

50/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

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

APPLICATION NO. 301/2000

Applicant(s) Sri Nripen Deka

Respondents(s) Union of India and or.

Advocate for Applicant(s) Mr. B. Malakar

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

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

27.9.00

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

Heard Mr B. Malakar, learned counsel for the applicant.

Application is admitted. Issue usual notice. Call for the records.

List on 13.11.2000 for written statement and further order.

Heard Mr Malakar on the interim prayer. Also heard Mr A. Deb Roy, learned Sr. C.G.S.C for the respondents. Issue notice to show cause as to why the interim order as prayed for shall not be granted. Returnable by 13.11.2000. Meanwhile the departmental proceeding initiated against the applicant shall remain suspended till 13.11.2000.

Vice-Chairman

pg

13.11.00

Written statement has been filed. Case is ready for hearing.

List on 6.3.2001 for hearing. In the meantime the applicant may file rejoinder if so advised.

Vice-Chairman

pg

This application is in form and within time

F. of R. for

posited via

RD No 501-234

26.9.2000

26/9/2000

26/9/2000

Slips Received Notice.

Prepared and sent to D/S for review the Respondent

No. 1 to 2 vide D/No 2312 to 2313 dtd 24/10/2000

10/10/00

Memo of appearance not yet filed by the

GSO

10/11/2000

6.12.00

Heard Mr. B. Malakar, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. Central Govt Standing Counsel for the respondents.

It appears that the matter has been brought at the instance of the applicant. Mr. Malakar has stated that though the order dated 13.11.00 in the order sheet, rightly pointed out some mistakes in the order wherein it was recorded that the written statement has been filed in fact, written statement is yet to be filed and the case is listed for hearing on 6.3.2001.

In the meantime, the respondents may file written statement within four weeks from today and the applicant may submit rejoinder within two weeks therefrom.

Meanwhile, the order dated 27.9.2000 is extended until further orders.

List on 18.1.2001 for further orders.

Vice-Chairman

mk

6.12.2000

Heard Mr. B. Malakar, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. Central Govt Standing Counsel for the respondents.

It appears that the matter has been brought at the instance of the applicant. Mr. Malakar has pointed out that in the order sheet dated 13.11.2000 contains some mistakes, wherein it was recorded that the written statement has been filed though in fact, written statement is yet to be filed and the case is listed for hearing on 6.3.2001.

In the meantime, the respondents may file written statement within four weeks from today and the applicant may submit rejoinder within two weeks therefrom.

Meanwhile, the order dated 27.9.2000 is extended until further orders.

List on 6.3.2001 for hearing.

Vice-Chairman

mk

Order Communicated  
to the Parties Counsel  
File: D/No \_\_\_\_\_  
\_\_\_\_\_ attd \_\_\_\_\_

7/12/00

Written statement  
has been filed  
By  
5.3.01

3.

OA 30/12/00

9

Notes of the Registry	Date	Order of the Tribunal
	7.3.	MD.B. Adjourned to 4.5.2001. M/s A.B. Das 6.3.
	14.5.	Left over by, MD.B. again on 14/5/2001. M/s A.B. Das 14.5.
7.3. 2001 W/S has been submitted by the Respondents.	14.5.	None appears on calling. The case is adjourned to 5/6/2001. M/s A.B. Das 14.5.
<u>MD.B.</u>	5.6.01	None appears on calling. Mr A Deb Roy, Id Sr C.G.S.C. also prays for time Case is adjourned accordingly Till on 19.6.01. K. Ushara
Written statement has been filed.		
<u>MD.B.</u> 18.6.01	19.6.01	On the request of Mr-G.B.Das holding brief of Mr B.Malakar, learned counsel for the applicant the case is adjourned for the day. List on 11.7.2001 for hearing. K. Ushara Member Vice-Chairman
Written statement has been filed		
<u>MD.B.</u> 10.7.01		
30.7.2001 Copy of the judgment has been sent to the D/Sec for issuing the copy to the applicant as well as to the D.C.G.S.C. for the Respondent.	11.7.01	Heard Mr.B.Malakar, learned coun- sel for the applicant and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. Judgment delivered in open court, kept in separate sheets. The application is allowed in ter- ms of the order. No order as to costs. K. Ushara Member Vice-Chairman



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 301 of 2000.

