

## CHAPTER 20

# DEPARTMENTAL ACTION

### Reference of Cases for Departmental Action /Suitable Action

**20.1** Cases investigated by the CBI are referred to the Ministries or Departments concerned, on the completion of investigation, for taking Regular Departmental Action, against such public servants, instead of launching prosecution in a Court of Law under the following circumstances:–

- (a) When there is inadequate evidence for a successful criminal prosecution but there is good evidence for Departmental Action.
- (b) When the charges established by the enquiry are breaches of Departmental rules or misconduct not amounting to criminal offences.
- (c) When Departmental Action is preferable to prosecution for some other important reasons.

In the cases registered against Officers/men of the armed forces, the following types of action can be recommended:–

- (i) Court Martial proceedings under the Act/Rules governing them.
- (ii) Administrative Action.
- (iii) Trial by a Civil Court.

**20.2** In the cases registered against the Officers and men of Central Police Organizations falling under the definition of "other Armed Forces of the Union", set up under Acts of Parliament and governed under the rules framed thereunder, the recommendations for any Departmental Action will be taken under the relevant rules of the concerned force.

**20.3** In the cases where action is recommended under the Army Act/Air Force Act/Naval Act, no advice will be required to be obtained from the CVC and no copy of the SP's Report will be sent to the CVC. However, the Department, at the time of taking final action against the Delinquent Officer, if of commissioned rank, will refer the case to the CVC and seek its advice.

**20.4** In the cases investigated by the CBI in which the same facts constitute the ground for both Departmental Action as well as Prosecution, the charge-sheet under Section 173 Cr.P.C. should be filed immediately on completion of investigation along with the original relied upon records, after obtaining sanction for prosecution wherever necessary. For Departmental Action simultaneous request should be sent to the competent disciplinary authority. This request should be sent along with authenticated copies of the relevant documents immediately to the Competent Authority/Head of Department with copies to the C.V.C. and the CVO of the organization. In other cases involving less serious offences or involving malpractices of a Departmental nature, RDA only should be taken and the question of prosecution should generally not arise. Any difference of opinion regarding the question whether Departmental Action or Prosecution in a

Court of Law should be initiated in the first instance will be resolved on the basis of the advice of CVC.

### **Documents to be sent for taking Departmental Action**

**20.5** The following documents should be sent in a paper book form to the Departmental authorities for initiating Regular Departmental Action for major penalty in CBI cases:–

- (a) Superintendent of Police's Report.
- (b) Draft Articles of Charges (Draft Charges)
- (c) Draft Statement of Imputations of misconduct or misbehavior in support of the Articles of Charges ( Draft Statement of allegations).
- (d) List of Witnesses.
- (e) List of Documents.
- (f) Copies of Statements relied upon.
- (g) Copies of Documents relied upon.
- (h) Copy of statement of delinquent and comments of the Investigating Officer thereon.

**20.6** If the recommendation is for RDA for Minor Penalty it will be clearly mentioned in the SP's Report and the draft Article of Charge will not be furnished with the SP's Report. Only the draft statement of imputations of misconduct or misbehaviour will be sent to the concerned Department.

**20.7** In cases when the CBI recommendation is for initiation of RDA for Major Penalty or for RDA for Major Penalty and prosecution and where the CBI feels necessary and in public interest to appoint a Presenting Officer, the name of the Presenting Officer will also be mentioned in the SP's Report sent to the Department. The Policy Division instructions be referred to in this regard.

### **Documents to be sent with SP's Report in Railway Cases**

**20.8** In all cases against G.Os. where R.D.A. (for Major or Minor penalty) or such action as deemed fit by the Department is recommended, the documents relied upon will be sent by the CBI to the Railway Board along with the SP's Report. In cases against non-Gazetted staff, SP's Reports will be sent to the C.V.O. of the Zonal Railways.

