Government of India  
Ministry of Railways  
Railway Board  

No. 2012/V1/CBI/1/2 New Delhi, dated 07/01/2018  

The General Manager(Vigilance)  
Zonal Railways  
CORE/ALD, NF(CONST)/  
METRO/KOLKATA  

Chief Vigilance Officers  
PU/PUs  

Director Generals /  
RDSO/LKO & NAIR/Vadodara  

CAO/COFMOV  
DMW/Patiala  

Sub.: Simultaneous action of prosecution and initiation of departmental proceedings-guidance thereof.  


It is requested that requisite action as desired by CVC may be taken for strict compliance.  

DA/As above.  

(Rajnish Kumar)  
Director Vigilance (M)  
Railway Board
Circular No.08/07/2018

Subject: Simultaneous action of prosecution and initiation of departmental proceedings – guidance thereof.

As per judgements of the Hon’ble Supreme Court and guidelines of Department of Personnel & Training issued thereon, it has been reaffirmed that there is no bar in conducting simultaneous criminal and departmental proceedings. Attention is invited to the Department of Personnel & Training O.M No 11012/6/2007-Estt.(A-III) dated 1st August, 2007 and 21st July 2018 in this regard.

2. The Commission while examining the disciplinary cases referred to it for advice has noticed that in cases where simultaneous action of prosecution and initiation of departmental proceedings are advised, the departmental proceedings are unduly delayed by Departments/Organisations by keeping them in abeyance on the ground that the matter is under trial in the Court. Such an approach in finalizing disciplinary matters is a matter of serious concern and is also not a correct approach.

3. The Disciplinary Authority has been vested with the powers to carry out its statutory duty/obligations by initiation of appropriate departmental actions. This is as much to ensure that a delinquent public servant does not get undue benefit either by the long pendency of court proceedings or by the higher standard of proof required as it is to protect innocent public servant from vexatious proceedings. It is not open to the Disciplinary Authorities to await the outcome or decision of investigating/prosecuting agency or the Court trial.

4. The Commission would like to clarify that Disciplinary Authorities are vested with responsibility to ensure that employees under their control against whom criminal trial is pending are proceeded against forthwith for simultaneous departmental proceedings. Further, a view as to whether simultaneous disciplinary proceedings are to be initiated need to be invariably taken by the Competent Authorities at the time of considering the request for grant of sanction for prosecution.
Itself. However, the Disciplinary Authority may withhold departmental proceedings only
in exceptional cases wherein the charge in the criminal trial is of grave nature which
involves questions of fact and law. In other words, in complex matters where, in case it
is not possible to delineate the misconduct for the purpose of RDA. If the charge in the
criminal case is of a grave nature which involves complicated questions of law and fact,
it would be desirable to stay the departmental proceedings till the conclusion of the
criminal case. Further, even if stayed at one stage, the decision may require
reconsideration, if the criminal case gets unduly delayed. It may be noteworthy to
mention that the Hon'ble Supreme Court in State of Rajasthan vs. B.K. Meena & Ors
(1998) 6 SCC 417 emphasised the need for initiating departmental proceedings and
stated as below:

"It must be remembered that interests of administration demand that the
undesirable elements are thrown out and any charge of misdemeanor is enquired into
promptly. The disciplinary proceedings are meant not really to punish the guilty but to
keep the administrative machinery unsullied by getting rid of bad elements. The interest
of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings.
If he is not guilty of the charges, his honour should be vindicated at the earliest possible
moment and if he is guilty, he should be dealt with promptly according to law. It is not
also in the interest of administration that persons accused of serious misdemeanors
should be continued in office indefinitely, i.e., for long periods awaiting the result of
criminal proceedings."

5. The Commission would, therefore, advise all concerned Administrative
Authorities that in cases where it is appropriate to initiate disciplinary proceedings along
with criminal prosecution, the disciplinary proceedings must be initiated simultaneously.

6. All Ministries/Departments/Organisations may apprise the above guidelines to
the concerned officers for compliance in cases of simultaneous proceedings.

(M.A. Khan)
Officer on Special Duty

To

(i) The Secretaries of all Ministries/Departments of Govt.
(ii) All Chief Executives of CPSUs/PSBs/Fls/PSICs/Autonomous Bodies/etc
(iii) All CVOs of Ministries/Departments/CPSUs/PSBs/Fls/PSICs/Autonomous
     Organizations.
(iv) Website of CVC