

NO.C/43011/4/99-CVO
GOVERNMENT OF PONDICHERRY
CONFIDENTIAL AND CABINET DEPARTMENT
(CHIEF VIGILANCE OFFICE)

Pondicherry, the 24.12.99

I.D.NOTE / MEMORANDUM

Sub: Drafting of charge sheet

A copy of the letter No. 3(v)/99/8, dated 5.10.99 received from the Central Vigilance Commissioner, Central Vigilance Commission, New Delhi, on the above subject, is forwarded herewith for information and strict compliance.

(H. DASARATHAN)
UNDER SECRETARY TO GOVERNMENT

Encl.: As above

TO

All Heads of Departments/Offices,
Pondicherry/Karaikal/Mahe/Yanam.

Copy to: -

- (1) All Secretaries to Government, Pondicherry.
- (2) All Secretariat Departments, Pondicherry.

NO. 3(v)/99/8
CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi-110023
Dated the 5th October 1999.

Subject: - Drafting of charge sheet.

Inadequate skill in drafting the charge sheet is one of the reasons, which help the charged officials to get away with lapses/misconduct committed by them. Many cases fail before the Courts of Law just because of the defective framing of charge sheets. It has been observed by the Commission that the charge sheets are sometimes framed in a very general way and the existing practice with regard to framing of charges and imputations vary widely. Sometimes the charge itself is framed in a very general way, only pointing out that the official concerned has acted in an unbecoming manner or has shown lack of devotion to duty or has acted without integrity. The real issues, in such circumstances, are to be found in the statement of imputations. It has also been observed by the Commission that the Organisations/Ministries etc. while framing the charge sheets list serious irregularities/charges in the imputations but do not mention the same in the articles of charge. Many a times the charges are not framed in accordance with the advice given by the Commission, thereby diluting the central issues.

2. Rule 14(3)(1) of the CCS (CCA) Rules stipulates that "the substance of the imputations of misconduct or misbehaviour into distinct articles of charge" should be drawn up by the Disciplinary Authority whenever it is proposed to hold an enquiry against a Government servant. This would mean that no charge can be proper or complete without including therein elements of the main content of the allegations/imputations. Therefore, the spirit of all Conduct, Discipline & Appeal Rules imply that there should be a specific finding on each allegation made against the Officer. At the end, the IO must then apply his mind to come to a conclusion as to whether the charge as a whole has been proved wholly, partially or not at all.

3. It has to be understood that the statement of imputations/allegations annexed are supplementary/supportive material to the charge sheet; they are details of facts/evidence to support the charges made, and should contain names of witnesses/documents in support of the charges. That is, the statement of imputations is to make the basis of the charge, allegation-wise precise and specific and should include details of what exactly each witness/document is going to prove regarding every charge. Each charge should also have a separate statement of imputations of misbehaviour/misconduct. The common failing of listing out one long statement of misconduct/misbehaviour out to be avoided.

4. The Commission has also issued instructions earlier which are reproduced in Para 14.1 to 14.3 of Chapter X of Vigilance Manual Part I stipulating that the articles of charge should be framed with great care. Broad guidelines as to how the articles of charge should be framed have also been indicated therein. Similarly, the common mistakes, which have been noticed by the Commission in framing the charge sheet, have also been incorporated in Para 12.1.3 of the special Chapter on Vigilance Management in Banks and Para 20.1.3 in the special Chapter in PSEs. These are reproduced below: -

"Special care has to be taken while drafting a charge sheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarised in the Articles of charge. It should be remembered that ultimately the IO would be required to give his specific findings only on the Articles as they appear in the charge sheet. The Courts have struck down chargesheets on account of the charges framed being general or vague (S.K. Raheman Vs State of Orissa 60 CLT 419). If the charge is that the employee acted out of an ulterior motive that motive must be specified (Uttar Pradesh Vs Salig Ram AIR 1960 All 543). Equally importantly, while drawing a charge sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance (Meena Jahan Vs Deputy Director, Tourism 1974 2SLR 466 Cal). However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge, will not vitiate the charge sheet (Dinabandhu Rath Vs State of Orissa AIR 1960 Orissa 26 cf. Also Powari Tea state Vs. Barkataki (M.K.) 1965 Lab Lj 102)"

5. Notwithstanding the extant instruction / guidelines many Organisations continue to make avoidable mistakes while framing the charge sheets. Therefore, it is reiterated that the extant instructions on the subject as stated in the aforesaid paras may be followed carefully while drafting the charge sheet, in order to avoid subsequent difficulties. The CVOs of the Organisations/Ministries etc. should ensure that these instructions are implemented scrupulously.

6. In addition as already summarised above, an IO is required to give his finding in respect of each article of charge and reasons thereof. As the articles of charge are definite and distinct substance of the statement of imputations of misconduct or misbehaviour, the findings on each articles of charge have to be inter-alia based on statement of imputations. Therefore, the Inquiry Officers are required to record their findings in respect of each allegation framed in support of an article of charge in order to ensure that inquiry reports do not suffer due to deficiencies

7. All CVOs may ensure strict compliance of the above instructions. CVOs are also instructed to carry out an exercise on their own in respect of cases where the Commission has tendered its first stage advice to ensure that the articles of charge and statement of imputations are in conformity with the advice. The CVOs of Ministries can also check charge sheets in a random manner during their visits/inspection.

8. This instruction is available in the website of CVC at <http://cvc.nic.in>.

Sd/-
(N. VITTAL)
CENTRAL VIGILANCE COMMISSIONER

To
The Chief Secretaries of all Union Territories.

/True Copy/

A. Nagarajan
(A. NAGARAJAN) 22/12/99
SUPERINTENDENT GRADE-I