### **Preparation of Draft Articles of Charge**

**20.9** The Draft Articles of Charge should be drawn up in the form prescribed in the Vigilance Manual, Vol.II, Part-I. In cases relating to possession of assets disproportionate to one's known sources of income, the following form of charges should be used, with suitable modifications, wherever necessary:

**“Statement of charges framed against Shri/Ms. \_\_\_\_\_  
(Name & Designation of the Public Servant) \_\_\_\_\_**

**CHARGE**

**20.10** That Shri/Ms. \_\_\_\_\_ while functioning in various capacities under the Government of India, during the period between \_\_\_\_\_ and \_\_\_\_\_ was found on \_\_\_\_\_ in possession of assets, which are disproportionate to his known sources of income to the extent of about Rs. \_\_\_\_\_ suggesting that the aforesaid Shri/Ms. \_\_\_\_\_ acquired the said disproportionate assets by questionable means and/or from dubious sources and thereby he/she failed to maintain absolute integrity.

**20.11** In all cases the charges should be in the third person. The designation of the public servant concerned and the period of time involved should be mentioned. It must be remembered that Departmental Action is taken not under the provisions of the IPC or other Criminal Laws but under the service and Departmental rules. It is, therefore, necessary to frame the charges in such a manner that the case is covered by the Departmental or service rules applicable to the public servant concerned. Normally, such action can be considered under the heads misconduct, negligence in performance of duty or failure to maintain absolute integrity and devotion to duty. Acts of commission and omission, irregularities, breaches of Departmental rules, disobedience of orders and instructions can be brought in under one or more of the above mentioned heads. Even allegations of possessing disproportionate assets and the like can be covered under such rules. If there has been breach of any specific Rule of the Government servants Conduct Rules or similar Service Rules, then the specific rule so violated, should be mentioned in the charge.

**20.12** The charges should be precise and distinct and framed in clear and unambiguous language so as to communicate to the Delinquent Officer the grounds on which he is being charged and the particular irregularities etc. which he has committed. They should not contain discussion of evidence or any opinions and conclusions.

### **Statement of Imputations**

**20.13** A "Statement of Imputations of Misconduct etc." (Statement of Allegations) in the form prescribed in Vol. II Part-I of the Vigilance Manual containing the grounds on which the charges are based and the circumstances under which it is proposed to take action against the Officer, should be sent along with the draft 'Articles of Charge'. This 'Statement of Imputations of Misconduct etc.' should indicate clearly in sufficient detail all the acts of omission or commission on which each charge is based. All instances of irregularities etc., which are relied upon in support of the charges and which are to be proved in the course of the proceedings, should be specifically mentioned. Superfluous comments and opinions of the Investigating or Prosecuting Officers or a discussion of the material available should be avoided. The 'Statement of Imputations of Misconduct etc.' should be confined to the narration of facts, which constitute and support the charge.

**20.14** In cases where major revision of articles of charge/statement of imputations, becomes necessary either due to a decision to initiate major penalty action instead of minor penalty as recommended by the CBI / or inclusion of some other charge, re-drafting will be done by the Vigilance Section of the concerned Ministry/Department to avoid delays consequent to such changes and the drafts will be sent to CBI for vetting only.

**20.15** In cases where the Presenting Officer is of CBI a copy of the charge and the accompanying documents as served on Delinquent Officer will be endorsed by the Department to the CBI in order to enable the Presenting Officer to acquaint himself/herself with the amendments, made in the charge-sheet and the implication of such changes well in advance of the date of the oral enquiry.

### **List of Witnesses and Documents**

**20.16** List of witnesses and documents have also to be prepared and sent along with the draft 'Articles of Charge' and 'Statement of Imputations of Misconduct etc.' These lists should include all witnesses and documents relied upon to prove the allegations and the charges. Against the name of each witness should be indicated, briefly but clearly, what he is expected to prove. The list of documents should include documents like the First Information Report if there is one on record but anonymous or pseudonymous complaints or the SP's Report should not be included in the list and no reference should be made to them in the 'Statement of Imputations of Misconduct etc.' to be served on the Delinquent Officer. If any reference is made to the anonymous/pseudonymous applications or the SP's Report then it would not be possible to deny access to these documents to the delinquent. Great care should be exercised while including the witnesses and documents in the lists. It should be ensured that no unnecessary names or documents are included and that nothing material or useful is left out.

