

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUWAHATI BENCH: CUWAHATI.5 (FORM NO. 4)
ORDER SHEET. (See Rule-42)

APPLICATION NO. 283/2000

Applicant(s) Anup Kumar Mukhopadhyay.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. A. Ahmed.

Advocate for Respondent(s) C.G.S.C.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

25.9.00 Present : The Hon'ble Mr Justice D.N.Chowdhur
Vice-Chairman.

Heard Mr A.Ahmed, learned counsel for the
applicant and Mr A.Deb Roy, learned Sr.C.G.
S.C for the respondents.

Application is admitted. Issue usual
notice.

List on 28.11.2000 for written statement
and further orders.

Mr Ahmed prays for an interim order.
Heard Mr Ahmed and Mr Deb Roy also on the
interim relief prayer. Issue notice to show
cause as to why the interim order as prayed
for should not be granted. Returnable by
27.10.2000.

Vice-Chairman

pg

27.10.2000

Heard Mr A. Ahmed, learned counsel for
the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C.
The respondents are yet to show cause as ordered
by this Court on 25.9.2000. Mr Deb Roy seeks further
time to submit the show cause. List on 27.11.00 for
further orders.

Vice-Chairman

nkm

28/9/00 Notice prepared
and sent to D/Section
for issuing the respondents
No 1 to 5 vide D/NO
2080 W 2083 dtd 2/10/00
2067 W 2071 29/9/2000

27.11.00

In the light of the order passed in M.P.265/2000 the prayer for amendment of this application is allowed. The applicant shall file a consolidated application incorporating the amendment as prayed for in the M.P. within 10 days from today. The respondents shall file written statement within 4 weeks from the date of receipt of the amended application.

List on 9.1.2001 for written statement and further orders. Till then the further departmental proceeding initiated vide letter No.C-13013/19/94-SW(V)-II/393 dated 25-8-2000 shall remain suspended.

[Signature]
Vice-Chairman

pg

27.11.

9.1.2001

Four weeks time is granted to the respondents to file written statement on the prayer of Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

List it on 7.2.01 for written statement and further orders.

Interim order dated 27.11.00 shall continue.

[Signature]
Member (A)

[Signature]
Vice-Chairman

mk

7.2.01

On the prayer of Mr.A.Deb Roy, Sr.C.G.S.C. four weeks time is allowed for filing of written statement. List on 12.3.01 for orders.

[Signature]
Member

[Signature]
Vice-Chairman

lm

12.3.01

List on 10.4.01 to enable the respondents to file written statement.

[Signature]
Member

[Signature]
Vice-Chairman

lm

7-12-2000

The learned applicant
Advocate Karan
filed an Amendment
application vide M.P.
265/2000 dt. 27.11.2000.

Order dated 9/1/01 Communi-
cated to the parties Counsel
Vide Memo No. _____
dt. _____

10/1/01

No. written statement
has been filed.

27/11/01
6.2.01

No. written statement
has been filed.

27/11/01
9.4.01

Notes of the Registry

Date

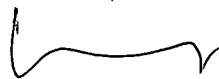
Order of the Tribunal

23.4.2001

10.4.2001

x/s has been
submitted by the Regt.
Nb. 1 to 5.

Four weeks time allowed to the
respondents to file written statement. List
for orders on 8.5.01.


Vice-Chairman


nk m

pg

8.5.01

Written statement has already been
filed. The applicant may file rejoinder
within 2 weeks from today.

List on 4.6.01 for order.


Member


Vice-Chairman

pg

4.6.01

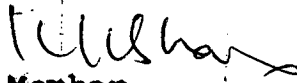
No rejoinder has been
filed.

Written statement has already been
filed by the respondents. The applicant
may file rejoinder, if any, within two
weeks from today.

List on 20-6-2001 for orders.

By

29.6.01


Member


Vice-Chairman

bb

2-7-01

Nb. Rejoinder has been
filed.

Written statement has been filed.
List for hearing on 9-8-2001. In the
time, applicant may file rejoinder, if
any.


By


8.8.01

bb

9.8.2001

List again for hearing on 21.8.01.


Member


Vice-Chairman

nk m

Notes of the Registry	Date	Order of the Tribunal
<p>17.8.2001</p> <p>Copy of the Judgment has been sent to the office for issuing the same to the applicant as well as to the Sr. GSC for the Resp. Sn.</p> <p>HS</p>	<p>21.8.2001</p> <p>nk m</p>	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.</p> <p><i>K. K. Shetty</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXX~~ No. . 283. of 2000

DATE OF DECISION 21/8/2001

Anup Kumar Mukhopadhyay

APPLICANT(S)

Mr A. Ahmed

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

5.

Judgment delivered by Hon'ble Vice-Chairman

! ~~~~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.283 of 2000

Date of decision: This the 21st day of August 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Anup Kumar Mukhopadhyay,
Executive Engineer (Civil),
Civil Construction Wing,
All India Radio, Guwahati Division,
Guwahati.

.....Applicant

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Information and Broadcasting,
New Delhi.
2. The Chief Executive Officer,
Prasar Bharati,
Broadcasting Corporation of India,
New Delhi.
3. The Director General,
Prasar Bharati
Broadcasting Corporation of India,
Civil Construction Wing,
All India Radio,
Government of India,
New Delhi.
4. The Chief Engineer-I,
Civil Construction Wing,
All India Radio,
New Delhi.
5. The Superintending Engineer,
Civil Construction India,
All India Radio,
Guwahati.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The legitimacy as well as the continuance of the departmental proceeding vide Memo dated 7.8.2000 is the subject matter of the controversy. The departmental proceeding initiated on 7.8.2000 pertains to some alleged acts that took place in June 1993.

2. Mr A. Ahmed, learned counsel for the applicant, submitted that the impugned proceeding suffers from the vice malafide, which was sought to be initiated at the instance of the rival suppliers/contractors and encouraged by the then Superintending Engineer (Civil), Civil Construction Wing, Guwahati. Mr Ahmed submitted that the purported proceeding was initiated with an oblique motive other than public interest. The learned counsel further submitted that the purported enquiry was initiated not at the instance of the Disciplinary Authority, but only at the instance of the vigilance department. Mr A. Deb Roy, learned Sr. C.G.S.C., however, submitted that the enquiry was done after completion of the preliminary enquiry and therefore, it took some time.

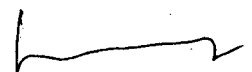
3. We have heard the learned counsel for the parties at length. Undoubtedly, the proceeding was initiated after seven years, but then we are not inclined to make any comment at this stage, only with the view that we allow the respondent authority to complete the proceeding with utmost expedition.

4. Considering all the aspects of the matter we are of the view that ends of justice will be met if a direction is issued to the applicant to submit a detailed written statement pursuant to the Memorandum dated 7.8.2000. It would be open for the applicant to raise ^{all the} issues in the written statement that he has raised here. The applicant shall file such written statement within three weeks from the date of receipt of the order. On receipt of the written statement the respondent authority may consider the same and take a decision as to whether the proceeding is to be continued. If the respondents takes a decision to continue the proceeding in that event the respondents may proceed so and conclude the said proceeding within three months from the date of receipt of the written statement of the applicant by providing the applicant a reasonable opportunity to defend the matter.

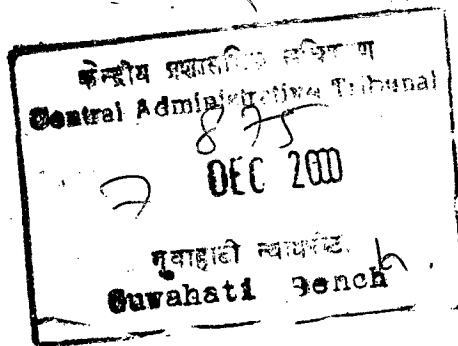
5. Subject to the direction made above, the application stands disposed of, leaving it open to the applicant to move the Tribunal thereafter, if the occasion arises. There shall, however, be no order as to costs.



(K. K. SHARMA)
ADMINISTRATIVE MEMBER



(D. N. CHOWDHURY)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 283 OF 2000.

CONSOLIDATED APPLICATION

Anup Kumar Mukhopadhyay ..Applicant.

-Versus-

Union of India & Others

... Respondents.

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Filed by

Advocate.

(Adv. H.M. 123)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 283 OF 2000.

B E T W E E N

Anup Kumar Mukhopadhyay

Son of Late Biman Bihari

Mukhopadhyay,

Executive Engineer (Civil), Civil

Construction Wing, All India

Radio, Guwahati Division

Tarun Nagar, Bye Lane No. 1,

Guwahati-781005.

- Applicant.

-AND-

1] The Union Of India,
represented by the Secretary
to the Government of India,
Ministry of Information and Broad-
casting, A Wing, Shastri Bhawan,
New Delhi-110001.

2] The Chief Executive Officer,
Prasar Bharati,
Broadcasting Corporation of India,
Doordarshan Bhawan,
Copernicus Marg, Mandi House,
New Delhi-1.

Anup Kumar Mukhopadhyay

Filed by
Shri Anup Kumar Mukhopadhyay
High Jil
(Adv. AHMED)
Advocate

3] The Director General,
Prasar Bharati (Broadcasting
Corporation of India, Civil
Construction Wing, All India
Radio, Government of India,
New Delhi-1.

4] The Chief Engineer-I Civil
Construction Wing, All India Radio
PTI Building, 2nd Floor,
New Delhi-110001.

5] The Superintending Engineer,
Civil Construction Wing,
All India Radio,
Zoo Narengi Road,
Guwahati-21.

- Respondents.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This instant Original Application is directed against the Office Memo No. 13011/31/96-Vig. dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 (Annexure-A) issued by the Respondents and also prayer for quashing impugned Memorandum of charges brought against the applicant by the Respondents after 7 years.

2. JURISDICTION OF THE TRIBUNAL:

Amrinder Singh

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble applicant a citizen of India and as such, he is entitled to all the rights and privileges and protection granted by the Constitution of India.

4.2. That your applicant is a Master Degree holder of Engineering (M.Tech.) and he got his Master degree in Civil Engineering from Indian Institute of Technology (IIT), Kharagpur. He was selected by the Union Public Service Commission for Indian Engineering Service. He was appointed as Assistant Engineer (Civil) in Civil Construction Wing, All India Radio. He joined on 04-01-1985. He was promoted to the post of Executive Engineer (Civil) in the year 1992. He was regularised as regular Executive Engineer (Civil) on June 1995. He is

Shri. Padmay

discharging his duties sincerely and to entire satisfaction to all concerned from his date of appointment in the Department. Now he has been posted as Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Guwahati-5.

4.3. That your applicant begs to state that the Office of the Respondent No. 3, i.e., The Director General of All India Radio, Civil Construction Wing, New Delhi issued an Office Memo No. C-13011/31/96-Vig. Dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 at Annexure-A to the applicant by which your applicant was charged under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965. The applicant received the Office Memo on 11-09-2000. In the said Article of Charges brought against the applicant during his posting from 1993 - 1994 as Executive Engineer (Civil) in Civil Construction Wing, All India Radio, Silchar.

Annexure-A is the photocopies of Office Memorandum Memo No. C-13011/31/96-Vig. Dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 at Annexure-A) issued by the Office of the Respondents.

4.41. That your applicant begs to state that the Article of Charges which were brought against him at a belated stage, i.e., after 7

Amarendra Singh

years during his posting as Executive Engineer (Civil), Civil Construction Wing, All India Radio, Silchar. The above charges brought against him are totally baseless and mala fide. Immediately after receiving the Article of Charges the applicant filed a representation dated 13-09-94 before the Authority by which he ¹⁴ totally denied the charges leveled against him. It may be stated that your applicant has completed 5 years regular service as Executive Engineer and he is eligible for next promotion as Superintending Engineer (Civil) for consideration on merit-cum-seniority.

Annexure-B is the photocopy of representation submitted by the applicant on 13-09-94.
¹⁴

4.5 That the applicant begs to state that the Article of charges which was brought against the applicant the Respondents have not explained the inordinate delay for issuing the above Article of charges after 7 years. There are deep conspiracy against the applicant by some interested persons who are trying to harass the applicant for their personal illegal gain. It is pertinent to mention here, that the Memorandum which was issued to the applicant was send in a wrong address, i.e., Surveyor of Works (Civil), Civil Construction Wing, All India Radio, Office of the Senior Surveyor of

Amrinder Singh

Works I, New Delhi. Your applicant is now posted as Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati and he is not posted as Surveyor of Works (Civil), New Delhi.

4.6 That your applicant begs to state that in many cases the Hon'ble Supreme Court of India and various Hon'ble Central Administrative Tribunals held that "inordinate delay in issuing charge memo would amount to bias and mala fide, the proceeding". In case of State of Madhya Pradesh Vs- Bani Singh it was held by the Hon'ble court "Where the Departmental Inquiry was initiated after many years and there was no satisfactory explanation for the inordinate delay in issuing the Charge Memo and it would be unfair to permit the Departmental Inquiry to be proceed with at this stage".

4.7 That your applicant submits that he is eligible for the next promotion as Superintending Engineer (Civil) on merit-cum-Seniority basis and as such, some interested persons are against him for depriving his due promotion for their personal gain.

4.8 That the applicant submits that the matters, which were charged against him, are very old matters of more than 7 years and things are out of his memory also it is not possible for the applicant to defend his case after so many years. There are every possibility of lost of evidence or documents which can

Amrapachay

prove the innocence of the applicant. The witnesses, who would be examined & cross-examined by the Inquiry Officer will not be able to give clear and perfect explanation of the case. It will be unfair and unjust for the applicant at this belated stage if the Department proceed furthers in this matter.

4.9 That your applicant submits that the Article charges framed against the applicant are totally baseless and false and these are totally denied by the applicant.

4.10 That your applicant submits that it will be very difficult for him to recollect all the materials, documents and records for submission of reply against the charge Memo which was issued against the applicant after 7 years and as such, it is fit case to interfere by the Hon'ble Tribunal by giving necessary direction to the Respondents for quashing the entire proceedings brought against him by the Memo of Charges dated 07-08-2000.

4.11 That your applicant submits the Respondents deliberately done serious injustice for depriving his next promotion as Superintending Engineer (Civil) and also the Respondents have given mental trouble to the applicant by issuing Memo of charges against your applicant after 7 years.

4.12] That your applicant submits that the actions of the Respondents are violative of the Principles of Natural Justice.

