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ANDHRA PRADESH VIGILANCE
COMMISSION

VIGILANCE MANUAL
VOLUME II

PARTS I & II

CIRCULARS AND FORMS

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On behalf of
Andhra Pradesh Vigilance Commission

GOVERNMENT OF ANDHRA PRADESH

Hyderabad.

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PART I

3) TEXT OF CIRCULARS

**G.Os, MEMORANDA, U.O. NOTES ETC
ISSUED BY GOVERNMENT OF
ANDHRA PRADESH****(1)**

U.O.Note No. 11145/55-2 Home (Services C) Dept., dated 1-6-1955 regarding Public Service Commission; deviation from advice to be circulated to Governor

Subject Heading: 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 reorganisation 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, Government of Andhra Pradesh dated 14-4-1958 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 be injured by their disclosure, 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., dated 15-6-1959 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 the following:-

G.O.Ms.No.2413, Home (Services.A) Department, Government of Andhra, dated 19-11-1954.

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), dated 21-4-1959 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 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. 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.Admn.(Ser.D) Dept., dated 30-5-1961 regarding enquiries against Government servants in cases of corruption - consolidated instructions

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

Read the following:-

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 2-1-1961 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.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 :

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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 by 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 lacunao, 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.25-6-74.

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. 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)

Memorandum No.4923/61-1 Genl.Admn. (Ser.D) Dept., dated 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)

**Memorandum No. 2004/SC.C/62-2 Genl.Admn. (SC.C) Dept.,
dated 3-10-62: 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, Electricity, Agriculture etc.	_____	Quality standard, make etc., of (a) Machinery tools, implements etc. and (b) Electrical goods installations and stores.

S. No.	Technical assistance Name of the centre	Test Laboratories Name of the centres	Articles undertaken for test
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 Technical Officers of the State Transport Service and recognised and reputed motor garages.	_____	Opinion and assessment regarding Motor Vehicles, Motor parts, approximate mileage that a vehicle has done, condition of tyres, consumption of petrol, life of parts etc.
7	_____	State Finger Print Bureau, Hyderabad.	Examination of thumb impressions and finger prints.
8	_____	Examiner of questioned documents and recognised and reputed private experts.	Examination of handwriting.

S. No.	Technical assistance Name of the centre	Test Laboratories Name of the centres	Articles undertaken for test
9	—	State Forensic Science Laboratory, Chemical Examiner and Examiner of Questioned Documents.	Examination of age of documents, seals, interpolations, overwriting and erasers and types of paper.
10	—	Public Analyst, State Health Laboratory, Chemical Examiner and State Forensic Science Laboratory.	Analysis of medicines and drugs.
11	Printing and Stationery Department, Hyderabad.	Forensic Science Laboratory and Govt. Chemical Examiner.	Quality of stationery and paper etc.
12	Technical Officers of the State Department concerned.	Public Analyst, State Public Health Laboratory, Stage Agricultural Laboratory, Forensic Science Laboratory and Chemical Examiner.	Quantitative and qualitative analysis of food grains, cereals, oils, fodder, etc.

(7)

Memorandum No. 864/63-5 Genl.Admn. (Ser.D) Dept., dated 1-10-1963 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)

Memorandum No. 2083/SC.D/63-6 Genl.Admn. (SC.D) Dept., dated 22-11-1963: Clear cases of misappropriation to be referred to Crime Branch, C.I.D. instead of to 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)

Memorandum No. 2568/Ser.C/63-3 Genl.Admn.(Ser.C) Dept., dated 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 Memorandum 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 through 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.28-9-1965)

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)

Memorandum No. 3037/64-3 Genl.Admn. (Ser.C) Dept., dated 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, as 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. Expeditious 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 prone 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.

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)

Memorandum No. 380/65-1 Genl.Admn.(Ser.C) Dept., dated 24-2-1965 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 Memorandum 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)

Memorandum No. 401/65-1 Genl.Admn.(Ser.C) Dept., dated 27-2-1965 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.431/56/64-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 gain;
 - iii) Serious negligence and dereliction of duty resulting in considerable loss to Government;
 - iv) Desertion of duty;
 - 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. Letter No. 418/65-2 Genl. Admn. (Ser.C) Dept., dated 16-4-1965 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) dated 22-8-1958, 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)

Memorandum No. 1072/65-1 Genl.Admn.(Ser.C) Dept., dated 19-5-1965 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)

Memorandum No. 2044/65-2 Genl.Admn.(Ser.C) Dept., dated 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.

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)

Memorandum No. 1649/65-2 Genl.Admn.(Ser.C) Dept., dated 23-9-1965 : 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 consequently, 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)

Memorandum No. 2598/65-2 Genl.Admn.(Ser.C) Dept., dated 25-9-65 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)

Memorandum No. 1933/65-4 Genl.Admn. (Ser.C) Dept., dated 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 authority be initiated against them but they should be discharged in terms of their appointment, by an innocuous order so as to avoid complication.

(19)

Memorandum No. 2676/65-12 Genl. Admn. (Ser.C) Dept., dated 20-5-1966 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.

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)

Memorandum No. 1017/66-1 Genl.Admn. (Ser.C) Dept., dated 18-6-1966 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, dated: the 26th November, 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)

Memorandum No.4106/SC.C/65-3 Genl.Admn. (SC.C) Dept., dated 21-6-1966 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.

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.

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, dated 30-5-1961, 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., dated 1-7-1966 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.

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)

Memorandum No. 2848/SC.D/66-2 Genl. Admn. (SC.D) Dept., dated 28-10-1966:

No parallel enquiry by Department in case of preliminary/regular enquiry 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., dated 30-5-1961, 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.

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. 30-5-1961 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. 25-9-64. 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. 30-5-1961 should be deemed to have been modified by the instructions issued in G.O.Ms.No.1071, G.A.(SC.C) Dept., dt. 25-9-1964 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. 25-9-1964 as subsequently modified in G.O.Ms.No. 1016, G.A.(SC.A) Dept., dt. 8-6-1965 and Ms.No.290, G.A.(SC.A) Dept., dt. 8-3-1966 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. 23-8-1966, 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)

Memorandum No. 2213/Ser.C/66-8 Genl.Admn.(Ser.C) Dept., dated 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. dated 19-6-1966.
2. Government Memorandum 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. 28-9-1965.

In the Government Memo 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)

Memorandum No.2016/66-3 Genl.Admn.(Addl.Cell) Dept., dated 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. 6-11-63.

2. G.O.Ms.No.210 G.A.(Ser.A) Dept., dt.5-2-65.

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/Officers 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)

**Memorandum No. 904/Ser.C/67-1 Genl.Admn.(Ser.C) Dept.,
dated 29-5-1967:**

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 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 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 vacuum 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”.

(27)

Memorandum No. 1733/Ser.C/67-2 Genl.Admn.(Ser.C) Dept., dated 3-8-67 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.

(28)

G.O.Ms.No.178 Finance (Pen.I) Dept., dated 2-9-1967:

Government is the authority to withhold or withdraw pension under Article 351A Civil Service Regulations (corresponding to Rule 9 of 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. 6-6-1967.

ORDER:

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 Memorandum No.F.19(9)-E.V./66 dt. 6-6-1967 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.2-4-1964 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.

(29)

Memorandum No. 963/Ser.C/67-5 Genl.Admn.(Ser.C) Dept., dated 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.2-6-67.

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.

(30)

Memorandum No.3426/SC.D/66-9 Genl.Admn. (SC.D) Dept., dated 1-7-1968: 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., dated the 25th September, 1964.

According to paragraph 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.

(31)

**Memorandum No.3301/SC.D/66-9 Genl.Admn.(SC.D) Dept.,
dated 24-8-68 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.7-3-66.
 3. Govt.Memo. No.3308/SC. D/66-3 G.A.(SC.D) Dept., dt.3-10-67.
 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.21-2-68.
 6. From the Director, A.C.B., Lr.Rc.No.125/S1/67 dt. 10-7-68.
 7. From the Vigilance Commission Lr.No.971/VC/65-3 dt.6-8-68.

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.

(32)

G.O.Ms.No.578 Genl.Admn.(Ser.C) Dept., dated 17-9-1968 regarding consideration of past bad record for purposes of imposition of penalty

Subject Heading: Past bad record — consideration for deciding penalty

Read the following:-

From Government of India Ministry of Home Affairs office
Memo. No. 134/20/68-AVD, dt. 28-8-68.

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.28-8-1968 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.

(33)

G.O.Ms.No.582 Genl.Admn.(Political.B) Dept., dated 20-9-1968 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 the following:-

G.O.Ms.No.1755 G.A.(Poll.B) Dept., dt. 30-9-65.

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.

(34)

Memorandum No. 42240-A/977/Pen-I/69 Finance (Pen.I) Dept., dated 21-7-1969 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.

(35)

Memorandum No. 715/Ser.C/71-1 Genl.Admn. (Ser.C) Dept., dated 22-6-1971: 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.

(36)

**Memorandum No.2496/Ser.C/71-5 Genl.Admn.(Ser.C) Dept.,
dated 25-7-1972 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.7-3-70.

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.

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.

(37)

U.O. Note No. 3170/Ser.C/71-3 Genl. Admn. (Ser.C) Dept., dated 3-10-1972 : 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 Commissioner's Ir.No.2264/LA/71-1, dt. 3-6-1971.

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. (C.C.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.

(38)

**Memorandum No.2035/Ser.C/72-3 Genl.Admn.(Ser.C) Dept.,
dated 7-5-1973: 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. (CCA) Rules, an 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 C.C.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.

(39)

Memorandum No. 1085/Ser.C/72-3 Genl.Admn.(Ser.C) Dept., dated 10-5-1973 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.

(40)

**Memorandum No.1300/SC.D/73-1 Genl.Admn.(SC.D) Dept.,
dated 6-9-1973 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 General Administration (SC.D) Department dated 30-5-1961 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 in 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.

(41)

Memorandum No.702/SC.D/73-5 Genl.Admn.(SC.D) Dept., dated 15-2-1974: 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.

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.

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.

(42)

Memorandum No. 2317/Ser.D/73 Genl.Admn.(Ser.D) Dept., dated 25-6-1974 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. 30-5-61.

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), dated 30-5-1961, 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.

(43)

**Memorandum No. 1112/Ser.C/74-2 Genl.Admn.(Ser.C) Dept.,
dated 6-7-1974 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.

(44)

**Memorandum No.1818/Ser.C/74-1 Genl.Admn.(Ser.C) Dept.,
dated 17-7-1974 : 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.

(45)

**Memorandum No. 1886/SC.D/74-1 Genl.Admn.(SC.D) Dept.,
dated 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.

(46)

Memorandum No. 2358/Ser.C/74-1 Genl.Admn.(Ser.C) Dept., dated 5-2-1975 : 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.8-1-71.
 3. G.O.I. Cabinet Secretariat, O.M.No.39/42/70-Ests.(A) dt.15-1-71.

The need for quick disposal of cases of Government servants under suspension and in particulars 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 of 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 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) 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 of 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.

(47)

**Memorandum No.1964/SC.D/73-4 Genl.Admn.(SC.D) Dept.,
dated 15-3-1975 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 persue 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.

(48)

**Memorandum No. 2974/Ser.C/74-2 Genl.Admn.(Ser.C) Dept.,
dated 4-4-1975 regarding supply of copies of statements of**

witnesses to charged officers, instead of synopsis, in disciplinary proceedings

Subject Heading: Statements of witnesses — supply in Disciplinary Proceedings

Ref :- Memo.No.3056/61-1 G.A.(Ser.C) Dept., dt. 27-11-61.

With the Memorandum cited, a copy of Government of India's letter No.30/5/61-AVD, dated 26-8-61 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 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.

(49)

Letter No. 144/Ser. C/75-2 Genl. Admn. (Ser.C) Dept., dated 29-5-75 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.

(50)

**G.O.Ms.No. 342 Genl. Admn. (Ser.C) Dept., dated 31-5-1975 :
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 the following:-

From the A.P.P.S.C. Lr.No. 1058/B-1/74, dt. 2-12-74.

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.

(51)

Memorandum No.292/SC.D/75-4 Genl.Admn.(SC.D) Dept., dated 26-8-1975 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. 28-6-75.

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 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.

(52)

Memorandum No. 168/Pen.Code/75-1 Finance & Planning (Fin.Wing.Pen.Code) Dept., dated 1-10-1975: Procedure for premature retirement of Government servants under suspension

Subject Heading: Compulsory retirement — while under suspension

- Ref:-
1. G.O.Ms.No.188, Finance & Planning (Fin.Wing-Pension I) Dept., dt. 29-7-75.
 2. G.O.Ms.No.198, Finance & Planning (Finance Wing-Pension I) Dept., dt. 4-8-75.

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.

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.

(53)

Memorandum No.1973/AC/75-1 Genl.Admn.(A.C.) Dept., dated 29-10-1975 regarding transfer of corrupt Government servants from focal points

Subject Heading: Focal points — retention, transfer of employees

- Ref:-
1. Memorandum No. 2016/66-3 G.A.(A.C) Dept., dt. 12-12-66.
 2. Memorandum No.1402/AC/72-1 G.A.(A.C) Dept., dt. 20-9-72.

In the references cited instructions for the transfer of officers and staff holding focal points where 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 be 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 post declared as focal points.

(54)

**Memorandum No.1718/Ser.C/75-1 Genl.Admn.(Ser.C) Dept.,
dated 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. 25-9-65.
 3. Memo.No.1017/66-1 G.A.(Ser.C) dt. 18-6-66.

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.

(55)

U.O.Note No. 2498/SC.D/75-4 Genl.Admn.(SC.D) Dept., dated 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 2-9-1975 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.

Similarly in the cases of employees of Zilla Parishads, Panchayat Samaitis, 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.

(56)

Memorandum No.2705/Ser.C/74-1 Genl.Admn.(Ser.C) dept., dated 28-4-1976 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, dated 19-5-1965, 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.

(57)

G.O.Ms.No.424 Genl.Admn.(Ser.C) Dept., dated 25-5-1976 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. 29-9-70.
2. G.O.Ms.No.211, G.A.(Ser.C) Dept., dt. 31-3-75.

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 supercede 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) dated 29-9-1970 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 dated 31-3-1975.

(58)

Memorandum No. 204/Ser.C/76-3 Genl.Admn.(Ser.C) Dept., dated 31-5-1976 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. 27-2-1965.

2. D.O.Lr.No. 248/AC/75-6, G.A. (AC) dt. 28-1-1976.

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 destruction 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.

(59)

**Memorandum No.1483/SC.D/76-1 Genl.Admn.(SC.D) Dept.,
dated 14-7-1976 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.14-6-76.

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 competent authority along with its advice.

(60)

Memorandum No.132/Ser.C/77-1 Genl.Admn.(Ser.C) Dept., dated 21-1-1977 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. 6-7-74.

Instructions were issued in Memo.No. 1112/Ser.C/74-2, General Administration (Ser.C) Department, dated 6-7-1974 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.

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.

(61)

Memorandum No. 81/Ser.D/77-2 Genl.Admn.(Ser.D) Dept., dated 10-5-1977 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.

(62)

Memorandum No. 3000/Ser.C/76-4 Genl.Admn.(Ser.C) Dept., dated 28-6-1977 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, dated 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 particular 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.

(63)

U.O.Note.No.1484/SC.D/77-1 Genl.Admn.(SC.D) Dept., dated 1-7-1977 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 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.

(64)

G.O.Ms.No.517 Genl.Admn.(Ser.C) Dept., dated 27-7-1977 regarding need to send particulars in proforma two months in advance for extension of suspension beyond six months

Subject Heading: Suspension — under old CCA Rules

Read the following:-

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 issue 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, dated 29-5-1967 and Memo.No. 365/Ser.C/69-1, General Administration Department, dated 11-6-1970 copies are enclosed for information.

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

(65)

Memorandum No. 1994/SC.D/77-1 Genl.Admn.(SC.D) Dept., dated 7-10-1977 regarding advice of Vigilance Commission as to further action on judgements

Subject Heading: Judgements — 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. 8-8-77.

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 judgements 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 judgement 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 judgement 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 judgement 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.

(66)

Memorandum No. 1396/SC.D/77-6 Genl.Admn.(SC.D) Dept., dated 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 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.

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.

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.

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

(67)

**Memorandum No. 2106/Ser.C/77-1 Genl.Admn.(Ser.C) Dept.,
dated 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. 28-6-77.

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 misappropriation, then such cases should not be classified for the purpose of audit as cases of misappropriation.

(68)

Memorandum No.169/Ser.C/77-8 Genl.Admn.(Ser.C) Dept., dated 10-2-1978 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, dated 25-9-1965, 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 :-

- (1) 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.

- (2) (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 Judgement 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 (CCA) 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 (CCA) 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)

(69)

Memorandum No.372/Ser.C/78-1 Genl.Admn.(Ser.C) Dept., dated 9-3-1978 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.

(70)

G.O. Ms. No. 433 Industries & Commerce (T&C) Dept., dated 27-5-1978 regarding Code for banning of firms etc

Subject Heading: Banning of Firms

Read again:

1. G.O.Ms.No.663 Industries dt. 26-6-68.

Read also:

2. Government of India, Ministry of Works and Housing, New Delhi, Lr.No.13001/1/72-W4 dt. 20-9-76.

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 of 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 normality 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.
 - (e) is found to have given false information at the time of registration; or
 - (f) is declared or is in the process of being declared bankrupt, insolvent, wound up, dissolved or partitioned; or
 - (g) persistently violates the labour regulations and rules.
- 6.1 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)
- 6.2 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.
- 6.3 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.
- 6.4 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.

7. BANNING:

7.1 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.

7.2 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.

7.3 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.

7.4 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.

- 7.5 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)
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 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.

8. 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.

9. 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 band workmanship 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 concerned by the registering	The decision be communicated to the communicated party authority by Registered Acknowledgement due.

(71)

Memorandum No.443/SC.D/78-2 Genl.Admn.(SC.D) Dept., dated 3-6-1978 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.

(72)

Memorandum No. 1396/SC.D/77-9 Genl.Admn.(SC.D) Dept., dated 3-6-1978 regarding impleading of Vigilance Commissioner as respondent in representation petitions/ appeals before Administrative Tribunals

Subject Heading: Vigilance Commission — impleading before APAT

- Ref:-
1. Government Memo. No.1396/SC.D/77-6, dated.27-10-1977.
 2. From the Registrar, A.P.Administrative Tribunal, Letter No.1301/APAT/Con./77, dated 28-11-1977.
 3. From the Government Pleaders for Revenue (S) and (E.H)letter No.143/Admn./77, dated 7-12-1977.

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.

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.

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.

(73)

U.O.Note No. 1755/Ser.C/78-1 Genl.Admn.(Ser.C) Dept., dated 8-11-1978 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.

The matter was discussed in the Secretaries meeting held on 2-8-1978. 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.

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.

(74)

**Memorandum No.182/SC.D/79-2 Genl.Admn.(SC.D) Dept.,
dated 28-2-1979 : 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.7-11-78.

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.

(75)

Memorandum No. 2261/Ser.C/79-2 Genl.Admn. (Ser.C) Dept., dated 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), Dated 13.2.1960.

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.

(76)

U.O.Note No.1750/SC.D/79-4 Genl.Admn.(SC.D) Dept., dated 2-1-80 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.R.II/79-3 dated 1.3.79 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.

(77)

Memorandum No.1936/Cts.C/79-4 Law (Courts.C) Dept., dated 1-5-1980 : 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.

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.

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

(78)

U.O.Note No. 646/Ser.C/80-1 Genl.Admn.(Ser.C) Dept., dated 21-7-1980 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.

(79)

Letter No. 844/Ser.C/80-1 Genl.Admn.(Ser.C) Dept., dated 6-8-1980 : Tribunal for Disciplinary proceedings, not to refer to 'B' Report of A.C.B. in charges or report

Subject Heading: TDP — not to refer to '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 judgement. 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 judgement 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.

(80)

Memorandum No.743/Ser.C/80-1 Genl.Admn.(Ser.C) Dept., dated 20-8-1980 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.

(81)

Memorandum No. 2572/Cts.C/80-3, Home (Courts-C) Dept., dated 3-10-1980 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.

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”.

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.

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.

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 appraised 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.

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.

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.

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.

(82)

**Memorandum No.104/Ser.C/81-1 Genl.Admn.(Ser.C) Dept.,
dated 7-2-1981 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. 21-1-1977.

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.

(83)

Memo.No.1436/Ser.C/80-2 Genl.Admn. (Ser.C) Dept., dated 7-2-1981 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, 1991. 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.

3. 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.

(84)

U.O.Note No.32/Ser.C/81-2 Genl.Admn.(Ser.C) Dept., dated 9-2-1981 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 finalised 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.

(85)

Memorandum No. 488/Ser.C/81-1 Genl.Admn.(Ser.C) Dept., dated 21-4-1981 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: 27-2-65.
 2. Memo.No. 904/Ser.C/67-1, G.A.D., dt. 29-5-1967.
 3. Letter No.129/16/81-AVD.I, dt. 26-3-81 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 Niranjana 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.

(86)

Memorandum No. 1865/SC.D/80-1 Genl.Admn.(SC.D) Dept., dated 27-4-1981 : 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 , Dated 22.11.1963.
2. From the Director, Anti-Corruption Bureau , Hyderabad, Letter Rc.No. 1730/S3/80 Date 21.8.80 & 3.9.80.

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.

(87)

**Memorandum No.1413/SC.D/81-1 Genl.Admn.(SC.D) Dept.,
dated 3-7-1981 : 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.Civil Services (Classification, Control and Appeal) Rules, 1963. If no sustainable evidence is forthcoming in a case, the same fact may be indicated in the report.

(88)

**Memorandum No. 1184/Ser.C/81-1 Genl.Admn.(Ser.C) Dept.,
dated 5-8-1981 : 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(89)

Memorandum No. 295/SC.D/80-10 Genl.Admn.(SC.D) Dept., dated 2-3-1982 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.

(90)

Memorandum No.1524/Ser.C/80-11 Genl.Admn.(Ser.C) Dept., dated 20-5-1982 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, Genl.Admn. (Services.C) Dept., dated 17-3-1981.

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 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 5-4-1982. 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.

(91)

G.O.Ms.No.369 Genl.Admn.(SC.D) Dept., dated 21-7-1982 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, Andhra Pradesh Vigilance Commission, Hyderabad, Letter No.1947/VC.C2/79-1 Date 7.5.79.
2. From the Director, Anti-Corruption Bureau, Hyderabad, letter Rc.No.585/S2/79 Date 9.10.79.
3. From the Registrar, Andhra Pradesh Agricultural University, Rajendranagar, Hyderabad, D.O.Letter No.188/D.C/75 Date 17.1.80.
4. Proceedings of the meeting of the Vice Chancellors conference held at Hyderabad on 5.1.81 communicated with letter No.3707/C1/80-5 Dt. 5.2.82 from Joint Secretary to Government, Education Department.

O R D E R:

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 5.1.1981 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 chancellors' conference and accordingly direct that the Director, Anti-Corruption Bureau may 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.