Date of Decision. 11.7.2001...

----- **Shri Nripen Deka** ----- Petitioner(S)

----- **Mr. B. Malakar** ----- Advocate for the  
----- Versus ----- Petitioner(s)

----- **Union of India & Others** ----- Respondent(s)

----- **Mr. A. Deb Roy, Sr. C.G.S.C.** ----- Advocate for the  
----- Respondent(s)

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 ?

Judgment delivered by Hon'ble : **Vice-Chairman.**

✓

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.301 of 2000.

Date of Order : This is the 11th Day of July, 2001.

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

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

Shri Nripen Deka,  
Telegraph Man (O),  
Office of the Chief Telegraph Office,  
Guwahati Branch,  
Guwahati. . . . Applicant.

By Advocate Mr.B.Malakar.

- Vs -

1. The Union of India  
represented by the  
Chief General Manager,  
Assam Telegraph Circle,  
Guwahati.
2. The Divisional Engineer,  
C.T.O., Guwahati. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.):

This is an application under Section 19 of the Administrative Tribunals Act, 1985, assailing the legitimacy of the denovo proceeding initiated by the respondent No.2 in the following circumstances.

2. The applicant, at the relevant time, was working as a Telegraph man in Central Telegraph Office, Guwahati. He was served <sup>with</sup> a memorandum of charges dated 30.7.1999 for allegedly not delivering three telegrams on different dates to the addressees though it was shown that he had delivered the telegrams in question. He was accordingly charged with violation of Rule 3 (i), (ii) and (iii) of

CCS, CCA Conduct Rules, 1964. The charge was enquired into through an Enquiry Officer. After conclusion of the enquiry the Enquiry Officer submitted the Enquiry Report dated 19.5.2000/12.6.2000 exonerating the applicant from the charges. The S.D.E.(Admn.), CTO, Guwahati by his communication dated 20.8.2000 submitted a report to the Divisional Engineer-cum-Disciplinary Authority informing the Disciplinary Authority that the S.D.E. (Admn) did not agree with the report of the Enquiry Officer as the same was defective in his opinion. According to the S.D.E. (Admn), the applicant was to be punished so therefore he forwarded all the connected records to the Disciplinary Authority for necessary action. The Disciplinary Authority, in consequence issued a fresh memorandum dated 11.8.2000 and the applicant was served with a memo of charges and the respondents accordingly sought to hold a denovo enquiry on the charges from which the applicant was exonerated. Hence, this application.

3. Mr. B. Malakar, learned counsel for the applicant, assailing the impugned action for denovo enquiry of the respondents, has submitted that the said action is arbitrary and discriminatory and therefore violative of Article 14 and 16 of the Constitution. The learned counsel for the applicant submitted that the charges were enquired into by a duly appointed Enquiry Officer and on evaluation of the materials on records the Enquiry Officer submitted the Enquiry Report. It was for the Disciplinary Authority to consider the said report and accept or reject the same. In the instant case the Disciplinary Authority mechanically acted on the note of the S.D.E (Admn) without



applying its mind. The learned counsel submitted that on the face of the materials on records there was no justification in initiating a denovo enquiry against the applicant on the same charges on which the enquiry has been held.

