

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO.

SHRI/SMT.

H D Rego

APPLICANT

VERSUS

Union of India and 10 others

RESPONDENT

This application has been submitted to the Tribunal by Shri/Smt. Su B N Bhagav under Section 19 of the Administrative Tribunal Act, 1985 and the same has been scrutinised with reference to the points mentioned in the Administrative Tribunal Act, 1985 and Procedure Rules, 1988.

The applicant has also filed a Misc. Application(s) regarding (a) jurisdiction (b) joining (c) condonation of delay and/or (d) Petition for Transfer, MA C/R 6 of CAO Procedure Rules, 1987.

The application has been found in order and may be listed in Court for admission/orders.

S.O. (FILING)

12/12

JOINT REGISTRAR

13/12

COURT NO.

DATE

22/12/2000

&lt; FRESH &gt;

May be listed on  
20/12/2000may be listed on 20-12-2000  
as prayed by the Council for the  
applicant

Bhagav

Date 15/12/2000

S F

J.R. Contarvo

Date 20/12/2000

Date

15/12

FORM NO. 2  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
Report on the Scrutiny of Application

OA-2612/2000

SB/DB

Presented by:

B N Bhengava

Diary No. 2625

Applicant(s):

H D Rege

Date of Presentation:

11/12/2000

Respondent(s):

Union of India

Group:

Nature of grievance:

disability

No. of Applicants:

One

No. of Respondents:

3

CLASSIFICATION

Subject: Disability (No.)

Department:

Cabinet (No. 28)  
Secretary \* If S.B.

1. Is the application is in the proper form? (three complete sets in paper book form in two compilations). (PROFORMA/COMPIRATION) Yes
2. Whether name, description and address of all the parties been furnished in the cause title? Yes
3. (a) Had the application been duly signed and verified? (SIGNED/VERIFIED) Yes  
(b) Have the copies been duly signed? Yes  
(c) Have sufficient number of copies of the application been filed? Yes
4. Whether all the necessary parties are impleaded? Yes
5. Whether English translation of documents in a language other than English or Hindi been filed? Yes
6. (a) Is the application in time? (See Section 21) Yes  
(b) Is MA for condonation of delay filed? Yes
7. Has the Vakalatnama/Memo of appearance/00 authorisation been filed? Yes
8. Is the application maintainable? (u/s 2,14,18 or U/R 6 etc.) u/s 2, u/s 14, u/s 18  
U/R 6, PT u/s, 25 file
9. Is the application accompanied by IPO/DD for Rs.50/-? Yes
10. Has the impugned orders original/duly attested legible copy been filed? LEGIBLE/ATTESTED
11. Have legible copies of the annexure duly attested been filed? LEGIBLE/ATTESTED

X  
LEGIBLE/ATTESTED

25, 38  
b/w 13, 14

12. Has the index of documents been filed and  
pagination done properly?

FILED/PAGINATION

13. Has the applicant exhausted all available  
remedies? *Y*

14. Have the declaration as required by item 7  
of Form-I been made? *N*

15. Have required number of envelops (file size)  
bearing full address of the respondents been  
filed? *N/0*

16. (a) Whether the reliefs sought for, arise  
out of single cause of action? *Y*

(b) Whether any interim relief is prayed  
for? *Y*

17. In case an MA for condonation of delay is  
filed, is it supported by an affidavit of  
applicant? *M*

18. Whether this case can be heard by Single  
Bench? *N*

19. Any other point?

20. Result of the scrutiny with initial of  
the Scrutiny Clerk.

The application is in order and may be registered and listed before the  
Court for admission/orders on :

- (a) MA for joining - U/R 1(5)(a)/4(5)(b)
- (b) MA U/R 6 of CAT Procedure Rules, 1987
- (c) PT u/s 25 under At ACT
- (d) MA for condonation of Delay:

OR

The application has not been found in order in respect of item No(s)  
mentioned below:

- (a) Item Nos. *11*
- (b) Application is not on prescribed size of paper.
- (c) MA U/R 4(5)(a)/4(5)(b) has not been filed.
- (d) Application/counsel has not signed each page  
of the application/documents.
- (e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the  
defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

JOINT REGISTRAR

COURT NO.

DATE

*JS*  
*12/12*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI.

IN THE MATTER OF:

O.A. No. 2612/2000

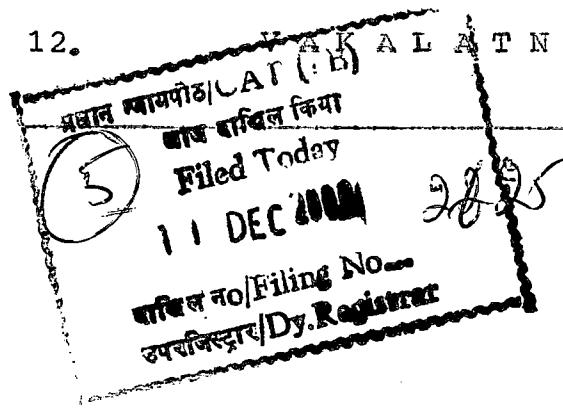
H. D. REGE .....Applicant.

Versus

U. O. I. & Ors. .....Respondents.

- I N D E X -

S. No	Description of the documents relied upon =	Page
<u>COMPILATION NO. I P 1-14</u>		
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2.	Annexure A/1 = Impugned order dt. 16-1-98 =	13 - 14
<u>COMPILATION NO. II P 15 - 51</u>		
3.	Annexure A/2 = Chargesheet dt. 3-8-96 =	15 - 20
4.	Annexure A/3 = Joinning Report =	21
5.	Annexure A/4 = Letter dt. 16.2.98 by the father of the applicant. =	22 - 24
6.	Annexure A/5 = Letter dt. 18-2-98 alongwith Medical Certificate =	25 - 26
7.	Annexure A/6 = Letter dt. 4-2-2000 alongwith Medical Certificate =	27 - 29
8.	Annexure A/7 = Appeal dt. 21-2-2000 =	29 - 31
9.	Annexure A/8 = Reminder to Appeal =	31 - 33
10.	Annexure A/9 = Letter dt. 12-8-2000 =	33 - 39
11.	Annexure A/10 = Judgment of the C.A.T =	40 - 50
12.	VAKALAT NAMA	= 51



Applicant,  
Through Counsel,

*B. N. Bhargava*  
B. N. Bhargava,  
Advocate,  
C.A.T/Bar Room,  
Faridkot House,  
New Delhi.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

O.A. NO. 2612/2000

IN THE MATTER OF:

H. D. REGE .....

S/O Sh. D. S. Rege  
C/O Sh. V. P. Sehgal,  
H. No. 1160 A, First Floor,  
Gali No. 12, Govindpuri,  
Kalkaji, New Delhi-19 ....., Applicant.

(Through B. N. Bhargava, Adv.)

Versus

1. U. O. I. Through,  
Cabinet Secretary,  
Cabinet Secretariat,  
New Delhi.

2. The Secretary (R),  
Bikaner House,  
Shahjahan Road,  
New Delhi.

3. Joint Secretary (Pers),  
Cabinet Secretariat,  
New Delhi-3

..... Respondents.

1. DETAILS OF THE APPLICATION:

Particulars of the application against which  
this application is made :-

No. 40/40/91-Pers. 15-748-761

Dated 16-1-1998

Issued by Joint Secretary Pers. Cabinet  
Secretariat, New Delhi. (Disciplinary Authority).

Contd... 2

BRIEF OF THE CASE :

The applicant after serving only six years, sincerely, honestly and faithfully, has been removed from service from 16-1-1998 on the charge of unauthorised absence. Actually the department had stopped his monthly payment since November, 95 because the applicant had pointed out some of the injustices being done to him. The applicant was selected for the post of AFO(Tele) mechenical side being diploma holder in Electronics but was entrusted the job of operator (Clerical/operating side). Lateron the applicant was transferred to Mumbai at his own request but was not relieved. The applicant qualified a written examinination for a promotional post but his name was not found in the final list. The applicant was not allowed to sign on the muster roll and was compelled to wander here and there like a unwanted man in the department. Due to lack of money and non co-operation of the department, it became very difficult for the applicant to reside in Delhi alone away from his parents which had developed depression and frushtration. After ten months on the recomendation and suggestion by the Inquiry Officer, the applicant joined the service and continued upto 9-4-97 to attend the departmental inquiry but no payment for this period alongwith the old dues from Nov.95 to 26-2-96 was given to the applicant. The neighbours informed the parents of the applicant who took him to Mumbai for mental, physical and social treatment. Now the applicant is 100% cured mentally and physically and so he made an appeal dt. 21-2-2000 and a reminder thereon dt. 2-5-2000 but no reply till today. There are many legal infirmities in the Inquiry Report, Disciplinary Order and Appellate order is still awaited. This application requires a judicial review in the matter. Hence this application.