(92)

Memorandum No. 1676/SC.D/82-3 Genl.Admn.(SC.D) Dept., dated 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, General Administration (SC.D)Department, dated 25th November, 1975.
- (ii) Government Memo.No.2498/SC.D/75-6, General Administration (SC.D)Department, dt.17-3-76.
- (iii) From the Director, Anti-Corruption Bureau, Hyderabad, Letter Rc.No.37/ACB/76-S1, dated 4-8-1982.

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.

(93)

D.O.Letter No. 2457/SC.D/82-1 Genl.Admn.(SC.D) Dept., dated 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. 3-10-1980 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 dated 21-12-1979 which is self explanatory.

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.

(94)

Memorandum No. 2331/SC.D/82-1 Genl.Admn.(SC.D) Dept., dated 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 Memorandum No.1964/SC.D/73-4 General Administration (SC.D) Department dated 15.3.1975.

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.

(95)

**U.O.Note No.2063/L/83-1 Law (L) Dept., dated 20-3-1983:
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.

(96)

Memorandum No. 163/SC.D/83-2 Genl.Admn.(SC.D) Dept., dated 30-3-1983 (as amended by Memorandum No. 163/SC.D/83-3 G.A.(SC.D) Dept., dt. 10-6-83) 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, Date 7.2.1983.
2. From the Dharma Maha Matra, D.O. Letter No. 2/ DMM/83-1, Dated14.2.1983.

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 Memorandum No. 163/SC.D/83-3 G.A.(SC.D) Dept., dt. 10-6-83)
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.

(97)

**Memorandum No.3295/L/83 Law (L) Dept., dated 7-4-1983
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 Spl.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 Govt., Pleaders in the High Court that whenever a subordinate court delivers a judgment the concerned Govt., Pleader in the District should obtain an urgent copy of the judgment immediately, and send the same to the Govt., Pleaders' Office, High Court for obtaining the opinion of the Govt., 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 Govt., 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.

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 Spl. 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 Govt., Pleader concerned whether to prefer an appeal in the High Court or not.

(98)

U.O.Note No.446/Ser.C/83-1 Genl.Admn.(Ser.C) Dept., dated 27-5-1983:

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. 3-8-67.

2. From the F.R.&D(Ser.IV) Dept., U.O.Note No. 59918/Ser.IV/82-4 dt. 15-4-83.

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 some what 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 Andhra Pradesh Civil Services (CCA) 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.

(99)

**Memorandum No. 2331/SC.D/82-7 Genl.Admn.(SC.D) Dept.,
dated 23-6-1983 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.,
6.9.1973.
2. Govt.Memo. No. 1964/SC.D/73-4, G.A. (SCD) Dept.,
dt. 15.3.75.
3. Govt.Memo. No. 443/SC.D/78-2 G.A. (SCD) Dept., dt.
3.6.78.
4. From the Director, Anti-Corruption Bureau, Rc.No. 2348
S-3/82, Date 14-10-82.
5. Govt.Memo. No. 2331/SC.D/82-1, G.A. (SCD) Dept.,
dt.18.12.82.

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 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 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/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 Police alone should 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 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.

(100)

Memorandum No. 637/Ser.C/83-1 Genl.Admn.(Ser.C) Dept., dated 28-6-1983 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. 10.2.78.

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.

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.

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.

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.

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 Administration (Services) Department in order to examine the merits and the aspect of departmental disciplines, public interest, loss to Government, gross misconduct etc.

(101)

U.O.Note No.1150/SC.D/83-2 Genl.Admn.(SC.D) Dept., dated 25-7-1983 : 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. 1.7.77
- 2) Memo No.163/SC.D/83-2, G.A.(SC.D) Dept., Dt. 30.3.83.
- 3) From the Director, Anti-Corruption Bureau, D.O. No.S5/Manual/76, Dt. 26.5.1983.

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.

(102)

U.O.Note No.1515/SC.D/83-1 Genl.Admn.(SC.D) Dept., dated 18-8-1983 regarding declaration of cash by employees in check posts etc

Subject Heading: Cash — declaration at time of reporting

Ref : From the Director, Anti-Corruption Bureau, Lr.No.1490/S.3/83, Dated 14.7.1983.

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, IPS Director, Anti-Corruption Bureau, Hyderabad. Andhra Pradesh, Hyderabad.	The Chief Secretary to Government General Administration (SC.D) Dept., Hyderabad.

Rc.No.1490/S.3/83, Date 14.7.83

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.

(103)

Memorandum No. 768/Ser.C/83-1 Genl. Admn. (Ser.C) Dept., dated 25-8-1983 regarding consolidated instructions on placing Government servants under suspension

Subject Heading: Suspension — consolidated instructions

Ref :- This Dept's 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, dated 26-12-1977. A few other instructions on the subject of suspension were also issued from time to time. In spite 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., dated 27-2-65 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 dated 31-5-76 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 to 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), dt. 21-4-81 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), 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), 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), dt. 3-8-67 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, dated 29-5-1967 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 maybe 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, dated 29-5-1967 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 dated 11-6-1970 the case 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), dt. 2-1-82 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.

(104)

**Memorandum No.697/Ser.C/83-1 Genl.Admn. (Ser.C) Dept.,
dated 21-11-1983: Subordinate officials cannot complain
against superiors to Dharma Maha Matra**

Subject Heading: Dharma Mahamatra — complaining against superiors

Ref:- 1. Memo.No.5171/63-1 G.A.(Ser.D) Dept., dt.4-3-64.

2. Memo.No.1072/65-1 G.A.(Ser.C) Dept., dt.19-5-65.

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.

According to the instructions issued in Government Memo.No.5171/63-1 General Administration (Services.C) Department, dated 4-3-1964 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.

(105)

Memorandum No.442/SC.E/83-1 Genl.Admn. (SC.E) Dept., dated 27-12-1983 regarding furnishing of property statements of suspect officers, to A.C.B.

Subject Heading: Disproportionate Assets — proformae 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.

(106)

U.O.Note No.108/SC.D/84-1 Genl.Admn.(SC.D) Dept., dated 28-1-1984 : 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.

(107)

Memorandum No.284/Ser.C/84-1 Genl.Admn.(Ser.C) Dept., dated 22-3-1984 : 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 Letter No.49/84, dt: 19-1-1984.

Instructions were issued to Government Memo.No. 697/ Ser.C/83-1, dated 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules.

(108)

G.O.Ms.No.260 Genl.Admn.(Ser.C) Dept., dated 24-4-1984 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 Departmental 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 authority. 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 of 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 are 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 are requested to take action in regard to the amendment of the Criminal Law (Amendment) Ordinance, 1944.

(109)

Memorandum No.289/SC.D/84-1 Genl.Admn.(SC.D) Dept., dated 1-5-1984: 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, Dated 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, is tell in 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 and 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.

(110)

Memorandum No. 620/Ser.A/84-1 Genl.Admn.(Ser.A) Dept., dated 1-5-1984 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, General Administration (Services.A) Department, dated 6-11-1963 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, General Administration (AC) Department, dated 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. Where in 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, General Administration (Services.A) Department, dated 5-2-1965 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.

(111)

**Memorandum No.193/SC.D/84-4 Genl.Admn. (SC.D) Dept.,
dated 7-5-1984 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. 18-2-84
and 28-2-1984.
2. From the Registrar, Andhra Pradesh Lokayukta and
Upa-Lokayukta, Lr.No.893/Lok/1984 dt. 19-3-84.

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.

(112)

**Memorandum No. 570/Ser.C/84-1 Genl.Admn.(Ser.C) Dept.,
dated 1-6-1984 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. 25-5-76.

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 differed 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.

(113)

Memorandum No.352/SC.E/84-1 Genl.Admn.(SC.E) Dept., dated 14-6-1984 regarding furnishing of property statements in six proformae and 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. 11-5-84.

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 C.C.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.

(114)

**Memorandum No. 2170/SC.D/83-5 Genl.Admn.(SC.D) Dept.,
dated 21-7-1984 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, GAD Date
2.3.1982.
2. From the Director, Anti-Corruption Bureau Lr.No.1788/
S5/83, Date 22.10.1983.
3. From the Commissioner of Commercial Taxes,
DO.No.4420/83 Date 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.

(115)

Memorandum No.127/SC.E/84-6 Genl.Admn.(SC.E) Dept., dated 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. 1-5-84.

2. Govt.Memo.No.127/SC.E/84-3 G.A.(SC.E) Dept., dt. 17-9-84.

3. From the Director, ACB., D.O.Lr.No.12/RPC/84 dt. 7-11-84 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.

(116)

**Memorandum No. 1905/SC.D/84-1 Genl.Admn.(SC.D) Dept.,
dated 15-1-1985 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.

(117)

Memorandum No.1095/Ser.C/84-4 Genl.Admn.(Ser.C) Dept., dated 27-4-1985 (as amended by Memorandum No.638/Ser.C/86-3 Genl.Admn.(Ser.C) Dept., dated 16-8-1986) 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 dt. 31-5-76.
 2. Memo.No.365/Ser.C/69-1 G.A.D., dt. 11-6-70.
 3. Memo.No.1524/Ser.C/80-4 dt. 20-5-82.

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, dated 31-5-1976.

- 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 Govt., 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., dated 16-8-1986)
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.

(118)

**Lr.No.H.Qrs.I/Con/84-85 of Commissioner of Income Tax, A.P.,
Hyderabad dated 30-4-1985 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 sec. 91(1) Cr.P.C. In this connection attention of the Income-tax Officers is invited to a note of Law Ministry, dated 28-10-1981 (copy enclosed) in which it is stated that if the Department receives any communication under sec. 91/94 of the Cr.P.C., it may have to be complied with. Sec. 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 G.O.Ms.No.341, dated 23-5-1984 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 sec. 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 sec. 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 assessee, whereas, sec. 91/94 of the Criminal Procedure Code give 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 sec. 91/94 of

the Cr.P.C., it may have to be complied with. Sec. 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.

(119)

Memorandum No. 510/Ser.A/85-1 Genl.Admn.(Ser.A) Dept., dated 14-5-1985 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. 6-11-63.
 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.21-1-69.
 4. G.O.P.No.543 G.A.(AR&T.II) Dept.,dt. 9-8-77.
 5. Govt.Memo.No.620/Ser.A/84-1 G.A.(Ser.A) Dept., dt. 1-5-84.

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.

(120)

**Memorandum No.864/Ser.A/85-1 Genl.Admn.(Ser.A) Dept.,
dated 3-7-1985 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. 6-11-83.
 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.21-1-69.
 4. G.O.(P) No.543 G.A.(AR&T.II) Dept., dt.9-8-77.
 5. Govt.Memo.No.620/Ser.A/84-1 G.A.(Ser.A) Dept., dt.1-5-84.
 6. Govt.Memo.No.510/Ser.A/85-1 G.A.(Ser.A) Dept., dt.14-5-85.

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 dated 1-5-1984 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. In spite 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 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))

(121)

Memorandum No.56/PA&GB/85-1 Genl.Admn. (PA&GB) Dept., dated 12-7-1985 : 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.

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.

(122)

**Memorandum No.490/Ser.C/85-2 Genl.Admn. (Ser.C) dept.,
dated 1-8-1985 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. 9-3-78.
 2. Memo.No.710/Ser.C/78-1 G.A.(Ser.C) Dept., dt.29-4-78.
 3. Memo.No.882/Ser.C/78-1 G.A.(Ser.C) Dept., dt.24-5-78.
 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.4-5-81 from the C.S. to Government.
 6. D.O.Lr.No.322/Ser.C/84-1 G.A.(Ser.C) Dept., dt. 27-3-84.
 7. Memo.No.433/Ser.C/84-1 G.A.(Ser.C) Dept., dt.9-5-84.

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. In spite 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 28-4-1985 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.

(123)

Memorandum No.782/Ser.C/85-1 Genl.Admn.(Ser.C) Dept., dated 6-8-1985 : Suspension and revocation in A.C.B. cases to be intimated to A.C.B.

Subject Heading: Suspension — revocation in ACB cases

Ref :- From Director, A.C.B., D.O.Lr.No.110/RPC/85 dt. 25-5-85 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.

(124)

**Memorandum No.778/Ser.C/85-1 Genl.Admn.(Ser.C) Dept.,
dated 14-8-1985 : 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.17-5-85.

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.

(125)

**U.O.Note No. 910/SC.D/85-1 Genl.Admn.(SC.D) Dept., dated
26-8-1985: 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, General Administration (SC.D) Department Date 11.6.1985 and further clarified in Memorandum No.660/SC.D/85-7, General Administration (SC.D) Department Date 25.6.1985.

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.

(126)

**Memorandum No.1251/SC.E/85-1 Genl.Admn.(SC.E) Dept.,
dated 3-10-1985 : 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 Depts. and Heads of Departments are not taking prompt action in the matter to initiate proceedings against the Accused Officers under C.C.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 C.C.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.

(127)

**U.O.Note No.463/Ser.C/85-4 Genl.Admn.(Ser.C) Dept., dated 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. 24-4-84.
 3. Memo.No.149/Ser.C/84-2 dt. 24-4-85.
 4. From the G.A.(Genl.C) Dept., U.O.Note No. 534/Genl.C/85-7 dt.19-4-85/15-5-85 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.

(128)

**Memorandum No. 1354/Ser.C/85-1 Genl.Admn.(Ser.C) Dept.,
dated 3-1-1986 : 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 of 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.

(129)

**Memorandum No. 1054/Ser.C/85-1 Genl.Admn.(Ser.C) Dept.,
dated 21-1-1986 : 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 dated 27-7-1977 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 issue 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 Andhra Pradesh Civil Services (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.

(130)

**Memorandum No. 1132/Ser.C/85-2 Genl.Admn.(Ser.C) Dept.,
dated 24-1-1986 : Government servant not to inquire into or
deal with a case of a person who had earlier conducted inquiry
against him**

**Subject Heading: Enquiry — not to conduct against one who
conducted enquiry against him earlier**

Ref :- U.O. Note No.490/SC.D/85-2 G.A.(SC.D) Dept.,
dt.19-7-85.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules and the instructions issued thereunder 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.

(131)

U.O.Note No.849/SC.E/85-7 Genl.Admn.(SC.E) Dept., dated 22-4-1986: Investigating Officer, Anti-Corruption Bureau to offer para-wise remarks on petitions before High Court/A.P.A.T.

Subject Heading: APAT — para-wise comments of ACB on petitions

Subject Heading: High Court — para-wise comments 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.Administrative Tribunal 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 Govt., and also assist the Govt., Pleader wherever it becomes necessary.

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.

(132)

**Memorandum No. 574/SC.D/86-1 Genl.Admn.(SC.D) Dept.,
dated 21-5-1986 : 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. 21.6.85.

2. From the Director General, Anti-Corruption Bureau,
Hyderabad, Lr.No.50/RPC(C)/86, Date 5.5.1986.

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.

(133)

Memorandum No.762/SC.D/86-1 Genl.Admn.(SC.D) Dept., dated 10-7-1986: Service particulars, pay particulars, proforma 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 Memorandum No.574/SC.D/86-1, General Administration (SC.D) Department, Dated 21.5.1986.

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 proformae 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.

(134)

Memorandum No. 1496/SC.E/86-1 Genl.Admn.(SC.D) Dept., dated 16-7-1986 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. 5-6-86.

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 enquiries 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 APCS (CC&A) Rules, 1963. If there are any cases wherein enquiry officers have been appointed already and if such enquiry has not commenced, there may be no objection in entrusting such cases also.

(135)

**Memorandum No. 1496/SC.E/86-2 Genl.Admn.(SC.E) Dept.,
dated 8-8-1986: 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. 16-7-86.

In the Memorandum cited instructions were issued to appoint the Commissioner for Departmental Enquiries as Enquiry Officer for conducting departmental enquiries in terms of Rule 19(2)(a) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 ensued 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.

(136)

U.O.Note No. 1496/SC.E/86-8 Genl.Admn.(SC.E) Dept., dated 30-8-1986 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.16-7-86.

2. Memo.No.1496/SC.E/86-2 G.A.(SC.E) Dept., dt.8-8-86.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(137)

Memorandum No. 3325/SC.E/86-1 Genl.Admn.(SC.E) Dept., dated 2-12-1986 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.8-8-86.

In para (2)(i) of the Memorandum cited, instructions have been 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963.

(138)

Memorandum No.14796/L/86-4 Law (L) Dept., dated 3-12-1986 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 seperately. Where the interests of the Government and the A.C.B.

are not adverse, both the Council 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 Council for A.C.B. as ex officio Government Pleader.

(139)

Memorandum No. 90/SC.D/87-1 Genl.Admn.(SC.D) Dept., dated 21-2-1987 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. 15-1-85.

In the Government Memorandum 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.

(140)

Memorandum No.84/V&E/87-1 Genl.Admn.(V&E) Dept., dated 13-3-1987: 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 Andhra Pradesh Civil Services (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.

(141)

Memorandum No. 490/SC.E/87-1 Genl.Admn.(SC.E) Dept., dated 13-3-1987 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. 26-8-85.
 2. U.O. Note No. 531/SC.D/86-1 G.A.(SC.D) Dept., dt.6-5-86.
 3. Govt.Memo.No.1496/SC.E/86-1 G.A.(SC.E) Dept., dt.16-7-86.
 4. Govt. Memo. No.1496/SC.E/86-2 G.A.(SC.E) Dept., dt.8-8-86.
 5. Govt.Memo. No.3325/SC.E/86-1 G.A.(SC.E) Dept., dt. 2-12-86.

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 25-2-1987. 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))

(142)

U.O.Note No.551/Ser.C/87-1 Genl.Admn.(Ser.C) Dept., dated 26-6-1987 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. 4-6-87.

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.

(143)

U.O.Note No.664/SC.D/87-1 Genl.Admn.(SC.D) Dept., dated 29-6-1987 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, General Administration (Ser.D) Dept., dated 30-5-1961 (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.

(144)

U.O.Note No. 670/SC.D/87-1 Genl.Admn.(SC.D) Dept., dated 29-6-1987 : 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. Dept., dt.26.8.1985.

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 General Administration (Vigilance & Enforcement) Department, it may be done in terms of the orders issued in G.O.Ms.No.269, General Administration (SC.D) Department dated 11.6.1985 and further clarified in Memo.No.660/SC.D/85-7, General Administration Department, dated 25.6.1985.

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.

(145)

U.O.Note No.450/SC.D/87-1 Genl.Admn.(SC.D) Dept., dated 20-7-1987 : 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. 25.6.1987.

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.

(146)

D.O.Letter No.1310/Genl.C/87-1 Genl.Admn.(Genl.C) Dept., dated 21-7-1987 regarding creation of Legal Cell in Departments of Secretariat and Heads of Department, 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. 9-7-85 of Addl.Secy.,
to Govt., G.A.D.
2. U.O.Note No.13998/L/86-1 dt. 28-2-87 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.

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.

The Legal Officer so appointed would attend to the following works.

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.

He would attend to the cases in the High Court, Andhra Pradesh Administrative Tribunal, Supreme Court and Litigation in other Courts.

He would be in-charge of preparing para-wise remarks for counters and watch the progress.

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.

The Legal Cell should be constituted by drafting persons from within the Departments who are well versed in Legal Affairs.

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.

(147)

Memorandum No.588/Ser.C/87-1 Genl.Admn.(Ser.C) Dept., dated 29-7-1987 : 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 place

Ref:- From the Director General, A.C.B., Hyderabad Letter Rc.No.107/RPC(C)/87 dated 17-6-87.

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 Andhra Pradesh Administrative Tribunal / 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.

(148)

**Memorandum No. 824/SC.D/87-1 Genl.Admn.(SC.D) Dept.,
dated 30-7-1987 : 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, General Administration (SC.D) Department, dated 1.5.1984.
2. From the Director General, Anti-Corruption Bureau, Hyderabad, letter No.10428/SB-ACB/87-S5, Dated 10.7.1987.

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 Department themselves.

2. The Director – General, Anti-Corruption Bureau, Hyderabad, has brought to the notice of the Government that in spite 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.

(149)

G.O.Ms.No.419/Genl.Admn.(Ser.C) Dept., dated 1-9-1987 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, dated 25-5-76.
2. G.O.Ms.No.187, Genl.Admn.(Ser.B)Department, dated 25-4-85.

O R D E R :

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.

(150)

U.O.Note No.808/Ser.C/87-1 Genl.Admn.(Ser.C) Dept., dated 1-9-1987 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.

(151)

U.O.Note No.1798/SC.E/87-1 Genl.Admn.(SC.E) Dept., dated 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, Genl. Admn. (Ser.D) Department. dt. 30.5.61.

2. U.O.Note No. 664/SC.D/87-1, dt. 29-6-87.

3. Memo No. 490/SCE/87-1 G.A.D. dt. 13.3.87.

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/SCE/87-1, Dated 13.3.1987. 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/SCE/87-1, dated 13.3.87 and appoint Investigating officer only after the written statement of defence is received from the charged officer and considered by them.

(152)

**Memorandum No.1944/SC.E/87-4 Genl.Admn.(SC.E) Dept.,
dated 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.

(153)

U.O.Note No.907/Ser.C/87-4 Genl.Admn.(Ser.C) Dept., dated 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. 1-9-87.

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.

(154)

U.O.Note No.1045/SC.D/87-3 Genl.Admn.(SC.D) Dept., dated 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, letter No.134/RPC(C)/87, dated 29.8.1987.

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.

(155)

**Memorandum No.12400-A/162/OP.SC/87 Finance & Planning
(Fin.Wing.OP. Spl.Cell) Dept., dated 4-12-1987 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 time of reporting

- Ref:- 1. From the Director of Treasuries & Accounts, Circular
Memo. No. P3/ 10728/85 dt. 15-3-85.
2. From the D.G., ACB., Lr.No.33/RE.WVP/87 dt. 1-5-87.

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.

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 kept in 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.

(156)

Memorandum No.16689/L/87-1 Law Dept., dated 9-12-1987 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. 1-9-87.

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.

(157)

Memorandum No. 16556/LSP/87-1 Law Department dated 14-12-1987 regarding implementation of judgements and filing of appeals to avoid contempt proceedings

Subject Heading: Judgements — implementation of

Of late the Government have come across several instances where contempt cases are filed against officers for non-implementation of the judgements 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 judgements 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 Judgement 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 Judgement or order appealed against it is clear that the authorities in the State are under no legal obligation to follow the judgements 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 judgements 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 judgement 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 judgements 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 judgement 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.

(158)

Memorandum No. 1053/Ser.C/87-3 Genl.Admn.(Ser.C) Dept., dated 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. 1-9-87.

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 Andhra Pradesh Administrative Tribunal/High Court involving the above aspect of the matter be opposed. In spite 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. Administrative Tribunal/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.

(159)

**Memorandum No.3073/SC.E/87-1 Genl.Admn.(SC.E) Dept.,
dated 8-1-1988 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. 14-8-87.

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.