Amritha

4.13 That this application is filed bona fide and for the interest of justice.

4.14] That your applicant begs to state that the above said Memorandum of charges which were brought against him when he was working as Executive Engineer (Civil), Silchar, Civil Construction Wing, All India Radio, in the year 1993. The memorandum of charges was brought against the applicant on the basis of complaint which has been made by some contractors, namely, Sri Gulab Singh, Sri Dwijen Sharma and Sri Uttam Bhuiyan of Guwahati before the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio vide their letter dated 04-10-1993 and 05-10-1993. The copies of complaints were received by the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio on 08-03-2000. It may be stated that the complainants Contractors were at that relevant time were working under Guwahati Division. The said contractors never worked at Silchar Division under your applicant at the relevant time nor they are known to the applicant.

Annexure-C, D and E are the photocopies of complaint letters dated 04-10-93 and 05-10-93.

4.15] That your applicant begs to state that the complaints which were made against the applicant were based on forged signatures of the complainants contractors Sri Dwijen Sharma,

Shamshadhyay

Sri Gulab Singh and Sri Uttam Bhuiyan which were stated vide their letter dated 02-05-1995 and 20-12-94 before the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio and also before the applicant. In the said letter the contractors have stated that some body has forged their signatures and also misused the writing pads of the complainants without their knowledge and filed a forged complaint against the applicant. It is pertinent mention here that the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio has seized some documents from the Office of the Applicants on 04-10-93 whereas the complaints have received by the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio on 08-10-93. It appears that the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio was also attached with the forged complainer for taking some benefits by giving harassment to the applicant.

It is pertinent to mention here that the Central Vigilance vide their Office Memo No. 3(V)/99/2 dated 29th June 1999 issued by the Central Vigilance Commissioner has instructed to all the heads of the Departments, Government of India that, 'no action to be taken on anonymous/pseudonymous petitions/complaints'.

Annexure-F, G, H are the photo copies of letters dated 02-05-95 and 20-12-94 issued by the contractors.

Annexure F, G, H

Annexure-I is the photo copy of the details documents received from the applicants' office on 04-10-93 by the Office of the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio on 04-10-93.

Annexure-J is the photocopy of the Office Memo No. No. 3(V)/99/2 dated 29th June 1999

4.161 That your applicant begs to state that on the basis of the seized documents the Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio asked some clarification from your applicants vide his letter dated 4/8-12-93, 19-01-94, 11-03-94, 17-05-94 and 23-09-94. In response to the said letters your applicant clarified all the allegations made against him vide his letter dated 15-01-94. The Superintending Engineer (Civil), Guwahati, Civil Construction Wing, All India Radio forwarded the whole matter to the Vigilance Unit at New Delhi on 19-10-94.

Annexure-K, L, M, N & O are the photocopies of letter dated 4/8-12-93, 19-01-94, 11-03-94, 17-05-94 and 23-09-94.

Annexure-P is the photocopy of letter dated 15-01-94.

Amrapadma

Annexure-Q is the photocopy of letter dated 19-10-94.

4.17] That your applicant begs to state that the Memorandum of charges which were brought against the applicants are totally baseless and based on a false complaint lodged by some interested persons to harass your applicants for their personal gains. The vigilance unit has also taken so much time for issuing charge sheet against your applicant. Your applicant has already completed 5 years regular service as Executive Engineer(Civil). Now your applicant is due for consideration of promotion to the post of Superintending Engineer and also for consideration for higher scale of pay which is admissible for Executive Engineer(Civil) who have completed 5 years regular service as per Fifth Pay Commission Recommendation vide Ministry of personnel Public Grievance and Pension (Department of Personnel & Training) Office Memo No. 22/1/2000 CRD dated 06-06-2000.

4.18] That your applicant begs to that there is every possibility of lost of evidences or documents, which can proved innocence of the applicants. The witnesses who will be examined or cross-examined by the Presiding Officer/ Enquiry Officer will not be able to give clear and perfect explanation of the case. As such, it is a fit case to interfere by the Hon'ble Tribunal by giving necessary direction to the respondents for quashing the entire proceeding brought against him by the Memo of charges dated 07-08-2000.

Shamshad Raza



5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, in prima facie a disciplinary action cannot be taken against a Government Servant at a belated stage. A belated exercise prima facie causes prejudice to the Government Servant in defending his case.

5.2 For that, the Memorandum of Charges cannot be initiated against an Official after 7 years. Law is well settled that the Departmental enquiry cannot be initiated against a person after lapse of many years and as such Departmental Proceeding is required to be revoked or quashed.

5.3 For that, for last 7 years the Department has not initiated any inquiry in this matter, it amounts to mala fide and on the part of the Respondents and accordingly judicious interference is called for this matter.

5.4 For that, it is very difficult for applicant to recollect all the relevant materials, documents and records after long 7 years for submission of reply in defence and as such, the impugned Departmental proceeding is liable to be set aside and quashed.

5.5 For that, whole matters are out of memory of applicant and as such the entire Departmental Proceeding is liable to be set aside and quashed.

Amrinder Singh

5.6 For that it will be very unfair and unjust for the applicant at this belated stage if the Department Proceed further in this matter and as such it may be set aside and quashed. .

5.7 For that in many cases the Hon'ble Supreme Court of India and Hon'ble Central Administrative Tribunal held that inordinate unexplained delay initiating proceeding vitiates enquiry.

5.8 For that if a disciplinary action is taken against a Government servant after a long lapse of time the Department should explain the delay. If the delay is not explained it would amount to arbitrary exercise of power. But in the instant case the delay is not explained by the Department and as such the entire Disciplinary proceeding is mala fide, illegal and also motivated against the applicant.

5.9 For the, in any view of the matter the action of the respondents are not sustainable and hence the same is liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

Amrinder Singh

- That there is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR
PENDING IN ANY OTHER COURT:

That the applicant further declares that she has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prays that your Lordship may be pleased to admit this petition and may call for records of the case, issue rule calling upon the Respondents to show cause as to why the relief should not be given to the applicant and after hearing the parties on the cause or causes that may be shown and on perusal of records your Lordships may be pleased to grant the following relief to the applicant.

Shon K. Padhyay

- 8.1 To direct the Respondents to pass order declaring the Office Memo No. 13011/31/96-Vig. dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 (Annexure-A) issued by the Respondents are illegal, unconstitutional and non-warranted by the facts and circumstances of the case.
- 8.2 To grant such further or other relief or reliefs to which the applicant may be entitled having regard to the facts and circumstances of the case.
- 8.3 Grant the Cost of this application to the applicant.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the Original Application the applicant most respectfully prays for an interim order directing the Respondents not to proceed further with the Departmental Proceeding vide Office Memo No. 13011/31/96-Vig. dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 (Annexure-A) till final disposal of this instant Original Application.

10. Application Is Filed Through Advocate.

Amrapada Nayak

11. Particulars of I.P.O.:

I.P.O. NO.

Date Of Issue


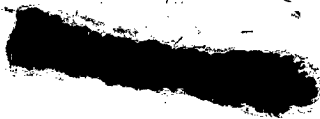
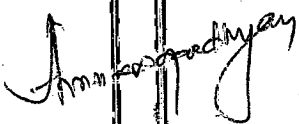
Issued from

Payable at

12. LIST OF ENCLOSURES:

As stated above.

... Verification.

VERIFICATION

I, Anup Kumar Mukhopadhyay, Son of Late Biman Bihari Mukhopadhyay, Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Tarun Nagar, Bye Lane No. 1, Guwahati-781005 do hereby solemnly verify that the statements made in paragraphs 1 to 4.2, 4.4 & 4.6, 4.17,

are true to my knowledge those 4.18

made in paragraphs 4.3, 4.4, 4.15, 4.16

are being matters of records are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification today on this the 4th day of ~~September~~ 2000.

Anup Kumar Mukhopadhyay
Declarant

भारत सरकार
GOVERNMENT OF INDIA

C-13011/31/96-V1g.

सूचना और प्रसारण मंत्रालय

MINISTRY OF INFORMATION & BROADCASTING

'ए' विंग शास्त्री भवन, नई दिल्ली - 110 001
'A' Wing Shastri Bhawan, New Delhi - 110 001तारीख 7.8.2000
Date

OFFICE MEMORANDUM

The President proposes to hold an inquiry against Shri A.K. Mukhopadhyay, Surveyor of Works (Civil), Civil Construction Wing, All India Radio, O/o Senior Surveyor of Works-I, New-Delhi (the then Executive Engineer (Civil), Civil Construction Wing, All India Radio, Silchar) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1955. 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 imputations of misconduct or misbehaviour in support of articles of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the article of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri A.K. Mukhopadhyay is directed to submit within 10 days of the receipt of this Office Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. Shri A.K. Mukhopadhyay is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny the articles of charge.

4. Shri A.K. Mukhopadhyay 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 Central Civil Services (Classification, Control & Appeal) Rules, 1955, or the orders/ directions issued in pursuance of the said rule, the Inquiring Authority may hold the inquiry against him ex-parte.

Signature

....2/-

3

Att. to E.I.
28
Advocate

5. Attention of Shri A.K. Mukhopadhyay is invited to Rule 20 of the Central Civil Services (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 interest 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 A.K. Mukhopadhyay 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 the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of the Office Memorandum may be acknowledged.

(BY ORDER AND IN THE NAME OF THE PRESIDENT)

P. K. Varma

(P. K. VARMA)

Under Secretary to the Government of India

Rm 308/4597

अवर सचिव (संकलन)

Under Secretary (Vig)

सूचना व प्रचार विभाग

) Min. of Information & Public Relations

) मिनिस्ट्री ऑफ इन्फार्मेशन एंड पब्लिक रिलेशन्स

) Through DG AIR

)

)

Shri A.K. Mukhopadhyay
Surveyor of Works (Civil)
O/o SSW-I, CCW,
All India Radio,
New Delhi

Attested
[Signature]
Advocate

STATEMENT OF ARTICLES OF CHARGE AGAINST SHRI A.K. MUKHOPADHYAY THE THEN EXECUTIVE ENGINEER (CIVIL) CCW, AIR, SILCHAR AND PRESENTLY WORKING AS SURVEYOR OF WORKS (C), SSW-1 UNIT, CCW, AIR, NEW DELHI.

ARTICLE-1

That the said Sh. A.K. Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-1, New Delhi while working as Executive Engineer (C) CCW, AIR, Silchar during the year 1993-94 had awarded the following works of carriage of materials such as cement and steel:

SILCHAR - SSW-1
Agartala - SSW-1

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/SLC/WO/83/1883-85 dt. 1.6.93).
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar to telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

The above three works were awarded in the name of M/s Sunco Trade and Enterprises which was falsely represented by Sh. Uttam Choudhary. Eventhough Sh. B. Chakraborty is the sole proprietor of the said firm, Sh. Uttam Chaudhary falsely represented the said firm and entered in to contracts with the department in connivance with departmental officials Shri Mukhopadhyay and Sh. Ashutosh Rai the then Assistant Engineer (C). Before entering into contract with the department in the name of M/s Sunco Trade and Enterprises, Shri Uttam Chaudhary was holding the power of attorney of M/s North East Roadways and well known to the departmental officials including Sh. Mukhopadhyay.

Similarly, Shri A. Sahani was working with M/s. Arunachal Carrying Corporation but the tender papers were issued to him on behalf of M/s North East Roadways. This fact has been admitted by Sh. Mukhopadhyay. The contract was awarded by Sh. Mukhopadhyay without scrutinising the documents properly. This is evident from the fact that the signature on different documents by Sh. Uttam Choudhary and Sh. A. Sahani are found varying and the question of authenticity and correctness of the documents produced by them to the department seems to be forged.

While entrusting the carriage work to the agency the Executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilferage, while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol. II 1990 (Khanna's

....2/-

Rev. (P.K. VARMA)
अवर सचिव (प्रशासन)
Under Secretary (Adm.)
Ministry of Information & Public Relations
Government of India

Attested
Advocate

Compilation) Bank Guarantee amounting to 10% of the contract amount, in addition to the security deposit has to be obtained from the conveyance agencies before commencement of work. Sh. Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By the above act Sh. A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services Conduct Rules 1964.

ARTICLE-II

That the said Sh. A.K. Mukhopadhyay issued the work order no. EE/SLC/WO/83/1983-85 dated 1.6.93 for conveyance of 50 MT of cement from Silchar to Shillong in the month of June 1993. In the month of August 93, 150 MT of cement was retransported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This is improper management by Sh. Mukhopadhyay causing infructuous expense to the exchequer in the carriage of material. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid retransportation to Silchar.

The rate adopted to justify the rates of transport is also found varying in different justification. The rate of hiring of truck per day has been found @ Rs. 750/- for the work of carrying cement from Silchar to Shillong and for the other works of carrying materials from Silchar to Guwahati and Agartala to Silchar, the rate was taken @ Rs. 1500/- per day. This shows that the justification was inflated by Shri Mukhopadhyay and the concerned Assistant Engineer(C) in-charge of work.

By the above act Sh. Mukhopadhyay, has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-III

That the said Sh. Mukhopadhyay the then Executive Engineer (C) CCW, AIR, Silchar had awarded the work on work orders in the financial year of 1993-94 for an amount of Rs. 11.79 lakhs, exceeding the limit of Rs. 5 lakhs prescribed for Executive Engineer(C) in the CPWD Manual and thus violated the guidelines as per CPWD Manual Vol. II 1990 (Khanna's Compilation) para 5, Section 16.

(Signature)
- (10% VANDAL)
- (10% VANDAL)
Under Secretary (C)
- (10% VANDAL)
- (10% VANDAL)
- (10% VANDAL)
Govt. of India, New Delhi

Attested
(Signature)
Advocate

By the above act Sh. Mukhopadhyay had failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-IV

That the said Sh. A.K. Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar disobeyed the instructions of his superior i.e. the Superintendent Engineer (C), Guwahati vide his circular no. AIR/CCW/SE_GH/CONF-4/93/695-704 dated 11.1.93 that no work should be awarded to Shri Uttam Chaudhary who had falsely represented the firm M/s Sunco Trade and Enterprises. Sh. Mukhopadhyay continued to award different works to Sh. Uttam Chaudhary by defying the orders of the Superintending Engineer.

By the above act Sh. A.K. Mukhopadhyay had shown wilful insubordination or disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules 1964.