4. Mr.A.Deb Roy, learned Sr.C.G.S.C. appearing on behalf of the respondents submitted that the Disciplinary Authority not being satisfied with the Enquiry Officer only, initiated the proceeding providing opportunity to the applicant to vindicate his stand. Mr.Deb Roy submitted that the action taken was bonafide in the interest of the administration. The issue raised herein is not the question of bonafide, but the issue pertains to the legitimacy of the denovo enquiry on a matter which was already enquired into. The discretion is vested on the Disciplinary Authority to initiate a departmental proceeding on good and sufficient reasons. Admittedly the department initiated the proceeding to enquire into the alleged misconduct. The Disciplinary Rules, more particularly CCS and CCA Rules provide for conduct such Disciplinary Proceeding. Provisions for imposing a major penalty is provided in Rule 14 under the said rules. After completion of enquiry the Enquiry Officer is required to submit the report to the Disciplinary Authority alongwith the records ~~submitted report~~ on assessment of the material on records and findings to the charges. The Disciplinary Authority likewise, is entrusted by the Rule 15 to take action on the Enquiry Report. Sub-rule 1 of the Rules provides that the Disciplinary Authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority

for further inquiry and report and the inquiry shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be. The Sub-rule 2 provides that the Disciplinary Authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge if the evidence record is sufficient for the purpose.


5. In the instant case, the Disciplinary Authority did not act as per Rule 15. In the fresh memorandum no reasons was indicated as to why S.D.E. (Admn) did not agree with the findings and recommendation of the Enquiry Report. No other materials are also discernible as to <sup>the reasons</sup> for the said decision. The discretion of the Disciplinary Authority is not absolute, or unfettered. Guidelines are explicit in Sub-rule (2) of Rule 15 enabling the Disciplinary Authority to differ with the findings of the inquiry authority on any article of charge only on recording its reasons for such disagreement and not otherwise. Any other methodology is forbidden. The impugned action of the respondents to initiate denovo enquiry on the same charges against which the applicant was exonerated, cannot be sustainable in law.

Accordingly, the memorandum dated 11.8.2000 and the consequent decisions taken thereafter are set aside and the respondents are directed to take action on the Enquiry Report dated 19.5.2000/12.6.2000 submitted by Mr. S. S. Sikidar, Enquiry Officer and pass

necessary order as per law.

With this, the application is allowed.

There shall, however, be no order as to costs.

  
(K.K.SHARMA)  
ADMINISTRATIVE MEMBER

  
(D.N.CHOWDHURY)  
VICE CHAIRMAN

BB

Ced

6/2 26 SEP 2000

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
GUWAHATI.

O.A. No. 201 / 2000

Shri Nripen Deka

- Vs.

Union of India & Ors.

I N D E X

<u>Particulars</u>	<u>Annexures</u>	<u>Page</u>
1. Application under Section 19 of the CAT Act.		
2. Verification		
3. Annexure -	- A	
4. Annexure	- B	
5. Annexure	- C	
6. Annexure	- D	
7. Annexure	- E	
8. Annexure	- F	

Filed by



Advocate.

Filed by,  
Sri Nripon Deka  
Adv.  
Bhupendra Kumar  
Adv.  
25/9/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
GUWAHATI.

An application under Section 19 of the  
Central Administrative Tribunal Act  
1985.

Date of filing :

Registration NO.

201/2000

Signature

REGISTRAR

Contd..... 2/-

- 14
1. Particulars of the Applicant : (i) Shri Nripen Deka,  
Telegraph man (O)  
office of the Chief  
Telegraph office,  
Guwahati Branch.  
Guwahati.
- 1.(b) Particulars of the respondents : (i) The Union of India,  
represented by the  
Chief General Manager,  
Assam Telegraph Circle,  
Guwahati.
- (ii) The Divisional Engineer,  
C.T.O., Guwahati.
- (b) Address for service of notices : As above.
- (c) Particulars of the order against which this application has been made. : Office Memorandum No.  
DE/CTO/DISC/ ND/2000-2001/  
05, dtd. § 11/8/2000  
issued by Respondent  
No. 2 for holding  
denovo Enquiry against  
the applicant.
2. Jurisdiction of the Tribunal : The applicant declares  
that the subject matter

: of this application is within the jurisdiction of this Tribunal.

3. Limitation : The applicant further declares that the application is within the limitation prescribed by Section 21. of the CAT Act 1985.

