

## CHAPTER IV

### INVESTIGATION OF COMPLAINTS BY RAILWAY VIGILANCE

#### **401. Introduction:**

The genesis of any vigilance investigation can be traced to information received either through written complaints or what is known as source information (where a complainant does not want to commit his complaint to writing or wants to remain in the background). Common sources of the origin of complaints/information are listed in Paras 402 and 403 but these are illustrative, and not exhaustive.

#### **402. Complaints:**

402.1 Complaints relating to corruption and malpractices may be received by the Vigilance Directorate of the Railway Board or by the Vigilance Units of the Zonal Railways and Production Units. These may comprise of complaints received from, or forwarded by :-

- (a) Central Vigilance Commission.
- (b) CBI and other police authorities when they do not intend to investigate the complaint.
- (c) any railway administrative authority.
- (d) Ministries and Departments of the Central or State Governments.
- (e) The President's Secretariat and the Prime Minister's Office.
- (f) MPs/MLAs/VIPs, individuals and social and other organisations.
- (g) Complaints made under Public Interest Disclosure.

402.2 The pre-requisite for investigation of a complaint, barring certain exceptions, is that the complaint should be signed and contain the name and address of the complainant. Any complaint that does not bear the name and address of the complainant is an anonymous complaint. A complaint which does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint.

#### **403. Source information:**

403.1 Apart from written complaints, as mentioned in Para 402, information may be received verbally from any person, who does not want to give a complaint in writing. This is the most common method of receipt of source information. Apart from this, information relating to corruption and malpractices can also be gleaned from the following sources, which are also broadly classified under the heading of source information:-

- (a) proceedings of both Houses of Parliament in which Members of Parliament may mention information in their possession.
- (b) Reports of various Committees of Parliament, audit reports and departmental inspection reports.
- (c) information appearing in the Media.
- (d) Scrutiny of transactions reported under the Railway Services (Conduct) Rules, or scrutiny of the immovable and movable property returns.
- (e) verifiable facts contained in anonymous or pseudonymous complaints.
- (f) complaints received through e-mail.

**404. Registration of complaints:**

Every complaint received by a vigilance unit has to be entered chronologically in the computerised vigilance data base available with each railway or production unit.

**405. Action on anonymous and pseudonymous complaints:**

As a general rule, no action is required to be taken on anonymous and pseudonymous complaints. However, if it is proposed to investigate any verifiable facts, contained in such complaints, the matter has to be referred to the Railway Board, irrespective of the status of the employees complained against. Board will then consider the railway's recommendation and if it is considered that the complaint merits investigation, Railway Board would, in turn, obtain CVC's concurrence for investigation of such complaints. Notwithstanding this procedure, where the Commission itself calls for a report on a complaint, even though it is pseudonymous or anonymous, it should be treated as a signed complaint and investigated. { CVC's letter No.002/VGL/61 dated 23.9.03, circulated under Board's letter No.2003/V-I/Comp/1/3 dated 17.11.2003 }

**406. Examination of complaints:**

406.1 Every registered complaint should be put up to the concerned officer, who will examine it and take action as follows:-

- (i) if the complaint contains allegations which have no vigilance angle, the same should be forwarded for necessary action to the administrative department concerned.
- (ii) if the allegations are of a vague or general nature, or not susceptible of verification in the case of non-gazetted officials, the complaint may be filed. However, in respect of any complaints related to Gazetted Officers, the papers

along with views and recommendations of the railway, should be forwarded to Board for a decision.

- (iii) anonymous and pseudonymous complaints should be dealt with as laid down in Para 405.
- (iv) any complaint from a person known to make frivolous complaints (unreliable complaint) may be filed.
- (v) where the allegations attract a vigilance angle, the genuineness of the complainant should be verified, unless verification has already been done by the authority forwarding the complaint.

406.2 A final decision on the above will be taken by the CVO of the railway or production unit. All complaints against officers in SAG and above shall be put up to the General Manager at the earliest possible stage, in any case, before full fledged investigation is ordered.