U.C. of India, New Delhi

Attested
Sd/-
Advocate

STATEMENT OF IMPUTATION OF ARTICLES OF MISCONDUCT OR MISBEHAVIOUR AGAINST SH. A.K. MUKHOPADHYAY THE THEN EXECUTIVE ENGINEER (CIVIL) CCW, AIR, SILCHAR AND PRESENTLY WORKING AS SURVEYOR OF WORKS (C) OFFICE OF SSW-1, CCW, AIR, NEW DELHI.

ARTICLE-I

That the said Sh. A.K. Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-1 New Delhi while working as Executive Engineer (C) CCW, AIR, Silchar during the year 1993-94 had awarded different works including the following works of carriage of materials such as cement and steel.

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/SLC/WO/83/1883-85 dt. 1.8.93).
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar to telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

All the above said works were awarded in the name of M/s Sunco Trade and Enterprises which was falsely represented by Sh. Uttam Choudhary. Eventhough Sh. B. Chakraborty is the sole proprietor of the said firm, the tender / quotation papers were issued to Sh. Uttam Chaudhary on forged documents. Before taking works under the name of M/s Sunco Trade and Enterprises he was holding the power of attorney of M/s North East Roadways which was an established agency in the department. The connivance of Sh. Mukhopadhyay and the concerned Assistant engineer (C) has been found in the issue of tender documents to Sh. Uttam Chaudhary in the name of M/s Sunco trade and Enterprises. Shri Uttam Chaudhary was found in his possession two Income-tax Clearance Certificates one in his own name and another in the name of M/s Sunco Trade and Enterprises. The signatures of Sh. Uttam Chaudhary has been found varying in both the Income-tax Clearance certificates and no effort was made by both Shri Mukhopadhyay, Executive Engineer (C) and Sh. Ashutosh Rai, Assistant Engineer (C) to verify the authenticity of the documents produced by the same person, one in his name and other in the name of the firm M/s Sunco Trade and Enterprises.

Sh. A. Sahani was working with M/s. Arunachal Carrying Corporation but the tenders were issued to him on behalf of M/s North East Roadways. It is further found that the signature of Sh. Sahani was different on tender papers and it has been found that he had not visited Silchar during the time of tendering of the above-mentioned work. Hence the

[Handwritten signature]
 1. *[Handwritten signature]*
 2. *[Handwritten signature]*
 3. *[Handwritten signature]*
 4. *[Handwritten signature]*
 5. *[Handwritten signature]*
 6. *[Handwritten signature]*
 7. *[Handwritten signature]*
 8. *[Handwritten signature]*
 9. *[Handwritten signature]*
 10. *[Handwritten signature]*

[Handwritten signature]
[Handwritten signature]
[Handwritten signature]

signature of Sh.A.Sahani representative of M/s Arunachal Carrying Corporation was forged in the tender schedules. There was no proper verification of credentials by Assistant Engineer and Executive Engineer (C). In all the three cases it is found that while issuing the tender/quotation, no details regarding the registration, Income-tax Clearance was recorded in the schedule by the issuing officer. Sh. Mukhopadhyay issued work order/awarded the work without properly verifying the said requisites.

While entrusting the carriage work to the agency the Executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilfrage as usual practice while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol.II 1990 (Khanna's Compilation) Bank Guarantee amounting 10% of the contract amount in addition to the security deposit has to be obtained from the conveyance agencies before commencement of work. Sh.Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By the above act Sh. A.K.Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3 (1) (iii) of Central Civil Services Conduct Rules 1964.

ARTICLE-II

That the said Sh. A.K.Mukhopadhyay while working as Executive Engineer (C), CCW, AIR, Silchar has awarded the work of carriage of 50 MT of cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown vide work order no. EE/SLC/WO/83/1983-85 dated 1.6.93. In the month of August 1993 again 150 MT of cement was retransported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This amounts to total mismanagement on the part of Sh.Mukhopadhyay, inviting doubts in creating wasteful works causing infructuous expenditure to the exchequer. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid retransportation to Silchar. As per para 42 of the CPWD Manual it is the duty of the Executive Engineer to execute the works economically with efficient management.

The rates adopted in the local market justification was also found varying. The rate of hiring of truck per day has been taken @ Rs.750/- for the work of carriage of cement from Silchar to Shillong, and for the other work of carrying of material from Silchar to Guwahati, Silchar to Agartala, the rate adopted in the justification was @ Rs. 1500/- per day. Thus the justification were found inflated and awarded the works at higher rates.

.....3/-

(Signature)

Attested
(Signature)
Amazito

By the above act Sh. Mukhopadhyay, has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-III

That the said Sh. Mukhopadhyay has awarded the work through work orders amounting to Rs. 11,78,699/- during the financial year of 1993-94 which is beyond the financial powers delegated to Executive Engineer to award the work through work order. As per CPWD Manual Vol. II 1990 (Khan-na's Compilation) para 5, Section 16, the maximum financial limit of award of work through work orders by the Executive Engineer in charge of construction and maintenance division should not exceed beyond Rs. 5.00 lakhs per annum. Thus Sh. A.K. Mukhopadhyay violated the guidelines laid down in CPWD Manual Vol. II by exceeding the financial powers delegated.

By the above act Sh. Mukhopadhyay has failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-IV

That the said Sh. A.K. Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar was given instructions by the then Superintendent Engineer (C) to stop the payment of M/s Sunco Trade and Enterprises vide an express telegram dated 8.10.93 and not to award any work vide circular No. AIR/CCW/SE-GH/CONF-4/93/695-704 dt. 11.11.93 in favour of Shri Uttam Chaudhary. In spite of it, Shri Mukhopadhyay awarded several works to Sh. Uttam Chaudhary in work orders amounting to Rs. 1,36,170/- for the period ending upto March 94. Sh. Uttam Chaudhary had falsely represented the firm M/s Sunco Trade and Enterprises which was actually owned by Sh. B. Chakraborty. However, Sh. Mukhopadhyay disobeyed the instructions given by his superior. This is wilful disobedience on the part of Sh. Mukhopadhyay to the orders of his superior.

By the above act Sh. A.K. Mukhopadhyay has shown wilful disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

Pen (कोड देना)

(D.K. VARMA)

उप सचिव (नगर)

Under Secretary (City)

राष्ट्रीय नगर विकास आयोग

नगर विकास विभाग

नगर विकास विभाग, नई दिल्ली

Govt. of India, New Delhi

Attended
Sil
Advocate

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SH. A.K. MUKHOPADHYAY, THE THEN EXECUTIVE ENGINEER (C), CCW, AIR, SILCHAR, PRESENTLY WORKING AS SURVEYOR OF WORKS (C), O/O SSW-1, CCW, AIR, NEW DELHI ARE PROPOSED TO BE SUSTAINED.

- 1) Work order no. EE/SLC/WO/83/1983-85 dated 1.6.93.
- 2) Agreement no. EE/SLC/24/93-94.
- 3) Agreement no. EE/SLC/25/93-94.
- 4) Draft NIT no. EE/SLC/28/93-94.
- 5) Draft NIT no. Nil for the work of carriage of Steel from CCW, AIR, Silchar to Telecom Civil Div. Guwahati.
- 6) Rejected tender of M/s North East Roadways. (Two nos.)
- 7) Notice inviting quotations No. AE/CCW/SLC/93-94/39(1)/68-72 dated 22.5.93. (with schedule and envelopes) 3 nos.
- 8) Analysis of rates for local market justifications for the carriage works (3 Nos.).
- 9) Letter no. EE/SLC/Tend/082/634 dt. 24.03.95.
- 10) Circular no. EE/CCW/SE-GH/Conf.-4/93/695-704 dt. 11.11.93.
- 11) Letter no. EE/SLC/Tend/082/594 dt. 05.01.95.
- 12) Income Tax Clearance Certificate in the name of
 - a) M/s Sunco Trade and Enterprises
 - b) Sh. Uttam Chaudhary (2 nos.)
- 13) Letter no. ACC-121-93/94 dt. 4.11.93 from M/s Arunachal Carrying Corporation
- 14) Letter dt. 14.10.93 by Sh. Uttam Chaudhary.
- 15) Letter dt. 1.11.93 from M/s North East Roadways.
- 16) Letter dt. 14.10.93 by Sh. B. Chakraborty.
- 17) CPWD Manual Vol. 1990 (Khanna's Compilation) Section 28, para 4.

....2/-

Attest
 [Signature]
 Ananta

18) Submission of tender documents by Sh. A. Sanani under the letterhead of M/s North East Roadways dt. 28.05.93.

19) CPWD Manual Vol. II (Khanna's Compilation) Section 16, Para-5.

20) CPWD Code para 42

21) Letter no. AIR/CCW/SE-GH/CONF-4/93/943 dt. 20.6.94 endorsing the express telegram.

22) Power of Attorney of M/s North East Roadways in the name of Sh. Uttam Chaudhary vide deed no. 413 alongwith Circular no. NER/81/93-94/ dt. 15.8.93.

23) Circular No. AIR/CCW/SE-GH/CONF-4/93/695-704 dated 11.11.93.

(Signature)
()

M. *(Signature)*
Govt. of India, New Delhi

Advocate
(Signature)

LIST OF WITNESSES BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SH.A.K.MUKHOPADHYAY, THE THEN EXECUTIVE ENGINEER (C), CCW, AIR, SILCHAR, PRESENTLY WORKING AS SURVEYOR OF WORKS (C), O/O SSW-I, CCW, AIR, NEW DELHI ARE PROPOSED TO BE SUSTAINED.

- 1) Sh. Munshi Lal, retired Chief Engineer (C)-II, CCW, AIR, 121, Munirka Vihar, New Delhi.
- 2) Sh. Ashutosh Rai, Junior Engineer (C), O/o the SSW-I, CCW, AIR, Lok Nayak Bhawan, New Delhi.
- 3) Sh. Uttam Chaudhary, son of Late Sh. J.C. Chaudhary, Kushal Nagar, Bamuni Maidan, Guwahati-781021.
- 4) Sh. B. Chakraborty, Proprieter, M/s Sunco Trade and Enterprises, House no. 107, Kushal Nagar, Bamuni Maidan, Guwahati-781021./New Guwahati Railway Colony market, Guwahati-21.
- 5) Sh. D. P. Aggarwal, Proprieter, Arunachal Carrying Corporation, KB 3, Barooah market, T.R. Phookan Road, Fancy Bazar, Guwahati-7810601.
- 6) Sh. A. Sahani, C/o Arunachal Carrying Corporation, Barooah Market, T.R. Phookan Road, Fancy Bazar, Guwahati-7810601.

(Signature)

Off. of India, N. India

*Attested
S. L. Advaita*

- 30 -

Regd. Post

Confidential

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(Vigilance Unit)

No. C-13013/19/94-SW(V)-II/ 393

Dt. 25-8-2k

Sh. A.K. Mukhopadhyay
Executive Engineer(c)
CCW: AIR
Guwahati.

Subject: Initiation of disciplinary proceedings against Sh. A.K. Mukhopadhyay, EE(C), CCW, AIR, New Delhi.

Please enclosed herewith Min. of I&B 's office memorandum no. C-13011/31/96-Vig. dt. 7/8/2000 in the work of " Misuse of powers in issue of quotations and tenders by Sh. A.K. Mukhopadhyay the then EE(C) Silchar.

It is requested that the dated acknowledgment of the above stated memorandum , in triplicate may be sent immediately , to this office, for onward transmission to DG AIR/Ministry of I&B.

This issues with the approval of CE-I

Encl:

1. office memorandum No. C-13011/31/96-Vig. dt. 7.8.2000(in original)
2. Acknowledgement slips in triplicate.

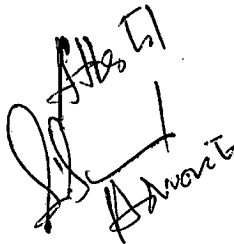


(M.R.K. NAIR)
Surveyor of Works ©(V)-I

Copy to :

DG AIR, Sh. Naresh Jaiswal, S.O. (Vig.) , Akashwani Bhawan, New delhi with reference to I.D. Note No. 7/11/97-VIG. DT. 16.8.2000 for information.

Surveyor of Works ©(V)-I



- 31 -

ANNEXURE B

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
GUWAHATI DIVISION: TARUN NAGAR: BYE LANE I
GUWAHATI-781005

No. GCD/AIR/GO-PF/AKM/

Dated: 13-09-2000

To
Shri P.K. Verma
Under Secretary to the Govt. of India
Ministry of Information & Broadcasting
A-Wing, Shastri Bhawan
New Delhi-110001.

Sub: Memorandum No. C-130011/31/96-V-Vig dated 7-8-2k on the subject of "Misuse of Power in issuing of quotations and the tenders by Shri A.K. Mukhopadhyay, the then EEO, Silchar".

Sir,

This has reference to the above letter proposing to hold an enquiry against me under Rule 14 of Central Civil Service Rule-1965. It is quite surprising to receive such charge sheet due to following reasons:

1. Charge sheet has been issued after a lapse of 7 years which is belated and therefore it is time barred.
2. Charge sheet has been given without issuing any memorandum or asking any explanation from the vigilance section as an defense statement on the facts mentioned therein.
3. Charge sheet has been framed based on all false complaints
4. Charge sheet has been issued neglecting some of the defense statements submitted by me to the then SEO.

THEREFORE, I WOULD LIKE TO INFORM YOU THAT I TOTALLY DENIED THE CHARGES LEVELLED AGAINST ME.

Yours faithfully,

(Signature)
(A.K. MUKHOPADHYAY)
Executive Engineer(Civil)
CCW AIR Guwahati Division

(Signature)
Advocate

DWIJEN SHARMA

LABOUR & CIVIL CONTRACTOR
P. O. NOONMATI, GUWAHATI-781020

Ref. No.

Confidential

Date 5.10.93

To

The Superintending Engineer(Civil),
C.C.W., All India Radio, Zoo-Barang Tinali,
Guwahati-21.

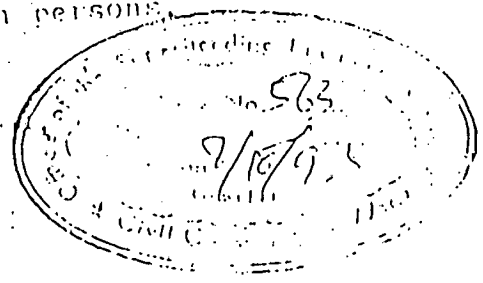
Sub : Performance of Govt. works by departmental Engineer in
C.C.W. Air, Silchar.

