



ALL INDIA ASSOCIATION OF COAL EXECUTIVES (AIACE)

(Regd. Under the Trade Union Act, 1926; Regd. No. 546 / 2016)

302, Block No. 4, Ram Krishna Enclave, Nutan Chowk, Sarkanda; Bilaspur (CG)

E-mail : centralaiace@gmail.com ; Ph. 9907434051

AIACE/CENTRAL/2021 / 63

Dated 24.5.2021

To

The Chairman

Coal India Limited,

Coal Bhawan,

Premise No-04 MAR, Plot No-AF-III, Action Area-1A,

Newtown, Rajarhat,Kolkata-700156

Sub: Amendment in CIL Conduct, Discipline & Appeal Rules for concluding departmental proceedings against Executives in stipulated time

Dear Sir,

Timely completion of disciplinary proceedings/departmental inquiry proceedings always remain a matter of concern in Public Sector Enterprises. A letter no. No.000-VGL-18/305053 dt.18-1-2016 from CVC, Government of India (Copy enclosed in Annexure-I) is an eye-opener for all concerned. Through this letter CVC has expressed its anguish in these words, **“The time-limit for completion of departmental inquiry is six months from the date of appointment of the IO/Thus, it appears that this time-limit is not being adhered to by a majority of the Departments/Organisations.”** Such long delays not only are unjust to officials who may be ultimately acquitted, but help the guilty evade punitive action for long periods. Further, they have an adverse impact on others who believe that “nothing will happen.

It may be recalled that The Commission vide its Circular No. 8(1)(g)/99(3) dated 03.03.1999 and No. 000/VGL/18 dated 23.05.2000 has. laid down the time limits for various stages of disciplinary proceedings right -from the stage of investigation to finalisation of the disciplinary case. It seems, in spite of these observations, departmental enquiries are seldom completed in scheduled time on one count or other.

Then, after more than 4 decades, CIL, notified amendments in this Coal India Executives' Conduct, Discipline & Appeal Rules Vide Ref No. CIL/C5A (PC)CDA/552 dt. 28.1.2021. Interestingly, the arrangement and contents of various Chapters and their respective contents under various Sections and sub-sections, also lack on this aspect and are silent on timely completion of disciplinary proceedings. Relevant contents of Chapters are as shown below:

Section 25 to 27 in Chapter-III deal with Suspension; Section 28 to 37 deal with Discipline and Section 38 onwards in Chapter-V deal with Appeals in the following way :

Chapter-III Suspension

Chapter-IV Discipline

Section-28 : Penalties

Section-29 : Authority to institute Proceedings

Section-30 : Procedure for imposing Major Penalties

Section- 31 : Action on the Inquiry Report

Section- 32 : Procedure for imposing Minor Penalties

Section- 33 : Appeal against the recommendation of Internal Complaints Committee (ICC) constituted under the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Section- 34 : Communication of Orders

Section- 35 : Common Proceedings

Section- 36 : Special proceedings in certain cases

Section- 37 : Employees on deputation from the Central Government or the State Government, etc.

Chapter-V Appeals

One can easily observe from above that, **Chapter-III: Suspension** precedes **Chapter-IV: Discipline**. Similarly, in Chapter-IV, the Section-31 should have preceded Sections 30 & 32 which spell out Major and Minor penalties. A quick glance will further reveal that No time-frame of any kind has been envisaged for completion of disciplinary proceedings.

The undue delay of completion of disciplinary proceedings hamper the career of concerned executives in a number of ways which can be easily understood and reiterating them again will be a simply wastage of your valuable time.

In view the stated facts as above, AIACE requests you to kindly constitute a committee who will be empowered to enforce revised guidelines on "Time of completion" of disciplinary action after duly examining the suggestions of CVC vide their Circular No. 8(1)(g)/99(3) dated 03.03.1999 and No. 000/VGL/18 dated 23.05.2000 as stated above. The needful directions from your end to address this cancerous situation will be highly appreciated by all concerned and will ensure justice to the performers who unknowingly become victim of circumstances.

Regards,



P. K. Singh Rathor
Principal General Secretary, AIACE

CC

1. Coal Secretary, Ministry of Coal, Govt of India, New Delhi.
2. Chairman, CIL, Kolkata.
3. DT/DP/DF/DM, CIL, Kolkata.
4. All CMDs- ECL/BCCL/CCL/CMPDIL/NCL/SECL/WCL/MCL.

Concern expressed by CVC, Government of India

No.000-VGL-18/305053
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi -110 023

Dated 18.01.2016

Circular No.02/01/2016

Sub: Timely completion of disciplinary proceedings/departmental inquiry proceedings—improving vigilance administration.

- Ref:** (i) Commission's Circular No. 8(1)(g)/99(2) dated 19.02.1999
(ii) Commission's Circular No. 8(1)(g)/99(3) dated 03.03.1999
(iii) Commission's Circular No. 3(v)/99(7) dated 06.09.1999
(iv) Commission's Circular No. 000/VGL/18 dated 23.05.2000
(v) Commission's Office Order No. 51/08/2004 dated 10.08.2004

The Commission has noted with serious concern that the administrative authorities are not adhering to the time-schedules prescribed for completion of disciplinary proceedings. In a recent study conducted by the Commission, it has been noticed that while the average time taken by the administrative authorities in finalization of disciplinary proceedings is more than 2 years; the maximum time taken in a particular case was eight (8) years and at least in 22% cases the inquiry took more than two years. The Commission vide its Circular No. 8(1)(g)/99(3) dated 03.03.1999 and No. 000/ VGL/18 dated 23.05.2000 has laid down the time limits for various stages of disciplinary proceedings right -from the stage of investigation to finalisation of the disciplinary case. The time-limit for completion of departmental inquiry is six months from the date of appointment of the IO/Thus, it appears that this time-limit is not being adhered to by a majority of the Departments/Organisations. Such long delays not only are unjust to officials who may be ultimately acquitted, but help the guilty evade punitive action for long periods. Further, they have an adverse impact on others who believe that "nothing will happen". The Commission has been emphasising from time to time on the need for expeditious completion of disciplinary proceedings.