Contd...3

2.

JURISDICTION

The applicant declares that the subject matter for which redressal is sought for, is within the jurisdiction of the Hon'ble Tribunal.

3.

LIMITATION

The applicant declares that the matter is within the period of limitation as the appeal of the applicant is still pending with the appellate authority. Moreover no specific time was given in the Disciplinary Order dt. 16.1.98.

4.

FACTS OF THE CASE :

The facts of the case are given below :-

4.1 That the applicant was born on 18-5-1965 and after getting education, was appointed on 18-12-91 on the post of AFO(Tele) (in short) Assistant Field Officer (Tele) under the Respondents.

4.2 That though the applicant was selected and appointed on the post of AFO(Tele) Mechanical Category as per his option being Diploma holder in Electronics, yet he was given a job in operating side in Signal Centre of the department.

4.3 That in the year 1992, the applicant qualified a written examination for a promotional post of Dy. Field Officer (Tele) but his name was not found in the final list though it was appearing in the preliminary list of successful candidates, despite the fact that the applicant had won a award for his good work in the year 1993.

4.4 That when it was brought to the notice of the higher authorities, instead of giving sympathetic consideration, the department including some of the colouges of

Contd...4

the applicant, started giving ill treatment as if the applicant was unwanted and mad man which had resulted into depression and frustration.

4.5 That the monthly payment of the applicant was stopped from November, 95 and was not allowed to sign even on the muster roll. Lack of money, bad behaviour from the colouges and the department and living alone away from his parents made the young man relectant to attend the office. The applicant had to vacate the rented accommodation and was compelled to pass his time at the common place of the society. If somebody offered him food, the applicant had taken otherwise starvation also followed him.

4.6 That it is apparent from the chargesheet that the applicant was transferred to Mumbai on 12.3.96 but neither the orders were handed over to him nor he was relieved. A copy of the chargesheet is annexed herewith as annexure A/2. This chargesheet was sent to the applicant by post.

4.7 That the Disciplinary Inquiry was initiated against the applicant on 31-1-1997 which was concluded on 20-3-97 but the Enquiry Report could not be delivered to the applicant because of non availability of his address. On the advice and suggestion af the Inquiry Officer, the applicant joined the duties on 3-2-97 and continued upto 9-4-97 but the payment of salary alongwith his old dues were not payed to the applicant. Under the circumstances this frushtation and depression was converted into a disease of Schizophrenia which is attributable to the department. A copy of the joining report of the applicant is annexed herewith as annexure A/3.

4.8 That after sometime the parents of the applicant were informed by the neighbourers who attended and took their son to Mumbai for further medical and social



treatment. Before leaving Delhi, the father of the applicant wrote a letter dt.16.2.98 to the department of the applicant which is annexed herewith as annexure A/4. In this letter, the father of the applicant had explained in detail the poor condition of mental, physical and social of their son but no head was given by the department and no reply is received till today.

4.9 That the applicant also before leaving Delhi had attended the office on 22-1-98 where a spare photocopy of disciplinary order dt.16-1-98 was handed over to the applicant but without the copy of the Enquiry Report. A copy of this letter dt.16.1.98 is annexed herewith as annexure A/1. The copy of this letter was neither shown nor handed over to his father by the applicant.

4.10 That before leaving Delhi, on 18-2-98, the applicant had also written a letter to the department alongwith a medical certificate dt.18.2.98 but he was not realising that his services have already been terminated because he was not in the normal mental condition. A copy of this letter and medical certificate is annexed herewith as annexure A/5.

4.11 That the applicant is now fit to resume his duties as per medical certificate dt.3-2-2000 which was sent by the applicant from Mumbai alongwith a letter dt. 4-2-2000. Copy of both these letters are annexed herewith as annexure A/6.

4.12 That the applicant is now residing in Delhi and had made an appeal dt. 21-2-2000 against the order dt.16-1-98 with the idea that since no specific time for making an appeal in the D/O is given, the applicant has



Contd...6

right to make appeal under rule 25 of CCS, CCA Rules 1965. When no reply was received upto 2-5-2000 and the applicant was not allowed to enter the office even, the applicant then made a reminder thereon. Copies of both these appeals are annexed herewith as annexures A/7 & A/8 respectively.

4.13 That now instead of going into the merits of the case and replying the appeal, the Respondents are in hurry to get rid off the applicant by disbursing the deferred money of the applicant. For this purpose, the Respondents have sent a letter dt. 12-8-2000 alongwith the form 10B etc which shows that the Respondents are ready to make the payment of money which they should have paid in November, 95 or during the period of departmental inquiry. A copy of this letter is annexed herewith as annexure-A/9.

4.14 That in short, the Respondent No.3 is mainly responsible for this whole episode which is attributable to the department and the action of the Respondents in removing the services of the applicant is not only illegal but also arbitrary, capricious, malafide, discriminatory under Article 14 & 16 of the constitution and against the Principles of Natural Justice on the following legal grounds.

5. - G R O U N D S -

A) ILLEGAL

Because the Disciplinary Order based on the Enquiry Report is full of legal infirmities, hence it is illegal.

DISCIPLINARY ORDER

(i) In para 1, the D/A says that the applicant is absent since 26-2-96 till date upto 31-1-97 but the applicant resumed duty on 3-2-97 and continued upto 9-4-97. During this period the applicant had attended

*[Signature]*

Contd...7

the disciplinary enquiry proceedings and brought to the notice of the Enquiry Officer that the applicant is under transfer orders but the D/A is not relieving the applicant on transfer. This Enquiry could be conducted at Mumbai also under Rule 20 of the CCS, CCA rules 1965.

(ii) In para 2 of the D/O, it is mentioned that the applicant had contravened Rule 3(i) (ii) (iii) of the Conduct Rules 1964. But in para 8, it is mentioned that in all there was only one charge of unauthorised absence. The D/A has not clarified as to where and how this charge has gone.

(iii) In para 5, the admission of the applicant is for absence and not for unauthorised absence which was attributable to the department. Several times it was brought to the notice of the Deptt. that the applicant is helpless in taking treatment sincerely and effectively due to lack of money.

(iv) In para 7, it is mentioned that the E/R was received undelivered but in para 9, the father of the applicant is said to have received the E/R but the fact remains that the applicant is not in possession of the E/R. This E/R could have been handed over to the applicant along-with a spare copy of the D/O on 22-1-98.

(v) In para 10, the D/A was not inclined to take a lenient view because his conscience was not shocked looking to the poor and pitiable condition of the applicant.

(vi) The D/O is non speaking one as it does not speak about the privilege of making an appeal within a stipulated time to the appellate authority.

(vii) The D/O is whimsical as the original D/O as well as copy of Enquiry Report was not handed over to the applicant even on 22-1-98.



Contd...8

B)

INQUIRY REPORT

Because it has been held by the Hon'ble Supreme Court in Mohamad Ramzan Khan's case even after Forty Second Amendment has not brought any change in supply of a copy of Inquiry Report to the delinquent. Failure of supply of copy of report would be violative of the Principles of Natural Justice. In the present case, since the copy of the Inquiry Report has not been supplied, the applicant does not know whether the Inquiry was done as per rules or not. What ~~conclus~~ conclusion was drawn by the Inquiry Officer about the transfer order dt. 12-3-96 as mentioned in the annexure II of the chargesheet. The applicant could have been relieved on transfer and the Disciplinary Enquiry could have conducted there as per Rule 20 of CCS, CCA Rules 1965. Hence the inquiry is vitiated.

C)

Because in the Disciplinary Order, no time limit and the name of the Appellate Authority is given, the applicant had made the appeal dt. 21-2-2000 under Rule 25 of CCS, CCA Rules 1965 inwhich the Appellate Authority may entertain the appeal even after the expiry of the said period. This appeal could not be made effectively due to non availability of Enquiry Report, but eventhan the applicant has made appeal dt. 21-2-2000 (Annexure A/7) and a reminder thereon dt. 2-5-2000 (Annexure A/8) but it seems that the Appellate Authority does not want to entertain the same.

D)

LEGAL POSITION

Normally the Hon'ble Tribunal does not interfere with the quantum of punishment but when the Disciplinary order is bad in the eyes of law due to non-speaking, whimsical, non-application of mind and mechinal order, the Hon'ble Court has inherent powers to besto upon the applicant, a judicial review in the matter to quash the Disciplinary Order.