4. Facts of the : (i) The applicant is working as  
Case telegraph man in the Central Telegraph office Branch Guwahati. Panbazar. Guwahati. He is a confirmed employee of the Telegraph Department.

(ii) In the year 1999, a departmental enquiry was started against the applicant and a chargesheet vide Memo NO. PF/D-82/99-2000, dtd. 30-7-99 was issued by Sub-Divisional Engineer (G). One Inquiring Officer, namely, Shri S.K. Sikidar was appointed as an Enquiring officer vide Memo NO. P.F./D-82/99-2000, dtd. 31-8-99 and Shri J.N. Dutta, TEO (TG) -IV, CTO, Guwahati was appointed as Presenting Officer. In the beginning of the enquiry, the applicant submitted regarding the power of an officer who was lower in rank and was simply looked after the duties of the disciplinary authority. This issue was not settled and the Enquiry

started. It was also submitted by the applicant with regard to the appointment of the Presenting Officer that the applicant having submitted several allegations against the presenting Officer, his appointment as P.O. may prejudice the interest of the applicant.

Copies of the representation submitted by the applicant in these respect are annexed hereto and marked as ANNEXURE - A, A<sub>1</sub> to this application.

iii) That there were articles of charges against the applicant. The allegation centered round non-delivery of a telegram bearing NO. 117/24th through T.I.-117. Although the said telegram was shown as delivered in fact, the same was not delivered and was found lying ~~xx~~ in due point on 30.3-99, accordingly, the Memorendum was issued alleging violation of rule 3(i)(ii) and (iii) of CCS,CCA Conduct Rules, 1964, and accordingly an enquiry was held under Rule 14 (2) of CCS,CCA Rules, 1965.

(iv) That the applicant even after submission of his primary ~~Primary~~/objection participated in the proceeding and hearing took place on 30-12-99. The same P.O. produced all the documents enlisted in Annexures 3 of the Chargesheet issued. It is stated here that although the P.O. submitted



15 Nos of documents at the time of priliminary hearing , only 6 of them were exhibited. 2 state witnesses out of three mentioned in annexure -4 of the chargesheet were examined and they were cross examined by the applicant. At the close of the enquiry, the Enquiring officer submitted his report on 12.6.2000. In the report, the E.O. before discussion of d evidence of the witness and the defence observed:

' ..... As per rule 14(3) of CCS-CCA Rules, 1965, Annexure-1 shall drop with the substance of the imputation of mis-conduct or mis-behaviour in 2 definit and distrinct articles of charge. In the Chargesheet in question, two articles were mentioned: article 1 in annexure-1 and article 2 in Annexure-2. It is not clear whether there were 31 charges against 3 undelivered telegrammes or two charges as mentioned in Annexure-2 or charge framed in article 1 without mentioning the provisions followed by the SPS which was mentioned in Annexure 2. Further, there ~~was~~ is no rule like CCS(CCA) Conduct Rules as mentioned in Chargesheet instead of CCS (Conduct Rules) 1964 which is the serious lapse in framing chargesheet."

Thereafter, the Enquiry ~~started~~ Officer started discussion of the evidence of the witnessess and held:

" .... In departmental enquiry standard of proof required is that all pre-ponderance of probabilities and not proved beyond reasonably doubt. In the instant case the probabilities are not feasible. Further officer performing current duties of a post cannot exercise statutory powers under the rules in cases which cannot brook delay issuance of chargesheet is a statutory powers and could not be done after join of competent authority."

In conclusion after asserting of the details of the evident and relevant circumstances, the undersigned is of the opinion that charge ~~sheet~~ framed against Shri Nripen Deka are not proved. Rather, charges are framed without/<sup>due</sup>care and attention. Hence, the charge may finally be exonerated from the charges.

A copy of the Enquiry report is annexed hereto and marked as Annexure-B to this application.

v) The report of the Enquiry officer being submitted. It was written to the <sup>D</sup>isciplinery authority by the SDE(Admn), CTO, Guwahati stating that he was not agreeing with the report of the Enquiry Officer which was defective and he ~~was~~ also observed that the SPS who got punishment under Rule 14 case. The relevant records and the Enquiry report was sent to the Disciplinery authority, the Respondent No. 2.

