

**EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. MARG: NEW DELHI**

No. C.11/25/2/09-Vig

Dated: 31.8.2012

To

1. All Regional Directors/Joint Director Incharge
Regional Office/ Sub Regional Offices
3. All Medical Superintendents, ESI Hospitals
and ESIC Model Hospitals.
4. Director (Medical) Delhi/Director Medical (Noida)
5. Estt. Branch V, Headquarters Office

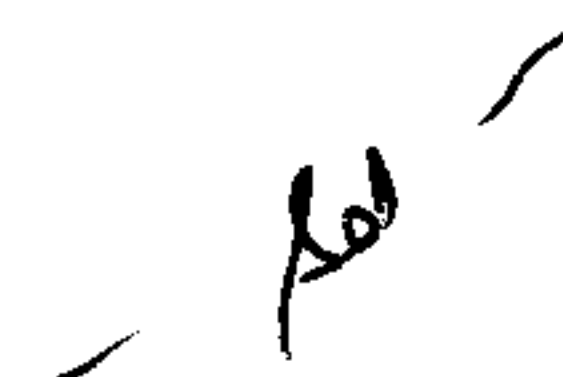
**Sub: Guidelines for checking delay in grant of sanction for prosecution –
strict compliance thereof.**

Sir,

I have been directed to forward herewith copies of Office Memorandum No. 372/19/2012-AVD-III dated 3.5.2012 and letter No.C-15016/01/2012-Vigilance dated 26th July, 2012 (with enclosures) received from Ministry of Labour & Employment on the subject mentioned above for information and strict compliance in future.

The receipt of letter may kindly be acknowledged.

Yours faithfully,



(MUKUL VATS)

ASSTT. DIRECTOR (VIG)

Encl: As above

Copy to: Website Content Manager, Headquarters Office with the request to uphold the circular on the ESIC Website.



ASSTT. DIRECTOR (VIG)

Encl: As above

वेबसाइट की विषय-सूची का प्रबंधन.....
Website Contents Management.....
आयसी सं./Diary No. 136.....
दिनांक / Date..... 31/8/12.....

No 37(R)

MOST IMMEDIATE

No.C-15016/01/2012-Vigilance
Government of India/Bharat Sarkar
Ministry of Labour & Employment/Shram Aur Rozgar Mantralaya

.....
New Delhi, dated

⁴¹
26 July, 2012.

NOTE

Subject : Guidelines for checking delay in grant of sanction for prosecution - strict compliance thereof.

A copy of Department of Personnel & Training's O.M. No.420/01/2012-AVD-IV dated 20th July, 2012, on the above subject is enclosed herewith for information and strict compliance.

महानिदेशक का वैयक्तिक अनुभाग
D. G. PERSONAL SECTION
जायरी सं./ Dy. No. 1264/17
दिनांक / Date 08/8/12

Vandana Sharma
(Vandana Sharma)
Director
Telefax: 23717275

Encl. : As above.

1. Director(Vigilance), Office of DGLW, New Delhi.
2. Director(Vigilance), DGE&T, Min. of Lab. & Employment, New Delhi.
3. Dy.CLC(C) (Vigilance) - Sh. B.K. Sanwaria, Office of CLC(C), Min. of Labour & Employment, New Delhi.
4. Director (CLS Vigilance)
5. Director (SS Division)
6. Director (ESA)
7. Under Secretary (ISH.II)
8. Director (Admn).

Copy for information to :-

1. Principal Labour & Employment Adviser.
2. Addl. Secretary
3. Joint Secretary (CP).
4. Joint Secretary (AP)
5. DGLW,
6. DGE&T,
7. CLC(C),
8. DDG(Shri T.K. Basu)
9. PS to LEM.
10. Sr.PPS to Secretary (L & E)

SS-I Section

Reference above

2. ESIC may please see for information and compliance.

Dir (Vigilance), ESIC

Utkay
30/7/12
(USNAY KUMAR)

म.नि.सं./सं.

Aut-S.S-1
9/8

DM (M.L.)
6/8
Dir-(V)

Copy also for similar action to :

✓
SS-I & II/CLS-II/ESA/ISH-II/
office of DGLW/~~Adm.III~~/Adm.III/VFTA Section of
DGE&T/Vigilance Section of CLC(C).

Vandana Sharma
(Vandana Sharma)
Director
Telefax: 23717275

No. 420/01/2012-AVD-IV

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

North Block, New Delhi-110001.

Dated the 20th July, 2012.

OFFICE-MEMORANDUM

Subject:- Guidelines for checking delays in grant of sanction of prosecution - strict compliance thereof.

Attention is invited to this Department's O.M. Nos. 399/33/2006-AVD.III dated 06.11.2006 & 20.12.2006 and O.M. No. 372/19/2012-AVD.III dated 03.05.2012 on the subject cited above.

2. In a recent meeting taken by Secretary (Personnel) to review the cases for sanction of prosecution against public servants pending with various Ministries / Departments, the following issues emerged:-

(a) It was noted that in a significant no. of cases pertaining to banks and PSUs etc., the Disciplinary Authorities first decline the sanction and thereafter seek advice of CVC. This is in clear violation of DOP&T's instructions issued vide O.M. 399/33/2006-AVD.III dated 06.11.2006 wherein it is stipulated that the competent authority shall take a tentative view regarding the action to be taken and seek advice of CVC in the matter and on receipt of the advice from the CVC, the concerned Ministry / Department shall finalise its views. It is reiterated that before passing orders on requests for sanction for prosecution, the instructions issued by this Department are strictly adhered to.

