

SUPREME COURT OF INDIA

Educ.Cons.(I) Ltd. SC/ST Empl. Wel.Asso.

Vs.

Union of India & Ors.

C.A.No.7221 of 2016

(T.S.Thakur,CJI., R.Banumathi and Uday Umesh Lalit,JJ.,)

02.08.2016

JUDGMENT

Uday Umesh Lalit,J.,

SLP (Civil)No.14406 of 2012

1. Leave granted.

2. This appeal is directed against the judgment and order dated 07.12.2011 passed by the High Court of Delhi dismissing Writ Petition (Civil) No.7577 of 2011, which had questioned and sought quashing of orders granting extension of tenure to Respondent No.4 Ms. Anju Banerjee as Chairman-cum-Managing Director, Educational Consultants India Limited, for a period of 5 years i.e., upto 28.11.2015.

3. Educational Consultants India Limited (Ed.CIL, for short) was conceived and incorporated as a Public Sector Enterprise by the Government of India in 1981 under the Ministry of Education and Culture (reconstituted as the Ministry of Human Resource Development since then). The Ed.CIL offers consultancy and technical services in different areas of Education and Human Resource Development not only within the Country but also on global basis. The Ed.CIL is category 'C' Central Public Sector Undertaking. The procedure with regard to appointments to posts in categories 'C' and 'D' of Public Sector Enterprises has been prescribed by Office Memorandum dated 03.04.2001, whereby the Appointments Committee of Cabinet has delegated its power in relation to appointments, to Administrative Ministries / Departments Public Sector Undertakings. According to the procedure prescribed, Public Enterprises Selection Board (hereinafter referred to as PESB) a high powered body constituted by the Government of India to advise the Government on appointments to top managerial posts, is involved in the selection process. The policy of the Government of India is to appoint outstanding professional Managers to levels 1 and 2 posts and such other posts as the Government may decide from time to time, through a fair and objective selection procedure.

4. Respondent No.4, who was then holding the post of Group General Manager, HRD, Indian Railway Catering and Tourism Corporation, New Delhi was appointed as Chairman-cum-Managing Director ('CMD' for short) of Ed.CIL vide order dated 04.10.2005 for five years w.e.f. 30.11.2005 after following due procedure. The tenure of five years of Respondent No.4 as CMD of Ed.CIL was to expire on 29.11.2010 and the Ministry of Human Resource and Development ('HRD' for short) took up the matter with PESB on the proposal of extension to be granted to Respondent No.4. The proposal was considered by PESB in its meeting held on 26.10.2010 and the recommendations were then forwarded to the Ministry of HRD vide letter dated 27.10.2010 as under:-

“PUBLIC ENTERPRISES SELECTION BOARD (Ministry of Personnel Public Grievances & Pensions) Sub: Extension of tenure or otherwise of Ms. Anju Banerjee, CMD, Educational Consultants India Ltd. beyond 29.11.2010.

1. The Board considered the proposal of the Ministry of Human Resource Development regarding extension of tenure or otherwise Ms. Anju Banerjee, CMD, Educational Consultants India Ltd. beyond 29.11.2010 as contained in letter No.F.20-19/2010/TS-VIII(Pt.) dated 14.9.2010, 24.09.2010 & 20.10.2010.

2. As per the procedure laid down by the PESB vide their O.M. No. 5/16/96-PESB dated 21.11.1996, the case of extension/non-extension of tenure of Board level appointees are required to be considered by the Board in the light of his performance as reflected in the documents like the data based performance report, the special performance report and the ACRs along with the inputs given by the Secretary of the Administrative Ministry etc.

3. Against this background, the proposal of the Ministry of Human Resource Development regarding extension of tenure or otherwise of Ms. Anju Banerjee, CMD, Educational Consultants India Ltd. beyond 29.11.2010, was considered by the Board in its meeting held on 6.10.2010 when Secretary, HRD apprised the Board that no ACRs of the officer were available. The Board decided to await for the ACRs before taking a decision. As per the standard practice Ms. Anju Banerjee was also called to meet the Board.