#### **Branch Prosecution Staff to prepare Draft Charges etc.**

**20.17** Draft 'Articles of Charge', 'Statement of Imputations of Misconduct etc.' and the lists of witnesses and documents should be prepared by the Branch Prosecuting staff in consultation with the Investigating Officer. In the case of Gazetted Officers of Group 'A', the 'Articles of Charge' will be vetted by the Deputy Legal Advisor. In other cases they have to be vetted by the Law Officers at suitable level.

#### **Documents which are not to be sent to Departmental Authorities**

**20.18** Case Diaries and other records of Police Investigation should not be sent to the Departmental authorities while referring cases for Regular Departmental Action.

#### **Classification of Status of Officer of Public Sector Undertakings**

**20.19** Public Servants belonging to various Central Government Public Undertakings, Nationalized Banks and other autonomous bodies where the CBI has jurisdiction to investigate, are categorized and classified as Other Public Servants of Group 'A', 'B' and 'C' status etc. For the purposes of the CBI, the following criteria are adopted:-

- (a) CMDs and MDs or equivalent, Senior Management Level and Board Level Appointees, General Managers/Group Senior/Chief General Managers, Executive Director, Dy. Managing Directors of Public Sector Undertakings and Nationalized Banks are considered as Group 'A' Category. Middle Management Officers of Public Sector Undertakings and Nationalized Banks are also considered as Group 'A' Category.
- (b) Junior Management Level Officers of Public Sector Undertakings and Nationalized Banks are considered as Group 'B' Category.
- (c) Award Staff of Public Sector Undertakings and Nationalized Banks are considered as Group 'C' & 'D' Categories.
- (d) Copies of the SP's Report in cases where the suspect Officers belonging to Public Sector Undertakings/Autonomous bodies are classified as Group 'A' or 'B' categories, should be sent to the CVC for advice. Action against the concerned Officers will be initiated on receipt of advice from CVC. In other cases of Gazetted Officers of Central Government, action will be taken after the receipt of the CVC advice. All Officers of the Central Government classified as Group 'A' and 'B' are Gazetted

Officers. Aforesaid criteria are generally applied while forwarding the SP's Report to the concerned authorities. However, it should be borne in mind that the SP's Reports against Group 'A' & 'B', operatives of comparable status and against State Government employees, the Branches should forward the SP's Report to the Department/concerned Ministry/CVC (where warranted) and to the State Government, as the case may be, through the Department of Personnel & Training and a copy of the SP's Report along with forwarding letter should be endorsed to CBI HO for information.

### **Procedure for making Reference to Departmental Authorities**

**20.20** The procedure for making references to Departmental authorities for taking Regular Departmental Action is as follows:—

- (i) In cases in which Delinquent Officers are Non-Gazetted and the offices in which they are serving are not Ministries proper of the Government of India, the SP's Report, draft charges etc. should be forwarded to the concerned Departmental authorities by the Branches with a request to take Regular Departmental Action. Copies of these papers should be sent to RO/HO for information. A copy of the letter forwarding the SP's Report (but not the SP's Report, draft charges etc.) should also be endorsed to the Vigilance Officer of the Ministry concerned for the information of the Administrative Ministry.
- (ii) In cases in which Gazetted Officers and Non-Gazetted Officers and staff serving in the Ministries proper of the Government of India are involved, copies of SP's Report, Draft 'Articles of Charge etc.' should be forwarded by the Branches to the Ministry concerned, the Central Vigilance Commission etc. through the DIG.
- (iii) In cases in which Gazetted as well as Non-Gazetted Officers are involved, copies of the SP's Report, draft 'Articles of Charge' etc. should be forwarded to the Vigilance Officer of the concerned Ministry with copies to the CVC, to the Administrative Vigilance Division, Department of Personnel & Training and to the Head Office.
- (iv) In cases, whether involving Gazetted or Non-Gazetted public servants, in which it is suggested by the CBI that the Departmental proceedings should be conducted by the Commissioners of Departmental Enquiries under the CVC, the SP's Report should be addressed to the Ministry/Department concerned with a copy to the CVC.
- (v) Two sets of SP's Report should be forwarded to the concerned Ministry/Department/Undertaking in cases where RDA is recommended against Officers of Group 'A' status or other public servants of equivalent status, requesting them to initiate Departmental proceedings as soon as the advice of the CVC is received by them. A copy of SP's Report, with enclosures, should be forwarded to the CVC also with the request to tender their advice to the concerned Ministry and furnish a copy of the same to the CBI.
- (vi) In case the disciplinary authority for the Delinquent Officer is the President of India, one set of SP's Report is required to be forwarded to the Department of Personnel & Training.
- (vii) In cases against Group 'B' Officers where RDA or suitable action is recommended, one set of SP's Report should be forwarded to the Disciplinary Authority with a request to initiate Departmental proceedings or take adequate action as soon as the advice of the CVC is received by them. The Department should also be requested to forward their comments to the CVC within the specified period according to the standing instructions. One set of SP's Report should be forwarded to the concerned Ministry also and one set should be forwarded to the CVC requesting them to give