407. Where complaints have been received in the Board's office, the same are diarised in the Confidential Section and thereafter submitted to the concerned officer to decide on the course of action. The level of decision making in regard to such complaints is as follows:-

<b>Complaints against</b>	<b>Decision making level</b>
(i) Officers above SA Grade	Addl. Member Vigilance(who will keep the concerned Board Member informed).
(ii) SA Grade Officers	(a) concerned EDV  (b) concerned JDV/DV &Addl. Member Vigilance where such officers report directly to Addl. Member Vigilance.
(iii) Officers upto Selection Grade	concerned JDV/DV
(iv) Non gazetted Officials	concerned DDV/JDV/DV

407.1 When the final orders are passed on the complaint, the same is returned to the Confidential Section. The final orders passed, along with the section to which the complaint pertains, are entered on the data base and the complaint is forwarded to the concerned branch for processing it further. In case of repeated complaints, the data base enables the Confidential Section to locate the earlier references. In case of complaints

against Gazetted Officers, each officer is allotted an individual number called the card number indicating the brief details of the allegations. At subsequent stages this card number is updated and gives the up-to-date position of the case against such officers.

407.2 After the case is opened the same is to be put up for information to Additional Member (Vig.), if it is involving the officers of the rank of SA Grade, and to concerned Board Member for cases against officers of the rank above SA Grade.

407.3 When the complaints are processed by Vigilance Confidential Section, the following classifications are accorded:- (a) CA(iii) cases, (b) important cases (c) others. According to the categorization of a particular case, the target dates for investigations are assigned.

407.4 Complaints are disposed off in the following manner:-

- (a) Investigations entrusted to an Inspector of the Vigilance Directorate.
- (b) Referred to railway for investigation and report.
- (c) Referred to railway for disposal and reporting back only if involvement of a Gazetted Officer is found.
- (d) To be filed for want of adequate verifiable details.
- (e) To verify the genuineness first and details sought before taking any further decision.
- (f) To be passed onto the concerned Directorate dealing with the subject if no vigilance angle is involved.
- (g) To be referred to CBI/SPE.

407.5 In respect of such complaints received by the Railway Board and forwarded to the Railways, the letter forwarding the complaint also contains directions as to the action to be taken. The railways will act according to these directions.

#### **408. Verification of genuineness:**

408.1 Every complaint is required to be verified for genuineness. This may be done by one or both of the following methods:-

- (a) addressing the complainant through a registered letter (acknowledgement due), asking him to confirm, within a specified time limit, that he has made the complaint.
- (b) by deputing an authorised official to personally contact the complainant.

- 408.2. In the case of letters received from MPs, MLAs etc. requests for verification of genuineness some times do not receive a response. In such cases, the railways recommend that the complaint need not be investigated since the genuineness could not be verified. This is not correct; in such an eventuality, the genuineness must be verified by deputing an authorised official to contact the MP/MLA concerned.
- 408.3. Where a complaint, received from a VIP, has been forwarded to the railways with a positive endorsement by, or on behalf of the Minister, asking for a report, the investigations may be undertaken without verification of genuineness. In addition verification of genuineness is not required to be done in cases of complaints forwarded by the CVC for investigation and in regard to complaints received under the Public Interest Disclosure Scheme.

**409. Complaints received under Public Interest Disclosure:**

- 409.1. The Central Government had issued a Resolution dated 21.4.2004 relating to Public Interest Disclosure and Protection of Informers. The resolution contains details of the machinery evolved for acting on complaints from whistle blowers. The salient features of the resolution are as follows:-
1. The Central Vigilance Commission is authorised, as the designated agency, to receive written complaints or disclosure on any allegation of corruption or misuse of office by any employee of the Central Government or of any Corporation established by or under any Central Act, Govt. Companies, Societies or local authorities owned or controlled by the Central Govt. The disclosure or complaint shall contain as full particulars as possible and shall be accompanied by supporting documents or other material.
  2. The CVC may, if it deems fit, call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the CVC shall not take any action in the matter.
  3. Notwithstanding anything contained in the Official Secrets Act, 1923, any public servant other than those referred to in clauses (a) to (d) of Article 33 of the Constitution or any other person including any non-governmental organisation, may make a written disclosure to the CVC.
  4. If the complaint is accompanied by particulars of the person making the complaint, the CVC shall take the following steps:
    - (i) The CVC will ascertain from the complainant whether he was the person who made the complaint or not.