4. The Board noted that on the recommendation of the PESB and with the approval of the competent authority, Ms. Anju Banerjee was appointed as CMD, Educational Consultants India Ltd. w.e.f. 30.11.2005 and she would complete her five years on 29.11.2010. She will attain the age of superannuation on 31.1.2017, her date of birth being 24.1.1957.

5. On receipt of ACRs the Board considered the proposal in its internal meeting on 26.10.2010. Taking into account the totality of circumstances including her performance as reflected in the documents forwarded by the Administrative Deptt.

like the data based performance report, the special performance report, the available ACRs and the inputs given by the Secretary, HRD the Board after consideration recommended extension of tenure of Ms. Anju Banerjee, CMD, Educational Consultants India Ltd. Beyond 29.11.2010 to 29.11.2015.

6. The ACR dossiers of Ms. Anju Banerjee (For the period from 1.4.09 to 31.10.09 and November 2009 to 31.3.2010) are enclosed for necessary action. For expediting Vigilance Clearances a photo-copy of the pro-forma filled in by the candidate is also enclosed for necessary action.

7. The case may kindly be processed further for obtaining the approval of the competent authority for extension of tenure of Ms. Anju Banerjee, CMD, Educational Consultants India Ltd. Beyond 29.11.2010 upto 29.11.2015.

8. A copy of the order when issued may please be sent to us for information of the Board.

(VEDANTAM GIRI)
DIRECTOR

(Ministry of Human Resource Development Ms. Vibha Puri Das. Secretary) New Delhi

PESB U. O .No. 9/15/2010-PESB dated 27/10/2010”

5. The proforma for seeking Vigilance Clearance was enclosed along with the aforesaid recommendation and the relevant papers were sent by PESB directly to Central Vigilance Commission (‘CVC’ for short). CVC by its letter dated 01.11.2010 requested the Ministry of HRD to provide complete information in respect of Respondent No.4 in the prescribed format. Accordingly, by letter dated 09.11.2010 the Government of India, Ministry of HRD, Department of Higher Education forwarded complete details of Respondent No.4 to CVC stating inter-alia that Respondent No.4 was clear from Vigilance angle. It was stated in the letter that the tenure of Respondent No.4 as CMD, Ed.CIL was due to expire on 29.11.2010 and as such Vigilance Clearance may be communicated to the Ministry by 26.11.2010.

6. This was followed by letter dated 23.11.2010 in which the Government of India, Ministry of HRD, Department of Higher Education requested CVC to expedite the matter and forward the Clearance before 26.11.2010. As no communication was received from CVC, the file was placed before the Competent Authority which took following decisions:-

“(a) In the event of Vigilance Clearance from CVC not being available by 26.11.2010, the present CMD, Smt.Anju Banerjee may be allowed to continue for a period of three months beyond 29.11.2010 for until further order, whichever is earlier.

(b) If the Vigilance Clearance from CVC is received, extension for full five years would be issued.”

7. Since no response was received from CVC, the Government of India, Ministry of HRD, Department of Higher Education vide its order dated 29.11.2010 granted extension of tenure to Respondent No.4 as Chairman-cum-Managing Director, Ed.CIL for an initial period of 3 months beyond 29.11.2010 or until further orders. On 02.12.2010 CVC wrote to the Government of India, Ministry of HRD to the following effect:-

“Telegraphic Address
‘SATARKTA’ , New Delhi
E-Mail Address c
ewnvi gil@nic.in
Website
www.cvc.nic.in
EPABX
24651001-07
QSDI/Fax:2461286

CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan G.P.O. Complex
Block A, INA, New Delhi-110023
005-VGC-151
La-/No.....
Fnukad/Dated 2.12.2010

Shri Amit Khare,
Jt. Secy & CVO
Ministry of HRD,
D/o Higher Education
New Delhi.

Sub: Vigilance Clearance in respect of Ms. Anju Banerjee CMD, Educational Consultants India Ltd.

