government, that the guidelines issued in the said orders are not being strictly adhered to in several departments and ad hoc promotion is being considered on the simple ground, that two years period has elapsed after institution of disciplinary proceedings against the employee without going into the desirability of making ad hoc promotion in such cases. The Government have carefully reviewed the issue and accordingly it has been decided to cancel the orders issued in the G.O. fifth read above and issue suitable guidelines on the subject.

4. Accordingly, orders issued in the G.O.Ms.No.74, G.A.(Ser.C) Department, dt.24.02.1994 are hereby cancelled with immediate effect.

5. Government also order that with immediate effect the following procedure and guidelines, be followed to consider the employees against whom disciplinary cases or criminal prosecution are pending or whose conduct is under investigation, for appointment by promotion or transfer, to next higher categories.

A. The details of employees in the zone of consideration for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committees or Screening Committees :

- (i) Officers under suspension ;
 - (ii) Officers in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending ;
 - (iii) Officers in respect of whom prosecution for a criminal charge is pending ;
- B. Officers who are facing inquiry, trial or investigation can be categorised into the following groups based on the nature of the allegations or charges pending against them or about to be instituted namely :
- (i) an officer with a clean record, the nature of charges or allegations against whom relate to minor lapses having no bearing on his integrity or efficiency, which even if held proved, would not stand in the way of his being promoted ;
 - (ii) an officer whose record is such that he would not be promoted, irrespective of the allegations or charges under enquiry, trial or investigation ; and
 - (iii) an officer whose record is such that he would have been promoted had he not been facing enquiry, trial or investigation, in respect of charges which, if held proved, would be sufficient to supersede him.
- C. The suitability of the officers for inclusion in the panel should be considered on an overall assessment based on the record which should include namely :
- (i) Adverse remarks recorded in the Annual Confidential reports, the penalties awarded and the bad reputation of the officer as vouchsafed by the Head of the Department and the Secretary to Government or the Department concerned ;
- The above cases should be considered as falling under category (ii) of item (B) above.
- (ii) The Officers who do not have any adverse entry in the Annual Confidential Report, and who have no penalties awarded against them in the entire duration of the post and not merely in the past five years and whose reputation is vouchsafed by the Head of the Department and Secretary to Government of the Department concerned should be considered as falling under category (iii) of item (B) above.

The officers categorised as under item (iii) of G.O.Ms.No.424, G.A.(Ser.C) Dept., dt.25.05-6 as mentioned above only should be considered for ad hoc promotion after completion of two years from the date of the Departmental Promotion Committee or Screening Committee Meeting in which their cases were considered for the first time.

6. The appointing authority should consider and decide that it would not be against public interest to allow ad hoc promotion to the officer concerned and this shall be decided with reference to the charge under enquiry. If the charge is one of moral turpitude, misappropriation, embezzlement and grave dereliction of duty then the appointing authority should consider as not in the public interest to consider ad hoc promotion to such charged officer. But, however, if the charge is not a grave one but is a minor one, not involving moral turpitude, embezzlement and grave dereliction of duty then only in such cases the appointing authority should consider that it would not be against public interest to allow ad hoc promotion because till then his record is clean with reference to ACRs, past punishment and reputation in the department as vouchsafed by the Head of the Department and Secretary to Government. The appointing authorities should strive to finalise the disciplinary cases pursuing them vigorously so that within two years the proceedings are concluded and final orders issued.

7. If the officer 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 officer 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 Departmental Promotion Committee proceedings and the actual date of promotion of the person ranked immediately junior to him by the Departmental Promotion Committee, he would also be allowed his due seniority and benefit of notional promotion.

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

9. All the Departments of Secretariat and Heads of Departments should follow the above instructions scrupulously and bring it to the notice of all the concerned.

(359)

U.O.Note No.2885/SC.E1/98-3, Genl.Admn. (SC.E) Dept., dt.11.06.1999 regarding suspension in disproportionate assets cases - instructions reiterated.

Subject Heading : Suspension - in disproportionate assets cases

Ref : 1. Govt.Memo. No.220/Ser.C/89-1, G.A. (Ser.C) Dept., dt.08.03.89.

2. Govt.Memo.No.853/Ser.C/90-2, G.A. (Ser.C) Dept., dt.23.9.91.

In the reference first cited instructions were issued among others that in disproportionate assets cases, the accused officers need not be suspended immediately following the registration of case, but they may be transferred to a far off non focal post to avoid likelihood of their tampering with records and influencing the witnesses etc.,

2. While reiterating the instructions issued in the reference first cited, further instructions were issued in the reference second cited, with regard to review of old cases of Government employees involved in cases of disproportionate assets.

3. Now it has been brought to the notice of the Government that the above instructions are not being followed by some of the Departments. As such the Government, once again reiterate the instructions issued earlier in the references 1st and 2nd cited.

4. All the Departments of Secretariat, Heads of the Department and District Collectors are, therefore, requested to follow the instructions scrupulously and also to communicate the same to the concerned disciplinary authorities under their control for guidance.

(360)

G.O.Ms.No.322, General Administration (Services-C) Department, dt.19.07.1999 – Regarding Amendment to Rule 3 of Andhra Pradesh Civil Services (Conduct) Rules, 1964 – Orders – Issued.

Subject Heading : Amendment to Rule 3 of Andhra Pradesh Civil Services (Conduct) Rules, 1964 – Prohibition of Sexual harassment of Working Women - Orders – Issued.

Read :

G.O.Ms.No.27, (WD.CW & DW (Prog.) Department, dated.21.04.1999

ORDER :

The following Notification will be published in the next issue of the Andhra Pradesh Gazette .

NOTIFICATION

In exercise of the powers conferred by Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964, Issued in G.O.Ms.No.468, General Administration (Services.C) Department, dated the 17th April, 1964 as amended from time to time.

AMENDMENT

In the said rules, after Rules 3-B, the following shall be inserted namely :

3-C: Prohibition of sexual harassment of working women.

No Government employee shall in the performance of his official duties act in a discourteous and discriminate manner with any working women or indulge in sexual harassment either directly or by implication.

Explanation: For the purpose of this rule, 'Sexual Harassment ' includes such unwelcome activities either directly or by implication have,-

- a) *Physical contact and advances ;*
- b) *A demand or request for sexual favours ;*
- c) *Sexually coloured remarks*
- d) *Showing pornography;*
- e) *Any other unwelcome physical, verbal or non - verbal conduct of sexual nature.*

Such conduct which amounts to a specific offence under the Indian Penal Code,1860 or under any other Law for the time being in force.

(361)

**Memo.No.23537/Ser.C/99-5, Genl.Admn. (Ser.C) Dept., dt.28.07.1999
regarding departmental inquiries - time limits fixed.**

Subject Heading : Departmental Inquiry - time limits

Ref : Circular Memo.No.35676/Ser.C/98 G.A.(Ser.C) Dept., dt.01.07.98.

In the reference cited, orders were issued, fixing a time limit for completion of departmental inquiries in all simple cases within a period of three months and in complicated cases within a period of five to six months.

2. In all departmental inquiries ordered it has been decided by the Government that under Rule 20 of the APCS (CC&A) Rules, 1991, the following time limit shall be followed:

- | | |
|--|--|
| a) Fixing date of hearing, inspection of listed documents, submission of list of defence documents, and nomination of a defence assistant.
(if not already nominated) | Within four weeks from the date of appointment of the Enquiry Officer. |
| b) Inspection of documents or submission of list of defence witnesses/defence documents or examination of relevancy of documents or witnesses, procuring the additional document and submission of certificates, confirming inspection of additional documents by Accused Officer or defence assistant | Three (3) months |
| c) Issue of summons to witnesses, fixing the date of regular hearing and arrangement for participation of witnesses in the regular hearing | Three (3) months |
| d) Regular hearing on day to day basis | Three (3) months |

- e) Submission of written brief by Presenting Officer Fifteen (15) days
- f) Submission of written brief by Accused Officer / Defence Assistant to Inquiry Officer Fifteen (15) days
- g) Submission of Inquiry report by the Inquiry Officer Thirty (30) days

3. In all departmental enquiries the general norm of six months should be adhered to except in rare cases where number of witnesses go up to 30 or 40 in which case the time limit can be longer.

4. It is noticed that one of the causes for delay in departmental inquiries is due to non production of documents cited by the Charged Officer as defence document during the course of enquiry. In order to ensure that the departmental inquiries are completed in time, the document asked for by the Charged Officer should be produced by its custodian through Presenting Officer within a time limit fixed by Inquiry Officer failing which adverse note would be taken against the concerned officer (custodian of the documents).

5. The other cause for the delay in completing departmental inquiries within time limit is taking unreasonable time by the disciplinary authorities or appellate authority in disposing the representation of the charged officer alleging bias against the Inquiry Officer. The disciplinary authorities or Appellate authority should, therefore, decide the representation of the Charged Officer within fifteen days after receipt of the representation of the Charged Officer failing which an adverse view will be taken against the concerned authority.

6. Government reiterates that the Secretaries or Principal Secretaries to Government shall review the progress of the inquiries ordered in all disciplinary cases and submit a note on the cases pending beyond the stipulated time to the Chief Secretary to Government and also to the Chief Minister.

7. The Departments of Secretariat / Heads of Departments / District Collectors are requested to follow the above instructions and also bring to the notice of all concerned for strict compliance.

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Letter No.46499/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.21.08.1999 regarding Disciplinary Proceedings Tribunal - jurisdiction over retired Government Servants.

Subject Heading : TDP – no jurisdiction over retired Government Servants

Ref: From the Vigilance Commissioner, APVC Lr.No.309/ VC.G1/95-19, dt.05.08.99.

I am directed to enclose herewith a copy of G.O.Ms.No.279, G.A.(Ser.C) Department, dt.23.06.99, wherein an amendment was issued to Rule 6 of A.P.C.S (Disciplinary Proceedings Tribunal) Rules, 1989, according to which the Tribunal for Disciplinary proceedings can continue the inquiry if the charged officer, during the course of inquiry retires from service on attaining the age of superannuation. There is no provision in the Act or Rules of Disciplinary proceedings Tribunal, to place on defence an accused Government Servant before the Tribunal after he / she retires from service on attaining the age of superannuation. However, where the charges have been served against more than one individual in common proceedings and some of them have retired, the disciplinary proceedings can be continued against all of them before the Tribunal for Disciplinary proceedings subject to the condition that the penalty to be imposed should be only under A.P.Revised Pension Rules for those who retired from service. If charges have not been served on those employees who retired from service, then the cases have to be necessarily separated and disciplinary proceedings taken against them under the A.P.Revised Pension Rules and for those employees who are in service disciplinary proceedings taken under the A.P.C.S (CC&A) Rules.

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Circular Memo.No.698/Special.B3/99-1, Genl.Admn. (Spl.B) Dept., dt.30.08.1999: Vigilance Commission scheme to be strictly followed - disciplinary action be taken for violation of scheme, or imposition of minor penalty for corruption, bribery, misappropriation etc.

Subject Heading : Vigilance Commission - strict compliance with scheme.

Ref: 1. G.O.Ms.No.421 G.A.(SC.D)Dept., dt.03.08.93.

2. U.O.Note No.2670/SC.E3/98-1, GAD, dt.02.12.98.

The attention of all the Departments of Secretariat, Heads of Departments and District Collectors is invited to the instructions issued in the references cited, and they are informed that despite the instructions issued in the references cited, it has come to the notice of the Government that, in a large number of cases, the Departments are disposing of cases without seeking the advice of the Vigilance Commission as required under the Scheme of the Vigilance

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Commission enunciated in the reference first cited. As a result, it is noticed that in a majority of cases where major punishments should have been imposed, the Departments have either dropped the charges or imposed minor penalties. Even where a major penalty of dismissal / removal was called for as in the cases of proven misappropriation / bribery / corruption etc., a punishment of withholding one or two increments with cumulative effect is being imposed. As such in most cases, the punishment imposed is not commensurate with the gravity of the offence committed and as a result, there is no deterrent effect virtually. In the absence of deterrent punishment where it is called for, corruption is bound to go up.

2. All Departments of Secretariat, all Heads of Departments and all District Collectors are, therefore, requested:-

- a) to ensure that the Scheme of Andhra Pradesh Vigilance Commission is followed scrupulously both in letter and spirit. Any violation of the Scheme shall be viewed seriously. They are also requested to punish officials responsible for any violation of the Scheme of the Andhra Pradesh Vigilance Commission, by taking necessary disciplinary action against them.
- b) to take disciplinary action against the concerned officials in cases where minor punishments are imposed in proven cases of corruption, misappropriation, bribery etc., in violation of the first proviso to Rule 9 of A.P.C.S. (CC&A) Rules, 1991.

3. All the Departments of Secretariat, all Heads of Departments and all District Collectors are requested to communicate the above instructions to all the subordinate offices under their control.

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**Memo.No.44391/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.21.09.1999
regarding departmental action - earlier instructions reiterated.**

Subject Heading : Departmental action - reiteration of instructions

- Ref : 1. Govt.Memo.No.2261/Ser.C/79-2, GA (Ser.C) dept.,dt.23.10.79.
2. U.O.Note No. 463/Ser.C/85-4, G.A.(Ser.C) dept., dt.20.12.85.
3. Circular Memo.No. 100/Ser.C/93-22, G.A.(Ser.C) dept., dt. 23.12.95.

4. Circular Memo.No.3824/Ser.C/98-2, G.A.(Ser.C) dept., dt.09.02.98.
5. G.O.Ms.No.188, G.A.(Ser.C) dept., dt.26.05.98.
6. Circular Memo.No.35676/Ser.C/98, G.A.(Ser.C) dept., dt.01.07.98.
7. G.O.Ms.No.2, G.A.(Ser.C) dept., dt.04.01.99.
8. Govt.Memo.No. 23537/Ser.C/99-5, G.A.(Ser.C) dept., dt.28.07.99.

Instructions have been issued from time to time for detection of the delinquencies, initiation of the disciplinary proceedings, for early completion of the enquiries and for imposing penalties on the delinquent Government employees. Despite clear instructions it is noticed that in several cases, there was undue delay in detecting the delinquency as well as in completing the enquiries, thereby the accused officer went scot free on retirement from service. The Public Accounts Committee of the State Legislature observed several times on the need for early completion of enquiries and for imposing penalties on erring Government Servants.

2. In the reference third cited, it has been requested that the Departments should review all cases of misappropriation on half yearly basis and to ensure that the inquiries are completed at the earliest. The delinquencies generally noticed against the Government employees may be broadly classified as cases of misappropriation, corruption, misconduct, and dereliction of duty. As regards the corruption, the investigation is taken up by the Anti-Corruption Bureau and report submitted to the Vigilance Commission or to the Directorate of Vigilance and Enforcement. In case of misappropriation, the reports of the Public Accounts Committee of the State Legislature generally form the basis to detect the delinquency. Other agencies namely the Anti-Corruption Bureau and reports in the media are also the source of information about the misappropriation. For the misconduct the police investigation, the Anti-Corruption Bureau or departmental authorities are the source for detection of the delinquency. The dereliction to duty is noticed by the departmental officers.

3. As and when, it comes to the notice of the disciplinary authority or any higher authority it shall be necessary to take immediate steps to detect the delinquency and to initiate disciplinary action. Disciplinary action initiated shall be completed as per the time schedule prescribed in the references six and eighth cited. Adequate penalty should be imposed on the employees who were found guilty. In this context, the orders issued in the reference seventh cited shall be kept in view. To quote an instance, an officer "X" was involved in an irregularity and the case was brought to the notice in November, 1995. The authority concerned to initiate the disciplinary action, took two long years of time and by that time the said officer retired from service. Against the retired

officer, no action could be taken in view of the time limit stipulated in the Pension Rules. This resulted in allowing the officer to go scot free even though he was guilty. It is absolutely necessary to remedy the situation and the existing instructions in force should be strictly followed for initiation and early completion of the inquiries and disciplinary proceedings.

4. It is reiterated that the inquiring authorities appointed to inquire into charges shall strive complete the inquiries as per the time schedule indicated and however in cases where the inquiry could not be completed for various reasons in time, the inquiry can be continued. The Secretary to Government of the Department concerned shall review the cases and submit a note to Chief Secretary and Chief Minister as per the instructions sixth cited.

5. The penalties awarded to the delinquent officers should not be reduced in a routine way. The gravity of charge and the delinquency established should be kept in view. The orders issued in the reference fifth cited should be followed

6. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the existing instructions on detecting the delinquencies, initiation of disciplinary action and for completion of the disciplinary proceedings as per time schedule prescribed.

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**Circular Memo.No.20922/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.28.09.1999:
Check list on step by step, stage by stage procedure in disciplinary
proceedings prescribed.**

Subject Heading : Departmental action - check list

Instructions have been issued from time to time on various procedural aspects in dealing with disciplinary cases against Government employees. For better understanding clarifications / instructions are issued on step by step procedure to be followed from the stage of initiation of disciplinary proceedings till its conclusion. Instances have come to notice that there are procedural infirmities in dealing with the disciplinary cases, resulting in legal tangle. It is keenly felt to remedy the situation.

2. A check list of the action at each stage to be verified on different parts namely (1) Institution of Disciplinary proceedings, (2) Processing the Inquiry

Report and (3) Awarding penalties has been evolved and communicated herewith for guidance of the disciplinary authorities.

3. The Departments of Secretariat, the Heads of Departments and the District Collectors are requested to follow the Check List in dealing with disciplinary cases and also to bring this to the notice of all other concerned authorities.

(Note: See Part II for Check List (No.35)

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Letter No.1732/VC.F1/99-1, of A.P. Vigilance Commission dt.06.10.1999:
Preliminary reports in traps - should mention verification of genuineness of complaint, antecedents of complainant, reputation of accused official.

Subject Heading : Traps - verification of complaint and antecedents of complainant

Previously, in the preliminary reports on Traps, it was being indicated that :

"The genuineness of the complaint has been verified. Antecedents of the complainant have been verified and found that the complainant has no motive or ill-will to wreak vengeance against the public servant complained against. The general reputation of the accused public servant has also been verified and found to be corrupt".

In the preliminary reports sent by the Anti-Corruption Bureau in recent times, the above items are 0not being mentioned.

2. According to para 78 (Chapter VII — Traps) of the A.C.B. Manual, the position is as follows :

78. On receipt of a complaint of demand of illegal gratification on the part of a public servant, discreet enquiries, should be made regarding the genuineness of the complaint, antecedents of the complainant and whether he has any motive or ill-will to wreak vengeance against the public servant complained against. Where complaints relating to service matters like promotion, transfer, punishment etc. are received from subordinate officers against their superiors, the scope for any mala fide motivation should be ruled out and the reliability of the complainant should be ensured beyond reasonable doubt. Details

like date, time, place and motive for demand and for part payment made if any, and date, time and place and mode of payment indicated by the public servant for acceptance of the demanded illegal gratification should necessarily be incorporated in the complaint. The complaint should be in the handwriting of the complainant unless he is an illiterate, in which case, it should be reported by a scribe in plain and simple language known to him. The name and address of the scribe should be noted with an endorsement by him that the contents thereof were read over to the complainant and admitted by him to be true. The Officer who received the complaint should make an endorsement on it, with his signature mentioning the date and time of its receipt".

3. In view of the above, the Commission feels that if the items indicated in para-1 above are not mentioned specifically in the preliminary reports, there is possibility that the Courts may give benefit of doubt to the Accused Officers.

4. Commission therefore requests the Director General, Anti-Corruption Bureau to examine the above matter and issue suitable instructions to all the Investigating Officers. A copy of the instructions so issued if any, may be furnished to the Commission.

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Circular Memo.No.56183/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.15.10.1999: Formats of inquiry report and check list for suspension prescribed.

Subject Heading : Inquiry report - proforma

Subject Heading : Suspension - check list

Ref: Circular Memo.No.20922/Ser.C/99-1, G.A.(Ser.C) Dept., dt.28.09.99.

It has been observed that the Inquiry Officers appointed under Rule 20(2) of the A.P.C.S (CC&A) Rules, 1991 are preparing the inquiry report in many different ways. No uniform structure is being followed. In order to guide the Inquiry Officers in preparing the report of inquiry, it has been considered that a suitable format be prescribed. Accordingly, a format of "Inquiry Report" has been prepared and enclosed herewith for necessary guidance / use of the Inquiry Officers.

2. A Check List of the action in respect of "Suspension" of Government employees in disciplinary cases is also communicated herewith. The disciplinary

authorities are requested to keep in view the check list while considering the need to place a member of the staff under suspension.

3. The Departments of Secretariat, the Heads of Departments and the District Collectors are requested to follow the Check list in dealing with disciplinary cases and also bring them to the notice of all other concerned authorities.

(Note: See Part II for Format (No.22) and Check List (No.9)

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Memo.No.46733/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.22.10.1999 regarding disciplinary proceedings - Inquiry Officer to be appointed, normally.

Subject Heading : Inquiry Officer - to be appointed, normally

Clauses (a), (b) and (c) of sub rule (5) of Rule 20 of the APCS (CC&A) Rules, 1991 provide for inquiry into the articles of charges framed either by the disciplinary authority itself or by any Inquiry Officer appointed by the disciplinary authority. Also on receipt of the explanation from the delinquent officer for the charges framed against him, wherever, the disciplinary authority proposes to conduct a detailed inquiry in cases, where in the opinion of such disciplinary authority, the charges, if proved, warrant imposing any penalty other than the minor penalties, it shall be necessary to appoint an Inquiry Officer instead of the disciplinary authority itself inquiring into such articles of charges. The Supreme Court of India in its Judgment in Manaklae vs. Dr. Premchand Singhvi reported in (AIR 1957) SC 425 observed that the disciplinary authority shall have clear application of mind and unbiased view in dealing with the disciplinary cases against Government Servants.

2. In view of these observations of the apex court, the disciplinary authority shall necessarily appoint an Inquiry Officer under the CCA Rules when the disciplinary authority proposes to conduct detailed inquiry in cases where in the opinion of such disciplinary authority, the charge if proved warrants imposing any major penalty instead of the disciplinary authority itself taking up the inquiry, unless such appointment of the Inquiry Officer becomes impossible in view of the non-availability of the officers in the Department. Such cases shall be very rare and generally would obtain in very small departments.

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Circular Memo.No.32665/Ser.C/99-2, Genl.Admn. (Ser.C) Dept., dt.27.10.1999 regarding authorities competent to impose penalties and place under suspension - executive orders identifying competent authorities be issued.

Subject Heading : Penalty - authorities competent to impose penalty - identifying of

Subject Heading : Suspension - authorities competent to suspend - identifying of

Ref : G.O.Ms.No. 428, GA(Ser.C) dept., dt.13.10.99.

In the order cited, amendments have been issued to Rule11 of the A.P.C.S (CC&A) Rules, 1991, empowering the Heads of Departments to impose penalties specified in clauses (i) to (viii) of Rule 9 on first and second level officers in the State Service. Rule 13 was also amended to confer disciplinary powers on Regional authority, whenever it exists, to place under suspension the officer holding the post of first level category in State service and where no such authority exists, the Head of the Department is empowered to place under suspension the first and second level officers in the State Service.

2. The Departments of Secretariat, Heads of Departments and District Collectors are requested to take expeditious action to identify and designate the authorities in the respective service and Departments the disciplinary authorities in accordance with the orders cited and issue executive orders immediately. In processing the issue, they are requested to keep in view the authorities designated as per the Andhra Pradesh Public Employment (Organisation of Local cadres and Regulation of Local cadres and Regulation of Direct recruitment) Order 1975 (Presidential Order) issued by the Genl.Admn.(SPF.A) Department. The orders issued by the Departments of Secretariat shall be furnished to the Genl.Admn.(Ser.C) Dept., to take action for issue of amendments to the A.P.C.S (CC&A) Rules, 1991.

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**Circular Memo.No.706/Spl.A3/99, Genl.Admn. (Spl.A) Dept., dt.28.10.1999:
Anonymous, pseudonymous complaints - not to take any action.**

Subject Heading : Anonymous, pseudonymous complaints - not to take any action

- Ref: 1. Procedural Instructions of A.P.Vigilance Commission issued in Lr.No.66/VC.A2/99-3, dt.10.10.1994.
2. From the Central Vigilance Commission, Government of India, New Delhi, Circular No.3(v)/99/2, dt.29.06.1999.

The attention of all Departments of Secretariat, all Heads of Departments and all District Collectors is invited to para 4(b) and (c) of the Procedural Instructions of the A.P. Vigilance Commission issued in the reference first cited, which are extracted below:-

- b) Anonymous and pseudonymous complaints:

Normally allegations contained in an anonymous petition ought not to be taken notice of except in cases where the details given are specific and, therefore, verifiable and the authority that receives such complaints may make such preliminary examination as may be necessary.

In the case of petitions which are pseudonymous in character and where a specific address has been given in the complaint it shall be open to the authority which received the petition to address a communication to the person purporting to be the sender of the petition for further information. If it transpires that there is no person of the name at the address given, then it may be considered that the petitioner's name is a pseudonym and the petition dealt with in the same manner as an anonymous petition.

- c) A large number of disgruntled and disappointed persons are apt to make serious allegations against Public Servants out of malice or frustration. Such people generally do not reveal their identity and

prefer to file anonymous or pseudonymous complaints even against Public Servants of known integrity and good repute. Care must, therefore, be exercised in dealing with such petitions.

2. The Central Vigilance Commission, Government of India, New Delhi in its Circular second cited, opined that one of the facts of life in today's administration is the widespread use of anonymous and pseudonymous petitions by disgruntled elements to blackmail honest officials. As per the orders issued by Department of Personnel & Training, Government of India, New Delhi in their letter No. 321/4/91-AVD.III, dt.29.09.1992, no action should be taken on anonymous and pseudonymous complaints and should be ignored and only filed. However, there is a provision available in this order that in case such complaints contain verifiable details, they may be enquired into in accordance with existing instructions. It is, however, seen that the exception provided in this order has become a convenient loophole for blackmailing. The Public Servants who receive the anonymous or pseudonymous complaints, generally follow the path of least resistance and order inquiries on these complaints. A peculiar feature of these complaints is that these are resorted to especially when a Public Servant's promotion is due or when an executive is likely to be considered for interview. If nothing else, the anonymous or pseudonymous petition achieves the objective of delaying the promotion if not denying the promotion. These complaints demoralise many honest Public Servants.

3. The Central Vigilance Commission, Government of India, New Delhi has, therefore, issued orders in the reference second cited, that no action should at all be taken on any anonymous or pseudonymous complaints. They must just be filed.

4. The State Government has considered the orders issued by the Central Vigilance Commission, Government of India, New Delhi in the Circular second cited and decided to adopt the instructions of the Central Vigilance Commission, in respect of anonymous and pseudonymous petitions or complaints, received against cadre and non-cadre officers of the State Government.

5. Accordingly, it is hereby ordered that no action should at all be taken on any anonymous or pseudonymous petitions or complaints, received against the cadre and non-cadre officers of the State Government and they must just be filed.

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**Circular Memo.No.34633/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.04.11.1999
regarding withholding of increments - effect of.**

Subject Heading : Withholding increment - effect on increments and promotions

Ref: G.O.Ms.No.342, G.A.(Ser.C) Dept., dt.04.08.97.

Rule 9 of the APSCS (CC&A) Rules, 1991 deals with "Penalties" and its classification as minor penalties and major penalties. Item (iv) specifies withholding of increment without cumulative effect which is a minor penalty and item (vi) specifies withholding of increment of pay with cumulative effect which is a major penalty. The currency of these penalties and their effect on promotion was ordered in the G.O. cited. The currency of the penalty is for a minimum period of one year during which the delinquent employee shall not be recommended for promotion.

2. According to F.R. 24 an increment shall ordinarily be drawn as a matter of course unless it is withheld as a measure of punishment. An increment may be withheld from a Government servant by the State Government, or by any authority to whom the State Government may delegate this power if his conduct has not been good or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld and whether the postponement shall have the effect of postponing future increments.

3. It is clarified that where the penalty of stoppage of increments with or without cumulative effect is imposed, under Rule 9 of the APSCS (CC&A) Rules, 1991, the increment or increments falling due immediately after the date of issue of the order should be withheld. It is also clarified that the employee whose increments were withheld shall not be recommended for promotion during the period for which the increments were ordered to be withheld with effect from the date of the issue of the order imposing the penalty.

4. The District Collectors, Heads of Departments and Departments of Secretariat are requested to follow the above clarification in dealing with disciplinary cases.

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Circular Memo.No.60897/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.12.11.1999: Penalty be imposed or official exonerated specifically - imposition of warning not proper.

Subject Heading : Warning - imposition, not proper

It is being observed in a good number of cases that final orders are being issued by the concerned disciplinary authorities with either "Warning" or "let off" or "to be more careful in future" etc. None of these is a punishment listed in the A.P.C.S (CC&A) Rules as a penalty under Rule 9 of the rules. The disciplinary proceedings cannot be deemed to have been concluded unless they end with one of the penalties mentioned under the CCA Rules if any penalty is imposed or the delinquent officer is exonerated and specifically it is stated that charges are dropped. When words like warning, let off etc, are used it is to be construed that the charges and the guilt of the officer have been proved but a lenient view is taken and no punishment is awarded. Such action will not be in accordance with the CCA Rules.

2. In view of the above, all the Departments of Secretariat are requested to keep the above in view while issuing final orders and suitably instruct the offices under their control to clearly mention the penalty imposed if any under the CCA Rules or state the fact of exoneration in case the charged officer is proved not guilty, duly dropping the charges.

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G.O.Ms.No.508, Genl.Admn. (AR&T.I) Dept., dt.03.12.1999 regarding constitution of Legal Cell in major departments.

Subject Heading : Legal Cell in major departments - for legal work

ORDER :

Despite improvements made from time to time, 'File Management' in Secretariat continues to be cumbersome, time consuming, involving sometimes fruitless exercise. While the file disposal drive taken up by the Government in

the recent past produced some tangible results, the basic infirmities relating to the creation and processing of files in the Secretariat persist.

2. In order to find out methods to improve the efficiency, accountability and quality of disposal and, at the same time, avoid duplication of work, delay and to rationalise the workload at various levels, a workshop was conducted on 27.11.1999, participated by members of the council of Ministers including the Chief Minister, Chief Secretary, Principal Secretaries and Secretaries to Government at Dr.Marri Chenna Reddy Human Resource Development Institute of Andhra Pradesh on the subject “File Management in Secretariat”. In the workshop, among others, the following issue has been discussed:

“Legal work of the department:- Government is the biggest litigant of all, albeit, more litigated against than litigating. The common perception is that the existing system and procedures are far from satisfactory. There is lack of coordination between the departments and the Government Pleaders representing them in various courts and Tribunals. Most often, there are inordinate delays apart from lack of quality in the preparation of para-wise remarks, filing of counter affidavits on behalf of the Government”.

It was felt that a very large number of pending files relate to legal issues / court matters.

3. After detailed deliberations and discussion on the above issue, the Government accept the following recommendations made in the workshop and issue orders accordingly:

- a) There shall be a legal cell in major departments consisting of an officer of District Judge cadre. His role shall be advisory in nature. A Desk Officer in each department in the rank of Assistant Secretary shall be responsible for legal work of the Department in the subjects assigned to him.
- b) The decision already taken to have a panel of Advocates shall be implemented immediately.

4. The above orders shall come into force with immediate effect.

5. Necessary amendments to the G.O.Ms.No.118, Law Department, dt.28.06.1999 / Business Rules / Secretariat Instructions / Secretariat Office Manuals will be issued separately.

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**U.O.Note No.1804/Spl.B3/99-1, Genl.Admin. (Spl.B) Dept., dt.22.12.1999
regarding scheme of Vigilance Commission - appointment of Chief
Vigilance Officers in Departments of Secretariat and Vigilance Officers
in subordinate and attached offices.**

Subject Heading : CVOs and VOs - appointment of

- Ref: 1. G.O.Ms.No.421, G.A.(SC.D) Dept., dt.03.08.93.
2. U.O.Note No.1772/SC.E3/99-1, GAD dt.31.05.99.
3. From the Secretary to Vigilance Commissioner, A.P. Vigilance
Commission, Hyderabad Lr.No.336/VC.A2/99-5, dt.08.12.99.

As per the Scheme of Andhra Pradesh Vigilance Commission defined in the G.O. first cited, there will be one Chief Vigilance Officer for each Secretariat Department and Vigilance Officers in all subordinate and attached offices and in all Government Undertakings/Government companies and such of the institutions as may be notified by the Government from time to time. The Chief Vigilance Officer may not be lower than the rank of a Deputy Secretary to Government and the Vigilance Officer shall be selected from among the senior officers of the department. In Government Undertakings / Government Companies and such of the Institutions as may be notified by the Government from time to time, the Vigilance Officers may be of such a rank as may be decided by the Heads of Undertakings in consultation with the Commission. The Chief Vigilance Officers shall be appointed in consultation with the Commission and the Vigilance Officers in subordinate and attached offices shall be appointed in consultation with the Chief Vigilance Officer of the department concerned. No person whose appointment as Chief Vigilance Officer is objected to by the Commission shall be so appointed.

2. The Chief Vigilance Officer and the Vigilance Officers, besides being the link between the Commission and the departments, should be the special assistants to the Secretary to the Government in the department or Head of the Government Undertaking / Government Company / such of the institution as may be notified by the Government from time to time in combating corruption, misconduct and malpractices in the department/Government Undertaking / Government Company / such other Institution as may be notified by the Government from time to time. The Chief Vigilance Officer will be responsible

for coordinating and guiding the activities of other Vigilance Officers in the attached and subordinate offices and other organisations for which his department is responsible to the Legislature.

3. Collectors of Districts shall be the Chief Vigilance Officers for their jurisdiction. Their functions will be:-

- a) to entrust any complaints, information or case for enquiry to the Anti-Corruption Bureau or the concerned departmental officer at the district level as per the instructions to be issued from Government from time to time;
- b) to ensure that investigations by Anti-Corruption Bureau or departmental officers are conducted expeditiously;
- c) to ensure that the existing procedure in the district offices are examined with a view to eliminating factors which provide opportunities for corruption and malpractices.

4. The Vigilance Commissioner will assess the work of the Chief Vigilance Officers and the assessment will be recorded in the character roll of the said officers according to the procedure prescribed by the Government from time to time.

5. A copy of the D.O.Letter No.842/VC.F1/99-1, dt.20.05.99 of the Vigilance Commissioner wherein he has requested to review the matter of appointment of Chief Vigilance Officers and send proposals wherever necessary was communicated to all Departments of Secretariat through the U.O.Note second cited, for taking necessary action.

6. In the letter third cited, the Secretary to Vigilance Commissioner has brought to the notice of the Government that no information was received from the Departments in this regard and requested to furnish the information immediately.

7. In the circumstances, all Departments of Secretariat and all administrative sections in General Administration Department are requested to furnish names and designations of Chief Vigilance Officers of their Departments and Vigilance Officers of the attached and subordinate offices and Government Undertakings / Companies under their control, if they have already been appointed, as per the instructions referred to above. Otherwise, they are requested to take

immediate action to appoint Chief Vigilance Officers and Vigilance Officers in consultation with the Vigilance Commission as per the instructions referred to in paras 1 to 4 above.

8. The General Administration (SC.F) Department are requested to take similar action for appointment of Chief Vigilance Officer for General Administration Department, if not already appointed, in consultation with the Vigilance Commissioner.

9. Copies of the orders issued in this regard may be furnished to the A.P. Vigilance Commission and to this Department.

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G.O.Ms.No.578, Genl.Admn. (Ser.C) Dept., dt.31.12.1999 regarding suspension - review of.

Subject Heading : Suspension - review of cases

Read the following :

1. G.O.Ms.No.480, G.A.(Ser.C) Dept., dt.07.09/93.
2. G.O.Ms.No.428, G.A.(Ser.C) Dept., dt.13.10.99.

ORDER :

In the reference first read above, orders were issued in regard to periodical review, at an interval of six months, of the order of suspension, in disciplinary cases, duly indicating the authorities empowered to undertake the review. In the reference second read above, the disciplinary powers have been delegated to the Regional Authorities and Heads of Departments in respect of the officers of first and second level categories in the State Service. The implementation of the Government order first read above has been reviewed. To expedite disposal, the following revised orders are issued for review of suspension cases, in modification of the G.O. 1st read above.

I. Member of service in Subordinate Service (Non-Gazetted Officers)

- (i) The first review of the order of suspension after six months from the date of issue of orders shall be by the appointing authority. The 2nd and subsequent reviews shall be by the Regional Authority, where it exists,

at intervals of six months. Where no Regional Authority exists, the 2nd and subsequent reviews of order of suspension, shall be by the Head of the Department at an interval of every six months. Where the appointing authority is Head of the Department itself, the review of the order of suspension at an interval of every six months, shall be by the Head of the Department only.

- (ii) Even if suspension is ordered by a higher authority, the review shall be done as ordered above except that a report on the result of review shall be sent to the higher authority for information and record.

II. Members of Service in State Service (Gazetted Officers)

- (i) Where the Order of suspension is issued by the Regional Authority, the 1st review of such order after six months, shall be by the Regional Authority. The 2nd and subsequent reviews at six monthly intervals shall be by the Head of the Department.
- (ii) Where no Regional Authority exists, and the order of suspension of a Member of Service in initial as well as second level Gazetted Category is issued by the Head of the Department such order shall be reviewed at an interval of every six months by the Head of the Department.
- (iii) Even if suspension is ordered by Government, the review shall be done as ordered above except that prior approval of the Government to the result of the review shall be obtained where the review leads to reinstatement, before orders of reinstatement are issued
- (iv) In respect of third level and above Gazetted Categories of Officers, the review of order of suspension, at an interval of every six months, shall be by the Government only.

2. All the departments of Secretariat, the Heads of Departments and District Collectors are requested to follow the above instructions scrupulously and also bring these orders to the notice of all concerned.

(376)

**U.O.Note No.1211/Spl.B/99-2, Genl.Admn. (Spl.B) Dept., dt.23.02.2000
regarding claiming of privilege in respect of reports of A.C.B.**

Subject Heading : ACB - claiming of privilege of ACB report

- Ref : 1. U.O.Note No.1298/SC.D/91-1, GAD dt. 30.08.91.
2. U.O.Note No.694/SC.D/94-1, GAD dt.31.05.94.
3. U.O.Note No. 2782/SC.E/96-1, GAD dt. 30.06.97.
4. U.O.Note No.2518/SC.E/96-1, GAD dt.04.07.97.
5. U.O.Note No.3120/61-1, G.A.(Ser.C) Dept.,dt.11.11.61.

Instructions were issued in the references 1st to 4th cited, regarding the manner in which the reports of the Anti-Corruption Bureau should be dealt with. In the reference 5th cited, instructions were issued to claim privilege in courts in respect of official records.

2. Inspite of the above instructions, it has come to the notice of the Government that, the reports of the Anti-Corruption Bureau are furnished to the Heads of Departments, to the accused officer(s) and other individuals / authorities who are not entitled for copy of the reports. In view of this Government have decided to reiterate earlier instructions in the matter.

3. While reiterating the earlier instructions issued in the references cited, the following further instructions are issued for strict compliance:-

- (i) Part-B of the A.C.B. report should be sent only to the charge framing authority;
- (ii) The accused officer is entitled only copies of statement of witnesses received by Anti-Corruption Bureau, provided those witnesses are proposed to be examined in the regular enquiry;
- (iii) The charge framing authority shall not call for the remarks of Heads of Departments or any other authority on Part-B of the A.C.B. Report except on the procedure being followed as per the instructions issued in the U.O.Note third cited.
- (iv) The reports of Anti-Corruption Bureau are classified documents and need not be furnished to the Courts / Tribunals and privilege may be claimed in such situations as in respect of official records based on the instructions issued in the Memo. fifth cited.

(377)

**Memo.No.39071/471/A2/FR.II/99, F&P (F.W.FR.II) Dept., dt.28.02.2000
regarding payment of subsistence allowance - further instructions.**

Subject Heading : Suspension - payment of subsistence allowance

Ref: 1. Memo.No.13431-160/A/F.R.II/93, dt.01.04.93.

2. Memo.No.29730-A/458/A2/FR.II/94, dt.15.09.94.

In the Circular Memos 1st and 2nd cited, detailed instructions were issued for prompt payment of subsistence allowance to the employees who were under suspension.

2. The Supreme Court of India in a case of the State of Maharashtra vs. Chandrabhan, 1983(2) SLR 493, while allowing the writ petition, dismissed the Civil Appeal has clarified that on payment of subsistence allowance during the period of suspension when the Government Servant is lodged in prison on conviction by trial court. The observation of the Supreme Court is as follows:-

"If the Civil Servant under suspension pending departmental enquiry on a criminal trial started against him, is entitled to subsistence allowance at the normal rate which is a bare minimum required for the maintenance of the Civil Servant and his family, he should undoubtedly get it even pending his appeal filed against his conviction by the trial Court, and his right to get the normal subsistence allowance pending consideration of his appeal against his conviction should not depend upon the chance of his being released on bail and not being lodged in prison on conviction by the trial Court. Whether he is lodged in prison or released on bail on his conviction pending consideration of his appeal, his family requires the bare minimum by way of subsistence allowance."

3. Keeping in view, the above Judgment of the Apex Court, Government hereby order that a Government servant under suspension whether he is lodged in prison or released on bail on his conviction pending consideration of his appeal, be paid subsistence allowance.

4. All the Departments of Secretariat and the Heads of Departments are requested to bring the aforesaid rulings of the Supreme Court to the notice of all the Officers under their administrative control for strict compliance.

(378)

**U.O.Note No.302/Spl.B/2000-1, Genl.Admin. (Spl.B) Dept., dt.13.03.2000:
Correspondence with Vigilance Commission not to be quoted.**

Subject Heading : Vigilance Commission - not to mention in references

- Ref : 1. U.O.Note No.962/SC.E/97-1, GAD dt.04.08.97.
2. U.O.Note No.2985/SC.E/98-1, GAD dt.04.01.99.
3. From the Vigilance Commissioner, A.P., Lr.No.34/VC.A2/2000-1, dt.02.02.2000.

The attention of all the Departments of Secretariat is invited to the instructions issued in the U.O.Note first cited, wherein they were requested not to mention the correspondence made with the A.P. Vigilance Commission in their orders appointing the Inquiry Officer. These instructions were reiterated in the U.O.Note second cited.

2. In the letter third cited, the Vigilance Commissioner has brought it to the notice of the Government, that inspite of the above specific instructions, the Departments of Secretariat / disciplinary authorities are violating these instructions frequently and quoting the references received from the Vigilance Commission in their correspondence in disciplinary cases by which the accused officers are able to quote the references of the Vigilance Commission before the APAT / Courts etc., and are impleading the Vigilance Commission as one of the respondents.

3. The Departments of Secretariat are informed that the instructions issued in the U.O.Note first and second cited have to be implicitly followed and that they should avoid making mention of Vigilance Commission's letter or references thereto in their correspondence and avoid exposing the advice of the Commission. The departments are required to utilise the material supplied by the A.C.B. or the advice tendered by the Vigilance Commission to take considered decision in disciplinary matter. There should be nothing mentioned in the proceedings to issue in disciplinary matters either about the advice of the Vigilance Commission / Anti-Corruption Bureau or to any references received therefrom.

4. In the circumstances, while reiterating the instructions issued in the U.O.Note first and second cited, the Departments of Secretariat are once again requested to follow the instructions issued in the U.O.Note first and second cited, scrupulously.

(379)

**Memo.No.10304/Ser.C/2000, Genl.Admn.(Ser.C) Dept., dt.27.03.2000
regarding annual property returns - proper scrutiny by controlling /
supervisory officers.**

Subject Heading : Annual Property Returns - submission and scrutiny

Ref : 1. Circular Memo.No.575/Ser.C/94-1, dt.07.11.94.

2. Circular Memo.No76883/Ser.C/98, dt.12.12.98.

3. From the Vigilance Commissioner, A.P.Vigilance Commission
D.O.Lr.No.67/ VC.A2/2000-1, dt.21.02.2000.

According to Rule 9(2) of the APSC (Conduct) Rules, 1964 "a Government employee who enters into any transaction concerning any movable property exceeding rupees twenty thousand in value, whether by way of purchase, sale or otherwise, shall forthwith report such transaction to Government; In case any such transaction conducted otherwise than through a regular or reputed dealer shall be with the previous sanction of the Government."

2. Rule 9(7) of the said rules envisages that :

"every Government employee, other than a member of the Andhra Pradesh Last Grade Service and a Record Assistant in the Andhra Pradesh General Subordinate Service, shall on first appointment to the Government service submit to Government a statement of all immovable property / properties irrespective of its value and movable property or properties whose value exceeds Rs.20,000 (rupees twenty thousand only) owned, acquired, or inherited by him or held by him on lease or mortgage either in his own name or in the name of any member of his family, in the forms prescribed in Annexure-I and II separately. He shall also submit to Government before the 15th January of each year, through the proper channel, a declaration in the forms given in the Annexure-I

and II of all immovable or movable property or properties owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family. The declaration shall contain such further information as Government may, by a general or special order require. If in any year, a Government employee has not acquired or disposed of any immovable or movable property or any interest therein, he shall submit declaration to that effect."

3. In the reference 1st cited, instructions were issued that, the Controlling or Supervisory Officers who receive the Annual Property returns of their subordinates, immediately on their receipt, are expected to scrutinise them thoroughly and satisfy themselves about the genuineness of transactions in respect of either acquisitions or disposals of movable or immovable properties and to examine thoroughly the source of acquisitions.

4. In the reference 2nd cited, instructions have been issued that, the Controlling Officers or the Chief Vigilance Officer or Vigilance Officer of concerned departments are requested to scrutinise thoroughly the Annual Property returns submitted by their subordinates and call for the clarifications from the Government Departments in case of doubts. They must ensure submission of the returns by all concerned as such scrutiny would help to some extent check the corruption of the Government employees at the initial stage itself.

5. Inspite of clear instructions, it has been brought to the notice of Government that the Controlling or Supervisory Officers are not insisting on their subordinates to file annual property returns, and in some cases, the annual property returns submitted by the employees are being simply filed without any scrutiny or verification.

6. It is reiterated that the cadre Controlling authority or Vigilance Officers in each department shall ensure that the employees in the respective departments submit the annual property returns and to scrutinise the returns thoroughly.

7. All the Departments of Secretariat, Heads of Departments, District Collectors and all other concerned are requested to ensure that the property statements for the year 1999 due from All-India Service Officers and all Government Employees are got filed wherever they have not been filed so far and to scrutinise the statements of Officers of doubtful integrity. The Departments of Secretariat, the Heads of Departments and other Heads of institutions concerned are requested to certify by the 30th April that all returns have been received and properly filed.

(380)

G.O.Rt.No.1546, Genl.Admn. (Spl.A) Dept., dt.27.04.2000 regarding Sealed Cover Procedure for All-India Service Officers – guidelines.

Subject Heading : Sealed cover procedure - for All-India Service Officers

Read :

From the Director, Govt. of India, Min. of Personnel, Public Grievances and Pensions, Dept. of Personnel & Training, New Delhi, Lr.No. 20011/4/92-AIS(II), dt.28.02.2000.

ORDER:

“R E C O R D E D”

Copy of Lr.No.20011/4/92-AIS(II), Govt. of India, Min. of Personnel, Public Grievances and Pensions, Dept., of Personnel & Training, New Delhi, dt.28.03.2000.

To

The Chief Secretaries of all the
State Governments and Union Territories.

Sir,

Sub:- Indian Administrative Service - Promotion to various grades -
Guidelines - Regarding.

I am directed to say that Central Government has issued detailed guidelines for functioning of Departmental Promotion Committees (DPCs) and for promotion of members of the Indian Administrative Service to the Senior Scale and Supertime Scale from time to time. These instructions, inter alia, lay down guidelines for determining the eligible officers suitability for different grades in the Service, crucial dates of promotion in these grades, composition and working of the DPCs, procedures to be adopted in cases of officers against whom disciplinary / court proceedings are pending or whose conduct is under investigation etc.

2. In view of the multiplicity of these instructions, it has been decided to consolidate the same at one place and also modify them to take care of the

changes which have since taken place in the structure of the Service. Accordingly, the relevant instructions for the Indian Administrative Service as contained in Annexures I and II are being issued for guidance of all concerned. The relevant rules / instructions have been indicated as footnotes.

3. It is requested that in the interest of uniformity and objectivity, these instructions may be followed strictly, while granting promotion to the members of the Indian Administrative Service in different grades. Members of the DPCs may also be suitably briefed on these instructions at the time their meetings are held. Should any deviation from any of these guidelines is required to be made in exceptional circumstances, prior approval of the Central Government must be sought.

ANNEXURE - II

GENERAL GUIDELINES FOR PROMOTION ETC AND FUNCTIONING OF SCREENING COMMITTEES

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7. CONFIDENTIAL REPORTS

- 7.1 The Annual Confidential Reports are the basic inputs on the basis of which assessment is to be made by each Committee. The evaluation of ACRs should be fair, just and non-discriminatory. The Committee should consider ACRs for equal number of years in respect of all officers falling within the zone of consideration for assessing their suitability for promotion. Where one or more ACRs have not been written for any reason, the committee should consider the available ACRs. If the Reviewing Authority or the Accepting Authority as the case may be, has overruled the Reporting Officer or the Reviewing Authority respectively, the remarks of the Accepting Authority should be taken as the final remarks for the purposes of assessment. While making the assessment, the Committee should not be guided merely by the overall grading that may be recorded in the ACRs but should make its own assessment on the basis of the overall entries made in the ACRs.
- 7.2 In the case of each officer, an overall grading should be given which will be either "Fit" or "Unfit". There will be no benchmark for assessing suitability of officers for promotions.

- 7.3 Before making the overall grading, the Committee should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any higher authority has been conveyed to him. Similarly, the Committee would also take note of the commendations received by the officer during his service career. The Committee would also give due regard to the remarks indicated against the column of integrity.

The list of candidates considered by the Committee and the overall grading thus assigned to each candidate would form the basis for preparation of the panel for promotion.

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- 11. PROCEDURE TO BE FOLLOWED IN RESPECT OF OFFICERS AGAINST WHOM DISCIPLINARY / COURT PROCEEDINGS ARE PENDING OR WHOSE CONDUCT IS UNDER INVESTIGATION.**
- 11.1 At the time of consideration of the cases of officers for promotion, details of such officers in the zone of consideration falling under the following categories should be specifically brought to the notice of the concerned Screening Committees:-
- (a) Officers under suspension ;
 - (b) Officers in respect of whom a charge sheet has been issued and disciplinary proceedings are pending ;
 - (c) Officers in respect of whom prosecution for criminal charge is pending.
- 11.2 The Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned above, along with other eligible candidates, without taking into consideration the disciplinary case / criminal prosecution which is pending. The assessment of the Committee including "Unfit for Promotion" and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE SCALE OFIN RESPECT OF SRI.....NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE / CRIMINAL PROSECUTION AGAINST SRI....." The proceedings of the Committee need only contain the note "THE FINDINGS ARE CONTAINED IN THE ATTACHED SEALED COVER." The same procedure will be adopted by the subsequent Screening Committees till the disciplinary case / criminal prosecution against the officer concerned is included.

12. ADVERSE REMARKS

- 12.1 Where adverse remarks in the Confidential Report of the officer concerned have not been communicated to him, this fact should be taken note of by the Committee while assessing the suitability of the officer for promotion/ confirmation. In a case where a decision on the representation of an officer against adverse remarks has not been taken or the time allowed for submission of representation is not over, the Committee may defer the consideration of the case until a decision on the representation is arrived at.
- 12.2 An Officer whose increments have been withheld or who has been reduced to a lower stage in the time-scale, cannot be considered on that account to be ineligible for promotion as the specific penalty of withholding promotion has not been imposed on him. The suitability of the officer for promotion should be assessed by the committee as and when occasions arise. They will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of overall service records of the officer and the fact of the imposition of the penalty, he should be considered for promotion or not. Even where the Committee considers that despite the penalty the officer is suitable for promotion, the officer may be promoted only after the currency of the penalty.

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15. VIGILANCE CLEARANCE WHILE IMPLEMENTING THE COMMITTEE RECOMMENDATIONS:

A clearance from vigilance angle should be available before making actual promotion or confirmation of officers approved by the Committee to ensure that no disciplinary proceedings are pending against the officers concerned.

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18. SEALED COVER CASES - ACTION AFTER COMPLETION OF DISCIPLINARY / CRIMINAL PROSECUTION.

- 18.1 If the proceedings of the Committee for promotion contain findings in a sealed cover, on conclusion of the disciplinary case/criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference

to the findings of the Screening Committee kept in sealed cover / covers and with reference to the date of promotion of his next junior on the basis of such findings. The officer shall be promoted even if it requires to revert the junior-most officiating person. Such promotion would be with reference to the date of promotion of his junior and in these cases, the officer will be paid arrears of salary and allowances.

18.2 If a penalty is imposed on the officer 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 Screening Committee in the normal course, having regard to the penalty imposed on him. In such cases, the question of arrears may be decided by taking into account all the facts and circumstances of the disciplinary/criminal proceedings. Where arrears of salary or a part thereof are denied, the reasons for doing so shall be recorded.

19. THERE MONTHLY REVIEW OF SEALED COVER CASES

It is necessary to ensure that the disciplinary case / criminal prosecution instituted against an officer is not unduly prolonged and all efforts to expeditiously finalise the proceedings are taken so that the need for keeping the cases of officers in sealed cover/covers is limited to the barest minimum. The concerned State Governments shall comprehensively review such cases on the expiry of three months from the date of convening of the first Screening Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also after every three months. The review shall, inter alia, cover the progress made in the disciplinary proceedings / criminal prosecution and further measures required to be taken to expedite their completion. The material/evidence collected in the investigations would also be scrutinised to determine in cases involving suspension whether there is a prima-facie case for initiating disciplinary action or sanctioning prosecution against the officer. If as a result of such a review, the State Government comes to a conclusion that there is prima facie no case, the sealed cover would be opened and the officer concerned would be given his due promotion with reference to the position assigned to him by the DPC.

Some procedure is to be followed in consideration the cases of confirmation.

20. AD HOC PROMOTIONS IN CASES WHERE DISCIPLINARY PROCEEDINGS / CRIMINAL PROSECUTIONS ARE PROLONGED

As appointment of the members of the Indian Administrative Service to various grades is made on regular basis and the provision of one-time confirmation exists in their cases, the concept of grant of ad hoc promotion is alien to them. Unlike Central Govt. servants, ad hoc promotions are not to be allowed in their cases even if the disciplinary cases / criminal prosecutions instituted against them are found to have been prolonged. In their cases, only three-monthly review of their disciplinary / criminal cases is to be undertaken and efforts are to be made to expedite their completion.

21. SEALED COVER PROCEDURE APPLICABLE TO OFFICERS IN WHOSE CASES CONTINGENCIES OF PARA 11.1 SUPRAARISE BEFORE ACTUAL PROMOTION

In the case of an officer recommended for promotion by the Screening Committee where any of the circumstances mentioned in para 11 above arise before actual promotion, sealed cover procedure would be followed. The subsequent Committee shall assess the suitability of such officers along with other eligible candidates and place their assessment in sealed cover. The sealed cover / covers will be opened on conclusion of the disciplinary case / criminal prosecution. In case the officer is completely exonerated, he would be promoted as per the procedure outlined in para 18 above and the question of grant of arrears would also be decided accordingly. If any penalty is imposed upon him 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 shall not be acted upon, as outlined in para 18.2 above.

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23. REVIEW COMMITTEE MEETING

23.1 The proceedings of any Committee may be reviewed only if the Committee had not taken all the material facts into consideration or if material facts were not brought to their notice or if there were grave errors in the procedure followed by them. Special review may also be done in cases where adverse remarks in an officer's ACRs are expunged, or modified. The Review Committee would consider only those officers who were eligible as on the date of meeting of the Original Committee. They would also restrict their

scrutiny of the ACRs for the period relevant to the first Committee Meeting. If any adverse remarks relating to the relevant period were toned down or expunged, the modified ACRs should be considered as if the original adverse remarks did not exist at all. Before doing so, the appointing authority would scrutinise the relevant cases with a view to decide whether or not a review by the Committee is justified, keeping in mind the nature of the adverse remarks toned down or expunged. While considering a deferred case or review of the case of a superseded officer, if the Committee finds the officer fit for promotion/confirmation, it would place him at the appropriate place in the relevant panel after taking into account the toned-down remarks or expunged remarks, as the case may be.

- 23.2 If the officers placed junior to the above said officer have been promoted, the latter should be promoted immediately and if there is no vacancy, the junior-most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed at the stage it would have reached had he been promoted from the date the officer immediately below him was so promoted, but no arrears for the past periods would be admissible. In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of a review, he should be confirmed from the due date.

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25. SUPPRESSION OF OFFICERS

If an officer has not been included in the panel for promotion to any of the grades, the detailed reasons for his supersession may be recorded in writing. Such officers would be eligible for reconsideration after earning two more reports, except in the case of promotion in the grade of Chief Secretary, in which case an officer would be eligible for reconsideration after earning only one more report.

(381)

G.O.Ms.No.147, Genl.Admn. (Spl.B) Dept., dt.01.05.2000 regarding scheme of Vigilance Commission defining jurisdiction, powers etc - clarification issued.

Subject Heading : Vigilance Commission - jurisdiction, powers etc

Subject Heading : V&E Department - cases to be referred to Vigilance Commission for advice

Read the following :

1. G.O.Ms.No.421 G.A.(SC.D) Dept., dt.03.08.93.
2. U.O.Note No.2116/SC.E/96-2 GAD dt.15.09.97.
3. From the VC., AP., Hyd., D.O.Lr.No.622/VC.F1/99-1, dt.31.03.99.
4. From the APVC, Lr.No.329/VC.A2/99-1 dt.30.11.99.

ORDER :

In the G.O. first read above, the jurisdiction, powers and the scheme of the A.P. Vigilance Commission were defined. As per para 5 of the Scheme appended to the G.O. first read above, the Vigilance Commissioner will be responsible for the proper performance of the duties and responsibilities assigned to the Commission from time to time and for generally coordinating the work and advising the Departments / Government Undertakings / Government Companies and such other Institutions as may be notified by the Government from time to time, in respect of all matters pertaining to the maintenance of integrity and impartiality in the administration. The relevant portions of the G.O. first read above, defining the jurisdiction and powers of the Vigilance Commission are extracted below :

2. The Commission will have the Jurisdiction and powers in respect of the matters to which the executive power of the State extends. The powers and functions of the Vigilance Commission will be as follows :

- (i) to cause an enquiry into any transaction in which a public servant including a member of an All-India Service is suspected or alleged to have acted for an improper purpose or in a corrupt manner.
- (ii) to cause an enquiry or an investigation to be made into :
 - (a) any complaint that a public servant had exercised or refrained from exercising his powers for improper or corrupt purposes ;
 - (b) any complaint of corruption, misconduct or lack of integrity or other kinds of malpractices or misdemeanour on the part of a Public Servant.

Explanation :

Corruption as used in the forgoing clauses shall have the same meaning of Criminal misconduct in the discharge of official duties under the provisions of the Prevention of Corruption Act, 1988 (Central Act No.49 of 1988).

- (iii) to call for records, reports, returns and statements from all Departments / Government Undertakings/Government Companies/and such other Institutions as may be notified by Government from time to time so as to enable the Commission to exercise a general check and supervision over the Vigilance and Anti-corruption work in the Departments / Government Undertakings/ Government Companies and such other Institutions as may be notified by the Government from time to time.
- (iv) to make over under his direct control such complaints, information or cases as he may consider necessary for further action which may be either:-
 - a) to ask the Anti-Corruption Bureau to register a regular case and investigate it;

or

 - b) to entrust the complaint, information or case for enquiry:
 - 1) to the Anti-Corruption Bureau

or

 - 2) to the Department / Government Undertakings / Government Company concerned and such other Institutions as may be notified by the Government from time to time.
- (v) In any case, where it appears that the discretionary powers had been exercised for improper or corrupt purposes, the Commission will advise the Department / Government Undertaking / Government Company and such of the Institution as may be notified by the Government from time to time that suitable action may be taken against the Public Servant concerned and if it appears that the procedure of practice is such as affords scope or facility for corruption or misconduct, the Commission may advise that such procedure or practice be appropriately changed or altered in a particular manner.
- (vi) The Commission may initiate at such intervals as it considers suitable review of the procedure and practice of Administration in so far as they relate to the maintenance of integrity in the Administration in all departments of administration.
- (vii) The Commission may collect such statistics and other information as may be necessary.

(viii) The Commission may obtain information about action taken on its recommendations.

3. In the U.O.Note second read above, instructions were issued to the effect that there is no need to seek the advice of the Vigilance Commission before taking a final decision on the enquiry reports submitted by the agencies other than the Anti-Corruption Bureau, ie., Vigilance & Enforcement, CID etc.

4. In the letter third read above, the Vigilance Commissioner brought to the notice of Government that many Departments are of the view that cases which are referred by the Anti-Corruption Bureau only should be referred to the Vigilance Commission for advice and in respect of disciplinary cases initiated by Departments on their own, there is no need to refer them to the Vigilance Commission for advice. He has therefore, suggested to issue suitable instructions to refer all disciplinary cases initiated by the Departments on their own to the Vigilance Commission invariably for advice.

5. Referring to the instructions issued in the U.O.Note second read above, the Vigilance Commission has stated that it would be anomalous not to refer cases of public servants, whose misconduct has been detected by the Director General, Vigilance & Enforcement in a Govt., Department while cases of other public servants in the same department involved in any case of misconduct referred to by the Director General, Anti-Corruption Bureau are referred to Vigilance Commission. He has, therefore, proposed that wherever there is a misconduct in respect of any public servant as brought out in an enquiry by the Director General, Vigilance & Enforcement, such cases of public servants should be referred to the Vigilance Commission, as required under the scheme of the Vigilance Commission, as this would also ensure uniformity in the treatment of disciplinary cases on different public servants of the same department, vide letter fourth read above.

6. In the letter fourth read above, the Vigilance Commissioner while referring to the scheme of the Vigilance Commission requested to issue general instructions to the effect that all cases of corruption and other irregularities which are covered under Para 6 of the Scheme of the Vigilance Commission issued in the G.O. first read above irrespective of the fact whether Anti-Corruption Bureau or other authorities including departmental authorities which enquired into the irregularities, should be referred to Vigilance Commission for advice.

7. After careful consideration of the suggestions made by the Vigilance Commission in the letters third to fourth read above, the Government have decided to accept the suggestion of the Vigilance Commissioner in para (6) above.

8. Accordingly, in supersession of the instructions issued in the U.O. Note second read above, it is hereby ordered that all cases of corruption and other irregularities which are covered under para 6 of the Scheme of Vigilance Commission issued in the G.O. first read above irrespective of the fact whether Anti-Corruption Bureau or other authorities including departmental authorities which enquired into the irregularities, should be referred to Vigilance Commission for advice.

9. All Departments of Secretariat are requested to communicate these orders to all the Government Undertakings, Companies and Institutions under their administrative control, for compliance.

(382)

G.O.Rt.No.1034, F&P (FW.Pen.I) Dept., dt.09.06.2000 regarding pensions - disciplinary cases pending at the time of retirement - finalisation of the proceedings and payment of interest.

Subject Heading : Departmental action - against retired Government Servants, be concluded within time fixed by courts

Subject Heading : Departmental action - against retired Government Servants, where further action dropped, interest on gratuity, only from date of orders

ORDER :

Generally the following two types of cases are being referred to this department for advice :

- (i) Where court directed to dispose off the disciplinary case within a specified time period,
- (ii) Where charges are dropped and interest on pensionary benefits is claimed.

2. In respect of item (i) wherein the disciplinary cases which are pending at the time of retirement and not concluded for a longer period or many years, the courts are directing to conclude such cases within a specified period i.e. say within 2 or 3 months etc, but the departments are not concluding within the specified period. As a result, the final orders issued in such cases imposing either recovery or cut in pension are being dismissed by the courts since it was not concluded within the stipulated period as directed by the courts. As such, ultimately, the accused is being escaped from the punishment due to administrative delay.

3. In the above circumstances, Government hereby order that the disciplinary cases against the retired Government Servant shall be concluded as quickly as possible. If court directs to conclude the same within a specified period, it should be concluded within the said period only. If not, time may be obtained from the court to conclude the same. In such a cases, final orders issued after the period specified by the courts and court dismisses such final order due to non-conclusion of the same within time specified by them, action against the concerned persons shall be taken for not taking prompt action within the time and loss caused if any, thereto the Government in such cases shall be recovered from the concerned.

4. In respect of item (ii) wherein the disciplinary cases which are pending at the time of retirement of the Government Servant and subsequently further action was dropped, the individual is eligible for interest on Retirement Gratuity from the date of issue of final orders thereon. In many cases, where charges and further action was dropped after retirement, the charged officers are requesting for interest from the date of retirement, but not from the date of final orders since charges are dropped.

5. In the above circumstances, Government hereby order that if the department decides to drop the charges, they shall take a decision as quickly as possible and they should draft the order carefully duly indicating that the individual shall be eligible for interest subject to the conditions specified under sub-rule (1A) of Rule 46 of the Andhra Pradesh Revised Pension Rules, 1980 from the date of final orders only. For this purpose, the following lines are prescribed for guidance in respect of the orders proposed to be issued in this regard:"In the circumstances stated above, the Government have taken a lenient view and further action is hereby dropped. The individual is eligible for terminal benefits due to him from the date of issue of these orders."

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G.O.Rt.No.1097, F&P (FW.Pen.1) Dept., dt.22.06.2000 regarding regulation of payment of pensionery benefits to Government Servants retired from service pending disciplinary action - consolidated orders.

Subject Heading : Pensionery benefits of retired Government servants involved in departmental or criminal proceedings - consolidated orders

Read the following :

1. Cir.Memo.No.37254/961/A2/Pen.I/98, dt.04.07.98 of Fin. & Plg. (FW.Pen.I) Dept.
2. Cir.Memo.No.3026/18/A2/Pen.I/99, dt.01.06.99 of Fin.& Plg. (FW.Pen.I) Dept.
3. Cir.Memo.No.37989-A/494/A2/Pen.I/98, dt.21.04.99 of Fin. & Plg.. (FW.Pen.I) Department.
4. G.O.Ms.No.11 Fin. & Plg. (FW.FR.I) Dept., dt.15.01.97.
5. D.O.Lr.No.368/VC.A2/99, dt.17.02.2000 of Vigilance Commissioner, AP, Hyderabad.

ORDER :

The Vigilance Commissioner in the reference 5th read above, has stated that references are being made to the Commission by the Departments of Secretariat wanting to know the terminal benefits that can be sanctioned and those that are necessarily to be withheld on retirement of an Officer facing charges in departmental proceedings or criminal prosecution. Hence he has requested to issue consolidated instructions indicating the terminal benefits that can be released and those that are to be withheld in the above referred cases, so that a lot of unnecessary file work, litigation in Courts and harassment of retired Officers can be prevented. Accordingly, the following orders are hereby issued.

2. According to the existing rules, the following are the terminal benefits to be sanctioned to a retired Government employee.

- 1) Family Benefit Fund

- 2) Andhra Pradesh Group Insurance Amount
- 3) General Provident Fund amount
- 4) Andhra Pradesh Government Life Insurance amount
- 5) Encashment of Earned Leave
- 6) Retirement Gratuity
- 7) Pension / Provisional pension
- 8) Commuted Value of Pension

3. In case of Government Employee against whom the departmental proceedings or criminal proceedings are pending at the time of retirement, all the above terminal benefits need not be released. Proceedings pending means, there must be proceedings already initiated and pending within the meaning of Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980. A Government Servant who attains the age of superannuation while under suspension should be allowed to retire on the due date of superannuation. But pensionary benefits can not be settled until the conclusion of the enquiry or disposal of charges. In such cases, the payment of terminal benefits shall be regulated as follows:

A. The following amounts shall be paid to the retired employee since no recoveries can be made from these amounts:

1. Family Benefit Fund
2. Andhra Pradesh Group Insurance Scheme
3. General Provident Fund
4. Andhra Pradesh Government Life Insurance

B. Encashment of Earned Leave

As per the orders issued in G.O. fourth read above, the authority competent to grant leave, in the above mentioned cases may withhold whole or part of cash equivalent of earned leave, if in the view of the competent authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion, the retired employee will become eligible to the amount so withheld after adjustment of the Government dues, if any. As such, Encashment of Earned Leave can be regulated accordingly.

C. Retirement Gratuity

According to clause(c) of sub-rule(1) of Rule 52 of the Andhra Pradesh Revised Pension Rules, 1980, no Gratuity shall be paid until the conclusion of the departmental or judicial proceedings and issue of final orders.

According to the proviso to the above said rule, where departmental proceedings have been instituted under Rule 9 of the APCS (CC&A) Rules, 1991, for imposing any of the penalties specified in clauses (i), (ii) and (iv) of Rule 9 of the said rules, except the cases falling under sub-rule (2) of Rule 22 of the said rules, the payment of gratuity shall be authorised to be paid to the Government servant. It is also further provided in the said rule that where a conclusion has been reached that a portion of pension only should be withheld or withdrawn and the retirement gratuity remains unaffected in the contemplated final orders, the retirement gratuity can be released upon 80% of the eligible retirement gratuity.

D. Provisional Pension

1. As per sub-rule(4) of Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980, the retired employees mentioned in the above cases shall be sanctioned provisional pension as provided in Rule 52 of the said rules. According to Rule 52 of the said rules, the Audit Officer / Head of Office shall pay the provisional pension not exceeding the eligible pension. The provisional pension shall be paid from the date of retirement to the date on which, final orders are passed by the competent authority on conclusion of the departmental or judicial proceedings pending against the retired employee. The provisional pension shall not be less than 75% of the normal pension entitlement.
2. Pension sanctioning authorities are competent to sanction provisional pension to the non-gazetted officers. It shall be sanctioned by the Government in the case of Gazetted Officers.
3. In the above mentioned cases, the department shall send pension papers to the Accountant General and it should be mentioned in the forwarding letter that departmental / judicial proceedings are pending and with a request to indicate only the quantum of pension that would be admissible which should not be released till further orders as only provisional pension has to be released. The Accountant General may then verify the pensionary benefits admissible and indicate the quantum of pension, where upon, the Head of the department may intimate the

quantum of provisional pension for payment in case of Gazetted Officers, so that Government will sanction the same. The Accountant General, A.P., Hyderabad will straight way authorise the minimum provisional pension i.e., 75% of the quantum of pension verified by his office, pending sanction by the pension sanctioning authority and that if the appropriate authority sanctions more than 75% of the eligible pension as provisional pension. The Accountant General will issue an amendment accordingly.

E. Commuted Value of Pension

No commutation of pension shall be allowed in the above mentioned cases since sub rule 3 of Rule 3 of the A.P. Commutation Rules, do not permit a Government Servant against whom judicial or departmental proceedings has been instituted or pending, to commute any part of his pension during the pendency of such proceedings. Further, in the case of those to whom only provisional pension is granted, if after conclusion, entire pension is withheld, the question of commutation does not arise. In the case of others to whom pension was allowed either in full or in part, the period of one year for commutation without medical examination has to be reckoned from the date of issue of orders on conclusion of the proceedings.

4. Action against a retired officer who commits irregularities can be taken on three counts:

- 1) Criminal Prosecution;
- 2) Disciplinary action; and
- 3) Recovery of the amount

4. In case of the death of the retired officer, action on first two counts will abate but as per the orders issued in the G.O.Ms.No.85, F&P (FW.Pen1) Department, dt.12.07.1999, the loss or mis-appropriated amounts can be recovered from the terminal benefits of the retired officer.

5. If any irregularity of a retired employee is noticed after his retirement and no departmental proceedings can be instituted under sub-rule (2)(b) of Rule 9 of Andhra Pradesh Revised Pension Rules, 1980, the department can initiate criminal action against the retired officer or action under the Andhra Pradesh Revenue Recovery Act, 1864 to recover the loss if any caused to the Government by him.

6. All the departments of Secretariat and pension sanctioning authorities are requested to take action accordingly and finalise the cases as quickly as possible.

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**Circular Note No.320/COI.R/2000-1, Genl.Admn. (COI.R) Dept., dt.01.07.2000:
Drawing of inappropriate conclusions against mediator witnesses in
departmental inquiries to be avoided.**

**Subject Heading : Departmental Inquiry - inappropriate comments against
Government officials and Institutions to be avoided**

It has been brought to the notice of the Chairman, Commissionerate of Inquiries, that one of the Members, Commissionerate of Inquiries, General Administration Department, in his Inquiry Report on one case had observed that the depositions of the mediator and the Inspector (ACB) are one sided as both of them are Government Employees and that they are in favour of prosecution. In this regard, all Members, Commissionerate of Inquiries, are advised to note that it is inappropriate to draw a general conclusion as above. The view of the Inquiry Officer is misconceived particularly when the State Government and the Government of the other States and Centre and the Courts in the Country have commended the practice of utilising the services of Government Servants as mediators to witness various proceedings and given weight to their depositions.

2. In this regard, it is relevant to mention that the Government have issued instructions as early as in the year 1961 in Memo.No.4923/61-1, dt.27.12.61 and later reiterated in Memo.No.2491/SC.E/98-1, dt.20.11.98, that the Government Departments and officers should respond positively to use of the services of Government Employees under their control as mediators, in arranging traps, conducting searches in disproportionate assets cases and organising surprise checks etc., and to extend full cooperation in the matter.

3. The above procedure prevailing in conducting Departmental Inquiries is brought to the notice of all the Members, Commissionerate of Inquiries, General Administration Department, for their information and guidance.

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**Circular Memo.No.32268/Ser.C/2000, Genl.Admn. (Ser.C) Dept.,
dt.04.07.2000 regarding observance of courtesies to M.L.As, M.Ps -
instructions reiterated.**

Subject Heading : MLAs, MPs - observance of courtesies and promptness

Ref : From the Director, Department of Personnel and Training, Ministry of Personnel, Public Grievances & Pensions, Government of India, Office Memorandum No.11013/2/2000 Estt.(A) dt.23.05.2000.

A copy of the reference cited together with its enclosures is communicated herewith.

2. The Departments of Secretariat, Heads of Departments and District Collectors are requested to ensure that the Instructions on Observance of Courtesies to Members of State Legislature and Members of Parliament are strictly complied with.

Copy of Office Memorandum No.11013/2/2000-Estt(A), Ministry of Personnel, Public Grievances & Pensions (Dept., of Personnel and Training) dt.23.05.2000 regarding Official dealings between the Administration and Members of Parliament and State Legislatures - Observance of proper Procedure.

The undersigned is directed to say that the broad guidelines to govern the official dealings between the Administration and Members of Parliament and State Legislatures were issued vide Personnel & A.R. O.M.No.25/19/64-Estt.(A), dt.08.11.1974 (copy enclosed). Although these guidelines were reiterated from time to time vide Department of Personnel & Training O.Ms, dt.21.12.1992 and 29.10.1996 yet there are instances where the laid down procedure and protocol has not been observed properly. The Parliamentary Committee during the course of meeting on demands for grants of Ministry of Home Affairs raised a point that there is a need to issue fresh instructions in the matter as the earlier instructions are not available in most of operative offices. The Committee also observed that letters are not replied in some cases by the person who has been addressed by Member of Parliament/Members of Legislative Assembly.

2. As the Members of Parliament and State Legislatures occupy, in our democratic set up, a very important place as accredited representatives of people they have important functions to perform under the Constitution and they find it necessary to seek information from the Ministries / Departments of the Government of India or the State Governments or make suggestions for their consideration or ask for interviews with the officers in connection with their parliamentary and allied duties. In this connection, certain well recognized principles and conventions to govern the relations between Members of Parliament and of State Legislatures and Government servants have already been established. The existing instructions emphasise that it should be endeavor of

every officer to help Members of Parliament and State Legislatures to the extent possible in the discharge of their functions under the Constitution. The basic principles to be borne in mind by the Government while interacting with the Members of Parliament and State Legislatures are that :

- (i) The Government Servants should show courtesy and consideration to Members of Parliament and State Legislatures ; and
- (ii) that while they should consider carefully or listen patiently to what the Members of Parliament and of the State Legislatures may have to say, they should always act according to their own best judgment.
- (iii) Any deviation from an appointment made with a Member must be promptly explained to him to avoid any possible inconvenience. Fresh appointment should be fixed in consultation with him.
- (iv) An officer should be meticulously correct and courteous and rise to receive and see off a Member visiting him.
- (v) Members of Parliament / State Legislatures of the area to be invariably invited to public function organized by a Government office, proper and comfortable seating arrangements at public functions to be made for Members who appear above officers of the rank of Secretaries to Government of India in Warrant of Precedence.
- (vi) Letter from Members of Parliament and Members of State Legislatures must be promptly acknowledged, and a reply sent at an appropriate level expeditiously. Relevant provisions of the Manual of Office Procedure should be observed in this regard.
- (vii) Information or statistics relating to matter of local importance must be furnished to M.Ps and M.L.As when asked for. If request is to be refused, instructions from higher authority should be taken.
- (viii) A Government Servant should not approach M.Ps/M.L.As for sponsoring his individual case, and
- (ix) Reference from Committees of Parliament must be attended to promptly. A senior officer at the level of Joint Secretary or equivalent should be charged with the responsibility for ensuring this.

- (x) The officers should not ignore telephonic messages left for them by the Members of Parliament/State Legislatures in their absence and should try to contact at the earliest the concerned Member of Parliament / State Legislature.

3. All Ministries / Departments are requested to ensure that the above basic principles and instructions are followed by the concerned in letter and spirit. It may also be impressed on all concerned that violation of the laid down guidelines will be viewed seriously.

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U.O.Note No.3061/SC.E/99-1, Genl.Admn. (SC.E) Dept., dt.26.07.2000 regarding entrustment of departmental inquiries to Commissionerate of Inquiries.

Subject Heading : Commissionerate of Inquiries - type of cases which can be referred

Ref : U.O.Note No.1005/SC.E/97-3 dt. 27.09.97.

The attention of all departments of Secretariat is invited to the reference cited, wherein, all the disciplinary authorities were requested to entrust all pending and future disciplinary cases of Gazetted Officers / Non-Gazetted Officers, wherever considered necessary, by the disciplinary authorities of the Government and Heads of Departments (other than AIS officers) to the Commissionerate of Inquiries duly following the procedure such as framing charges, obtaining the written statement of defence, consideration of the written statement of defence etc. as laid down in the provisions of APCS (CC&A) Rules, 1991.

2. The Chairman, Commissionerate of Inquiries, has reviewed the matter and it was decided to issue instructions to all disciplinary authorities to deal with the Departmental cases of unauthorized absence by themselves without referring them to Commissioner of Inquiries.

3. All Departments of Secretariat and other disciplinary authorities are, therefore, requested to deal with the cases concerning unauthorized absence at the Departmental level only and not to refer them to Commissionerate of Inquiries.

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Circular Memo.No.1728/Spl.B(3)/99-2, Genl.Admn. (Spl.B) Dept., dt.31.07.2000: Recommendations / advice of Vigilance Commission to be given due consideration.

Subject Heading : Vigilance Commission - recommendation, advice to be given due consideration; deviation to be avoided

Ref : 1. G.O.Ms.No.421, G.A.(SC.D) Dept., dt.03.08.93.

2. Memo.No.3148/SC.E/95-1, GAD dt.19.12.95.

The attention of all Departments of Secretariat, all Heads of Departments and all District Collectors is invited to the references cited.

2. Instances have come to the notice of the Government where, the Anti-Corruption Bureau have requested for sanction of prosecution of accused officers and the Vigilance Commission have also recommended prosecution, the concerned administrative department chose to sit in judgment on the recommendation of the Anti-Corruption Bureau and of the Vigilance Commission by examining the same in consultation with Law Department. In certain cases, the legality of the advice of the Vigilance Commission was also examined by the administrative departments.

3. In this connection, all the Departments are informed that the Vigilance Commission was conceptualized as an apex body to exercise general superintendence and control over vigilance matters in administration and ensuring probity in public life. Consultation with Vigilance Commission is essential to ensure that common standards are applied in deciding cases involving lack of probity and integrity in administration. The Vigilance Commission tenders independent and impartial advice to the disciplinary and other authorities in disciplinary cases involving vigilance angle at different stages of investigation, inquiry, appeal, review etc., with an open mind on the action to be taken against public servants on matters vitally affecting the morale of the public. Even though the advice of the Vigilance Commission is not binding on the Government, consultation with the Vigilance Commission is essential when the Government proposes to take disciplinary action against a public servant. It shall not be a mere formality. It shall be with a view to getting proper assistance in assessing

the guilt or penalty proposed to be imposed. The Commission has an advisory role but in exercising its powers and functions, it has the same measure of independence and autonomy as the A.P. Public Service Commission. Further, the issues proposed by the Anti-Corruption Bureau are examined in detail by the Vigilance Commission before sending its recommendations to the Government.

4. In view of the above position, all Departments of Secretariat, all Heads of Departments and all District Collectors are requested to act upon the recommendations/ advice of the Vigilance Commissioner, giving due consideration to the advice of the Vigilance Commission while taking decisions. In cases where the Vigilance Commission have recommended for prosecution of public servants, it is requested that the recommendation of the Vigilance Commission shall not be further examined in the respective department or Law Department from the legal side, as the proposal of the Anti-Corruption Bureau and Vigilance Commission are already scrutinised by their Legal Cells. It is further requested to take into consideration the instructions issued in the Memo second cited, in this regard.

5. All Departments of Secretariat, all Heads of Departments and all District Collectors are also requested to bring the above instructions to the notice of all subordinate offices and other institutions under their control, for strict compliance.

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U.O.Note No.1801/Spl.B/2000-1, Genl.Admn. (Spl.B) Dept., dt.21.08.2000 regarding Vigilance Commission - quarterly review of vigilance, disciplinary and criminal cases.

Subject Heading : Vigilance Commission - quarterly review of cases

Ref: 1. U.O.Note No.192/SC.D/92-1, GAD dt.14.02.92.

2. U.O.Note No.322/SC.D/94-1, GAD dt.10.04.94.

The attention of the all Departments of Secretariat is invited to the references cited, wherein it was requested to convene periodical meetings with the Director General, Anti-Corruption Bureau, Hyderabad and review the pending

cases and communicate copies of the proceedings of such meetings to the Andhra Pradesh Vigilance Commission under intimation to this Department.

2. In the meeting held on 05.05.2000 in the Chambers of the Chief Secretary to Government, to consider the suggestions made by Andhra Pradesh Vigilance Commission for combating corruption in public services, among others, the following recommendation of Andhra Pradesh Vigilance Commission was considered agreed to.

"There should be effective quarterly periodical review of vigilance, disciplinary and criminal cases at the level of Secretary, the Heads of Department, Chief Executives of Public Enterprises and other authorities and all appointing authorities".

3. While reiterating the instructions issued in the references cited, all Departments of Secretariat are requested to review the vigilance, disciplinary and criminal cases, every quarter periodically, at the level of Secretary to Government, Heads of Department, Chief Executives of Public Enterprises and other authorities and all appointing authorities.

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**U.O.Note No.1636/Spl.B/2000-1, Genl.Admn. (Spl.B) Dept., dt.04.09.2000:
To avoid quoting correspondence with Vigilance Commission and A.C.B.
and marking copies of orders.**

Subject Heading : ACB - not to quote in references or charges

Subject Heading : Vigilance Commission - not to mention in references

Ref:- 1. U.O.Note No.2518/SC.E/96-1, GAD dt.04.07.97.

2. U.O.Note No.962/SC.E/97-1, GAD dt.04.08.97.

3. U.O.Note No.2985/SC.E1/98-1, GAD dt.04.01.99.

4. U.O.Note No.302/Spl.B/2000-1, GAD dt.13.03.2000.

The attention of all Departments of Secretariat is invited to the references cited, wherein they were requested not to mention the correspondence with/ and/references received from the Andhra Pradesh Vigilance Commission and

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the Anti-Corruption Bureau, in the orders issued by them, so as to avoid exposure of source of information and advice of the Andhra Pradesh Vigilance Commission. Inspite of above instructions, it has been brought to the notice of the Government that copies of instructions issued to the Anti-Corruption Bureau are again found to be getting marked to other offices.

2. While reiterating the instructions issued in the references cited, all Departments of Secretariat are informed that copies of sanction orders should not be marked to others and also the correspondence between the Anti-Corruption Bureau, Andhra Pradesh Vigilance Commission and the Government should not be exposed in the orders being issued by the departments, in order to avoid likely legal complications. They are requested to follow these instructions scrupulously.

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Circular Memo.No.24637/Ser.C/2000-2, Genl.Admn. (Ser.C) Dept., dt.05.09.2000 regarding departmental inquiries - further instructions.

Subject Heading : Departmental action and prosecution

- Ref : 1. Cir.Memo.No.290/Ser.C/94-2, G.A.(Ser.C) Dept., dt.01.06.94.
2. Govt.Memo.No.650/Ser.C/94-3 G.A.(Ser.C) Dept., dt.06.01.95.
3. Cir.Memo.No.56183/Ser.C/99 G.A.(Ser.C) Dept., dt.15.10.99.
4. From the Vigilance Commissioner, APVC D.O.Lr.No.194/VC.A2/2000-1, dt.16.05.2000.
5. From the Vigilance Commissioner, APVC Lr.No.194/VC.A2/2000-2, dt.01.08.2000.

Rule 20 of A.P.C.S (CC&A) Rules, 1991 deals with the procedure for conducting departmental Inquiry. Instructions were issued vide reference first cited, highlighting the rule position to follow the procedure for initiating departmental Inquiry. In the reference second cited various points on the course of conducting departmental inquiry were clarified. A check list was also communicated vide reference third cited, on departmental Inquiries.

2. In the reference 4th cited, the Vigilance Commissioner, A.P. Vigilance Commission has made certain observations on the “Role and Responsibility of the Inquiry Officers” as follows :

“Inquiring Officers regard themselves to be in the same position as Judges or Magistrates in criminal trials. They take the view that the Presenting Officer is in the position of the “prosecutor” in criminal trials and as the prosecutor cannot also be the judge in its own case, Inquiring Officers have been appointed as neutral third-party Judges or magistrates. This view is far from correct, because it is well-recognised that these Departmental Inquiries which are conducted under the provisions of Rule 20 of the APCS (CC&A) Rules, 1991 applicable to the State Government Servants are “domestic enquiries” in which the disciplinary authority is in the position of a Master in relation to the charged Government Servant”.

“The Departmental Inquiries also have to be held according to the principles of natural justice which are fully incorporated in the C.C.A. Rules. It is the duty of the Inquiring Authority to the charged officers to ensure that these principles of Natural Justice are observed. The distinguishing feature, however, is that the Inquiring Authority, being a creature, or a delegate of the disciplinary authority, also retains, throughout the inquiry, clear responsibilities towards the disciplinary authority”.

“In criminal trials, the entire responsibility for producing the evidence in support of the charge is on the prosecution, and if the prosecution fails to establish the guilt of the accused, the trial Magistrate or Judge will be entirely within his rights to give the benefit of doubt to the accused. The functions of an Inquiring Authority in a departmental proceeding are, however, more active. His duty, on behalf of the disciplinary authority, is to find out all the true facts about the charge. A Presenting Officer is appointed, to assist the Inquiring Authority in presenting the facts in support of the charge. Inquiring Authority may summon the listed or other unlisted witnesses, if he considers that the evidence of such witnesses will materially assist in establishing the true facts”.

“The Inquiring Authority in a departmental proceeding, has no responsibility whatever in the matter of prescribing a penalty on the charged officer and should not in his report go into this question at all, though he may draw attention to certain proved facts which may extenuate the guilt of the charged officer. It is not expected, therefore,

of an Inquiring Authority to launch forth on an analysis of legal technicalities and judicial precedents”.

“The only legal principles with which Inquiring Authorities are primarily concerned are the principles of natural justice which basically are that (i) the charged officer should be given a reasonable opportunity to present his case; (ii) evidence against him should be taken in his presence; (iii) he should have an opportunity to cross-examine the witnesses produced in support of the charges and (iv) he should be given an opportunity to produce his own witnesses and documents. All other laws of procedure have been relaxed for departmental enquiries. Even the provisions of Indian Evidence Act and Criminal Procedure Code, except in so far as they refer to the general principles of natural justice already referred to, are not applicable to a departmental enquiry. The principles of natural justice are already incorporated in the CCA Rules and as long as the Inquiring Authority follows these rules, particularly all the 23 sub-rules of Rule 20, which lay down step by step, stage by stage procedure, neither the disciplinary authority who has appointed him nor the law courts are likely to find fault with the Inquiry”.

“The Supreme Court of India, in the case of Union of India vs. Sardar Bahadur, 1972 SLR SC 355, has clearly held that “a disciplinary proceeding is not a criminal trial and that “the standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt”. It has been held by the Supreme Court in the case of Union of India vs. H.C. Goel, AIR 1964 SC 364 that a High Court under Article 226 of the Constitution should not go into the question of sufficiency or adequacy of evidence in support of a particular conclusion”.

“The emphasis in departmental inquiries is heavily on facts. As the word “Inquiry” itself signifies the main thrust of the Inquiry Officer must be to inquire into all the facts either in favour of or against the charged officer and the quality and excellence of his work will be judged not by his ability to deal with legal technicalities but by his ability to bring out and assess all the facts relevant to the charge and come to findings that are based on formal logic as well as practical common sense. In doing so, while he must give every opportunity to the charged officer under the principles of natural justice and CCA Rules, he must also remember his basic responsibility to the disciplinary authority”.

"When the case for the disciplinary authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Government Servant shall require to sign the record. In a Departmental Inquiry in which the charge is to be proved on the basis of preponderance of probability and the emphasis is on true facts, the charged officer must indicate a coherent line of defence giving his version of what the true facts are. Thus, there is no obligation on the Inquiry Officer to examine any and every witness that the charged officer may suggest".

"Inordinate delay in conducting the inquiry and in submitting the report is the bane of administration. Hardship is caused to a public servant by delay in dealing with a complaint against him. If an inquiry is started against a public servant on the allegation of lack of integrity, he immediately comes under a cloud, and even if subsequently he is cleared of the suspicion against him, the suspense and anguish which he suffers virtually amounts to punishment. It is only fair that all possible delay is avoided in taking the final decision even in a case where the public servant is found guilty".

"This over-riding necessity for conducting and completing departmental inquiries within a relatively short period of time is fully recognised and laid down in the CCA Rules. If inquiries are conducted strictly according to these Rules, an average inquiry not involving too many witnesses and documents, should take between three (3) and four (4) months only. It is deplorable that those provisions of the CCA Rules are honoured more in the breach than in observance, and departmental inquiries even on petty charges are found to linger on for years".

3. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to keep in view scrupulously the above observations and bring to the notice of all concerned for compliance.

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U.O.Note No.1788/Spl.B/2000-1, Genl.Admn. (Spl.B) Dept., dt.14.11.2000 regarding combating corruption in public services - separation of vigilance and disciplinary matters from service matters.

Subject Heading : CVOs - to be in complete charge of vigilance and disciplinary matters

Subject Heading : Vigilance Commission - separation of vigilance, disciplinary matters from service matters in Secretariat etc.

Ref : 1. G.O.Ms.No.421 G.A.(SC.D) Dept., dt.03.08.93.

2. G.O.Ms.No.147 G.A.(Spl.B) Dept., dt.01.05.2000.

All Special Chief Secretaries / Principal Secretaries / Secretaries to Government are informed that the Andhra Pradesh Vigilance Commission have made certain suggestions, among others the following for combating corruption in public services:-

"Reorganisation of work in the Secretariat, offices of the Heads of Departments, public enterprises and other bodies to which the jurisdiction of the Commission extends may be undertaken in such a way that vigilance and disciplinary matters are separated from other service matters and centralised in clearly identifiable vigilance sections. Depending on the volume of work, disciplinary matters relating to corruption, criminal misconduct and misappropriation in each Secretariat Department, office of Heads of Departments, Public Enterprises etc., should be dealt with in one or more sections exclusively report to one or more Asst.Secretaries / Supervising officials, who in turn report to the Chief Vigilance Officer in the Secretariat Department or Vigilance Officer (VO) in the office of the head of the department or enterprise or authority.

The Chief Vigilance Officer should be in complete charge of the entire vigilance and disciplinary function of the whole department and report to the Secretary or all the Secretaries in charge of the department in respect of Vigilance matters concerning them. Vigilance Officers would similarly report to the head of the department or Chief Executive of Public Enterprise as the case may be. It is only this way that unified handling of vigilance matters and effective exercise of supervision as envisaged in the Scheme of the Vigilance Commission can be ensured".

2. Government, after careful examination, have accepted the recommendation of the Andhra Pradesh Vigilance Commission. All Special Chief Secretaries / Principal Secretaries / Secretaries to Government and all District Collectors and Heads of Departments are requested to take action as recommended above by the Andhra Pradesh Vigilance Commission in respect of matter falling within the jurisdiction of Andhra Pradesh Vigilance Commission, under their administrative control.

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U.O.Note No.1067/L&O-I/A1/2000-4, Genl.Admn. (Law&Order-I) Dept., dt.30.12.2000 regarding investigation of criminal cases by C.I.D.

Subject Heading : C.I.D. - referring of cases, guidelines

- Ref: 1. Memo.No.4845/59-2, G.A.(Ser.A) Dept., dt.13.02.1960.
2. U.O.Note No.4457/Genl.A/72-1, G.A.Dept., dt.13.09.72.
3. U.O.Note No.1353/Genl.B/85-1, G.A.Dept., dt. 24.10.85.
4. U.O.Note No.30772/L&O/A1/98-1, G.A.(L&O) Dept., dt.09.09.98.
5. From the Addl.DGP, CID, A.P., Lr.C.No.691/C23/CID/2000, dt.20.05.2000 & 21.11.2000.

In the U.O.Note 2nd cited, instructions were issued regarding the procedure to be followed in entrusting the cases to crime Branch, CID for investigation. The Departments of Secretariat were requested to consult Home Department before entrusting any case to the CB-CID for investigation. The Director General & Inspector General of Police, A.P., Hyderabad informed that despite the instructions, CB-CID is receiving a number of references from all Departments of Secretariat as well as Heads of Departments for investigating simple cases and for inquiries into certain anonymous and pseudonymous petitions which in normal course should be referred to him for referring them to the local police and requested that instructions already issued in this regard may be reiterated and all simple cases for investigation and petitions in which police enquiry is felt essential should be referred to the Director General & Inspector General of Police, A.P., Hyderabad.

2. Accordingly, instructions were reiterated in the U.O.Notes 3rd and 4th cited to all the Departments of Secretariat, to keep in view the instructions already issued in the U.O.Note 2nd cited and also the above suggestion of the Director General & Inspector General of Police, A.P., Hyderabad while deciding matters to be referred to CB-CID for investigation.

