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To  
 Shri P.Chidambaram.  
 Union Minister for Finance.  
 New Delhi.

Sir,

Sub: Supreme Court's adverse observation on the role of customs officials in serial bomb-blasts in Mumbai-need for proper selection of officers for sensitive posts-reg.

Ordinarily there is no occasion for a retired officer to write directly to a senior Cabinet Minister. What has prompted me to write to you is the damning observations made by the Hon'ble Supreme court in its recent judgment on 21-3-2013 on the role of certain customs officials in the serial bomb blasts of March 1993 which killed 257 innocent people and left many more maimed for the rest of their lives. Upholding the conviction and sentence of five Customs officials, the court had to say this:

“ It is shattering to notice that all grades of Customs officers, including Commissioner of Customs, ( it should be Additional Commissioner) played an active role as members of conspiracy and implemented the plan. Every kind of smuggling activity is devastating to the economy, but the smuggling of dangerous arms and ammunitions causes wreckage not only of the economy but also of people's lives.

“The occurrence of the Bombay bomb blasts brings us to the reality that such incidents take place along the Indian coastline irrespective of the numerous laws and safeguards provided due to lack of moral ethics and misconduct on the part of the officials. Customs being a significant source of government revenue, the officers of Customs Department must perform their respective duties honestly and diligently.

“ It will not be an overstatement to state that if not for the help of the Customs officials ,they ( convicts) would not have been in a position to smuggle the weapons required for the blasts.( emphasis applied) A rationally structured and effective Customs department is the need of the hour in order to curtail illegal imports.

“ Corruption among public servants indicates a failure of our system where pursuit of personal gratification subdues the public interest.....Coast Guards and high-moral Customs officers can prevent an attack on our country via our maritime boundary” ( **The HINDU**,22<sup>nd</sup> March,2013)

2. Condemnation in the strongest terms, coming as it does, from the highest court of the land ! Regrettably, the concerned authorities over the years do not seem to have learnt any lesson from the past mistakes(to put it charitably) of positioning senior officers with questionable reputation to sensitive posts. If at all, things have only worsened, if one goes by the sickening regularity with which one gets to hear about the arrests of our Commissioner level officers including those even in the DRI on corruption charges by the CBI. As if this was not enough to shame the department, an all powerful Board member with a tainted past , barely within days of his retirement, came under CBI's scanner for his alleged role in a bribery case. It was indeed providential that but for the CBI's action, he was all set to don the mantle of “Ombudsman” under the CBEC. How such

a man rose to the level of Board Member is, of course, another question. Appointments of some of the existing Ombudsmen have also attracted criticism and not without valid reasons.

Recently, a serving Vice-Chairman, Settlement Commission, who had also come under the scanner even in the past, too had to proceed on leave after the CBI reportedly filed cases against him on corruption charges. It is ironical that the law itself provides that the Central Government shall appoint Chairman, Vice-Chairman and members of this body “***from amongst persons of integrity and outstanding ability...***” How then such an officer with a tainted past is selected for such a job ? This only exposes a totally farcical selection process compounded by a seriously flawed procedure for giving vigilance clearance for appointment to these high level posts . And yet, the system does not hold any one accountable for appointments of such officers with controversial background to such significant posts. The general perception that such postings or appointments are often done on extraneous considerations only get further reinforced. It is entirely up to the government of the day to reverse this perception, if it is serious about maintaining the purity and dignity of an institution. Presumption of innocence unless proved guilty, though may be an established rule of criminal jurisprudence, cannot be applied to administrative matters.

4.What is even worse is that some of the officers facing prosecutions and included in the list of “Officers with Doubtful Integrity (ODI) are being rewarded with plum postings including in the DRI making mockery of its own policy which mandates that officers in ODI list should not be assigned any sensitive charge. One of them, an Additional Commissioner level officer had the temerity to refuse to join when posted to what is considered to be a non-sensitive charge and such is his clout that flaunting his connections he continues to be in an important executive charge in a metro city. And no questions are asked.

5. No wonder , both the CBEC and CBDT year after year get raps on their knuckles from the Central Vigilance Commission(CVC) in its Annual Report tabled in Parliament. The Commission also appears to have decried the perceptible tendency in the Dept.of Revenue to shield particularly their senior officers. But then ,who cares for a body which by its very mandate can only bark and not bite! The Lokpal Bill with some stringent provision, though passed by the Lok Sabha, more than a year back is yet to become a law. Until then, it is free for all.