(b) It was also noticed that various Ministries / Departments do not adhere to the stipulated time limit. It is imperative that the stipulated time limit must be strictly adhered to. The guidelines issued by DOPT vide O.M. No. 399/33/2006-AVD-III dated 06.11.2006 & 20.12.2006, have recently been modified vide O.M. No. 372/19/2012-AVD.III dated 03.05,2012 to empower the disciplinary authority to take final view in such matters within three months and that in disagreement cases DOPT's advice would be taken into account before passing final orders.

(c) Protracted correspondence made by the Administrative Ministries with the CBI/CVC for clarifications/reconsideration, etc. are strictly not necessary and disciplinary authority can, in most cases, take a decision on the basis of records which are available with it. As per the extant instructions, the Disciplinary Authority should not entertain representations from individuals themselves as this would be an endless process which often delays the matter and results in non-adherence to the prescribed time lines for processing such cases. This Department's instruction dated 6th November, 2006 has clearly stated that the concerned Ministry/Department shall refer the case to CVC for reconsideration only in exceptional cases when new facts come to light.




Handwritten notes:
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S. Singh
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Shrinani

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24/7/12

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(d) The administrative Departments should avoid making repeated references to the CVC for reconsideration of their advice and, in all cases where they propose to disagree with the advice given by CVC, the matter should be promptly referred to the DoP&T (as a disagreement case), seeking DoP&T's views in the matter.

(e) Wherever, the disagreement cases are referred to DoP&T for views/ advice and once DoP&T gives its views, the Disciplinary Authority may have to take a considered final decision, keeping in view the advice given by DoP&T. The instructions contained in this Department's O.Ms dated 06.11.2006 and 20.12.2006, as modified O.M. dated 03.05.2012 in this regard shall be complied with strictly by all Ministries/Departments.


(V.M. Rathnam)
Deputy Secretary(V-IV)
Tel.No. 23094637

1. All the Ministries / Departments of Government of India as per standard list.
2. Prime Minister's Office, South Block, New Delhi.
- ✓ 3. NIC, DoP&T for uploading on the website of the Department.

Copy to:

1. Secretary, Central Vigilance Commission, Satarkata Bhawan, New Delhi
2. Director, Central Bureau of Investigation, North Block, New Delhi.
3. Others as per standard list.

No.372/19/2012-AVD-III
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block,
New Delhi the 3rd May, 2012.

OFFICE MEMORANDUM

Subject: Guidelines for checking delay in grant of sanction for prosecution.

Attention is invited to this Department's OMs No. 399/33/2006-AVD-III dated 6th November, 2006 and 20th December, 2006 on the subject mentioned above.

2. In terms of above instructions, the Competent Authority has to formulate its tentative views regarding the action to be taken on the request of the Investigating Agency and seek the advice of the CVC in the matter. The instructions further lay down that CVC would tender its advice within 10 days to the concerned administrative Ministry/Department, which shall finalise its view in the matter and issue orders accordingly. The instructions also lay down that the administrative Ministry/Department shall refer the case to CVC for reconsideration only in exceptional cases when new facts come to light and that CVC would render appropriate advice to the competent authority based on the findings of the expert committee, within a fortnight and that if the CVC on reconsideration advises for grant of sanction, the concerned Ministry/Department will issue the requisite orders immediately. The instructions further lay down that if the concerned administrative Ministry/Department proposes not to accept the reconsidered advice of the CVC, the case will be referred to DoP&T for final decision and that the DoP&T shall decide the case within 3 weeks and convey its decision to the concerned Ministry/Department.

3. Government constituted a Group of Ministers (GoM), on 6th January, 2011 with the approval of the Prime Minister, to consider measures that can be taken by the Government to tackle corruption. One of the terms of reference (ToR) of the GoM was to consider and advise on "Fast tracking of all cases of public servants accused of corruption". The Group of Ministers, while considering this ToR, observed that it is imperative that cases of sanction for prosecution should be decided expeditiously and within the timeframe of 3 months. **The GoM, therefore, recommended that:-**

(a) In all cases where the Investigating Agency has requested sanction for prosecution and also submitted a draft



charge sheet and related documents along with the request, it will be mandatory for the competent authority to take a decision within a period of 3 months from receipt of request, and pass a Speaking Order, giving reasons for this decision.

(b) In the event that the competent authority refuses permission for sanction to prosecute, it will have to submit its order including reasons for refusal, to the next higher authority for information within 7 days.

Wherever the Minister-in-charge of the Department is the competent authority and he decides to deny the permission, it would be incumbent on the Minister to submit, within 7 days of passing such order denying the permission, to the Prime Minister for information.

(c) It will be the responsibility of the Secretary of each Department/Ministry to monitor all cases where a request has been made for permission to prosecute. Secretaries may also submit a certificate every month to the Cabinet Secretary to the effect that no case is pending for more than 3 months, the reasons for such pendency and the level where it is pending may also be explained.

4. The said recommendation of the GoM has been accepted by Government with the approval of the Prime Minister. The Prime Minister has also directed that in cases of disagreement where the competent authority proposes to disagree with the investigating agency/CVC, the matter shall be referred to DoP&T and DoP&T's views in such cases must be communicated to the Competent Authority within such time as would enable the competent authority to pass the final speaking order within a period of three months.

5. As mentioned in para 2 above, the extant instructions have specified clear timelines for each stage of processing of such requests which also includes a period of three weeks for the DoP&T to finalise its views in cases of disagreement referred to it.

6. Accordingly, the above recommendations of the GoM as accepted by the Government and the instructions of the Prime Minister regarding timely communication of DoP&T's views in disagreement cases are brought to the notice of all Ministries/Departments for strict compliance.

7. As already pointed out in para 2(v) of this Department's OM dated 6th November, 2006, the responsibility of processing cases for sanction for