3. It is noticed that inspite of the above instructions, instances of isolated criminal misconduct by Government Servants still continue to be referred to CB-

CID on occasions without reference to Home Department. Cases are also being entrusted to CID for investigation, by the Secretaries to Government by issuing Government Orders without ink signatures of the competent authority. Complaints are being sent to CB-CID in the form of letters enclosing Departmental Preliminary Enquiry Reports, Audit Reports, Reports of Vigilance & Enforcement Department, Anti Corruption Bureau etc., which invariably do not contain material particulars, which attract the essential ingredients of the penal provisions to constitute cognizable offences.

4. To establish the offences of misappropriation, cheating, forgery and use of forged documents, utilisation of fake certificates etc., it is essential that :

- a) The complaint lodged by competent authority should contain specific information regarding details of crime and persons responsible, amount involved and the matter or mode of commission of offence.
- b) The details of crime should contain essential ingredients of cognizable crime. Essential ingredients of some instances of criminal misconduct by the Government Servants are at Annexure-I.
- c) Whenever a complaint involving misappropriation of public funds is preferred, it should be mandatory to initiate departmental audit to establish the instances and amounts of misappropriation. Steps should be taken by the concerned officers to ensure preservation of original documents i.e., bills, vouchers, etc. Requisitions should be sent to the Treasury authorities / AG Office with a specific request to preserve the documents, which would prove the culpability of persons responsible for such frauds / misappropriation. Specimen signatures and admitted handwritings of persons responsible for misappropriation, fraud, etc., should be made available to the investigating agency.
- d) For expeditious and proper investigation it is also imperative that relevant records of the case, like forged documents, duplicate copies of vouchers, audit report, preliminary enquiry report conducted by respective department, note files, registers, etc., are handed over (in original) to the CID with xerox copies being retained by the department concerned.

5. All the Departments of Secretariat are, therefore, requested to only lodge comprehensive complaints with CID containing details of the crime, persons responsible for the commission of such offences. Complaints should be lodged with original signatures of the officers who are fully acquainted with the facts of the case and have been associated with preliminary or departmental enquiry. Copies of relevant documents should also be enclosed along with the complaint. The departments preferring complaints should also ensure collection and safe custody of original documents relating to the offence.

6. Whenever a scheduled offence (involving the money of the Government under the provisions of Criminal Law Amendment Ordinance of 1944) is committed, the concerned departmental officers should collect the necessary data regarding movable / immovable property of the persons responsible for commission of offence, so that such properties are subjected to attachment. Even the monetary and pensionary benefits to such public servants should be released only after the investigating agency is consulted.

7. Investigating Officers are finding it extremely difficult to trace the original documents, officers and witnesses besides relevant records which are required for their investigation. Therefore, the services of an officer who is well acquainted with the case should be available to the Investigating Officer who will be in liaison with him in connection with the investigation of the case.

8. In G.O.Ms.No.677, General Administration (Services-D) Department, dt.30.05.1961, the Government directed all the Heads of Offices to hand over the records requisitioned by the Officers of the Anti-Corruption Bureau and to render all necessary assistance to the Investigating Officers. The said instructions are also made applicable in respect of cases being investigated by CID.

9. Senior Civil Servants who are defacto complainants in criminal cases or who are intimately acquainted with the facts and circumstances of the cases and whose evidence is relevant and material to prove the case in a Court of Law should tender their evidence when examined by the Investigating Officers of the CID in a Court of Law.

10. In the reference 1st cited, instructions have been issued by the Government regarding disposal of departmental action in cases where criminal action is initiated. The said instructions are reiterated for strict compliance.

11. A Check list for referring cases to CB-CID is enclosed as Annexure-II for guidance to the concerned, which shall be followed before consulting the Home Department.

12. All Departments of Secretariat should send a quarterly return on cases referred to CID covering the following particulars:

- a) Brief facts of the case indicating specific omissions & commissions committed by individual officers constituting a criminal offence.
- b) Details of documents furnished to the Investigating Agency
- c) Steps taken for ensuring speedy progress of investigation including appointment of a Nodal Officer to assist the Investigating Agency.

13. All the Departments of Secretariat are requested to issue suitable instructions to the Heads of Departments under their control in this regard.

ANNEXURE - I

ESSENTIAL INGREDIENTS OF COGNIZABLE OFFENCES ACCUSED:

1. That the accused should either be a public servant or an Agent.
2. That he should have been in such capacity entrusted with the property in question or with dominion over it.
3. That he committed criminal breach of trust in respect of it.

CHEATING : Sec. 420 IPC

1. There must be deception by the accused, and
2. By the said deception, the accused must dishonestly induce the complainant—
 - a) to deliver any property to any person or
 - b) to make, alter or destroy the whole, or any part, of the valuable security or anything which is signed or sealed and which is capable of being converted into a valuable security.

FORGERY : Sec. 468 IPC

1. The disputed document is a forgery ;

2. The accused forged the document and
3. He did so intending that the document forged shall be used for the purpose of cheating.

USING AS GENUINE A FORGED DOCUMENT: Sec. 471 IPC

- (i) the document in question was a forged document ;
- (ii) the accused used the said forged document as a genuine document ;
- (iii) he knew, or he had reason to believe, that it was a forged document when he used it ; and
- (iv) he used it fraudulently or dishonestly.

ANNEXURE - II

CHECK LIST FOR REFERRING CASES TO CB-CID

- * Examine whether misconduct of Govt. servant warrants Departmental action or Criminal action.
- * If misconduct of Government Servant warrants Criminal action examine whether the facts of the case attract penal provisions of Law.
- * In case it is prima facie established that the facts of the case constitute a cognizable offence, the Officer fully acquainted with the case should be directed to lodge a self contained complaint with the CB-CID under his signature.
- * Action should also be taken to preserve incriminatory material evidence in cases of scheduled offences involving Government money. Action should also be initiated to collect details of movable/immovable properties of the accused.
- * For facilitating expeditious completion of investigation the Department concerned should be directed to nominate a Nodal Officer.

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**Memo.No.59391/Ser.C/2000-2, Genl.Admin. (Ser.C) Dept., dt.11.01.2001
regarding common proceedings - further instructions.**

Subject Heading : Common Proceedings - guidelines

- Ref: 1. Govt.Memo.No.510/Ser.C/93-2, G.A.(Ser.C) Dept., dt.18.11.93.
2. G.O.Ms.No.82 G.A.(Ser.C) Dept., dt.01.03.96.
3. From the Vigilance Commissioner, A.P. Vigilance Commission Lr.No.524/VC.A2/ 2000-1, dt.06.12.2000.

According to sub-rule (i) of Rule 24 of the APSCS (CC&A) Rules, 1991 where two or more Government Servants of the same service or different services are involved in any case disciplinary action against all of them may be, taken in a common proceedings.

2. In the reference first cited, guidelines were issued regarding imposition of penalties.

3. It is noticed that the above rule and the instructions are not being properly complied with and the departments concerned are ordering the inquiries separately for each category of officer, even though the irregularities are committed jointly in a particular case or event. Further different disciplinary authorities are concluding the disciplinary proceedings without the consent of the other authorities, which is contrary to the provisions of Rule 24 of the APSCS (CC&A) Rules, 1991 and therefore uniformity is lost. This has resulted in discrimination.

4. The Government reiterates that when two or more officers are involved in a disciplinary case, it shall be invariably necessary to order common disciplinary proceedings as per Rule 24 of the APSCS (CC&A) Rules, 1991 irrespective of whether they belong to the same service or different services or departments if their services are covered under APSCS (CC&A) Rules, 1991. The departments should first consider the entrustment of such disciplinary cases to the Tribunal for Disciplinary Proceedings or the Commissioner of Inquiries, having regard to the class and category of officer or nature of the issue involved. On the findings of inquiry, the disciplinary authority designated as per rule 24 of the APSCS (CC&A) Rules, 1991 shall take a decision on the penalty to be imposed or otherwise to conclude disciplinary proceedings.

(394)

**Memo.No.32351/Ser.C/2000-1, Genl.Admin. (Ser.C) Dept., dt.11.01.2001
regarding review of orders of suspension.**

Subject Heading : Suspension - proforma of order of review

- Ref: 1. Memo.No.904/Ser.C/67-1, dt.29.05.1967.
2. Memo.No.768/Ser.C/83-1, dt.25.08.1983.
3. G.o.Ms.No.578, G.A. (Ser.C) Dept., dt.31.12.1999.
4. From the Secretary to Vigilance Commissioner, A.P.V.C. D.O.Lr.No.234/VC.A2/2000-1, dt.30.06.2000 and 05.01.2001.

The order of suspension issued as per Rule 8 of the APCS (CC&A) Rules, 1991, shall be reviewed at an interval of every six months in accordance with the instructions issued in the reference first cited. The authorities empowered to review the order of suspension have been indicated in the order 3rd cited. After review of the order of suspension in each case, at every six months, the authority competent to review shall issue a specific order, if it is decided to continue the individual under suspension, in the following proforma:-

"The order of suspension of Sri / Smt.....has been reviewed and it has been decided that the said individual shall continue to be under suspension. The quantum of subsistence allowance payable in terms of F.R. 53 is also reviewed and it has been decided that the said individual be paid subsistence allowance along with D.A. and other compulsory allowances at the enhanced rate with immediate effect".

2. The Departments of Secretariat, the Heads of Departments and District Collectors are requested to bring these instructions to the notice of all concerned for strict compliance.

(Note : See Part II for Proforma (No.7)

(395)

U.O.Note No.58414/Ser.C/2000-3, Genl.Admn. (Ser.C) Dept., dt.07.02.2001 regarding entrustment of inquiries to Tribunal for Disciplinary Proceedings - format prescribed.

Subject Heading : TDP - referring of cases – proforma

The disciplinary cases emanated out of investigations by the Anti-Corruption Bureau or otherwise for imposing any of the penalties specified in Clauses (vi) to (x) of Rule 9 of the APCS (CC&A) Rules, 1991 are required to be inquired into either by appointing Departmental Inquiry Officers or by the Commissioner of Inquiries or by placing the accused officers on his defence before the Tribunal for Disciplinary Proceedings. In G.O.Ms.No.82, General Administration (Services.C) Department, dt.01.03.1996, a format for appoint of Inquiring Authority was also prescribed.

2. Under sub-rule (1) of Rule 3 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989 and instruction 8 (8) and 8 (9) of the Andhra Pradesh Vigilance Commission Procedural Instructions, the Government is empowered to take a decision in consultation with the Vigilance Commissioner, Andhra Pradesh Vigilance Commission for placing Government Employee or Employees on defence before the Tribunal for Disciplinary Proceedings.

3. Accordingly, a format to place the accused Government Employee or Employees on defence before the Tribunal for Disciplinary Proceedings is Annexed to this U.O.Note.

4. The Departments of Secretariat are requested to follow the format, while issuing orders entrusting the disciplinary case, for detailed inquiry, to the Tribunal for Disciplinary Proceedings.

(Note : See Part II for Proforma (No.23)

(396)

Circular Memo.No.58414/Ser.C/2000-4, Genl.Admn. (Ser.C) Dept., dt.07.02.2001 regarding appointment of departmental Inquiry Officer – instructions.

Subject Heading : Inquiry Officer - should be superior in rank to Charged Officer

Ref: 1. G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.96.

2. Govt.Circular Memo.No.56183/Ser.C/99, dt.15.10.99.

3. Govt.Memo.No.46733/Ser.C/99, dt.22.10.99.

In the reference 1st cited, certain formats were prescribed under the Andhra Pradesh Civil Services (CCA) Rules, 1991, among others, a format for appointment of Enquiry Officer under Rule 20 of the said rules was prescribed. In the reference 2nd cited, a check list was prescribed on submission of Inquiry Report.

2. In the reference 3rd cited, instructions were issued, on the need for appointment of an Inquiry Officer under Rule 20 of the APCS (CC&A) Rules, 1991 for imposing major penalty, instead of the Disciplinary authority itself conducting Inquiry into the charges. The Supreme Court of India in its Judgement in Manaklae vs. Dr. Premchand Singh reported in (AIR 1957) SC 425 observed that the disciplinary authority shall have clear application of mind and unbiased view in dealing with the disciplinary cases against Government Servants. In the light of observations of the apex court, the disciplinary authority shall necessarily appoint an Inquiry Officer under the Andhra Pradesh Civil Services (CCA) Rules, 1991, when the disciplinary authority proposes to conduct detailed inquiry in cases where in the opinion of such disciplinary authority, the charge if proved warrants imposing any major penalty, instead of disciplinary authority itself taking up the enquiry, unless such appointment of the Inquiry Officer becomes impossible in view of the non-availability of the Officers in the Department. Such cases shall be very rare and generally would obtain in very small Departments.

3. Many a time clarification is being sought for on the status of the Inquiry Officer, whether the Inquiring Authority should be above the rank of accused officer or otherwise.

4. It is clarified that whenever it is decided to appoint an Inquiring Authority under Rule 20 of the Andhra Pradesh Civil Services (CCA) Rules, 1991 such Inquiring Authority should be above the rank of the accused officer.

(397)

**Memo.No.80-81/Ser.C/2001-1, Genl.Admn. (Ser.C) Dept., dt.28.02.2001
regarding proposals to be sent to Andhra Pradesh Public Service
Commission in disciplinary cases.**

**Subject Heading : Andhra Pradesh Public Service Commission - proforma
for consultation**

- Ref: 1. Govt.Memo.No.655/Ser.C/90-1, G.A.(Ser.C) Dept.,dt.17.08.90.
2. From the Principal Secretary, APPSC, D.O.Lr.No. 271/RT.I/2/2001,
dt.08.02.2001.

Instructions were issued in the reference 1st cited in regard to consultation with the A.P. Public Service Commission for its concurrence, as per Regulation 17 of Andhra Pradesh Public Service Commission Regulation, 1963, before a major penalty on delinquent Government employees in disciplinary cases. A check list on proforma was also prescribed therein to furnish a details for seeking the advice for the Andhra Pradesh Public Service Commission.

2. It has been brought to the notice that in several disciplinary cases, the particulars as per the check-list are not furnished by the Departments and inspite of reminders from the Commissioner, which resulted abnormal delay in tendering advice by the Commissioner.
3. Government reiterate the instructions issued in the reference 1st cited.
4. The Departments of Secretariat / Heads of Departments / District Collectors and District Judges are requested to ensure that the instructions issued are followed scrupulously.

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G.O.Rt.No.1625 Genl.Admn. (Spl.B) Dept., dt.04.04.2001 (as amended by G.O.Rt.No.4242, Genl.Admn. (Spl.B) Dept., dt.27.09.2001) regarding setting up of High Level Committee to

review progress of inquiries, investigation of cases etc.

Subject Heading : High Level Committee - to review progress of inquiries, investigation

O R D E R :

Government places the highest importance on providing clean and corruption-free administration in the state. Government have reviewed the progress of investigation of cases by various investigating agencies and the disposal of enquiries being undertaken by inquiring agencies and on the progress of Departmental inquiries against conduct of public servants. In order to ensure

cohesive and prompt action by all concerned in taking anti-corruption related activities, it has been decided to set up a high level committee to :

- (i) Review the progress of investigation into complaints / adverse news paper reports etc. referred by Government to various Departments / Anti-Corruption Bureau / Director General (Vigilance & Enforcement), for enquiry.
- (ii) Review the progress of investigation of cases by the Anti-Corruption Bureau, Director General (Vigilance & Enforcement) and cases involving public servants filed by various Departments before the Central Bureau of Crime Investigation Department (CBCID) and local police.
- (iii) Review the progress of enquiries by Commissionerate of Inquiry, Tribunal for Disciplinary Proceedings, Departmental inquiries against office staff : and
- (iv) Watch and monitor the progress of disposal of Anti-Corruption Bureau cases in Special Court and other important cases.

The Committee shall consist of :

1	Chief Secretary to Government	Chairman
2	Director General & Spl.C.S. to Govt., Dr. MCRHRD Institute	Member
3	Spl.Chief Secretary to Government (Governance, P.M.& Admn.Reforms)	Member
4	Secretary to Govt. (Coordination), G.A.D.	Member
5	Director General and Inspector General of Police, Hyderabad	Member
6	Chairman, Commissionerate of Inquiries	Member
7	Chairman, Tribunal for Disciplinary Proceedings, Hyderabad	Member
8	Director General (Vig. & Enforcement) E.O. Prl. Secy., General Admn. Department	Member
9	Director General, A.C.B., Hyderabad	Member

10	Inspector General (Intelligence)	Member
11	Secretary (Pol) General Admn.	
	Department	Convenor

(Nos. 2,3 and 4 included by G.O.Rt.No.4242, Genl.Admn. (Spl.B) Dept., dt.27.09.2001)

2. The Committee shall meet once in a month or as often as necessary.

(399)

Circular Memo.No.58226/Ser.A/2000-2, Genl.Admn. (Ser.A) Dept., dt.01.05.2001 regarding appointment on compassionate grounds - termination with show cause notice for neglecting family members.

Subject Heading : Compassionate appointment - termination for neglect of family members

- Ref : 1. G.O.Ms.No.1005, Employment & Social Welfare Department, dt.27.12.1974.
2. G.O.Ms.No.504, G.A.(Ser.A) Department, dt.20.10.1980

The Scheme of compassionate appointment to the dependents of deceased Government employees and to the dependents of Government employees who retire on medical invalidation was evolved to provide immediate relief to the families of Government employees. Among several welfare measures initiated by the Government to its employees, the scheme of compassionate appointments, is a well thought of social security measure. The obvious thrust is to instill a sense of "feel secure" confidence among the employees who are the tools of administrative machinery. To streamline and strengthen the scheme of compassionate appointments to the dependents of Government employees, several clarifications were issued for the larger benefit of the dependents of Government employees.

2. Instances have come to the notice of the Government, that in certain cases, the person appointed on compassionate grounds is not looking after the other dependents of the deceased Government employees or the employees who retired on medical invalidation, whereby the distress of the dependents was not redressed. This is causing much concern and it is apprehended that the

object of the scheme of compassionate appointments is not reaching the needy. Keeping this situation in view, it is considered necessary to streamline further the scheme of compassionate appointment to the dependents of Government employees and issue the following further instructions.

3. In the offer of appointment on compassionate grounds to the dependents of deceased Government employees and to the dependents of Government employees who retire on Medical invalidation, the following condition, among others, should be incorporated :

"An undertaking in writing should be given that he / she (the person appointed) will maintain properly the other family members who were dependent on the Government Servant (deceased Government employee / Government Employee who retired on medical invalidation) and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him / her the appointment may be terminated forthwith".

4. The appointment on Compassionate grounds can be terminated on the ground of non-compliance of any conditions stated in the offer of appointment after providing an opportunity to the compassionate appointee by way of issue of show cause notice asking him / her to explain why his / her services should not be terminated for non compliance of the condition in the offer of appointment and it is not necessary to follow the procedure prescribed in the Andhra Pradesh Civil Services (Classification Control and Appeal) Rules / Andhra Pradesh State and Subordinate Services Rules or any rules in force.

5. The power of termination of services for non-compliance of the conditions in the offer of compassionate appointments shall be exercised by the Secretary to Government of the Administrative Department concerned in respect of appointments in the Department of Secretariat or the Head of the Department in the case of other offices.

6. The Departments of Secretariat, Heads of Departments and the District Collectors are requested to follow the above instructions scrupulously.

(400)

**Memo.No.2045/Spl.B/2000-3, Genl.Admn. (Spl.B) Dept., dt.25.05.2001
regarding speedy disposal of trap and disproportionate assets cases.**

Subject Heading : Traps - Final Report, within a month

CIRCULAR NO. (401)

- Ref : 1. Government Memo.No.700/SC.D/88-4, GAD, dt.13.02.89.
 2. Govt.Memo.No.611/Spl.B(3)/99-1, dt.19.8.99.

The attention of the Director General, Anti-Corruption Bureau, Andhra Pradesh, Hyderabad is invited to paras 93, 96 and 124 of the Anti-Corruption Bureau Manual, and the instructions issued in the Memos first and second cited, prescribing time limits for disposal of trap cases and cases relating to possession of assets disproportionate to income. He is informed that the Andhra Pradesh Vigilance Commission, have among others, recommended that, as soon as a trap is laid, a message as in the case of a grave crime report may be sent with the essential details to all concerned, followed, within a month, by a final report. This recommendation of the Vigilance Commission has been agreed to, and accordingly, the Director General, Anti-Corruption Bureau, Andhra Pradesh, Hyderabad is requested to take action as recommended by the Andhra Pradesh Vigilance Commission.

(401)

Memorandum No.2045/Spl.B/2000-4, Genl.Admn. (Spl.B) Dept., dt.25.05.2001 regarding suspension of accused officers involved in trap cases.

Subject Heading : Suspension - in trap cases

- Ref : 1. Memo.No.240/SC.D/93-3, GAD, dt.05.10.1993.
 2. Memo.No.554/Ser.C/93-6, GAD, dt.26.12.1994.
 3. Memo.No.713/Ser.C/94-1, GAD, dt.04.04..1995.

The attention of all Departments of Secretariat, all Heads of Departments and all District Collectors is invited to the instructions issued in the references cited. In the references first and second cited, instructions were issued that, where the accused officer is caught red-handed in the act of accepting bribe and where the phenolphthalein test has yielded positive result, such cases can be classified as successful trap and the charged officer has to be placed under suspension on the preliminary report received from the Anti-Corruption Bureau. In the memo third cited, further instructions were issued to the competent authorities to suspend the accused officer even without waiting for

recommendations of the Vigilance Commission in cases where the accused officer is caught red handed and the phenolphthalein test yields positive result.

2. While reiterating the above instructions, competent authorities are requested to place the trapped officer under suspension pending prosecution without the need for any instructions from any quarter, as soon as an intimation giving details of the trap is tendered by the Anti-Corruption Bureau.

3. All Departments of Secretariat, all Heads of Departments and all District Collectors are requested to follow the above instructions scrupulously and also communicate the same to the concerned disciplinary authorities under their control for their guidance.

(402)

U.O.Note No.599/Spl.B/99-1, Genl.Admn. (Spl.B) Dept., dt.31.05.2001 regarding cases investigated by V&E Dept. - Draft articles of charges, appointment of Presenting Officer etc.

Subject Heading : V&E Department - preparation of draft articles of charges etc.

Ref: U.O.Note No.3095/SC.C/97-2, G.A.(SC.E) Dept., dt.31.03.98.

In the U.O.Note cited instructions were issued to all Departments of Secretariat and Heads of Departments to obtain draft articles of charges and other material etc. as per the provisions laid down in AIS (D&A) Rules and APKS (CC&A) Rules, 1991 from the General Administration (V&E) Department in respect of the enquiries conducted by the said agency before initiating disciplinary proceedings against Government servants.

2. The Director General (Vigilance & enforcement) and Ex-Officio Principal Secretary to Government has stated the G.A(V&E) Dept., is only an Inquiring Authority and all its recommendations pertain to various enquiries conducted by them are purely recommendatory in nature and it is for the administrative Department concerned to take action on the recommendations. The Director General has also stated that the draft articles of charges, statement of imputations etc. should be prepared by the administrative Department concerned as they do not have any legal cell or legal advisor unlike A.C.B. Since the instructions issued in the U.O.Note cited resulted in bringing pressure on them

to furnish the draft articles of charges etc. pertaining to the enquiry conducted by them the D.G. has requested to cancel the instructions issued in the U.O.Note cited, and entrust the work of preparation of draft articles of charges, imputations etc. to the enquiry officers appointed by them to conduct enquiries based on the reports / recommendations of Vigilance and Enforcement Department in accordance with the APKS (CC&A) Rules. The D.G. has further informed that the G.A. (V&E) Dept., will continue to extend all co-operation by associating themselves with the Officers of Administrative Departments concerned in conducting the inquiries whenever necessary as advised by the Vigilance Commissioner.

3. After carefully examining the matter in consultation with the Vigilance Commissioner, Government hereby issue the following instructions in supersession of the instructions issued in the U.O.Note cited :

- 1) All Departments of Secretariat and Heads of Departments are requested to entrust preparation of the draft articles of charges, statement of imputations etc. utilising their own resources. Administrative Departments should develop the needed expertise and it will stand them in good stead in pending disciplinary cases arising within the Department.
- 2) The Director General and Ex-Officio Principal Secretary to Government, General Administration (Vigilance and Enforcement) Department is requested to issue necessary instructions to all the investigating officers and other officers in his Department to send all the documents along with their report of inquiry / investigation or in due course. They will also render assistance in identifying the witnesses and documents to be cited in support of articles of charge and in securing appearance of witnesses at the inquiry. Where it is considered necessary an officer of the V&E Department may be appointed as presenting officer.

4, All the Departments of Secretariat and Heads of Departments are requested to follow the above instructions with immediate effect.

(403)

U.O.Note No.858/Spl.B/2000-3, Genl.Admn. (Spl.B) Dept., dt.10.07.2001 regarding preventive measures in combating corruption - display of notice.

Subject Heading : Corruption - exhibition of Notice Board inviting complaints

Prevention is better than cure and prevention of corruption is better than the post-corruption hunt for the guilty. Keeping this in view, the Government is determined to improve the vigilance administration vis-a-vis system improvements to prevent the possibilities of corruption. It has, therefore been decided to prominently display a standard notice board at the reception of each of their offices to catch the attention of public, written in English, Telugu, Urdu and Hindi displaying :

"DO NOT PAY BRIBES. IF ANYBODY OF THIS OFFICE ASKS FOR BRIBE OR IF YOU HAVE ANY INFORMATION ON CORRUPTION IN THIS OFFICE OR IF YOU ARE A VICTIM OF CORRUPTION IN THIS OFFICE, YOU CAN COMPLAIN TO THE HEAD OF THIS DEPARTMENT OR THE CHIEF VIGILANCE OFFICER. (Name, complete address and telephone numbers have also to be mentioned against each)

2. All the Departments of Secretariat are, therefore, requested to follow the above instructions and also to instruct the Heads of Department under their administrative control to strictly follow the above instructions.

(Note : See Part II for Proforma (No.46)

(404)

U.O.Note No.757/Spl.B/2001-1, Genl.Adminn. (Spl.B) Dept., dt.18.07.2001 regarding Vigilance Commission - maintenance of secrecy of files dealing with disciplinary matters, by Departments.

Subject Heading : Vigilance Commission - secrecy of movement of files

All the Departments of Secretariat are informed that it was brought to the notice of the Government that officers accused of corruption against whom Departmental/criminal proceedings are pending are approaching the Andhra Pradesh Vigilance Commission seeking early clearance of the file referred for its advice. Obviously, officers handling disciplinary matters are disclosing information to the accused officer causing considerable inconvenience and embarrassment to the Commission. This is an undesirable practice.

2. All the Departments of Secretariat are therefore, requested to see that accused officers do not have access to officers handling disciplinary matters

in the Department except at the level of the Chief Vigilance Officers. It should also be ensured that the movement of files is not revealed to the accused officer. Advice of the Commission is strictly confidential and even correspondence with the Commission is not to be quoted in any reference of the Department.

3. All the Departments of Secretariat are therefore, requested to follow the above instructions strictly.

(405)

Memo.No.24313/Ser.C/2000, Genl.Admn. (Ser.C) Dept., dt.26.07.2001 regarding Disciplinary proceedings - empowering of District Collectors – clarification.

Subject Heading : Departmental action - against District officials, initiation by District Collectors

Ref : From D.G., ACB,Hyd, C.No.27/RPC(C)/2000, dt.25.04.2000.

The attention of Director General, Anti-Corruption Bureau is invited to the letter cited wherein the following two points were raised.

Point No. 1 : The empowering of the District Collectors to institute disciplinary proceedings against district officials per se without going into the merits of the decision, would appear to be within the power vesting in the Government in that regard under Rule 19(1) (a) of the APCS (CC&A) Rules, 1991. But the District Collectors so empowered to institute disciplinary proceedings under Rule 19(1) (a) of the APCS (CC&A) Rules, 1991 will have to initiate proceedings as per the procedure laid down under Rule 22 in the case minor penalty proceedings by issuing a charge memo or under Rule 20 in the case of major penalty proceedings by issuing a charge sheet. The Rules do not provide for initiation of disciplinary action by issuing a show cause notice, obtaining explanation and sending material to the head of Department or Government for taking further action.

Point No. 2 : The APCS (CC&A) Rules, 1991 apply to members of the Civil Services of the State i.e. Holders of Civil posts in connection with the affairs of the State etc., and not to the members of the All-India Services, who are governed by the All-India Services (D&A) Rules, 1969 and as such, the District Collectors empowered under Rule 19(1)(a) of the APCS (CC&A) Rules, 1991 cannot exercise power in respect of members of an All-India Service like a

Superintendent of Police, heading the police force of the district or an IAS or Indian Forest Service Official. Institution of proceedings against members of the All-India Services is governed by the provisions of rule 7 of the AIS (D&A) Rules, 1969 and State Government is the authority in respect of members of an All-India Service serving in connection with the affairs of the State, as per sub-cl.(1) of clause (b) of sub-rule (1) of Rule 7 thereof. The State Government have no power to empower District Collectors, or any other authority to institute disciplinary proceedings under the said Rules. The same is the position in respect of District Officials not governed by the APCS (CC&A) Rules, 1991.

2. The above two points have been examined and the Director General, Anti-Corruption Bureau is informed that the orders were issued in G.O.Ms.No.77, General Administration (Ser.C) Department, dt.27.02.1996 empowering the District Collector to invoke Rule 19 of APCS (CC&A) Rules, 1991, is limited to the issue of a show cause notice against the erring District Officials to submit their explanation for the lapses if any, mentioned in the show-cause notice. A show cause notice is not a charge memo in terms of the Rule 20 or 22 of the said rules.

3. As regards the second point the Director General, Anti-Corruption Bureau, is informed that the District Collectors are not competent to issue show-cause notice to the District Officials belonging to the All-India Services in terms of G.O.Ms.No.77, General Administration (Ser.C) Department, dt.27.02.1996, as the APCS (CC&A) Rules, 1991 are not applicable to All-India Service Officers. The District Collectors, therefore, can initiate action against the Officers other than All-India Service Officers only.

(406)

U.O.Note No.235/Spl.B/2001-1, Genl.Admn. (Spl.B) Dept., dt.26.07.2001 regarding types of cases to be referred to Vigilance Commission for advice.

Subject Heading : Vigilance Commission - types of cases that should be referred

- Ref : 1. G.O.Ms.No.421, G.A(SC.D) Dept., dt.03.08.1993.
 2. U.O.Note No.2116/SC.E/96-2, G.A. (SC.E) Dept., dt.15.09.1997.
 3. G.O.Ms.No.147, G.A. (Spl.B) Dept., dt.05.05.2000.

4. From Secy.to Govt., G.A. (Services) Dept., Lr.No.44907/Ser/WEL/2000, dt.08.02.01.

In supersession of the U.O.Note 2nd cited, instructions were issued in the G.O. 3rd cited, among others that all cases of corruption and other irregularities which are covered under para 6 of the Scheme of the Vigilance Commission issued in the G.O. First cited, irrespective of the fact whether Anti-Corruption Bureau or other authorities including Departmental authorities which enquired into the irregularities, should be referred to Vigilance Commission for its advice.

2. As a result of the discussions between representative of the Government and members of Joint Action Committee of Employees, Teachers and Workers, it was agreed to further reconsider the implementation of G.O.Ms.No.147, G.A. (Spl.B) Dept., dt.01.05.2000 by Chief Secretary before a final decision is taken in the matter.

3. The Government after careful examination of the matter and in consultation with all concerned, issue the following revised instructions in partial modification of the instructions issued earlier in the G.O. 3rd cited.

- 1) All cases of misconduct on the part of public servants involving lack of integrity, which have a vigilance angle viz. Illegal gratification, bribery, causing loss to Government and unlawful gain to self or others and such other acts of corruption and criminal misconduct like misappropriation, cheating, fraud etc. should be referred to the Commission for its advice.
- 2) Other cases of misconduct involving administrative lapses which have no vigilance angle need not be referred to the Commission for its advice.

4. In the event of doubt whether a case has a vigilance angle or not may be decided at the level of Secretary to Government of the Department concerned. The Andhra Pradesh Vigilance Commission will however continue to be at liberty to call for any file at any time in terms of para 6 of G.O.Ms.No.421, General Administration (SC.D) Department, dt.03.08.1993.

5. All the Departments of Secretariat are therefore, requested to follow the above instructions strictly and also to instruct the Heads of Department under their administrative control for strict compliance.

(407)

U.O.Note No.854/SC.E/2001-2, Genl.Admn. (SC.E) Dept., dt.25.08.2001: Not to refer findings of Lokayukta / Upa-Lokayukta to Vigilance Commission for advice.

Subject Heading : Lokayukta - not to refer findings to Vigilance Commission for advice

Ref: From the Vigilance Commissioner, Lr.No.1210/ VC.D1/2000-3, dt.08.06.01.

It has been brought to the notice of the Government that Departments have been sending files to the Vigilance Commissioner, seeking advice on the findings of the Lokayukta/Upa-Lokayukta.

2. It is clarified that the Institution of Andhra Pradesh Lokayukta & Upa-Lokayukta is a Statutory Authority vested with Judicial powers and that the findings and recommendations sent by the Lokayukta / Upa-Lokayukta to the Departments shall be examined without any further enquiry, and action taken on the basis of the recommendations and intimate within three months of the date of receipt of the report of the Lokayukta / Upa-Lokayukta as the case may be, following due procedure as prescribed under the Departmental rules. However, in such cases, the Departments need not consult the Vigilance Commission on the recommendations made by the Lokayukta / Upa-Lokayukta, which is a Statutory Authority.

3. All the Departments of Secretariat and other disciplinary authorities are, therefore, requested to deal with the reports of Andhra Pradesh Lokayukta / Upa-Lokayukta on the above lines and in no case the Vigilance Commission need to be addressed for an advice.

(408)

Memo.No.1602/Spl.B/2001-12, Genl.Admn. (Spl.B) Dept., dt.29.10.2001 regarding High Level Committee to review Anti-Corruption cases.

Subject Heading : High Level Committee - to review progress of inquiries, investigations

Ref: 1. G.O.Rt.No.1625, G.A.(Spl.B) Dept., dt.04.04.2001.
2. G.O.Rt.No.4242, G.A.(Spl.B) Dept., dt.27.09.2001.

In the G.O. 2nd cited, Government have constituted a High Level Committee on Anti-corruption to review the anti-corruption and vigilance cases. In its meeting on 20.10.2001, the High Level Committee have reviewed the purchase policy and procurement of items through government agencies and have decided that purchases by various departments of Government through agencies like FEDCON, HACA, APSTC etc. which are procuring equipments without following rigorous purchase procedure must be stopped forthwith. The Administrative Departments of Secretariat viz., Home, Industries and Commerce, who have issued orders on purchase policy and procurement of items through Government Agencies shall re-examine the issues for issuing revised instructions duly circulating the file to the Chief Secretary and obtaining orders in circulation to the concerned Minister / Chief Minister.

2. All the Departments of Secretariat and Heads of Departments are therefore, requested to follow purchase procedure scrupulously in the meantime.

(409)

U.O.Note No.1818/Spl.B/2000-2, Genl.Admn. (Spl.B) Dept., dt.21.11.2001 regarding placing accused officers under suspension in trap cases - fresh guidelines issued.

Subject Heading : Suspension - in traps, to suspend whether caught directly or indirectly, without awaiting VC advice

Ref: 1. U.O.Note No.240/SC.D/93-3, G.A.(SC.D) Dept., dt.05.10.93.

2. U.O.Note No.1595/SC.D/93-6, G.A.(SC.D) Dept., dt. 16.11.94.

3. Memo.No.554/Ser.C/93-6, G.A.(Ser.C) Dept., dt. 26.12.94.

Instructions were issued in the references first and second cited for suspension of government servants involved in traps laid by the Anti-Corruption Bureau (ACB) as follows :

TRAP CASES

- (i) Where the accused officer is caught red-handed in the act of accepting bribe and where the phenolphthalein test has yielded positive result (and) such cases can be classified as successful

traps and the charged officer has to be placed under suspension based on the preliminary report received from the Anti-Corruption Bureau ;

- (ii) In other cases, where the accused officer is not caught red handed and where the phenolphthalein test has not yielded positive result and the case depends mostly on circumstantial evidence leaving room for benefit of doubt, decision for suspension or otherwise of the accused officer may be taken taking into account the advice tendered by the Vigilance Commissioner.
- (iii) The Departments of Secretariat are further instructed to suspend the Accused Officer even without waiting for recommendations of the Vigilance Commissioner in cases where the accused officer is caught red handed and the phenolphthalein test yielded positive result.

2. Government reviewed those instructions in the light of advice of the Andhra Pradesh Vigilance Commission (APVC) and issue the following instructions in supersession of the references cited.

3. It is well known that trap is the most effective and successful way of catching corrupt officers in the act of receiving bribe where the rate of conviction also is high. Corrupt officers habituated to receiving bribes have become cautious and alert and have devised methods of avoiding trap while continuing to receive bribes. Such methods include engaging private persons to receive bribe on one's behalf, engaging personal servants to do so while at home, requiring subordinates to accept the bribe, requiring complainant to place the bribe amount in or around the scene of offence unobtrusively without the officer having to accept the bribe directly thereby avoiding physical contact with the notes and the phenolphthalein powder.

4. It would not be in the public interest not to suspend or to delay the suspension of such corrupt officers who receive bribes indirectly in the manner indicated above. It should be open to the disciplinary authority to suspend such an officer pending investigation without waiting for the advice of the Vigilance Commission in the matter. Government therefore, direct that immediately upon receipt of preliminary report against an officer who is caught directly or indirectly in the act of accepting bribe, irrespective of whether the phenolphthalein test yielded positive results or not, the accused officer may be immediately placed under suspension pending investigation based on the preliminary report received from the ACB.

(410)

**Memo.No.1621/Spl.B/2001-1, Genl.Admn. (Spl.B) Dept., dt.26.11.2001:
Government Servants convicted not to be retained in service until disposal
of appeal.**

Subject Heading : Departmental action and conviction

The Supreme Court in its latest Judgment in K.C. Sareen vs. CBI, Chandigarh, 2001(5) Supreme 437 decided on 02.08.2001 as follows:

"Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started grappling even the institutions created for the protection of the Republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices, through strong legislative, executive as well as judicial exercises, the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic polity. Proliferation of corrupt public servants could garner momentum to cripple the social order if such men are allowed to continue to manage and operate public institutions. When a public servant was found guilty of corruption after a judicial adjudicatory process conducted by a court of law, judiciousness demands that he should be treated as corrupt until he is exonerated by a superior court. The mere fact that an appellate or revisional forum has decided to entertain his challenge and to go into the issues and findings made against such public servants once again should not even temporarily absolve him from such findings. If such a public servant becomes entitled to hold public office and to continue to do official acts until he is judicially absolved from such findings by reason of suspension of the order of conviction, it is public interest which suffers and sometimes even irreparably. When a public servant who is convicted of corruption, is allowed to continue to hold public office, it would impair the morale of the other persons manning such office, and consequently that would erode the already shrunk confidence of the people in such public institutions besides demoralising the other honest public servants who would either be the colleagues or subordinates of the convicted person. If honest public servants are compelled to take orders from proclaimed corrupt officers on account of the suspension of the conviction

the fall out would be one of shaking the system itself. Hence it is necessary that the court should not aid the public servant who stands convicted for corruption charges to hold any public office until he is exonerated after conducting a judicial adjudication at the appellate or revisional level. It is a different matter if a corrupt public officer could continue to hold such public office even without the help of a court order suspending the conviction. This policy can be acknowledged as necessary for the efficacy and proper functioning of public offices. If so, the legal position can be laid down that when conviction is on a corruption charge against a public servant the appellate court or the revisional court should not suspend the order of conviction during the pendency of the appeal even if the sentence or imprisonment is suspended. It would be a sublime public policy that the convicted public servant is kept under disability of the conviction inspite of keeping the sentence of imprisonment in abeyance till the disposal of the appeal or revision."

2. In the light of the above categorical directions of the Supreme Court, Government hereby instructs that to take action forthwith for dismissal of public servants convicted of corruption and criminal misconduct immediately upon such conviction without waiting for any appeal and that the appointing / disciplinary authorities will be personally held responsible for non implementation of these instructions and they will be liable for disciplinary action if in spite of these instructions it is found convicted officers continuing in service without being dismissed immediately or continue to receive provisional pension if they have already retired in the meantime without action to withhold pension and other pensionary benefits or withdraw pension entirely as the case may be disregarding these instructions. It is also directed that salary / pension / provisional pension paid after the Judgment convicting the accused public servant shall be liable to be recovered from the appointing authority. Consultation with Andhra Pradesh Public Service Commission in such cases has also been dispensed with.

3. All Departments of Secretariat and Heads of Departments are requested to oppose any application for the suspension of conviction in such cases quoting the above Judgment of the Supreme Court.

4. All Departments of Secretariat and Heads of Departments are requested to follow the above instructions scrupulously and also to communicate the above instructions to the public enterprises, autonomous bodies and other institutions receiving grant in aid etc., under their administrative control.

(411)

G.O.Ms.No.13, G.A. (Ser.C) Dept., dt.10.01.2002 regarding amendment to Rule-20 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to the first proviso to sub-rule (13) of Rule-20 – Orders – Issued.

Read :

G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.1992.

O R D E R :

The following notification will be published in the Andhra Pradesh Gazette.

“A copy of this order is available on the internet and can be accessed at the address – <http://www.apts.gov.in/apgos>.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the APCS (CC&A) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule 20, in sub-rule (13) for the first and second provisos, the following shall be substituted, namely ;

“Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest of security of the State, shall submit the fact to the Head of the Department, or to the Secretary of the Department concerned for a decision in

the matter. Such decision shall be informed to the inquiring authority, and the inquiring authority shall on being so informed, communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents".

(412)

Circular Memo.No.944/SPL.B/99-5, Genl. Admn. (Spl.B) Dept., dt.01.04.2002: Vigilance Commission to deal directly with Heads of Departments and lower officials who are appointing / appellate authorities – instructions

Subject Heading : Vigilance Commission - to deal directly with HODs and lower officials

Ref: 1. Govt.Memo.No.1676/SC.D/82-3, dt.10.05.82.

2. G.O.Ms.No.421, G.A.(SC.D) Dept., dt.03.08.93.

3. U.O.Note No.2751/SC.E/95-1, dt.16.09.95.

4. G.O.Ms.No.147, G.A. (Spl.B) Dept., dt.01.05.2000.

According to the present practice, wherever A.C.B. takes up investigations against the Government employees, it sends its report to the Government through the Vigilance Commissioner for further action. Reports of the Anti-Corruption Bureau are received by the Government in respect of all employees including those of Class III and Class IV for whom the Heads of Offices in the District, District Collectors or Head of the Department are the appointing / appellate authorities.

2. The Principal Secretary to Government, Backward Classes Welfare Department has sent proposals stating that in respect of employees for whom disciplinary/appellate authority is upto the level of Head of Department, report of the Anti-Corruption Bureau should be sent to the concerned Head of the Department who should be responsible for pursuing disciplinary action against the officer concerned and the Government at Secretariat level need not concern itself with disciplinary action against Class III and Class IV employees of subordinate offices and these matters can terminate at the level of Heads of Departments.

3. The Vigilance Commissioner, A.P.V.C. has made certain recommendations for combating corruption in public services. The following is one of the recommendations: "Handling of vigilance and disciplinary matters in the offices of Heads of Departments and other offices are characterised by serious irregularities, unconscionable delay and non-consultation with Vigilance Commission. To avoid these mistakes and to speed up the process, Vigilance Commissioner may be permitted to deal directly with the heads of departments in respect of matters falling solely within their purview or under them i.e., matters in which Heads of Departments or lower officials are appointing / appellate authorities".

4. In the meeting held by the Chief Secretary on 05.05.2000 to consider the recommendations of the Vigilance Commissioner for combating corruption in public services, the recommendation referred to in para 3 above has been considered and it was recommended for acceptance. The Government have accepted the same.

5. Accordingly, Government hereby permit the Vigilance Commissioner, Andhra Pradesh Vigilance Commission to deal directly with the Heads of Departments, District Collectors / Heads of District Offices in the matter in which the said officers are the appointing / appellate authorities. After receiving the advice of Vigilance Commissioner in those cases, the Heads of Departments / District Collectors / Heads of District offices, shall approach the Government in the respective administrative departments for sanction of prosecution or any other orders as advised by Vigilance Commission. The Secretariat Departments shall follow the Business Rules and Secretariat Instructions in cases, where the disciplinary authority proposes to deviate from the advice of the Vigilance Commissioner.

(413)

G.O.Ms.No.179, G.A. (Ser.C) Dept., dt.11.04.2002 regarding amendment to Rule-21 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to Rule-21 – Orders – Issued.

Read :

G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.1992.

O R D E R :

The following notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule 21 after sub-rule (1), the following shall be inserted namely ;

“(1A) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority to the Government Servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not to the Government Servant :

Provided that where the disciplinary authority disagrees with the whole or any part of the findings of the inquiring authority, the point or points of disagreement together with a brief statement of the grounds therefor shall, in case where it affects the Government Servant charged adversely or prejudicially, be communicated along with the report of the inquiry.

(1B) The disciplinary authority shall consider the representation, if any, submitted by the Government Servant before proceeding further in the matter specified in sub-rules (2) to (4)”.

(414)

**Circular Memo.No.145/A2/FR.II/2001, F&P (FR.II) Dept., dt.07.05.2002
regarding payment of subsistence allowance - further instructions.**

Subject Heading : Suspension - payment of subsistence allowance

- Ref : 1. Cir.Memo.No.39071/A2/FR.II/99, Finance (FR.II) Dept.,
dt.28.02.2000.
2. From Vigilance Commissioner, Lr.No.171/VC.A2/2000-2,
dt.26.06.2001.

In the reference 1st cited instructions were issued for payment of subsistence allowance to the Government Servants under suspension whether they are lodged in prison or released on a bail on their conviction pending consideration of his appeal, based on the Judgment of Supreme Court of India in a case of the State of Maharashtra vs. Chandrabhan, 1983(2) SLR 493.

2. In the reference 2nd cited the Vigilance Commissioner has stated that according to the policy adopted in Government Memo.No.1718/Ser.C/75-1, G.A.(Ser.C) Department, dt.22.11.1975, officers convicted in criminal cases should normally be dismissed from service and that it is not necessary either to await outcome of an appeal or the expiry of appeal time where an appeal has been preferred. The Vigilance Commissioner has further mentioned that above policy was reiterated in subsequent U.O.Note No.1418/SC.D/90-2, G.A. (SC.D) Department, dt.05.11.1990 and in U.O.Note No.1700/SC.D/92-4, GA (SC.D) Department, dt.09.03.1994. Therefore, the Vigilance Commissioner has suggested to amend the Circular Memo.No.39071/471/A2/FR.II/01, of this Department, dt.28.02.2000 duly indicating the policy as laid down in the aforesaid above (3) references of G.A.Department and also to say that officers convicted in criminal cases be ordinarily dismissed from service forthwith in terms of the provisions of Article 311(2) of the Constitution of India and Rule 25 of the APCS (CC&A) Rules, 1991 and that it is not necessary to await an appeal or expiry of appeal time or the outcome of the appeal where an appeal has been preferred. Even if there is a stay of the sentence in an appeal, it is not necessary to delay the dismissal. Only in the event of both the conviction and sentence being suspended pending appeal before the appellate authority then the question of payment of subsistence allowance arise. Officers acting contrary to this policy should be made liable for recovery of avoidable payment of subsistence allowance in those cases where they ought to have been dismissed.

3. In the circumstances stated above and in supersession of the instructions issued in the reference 1st cited, it is instructed that officers convicted in criminal cases ordinarily be dismissed from service forthwith in terms of the provision of Article 311(2) of the Constitution of India and Rule 25 of the APCS (CC&A) Rules, 1991 and that it is not necessary to await an appeal or expiry of appeal time or the outcome of the appeal where an appeal has been preferred.

Even if there is a stay of the sentence in an appeal, it is not necessary to delay the dismissal. Only in the event of both the conviction and sentence being suspended pending appeal before the appellate authority then the question of payment of subsistence allowance arise. Officers acting contrary to this policy should be made liable for recovery of avoidable payment of subsistence allowance in those cases where they ought to have been dismissed.

4. All the Departments of Secretariat and Heads of Departments are requested to follow the above instructions scrupulously.

(415)

Memo.No.492/Spl.B/2001-2, Genl.Admn. (Spl.B) Dept., dt.29.05.2002: ACB not to release trapped Government Servants on bail.

Subject Heading : Traps - accused not to be released on bail

Ref: From the Vigilance Commissioner, A.P.Vigilance Commission, Hyderabad, Lr.No.135/VC.A2/2001-1, dt.23.02.2001.

The Director General, Anti-Corruption Bureau, Hyderabad is informed that the Vigilance Commissioner, in the letter cited, has stated that in almost all trap and disproportionate assets cases, the accused officers are being released on bail by the Anti-Corruption Bureau suo-moto after obtaining personal surety bond from the officer concerned. He has therefore, requested the Government, to issue instructions to the Director General, Anti-Corruption Bureau, Hyderabad not to grant bail to the Accused Officers in a routine manner and to produce the A.O. before a Magistrate for remand to Police custody, pending completion of investigation in order to prevent tampering of evidence, or influence witnesses and facilitate speedy investigation.

2. After careful examination of the matter, Government have accepted the above proposal of the Vigilance Commissioner.

3. The Director General, Anti-Corruption Bureau, Andhra Pradesh, Hyderabad is therefore, instructed that in all cases of successful "trap", accused officers should not be granted bail in a routine manner and that the accused officer be sent to judicial remand. These instructions may be communicated to all concerned for compliance.

(416)

**Memo.No.596/Spl.B/2000-6, Genl. Admn. (Spl.B) Dept., dt.10.06.2002
regarding forfeiture of assets in disproportionate assets cases.**

Subject Heading : Attachment of property

Subject Heading : Suspension - in disproportionate assets cases

- Ref: 1. From the Vigilance Commissioner, Andhra Pradesh Vigilance Commission, Hyderabad, Lr.No.91/VC.A2/2000-1, dt.09.03.2000.
2. From Sri C.R. Kamalanathan, IAS(Retd.), Vigilance Commissioner, A.P.V.C., Hyd., D.O.Lr.No.329/VC.A2/2000-1, dt.15.07.2000.

The Vigilance Commissioner has stated that in cases of disproportionate assets registered and investigated under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, the money or other property procured by the accused officer by means of the offence is liable to be forfeited in the event of his prosecution and conviction in a Court of Law, as per the Criminal Law Amendment Ordinance, 1944. By virtue of Section 3 of the said Criminal Law Amendment Ordinance, 1944, the State Government may authorise the making of an application for attachment of money or other property, where the Government has reason to believe that the accused officer has committed an offence of possession of assets disproportionate to his known sources of income, punishable under Section 13(2) read with 13(1)(e) P.C. Act, 1988. Action in this regard should be initiated soon after the registration of the case and conducting searches. It is not necessary to wait till the completion of investigation or filing of a charge sheet, much less till the conclusion of trial. Action should be taken at the earliest opportunity as stated in the object of the Ordinance, so as to prevent the disposal or concealment of money and property acquired by means of commission of the offence. The State Vigilance Commissioner has, therefore, requested the Government to issue necessary instructions to the D.G., ACB suitably. The High Level Committee on Anti-corruption in its meeting held on 16.04.2002 has agreed to the proposal of the Vigilance Commissioner.

2. The State Government, after careful examination of the advice of the Vigilance Commiss-ioner, and on the recommendation by the High Level Committee on Anti-corruption, have decided to instruct the D.G., ACB to submit along with preliminary reports in disproportionate assets cases other than

where the disproportionate is marginal, proposals for attaching property under relevant sections of Criminal Law Amendment Ordinance, 1944.

3. State Government have also decided that the Director General, Anti-Corruption Bureau, should propose the suspension of the accused officer pending investigation in such cases.

4. The Director General, Anti-Corruption Bureau, Hyderabad is, therefore, advised to submit along with their preliminary reports in disproportionate assets cases other than where the disproportion is marginal, proposals for attaching property under relevant sections of Criminal Law Amendment Ordinance, 1944 and also recommend for placing accused officer under suspension.

(417)

**Circular Memo.No.609/Spl.B/99-8, Genl.Admn. (Spl.B) Dept., dt.19.06.2002:
Reasons for not sanctioning prosecution to be recorded and communicated.**

Subject Heading : Sanction of prosecution - to issue within 45 days

Subject Heading: Sanction of prosecution - reasons for non-issue, to be recorded and communicated to ACB, VC, GA (SC) Dept.

- Ref: 1. G.O.Ms.No.421, G.A.(SC.D) Dept., dt.03.08.1993.
2. U.O.Note No.450/SC.D/87-1, G.A.(SC.D) Dept., dt.20.07.1987.
3. U.O.Note No.2752/SC.E/95-1, G.A.(SC.E) Dept., dt. 16.09.1995.
4. From the Central Vigilance Commission, Govt. of India, New Delhi, Circular No.8(1)(h)/98(3), dt.27.11.1998.
5. From the Central Vigilance Commission, Govt. of India, New Delhi, Circular No.98/DSP/11, dt.03.03.1999.

As per the scheme of the A.P.Vigilance Commission, the ACB will forward final reports in all cases investigated by the Bureau in which it considers that a prosecution should be launched, to the Department / Government Undertaking / Government Company and such other institutions through the Vigilance

Commission with a copy to the General Administration (SC) Department for any comments within 21 days from the date of receipt of the report by such agency / disciplinary authority, which the latter may wish to forward its comments on the reports to the Commission. The Commission after examining the report and the comments if any, received from the concerned disciplinary authority will advise the concerned agency / disciplinary authority with a copy to the General Administration (SC) Department whether or not prosecution should be sanctioned. Orders thereafter will be issued by the concerned Administrative Department in the Government in cases of Gazetted and Non-Gazetted Officers and Government Undertakings / Government Company and such other institution as the case may be. In all such cases final orders issued on the advise of the Vigilance Commission shall invariably be furnished to the Commission. As per the instructions issued in the U.O. Note second cited as further clarified in the U.O. Note third cited, the sanction of prosecution should be accorded within a period of 45 days from the date of receipt of the advice of the Vigilance Commissioner.

2. The Central Vigilance Commission, New Delhi in their Circulars fourth and fifth cited have issued instructions among others as under:

3. If at the end of the time limit, no decision had been given by the competent authorities, then the CVC will take an adverse view and deem it as a case of misconduct on the part of the competent authority.

4. The reasons for not granting sanction for prosecution should also be recorded by the competent authorities in the form of a speaking order, while communicating the same to the CBI.

5. After careful consideration of the above instructions issued by the Central Vigilance Commission, the Government hereby direct that in all cases requiring sanction of prosecution should be done within the time limit of 45 days as prescribed in the U.O. Note third cited from the date of receipt of the advice from the Vigilance Commission. In cases where the competent authorities propose to deviate from the advice of the Vigilance Commission they should record reasons for not granting sanction of prosecution in the form of a speaking order, while communicating the same to the Director General, Anti-Corruption Bureau, A.P., Hyderabad and to the Andhra Pradesh Vigilance Commission with a copy to General Administration (SC) Department. In case of such a refusal to sanction

prosecution is contrary to the advice of the A.P. Vigilance Commissioner, the procedure prescribed in Business Rule 32(1)(x) should be scrupulously followed.

6. All Departments of Secretariat are, therefore, requested to follow the above instructions scrupulously. They are also requested to communicate the above instructions to all subordinate offices and institutions under their administrative control, duly marking a copy of such instructions to General Administration (Spl.B) Department.

(418)

**Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002
regarding proformae for quarterly review of vigilance cases.**

Subject Heading : Vigilance cases - proformae for quarterly review

Ref: From the Vigilance Commissioner, Andhra Pradesh Vigilance Commission, Hyderabad, Letter No.99/VC.A2/2002-2, dt.22.03.2002.

In the letter cited, the Vigilance Commissioner has informed that no performance indicators or periodic reports have been prescribed by Government to enable continuous monitoring and systematic review of the vigilance work at any level. The Commission has, therefore, devised a set of proformae for submission of periodical reports for reporting action pending at different stages relating to preliminary enquiry, inquiry under the CC&A Rules, investigation, prosecution and trial of vigilance cases. The Commission has requested the Government to prescribe these proformae as quarterly statements to be submitted by each Secretariat Departments for each quarter ending June, September, December and March respectively to be submitted to General Administration Department and the Vigilance Commission by the 10th of the succeeding month after each quarter and also instruct the Secretariat Departments in their turn to prescribe these proformae for reporting by Heads of Departments, Public Enterprises and Autonomous Bodies in respect of cases pending with them for review by the Secretaries to Government.

2. After careful examination of the proposal of the Vigilance Commissioner, Government have decided to prescribe the above proformae for periodic review of the vigilance cases.

3. All Departments of Secretariat are therefore, requested to furnish the particulars of vigilance cases in the prescribed proformae (11 statements enclosed) as quarterly statements for each quarter ending June, September, December and March respectively to General Administration (SC) Department and Vigilance Commission by the 10th of the succeeding month after each quarter.

4. All Departments of Secretariat are further requested to prescribe the above proformae for reporting by Heads of Departments, Public Enterprises and Autonomous Bodies in respect of cases pending with them for review by the Secretaries to Government.

(Note : See Part II for Proformae (Nos. 47 to 57)

(419)

Circular Memo.No.29756-B/153/A1/Admn.I/2000, Finance & Planning (FW) Dept., dt.01.07.2002 regarding declaration of cash by the employees under the control of Finance Department.

Subject Heading : Declaration of cash by the employees under the control of Finance Department.

Ref: 1. Memo.No.12400-A/162/OP.SC/87; dt.04.12.1987 and 13.06.1988 of Fin. & Plg.(FW:Sp.Cell) Dept.

2. Letter No.Rc.166/DE:D/RI/99, dt.03.01.2002 of D.G., A.G.B., A.P., Hyderabad.

Instructions were issued in the reference first for declaration of personal cash by the staff of the Treasuries and Accounts Department.

2. The matter has been examined, in detail, in the changed circumstances by the Government and hereby direct that the staff of the employees of Treasuries and Accounts, Pension Payment Offices, P.A.O., State Audit, A.P.G.L.I., Commissioner of SS and P.A.Os. under the control Works and Projects which are under the control of Finance Department in the District and other Offices i.e., other than the Directorates should declare their personal cash at the time of reporting for duty. However, in the Directorates the staff who deals with passing of payment of bills should also declare their personal cash.

3. The total amount of cash brought with him by the employee should be declared by him. It is decided to restrict the possession of personal cash at

the time of report for duty to Rs.200/- (Rupees two hundred only) for each person and it should be recorded in the prescribed Register. If any one carries more than two hundred Rupees, he should record the reasons in detail in the personal cash declaration register for carting such huge amount. The Amounts should be entered both in figures and words.

4. The Inspecting Officers should check-up these personal cash declaration register during their inspection.

(420)

Circular Memo.No.13673/Ser.C/2002-3, Genl.Admn. (Ser.C) Dept., dt.05.07.2002 regarding check list of service particulars and stages of disciplinary case for disciplinary authorities and inquiry officers.

Subject Heading : Disciplinary cases check list

Instructions have been issued from time to time on various procedural aspects in dealing with disciplinary cases against Government employees. For better understanding, clarifications / instructions are issued on step by step procedure to be followed from the stage of initiation of disciplinary proceedings till its conclusion. Instances have come to the notice that there are procedural infirmities in dealing with the disciplinary cases, resulting in legal tangle. Adoption of the check list by the disciplinary authorities and the inquiry officer would help them commence and conclude disciplinary proceedings strictly in accordance with the provisions of these rules and instructions, avoiding errors and illegalities likely to be challenged before the Appellate Authority or the Tribunal. It is keenly felt to remedy the situation. With the above objective in view, a check-list has been designed.

2. The check list divided into two parts namely Part-I, dealing with service particulars and Part-II dealing with stages of disciplinary case has been evolved and communicated herewith for guidance of the disciplinary authority and inquiry officers where major penalty proceedings have been initiated.

3. The Departments of Secretariat, the Heads of Departments and the District Collectors are requested to follow the Check List in dealing with disciplinary cases and also bring this to the notice of all other concerned authorities.

(Note: See Part II for Check List (No.36).

(421)

G.O.Ms.No.350, G.A. (Ser.C) Dept., dt.08.08.2002 regarding amendment to Rule-27 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to Rule-27 – Orders – Issued.

Read :

G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.1992.

O R D E R :

According to Rule 27 of the APCS (CC&A) Rules, 1991, where it is proposed to impose on a Government Servant any of the penalties specified in Rule 9 or Rule 10 on the basis of the recommendation in a report under sub-section (1) of Section 12 of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983, the disciplinary authority shall take action on the basis of the recommendation contained in the report and impose any of the penalties specified in Rule 9 or Rule 10 of the APCS (CC&A) Rules, 1991 without following the provision of Rule 20 and 21 of the said rules. Thus, the recommendation of the Andhra Pradesh Lokayukta and Upa-Lokayukta is being implemented without an opportunity to the Government employee. This issue has been examined keeping in view the Judgment of the Supreme Court of India in Nagaraj Shiva Rao Karjagi Vs. Syndicate Bank, Head Office, Manipal reported in (1992) 19, ATCS, 639 and also time and again Supreme Court of India observed on the need to have clear application of mind and also the disciplinary authority shall have an independent and uninfluenced conclusion in conducting the disciplinary proceedings. Neither the constitutional body, the Public Service Commission nor the statutory authority, the Vigilance Commission shall have powers to direct the disciplinary authority in taking a decision about the punishment to be imposed on the delinquent officer. The judicial pronouncements of the Supreme Court of India are the Law of land and shall be followed in tune with the Article 141 of Constitution of India.

2. The need to give opportunity to the delinquent employee while taking action on the report under Section 12 of Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 has been examined by the Government and it is decided to provide for the same in the Rule 27 of the APCS (CC&A) Rules, 1991.

3. "A copy of this order is available on the internet and can be accessed at the address-<http://apts.gov.in/apgos>".

4. Accordingly, the following notification will be published in the Extraordinary issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In the said rules, for Rule 27, the following shall be substituted, namely ;

"27: Action on report of Lokayukta and Upa-Lokayukta :

Notwithstanding anything contained in Rule 20 or Rule 22, where it is proposed to impose on a Government Servant any of the penalties specified in Rule 9 or Rule 10 on the basis of the recommendation contained in the report mentioned in sub-section (1) of Section 12 of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983, the disciplinary authority shall take action on the basis of the recommendation contained in the report, after furnishing a copy of the report to the charged Government Servant to make a representation, if any, within a reasonable time fixed and after taking into consideration such representation, and impose any of the penalties specified in Rule 9 or Rule 10.

Provided that, the disciplinary authority for the purpose of this rule shall be the authority under Rule 2 (c) or as specified under clause (c) of Section 2 of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983".

(422)

Memo.No.15309/Ser.C/2002-2, Genl.Admn. (Ser.C) Dept., dt.04.10.2002 regarding review of orders of suspension against Government Servants in disciplinary cases – clarification.

Subject Heading : Suspension - review of cases - clarification

Ref : 1. G.O.Ms.No.86, G.A.(Ser.C) Dept., dt.08.03.1994.

2. G.O.Ms.No.578, G.A. (Ser.C) Dept., dt.31.12.1999.

In para 3(iv) of the reference first cited above, orders have been issued for review of suspension orders against the Government Servants to the effect that “the concerned Principal Secretary or the Secretary of the Department, as the case may be, should review the suspension cases of their Department at an interval of six months with a representative from the Anti Corruption Bureau if the proceedings arose out of investigation conducted by the Anti-Corruption Bureau and make suitable recommendation as to the desirability or otherwise for further continuance of the officers under suspension”.

2. Further, Government have issued revised instructions in the reference second cited above specifying authorities, who would be empowered to review suspension in the light of the said delegation.

3. Doubts have been expressed by certain Departments as to whether the orders issued in G.O.Ms.No.578, General Administration (Services.C) Department, dt.31.12.1999, supercede the instructions contained in the G.O. first cited.

4. It is clarified that the orders issued in G.O. in the reference first cited are in force, and the concerned Principal Secretary or the Secretary of the Department, as the case may be, should review the suspension cases of their Department at an interval of six months with a representative from the Anti Corruption Bureau, if the proceedings arose out of investigation conducted by the Anti-Corruption Bureau and make suitable recommendation as to the desirability or otherwise of further continuance of the officers under suspension.

(423)

G.O.Ms.No.454, G.A. (Ser.C) Dept., dt.07.11.2002 regarding amendment to sub-rule 23 of Rule 20 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to sub-rule 23 of Rule 20 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.229, G.A. (Ser.C) Dept., dt.22.05.2002.

O R D E R :

In the G.O. Second read above, an amendment was issued to sub-rule (23) of Rule 20 of the APCS (CC&A) Rules, 1991 to enable the Inquiry Officer to

recommend the penalty proposed to be imposed on the delinquent officer, keeping in view the Rule 9 of the said rules.

2. The Government after careful examination of the matter, have decided to omit the said item from the provisions of the APCS (CC&A) Rules, 1991 issued in G.O.Ms.No.229, G.A. (Ser.C) Dept., dt.22.05.2002 with immediate effect.

3. Accordingly, the following notification will be published in the Extraordinary issue of the Andhra Pradesh Gazette; dated..... November, 2002.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule 20, in sub rule (23), in clause (i), item (e) shall be omitted.

(424)

G.O.Ms.No.455, G.A. (Ser.C) Dept., dt.07.11.2002 regarding amendment to sub-rule (2) of Rule-6 of A.P.C.S. (DPT) Rules, 1989.

Subject Heading : APCS (Disciplinary Proceedings Tribunal) Rules, 1989 – Amendment to the sub-rule (2) of Rule 6 – Orders – Issued.

Read the following :

1. G.O.Ms.No.304, G.A.(Ser.C) Dept., dt.03.06.1989.
2. G.O.Ms.No.392, G.A. (Ser.C) Dept., dt.06.09.2002.
3. G.O.Ms.No.454, G.A. (Ser.C) Dept., dt.07.11.2002.

O R D E R :

In the G.O. second read above, an amendment was issued to sub-rule (2) of Rule 6 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989 to enable the Tribunal to send its report of findings and recommend penalty together with its opinion to the Government, keeping in view of the amendment made to the APCS (CC&A) Rules, 1991 vide G.O.Ms.No.229, G.A. (Ser.C) Dept., dt.22.05.2002.

2. However, Government after careful examination of the matter have decided to issue an amendment to the sub-rule (2) of Rule 6 of the said rules, as amendment is made to the sub-rule (23) of Rule 20 of the APCS (CC&A) Rules vide G.O.Ms.No.454, G.A. (Ser.C) Dept., dt.07.11.2002.

3. Accordingly, the following notification will be published in the Andhra Pradesh Gazette :

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 10 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 (Act.II of 1960), the Government of Andhra Pradesh hereby make the following amendments to the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989 issued in G.O.Ms.No.304, G.A. (Ser.C) Dept., dated 3rd June, 1989 and published at pages 557 to 562 in the Andhra Pradesh Gazette, Rules supplement to Part-I, dated the 3rd August, 1989 and as subsequently amended from time to time.

AMENDMENT

In the said rules :

For clause (a) of sub-rule (2) of Rule 6, the following shall be substituted, namely,-

“(a) In all cases after the enquiry has been completed, the Tribunal shall send its report of findings to the Government within thirty days. However, in cases in which exoneration of Government Servant charged is recommended by the Tribunal, it shall specify, whether the charged officer is “fully exonerated” for purpose of Fundamental Rule 54 (A). Where the Tribunal does not express any such opinion, it shall be presumed by the Government that the Charged Officer is not fully exonerated by the Tribunal”.

(425)

**Memo.No.51883/Ser.C/2002-2, Genl.Admn. (Ser.C) Dept., dt.19.12.2002
regarding time schedule to expedite departmental inquiries.**

Subject Heading : Departmental Inquiry - time limits

- Ref: 1. Circular Memo.No.35676/Ser.C/98, G.A. (Ser.C) Dept., dt.01.07.98.
 2. Govt.Memo.No.23537/Ser.C/99-5, G.A.(Ser.C) Dept., dt.28.07.99.
 3. U.O.Note No.1992/Ser.C/2000, G.A.(Ser.C) Dept., dt.27.04.2000.
 4. From Dy.A.G.(P), O/o. the A.G., A.P., Hyderabad, D.O.Lr.No.PM/I-1(12-A)2002-2003/33, dt.12.08.2002.
 5. From Fin.(PSC) Dept., U.O.Note No.28535/C/333/PSC/01, dt.21.10.2002.

In the reference first cited, instructions were issued that in all simple cases the inquiry initiated shall be completed within three months either by Departmental Officers or Commissioner of Inquiries. In complicated cases, it shall be ensured that the inquiry should be completed within five to six months. Further it has been requested therein that the Secretaries to Government shall review the progress of the inquiries ordered in all disciplinary cases and submit a note on the cases pending beyond the stipulated time to the Chief Secretary to Government and also the Chief Minister. The object is to ensure timely action in all disciplinary cases and also to adhere to the time limit prescribed.

2. In the references 2nd and 3rd cited, a time schedule was prescribed to expedite the Departmental inquiries as detailed below :

- | | |
|--|--|
| a) Fixing date of hearing inspection of listed documents, submission of list of defence documents and nomination of a defence assistant (if not already nominated). | within two weeks from the date of appointment of the Inquiry Officer |
| b) Inspection of documents or submission of list of defence witnesses / defence documents or examination of relevancy of documents or witnesses, procuring the additional documents and submission of certificates, confirming inspection of additional documents by accused officer or defence assistant. | Two Weeks |

- | | |
|--|-----------|
| c) Issue of summons to witnesses, fixing the date of regular hearing and arrangements for participation of witnesses in the regular hearing. | Two Weeks |
| d) Regular hearing on day to day basis | Two Weeks |
| e) Submission of written briefs by Presenting Officer and submission of written briefs by Accused Officer / Defence Assistant to Inquiry Officer | Two Weeks |
| f) Submission of Inquiry Report by the Inquiry Officer | Two Weeks |

3. In case of Departmental Proceedings instituted against the retired Government employees, it is noticed that there is abnormal delay in completing the enquiries, thereby, the pensionary benefits could not be finalized in such cases. Keeping this in view, it is clarified that the time schedule prescribed to complete the inquiries against Government employees, as detailed above, shall also apply to the Departmental Proceedings instituted against the retired Government employees. The procedure laid down in Rule 20 of APSCS (CC&A) Rules, 1991 shall be followed in case of Departmental proceedings against the retired Government employees as laid down in Rule 9 of Andhra Pradesh Revised Pension Rules, 1980.

4. Accordingly, Government reiterate the instructions issued on time schedule prescribed to complete the enquiries and that the Secretaries or Principal Secretaries to Government shall review the progress of the inquiries ordered in all disciplinary cases and submit a note on the cases pending beyond the stipulated time to the Chief Secretary to Government and also to the Chief Minister.

5. The Departments of Secretariat, the Heads of Departments and the District Collectors are requested to follow the above instructions and also bring this to the notice of all concerned for strict compliance.

(426)

G.O.Ms.No.513, G.A. (Ser.C) Dept., dt.19.12.2002 - Amendment to Rule 26 of A.P.C.S (Conduct) Rules, 1964.

Subject Heading : APCS (Conduct) Rules, 1964 - Amendment to Rule 26 – Notification – Issued.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette dated the December, 2002.

2. A copy of this order is available on the Internet and can be accessed at the address – <http://apts.gov.in/apgos>.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, G.A. (Ser.C) Dept., dated 17th April, 1964 and as subsequently amended.

AMENDMENT

In the said rules, for Rule 26, the following shall be substituted, namely,-

“26 : Drinking : Notwithstanding anything contained in the provisions of any Law relating to intoxicating drinks or drugs for the time being in force in any area, no Government employee shall –

- (i) while on duty, be under the influence of such drinks or drugs to such an extent as to render him incapable of discharging his duty properly and efficiently ; or
- (ii) appear in a public place in a state of intoxication; or
- (iii) consume such drinks or drugs in excess”.

(427)

Memo.No.51073/Ser.C/2002-1, G.A. (Ser.C) Dept., dt.19.12.2002 regarding penalties to be recorded in the Service Register of the employee.

Subject Heading : PUBLIC SERVICES – Orders imposing penalties against the Members of Service to be recorded in the Service Register of the employee – Instructions – Issued.

- Ref : 1. G.O.Ms.No.1385, G.A.(Ser.C) Dept., dt.31.10.1961.
2. Memo.No.893/Ser.C/88-1, G.A.(Ser.C) Dept., dt.07.11.1998.

According to instruction 2 in the appendix to the order first cited the expressions of Censure etc., conveyed to an officer, will not be recorded in the confidential reports, but a copy of the letter conveying the Censure will be attached to the officer's confidential documents. All "Censures" should be recorded on the files, but in such cases an entry should be made in the Annual Confidential Reports. No specific mention has been made regarding other penalties provided for in Rule 8 (i) of A.P.C.S (CC&A) Rules, 1991.

2. In the reference 2nd cited, instructions were issued directing that the copies of the final orders imposing any of the penalties mentioned in the Rule 8 (i) of A.P.C.S (CC&A) Rules, (old rules) shall be added to the Personal Files of the Government employees concerned.

3. The question of recording the punishment in the Service Register of the employees who have been awarded punishment in terms of A.P.C.S. (CC&A) Rules, 1991 in addition to making an entry in the relevant column of Confidential Reports has been examined. It has been decided to record the punishments imposed against the Government employees in the Service Register of the employee in addition to making an entry in the relevant column of confidential report of the Government Servant concerned duly adding of copies of the final orders of the punishment made under A.P.C.S (CC&A) Rules, 1991 to the personal file of the Government Servant, who have been awarded punishments in terms of A.P.C.S (CC&A) Rules, 1991.

4. All the Departments of Secretariat / Heads of Departments are requested to follow the above instructions and bring it to the notice of all the concerned.

(428)

G.O.Ms.No.515, G.A. (Ser.C) Dept., dt.21.12.2002 regarding amendment to Rule-21 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to Rule 21 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A.(Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.179, G.A.(Ser.C) Dept., dt.11.04.2002.

O R D E R :

The following notification will be published in the Andhra Pradesh Gazette, dated 21st December, 2002 :

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India of all other powers hereunto enabling the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I Extraordinary issue of the Andhra Pradesh Gazette No.235, dated the 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule 21 :

- (i) after sub-rule (1), sub-rules (1A) and (1B) shall be omitted ;
- (ii) for sub-rules (3) and (4) and the Provisos there under, the following shall be substituted namely :

(3) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority to the Government Servant, who shall be required to submit if he / she so desires, his / her written representation or submission to the disciplinary authority within a reasonable time ordinarily not exceeding one month. It shall not be necessary to give the Government Servant opportunity of making representation on the penalty proposed to be imposed :

- (i) Provided that, where the disciplinary authority disagrees with the whole or any part of the findings of the inquiring authority, the point or points of disagreement together with a brief statement of the grounds therefor shall be communicated along with the report of the inquiry.
- (ii) Provided further that in every case where it is necessary to consult the Commission the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration, before making an order imposing any such penalty on the Government Servant.

(429)

G.O.Ms.No.995, Finance (Pen.I) Dept., dt.21.12.2002 regarding amendment to sub-rule (7) of Rule-9 of A.P. Revised Pension Rules, 1980.

Subject Heading : Pensions – Administrative Reforms – Amendment to sub-rule (7) of Rule 9 of A.P. Revised Pension Rules, 1980 – Recovery of Government dues from the pensionery benefits – Orders – Issued.

Read the following :

1. G.O.Ms.No.85, Finance & Plg. (FW:Pen.I) Dept., dt.12.07.1999.
2. A.P. Vigilance Commission's Letter No.464/VC.A2/2002-2, dt.10.07.1999.

ORDER :

Under Rule 9 of A.P. Revised Pension Rules, 1980, State Government reserves themselves the right of withholding or withdrawing a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specific period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government and to the local authority if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service. Through G.O.Ms.No.85, Finance & Planning (FW:Pen.I) Dept., dt.12.07.1999, Government have introduced a new sub-rule (7) (a) (b) (c) to the said Rules regarding continuance of disciplinary proceedings in respect of deceased Government Servants for the purpose of recovery of any loss caused or amount misappropriated by the Government Servant while in service.

2. In the reference 2nd read above, A.P. Vigilance Commission have expressed serious doubt of the practicability of the procedure laid down and the legality of such action for recovery of dues to Government occasioned on account of the delinquent officer after his death from his pension and gratuity. The rule deals with a situation where a Government Servant dies before the conclusion of disciplinary proceedings where the loss caused or the amount misappropriated by the Government servant is established. There cannot be a question of loss or

misappropriation being established where the Government Servant dies before the conclusion of the disciplinary proceedings. The rule further provides for the competent authority to bring the legal heirs on record to conclude disciplinary proceedings: Clause (b) of sub-rule (7) deals with a situation where the disciplinary proceedings are concluded but the Government Servant dies before imposing penalty or receipt of the order of penalty. Disciplinary proceedings can be considered to be complete, the moment, orders on findings and penalty thereon are passed and issued. If the Government Servant dies before this stage, it cannot be said that disciplinary proceedings is concluded. The amendment to rule seems to have been issued on the basis of "incorrect understanding of the legal position". Therefore, the Government after careful consideration have decided to amend the relevant rule in accordance with law, as personnel action dies with person.

3. Accordingly, the following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all the powers hereunto enabling, the Governor of Andhra Pradesh, hereby makes the following amendment to the A.P. Revised Pension Rules, 1980 and as amended from time to time.

AMENDMENT

5. In the said rules in Rule 9, for sub-rule (7), the following shall be substituted namely,-

"Eventhough a Government Servant has retired from service and was not before his retirement chargesheeted or called upon to explain why a pecuniary loss caused to the Government (or a local authority) due to his negligence, while he was in service, should not be recovered from him, the Government if they are satisfied that the loss is due to him, shall recoup the pecuniary loss besides all Government dues (or local authority dues) from the Retirement Gratuity. For this purpose, it shall not be necessary to get the consent of the Government Servant or the consent of the members of his family in the case of a deceased Government Servant, as the case may be. In such cases, it shall

be indicated in the sanction clearly the amount of Retirement Gratuity admissible, a stated amount which shall be deducted from the Retirement Gratuity on account of Government dues or local authority dues or loss sustained by the Government Servant due to negligence and the net amount of Retirement Gratuity payable to the retired Government Servant”.

(430)

G.O.Ms.No.519, G.A. (Ser.C) Dept., dt.30.12.2002 regarding amendment to A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 - Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.284, G.A. (Ser.C) Dept., dt.07.07.1997.
3. G.O.Ms.No.1314, Home (Police.C) Dept., dt.11.08.2000.

ORDER :

The following Notification will be published in the Extra-ordinary issue of the Andhra Pradesh Gazette dated 30th December, 2002.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services.C) Department, dated 14th September, 1992 and published in the Andhra Pradesh Gazette Part-I, Extra-ordinary No.335, dated the 1st July, 1992 as subsequently amended from time to time.

2. The Amendment hereby made shall be deemed to have come into force with effect from the 11th August, 2000.

AMENDMENT

In the said rules, in Appendix IV for the existing entry in column (8) against Sl.No.1, the following shall be substituted; namely :

“All Deputy Inspector General / Inspector General of Police of all ranges now in existence”.

(431)

Circular Memo.No.4532/Ser.D/2002-3, G.A. (Ser.D) Dept., dt.01.01.2003 regarding instructions on discharge of probationers from service.

Subject Heading : PUBLIC SERVICES – Discharge of Probationers from service – Certain Instructions – Issued.

- Ref : 1. G.O.Ms.No.848, G.A.(Ser.A) Dept., dt.11.06.1960.
 2. Govt.Memo.No.1933/65-4, G.A.(Ser.C) Dept., dt.28.12.1965.
 3. G.O.Ms.No.436, G.A. (Ser.D) Dept., dt.15.10.1996.

According to clause (ii) of sub-rule (a) of Rule 17 of the Andhra Pradesh State and Subordinate Service Rules, 1996, the Appointing Authority may, at any time, before or after the expiry of the prescribed period of probation either extend by not more than one year, whether on duty or otherwise, the period of probation of a probationer, in case the probation has not been extended under sub-rule (b) of this Rule or terminate his probation and discharge him from service after giving him one month's notice or one month's pay in lieu of such notice, on account of unsatisfactory performance or progress during training or unsatisfactory performance of duties or unsatisfactory conduct or for any other sufficient reason to be recorded in writing. Further, as per clause (viii) under explanation to Rule 9 of the A.P.C.S (CC&A) Rules, 1991, the termination of the services of a Government Servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the Rules and Orders governing such probation shall not amount to a penalty within the meaning of the aforesaid Rule.

2. It has come to the notice of the Government that in a large number of cases, where the Disciplinary / Appointing Authorities felt that it is not desirable to continue the probationers in service due to misconduct, misdeeds or misdemeanor or on any of the grounds provided under clause (ii) of sub-rule (a) of Rule 17 of the Andhra Pradesh State and Subordinate Service Rules, 1996,

orders are being issued either dismissing or discharging the probationers from service giving elaborate details. When details about such misdeeds are given, it is being contended by the discharged probationers that as a stigma was cast upon them, a detailed enquiry under Andhra Pradesh Civil Services (CC&A) Rules has to be held.

3. In this connection, the attention of the Disciplinary / Appointing Authorities is invited to the instructions issued in G.O. first cited. According to which a probationer or temporary Government employee may be discharged from service in accordance with the terms of his appointment. It was also laid down therein that in the case of temporary appointment or appointment on probation, the appointment orders should be worded carefully, indicating the condition therein that his services are liable to be terminated at any time without notice and without assigning any reason. It was also impressed that the grounds of discharge should not be specified in the order and the order should be non-committal and innocuous and should merely direct the revision or discharge, invoking the particular provision in terms of appointment.

4. The above instructions are reiterated for guidance of the Disciplinary / Appointing Authorities and they are directed that wherever it is proposed to discharge the probationer due to misconduct, misdeeds or misdemeanor or on any of the grounds provided in clause (ii) of sub-rule (a) of Rule 17 of the Andhra Pradesh State and Subordinate Service Rules, 1996, action may be taken to discharge them in terms of their appointment by an innocuous order, so as to avoid complications.

5. All the Departments of Secretariat and all the Heads of Departments are requested to adhere to the above instructions scrupulously and bring these instructions to the notice of their subordinates.

(432)

U.O.Note No.58445/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.24.01.2003 regarding further instructions on procedure to be followed for processing disciplinary matters.

Subject Heading : PUBLIC SERVICES – Disciplinary cases against Government employees – Departmental Inquiries – Procedure to be followed by fixing time schedule for processing disciplinary matter – Further Instructions – Issued.

Ref : U.O.Note No.19952/Ser.C/2000, G.A. (Ser.C) Dept., dt.27.04.2000.

In a review meeting, conducted by the Chief Secretary to Government, with the Chairman and other Members of the Commissionerate of Inquiries on 28.01.2002, Chief Secretary emphasized on qualitative improvement in terms of disposal of inquiries without undue delay and also in terms of preparing quality reports. It is necessary that Disciplinary Authority and Inquiring Authority do their respective job seriously.

2. It is observed that though instructions were issued from time to time, highlighting the rule position and the procedure to be followed for initiating departmental inquiries, the Disciplinary Authorities, often are not doing their job properly.

3. During the process of conducting inquiries, the following main deficiencies are noticed thereby causing delay in conducting inquiries against the charged officer :

- (1) Undue delay in framing of charges and serving them on the Charged Officers from the date of actual offence / irregularity etc. In some cases years passed between the date of occurrence and issue of charged persons ;
- (2) After obtaining the Written Defence Statement from the Charged Officer, Disciplinary Authority taking lot of time for considering it and for taking a decision about its satisfactoriness or otherwise. In most of the cases disciplinary authority is not having access to records while considering the Written Defence Statement, thereby not only the matter is being delayed, but the quality of verification is marred due to non-availability of records.
- (3) The Disciplinary Authority is not supplying the records / material along with the order of appointment of Inquiring Authority. In some cases, it is taking months / years in sending records, thereby delaying the inquiry.
- (4) Presenting Officer is not being appointed before entrustment of the case to the Inquiring Authority. The Presenting Officer is not even supplied with copies of Charge Memo., Written Defence Statement, access to the records.
- (5) Adequate attention is not being bestowed by the Disciplinary Authority at the level of Head of the Department / Secretary of the Department in the disciplinary cases.

4. All the above factors contribute for the long gap of time between date of actual offence / irregularity and date of starting of the inquiry process by the Inquiring Authority, thereby, weakening the case and some times the real guilty officer is escaping from penal action.

5. It is, therefore, considered necessary that in addition to the instructions issued in the reference cited, the following instructions are to be followed scrupulously :

- (1) There should not be undue delay between the actual occurrence of offence / irregularity and framing of charges. The preliminary investigation and preliminary enquiry should be conducted quickly and if the outcome after examination of preliminary enquiry report reveals serious charge then charges may be framed without further delay. It has been observed that this process is so delayed that the Charged Officer, in many cases, retires from service or the charges are framed at the verge of retirement, thereby delaying and some times escaping from punishment.
- (2) As framing of charges is the initiation of the disciplinary process and as it is the essence of the allegation, it should not be drafted in very general terms, such as, negligence of duties, breach of conduct rules, conduct unbecoming of a Government Servant etc. The charges should be drafted in clear and appropriate terms, using simple language and it should give the correct picture. Detailed guidelines on proper framing of charges against officers have been issued vide U.O.Note No.1041/SC. F/89-14, dated 16.08.1989 which may be strictly followed. While preparing the draft charges, the Disciplinary Authority should have all the records and other materials with it for verification of the facts mentioned in the charges. Simply accepting the draft charges sent by the preliminary enquiry officer / Investigating Officer without verifying them with reference to records shall not be resorted. The charges should have enough documentary support for pursuing it. The witnesses selected should speak of the charges and with reference to the records. If the witness is an official witness, senior officer connected with the matter should be selected as witness. The charges so drafted should immediately be served on the Charged Officer and his written defence statement should be obtained and duly examined.

- (3) Obtaining of written defence statement from the charged person and verifying it for its satisfactoriness or otherwise, of course with reference to the records is a must. It should be attended by a senior officer and not by the lower rank officers. If the written defence statements are perused carefully with reference to records, it will give a clear picture whether the charges can be proceeded with or not and also whether there is enough documentary support to prove the charges.
- (4) Presenting Officer is an essential and important functionary in conduct of departmental inquiries. He plays an important role because he has to present the case of Disciplinary Authority successfully on behalf of the Disciplinary Authority before the Inquiring Authority. The Presenting Officer should therefore be well conversant with the case and for this he should be provided with copies of Charge Memo., Written Defence Statements, and access to all the connected records / material well in advance of his appearance before the Inquiring Authority. The Disciplinary Authority should brief the Presenting Officer adequately and give him full support and cooperation for his successful presentation of the case before the Inquiring Authority. If the Presenting Officer is a Government Servant he should be senior enough and should have enough knowledge of the case for presentation before the Inquiring Authority.
- (5) Disciplinary Authorities are not sending the records to the Inquiring Authority in time or along with the order of appointment of Inquiring Authority. The Disciplinary Authorities are, therefore, requested to send all connected records to the Inquiring Authority along with appointment order. They should not ask the Head of the Departments concerned to send the records directly to the Inquiring Authority without themselves examining them first.
- (6) Most of the deficiencies noticed in the course of inquiries can be avoided, if disciplinary authority at the level of Secretary / Principal Secretary / Special Chief Secretary bestow personal attention to disciplinary cases. The Head of the Department also should peruse the records before they submit them to Secretariat Department. Unless the higher officials show personal interest and bestow necessary importance to these matters, without treating them as

routine files, the subordinate officials will also not show urgency in dealing with these cases and as a result, building up of a case against a delinquent official will lose its purpose, ultimately. If senior officers who are responsible for lapses escape punishment and only junior officers faces inquiries, then the reputation of Government will be tarnished. It is, therefore, quite imperative that all the senior officers of various Departments viz., Secretaries / Principal Secretaries / Special Chief Secretaries may show personal attention to these disciplinary cases.

- (7) It is often noticed that because of undue delay between the occurrence of an incidence of negligence / lapse, the really guilty escapes. Some times they retire and the period of four years elapse in between retirement and initiation of disciplinary proceedings and the case become time-barred and no action against the guilty officer is possible under the provisions of the Andhra Pradesh Revised Pension Rules, 1980. In view of this, it is desirable that within one year from the receipt of preliminary enquiry report / detailed inquiry report, all proceedings against the Charged Officer should be completed. If there is undue delay, the file should be circulated to the Chief Secretary / Minister concerned and specific time schedule should be indicated for disposal of the case and their approval taken. This will reduce scope for undue delay and consequent non-action against guilty officers.

6. All the Departments of Secretariat, Heads of Departments and District Collectors shall evince personal interest and to strictly follow the above instructions. They shall also bring these instructions to the notice of their subordinates for their guidance and compliance.

7. The receipt of this Memo. may be acknowledged.

(433)

Circular Memo.No.8832/Ser.C/2003-1, G.A. (Ser.C) Dept., dt.29.01.2003 regarding reiteration of instructions on submission of Annual Property Returns.

Subject Heading : PUBLIC SERVICES – A.P.C.S (Conduct) Rules, 1964 – Submission of Annual Property Returns – Instructions – Reiterated – Regarding.

Ref : Cir.Memo.No.76883/Ser.C/98, G.A. (Ser.C) Dept., dt.12.12.1998.

According to sub-rule (7) of Rule 9 of APCS (Conduct) Rules, 1964, every Government employee other than a member of the Andhra Pradesh Last Grade Service and a Record Assistant in the Andhra Pradesh General Sub-ordinate Service, invariably has to submit his / her statement of all immovable / movable (values exceeding Rs.20,000/-) properties owned, acquired or inherited by his / her family members in the prescribed proforma to the said rule as Annexure I & II before 15th January of each year.

2. According to sub-rule (8) of Rule 9 of APCS (Conduct) Rules, 1964, the Government or any authority empowered by them in this behalf may at any time by general or special order, require a Government employee to submit within a specified period, a full and complete statement of all immovable properties and movable properties.

3. The Vigilance Commissioner, Andhra Pradesh Vigilance Commission in his Annual Report pertaining to the year 1996-97 has requested to issue suitable instructions to all the Secretariat Departments and Heads of Departments, on the issue of submission of Annual Property Returns by the Government Servants and members of All India Services as contemplated under APCS (Conduct) Rules, 1964.

4. Accordingly, instructions were issued in the reference cited to the controlling officers or Chief Vigilance Officers / Vigilance Officers of concerned Departments with a request to scrutinize thoroughly the Annual Property Returns submitted by their subordinates and call for the clarifications from the Government Departments in case of doubts. They must ensure submission of the returns by all concerned as such scrutiny would help to some extent check the corruption of the Government employees at the initial stage itself.

5. In the High Level Committee meeting held on 08.01.2003 in the Chambers of Chief Secretary, it is observed that the Government as per Rule 9 of APCS (Conduct) Rules, 1964 prior sanction of the Government has to be obtained for purchase of any movable / immovable property by a Government Servants and as per Section 13 of the P.C. Act also any article that has been in his possession' for which a Government Servant cannot satisfactorily account for can be treated as disproportionate asset. It is noticed that the instructions issued in the reference cited are not being followed scrupulously.

6. While reiterating the instructions issued in the Circular Memo. cited, the controlling officers or Chief Vigilance Officers / Vigilance Officers of concerned

Departments are requested to ensure that every Government employee other than a member of the Andhra Pradesh Last Grade Service and Record Assistant in the Andhra Pradesh General Sub-ordinate Service, invariably submit their Annual Property Statement Returns every year by 15th January. It may be impressed on the employees that non-compliance of such instructions will attract disciplinary action.

7. All Departments of Secretariat, all Heads of Departments and District Collectors are requested to bring this to the notice of all the employees for their strict compliance.

(434)

G.O.Ms.No.48, General Admn. (Ser.A) Dept., dt.18.02.2003 regarding penalty of “removal from service” on the Government employees, who issued, obtained and submitted False Medical Certificate.

Subject Heading : Issuing, Obtaining and submitting of False Medical Certificates – Penalty of ‘Removal from Service’

Read :

From the Commissioner, A.P. Vaidya Vidhana Parishad, Dir. Gen., Medical & Health Services, Lr.Rc.No.6805/DG-Peshi/2002, dated 07.11.2002.

ORDER :

The Director General, Medical & Health Services and Commissioner, Andhra Pradesh VaidyaVidhana Parishad in his letter read above has stated that a number of complaints are being received regarding false Medical Certificates issued by certain Medical Officers working in Government Hospitals/ Dispensaries. He further stated that a few of such certificates are used for getting benefits under disability programme and to get long leave and transfers. He has suggested to award severe punishments to the Medical Officers who issued false medical certificates and to the Government employees who use the false medical certificates for undue advantages.

2. In order to curb the above practice, the Government after careful consideration, hereby order that necessary disciplinary action, under the Andhra Pradesh Civil Services (CC&A) Rules, 1991, may be initiated. In cases where

such irregularity is established, the disciplinary authority may impose the major penalty of removal from service on:

- (a) The Government employees who produce and submit false medical certificates for getting benefits under Disability programme and also utilizing the certificates for the purpose of long leave and transfers, and ;
 - (b) The Medical Officers, who issue incorrect and false Medical Certificate.
3. The disciplinary authorities and also the authorities empowered to impose penalties under the A.P. Civil Services (CC&A) Rules, 1991 while dealing with the disciplinary cases relating to false medical certificates, shall follow the above orders.
4. The Health, Medical & Family Welfare Department may issue guidelines for random verification of the Medical Certificates regularly by the Medical Boards at the District Level and also at the State Level.
5. The Departments of Secretariat, Heads of Departments and District Collectors are requested to bring these orders to the notice of all concerned for compliance.

(435)

G.O.Rt.No.977, Genl. Admn. (Spl. B) Dept., dt.26.02.2003 regarding furnishing of inquiry report to ACB whenever asked for.

Subject Heading : ACB - to furnish inquiry report with final orders

Subject Heading : Inquiry report - to furnish to ACB with final orders

Read the following :

1. G.O.Ms.No.677, G.A. (SC.D) Dept. dt.30.05.61.
2. Govt.Memo.No.2866/SC.F/87-3, G.A. (SC.F) Dept., dt.13.07.89.
3. Govt.Memo.No.1271/SC.F/90, G.A. (SC.F) Dept. dt.06.07.91.
4. Govt. U.O.Note No.75025/Ser.C/97-1, G.A. (Ser.C) Dept. dt.14.10.91.
5. From the D.G. ACB, Hyd., Lr. No. 52/RPC(C)/2002, dt.10.06.2002.

ORDER :

In the letter fifth read above, the D.G. ACB has stated that the Bureau is an investigating agency and goes into facts and circumstances of the cases and recommends necessary action basing on the adequacy of evidence so collected for prosecution or inquiry in any of the statutory bodies. Copies of Judgment in criminal cases where prosecution is launched are generally furnished by the trial courts to the ACB in consonance with the provisions of the Criminal Procedure Code and the Cr.P.C. does not consider the copies of the Judgment as privileged document. He has also stated that in consonance with recommendation of the Committee on Prevention of Corruption, a copy of the report of the inquiry authority is provided to CBI whenever Departmental actions are undertaken on the reports of CBI and that the nature of work in ACB are similar to CBI and hence the procedure can be made equally applicable to. He has finally requested that this matter may be reexamined and issue necessary orders.