their advice to the Department concerned and make available a copy of their advice to CBI also.

### **Separate Sets of Papers to be sent in respect of each Delinquent**

**20.21** Draft 'Articles of Charge', 'Draft Statement of Imputations of Misconduct etc.' and the lists of witnesses and documents should be prepared separately in respect of each Delinquent Officer.

### **CBI Officers to assist in Disciplinary Proceedings**

**20.22** Officers of the CBI will render necessary assistance to the Enquiry Officer in the conduct of disciplinary proceedings, i.e. in cases against CBI personnel and in important cases where the accused are also to be prosecuted in the light of Policy Division Circular Nos. DP0992003/00061/21/52/98-PD, dated 7-1-2003 and DP0992003/01687/ 21/52/98-PD, dated 9-7-2003. In such case, the letter forwarding SP's Report recommending Regular Departmental Action should, inter alia, contain the following sentence:—

“The services of an Officer of the CBI would be available to the Enquiry Committee or the Enquiry Officer, for securing attendance of witnesses, producing the documents relied upon, explaining the gist of evidence gathered and for giving such clarification as may be required.”

**20.23** In case the designated Presenting Officer of the CBI is unable to present the case on a particular date for some valid reason, he/she shall authorize and nominate any other Officer of the CBI to present the case on his/her behalf and on behalf of the Disciplinary Authority during such hearing. The Presenting Officer, has, however, to ensure that the official nominated by him/her, to present the case before the Enquiry Officer on his/her behalf was not associated with the particular investigation/enquiry at any stage. Absence of the Presenting Officer or his/her nominee on any hearing causes a lot of inconvenience to the Enquiry Officer, the charged Officer and the witnesses. The Branch SP should ensure that such absence by the P.O. or his/her nominee is avoided in all circumstances.

**20.24** If the disciplinary proceedings in a case have been initiated as a result of the enquiry/investigation made by the CBI and the Presenting Officer is the nominee of the CBI, the concerned authorities of the CBI should be consulted by the Disciplinary Authority/Department while defending the Court case, if any, filed by the Delinquent official in connection with the matters connected with the disciplinary proceedings.

**20.25** It will be open to the CBI to point out in any particular case before the enquiry is concluded that the examination of any particular person as a witness is necessary and to request the Enquiry Officer that he/she may be so examined.

### **Verification of Explanation of Delinquent Officers**

**20.26** Instructions have been issued by the Ministry of Home Affairs to all Ministries to ensure that in cases in which Departmental Action is taken on the recommendation of the CBI the written explanation given by the Delinquent Officers on charges framed against them are made available to the CBI before the actual commencement of the Departmental proceedings. The written statement of defence, so received from the disciplinary authorities by the CBI, should be examined with a view to rebut or verify the points raised therein. If any new point is raised by the delinquent in his written statement of defence, which can be successfully met by getting fresh oral or documentary evidence, such evidence should be collected by conducting further investigation into the matter. If further investigation results in obtaining useful oral or documentary evidence to meet

the new points raised by the delinquent, a supplementary list of witnesses and documents should be forwarded to the Competent Authority along with the comments on the written statement of defence. It should also be seen if it has become unnecessary to call any witness during the actual enquiry and, if so, this should be mentioned in the comments with reasons so that such witnesses may be dropped by the Enquiry Officer. A witness may be considered to have become unnecessary only when the statement of defence shows that the witness is irrelevant and not because such portions of the charge, as are supported by a witness, have been admitted by the delinquent official. This precaution is necessary as, at a later stage, the delinquent official may change his defence and then the proceedings may be too advanced to call in the witness. When a case is referred for Departmental Action, the list of witnesses proposed by the CBI should be reviewed to exclude formal witnesses whose examination may be required only if the case was to go to a Court of Law but who could be easily dispensed with in Departmental proceedings.