2. Recently, the Hon'ble Supreme Court in its judgment dated 16.12.2015 in Civil Appeal No. 958 of 2010 Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr has viewed the delay in handling of disciplinary cases adversely. The Hon'ble Supreme Court while allowing the said appeal in favour of the Appellant Employee has observed as follows:

“ 29 One cannot dispute in this case that the suspension period was unduly long. We also find that the delay in completion of the departmental proceedings was not wholly attributable to the appellant but it was equally attributable to the respondents as well. Due to such unreasonable delay, the appellant naturally suffered a lot because he and his family had to survive only on suspension allowance for a long period of 9 years.

30. We are constrained to observe as to why the departmental proceeding, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the respondents' side to explain the undue delay in completion of the departmental inquiry except to throw blame on the appellant's conduct which we feel, was not fully justified

31. Time and again, this Court has emphasized that it is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.

32. As a matter of experience, we often notice that after completion of the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

33. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

3. The Commission has observed that a number of factors contribute to the delay in the conduct of departmental inquiries and with prudent management this needs to be checked. The departmental inquiry is often delayed due to laxity on the part of IO, lack of monitoring by DA & CVO, non-availability of listed or additional documents, delay in inspection of original or certified documents, frequent adjournments, non-attendance of witnesses, especially private witnesses, faulty charge-sheets and frequent change of IO / PO and non-monitoring of progress of inquiry. The Commission suggests

that the following steps may be ensured and complied strictly by the IOs/administrative authorities-

(i) In cases where investigation has been conducted by the CBI/ other investigating agency and the documents have been seized by them for prosecution in courts and RDA is also contemplated, it is the responsibility of the CVO/DA to procure from the CBI/investigating agency legible certified copies of seized documents required for RDA. In cases investigated by CVOs, it must be ensured that certified legible photocopies of all documents are made available at the time of preparation of draft charge-sheet itself.

(ii) While drafting the charge-sheet it may be ensured that all the relied upon documents as well as copies of relevant rules/instructions are in the custody of CVO. After issue of charge-sheet and submission of defence statement, the DA is required to take a decision within 15 days for appointment of IO/PO in major penalty cases.

(iii) As far as practicable, the IO should be chosen from amongst the serving officers/retired officers in the same station where the charged officer is posted, who is likely to continue till the conclusion of inquiry.

(iv) It may be ensured that the PO is appointed simultaneously. Changes in IO/PO be resorted to only in exceptional cases under intimation to the Commission (in respect of officers within the jurisdiction of the Commission).

(v) In cases involving more than one charged officer, it may be ensured that, as far as practicable, same IO/PO is appointed in all cases.

(vi) The PO must keep copies of relevant Rules/Regulations/Instructions etc. readily available with him. Departments/Organisations should also ensure online availability of all their Rules/Regulations/ Instructions etc. so that it can be downloaded during the inquiry proceedings without any loss of time.

(vii) It may be ensured that the defence documents are made available within the time allowed by the IO. Responsibility should be fixed on the custodian of such documents for any undue delay/not producing it in time or loss of these documents.

(viii) The IO should normally conduct Regular Hearing on a day to day basis and not grant more than one adjournment for appearance of witnesses. It may be ensured that all the prosecution or defence witnesses are summoned and examined in separate but simultaneous batches expeditiously.

(ix) If witnesses do not appear in response to notices or are not produced by PO/ CO as the case may be, powers conferred under the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 be exercised to request the Competent Court to pass orders for production of the witness through summons issued by the Court.

(x) The IO should, as far as practicable, desist from allowing interlocutory documents sought either by the PO or the CO as additional documents during the deposition of witnesses.

(xi) The time-limit for various stages of inquiry, as prescribed by the Commission vide its Circular No. 8(1)(g)99(3) dated 03.03.1999, may be complied with strictly by the disciplinary authorities and the inquiry officers.

(xii) Where the CO or PO do not co-operate in the manner of attendance, production of documents, witnesses etc., IO may after affording reasonable opportunity, proceed to give a report ex-parte based on facts, documents, witnesses produced before him.

4. The suggested time limits for conducting departmental inquiries prescribed by the Commission for various stages is annexed for ready reference. Timely completion of departmental inquiry/departmental proceedings is the prime responsibility of the Disciplinary Authority. Therefore, the disciplinary authorities in each Ministry/ Department/Organisation may regularly monitor the progress of inquiry on regular basis and ensure that the inquiry/departmental proceedings are completed within the time-limit prescribed as laid down by Hon'ble Supreme Court in the above cited case. The CVO concerned would assist the disciplinary authority in monitoring the progress of departmental proceedings. The Commission may recommend adverse action against the concerned disciplinary/administrative authority who is found responsible for any unexplained delay observed in any case. In appropriate cases wherein the IO delays the proceedings, DA may not hesitate to take necessary and appropriate action against the IO.

Sd/-
(J. Vinod Kumar)
Director

To

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