2. The matter was placed before the High Level Committee on Anti-Corruption and the Committee in its meeting held on 08.01.2003 has decided to supply copies of the departmental enquiry report to the ACB whenever asked for .

3. The Government after examination and in modification of the orders issued in the references 1st to 4th read above, hereby order that a copy of the inquiry report along with a copy of the order of the disciplinary authority on the inquiry report in cases where the inquiry has been instituted based on the report of the ACB, should be furnished to ACB. However, it would not be necessary to provide the whole record of the disciplinary proceedings to the ACB. The ACB should not reopen or review the action taken by the disciplinary authority, but these records are to be utilised only for its internal analysis and record.

(436)

**Memo.No.368/Spl.B/2002-1, Genl. Admn. (Spl. B) Dept., dt.28.02.2003
regarding reduction of margin of 20% to 10% in Disproportionate Assets
cases.**

Subject Heading : Disproportionate Assets - margin of income

- Ref: 1. Govt. Memo.No.700/SC.D/88-4, G.A.(SC.D) Dept., dt.13.02.89.
2. Govt. Memo.No.1444/SC.D/90-1, G.A.(SC.D) Dept., dt.07.01.91.

3. Govt. Memo.No.223/SC.D/92-6, G.A.(SC.D) Dept., dt.15.03.93.
4. Govt. Memo.No.557/SC.D/95-2, G.A.(SC.D) Dept., dt.25.02.96.
5. Govt. Memo.No.991/SC.EI/98-5, G.A.(SC.E) Dept., dt.17.12.98.
6. From the Director General, ACB, Hyderabad, Lr.C.No.35/ RPC(C)/2001, dt.10.05.2002.

In the references 1st and 2nd cited, apart from the others, instructions were issued that in deciding whether a case of disproportionate assets is fit for prosecution or not, the Anti-Corruption Bureau must take into account the tenure of the service of the accused Government Servant, his general reputation, his habits and style of living and the extent of disproportion and other facts and circumstances of the case. Considering the fact that it is not possible for a Government Servant to prove his defence with mathematical exactitude, it is desirable to take a liberal view of the excess of the assets over the receipts of the known sources of income and a reasonable margin upto 20% of the total income of the accused Government Servant may be allowed, while computing the disproportionate assets cases, after taking the above mentioned factors into consideration.

2. In the references 3rd to 5th cited while reiterating the above instructions, the Director General, Anti-Corruption Bureau, Hyderabad was informed that there was no need to reduce the margin to a lesser level.

3. In the reference 6th cited, the Director General, Anti-Corruption Bureau, Hyderabad has informed that the order of 20% margin is not in consonance with the decision of the Supreme Court in Krishnanand Agnihotri vs. State of Madhya Pradesh, and the Supreme Court of India, in subsequent Judgment in B.C. Chaturvedi vs. Union of India and others. The Supreme Court held that it would be inappropriate, indeed undesirable, to extend the principle of deduction beyond 10% in calculating Disproportionate Assets of a delinquent officer for prosecution. Therefore, he has stated that instructions issued in the references 1st and 2nd cited, needs to be reviewed with respect to margin for deciding on prosecution of the case and that in all cases of disproportionate assets even below 10% of margin needs to be placed at least for detailed enquiry either in TDP or Departmental Action and margin above 10% should be considered for prosecution.

4. The matter has been placed before the High Level Committee on Anti-Corruption. The Committee in its meeting held on 08.01.2003 have agreed

to recommend reduction of margin from the existing 20% to 10% in disproportionate assets cases in line with the decision of the Supreme Court.

5. After careful examination of the matter, Government hereby accept the recommendation of the High Level Committee on Anti-Corruption and in partial modification of instructions issued in the reference 1st cited, hereby order that a margin of 10% (ten percent) of the total income of the accused Government Servant be allowed, while computing the Disproportionate Assets.

(437)

Memo.No.205/Spl.B/2003-1, Genl. Admn. (Spl. B) Dept. dt.15.03.2003 regarding avoidance of quoting references and correspondence of APVC.

Subject Heading : Vigilance Commission - not to mention in references

Ref: 1. U.O.Note No.302/Spl.B/2000-1, G.A. (Spl. B) Dept., dt.13.03.2000.

2. U.O.Note No.1636/Spl.B/2000-1, G.A.(Spl.B) Dept., dt.04.09.2000.

The attention of all the Departments of Secretariat is invited to the instructions issued in the U.O.Notes first and second cited, wherein instructions were issued to the effect that while issuing orders by Government or Heads of Departments, care should be taken not to mention the advice or reference of Vigilance Commissioner. The Departments were requested to utilize the material supplied by the ACB or the advice tendered by the Vigilance Commission to take considered decision in disciplinary matters.

2. It is brought to the notice of the Government that inspite of the above specific instructions, the Departments of Secretariat / Head of Departments are violating these instructions and quoting the references received from the Vigilance Commission in their correspondence by which the accused officers are able to quote the references of the Vigilance Commission before the APAT / Courts etc. and thereby impleading the Vigilance Commission as one of the respondents.

3. In the circumstances, while reiterating the instructions issued in the U.O. Note first and second cited, the Departments of Secretariat / Head of Departments are once again requested not to quote the reference of the Commission and not to refer the advice of the Commission anywhere in the body of the letter or order issued by the Government or the Head of Department as the case may be.

4. These instructions should be scrupulously followed.

(438)

G.O.Ms.No.104, Genl. Admn. (Spl. B) Dept., dt.04.04.2003 regarding job chart for Chief Vigilance Officers / Vigilance Officers.

Subject Heading : CVOs. VOs - job chart - issue of

Read the following :

1. G.O.Ms.No.368, G.A. (SC.D) Dept, dt.29.06.93.
2. G.O.Ms.No.421, G.A. (SCD) Dept., dt.03.08.93.

ORDER :

In the G. O. first read above, orders were issued reviving the Vigilance Commission and appointing the Vigilance Commissioner. In the G.O. second read above, orders were also issued on the scheme of Andhra Pradesh Vigilance Commission. As per the Scheme there will be one Chief Vigilance Officer for each Secretariat Department and Vigilance Officers in all subordinate and attached offices and in all Government undertakings / Government Companies and such of the institutions as may be notified by the Government from time to time. The Chief Vigilance Officer may not be lower than the rank of a Deputy Secretary to Government and the Vigilance Officer shall be selected from among the senior Officers of the department. In Government Undertakings / Government companies and such of the institutions as may be notified by the Government from time to time the Vigilance Officers may be of such rank as may be decided by the Head of the Undertaking in consultation with the Commission. The Chief Vigilance Officers shall be appointed in consultation with the Commission and the Departments of Secretariat / Chief Vigilance Officers of the Secretariat Departments shall refer cases of nomination of Vigilance Officers in Heads of Departments / Public Enterprises / Other Institutions etc. to Vigilance Commission and obtain the concurrence of Vigilance Commission for such nominations. No person whose appointment as Chief Vigilance Officer is objected to by the Commission shall be so appointed. The Chief Vigilance Officer and the Vigilance Officers besides being the link between the Commission and the Departments should be the special assistants to the Secretary to the Government in the Department or Head of the Department, Undertaking / Government

Company / such of the Institution as may be notified by the Government from time to time concerned in combating corruption, misconduct and malpractices in the Department / Government Undertaking / Government Company / such of the Institution as may be notified by the Government from time to time. The Chief Vigilance Officer will be responsible for coordinating and guiding the activities of other Vigilance Officers in the attached and sub-ordinate offices and other organisation for which his Department is responsible to the Legislature. Collectors of District shall be the Chief Vigilance Officers for their jurisdiction.

2. It has been brought to the notice of Government that the Chief Vigilance Officers / Vigilance Officers are not in position in all Departments of Secretariat, Offices of Heads of Departments, Public Enterprises and Autonomous Bodies, to which the jurisdiction of the Commission extends and their responsibilities and duties.

3. The Government after examining the matter carefully, hereby issue a job chart which is appended to this G.O. for Chief Vigilance Officers / Vigilance Officers covering their role, measures of Preventive Vigilance and their responsibilities.

4. All the Chief Vigilance Officers / Vigilance Officers of Heads of Departments and subordinate offices are directed to follow the job chart scrupulously.

5. All the Departments of Secretariat are also requested to serve the G.O. to the concerned Chief Vigilance Officers / Vigilance Officers under their administrative control.

THE ROLE OF CHIEF VIGILANCE OFFICERS/VIGILANCE OFFICERS

The role of Chief Vigilance Officer of a Secretariat Department or a Vigilance Officer of an office of the Head of the Department, a Public Enterprise and an Autonomous Institution to which the jurisdiction of the Vigilance Commission extends, may be broadly categorised in two parts viz., preventive vigilance and punitive vigilance.

Preventive vigilance

Measures of preventive vigilance include

- a) a detailed examination of the existing organisation and procedures in relation to each of the department functions with a view to

- eliminate or minimise factors which provide opportunities for corruption or malpractices ;
- b) planning and enforcement of regular inspections and surprise visits for detecting acceptance of mamools or extraction of bribe or harassment of general public; misappropriation of funds; inordinate delay in disposal of applications; failure in quality or speed of work which would be indicative of the existence of corruption or malpractices ;
 - c) location of sensitive spots, regular and surprise inspections of such spots and proper scrutiny of personnel who are posted in sensitive posts which involve dealings, with members of the public on a considerable scale ;
 - d) preparation and maintenance of lists of officers of doubtful integrity and suspect officers and maintaining proper surveillance on officers of doubtful integrity and officers who are on the “Agreed” list; and
 - e) ensure prompt observance of Conduct Rules relating to integrity; covering (i) statements of assets and acquisitions (ii) gifts (iii) relatives employed in private firms or doing private business (iv) benami transactions and the like.

A vigilance case arises only when there has lack of vigilance. The task of CVO / VO is not limited to interfering after faults and errors have been committed. The foremost object of his office is to prevent faults.

Four major causes of corruption are

- (1) Administrative delays.
- (2) Government taking upon themselves more than what they can manage by way of regulatory functions
- (3) Scope for personal discretion in the exercise of powers vested in different categories of Government Servants.
- (4) Cumbersome procedures of dealing with various matters which are of importance to citizens in their day to day affairs.

With regard to administrative delays the following steps can be taken :

- a) Undertake a review of existing procedures and practices to find out the cause of delay, the points at which delay occurs and device suitable steps to minimise delay at different stages :
- b) Prescribe definite time-limits for dealing with receipts, files etc. which should be strictly enforced.

With regard to the second cause a review of the regulatory functions which are its responsibility, with a view to see whether all of them are strictly necessary and whether the manner of discharge of these functions and of the exercise of powers of control are capable of improvement can be undertaken.

With regard to the third cause, adequate methods of control should be devised over exercise of discretion. The right to act according to discretion does not mean right to act arbitrarily. The fairness of the method by which the discretionary decision was arrived at may certainly be looked into.

Citizens should be educated properly with regard to the procedures of dealing with various matters and they should also be provided with an easy access to administration at various levels without the need for the intervention of touts and intermediaries in order to eliminate the fourth reason.

Some of the other important preventive measures can be :

- (i) Only those whose integrity is above board should be appointed to High administrative positions ;
- (ii) In making selections from non-gazetted to gazetted rank for the first time, all those whose integrity is doubtful should be eliminated ;
- (iii) Every officer who sponsors a name for promotion should be required to record a certificate that he is satisfied that the Government Servant recommended by him is a man of integrity ;
- (iv) An essential condition for grant of extension / re-employment should be that the person concerned has a good reputation for integrity ;
- (v) In every Ministry / Department, there should be a proper agency which a person with a genuine complaint can approach for redress. Bona fide complainants should be protected from harassment or victimisation ;

- (vi) All visitors to offices dealing with licences/permits should enter their names and purpose of their visits in a register to be kept at the Reception Office ; and
- (vii) Steps should be taken to prevent sale of information. Information not treated as secret should be made freely available to the public.

The first responsibility of the Chief Vigilance Officer on assuming office should be to acquaint himself fully with the sensitive spot in his Department with the procedures which appear to afford scope for corruption or delay; whether preventive measures have already been planned and, if so, whether they were being properly implemented. While he should also see that time-limits are prescribed and enforced for the processing of various applications, he should at the same time ensure that no indecent haste is shown with a view to oblige contactmen.

Punitive vigilance :

On the punitive side, the Chief Vigilance Officer's / Vigilance Officers' responsibility will be :

- (i) To ensure that charge-sheet, statement of imputations, lists of witness and documents etc. are carefully prepared and copies of all the documents relied upon and the statements of witnesses cited on behalf of the disciplinary authority are supplied wherever possible to the accused officer along with the charge-sheet ;
- (ii) To ensure that all documents required to be forwarded to the Inquiring Officer are carefully sorted out and sent promptly ;
- (iii) To ensure that there is no delay in the appointment of the Inquiry Officer, and that no dilatory tactics are adopted by the Accused Officer or the Presenting Officer ;
- (iv) To ensure that the processing of the Inquiry Officer's Reports for final orders of the Disciplinary Authority is done properly and quickly ;
- (v) To scrutinise final orders passed by the Disciplinary Authorities subordinate to the Department, with a view to see whether a case for review is made out or not ;
- (vi) To see that proper assistance is given to the ACB in the investigation of cases entrusted to them or started by them on their own source of information ;

- (vii) To take proper and adequate action with regard to writ petitions filed by accused officers ;
- (viii) To ensure that the Vigilance Commission is consulted at all stages where it is to be consulted and that as far as possible, the time limits prescribed for various stages are adhered to ;
- (ix) To ensure prompt submission of returns to the Commission ; and
- (x) To review from time to time the existing arrangements for vigilance work in the Department for vigilance work. Subordinate officers to see if they are adequate to ensure expeditious and effective disposal of vigilance work ;
- (xi) To ensure that the competent disciplinary authorities do not adopt a dilatory or law attitude in processing vigilance cases, thus knowingly or otherwise helping the suspect public servants, particularly in cases of officers due to retire ;
- (xii) To ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such as misplacement of files etc. and that the orders passed in the cases of retiring officers are implemented in time ;
- (xiii) To ensure that the period from the date of serving a charge-sheet in a disciplinary case to the submission of the report of the Inquiry Officer, should, ordinarily, not exceed six months.

Information about corruption, malpractices or misconduct may come to the CVO / VO from different sources. The CVO is also expected to scrutinise Reports of Legislative Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings, and Audit Reports, Proceedings of the Legislature and complaints and allegations appearing in the press relating to his own organisation, and to initiate action whenever any case having a vigilance angle comes to light from any of these sources. In particular, the CVOs should scrutinise the P.A.C. reports.

It will also be the CVO's / VO's responsibility to see that the following types of cases should generally be entrusted to the ACB for investigation :

- (i) Allegations involving offences such as bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records etc. ;

- (ii) Possession of assets disproportionate to known sources of income ;
- (iii) Cases in which enquiries have to be made from non-officials and non-government records or books of accounts have to be examined ; and
- (iv) Cases of a complicated nature requiring expert police investigation.

With regard to complaints where it has been decided that the allegations should be looked into departmentally, the CVO should ensure that these investigations are completed promptly, say within a period of three months and the progress of those which remain pending beyond this period is reviewed by the CVO or an authority higher in rank to the officer investigating the case. The CVO should also ensure that the procedure prescribed is strictly followed by all the vigilance officers.

It will also be CVO's responsibility to obtain information about the disposal and pendency of complaints and vigilance cases from Vigilance Officers of all Heads of Departments and the Subordinate Offices/Units under his department.

The CVO should invariably review all the pending investigation reports, disciplinary cases and other vigilance matters in the first week of every month and take necessary steps for expediting action on the pending matters. In addition to this monthly review by the CVO, the Secretary of each Department and the Chief Executive of Public Sector Undertakings etc. should undertake a quarterly review of the vigilance work done in the Department / Organisation.

Although the discretion to place a Government Public Servant under suspension when a disciplinary proceeding against him is either pending or is contemplated is that of the Disciplinary Authority, the CVO would be expected to assist the Disciplinary Authority in the proper exercise of this discretion. The CVO should also ensure that all cases where an officer has remained under suspension for more than six months are reviewed, with a view to see whether the suspension order could be revoked or whether there is a case for either increasing or decreasing the subsistence allowance.

After the disciplinary authority has applied his mind to the Inquiry Officer's report and come to a tentative finding that one of the major penalties should be imposed, the final order should be carefully drafted. It should show that the Disciplinary Authority has applied its mind and exercised its independent

Judgment. No reference should be made to the Vigilance Commission's advice in any order of the Disciplinary Authority.

The rules with regard to disciplinary proceedings will have to be scrupulously followed at all stages by all concerned and any violation of the rules would render the entire proceedings void.

The CVO, therefore, has the special responsibility to see that these rules are strictly complied with at all stages by all concerned.

(439)

G.O.Rt.No.1699, Genl. Admn. (Spl.C) Dept. dt.15.04.2003 regarding imposition of penalties on persons responsible for delay in conducting Inquiry / Investigations.

Subject Heading : Delay in investigation inquiry, trial - action against officials found responsible

Read :

From the Supreme Court of India, Judgment in Crl. Appeal No.1038/01

ORDER :

The Supreme Court of India in its Judgment, dt.12.10.2001 in Criminal Appeal No.1038/2001 has observed as follows:

"In cases of corruption the amount involved is not material but speedy justice is the mandate of the Constitution being in the interests of the accused as well as that of the Society .Cases relating to corruption are to be dealt with swiftly, promptly and without delay. As and when delay is found to have been caused during the investigation, inquiry or trial, the appropriate authorities concerned are under an obligation to find out and deal with the persons responsible for such delay. The delay can be attributed either to the connivance of the authorities with the accused or used as a lever to pressurize and harass the accused as is alleged to have been done to the appellant in this case."

2. The Government after examining the matter carefully, hereby order that the cases relating to corruption are to be dealt with swiftly, promptly and

without delay and the appropriate authorities should find out and deal with the persons responsible, as and when delay is found to have been caused during the investigation, inquiry or trial.

3. All the Special Chief Secretaries to Government / Principal Secretaries to Government / Secretaries to Government and Heads of Departments who are disciplinary authorities are requested to follow the spirit of the above Judgment and take action against persons who are found responsible for causing avoidable delay during the investigations, inquiry or trial.

(440)

G.O.Ms.No.163, G.A. (Spl.C) Dept., dt.28.05.2003 regarding authorization to Inspectors of Police of A.C.B. to arrest without a warrant.

Subject Heading: Anti-Corruption Bureau – Investigation of offences under Prevention of Corruption Act, 1988 – Authorisation to Inspectors of Police of A.C.B. to make arrest without a warrant – Notification – Issued.

Read the following :

1. G.O.Ms.No.170, G.A. (SC.D) Dept., dt.20.03.1968.
2. G.O.Ms.No.10, G.A. (SC.E) Dept., dt.07.01.1999.

O R D E R :

The following Notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the first proviso to Section 17 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988), the Governor of Andhra Pradesh hereby further authorizes the Inspector of Police of Anti Corruption Bureau of Andhra Pradesh to make arrest without a warrant issued by the Metropolitan Magistrate or Magistrate of the First Class as the case may be.

(441)

Memo.No.178/Spl.C/2003-1, Genl. Admn. (Spl. C) Dept., dt.07.05.2003 regarding withholding of pension and gratuity consequent on retirement - Instructions – Reiterated.

Subject Heading : Pension - withholding, withdrawing of

- Sub : 1. G.O.Ms.No.2, G.A. (Ser.C) Dept., dt.02.01.99.
 2. Govt., Memo.No.698/Spl.B/99-1, G.A. (Spl.B) Dept.,
 dt.30.08.99.

All Departments of Secretariat are informed that in the G.O. first cited, orders were issued to the effect that in proved cases of misappropriation, bribery , bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed. In the Govt. Memo. second cited, it was also requested to ensure that the scheme of Andhra Pradesh Vigilance Commission is followed scrupulously both in letter and spirit and any violation of the scheme will be viewed seriously. Further, it was also requested to take disciplinary action against the officials concerned in cases, where minor punishments are imposed in proved cases of corruption, misappropriation, bribery etc. in violation of the first proviso to Rule 9 of A.P.C.S. (CC&A) Rules, 1991.

2. According to Rule 9 of A.P.Revised Pension Rules, 1980, the Government have the right of withholding a pension or gratuity or both in full permanently or ordering recovery from pension or gratuity of the whole, of any pecuniary loss caused to the Government and to the Local Authority, if any, departmental or judicial proceedings, the pensioner is found guilty.

3. It has been brought to the notice that in spite of above position, some Departments have been knowingly or unknowingly causing delay in dismissal of such officers and allowing the officers to retire on ground of lack of enough time before retirement to issue notices before award of such punishment or on the ground of requirement relating to consultation with Andhra Pradesh Public Service Commission etc. In these cases and in such cases received after the retirement of the officers, the case is often processed for a percentage cut in pension on the ground of retirement, ignoring the fact that had they been in service, they would have been dismissed by virtue of the above position, which would have resulted not only in losing job, but also resulting in total denial of pension, gratuity etc.

4. After examining the matter, the Government hereby reiterate the instructions issued in the references cited. All the Departments of Secretariat are requested to follow the rules, provisions and instructions scrupulously and also to instruct the Heads of Departments under their control to follow the rules, provisions and instructions issued in this regard. Any deviation in this regard will be viewed seriously.

(442)

Circular Memo.No.202/Spl.C/2003-1, Genl. Admn. (Spl.C) Dept. dt.07.05.2003 regarding procedure required to be followed by the Departments to refer old cases to ACB.

Subject Beading : ACB - types of cases to be referred

Ref : From the Director General, Anti-Corruption Bureau, Hyderabad, Letter No.165/RPC(C)/2002, dt.20.11.2002.

It has been brought to the notice that matters relating to substandard quality in execution of works, irregularities in procurement of materials, falsification of bills, misappropriation of subsidies, irregularities in distribution of relief, grants etc. some of which are years old are being referred to the ACB for registration of regular cases and investigation by some of the departments treating them as cases of criminal misconduct. All such instances do not attract the provisions of Prevention of Corruption Act and do not fulfill requirements for registration of regular cases.

2. The Director General, Anti-Corruption Bureau in his letter cited has requested that only when a prima-facie case is established by an internal vigilance mechanism then only such cases even if they are old may be referred to the Bureau. The matter has been placed before the High Level Committee on Anti-Corruption and the Committee in its meeting held on 08.01.2003 has agreed with the proposal of the Director General, ACB.

3. The Government after examining the matter hereby prescribe the following procedure to refer old cases to the ACB.

A detailed preliminary enquiry is necessary to arrive at a conclusion whether instances of irregularities and loss of revenue etc. with reference to the facts and circumstances of each case amounts to criminal misconduct or otherwise. The evidence collected during such enquiry if reveal, commission of any offence under P.C. Act, could be referred to ACB for registration of cases and further investigation. In such instances, an officer of the concerned Department, preferably the enquiry officer should prefer a complaint in writing to the ACB for registration and investigation of the case depending upon the gravity of the allegations / charges. The delay if any, in preferring complaint should also be

explained. The inordinate and unexplained delay in registration and submitting the report contemplated under Sec. 173 Cr.P.C. violates the Fundamental Rights of the accused for speedy trial under Article 21 of the Constitution of India.

After conducting a preliminary enquiry, the following requirements needs to be satisfied for preferring a complaint.

- (i) The complaint lodged should be comprehensive in its form and content with details of the irregularities, persons responsible for 'the commission of such offence date of offence, place of occurrence, violation of rules, Codal instructions, specific liability of each officer with commission and omissions etc.
- (ii) Audit and inspection of work before reaching any conclusion in the in-house enquiry before preferring a complaint.
- (iii) Complaint should be lodged with the original signature preferably by the officer, who has enquired into the irregularities with his conclusions.
- (iv) Complaint should disclose ingredients of atleast one of the following offences:
 - a) Public Servant should obtain any valuable thing or pecuniary advantage for any person or for himself by corrupt or illegal means.
 - b) Abuse official position as Public Servant for obtaining pecuniary advantage for himself or others.
 - c) Such obtaining of valuable things or pecuniary advantage is without any public interest.
- (v) All the original documents relied upon for purposes of enquiry have to be mentioned indetail and same have to be secured for safe custody with the Nodal Officer or any other responsible officer in the department so as to enable investigating officer after registration of case to seize them under Section 102 Cr.P.C. and produce the same before the Court of Special Judge, in order to make the same as admission in the court during trial and also use the same for purpose of investigation.

- (vi) Mere obtaining pecuniary advantage for himself or for others does not by itself is not an offence, such obtaining pecuniary advantage should be by either corrupt or illegal means to constitute an offence. The correspondence pecuniary loss resulted or caused has to be mentioned so as to draw the inference regarding dishonest intention on the part of the public servant in making such attempts to obtain pecuniary advantage for himself or for others.
- (vii) Details and facts of the case indicating specific omissions and commissions and penal provisions of P.C. Act and allied Acts and also Disciplinary and Appeal Rules should be mentioned.
- (viii) In case of any delay in referring the matters to the ACB, satisfactory reasons to justify the delay should be mentioned.

4. These ingredients may be kept in view for taking a decision to refer the ACB and these ingredients are subject to the decisions to be rendered by the High Court and Supreme Court as to the interpretation of each clause on its own.

5. Cases falling under the following categories are generally not advisable to be referred to ACB :

- a) Where there is extraordinary delay in detection of the misconduct and complaint is not preferred within one year of detection of misconduct.
- b) Where the persons, who are conversant with the facts of the case are not available are not traced or if their presence could not be secured within a reasonable time for any reason.
- c) Where the relevant original documents are not traced or could not be secured or have been destroyed
- d) Where the loss sustained is in the day to day transactions or temporary misappropriation or allegations are within the purview of penal provisions of the other Acts and Rules.
- e) Issues involving misappropriation, fraud, embezzlement, loss, pilferage, departmental irregularities or negligence or false claims of T.A., LTC, Medical Reimbursement, production of false education certificates, caste certificates, misuse of staff car, Govt. vehicles, attenders etc. and cases where no malafides involved.

6. All the departments of Secretariat are also informed that the Conduct Rules and APCS (CC&A) Rules provide for effective and deterrent penalties against irregularities and misconduct, losses caused to Government by the delinquent employees. Dealing of such cases of employees against whom there are no sufficient evidence and who do not deserve to be continued in service, exercise of powers under the provisions of CC&A Rules would be speedy and deterrent compared to recourse to prosecution in a court of law which involves not only laborious and complicated procedures but also demanding requirement to prove their charge beyond reasonable doubt.

7. All the Departments of Secretariat are, therefore, requested to follow the above procedure, while entrusting the cases to ACB. They are also requested to issue necessary instructions to the Heads of Departments under their control, immediately.

(443)

**Memo.No.177/Spl.C/2003-1, Genl. Admn. (Spl. C) Dept., dt.13.05.2003
regarding suspension of Accused Officers involved in trap cases.**

Subject Heading : Suspension - in trap cases

Subject Heading : Traps - Final Report, within a month and further time limits

Ref: 1. Govt. Memo.No.2045/Spl.B/2000-4, G.A. (Spl.B) Dept., dt.25.05.2001
2. U.O.Note No. 1818/Spl.B/2000-2, G.A. (Spl.B) Dept., dt.21.11.2001.

All the Departments of Secretariat are informed that in the reference first cited while reiterating the earlier instructions, it was requested to place the officers in trap cases under suspension pending prosecution without the need for separate instructions from any other authorities and as soon as intimation giving details of trap is furnished by the ACB.

2. In the reference 2nd cited, instructions were also issued to suspend the accused officer upon receipt of preliminary report against the officer who is caught directly or indirectly in the act of accepting bribe, irrespective of whether the phenolphthalein test yielded positively or not.

3. The Andhra Pradesh Vigilance Commission has suggested certain measures to expedite investigation and to follow the time limit laid down in the ACB Manual

4. After examining the matter, the Government hereby prescribe the following revised procedure in trap cases

- a) The ACB will send a Radio Message to Secretariat Administrative Department and to the Vigilance Commission within 24 hours of the trap instead of sending preliminary report. On receipt of the said Message, the Disciplinary Authorities will take action for suspending the accused officer;
- b) The ACB will send final report so as to reach the Administrative Department of Secretariat and Vigilance Commissioner within one month from the date of trap, along with a copy of the specimen sanction order;
- c) The ACB will file a charge sheet in prosecution cases or to send Part-B report for departmental enquiries by TDP or COI or Department within one month from the date of such order/requisition; and
- d) The D.G., ACB will make every effort to finalise the cases within 18 months from the date of trap so that, during the remaining period of six months, the Administrative Departments will be able to issue final orders.

5. The D.G., ACB and all Departments of Secretariat are requested to follow the above procedure scrupulously. All Departments of Secretariat are also requested to issue immediate necessary instructions in this regard to the Heads of Departments under their control.

(444)

U.O.Note No.36/Spl.C/2003-1, Genl. Admn. (Spl. C) Dept., dt.26.05.2003 regarding sending of Reports of V & E to the Departments through A.P. Vigilance Commission.

Subject Heading : V & E Department - cases to be referred to Vigilance Commission for advice

Ref: G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993.

The Director General, Vigilance and Enforcement is informed that according to the scheme of the A.P. Vigilance Commission, all cases of corruption and other irregularities which are covered under para 6 of the G.O. cited, irrespective of the fact whether Anti-Corruption Bureau or other authorities including departmental authorities which enquired into the irregularities should be referred to the Vigilance Commission for advice. But, it has been brought to the notice that General Administration (V&E) Department are not sending the reports having vigilance angle to the Departments through the Vigilance Commission.

2. The Vigilance Commissioner has also requested that reports of Vigilance and Enforcement having a vigilance angle should be sent to the Departments concerned through Vigilance Commission under copy to the Department, as is being done by the Director General, ACB. The matter was placed before the High Level Committee on Anti Corruption and the Committee in its meeting held on 08.05.2003 recommended that all reports of D.G., V&E having vigilance angle may be routed through VC for a decision.

3. The Director General, Vigilance and Enforcement and E.O. Principal Secretary to Government, General Administration (V & E) Department is therefore, requested to send reports, having vigilance angle, to the Departments concerned through Vigilance Commissioner.

(445)

G.O.Ms.No.164, G.A. (Spl.B) Dept., dt.28.05.2003 regarding authorization to Inspectors of Police of A.C.B. to conduct investigation.

Subject Heading : Anti-Corruption Bureau – Investigation of offences under Prevention of Corruption Act, 1988 – Authorization to Inspectors of Police of Anti Corruption Bureau to conduct investigation – Certain Amendment to the Notification issued in G.O.Ms.No.10, G.A. (SC.E) Dept., dt.07.01.1999 – Notification – Issued.

Read the following :

1. G.O.Ms.No.170, G.A. (SC.D) Dept., dt.20.03.1968.
2. From the D.G., A.C.B., A.P., Hyderabad, Lr.Rc.No.56/RPCC/96, dt.09.05.1996.
3. G.O.Ms.No.10, G.A. (SC.E) Dept., dt.07.01.1999.

ORDER :

The following Notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the first proviso to Section 17 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988) read with Section 15 of the Andhra Pradesh General Clauses Act, 1891, the Governor of Andhra Pradesh hereby directs that the Notification issued in the G.O.Ms.No.10, General Administration (SC.E) Department, dated: 7th January, 1999 shall be deemed to have come into force with effect from the 9th September, 1988.

(446)

G.O.Ms.No.174, Genl. Admn. (SC. E) Dept., dt.09.06.2003 regarding bringing Commissionerate of Inquiries under Vigilance Commission.

Subject Heading : Commissionerate of Inquiries - brought under Vigilance Commission

Read the following :

1. G.O.Rt.No.732, G.A. (SC. F) Dept. dt.22.02.89.
2. G.O.Rt.No.4394, G.A. (Spl. A) Dept. dt.16.08.87.
3. G.O.Ms.No.421, G.A. (SC. D) Dept. dt.03.08.93.

ORDER :

In the G.O. first read above, orders were issued constituting a "Commissionerate of Inquiries" comprising of a 'Chairman' and one Member for conducting departmental enquiries against Gazetted Officers of the State Government and officers belonging to the All India Services serving in connection with the affairs of the State. In the G.O. second read above, orders were issued strengthening the Commissionerate of Inquiries and making it full-fledged with a Chairman and six members.

2. The High Level Committee on Anti-Corruption at its meeting held on 16.04.2002, made a recommendation that the Commissionerate of Inquiries be

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brought under the purview of the A.P.Vigilance Commission in line with the system of Central Vigilance Commission in Government of India. Government have examined the above recommendation carefully with reference to the Scheme of the A.P. Vigilance Commission envisaged in the G.O. third read above and have decided to accept the same, in principle.

3. Accordingly, Government hereby direct that the Commissionerate of Inquiries comprising its Chairman and Commissioners / Members, hitherto functioning under the General Administration Department, shall henceforth function under the administrative control of the A.P.Vigilance Commission.

(447)

G.O.Ms.No.193, G.A. (Ser.C) Dept., dt.26.06.2003 regarding amendment to A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.284, G.A. (Ser.C) Dept., dt.07.07.1997.
3. G.O.Ms.No.1314, Home (Police.C) Dept., dt.11.08.2000.
4. G.O.Ms.No.519, G.A. (Ser.C) Dept., dt.30.12.2002.
5. From the D.G. & I.G.P., Hyderabad Lr.No.315/Appeal-1/2003, dt.12.03.2003

ORDER :

The following Notification will be published in the extraordinary issue of the Andhra Pradesh Gazette, dated: 26th June, 2003.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh

Civil Services (CC&A) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated: the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated: the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In the said Rules, in Appendix-IV for the existing entry in column (8) against Sl.No.1, the following shall be substituted, namely:-

“All Deputy Inspector General / Inspector General of Police of all Ranges”

(448)

G.O.Ms.No.206, G.A. (Ser.C) Dept., dt.16.07.2003 regarding amendment to A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to Rule 6 and Rule 11 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.284, G.A. (Ser.C) Dept., dt.07.07.1997.
3. G.O.Ms.No.1669, Law (LA&J, Courts-A2) Dept., dt.18.10.2001.

O R D E R :

The following Notification will be published in the extraordinary issue of the Andhra Pradesh Gazette: Dated: the 16th July, 2003.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Dept., dated: the 14th September, 1992 and published in the Andhra Pradesh Gazette Part-I, Extraordinary No.235, dated: the 1st July, 1992 and as subsequently amended from time to time.

2. The amendment hereby made shall be deemed to have come into force with effect from the 18th October, 2001.

AMENDMENT

In the said Rules :

(i) After clause (d) of sub-rule 26 of Rule 11, the following shall be added namely:

“(e) The Director of Prosecution may impose any of the penalties specified in clauses (i) to (v) of Rule 9 on all categories of Andhra Pradesh State Prosecution Services except Additional Director of Prosecution”.

(ii) In Schedule-I, after entry 56, the following shall be added, namely:

“57 – Andhra Pradesh State Prosecution Services”

(449)

Memo.No.82494/Ser.C/2003, Genl. Admn. (Ser. C) Dept., dt.28.07.2003 regarding time limits to expedite inquiries in disciplinary cases.

Subject Heading : Departmental Inquiry - time limits

Subject Heading : Andhra Pradesh Public Service Commission - consultation

- Ref : 1. Circular Memo.No.35676/Ser.C/98, G.A. (Ser.C) Dept., dt.01.07.98
2. Govt. Memo.No.51883/Ser.C/2002-2, GA(Ser.C) Dept., dt.19.12.2002
3. From the Secretary, APPSC, Hyderabad, D.O.Lr. No.122/RT.I/3/2003, dt.05.06.2003

In the reference first cited, instructions were issued that in all simple cases the inquiry initiated shall be completed within three months either by Departmental Officers or Commissioner of Inquiries. In complicated cases, it shall be ensured that the inquiry should be completed within five to six months. Further it has been requested therein that the Secretaries to Government shall review the progress of the inquiries ordered in all disciplinary cases and submit

a note on the cases pending beyond the stipulated time to Chief Secretary to Government and also the Chief Minister. The object is to ensure timely action in all disciplinary cases and also to adhere to the time limit prescribed.

2. The Secretary, APPSC, Hyderabad vide reference 3rd cited pointed out abnormal delays in completing the disciplinary cases and in obtaining concurrence of the APPSC for the penalty proposed in the case of retired officers. As a result of the delay in finalising the disciplinary cases pensionary benefits of retired officer could not be released in time. The Secretary, APPSC requested the Government to set a time limit to obtain the concurrence of APPSC in disciplinary cases be followed in case of Departmental Proceedings against the retired Government employees as laid down in Rule 9 of Andhra Pradesh Revised Pension Rules, 1980.

3. The Government after careful examination of the proposal of the Secretary, Andhra Pradesh Public Service Commission, Hyderabad, hereby order that disciplinary cases instituted against Government Servants shall be completed within the time frame Department, dt.28.07.1999 and U.O. Note No. 1992/Ser.C/2000, G.A. (Ser.C) Department, dt.27.04.2000. Not more than one week time shall be taken to request the APPSC for its concurrence after a decision is taken to impose penalty.

4. The Department of Secretariat, the Heads of Departments and the District Collectors are requested to follow the above instructions and also bring this to the notice of all concerned for strict compliance.

(450)

Memo.No.94649/Ser.C/2003, G.A. (Ser.C) Dept., dt.31.07.2003 regarding reiteration of the instructions on declaration of Agricultural income in the Annual Property Return.

Subject Heading : Agricultural income – Declaration in the Annual Property Return by the Government Employees – Reiteration of Rule 9 (7) of A.P.C.S. (Conduct) Rules, 1964 – Regarding.

- Ref : 1. G.O.Ms.No.52, G.A. (Ser.C) Dept., dt.04.02.1988.
2. Govt. Circular Memo.No.76883/Ser.C/98, dt.12.12.1998.
3. From the D.G., A.C.B., Hyd., Lr.No.138/RPC(C)/2003, dt.11.07.2003.

According to sub-rule (7) of Rule 9 of A.P.C.S. (Conduct) Rules, 1964, every Government Employee, other than a member of the A.P. Last Grade Service and a Record Assistant in the A.P. General Sub-ordinate Service, shall on first appointment to the Government Service submit to Government a statement of all immovable property irrespective of its value and movable properties whose value exceeds Rs.20,000/- . He shall also submit to Government before 15th January, of each year, through the proper channel, a declaration in the form given in the Annexure, of all immovable property owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person. In the reference read above, Government have issued amendment while prescribing Annexures-I and II, of Rule 9 (7) of A.P.C.S. (Conduct) Rules, 1964 as follows:

2. Every Government Employee, other than member of the A.P. Last Grade Service and a Record Assistant in the A.P.General Subordinate Service, shall on first appointment to the Government Service submit to Government a statement of all immovable property; irrespective of its value and movable properties whose value exceeds Rs.20,000/- owned, acquired or inherited by him or held by him on lease or mortgage either in his own name or in the name of any member of his family, in the forms prescribed in Annexure-I (for immovable properties) and II (for movable properties) separately. He shall also submit to Government before 15th January of each year, through the proper channel, a declaration in the forms given in the Annexure-I and II of all immovable/movable property/properties owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family. The declaration shall contain such further information as Government may, by a General or Special order, require. If, in any year, a Government Employee has not acquired or disposed off any immovable or movable property or any interest therein, he shall submit declaration to that effect.

3. The Annexure-I for immovable properties containing 8 columns which includes Agricultural Land (dry or wet) at column No.1 and also annual income from the said property to be mentioned at Column No.8.

4. But, most of the Government Servants are not furnishing full particulars as required in; Annexure-I, particularly with reference to income from Agricultural Land including Horticulture, Aquaculture, Fruit gardens etc. This is also required for the purpose of calculation of income from lawful source as defined in the explanation to Section 13 (1)(e) of the Prevention of Corruption Act, 1988.

5. The Government Servants are required to furnish details of the Agricultural income every year both in the Income Tax Returns though; it is not taxable and also in the Annexure-I as per the A.P.C.S. (Conduct) Rules, 1964 so as to make it income from lawful sources as otherwise it cannot be considered as income from lawful source.

6. The Departments of Secretariat, Heads of Departments and District Collectors are requested to bring the rule position to the notice of all employees and insist that details of income from agricultural land is invariably shown in the annual property statement of Government employees.

(451)

G.O.Ms.No.232, Genl. Admn. (Spl.C) Dept., dt.06.08.2003 regarding maintenance of Lists of Officers of Doubtful Integrity and Suspect Officers.

Subject Heading : Officers of doubtful integrity etc.

ORDER :

Government places highest importance on providing clean and corruption free administration in the State. The Government have examined practices of the Government of India in maintaining an annual list of officers of Doubtful Integrity and obtaining vigilance clearance for promotions of Senior Officers from the Central Vigilance Commission, and decided to implement the practice of the Government of India. Accordingly the matter has been placed before the High Level Committee on Anti Conupption and the Committee in its meeting held on 26.10.2002 agreed that within a time span of three months the exercise for preparation of the following documents should be completed by all Departments in consultation with the Director General, Anti-Corruption Bureau, Hyderabad.

- a) List of Officers of Doubtful Integrity
- b) Agreed list of Suspect Officers
- c) List of points or places of corruption
- d) List of unscrupulous contractors, suppliers and firms
- e) List of unscrupulous contactmen

2. After examining the recommendation of the High Level Committee on Anti-Conupion, the Government hereby order that the above lists should be maintained by the Secretaries of the Departments of Secretariat, the procedure for maintaining lists is as follows:

“LIST OF PUBLIC SERVANTS OF GAZETTED STATUS OF DOUBTFUL INTEGRITY”

It will include names of those Gazetted Officers only who, after enquiry or during the course of enquiry, have been found to be lacking in integrity. It will thus include the names of the officers falling under one of the following categories:

- (i) convicted in a court of law on a charge of lack of integrity or for an offence involving moral turpitude but on whom, in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement is imposed.
- (ii) Awarded departmentally a major penalty
 - a) On charges of lack of integrity
 - b) On charges of gross dereliction of duty in protecting the interests of Government although the corrupt motive may not be capable of proof
- (iii) Against whom proceedings for a major penalty or a court trial are in progress for alleged acts involving lack of integrity or moral turpitude.
- (iv) Who were prosecuted but acquitted on technical grounds, and in whose case on the basis of evidence during the trial there remained a reasonable suspicion against their integrity.

The names of the officers of the following categories should not be included in these lists:

- a) Officers who have been cleared or honourably acquitted as a result of disciplinary proceedings or court trial.
- b) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.
- c) Officers who have been convicted of offences not involving lack of integrity or moral turpitude.

- d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapses, minor violation of Conduct Rules and the like.

3. These lists are intended to keep the Departments / Public Undertakings concerned informed about such officers of doubtful integrity to ensure that they are not posted to sensitive assignments and that this fact is given due consideration when deciding administrative matters affecting the service of these officers. These lists would also help the departments to know about the officers, whose work and conduct, need both special attention and close supervision and scrutiny.

4. The Vigilance Organisation of Departments will prepare a list of public servants of Gazetted status against whom any disciplinary proceedings for a major penalty are in progress or who have been punished in disciplinary proceedings on a charge involving lack of integrity. A copy of these lists will be sent by the department in respect of all departments under them to the ACB every year in the last week of February. As soon as an adverse report against an officer of the nature mentioned above is received, the Vigilance Officer should bring it to the notice of the Secretary / Head of the Department concerned immediately. A decision in regard to the inclusion of the name of such officer in the list should be taken as soon as possible. The ACB will suggest addition or deletion of names on the basis of information available with them and return the lists to Secretaries concerned, who would in turn furnish the list to the Heads of Department / Chief Executives of Public Enterprises. The purpose of maintenance of these lists is also to enable the Departments to take such administrative action as is necessary and feasible. The following courses of administrative action are open:

- (i) Withholding certificate of integrity.
- (ii) Transfer from a “sensitive” post.
- (iii) Non-promotion after consideration of his case, to a service, grade or post to which he is eligible for promotion.
- (iv) Compulsory retirement in the public interest (otherwise than as penalty) in accordance with the orders issued by the Government. This is now permissible on completion of the age of 50 with certain exceptions.

- (v) Refusal of extension of service or re-employment either under Government or in Public Sector Undertakings.
- (vi) Non-sponsoring of names for foreign assignment / deputation.
- (vii) Refusal of permission for commercial re-employment after retirement.

When the name of the officer has been entered in the list, it will not be removed until a period of three years has elapsed. The period of 3 years for which the name will be current on the list will count from the date of punishment in the disciplinary proceedings or from the date of conviction in a court trial. On the conclusion of the period, the cases of such officers may be reviewed by the Department in consultation with ACB and if during the intervening period there has been no further complaint against the officer touching on his integrity the name may be removed from the list. If at the time of review, it is proposed to continue the name of the officer on the list, cogent reasons for doing so should exist. In the event of the officer being transferred to another Department / Public Undertaking, the fact of the officer's name being on the list undertaking should be furnished to the Department under copy to the ACB. List of such officers considered by the ACB will be circulated to the departments once every year i.e., in June through the Secretaries to Government. It will be the duty of the Chief Vigilance Officer of the Department / Public Undertaking to maintain these lists up-to-date. The list will be treated as "SECRET" and the Secretary / Head of the Department / Chief Executives of Public Undertaking will be responsible for its safe custody.

Agreed Lists of Suspect Officers :

These lists should include officers of Gazetted status against whose integrity, honesty, where there are complaints, doubt or suspicion. Lists to be finalised by mutual discussion between the Department and the ACB. The following action will be taken in respect of officers on these agreed lists by the departments or the public undertakings and by the ACB:

- (i) Closer and more frequent scrutiny and inspection of their work and performance by the departments concerned, particularly in spheres where there is scope for discretion or for showing favours.
- (ii) Quiet check about their reputation both by the department and the ACB.
- (iii) Unobtrusive watch of their contacts, style of living etc. by the ACB.

- (iv) Secret enquiry by the ACB about their assets and financial resources. The departments will make available their property returns and other relevant records to the ACB.
- (v) Collection of information by the ACB of specific instances of bribery and corrupt practices.

5. If these secret checks and enquiries reveal positive material, open enquiries will be initiated by the ACB and further action taken in the light of the results of that enquiry and no adverse or punitive action is contemplated against any officer on these lists unless these checks, verifications or enquiries bring forth adequate material to reasonably conclude that he is lacking in integrity. These agreed lists will remain in force for one year from the date of preparation. At the end of this period, the list will be reviewed and the names of those officers against whom there is not sufficient evidence to proceed against will be deleted from the list.

List of points or places of corruption :

- a) "Points" are those of items of work and those stages at which decisions are taken or orders are passed which provide scope for corruption namely, processing of tenders, appraising, grant of quota certificates etc.
- b) "Places" would be sections, sectors, units of an office / department / public undertakings.

It may be emphasized that these are not lists of all those points and places where there is scope or likelihood of corruption but only of those where corruption is believed to exist in substantial measure. The preparation of these agreed lists of points and places of corruption must necessarily be done by those in the field. The D.S.Ps of local branches of ACB with the assistance of Bureau Headquarters will settle and prepare these lists after discussion with the Heads of Department or Public Undertakings concerned. The Departments and Public Undertakings can contribute substantially in the preparation of these lists. They are likely to have much greater appreciation of the position in their units or sections and they are in the best position to compile or to assist in compiling these lists.

After these lists are prepared, the following action should be taken by the departments or public undertakings and by the ACB:

- (i) Closer and more frequent scrutiny and inspection by the department or public undertaking of the work done at these points and places.
- (ii) Surprise checks by the department or public undertaking.
- (iii) Quiet and unobtrusive watch by the ACB followed by raids as and when appropriate.
- (iv) Collection of information about specific instances of bribery and corrupt practices so as to initiate open enquiries.

List of unscrupulous contractors, suppliers and firms

These lists are to be prepared by the Departments and undertakings concerned as they are in best position to do so. They need not be "agreed" lists. Copies of these lists should be sent to the ACB for its information. The ACB on its part will pass on to the Departments undertakings concerned any information regarding corrupt practices of contractors, suppliers, firms etc. for their information and for considering as to whether the name of such contractor should be brought on their lists. Particular care should be exercised in the preparation of these lists. Departments concerned should lay down the criteria on the basis of which names are to be included in these lists. In respect of Building Contractors, the Departments concerned should appoint a Committee to lay down such criteria and the Committee's recommendations will be circulated to all Departments concerned.

The Director General, Anti-Corruption Bureau and the Departments should take the following action in respect of the Contractors etc. on these lists.

- (i) The lists should be circulated by the departments / undertakings to their officer / officers enjoining them to be careful and cautious in all dealings with such parties.
- (ii) Closer check and scrutiny by the departments / undertakings if the requests on applications, made by such parties and of the contractors for works or supplies awarded to, or executed by them and or any business or transaction, undertaken by them.

- (iii) Quiet and unobtrusive watch should be kept by ACB over the contracts or such parties in official circles.
- (iv) Collection of information by the ACB of specific instances of malpractices on the part of such parties with a view to initiating open enquiries.

List of Unscrupulous Contactmen :

The ACB should prepare lists of unscrupulous contactmen who are suspected of resorting to corrupt or irregular practices in their dealings with official agencies. The names of persons on these lists will be communicated by the ACB to the departments and public undertakings concerned. These lists may be compiled with the following objectives:

- a) The information contained in these lists will be utilised when considering cases for accrediting of representatives of firms etc. Normally, such unscrupulous persons should not be accepted as accredited representatives.
- b) The departments and undertakings concerned will issue directions to their officers to be careful and cautious in dealing with unscrupulous contactmen whose names are on these lists. They should avoid associating with them socially and accepting entertainment and gifts from them.
- c) The ACB will exercise an unobtrusive check on the activities of such contactmen and try to collect information about specific instances of malpractices in which they are involved.

6. All the Departments of Secretariat and Heads of Departments and the Director General, ACB are requested to follow above instructions scrupulously. These instructions will come into force with immediate effect.

(452)

G.O.Ms.No.240, G.A. (Ser.C) Dept., dt.14.08.2003 regarding amendment to Rule-25 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 - Amendment to Rule 25 (i) – Orders – Issued.

Read :

G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.

O R D E R :

The following Notification will be published in the next issue of the Andhra Pradesh Gazette :

NOTIFICATION

In exercise of the powers conferred by the proviso, to Article 309 of the Constitution of India, and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in the Andhra Pradesh Gazette Part-I, Extraordinary No.235, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule 25, after the proviso the following shall be added namely :

“Provided further that no such consultation with the Commission is necessary before any orders are made under clause (i) of this rule”.

(453)

Memo.No.83486/Ser.C/2003, G.A. (Ser.C) Dept., dt.20.08.2003 regarding further instructions on attendance of witnesses and production of documents in departmental inquiries.

Subject Heading: Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 – Procedure to be followed – Further Instructions – Issued.

It has been reported to the Government that certain private witnesses are not appearing before the Inquiry Officers. As per the various judicial pronouncements the statements recorded earlier cannot be taken into consideration without examining the witnesses during the regular inquiry and

more importantly without giving an opportunity to the charged officers to cross-examine the witnesses.

2. In order to overcome the difficulty in enforcing attendance of private witnesses, the Inquiry Officer can take recourse to the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993. Section 4 of the Act deals with the Authorization of Inquiring Authority to exercise the powers specified in Section 5 and Section 5 deals with the power to authorize Inquiring Authority to enforce attendance of witnesses and production of documents.

3. The Government in exercise of the powers conferred by Section 4 of the said Act, have designated the Principal Secretaries / Secretaries to Government and the Chairman, Commissionerate of Inquiries to authorize the Inquiring Authority to exercise the powers specified in Section 5 of the said Act in respect of the Departmental Inquiries pertaining to their Departments vide G.O.Ms.No.541, G.A. (Ser.C) Dept., dt.02.11.1994 (copy enclosed). Further, Government in exercise of the powers conferred by Section 4 of the said Act have designated the Registrar, Andhra Pradesh High Court to authorize the Inquiring Authority to exercise the powers specified in Section 5 of the said Act in respect of Departmental Inquiries pertaining to Judicial Department vide G.O.Ms.No.56, G.A. (Ser.C) Dept., dt.13.02.1996 (copy enclosed).

4. As per the provisions contained under sub-section (3) of Section 5 of the said Act, the process issued by an authorized inquiring authority for attendance of any witness or for the production of any document shall be served and executed through the District Judge within whose jurisdiction the witness or other person resides or carries on business or personally works for gain.

5. All the Disciplinary Authorities and the Inquiry Officers, who are conducting departmental inquiries under the Andhra Pradesh Civil Services (CC&A) Rules, 1991 can use the provisions of the said Act while to enforce the attendance of any witness and examine him on oath or to enforce the production of any document or material, which is necessary for conducting the departmental inquiry.

(454)

G.O.Ms.No.247, G.A. (Spl.C) Dept., dt.22.08.2003 regarding cancellation of instructions to authorize the Officers of A.C.B. to give assurance to the Witnesses.

Subject Heading: Public Servants – Authorizing the officers of A.C.B. to give Assurance to the Witnesses – Instructions issued – Cancellation of instructions – Orders – Issued.

Read the following :

1. G.O.Ms.No.677, G.A. (Ser.D) Dept., dt.30.05.1961.
2. From the D.G., A.C.B., Hyderabad, Lr.C.No.20/RPC(C)/2000, dt.24.03.2000.

ORDER :

In the G.O. first read above, consolidated instructions were issued for the general guidance of all the Heads of Departments and the Departments of Secretariat in dealing with cases of corruption. As per Part-II(V) of the instructions, certain officers of the Anti Corruption Bureau were authorized to assure fullest protection to witnesses whose examination is required for the enquiries and the officers were also authorized to give an assurance wherever necessary to them in writing in the form given in the Appendix, subject to certain conditions.

2. The Director General, Anti Corruption Bureau in his letter 2nd read above, has stated that the instructions issued in the G.O. first read above do not appear to be legally tenable or administratively appropriate and they need to be examined.

3. The Government after examining the matter carefully, hereby cancel the Part-II (V) of the instructions issued in the G.O. first read above in respect of giving assurance of full protection to the witnesses by the Officers of A.C.B.

(455)

Memo.No.91715/Ser.C/2003, G.A. (Ser.C) Dept., dt.25.08.2003 regarding instructions on common proceedings.

Subject Heading: Inquiries – Conduct of common inquiry into the charges against more than one charged officer in common proceedings – Instructions – Issued.

Ref:- U.O.Note No.439/COI.R/2003-1, G.A. (COI.R) Dept., dt.05.07.2003.

It has been brought to the notice of the Government that several deficiencies were noticed during the course of conduct of inquiries into the

charges against more than one officer in a common proceedings. Though the Rule 24 of A.P.C.S. (CC&A) Rules, 1991, provides for ordering a common inquiry into the charges against more than one charged officer of the same or of different services, the disciplinary authorities are not mentioning the above rule position or even the expression Common Inquiry / Common Proceedings in the order of appointment of Inquiring Authority, while ordering inquiry. The proper course of action to be taken under each contingency is indicated as shown below :

CONTINGENCY	ACTION TO BE TAKEN
i Among all the Charged Officers there may not be a uniform line of defence and each one will try to implicate other Charged Officer to save his own skin.	In such a case the other Charged Officers, if they so desire may be allowed to have a copy of the written defence statement(s) or written brief(s) submitted by other Charged Officers for the purpose of rebutting such of the incriminating statement made by the Charged Officer.
ii During the course of cross-examination of prosecution witnesses, one Charged Officer may elicit certain information, which is going against the interest of the other Charged Officer.	A fair chance will have to be given to the other Charged Officer to cross-examine the witness on that matter.
iii During the course of inquiry, defence witnesses cited by one Charged Officer may state something incriminatory against any other Charged Officer.	In such a case, the other Charged Officers will have the right to cross-examine the defence witness cited by the first Charged Officer.
iv When one Charged Officer while examining himself as his own witness deposes something incriminating against any other / all other Charged Officers.	In such a case, the other Charged Officer / their Defence Assistants will have a chance to cross-examine that Charged Officer, who is examining himself as his own witness.

- V When one of the Charged Officer is cited as Defence Witness by the other Charged Officer, whether he shall be allowed to examine the Charged Officer as his witness?
- Vi When in a common proceeding, on the directions of a Court of Law if the inquiry against anyone or few of the Charged Officers is separated and asked to complete it before the other Charged Officer, particularly when the other Charged Officer got stay order on the proceedings.
- In such a case, the Charged Officer who is cited as defence witness by the other Charged Officer, it is voluntary for him to give evidence, but he can not be compelled to give evidence against his wishes.
- In such a case, action on the inquiry report in respect of those Charged Officers may be taken along with other Charged Officers. Otherwise, there is a possibility that the Charged Officers in whose case inquiry is not completed may; seek a relief under the guise of outcome of the inquiry report in respect of first Charged Officer.

2. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above suggestions. They may bring these instructions to the notice of all concerned disciplinary authorities for their guidance and compliance.

(456)

Memo.No.107309/Ser.C/2003, Genl. Admn. (Ser.C) Dept. dt.03.09.2003 regarding non interference with quantum of penalty by Tribunal / High Court.

Subject Heading : Penalty – Non intereference by Courts

It has been brought to the notice of the Government that in a large number of cases in which the Andhra Pradesh Administrative Tribunal has been setting aside or substantially reducing the penalties imposed in disciplinary cases even though it is the settled law that the Tribunal or the High Court should not interfere with the disciplinary authorities decisions unless in a specific case the punishment awarded shocks judicial conscience. Such cases will obviously be few and far between. The Supreme Court again in Director General, RPF vs. Ch. Sai Babu case in Supreme Today Journal 2003(4) Supreme 313 pronounced

Judgment on 29.01.2003 setting aside the Division Bench decision of the Andhra Pradesh High Court in the case and held that "Normally, the punishment imposed by disciplinary authority should not be disturbed by High Court or Tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly; or shockingly disproportionate, after examining all the relevant factors including nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of and discipline required to be maintained, and the department / establishment in which the concerned delinquent person works. Normally in cases where it is found that the punishment imposed is shockingly disproportionate, High Courts or Tribunals may remit the cases to the disciplinary authority for reconsideration on the quantum of punishment.

2. A copy of the Judgment is forwarded to all the Departments of Secretariat, Heads of Departments and the Government Pleaders dealing with service matters in the A. P. A.T. and the High Court with a request to see that the Tribunal and the High Court decisions are strictly in conformity with the above ruling. It is requested to examine such Judgment if any, in the light of this Supreme Court ruling and take immediate steps to appeal against any such decisions and to strictly follow the above instructions. They shall also bring these instructions to the notice of their subordinates for their guidance and compliance.

3. Receipt of this memo. may be acknowledged.

2003(4) Supreme 313

Supreme Court of India

(from A.P. High Court)

Shivaraj V.Patil & Arijit Pasayat, JJ.

Director General R.P.F. & Ors – Appellants

Versus

Ch. Sai Babu – Respondent

Civil Appeal No.4622/2000

Decided on 29.01.2003

Railway Protection Force Rules, 1987 – Rule 153 – Charge sheet under framing five charges of misconduct – After enquiry charges found proved – Punishment of removal from service awarded – High Court finding punishment disproportionate to charges proved – Modified it to stoppage of four increments with cumulative effect – Appeal against to Supreme Court – Whether High Court was right in modifying the punishment in the facts of the case? (No, case remanded to D.B. for reconsideration on the quantum of punishment imposed) – Appeal allowed accordingly.

Held: Normally, the punishment imposed by disciplinary authority should not be disturbed by High Court or Tribunal except in appropriate case that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of and discipline required to be maintained, and the department / establishment in which the concerned delinquent person works. In the present case we do not find that there has been a consideration of all the relevant facts and the learned Single Judge has not recorded reasons in order to modify the punishment imposed. The Division Bench of the High Court also did not examine the matter in proper perspective but simply concurred with the order passed by the learned Single Judge. Normally in cases where it is found that the punishment imposed is shockingly disproportionate, High Courts or Tribunals may remit the cases to the disciplinary authority for reconsideration on the quantum of punishment. In this case the disciplinary proceedings were initiated in the year 1989 and to shorten the litigation we think appropriate to set aside the impugned order and remit the writ appeal No.952 of 1998 to the Division Bench of the High Court to reconsider the case only on the quantum of punishment imposed on the respondent having regard to all relevant factors including the facts that the respondent was a member of Railway Protection Force and in the light of the observations made above. Since the proceedings are pending for quite some time, we request the High Court to dispose of the writ appeal expeditiously. The impugned order is set aside and the appeal is ordered in the above terms. No costs. (Paras 6 and 7)

Counsel for the Parties:

For the Appellants: Mukul Rohatgi, Addl. Solicitor General, S.Wasim,
A.Quadri, Mrs. Anil Katiyar, Ms. Sushma Suri,
Advocates.

For the Respondent : R.S.Hegde, Allam Nagabushanam, Ms. N.
Annapooranai, Advocates.

IMPORTANT POINT

Normally, in cases where it is found that the punishment imposed by disciplinary authority is shockingly disproportionate, High Courts and Tribunals may remit the cases to the disciplinary authority for reconsideration the quantum of punishment.

ORDER :

Heard learned counsel for the parties.

2. This appeal is directed against the order dated 15th June, 1999 passed by the Division Bench of the High Court of Andhra Pradesh. The respondent was given charge sheet under Rule 153 of the Railway Protection Force Rules, 1987 framing five charges relating to misconduct on his part. After enquiry report was submitted holding that all the charges leveled against him were proved. The disciplinary authority agreeing with the findings as recorded by the enquiry officer passed an order of removal of the respondent from service. He unsuccessfully challenged the said order of his removal from service before the appellant and revisional authority. Thereafter, he filed writ petition before the High Court challenging the order of removal from service on various grounds. The learned Single Judge after hearing the learned counsel for the parties did not find any good ground to disturb the finding of fact as to the charges which stood proved against the respondent. However, in relation to the quantum of punishment, the learned Single Judge held thus:

"It appears that the petitioner is a habitual offender, and due to dereliction of duties, punishment of stoppage of increment for three years was already ordered in the year 1984. But there is no improvement in the conduct of the petitioner. However, the present charges, though repetitive are not so serious in nature as to warrant extreme punishment of removal from service. I want to give one more chance to him to improve his conduct. Therefore, I direct stoppage of four increments with cumulative effect by modifying the impugned order to this effect and he is directed to be reinstated into service with continuity of service, but he will not be eligible for any back wages except for subsistence allowance".

3. The appellants called in question the validity and correctness of this order of the learned Single Judge before the Division Bench of the High Court.

The Division Bench of the High Court agreeing with the order passed by the learned Single Judge dismissed the appeal. Hence, the present appeal.

4. Shri Mukul Rohtagi, learned Additional Solicitor General appearing for the appellants urged that the learned Single Judge was not right and justified in modifying the order of punishment, having observed that the respondent was a habitual offender and due to dereliction of duties, the punishment of stoppage of increments for three years was already ordered in 1984 and that there was no improvement in the conduct of the respondent. He alternatively submitted even if the learned Single Judge was of the view that the punishment imposed was grossly or shockingly disproportionate, punishment could not have been modified but the matter could be remitted to the disciplinary authority to re-examine the issue in regard to the imposition of penalty on the respondent. He further submitted that the Division Bench of the High Court did not go into the merits of the contentions and simply endorsed the view taken by the learned Single Judge.

5. Per contra, Shri. R.S.Hegde, learned counsel for the respondent made submissions supporting the impugned order. He contended that even the finding of fact also was not recorded after a proper enquiry. He also contended that the respondent was promoted even after the punishment was imposed on 13th November, 1988 before framing of the present charges.

6. As is evident from the order of the learned Single Judge there has been no consideration of the facts and circumstances of the case including as to the nature of charges held proved against the respondent to say that penalty of removal from service imposed on the respondent was extreme. Merely because it was felt that the punishment imposed was extreme was not enough to disturb or modify the punishment imposed on the delinquent officer. The learned Single Judge has not recorded reasons to say as to how the punishment imposed on the respondent was shockingly or grossly disproportionate to the gravity of charges held proved against the respondent. It is not that in every case of imposing a punishment of removal or dismissal from service a High Court can modify such punishment merely saying that it is shockingly disproportionate. Normally, the punishment imposed by disciplinary authority should not be disturbed by High Court or Tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including nature of charges proved against the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of and discipline required to be maintained, and the department / establishment in which the concerned delinquent person works.

7. In the present case we do not find that there has been a consideration of all the relevant facts and the learned Single Judge has not recorded reasons in order to modify the punishment imposed. The Division Bench of the High Court also did not examine the matter in proper perspective but simply concurred with the order passed by the learned Single Judge. Normally in cases where it is found that the punishment imposed is shockingly disproportionate, High Courts or Tribunals may remit the cases to the disciplinary authority for reconsideration on the quantum of punishment. In this case the disciplinary proceedings were initiated in the year 1989 and to shorten the litigation we think it appropriate to set aside the impugned order and remit the writ appeal No.952 of 1998 to the Division Bench of the High Court to reconsider the case only on the quantum of punishment imposed on the respondent having regard to all relevant factors including the facts that the respondent was a member of Railway Protection Force and in the light of the observations made above. Since the proceedings are pending for quite some time. We request the High Court to dispose of writ appeal expeditiously. The impugned order is set aside and the appeal is ordered in the above terms. No costs.

8. Appeal is allowed accordingly.

(457)

G.O.Ms.No.260, Genl. Admn. (Ser.C) Dept., dt.04.09.2003 regarding imposition of major penalty for willful, prolonged absence from duty without leave.

Subject Heading : Absence - Prolonged absence - clarification on action to be taken

ORDER :

According to sub-rule (1) of Rule 3 of the APCS (Conduct) Rules, 1964, every Government employee shall be devoted to duty and shall maintain absolute integrity, discipline, impartiality and a sense of propriety.

2. Instances have come to notice that some of the employees are absenting to duty without prior sanction of any leave not only for days, but for years together. After a long gap of absence, such employees are reporting to duty and submitting the application for sanction of leave putting forth unconvincing reasons.

3. According to F.R.18, and Rule 5-A of the Andhra Pradesh Leave Rules, 1933, no Government Servant should be granted leave of any kind for a period exceeding five years and that, willful absence from duty not covered by grant of any leave shall be treated as 'dies-non' for all purposes viz. increment, leave and pension as per the notes-1 thereunder. No inference can be drawn from these rules that disciplinary action against a member of service cannot be taken unless he is continuously absent for more than five years without any sanctioned leave. Thus it is not necessary for the competent authority to wait for a period of five years for initiating disciplinary action against the member of service who remained absent without any leave and in such cases disciplinary action may be initiated by following the procedure laid down in Rule 20 of the APCS (CC&A) Rules, 1991.

4. The Government hereby direct that in all cases of unauthorised absence to duty for a continuous period exceeding 'one year', the penalty of removal from service shall be imposed on the Government employee, after duly following the procedure laid down in the APCS (CC&A) Rules, 1991.

(458)

Memo.No.110169/Ser.C/2003, G.A. (Ser.C) Dept., dt.11.09.2003 regarding instructions on review of orders of suspension.

Subject Heading : Public Services – Disciplinary Cases – Review of orders of suspension beyond 2 years – Instructions – Issued – Reiterated.

- Ref : 1. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt.08.03.1994.
2. G.O.Ms.No.578, G.A. (Ser.C) Dept., dt.31.12.1999.
3. Govt.Memo.No.15309/Ser.C/02-2, G.A. (Ser.C) Dept., dt.04.10.2002.
4. Circular Memo.No.35676/Ser.C/98, G.A. (Ser.C) Dept., dt.01.07.1998.
5. Memo.No.51883/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.19.12.2002.

Government have issued orders in the G.O. 1st cited for review of suspension orders against the Government Servants at an interval of six months, and revised instructions are issued in G.O. 2nd cited specifying the authorities, who would be empowered to review suspension in the light of the delegation of powers. Further, in Govt. Memo. 3rd cited, clarification has been issued about

the existence of orders issued in the G.O. 1st cited. According to these orders / instructions, the orders of suspension against Government Servants shall be reviewed at an interval of six months and however an outer limit of two years from the date of suspension have been provided failing which, the public servant may have to be reinstated without prejudice to the proceedings being pursued, and however, in exceptional cases, considering the gravity of charges, officers could be continued under suspension even beyond a period of two years, especially in cases where there is deliberate delay caused due to non-cooperation of the employee concerned.

2. Further, Government have issued instructions in Memo. 4th read with 5th cited, framing a time schedule to complete the disciplinary cases instituted against Government Servant to ensure timely action.

3. In view of the orders issued in the reference 1st cited, that review of suspension should be taken up at intervals of six months, there may be cases where a review of suspension case of an officer will not be taken up immediately after he completes two years under suspension. The Government now makes it clear that inspite of the provision that suspension cases should be reviewed at intervals of six months the suspension case of an officer should be reviewed immediately after he completes two years despite the fact that last review was done less than six months earlier.

4. All the Departments of Secretariat, Heads of Departments and District Collectors shall evince personal interest and to strictly follow the above instructions. They shall also bring these instructions to the notice of their subordinates for their guidance and compliance.

5. The receipt of this memo. may be acknowledged.

(459)

G.O.Ms.No.442, Finance (Pension-I) Dept., dt.25.09.2003 regarding amendment to Rule 9 of A.P.Revised Pension Rules, 1980.

Subject Heading : Pensions – Amendment to Rule 9 of A.P.Revised Pension Rules, 1980 – Orders – Issued.

Read the following :

1. G.O.Ms.No.204, G.A. (Ser.A) Dept., dt.13.06.2003.

2. From the A.P. Vigilance Commissioner, Hyderabad Lr.No.325/VC-A2/99-9, dt.09.01.2001 addressed to the Prl.Secretary to Govt., Finance (Pen.I) Department.

ORDER :

In the G.O. first read above, orders were issued dispensing with the procedure of consulting the A.P.P.S.C. for imposing major penalty on the employees, who are convicted in a Court of Law and as such concurrence of the A.P.P.S.C. is not necessary. Under Rule 9 of Andhra Pradesh Revised Pension Rules, 1980 in any Departmental or Judicial Proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including services rendered upon re-employment after retirement provided that the Andhra Pradesh Public Service Commission shall be consulted before any final orders are passed.

2. In the reference second read above, A.P. Vigilance Commission have advised that a proviso to be added to the existing provisions under Rule 9 of A.P. Revised Pension Rules, 1980 that the consultation with A.P.P.S.C. shall not be necessary before any final orders are passed in any judicial proceedings, if the pensioner is found guilty of misconduct which has led to his conviction.

3. Accordingly, the following Notification will be published in the extraordinary issue of the Andhra Pradesh Gazette dated 09.10.2003.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby make the following amendment to the Andhra Pradesh Revised Pension Rules, 1980 and as subsequently amended from time to time.

AMENDMENT

In the said Rules, in sub-rule (1) of Rule 9 at the end of the first proviso, the following shall be added namely,-

“However consultation with the Andhra Pradesh Public Service Commission is not necessary, when the pensioner is found guilty in any judicial proceedings”.

(460)

G.O.Ms.No.353, G.A. (Ser.C) Dept., dt.18.11.2003 regarding amendment to Rules-11, 13 and 14 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Certain amendments – Orders – Issued.

Read :

G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.

O R D E R :

The following Notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated: the 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated: the 1st July, 1992 as subsequently amended from time to time.

AMENDMENTS

In the said rules -

In Rule 11,

(1) for sub-rule (20), the following shall be substituted, namely:-

“20 (i) The Superintending Engineer (Irrigation) may impose all minor penalties and major penalty of stoppage of annual grade increments with cumulative effect on Assistant Executive Engineer and Deputy Executive Engineer (Irrigation).

(ii) The Engineer-in-Chief (Irrigation) may impose all other major penalties as specified in Rule 9 of these Rules on Assistant Executive Engineer and Deputy Executive Engineer (Irrigation)”.

(2) for sub-rule (23), the following shall be substituted, namely:-

- "23 (i) The Superintending Engineer (Public Health) may impose all minor penalties and major penalty of stoppage of annual grade increments with cumulative effect on Assistant Executive Engineer and Deputy Executive Engineer (Public Health).
- (ii) The Engineer-in-Chief (Public Health) may impose all other major penalties specified in Rule 9 of these rules on Assistant Executive Engineer and Deputy Executive Engineer (Public Health)".

II. In Rule 13, in the table -

(1) (a) In Sl.No.4 for the entries in columns (1) and (2), the following shall be substituted, namely:-

"4. (i)	The Assistant Executive Engineer, Irrigation	Executive Engineer (Irrigation)
(ii)	The Deputy Executive Engineer, Irrigation	Superintending Engineer (Irrigation)"

(2) In Sl.No.7, for the entries in columns (1) and (2), the following shall be substituted, namely:-

"7. (i)	The Assistant Executive Engineer (Public Health)	Executive Engineer (Public Health)
(ii)	The Deputy Executive Engineer (Public Health)	Superintending Engineer (Public Health)"

III. In Rule 14 :

- (1) the existing Rule 14 (1) (a) shall be renumbered as Rule 14(1)(a)(i) ;
- (2) after 14(1)(a)(i), the following shall be added, namely:-
- "(ii) The Executive Engineer (Irrigation) may place the Assistant Engineer (Irrigation) under suspension, and
- (iii) The Executive Engineer (Public Health) may place the Assistant Engineer (Public Health) under suspension".

- (3). The existing Rule “14(1)(b)” shall be renumbered as Rule “14(1)(b)(i)”.
- (4). after Rule 14(1)(b)(i), the following shall be added, namely,-
- “(ii) The Executive Engineer (Irrigation) may impose minor penalties on Assistant Engineer (Irrigation) and
- (iii) The Executive Engineer (Public Health) may impose minor penalties on Assistant Engineer (Public Health)”
- (5) The existing “Rule 14(2)” shall be renumbered as “Rule 14(2)(i)”
- (6) After Rule 14(2)(i), the following shall be added, namely,-
- “(ii) The Superintending Engineer (Irrigation) may impose major penalties on Assistant Engineer (Irrigation)
- (iii) The Superintending Engineer (Public Health) may impose major penalties on Assistant Engineer (Public Health)”

(461)

G.O.Ms.No.373, G.A. (Ser.C) Dept., dt.06.12.2003 regarding amendment to Rule-9 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rule, 1991 - Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.284, G.A. (Ser.C) Dept., dt.07.07.1997.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and

Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated 14th September, 1992 and published in the Andhra Pradesh Gazette Part-I, Extraordinary No.235, dated the 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In Rule 9 of the said rules -

- (1) The existing clause "v" shall be renumbered as "v(a)"
- (2) After clause (v) (a) of the following shall be added, namely :

"v (b) Reduction to a lower stage in the time scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting his pension"
- (3) For clause (vii), the following shall be substituted, namely :

"(vii)(a) save as provided for in clause (v) (a), reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government Servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay"

"(vii) (b) reduction to lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government Servant to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions, regarding conditions of restoration to the grade or post or service from which the Government Servant was reduced and his seniority and pay on such restoration to that grade, post or service"

(462)

G.O.Ms.No.381, G.A. (Ser.C) Dept., dt.18.12.2003 regarding amendment to Rule-3 & Rule-9 of A.P.C.S (Conduct) Rules, 1964.

Subject Heading : Public Services – APCS (Conduct) Rules, 1964 – Amendment - Issued.

Read :

G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.

ORDER :

Government have decided to issue an amendment to Rule 3 and Rule 9 of the A.P. Civil Services (Conduct) Rules, 1964, and accordingly the following amendments are issued.

AMENDMENT

In Rule 3 of the A.P.C.S. (Conduct) Rules, 1964, after sub-rule (4) the following shall be inserted namely,-

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

Explanation:- "A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty.

In Rle 9 of the A.P.C.S. (Conduct) Rules, 1964 after sub-rule (8) the following shall be inserted namely,-

(8) (A) "The Government or any authority empowered by them in this behalf may, require a Government servant to make it obligatory to Government servant to account for possession of huge cash".

(8) (B) "The Government or any authority empowered by them in this behalf may, by general or special order require a Government servant on duty not to keep cash in his possession beyond a specified sum and to declare the cash in his possession in the manner prescribed".

(463)

Memo.No.19179/Ser.C/2003, G.A. (Ser.C) Dept., dt.18.12.2003 regarding instructions on suspension of corrupt officers on whom criminal misconduct cases.

Subject Heading : Combating corruption in public services – Suspension of corrupt officers on whom criminal misconduct cases – Instructions – Issued.

- Ref: 1. U.O.Note No.240/SC.D/1993-3, G.A. (SC.D) Dept., dt.05.10.1993.
2. U.O.Note No.1595/SC.D/1993-6, G.A. (SC.D) Dept., dt.16.11.1994.
3. Memo.No.554/Ser.C/1993-6, G.A. (Ser.C) Dept., dt.26.12.1994.
4. Govt. U.O.Note No.1818/Spl.B/2000-2, dt.21.11.2001.
5. Govt.Memo.No.596/Spl.B/2000-6, dt.10.06.2002.

To eliminate the long delays occurring in the matter of prompt suspension of corrupt officers both pending inquiry / trial and dismissal as contemplated in APCS (CC&A) Rules, 1991, Government have issued instructions from time to time in the references cited to bring clarify, the Government instructions are summarized as below:-

Suspension of Officers involved in Trap Cases of the A.C.B :

Officers involved in trap cases shall be suspended immediately upon receipt of preliminary report from the ACB irrespective of the fact whether the officer is involved directly or indirectly in the act of accepting bribe and irrespective of the fact whether the phenolphthalein test yielded positive result or not.

Suspension of Officers involved in Disproportionate Assets Cases :

Based on the preliminary report and recommendation of the D.G., A.C.B., Hyderabad, for suspension of officers involved in disproportionate assets cases, orders of suspension shall be issued promptly. Further based on the recommendation of the D.G., A.C.B., Hyderabad, properties of officers against whom disproportionate cases are initiated, should be permitted to be attached under relevant sections of Criminal Law Amendment Ordinance, 1944.

2. The Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above instructions strictly without any deviation in placing the employees under suspension in the above referred cases. They are further requested to bring the same to the notice of all concerned for strict compliance.

3. The receipt of this Memo. shall be acknowledged.

(464)

G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003 regarding amendment to Rule-20 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading: APCS (CC&A) Rules, 1991 – Amendments – Orders – Issued.

Read :

G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.

ORDER:

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In Rule 20 of the said rules, for sub-rules (1) to (23) the following shall be substituted, namely,-

- (1) No order imposing any of the penalties specified in clauses (vi) to (x) of Rule 9 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and Rule 21 or in the manner provided by the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983, where such inquiry is held under the said Acts.
- (2) Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior

against a Government Servant, it may itself inquiry into, or appoint under this rule, as the case may be, authority to inquire into the truth thereof.

EXPLANATION: Where the Disciplinary Authority itself holds the inquiry, any reference to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3). Where it is proposed to hold an inquiry against a Government servant under this rule and Rule 21, the Disciplinary Authority or the Cadre Controlling Authority who is not designated as Disciplinary Authority and who is subordinate to the Appointing Authority can draw up or cause to be drawn up -

- i) The substance of the imputations of misconduct or misbehavior into definite and distinct articles of charge.
- ii) A statement of the imputations of misconduct or misbehavior in support of each article of charge, which shall contain -
 - a) A statement of all relevant facts including any; admission or confession made by the Government Servant.
 - b) Copies of documents by which and copies of statements of witnesses by whom, the articles of charge are proposed to be sustained.

Note: Where the documents are voluminous relevant extracts of the documents may be furnished to the Government Servant.

(4). The Disciplinary Authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehavior and copies of the statements of witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to appear before the Disciplinary Authority on such day and at such time NOT EXCEEDING TEN WORKING DAYS and submit a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On the date fixed for appearance the Government Servant shall submit the written statement of his defence. He shall be questioned whether he pleads guilty to the charges or not and if he pleads guilty to all or

any of the articles of charges, the Disciplinary Authority shall record the plea and obtain the signature of the Government Servant thereon.

- (b) Where the Government Servant appears before the Disciplinary Authority and pleads not guilty to the charges or refuses or omits to plead, the Disciplinary Authority shall record the plea and obtain signature of the Government Servant thereon and may decide to hold the inquiry itself or if it consider necessary to do so appoint a serving or retired Government Servant as Inquiring Authority for holding the inquiry into the charges and also appoint a Government Servant as Presenting Officer to present the case in support of the articles of charge and adjourn the case to a date not exceeding five days for the said purpose.
- (c) On the date so fixed the Disciplinary Authority shall by an order appoint the Inquiring Authority and shall also appoint a Government Servant as Presenting Officer to present the case in support of the articles of charge.

Provided that the Disciplinary Authority may if it considers necessary having regard to the facts and circumstances of the case, appoint a Legal Practitioner or a Legally Trained Government Servant as Presenting Officer.

- (d) The Disciplinary Authority shall serve copies of the orders appointing the Inquiring Authority and the Presenting Officer on the Government Servant and inform him that he may take the assistance of any other Government Servant to present the case on his behalf, but he may not engage a Legal Practitioner for the purpose unless the Presenting Officer appointed by the Disciplinary Authority is a Legal Practitioner or a Legally Trained Government Servant.

Provided that no Government Servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the Inquiring Authority to appear on behalf of the person charged before the Inquiring Authority.

Provided further the Government Servant may take the assistance of any other Government Servant posted at any other station, if the Inquiring Authority having regard to the circumstances of the case, and of reasons to be recorded in writing so permits.

NOTE:- (1) The Government Servant shall not take the assistance of any other Government Servant who has pending two disciplinary cases on hand in which he has to give assistance.

NOTE:- (2) The Government Servant shall not take the assistance of any other Government Servant who is dealing in his official capacity with the case of inquiry relating to the Government Servant charged.

The Government Servant may also take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in his behalf.

- (e) The Disciplinary Authority shall inform the Government Servant to submit within five days a list of documents, which he requires to be discovered or produced by Government for the purpose of his defence indicating the relevance of the documents so required.
- (f) The Disciplinary Authority may for reasons to be recorded in writing refuse to requisition such of the documents as are, in its opinion, not relevant to the case.
- (g) The Disciplinary Authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept with a requisition for the production of the documents by such date as may be specified in such requisition.
- (h) On receipt of the requisition referred to in sub-rule (5) (g) every authority having the custody or possession of the requisitioned documents shall produce the same before the Disciplinary Authority.

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any such documents would be against the public interest or security of the State, shall submit the fact to the Head of Department or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the Disciplinary Authority and the Disciplinary Authority shall on being so informed communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents.

- (6). Where the Government Servant to whom a copy of the article of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Disciplinary Authority, the Disciplinary Authority may decide to hold the inquiry ex-parte or if it considers necessary so to do, appoint an Inquiring Authority for the purpose.
- (7). (a) The Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority –
- (i) A copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
 - (ii) A copy of the written statement of defence, if any submitted by the Government Servant;
 - (iii) Copies of the statements of witnesses, referred to in sub-rule (3);
 - (iv) Copies of documents referred to in sub-rule (3);
 - (v) Evidence proving the delivery of copies of the documents referred to in sub-rule (3) to the Government Servant; and
 - (vi) A copy of the order appointing the “Presenting Officer”.
- (b) The Disciplinary Authority shall also forward to the Inquiring Authority documents received under sub-rule (5) (h) as and when they are received.
- (8). After receiving the documents mentioned under sub-rule (7) (a), the Inquiring Authority shall issue a notice in writing to the Presenting Officer and also to the Government Servant to appear before him on such day and at such time and place specified by him which shall not exceed ten days.
- (9) (a) The Presenting Officer and Government Servant shall appear before the Inquiring Authority on the date fixed under sub-rule (8).
- (b) If the Government Servant informs the Inquiring Authority that he wishes to inspect the documents mentioned in sub-rule (3) for the purpose of preparing his defence, the Inquiring Authority shall order that he may inspect the documents within five days and the Presenting Officer shall arrange for the inspection accordingly.

- (c) The Inquiring Authority shall call upon the Government Servant whether he admits the genuineness of any of the documents, copies of which have been furnished to him and if he admits the genuineness of any document it may be taken as evidence without any proof by the concerned witness.
 - (d) The Inquiring Authority shall adjourn the case for inquiry to a date not exceeding ten days for production of evidence and require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charges.
- (10) (a) On the dates fixed for recording the evidence, the oral and documentary evidence by which the articles of charges are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority.
- (b) The evidence shall be recorded as far as possible on day-to-day basis till the evidence on behalf of the Disciplinary Authority is completed.
- (c) The witnesses shall be examined by the Presenting Officer and they may be cross examined by or on behalf of the Government Servant.
- (d) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross examined, but not on any new matter without the permission of the Inquiring Authority.
- (e) The Inquiring Authority may also put such questions to the witnesses as it thinks fit.
- (11) (a) If it appears necessary before the closure of the case on behalf of the Disciplinary Authority, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and re-examine any witness.
- (b) In such case the Government Servant shall be entitled to have a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned.

- (c) The Inquiring Authority shall give the Government Servant an opportunity of inspecting such documents before they are taken on the record.

NOTE: New evidence shall not be permitted or called for and witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

- (12) (a) When the case for the Disciplinary Authority is closed, the Government Servant shall be required to state his defence orally or in writing as he may prefer and to submit a list of witnesses to be examined on his behalf for which purpose the case may be adjourned to a date not exceeding five days.
- (b) If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence and the list of defence witnesses may be provided.
- (c) The case shall be adjourned to a date not exceeding ten days for production of defence evidence.
- (13) The evidence on behalf of the Government servant shall then be produced. The Government Servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government Servant shall then be examined and shall be liable to cross-examination / re-examination and examination by the Inquiring Authority according to the provisions applicable to the witnesses for the Disciplinary Authority.
- (14) The Inquiring Authority may after the Government Servant closes his case and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.
- (15) The Inquiring Authority may, after the completion of the production of evidence, hear the Presenting Officer, if any appointed, and the Government Servant, or permit them to file written briefs of their respective cases, if they so desire.
- (16) (a) Where a Disciplinary Authority competent to impose any of the penalties specified in clauses (i) to (v) of Rule 9 and in Rule 10 but not

competent to impose any of the penalties specified in clauses (vi) to (x) of Rule 9, has itself inquired into or caused to be inquired into the articles of any charge and that Authority, having regard to its own findings or having regard to its decision on any of the findings of any Inquiring Authority appointed by it, is of the opinion that the penalties specified in clauses (vi) to (x) of Rule 9 should be imposed on the Government Servant, that Authority shall forward the records of the inquiry to such Disciplinary Authority as is competent to impose the last mentioned penalties.

- (b) The Disciplinary Authority to which the records are so forwarded may act on the evidence on the record or may if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, recall the witnesses and examine, cross-examine and re-examine the witnesses and may impose on the Government Servant such penalty as it may deem fit in accordance with these rules.
- (17). Whenever an Inquiring Authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has and which exercises, such jurisdiction, the Inquiring Authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor, and partly recorded by itself.

Provided that if the succeeding Inquiring Authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall examine, cross-examine and re-examine any such witnesses as herein before provided.

- (18) (i) After the conclusion of the inquiry a report shall be prepared and it shall contain:
- (a) The articles of charge and the statement of the imputation of misconduct or misbehavior;
- (b) The defence of the Government Servant in respect of each article of charge;
- (c) An assessment of the evidence in respect of each article of charge;
- (d) The findings on each article of charge and the reasons therefor.

EXPLANTION:- If in the opinion of the Inquiring Authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge.

Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

- (ii) The Inquiring Authority, where it is not itself the Disciplinary Authority; shall forward to the Disciplinary Authority the records of inquiry which shall include -
- (a) the report prepared by it under clause (i);
 - (b) the written statement of defence, if any, submitted by the Government Servant;
 - (c) the oral and documentary evidence produced in the course of the inquiry;
 - (d) written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and
 - (e) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry.

EXPLANATION: It is not necessary to have an inquiry in the manner provided for in this rule or to hear in person in the case of reduction of rank in seniority list (A and B lists) of Constables fit for promotion as Head Constables / the Andhra Pradesh Police Subordinate Service or Andhra Pradesh Special Armed Police Service.

(465)

G.O.Rt.No.4, G.A. (Spl.C) Dept., dt.01.01.2004 regarding Nomination of Receivers in attachment of properties of Accused Officers in disproportionate assets cases.

Subject Heading : Public Servants – Attachment of properties of Accused Officers in disproportionate cases – Nomination of Joint Secretary to the Chief Commissioner of Land Administration and District Collectors as Receivers – Orders – Issued.

Read :

From the Chief Commissioner, Land Administration, Andhra Pradesh,
Hyderabad, Lr.No.CCLAs No.C4/1164/2003, dated 12.08.2003.

ORDER :

It has been brought to the notice of the Government that several applications have been filed and many more are under process for attachment of property of the Accused Officers in disproportionate cases under Section 3 and 4 of Criminal Law Amendment Ordinance, 1944 and the Competent Court after following due process of law, issuing notices etc., to the holders of property to decide on application filed for attachment. The Courts would generally issue attachment of orders in number of disproportionate assets cases and the Courts may appoint an Advocate or some one else as Receiver or even direct a Government Officer to receive and administer the properties.

2. The Chief Commissioner of Land Administration, Andhra Pradesh in his letter read above has informed that the Joint Secretary to Chief Commissioner of Land Administration can be nominated as Receiver for the disproportionate assets cases in respect of properties situated in more than one district and if properties are situated in one district, the Collector concerned may be nominated as Receiver.

3. After examining the matter carefully, Government hereby nominate the Joint Secretary to Chief Commissioner of Land Administration as Receiver for the disproportionate assets cases in respect of properties situated in more than one District. Government also nominate the Collector concerned as Receiver for the disproportionate assets in respect of properties situated in one District.

4. The Chief Commissioner of Land Administration, all District Collectors and Director General, Anti Corruption Bureau are requested to take further action as per the above orders, immediately.

(466)

G.O.Rt.No.5, G.A. (Spl.C) Dept., dt.08.01.2004 regarding instructions on dispensing with the practice of sending copies of the preliminary reports /final reports of A.C.B. to the office of the Chief Secretary to Government.

Subject Heading : Public Servants – Enquiries against Government Servants into cases of corruption - Instructions issued – Modification to instructions – Issued.

Read the following :

1. G.O.Ms.No.677, G.A. (Ser.D) Dept., dt.30.05.1961.
2. From the D.G., A.C.B., Hyderabad, Lr.C.No.186/RPC(C)/2002, dt.02.01.2003.
3. From the A.P. Vigilance Commissioner, Lr.No.139/VC-A2/2003-1, dt.08.05.2003.

ORDER :

In the G.O. first read above, consolidated instructions were issued for the general guidance of all the Heads of Departments and the Departments of Secretariat in dealing with cases of corruption. As per Part-III of the instructions, the Director General, Anti Corruption Bureau should send a copy of Part-A to the Chief Secretary to Government, General Administration (SC) Department for information and circulation to the Chief Minister and Minister concerned in advance.

2. It was decided by the Government that the practice of sending copies of preliminary reports / the final reports of Anti Corruption Bureau to the office of the Chief Secretary may be dispensed with and instead a monthly statement showing traps etc., department-wise may be submitted to Chief Secretary for information.

3. The Government after examining the matter and in partial modification of the Part-III of G.O.Ms.No.677, General Administration (Ser.D) Department, dt.30.05.1961 hereby dispensing with the practice of sending copies of the preliminary reports / final reports of Anti Corruption Bureau to the office of the Chief Secretary to Government. However, in the case of All India Service Officers, Officers of Secretariat and Heads of Departments, the Anti Corruption Bureau should continue making these reports to Chief Secretary.

4. In addition, the Director General, Anti Corruption Bureau is requested to submit a monthly statement showing traps etc., department-wise to Chief Secretary for information.

(467)

G.O.Ms.No.6, G.A. (Ser.C) Dept., dt.16.01.2004 regarding amendment to Rule-8 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendments – Orders – Issued.

Read :

G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.

O R D E R :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In Rule 8 of the said Rules, for sub-rule (1) the following words shall be substituted, namely, -

- (a) Under sub-rule (1) of Rule 8, substitute the words "Government Servant" words "member of a service".
- (b) Under cl.(d) of sub-rule (1) of Rule 8, substitute the words "Government Servant" for the words "member of a service".

(468)

G.O.Ms.No.8, Finance (F.R.I) Department, dt.08.01.2004 regarding amendment to Rule 18 of A.P. Fundamental Rules.

Subject Heading : Public Services – Amendment to Rule 18 of the Andhra Pradesh Fundamental Rules – Notification – Orders – Issued.

Read :

G.O.Ms.No.260, G.A. (Ser.C) Dept., dt.04.09.2003

ORDER :

The following notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 read with Article 313 of the Constitution of India and of all the powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Fundamental Rules and Subsidiary Rules:-

AMENDMENT

to the said rules, in Rule 18 after Note 3, the following shall be added, namely,-

"Note (4): In all cases of unauthorised absence to duty for a continuous period exceeding 'one year', the penalty of removal from service shall be imposed on the Government employee, after duly following the procedure laid down in the Andhra Pradesh Civil Services (CC&A) Rules, 1991".

(469)

G.O.Ms.No.7, G.A. (Ser.C) Dept., dt.16.01.2004 regarding amendment to Rule-9 of A.P.C.S (Conduct) Rules, 1964.

Subject Heading : Public Services – APCS (Conduct) Rules, 1964 – Amendment - Issued.

Read the following:-

1. G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.
2. G.O.Ms.No.381, G.A. (Ser.C) Dept., dt.18.12.2003.

ORDER:

Government have decided to issue an amendment to Rule 9 of the A.P.C.S. (Conduct) Rules, 1964, and accordingly the following amendments are issued.

AMENDMENT

In the orders issued in G.O.Ms.No.381, General Administration (Ser.C) Department, dated 18.12.2003 in item (8) (A) the following shall be substituted.

(8) (A) "the Government or any authority empowered by them in this behalf may, require a Government Servant to render a full and true account of the cash found in his possession at any time and such account shall include particulars of the means by which and the sources from which such cash was acquired".

(470)

G.O.Rt.No.319, G.A. (Spl.C) Dept., dt.20.01.2004 regarding Constitution of Vigilance Cells and appointment of Vigilance Officers.

Subject Heading : PUBLIC SERVANTS – Combating corruption in public services – Constitution of Vigilance Cells and appointment of Vigilance Officers – Instructions – Reiterated.

Read:

U.O.Note No.1788/Spl.B/2000-1, G.A. (Spl.B) Dept., dated 14.11.2000.

ORDER :

In the U.O.Note read above, all Special Chief Secretaries / Secretaries to Government, all Heads of Departments and all District Collectors were requested to take action for creation of separate sections to deal with Vigilance Cases and to appoint Vigilance Officers in consultation with the A.P.Vigilance Commissioner. But, it has been brought to the notice of the Government that in spite of these instructions, more of the Head of Departments, Public Enterprises and Autonomous Bodies have not created separate sections to deal with Vigilance Cases and not appointed Vigilance Officers.