**20.27** It is sometimes noticed that two or more formal witnesses are examined only to prove some procedural point relevant to the charge. This can perhaps be eliminated if the Presenting Officers were to obtain an authoritative statement from the Department on the point. This would help in minimizing the time taken in conducting the enquiries.

**20.28** Whenever witnesses turn hostile in RDA, this fact must be immediately brought to the notice of the SP by the P.O. The SP should examine as to why the witness turned hostile, fix responsibility for that, if any, and give his/her suggestions to repair the damage caused due to one or more witnesses having turned hostile. A report on these points along with recommendations of the SP and of the Sr. PP, if required must also be sent to the Head Office through the DIG.

#### **Stay of Proceedings where not necessary**

**20.29** The proceedings need not be adjourned or stayed in the following circumstances:—

- (i) On receipt of a notice u/s 80 of the C.P.C.
- (ii) On receipt of intimation that the accused Officer proposed to file a writ petition.
- (iii) On receipt of a mere show-cause notice from a Court asking:
  - (a) Why the petition should not be admitted
  - or
  - (b) Why the proceedings pending before the Disciplinary Authority/ Inquiry Authority should not be stayed?
  - or
  - (c) Why the writ or an order should not be issued?

**20.30** The proceedings should be stayed only when a Court of competent jurisdiction issues an injunction or clear order staying such proceedings. No disciplinary proceedings, however, should be started subsequent to the initiation of the Court proceedings if they have the effect of deterring the petitioner from proceeding with the Court case.

#### **Assistance in obtaining Documents**

**20.31** Necessary assistance should be provided by the CBI Officers in securing and supplying authenticated or certified copies of documents which may be in a Court of Law.

#### **Obtaining Copies of Postal Savings Accounts**

**20.32** The Postal authorities cannot be compelled to supply certified copies of Savings Bank Accounts etc. Under the law they can only be asked to produce the records for inspection during the course of enquiry or investigation. Copies of such records should be obtained by the Investigating Officer himself during the course of investigation. A written requisition should be made to the Postal authorities for the relevant records. It would then be for the Postal authorities

to consider whether they would prefer to produce the account books in original for scrutiny by the Investigation Officer, or supply certified copies of the relevant entries. The Postal authorities should be persuaded to give certified copies of the relevant entries but if they do not agree to do so, an issue should not be made of it. In such cases the Investigating Officer should himself scrutinize the records and take copies of the relevant entries if possible, he should also get these copies attested and certified by a Gazetted Officer. These certified copies can then be produced in Departmental proceedings, should they be found necessary.

### **Proof of Documents**

**20.33** In those Departmental enquiries in which attested/certified copies of bank accounts, Government communications etc. are accepted and admitted without raising any doubt, there is no need to produce formal witnesses to prove these documents. The witnesses who were originally cited only for proving such documents should be dropped in such cases. However, if an Enquiry Officer insists on the production of formal witnesses to prove the relevant documents, they should be produced before him.

### **Supply of Copies and Inspection of Documents**

**20.34** When a case has been reported for Regular Departmental Action and investigation has been finally closed by the CBI and accepted by the Court and no further action is contemplated, the CBI should handover all documents of the case, except the Case Diaries and investigation records, to the Vigilance Officer of the Ministry or the Head of the Department concerned, as the case may be. It will then be for such authorities to allow the documents to be inspected or perused by the Officer charged with the default.

**20.35** In cases which are investigated by the CBI and likely to be charge-sheeted in a Court and in which Departmental Action has been initiated, certified/authenticated photocopies of the documents, which are to be filed as exhibits in the Court, may be sent to the Vigilance Officer of the Ministry or the Head of the Department concerned as the original document are to be submitted in the Court.

