(f) Conduct, Discipline & Appeal Rules

I. DPE/Guidelines/II(f)/1

Report of the Working Group to frame Model Conduct, discipline and Appeal Rules for Public Undertakings

At the Conference of the Chief Executives of public sector undertakings held at New Delhi in June 1973, it was decided that a Working Group to review the existing Rules of Public Undertakings regarding conduct and discipline procedures should be set up with a view to frame a model set of Conduct and Discipline Rules for the employees of the public sector undertakings. The recommendation was accepted by the Central Vigilance Commission and in consultation with BPE, Department of Personnel, a Working Group comprising of the representatives from CVC, Department of Personnel, BPE, Ministry of Labour and Employment, Central Bureau of Investigation, Hindustan Steel Limited, Fertilizer Corporation of India, Indian Airlines, Bharat Earth Movers Limited and Heavy Engineering Corporation was set up to frame a model set of Conduct and Discipline Rules which could be adopted by the Public Enterprises.

2. The working Group has since submitted its Report, which contains a model set of Rules which could be adopted by the Public Enterprises while framing their Conduct and Discipline Rules. The Report has also been considered by the Executive Board of the Standing Conference of Public Enterprises at its meeting held on 7th March 1974, wherein it was decided that the Report in question may be circulated to the Public Enterprises, who may consider the adoption of the Rules as contained in the Report with such modifications as they may consider necessary, keeping in view their particular circumstances. The Working group had themselves accepted that it may not be possible for the public enterprises to adopt these Model Rules in toto and it may be necessary for them to make deviations from these Rules to suit local conditions. But since the demand for constitution of the Working Group had come from the Chief Executives themselves the Group did not anticipate any difficulty in these Rules being broadly accepted as "Model Rules" by all the enterprises. Section VII of the Working Group's Report refers.

A copy of the Report is enclosed herewith* for necessary action on the lines indicated above. It is requested that the action taken by your enterprise in this regard may be intimated to the Bureau in due course, along with a copy of the Conduct, Discipline and Appeal Rules of the enterprise as may be finally evolved. * Not reproduced.

(BPE No. 2(121)/73-BPE (GM-I) dated 26th April, 1974)

MODEL CONDUCT, DISCIPLINE AND APPEAL RULES

(Public Enterprises were advised under BPE's letter No. 2 /(121)/73-BPE (GM-1), dated 26th April, 1974 to frame their own Conduct, Discipline and Appeal Rules based on the Model Rules furnished to them. The Model Rules reproduced below incorporate the latest amendments)

Rule 1. Short title and commencement

- i) These rules may be called ----- Conduct, Discipline and Appeal Rules 1973.
- ii) They shall come into force on-----.

Rule 2. Application

These rules shall apply to all employees except

- i) Those in casual employment or paid from contingencies;
- ii) Those governed by the standing orders under the Industrial Disputes Act, 1947.

Rule 3. Definitions

In these rules, unless the context otherwise requires-

- a. <u>Employee</u> means a person in the employment of the undertaking other than the casual, work-charged or contingent staff or workman as defined in the Industrial Disputes Act, 1947, but includes a person on deputation to the corporation /Company.
- b. Workman means a person as defined in the Industrial Disputes Act 1947, and to whom the provision of these rules shall not apply.

- c. Company/Corporation means the ___(name of the Corporation/ Company to be mentioned).
- d. <u>Board</u> means the Board of Directors of the corporation/company and includes in relation to the exercise of powers, any committee of the Board/ management or any officer of the Undertaking to whom the Board delegates any of its powers.
- e. Chairman/Managing Director means the Chairman/Managing Director of the Corporation/Company
- f. <u>Disciplinary Authority</u> means the authority specified in the Schedule appended to these rules and competent to impose any of the penalties specified in Rule 23.
- g. Competent Authority means the authority empowered by Board of Directors by any general or special rule or order to discharge the function or use the powers specified in the rule or order.
- h. Government means the Government of India.
- i. Appellate Authority means the authority specified in the Scheduled appended to these rules.
- j. Reviewing Authority means the authority specified in the Schedule attached to these rules.
- k. Family in relation to an employee includes:-
- i. The wife or husband as the case may be of the employee, whether residing with him or not but does not include a wife or husband as the case may be separated from the employee by a decree or order of a Competent court.
- ii. Sons or daughters or stepsons or stepdaughters of the employee and wholly dependent on him, but does not include a child or stepchild who is no longer in any way dependent on the employee or of whose custody the employee has been deprived of by or under any law.
- iii. Any other person related, whether by blood or marriage to the employee or to such employee's wife or husband and wholly dependent on such employee.
- I. Public servant shall mean and include a person as mentioned in section 21 of-Indian Penal Code as amended from time to time.

Rule 4. General

- 1. Every employee of the corporation/company shall at all times
- i. Maintain absolute integrity;
- ii. Maintain devotion to duty; and
- iii. Do nothing which is unbecoming of a public servant.
- 2. Every employee of the corporation/company holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all employees for the time being under his control and authority

Rule 5. Misconduct

Without Prejudice to the generality of the term "misconduct", the following acts of omission and commission shall be treated as misconduct:-

- 1. Theft, fraud or dishonesty in connection with the business or property of the corporation/company or of property of another person within the premises of the corporation/company
- 2. Taking or giving bribes or any illegal gratification.
- 3. Possession of pecuniary resources or property disproportionate to the known source of income by the employee or on his behalf by another person, which the employee cannot satisfactorily account for.
- 4. Furnishing false information regarding name, age, father's name, qualification, ability or previous service or any other matter germane to the employment at the time of employment or during the course of employment.

- 5. Acting in a manner prejudicial to the interests of the Corporation/ Company.
- 6. Willful insubordination or disobedience, whether or not in combination with others, of any lawful and reasonable order of his superior.
- 7. Absence without leave or over-staying the sanctioned leaves for more than four consecutive days without sufficient grounds or proper or satisfactory explanation.
- 8. Habitual late or irregular attendance.
- 9. Neglect of work or negligence in the performance of duty including malingering or slowing down of work.
- 10. Damage to any property of the Corporation/Company.
- 11. Interference or tampering with any safety devices installed in or about the premises of the Corporation/Company.
- 12. Drunkenness or riotous or disorderly or indecent behaviour in the premises of the Corporation/Company or outside such premises where such behaviour is related to or connected with the employment.
- 13. Gambling within the premises of the establishment.
- 14. Smoking within the premises of the establishment where it is prohibited.
- 15. Collection without the permission of the competent authority of any money within the premises of the Corporation/Company except as sanctioned by any law of the land for the time being in force or rules of the Corporation/Company.
- 16. Sleeping while on duty.
- 17. Commission of any act, which amounts to a criminal offence involving moral turpitude.
- 18. Absence from the employee's appointed place of work without permission or sufficient cause.
- 19. Purchasing properties, machinery, stores, etc. from or selling properties, machinery, stores etc., to the Corporation/Company without express permission in writing from the competent authority.
- 20. Commission of any acts subversive of discipline or of good behaviour.
- 21. Abetment of or attempt at abetment of any act which amounts to misconduct.

*Note: The above instances of misconduct are illustrative in nature, and not exhaustive.

Rule 6. Employment of near relatives of the employees of the Corporation/Company in any company or firm enjoying patronage of the Corporation/Company.

- 3. No employee shall use his position or influence directly or indirectly to secure employment for any person related, whether by blood or marriage to the employee or to the employee's wife or husband, whether such a person is dependent on the employee or not.
- 1. No employee shall, except with the previous sanction of the competent authority, permit his son, daughter or any member of the family to accept employment with any company or firm with which he has official dealings, or with any company or firm, having official dealings with the Corporation/Company.

Provided that where the acceptance of the employment cannot await the prior permission of the competent authority the employment may be accepted provisionally subject to the permission of the competent authority, to whom the matter shall be reported forthwith.

2. No employee shall in the discharge of his official duties deal with any matter or give or sanction any contract to any company or firm or any other person if any member of his family is employed in that company or firm or under that person or if he or any member of his family is interested in such matter or contract in any other matter and the employee shall refer every such matter or contract to his official superior and the matter or the contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

Rule 7. Taking part in demonstration

No employee of the Corporation/Company shall engage himself or participate in any demonstration, which involves incitement to an offence.

Rule 8. Connection with Press or Radio

- 1. No employee of the Corporation/Company shall, except with the previous sanction of the competent authority, own wholly or in part, of conduct or participate in the editing or management of, any newspaper or other periodical publication.
- 2. No, employee of the Corporation/Company shall, except with the previous sanction of the Competent authority or the prescribed authority, or in the bonafide discharge of his duties, participate in a radio broadcast or contribute any article or write any letter either in his own name or anonymously, pseudonymously, or in the name of any other person to any newspaper or periodical.

Provided that no such sanction shall be required if such broadcast or such contribution of is a purely literary, artistic or scientific character.

Rule 9. Criticism of Government and the Corporation/Company

No employee shall in any radio broadcast or in any document published under his name or in the name of any other person or in any communication to the press, or in any public utterances, make any statement:

a. which has the effect of adverse criticism of any policy or action of the Central or State Governments, or of the Corporation/ Company;

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b. which is capable of embarrassing the relations between the Corporation/Company and the public.

Provided that nothing in these rules shall apply to any statement made or views expressed by an employee, of purely factual nature which are not considered to be of a confidential nature, in his official capacity or in due performance of the duties assigned to him.

Provided further that nothing contained in this clause shall apply to bonafide expression of views by him as an office-bearer of a recognized trade union for the purpose of safeguarding the conditions of service of such employees or for securing an improvement thereof.

Rule 10. Evidence before Committee or any other Authority

- 1. Save as provided in sub-rule (3), no employee of the Corporation/Company shall, except with the previous sanction of the competent authority, give evidence in connection with any enquiry conducted by any person, committee or authority.
- 2. Where any sanction has been accorded under sub-rule (1), no employee giving such evidence shall criticize the policy or any action of the Central Government or of State Governments, or of the Corporation/Company.
- 3. Nothing in this rule shall apply to-
- a. evidence given at any enquiry before an authority appointed by the Government, Parliament or a State Legislator or any Corporation/Company;
- b. evidence given in any judicial enquiry; or
- c. evidence given at any departmental enquiry ordered, by authorities subordinate to the Government.

Rule 11. Unauthorized communication of information

No employee shall, except in accordance with any general or special order of the Corporation/Company or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof to any officer or other employee, or any other person to whom he is not authorized to communicate such document or information.

Rule 12. Gifts

1. Save as otherwise provided in these rules, no employee of the Corporation/Company shall accept or permit any member of his family or any other person acting on his behalf, to accept any gift.

<u>Explanation</u> - The expression "gift", shall include free transport, board, lodging or other service or any other pecuniary advantage when provided by any person other than a near relative or a personal friend having no official dealings with the employee.

<u>Note</u> - An employee of the Corporation/Company shall avoid acceptance of lavish or frequent hospitality from any individual or firm having official dealings with him.

- 2. On occasions such as weddings, anniversaries, funerals or religious functions, when the making of gifts is in conformity with the prevailing religious or social practices, an employee of the Corporation/Company may accept gifts, from his near relatives but he shall make a report to the competent authority if the value of the gift exceeds Rs. 500/-.
- 3. On such occasions as are specified in sub-rule (2), an employee of the Corporation/Company may accept gifts from his personal friends having no official dealings with him, but he shall make a report to the competent authority if the value of any such gift exceeds Rs. 2 50/-
- 4. In any other case, an employee of the Corporation/Company shall not accept or permit any other member of his family or any other person acting on his behalf to accept any gifts without the sanction of the competent authority if the value thereof exceeds Rs. 250/-

Provided that when more than one gift has been received from the same person/firm within a period of 12 months, the matter shall be reported to the competent authority if the aggregate value of the gifts exceeds Rs. 250/-.

Rule 12A. No employee of the Corporation/Company shall-

- i. give or take or abet the giving or taking of dowry; or
- ii. demand, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry.

Explanation: For the purposes of this rule dowry has the same meaning as in Dowry Prohibition Act, 1961 (28 of 1961).

Rule 13. Private Trade or employment

- 1. No employee of the Corporation/Company shall except with the previous sanction of the competent authority, engage directly or indirectly in any trade or business or undertake any other employment; Provided that an employee may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of literacy, artistic or scientific character, subject to the condition that his official duties do not thereby suffer.
- 2. Every employee of the Corporation/Company shall report to the competent authority; any member of his family is engaged in a trade or business or owns or manages an insurance agency or Commission agency.
- 3. No employee of the Corporation/Company shall, without the previous sanction of the competent authority except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 (I of 1956) or other law for the time being in force or any cooperative society for commercial purposes;

Provided that an employee of the Corporation/Company may take part in the registration, promotion or management of a consumer/House Building Co-operative society substantially for the benefit of employees of the Corporation/Company, registered under the Cooperative Societies Act, 1912 (2 of 1912) or any other law for the time being in force, or of a literary, scientific or charitable society registered under the Societies Registration Act, 1860 (21 of 1860), or any corresponding law in force.

4. No employee of the Corporation/Company may accept any fee or any pecuniary advantage for any work done by him for any public body or any private person without the sanction of the competent authority.

Rule 14. Investment, lending and borrowing

No employee shall, save in the ordinary course of business with a bank, the Life Insurance Corporation or a firm of standing, borrow money from or lend money to or otherwise place himself under pecuniary obligation to any person with whom he has or is likely to have official dealings or permit any such borrowing, lending or pecuniary obligation in his name or for his benefit or for the benefit of any member of his family.

Rule 15. Insolvency and habitual indebtedness

- 1. An employee of the Corporation/Company shall avoid habitual indebtedness unless he proves that such indebtedness or insolvency is the result of circumstances beyond his control and does not proceed from extravagance or dissipation.
- 2. An employee of the Corporation/Company who applies to be, or is adjudged or declared insolvent shall forthwith report the fact to his competent authority.

Rule 16. Movable, Immovable and valuable property

- 1. No employee of the Corporation/Company shall, except with the previous knowledge of the competent authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.
- 2. No employee of the Corporation/Company shall, except with the previous sanction of the competent authority, enter into any transaction concerning any immovable or movable property with a person or a firm having official dealings with the employee or his subordinate.
- 3. Every employee of the Corporation/Company shall report to the competent authority every transaction concerning movable property owned or held by him in his own name or the name of a member of his family, if the value of such property exceeds Rs. 2,500/-.
- 4. Every employee shall, on first appointment in the Corporation/Company, submit a return of assets and liabilities in the prescribed form giving the particulars regarding:-
- a. the immovable property inherited by him, or owned or acquired by him, held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;
- b. shares, debentures, and cash including bank deposits inherited by him (or similar) owned, acquired, or hold by him;
- c. other movable property inherited by him or similarly owned, acquired or held by him if the value of such property exceeds Rs. 2,500/-.
- d. debts and other liabilities incurred by him directly or indirectly;
- e. every employee shall, beginning 1st January, submit a return of immovable property inherited/owned/acquired once in every two years.
- 5. The competent authority may, at any time, by general or special order require an employee to submit, within a period specified in the order a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the competent authority, include details of the means by which, or the source from which such property was acquired.

Rule 17. Canvassing of non-official or other influence

No employee shall bring or attempt to bring any outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service in the Corporation/Company.