1. Please refer to your letter No. F.C. 19011/2/2010-Vig. Dated 9.11.2010 on the above subject.

2. As the Ministry of HRD is aware, there have been a series of complaints against Ms. Banerjee in the recent past including repeated complaints made under Whistleblower’ s Act, from a Deputy Manager of EdCIL leveling, inter alia, allegations of harassment, of irregularities in promotions/appointments etc. the ministry is also aware that some of these allegations have been found on investigation, to be prima facie true. Further when the Commission took up the case of protection of the whistle blower, Ms. Banerjee not only put pressure on the CVO

but also got, eventually the CVO' s post abolished, Attention of the Ministry is also invited, in this connection, to the ex-CVO/EdCIL' S letter dated 05.02.2010, Commission' s letters dated 11.02.2010, 05.04.2010 etc. as well (copies enclosed).

3. The commission has, therefore, advised that the above facts may be before the competent authority while it considers Ms. Banerjee' s case for extension of tenure.

Yours faithfully
(P.M.Pillai)
Director
Telefax- 24651013

Encl: As above”

8. In reply, the Government of India vide letter dated 06.01.2011 clarified the issues raised in letter dated 02.12.2010. It stated that the concerned Deputy Manager was charge-sheeted prior to his filing complaints and that such complaint was not whistleblower' s complaint. The letter was as under:-

“No. F.C. 19011/2/2010-VIG.
Government of India
Ministry of Human Resource Development
Department of Higher Education
Vigilance Wing
New Delhi, dated the 6th January, 2011

To,
Shri P.M. Pillai Director
Central Vigilance Commission Satarkta Bhawan, GPO Complex,
Block-A, INA,
New Delhi.

Sub: Vigilance Clearance in respect of Ms. Anju Banerjee,
CMD, Educational Consultants India Ltd.

Sir,

1. Please refer to your letter No. 005-VGC-151/110692 dated 02.12.2010 on the subject mentioned above. While in pursuance of Commission' s advice, we would be placing before the competent authority, the issue raised by the Commission in the subject letter, I am desired to apprise the Commission of the status of these issues.

2. In so far as the complaints made under the Whistleblowers Act by Deputy Manager of Ed.CIL against Ms. Anju Banerjee are concerned, we had earlier vide our letter dated 24.05.2010, apprised the Commission of the sequence of events about the

initiation of disciplinary proceeding against the said Deputy Manager by Ed.CIL and his filing the PIDPI complaint with the Commission. On the aforesaid reference from the Ministry, this issue was examined by the Commission and the Commission had intimated vide their letter No.006/EDN/057 (Pt.)/89868 dated 09.06.2010 that they had noted the position brought out by the Ministry that the said Deputy Manager was charge-sheeted prior to his filing the PIDPI complaint. In view of this, obviously the complaint was not a whistleblower's complaint.

3. As regards the abolition of the CVO's post by Ed.CIL, the fact is that the post was abolished by the Ed.CIL Board which decision, after due consideration, was subsequently endorsed by the Ministry and the position in this regard was also appraised to the Commission and to the Department of Personnel & Training vide letter No.C-34014/1/2008-Vigilance dated 11th/15th March, 2010 and No.C-34014/1/2008-Vig dated 1st April, 2010 respectively.

Yours faithfully
(AMIT KHARE)
Joint Secretary & CVO"

9. The record indicates that in order to get factual position in respect of allegations in the complaint referred to in the letter dated 02.12.2010 examined, the Education Secretary, Department of Higher Education, Ministry of HRD, Government of India vide her Note dated 02.02.2011 commended that the said matters be jointly examined by two senior most officers of the Department. Accordingly all the allegations contained in the complaint referred to in letter dated 02.12.2010 were looked into by a Committee of two senior most officers of the Department namely Shri Ashok Kumar Thakur and Shri Sunil Kumar on the basis of the concerned file. The Committee submitted its report in the form of tabulated statement indicating the allegations, response of Ed. CIL and conclusions reached by the Committee with respect to those allegations. The Committee found no merit in any of the allegations and concluded that no case was made out for denial of re-appointment of Respondent No.4. The entire matter was then placed before the Competent Authority who after considering all the issues approved extension of tenure of Respondent No.4 for a period of five years. Accordingly the Government of India, Ministry of HRD, Department of Higher Education vide its letter dated 22.02.2011 granted extension to Respondent No.4 for five years.