Contd...9

In a recent case of B.C. Chaturvedi, the Hon'ble Supreme Court has laid down a principle that when the punishment is not commensurate with the gravity of offence, and if the conscience of the Court is shocked, every court including the Tribunals have got inherent powers to interfere with the punishment. Following this judgment Hon'ble Tribunal (PB), New Delhi has set up a best example for future. Copy of this judgment dt. 24th October, 2000 in O.A. No. 2038/97 is annexed herewith for ready reference. Para 12 & 13 of this judgment are very much relevant.

(ii) In the case of T. Narayanan decided by the Hon'ble Tribunal, Madras Bench on 19-6-98 (ATJ 99(1)-403 it is held that even if there is a admission of guilt for unauthorised absence, a oral enquiry must be conducted, and the order of removal from service was quashed. In the present case, no oral enquiry was conducted and no defence assisstant was provided to the applicant to defend his case. Even no opportunity of personal hearing was granted to the applicant.

(iii) SLJ 1993 (3)-CAT 503 564 by (PB) Bench. Para 4 & 10

In this case it was held that a preliminary enquiry is not only a formality but it is a fact finding enquiry, and so the Disciplinary Order being Whimsical was quashed and the applicant was ordered to be re-instated in service with full back wages.

(iv) ATJ 1999 (1)-320 Laxman Singh Vs. State of Raj. & Ors. Decided on 13.5.98.

In this case it was held by the Hon'ble High Court Rajasthan that the punishment should commensurate with the gravity of offence and the Disciplinary Authority should issue a show cause as to why the maximum penalty of dismissal should not be imposed against him on the admission made by him in his reply. In the present case no such show cause was issued to the applicant.



Contd...10

6.

DETAILS OF THE REMEDIES EXHAUSTED :

The applicant further declares that he has availed all the remedies available to him. The appeal of the applicant dt. 21-2-2000 is still pending with the Respondents.

7.

MATTER NOT PREVIOUSLY FILED OR/PENDING WITH ANY OTHER COURT :

The applicant declares that he has not previously filed any application, before any court or any other authority or any other Bench of Tribunal nor such any application, writ petition or suit is pending with any of them.

8.

RELIEF (s) SOUGHT FOR :

In view of the facts and grounds mentioned above, the applicant prays for the following relief :-

(i) The Hon'ble Court may graciously be pleased to quash the Disciplinary Order dt. 16-1-98 Annexure-A/1 and to direct the Respondents to reinstate the applicant in service with full back wages and consequential benefits after deducting medical leave.

(ii) The Hon'ble Court may direct the Respondents to pay the payment of the applicant with interest @ 24% from the month of November, 95 to 26-2-96 and from 3-2-97 to 9-4-97 as per para 4.5 & 4.7 above.

(iii) It is further prayed that Respondents be directed to relieve the applicant on transfer to Mumbai as per transfer order dt. 12.3.96 and to assign the applicant his proper job as per appointment order (para 4.2).

  
Contd...

(iv) Cost Looking to the poor condition of the applicant, the Hon'ble Court is respectfully prayed to kindly grant an appropriate cost to the applicant.

(v) Anyother relief which is deemed fit and proper by the Hon'ble Court may also be granted to the applicant.

9. - I N T E R I M R E L I E F -

Pending final disposal of the case, the applicant prays for the following interim relief :-

(i) The Hon'ble Court may graciously be pleased to direct the Respondents make the payment of atleast Rs.10,000 (Rs.ten thousands) to the applicant being the part payment as prayed in clause (iii) of the main prayer.

(ii) Anyother relief which is deemed fit and proper by the Hon'ble Court may be granted to the applicant.

  
Contd...

10. Para 10 is not applicable as the application is being filed through legal practioner.

11. Particulars of the Bank Draft/Postal Order file in respect of the application fee:

i) Number of the Postal Order : 2G 112782

ii) Name of the issuing Post Office: Baroda House

iii) Date of issue of the Postal Order: 4-9-2000

iv) Post Office at which payable : New Delhi

12. List of enclosures:

As per the Index of the application.

*H.D. Rege*  
Applicant,

Through Counsel,

*B.N. Bhargava*

B. N. Bhargava,  
Advocate,  
C.A.T/Bar Room,  
Faridkot House,  
New Delhi.

Place: New Delhi.

Date : 23-11-2000  
11-12-

- V E R I F I C A T I O N -

I, H.D. Rege S/O Sh. D. S. Rege  
aged about 35 yrs. R/O H.No.1160 A, First Floor, Gali No.12, Govindpuri,  
Working as Removed , do hereby verify that the New Delhi-19  
contents of para 1 to 4,6,7 are true to the best of my  
knowledge and paras 5,8,12 are believed to be true on  
legal advice and that I have not suppressed any material  
fact therefrom.

Place: New Delhi.

Date : 23-11-2000  
11-12-

*H.D. Rege*  
Applicant.

40/40/91 P.R.

215

CONFIDENTIAL

No. 40/40/91-Pers.15  
Government of India  
Cabinet Secretariat

New Delhi, the 16/1/98

O R D E R

WHEREAS a Departmental Inquiry was initiated against Shri H.D. Rege, AFO(T), under Rule 14 of CCS(Conduct) Rules, 1965 vide Memo of charge issued under No. 40/40/91-Pers. 15 dated 3/8/96 on the following charge :-

ARTICLE I

That the said Shri H.D. Rege, AFO(Tele) presently posted under US(Tele), Hqrs., Cabinet Secretariat, New Delhi has been unauthorisedly absenting himself from duty w.e.f. 25/2/96 in utter disregard of official communication directing him to resume duty and continued to be on unauthorised and wilful absence from duty as on date.

2. By his aforesaid act of omission and commission the said Shri H.D. Rege, AFO(T), has exhibited lack of devotion to duty and has conducted himself in a manner highly unbecoming of a Govt. Servant and has thereby contravened Rule 3(i) (ii) and (iii) of the CCS(Conduct) Rules, 1964.

3. WHEREAS Shri H.D. Rege, AFO(T), was given opportunity to make such representation as he might wish to make against the said memo of charge. He however, failed to submit any representation within the stipulated period.

4. AND WHEREAS Shri Prakash Kapoor, Under Secretary, was appointed as Inquiry Officer vide Order No. 40/40/91-Pers. 15 dated 10/10/96 to enquire into the charges framed against the said Shri H.D. Rege, AFO(Tele).

5. AND WHEREAS during the preliminary hearing held on 31/1/97 the said Shri H.D. Rege, AFO(T), appeared before the I.O. and admitted the charges against him. He also submitted a representation dated 31/1/97 admitting the charge of his unauthorised absence from 26/2/96 till the date of preliminary hearing i.e. 31/1/97. Again on 21/2/97 he submitted before the I.O. that he had nothing to state than what he had already stated during the preliminary hearing on 31/1/97.

6. AND WHEREAS the Inquiry Officer submitted his report on 20/3/97 and concluded that the charge against Shri H.D. Rege, AFO(T), has been established.

7. AND WHEREAS a copy of the enquiry report was sent to Shri H.D. Rege, AFO(T) vide Memo No. 40/40/91-Pers. 15 dated 12/6/97 directing him to make representation, if any, within 15 days of receipt of the copy of the report. On return of the memo dated 12/6/97, aforesaid, undelivered from the available residential address of Shri H.D. Rege, AFO(T), the memo was sent to his all available addresses.

This Annexure is a true copy of the original document.

B. N. Singh A.A. 12/1/2000

Dated .....

contd....2....

8. AND WHEREAS the undersigned has carefully gone through the report of Inquiry Officer and the records of enquiry. In all there was only one charge against Shri H.D. Rege, regarding his unauthorised and wilful absence from duty w.o.f. 26/2/96. The Inquiry Officer has held that the charge against Shri H.D. Rege, has been proved.

9. WHEREAS it is on record that copy of the enquiry report was received by his father Shri D.S. Rege in September 1997. In spite of that, Shri H.D. Rege has not submitted any representation.

10. WHEREAS the undersigned feels that Shri H.D. Rege, has nothing to say against the findings of the Inquiry Officer. However, the undersigned is not inclined to take a lenient view in the matter though Shri H.D. Rege, had admitted his guilt. It appears to the undersigned that he is not interested in serving the Department.

11. AND WHEREAS the undersigned is fully satisfied that the enquiry has been conducted as per the procedure laid down in the rules and during the inquiry the C.O. has been afforded full opportunity to defend his case.

12. NOW THEREFORE, the undersigned in exercise of the powers conferred under Rule 15(4) of the CCS(CCA) Rules 1965 hereby removes the said Shri H.D. Rege, AFO(T), from service with effect from the date of issue of this order.