(160)

Memo. No. 44/SC.D/88-1 Genl.Admn.(SC.D) Dept., dated 1-2-1988 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, General Administration (SC.E)

Department, dated 13-3-87, and appoint Enquiring 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 Enquiry Officer and produced the same in the Andhra Pradesh Administrative Tribunal, Hyderabad, through his Counsel. The Andhra Pradesh Administrative Tribunal 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 Enquiry Officers.

4. As per Rule 14 of the Andhra Pradesh Civil Services (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 unauthorised

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.

(161)

G.O.Ms.No.52 Genl.Admn.(Ser.C) Dept., dated 4-2-1988 regarding Annual statements of immovable and movable property under rule 9(7) of APCS (Conduct) Rules - revised proforma prescribed

Subject Heading: Annual Property Returns — revised proformae

Read the following:-

G.O.Ms.No.705 G.A.(Ser.C) Dept., dt. 28-11-84.

ORDER :

According to sub-rule (7) of rule 9 of Andhra Pradesh Civil Services (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 Andhra Pradesh Civil Services (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)

(162)

**Memorandum No.1798/SC.E/87-4 Genl.Admn.(SC.E) Dept.,
dated 17-2-1988 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. 13-3-87.

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,

1. ensure compliance with the instructions contained in Memo.No.490/SC.E/87-1, dt.13-3-87 while entrusting the cases to the Commissioner for Departmental Enquiries.
2. Ensure that the name and the address of the Presenting Officer is sent while entrusting the cases to the Commissioner for Departmental Enquiries.
3. Furnish the address of the Charged Officer and witnesses while referring the cases to the Commissioner for Departmental Enquiries.
4. 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.

(163)

Memorandum No.2665/SC.E/87-3 Genl.Admn.(SC.E) Dept., dated 23-2-1988: 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.Civil Services (Classification, Control and Appeal) Rules, 1963 states inter-alia that the authority competent to impose penalty shall appoint an enquiry 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 Enquiry Officer should be appointed by name or by office. It has been brought to the notice of the Government, that in several cases the Enquiry Officer has been appointed by name, which has resulted in the stoppage of enquiry Commissioner for Departmental Enquiries.

All the Departments of Secretariat are, therefore, requested to appoint the Commissioner for Departmental Enquiries as Enquiry Officer by designation in future while entrusting the cases to him.

(164)

Memorandum No.35/SC.D/88-2 Genl.Admn.(SC.D) Dept., dated 25-2-1988 : 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 sec. 197 Cr.P.C.

Ref:- From D.G., ACB., Rc.No.1/RPC(C)/88, dt. 4-1-88.

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.

(165)

Letter No.398/SC.D/87-1 Genl.Admn.(SC.D) Dept., dated 6-4-1988 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 12-4-87 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 8-4-1987 and it was also broadcast on 9-4-1987 by Doordarshan Hyderabad during Telugu News at 7.30 P.M.

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.

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.

(166)

G.O.Ms.No. 214 Genl.Admn.(Ser.C) Dept., dated 6-4-1988 regarding referring of Anti-Corruption Bureau cases to Tribunal for Disciplinary Proceedings

Subject Heading: TDP — entrustment of ACB cases

Read the following:-

G.O.Ms.No.526 G.A.(Ser.C) Dept., dt. 15-10-86.

438

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.

(167)

Memorandum No.1085/SC.D/87-1 Genl.Admn.(SC.D) Dept., dated 20-4-1988 regarding declaration of personal cash by Government officials at the time of reporting to duty - reiteration of instructions

Subject Heading: Cash — declaration at time of reporting

Ref :- From the D.G., A.C.B., Lr.C.No.52/RPC(C)/87 dt. 7-9-87.

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.

(168)

Memorandum No.2899/SC.F/87-1 Genl.Admn.(SC.F) Dept., dated 20-4-1988 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.13-3-87.

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 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(169)

**Memorandum No.735/SC.D/87-1 Genl.Admn.(SC.D) Dept.,
dated 27-4-1988 regarding action on petitions against
Government servants**

Subject Heading: ACB — suo motu powers

- Ref : -1. G.O.Ms.No. 677/Ser.C/87-1, G.A.(Ser.D) Dept.,
Dt. 30.5.1981.
2. Memo. No. 163/SC.D/83-2, G.A.(SC.D) Dept.,
Dt. 30.3.1983.
3. U.O. Note No. 551/Ser.D/87-1, G.A. (Ser.C) Dept.,
Dt. 26.6.1987.

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 is 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's 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.

(170)

**Memorandum No.143/SC.D/88-4 Genl.Admn.(SC.D) Dept.,
dated 9-5-1988 regarding furnishing of property statements
in corruption and disproportionate assets cases to Anti-
Corruption Bureau**

Subject Heading: Disproportionate Assets — proformae 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. 15-3-75.
 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.14-6-84.
 4. Memo.No.3265/SC.E/86-2 G.A.(SC.E) Dept., dt.6-1-87.

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 Govt.Memo. 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 Govt.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 A.P.Civil Services (C.C.A.) Rules, 1963.

(171)

Memorandum No.143/SC.D/88-5 Genl.Admn.(SC.D) Dept., dated 9-5-1988 regarding supply of records to Investigating Officers of Anti-Corruption Bureau; Heads of Department, 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. 6-9-73.
 2. Govt. Memo.No. 1964/SC.D/73-4, G.A. (SC.D) Dept., Dt. 15-3-75.
 3. Govt.Memo.No. 443/SC.D/78-2, G.A.(SC.D) Dept., Dt. 3-6-78.
 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. 23.6.83.

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 Supdt. 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 issued suitable instructions to the Officers under their control in this regard.

(172)

Memorandum No.12400-A/162/OP.SC/87 Finance & Planning (FW.OP.SPL. CELL) Dept., dated 13-6-1988 regarding declaration of personal cash by those dealing in cash

Subject Heading: Cash — declaration at time of reporting

Ref:- 1. Memo.No.12400-A/162/OP.SC/87 dt. 4-12-87.

2. G.A.D. U.O.Note No.1085/SC.D/87-2 dt. 20-4-88.

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.

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.

(173)

**G.O.Ms.No.367 Genl.Admn. (I&PR) Dept., dated 24-6-1988 :
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.

(174)

Memorandum No. 1506/Cts.B/88-1 Home (Courts.B) Dept., dated 2-7-1988 regarding furnishing of certified copies etc, in appeals in 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. 10-6-88.

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 judgement 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. 10-6-88 of Public Prosecutor, High Court of Andhra Pradesh, Hyderabad addressed to the Deputy Secretary to Govt, Home (Courts-B) Department, Govt. 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 judgements. We cannot file an appeal in the High Court without certified copy. The certified copy must be sent to us when who are 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 judgement 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 tile an appeal in the High Court to send the following:

1. Certified copy of the judgement.
2. Three neatly typed copies of the judgement.
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.

(175)

U.O. Note No.756/SC.F/88-2 Genl.Admn.(SC.F) Dept., dated 8-7-1988 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.6-4-88.

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.

(176)

Memorandum No.1073/SC.D/88-1 Genl.Admn.(SC.D) Dept., dated 1-8-1988 regarding appeal in criminal cases - need to refer to Law Secretary and Home Department

Subject Heading: Appeal — to refer to Law and Home

Ref :- From the D.G., A.C.B., Lr. C.No.19/RPC(C)/87 dt. 3-3-87 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:

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.

(177)

Memorandum No.190/Ser.C/88-2 Genl.Admn.(Ser.C) Dept., dated 6-8-1988 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 — proforma of acknowledgement

Ref:- G.O.Ms.No.468 G.A.(Ser.C) Dept., dt. 17-4-64.

Sub-rule (1) of Rule 9 of the Andhra Pradesh Civil Services (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 Andhra Pradesh Civil Services (Conduct) Rules, 1964, as amended in G.O.Ms.No.52, General Administration (Services.C) Department, dated 4-2-1988, 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 acknowledgments 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)

(178)

Memorandum No.1316/SC.D/88-1 Genl.Admn. (SC.D) Dept., dated 22-9-1988 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, letter No.134/RPC(C)/87, dated 29-8-1987.
 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.

(179)

D.O.Letter No.2943/Poll.A/88-1 Genl.Admn. (Poll.A) Dept., dated 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. 18-8-88.

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. 18-8-1988

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.

(180)

**Memorandum No.1317/Ser.C/88-1 Genl.Admn.(Ser.C) Dept.,
dated 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. 10.2.1978.

2) Memo.No.637/Ser.C/83-1, G.A.D., dt.28.6.1983.

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 General Administration (Services) 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 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 judgement 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.

(181)

**Memorandum No.700/SC.D/88-4 Genl.Admn.(SC.D) Dept.,
dated 13-2-1989 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.14-6-88.

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 peruse 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 dated 21-5-86 and Memo.No.762/SC.D/86-1, G.A.(SC.D) Department dated 10-7-86 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 dated 20-7-87 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.

(182)

Memorandum No.1737/SC.D/88-4 Genl.Admn. (SC.D) Dept., dated 17-2-1989 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.20-1-88.
 3. From the D.G., A.C.B., D.O.Lr.No.6/ACB/TRG/88 dt. 21-1-89.
 4. From the D.G., A.C.B., D.O.Lr.No.21/ACB/TRG/88 dt.21-1-89.

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.

(183)

**G.O.Rt.No.732 Genl.Admn. (SC.F) Dept., dated 22-2-1989
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. 1-8-86.
2. G.O.Rt.No.867 G.A.(SC.D) Dept., dt. 11-3-88.

ORDER:

Government have reviewed the existing institutional arrangements in regard to disposal of disciplinary cases against Government servants under the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Enquiry 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 enquiry 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 28-2-1989 AN.

8. The disciplinary cases entrusted to Sri V.Sundaresan, IAS(Retd.), 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.

(184)

Memorandum No.220/Ser.C/89-1 Genl.Admn.(Ser.C) Dept., dated 8-3-1989 (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. 27-2-65.
 2. Memo.No.204/Ser.C/76-3 GAD dt. 31-5-76.
 3. Memo.No.1095/Ser.C/84-4 GAD dt. 27-4-85.
 4. Memo.No.700/SC.D/88-4 GAD dt. 13-2-89.

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.

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.

The matter regarding suspension of Government employees involved in cases of traps and possession 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 Memorandum No.1733/Ser.C/67-2 dated 3-8-1967.
- (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.

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.

(185)

U.O.Note No.567/Ser.A/89-1 Genl.Admn.(Ser.A) Dept., dated 9-3-1989 : 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. 6-11-83.
 2. Govt.Memo.No.2741/Ser.A/68-2 G.A.D., dt. 21-1-69.
 3. Govt.Memo.No.620/Ser.A/84-1 G.A.D., dt. 1-5-84.

4. Govt.Memo.No.510/SEr.A/85-1 G.A.D., dt.14-5-85.
5. Govt.Memo.No.864/Ser.A/85-1 G.A.D., dt.3-7-85.
6. Govt.Memo.No.956/Ser.A/86-1 G.A.D., dt. 26-6-86.
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.

(186)

**Memorandum No.215/SC.D/89-1 Genl.Admn.(SC.D) Dept.,
dated 3-4-1989 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 Date 13.3.87, 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.

(187)

Memorandum No.2866/SC.F/87-3 Genl.Admn.(SC.F) Dept., dated 13-7-1989 : 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/Enquiry 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.

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.

(188)

Memorandum No.33663-C/42/TFR/88 Finance & Planning (FW.TFR) Dept., dated 31-7-1989 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 Enquiry Officer. Immediately after appointment of Enquiry 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.

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.

(189)

U.O.Note No.1041/SC.F/88-4 Genl.Admn.(SC.F) Dept., dated 16-8-1989 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. 13-3-87.
2. From the former Commissioner for Departmental Inquiries, D.O.Lr.No. 165/ CDI /87-11 dt. 10-2-89.

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.
- l) 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.

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.

(190)

U.O.Note No.1798/SC.F/87-12 Genl.Admn.(SC.F) Dept., dated 22-8-1989: 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. In spite 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.

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 Enquiry Officer etc., to be issued them in future in the disciplinary cases against Government servants.

(191)

U.O.Note No.2397/SC.F/89-1 Genl.Admn.(SC.F) Dept., dated 25-9-1989 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., dated 29-6-87.

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.

(192)

Letter Rc.No.Con.Vig.No.I/88(Vol.III) of the Chief Commissioner of Income-Tax, A.P., Hyderabad dated 9-11-1989 regarding furnishing of information of assesseees 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 memorandum H.Qrs.-I/Con/84-85 dated 30-4-1985 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 sec. 91/94 of Cr.P.C. may be addressed to the Assessing authority concerned in this department.

(193)

Circular Memo.No.1563/Ser.C/89-1 Genl.Admn.(Ser.C) Dept., dated 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.3-6-89.

The attention of Departments of Secretariat and Heads of Departments etc., is invited to the revised Andhra Pradesh Civil Services (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 Andhra Pradesh Civil Services (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.”

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules.

(194)

**Memorandum No. 398/SC.D/87-3 Genl.Admn.(SC.D) Dept.,
dated 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, dated 6-4-88 (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.

(195)

U.O.Note No.1336/SC.D/89-1 Genl.Admn.(SC.D) Dept., dated 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 21-7-1988 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. In spite 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 dated 9-5-1988.

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.

(196)

G.O.Ms.No.104 Genl.Admn. (Ser.C) Dept., dated 16-2-1990 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.29-9-70.
2. G.O.Ms.No.211 G.A.(Ser.C) Dept., dt.31-3-75.
3. G.O.Ms.No.424 G.A.(Ser.C) Dept., dt.25-5-76.
4. O.M.No.22011/2/86-Estt.(A) dt. 12-1-88 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.

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/enquiry/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.

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/enquiry/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 enquiry/investigation/trial not been initiated against him, as the case may be.

(197)

**G.O.Ms.No.194 Genl.Admn. (Ser.C) Dept., dated 15-3-1990
regarding conducting of ex parte inquiry in disciplinary cases**

Subject Heading: Inquiry — ex parte

Read the following:-

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules inter alia lays down that if the delinquent officer absents himself, the enquiry officer can conduct the enquiry 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 enquiry 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(198)

G.O.Ms.No.205 Genl.Admn. (Ser.C) Dept., dated 17-3-1990 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. 17-3-1990.

ORDER:

Sub-rule (1) of rule 13 of the Andhra Pradesh Civil Services (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.

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.

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.

Prior to issue of amendment to rule 13(1) of Andhra Pradesh Civil Services (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 Andhra Pradesh Civil Services (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.

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 Andhra Pradesh Civil Services (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.

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

In the case of gazetted officers, the first review of the orders of suspension beyond a period of six months shall be under taken 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.

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.

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.

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.

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.

(199)

Memorandum No.1387/SC.D/89-2 Genl.Admn.(SC.D) Dept., dated 8-8-1990 regarding permission for disposal of property to Govt. 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 Andhra Pradesh Civil services (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.

(200)

Memorandum No. 655/Ser.C/90-1 Genl. Admn. (Ser.C) Dept., dated 17-8-1990 : Proposals to be sent to Public Service Commission for advice under Regulation 17, in disciplinary cases

Subject Heading: Public Service Commission — consultation

- Ref:- 1. G.O.Ms.No.194 G.A.(Ser.C) Dept., dt. 15-3-90.
2. From the Secretary, A.P.P.S.C. Lr.No.1475/RT/5/90 dt. 19-7-90.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 for conducting Departmental Enquiries.

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 Enquiry 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 enquiries under rule 19(2)(a) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil services (Classification, Control and Appeal) 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 unauthorised absence, in many cases Enquiry 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 enquiry 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))

(201)

U.O.Note No.1033/SC.D/89-2 Genl.Admn.(SC.D) Dept., dated 4-9-1990 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. 20-7-87.
2. From the Director, A.C.B., D.O.Lr.No.65/RPC(C)/89
dt.11-7-89.

The Director, Anti-Corruption Bureau, Hyderabad has in his 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 9-9-1988. 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 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.

(202)

Memorandum No.747/Courts.E/90-3 Home (Courts.E) Dept., dated 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.

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.

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.

(203)

U.O.Note No. 1418/SC.D/90-2 Genl.Admn.(SC.D) Dept., dated 5-11-1990 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. 18-6-66.
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. In spite 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.

(204)

U.O.Note No.785/Ser.C/90-1 Genl.Admn. (Ser.C) Dept., dated 8-11-1990 : Inquiries against suspended employees to be completed in time and periodical review undertaken

Subject Heading: Suspension — need to complete enquiries 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. 11-6-1970.
 3. U.O.Note No. 1524/Ser.C/80-1 GAD dt. 17-3-1981.

4. Memo.No. 1524/Ser.C/80-11 GAD dt. 20-5-1982.
5. G.O.Ms.No.205, G.A.(SER.C) Dept., dt. 17-3-1990.

According to rule 13(1) of Andhra Pradesh Civil Services (CC&A) 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 public interest. In the references 1st to 5th cited above, instructions/orders have been issued to the effect that the enquiries 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 enquiries are not being completed within a reasonable time for one reason or the other. In cases where the enquiries are pending for more than two years and the individuals concerned are denied promotion, on the ground that the enquiry 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 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 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 enquiries 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 enquiries are pending for more than two years and review them periodically for taking decision at the appropriate level.

(205)

U.O.Note No.732/Ser.C/90-2 Genl.Admn. (Ser.C) Dept., dated 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 punishment 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) rule 19 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 enquiry 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 Andhra Pradesh Civil Services (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 punishment.

(206)

Memorandum No.1444/SC.D/90-1 Genl.Admn.(SC.D) Dept., dated 17-1-1991 : 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.13-2-89.

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.

(207)

G.O.Ms.No.66 Genl.Admn. (Ser.C) Dept., dated 30-1-1991 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. 25-5-76.
2. G.O.Ms.No.187 G.A.(Ser.B) Dept., dt. 25-4-85.
3. G.O.Ms.No.104 G.A.(Ser.C) Dept., dt. 16-2-90.

ORDER:

In the G.O. first and second read above, instructions have been issued, among other things, for consideration of 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. 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/enquiry/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 thus:

“..... 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 enquiry 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.

(208)

U.O.Note No.779/Ser.C/90-4 Genl.Admn.(Ser.C) Dept., dated 30-1-1991 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. 25-5-76.
 2. G.O.Ms.No.187 G.A.(Ser.B) Dept., dt.25-4-85.
 3. G.O.Ms.No.104 G.A.(Ser.C) Dept., dt.16-2-90.
 4. G.O.Ms.No.66 G.A.(Ser.C) Dept., dt.30-1-91.

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 Andhra Pradesh Civil Services (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.

(209)

U.O.Note No.310/SC.E/91-1 Genl.Admn. (SC.D) Dept., dated 26-3-1991 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. 28-1-84.

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 form 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.

(210)

U.O.Note No.400/SC.D/91-1 Genl.Admn. (SC.D) Dept., dated 30-3-1991 regarding sanction of prosecution - further instructions issued

Subject Heading: Sanction of prosecution — guidelines for issue

- Ref:-
1. U.O.Note No.450/SC.D/87-1, G.A.(SC.D) Dept., dt.20.7.1987.
 2. U.O.Note No.1033/SC.D/89-2,G.A.(SC.D) Dept., dt.4.9.1990.

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. In spite 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 : 30-3-1991)

Sl. No.	Name of the Government Servant	A.C.B.report No. & Date	Whether sanction for prosecution has been accorded if so, the G.O.No. and date.	Remarks (Reasons for not according sanction for prosecution).
(1)	(2)	(3)	(4)	(5)

(211)

**Memorandum No. 410/SC.D/91-1 Genl.Admn.(SC.D) Dept.,
dated 18-4-1991 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 this 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.

(212)

Memo No. 229/SC.D/91-2 Genl.Admn.(SC.D) Dept., dated 12-6-1991 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.

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 of the pending cases, expeditiously.

(213)

Memorandum No.78/1/Accts./91 Finance & Planning (FW.Accounts) Dept., dated 22-6-1991 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 dated 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.

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.

After careful examination, Government hereby issue the following instructions:

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.

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.

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.

(214)

**Memorandum No.1271/SC.F/90-1 Genl.Admn. (SC.F) Dept.,
dated 6-7-1991 : 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., dated 13-7-89.
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 enquiry conducted by the Enquiry 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 enquiries. 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 Enquiry Officer to the Anti-Corruption Bureau on requisition.

(215)

U.O.Note No.1298/SC.D/91-1 Genl.Admn. (SC.D) Dept., dated 30-8-1991 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 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. In spite 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.

(216)

U.O.Note No.1411/SC.D/91-1 Genl.Admn. (SC.D) Dept., dated 17-9-1991 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. Lokayukta 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 connected invited to the instructions issued in Memo.No.229/SC.D/91-2, General Administration Department, dated 12-6-91. If the subject matter referred to by the Institution, does not relates 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.

(217)

**Memorandum No.853/Ser.C/90-1 Genl.Admn.(Ser.C) Dept.,
dated 23-9-1991 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.27-2-65
 2. Govt.Memo.No.1788/Ser.C/67-2 G.A.(Ser.C) Dept., dt.
3-8-67
 3. Govt.Memo.No.204/Ser.C/76-3 G.A.(Ser.C) Dept., dt.
31-5-76

4. Govt.Memo.No.488/Ser.C/81-1 G.A.(Ser.C) Dept., dt.21-4-81
5. Govt.Memo.No.1095/Ser.C/84-4 G.A.(Ser.C) Dept., dt.27-4-85
6. Govt.Memo.No.588/Ser.C/87-1 G.A.(Ser.C) Dept., dt.29-7-87
7. Govt.Memo.No.220/Ser.C/89-1 G.A.(Ser.C) Dept., dt.8-3-89
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 pots 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.

(218)

U.O.Note No.1224/SC.D/91-1 Genl.Admn. (SC.D) Dept., dated 8-10-1991 regarding declaration of cash by officials at the time of reporting to duty at check posts

Subject Heading: Cash — declaration at time of reporting

Ref : -1. U.O.Note No. 1515/SC.D/85-1, G.A. (SC.D) Dept., Dt.18.8.1983.

2. U.O. Note No. 1085/SC.D/87-2, G.A. (SC.D) Dept., Dt.20.4.1988.

3. From the Director General, Anti-Corruption Bureau ,
Hyderabad Lr.C.No. 89/RPC(C)/91 Date 3.8.1991.

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.

(219)

Circular Memo.No.C-9101-4/8/FR.I/91 Finance & Planning (Fin.Wing. F.R.I) Dept., dated 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, Fin.&Plg. (Fin.Wing.F.R.I) Department, dated 7-7-1988 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. (CCA) Rules, 1963 read with instructions in Appendix-VI to the said rules. In spite 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 remain 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 unauthorised absence.

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 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 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 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 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 Revised Pension Rules.

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 subordinate officers who may be appointing authorities of posts, the holders of which may attract the provisions of rules referred to in these guidelines.

(220)

**Memorandum No.2025/SC.D/91-2 Genl.Admn.(SC.D) Dept.,
dated 30-12-1991 : Surprise checks not to be undertaken in
extraordinary situations like NGOs strike**

Subject Heading: Surprise checks

- Ref:-
1. Memo.No.295/SC.D/80-10 GAD dt. 2-3-82.
 2. Memo.No.2170/SC.D/84-5 GAD dt. 21-7-84.
 3. From the D.G., A.C.B., Lr.No. 18055/MRG/86-3 dt.31-1-87.