Rule 18. Bigamous marriages

- 1. No employee shall enter into, or contract, a marriage with a person having a spouse living; and
- 2. No employee, having a spouse living, shall enter into, or contract, a marriage with any person;

Provided that the Board may permit an employee to enter into, or contract, any such marriage as is referred to in clause (1) or clause (2) if it is satisfied that-

- a. such marriage is permissible under the personal law applicable to such employee and the other party to the marriage; and
- b. There are other grounds for so doing.

Rule 19. Consumption of intoxicating drinks and drugs

An employee of the Corporation/Company shall take due care that the performance of his duties is not affected in any way by the influence of any intoxicating drink or drug.

Rule 20. Suspension

- 1. The appointing authority or any authority to which it is subordinate or the disciplinary authority or any authority empowered in that behalf by the management by general or special order may place an employee under suspension-
- a. Where disciplinary proceeding against him is contemplated or is pending; or

- b. Where case against him in respect of any criminal offence is under investigation or trial.
- 2. An employee who is determined in custody, whether on a criminal charge or otherwise for a period exceeding 48 hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority, and shall remain under suspension until further orders.
- 3. Where a penalty of dismissal or removal from service imposed upon an employee under suspension is set aside on appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal or removal and shall remain in force until further orders.
- 4. Where a penalty of dismissal or removal from service imposed upon an employee is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal or removal and shall continue to remain under suspension until further orders.
- 5. An order of suspension made or deemed to have been made under this Rule may at any time be revoked by the authority, which made or is deemed to have made the order or by any authority to which that authority is subordinate.

Rule 21. Subsistence Allowance

- 1. An employee under suspension shall be entitled to draw subsistence allowance equal to 50 percent, of his basic pay provided the disciplinary authority is satisfied that the employee is not engaged in any other employment or business, or profession or vocation. In addition he shall be entitled to Dearness Allowance admissible on such subsistence allowance and any other compensatory allowance of which he was in receipt on the date of suspension provided the suspending authority is satisfied that the employee continues to meet the expenditure for which the allowance was granted.
- 2. Where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows:-
- i. The amount of subsistence allowance may be increased to 75 percent of basic pay and allowances thereon if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the employee under suspension;
- ii. the amount of subsistence allowance may be reduced to 25 percent of basic pay and allowances thereon if in the opinion of the said authority, the period of suspension has been prolonged due to the reasons to be recorded in writing directly attributable to the employee under suspension.
- 3. If an employee is arrested by the Police on a criminal charge and bail is not granted, no subsistence is payable. On grant of bail, if the competent authority decides to continue the suspension, the employee shall be entitled to subsistence allowance from, the date he is granted bail

Rule 22. Treatment of the period of suspension

- 1. When the employee under suspension is reinstated, the competent authority may grant to him the following pay and allowances for the period of suspension:
- a. If the employee is exonerated and not awarded any of the penalties mentioned in Rule 23 the full pay and allowances which he would have been entitled to if he had not been suspended, less the subsistence allowance already paid to him; and
- b. If otherwise, such proportion of pay and allowances as the competent authority may prescribe.
- 2. In a case falling under sub-clause (a) the period of absence from duty will be treated as a period spent on duty. In case failing under sub-clause (b) it will not be treated as a period spent on duty unless the competent authority so directs.

Rule 23. Penalties

The following penalties may be imposed, on an employee, as hereinafter provided, for misconduct committed by him or for any other good and sufficient reasons

Minor Penalties

- (a) Censure;
- (b) withholding of increments of pay with of without cumulative effect;
- (c) withholding of promotion;
- (d) recovery from pay of the whole or part of any pecuniary loss caused to the Corporation/Company by negligence or breach of order;
- (e) reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his terminal benefits.

Major Penalties

- (f) save as provided in clause (e), reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on expiry of such period, the reduction will or will not have the effect of postponing the future increment of pay;
- (g) reduction to a lower time scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the employee to the time-scale of pay, grade, post from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post from which the employee was reduced and his seniority and pay on such restoration to that grade or post;
- (h) compulsory retirement;
- (i) removal from service which shall not be a disqualification for future employment under the Govt. or the Corporation/Company owned or controlled by the Govt.;
- (j) dismissal from service which shall ordinarily be a disqualification for future employment under the Govt. or the Corporation/Company owned or controlled by the Govt.;

Provided that, in every case in which the charge of possession of assets disproportionate to known sources of income or the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (i) or (j) shall be imposed:

Provided further that in any exceptional case and for special reasons recorded in writing, any other penalty may be imposed.

All administrative Ministries/Departments concerned with CPSUs are requested to advise PSUs under their administrative control to carry out changes in their CDA Rules on the above lines.

Rule 24. Disciplinary Authority

The Disciplinary Authority, as specified in the schedule, or any authority higher than it may impose any of the penalties specified in Rule 23 on any employee.

Rule 25. Procedure for imposing major penalties

- 1. No order imposing any of the major penalties specified in Clauses (e), (f) and (g) of Rule 23 shall be made except after an inquiry is held in accordance with this rule.
- 2. Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against an employee, it may itself enquire into, or appoint any public servant (hereinafter called the inquiring authority) to inquire into the truth thereof.
- 3. Where it is proposed to hold an inquiry, the disciplinary authority shall frame definite charges on the basis of the allegations against the employee. The charges, together with a statement of the allegations, on which they are based, a list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained, shall be communicated in writing to the employee, who shall be required to submit within such time as may be specified by the Disciplinary Authority (not exceeding 15 days) a written statement whether he admits or denies any of or all the Articles of Charge.

Explanation—It will not be necessary to show the documents listed with the charge-sheet or any other document to the employee at this stage.

4. On receipt of the written statement of the employee, or if no such statement is received within the time specified, an enquiry may be held by the Disciplinary Authority itself, or by any other public servant appointed as an Inquiring Authority under sub-clause (2)

Provided that it may not be necessary to hold an inquiry in respect of the charges admitted by the employee in his written statement. The disciplinary authority shall, however, record its findings on each such charge.

- 5. Where the disciplinary authority itself inquires or appoints an inquiring authority for holding an inquiry, it may, by an order appoint a public servant to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.
- 6. The employee may take the assistance of any other public servant but may not engage a legal Practitioner for the purpose.
- 7. On the date fixed by the inquiring authority, the employee shall appear before the Inquiring Authority at the time, place and date specified in the notice. The inquiring authority shall ask the employee whether he pleads guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee concerned thereon. The Inquiring Authority shall return a finding of guilt in respect of those articles of charge to which the employee concerned pleads guilty.
- 8. If the employee does not plead guilty, the inquiring authority shall adjourn the case to a later date not exceeding thirty days after recording an order that the employee may, for the purpose of preparing his defence:
- i. inspect the documents listed with charge-sheet.
- ii. submit a list of additional documents and witnesses that he wants to examine; and
- iii. be supplied with the copies of the statements of witnesses, if any, listed in the charge-sheet.

Note: Relevancy of the additional document and the witnesses referred to in sub-clause 8 (ii) above will have to be given by the employee concerned and the documents and the witnesses shall be summoned if the inquiring authority is satisfied about their relevance to the charges under inquiry.

- 9. The inquiring authority shall ask the authority in whose custody or possession the documents are kept, for the production of the documents on such date as may be specified.
- 10. The authority in whose custody or possession the requisitioned documents are, shall arrange to produce the same before the inquiring authority on the date, place and time specified in the requisition notice.

Provided that the authority having the custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the Corporation/Company. In the event, it shall inform the inquiring authority accordingly.

- 11. On the date fixed for the inquiry the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the employee. The Presenting Officer shall be entitled to re-examine the witness on any points on which they have been cross-examined, but not on a new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.
- 12. Before the close of the prosecution case, the inquiring authority may, in its discretion allow the Presenting Officer to produce evidence not included in the charge sheet or may itself call for new evidence or recall or re-examine any witness. In such case the employee shall be given opportunity to inspect the documentary evidence before it is taken on record; or to cross-examine a witness, who has been so summoned.
- 13. When the case for the disciplinary authority is closed, the employee may be required to state his defence, orally or in writing as he may prefer. If the defence is made orally, it shall be recorded and the employee shall be required to sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer, if any appointed.

- 14. The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the inquiring authority according to the provision applicable to the witnesses for the disciplinary authority.
- 15. The Inquiring Authority may, after the employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the employee to explain any circumstances appearing in the evidence against him.
- 16. After the completion of the production of the evidence, the employee and the Presenting Officer may file written briefs of their respective cases within 15 days of the date of completion of the production of evidence.
- 17. If any employee does not submit the written statement of defence referred to in sub-rule (3) on or before the date specified for the purpose or does not appear in person, or through the assisting officer or otherwise fails or refuses to comply with any of the provisions of these rules, the inquiring authority may hold the enquiry ex parte.

Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall examine, cross-examine and re-examine any such witnesses as herein before provided.

- 19. (i) After the conclusion of the inquiry report shall be prepared and it shall contain-
- a. a gist of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
- b. a gist of the defence of the employee in respect of each article of charge;
- c. and assessment of the evidence in respect of each article of charge;
- d. the findings on each article of charge and the reasons therefor.

Explanation—Ifin the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge.

Provided that the findings on such article of charge shall not be recorded unless the employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

- ii. The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include-
- a) The report of the inquiry prepared by it under sub-clause (i)above:
- b) The written statement of defence if any submitted by the employee referred to in sub-rule (13)
- c) The oral and documentary evidence produced in the course of the inquiry;
- d) Written briefs referred to in sub-rule (16) if any; and
- e) The orders if any made by the disciplinary authority and the inquiring authority in regard to the inquiry.

Rule 26. Action on the inquiry report

- (1) The disciplinary authority, if it is not itself the inquiring authority may, for reason to be recorded by it in writing remit the case to the inquiring authority for fresh or further inquiry and report and the inquiry authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 25 as far as may be.
- (2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

- (3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties that any of the penalties specified in Rule 23 should be imposed on the employee it shall, notwithstanding anything contained in Rule 27 make an order imposing such penalty.
- (4) If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the employee concerned.

Rule 27. Procedure for imposing minor penalties

- (1) Where it is proposed to impose any of the minor penalties specified in clauses (a) to (d) of Rule 23, the employee concerned shall be informed in writing of the imputations of misconduct or misbehaviour against him and give an opportunity to submit his written statement of defence within a specified period not exceeding 15 days. The defence statement, if any, submitted by the employee shall be taken into consideration by the disciplinary authority before passing orders.
- (2) The record of the proceedings shall include -
- (i) A copy of the statement of imputations of misconduct or misbehaviour delivered to the employee;
- (ii) His defence statement, if any; and
- (iii) The orders of the disciplinary authority together with the reason therefor.

Rule 28. Communication of orders

Orders made by the Disciplinary Authority under Rule 26 or Rule 27 shall be communicated to the employee concerned, who shall also be supplied with a copy of the report of inquiry, if any.

Rule 29. Common proceedings

Where two or more employees are concerned in a case, the authority competent to impose a major penalty on all such employees may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings and the specified authority may function as the disciplinary authority for the purpose of such common proceedings.

Rule 30. Special procedure in certain cases

Notwithstanding anything contained in Rule 25 or 26 or 27, the disciplinary authority may impose any of the penalties specified in Rule 23 in any of the following circumstances:—

- (i) the employee has been convicted on a criminal charge, or on the strength of facts or conclusions arrived at by a judicial trial; or
- (ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided in these Rules; or
- (iii) where the Board is satisfied that in the interest of the security of the Corporation/Company, it is not expedient to hold any inquiry in the manner provided in these rules.

Rule 31. Employees on deputation from the Central Government or the State Government, etc.

- (i) Where an order of suspension is made or disciplinary proceeding is taken against an employee, who is on deputation to the Corporation from the Central or State Government, or another public undertaking, or a local authority, the authority leading his services (hereinafter referred to as the "lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension, or the commencement of the disciplinary proceeding, as the case may be.
- (ii) In the light of the findings in the disciplinary proceeding taken against the employee:-
- (a) If the Disciplinary Authority is of the opinion that any of the minor penalties should be imposed on him, it may pass such orders on the case as it deems necessary after consultation with the Lending Authority; provided that in the event of a difference of opinion between the Disciplinary and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority.

- (b) If the Disciplinary Authority is of the opinion that any of the major penalties should be imposed on him, it should replace his services at the disposal of the Lending Authority and transmit to it the proceedings of the enquiry for such action as it deems necessary.
- (iii) If the employee submits an appeal against an order imposing a minor penalty on him under sub-rule (ii) (a), it will be disposed of after consultation with the Lending Authority;

Provided that if there is a difference of opinion between the Appellate Authority and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority, and the proceedings of the case shall be transmitted to that authority for such action as it deems necessary.

Rule 32. Appeals

- (i) An employee may appeal against an order imposing upon him any of the penalties specified in rule 23 or against the order of suspension referred to in Rule 20. The appeal shall lie to the authority specified in the schedule.
- (ii) An appeal shall be preferred within one month from the date of communication of the order appealed against. The appeal shall be addressed to the Appellate Authority specified in the schedule and submitted to the authority whose order is appealed against. The authority whose order is appealed against shall forward the appeal together with its comments and the records of the case to the appellate authority within 15 days. The appellate authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders within three months of the date of appeal. The appellate authority may pass order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

Provided that if the enhanced penalty which the appellate authority proposes to impose is a major penalty specified in clauses (e), (f) and (g) of Rule 23 and an inquiry as provided in Rule 25 has not already been held in the case, the appellate authority shall direct that such an enquiry be held in accordance with the provisions of Rule 25 and thereafter consider the record of the inquiry and pass such orders as it may deem proper. If the appellate authority decides to enhance the punishment but an enquiry has already been held as provided in Rule 25, the appellate authority shall give a show cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The appellate authority shall pass final order after taking into account the representation, if any, submitted by the employee.

Rule 33. Review

Notwithstanding anything contained in these rules, the reviewing authority as specified in the schedule may call for the record of the case within six months of the date of the final order and after reviewing the case pass such orders thereon as it may deem fit.

Provided that if the enhanced penalty, which the reviewing authority purposes to impose; is a major penalty specified in clauses (e), (f) or (g) of Rule 23 and an enquiry as provided under Rule 25 has not already been held in the case, the reviewing authority shall direct that such an enquiry be held in accordance with the provisions of Rule 25 and thereafter consider the record of the enquiry and pass such order as it may deem proper. If the appellate authority decides to enhance the punishment but an enquiry has already been held in accordance with the provisions of Rule 25, the reviewing authority shall give show cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The reviewing authority shall pass final order after taking into account the representation, if any, submitted by the employee.

Rule 34. Service of orders, notices, etc.

Every order, notice and other process made or issued under these rules shall be served in person on the employee concerned or communicated to him by registered post at his last known address.

Rule 35. Power to relax time-limit and to condone delay

Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rule for anything required to be done under these rules or condone any delay.

Rule 36 Savings

1. Nothing in these rules shall be constructed as depriving any person to whom these rules apply, of any right of appeal which had accrued to him under the rules, which have been superseded by these rules.