Contd...

A copy of the said letter is annexed herewith and marked as Annexure-C to this application.

(VI) Thereafter, another chargesheet was issued to applicant vide Memo NO. DE/CTO/Disc/ND/2000-2001/05, dtd. 11-8-2000 holding a denova inquiry against the applicant on the same charges on which the enquiry has been held.

A copy of the said charge sheet is annexed hereto and marked Annexure D to this application.

(VII) Thereafter enquiry officer and Presenting officer were appointed on 13-9-2000. This time, both the Enquiry Officer and Presenting Officer have been changed.

A copy of the said order is annexed hereto and marked as Annexure-E to this application.

VIII) That the applicatin has submitted a representation objecting to ~~the~~ hold a fresh enquiry against the same charges which could not be proved once in duly conducted enquiry. But the Respondent

Contd.....

authority with a vious view and against the provisions of law is contemplating the denova enquiry in order to impose punishment on the applicant. The applicant filed a representation stating, inter alia, that the denova enquiry contemplated against the applicant was not permissible under the law and he requested the authority to abide by the report of the Enquiry officer who conducted the enquiry and submitted the report earlier. To this representation, the reply of the disciplinary authority was that since the earlier memorandum dated 30.7-99 has been cancelled in the interest of justice and there is no bar in holding a fresh enquiry.

A copy of the said letter is annexed hereto and marked as Annexure-F to this application.

REMEDIES EXHAUSTED:

5. The applicant filed representation before the authority which was not considered according to law.

MATTERS NOT PREVIOUSLY FILED OR PENDING  
BEFORE THE COURT:

6. The applicant has not filed any case in any court in connection with this matter.

Contd.....

RELIEF SOUGHT:

7. The denova proceeding contemplated against the applicant vide Memo NO. DE/CTO/DISC/2000-2001/05, dtd. 11-8-2000 be set aside and quashed.

INTERIM ORDER:

8. The applicant further prays that pending disposal of this application, the proceeding contemplated against the applicant may kindly be stayed.

LEGAL GROUND:

9. The applicatn submits that charge sheet was issued against the applicant on the nasis of certain allegation and edpartmental enquiry was duly conducted by appointed Enquiry Officer and Presenting Officer. The Enquiry Officer conducted enquiry according to the law and submitted his report arrived at a definite conclusion that charges against the applicant were not proved and thereafter he recommended that the applicant be exonerated against this deninite finding and rejecting the report of the Enquiry Officer. A Fresh Enquiry has been ordered in accordance with the violation of the rules.

Contd.....

PARTICULARS OF IPO:

9. No. of IPO: 2G 58 2934 St. 26.9.2000.

Name of Post Office: Guwahati

Name of post office at : Guwahati

which payable

10. List of Annexures:

A, and A<sub>1</sub> : letter dated 17/12/99 and  
27.12/99

B : Enquiry report

C : Letter NO. P.F./D-82/2000<sup>2</sup>2001/01  
dated 28-7-2000 issued by SDE(Admn)

D : Memo NO. DE/CTO/DISC/ND/2000-2001/05  
dtd. 11/8/2000.

E : Letter NO. DE/CTO/DISC/ND/2000-2001/  
08, dtd. 13/9/2000

F : Letter NO. DE/CTO/DISC/ND/2000-2001/  
06, dtd. 12/9/2000.

Contd....

VERIFICATION

I Shri Nripen Deka, aged about      years,  
Telegraph-man CTO , Guwahati, the applicant abovenamed  
do hereby verify that the statements made in  
paragraph/ 2, 3, 4<sup>S, 6, 10, 11,</sup> (i, II, III, IV, VIII) are true to my knowledge  
and those made in paragraph 4(v, vi, vii)  
being matters of records are true to my information  
derived therefrom which I believe to be true and  
the rest are my humble submission before this  
Hon'ble Tribunal .