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.

(221)

Memorandum No.15/Ser.C/92-2 Genl.Admn.(Ser.C) Dept., dated 23-1-1992 regarding disciplinary cases against Government servants - proposals to be sent to Public Service Commission for advice under Regulation 17

Subject Heading: Public Service Commission — consultation

- Ref:- 1. Memo.No.655/Ser.C/90-1 GAD dt. 17-8-90.
2. From the Chairman, A.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 Andhra Pradesh Civil Services (CCA) 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 Enquiry Officers are not following the procedure scrupulously as laid down in rule 19(2) of the Andhra Pradesh Civil Services (CCA) 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 Andhra Pradesh Civil Services (CCA) 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.

(222)

U.O.Note No. 43/SC.D/92-1 Genl.Admn. (SC.D) Dept., dated 25-1-1992 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.29-6-87.

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 the 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.

(223)

U.O.Note No.15/SC.F/92-1 Genl.Admn.(SC.F) Dept., dated 27-1-1992 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.13-3-87.
 2. Memo.No.2462/SC.E/87-6 G.A.(SC.E) Dept., dt.5-3-88.
 3. G.O.Rt.No.3661 G.A.(SC.F) Dept., dt. 27-7-91.
 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 enquiry before the Enquiry Officer as provided for in Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules. In the reference third cited, the Government have approved a panel of five Advocates to work as presenting officer in the enquiries 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 enquiry. 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.

(224)

Circular Memorandum C.No.12/RPC(C)/92 of Director General, A.C.B., dated 30-1-1992 regarding declaration of personal cash by temporary R.O.R. staff of Sub-Registrar's Offices

Subject Heading: Cash — declaration at time of reporting

Ref:- Lr.No.X2/35666/91 dt. 3-1-92 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.

(225)

U.O.Note No.192/SC.D/92-1 Genl.Admn. (SC.D) Dept., dated 14-2-1992 : Sanction of prosecution to be issued within 45 days from 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.11.6.85.
 2. U.O.Note No.450/SC.D/87-1, dt.20.7.87.
 3. From the Director General, Anti-Corruption Bureau, D.O.Letter No.8/RPC(C)/92, dt.23.1.92.

The Director General, Anti-Corruption Bureau, Hyderabad, in his 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.

(226)

U.O.Note No.154/SC.E/92-1 Genl.Admn. (SC.D) Dept., dated 18-2-1992: 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 27.4.81.
3. Memo.No. 289/SC.D/84-1, G. A. (SC.D) Dept., Dt. 1.5.84.
4. Memo.No. 824/SC.D/87-1, G.A. (SC.D) Dept., Dt. 30.7.87.
5. From the Director General, Anti-Corruption Bureau , Hyderabad Letter C.No. 4/RPC (C)/82, Dt. 13.1.92.

Government have issued specific instructions in the reference first cited, to the effect that only clear cases of misappropriation 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. In spite 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 misappropriation 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.

(227)

Lr.C.No.18/RPC(C)/92 dated 19-2-92 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 Heading: 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., Prl.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.

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 Prl.Secretary/Secretary/Joint Secretary underneath the signature in the Sanction Orders.

(228)

Memorandum No.442/SC.D/92-1 Genl.Admn. (SC.D) Dept., dated 3-4-1992 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, letter C.No. 26/RPC (C)/ 92, Date 4.3.1992.

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.

(229)

Memorandum No. 3924/L2/92, Law Dept., dated 20-5-1992 regarding decision of Supreme Court upholding order of suspension

Subject Heading: Suspension — Supreme Court upholding suspension

Ref : Letter No.1/RPC(C)/92, Dt.29.4.1992 from the Director General, ACB, A.P. Hyderabad.

A copy of the Judgement 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, 8, 1991.

//True copy//

(230)

U.O.Note No.1135/SC.F/92-1 Genl.Admn. (SC.F) Dept., dated 25-6-1992 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/97-1 G.A.(SC.F) Dept., dt. 13-3-87.
 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.22-8-89.
 4. From the G.A.(COI-M) Dept., U.O.Note No.196/COI-M/92-1 dt.26-5-92.

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 Enquiries 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 Enquiry 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 first 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.

(231)

U.O.Note No.943/SC.D/92-1 Genl.Admn. (SC.D) Dept., dated 9-7-1992: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 time of reporting

- Ref: - 1) U.O. Note No. 1515/SC.D/83-1, G.A. (SC.D) Dept., Dt. 18.8.83.
- 2) U.O. Note No. 1085/SC.D/87-2, G.A. (SC.D) Dept., Dt. 20.4.88.
- 3) U.O. Note No. 1224/SC.D/91-1, G.A. (SC.D) Dept., Dt. 8.10.91.
- 4) From the Director General, Anti-Corruption Bureau, Hyderabad., letter C.No. 50/RPC (C)/92, Date 4.6.1992.

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 24-4-1992, 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 Department of Secretariat are, requested to issue necessary instructions to the offices under their administrative control 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.

(232)

Memorandum No. 1245/SC.D/92-2 Genl.Admn.(SC.D) Dept., dated 22-12-1992 regarding disproportionate assets - assets of Hindu Undivided Family etc

Subject Heading: Disproportionate Assets — in case of HUF

Ref : From the Director, ACB, Hyd., D.O.Letter C.No.98/RC/ KKU(TCD)/87, Dt.15.7.1991 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.

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.

(233)

Memorandum No.12798/LSP/L1/92 Law Dept., dated 12-1-1993 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.

(234)

Memorandum No.223/SC.D/92-6 Genl.Admn.(SC.D) Dept., dated 15-3-1993 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. 13-2-89.
 2. Memo. No.1444/SC.D/90-1 G.A.(SC.D) Dept., dt.17-1-91.
 3. From the D.G., ACB., D.O.Lr.No.7/RPC(C)/92 dt. 23-1-92.

4. From the D.G., ACB., Lr.C.No.7/RPC(C)/92 dt. 9-3-92 and even number dt 8-4-92.
5. Govt.Memo.No.223/SC.D/92-4 G.A.(SC.D) Dept., dt. 28-7-92.
6. From the D.G., ACB., Lr.C.No.7/RPC(C)/92 dt. 20-8-92.

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 25-4-92.

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 judgement 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.

(235)

Circular Memo.No.13431-160-A/F.R.II/93 Finance & Planning (F.W.F.R.II) Dept., dated 1-4-1993 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 A.P.Civil Services (Classification, Control and Appeal) 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., dated 17-3-1990. 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 no 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.

(236)

Circular Memo.No.115/Ser.C/93-1 Genl.Admn.(Ser.C) Dept., dated 26-4-1993 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. 17-4-1964.

According to rule 17 of Andhra Pradesh Civil Services (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 Andhra Pradesh Civil Services (Conduct) Rules, 1964 and any violation of conduct rules would be viewed seriously and disciplinary action as deemed appropriate be taken against such employee.

(237)

Memorandum No.564/SC.A/93-1 Home (SC.A)Dept., dated 28-4-1993 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 enquiries 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 Enquiry Officers are giving findings exonerating the Accused Officers simply because the witnesses turns 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 enquiry is not to be treated as a trial in a criminal offence. The Enquiry 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 Enquiry Officer and proceed to exonerate the Accused Officer. It is not necessary that the competent authority invariably agrees with the findings of the Enquiry Officer. A.P.C.S.(CCA) 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.(CCA) 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.

(238)

**Memorandum No.22/Ser.C/93-3 Genl.Admn.(Ser.C) Dept.,
dated 1-5-1993 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.14-9-92.
2. U.O.Note No.27/CH.COI/93-1 dt. 18-1-93.

According to sub-rule 5(c) of Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 where the disciplinary authority itself inquires 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 30(5)(c) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 proposed 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 on rule 20(5)(c) of the C.C.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.

(239)

**G.O.Ms.No.335 Genl.Admn.(Ser.C) Dept., dated 14-6-1993 :
Stoppage of increments with cumulative effect, is major
penalty**

Subject Heading: Withholding increment with cumulative effect — major penalty

Read the following:-

G.O.Ms.No.487, G.A.(Ser.C) Dept., dt. 14-9-92.

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 Andhra Pradesh Civil services (Classification, Control and Appeal) 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 imperpetuity 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 with the meaning of Rule 5(v) of the said rules; (corresponding to Sub-Clause (iv) of Rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal)

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. 4-6-1991, 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. 11-1-1990 on the ground that Rule 9(1)(iii) of the Andhra Pradesh Civil Services (CCA) 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 Andhra Pradesh Civil Services (CCA) Rules, 1991, have been issued through G.O.Ms.No.487, dt. 14-9-92. The said rules came into force with effect from 1-10-92. 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 Andhra Pradesh Civil Services (CC&A) Rules, 1991.

(240)

**G.O.Ms.No.368 Genl.Admn.(SC.D) Dept., dated 29-6-1993
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: 15-1-1990.

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 may 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.

(241)

Circular Memo.No.3/29292/X1/93 of State Transport Authority, Hyderabad dated 24-7-1993 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. 26-5-93 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 enquiry the records and unclaimed amounts were being filed before the Enquiry Officer during the enquiry.

The Director General, Anti-Corruption Bureau in his letter cited has stated that after completion of Departmental enquiry, the Enquiry 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.

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 Enquiry 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.

(242)

**G.O.Ms.No.411 Genl.Admn.(Ser.C) Dept., dated 28-7-1993
regarding orders of suspension - formats prescribed**

Subject Heading: Suspension — proforma prescribed

Read the following:-

G.O.Ms.No.487 G.A.(Ser.C) dept., dt. 14-9-92.

ORDER:

Under Rule 8(1) of the Andhra Pradesh Civil Services (CCA) 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) Wherein 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 Andhra Pradesh Civil Services (CCA) 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))

(243)

G.O.Ms.No.421 Genl.Admn.(SC.D) Dept., dated 3-8-1993 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: 15-1-1990.
- 2) G.O.Ms.No.368, G.A. (SC.D) Dept., dt. 29-6-1993.

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., DATED 3-8-1993.

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 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 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/Govt. 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 Dept./ 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 / Govt. 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. 26-8-1994)

In respect of cases concerning member 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/Govt. Undertaking/ Govt. 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/Govt., Undertaking/Govt. 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/Govt. 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 enquiry 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. 30-3-1983 read with Memo.No. 163/ SC.D/83-3, dated 10-6-1983.

- (vi) The further action on the final reports of the Anti-Corruption Bureau, Government Department/Govt. Undertaking/Govt. 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:-
- i. Prosecution in a Court of Law.
 - ii. Enquiries by the Tribunal for Disciplinary Proceedings in respect of all Gazetted Officers except All-India Services Officers.
 - iii. Enquiry by the Commissioners for departmental Inquiry as may be appointed by Government.
 - iv. 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/ Govt. Undertaking/ Govt. 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/ Govt. Undertaking/ Govt. 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/ Govt. Undertaking/ Govt. 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 / Govt. 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 Govt. Undertaking / Govt. 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 / Govt.

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 A.P. Civil Services (CCA) 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 Govt. Undertaking / Govt. 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. (CCA) 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 / Govt. Undertaking / Govt. 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., dated 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.

(244)

**G.O.Ms.No.470 Genl.Admn.(SC.D) Dept., dated 2-9-1993:
Vigilance Commissioner is Head of Department**

**Subject Heading: Vigilance Commission — Commissioner,
Head of Department**

Read the following:-

- 1) G.O.Ms.No.368, G.A. (SC.D) Dept., dt. 29-6-93.
- 2) G.O.Ms.No.395, G.A. (SC.D) Dept., dt. 17-7-93.
- 3) G.O.Rt.No. 3728, G.A. (SC.D) Dept., dt. 31-7-93.
- 4) From the Vigilance Commissioner, Hyderabad Lr.No.8/
APVC/93, dt. 3-8-93.

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 30-6-93.

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. 17-8-93.

(245)

G.O.Ms.No.480 Genl.Admn.(Ser.C) Dept., dated 7-9-1993 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. 17-3-1990.
2. G.O.Ms.No.487, G.A.(Ser.C) Dept., dt. 14-9-1992.

ORDER:

Sub-rule (1) of rule 8 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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. 20-4-1993 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 Andhra Pradesh Civil Services (CC&A) Rules, 1991 have come into force with effect from 1-10-1992 repealing the old C.C. & 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:-

1. **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 under

taken 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 the 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 under taken 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.

(246)

U.O.Note No.240/SC.D/93-3 Genl.Admn.(SC.D) Dept., dated 5-10-1993 (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., dated 21-11-2001)

Subject Heading: Suspension — in trap cases

- Ref:- 1. Memo. No. 220/Ser.C/89-1 G.A.(Ser.C) Dept., dated: 8-3-1989.
2. Memo. No. 1419/Ser.C/89-1 G.A.(Ser.C) Dept., dated 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 to 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 tarp 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.

(247)

**Memorandum No.510/Ser.C/93-2 Genl.Admn.(Ser.C) Dept.,
dated 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.18-12-90.
2. G.O.Ms.No.487 G.A.(Ser.C) Dept., dt.14-9-92.

In the U.O.Note 1st cited, instructions were issued under Clause (a) of sub-rule (5) of Rule 19 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 are repealed by the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 which came into force with effect from 1-10-1992 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(248)

Memorandum No.745/Ser.C/93 Genl.Admn.(Ser.C) Dept., dated 24-12-1993 : Inquiry Officers to be cautious in making remarks on Government institutions and officials (Cancelled by G.O.Ms. No. 257 6A/Sec) Dept. dt. 10.6.99)

Subject Heading: Departmental Inquiry — inappropriate comments against Govt. officials and Institutions to be avoided

The House Committee of the 8th Legislative Assembly, in their report have observed, among others that the Enquiry Officers before making remarks, on Government Institutions and Government Officials should be cautious and such remarks should be established with facts and evidence.

Keeping in view the above, it is reiterated that the Enquiry Officers conducting enquiry into the disciplinary cases, while recording their findings in the Enquiry 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 enquiry.

(249)

G.O.Ms.No.74 Genl.Admn.(Ser.C) Dept., dated 24-2-1994 regarding sealed cover procedure - promotion / appointment to higher posts - further orders (Cancelled by G.O.Ms. No. 257 Dept., dt. 10.6.99)

Subject Heading: Sealed cover procedure

Read the following:

1. G.O.Ms.No.424 G.A.(Ser.C) Dept., dt.25-5-76.
2. G.O.Ms.No.104 G.A.(Ser.C) Dept., dt.16-2-90.
3. G.O.Ms.No.66 G.A.(Ser.C) Dept., dt.30-1-91.

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 7-7-1992, 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 Enquiries 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 6-12-1993.

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. Dated 14-9-1992, 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, dated 25-5-1976.

6. In cases where the Officer's promotion is deferred in terms of G.O.Ms.No.424 Genl.Admn.(Ser.C) Department, dated 25-5-76 and the proceedings have not been disposed of, 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 made 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. Dated 24-2-1994 has been cancelled by G.O.Ms.No. 257 Genl.Admn. (Ser.C) Dept., dated 10-6-1999)

(250)

G.O.Ms.No.86 Genl.Admn.(Ser.C) Dept., dated 8-3-1994 regarding review of orders of suspension against Government servants - further orders

Subject Heading: Suspension — review of cases

Read the following:-

G.O.Ms.No.480, G.A. (Ser.C) Dept., dt. 7-9-1993.

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 7-7-1992, 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 6-12-93.

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.

5. The above benefit may be given to all existing cases, as and when their half yearly review is taken up.

(251)

U.O.Note No. 1700/SC.D/92-4 Genl.Admn.(SC.D) Dept., dated 9-3-1994 : 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., Dated 18.06.1966.
2. Memo. No.1718/Ser.C/75-1, G.A. (Ser.C) Dept., Dated 22.11.1975.
3. U.O.Note No.1418/SC.D/90-2, G.A. (SC.D) Dept., Dated 05.11.1990.
4. From the Director General, Anti-Corruption Bureau, Hyderabad, Lr. C.No.61/RPC(C)/92, Dated 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.

(252)

U.O.Note No.266/SC.D/94-2 Genl.Admn.(SC.D) Dept., dated 18-3-1994: 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. 26-3-91.
 2. G.O.Ms.No.368 G.A.(SC.D) Dept., dt.29-6-93.
 3. From the D.G., A.C.B., Lr.C.No.35/RCT.TCT/92 dt.16-2-94.

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.

(253)

**Memorandum No.283/SC.D/94-1 Genl.Admn.(SC.D) Dept.,
dated 19-3-1994 : 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. 19-3-94.

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.

(254)

**Memorandum No.2139/SC.F/92-1 Genl.Admn.(SC.F) Dept.,
dated 7-5-1994: 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.,
dated 7-12-92.

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 referre, 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 enquiry 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.

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.

(255)

Memo. No. 17757-A/216/A2/Pen.I/94, Finance & Planning (FW.Pen.I) Dept., dated 24-5-1994 regarding procedure to be followed to withhold or withdraw Pension

Subject Heading: Pensioner — taking of departmental action

According to Rule 9 of 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 Andhra Pradesh Civil Services (Control, Classification and Appeal) Rules while he was in service, including re-employment, the proceedings will be deemed to be proceedings under Rule 9 of 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 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 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))

(256)

**Circular Memo.No.290/Ser.C/94-2 Genl.Admn.(Ser.C) Dept.,
dated 1-6-1994 : 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.Civil Services (CC&A) Rules, 1963 have been repealed by the A.P.Civil Services (CC&A) Rules, 1991 which came into effect from 1-10-1992.

2. The new rule 20 of the A.P.Civil Services (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.Civil Services (CC&A) Rules, 1991, prescribes entirely a new procedure for conducting an enquiry 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/enquiry authority:

- (i) For imposition of a major penalty, an enquiry should be conducted either under the C.C.A. Rules, or the Public Servants (Enquiry Act).
- (ii) The disciplinary authority may itself conduct the enquiry or appoint an inquiry authority to conduct the enquiry.
- (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 enquiry 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) the new A.P.Civil Services (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 C.C.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 C.C.A. Rules articles of charges etc., will have to be prepared or got prepared by the disciplinary authority. Needless to say that the articles of charge from the basis of enquiry. Therefore utmost care and deligence 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 A.P.Civil Services (CC&A) Rules, 1991, whenever an inquiring authority is to be appointed for conducting enquiry under the said rules. They are also requested to bring these instructions to the notice of their subordinates for their guidance and compliance.

(257)

**Memorandum No.18/SC.D/94-3 Genl.Admn.(SC.D) Dept.,
dated 1-6-1994 : 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.28-9-93.

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.

(258)

U.O.Note No.314/SC.D/94-3 Genl.Admn.(SC.D) Dept., dated 7-6-1994 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. 30-3-91.

2. G.O.Ms.No.368 G.A.(SC.D) Dept., dt. 29-6-93.

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 30-6-1993. 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.

(259)

U.O.Note No.814/SC.D/94-1 Genl.Admn.(SC.D) Dept., dated 14-6-1994 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 Judgement 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 dated 21-2-1994 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., dated 31-5-1994 regarding forwarding a copy of the judgement 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 21-2-1994 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 enquiry or contemplated enquiry 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 enquiry is

brought to a close by an order of the Tribunal for the reason of alleged prejudice to defence.

(260)

U.O.Note No.973/SC.D/94-1 Genl.Admn.(SC.D) Dept., dated 30-7-1994 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.14-2-92.
 2. U.O. Note No.322/SC.D/94-1 G.A.(SC.D) Dept., dt.10-4-94.

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 Department 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 31-3-1994 and 30-6-1994 to this Department, immediately.

(261)

Memorandum No.357/Ser.C/94-1 Genl.Admn.(Ser.C) Dept., dated 4-8-1994 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. 8-3-89.

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.

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.

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.

(262)

Letter No. 66/VC.A2/93-3 dated 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., dated 3-8-1993.

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.

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, General Administration (SC.D) Department, dated 29th June, 1993. G.O.Ms.No. 421, General Administration (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, General Administration (SC.D) Dept. 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 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.1 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 enquiry, 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 over 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 Officers

The Vigilance Commission shall be consulted in respect of all complaints against gazetted officers which are received by the Department 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 made

Commission monthly progress reports in the form of an abstract by 15th of every month.

20. Procedure in respect of Govt. 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)

(263)

U.O.Note No.1166/SC.D/94-1 Genl.Admn.(SC.D) Dept., dated 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. 7-6-94.
2. From the Vigilance Commissioner Lr.No.102/VC.C1/93-9 dt.16-8-94.

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 Enquiries, 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.

(264)

G.O.Ms.No.541 Genl.Admn.(Ser.C) Dept., dated 2-11-1994 regarding Departmental Enquiries (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. Accordingly 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.

(265)

Memorandum No.554/Ser.C/93-6 Genl.Admn.(Ser.C) Dept., dated 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., dated 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.8-3-89.
 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. 5-10-93.
 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 dated 24-4-1995 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.

(266)

Memorandum No.263/SC.D/94-2 Genl.Admn.(SC.D) Dept., dated 4-1-1995 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. Date 28.11.1994.
- 3) From the Vigilance Commissioner, Andhra Pradesh, Hyderabad, letter No. 104/VC- G2/94-15, Date 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 where in the Anti-Corruption Bureau has also requested the Heads of Department 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 enquiries 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 / enquiry and reached the stage of oral enquiry after framing charges under relevant disciplinary rules and the departmental enquiry is in progress, the Anti-Corruption Bureau , need not take up the case afresh for investigation.

(267)

**Memorandum No.650/Ser.C/94-3 Genl.Admn.(Ser.C) Dept.,
dated 6-1-1995 regarding examination of Charged Officer by
Presenting Officer — clarifications 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 enquiry 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 enquiries; but the enquiry officer has to follow the Rules governing departmental enquiries and also the principles of natural justice.

Rule 20 of the Andhra Pradesh Civil Services (CCA) Rules, 1991 lays down the procedure to be followed during departmental enquiry. Sub-Rules 16 to 18 of rule 20 of Andhra Pradesh Civil Services (CCA) 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).

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 prefer to the examination of himself as a Defence Witness and when there are no other defence witnesses in this case. “No” 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.
- (ii) Whether the enquiry officer can examine and cross examine Defence Assistant for one Charged Officer can examine

- examine, if necessary the other Charged Officer only if the other charged officer volunteers to give evidence. But a Charged Officer cannot be examination of charged officer by the presenting Officer. 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.

(268)

Letter dated 24-2-1995 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 CrI.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.

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 CrI.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.

(269)

**Memorandum No.657/Ser.C/94-4 Genl.Admn.(Ser.C) Dept.,
dated 9-3-1995 regarding taking of retired Government
employees as defence assistants**

Subject Heading: Defence Assistant — taking retired Govt.

employees

Rule 20(8)(b) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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), dated 22-5-1992, 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(270)

G.O.Ms.No. 59 Finance & Planning (FW.FR.I) Dept., dated 27-3-1995 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. 7-4-92.
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) dated 3-12-1985 amending the instruction 19 in APPENDIX-VI to A.P.Civil Service (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 7-4-1992. Government have been receiving number of cases seeking benefit of these orders where the suspension period pertains to prior to 7-4-1992

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.”