- (ii) The identity of the complainant will not be revealed unless the complainant himself has made the details of the complaint either public or disclosed his identity to any other office or authority.
  - (iii) After concealing the identity of the complainant, the CVC shall make, in the first instance discreet inquiries to ascertain if there is any basis of proceedings further with the complaint. For this purpose, the CVC shall devise an appropriate machinery.
  - (iv) Either as a result of the discreet inquiry, or on the basis of the complaint itself without any inquiry, if the CVC is of the opinion that the matter requires to be investigated further, the CVC shall officially seek comments/or explanation from the Head of the Department of the concerned Organisation or office. While doing so, the CVC shall not disclose the identity of the informant and also shall request the concerned Head of the Organisation to keep the identity of the informant secret, if for any reason, the concerned Head of the Organization comes to know of the identity.
  - (v) After obtaining the response of the concerned Organisation, if the CVC is of the opinion that the investigations reveal either misuse of office or substantiate allegation of corruption, the CVC shall recommend appropriate action to the concerned Govt. Department or Organisation. These, shall, inter alia, include following:
    - (a) Appropriate proceedings to be initiated against the concerned Government servant.
    - (b) Appropriate administrative steps for redressing the loss caused to the Government as a result of the corrupt act or misuse of office, as the case may be.
    - (c) Recommend to the appropriate authority/agency initiation of criminal proceedings in suitable cases, if warranted by the facts and circumstances of the case.
    - (d) Recommend taking of corrective measures to prevent recurrence of such events in future.
5. For the purpose of making discreet inquiry or obtaining information from the concerned organisation, the CVC shall be authorised to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
6. If any person is aggrieved by any action on the ground that he is being victimised due to the fact that he had filed a complaint of disclosure, he may file an application before the CVC seeking redress in the matter, who shall take such

action, as deemed fit. The CVC may give suitable directions to the concerned public servant or the public authority as the case may be.

7. Either on the application of the complainant, or on the basis of the information gathered, if the CVC is of the opinion that either the complainant or the witnesses need protection, the CVC shall issue appropriate directions to the concerned Government authorities.
  8. The machinery evolved herein shall be in addition to the existing mechanisms in place. However, secrecy of identity shall be observed, only if the complaint is received under this machinery.
  9. In case the CVC finds the complaint to be motivated or vexatious, the CVC shall be at liberty to take appropriate steps.
  10. The CVC shall not entertain or inquire into any disclosure.
    - (a) in respect of which a formal and public inquiry had been ordered under Public Servants Inquiries Act, 1850 or
    - (b) in respect of a matter which has been referred for inquiries under the Commissions of Inquiry Act, 1952.
  11. In the event of the identity of the informant being disclosed in spite of the CVC's directions to the contrary, the CVC is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.
- 409.2. In pursuance of the aforementioned Resolution, the CVC had issued the following public guidelines relating to the receipt of complaints:-
- (i) the complaint should be in a **closed/secured envelope**.
  - (ii) the envelope should be addressed to Secretary, Central Vigilance Commission and should be **superscribed " Complaint under The Public Interest Disclosure."** If the envelope is not superscribed and closed it will not be possible for the Commission to protect the complainant under the above resolution and the complaint will be dealt with as per the normal complaint policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
  - (iii) Commission will **not entertain anonymous/pseudonymous** complaints.
  - (iv) the text of the complaint should be carefully drafted so as **not to give any details or clue as to his/her identity**. However, the details of the complaint should be specific and verifiable.

