C.14016/1/2011-VIG
GOVERNMENT OF MIZORAM
VIGILANCE DEPARTMENT

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OFFICE MEMORANDUM

Dated Aizawl the 2nd November, 2011.

Reference is invited to this Department Office Memorandum No.C.19018/2/95-VIG dt 21.7.2006 regarding guidelines in relation to simultaneous proceeding of Disciplinary action and Criminal cases.

Further vide Office Memorandum No.C.31015/1/2010-VIG dt.8.3.2011, it is clearly spelt out that the Quarterly reports on Departmental/Criminal cases pending against the Government servants must necessarily highlight all instances where the Inquiry Officer's report is received by the Disciplinary Authority but not considered and finalized within 6(six) months from the date of receipt of I.O's report, and the reasons for delay in the disposal of and conclusion of such case should be specifically recorded in the report.

It has, however been noted with concern and dismay that in many cases, the Disciplinary Authorities do not furnish reasons for delay in finalisation of the matter while citing the plea that a criminal case is pending in Court against the said Govt. sevant in some other case.

It is a fact that the kind of penalties in criminal proceeding under Cr PC as well as P.C Act,1988 and Disciplinary proceeding under the CCS(CCA) Rules,1965 are quite different in nature, and any kind of penalty under Rule 11 of the CCS(CCA) Rules,1965 can not be imposed by the Trial court in the Criminal case. As such the Disciplinary Authority has an inherent power to finalise and conclude the Disciplinary proceedings against the Govt.servant under his control and there is no bar to dispose the Disciplinary proceedings while a criminal proceeding on the same offence is yet lying pending finalisation against such Government servant in the court of Law for more than 6(six) months .

It is to be noted that in the case of a Govt. Servant who has been convicted in criminal proceedings but Memorandum of charge for Departmental proceeding has not yet been issued, it is not necessary to issue Memorandum of Charge under Rule 14 or 16 of the CCS(CCA) Rules,1965, but a Show cause notice should be issued to such Govt.servant convicted by the court under Rule 19 of the CCS(CCA) Rules,1965 and on receipt of a representation if any from such Govt. servant, the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit.

In the case of a Govt. servant against whom Departmental proceedings and a Crimi-

case has been finalised by the Trial Court and convicted the accused Govt. servant, while the Inquiry report in the Departmental proceedings is not yet received from the Inquiry Officer, it is not necessary to wait Inquiry report from the appointed Inquiry Officer as the criminal conviction is sufficient ground for imposing appropriate penalty upon such Govt. servant as the Disciplinary Authority may deems fit in accordance with Rule 19 of the CCS(CCA) Rules, 1965.

All administrative heads of department and all heads of department are hereby enjoined to take prompt action on receipt of the report of Inquiry Officer without delay on any disciplinary matter as per the rules in force and to strictly adhere to the provision of Rule 19(i) and the proviso thereunder of the CCS(CCA) Rules 1965 in the case of a Govt. servant convicted by the Court of Law.

Receipt of this Office Memorandum may kindly be acknowledged.

Sd/-VAN HELA PACHUAU
Chief Secretary to the Govt. of Mizoram.

Memo No. C.14016/1/2011-VIG/ : Dated Aizawl the 2nd November, 2011.

Copy to:
1. All Heads of Administrative Department
2 All Heads of Department
3 Guard file.

(B.ZAHMUAKA)
Under Secretary to the Govt. of Mizoram
Vigilance Department.