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 in 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, dated 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.

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.

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 7-4-1992.

AMENDMENT

In rule 54-B of the said rules, in sub-rule (5) in the proviso, the expression "on or after 7-4-1992" 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, dated 22-12-1997.)

(271)

Circular Memo.No.5/26418/X1/92 of Transport Commissioner, A.P., Hyderabad dated 21-7-1995 regarding surprise checks on Transport Check posts - Inquiry Officer to pass orders of disposal of cash

Subject Heading: Surprise checks — disposal of cash

Ref :- This Office Circular Memo. No. 3/29292/X1/93
dt. 24-7-93.

In the reference cited instructions were issued to all the Gazetted Officers of the Department to the effect that whenever they are appointed as Enquiry Officers to conduct regular enquiries, 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.

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.

(272)

U.O.Note No.2751/SC.E/95-1 Genl.Admn.(SC.E) Dept., dated 16-9-1995 : 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. 20-7-87.

2. Memo.No.700/SC.D/88-4 G.A.(SC.D) Dept., dt. 13-2-89.

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.

(273)

U.O.Note No. 2965/SC.E/95-1 Genl.Admn.(SC.E) Dept., dated 9-10-1995 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.22.9.95.

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

judicial 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 to 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 subordinate for production of documents as other wise 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 subordinate staff.

(274)

Memorandum No.320/SC.D/95-3 Genl.Admn.(SC.D) Dept., dated 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., Date 26.10.1966.
2. Memo.No. 263/SC-D/94-2, G.A. (SC-D) Dept., Date 4.1.1995.

3. From the Director General, Anti-Corruption Bureau , letter C.No. 18/RPC (C)/95, Date 25.3.1995.
4. From the Vigilance Commissioner, A.P. Vigilance Commission, Hyderabad , Letter No. 516/VC-F1/95-1, Date 18.9.1995.

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 has conducted the investigation /enquiry and reached the stage of oral enquiry after framing charges under relevant disciplinary rules and the departmental enquiry 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 tantamount 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 to 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 enquiries, 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.

(275)

Memorandum No.3431/SC.E/95-1 G.A.(SC.E) Dept., dated 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.13-3-87.
 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.17-2-88.
 4. Memo.No.2899/SC.F/87-1 G.A.(SC.F) Dept., dt.20-4-88.
 5. U.O.Note No.1041/SC.F/88-4 G.A.(SC.F) Dept., dt.16-8-89.
 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 Enquiries 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 Administration Departments or through specialised agencies such as Anti-Corruption Bureau and Vigilance & Enforcement instead of entrusting them to the Commissionerate of Inquiries.

(276)

**Memorandum No.3148/SC.E/95-1 Genl.Admn.(SC.E) Dept.,
dated 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.121, General Administration (SC.D) Department, dated 3-8-1993 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) (xxxi) 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)(xxxi), 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.

(277)

Circular Memo.No.100/Ser.C/93-22 Genl.Admn.(Ser.C) Dept., dated 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, Dated 2.4.93 from Secy. to Govt. (Ser.),G.A.D.

2. D.O.Lr.No.100/Ser.C/93-5, Dated 1.6.93 from Chief Secy. to Govt., 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 affective 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 subordinate 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 enquiries are completed expeditiously, where ever 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 APCS (CCA) 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 enquiry officers are exposed to such programmes so that they are well versed in such procedures.

(278)

U.O.Note No.3362/SC.E/95-1 Genl.Admn.(SC.E) Dept., dated 29-1-1996 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.25-8-94.

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 of 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 2 ½ 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.

(279)

Circular No.19/95/CPE/SR, O/o. Commissioner of Prohibition & Excise, A.P., Hyderabad Dated 7-2-1996 regarding declaration of cash by officials of Proh. & Excise Stations at the time of reporting to duty

Subject Heading: Cash — declaration at 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.

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.

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.

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.

dt.25-6-95.

(280)

G.O.Ms.No.56 Genl.Admn.(Ser.C) Dept., dated 13-2-1996 regarding Departmental Enquiries (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 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.

(281)

U.O.Note No.3269/SC.E/95-7 Genl.Admn.(SC.E) Dept., dated 23-2-1996 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.13-3-87.
 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.22-3-89.
 4. U.O.Note No.1135/SC.F/92-1 G.A.(SC.F) Dept.,

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 Enquiries, 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 imputation, 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 comings noticed in the certain suggestions relating to framing of charges in disciplinary cases. The Chairman, Commission 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 as to avoid likely inconsistencies (some time contradictions) between the main Charge Memo. and statement of imputations of misconduct either on the scope of substance of the charge or on the score of wording / discription 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 discription 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 are Gazetted functionary. The non-gazetted functionaries in collusion with whom the Charged Officer is supposed to have acted in violation A.P.Civil Service (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 sub-ordinates.

- (7) The disciplinary authority before use of the expression like "collusion" "connivances" etc., by the Charged Officer with others in the same of 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 work 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 on 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.

6. 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.

(282)

**Memorandum No.557/SC.D/95-2 Genl.Admn.(SC.D) Dept.,
dated 26-2-1996 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.13-2-89.
 2. Memo.No.1444/SC.D/90-1 G.A.(SC.D) Dept., dt.17-1-91.
 3. Memo.No.223/SC.D/92-6 G.A.(SC.D) Dept., dt.15-3-93.
 4. From the D.G., A.C.B., Lr.C.No.60/RPC(C)/95 dt.24-5-95 and even number dt. 113-2-96.
 5. From the Vigilance Commissioner, A.P., Lr.No.590/VC.A1/95-1 dt.6-2-96.

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.

(283)

Memorandum No. 265/SC.X/96-1 Genl.Admn.(SC.X) Dept., dated 26-2-1996 regarding perusal of property statements of All-India Services 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.

(284)

G.O.Ms.No.77 Genl.Admn.(Ser.C) Dept., dated 27-2-1996 regarding empowering District Collectors for initiating

**disciplinary proceedings against District Officials under
A.P.C.S. (CCA) Rules, 1991**

**Subject Heading: Departmental action — against District
officials, initiation by District Collectors**

Read the following:-

G.O.Ms.No.487 G.A.(Ser.C) Dept., dt.14-9-92.

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 A.P.Civil Services (Classification, Control and Appeal) 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 A.P.Civil Services (Classification, Control and Appeal) 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 A.P.Civil Services (CCA) 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 A.P.Civil services (CCA) 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.

(285)

**G.O.Ms.No.82 Genl.Admn.(Ser.C) Dept., dated 1-3-1996
regarding suspension - consolidated instructions issued and
proformae prescribed**

Subject Heading: Suspension — proforma prescribed

Read:-

G.O.Ms.No.487 G.A.(Ser.C) Dept., dt.14-9-92.

ORDER:

Under the provisions of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, the competent authority should issue orders in disciplinary cases after due

consideration, in the relevant proforma 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)

(286)

Memorandum No.689/Ser.C/95-3 Genl.Admn.(Ser.C) Dept., dated 16-3-1996 regarding taking disciplinary proceedings simultaneous 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 Vth Legislative Assembly to IXth 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.

(287)

Circular Memo No.560/Ser.C/95-3 Genl.Admn.(Ser.C) Dept., dated 21-3-1996 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. 1-4-93, Finance & Planning (FW.FR.II) Department.

2. G.O.Ms.No.411 G.A.(Ser.C) Dept., dt. 28-7-93.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(288)

U.O.Note No.680/SC.E/96-1 Genl.Admn. (SC.E) Dept., dated 8-4-1996 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 Enquiry and the Departmental Authorities in most of the cases are closed by imposing minor

punishments like warning, censure etc., to the delinquents and in some cases inflicting a major penalty. But after disposing of the Departmental Enquiries, 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 of. 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.

(289)

**Memorandum No.1032/SC.E/96-1 Genl.Admn.(SC.E) Dept.,
dated 9-4-1996 : 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 dated 21-2-1994 is enclosed (not enclosed).

The Advocate General, Andhra Pradesh High Court is informed that the Supreme Court in State of Orissa vs. Sri B.K.Mohanthly 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.

The above Supreme Court Judgment was communicated to all the Departments of Secretariat through U.O.Note 814/SC.D/94-1, General Administration (SC.D) Department, dt.14-6-94 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.

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.

(290)

U.O.Note No.1184/SC.E/96-1 Genl.Admn.(SC.E) Dept., Dated 22-4-1996 : 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 dated 1-6-1955 of Home (Services.C) Department of ex-Andhra Government, U.O.Note No.1672/Ser.C/81-1, General Administration (Ser.C) Department, dated 19-11-1981 read with those in Government Memo.No.3148/SC.E/95-1, dated 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.

(291)

Memorandum No.404/SC.D/96-1 Genl.Admn. (SC.D) Dept., dated 6-5-1996 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.30-3-83 read with Memo. No.163/ SC.D/83-3 dt. 10-6-83.

2. Govt.Memo.No.735/SC.D/87-1 dt. 27-4-88.

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”.

(292)

Memorandum No.404/SC.D/96-2 Genl.Admn.(SC.D) Dept., dated 10-5-1996 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, Dated 27.4.1988.
2. From the Vigilance Commissioner, Andhra Pradesh Vigilance Commission, Hyderabad, Letter No.2037/VC.F1/95-2, Date 4.4.1996.

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.”

(293)

Memorandum No.394/Ser.C/96 Genl.Admn.(Ser.C) Dept., dated 3-7-1996 regarding Departmental Inquiries (Enforcement of attendance of witnesses and production of documents) Act, 1993 - proformae 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. 16-6-96.

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., dated 31-5-1996 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., dated

31-5-1996

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 produceable 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 enquiry. 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 subsection 4 of the Act.

2. According to the procedure laid down in the Code of Civil Procedure, 1908, every summons by the authorised 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 enquiry will or

continue to be secured in the manner as hitherto followed. Where, in the case of a departmental enquiry, 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))

(294)

Circular Memo.No. 408/Ser.C/95-8 Genl.Admn. (Ser.C) Dept., dated 23-8-1996 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. 8-8-1996.

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.

(295)

G.O.Ms.No.296 Finance & Planning (FW.FR.II) Dept., dated 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 Finance & Planning (F.W.F.R.II) Dept., dated 1-4-93.
2. G.O.Ms.No.411, G.A. (Ser.C) Dept., dt. 28-7-93.
3. G.O.Ms.No.480, G.A. (Ser.C) Dept., dt. 7-9-93.
4. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt. 8-3-94.
5. Cir.Memo.No. 29730-A/458/A2/FR.II/96 dt. 15-9-94 of Fin. & Plg. (FW.FR.II) Department.
6. G.O.Ms.No. 82, G.A. (Ser.C) Dept., dt. 1-4-96.
7. Govt.Memo.No.560/Ser.C/95-3, G.A.(Ser.C) Dept., dt. 21-3-96.

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 Andhra Pradesh (CCA) Rules.

3. In spite 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 General Administration (Ser.C) Department vide their U.O.No. 563/Ser.C/96, dt. 30-9-96.

(296)

Circular Memo.No.2222/SC.E/96-1 Genl.Admn.(SC.E) Dept., dated 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.15-7-96.

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.

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”.

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.

The Department 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.

(297)

**Circular Memo.No.1374/SC.D/96-2 Genl.Admn.(SC.D) Dept.,
Dated 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 28-1-1994 by the successor of the Executive Director and it was deposited in the Sub-Court on 30-1-1994.

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.

(298)

**Memorandum No.12008/Genl.C/96-1 Genl.Admn.(Genl.C)
Dept., dated 3-12-1996 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.

(299)

G.O.Ms.No.53 G.A.(Ser.C) Dept., dated 4-2-1997 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.25-4-85.
2. Memo.No.322/Ser.B/87-6 GAD dt.8-2-88.

ORDER:

According to sub-rule (i) of rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(300)

Memorandum No.4707/SC.E/96-1 Genl.Admn.(SC.E) Dept., dated 10-2-1997 : 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 Illrd 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.

Even after instructions were issued by the Andhra Pradesh Vigilance Commission in its letter No.437/VC.C1/94 dated 4-7-1994 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 dated 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 dated 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 dated 5-12-1996 relating to acquittal of Sri S.Satyanarayana, Divl.Co.op.Officer, Yalamanchili.
4. A.C.B. Lr.No.18/RCT.WVP/89 dated 5-12-1996 relating to Sri K.T.Kondal Rao, A.E., P.R.Department.

As rightly pointed-out by the Vigilance Commissioner in his letter dated 14-7-1994, 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.

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.

(301)

U.O.Note No.23552/Ser.C/97-1 Genl.Admn.(Ser.C) Dept., dated 7-5-1997 : 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.31-3-97.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 is commensurate with the gravity of the charge established.

(302)

U.O.Note No.1007/SC.E/97-1 Genl.Admn.(SC.E) Dept., dated 9-5-1997 : 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., dated: 3-8-93.

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.

The Commission having tendered its advice once initially as to the course of action, it is not necessary to refer the explanations/written statement of defences 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.

All the Departments of Secretariat are therefore requested to ensure that the explanations/statements of defences etc., received from the Accused Officers are not referred to the Commission for its advice.

(303)

U.O.Note No.2782/SC.E/96-1 Genl.Admn.(SC.E) Dept., dated 30-6-1997 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. G.O. Note No. 910/SC.D/85-1, G.A.(SC.D) Dept., dt. 26.8.1985.

2. From the Vigilance Commissioner , A.P.V.C., Hyderabad
Lr.No. 262/VC..C1/93-9 dt. 7.9.96.

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 Date 11.6.1995 and further clarified in Memo. No. 660/SC.D/96-7 G.A(SC.D) department Date 25.6.1985. 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. Date 26-8-1985. 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.

(304)

**Circular No.42050/AR&T.III/97-7 Genl.Admn.(AR&T.III) Dept.,
dated 26-7-1997 regarding surprise checks - CM's instructions
regarding list of records to be maintained**

Subject Heading : Surprise checks

- Ref:-
1. From the C.M., D.O.Lr.No.705/N/CMP/97 dt. 8-4-97.
 2. From the Chief Secretary D.O.Lr.No.214/CSP/N/97 dt. 16-5-97.
 3. D.O.Lr.No.42050/AR&T.III/97-5 dt. 21-6-97.

It is informed that the C.M. has emphasised the need to carry out surprise inspections at least 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.

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.

(305)

G.O.Ms.No.342 Genl.Admn.(Ser.C) Dept., dated 4-8-1997 (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. 25-4-85.
2. G.O.Ms.No.53 G.A.(Ser.C) Dept., dt.4-2-97.

ORDER:

Under rule 9 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 199 , 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 General Administration (Services.B) Department, dated 25-4-1985 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. 4-2-97 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/appoint-

ment 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 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 of breach of orders while working in any department of the State or the Central Government, Local authority or Corporation concerned. Whenever a Government employee is awarded the penalty of recovery from 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 lump-sum, he/she shall not be recommended for promotion/appointment by transfer for minimum period of one year.

- (iv) Withholding of increments of pay

a) With cumulative effect (i) In G.O.Ms.No.335 G.A.(Ser.C)

Dept., dt.14-6-93 orders were issued to the effect that the

penalty of stoppage of increment with cumulative effect under Civil Services (CCA) Rules, 1991 and the prescribed rules is

such amounts to a major the Andhra Pradesh Rules, 1991 elaborate procedure under rule 20 of the said to be followed.

such recommendation for twice the increment(s) cumulative and non-

(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 employees shall not be recommended for promotion/ment by transfer for period for which the is/are stopped with effect, both for selection selection posts.

(b) without cumulative effect

(iii) Whenever any Government employee is awarded the penalty of stoppage of increment with 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.

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minimum
for
posts.

This penalty awarded to Govern-
ment employee shall debar him/
her for promotion/appointment
transfer to a higher post
the period of
penalty which shall be
in the order subject to a
period of one year both
selection/non-selection

(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
can may be considered for pro-
motion with retrospective effect.
Where the disciplinary proceed-
ings 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.

(306)

U.O.Note No.962/SC.E/97-1 Genl.Admn.(SC.E) Dept., dated 4-8-1997 : Not to mention 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. 22-8-89.
 3. G.O.Ms.No. 421 G.A. (SC.D) Dept., dt. 3-8-1993.
 4. From the Vigilance Commissioner, A.P.Vigilance Commission, Hyderabad Lr.No. 507/VC.F1/97-1 dt. 24-3-1997.

The attention of all the Departments of Secretariat is invited to the references 1st to 3rd cited.

In the reference 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 E.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.

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.

In spite 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.

The Government have examined the matter and have agreed to issue instructions as requested by the Vigilance Commissioner.

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 Enquiry Officer.

(307)

U.O.Note No.1005/SC.E/97-3 Genl.Admn.(SC.E) Dept., dated 27-9-1997 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. 16-7-86.
 2. G.O.Rt.No.732 G.A.(SC.F) Dept., dt. 22-2-89.
 3. G.O.Rt.No.2172 G.A.(SC.E) Dept., dt.15-5-97.
 4. G.O.Rt.No.4394 G.A.(Spl.A) Dept., dt.16-8-97.
 5. G.O.Rt.No.4816 G.A.(SC.E) Dept., dt.30-8-97.

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 enquiries as Enquiry Officer for conducting departmental enquiries in terms of Rule 19(2)(a) of A.P.C.S. (CCA) Rules, 1963. These rules were replaced by A.P.C.S. (CCA) 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 enquiries 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 enquiries under the provisions of AIS (D&A) Rules, 1969 and APCS (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 APCS (CCA) 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. 27-9-97 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., dated 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 (CCA)Rules, 1991.

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.

(308)

U.O.Note No.1005/SC.E/97-5 Genl.Admn.(SC.E) Dept., dated 1-10-1997 regarding Commissionerate of Inquiries - appointment of Presenting Officers

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. 27-9-97.

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(CCA) Rules, 1991 and A.I.S.(D&A) Rules, 1969.

According to the provision in Rule 20(5)(c) of APCS (CCA) 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.

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.1-10-97 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., dated 23-11-1998).

(309)

U.O.Note No.75025/Ser.C/97-1 Genl.Admn.(Ser.C) Dept., dated 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. 25-6-74.
2. From the Director General, A.C.B., C.No.63/RPC(C)/97 dt.5-6-97.

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 an 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.

(310)

G.O.Ms.No.448 Genl.Admn.(SC.E) Dept., dated 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 25-7-1985 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 judgement of the appeal filed by the Officer. While giving the above opinion on 28-1-86 the file was not seen by the Secretary, Law Department. Final Judgement in the above case was, however, delivered on 17-6-1986 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 28-1-86, advised the Department to impose any of the penalties specified in Rule 8 of A.P.C.S.(CCA) Rules, 1963.

Instead of dismissing the accused officer from service, the Administrative Department have appointed an Enquiry Officer to conduct enquiry, into the matter. Based on the Enquiry Officer's findings, the Administrative Department have proposed whether further action in the case may be dropped.

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 25-7-1997 and observed that though the Law Department gave its revised advice as far back as on 20-4-1989, 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 31-7-96 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 25-7-85. 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.

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.

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.

(311)

G.O.Ms.No.504 Genl.Admn.(V&E-A) Dept., dated 25-11-1997 regarding Single Directive of Vigilance & Enforcement Department

Subject Heading: V&E Department — single directive

Read the following:

G.O.Ms.No.269 G.A.(SC.D) Dept., dt.11-6-85.

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. 11-6-85 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 dated 3-8-95:

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 in respect 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 Depts. 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 Depts. 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.

(312)

G.O.Ms.No.536 Genl.Admn.(Ser.C) Dept., dated 8-12-1997 regarding stoppage of increments with cumulative effect - consultation with Public Service Commission for concurrence

Subject Heading: Withholding increment with cumulative effect — consultation with Public Service Commission

Read the following:-

1. G.O.Ms.No.335 G.A.(Ser.C) Dept., dt.14-6-93.
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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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:

- (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 165(2) or under Note 1 to Article 465-A of the Civil Service Regulations;
- (iv) removal from service; or
- (v) 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.

(313)

G.O.Ms.No.214 Finance & Planning (FW.FR.II) Dept., dated 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. 7-4-1992.
2. G.O.Ms.No. 182, Fin. & Plg. (FW.FR.II) Dept., dt. 31-10-1992.
3. G.O.Ms.No. 59, Fin. & Plg. (FW.FR.II) Dept., dt. 27-3-1995.

4. D.O.Lr.No. 277/LSP/RL/58/97, dt. 28-5-1997 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), dated 3-12-1985 amending the instruction 19 in APPENDIX-VI to the Andhra Pradesh Civil Services (C&CA) 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 7-4-1992. Orders were issued in the Government Order third read above omitting the expression "on or after 7-4-1992".

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 enquiry 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.

(314)

Memorandum No.2490/SC.E/96-2 Genl.Admn.(SC.E) Dept., dated 30-12-1997 regarding co-operation to be extended by departments to A.C.B.

Subject Heading: ACB — departments to extend cooperation

Ref : Government Memo.No.574/SC.D/86-1, General Administration (SC.D) Department dated 21.5.1996.

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.

It is since reported that in some cases the instructions issued in the Memo. Cited are not complied with by the Departments of Secretariat / Head of Departments and as such the Anti-Corruption Bureau is not in a position to conduct an independent enquiry.

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.

(315)

U.O.Note No.2381/SC.E/97-1 Genl.Admn.(SC.E) Dept., dated 5-1-1998 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. 3-8-93.

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, advise 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.

(316)

**Circular Memo No.95941/Ser.C/97-2 Genl.Admn.(Ser.C) Dept.,
dated 8-1-1998 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.1-6-94.

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.Civil Services (CCA) Rules, 1991 shall be followed before appointing the Enquiry Officer to conduct enquiry 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 is not being followed before appointing Enquiry Officer. In most of the cases, the enquiry 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.Civil Services (Classification, Control and Appeal) Rules, 1991 shall be followed scrupulously before taking a decision on the appointment of Enquiry 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.

(317)

Circular Memo.No.3824/Ser.C/98-2 Genl.Admn.(Ser.C) Dept., dated 9-2-1998 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. 18-6-66.
 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. 28-6-77.
 5. G.A.(Ser.C) Dept., U.O.Note No.32/Ser.C/81-2 dt.9-2-81.
 6. G.A.(Ser.C) Dept., Memo.No.169/Ser.C/77-8 dt. 10-2-78.
 7. G.A.(Ser.C) Dept., Memo.No.637/Ser.C/83-1 dt. 28-6-83.
 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.6-1-98.

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 mis-appropriation.

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 (CCA) 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 1st

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 Judgement 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

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.Civil Services (CCA) Rules, 1963 have been reissued and the new A.P.Civil Services (CCA) Rules, 1991 have come into force with effect from 1-10-1992. 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.

(318)

Memorandum No.1798/SC.E/87-4 Genl.Admn.(SC.E) Dept., dated 17-2-1998 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.13-3-87.

