No. 372/6/2017-AVD-III
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
***

North Block, New Delhi
Dated 1st March, 2019

OFFICE MEMORANDUM

Subject: Guidelines for dealing with disagreement between DA and CVC in cases of granting Sanction for Prosecution - regarding

In supersession of this Department's OM No. 134/2/85-AVD-I dated 15/17-10-1986, the following guidelines are laid down for strict compliance while dealing with disagreement between the Disciplinary Authority (DA) and the Central Vigilance Commission (CVC) in cases of granting Sanction for Prosecution.

2. The work relating to according of Central Government's sanction for the prosecution of any person in a case investigated by the Central Bureau of Investigation (CBI) which was centralised in the Department of Personnel and Training, has since been decentralised and vested in the Ministry/Department concerned vide Cabinet Secretariat's Notification No. CD-826/86, dated the 30th September, 1986.

2.1 The CBI recommends prosecution of persons only in those cases in which they find sufficient justification for the same as a result of the investigation conducted by them. There are adequate internal controls within CBI to ensure that a recommendation to prosecute is taken only after a very careful examination of all the facts and circumstances of the case. Hence, any decision not to accord sanction for prosecution in such cases should, therefore, be for very valid reasons.

2.2 The following guidelines may be kept in view while dealing with cases of sanction of prosecution:

(i) In cases in which sanction for prosecution is required to be accorded in the name of the President, the CVC will advise the Ministry/Department concerned and it would be for that Ministry/Department to consider the advice of the CVC and to take a decision as to whether or not the prosecution should be sanctioned;

(ii) In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it is required to report the case to the CVC and take further action after considering the CVC's advice, vide para 2(vi)(b) of the Government Resolution by which the CVC was set up and the CVC's letter No. 9/1/64-DP dated 13th April, 1984;

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(iii) In a case falling under (i) above, if the CVC advises grant of sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice, the case should be referred to this Department for final decision;

(iv) In a case falling under (i) above, if the CVC declines sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice and proposes to grant sanction for prosecution, the case should be referred to this Department for a final decision.

(v) In a case falling under (ii) above, if the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to this Department for final decision;

(vi) Where two or more Government servants belonging to different Ministries/Departments, or under the control of different cadre controlling authorities are involved, the CBI will seek sanction from the respective Ministries/Departments or the respective competent authorities in accordance with the procedure laid down in the above paragraphs. Where sanction is granted in the case of one of the Govt. servants but sanction is refused in the case of the other or others, the CBI will refer the case to this Department for resolution of the conflict, if any, for final decision.

3. This issues with the approval of Competent Authority.

(Manmeet Kaur)
Under Secretary to the Govt. of India
Tel No. 2309 4541

To:

1. All Ministries/Departments of the Government of India as per standard list
2. Prime Minister's Office, South Block, New Delhi
3. NIC, DoPT for uploading on the website of this Department

Copy to:

1. Secretary, CVC, Satarkta Bhawan, New Delhi
2. Director, CBI, North Block, New Delhi
3. Other as per standard list.

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Deptt. of Personnel & Trg.
प्राप्ति और निर्गम अनुभाग
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