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F.No. 5/5/2012-Vig
Ministry of Finance
Department of Financial Services
(Vigilance Department)

3rd Floor, Jeeven Deep Building
Parliament Street, New Delhi-110001
Dated: 24th May, 2012

To,
All CMDs of PSBs, FIs/PSIC,
POs DRT/Chairman, DRAT.

Subject: **Guidelines for checking delay in grant of sanction for prosecution.**

Sir,

I am directed to refer to the subject cited above and to say that Department of Personnel & Training(DoPT) vide its OM No. 118/2/2011-AVD-III dated 31.1.2012 has emphasized the need to adhere to para 2(i) of DoPT guidelines as circulated vide their OM No. 399/33/2006-AVD-III dated 6.11.2006, which prescribes that the CBI would forward its final report of investigation to the CVC and also simultaneously enclose a copy of the report to the Administrative Ministry/Department concerned and the Competent Authority(CA) shall within three weeks formulate its tentative view regarding the action to be taken and seek the advice of CVC in the matter. DoPT has, however, observed that Banking Sector is not following the said guidelines/instructions to true spirit and in few cases the CA formally decline the sanction for prosecution and then refer the matter to CVC for advice. DoPT has observed that such consultation with CVC needs to be completed before the CA takes a decision in the matter because once the CA takes a decision and communicates to the CBI, it can not be reviewed and therefore, sending it to CVC for consultation at this stage is undesirable.

DoPT has, therefore, advised to strictly adhere to the time schedule and procedure as laid down in their above mentioned OM.

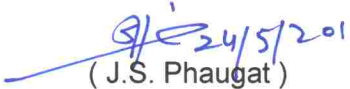
DoPT vide its further OM dated 3.5.2012 (copy enclosed) has again emphasized the need to adhere to the time schedule for taking a final decision on grant of sanction or otherwise on CBI's requests and have advised to ensure:

- a) Strict compliance with the above procedure and timelines for sanctioning prosecution of public servants;
- b) Submission of a certificate every month by the Secretary to each Ministry/ Department to the Cabinet Secretary to the effect that no case is pending for more than 3 months and wherever a case is pending for more than 3 months, the reasons for such pendency and the level where it is pending;

- c) Submission of disagreement cases, where the competent authority proposed to disagree with CVC, to the DoPT giving at least three weeks time for DoPT to finalise its view and communicate the same to the competent authority; and
- d) Submission of copies of orders refusing sanction to prosecute to the next higher authority (Prime Minister, in case of an order passed by a Minister-in-Charge of a Ministry/Department), within seven days.

You are advised to send the requisite report/certificate on monthly basis on-line by 10th of every month to enable this Ministry to send the requisite report to Cabinet Secretary.

Yours faithfully,


(J.S. Phaugat)
Under Secretary(Vig.)
जे. एस. फौगाट
अवर सचिव (सतकर्ता)

Encl: As above.

Copy on DFS's Web-page.

No.372/19/2012-AVD-III
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block,
New Delhi the 3rd May, 2012.

OFFICE MEMORANDUM

Subject: Guidelines for checking delay in grant of sanction for prosecution.

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Attention is invited to this Department's OMs No. 399/33/2006-AVD-III dated 6th November, 2006 and 20th December, 2006 on the subject mentioned above.

2. In terms of above instructions, the Competent Authority has to formulate its tentative views regarding the action to be taken on the request of the Investigating Agency and seek the advice of the CVC in the matter. The instructions further lay down that CVC would tender its advice within 10 days to the concerned administrative Ministry/Department, which shall finalise its view in the matter and issue orders accordingly. The instructions also lay down that the administrative Ministry/Department shall refer the case to CVC for reconsideration only in exceptional cases when new facts come to light and that CVC would render appropriate advice to the competent authority based on the findings of the expert committee, within a fortnight and that if the CVC on reconsideration advises for grant of sanction, the concerned Ministry/Department will issue the requisite orders immediately. The instructions further lay down that if the concerned administrative Ministry/Department proposes not to accept the reconsidered advice of the CVC, the case will be referred to DoP&T for final decision and that the DoP&T shall decide the case within 3 weeks and convey its decision to the concerned Ministry/Department.