2. After examining the matter, the Government hereby reiterate the instructions issued in the U.O.Note read above and accordingly direct that separate sections to deal with Vigilance Cases should be created in all Heads of Departments / Public Enterprises / Autonomous Bodies and Vigilance Officer should be appointed in consultation with the Vigilance Commissioner immediately

for which a panel of 2 or 3 names of officers who are preferably second or third in command by virtue of rank in the Department in order of preference be sent to the Vigilance Commissioner for approval.

3. All Heads of Departments / All District Collectors / Public Enterprises / Autonomous Bodies are requested to take necessary further action immediately.

(471)

G.O.Ms.No.22, G.A. (Ser.C) Dept., dt.30.01.2004 regarding amendment to Rule-21 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.179, G.A. (Ser.C) Dept., dt.11.04.2002.
3. G.O.Ms.No.515, G.A. (Ser.C) Dept., dt.21.12.2002.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In the said rules :

- I. For Rule 21, the following shall be substituted, namely :

- "21 (1) The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 20 as far as may be.
- (2) The Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government Servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Government Servant.
- (3) The Disciplinary Authority shall consider the representation, if any, submitted by the Government Servant and record its findings before proceeding further in the matter as specified in the sub-rules (4) and (5) below.
- (4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) to (v) of Rule 9 should be imposed on the Government servant, it shall, notwithstanding anything contained in Rule 22, make an order imposing such penalty:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Government Servant.

- (5) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clauses (vi) to (x) of rule 9 should be imposed on the Government Servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government Servant any opportunity of making representation on the penalty proposed to be imposed:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant".

II. In sub-rule (1) of Rule-22 for the words "sub-rule (3)" the words "sub-rule (4)" shall be substituted.

(472)

G.O.Ms.No.25, G.A. (Ser.C) Dept., dt.03.02.2004 regarding consolidated guidelines on misappropriation cases.

Subject Heading : Misappropriation cases – Consolidated Guidelines – Issued.

Read the following:-

1. Memo.No.3000/Ser.C/76-4, G.A. (Ser.C) Dept., dt.28.06.1977.
2. Memo.No.2106/Ser.C/77-1, G.A. (Ser.C) Dept., dt.27.10.1977.
3. Memo.No.2261/Ser.C/79-2, G.A. (Ser.C) Dept., dt.23.10.1979.
4. U.O.Note No.646/Ser.C/80, G.A. (Ser.C) Dept., dt.21.07.1980.
5. U.O.Note No.32/Ser.C/81-2, G.A. (Ser.C) Dept., dt.09.02.1981.
6. G.O.Ms.No.260, G.A. (Ser.C) Dept., dt.24.04.1984.
7. U.O.Note No.463/Ser.C/85-4, G.A. (Ser.C) Dept., dt.23.12.1985.
8. Cir.Memo.No.100/Ser.C/93-22, G.A. (Ser.C) Dept., dt.23.12.1995.
9. G.O.Ms.No.2, G.A. (Ser.C) Dept., dt.04.01.1999.
10. Memo.No.44391/Ser.C/99, G.A. (Ser.C) Dept., dt.21.09.1999.
11. U.O.Note No.1067/L&O-1/A1/2000-4, G.A. (L&O) Dept.,dt. 30.12.2000.
12. Memo.No.51375/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.28.11.2002.

ORDER :

Apart from the instructions issued on the subject matter, a critical study of cases of misappropriation of Government funds undertaken by the Andhra Pradesh Vigilance Commission revealed that many of these cases are handled ineptly and with prolonged delay without (1) being reported to the Head of the Department and to the Accountant General; (2) finalisation of the total amount misappropriated through a thorough verification or audit of the accounts; (3) earnest efforts to realize the misappropriated amount; (4) immediate suspension and effective prosecution of the officers who have indulged in misappropriation; (5) simultaneous initiation of timely disciplinary action against the accused officers, and the officers whose supervisory negligence lead to the misappropriation. Where action has been taken attempt is often made to show the embezzlement as temporary diversion of funds particularly where the amount has been remitted back upon detection or where the amount involved is small thereby reducing the gravity of the offence and facilitating the culprits being let off with minor penalty. Some Departments / Heads of Offices have been found to address the Superintendent of Police wrongly without a formal criminal complaint being filed before the Station House Officer having jurisdiction, as soon as the case of misappropriation come to the notice without internal audit to finalise the amount misappropriated and without identifying the persons responsible. Such complaints lie there for want of basic information and records necessary to finalise the quantum of misappropriation and to identify the accused officers. There are cases where those responsible for misappropriation were not even suspended and allowed to continue in the same post giving them an opportunity to destroy records and evidence and to obstruct smooth conduct of investigation.

2. The Report of the Comptroller and Auditor General of India for the year ended 31.03.2002 refers to 605 misappropriation cases reported to it as pending at the end of the year involving a sum of Rs.1062.69 lakhs as pending in different departments. According to the Vigilance Commission this does not reflect the correct position of pendency of such cases due to serious omissions in reporting of misappropriation cases to the Accountant General as provided in the A.P. Financial Code. According to the Commission the number appear to be several times more. As a case in point, the Commission has brought to the notice of the Government that the number of misappropriation cases shown as pending in the Treasuries and Accounts Department in the above list of misappropriation cases was 12, whereas Commission came across 10 more cases of misappropriation in that Department which had not been reported. Information elicited from the Commissioner and Registrar of Cooperative Societies

shows that there were 2314 misappropriation cases in the various Cooperative institutions in the State involving a sum of Rs.49.86 crores of which only Rs.7.05 crores have so far been recovered in which criminal action was initiated in 945 cases. The Commissioner, Panchayat Raj has reported that there were 940 cases of misappropriation involving a sum of Rs.15 crores in which criminal action was initiated in 517 cases where recovery effect was Rs.1.59 crores. The above figures indicate the magnitude of the problem of misappropriation in Government institutions.

3. The Commission, therefore, emphasized the need to lay down streamlined procedure to facilitate effective handling of misappropriation cases with particular attention to (1) prompt reporting; (2) quick finalisation of amounts misappropriated; (3) Immediate identification of the persons responsible for the crime; (4) fool proof handling of records; (5) speedy recovery of funds misappropriated; (6) prompt criminal prosecution of the accused; (7) pinpointing responsibility for failure of supervision; (8) timely disciplinary action against the accused officers and those whose supervisory negligence lead to the misappropriation; (9) streamlining procedures to prevent recurrence of similar cases in future; and (10) finally laying down strict guidelines for statutory penalties to the officers found guilty of misappropriation in Government Departments, Local Bodies, Co-operatives, Autonomous Grant Receiving Institutions and Public Undertaking etc.

4. Articles 5, 273, 294, 300, 301 and 302 of the Andhra Pradesh Financial Code lays down the responsibilities of Government Servants in dealing with Government money, the procedure to fix responsibility for any loss sustained by the Government, the procedure to be followed and the action to be initiated for recovery. In addition to the instructions laid down in the Andhra Pradesh Financial Code, the Government have from time to time, issued executive instructions regarding misappropriation cases. It is now felt necessary to plug the loopholes in the management of Government money and to give clear and comprehensive instructions on all aspects of misappropriation cases. Accordingly, the following consolidated instructions are issued.

5. Standards of financial responsibility :

Article 5 of the A.P. Financial Code casts an obligation on every Government Servant to see that proper accounts are maintained for all Government Financial Transactions with which he is concerned and to render accurately and promptly all such accounts and returns relating to them as may have been prescribed by Government, the Accountant General or the competent

departmental authorities. He is required to check the accounts, as frequently as possible, to see that his subordinates do not commit fraud, misappropriation or any other irregularity. The Government holds him personally responsible for any loss that may be found to be due to any neglect of the duties laid upon by him by the relevant provisions made by the Government. The fact that a Government Servant has been misled or deceived by a subordinate will in no way mitigate his personal responsibility.

6. Assessment of responsibility for loss of public funds :

Article 373 of A.P. Financial Code makes every Government Servant personally responsible for any loss sustained by the Government through fraud or negligence on his part and also for any loss through fraud or negligence on the part of any other Government Servant to the extent to which it may be shown that he contributed to the loss by his own action or negligence. The cardinal principle governing assessment of responsibility for such losses is that every Government Servant should exercise the same diligence and care in respect of all expenditure from public funds under his control as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

7. Reporting of loss of public money & sending factual report to Government :

When any facts indicating that defalcation or loss of public money, stamps, stores or other movable or immovable property has occurred or that a serious account of irregularity has been committed come to the notice of any Government Servant, he should in terms of Article 294 of the Financial Code inform the head of the office immediately. If it appears to the Head of the Office, *prima facie* that there has been any such occurrence which concerns his office or in which a Government servant subordinate to him is involved, he should send a preliminary report immediately to the Accountant General and through the proper channel, to the Head of the Department. On receipt of the information, the Head of the Department should report the matter to the Government without delay. These reports should be sent even when the loss has been made good irrespective of the amount involved.

8. Finalisation of quantum of loss and audit of accounts :

Article 300 of the Financial Code lays down the following general principles in enforcing personal responsibility of the Government Servant for a loss sustained by the Government through fraud or negligence on his part and also for loss through fraud or negligence on the part of any other Government

servant to the extent to which it may be shown that he contributed to the loss by his own action or negligence. The Head of the Office or other appropriate authority should investigate the matter fully without delay. When necessary, the administrative authority may ask the Accountant General to furnish all vouchers and other documents in his possession that may be relevant to the investigation. If the investigation is so complex as to require the assistance of an expert audit officer, the administrative authority should report the facts to the Government and request them to depute an Audit Officer for the purpose. The Administrative Authority and the Audit Officer will each be personally responsible within their respective spheres, for completing the investigation expeditiously.

9. Recovery :

Whenever an Administrative Authority holds that a Government Servant is responsible for a loss sustained by the Government, it should consider both whether the whole or any part of the loss should be recovered from him in money and whether any other form of disciplinary action should be taken. Whenever a loss is held to be due to fraud on the part of Government Servant or servants, every endeavour should be made to recover the whole amount lost from the guilty persons. If the failure of a superior officer to exercise proper supervision and control has facilitated the fraud, he should be called strictly to account and suitable dealt with after carefully assessing his personal liability in the matter. The pension of a retiring Government Servant who is involved in any loss or irregularity which is under investigation should on no account be sanctioned until his responsibility in the matter has been finally determined. Whenever a competent authority orders that any amount should be recovered from the Government Servant, otherwise than by forfeiture of his security deposit, if any, on account of a loss sustained by the Government through fraud or negligence on his part and he is about to retire from service the amount should be recovered, as far as possible, by deduction from the last pay or leave salary due to him. If any amount still remains to be recovered, the Government Servant should be asked to give his written consent to the recovery of the remaining amount from his pension. When a retired Government Servant whose pension has already been sanctioned is held to have caused a loss to the Government by his fraud or negligence while in service and it appears that the amount could be recovered by bringing a suit against him, the matter should be reported to the Government for orders. Any fraud or negligence found to have been committed by him while in service, should not be made an excuse for absolving any other Government Servants, who are also responsible for the loss and are still in service.

10. A clear distinction should be drawn between cases of "delayed remittance" and misappropriation. The cardinal test to prove a case as a case of misappropriation rather than temporary misappropriation would be whether the amount has been put to use for the benefit of the person who has misappropriated it. It is the intention and purpose that should be the criterion and not whether the amount has been ultimately made good voluntarily.

11. If there is a reasonable suspicion that a loss sustained by the Government is due to the commission of a criminal offence, the procedure prescribed in Article 301 and 302 should be followed.

12. An Officer accused of misappropriation shall be suspended forthwith under Rule 8 (1) (c) of the APCS (CC&A) Rules, 1991 pending investigation or trial of the offence till he is dismissed or removed from service upon conviction or conclusion of disciplinary proceedings as the case may be.

13. Initiation of Departmental inquiries and Criminal proceedings:

Article 301 lays down that departmental proceedings should be instituted at the earlier possible moment against all the Government Servants involved in any loss sustained by the Government on account of fraud, embezzlement or any similar offence and conduct with strict adherence to the rules, up to the point at which prosecution or any one of them begins. The Departments should ensure that charges are framed by the Disciplinary Authority in accordance with the procedure prescribed under the Rule 20 of APCS (CC&A) Rules, 1991 and action is completed expeditiously observing the prescribed procedure to ensure that there are no procedural infirmities. The criminal proceedings and departmental action should process without loss of time with a view to avoiding manipulations and loss of evidence. Departmental Officers should obtain Photostat copies of documents and handover the original to Police so that simultaneous action in regard to criminal proceedings and disciplinary action can be taken. Departmental action should be completed within 3 or 4 months. At this stage, it may be specifically considered whether it is practicable to carry the departmental proceedings without waiting for the result of the prosecution, if it is so, they should be carried out as far as possible but not as a rule, to the stage of finding and sentence. If the accused is convicted, the departmental proceedings against him should be resumed and formally completed. If the accused is not convicted, the authority competent to take disciplinary action should examine whether the facts of the case disclose adequate grounds for continuing departmental action against him. Simultaneous disciplinary and criminal proceedings can be initiated

by the Department against the persons responsible for misappropriation and supervisory officers whose failure lead to the offence. Following the decision of the Himachal Pradesh High Court in Khushiram Vs. Union of India (1973) (2) SLR.PP.564-565) it is not obligatory that the departmental proceedings should be stayed when the case is pending in a court of law, except when it is expedient to do in the interest of fair play.

14. Procedure for filing of complaints with local police or the Crime Investigation Department :

Prosecution for embezzlement of public money or property is laid down in Article 302. Whenever the Head of an Office finds that there is a reasonable suspicion that a criminal offence has been committed in respect of public money or property, he should as a general rule report the matter at once to the Police and the Head of his Department that he has laid an information before the police. When the case is heard by the Court, the Head of the Office concerned should see that all the witnesses serving in his department and all documentary evidence in the control of his department are punctually produced. He should also appoint a Government Servant of the Department to attend the proceedings in the court and assist the prosecuting staff. If prosecution for an offence of this kind results in the discharge or acquittal of any person, or in the imposition of any sentence which appears to be inadequate, the Head of the Office concerned should at once send a full statement of the facts of the case. If it is considered that further proceedings should be taken in revision or appeal, he should proceed accordingly.

15. In order to reduce the number of cases of misappropriation sent for investigation by the Police and prosecution thereafter, a monetary limit of Rs.1000/- is fixed below which the cases will be handled departmentally only. The Department should ensure that all material needed for investigation is made available to the Station House Officer of the Police Station having jurisdiction. In the event Crime Investigation Department investigation is considered essential in view of the quantum of money involved or the complexity of the misappropriation case action should be taken by the Secretariat Department concerned to refer the case to the Criminal Investigation Department at Hyderabad in consultation with Home Department in accordance with the procedure laid down by the Director General, Crime Investigation Department. If in the course of any investigation into corruption, misappropriation is noticed by the Anti Corruption Bureau in such a case the Anti Corruption Bureau itself will initiate action for prosecution of that case.

16. The Departments of Secretariat should consult the Home Department before entrusting any Crime Investigation Department for investigation. To establish the offence of misappropriation, cheating / forgery and use of forged documents utilization of fake certificate etc., it is essential that:

- i) The complaint lodged by competent authority should contain specific information regarding details of crime and persons responsible, amount involved and the matter or mode of commission of offence.
- ii) The details of crime should contain essential ingredient of cognizable crime.
- iii) Whenever complaint involving misappropriation of public funds is preferred, it should be mandatory to initiate departmental audit to establish the instances and amounts of misappropriation. Steps will be taken by the concerned officers to ensure preservation of original documents i.e., bills, vouchers etc. Requisitions should be sent to the Pay and Accounts Officer, Treasury Authorities / Accountant General Office with a specific request to preserve the documents which would prove the culpability of persons responsible for such frauds / misappropriation. Specimen signatures and admitted handwriting of persons responsible for misappropriation, fraud etc. should be made available to the Investigating Agency.
- iv) For expeditious and proper investigation, it is also imperative that relevant records of the case, like forged documents duplicate copies of vouchers, audit report, preliminary enquiry report conducted by the respective department, note files, registers etc., are handed over (in original) to the Crime Investigation Department with xerox copies being retained by the Department concerned for the purpose of disciplinary action and for record.

17. It should be ensured therefore that a comprehensive complaint should be lodged with Crime Investigation Department containing details of the crime / persons responsible for the Commission of such offence that complaints should be lodged with original signature of the officers who are fully acquainted with the facts of the case and have been associated with the preliminary enquiry or departmental enquiry. Copies of relevant documents should also be enclosed along with the complaint. The departments preferring complaints should also ensure collection and safe custody of original document relating to the offence.

18. Handing over of records / sending necessary assistance of Investigating Agencies :

All Heads of Offices should hand over the records requisitioned by the local Police Officers of the Bureau or the Crime Investigating Department as the case may be and render all necessary assistance to Investigating Officers in either case. Senior Civil Servants who are defacto complainants in Criminal Cases or who are intimately acquainted with the facts and circumstances of the cases and whose evidence is relevant and material to prove the case in a court of law should tender their evidence when examined by the Investigation should not normally take more than one year after it is entrusted to the Crime Investigation Department / Anti Corruption Bureau however complicated the case may be.

19. The Government have decided that special cells will be created in the Investigating Agencies for Departments where the number of misappropriation cases are large and persons from these cells, and the Investigating Agency would maintain close liaison with the Departments, so that they can tender necessary guidance to expedite cases.

20. In all cases of misappropriation, after investigation is completed by the Police and charge sheets filed, such cases should be pursued effectively to ensure that there is no letup in prosecuting the cases effectively and that there is no failure on the part of the Assistant Public Prosecutor, etc. in conducting the prosecution properly. In case, where the trial ultimately ends in acquittal, immediate action may be taken to file appeals, after obtaining legal opinion. In cases, where it is felt that the prosecution was conducted improperly and the prosecuting officers have not taken adequate interest, responsibility must be fixed for their failure to conduct the prosecution successfully. To ensure a proper watch, the Departments should review all such cases periodically for the half years ending 30/6 and 21/12 of every year and furnish their review to the General Administration (Services) Department. Even when there are no such cases, a 'NIL' report has to be furnished.

21. Attachment and confiscation of the properties of the accused:

Whenever it is believed that a scheduled offence is committed, the concerned Departmental Officers should collect the necessary date regarding movable / immovable property standing in the name of the persons family members, relatives and friends and orders shall be issued for attachment of the properties under Sections 3 and 4 of the Criminal Law Amendment Ordinance, 1944 contemplates that if any person commits any offence punishable under Section 406, 408, 409, 411, 417 and 420 of the IPC 1860 or under clause (c) of sub-section (1) of Section 13 of the P.C. Act, 1988, the Government may whether

or not any court has taken cognizance of offence, authorize the making of an application to the District Judge concerned for attachment of the money or other property which the State Government believes the said person to have procured by means of the said offence or if such money or property cannot for any reason be attached of other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.

- i) The attachment can be of the money or other property which the State Government believes that the said person to have procured by means of the offence or if such money or the property cannot for any reason be attached, of other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.
- ii) The District Judge has jurisdiction to issue an interim order of attachment of money procured by commission of scheduled offence and deposited in Bank. Such money in the hands of the Bank does not cease to be attachable although its identity is lost by getting mixed up with the other money of the Bank, so long as it is not converted into anything else and remains liable to be paid back in cash to the depositor or by his order (K.Satwant Singh Vs. Provincial Government of Punjab, AIR 1956 Lah 406).
- iii) Where the assets available for attachment are not sufficient and where he is satisfied that the transfer of the property to the transferee was not in good faith and for consideration, the District Judge has power to order the attachment of so much of the transferee's property equivalent to the value of the property transferred, as per Section 6 of the Ordinance.
- iv) The Court having jurisdiction to entertain the application for attachment of property under the said Ordinance is the Court of the District Judge within the local limits of whose jurisdiction the suspect ordinarily resides or carries on his business. A Special Judge while trying an offence punishable under the said Act can exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, as per sub-section (6) of Section 5 of the Prevention of Corruption Act, 1988.
- v) The District Judge is empowered under Section 4 (1) of the Ordinance, as also the Special Judge trying an offence punishable

under the Prevention of Corruption Act, 1988, to pass an interim order of attachment of the money or other property and to make an interim order of attachment absolute, under Section 5 of the Ordinance.

- vi) The order of attachment remains in force for 3 months as per clause (1) of Section 10, but the period has been raised to one year by the Prevention of Corruption Act, 1988 as per clause (b) of Section 2 thereof. Where a Court has taken cognizance of the scheduled offence, the order of attachment continues in force until orders are passed by the Judge, as per clause (b) of Section 10 of the Ordinance.
- vii) The District Judge or a Special Judge trying an offence punishable under the P.C. Act, 1988 has power to order forfeiture of the attached property on the termination of the criminal proceedings where the final Judgment or order of the criminal court is one of conviction as per sub-section (3) of Section 13 of the Ordinance.
- viii) The above provision should be used for attaching the properties of the Government Servant(s) who are found to have misappropriated Government money pending criminal proceedings and eventual confiscation of the property.

22. Invoking provision of Andhra Pradesh Revenue Recovery Act:

The provisions of Revenue Recovery Act can be invoked for recovery of the misappropriated amounts or loss caused to the Government. Recovery of misappropriated amount or loss caused to Government can be recovered as if it were an arrear of Land Revenue in accordance with the procedure laid down in the A.P. Revenue Recovery Act, where the officer responsible failed to remit the amount to the Government account. It is open to Government to file a civil suit for recovery of such sum as a last resort.

23. Punishments to be awarded in proved cases of misappropriation :

There is a wide disparity in the scales of punishment meted out in misappropriation cases. The question of prescribing uniform scale of punishment in such cases has been considered by Government. It has been decided that ordinarily cases of proved misappropriation would justify nothing less than dismissal from service and action should accordingly be taken. The minimum penalty to be imposed in all proven cases of misappropriation (in addition to the

recovery of amount misappropriated) is dismissal from service. In case of a retired employees, the penalty should be withholding of entire pension and gratuity permanently or withdrawal of pension as the case may be besides recovery of the misappropriation / loss amount. There may, however, be rare cases where in the circumstances, such a trivial amount, short duration, immediate payment on detection, all of which may raise a presumption that it was an error in accounting, which may justify a different punishment. A clear distinction should be drawn between the cases of "delayed remittance" and "misappropriation" having regard to the fact that in proved cases of misappropriation no punishment short of dismissal is normally justified and accordingly the case of 'delayed remittance' need not always be classified for the purpose of audit as a case of misappropriation.

24. An Officer who is convicted by a Criminal Court for the offence of misappropriation or fraud should be dismissed from service without waiting for filing of an appeal or its outcome. Such action would be taken notwithstanding suspension of sentence by an Appellate Court. It shall not be necessary to consult the Andhra Pradesh Public Service Commission for taking action to dismiss the officer on the grounds of conviction in a Court of Law. In the case of an Officer who in the meantime has retired, his pension and gratuity shall be withheld or where it has already been sanctioned, his pension should be withdrawn. The officer, who fails to enforce these instructions promptly, will be held responsible for any loss to the Government on account of avoidable payment of subsistence allowance or provisional pension as the case may be.

25. Consultation with Vigilance Commission :

In all cases of misappropriation, the Vigilance Commissioner has to be consulted in accordance with the procedural instructions of the Commission.

26. Review of cases:

There should be periodical office inspections by the Heads of Departments and such inspections should invariably cover financial aspects, accounts and cases of misappropriation of funds, if any. In the office of Heads of Departments, one officer may be nominated as Vigilance Officer to keep track of cases involving misappropriation of Government funds. The Chief Vigilance Officers of the Secretariat Departments under the Vigilance Officers of Heads of Departments, Public Enterprises, Autonomous Bodies and Cooperative Institutions etc., to keep track of the cases of misappropriation of funds by Government employees.

27. The Finance Department will nominate an officer specially to monitor the pendency and watch progress with reference to statistics that will be furnished to him by the other Departments. This officer would place the statistical data regarding outstanding misappropriation cases for a review by Chief Secretary to Government with Secretaries of Departments periodically.

28. The Secretary of each Department should review each month all cases of misappropriation in his Department and send a copy of the review containing full details to the officer nominated for the purpose in the Finance Department. The Chief Secretary will review these cases with all Secretaries to Government once in 6 months to find out whether there are any bottle necks in expediting cases of misappropriation.

29. All the Departments of Secretariat, all the Heads of Departments and District Collectors are directed to bring these instructions to the notice of their subordinates for their guidance and compliance and enforce strict compliance of these instructions and any deviation in the matter will be viewed seriously.

(473)

Cir.Memo.No.49/Spl.C/2004-1, G.A. (Spl.C) Dept., dt.17.02.2004 regarding instructions on appointment of Common Inquiring Authority.

Subject Heading: Public Services – Appointment of Common Inquiring Authority in respect of AIS Officers and State Officers / Staff when they are involved in a common irregularity – Instructions – Issued.

It has been brought to the notice of the Government that when All India Service Officers, for whom AIS (D&A) Rules, 1969 are applicable and State Officers / Staff for whom A.P.C.S. (CC&A) Rules, 1991 are applicable; are jointly involved in a misconduct, Inquiring Authorities are separately being appointed under the relevant Rules by General Administration Department, in respect of All India Service Officers and other Administrative Departments, in respect of the Officers and Staff of the respective Departments. Such appointments of separate Inquiring Authorities are leading to difficulties in arriving at a comprehensive view and establish relative roles and the extent of involvement of Officers and Staff in misconduct committed jointly.

2. All the Departments in Secretariat are, therefore, requested to take necessary steps to appoint a Common Inquiring Authority or the same Inquiry

Officer in respect of both All India Service Officers and the Officers / Staff of State Government, though under different Rules, wherein they are involved in a common or joint misconduct, in consultation with respective Counter Part Department, without fail.

3. All Heads of Departments of State Government shall also invariably propose for appointment of same Inquiring Authority while furnishing draft articles of charges against All India Service Officers and State Officers, in misconduct jointly committed by them.

4. The above instructions shall be followed in all disciplinary cases against All India Service Officers and State Officers, when they are jointly involved in misconduct.

(474)

Cir.Memo.No.26/Spl.C/A1/2004, G.A. (Spl.C) Dept., dt.23.02.2004 regarding instructions on circulation of files, wherein the disciplinary authority is not Government.

Subject Heading : Public Servants – Circulating the files to the Ministers where the disciplinary authority is not Government – Instructions – Issued.

All the Special Chief Secretaries / Principal Secretaries / Secretaries to Government are informed that according to the scheme of Vigilance Commission, the Commission has jurisdiction over all Government servants and employees of Statement Government, Public Enterprises and Autonomous Bodies. By virtue of this, the Vigilance Commission has to be consulted in all Vigilance matters in respect of public servants coming under the jurisdiction of the Commission, first on the nature of proceedings to be initiated, i.e., Prosecution or Departmental proceedings and in case of Departmental proceedings, major penalty proceedings or minor penalty proceedings and after conclusion of the proceedings, Commission's advice has to be sought on the finding of Inquiry Officer and punishments to be awarded in case the charges are held proved. The Head of Departments, Chief Executives of Public Enterprises, Autonomous Bodies and all disciplinary authorities subordinate to them have to seek advice of the Commission through the Secretariat Department concerned.

2. It has been brought to the notice of the Government that in several cases where the disciplinary authority is not Government, such files received

from the Head of Departments or the Public Enterprises are being circulated to the Minister concerned for orders, which is not legal. The purpose for which the file is sent to Secretariat Department is to transmit it to the Vigilance Commission to solicit advice in the matter and to transmit that advice to the Head of Department or Chief Executive of Public Enterprise. Courts have held that consultation with the Vigilance Commission in such matters and advice of the Commission thereon are perfectly legal, but any decision or advice tendered by the appellate authority or revision authority at this stage would infringe upon the disciplinary authority's jurisdiction and vitiate the proceedings.

3. After examining the matter, all Special Chief Secretaries / Principal Secretaries / Secretaries to Government are requested not to refer the cases to the Minister concerned in which Government are not the disciplinary authority.

(475)

G.O.Ms.No.53, G.A. (Ser.C) Dept., dt.28.02.2004 regarding amendment to Rule-14 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.301, P.R.&R.D. Dept., dt.20.09.2003.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 and as subsequently amended from time to time.

The following amendment shall come into force w.e.f. 20.09.2003.

AMENDMENT

In the said rules in Rule 14 under sub-rule (2) after the existing provisos, the following shall be added namely,-

"Provided also that the Mandal Parishad Development Officer may impose the minor penalties and keep under suspension the Superintendent, Extension Officer (Panchayat Raj & Rural Development), Senior Assistant, Panchayat Secretaries, Junior Assistant, Typist, Class-IV employees of Mandal Parishads as specified in clauses (i) to (v) of Rule 9 of these rules".

(476)

G.O.Ms.No.60, G.A. (Ser.C) Dept., dt.10.03.2004 regarding amendment to A.P.C.S. (DPT) Rules, 1989.

Subject Heading : APCS (Disciplinary Proceedings Tribunal) Rules, 1989 – Amendment to clause (a) of sub-rule (2) of Rule 6 – Orders – Issued.

Read the following :

1. G.O.Ms.No.454, G.A. (Ser.C) Dept., dt.07.11.2002.
2. G.O.Ms.No.455, G.A. (Ser.C) Dept., dt.07.11.2002.

ORDER :

In the G.O. second read above, an amendment was issued to clause (a) of sub-rule (2) of Rule 6 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989 to enable the Tribunal to send its report of findings to the Government within thirty days. However, in cases in which exoneration of Government Servant charged is recommended by the Tribunal, it shall specify, whether the Charged Officer is "fully exonerated" for the purpose of Fundamental Rules 54 (A). Where the Tribunal does not express any such opinion, it shall be presumed by the Government that the Charged Officer is not fully exonerated by the Tribunal".

2. Now, the Government after careful examination of the matter and also for proper application of the rule have decided to delete the second and third sentences from the existing clause (a) of sub-rule (2) of Rule 6 of said rules

issued vide G.O.Ms.No.455, General Administration (Services-C) Department, dated 07.11.2002.

3. Accordingly, the following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 10 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 (Act-II of 1960), the Government of Andhra Pradesh hereby make the following amendment to the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989 issued in G.O.Ms.No.304, General Administration (Ser.C) Department, dated the 3rd June, 1989 and published at pages 557 to 562 in Rules supplement to Part-I, Extraordinary of the Andhra Pradesh Gazette No.16, dated the 3rd August, 1989 and as subsequently amended from time to time.

4. In the said Rules for clause (a) of sub-rule (2) of Rule 6, the following shall be substituted, namely:

"In all cases after the enquiry has been completed, the Tribunal shall send its report of findings to Government within thirty days".

(477)

Memo.No.8388/Ser.C/2004, G.A. (Ser.C) Dept., dt.12.03.2004 regarding instructions for easy and quick understanding of the procedure under Rule 20 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Establishment – A.P.C.S. (CC&A) Rules, 1991 – Recast of Rule 20 – Instructions for easy and quick understanding of the procedure for imposing major penalties – Regarding.

Ref: G.O.Ms.No.383, General Administration (Ser.C) Dept., dt.19.12.2003.

Rule 20 of A.P.C.S (CC&A) Rules, 1991, which prescribes the procedure for imposing major penalties, was recast in G.O.Ms.No.383, General Administration (Ser.C) Dept., dt.19.12.2003, after taking into account several practical problems, brought to the notice of Government and also the earlier amendments made to Rule 20. Some of the salient features of the new Rule 20 are as follows:

- a) Copies of relevant extracts of the documents are furnished to the Government Servant, along with articles of charges. Additional documents are also furnished to him, as and when they are received. He is also furnished, without asking, a copy of the list of further evidence, proposed to be produced. This will facilitate speedy conduct of disciplinary proceedings.
- b) Discretion and time limits to the Disciplinary Authorities, Presenting Officers, Charged Government Servants etc., are minimized and specified.
- c) Only Head of the Department or Secretary of the Department concerned will decide whether production of all or any of the documents requisitioned by the Government Servant would be against the public interest or security of the State, and not by the lower level officials.
- d) Government Servant can admit the genuineness or otherwise of any of the documents, copies of which have been furnished to him.
- e) Oral and documentary evidence shall not only be produced, but also be recorded, thereby cognizance of the evidence is taken note of and it becomes a part of the record.

2. Old Rule, New Rules and the changes made in the Rule 20 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991 is shown in the Annexure for easy and quick understanding of the procedure for imposing major penalties.

3. The Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the instructions and bring the same to the notice of all concerned.

4. The receipt of this memo. shall be acknowledged.

ANNEXURE

(To the Memo. No. 8388/Ser.C/2004, G.A. (Ser.C) Dept., dt.12.03.2004)
 (Old rule 20 of the CCA Rules i.e., for sub-rules (1) to (23), the new rule 20 i.e., sub - rules ('1) to (18) shall be substituted

Old Rule	New Rule	Change in Rule
Part - V PROCEDURE FOR IMPOSING PENALTIES		
Procedure for imposing major penalties:		
20(1) No order imposing any of the penalties specified in clauses (vi) to (x) of Rule 9 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and Rule 21 or in the matter provided by the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850) or the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983, where such inquiry is held under the said Acts.	20(1) No order imposing any of the penalties specified in clauses (vi) to (x) of Rule 9 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and Rule 21 or in the matter provided by the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1991 are quoted, as they are quite exhaustive.	In old rule, Public Servants (Inquiries) Act, 1850 is quoted. In new rule, A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 are quoted, as they are quite exhaustive.
(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule, as the case may be, authority to inquire into the truth thereof.	(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule, as the case may be, authority to inquire into the truth thereof.	In old rule, Public Servants (Inquiries) Act, 1850 is quoted. In new rule A.P. Civil Services (Classification, Control and

<p>of the Public Servants (Inquiries) Act, 1850, as the case may be, authority to inquire into the truth thereof.</p> <p>Explanation: Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) to the inquiring authority shall be construed as a reference to the disciplinary authority.</p>	<p>Explanation: Where the disciplinary authority itself holds the inquiry, any reference to the inquiring authority shall be construed as a reference to the disciplinary authority.</p> <p>(3) Where it is proposed to hold an inquiry against the Government servant under this rule and Rule 21, the disciplinary authority, or the cadre controlling authority who is not designated as Disciplinary Authority and who is subordinate to the appointing authority can draw up or cause to be drawn up -</p> <p>(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge.</p> <p>(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain:</p> <p>(a) a statement of all relevant facts including any admission or confession made by the Government Servant;</p> <p>(b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.</p> <p>In old rule, only list of documents are furnished to the Government Servant.</p> <p>In new rule, copies or relevant extracts of the documents are furnished to the Government Servant, along with articles of charges, so as to facilitate speedy conduct of disciplinary proceedings.</p> <p>(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge.</p> <p>(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain.</p> <p>(a) a statement of all relevant facts including any admission or confession made by the Government Servant.</p> <p>(b) Copies of documents by which, and copies of statements of witnesses by whom, the articles of charge are proposed to be sustained.Note: Where the documents are voluminous, relevant extracts of the</p>
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	documents may be furnished to the Government Servant.	
(4) The disciplinary authority shall deliver or cause to be delivered by the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.	(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and copies of the statements of witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to appear before the disciplinary authority on such day and at such time not exceeding ten working days and submit a written statement of his defence and to state whether he desires to be heard in person.	In old rule, the time limit within which, a charged officer has to submit his written statement of defence, was left to the discretion of the Disciplinary Authority. In new rule, the Disciplinary Authority cannot give more than ten working days to the charged officer to submit a written statement in his defence.
	(5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the matter laid down in rule 21.	(5) (a) On the date fixed for appearance the Government Servant shall submit the written statement of his defence. He shall be questioned whether he pleads guilty to the charges or not and if he pleads guilty to all or any of the articles of charges, the disciplinary authority shall record the plea and obtain the signature of the Government Servant thereon. In old rule, the Government Servant shall appear in person before the inquiring authority within fifteen working days to submit whether he pleads guilty to the charges or not and also the written statement of defence etc. In new rule, the time limit is reduced and the disciplinary

		authority gives not exceeding ten working days for submission of written statement of defence.
(5) (b) If no written statement of defence is submitted by the Government Servant, the Disciplinary Authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2) an Inquiring Authority for the purpose.	(5) (b) Where the Government Servant appears before the Disciplinary Authority and pleads not guilty to the charges or refuses or omits to plead, the Disciplinary Authority shall record the plea and obtain signature of the Government Servant thereon may decide to hold the inquiry itself or if it considers it necessary to do so, appoint a serving or retired Government Servant as Inquiring Authority for holding the inquiry into the charges and also appoint a Government Servant as Presenting Officer to present the case in support of the articles of charge and adjourn the case to a date not exceeding five days for the said purpose.	In old rule, the Disciplinary Authority appoints an Inquiring Authority. In new rule, the Disciplinary Authority appoints a serving or retired Government Servant as Inquiring Authority. In old rule, the Inquiring Authority may give further time not exceeding fifteen days to the Government Servant to appear in person before the Inquiring Authority to submit to the charges or not and also the written statement of defence etc.
(6) The Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority -	(7) (a) The Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority – Authority–	In old rule, the Disciplinary Authority where it is not the Inquiring Authority, was not forwarding to the Inquiring

<p>(ii) a copy of the written statement of defence, if any submitted by the Government Servant;</p> <p>(iii) a copy of the statement of witnesses, if any, referred to in sub-rule (3);</p> <p>(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Government Servant; and</p> <p>(v) a copy of the order appointing the "Presenting Officer".</p>	<p>(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;</p> <p>(ii) a copy of the written statement of defence, if any submitted by the Government servant;</p> <p>(iii) copies of the Statements of Witnesses, referred to in sub-rule (3);</p> <p>(iv) copies of documents referred to in sub-rule (3);</p> <p>(v) Evidence proving the delivery of copies of the documents referred to in sub-rule (3) to the Government Servant; and</p> <p>(vi) a copy of the order appointing the "Presenting Officer".</p>	<p>Authority copies of documents referred to in sub-rule (3).</p> <p>In new rule, the Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority copies of documents referred to in sub-rule(3).</p>
	<p>(6) The Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority -</p> <p>(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;</p> <p>(ii) a copy of the written statement of defence, if any submitted by the Government Servant;</p> <p>(iii) a copy of the statement of witnesses, if any, referred to in sub-rule (3);</p>	<p>(7) (b) The Disciplinary Authority shall also forward to the Inquiring Authority documents received under sub-rule (5) (h) as and when they are received.</p> <p>In old rule, the Disciplinary Authority shall, where it is not the Inquiring Authority, was not forwarding to the Inquiring Authority, copies of further documents requisitioned.</p> <p>In new rule, the Disciplinary Authority shall, where it is not the Inquiring Authority, forward</p>

<p>(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Government Servant; and</p> <p>(v) a copy of the order appointing the "Presenting Officer".</p>	<p>(7) The Government Servant shall appear in person before the Inquiring Authority on such day and at such time within fifteen working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the Inquiring Authority may, by a notice in writing, specify in this behalf or within such further time, not exceeding fifteen days, as the Inquiring Authority may allow.</p> <p>(8) After receiving the documents mentioned under sub-rule (7) (a), the Inquiring Authority shall issue notice in writing to the Presenting Officer and also to the Government Servant to appear before him on such day and at such time and place specified by him which shall not exceeds ten days.</p>	<p>to the Inquiring Authority, not only copies of documents referred to in sub-rule (3), but also further documents received under sub-rule (5) (h), as and when they are received.</p>	<p>In old rule, the Inquiring Authority, may, by a notice in writing, specify the Government servant to appear in person before him within not exceeding thirty days.</p> <p>In new rule, the limit is reduced and the Inquiring Authority shall issue a notice in writing not only to the Government Servant, but also to the Presenting Officer, to appear before him in not exceeding ten days.</p>	<p>In old rule, the Government Servant shall appear in person before the Inquiring Authority on the date fixed under sub-rule (8).</p>
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<p>time within fifteen working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the Inquiring Authority may, by a notice in writing, specify in this behalf or within such further time, not exceeding fifteen days, as the Inquiring Authority may allow.</p>	<p>Authority within not exceeding thirty days.</p> <p>In new rule, the time limit is reduced; and, not only the Government Servant but also the Presenting Officer shall appear before the Inquiring Authority, in not exceeding ten days.</p>
<p>(11) The Inquiring Authority shall, if the Government Servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government Servant may, for the purpose of preparing his defence:</p> <p>(9) (b) If the Government Servant informs the Inquiring Authority that he wishes to inspect the documents mentioned in sub-rule (3) for the purpose of preparing his defence, the Inquiring Authority shall order that he may inspect the documents within five days and the Presenting Officer shall arrange for the inspection accordingly.</p> <p>In old rule, the Inquiring Authority may allow the Government Servant to inspect within not exceeding ten days to inspect the documents for the purpose of preparing his defence.</p> <p>In new rule, the time limit is reduced and the Inquiring Authority shall order that the Government servant may inspect the documents within five days; and, the Presenting Officer shall</p> <ul style="list-style-type: none"> (i) inspect within five days of the order or within such further time not exceeding five days as the Inquiring Authority may allow, the documents specified in the list referred to sub-rule (3), (ii) submit a list of witnesses to be examined on his behalf, 	

<p>Note:- If the Government Servant applies orally or in writing for the supply of copies of the Statement of witnesses mentioned in the list referred to in sub-rule (3), the Inquiring Authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the Disciplinary Authority.</p>	<p>arrange for the inspection accordingly.</p>
<p>(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the Inquiring Authority may allow for the discovery or production of any documents which are in possession of Government but not mentioned in the list referred to in sub-rule (3).</p> <p>(11) The Inquiring Authority shall, if the Government Servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government Servant may, for the purpose of preparing his defence:</p> <p>(I) inspect within five days of the order or within such further time not exceeding five days as the Inquiring</p>	<p>(9) (c) The Inquiring Authority shall call upon the Government Servant whether he admits the genuineness of any of the documents copies of which have been furnished to him and if he admits the genuineness of any document it may be taken as evidence without any proof by the concerned witness.</p> <p>In old rule, there was no provision for the Government Servant to say whether he admits the genuineness or not of any of the documents, copies of which have been furnished to him.</p> <p>In new rule, the Government servant can say whether he</p>

<p>Authority may allow, the documents specified in the list referred to sub-rule (3),</p> <p>(ii) submit a list of witnesses to be examined on his behalf,</p> <p>Note:- If the Government Servant applies orally or in writing for the supply of copies of the Statement of witnesses mentioned in the list referred to in sub-rule (3), the Inquiring Authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the Disciplinary Authority.</p> <p>(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the Inquiring Authority may allow for the discovery or production of any documents which are in possession of Government but not mentioned in the list referred to in sub-rule (3).</p> <p>Note: The Government Servant shall indicate the relevance of the documents required by him to be discovered or produced by the Government.</p> <p>(11) The Inquiring Authority shall, if the Government servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to</p>	<p>admits the genuineness of any of the documents, copies of which have been furnished to him; and, if he admits, the genuineness of any document, it may be taken as evidence without any proof by the concerned witness.</p>	<p>In old rule, the Inquiring Authority may require the Presenting Officer to</p> <p>(9) (d) The Inquiring Authority shall adjourn the case for inquiry to a date not exceeding ten days for production of evidence and require the Presenting</p>
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<p>Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government Servant may, for the purpose of preparing his defence:</p> <p>(i) inspect within five days of the order or within such further time not exceeding five days as the Inquiring Authority may allow, the documents specified in the list referred to sub-rule (3),</p> <p>(ii) submit a list of witnesses to be examined on his behalf,</p>	<p>Officer to produce the evidence by which he proposes to prove the articles of charges.</p> <p>produce the evidence, by which he proposes to prove the articles of charges and may adjourn the case to a later date not exceeding thirty days.</p> <p>In new rule, the time limit is reduced and the Inquiring Authority may adjourn the case to a date not exceeding ten days.</p>
	<p>Note:- If the Government Servant applies orally or in writing for the supply of copies of the Statement of witnesses mentioned in the list referred to in sub-rule (3), the Inquiring Authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the Disciplinary Authority.</p> <p>(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the Inquiring Authority may allow for the discovery or production of any documents which are in possession</p>

<p>of Government but not mentioned in the list referred to in sub-rule (3).</p> <p>Note: The Government Servant shall indicate the relevance of the documents required by him to be discovered or produced by the Government.</p>	<p>(12) The Inquiring Authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition:</p>	<p>(5) (f) The Disciplinary Authority may for reasons to be recorded in writing refuse to requisition such of the documents as are, in its opinion, not relevant to the case.</p>	<p>In old rule, the Inquiring Authority may refuse to requisition such of the documents not relevant to the case.</p> <p>In new rule, instead of the Inquiring Authority, it is now confined to the Disciplinary Authority to refuse to requisition such of the documents not relevant to the case.</p>
	<p>Provided that the Inquiring Authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.</p>	<p>(12) The Inquiring Authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition:</p>	<p>(5) (g) The Disciplinary Authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.</p> <p>In old rule, the Inquiring Authority on receipt of the notice can forward the same with requisition for the production of the documents.</p>

<p>Provided that the Inquiring Authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.</p>	<p>In new rule, only the Disciplinary Authority on receipt of the notice can forward the same with requisition for the production of the documents.</p> <p>(5) (h) On receipt of the requisition referred to in sub-rule (5) (g), every authority having the custody or possession of the requisitioned documents, shall produce the same before the Inquiring Authority, and the requisitioning of the documents can be done either on the instance of the member of service or by the Inquiring Authority <i>suo motu</i>.</p> <p>Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any such documents would be against the public interest or security of the State, shall submit the fact to the Head of Department, or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the Disciplinary Authority, and the Inquiring Authority shall on being so informed, communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents.</p> <p>In old rule, the custodian or any authority produces the requisitioned documents before the Inquiring Authority.</p> <p>Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any such documents would be against the public interest or security of the State, shall submit the fact to the Head of Department, or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the Disciplinary Authority, and the Inquiring Authority that the production of all or any of the requisitioned documents would be against the public interest of security of the State. The Inquiring Authority.</p>
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in turn, communicates the information to the Government Servant to withdraw the requisition for the production or discovery of the documents.	In new rule, a custodian or any authority can submit that the production of all or any such requisitioned documents would be against the public interest or security of the State, to the Head of the Department or to the Secretary of the Department concerned for a decision in the matter. The Disciplinary Authority, in turn communicates the information to the Government Servant to withdraw the requisition for production or discovery of the documents.
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<p>(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.</p>	<p>(10) (a) On the dates fixed for recording the evidence, the oral and documentary evidence by which the articles of charges are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. In new rule, it is clearly specified that the dates are fixed for inquiry for the purpose of recording the evidence, and the oral and documentary evidence shall be produced by or on behalf of the Disciplinary Authority.</p> <p>(10) (b) The evidence shall be recorded as far as possible on day-to-day basis till the evidence on behalf of the Disciplinary Authority is completed.</p>
	<p>(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.</p>

		record, on day to day basis, till the evidence by or on behalf of the Disciplinary Authority is completed.
(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.	(10) (c) The witnesses shall be examined by the Presenting Officer and they may be cross examined by or on behalf of the Government Servant.	In old rule, the witnesses shall be examined by or on behalf of the Presenting Officer. In new rule, the witnesses shall be examined by the Presenting Officer only.
(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on	(10) (d) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross examined, but not on any new matter without the permission of the Inquiring Authority.	In old rule, the Presenting Officer shall be entitled to re-examine the witnesses, etc., without the leave of the Inquiring Authority. In new rule, the Presenting Officer shall be entitled to re-examine the witnesses, etc.,

<p>any new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.</p>	<p>(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.</p>	<p>(10) (e) The Inquiring Authority may also put such questions to the witnesses as it thinks fit.</p> <p>(11) (a) If it appears necessary before the closure of the case on behalf of the Disciplinary Authority, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government Servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three</p> <p>without the permission of the Inquiring Authority.</p> <p>There is no change between the old rule and the new rule.</p> <p>There is no change between the old rule and the new rule.</p>
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clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The Inquiring Authority shall give the Government Servant an opportunity of inspecting such documents before they are taken on the record. The Inquiring Authority may also allow the Government servant to produce new evidence, if it so of the opinion that the production of such evidence is necessary in the interest of justice.	<p>Note:- New evidence shall not be permitted or called for and witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.</p> <p>(15) If it shall appear necessary before the closure of the case on behalf of the Disciplinary Authority, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government Servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive</p>	<p>In old rule, the Government Servant is entitled to have a copy of the list of further evidence proposed to be produced, if he demands. In new rule, the Government Servant, without asking, shall be entitled to have a copy of the list of further evidence, proposed to be produced.</p>

<p>of the day of adjournment and the day to which the inquiry is adjourned. The Inquiring Authority shall give the Government Servant an opportunity of inspecting such documents before they are taken on the record. The Inquiring Authority may also allow the Government Servant to produce new evidence, if so of the opinion that the production of such evidence is necessary in the interest of justice.</p> <p>Note:- New evidence shall not be permitted or called for and witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.</p>	<p>(15) If it shall appear necessary before the closure of the case on behalf of the Disciplinary Authority, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government Servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to</p> <p>(11) (c) The Inquiring Authority shall give the Government Servant an opportunity of inspecting such documents before they are taken on the record.</p> <p>There is no change between the old rule and the new rule.</p>

<p>which the inquiry is adjourned. The Inquiring Authority shall give the Government Servant an opportunity of inspecting such documents before they are taken on the record. The Inquiring Authority may also allow the Government Servant to produce new evidence, if it so of the opinion that the production of such evidence is necessary in the interest of justice.</p> <p>Note:- New evidence shall not be permitted or called for and witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.</p>	<p>Note: New evidence shall not be permitted or called for and witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.</p> <p>(16) When the case for the Disciplinary Authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.</p> <p>(12) (a) When the case for the Disciplinary Authority is closed, the Government servant shall be required to state his defence orally or in writing as he may prefer and to submit a list of witnesses to be examined on his behalf for which purpose the case may be adjourned to a date not exceeding five days.</p> <p>In old rule, when the case for the Disciplinary Authority is closed, there was no provision for the Government Servant to submit a list of witnesses to be examined on his behalf, for which purpose the case may be adjourned.</p>
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<p>(16) When the case for the Disciplinary Authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.</p>	<p>(12) (b) If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence and the list of defence witness may be provided.</p>	<p>In old rule, a copy of the statement of the defence is given to the Presenting Officer and not to the Government Servant.</p> <p>In new rule, a copy of the statement of the defence and the list of defence witnesses is provided to the Government Servant.</p>
<p>(16) When the case for the Disciplinary Authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.</p>	<p>(12) (c) The case shall be adjourned to a date not exceeding ten days for production of defence evidence.</p>	<p>In old rule, there was no provision for the adjournment for production of defence evidence.</p> <p>In new rule, the case can be adjourned to a date not exceeding ten days for production of defence evidence.</p>
		<p>(13) The evidence on behalf of the Government Servant shall then be produced. The Government Servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government Servant shall then be examined and shall be liable to cross-examination, re-examination and examination by the Inquiring Authority according to the provisions</p>

applicable to the witnesses for the Disciplinary Authority.	applicable to the witnesses for the Disciplinary Authority.
(18) The Inquiring Authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.	(14) The Inquiring Authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.
(19) The Inquiring Authority may, after the completion of the production of evidence, hear the Presenting Officer, if any appointed, and the Government Servant, or permit them to file written briefs of their respective cases, if they so desire.	(15) The Inquiring Authority may, after the completion of the production of evidence, hear the Presenting Officer, if any appointed, and the Government Servant, or permit them to file written briefs of their respective cases, if they so desire.
(20) If the Government Servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Inquiring Authority otherwise fails or refuses to comply with the provisions of this rule, the Inquiring Authority may hold the inquiry ex parte.	(16) Where the Government Servant to whom a copy of the article of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Disciplinary Authority, the Disciplinary Authority may decide to hold the inquiry ex parte or if it considers necessary so to do, appoint an Inquiring Authority for the purpose.
	In old rule, if the Government Servant does not submit or does not appear or refuses to comply with these rules, the Inquiring Authority may hold the inquiry ex parte. In new rule, the Disciplinary Authority may decide to hold the inquiry ex parte or if it considers necessary so to

	do, appoint an Inquiring Authority for the purpose.	
(21) (a) Where a Disciplinary Authority competent to impose any of the penalties specified in clauses (i) to (v) of Rule 9 and in Rule 10 but not competent to impose any of the penalties specified in [clauses (vi) to (x)] of Rule 9, has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any Inquiring Authority appointed by it, is of the opinion that the penalties specified in [clauses (vi) to (x)] of Rule 9 should be imposed on the Government Servant, that authority shall forward the records of the inquiry to such Disciplinary Authority as is competent to impose the last mentioned penalties.	(16) (a) Where a Disciplinary Authority competent to impose any of the penalties specified in clauses (i) to (v) of Rule 9 and in Rule 10 but not competent to impose any of the penalties specified in [clauses (vi) to (x)] of Rule 9, has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any Inquiring Authority appointed by it, is of the opinion that the penalties specified in [clauses (vi) to (x)] of Rule 9 should be imposed on the Government Servant, that authority shall forward the records of the inquiry to such Disciplinary Authority as is competent to impose the last mentioned penalties.	There is no change between the old rule and the new rule.
(21) (b) The Disciplinary Authority to which the records are so forwarded may act on the evidence on the record or may, it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross-examine, re-examine the witnesses and may impose on the Government Servant such penalty as it may deem fit in accordance with these rules.	(16) (b) The Disciplinary Authority to which the records are so forwarded may act on the evidence on the record or may, it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross-examine, re-examine the witnesses and may impose on the Government Servant such penalty as it may deem fit in accordance with these rules.	There is no change between the old rule and the new rule.

<p>(22) Whenever an Inquiring Authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another Inquiring Authority which has and which exercises, such jurisdiction, the Inquiring Authority so succeeding may act on the evidence so recorded by its predecessor, and partly recorded by itself.</p> <p>Provided that if the succeeding Inquiring Authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses herein before provided.</p>	<p>(17) Whenever an Inquiring Authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another Inquiring Authority which has and which exercises, such jurisdiction, the Inquiring Authority so succeeding may act on the evidence so recorded by its predecessor, and partly recorded by itself.</p> <p>Provided that if the succeeding Inquiring Authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses herein before provided.</p>	<p>There is no change between the old rule and the new rule.</p> <p>There is no change between the old rule and the new rule.</p> <p>There is no change between the old rule and the new rule.</p> <p>(18) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain-</p> <ul style="list-style-type: none"> (a) the articles of charge and the statement of the imputations of misconduct or misbehaviour; (b) the defence of the Government Servant in respect of each article of charge; (c) an assessment of the evidence in respect of each article of charge;
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<p>(d) the findings on each article of charge and the reasons therefor.</p> <p>Explanation:- If in the opinion of the Inquiring Authority, the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge:</p>	<p>Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.</p> <p>(ii) The Inquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of inquiry which shall include-</p> <ul style="list-style-type: none"> (a) the report prepared by it under clause (i); (b) the written statement of defence, if any, submitted by the Government Servant; (c) the oral and documentary evidence produced in the course of the inquiry; (d) written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and 	<p>(d) the findings on each article of charge and the reasons therefor.</p> <p>Explanation:- If in the opinion of the Inquiring Authority, the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge:</p> <p>Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.</p> <p>(ii) The Inquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of inquiry which shall include-</p> <ul style="list-style-type: none"> (a) the report prepared by it under clause (i); (b) the written statement of defence, if any, submitted by the Government Servant; (c) the oral and documentary evidence produced in the course of the inquiry; (d) written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and
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(e) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry.Explanation:- It is not necessary to have an inquiry in the manner provided for in this Rule or to hear in person in the case of reduction of rank in seniority list (A and B lists) of Constables fit for promotion as Head Constables in the Andhra Pradesh Police Subordinate Service or Andhra Pradesh Special Police Service.

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Memo.No.36761/Ser.C/2004, G.A. (Ser.C) Dept., dt.12.03.2004 regarding instructions on suspension of corrupt officers on whom criminal misconduct cases.

Subject Heading : Combating corruption in Public Services – Suspension of corrupt officers on whom criminal misconduct cases – Instructions - Issued.

- Ref : 1. U.O.Note No.240/SC.D/93-3, G.A. (SC.D) Dept.,
dt.05.10.1993.
2. U.O.Note No.1595/SC.D/93-6, G.A. (SC.D) Dept.,
dt.16.11.1994.
3. Memo.No.554/Ser.C/93-6, G.A. (Ser.C) Dept.,
dt.26.12.1994.
4. Govt.U.O.Note No.1818/Spl.B/2000-2, dt.21.11.2001.
5. Govt.Memo.No.596/Spl.B/2000-6, dt.10.06.2002.
6. Govt.Memo.No.177/Spl.C/2003-1, dt.13.05.2003.
7. Govt.Memo.No.19179/Ser.C/2003, dt.18.12.2003.

Instructions were issued in the reference 7th cited for suspension of Government Servants involved in trap laid down by the A.C.B. and also in disproportionate assets cases. Keeping in view the instructions issued in the reference 6th cited, the following modified orders issued in suspension of the instructions issued in the reference 7th cited.

Suspension of officers involved in Trap Cases of the ACB :

Officers involved in trap cases shall be suspended immediately upon receipt of Radio Message from the A.C.B. to disciplinary authority / Secretariat Administrative Departments and A.P.V.C. within the 24 hours of trap, irrespective of the fact whether the officer is involved directly or indirectly in the act of accepting bribe and irrespective of the fact whether the phenolphthalein test yielded positive result or not.

Suspension of officers involved in Disproportionate Assets Cases :

Based on the preliminary report and recommendation of the D.G., A.C.B., Hyderabad for suspension of officers involved in disproportionate assets cases, orders of suspension shall be issued promptly. Further based on the recommendation of the D.G., A.C.B., Hyderabad, properties of officers against whom disproportionate cases are initiated, should be permitted to be attached under relevant sections of Criminal Law Amendment Ordinance, 1944.

2. The Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above instructions strictly without any deviation in placing the employees under suspension in the above referred cases. They are further requested to bring the same to the notice of all concerned for strict compliance.

3. The receipt of this Memo. shall be acknowledged.

(479)

Circular Memo.No.240/Spl.C/A1/2004-1, G.A. (Spl.C) Dept., dt.16.04.2004 regarding instructions on displaying the names of the Chief Vigilance Officer and other particulars.

Subject Heading : ACB & Vigilance Cases – Displaying the names of the Chief Vigilance Officer and other particulars in addition to the complaint box – Instructions - Issued.

Ref : This Dept's D.O.Lr.No.10/Spl.C/2003-1, dt. 08.01.2003.

The attention of all the Departments is invited to the reference cited, wherein it was requested to install a complaint box in each Department and to send fortnightly report to General Administration Department.

2. It has also been decided to display prominently the name of the Chief Vigilance Officer of the Department and other details like his phone numbers (both office & residential), e-mail address, if any along with complaint box in all Departments.

3. All Departments of Secretariat are, therefore, requested to take necessary action for displaying prominently the name of the Chief Vigilance Officer and other details as mentioned in above para immediately. They are also requested to send compliance report in the matter.

(480)

**Memo.No.70765/Ser.C/A1/2004-1, G.A. (Ser.C) Dept., dt.29.05.2004
regarding further instructions on misappropriation cases.**

**Subject Heading : Misappropriation Cases – Consolidated Guidelines
Issued – Further Instructions – Regarding.**

- Ref: 1. G.O.Ms.No.25, G.A. (Ser.C) Dept., dt.03.02.2004.
2. From the Deputy Accountant General, A.G., A.P., Hyderabad
D.O.Lr.No.Prl.A.G.Audit.I/A.U-CACD-Unit-III/3-8/2004-05,
dt.12.05.2004

The Deputy Accountant General (Inspection Civil), Indian Audit and Accounts Department in his letter 2nd cited, has stated that in para 2 of the reference first cited, it has been mentioned that there is a huge difference between the number of misappropriation cases reported in Comptroller and Auditor General of India's Audit Report (State-Civil) for the year ended 31.03.2002 and cases reported by Vigilance Commission due to serious omission in reporting of misappropriation cases to the Prl. Accountant General as provided in the A.P. Financial Code. Further, he has requested to issue necessary instructions to all concerned for prompt reporting of misappropriation of cases to the O/o. the Accountant General (Audit-I), A.P.

2. Government have issued the consolidated guidelines on misappropriation cases vide reference 1st cited with a direction to all the Departments of Secretariat, all the Heads of the Departments and all District Collectors to review each month all cases of misappropriation in their respective Department and send a copy of the review containing full details to the Officer nominated for the purpose in the Finance Department.

3. Keeping in view, the request made by the Principal Accountant General in his letter second cited, all the Departments of Secretariat, all the Heads of the Departments and all the District Collectors are requested to report promptly the cases of misappropriation to the office of the Principal Accountant General (Audit-I), Andhra Pradesh and they are further requested to bring these instructions to the notice of their subordinates for strict compliance.

(481)

Circular Memo.No.268/Spl.C/A1/2003-2, G.A. (Spl.C) Dept., dt.09.06.2004 regarding communication of Judgment of A.P. High Court on sanction of prosecution once accorded cannot be withdrawn.

Subject Heading : Prosecution Cases – Sanction of Prosecution once accorded cannot be withdrawn or rescinded by the Government – Communication of Judgment of A.P. High Court - Regarding.

An extract of the Judgment of Andhra Pradesh High Court in W.P.No.4231/2001, dated 21.01.2003 is furnished to all Departments of Secretariat / all Heads of the Departments. They are requested to take into account the Judgment of the High Court of Andhra Pradesh while processing the cases pertaining to withdrawal of prosecution.

Copy of :

AN EXTRACT OF THE JUDGEMENT OF THE HIGH COURT OF ANDHRA PRADESH IN W.P.No.4231/2001, dated 21.01.2003

(2003 Cri.L.J.A.P.1986) (Sri M.Veraiah Chowdary
Vs. State of Andhra Pradesh)

"Sec.321 of the Cr.P.C. provides for withdrawal of prosecution. It empowers the Public Prosecutor or the Assistant Public Prosecutor, in-charge of the case to withdraw the cases from the trial with the consent of the Court. On such withdrawal, depending on the stage of the case, the accused shall be discharged or, as the case may be, acquitted. In Abdul Karim Vs. State of Karnataka, AIR 2001, the Supreme Court held that the decision of the Public Prosecutor to withdraw the case from the prosecution is not absolute and it should be on consideration of all the relevant material and in good faith. The Court while granting its consent, has to ensure that the Public Prosecutor has applied his mind independently and that he is acting in good faith".

"If, therefore, follows that the decision to withdraw from the prosecution should emanate from the Public Prosecutor, which in turn, shall be on a

dispassionate consideration of the matter. The Public Prosecutor is the creature under the Cr.P.C. and he cannot be said to be subordinate to Government. In the given case, the Government being prosecuting agency can place the necessary material before the Public Prosecutor. On a consideration of the same, the ultimate decision to withdraw from or proceed with the prosecution should rest with the Public Prosecutor. In view of the Judgment of the Supreme Court in Abdul Karim's case, the decision of Public Prosecutor to withdraw the prosecution under Sec.321 Cr.P.C. is justifiable".

"the impugned order does not, by itself, terminate the prosecution. It is only as and when the concerned Public Prosecutor comes forward with a Memo. before the trial court seeking permission to withdraw, the trial court has to consider the same on the principles laid down by the Supreme Court in the said decision".

(482)

**Cir.Memo.No.32419/838/FR.II/2003, Finance (FR.II) Dept., dt.19.06.2004
regarding instruction on back wages for period of suspension in the
case of acquittal in Court Cases.**

Subject Heading : Establishment – Fundamental Rules – Payment of consequential benefits i.e., back wages for period of suspension in the case of acquittal in Court Cases – Certain clarificatory instructions based on Judgment of the Supreme Court of India – Issued.

Ref : 1. Law Dept., U.O.No.1068/I/2004, dt.20.02.2004.

2. G.A. (Ser.C) Dept., U.O.No.No.29663/Ser.C/A2/04,
dt.01.03.2004.

According to Instructions 1 under FR 54, a Government Servant, who has been committed to prison either for debt or on criminal charges should be considered as under suspension from the date of his arrest and therefore entitled only to subsistence allowance under Rule 53 until the termination of the proceedings against him, when, if he is not dismissed, an adjustment of his pay and allowances should be made according to the conditions and terms prescribed in Rule 54, the full amount being given only in the event of Government Servant being considered to be acquitted of blame, or (if the imprisonment was for debt)

of its being proved that the Government servants' liability arose from circumstances beyond his control.

2. FR 54-A (1) also lays down that where the dismissal, removal or compulsory retirement of a Government Servant is set aside by a court of law and such Government Servant is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the Government servant shall be paid, pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if any, of the Court.

(2) (i) Where the dismissal, removal or compulsory retirement of a Government Servant is set aside by the court, solely on the ground of non-compliance with the requirements of [clause (1) or clause (2) of Article 311 of the Constitution], and where he is not exonerated on merits, the Government Servant shall, subject to the provisions of sub-rule (7) of Rule 54, be paid [such amount (not being the whole) of the pay and allowances] to which he would have been entitled had he not been dismissed, removed or compulsorily retired, or suspended prior to such dismissal removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government Servant of the quantum proposed and after considering the representation, if any, submitted by him, in that connection within such period [which in no case shall exceed sixty days from the date on which the notice has been served] as may be specified in the notice.

3. The Hon'ble Supreme Court of India in Civil Appeal No.1868 of 1977 reported in AIR in case of Krishna Kanth Raghunath Bibhavnekar Vs. State of Maharashtra & others held that "Acquittal does not automatically entitle one to get the consequential benefits". The operative portion of the Judgment is as follows :

"Ranjit Kumar, learned Counsel for the appellant, contends that under Rule of the Maharashtra Civil Services (Joining Time, Foreign Services, and Payment during suspension, Dismissal and Removal) Rules, 1991 (for short, the 'Rules'), the Rules can not be applied to the appellant nor would the respondents be justified in treating the period of suspension of appellant, as the period of suspension, as not being warranted under the Rules. We find no force in the contention. It is true that when a Government servant is acquitted of offences, he would be entitled to reinstatement. But the question is : whether he would be entitled to all consequential benefits including the pensionary benefits treating the suspension period as duty period, as contended by Shri Ranjit Kumar?

The object of sanction of law behind prosecution is to put an end to crime against the society and laws thereby intends to restore social order and stability. The purpose of prosecution of a public servant is to maintain discipline in service, integrity, honesty and truthful conduct in performance of public duty or for modulation of his conduct to further the efficiency in public service. The Constitution has given full faith and credit to public acts. Conduct of Public Servant has to be an open book; corrupt would be known to everyone. The reputation would gain notoriety. Though legal evidence may be insufficient to bring home the guilt beyond doubt or fool-proof, the act of reinstatement sends ripples among the people in the office / locality and shows wrong signals for degeneration of morality, integrity and rightful conduct and efficient performance of public duty. The constitutional animation of public faith and credit given to public acts, would be undermined. Every act or the conduct of a public servant should be to effectuate the public purpose and constitutional objective public servant renders himself accountable to the public. The very cause for suspension of the petitioner and taking punitive action against him was his conduct that led to the prosecution of him for the offences under the Indian Penal Code. If the conduct alleged is the foundation for prosecution, though it may end in acquittal on appreciation lack of sufficient evidence, the question emerges: whether the Government servants prosecuted for commission of defalcation of public funds and fabrication of the records though culminated into acquittal, is entitled to the reinstated with consequential benefits? In our considered view, this grant of consequential benefits with all back wages etc., can not be as a matter of course. We think that it would be deleterious to the maintenance of discipline if a person suspended on valid considerations is given full back wages as a matter of course, on his acquittal. Two courses are open to the disciplinary authority, viz., it may enquire into misconduct unless, the self-same conduct was subject of charge and on trial acquittal was accorded on a positive finding that the accused did not commit the offence at all; but acquittal is not on benefits of doubt given. Appropriate action may be taken thereon. Even otherwise, the authority may, on reinstatement after following the principles of natural justice, pass appropriate order including treating suspension period as period of not on duty (and on payment of subsistence allowance etc.) Rules 72(3), 72(5) and 72(7) of the Rules give a discretion to the disciplinary authority. Rule 72 also applies, as the action was taken after the acquittal by which date rule was in force. Therefore, when the suspension period was treated to be

a suspension pending the trial and even after acquittal, he was reinstated into service, he would not be entitled to the consequential benefits. As a consequence he would not be entitled to the benefits of nine increments as stated in para 6 of the additional affidavit. He is also not entitled to be treated as on duty from the date of suspension to the date of the acquittal for purpose of computation of pensionary benefits. The applicant is also not entitled to any other consequential benefits as enumerated in paragraph 5 and 6 of the additional affidavit. Under these circumstances, we do not think that the Tribunal has committed any error. The appeal is accordingly dismissed but, in the circumstances of this case no costs".

4. Where an employee was suspended from service on being arrested for criminal offence and subsequently acquitted, the Supreme Court in Management of Reserve Bank of India Vs. Bhopal Sing Panchal (AIR 1994 SC 552) held that, "the employee does not automatically become entitled to full pay and allowances for suspension period. The Court observed that during this period the employee renders no work. He is absent for reasons for his own involvement in the misconduct and the bank is in no way responsible for keeping him away from his duties. The Bank, therefore, cannot be saddled with the liability to pay him his salary and allowances for the period. That will be against the principle of "no work, no pay" and positively inequitable to those who have to work and earn their pay".

5. In another case of K.Ponnamma (Smt), Vs. State of Kerala and Others, SLP (C) No.4885 of 1997 (From the Judgment and Order dated 07.11.1996 of the Kerala High Court in W.A.No.850 of 1996), decided on March, 17th, 1997, and delivered the following Judgment:

"A reading of rr.56 and 57 would clearly indicate that where an officer has been kept under suspension, on account of pendency of the charges / detention for 48 hours and continued to remain under suspension pending the trial of the criminal charge, statutorily he / she is disabled to perform the duties of the post. On reinstatement under r.56, the competent authority shall have a duty to consider whether, on reinstatement, the suspended officer would be entitled to the payment of full pay etc., for the period of his suspension. The mandate of r.56 is that the competent authority should consider the case in accordance with the rules and pass the order. The nature of the order is discretionary depending upon the facts in the case. It is seen that on account of the involvement of the petitioner in a criminal charge by statutory operation,

she was under suspension till she was acquitted. On acquittal, the departmental enquiry was conducted as to the nature of the order to be made under r.56. Accordingly, the authority, in its discretion, found that the payment of the salary during the period of suspension except suspension allowance already paid, could not be granted. It being in accordance with the rules, the High Court has committed no error warranting interference”.

6. In Ranchhodji Chaturji Thakore Vs. Superintendent Engineer, Gujarat Electricity Board (Special Leave Petition No.22538 of 1996) Supreme Court of India, 1997 (2) SLJ 38, delivered the following Judgment:

“This case does not warrant interference for the reason that, admittedly, the petitioner was charged for an offence under Section 302 read with Section 34 IPC for his involvement in a crime committed on 01.10.1986. The Sessions Judge had convicted the petitioner under Section 302 read with Section 34 IPC and sentenced him to undergo imprisonment for life. On that basis, the respondents had taken action to have him dismissed from service since he was working as a Junior Clerk in the respondent-Electricity Board. The petitioner challenged the validity of the dismissal order by way of a special civil application filed under Article 226 of the Constitution. Pending disposal, the Division Bench of the High Court by its Judgment dated 14.10.1992 acquitted him of the offence. Consequently, while disposing of the writ petition, the learned Single Judge directed the respondent to reinstate him into service with continuity of the service, but denied back wages. The petitioner then filed Letters Patent Appeal No.319 of 1993 which was dismissed by the impugned order dated 26.08.1993. Thus, this special leave petition.

The reinstatement of the petitioner into the service has already been ordered by the High Court. The only question is whether he is entitled to back wages. It was his conduct of involving himself in the crime that was taken into account for his not being in service of the respondent. Consequent upon his acquittal, he is entitled to reinstatement for the reason that his service was terminated on the basis of the conviction by operation of proviso to the statutory rules applicable to the situation. The question of back wages would be considered only if the respondents have taken action by way of disciplinary proceedings and the action was found to be unsustainable in law and he was becomes relevant. Each case requires to be considered in his own backdrop. In this case, since the petitioner had involved himself in a crime, though he was

later acquitted, he had disabled himself from rendering the service on account of conviction and incarceration in jail. Under these circumstances, the petitioner is not entitled to payment of back wages. The learned Single Judge and the Division Bench have not committed any error of law warranting interference".

7. In Union of India Vs. Jaipal Singh in Civil Appeal No.8565 of 2003 @ Spl. Leave Petition (C) No.24017 of 2002), dated November 3rd, 2003 held that-

The above appeal has been filed against the order of the Division Bench of the High Court of Punjab and Haryana at Chandigarh dated 30.10.2001 in CWP No.12929 of 1999 whereunder the Division Bench has allowed the writ petition filed by the respondents with full back wages and consequently benefits. The respondent was involved in a criminal case and he was charge-sheeted for an offence under Section 302 read with Section 34 of the IPC along with his brother and though he was convicted by the learned Additional Sessions Judge, Rewari for the same by a Judgment dated 05.03.1997, on further appeal, before the High Court, the Division Bench of the High Court returned a verdict of acquittal. As a consequence thereof, since, he was not reinstated in spite of the order of acquittal, he moved the High Court and obtained orders, as noticed supra. Aggrieved, the appellants have come before this Court.

Heard Mr. Raju Ramachandran, learned Additional Solicitor General appearing for the appellants, who placed strong reliance upon the decision of this Court in 1996 (11) SCC 603 (1997 AIR SCW 1128 : AIR 1997 SC 1802). Ranchhodiji Chaturji Thakore Vs. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat) and Anr, wherein this Court, in a case identical to the facts of the present case, has chosen to order only reinstatement but denied back-wages on the ground that the Department was in no way concerned with the criminal case and, therefore, cannot be saddled with liability also for back wages for the period when he was out of service during / after conviction suffered by the respondent. In the criminal case, Per contra, Mr.Ranbir Singh Yadav, learned counsel for the respondent sought to place reliance upon an order of this Court dismissing the special leave petition filed summarily against the judgement of the very same High Court dated 19.07.2001 in CWP No.10201 of 2000. Learned Counsel for the respondent, by inviting our attention to the Judgment of the High Court in that case contended that on facts the case on hand was also similar to the case considered therein but this Court dismissed the special

leave petition when the relief granted for reinstatement and back wages was contested by the authorities before this Court.

On a careful consideration of the matter and the materials on record, including the Judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons therefor does not constitute any declaration of law by this Court or constitute a binding precedent. Per Contra, the decision relied upon for the appellant is one on merits and for reasons specifically recorded therefor and operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in 1996 (11) SCC 603 (supra) (1997 AIR SCW 1128 : AIR 1997 SC 1802). If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest or by department itself, perhaps different considerations may arise. On the other hand, if a citizen the employee or a public servant got involved in a criminal case and if after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges, a person convicted of an offence to be so kept out and not to be retained in service. Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing reinstatement cannot be sustained and the respondent has to be reinstated, in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent. The High Court in our view, committed to grave error, in allowing back wages also, without adverting to all such relevant aspects and considerations. Consequently, the order of the High Court in so far as it directed payment of back wages are liable to be and is hereby set aside.

The respondent will be entitled to back wages from the date of acquittal and except for the purpose of denying the respondent actual payment of back wages, that period also will be counted as period of service,

without any break. The reinstatement, if not already done, in terms of the order of the High Court will be done within thirty days from today.

The appeal is allowed and disposed of on the above terms.

8. All the Departments of Secretariat and all HODs / PSU's / Universities etc., may keep in view the above observations of Supreme Court of India while deciding the issue and communicate all subordinates concerned.

(483)

U.O.Note No.182/Spl.C/A1/2003-1, G.A. (Spl.C) Dept., dt.09.08.2004 regarding instruction on sending of Part-B report to T.D.P.

Subject Heading : Sending of Part-B report to T.D.P. duly signed by Secretary of the Department under intimation to A.C.B – Instructions – Regarding.

Ref: 1. G.O.Ms.No.677, G.A.(Ser.D) Dept., dt.30.05.1961.

2. U.O.Note No.58414/Ser.C/2000-3, G.A. (Ser.C) Dept.,
dt.07.02.2001.

All the Departments of Secretariat are informed that in the G.O.1st cited, instructions were issued to the effect that Part-B note containing confidential report of only relevant information is to be communicated by the Government to the Tribunal for Disciplinary Proceedings, for framing charges and conducting enquiry against the Accused Officers. In the reference second cited, while furnishing a format, the Departments were requested to follow the format while issuing the orders entrusting the disciplinary cases to the Tribunal for Disciplinary Proceedings.

2. It has been brought to the notice that some of Secretariat Departments are returning Part-B note to the A.C.B. for sending the same to the Tribunal for Disciplinary Proceedings, which is leading to delay.

3. The Government have examined the matter and decided to amend the instructions issued in the last para of the format communicated with the U.O.Note second cited. Accordingly, the following amendment is issued:-

"The Departments of Secretariat which refer the case to the Tribunal for Disciplinary proceedings for enquiry shall send Part-B report duly signed by the Secretary of the Department.

After Part-B is sent by the Government to Tribunal for Disciplinary Proceedings and on receipt of communication from Tribunal for Disciplinary Proceedings, the A.C.B. shall directly furnish the relevant records / documents, statement of witnesses to the Tribunal for Disciplinary Proceedings".

4. The Departments of Secretariat are also requested not to quote ACB references in their correspondence while entrusting the case to Tribunal for Disciplinary Proceedings.

(484)

G.O.Ms.No.229, G.A. (Ser.C) Dept., dt.12.08.2004 regarding instructions on payment of honorarium to the retired Government Servants appointed as Inquiry Officer.

Subject Heading : Public Services – APCS (CC&A) Rules, 1991 – Rule-20 – Payment of honorarium to the retired Government Servants appointed as Inquiry Officer – Orders – Issued.

Read the following :

1. G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003.
2. From the Senior Faculty Member (Retired), Dr.Marri Chenna Reddy Human Resource Development Institute of Andhra Pradesh (IOA) dated 09.02.2004.

O R D E R :

It has brought to the notice of the Government that as per Office Memorandum No.134/4/99/AVD I, dt.29.06.2001 issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, contains the rates of honorarium payable to retired Government Officer. There is a need to rationalize the procedure for identification and selection of retired officers of proven integrity. The Heads of Departments may have to be authorized to handle this function and the disciplinary authorities

at the Regional Level and at the District Level, should be made to pick up such of the officers who have empanelled by the Heads of Departments concerned.

2. Rule 20 of Andhra Pradesh Civil Services (CC&A) Rules, 1991 has been amended in G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003 and a provision has been made for the appointment of retired Government Servants as Inquiry Officers.

3. The payment of honorarium to the retired Government Servants appointed as Inquiry Officers has been examined in detail and proposed for providing lump-sum remuneration of Rs.5,000/- for every Inquiry Report with an additional amount of Rs.1,000/- for every additional charged officer where more than one charged officer is involved.

4. After careful consideration, it has been decided for appointment of retired Government Officers as Inquiry Officer at the level of Deputy Collectors etc., to inquire into cases mainly of serious in nature in respect of Gazetted and Non-Gazetted Officers, duly providing lump-sum remuneration of Rs.5,000/- for every Inquiry Report with an additional amount of Rs.1,000/- for every additional charged officer where more than one charged officer is involved.

5. The grant of honorarium and lump-sum remuneration to retired Government Servants appointed as Inquiry Officers as mentioned in para (4) above will be subject to the following conditions:-

- (i) The competent authority should exercise its utmost care in the matter of grant of honorarium and may do so only in absolutely deserving cases. The honorarium in such cases may normally be regulated under the financial powers delegated to the Heads of Departments and taking into account the quantum of work involved in individual disciplinary cases.
- (ii) The number of disciplinary cases may be restricted to 20 cases with not more than 4 cases at a time, for retired Government Servants.
- (iii) The full amount of honorarium should be paid only when the inquiry is completed within a period of six months. If there is a delay in completion of the inquiry which is not due to non-

cooperation of the charged officer or due to stay orders, etc., the honorarium should be reduced by 50%.

- (iv) Before the honorarium payment is made to Inquiry Officer all case records and inquiry report may be handed over to the Disciplinary Authority by the Inquiry Officer.

(485)

G.O.Ms.No.664, Finance (Pension-I) Dept., dt.07.10.2004 regarding amendment to Rule 9 (1) of A.P. Revised Pension Rules, 1980.

Subject Heading : Pensions – Amendment to Rule 9 (1) of Andhra Pradesh Revised Pension Rules, 1980 – Notification - Orders – Issued.

Read the following :

1. From the A.P. Vigilance Commissioner, Hyderabad Lr.No.126/VC-A2/2002-01, dt.26.04.2002 addressed to the Chief Secretary to Govt., General Administration Department.
2. G.A. (Ser.C) Dept's U.O.Note No.23979/Ser.C/2002-5, dt.04.12.2002.

O R D E R :

In the reference read above, Andhra Pradesh Vigilance Commission have advised, that a proviso to be added to the existing provisions under Rule 9 (1) of Andhra Pradesh Revised Pension Rules, 1980 that a Retired Officer found guilty of acceptance of illegal gratification, disproportionate assets, misappropriation, bribery, bigamy, moral turpitude, forgery and outraging the modesty of women, misconduct etc., shall be awarded punishment of complete withholding / withdrawing of entire pension or gratuity upon being found guilty or upon conviction in a Court of Law for the above mentioned offences.

2. Accordingly, the following Notification will be published in the extraordinary issue of the Andhra Pradesh Gazette dated 07.10.2004.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all the powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Revised Pension Rules, 1980 and as subsequently amended from time to time.

AMENDMENT

In the said Rules, after the second proviso under sub-rule (1) of Rule 9, the following shall be added namely,-

“Provided also that the penalty of withholding of entire pension or gratuity or both may be imposed against the Retired Government Servant upon being found guilty or upon conviction in a Court of Law for the offences of grave charges namely proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery, outraging the modesty of women and misconduct”.

(486)

Circular Memo.No.22044-A/448/FR.II/2004, Finance (FR.II) Department, dt.13.10.2004 regarding instruction on regularization of suspension period.

Subject Heading : Establishment – Fundamental Rules – Regularisation of Suspension Period – Instructions - Issued.

As per the provisions of Fundamental Rules, the period of suspension of Government Employee shall be regularized as duty or not on-duty by the Competent Authority i.e., the authority in whom the power to appoint such Government Employee into service vests.

2. While sending the files to Finance Department, all the Secretariat Departments are not indicating the period of suspension at the time of finalization of the disciplinary action against the Accused Government Employees.

3. All the Secretariat Departments are informed that suspension is a part and parcel of disciplinary action and disciplinary action is finalized by the Appointing Authority / Disciplinary Authority as per the provisions of the A.P.C.S (CC&A) Rules, 1991, A.P.C.S. (Conduct) Rules, 1964 as the case may be. At the time of finalization of disciplinary action, the Disciplinary Authority also finalize about the treatment of period of suspension either as duty or as not duty depending upon the gravity of the disciplinary case and referring such files to Finance Department may not be as per the existing guidelines of the Government and as per the above Service Rules.

4. Hence, all the Departments of Secretariat shall review all the disciplinary cases with all Heads of Departments at least once in two months,

so as to monitor progress in the disposal of the cases and regularize the suspension period at the time of finalization of disciplinary action itself as duty or as not duty depending upon the gravity of the disciplinary case and also in terms of the provisions of Fundamental Rules. Hence, the Departments of Secretariat are requested not to refer the files relating to regularization of suspension period of Government Employees to Finance Department hence forth.

(487)

G.O.Ms.No.336, G.A. (Spl.C) Dept., dt.19.10.2004 regarding instructions on Commissionerate of Inquiries.

Subject Heading : Establishment – General Administration (Commissionerate of Inquiries) Department – Bringing the Commissionerate of Inquiries under the Control of A.P. Vigilance Commissioner – Certain instructions – Issued.

Read :

G.O.Ms.No.174, G.A. (SC.E) Dept., dt.09.06.2003.

O R D E R :

In the G.O. read above, orders were issued bringing the Commissionerate of Inquiries under the control of the A.P. Vigilance Commission, pending issue of procedural instructions.

2. After examining the matter, the Government hereby entrust the following functions to the A.P. Vigilance Commissioner with immediate effect:

1. Allocation of business among Members of Commissionerate of Inquiries.
2. Review of work of Members of Commissionerate of Inquiries from time to time.
3. Sanction of leave such as C.L. etc. to Members.
4. Re-allocation of staff in the Commissionerate among various Members of the Commissionerate of Inquiries.
5. General Coordination with G.A.D.

6. Nominate some other Inquiring Authority, whenever representations are received for change of Members of C.O.I., if the charged officers have any grievance.
7. Issue of clarifications to various departments whenever they wanted clarification.
8. The Registry of the Commissionerate will be under the control of A.P.V.C.

3. The Secretary, A.P. Vigilance Commission is requested to take necessary action in the matter, immediately.

(488)

Circular Memo.No.664/Spl.C/A1/2004-1, G.A. (Spl.C) Dept., dt.06.12.2004 regarding reiteration of instruction in consultation with Vigilance Commission.

Subject Heading : Public Servants – Disciplinary cases in consultation with Vigilance Commission – Reiteration of instructions – Regarding.

- Ref: 1. G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993.
2. G.O.Ms.No.147, G.A. (Spl.B) Dept., dt.01.05.2000.
3. U.O.Note No.235/Spl.B/2001-1, G.A. (Spl.B) Dept., dt.26.07.2001.

Instructions were issued in the G.O.2nd cited, among others, that all cases of corruption and other irregularities which are covered under para-6 of the Scheme of the Vigilance Commission issued in the G.O. first cited, irrespective of the fact whether Anti Corruption Bureau or other authorities including departmental authorities which enquired into the irregularities, should be referred to Vigilance Commission for its advice.

2. Though instructions were issued vide references 1st to 3rd cited, it is brought to the notice of the Government that various authorities including the Departments of Secretariat, quite often, do not refer all such cases to Vigilance Commission before passing final orders in disciplinary cases involving vigilance angle. This is more frequent in the offices of HODs, Govt. Undertakings and other institutions like Cooperative Bodies and Government Companies. This is

leading to a situation where sometimes misplaced sympathy is shown by various authorities and guilty is not punished adequately commensurate with the guilt. This also has led to a situation where in similar type of lapses somebody escapes with lesser penalty, somebody gets more. To avoid such situation all departments of Government, HODs, Govt. Undertakings, Cooperative Bodies, Local Bodies etc., are hereby instructed to follow the instructions which are reiterated as follows :

- 1) All cases of misconduct on the part of public servants involving lack of integrity which have a vigilance angle viz., illegal gratification, bribery, causing loss to Government and unlawful gain to self or others and such other acts of corruption and criminal misconduct like mis-appropriation, cheating, fraud etc., should be referred to the Vigilance Commission for its advice.
- 2) Other cases of misconduct involving administrative lapses which have no vigilance angle, need not be referred to Commission for its advice.
3. In the event of doubt whether a case has a vigilance angle or not, may be decided at the level of Secretary to Government of the Department concerned. The Andhra Pradesh Vigilance Commission, will however, continue to be at liberty to call for any file at any time in terms of para-3 of G.O. 1st cited.
4. The Circular Memo. should be acknowledged.

(489)

Circular Memo.No.735/Spl.C/2004-1, G.A. (Spl.C) Dept., dt.08.12.2004 regarding furnishing of Action Taken Report to the D.G., V&E.

Subject Heading : Vigilance & Enforcement Cases – Furnishing of Action Taken Report to the Director General, General Administration (Vigilance & Enforcement) Department – Instructions – Issued.

All the Departments of Secretariat are informed that during the meeting held in the Chambers of Chief Secretary to Government to review the pending cases of Anti-Corruption and Vigilance & Enforcement, it has been brought to the notice that the departments are not sending Action Taken Reports or

Compliance Reports on the pending issues furnished by the Director General, General Administration (V&E) Department.

2. The matter has been examined and it has been decided to send action taken reports or compliance reports on the Vigilance & Enforcement cases to the Director General, General Administration (V&E) Department.

3. All the Departments of Secretariat are hereby instructed to furnish Action Taken Reports or Compliance Reports on the Vigilance & Enforcement cases to the Director General, General Administration (V&E) Department without fail, under intimation to General Administration (Spl.C) Department.

(490)

G.O.Rt.No.369, G.A. (Spl.C) Dept., dt.22.01.2005 regarding Re-constitution of the High Level Committee.

Subject Heading : Committees – High Level Committee on Anti-Corruption – Re-constitution of the Committee – Orders – Issued.

Read the following :

1. G.O.Ms.No.174, G.A. (SC.E) Dept., dt.09.06.2003.
2. G.O.Rt.No.482, G.A. (Spl.C) Dept., dt.24.08.2004.
3. From the A.P.V.C. Lr.No.401/VC.H1/2004-1, dt.18.12.2004.

O R D E R :

In the G.O. first read above, orders were issued bringing the administrative control of the Commissionerate of Inquiries to the A.P. Vigilance Commission.

2. In the G.O. second read above, orders were issued reconstituting the High Level Committee on Anti Corruption.

3. In the letter third read above, the A.P. Vigilance Commissioner has suggested that the Secretary, A.P. Vigilance Commission may be made as Member of the Committee in place of Chairman, Commissionerate of Inquiries, as the Commissionerate of Inquiries was brought under the control of A.P. Vigilance Commission.

4. After examining the matter, the Government hereby reconstitute the High Level Committee on Anti-Corruption with the following:-

- | | | |
|--|------|----------|
| 1. Chief Secretary to Government | | Chairman |
| 2. Spl.Chief Secretary to Government (GPM&AR) | | Member |
| 3. Director General & Inspector General of Police | | Member |
| 4. Director General, Anti Corruption Bureau | | Member |
| 5. Director General (Vigilance & Enforcement) | | Member |
| 6. Director General, Dr.MCRHRD Institute | | Member |
| 7. Prl. Secretary to Government, G.A. (Political) | | Convener |
| 8. Additional D.G.P. (Intelligence) | | Member |
| 9. Chairman, Tribunal for Disciplinary Proceedings | | Member |
| 10. Secretary, A.P. Vigilance Commission | | Member |
| 11. Secretary to Government, Law Department | | Member |

(491)

**Circular Memo.No.84/Spl.C/2004-1, G.A. (Spl.C) Dept., dt.24.03.2005
regarding instructions on Departmental Inquiries.**

Subject Heading : Public Servants – Inquiries – Departmental Inquiries – Certain instructions – Issued.

It has been brought to the notice of the Government that there are instances where charges are held ‘not proved’ for want of ‘much stronger evidence’, against the All India Services Officers.

2. As per the Government of India’s instructions appended to All India Services (D&A) Rules, 1969, a disciplinary proceeding is not a criminal trial. The standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt. A finding cannot be characterized as perverse or unsupported by any relevant materials if it is a reasonable inference from proved facts. The officers holding departmental inquiries are not under any obligation to follow strictly the rules of evidence as laid down in the Evidence Act or the procedure prescribed in the Cr.P.C.

3. All Departments of Secretariat and all Heads of Departments are, therefore, requested to follow the above instructions while dealing with the disciplinary cases.

(492)

Circular Memo.No.233/Spl.C/A1/2005-1, G.A. (Spl.C) Dept., dt.28.04.2005 regarding instructions on the penalty to be commensurate with the gravity of charges.

Subject Heading : Public Servants – Consulting APVC after conclusion of Departmental Inquiries – Penalty to be commensurate with gravity of charges - Regarding.

- Ref: 1. G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993.
2. U.O.Note No.598/SC.E3/99-1, GA (SC.E) Dept., dt.26.02.1999.
3. U.O.Note No.23552/Ser.C/97-1, G.A. (Ser.C) Dept., dt.07.05.1997.

In the references 1st and 2nd cited, instructions were issued to the effect that in disciplinary cases, where there is vigilance angle, disciplinary authorities have to obtain the advice of A.P.Vigilance Commission without fail after conclusion of the Departmental inquiries, i.e., after receipt of report of Inquiring Authority and the representation of Government Servant. Thereafter considering the advice of A.P. Vigilance Commissioner, vis-à-vis, the findings of Inquiring Authority and the representation of Government Servant, the Departments have to obtain orders of competent authority either for imposition of any penalty as stipulated under the relevant disciplinary rules or otherwise.

2. Instructions were also issued to the effect that the disciplinary authority shall keep in mind that the penalty proposed to be imposed under Rule 9 of A.P.C.S. (CC&A) Rules, 1991 is commensurate with the gravity of charge established.

3. In spite of above instructions, it has been brought to the notice, that some disciplinary authorities are not seeking advice of A.P. Vigilance Commission after conclusion of the Departmental inquiries and that penalties are being imposed without taking into consideration of gravity of charges established.

4. All the Departments of Secretariat / Heads of Departments / all District Collectors are requested to follow the above instructions scrupulously in disciplinary cases, without fail.

(493)

G.O.Ms.No.231, G.A. (Ser.C) Dept., dt.07.06.2005 regarding amendment to Rule-11 (27) of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to Rule 11 (27) of the APCS (CC&A) Rules, 1991 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
- 2 G.O.Ms.No.957, Revenue (Vig.II) Dept., dt.25.11.2004.

O R D E R :

The following notification will be published in the extraordinary issue of the Andhra Pradesh Gazette dated 7th June, 2005:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in the A.P. Gazette Part-I, Extraordinary No.235, dated 01.07.1992 and as subsequently amended from time to time.

2. The amendment hereby made shall be deemed to have come into force with effect from 25.11.2004.

AMENDMENT

In the said Rules, after clause (ii) of sub-rule (27) of Rule 11, the following shall be added namely,-

“(iii) The Special Chief Secretary and Chief Commissioner of Land Administration may impose any of the penalties specified in clause (ix) and clause (x) of Rule 9 on Mandal Revenue Officers”.

(494)

Circular Memo.No.439/Spl.C/A1/2005-1, G.A. (Spl.C) Dept., dated 28.07.2005 regarding reiterated the instructions on non-adherence to the instructions of Government by various Departments in referring cases to Law Department.

Subject Heading : Non-adherence to the instructions of Government by various Departments in referring cases to Law Department – Instructions reiterated - Regarding.

- Ref: 1. U.O.Note No.910, G.A. (SC.D) Dept., dt.26.08.1985.
2. G.O.Ms.No.448, G.A. (SC.D) Dept., dt.23.10.1997.
3. Cir.Memo.No.1728/Spl.B(3)/99-2, G.A. (Spl.B) Dept., dt.31.07.2000.