Dear Sir,

I have come to know that recently June, July to September/93 in your Silchar Division Office there was chaos relating to Tenders for Community contracts of Civil carriage at Agartola and Silchar. It has also come to my knowledge that the Executive Engineer(C) Office and Assistant Engineer Sub-Division Office at Silchar are Executing departmental works un-officially supporting as per partner share Type in the name of other contractors whose no credentials like experience, financial position previous works position nil in carriage works are available even they have awarded carriage works to some unknown persons/without taking any Bank guarantee and partnership proprietorship Deed/ I.T.C./Sales Taxes/ no any office establishment/Telephone may given for safety of Govt. matter materials.

I, therefore, request you sir your goodself to kindly make necessary enquiry and take necessary action against the above departmental officers and see in future no tender papers issued to such unknown persons.

Thanking you



BA
urgent
08/10/93

Yours faithfully,

Dwijen Sharma
(Dwijen Sharma)
Noonmati, Guwahati.

Advocate

- 33 -

ANNEXURE - D

(50)

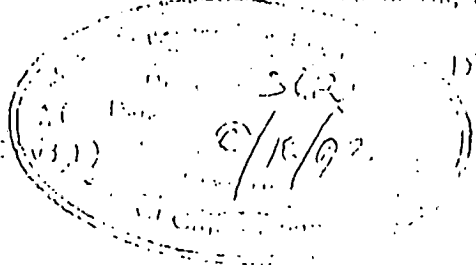
Singh

Builders & Contractor
IFW Class I/14 (PWD Nagaland)

Molokhunda Standard, Phung, 94110
Rupahi Ali, Jorhat Phone: 21796

Date: 10-10-93

To
The Superintending Engineer (C-1)
C.C.W. Ali,
GUWAHATI-2.



Sub: Misuse of power in respect of
tender in Silcher Division

Sir,

We have come to know that the AC(c) and EE(c) Silcher are awarding carriage works to some unknown contractors/firms, without taking any bank guarantee and previous experience. Financially sound certificate etc. and previously also no carriage tender have been put out in this and other department. It is come to know that AC(c) and EE(c) Silcher is having partnership with the firm, who has no existence at all.

We therefore, request your goodself to kindly make necessary enquiry on the above case of carriage tender for safety of Government materials and also to prevent the blame to the actual carriage contractors.

Thanking you,

(Signature)

10/10/93

Yours faithfully,

(Signature)

(Signature)

Atk (c)

(Signature)
Atk (c)

Uttam Bhuyan
Class I. Civil Engineer (Contractor)

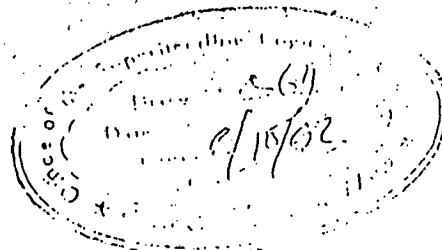
Ref. No.

7/3
ANNEXURE - B

SANIRAM BORA ROAD
GUWAHATI-781002

Confidential
Date: 10/93

34-
To
The Superintending Engineer (Civil)
CCW, AIR,
Guwahati-21.



Sub:- Performance of Govt. Works by Departmental
officers in CCW, AIR, Silchar.

Sir,

I have come to know that recently in your Silchar Division office there was ~~cheat~~ relating to tenders for community contracts at Agartala and Silchar. It has also come to my knowledge that the A.E(c) and E.E.(c) at Silchar are executing departmental works unofficially as partner in the name of other Contractors/Firms, whose no credentials like experience, financial position, previous working experience are available. Even they have awarded carriage work to some unknown persons/firms without taking any back guarantee for use of Govt. materials.

I therefore request your goodself to kindly make necessary enquiry and take necessary action against the above departmental officers and see that in future no tender paper issued to such contractors/firms.

Thanking you,

ED (10/93)
10/11/93
Your's faithfully,
(Uttam Bhuyan)
Saniram Bora Road
Guwahati-781002

Ats El
Sh
Aswate

Gulab Singh

Engineers, Builders & Contractor

Regd. No. NPW Class 1/14 (PWD Nagaland)

Ref. No. Nil.

ANNEXURE-F

Mokokchung Nagaland Phone-83459
Rupahi Ali, Jorhat Phone-21794

Date 2.5.95.

To

The Suprintending Engineer (C)
Civil Construction Wing
All India Radio
Guwahati.

Sub:- Misuse of power, and matter regarding.

Sir,

We have come to know that somebody has made complain in our name against the Executive Engineer, C.C.W; A.I.R; Silchar Division.

We horeby clarify that we have not made any such complain. We are not interested in carrying bussiness at all. Secondly we have no other work projects in that area. Such complain may be ignored which is forged and fabricated and not submitted by us. The fabrication may be kept in book for taking legal action against them.

Yours faithfully,

Gulab Singh
(GULAB SINGH)

Copy to:-

1. ✓ The Executive Engineer (C)
C.C.W; A.I.R;
Silchar.

Gulab Singh 2/5/95
(GULAB SINGH)

Attd
Shank

AM BHUYAN

Regd. Contractor

1 (A) Roads

1 (A) Building

Sam P. W. D.

Ram Bora Road

LACHIT NAGAR, GUWAHATI-1



27515

ANNEXURE - G

36-

Ref. No. _____

Date. _____

To The Executive Engineer C.E. & D.R.
Sohar. Assam.

Subj:- False allegation against you (circulated by
working carriage contractor. In your Department
against you.

Sir:- I am shocked to hear some body with their
interest, given allegation against you to SE. (Civil)
D.R. Gantoli, by using by name with false signature.
So I am given you clarification that I have
never given any allegation against you, neither
I have made any signature, on my letter pad to
anybody. My original signature can be verified
by yourself. In this letter also.

I have by request you not to entertain
the above mention forged complaint letter.

Thanking you.

Yours faithfully..

37-
DWIJEN SHARMA

LABOUR & CIVIL CONTRACTOR
P. O. NOONMATI, GUWAHATI-781020

12/3
ANNEXURE - H

Ref. No.

Date

20/12/94

To the Executive Engineer (Civil)
ALR C.C.W. Silchar

Subj: Clarification against complain letter of
Working Carriage Contractor to S.E. (Civil) C.C.W.
ALR Guwahati.

Sir,
This is to draw your kind notice that it
will come to know from reliable source. A
working carriage contractor in your department
had made a complain in my name. I am
very much sorry to say that I have never
done any complain to S.E. (Civil) ALR C.C.W. GHY.
Only last year the carriage contractor Arunachal
Carriage Corporation, or North East Roadways has
taken from me sign letter pad. It will be very
much possible who used my sign letter pad for
fabricating forged complain letter.

Sir, I have never done any work in your
division and I have no grivance with you.
So, that this type of letter will hamper my
business reputation.

So, you are requested kindly enquire the
above fact and not to entertain the above forged
letter.

Thanking you

Yours faithfully,

Dwijen Sharma
(Dwijen Sharma)

Attd
S
Advocate

The following documents received in original from the Executive Engineer (Civil), CCA, AIR, Silchar :-

1. Tender opening register (S) opened on 4/5/91 - 1 no.
2. Application letters of contractors asking for issue of tender form for the work carriage of cement by mechanical transport from Agartala to CCA, AIR, at Akarhat from the following contractors :-
 - (i) Application letter dt. 16/7/93 of Shri Pradip Puskayasth, Silchar.
 - (ii) Application letter dt. 14.7.93 of M/s North East Roadways, Akarhat.
 - (iv) Application dt. 14.7.93 of M/s Sumeo Trade & Enterprise, Akarhat and letter dt. 8.7.93 along with memorandum no. 59(2) AEE/CE/87 dt. 17.2.87 and S.T. Chakraborty & Co. dt. 5/1/93 in duplicate (photo copies).
 - v) Draft NIT no. EE/SLC/28/93-94 for the work stock & storage (SH: - Carriage of cement from Agartala to Silchar by mechanical transport and re-stocking of cement at Agartala godown)
 - (vi) Unsuccessful tender 2 (two) nos. for the above work.
 - (vii) c/s and justification including note sheet total - 8 pgs.
 - (viii) Original agreement no. EE/SLC/24/93-94 for the work shown at sl. no. 2.
 - (ix) Photo copy of Partnership deed and deed no. H13 of 2.30/- only General Power of Attorney.
3. W/o no. EE/SLC/WO/83/1883-85 dt. 1.6.93 issued to M/s Sumeo Trade & Enterprise, Akarhat for the work carriage of cement by mechanical transport from Silchar to Shillong along with 3 nos. quotations, c/s and analysis of rates in original.
4. Original agreement no. EE/SLC/25/93-94 for the work stock & storage (SH: - carriage of steel from CCA, AIR, Silchar to above Civil Division, Akarhat) along with 2 nos. of unsuccessful tender and original draft NIT, c/s and justification statements.
5. Tender sale register 100 for sale of tender forms from 1992-93.

Attd.

28

Admit

Done (P. R. Deka, et al)

4/10/93

-39-

ANNEXURE - J

No.3 (v)/99/2
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 29th June 1999

DO-V

12/6/99

C
7 files

Subject: Improving vigilance administration - no action to be taken on anonymous/pseudonymous petitions/complaints.

By virtue of the powers invested in the CVC under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4th April 1999, the CVC is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government.

2. One of the facts of life in today's administration is the widespread use of anonymous and pseudonymous petitions by disgruntled elements to blackmail honest officials. Under the existing orders, issued by Department of Personnel & Training letter No.321/4/91-AVD.III dt.29.9.92, no action should be taken on anonymous and pseudonymous complaints and should be ignored and only filed. However, there is a provision available in this order that in case such complaints contain verifiable details, they may be enquired into in accordance with existing instructions. It is, however, seen that the exception provided in this order has become a convenient loophole for blackmailing. The public servants who receive the anonymous/pseudonymous complaints, generally, follow the path of least resistance and order inquiries on these complaints. A peculiar feature of these complaints is that these are resorted to especially when a public servant's promotion is due or when an executive is likely to be called by the Public Enterprises Selection Board for interview for a post of Director/CMD etc. If nothing else, the anonymous/pseudonymous petition achieves the objective of delaying the promotion if not denying the promotion. These complaints demoralise many honest public servants.

1055/99/11

C/D

12/6/99
Advocate

3. A person will resort to anonymous or pseudonymous complaints because of the following reasons:

- i. He is an honest person who is a whistle blower but he is afraid to reveal his identity because of fear of consequences of the powerful elements in the organisation.
- ii. He is a blackmailer who wants to psychologically pressurise the public servant complained against

4. There could be a view that if the anonymous/pseudonymous complaints contain an element of truth and if no action is to be taken on them then an important source of information will be lost. To that extent, corrupt practices may get a boost. At the same time the Central Vigilance Commission has initiated a number of steps to provide a channel of communication against the corrupt public servants. These measures include the following:

- i. Under CVC's order No.8 (1)(h)(1) dated 18.11.98, even junior officers can complain to the CVC in cases of corruption against the seniors;
- ii. The CVC has issued instructions that the name of the complainant will not be revealed when the complaint is sent to the appropriate authorities for getting their comments or launching inquiries;
- iii. Under CVC Order No. 8(1)(g)/99(4) dated 12th March 1999, in every office there should be public notice displayed directing that no bribe should be paid. If any bribe is demanded, the complaint should be made to the appropriate authority like CVO, CVC etc.; and
- iv. The CVC is now available on web - <http://cvc.nic.in> If anybody wants to complain they can easily lodge complaints on the website of CVC and also through e-mail - vigilance@hub.nic.in


5. In view of the above measures taken, there is very little possibility that genuine cases of corruption will not be brought to the notice of the appropriate authorities by those who were earlier resorting to anonymous/pseudonymous complaint route.

AS
AHS
B

-41-

6. It is, therefore, ordered under powers vested in the CVC under para 3(v) of the DOPT Resolution No.371/20/99-AVD.III dated 4th April 1999 that with immediate effect, no action should at all be taken on any anonymous or pseudonymous complaints. They must just be filed.

7. This order is also available on web site of the CVC at <http://cvc.nic.in>
All CVOs must ensure that these instructions are strictly complied with.


29.6.99
(N. VITTAL)
CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries /Departments/PSEs /Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) President's Secretariat/ Vice-President's Secretariat/Lok Sabha Secretariat/ Rajya Sabha Secretariat/PMO

Attested
Advocate

GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER (CIVIL)
CIVIL CONSTRUCTION WING :: ALL INDIA RADIO ::
GUWAHATI CIRCLE OFFICE

No. AIR/ECM/SE-GH/Conf. 4/93/752

Dated: 14.12.1993

Subject: Issue of quotation and tender to M/s Sunco Trade & Enterprise, Guwahati.

In connection with the issue of quotations for the work for carriage of SOM.T. Cement from Silchar CCW, AIR, Store to Shillong, QOW, AIR, Store, the following clarifications are wanted from the EE(C), CCW, AIR, Silchar immediately.

1) The Sealed quotations were invited by the AE(C), Silchar vide his notice inviting quotation dt. 22.5.93 from approved and eligible Contractors of CPWD, MES, State PWD, railways and P & T for the above work and were opened at 4 P.M. on 29.5.93. Consequently three quotations were received from i) Shri Bhabani Prasad Choudhury, ii) M/s North East Roadways, Guwahati (Under Sig. of some, Shri A. Sahani) and iii) M/s Sunco Trade & Enterprise, Guwahati (Under Sig. of Shri Uttam Choudhury).

Since the quotations were to be from approved and eligible Contractors of CPWD, MES, P & T, State PWD and railways for the above work, it is not known as to how the three Contractors namely Shri Bhabani Prasad Choudhury, M/s North East Roadways and M/s Sunco Trade and Enterprise were treated approved and eligible Contractors as no such details were received by the AE(C) from those Contractors.

2) It is not understood as to how a new private Agency has been treated by the AE(C) and the EE(C) for carriage of Govt. materials without any bank guarantee or any other security about safety of Govt. materials.

3. Shri Uttam Choudhury was power of attorney holder of M/s North East Roadways, Guwahati upto 15.8.93 and copy of such power of attorney was lying with the EE(C), Silchar. It is not understood as to how the AE(C) & EE(C) accepted a quotation of M/s Sunco Trade and Enterprises signed by Shri Uttam Choudhury. In this case Shri Uttam Choudhury had power of attorney of M/s North East Roadways and not that of M/s Sunco Trade Enterprises. It is further seen that the quotation of M/s North East Roadways was signed by some, Shri A. Sahani, who does not have such power of attorney of M/s North East Roadways. The authority was with Shri Uttam Choudhury only who has submitted the lowest quotation in the name of M/s Sunco Trade and Enterprise. It is therefore not understood as to how the AE(C) and EE(C) accepted the quotation of M/s Sunco Trade & Enterprise, Guwahati under the Sig. of Shri Uttam Choudhury.