3. Government constituted a Group of Ministers (GoM), on 6th January, 2011 with the approval of the Prime Minister, to consider measures that can be taken by the Government to tackle corruption. One of the terms of reference (ToR) of the GoM was to consider and advise on "Fast tracking of all cases of public servants accused of corruption". The Group of Ministers, while considering this ToR, observed that it is imperative that cases of sanction for prosecution should be decided expeditiously and within the timeframe of 3 months. **The GoM, therefore, recommended that:-**

(a) **In all cases where the Investigating Agency has requested sanction for prosecution and also submitted a draft**

charge sheet and related documents along with the request, it will be mandatory for the competent authority to take a decision within a period of 3 months from receipt of request, and pass a Speaking Order, giving reasons for this decision.

(b) In the event that the competent authority refuses permission for sanction to prosecute, it will have to submit its order including reasons for refusal, to the next higher authority for information within 7 days.

Wherever the Minister-in-charge of the Department is the competent authority and he decides to deny the permission, it would be incumbent on the Minister to submit, within 7 days of passing such order denying the permission, to the Prime Minister for information.

(c) It will be the responsibility of the Secretary of each Department/Ministry to monitor all cases where a request has been made for permission to prosecute. Secretaries may also submit a certificate every month to the Cabinet Secretary to the effect that no case is pending for more than 3 months, the reasons for such pendency and the level where it is pending may also be explained.

4. The said recommendation of the GoM has been accepted by Government with the approval of the Prime Minister. The Prime Minister has also directed that in cases of disagreement where the competent authority proposes to disagree with the investigating agency/CVC, the matter shall be referred to DoP&T and DoP&T's views in such cases must be communicated to the Competent Authority within such time as would enable the competent authority to pass the final speaking order within a period of three months.

5. As mentioned in para 2 above, the extant instructions have specified clear timelines for each stage of processing of such requests which also includes a period of three weeks for the DoP&T to finalise its views in cases of disagreement referred to it.

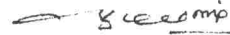
6. Accordingly, the above recommendations of the GoM as accepted by the Government and the instructions of the Prime Minister regarding timely communication of DoP&T's views in disagreement cases are brought to the notice of all Ministries/Departments for strict compliance.

7. As already pointed out in para 2(v) of this Department's OM dated 6th

prosecution within the time limits laid down shall continue to remain with the administrative Ministries/Departments.

8. All Ministries/Departments shall henceforth ensure -

- (a) Strict compliance with the above procedure and timelines for sanctioning prosecution of public servants;
- (b) Submission of a certificate every month by the Secretary of each Ministry/Department to the Cabinet Secretary to the effect that no case is pending for more than 3 months and wherever a case is pending for more than 3 months, the reasons for such pendency and the level where it is pending;
- (c) Submission of disagreement cases, where the competent authority proposes to disagree with CVC, to the DoP&T giving at least three weeks time for DoP&T to finalise its views and communicate the same to the competent authority; and
- (d) Submission of copies of orders refusing sanction to prosecute to the next higher authority (Prime Minister, in case of an order passed by a Minister-in-charge of a Ministry/Department), within seven days.



(V.M. Rathnam)

Deputy Secretary to the Government of India
Tel. No. 23094637

1. All Ministries/Departments of Government of India as per standard list.
2. Prime Minister's Office, South Block, New Delhi.
3. NIC, DoP&T for uploading on the website of the Department.

Copy to:-

- (i) Secretary, Central Vigilance Commission, Satarkata Bhawan, New Delhi.
- (ii) Director, Central Bureau of Investigation, North Block, New Delhi.
- (iii) Others as per standard list.



(V.M. Rathnam)

Deputy Secretary to the Government of India