10. Thereafter Joint Secretary/CVO of the Government of India, Ministry of HRD, Department of Higher Education vide letter dated 16.03.2011 forwarded report of the Committee to CVC and informed that the Committee did not find any merit in the allegations leveled in the complaint referred to in letter dated 02.12.2010 of CVC. He further stated that he agreed with the recommendations of the Committee and was of the considered view that the matter be closed and suggested that CVC may also consider closure of the matter. Said letter dated 16.3.2011 was to the following effect:-

“No. C-13012/14/2010-Vigilance
Government of India
Ministry of Human Resource Development
Department of Higher Education
Vigilance Wing

R.No. 231, C Wing, Shashtri Bhawan,
New Delhi, dated 16th March, 2011

Subject:- Complaint against Smt. Anju Banerjee CMD Ed. CIL

Central Vigilance Commission may kindly refer to their OM Nos.010/EDN/065/96501 dated 10.08.2010, 010/EDN/065/ 9741 dated 10.08.2010, 010/EDN/064/96104 dated 29.07.2010, 010/EDN/065/102883 dated 23.09.2010,010/EDN/065/116320 dated 17.01.2011 on the above mentioned subject. These complaints were referred to a Committee consisting of Shri Ashok Thakur, Special Secretary and Shri Sunil Kumar, Additional Secretary in the Ministry. The Committee did not find any merit in any of the allegations leveled in the complaints.

2. The Report has been accepted by the Central Govt. in the Ministry.

3. I fully agree with the recommendations of the Committee and am of the considered view that this matter should now be closed. Central Vigilance Commission may, therefore, consider closure of the same.

(Amit Khare)
JS CVO

Secretary,
Central Vigilance Commission Satarkata Bhavan, GPO Complex (Attention:Shri
Prabhat Kumar, Director)

Block A, INA New Delhi-110023 Encl: As above”

11. In the meantime, the appellant had filed Writ Petition (Civil) No.8032 of 2010 on 23.11.2010 in the High Court of Delhi praying inter alia for quashing of the proposal to grant extension to Respondent No.4 as CMD, Ed. CIL for a fresh term of five years. After the orders dated 29.11.2010 and 22.02.2011 granting extension to Respondent No.4 were issued, the High Court permitted the appellant to withdraw said Writ Petition and file a comprehensive Writ Petition incorporating the subsequent events. Accordingly Writ Petition (Civil) No.7577 of 2011 was filed by the appellant on 09.09.2011 seeking quashing of orders dated 29.11.2010 and 22.02.2011 whereby Respondent No.4 was granted extension of five years. The High Court by its order dated 19.10.2011 issued Notice to CVC to clarify whether

specific clearance of CVC was required for extending the term of Respondent No.4 for a period of five years as CMD Ed.CIL and whether CVC had no further role to play in the matter after it had addressed communication dated 02.12.2010.

12. In response, an affidavit in reply was filed on behalf of Ministry of HRD, Department of Higher Education placing all the relevant correspondence. The affidavit also placed on record, the report submitted by the Committee of Mr. Ashok Thakur and Mr. Sunil Kumar dated 15.02.2011. During the course of hearing of the matter, the learned Additional Solicitor General also placed on record, letter dated 09.11.2011 sent by CVC to the Ministry of HRD, informing that CVC had no role after issuance of communication dated 02.12.2010 regarding Vigilance Clearance. Said letter dated 09.11.2011 was as under:-

“MOST IMMEDIATE
COURT MATTER

No.010/LEGAL/083/153071
CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan
GPO Complex.
Block-A INA,
New Delhi 110 023
Dated the 9.11.2011

To,
Shri K.S. Mahajan
Under Secretary(Vig.)
Ministry of Human Resource Development
Shastri Bhawan
New Delhi 110 001

Sub: CWP No. 7577 of 2011 titled “Educational Consultants India Ltd. vs. UOI & Ors.” Filed before the Honble High Court of Delhi.