The attention of all the Departments of Secretariat, all Heads of Departments and all District Collectors is invited to the references cited above. They are informed that instructions were issued in the reference 1st cited to the effect that final reports of ACB may not be referred to the Law Department for advice as a matter of routine except where specific issues of Law are involved. In the reference second cited it was also instructed that the files relating to ACB initiated cases, where legal issue is involved should be referred to Secretary (Law) for seeking opinion, instead of marking files to Law Department in routine cases. Instructions were also issued in the reference 3rd cited to the effect that in prosecution cases, the recommendation of the Vigilance Commission shall not be further examined in the respective Department or Law Department from the legal side, as the proposal of Anti Corruption Bureau and the Vigilance Commission are already scrutinized by their Legal Cells.

2. It has been brought to the notice that certain Departments are referring their files to Law Department in a routine manner and that the advice of Vigilance Commissioner in prosecution cases are also being referred to Law Department, unnecessarily.

3. Government after thorough examination of the matter, hereby instruct all the Departments of Secretariat, to follow the instructions issued in the references cited above, scrupulously. The Law Department are also requested to follow Secretariat Instructions 39, which lays down that when a case has been noted upon by an officer or above the rank of Deputy Secretary in one Department and referred to other Department, final noting in the latter Department should not be done at a lower level, except in case of agreement.

(495)

G.O.Ms.No.335, G.A. (Ser.C) Dept., dt.04.08.2005 regarding amendment to Rule-9 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.284, G.A. (Ser.C) Dept., dt.07.07.1997.
3. G.O.Ms.No.373, G.A. (Ser.C) Dept., dt.06.12.2003.

O R D E R :

Government have come across several disciplinary cases in which charges of misappropriation or loss caused to Government by the Charged Government Servants in discharging of their official duties or negligence are proved. In proved cases of this nature, the concerned Administrative Departments are often leaving the Charged Officers without imposing any penalty against them for the misconduct of causing loss, on the plea that loss is recovered from them and there is no need to impose any other penalty. Government have noticed that the above confusion might be due to the fact that recovery from pay of the whole or part of any pecuniary loss caused the delinquent is a minor penalty under sub-rule (iii) of Rule 9 of A.P.C.S (CC&A) Rules, 1991. In the case of Sri K.Chinnaiah Vs. The Secretary, Ministry of Communications, 1995 (3 SLRP 324), the Central Administrative Tribunal, Hyderabad held that "Normally, there will be no need for two penalties at one time, but the penalty of recovery from the pay of the whole or part of any pecuniary loss caused by an official by negligence or breach of order, can be imposed along with other penalties".

2. In view of the above, Government after careful examination of the matter have decided to omit the sub-rule (iii) of Rule 9 of the APCS (CC&A) Rules, 1991 so that the Disciplinary Authorities impose penalties against the Charged Officers in proved cases of this nature besides recovery of the loss.

3. Accordingly, the following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in the A.P. Gazette Part-I, Extraordinary No.235, dated 01.07.1992 and as subsequently amended from time to time.

AMENDMENT

In Rule 9 of the said Rules, under the heading "Minor Penalties", the existing sub-rule (iii) shall be omitted.

(496)

G.O.Ms.No.391, General Admn. (SW.1) Dept., dt.25.08.2005 regarding nomination of Home Department as Nodal Agency to receive Reports / Action Taken Reports on sexual harassment of women employees.

Subject Heading : Sexual Harassment of women employees at work places – Home Department as Nodal Agency.

Read the following :

1. G.O.Ms.No.27, Women Development, Child Welfare & Disabled Welfare (Prog.) Dept., dt.21.04.1999.
2. G.O.Ms.No.322, General Admn. (Ser.C), Dept., dated 19.07.1999.
3. Govt. Memo. No.11124/SW/2003-2, General Admn. (SW) Dept., dt.10.03.2003.
4. From Sri P.R. Subas Chandran, Journalist, R/o FF-5, Tejaswini Apartment, 6-3- 600/A/2/1, Hilltop Colony, Errum Manzil, Hyderabad, Addressed to the Honourable Chief Justice, High Court of Andhra Pradesh, Hyderabad, dt.01.07.2004.

5. From Honorable Justice Upendralal Waghray, Chairman, A.P. State Human Rights Committee, D.O. Lr.Dis.No.2/HRC(CP)/2Q04, dt.02.08.2004, 31.08.2004, 31.09.2004 and 19.10.2004 addressed to Chief Secretary to Government of Andhra Pradesh.

ORDER :

The Honourable Supreme Court of India, in its order, dated 13.09.1997 in W.P.No.666-70 of

1992 in "Visakha and other V/s State of Rajasthan and others" filed by certain social activists and Non-Government Organisations and issued several directions to the Central and State Government for taking preventive steps in the matter of sexual harassment of working women in all work places. It has also stated that it is the duty of the employer to prevent or deter the commission of acts of sexual harassment.

2. Accordingly, the Women Development, Child Welfare & Disabled Welfare (Prog.) Department, had issued orders in the Government Order 1st read above adopting the guidelines contained in the Judgment of Supreme Court of India and also directing all the concerned to follow the guidelines strictly in all places where women are employed.

3. Necessary amendment has also been issued to Andhra Pradesh Civil Services (Conduct) Rules, 1964, by inserting Rule 3-C vide Government Order 2nd read above for prohibition of sexual harassment of working women.

4. Further Government vide Memo. 3rd read above had also issued orders requesting the Heads of Departments / District Collectors etc. to set up a mechanism by nominating a Senior Officer to receive complaints regarding sexual harassment of women employees in work places and to redress their grievances / complaints.

5. Sri P.R.Subas Chandran, Journalist, Hyderabad in the reference 4th read above, while pointing out certain problems that are being faced by working women in Government / Quasi Government and Private Institutions where women are employed and also glaring violation in implementing the Judgment of Honourable Supreme Court of India i.e., to protect women from sexual harassment at work places, has requested, among other matters, to make a permanent mechanism to oversee the implementation of these guidelines / instructions.

6. Further Sri Upendralal Waghray, Honourable Chairman, Andhra Pradesh State Human Rights Committee in his D.O. letters 5th read above, while appreciating the action taken by the Government for implementation of the Guidelines / directions issued by Honourable Supreme Court of India, vide its Order dated 13.08.1997 in W.P.No.666-70 of 1992, has stated that there is no material to show as to whether the Government Orders issued in this regard have been implemented by various organisations and authorities where women are employed and also whether any complaints have been received in the entire State.

7. The Honourable Chairman, Andhra Pradesh State Human Rights Committee has therefore advised to nominate a Nodal Agency to receive Reports / Action Taken Reports from all Departments of Secretariat / Heads of Departments / District Collectors on sexual harassment of working women, so as to enable the Government to see whether the guidelines issued in the Judgment of Honourable Supreme Court of India and also the Orders / Guidelines issued by Government in the Government Order first read above are implemented in the true spirit.

8. Government, after careful consideration / examination of the matter hereby nominate the Home Department, Andhra Pradesh Secretariat, Hyderabad as Nodal Agency to receive Reports / Action Taken Reports from all Departments of Secretariat / Heads of Departments / District Collectors on sexual harassment of working women in their Offices / Subordinate Offices, Home Department, may in consultation with Women Development, Child Welfare & Disabled Welfare Department prescribed such proforma for furnishing the Action Taken Reports and Reports on sexual harassment.

9. Further, the Home Department, Andhra Pradesh Secretariat, Hyderabad being a Nodal Agency shall furnish Reports / Action Taken Reports which may be quarterly, Half-yearly or Annual depending upon the number of complaints received, to Andhra Pradesh State Human Rights Committee, indicating that the complaints so received had been redressed.

10. The Home Department, i.e., Nodal Agency is also requested to furnish a copy of the Report / Action Taken Report to the Women Development, Child Welfare & Disabled Welfare Department, which in turn, is requested to see that the intention and spirit of the guidelines, particularly, the functioning of Grievances / Complaint redressal mechanism in a various offices, wherever women are employed, is implemented in true spirit.

11. All Departments of Secretariat / Heads of Departments / District Collectors shall, therefore, furnish their Reports / Action Taken Reports on sexual harassment of women in their offices and subordinate offices direct to the Nodal Agency i.e., Home Department, Andhra Pradesh Secretariat, Hyderabad without fail.

(497)

Circular Memo.No.466/Spl.C/A1/2005-1, G.A. (Spl.C) Dept., dt.31.08.2005 regarding instructions on review of suspension orders against Government Servants.

Subject Heading : Review of suspension orders against Government Servants in disciplinary cases – Certain instructions - Regarding.

Ref : U.O.Note No.2776/SC.E/98-1, G.A.(SC.E) Dept., dt.03.12.1998.

In the U.O. Note cited, all Departments of Secretariat were requested to consult the A.P. Vigilance Commission invariably before taking a decision as to continue the Government Servant under suspension or to reinstate him.

2. It has been brought to the notice that very often the District Collectors are reinstating the employees involved in corruption cases etc., either on court orders without filing appeals (or) otherwise and without seeking advice of Government or A.P. Vigilance Commission and also not referring the cases to Vigilance Commission.

3. All Departments of Secretariat / Heads of Departments, and all the District Collectors are hereby directed to consult the Andhra Pradesh Vigilance Commission invariably through their concerned Administrative Department, before taking a decision to reinstate the Government Servants involved in misappropriation, fraud, cheating, misconduct and bribe etc., cases, if the suspension proceedings arose out of the investigations conducted by the Anti Corruption Bureau or otherwise.

(498)

Circular Memo.No.4152-C/761/FR.I/2005, Finance (F.R.I) Dept., dt.28.09.2005 regarding instructions on unauthorised absence.

Subject Heading : Unauthorised Absence – Willful and prolonged absence from duty without proper leave – Further instructions – Issued.

- Ref: 1. Cir.Memo.No.4481/A/128/FR.I/88, F&P (FW-FR.I) Dept., dt.07.07.1988.
2. Cir.Memo.No.C-9101-4/8/FR.I/91, F&P (FW-FR.I) Dept., dt.25.12.1991.
3. G.O.Ms.No.260, G.A. (Ser.C) Dept., dt.04.09.2003.
4. G.O.Ms.No.8, Fin. (FR.I) Dept., dt.08.01.2004.
5. G.O.Ms.No.11, Fin. (FR.I) Dept., dt.13.01.2004.

In the Circular Memo. 1st cited, Government have issued instructions ordering concerned Departmental Authorities to initiate disciplinary action against those employees who remained absent from duty without proper leave and pass appropriate orders on the basis of the disciplinary proceedings by following the procedure laid down in A.P.C.S. (CC&A) Rules, 1963.

2. In the Circular Memo. 2nd cited, Government have issued comprehensive instructions on the above said subject.

3. In the G.O. 3rd cited, General Administration (Ser.C) Department have issued orders to the effect that "in all cases of unauthorised absence to duty for a continuous period exceeding 'one year', the penalty of removal from service shall be imposed on the Government employee, after duly following the procedure laid down in the A.P.C.S. (CC&A) Rules, 1991.

4. In the G.O. 4th cited, this Department have issued amendment to Rule 18 of F.Rs., duly incorporating the orders of the G.O. 3rd cited.

5. In the G.O. 5th cited, this Department have issued amendment to Rule 5-A of A.P. Leave Rules, 1933 duly incorporating the orders of G.O. 3rd cited.

6. Inspite of the above orders / instructions, Government have noticed that employees are continuing with unauthorised absence for years together and no action is being initiated by the Disciplinary Authorities. Many of these employees even retired while continuing with unauthorised absence. With the result, the Government has to pay all the terminal benefits, at that stage to the employees. Moreover, when such employees, report for duty after long years of absence, the Government is constrained to issue posting orders to them.

7. Therefore, in view of the above, the Departments of Secretariat and all the Heads of Departments are requested to review the cases of unauthorised absence in their Offices and in their Subordinate Offices, every quarter regularly, so that disciplinary action is initiated promptly, based on the instructions mentioned above. As per the references 3rd to 5th cited, action should be taken to impose the penalty for their unauthorised absence at the right time. The Officers concerned who are responsible to initiate and complete disciplinary action against such employees should be made personally responsible to ensure that these instructions are followed scrupulously.

8. These instructions are available in the internet and can be accessed at the address <http://aponline.gov.in>.

(499)

Memo.No.235/Spl.C/A1/2005-2, G.A. (Spl.C) Dept., dt.18.10.2005 regarding instructions on framing charges on the reports of ACB / V&E.

Subject Heading : Establishment – Framing charges on the reports of ACB / V&E without referring to the Heads of Department – Certain instructions - Regarding.

Ref : Govt.Memo.No.235/Spl.C/A1/2005-1, dt.18.10.2005.

The Director General, Anti Corruption Bureau is informed that after examining the recommendation of High Level Committee on Anti Corruption, the Engineering Departments viz., T.R&B, M.A.&U.D., I&CAD, and P.R.&R.D. Departments have been requested in the reference cited, to frame charges after receipt of reports from A.C.B. and V&E Departments duly following the procedure without sending report to HoDs in a routine manner. They have also been requested to issue instructions to the HoDs concerned to process such cases within time frame, where HoD is the disciplinary authority.

2. The Director General, Anti Corruption Bureau is, therefore, requested to send draft article of charges against all the persons involved in the irregularities, particularly relating to sub-standard road works.

(500)

G.O.Ms.No.479, G.A. (Spl.C) Dept., dt.28.10.2005 regarding orders on empowering the A.P.Vigilance Commissioner to give protection to Whistleblowers.

Subject Heading : Whistleblowers Protection – Empowering the A.P. Vigilance Commissioner to give protection to Whistleblowers on the similar lines of empowering the Central Vigilance Commission by Government of India – Orders – Issued.

Read :

Ministry of Personnel, Public Grievances and Pensions, Gol, Resolution No.371/12/2002-AVD-III, dt.21.04.2004.

O R D E R :

The Supreme Court of India while hearing W.P.(C) No.539/2003 a Public Interest Litigation had directed the Government of India to take statutory measures for protection of whistleblowers.

2. The Government of India in the reference read above have issued executive instructions empowering the Central Vigilance Commission (CVC), pending legislation to give protection to Whistleblowers, as per the direction of Supreme Court of India.

3. Accordingly, the Government of Andhra Pradesh after careful examination of the matter, hereby authorize the A.P. Vigilance Commissioner as the designated agency to receive written or disclosure on any allegation of corruption or of misuse of office by any employee of the State Government or of any corporation established by or under any State Act, Government Companies, Societies or local authorities owned or controlled by the State Government, on the same analogy of the Government of India instructions. The disclosure or complaint shall contain as full particulars as possible and shall be accompanied by supporting documents or other material.

4. The designated agency may, if it deems fit call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter.

5. Notwithstanding anything contained in the Official Secrets Act, 1923, any public servant other than those referred to clauses (a) to (d) of Article 33 of the Constitution of India or any other person including any non-governmental organization may make a written disclosure to the designated agency.

6. If the complaint is accompanied by particulars of the person making the complaint, the designated agency shall take the following steps:-

- (i) xxx
- (ii) The identity of the complainant will not be revealed unless the complainant himself has made the details of the complaint either public or disclosed his identify to any other office or authority.
- (iii) After concealing the identity of the complainant, the designated agency shall make, in the first instance discreet inquiries to ascertain if there is any basis of proceeding further with the complaint. For this purpose, the designated agency shall devise an appropriate machinery.
- (iv) Either as a result of the discreet inquiry, or on the basis of the complaint itself without any inquiry, if the designated agency is of the opinion that the matter requires to be investigated further, the designated agency shall officially seek comments / or explanation from the Head of the Department of the concerned organization or office. While doing so, the designated agency shall not disclose identity of the informant and also shall request the concerned Head of the organization to keep the identity of the informant secret, for any reason, the concerned Head comes to know the identity.
- (v) After obtaining the response of the concerned organization, if the designated agency is of the opinion that the investigations reveal either misuse of office or substantiate allegations of corruption, the designated agency shall recommend appropriate action to the concerned Government Department or Organization. Those shall, inter alia, include following:-
 - a. Appropriate proceedings to be initiated against the concerned Government servant.
 - b. Appropriate administrative steps for redressing the loss caused to the Government as a result of the corrupt act or misuse of office, as the case may be.

- c. Recommend to the appropriate authority / agency initiation of criminal proceedings in suitable cases, if warranted by the facts and circumstances of the case.
 - d. Recommend taking of corrective measures to prevent recurrence of such events in future.
7. For the purpose of making discreet inquiry or obtaining information from the concerned organization, the designated agency shall be authorized to call upon the Crime Investigation Department (CID) or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
8. If any person is aggrieved by any action on the ground that he is
9. Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
10. The machinery evolved herein shall be in addition to the existing mechanisms in place. However, secrecy of identity shall be observed, only if the complaint is received under this machinery.
11. In case the designated agency finds the complaint to be motivated or vexatious, the designated agency shall be at liberty to take appropriate steps.
12. The designated agency shall not entertain or inquire into any disclosure;
- a) In respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850; or
 - b) In respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952.
13. In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorized to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

14. The machinery created herein shall operate till A.P. Legislative Assembly passes law on the subject.

15. The Secretary, A.P. Vigilance Commission is requested to take necessary further action.

(501)

Circular Memo.No.258/Spl.C/A1/2005-4, G.A. (Spl.C) Dept., dt.29.11.2005 regarding instructions on forwarding of record of inquiry along with T.D.P. Report to the A.P.V.C.

Subject Heading : Public Services – Tribunal for Disciplinary Proceedings inquiries – Forwarding of record of inquiry along with the report to the A.P.V.C. for advice – Instructions - Issued.

All the Departments of Secretariat are informed that the proviso under sub-rule 2 (b) of Rule 6 of A.P.C.S. (DPT) Rules, 1989, provides that the Government after receipt of report from the Tribunal for Disciplinary Proceedings, shall consult the A.P. Vigilance Commission in regard to the course of further action to be taken and take the advice into consideration before orders are passed. In all cases, final report of Tribunal for Disciplinary Proceedings shall be sent to the A.P. Vigilance Commission in duplicate along with relevant records by the Administrative Departments of Secretariat for its advice both before arriving provisional conclusion and after receiving representation of the delinquent officer and before arriving at a final conclusion in respect of the penalty to be imposed on the Government Servant concerned. The Andhra Pradesh Vigilance Commission will examine the record and forward the same to the administrative department concerned with advice as to further course of action. So also, in the cases of inquiry by the G.A. (Col) Department or by the Departmental Officers, after conclusion of inquiry, the Department concerned shall forward to the Vigilance Commission a report of its conclusion together with relevant records for advice. Forwarding of record of inquiry is vital for tendering advice by the Commission and it is not possible for the Commission to tender advice without examining the record of inquiry.

2. It has been brought to the notice of the Government that in spite of rule position, some Departments of Secretariat are not forwarding the records of inquiry, though the manuals of A.P. Vigilance Commission supplied to them

specify such an action. The Departments of Secretariat and other disciplinary authorities are referring disciplinary cases to the A.P. Vigilance Commission for advice without forwarding the record of inquiry, making the Commission to insist for record of inquiry time and again, resulting in delays in tendering advice.

3. All the Departments of Secretariat and other disciplinary authorities are requested to forward complete records of inquiry to the A.P. Vigilance Commission for its advice in Tribunal for Disciplinary Proceedings, G.A. (Col) and Departmental inquiries under A.P.C.S. (DPT) Rules or A.P.C.S. (CC&A) Rules.

(502)

G.O.Ms.No.555, G.A. (Ser.C) Dept., dt.14.12.2005 regarding amendment to Rule-3 of A.P.C.S. (Conduct) Rules, 1964.

Subject Heading : APCS (Conduct) Rules, 1964 - Amendment to Rule 3 - Orders – Issued.

Read the following :

1. G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.
2. G.O.Ms.No.322, G.A. (Ser.C) Dept., dt.19.07.1999.
3. G.O.Ms.No.381, G.A. (Ser.C) Dept., dt.18.12.2003.

O R D E R :

The following notification will be published in the next issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services-C) Department, dated 17th April, 1964 and as subsequently amended from time to time.

AMENDMENT

In the said Rules, in Rule 3 after sub-rule (5), the following shall be added, namely,-

“(6) Prohibition regarding employment of children below 14 years of age: ‘No Member of Service shall employ to work any child below the age of 14 years’.

(503)

G.O.Ms.No.556, G.A. (Ser.C) Dept., dt.14.12.2005 regarding amendment to Rule-3 of A.P.C.S. (Conduct) Rules, 1964.

Subject Heading : APCS (Conduct) Rules, 1964 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.
2. G.O.Ms.No.27, WD, CW & DW (Prog.) Dept., dt.21.04.1999.
3. G.O.Ms.No.322, G.A. (Ser.C) Dept., dt.19.07.1999.
4. G.O.Ms.No.457, G.A. (Ser.C) Dept., dt.05.12.2001.

O R D E R:

The following notification will be published in the next extraordinary issue of the Andhra Pradesh Gazette dated _____ 2005.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services-C) Department, dated 17th April, 1964 and as subsequently amended from time to time.

AMENDMENT

In the said Rules, after Rule-3-C, the following shall be added, namely,-

“3-D : “Complaints Committee will be deemed to be an Inquiry Committee” and the report submitted by it shall be deemed to be an inquiry report under A.P. Civil Services (Classification, Control and Appeal) Rules, 1991”.

(504)

G.O.Ms.No.557, G.A. (Ser.C) Dept., dt.14.12.2005 regarding amendment to Rule-27 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.322, G.A. (Ser.C) Dept., dt.19.07.1999.
3. G.O.Ms.No.457, G.A. (Ser.C) Dept., dt.05.12.2001.

ORDER :

The following notification will be published in the next extraordinary issue of the Andhra Pradesh Gazette, dated 14th December, 2005:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in the Andhra Pradesh Gazette Part-I, Extraordinary No.235, dated 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In the said Rules, in Rule 27, the existing Rule and the proviso thereunder, shall be numbered as sub-rule (1) of Rule 27 and after sub-rule (1) as so renumbered, the following sub-rule shall be added, namely,-

“(2) The Complaints Committee Report on allegations of sexual harassment and atrocities on women shall be deemed to be an inquiry report under these Rules.

Notwithstanding anything contained in Rule 20 or Rule 22 where it is proposed to impose on Government Servant any of the penalties specified in Rule 9 or Rule 10 on the basis of the inquiry report of the Complaints Committee, the Disciplinary Authority shall take action on the basis of recommendations contained in the inquiry report after furnishing a copy of the report to the Charged Government Servant to make a representation, if any, within a reasonable time fixed and after taking into consideration such representation, and impose any of the penalties specified in Rule 9 or Rule 10"

(505)

G.O.Ms.No.2, Finance (FR.II) Dept., dt.04.01.2006 regarding amendments to FR.53 and FR.54-A.

Subject Heading : Fundamental Rules – Amendment of FR.53 and FR.54-A – Orders – Issued.

Read the following :

1. Memo.No.5316/J1/2002-8, HM & FW (J1) Dept., dt.10.07.2003.
2. D.O.Lr.No.636/Spl.B/99, dt.12.09.2003 from the Secretary to Govt., G.A.D.

ORDER:

In the Memo. 1st read above, instructions were issued by the Health, Medical and Family Welfare Department restricting the subsistence allowance to 50% in all cases where prima facie case is established on charges of corruption, misappropriation and demand or acceptance of illegal gratification and in cases where such charges are held proved even after retirement, major punishment includes withholding of entire pension. The General Administration (Ser.C) Department expressed a doubt whether the instructions issued by the Health, Medical and Family Welfare Department in the Memo. cited, were applicable to all the Departments or not.

2. Further, in D.O. letter 2nd read above, the Secretary to Government, General Administration Department had furnished the extracts of the Reports of the A.P. Vigilance Commission for taking necessary action. In the report of the

A.P. Vigilance Commission, it was mentioned that the employee acquitted in graft case cannot get benefits on reinstatement, referring to the Supreme Court Ruling in K.R. Bibhavnekar Vs. State of Maharashtra reported in 1997 (3) Scale 180, wherein the Supreme Court has observed that grant of consequential benefits with all back wages etc., cannot be a matter of course. The Commission had advised to take action for amending the Fundamental Rules keeping in view the Supreme Court Judgement.

3. Government after careful examination have decided to amend the proviso to FR 53(1)(ii)(a) and sub-rule (3) of FR 54-A of the Fundamental Rules.

4. Accordingly, the following Notification shall be published in the extraordinary issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Fundamental Rules as subsequently amended from time to time.

The amendments hereby made shall come into force with immediate effect, Past cases already decided, need not be reopened.

AMENDMENT

In the said rules :

(1) in Sub-clause (a) of clause (ii) of sub-rule (1) of Rule 53, after item (iii) of the existing proviso, the following shall be added, namely,-

“(iv) the amount of subsistence allowance shall be restricted to 50% in all cases where a prima-facie case is established on charges of corruption, misappropriation and demand or acceptance of illegal gratification until finalisation of the disciplinary case”.

(2) In sub-rule (3) of Rule 54-A, the following proviso shall be added, namely,-

“Provided that back wages to suspended / dismissed employee can not be paid as a matter of course in cases where the employee has been acquitted by the courts on benefit of doubt”.

(506)

G.O.Ms.No.3, Finance (FR.II) Dept., dt.04.01.2006 regarding amendment to FR.54 and FR.54-B.

Subject Heading : Fundamental Rules – Amendment of FR.54 and FR.54-B – Orders – Issued.

ORDER :

According to sub-rule (5) of Fundamental Rule 54 and sub-rule (7) of Fundamental Rule 54-B, the dismissal / suspension period shall not be treated as duty in cases falling under sub-rule (4) of FR-54 and sub-rule (5) of FR 54-B, unless the competent authority, specifically directs that it shall be so treated for any specified purpose.

2. As per the above rules, some of the Departments are interpreting that while treating the dismissal, removal or compulsory retirement / suspension period as not-duty, it shall be treated as duty for a specific purpose like increments, pension and leave etc.

3. Since a proviso is already made under sub-rule (5) of FR 54 and sub-rule (7) of FR 54-B that if the Government Servant so desires the period of absence / suspension shall be converted into leave of any kind due and admissible to the Government Servant, the Government after careful examination have decided to omit the words “unless the competent authority specifically directs that it shall be so treated for any specified purpose,” in sub-rule (5) under FR 54 and sub-rule (7) under FR 54-B.

4. Accordingly, the following notification shall be published in the extraordinary issue of A.P. Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Fundamental Rules as subsequently amended from time to time.

AMENDMENT

In the said Rules :

1. In sub-rule (5) of Rule 54, the following expression occurring at the end shall be omitted namely,-
“unless the competent authority specifically directs that it shall be so treated for any specified purpose”.
2. In sub-rule (7) of Rule 54-B, the following expression occurring at the end, shall be omitted namely,-
“unless the competent authority specifically directs that it shall be so treated for any specified purpose”.

(507)

Circular Memo.No.16077/135/A.2/Pen.I/2004, Finance (Pension.I) Dept., dt.20.02.2006 regarding instructions on settlement of pensionery benefits.

Subject Heading : Pensions – Settlement of pensionery benefits in time – Avoiding payment of penal interest in case of delay – Rate of interest – Instructions – Regarding.

- Ref : 1. G.O.Ms.No.268, Fin. & Plg. (FW.Pen.I) Dept., dt.07.10.1986.
2. Circular Memo.No.37989/A/494/A.2/Pen.I/98, dt.21.04.1999 of Finance & Planning (FW.Pen.I) Department.
3. Circular Memo.No.16077/135/A.2/Pen.I/2004, dt.11.08.2005 of Finance (Pen.I) Department.

Based on the instructions of Government of India, orders were issued in the reference 1st cited that interest may be allowed on delayed payments of Retirement Gratuity in cases of administrative delay, at the rate of 7% per annum for the period beyond 3 months and upto one year and beyond one year, 10% per annum, after the gratuity becomes due and payable till the end of the month preceding the month in which the payment is actually made.

2. Further instructions were issued in the reference 2nd cited, stipulating certain conditions for payment of interest on delayed payment of gratuity. The conditions are as follows:-

- (i) should be sanctioned by the Administrative Department concerned with the concurrence of Finance Department.

- (ii) where disciplinary or judicial proceedings are pending interest is payable from the date of conclusion of the proceedings.
- (iii) the delay should be on account of administrative lapse or for reasons beyond the control of the Government servant concerned.

3. It has come to the notice of the Government that most of the banks have reduced their interest rates given to the public in the recent past and Nationalized Banks are paying interest on Fixed Deposits at 4.5% for 3 months and 5% upto one year.

4. Thus, keeping in view and in supersession of the orders issued in the reference 3rd cited, an amendment is issued to para 10 of the orders issued in the reference 2nd cited.

AMENDMENT

Existing Instructions	Read as
10. Further interest shall be allowed on delayed payment of retirement Gratuity. The rate of interest is 7% p.a. for the period beyond 3 months and upto 1 year and 10% p.a. beyond 1 year after the gratuity becomes due and payable till the end of the month proceeding the month in which the payment is actually made. The interest is allowed on the following conditions:	10. Further interest shall be allowed on delayed payment of retirement Gratuity. The rate of interest is 4.5% p.a. for the period beyond 3 months and upto 1 year and 5% p.a. beyond 1 year after the gratuity becomes due and payable till the end of the month preceding the month in which the payment is actually made. The interest is allowed on the following conditions:

5. The memo. is available on Internet and can be accessed at the address <http://www.aponline.gov.in>.

(508)

Circular Memo.No.36500/Ser.C/2005, G.A. (Ser.C) Dept., dt.17.02.2006 regarding further instructions on transfer of Government Servants, who are facing allegations.

Subject Heading : Public Services – Transfer of Government Servants facing allegations – Further instructions – Issued.

- Ref: 1. Memo.No.2016/A.C/66-3, G.A. (A.C) Dept., dt.12.12.1966.
1. Memo.No.1402/A.C/72-1, G.A. (A.C) Dept., dt.20.09.1972.
 2. Memo.No.1973/A.C/75-1, G.A. (A.C) Dept., dt.29.10.1975.
 3. Memo.No.864/Ser.A/85-1, G.A. (Ser.A) Dept., dt.03.07.1985.

Instructions were issued in the Govt. Memo. 1st cited, that a list of focal posts be identified in all Govt. Departments and suitable steps taken to ensure that employees in such focal posts are not allowed to continue indefinitely. It was further instructed that no Government Officer / employee should be kept in the same focal post for more than three years and where it is proposed to deviate from these general principles, the authority concerned should obtain the approval of the Government in the administrative department concerned in respect of Gazetted Officers and the next higher authority above the appointing authority in respect of Non-Gazetted Officers. The authority approving the retention of an officer in a focal point beyond the prescribed period shall record clearly the reasons therefor.

2. It was instructed in the Govt. Memo's. 3rd and 4th cited, that transfers in respect of focal points by the lower authorities shall be reviewed by the Heads of Departments and persons with bad reputation should not be retained in the posts declared as focal points and they should be transferred whenever such instances are noticed by the Heads of Departments. Further, the following specific instructions were issued:-

“Whenever instances of corruption and malpractices come to the notice of higher authorities against officers or subordinates working in posts declared as focal points, they should be shifted immediately from the posts ordered as focal points even through the three years period of service of the individual officer in the post is not completed”.

“No officer with doubtful integrity or against whom enquiries relating to charges of corruption are pending should be posted in the post declared as focal points”.

3. A general representation was made on behalf of certain employees associations, not to transfer officers / staff on mere allegations or a complaint petition, when their performance is considered otherwise to be fairly good. On a careful consideration of the substance of this representation, Government observe

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that the existing instructions which are summarized in paras 1 and 2 above, are quite clear and do not contemplate the transfer envisaged therein merely on the basis of some allegations or complaint petition. A transfer in such cases, even though the three years period of service is not completed, is directed only if the competent authority notices instances of corruption or other malpractices. It needs no reiteration that such notice by the competent authority implies availability of certain information and facts, forming basis for the action.

4. Government, therefore, direct that the apprehensions expressed in the above representation shall be duly taken into consideration by all the competent authorities while implementing the above Government instructions.

5. All the Departments of Secretariat, and all the Heads of Departments and District Collectors are requested to follow the above instructions scrupulously.

(509)

Circular Memo.No.36500/Ser.C/2005, G.A. (Ser.C) Dept., dt.19.04.2006 regarding reiteration of instructions on time schedule in departmental inquiries.

Subject Heading : Public Services – Disciplinary cases against Government employees – Departmental Inquiries – Time Schedule to expedite the inquiries – Orders – Reiterated - Issued.

- Ref: 1. Circular Memo.No.35676/Ser.C/98, G.A. (Ser.C) Dept., dt.01.07.1998.
2. Memo.No.23537/Ser.C/99-5, G.A. (Ser.C) Dept., dt.28.07.1999.
3. U.O.Note No.19952/Ser.C/2000, G.A. (Ser.C) Dept., dt.27.04.2000.
4. Memo.No.51883/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.19.12.2002.
5. U.O.Note No.58445/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.24.01.2003.
6. Memo.No.82494/Ser.C/2003, G.A. (Ser.C) Dept., dt.28.07.2003.

Instructions have been issued from time to time to complete Departmental Inquiry within the stipulated period of three months and in complicated cases within five to six months. A time schedule was also prescribed in the references 2nd, 3rd and 4th cited to expedite the Departmental Inquiries.

2. But often it is found that even in simple cases like surprise checks, violation of conduct rules, in misappropriation of funds cases and in trap cases much time is consumed in completing the departmental inquiries beyond the prescribed time, resulting the interference by the Andhra Pradesh Administrative Tribunal and High Court of Andhra Pradesh. Orders are being passed by the Andhra Pradesh Administrative Tribunal and High Court to the effect that failure to complete the departmental inquiry within stipulated period given by them, the disciplinary cases are liable to be dropped and the charged officers escape without any penalty being imposed against them even in cases where severe penalties are warranted against them. Further, the avoidable work of review of suspensions after completion of two years period is dispensed with if inquiries are completed within the time schedule fixed. Particularly in cases of misappropriation where simultaneous departmental and criminal action needs to be initiated, completion of Departmental Inquiry within the period of 3 months greatly facilitate the investigation agency to complete the investigation and filing charge sheet in the criminal court quickly. Further, as misappropriation involves recovery of the misappropriated amounts from the charged officers, early completion of the departmental inquiry will help quick recovery of the misappropriated amount besides prevention of loss of evidence and leading to logistic end of the disciplinary proceedings.

3. In view of the above, the instructions issued in the references cited are reiterated. Government further order that the Inquiry Officers are liable for disciplinary action for their failure to complete the inquiry within stipulated period. In cases where large number of witnesses are to be examined and voluminous material papers are to be verified, the inquiry officers shall invariably take prior permission of the concerned disciplinary authorities by submitting detailed reasons for continuing the departmental inquiry beyond the stipulated period.

4. All the Departments of Secretariat, Heads of Departments, District Collectors and Regional Officers shall follow the above instructions scrupulously.

(510)

Circular Memo.No.44/Spl.C/A1/2006-1, G.A. (Spl.C) Dept., dated 29.06.2006 regarding reiteration of instructions on fixing of minimum tenure of deputations of the personnel / officers of A.C.B. and V&E.

Subject Heading : Establishment – ACB – Fixing of minimum tenure of deputation of the personnel / officers of ACB and Vigilance & Enforcement – Concurrence of Vigilance Commissioner for premature transfer in consultation with both the Directorates – Reiteration of instructions - Regarding.

Ref : G.O.Ms.No.280, G.A. (Spl.C) Dept., dt.20.09.2003.

In the G.O. cited, certain instructions were issued fixing a minimum tenure of three years for deputation of the personnel / officers to Anti Corruption Bureau and General Administration (Vigilance & Enforcement) Department. It was also mentioned that in case any premature transfer is required to be made, prior approval of the Vigilance Commissioner should be invariably be obtained.

2. Even after instructions were issued, it has been brought to the notice of the Government that the Director General, Anti Corruption Bureau and Director General, Vigilance Enforcement Department are not being consulted about posting and transfers of officers above the rank of Deputy Superintendent of Police prematurely, which is adversely affecting the continuity and operational commitment of the Departments. Frequent transfers of the personnel deputed to the investigating agencies would result in dislocation of work and also giving wrong signal to the erring officials.

3. Government after careful examination of the matter, hereby reiterate the instructions issued in the G.O. cited, and posting of officers and withdrawing them from / to the Offices of Director General, Anti Corruption Bureau and Director General, Vigilance & Enforcement Department should be made in due consultation with the respective Heads of Departments and with the prior approval of the Vigilance Commissioner.

4. These instructions should be followed scrupulously.

(511)

G.O.Ms.No.337, G.A. (Ser.C) Dept., dt.22.07.2006 regarding amendment to Rule-20 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment to Rule-20 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette

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NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule 20, for sub-rules (3), (4), (5), (6), (7), (10) and (12) the following shall be substituted, namely:-

“(3) Where it is proposed to hold an inquiry against a Government servant under this rule and Rule 21, the Disciplinary Authority or the Cadre Controlling Authority who is not designated as Disciplinary Authority and who is subordinate to the appointing authority can draw up or cause to be drawn up -

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;

- (ii) a statement of imputations of misconduct or misbehaviour in support of each article of charge, which shall contain ;
 - a) a statement of all relevant facts including any admission or confession made by the Government Servant ;
 - b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The Disciplinary Authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and copies of the said documents and statements of the said witnesses and shall require the Government Servant to appear before the Disciplinary Authority on such day and at such time not exceeding ten working days and submit a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On the date fixed for appearance, the Government servant shall submit the written statement of his defence. The Disciplinary Authority shall ask the Government servant whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the Disciplinary Authority shall record the plea, sign the record and obtain the signature of the Government Servant thereon. The Disciplinary Authority shall record findings of guilty in respect of those articles of charge to which the Government servant pleads guilty. Where the Government Servant admits all the articles of charge, the Disciplinary Authority shall record its findings on each article of charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 21.

(b) Where the Government servant appears before the Disciplinary Authority and pleads not guilty to the charges or refuses or omits to plead, the Disciplinary Authority shall record the plea and obtain the signature of the Government servant thereon and may decide to hold the inquiry itself or if it considers it necessary to do so, appoint an Inquiring Authority for holding the inquiry into the charges and also appoint a Government Servant or a retired Government servant or a legal practitioner as Presenting Officer to present the case in support of the articles of charge and adjourn the case to a date not exceeding five days.

(c) On the day so fixed, the disciplinary Authority shall serve copies of the orders appointing the Inquiring Authority and the Presenting Officer on the Government Servant and inform him that he may take the assistance of any

other Government servant to present the case on his behalf, but he may not engage a retired Government Servant or a legal practitioner for the purpose unless the Presenting Officer appointed by the Disciplinary Authority is one such, or, the Disciplinary Authority, having regard to the circumstances of the case, so permits :

Provided that no Government Servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the Inquiring Authority to appear on behalf of the person charged before the Inquiring Authority:

Provided further that the Government Servant may take the assistance of any other Government servant posted at any other station, if the Inquiring Authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits.

Note (1):- The Government Servant shall not take the assistance of any other Government Servant who has pending two disciplinary cases on hand in which he has to give assistance.

Note (2) : The Government Servant may also take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf.

(d) The Disciplinary Authority shall inform the Government Servant to submit within five days a list of documents, which he requires to be discovered or produced by Government for the purpose of his defence indicating the relevance of the documents so required.

(e) The Disciplinary Authority may for reasons to be recorded in writing refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(f) The Disciplinary Authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.

(g) On receipt of the requisition referred to in clause (f) of this sub-rule, every authority having the custody or possession of the requisitioned documents shall produce the same before the disciplinary authority :

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the State, shall submit the fact to the Head of the Department or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the Disciplinary Authority and where the decision is withhold production of all or any of such documents, the disciplinary authority shall on being so informed, communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents and where the decision is against withholding the production of all or any of such documents, every authority having the custody or the possession of such requisitioned documents shall produce the same before the Disciplinary Authority.

(6) Where the Government Servant to whom a copy of the articles of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Disciplinary Authority or otherwise fails to refuses to comply with the provisions of this rule, the Disciplinary Authority may decide to hold the inquiry exparte or if it considers it necessary so to do, appoint an Inquiring Authority for the purpose.

(7) (a) The Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority—

- (i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
- (ii) a copy of the written statement of defence, if any submitted by the Government Servant;
- (iii) copies of the statements of witnesses, referred to in sub-rule (3);
- (iv) copies of documents referred to in sub-rule (3);
- (v) evidence proving the delivery of copies of the documents referred to in sub-rule (3) to the Government Servant; and
- (vi) a copy of the order appointing the Presenting Officer.

(b) The Disciplinary Authority shall also forward to the Inquiring Authority documents received under clause (g) of sub-rule (5) as and when they are received.

(10) (a) On the date fixed for recording the evidence, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority.

(b) The evidence shall be recorded as far as possible on day-to-day basis till the evidence on behalf of the Disciplinary Authority is completed.

(c) The witnesses shall be examined by or on behalf of the Presenting Officer and they may be cross-examined by or on behalf of the Government Servant.

(d) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter without the permission of the Inquiring Authority.

(e) The Inquiring Authority may also put such questions to the witnesses as it think fit.

(12) (a) When the case for the Disciplinary Authority is closed, the Government Servant shall be required to state his defence orally or in writing as he may prefer and to submit a list of witnesses to be examined on his behalf for which purpose the case may be adjourned to a date not exceeding five days.

(b) If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence and the list of defence witnesses may be provided to the Presenting Officer, if any, appointed.

(c) The case shall be adjourned to a date not exceeding ten days for production of defence evidence.

2. In the explanation under clause (ii) of sub-rule (18), the word 'Armed' shall be omitted.

(512)

G.O.Ms.No.433, G.A. (Ser.C) Dept., dt.24.08.2006 regarding amendment to Rule-16 of A.P.C.S. (Conduct) Rules, 1964.

Subject Heading : APCS (Conduct) Rules, 1964 – Amendment – Orders – Issued.

Read :

G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964,

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services-C) Department, dated the 17th April, 1964 and as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule-16 for sub-rule (1) together with the proviso there under, the following shall be substituted, namely,-

“(1) No Government employee shall, except with the previous sanction of Government or any authority empowered by them in this behalf or in the course of discharge of his official duties, participate in a Radio Broadcast or Drama or Tele-serial or Feature Film or contribute any article or write any letter in his own name or anonymously, pseudonymously or in the name of any other person to a newspaper or periodical:

Provided that no such sanction is necessary if such Broadcast or Drama or Tele-serial or Feature Film or article or letter is of a purely literary, artistic or scientific character, or if such broadcast relates to a talk arranged under the general or special order of Government; and the Government employee may accept the remuneration prescribed for such Broadcasts, Dramas or Tele-serials or Feature Films or articles or letters”.

(513)

Circular Memo.No.30554/Ser.C/2006, G.A. (Ser.C) Dept., dt.24.08.2006 regarding guidelines on A.P.C.S. (Conduct) Rules, 1964.

Subject Heading : Public Services – A.P.C.S (Conduct) Rules, 1964 – Certain Guidelines / Instructions – Issued.

- Ref: 1. G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.
2. G.O.Ms.No.433, G.A. (Ser.C) Dept., dt.24.08.2006.

In the G.O. 2nd cited, orders were issued amending Rule 16 (1) of Andhra Pradesh Civil Services (Conduct) Rules, 1964 duly incorporating a provision enabling the Competent Authority to accord sanction to the Government employees to participate in Drama or Tele-serial or Feature Film. In the absence of specific guidelines / instructions in this regard certain instances have come to the notice of the Government that the competent authorities are facing some difficulties in according sanction to Government employees to participate in Radio Broadcasting, Drama, Tele-serials or Feature Film.

2. Government after careful consideration of the matter hereby issue the following guidelines / instructions to enable the competent authorities to accord sanction to the Government employees to participate in Radio Broadcasting, Dramas, Tele-serials and Feature Films or to contribute any article or write any letter as per Rule-16 (1) of the APCS (Conduct) Rules, 1964.

- (i) Permission shall be accorded by the competent authority, subject to condition that such permission shall be without detriment to the official duties, since the Government Servant as a matter of fact is a servant for 24 hours and should be available whenever called for.
- (ii) The remuneration received in this regard shall be included in the Income Tax Return of the employee as per the provisions of the Income Tax Act and rules made there under.

3. All the Departments of Secretariat, all Heads of Departments and District Collectors are requested to bring these instructions to the notice of the concerned authorities under their control and ensure that the same are strictly adhered to.

(514)

Memo.No.6183/Ser.C/2006, G.A. (Ser.C) Dept., dt.14.09.2006 regarding instructions on Dowry.

Subject Heading : Public Services – Dowry Prohibition Act, 1961 – Judgment of Hon'ble Supreme Court of India in W.P. (Civil) No.499/97, dated 02.05.2005 – Certain information relating to Dowry from the personnel seeking appointment to Government service and also from those working in Government on Dowry – Called for – Regarding.

- Ref: 1. G.O.Ms.No.69, WD, CW & DW Dept., dt.24.06.1989.
2. G.O.Ms.No.117, WD, CW & DW Dept., dt.12.12.1997.
3. G.O.Ms.No.8, WD, CW & DW Dept., dt.27.01.1998.
4. G.O.Ms.No.72, WD, CW & DW Dept., dt.17.11.1998.
5. From the Secretary, Department of W&CA, Ministry of HRD, New Delhi, D.O.No.9-27/97-WW (Vol.IV), dt.24.05.2005 along with a copy of the Judgment of Hon'ble Supreme Court of India, dt.02.05.2005 in W.P. (Civil) No.499/1997.

The Dowry Prohibition Act, 1961 (Central Act No.28 of 1961) prohibits the all evil practice of giving and taking dowry and this Act came into force on 01.07.1961 and it was subsequently amended for its more effective implementation. Further, the Government of India have also issued "Dowry Prohibition (Maintenance of lists of presents to the Bride & Bridegroom) Rules, 1985 under Section 9 of the said Dowry Prohibition Act, 1961.

2. In accordance with the provisions of the Dowry Prohibition Act, 1961, the Government of Andhra Pradesh have issued orders vide G.O.Ms.No.1009, General Administration (Ser.C) Dept., dt.10.06.1965 suitably amending Rule 25 of the APCS (Conduct) Rules, 1964 as follows:-

"25-A. No Government Servant shall-

- (i) give or take or abet in giving or taking of dowry; or
- (ii) demand, directly or indirectly, from the parents or guardian or a bride or bridegroom as the case may be; any dowry.

Explanation : for the purpose of this rule "Dowry" has the same meaning as in the Dowry Prohibition Act, 1961 (Central Act 28 of 1961)"

3. In G.O.Ms.No.69, WD, CW & DW Dept., dt.24.06.1989, orders were issued under sub-section (1) of Section 8 (B) of the Dowry Prohibition Act, 1961 notifying appointment of Dowry Prohibition Officers to exercise the power and perform the functions as such under the said Act in their respective areas of jurisdiction and conferring certain powers of the Police Officers on them in discharge of their duties as Dowry Prohibition Officers. Orders were also issued vide G.O.Ms.No.117, WD, CW & DW Dept., dt.12.12.1997 appointing an Advisory

Board for each district of the State for the purpose of advising and assisting the Dowry Prohibition Officers in the State for efficient performance of their functions under the said Act.

4. Further, in G.O.Ms.No.8, WD, CW & DW Dept., dt.27.01.1998 orders were issued appointing a State Level Advisory Board with Hon'ble Minister (W, CW & CA) as Chairperson to review the implementation of the provisions of the Dowry Prohibition Act and the rules made there under and orders were also issued vide G.O.Ms.No.72, WD, CW & DW Dept., dt.17.11.1998 framing the Dowry Prohibition Rules under Section 10 of the Dowry Prohibition Act, 1961.

5. The Hon'ble Supreme Court of India in the Judgment, dt.02.05.2005 in W.P. (Civil) No.499/1997, among other things, directed the Union of India and the State Governments to consider whether appropriate rules cannot be framed for compelling males, seeking Government employment, to furnish information on whether they had taken dowry and if taken, whether the same has been made over to the wife as contemplated by Section 6 of the Act, calling for such information also from those already in employment.

6. The Secretary, Department of Women & Child Development, Ministry of HRD, New Delhi, while enclosing a copy of Judgment, dt.02.05.2005 in W.P. (Civil) No.499/1997 along with her D.O. Letter 5th cited, among other things, has requested to examine the above said observations made by the Hon'ble Supreme Court of India in the said Judgment, dt.02.05.2005 in W.P. (Civil) No.499/1997 and requested to take necessary action for framing appropriate rules in this regard.

7. Government, after careful examination of the matter, hereby direct all the recruiting / appointing authorities to obtain information from the persons seeking appointment to any category by direct recruitment and also from those who are already in Government Service on the following:-

- a) Whether he / she has given or taken or abetted in giving or taking of Dowry at the time of marriage and if so,
- b) Whether the said dowry has been returned to the woman concerned as per the provisions of Dowry Prohibition Act, 1961.

8. All the Departments of Secretariat, and all the Heads of Departments and District Collectors are requested to bring the above instructions to the notice of their subordinates and see that they are strictly complied with.

(515)

G.O.Ms.No.552, G.A. (Ser.C) Dept., dt.05.10.2006 regarding amendment to Rule-22 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003.
3. G.O.Ms.No.337, G.A. (Ser.C) Dept., dt.22.07.2006.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 and as subsequently amended from time to time.

AMENDMENT

In the said rules, in Rule-22 :

- (i) in clause (b) of sub-rule (1) for the expression “(3) to (23)” the expression “(3) to (18)” shall be substituted.
- (ii) in sub-rule (2) for the expression “(3) to (23)” the expression “(3) to (18)” shall be substituted.

(516)

Circular Memo.No.695/Ser.C/2006, G.A. (Ser.C) Dept., dt.12.10.2006 regarding reiteration of instructions on submission of Annual Property Returns by the employees promptly.

Subject Heading : Public Services – A.P.C.S (Conduct) Rules, 1964 – Submission of Annual Property Returns by employees promptly – Reiteration of Government instructions - Regarding.

- Ref: 1. Govt.Memo.No.442/SC.E/1983-1, G.A. (SC.E) Dept., dt.27.12.1983.
2. Govt.Memo.No.762/SC.D/1983-1, G.A. (SC.D) Dept., dt.21.05.1986.
3. Circular Memo.No.76883/Ser.C/98, G.A. (Ser.C) Dept., dt.12.12.1998.
4. Circular Memo.No.8832/Ser.C/03-1, G.A. (Ser.C) Dept., dt.29.01.2003.
5. Memo.No.94649/Ser.C/2003, G.A. (Ser.C) Dept., dt.31.07.2003.
6. From the Director General, Anti Corruption Bureau, Lr.Rc.No.114/RE-Cr.2/2001-S2, dt.22.11.2005.

According to sub-rule (7) of Rule 9 of A.P.C.S (Conduct) Rules, 1964, every Government employee other than a member of the A.P. Last Grade Service and a Record Assistant in the A.P. General Sub-Ordinate Service, invariably has to submit his / her statement of all immovable / movable (values exceeding Rs.20,000/-) properties owned, acquired or inherited by him / her his/her family members in the prescribed proforma in the said rule as Annexures I and II before 15th January of each year.

2. According to sub-rule (8) of Rules 9 of A.P.C.S (Conduct) Rules, 1964, the Government or any authority empowered by them in this behalf may at any time by general or special order, require a Government employee to submit within a specified period, a full and complete statement of all immovable properties and movable properties.

3. Keeping the observations in the Annual Report of A.P. Vigilance Commission for the year 1996-97, instructions were issued in the reference third cited directing the Controlling Officers or Chief Vigilance Officers / Vigilance Officers of concerned Departments to scrutinize thoroughly the Annual Property Returns submitted by their subordinates and call for the clarifications from the Government Departments in case of doubts and to ensure submission of the returns by all concerned as such scrutiny would help to check the corruption of the Government employees to some extent at the initial stage itself.

4. Further as per observations made in the High Level Committee Meeting held on 08.01.2003 in the Chambers of Chief Secretary, while reiterating the instructions issued in the references third and fourth cited, the Controlling Officers or Chief Vigilance Officers / Vigilance Officers of concerned Departments were once again requested to ensure that every Government employee other than a member of the Andhra Pradesh Last Grade Service and Record Assistant in the Andhra Pradesh General Sub-ordinate Service, invariably submit his / her Annual Property Statement Returns every year by 15th January.

5. The Director General, Anti-Corruption Bureau, A.P., Hyderabad in the reference sixth cited, has informed that in many instances when the concerned authorities are addressed by the Anti-Corruption Bureau for furnishing information pertaining to the Annual Property Returns filed by the Accused Officers and their pay particulars, they are receiving replies stating that no Annual Property Returns are filed or they are not traceable with the Government. But, the Annual Property Returns are required for the purpose of proving the case of assets disproportionate to the known sources of income of a Government Servant or otherwise. He has, therefore, requested to issue orders to the concerned authorities / Departments for strict compliance of sub-rule (7) of Rule 9 of the APCS (Conduct) Rules, 1964 and also requested to make the concerned Controlling Officers accountable for ensuring that all Sub-ordinate Officers file Annual Property Returns as per the Rules.

6. While reiterating the instructions issued in the references third and fourth cited, Government further direct the Controlling Officers or Chief Vigilance Officers / Vigilance Officers of concerned Departments to ensure that every Government employee other than a member of the Andhra Pradesh Last Grade Service and Record Assistant in the Andhra Pradesh General Sub-ordinate Service, invariably submit his / her Annual Property Statement Returns every year by 15th January as required under sub-rule (7) of Rule 9 of the APCS (Conduct) Rules, 1964. It may be impressed on the employees that non-compliance of such instructions will attract disciplinary action.

7. The Heads of Departments concerned shall ensure that the employees under their control submit the Annual Property Statements and a certificate should be submitted to this effect by the Heads of Departments to the concerned Administrative Department at Secretariat level.

8. All the Special Chief Secretaries / Principal Secretaries / Secretaries to Government and Heads of Departments etc. are requested to list out the employees who have not furnished their Annual Property Returns as on 15.01.2005 and thereafter issue show cause notices to each as to why disciplinary action shall not be taken against them and if within a reasonable time thereafter the Annual Property Returns are not received, or if the explanation to the query raised is not given or if given, but found not satisfactory, then they are requested to award "Censure" to the employees concerned.

9. All the Departments of Secretariat, all Heads of Departments, and District Collectors are requested to bring the above rule position to the notice of all the employees working under their control for their strict compliance.

(517)

G.O.Ms.No.200, G.A. (Ser.C) Dept., dt.26.03.2007 regarding declaration of personal cash by the Government Officials.

Subject Heading : Declaration of Personal Cash by the Government Officials at the time of reporting to their duty – Orders – Issued.

Read :

From the D.G, A.C.B. D.O.Lr.No.154/PRC(C)/2002, dated 2.04.2005 and even letter dated 13.04.2005.

ORDER :

Sub-rules (8) (A) and (8) (B) or rule 9 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 reads as follows:-

(8)(A) "The Government or any authority empowered by them in this behalf may, require a Government servant to render a full and true account of the cash found in his possession at any time and such account shall include particulars of the means by which and the source from which such cash was acquired".

(8)(B) "The Government or any authority empowered by them in this behalf may, by general or special order require a Government servant on duty not to keep cash in his possession beyond a specified sum and to declare the cash in his possession in the manner prescribed".

2. The Director General, Anti-Corruption Bureau has requested to enhance the ceiling on possession of personal cash by the staff, which is presently fixed at Rs.200/- to Rs.500/- while on duty in office and to put a ceiling of Rs.10,000/- that an officer can carry during the tour.

3. After careful consideration of the issue, Government direct that all employees of all Departments dealing with cash including revenue collecting Departments shall give a declaration as follows:-

- i) Declaration of personal cash at the time of reporting to duty if in excess of Rs.500/-.
- ii) Cash may be declared while on tour if in excess of Rs.10,000/-.

4. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to bring these orders scrupulously. The existing process of manner of declaration shall be followed.

(518)

G.O.Ms.No.522, G.A. (Spl.C) Dept., dt.21.07.2007 regarding definition of 'Vigilance Angle'.

Subject Heading : A.P. Vigilance Commission – Scheme defining jurisdiction, powers etc. of Vigilance Commission – Definition of 'Vigilance angle' – Incorporated – Orders – Issued.

Read the following :

1. G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993.
2. G.O.Ms.No.147, G.A. (Spl.B) Dept., dt.01.05.2000.

O R D E R :

In the GOs 1st and 2nd read above, orders were issued defining the jurisdiction and powers etc. of the Vigilance Commission.

2. It has been brought to the notice of the Government that the term 'Vigilance angle' has not been comprehensively defined in the Vigilance Manual and the Central Vigilance Commission has formulated a revised definition of 'Vigilance angle'.

3. Government after careful examination of the matter have decided to redefine the term 'Vigilance angle' as formulated by the Central Vigilance Commission and to incorporate the same under para (6) of Scheme of Vigilance Commission issued vide G.O. 1st read above. Accordingly, the following definition of the 'Vigilance angle' shall be incorporated under para (6) as item (xvii) of the G.O. 1st read above.

- (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.
- (vi) 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.
- (vii) Any undue / unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of Vigilance angle in a case.
- (viii) 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.

4. The above definition of 'Vigilance angle' shall be incorporated under item-1 of Chapter-I of Vigilance Manual, Volume-I.

5. The Secretary to A.P. Vigilance Commission is requested to take necessary action in the matter.

(519)

Circular Memo.No.15486/Ser.C/2007, G.A. (Ser.C) Dept., dt.30.07.2007 regarding reiteration of instructions on submission of Annual Property Returns by employees promptly.

Subject Heading : Public Services – A.P.C.S (Conduct) Rules, 1964 – Submission of Annual Property Returns by employees promptly – Reiteration of instructions - Regarding.

- Ref: 1. Govt. Memo.No.442/SC.E/1983-1, G.A. (SC.E) Dept., dt.27.12.1983.
2. Circular Memo.No.76883/Ser.C/98, G.A. (Ser.C) Dept., dt.12.12.1998.
3. Circular Memo.No.8832/Ser.C/03-1, G.A.(Ser.C) Dept., dt.29.01.2003.
4. Memo.No.94649/Ser.C/2003, G.A. (Ser.C) Dept., dt.31.07.2003.
5. Cir.Memo.No.695/Ser.C/2006, G.A. (Ser.C) Dept., dt.12.10.2006.

In the reference 5th cited, while reiterating the instructions regarding submission of Annual Property Returns by the Government employees as per sub-rule (7) of Rule 9 of A.P.C.S. (Conduct) Rules, 1964, it was requested in para-8 of reference as follows:-

"All the Special Chief Secretaries / Principal Secretaries / Secretaries to Government and Heads of Departments etc. are requested to list out the employees who have not furnished their Annual Property Returns as on 15.01.2005 and thereafter issue show cause notices to each as

to why disciplinary action shall not be taken against them and if within a reasonable time thereafter the Annual Property Returns are not received, or if the explanation to the query raised is not given or if given, but found not satisfactory, then they are requested to award "Censure" to the employees concerned".

2. Government after careful examination have decided to amend the above para as follows:-

"All the Special Chief Secretaries / Principal Secretaries / Secretaries to Government and Heads of Departments etc. are requested to list out the employees who have not furnished their Annual Property Returns in time, within a month after the last date for receiving such returns and proceed against such officers as per A.P.C.S. (CC&A) Rules, 1991 for violation of A.P.C.S. (Conduct) Rules, 1964".

3. All the Departments of Secretariat, all Heads of Departments and all District Collectors are requested to bring the above rule position to the notice of all the employees working under their control for their strict compliance.

(520)

Circular Memo.No.352/Spl.C/A1/2007-1, G.A. (Spl.C) Dept., dt.02.08.2007 regarding instructions on sanction of prosecution once sanctioned cannot be withdrawn.

Subject Heading : Prosecution Cases – Sanction of Prosecution once accorded cannot be withdrawn or rescinded by the Government – Instructions – Reiterated.

Ref: Cir.Memo.No.266/Spl.C/A1/2003-2, G.A. (Spl.C) Dept., dt.09.06.2004.

All the Departments of Secretariat are informed that the High Court of Andhra Pradesh in its Judgment in W.P.No.4231/2001, dt.21.01.2003 has observed that the decision to withdraw from the prosecution should emanate from the Public Prosecutor and when the concerned Public Prosecutor comes forward with a memo. before the trial court seeking permission to withdraw, the trial court has consider the same on the principles laid down by the Supreme Court in the said decision. While communicating the above Judgment of the

High Court, all Departments were requested to take into account the Judgment while processing the cases for withdrawal of prosecution in the reference cited.

2. It has been brought to the notice that some of the Departments of Secretariat are issuing orders for withdrawal of Prosecution without taking into account the instructions issued and the Judgment of High Court.

3. The Hon'ble High Court has also observed in W.P.No.745/2006 that the Departments when moved for permission for withdrawal from prosecution must be vigilant and inform themselves fully before granting consent. While it would be obnoxious and objectionable for a Public Prosecutor to allow himself to be ordered about, he should apprise himself from the Government and thereafter appraise the court, the host of factors relevant for withdrawal of the cases.

4. After examining the matter, the instructions issued in the reference cited reiterated again and all Departments of Secretariat are requested to follow the instructions in this regard scrupulously and any deviation will be viewed seriously.

(521)

Circular Memo.No.15813/Ser.C/2007, G.A. (Ser.C) Dept., dt.11.09.2007 regarding instructions on promotion / appointment of employees to higher posts while investigation against them are pending.

Subject Heading : Public Services – State & Subordinate Services – Promotion / Appointment of employees to higher posts while investigation into allegations / disciplinary proceedings initiated against them are pending – Orders – Issued – Reiterated.

- Ref:
1. G.O.Ms.No.424, G.A. (Ser.C) Dept., dt.25.05.1976.
 2. G.O.Ms.No.104, G.A. (Ser.C) Dept., dt.16.02.1990.
 3. G.O.Ms.No.66, G.A. (Ser.C) Dept., dt.30.01.1991.
 4. G.O.Ms.No.257, G.A. (Ser.C) Dept., dt.10.06.1999.
 5. Cir. Memo.No.36500/Ser.C/2005, G.A. (Ser.C) Dept., dt.19.04.2006.

In the G.O. 1st cited, orders were issued on the procedure to be followed to assess the suitability of officer's eligibility for promotion to next higher category and to categorize the officers who are facing enquiry, trial or investigation into the following groups based on the nature of allegations / charges pending against them or about to be instituted:-

- (i) an officer with a clean record, the nature of charges / allegations against whom relate to minor lapses having no bearing on his integrity or efficiency, which, even if held proved, would not stand in the way of his being promoted;
- (ii) an officer whose record is such that he would not be promoted, irrespective of the allegations / charges under enquiry, trial or investigation; and
- (iii) an officer whose record is such that he would have been promoted had he not been facing enquiry, trial or investigation, in respect of charges which, if held proved, would be sufficient to supersede him.

2. The suitability of all officers eligible for promotion including those mentioned above should be assessed at the time of consideration for promotion by the Departmental Promotion Committee or other authority, as the case may be. The Departmental Promotion Committee or other authority may consider promotion of officers coming under category (i) above and indicate the rank to be assigned to such officers in the promotion list, notwithstanding the enquiry, trial or investigation. Similarly, supercession may be recommended straightaway in respect of officers coming under category (ii), on grounds of their being unfit for promotion. In the case of officers coming under category (iii), the Departmental Promotion Committee or other authority should consider whether such officer would have been recommended for promotion, if the officer had his conduct not been under enquiry, trial or investigation and make its recommendations and the rank to be assigned to him in the promotion list. In such cases, the Departmental Promotion Committee may make a specific recommendation that their promotion should be deferred until after the termination of the disciplinary proceedings or criminal prosecution.

3. In the G.O.Ms.No.104, G.A. (Ser.C) Dept., dt.16.02.1990, orders were issued "that promotion / appointment by transfer to higher post of an officer included in the panel, if between the date of inclusion in the panel and the date of actual promotion, disciplinary proceedings / investigation / enquiry / trial has been taken up against such officer, whose case falls under the group referred to

in para-2 (iii) of G.O.Ms.No.424, G.A. (Ser.C) Dept., dt.25.05.1976 shall be deferred, until after termination of all such proceedings. In the event, the officer concerned is completely exonerated, he should be promoted / appointed to the post restoring him his rightful place with retrospective effect viz., with effect from the date on which his immediate junior was promoted or from the date on which he would have been promoted, had the enquiry / investigation / trial not been initiated against him, as the case may be".

4. In the G.O. 3rd cited, orders were issued that promotion / appointment by transfer to a higher post in respect of officers who are facing disciplinary proceedings or a criminal case or whose conduct is under investigation and whose case falls under the group referred to in para 2 (iii) of G.O.Ms.No.424, G.A. (Ser.C) Dept., dt.25.05.1976 shall be deferred, only when charges of misconduct are framed by the competent authority and served on the concerned delinquent officer or a charge sheet has been filed against him / her in a criminal court, as the case may be.

5. In the G.O. 4th cited, orders were issued to consider adhoc promotion to the employees who are facing disciplinary cases, where such cases are pending for more than (2) years from the date of the Departmental Promotion Committee or Screening Committee meeting in which their cases were considered for the first time.

6. Instructions were issued in the reference 5th cited, for expeditious completion of disciplinary cases against Government employees wherein it is stated that if the delay is on the part of the Inquiry Officer in conducting inquiry, disciplinary action will be initiated against such Inquiry Officer for the delay.

7. The orders / instructions issued in the references cited are reiterated and direct the competent authority to ensure that the promotion to the Government employees shall be considered in accordance with the orders / instructions and procedure laid down. Wherever, the employees are facing disciplinary cases such employees shall be considered in accordance with the categorization ordered in G.Os. 1st to 4th cited. It shall be ensured that the employees are considered for promotion to their rightful place at right time as per the orders in vogue. It should be the earnest endeavour of the Government to meet the objective of a sense of satisfaction of the work force for the smooth and efficient administration at all levels.

8. All the Departments of Secretariat, Heads of Departments and District Collectors should follow the above orders / instructions scrupulously and bring it to the notice of all concerned.

(522)

G.O.Ms.No.681, G.A. (Ser.C) Dept., dt.11.09.2007 regarding amendment to Rule-9 of A.P.C.S (Conduct) Rules, 1964.

Subject Heading : APCS (Conduct) Rules, 1964 – Amendment to Rule 9 – Orders – Issued.

Read the following :

1. G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.
2. G.O.Ms.No.471, G.A. (Ser.C) Dept., dt.17.09.1994.
3. From the Chairman, Joint Action Committee of Employees, Teachers and Workers, A.P., dt.24.07.2007, together with representation of A.P. Treasury Services Association, Hyderabad dt.15.03.2007.

ORDER :

According to Rule 9 (2) of the A.P.C.S (Conduct) Rules, 1964, a Government employee who enters into any transaction concerning any movable property exceeding Rupees Twenty thousand in value, whether by way of purchase, sale or otherwise, shall forthwith report such transaction to Government or obtain prior permission. According to Rule 9 (7) of the said rules, every Government employee, other than a member of the A.P. Last Grade Service and a Record Assistant in the A.P.General Sub-ordinate Service, shall on first appointment to the Government service, submit to the Government a statement of all immovable property / properties irrespective of its value and movable property / properties whose value exceeds Rs.20,000/- owned, acquired, or inherited by him or held by him on lease or mortgage either in his own name or in the name of any member of his family, in the forms prescribed in Annexure-I and II separately. He shall also submit to Government before 15th January of each year, through the proper channel, a declaration in the forms given in the Annexure-I and II of all immovable / movable property / properties owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family.

2. Government after careful examination and also keeping in view steep rise in prices etc., have decided to enhance the present limit of Rs.20,000/-

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(Rupees Twenty Thousand) to Rs.50,000/- (Rupees Fifty thousand) and to amend the Rule 9 (2) and (7) of A.P. Civil Services (Conduct) Rules, 1964 suitably.

3. The following notification shall be published in Andhra Pradesh Gazette:-

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services-C) Department, dated the 17th April, 1964 as subsequently amended.

AMENDMENTS

In the Rule 9 of the said rules :

- (1) in sub-rule (2), for the words "rupees twenty thousand", the words, "rupees fifty thousand", shall be substituted.
- (2) In sub-rule (7)
 - (a) For the "expression Rs.20,000/- the words, "rupees fifty thousand" shall be substituted;
 - (b) In Annexure-II for the expression "Movables (whose value exceeds Rs.20,000/-)" the expression "Movables whose value exceeds rupees fifty thousand", shall be substituted.

(523)

Circular Memo.No.1271/Ser.C/2008, G.A. (Ser.C) Dept., dt.21.01.2008 regarding instructions on expeditious disposal of inquiry.

Subject Heading : Public Services – Instructions of Central Vigilance Commission, Government of India – Expeditious disposal of inquiry of disciplinary cases involving public servants due to retire shortly - Regarding.

Ref: 1. Cir.Memo.No.35676/Ser.C/1998, G.A. (Ser.C) Dept., dt.01.07.1998.

2. Memo.No.23537/Ser.C/1999-5, G.A. (Ser.C) Dept., dt.28.07.1999.
3. U.O.Note No.19952/Ser.C/2000, G.A. (Ser.C) Dept., dt.27.04.2000.
4. Memo.No.51883/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.19.12.2002.
5. Cir.Memo.No.36500/Ser.C/2005, G.A. (Ser.C) Dept.,dt.19.04.2006.
6. From the Central Vigilance Commission, Govt. of India, Office Order No.34/9/07, dt.27.09.2007.

In the reference 1st cited, instructions were issued that in all disciplinary cases the inquiry should be completed within three months in simple cases and five to six months in complicated cases. Further, it has been requested therein that the Secretaries to Government should review the progress of the inquiries of all disciplinary cases and submit a note on the cases pending beyond the stipulated time to Chief Secretary to Government and also to the Chief Minister, in order to ensure timely action in all disciplinary cases and to adhere to the time limit prescribed.

2. In the references 2nd and 3rd cited, a time schedule was prescribed to expedite Departmental Inquiries. In the reference 4th cited, the said instructions were reiterated for strict compliance. In the reference 5th cited, it has been ordered that the Inquiry Officers are liable for disciplinary action for their failure to complete the inquiry within the stipulated period and the Inquiry Officers should invariably take permission from the concerned disciplinary authorities by duly submitting detailed reasons for continuing the departmental inquiry beyond the stipulated period.

3. The Central Vigilance Commission, Government of India, in the reference 6th cited (copy enclosed) have stated that detailed instructions issued on the pre-requisites for seeking first / second stage advice of the Commission, include bio-data of Suspended Public Servant / Charged Officer, which inter-alia contains the date of superannuation and serves as a guide for the Chief Vigilance Officer / Disciplinary Authority so as to enable him to handle the case at a pace that should complete the action well in time. But, the CVOs/DAs often tend to lose sight of the superannuation dates, thereby creating situations which serve to the advantage of the SPS/COs and this becomes infructuous in organizations where the Conduct Rules do not provide for continuance of disciplinary action after retirement. The Central Vigilance Commission emphasized once again that all Vigilance / Administrative functionaries in an organization must invariably keep in mind the date of superannuation of the SPS / CO while handling disciplinary cases and anyone found to have consciously ignored the fact should

be held accountable for the delay that may lead to the eventual dropping of the proceedings.

4. In view of the above, the instructions issued in the references 1st to 5th cited are hereby reiterated. Government further direct that all Chief Vigilance Officers / Disciplinary Authorities must invariably keep in mind the date of superannuation of the SPS/CO while handling disciplinary cases and complete the disciplinary action well in time and anyone found to have consciously ignored this fact should, be held accountable for the delay that may lead to the eventual dropping of the proceedings.

5. All the Departments of Secretariat, Heads of Departments, District Collectors shall follow the above orders / instructions scrupulously and bring it to the notice of all concerned.

(524)

G.O.Ms.No.526, G.A. (Ser.C) Dept., dt.19.08.2008 regarding instructions on review of suspensions of Government Servants.

Subject Heading : Public Services – Disciplinary cases – Review of orders of suspension of Government Servants – Existing orders reiterated – Further instructions – Issued.

Read the following :

1. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt.08.03.1994.
2. G.O.Ms.No.578, G.A. (Ser.C) Dept., dt.31.12.1999.

O R D E R :

In the G.Os. read above, comprehensive instructions were issued on review of orders of suspension of Government employees at an interval of every six months and also to undertake specific review by the Secretary to Government of the department at Government level, when the employees are continued under suspension beyond two years, so as to consider such employees for reinstatement pending finalization of the disciplinary cases against them. It is brought to the notice of the Government by the employees associations that the above orders in-force are not properly implemented and in several cases, the employees are under suspension beyond two years and also the disciplinary cases are not concluded for several years.

2. After careful consideration, Government direct that, all concerned authorities to strictly implement the policy decision enunciated in the G.Os. read above. It is the responsibility of the competent authority to review each and every case of suspension as per the orders in-force and consider the reinstatement of the employees. The objective is to complete the disciplinary cases against the employees as expeditiously as possible and to punish the guilty. This is the specific policy of the Government for efficient and smooth functioning of the administration.

3. Accordingly, Government, hereby, direct that the employees who are under suspension for a period exceeding two years shall be reinstated pending finalization of the disciplinary cases / criminal cases against them. However, in exceptional cases, for example, where the charged officers are not co-operating for completion of investigation / inquiry or when the inquiry / investigation could not be completed due to pendency of litigation, a Committee headed by the Secretary of the Administrative Department, Head of the Department concerned and an Official from the Anti Corruption Bureau (where the cases are emanated from Anti Corruption Bureau investigation), shall review the orders of suspension against the employees who are continued under suspension well before completion of two years of suspension and take a decision to continue such employees under suspension beyond two years, duly recording the reasons for such a decision.

4. All the Departments of Secretariat, Heads of Departments and District Collectors should follow the above instructions scrupulously and bring it to the notice of all the concerned for strict implementation of the above orders.

(525)

G.O.Ms.No.528, G.A. (Ser.C) Dept., dt.19.08.2008 regarding amendment to Rule 9 of A.P.C.S. (Conduct) Rules, 1964.

Subject Heading : APCS (Conduct) Rules, 1964 – Amendment to Rule 9 – Orders – Issued.

Read the following :

1. G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.

2. G.O.Ms.No.471, G.A. (Ser.C) Dept., dt.17.09.1994.
3. G.O.Ms.No.681, G.A. (Ser.C) Dept., dt.11.09.2007.

ORDER :

According to Rule 9 (2) of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, a Government employee who enters into any transaction concerning any movable property exceeding Rupees Fifty Thousand in value, whether by way of purchase, sale or otherwise, shall forthwith report such transaction to Government or obtain prior permission. According to Rule 9 (7) of the said Rules, every Government employee, other than a member of the Andhra Pradesh Last Grade Service and a Record Assistant in the Andhra Pradesh General Sub-ordinate Service, shall on first appointment to the Government service, submit to Government a statement of all immovable property / properties irrespective of its value and movable property / properties whose value exceeds Rs.50,000/- owned, acquired, or inherited by him or held by him on lease or mortgage either in his own name or in the name of any member of his family, in the forms prescribed in Annexure-I and II separately. He shall also submit to Government before 15th January of each year, through the proper channel, a declaration in the forms given in the Annexure-I and II of all immovable / movable property / properties owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family.

2. Government after examination have decided to enhance the present limit of Rs.50,000/- (Rupees Fifty Thousand Only) to Rs.1,00,000/- (Rupees One Lakh Only) and to amend the Rule 9 (2) and (7) of A.P. Civil Services (Conduct) Rules, 1964 suitably.

3. The following notification shall be published in Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services-C) Department, dated the 17th April, 1964 as subsequently amended.

AMENDMENTS

In Rule 9 of the said rules :

- (1) In sub-rule (2), for the words "rupees fifty thousand", the words, "rupees one lakh", shall be substituted.
- (2) In sub-rule (7)
 - (a) for the words and figures "Rs.50,000/-", the words "Rupees One Lakh" shall be substituted.
 - (b) In Annexure-II, for the words in brackets and figure "Movables whose value exceeds Rs.50,000/-)", the words and figures "Movables whose value exceeds Rs.1,00,000/-" shall be substituted.

(526)

G.O.Ms.No.529, G.A. (Ser.C) Dept., dt.19.08.2008 regarding orders on promotion of the employees to the next higher category, wherever the charges are held not proved by the Criminal Court.

Subject Heading : Public Services – Promotion of the employees to the next higher category – Further orders - Issued.

Read the following :

1. G.O.Ms.No.424, G.A. (Ser.C) Dept., dt.25.05.1976.
2. G.O.Ms.No.104, G.A. (Ser.C) Dept., dt.16.02.1990.
3. G.O.Ms.No.66, G.A. (Ser.C) Dept., dt.30.01.1991.
4. G.O.Ms.No.203, G.A. (Ser.C) Dept., dt.05.05.1999.
5. G.O.Ms.No.257, G.A. (Ser.C) Dept., dt.10.06.1999.
6. Cir. Memo.No.15813/Ser.C/2007, G.A. (Ser.C) Dept., dt.11.09.2007.

ORDER :

In the GO's read above, orders were issued on the procedure to be followed to consider promotions, when the employees are facing the disciplinary cases. It was ordered that where disciplinary cases are not concluded even after two years and the promotion to the employees is deferred due to pendency of the disciplinary cases, adhoc promotions shall be considered pending finalization of the disciplinary cases. In-spite of these specific orders, the Employees Associations have brought to the notice of the Government that due to pendency of the disciplinary cases for years together, the employees are denied even the adhoc promotion for next higher categories. It is also brought to the notice of the Government that in criminal cases registered against the employees, such employees are not considered for promotion even though they are acquitted, due to appeal filed in the Higher Courts.

2. After careful consideration, Government direct to consider the cases of employees for promotion to the next higher categories wherever the charges are held not proved by the Criminal Court and acquitted them, even though an appeal is preferred before the higher court against such acquittal.

3. All the Departments of Secretariat, Heads of Departments and District Collectors should follow the above instructions scrupulously and bring it to the notice of all the concerned for strict implementation.

(527)

Memo.No.623/Spl.C/A1/2008-1, G.A. (Spl.C) Dept., dt.15.10.2008 regarding instructions on submission of reports in A.C.B / Vigilance Cases and action taken reports thereon.

Subject Heading : Public Servants – Anti Corruption Bureau / Vigilance Cases – Investigation – Submission of reports – Action on the Reports – Certain instructions - Issued.

Ref : G.O.Ms.No.415, G.A. (Cabinet) Dept., dt.05.09.2005.

In the G.O. cited, Government have constituted a Committee of Group of Ministers to examine the issues raised by the Confederation of Revenue Earning Departmental Associations, A.P., Hyderabad relating to Anti Corruption Bureau Cases and other disciplinary matters with the following Ministers:-

1. Minister (Finance)	...	Chairman
2. Minister (CT&Excise)	...	Member
3. Minister (Agriculture)	...	Member

2. After detailed deliberations with the representatives of the Associations, and the concerned Heads of Departments / Departments on the issues raised by the representatives of the Confederations, the Group of Ministers have submitted a report containing recommendations on the issues for consideration of the Government. The Government, after careful examination, have accepted the recommendations of the Group of Ministers. The following instructions are issued in respect of certain recommendations relating to ACB / Vigilance Cases:-

- (i) Investigation in respect of the registered cases shall be completed within six (6) months ;
- (ii) After receipt of the final report of the Investigating Agency, the Department concerned shall examine further within one month and take a decision as to entrust the case;
 - 1. either for prosecution; or
 - 2. for departmental action; or
 - 3. for placing the accused officer on his defence before the Tribunal for Disciplinary Proceedings; or
 - 4. for closure of the case and seek the advice of A.P. Vigilance Commission.
- (iii) While assessing the value of the properties in all cases, the Investigating Agency shall follow a scientific and systematic approach. Assessment of the value of movable and immovable properties may be done taking the following into consideration:
 - 1. The value of the properties on the date of the acquisition.
 - 2. The details filed with taxation authorities and in the property returns shall be given due weightage while calculating the disproportionate assets.
 - 3. The properties of kith and kin of the Accused Officer should not automatically be added to the properties. Proper analysis of

the sources of such assets of kith and kin and friends should be undertaken before arriving at a decision to include the same in the properties of the Accused Officer.

- (iv) The instructions issued in Memo.No.944/Spl.B/99-5, G.A.D., dt.01.04.2002 permitting the Vigilance Commissioner to deal directly with the Heads of Departments / District Collectors / Heads of District officers known as the appointing / appellate authorities in handling of vigilance and disciplinary cases, which were kept in abeyance in Memo.No.216/Spl.B/2002-1, G.A.D., dt.06.05.2002 shall be continued.
- (v) Investigating Agencies shall act in a fair, unbiased and objective manner in the course of searches, raids, surprise checks, assessment of properties, valuing of movable and immovable properties and arrests etc.
- (vi) The Investigating Agencies shall have a balanced and judicious approach, when a trap is attempted / disproportionate assets booked or a surprise check made.
- (vii) A periodical review at the level of Chief Secretary to Government shall be undertaken on the work of Investigating Agencies with particular reference to time taken at various stages to ensure that timely justice is rendered in all cases.

(528)

Memo.No.623/Spl.C/2008-2, G.A. (Spl.C) Dept., dt.15.10.2008 regarding enhancement of existing margin from 10% to 20% in D.A. Cases.

Subject Heading : Public Servants – Anti Corruption Bureau Cases – Enhancement of existing margin in evaluating disproportionate assets from 10% to 20% - Modified – Orders - Issued.

- Ref : 1. Memo.No.368/Spl.B/2002-1, G.A. (Spl.B) Dept., dt.28.02.2003.
2. Representation of Revenue Earning Departmental Associations Confederation of A.P., Hyderabad, dated nil.
3. G.O.Ms.No.415, G.A. (Cabinet) Dept., dt.05.09.2005.

In the G.O. 3rd cited, Government have constituted a Committee of Group of Ministers to examine the issues raised by the Confederation of Revenue Earning Departmental Associations, A.P., Hyderabad relating to Anti Corruption Bureau Cases and other disciplinary matters with the following Ministers:-

- | | | |
|---------------------------|-----|----------|
| 1. Minister (Finance) | ... | Chairman |
| 2. Minister (CT&Excise) | ... | Member |
| 3. Minister (Agriculture) | ... | Member |

2. After detailed deliberations with the representatives of the Associations, the concerned Heads of Departments / Departments on the issues raised by the representatives of the Confederation, the Group of Ministers have submitted a report containing recommendations on the issues for consideration of the Government. The Government, after careful examination, have accepted the recommendation of the Group of Ministers, that while evaluating the disproportionate assets, the existing margin of 10% may be enhanced to 20%.

3. Accordingly, in modification of the orders issued in the Memo. 1st cited, the existing margin of 10% (ten percent) of the total income of the Accused Government Servant now being allowed, while computing the disproportionate assets be enhanced to 20% (twenty percent).

(529)

Memo.No.623/Spl.C/2008-3, G.A. (Spl.C) Dept., dt.15.10.2008 regarding instructions on attachment of properties in D.A. Cases.

Subject Heading : Attachment of Properties in cases of disproportionate assets – Instructions Modified – Orders - Issued.

- Ref: 1. Memo.No.554/Ser.C/1993-6, G.A. (Ser.C) Dept., dt.26.12.1994.
2. Memo.No.596/Spl.B./2000-6, G.A. (Spl.B) Dept., dt.10.06.2002.
3. Representation of Revenue Earning Departmental Associations Confederation of A.P., Hyderabad, dt. nil.
4. G.O.Ms.No.415, G.A. (Cabinet) Dept., dt.05.09.2005.

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In the G.O. 4th cited, Government have constituted a Committee of Group of Ministers to examine the issues raised by the Confederation of Revenue Earning Departmental Associations, A.P., Hyderabad relating to Anti Corruption Bureau Cases and other disciplinary matters with the following Ministers:-

- | | |
|-------------------------------|----------|
| 1. Minister (Finance) ... | Chairman |
| 2. Minister (CT&Excise) ... | Member |
| 3. Minister (Agriculture) ... | Member |

2. After detailed deliberations with the representatives of the Associations, the concerned Heads of Departments / Departments on the issues raised by the representatives of the Confederation, the Group of Ministers have submitted a report containing recommendations on the issues for consideration of the Government. The Government, after careful examination, have accepted the recommendation of the Group of Ministers relating to procedure to be followed in cases of trap, disproportionate assets cases etc.

3. Accordingly, in partial modification of the instructions issued in the Memo. 2nd cited, Government hereby order that attachment of the properties shall be resorted to after obtaining the detailed final report, duly taking necessary safeguards to prevent transfer of properties of Accused Officer by issuing instructions to the Registration and Revenue Departments.

4. However, in all the cases of disproportionate assets cases, indirect trap cases and surprise checks, the procedures already prescribed in the Memo. 1st cited shall be followed scrupulously.

(530)

Memo.No.623/Spl.C/A1/2008-4, G.A. (Spl.C) Dept., dt.15.10.2008 regarding instructions on arrests of Accused Officers in trap / disproportionate assets cases.

Subject Heading : Anti Corruption Bureau – Investigation of offences under Prevention of Corruption Act, 1988 – Making arrests of Accused Officers in trap / disproportionate assets cases etc. – Instructions - Issued.

- Ref : 1. Representation of Revenue Earning Departmental Associations
Confederation of A.P., Hyderabad, dated nil.
2. G.O.Ms.No.415, G.A. (Cabinet) Dept., dt.05.09.2005.

In the G.O. 2nd cited, Government have constituted a Committee of Group of Ministers to examine the issues raised by the Confederation of Revenue Earning Departmental Associations, A.P., Hyderabad relating to Anti Corruption Bureau Cases and other disciplinary matters with the following Ministers:-

- | | | |
|---------------------------|-----|----------|
| 1. Minister (Finance) | ... | Chairman |
| 2. Minister (CT&Excise) | ... | Member |
| 3. Minister (Agriculture) | ... | Member |

2. After detailed deliberations with the representatives of the Associations, the concerned Heads of Departments / Departments on the issues raised by the representatives of the Confederations, the Group of Ministers have submitted a report containing recommendations on the issues for consideration of the Government. The Government, after careful examination of the recommendation pertaining to arrests of Accused Officers in trap / disproportionate assets cases etc., hereby issue the following instructions:-

As per para 169 under Chapter 10 of ACB Manual, Public Servants should be placed under arrest only when it becomes necessary to do so in the interest of investigation or to satisfy the requirements of law or to prevent the accused from absconding or after a decision has been taken to launch a prosecution and necessary sanction for it has been obtained. Investigating Officers should, where-ever possible, obtain the concurrence of the Director General, Anti Corruption Bureau before making such arrest. The Investigating Officers should use utmost care and discretion in deciding to make such arrest so that undue publicity and embarrassment are avoided.

3. Arrest of Government Servants shall be restricted only to successful trap cases. In other matters like indirect trap, disproportionate assets cases, arrest of Government Servants shall not be resorted to as a matter of routine.

4. The Director General, Anti Corruption Bureau shall follow the instructions scrupulously.

(531)

G.O.Ms.No.635, G.A. (Spl.C) Dept., dt.15.10.2008 regarding withdrawing notification of authorisation to I.Os. to make arrest without a warrant.

Subject Heading : Anti Corruption Bureau – Investigation of offences under the provisions of the Prevention of Corruption Act, 1988 –

CIRCULAR NO. (532)

Authorization to Inspectors of Police of Anti Corruption Bureau to make arrest without a warrant – Notification withdrawn - Issued.

Read :

G.O.Ms.No.163, G.A. (Spl.C) Dept., dt.28.05.2003.

ORDER :

The following Notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the Section 21 of the General Clauses Act, 1897 (Act 10 of 1897), the Government hereby withdraw the orders issued in G.O.Ms.No.163, General Administration (Spl.C) Department, dated the 28th May, 2003.

(532)

G.O.Ms.No.679, G.A. (Ser.C) Dept., dt.01.11.2008 regarding instructions on time schedule for completion of inquiries.

Subject Heading : Public Services – Disciplinary cases – Completion of Inquiries – To adhere to the time schedule – Instructions – Reiterated.

Read the following :

1. Cir.Memo.No.35676/Ser.C/1998, G.A. (Ser.C) Dept., dt.01.07.1998.
2. Memo.No.51883/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.19.04.2002.
3. Cir.Memo.No.36500/Ser.C/2005, G.A. (Ser.C) Dept., dt.19.04.2006.

ORDER :

On allegations made against the Government employees, disciplinary cases are initiated in accordance with the rules in force, and wherever necessary inquiring authorities are appointed to inquire into the articles of charge against such employees. Instructions were issued for expeditious completion of the inquiries and a normal time of 3 months and 6 months is allowed in simple and

complicated cases, respectively. Where the Inquiries are not completed as per the allowed time, the Secretary to Government of the administrative department concerned at Government level shall review the disciplinary cases against employees in respect of Heads of the Departments under his control and also at the field level and shall submit a note to the Chief Secretary to Government, duly recording the reasons for non-completion of the inquiries and to circulate the same to the Hon'ble Chief Minister. It is also the responsibility of the inquiring authority to complete the inquiry within the allowed time, otherwise, such inquiring authority shall be held responsible for the delay, which deserves penal action.

2. Several representations have been received from employees associations that there are abnormal delays in completion of inquiries and this is causing lot of frustration among the employees. Government have viewed the issue and decided to issue further instructions in the matter.

3. Government direct that the disciplinary cases initiated against the Government employees shall be completed as expeditiously as possible and the existing instructions read above shall be adhered to. The Departments of Secretariat shall review the status position of the pending disciplinary cases against all the employees with which they are concerned and submit a note to the Chief Secretary to Government as per the instructions in force. It is also the responsibility of the inquiring authorities to complete the inquiry as per the allowed time. The Competent Authority, after receipt of the inquiry report shall conclude the disciplinary proceedings within 6 months of its initiation and in case of abnormal delay in conducting the disciplinary proceedings, action shall be initiated against concerned inquiring authority.

4. All the Departments of Secretariat, Heads of Departments and District Collectors should follow the above instructions scrupulously and bring it to the notice of all the concerned for strict implementation of the above orders.

(533)

G.O.Ms.No.680, G.A. (Ser.C) Dept., dt.01.11.2008 regarding instructions on initiation of disciplinary action under A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – Disciplinary Cases – Violation of APSCS (Conduct) Rules, 1964 – Initiation of disciplinary action as per APSCS (CC&A) Rules, 1991 – Orders – Issued.

ORDER :

All Government Employees are governed by the provisions of Andhra Pradesh Civil Services (Conduct) Rules, 1964. Any violation of the said rules amounts to mis-conduct and for such mis-conduct disciplinary action shall be initiated as per the procedure laid down in Andhra Pradesh Civil Services (CC&A) Rules, 1991.

2. According to Rule 3 (1) of A.P.C.S (Conduct) Rules 1964, 'every Government employee shall be devoted to his duty and shall maintain absolute integrity, discipline, impartiality and a sense of propriety'.

3. It is noticed that while initiating the disciplinary action against any erring employee, the above rule position is not strictly adhered to. The charges against any erring employee shall be framed by the Competent Authority duly indicating the specific mis-conduct. Such articles of charge should not be vague and general in nature i.e., the words like slack supervision, irregular way of processing the issues etc. The Courts of Law are taking a view that there is no clear application of mind by the Competent Authority while initiating the disciplinary action against erring employee. The Division Bench of the A.P.High Court in K.David Wilson Vs. Secretary to Government, Law Department (2001 (5) ALT 65) held that "the charged official ought to be informed of the charges leveled against him as also the grounds upon which they are based. Charge of mis-conduct should not be vague. The charge-sheet must be specific and must set out all the necessary particulars and details irrespective of the fact whether the delinquent knows it or not, he must be told about the charges and it was not his duty to connect the charge sheet with his alleged understanding or knowledge of the charge. However, it is true that the charge need not be framed with the precision of a charge in criminal proceedings. But, at the same time, it must not be vague or so general as to make it impossible of being traversed. Therefore, the test is whether the charge conveys to the delinquent employee, the exact nature of the alleged mis-conduct in a way that would enable him to meet the charge effectively. It is well established that if a vague charge is given to a delinquent, it is a fatal defect, which vitiates the entire proceedings. It is also relevant to notice that the vagueness in the charge is not excused on the plea that the employee concerned should be deemed to have known the facts correctly. It should not be left to the delinquent official to find out or imagine what the charges against him are and it is for the employer to frame specific charges with full particulars".

4. Thus, there is need to keep in mind the provisions contained in the APSCS (Conduct) Rules 1964, to check the misconduct of the Government employees to ensure that the system of administration functions smoothly.

5. Government direct that wherever connivance, negligence, dereliction of duty of the Government employee is noticed, the Competent Authority shall take prompt action for such mis-conduct in accordance with the procedure laid down in the APCS (CC&A) Rules, 1991.

6. It is the earnest endeavour of the Government to ensure clean and efficient administration at all levels.

7. All Departments of Secretariat, all Heads of Departments and all District Collectors are requested to take prompt necessary action as per the above order.

(534)

Circular Memo.No.40205/Ser.C/2008-1, G.A. (Ser.C) Dept., dt.22.11.2008 regarding instructions on disposal of disciplinary cases, where more than two employees are involved.

Subject Heading : Public Services – Instructions on disposal of disciplinary cases where more than two employees are involved – Comprehensive policy in imposing penalties - Regarding.

Ref: From the Secretary, A.P. Public Service Commission, Hyderabad, Lr.No.728/RT-I/3/06, dt.09.09.2008.

Sub-rule (1) of Rule 24 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991, reads as follows:-

“where two or more Government Servants of the same service or different services are concerned in any case, the Government or any other authority competent to impose the penalty of dismissal from service on all such Government Servants may make an order directing that disciplinary action against all of them may be taken in a common proceedings”.

Provided that if the authorities competent to impose the penalty of dismissal on such Government Servants are different, such authorities

not being the Government, an order for holding such inquiry in a common proceedings may be made by the highest of such authorities with the consent of other authorities competent to impose the said penalty on the others".

2. Even though there are clear instructions, it has been brought to the notice of the Government that in several cases, where a joint inquiry is held, punishment proposals against all the delinquent officers are not being forwarded to the Commission at a time to tender advice / concurrence. They are sent in a piece meal manner.

3. All the Departments of Secretariat are therefore, directed to keep in mind the above rule position while dealing with disciplinary cases where two or more Government Servants are involved and to ensure that the proposals for punishment against all the charged officers involved in the same case be forwarded at a time for Commission's concurrence / advice. Even, if the Charged Officers belong to different Departments, the highest of the Disciplinary Authorities among the Departments may co-ordinate and, with the consent of others, may call for all the records and arrive at a decision on the charges, findings and other material and forward proposals for Comprehensive Examination by the Commission.

(535)

Memo.No.496/Spl.C/A1/2008-7, G.A. (Spl.C) Dept., dt.29.12.2008 regarding appointment of CVOs in Departments of Secretariat.

Subject Heading : Meetings – Meeting of the Committee constituted to examine the contents of Monograph of the former Vigilance Commissioner Sri R.C.Samal, I.A.S., held on 14.07.2008 – Appointment of CVOs in Departments of Secretariat – Instructions - Regarding.