- 2. An appeal pending at the commencement of these rules against an order made before the commencement of these rules shall be considered and orders thereon shall be made, in accordance with these rules.
- 3. The proceedings pending at the commencement of the rules shall be continued and disposed as far as may be, in accordance with the provisions of these rules, as if such proceedings were proceedings under these rules.
- 4. Any misconduct, etc., committed prior to the issue of these rules which was a misconduct under the superseded rules shall be deemed to be a misconduct under these rules.

Rule 37. Removal of doubts

Where a doubt arises as to the interpretation of any of these rules, the matter shall be referred to the Board for final decision.

Rule 38. Amendments

The Board may amend, modify or add to these rules, from time to time, and all such amendments, modifications or additions shall take effect from the date stated therein.

(f) Conduct, Discipline & Appeal Rules

2. DPE/Guidelines/II(f)/2 Timely action to be taken to file an appeal in the High Court/Supreme Court against the decision of the Central Government Industrial Tribunal-cum-Labour Court etc.

Attention of the Government was recently drawn to the decision of a Central Government Industrial Tribunal-cum-Labour Court in respect of an industrial dispute in an organization, where, on the merits of the case, there was ample ground in moving the High Court/Supreme Court. But there was considerable delay in coming to a decision in this regard and hence it was decided that the decision of the Industrial Tribunal-cum-Labour Court need not be contested.

2. The above instance highlights the importance of moving in time while dealing with Labour Court cases so as not to lose what might be good case legally on grounds of time-default or delay. Ministry of Steel and Mines etc. may therefore, ensure that action is initiated in time to stay the judgements delivered by Labour Courts etc. and to contest the same wherever considered necessary within the prescribed time limit, after following the prescribed procedure. Suitable instructions may also be issued to the Public Enterprises and other organisations who are likely to face such situations from time to time.

(No. BPE/GL-008/78/MAM/2(31)/78-BPE(GM-I) dated 22nd April, 1978)

(f) Conduct, Discipline & Appeal Rules

3. DPE/Guidelines/II(f)/3

Sanction for prosecution of a public servant.

The Ministry of Home Affairs have brought it to our notice that in a recent case the sanction for prosecution of a public servant who could be removed from his office by the Board of Directors of a Public Sector Corporation was held by a Court of Law as null and void on the ground that there was no proper application of mind by the sanctioning authority viz. the Board of Directors, as the necessary materials viz. documents and other evidence collected by the prosecution, to accord sanction for prosecution were never placed before the Members of the Board of Directors and consequently they could not have applied their minds to the issue. It was stated that the Chairman of the Board of Directors had merely narrated the facts of the case to the Members of the Board giving his assessment that it was a fit case for prosecution, and the members had approved the sanction for prosecution.

- 2. Section 6 of the Prevention of Corruption Act, 1947 provide that previous sanction of the authority competent to remove a public servant from his office is necessary for his prosecution under section 161 or 164, or Section 165 of the Indian Penal Code or under sub-section (2) or sub-section (3-A) of Section 5 of the Prevention of Corruption Act. In order to avoid a lacunae of the type referred to above, the following procedure has been evolved in consultation with the Ministry of Law, for adoption by the Public Sector Enterprises in respect of the public servants who can be removed from their office by the Board of Directors.
- a. A distinct item regarding the grant of sanction for prosecution of the concerned public servant should be on the regular agenda of the meeting of the Board of Directors so that all the members present may be aware of the subject matter which will come up for discussion.
- b. Relevant papers, documents, evidence or any other material furnished by the Prosecution, should be placed before the members of the Board of Directors.
- c. All the members of the Board of Directors in the light of the documents, evidence before them are required to apply their mind to the facts and circumstances of the case. Having done that, they are to take a decision, unanimously or by a majority vote, to grant the sanction or to withhold it.
- d. A record of the proceedings of the meeting regarding (a) to (c) above, should be kept properly in the minute book, as an adequate evidence of the collective application of mind by the Board of Directors.

(BPE DO No. 2(3)/79-BPE(GM-I) dated 6th March, 1979)

<u>CHAPTER II</u>

PERSONNEL POLICIES

(f) Conduct, Discipline & Appeal Rules

4. DPE/Guidelines/II(f)/4

Terms and Conditions of appointment of incumbent of Top Posts.

You are probably aware that while specifying the terms and conditions of appointment of Chief Executives and full-time Functional Directors of Public Enterprises, a clause is incorporated that in so far as matters not specified in the terms and conditions are concerned, the rules and regulations of the Company would apply. Thus while specified terms and conditions are spelt out regarding tenure of appointment, stage at which pay is drawn, house rent allowance, etc. the Conduct, Discipline and Appeal Rules applicable to the incumbents of the top posts are not spelt out.

- 2. The question of formulating separate Conduct/ Discipline and Appeal Rules in respect of the Chief Executives and full-time Functional Directors drawn either from the public or private sectors or from the Government services vis-à-vis extending the provisions of the CDA Rules formulated by the individual enterprises in respect of their employees to these executives has been examined in consultation with the CVC and the DFR. It has been decided that the administrative ministries while spelling out the terms and conditions of the incumbents of top posts i.e. the Chief Executives and full-time Functional Directors, in the letter of appointment, the following provisions will be incorporated:-
- (i) "That the CDA Rules framed by individual public enterprises in respect of their non-workmen category of staff would also mutatis mutandis apply to the incumbents of the top posts when the incumbent is drawn from sources other than the Govt. services with the modification that the Disciplinary Authority in such cases would be the President. In the case of the incumbent of the top posts drawn from Government services, the rules as framed for the government Servants would continue to apply to them.
- (ii) The Government also reserves the right not to accept the resignation of a Chief Executive/other executives. If the circumstance, so warrant, i.e., if disciplinary proceedings are pending or a decision has been taken by the Competent Authority to issue a charge-sheet to him. In the case of incumbents of top posts who are drawn from Government Services; the instructions issued by the Government from time to time regarding acceptance of resignation during the pendancy of the departmental proceedings will apply.
- (iii) Till such time, the concerned public sector enterprise is able to draw up its CDA rules on the basis of model CDA rules circulated by the Bureau, the terms and conditions of appointment should invariably mention that the incumbents of the top posts other than those drawn up from the organized services would be governed by the model CDA Rules, a copy of which should be appended to the terms and conditions of appointment of the concerned executives.
- 3. I shall be grateful if you could kindly issue suitable instructions to the Heads of Divisions in your Ministry to keep the above points in view while finalising the terms and conditions of appointment of incumbent of top posts.

(D.0 No.2(28)/75-BPE(GM-I) dated 9th December, 1982)

(f) Conduct, Discipline & Appeal Rules

5. DPE/Guidelines/II(f)/5 Acceptance of resignation tendered by officers against whom disciplinary cases are pending or contemplated.

The Committee on Public Undertakings in their 50th Report (7th Lok Sabha) expressed concern at the helplessness of the Ministry and the Public Enterprises when certain officers against whom departmental proceedings had been initiated could not be prosecuted of the charges framed against them as they left the service of the company by invoking the contractual clause relating to three months notice, which forms an essential ingredient of the terms and conditions of appointment in the public sector enterprises. Similar cases have been brought to the notice of the Bureau by the Central Vigilance Commission. It is noted that under the extant dispensation, such executives could stop coming on duty after the expiry of the notice period indicated in their letter of resignation.

- 2. The Bureau of Public Enterprises had examined this matter for finding suitable safeguards to ensure that the delinquent officers do not go Scot free by merely resigning from posts in public undertakings, in consultation with the CVC, DP&AR and the Ministry of Law. It has been suggested that the problem could be tackled on two fronts, that is, at the induction level and the termination level. As far as the safeguards which are required to be taken at the time of induction of an individual candidate are concerned, the instructions spelt in the BPE's Confidential D.O. letter No.2(34)/78-BPE(GM.I) dated 6th June 1979 relating to the verification of character and antecedents including finding out the circumstances under which the candidate has submitted his resignation in the previous employment are considered good enough to prevent entry of undesirable elements in the service of an enterprise. Proper dissemination of information relating to the disadvantages of not-adhering to the procedure for having their applications routed `Through Proper Channel' as per the BPE's OM dt. 14.12.82 could also have a salutary effect in this regard.
- 3. As far as the termination of service is concerned, the administrative Ministries have been advised vide BPE's `Secret' D.O. letter dt. 19th December, 1982, dealing with the terms and conditions of appointment of the incumbents of the Top posts to incorporate a clause in the said terms and conditions of appointment that the Government reserves the right not to accept the resignation of the Chief Executives and other Executives at the Board level if the circumstances so warrant, that is, if the disciplinary proceedings are pending or a decision has been taken by the competent authority to issue a charge sheet etc. A similar provision may be incorporated in the terms and conditions of appointment of the Executives below the Board level. In such situation it will not then be open to the Executives to get 'discharge-simplicitor'.
- 4. I, therefore, request you that the issues raised in the preceding paragraphs may be placed before the Board of Directors of the enterprise and appropriate decision taken regarding non-acceptance of the resignation of the Executives under the circumstances specified above.
- 5. A line in reply about the action taken will be highly appreciated.

(BPE DO No. 2(21)/82-BPE(GM-I) dated 19th January, 1983)

(f) Conduct, Discipline & Appeal Rules

6. DPE/Guidelines/II(f)/6
Discipline and Appeal Rules

The undersigned is directed to refer to the general observations made by the Central Vigilance Commission in paragraph 8.12 of the Annual Report for the period 1-1-82 to 31.12.82 an extract of which is forwarded herewith, and to request that observations contained therein may be complied with in letter and spirit by all the public sector enterprises

Extract from Central Vigilance Commission's Annual Report: 1-1-82 to 31-12-82

"8.12 In the Discipline and Appeal Rules applicable to Government employees, it has been laid down that an employee shall not take the assistance of any other Government servant who has two pending disciplinary cases on hand in which he has to function as Defence Assistant. However, no such provision exists in the rules of public sector organizations. In the absence of such a restricting clause, an employee is engaged as Defence Assistant in several cases, which results in unwanted delay in many cases on hand with such Defence Assistants. The Commission has requested the Bureau of Public Enterprises/Banking Division to advise the public sector organizations to incorporate this provision in their rules."

(BPE No. 15/4/84-BPE(GM) dated 3rd February, 1984)

(f) Conduct, Discipline & Appeal Rules

7. DPE/Guidelines/II(f)/7

Restriction on political activities of employees of PSUs.

The Committee of Secretaries in their meeting held on 30.10.81 had suggested that an exercise may be undertaken by the Bureau of Public Enterprises/Department of Personnel in consultation with other Ministries/ Departments to identify the undertakings, irrespective of the manner of their incorporation, which are performing sovereign functions of the Government and other essential services such as security, defence etc., so as to consider the question of placing reasonable restrictions on political activities by their employees in the public interest.

- 2. The opinion of the Law Ministry who were consulted by the Ministry of Home Affairs in this regard was that it was open to the employer to evolve executive policy in order to restrict the activities of his employees, regulating the discipline amongst them according to the compulsions of the circumstances so long as such restrictions were reasonable, fair and not grossly unjust.
- 3. Any measure whereby political activities of the employees of the Public Enterprises are sought to be restricted in the above manner could not be regarded as unreasonable or unjust and, therefore, the view of the Law Ministry is that there appeared to be no legal objection to imposing the aforesaid restrictions.
- 4. An exercise has been carried out by the Ministry of Home Affairs in consultation with us and the following public enterprises under your administrative control have been identified as sensitive for this purpose.
- 5. The following kinds of activities of the employees could be prohibited by amending the Certified Standing Orders or the CDA rules, as the case may be:
- (i) to be an office-bearer of a political party or an organization which takes part in politics;
- (ii) to take part in or assist in any manner in any movement/agitation or demonstration of a political nature;
- (iii) to take part in an election to any legislature or local authority;
- (iv) to canvass in any election to any legislature or local authority.

6. If you have any reservation in this regard or if there are any other enterprises under your administrative control in which you would like to place similar restrictions, kindly get in touch with the Ministry of Home Affairs (I.S. Division) under intimation to the BPE.

(BPE D.O. No. 15(7)/83-GM dated 21st July, 1984)

ANNEXURE-I

Name of the addressees	Companies involved	
1. Shri. Thomas Kora, Secretary, Ministry of Communication	Indian Telephone Industries	
2. Sh. M.C Sarin, Secretary, Defence Production	Bharat Dynamics Ltd., Bharat Electronics Ltd., Garden Reach Shipbuilders & Engineers Ltd., Goa Shipyard Ltd., Hindustan Aeronautics Ltd., Mazagon Dock Ltd., Mishra Dhatu Niagam Ltd., and Praga Tools Ltd. (Total 8)	
3. Shri S. B. Lal, Secretary, Deptt. of Coal	Bharat Coking Coal Ltd., Central Coal- Fields Ltd., Coal India Ltd., Eastern Coal- Fields Ltd., Neyveli Lignite Corpn. Ltd., and Western Coalfields Ltd. (Total 6)	
4. Shri A. S Gill Secretary Deptt. of Petroleum	Bharat Petroleum Corpn. Ltd, Bongaigaon Refineries & Petrochemicals Itd., Cochin Refinereis Ltd., Hindustan Petroleum Corp. Ltd., Madras Refineries Ltd., Oil & Natural Gas Commission, Oil India Ltd. (Total 9)	
5. Shri Prakash Narain Secretary, Ministry of Shipping & Trasnport	Cochin Shipyard Ltd. and Hindustan Shipyard Ltd. (Total 2)	
6. Shri Lovraj Kumar Secretary, Deptt. of Steel	Steel Authority of India Ltd.	
7.Dr. R. Ramanna Secretary, Deptt. of Atomic Energy	Electronics Corp of India Ltd., Indian Rare Earth Ltde., Uranium Corp. of India Ltd. (Total 3)	

8. Shri S. R. Vijayakar Secretary Deptt. of Electronics	Semi Conductors Complex Ltd.
9. Dr. S. Vardarajan Secretary Deptt. of Science & Technology	Central Electronics Ltd.

(f) Conduct, Discipline & Appeal Rules

8. DPE/Guidelines/II(f)/8 CCS (CC&A) Rules 1965—Rule 14(8)(a) - Request of a delinquent official for permission to engage a Legal Practitioner to defend his case before the Inquiry Officer

The undersigned is directed to refer to the Department of Personnel and Administrative Reforms O.M. No. 11012/7/83-Estt.(A) dated 23.7.1984 on the above subject (reproduced below).

2. Ministry of Industry etc. are requested to bring the contents of the Office Memorandum of the Department of Personnel and A.R. referred to above to the notice of the public enterprises under their administrative control and advise them to incorporate the above provisions in their relevant CDA rules accordingly.

Copy of O.M. No. 11012/7/83-Estt.(A) dated 23.7.1984 from Department of P.&A.R. regarding CCS (CC&A) Rules, 1965—Rule 14(8)(a)—Request of a delinquent official for permission to engage a Legal Practitioner to defend his case before the Inquiry Officer.

The undersigned is directed to refer to Rule 14(8)(a) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 which provides, inter-alia, that a delinquent Government servant against whom disciplinary proceedings have been instituted as for imposition of a major penalty may not engage a legal practitioner to present the case on his behalf before the Inquiring authority, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits. It is clarified that, when on behalf of the disciplinary authority, the case is being presented by a Prosecuting Officer of the Central Bureau of Investigation or a Government Law Officer (Such as Legal Adviser, Junior Legal Adviser), there are evidently good and sufficient circumstances for the disciplinary authority to exercise his discretion in favour of the delinquent officer and allow him to be represented by a Legal Practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the court as arbitrary and prejudicial to the defence of the delinquent Government servant.