- (v) in order to protect the identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are **advised not to enter into any further correspondence** with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable, it will take the necessary action, as provided under the Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

#### **410. Priority for complaints referred for investigation by CVC:**

- 410.1 Complaints received for investigation through the Central Vigilance Commission must be investigated on priority and in all cases the investigation reports should be sent to the Board within three months. The Commission has advised that in case of undue delay in handling of such complaints, the Commission would invoke the provisions of Section 8 and 11 of the CVC Act and conduct inquiry on its own. In such cases the CVO would be required to come to the Commission along with documents and explain the reasons for the delay.
- 410.2 Complaints alleging victimization or harassment of suppliers/contractors, who have complained against the organization, should be treated seriously and the complainants should be protected by ensuring that they do not suffer on this account in future contracts/assignments. Similarly, complaints from employees against their superiors may be treated as source information and the names of the complainants should be concealed to protect them from victimization (Board's letter No. 2005/V-1/CVC/1/6 dated 28.4.2005)
- 410.3 Complaints received under Public Interest Disclosure should be given the top most priority and investigations into such complaints should be completed within **two weeks**.

#### **411. Investigations:**

- 411.1 After it has been decided that allegations contained in a complaint should be investigated, a preliminary investigation should be made to determine whether there is any substance in them. If the information can be verified from documents, files or other records, such records should be secured for scrutiny. If such scrutiny reveals evidence in support of the allegations, the documents or records should be taken over by Vigilance to secure them from being manipulated or tampered. Where such documents are required for day to day functioning, and it is not possible, for any reason, for the concerned department or official to function using authenticated copies, vigilance may retain authenticated copies for investigation. The originals may be returned to the department/official concerned, who should be made responsible for safe custody and production thereof as and when required.
- 411.2 If the allegations are very serious and there is a possibility of tampering of records by the suspect officials they may be placed under suspension. This has been elaborated in the chapter on Suspension.

- 411.3 Officials of the concerned department/office who are concerned with, or have knowledge of the matter under investigation should either be questioned orally or asked to give a written statement of the facts in their knowledge. The full record of the oral questioning should be prepared and signed by the person questioned (in token of confirmation of his statement) and by the officer/inspector who conducted the questioning. Facts revealed in this process must also invariably be cross checked with documentary or other collateral evidence to ensure the proper basis of the allegation. In the event it is necessary to make inquiries from employees of any other government department or office, the Vigilance will seek the assistance of the concerned department for this purpose.
- 411.4 In complaints relating to works or stores, etc. involving field sites, a site inspection or surprise check should be carried out at the earliest to ensure on the spot verification of facts and to take suitable steps to ensure that any evidence in support of the allegations is not tampered with. If tampering of records is apprehended, the question of seeking transfer of the staff concerned may also be considered with the assistance of the head of the department or head of the concerned office.
- 411.5 The railway servant against whom the complaint is being investigated should normally be afforded the opportunity to furnish his clarifications vis-à-vis the allegations against him. This may also be in the form of questioning by the Vigilance Officer or by asking him to give a written statement. If he refuses to answer questions or to give a written statement, this fact must clearly be recorded in the final investigation report.
- 411.6 The opportunity to offer clarifications as mentioned in para 411.5 may not be given in the following circumstances:-
- (a) where there is sufficient documentary evidence available to clinch the allegations against the suspect railway servant which he is not likely to be able to controvert.
  - (b) where the railway servant is due to retire but is non-cooperative and it is necessary to finalise the report and issue a charge sheet before he retires, or in those cases where a railway servant has already retired but the case being investigated is shortly becoming time barred for action under the Pension Rules.

#### **412. Investigation of cases by Railway Board Vigilance:**

- 412.1. Certain cases are investigated by the Railway Board Vigilance. These relate to complaints referred for investigation by the Hon. Minister/Minister of State for Railways, Members of the Railway Board or CVC. These are generally complaints received from very important members of the public or complaints relating to very senior officers or concerning officers in Railway units not having a separate vigilance set up. In such cases, before taking up investigation it must be ensured that the concerned Railway is not already seized of the matter, as parallel investigations must be avoided. If the railways are already looking into the complaint, a decision has to be

taken whether to let them continue the investigations or to take them over. In the latter case, all records etc. will handed over by the Railway to the Board's Inspectors.