- Ref: 1. Memo.No.533/Spl.C/A1/2003-6, G.A. (Spl.C) Dept., dt.05.11.2003.
2. G.O.Rt.No.6001, G.A. (Spl.C) Dept., dt.22.09.2008.

All the Departments of Secretariat are informed that a Committee has been constituted vide reference 2nd cited, to examine the contents of Monograph of the former Vigilance Commissioner Sri R.C.Samal, I.A.S. (Retd.) and to make its recommendations to the Government for taking necessary action. The

Committee in its meeting held on 14.07.2008 has discussed about the appointment of Chief Vigilance Officers in Departments of Secretariat and decided to post Chief Vigilance Officer in every Department.

2. The Principal Secretaries / Secretaries of all the Departments of Secretariat are, therefore, requested to identify one of the Deputy Secretaries / Joint Secretaries / Additional Secretaries working in their Departments to appoint him / her as an exclusive Chief Vigilance Officer in consultation with the Vigilance Commissioner, if it is not already done. The Chief Vigilance Officer may be appointed exclusively for vigilance matters and no other subject be entrusted to him.

(536)

Circular Memo.No.5074/Ser.C/A1/2009-1, G.A. (Ser.C) Dept., dt.09.02.2009 regarding clarification on currency of the penalties imposed under Rule-9 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – Disciplinary cases against Government Employees – Penalties imposed as per Rule 9 of the A.P.C.S. (CC&A) Rules, 1991 – Currency of the penalty – Promotion of the employees to next higher categories against whom the penalties are imposed – Clarification – Issued.

- Ref : 1. G.O.Ms.No.342, G.A. (Ser.C) Dept., dt.04.08.1997.
2. Cir.Memo.No.34633/Ser.C/1999, G.A. (Ser.C) Dept., dt.04.11.1999.

Rule 9 of the A.P.C.S (CC&A) Rules, 1991 deals with “Penalties” and its classification as minor and major penalties.

2. In G.O. 1st cited, comprehensive instructions were issued on the effect of disciplinary penalties for consideration of promotion of Government employees to next higher categories.

3. In Circular Memo. 2nd cited, a clarification was issued that the employees whose increments were withheld shall not be recommended for promotion during the currency of penalty period from the date of issue of orders imposing the penalty.

4. However, where the penalty of stoppage of increments with cumulative effect is imposed, it shall debar an employee for consideration for promotion to

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the next higher category for twice the period for which the increments are stopped. But, in no case it shall be less than one year.

5. Accordingly, it is further clarified that where the penalty of stoppage of increments with cumulative effect is imposed under Rule 9 of the APCS (CC&A) Rules, 1991, an employee shall not be considered for promotion to the next higher category for twice the number of years for which the increment(s) is / are stopped subject to a minimum period of one year with effect from the date of issue of order imposing the penalty as ordered in the G.O. 1st cited.

6. All Departments of Secretariat / Heads of Departments / District Collectors shall follow the above instructions scrupulously and bring it to the notice of all concerned.

(537)

G.O.Ms.No.71, G.A. (Ser.C) Dept., dt.17.02.2009 regarding inclusion of A.P. State Audit Service Rules, 2006 and A.P. State Audit Sub-ordinate Service Rules, 2006 in Schedule-I & II of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services - A.P.C.S (CC&A) Rules, 1991 – Inclusion of A.P.State Audit Service Rules, 2006 in Schedule-I under Rule 6 and A.P.State Audit Sub-ordinate Service Rules, 2006 in Schedule-II under Rule-7 – Amendments – Orders - Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.212, Finance (FW.Admn-II) Dept., dt.18.07.2006.
3. G.O.Ms.No.213, Finance (FW.Admn-II) Dept., dt.18.07.2006.

ORDER :

The following Notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in

G.O.Ms.No:487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENTS

In the said rules :

- (i) In Schedule I, after entry 57, the following shall be added, namely, -
“58 – The Andhra Pradesh State Audit Service”.
- (ii) In Schedule II, after entry 54, the following shall be added, namely, -
“55 – The Andhra Pradesh State Audit Sub-ordinate Service”.

(538)

G.O.Ms.No.114, G.A. (Ser.C) Dept., dt.16.03.2009 regarding amendment to A.P.C.S. (Conduct) Rules, 1964 on communication of official communication or information under R.T.I. Act, 2005.

Subject Heading : Public Services – A.P.C.S (Conduct) Rules, 1964 – Recommendation of the Second Administrative Commission – Communication of official documents or information as per the requirements of the R.T.I. Act, 2005 – Amendment – Orders - Issued.

Read :

G.O.Ms.No.468, G.A. (Ser.C) Dept., dt.17.04.1964.

ORDER :

The following Notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Conduct) Rules, 1964 issued in G.O.Ms.No.468, General Administration (Services-C) Department, dated: the 17th April, 1964 as subsequently amended from time to time.

AMENDMENT

In the said rules, for Rule 14, the following shall be substituted, namely :

14. "Communication of Official Information – Every Government Servant shall, in performance of his duties in good faith, communicate to a member of public or any organization full and accurate information which can be disclosed under the Right to Information Act, 2005 (Central Act 22 of 2005).

Explanation: Nothing in this rule shall be construed as permitting communication of classified information in an unauthorised manner or for improper gains to a Government Servant or others".

(539)

U.O.Note No.177/Spl.C/A1/2009, G.A. (Spl.C) Dept., dt.20.05.2009 regarding to follow the A.P.Secretariat Business Rules and Secretariat Instructions, while deviating the advice of Vigilance Commission.

Subject Heading : Establishment – G.A.D. – Reiteration of Instructions to follow the A.P.Secretariat Business Rules 32 (1) (x) and Secretariat Instructions 69 while deviating the advice of the Vigilance Commission.

Ref : Memo.No.3148/SC.48/SC.E/95-1, G.A. (SC.E) Dept., dt.19.12.1995.

All the Departments of Secretariat are informed that instructions were issued in the Memo. cited, to follow the procedure prescribed in Rule 32 (1) (x) of A.P. Government Business Rules and Instruction 69 of A.P. Secretariat Instructions, wherein if it is proposed to reject or to deviate from the advice of the Andhra Pradesh Vigilance Commission, the file shall be circulated through the Chief Secretary to concerned Minister and C.M. It is brought to the notice of the Government that some of the Departments of Secretariat are deviating from the advice of the Vigilance Commission at their level itself in violation of Business Rules and Secretariat Instructions.

2. The Government hereby reiterates the instructions issued in Memo. cited and directing all the Departments of Secretariat to follow the instructions stipulated in Rule 32 (1) (x) of A.P. Government Business Rules and Instruction 69 of A.P. Secretariat Instructions scrupulously, while deviating from the advice of Vigilance Commissioner. Any departure to the above procedure will be viewed seriously.

(540)

G.O.Rt.No.3003, G.A. (Spl.C) Dept., dt.20.06.2009 regarding security cover to “Whistle Blowers” who lodge complaints on State Government Employees.

Subject Heading : Security Cover to “Whistle Blowers” who lodge complaints on State Government Employees before the A.P. Vigilance Commission, Hyderabad – Appointment of Additional Director General of Police, Intelligence Department as Nodal Officer – Orders - Issued.

Read the following :

1. G.O.Ms.No.479, G.A. (Spl.C) Dept., dt.28.10.2005.
2. From the Under Secretary, GOI F.No.VI-23014/135/2004-VS, dt.29.04.2008 and dt.24.04.2009.

ORDER :

The Supreme Court of India while hearing W.P.(C) No.539/2003 a Public Interest Litigation (PIL) had directed the Government of India to take statutory measures for protection of Whistle Blowers. On the above directions, Government of India have issued executive instructions empowering the Central Vigilance Commission (CVC), pending Legislation to provide protection to the Whistle Blowers. In the reference 1st read above, the Government of Andhra Pradesh authorized the Andhra Pradesh Vigilance Commissioner as the designated agency to receive written complaints and issue directions to the concerned Government authorities for providing protection to the complainants and witnesses, if necessary.

2. In the reference 2nd read above, the Government of India has requested the Andhra Pradesh State Government to designate its own Nodal Officer who deals with the aspect of providing security cover to the Whistle Blowers who lodge complaints on the Employees of the State Government, Corporations etc.
3. The Government after careful examination hereby appoint the Additional Director General of Police, Intelligence Department, Andhra Pradesh, Hyderabad as the Nodal Officer and he shall look after the issues regarding providing security cover to the Whistle Blowers who lodge complaints or

disclosure on any allegation of corruption or of misuse of office by any employee of the State Government or of any Corporation established by or under any State Act, Government Companies, Societies or local authorities owned or controlled by the State Government of Andhra Pradesh.

4. The following are the details of Nodal Officer:-

Office Address: Lakdi-ka-pool, Saifabad, Hyderabad-500 004.

Phone Numbers: 040-23233796 and 040-23235132 - Office

040-23231235 – Residence

Number: 040-23243683

E-mail ID: adgintg@appolice.gov.in

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**U.O. Note No.43035/Ser.C/A1/2008-1, G.A. (Ser.C) Department, dt.25.06.2009
regarding instructions on deviation of A.P. Public Service Commission's
advice.**

**Subject Heading : Disciplinary cases – Disciplinary cases referred to the
A.P. Public Service Commission for concurrence – Decisions taken by
Government without waiting for Commission's advice / in-deviation of
Commission's advice – Certain instructions – Request – Regarding.**

Ref: From the Secretary, A.P. Public Service Commission, Lr.No.672/RT-I/3/
2006, dt.06.11.2008.

The Secretary, A.P. Public Service Commission has stated that in some disciplinary cases punishment orders are being issued without regard to the Commission's opinion / advice. He has appended details in certain cases in which orders are issued without waiting for Commission's advice and are in-deviation of Commission's advice.

2. It is mandatory to consult the A.P. Public Service Commission, as per Regulation 17 of the A.P. Public Service Commission Regulations, 1963, where the Government proposed to impose a major penalty against a Government employee in any disciplinary case. The suggestion of the Commission shall be kept in view in taking decision to conclude the disciplinary proceedings against

the employee. If it is proposed to deviate the suggestion of the Commission, procedure prescribed in the Business Rules shall be followed. The very objective of consulting the Commission is, before arriving a decision in any disciplinary case either to punish the employee or otherwise, to ensure a careful examination of the issue that the innocent should not be punished. In this context, the Commission are of the view to keep in view the suggestions of the Commission in the disciplinary cases and not to deviate from the suggestions.

3. All the Departments of Secretariat Departments are therefore requested to take into consideration the suggestion of the Commission while taking a final decision to conclude the disciplinary proceedings.

(542)

U.O. Note No.98/Spl.C/A1/2009-1, G.A. (Spl.C) Dept., dt.22.07.2009 regarding instructions on consultation with A.P.V.C. in respect of Appeal, Revision & Review Petitions.

Subject Heading: Scheme of Vigilance Commission – Consultation of A.P. Vigilance Commission in respect of Appeal, Revision & Review petitions of Government Servants, issued on the final orders in Disciplinary / Criminal Cases – Certain instructions – Regarding.

Ref : U.O.Note No.3362/SC.E.95-1, G.A. (SC.E) Dept., dt.29.01.1996.

All the Departments of Secretariat are informed that instructions were issued in the reference cited to the effect that 'Mercy Petitions' shall first be examined under Rule XV (14) (c) of the Petitions Rules in Appendix-I to Business Rules and Secretariat Instructions and thereafter to seek the advice of the Vigilance Commissioner if considered necessary. In no case, the penalty that became final shall not be set aside without consulting the Vigilance Commissioner.

2. It is brought to the notice of the Government that as the instructions issued in the reference cited are not covering Appeals / Revision / Review petitions etc., in several cases while considering the Appeal Petitions, Revision & Review of disciplinary cases / criminal cases, the Departments are not consulting the V.C, which defeats the very purpose of the Scheme of Vigilance Commission.

3. The Government, therefore, direct that all the Departments of Secretariat shall consult the Vigilance Commission while considering the

Appeals, Revision & Review of final order issued in disciplinary cases / criminal cases, which have been initiated on the basis of enquiry reports of A.C.B.

4. The Departments of Secretariat are requested to follow the above instructions scrupulously.

(543)

Circular Memo. No.794/Spl.C/A1/2008-1, G.A. (Spl.C) Dept., dt.31.07.2009 regarding reiteration of instructions on furnishing a copy of T.D.P. Report to A.C.B.

Subject Heading : Reports – T.D.P. Report – Furnishing a copy of T.D.P. Report to A.C.B. – Reiteration of earlier instructions communicated - Regarding.

- Ref: 1. G.O.Ms.No.677, G.A. (Ser.D) Dept., dt.30.05.1961.
2. Govt.Memo.No.2317/Ser.D/73, G.A.D., dt.25.06.1974.
3. Govt.Memo.No.778/Ser.C/85-1, G.A.D., dt.14.08.1985.
4. G.O.Rt.No.5869, G.A. (Spl.C) Dept., dt.19.12.2003.
5. Circular Memo. No. 285/Spl.C/A1/2006, G.A. (Spl.C) Dept., dt.13.06.2006.

All the Spl. Chief Secretaries / Prl.Secretaries / Secretaries to Government are informed that instructions have been issued from time to time regarding furnishing of a copy of report of Tribunal for Disciplinary Proceedings to the Anti Corruption Bureau along with final orders of Government for information. But, it has been brought to the notice that some Departments are not furnishing copies of the reports of Tribunal for Disciplinary Proceedings to the Bureau. As a result of non receipt of the reports of the T.D.P. by the A.C.B. from the Government, the Bureau is bringing it difficult to review and thereby rectify the lapses and deficiencies might have crept in the investigation of cases.

2. After examining the matter, the instructions issued are reiterated and all Spl. Chief Secretaries / Prl. Secretaries / Secretaries to Government are requested to furnish a copy of the report of Tribunal for Disciplinary Proceedings, soon after their receipt to the Anti Corruption Bureau without any delay for the purpose of scrutiny and to overcome the shortcomings if any, in presenting the case.

(544)

Circular U.O.Note No.27306/Ser-C/A1/2009-1, G.A. (Ser.C) Dept., dt.07.08.2009 regarding instructions on delay in processing the files.

Subject Heading : Public Services – Disciplinary cases against the employees – Delay in processing the files – Instructions - Issued.

Disciplinary action is initiated against the employees for the mis-conduct and on other matters in accordance with the provisions laid down in APCS (CC&A) Rules, 1991 and also as per the provisions contained in Revised Pension Rules in respect of the retired employees. Wherever considered necessary, Criminal action is initiated by filing charge sheets in a Court of Law. Time and again instructions were issued for expeditious completion of the inquiries where departmental action is initiated in order to punish the guilty. The time schedule prescribed is 3 months in simple cases and six months in complicated cases.

2. It is noticed that there is considerable delay in processing the files relating to disciplinary cases at various levels. It is necessary to ensure that prompt action is taken in dealing with the disciplinary cases at all levels of administration. The procedure as prescribed in the rules shall be followed to avoid un-necessary litigation in a Court of Law. In a meeting to review the disciplinary cases pending, it is brought to the notice of the Government that the Officers and also at higher levels, there is a delay in taking decisions.

3. Government direct that the disciplinary cases against the employees shall be dealt on priority basis to avoid delay. The connected file shall not be detained by the Officers concerned for more than three days and wherever the files are circulated to the Hon'ble Ministers, it should be cleared within a week by them.

4. All the Departments of Secretariat are requested to take necessary action accordingly.

(545)

G.O.Ms.No.458, G.A. (Ser.C) Dept., dt.22.09.2009 regarding amendment to Rule-9 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – APCS (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.2, G.A. (Ser.C) Dept., dt.04.01.1999.

O R D E R :

As per the provisos to clause (x) of Rule 9 of the APCS (CC&A) Rules, 1991, in every disciplinary case relating to the acceptance of any gratification from any person other than legal remuneration by a Government employee, the penalty either removal from service or dismissal from service shall be imposed. However, in exceptional cases and for special reasons to be recorded in writing, any other penalty may be imposed.

2. Where as the policy of the Government as per the orders issued in G.O. 2nd read above, is that in all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed.
3. In view of the above, Government have decided to amend the Rule 9 of the APCS (CC&A) Rules, 1991 suitably.
4. Accordingly, the following notification shall be published in the A.P.Gazettee.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No:487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the

Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In Rule 9 of the said rules for the first and second provisos to clause (x), the following shall be substituted, namely,-

“Provided that in all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed”.

(546)

G.O.Ms.No.459, G.A. (Ser.C) Dept., dt.22.09.2009 regarding amendment to Rule-20 of A.P.C.S (CC&A) Rules, 1991.

Subject Heading : Public Services – A.P.C.S (CC&A) Rules, 1991 – Amendment – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.383, G.A. (Ser-C) Dept., dt.19.12.2003.
3. G.O.Ms.No:337, G.A. (Ser-C) Dept., dt.22.07.2006.

ORDER :

The following Notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No:487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary Issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

AMENDMENT

In Rule 20 of the said rules, in sub-rule (3) the word “Cadre” shall be omitted.

(547)

U.O.Note No.503/Spl.C/A1/2009, G.A. (Spl.C) Dept., dt.09.10.2009 regarding instructions on conviction cases.

Subject Heading : Referring of cases where conviction has been ordered by the Courts to the Vigilance Commission – Instructions – Issued - Regarding.

In the Review meeting held on 24.07.2009 by the Chief Secretary to Government with all the Secretaries to Government to review the cases of Officers convicted by the Special Courts for Anti Corruption Bureau, the question of circulating the files to Vigilance Commissioner for advice has been discussed. It was decided that wherever conviction has been ordered by the Special Court for A.C.B., there is no need for referring such files to the Vigilance Commissioner and straight away action can be taken duly following the rules.

2. All the Departments are requested to follow the above instructions scrupulously, while dealing with the cases of Officers convicted by the Special Courts for A.C.B.

(548)

Circular Memo. No.16901/Ser-C/A1/2009-2, G.A. (Ser.C) Dept., dt.12.11.2009 regarding check list to furnish information to the A.P.P.S.C. for concurrence on the proposed penalty.

Subject Heading : Public Services – Disciplinary cases – Concurrence of the A.P.P.S.C. on the proposed major penalty against the delinquent employee – Check List to furnish information to the Commission – Regarding.

Ref : 1. Memo.No.655/Ser.C/90-1, G.A. (Ser.C) Dept., dt.17.08.1990.

2. From the Secretary, A.P. Public Service Commission, Hyderabad, Lr.No.491/RT.I/09, dt.06.05.2009 & dt.08.10.2009.

The Secretary, A.P. Public Service Commission has stated that the departments concerned are not furnishing the required information in disciplinary cases as per the Check List, thereby the concurrence of the Commission could not be given on the proposed penalties. The Secretary, A.P.P.S.C. has requested to issue suitable instructions to all concerned for prompt action to furnish the information as per the Check List in all disciplinary cases to enable the Commission to give concurrence on the proposed major penalty against delinquent employee.

2. According to the Regulation 17 of the A.P. Public Service Commission Regulations, 1963, it is necessary to consult the Commission wherever a major penalty is proposed to be imposed against a delinquent Government employee.

3. In Memo.No.655/Ser.C/90-1, G.A. (Ser.C) Dept., dt.17.08.1990, a Check List was communicated earlier to furnish information to the A.P. Public Service Commission to obtain concurrence of the Commission wherever it is proposed to impose a major penalty against the delinquent employee. This Check List was issued when the A.P.C.S (CC&A) Rules, 1963 (Old Rules) were in force. These rules were re-issued and the new A.P.C.S (CC&A) Rules, 1991 came into force with effect from 01.10.1992. There is change in procedure in respect of conducting inquiries in disciplinary cases, as per new rules.

4. Therefore, a modified Check List in accordance with the provisions contained in the A.P.C.S (CC&A) Rules, 1991 is enclosed herewith to enable the concerned authorities to furnish information to the A.P. Public Service Commission for their concurrence on the major penalty proposed to be imposed against the delinquent Government employee.

5. All the Departments of Secretariat are therefore requested to take necessary action accordingly.

(Note: See Part II for Revised Check List and Annexure (No.34)

(549)

Circular Memo. No.41977/Ser-C/A1/2009, G.A. (Ser.C) Dept., dt.15.02.2010 regarding reiteration of instructions on submission of Annual Property Returns.

Subject Heading : Public Services – A.P.C.S (Conduct) Rules, 1964 – Submission of Annual Property Returns by Government employees promptly – Reiteration of Instructions.

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- Ref : 1. Govt.Memo.No.442/SC.E/1983-1, G.A. (SC.E) Dept., dt.27.12.1983.
2. Cir.Memo.No.76883/Ser.C/98, G.A. (Ser.C) Dept., dt.12.12.1998.
3. Cir.Memo.No.8832/Ser.C/03-1, G.A. (Ser.C) Dept., dt.29.01.2003.
4. Govt.Memo.No.94649/Ser.C/2003, G.A. (Ser.C) Dept., dt.31.07.2003.
5. Cir.Memo.No.695/Ser.C/2006, G.A. (Ser.C) Dept., dt.12.10.2006.
6. Cir.Memo.No.15486/Ser.C/2007, G.A. (Ser.C) Dept., dt.30.07.2007.
7. G.O.Ms.No.528, G.A. (Ser.C) Dept., dt.19.08.2008.

According to sub-rule (7) of Rule 9 of APCS (Conduct) Rules, 1964, every Government employee other than a member of the A.P. Last Grade Service and a Record Assistant in the A.P. General Sub-ordinate Service, invariably has to submit his / her statement of all immovable / movable (value exceeding Rs.1,00,000/-) properties owned, acquired or inherited by him / her, his / her family members in the proforma prescribed in Annexures I and II separately before 15th January of each year.

2. According to sub-rule (8) of Rule 9 of the APCS (Conduct) Rules, 1964, the Government or any authority empowered by them in this behalf may at any time by general or special order, require a Government employee to submit within a specified period, full and complete statement of all immovable properties and movable properties.

3. In the Memo., second cited, instructions were issued directing the Controlling Officers or Chief Vigilance Officers / Vigilance Officers of concerned Departments to scrutinize thoroughly the Annual Property Returns submitted by their subordinates and call for clarifications from the Government Departments in case of doubts and to ensure submission of the returns by all concerned as such scrutiny would help to check the corruption of the Government employees to some extent at the initial stage itself.

4. The existing instructions were reiterated for strict compliance vide references third and fourth cited.

5. In the references fifth and sixth cited, while reiterating the instructions, the Controlling Officers or Chief Vigilance Officers / Vigilance Officers of the concerned Departments were directed to ensure that every Government employee other than a member of the A.P. Last Grade Service and Record Assistant in the Andhra Pradesh General Sub-ordinate Service, invariably submit his / her Annual

Property Statement Returns every year by 15th January as required under sub-rule (7) of Rule 9 of the APCS (Conduct) Rules, 1964. Further, it was impressed on the employees that non-compliance of such instructions will attract disciplinary action. Accordingly, all the Special Chief Secretaries / Principal Secretaries / Secretaries to Government and Heads of Departments etc., were requested to list out the employees who have not furnished their Annual Property Returns in time, within a month after the last date for receiving such returns and proceed against such officers, as per APCS (CC&A) Rules, 1991 for violation of APCS (Conduct) Rules, 1964.

6. In spite of clear instructions, it has come to notice that whenever the authorities requested for Annual Property Returns of certain employees, the Departments concerned are not able to furnish them as the said returns were not received.

7. In view of the above, the instructions issued in the matter are hereby reiterated and all the concerned Authorities are requested to bring the above instructions to the notice of all the employees working under their control and see that every employee adheres to the instructions.

8. All the Departments of Secretariat, all Heads of Departments and all the District Collectors are requested to bring the above instructions to the notice of all the employees working under their control for their strict compliance.

(550)

U.O.Note No.1417/Ser-C/A1/2010, G.A. (Ser.C) Dept., dt.02.04.2010 regarding instructions on procedure to be followed while conducting inquiry.

Subject Heading : Public Services – Disciplinary cases – Procedure to be followed while conducting inquiry – Instructions – Issued – Regarding.

- Ref: 1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003.
3. G.O.Ms.No.337, G.A. (Ser.C) Dept., dt.22.07.2006.
4. Cir.Memo.No.16901/Ser.C/A1/2009-2, dt.12.11.2009.

5. From the Secretary, A.P. Public Service Commission, Hyderabad, Lr.No.1397/RT.I/3/09, dt.07.01.2010.

The Secretary, A.P. Public Service Commission, Hyderabad has informed that the Commission has observed in several cases that the Departments are not adhering to the procedure prescribed in the Rules while conducting inquiries in disciplinary cases and the reports submitted by the Inquiry Officers are in abstract form, which are contrary to the procedure prescribed which may invite litigations and requested to issue necessary instructions.

2. All the Departments of Secretariat are informed that Rule 20 of A.P.C.S (CC&A) Rules, 1991 prescribes the procedure for imposing major penalties. Sub-rule (1) of the said rule provides that "no order imposing any of the penalties specified in clauses (vi) to (x) of Rule 9 shall be made except after inquiry held, as far as may be, in the manner provided in this rule and Rule 21 or in the manner provided by the A.P.C.S (Disciplinary Proceedings Tribunal) Act, 1960 or the A.P. Lokayukta and Upa-Lokayukta Act, 1983, where such inquiry is held under the said Acts". Sub-rule (2) of the said rule provides that "whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of mis-conduct or mis-behaviour against a Government servant, it may itself inquire into, or appoint under this rule, as the case may be, authority to inquire into the truth thereof".

3. As per the above rules, the Disciplinary Authority shall itself inquire into any imputation of mis-conduct or mis-behaviour against Government Servant or appoint an inquiry authority to inquire into the truth thereof, duly following the procedure laid down in Rules 20 and 21 of the A.P.C.S (CC&A) Rules, 1991.

4. As per Regulation 17 (1) (a) of the A.P. Public Service Regulations, 1963, the Commission has to be consulted before imposing a major penalty, by the Government. In Govt. Memo.No.16901/Ser.C/A1/09-2, dt.12.11.2009, a Check List was communicated to enable the concerned authorities to furnish information to the A.P. Public Service Commission for their concurrence on the major penalty proposed to be imposed against the delinquent Government employee.

5. In-spite of the above clear rules / instructions, it is observed that in several cases, the procedure prescribed for conducting departmental inquiry is not followed and the reports submitted by the Inquiry Officers are in abstract form, contrary to the procedure prescribed, which may invite litigations.

6. In view of the above, all the Departments of Secretariat are requested to follow the rules / instructions scrupulously to avoid litigations and bring it to the notice of all the disciplinary authorities / inquiry authorities under their administrative control, for strict compliance.

(551)

U.O.Note No.220/Spl.C/A1/2010-3, G.A. (Spl.C) Dept., dt.11.06.2010 regarding instructions on not to drop action on ACB recommendations in a routine manner.

Subject Heading : Meetings – Review Meeting held by C.M. on 28.04.2010 on functioning of ACB – Certain instructions not to drop action on A.C.B. recommendations in a routine manner and to expedite the departmental inquiries - Regarding.

In the review meeting held by Hon'ble C.M. on the functioning of A.C.B. on 28.04.2010, it was pointed out that in many cases wherein the A.C.B. recommended prosecution, departmental action is being taken by the Departments. Such a deviation from the recommendation of the A.C.B. leads to demoralization of Officers working in the Anti Corruption Bureau and amounts to miscarriage of justice. In the review meeting, it was also pointed out that large number of departmental inquiries are pending for many years.

2. All the Departments of Secretariat are, therefore, requested not to drop further action on A.C.B. recommendations or deviate from the recommendation of the A.C.B. in a routine manner. The Departments are also requested to expedite the departmental inquiries by conducting regular reviews at the level of Principal Secretaries / Secretaries to Government.

(552)

Circular Memo. No.374/Spl.C/A1/2010-1, G.A. (Spl.C) Dept., dt.03.07.2010 regarding instructions on filing of Writ Appeals to vacate the stay orders in suspension cases.

Subject Heading : Public Servants – Accused Officers who were placed under suspension in A.C.B. Cases are approaching the APAT / High Court challenging their suspension orders – APAT / High Court issuing interim orders suspending the suspension orders – Filing of Writ Appeals to vacate the stay orders – Reiteration of earlier instructions - Regarding.

CIRCULAR NO. (552)

- Ref: 1. U.O.Note No.814/SC.D/94-1, G.A. (SC.D) Dept., dt.14.06.1994.
2. U.O.Note No.415/Spl.C/2003-1, G.A. (Spl.C) Dept., dt.04.08.2003.
3. Govt.Memo.No.235/Spl.C/2003-1, G.A. (Spl.C) Dept., dt.04.07.2003.
4. Govt. Memo. No. 793/Spl.C/A1/2004-1, G.A. (Spl.C) Dept., dt.03.01.2005.

All the Departments of Secretariat / Heads of Departments are informed that in its Judgment in the case between the State of Orissa Vs. Sri B.K. Mohanty, the Supreme Court held that “where serious allegations of misconduct are alleged against an employee, the Tribunal would not be justified in interfering with the orders of suspension of the disciplinary authority pending enquiry” and the Departments were requested to bring the decision of the Supreme Court dated 21.02.1994 to the notice of the A.P.A.T. / C.A.T. / High Court whenever orders of suspension passed by the appointing authority based on serious allegations of mis-conduct against an employee are sought to be challenged, in the reference 1st cited.

2. While reiterating the above instructions, the Departments were also requested to file Counters in A.P. Administrative Tribunal and High Court in such cases as and when necessary in the reference 2nd cited.

3. Government authorized the Director General, Anti Corruption Bureau to implead in the cases before the Andhra Pradesh Administrative Tribunal and High Court of Andhra Pradesh and also to go on writ appeal in cases of judgments of the High Court and appeals to High Court in cases of adverse orders of the A.P. Administrative Tribunal, wherever Government interest is affected, pertaining to issues of suspension of accused officers in A.C.B. Cases, in the reference 3rd cited.

4. All the Departments were requested to ensure that the suspension orders be served on the Accused Officers immediately, when the orders are issued and also requested to file a Caveat Petition if necessary, when the suspension / prosecution orders are issued in the reference 4th cited.

5. The matter has again been examined and the instructions issued in the references 1st, 2nd and 4th cited are hereby reiterated, and requested to follow the instructions scrupulously.

6. All the Departments of Secretariat / HoDs are also requested to inform the A.C.B. as and when the Accused Officers file OA / WP in A.P. Administrative Tribunal / High Court respectively, challenging their suspension orders, to enable the Bureau to implead itself in such cases, as authorized by Government in the reference 3rd cited and file ‘vacate stay petition’ wherever necessary in view of the fact that some allegations against the A.C.B. are being made in the OAs / WPs by the Accused Officers. They are also requested to instruct all the HoDs to furnish the list of cases where the APAT / High Court issued interim orders on the suspension of Accused Officers to the Bureau for taking necessary further action i.e., filing Writ Appeals / to get interim orders vacated.

(553)

G.O.Rt.No.4497, G.A. (Spl.C) Dept., dt.08.09.2010 regarding Security Cover to “Whistle Blowers”.

Subject Heading : Security Cover to “Whistle Blowers” who lodge complaints on State Government Employees before the A.P. Vigilance Commission, Hyderabad – Appointment of Inspector General of Police, Intelligence Department as Nodal Officer – Orders – Issued.

Read the following :

1. G.O.Rt.No.3003, G.A. (Spl.C) Dept., dt.20.06.2009.
2. G.O.Rt.No.4991, G.A. (SC.C) Dept., dt.14.10.2009.
3. From Under Secretary to the Government of India, Ministry of Home Affairs (P.P.Division), New Delhi, F.No.VI-23014/135/2004-VS, dt.20.08.2010.

ORDER :

In the reference 1st read above, orders were issued appointing the Additional Director General of Police, Intelligence Department, Andhra Pradesh, Hyderabad as the Nodal Officer to provide security cover to the Whistle Blowers who lodge complaints in respect of Corruption related matters.

2. In the reference 2nd read above, consequent on transfer of the then Additional Director General of Police, Intelligence as Director General, Anti

Corruption Bureau, A.P., Hyderabad orders were issued keeping the Inspector General of Police, Intelligence Department, Hyderabad in overall charge of the Intelligence Department.

3. In the reference 3rd read above, the Government of India has requested the Andhra Pradesh State Government to intimate the latest updated particulars viz., name, designation, address, telephone numbers, mobile numbers etc. of the Nodal Officer who deals with the aspect of providing security cover to the Whistle Blowers who lodge complaints on the Employees of State Government, Corporations etc.

4. The Government after careful examination hereby appoint Sri M.Mahender Reddy, IPS., Inspector General of Police, Intelligence Department, Andhra Pradesh, Hyderabad as the Nodal Officer and he shall look after the issues relating to providing security cover to the Whistle Blowers who lodge complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the State Government or of any Corporation established by or under any State Act, Government Companies, Societies or local authorities owned or controlled by the State Government of Andhra Pradesh.

5. The following are the details of Nodal Officer :

Name & Designation : Sri M. Mahender Reddy, IPS.,
Inspector General of Police, (Intelligence)
Office Address : Lakdi-ka-pool, Saifabad, Hyderabad-500 004.
Telephone : 040-23233796 and 040-23235132- Office
Numbers 040-23417717 – Residence
Cell 9440627229
Fax Number :040-23243683
E-mail ID: ig@int.appolice.gov.in

(554)

**Circular Memo.No.37986/Ser.C/A1/2010-1, G.A. (Ser.C) Dept., dt.18.01.2011
regarding reiteration of certain guidelines to initiate departmental action
where records seized by the Investigating Agency.**

**Subject Heading : Public Servants – Non-initiation of departmental action
against Charged Officer due to non-availability of records – Reiteration
of certain guidelines – Orders – Issued.**

- Ref: 1. Govt.Memo.No.2261/Ser.C/1979-2, G.A. (Ser.C) Dept., dt.23.10.1979.
2. From the Secretary to V.C., A.P.V.C., Lr.No.5552/VC.H1/2010-1, dt.03.11.2010.
3. From the D.G., A.C.B., Hyderabad, Lr.Rc.No.62/RPC(C)/2010, dt. .07.2010.

In the reference first cited, orders were issued to the effect that the Departmental Officers should obtain Photostat copies of documents and handover the original to Police, so that simultaneous action in regard to criminal proceedings and disciplinary action can be taken.

2. In certain cases, it has been observed that the disciplinary authorities used to intimate that they could not initiate departmental action against the charged officer in ACB cases due to the non-availability of original records, which were held up with the ACB as they handed over the same to the Anti-Corruption Bureau without taking Xerox copies which leads to the situation that the Charged Officers escaped without any penalty.

3. The Director General, Anti-Corruption Bureau, Hyderabad in his letter 3rd cited has informed that during the course of trap or house searches, or search of office premises of Accused Officers in pursuance of warrant, when the Investigating Officer seizes the incriminating documents related to the offence, the said documents become court property as they are the basis to prove the case. The Investigating Officer is bound to deposit the seized documents immediately in the concerned Special Court of A.C.B. and get them back with court permission for the purpose of the investigation of the case. As the records seized during the course of trap or house searches or searches of offices become court property, the departmental authorities can obtain photocopies of the records with the permission of the Special Court.

4. In view of the above, the instructions issued in the reference 1st cited, are reiterated that all disciplinary authorities under the administrative control of Secretariat Departments to take Xerox copies of the original records without any delay before they are seized by the Investigating Officer of A.C.B. in all criminal cases, so as to enable them to initiate departmental action simultaneously.

5. All the Departments of Secretariat, Heads of Departments, District Collectors and Regional Officers shall follow the above instructions scrupulously.

(555)

**Circular Memo.No.10245/Ser.C/A1/2010-1, G.A. (Ser.C) Dept., dt.07.02.2011
regarding reiteration of the instructions on time schedule to expedite
the inquiries.**

**Subject Heading : Public Services – Disciplinary cases against
Government Employees – Departmental Inquiries – Time Schedule to
expedite the inquiries – Instructions.**

- Ref: 1. Circular Memo.No.37676/Ser.C/98, G.A. (Ser.C) Dept.,
dt.01.07.1998.
2. Memo.No.23537/Ser.C/99-5, G.A. (Ser.C) Dept., dt.28.07.1999.
3. U.O.Note No.19952/Ser.C/2000, G.A. (Ser.C) Dept., dt.27.04.2000.
4. Memo.No.51883/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.19.12.2002.
5. U.O.Note No.58445/Ser.C/2002-2, G.A. (Ser.C) Dept., dt.24.01.2003.
6. Memo.No.82494/Ser.C/2003, G.A. (Ser.C) Dept., dt.28.07.2003.
7. Circular Memo. No. 36500/Ser.C/2005, G.A. (Ser.C) Dept.,
dt.19.04.2006.
8. Letter No.1481/VC.H1/2010-3, A.P. Vigilance Commission,
dt.23.03.2010.
9. Hon'ble A.P.A.T. Orders, dt.08.07.2010 in O.A.No.6785/2009.

Instructions were issued from time to time to complete Departmental Inquiry in simple cases within a period of three months and in complicated cases within five to six months. A time schedule was also prescribed in the references 2nd, 3rd and 4th cited to expedite the Departmental Inquiries. The time schedule prescribed in U.O.Note No.19952/Ser.C/2000, dated 27.04.2000 read with 51883/Ser.C/2002-2, dt.19.12.2002 is as follows:-

- | | | |
|----|--|--|
| a) | Fixing date of hearing, inspection of listed documents, submission of list of defence documents and nomination of a defence assistant (if not already nominated) : | Within two weeks from the date of appointment of Inquiry Officer |
| b) | Inspection of documents or submission of list of defence witnesses / defence documents or examination of relevancy of documents or witnesses, procuring the additional documents and submission of certificates, confirming inspection of additional documents by accused officer or defence assistant : | 2 weeks |
| c) | Issue of summons to witnesses, fixing the date of regular hearing and arrangements for participation of witnesses in the regular hearing: | 2 weeks |
| d) | Regular hearing on day to day basis : | 2 weeks |
| e) | Submission of written briefs by Presenting Officer and submission of written briefs by Accused Officer / Defence Assistant to Inquiry Officer : | 2 weeks |
| f) | Submission of Inquiry Report by the Inquiry Officer : | 2 weeks |

2. In the reference 4th cited, it was also clarified that the time schedule prescribed to complete the inquiries against the Government employees, as detailed above shall also apply to the departmental proceedings initiated against the retired Government employees.

3. In the reference 7th cited, instructions were issued that the Inquiry Officers are also liable for disciplinary action for their failure to complete the inquiry within stipulated period. In cases where large number of witnesses are to be examined and voluminous material papers are to be verified, the Inquiry Officers shall invariably take prior permission of the concerned disciplinary authorities by submitting detailed reasons for continuing the departmental inquiry beyond the stipulated time.

4. In the reference 9th cited, the A.P.A.T., has requested the Chief Secretary to Government of Andhra Pradesh to take step to see that the above

Government instructions are implemented. In view of the above, the instructions issued in the references cited are hereby reiterated. The Secretaries / Principal Secretaries / Special Chief Secretary to Government shall review the progress of the inquiries in all disciplinary cases periodically and ensure that the instructions are implemented and if necessary initiate disciplinary action in deserving cases for violation of the above instructions. The General Administration (Spl.C) Department shall take action separately to extend the above time schedule and instructions to the members of Inquiry Commission, as directed by the Hon'ble A.P.A.T. in its order 9th cited.

5. All the Departments of Secretariat, Heads of Departments, District Collectors and Regional Officers shall follow the above instructions scrupulously.

(556)

Circular Memo.No.10245/Ser.C/2010-2, G.A. (Ser.C) Dept., dt.07.02.2011 regarding instructions on duties of Presenting Officer.

Subject Heading : Public Services – Disciplinary cases against Government employees – Departmental Inquiries – Duties of Presenting Officer – Instructions - Issued.

- Ref : 1. Memo.No.22/Ser.C/1993-3, G.A. (Ser.C) Dept., dt.01.05.1993.
2. Memo.No.650/Ser.C/1994-3, G.A. (Ser.C) Dept., dt.06.01.1995.
3. Memo.No.23537/Ser.C/1999-5, G.A. (Ser.C) Dept., dt.28.07.1999.
4. U.O.Note No.19952/Ser.C/2000, G.A. (Ser.C) Dept., dt.27.04.2000.
5. From the Vigilance Commissioner, A.P. Vigilance Commission, Lr. No.1481/VC.III/2010-3, dt. 23.03.2010.

In the minutes of the meeting held in the chambers of Vigilance Commissioner with some Principal Secretaries / Secretaries of the Secretariat Departments on 5th March, 2010, it was pointed out that in some cases the Presenting Officer is openly supporting the defence in disciplinary proceedings instead of presenting the case of the Department in support of the articles of charge. It was emphasized that the selection of Presenting Officer is very important and proper instructions be given to him, so that he performs his duties properly.

2. Rule 20 of the A.P.C.S (CC&A) Rules, 1991 provides for the appointment, and lays down the duties and functions of the Presenting Officer. In the references 1st to 4th cited, certain clarifications and instructions were issued for performing the duties of the Presenting Officer. The following further instructions are issued on the appointment and functions of Presenting Officer:

- a) The Disciplinary Authority shall appoint a Government Servant or where he considers it necessary, a legally trained Govt. Servant or a legal practitioner as Presenting Officer, to present the case in support of the articles of charge. The order of appointment of Presenting Officer shall be issued in the Form-V annexed to G.O.Ms.No.82, General Administration (Ser.C) Department, dated 01.03.1996 or in the Form-13 of Part-II of Volume-II of Vigilance Manual. The Presenting Officer should be senior to the Charged Govt. Servant and occupying a higher rank than the Charged Officer. The Disciplinary Authority shall serve copies of the orders appointing the Presenting Officer on the Government Servant and also forward to the Inquiring Authority.
- b) The Presenting Officer should be supplied with the relevant copies of documents and other relevant papers. He may also be given custody of the original documents sought to be produced in support of the charges.
- c) The Presenting Officer should also consult the departmental experts and familiarize himself with the technical aspects of the matter before the inquiry commences as also before the cross examination of the defence witnesses. The departments should extend necessary help and facilities to the Presenting Officer for consulting the departmental experts and obtaining their assistance on technical aspects of the case. The technical experts, however, should not assist the Presenting Officer during actual cross examination.
- d) On issue of notice by the Inquiring Authority to the Presenting Officer to appear before him on a specified date, time and place, he shall appear accordingly.
- e) If the Govt. Servant informs the Inquiring Authority that he wishes to inspect the documents mentioned in the list of documents furnished with the Articles of charge for the purpose of preparing his Defence, the Inquiring Authority may order that he may inspect

documents and the Presenting Officer shall arrange for inspection accordingly.

- f) If, the Government Servant has submitted a written statement of defence, the Presenting Officer shall carefully examine it. If there are any facts which the Government Servant has admitted in his statement of defence without admitting the charges, a list of such facts should be prepared by the Presenting Officer and brought to the notice of the Inquiring Officer at the appropriate stage / proceedings, so that it may not be necessary to lead any evidence to prove the facts with the Government Servant as admitted.
 - g) Where the Inquiring Authority requires the Presenting Officer to produce the evidence to prove the Articles of Charges, he shall produce the same in an orderly manner to sustain the charge.
 - h) If the witnesses are cross-examined by or on behalf of Government Servant, the Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined.
 - i) If the defence is made orally, a copy of the statement of defence and list of defence witnesses may be obtained by the Presenting Officer.
 - j) The Charged Officer cannot be examined or cross examined by the Presenting Officer or the Inquiry Officer to elicit truth in support of the Articles of Charge, when the Charged Officer does not prefer to examine himself or examine any witnesses as clarified in the reference 2nd cited.
 - k) After the completion of the production of evidence, the Presenting Officer may file written briefs before the Inquiry Officer.
 - l) The Presenting Officer shall ensure that the prescribed procedure is followed and raise written objections against any irregularities and acts of prejudice on the part of the Inquiry Officer then and there and report to the Disciplinary Authority promptly, who shall in turn take up the matter with the Government.
3. All the Departments of Secretariat, Head of the Departments, District Collectors and Regional Officers shall ensure the above procedure is followed by the Presenting Officer.

(557)

G.O.Ms.No.93, G.A. (Ser.C) Dept., dt.07.02.2011 regarding amendment to Form-V annexed under A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – A.P.C.S (CC&A) Rules, 1991 – Formats prescribed – Amendment – Orders – Issued.

Read :

G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.1996.

ORDER :

The following amendment is issued to Form-V annexed to G.O.Ms.No.82, General Administration (Ser.C) Department, dt.01.03.1996.

AMENDMENT

In the said form in paragraph No.3, the words 'Shri', and 'name and' shall be omitted.

(558)

Circular Memo.No.785/Spl.C/A1/2010, G.A. (Spl.C) Dept., dt.08.02.2011 - Deviation from the advice of Vigilance Commissioner - Sanction of prosecution in the form of a speaking order - Reiteration of instructions - Reg.

Subject Heading : Deviation from the advice of Vigilance Commissioner – Reasons should be recorded in writing for not granting sanction of prosecution in the form of a speaking order.

- Ref:
1. U.O.Note No.2751/SC.E/1995-1, G.A. (SC.E) Dept., dt.16.09.1995.
 2. Circular Memo.No.609/Spl.B/1999, G.A. (Spl.B) Dept., dt.19.06.2002.
 3. From the D.G., A.C.B., Hyderabad, D.O. Lr.No.153/RPC(C)/2010-2, dt.10.12.2010.

In the reference 2nd cited, while reiterating the instructions issued in the reference 1st cited, it has been instructed that in cases where the competent

authorities propose to deviate from the advice of the Vigilance Commission, they should record reasons for not granting sanction of prosecution in the form of speaking order while communicating the same to the D.G., A.C.B., Hyderabad, A.P. Vigilance Commissioner and to General Administration Department.

2. The Director General, Anti Corruption Bureau, Hyderabad has brought to the notice that a review of the cases, pertaining to Revenue Department where sanction of prosecution orders are not given revealed that in all such cases, the competent authority has not issued speaking orders but just quoted the representation received from the accused officer which is not at all permissible. Exercise of discretion by the Competent Authority to refuse or accord sanction, must be in accordance with law and the Competent Authority should assign reasons as to why it did not consider it necessary to accord sanction of prosecution. The relevant legal position is as follows:-

- 1) The Government Memo. / Order does not disclose that the authority had arrived at the *prima facie* satisfaction that the relevant facts, referred to in the report submitted by the A.C.B. does not constitute an offence under the P.C. Act, 1988. (K.Srinivasulu Vs. the Govt. of A.P. represented by its Prl. Secretary, Home (SC.A) Dept., in W.P.No.14967 of 2009).
- 2) Exercise of discretion by the competent authority, to refuse or accord sanction, must be in accordance with Law. The Competent Authority is required in law to assign reasons why it did not consider it necessary to accord sanction for prosecution. (K.Srinivasulu Vs. the Govt. of A.P. represented by its Prl. Secretary, Home (SC.A) Dept., in W.P.No.14967 of 2009).
- 3) The Government order should clearly mention that sanction for prosecution under the P.C. Act, 1988 is being accorded or refused. Non-explicit order that prosecution under the P.C. Act, 1988 is being refused indicated non-application of mind. (K.Srinivasulu Vs. the Govt. of A.P. represented by its Prl. Secretary, Home (SC.A) Dept., in W.P.No.14967 of 2009).
- 4) Grant of sanction is an administrative function. The question of giving an opportunity of hearing to the accused before granting sanction does not arise. (Deepak Chowdhary (1995) 6 SCC 225 – AIR 1996 SC 186).

3. Government hereby reiterate that whenever the Competent Authority proposes to deviate from the advice of the Vigilance Commissioner, reasons should be recorded in writing for not granting sanction of prosecution in the form of a speaking order. All the Departments of Secretariat and HoDs are requested to follow these instructions scrupulously.

(559)

Memo.No.8/Spl.C/A1/2011, G.A. (Spl.C) Dept., dt.18.02.2011 regarding instructions on furnishing of draft articles of charges etc. through the A.P.V.C.

Subject Heading : Furnishing of draft articles of charge, statement of imputations, list of records and list of statement of witnesses to the competent authorities through the A.P.V.C. – Regarding.

Ref: Govt.Memo.No.490/SC.E/87, G.A. (SC.E) Dept., dt.13.03.1997.

In the Government Memo. cited, among others, instructions have been issued that in cases enquired into by the A.C.B. which require the imposition of a major penalty, the Anti Corruption Bureau, while recommending departmental action by the Commissioner for Departmental Enquiries should enclose Draft Articles of Charges with Statement of Imputations (allegations on which each charge is based), List of Witnesses and Documents along with the final report for consideration by the appropriate disciplinary authority.

2. It has been observed that in certain cases when the department deviated from the recommendations of ACB / Advice of V.C. and decided to initiate departmental action (or) decided to entrust the case to T.D.P. or C.O.I. instead of prosecution, the Director General, Anti Corruption Bureau is furnishing (Part-B report) directly to the department / disciplinary authority without furnishing the draft articles of charge, Statement of imputations etc. through A.P.V.C.

3. The Government have considered the matter carefully and hereby direct the Director General, Anti Corruption Bureau to furnish the Draft Articles of Charge, Statement of Imputations, List of Records and List of Statement of Witnesses of the Records to the competent authorities through the A.P.V.C. in all cases including the cases in which the recommendations of A.C.B. or advice of A.P.V.C. are deviated and enquiry is entrusted to COI/departmental action etc. instead of prosecution, as advised by Vigilance Commissioner, A.P.V.C.

(560)

Circular Memo.No.77/Spl.C/A1/2011, G.A. (Spl.C) Dept., dt.10.03.2011 regarding reiteration of instructions for sanction of prosecution within the stipulated period.

Subject Heading: Reiteration of instructions to issue sanction of prosecution after receipt of the advice of Vigilance Commission on the recommendations of the A.C.B. within the stipulated period of (45) days.

- Ref: 1. U.O.Note No.450/SC.D/1987-1, G.A. (SC.D) Dept., dt.20.07.1987.
2. Memo.No.700/SC.D/1988-4, G.A. (SC.D) Dept., dt.13.02.1989.
3. U.O.Note No.2751/SC.E/95-1, G.A. (SC.E) Dept., dt.16.09.1995.

In the reference 3rd cited, instructions were issued to all the Departments of Secretariat to take prompt action on the recommendations of the Director General of Anti Corruption Bureau and as per the advise of the A.P.V.C. and to ensure that necessary orders on such recommendations are issued within the stipulated period of (45) days.

2.The D.G., A.C.B., Hyderabad has brought to the notice that there has been an inordinate delay for issue of sanction orders by the Departments of Secretariat.

3.Government hereby reiterate that orders on sanction of prosecution after receipt of the advice of Vigilance Commission on the recommendations of the A.C.B. shall be issued within the stipulated time period of (45) days. All the Departments of Secretariat are requested to follow these instructions scrupulously.

(561)

Circular Memo.No.670/Spl.C/A1/2010, G.A. (Spl.C) Dept., dt.16.03.2011 regarding instructions on attachment of properties in disproportionate assets cases.

Subject Heading : Attachment of Properties in cases of Disproportionate Assets – Orders withdrawn – Further instructions - Issued.

- Ref : 1. Memo.No.596/Spl.C/2008-3, G.A. (Spl.C) Dept., dt.10.06.2002.
2. Memo.No.623/Spl.C/2008-3, G.A. (Spl.C) Dept., dt.15.10.2008.
3. From the Advocate General of A.P., Lr.No.1159 of 2010, dt.28.10.2010.

Orders were issued in the reference 1st cited, directing the Director General, Anti Corruption Bureau, Hyderabad to submit along with the preliminary reports in disproportionate assets cases, proposals for attaching property under relevant sections of the Criminal Law (Amendment) Ordinance, 1944 and also to recommend for placing the Accused Officer under suspension.

2. In partial modification to the above instructions, orders were issued in the reference 2nd cited that attachment of properties shall be resorted to, after obtaining the detailed final report duly taking necessary safeguards to prevent transfer of properties of the accused officer, while issuing instructions to the Registration and Revenue Departments.

3. The High Court of A.P. in WA No.630 of 2010 and WP No.10221 of 2010, dt.15.09.2010 held that the "State Government had eclipsed the statutory consecrated discretion of the investigating agencies, in view of the orders of the Government, in Memo. dt.15.10.2008".

4. Further, in WP No.26758 of 2010, the High Court is of the view that no power vests in the authorities to prevent transfer of property by the accused officer by issuing instructions to the Sub-Registrar, Registration and Stamps Department not to allow registration of sale deeds submitted by the accused officer as per the provisions of the Registration Act. The only way Government can prevent transfer of properties by the accused officer is by seeking attachment of properties under Section (3) of the Criminal Law (Amendment) Ordinance, 1944.

5. Government after careful examination of the matter decided to withdraw the orders issued in Memo.No.623/Spl.C/2008-3, G.A. (Spl.C) Dept., dt.15.10.2008 and further direct the Director General, Anti Corruption Bureau to submit proposals in disproportionate assets cases for attachment of money or other property believed to have been acquired by the accused officer under the provisions of the Criminal Law (Amendment) Ordinance, 1944 along with the preliminary report.

(562)

G.O.Ms.No.177, General Admn., (SW.1) Dept., dt.13.04.2011 regarding instructions on action to be taken against the employees, who participate in the agitations programmes.

Subject Heading: Action to be taken on the employees, who participate in the agitation programmes like "Strikes", "Bandhs", "Pen Down", "Chalk Down" and "Tool Down", "Non-Cooperation" etc.

Read :

G.O.Ms.No.220, General Admn. (SW) Dept., dt.03.06.1995.

ORDER :

In the recent experiences, it was noticed that unconventional and innovative agitation programmes like "Pen Down, Chalk Down and Tool Down" and "Non-Cooperation" are being resorted to by the Employees' Organization / Associations in the State for achieving their demands. It was also noticed that most of the employees are signing in the attendance registers and not attending the official work during such agitation programmes. In view of recent experiences and the difficulties faced by the Government as well as public and in the interest of public, a necessity has arisen to issue certain instructions to face such unconventional and innovative agitation programmes in future.

2. The Government vide G.O. read above, already directed that the "No work - No pay" policy shall be strictly adopted henceforth. Further, Government made certain rules by name "Andhra Pradesh Civil Services (Conduct) Rules, 1964", for regulating the conduct of Government Employees. Government also made certain rules by name "Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991", prescribing the procedure to be followed for initiating disciplinary action against the Government Employees for violation of the said Conduct Rules.

3. The Supreme Court in Buckingham Carnatic Company Limited vs. Workers of the Buckingham Carnatic Company Limited (AIR 1953 SC 47) held that cessation of work by large number of workers for few hours as a result of consorted action will amount to strike. The Supreme Court in B.R. Singh vs. Union of India [1989 (4) SCC 710] held that strike in a given situation is only a form of demonstration. There are different modes of demonstrations like go slow, sit in, work to rule, absenteeism etc., and strike is one such mode of demonstration by workers for their rights. The Supreme Court in T.R.Rangarajan vs. Government of Tamilnadu (AIR 2003 SC 3032) held that Government Servant has no right to go on strike neither fundamental nor statutory nor moral. The Apex Court further held that apart from statutory rights, Government Employees cannot claim that they can take the society at ransom by going on strike. Even if there is injustice to some extent, as presumed by such employees in a Democratic Welfare State, they have to resort to the machinery provided under different statutory provision for redressal of their grievances. Strike as a weapon is mostly misused which results in chaos and total maladministration. Strike

affects the society as a whole in society where there is large scale unemployment and number of qualified persons are eagerly waiting for employment. In Government Departments or in Public Sector Undertakings, strike cannot be justified on any equitable grounds. For redressing their grievances instead of going on strike, if employees do some more work honestly, diligently and efficiently, such gesture would not only be appreciated by the authority, but also by people at large.

4. Accordingly, the Government, after careful examination of the matter, hereby order the authorities concerned to take following actions in respect of the unconventional and different types of agitation programmes like "Strikes". "Bandhs", "Pen Down, Chalk Down and Tool Down", "Non-Cooperation" etc., if any take place in future, without waiting for further orders from the Government:-

- i) furnish day-to-day reports on agitation programme to the Government by fax (Fax No.040-23454810) or e-mail to secy_serv_gad@ap.gov.in of the Secretary to Government (Services), General Administration Department;
- ii) monitor the employees, who sign in the attendance register and do not attend the normal work during the agitation period and maintain record of such employees;
- iii) give protection to the employees, who are attending to the duties, without participating in the agitation programme;
- iv) take necessary action to initiate criminal action on the employees / groups, who disturb the employees on duty during the agitation programmes;
- v) initiate suitable disciplinary action against the employees, who participate in activities like playing games, beating drums and other disturbing activities in the premises of the offices during the agitation period, which effect the decency and decorum of the Government;
- vi) adopt the "No work - No pay" policy strictly and treat the period of agitation programme in respect of the employees, who participate in the agitation, as "Not Duty" and no pay and allowances shall be admissible for the period;

- vii) initiate suitable disciplinary action against the employees, who participate in the agitation programme, as per the procedure laid down in Andhra Pradesh Civil Services (CC&A) Rules, 1991, for violation of Andhra Pradesh Civil Services (Conduct) Rules, 1964;
- 5. These orders shall be communicated to all the employees in the State and placed on the notice boards of the offices concerned.
- 6. The Departments of Secretariat / Heads of Departments / District Collectors shall take further necessary action accordingly.

(563)

G.O.Ms.No.76, Finance (Pension.I) Dept., dt.02.05.2011 regarding instructions on payment of the balance of 25% where the pensioner died before the finalization of the enquiry.

Subject Heading : Pensions – Recommendations of PRC 2010 – Payment of the balance of 25% of the full pension to the family pension beneficiary or to the legal heir in cases where the pensioner died before the finalization of the enquiry and the further proceedings have abated – Orders – Issued.

Read the following :

1. G.O.(P).No.88, Finance and Planning Dept., dt.26.03.1980.
2. G.O.Ms.No.438, G.A. (Spl.A) Dept., dt.07.07.2008.
3. G.O.Ms.No.598, G.A. (Spl.A) Dept., dt. 26.11.2009.

ORDER :

In the Government Order 2nd read above, orders were issued constituting Ninth Pay Revision Commission and Government appointed Sri C.S.Rao, IAS., (Retd) as Pay Revision Commissioner. In the Government Order 3rd read above, the terms of reference of the Pay Revision Commissioner were laid down.

2. The Ninth Pay Revision Commission submitted its report to the Government on 05.12.2009 and recommended, inter alia, as follows in respect of pensionary benefits:

to pay the balance of 25% of the full pension to the family pension beneficiary or to the legal heir in cases where the pensioner died before the finalization of the enquiry and the further proceedings have abated.

3. After careful consideration, the Government have decided to accept the above recommendation of the Pay Revision Commission and hereby order that the balance of 25% of the full pension shall be paid to the Family Pension beneficiary or to the legal heir in cases where the pensioner died before the finalization of the enquiry and the further proceedings have abated.

4. The G.O is available on Internet and can be accessed at the address <http://goir.ap.gov.in>

5. Accordingly, the following notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Revised Pension Rules, 1980 issued in G.O.(P).No.88, Finance and Planning Dept., dated the 26th March, 1980.

AMENDMENT

In Rule 9 of the said rules after sub-rule (7), the following shall be added, namely :

“(8) When a Government Servant dies before conclusion of the disciplinary proceedings, the family pension beneficiary or legal heir is entitled to receive the balance of 25% or remaining part of the full pension, as the case may be, and the further proceedings shall abated.”

(564)

Circular Memo.No.27052/Ser.C/A1/2010-5, G.A. (Ser.C) Dept., dt.04.06.2011 regarding reiteration of instructions on final orders in disciplinary proceedings.

Subject Heading : A.P.C.S (CC&A) Rules, 1991 – Final Orders in disciplinary proceedings – Reiteration of Instructions – Regarding.

Ref : Cir.Memo.No.60897/Ser.C/99, G.A. (Ser.C) Dept., dt.12.11.1999.

In the reference cited, instructions were issued that the disciplinary proceedings initiated against a Government employee can be concluded either by award of the penalties mentioned under Rule 9 of the A.P.C.S (CC&A) Rules, 1991, or by dropping further action against him where the delinquent officer is exonerated of the charges. When words like warning, let off, to be more careful in future etc. are used in the final order, it is to be construed that the charges and the guilt of the officer have been proved but a lenient view is taken and no punishment is awarded. Such action is not in accordance with the provision of A.P.C.S (CC&A) Rules, 1991 and it was requested to keep the above in view while issuing final orders.

2. It was observed that in number of disciplinary cases the disciplinary authorities are using the above words in the final orders which were not listed as a penalty in the A.P.C.S (CC&A) Rules, 1991 even though instructions on the above were already issued vide reference cited.

3. The instructions issued in the reference cited are hereby reiterated and the disciplinary authorities are directed to comply with the above instructions strictly while concluding the disciplinary cases.

4. All the Departments of Secretariat, all Heads of Departments and all the District Collectors should follow the above orders / instructions scrupulously and bring it to the notice of all the concerned.

(565)

Circular Memo.No.6346/Ser.C/A1/2011-1, G.A. (Ser.C) Dept., dt.29.06.2011 regarding instructions on dropping further action in A.C.B. Cases, while the case is under investigation.

Subject Heading : Public Services – Certain instructions against dropping further action based on the representation given by the Accused Officer, while the case is under investigation by the A.C.B. under Prevention of Corruption Act, 1988 – Issued – Regarding.

Ref : 1. Memo.No.2261/Ser.C/79-2, G.A.D., dt.23.10.1979.

2. Circular Memo.No.37986/Ser.C/A1/2010-1, G.A.D., dt.18.01.2011.

In the reference 1st cited, instructions were issued to the effect that the Departmental Officers should obtain Photostat copies of the documents and handover the originals to the Police, so that simultaneous action in regard to criminal proceedings and disciplinary action may be taken to avoid delay, manipulations and loss of evidence. In the reference 2nd cited, the said instructions were reiterated for effective implementation of the same. Now, it has been noticed by the Government that wherever Government ordered for departmental inquiry, while the case is under investigation by the Anti Corruption Bureau under Prevention of Corruption Act, 1988, certain departments are dropping further action based on the representation given by the Accused Officer.

2. Therefore, the Government hereby direct all the Departments of Secretariat that no order shall be issued dropping further action based on the representation given by the Accused Officer, while the case is under investigation by the Anti Corruption Bureau under Prevention of Corruption Act, 1988 and they should await the receipt of the final report of the Anti Corruption Bureau along with the advice of the Andhra Pradesh Vigilance Commission.

3. All the Departments of Secretariat shall follow the above instructions scrupulously and see that the same should be followed by the Disciplinary Authorities under their control.

(566)

Memo.No.337/Spl.C/A1/2010, G.A. (Spl.C) Dept., dt.30.08.2011 regarding instructions on filing of Caveat Petitions in the cases of suspensions.

Subject Heading: Public Servants – A.C.B. Cases – Filing of Caveat Petitions in the cases of suspension of accused officers involved in A.C.B. Cases – Orders – Issued.

- Ref: 1. Circular Memo.No.793/Spl.C/A1/2004-1, dt.03.01.2005.
2. From the Govt. Pleader for I&CAD, PR&RD Depts., A.P.A.T., Hyderabad, Lr.APAT/2/2009/MKR, dt.13.11.2008.
3. Circular Memo.No.374/Spl.C/A1/10, dt.03.07.2010.
4. From the Director General, A.C.B., Hyderabad Lr.No.80/RPC(C)/2010, dt.12.07.2010.

In the Circular Memo's 1st and 3rd cited, instructions have been issued to all the Departments of Secretariat to ensure that the suspension orders be served on the Accused Officers immediately and to file a Caveat Petition, if necessary, when the suspension / prosecution orders are issued.

2.The Government Pleader for I&CAD, PR&RD Depts., A.P.A.T., Hyderabad in the reference 2nd cited has opined that the Caveats are filed by the private parties / unofficial respondents, but not by the Government Pleaders in view of the fact that the Government Pleaders will be given notice in advance and filing of Caveat Petitions are not necessary.

3.The Director General, A.C.B., Hyderabad in the reference 4th cited has informed that Caveat is a caution registered in a Public Court (or) Office to indicate to the officials that they are not to act in the matter mentioned in the caveat without first giving notice to the caveator. It ensures the benefit of all parties interested in the subject. As such, there is no bar for the Government Departments to file a caveat.

4.There is no legal bar for filing Caveats by the Government, as in several cases the APAT and High Court of A.P. are granting "Stay orders" on the orders issued by the Government Departments / Disciplinary Authorities, without giving an opportunity to the respondents.

5.The Government, therefore, while reiterating earlier instructions issued in the matter, request all the Departments of Secretariat to file caveats in the Tribunal as well as in the High Court in all cases, where officers are recommended to be placed under suspension for involvement in cases of corruption and to avoid the Accused Officers getting ex parte orders from the APAT / High Court of A.P.

(567)

G.O.Ms.No.580, G.A. (Ser.C) Dept., dt.12.10.2011 regarding instructions on Annual Confidential Report of G.O. / N.G.O.

Subject Heading : Public Services – Personal Files – Annual Confidential Report of Gazetted Officers / Non-Gazetted Officers – Modified format – Orders – Issued.

Read the following :

1. G.O.Ms.No.144, G.A. (Ser.C) Dept., dt.25.04.1998.
2. G.O.Ms.No.145, G.A. (Ser.C) Dept., dt.25.04.1998.
3. G.O.Ms.No.87, G.A. (Ser.C) Dept., dt.24.03.2003.
4. From the D.G., A.C.B., A.P., Hyderabad, Lr.C.No.155/ACB-RPC(C)/2010, dt.06.12.2010.

ORDER :

In the G.Os. 1st and 2nd read above, orders have been issued modifying the format of Annual Confidential Reports of Gazetted / Non-Gazetted Officers. In the G.O. 3rd read above, orders were issued adding a column to the existing modified Annual Confidential Reports to intimate the date of submission of Annual Property Returns statement pertaining to the year after column 15 in Form-A, Part-II as 15 (a) in respect of Non-Gazetted Officers and after column (10) in Form-A, Part-II as 10 (a) in respect of Gazetted Officers.

2. In the letter 4th read above, the Director General, Anti Corruption Bureau has requested to issue an amendment to the existing revised format of Annual Confidential Reports to include the date of submission of Annual Property Returns by the employee and a column for signature of the employee in the bottom of the form for both Non-Gazetted Officers and Gazetted Officers in additional column as Column No.4 in Form-A, Part-I of the Annual Confidential Reports after column No.3.

3. After examining the matter, it is decided to issue the following amendments to the format to the Government Orders 1st and 2nd read above:-

AMENDMENTS

- I. In Annexure to G.O.Ms.No.144, G.A. (Ser.C) Dept., dt.25.04.1998 in Form-A in Part-I after the Sl.No.3, the following shall be added namely,-
“4. Date of submission of Annual Property Returns and Signature of the individual”.
- II. In Annexure to G.O.Ms.No.145, G.A. (Ser.C) Dept., dt.25.04.1998 in Form-A in Part-I after Sl.No.3, the following shall be added namely,-

“4. Date of submission of Annual Property Returns and Signature of the individual”.

4. The amended format of Annual Confidential Reports (Form-A, Part-I) of Gazetted / Non-Gazetted Officers of State Government employees is enclosed to this order and Government direct that the format shall be followed henceforth.

5. The Departments of Secretariat, Heads of Departments and District Collectors shall bring this amendment to the notice of all concerned to follow scrupulously.

ANNEXURE

FORM-A

PART-I

(TO BE FILLED BY THE OFFICER REPORTED UPON)

1. A brief summary of duties and responsibilities (not more than 50 words) :
2. Please specify important items of work in order of priority where in quantitative / physical / financial targets / objectives / goals were set for you or set by yourself for the reporting year and achievements made.

Item of Work	Physical or financial Target / objective / goal	Achievements
1.		
2.		
3.		
4.		
5.		

-
3. (a) In case of a short fall of expected quality /quantity of performance please state the reasons.
 - (b) Please indicate your contribution in case of significantly higher achievement of the target / goal / objective.
 4. Date of submission of Annual Property Returns:

SIGNATURE

(568)

G.O.Ms.No.593, G.A. (Ser.C) Dept., dt.21.10.2011 regarding instructions on promotion of the employees to the next higher category, pending appeal before the higher courts in criminal proceedings.

Subject Heading : Public Services – Employees acquitted by trial courts – Appeal preferred before higher courts – Promotion of the employees to the next higher category – Amendment – Orders - Issued.

Read :

G.O.Ms.No.529, G.A. (Ser.C) Dept., dt.19.08.2008.

ORDER :

In the G.O. read above, orders were issued to consider the cases of employees for promotion to the next higher categories, wherever charges are held not proved by the criminal court and acquitted them, even though an appeal is preferred before the higher court against such acquittal.

2. It has been brought to the notice of the Government that a number of proposals are being placed before Departmental Promotion Committees / Screening Committees to review the cases of the employees for promotion to the next higher categories retrospectively, on par with their juniors, where appeals are pending in higher court against their acquittal by the trial court. It is, therefore, felt necessary to issue a suitable amendment to the G.O. read above.

3. The Government, after careful examination of the matter, hereby makes the following amendment to the orders issued in G.O.Ms.No.529, General Administration (Services-C) Department, dt.19.08.2008:-

AMENDMENT

In the paragraph 2 of the said G.O., the following words shall be added at the end namely:-

"Such promotion shall be purely on temporary basis with prospective effect and subject to the outcome of the appeal pending before higher court. Such consideration shall be in the ensuing Meeting of the Departmental Promotion Committee / Screening Committee only".

(569)

Circular Memo.No.408/Spl.C/A1/2011, G.A. (Spl.C) Dept., dt.16.11.2011 regarding instructions on improving the functioning of the Vigilance Wing.

Subject Heading : Improving the functioning of the Vigilance Wing in the Departments of Secretariat, HODs and Government undertakings / Government Companies etc – Vigilance Cases – Regarding.

- Ref: 1. U.O.Note No.322/SC.D/94-1, G.A. (SC.D) Dept., dt.10.04.1994.
2. U.O.Note No.973/SC.D/94-1, G.A. (SC.D) Dept., dt.30.07.1994.
3. Memo.No.256/Spl.B/2002-1, G.A. (Spl.B) Dept., dt.22.06.2002.
4. G.O.Ms.No.104, G.A. (Spl.B) Dept., dt.04.04.2003.

In the references 1st to 2nd cited, instructions were issued to all the departments to conduct periodical review meetings once in a quarter with the Director General, Anti Corruption Bureau and sort out all the pending A.C.B. Cases and communicate copies of proceedings to the Vigilance Commission / General Administration (SC.D) Department promptly. In the reference 3rd cited, all the departments of Secretariat were requested to furnish the particulars of vigilance cases in the prescribed proformae as quarterly statement for each quarter ending June, September, December and March to Vigilance Commission and to G.A. (SC.D) Dept., by the 10th of the succeeding month after each quarter.

2. As per the Scheme of Vigilance Commission, there should be a Chief Vigilance Officer for each Secretariat Department and Vigilance Officers in all subordinate and attached officers and in all Government undertakings / Government companies and such of the institutions as may be notified by the Government from time to time. Chief Vigilance Officer should not be lower than the rank of Deputy Secretary to Government and the Vigilance Officer shall be selected from among the senior officers of the Department. Chief Vigilance Officer and Vigilance Officers have to be appointed in consultation with the Vigilance Commission. The Chief Vigilance Officer will be responsible for coordinating and guiding the activities of the Vigilance Officers in the attached and subordinate offices and other organizations.

3. Now, it has been brought to the notice of the Government that the Departments are taking much longer time for taking action against the individuals,

who are involved in the disciplinary cases and most of the departments are not adhering to the time limit. It is also observed that in some of the departments, the Chief Vigilance Officers / Vigilance Officers are not appointed consequent on the retirements, transfer and promotion of the existing incumbents.

4. After examining the matter, the Government hereby reiterate the instructions issued in the references cited and accordingly direct that all the Departments of Secretariat shall follow the instructions scrupulously and also to instruct all the Heads of Departments / Corporations / Public Undertakings under their administrative Control to follow instructions issued in this regard and requested to monitor the important work of vigilance by conducting periodical reviews and to take immediate action to appoint Chief Vigilance Officers / Vigilance Officers where Chief Vigilance Officers / Vigilance Officers are not appointed by sending the proposals to appoint Chief Vigilance Officers / Vigilance Officers to the Vigilance Commission, as per the existing instructions.

5. The Chief Vigilance Officers / Vigilance Officers of the Departments concerned are also requested to finalize the disciplinary cases within the time limit prescribed by the Government and update the A.C.B. website and furnish the copies of the orders to the Vigilance Commission for information in the prescribed format, under intimation to this Department as the Vigilance Commissioner will be conducting review meetings shortly.

(570)

G.O.Rt.No.1913. G.A. (Spl.C) Dept., dt.02.05.2012 regarding instructions on Empowering the G.A. (Col) Dept., to conduct inquiries against the employees of A.P.Beverages Corporation Limited.

Subject Heading : Inquiries – Commissioner of Inquiries – Empowering the General Administration (Commissionerate of Inquiries) Department to conduct inquiries against the employees of A.P.Beverages Corporation Limited – Orders – Issued.

Read the following :

1. G.O.Rt.No.3160, G.A. (Special.C) Dept., dt.05.05.2005.
2. From the Principal Secretary to Government (CT & Excise), Revenue Department, U.O.No.3304/Vig.V(I)/2012, dt.17.03.2012.

ORDER :

In the G.O. 1st read above, orders were issued, empowering the General Administration (COI) Department to conduct inquiries against the employees of A.P.TRANSCO and A.P.GENCO, A.P.Housing Board, Municipal Corporations, Municipalities, Panchayat Raj Bodies, A.P.Medical & Health Infrastructure Development Corporation and A.P.Industrial Infrastructure Corporation on the specific recommendation of the Andhra Pradesh Vigilance Commissioner.

2. In the reference 2nd read above, the Principal Secretary to Government (CT & Excise), Revenue Department has sent a proposal to bring the employees of A.P.Beverages Corporation Limited under the purview of General Administration (COI) Department to conduct inquiries against the employees of A.P.Beverages Corporation Limited.

3. Government after careful examination and in continuation of the orders issued in the G.O. 1st read above, hereby empower the General Administration (Commissionerate of Inquiries) Department to conduct inquiries against the employees of Andhra Pradesh Beverages Corporation Limited on the specific recommendation of the Andhra Pradesh Vigilance Commissioner.

4. The Revenue Department are requested to amend the rules / regulations of the Andhra Pradesh Beverages Corporation Limited immediately to enable entrustment of the cases of inquiries against the employees of A.P.B.C. Limited to the General Administration (Commissionerate of Inquiries) Department where the Vigilance Commissioner makes specific recommendations.

(571)

G.O.Rt.No.2285, G.A. (Ser.C) Dept., dt.18.05.2012 regarding instructions on consultation with A.P. Vigilance Commission after review of suspension orders.

Subject Heading : Public Services – Disciplinary Cases – Reinstatement of suspended Government Servants into service after reviewing suspension orders – Consultation with Andhra Pradesh Vigilance Commission – Instructions - Issued.

Read the following :

1. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt. 08.03.1994.
2. G.O.Ms.No.526, G.A. (Ser.C) Dept., dt.19.08.2008.

ORDER :

In the G.Os. read above, it was directed that the employees, who are under suspension for a period exceeding 2 years shall be reinstated, pending finalization of the disciplinary / criminal cases against them. However, in exceptional cases, where the charged officers are not cooperating in completion of investigation / inquiry, a Committee headed by the Secretary of the Administrative Department, Head of the Department concerned and an Official from the ACB (in respect of ACB Cases), shall review the orders of suspension of such employees, well before completion of 2 years of suspension and take a decision to continue such employees under suspension beyond 2 years, duly recording the reasons for such decision.

2. Recently, it has been brought to the notice of the Government that though instructions were issued from time to time on reinstatement of suspended Government Servants, every individual case is being circulated to the Andhra Pradesh Vigilance Commission for advice, which sometimes result in unintended administrative delay. To avoid the same, it is felt necessary to standardize the types of cases, in which reinstatement can be ordered by the departments concerned. Hence, it is decided to issue necessary instructions in the matter.

3. Accordingly, Government hereby issue the following instructions to the Departments of Secretariat:-

- (i) Consultation with the Andhra Pradesh Vigilance commission for advice is not required in respect of the cases, where it is decided to reinstate the employees, who are under suspension for a period not less than 2 years, based on the decision taken in the review as per the orders issued in the G.Os. read above, provided an Official from the ACB invariably attends such review meetings in all ACB Cases;
- (ii) Consultation with the Andhra Pradesh Vigilance Commission for advice is invariably required in respect of the cases, where it is

decided to reinstate the employees, before completion of 2 years of suspension period.

4. All the Departments of Secretariat shall follow the above instructions scrupulously, while dealing with the cases of reinstatement of suspended Government Servants.

(572)

Circular Memo.No.6820/Ser.C/A1/2012-1, G.A. (Ser.C) Dept., dt.07.08.2012 regarding reiteration of the instructions on submission of Annual Property Returns.

Subject Heading : Public Services – A.P. Civil Services (Conduct) Rules, 1964 – Submission of Annual Property Returns by Government Employees – Instructions – Reiterated – Regarding.

- Ref: 1. Govt.Memo.No.442/SC.E/1983-1, G.A.D., dt.27.12.1983.
2. Govt.Memo.No.190/Ser.C/1988-2, G.A.D., dt.06.08.1988.
3. Cir.Memo.No.76883/Ser.C/98, G.A.D., dt.12.12.1998.
4. Cir.Memo.No.8832/Ser.C/03-1, G.A.D., dt.29.01.2003.
5. G.O.Ms.No.87, G.A. (Ser.C) Dept., dt.24.03.2003.
6. Govt.Memo.No.94649/Ser.C/2003, G.A.D., dt.31.07.2003.
7. Cir.Memo.No.695/Ser.C/2006, G.A.D., dt.12.10.2006.
8. Cir.Memo.No.15486/Ser.C/2007, G.A.D., dt.30.07.2007.
9. Cir.Memo.No.41977/Ser.C/A1/2009, G.A.D., dt.15.02.2010.
10. G.O.Ms.No.580, G.A. (Ser.C) Dept., dt.12.10.2011.

According to Rule 9 (7) of the A.P. Civil Services (Conduct) Rules, 1964, every Government employee other than the member of the A.P. Last Grade Service and Record Assistant in the A.P. General Subordinate Service, invariably has to submit to Government a statement of all immovable properties irrespective of its value and movable properties whose value exceeds Rs.1,00,000/-, owned,

acquired or inherited by him / her or held by him / her on lease or mortgage, either in his / her own name or in the name of any member of his / her family, in the proforma prescribed in Annexure-I and II separately, at the time of his / her first appointment to Government service and also before 15th January of every year. If in any year, a Government employee has not acquired or disposed of any immovable or movable property or any interest therein, he has to submit a declaration to that effect. According to Rule 9 (8) of the said rules, the Government or any authority empowered by them in this behalf may, at any time, by general or special order, require a Government employee to submit, within a specified period, a full and complete statement of all immovable properties and movable properties of the specified value, held or acquired by him / her or by any member of his / her family.

2. The authorities mentioned under Rule 9 (10) of the said rules, are declared to be Government for the purpose of receiving, verifying and recording the said statements of the employees under their control. In the reference 2nd cited, it was made obligatory on the part of the competent authorities or any authority nominated by them on their behalf, to issue acknowledgements in the proforma prescribed in Annexure-II thereto, to the Government employees on receipt of property statements.

3. In the reference 3rd cited, instructions were issued to the Controlling Officers or Chief Vigilance Officers / Vigilance Officers of concerned departments to scrutinize thoroughly the property statements received from their subordinates and call for clarifications from the Government Departments in case of doubts and ensure submission of returns by all concerned under their control, as such, scrutiny would help to check corruption of the employees to some extent at the initial stage itself. In the references 4th and 6th cited, the said instructions were reiterated for strict compliance of the same.

4. In the references 7th and 8th cited, while reiterating the above instructions, the Heads of Departments were directed to ensure that the employees under their control submit the annual property statements every year and submit a certificate to that effect to the concerned Administrative Department at Secretariat level. Further, all the Special Chief Secretaries / Principal Secretaries / Secretaries to Government and Heads of Departments etc. were requested to list out the employees, who have not furnished their property statements in time, within a month after the last date for receiving such statements and proceed against such employees as per A.P.C.S. (CC&A) Rules, 1991 for violation of A.P.C.S. (Conduct) Rules, 1964.

5. In the G.Os. 5th and 10th cited, it was made obligatory on the part of the Government employees as well as Competent Authorities to indicate the date of submission of property statements for the respective year in the Annual Confidential Reports of both Gazetted and Non-Gazetted Officers.

6. The instructions / orders issued by the Government in the matter were reiterated from time to time and the same were last reiterated in the reference 9th cited and all the concerned authorities were requested to bring the same to the notice of all the employees working under their control and see that every employee adheres to the same.

7. In spite of the issue of clear instructions / orders and reiteration of the same from time to time, it has come to the notice of the Government that most of the employees are not filing their Annual Property Returns, which is violation of A.P.C.S. (Conduct) Rules, 1964.

8. In view of the aforesaid circumstances, the instructions / orders issued in the matter are hereby reiterated and every Government employee other than a member of the A.P. Last Grade Service and Record Assistant in the A.P. General Subordinate Service, shall strictly adhere to the same. Further, it is impressed on the employees that non-compliance of the said instructions is violation of A.P.C.S (Conduct) Rules, 1964. Any violation of the said rules amounts to misconduct and for such misconduct, disciplinary action will be initiated as per the procedure laid down in A.P.C.S (CC&A) Rules, 1991. If such misconduct is proved, the penalties specified under Rule 9 of the said rules will be imposed, due to which promotion to higher category to a post will be stopped for the specified period. Further, if the employees do not submit their property statements in any year, the same will be indicated in their ACRs by the Reporting Officers, apart from initiation of disciplinary proceedings against them by the disciplinary authorities.

9. All the authorities, which are declared to be Government for this purpose under Rule 9 (10) of the A.P.C.S. (Conduct) Rules, 1964, are directed to bring the above instructions to the notice of all the employees working under their control and ensure that every employee adheres to the said instructions and issue acknowledgements in the prescribed proforma to them on receipt of property statements.

10. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to bring the above instructions to the notice of all the employees working under their control for their strict compliance.

(573)

G.O.Ms.No.307, Finance (FR.II) Dept., dt.03.12.2012 regarding amendment to F.R. 54 (5) and FR 54 (B)(7), F.R. 26 (b)(ii).

Subject Heading : Fundamental Rules – Amendment to F.R. 54 (5) and FR 54-(B) (7), F.R. 26 (b) (ii) for counting EOL for sanction of notional increments and Pension – Orders – Issued.

Read the following :

1. G.O.Ms.No.3, Finance (FR.II) Dept., dt.04.01.2006
2. U.O.No.37392/Vig.I(2)/2009, dt.29.01.2011 from Revenue Dept.

ORDER :

In the G.O. 1st read above, the discretion of the competent authority for counting the not-duty period for a specific purpose was withdrawn when the period of deemed suspension / suspension is regularized as “not duty”. Hence, the Govt. Servant would not be entitled for leave, increments and pension for suspension and dismissal period when it is treated as “not duty”.

2. In the U.O. Note 2nd read above, it has come to the notice of Finance Department that in many cases, the Hon'ble High Court of Andhra Pradesh / A.P.Administrative Tribunal while acquitting the Public Servant in Criminal Appeals from the Criminal Charge ordered to regularize the suspension period and dismissal period as not duty and to count the interregnum periods (suspension / dismissal) for the purpose of pensionary benefits and also to pay interest on certain issues. In such matters when consulted the Law Department, while citing the Apex Court Judgments, advised that the suspension period and the interregnum period between the date of dismissal and reinstatement of a Public servant be counted for purpose of pensionary benefits. But, there is no provision in Fundamental Rules for such payments to the Public Servant for any pay and allowances for the above periods except the subsistence allowance, as per the rules in force now.

3. According to FR. 54 (5), and FR. 54-(B) (7) when period of deemed suspension / suspension is regularized as ‘not duty’ the period of absence from

duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty and the authority competent may convert the above periods into leave of any kind due and admissible to the Govt. Servant, if he so requests.

4. It is observed that in cases where there is long pendency of litigation, there is no benefit due to conversion of leave of any kind due and admissible to the Public Servant, since the Public Servant would not have such long period of leave at his credit. Hence, if such long periods are treated as Extra-ordinary leave, they will not count for increments and affecting pay and allowances culminating in the reduction of pension which will be a double jeopardy on the public servant. The long pendency of the trial in lower court and also in Appellate Court may not be attributable to the public servant. In such cases, there is case for counting the Extra-ordinary Leave granted for regularizing the suspension / dismissal period for the purpose of pensionary benefits and notional increments on the request of the individuals.

5. As there is no provision now in Fundamental Rules for counting the 'not duty' period for purpose of leave, increments and pension, Government after careful examination have decided to amend the clauses under FR. 54 (5) and FR. 54-(B) (7) by adding the words "that the leave granted on EOL under the above clause, after exhaustion of other types of leave like Earned Leave, Half-pay Leave may be counted for purpose of notional increments and pension".

6. Further, a note may be added under FR. 26 (b) (ii) to the above effect.

7. Accordingly, the following notification shall be published in the extraordinary issue of A.P. Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Fundamental Rules as subsequently amended from time to time.

AMENDMENT

In the said rules ;

- (i) under the proviso to sub-rule (5) of FR. 54, the following shall be added as Note "(C)"

“that the extraordinary leave granted after exhaustion of all available leave under the above clause may be counted for the purpose of notional increments and pension”

- (ii) under the proviso to sub-rule (7) of Rule 54-(B), the following shall be added as Note “(C)”

“that the Extraordinary Leave granted after exhaustion of all available leave under the above clause may be counted for the purpose of notional increments and pension”

- (iii) under the proviso to FR. 26 (b) (ii) after the existing Note, the following shall be added as Note-2 ;

“The Extraordinary Leave granted on the request of the individual for regularization of the dismissal/deemed suspension/suspension period, after exhausting all the available leave may also be counted for the purpose of notional increments and pension”

(574)

G.O.Ms.No.26, Finance (Pension.I) Dept., dt.05.02.2013 regarding amendment to A.P. Revised Pension Rules, 1980.

Subject Heading : Pensions – Andhra Pradesh Revised Pension Rules, 1980 - Stoppage of Payment of Provisional Pension to a retired Government Servant immediately following his conviction by a court in corruption and misconduct cases – Amendment – Orders – Issued.

Read :

D.O. Letter No.283/Special.C/A.1/2011-3, dt.21.06.2012 of Sri. Ajay Misra, I.A.S., Principal Secretary to Government (Political).

ORDER :

In the letter read above, while forwarding the Annual Report of the Andhra Pradesh Vigilance Commission for the year 2010-11, the Principal Secretary to Government (Poll) has requested to take action. In his Annual Report for the year 2010-11, the Vigilance Commissioner reported to consider to amend the Rule 52 of the Andhra Pradesh Revised Pension Rules, 1980, for stoppage of

Provisional Pension to a retired Government Servant immediately following his conviction in cases of corruption and misconduct, even though their appeals are pending before Higher Courts.

2. Rule 9 (4) of the Andhra Pradesh Revised Pension Rules, 1980 provides that, in the case of a Government Servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or Judicial Proceedings are instituted or where departmental proceedings are continued under sub rule (2), a provisional pension as provided in Rule 52 shall be Sanctioned. Rule 52 (1) (a) provides that in respect of a Government Servant referred to in sub-rule (4) of Rule 9, the Audit Officer / Head of Office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government Servant. Clause (b) provides that the provisional pension shall be paid by the Audit Officer / Head of Office during the period commencing from the date of retirement to the date on which, upon the conclusion of the departmental or judicial proceedings, final orders are passed by the competent authority. But, there is no specific mention in this rule, whether the retired Government servant convicted of corruption and criminal misconduct by a criminal court have to be paid provisional pension or not, when appeals are pending in the higher Courts, against such conviction.

3. Basing on the observation of the Hon'ble Supreme Court of India in K.C. Sareen Vs CBI Chandigarh, (2001 (5) Supreme 437), Government have issued the following instructions, to be followed scrupulously in Memo. No. 1621/Spl.B/2001-1, G.A. (Spl.B) Dept., dt.26.11.2001.

"Action has to be taken forthwith for dismissal of public servant convicted of corruption and criminal misconduct immediately upon such conviction without waiting for any appeal and that the appointing / disciplinary authorities will be personally held responsible for non-implementation of these instructions and that they will be liable for disciplinary action. In spite of these instructions it is found, convicted officers continuing in service without being dismissed immediately or continue to receive provisional pension, if they have already retired, in the meantime without action to withhold pension and other pensionary benefits or withdraw pension entirely as the case may be disagreeing these instructions. It is also directed therein that salary / pension / provisional pension paid after the judgment convicting the accused public servant shall be liable

to be recovered from the appointing authority. Consultation with Andhra Pradesh Public Service Commission in such cases has also been dispensed with”.

4. Keeping in view of the Judgment of the Hon'ble Supreme Court of India, the Government after careful consideration of the matter, hereby decided to amend the Andhra Pradesh Revised Pension Rules, 1980, suitably.
5. The G.O is available on Internet and can be accessed at the address <http://goir.ap.gov.in>
6. Accordingly, the following notification will be published in an extraordinary issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Revised Pension Rules, 1980 issued in G.O.(P).No. 88, Finance & Planning Department, dt.26.03.1980 as subsequently amended from time to time.

AMENDMENT

In Rule 52 of the said rules, in sub-rule (1) to clause (b), the following proviso shall be added, namely:-

“Provided that Provisional pension shall not be paid to the Government Servant who is convicted by a criminal court on the charges of indulging in corruption and criminal misconduct with effect from the date of such conviction though appeal is pending before the higher court against such conviction”.

(575)

**Cir.Memo.No.27703/778-A/FR.II/2012, Finance (FR.II) Department,
dt.26.02.2013 regarding sanction of increments for the suspension period.**

Subject Heading : Fundamental Rules – Sanction of increments for the suspension period without regularizing the same – Instructions – Issued.

As per proviso under FR.26 (a) "for the purpose of arriving at the date of next increment, the total of all such periods as do not count for increment in that time scale shall be added to the normal date of increment".

2. Thus, for giving next increments, the periods which are not treated as duty such as Extraordinary leave on private affairs, dies-non, not duty period etc., should not be taken into account. In cases of suspension / deemed suspension after finalization of the disciplinary / criminal proceedings, if the suspension period is regularized as "duty", then only it will count for sanction of increments. Otherwise, i.e., in case it is regularized as "not duty", then it will not count for sanction of increments. Hence, unless the suspension period is regularized as either "duty" or "not duty", the next date of increment could not be arrived as FR.26.

3. It has come to the notice of the Government that the Government Servants who were kept under suspension, after their reinstatement pending finalization of the departmental proceedings / criminal cases requesting for sanction of increments for the suspension period also without regularizing the same.

4. It is also noticed that the Hon'ble A.P.A.T. and Hon'ble High Courts in their Judgments are giving directions for 'sanction of increments for the suspension period even though the final orders were not issued by the disciplinary / competent authority for regularization of suspension period / deemed suspension period, and in some cases to those employees who are still under suspension and quoting case laws, in private publications of Fundamental Rules (which are not authorized Fundamental Rules) stating that during the suspension period contract subsists. Further, in some instances Government is directed to release increments as no action is taken under A.P.C.S. (CC&A) Rules to withhold the increments. Because of the said court orders, the administrative departments concerned are facing difficulty in contesting such cases and also in implementation of the said orders, as they are contrary to the provisions of the Fundamental Rules.

5. As per FR.24 "an increment shall ordinarily be drawn as a matter of course, unless it is withheld. An increment may be withheld from a Government Servant by the State Government, or by any authority to whom the State Government may delegate this power if his conduct has not been good, or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments".

6. But, the cases of suspension cannot be termed as "ordinary" to sanction increments as a matter of course. Therefore, as in the case of Extra-ordinary leave on private affairs, and dies-non, the period of suspension also does not count for increment, unless it is regularized as duty. During Extraordinary leave, dies-non also the employee is a Government Servant, and other provisions are applicable to the employee, yet the employee is not eligible for the benefits of increment for such period. In cases of suspension, wherein the disciplinary action is pending, the increments are not being withheld, but only are not being released. Thus, "non-release" of increments is distinct from "withholding" of increments. In such cases, action under the provisions of A.P.C.S. (CC&A) Rules, 1991 is not required. Only in case of withholding increments necessary action has to be taken as per A.P.C.S. (CC&A) Rules, 1991.

7. In view of the above, the Rule position mentioned at paras 1-6 above, all Departments of Secretariat and Heads of Departments are requested to examine all the cases keeping in view the above clarification and also issue instructions to their subordinate officers accordingly, and also bring to the notice of concerned Govt. Pleaders the difference between non-release of increments and withholding, the same, and various provisions with reference to the increments under Fundamental Rules, and file appeals in the higher courts / forums when orders are in contravention of Fundamental Rules.

(576)

G.O.Ms.No.110, G.A. (Ser.C) Dept., dt.18.03.2013 regarding amendment to Rule-20 of A.P.C.S (CC&A) Rules, 1991.

Subject Heading : APSC (CC&A) Rules, 1991 – Amendments to sub-rules (4), (5(a)), (5(b)) and (5(c)) of Rule 20 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.383, G.A. (Ser.C) Dept., dt.19.12.2003.
3. G.O.Ms.No.337, G.A. (Ser.C) Dept., dt.22.07.2006.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling the Governor of Andhra Pradesh, hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, issued in G.O.Ms.No.487, General Administration (Ser.C) Department, dated the 14th September, 1992 and published in Part-I No.235, Extraordinary Issue of the Andhra Pradesh Gazette, dated the 1st July, 1992, as subsequently amended from time to time:-

AMENDMENTS

In Rule 20 of the said rules,

- (1) for sub-rule (4), the following shall be substituted, namely :
- “(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the article of charge, the statement of imputations of misconduct or misbehavior and a list of documents and witnesses by which each article of charge is proposed to be sustained and copies of the said documents and statements of the said witnesses and shall require the Government Servant to submit within such time not exceeding 10 working days, a written statement of his defense and to state whether he desires to be heard in person. If the charged officer desires to be heard in person, personal appearance may be allowed before the disciplinary authority on such day and at such time not exceeding ten working days.”
- (2) in sub-rule (5), for clauses (a), (b) and (c), the following clauses shall be substituted, namely :
- “5 (a) (i) On receipt of the written statement of defense, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under Sub Rule (2) an Inquiring Authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defense, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 21.

