MOST IMMEDIATE

No. 11012/11/2007-Estt. (A)
Government of India
Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi,
Dated the 14th December, 2007

OFFICE MEMORANDUM

Subject:- Guidelines regarding grant of vigilance clearance to members of the Central Civil Services/Central Civil posts.

The undersigned is directed to say that the matter regarding guidelines for giving vigilance clearance to members of the Central Civil Services/ Central Civil posts has been reviewed by the Department of Personnel & Training and it has been decided that the following guidelines for the grant of vigilance clearance to the Government servants belonging to the Central Civil Services/ Central Civil posts shall be applicable with immediate effect:

1. These orders regarding accordance of vigilance clearance to members of the Central Civil Services/posts shall be applicable with respect to (a) empanelment (b) any deputation for which clearance is necessary, (c) appointments to sensitive posts and assignments to training programmes (except mandatory training). In all these cases, the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

2. The circumstances under which vigilance clearance shall not be withheld shall be as under:

a) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Department may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding (i) corruption (ii) possession of assets disproportionate to known sources of income (iii) moral turpitude (iv) violation of the Central Civil Services (Conduct) Rules, 1964.

b) Vigilance clearance shall not be withheld if a preliminary inquiry mentioned in 2(a) above takes more than three months to be completed.

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c) Vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) a chargsheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending (iii) orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of passing such order (iv) chargesheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending (v) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of initiating proceedings (vi) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter (vii) an FIR has been filed or a case registered by the concerned Department against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case and (viii) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.

d) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a chargesheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent court of law.

e) Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges within a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the parent cadre in case he is on deputation and not for any other dispensation listed in para 1 of this O.M..

3. In cases where complaints have been referred to the administrative authority concerned, and no substantive response has been received from such administrative authority concerned within three months from the date on which the reference was made, the Disciplinary Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

4. Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity

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of the charges and the facts and circumstances, in the following situations:

a) where the investigating agency has found no substance in the allegation but the Court refuses to permit closure of the FIR.; and
b) where the investigating agency/inquiry officer holds the charges as proved but the competent administrative authority differs, or the converse.

5. While considering cases for grant of vigilance clearance for the purpose of empanelment of members of the Central Civil Services/Central Civil posts of a particular batch, the vigilance clearance/status will continue to be ascertained from the respective Cadre Authority. In all such cases, the comments of the Central Vigilance Commission will be obtained. However, if no comments are received within a period of three months, it will be presumed that there is nothing adverse against the officer on the records of the body concerned.

6. Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers upto one level below their seniority in service. In the case of officers of the level of Additional Secretary/Secretary, this will be issued with the approval of the Secretary. In case of doubt, orders of the Secretary will be obtained keeping in view the purpose for which the vigilance clearance is required by the indenting authority.

7. Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

8. Insofar as the personnel serving in the Indian audit and accounts Department are concerned, these instructions have been issued after consultation with the Comptroller and Auditor General of India.

9 All the Ministries/Departments are requested to bring the above guidelines for the notice of all concerned for information and compliance.

(P. Prabhakaran)
Deputy Secretary to the Government of India

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Copy forwarded to :

1. Prime Minister's Office (with reference to their I.D. No. 600/68/13/07-ESII, dated 24.10.2007).

2. Cabinet Secretariat.

3. Ministries/Departments of the Government of India.

4 Secretary, Central Vigilance Commission.

5 .Central Bureau of Investigation, New Delhi

6. Union Public Service Commission, New Delhi

7 Comptroller and Auditor General of India, New Delhi

Copy to:

(i) PS to MOS(PP)
(ii) PPS to Secretary(P)
(iii) PPS to AS(S&V)
(iv) PPS to EO & AS
(v) PS to JS(E)
(vi) PS to JS(V) (w.r.t. AVD Division's O.M. No. 104/33/2005-AVD-I dated 31.10.2007.

(P. Prabhakaran)
Deputy Secretary to the Government of India