Attention is invited to the Board’s letter No.2003/V-1/CVC/1/19 dated 08.12.2003 (RBV NO.13/2003), enclosing CVC’s Office Order No.51/9/03 contained in their letter No.003/DSP/3 dated 15.09.2003, stressing the need for issue of self contained, speaking and reasoned orders by the disciplinary/appellate authorities, followed by letter No.2003/V-1/CVC/1/19 dated 19.04.2004 (RBV No.07/2004), further pointing out that at the time of issue of final order, imposing a penalty on the charged officer, on the advice of the CVC, and/or at the time of deposing affidavits in the courts, some of the Disciplinary Authorities (DAs) mention the Commission’s reference, which leads to an unwarranted presumption that the DA has acted under the influence/pressure of the CVC.

2. Instances have, however, come to the notice of the Commission in which the final orders passed in disciplinary cases by the competent disciplinary authorities did not indicate proper application of mind, but a mere endorsement of the Commission’s recommendations which leads to an unwarranted presumption that the DA has taken the decision under the influence of the Commission’s advice. The cases where the final orders do not indicate proper application of mind by the DA are liable to be quashed by the courts.
3. As regards, making available a copy of CVC’s first and second stage advices to the charged officials is concerned, instructions were issued vide Board’s letter No.2001/V-1/CVC/1/2 dated 12.07.2004 (RBV No.14/2004), which should be followed, scrupulously.

2. It is reiterated that the CVC’s views/advices in disciplinary cases are advisory in nature and it is for the DA concerned to take a reasoned decision by applying its own mind. The DA while passing the final order, has to state that the Commission has been consulted and after due application of mind, the final orders have been passed. It may also be noted that in the speaking order of DA, the Commission’s advice should not be quoted verbatim.

3. It may be ensured that the above guidelines/procedure is strictly followed while processing the disciplinary cases.

(Sanjay Goel)
Director Vigilance (M)
Railway Board

No.2009/V-1/CVC/1/5
New Delhi, dated April 20, 2009.

Copy to:- The Secretary (Attention : Smt. Shalini Darbari, Director), Central Vigilance Commission, Satarkata Bhawan, Block-A, GPO Complex, INA, New Delhi-110023 - for information w.r.t. their Circular No. 02/01/09, circulated vide their letter No.003/DSP/3/31364 dated 15.01.2009.

(Sanjay Goel)
Director Vigilance (M)
Railway Board

Copy to:- i) All Board Members.
     ii) All Officers & the Branches of Vigilance Directorate.