**20.36** Copies of documents to which reference has been made in the charges, in the statement of allegations and in the list of documents and witnesses, should be supplied to the Delinquent Officer or made available for inspection by him on a request made to that effect by the disciplinary authority. Other records of investigation like the SP's Report, Final Reports, case diaries etc. should not, however, be made available to Delinquent Officers on any ground whatsoever.

### **Issue of Reminders**

**20.37** In all cases where the CBI has appointed its Presenting Officer, periodic reminders should be issued until the results of Departmental Action are received. Ministries should, however, be reminded through the Head Office. On receipt of a copy of the Final Orders and the gist of charges found proved, the Branch should examine the adequacy or otherwise of the punishment awarded in the case. When it is considered that the punishment inflicted is inadequate or exoneration is unjustified and the case is strong enough for a review, further steps should be taken for arranging for such a review. In this connection attention of the SP's is invited to Rule 29 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and analogous Appeal Rules approved by the Department in respect of its employees, if any. The limitation should be kept in mind.

### **P.O. to keep Gist of Depositions**

**20.38** The Presenting Officer may either request for copies of depositions of the witnesses or take down the gist of their statements during the Departmental enquiry proceeding. These depositions can be used later to decide if any review against the findings of the Enquiry Officer is necessary.

**20.39** In cases in which a perusal of the findings of the Inquiry Officer and the order of the disciplinary authority indicates that a review should be requested and that for making out a case for review, it is absolutely essential to see the records of the Departmental enquiry, a request for inspection of such records can be made to the Ministry and, if necessary, to the Central Vigilance Commission.

#### **Procedure for Requisition of Minutes/Orders of Enquiry**

**20.40** Whenever it is felt necessary to peruse the minutes/orders of a Departmental proceedings in a case, the following procedure should be followed –

- (a) In the case of NGOs the Branches may make such requests and also address the disciplinary authority or the head of the Department for a review, in case a review is considered necessary. If such request of the CBI is rejected by the Department and the matter is sufficiently important for being brought to the notice of the CVC, a request for review may be made to the CVC/AVD through the Head Office.
- (b) In cases of review involving Gazetted Officers, the Regional DIG will requisition the minutes/order. If it is considered necessary, the Head Office will make a request for files directly from the Ministry, Railway Board or Department concerned. Such requests should be made in really genuine cases.

#### **Procedure for Review in Railway Cases**

**20.41** The CBI Branches should refer cases of inadequate punishment in Departmental Action relating to Non-Gazetted Railway employees to the General Manager of the concerned Railway for examination and review. The General Manager is competent to carry out such reviews. The Superintendent of Police of the Branch concerned may also take up such cases for discussion with the Senior Deputy General Manager/General Manager of the concerned Railway by arrangement. If the Superintendent of Police is unable to resolve the case in the manner set forth above, but considers it to be important enough for being taken up with the Railway Board through the Ministry of Personnel, he should refer the case to the Head Office through his DIG for further action in the matter.

**20.42** Copies of inquiry proceedings against Non-Gazetted Officers will be made available to the Superintendent of Police of the Branch concerned at his request by the Railway authorities where the punishment awarded is considered inadequate and discussions are required to be held between the Superintendent of Police and the Senior Deputy General Manager/ General Manager of the Railway.

**20.43** Cases involving Gazetted Railway Officers should, however, be reported to the Head Office through the DIG for necessary action, if they are to be taken up for review. In all cases in which the CBI considers a review necessary but the Railway Board does not agree, a reference will be made to the Central Vigilance Commission.

**20.44** In consultation with DP&T, the CVC has prescribed, vide their Letter No. 6/3/73-R, dated 20-8-1973, that whenever a writ petition is filed by a public servant in disciplinary cases initiated on the basis of CBI reports, the counter-affidavit should be filed by the Disciplinary Authority in consultation with the CBI. The CBI should also be associated in defending the writ petition and for rendering such assistance as may be useful in arguing the case before the Court.

## Action against Firms, Contractors

**20.45** Government have, for the purpose of Departmental Action, formulated Standardized Codes for registration, removal, banning of business etc. with (i) building contractors, (ii) suppliers and firms.