412.2. Board's Inspectors are authorised to seize records, collect complete factual information and also take clarifications from such officials as may be considered necessary. No separate written authority is required for this. As regards recording statements of officers by Inspectors, this should be restricted, as far as possible, up to the level of Senior Scale Officers. For officers of higher grades, it is desirable that they are examined by the concerned DDV/JDV/DV/EDV, depending on the circumstances of the case and the seniority of the officer concerned. The investigations will be conducted and report prepared as laid down in Para 411 and 414.

#### **413. Registration of a case against Railway Officials:**

A vigilance case may be registered against an official when the approval of the SDGM/CVO/GM has been taken for seeking clarifications from the accused officials after investigations have established that prima facie a case exists against the concerned official for irregularities committed by him. In this context, the following guidelines may be observed for seeking clarifications from officials while carrying out investigation of complaints or conducting preventive checks:-

- (i) for complaints or preventive checks involving officials up to the level of Selection Grade, the SDGM of a Zonal Railway and the Chief Vigilance Officer of a Production unit are empowered to give prior approval for seeking clarifications.
- (ii) for complaints/checks involving officials in Senior Administrative Grade or higher, prior approval of the General Manager may be obtained for seeking clarifications.
- (iii) in case of a difference of opinion between SDGM/CVO and the General Manager, the case may be referred to the Chief Vigilance Officer of the Ministry of Railways, i.e. Additional Member Vigilance for taking a final view.
- (iv) for complaints forwarded by the Central Vigilance Commission or the Prime Minister's Office and in respect of CA-iii references, seeking prior approval may be dispensed with and clarifications may be obtained straight away in order to expedite investigations and the consequent disposal of the complaint received. {Board's letter No.2003/V-I/Comp/1/5 dated 24-12-03 and 2005/V-I/VP/1/6 dated 25-5-2005}.

#### **414. Preparation and submission of the investigation report:**

414.1 After the investigations are completed, a self contained report should be prepared in the following format:-

- (i) Case No. {here Railway Board's reference should also be given if the complaint has been forwarded by Board}
- (ii) Name of suspect(s).
- (iii) Introduction/Background.
- (iv) Allegation(s).
- (v) Result of investigations (allegation wise).
- (vi) Conclusion regarding each allegation.
- (vii) Irregularities on the part of each suspect official.
- (viii) Suggestions for systems improvements, if any.

414.2 Except in cases involving gazetted officers or cases referred to the railways by Railway Board, the Vigilance Officer will submit his report, along with his recommendations in regard to action against officials found responsible for irregularities, to the concerned disciplinary authority. The disciplinary authority will decide whether to accept the recommendations and take action. In case he disagrees with the recommendations, he can:-

- (i) either reject them giving detailed reasons.
- (ii) take further action after seeking necessary clarifications from vigilance.
- (iii) seek further investigations in the matter.

414.3 In cases where any action is proposed against Gazetted Officers, the Chief Vigilance Officer will forward the findings of the investigation to the concerned Principal Head of Department for his views on the case. After obtaining the PHOD's views, the CVO will sum up the investigations and submit the case to the General Manager for his recommendations. The General Manager will give his recommendations in regard to the conclusions contained in the report, quantum of responsibility of each officer/official, the gravity of the various acts of omission or commission and whether these deserve formal disciplinary action (major penalty or minor penalty) or the ends of justice would be met by suitable administrative action.

414.4 In regard to cases of officers up to Selection Grade investigated by the Railway Board Vigilance, comments of the PHOD and the views of the General Manager of the Railway on which the officer complained against is working will be obtained before the case is referred to the Central Vigilance Commission for first stage advice. Where, however, the officer is in Senior Administrative Grade or higher, where the Disciplinary Authority is the Board/President, the case will be referred to CVC without making a reference to the concerned PHOD or GM.