2. The Ministry of Finance, etc., are requested to bring the contents of the O.M. to the notice of all disciplinary authorities etc.

(BPE No. 15(34)/84-BPE(GM) dated 21st August, 1984)

(f) Conduct, Discipline & Appeal Rules

9. DPE/Guidelines/II(f)/9

Conduct, Discipline and Appeal Rules—regarding

The undersigned is directed to refer to the Bureau of Public Enterprises' O.M. No.2/121/78-GM.I dated 26.4.74 circulating therewith a copy of the Model Conduct, Discipline and Appeal Rules for public sector enterprises. Rule 18 of the Model CDA rules relates to `Marriage' of the employees of public sector enterprises. It reads as follows:

- "(1) No employee shall enter into, or contract, a marriage with a person having a spouse living; and
- (2) No employee, having a spouse living, shall enter into, or contract, a marriage with any person;

provided that the Board may permit an employee to enter into, or contract, any such marriage as is referred to in clause (1) or clause (2) if it is satisfied that—

- (a) such marriage is permissible under the personal law applicable to such employee and the other party to the marriage; and
- (b) there are other grounds for so doing.

It has now been decided to slightly amend the above Rule by incorporating the clause as under:

- (3) "The public sector employee who has married or marries a person other than that of Indian nationality, shall forthwith intimate the fact to his employer."
- 2. It is requested that the Ministry of Industry etc. may kindly request the public sector enterprises under their respective administrative control, who have adopted the Model CDA rules, to incorporate the above amendment in their Model CDA Rules. The other enterprises who have not yet adopted Model CDA rules, may also be requested to consider the incorporation of the above mentioned amendment in their Rules appropriately.

(O.M. No. 15(1)/85-BPE(GM) dated 7th February, 1985)

(f) Conduct, Discipline & Appeal Rules

10. DPE/Guidelines/II(f)/10 Procedure for premature retirement of employees in Public Sector Undertakings—provisions in the CDA Rules—regarding

The Undersigned is directed to say that the question of incorporating suitable provisions in the CDA Rules in regard to premature retirement of inefficient, corrupt and medically unfit officials in PSUs has been engaging the attention of the Government. This issue had also been raised by the Central Vigilance Commission and the Department of Personnel and Training. In view of this, as well as the importance of weeding out the inefficient, corrupt and medically unfit officials of PSUs, a review has been carried out in this regard in consultation with the Department of Personnel and the Ministry of Law & Justice.

- 2. It has now been decided that PSUs may incorporate suitable provisions in their CDA Rules/Service Regulations on the lines of FR 56[J] in the Government with a view to weed out the inefficient, corrupt and medically unfit officials after attaining the age of 50 years. This rule would, however not apply to employees covered under the Industrial Disputes Act 1947. In this connection, the rules framed by SAIL are worth considering and a copy of it is enclosed [Annexure].
- 3. Ministry of Agriculture etc. are requested to bring the contents of this O.M. to the notice of PSUs under their administrative control for information and necessary action under intimation to BPE.

(BPE O.M. No. 15(39)/84-GM dated 4th February, 1988)

ANNEXURE

STEEL AUTHORITY OF INDIA LTD.

Procedure for Premature Retirement of Executives

In accordance with clauses 4.3* & 6.2** of the Voluntary Retirement Scheme, an executive who has attained the age of 50 years and is considered to be medically unfit, inefficient or of doubtful integrity, may be prematurely retired by the competent authority viz. Chairman.

The criteria for judging the medical unfitness, inefficiency or doubtful integrity of executives proposed to be prematurely retired, follow:-

[i] Inefficiency:

Inefficiency would be evaluated on the basis of the Appraisal Reports. An employee who has secured consecutively C-for three years in his Appraisal Reports, may be deemed as a fit case for premature retirement.

[ii] Doubtful Integrity:

An employee who gets an adverse comment consecutively for three years on his integrity in his CCR would be recommended for premature retirement.

[iii] Medical Unfitness:

a. If an employee has been continuously on leave on medical grounds for a period of 12 weeks [including Sundays and holidays] or he has been on leave for reasons of sickness for a total period of 120 days [including Sundays and holidays] or more during a continuous period of six months or if a person though attending duties but is found to be mentally deranged, his departmental head may refer him to a medical Board for his thorough medical check-up and report:-

The disease he is suffering from;

Whether it is curable or incurable;

Whether the disease is infectious/contagious;

In case of curable disease whether the person is likely to be fit to resume his normal duties within a period of 12 months.

- b. If the person is not fit to resume his duties within a period of 12 months and in cases of employees suffering from incurable and infectious/contagious disease or suffering from lunacy or mental derangement and whose services cannot be utilised by the company or whose attendance is likely to pose health hazard to others as may be certified by the Medical Board, pre-mature retirement will be considered on recommendations of Managing Director/Director In-charge.
- c. This premature retirement on medical grounds is independent of and without prejudice to the right of the company under the contract of employment to dispense with the services of an employee on three months notice inter-alia on grounds of medical unfitness in case of an employee who might not have even attained the age of 50 years as is being presently done.

.....

Vide PER/RR/4205 dated 16.6.84 and is effective from 4.5.84

- *4.3: "The competent Authority for premature retirement in case of Executives will be Chairman"
- ** 6.2 : " The Chairman may pre-maturely retire an executive who has attained the age of 50 years and is considered to be medically unfit, inefficient or of doubtful integrity".

2. Benefits Under the Scheme:

In accordance with the clause 5.0 of the Voluntary Retirement Scheme, an employee who is prematurely retired will be entitled to the following benefits:

- a. Pay for the notice period of one month / three months as may be applicable to him under his terms and conditions of service, plus leave salary for unavailed earned leave. The quantum of leave salary will not exceed the maximum limit to which earned leave can be accumulated under the Leave Rules applicable to the employee.
- b. Full Provident Fund contribution of the employer with accretions thereto in the account of the employee subject to the provision of the Provident Fund Rules applicable to him.
- c. Gratuity for each completed year of service or part thereof as admissible under the Gratuity Rules.
- d. Transfer benefits for self and family for proceeding to home-town or to the place where he intends to settle in India as admissible under the TA Rules.

DECISION 1.

Appraisal Reports of those executives who have been graded as C- or whose integrity has been considered doubtful, will be put up together every year to the Chief Executive of the Plant / Unit concerned, if such reports have not otherwise been put up to him as reviewing officer or as higher authority.

DECISION 2.

The format of the Order to be issued to the executive who is to be prematurely retired from the service of the company is annexed.

Vide No. PER/RR/4205 Dated 18-6-1984.

ANNEXURE

STEEL AUTHORITY OF INDIA LIMITED

NEW DELHI

To

Dear Sir,

On the basis of the records, the Company has decided to retire you under the Voluntary/Premature Retirement Scheme with immediate effect. You will be entitled to the following benefits:-

- a. Pay for the notice period of _____ months [one month or three months as may be applicable under his terms and conditions of service].
- b. Leave salary for unavailed earned leave. The quantum of leave salary will not exceed the maximum limit to which earned leave can be accumulated under the Leave Rules.

- c. Provident Fund contribution of the company with accretions thereto in your account in accordance with the provisions of the Provident Fund Rules.
- d. Gratuity for each completed year of service or part thereof as admissible under the Gratuity Rules.
- e. Transfer benefits for yourself and your family for proceeding to your home-town or to the place where you intend to settle in India as admissible under the TA Rules.
- 2. This issues with the approval of the Competent Authority.

(f) Conduct, Discipline & Appeal Rules

11. DPE/Guidelines/II(f)/11

Restriction on political activities of employees of PSUs.

The question of restricting the political activities of the employees of the Public Sector Undertakings was examined earlier in consultation with the Ministry of Home Affairs, Ministry of Law and other Ministries. As a result of that examination, certain undertakings were identified as 'sensitive with a view to restricting the political activities of their employees. A list of these undertakings is enclosed as Annexure I. The concerned administrative Ministries were accordingly advised, Vide D.O. letter of even number dated 21st July, 1984 (copy enclosed—S. No. 105 above).

- 2. It has now been decided to extend similar restrictions in respect of officers of all the public sector undertakings. The following kinds of activities of the officers could be prohibited by amending the CDA rules:—
- (i) to be an office-bearer of a political party or an organization which takes part in politics;
- (ii) to take part in or assist in any manner in any movement/ agitation or demonstration of a political nature;
- (iii) to take part in an election to any legislature or local authority;
- (iv) to canvass in any election to any legislature or local authority.
- 3. I, therefore, request you to issue necessary instructions placing these restrictions on the officers of the Public Sector Undertakings under the administrative control of your Ministry/Department.

(BPE D.O. No. 15(7)/83-GM dated 23rd February, 1988)

(f) Conduct, Discipline & Appeal Rules

12. DPE/Guidelines/II(f)/12

Suspension of suspect officials in corruption cases

Please refer to this Bureau's letter of even number dated 1st March, 1985 forwarding therewith copies of the Department of Personnel & Training O.M. Nos. 142/5/84-AVD.I dated 16.2.85 and 43/56/64-AVD dated 22nd October, 1964 on the subject mentioned above. The Department of Personnel & Training has further considered the matter and issued revised instructions vide O.M. No.142/5/84-AVD(I) dated 20th June, 1986. A copy of the same is, therefore, forwarded for information and necessary action.

Copy of DOPT OM No.142/5/84-AVD (I) dated 20th June, 1986 regarding suspension of suspect officials in corruption cases.

The undersigned is directed to refer to Ministry of Home Affair's O.M. No.43/56/64-AVD(I) dated 22nd October, 1964 and this Department's O.M. of even number dated 16th February, 1985 (Copy enclosed) which indicate broadly the circumstances in which the disciplinary authority may consider it appropriate to place a Government Servant under suspension. It has been brought to the notice of this Department that the request of the Central Bureau of Investigation to the Administrative Department for placing under suspension the concerned Government Servant involved in a case of corruption is not being acted upon in some cases interalia on the ground that the rules/instructions do not provide for the same. The matter has, therefore, been considered further in this Department and it is clarified that in the following case, there may be adequate justification for placing the concerned government servant under suspension, on the request received from the CBI or otherwise, at the stage indicated against each type of case:

- i. In a case where a trap has been laid to apprehend a government servant while committing an act of corruption (usually receiving illegal gratification) and the Govt. servant has been so apprehended; immediately after the Govt. Servant has been so apprehended.
- ii. In a case where, on conducting a search, it is found that a Govt. Servant is in possession of assets disproportionate to his know sources of income and it appears, *Prima facie* that a charge under section 5(i) (e) of the Prevention of Corruption Act could be laid against him; immediately after the prima facie conclusion has been reached.

- iii. In a case where a charge sheet accusing a Govt. servant of specific acts of corruption of any other offence involving moral turpitude has been filed in a Criminal Court;—immediately after the filing of the charge sheet.
- iv. In a case where, after investigation by the CBI a prima facie_case is made out and pursuant thereto Regular Departmental Action for imposition of a major penalty has been instituted against a Govt. Servant and a charge sheet has been served upon him alleging specific acts of corruption or gross misconduct involving moral turpitude; immediately after the charge sheet has been served upon the Govt. servant.
- 2. It is requested that the instructions contained in this O.M. may kindly be brought to the notice of all concerned confidentially for guidance and necessary action. The Ministry of Industry (Bureau of Public Enterprises) and the Banking Division and the Insurance Division of the Department of Economic Affairs may also kindly bring these instructions to the notice of the Public Sector Undertakings, Nationalized Banks and Insurance Corporation/ Companies.

(BPE letter No. 15(7)/85-GM dated 19th September, 1988)

(f) Conduct, Discipline & Appeal Rules

13. DPE/Guidelines/II(f)/13

Acceptance of resignation tendered by officers against whom disciplinary cases are pending or contemplated.

I am directed to refer to the Bureau's Secret D.O. Letter No.2(21)/82-BPE(GM-I) dt. 19.1.1983 (copy enclosed- SI.No. 102 above) wherein it was inter-alia, suggested that the question of including a suitable clause to the effect that the management reserves the right not to accept resignation tendered by Executives in the terms and conditions of appointment may be placed before the Board of Directors of the enterprise for an appropriate decision. It was with view to ensure that delinquent officers do not go scot free by merely resigning.

It has now been brought to the notice of the Bureau that many Chief Vigilance Officers of public enterprises are not aware of these instructions. These instructions are, therefore, once again being brought to your notice for appropriate action.

(BPE letter No. 15(5)/89-GM dated 16th August, 1989)

(f) Conduct, Discipline & Appeal Rules

14. DPE/Guidelines/II(f)/14

Extension of circulars issued by DOPT regarding conduct rules of Government Servants to PSUs

I am directed to forward herewith a copy each of the three notifications/office memoranda mentioned below, issued by the Department of Personnel & Training concerning Conduct Rules of Government Servants for your information and necessary action in the matter by the Company in the context of its own employees.

- DOPT OM No. 11013/6/91-ESTT.(A) dated 8.4.92 regarding intimation of total amount of shares purchased in the year by the employees.
- ii. DOPT Notification No. 11012/4/86-ESTT.(A) dated 13.7.90 & 26.5.92 regarding amendment to Rule 11 of the CCS (CCA) Rules, 1965.
- iii. DOPT OM No. 22011/1/91-ESTT.(A) Dated 31.7.91 regarding review of instructions on promotions of Government Servants whose conduct is under investigation.

Copy of DOPT OM No. 11013/6/91-Estt. (A) dated 8.4.92 regarding CCS [Conduct] Rules, 1964—Transactions in sale and purchase of shares and debentures etc.

As the Ministries/Departments are aware, the provisions of sub- rule(4) of Rule 18 of the CCS [Conduct] Rules, 1964 provide that the Government or the prescribed authority may, at any time, by general or special order, require a Government Servant to furnish within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the Government or by the prescribed authority, include the details of the means by which or the source from which, such property was acquired.

- 2. Sub-rule (1) of the Rule 16 also provides that no Government Servant shall speculate in any stock, share or other investment. It has also been explained that frequent purchase or sale or both, of shares, securities or other investments shall be deemed to be speculation within the meaning of this sub-rule.
- 3. It has been brought to the notice of the Government that a number of employees are investing in shares, securities and debentures etc. frequently. With a view to enable the administrative authorities to keep a watch over such transactions, it has been decided that an intimation may be sent in the enclosed Proforma to the prescribed authority in the following cases:
 - Group 'A' & 'B' Officers:

 If the total transactions in shares, securities, debentures or mutual funds scheme etc. exceeds Rs. 50000/- during the calendar year.
 - ii. Group 'C' & 'D' Officers:– If the total transactions in shares, securities, debentures or mutual funds scheme etc. exceeds Rs. 25000/- during the calendar year.
- 4. It is clarified that since shares, securities, debentures etc. are treated as movable property for the purpose of Rule 18 (3) of the CCS [Conduct] Rules, 1964 if an individual transaction exceeds the amount prescribed in Rule 18(3), the intimation to the prescribed authority would still be necessary. The intimation prescribed in para 3 will be in addition to this, where cumulative transaction[s] i.e. sale, purchase or both in shares, securities, debentures or mutual funds etc. in a year exceed the limits indicated in para 3.
- 5. In so far as the personnel serving in the Indian Audit and Accounts Department are concerned, these instructions are being issued after consultation with the Comptroller & Auditor General of India.
- 6. Ministry of Agriculture, etc. are requested to bring these instructions to the notice of all concerned authorities under their control.

