



Report on Study of Existing Pattern of Prolonged Disciplinary Proceedings and Suggestions for Remedial Action

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CENTRAL VIGILANCE COMMISSION

NEW DELHI

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Background:

1.1 A Committee was constituted on 17.06.2015 by the Central Vigilance Commission to “Study of Existing Pattern of Prolonged Disciplinary Proceedings and Suggestions for Remedial Action”. The Committee submitted its report on 31.07.2015. The Committee consisted of the following members:

- a) Shri Keshav Rao, Director
- b) Shri Nitish Kumar, Director
- c) Shri M. A. Khan, Under Secretary

1.2 Following were the terms of reference of the committee:

- i. To study the pattern of progress of complaints and Disciplinary Proceedings cases at different stages of cases based upon the input sheet parameters as well as time limits prescribed by CVC and make recommendation to ensure timelines are adhered to.
- ii. The Committee may select all cases relating to a period of at least 03 years.
- iii. To examine and suggest improvements in the data retrieval system existing at present in CVC.
- iv. To examine and suggest improvement, if any, required in the current input sheet available regarding the disciplinary cases.

1.3 The Committee met on 24.06.2015, 29.06.2015, 02.07.2015, 09.07.2015 and 14.07.2015 to discuss the issues. In the deliberations, the committee received substantial help from the following officers of the Commission:

- a) Shri A.K. Singh, Assistant Advisor(IT)
- b) Smt. Deepmala, Assistant Advisor(IT)
- c) Shri Surendra Prasad, Manager,PGCIL

The Committee obtained data from each section in the Commission. It got significant help from all quarters.

Method:

2.1 Commission ordinarily tenders advice on approximately 5000 vigilance cases every year. Out of these, on an average, there are about 1200 cases, which are of second stage advice (SSA). This figure of 1200 was arrived at by taking average of SSA tendered by Commission in the last five years i.e. 2009-2013. The committee decided to examine 10% sample of cases to have a statistically meaningful and reliable result. Proportional allocation of sample cases among various vigilance sections was decided on the basis of average disposal by each section every month. Going by a figure of 1200 second stage cases and 10% sampling, it was decided to collect about 118 samples with breakup as mentioned in the table below:

Sl. No.	Section	No. of Samples
1	VIG-1	14
2	VIG-2	11
3	VIG-3	30
4	VIG-4	5
5	VIG-5	5
6	VIG-6	17
7	VIG-7	10
8	VIG-8	19
9	VIG-9	7
10	Total	118

2.2 For collecting information on timelines, a format was designed after review of existing input sheet. The aim was to obtain a complete and chronology of a particular vigilance case.

2.3 All the sections were asked to fill up the relevant data for completed cases as per the following format:

Sl.no.	Event/Activity	Date
1	Date of irregularity	
2	Date of detection (complaint/inspection)	
3	Date of Commission's/Department's order for investigation	
4	Date of receipt of report in Commission	
5	Date of dispatch of FSA to Chief Vigilance Officer (CVO)	
6	Date of receipt of reconsideration of FSA (if any)	
7	Date of FSA reconsidered advice by CVC (if any)	
8	Date of implementation of Commission's advice (issue of charge sheet)	
9	Date of appointment of Inquiry Officer (IO)	
10	Date of submission of inquiry report by the IO	
11	Date of receipt of second stage proposal (SSA) /reference in Commission	
12	Date of Commission's advice (SSA)	
13	Date of receipt of reconsideration of SSA (if any)	
14	Date of SSA reconsideration advice by CVC (if any)	
15	Date of order regarding implementation/non implementation of Commission's advice	
16	Date of intimation to Commission regarding implementation /non-implementation of advice of Commission	

2.4 *A completed case is defined as one in which action from detection of irregularity to punishment of accused officers' have taken place.* The samples do not include cases of criminal prosecution and those arising out of inspections by Chief Technical Examiner's Organization (CTEO). Assistant Advisers (IT) were deployed in different sections to expedite data-collection and assist sections with clarifications wherever required. All the sections submitted data by 07.07.2015, which was checked further, for its completeness and validity. It was found that data of two Sections was not complete. Since, there were only few cases allocated to these sections and time was limited, it was decided to drop

the data of Section 4 and 5. Further, one week time was spent on cleaning and validation of the data. Certain adjustments were made to make it compatible. In all about 107 cases qualified for the study.

2.5 A copy of Commission's circular stipulating expected timelines for different activities in a vigilance case as below was obtained.

S. No	Stage of Investigation or inquiry	Time Limit
1	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the complaint.
2	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	-do-
3	Conducting investigation and submission of report.	Three months.
4	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.
5	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.
7	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report
8	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.
9	Consideration of defence statement.	15 (Fifteen) days.
10	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12	Conducting departmental inquiry and submission of report.	Six months from the date of appointment of IO/PO.
13	Sending a copy of the IO's report to the Charged Officer for his representation.	(i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved; (ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated
14	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.