- 414.5 There may be occasions where a Railway investigates a complaint relating to an officer who has since been transferred to another Railway. In such a case, the Railway will complete the investigation and obtain the remarks of the PHOD concerned. Thereafter, the investigation report along with the PHOD's comments and vigilance views may be sent to the Railway on which the officer is currently working to enable the General Manager to furnish his recommendations on the action required to be taken. This procedure is essential since the views of the Disciplinary Authority are required to enable the case to be referred to CVC. The same principle will be followed in cases where more than one officer may have been transferred from the railway which investigated the case.
- 414.6 The railway will, thereafter, forward the investigation report to the Board, along with all relevant documents/records, for obtaining the advice of the Central Vigilance Commission for further course of action. While sending the report, the bio-data of the suspect officials must be enclosed. Where action has been recommended against any official(s), draft memoranda of charges and statement of imputations for the appropriate proceedings should also be furnished. In addition, a floppy disk of the reports, comments etc. should also be sent, along with a summary sheet containing the following information:-
- (i) Verification of genuineness.
  - (ii) Allegations, in brief.
  - (iii) Results of investigations.
  - (iv) Irregularities noticed against each official.

**415. Investigation of Complaints against Officers already on deputation to other Ministries/ PSUs:**

There may be occasions when complaints are received, and investigated against an officer who is already on deputation to other Ministries/PSUs. Such complaints may be investigated after verification of genuineness. The comments on the investigation report will be furnished by the PHOD and General Manager of the Railway where the concerned officer was working prior to proceeding on deputation. The case will, thereafter, be processed in Board's office like other cases of Group A officers before sending to CVC as detailed in Chapter V.

**416. Preventive checks:**

Based on source information, preventive checks are conducted by Zonal Railways/Production Units in the same manner as the investigation of complaints, except that the verification of genuineness of the complaint is not necessary. If a preventive check is conducted against non-gazetted officials, then the finalisation of the reports is within the competence of the SDGM/CVO of the Zonal Railways or

Production Units. In case a preventive check is conducted against a gazetted officer and a clarification has been obtained from him, i.e. a case has been registered, the preventive check report has to be forwarded to Railway Board, even if no irregularity is observed in the check and no one is held responsible. The closure of any preventive check against gazetted officers, where no action is warranted, is within the competence of CVO of Ministry of Railways i.e. Additional Member (Vigilance). However, in case, during the course of a preventive check against a Gazetted Officer, if no irregularities have been found and case has been registered against him, the case need not be referred to Board for closure. In case action is proposed against gazetted officers based on the preventive check reports, the case has to be referred to the CVC for their advice.

**417. Closure of Cases:**

No complaint containing allegations against Group A/Senior Scale Group B officers can be finalised at Railway's level even though no irregularity is observed during investigation. The investigation report has to be referred through the Railway Board to the CVC for first stage advice.

### List of references

1. CVC's letter No. 002/VGL/61 dated 23.9.2003, circulated under Board's letter NO. 2003/Vig.I/Comp/1/3 dated 17.11.2003.
2. DOP&T resolution dated 21.4.2004 circulated under Board's letter No. 2004.V1/CVC/1/14 dated 19.5.2004 and GOI resolution on Public Interest Disclosure and Protection of Informers circulated vide Board's letter No. 2004/V1/CVC/1/14 dated 13.5.2004
3. CVC's letter No. 004/VGL/18 dated 13.4.2004
4. Board's letters No. 2003/V-I/Comp/1/5 dated 24.12.2003 and 2005/V-I/VP/1/6 dated 25.5.2005
5. Board's letter No. 2005/V-I/CVC/1/6 dated 28.4.2005
6. CVC letter No. 98/VGL/15 dated 16.4.2004 and Board's letter No. 2004/Vig-I/CVC/1/11 dated 13.5.2004 and 25.5.2004