*B.G. KARAL*  
( B.G. KARAL )  
JOINT SECRETARY (PERS)  
AND  
DISCIPLINARY AUTHORITY

*3/c*

To  
Shri H.D. Rege,  
C/o Maharashtra Sambhavandhak Samaj,  
4/53, New Bazar,  
Delhi - 110 006.

NO COPY TO :-

1. Joint Secretary (Tele), Hqrs.
2. Accounts Officer, Hqrs. His outstanding dues may be settled only on issuance of a final N.D.C. by us.
3. Under Secretary (Admn. II), Hqrs.
4. Director of Accounts, Cab. Secy. (SW), New Delhi.
5. SO (Legal), Hqrs.
6. AC (Admn) - SB Bombay
7. CCR Cell
8. Welfare Unit
9. CIS Unit
10. US (Signal Centre)
11. Seniority file
12. Control Room
13. DA (SB) - Pers. 14

*Read 1/C NO - 0631  
Bmgh. H.D. Rege.  
Ex APO (T)*

*( G.P. SHARMA )  
UNDER SECRETARY (PERS. VI)*

*3/c*

One spare copy of the order has been handed over to Mr. H.D. Rege, AFO(T) on his personal visit to Parvati 15 Parvati on 22.01.98.

*Final Date  
22/1/98*

*Re. 1/C NO - 0631  
Bmgh. H.D. Rege.  
Ex APO (T)  
22/1/98  
3/c*

Honourable A/J2

BY REPD. Post A/J2

CONFIDENTIAL

No. 40/40/91-Pers.15-9265  
Government of India  
Cabinet Secretariat

Room No.7, Bikaner House (Annexe  
Shahjahan Road, New Delhi, the

0318756

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri H.D. Rege, AFO(T) under Rule 14 of the CCS(CCA) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the article of charge proposed to be sustained, are also enclosed (Annexure-III & IV).

2. Shri H.D. Rege, AFO(T) is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an enquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shri H.D. Rege, AFO(T) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above or does not appear in person before the Inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said rule; the inquiring authority may hold the inquiry against him, ex parte.
5. Attention of Shri H.D. Rege, AFO(T) is invited to Rule 20 of the CCS(Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri H.D. Rege, AFO(T) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of CCS(Conduct) Rules, 1964.

AP/2  
This Annexure is true  
copy of the original  
b. by \_\_\_\_\_  
Dated 11/1/2024

East - R

- 2 :-

6. The receipt of the memorandum may be acknowledged.

Encl: as above (4)

*G.S.*  
( GURINDER SINGH )  
JOINT SECRETARY (PERS)  
(DISCIPLINARY AUTHORITY)

To

✓ Shri H.D. Rege, AFC(T)  
S/o Shri D.S. Rege  
C/o 2-70, Greater Kailash-I  
Hansraj Gupta Marg  
New Delhi

*A/2*  
This Annexure ..... is true  
copy of the original document

L. N. *Shrikantava*  
Advocate

Dated ..... 11/12 .....

ANNEXURE I

Statement of Article of Charge framed against  
Shri H.D. Rege, AFO(T), Cabinet Secretariat,  
New Delhi.

That the said Shri H.D. Rege, AFO(T) presently posted under US (Tele), Hqrs., Cabinet Secretariat, New Delhi has been unauthorisedly absenting himself from duty w.e.f. 26.2.96 in utter disregard of official communications directing him to resume duty and continues to be on unauthorised and wilful absence from duty as on date.

2. By his aforesaid acts of omission and commission, the said Shri H.D. Rege, AFO(T) has exhibited lack of devotion to duty and has conducted himself in a manner highly unbecoming of a Government servant and has thereby contravened Rule 3(1) (ii) and (iii) of the CCS (Conduct) Rules, 1964.

This Annexure ..... is true copy of the original document  
E. N. *[Signature]* *A/2*  
Dated ..... 11.1.2000

ANNEXURE-II

Statement of Imputation of Misconduct in support of the Article of charge framed against Shri H.D. Rege, AFO(T) Hqrs., Cabinet Secretariat, New Delhi.

*Transfer*

That Shri H.D. Rege, AFO(T) had joined duties at Hqrs. of the Cabinet Secretariat, New Delhi on 10.1.92. He is presently posted under US(Tele). (He was transferred from Hqrs. to Bombay vide order dated 12.3.96.) Shri H.D. Rege has been unauthorisedly absenting himself from duty w.e.f. 26.2.96. He was directed by Memos. dated 8.4.96, 9.5.96 and 26.5.96 to report for duty immediately. The said Shri Rege has ignored the directions completely and has not joined duty as on date and continue to be on unauthorised and wilful absence from duty w.e.f. 26.2.96.

2. By his aforesaid acts of omission and commission, the said Shri H.D. Rege, AFO(T) has exhibited lack of devotion to duty and has conducted himself in a manner highly unbecoming of a Government servant and has thereby contravened Rule 3(1) (ii) and (iii). of the CCS(Conduct) Rules, 1964.

This Annexure copy of the original is true  
L. D. R. *DR. L. D. R.*  
Dated ..... 11/1/2000

ANNEXURE-III

LIST OF DOCUMENTS IN SUPPORT OF THE ARTICLE  
OF CHARGE FRAMED AGAINST SHRI H.D. REGE, AFO(T)  
HQRS., CABINET SECRETARIAT, NEW DELHI

1. Relevant portions of the personal file of  
Shri H.D. Rege, AFO(T), Cabinet Secretariat,  
New Delhi.

2. Memorandums dated 8.4.96, 9.5.96 and 28.5.96  
issued to Shri H.D. Rege, AFO(T).

3. Any other document found relevant to the case.

This Annexure *AF2*  
copy of the original document  
B. N. Iyer  
Dated *17/12/1996*

ANNEXURE IV

LIST OF WITNESSES BY WHOM THE ARTICLE OF  
CHARGE FORMED AGAINST SHRI H.D. REGE, AFO(T)  
HQRS., CABINET SECRETARIAT, NEW DELHI, IS TO  
BE SUSTAINED.

1. Shri G.P. Sharma, Under Secretary (Pers. VI),  
Cabinet Secretariat, New Delhi.
2. Smt. B.K. Sarin, Section Officer (Pers. 15),  
Cabinet Secretariat, New Delhi.
3. Any other witness found relevant to the case.

This Annexure *AP*  
copy of the original is true  
L. N. K. *AP* *AP*

Dated ..... *14/12/52* .....

Annexure A/3

TO . . .

UNDER SECRETARY,  
SIGNAL CENTRE,  
CABINET SECRETARIAT,  
NEW DELHI - 110-011

SUBJECT :- JOINNING REPORT

RESPECTED SIR:

I HEREBY SUBMIT MY JOINNING REPORT W.E.F. 3RD FEBRUARY 1997 (P/N). AFTER AVALING LEAVE DUE TO DOMESTIC PROBLEM FROM 26.2.96 TO 2.2.97.

COPY TO :-

- (1) US (PERS. VI)
- (2) US(TA)
- (3) ACCTS OFFICER.

THANKING YOU.  
YOURS FAITHFULLY.

*ABD*  
*03/02/97*  
H.D. REGD.  
AFO (T)  
I.D. NO. 93931-H.

This Annexure A/3  
copy of the original is true  
L. N. *[Signature]* A.A.  
Dated ..... 11/2 .....

<sup>th</sup>  
16 FEB. 1998.

To,

The Joint Secretary (Personnel)  
Cabinet Secretariat.  
New Delhi - 110 - 003.

Subject: - Permission to leave station; H.D. Rego  
A.F.O.(T), Signal centre.

Respected Sir,

I, the undersigned, desire to put forth a few lines for your kind and sympathetic consideration and for your favourable action.

My son, Hafshad Dinesh Rego, is in the service of Signal centre as A.F.O.(T) since January 1992. He is here in New Delhi for the last 6 years. Being away from family and relatives for a considerably long time, he started to have a feeling of loneliness and ultimately it developed into being alog and home sick.

It is understood that he is not attending his duties for some time past. The reasons according to my knowledge are as under. -

- (i) He did not get his transfer to the place of his choice even after completion of his tenure.
- (ii) The transfer order might have been issued but he was not given any information of the same.
- (iii) Because of his absence from the duty, his salary was withheld. He has yet to receive his salary even for the months of Nov. 95 and Dec. 95.

His salary has been withheld for a pretty long period and thus he was completely handicapped. In a city like Delhi, it is not possible to stay without money. How can anyone pull on here for 2 years without sufficient money.