Sir,

Please refer to Ed.CIL’ s letter No. Ed.CIL/Legal/51-2010-Hr. dated 24.10.2011 on the above subject. Copy of letter enclosed.

2. A perusal of the HC’ s order dated 19.10.2011 reveals that the Hon’ ble Division Bench has sought the response of the Commission on the following issues:

i. Whether specific clearance of CVC was required for extending the terms of CMD, Ed.CIL for another five years.

ii. Whether CVC has no further role to play in the matter after it had addressed communication dated 02.12.2010 i.e. the Vigilance Clearance granted by CVC.

3. It is stated on the basis of records that as regards point No.I, the relevant circulars/instructions issued by DoPT (copy enclosed) may please be referred. Regarding point No.ii, it is hereby informed that there is no role of the Commission after issue of Commission's communication dated 02.12.2010 regarding Vigilance Clearance. It is requested that effective steps may please be taken to defend the interests of the Commission also before the Hon'ble High Court.

Yours faithfully,
(R.N. Nayak)
OSD (Admn.)
Tel.: 24643592

Encl.: As above

Copy to: Shri N.S. Padmananbhan, Chief General Manager (HR/Admn.),
Ed.CIL(India) Ltd., 10-B, IP Estate, New Delhi-110 002.

(R.N. Nayak)
OSD (Admn.)”

13. The High Court by its order dated 07.12.2011 dismissed Writ Petition (Civil) No.7577/2011 as it found no merit in the petition. It referred to the communications dated 16.03.2011 and 09.11.2011 in its order. The relevant portion of the order of the High Court is quoted hereunder:-

“5. In compliance of the order dated 19th October, 2011 (supra), an affidavit has been filed enclosing inter alia letter dated 6th January, 2011 of the Ministry of Human Resource Development, Government of India to the Respondent No.3 CVC informing that the complaint of the Deputy Manager was motivated as a charge sheet had been issued to him prior to his making the complaint; that he thus did not even stand in the position of a whistle blower and that the abolition of the CVO's post in Ed.CIL (India) Ltd. was with the sanction of the Ministry. The affidavit also encloses other documents to show that the decision to extend the term of the Respondent No.4 as CMD was taken after due consideration of all the facts. The affidavit also encloses the letter dated 16th March, 2011 of the Ministry of Human Resource Development to the Respondent No.3 CVC closing the complaints against the Respondent No.4.

6. The learned Additional Solicitor General has during the hearing today also handed over a copy of the letter dated 9th November, 2011 of the Respondent No.3 CVC to

the Ministry informing that the Respondent No.3 CVC had no role after issuance of the communication dated 2nd December, 2010 regarding Vigilance Clearance.

7. We are thus satisfied that there is no merit in the allegation in the petition of the extension of the term of the Respondent No.4 being without the CVC clearance. We are also satisfied that there is no other illegality in the CVC clearance.”

14. In this appeal challenging the aforesaid decision of the High Court, certain additional documents were placed on record which are replies received to queries under the Right to Information Act. These additional documents include communication dated 03.06.2011 from CVC to the effect that a direct enquiry under Sections 8 and 11 of the Central Vigilance Act, 2003 relating to complaints in file No.010/EDM065 and 010/EDM/064 was entrusted to Shri Amar Mudi. Subsequently, by way of I.A. No.6 two more documents were placed on record including “Draft Inspection Report on Contracts awarded by Ministry of HRD during 2007-08 to 2009-10 to Ed.CIL” by CAG, Director General of Audit (Central Expenditure).