**20.46** Departmental Action against business firms or contractors involved in CBI cases may be recommended to the Departments concerned as is done in regard to defaulting public servants. Whenever any firm/company and/or its Directors/ Proprietors/Partners come to adverse notice after finalization of the enquiry/ investigation, a clear recommendation should be made regarding the type of Departmental Action to be initiated against the company/firm and its Directors/ Proprietors/Partners. Grounds for taking such action should also be furnished. In such cases, it is not necessary to send draft charges, statement of allegations etc. as is done when recommending Regular Departmental Action against public servants. The SP" Report detailing the facts of the case would be sufficient for recommending the action to be taken against the company/firm. On receipt of such a report, the Administrative Ministry / Department will take steps to suspend/ban dealings with the firm or any other appropriate action, in the light of the policy enunciated in Government of India, Works & Housing Ministry, O.M. No. 13011, 1/72-W-4, dated 20th September, 1976 relating to action against firms/ contractors involved in CBI cases.

## Progress Reports

**20.47** The progress made in disciplinary proceedings, where Presenting Officer has been appointed by the CBI, pending before Enquiry Officers should be intimated to the Regional Office by the concerned branches preferably at intervals of two months after a case has been reported for Regular Departmental Action and till such time as the proceedings are finally closed.

**20.48** The Branch SP should obtain a report about the progress of RDA cases at the beginning of the month in the following proforma in cases where a CBI Officer/official is the P.O:-

Sl. No.	Case No	Name of the PO	Date of present hearing/ previous hearing	Name of the Enquiry Officer	No. of the witnesses summoned on this date/ previous date	Date of issue of summons/n otice by the Enquiry Officer for this date / previous date	Number of witnesses on whom proper service has been made, with date for this date/ previous date together with number who attended and were examined & discharged on the previous date

**20.49** In disciplinary proceedings against Gazetted Officers, where a CBI Officer is nominated and appointed as the Presenting Officer, the P.O. should prepare and submit Progress Report for each date of hearing which should be forwarded to the Regional Office of the CBI and the CVO of the Department concerned. In disciplinary proceedings against NGOs, the Progress Reports for each date need not be sent to the Regional Office of the CBI but in these cases also the Presenting Officer should prepare the Progress Report and send a copy to the disciplinary authority/CVO of the concerned Ministry/Department /Undertaking.

**20.50** Progress Reports in cases where a CBI Officer has been appointed as P.O. pending before the CDIs should be sent by the P.O. through the SP to the Regional Office and to the CVO of the Ministry concerned.

The Branch SP has to ensure that Departmental proceedings are completed expeditiously and that there is no delay at any stage of the proceedings. Expeditious disposal can also be achieved by extending co-operation by the CBI to the E.O. in the following manner:-

- (i) The minimum number of formal witnesses should be examined to prove a procedural point relevant to the charge. This should be done subject to the proviso that correct presentation of facts does not suffer.
- (ii) The P.O. should ensure presence of witnesses as also inspection of listed documents at the earliest.
- (iii) No Sr. PP/PP/APP should be appointed as P.O. as otherwise the charged Officer would have a right to be represented through a legal practitioner. In case it becomes necessary to appoint a Prosecuting Officer to present case in Departmental proceedings, prior permission of the Director Prosecution should be taken, giving reasons why it is necessary.
- (iv) The P.O. should be briefed by the I.O./Pairvi Officer and the Branch SP should ensure that the P.O. gives a certificate to this effect on the case papers only. This would obviate a later plea by the P.O. that he was not properly briefed by the I.O. Copy of the memo of handing over charge issued by the I.O. should be obtained by the Branch SP. One copy of the same should be issued to the P.O. and one should be sent to the Regional DIG.
- (v) Copies of statements of PWs should be prepared quickly and made available to the P.O. within 15 days of sending the SP's Report to the HO. Simultaneously, the PO, with the help of the IO, should ascertain the whereabouts of the PWs. Later, when the P.O. receives intimation regarding his nomination, he should again verify the location of the PWs.

#### **Register of cases referred for Departmental Action /Suitable Action**

**20.51** Two separate registers shall be maintained in each Branch in Form SPE CR.VII in which cases reported for (i) Regular Departmental Action and (ii) Suitable action to Ministries/Departments shall be entered. These registers shall be required to be checked every month by the Branch SP.

---