4. M/s North East Roadways, Guwahati had requested EE(C) Silchar for issuing tender for carriage of Cement from Agartala to Silchar vide their letter dt. 14.7.93, under Sig. of Shri A. Sahani on letter dt. 14.7.93 and on letter dt. 28.5.93 (Photo copies of both letters enclosed) clearly show that the signatures were forged ones. M/s North East Roadways have also confirmed that Shri A. Sahani was either manager in the firm, M/s North East Roadways or a power of attorney holder of the firm. This shows that these quotations were not genuine ones.

Contd ..2/-

Handwritten signature and initials at the bottom of the page.

5) It is seen that the final bill of all Studio's Staff quarters, Jowai has been prepared and lying in Sub-Division. There is no other work in progress in Shillong sub-Division, which means that there is no immediate necessity of Cement at Shillong to justify the cartage of cement on emergent basis, on the contrary, it is seen that the quotations were opened on 29.5.93 dealt in Sub-Division office on 29.5.93 only and forwarded to the EE(C) on 29.5.93 itself. They were dealt in Division Office on 30.5.93 in spite of being holiday i.e. Sunday and also the representative of M/s Sunco Trade & Enterprise, Shri Uttam Choudhury was invited on 1.6.93. The negotiations were conducted on 1.6.93 and work awarded by EE(C) on 1.6.93 itself. When there was no immediate requirement of cement in Shillong, why extra and unusual effort was made to award the work within 2(Two) days from the date of opening and also these two days include one closed holiday i.e. Sunday.

6. It is also seen that Shri B. Chakraborty is treated as sole proprietor of the firm, M/s Sunco Trade & Enterprise Guwahati but Shri Uttam Choudhury is either proprietor or any power of attorney holder of M/s Sunco Trade and Enterprise. As such how EE(C) & AE(C) issued the quotation to M/s Sunco Trade and Enterprise Guwahati is not understood.

The EE(C), Silchar is therefore directed to furnish his clarifications on the above points immediately through speed post for further necessary action at this office.

Encl : As above.

(Munshi Lal)
Superintending Engineer (Civil),
CCW: All India Radio, Guwahati.

To
The Executive Engineer (Civil),
(Shri A.K. Mukhonadhyay - by name),
Civil Construction Wing,
All India Radio,
DOK Complex,
Silchar.

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GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER (C)
CIVIL CONSTRUCTION WING: ALL INDIA RADI
G U W A H A T I :

ANNEXURE - K

No.: AIR/CCW/SE-GH/Conf. 4/93 / 268 / Date: 19.1.94

Two staff members namely Sri A. Das, Clerk grade-I and Sri P.R. Deka, Clerk grade-I of this office were deputed to collect certain records pertaining to award of work of Cartage of cement/steel by mechanical transport for the work stock and storage (a) Carriage of cement from Agartala to Silchar and re-stacking of cement at Agartala go-down (b) Carriage of steel from CCW, AIR, Silchar to Telecom Civil Division, Guwahati.

The position of these two cases stands as follows:

	Carriage of cement from Agartala to Silchar and re-stacking of cement at Agartala go-down.	Carriage of cement from CCW, AIR, Silchar to Telecom Civil Division, Guwahati.
1. Tender invited vide letter no. and dt.	Nil	Nil
2. Tender opened on	20.7.93	30.8.93
3. The agencies participating in the tender were	1. Sri Pradip Purkayastha. 2. M/S North East Roadways, Guwahati 3. M/S Senco Trade & Enterprise, Guwahati.	1. Sri Pradip Purkayastha. 2. North East Roadways, Guwahati. 3. M/S Senco Trade & Enterprise, Guwahati.
4. The lowest Agency	1. M/S Senco Trade & Enterprise, Guwahati.	1. M/S Senco Trade & Enterprise, Guwahati.
5. The genuine and real credentials of the agencies on account of which, the tenders were issued to them by SE(C) ensuring safety and security of Govt. materials.	Nil	Nil
6. Legal documents on the basis of which, proprietorship of Sri Uttam Choudhury was accepted by the SE(C) for lowest contractor i.e. M/S Senco trade & enterprise, Guwahati.	Nil	Nil
7. The date of opening of tender.	20.7.93	30.8.93
8. Date of award of work to M/S Senco Trade & Enterprise through Proprietor Sri Uttam Choudhury.		1.9.93

.....p/2

A. Das
P.R. Deka

-45-

The following observations are made.

Undue haste was made by the E.E(C) in awarding the works i/c tender scrutiny and tender dealing, preparation of market rate justification, checking of market rate justification. Even the works of emergent nature like erection of steel towers at Kailasahar, Balonia, Lunglei and Hailong were dealt and awarded at a very comparatively slower speed. The reason for taking extra and uncommon interest to award the work to M/S Sunco Trade & Enterprise, Guwahati may be intimidated.

2. On contacting the o/a the M/S Sunco Trade and Enterprise at Guwahati it is found that the genuine proprietor of this firm is Sri B. Chakraborty and Sri Uttam Chowdhury accepted by you as Proprietor of the firm is false. This false Proprietor could succeed in getting tender from you without producing original registration, income tax clearance and experience certificate of having done cartage ~~done~~ earlier.

W or Z

Please prove that this all has not happened with your consent.

3. Sri Uttam Chowdhury was the power of attorney holder of M/S ~~xxxx~~ North East Roadways, Guwahati upto August '93 and such power of attorney holder of M/S North East Roadways Guwahati upto August '93 and ~~such power of attorney was~~ ~~xxx~~ lying in your office at the time of acceptance of these tenders. Please clarify as to why you did not doubt proprietorship of Sri Uttam Chowdhury for lowest contractor M/S Sunco Trade & Enterprise, where both have tendered.

4. Sri A. Sahani has been accepted by you to tender on behalf of M/S North East Roadways without any authority for the same. It is found that Sri A. Sahani, although working as employee of this firm, was in Itanagar and he had not visited Silchar for this purpose. Thus the sign of Sri A. Sahani is false. Please submit authority under which you have represented of M/S North East Roadways that too under false signature.

Accepted Sri A Sahani w

To
The Executive Engineer(C)
CCW, All India Radio,
Silchar

20/1/94
SUPERINTENDING ENGINEER(CIVIL)
CCW: ALL INDIA RADIO: GUWAHATI

O/c

Attest
Advan to

46-
MOST IMMEDIATE
CONFIDENTIAL

Government of India
Office of the Superintending Engineer(C)
Civil Construction Wing; All India Radio
Guwahati Circle Office.

ANNEXURE - M

No. AIR/CCW/SE-GH/Conf.4/93/768 /Dated Guwahati
the 11th March '94.

Subject:- Issue of quotation and tenders to M/S Sunco
Trade & Enterprise, Guwahati.

Executive Engineer(C), Silchar is requested to refer
this office letter No.AIR/CCW/SE-GH/Conf.4/93/768 dated 19/2-
1-94 on the above subject.

In this connection he is informed that the clarifications
sought for are still awaited from him. He is requested to fur-
nish the clarifications immediately without any further delay
so that the documents collected from Silchar Division can be
returned early.

Receipt of this letter may please be acknowledged.

To,
The Executive Engineer(C),
(Shri A.K.Mukhopadhyay, by name),
Civil Construction Wing,
All India Radio,
Silchar-5.

(Munshi Lal)
Superintending Engineer(C)
CCW: All India Radio: Guwahati:

ncd/

*** **

RECEIVED
11/3/94

Attested
by
A. K. Mukhopadhyay

-475-
GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER(C)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
GUWAHATI CIRCLE OFFICE

(125)
CONFIDENTIAL

ANNEXURE - M

No. AIR/CCW/SE-GH/Conf.4/93/007

Dated: -17-5-94.

Sub: - Issue of quotation and tenders to M/S
Sunco Trade and Enterprise, Guwahati.

With reference to his letter No. EE/SLC/TEND/082/482 dt. 15-1-94; EE(C), Silchar is informed that the reply furnished by him is not at all found satisfactory as he has avoided to comment on the main points for issue of quotation/tender to M/s Sunco Trade and Enterprise, Guwahati treating Shri Uttam Choudhury as proprietor which is false. Shri B.P. Chakraborty vide his letter dt. 14-10-93 intimated that he is the sole proprietor of M/s Sunco Trade and Enterprise under CPWD Regn. No. 7-ACC-(V)-87 and Shri Uttam Choudhury has also admitted his fault vide his letter dt. 14-10-93. What reply EE can produce for this?

Moreover the clarifications asked for from the EE(C) vide this office letter No. AIR/CCW/SE-GH/Conf.4/93/768 dt. 19/20-1-94 and subsequent reminder No. AIR/CCW/SE-GH/Conf.4/93/791 dt. 11-3-94, the EE(C) has not been able to produce any reply as yet. It proves that he has nothing to comment against the charges raised by this office. He is therefore given one more and last chance if he can justify his actions of not performing his duty diligently and sincerely and violates Govt. rules and in against Govt. interest. He was asked not to make any payment on false proprietorship to M/s Sunco Trade and Enterprise, Guwahati vide this office telegram No. AIR/CCW/SE-GH/Conf.4/93/634 dt. 8-10-94, but we have not heard any compliance of the same or otherwise.

To,
The Executive Engineer(Civil),
Civil Construction Wing,
All India Radio,
Silchar.

(Munshi Lal) 17/5/94
Superintending Engineer(Civil)
CCW::All India Radio::Guwahati

2 Dec 19/5

10/5

Affects
28 →
Answer

GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING:ALL INDIA RADIO

ANNEXURE-0

NO. AIR/CCW/SE-GH/Conf.4/93/10/10

Zoo Narengi Tiniali
1st Bye Lane(North)
P.O. BAMUNI MAIDAN
Guwahati- 781021.



Subject:- Issue of quotation and tenders to M/s. Sunco
Trade and Enterprise, Guwahati.

Executive Engineer(Civil) Silchar is directed to refer to this office letter No.AIR/CCW/SE-GH/Conf.4/93/768 dated 19/20-01-94 and subsequent reminder No.AIR/CCW/SE-GH/Conf.4/93/791 dated 11-3-94 and No.AIR/CCW/SE-GH/Conf.4/93/907 dated 17-05-94 on the above subject.

In this connection it is noticed that no reply has been received from him as yet and already more than 8(eight) months are over, which proves that he has nothing to say anything more in his support. He is therefore informed that in case no reply is received within 7(seven) days from the date of receipt of this letter, no further coorespondance shall be made with him and appropriate action shall be taken as applicable in this case.

Receipt of this letter may please be acknowledged.

(Munshi Lal)
Superintending Engineer(Civil)
CCW : AIR : Guwahati.

The Executive Engineer(C),
(Shri A.K.Mukhopadhyay, by name),
Civil Construction Wing,
All India Radio,
N.S.Avenue,
Silchar-5.

*Silchar
No reply can
be furnished
for this thing
Keep it in mind
for decision
matter.*

220

*Shri A.K. Mukhopadhyay
Advocate*

- 49 - ANNEXURE - P

GOVERNMENT OF INDIA
CIVIL CONSTRUCTION WING (CIVIL)
ALL INDIA RADIO
SILCHAR.

CONFIDENTIAL
SPEEDY

K. V. EE/SLO/TEND/082/482

DATED AT SILCHAR 15-01-94

✓ The Superintending Engineer(C)
Civil Construction Wing,
All India Radio,
Zoo Narangi Tiniali,
Bye Lane No.-1,
Bamunimaidan,
GUWAHATI-21.

Sub :- ISSUE OF QUOTATION AND TENDER TO M/S SUNCO TRADE & ENTERPRISE, GUWAHATI.

Ref :- Your letter No. AIR/CCW/SE-GH/Conf.4/93/732,
dated 08-12-93.

Sir,

With reference to above regarding issue of quotation for the work of carriage of 50 MT cement from Silchar CCW, AIR, Store to Shillong CCW, AIR, Store, the following clarifications are put up for your kind observation please :-

1. Regarding approved and eligible contractor namely Shri B.P. Choudhury, M/S North East Roadways and M/S Sunco Trade and Enterprise, the registration as well as clearance certificate are enclosed herewith for your perusal please. The tender paper has been issued by AE(C), verifying the above documents. *The certificate of M/S Sunco Trade and Enterprise are already in circle office.*
2. It is a mistake done from the part of this office, by not taking bank guarantee from the concerned agency, though the clauses against the bank guarantee etc. is put up in the agreement itself. Precautionary measurement in this regard will be taken systematically while doing such work in future.
3. & 4. The tender paper to Shri Uttam Choudhury in favour of M/S Sunco Trade & Enterprise have been issued verifying the proprietor of the company as mentioned in original Income Tax Certificate only. Mr. A. Shahani has taken the tender paper in favour of M/S North East Roadways as it is a fact that Shri A. Shahani is a working employee under the company of M/S North East Roadways. This fact is confirmed by AE(C) concerned while the past awarded carriage work Shri A. Shahani was the sole employee who delivered the materials to the department. This has been confirmed telephonically by M/S North East Roadways to AE(C) Gilchrist at the time of receipt of government materials. However it is a mistake done by AE(C) concerned by issuing the tender paper to Shri A. Shahani who is not holding at all power of attorney of M/S North East Roadways though it has been proved about the employment of Shri Shahani in M/S North East Roadways.

As per the stipulation in the agreement of M.P. Studio Building at Jewai the cement is to be arranged by the agency itself and 50 MT of cement has been carried to the site for only minor works and not for Jewai works. As per the requirement there is immediate necessity of cement. Necessary telegram in this regard of AE(C) Shillong is enclosed herewith for your reference. However construction of play back studio is also in progress in Shillong.

CONFID. P/2.

Telegram dt. 7/4/93
was sent to AE(C) on
14/1/94 and on 14/1/94
was sent to AE(C) on
14/1/94. The same is
in folder with this.

As per
Advocate

for which cement is required urgently.

6. Shri B. Chakraverty is treated as sole proprietor of the firm M/S Sunce Trade & Enterprise, Guwahati as known from the enquiry and if future tender paper is issued to M/S Sunce Trade & Enterprise will be issued to Shri B. Chakraverty proprietor of the firm or his authorised representative only.