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 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,

1. ensure compliance with the instructions contained in Memo.No.490/SC.E/87-1 dt. 13-3-87 while entrusting the cases to the Commissioner for Departmental Enquiries.

2. ensure that the name and the address of the Presenting Officer is sent while entrusting the cases to the Commissioner for Departmental Enquiries.
3. Furnish the address of the Charged Officer and witnesses while referring the cases to the Commissioner for Departmental Enquiries.
4. 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.

(319)

Memorandum No.3037/SC.E/97-1 Genl.Admn.(SC.E) Dept., dated 27-4-1998 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.16-7-85.
 2. G.O.Rt.No.732 G.A.(SC.F) Dept., dt.22-2-89.
 3. G.O.Rt.No.2172 G.A.(SC.E) Dept., dt 15-5-97.
 4. G.O.Rt.No.4394 G.A.(Spl.A) Dept., dt.16-8-97.

5. G.O.Rt.No.4816 G.A.(SC.E) Dept., dt.30-8-97.
6. U.O.Note No.1005/SC.E/97-3 G.A.(SC.E) Dept., dt.27-9-97.
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 Andhra Pradesh Civil Services (CCA) 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 enquiry both against NGOs and Gazetted Officers is necessary as well as the cases of NGOs 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.

(320)

**Memorandum No.26788/Ser.C/98-1 Genl.Admn.(Ser.C) Dept.,
dated 18-5-1998 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 dated 21-2-94.
 2. U.O.Note No.814/SC.D/94-1 G.A.(SC.D) Dept., dt. 4-6-94.
 3. From the D.G., ACB., Lr.No.16/RPC(C)/98 dt. 21-4-98.
 4. U.O.Note No.818/SC.E/98-1 G.A.(SC.E) Dept., dt.1-5-98.

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 dated 21-2-94, 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.

(321)

Memorandum No.5310/259/L2/98 Law Dept., dated 30-6-1998 regarding Supreme Court decision on suspension

Subject Heading: Suspension — Supreme Court upholding suspension

Ref:- Lr.No.1144/VC.C1/94-12 dt. 2-6-98 from the Vigilance Commissioner.

While forwarding a copy of the Minutes of the Meeting held on 22-5-1998 (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.

(322)

**Circular Memo.No.35676/Ser.C/98- Genl.Admn.(Ser.C) Dept.,
dated 1-7-1998 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.8-11-78.
 2. U.O.Note No.1005/SC.E/97-3 G.A.(SC.E) Dept.,
dt.27-9-97.
 3. Memo.No.3037/SC.E/97-1 G.A.(SC.E) Dept., dt.27-4-
98.

In the reference 1st cited, instructions were issued for expeditious completion of enquiries 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 Enquiry Officers shall be viewed seriously and whenever the delay is attributed to the Enquiry Officers suitable action shall be initiated against them.

2. In rule 20 of A.P.C.S. (Classification, Control and Appeal) Rules, 1991 which deals with the procedure for conducting the enquiry, 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

enquiry. In spite of all clear instructions, it is noticed that there was "undue delay" in finalising the enquiries, 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 enquiries 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 enquiries is mainly attributed for non-presence of witnesses and also the relevant documents required to conduct enquiry. 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 Enquiry Officers to summon any individual to depose before Enquiry 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.

(323)

Letter No.13729/Ser.C/98-4 Genl.Admn.(Ser.C)Dept., dated 3-9-1998 : 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. 30-8-94.
 2. From Vigilance Commissioner Lr.No.1538/VC.F1/97-1 dt.26-9-97.
 3. From Vigilance Commissioner Lr.No.1689/VC.F1/95-9 dt.31-3-98.

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.Civil Services (Classification, Control and Appeal) 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. 1-10-1992. 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. 1-5-1993 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 there of 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.

(324)

U.O.Note No.1615/SC.E1/98-1 Genl.Admn.(SC.E) Dept., dated 11-9-1998 : 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 enquiries 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.

(325)

**Circular Memo.No.56412/Ser.C/98 Genl.Admn.(Ser.C) Dept.,
dated 18-9-1998 regarding misconduct of raising
subscriptions, funds**

Subject Heading: Misconduct — raising subscriptions, funds

Rule 7 of the A.P.Civil Services (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.”

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 be incurred from out of the budget only.

It is reiterated that the above rule shall be strictly compiled with by all the employees and any violation of rule attracts disciplinary action.

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.

(326)

Lr.No.IML/APBCL/Cash.reg/96-99/1296 A.P.Beverages Corporation Limited, dated 9-10-1998 regarding declaration of cash by officers working in IML Depots, at the time of reporting for duty

Subject Heading: Cash — declaration at 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”)

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)

- 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.

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.

(327)

Memorandum No.1849/SC.E3/98-1 Genl.Admn.(SC.E) Dept., dated 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 that an

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.

(328)

G.O.Ms.No.968 G.A.(Ser.C) Dept., dated 26-10-1998 regarding promotion / appointment to higher posts, of officers who are involved in Enquiries

Subject Heading: Withholding increment — effect on increments and promotion

Read the following:-

1. G.O.Ms.No.187 G.A.(Ser.B) Dept., dt. 25-4-85.
2. G.O.Ms.No.335 G.A.(Ser.C) Dept., dt. 14-6-93.

ORDER:

In para 11 of the G.O. first read above, orders were issued

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(329)

**Memorandum No.2486/SC.E/98-1 Genl.Admn.(SC.E) Dept.,
dated 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. 10.7.86 of G.A.
(SC.D) Dept.
- 5) From the D.G., A.C.B., A.P., Ir. C.No. 40/RPC(C) / 94,
dt. 5.3.94.

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 instruction 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 Department, 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.

(330)

Memorandum No.2487/SC.E/98-1 Genl.Admn.(SC.E) Dept., dated 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. 31-5-76.
 2. Govt.Memo.No.1095/Ser.C/84-4 G.A.(Ser.C) Dept., dt.27-4-85.
 3. Govt.Memo.No.220/Ser.C/89-11 G.A.(Ser.C) Dept., dt.8-3-89.
 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 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.

(331)

Memorandum No.2491/SC.E1/98-1 Genl.Admn.(SC.E) Dept., dated 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. 16.8.1974.
3. Govt.Memo No.292/SC.D/75-4, G.A. (Ser.D) Dept., dt. 2.8.1975.
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.

(332)

U.O. Note No. 800/SC.E/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. 27-9-97.
 2. U.O.Note No.1005/SC.E/97-5 G.A.(SC.E) Dept., dt. 1-10-97.
 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.11-3-98.
 5. From the G.A.(COI) Dept., U.O.Note No.207/COI.CH/97-3 dt.31-3-98.

6. From the Chairman, COI, G.A.(COI) Dept., D.O.Lr.No.26/COI.CH/97-1 dt.31-3-98.

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 enquiry 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 APCS (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. 27-9-97 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.1-10-97 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., dated 27-4-1998 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.

(333)

U.O.Note No.2670/SC.E3/98-1 Genl.Admn.(SC.E) Dept., dated 2-12-1998 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. 3-8-1993.
2. Procedural Instructions of APVC communicated through Lr.No.66/ VC.A2/ 93-3, APVC, dt. 10-10-1984.

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 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.

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.

(334)

U.O. Note No. 2776/SC.E/98-1 Genl. Admn. (SC.E) Dept., dated 3-12-1998 regarding suspension — review of cases

Subject Heading: Suspension — review of cases

- Ref:-
1. G.O.Ms.No.480, G.A. (Ser.C) Dept., dt. 7-9-1993.
 2. G.O.Ms.No.86, G.A. (Ser.C) Dept., dt. 8-3-1994.
 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 of 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 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.

(335)

**Circular Memo.No.76883/Ser.C/98- Genl.Admn.(Ser.C) Dept.,
dated 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.Civil Services (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 Govt.,

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.

(336)

Memorandum No.991/SC.E1/98-5 Genl.Admn.(SC.E) Dept., dated 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.13-2-89.
 2. Govt.Memo.No.1444/SC.D/90-1 G.A.(SC.D) Dept., dt.17-1-91.
 3. Govt.Memo.No.223/SC.D/92-6 G.A.(SC.D) Dept., dt.15-3-93.
 4. Govt.Memo.No.557/SC.D/95-2 G.A.(SC.D) Dept., dt.26-2-96.
 5. From the D.G., ACB., Lr.No.19/RPC(C)/98 dt. 4-5-98 & 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.

(337)

Memorandum No.2983/SC.E3/98-1 Genl.Admn.(SC.E) Dept., dated 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.

(338)

U.O.Note No.2985/SC.E1/98-1 Genl.Admn.(SC.E) Dept., dated 4-1-1999 : 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. 4-7-1997.

2. U.O.Note No. 962/SC.E/97-1 G.A.(SC.E) Dept., dt. 4-8-1997.

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. In spite 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 seriously and 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.

(339)

**G.O.Ms.No.2 Genl.Admn.(Ser.C) Dept., dated 4-1-1999
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.9-2-98.

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.

(340)

G.O.Ms.No.10, General Administration (SC-E) Deptt. Dated 7-1-1999 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., Dated 20.03.1968.
2. From the DG,ACB Lr.Rc.No.56/RPC (C) /96, Dated 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 Sec. 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.

(341)

U.O.Note No.598/SC.E3/99-1 Genl.Admn.(SC.E) Dept., dated 26-2-1999 regarding Vigilance Commission — consultation at lower than Govt. level to be ensured

Subject Heading: Vigilance Commission — consultation by disciplinary authorities at lower level than Govt.

Ref:- 1. G.O.Ms.No.421, G.A.(SC.D) dept., dt. 3-8-93.

- 2 Procedural instructions of A.P. Vigilance Commission communicated through Lr.No.66/VC.A2/93-3 A.P.V.C., dt. 10-10-1994.
3. U.O.Note No. 2670/SC.E3/98-1 GAD dt. 2-12-1998.
4. From the Vigilance Commissioner, A.P., Hyderabad, D.O.Lr.No. 163/VC.E1/94-12 dt. 18-2-1999 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 enquiries 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.

(342)

U.O.Note No.11107/Ser.C/99 Genl.Admn.(Ser.C) Dept., dated 1-3-1999 : 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 Enquiry 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 Enquiry Officer which is not contemplated in the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Enquiry Officer independently and come to its own conclusion.

3. It is also brought to the notice that some departments are referring the report of Enquiry Officer to the Director General, Anti-Corruption Bureau for remarks which is also not provided for in the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 enquiry 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 Enquiry Officer.

However, after issue of final orders on enquiry 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.

(343)

U.O.Note No.530/SC.E1/99-1 Genl.Admn.(SC.E) Dept., dated 5-3-1999 :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.

(344)

Memorandum No.17689/Ser.C/99 Genl.Admn.(Ser.C) Dept., dated 25-3-1999 : A.P.C.S. (Conduct) Rules, 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.27-8-91.
 2. G.A.(Genl.C) Dept., Endt. No.3/Genl.C/93-1 dt.20-1-93.
 3. Govt.Memo.No.144/Ser.C/93-1 G.A.(Ser.C) Dept., dt.30-4-93.
 4. Govt.Memo.No.404/Ser.C/93-1 G.A.(Ser.C) Dept., dt.19-8-93.
 5. Govt.Memo.No.568/Ser.C/93-1 G.A.(Ser.C) Dept., dt.3-11-93.

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.3-3-98.
9. G.A.(IC) Dept., U.O.Note No.7318/IC-2/98-1 dt.22-4-98.

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.Civil Services (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. In spite 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.

(345)

**G.O.Ms.No.189 Genl.Admn.(Ser.C) Dept., dated 20-4-1999
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.

(346)

Circular Memo.No.37989/A/494/A2/Pen.I/98 Finance & Planning (FW.Pen.I) Dept., dated 21-4-1999 regarding settlement of pensionary benefits in time — avoiding penal interest for delay

Subject Heading: Pensionary benefits — to sanction in time

Ref:- Cir.Memo.No.18982-A/183/PSC/88-1,2&3 dt.23-7-89
of Finance & Planning (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 Govt. 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 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 RPRs 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.4-7-1998 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 proceeding 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. In spite 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 APRPRs 1980 is payable on the delayed payment of

gratuity only. APRPRs 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.

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.

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.

(347)

G.O.Ms.No.203 Genl.Admn. (Ser.C) Dept., dated 5-5-1999 regarding promotion — over-all performance to be taken in case of punishments

Subject Heading: Promotion — guidelines

Read the following:-

G.O.Ms.No.187 G.A.(Ser.B) Dept., dt. 25-4-85.

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.

(348)

Memorandum No.32667/Ser.C/98-8 Genl.Admn.(Ser.C) Dept., dated 13-5-1999 regarding consultation with Public Service Commission

Subject Heading: Public Service Commission — consultation

Ref :- From the Secretary, A.P.S.C., Lr.No.1359/RT.I/1/98 dt. 7-5-99.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

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 at in rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(349)

Circular Memo.No.3026/18/A2/Pen.I/99 Finance & Planning (FW.Pen.I)Dept., dated 1-6-1999 : Disciplinary proceedings under Rule 9 of 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 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), dated 29-6-1990 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.

(350)

**G.O.Ms.No.257 Genl.Admn.(Ser.C) Dept., dated 10-6-1999
regarding sealed cover procedure**

Subject Heading: Sealed cover procedure

Read the following:-

1. G.O.Ms.No.424 G.A.(Ser.C) Dept., dt.25-5-76.
2. G.O.Ms.No.104 G.A.(Ser.C) Dept., dt.16-2-90.
3. G.O.Ms.No.66 G.A.(Ser.C) Dept., dt. 30-1-91.
4. From the Dept. of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions Government of India, Memo.No.22011/4/91-Estt.(A) dt.14-9-92.
5. G.O.Ms.No.74 G.A.(Ser.C) Dept., dt. 24-2-94.

6.G.O.Ms.No.203 G.A.(Ser.C) Dept., dt. 5-5-99.

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, dated 24-2-1994 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 enquiry, trial or investigation can be categorised into the to 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., dated 25-5-76 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.

(351)

U.O.Note No.2885/SC.E1/98-3 Genl.Admn.(SC.E) Dept., dated 11-6-1999 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. 8.3.89.
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.

(352)

**Memorandum No.23537/Ser.C/99-5 Genl.Admn.(Ser.C) Dept.,
dated 28-7-1999 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.1-7-98.

In the reference cited, orders were issued, fixing a time limit for completion of departmental enquiries 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 enquiries ordered it has been decided by the Government that under rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 briefs by Presenting Officer | Fifteen (15) days |
| (f) Submission of written briefs 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 enquiries 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 enquiries 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 enquiries 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 enquiries 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.

(353)

Letter No.46499/Ser.C/99 Genl.Admn.(Ser.C) Dept., dated 21-8-1999 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.5-8-99.

I am directed to enclose herewith a copy of G.O.Ms.No.279, G.A.(Ser.C) Department, Dt.23-6-99, wherein an amendment was issued to rule 6 of A.P.Civil Services (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.Civil Services (CCA) Rules.

(354)

**Circular Memorandum No.698/Special.B3/99-1
Genl.Admn.(Spl.B) Dept., dated 30-8-1999 : 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. 3-8-93.
2. U.O.Note No.2670/SC.E3/98-1 GAD dt.2-12-98.

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 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. (CCA) 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.

(355)

**Memorandum No.44391/Ser.C/99 Genl.Admn.(Ser.C) Dept.,
dated 21-9-1999 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. 9-2-98.
 5. G.O.Ms.No. 188, G.A.(Ser.C) dept., dt. 26-5-98.
 6. Circular Memo.No. 35676/Ser.C/98 G.A.(Ser.C) dept., dt. 1-7-98.
 7. G.O.Ms.No.2 G.A.(Ser.C) dept., dt. 4-1-99.
 8. Govt.Memo.No. 23537/Ser.C/99-5 G.A.(Ser.C) dept., dt. 28-7-99.

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 enquiries 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 enquiries and disciplinary proceedings.

4. It is reiterated that the inquiring authorities appointed to enquire into charges shall strive complete the enquiries as per the time schedule indicated and however in cases where the enquiry could not be completed for various reasons in time, the enquiry 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.

(356)

**Circular Memo.No.20922/Ser.C/99 Genl.Admn.(Ser.C) Dept.,
dated 28-9-1999 : 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 Enquiry 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 bring this to the notice of all other concerned authorities.

(Note: See Part II for Check List (No.35))

(357)

Letter No.1732/VC.F1/99-1 of A.P. Vigilance Commission dated 6-10-1999 : 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 not 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 deemed 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 made 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.

(358)

**Circular Memo.No.56183/Ser.C/99 Genl.Admn. (Ser.C) Dept.,
dated 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. 28-9-99.

It has been observed that the Enquiry Officers appointed under rule 20(2) of the A.P.Civil Services (Classification, Control & Appeal) Rules, are preparing the enquiry report in many different ways. No uniform structure is being followed. In order to guide the

Enquiry Officers in preparing the report of enquiry, it has been considered that a suitable format be prescribed. Accordingly, a format of " Enquiry Report" has been prepared and enclosed herewith for necessary guidance/use of the Enquiry 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)

(359)

**Memorandum No.46733/Ser.C/99 Genl.Admn.(Ser.C) Dept.,
dated 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 Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 provide for enquiry into the articles of charges framed either by the disciplinary authority itself or by any Enquiry 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 enquiry 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 Enquiry Officer instead of the disciplinary authority itself enquiring 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 Enquiry Officer under the CCA Rules when the disciplinary authority proposes to conduct detailed enquiry 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 enquiry, unless such appointment of the Enquiry 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.

(360)

Circular Memo.No.32665/Ser.C/99-2 Genl.Admn.(Ser.C) Dept., dated 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 Rule 11 of the A.P. Civil Services (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.Civil Services (CC&A) Rules,

1991.

(361)

**Circular Memo.No.706/Spl.A3/99 Genl.Admn. (Spl.A) Dept.,
dated 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 dated 29-6-1999.

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 dated 29-9-1992, 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.

(362)

**Circular Memo.No.34633/Ser.C/99 Genl.Admn. (Ser.C) Dept.,
dated 4-11-1999 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. 4-8-97.

Rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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.

(363)

**Circular Memo.No.60897/Ser.C/99 Genl.Admn.(Ser.C) Dept.,
dated 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. Civil Services (CCA) 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.

(364)

**G.O.Ms.No.508 Genl.Admn. (AR&T.I) Dept., dated 3-12-1999
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, dated 28-6-1999 / Business Rules / Secretariat Instructions / Secretariat Office Manuals will be issued separately.

(365)

U.O.Note No.1804/Spl.B3/99-1 Genl.Admn.(Spl.B) Dept., dated 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. 3-8-93.
 2. U.O.Note No.1772/SC.E3/99-1 GAD dt. 31-5-99.
 3. From the Secretary to Vigilance Commissioner, A.P. Vigilance Commission, Hyderabad Lr.No.336/VC.A2/99-5 dt. 8-12-99.

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. 20-5-99 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.

(366)

**G.O.Ms.No.578 Genl.Admn.(Ser.C) Dept., dated 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.7-9-93.
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.

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.

(367)

U.O.Note No. 1211/Spl.B/99-2 Genl.Admn. (Spl.B) Dept., dated 23-2-2000 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. 30-8-91.
 2. U.O.Note No.694/SC.D/94-1 GAD dt. 31-5-94.
 3. U.O.Note No. 2782/SC.E/96-1 GAD dt. 30-6-97.
 4. U.O.Note No.2518/SC.E/96-1 GAD dt. 4-7-97.
 5. U.O.Note No. 3120/61-1 G.A.(Ser.C) Dept., dt. 11-11-61.

Instructions were issued in the references 1 to 4 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. In spite 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.

(368)

Memorandum No.39071/471/A2/FR.II/99 Finance & Planning (F.W.FR.II) Dept., dated 28-2-2000 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. 1-4-93.

2. Memo.No.29730-A/458/A2/FR.II/94 dt.15-9-94.

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 observations 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 judgement 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 Head 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.

(369)

U.O.Note NO.302/Spl.B/2000-1 Genl.Admn.(Spl.B) Dept., dated 13-3-2000 : 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.4-8-97.
 2. U.O.Note No.2985/SC.E/98-1 GAD dt.1-1-99.
 3. From the Vigilance Commissioner, A.P., Lr.No.34/VC.A2/2000-1 dt.2.2.200.

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 Enquiry 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 impugning 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.

(370)

Memo.No.10304/Ser.C/2000 Genl.Admn.(Ser.C) Dept., dated 27-3-2000 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.7-11-94.
 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. 21-2-2000.

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 twenty thousand in value, whether by way of purchase, sale or otherwise, shall forth with 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.”

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.”

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.

In the reference 2nd cited, instructions have been issued that, the Controlling Officers or the Chief Vigilance Officer of 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.

In spite 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.

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.

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 property filed.

(371)

**G.O.Rt.No.1546 Genl.Admn.(Spl.A) Dept., dated 27-4-2000
regarding Sealed Cover Procedure for All-India Service**

Officers — guidelines**Subject Heading: Sealed cover procedure — for All-India Service Officers**

Read the following:-

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. 28-2-2000.

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. 28-3-2000.

To
The Chief Secretaries of all the
State Governments and Union Territories.

Sub:- Indian Administrative Service - Promotion to various grades - Guidelines - Regarding.—

Sir,

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.

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.

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 Govt. 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 OF
IN 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 Govt. 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
SUPRA ARISE 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 outlines 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.

(372)

G.O.Ms.No.147 Genl.Admn.(Spl.B) Dept., dated 1-5-2000 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.3-8-93.
2. U.O.Note No.2116/SC.E/96-2 GAD dt.15-9-97.
3. From the VC., AP., Hyd., D.O.Lr.No.622/VC.F1/99-1 dt.31-3-99.
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.

- (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/ Govt. Undertaking/ Govt. 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.

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 fifth 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 fifth 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.

(373)

G.O.Rt.No. 1034 Finance & Planning (FW.Pen.I) Dept., dated 9-6-2000 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."

(374)

G.O.Rt.No.1097 Finance & Planning (FW.Pen.1) Dept., dated 22-6-2000 regarding regulation of payment of pensionary benefits to Government servants retired from service pending disciplinary action — consolidated orders

Subject Heading: Pensionary 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.4-7-98 of Fin.&Plg.(FW.Pen.I) Dept.
2. Cir.Memo.No.3026/18/A2/Pen.I/99 dt.1-6-99 of Fin.&Plg.(FW.Pen.I) Dept.
3. Cir.Memo.No.37989-A/494/A2/Pen.I/98 dt.21-4-99 of Fin.&Plg..(FW.Pen.I) Department.
4. G.O.Ms.No.11 Fin. & Plg.(FW.FR.I) Dept., dt. 15-1-97.
5. D.O.Lr.No.368/VC.A2/99 dt.17-2-2000 of Vigilance Commissioner, AP., Hyderabad.

ORDER:

The Vigilance Commissioner in the reference 5th read above, has stated that references are being made to that 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) Enhancement 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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

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 Finance and Planning (FW.Pen1) Department dated 12-7-1999, 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, 1884 to recover the loss if any caused to the Government by him.