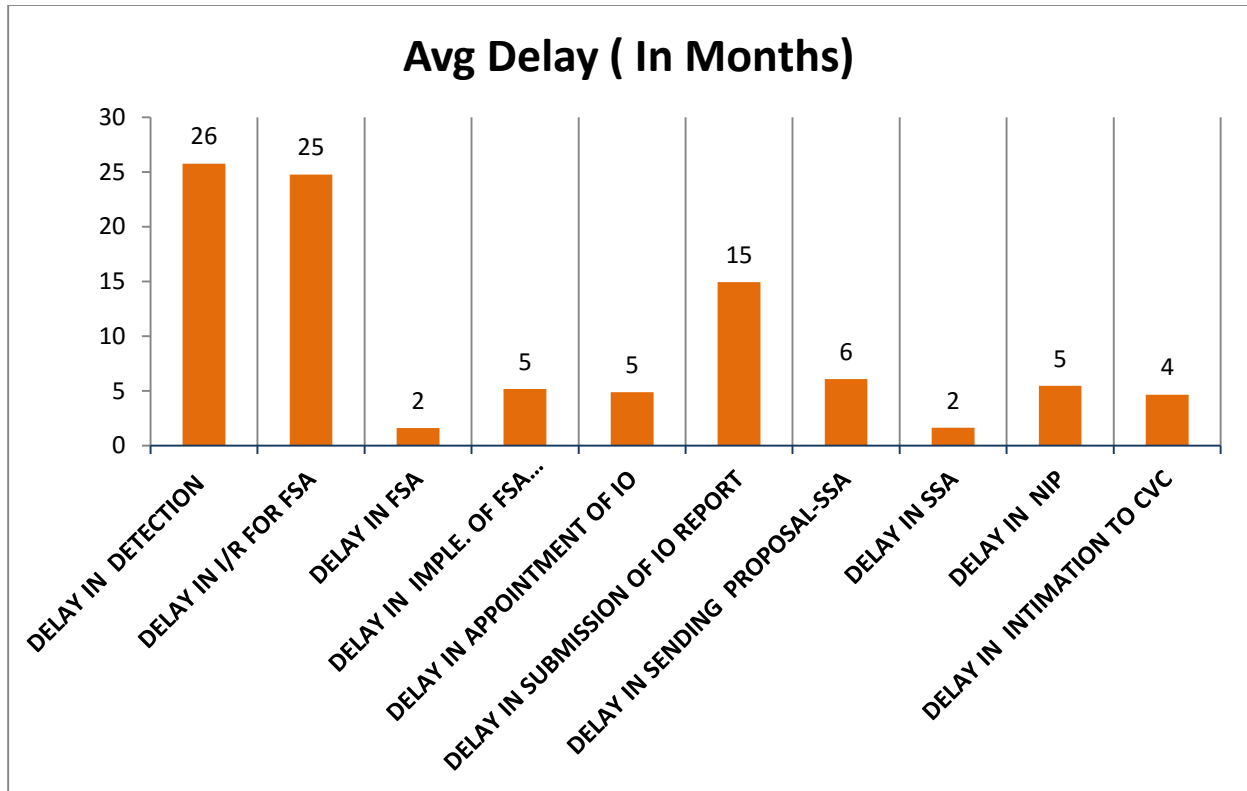
Further, every case referred to in the Commission should be disposed of, by tendering advice within one month for both FSA and SSA.

2.6 Entire data set was fed in excel sheets to calculate time elapsed against each activity. A computer program was prepared to process the data for output and results, which compared the time elapsed on each activity with the standard timeline and accordingly delay at each stage, was calculated. The delay data was further processed using various statistical tools.

Results:

3.1. Following table and graph show important observation on the pattern of delay:

SL.NO.	EVENT / ACTIVITY	Average delay in months
1	Delay in Detection	25.8
2	Delay in I/R for FSA	25.1
3	Delay in FSA from CVC	1.5
4	Delay in implementation of FSA	4.9
5	Delay in appointment of IO	5.3
6	Delay in submission of IO Report	14.8
7	Delay in sending proposal--SSA	6.0
8	Delay in SSA	1.6
9	Delay in NIP	5.3
10	Delay in intimation to CVC	4.3



Note: Figures in the graph are rounded off.

3.2. On an average, it takes more than 8 years for finalizing a major vigilance case from the date of occurrence of irregularity, whereas detection of irregularity takes on an average more than 2 years, which is a significant portion (25%) of the entire period.

3.3. On an average there is a delay of about 2 years in conducting and finalizing the preliminary investigation for first stage advice (FSA), which is again a significant portion (25% of the overall delay after detection of irregularity).

3.4. Average delay in dispatch of FSA from commission to CVO is found to be 1.6 months therefore; there is scope for improvement by a month here at least.

3.5. Further, it is a matter of concern that implementation of FSA , appointment of IO , finalizing the IO report and sending the department comments for second stage advice (SSA) altogether taking a time of more than 2.6 years.

3.6. An average delay of 1.6 months against a recommended time of one month is observed in tendering Commission's advice at second stage. Therefore, there is scope for improvement by a month here at least.

3.7. Again there is an average delay of about 5 months in implementation/non-implementation (i.e. final decision by the Department) of the Commission's advice, which further takes on an average more than 5 months in intimating the Commission.