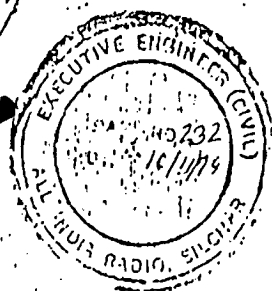
However regarding issue of this tender paper by mistake this office is issuing warning/memorandum to the concerned AE(C) not functioning carefully while issuing the tender paper.

In all future works enough pre-caution will be taken while accepting the tender from this office.

Yours faithfully,

Annex of 15/11
A. K. MUKHOPADHYAY
Executive Engineer (Civil)
CCW :: AIR :: SILCHAR.

Attested
Signature
Answer to



51-

ANNEXURE - 3

CONFIDENTIAL

GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER (CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO

Speed Post

NO. AIR/CCW/SE-GH/CONF-4/93/1060

To,

Shri K. Balu Janardhanan,
Surveyor of Works (Vig)-I,
O/O the SSW-II,
Civil Construction Wing,
All India Radio,
PTI Building, 2nd floor,
New Delhi-110001.

Zoo Narendri Tiniati,
1st Eye Lane (North),
P.O. Bamuni Maidan,
GUWAHATI-781021

Dated 19-10-94.

Subject: Issue of quotation/tender for the works of
(i) Carriage of 50 MT Cement from Silchar to Shillong
and restacking of cement at Silchar godown.
(ii) Carriage of cement from Agartala to Silchar and
restacking of cement at Agartala godown.
(iii) Carriage of steel from CCW, AIR, Silchar to Telecom
Civil Division, Guwahati.

Reference: Dte. letter No.C-13013/19/94-SW(V)11/587 dated 19-09-94
addressed to EE(C) Silchar with an endorsement to this
office.

In above connection an endorsement to this office the
following records in original as desired are forwarded herewith
please:-

(i) File No.01 containing 20 pages relating to and including
quotations - 3 nos., justification papers, work order in original
for the work for carriage of 50 MT cement from Silchar to
Shillong.

(ii) File No.EE/SLC/28/93-94 having 14 pages relating to carriage
of cement from Agartala to Silchar and restacking of cement at
Agartala and including papers of CFW registration, Income tax
clearance, requisition letters of contractors for issue of
tender, comparative statement, justification papers, approved
draft N.I.T. bearing No.EE/SLC/28/93-94 and tender 2 nos. and
agreement No.EE/SLC/24/93-94 in original.

(iii) File No.03 containing 6 pages relating to carriage of steel
from Silchar to Telecom Civil Division Guwahati and having papers
pertaining to comparative statement, justification and analysis
of rates, draft N.I.T. tender-2 nos. The original agreement
bearing No.EE/SLC/25/93-94 in favour of M/s. Sunda Trade

Attested
[Signature]
Adm. to

Enterprises Has already been returned to the Executive Engineer (Civil) Silchar vide this office letter No.AIR/CCW/SE-GH/Conf.4/93/658 dated 15-10-93(copy enclosed), which will be furnished by the EE(C) Silchar directly.

The other relevant records are also enclosed as follows.

iv) Copy of General Power of Attorney delegated by the Proprietor of M/s. North East Roadways, Guwahati.

v) Circular No.NER/51/93-94 dated 15-08-93 of M/s. North East Roadways, Guwahati received in this office.

vi) Complaint letters received from Shri Gulab singh, dated 5-10-93, Shri Dwijen Sharma dtd.5-10-93, Shri Uttam Bhuyan dtd.4-10-93.

vii) Undertaking letter dated 14-10-93 received from the Proprietor, Shri B.Chakraborty of M/s. Sunco Trade & Enterprise, Guwahati in original.

viii) Undertaking letter dated 14-10-93 received from Shri Uttam Choudhury addressed to M/s. Sunco Trade & Enterprise, Guwahati and copy endorsed to this office in original.

ix) Undertaking letter dated 14-10-93 received from Shri Uttam Choudhury addressed to M/s. North East Roadways, Guwahati and copy endorsed to this office.

x) Letter dated 1-11-93 received from M/s. North East Roadways, Guwahati.

xi) Letter No.ACC/121/93-94 dated 4-11-93 received from M/s. Arunachal Carrying Corporation, Guwahati.

xii) Circular No.AIR/CCW/SE-GH/Conf.4/93/695-704 dated 11-11-93 issued from this office in original.

xiii) Letter No.AIR/CCW/SE-GH/Conf.4/93/732 dated 4/8-12-93 seeking clarifications from EE(C) Silchar in original.

xiv) Letter No.AIR/CCW/SE-GH/Conf.4/93/768 dated 19/20-01-94 seeking clarifications from the EE(C) silchar in original.

xv) Letter No.EE/SLL/AFND/002/94 dated 15-01-94 received from the EE(C) Silchar in original.

xvi) Reminder letter No.AIR/CLW/SE-GH/Conf.4/93/791 dated 11-03-94 issued from this office.

xvii) Letter No.AIR/CCW/SE-GH/Conf.4/93/909 dated 17-05-94 addressed to the Chief Engineer(C)-1, New Delhi in original.

xviii) Letter No.AIR/CCW/SE-GH/Conf.4/93/907 dated 17-05-94 issued to the EE(C) silchar in original.

Atty
28
Anwar

- 53 -

xix) Letter No. AIR/CCW/SE-GH/4(G)/93/626 dated 1-10-93 issued to the EE(C) Silchar in original.

xx) Reminder letter No. AIR/CCW/SE-GH/Conf. 4/93/1019 dated 23-09-94 issued to the EE(C) Silchar.

It is therefore requested that action as may deem fit may kindly be taken at an early date.

Enclo: As above.

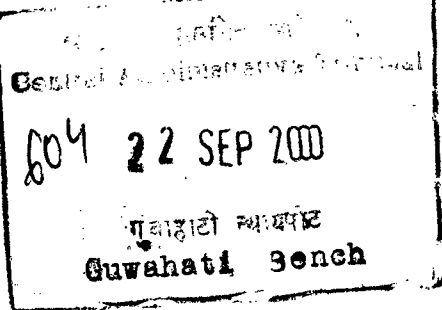
(N. CHAKRABORTY)
EA TO SUPERINTENDING ENGINEER (CIVIL)
CCW : AIR : GUWAHATI

Copy to :-

The Executive Engineer (C) (Shri A.K. Mukhopadhyay, by name) CCW, AIR, N.S. Avenue, Silchar-5. He is requested to send the agreement No. EE/SLC/25/93-94 in respect of M/s. Sunco Trade & Enterprise, Guwahati may be forwarded to the head quarter (SW(Vig)-11) directly under intimation to this office. The above agreement was sent to him vide this office letter as mentioned under item No. (iii) of main body of this letter.

20/10/94
EA TO SUPERINTENDING ENGINEER (CIVIL)

Attchd
20/10/94
Aswate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 283 OF 2000.

Anup Kumar Mukhopadhyay ..Applicant.

-Versus-

Union of India & Others,

.. Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 13
2.	Verification	14
3.	Annexure-A	15 to 26
4.	Annexure-B	27

Filed by

Advocate.

(Adv. AMMED)
Akhila

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 283 OF 2000.

B E T W E E N

Anup Kumar Mukhopadhyay
Son of Late Biman Bihari
Mukhopadhyay,
Executive Engineer (Civil),
Civil Construction Wing, All
India Radio, Guwahati Division
Tarun Nagar, Bye Lane No. 1,
Guwahati-781005.

- Applicant.

-AND-

- 1] The Union Of India,
represented by the Secretary
to the Government of India,
Ministry of Information and Broad-
casting, A Wing, Shastri Bhawan,
New Delhi-110001.
- 2] The Chief Executive Officer,
Prasar Bharati,
Broadcasting Corporation of India,
Doordarshan Bhawan,
Copernicus Marg, Mandi House,
New Delhi-1.

Filed by

Anup Kumar Mukhopadhyay

Shri Anup Kumar Mukhopadhyay

(Adm. Ahmed)

Adm. Ahmed

Shri

Anup Kumar Mukhopadhyay

31 The Director General,
Prasar Bharati (Broadcasting
Corporation of India, Civil
Construction Wing, All India
Radio, Government of India,
New Delhi-1.

41 The Chief Engineer-I Civil
Construction Wing, All India Radio
PTI Building, 2nd Floor,
New Delhi-110001.

51 The Superintending Engineer,
Civil Construction Wing,
All India Radio,
Zoo Narengi Road,
Guwahati-21.

- Respondents.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST
WHICH THE APPLICATION IS MADE:

This instant Original Application is directed against the Office Memo No. 13011/31/96-Vig. dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 (Annexure-A) issued by the Respondents and also prayer for quashing impugned Memorandum of charges brought against the applicant by the Respondents after 7 years.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION


The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble applicant a citizen of India and as such, he is entitled to all the rights and privileges and protection granted by the Constitution of India.

4.2. That your applicant is a Master Degree holder of Engineering (M.Tech.) and he got his Master degree in Civil Engineering from Indian Institute of Technology (IIT), Kharagpur. He was selected by the Union Public Service Commission for Indian Engineering Service. He was appointed as Assistant Engineer (Civil) in Civil Construction Wing, All India Radio. He joined on 04-01-1985. He was promoted to the post of Executive Engineer (Civil) in the year 1992. He was regularised as regular Executive Engineer (Civil) on June 1995. He is



discharging his duties sincerely and to entire satisfaction to all concerned from his date of appointment in the Department. Now he has been posted as Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Guwahati-5.

4.3. That your applicant begs to state that the Office of the Respondent No. 3, i.e., The Director General of All India Radio, Civil Construction Wing, New Delhi issued an Office Memo No. C-13011/31/96-Vig. Dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 at Annexure-A to the applicant by which your applicant was charged under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965. The applicant received the Office Memo on 11-09-2000. In the said Article of Charges brought against the applicant during his posting from 1993 - 1994 as Executive Engineer(Civil) in Civil Construction Wing, All India Radio, Silchar.

Annexure-A is the photocopies of Office Memorandum Memo No. C-13011/31/96-Vig. Dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 at Annexure-A) issued by the Office of the Respondents.

4.41 That your applicant begs to state that the Article of Charges which were brought against him at a belated stage, i.e., after 7

years during his posting as Executive Engineer (Civil), Civil Construction Wing, All India Radio, Silchar. The above charges brought against him are totally baseless and mala fide. Immediately after receiving the Article of Charges the applicant filed a representation dated 13-09-94 before the Authority by which he ¹⁴ totally denied the charges leveled against him. It may be stated that your applicant has completed 5 years regular service as Executive Engineer and he is eligible for next promotion as Superintending Engineer (Civil) for consideration on merit-cum-seniority.

Annexure-B is the photocopy of representation submitted by the applicant on 13-09-94.
¹⁴

4.5 That the applicant begs to state that the Article of charges which was brought against the applicant the Respondents have not explained the inordinate delay for issuing the above Article of charges after 7 years. There are deep conspiracy against the applicant by some interested persons who are trying to harass the applicant for their personal illegal gain. It is pertinent to mention here that the Memorandum which was issued to the applicant was send in a wrong address, i.e., Surveyor of Works (Civil), Civil Construction Wing, All India Radio, Office of the Senior Surveyor of Works #I, New Delhi. Your applicant is now posted as Executive Engineer (Civil), Civil




Construction Wing, All India Radio, Guwahati and he is not posted as Surveyor of Works (Civil), New Delhi.

4.6 That your applicant begs to state that in many cases the Hon'ble Supreme Court of India and various Hon'ble Central Administrative Tribunals held that "inordinate delay in issuing charge memo would amount to bias and mala fide, the proceedings". In case of State of Madhya Pradesh "Vs- Bani Singh" it was held by the Hon'ble court "Where the Departmental Inquiry was initiated after many years and there was no satisfactory explanation for the inordinate delay in issuing the Charge Memo and it would be unfair to permit the Departmental Inquiry to be proceed with at this stage".

4.7 That your applicant submits that he is eligible for the next promotion as Superintending Engineer (Civil) on merit-cum-Seniority basis and as such, some interested persons are against him for depriving his due promotion for their personal gain.

4.8 That the applicant submits that the matters, which were charged against him, are very old matters of more than 7 years and things are out of his memory also it is not possible for the applicant to defend his case after so many years. There are every possibility of lost of evidence or documents which can prove the innocence of the applicant. The witnesses, who would be examined & cross-




examined by the Inquiry Officer will not be able to give clear and perfect explanation of the case. It will be unfair and unjust for the applicant at this belated stage if the Department proceed furthers in this matter.

4.9 That your applicant submits that the Article charges framed against the applicant are totally baseless and false and these are totally denied by the applicant.

4.10 That your applicant submits that it will be very difficult for him to recollect all the materials, documents and records for submission of reply against the charge Memo which was issued against the applicant after 7 years and as such, it is fit case to interfere by the Hon'ble Tribunal by giving necessary direction to the Respondents for quashing the entire proceedings brought against him by the Memo of Charges dated 07-08-2000.

4.11 That your applicant submits the Respondents deliberately done serious injustice for depriving his next promotion as Superintending Engineer (Civil) and also the Respondents have given mental trouble to the applicant by issuing Memo of charges against your applicant after 7 years.

4.121 That your applicant submits that the actions of the Respondents are violative of the Principles of Natural Justice.



4.13 That this application is filed bona fide and for the interest of justice.


5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, in prima facie a disciplinary action cannot be taken against a Government Servant at a belated stage. A belated exercise prima facie causes prejudice to the Government Servant in defending his case.

5.2 For that, the Memorandum of Charges cannot be initiated against an Official after 7 years. Law is well settled that the Departmental enquiry cannot be initiated against a person after lapse of many years and as such Departmental Proceeding is required to be revoked or quashed.

5.3 For that, for last 7 years the Department has not initiated any inquiry in this matter it amounts to mala fide and on the part of the Respondents and accordingly judicious interference is called for this matter.

5.4 For that, it is very difficult for applicant to recollect all the relevant materials, documents and records after long 7 years for submission of reply in defence and as such, the impugned Departmental proceeding is liable to be set aside and quashed.



5.5 For that, whole matters are out of memory of applicant and as such the entire Departmental Proceeding is liable to be set aside and quashed.