And I sign this application on this  
the 25 September, 2000 at Guwahati.

Nripen Deka  
SIGNATURE.

12  
Annex - A

21

To  
Sri S.K. Slickdar  
Inquiry officer O/O the DE M/W (Survey)  
Gandhibasto Road, Silpukhuri, Guwahati-781003

Dated at Guwahati the 27.12.99

Subj:- Issuance of chargesheet by JTO(T)  
Sri C.R. Chakravarty who is looking  
after the duties of SDE(G) of CTO  
Guwahati.

Sir,

Most respectfully I like to draw your kind attention that Sri C.R. Chakravarty of SDE(G) CTO Guwahati conducted an preliminary inquiry against me for alleged disciplinary matters. The said preliminary inquiry was conducted behind my back and while I submitted my reply it was stated to me that such an enquiry was conducted. Lastly a chargesheet has been issued to me vide his letter No. PP/D-82.../99-2000 dtd. 30.07.99 under Rule-14.

In this connection it is stated that rules do not permit for issuance of chargesheet by an officer who is looking after the current duties in a higher post Para. (1) of G.I.M.H.A.O.M.No.P.7/14/61-Sms(A) dtd the 24th January 1963.

In view of the above, I apprehend that the above charge sheet issued by Sri Chakravarty is not valid. It is further stated that there is standing animosity between myself and the said officer.

In view of the above, I request you to examine the matter and pass necessary order in this respect according to the law.

With Thanks,

Yours Faithfully

(N. Deka)  
Tele Man CTO Guwahati

.....

*True copy  
Bnd  
Sri*



13- Annex-A<sub>1</sub>

To  
The SDE (Adm)  
O/O the CS/CTO Guwahati

Dated at Guwahati the  
17.12.99

Subj:- Appointment of presenting officer in respect of  
inquiry being conducted under rule-14 of CCS(CCS)  
rules 1965 against Sri N.Deka T/Man(O) CTO Guwahati.

Sir,

I have the honour to draw your kind attention  
to the following facts:-

1. That, it is learnt that Sri J.N.Dutta Sr.TOA(TG)-IV  
of CTO Guwahati has been appointed presenting officer in  
respect of the inquiry under rule-14 of CCS(CCA) rules  
1965 against me.
2. That, I have lodged several complaints against  
Sri J.N.Dutta regarding his involvement in stealing  
the engine of Ambassador car No.AS-01-A-8609 on 20.6.99,  
he taking liquiro inside the office, taking a Telephone  
connection in the name of his late father against  
freedom fighter quota on priority basis by submitting  
false information etc etc.
3. As I have obstructed him and complaint against  
him for his illegal activities in the department, better-  
ness grows between Sri J.N.Dutta and myself and we are now  
enmity to each other.
4. That, Sri J.N.Dutta is actively involved against  
me in this case from the very beginning.
5. That sir, moreover, he is my bitterest union rival.
6. It is only Sri J.N.Dutta who managed to get the  
charge sheet issued against me.

In view of the above Sri J.N.Dutta Sr TOA(TG)-IV  
may not perhaps be the presenting officer in the inquiry  
against me.

I therefore, fervently request your judicious  
goodself to change Sri J.N.Dutta from the presenting  
officer to ensure impartial conduct of the enquiry and  
oblige.

With Thanks,

Yours Faithfully

(N.Deka)  
Telegraph Man(O)  
CTO Guwahati

Copy to:-

1. Sri S.K.Sickdar Inquiry officer O/O the DLF W/W  
(Survey) Guwahati reference to his letter No. 10/Gu/1/99  
dttd. 10.12.99

Yours Faithfully

(H.Deka) T/Man(O)  
CTO Guwahati

True copy  
for  
file

14 Annex-B 26  
INQUIRY REPORT

NO.10/GH/1/99

12.06.2000  
Dated at Guwahati the 19-05-2000

PRESENT

Presenting Officer

Defence Assistant

Sri. S.K. Sikider  
Inquiry Officer  
S.D.E.,  
O/o DET M/W (Survey)  
Guwahati-3.  
Sri J.N. Dutta, Sr. TOA (TG)-IV  
O/o DET (CTO), Guwahati-1

