

Tele: 3377165

Air Headquarters  
Vayu Bhawan  
New Delhi - 110011

Air HQ/C 23401/111/PS

23 Oct 2001

HQ WAC, IAF }  
HQ EAC, IAF }  
HQ CAC, IAF }  
HQ SWAC, IAF } (For SOA/SAASO)  
HQ SAC, IAF }  
HQ TC, IAF }  
HQ MC, IAF }

**DISCIPLINE : AIR FORCE PERSONNEL**  
**UNDER PROLONGED CUSTODY - PENDING TRIAL**

**References:-**

- (a) AF Act 1950
- (b) AF Rules 1969
- (c) Regs for Air Force 1964
- (d) AFO 227/77

1. Right to Freedom is guaranteed by Constitution of India as a Fundamental Right under Articles 19 to 22. Article 22 subsequently provides protection against Arrest and Detention in certain cases. Air Force personnel though subject to Air Force Act 1950 do not forfeit their basic Fundamental Right being citizen of India. However, in the interest of Service Discipline and Security, Air Force Law has provided specific powers to Govt of India, CAS, AOC-in-C Command HQ and Commanding Officer to take the Air Force personnel under Custody pending Trial. The legal provisions of Air Force Law on Arrest and Prolonged Custody pending Trial are laid down in Sec 50 & 103 of AF Act 1950; Rule 22 and 23 of Air Force Rules 1969, Para 650 of the Regs for the Air Force 1964 and para 40 to 44 of AFO 227/77. The AOC-in-C at Command level is authorised to sanction prolonged Air Force Custody pending trial only up to a maximum of 60 days in total including the broken period, if any. Prolonged Custody for any period exceeding 60 days requires the prior sanction of the CAS.

2. The existing provisions make it incumbent on the authority to investigate all offences expeditiously so that the accused is brought to trial without curtailment of personal freedom longer than absolutely necessary. However, of late, it has been observed that the instances of Prolonged Custody of Air Force personnel beyond 60 days are on the increase. It may be appreciated that the continued custody beyond a period absolutely necessary for the purpose is illegal, undesirable and reflects poorly on Law Enforcement Agencies in the Air

Force besides affecting the individual financially. The Prolonged Custody may also be adversely commented upon by the Court if challenged.

3. A careful examination of the facts in the cases in general indicated that:

- (a) Inordinate delay in escorting the offender to the parent unit leaving inadequate time for completion of pretrial procedure.
- (b) The Disciplinary Proceedings were not being progressed speedily leading to avoidable delay in commencement of trial.
- (c) Request for sanctions do not reach this HQ as per the time schedule specified in AFO 227/77.
- (d) The Delay Reports are not raised in time and if raised do not contain full details about the progress attained in the disciplinary proceedings as required.

4. In view of the above, it is essential that Command HQ issue suitable Instructions on the subjects to all Units under their command for ensuring thorough scrutiny and speedy progress of the disciplinary proceedings in cases where the accused person is kept in Pre-trial Custody. Further, all Station/Unit Commanders may also be advised to personally review every case of Prolonged Custody at least once a week with a view :

- (a) To consider whether Continuance of such Custody is essential and justified
- (b) To expedite the progress of Disciplinary proceedings
- (c) To submit periodical Delay Reports promptly with full details

**and**

(d) To take up the case for sanction under rule 22 of AF Rules 1969 sufficiently in advance with full justification wherever necessary.

5. This HQ is of the view that cases of Prolonged Custody beyond 60 days would become a rare exception and in turn lead to speedy dispensation of the justice in the AF in case the above guidelines are judiciously followed. This would also avoid grievances among personnel generating on the score of avoidable Prolonged Custody.

6. Command HQ are requested to issue instruction on the subject to all Units under their Command.

(RN Mehra)  
Gp Capt  
DPS  
For AOA

**Copy to:**

All Units under Air HQ

NDC

CAW

NDA

DSSC

DGRCPD

**Internal Copy to:**

AA to CAS

SO to VCAS

SO to DCAS

SO to AOP

SO to AOA

SO to AOM

SO to IG

All BCOs