3.8. It is observed that there are some cases in which timelines were duly complied with. Therefore, the delay in such cases was found to be zero.

3.9. Findings about the proportion of delay in disposal of Disciplinary Inquiries after detection of irregularity at different levels, by and large confirms the findings of survey conducted by the Indian Institute of Public Administration, New Delhi that was considered in the Hota Committee report on Disciplinary and Vigilance Enquiries. The same may be seen as under:

a) Administrative Departments including IO and other levels other than CVC - **94%**

b) Central Vigilance Commission- 6 %(This obviously includes time taken by the CVC to give the **first stage** and the **second stage advice** to the Departments/Ministries after due scrutiny of the preliminary Inquiry Report for the **first stage advice** and the records of Inquiries for the **second stage advice**.)

3.10. Findings also reveal that average delay on part of Inquiry Officers is significant and to the tune of about 1.3 years and if this delay is clubbed with investigation at first stage, it goes up to 3.4 years, that clearly requires suitable interventions at the level of investigation both at first and second stage.

3.11 **Comments by Terms of Reference:**

- i. To study the pattern of progress of complaints and Disciplinary Proceedings cases at different stages of cases based upon the input sheet parameters as well as time limits prescribed by CVC and make recommendation to ensure timelines are adhered to.***

Position: Complete analysis of data collected was carried out by taking into account of data ordinarily captured in input sheet. Time elapsed against each

activity was obtained by subtracting date of an event from the previous event. Further, time elapsed between the two events was compared with expected/standard time line. This delay was calculated by utilizing date from input sheet/file and standard time lines as prescribed in Commission's circular no. 000/VGL/18 dated 23.05.2000.

ii. The Committee may select all cases relating to a period of at least 03 years.

Position: All completed cases i.e. cases going up to punishment stage have been taken up. This is necessary to ensure completeness and exhaustiveness in the analysis.

iii. To examine and suggest improvements in the data retrieval system existing at present in CVC.

Position: Presently, most reports retrieved from data base, pertain to monitoring of delay at the Commission's end or delay in a specific activity. This may include:

- a. Pendency in Further Information category
- b. Pendency in Investigation Report, Action Taken Report, Factual Report etc.
- c. Pendency in implementation of FSA or SSA in major or minor PP cases.
- d. Pendency of case with departmental IO.

There are no reports which give information sector wise or CVO wise, capturing delay at each stage of a case in totality. Therefore, there is a need to create additional report formats to study delays in cases as per following:

- a) Providing delay report in each case for all stages.
- b) Providing summary of cases showing delay at say:
 - Detection
 - Investigation
 - Departmental inquiry
 - Advice in Commission and other stages as in table above.

iv. To examine and suggest improvement, if any, required in the current input sheet available regarding the disciplinary cases.

Position: It is observed that input sheet captures the entire data related to a case and presents the same in a serial order. This makes analysis and appreciation of factual position difficult. Therefore, data captured in input sheet can be presented in more than one ways to facilitate proper appreciation and use. Following format is proposed:

Input sheet		
Name of officer		Retirement date
Item	Date	Time since previous event
Incident occurrence date		
Incident Reported date		
Date of sending for investigation		
Date of recommendation from agency		
FSA date		
Compliance report date		
FSA reconsideration proposal date		
FSA reconsideration advice date		
Date of issue of charge sheet by DA		
Date of nomination of IO		
Date of appointment of CDI		
Date of receipt of inquiry report		
IO report sent date		
DA comment date		
SSA advice date		
SSA reconsideration proposal date		
SSA reconsideration advice date		
Date of final order issued by DA		

Above table will help in monitoring of delay. Such a table can be used in each case file. This table should be submitted by the section with every fresh receipt so that a concern regarding the delay is appreciated all the time.

Conclusion:

4.1. Disciplinary matters, perhaps are among the most litigated branches in India. It is very important to emphasize on disposal of disciplinary cases in a timely manner so that neither an innocent official is penalized nor a guilty official is allowed to go scot free. Due to pendency and continuous delay in Disciplinary Action, cases remain undecided. This requires urgent attention.

4.2. The above study clearly indicates that there is a need to look into the aspects of delay at the level of Administrative Departments. Various factors (endogenous as well as exogenous) might be affecting the timely disposal of cases in the Departments and it is felt that Departments should be asked to re-engineer their internal processes for finding reasons of the delays and possible remedies thereof. It is felt that one of the factors responsible for this may be deployment of limited dedicated manpower for this job.

4.3. In so far as CVC is concerned, though the proportion of delay on its part is relatively small, there is room for improvement in this area. On examination of Input-Sheets, it was observed that there are some gaps in the input sheets. It is recommended that input sheets be made part of noting page of the file and must be completed before submitting the file to the Branch Officer.

4.4. By and large, the findings of the study provide quantitative assessment with relative magnitude of the delay in vigilance proceedings at various stages and are expected to serve as a valuable input for aligning the existing intervention strategies by focusing more on areas requiring attention. Since the areas of concern have been identified, interventions can be more precise.