- (ii) On the date fixed for appearance, the Government Servant who desired to be heard in person shall submit the written statement of his defense. He shall be questioned whether he pleads guilty to the charges or not and if he pleads guilty to all or any of the article of charges, the disciplinary authority shall record findings of guilty in respect of those articles of charge to which the Government Servant pleads guilty and obtain the signature of Government Servant thereon. Where Government Servant admits all the articles of charge, the disciplinary authority shall record its findings on each articles of charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 21. When Government Servant pleads not guilty to all or any of the article of charges or refuses or omits to plead, the disciplinary authority shall record the plea and obtain the signature of the Government Servant thereon and may decide to hold the inquiry itself or if it considers it necessary to do so, appoint under Sub Rule (2) an Inquiry Authority for the purpose.
- (b) If no written statement of defense is submitted by the Government Servant, the disciplinary authority may itself inquire into articles of charge or may, if it considers it necessary to do so, appoint, under Sub Rule (2) an Inquiring Authority for the purpose.
- (c) Where the disciplinary authority itself inquires into any article of charge or appoints a serving or retired Government Servant as Inquiring Authority for holding the inquiry into such charge, he shall also by an order appoint serving or retired Government Servant or Legal Practitioner or a legally trained Government Servant as Presenting Officer to present the case in support of the articles of charge;

Provided that no Government Servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the inquiring authority to appear on behalf of the person charged before the inquiring authority;

Provided further that the Government Servant may take the assistance of any other Government Servant posted at any other station, if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits.

Note (1): The Government Servant shall not take the assistance of any other Government Servant, who already has two

disciplinary cases on hand in which he has to give assistance.

Note (2): The Government Servant may also take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf.”

2. A copy of this order is available on internet and can be accessed at the address “<http://www.goir.ap.gov.in>”.

(577)

G.O.Ms.No.331, G.A. (Ser.C) Dept., dt.03.05.2013 regarding modification orders on promotion/ appointment of employees to higher posts in respect of the cases, where charges were dropped or penalty orders are modified.

Subject Heading : Public Services – State and Subordinate Services – Promotion / Appointment of employees to higher posts in respect of the cases, where charges were dropped or penalty orders are modified etc., - Further Orders – Issued.

Read the following :

1. G.O.Ms.No.424, G.A. (Ser.C) Dept., dt.25.05.1976.
2. G.O.Ms.No.187, G.A. (Ser.B) Dept., dt.25.04.1985.
3. G.O.Ms.No.34, G. A. (DPC.I) Dept., dt.24.01.1989.
4. Circular Memo No.60897/Ser.C/99, G.A. (Ser.C) Dept., dt.12.11.1999.

ORDER :

In the G.O first read above, orders were issued, among others, prescribing the procedure to be followed while considering the claims for promotion of the Officers, who are facing inquiry in any departmental proceedings or before a criminal court or whose conduct is under investigation and against whom Departmental proceedings or criminal prosecution is about to be instituted.

2. In the G.O. second read above, orders were issued reconstituting the Departmental Promotion Committee's with revised guidelines to determine the eligibility of an employee for consideration for promotion. As per Para 11 of said G.O., the name of the employee, who is undergoing punishment, should not be recommended for promotion. Further, as per para-13(a) of the said G.O., read with G.O.Ms. No.34, G.A. (DPC.I) Department, dt.24.01.1989, the case of the officer where the penalty imposed has been revoked after the Departmental Promotion Committee had considered his case should again be placed before the Departmental Promotion Committee for review.

3. In the Circular Memo fourth read above, certain instructions were issued to the effect, that the disciplinary proceedings can not be deemed to have been concluded unless they end with one of the penalties mentioned under CCA Rules or clearly state the fact that the delinquent officer is exonerated and charges are dropped. When words like "warning", or "let off", or "to be more careful in future" etc., are used in final order, it is to be construed that the charges and the guilt of the officer have been proved, but a lenient view is taken and no punishment is awarded. Such action will not be in accordance with the provisions of the APSCS (CC&A) Rules, 1991 and it was requested to keep the above in view while issuing final orders.

4. In spite of the aforesaid orders / instructions, it has come to the notice of the Government that in several cases, the original order of penalty is being modified in appeal or revision petition by the authorities concerned after a lapse of considerable time i.e., after more than three years and in certain cases, even after ten years and also after retirement of the employee on humanitarian grounds. Further, in certain cases, charges are being dropped on humanitarian grounds, taking a lenient view etc., instead of the merits of the case. In criminal cases also, the delinquent officers are being acquitted by the Courts giving benefit of doubt. As such, they are claiming all the consequential benefits with retrospective effect by quoting the aforesaid GOs / Circular Memorandums, which lead to additional burden on State Exchequer and also resulting in disturbing the settled seniority, besides legal complications.

5. In view of the aforesaid circumstances, the Government after careful examination of the matter, issue further orders that promotions shall be considered with prospective effect only in subsequent panel years duly placing the matter before the Departmental Promotion Committee/ Screening Committee afresh in respect of the cases where;

- (i) Charges were dropped using the words such as let off, warning, to be more careful in future, on humanitarian grounds, on benefit of doubt etc.,
- (ii) Original order of penalty was modified on appeal or revision, after elapse of stipulated time (or) on humanitarian grounds (or) due to retirement etc.,
- (iii) The individual was acquitted by courts on benefit of doubt in criminal cases.

6. All the Departments of Secretariat, Heads of Departments and District Collectors shall follow the above instructions scrupulously and bring it to the notice of all the concerned.

(578)

G.O.Ms.No.818, G.A. (Ser.C) Dept., dt.28.11.2013 regarding modified format of Personal Files.

Subject Heading : Public Services – Personal Files – Prescription of Record Sheet for Non-Gazetted Officers – Modified format – Orders – Issued.

Read the following :

1. G.O.Ms.No.144, G.A. (Ser.C) Dept., dt.10.03.1989.
2. G.O.Ms.No.95, G.A. (Ser.C) Dept., dt.13.02.1990.
3. From the CCT's Ref.No.DX(1)/6/2011, dt.24.01.2011.

ORDER :

The Commissioner of Commercial Taxes in the reference 3rd read above, has stated that the A.P.A.T. in O.A.No.1356/2008, dated 19.10.2010 have observed that, among others, 'Record Sheet' prescribed for non-selection posts under G.O.Ms.No.489, G.A. (Ser.C) Dept., dt.24.07.1980 do not contemplate taking into account the pendency of departmental proceedings or criminal cases for promotion from one non-selection post to another non-selection posts and further observed that instructions issued in G.O.Ms.No.424, G.A. (Ser.C) Dept.,

dt.25.05.1976 and G.O.Ms.No.66, G.A. (Ser.C) Dept., dt.30.01.1991 should be understood that they are only applicable to selection posts, but not to non-selection posts. He has further stated that in the G.O.Ms.No.144, G.A. (Ser.C) Dept., dt.10.03.1989, orders were issued prescribing Form of Record Sheet in respect of all Non-Gazetted employees for appointment to Non-Selection Posts. He has also stated that there is no column in the Record Sheet to observe that whether there are any disciplinary cases pending against a Government employee, where charges were framed to consider for promotion to the Non-selection post.

2. The form of Record Sheet prescribed in the G.O. 1st read above as amended in G.O. 2nd above, in respect of all Non-Gazetted employees for appointment to Non-Selection posts, do not contain a column to indicate whether any disciplinary cases are pending against a Government employee, where charges were framed, to consider for promotion to the Non-Selection post. Therefore, it is decided to issue the following Addendum to the Government Order 1st read above:-

ADDENDUM

In the Annexure to the said order, the following shall be inserted as column No.7 by renumbering the existing column No.7 as column No.8 namely,

-
“7.Whether charges of misconduct are framed by the competent authority and served on Government Servant or a charge sheet has been filed against him in criminal court, as the case may be”.

3. The amended format of Record Sheet for Non-Gazetted Officers is given in the Annexure to this order.

4. All the Departments of Secretariat, Heads of Departments and District Collectors are requested to follow the above scrupulously and bring to the notice of all the concerned under their control.

ANNEXURE

FORM OF RECORD SHEET TO ALL NON-GAZETTED GOVERNMENT EMPLOYEES ELIGIBLE FOR APPOINTMENT TO NON-SELECTION POSTS

Department / Office : _____

Report for the year / period : _____

1. Name of the Official in Block Letters : _____

2. Date of Birth : _____

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3. Date of appointment to the present Grade viz., :
4. Present post and date of appointment thereto :
5. Punishment imposed/recorded warnings issued, if any, during the period under report vide G.O./Letter/Memo. No. and dated (reasons for such punishments / warnings etc.) :
6. Letter of appreciation or any other form of award given for good work done vide G.O./ Letter/ Memo. No. and date :
7. Whether charges of misconduct are framed by the competent authority and served on Government Servant or a charge sheet has been filed against him in criminal court, as the case may be” :
8. Fit / Un-fit for promotion :
(Note: the competent authority, who writes “Un-fit for promotion” has to substantiate his remarks. Otherwise, they will be ignored)

Signature of the Reporting Officer

Name in Block Letter :

Designation :

Date :

(579)

**Circular Memo.No.03/Spl.C/A1/2014, G.A. (Spl.C) Dept., dt.03.02.2014
regarding instructions on review of A.C.B / V.C. cases every month by Senior Officers.**

**Subject Heading : G.A. (Spl.C) Dept. – Sri M.Padmanabha Reddy, I.F.S.
(Retd.) – Non-performance by Senior Officers in Secretariat – Request for issue of suitable instructions to review all A.C.B / V.C. cases every month by Senior Officers – Regarding.**

Ref : From M.Padmanabha Reddy, I.F.S. (Retd.) Lr.No.FGG/CS/ REP/584/2013, dt.26.12.2013.

All the Departments of Secretariat, Head of the Departments / Disciplinary Authorities are requested to review Anti Corruption Bureau / Vigilance Commission cases in their respective Departments regularly i.e., every month (by Senior Officers) to avoid delays in finalizing the issues.

(580)

G.O.Ms.No.136, G.A. (SC.F) Dept., dt.16.06.2016 regarding notification on bringing the A.P. Special Courts Act No.16 of 2016 into force.

Subject Heading : General Administration (SC.F) Dept. – The Andhra Pradesh Special Courts Act No.16 of 2016 – Bringing the Act into force – Notification – Orders – Issued.

Read the following :

1. The Andhra Pradesh Special Courts Act, 2016 (Act No.16 of 2016).
2. G.O.Ms.No.34, Law (F) Department, dated 20.05.2016.

ORDER :

The following notification shall be published in the Extra-Ordinary issue of Andhra Pradesh Gazette dt.16.06.2016. The Commissioner, Printing, Stationery & Stores Purchase, A.P., Hyderabad is requested to furnish 150 copies of the notification to the Government.

NOTIFICATION

In exercise of the powers conferred by the sub-section (3) of Section-1 of the Andhra Pradesh Special Courts Act, 2016 (Act No.16 of 2016), the Governor of Andhra Pradesh hereby appoints the 16th day of June, 2016 as the date on which the provisions of the said Act shall come into force.

THE ANDHRA PRADESH SPECIAL COURTS ACT, 2016

(ACT No.16 of 2016)

[20th May, 2016]

AN ACT TO PROVIDE FOR THE CONSTITUTION OF SPECIAL COURTS FOR THE SPEEDY TRIAL OF CERTAIN CLASS OF OFFENCES AND FOR CONFISCATION OF THE PROPERTIES INVOLVED AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS, corruption is perceived to be amongst the persons holding public offices and public servants within the meaning of Section 2(c) of the Prevention of Corruption Act, 1988 in the State of Andhra Pradesh;

AND WHEREAS, the Government has sufficient reasons to believe that large number of persons, who have held or are holding public offices and are public servants within the meaning of Section 2(c) of the Prevention of Corruption Act, 1988 have accumulated vast property, disproportionate to their known sources of income by resorting to corrupt means;

AND WHEREAS, it is legal obligation of the State to prosecute persons involved in such corrupt practices and confiscate their ill-gotten assets;

AND WHEREAS, the existing courts of Special Judges cannot reasonably be expected to bring the trials, arising out of those prosecutions, to a speedy termination and it is imperative for the efficient functioning of a parliamentary democracy and the institutions created by or under the Constitution of India that the aforesaid offenders should be tried with utmost dispatch;

AND WHEREAS, it is necessary for the said purpose to establish Special Courts to be presided over by the persons who are or have been Sessions Judges / Additional Sessions Judges and it is also expedient to make some procedural changes whereby avoidable delay in the final determination of the guilt or innocence, of the persons to be tried, is eliminated without interfering with the right to a fair trial.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixty sixth year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement –**

- (1) This Act may be called the Andhra Pradesh Special Courts Act, 2016.
- (2) It shall extend to the whole of the State of Andhra Pradesh.

- (3) It shall come into force on such date as the State Government may, by notification, appointment.

2. Definitions - In this Act, unless the context otherwise requires :

- (a) "Act" means the Andhra Pradesh Special Courts Act, 2016;
- (b) "Authorised officer" means any officer belonging to Andhra Pradesh State Judicial Service and who is or has been Sessions Judge/Additional Sessions Judge, nominated by the State Government with the concurrence of the High Court for the purpose of Section 13;
- (c) "Code" means the Code of Criminal Procedure, 1973 (Act 2 of 1974) ;
- (d) "Declaration" in relation to an offence, means a declaration made under Section 5 in respect of such offence ;
- (e) "Government" means the State Government of Andhra Pradesh;
- (f) "offence" means an offence of criminal misconduct which attracts application of Section 13(1)(e) of the Prevention of Corruption Act, 1988 either independently or in combination with any other provision of the Prevention of Corruption Act, 1988 (Act 49 of 1988) or any of the provision of Indian Penal Code, 1860 (Act 45 of 1860) ;
- (g) "Special Court" means a Special Court established under Section 3 ;
- (h) 'State' means the State of Andhra Pradesh; and
- (i) words and expressions used herein and not defined but defined in the Code or the Prevention of Corruption Act, 1988 shall have the meanings respectively assigned to them in the Code or the Prevention of Corruption Act, 1988.

CHAPTER II

ESTABLISHMENT OF SPECIAL COURTS

3. Establishment of Special Courts –

- (1) The Government shall, for the purpose of speedy trial of offence, by notification, establish as many Courts as considered adequate to be called Special Courts.

- (2) A Special Court shall be presided over by a Judge to be nominated by the Government with the concurrence of the High Court.
 - (3) No person shall be qualified for nomination as a Judge of a Special Court unless he is a member of Andhra Pradesh State Superior Judicial Service and is or has been a Sessions Judge/Additional Sessions Judge in the State.
- 4. Cognizance of cases by Special Courts** - A Special Court shall take cognizance of and try such cases as are instituted before it or transferred to it under Section 10.
- 5. Declaration of cases –**
- (1) If the State Government is of the opinion that there is prima-facie evidence of the commission of an offence alleged to have been committed by a person, who has held or is holding public office and is or has been a public servant within the meaning of Section 2(c) of the Prevention of Corruption Act, 1988 in the State, the Government shall make a declaration to that effect in every case in which it is of the aforesaid opinion.
 - (2) Such a declaration shall not be called in question in any Court.
- 6. Effect of declaration –**
- (1) On such a declaration made under sub-section(1) of Section 5, notwithstanding anything in the Code or any other law for the time being in force, any prosecution in respect of the offence shall be instituted only in a Special Court.
 - (2) Where any declaration made under Section 5 relates to an offence in respect of which a prosecution has already been instituted and the proceedings in relation thereto are pending in a Court other than Special Court established under this Act, such proceedings shall, notwithstanding anything contained in any other law for the time being in force, stand transferred to Special Court for trial of the offence in accordance with the provisions of this Act.
- 7. Jurisdiction of Special Court** - A Special Court shall have jurisdiction to try any person alleged to have committed the offence in respect of which a declaration has been made under Section 5, either as principal,

conspirator or abettor and for all the other offences and all of them shall be jointly tried therewith at one trial in accordance with the Code.

8. Procedure And powers of Special Courts –

- (1) A Special Court shall, in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a Magistrate.
- (2) Save as expressly provided in this Act, the provisions of the Code and of the Prevention of Corruption Act, 1988 (Act 49 of 1988) shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court and for the purpose of the said provisions, the persons conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.
- (3) A Special Court may pass, upon any person convicted by it, any sentence authorised by law for the punishment of the offence of which such person is convicted.

9. Appeal against orders of Special Courts –

- (1) Notwithstanding anything in the Code, an appeal shall lie from any judgment and sentence of a Special Court to the High Court both on facts and law.
- (2) Except as aforesaid, no appeal or revision shall lie in any court from any judgment, sentence or order of a Special Court.
- (3) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment and sentence of a Special Court:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied for reasons to be recorded in writing that the appellant had sufficient cause for not preferring the appeal within the period.

10. Transfer of Cases - Notwithstanding the other provisions of this Act, it shall be open to the High Court to transfer cases from one Special Court to another.

11. Special Court not bound to Adjourn a Trial –

- (1) A Special Court shall not adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice and for reasons to be recorded in writing.
- (2) The Special Court shall endeavour to dispose of the trial of the case within a period of one year from the date of its institutions or transfer, as the case may be.

12. Presiding Judge may act on evidence recorded by his Predecessor-

A Judge appointed under Section 3 to preside over a Special Court may act on the evidence recorded by his predecessor or predecessors or partly recorded by his predecessor or predecessors and partly recorded by himself.

CHAPTER III

CONFISCATION OF PROPERTY

13. Confiscation of property –

- (1) Where the State Government, on the basis of prima-facie evidence, have reasons to believe that any person, who has held or is holding public office and is or has been a public servant has committed the offence, the State Government may, whether or not the Special Court has taken cognizance of the offence, authorise the Public Prosecutor for making an application to the authorised officer for confiscation under this Act of the money and other property, which the State Government believe that the said person to have procured by means of the offence.
- (2) An application under sub-section (1)—
 - a) shall be accompanied by one or more affidavits, stating the grounds on which the belief, that the said person has committed the offence, is founded and the amount of money and estimated value of other property believed to have been procured by means of the offence; and
 - b) shall also contain any information available as to the location for the time being of any such money and other property, and shall, if necessary, give other particulars considered relevant to the context.

14. Notice for confiscation –

- (1) Upon receipt of an application made under Section 13, the Authorised Officer shall serve a notice upon the person in respect of whom the application is made (hereafter referred to as the person affected) calling upon him within such time, as may be specified in the notice, which shall not be ordinarily less than thirty days, to indicate the source of his income, earnings or assets, out of which or by means of which he has acquired such money or property, the evidence on which he relies and other relevant information and particulars, and to show cause as to why all or any of such money or property or both, should not be declared to have been acquired by means of the offence and be confiscated to the State Government.
- (2) Where a notice under sub-section (1) to any person specifies any money or property or both as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.
- (3) Notwithstanding anything contained in sub-section (1), the evidence, information and particulars brought on record before the Authorised Officer, by the person affected or the State Government shall be open to be rebutted in the trial before the Special Court provided that such rebuttal shall be confined to the trial for determination and adjudication of guilt of the offender by the Special Court under this Act.

15. Confiscation of property in certain Cases –

- (1) The Authorised Officer may, after considering the explanation, if any, to the show cause notice issued under Section 14 and the materials available before it, and after giving to the person affected (and in case here the person affected holds any money or property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any other money or properties in question have been acquired illegally.
- (2) Where the Authorised Officer specifies that some of the money or property or both referred to in the show cause notice are

acquired by means of the offence, but is not able to identify specifically such money or property, then it shall be lawful for the Authorised Officer to specify the money or property or both which, to the best of his judgment, have been acquired by means of the offence and record a finding, accordingly, under sub-section (1).

(3) Where the Authorised Officer records a finding under this section to the effect that any money or property or both have been acquired by means of the offence, he shall declare that such money or property or both shall, subject to the provisions of this Act, stand confiscated to the State Government free from all encumbrances:

Provided that if the market price of the property confiscated is deposited with the Authorised Officer, the property shall not be confiscated.

(4) Where any share in a Company stands confiscated to the State Government under this Act, then, the Company shall, notwithstanding anything contained in the Companies Act, 2013 (Act 18 of 2013) or the Articles of Association of the Company, forthwith register the State Government as the transferee of such share.

(5) Every proceeding for confiscation of money or property or both under this Chapter shall be disposed of within a period of six months from the date of service of the notice under sub-section(1) of Section14.

(6) The order of confiscation passed under this section shall, subject to the order passed in appeal, if any, under Section 17, be final and shall not be called in question in any Court of law.

16. Transfer To be null and void - Where, after the issue of a notice under Section 14, any money or property or both referred to in the said notice are transferred by any mode whatsoever, such transfer shall, for the purposes of the proceedings under this Act, be void and if such money or property or both are subsequently confiscated to the State Government under Section 15, then, the transfer of such money or property or both shall be deemed to be null and void.

17. Appeal –

- (1) Any person aggrieved by any order of the authorised officer under this Chapter may appeal to the High Court within thirty days from the date on which the order appealed against was passed.
- (2) Upon any appeal preferred under this section the High Court may, after giving such parties, as it thinks proper, an opportunity of being heard, pass such order as it thinks fit.

18. Power to take possession –

- (1) Where any money or property or both have been confiscated to the State Government under this Act, the concerned Authorised Officer shall order the person affected, as well as any other person, who may be in possession of the money or property or both to surrender or deliver possession thereof to the concerned authorised officer or to any person duly authorised by him in this behalf, within thirty days of the service of the order:

Provided that the Authorised Officer, on an application made in that behalf and being satisfied that the person affected is residing in the property in question, may instead of dispossessing him immediately from the same, permit such person to occupy it for a limited period to be specified on payment of market rent to the State Government and thereafter, such person shall deliver the vacant possession of the property.

- (2) If any person refuses or fails to comply with an order made under sub-section (1), the Authorised Officer may take possession of the property and may, for that purpose, use such force as may be necessary.
- (3) Notwithstanding anything contained in sub-section (2) the Authorised Officer may, for the purpose of taking possession of any money or property or both referred to in sub-section (1), requisition the service of any police officer to assist and it shall be the bounden duty of such officer to comply with such requisition.

19. Refund of confiscated money or property - Where an order of confiscation made under Section 15 is modified or annulled by the High

Court in appeal or where the person affected is acquitted by the Special Court, the money or property or both shall be returned to the person affected and in case it is not possible for any reason to return the property, such person shall be paid the price thereof including the money so confiscated with the interest at the rate of five percent per annum thereon calculated from the date of confiscation.

CHAPTER IV

MISCELLANEOUS

- 20. Notice or Order not to be invalid for error in description -** No notice issued or served, no declaration made and no order passed, under this Act shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein, if such property or person is identifiable from the description so mentioned.
- 21. Act to be in addition to any other law -** The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him.
- 22. Bar to other proceedings -** Save as provided in Sections 9 and 17 and notwithstanding anything contained in any other law, no suit or other legal proceedings shall be maintainable in any Court in respect of any money or property or both ordered to be confiscated under Section 15.
- 23. Protection of action taken in good faith -** No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.
- 24. Power to make rules –**
 - (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.
 - (2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislature of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if , before the expiration of the session in which it is so laid or the session

immediately following the Legislature agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

- 25. Notifications under Section 3 and declarations under Section 5 to be laid** - Every notification made under sub-section (1) of Section 3 and every declaration made under sub-section (1) of Section 5 shall be laid, as soon as may be, after they are made, before the State Legislature.
- 26. Overriding effect** - Notwithstanding anything in the Prevention of Corruption Act, 1988 (Act 49 of 1988) and the Criminal Law Amendment Ordinance, 1944 (Act No.38 of 1944) or any other law for the time being in force, the provisions of this Act shall prevail in case of any inconsistency.

(581)

U.O. Note No.598/Ser.C/2016-1, G.A. (Ser.C) Dept., dt.09.11.2016 regarding clarification on imposition of penalty of dismissal against AOs, who are facing multiple disciplinary proceedings.

Subject Heading : Public Services – Imposition of penalty of dismissal against Accused Officers who are facing multiple disciplinary proceedings – Clarification – Regarding.

- Ref: 1. G.O.Ms.No.2, G.A. (Ser.C) Dept., dt.04.01.1999.
 2. G.O.Ms.No.458, G.A.D., dt.22.09.2009.

All the Departments of Secretariat are informed that as per Rule 9 (x) of the Andhra Pradesh Civil Services (CC&A) Rules, 1991, the penalty of dismissal, may for good and sufficient reasons and as provided therein, be imposed on a Government Servant. The relevant extract is as follows:-

“Rule 9 (x) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government:

Provided that in all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed”

2. A clarification has been sought for as to whether penalty of dismissal gets abated against Accused Officer or Charged Officer who has already been dismissed from service and who has been facing multiple disciplinary proceedings.

3. The Government has examined the issue and noted that no specific provision is available restricting the Government from imposing the penalty of dismissal from service against AO even though the AO has already been imposed the penalty of dismissal from service in another case since the charges may be different from one another. The disciplinary proceedings initiated have to be concluded. Therefore, it is hereby clarified that a speaking order shall be issued for concluding the disciplinary proceedings imposing the penalty of dismissal from service clearly mentioning that the penalty could not be implemented immediately in view of the fact that the Charged Officer / Accused Officer was already dismissed in other disciplinary case and implementation of penalty is subject to outcome of the appeals filed before appropriate Courts by the C.O. against the orders of his / her conviction and consequential dismissal.

4. All the Departments of Secretariat shall take necessary action accordingly.

(582)

G.O.Ms.No.56, G.A. (SC.F) Dept., dt.09.05.2017 regarding Rules on the A.P. Special Courts Act, 2016.

Subject Heading : The Andhra Pradesh Special Courts Act 2016 (Act. No. 16 of 2016) – The Constitution of Special Courts for the Speedy Trial of Certain Class of Offences and for matters connected therewith or incidental – Rules - Notification - Issued.

Read :

The Andhra Pradesh Special Courts Act 2016 (Act No.16 of 2016) published in the extraordinary issue of the Andhra Pradesh Gazette No.16, dt.20.05.2016.

ORDER :

The following Notification shall be published in an extraordinary issue of the Andhra Pradesh Gazette, dt.09.05.2017 :

NOTIFICATION

In exercise of the powers conferred by Section 24 of the Andhra Pradesh Special Courts Act 2016 (Act No.16 of 2016), the Governor of Andhra Pradesh do hereby make the following Rules, namely :

1. (1) These Rules may be called the Andhra Pradesh Special Courts Rules, 2017.
(2) They shall come into force on the date of their publication in the Andhra Pradesh Gazette.
2. Definitions :
 - (1) In these Rules, unless the context otherwise requires
 - (a) "Act" means the Andhra Pradesh Special Courts Act, 2016;
 - (b) "Code" means Criminal Procedure Code, 1973;
 - (c) "Form" means a Form appended to these Rules;
 - (d) "High Court" means the High Court of Judicature at Hyderabad for the States of Andhra Pradesh and Telangana, till the High Court of Andhra Pradesh, at Amaravati is established;
 - (e) Public servant means a public servant as defined within the meaning of clause (c) of Section 2 of the Prevention of Corruption Act, 1988 or under Section 21 of the Indian Penal Code, 1860 and including Group-A service of the Central or State Government or officers of equivalent rank in any organisation specified in the explanation below clause (b) of Section 2 of the said Act who is or has been serving under or in connection with the affairs of the State Government;
 - (f) "Section" means a Section of the Act; and
 - (g) "State Government" means the Government of Andhra Pradesh.
 - (h) Penal Code means Indian Penal Code, 1860.

(2) Words and expressions used herein but not defined shall have the same meaning as respectively assigned to them in the code or the Act.

3. Procedure for nomination :

- (1) The State Government shall nominate a serving officer belonging to the Andhra Pradesh Superior Judicial Service (Senior Branch) in consultation with the High Court of Andhra Pradesh to be the Presiding Judge of the Court. The Presiding Judge shall be or shall have functioned as a Sessions Judge/Additional Sessions Judge in the State.
- (2) Jurisdiction of a Court under the Act shall be such as may be decided by State Government from time to time.
- (3) The Court shall have its sittings at such place or places as may be decided by the State Government from time to time.

4. Privileges of the Presiding Judge of the Court:-

The Presiding Judge shall be assisted by such officers and staff as may be decided by the State Government in consultation with him.

5. The tenure of office of the Presiding Judge :

The Presiding Judge shall ordinarily continue in office for three years or till the appointment and joining of another Presiding Judge.

6. Cognizance of and trial by the Court :

The Court shall take cognizance of and try such cases as are instituted before it under sub section (1) of Section 6 or transferred to it under sub section (2) thereof or Section 10.

7. Declaration :

- (1) The declaration to be made by the State Government under sub section (1) of Section 5 shall be, in Form I.
- (2) The declaration shall be published in the official Gazette and communicated to -
 - (i) the Court;

- (ii) the concerned Court of the Special Judge under the Prevention of Corruption Act, 1988 from which the pending proceedings stand transferred;
- (iii) the investigating agency or agencies;
- (iv) the person concerned;
- (v) the Government in Vigilance Department; and
- (vi) any other authority as may be considered expedient by the State Government.

8. Appointment of Public Prosecutors and their fees :

- (1) One or more Special Public Prosecutors may be appointed by the State Government on the recommendation of Advocate General, Andhra Pradesh to institute and conduct cases in the Special Court. Tenure of special public prosecutors shall ordinarily be of three years.
- (2) Government may appoint one or more Additional or Associate Public Prosecutors on the recommendation of Special Public prosecutors to assist the Special Public Prosecutor. The Special Public Prosecutors and Additional or Associate Public Prosecutors shall be paid such fees and allowances at such rates as may be decided by the State Government from time to time.

9. Authorised Officer :

- (1) The State Government, in consultation with the High Court, shall nominate an officer belonging to the cadre of the District and Sessions Judge who is or has been a Sessions Judge or Additional Sessions Judge to act as the authorised officer for the purposes of the Act.
- (2) The office of the authorised officer shall function at such place as the State Government may notify and shall be assisted by such staff as may be decided by the State Government.

- (3) The State Government may appoint one or more Special Public Prosecutors on the recommendation of Advocate General on such terms and conditions to make applications to the authorised officer and conduct cases before the said officer for confiscation of the money and other property under the Act. Tenure of Special Public Prosecutor shall ordinarily be of three years.
- (4) The authorized officer may take assistance of any person or officer technically qualified or otherwise, in determining or evaluating the value of the property.

10. Authorised Officer to be public servant:-

The authorised officer shall be a public servant within the meaning of Section 21 of the Indian Penal Code and any proceeding before him shall be deemed to be a judicial proceeding for the purpose of Section 228 of the Code.

11. Authorised officer to follow summary procedure :

- (a) On receipt of application under Section 13 read with Rule 14 the authorised officer shall immediately issue notice to the delinquent public servant
- (b) If the delinquent public servant responds to the notice and appears before the authorised officer either in person or through his legal representative, he shall be furnished with the copy of the application filed under Section 13 along with all its enclosure. The authorised officer shall allow 30 days time for appearance of delinquent public servant to file his statement in defence. If for good and valid reasons, to the satisfaction of the authorised officer, delinquent public servant does not file his statement of defence, he may allow maximum of 15 days time within which he shall have to file his statement of defence.
- (c) If the delinquent public servant does not file his statement of defence within the prescribed period of 30 days or within extended period of 15 days, it shall be presumed that he has no defence to put forward. The authorised officer shall be free to adjudicate the proceeding instituted before him.

- (d) If the delinquent public servant submits his statement in defence, a copy of the same shall be made available to the Special Public Prosecutor conducting the proceeding before the authorised officer who shall have the opportunity to reply to the same.
 - (e) The special Public Prosecutor shall have to reply within maximum period of 15 days from service of statement of defence upon him.
 - (f) If the special Public Prosecutor fails to submit his reply within 15 days, the authorised officer may for good or valid reason allow further period of 15 days for filing the reply, failing which the authorised officer shall proceed to adjudicate the proceeding as if the prosecution has no reply to submit.
 - (g) If the delinquent public servant proposes to contest the valuation of the property, the authorised officer may take assistance of such State Government agency or Central Government agency or any other officer or person technically qualified as he may deem fit and proper.
 - (h) The authorised officer, on consideration of statement of defence, reply of public prosecutor and report of experts, if any, shall adjudicate the proceeding and will pronounce final verdict within a maximum period of 6 months from the day of service of notice.
 - (i) The authorised officer, after final adjudication, may proceed to confiscate the property in accordance with Section 15 of the Act.
12. Application of Code of Criminal Procedure :

The provisions of the Code of Criminal Procedure, 1973 shall, in so far as they are not inconsistent with the provisions of the Act, apply to the proceedings before the authorised officer.

13. Procedure to be followed by Special Courts :

The Special Courts under this Act shall follow the procedure laid down as per the provisions of Section 5 of the Prevention of Corruption Act, 1988 and the provisions of Code of Criminal Procedure, 1973 in so far as they are not inconsistent with the provisions of this Act.

14. Particulars of application made before the authorised officer and Form of notice :

- (1) The application to be filed under Section 13 before the authorised officer shall, inter alia, contain the following particulars, namely
 - (a) name of the delinquent public servant;
 - (b) official designation and detailed addresses of the delinquent public servant;
 - (c) the particulars of the known source of income of the delinquent public servant;
 - (d) particulars of assets that are maintained by the delinquent public servant and their estimated value;
 - (e) how much of these assets are disproportionate to the known sources of income;
 - (f) manner of confiscation prayed for;
 - (g) name and detailed address of the persons whose affidavits are furnished in support of the case; and
 - (h) location of the money or property with appropriate value.
- (2) The notice to be issued under Section 14 shall be in Form II.
- (3) The applications filed before the authorised officer shall be in Form III.

15. Application of Indian Evidence Act :

The Indian Evidence Act shall mutatis mutandis be applicable to proceedings before the Court and the authorised officer in recording the evidence.

16. Services of Police required by the Court :

The State Government shall make available the services of the Police Officers as may be required by the Court and the authorised officer in implementing and executing the orders passed by them.

17. Maintenance of Registers by the Authorised Officer :

- (1) The following Registers may be maintained in the office of the authorised officer, namely :
 - (1) C.C. Register - As prescribed in Form III.
 - (2) Receipt Register
 - (3) Issue Register - As prescribed by the Government
 - (4) Despatch Register
 - (5) Accounts Register
- (2) The authorised officer may also maintain such other Registers as may be considered necessary in the conduct of business of his office.

[Note: See Part II for Form No.I, II & III – (Nos.58, 59 & 60)]

(583)

G.O.Ms.No.89, G.A. (SC.F) Dept., dt.20.07.2017 regarding notification for Special Courts for the purpose of speedy trial of offences.

Subject Heading : General Administration (SC.F) Dept. – The Andhra Pradesh Special Courts Act, 2016 (Act No. 16 of 2016) – Four (04) Existing Special Courts for SPE and ACB cases situated at Visakhapatnam, Vijayawada, Nellore and Kurnool notified under Section 3 of A.P. Special Courts Act, 2016 as “Special Courts for the purpose of speedy trial of offences under the said Act” – Notification – Issued.

Read the following :

1. The Andhra Pradesh Special Courts Act, 2016 (Act No.16 of 2016).
2. G.O.Ms.No.136, G.A. (SC.F) Department, dt.16.06.2016.
3. G.O.Ms.No.56, G.A. (SC.F) Department, dt.09.05.2017.

4. From the Registrar (Administration), High Court of Judicature at Hyderabad for the State of Telangana & the State of Andhra Pradesh Lr. RoC. No.803/E1/2017, dt.29.06.2017.

ORDER :

The following notification will be published in the Extra – Ordinary issue of Andhra Pradesh Gazette dated 20.07.2017: -

NOTIFICATION

In exercise of the powers conferred by the sub - section (1) of Section 3 of the Andhra Pradesh Special Courts Act, 2016 (Act No.16 of 2016) and in consultation with the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, the Government hereby notify the four (04) existing Special Courts for SPE and ACB cases situated at Visakhapatnam, Vijayawada, Nellore and Kurnool as “Special Courts for the purpose of speedy trial of offences under the said Act”.

(584)

G.O.Ms.No.127, G.A. (Ser.C) Dept., dt.15.09.2017 regarding amendment to Rule-9 and 25 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – APCS (CC&A) Rules, 1991 – Rule 9 and 25 – Amendments – Orders – Issued.

ORDER :

The following notification will be published in the Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Services-C) Department, dated the 14th September, 1992 and published in Part-I, No.235, extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time.

ADDENDA

- I. After clause (ix) of Rule 9 of said rules the following shall be incorporated;

Provided that a Government Servant shall be deemed to have been removed from service, if he / she:

- (a) is absent from duty without authorization for a period exceeding one year; or
- (b) remains absent from duty for a continuous period exceeding 5 years with or without leave; or
- (c) continues on foreign service beyond the period approved by the State Government.

Provided further that a show-cause notice to explain the reasons for such absence from duty or continuation on foreign service shall be given to the Government Servant and his / her reply shall be considered before invoking the above said proviso.

- II. In clause (i) of Rule 25 of the said rules, the following shall be incorporated.

“Misconduct leads to a penalty imposed as per 1st proviso under Rule 9 (ix) of these rules, or”

(585)

G.O.Ms.No.138, G.A. (SC.F) Dept., dt.05.10.2017 regarding amendment to the A.P. Special Courts Rules, 2017.

Subject Heading : Courts - The Andhra Pradesh Special Courts Rules, 2017 – Amendments – Orders - Issued.

Read the following :

1. G.O.Ms.No.56, G.A. (SC.F) Dept., dt.09.05.2017.
2. From the D.G., A.C.B., Lr.No.39/RPC(C)/2017, dt.25.7.2017.

ORDER :

The following Notification will be published in an extraordinary issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by Section 24 of the Andhra Pradesh Special Courts Act, 2016 (Act No.16 of 2016), the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Special Courts Rules, 2017 issued in G.O.Ms.No.56, General Administration (SC.F) Department, dt.09.05.2017, namely:-

AMENDMENTS

In the said rules,

1. In Rule 8
 - (i) In sub-rule (1), the words, “on the recommendation of Advocate General, Andhra Pradesh” and the words, “tenure of Special Public Prosecutors shall ordinarily be three years” shall be omitted.
 - (ii) In sub-rule (2), the words, “on the recommendation of Special Public Prosecutors” shall be omitted.
2. In Rule 9, in sub-rule (3), the words, “on the recommendation of Advocate General” and the words, “tenure of Special Public Prosecutor shall ordinarily be of three years” shall be omitted.
3. In Form No.I
 - (j) in paragraph 1, for the word, “Vigilance” the letters “ACB” shall be substituted.
 - (ii) in paragraph 2, after the words “Commission of the” the word “offence” shall be inserted and for the words, “corrupt means” the words, “corrupt or illegal means” shall be substituted.
4. In Form II, in paragraph 1 for the word, “filled” the word, “filed” shall be substituted.

(586)

U.O.Note No.4868/Ser.B/A1/2017-11, G.A. (Ser.B) Dept., dt.06.12.2017 regarding implementation of the final orders of the Hon'ble A.P.A.T. cases in a time bound manner.

Subject Heading: Suits – A.P.A.T. – Implementation of the final orders of the Hon'ble A.P.A.T. Cases in a time bound manner – Instructions – Regarding.

All the Departments of Secretariat are informed that in recent Secretaries Conference held on 25.10.2017 wherein department wise review was taken up on the implementation of the final orders of the Hon'ble Andhra Pradesh Administrative Tribunal. The Secretaries to Government were requested to take appropriate action on the implementation of the final orders of the Andhra Pradesh Administrative Tribunal.

2.The Departments of Secretariat are informed that the Hon'ble High Court / Andhra Pradesh Administrative Tribunal is taking a serious view for non-implementation of the final orders of Hon'ble Andhra Pradesh Administrative Tribunal. All the Departments of Secretariat are requested to take timely action on the final orders of the Hon'ble Andhra Pradesh Administrative Tribunal.

3.The following instructions are followed to deal with final orders of the Hon'ble Andhra Pradesh Administrative Tribunal cases:-

- 1) On receipt of the final orders of the Hon'ble Andhra Pradesh Administrative Tribunal, the competent authority shall examine the facts and circumstances of the case, the likely effects of the Judgment and also its implication in future and take a view as to whether it would be appropriate to implement the order or file a review against the order.
- 2) Take all necessary steps to implement the same if it can be implemented as per rules within the time, as directed in the order.
- 3) Seek extension of time, before expiry of the time limit ordered, for implementation in cases where it can be implemented, but the time allowed is not sufficient.

- 4) Obtain clarification from the Law Officers or by filing a suitable petition for clarification before the appropriate forum wherever necessary, in cases of doubt, in consultation with the concerned Law Officers.
- 5) File a review in appropriate cases where either mistake of fact or mistake of law is noticed within 30 days.
- 6) File an appeal wherever necessary before the appellate forum along with prayer for stay/suspension/modification of the orders appealed against within 90 days.

4. All the Departments of Secretariat are requested to follow the above instructions and issue directions to the Heads of Departments and Subordinate Offices under their control.

(587)

G.O.Rt.No.2752, G.A. (Ser.C) Dept., dt.11.12.2017 regarding instructions on filing of charge sheet, convictions and reinstatement.

Subject Heading : Public Services – Disciplinary Cases – Action to be taken by the Authorities concerned for filing charge sheet in Court of Law and Dismissal of employees convicted by Court, Reinstatement of employees under suspension etc. – Certain Instructions – Issued.

Read the following :

1. Memo.No.2358/Ser.C/74-1, G.A. (Ser.C) Dept., dt.05.02.1975.
2. Memo.No.1718/Ser.C/75-1, G.A. (Ser.C) Dept., dt.22.11.1975.
3. Memo.No.169/Ser.C/77-8, G.A. (Ser.C) Dept., dt.10.02.1978.
4. Cir.Memo.No.3824/Ser.C/98-2, G.A. (Ser.C) Dept., dt.09.02.1998.
5. G.O.Ms.No.2, G.A. (Ser.) Dept., dt.04.01.1999.
6. Minutes of the Secretaries Conference held by the Chief Secretary on 25.01.2017, A.P. Secretariat, Velagapudi.

O RDER :

Whereas, in the reference read above, Government have issued instructions inter alia, that -

- I) every effort should be made to file the charge sheet in court or serve it on the Government Servant, as the case may be, within 3 months of the date of suspension and in cases in which it would not be possible to do so, the matter should be reported to the next higher authority explaining the reasons for the delay;
 - II) in cases which do not require consultation with the Vigilance Commission or the A.P.P.S.C., a final decision on the enquiry report should be taken within a period of 3 months at least, and where it is not possible to adhere to this time limit, a report should be submitted to the next higher authority indicating the additional period within which a case is likely to be disposed of and the reason for the same. In cases requiring consultation with the VC and the APPSC, every effort should be made to ensure that such cases are disposed of as quickly as possible;
2. In the Memo. 2nd read above, instructions were issued to Heads of Departments and District Collectors that the officers convicted in criminal cases should normally be dismissed from service and it is not necessary either to await the outcome of an appeal or the expiry of the appeal time, where an appeal may have been preferred. The said instructions have been reiterated from time to time in the reference read above.

3. Further, with regard to ACB Cases, following action points emerged out of Secretaries Conference held by the Chief Secretary on 25.01.2017 at 3.30 PM, A.P. Secretariat, Velagapudi, are hereunder:-

- (a) It must be ensured that Charge Sheet is filed in the Court of Law within 90 days of registration of the claim.
- (b) It was noticed that in many cases the persons have been convicted but dismissal order is not issued. Dismissal order should be issued within a reasonable time preferably within two months from the date of receipt of the conviction order.
- (c) The Officers who have been trapped and reinstated should not be posted in focal positions even on FAC basis also.

4. Government, after careful examination of the matter, while reiterating the earlier instructions as read above, hereby direct all the Departments of Secretariat, Heads of Departments and the authorities concerned that:

- (a) It must be ensured that Charge Sheet is filed in the Court of Law within 90 days of registration of the case.
- (b) Dismissal order should be issued against the employees convicted by the Courts within a reasonable time preferably within two months from the date of receipt of the conviction order and it is not necessary either to await the outcome of an appeal or the expiry of the appeal time, where an appeal may have been preferred.
- (c) The Accused Officers / Charged Officers who have been suspended in all ACB Cases as well as serious allegations, and on reinstatement, they should not be posted in Focal positions even on FAC basis also, till disposal of their cases.

5. All the Departments of Secretariat, Heads of Departments and the Authorities shall follow the above orders scrupulously and strictly.

(588)

Circular Memo.No.27021/1/2018/Ser.C/18-1, G.A. (Ser.C) Dept., dt.30.04.2018 regarding clarification on competency to deal with the disciplinary cases prior to the bifurcation of the State.

Subject Heading: Public Services – Clarification on the competence of the authority to deal with the disciplinary cases against the Government employees prior to the bifurcation of the State and who were allotted to the State of Andhra Pradesh – Instructions – Regarding.

It has been brought to the notice of the Government that number of disciplinary cases were initiated against Government employees by the disciplinary authorities prior to bifurcation of the State based on the reports of the V&E., ACB. Consequent on bifurcation of the State, some of the employees, who are involved in the disciplinary cases are allotted to the State of Andhra Pradesh, whereas the incident of irregularities occurred in the territory of the State of Telangana and vice-versa. In number of cases, Government of Telangana is framing the Articles of Charges and referred to the Government of Andhra

Pradesh for serving them against the delinquent employee, who have been allotted to the Government of Andhra Pradesh. In this scenario, a question has arisen, who has to initiate the disciplinary proceedings against the aforesaid delinquent employees, as per the A.P.C.S. (CC&A) Rules, 1991.

2. In a similar scenario, Hon'ble Jharkhand High Court in State of Bihar Vs. Arvind Vijay Bilung has ordered, inter alia, as follows:

"11. Once, therefore, it is held that on and from the appointed day, the successor State to the existing State would be the appointing authority in respect of a Government Servant and that the competent authority on and from that day, shall have all powers to pass any order in any respect against such person (including the order affecting his continuance in such post or office) permitting the existing State of Bihar, to either initiate disciplinary proceedings or issue suspension order against such person would be in violation of the express mandate contained in Section 74 of the Act and the proviso thereto. On and from the appointed day, the "existing State of Bihar" as defined in Section 2 (e) ceased to exist. On and from the appointed day, the successor State to the existing State of Bihar came into being. These successor States were the State of Bihar and the State of Jharkhand. By a reading of Section 74, therefore, what emerges is that the appointing authority in respect of a Government servant would be one of the two successor States, the State of Bihar or the State of Jharkhand and to determine as to which one of these two successor States is the appointing authority, the test is very, very simple. If the employee, as on the appointed day is serving in and posted at a territory forming part of the successor State of Bihar, the State of Bihar would be the appointing authority. If the employee is posted in and serving at a territory forming part of the State of Jharkhand, the State of Jharkhand would be the appointing authority. It is only the competent authority in the successor State which has the power and jurisdiction to initiate action and pass orders. This is irrespective of the accrual of cause of action at any point of time before the appointed day or the place where such cause of action occurred. To elucidate, we may say that if as on the appointed day, a person was serving in and posted at a place which formed part of the territory of the State of Jharkhand and if with respect to such a person cause of action had occurred, say in the year 1998 or 1999, in a place which, as on the appointed day, formed part of the State of Bihar, the State of Jharkhand alone shall be the competent authority and only such competent authority can pass order with respect to such a person. The State of Bihar with respect to such a person would have no jurisdiction to initiate action or pass an order.

12. In such a situation and in such a background, where the State is carved out of an existing State, the cooperation between the two States becomes meaningful. If, therefore, the State of Bihar has, in its possession, any material against a Government servant who, by virtue of Section 74 of the Act, is now in the service of the State of Jharkhand and if the State of Bihar thinks that such material warrants initiation of an action against such a person, it is open to the State of Bihar to forward such material to the State of Jharkhand for such action as it considered appropriate by the State of Jharkhand. Let it be very clearly understood that only role of the erstwhile State in such a situation is merely to pass on the information or the relevant material to the State of Jharkhand and leaving the rest for the State of Jharkhand to do. Similarly would be the case for the State of Jharkhand if an employee is in a place in Bihar and if the State of Jharkhand has any material in its possession which may be required to be forwarded to the State of Bihar for appropriate action against such an employee.”

Further, in Bhupendra Singh Vs. State of Jharkhand & Others in W.P.No.6621 of 2005, orders dt.06.11.2009, Jharkhand High Court, inter alia, ordered as follows:

“10. Relying upon the ratio as decided in the case of Arvind Vijay Bilung (Supra) and applying the same to the facts of the present case and also considering the fact that the departmental proceeding was initiated against the petitioner by the concerned authorities in the State of Bihar after one year from the date of bifurcation of the erstwhile State of Bihar and even though, prior to the appointed day i.e., 15.11.2000, the petitioner was posted in the district of Chaibasa in the State of Jharkhand, I have no hesitation to hold that the initiation of the departmental proceeding by the concerned authorities of the State of Bihar was totally beyond jurisdiction and illegal.

11. The respondents have wanted to justify the initiation of the departmental inquiry by the State of Bihar on the basis of the purported clarification issued by the Central Government vide Annexure-A to the counter-affidavit. The Central Government Circular seeks to clarify that in a case where no departmental inquiry has been initiated, before the appointed day, normally the State of Jharkhand would be competent to hold the departmental inquiry and finalize the same. However, in the cases of misconduct, relating to those territories which were part of the State of Bihar existing immediately before the appointed day, the inquiry may be conducted by the State of Bihar and papers transferred to

the disciplinary authority in the State of Jharkhand to take a final decision. The clarification also seeks to explain that action on the above line could also be taken in respect of the vigilance inquiry, allegation, etc. in respect of officers provisionally ordered to serve in connection with the affairs of the State of Jharkhand.

The above purported clarification on the face of it, are against the ratio decided by a Division Bench Judgment in the case of Arvind Vijay Bilung (Supra) in which it has been declared that it is only the competent authority in the successor State which has the power and jurisdiction to pass orders, irrespective of the accrual of cause of action at any point of time before the appointed day or place where cause of action occurred. As rightly pointed out by the learned counsel for the petitioner, the interpretation of the statute as declared by the Judgment of the court, cannot be altered by such clarification as relied upon by the respondents. The concerned authorities in the State of Jharkhand are deemed to be his appointing and disciplinary authority.

It follows therefore that no action could be taken on the basis of the report of such inquiry which was conducted without jurisdiction. The impugned orders of punishment as passed against the petitioner, cannot therefore be upheld and is hereby set aside".

3. Rule 2 (c) of the A.P.C.S. (CC&A) Rules, 1991 defines the Disciplinary Authority "as meaning the authority competent under these rules to impose on a Government Servant any of the penalties specified in Rule 9 or 10". Further, Section 77, 78 and 79 of the A.P. Reorganization Act, 2014 deal with provisions relating to other services, other provisions relating to services and provisions as to continuance of officers in the same post.

4. The Government have examined the issue keeping in view the A.P.C.S. (CC&A) Rules, 1991, provisions of A.P. Reorganization Act, 2014 and relevant Judgments of Hon'ble Jharkhand High Court as stated supra and it is clarified that the Government of Andhra Pradesh shall be appointing and disciplinary authority in respect of the employees who as on appointed day is serving, posted and allocated to the State of Andhra Pradesh. This is irrespective of the accrual of cause of action at any point of time before the appointed day or the place where such cause of action occurred.

5. All the Departments / Heads of Departments shall take necessary action accordingly.

(589)

G.O.Ms.No.79, G.A. (SC-F) Dept., dt.31.05.2018 regarding orders for appointment of Special Public Prosecutors under A.P. Special Courts Act, 2016.

Subject Heading : General Administration (SC-F) Department – A.P. Special Courts Act, 2016 – Appointment of existing Special Public Prosecutors of the Special Courts for S.P.E. & A.C.B. Cases at Kurnool, Visakhapatnam, Vijayawada and Nellore as Special Public Prosecutors for conducting cases before the Special Courts and Authorized Officers constituted under A.P. Special Courts Act – Orders – Issued.

Read the following :

1. The Andhra Pradesh Special Courts Act, 2016 (Act 16 of 2016)
2. G.O.Ms.No.136, G.A. (SC-F) Dept., dt.16.06.2016.
3. G.O.Ms.No.56, G.A. (SC-F) Dept., dt.09.05.2017.
4. G.O.Ms.No.89, G.A. (SC-F) Dept., dt.20.07.2017.
5. G.O.Ms.No.138, G.A. (SC-F) Dept., dt.05.10.2017.
6. G.O.Ms.No.2714, G.A. (SC-F) Dept., dt.06.12.2017.
7. Minutes of the meeting with the D.G., A.C.B., A.P., held on 02.04.2018.

ORDER :

In the G.O. 4th read above, Government in consultation with Hon'ble High Court of Judicature at Hyderabad, notified four (4) existing Special Courts of SPE & ACB Cases situated at Kurnool, Visakhapatnam, Vijayawada and Nellore as Special Courts for the purpose of speedy trial of offences under the Andhra Pradesh Special Courts Act, 2016.

2. In the G.O. 6th read above, four (4) retired District Judges have been nominated as "Authorized Officers" in the four (4) Special Courts constituted under the Andhra Pradesh Special Courts Act, 2016 for a period of one year with effect from 06.12.2017.
3. In the meeting held on 02.04.2018, the Director General, A.C.B., has proposed to appoint the existing Special Public Prosecutors of the Special Courts

for S.P.E. & A.C.B. Cases as Special Public Prosecutors to conduct cases in the Special Courts established under the provisions of the Andhra Pradesh Special Courts Act, 2016.

4. After careful examination of the matter and under Rule 8 (1) of the Andhra Pradesh Special Courts Rules, 2017, Government hereby appoint the existing Special Public Prosecutors of the Special Courts for SPE & ACB Cases at Kurnool, Visakhapatnam, Vijayawada and Nellore as Special Public Prosecutors to institute and conduct cases in the Special Courts established under the Andhra Pradesh Special Courts Act, 2016 at those places respectively as well to make applications to the Authorized Officers and conduct cases before them for confiscation of the money and other property under Rule 9 (3) of the said Rules until further orders.

(590)

Cir.Memo.No.670365/Ser.C/2018, G.A. (Ser.C) Dept., dt.06.11.2018 regarding check list to furnish information for concurrence of A.P.P.S.C. on the proposed penalty.

Subject Heading : Public Services – Disciplinary cases – Concurrence of the Andhra Pradesh Public Service Commission on the proposed major penalty against the delinquent employee – Check List to furnish information to the Commission - Regarding.

- Ref: 1. Cir.Memo.No.16091/Ser.C/A1/2009-2, G.A. (Ser.C) Dept., dt.12.11.2009.
2. From the Secretary, A.P. Public Service Commission, Vijayawada, Letter No.506/DC&C/2018, dt.31.08.2018.

The Secretary, Andhra Pradesh Public Service Commission has stated that the Departments concerned are not furnishing the required information in disciplinary cases as per the Check List, thereby the concurrence of the Commission could not be given on the proposed penalties. The Secretary, A.P.P.S.C. has requested to issue suitable instructions to all concerned for prompt action to furnish the information as per the Check List in all disciplinary cases to enable the Commission to give concurrence on the proposed major penalty against delinquent employee.

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2. According to the Regulation 17 of the A.P.P.S.C. Regulation, 1963, it is necessary to consult the Commission wherever a major penalty is proposed to be imposed against a delinquent Government employee.

3. In the reference 1st cited, a Circular Memo.No.16091/Ser.C/A1/2009-2, dt.12.11.2009, a Check List was communicated earlier to all Departments to furnish information to the A.P.P.S.C. to obtain concurrence of the Commission wherever it is proposed to impose a major penalty against the delinquent employee. There is change in procedure in respect of conducting inquiries in disciplinary cases, as per new rules.

4. In the reference 2nd cited, the Secretary, A.P.P.S.C. has requested for issue of revised check-list, duly including 6 columns in the existing check-list at points 2 and 4 for necessary action to communicate to all the Departments to furnish the information in the revised check-list without leaving any column blank (if any column is not applicable, the department needs to fill it as "Not Applicable" instead of keeping it blank) to enable the Commission to process the proposals in a speedy and effective manner.

5. Therefore, a modified Check List in accordance with the provisions contained in the APCS (CC&A) Rules, 1991 is enclosed herewith to enable the concerned authorities to furnish information to the A.P.P.S.C. for their concurrence on the major penalty proposed to be imposed against the delinquent Government employee.

6. All the Departments of Secretariat are therefore requested to take necessary action accordingly.

(Note: See Part II for Revised Check List and Annexure (No.34)

(591)

U.O. Note No.941101/Ser.C/2019, G.A. (Ser.C) Dept., dt.11.09.2019 regarding consultation with the A.P.V.C. in cases involving a vigilance angle.

Subject Heading : Secretaries Conference held on 10.07.2019 – Minutes of the Meeting – Consultation with the A.P.V.C. in cases involving a vigilance angle – Regarding.

Ref: U.O. Note No.GAD01/272/2019-GLC-5, G.A. (L&C) Dept., dt.16.07.2019 along with the Minutes of Secretaries' Conference held on 10.07.2019.

The attention of all the Departments of Secretariat is invited to the reference cited wherein, it was stated *inter alia*, that A.P. Vigilance Commission is being consulted at every stage of disciplinary proceedings causing delay in taking decisions. It is, therefore, suggested that A.P.V.C. should be consulted at the final stage of the case, before pressing for circulation.

2. However, Government after careful examination of the matter, hereby decide that the Andhra Pradesh Vigilance Commission has to be consulted at two stages in disciplinary matters. The first stage is at the time of initiating the disciplinary proceedings on the Preliminary Report of enquiry and second stage is after conclusion of the departmental inquiry on the allegations, as per the Scheme of Vigilance Manual.

3. All the Departments of Secretariat are requested to follow the above instructions scrupulously.

(592)

U.O.Note No.GAD01-POLL0VAC/2/SC.F/A1/2019-1, G.A. (SC.F) Dept., dt. 11.09.2019 regarding instructions on consultation with Vigilance Commission in respect of Appeals, Revision and Review.

Subject Heading : G.A. (SC.F) Dept. – Scheme of Vigilance Commission – Consultation of A.P.Vigilance Commission in respect of Appeals, Revision and Review Petitions of Government Servants on the final orders in Disciplinary and Criminal Cases – Regarding.

- Ref : 1. U.O.Note No.98/Spl.C/A1/2009-1, G.A. (Spl.C) Dept., dt.22.07.2009.
2. From the Vigilance Commissioner, A.P.V.C., Lr.No.69984/VC.AB1/2005, dt.16.04.2019.

The attention of all the Departments of Secretariat is invited to the reference 1st cited, wherein Government have issued instructions to all the Departments of Secretariat that they should consult the Vigilance Commission, while considering the Appeals, Revision and Review of final orders issued in disciplinary cases and criminal cases.

2. As per the reference 2nd cited of the Vigilance Commissioner, A.P. Vigilance Commission, Government noticed that in number of vigilance cases,

the penalties imposed by the competent authorities are being modified by the Appellate Authorities without obtaining the Vigilance Commission advice. This is against the procedure of the Scheme of Vigilance Commission.

3. Government once again inform all the Departments of Secretariat that the Appellate and Revision Authorities should invariably obtain the advice of the A.P. Vigilance Commission while dealing with the Appeals, Revision and Review of final orders issued in disciplinary cases and criminal cases, having vigilance angle for taking further course of action and that they should scrupulously follow the vigilance scheme, without fail.

(593)

Cir.Memo.No.993083/FIN01-HR01-HR0CLI/9/2019-HR-III, Finance (HR.III-Pension) Dept., dt.15.03.2020 regarding clarification to Rule 9 (2) (b) (ii) of A.P. Revised Pension Rules, 1980.

Subject Heading : Finance Department – Pension Rules – Judgement order given by Hon'ble High Court in W.P.No.38901 of 2017 – Clarification to Rule 9 (2) (b) (ii) of A.P. Revised Pension Rules, 1980 – The date of occurrence of the event is always the date on which the effect is felt or found out – Regarding.

- Ref: 1. G.O.Rt.No.609, M.A.&U.D. Dept., dt.04.09.2017.
2. Representation of Sri G.C. Penchalaiah, the then Municipal Commissioner (Retd.), Venkatagiri Municipality, S.P.S.R. Nellore District dt.03.11.2017.
3. Judgment of Hon'ble High Court in W.P.No.38901 of 2017 between Sri L.Nageswara Rao, S/o. Suryanarayana Murthy, aged about 65 years, A.E. (Retd.), Irrigation Section, Mukteswaram, E.G. Dist. and the State of Andhra Pradesh, dt.17.11.2017.
4. Law Department U.O. even No. dated 26.11.2019.

According to the existing rules under Rule 9 (2) (b) of Andhra Pradesh Revised Pension Rules, 1980, the Departmental proceedings, if not instituted while the Government Servant was in service, whether before his retirement or during his re-employment.

- (i) shall not be instituted save with the sanction of the Government;
- (ii) shall not be in respect of any event which took place more than four years before such institution; and
- (iii) shall be conducted by such authority and in such place as the State Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government Servant during his service.

2. It is brought into the notice of the Andhra Pradesh Vigilance Commission that as per Rules in force, no disciplinary proceedings shall be initiated after (4) years from the date of its occurrence.

3. On appeal by Sri G.C.Penchalaiah, based on the interpretation of Rule 9 (2) (b) (ii) of Andhra Pradesh Revised Pension Rules, 1980 that no disciplinary proceedings shall be initiated after four (4) years from the date of its occurrence and requested to drop further action, the Commission quoted a Judgment given by the Hon'ble High Court in W.P.No.38901 of 2017 on the interpretation of Rule 9 (2) (b) (ii) of Andhra Pradesh Revised Pension Rules, 1980, as follows:-

"The date of occurrence of the event is always the date on which the effect of the event is felt or found out"

4. In the circumstances reported above and after careful examination of the matter, Government hereby clarify that the date of occurrence of the event is always the date on which the effect of the event is felt or found out in Rule 9 (2) (b) (ii) of Andhra Pradesh Revised Pension Rules, 1980 (as per the Judgment given by the Hon'ble High Court in W.P.No.38901 of 2017.

5. The Circular Memo. is available on Internet and can be accessed at the address <https://www.apfinance.gov.in>.

(594)

G.O.Ms.No.85, G.A. (Ser.C) Dept., dt.08.09.2020 regarding amendment to Schedule-II to Rule-7 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – Amendment to the A.P.C.S. (CC&A) Rules, 1991 – Inclusion of the A.P. Govt. Life Insurance (Sub-ordinate) Services Rules, 1983 in Schedule-II under Rule-7 – Orders – Issued.

Read the following :

1. G.O.Ms.No.289, Finance & Planning (Admn.II) Dept., dt.18.10.1993.
2. G.O.Ms.No.487, Genl. Admn. (Ser.C) Dept., dt.14.09.1992.

ORDER :

The following Notification will be published in the ensuing Andhra Pradesh Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Department, dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time:

AMENDMENT

In the said rules –

In Schedule-II to Rule-7, after entry 55, the following shall be added, namely –

“56 – The Andhra Pradesh Government Life Insurance (Subordinate)

(595)

G.O.Rt.No.1485, G.A. (Ser.C) Dept., dt.25.09.2020 regarding instructions on completion of disciplinary proceedings through Video Conference in the wake of COVID-19.

Subject Heading : G.A.D. – Services – Completion of disciplinary proceedings through Video Conferencing in the wake of COVID-19 pandemic – Certain instructions – Orders – Issued.

Read the following :

1. G.O.Rt.No.1210, G.A. (SC.F) Dept., dt.30.07.2020.
2. Office Memorandum No.11012/03/2020-Estt-A.III, dt.05.08.2020 issued by Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training).

ORDER :

In the G.O. first read above, Government have issued orders to conduct the inquiries through video conferencing in Commissioner of Inquiries during the COVID-19 pandemic time.

2. In the reference second read above, the Under Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) have issued the following orders regarding completion of disciplinary proceedings:-

“The Inquiry Officer shall conduct the inquiry proceedings at a location taking into account the availability of records, station/place where the misconduct occurred as well as the convenience of the witnesses / PO etc. Video Conferencing should be utilized to the maximum extent possible to minimize travel undertaken by the IO / PO / CO. The cadre controlling authorities will facilitate necessary arrangements for the Video Conferencing”.

3. Government after careful consideration of the matter, hereby order the Cadre Controlling Authorities / Disciplinary Authorities to instruct the Inquiry Officers to conduct inquiries through Video Conferencing, wherever possible in the wake of COVID-19 pandemic, on the same analogy of Government of India issued in the reference second read above and as per the orders issued in the G.O. first read above; subject to the condition that principles of natural justice are fully adhered to, while conducting the proceedings through such digital mode.

4. All the Departments of the Secretariat, Heads of Departments and District Collectors in the State shall take necessary further action in the matter accordingly.

(596)

Cir.Memo.No.FIN01-HR/954347/100/2019-HR-IV, Finance (HR.IV) Dept., dt.05.03.2021 regarding instructions on regularization of suspension period.

Subject Heading : A.P. Fundamental Rules – Dealing with Regularization of Suspension Period – Instructions – Regarding.

Ref: Circular Memo.No.22044-A/448/FR.II/2004, Finance (FR.I) Dept., dt.13.10.2004.

The attention is invited to the Executive Instruction (2) under FR 54 issued orders vide reference above cited wherein it was instructed that “suspension is a part and parcel of disciplinary action and disciplinary action is finalized by the appointing authority / disciplinary authority as per the provisions of the A.P.C.S (CC&A) Rules, A.P.C.S. (Conduct) Rules, 1964, as the case may be. At the time of finalization of disciplinary action, the disciplinary authority also finalizes about the treatment of period of suspension either as duty or as not duty depending upon the gravity of the disciplinary case and referring such files to Finance Department may not be as per the existing guidelines of the Government and as per the above service rules. Hence, all the Departments of Secretariat shall review all the disciplinary cases with all Heads of Departments at least once in two months, so as to monitor progress in the disposal of the cases and regularize the suspension period at the time of finalization of disciplinary action itself as duty or as not duty depending upon the gravity of the disciplinary case and also in terms of the provisos of Fundamental Rules. Hence, the Departments of Secretariat are requested not to refer the files relating to regularization of suspension period of Government employees to Finance Department henceforth”.

2. However, it is noticed that all the Secretariat Departments are simply forwarding the files to this Department without indicating the preliminary stand in the matter being disciplinary authority.

3. Hence, the Departments of Secretariat are informed to strictly follow the above Executive Instruction (2) under FR 54 without fail while dealing with the regularization of period of suspension / dismissal followed by reinstatement matters. To follow uniformity in all similar cases by all administrative departments, a prescribed checklist annexed to these orders. They are also advised to instruct the HODs under their control to examine all the similar cases in the above checklist scrupulously.

**Checklist for the cases proposing for regularization of
Suspension Period**

Name & Desig.	Department	Date of suspension/ACB Trap		Departmental / Judicial proceedings initiated date		Date of Reinstatement whether on appeal or on Court directions	E.O. Report	If acquittal whether	Directions of Court	Date of Retirement/Death while pending the disciplinary / judicial proceedings	Concerned HoD remarks with due justification on suspension	Concerned Admn. Dept. in Secretariat remarks with due justification on suspension	Period claiming for regularization with relevant Rule 54
Dept!	Judicial	on appeal	on Court direction				on Merit / fully exonerated	on Non-compliance of the records / benefit of doubt	Without any specification acquittal				

(597)

G.O.Ms.No.41, G.A. (Ser.C) Dept., dt.18.04.2021 regarding instructions of new timeline of 100 days prescribed for concluding disciplinary proceedings arising out of caught red handed trap cases.

Subject Heading : Public Services – A.P.C.S. (CC&A) Rules, 1991 – Departmental Proceedings arising out of caught red handed cases undertaken by the A.C.B. – New timeline of 100 days prescribed for concluding the disciplinary proceedings by all Government Departments – Orders – Issued.

CIRCULAR NO. (597)

Read the following :

1. A.P.C.S (CC&A) Rules, 1991 issued vide G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.9.1992.
2. G.O.Ms.No.421, G.A. (SC-D) Dept., dt.03.08.1993.
3. Memo.No.35676/Ser.C/98, G.A. (Ser.C) Dept. dt.01.07.1998.
4. Memo.No.177/SPI.C./2003-1, G.A. (Spl.C) Dept., dt.13.05.2003.
5. Memo.No.77/Spl.C/A1/2011, G.A. (Spl.C) Dept., dt.10.03.2011.

ORDER :

The Government of Andhra Pradesh have taken up several welfare and development initiatives on a massive scale for the betterment of all the sections of people in the State. A number of programmes on an unprecedented scale have been taken up under "Navaratnalu" to deliver the required services at the doorsteps of the people in a transparent and corruption free manner. Gram / Ward Volunteers and Village / Ward Secretariat system in the State has been established to play the role of an accessible and transparent delivery mechanism for all the services required at the village/ward level. The Hon'ble Chief Minister has reiterated the Government's commitment to corruption-free administration on a number of occasions and accordingly a number of initiatives have been launched towards this goal.

2. The Anti-Corruption Bureau in Andhra Pradesh came into existence on 02.01.1961 as a separate Department to check effectively the evil of corruption in the services and to improve the moral tone of the administration in the State. However, this laudable objective does not seem to have been fulfilled completely. The status of cases pending in ACB since 1995 is as follows :

Sl.No.	Years	Caught red handed cases-numbers	Total including caught red handed cases
1	1991- 1995	3	30
2	1996- 2000	2	36
3	2001- 2005	1	5
4	2006- 2010	158	378
5	2011- 2015	161	740
6	2016- 2020	151	497
	Total	476	1686

3. In the above mentioned context, it has been noticed that disciplinary proceedings arising out of caught red handed cases by Anti-Corruption Bureau (ACB) are taking unduly long time for their conclusion. As a result, a large number of such cases are found to be pending and the time taken for disposal of these disciplinary cases is unduly long in almost all cases. Such unacceptable delay in finalisation of the disciplinary cases results in a large number of employees remaining under suspension and drawing full/part salaries without turning out any work-thus proving to be a burden on the public exchequer. Such undue delay also leads to dilution of fear of quick punishment in the minds of the officials indulging in corrupt practices. Entire purpose of having a deterrent tool in the shape of Anti- Corruption Bureau gets defeated. Therefore, there is a need to reduce the time period for finalisation of Disciplinary cases, in order to ensure that there is a deterrent fear of law amongst the Government officials and the tendency of indulging into corrupt practices is nipped in the bud.

4. The present timelines prescribed in the A.P.C.S. (CC&A) Rules, 1991 and other instructions of the Government issued from time to time, from the stage of initiation to conclusion of disciplinary proceedings arising out of caught red handed cases is as follows :

Table A

Sl.No.	Process	Timeline	Provision
1	Caught red handed by the Anti-Corruption Bureau	Day - 1	Chapter VII (78 to 107) of the ACB Manual
2	Arrest of the Officer caught red-handed by the ACB and his production before ACB Court	within 24 hours. (Day - 2)	Sections 41, 46, 47, 48, 51, 52, 57 of the Cr.P.C. Article 22 of the Constitution of India.
3	ACB to furnish the Radio Message to APVC and concerned HoD/ Government with intimation of the detention of the Accused Officer (AO) for suspension	within 24 hours of caught red-handed	Memo.No.177/Spl.C/2003-1, dt.13.05.2003, G.A. (Spl.C) Dept.
4	On receipt of the radio message of ACB arresting the officer, Accused Officer is suspended by the competent authority	Timeline not specified	Rule 8(1) of A.P. Civil Services (CC&A) Rules, 1991

Sl.No.	Process	Timeline	Provision
5	Submission of final report by the ACB to Government Department.	3 months	Memo.No.700/SC.D/88-4, Genl. Admn. (SC.D) Dept., dt.13.02.1989.
6	The Department along with the remarks requests the APVC for its advice on the final report of the ACB	21 days	G. O. Ms.No.421, G.A. (SC.D) Dept., dt. 03.08.1993.
7	APVC gives its advice to the Department on the final report of the ACB		
8	Based on the advice of the APVC, Prosecution is sanctioned by the Competent Authority or Departmental Action is initiated or both actions are taken	45 days	Memo.No.77/Spl.C/A1/2011, G.A. (Spl.C) Dept., dt.10.03.2011
	<ul style="list-style-type: none"> • After sanction of Prosecution order issued by the Competent Authority, the criminal proceedings are taken up further by ACB • For Departmental action, the following procedure is further prescribed: 		
9	For departmental action, Depts. requests the ACB to furnish DRAFT Article of Charges	No timeline specified	
10	On receipt of the Article of charges from ACB, the Competent Authority serves the article of charges on the delinquent officer to submit his statement of defense	No timeline specified	Rule 20 of the A.P.C.S. (CC&A) Rules, 1991
11	Delinquent Officer has to submit his Statement of Defense to the Competent Authority	10 days	Rule 20 (4) of the A.P.C.S. (CC&A) Rules, 1991.

Sl.No.	Process	Timeline	Provision
12	After examination of the statement of defense, the Competent Authority (CA) appoints Inquiry Authority (IA)	No timeline specified	Rule 20 (2) of the A.P.C.S. (CC&A) Rules, 1991.
13	Inquiry Authority to complete the Inquiry and submit his report to CA	3 Months	Memo.No.35676/Ser.C/98, G.A. (Ser.C) Dept., dt.01.07.1998.
14	Report of the IA to be communicated to the Delinquent Officer by the Competent Authority to submit his Written Statement of Defense	No timeline specified	
15	Delinquent Officer to submit his Written Statement of Defense to Competent Authority	15 days	Rule 21 (2) of the A.P.C.S. (CC&A) Rules, 1991.
16	Department furnishes the Inquiry Authority report to APVC for advice	No timeline specified	
17	APVC furnish advice to the Department		
18	Competent Authority after going through the Inquiry Authority report, written statement of defense and advice of the Vigilance Commission takes a decision to impose Minor/Major Penalty and conclude the proceedings. Imposition of Major Penalty consultation with APPSC.	No timeline specified	Rule 22 of the A.P.C.S. (CC&A) Rules, 1991.
19	Advice of the Service Commission		
20	Communication of order of the Competent Authority to the Delinquent Officer	No timeline specified	Rule 23 of A.P.C.S. (CC&A) Rules, 1991.

5. As can be seen from the above table (Table A), much of the delay caused in the present system can be attributed to the impractically / unwantedly long timelines prescribed for many processes along with prescribing no timeline at all for a few other processes.

6. A committee of officers consisting of Chief Commissioner of Land Administration, Principal Secretary to Government, Village & Ward Secretariat and Village / Ward Volunteers, Secretary to Government, MA&UD, Secretary to Government, PR&RD, Secretary to Government, G.A (Services) and D.G., A.C.B. have studied the subject and recommended a revised timeline for early completion of the disciplinary proceedings without diluting the principles of natural justice and fair play.

7. Government, after careful examination of the matter, prescribe the following revised timelines for speedy disposal of the disciplinary cases arising out of caught red handed cases undertaken by the ACB.

Table B

Sl.No.	Process	Timeline	Provision
1	Caught red-handed by the Anti-Corruption Bureau	Day - 1	Chapter VII (78 to 107) of the ACB Manual
2	Arrest of the Officer caught red handed and his production before ACB Court. ACB to furnish the Radio Message to APVC and concerned HoD/ Government with intimation of the detention of the Accused Officer for suspension	within 24 hours. (Day - 2)	Sections 41, 46, 47, 48, 51, 52, 57 of the Cr.P.C., Article 22 of the Constitution of India; Memo. No.177/Spl.C/ 2003-1, G.A. (Spl.C) Dept., dt.13.05. 2003.
3	On receipt of the radio message of ACB arresting the officer, the Accused Officer may be placed under suspension by the competent authority	2 days	Rule 8(1) of the A.P.C.S. (CC&A) Rules, 1991
4	Submission of final report by ACB to Government Department along with Articles of Charges	30 days	Memo.No.177/ Spl.C/ 2003-1,G.A. (Spl.C) Dept, dt.13.05.2003.

Sl.No.	Process	Timeline	Provision
5	The Department along with their remarks requests the APVC for its advice on the final report of the ACB	3 days	G.O.Ms.No.421, G.A. (SC.D) Dept., dt.03.08.1993. (Amendment is required to the above GO.)
6	APVC gives its advice to the Department on the final report of the ACB	3 days	
7	Based on the Advice of the APVC, Prosecution is sanctioned by the Competent Authority or Departmental Acton or Both.	4 days	Memo.No.77/ Spl.C/A1/2011, G.A.(Spl.C) Dept, dt.10.03.2011(Amendment is required to the above Memo.)

After sanction of Prosecution order issued by the Competent Authority, the criminal proceedings are taken up further by Anti-Corruption Bureau. For Departmental action, the following procedure is further prescribed:

8	On receipt of the Article of charges, the Competent Authority serves the article of charges on the delinquent officer to submit his statement of defense	2 days	Rule 20 of the A.P.C.S. (CC&A) Rules, 1991.
9	Delinquent Officer has to submit his Statement of Defense	7 days	Rule 20 (4) of the A.P.C.S. (CC&A) Rules, 1991.
10	After examination of the Statement of Defense, the Competent Authority (CA) appoints Inquiry Authority (IA) and Presenting Officer	2 days	Rule 20 (2) of the A.P.C.S. (CC&A) Rules, 1991 and Rule 20 (5) (c) of the A.P.C.S. (CC&A) Rules, 1991.
11	Inquiry Authority to complete the Inquiry and submit his report to Competent Authority	21 days	Memo. No. 35676/Ser.C/98, G.A.(Ser.C) Dept., dt.01.07.1998.(Amendment is required to the above Memo.)

Sl.No.	Process	Timeline	Provision
12	Report of the Inquiry Authority to be communicated to the Delinquent Officer to submit his Written Statement of Defense	2 days	Rule 21 (1A) of the A.P.C.S. (CC&A) Rules, 1991.
13	Delinquent Officer to submit his Written Statement of Defense to Competent Authority	7 days	Rule 21 (1A) of the A.P.C.S. (CC&A) Rules, 1991. (Amendment is required to the above Rule)
14	Department furnishes the Inquiry Authority report to A.P.V.C. for remarks.	2 days	
15	APVC gives its advice on the enquiry authority report	3 days	
16	Competent Authority after going through the Inquiry Authority report, written statement of defense and advice of the Vigilance Commission takes a decision to impose Minor/Major Penalty and conclude the proceedings. For imposition of Major Penalty, consultation with APPSC is required.	3 days	Rule 22 of the A.P.C.S. (CC&A) Rules, 1991.
17	Department to consult the A.P.P.S.C. on the imposition of Major Penalty	2 days	As per Regulation 17 of A.P.P.S.C. Regulation 1963, before a major penalty on Delinquent Government employees in disciplinary cases.
18	APPSC forwards its advice to the Administrative Department	3 days	
19	Communication of Order of the Competent Authority to the Delinquent Officer	2 days	Rule 23 of the APCS (CC&A) Rules, 1991

Total

100 days

8. All the Departments of Secretariat/Heads of Departments and Director General, Anti-Corruption Bureau shall adhere to the timelines as stipulated above, while concluding the disciplinary proceedings arising out of caught red-handed cases undertaken by the ACB. It is further reiterated that Disciplinary proceedings should be conducted in parallel / simultaneously with the criminal proceedings and it should not wait for the outcome of the criminal proceedings.

9. Failure to conclude the disciplinary proceedings within 100 days or failure to follow the above prescribed timelines by the Departments, competent authorities and Anti Corruption Bureau (ACB) shall be viewed seriously by the Government and disciplinary action shall be taken against the concerned, responsible for the delay.

10. Necessary amendments/modifications in rules and instructions shall be taken by the concerned department, as shown below:

Department concerned	Action / Amendment
Prl. Secy. (Political), GAD	G.O.Ms.No.421, G.A. (SC-D) Dept., dt.03.08.1993. (Amendment is required to the above GO)
	Memo No.77/Spl.C/A1/2011, G.A. (Spl.C) Dept.,dt.10.03.2011 (Amendment is required to the above Memo.)
Secretary (Services)	Rule 20, 20 (2), 20 (4), 21 (1) (A), 22 and 23 of A.P.C.S. (CC&A) Rules 1991
	Memo.No.35676/Ser.C/98, G.A.(Ser.C) Dept., dt.01.07.1998. (Amendment is required to the above Memo.)
All Secretaries/Heads of Departments / and other Competent Authorities	To take action to notify the designation of officers to be appointed as Inquiry Officers & Presenting Officers in the event of caught red handed cases against officers holding different categories.

(598)

G.O.Rt.No.1250, G.A. (SC.F) Dept., dt.28.07.2021 regarding instructions on preventive vigilance

Subject Heading : A.P. Vigilance Commission – Prepare specific action plan on preventive vigilance by the Government Departments in prevention of corruption – Orders – Issued.

Read :

From the Vigilance Commissioner, A.P.V.C., Velagapudi, Amaravati,
Lr.No.GAD12-COOR0NINT/2/2021-ABSEC-APVC, dated 01.06.2021.

ORDER :

The Vigilance Commissioner in the reference read above, has informed that the importance of preventive vigilance had been recognized in the report of Santhanam Committee way back in 1964. The Santhanam Committee Report stated that “corruption cannot be eliminated or even significantly reduced, unless preventive measures are planned and implemented in a sustained and effective manner.” The Central Vigilance Commission has also described elaborately about the Preventive Vigilance in its various publications that preventive vigilance seeks to prevent occurrence of corrupt practices by identifying and plugging vulnerable areas through systematic improvements and structural remedies. The measures fulfil the objective of pre-empting corrupt practices and further enhance the organizational efficiency.

2. The Vigilance Commissioner has requested the Government to instruct all the Departments of Government to prepare a specific action plan of action for their respective departments based on their brief note on prevention of corruption of establishment of an honest, transparent efficient and citizen friendly administration.

3. Government after careful consideration of the suggestion of the A.P. Vigilance Commission hereby issue the following orders for prevention of corruption and establishment of an honest, transparent efficient and citizen friendly administration:

- (a) All the Departments of Secretariat/Heads of the Department/ and other Government agencies are requested to prepare specific action plan on preventive vigilance in their jurisdictional offices, keeping in view the guidelines contained in the Preventive Vigilance Note given by Andhra Pradesh Vigilance Commission which is annexed to this order.
- (b) The Revenue and PR&RD Department are selected as Model Departments and they should prepare Model Specific Action Plan for their jurisdictional offices under the overall guidance of Andhra Pradesh Vigilance Commission.

- (c) The Special Chef Secretary to Government, GPM&AR, General Administration Department shall coordinate for preparation of Action Plans in respect of all the Departments of Secretariat, under the guidance of Andhra Pradesh Vigilance Commission.

(599)

G.O.Ms.No.91, G.A. (Ser.C) Dept., dt.26.08.2021 regarding Amendment to Schedule-I & II under Rule-6 & 7 of A.P.C.S. (CC&A) Rules, 1991.

Subject Heading : Public Services – Amendment to the A.P.C.S (CC&A) Rules, 1991 – Inclusion of all the State and Subordinate Services of Public Transport Department in Schedule-I & II under Rule-6 & 7 of A.P.C.S. (CC&A) Rules, 1991 – Orders – Issued.

Read the following :

1. G.O.Ms.No.487, G.A. (Ser.C) Dept., dt.14.09.1992.
2. G.O.Ms.No.12, T,R&B Dept., dt.24.05.2021.
3. G.O.Ms.No.13, T,R&B Dept., dt.24.05.2021.
4. G.O.Ms.No.14, T,R&B Dept., dt.24.05.2021.
5. G.O.Ms.No.15, T,R&B Dept., dt.24.05.2021.
6. G.O.Ms.No.16, T,R&B Dept., dt.24.05.2021.
7. G.O.Ms.No.17, T,R&B Dept., dt.24.05.2021.
8. G.O.Ms.No.18, T,R&B Dept., dt.24.05.2021.
9. G.O.Ms.No.19, T,R&B Dept., dt.24.05.2021.
10. G.O.Ms.No.20, T,R&B Dept., dt.24.05.2021.
11. G.O.Ms.No.21, T,R&B Dept., dt.24.05.2021.
12. G.O.Ms.No.22, T,R&B Dept., dt.24.05.2021.
13. G.O.Ms.No.23, T,R&B Dept., dt.24.05.2021.

14. G.O.Ms.No.24, T,R&B Dept., dt.24.05.2021.
15. G.O.Ms.No.25, T,R&B Dept., dt.24.05.2021.

ORDER :

The following Notification will be published in an extra-ordinary issue of the Andhra Pradesh Gazette, dated 01.09.2021.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereinto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 issued in G.O.Ms.No.487, General Administration (Ser.C) Dept., dated the 14th September, 1992 and published in Part-I, No.235, Extraordinary issue of the Andhra Pradesh Gazette, dated the 1st July, 1992 as subsequently amended from time to time:

AMENDMENTS

In the said rules :

- (a) In Schedule-I to Rule-6, after entry 58, the following shall be added, namely,-

“59 – Andhra Pradesh Public Transport Accounts and Audit State Service”;

“60 - Andhra Pradesh Public Transport Civil Engineering State Service”,

“61 - Andhra Pradesh Public Transport Medical State Service”,

“62 - Andhra Pradesh Public Transport Vigilance and Security State Service”,

“63 - Andhra Pradesh Public Transport State Service”,
- (b) In Schedule-II to Rule 7, after entry 56, the following shall be added, namely,-

“57 – Andhra Pradesh Public Transport Accounts and Audit Subordinate Service”;

“58 - Andhra Pradesh Public Transport Civil Engineering Subordinate Service”,

“59 - Andhra Pradesh Public Transport Medical Subordinate Service”,

“60 - Andhra Pradesh Public Transport Mechanical Engineering Subordinate Service”,

“61 - Andhra Pradesh Public Transport Operations Subordinate Service”,

“62 - Andhra Pradesh Public Transport Personnel Subordinate Service”,

“63 - Andhra Pradesh Public Transport Statistical Subordinate Service”,

“64 - Andhra Pradesh Public Transport Stores and Purchase Subordinate Service”,

“65 - Andhra Pradesh Public Transport Vigilance and Security Subordinate Service”.

(600)

G.O.Ms.No.50, G.A. (SC.F) Department, dt.16.06.2022 regarding scheme defining jurisdiction and powers of Andhra Pradesh Vigilance Commission – G.O.Ms.No.421, GA (SC.D) Department, dt.03.08.1993 – Amendment - Orders – Issued.

Subject Heading : Scheme defining jurisdiction and powers of Andhra Pradesh Vigilance Commission – Amendment to G.O.Ms.No.421, GA (SC.D) Department, dt.03.08.1993 – Orders – Issued.

Read the following :

1. G.O.Ms. No.421, GA(SC.D) Department, dated: 03.08.1993
2. G.O.Ms.No. 41, GA(SerC) Department, dated:18.04.2021

ORDER :

In the reference second read above, the Government have issued orders prescribing the timelines from the stage of initiation to conclusion of disciplinary proceedings arising out of caught red handed cases for speedy disposal of the

disciplinary cases and also ordered to issue necessary amendments / modification by concerned departments.

2. Accordingly, the following Amendment is issued to the Scheme defining jurisdiction and powers of A P Vigilance Commission in G.O.Ms.No.421, GA (SC.D) Department, dated: 03.08.1993.

AMENDMENT

In the said G O., in the Appendix, in clause (vi) of para 6, for the figures and words “21 days” the figures and words “3 days” shall be substituted.

(601)

Memo No 1717081/A1/2022, General Administration (SC.F) Department, dt.23.07.2022 regarding wide publicity of ACB 14400 App developed by ACB – Instructions – Issued.

Subject Heading : wide publicity of ACB 14400 App developed by ACB – Instructions – Issued.

All the District Collectors in the State / all the Departments in Secretariat are informed that the ACB has developed ‘14400’ app with the help of RTGS to reach each and every citizen of the state to bring the corrupt practices of the Government officials to the notice of the Government / ACB. This would contribute to reduction of preventing corruption in the State. This app is customized for the people to register corruption related complaints against the officials in the state. This app also aims to ensure fool-proof evidence to present before the court.

It is informed that the ACB 14400 app can be downloaded from the Google play store. An OTP will be sent to the mobile number through which registration is being done, and once registered, the app will be ready to use. This app has the following two key features: One feature is the facility to live record audio, photo or video and lodge a complaint instantly. Another feature is the facility to send the videos, photos, documents as well as other proofs and lodge a complaint.

It is also informed that after a complaint is lodged, a reference number will be sent to the registered mobile number. Any person who has been asked for a bribe from a Government official including the RDO Office, Collector Office,

Mandal Level Office, Sub-Registrar Office, Police Station, etc., must download this app and record the conversation following which it would reach the ACB.

All the District Collectors in the State / all the Departments in Secretariat are therefore requested to give wide publicity to the ACB 14400 app to reach each and every citizen of the state to bring the corrupt practices of the Government officials to the notice of the Government / ACB for preventing corruption in the State. They are further directed to display the advertisement for creating awareness on ACB 14400 app.

Specifically, boards of size 3ft x 5ft should be displayed at prominent places in all offices at the village, mandal, divisional and district levels, such as the offices of the sub-registrar, land revenue, town planning, and others. The material for the display would be prepared in consultation with the Commissioner, I&PR.

The display should be completed within a period of 15 days.

(602)

G.O.Ms.No.98, GA (Ser-E) Department, dt.18.08.2022: Tribunal for Disciplinary Proceedings -Ordinance to repel the Andhra Pradesh Civil Services (Disciplinary ProceedingsTribunal) Act, 1960 and matters connected therewith - Certain instructions – Orders - Issued.

Subject Heading : Ordinance to repel the Andhra Pradesh Civil Services (Disciplinary ProceedingsTribunal) Act, 1960 and matters connected therewith - Certain instructions – Issued.

Read:

An ordinance to repeal the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 and to provide for matters connected therewith or incidental thereto, published in Andhra Pradesh Gazette, PART IV-B Extraordinary, No.6, Amaravati, dated:16.08.2022.

ORDER :

In the reference read above, an Ordinance i.e., ordinance to repeal the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 and to provide for matters connected therewith or incidental thereto has been published in Andhra Pradesh Gazette. According to the aforementioned ordinance, the following provisions have been issued:-

- “ 1. (1) This Ordinance may be called the Andhra Pradesh Civil Services (Disciplinary

Proceedings Tribunal) (Repeal) Ordinance, 2022.

(2) It shall come into force at once.

2. (1) The Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 is hereby repealed.

Provided that such repeal shall not effect the previous operation of the repealed Act.

(2) From the date on which this Ordinance comes into force, the Tribunal constituted under the repealed Act shall stand abolished and all cases pending before the said Tribunal on the said date shall stand transferred to the Commissionerate of Inquiries (COI) to continue the pending proceedings and shall be disposed of by it in accordance with the statutory rules governing conduct of the disciplinary proceedings in due compliance with principles of natural justice.

Provided that the disciplinary proceedings remaining inconclusive before the Tribunal and challenged before the Honorable courts for remaining inconclusive shall abide by the directions of the courts.

3. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

(2) Every order made under this Section shall be laid, as soon as may be after it is made, before each House of Legislature".

2. Government after careful examination of the matter and in pursuance of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) (Repeal) Ordinance, 2022, the following orders are issued:-

i. The Secretary, Tribunal for Disciplinary Proceedings, AP, Hyderabad shall take necessary action to list out all the pending cases including the files and records Department wise and also separate lists for following categories:-

- a. cases in which articles of charges have been issued,
- b. cases pending for want of records from ACB and part-B reports from Government,
- c. cases pending for registration in Tribunal for Disciplinary Proceedings.

ii. Thereafter, the Secretary, Tribunal for Disciplinary Proceedings shall handover all the files and records of TDP to the Registrar, Commissionerate of Inquiries, AP Secretariat, Velagapudi under proper acknowledgment within a fortnight positively. He shall also list out and handover the furniture and computers and other movable properties to the Registrar, COI.

iii. On receipt of the records from the Secretary, Tribunal for Disciplinary Proceedings, within a fortnight, the Registrar, Commissionerate of Inquiries will sort out the cases in which:-

- a. Charges were already issued to the charged officers and inquiry has been commenced.
- b. Cases in which charges were issued to the charged officers and Inquiries are yet to be commenced.
- c. Cases in which Charges are not issued.
- d. Cases in which records and Part-B notes from Government / ACB are awaited.

iv. The AP Vigilance Commission will assign the cases received from Tribunal for Disciplinary Proceedings to the Members, COI for commencement / continuation of Inquiries as per the procedure, under intimation to the concerned Department of Secretariat.

v. Thereafter, the Special Chief Secretaries, Principal Secretaries, Secretaries and E.O.Secretaries of the Departments concerned shall issue orders entrusting the cases to the Member, Col as assigned by APVC. The Departments will also issue orders appointing Presenting Officers from the panel of Presenting Officers or Department officials, wherever necessary. They shall submit Progress reports on the status of Inquiries on every Friday to G.A. (Services.E) Department.

3. This order is available in online and can be accessed at <http://apegazette.cgg.gov.in>.

(603)

G.O.Ms.No.91, G.A. (Ser.C) Department, dt.12.09.2022: Disciplinary case against the Government employees – Time schedule to expedite the process of disciplinary cases at various levels – Consolidated instructions – Orders – Issued.

Subject Heading : Time schedule to expedite the process of disciplinary cases at various levels – Consolidated instructions – Orders – Issued.

Read the following :

1. Circular Memo.No.35676/Ser.C/1998,G.A.(Ser.C) Dept., Dt.01.07.1998.
2. Memo.No.23537/Ser.C/1999-5, G.A. (Ser.C) Dept., Dt.28.07.1999.
3. U.O. Note.No.19952/Ser.C/2000, G.A. (Ser.C) Dept., Dt. 27.04.2000.
4. Memo. No.51883/Ser.C/2002-2, G.A. (Ser.C) Dept., Dt.19.12.2002.
5. U.O.Note.No.58445/Ser.C/2002-2, G.A. (Ser.C) Dept., Dt.24.01.2003.
6. Memo.No.82494/Ser.C/2003, G.A. (Ser.C) Dept., Dt.28.07.2003.
7. Circular Memo.No.36500/Ser.C/2005, G.A. (Ser.C) Dept., Dt.19.04.2006.

8. Circular Memo.No.1271/Ser.C/2008, G.A.(Ser.C) Dept., Dt.21.01.2008.
9. G.O.Ms.No.679, G.A. (Ser.C) Dept., Dt.01.11.2008.
10. Circular U.O.Note.No.27306/Ser.C/A1/09-1, G.A. (Ser.C) Dept., Dt.07.08.2009.
11. Circular Memo.No.10245/Ser.C/A1/2010-1, G.A.(Ser.C) Dept., Dt.07.02.2011.
12. Circular Memo.No.3189/Ser.C/2014-1, G.A. (Ser.C) Dept., Dt.17.11.2014.
13. U.O.Note.No.GAD01/272/2019-GLC-5, GA. (L&C) Dept., Dt.16.07.2019 along with the Minutes of Secretaries Conference held on 10.07.2019.

ORDER :

In the references 1st to 12th read above, instructions were issued from time to time on dealing with the disciplinary proceedings against the Government Servants so as to achieve the object to minimise the time period for completion of disciplinary proceedings. Thus, ensuring timely action right from initiation and adhering to the time schedule / limits prescribed till completion of the disciplinary proceedings.