Because he had no money, he could not make an arrangement for (i) his accommodation (ii) his conveyance to attend office. (iii) the proper food necessary for very existence. (iv) the necessary medical treatment for his foot injury (v) his personal cleanliness.

During the season of winter this year, for want of money he could not bear the severe cold here and his health further deteriorated.

How long the parents of one can bear this expenses in this city of Delhi.

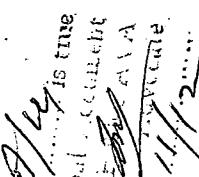
It is observed that now he has become anaemic because of starvation. It will take minimum 2 months for him to come to his normal health.

He has got injuries in both of his feet. He can walk with great difficulty. He can't make any free movement.

Because of no funds, he is in the disturbed state of mind. He is badly in need of treatment under personal care and attention. A medical certificate in support of his condition of health is being sent to you separately. The condition of his health was informed to us by a third party on telephone.

After looking at the condition of his physical health, and mental health, I have decided to take him with me to Mumbai. I request you to kindly allow him to accompany me by leaving the station.

I further request you to kindly release his salary whatsoever pending, if possible, and as early as possible, so that he may gain confidence

Copy of the original document is true  
D. M. B. S. A.   
Dated 11/1/2000

in his mind. The amount of his salary to be paid to him is also substantial.

For this act of kindness, I shall ever remain grateful to you.

Looking forward for your decision,

I remain,

Yours Faithfully,

New Delhi 110-019.

*D. S. Rege*

(D. S. REGE)

My Address -

B/6, Ojas, I floor,  
Koldongari Lane No. 2,  
Sahar Rd, Andheri (E),  
Mumbai 400-069.  
(MAHARASHTRA).

*H. D. Rege* (H. D. Rege)

A.F.O. (T);

I.D. No. 03031-H.

copy to - The Under Secretary,  
Signal Centre (Tele),  
Cabinet Secretariat  
New - Delhi 110-002.

for information and necessary action  
desired, if any. This is to request you to  
release his salary without any further delay.

Thanking you,

Faithfully Yours

*D. S. Rege*

(D. S. REGE).

This Annexure A/4  
copy of the original document  
B. N. Iyer  
Dated 11/12/1968

*H. D. Rege*

H. D. Rege (H. D. Rege).

A.F.O. (T);

I.D. No. 03031-H.

Date : 18-2-1998

To : Joint  
The Under Secretary  
Cabinet Secretariat,  
New Delhi - 110 003.

Subject : Absence from duty : H. D. Raga A.F.O.(T)

Respected Sir,

I am enclosing herewith a medical certificate in support of the condition of my health. I am leaving the station on 18.2.98 to take medical treatment at Mumbai. I may kindly be granted leave due to me for the period mentioned in the certificate. In this connection a reference is invited to the letter dt. 16.2.98 from my father Shri D. S. Raga addressed to you and copy to Under Secretary, Signal Centre (Tele).

Thanking you,

Yours faithfully

110-006

My address

B16, Ojas, 1 floor

Koldengarh Lane No. 2

Sahar Rd, Andheri(E)

Mumbai 400-069

(Maharashtra)

H. D. Raga

A.F.O.(T)

I.D. NO. 03031-H

Annexure A/5  
This Annexure is true  
copy of the original I certify  
B. N. Biju

Dated : 11/12

Copy to : The Under Secretary (Tele)  
Cabinet Secretariat

New Delhi 110 006.

Phone : 6449473

**VMC**  
**VIJAY MEDICAL CENTER**  
EQUIPPED WITH X-RAY AND CLINICAL LABORATORY

**Dr. Vijay Kumar Batish**  
M.B.B.S.  
PHYSICIAN & MEDICAL DIRECTOR

**Panel Doctor**

- National Airports Authority
- National Institute of Public Cooperation & Child Development

**Clinic :**

VIJAY MEDICAL CENTRE  
70, Amrit Puri, Main Market,  
Garhi, East of Kailash,  
New Delhi-110 065

Vijay Clinic :  
70-B/4, Amrit Puri-B  
Main Market, Garhi,  
East of Kailash,  
New Delhi - 110 065

**MEDICAL CERTIFICATE**

No.

Dated : 18-2-88

Signature of Patient.....

I, Dr. Vijay Batish, after carefully examination  
of the case hereby certify that Shri/Smt. H. K. Dinesh Rego  
S/o, D/o, W/o....., whose signature is given above is/was suffering from.....  
and I consider that period of absence from duty of.....  
day with effect from ..... 18-2-88 to ..... 30-4-88  
absolutely necessary for the treatment/ restoration of his / her health

This Annexure **15** is true  
copy of the original document

E. N. L. A. K. A. /  
Signature

Dated ..... 11/12

Date - 04<sup>th</sup> Feb. 2000

Mumbai - 400.069.

• T<sub>D</sub> •

The Under Secretary (Admn.3),  
Cabinet Secretariat,  
Room No. 7, Bikaneswar House Annex,  
Shahajahan Road, New Delhi - 110 011.

Subject:— Prolonged Absence of H.D. Rege, A.F.O.(T).  
I.P. No. 03031-H

I.D.N. 03031-H.

Respected Sir,

This is further to letter dt. 14th Jan. 2000, sent by me, in this matter. A full Medical Certificate from my Doctor, is being submitted herewith. The certificate is self explanatory. I am now physically as well as mentally alright (fit). Doctor's opinion is that I am now fit to resume my duties. Accordingly, I am planning to leave Mumbai for Delhi on 17-02-2000 and report for duty on 21-2-2000.

But at the same time I have been advised by my Doctor to be under care of my parents and in the company of my relatives.

Taking into consideration sincerely the opinion of my doctor with a positive view may I request you to transfer forthwith my services here in Mumbai for which no expenditure on account of my TA/DA is necessary as well as also joining time. I am awaiting your reply by latest by 15-2-2000.

For this act of kindness I shall ever remain,

P.T.O.

This Annexure *of 6* ..... is true  
copy of the original.

B. N. LEADLEY

Dated 10/12/2012

A/6

- 27 A -

grateful to you.

I shall also request you to make payment of my dues from the Department without any delay.

Thanking You,

Yours faithfully,

From:- H. D. Rege;

B.P. 'OJAS', Keldongri Lane No.2,

Sahar Road, Andheri (E),

Mumbai - 400.069.

Maharashtra.

*H. D. Rege*  
Oct-52 (Date)

H. D. REGE; A.F.O. (T),

I.D. No. 83031-H.

Copy to:- (i) The Section Officer, (Pers. 15),

(ii) The Under Secretary (Tele) - Signal Centre,

(iii) The Under Secretary (Pers. VI),

(iv) The Secretary, Cabinet Secretariat,

for information.

This Appendix ..... is true  
copy of the original document

b. N. L. A. A. A.

Dated .....

*11/12*

Regn. No. 51188

DR. MANOJ L. BHATAWDEKAR

M.D., PSYCH., D.P.M., M.A.P.A.(U.S.A.)

CONSULTING PSYCHIATRIST

Clinic : 5, Sahar Tower, Sahar Road, Pashwade, Andheri (E), Mumbai - 400 099. Tel : 822 4253

3.2.2000

This is to certify that Mr. Harshad Dinesh Rega has been under my treatment for Schizo-affective disorder from 21.1.2000; and was advised rest for 1 month starting from 21.1.2000.

I have examined him today and I find him fit to resume duties on any day after 21.2.2000. It is recommended that he stays in the company of his parents and relatives, for maintaining recovery.

*Manojo Bhatawdekar*

DR. MANOJ L. BHATAWDEKAR

M.D., PSYCH., D.P.M.  
CONSULTING PSYCHIATRIST

This Annexure ..... is true  
copy of the original document

D. N. L. ABHAYA

Dated ..... 11/12/2000

A/6

— 1 —

Date 21<sup>st</sup> Feb. 2000.

New Delhi.

To

The Joint Secretary (Pers.) & Disciplinary Authority;  
Cabinet Secretariat.

Room No. 7, Bikaner House Annex.  
Shahid

Shahjahan Road, New Delhi - 110 011.

Subject:— An Appeal with reference to your  
order No. 40/40/91-Pers. 15-748-761, Dated  
16-1-98. (Prolonged absence of Sh. H.D. Rego,  
A.F.O. (T); I.D. No. 03031-H).

Respected Sir;

In connection with the order issued by you regarding my absence, I desire to put forth a few lines from my side for your kind & sympathetic consideration.