None  
(The SPS himself gave the  
defence)

DISCIPLINARY PROCEEDING UNDER RULE-14 OF CCS(CCA) RULES 1965  
AGAINST SRI NRIPENDRA DEKA, TELEGRAPH MAN, CTO, GUWAHATI

The aforesaid Suspected Public Servant Sh. Nirpendra Deka, Telegraph man (herein after referred to as SPS) was charge sheeted vide memo no. PF/D-82/99-2000 dtd. 30-7-1999 issued by Sub Divisional Engineer (C), O/o DET (CTO), Guwahati (herein after referred to as Disciplinary authority.) The under signed was appointed as Inquiry officer vide Disciplinary Authority MEMO NO. PF/d-82/99-2000 dtd. 31-08-99. Similarly Sri J.N. Dutta, Sr. TOA (TG)-IV, CTO, GH vide Disciplinary Memo No. PF/D-82/99-2000 dated 31/8/99, was appointed as presenting officer (hereinafter referred to as P.O) to present the case in support of the charges before the Inquiry officer on behalf of the Disciplinary authority. The SPS had not taken the help of any defence assistant for the case.

Before I proceed with the case I may mention that the SPS has submitted a letter before starting of preliminary hearing, power of the Disciplinary authority to issue the charge sheet who is looking after the current duties in a higher post. However the issue will be discussed at the conclusion of this report.

Tone enb  
Bnf  
PW

The sitting started with its preliminary Hearing on 27/12/99 when the SPS categorically denied the charges as alleged in the chargesheet against him and preferred a personal hearing in the case. Consequently upon this the P.O. was directed to proceed with the presentation of the case against the SPS. The P.O. was also directed to get examined and inspected all the documentary evidences as mentioned in Annexure III of the charge sheet in question by the SPS. Simultaneously, the SPS was directed to submit a list of documents if any required by him for his defence. He was further directed to submit a list of defence witness, if any, which he wanted to produce before the enquiry in support of his defence. The SPS inspected the listed documents on 27/12/99. On completion of these formalities the Regular Hearing started.

During regular hearing in 30/12/99 the P.O. adduced all the documents as enlisted in Annexure III of the charge sheet issued to and all such documents have been taken on records as state Exhibit as under:

1. S.Exhibit 01(A) - Office memo dtd 30/3/99 from SDE (G)
2. S.Exhibit 02 (B) - Office memo dtd 15/4/99 from SDE (G)
3. S.Ext. 03 - TI-117 dtd. 24/3/99
4. S.Ext. 04 - TI-117 dtd. 30/3/99
5. S.Ext. 05 - TI-117 dtd. 2/4/99
6. S.Ext. 06 - TI-117 dtd. 12/4/99
7. S.Ext. 07 - Report of TI(T) dtd 30/3/99
8. S.Ext. 08 - Report of TD(T) dtd. 12/4/99

Although P.O. submitted 13 nos of documents at the time of Preliminary Hearing only six of them are taken as state exhibit on the basis of the list of documents mentioned in the charge sheet issued to the SPS.

In course of regular Hearing, the P.O. also could adduce only two state witnesses out of three witness as mentioned in Annexure IV of the charge sheet in support of the charge against the SPS. Who were examined by P.O. and cross-examined by SPS. They are as under:

Contd ---3/---

- 3 -
- 16
- A
- S.W.1 - Sri D.R.Boro, T/Inspector, C.T.O., GH  
2. S.W.2 - Sri Pathik Chandra Nath, Telegraphman, CTO, GHY

The following defence witness the SPS could adduce which allowed by the Inquiry Authority as under:

(1) Diw. 1. Md. Khair Ali, TAO (TG) CTO, GH

At the end of oral hearing both the parties were directed to submit their respective briefs within stipulated time. The prosecution brief of P.O. received on 19/4/2000 the defence brief of the SPS dated 20/4/2000 received on 21/4/2000.

