

Coal India Limited  
(A Govt. of India Enterprise)  
कोल इण्डिया लिमिटेड  
(भारत सरकार का उपक्रम)  
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CIL/VIG/VD-75(CVC)/F-237/(H) | 582-598

dated 28.04.2017

कार्यालय अर्थात् / Office Memorandum

**Subject: Issues noticed in Disciplinary Action**

The following major issues have been noticed in taking disciplinary action against employees:

**I. Fixing responsibility**

a. Tentative decision not covering all involved officers or adequate action not recommended/taken:

- Some senior officer let off
- Some tender committee member let off
- Lighter action recommended against senior persons
- Officials allowed to retire without charge-sheet

b. Major penalty proceedings to be started:

Certain types of vigilance cases in which it may be desirable to start proceedings for imposing a major penalty are given below as illustrative guidelines:-

- (i) Trap, Disproportionate Asset cases & other CBI cases
- (ii) Cases in which there is a reasonable ground to believe that a penal offence has been committed by a Government servant but the evidence forthcoming is not sufficient for prosecution in a court of law, e.g. : a) Possession of disproportionate assets; b) Obtaining or attempting to obtain illegal gratification; c) Misappropriation of Government property, money or stores; d) Obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration or for a consideration which is not adequate.
- (iii) Falsification of Government records;
- (iv) Gross irregularity or negligence in the discharge of official duties with a dishonest motive.
- (v) Misuse of official position or power for personal gain;

- (vi) Disclosure of secret or confidential information even though it does not fall strictly within the scope of the official Secrets Act;
- (vii) False claims on the Government like T.A claims reimbursement claims, etc.

[GOI Instructions]

c. After conviction in criminal case other than CBI cases, Disciplinary Proceedings not started even if the offence involves moral turpitude

-Under CDA Rules 5(17), criminal offence involving moral turpitude is a misconduct

d. Charge-sheet not issued after suspension:

[CIL:VIG:2016/33011/01/728 dt 23.06.2016]

## II. Quantum of penalty

a. Penalty not imposed in commensurate with gravity of misconduct

[CIL/VIG/2014/MK-3/Conf/1077 dt 11.10.2014]

b. Dismissal/removal not awarded if charges relating to illegal gratification (trap case) & Disproportionate Assets.

[CIL/VIG/2015/MK-3/Conf/2826 dt 28.03.2017]

c. Inadequate penalty in CBI cases

- One stage reduction given for a few days/months for serious misconduct for retiring employee

[CIL/VIG/2014/MK-3/Conf/1077 dt 11.10.2014]

d. Retired employees let off with displeasure even if charge-sheet was issued during service period

- All penalties under CDA Rule can be imposed treating him as if he is in service as prescribed in 34.2 of CDA Rules

[CIL:VIG:2016/25018/02/347 dt 18.05.2016]

[CIL:VIG:SECY:MK-3:742 dt 27.06.2013]

e. Prescribed penalty to be imposed if C/S issued

In terms of DoPT instructions on the subject under Rule 11 of CCS (CCA) Rules, if a formal proceeding under the said Rules has been initiated by issuance of a Charge Memorandum, then on conclusion of the said proceedings, if any blame attaches to the officer and he deserves to be penalized, then at least a penalty of 'Censure' must be awarded. Otherwise, officer must be exonerated. It is not permissible to issue an administrative warning oral or written, at the conclusion of formal proceedings under CCS (CCA) Rules, 1965.

[F.No. C-14010/1/2010-Ad.V dt 7th Jan 2011 – DOR]

f. Dismissal/Removal not imposed on criminal conviction in CBI cases

[CIL/VIG/2014/MK-3/Conf/1077 dt 11.10.2014]

g. Cases deserving Dismissal/Removal not sent to CIL

- (i) In CBI conviction, other than dismissal/removal imposed
- (ii) If penalty imposed or proposed to be imposed is different from advice of CVC
- (iii) If misconduct relates to illegal gratification or Disproportionate assets
- (iv) If cases in which prosecution sanction has been granted but penalty other than dismissal/removal or compulsory retirement imposed.

[CIL/VIG/2014/MK-3/Conf/1077 dt 11.10.2014]

[CIL/VIG/2015/33011/01/2364 dt 02.03.2015]

[CIL/CH/Qtr. Rev./MK-7/769 dt 09.07.2015]

h. Penalty not as per CDA Rules

- Recordable warning given though it is not a penalty under CDA Rules

[CIL/C-5(vi)/052/657 dt 10.04.1995]

- Period of penalty and affect after currency period not mentioned

[CIL:CH:44:475 dt 16.03.2017]

**III. Consultation with CVC**

- a. Case not referred for 2<sup>nd</sup> stage advice even if proposed penalty different from 1<sup>st</sup> stage advice

[CVC manual]

- b. Copy of report being sent to Ministry not sent to CVC even if the employee under its purview involved.

[CVC manual]

- c. Order by Appellate Authority different from advice of CVC not reported back to CVC

[CVC manual]

**IV. Action against Retiring/Retired employees**

- a. Charge-sheet not issued to employees retiring from service against whom prosecution sanction granted or investigation report of misconduct submitted.

- Charge-sheet should be ensured at least two months before retirement

[CIL:VIC:RC-13(A)/94(R):1508 dt 26.09.2016]

- b. Gratuity not withheld at the time of retirement in major penalty cases likely to lead to dismissal/removal under 34.3

[CIL/VIG/2015/MK-3/Conf/1243 dt 10.09.2015]

**V. Action in CBI Matters**

- a. Simultaneous RDA not started in CBI cases

Simultaneous RDA should be started and concluded without waiting for CBI trial, irrespective whether CBI recommends RDA or not. At least major penalty to be ensured.

[In CBI cases, simultaneous RDA may be held with prosecution as the purpose, nature of charges, standard of proof are different and finalised without waiting for outcome of trial]

[DoPT- 11012/6/2007-Estt.A dt 01.08.2007 ]

[CIL/VIG/2014/MK-3/Conf/1077 dt 11.10.2014]

[CVC Mnual]

b. RDA not concluded & waiting for CBI trial to be over

There is no need to wait for criminal trial to be over, however minimum major penalty to be ensured. If charge not established in DI, disagreement memo may be considered. On conviction, the penalty should be reviewed if other than Dismissal/Removal awarded.

[CIL/VIG/2014/MK-3/Conf/1077 dt 11.10.2014]

c. The cases where action differing with CBI recommendation not reported back to CBI

[CVC manual]

d. Penalty in conviction cases held up if appeal filed by employee


[CIL/VIG/2016/33011/1513 dt 27.09.2016]

e. Cases linger even after conviction in criminal trial of CBI

- If DI not started, dismissal can be done after Show Cause Notice under 34.1 CDA Rule
- If DI already started, DI should be completed quickly and penalty of dismissal imposed.

The Hon'ble Supreme Court has also held that in cases involving corruption, there cannot be any other punishment than dismissal. [*Municipal Committee, Bahadurgarh vs Krishnan Behari, AIR 1966 SC 1249, Govt of Andhra Pradesh vs Ashok Kumar, 1997 Lab. IC (SC) 1353*]

These shortcomings may please be kept in view while deciding the action in Vigilance cases.



(Sutirtha Bhattacharya)  
Chairman-cum-Managing Director  
Coal India Ltd

To

All CMDs  
All CVOs