At the outset of my explanation, I fully admit that I have remained absent from my duties for a considerably long time. My replies to the points raised in your order under reference are as follows. —

I admit that Shri Prakash Kapoor U.S. (P.B.) was appointed as an Inquiry officer under letter No. 40/40/91-pers. 15 - 11626 dtd. 10/X/96 & I/INO/96/09 dt 3/1/97, who informed me the date of hearing being

277  
This Annex  
is by the  
original  
L. M. Loring, Agent  
Dated this 1<sup>st</sup> instant  
A. C. Loring  
Private

31-1-97. During the period 26-2-96 to 31-1-97, I could not contact the Department. The reasons for this had been brought to his notice during my enquiry.

As directed by the Inquiring Officer I had joined the Department (Signal Centre) on 3-2-97. I found that the behaviour or approach towards me was hostile. The whole staff started looking at me as if I was an unwanted person. I was then just coming up from the disturbed state mind, frustration & illness. During this period my transfer order also was issued but not handed over to me. I don't know the reasons for that. This approach towards me made myself once again nervous & depressed. My health was deteriorated. I fell sick. I had no money as my pay was withheld. Although I had not ~~money~~ enough money for conveyance, for food, and treatment for illness & my foot injury etc. I had attended the office till 9-4-97. (Please verify the records). A letter explaining my situation & grievances was also sent to you on 16-2-98 by my father and by me on 2-4-99. These letters did not get any response from your side probably may be because I was removed from the services from 16-1-98. In fact I was anxiously waiting for the replies to these letters at your end as these two letters themselves are explanatory and the representation/ appeal from my side (copies of both the letters are enclosed.) It is stated that I was given an opportunity to defend my case, but during this time I was mentally upset; How could I

This is my true copy of the original document  
B. N. Singh A/C  
Dated 11/1/2000

have defended my case. Also it is mentioned that my father has received the copy of enquiry report in Sept. '97. (para 2 of second page), my father does not remember to have received this copy.

- I had suffered from severe mental depression and I did not know what I was doing, in that depressed mood. As such during this mood of depression I had accepted the letter No. 4940 of 91 - pess. 15 dtd. 16-1-98. After having gone through the letter (photocopy) now on 21-2-2000, I am making this appeal once again to you (with reference dtd. to the letter dtd. 16-1-98 from your side and letters dtd. 16-2-98 & 2-4-99 from my side) requesting to reopen my file and consider my case once again on the sympathetic ground.

- Last about one year I have been under the medical treatment for depression (Medical certificate in support of the same were produced periodically, which may be verified. (copies enclosed). I am now mentally & physically fit to resume the duties (see the fitness certificate).

- Finally, earnestly & sincerely I request you to look after into this matter on humanitarian ground. I further wish to state that my parents are retired & old and there is no earning member in the family. I am the only person who has to support them. I therefore request you that I may kindly be forgiven for the past act of misconduct, which was due to mental

This Annexure  
copy of the original document  
is true  
B. L. LALITA AY  
Dated ..... 11/1/2000

- 32 -

— 4 —

illness. I promise to behave honestly, punctually & sincerely and that there won't be any repetition of such incidence in future. I may kindly be permitted to join the duties at the earliest. My address is as follows, you may write to me on this address, and change in the address if any will be informed to you accordingly.

Thanking you

Yours faithfully;

Address: - Kanale Math, E-70, Greater Kailash-I, Hansraj Gupta Marg, New Delhi - 110.048. H.D. Rege, A.F.O. (T).  
I.D. No. 03031-H.

Enclosed:— (i) letter dtd. 16-02-98

(ii) —11— 09-01-99

(iii) —II— 02-04-99, with enclosure.

Copy to - (i) Under Secretary (admin. 3);  
(ii) Under Secretary (Pers. II);  
(iii) Section Officer (Pers. 15);  
(iv) Secretary, Cabinet Secretariat

017

This Alteration ..... is true  
copy of the original document  
B. N. [Signature] [Signature]  
Dated ..... 11/17

- 33 -

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January 8/8

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Date 02-05-2000.

T<sub>0</sub> .

The Joint Additional Secretary (Pers.);  
Cabinet Secretariat;  
Room No. 7, Bikaner House Annex,  
Shahjahan Road; New Delhi - 110 011.

Subject :- Representation with reference to your  
order No. 40/40/91-Pers.15-748-761 dated  
16.1.98 and my appeal dated 21.2.2000.

Respected Sir.

I hereby request you for your kind personal attention to refer to my representation our appeal put forth on 21.2.2000. (i.e. 2 months ago) for the consideration & favourable action.

At the very first instance I request you to let me have a copy of the enquiry report.

I hereby wish to state the following points for further consideration of my case.—

1. As per Doctor's opinion my mind was severely hurt & shocked and the symptoms of illness began to appear somewhere in 1996-97.

Several letters had been written to the department as mentioned below.

— 2 —

Date	Addressee	copy to
16.2.98.	Joint Secretary (Pers.)	U.S. (Tele), Signal centre.
18.2.98.	—II—	—II—
4.3.98.	—II—	—II—
9.1.99.	Section Officer (Pers. 15).	U.S. (Tele) signal centre, & Disciplinary officer (Signal centre).
24.3.99. (1st reminder).	Section officer (Pers. 15).	U.S. (Tele) Signal centre, & Disciplinary officer (Tele) - signal centre.
2.4.99.	Section officer (Pers. 15).	Secretary, J.S. (Pers); U.S. (Pers. VI); U.S. (Tele) - Signal Centre, Shri P.K. Purshit (Mumbai branch).
12.4.99.	—II—	—II—
8.6.99	U.S. (Admn. 3).	Section Officer (Pers. 15); U.S. (Tele) signal centre, U.S. (Pers. VI), Secretary.
14.7.99.	—II—	—II—
21.7.99.	—II—	—II—
5.12.99.	—II—	—II—
14.1.2000	—II—	—II—
21.1.2000	—II—	—II—

— As there was no response to any of the dept. these letters from you, intimating the correct situation in the case, the case has been unnecessarily delayed.

This Annexure B/8 is the copy of the Officer to the Officer in the case.  
Dated 21.1.2000.

as also became complicated.

3. It has been informed I will be leaving Mumbai for New Delhi for resuming duty on 21.2.2000 well in advance vide my letter dated 10.1.2000 P.R. # 21.2.000 "Please this fact is overlooked".

4. Since my salary is withheld I was deprived of arranging for my own maintenance, i.e. proper accommodation, food, conveyance, medical treatment etc. etc. And therefore my health became deteriorated and I was forced to remain absent from 10.4.97 onwards. As my health deteriorated, my illness grew & came up quickly. Hence when the order was issued to me, I was not mentally well.

5. The order 40/40/91 - Pts. 15-748-761 dtch. 16-1-98, does not specify the correct period of my unauthorised absence. The very first paragraph of the article I of the order in question contains false & wrong statement. It is mentioned in the order that I remain absent from 26.2.96 till as on the date of order, i.e. 16-1-98. This itself is a false statement. It may please be noted that as directed by Inquiry Officer I was present and attended my duties from 3-2-97 to 9-4-97. Thus for more than 2 months I was on duty as per I.O.'s directions & advise.

(b) Similarly in para 6 of the order (produced in

-4-

by blue ink), it is mentioned that Sh. H.D. Rege, i.e. myself appeared before I.O. & admitted charge against him and also gave representation dtd. 31-1-97 regarding the unauthorised absence from 26-2-96 to date of preliminary hearing, i.e. 31-1-97. But here also the situation <sup>as condition</sup> after 31-1-97 (i.e. 3-2-97 to 9-4-97, as 1-2-97 & 2-2-97 being Saturday & Sunday, I had joined & worked for the Dept. a. per directions of I.O.) till the date of order i.e. 16-1-98 is not mentioned.

(c) Also in very first para of 2nd page of order it is mentioned that that "there was only one charge against Sh. H.D. Rege regarding unauthorised & wilful absence from duty w.e.f. 26/2/96". Here also the period of absence is not mentioned. (till what date I was absent?).

These points in the order are overlooked, and clearly shows that all the records of Inquiry do not seem to have gone through thoroughly.

— In view of the above this order automatically becomes absurd & meaningless. There is no mention of any stipulated time limit to make an appeal against the order. As the order has become automatically invalid as stated in point 5 above, the question of making an appeal (as advised) does not arise.

This Annexure  
copy of the original  
L. N. D.

Dated

7/8

— Considering the merits of genuineness of the

*[Signature]*

1/1/2

-37-

-5-

case; I once again request to follow the "forget & forgive policy" mutually and allow me to rejoin my duties as I am already on the staff, considering the hollowness of the ~~new~~ order.

For this act of kindness I shall ever remain grateful to you.