All the departments of Secretariat and pension sanctioning authorities are requested to take action accordingly and finalise the cases as quickly as possible.

(375)

Circular Note No.320/COI.R/2000-1 Genl.Admn.(COI.R) Dept., dated 1-7-2000 : Drawing of inappropriate conclusions against mediator witnesses in departmental inquiries to be avoided

Subject Heading: Departmental Inquiry — inappropriate comments against Govt. 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, dated 27-12-61 and later reiterated in Memo.No.2491/SC.E/98-1 dated 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.

(376)

Circular Memo.No.32268/Ser.C/2000 Genl.Admn.(Ser.C) Dept., dated 4-7-2000 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. 23-5-2000.

A copy of the reference cited together with its enclosures is communicated herewith.

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) dated 23-5-2000 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) dated 8-11-1974 (copy enclosed). Although these guideline were reiterated from time to time vide Department of Personnel & Training O.Ms dated 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 or 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.

(377)

U.O.Note No.3061/SC.E/99-1 Genl.Admn.(SC.E) Dept., dated 26-7-2000 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. 27-9-97.

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(CCA) Rules, 1991.

The Chairman, Commissioner 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.

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.

(378)

**Circular Memo.No.1728/Spl.B(3)/99-2 Genl.Admn.(Spl.B)
Dept., dated 31-7-2000 : 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. 3-8-93.

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.

(379)

U.O.Note No.1801/Spl.B/2000-1 Genl.Admn.(Spl.B) Dept., dated 21-8-2000 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.14-2-92.

2. U.O.Note No.322/SC.D/94-1 GAD dt.10-4-94.

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 5-5-2000 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.

(380)

U.O.Note No.1636/Spl.B/2000-1 Genl.Admn.(Spl.B) Dept., dated 4-9-2000 : 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. 4-7-97.

2. U.O.Note No.962/SC.E/97-1 GAD dt. 4-8-97.

3. U.O.Note No.2985/SC.E1/98-1 GAD dt. 4-1-99.
4. U.O.Note No.302/Spl.B/2000-1 GAD dt.13-3-2000.

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 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. In spite 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., dated 5-9-2000 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. 1-6-94.
 2. Govt.Memo.No.650/Ser.C/94-3 G.A.(Ser.C) Dept., dt. 6-1-95.
 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.16-5-2000.
 5. From the Vigilance Commissioner, APVC Lr.No.194/VC.A2/2000-2 dt. 1-8-2000.

Rule 20 of A.P.Civil Services (CCA) Rules, 1991 deals with the procedure for conducting departmental Inquiry. Instructions were issued vide the 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 the reference third cited, on departmental Inquiries.

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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 be required 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.”

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.

(382)

U.O.Note No.1788/Spl.B/2000-1 Genl.Admn.(Spl.B) Dept., dated 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. 3-8-93.
2. G.O.Ms.No.147 G.A.(Spl.B) Dept., dt.1-5-2000.

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.

(383)

U.O.Note No.1067/L&O-I/A1/2000-4 Genl.Admn. (Law&Order-I) Dept., dated 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. 13-2-1960.
 2. U.O.Note No.4457/Genl.A/72-1 G.A.Dept., dt. 13-9-72.
 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.9-9-98.

5. From the Addl.DGP, CID, A.P., Lr.C.No.691/C23/CID/2000, dt. 20-5-2000 & 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. 30-5-1961, 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 Govt. 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.Admn.(Ser.C) Dept., dated 11-1-2001 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. 1-3-96.
 3. From the Vigilance Commissioner, A.P. Vigilance Commission Lr.No.524/VC.A2/2000-1 dt.6-12-2000.

According to sub-rule (i) of Rule 24 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 irrespective of whether they belong to the same

service or different services or departments if their services are covered under Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 shall take a decision on the penalty to be imposed or otherwise to conclude disciplinary proceedings.

(385)

Memorandum No. 32351/Ser.C/2000-1 Genl.Admn. (Ser.C) Dept., dated 11-1-2001 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 Andhra Pradesh Civil Services (Classification, Control & appeal) 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))

(386)

**U.O.Note No.58414/Ser.C/2000-3 Genl.Admn.(Ser.C) Dept.,
dated 7-2-2001 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 Andhra Pradesh Civil Services (CC&A) Rules, 1991 are required to be inquired into either by appointing Departmental Enquiry 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, dated 1-3-1996, 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))

(387)

**Circular Memo.No.58414/Ser.C/2000-4 Genl.Admn.(Ser.C)
Dept., dated 7-2-2001 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. 1-3-96.
 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 Enquiry Officer under rule 20 of the Andhra Pradesh Civil Services (CCA) 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 Enquiry Officer under the Andhra Pradesh Civil Services (CCA) Rules, 1991, when the disciplinary authority proposes to conduct detailed enquiry 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 Enquiry 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 Enquiry 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.

(388)

Memo. No. 80-81/Ser.C/2001-1 Genl.Admn. (Ser.C) Dept., dated 28-2-2001 regarding proposals to be sent to Public Service Commission in disciplinary cases

Subject Heading: Public Service Commission — proforma for consultation

Ref:- 1. Govt.Memo.No.655/Ser.C/90-1 G.A.(Ser.C) Dept., dt. 17-8-90.

2. From the Principal Secretary, APPSC, D.O.Lr.No. 271/ RT.I/2/2001 dt. 8-2-2001.

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 proformae 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., dated 4-4-2001 (as amended by G.O.Rt.No. 4242 Genl.Admn.(Spl.B) Dept., dated 27-9-2001) 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 (Poll) General Admn. Department | Convenor |

(Nos. 2,3 and 4 included by G.O.Rt.No. 4242 Genl.Admn.
(Spl.B) Dept., dated 27-9-2001)

The Committee shall meet once in a month or as often as
necessary.

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Circular Memo.No. 58226/Ser.A/2000-2 Genl.Admn.(Ser.A) Dept., dated 1-5-2001 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 noncompliance 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.

(391)

Memorandum No.2045/Spl.B/2000-3 Genl.Admn. (Spl.B) Dept., dated 25-5-2001 regarding speedy disposal of trap and disproportionate assets cases

Subject Heading: Traps — Final Report, within a month

Ref : 1. Government Memo.No.700/SC.D/88-4, GAD
Dt.13.2.89.

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.

(392)

**Memorandum No.2045/Spl.B/2000-4 Genl.Admn. (Spl.B) Dept.,
dated 25-5-2001 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.

(393)

U.O.Note No. 599/Spl.B/99-1 Genl.Admn.(Spl.B) Dept., dated 31-5-2001 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.31.3.98.

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 APCS (CCA) 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 APCS(CCA) Rules. The D.G. has further informed that the G.A. (V&E) Dept., will continue to

extend all cooperation by associating themselves with the officers of administrative Departments concerned in conducting the enquiries 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.

All the Departments of Secretariat and Heads of Departments are requested to follow the above instructions with immediate effect.

(394)

**U.O.Note No.858/Spl.B/2000-3 Genl.Admn. (Spl.B) Dept.,
dated 10-7-2001 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)

(395)

U.O.Note No.757/Spl.B/2001-1 Genl.Admn.(Spl.B) Dept., dated 18-7-2001 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.

(396)

**Memorandum No. 24313/Ser.C/2000 Genl.Admn. (Ser.C) Dept.,
dated 26-7-2001 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.25.4.2000.

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 (CCA) 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, Dated 27.2.1996 empowering the District Collector to invoke Rule 19 of A.P. Civil Services (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, Dated 27.02.1996, as the Andhra Pradesh Civil Services (CCA) Rules 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.

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U.O.Note No.235/Spl.B/2001-1 Genl.Admn. (Spl.B) Dept., dated 26-7-2001 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.15.9.1997.
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.8.2.01.

In supersession of the U.O.Note 2nd cited, instruction 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.1.5.00 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, Dated 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.

(398)

U.O.Note No.854/SC.E/2001-2 Genl.Admn.(SC.E) Dept., dated 25-8-2001 : 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, Dated 8.6.01.

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.

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.

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.

(399)

Memo.No.1602/Spl.B/2001-12 Genl.Admn. (Spl.B) Dept., dated 29-10-2001 regarding High Level Committee to review anti-corruption cases

Subject Heading: High Level Committee — to review progress of inquiries, investigation

Ref:- 1. G.O.Rt.No.1625, G.A.(Spl.B) Dept., dt. 4-4-2001.

2. G.O.Rt.No.4242, G.A.(Spl.B) Dept., dt. 27-9-2001.

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.

All the Departments of Secretariat and Heads of Departments are therefore, requested to follow purchase procedure scrupulously in the meantime.

(400)

U.O.Note No.1818/Spl.B/2000-2 Genl.Admn.(Spl.B) Dept., dated 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. 5-10-93.
 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.

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.

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.

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.

(401)

Memo.No.1621/Spl.B/2001-1 Genl.Admn.(Spl.B) Dept., dated 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 2-8-2001 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.”

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.

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.

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.

(402)

Circular Memo. No. 944/SPL.B/99-5 Genl. Admn. (Spl.B) Dept., dated 1-4-2002 : 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. 10-5-82.
2. G.O.Ms.No.421, G.A.(SC.D) Dept., dt. 3-8-93.

3. U.O.Note No. 2751/SC.E/95-1, dt. 16-9-95.

4. G.O.Ms.No.147, G.A. (Spl.B) Dept., dt. 1-5-2000.

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 5-5-2000 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 Govt. 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.

(403)

**Circular Memo. No. 145/A2/FR.II/2001 Finance (FR.II) Dept.,
dated 7-5-2002 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. 28-2-2000.
2. From Vigilance Commissioner, Lr.No.171/VC.A2/2000-2 dt. 26-6-2001.

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, dated 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. Department, dated 5-11-1990 and in U.O.Note No. 1700/SC.D/92-4, dated 9-3-1994. Therefore, the Vigilance Commissioner has suggested to amend the Circular Memo.No. 39071/471/A2/FR.II/01, of this Department dated 28-2-2000 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 (CCA) 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 (CCA) 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 Head of Departments are requested are requested to follow the above

instructions scrupulously.

(404)

Memo.No.492/Spl.B/2001-2 Genl.Admn. (Spl.B) Dept., dated 29-5-2002 : ACB not to release trapped Govt. 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. 23-2-2001.

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 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.

After careful examination of the matter, Government have accepted the above proposal of the Vigilance Commissioner.

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.

(405)

Memorandum No.596/Spl.B/2000-6 Genl. Admn. (Spl.B) Dept., dated 10-6-2002 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. 9-3-2000.
 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. 15-7-2000.

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 16-4-2002 has agreed to the proposal of the Vigilance Commissioner.

The State Government, after careful examination of the advice of the Vigilance Commissioner, 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.

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.

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.

(406)

**Circular Memo.No.609/Spl.B/99-8 Genl.Admn.(Spl.B) Dept.,
dated 19-6-2002 : 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. 3-8-1993.
 2. U.O.Note No.450/SC.D/87-1, G.A.(SC.D) Dept.,
dt. 20-7-1987.
 3. U.O.Note No.2752/SC.E/95-1, G.A.(SC.E) Dept.,
dt. 16-9-1995.
 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. 3-3-1999.

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 / Govt. 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.

The Central Vigilance Commission, New Delhi in their Circulars fourth and fifth cited have issued instructions among others as under:

- (a) 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.
- (b) 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.

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.

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.

(407)

Memo.No.256/Spl.B/2002-1 Genl.Admn. (Spl.B) Dept., dated 22-6-2002 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. 22-3-2002.

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 CCA 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))

(408)

Circular Memo. No. 13673/Ser.C/2002-3 Genl.Admn. (Ser.C) Dept., dated 5-7-2002 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))

(409)

Memo. No. 15309/Ser.C/2002-2 Genl.Admn. (Ser.C) Dept., dated 4-10-2002 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. 8-3-1994.

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, dated 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.

(410)

Memo.No. 51883/Ser.C/2002-2 Genl.Admn. (Ser.C) Dept., dated 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.1-7-98.
 2. Govt.Memo.No.23537/Ser.C/99-5, G.A.(Ser.C) Dept., dt.28-7-99.
 3. U.O.Note No.1992/Ser.C/2000, G.A.(Ser.C) Dept., dt. 27-4-2000.
 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. 12-8-2002.
 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 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. Further it has been requested therein that 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 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. In the references 2nd and 3rd cited, a time schedule was prescribed to expedite the Departmental enquiries 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 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 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 Officer 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 enquiries 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 Andhra Pradesh Civil Services (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 enquiries 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.

(411)

G.O. Rt. No. 977 Genl. Admn. (Spl. B) Dept., dated 26-2-2003 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. 30-5-61.
2. Govt. Memo. No. 2866/SC.F/87-3 G.A. (SC.F) Dept. dt. 13-7-89.
3. Govt. Memo. No. 1271/SC.F/90 G.A. (SC.F) Dept. dt. 6-7-91.
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. 10-6-2002.

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 under taken 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 8-1-2003 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 1 st 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.

(412)

**Memo. No. 368/Spl. B/2002-1 Genl. Admn. (Spl. B) Dept.,
dated 28-2-2003 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.13-2-89.
2. Govt. Memo. No. 1444/SC.D/90-1 G.A.(SC.D) Dept., dt.7-1-91.
3. Govt. Memo. No. 223/SC.D/92-6 G.A.(SC.D) Dept., dt.15-3-93.
4. Govt. Memo. No. 557/SC.D/95-2 G.A.(SC.D) Dept., dt.25-2-96.
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. 10-5-2002.

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.

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.

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 reference 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.

The matter has been placed before the High Level Committee on Anti-Corruption. The Committee in its meeting held on 8-1-2003 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.

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 1 st 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.

(413)

Memo. No. 205/Spl.B/2003-1 Genl. Admn. (Spl. B) Dept. dated 15-3-2003 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. 13-3-2000.
2. U.O. Note No. 1636/Spl.B/2000-1 G.A.(Spl.B) Dept., dt. 4-9-2000.

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.

(414)

G.O.Ms. No. 104 Genl. Admn. (Spl. B) Dept., dated 4-4-2003 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. 29-6-93.
2. G.O.Ms.No.421 G.A. (SCD) Dept., dt. 3-8-93.

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 Head 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. Bonafide 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 of 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.

(415)

G.O. Rt. No 1699 Genl. Admn. (Spl.C) Dept. dated 15-4-2003 regarding imposition of punishment 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 dated 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.

(416)

Memo. No. 178/Spl.C/2003-1 Genl. Admn. (Spl. C) Dept., dated 7-5-2003 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. 2-1-99.

2. Govt. Memo. No. 698/Spl.B/99-1 G.A. (Spl.B) Dept., dt. 30-8-99.

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. (CCA) 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 and provisions and instructions scrupulously and also to instruct the Heads of Departments under their control to follow the rules and provisions and instructions issued in this regard. Any deviation in this regard will be viewed seriously.

(417)

**Circular Memo. No. 202/Spl.C/2003-1 Genl. Admn. (Spl.C)
Dept. dated 7-5-2003 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 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 8-1-2003 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 in detail 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 sec. 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 (CCA) 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 CCA Rules would be speedy and deterrent compared to recourse to prosecution in a court 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.

(418)

Memo. No. 177/Spl.C/2003-1 Genl. Admn. (Spl. C) Dept.,

**dated 13-5-2003 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.25-5-2001
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.

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.

The Andhra Pradesh Vigilance Commission has suggested certain measures to expedite investigation and to follow the time limit laid down in the ACB Manual

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.

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

(419)

U.O. Note No. 36/Spl.C/2003-1 Genl. Admn. (Spl. C) Dept., dated 26-5-2003 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. 3-8-1993.

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.

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 8-5-2003 recommended that all reports of D.G., V & E having a vigilance angle may be routed through VC for a decision.

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 a vigilance angle, to the Departments concerned through Vigilance Commissioner.

(420)

G.O. Ms. No. 174 Genl. Admn. (SC. E) Dept., dated 9-6-2003 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. 22-2-89.
2. G.O.Rt.No.4394 G.A. (Spl. A) Dept. dt. 16-8-87.
3. G.O.Ms.No.421 G.A. (SC. D) Dept. dt. 3-8-93.

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 16-4-2002, made a recommendation that the Commissionerate of Inquiries be 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 hence forth function under the administrative control of the A.P. Vigilance Commission.

(421)

Memo. No. 82494/Ser. C/2003 Genl. Admn. (Ser. C) Dept., dated 28-7-2003 regarding time limits to expedite inquiries in disciplinary cases

Subject Heading : Departmental Inquiry - time limits

Subject Heading : Public Service Commission — consultation

Ref:-

1. Circular Memo No 35676/Ser.C/98 G.A. (Ser.C) Dept., dt. 1-7-98
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. 5-6-2003

In the reference first cited instructions were issued 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. Further it has been requested therein that 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 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.

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 punishment 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.

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, dated 28-7-1999 and U.O.Note No. 1992/Ser.C/2000, G.A. (Ser.C) Department, dated 27-4-2000. Not more than one week time shall be taken to request the APPSC for its concurrence after a decision is taken to impose penalty.

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

(422)

**G.O.Ms.No. 232 Genl. Admn. (Spl.C) Dept. dated 6-8-2003
rearding 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-Conuption 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

as laid down in Memo. No. 23537/Ser.C/99-5, G.A. (Ser.C) the following documents should be completed by all Departments in consultation with the Director General, Anti-Conuption Bureau, Hyderabad.

- a) List of Officers of Doubtful Integrity
- b) Agreed list of Suspect Officers
- c) List of points or places of conuption
- 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-Conuption, 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 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 to also 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 Nigilance 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 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 likely hood 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 assistances 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.

(423)

Memo. No. I07309/Ser.C/2003 Genl. Admn. (Ser.C) Dept. dated 3-9-2003 regarding non-interference with quantum of penalty Tribunal/High Court

Subject Heading : Penalty - non-interference 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 29-1-2003 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.

(424)

G.O. Ms. No. 260 Genl. Admn. (Ser .C) Dept., dated 4-9-2003 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 Andhra Pradesh Civil Services (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 Andhra Pradesh Civil Services (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

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1003

on the Government employee, after duly following the procedure laid down in the Andhra Pradesh Civil Services (CCA) Rules, 1991.

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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 Andhra Pradesh Civil Services (CCA) Rules, 1991, where disciplinary proceedings are pending (vide G.O.Ms.No. 411 G.A. (Ser.C) Dept. dated 28-7-1993 and G.O.Ms.No. 296 Finance & Planning (FW.FR.II) Dept. dated 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 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 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 Andhra Pradesh Civil Services (CCA) Rules, 1991, where disciplinary proceedings are contemplated (vide G.O.Ms.No. 411 G.A. (Ser.C) Dept.

**dated 28-7-1993 and G.O.Ms.No. 296 Finance & Planning
(FW.FR.II) Dept. dated 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 Sri
are 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/Smt.
. . . under 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 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 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 Andhra Pradesh Civil Services (CCA) Rules, 1991, where criminal offence is under investigation/trial (vide G.O.Ms.No. 411 G.A. (Ser.C) Dept. dated 28-7-1993 and G.O.Ms.No. 296 Finance & Planning (FW.FR.II) Dept. dated 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 (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 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. (CCA) 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 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. dated 1-3-1996)**

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. dated 27-7-1977)

Sl. No.	Name and Designation of Officer under suspension	Date of suspension	Date of appointment of Inquiry Officer	***** Present stage of inquiry			
				(a)	(b)	(c)	(d)
				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 Memorandum No.32351/Ser.C/2000-1 Genl.Admn.(Ser.C) Dept. dated 11-1-2001)

“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. Civil Services (CCA) Rules, 1991 (vide G.O.Ms.No.82 G.A. (Ser.C) Dept. dated 1-3-1996)

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Form No. (9)

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 Govt./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 Genl.Admn. (Ser.C) Dept. dated 15-10-1999)**

- (i) Whether the order of suspension is in the format Yes / No prescribed in G.O.Ms.No. 411, G.A. (Ser.C) Dept., dt. 28-7-93 read with G.O.Ms.No. 214, Fin. & Plg. (FW.FR.II) Dept. dt. 22-12-1997.
(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. 27-3-1995, as the latter G.O. was superceded by the former.)
- (ii) Whether the orders for payment of subsistence Yes / No allowance, issued in accordance with FR.53
- (iii) Whether the order of suspension is reviewed by the Yes / No authorities empowered according to the orders issued in G.O.Ms.No. 480, G.A.(Ser.C) Department, dt. 7-9-93 and also in G.O.Ms.No.86, G.A. (Ser.C) Dept., dt. 8-3-94, as the orders of suspension shall be in force till conclusion of Disciplinary proceedings.
- (iv) While reviewing the order of suspension, whether the Yes / No 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.
- (v) Whether the employee under suspension furnished Yes / No the certificate as prescribed in G.O.Ms.No. 82, G.A. (Ser.C) Dept., dt. 1-3-96.
- (vi) Whether the order to revoke suspension is in the Yes / No format III of G.O.Ms.No.82, G.A. (Ser.C) Dept.,

dt. 1-3-96.

- (vii) Whether the instructions issued in Memo. No. 554/ Yes / No
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.
- (viii) Whether the period of suspension is regulated in Yes / No
terms of F.R. 54-B on conclusion of disciplinary
proceedings.

(10)

**Memorandum of charge for minor penalty proceedings under
rule 22 of A.P.Civil Services (CCA) Rules, 1991 (vide
G.O.Ms.No.82 G.A.(Ser.C) Dept. dated 1-3-1996)**

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. Civil Services (CCA) Rules, 1991 (vide G.O.Ms.No.82 G.A. (Ser.C) Dept. dated 1-3-1996)

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 (CCA) 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 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.Civil Services (CCA) Rules, 1991 (vide G.O.Ms.No.82
G.A. (Ser.C) Dept. dated 1-3-1996)**

Form No. (13)

1031

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.Civil Services (CCA) Rules, 1991 (vide G.O.Ms.No.82
G.A.(Ser.C) Dept. dated 1-3-1996)**

1032

Form No. (14)

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.(CCA) 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.Civil Services (CCA) Rules, 1991, where disciplinary authority decides to hold inquiry (vide G.O. Ms. No. 82 G.A. (Ser.C) Dept. dated 1-3-1996)

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 Sri is 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

...

Form No. (16)

1037

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. Civil Services (CCA) Rules, 1991 (vide G.O.Ms.No.82 G.A.(Ser.C) Dept. dated 1-3-1996)

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. (CCA) 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.Civil Services (CCA) 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
2. Sri of the charged
3. Sri Government servants)

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. Civil Services (CCA) 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
2. Sri of charged Government
3. Sri servants)

Whereas common proceedings have been ordered against the said Government servants under rule 24 of the A.P.C.S. (CCA) 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. Civil Services (CCA) Rules,

1991 (vide Circular Memo.No. 56183/Ser.C/99 Genl.Admn. (Ser.C) Dept. dated 15-10-1999) Charged Officer:

S h r i / S m t .
.....

Submitted by

Inquiry Officer

Vide Letter No.