ANNEXURE

Form for giving intimation under Rule 18(4) of CCS [Conduct] Rules, 1964 for transactions in shares, securities, debentures and investment in mutual fund schemes etc.

- 1. Name and Designation
- 2. Scale of pay and present pay

3. Details of each transaction made in shares, securities, debentures, mutual funds scheme etc. during the calendar year. 4. Particulars of the party/firm with whom transaction is made:a) Is party related to the applicant? b) Did the applicant have any dealings with the party in his official capacity at any time or is the applicant likely to have any dealings with him in the near future? 5. Source or sources from which financed:a) Personal savings b) Other sources giving details 6. Any other relevant fact which applicant may like to mention I hereby declare that the particulars given above are true. Station: Signature...... Date:Designation...... [To be Published in Part II Section 3 Sub-section II of the Gazette of India]

- 1. (1) These rules may be called the Central Civil Services [Classification, Control and Appeal] Amendment Rules 1990.
 - (2) They shall come into force on the date of their publication in the official Gazette.
- 2. In rule 11 of the Central Civil Services [Classification, Control & Appeal] Rules, 1965 under the heading 'Minor Penalties' after Clause(iii), the following clause shall be inserted namely:-

Copy of DOPT Notification No. 11012/4/86-Estt. (A) dated 13th July, 1990 and 26-5-92 an amendment to Rule 11 the CCS(CCA) Rules,

Constitution, and after consultation with the Comptroller & Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control &

"(iii a) reduction to a lower stage in the time scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension".

Copy of DOPT Notification No. 11012/4/86-Estt. (A) dated 26.5.1992

DECLARATION:

1965

Appeal) Rules, 1965 namely:

- and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services [Classification, Control, Appeal] Rules, 1965 namely:
- 1. (1) These rules may be called the Central Civil Services [Classification, Control, Appeal] Rules, 1992.
 - (2) These rules shall come into force from the date of their publication in the Official Gazette.
- 2. In rule 11 of the Central Civil Services [Classification, Control, Appeal] Rules, 1965, under the heading "Major Penalties" for clause [V], the following clause shall be substituted, namely :-

[V] Save as provided for in Clause (iii a), reduction to a lower stage in this time scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay'.

Copy of DOPT OM No. 22011/1/91-Estt. (A) dated 31.7.1991 regarding review of Instructions on Promotion of Government Servants whose conduct is under investigation.

The undersigned is directed to refer to the Ministry's O.M. No. 22011/2/86-Estt.[A] dated 12.1.88 regarding procedure and guidelines to be followed in the matter of promotion of Government Servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation and to say that in view of various judicial pronouncements subsequent to the issue of aforesaid O.M., the question of applicability of sealed cover procedure in respect of Government Servants against whom an investigation on serious allegations of corruption, bribery or similar grave misconduct is in progress either by the C.B.I. or any other agency, departmental or otherwise as envisaged in para 2[iv] of that O.M. has been reviewed and it has been decided in consultation with the Ministry of Law that para 2[iv] of the O.M. 22011/2/86-Estt.[A] dated 12-1-88 be deleted with immediate effect.

2. It is further clarified that:-

- i. All cases kept in sealed cover on date of this O.M. on account of conditions obtainable in para 2[iv] of the O.M. dated 12.1.88 will be opened. If the official had been found fit and recommended by DPC, he will be notionally promoted from the date his immediate junior had been promoted. The pay of the higher post would, of course, be admissible only on assumption of actual charge in view of provisions of FR 17[i] [since only officiating arrangements if necessary and giving promotion in such cases].
- ii. If any case is in a sealed cover on account of any of the other conditions mentioned in para 2[i] to 2[iii] of the O.M. Dated 12.1.88, the case will continue to be in the sealed cover.
- iii. On opening of the sealed cover because of deletion of para 2[iv], if an officer is found to have been recommended as 'unfit' by the DPC, no further action would be necessary.
- 3. In so far as the personnel serving in the Indian Audit and Accounts Department are concerned, these instructions have been issued after consultation with the Comptroller & Auditor General of India.

(DPE O.M. No. 15(1)/92-GM dated 4th September, 1992)

(f) Conduct, Discipline & Appeal Rules

15. DPE/Guidelines/II(f)/15 Directive on amendment in the Conduct, Discipline and Appeal Rules and Standard Orders pertaining to the Supreme Court judgement in the case of Vishaka and others Vs. State of Rajasthan and Others.

The undersigned is directed to say that in the case of Vishaka and Others Vs. State of Rajasthan and Others (JT 1997(7) SC 384), the Hon'ble Supreme Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women.

- 2. It has been laid down in the above mentioned judgement that it is the duty of the employer or other responsible persons in working places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:-
- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- 3. Any act of sexual harassment of women employees is definitely unbecoming of a PSU employee and amounts to a misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent PSU employee in accordance with the rules.
- 4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the concerned authorities shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.
- 5. In particular, it should be ensured that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.
- 6. Complaint Mechanism:— Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism, should be created in every organisation for redressal of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Wherever such machineries for redressal of grievance already exist, they may be made more effective and in particular women officers should preferably handle such complaints.
- 7. Awareness:— Awareness of the right of female employees in this regard should be created in particular by prominently notifying the guidelines (copy enclosed) in a suitable manner.
- 8. All the Ministries/Departments are requested to direct the public sector undertakings under their administrative control to make necessary amendments in the CDA Rules of such PSUs on the line of the guidelines laid down by the Supreme Court. For guidance, a copy of the notification issued by DOPT amending the CCS (Conduct) Rules, 1964 is enclosed.

(DPE O.M.No. DPE/15(4)/98(GL-004)/GM dated 29th May, 1998)

ENCLOSURES

Copy of DOPT's O.M.No.11013/10/97-Estt.(A) dated 13th February, 1998 regarding CCS (Conduct) Rules, 1964—Supreme court Judgement in the case of Vishaka Vs. State of Rajasthan regarding sexual harassment of working women.

The undersigned is directed to say that in the case of Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384), the Hon'ble Supreme Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women.

2. It has been laid down in the judgement above-mentioned that it is the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement

or prosecution of acts of sexual harassment by taking all steps required. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature
- 3. Attention in this connection is invited to Rule 3 (i) (iii) of the CCS (Conduct) Rules, 1964, which provides that every Government servant shall at all times do nothing which is unbecoming of a Government servant. Any act of sexual harassment of women employees is definitely unbecoming of a Government servant and amounts to a misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent Government servant in accordance with the rules.
- 4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the concerned authorities shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.
- 5. In particular, it should be ensured that victim or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.
- 6. Complaint Mechanism:— Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism, should be created in every organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Wherever such machineries for redressal of grievance already exist, they may be made more effective and in particular women officers should preferably handle such complaints.
- 7. Awareness:— Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (copy enclosed) in a suitable manner.
- 8. A specific provision is, however, being made in the CCS (Conduct) Rules, 1964, prohibiting sexual harassment of women by Government servants, in compliance of the Judgement of the Hon'ble Supreme Court.
- 9. The Ministries/Departments are requested to bring these instructions to the notice of all concerned for strict compliance.
- 10. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions issue after consultation with the Comptroller and Auditor General of India.

Copy of DoPT's Notification No.11013/10/97-Estt(A) dated 13.2.1998

- G.S.R............. In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules, 1964, namely:-
- 1. (1) These rules may be called the Central Civil Services (Conduct) Amendment Rules, 1998.
- (2) They shall come into force on the date of their publication in the official Gazette.
- 2. In the Central Civil Services (Conduct) Rules, 1964, after rule 3B, the following rule shall be inserted, namely :-
 - "3C Prohibition of sexual harassment of working women
 - (1) No Government servant shall indulge in any act of sexual harassment of any woman at her work place.
- (2) Every Government servant who is in-charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation—For the purpose of this rule, "sexual harassment" includes such unwelcome sexually determined behaviour, whether directly or otherwise, as-

- (a) physical contact and advances;
- (b) demand or request for sexual favours;
- (c) sexually coloured remarks;
- (d) showing any pornography; or
- (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature".

NOTE: The Principal Rules were published in the Gazette of India vide Ministry of Home Affairs Notification No.15/4/63-Estt.(A) dated 30th November, 1964, [S.O. No.4177 dated the 12th December 1964, Part II, Section 3, Sub-section (ii)] and subsequently amended vide:

S.No.	Notification No.	Date	Published in the Gazette of India Part II Section 3 Sub Section (ii)	
			S.O. No.	Date
1.	25/23/68-Estt.(A)	03.02.70	482	14.02.70
2.	25/11/72-Estt.(A)	24.10.72	3643	04.11.72
3.	25/57/64-Estt.(A)	05.01.73	83	13.01.73
4.	11013/12/75-Estt.(A)	13.02.76	846	28.02.76
5.	25/19/74-Estt. (A)	30.06.76	2563	17.07.76
6.	11013/19/75-Estt.(A)	06.07.76	2691	24.07.76
7.	11013/06/75-Estt.(A)	24.11.76	4663	11.12.76
8.	11013/4/76-Estt.(A)	24.08.77	2859	17.09.77
9.	11013/03/78-Estt.(A)	22.09.78	2859	30.09.78
10.	11013/12/78-Estt.(A)	22.12.78	3	06.01.80
11.	11013/3/80-Estt.(A)	24.04.88	1270	10.06.80
12.	11013/21/85-Estt.(A)	03.10.85	4812	19.10.85
13.	11013/6/85-Estt.(A)	21.02.86	935	08.03.86
14.	11013/11/85-Estt.(A)	07.03.86	1124	22.03.86
15.	11013/5/86-Estt.(A)	04.09.86	3159	20.09.86

16.	11013/16/85-Estt.(A)	10.09.86	3280	27.09.86
17.	11013/1/87-Estt.(A)	27.07.87	1965	08.08.87
18.	11013/19/87-Estt.(A)	19.04.88	1454	14.05.88
19.	11013/18/87-Estt.(A)	18.09.90	2582	06.10.90
20.	11013/20/91-Estt.(A)	09.12.92	3132	26.12.92
21.	11013/4/93-Estt.(A)	12.07.95	GSR 355	29.07.95
22.	11013/4/93-Estt.(A)	16.08.96	GSR 367	31.08.96

Copy of Guidelines and norms laid down by the Hon'ble Supreme Court in Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384)

HAVING REGARD to the definition of 'human rights' in Section 2 (d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time,

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

- 1. Duty of the Employer or other responsible persons in work places and other institutions: It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required.
- 2. **Definition:** For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:
- a) Physical contact and advances;
- b) A demand or request for sexual favours;
- c) Sexually coloured remarks;
- d) Showing pornography;
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

- 3. **Preventive Steps**: All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:
- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

- (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender
- (c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
- 4. **Criminal Proceedings**: Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

- 5. **Disciplinary Action:** Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.
- 6. **Complaint Mechanism:** Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.
- 7. Complaints Committee: The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

- 8. **Worker's Initiative**: Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.
- 9. Awareness: Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.
- 10. **Third Party Harassment**: Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
- 11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.
- 12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

(f) Conduct, Discipline & Appeal Rules

16. DPE/Guidelines/II(f)/16

Model Conduct, Discipline and Appeal Rules.

The undersigned is directed to refer to BPE's letter No.2(121)/73-BPE-GM.I dated 26.4.74 forwarding therewith a copy of Model Conduct Discipline and Appeal Rules which could be adopted by Public Enterprises and to state that it has been decided, in consultation with Ministry of Labour, Department of Legal Affairs, Department of Personnel & Training, Department of Pension and Pensioners' Welfare and CVC, to incorporate the following provisions as Rule 30-A:—

Rule 30-A (i) Disciplinary proceedings, if instituted while the employee was in service whether before his retirement or during his reemployment, shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.

(ii) During the pendency of the disciplinary proceeding, the disciplinary authority may withhold payment of gratuity, for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the Company if the employee is found in a disciplinary proceeding or judicial proceeding to have been guilty of offences/misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7(3A) of the Payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment, in case the employee is fully exonerated.

All the Administrative Ministries/Departments are requested to advise the PSEs under their control to incorporate the above Provisions in their respective CDA Rules suitably. Action taken in this regard may kindly be intimated to this Department.

(DPE O.M.No. 15(7)/99(GL-021)/GM(DPE) dated 16th December, 1999)

(f) Conduct, Discipline & Appeal Rules

17. DPE/Guidelines/II(f)/17 Restrictions on top level executives of public enterprises joining private commercial undertakings after retirement.

The undersigned is directed to refer to BPE O.M. No. 2(11)/68-BPE(GM) dated 26.4.1969 regarding restrictions on dealings by public enterprises with private firms where former top executives of the concerned enterprises have joined after retirement. (copy enclosed)

- 2. The Committee on Public Undertakings (1998-99) in its report on "senior level posts in public undertakings appointment and related matters" has recommended that these instructions need to be reviewed/modified with a view to placing restrictions on the Chief Executives and Directors joining the competitors or private firms immediately after retirement.
- 3. In the light of this recommendation, it has been decided to incorporate the following proviso in the CDA Rules/Service Rules of the public enterprises and also in the terms and conditions of appointment of full time Directors including Chief Executives

"No functional Director of the company including the Chief Executive, who has retired from the service of the company, after such retirement, shall accept any appointment or post, whether advisory or administrative, in any firm or company, whether Indian or foreign, with which the company has or had business relations, within two years from the date of his retirement without prior approval of the Government".

4. All the administrative Ministries/Departments are requested to bring the above decision to the notice of public sector undertakings under their administrative control for appropriate necessary action.

(DPE O.M. No. 2(22)/99-GM-GL-022 dated 25th January, 2000)

(f) Conduct, Discipline & Appeal Rules

18. DPE/Guidelines/II(f)/18 Restrictions on top level Executives of Public Enterprises joining private commercial undertakings after retirement.

The undersigned is directed to refer to this Department's O.M. of even number dated 25.1.2000 on the subject mentioned above and to say that the procedure to be followed for granting permission to Board level executives of PSUs to take up commercial employment after retirement and the competent authority to grant such permission have been considered in consultation with the Department of Personnel and the Department of Legal Affairs.

- 2. It has now been decided that the administrative Ministries/ Departments will be competent to consider and decide requests for post-retirement employment received from former Board level executives of PSUs under their administrative control in consultation with CVC and DPE and with the approval of their Minister-in-charge. With a view to ensuring that all relevant particulars are available for considering the application for permission to take post-retirement employment, a draft form of model application is enclosed.
- 3. All the Ministries/Departments are requested to follow the above mentioned procedure and to ensure that requests received from former Chief Executives and full time Directors of PSUs for post-retirement employment are decided expeditiously.

(DPE O.M. No. 2(22)/99-GM-GL-31 dated 10th May, 2001)

Form of application for permission to PSE executives to accept commercial employment within a period of two years after retirement.