5.6 For that it will be very unfair and unjust for the applicant at this belated stage if the Department Proceed further in this matter and as such it may be set aside and quashed.

5.7 For that in many cases the Hon'ble Supreme Court of India and Hon'ble Central Administrative Tribunal held that inordinate unexplained delay initiating proceeding vitiates enquiry.

5.8 For that if a disciplinary action is taken against a Government servant after a long lapse of time the Department should explain the delay. If the delay is not explained it would amount to arbitrary exercise of power. But in the instant case the delay is not explained by the Department and as such the entire Disciplinary proceeding is mala fide, illegal and also motivated against the applicant.

5.9 For the, in any view of the matter the action of the respondents are not sustainable and hence the same is liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant further declares that she has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prays that your Lordship may be pleased to admit this petition and may call for records of the case, issue rule calling upon the Respondents to show cause as to why the relief should not be given to the applicant and after hearing the parties on the cause or causes that may be shown and on perusal of records your Lordships may be pleased to grant the following relief to the applicant.

8.1 To direct the Respondents to pass order declaring the Office Memo No. 13011/31/96-Vig. dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 (Annexure-A) issued by the Respondents are illegal, unconstitutional and non-warranted by the facts and circumstances of the case.


8.2 To grant such further or other relief or reliefs to which the applicant may be entitled having regard to the facts and circumstances of the case.

8.3 Grant the Cost of this application to the applicant.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the Original Application the applicant most respectfully prays for an interim order directing the Respondents not to proceed further with the Departmental Proceeding vide Office Memo No. 13011/31/96-Vig. dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/ 393 dated 25-08-2000 (Annexure-A) till final disposal of this instant Original Application.

10. Application Is Filed Through Advocate.



11. Particulars of I.P.O.:

I.P.O. NO. 29 502 887

Date Of Issue 22.7.2008

Issued from

Payable at C.P.O. Gaurahi

12. LIST OF ENCLOSURES:

As stated above.

.. Verification..

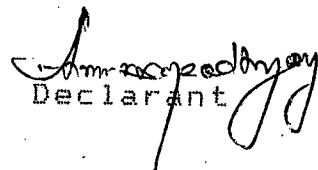
VERIFICATION

I, Anup Kumar Mukhopadhyay, Son of Late Biman Bihari, Mukhopadhyay, Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Tarun Nagar, Bye Lane No. 1, Guwahati-781005 do hereby solemnly verify that the statements made in paragraphs 1 to 4.2, 4.4 to 4.6

are true to my knowledge those made in paragraphs 4.3

are being matters of records are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification today on this the 22nd day of September 2000.


Declarant

सूचना और प्रसारण मंत्रालय

MINISTRY OF INFORMATION & BROADCASTING

'ए' विंग शास्त्री भवन, नई दिल्ली - 110 001

'A' Wing Shastri Bhawan, New Delhi - 110 001

तारीख 7.8.2000
Date

OFFICE MEMORANDUM

The President proposes to hold an inquiry against Shri A.K. Mukhopadhyay, Surveyor of Works (Civil), Civil Construction Wing, All India Radio, O/o Senior Surveyor of Works-I, New Delhi (the then Executive Engineer (Civil), Civil Construction Wing, All India Radio, Silchar) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) 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 imputations of misconduct or misbehaviour in support of articles of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the article of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri A.K. Mukhopadhyay is directed to submit within 10 days of the receipt of this Office Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. Shri A.K. Mukhopadhyay is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny the articles of charge.

4. Shri A.K. Mukhopadhyay 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 Central Civil Services (Classification, Control & Appeal) Rules, 1965, or the orders/ directions issued in pursuance of the said rule, the Inquiring Authority may hold the inquiry against him ex-parte.

....2/-

Attested
J.S.
Advocate

5. Attention of Shri A.K. Mukhopadhyay is invited to Rule 20 of the Central Civil Services (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 interest 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 A.K. Mukhopadhyay 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 the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of the Office Memorandum may be acknowledged.

(BY ORDER AND IN THE NAME OF THE PRESIDENT)

(P. K. VARMA)
Under Secretary to the Government of India

Rm 308M 4597
अवर सचिव (सतकता)
Under Secretary (Vig)

सूचना एवं प्रसारण मंत्रालय
) Min. of Information & Broadcasting
) भारत सरकार, नई दिल्ली
) Through DG AIR
)
)

✓ Shri A.K. Mukhopadhyay
Surveyor of Works (Civil)
O/o SSW-I, CCW,
All India Radio,
New Delhi

Heed
JL
Associate

STATEMENT OF ARTICLES OF CHARGE AGAINST SHRI A.K. MUKHOPADHYAY THE THEN EXECUTIVE ENGINEER (CIVIL) CCW, AIR, SILCHAR AND PRESENTLY WORKING AS SURVEYOR OF WORKS (C), SSW-I UNIT, CCW, AIR, NEW DELHI.

ARTICLE-1

That the said Sh. A.K. Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-I, New Delhi while working as Executive Engineer (C) CCW, AIR, Silchar during the year 1993-94 had awarded the following works of carriage of materials such as cement and steel:

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/SLC/WO/83/1883-85 dt. 1.6.93).
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar to telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

The above three works were awarded in the name of M/s Sunco Trade and Enterprises which was falsely represented by Sh. Uttam Choudhary. Eventhough Sh. B. Chakraborty is the sole proprietor of the said firm, Sh. Uttam Chaudhary falsely represented the said firm and entered in to contracts with the department in connivance with departmental officials Shri Mukhopadhyay and Sh. Ashutosh Rai the then Assistant Engineer (C). Before entering into contract with the department in the name of M/s Sunco Trade and Enterprises, Shri Uttam Chaudhary was holding the power of attorney of M/s North East Roadways and well known to the departmental officials including Sh. Mukhopadhyay.

Similarly, Shri A. Sahani was working with M/s. Arunachal Carrying Corporation but the tender papers were issued to him on behalf of M/s North East Roadways. This fact has been admitted by Sh. Mukhopadhyay. The contract was awarded by Sh. Mukhopadhyay without scrutinising the documents properly. This is evident from the fact that the signature on different documents by Sh. Uttam Choudhary and Sh. A. Sahani are found varying and the question of authenticity and correctness of the documents produced by them to the department seems to be forged.

While entrusting the carriage work to the agency the Executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilferage, while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol. II 1990 (Khanna's

....2/-

Rev. (P. K. VARMA)
उत्तर सचिव (सहायक)
Under Secretary (Vig.)
मिनिस्ट्री ऑफ इन्फॉर्मेशन & ब्रॉडकास्टिंग
भारत सरकार, नई दिल्ली

ASHUTOSH
Signature
Ashutosh

Compilation) Bank Guarantee amounting to 10% of the contract amount in addition to the security deposit has to be obtained from the conveyance agencies before commencement of work. Sh. Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By the above act Sh. A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services Conduct Rules 1964.

ARTICLE-II

That the said Sh. A.K. Mukhopadhyay issued the work order no. EE/SLC/WO/83/1983-85 dated 1.6.93 for conveyance of 50 MT of cement from Silchar to Shillong in the month of June 1993. In the month of August 93, 150 MT of cement was retransported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This is improper management by Sh. Mukhopadhyay causing infructuous expense to the exchequer in the carriage of material. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid retransportation to Silchar.

The rate adopted to justify the rates of transport is also found varying in different justification. The rate of hiring of truck per day has been found @ Rs.750/- for the work of carrying cement from Silchar to Shillong and for the other works of carrying materials from Silchar to Guwahati and Agartala to Silchar, the rate was taken @ Rs. 1500/- per day. This shows that the justification was inflated by Shri Mukhopadhyay and the concerned Assistant Engineer(C) in-charge of work.

By the above act Sh. Mukhopadhyay, has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-III

That the said Sh. Mukhopadhyay the then Executive Engineer (C).CCW, AIR, Silchar had awarded the work on work orders in the financial year of 1993-94 for an amount of Rs. 11.79 lakhs, exceeding the limit of Rs. 5 lakhs prescribed for Executive Engineer(C) in the CPWD Manual and thus violated the guidelines as per CPWD Manual Vol.II 1990 (Khanna's Compilation) para 5, Section 16.

(Signature)
- (DR. VARMA)
Under Secretary (Type I)
Ministry of P.W.D. & Road Transport
Govt. of India, New Delhi

....3/-

Attest
(Signature)
Advocate

By the above act Sh. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-IV

That the said Sh. A.K. Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar disobeyed the instructions of his superior i.e. the Superintendent Engineer (C), Guwahati vide his circular no. AIR/CCW/SE_GH/CONF-4/93/695-704 dated 11.1.93 that no work should be awarded to Shri Uttam Chaudhary who had falsely represented the firm M/s Sunco Trade and Enterprises. Sh. Mukhopadhyay continued to award different works to Sh. Uttam Chaudhary by defying the orders of the Superintending Engineer.

By the above act Sh. A.K. Mukhopadhyay had shown wilful insubordination or disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1) (i), 3(1) (ii) and 3(1) (iii) of CCS (Conduct) Rules 1964.

[Signature]
(श्री. ए. के. मुखोपाध्याय)
(प्र. ए. ए. ई.)

भारतीय नौका विज्ञान विभाग
मुख्य अभियंता (नौका)
मुंबई-400 001
Min. of Shipping, Govt. of India, New Delhi

[Signature]
Attested
Shrivante

STATEMENT OF IMPUTATION OF ARTICLES OF MISCONDUCT OR MISBEHAVIOUR AGAINST SH. A.K. MUKHOPADHYAY THE THEN EXECUTIVE ENGINEER (CIVIL) CCW, AIR, SILCHAR AND PRESENTLY WORKING AS SURVEYOR OF WORKS (C) OFFICE OF SSW-I, CCW, AIR, NEW DELHI.

ARTICLE-I

That the said Sh. A.K. Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-I New Delhi while working as Executive Engineer (C) CCW, AIR, Silchar during the year 1993-94 had awarded different works including the following works of carriage of materials such as cement and steel.

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/SLC/WO/83/1883-85 dt. 1.6.93).
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar to telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

All the above said works were awarded in the name of M/s Sunco Trade and Enterprises which was falsely represented by Sh. Uttam Choudhary. Eventhough Sh. B. Chakraborty is the sole proprietor of the said firm, the tender / quotation papers were issued to Sh. Uttam Chaudhary on forged documents. Before taking works under the name of M/s Sunco Trade and Enterprises he was holding the power of attorney of M/s North East Roadways which was an established agency in the department. The connivance of Sh. Mukhopadhyay and the concerned Assistant engineer (C) has been found in the issue of tender documents to Sh. Uttam Chaudhary in the name of M/s Sunco trade and Enterprises. Shri Uttam Chaudhary was found in his possession two Income-tax Clearance Certificates one in his own name and another in the name of M/s Sunco Trade and Enterprises. The signatures of Sh. Uttam Chaudhary has been found varying in both the Income-tax Clearance certificates and no effort was made by both Shri Mukhopadhyay, Executive Engineer (C) and Sh. Ashutosh Rai, Assistant Engineer (C) to verify the authenticity of the documents produced by the same person, one in his name and other in the name of the firm M/s Sunco Trade and Enterprises.

Sh. A. Sahani was working with M/s. Arunachal Carrying Corporation but the tenders were issued to him on behalf of M/s North East Roadways. It is further found that the signature of Sh. Sahani was different on tender papers and it has been found that he had not visited Silchar during the time of tendering of the above-mentioned work. Hence the

....2/-

(Signature)
Joint Secretary (Civil)
Office of the Surveyor of Works (C)
CCW, AIR, New Delhi
Ministry of Transport, Govt. of India, New Delhi

(Signature)
A. H. T. I.
A. H. T. I.

signature of Sh.A.Sahani representative of M/s Arunachal Carrying Corporation was forged in the tender schedules, there was no proper verification of credentials by Assistant Engineer and Executive Engineer (C). In all the three cases it is found that while issuing the tender/quotation papers no details regarding the registration, Income-tax Clearance was recorded in the schedule by the issuing officer. Sh. Mukhopadhyay issued work order/awarded the work without properly verifying the said requisites.

While entrusting the carriage work to the agency the Executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilfrage as usual practice while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol.II 1990 (Khanna's Compilation) Bank Guarantee amounting 10% of the contract amount in addition to the security deposit has to be obtained from the conveyance agencies before commencement of work. Sh.Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By the above act Sh. A.K.Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3 (1) (iii) of Central Civil Services Conduct Rules 1964.

ARTICLE-II

That the said Sh. A.K.Mukhopadhyay while working as Executive Engineer (C), CCW, AIR, Silchar has awarded the work of carriage of 50 MT of cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown vide work order no. EE/SLC/WO/83/1983-85 dated 1.6.93. In the month of August 1993 again 150 MT of cement was retransported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This amounts to total mismanagement on the part of Sh.Mukhopadhyay, inviting doubts in creating wasteful works causing infructuous expenditure to the exchequer. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid retransportation to Silchar. As per para 42 of the CPWD Manual it is the duty of the Executive Engineer to execute the works economically with efficient management.

The rates adopted in the local market justification was also found varying. The rate of hiring of truck per day has been taken @ Rs.750/- for the work of carriage of cement from Silchar to Shillong, and for the other work of carrying of material from Silchar to Guwahati, Silchar to Agartala, the rate adopted in the justification was @ Rs. 1500/- per day. Thus the justification were found inflated and awarded the works at higher rates.

....3/-

(Signature)
 (Name)
 (Designation)
 (Office)
 (Date)

(Signature)
(Signature)

By the above act Sh.Mukhopadhyay, has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-III

That the said Sh.Mukhopadhyay has awarded the work through work orders amounting to Rs. 11,78,699/- during the financial year of 1993-94 which is beyond the financial powers delegated to Executive Engineer to award the work through work order. As per CPWD Manual Vol.II 1990 (Khan-na's Compilation) para 5, Section 16, the maximum financial limit of award of work through work orders by the Executive Engineer incharge of construction and maintenance division should not exceed beyond Rs. 5.00 lakhs per annum. Thus Sh.A.K. Mukhopadhyay violated the guidelines laid down in CPWD Manual Vol.II by exceeding the financial powers delegated.