Thanking you,  
Yours faithfully,

Enclosed: 1) 3 copies of  
Joining report & 1 copy  
of the order showing  
order is baseless.

*H.D. Rege* H.D. Rege,  
02/05/2000 A.F.O.(T);  
I.D. No. 03031-H

2) Copy of leaflet regarding my illness.

This Annexure  
copy of the original is true  
B. A. B. BAWA  
Dated 11/12/2000

No. 40/41/91-Pers.15 (New Pers.13) ~ 10427  
Government of India  
Cabinet Secretariat

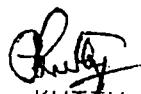
Room No. 7,  
Bikaner House (Annexe),  
Shahjahan Road,  
New Delhi, the

12.8.2k

MEMORANDUM

With reference to his application dated 30/7/2000 regarding payment of dues, Shri H.D. Rege, Ex-AFO(T), is informed that "NOC" for clearing all his claims is being issued separately. In the meantime, Shri H.D. Rege, Ex-AFO(T), may please forward the duly filled forms of Form 10B and Annexure 'C' to enable us to take further action for final settlement of his GPF account and reimbursement of saving element of CGEGIS, 1980 respectively.

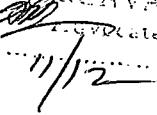
Yours faithfully,

  
( P.S. KUTTY )  
UNDER SECRETARY (PERS.V)

Shri H.D. Rege, Ex-AFO(T),  
C/o Shri V.P. Sehgal, 1160 A/12, 1st Floor,  
Govindpuri, Kalkaji,  
New Delhi - 110 012

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L. N. B. KALAVA

Dated .....  11/2

Central Administrative Tribunal  
Principal Bench

O.A. 2038/97

New Delhi this the 24 th day of October, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri V.K. Majotra, Member(A).

Jagdish (deceased) through his wife Sarla  
S/o Shri Baljeet Singh,  
R/o Gaur Bhawan, Gali No. 40,  
Sadh Nagar-II, New Delhi-45.

... Applicant.

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through  
The Secretary, Ministry of Defence,  
Govt. of India, New Delhi.
2. The Director General,  
Ordnance Factories Board,  
10-A, Aukland Road, Calcutta (WB).
3. The General Manager,  
Ordnance Factory,  
Muradnagar, Distt-Ghaziabad (UP). ... Respondents.

(By Advocate Shri V.S.R. Krishna)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the penalty orders passed by the respondents removing him from service, namely, the disciplinary authority's order dated 8.3.1995, the appellate authority's order dated 18.6.1996 and the order passed by the revisional authority dated 15.9.1999. These penalty orders have been passed against the applicant after holding a disciplinary inquiry under Rule 14 of the CCS (CCA) Rules, 1965 (hereinafter referred to as 'the Rules').

2. The relevant portion of the allegations against the applicant as given in the Inquiry Officer's report reads as follows: \*

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"Shri Jagdish T No. 1062/1324/CM Fitter 'Gen' (SSK) was detailed in 'G' Tubewell from 6 AM to 3 PM on 8.7.94. On completion of his duty in 'G' Tubewell, he was expected to report in C.M. Section to sign his attendance register as well as to take monthly wages till the payment of monthly wages was scheduled at 3 p.m. on 8.7.94. Shri Jagdish after completion of his duty did not report neither to take his wages nor to sign the attendance register. The JWM/CM on noticing that Shri Jagdish was not available in the Section deleted the T.No. of said Shri Jagdish from the Gate Pass given to IES whose duty was finished at 3 PM. JWM/CM waited Shri Jagdish upto 4.15 P.M. till the payment of wages completed and when Shri Jagdish did not report in C.M. section at all, arranged to search him at G. Tubewell, but he was not available there too. Next day, JWM/CM reported his missing from the place of his duty vide Memorandum No.1/CM/94 dated 9.7.1994 also giving a reference of his missing under the similar condition on 14.6.94".

Part of the charge dated 22.8.1994 further reads as follows:

"Gross-Misconduct - Remaining absent from duty place unauthorisedly, leaving duty place again and again and unbecoming of a Government servant by indulging in an indecent act in so far as the said Shri Jagdish, on 8.7.94 while detailed for duty at 'G' tubewell from 6.00 A.M. to 3.00 PM remained absent from there unauthorisedly. Therefore, he neither turned up to receive his wages nor on completion of his duty time i.e. upto 3.00 PM reached at C.M. Section. He was also found absent unauthorisedly from his duty place on 14.6.94 and by this, it seems that he is habitual of leaving his place of work unauthorisedly. Such a conduct of Shri Jagdish is highly objectionable, indisciplined and in violation of Rule 3 of the CCS (Conduct) Rules, 1964".

3. Shri Yogesh Sharma, learned counsel for the applicant has submitted that the charge-sheet dated 22.8.1994 is vague and not specific. He has submitted that the details of applicant's absence unauthorisedly from duty place on 14.6.1994 have not been given in the charge-sheet and hence, the respondents could not have taken into account this absence. He has also submitted that in the charge-sheet itself, they have stated that the applicant has

left his duty place again and again and the details of these incidents have not been given, excepting the vague reference of his absence from duty place on 14.6.1994. He has submitted that the applicant was not absent from duty on 8.7.1994 while detailed for duty at G. Tubewell from 6 AM to 3 P.M. He has pointed out that in the charge-sheet, it is mentioned that as the applicant neither turned up to receive his wages nor on completion of his duty time, that is upto 3.00 P.M. reached C.M. Section to sign the register, the respondents have assumed that he was absent from duty. He has pointed out that it has only been reported that the applicant has not turned up on completion of his duty as he has not come to the CM Section but it cannot be assumed that the applicant was absent from duty place unauthorisedly till 3 p.m. Learned counsel has submitted that the payment was to start by 3 p.m. and since by that time he had received a message that his wife was unwell, he had rushed home. He has also submitted that if the Inquiry Officer was taking into account the past record of the applicant, the details of the absence on 14.6.1994 mentioned in the charge-sheet ought to have been provided in accordance with the Govt. of India O.M. dated 28.8.1968, which is mentioned below Rule 15 of the Rules, which has also not been complied with by the respondents. He has also submitted that the sole defence witness, namely, Shri Harkesh was produced by him but his submissions have not been believed or considered and no reasons have been given for it. He has, therefore, submitted that the conduct of the Inquiry Officer is contrary to the principles of natural justice.

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Dated : 11.11.1994

4. Another ground taken by the learned counsel for the applicant is that in the present case, the charge against the applicant was that he was absent from duty for one day and on that charge, a penalty of removal from service has been imposed which is, therefore, disproportionate. He has submitted that the applicant has put in about 23 years of service and in the charge sheet only two dates have been given when it is alleged that he was unauthorisedly absent from duty. He has submitted that the penalty order of removal from service for being absent only for one day is excessive and disproportionate. He has relied on the judgement of the Supreme Court in U.P. State Road Transport Corporation and Ors. vs. Mahesh Kumar Mishra & Ors. (AIR 2000 SC 1151). He has also submitted that all the relevant copies of documents relied upon in the charge-sheet have not been given to the applicant, which has been denied by the respondents who have stated that the relied upon documents have been supplied to him.

5. The applicant has also submitted that as he has already been punished in the past for any misbehaviour or misconduct, he cannot again be punished as this would amount to double jeopardy. He has relied on **Satpal Singh Vs. State of Haryana & Ors.** (1999(2) SLR P-321). In this case, the Punjab and Haryana High Court has held that the Inquiry Officer as well as the punishing authority have taken into account the earlier periods of absence for which the petitioner had already been punished. In the above circumstances, it was held that the same cannot be made the subject matter of the enquiry and the petitioner cannot be dismissed from service taking into account the earlier absence and the principles of double jeopardy would apply.

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In that case, the petitioner had died and the Court had ordered the respondents to pay all consequential monetary benefits to the legal representatives of the deceased from the date of dismissal to the date of his death and also grant them family pension. Learned counsel has, therefore, prayed that the punishment orders may be quashed and set aside with consequential monetary benefits, including family pension to the legal representatives of the applicant, who has unfortunately passed away during the pendency of this O.A.

6. The disciplinary authority in his order dated 8.3.1995, has stated that a copy of the Inquiry Officer's report dated 22.8.1994 was furnished to the applicant, but he did not make any representation on the same. He has stated that after considering the relevant factors and circumstances of the case, he has imposed the penalty of removal from service. The appeal filed against the punishment order was disposed of by the appellate authority vide order dated 18.6.1996, who had also held that the charges have been held proved in the departmental inquiry based on the evidence. In this order, he has also stated that a copy of the complaint dated 9.7.1994 had been supplied to the appellate along with the charge-memo and a copy of the memo dated 14.6.1994, which reference had been given in the said complaint dated 9.7.1994. The appellate authority has stated that the "Past offences have been incorporated in the charge-sheet as per laid down procedure" and the appellant himself admitted that he was punished from time to time for missing from duty place, which shows that he is a habitual offender. The appellate authority confirmed the order of removal from service of the applicant.