15. Along with affidavit in reply filed on behalf of Ministry of HRD, the entire correspondence in the matter was placed on record. The affidavit also referred to the proceedings initiated against the concerned Deputy Secretary and stated that he was charge-sheeted vide memorandum dated 05.10.2007 and 19.08.2008 purely on administrative grounds for omissions committed by him in the year 2003-2004 and 2005-2008, which was much before the decision of CVC considering him as a whistleblower; the fact that he was so charge-sheeted before he was given whistleblower status was noted by CVC vide its letter dated 09.06.2010; the concerned Deputy Secretary had filed a Writ Petition challenging said charge-sheets which was dismissed by the High Court; thereafter disciplinary proceedings culminated in an order of dismissal of that Deputy Secretary; and the entire sequence of events was intimated to CVC who had remarked that since an appeal would lie before Appellate Authority it had decided not to interfere in the matter.

16. We heard Mr. Prashant Bhushan, learned Advocate appearing in support of the petition and Mr. Ranjit Kumar, learned Solicitor General for Respondents No.1, 2 and 3. After hearing the counsel, the matter was reserved for judgment and the learned Solicitor General was asked to file additional affidavit on behalf of CVC indicating current position and the format according to which clearances, if any, are either granted, denied or deferred by CVC.

17. Accordingly, the Additional Secretary, CVC filed additional affidavit referring to Office Memorandum dated 4.08.1988 and placing on record Guidelines dated 29.10.2007 and 14.12.2007, Circular dated 12.07.1999, Instructions dated 22.10.2014 and 30.10.2014, letter dated 02.12.2010 and Formats of clearances of CVC. An additional affidavit was thereafter filed by the appellant seeking to bring on record certain new facts and alleging that the action against the whistleblower appeared to be mala fide and arbitrary. It was submitted that though CVC had come up with format and procedure for Vigilance Clearance vide its last affidavit, the earlier PESB Rules and Guidelines for Vigilance Clearance were not adhered to.

18. Affidavit filed by the Additional Secretary, CVC makes following assertions:

“...It is submitted that Vigilance Clearance as such is to be granted only by the concerned Cadre authorities and therefore maintenance of career profile and vigilance history of the officers falls within their domain. The Commission considers the vigilance profile furnished by the cadre authorities, duly signed by the CVO. The inputs are also obtained from CBI and the concerned Branches in the Commission. Based on the said information, the Commission offers its comments as to whether anything adverse is available on its records against the officer under consideration for empanelment/ selection

“..As far as the case of Ms.Anju Banerjee is concerned, the Commission had, in view of the circumstances of the case, vide its Letter No.005-VGC-151 dated 2nd December 2010, furnished a self-contained note, bringing the available inputs to the notice of the Ministry of Human Resource Development. Letter No.005-VGC-151 dated 2nd December 2010 was sent on the basis of the views of the Commission at that time, which were duly communicated to the Ministry of Human Resource Development and advised that the facts may be placed before the competent authority while it considers her case for extension of tenure...”

19. This affidavit filed on behalf of CVC adverted to following circulars / guidelines / instructions:-

(a) Office memorandum dated 4.08.1988 pertaining to scrutiny of antecedents of persons recommended for Board level posts in Public Sector Enterprises providing, inter alia:-

“It would be the primary responsibility of the Administrative Ministry/Department concerned to ensure that the candidates, whose appointment as Functional Director/CMDs in public sector enterprises is recommended for being considered by the ACC, should be cleared from vigilance angle and that the Ministry/Department concerned should bring this fact specifically to the notice of the Minister-in-charge in respect of those persons, who are already holding Board level positions and who have been recommended for higher Board level positions, the Vigilance Clearance may be ascertained, besides other sources, from the Central Vigilance Commission.”

(b) CVC circular dated 12.07.1999 which had issued instructions, the relevant part being:

“Vigilance Clearance should be obtained from the Commission in respect of all candidates/officers recommended by the PESB for appointment to any Board level position in PSEs, irrespective of their holding a board level or below board level post at that point of time.”

(c) Guidelines dated 29.10.2007 issued by Ministry of Personnel and Public Grievances & Pensions (Department of Personnel and Training) pertaining to “Vigilance Clearance” to All India Service Officers, the relevant part being:-

“While considering cases for grant of Vigilance Clearance for the purpose of empanelment of AIS officers of a particular batch, the Vigilance Clearance/status will continue to be ascertained from the respective State Government in respect of officers serving in connection with the affairs of the Central Government, the vigilance status/clearance will be obtained from the respective Ministry. In all cases, the comments of the CVC will also be obtained.”