By the above act Sh.Mukhopadhyay has failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-IV

That the said Sh.A.K.Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar was given instructions by the then Superintendent Engineer (C) to stop the payment of M/s Sunco Trade and Enterprises vide an express telegram dated 8.10.93 and not to award any work vide circular No.AIR/CCW/SE-GH/CONF-4/93/695-704 dt. 11.11.93 in favour of Shri Uttam Chaudhary. Inspite of it, Shri Mukhopadhyay awarded several works to Sh.Uttam Chaudhary in work orders amounting to Rs. 1,36,170/- for the period ending upto March 94. Sh. Uttam Chaudhary had falsely represented the firm M/s Sunco Trade and Enterprises which was actually owned by Sh.B.Chakraborty. However, Sh. Mukhopadhyay disobeyed the instructions given by his superior. This is wilful disobedience on the part of Sh.Mukhopadhyay to the orders of his superior.

By the above act Sh.A.K.Mukhopadhyay has shown wilful disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

(P.K. VARMA)
(P. K. VARMA)

उप सचिव (सतर्कता)
Under Secretary (Vig)

महानगर प्रसारण मंत्रालय
Ministry of Information & Broadcasting
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

Att. E1
Sis R
Advocate

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SH.A.K.MUKHOPADHYAY, THE THEN EXECUTIVE ENGINEER (C), CCW, AIR, SILCHAR, PRESENTLY WORKING AS SURVEYOR OF WORKS (C), O/O SSW-I, CCW, AIR, NEW DELHI ARE PROPOSED TO BE SUSTAINED.

- 1) Work order no. EE/SLC/WO/83/1983-85 dated 1.6.93.
- 2) Agreement no. EE/SLC/24/93-94.
- 3) Agreement no. EE/SLC/25/93-94.
- 4) Draft NIT no. EE/SLC/28/93-94.
- 5) Draft NIT no. Nil for the work of carriage of Steel from CCW, AIR, Silchar to Telecom Civil Div. Guwahati.
- 6) Rejected tender of M/s North East Roadways. (Two nos.)
- 7) Notice inviting quotations No. AE/CCW/SLC/93-94/39(1)/68-72 dated 22.5.93. (with schedule and envelopes) 3 nos.
- 8) Analysis of rates for local market justifications for the carriage works (3 Nos.).
- 9) Letter no. EE/SLC/Tend/082/634 dt. 24.03.95.
- 10) Circular no. EE/CCW/SE-GH/Conf.-4/93/695-704 dt. 11.11.93.
- 11) Letter no. EE/SLC/Tend/082/594 dt. 05.01.95.
- 12) Income Tax Clearance Certificate in the name of
 - a) M/s Sunco Trade and Enterprises
 - b) Sh. Uttam Chaudhary (2 nos.)
- 13) Letter no. ACC-121-93/94 dt. 4.11.93 from M/s Arunachal Carrying Corporation
- 14) Letter dt. 14.10.93 by Sh. Uttam Chaudhary.
- 15) Letter dt. 1.11.93 from M/s North East Roadways.
- 16) Letter dt. 14.10.93 by Sh. B. Chakraborty.
- 17) CPWD Manual Vol. 1990 (Khanna's Compilation) Section 28, para 4.

....2/-

(Signature)
 - (श्री. वी. वार्मा)
 (V. VARMA)
 जे. ए. ई. (सि. ए.)
 Under Secretary (Sd)
 सचिव, सड़ विभाग
 सड़ विभाग, नई दिल्ली
 Govt. of India, New Delhi

Attchd
ISL
Advocate

18) Submission of tender documents by Sh.A.Sahani under the letterhead of M/s north East Roadways dt. 28.05.93.

19) CPWD Manual Vol. II (Khanha's Compilation) Section 16, Para-5.

20) CPWD Code para 42

21) Letter no. AIR/CCW/SE-GH/CONF-4/93/943 dt. 20.6.94 endorsing the express telegram.

22) Power of Attorney of M/s North East Roadways in the name of Sh.Uttam Chaudhary vide deed no. 413 alongwith Circular no. NER/81/93-94/ dt. 15.8.93.

23) Circular No.AIR/CCW/SE-GH/CONF-4/93/695-704 dated 11.11.93.

Prasanna
(प्रसाद साहनी)
AIR/CCW/SE-GH/CONF-4/93/943
20.6.94
M/s North East Roadways
Advocate
Govt. of India, New Delhi

Advocate
Advocate

LIST OF WITNESSES BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SH.A.K.MUKHOPADHYAY, THE THEN EXECUTIVE ENGINEER (C), CCW, AIR, SILCHAR, PRESENTLY WORKING AS SURVEYOR OF WORKS (C), O/O SSW-I, CCW, AIR, NEW DELHI ARE PROPOSED TO BE SUSTAINED.

- 1) Sh. Munshi Lal, retired Chief Engineer (C)-II, CCW, AIR, 121, Munirka Vihar, New Delhi.
- 2) Sh. Ashutosh Rai, Junior Engineer (C), O/o the SSW-I, CCW, AIR, Lok Nayak Bhawan, New Delhi.
- 3) Sh. Uttam Chaudhary, son of Late Sh. J.C.Chaudhary, Kushal Nagar, Bamuni Maidan, Guwahati-781021.
- 4) Sh.B.Chakraborty, Proprieter, M/s Sunco Trade and Enterprises, House no. 107, Kushal Nagar, Bamuni Maidan, Guwahati-781921./New Guwahati Railway Colony market, Guwahati-21.
- 5) Sh.D.P.Aggarwal, Proprieter, Arunachal Carrying Corporation, KB 3, Barooah market, T.R. Phookan Road, Fancy Bazar, Guwahati-7810601.
- 6) Sh.A. Sahani, C/o Arunachal Carrying Corporation, 3, Barooah Market, T.R.Phookan Road, Fancy Bazar, Guwahati-7810601.

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-26-

Confidential

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(Vigilance Unit)

No. C-13013/19/94-SW(V)-II/ 393

Dt.25-8-2k

✓ Sh. A.K. Mukhopadhyay
Executive Engineer(c)
CCW: AIR
Guwahati.

Subject : Initiation of disciplinary proceedings against Sh. A.K. Mukhopadhyay, EE(C), CCW, AIR, New Delhi.

Please enclosed herewith Min. of I&B 's office memorandum no. C-13011/31/96-Vig. dt. 7/8/2000 in the work of " Misuse of powers in issue of quotations and tenders by Sh. A.K. Mukhopadhyay the then EE(C) Silchar.

It is requested that the dated acknowledgment of the above stated memorandum , in triplicate may be sent immediately , to this office, for onward transmission to DG AIR/Ministry of I&B.

This issues with the approval of CE-I

Encl:

1. office memorandum No. C-13011/31/96-Vig. dt. 7.8.2000(in original)
2. Acknowledgement slips in triplicate.

(Signature)

(M.R.K. NAIR)
Surveyor of Works ©(V)-I

Copy to :

DG AIR, Sh. Naresh Jaiswal, S.O. (Vig.) , Akashwani Bhawan, New delhi with reference to I.D. Note No. 7/11/97-VIG. DT. 16.8.2000 for information.

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ANNEXURE - B

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING:ALL INDIA RADIO
GUWAHATI DIVISION:TARUN NAGAR:BYE LANE 1
GUWAHATI-781005

No. GCD/AIR/GO-RF/AKM/_____

Dated:13-09-2000
T₄

To
Shri P.K. Verma
Under Secretary to the Govt. of India
Ministry of Information & Broadcasting
A-Wing, Shastri Bhawan
New Delhi-110001.

Sub: Memorandum No. C-130011/31/96-V-Vig dated 7-8-2k on the subject of "Misuse of Power in issuing of quotations and the tenders by Shri A.K. Mukhopadhyay, the then IEC, Silchar".

Sir,

This has reference to the above letter proposing to hold an enquiry against me under Rule 14 of Central Civil Service Rule 1965. It is quite surprising to receive such charge sheet due to following reasons:

1. Charge sheet has been issued after a lapse of 7 years which is belated and therefore it is time barred.
2. Charge sheet has been given without issuing any memorandum or asking any explanation from the vigilance section as an defense statement on the facts mentioned therein.
3. Charge sheet has been framed based on all false complaints
4. Charge sheet has been issued neglecting some of the defense statements submitted by me to the then SEC.

THEREFORE, I WOULD LIKE TO INFORM YOU THAT I TOTALLY DENIED THE CHARGES LEVELLED AGAINST ME.

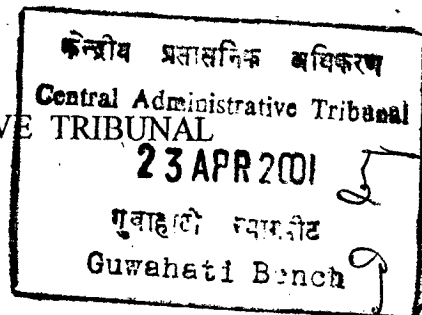
Yours faithfully,

[Signature]
14/09

(A.K. MUKHPADHYAY)
Executive Engineer(Civil)
CCW AIR Guwahati Division

[Signature]
A. K. Mukhopadhyay

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



O.A. NO. 283 OF 2000

Shri A.K.Mukhopadhyay

- VS -

Union of India & others.

IN THE MATTER OF

Written statement submitted by respondents No.1 to 5.

The humble respondents beg to submit the written statement as follows :

1. That with regard to Para 1, 2, 3, 4.1, 4.2 and 4.3 the respondents beg to offer no comment.
2. That with regard to Para 4.4, 4.5 and 4.6 the respondents beg to state that as regards the contention made by the applicant regarding issue of charge sheet to him, it is stated that three complaints were received against the applicant in 1994. In view of this, the then Superintending Engineer(Civil), Guwahati vide his letter dated 17-5-94 and 20-6-94 forwarded a reference along with the relevant documents to Chief Engineer(Civil)-I, Civil Construction Wing, All India Radio, Parliament Street, New Delhi. A Preliminary Estimate (PE) was conducted into the alleged irregularities by the then Chief Engineer-C-I and a report dated 12-9-95 was submitted by him to Director General :All India Radio (DG:AIR), wherein the allegations were prima-facie established against the applicant. The said PE report was examined by DG:AIR vis-à-vis documents and forwarded a the same to the Information & Broadcasting Ministry on 4-9-96, along with their comments, for referring the same to Central Vigilance Commission. The

matter was examined in the Ministry and referred to Central Vigilance Commission for their first stage advice on 8-10-96. In view of the seriousness of the charges, the Central Vigilance Commission advised on 16-10-97, initiation of major penalty proceedings against applicant. Accordingly, DG:AIR was requested on 27-10-97 to frame draft charge sheet against the applicant. The same was received in the I&B Ministry from DG:AIR on 18-3-98 but the chargesheet could not be issued immediately because some documents, which were the prosecution documents and whose custodian was an authority other than the Ministry/DG:AIR/CCW, could not be obtained despite best efforts. These documents were finally obtained from AIR, Silchar and forwarded to the I&B Ministry by DG:AIR on 17-8-99. After that, the entire case was re-examined in the I&B Ministry vis-à-vis PE Report, relevant records and CVC's advice and the case was submitted for the approval of disciplinary authority on 24-3-2000. The applicant was charge sheeted for major penalty on 7-8-2000. In view of aforesaid submissions the contention of the applicant are denied since the delay, if any, in issuing charge sheet to the applicant was only procedural and unintentional.

As regards, the contention that the charges are totally baseless and malafide, the same is denied and in this regard it is stated that in the preliminary enquiry, the allegations of irregularities were prima-facie established against the applicant. The findings of the preliminary inquiry were again examined by CCW, DG:AIR and finally by the I&B Ministry and the CVC. Since the charges were serious in nature, it was decided to initiate major penalty proceedings against the applicant. As regards sending of charge sheet at a wrong address, it is submitted that the same was inadvertantly sent to the wrong address.

3. That with regard to Para 4.7 the respondents beg to offer no comments.
4. That with regard to Paras 4.8 the respondents it is submitted that sufficient opportunity will be given, as admissible under the CCS(CCA) Rules, 1965, to the applicant to defend his case during enquiry proceedings.
5. That with regard to Para 4.9 the respondents beg to offer no comments.
6. That with regard to Para 4.10 the respondents beg to state that the reasons for delay in issuance of charge sheet have already been explained in detail Para 2 above.
7. That with regard to Para 4.11 the respondents beg to offer no comment.
8. That with regard to Para 4.12 it is submitted that the applicant has been charge-sheeted for the irregularities prima-facie established during preliminary investigation. Reasonable opportunity will be given to the applicant during oral enquiry to defend his case.
9. That with regard to Para 4.13 the respondents offer no comments.
10. That with regard to Para 4.14 the respondents beg to offer no comments.
11. That with regard to Para 4.15, it is submitted that during the course of preliminary investigation, the allegations against the applicant were prima-facie established. Therefore, the complaint against the applicant can not be termed as baseless and with malafide intentions. Further, the instructions of the Central Vigilance Commission cited by the applicant are dated 29-09-

99 whereas the preliminary inquiry report in this case is dated 8-8-95.

12. That with regard to Para 4.16, the respondents beg to offer no comments.

13. That with regard to Para 4.17, the respondents beg to offer no comments since it has already been explained in details in Para 2 above.

14. That with regard to Para 4.18, the respondents beg to offer no comments since the contentions made by the applicant are only apprehensions. Sufficient opportunity will be given, as admissible under the CCS(CC&A) Rules, 1965, to the applicant to defend his case during inquiry proceedings.

15. That with regard to Para 5.1 to 5.10 the respondents it is submitted that the reasons for delay have already been explained in previous Paras. It is also submitted that reasonable opportunity will be given to the applicant during the course of oral inquiry to defend his case.

16. That with regard to Para 6 the respondents beg to state that in view of the reasons of delay explained in details in previous Paras, it is submitted that it is premature for the applicant to file this application since oral enquiry in the matter is yet to be conducted in which reasonable opportunity, as stipulated under CCS(CCA) Rules, 1965, shall be afforded to the applicant to defend his case.

17. That with regard to Para 7 the respondents beg to offer no comment.

18. That with regard to Para 8 and 9 the respondents beg to state that in view of the facts placed before the Hon'ble Tribunal in

previous Paras, it is submitted the O.A. filed by the applicant may be quashed as premature and let law take its own course.

VERIFICATION

I Shri A. P. Divakaran, Superintending Engineer(Civil), Civil Construction Wing, All India Radio, Guwahati Circle being authorized do hereby solemnly affirm and verify that, the statements made in the written statement are true to my knowledge and information and I have not suppressed any material fact.

And I sign this verification on this 3 day of April, 2001.

DECLARANT

Crtcase/AKM/12-16