Dated:

1. Under sub-rule (2) of Rule 20 of A.P. Civil Services (CCA) 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 misbehaviour (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.

Proceedings Tribunal to inquire into the allegation(s) Summons

(23)

Order of Government referring case to Tribunal for Disciplinary Proceedings under rule 3(1),(2) of A.P. Civil Services (DPT) Rules, 1989 read with sec. 4 of the A.P.C.S. (DPT) Act, 1960 (vide U.O.Note No.58414/Ser.C/2000-3 G.A. (Ser.C) Dept. dated 7-2-2001)

Memo.No.

Dated:

Sub:- Public Services - Disciplinary cases - Govt. servant(s) placed on defence before the Tribunal for Disciplinary Proceedings - Orders - Issued.

Discreet enquiries conducted by the appropriate authority on allegations relating to corruption / misappropriation / misconduct against Sri/Smt. (designation and department) reveal prima facie the need to probe the matter. The Government have decided to entrust the case against the said individual(s) to the Tribunal for Disciplinary Proceedings for regular inquiry into the allegations.

Under rule 3(1)/(2) of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989 read with sec. 4 of A.P.C.S. (DPT) Act, 1960, Sri/Smt. (designation and department) is/are placed on defence before the Disciplinary

Form No. (24)

1047

..... (corruption/ misappropriation/ misconduct). The Tribunal for Disciplinary Proceedings shall conduct inquiry as per rules and submit its report to the Government within the stipulated period.

The Director General, Anti-Corruption Bureau shall furnish all relevant records and material to the Tribunal for Disciplinary Proceedings to conduct inquiry.

(By order and in the name of the Governor of Andhra Pradesh)

COMPETENT AUTHORITY

To
The Secretary,
Tribunal for Disciplinary proceedings.

The
Director General,
Anti-Corruption Bureau, Hyderabad.

(24)

Summons to witness under sec. 5(3) of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (vide Memorandum No.394/Ser.C/96 Genl.Admn.(Ser.C) Dept. dated 3-7-1996)

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 Rule12 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.

(25)

Transmission of summons to be served on a witness under sec. 5(3) of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (vide Memorandum No.394/Ser.C/96 Genl.Admn.(Ser.C) Dept. dated 3-7-1996)

Request for transmission of summons to be served on a witness in a departmental inquiry

(Sub-Section(3) of Section 5 of Andhra Pradesh (26)

1050

Form No. (25)

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 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

Rubber Stamp bearing
name and designation.

**Authorisation to Inquiring Authority to exercise powers under
sec. 5 of A.P. Departmental Inquiries (Enforcement of
Attendance of Witnesses and Production of Documents) Act,
1993 (vide Memorandum No.394/Ser.C/96 Genl.Admn.(Ser.C)
Dept. dated 3-7-1996)**

(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 Sri it 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

1052

Form No. (27)

Designation

To

The Commissioner,

Printing, Stationery & Stores Purchase, Hyderabad)

(27)

Authorisation to an authority not lower than appointing authority to exercise power under sec. 4 of A.P. Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1993 (vide Memorandum No.394/Ser.C/96 Genl.Admn.(Ser.C) Dept. dated 3-7-1996)

(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 specifiesas 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.

Form No. (28)

1053

Signature

Designation

To

The Commissioner,

Printing, Stationery & Stores Purchase, Hyderabad.

(28)

**Check List on referring cases to Commissioner for
Departmental Inquiries for inquiry (vide Memorandum No.
490/SC.E/87-1 Genl.Admn. (SC.E) Dept. dated 13-3-1987)**

- | | |
|---|--------|
| 1. Is the Government the appointing Authority | Yes/No |
| 2. Is the charged officer, a Gazetted Officer | Yes/No |
| (In respect of cases arising on A.C.B. Reports) | |
| 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 APCS (CCA) 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 Enquiries. 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".

(29)

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.) Dept. dated 10-2-1978)

Whereas Shri (here enter name and designation of the Government servant) has been convicted on a criminal charge, under 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, and in consultation with the Public Service Commission, 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.

(30)

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.)Dept. dated 10-2-1978)

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 (CCA) 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 (CCA) 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 the name of the Government servant) shall, under sub-rule (4) of rule 8 of the Andhra Pradesh Civil Services (CCA) 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.

(31)

Order setting aside penalty, on Court deciding appeal in favour of Government servant (vide Memo.No.169/Ser.C/77-8 G.A.(Ser.) Dept. dated 10-2-1978)

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.

(32)

Sanction of Government for taking departmental action against a pensioner under rule 9 of Revised Pension Rules, 1980 (vide Memo. No. 17757-A/216/A2/Pen.I/94 Finance & Planning (FW.Pen.I) Dept. dated 24-5-1994)

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES - Departmental proceedings against Sri/Smt./Kum formerly Department - Sanction under Rule 9 of Revised Pension Rules, 1980 - Issued.

(DEPARTMENT)

Form No. (32)

1061

G.O.Ms.No.

Dated:

ORDER:

Whereas it has been made to appear that Shri/Smt./Kum while serving as in the Department from to 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 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 (CCA) 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.

The enquiry shall be conducted by (here specify the

(33)

Memorandum of Articles of charge etc. to be communicated to pensioner in departmental action under Rule 9 of Revised Pension Rules, 1980 (vide Memo. No. 17757-A/216/A2/Pen.I/94 Finance & Planning (FW.Pen.I) Dept. dated 24-5-1994)

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES - Sri Department
- Departmental proceedings under Rule 9 of 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 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. (CCA) Rules, 1991.

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. (CCA) 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 as ..
..... during 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.

(34)

**Check List on submission of disciplinary cases to A.P.Public
Service Commission (vide Memorandum No. 655/Ser.C/90-1
Genl.Admn. (Ser.C) Dept. dated 17-8-1990)**

1. In which the Enquiry Officer is appointed :
2. Preliminary Enquiry Report if any :
3. Charge Memo. issued to the delinquent officer :
by the E.O. at the time of enquiry
4. Explanation of the delinquent officer to the Charge :
Memo. issued by the Enquiry Officer
5. Records relating to the conduct of oral enquiry, :
perusal of records by the delinquent officer
and the cross-examination of witnesses etc.
6. Complete Enquiry Report with the findings of :
the Enquiry Officer
7. Final show cause notice served on the delinquent :
officer by the Government against the punishment
proposed
8. Explanation of the delinquent officer to the final :
show cause notice of the Government
9. Complete and up to date Proforma particulars :
of the delinquent officer
10. Complete and up to date personal file of the :
delinquent officer
11. List of such other relevant records sent along with :
the disciplinary case
12. Questionnaire Format (for individual-wise :
submission)

13. Name of the delinquent officer, designation and :
Department
14. The punishment proposed by Govt. with reasons :
support of the proposed punishment
15. Whether the punishment proposed is minor/major :
If major, whether required the procedure so
required under rule 19(2) of the CCA Rules
has been followed

CHECK LIST

1. Preliminary Enquiry Report.
2. Government Order relating to the appointment of Enquiry Officer.
3. Charge Memorandum containing the basis for the charge and the details of charges framed.
4. Explanation to Charge Memorandum and whether the Delinquent officer (Oral) or Oral Enquiry or Personal hearing (Form-I to be enclosed) if given.
 - d) Defence evidence (documents)
5. If opted for personal hearing, the recorded statement of the Enquiry Report.
7. Delinquent officer by the Enquiry Officer.
8. Show cause Notice.
6. If opted for Oral Enquiry:-
9. Explanation to Show Cause Notice.
 - a) Prosecution evidence (Oral)
10. Personal Files.
 - b) Prosecution evidence (documents)

11. Proforma particulars.

ANNEXURE

1. Name of the Accused Officer :
2. Whether Temp../Permanent/Contract Service :
3. Post held substantively if any permanent Services :
 - 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 (Questionnaire) the service :

of the officer have been regularised 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 to 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

12. Whether an oral enquiry if required under the rule :
has been held

13. Name and designation of the Enquiry Officer :
appointed, if any

14. Whether all the relevant documents in original :
particularly following have been enclosed with

the Commission's advice

A. In the case of Original Enquiries:

- i) Papers relating to preliminary enquiry, if any :
- ii) Date of preliminary enquiry :
- iii) Suspension orders, if any :
- iv) Charge sheet with the State of allegations :
- v) Explanation of the accused officer to the charge sheet :
- vi) Record of the oral enquiry :
- vii) Enquiry Officers Report :
- viii) Show cause notice for inflicting a major penalty:
- ix) a) Date of issue of show cause notice :
- b) Whether enquiry officer's report enclosed to the show cause notice :
- x) Reply of the accused officer to the show cause notice :
- xi) Miscellaneous documents regarding Evidence :

B. In the case of appeals:

In addition to the documents specified under

(A) above, the following

- i) Order of the punishing authority :
 - ii) Appeal, if any of the accused officer :
 - iii) Comments on the appeal as required :
- C. In the case of petition/Memorials:
- i) Orders, if any on the appeal :
 - ii) Petitions or memorial, if any from the :
accused officer
15. If no enquiry has been held whether the Memo. :
containing the allegations and the officials reply
thereto required have been enclosed in original
16. Whether comments on procedural points, if any
raised by the officer in his explanation to the
charge sheet reply to the show cause notice/
appeal/petition have been given
17. Whether complete and up to date confidential :
roll of the officer has been enclosed

(Note: The above two check lists and annexure to be
adapted to the provisions of A.P.C.S. (CCA) Rules, 1991)

(35)

**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.
dated 28-9-1999)**

I. INSTITUTION OF DISCIPLINARY PROCEEDINGS:

- (i) If it is proposed to hold a regular inquiry against a Government servant to whom A.P. Civil Services (CCA) 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 GAD, dt. 1-6-94. | Yes / No |
| (b) Whether the charges are framed in the format prescribed in G.O.Ms.No.82, G.A.(Ser.C) Dept., dt. 1-3-96. | 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. 1-3-96. | 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. 1-5-93 and in the format of G.O.Ms.No.82, G.A.(Ser.C) Dept., dt. 1-3-96. Yes / No
- (iv) In any disciplinary case where more than two Govt. servants are involved, whether common disciplinary proceedings are instituted as per Rule 24 of A.P.Civil Services (CCA) Rules, 1991 and in Form VII of G.O.Ms.No. 82 G.A.(Ser.C) Dept., dt. 1-3-96. 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.15-3-90. Yes / No
- (vii) Whether the time schedule prescribed in Circular Memo. No. 35676/Ser.C/98, G.A. (Ser.C) Dept., dt. 1-7-98 and in Memo. No. 23537/Ser.C/99-5, dt. 28-7-99 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. Commissioner's recommendations

- (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 Govt. 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 punishment.
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 Govt. 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 CCA rules. 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 recorded 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 punishment. 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 Yes / No

1076 are not agreed to.

Form No. (35)

- (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. 7-5-97, 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. 1-7-66 have been followed or not regarding punishment awarded. Yes / No
- (iii) Whether the instructions vide Memo.No. 1436 / Ser.C/80-2, G.A. (Ser.C) Dept., dt. 7-2-81 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

dt. 7-2-81 have been followed while imposing penalty of stoppage of Annual Grade Increment with cumulative effect.

- (iv) Whether the order of penalty and other papers communicated to the charged officer as per rule 23. Yes / No

(36)

Comprehensive Check List on Service Particulars and stages of Disciplinary Proceedings (vide Circular Memo.No. 13673/ 2002-2 G.A. (Ser.C) Dept. dt. 5-7-2002)

Check List for Disciplinary Cases

Part I - Service Particulars

1. Name of the Charged Officer	
2. Status (Gezetterd 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 regularised	
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 pensionary benefits are withheld pending finalisation 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 Deptl. I.O.
2. Whether Common or individual inquiry.	
3. In case of common disciplinary proceedings, indicate order of competent authority under rule 24 of the C.C.A. Rules in the format VIII of G.O.Ms. No. 82, G.A.(Ser.C) Dept., Dated : 1-3-96.	
5. 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-C/94-2, G.A.D. Dated : 1-6-1994 and G.O.Ms.No.	

82, G.A.(Ser.C), Dated : 1-3-96. (References of V.C./A.C.B. should not be quoted in charge memo)	
6. Record of delivering charge sheet to the charged officer whether available and date of service'	
7. Whether reply of the charged officer if any received. If not reasons	
8. Whether it is decided to impose a minor penalty if so details thereon.	
9. In case of decision to conduct major penalty proceedings the inquiry authority	
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., Dated : 1-3-96 [In case of Deptl.	

I.O. 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., dated: 1-5-1993 and in the format of G.O. Ms. No.82, G.A.(Ser.C) Dept., Dated : 1-3-96. [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.194, G.A. (Ser.C) Dept., Dated : 15-3-1990. 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.	

15. Whether the report of the I.O. contains the following as required under sub-rule (23) of rule 20 of C.C.A. Rules:-	
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) Breif statement of the explanation of the Government servant	
vi) Assessment of evidence in respect of each point.	
vii) Finidng on each charge (the inquiry officer to ensure that no recommendation is made about the quantum of punishment)	

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 the C.C.A. Rules.	

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 denovo enquiry or to conduct fresh inquiry)	
iii) whether disciplinary authority exercised its mind in arriving at the findings on the charges and independently arrived at the nature and quantum of punishment.	
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.	
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 recommendation 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., dated: 7-5-1997, are kept in view while issuing orders.	

<p>b) whether the instructions issued in U.O.Note 1713/ Ser.C/66-1, Dated : 1-7-1966, have been followed or not regarding punishment awarded.</p>	
<p>c) whether the instructions vide Memo. No. 1436/ Ser. C/80 - 2, dated : 7 - 2 - 1981 have been followed while imposing penalty of stoppage of Annual Grade increment with cumulative effect.</p>	
<p>d) whether the order of penalty and other papers communicated to the charged officer as per rule 23.</p>	
<p>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)</p>	

<p>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, Dated:24-5-1994 of Finance (Pen.I)Dept</p>	
<p>b) whether the charge is within the limitation of 4 years as per rule 9(2)(b)(ii) of R.P.Rs.</p>	
<p>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 RPRs)</p>	
<p>d) Reply of the officer to the aforesaid notice</p> <p>e) Comments on factual or procedural points raised by the officer in his reply</p>	

f) Whether A.P.S.C. was consulted on the penalty.	
<p>C. In case of disciplinary inquiry by Tribunal for Disciplinary Proceedings:-</p> <p>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, dated : 7-2-2001. [refer topic-B for further course of action under A.P.C.S.(DPT)Rules.</p>	
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	

<p>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.</p>	
<p>5. Whether findings of the T.D.P. are agreed to. If not</p>	
<p>i) whether further inquiry by T.D.P. is sought under rule 6(2)(c) of APCS (DPT)Rules</p>	
<p>ii) whether it is proposed to disagree with the findings of the T.D.P.</p>	
<p>6. Whether Vigilance Commission is consulted as per instructions issued in G.O.Ms.No.514, G.A. (Ser.C) Dept., Dated: 15-10-1994, if so the advice of V.C.</p> <p>(Note: The G.O. introduced an amendment in the first proviso of cl. (b) to sub-</p>	

<p>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".)</p>	
<p>7. Whether enquiry report of the T.D.P. is communicated to C.O. calling for his representation if any (within one month)</p>	
<p>i) agreeing with the findings</p>	
<p>ii) disagreeing with findings duly communicating the points of disagreement together with a brief statement of the grounds therefor along with enquiry report</p>	
<p>8. Whether any representation of the charged officer received; if so his contentions.</p>	
<p>9. Comments of the Government on the representation of charged officer</p>	

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 R.P.Rs, 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.	
D. Disciplinary action for penalty in pursuance of conviction in Court under Rule 25(i) of C.C.A. Rules. (Mere suspension of sentence no bar to levy of penalty under rule 25(i) of C.C.A.Rules)	

1. Name of the Court which convicted the accused officer(s) with C.C.No./ date of judgement	
2. Date of receipt of copy of judgement	
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., Dated : 9-3-1994, proviso to rule 9 of C.C.A. Rules and G.O.Ms.No.2, G.A. (Ser.C) Dept., Dated: 4-1-1999, to be imposed ordinarily in the above cases)	

6. If a lesser penalty is proposed, reasons therefore	
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 judgement 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-cut in pursuance, Department need not consult the A.P.P.S.C.

(37)

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 dated 14-4-1958)

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 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.

(38)

**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 dated 14-4-1958)**

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.

(39)

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:
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.

(40)

Intimation of foreign currency/goods received by Government servant Sri..... under rule 6A of the Andhra Pradesh Civil Services (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:
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.

(41)

Statement of immovable property possessed, acquired and disposed of by Govt. 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	Situation of property (Survey/Municipal Number, with extent)	Held in whose name	Date & mode of acquisition/ disposal
(1)	(2)	(3)	(4)
1. House			
2. Flat			
3. Shop			
4. House plot			
5. Agrl. land (dry or wet)			
6. Any other (immovable property)			
Price paid/ obtained	Source of payment	Whether information given or sanction obtained (with reference No. and date)	Annual income from property
(5)	(6)	(7)	(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.

(42)

Statement of movable property possessed, acquired and disposed of by Govt. 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	Held in whose name	Date and mode of acquisition/ disposal	Name & Address of person from whom acquired/ to whom disposed of.
(1)	(2)	(3)	(4)

Movables (whose value exceeds Rs. 20,000)

Vehicles

Motor Car

Motor Cycle/Scooter

Any other vehicle

Electrical Goods

Air Conditioner

V. C .R./Television

Refrigerator

Any other goods

Jewellery

Ornaments

Vessels etc.

Investment & Cash

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
(5)	(6)	(7)

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.

(43)

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. dated 6-8-1988)

1108

Form No. (44)

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

(44)

**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. dated 6-8-1988)**

GOVERNMENT OF ANDHRA PRADESH
(DEPARTMENT)

Sub:- Andhra Pradesh Civil services (Conduct) Rules,
1964 - Property Statements of the year - Receipt -
Acknowledged.

Form No. (45)

1109

Ref:- From Sri

Letter dated

The property statements for the year sent with the reference cited are received.

SIGNATURE/SEAL

To
Sri

(45)

Monthly report of particulars of transfers, for review with reference to guidelines (vide Memorandum No. 864/Ser. A/85-1 Genl.Admn. (Ser.A) Dept. dated 3-7-1985)

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 in accordance with the guidelines issued	Reasons for deviation of instructions. if any.
1	2	3	4	5	6

(46)

Standard Notice Board inviting complaints of corruption (vide U.O.Note No. 858/Spl.B/2000-3 Genl.Admn. (Spl.B) Dept. dated 10-7-2001)

“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)

(47)

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. dated 22-6-2002)

~~NAME OF THE SECRETARIAT DEPARTMENT~~

No. of complaints pending at the beginning of the quarter	No. of complaints received during the quarter	No. of complaints on which enquiry reports are submitted in the quarter
1	2	3

No. of complaints pending for enquiry	No. of complaints pending beyond one quarter
4	5

(48)

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. dated 22-6-2002)

NAME OF THE SECRETARIAT DEPARTMENT .

No. of Newspaper reports pending at the beginning of the quarter	No. of cases forwarded during the quarter	No. of cases on which reports are submitted in the quarter
1	2	3

No. of cases in which replies are not received	No. of cases in which replies are pending beyond one quarter
4	5

(49)

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. dated 22-6-2002)

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

Date of V.C's Advice for suspension	Date of Suspension	If not implemented, reasons therefor
6	7	8

Note:- All cases of suspension should be reported till reinstatement irrespective of date of suspension

(50)

Quarterly statement of cases of advice for transfer pending inquiry/investigation (vide Memo.No. 256/Spl.B/2002-1 Genl.Admn. (Spl.B) Dept. dated 22-6-2002)

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

Date of V.C's Advice for transfer	Date of transfer	If not implemented, reasons therefor
6	7	8

Note:- All cases of transfer not yet affected and all cases advised during the quarter may be furnished

(51)

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. dated 22-6-2002)

NAME OF THE SECRETARIAT DEPARTMENT:

S.No.	File No. & Date of advice of Commission	Name of the Officer/Officers	Designation Department	Status	
				G.O.	N.G.O.
1	2	3	4	5a	5b

Action advised		Action taken by deptt.
Major Penalty Procs	Minor Penalty Procs	
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

(52)

Quarterly statement of pending departmental inquiries with Inquiry Authorities (vide Memo.No. 256/Spl.B/2002-1 Genl.Admn. (Spl.B) Dept. dated 22-6-2002)

NAME OF THE SECRETARIAT DEPARTMENT:

S.No.	No. of inquiries pending at the beginning of the quarter with			No. of inquiries entrusted during the quarter to		
	TDP	COI	Deptl. I.O.	TDP	COI	Deptl. I.O.
1	2a	2b	2c	3a	3b	3c

No. of inquiry reports submitted during the quarter			No. pending at the end of the year		
TDP	COI	Deptl. I.O.	TDP	COI	Deptl. I.O.
4a	4b	4c	5a	5b	5c

(53)

Quarterly statement of disposal of inquiry reports received in the Department (vide Memo.No. 256/Spl.B/2002-1 Genl.Admn. (Spl.B) Dept. dated 22-6-2002)

NAME OF THE SECRETARIAT DEPARTMENT

S.No.	No. of inquiry reports pending at the beginning of the quarter			No. of inquiry reports received during the quarter		
	TDP	COI	Deptl. I.O.	TDP	COI	Deptl. I.O.
1	2a	2b	2c	3a	3b	3c

No. of inquiry reports disposed of during the quarter			No. pending at the end of the quarter		
TDP	COI	Deptl. I.O.	TDP	COI	Deptl. I.O.
4a	4b	4c	5a	5b	5c

(54)

Details of penalty awarded in disciplinary cases during the quarter (vide Memo.No. 256/Spl.B/2002-1 Genl.Admn. (Spl.B) Dept. dated 22-6-2002)

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

Punishments advised by V.C.	Punishments awarded by Department	
	(Indicate exact penalty under rule 9 of CCA Rules, 1991 or A.P.R.P. Rs. 1980)	
	Major Penalty	Minor Penalty
6	7	8

(55)

Quarterly statement of cases of sanction for prosecution advised (vide Memo.No. 256/Spl.B/2002-1 Genl.Admn. (Spl.B) Dept. dated 22-6-2002)

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

(56)

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. dated 22-6-2002)

NAME OF THE SECRETARIAT DEPARTMENT:

S.No.	File No. of Dept/VC	Name of the Officer/ Officers	Designation	Status		Crime No.
				G.O	N.G.O	
1	2	3	4	5a	5b	6

Date of Judgement	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

(57)

**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. dated 22-6-2002)**

NAME OF THE SECRETARIAT DEPARTMENT:

S.No.	File No. of Dept/VC	Name of the Officer/ Officers	Designation	Status	
				G.O	N.GO
1	2		4	5a	5b
3					

Nature of offence				Date of V.C.'s advice	Date of sanctionof prosecution	If not sanctioned reasons therefor
Trap	Disproportionate assets	Misapprop- riation	Others			
6a	6b	6c	6d	7	8	9