(in BLOCK letters	s)			
2. Date of retiremer	ıt			
3. Particulars of the	Ministry/Department/Office/PSE in			
which the executive	served during the last 5 years			
preceding retirement	(with duration):			
	Name of Ministry/Department/Office/PSE.	Post held	d Durati	ion
			From	То
4. Post held at the tir	ne of retirement and			
period for which held				
5. Pay scale of the p	ost and pay drawn by the			
Executive at the time	of retirement			
6. Pensionary benefi	ts:			
	Pension expected/sanctioned, if any (communication if any, should be mentioned)		Gratuity, if ar	ıy

1. Name of the Executive

7. Details regarding commercial employment

proposed to	be taken up –							
(a) Name of	the firm/compan	y/co-operative so	ociety, etc.					
(b) type of busin	Products less carried out I		being	manufacture	d	by	the	firm/
(c) career, any c	Whether dealings with the	the firm, etc.	е	xecutive	had	during	j his	official
(d) dealings with	Duration the firm	ı	and	nature		of	the	official
(e) working if so, give de	Whether had tails	the any	PSE	in dealings	which with	the the	executiv firm,	e was etc.
(f) Name of t	he job/post offer	ed						
(i) Remunera 8. Any inform furnish in sup 9. Declaration I hereby dec (i) the emplo	, if any) on of the duties of ation offered for plantion which the opport of his require:- lare that — yment which I propertied duties wi	and of the job/post post/job applicant desires est ropose to take up	o will not brin hat my previe	advertised, newspaper copy g me into conflict with ous official position or				the r of
-		nployer an unfair I not involve liais	-	t with the Government	departme	nts/PSEs.		
. , ,							Signature	of the applicant
Dated:			A	ddress:				

(f) Conduct, Discipline & Appeal Rules

19. DPE/Guidelines/II(f)/19 Restrictions on top level Executives of Public Enterprises joining private commercial undertakings after retirement.

The undersigned is directed to refer to this Department's O.M. of even number dated 25.1.2000 on the subject mentioned above. Some administrative Ministries/Departments and Public Sector Enterprises have solicited clarifications as to whether the restrictions imposed in the above referred O.M. would apply to those who resign and whether the term 'business relations' include 'official dealings'. These points have been examined and it has been decided that the following may be added below para.3 of the O.M dated 25.1.2000.:—

Proviso 1. The term "retirement" includes resignation; but not cases of those whose term of appointment was not extended by Government for reasons other than proven misconduct.

Proviso 2. The term 'business relations' include 'official dealings' as well.

- 2. It has also been enquired whether action can be taken against those who violate the restrictions. In this connection it may be noted that all employees of Public Sector Undertakings are governed by their respective CDA Rules and Service Regulations. Once such a condition is imposed on them and/or in the terms & conditions of appointment, the employee is bound by those conditions and the Government would have the right to monitor future activities of retiring employees. Legal action is possible for violation of any condition imposed on the employee and the usual mode to secure such compliance is to have a bond from the concerned employee at the time of employment/retirement, which may include an appropriate sum of money payable by way of damages.
- 3. All the administrative Ministries/Departments are requested to bring the foregoing to the notice of the Public Enterprises under their administrative control for information and necessary action.

(DPE OM No. 2(22)/99-GM-GL-32 dated 10th May, 2001)

(f) Conduct, Discipline & Appeal Rules

20. DPE/Guidelines/II(f)/20 Restrictions on top level Executives of Public Enterprises joining private commercial undertakings after retirement.

The undersigned is directed to refer to this Department's O.M. of even number dated 10.5.2001 on the subject mentioned above wherein it was stated that the administrative Ministries/Departments will be competent to consider and decide requests for post-retirement employment received from former Board level executives of PSUs under their administrative control in consultation with the Central Vigilance Commission (CVC) and DPE and with the approval of their Minister-in-charge.

- 2. The CVC vide their O.M. No. 99/VGL/56 dated 25.7.2002 has intimated that taking up commercial employment after retirement is an administrative matter and that the administrative Ministries may decide such matters on their own in consultation with DPE without involving the CVC.
- 3. In view of this, it has now been decided that the administrative Ministries/Departments may consider and decide such matters in consultation with DPE and with the approval of their Minister-in-Charge.

(DPE O.M. No. 2(22)/99-GM-GL-039 dated 2nd September, 2002)

(f) Conduct, Discipline & Appeal Rules

21. DPE/Guidelines/II(f)/21

Acceptance of gift by Government servants.

The undersigned is directed to forward herewith a copy of a letter No. 002-MSC/70 dated the 27th August, 2003 issued by Central Vigilance Commission on the subject mentioned above with the request that the contents of the aforesaid letter may kindly be brought to the notice of all Public Sector Enterprises under administrative control of Ministries/ Departments for strict implementation under intimation to this Department.

(DPE O.M. No. 15(3)/2003-DPE(GM)/GL-48 dated 8th October, 2003)

Copy of CVC's letter No. 002-MSC/70 dated the 27th August, 2003 Acceptance of gifts by Government servants

Gifts are presented by the public sector undertakings, banks etc. to a number of persons including government officials during festive occasions, such as, Diwali, Christmas, New Year etc. This matter has been the subject of comments in the press, media etc. The Commission has considered the matter and is of the view that this practice, at least, so far as Government servants are concerned, needs to be discouraged. The CCS (Conduct) Rules provide that no Government servant shall accept or permit any member of the family or any other person acting on his behalf to accept any gift except on occasions like weddings, anniversaries or religious functions. The practice of PSUs etc. sending gifts to government servants unnecessarily embarrasses them and puts them in a dilemma. The gifts are to be provided only to promote commercial/business interests and need not therefore be sent to government officials etc. who are only doing their duty. The public sector undertakings, banks etc. are, therefore, advised that they may follow this advice with immediate effect. The CVOs may bring this to the notice of the Chief Executives and all relevant executives.

2. The Commission also would like to receive a report from the CVOs on the gift policy of the Company followed by them in the current year and the actual expenditure incurred by them as festival gifts. The Commission hopes to receive the special report by 15th January, 2004 and every year thereafter.

> Public Enterprises Bhawan Block No. 14, C.G.O. Complex Lodhi Road, New Delhi-110 003

> > Dated the 16th June, 2009

OFFICE MEMORANDUM

Subject:- Amendment in Model Conduct, Discipline and Appeal(CDA) Rules of Central Public Sector Enterprise (CPSEs)- with regard to dealing in the shares of CPSEs.

The Department of Public Enterprises had circulated Model CDA Rules vide O.M. No. 2(121)/73-BPE(GM) dated the 26th April, 1974 to the CPSEs with the direction that Managements of CPSEs may frame their own Employees Conduct, Discipline & Appeal Rules based on the Model Rules. In the recent years more and more CPSEs have been listed on the stock exchanges and their shares have also been offered to the executives/employees of these units under preferential quota to Directors/employees. In order to streamline the procedure in the case of the executives/employees of CPSEs who are concerned with issuance of Initial Public Offer (IPO)/Follow-on Public Offer (FPO), involved in the price fixation process of an IPO/FPO and are otherwise, in possession of unpublished price sensitive information in respect of shares, Government has decided that following provisions be incorporated in the Employees Conduct, Discipline & Appeal (ECDA) Rules of Central Public Sector Enterprises (CPSEs):

- (i) A full-time Director or any executive/employee involved in the decision making process of fixation of price of an IPO/FPO of shares of a CPSE shall not apply either himself/herself or through any member of his/her family or through any other person acting on his/her behalf for allotment of shares (which includes all types of equity related instruments) in an IPO/FPO of such CPSE, provided that Directors/employees of CPSEs may apply for allotment of shares out of the category of preferential quota reserved for employees/Directors of the CPSE.
- (ii) All executives/employees including full time Directors of CPSEs who are in possession of unpublished price sensitive information would be prohibited from dealing/transacting either in their own name or through any member of their family in the shares of their own company.
- (iii) Full-time Director or executives/employee of a CPSE or any member of his/her family or any person acting on his/her behalf shall not apply for shares out of any preferential quota reserved for employees/Directors of other companies.

- (iv) All employees of the CPSEs would be required to disclose to the company all transactions of purchase/sale in shares worth Rs.20,000/- or more in value or existing holding/interest in the shares worth Rs. 20,000/- or more in his/her own company either in his/her own name or in the name of any family member to report to the company indicating quantity, price, date of transaction and nature of interest within 4 working days.
- 2. All the administrative Ministries/Departments concerned with CPSEs are requested to issue suitably instructions to the CPSEs under their administrative control to incorporate these provisions in their ECDA Rules accordingly. A copy of the communication sent to CPSEs may be endorsed to DPE.

<u> जैवादा गार्थीय</u>

(Rakesh Bhartiya) Director Tel: 24360218

То

Secretaries of Ministries /Departments concerned with CPSEs

Copy to:

- Chief Executives of all CPSEs
- 2. Department of Disinvestment (Shri Sidhartha Pradhan, Joint. Secretary), Block-14, C.G.O. complex, Lodi Road, New Delhi w.r.t. O.M. No. 4(10)/2008-DD-II dated 15th April, 2009.
- 3. Department of Personnel & Training (Shri A. Balaram, Under Secretary), North Block, New Delhi.
- 4. Central Vigilance Commission (Shri K. Ramasubban, Secretary), Satarkta Bhawan, Block 'A', GPO Complex, INA, New Delhi.

No.15(7)/99-DPE(GM)-GL-95
Government of India
Ministry of Heavy Industries and Public Enterprises
(Department of Public Enterprises)

Public Enterprises Bhawan Block No. 14, C.G.O. Complex Lodhi Road, New Delhi-110 003

Dated the 28th July, 2009

OFFICE MEMORANDUM

Subject :-

Amendment in Model Conduct, Discipline and Appeal (CDA) Rules of Central Public Sector Enterprises (CPSEs) – with regard to dealing in shares of CPSEs.

The undersigned is directed to refer this Department's O.M. of even number dated 16.6.2009 on the subject mentioned above and to say that the matter has been examined further and after careful consideration it has been decided to amend Para 1(i) of this O.M. Para 1(i) would now stand replaced as under:

"A full-time Director or any executive/employee involved in the decision making process of fixation of price of an IPO/FPO of shares of a CSPE shall not apply either himself/herself or through any member of his/her family or through any other person acting on his/her behalf for allotment of shares (which includes all types of equity related instruments) in an IPO/FPO of such CPSE, even out of the category of preferential quota reserved for employees/Directors of the CPSE."

2. All the administrative Ministries/Departments concerned with CPSEs are requested to issue suitable instructions to the CPSEs under their administrative control to incorporate this provision in their ECDA Rules accordingly. A copy of the communication send to CPSEs may be endorsed to DPE.

(Rakesh Bhartiya) Director Tele: 24360218

To

All administrative Ministries/Departments concerned with CPSEs.

Copy to:

- 1. Chief Executives of all CPSEs.
- Department of Disinvestment (Shri Sidhartha Pradhan, Joint Secretary), Block No.14, CGO Complex, Lodi Road, New Delhi w.r.t. O.M. No.4(10)/2008-DD_II dated 3rd July, 2009
- 3. Department of Personnel & Training (Shri A. Balaram, Under Secretary), North Block, New Delhi
- 4. Central Vigilance Commission (Shri K Ramasubban, Secretary), Satarkta Bhawan, Block 'A', GPO Complex, INA, New Delhi.
- 5. NIC Cell for hosting on the website of DPE.

No. 15(2)/2009-DPE(GM)-GL-97
Government of India
Ministry of Heavy Industries and Public Enterprises
(Department of Public Enterprises)

Public Enterprises Bhawan Block No. 14, C.G.O. Complex Lodhi Road, New Delhi-110 003

Dated the 17th August, 2009

OFFICE MEMORANDUM

Subject:

Setting up of crèches near work places and in the offices of PSEs to facilitate working women and employees having pre-school or primary school going children.

The President's address to joint session of Parliament mentioned that concerted efforts to increase representation of women in Central Government may be made. Government has since decided to make mandatory provision of crèche facilities near work places, keeping in view the dual responsibilities borne by working women and their increasing practical difficulties in balancing work and family responsibilities.

- 2. The issue has been considered further and it has been decided to make provision of crèche facilities and its further enhancement in Public Sector Enterprises (PSEs). The setting up of crèche facility is to be made mandatory in the offices of Central Public Sector Enterprises (CPSEs)/near work place where the employees, male and female, have pre-school or primary school going children.
- 3. All the administrative Ministries/Departments concerned with CPSEs are requested to issue instructions to the Heads of CPSEs under their administrative control for compliance. Action taken in this regard may kindly be informed to this Department.

(Rakesh Bhartiya) Director

SIMAMIRATU

Tele: 24360218

То

Secretaries of administrative Ministries /Departments concerned with CPSEs.

Copy to: Department of Personnel & Training (Shri C.B. Paliwal, Joint Secretary w.r.t. letter No.35021/2/2009-Estt.(C) dated 30th July, 2009.

No. 15(7)/1999-DPE (GM)-GL-98 Government of India Ministry of Heavy Industries and Public Enterprises (Department of Public Enterprises)

Public Enterprises Bhawan Block No. 14, C.G.O. Complex Lodhi Road, New Delhi-110 003 Dated the 26th November, 2009

OFFICE MEMORANDUM

Subject:

Amendment in the Model Conduct, Discipline & Appeal Rules of Central Public Sector Enterprises (CPSEs) to enable imposition of penalty on Public sector Employees after their retirement.

The undersigned is directed to refer this Department's O.M of even number dated 16.12.1999 on the subject mentioned above and the circular dated 28.12.2007(copy enclosed) issued by Central Vigilance Commission (CVC) on the subject "Amendment to CDA Rules of PSEs to enable imposition of penalties on Public Sector Employees after their retirement" and to say that as already indicated in DPE's O.M dated 16.12.1999 the disciplinary proceedings instituted during service shall be deemed to be proceeding and be continued and concluded in the same manner as if the employee had continued in the service.

- CVC has quoted the Supreme Court judgment dated 18.5.2007 in the Case of Shri Ramesh Chandra Sharma Vs Punjab National Bank where the Apex Court has upheld the punishment of dismissal on a retired employee. In the context of Supreme Court decision, the CVC has stressed for a need to incorporate suitable provisions in the CDA Rules to enable the imposition of penalty on delinquent employees on conclusion of such departmental proceedings which were initiated during their service time and have continued beyond the date of their superannuation. The CPSEs may make suitable provisions in their CDA Rules accordingly, if not made already, in the light of CVC's advice.
- 3. All the administrative Ministries/Departments are requested to issue instructions to the CPSEs under their jurisdiction to incorporate suitable provisions in their respective CDA Rules in this regard. SIMS MIRA

Encls: As stated

(Rakesh Bhartiya) Director

All administrative Ministries/ Departments(addressed to Secretaries by name)

Copy to:

Chief Executives of all CPSEs. 1.

All CVOs of Ministries/Departments/CPSEs 2.

DG, SCOPE

Copy also to CVC (Shri K.S.Ramasubban, Secretary, Central Vigilance Commission) w.r.t. their D.O. No.007/BGL/074/216 dated 3.1.2008.