8.

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and rejected the appeal. The revision petition filed by the applicant was also rejected by order dated 15.9.1999 which is also impugned by the applicant in the amended O.A.

7. We have seen the reply filed by the respondents and heard Shri V.S.R. Krishna, learned counsel. In the reply, the respondents have referred to a series of penalties imposed on the applicant, late Shri Jagdish, for his misconduct, such as that he was censured for negligence towards his duty, withholding of increment of pay and reduction in pay for consuming alcohol while on duty, withholding of increment of pay for indiscipline and carelessness in his duty, imposed by order dated 3.6.1993, reduction in pay again for negligence of duty by order dated 14.2.1994 followed by the present penalty order of removal from service w.e.f. 8.3.1995 for being absent from duty unauthorisedly. Learned counsel has submitted that the applicant has been provided reasonable opportunity to defend his case in the charge-sheet filed against him for being absent from duty on 8.7.1994. He has submitted that taking into account the past conduct of the applicant and the various penalties imposed on him as given in detail in the reply, the penalty of removal from service is not excessive. He has submitted that none of the grounds taken by the applicant in the O.A. is sufficient to set aside the penalty orders. He has submitted that in the charge-sheet, it has been stated that he had been found absent from duty unauthorisedly and leaving duty place "again and again" and hence, there was nothing wrong in the disciplinary authority taking into account his past conduct. He has also submitted that the Tribunal should not go into the evidence so as to reassess the same or to arrive at a decision based on

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sympathy. He has submitted that since the penalty orders have been passed by the competent authorities taking into consideration all the relevant factors and after holding the disciplinary proceedings in accordance with the Rules, he has prayed that the O.A. may be dismissed.

8. In the rejoinder filed by the applicant, he has reiterated his stand taken in the O.A. that he has performed the duty, as required from 6 A.M. to 3 P.M. on 8.7.1994. He has submitted that the co-worker Shri Harkesh had told him that his wife was not well and he should reach home immediately. Therefore, the applicant had left the queue where he was standing for receiving his payment, forgetting also to take the Gate Pass to leave the duty. Learned counsel has, therefore, submitted that there has been no misconduct on the part of the applicant.

9. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

10. In the charge-sheet dated 22.8.1994 issued by the respondents, they have referred to the applicant being absent from duty place unauthorisedly and leaving duty place "again and again," which is unbecoming of a Government servant by indulging in an indecent act in so far as on 8.7.1994, he had been detailed for duty at G. Tubewell from 6 AM to 3 PM and he had remained absent from there unauthorisedly. After making these allegations, it is stated that he neither turned up to receive his wages nor on completion of his duty time, i.e. upto 3 P.M. reached the C.M. Section. The conclusion that the applicant had remained absent from duty at G. Tubewell on 8.7.1994 seems to be based on the fact

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that he had not turned up on completion of his duty at 3 P.M. or thereafter as he had not reached the C.M. Section. The reference to his unauthorised absence from duty place on 14.6.1994 has also not been sufficiently explained in the charge-sheet. In the brief history of the case given by the respondents in their reply, there is also no reference regarding his absence from duty on 14.6.1994 or to the penalty imposed on the applicant for his alleged misconduct of that date. In the facts and circumstances of the case, we find force in the contentions of Shri Yogesh Sharma, learned counsel, that the charge-sheet issued to the applicant on 22.8.1994 is vague and does not comply with the requirements of the provisions of the Govt. of India O.M. dated 28.8.1968. The charge-sheet has not mentioned any details of the periods he was found absent from duty unauthorisedly repeatedly on previous occasions. The details given in the brief history of the case by the respondents also appear to be for other alleged misconduct, but does not say that he has been again and again absent from duty place unauthorisedly, which is what has been alleged in the charge-sheet in question dated 22.8.1994. In the facts and circumstances of the case, the charge-sheet is vague and not in accordance with the relevant rules and instructions, i.e. Rule 15 of the Rules read with the Govt. of India O.M. dated 28.8.1968.

iii. In the reply filed by the respondents, they have referred to a series of penalties which have been imposed on the applicant for misconduct. The High Court of Punjab and Haryana in Satpal Singh's case (supra) has observed that the principle of double jeopardy will apply to the facts of the case as the petitioner had also been awarded punishment for

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his absence for the earlier period, the same cannot be made the subject matter of the inquiry and the order of dismissal from service cannot be imposed taking into consideration the earlier absences. In the circumstances of the case, since no detail of unauthorised absence from duty on 14.6.1994 has been given in the charge memo dated 22.8.1994 or what punishment, if any, was imposed for that misconduct, it appears that for the alleged absence from duty for one day i.e. on 8.7.1994, which is also disputed by the applicant, a penalty of removal from service has been imposed on the applicant. The applicant has stated that he had rendered 23 years of service and even in the charge-sheet only two dates of absence from duty have been mentioned. Shri V.S.R. Krishna, learned counsel has submitted that the place of duty of the applicant has to be considered, that is, the Tube well in the Ordnance Factory which is very essential and, therefore, the punishment imposed is not to be considered as excessive or unwarranted. However, taking into account the facts and circumstances of the case, we are unable to agree with this contention of the respondents. In the charge-sheet there is a clear reference to absence from duty for one day, that is 8.7.1994 on the ground that he did not turn up to receive his wages on completion of his duty, that is upto 3 p.m. at the C.M. Section to receive his payment. As mentioned above, the details of absence from duty on 14.6.1994 have not been given in the charge-sheet and, therefore, the charge-sheet is defective. In this view of the matter, even if it is taken that the charge against the applicant that he was found absent from duty w.e.f. 8.7.1994 is held proved, as concluded by the Inquiry Officer, the disciplinary authority and the appellate authority, the punishment imposed of removal from service is harsh and excessive. The appellate authority in its order

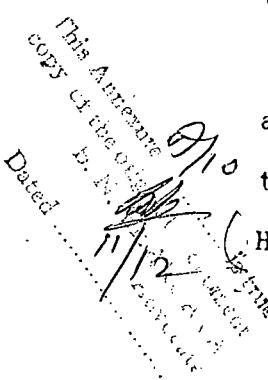
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dated 18.6.1996 has taken into account the past offences, which again is erroneous as the reference is only to one incident of absence from duty on 14.6.1996. Therefore, in the facts and circumstances of the case, the penalty orders of removal from service imposed on the applicant deserve to be quashed and set aside.

12. In U.P. State Road Transport Corporation's case (supra), the Supreme Court has quoted with approval the relevant portion of the earlier three Judges Bench judgement of the Apex Court in B.C. Chaturvedi Vs. Union of India (1995(6) SCC 749) wherein it has been held:

"A review of the above legal position would establish that the disciplinary authority and on appeal the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion or penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof".

13. The penalty orders imposed by the disciplinary authority and the appellate authority on the applicant for being absent from duty on 8.7.1994 indeed shocks our conscience. Therefore, normally we would have remitted the case to the appellate authority to reconsider the matter and impose a more appropriate penalty on the applicant in accordance with law and having regard to the observations of the Supreme Court in B.C. Chaturvedi's case (supra). However, in the present case, the applicant has expired.



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during the pendency of this O.A. During the hearing, Shri Yogesh, learned counsel has submitted that the legal representatives of the applicant do not claim any back wages but would be satisfied if they are granted family pension, after quashing the penalty orders of removal from service.

Accordingly, in the circumstances of the case, we quash the impugned penalty orders of removal from service passed against the late Shri Jagdish. Further, it is ordered that the respondents shall treat the applicant as compulsorily retired instead of removed from service with effect from the same date with consequential monetary benefits.

14. In the result, for the reasons given above, the O.A. is allowed and the impugned penalty orders dated 8.3.1995, 18.6.1996 and 15.9.1999 are quashed and set aside. The respondents are directed to pay all consequential monetary benefits to the legal representatives of the applicant from the due dates, including granting retiral benefits and family pension payable to his dependents, in accordance with the relevant law, rules and instructions. No order as to costs.

(V.K. Majotra)  
Member(A)

(Smt. Lakshmi Swaminathan)  
Member(J)

SRD

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N. BHAKARAVA  
Dated 11/2/2011 Advocate