



सं/ REGN NO: INSTM/R/2018/90003

भारत सरकार / GOVERNMENT OF INDIA

सचिवालय प्रशिक्षण तथा प्रबन्ध संस्थान

INSTITUTE OF SECRETARIAT TRAINING & MANAGEMENT

(आईएसओ 9001:2015 संस्था / AN ISO 9001:2015 INSTITUTION)

कार्मिक एवं प्रशिक्षण विभाग/ DEPARTMENT OF PERSONNEL & TRAINING

प्रशासनिक ब्लॉक, ज.ने.वि. परिसर(पुराना) / ADMINISTRATIVE BLOCK, JNU CAMPUS (OLD),

ओलोफ पाल्मे मार्ग, नई दिल्ली - 110067/ OLOF PALME MARG, NEW DELHI - 110067

दूरभाष / TELEPHONE - 011-26185316; टेलीफैक्स / FAX - 011-26104183

दिनांक / Date 01.10.2018

Subject : Information sought under RTI Act, 2005

Sir/Madam,

Please refer to your RTI application transferred from DoPT & received on 07.09.2018.

2. The response to your request is given below:-

S. No.	Information sought under RTI Act, 2005	Response under RTI Act, 2005
1.	Please give certified copy of the above mentioned page no 85. And In view of above, please state regarding applicability of this handbook issued by DOPT and this rule to all public sector undertakings of Railways (means this handbook ISSUED BY DOPT is applicable or not to all public sector undertakings of railways). Please state whether time limit prescribed above for issue of charge sheet is applicable or not to all public sector undertakings of railways.	A certified copy of the extract of the Handbook for Inquiry Officers and Disciplinary Authorities (2013) as referred by the applicant is annexed as Annexure – I .
2.	Please give certified copies of documents of information containing delay in issue of charge sheet from the occurrence of misconduct by charged officer, as issued by Department of personnel and training. Also please state DOPT memorandums issued in this regard are applicable or not to public sector undertakings of railways.	As regards the applicability of provisions of the CVC Manual on public sector undertakings of Railways, para 1.2.1 of chapter 1 of the New Vigilance Manual (2017) may kindly be referred. A copy of the same is also annexed as Annexure – II

3. In case you are not satisfied with the above response, you may prefer an appeal before the Appellate Authority i.e., Shri Vadali Rambabu, Joint Director, ISTM, Room No. 106, Administrative Block, ISTM JNU Campus (Old), Olof Palme Marg, New Delhi, email ram.vadali@nic.in within 30 days of the receipt of this information.

Yours faithfully,

एच. गोविंद

(H. Govind)

Deputy Director & CPIO

Email: govind.h13@nic.in

20. What is the time limit for issue of charge sheet?

Time limit prescribed for issue of charge sheet as prescribed by the Vigilance Manual (Ed 2005) is one month from the date of receipt of CVC's advice and two months from the date of receipt of investigation report.

21. Is there any time limit between the occurrence of the misconduct and the issue of charge sheet?

There is no time limit between the commission of misconduct and the issue of charge sheet in respect of serving employees. [The time limit in this respect regarding the retired employees is dealt with in the relevant chapter later]. However, Unexplained in-ordinate delays may have the effect of vitiating the inquiry. Hon'ble Supreme Court struck down the proceedings, in the case of P.V. Mahadevan Vs. M.D., Tamil Nadu Housing Board [JT2005(7)SC417, [2005]Supp(2) SCR474, 2006(1)SLJ67] relating to the issue of a Charge Sheet in 2000 in respect of the alleged misconduct committed in 1990,

"16. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a government employee should, therefore, be avoided not only in the interests of the government employee but in public interest and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

17. We, therefore, have no hesitation to quash the charge memo issued against the appellant. The appeal is allowed. The appellant will be entitled to all the retiral benefits in accordance with law. The retiral benefits shall be disbursed within three months from this date. No costs."

22. What is the effect of delay on the validity of the proceedings?

Delay may be of two types – delay in issue of charge sheet and secondly, delay in the conduct of proceedings. Hon'ble Central Administrative Tribunal (Principal Bench) in its decision dated 23.4.2010, in Ashish Abrol, Joint Commissioner of Income Tax Vs. Union of India (UOI) through The Secretary, Ministry of Finance, Department of Revenue and Director General of Income Tax (Vigilance) [MANU/CA/0171/2010] analysed a number of decisions on the subject and clarified the position in the following paragraph:

"Certified"

(Signature)

10.09.18
पी. पी. अम्बर
रूप निदेशक (प्रशासन)

Authority to ensure discipline in the organisation and to deal with the misconduct by way of awarding suitable punishment. Role and functions of DA are dealt in Discipline & Appeal Rules of respective organisations as applicable to them.

1.1.6 SUPERVISORY OFFICERS

- (a) It is the duty of every officer holding a Supervisory post in any organisation to take all possible steps to ensure the integrity and devotion to duty of all officials for the time being under his control and authority. In CCS (Conduct) Rules, 1964 Rule 3(2)(i) lays down this provision.
- (b) The supervisory officer ensures that officers for the time being under his control maintain absolute integrity. A column has been introduced in the proforma for Annual Performance Appraisal Report (APAR) of officials in which the supervisory officer reports on the integrity of the officer reported upon. If any suspicion arises upon the integrity of officials under his control, further action is taken as per guidelines issued in this regard by DoPT vide OM No. 51/5/72-Estt. 'A' dated 20.05.1972.

1.2 JURISDICTION OF CENTRAL VIGILANCE COMMISSION

1.2.1 Jurisdiction under Section 8 of CVC Act, 2003:

- 1.2.1 (a) For the purpose of clause (d) of Section 8(1) of CVC Act, 2003, the Commission's jurisdiction extends to such category of public servants as defined under Section 8(2) of the Act and subsequent notifications issued by the Central Government from time to time.

Clause 8(1)(g) of the CVC Act, 2003 requires the Commission to tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, such Government companies, societies and local authorities owned or controlled by the Central Government or otherwise and for this purpose the Commission's jurisdiction is co-terminus with those provided under Section 8(2) of CVC Act, 2003.

The following categories of public servants [hereinafter referred to as

Category 'A' officers] fall within the jurisdiction of the Commission in terms of sub-section (2) of Section 8 of CVC Act, 2003: —

- (a) Members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;
- (b) Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1) of Section 8 of CVC Act, 2003.
- (c) On a reference made by the Lokpal under proviso to sub-section (1) of section 20 of the Lokpal and Lokayuktas Act, 2013, the persons referred to in clause (d) of sub-section (1) shall also include—
 - (i) members of Group B, Group C and Group D services of the Central Government;
 - (ii) such level of officials or staff of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued under this clause, all officials or staff of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred in clause (d) of sub-section (1) of Section 8 of CVC Act, 2003.

1.2.1 (b) At present, the following levels of officers have been notified by the Central Government for the purpose of clause (b) of sub-section (2) of Section 8 of CVC Act, 2003 (DoPT Notifications vide S.O. 371(E) dated 18.3.2004 & S.O. 1538(E) dated 12.9.2007):

- (i) Officers of Scale V and above of Public Sector Banks; (Scale V is in the range of Rs. 59,170-66,070 in most banks as on 01.01.2015)
- (ii) Chief Executives and Executives on the Board and other officers of E-8 and above in respect of Schedule 'A' and 'B' Public Sector Undertakings;