No.007/VGL/074
Government of India
Central Vigilance Commission

Satarkata Bhavan, Block A, GPO Complex, INA, New Delhi-110023 Dated the 28th Dec. 2007

Circular No. 44 /12/07

Subject:-Amendment to CDA Rules of PSUs to enable imposition of penalty on Public Sector Employees after their retirement – reg.

The Commission has been seriously concerned that as Public Sector Undertakings (PSUs) are non-pensionable establishments, there is no possibility of imposing any penalty on such deviant employees after their retirement, who might have committed serious lapses while in service, just before their retirement. The gratuity amount also could not be withheld unless the person had been terminated consequent to disciplinary proceedings and the question of terminating an employee or imposing a penalty retrospectively, after retirement is not legally tenable. There was a situation that even disciplinary proceedings could not be continued against them beyond the retirement.

- 2. The Commission had earlier advised Public Sector Enterprises to make a provision in their CDA Rules to allow continuation of departmental proceedings after retirement of an employee. (There is a need to incorporate a suitable provision to enable the imposition of penalty on delinquent employees on conclusion of such departmental proceedings continued beyond the date of their superannuation.
- 3. It is observed that the Public Sector Banks have incorporated a provision in their CDA Rules for deemed continuation of service for this purpose. The said provision reads as under:

"The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF."

- 4. The Hon'ble Supreme Court of India has recently upheld the punishment of dismissal on a retired Bank employee on conclusion of departmental proceedings after his retirement, on the basis of the above provision, thus validating its legality. In its judgement dated 18.5.07 in the case of Shri Ramesh Chandra Sharma Vs Punjab National Bank, it has further noted that -
 - "....it may be true that the question of imposition of dismissal of the delinquent officer from service when he has already reached the age of superannuation

on the state of th

would not ordinarily arise. However, as the consequences of such an order is provided for in the service rule, in our opinion, it would not be correct to contend that imposition of such a punishment would be wholly impermissible in law."

5. The Supreme Court has further held that –

"The said Regulation clearly envisages continuation of a disciplinary proceeding despite the officer ceasing to be in service on the date of superannuation. For the said purpose a legal fiction has been created providing that the delinquent officer would be deemed to be in service until the proceedings are concluded and final order is passed thereon. The said Regulation being statutory in nature should be given full effect."

"The effect of a legal fiction is well-known. When a legal fiction is created under a statute, it must be given its full effect, as has been observed in East End Dwellings Co. Ltd. v. Finsbury Borough Council 1951 (2) All E.R. 587 as under..."

6. As the legality of the above provision has been upheld by the Supreme Court, all Public Sector Undertakings are advised to amend their CDA Rules in order to incorporate a similar provision. The receipt of this circular may be acknowledged and action taken to amend the CDA Rules along with a copy of the amended rules, may be sent to the Commission by 20.01.2008.

2.812 2003 (Vineet Mathur)
Deputy Secretary

To

1. The Secretary, Department of Personnel & Training

2. The Secretary, Department of Public Enterprises

- 3. The Secretary, Department of Administrative Reforms & Public Grievances
- 4. All Secretaries to the Ministries/Departments of the Government of India

5. The Chairman, SCOPE

- 6. All Chief Executives of Public Sector Enterprises
- 7. All CVOs of Ministers/Departments/PSEs

F.No. A-42011/10/2011-Admn. Government of India Ministry of Heavy Industries & Public Enterprises Department Of Public Enterprises

Public Enterprises Bhavan, Block No. 14, CGO Complex, Lodhi Road, New Delhi-110003. Dated: August, 2014

Office Memorandum

Subject: The Lokpal and Lokayktas Act, 2013 - Submission of declaration of assets and liabilities by the public servants-reg.

The undersigned is directed to refer to above mentioned subject in terms of Department of Personnel and Training (DoPT) OM No. 11013/3/2014-Estt(A) dated 23.07.2014 (copy enclosed) and to say that the Government has notified the Public Servants Rules, 2014 (Furnishing of Information and Annual Return of Assets and Liabilities and the limits for Exemption of Assets in Filing Returns) under the Lokpal and Lokayuktas Act, 2013 on 14-7-2014.

- 2. In this regard, it may be noted that as per Section 2(1)(o) of the Lokpal and Lokayuktas Act 2013, "Public Servant" means a person referred to in clauses (f) of sub-section (1) of section 14 of the Act.
- 3. 'All Ministries / Departments are requested to kindly bring its contents to the notice of all CPSEs under their administrative control for compliance.

Encl. As above.

(J.N. Prasad) Director Tel. 24360736

To

All Administrative Ministries / Departments concerned with CPSEs and a copy each to:

- (i) Chief Executives of all CPSEs.
- (ii) Department of Personnel and Training (DoPT), North Block, New Delhi in reference to their OM No. 11013/3/2014-Estt(A) dated 23.07.2014.
- (iii) NIC, Cell DPE with a request to upload a copy at on DPE's web-site under the link Guidelines/GM/Personnel policies/CDA Rules.
- (iv) Guard File.

Copy to : PS to Secretary, DPE.

संख्या ए-42011/10/2011-प्रशासन भारत सरकार भारी उद्योग और लोक उद्यम मंत्रालय

लोक उद्यम विभाग

लोक उद्यम भवन ब्लॉक नं. 14, सी जी ओ काम्प्लैक्स, लोधी रोड, नई दिल्ली-110 003.

दिनांक: 5 अगस्त, 2014

कार्यालय-ज्ञापन

विषय : लोकपाल एवं लाकायुक्त अधिनियम, 2013 - लोक सेवकों द्वारा परिसम्पत्तियों तथा देयता की घोषणा करने - के संबंध में

अधोहस्ताक्षरी को कार्मिक और प्रशिक्षण विभाग के दिनांक 23-07-2014 के कार्यालय ज्ञापन सं. -11013/3/2014 स्था. (क) के सन्दर्भ में उपर्युक्त विषय का संदर्भ लेने तथा यह कहने का निदेश हुआ है कि सरकार ने 14.07.2014 को लोकपाल एवं लोकायुक्त अधिनियम, 2013 के अन्तर्गत लोक सेवक नियमावली, 2014 (परिसम्पत्ति एवं देयता तथा रिटर्न भरने में परिसम्पत्तियों में छूट की सीमा के बारे सूचना तथा वार्षिक रिटर्न भरना) अधिसूचित किया है।

- 2. इस संबंध में यह उल्लेखनीय है कि लोकपाल एवं लोकायुक्त अधिनियम, 2013 की धारा 2(1)(0) के अनुसार ''लोक सेवक'' का आशय ऐसे व्यक्ति से है जिसका इस अधिनियम की धारा 14 की उप-धारा (1) के खंड (च) में उल्लेख किया गया है।
- 3. सभी मंत्रालयों/विभागों से अनुरोध है कि वे इस विषय को अपने प्रशासनिक नियंत्रण के अधीन सभी केन्द्रीय सरकारी लोक उद्यमों के अनुपालन हेतु उनकी जानकारी में लाएं।

फोन :24360736

अनुलग्नक: यथोक्त

सभी केन्द्रीय सरकारी लोक उद्यमों से संबंधित प्रशासनिक मंत्रालयों / विभागों को तथा एक प्रति :

- (i) सभी केन्द्रीय सरकारी लोक उद्यमों के मुख्य कार्यकारी अधिकारी
- (ii) कार्मिक एवं प्रशिक्षण विभाग, नार्थ ब्लॉक, नई दिल्ली के उनके का. ज्ञा. सं. 11013/3/2014-स्था(ए) तारीख 23.07.2014 के संदर्भ में
- (iii) एन आई सी कक्ष, लोक उद्यम विभाग को इस अनुरोध के साथ कि वे लिंक गार्डलाइन्स / जीएम / कार्मिक नीतियाँ / सीडीए नियमावली पर इस प्रति को अपलोड करें।
- (iv)गार्ड फाइल

प्रतिलिपि: सचिव, लोक उद्यम विभाग के निजी सचिव

F. No. 11013/3/2014-Estt(A)
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training
Establishment Division

North Block, New Delhi Dated July 23, 2014

Subject:

The Lokpal and Lokayuktas Act, 2013 - Submission of declaration of assets and liabilities by the public servants for each year and placing the same in public domain on the websites of the Ministries/ Departments

The undersigned is directed to refer to the subject mentioned above and to say that the Government has notified the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the limits for Exemption of Assets in Filing Returns) Rules, 2014 under the Lokpal and Lokayuktas Act, 2013. on 14.07.2014. The same is available on this Department's website at http://persmin.nic.in/Lokpal_Homepage_New.asp.

- 2. As per the said Act and the Rules framed thereunder, every public servant shall file declarations, information or return, as the case may be regarding his assets and liabilities as on the 31st day of March every year, to the competent authority, on or before the 31st day of July of that year. It may be noted that as per Section 2(1)(0) of the Act, "Public Servant" means a person referred to in clauses (a) to (h) of sub-section (1) of section 14 of the Act but does not include a public servant in respect of whom the jurisdiction is exercisable by any court or other authority under the Army Act, 1950, the Air Force Act, 1950, the Navy Act, 1957 and the Coast Guard Act, 1978 or the procedure is applicable to such public servant under those Acts.
- 3. It may also be noted that the definition of public servant covers all Central Government servants (Groups A. B and C). Therefore, all Central Government servants are required to file the declaration. This is an important difference from the Central Civil Services (Conduct) Rules 1964 and may kindly be noted.
- 4. As per these Rules, the public servants who have filed declarations, information and annual returns of property under the provisions of the rules applicable to such public servants shall file the revised declarations, information or as the case may be, annual returns as on the 1st day of August, 2014, to the competent authority on or before, the 15th day of September, 2014. All Ministries/ Departments are, accordingly, requested to please bring the provisions of the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the limits for Exemption of Assets in Filing Returns) Rules, 2014, to the notice of all concerned for compliance.
- 5. Formal amendment to the Central Civil Services (Conduct) Rules 1964 will be made in due course.

6. Hindi version will follow.

Vaidyanathan)

Telefax: 2309 3179

To

The Secretary
All Ministries/ Departments

Copy to:-

- 1. Comptroller and Auditor General of India, New Delhi
- 2. Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Ministry of Parliamentary Affairs
- 3. Union Public Service Commission, New Delhi.
- 4. President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office.
- 5. Election Commission of India, New Delhi.
- 6. Central Vigilance Commission, New Delhi
- 7. The CVOs of all Ministries/ Departments
- 8. Staff Selection Commission, New Delhi
- 9. Central Bureau of Investigation, New Delhi
- 10. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions
- 11. All Officers and Sections in the Ministry of Personnel, PG and Pensions
- 12. NIC (DOPT) with the request to place this O.M. in the Department's website

Return of Assets and Liabilities on First Appointment or as on the 31stMarch, 20.....* (Under Sec 44 of the Lokpal and Lokayuktas Act, 2013.)

	ne of the Public servant in full block letters)	Ostalls of Public Servent, the Rer spouse and I
2.(a)	Present public position held (Designation, name and addres of organisation)	S
(b)	Service to which belongs (if applicable)	
Declar	ration:	
the be	·	ed namely, Forms I to IV are complete, true and correct to in respect of information due to be furnished by me underpal and Lokayuktas Act, 2013.
Date		Signature
* In ca	se of first appointment please ind	icate date of appointment.

Note 1. This return shall contain particulars of all assets and liabilities of the public servant either in his/her own name or in the name of any other person. The return should include details in respect of assets/ liabilities of spouse and dependent children as provided in Section 44 (2) of the Lokpal and Lokayuktas Act, 2013.

(Section 44(2):A public servant shall, within a period of thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to—

- (a) the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries;
- (b) his liabilities and that of his spouse and his dependent children.)

Note 2. If a public servant is a member of Hindu Undivided Family with co-parcenary rights in the properties of the family either as a 'Karta' or as a member, he should indicate in the return in Form No. III the value of his share in such property and where it is not possible to indicate the exact value of such share, its approximate value. Suitable explanatory notes may be added wherever necessary.

Note 3:— "dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the public servant for their livelihood. (Explanation below Section 44(3) of Lokpal and Lokayuktas Act, 2013)

FORM No. I

Details of Public Servant, his/ her spouse and dependent children

SL No.		Name	Public Position held, if any	Whether return being filed by him/her, separately
1	Self			
2	Spouse			e so waith felicie dicable)
3	Dependent-1		The second secon	
4	Dependent-2		amonals to seven a lodge	Control Self Hard Caro Control Self Hard Caro Character Hard Caro
5.*	Dependent-3			

Add more rows, it necessary.	
Date	Signature

FORM No. II

Statement of movable property on first appointment or as on the 31st March, 20...

Details of the movable assets of self, spouse and dependent children:

S1	Description	Amount in Rupees					
No.			Self	Spouse	Dependent 1	Dependent 2	Dependent 3
(i)	Cash in hand						
(ii)	Details of deposit in Bank accounts (FDRs, Term Deposits and all other types of deposits including saving accounts), Deposits with financial Institutions, Non-Banking financial Companies and Cooperative societies and the amount in each such deposit	Name of Bank/ Financial Institutions. &Nature of Deposit					
(iii)	Details of investment in Bonds, debentures / shares and units in companies/mutual funds and others	Name of company				The real part of the second se	
(iv)	Details of investment in NSS, Postal Saving, Insurance policies and investment in any Financial instruments in Post office or Insurance Company	Nature of investment					And the second s
(v)	Detail of deposit in Provident Fund/ New Pension Scheme	Nature of Investment					
(vi)	Personal loans/ advance given to any person or entity including firm, company, Trust etc. and other receivables from debtors and the amount (exceeding (a) two months basic pay, where applicable. (b) Rupees one lakh in other cases)	Name of Debtor					
(vii)	Motor Vehicles/Aircrafts/Yachts/ Ships(Details of Make, registration number etc., year of purchase and amount)	Nature of vehicle, registration no. & year of purchase					

(viii)	Jewellery, bullion and valuable thing(s) (give details of weight)	Gold					
	JEWLLERY	Silver			THE THE PERSON NAMED IN COLUMN TWO IS NOT THE PERSON NAMED IN THE PERSON N		reliand .
	rounded in Secretary Deposits	Precious stones/ precious metals	7748				
	非非本	Gold	CONTRACTOR DE MACONE COMO		A COMPANY COMPANY COMPANY AND A SECOND		according to the same of the s
	n !!!		Saur		J. Mind. III.	tied to To	attist)
	Bullion	Silver	S 214 (S) S 244 (S) S 274 (S) S 274 (S)	Sullus.			
		Precious stones/ precious metals			IN THE		STOCKET
(ix)	Any other assets				Lara Se		
		And the second					

Date	Signature
Dato	MISIMUM VIIII VIII

Note 1: Assets in joint name indicating the extent of joint ownership will also have to be given.

Note2: In case of deposits/Investments, the details including Amount, date of deposit, the scheme, Name of the Bank/Institution and Branch are to be given

Note 3. Value of Bonds/Share Debentures as per current market value in Stock exchange in respect of listed companies and books values in case of unlisted firms.

Note4. Details including amount is to be given separately in respect of each investment.

Note 5: Under (ix) details of movable assets not covered in (i) to (viii) above valuing individually over two months basic pay (where applicable), or Rs. 1.00 lakh may be indicated.

FORM NO. III

Statement of immovable property on first appointment or as on the 31st March, 20.... (e.g. Lands, House, Shops, Other Buildings, etc.)

