

[AS INTRODUCED IN THE RAJYA SABHA
ON THE 11TH JULY, 2014]

Bill No. XII of 2014

THE CENTRAL VIGILANCE COMMISSION (AMENDMENT)
BILL, 2014

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BILL

to amend the Central Vigilance Commission Act, 2003

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Vigilance Commission (Amendment) Act, 2014.

Short title and
Commencement.

(2) It shall come into force with immediate effect.

45 of 2003.

5 2. In the Central vigilance Commission Act, hereinafter referred to as the Principal Act,
in section 5—

Amendment
of section 5.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of sub-sections (3) and (4), the Central
Vigilance Commissioner shall hold office for a term of five years from the date on
which he enters upon his office and shall be eligible for reappointment for another
term when the public interest so requires, or till he attains the age of Seventy
years, whichever is earlier:

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Provided that the Central Vigilance Commissioner, on ceasing to hold the office after his second term, shall be ineligible for reappointment in the Commission in any capacity.

(b) in sub-section (2):—

(i) for the words "four years" and "sixty-five" the words "five years" and "seventy" respectively shall be substituted. 5

(ii) before the existing first proviso the following proviso shall be inserted, namely:

Provided that notwithstanding anything in this Act, every Vigilance Commissioner, shall be eligible for reappointment in the same capacity and in the public interest, his term may also be extended by the Central Government, by notification in the Official Gazette, for the period specified in the notification. 10

(iii) in the existing first proviso, after the word "Provided" the word "further" shall be inserted.

(iv) in the existing second proviso, for the word "further" the word "also" shall be substituted. 15

Substitution of new section for section 7.

3. For section 7 of the principal Act, the following section shall be substituted, namely:—

Secretariat of the Commission.

"7.(1) The Commission shall have a Secretariat consisting of such number of officers and members of the staff as the Commission may deem necessary for the efficient functioning of the Commission. 20

(2) The Parliament may by law regulate the recruitment and conditions of service of the persons appointed to the Secretarial staff of the Commission:

Provided that until provision is made by Parliament under this sub-section the rules and regulations applicable to the Central Government employees shall be applicable to the Secretarial staff of the Commission *mutatis mutandis*. 25

(3) Notwithstanding anything in this Act, the Commission shall be at liberty to formulate action plan to attract talent for specialized function of vigilance for its efficient functioning by providing ample opportunities for promotions and better emoluments and such other incentives as the Commission may deem fit and necessary."

Amendment of section 8.

4. In section 8 of the principal Act,— 30

(a) for clause (f), the following clause, shall be substituted, namely:—

"(f) tender advice in cases forwarded by Central Bureau of Investigations in all cases investigated by it in which it considers necessary to initiate prosecution for such prosecution sanction is required under any law for the time being in force to be issued in the name of the President of India and to determine whether or not sanction is required for prosecution and for resolving difference of opinion and shall also review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988." 35

(b) In clause (h), for the existing proviso the following proviso, shall be substituted, namely: 40

"Provided that the Commission may initiate at such intervals as it consider expedient and suitable review of procedures and practices of administration in so far as they relate to maintenance of integrity in administration."

STATEMENT OF OBJECTS AND REASONS

With a view to prevent the corruption, the Santhanam Committee was constituted by the Government in the sixties and on its recommendation the Central Vigilance Commission was set up by the Central Government by a resolution in 1964.

In 1997, The Government constituted an Independent Review Committee to suggest measures for strengthening *inter-alia* Anti-corruption activities as part of its efforts against Corruption. The review Committee recommended for conferring statutory status to the Central Vigilance Commission. During the same year, the Supreme Court of India also directed to make the Central Vigilance Commission a statutory body.

In 1998, statutory status was granted through an ordinance and finally a Bill for this purpose was passed by both the Houses of Parliament and assented to by the President of India and Act came into force in 2003. However, *vide* a resolution of Department of Personnel and Training (DoPT) it was provided that the Central Vigilance Commissioner will ordinarily hold office for a term of three years which was changed to four years in the Act. The resolution also provided for extending the term of office of the Central Vigilance Commissioner in Public interest. But this provision was not incorporated in the Act.

Now the life expectancy of the people in our Country has substantially increased and people do not feel any difficulty in working actively upto Seventy years and more. For the benefit of the Nation and to utilize the vast experience, Government is raising the age of retirement for Scientists, Teachers, Doctors and others. It is also very common that the Hon'ble Judges of the apex Court retire after attaining the age of sixty-five years and many of them are thereafter appointed to head various Commissions, Tribunals etc. in many cases for five years and more. It is felt that on the same lines the Central Vigilance Commissioner/ Vigilance Commissioner(s) should initially be appointed for five years and in the public interest should be reappointed for another term.

Since, vigilance is a specialized function which requires talented and well-trained staff with high integrity. For this the Commission have to attract talent required for its efficient functioning and talent will be attracted if there are ample opportunities of promotions, better emoluments and incentives at least as par with the staff of CBI. In order to achieve this, the Central Vigilance Commission needs to have functional autonomy to decide on number of officers and staff required at various levels for its efficient functioning. Hence, it is felt that it should have a separate Secretariat.

There are certain other important suggestions which have been incorporated in this Bill which will improve the functioning of the Commission and also confer some necessary powers on the Commission.

Hence, this Bill.

RAJKUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Secretariat of the Central Vigilance Commission. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by Central Government while implementing the provisions of the Act.

ANNEXURE

EXTRACTS FROM THE CENTRAL VIGILANCE COMMISSION ACT, 2003

(45 OF 2003)

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5. (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier. The Central Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.

Terms and other conditions of service of Central Vigilance Commissioner.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every Vigilance Commissioner, on ceasing to hold the office, shall be eligible for appointment as the Central Vigilance Commissioner in the manner specified in sub-section (1) of section 4:

Provided further that the term of the Vigilance Commissioner, if appointed as the Central Vigilance Commissioner, shall not be more than four years in aggregate as the Vigilance Commissioner and the Central Vigilance Commissioner.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some other person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in Schedule to this Act.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

(a) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal.

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of retirement benefits in respect of any previous service rendered in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government, his salary in respect of the service as the Central Vigilance Commissioner or, as the case may be, the Vigilance Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

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Power to
make Rules
for number of
members by
Central Govt.

7. The Central Government may, in consultation with the Commission, make rules with respect to the number of members of the staff of the Commission and their conditions of service.

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Functions and
powers of
Central
Vigilance
Commission.

8. (1) The functions and powers of the Commission shall be to —

(a) exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 or an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

2 of 1974.

(b) give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946:

25 of 1946.

Provided that while exercising the powers of superintendence under clause (a) or giving directions under this clause, the Commission shall not exercise powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of any case in a particular manner;

(c) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

2 of 1974.

(d) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

2 of 1974.

(e) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or the public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

2 of 1974.

(f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;

49 of 1988.

(g) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned

or controlled by the Central Government or otherwise;

(h) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government:

Provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the Vigilance administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matters;

(2) The persons referred to in clause (d) of sub-section (1) are as follows:—

(a) members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1).

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RAJYA SABHA

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to amend the Central Vigilance Commission Act, 2003.

(Shri Rajkumar Dhoot, M.P.)