2. Whenever certain commissions and omissions are either noticed or reported against a Government Servant, disciplinary proceedings are initiated for misconduct as per the provisions laid down in the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 and also as per the provisions contained in the Andhra Pradesh Revised Pension Rules, 1980 in respect of the retired employees. Whenever considered necessary, Criminal action is also being initiated by filing charge sheets in a Court of Law. Time and again instructions were issued for expeditious completion of the Inquiries where departmental action is initiated in order to punish the guilty.

3. It is noticed that considerable time is consumed in processing the files relating to the disciplinary cases at various levels. Therefore, it is felt necessary to ensure prompt action is taken in dealing with the disciplinary cases at all levels of administration by following due procedure to avoid delay.

4. Against this background, one of the action points that emerged at Secretaries Conference held on 10.07.2019 is that a comprehensive order be issued fixing definite time frame for all the stages involved in a disciplinary case from its initiation to conclusion.

5. Government after careful examination of the matter hereby issue the following comprehensive guidelines for fixing a definite time frame for all the stages involved in a disciplinary case in suppression to the earlier instructions issued in references 1st to 12th read above:-

- i. There should not be undue delay between the actual occurrence of offence / irregularity and framing of charges. The preliminary investigation / preliminary enquiry should be conducted quickly and if the outcome after examination of preliminary enquiry report reveals serious lapses / irregularities, then charges may be framed without further delay. It has been observed that this process is so delayed that the Charged Officer, in many cases, retires from service or the charges are framed at the verge of retirement thereby sometimes resulting in the Government Servant escaping from punishment.
- ii. As framing of charges is the first step for initiation of the disciplinary process and as it is the essence of allegation, it should not be drafted in very general terms, such as, negligence of duties, breach of conduct rules, conduct unbecoming of Government Servant etc. The charges should be drafted in a precise manner with the clear and appropriate terms, using simple language. Detailed guidelines on proper framing of charges against officers were issued vide U.O.Note.No.1041/ SC.F/89-14, dated:16.08.1989, which shall be strictly followed. While preparing the draft charges, the Disciplinary Authority should have all the records and other materials for verification of the facts mentioned in the charges. Simply accepting the draft charges sent by the preliminary enquiry officer / investigating officer without verifying them with reference to records is not right. Therefore, the charges should have enough documentary support for pursuing. The witnesses selected should speak of the charges and with reference to the records. If the witness is an official witness, senior officers connected with the matter should be selected as witness, the charges so drafted should immediately be served on the Delinquent Officer with the connected documents and his written defense statement should

be obtained and duly examined. Copies of document by which and copies of statements of witness by whom, the article of charges are proposed to be sustained, must be furnished to the Delinquent Officer along with article of charges. Denial of these documents defeats principles of natural justice apart from weakening grounds for further action.

- iii. Obtaining of written statement of defense from the charged person and verifying it for its satisfactoriness or otherwise, of course, with reference to the records is a must. It should be attended by a senior officer and not by the lower rank officer. If the written statements of defense are perused carefully with reference to records, it will give a clear picture as to whether the charges can be proceeded with further or not and also whether there is enough documentary support to prove the charges.
- iv. Another step in the process is appointment of a 'Presenting Officer'. The Presenting Officer is an essential and important functionary in conduct of departmental inquiries. He plays an important role because he has to present the case of Disciplinary Authority successfully on behalf of the Disciplinary Authority before the Inquiring Authority. The Presenting Officer should, therefore be well conversant with the case and for this, he should be provided with copies of Charge memo, Written defense statements and access to all the connected records / material well in advance of his appearance before the Inquiring Authority. The Disciplinary Authority should brief the Presenting Officer adequately and give him full support and cooperation for his successful presentation of the case before the Inquiring Authority. If the Presenting Officer is a Government Servant, he should be senior enough and should have enough knowledge of the case for presentation before the Inquiring Authority.
- v. It is noticed that most of the disciplinary authorities are not sending the records to the inquiring authority in time or along with the order of appointment of inquiring authority. The disciplinary authorities are therefore requested to send all connected records to the inquiring authority along with

appointment order. They should not ask the Head of the Departments concerned to send the records directly to the Inquiring Authority, without themselves examining them first.

- vi. Most of the deficiencies noticed in the course of Inquiries can be avoided, if disciplinary authority at the level of Secretary / Principal Secretary / Special Chief Secretary bestow personal attention to disciplinary cases. The Head of the Department also should peruse the records before they submit them to the Secretariat Department. Unless the higher officials show personal interest and bestow necessary importance to these matters, without treating them as routine files, the subordinate officials will also not show urgency in dealing with these cases. It is not at all fair if senior officers responsible for lapses escape punishment and only junior officers face inquiries. It is, therefore, quite imperative that all the senior officials of various Departments viz., Secretaries / Principal Secretaries / Special Chief Secretaries should show personal attention to the Disciplinary cases to avoid such mistakes or miscarriage of justice.
- vii. It is often noticed that because of undue delay between the occurrence of an incidence of negligence / lapse and its noticed that the guilty escapes. Sometimes they retire in the period of four years elapse from the date of occurrence of event as per Circular Memo.No.993083/ Fin01-HR0CL1/9/2019-HR-III, Finance (HR-III-Pension) Department, dt.15.03.2020 and initiation of disciplinary proceedings of the case become time barred and no action against the guilty officer is possible under the provisions of the Andhra Pradesh Revised Pension Rules, 1980. In view of this, it is desirable that, within one year from the receipt of preliminary enquiry report / detailed enquiry report, all proceedings against the Charged Officer should be completed. If there is undue delay, the file should be circulated to the Chief Secretary / Minister concerned and specific time schedule should be indicated for disposal of the case and their approval

taken. This will reduce scope for undue delay and consequent non action against guilty officers.

- viii. In case of Departmental proceedings instituted against the retired Government employees, it is noticed that there is abnormal delay in completing the inquiries, thereby, the pensionary benefits could not be finalized in such cases. Keeping this in view, it is clarified that the time schedule prescribed to complete the inquiries against Government employees, as detailed above, shall also apply to the Departmental Proceedings instituted against the retired Government employees. The procedure laid down in Rule 20 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991 shall be followed in case of Departmental proceedings initiated against the retired Government employees, as laid down in Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980. Thereafter, for obtaining concurrence of the Andhra Pradesh Public Service Commission for the punishment proposed in the case of retired officers, within a week request to the Andhra Pradesh Public Service Commission must be made for its concurrence after a decision is taken to impose penalty. So concurrence to proposed punishment is thus obtained on file.
- ix. Government direct that in all simple cases the inquiry initiated against Government Servant shall be completed within three months either by Departmental Officers or Commissioner of inquiries. In complicated cases, it shall be ensured that the inquiry should be completed within five to six months. The Secretaries to Government shall review the progress of the inquiries ordered in all disciplinary cases and submit a note on the cases pending beyond the stipulated time to Chief Secretary to Government and also the Chief Minister.
- x. The time frame followed by the Inquiring Authority and disciplinary authority is prescribed as follows :

(a)	Fixing the date of hearing inspection of listed documents, submission of the list of defense documents and the nomination of a defense assistant (if not already nominated).	Within two weeks from the date of the appointment of the Inquiring Authority
(b)	Inspection of document or submission of list of defense witnesses / defense documents or examination of the relevancy of documents or witnesses, procuring the additional documents and submission of the certificates, confirming inspection of the additional documents by accused officer or defense assistant.	Two weeks
(c)	Issue of summons to the witnesses , fixing the date of regular hearing and arrangements for participation of the witnesses in the regular hearing.	Two weeks
(d)	Regular hearing on day to day basis.	Two weeks
(e)	Submission of written briefs by the Presenting Officer and submission of written briefs by Accused Officer / Defense Assistant to Inquiring Authority.	Two weeks
(f)	Submission of the Inquiry Report by the Inquiring Authority	Two weeks
(g)	Examination of the Inquiry Report by the disciplinary authority in consultation with APVC where such consultation is necessary.	One weeks
(h)	The charged official submits his written representation or submission to the disciplinary authority.	Within fifteen days
(i)	Consultation with APVC where such consultation is necessary.	Two weeks
(j)	Consultation with APPSC where such consultation is necessary.	Two weeks
(k)	Passing final order in a disciplinary case by the disciplinary authority.	Two weeks

- xi. The Government further order that the Inquiring Authorities are liable for disciplinary action for their failure to complete the inquiry within stipulated period. In cases, where large number of witnesses are to be examined and voluminous material papers are to be verified, the Inquiring Authorities shall invariably take prior permission of the concerned disciplinary authorities by submitting detailed reasons for continuing the departmental inquiry beyond the stipulated period.
- xii. The Government further direct that all Vigilance Officers / Disciplinary Authorities must invariably keep in mind the date of superannuation of the Charged Officer, while handling disciplinary cases and complete the disciplinary action well in time. Anyone found to have consciously ignored this fact should be held accountable for the delay that may lead to the eventual dropping of the proceedings.
- xiii. The Government direct that the disciplinary cases initiated against the employees shall be dealt on priority basis to avoid delay. The connected file shall not be detained by the Officers concerned for more than three days and wherever, the files are circulated to the Hon'ble Ministers, they need to be persuaded to be cleared within a week.

6. All the Departments of Secretariat, the Heads of Departments and the District Collectors, should follow the above instructions scrupulously and bring it to the notice of all the concerned for strict implementation of the above orders.

7. This order is available in online and can be accessed at apegazette.cgg.gov.in.

(604)

Circular Memo.No.1851026/SC.F/A1/2022, General Administration (SC.F) Department, dt.27.10.2022 regarding Advice / Concurrence of the Vigilance Commission is not required for Appraisal Reports, Alert Notes, System Improvement Notes of the V&E department - Common Circular to all the Departments – Issued – Reg.

Subject Heading : Advice / Concurrence of the Vigilance Commission is not required for Appraisal Reports, Alert Notes, System Improvement Notes of the V&E department - Common Circular to all the Departments – Issued - Reg.

- Ref : 1. U.O.Note No.36/Spl.C/2003-1, GA (Spl.C) Department, dt.26.05.2003.
2. Circular Memo No.664/Spl.C/A1/2004-1, GA (Spl.C) Department, dt.06.12.2004.
3. From the Vigilance Commissioner, APVC, AP Secretariat, Velagapudi Lr.No.GAD12-VIG0ESFST(DEPT)/27/2022-AB-SEC-APVC-2, dt.14.09.2022

The attention of all the Departments in AP Secretariat in the address entry is invited to the reference 1st cited wherein the Government directed the Director General, Vigilance & Enforcement to send reports having a vigilance angle to the Departments concerned through Vigilance Commissioner.

2. In the reference 2nd cited, all the Departments, Government undertakings, Cooperative Bodies, Local Bodies, etc., are instructed to follow the instructions as below:

1. All cases of misconduct on the part of public servants involving lack of integrity which have a vigilance viz., illegal gratification, bribery, causing loss to Government and unlawful gain to self or others and such other acts of corruption and criminal misconduct like misappropriation, cheating, fraud etc., should be referred to the Vigilance Commission for its advice.
 2. Other cases of misconduct involving administrative lapses which have no vigilance angle, need not be referred to Commission for its advice.
 3. In the event of doubt whether a case has a vigilance angle or not, may be decided at the level of Secretary to Government of the Department concerned. The Andhra Pradesh Vigilance Commission, will however, continue to be at liberty to call for any file at any time in terms of para 3 of G.O.Ms.No.421, G.A (SC.D) Department, dt:03.08.1993.
3. It is observed that some departments are referring files to the Vigilance Commission for advice on Appraisal Reports, Alert Notes, System Improvement Notes of the G.A (V&E) Department, which generally do not have recommendations on the action to be taken against employees for misconduct having a vigilance angle. In such cases, advice / concurrence of the Vigilance Commission is not required.

4. All the Departments in A.P Secretariat are therefore requested to strictly follow the instructions above, while forwarding the files for advice of Vigilance Commission and also requested not to refer the files of Appraisal Reports, Alert Notes, System Improvements notes of V&E department which do not have recommendations on the action to be taken against employees for misconduct having a vigilance angle, to the commission for advice. In such cases, advice / concurrence of the Vigilance Commission is not required. However, the Andhra Pradesh Vigilance Commission, will continue to be at liberty to call for any file at any time in terms of para 3 of G.O.Ms.No.421, GA (SC.D) Department, dt:03.08.1993.

(605)

G.O.Ms.No.162, G.A. (Ser.C) Dept., dt.28.12.2022 regarding instructions on declaration of Personal Cash by the Government Officials.

Subject Heading : Public Services – Declaration of Personal Cash by the Government Officials at the time of reporting to duty in possession – Enhancing from Rs.500/- to Rs.1000/- - Orders – Issued.

Read the following :

1. G.O.Ms.No.381, G.A. (Ser.C) Dept., dt.18.12.2003.
2. G.O.Ms.No.200, G.A. (Ser.C) Dept., dt.26.03.2007.
3. From the D.G., A.C.B., A.P., Vijayawada, C.No.58/RPC (C)/2022, dt.25.07.2022.

ORDER :

Sub-rules (8) (A) and (8) (B) or rule 9 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 reads as follows:-

(8)(A) "The Government or any authority empowered by them in this behalf may, require a Government servant to render a full and true account of the cash found in his possession at any time and such account shall include particulars of the means by which and the source from which such cash was acquired".

(8)(B) "The Government or any authority empowered by them in this behalf may, by general or special order require a Government servant on duty not to keep cash in his possession beyond a specified sum and to declare the cash in his possession in the manner prescribed".

2. In the G.O. second read above, orders were issued, directing that all employees of all Departments dealing with cash including revenue collecting Departments shall give a declaration as follows:-

- i) Declaration of personal cash at the time of reporting to duty if in excess of Rs.500/-.
- ii) Cash may be declared while on tour if in excess of Rs.10,000/-.

3. In the letter third read above, the Director General, Anti-Corruption Bureau has sent a proposal to the Government to increase the ceiling limit on possession of personal cash by the Government Officials while on duty in office from Rs.500/- to Rs.1000/-.

4. After careful examination of the matter, Government consider that now digital payment Apps are being used in general and otherwise also there is no need to keep more cash. Accordingly, Government direct that all Government employees of all Departments dealing with cash including revenue collecting Departments shall give a declaration of personal cash at the time of reporting to duty, if it is in excess of Rs.1000/- (Rupees one thousand only). The declaration of cash procedure shall be followed as usual.

5. All the Departments of Secretariat, Heads of Departments and District Collectors shall bring these orders to the notice of all concerned Government Officials and implement the above orders scrupulously.

6. This order is available in online and can be accessed <http://apegazette.cgg.gov.in>.

PART - II

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PART II

(2) NOTE OF INSTRUCTIONS ON USE OF FORMS

1. Forms prescribed for issue of orders by competent authorities are meant to meet the basic requirements. They are not to be adopted mechanically, but adapted suitably considering the facts and circumstances of the case.
2. Extraneous expressions like “draft”, “specimen” should be deleted.
3. No reference should be made to the Anti-Corruption Bureau, the Vigilance Commission or such others or to any correspondence with them in the body of the order or outside it. Copies can be sent to them separately without making an endorsement on the copy of the Government servant concerned.
4. Orders should be issued by the competent authority under his signature. Where Government are the competent authority, the order should be expressed “By order and in the name of the Governor of Andhra Pradesh” and signed by an officer authorised in that behalf.
5. The related rules, regulations etc. should be gone through to satisfy that the requirements of the provisions are met.

PART - II

(3) FORMS AND CHECK LISTS

(1)

Order of suspension under Rule 8(1) of APCS (CC&A) Rules, 1991, where disciplinary proceedings are pending (vide G.O.Ms.No.411, G.A. (Ser.C) Dept. dt.28.07.1993 and G.O.Ms.No.296, Finance & Planning (FW.FR.II) Dept., dt.14.10.1996).

Sub : Public Services - Sri/Smtsuspension from service
- Orders - Issued.

....

Whereas it has come to the notice of the Government of Andhra Pradesh / undersigned, who is the competent authority (appointing authority/any other competent authority) alleging that;

And whereas disciplinary proceedings against Sri.....are pending;

And whereas the Government of Andhra Pradesh / undersigned being the competent authority (appointing authority / any other competent authority) consider it necessary to place Sri/ Smt.....under suspension pending inquiry into grave charge or charges aforementioned;

Now, therefore, in exercise of the powers conferred by sub-rule (1) of Rule 8 of Andhra Pradesh Civil Services (CCA) Rules, 1991, the Government of Andhra Pradesh / undersigned (appointing authority / any other competent authority) hereby place(s) the said Sri/Smt.....under suspension from the date of communication of this order and he / she shall continue to be under suspension in public interest, until the conclusion of the disciplinary proceedings / termination of all proceedings relating to the criminal charge(s).

It is further ordered that during the period, this order remains in force, the headquarters of Sri/Smt (name and designation of Government Servant) shall be..... (name of the place) and the said Sri/Smt..... shall not leave the headquarters without obtaining the previous permission of the undersigned.

It is further ordered that during the period of suspension, Sri/Smt..... (name and designation of the Government Servant) shall be paid subsistence allowance equivalent to the leave salary on half pay leave. The D.A. and other compensatory allowances shall be paid along with subsistence allowance. The quantum of subsistence allowance will be reviewed and revised in terms of FR-53(i) after 3 months. Pending review, he / she shall continue to draw the subsistence allowance now sanctioned.

Signature . . .

Name and designation of the competent authority.

(2)

Order of suspension under Rule 8(1) of APCS (CC&A) Rules, 1991, where disciplinary proceedings are contemplated (vide G.O.Ms.No.411, G.A. (Ser.C) Dept., dt.28.07.1993 and G.O.Ms.No.296, Finance & Planning (FW.FR.II) Dept. dt.14.10.1996).

Sub: Public Services - Sri/Smt..... suspension from service - Orders - Issued.

...

Whereas it has come to the notice of the Government of Andhra Pradesh / undersigned who is the competent authority (appointing authority/any other competent authority) alleging that . . . ;

And whereas disciplinary proceedings against Sriare contemplated;

And whereas the Government of Andhra Pradesh / undersigned being the competent authority (appointing authority / any other competent authority) after careful consideration of the available material and having due regard to the circumstances of the case, are satisfied that it is necessary to place Sri/Smtunder suspension;

Now, therefore, in exercise of the powers conferred by sub-rule (1) of Rule 8 of Andhra Pradesh Civil Services (CCA) Rules, 1991, the Government of

FORM NO. (3)

Andhra Pradesh/undersigned (appointing authority / any other competent authority) hereby place(s) the said Sri/Smt.....under suspension from the date of communication of this order and he / she shall continue to be under suspension in public interest, until the conclusion of the disciplinary proceedings / termination of all proceedings relating to the criminal charge(s).

It is further ordered that during the period, this order remains in force, the headquarters of Sri/Smt (name and designation of Government Servant) shall be..... (name of the place) and the said Sri/Smt..... shall not leave the headquarters without obtaining the previous permission of the undersigned.

It is further ordered that during the period of suspension, Sri/ Smt.....(name and designation of the Government Servant) shall be paid subsistence allowance equivalent to the leave salary on half pay leave. The D.A. and other compensatory allowances shall be paid along with subsistence allowance. The quantum of subsistence allowance will be reviewed and revised in terms of FR-53(i) after 3 months. Pending review, he / she shall continue to draw the subsistence allowance now sanctioned.

Signature . . .

Name and designation of the competent authority.

(3)

Order of suspension under Rule 8(1) of APCS (CC&A) Rules, 1991, where criminal offence is under investigation / trial (vide G.O.Ms.No.411, G.A. (Ser.C) Dept., dt.28.07.1993 and G.O.Ms.No.296, Finance & Planning (FW.FR.II) Dept., dt.14.10.1996.

Sub : Public Services - Sri/Smt.....suspension from service - Orders - Issued.

Whereas it has come to the notice of the Government of Andhra Pradesh / undersigned who is the competent authority (appointing authority/any other competent authority) alleging that;

And whereas a case in respect of a criminal offence has been registered by the Anti-Corruption Bureau / Officer incharge of the Police Station.....in Crime No.....under section(s) of.;

And whereas it is considered that his continuance in office will prejudice the investigation/trial;

And whereas the Government of Andhra Pradesh / undersigned (appointing authority / any other competent authority) after careful consideration of the available material and having due regard to the circumstances of the case, are satisfied that the criminal charge under investigation/ trial involved moral turpitude and therefore it is necessary to place Sri/Smt.....under suspension;

Now, therefore, in exercise of the powers conferred by sub-rule (1) of Rule 8 of Andhra Pradesh Civil Services (CC&A) Rules, 1991, the Government of Andhra Pradesh / undersigned (appointing authority / any other competent authority) hereby place(s) the said Sri/Smt.....under suspension from the date of communication of this order and he / she shall continue to be under suspension in public interest, until the conclusion of the disciplinary proceedings / termination of all proceedings relating to the criminal charge(s).

It is further ordered that during the period, this order remains in force, the headquarters of Sri/Smt.....(name and designation of Government Servant) shall be (name of the place) and the said Sri/Smt.....shall not leave the headquarters without obtaining the previous permission of the undersigned.

It is further ordered that during the period of suspension, Sri/Smt.....(name and designation of the Government Servant) shall be paid subsistence allowance equivalent to the leave salary on half pay leave. The D.A. and other compensatory allowances shall be paid along with subsistence allowance. The quantum of subsistence allowance will be reviewed and revised in terms of FR-53(i) after 3 months. Pending review, he / she shall continue to draw the subsistence allowance now sanctioned.

Signature.....

Name and designation of the competent authority.

(4)

Order of deemed suspension under Rule 8(2) of A.P.C.S. (CC&A) Rules, 1991, where Government Servant is detained in custody (Drafted for the Manual).

Whereas a case against Sri/Smt.....(name and designation of the Government Servant), in respect of a criminal offence is under investigation;

And whereas, the said Sri/Smt.....(name of the Government Servant) was detained in custody on.....(date of detention) for a period exceeding forty eight hours;

Now, therefore, the said Sri/Smt(name of the Government Servant) is deemed to have been suspended with effect from the date of detention, i.e., the . . . (date of detention in custody) in terms of sub-rule (2) of Rule 8 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 and shall remain under suspension, until further orders.

It is further ordered that during the period, this order remains in force, the headquarters of Sri/ Smt..... (name and designation of Government Servant) shall be.....(name of the place) and the said Sri/Smt.....shall not leave the headquarters without obtaining the previous permission of the undersigned.

It is further ordered that during the period of suspension, Sri/ Smt.....(name and designation of the Government Servant) shall be paid subsistence allowance equivalent to the leave salary on half pay leave. The D.A. and other compensatory allowances shall be paid along with subsistence allowance. The quantum of subsistence allowance will be reviewed and revised in terms of FR-53(i) after 3 months. Pending review, he / she shall continue to draw the subsistence allowance now sanctioned.

Signature . . .

Name and designation of the competent authority.

(5)

Certificate to be furnished by suspended official under F.R. 53(2) (vide G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.1996).

I.....(name of Government Servant) having been placed under suspension by Order No.....dt.....while holding the post of.....do hereby certify that, I have not been employed in any other employment, business, profession or vocation.

Signature

Name of Government Servant (Address)

(6)

Extension of period of suspension beyond 6 months (vide G.O.Ms.No.517, G.A. (Ser.C) Dept., dt.27.07.1977).

Sl. No.	Name and Designation of Officer under suspension	Date of Suspension	Date of appointment of Inquiry Officer	Present stage of inquiry			
				(a)	(a)	(a)	(a)
				Have charges been framed	Has it been served on the Officer, if so, date	Has the case in support of the charge been presented before I.O	Has the officer under suspension entered upon his defence; If so, the date
1	2	3	4	5			

Reasons for asking for extension	Expected date of completion	whether the official has been paid subsistence allowance	Remarks
6	7	8	9

(7)

Order of review of continuance of suspension (vide Memo.No.32351/Ser.C/2000-1, Genl.Admn. (Ser.C) Dept., dt.11.01.2001).

"The order of suspension of Sri / Smt.....has been reviewed and it has been decided that the said individual shall continue to be under suspension. The quantum of subsistence allowance payable in terms of F.R. 53 is also reviewed and it has been decided that, the said individual be paid subsistence allowance along with D.A. and other compulsory allowances at the enhanced rate with immediate effect".

(8)

Order of revocation of suspension order under Rule 8(5)(c) of A.P.C.S (CC&A) Rules, 1991 (vide G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.1996)

Memo.No.

Dated

Sub:

Ref:

Whereas, an order placing Sri.....(name and designation of the Government Servant) under suspension was made/deemed to have been made by.....on.....

2. Now, therefore, the Government / undersigned (the authority which made or is deemed to have made the order of suspension or any authority to which that authority is subordinate) in exercise of the powers conferred by clause (c) Sub-rule (5) of Rule 8 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 hereby revoke(s) the said order of suspension with immediate effect.

Signature . . .

Name and designation of the competent authority.

(9)

Check list on Suspension (vide Circular Memo.No.56183/Ser.C/99, enl.Admn. (Ser.C) Dept., dt.15.10.1999).

Whether the order of suspension is in the format prescribed in G.O.Ms.No.411, G.A. (Ser.C) Dept., dt.28.07.93 read with G.O.Ms.No.214, Fin. & Plg. (FW.FR.II) Dept., dt.22.12.1997. Yes / No

(Note: Here, G.O.Ms.No.214, Fin. & Plg. (FW.FR.II) Dept., dt.22.12.1997 is substituted for G.O.Ms.No.59, Fin. & Plg. (FW.FR.II) Dept., dt.27.03.1995, as the latter G.O. was superceded by the former.)

Whether the orders for payment of subsistence allowance, issued in accordance with FR.53 Yes / No

Whether the order of suspension is reviewed by the authorities empowered according to the orders issued in G.O.Ms.No.480, G.A.(Ser.C) Dept., dt.07.09.93 and also in G.O.Ms.No.86, G.A. (Ser.C) Dept., dt.08.03.94, as the orders of suspension shall be in force till conclusion of disciplinary proceedings.

Yes / No

While reviewing the order of suspension, whether the quantum of payment of subsistence allowance is reviewed in terms of G.O.Ms.No.296, Finance & Planning (FW.FR.II) Dept., dt.14.10.96. Yes / No

Whether the employee under suspension furnished the certificate as prescribed in G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.96 Yes / No

Whether the order to revoke suspension is in the format III of G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.96. Yes / No

Whether the instructions issued in Memo.No.554/ Ser.C/93-6, G.A. (Ser.C) Dept., dt.26.12.94 in disciplinary cases arising out of ACB reports in order to place a member of service under suspension are observed. Yes / No

Whether the period of suspension is regulated in terms of F.R. 54-B on conclusion of disciplinary proceedings. Yes / No

(10)

Memorandum of charge for minor penalty proceedings under Rule 22 of A.P.C.S (CC&A) Rules, 1991 (vide G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.1996).

Memo.No.

Dated:

Sub:-

Sri.....(Designation).....(Office in which working).....is hereby informed that it is proposed to take action against him / her under Rule 22 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken is enclosed.

2. Sri/Smt.....is hereby given an opportunity to make such representation as he / she may wish to make against the proposal.
3. If Sri/Smt.....fails to submit his / her representation within ten days of the receipt of this Memorandum, it will be presumed that he / she has no representation to make and orders will be liable to be passed against Sri/Smt.....ex-parte.
4. The receipt of this Memorandum should be acknowledged by Sri/Smt.....

Signature . . .

Name and designation of the competent authority.

(11)

Memorandum of Articles of charge etc. for major penalty proceedings under Rule 20 of A.P.C.S (CC&A) Rules, 1991 (vide G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.1996).

ABSTRACT:- PUBLIC SERVICES – Sri.....(name and designation).....Department - Departmental proceedings under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 - Articles of Charges - Issued.

G.O.Rt.No.

Date :

ORDER :

It is proposed to hold an inquiry against Sri.....(name and designation).....Department in accordance with the procedure laid down in Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

3. Sri.....(name and designation) is directed to submit within 10 days of the receipt of this order, a written statement of his/her defence.

4. Sri.....(name and designation) is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He / she should, therefore, specifically admit or deny each article of charge.

5. Sri.....(name and designation) is further informed that if he / she does not submit his / her written statement of defence on or before the date specified in para 3 above or otherwise fails or refuses to comply with the provisions of Rule 20 of Andhra Pradesh Civil Services (CC&A) Rules, 1991 or the orders / directions issued in pursuance of the said rules, the Inquiring Authority may hold the inquiry against him ex-parte.

6. Attention of Sri.....is invited to Rule 24 of the A.P.Civil Services (Conduct) Rules, 1964, under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf

FORM NO. (11)

from another person in respect of any matter dealt with these proceedings it will be presumed that Sri.....is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 24 of the A.P.Civil Service (Conduct) Rules, 1964.

7. The receipt of the Memorandum be acknowledged.

Signature . . .

Name and designation of the competent authority.

Encls: Annexures I to IV

ANNEXURE - I

Statement of articles of charge framed against Sri(name and designation).

Article-I

That the said Sri.....(name and designation) while functioning as.....during the period.....

Article-II

That during the aforesaid period and while functioning in the aforesaid office, the said Sri.....(name and designation).

Article-III

That during the aforesaid and while functioning in the aforesaid Office, the said Sri.....(name and designation).

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Sri.....(name and designation).

Article-I

.....

Article-II

....

Article-III

ANNEXURE - III

List of documents by which the articles of charge framed against Sri.....(name and designation) are proposed to be sustained.

ANNEXURE - IV

List of witnesses by whom the articles of charge framed against Sri.....(name and designation) are proposed to be sustained.

(12)

Order of appointment of Inquiring Authority under Rule 20(2) of A.P.C.S (CC&A) Rules, 1991 (vide G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.1996).

Memo.No.

Dated :

Sub:

Whereas, an inquiry under Rule 20 of the A.P.Civil Services (Classification, Control and Appeal) Rules, 1991 is being held against Sri.....(name and designation of the Government Servant);

2. And whereas, it is considered that an Inquiring Authority should be appointed to inquire into the charges framed against the said Sri.....;

3. Now, therefore, in exercise of the powers conferred by sub-rule (2) of Rule 20 of the said Rules, the disciplinary authority hereby appoints Sri.....(name and designation of the Inquiring Officer) as the Inquiring Authority to inquire the charges framed against the said Sri

Signature . . .

Name and designation of the
competent authority.

(13)

**Order of appointment of Presenting Officer under Rule 20(5)(c) of A.P.C.S
(CC&A) Rules, 1991 (vide G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.1996)**

Memo.No.

Dated :

Sub :

Whereas, an inquiry under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 is being held against Sri.....(name and designation of the Charged Officer);

2. And whereas, it is considered that a Presenting Officer should be appointed to present on behalf of the disciplinary authority the case in support of the articles of charge;

3. Now, therefore, the disciplinary authority in exercise of the powers conferred by clause(c) of sub-rule (5) of Rule 20 of the said Rules, hereby appoints Sri.....(name and designation of Presenting Officer) as the Presenting Officer.

Signature . . .

Name and designation of the competent authority.

(14)

Order of appointment of successor Inquiry Officer under Rule 20(2) read with Rule 20(22) of A.P.C.S.(CC&A) Rules, 1991 (Drafted for the Manual)

Whereas an inquiry under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 is being held against Sri.....(name and designation of the Government Servant facing inquiry);

Whereas Sri.....(name and designation of the authority who was holding inquiry) was appointed Inquiring Authority to inquire into the charges against Sri.....(name and designation of the Government Servant facing inquiry) vide order No.....dated.....(give the number and date of the previous order);

And whereas Sri.....(name of the previous Inquiry Officer) after having heard and recorded the whole / part of the evidence has since been transferred / is not available and it is necessary to appoint another officer as Inquiring Authority to inquire into the charges against Sri.....(name of the Government Servant facing the charges);

Now, therefore, the Government / undersigned in exercise of the powers conferred by sub-rule (2) read with sub-rule (22) of Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 hereby appoint(s) Sri.....(name and designation of the new Inquiry Officer) as Inquiring Authority to inquire into the charges framed against the said Sri(name of the Government Servant facing the inquiry) in place of Sri.....(name of the previous Inquiry Officer).

Signature....

Name and designation of the
competent authority.

(15)

**Minor penalty proceedings under Rule 22 of A.P.C.S (CC&A) Rules, 1991,
where disciplinary authority decides to hold inquiry (vide G.O.Ms.No.82,
G.A. (Ser.C) Dept., dt.01.03.1996)**

Memo.No.

Dated :

Sub :

In continuation of Memorandum No.....dt.....issued under Rule 22 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, it is considered necessary to hold an inquiry against Sri.....under Rule 22 of the A.P.Civil Services (Classification, Control and Appeal) Rules, 1991. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexures III and IV).

2. Sri.....is directed to submit within ten days of the receipt of this Memorandum, a written statement of his defence.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Sri.....is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or otherwise fails or refuses to comply with the provisions of Rules 20 and 22 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 or the orders / directions issued in pursuance of the said rules, the Inquiring Authority may hold the inquiry against him ex-parte.

5. Attention of Sriis invited to Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Sri..... is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

Signature....

Name and designation of the competent authority.

Enclosures: Annexures I to IV.

ANNEXURE - I

Statement of articles of charge framed against Sri.....(name and designation).

Article-I

That the said Sri.....(name and designation) while functioning as.....during the period.

Article-II

That during the aforesaid period and while functioning in the aforesaid office, the said Sri.....(name and designation).

Article-III

That during the aforesaid and while functioning in the aforesaid office, the said Sri.....(name and designation).

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Sri.....(name and designation).

Article-I

.....

Article-II

.....

Article-III

ANNEXURE - III

List of documents by which the articles of charge framed against Sri.....(name and designation) are proposed to be sustained.

ANNEXURE - IV

List of witnesses by whom the articles of charge framed against Sri.....(name and designation) are proposed to be sustained.

(16)

Order for taking disciplinary action in Common Proceedings under Rule 24 of A.P.C.S (CC&A) Rules, 1991 (vide G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.1996)

Memo.No.

Dated :

Sub :

Whereas, the Government Servants specified below are jointly concerned in a disciplinary case.

Sri

Sri.....

Sri.....

Sri.....

Now, therefore, in exercise of the powers conferred by sub-rules (1) and (2) of Rule 24 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, the disciplinary authority hereby directs:-

- (i) that disciplinary action against all the said Government Servants shall be taken in a common proceeding.
- (ii) That.....(name and designation of the authority) shall function as the Disciplinary authority for the purpose of the common proceedings and shall be competent to impose the following penalties, namely:- (here specify the penalties)
- (iii) that the procedure prescribed in Rules 20 and 21 / Rule 22 of the A.P.C.S. (CC&A) Rules, 1991 shall be followed in the said proceedings.

Signature

Name and designation of the competent authority.

(17)

Order of appointment of Inquiring Authority in Common Proceedings under Rule 20(2) read with Rule 24 of A.P.C.S (CC&A) Rules, 1991 (Drafted for the Manual)

Whereas an inquiry under rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 is being held against the Government Servants specified in the margin;

1. Sri..... (Name and designation of the charged Government Servants)
2. Sri
3. Sri

Whereas common proceedings have been ordered against the said Government Servants;

And, whereas the Government / undersigned consider(s) that an Inquiring Authority should be appointed to inquire into the charges framed against the said Government Servants;

Now, therefore, the Government / undersigned in exercise of the powers conferred by sub-rule (2) of the said rule hereby appoint(s) Sri.....(name and designation of Inquiry Officer) as the Inquiring Authority to inquire into the charges framed against the said Government Servants.

Signature

Name and designation of
the competent authority

(18)

Order of appointment of Presenting Officer in Common Proceedings under Rule 20(5)(c) read with Rule 24 of A.P.C.S (CC&A) Rules, 1991 (Drafted for the Manual)

FORM NO. (19)

Whereas an inquiry under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 is being held against the Government Servants specified in the margin:

1. Sri (Name and designation of the Charged Government Servants)
2. Sri
3. Sri

Whereas common proceedings have been ordered against the said Government Servants under Rule 24 of the A.P.C.S. (CC&A) Rules, 1991;

And, whereas, the Government / undersigned consider(s) it necessary to appoint a Presenting Officer to present the case on behalf of the Government / undersigned in support of the articles of charge against the said Government Servants before the Inquiring Authority;

Now, therefore, the Government / undersigned in exercise of the powers conferred by sub-rule (5)(c) of the said rule, hereby appoint(s) Sri.....(name and designation of the Presenting Officer) as the Presenting Officer to present the case on behalf of the Government / undersigned in support of the articles of charge against the said Government Servants before the Inquiring Authority.

Signature.....

Name and designation of the competent authority.

(19)

Notice to witness to attend departmental inquiry (Drafted for the Manual)

The undersigned is the Inquiring Authority in the proceedings against Sri.....(name and designation of the charged Government Servant).

The evidence of Sri.....(name and designation or, in the case of a private person address, is considered material. It is requested that he may appear before the undersigned on..... (date) at..... (time) at.....(place).

He is informed that he is / is not likely to be required to stay at the place for more than a day.

(Signature)

Inquiring Authority

(20)

Certificate to be issued to a witness (Drafted for the Manual)

This is to certify that Sri.....(name, designation, office) appeared before me as a witness on.....(date) at.....(place) in the departmental inquiry against Sri.....(name, designation of the charged Government Servant) and was discharged on.....(date) at.....(time).

Nothing has been paid to him on account of his travelling and other expenses.

(Signature)

Inquiring Authority.

(21)

Certificate to be issued to Presenting Officer / Defence Assistant (Drafted for the Manual)

This is to certify that Sri.....(name, designation, office of the Presenting Officer / Defence Assistant) attended the proceedings in the departmental inquiry against Sri.....(name, designation of the charged Government Servant) to present the case in support of the charges/to assist the said Sri.....(name of the charged Government Servant) in presenting his case on.....(date) at.....(place) and he was discharged on.....(date) at.....(time).

Nothing has been paid to him on account of his travelling and other expenses.

(Signature)

Inquiring Authority.

(22)

Format of Inquiry report of Inquiry Officer in departmental inquiry under Rule 20(23) of A.P.C.S (CC&A) Rules, 1991 (vide Circular Memo.No.56183/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.15.10.1999)

Shri/Smt.....

Submitted by
Inquiry Officer

Vide Letter No.....

Dated:

1. Under sub-rule (2) of Rule 20 of A.P. Civil Services (CC&A) Rules, 1991, I was appointed by the (designation of the disciplinary authority who appointed the Inquiry Officer), as the Inquiring Authority to inquire into the charges framed against Shri..... vide his Memo.No dated.....
I have since completed the inquiry and on the basis of the documentary and oral evidence adduced before me prepared my Inquiry Report as under:

2. Sri.....(Name & Designation) was appointed as Presenting Officer in terms of Rule 20(5)(c) of A.P. Civil Services (CC&A) Rules, 1991 (in case a Presenting Officer is appointed).

3. Participation by the Charged Officer in the inquiry and Defence Assistants available to him / her.

The Charged Officer participated in the inquiry from beginning to end. He was assisted by Shri.....of the O/o.....as Defence Assistant throughout the inquiry proceedings.

4. Articles of charge and substance of imputation of misconduct or misbehaviour.

The following (three) articles of charge have been framed against Shri.....

Article No. I

Article No. II

Article No. III

According to the statements of imputation of misconduct or misbehavior.....(here the substance of imputation of misconduct or misbehaviour be given in brief). (list of exhibited documents as shown in Annexure-I and list of witnesses as shown in Annexure-II).

5. Case of the Disciplinary Authority

(The case of the disciplinary authority should be discussed with reference to the documentary and oral evidence available in support of the charges, separately for each charge).

6. Case of the Defendant

(The case of the defendant including points made out by him in his defence evidence, his written statement of defence in brief. These should be discussed chargewise highlighting the arguments on the basis of which he has refuted the charge levelled against him).

7. Analysis and Assessment of Evidence

The Inquiry Officer has to give his own logical and reasoned analysis and assessment of evidence in respect of each charge separately.

8. Findings

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that the following charge is proved / not proved against Shri.....

Charge No. 1

Charge No. 2

Charge No. 3

Charge No. 4

**9. Annexure-I containing list of documents exhibited and
Annexure-II containing list of witnesses examined are enclosed.**

Signature

Inquiry Officer.

(23)

**Summons to witness under Section 5(3) of A.P. Departmental Inquiries
(Enforcement of Attendance of Witnesses and Production of Documents)
Act, 1993 (vide Memo.No.394/Ser.C/96. Genl.Admn. (Ser.C) Dept.,
dt.03.07.1996)**

Summons to witness

Section 5(3) of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (Act 7 of 1993)

Departmental Inquiry being held in relation to Sri/Smt/Kumari.....(name).....(designation) working in the.....(name of the Dept./office)

To

(name and Address of the witness)

Whereas your attendance is required to give evidence / produce documents.....on behalf of.....(name of the defendant / Dept. concerned).....in the above departmental Inquiry, you are hereby required (personally) to appear before this inquiring authority on the.....day of (name of the month).....at.....O' clock in the forenoon/afternoon, and to bring with you (or to send to this inquiring authority).....(description of documents required).

Your travelling allowance and daily allowance will be paid by the Inquiring Authority on the conclusion of your evidence. If you fail to comply with this order without lawful excuse, you will be subject to the consequences of non-attendance laid down in Rule 12 Order XVI of the Code of Civil Procedure, 1908 (Act V of 1908)

Given under my hand and the seal of this inquiring authority this.....day of (name of the month).....(year)

Inquiring Authority.

Note: If you are summoned only to discover and produce a document or other material and not to give evidence, you shall be deemed to

have complied with the summons, if you cause such document or other material to be discovered and produced before this Inquiry Authority, on the day and hour aforesaid.

Explanation:- Rate of travelling allowance and daily allowance.

- (i) Travelling Allowance: Not printed.
- (ii) Daily Allowance: Not printed.
- (iii) The witness should bring along with him proof of his monthly income like certificate of assessment of income by Income Tax Officer, certificate of employer, etc. Where no proof is brought, he will be paid TA/DA at the lower rates.

(24)

Transmission of summons to be served on a witness under Section 5(3) of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (vide Memo.No.394/Ser.C/96, Genl.Admn. (Ser.C) Dept., dt.03.07.1996)

Request for transmission of summons to be served on a witness in a departmental inquiry

(Sub-Section(3) of Section 5 of Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (Act 7 of 1993)

To

(name and address of the District Judge concerned)

Sir,

Under the provisions of sub-section (3) of Section 5 of the Andhra Pradesh Departmental Inquiries (Enforcement of attendance of Witnesses and Production of Documents) Act, 1993 (Act No.7 of 1993), a summons in duplicate is herewith forwarded for service on the witness.....
(name)(address). You are requested to cause a copy of the said summons to be served upon the said witness and return the original to this

FORM NO. (25)

Inquiring Authority signed by the said witness, with a statement of service endorsed thereon by you.

2. A copy of the Notification No.....dated.....issued by the Department.....of the Competent Authority under sub-section (1) of Section-4 of the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1993, conferring on the undersigned the powers specified in Section 5 of the Act, is enclosed.

Signature

Designation

Stamp bearing name and designation.

(25)

Authorisation to Inquiring Authority to exercise powers under Section 5 of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (vide Memo.No.394/Ser.C/96, Genl.Admn. (Ser.C) Dept., dt.03.07.1996)

(To be published in the A.P.Gazette)

No...

Government of Andhra Pradesh
Department.....

NOTIFICATION

Whereas the Government is of the opinion that for the purposes of the Departmental Inquiry relating to Sriit is necessary to summon as witnesses / call for any document from.....

Now therefore, in exercise of the powers conferred by Section 4 of the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (Act No.7 of 1993), the

Government hereby authorises Sri.....as the inquiring authority to exercise the power specified in Section 5 of the said Act in relation to.....

Signature

Designation

To

The Commissioner,
Printing, Stationery & Stores Purchase, Hyderabad)

(26)

Authorisation to an authority not lower than appointing authority to exercise power under Section 4 of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (vide Memo.No.394/Ser.C/96, Genl.Admn. (Ser.C) Dept., dt.03.07.1996)

(To be published in the A.P.Gazette Extraordinary)

No.....

Government of Andhra Pradesh
Department....

NOTIFICATION

In exercise of the powers conferred by Section 4 of the Andhra Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (Act No.7 of 1993) the Government hereby specifies.....as an authority to exercise the power conferred on the Government in respect of (category of Government Servants) against whom a departmental Inquiry may be held.

Signature

Designation

To

The Commissioner,
Printing, Stationery & Stores Purchase, Hyderabad.

(27)

Check List on referring cases to Commissioner for Departmental Inquiries for inquiry (vide Memo.No.490/SC.E/87-1, Genl.Admn. (SC.E) Dept., dt.13.03.1987)

- | | | |
|-----|--|--------|
| 1. | Is the Government the appointing Authority | Yes/No |
| 2. | Is the charged officer, a Gazetted Officer
(In respect of cases arising on A.C.B. Reports) | Yes/No |
| 3. | If the A.C.B. has sent draft charges, has the Department scrutinised the same | Yes/No |
| 4. | Has a charge memo together with the grounds on which the charges are based along with list of witnesses and documents been served on the charged officer | Yes/No |
| 5. | Has the charged officer submitted a written statement of defence | Yes/No |
| 6. | Has the appointing / disciplinary authority considered the written statement of defence | Yes/No |
| 7. | Do the charges framed indicate major penalty proceedings | Yes/No |
| 8. | Has the appointing / disciplinary authority decided to pursue the case by appointing an Inquiry Officer | Yes/No |
| 9. | Are the following documents / information being sent to the Commissioner for Departmental Inquiries with the order appointing him as an Inquiry Officer: | |
| (a) | A copy of Memorandum of the articles of charge, the grounds on which the charges are based, etc. | Yes/No |
| (b) | A copy of the written statement of defence submitted by the Government Servant | Yes/No |
| (c) | List of witnesses by whom the charges are proposed to be sustained | Yes/No |

- (d) A copy each of the statements of witnesses by whom the charges are proposed to be sustained Yes/No
- (e) List of documents by which the articles of charge are to be proved Yes/No
- (f) Evidence proving delivery of the documents at (a) above to the Government Servant Yes/No
- (g) Name and present designation and address of the Investigating Officer of the A.C.B. (other than the one who handled the case) who may be appointed as Presenting Officer to adduce evidence, to examine the witnesses and to cross-examine the defence witnesses in support of the charges Yes/No

OR

Name and address of a Pleader or Agent who may be allowed to appear on behalf of the Government as per Rule 20(8)(a) of the APSCS (CC&A) Rules, 1991.

Yes/No

- (h) Current address(es) of the Charged Officer (s) to whom notices can be sent Yes/No

N.B.: - The answer should be 'YES' to all the items for a case to be sent to the Commissioner for Departmental Inquiries. In exceptional cases when a charged officer does not submit a written statement of defence, the answers to items 5, 6 & 9 (b) could be 'NO'. For cases not investigated by the Anti-Corruption Bureau, items 2 & 3 may be shown as "not applicable".

(28)

Order imposing penalty on Government Servant on ground of conduct which led to conviction on a criminal charge (vide Memo.No.169/Ser.C/77-8, G.A.(Ser.C) Dept., dt.10.02.1978)

Whereas Shri.....(here enter name and designation of the Government Servant) has been convicted on a criminal charge, under

FORM NO. (29)

section(s)..... (here enter the section or sections under which the Government Servant was convicted) of.....(here enter the name of the statute concerned) and has been awarded a sentence of.....in C.C.No.....;

And whereas, it is considered that the conduct of the said Shri.....(here enter name and designation of the Government Servant) which has led to his conviction is such as to render his further retention in the public service undesirable;

OR

And whereas, it is considered that the conduct of the said Shri.....(here enter name and designation of the Government Servant) which has led to his conviction is such as to warrant the imposition of a major/minor penalty (here specify the penalty);

Now, therefore, in exercise of the powers conferred by Rule 25(i) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 read with Rule 9 thereof, the Government / undersigned hereby dismisses / removes / compulsory retires from service the said.....(here enter name and designation of the Government Servant) with effect on or from.....(here enter the date of dismissal / removal / compulsory retirement) / imposes the penalty of.....(enter the penalty).

Signature.....

Name and designation of the competent authority.

(29)

Order for holding departmental inquiry and placing under suspension, on Court deciding appeal in favour of Government Servant (vide Memo.No.169/Ser.C/77-8, G.A.(Ser.C) Dept., dt.10.02.1978)

Whereas Shri.....(here enter name and designation of the Government Servant) was dismissed / removed / compulsory retired from service with effect from.....(here enter the date of dismissal, removal or

compulsory retirement) on the ground of conduct which led to his conviction on a criminal charge;

OR

Whereas, the penalty of.....(here enter the name of the penalty) was imposed on Shri.....(here enter the name and designation of the Government Servant) on the ground of conduct which led to his conviction on a criminal charge;

And whereas, the said conviction has been set aside by a competent court of law and the said Sri.....(name of the Government Servant) has been acquitted of the said charge;

And whereas in consequence of the acquittal, the Government have / undersigned has decided that the order imposing the penalty of dismissal / removal / compulsory retirement / any other penalty.....(here enter the name of the penalty imposed) should be set aside;

And whereas the Government / undersigned on a consideration of the circumstances of the case have / has also decided that a further departmental inquiry should be held under the provisions of Andhra Pradesh Civil Services (CC&A) Rules, 1991, against the said Shri.....(here enter the name and designation of the Government Servant) on the basis of the misconduct which led to the imposition of penalty of dismissal / removal / compulsory retirement from service / any other penalty (here enter the name of the penalty imposed);

Now, therefore, the Government/undersigned hereby:

- (i) Set / sets aside the said order of dismissal / removal / compulsory retirement from service / any other penalty imposed.....(here enter the name of the penalty imposed);
- (ii) Direct / directs that a further departmental inquiry should be held under the provisions of the Andhra Pradesh Civil Services (CC&A) Rules, 1991 against Shri..... (here enter the name of the Government Servant) on the misconduct which led to the imposition of penalty of dismissal / removal / compulsory retirement from service / any other penalty imposed.....(here enter name of the penalty imposed), and also
- (iii) Direct / directs that the said Shri.....(here enter direct / directs that the said Shri.....(here enter the name of the Government Servant)

shall, under sub-rule (4) of Rule 8 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991, be deemed to have been placed under suspension with effect from.....(here enter the date of dismissal or removal or compulsory retirement from service) and shall continue to remain under suspension until further orders.

Signature

Name and designation of the
competent authority.

(30)

**Order setting aside penalty, on Court deciding appeal in favour of
Government Servant (vide Memo.No.169/Ser.C/77-8, G.A. (Ser.C) Dept.,
dt.10.02.1978)**

Whereas Shri.....(here enter name and designation of the Government Servant) was dismissed/removed/compulsorily retired from service with effect from (here enter the date of dismissal / removal / compulsory retirement) on the ground of conduct which led to his conviction on a criminal charge;

OR

Whereas the penalty of.....(here enter the name of the penalty) was imposed on Shri(here enter the name and designation of the Government Servant) on the ground of conduct which led to his conviction on a criminal charge;

And whereas the said conviction has been set aside by a competent Court of law and the said Shri.....(here enter the name and designation of the Government Servant) has been acquitted of the said criminal charge;

Now, therefore, the Government / undersigned hereby set / sets aside the order of dismissal/ removal / compulsory retirement from service / any other penalty.....(here enter the penalty imposed).

Signature

Name and designation of the
competent authority.

(31)

Sanction of Government for taking departmental action against a pensioner under Rule 9 of A.P.Revised Pension Rules, 1980 (vide Memo.No.17757-A/216/A2/Pen.I/94, Finance & Planning (FW.Pen.I) Dept., dt.24.05.1994)

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES - Departmental proceedings against Sri/Smt./Kum.....formerly Department – Sanction under Rule 9 of A.P.Revised Pension Rules, 1980 - Issued.

(DEPARTMENT)

G.O.Ms.No.

Dated:

ORDER:

Whereas it has been made to appear that Shri/Smt./Kumwhile serving as.....in the Department.....fromto.....was (here specify briefly the imputations of misconduct or misbehaviour in respect of which it is proposed to institute departmental proceedings).

Now, therefore, sanction is accorded under sub-clause (i) of clause (b) of sub-rule (2) of Rule 9 of the A.P.Revised Pension Rules, 1980 to initiate departmental proceedings against the said Shri/ Smt./Kum.....

It is further directed that the said departmental proceedings shall be conducted in accordance with the procedure laid down in Rule 20 of the APCS (CC&A) Rules, 1991 by (here specify the authority by whom the departmental proceedings should be conducted) at (here specify the place or places at which the departmental proceedings including oral inquiry, might be conducted).

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Signature

Name and designation of the
competent authority.

(32)

**Memorandum of Articles of charge etc. to be communicated to pensioner
in departmental action under Rule 9 of A.P.Revised Pension Rules, 1980
(vide Memo.No.17757-A/216/A2/Pen.I/94, Finance & Planning (FW.Pen.I)
Dept., dt.24.05.1994)**

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – Sri.....Department - Departmental proceedings under
Rule 9 of A.P.Revised Pension Rules, 1980 - Articles of Charges - Issued.

(DEPARTMENT)

G.O.Rt. No.

Dated:

Read the following :

ORDER :

In pursuance of the sanction accorded by the Government under sub-clause (i) of clause (b) of sub-rule (2) of Rule 9 of the A.P.Revised Pension Rules, 1980 for instituting departmental proceedings against Sri.....vide G.O.Ms.No.(department) dated..it is proposed to hold an inquiry against the said Sri..... in accordance with the procedure laid down in Rule 20 of the A.P.C.S. (CC&A) Rules, 1991. The enquiry shall be conducted by..... (here specify the authority by whom the departmental proceedings are to be conducted) in accordance with the sanction, at.....(here specify the name of the place where the proceedings are to be conducted).

2. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed

statement of articles of charge (Annexure.I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure.II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

3. Sri.....is directed to submit within 10 days of the receipt of this Memorandum, a written statement of his defence and also to state whether he desires to be heard in person.

4. He is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Sri.....is further informed that if he does not submit his written statement of defence on or before the date specified in para 3 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 20 of the A.P.C.S. (CC&A) Rules, 1991, or the orders / directions issued in pursuance of the said rules, the inquiring authority may hold the inquiry against him ex-parte.

6. The receipt of this G.O. may be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Signature.....

Name and designation of the
competent authority.

To.....

Sri.....

ANNEXURE - I

Statement of articles of charge framed against (name of the retired Government Servant), formerly

Article I

That the said Sri.....while functioning asduring the period.....

Article II

That during the aforesaid period and while functioning in the aforesaid office, the said Sri.....

Article III

That during the aforesaid period and while functioning in the aforesaid office, the said Sri.....

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Sri.....(name of the retired Government Servant) formerly.....

Article I

Article II

Article III

ANNEXURE - III

List of documents by which the articles of charge framed against Sri.....(name of the retired Government servant), formerly.....are proposed to be sustained.

ANNEXURE - IV

List of witnesses by whom the articles of charge framed against Sri.....(name of the retired Government Servant) formerly....., are proposed to be sustained.

(33)

Check List & Annexure on submission of disciplinary cases to A.P. Public Service Commission (vide Cir.Memo.No.670365/Ser.C/2018, G.A. (Ser.C) Dept., dt.06.11.2018)

CHECK LIST ON SUBMISSION OF DISCIPLINARY CASES TO THE
A.P. PUBLIC SERVICE COMMISSION

1	Name of the Delinquent Officer, Designation & Department		
2	Charge Memo. issued to the Delinquent Officer by the Competent Authority		
2 (a)	Amount of loss caused to Government by his (D.O.) act of misappropriation/excess expenditure		
2 (b)	Whether misappropriated amount/loss caused at bank rate as fixed by RBI + 2% (i.e. actual cost of funds for Government) has been determined by the disciplinary authority in accordance to Article 300, clause 4 (d) of A.P. Financial Code Volume-I, as inserted vide G.O.Ms.No.33, Finance (TFR-I) Department, dt.09.02.2006 – Yes/No		
2 (c)	If no to 2 (b), please furnish reference number and date of the order issued by the competent authority, relaxing conditions, stipulated in Article 300, clause 4 (d) as above		
3	Explanation of the delinquent officer to the Charge Memo.		
4	The proposed major penalty against the delinquent Government employee – whether the procedure as per Rule 20 of the A.P.C.S. (CC&A) Rules, 1991 has been followed		
4 (a)	Amount of recovery proposed from the delinquent officer and other charged officers involved in the same case, each charged officer wise		
4 (b)	Is there any difference in amount of loss caused and amounts recovered (i.e., between 2 (a) and 4 (a)) – Yes / No		

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4 (c)	It yes, to 4 (b), then detailed reasons for the same		
5	In case of pensioners, whether charge is within the limitation period of 4 years as per Rule 9(2)(b)(ii) of the A.P.Revised Pension Rules, 1980		
6	Records relating to the conduct of inquiry, perusal of records by the Delinquent Officer and the cross examination of witness etc.		
7	Complete Inquiry Report with the findings of the Inquiry officer		
8	Whether copy of the Inquiry Report was furnished through a show-cause notice to the delinquent employee (Reference Number & Date)		
9	Whether reasons listed in show cause notice in case Government differed with the I.O.		
10	Whether show-cause notice issued as per note to Rule 9(2)(a) of A.P.Revised Pesnion Rules, 1980, specifying penalty in case of retired employees.		
11	Explanation of the delinquent officer to the final show-cause notice of the Government.		
12	Complete and upto date proforma particulars of the delinquent officer (Annexure)		
13	Complete and upto date personal file of the delinquent officer		
14	List of such other relevant records sent along with the disciplinary case		

ANNEXURE

1	Name of the Accused Officer	
2	Whether Temporary / Permanent / Contract Service	
3	Post held substantively, if any, Permanent Service a) Designation b) Scale of Pay c) Date from which pay shown against (a) drawn	
4	Post held at present in an officiating capacity a) Designation b) Scale of Pay c) Pay Drawn d) Date from which pay shown against (c) drawn e) Whether the approval of APPSC to the officer officiating appointment has been obtained in case such approval was necessary under rule (given No. Date of PSC's relevant letter)	
5	The next lower post of officer should have held but for his appointment to the present post he is holding	
6	Post if any in which the Service of the Officer have been regularized but not made substantive	
7	Increments a) Date of next increment in the post held substantively b) Date of next increment in post of which officiating at present	

8	Date of Birth		
9	Date of joining in Government Service		
10	Date when due retire		
11	a) Appointing Authority in respect of the post held at present or the authority which actually appointed the person, if the authority is higher b) Punishing Authority in respect of post held at present c) Appellate Authority in respect of the post held at present		

(34)

Check List on institution of Disciplinary Proceedings, processing Inquiry Report and awarding penalty (vide Circular Memo.No.20922/Ser.C/99, Genl.Admn. (Ser.C) Dept., dt.28.09.1999)

I. INSTITUTION OF DISCIPLINARY PROCEEDINGS :

i)	If it is proposed to hold a regular inquiry against a Government servant to whom A.P.C.S (CC&A) Rules, 1991 applies, the following points shall be kept in mind.	
a)	Whether specific charges are framed as required in Govt. Memo.No.290/Ser.C/94-2, GA (Ser.C) Dept., dt.01.06.94.	Yes/No
b)	Whether the charges are framed in the format prescribed in G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.96.	Yes/No
c)	Whether explanation is received from the charged officer within the time stipulated.	Yes/No
d)	Whether the charged officer asked for any further information / additional documents.	Yes/No

e)	Whether it is decided to conduct minor penalty proceedings.	Yes/No
f)	Whether it is decided to conduct major penalty proceedings by appointing inquiry officer or through Commissioner of Inquiries / entrust the disciplinary case to the Tribunal for Disciplinary Proceedings for regular inquiry.	Yes/No
ii)	Whether the appointment of the Inquiring Authority is in accordance with format IV prescribed in G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.96.	Yes/No
iii)	Whether Presenting Officer is appointed as per sub-rule (5)(c) of Rule 20 keeping in view the instructions in Memo.No.22/Ser.C/93, G.A. (Ser.C) Dept., dt.01.05.93 and in the format of G.O.Ms.No.82, G.A.(Ser.C) Dept., dt.01.03.96.	Yes/No
iv)	In any disciplinary case where more than two Government Servants are involved, whether common disciplinary proceedings are instituted as per Rule 24 of A.P.C.S (CC&A) Rules, 1991 and in Form VII of G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.96.	Yes/No
v)	Whether the A.P. Vigilance Commission is consulted to refer any disciplinary case for enquiry to Tribunal for Disciplinary Proceedings.	Yes/No
vi)	Whether ex parte inquiry was conducted, in terms of orders issued in G.O.Ms.No.194, G.A.(Ser.C) Dept.,dt.15.03.90.	Yes/No
vii)	Whether the time schedule prescribed in Circular Memo.No.35676/ Ser.C/98, G.A. (Ser.C) Dept., dt.01.07.98 and in Memo.No.23537/ Ser.C/99-5, dt.28.07.99 is followed to complete the inquiry.	Yes/No
viii)	Whether the departmental proceedings could be delivered in person or at leave address.	Yes/No
ix)	If not, whether the same is published in the A.P. Gazette / Dist.Gazette, as the case may be.	Yes/No
x)	Is the report of the Inquiry Officer as per sub-rule (23) of Rule 20.	Yes/No

2. Whether the report of the Inquiry Officer contains the following:

- (i) An introductory para, indicating appointment of Inquiry Officer and the dates of hearing.
- (ii) Charges that were framed.
- (iii) Brief statement of the case of disciplinary authority in respect of the charges inquired into.
- (iv) Brief statement of facts and documents admitted.
- (v) Brief statement of the explanation of the Government Servant.
- (vi) Assessment of evidence in respect of each point.
- (vii) Finding on each charge.

Whether the I.O. ensured that no recommendation was made about the quantum of penalty.

3. Whether the Inquiry Officer sent the following along with the Inquiry Report:-

- (a) List of documents produced by the Presenting Officer.
- (b) List of documents produced by the Government Servant.
- (c) List of prosecution witnesses.
- (d) List of defence witnesses.
- (e) Deposition of witnesses in the order in which they were examined.
- (f) Written statement of defence.
- (g) Applications if any, filed during the course of Inquiry, and orders passed thereon, as also orders passed on oral requests made during the inquiry.

II. PROCESSING THE INQUIRY REPORT

(i)	Whether the further action on the enquiry report is as per Rule 21 of the APCS (CC&A) Rules, 1991	Yes/No
(ii)	Whether the disciplinary authority after going through the inquiry report agrees with the findings and if any error is noticed, whether the point at which it erred is re-coded and did the disciplinary authority ask the same inquiry officer to conduct further inquiry and report as there is no provision for de novo inquiry or to conduct fresh inquiry	Yes/No
(iii)	Whether the disciplinary authority exercised his mind in arriving at the findings on the charges and independently arrived at the nature and quantum of penalty.	Yes/No
(iv)	Whether the Andhra Pradesh Vigilance Commission is consulted as per the scheme of Vigilance Commission.	Yes/No
(v)	Whether the orders in circulation are obtained in case the A.P. Vigilance Commissioner's recommendations are not agreed to.	Yes/No
(vi)	Whether APPSC needs to be consulted and if so, whether it was consulted.	Yes/No
(vii)	Whether the final orders issued agree with the recommendation of APPSC.	Yes/No
(viii)	If not whether orders in circulation obtained.	Yes/No

III. AWARDING PENALTIES :

(i)	Whether the instructions issued in U.O.Note No.23552/Ser.C/97-1, G.A. (Ser.C) Dept., dt..07.05.97, are kept in view while issuing orders.	Yes/No
(ii)	Whether the instructions issued in U.O.Note No.1713/Ser.C/ 66-1, G.A. (Ser.C) Dept., dt.01.07.66 have been followed or not regarding penalty awarded.	Yes/No
(iii)	Whether the instructions vide Memo.No.1436/Ser.C/80-2, G.A. (Ser.C) Dept., dt.07.02.81 have been followed while imposing penalty of stoppage of Annual Grade Increment with cumulative effect.	Yes/No
(iv)	Whether the order of penalty and other papers communicated to the charged officer as per Rule 23.	Yes/No

Comprehensive Check List on Service Particulars and stages of Disciplinary Proceedings (vide Circular Memo.No.13673/2002-2, G.A. (Ser.C) Dept., dt.05.07.2002)

Check List for Disciplinary Cases

Part I - Service Particulars

1. Name of the Charged Officer	
2. Status (Gezettted Officer/N.G.O./ P.S. Undertaking employee or other category) Service to which he belongs : The Rules applicable :	
3. Whether permanent or temporary or contract employee	
4. Post held (a) Designation	
(b) Scale of pay with stages,efficiency bar etc.	
c) Pay drawn	
d) Date from which present pay is drawn	
e) Date of next increment i) in the post held substantatively	
ii) in the post in which officiating at present	
5. Post next below which the officer would have held but for his appointment to the present post (specify name of the post and scale of pay)	

6. Post if any in which the service of the officer has been regularized	
7. Date of birth	
8. Date of joining Government service	
9. Due date of retirement	
10. a) Actual date of retirement, if retired already	
b) Amount of monthly pension admissible	
c) Amount of monthly pension sanctioned	
d) Amount of gratuity admissible/sanctioned	
e) Whether pensioner benefits are withheld pending finalization of disciplinary case / criminal case. If so, whether provisional pension is sanctioned. (required only in cases of recovery or withholding from pensionary benefits)	
11. a) Appointing authority in respect of the post held at present or the Authority which actually appointed the person if that authority is higher.	
b) Authority competent to impose the penalty in respect of post held now	
c) Appellate authority at present	

Part II - Details of Case

A.1. Indicate advice of V.C. in the first stage	Major Penalty Procdgs through/Minor Penalty Procdgs through T.D.P.COI Dept'l. I.O.
2. Whether Common or individual inquiry.	

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3. In case of common disciplinary proceedings, indicate order of competent authority under Rule 24 of the APCS (CC&A) Rules, 1991 in the format VIII of G.O.Ms. No.82, G.A.(Ser.C) Dept., dt.01.03.96.	
4. Whether definite charges have been framed as per rules applicable to the officer with the statement of imputations along with enclosures viz., list of witnesses, list of documents etc. in terms of Government Memo.No.290/Ser.C/94-2, G.A. (Ser.C) Dept., dt.01.06.1994 and G.O.Ms.No.82, G.A. (Ser.C), Dept., dt.01.03.96. (References of V.C. /A.C.B. should not be quoted in charge memo)	
5. Record of delivering charge sheet to the charged officer whether available and date of service	
6. Whether reply of the charged officer if any received. If not reasons.	
7. Whether it is decided to impose a minor penalty if so details thereon.	
8. In case of decision to conduct major penalty proceedings the inquiry authority	
9. a) suggested by Vigilance Commission	
b) appointed by department	
10. Date of appointment of inquiry authority in terms of format-IV prescribed in G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.96 [In case of Dept., the I.O. should be an officer of higher rank to that of charged officer(s)]	
11. Whether any Presenting Officer was appointed as per sub-rule (5)(c) of Rule 20 keeping in view the instructions in Memo.No.22/Ser.C/93, G.A. (Ser.C) Dept., dt.01.05.1993 and in the format of	

G.O.Ms.No.82, G.A. (Ser.C) Dept., dt.01.03.96. [Presenting Officer should be of higher rank to that of charged officer(s)]		
12.	i). Whether the I.O. has maintained a daily order sheet indicating progress of oral inquiry.	
ii)	Whether depositions of prosecution / defence witnesses recorded.	
iii)	Whether statement of defence of charged officer(s) obtained.	
iv)	Whether copies of relevant documents supplied to charged officer.	
v)	Whether exhibits are marked as	
a)	Prosecution	
b)	Defence	
vi)	Whether Presenting Officer submitted any written brief.	
vii)	Whether a copy of the same if any was supplied to charged officer.	
viii)	Whether written brief submitted by charged officer.	
13.	Was the inquiry ex-parte? If so, was it in accordance with G.O.No.94, G.A. (Ser.C) Dept., dt.15.03.1990. Whether the departmental proceedings could be delivered in person or at leave address. If not, whether the same is published in the A.P. Gazette / Dist. Gazette, as the case may be.	
14.	Is the I.O's report available and as per sub-rule (23) of Rule 20.	

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15. Whether the report of the I.O. contains the following as required under sub-rule (23) of Rule 20 of APCS (CC&A) Rules, 1991:	
(i) An introductory para, indicating appointment of I.O. and the dates of hearing.	
(ii) Charges that were framed	
(iii) Brief statement of the case of disciplinary authority in respect of the charges enquired into.	
(iv) Brief statement of facts and documents admitted	
(v) Brief statement of the explanation of the Government Servant	
(vi) Assessment of evidence in respect of each point.	
(vii) Finding on each charge (the inquiry officer to ensure that no recommendation is made about the quantum of penalty)	
16. Whether the Inquiry Officer sent the following along with the inquiry report.	
i) list of documents produced by the Presenting Officer.	
ii) list of documents produced by the Government Servant	
iii) list of prosecution witnesses	
iv) list of defence witnesses	
v) deposition of witnesses in the order in which they were examined	
vi) written statement of defence	

vii) applications if any, filed during the course of inquiry, and orders passed thereon, as also orders passed on oral requests made during the inquiry.	
17. i) whether the further action on the inquiry report is as per Rule 21 of APCS (CC&A) Rules, 1991.	
ii) (a) Whether the disciplinary authority after going through the inquiry report agrees with the findings	
(b) if any error is noticed , whether the point in which it erred is recorded and did the disciplinary authority ask the same inquiry officer to conduct further inquiry. (there is no provision for de novo enquiry or to conduct fresh	
iii) whether disciplinary authority exercised its mind in arriving at the findings on the charges and independently arrived at the nature and quantum of penalty.	
iv) whether the Andhra Pradesh Vigilance Commission is consulted as per the scheme of Vigilance Commission.	
18. i) Whether the report of the Inquiry Officer communicated to the charged officer	
ii) In case of disagreement with the findings of the Inquiry Authority whether grounds for the same communicated to the charged officer along with the Inquiry Report.	
iii) Whether representation of the Charged Officer on the findings of the Inquiry Officer received.	

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iv) Parawise comments of the disciplinary authority on the representation of the charged officer, if any.	
v) whether disciplinary authority has considered the merits of the case and come to the conclusion that a formal penalty is called for	
vi) whether the Andhra Pradesh Vigilance Commission consulted as per the scheme of the Vigilance Commission and advice tendered.	
vii) whether orders in circulation to C.M. obtained, in case the Andhra Pradesh Vigilance Commissioner's recommendations were not agreed to	
viii) Whether Andhra Pradesh Public Service Commission need be consulted and if so, whether it was consulted and advice of the A.P.P.S.C. thereon	
ix) whether the final orders issued agree with the re-commendation of A.P.P.S.C.	
x) If not whether orders in circulation obtained in consultation with Andhra Pradesh Vigilance Commission	
19. Awarding penalties a) whether the instructions issued in U.O.Note No.23552/Ser.C/97-1, G.A. (Ser.C) Dept., dt.07.05.1997, are kept in view while issuing orders.	
b) whether the instructions issued in U.O.Note 1713/ Ser.C/66-1, GA (Ser.C) Dept., dt.01.07.1966, have been followed or not regarding penalty awarded.	

c) whether the instructions vide Memo.No.1436/Ser.C/ 80-2, GA (Ser.C) Dept., dt.07.02.1981 have been followed while imposing penalty of stoppage of Annual Grade increment with cumulative effect.	
d) whether the order of penalty and other papers communicated to the charged officer as per Rule 23.	
B. Penalty under the A.P.Revised Pension Rules, 1980 (where it is proposed to withhold or withdraw pension otherwise admissible to the officer as a result of disciplinary proceedings instituted / deemed to continue in respect of an officer who has retired from service)	
a) whether order was issued in the prescribed proforma to the effect that disciplinary proceedings should be instituted/ continued under the Revised Pension Rules vide Memo.No.17757-A/ 216/Pen.I/94, dt.24.05.1994 of Finance (Pen.I) Department.	
b) whether the charge is within the limitation of 4 years as per Rule 9(2)(b)(ii) of A.P.Revised Pension Rules, 1980.	
c) whether show cause notice issued to the officer indicating precisely the quantum of cut proposed to be made in his pension and the period for which it shall be operative.(as per note under Rule 9(2) of A.P.Revised Pension Rules, 1980)	
d) Reply of the officer to the aforesaid notice	
e) Comments on factual or procedural points raised by the officer in his reply	

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f) Whether A.P.P.S.C. was consulted on the penalty.	
C. In case of disciplinary inquiry by Tribunal for Disciplinary Proceedings:- In case of T.D.P. inquiry date of furnishing of records to T.D.P. Whether orders are issued in the prescribed format in terms of U.O. Note No.58414/Ser.C/2000-3, G.A (Ser.C) Dept., dt.07.02.2001. [refer topic-B for further course of action under A.P.C.S.(DPT) Rules.	
1. a) Date of order placing the C.O(s) on their defence before Tribunal for Disciplinary Proceedings:	
b) Date of receipt of report from T.D.P.:	
2. Ref. No.	
3. Findings of the T.D.P.	
4. Whether tribunal held the charges proved and in case of exoneration whether it is stated that the C.Os are fully exonerated (if no specific recommendation is made it should be construed that the C.O(s) are not fully exonerated as per Rule 6(2)(a) of APCS (DPT) Rules.	
5. Whether findings of the T.D.P. are agreed to. If not	
i) whether further inquiry by T.D.P. is sought under Rule 6(2)(c) of APCS (DPT) Rules	
ii) whether it is proposed to disagree with the findings of the T.D.P.	
6. Whether Vigilance Commission is consulted as per instructions issued in G.O. Ms.No.514, G.A. (Ser.C) Dept., dt.15.10.1994, if so the advice of	

V.C.(Note: The G.O. introduced an amendment in the first proviso of cl. (b) to sub- rule (2) of Rule 6 of A.P.C.S. (DPT) Rules, 1989, substituting the expression "Andhra Pradesh Vigilance Commission" for "the Director General, Vigilance and Enforcement".)	
7. Whether enquiry report of the T.D.P. is communicated to C.O. calling for his representation if any (within one month)	
i) agreeing with the findings	
ii) disagreeing with findings duly communicating the points of disagreement together with a brief statement of the grounds therefor along with enquiry report	
8. Whether any representation of the charged officer received; if so his contentions.	
9. Comments of the Government on the representation of charged officer	
10. Provisional decision of the Government on penalty to be imposed	
11. Advice of the Commission on the quantum of penalty to be imposed.	
12. Whether Department took action as advised above. (If the C.O. is retired after the case is entrusted to T.D.P. a show cause notice may be issued as per note to Rule 9 (2) of A.P.Revised Pension Rules, 1980.)	
13. If not, whether orders in circulation to C.M. are obtained for deviation.	
14. Final orders issued by the Govt., with ref. no. and date.	

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D. Disciplinary action for penalty in pursuance of conviction in Court under Rule 25(i) of APCS (CC&A) Rules, 1991 (Mere suspension of sentence no bar to levy of penalty under Rule 25(i) of APCS (CC&A) Rules, 1991)		
1.	Name of the Court which convicted the accused officer(s) with C.C.No. / date of Judgment	
2.	Date of receipt of copy of Judgment	
3.	Sentence	
4.	Nature of offence held proved viz., misappropriation, corruption, acceptance of illegal gratification, forgery, possession of disproportionate assets, causing wilful loss to Government for pecuniary gain of private persons	
5.	Penalty Proposed (Penalty of dismissal from service in terms of orders issued in U.O.Note No.1700/SC.D/92-4, G.A. (SC.D) Dept., dt.09.03.1994, proviso to Rule 9 of APCS (CC&A) Rules, 1991 and G.O.Ms.No.2, G.A. (Ser.C) Dept., dt.04.01.1999, to be imposed ordinarily in the above cases)	
6.	If a lesser penalty is proposed, reasons therefor	
7.	Whether properties of accused officer were attached and forfeited under Criminal Law Amendment Ordinance, 1944 in the disproportionate assets / misappropriation etc., cases. Action taken thereon.	
8.	In case of acquittal whether competent authority has examined the Judgment whether there are grounds for appeal	
9.	Whether appealed.	
10.	Whether proposed to initiate departmental action in case of acquittal on benefit of doubt / technical grounds.	

11. Provisional decision of the disciplinary authority.	
12. Whether A.P.V.C. is consulted in the matter	
13. Advice of V.C. in the case	
14. Whether orders are proposed as advised by Andhra Pradesh Vigilance Commission	
15. If not whether orders in circulation to C.M. have been obtained	
16. Final orders of the Government in the disciplinary action consequent on conviction of accused officer(s) and penalty imposed on them	

Note : In case of penalty other than pension withhold in pursuance, Department need not consult the A.P.P.S.C.

(36)

Affidavit in respect of claim of privilege under Section 123 Indian Evidence Act (vide U.O.Note No.6929/58-1 of Law Department, Government of Andhra Pradesh, dt.14.04.1958)

In the Court of.....

Writ Petition No.....of (year)

Suit

I,.....(here insert the name, designation and address of the person making the affidavit), do hereby solemnly affirm and state as follows:-

A summons bearing No.....dated.....issued by the Court of.....in Writ Petition / Suit No.....of.....(year) (.....vs.....) has been received on.....(date) requiring the production in the said Court on.....(date), of documents stated below. I, as the Head of the Department, am in control of, and in charge of, its records. I have carefully

FORM NO. (37)

considered that they are unpublished official records relating to affairs of State and their disclosure will be prejudicial to public interest for the following reasons:-

List of documents summoned

I do not, therefore, give permission to any one under Section 123 of the Indian Evidence Act, 1872, to produce the said documents for inspection or to give any evidence derived therefrom.

Solemnly affirmed at.....this.....day of (year)

Name and designation
of the person making the affidavit.

(37)

Affidavit in respect of claim of privilege under Section 124 Indian Evidence Act (vide U.O.Note No.6929/58-1 of Law Department, Government of Andhra Pradesh, dt.14.04.1958)

In the Court of.....

W.P.No. of (year)

Suit No.

I,.....(here insert the name, designation and signature of the person making the affidavit) do hereby solemnly affirm and state as follows:-

A summons bearing No.....dated.....issued by the Court of.....in Writ petition/Suit No.....of.....(year) (.....versus.....) has been served on me on.....(date), requiring the production in the said Court on..... of the documents stated below. I have carefully considered them and have come to the conclusion that they contain communications made in official confidence and I consider that the public interest would suffer by their disclosure for the following reasons:-

List of documents summoned

I, therefore, claim privilege under Section 124 of the Indian Evidence Act, 1872.

Solemnly affirmed at..... This..... day of.....(year).

Signature and designation of the officer making the affidavit.

(38)

Particulars to be furnished by Government Servant while giving prior intimation or seeking prior sanction, under Rule 9(1), third proviso of A.P.C.S. (Conduct) Rules, 1964 (vide Rule 9(1) third proviso of A.P.C.S. (Conduct) Rules, 1964 - statutory)

1. Name and Designation:
2. Scale of pay and present pay:
3. Purpose of application / sanction for transaction / prior information of transaction:
4. Whether property is being acquired or disposed of:
5. Probable date of acquisition / Disposal of property:
6. Mode of acquisition / Disposal:
7. (a) Full details about location viz Municipal No.,
Street / Village / Mandal, District and
State in which situated:
(b) Description of the property, in the case of cultivable land, dry or irrigated land:
(c) Whether free hold / or lease hold:
(d) Whether the applicant's interest in the property is in full or part (in case of partial interest, the extent of such interest must be indicated):
(e) In case the transaction is not exclusively in the name of the Government Servant, particulars of ownership and share of each member:

FORM NO. (38)

8. Sale/purchase price of the property (market value in the case of gifts):
9. In the cases of acquisition, source or sources from which financed/proposed to be financed —
 - (a) personal savings:
 - (b) other sources giving details:
10. In the case of disposal of property, was requisite sanction obtained/intimation given for its acquisition. A copy of the sanction/acknowledgment be attached:
11. (a) Name and address of the party with whom transaction is proposed to be made:
(b) Is the party related to the applicant? If so, state the relationship:
(c) Did the applicant have any dealings with party in his official capacity at any time, or is the applicant likely to have any dealings with him in the near future?
(d) How was the transaction arranged?
(whether through any statutory body or a private agency through advertisement or through friends and relatives, Full particulars to be given):
12. Any other relevant fact which the applicant may like to mention.

DECLARATION

I.....hereby declare that the particulars given above are true. I request that I may be given permission to acquire / dispose of property as described above from/to the party whose name is mentioned in item 11 above.

OR

I.....hereby intimate the proposed acquisition/disposal of property by me as detailed above. I declare that the particulars given above are true.

Station:

Signature :

Date:

Designation :

- Note: 1. In the above form, different portions may be used according to requirement.
2. Where previous sanction asked for, the application should be submitted at least 30 days before the proposed date of transaction.

(39)

**Intimation of foreign currency / goods received by Government Servant
Sri under Rule 6A of the APCS (Conduct) Rules, 1964 (vide
Annexure-III under Rule 6A of A.P.C.S. (Conduct) Rules, 1964 - statutory)**

1. Name of the Government Servant:
2. Designation and official address:
3. Department to which he belongs:
4. Date of receiving/accepting of foreign currency / goods:
5. Nature of the foreign currency / goods received / accepted:
6. Sources from which received / accepted:
7. Reasons/purpose for which the foreign currency / goods were received / accepted:
8. The relationship of the sender to the recipient and name, occupation and full address of the sender:
9. Whether the foreign currency / goods received/accepted were intimated to the concerned authorities and Customs or to the appropriate authority:
10. Whether the foreign currency / goods received / accepted were declared to the Incometax Department. If so, details to be furnished:
11. Mode and method of receipt / acceptance of the foreign currency / goods by the Govt. employee or his dependents:
12. Whether the Govt. employee is having any official dealings from whom the foreign currency/goods were received / accepted:

FORM NO. (40)

13. Details of any expenditure incurred by the Govt. employee in receipt / acceptance of the foreign currency / goods:

Station: Signature

Date: Designation of the Govt. Servant.

(40)

Statement of immovable property possessed, acquired and disposed off by Government Servant Sri- ---- or any other person on his behalf or by any member of his family during year ending.....under Rule 9(7) of A.P.C.S. (Conduct) Rules, 1964

(vide Annexure-I under Rule 9(7) of A.P.C.S. (Conduct) Rules, 1964 - statutory)

Nature of property (1)	Situation of property (Survey/Municipal Number, with extent) (2)	Held in whose name (3)	Date & mode of acquisition/ disposal (4)
1. House			
2. Flat			
3. Shop			
4. House plot			
5. Agri. land (dry or wet)			
6. Any other (immovable property)			
Price paid / obtained (5)	Source of payment (6)	Whether information given or sanction obtained (with reference No. and date) (7)	Annual income from property (8)

Station: Signature

Date: Designation of the Govt. Servant.

Note : Details of acquisition of properties standing in the name of Hindu undivided family or partnership in which the officer holds a claim or share should be separately shown in the statement.

(41)

Statement of movable property possessed, acquired and disposed off by Government Servant Sri ----- -or any other person on his behalf or by any member of his family during year ending -----, under Rule 9(7) of APCS (Conduct) Rules, 1964 (vide Annexure-II under Rule 9(7) of A.P.C.S. (Conduct) Rules, 1964 - statutory)

Nature of property (1)	Held in whose name (2)	Date and mode of acquisition/disposal (3)	Name & Address of person from whom acquired/ to whom disposed off. (4)
-------------------------------	-------------------------------------	---	--

Movablees (whose value exceeds Rs.1,00,000)

Vehicless

Motor Car

Motor Cycle /Scooter

Any other vhicle

Electrical Goods

Air Conditioner

V.C.R / Television

Refrigerator

any other goods

Jewellery

Ornaments

Vesssels ets.

Investment & Cash

FORM NO. (42)

Bank deposits/Debentures/Shares, Bank balance etc.

Furniture

Livestocks

Any other goods

Whether transaction done within the limits of jurisdiction	Price paid/obtained	Source of payment
(1)	(2)	(3)
(4)		

Note:- Details of acquisition of properties standing in the name of Hindu undivided family or partnership in which the officer holds a claim or share should be separately shown in the statement.

Station : Signature

Date : Designation of the Govt.
Servant.

(42)

Acknowledgment of intimation of transactions of sale or purchase under Rule 9 (1)/(2) of A.P.C.S. (Conduct) Rules, 1964 (vide Memo.No.190/Ser.C/88-2, Genl. Admn. (Ser.C) Dept., dt.06.08.1988).

GOVERNMENT OF ANDHRA PRADESH

(DEPARTMENT)

MEMO/PROCEEDINGS NO.

DT:

Sub : Andhra Pradesh Civil services (Conduct) Rules, 1964 - Intimation about transactions relating to sale or purchase from the Government employee - Receipt - Acknowledged.

Ref : From Sri Letter, dated

The intimation under sub-rule (1) / (2) of Rule 9 of Andhra Pradesh Civil Services (Conduct) Rules, 1964 received from Sri.....dated.....is acknowledged.

SIGNATURE / SEAL

To

Sri

(43)

Acknowledgment of property statements under Rule 9 of A.P.C.S. (Conduct) Rules, 1964 (vide Memo.No.190/Ser.C/88-2, Genl.Admn. (Ser.C) Dept., dt.06.08.1988)

GOVERNMENT OF ANDHRA PRADESH

(DEPARTMENT)

Sub:- Andhra Pradesh Civil services (Conduct) Rules, 1964 - Property Statements of the year- Receipt - Acknowledged.

Ref:- From Sri Letter dated

The property statements for the year sent with the reference cited are received.

SIGNATURE/SEAL

To

Sri

(44)

Monthly report of particulars of transfers, for review with reference to guidelines (vide Memo.No.864/Ser.A/85-1, Genl.Admn. (Ser.A) Dept., dt.03.07.1985)

FORM NO. (45) & (46)

Sl. No.	Name of the post	Name of the person transferred	Period for which the individual has worked in that post and place	Whether the transfer is inaccordance with the guidelines issued	Reasons for deviation of instructions if any.
1	2	3	4	5	6

(45)

Standard Notice Board inviting complaints of corruption (vide U.O.Note No.858/Spl.B/2000-3, Genl.Admn. (Spl.B) Dept., dt.10.07.2001)

"DO NOT PAY BRIBES. IF ANYBODY OF THIS OFFICE ASKS FOR BRIBE OR IF YOU HAVE ANY INFORMATION ON CORRUPTION IN THIS OFFICE OR IF YOU ARE A VICTIM OF CORRUPTION IN THIS OFFICE, YOU CAN COMPLAIN TO THE HEAD OF THIS DEPARTMENT OR THE CHIEF VIGILANCE OFFICER. (Name, complete address and telephone numbers have also to be mentioned against each)

(46)

Quarterly statement of pending complaints on corruption forwarded by Vigilance Commission for report (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT

No. of complaints pending at the begining of the quarter	No. of complaints received during the quarter	No. of complaints on which enquiry reports are submitted in the quarter	No. of complaints pending for enquiry	No. of complaints pending beyond one quarter
1	2	3	4	5

(47)

QUARTERLY STATEMENT OF PENDING NEWS PAPER CLIPPINGS ON CORRUPTION FORWARDED BY VIGILANCE COMMISSION FOR REPORT (VIDE MEMO.NO.256/SPL.B/2002-1, GENL.ADMN. (SPL.B) DEPT., DT.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT

No. of Newspaper reports pending at the begining of the quarter	No. of cases forwarded during the quarter	No. of cases on which reports are submitted in the quarter	No. of cases in which replies are not received	No. of cases in which replies are pending beyond one quarter
1	2	3	4	5

(48)

Statement of cases of suspension pending or in contemplation of Inquiry / Investigation / Trial (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

Sl. No	File No. of Dept / VC	Name of the Officer / Officers	Disignation	Status		Date of V.C's Advice for suspension	Date of Suspension	If not implemented resons therefor
				GO	N.GO			
1	2	3	4	5a	5b	6	7	8

Note:- All cases of suspension should be reported till reinstatement irrespective of date of suspension

(49)

Quarterly statement of cases of advice for transfer pending inquiry / investigation (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT :

FORM NO. (50) & (51)

Sl. No	File No. of Dept / VC	Name of the Officer / Officers	Disignation	Status		Date of V.C's Advice for suspension	Date of Suspension	If not implemented reasons there for
				GO	N.GO			
1	2	3	4	5a	5b	6	7	8

Note:- All cases of transfer not yet affected and all cases advised during the quarter may be furnished

(50)

Quarterly statement of list of officers against whom disciplinary inquiry was advised by Vigilance Commission (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT :

Sl. No	File No. of Date of advice of Commission	Name of the Officer / Officers	Disignation / Department	Status		Action advised		Action taken by Dept.
				GO	N.GO	Major Penalty Procs	Minor Penalty Proces	
1	2	3	4	5a	5b	6a	6b	7

Note:- All cases of advice not yet acted upon by framing charges and getting explanations and not yet referred for inquiry should be mentioned.

(51)

Quarterly statement of pending departmental inquiries with Inquiry Authorities (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept. dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT :

Sl. No	No. of inquiries pending at the beginning of the quarter with			No. of inquiries entrusted during the quarter to			No. of inquiry reports submitted during the quarter		
	TDP	COI	Dept. I.O	TDP	COI	Dept. I.O	TDP	COI	Dept. I.O
1	2a	2b	2C	3a	3b	3c	4a	4b	4c

No. pending at the end of the year		
TDP	COI	Dept. I.O.
5a	5b	5c

(52)

**Quarterly statement of disposal of inquiry reports received in the Department
(vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)**

NAME OF THE SECRETARIAT DEPARTMENT :

Sl. No	No. of inquiry reports pending at the beginning of the quarter			No. of inquiry reports received during the quarter			No. of inquiry reports disposed of during the quarter		
	TDP	COI	Dept. I.O.	TDP	COI	Dept. I.O.	TDP	COI	Dept. I.O.
1	2a	2b	2C	3a	3b	3c	4a	4b	4c

No. pending at the end of the year
TDP
COI
Dept. I.O.
5a
5b
5c

(53)

**Details of penalty awarded in disciplinary cases during the quarter
(vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)**

NAME OF THE SECRETARIAT DEPARTMENT :

Sl. No	File No. of Dept/VC	Name of the Officer/ Officers	Disignation	Status		Penalties advised by V.C.
				G.O	N.G.O	
1	2	3	4	5a	5b	6

FORM NO. (54) & (55)

Penalties awarded by Department	
(indicate exact penalty under Rule 9 of APCS (CC&A) Rules, 1991 or A.P.Revised Pension Rules, 1980)	
Major Penalty	Minor Penalty
7	8

(54)

Quarterly statement of cases of sanction for prosecution advised (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT :

S.No.	File No. of Dept/VC	Name of the Officer/Officers	Designation	Status	
				G.O	N.G.O
1	2	3	4	5a	5b

Details of advice of V.C	Action taken by the Department	Deviation
6	7	8

Note:- All pending cases where prosecution sanction is yet to be accorded at the beginning of the quarter and all cases received during the quarter should be indicated.

(55)

Quarterly statement of departmental penalty proceedings in pursuance of conviction by a court of law (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT :

Sl. No	File No. of Dept/VC	Name of the Officer/ Officers	Disignation	Status		Crime No.
				G.O	N.G.O	
1	2	3	4	5a	5b	6

Date of Judgment	Punishment awarded by the court	Departmental penalty		If not awarded, reasons therefor
		Advised by V.C	Awarded by Dept	
7	8	9a	9b	10

Note:- All pending cases of conviction of previous quarters should also be mentioned

(56)

Quarterly statement of cases of deviation from the advice of Vigilance Commission (vide Memo.No.256/Spl.B/2002-1, Genl.Admn. (Spl.B) Dept., dt.22.06.2002)

NAME OF THE SECRETARIAT DEPARTMENT :

Sl. No	File No. of Dept/VC	Name of the Officer/ Officers	Disignation	Status	
				G.O	N.G.O
1	2	3	4	5a	5b

Trap	Nature of offence				Date of V.C.'s advice	Date of Sanction of prosecution	If not sanctioned reasons there for
	Disproportionate assets	Misappropriation	Others				
6a	6b	6c	6d	7	8	9	

(57)

Form No.I – “Declaration” prescribed under the A.P. Special Courts Rules, 2017 (vide G.O.Ms.No.56, G.A. (SC.F) Dept., dt.09.05.2017)

FORM No.I

(SEE RULE 7)

DECLARATION

WHEREAS, it was alleged that Shri _____ (name and address) while Holding _____ Office (indicate name of / Public Office) in the State of Andhra Pradesh committed an offence under clause (e) of sub-section (1) of Section 13 of the Prevention of Corruption Act, 1988 and that the matter was investigated in A.C.B. Case No. _____ of,

AND WHEREAS, on scrutiny of relevant materials available on record, the State Government is of the opinion that there is prima facie case of Commission of the offence (name of the accused) who has accumulated properties disproportionate to his known sources of income by resorting to corrupt or illegal means;

AND WHEREAS, it is felt necessary and expedient by the Government that the said offender should be tried by the Special Court established under sub-section (1) of Section 3 of the Andhra Pradesh Special Courts Act, 2016;

NOW, THEREFORE, in exercise of the powers conferred by subsection (1) of Section 5 of the Special Courts Act, 2016, the State Government do hereby declare that the said offence shall be dealt with under the Andhra Pradesh Special Courts Act, 2016.

Secretary to Government

(58)

Form No.II – “Notice of Confiscation” prescribed under the A.P. Special Courts Rules, 2017 (vide G.O.Ms.No.56, G.A. (SC.F) Dept., dt.09.05.2017)

FORM-II

[(SEE RULE 14(2)]

NOTICE OF CONFISCATION

To

Name.....

Designation.....

Place of residence.....

Address.....

Whereas, an application has been filed against you by the Public Prosecutor being authorized by the State (copy of application to be attached) that your assets are disproportionate to your known source of income; you are hereby called upon to report by..... as to your sources of income, earning of assets, out of which or by means of which you have acquired such money / property the evidence on which you intended to rely upon and submit relevant information and particulars and show cause as to why all or any of such money / property should not be declared to have been acquired by means of offence and confiscated to State Government.

(Authorised Officer with Seal)

(59)

Form No.III – “Registration of Confiscation Cases” prescribed under the A.P. Special Courts Rules, 2017 (vide G.O.Ms.No.56, G.A. (SC.F) Dept., dt.09.05.2017)

FORM-III

[(SEE RULE 14(3)]

REGISTRATION OF CONFISCATION CASES

1. Date of filing application
2. Sl. No. of application
3. Name of delinquent.
4. Address of the delinquent
5. Particulars of known sources of income

FORM NO. (59)

6. Particulars of accumulation of assets estimated value
7. Particulars of properties disproportionate to the known sources of income
8. Names of witnesses examined on behalf of State
9. Name of the witnesses examined on behalf of delinquent
10. Particulars of documents proved in the case on behalf of the State
11. Particulars of documents proved on behalf of delinquent
12. Date of final orders passed by the authorised officer
13. Gist of the order
14. Remarks

Secretary to Government