Sub: Need for self-contained speaking and reasoned orders to be issued by the authorities exercising disciplinary powers

Attention is invited to the Board’s letter of even number dated 20.4.2009 stressing upon the role of the Disciplinary Authorities while passing Speaking Orders.

2. Recently, in a case, the Central Vigilance Commission have noticed that the Speaking Order passed by the Disciplinary Authority did not spell out the reasons clearly for disagreement with the Commission’s advice leading to inclusion of the case as of disagreement in their Annual Report.

3. It is once again reiterated that instructions contained in Board’s letter No.2003/V1/CVC/1/19 dated 8.12.2003 (RBV No.13/2003) enclosing CVC’s Office Order No.51/9/03 dated 15.09.2003 (copy enclosed) stressing the need for issue of self contained, speaking and reasoned orders by the Disciplinary/Appellate Authorities should be strictly followed while passing Speaking Orders in disciplinary cases.

Encl: As above
Sub: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.

A copy of the letter No. 003/DSP/3 dated 15th September, 2003, received from Central Vigilance Commission, on the above subject, is sent herewith for information.

Sd/-
(R.S. Sharma)
Director Vigilance (M)
Railway Board.

Copy of CVC’s letter No. 003/DSP/3 dated 15th September, 2003

Sub: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers

It was clarified in the Department of Personnel & Administrative Reforms’ OM No. 134/11/81/AVD-I dated 13.7.1981 that the disciplinary proceedings against employees conducted under the provisions of CCS(CCA) Rules, 1965, or under any other corresponding rules, are quasi-judicial in nature and therefore, it is necessary that orders issued by such authorities should have the attributes of a judicial order. It was clarified that the recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. Such orders passed by the competent disciplinary/appellate authority as do not contain the reasons on the basis whereof the decisions communicated by that order were reached, are liable to be held invalid if challenged in a court of law.

2. It is also a well-settled law that the disciplinary/appellate authority is required to apply its own mind to the facts and circumstances of the case and to come to its own conclusions, though it may consult an outside agency like the CVC. There have been some cases in which the orders passed by the competent authorities did not indicate application of mind, but a mere endorsement of the Commission’s recommendations. In one case, the competent authority had merely endorsed the Commission’s recommendations for dropping the proposal for criminal proceedings against the employee. In other case, the disciplinary authority had imposed the penalty of removal from service on an employee, on the recommendations of the Commission, but had not discussed, in the order passed by it, the reasons for not accepting the representation of the concerned employee on the findings of the inquiring authority. Courts have quashed both the orders on the ground of non-application of kind by the concerned authorities.
3. It is once again brought to the notice of all disciplinary/appellate authorities that Disciplinary Authorities should issue a self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements, which must indicate, inter-alia, the application of mind by the authority issuing the order.

Sd/-

(Anjana Dube)
Deputy Secretary