(d) Guidelines dated 14.12.2007 issued by Ministry of Personnel and Public Grievances & Pensions (Department of Personnel and Training) pertaining to grant of Vigilance Clearance to members of Central Civil Services/Central Civil Posts providing, inter alia:-

“While considering cases for grant of Vigilance Clearance for the purpose of empanelment of members of the Central Civil Services/Central Civil posts of a particular batch, the Vigilance Clearance/status will continue to be ascertained from the respective Cadre Authority In all such cases, the comments of the Central Vigilance Commission will be obtained.”

20. The affidavit further sets out that presently following three options are being exercised by CVC while conveying its inputs on the vigilance status of the concerned officer:

“(A) In respect of cases where there is no adverse input available in the data base of the Commission, feedback of CBI and vigilance profile furnished by the concerned Department, it is conveyed that there is nothing adverse on the records of the Commission. (emphasis added)

(B) In respect of cases where there is any adverse input from CBI (viz., prosecution launched against the officer, regular case under investigation, etc.,)

Or

Vigilance profile furnished by the Department indicates any disciplinary proceeding in progress or currency of penalty imposed is still in force

Or

Data base of the Commission indicates any advice tendered by the Commission for initiation of disciplinary proceedings against the officer is pending, denial of clearance is conveyed by the Commission.

(emphasis added)

(C) In respect of cases where there are complaints/cases pending at the end of the concerned Department, (i.e., where the officer is not clear from vigilance angle as per records of the Department), the Commission advises that the complaints/cases pending at the end of the Department may be taken to their logical conclusion and thereafter the Commission may be approached for Vigilance Clearance with updated vigilance profile of the officer. The Department is therefore intimated that clearance in respect of the officer cannot be considered by the Commission at this stage;”

(emphasis added)

21. Guidelines dated 29.10.2007 and 14.12.2007, Office Memorandum dated 04.08.1988 and CVC Circular dated 12.07.1999 were in existence and applicable when the case for grant of extension to Respondent No.4 came up for consideration. The record indicates that the letter dated 2.12.2010 of CVC made two points namely that there were complaints against Respondent No.4 from a Deputy Manager and that Respondent No.4 not only put pressure on the CVO but also got the post of CVO abolished. This letter then advised that those facts be placed before the Competent Authority while considering the case of Respondent No.4 for extension of tenure. The immediate response by letter dated 06.01.2011 was that the concerned Deputy Manager was charge-sheeted prior to his filing the complaint against Respondent No.4 and that the complaint was not a whistleblower's complaint. It was further stated that the post of CVO was abolished by the Ed. CIL Board which decision was subsequently endorsed by the Ministry and the position in that regard was communicated to CVC. In any case, the allegations contained in the complaint of the concerned Deputy Manager were looked into by a Committee of the two senior-most Officers of the Department which submitted its report and conclusions in respect of each of the allegations in the complaint. The Committee found no merit in any of the allegations. The entire matter was thereafter placed before the Competent Authority who after considering all the issues approved extension of tenure of Respondent No.4 for a period of five years. The record is clear that at the initial stage when the response from CVC was awaited, an extension was granted only for three months and when the letter from CVC was received, the matter was not only clarified immediately but the allegations in the complaint referred to in the letter of CVC were also looked into by the Committee. The stand of CVC as evident from its letter dated 09.11.2011 is that after having brought the relevant facets of the matter to the notice of the Competent Authority vide letter dated 02.12.2010, CVC had no further role in the matter. The record further shows that right from 06.01.2011 every development was communicated to CVC. We, therefore, find nothing wrong in the decision making process in the present matter nor do we find any infraction in securing and acting in terms of the comments of CVC. We, therefore, reject the challenge to the orders granting extension to Respondent No.4.

22. Affirming the view taken by the High Court, we dismiss this appeal. No order as to costs.