[Held by Public Servant, his/her spouse and dependent children]

SI. No.	Description of property (Land/ House/ Flat/ Shop/ Industrial etc.)	Precise location (Name of District, Division, Taluk and Village in which the property is situated and also its distinctive number, etc.)	Area of land (in case of land and buildings)	Nature of Iand in case of landed property	Extent of interest	If not in name of public servant, state in whose name held and his/her relationship, if any to the public servant	Date of acquisition	How acquired (whether by purchase, mortgage, lease, inheritance, gift or otherwise) and name with details of person/persons from whom acquired (address and connection of the Government servant, if any, with the person/persons concerned) (Please see Note 1 below) and cost of acquisition.	Present value of the property (If exact value not known, approx value may be indicated)	Total annual income from the property	Remarks
1	2	3	4	5	б	7	8	9	10	11	12
		Committee of the Commit									
The state of the s											
and the second s											

Dηte	Signature

Note (1)For purpose of Column 9, the term "lease" would mean a lease of immovable property from year or year or for any term exceeding one year or reserving a yearly rent. Where, however, the lease of immovable property is obtained from a person having official dealings with the Government servant, such a lease should be shown in this Column irrespective of the term of the lease, whether it is short term or long term, and the periodicity of the payment of rent.

FORM No. IV

Statement of Debts and Other Liabilities on first appointment or as on 31st March, 20.....

Sl. No.	Debtor (Self/ Spouse or dependent children)	Amount	Name and address of Creditor	Date of incurring Liability	Details of Transaction	Remarks
1	2	3	4	5	6	7
			**-			
						Philippe Carry Aurent Copeline St.
			от чений и мого в прот в того чений и стор об в до от в в в в до от			
a da separa da maior de la seculidad de la sec				against de calair fail de le de sin de chainn an de sa agus de cara mhair e é capit agus agus agus le calair	Security for the security of t	
	Ar.	The second of th	1			

Note 1: Individual items of loans not exceeding two months basic pay (where applicable) and Rs. 1.00 lakh in other cases need not be included.

Note 2. The statement should also include various loans and advances (exceeding the value in Note 1) available from the employer like advance for purchase of conveyance, house building advance, etc. (other than advances of pay and traveling allowance), advance from the GP Fund and loans on Life Insurance Policies and fixed deposits.

F.No. A-42011/10/2011-Admn. FTS-2232 Government of India Ministry of Heavy Industries & Public Enterprises Department Of Public Enterprises

Public Enterprises Bhavan, Block No.-14, CGO Complex, Lodhi Road New Delhi-110003. Dated: January, 2015

OFFICE MEMORANDUM

Subject :The Lokpal and Lokayuktas Act 2013: Submission of declaration of assets and liabilities by the public servants – extending the time limit & revised formats - regarding.

The undersigned is directed to refer to above mentioned subject along with DPE's OMs of even no. dated 5th August and 12th September 2014, wherein the contents of Lokpal and Lokayuktas Act, 2013 were forwarded and the time limit for declaration of the assets & liabilities was extended upto to 31st December, 2014.

- 2. In continuation of above, the Government vide its Gazette Notification dated 26th December 2014 (copy enclosed) has further extended the time limit for submission of declaration of the assets & liabilities by all public servants from 31st December, 2014 to 30th April, 2015. In addition, the Gazette Notification also prescribes a revised format for Form No. II and IV as listed under Appendix-II(copy enclosed) of Principal Rules under the Public Servants Rules, 2014 as notified under the Lokpal and Lokayuktas Act, 2013 on 14-07-2014.
- 3. All Ministries / Departments are requested to kindly bring the contents of the above stated notification to the notice of CPSEs under their administrative control to ensure compliance within the revised time-limit mentioned therein.
- 4. Ministries / Departments are also requested to advise the CPSEs under their administrative jurisdiction to suitably amend / modify their Conduct, Discipline & Appeal(CDA) Rules to incorporate the provisions of the said Gazette Notification, including the format/forms under Appendix-I&II. The submission of declaration of assets and liabilities under the above Act is to be made annually.

Encl. as above.

Director

To

All Administrative Ministries / Departments concerned with CPSEs and a copy each to:

- (i) CMDs / Chief Executives of all CPSEs.
- (ii) Department of Personnel and Training (DoPT), North Block in reference to their DO No. 407/12/2014-AVD-IV(B) dated 25.12.2014
- (iii) NIC, Cell DPE with a request to upload a copy at DPE's web-site under the link Guidelines/Personnel Policies/service matters.
- (iv) Guard File.



असाधारण EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i) PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

H. 694] No. 694] नई दिल्ली, शुक्रवार, दिसम्बर 26, 2014/पौष 5, 1936

NEW DELHI, FRIDAY, DECEMBER 26, 2014/PAUSHA 5, 1936

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

अधिसूचना

नई दिल्ली, 26 दिसम्बर, 2014

सा.का.नि. 918(अ).—केंद्रीय सरकार, लोकपाल और लोकायुक्त अधिनियम, 2013 (2014 का 1) धारा 59 की उपधारा (2) के खंड (ट) और खंड (ठ) के साथ पठित उपधारा (1) धारा 44 और धारा 45 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए लोक सेवक (सूचना और आस्तियों तथा दायित्वों की वार्षिक विवरणी देने तथा विवरणियाँ फाइल करने में आस्तियों की छूट के लिए सीमाएं) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

- 1. (1) इन नियमों का संक्षिप्त नाम लोक सेवक (सूचना और आस्तियों तथा दायित्वों की वार्षिक विवरणी देने तथा विवरणियाँ फाइल करने में आस्तियों की छुट के लिए सीमाएं) दूसरा संशोधन नियम, 2014 है।
 - (2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
- 2. लोक सेवक (सूचना और आस्तियों तथा दायित्वों की विवरणी देने तथा विवरणियाँ फाइल करने में आस्तियों की छूट के लिए सीमाएं) नियम, 2014 जिसे इसमें इसके पश्चात् मूल नियम कहा गया है) के नियम 3 के उपनियम (2) के परंतुक में "31 दिसंबर, 2014 को या उसके पूर्व" शब्दों और अंकों के स्थान पर "30 अप्रैल, 2015 को या उसके पूर्व" शब्द और अंक रखे जाएंगे।

- 3. मूल नियमों के परिशिष्ट 2 में,--
- (क) प्ररूप सं. 2 के स्थान पर निम्नलिखित प्ररूप रखा जाएगा, अर्थात् :--

"प्ररुप सं. 2

पहली नियुक्ति पर या 31 मार्च, 20.....को यथाविद्यमान जंगम संपत्ति का विवरण

(स्वयं, पित या पत्नी और आश्रित प्रत्येक बालक के लिए पृथक शीट का प्रयोग करें)

क्रम सं0	विवरण	टिप्पणियां, यदि कोई हों
(i)*	नकदी और बैंक में अतिशेष :	
(ii)**	वीमा (संदत्त प्रीमियम) :	
	नियत/आवर्ती जमा :	
	शेयर/बॉंड :	
and the second control of the second control	पारस्परिक निधि (निधियां) :	
	पेंशन स्कीम/प्रविष्य निधि	
	अत्य विनिधान, यदि कोई हों :	
(iii)	विसी व्यक्ति या अस्तित्व जिसके अंतगत कर्म, कंपनी, न्यास आदि भी हैं की दिया	
	गया व्यक्तिगत ऋण/अभिदाय (एडवांस) और ऋणियों मे प्राप्त अन्य प्राप्तियां और रकम (यथास्थिति, दो मास का मूल वेतन या एक लाख रुपए से अधिक) :	
(iv)	मोटर यान (निर्माण, रजिस्ट्रीकरण संख्या, क्रयं करने का वर्ष और संदत्त रकम के ब्यौरे) :	
(v)	आभूषण [अनुमानित भार (सोना बहुमूल्य रत्न की बाबत 10 ग्राम अधिक या कम	
	; चांदी की बाबत 100 ग्राम अधिक या कम)]	
	सोना :	
	चारी :	
	बहुमूल्य धातुएं और बहुमूल्य रत्न :	
	मिथित मर्दे :	
	(अनुमानित मूल्य उपदर्शित करें)'''	
(vi)	कोई अन्य आस्ति : [उपरोक्त (i) से (v) के अंतर्गत न आने वाली जंगम आस्तियों के	
	ब्यौर दें]	
	(क) फर्नीचर	
	(ख) फिक्सचर	
	(ग) प्राचीन वस्तुएं (घ) रंगचित्र (पेंटिंग)	
	(इ) इलैक्ट्रानिक उपस्कर	
	(च) अन्य	
	(किसी प्रवर्ग की बाबत व्यौरे तभी उपदर्शित करें यदि उस विशिष्ट प्रवर्ग (अर्थात्	
	फर्नीचर, फिक्सचर, इलैक्ट्रानिक उपस्कर आदि) में सम्मिलित किसी विशिष्ट	
	जास्ति का कुल वर्तमान मूल्य, यथास्थिति, दो माम के मूल वेतन या 1.00 लाख	
नारी व	रुपए से अधिक हो)	नामाग

तारीख.....

हस्ताक्षर.....

^{*}विदेशी बैंक (बैंकों) में जमाओं के ब्यौरे पृथक रूप से दिए जाएंगे।

^{**2} लाख रुपए से अधिक के बिनिधानों व्यक्तिगतरूप से रिपोर्ट किए जाएंगे । 2 लाख रुपए से कम के विनिधान एक साथ रिपोर्ट किया जा सकता है ।

^{***}पहली विवरणी में उपदर्शित मूल्य को पश्चातवर्ती विवरणियों में पुनरीक्षित करने की आवश्यकता नहीं है जहां तक सुसंगत वर्ष के दौरान कोई नई संयुक्त मद अर्जित नहीं की गई हो या किन्हीं विद्यमान मदों का निपटारा नहीं किया गया हो ।";

(ख) प्ररूप सं. IV के स्थान पर, निम्नलिखित प्ररूप रखा जाएगा, अर्थातु :--

"प्ररुप सं. 4

पहली नियुक्ति पर या 31 मार्च, 20.....को यथाविद्यमान ऋणों और अन्य दायित्वों का विवरण

क्रम सं0	ऋणी (स्वंय/ पति या पत्नी या आश्रित बालक)	लेनदार का नाम और पता	ऋण/दायित्व की प्रकृति और रकम	टिप्पणियां
1	2	3	4	5

तारीख	हस्ताक्षर
-------	-----------

टिप्पण 1 : उधारों की व्यष्टिक मदों को जो दो मास के मूल वेतन से अधिक नहीं हैं (जहां लागू हों) और अन्य दशाओं में 1.00 लाख रुपये है, सम्मिलित किए जाने की आवश्यकता नहीं है ।

टिप्पण 2 : विवरण में बैंकों, कंपनियों, वित्तीय संस्थाओं, केन्द्रीय सरकार/राज्य सरकार से और व्यष्टियों से लिए गए विभिन्न ऋणों और अभिदायों (एडवांसों) को सम्मिलित करना होगा।

[फा. सं. 407/12/2014-एवीडी-IV (बी)]

जिश्न् बरुआ, संयुक्त मचिव

टिप्पण: मूल नियम भारत के राजपत्र, असाधारण में अधिसूचना संख्यांक सा.का.नि. 501(अ), तारीख 14 जुलाई, 2014 द्वारा प्रकाशित किए गए थे और उनका भारत के राजपत्र असाधारण, तारीख 8 सितंबर, 2014 में प्रकाशित अधिसूचना सं. सा.का.ति. 638(अ) द्वारा संशोधन किया गया था।

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 26th December, 2014.

- G.S.R. 918(E).—In exercise of the powers conferred by sub-section (1) read with clause (k) and clause (l) of sub-section (2) of section 59, section 44 and section 45 of the Lokpal and Lokayuktas Act, 2013 (1 of 2014), the Central Government hereby makes the following rules further to amend the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Rules, 2014, namely:—
- 1. (1) These rules may be called the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Second Amendment Rules, 2014.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
- 2. In the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Rules, 2014 (hereinafter referred to as the principal rules), in rule 3, in the proviso to sub-rule (2), for the words "on or before the 31st day of December, 2014", the words "on or before the 30th day of April, 2015" shall be substituted.

- 3. In the principal rules, in Appendix II. -
- (a) for Form No. II, the following Form shall be substituted, namely:-

"FORM No. II

Statement of movable property on first appointment or as on the 31st March, 20...

(Use separate sheets for self, spouse and each dependent child.)

Name of public servant/spouse/dependent child:

S.No	Description	Remarks, if any
(i) *	Cash and bank balance:	
(ii)**	Insurance (premia paid):	
	Fixed /Recurring Deposit(s)	
	Shares/Bonds:	
	Mutual Fund(s):	
	Pension Scheme/Provident Fund	
	Other investments, if any	
(îii)	Personal loans/advance given	
	to any person or entity	
	including firm, company, trust,	
	ctc. and other receivables from	
	debtors and the amount	
	(exceeding two months basic	
	pay or Rupees one lakh,	
	as the case may be):	
(iv)	Motor Vehicles	
	(Details of Make, registration	
	number, year of purchase	
	and amount paid):	
(v)	Jewellery	
	[Give details of approximate weight	
	(plus or minus 10 gms. in respect of	
	gold and precious stones; plus or minus	
	100 gms. in respect of silver).]	
	Gold	
	Silver;	
	Precious metals and precious stones:	
	Composite items;	
	(indicate approximate value)***	
(vi)	Any other assets [Give details of movable assets not covered in (i) to (v) above]	
	(a) Furniture	
	(b) Fixtures	
	(c) Antiques	
	(d) Paintings	
	(e) filectronic equipments	
	(f) Others	
	[Indicate the details of an asset, only if the total current value of any particular asset in any	
	particular category (e.g. furniture, fixtures, electronic equipments, etc.) exceeds two months	
D-4	basic pay or Rs. 1.00 lakh, as the case may be.]	

Date														
LIGHT	*	×	*	à	ú	'n	à.	×		×	*	×	×	

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^{*} Details of deposits in the foreign Bank(s) to be given separately.

^{**} Investments above Rs. 2 lakhs to be reported individually. Investments below Rs. 2 lakhs may be reported together.

^{***} Value indicated in the first return need not be revised in subsequent returns as long as no new composite item had been acquired or no existing items had been disposed of, during the relevant year.";

(a) for Form No. IV, the following Form shall be substituted, namely:

"FORM No. IV

Statement of Debts and Other Liabilities on first appointment or as on 31st March, 20.....

SI. No.	Debtor (Self? Spouse or dependent children)	Name and address of Creditor	Nature of debt/liability and amount	Remarks
1	2	3	4	5
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Note 1: Individual items of loans not exceeding two months basic pay (where applicable) and Rs. 1.00 lakh in other cases need not be included.

Note 2. The statement should include various loans and advances (exceeding the value in Note 1) taken from banks, companies, financial institutions, Central/State Government and from individuals.",

[F. No. 407/12/2014-AVD-IV(B)]

JISHNU BARUA, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, vide notification number G.S.R. 501(E), dated the 14th July, 2014 and amended vide notification No. G.S.R. 638(E) published in the Gazette of India, Extraordinary, dated 8th September, 2014.