6.The growing unabated corruption is demoralizing a large section of honest and efficient officers who for obvious reasons are not able to vent their feelings of dismay and disgust against the establishment responsible for this state of affairs, where probity is at a discount. But, it is never too late to begin a process of cleansing the department with certain degree of imagination, administrative astuteness and determination before the rot becomes irreversible.

7. In this context, I, in all humility, take the liberty of making the following suggestions for the Ministry's consideration:

- At the outset, there is a need to engage both DG DRI and DG Vigilance in an extended role to improve the system of selection of officers for placement of the right man for the right job.
- It is extremely essential to begin a process of screening the senior Group "A" officers based on their **vigilance profile** and **perception index** of their integrity before posting them to an executive or any sensitive charge. Contrary to popular belief, perception index is not a subjective one based on mere hearsay. Instead, this is a scientific method based on a meticulously collated data about an officer's conduct. Both DG, DRI as well as DG, Vigilance in the course of their day to day work do come across specific instances of unabashed acts of malfeasance, gross misuse of position by certain officers for illegitimate personal gains, compromising not only their own personal integrity but also the reputation of the organization they represent. Though very reliable, such instances particularly those noticed by the DRI, due to various reasons are not actionable. Incidentally, the format of present APAR does not truly reflect an officer's integrity.
- At present there is no institutional mechanism to utilize such instances of misuse of office for building DOSSIER on officers. Over a period of time, these inputs from both the DGs, though not actionable, can be a very useful database to screen officers. Crucial to this, of course, is having officers of impeccable integrity as DG, DRI and DG, Vigilance (**like the current ones**) who inspire confidence.
- Another connected issue is the **"suitability index"**. The current Placement Policy mechanically provides for rotation based on one's time spent at a station. The underlying conventional belief is that the officers become corrupt and develop vested interest, if allowed longer tenure at a particular station. Experience has shown that nothing could be farther from the ground reality. The truth on the contrary is: corrupt do not waste time. They are always in slog overs, so to say, hitting or attempting to hit every ball for maximum gain. And unlike a batsman, seldom get caught.
- There is, therefore, an urgent need to blend "Placement Policy" with "Suitability Index" by which an officer's aptitude, capabilities and limitations are compiled in a structured manner with a professional approach in a Dossier form to place right people at right places.
- Crucial to this is the manner of selecting DG, DRI and DG, Vigilance. While appointment of DG Vigilance is subject to consent from the CVC, there is no institutional mechanism

for the selection of D G,DRI. There is a need to put in place a transparent process in place for selection of D G,DRI also by a selection committee with the CVC vetting the name and the ACC finally approving the same. Though might appear radical, this would go a long way in ensuring the professionalism of this very important intelligence and investigating arm under the Dept.of Revenue. It is no secret that in the past this post has been occupied by some who were least suited for the job by any yardstick.

- Similarly, the existing practice of “ placement committee” for posting / transfer is too opaque to inspire any degree of confidence amongst the members of the service. The proposed list of transfer must be considered by the full Board in stead of this important administrative function being left to a handful of chosen officers with other members not being taken on board. As a matter of policy ,as suggested earlier ,both DG DRI as well as DG Vig. in future should be consulted for their valuable inputs for deciding desirability of posting of officers to important executive / sensitive charges.
- As the process of Annual General Transfer (AGT) has already begun, there is a need to set up a team of senior officers known for their integrity with D G Vigilance,DG DRI and DG HRD to immediately review all existing incumbents holding sensitive / executive posts to weed out those who in their opinion are not fit to occupy such posts and recommend officers considered suitable for replacing them.
- On the operational side, preventive vigilance action also needs to be stepped up by strengthening the vigilance machinery. Vigilance Directorate should focus more on senior officers instead of frittering away their meager resources on junior officials . If the top and the middle levels are kept under check, the juniors would not be emboldened to brazenly engage in corrupt practices.
- Though unsettling for some, it is perhaps time for the Ministry to identify officers found fit for being sent home under Rule 56J which to the best of my recollection has not been invoked against any Group ‘A” officer in the last over twenty five years.

Sir ! with great respect, I would submit that being at the helm of the Ministry of Finance, the onus is entirely on you to ensure probity in all the departments under your charge. Because, the proverbial buck stops with you.

Yours faithfully

S.K.Choudhury