Thus all the documentary evidences adduced and submissions made were thoroughly examined. At the same time both the parties (i.e. prosecution and defence) were given full and reasonable opportunities which they availed to the best of their satisfactions there was no complaint from either side in this regard.

The following article of charge were framed against the SPS as contained in ANNEXURE I and II of the charge sheet.

#### ANNEXURE - I

The Sri Nripendra Deka T/Man, CTO, Guwahati, while performing 14-21 duty on 24/3/99 was entrusted to deliver a c telegram----- of CTO on 30/3/99.

Again said Nripendra Deka was entrusted to deliver ----- on 12/4/99.

#### ANNEXURE - II

Statement of imputations and misconduct in support of articles of charges -----

#### Article - II

That Sri Nripendra Deka ----- on 30/3/99.

Again on 8/4/99 while Sri Deka was performing 14-21 duty----- sumering 5 on 12/4/99.

Contd-----1/-

Thus Sri Nripendra Deka, T/Man, CTO, Guwahati exhibits lack of integrity, deliberate negligence of duties and ----- thereby contravene the provisions of Rule 3(1) (i) (ii) (iii) of CCS(CCA) conduct Rules 1964.

On the language used in article of charges mentioned in Annexure I and II to the memorandum of charges Sri Nripendra Deka has been charged with offences that he was entrusted to deliver telegram bearing no 117/24, 187/8 and 188/8 on different occasions but did not deliver the telegram to the party though it was shown delivered thus violated the departmental provisions. It is heedless to stress that charge are serious. In this context, I as inquiry officer shall duty band to discuss hereunder the submission of both prosecution and defence to bring truth in open.

#### Discussion:

The crux of the charges against the SPS was that he did not deliver three telegrams on different date to the addressee, even though he had shown it that he had delivered the telegrams in question for this act he had been charged with violation of Rule 3(1) (i) (ii) (iii) of the CCS (CCA) conduct Rules 1964.

The plea of Sri Deka was total denial and complete rejection of the charges against him. Now it is to be examined how far the prosecution has been able to sustain the charges and how far the SPS has been able to refute and demolish the charges against him.

Before proceeding for detailed discussions on the evidences witnesses of both prosecution and defence it is necessary to mention the procedural lacuna in the charge sheet. As per Rule 14(3) of CCS(CCA) Rules 1965, Annexure I shall drawn up with the substance of the imputation of misconduct or misbehaviour into definite and distinct articles of charge. In the charge sheet in question two articles were mentioned article -I in Annexure I and article-II in Annexure II. It is not clear whether there are three different charges against three undelivered telegram or two charges as mentioned in two annexure or charge framed in article I without mentioning the

Contd--- 5/-

-18- 30

----- 5 -----

provisions violated by the SPS which was mentioned in Annexure II . Further there is no rule like CCS(CCA) conduct Rule as mentioned in charge sheet instead of CCS ( conduct) Rules 1964, which is a serious lapse in framing charge sheet.

The main witness of the prosecution Sri D.R. Boro in reply to examination - in - chief by P.O. said that he had found the telegram in question i.e. no 117/24 in just like dustbin outside the office on 30/3/99 and other two telegram i.e. 187/8 and 188/8 in out turn Box on 12/4/99 . On both occasion Sri D.R. Boro found the telegram undelivered and he arranged the delivery of those telegram through T/Man no. 36 in delivery of 117/24 and through T/Man no. 20 the other two telegrams . The state witness SW-2 in his deposition has not given any point in favour of the state rather his remark on P.O.'s question that " when Mr Boro has joined as T/T during early 1999 there was some problem regarding delivery of messages " is not clearly giving the answer of the problem rather it is pointing something else i.e. the situation at that time was created .

During cross -examination of SW-1 ( Sri D.R. Boro) in a pointed question of defence " Rule says that non-delivery messages to be delivered along with the messenger who failed to give the delivery ". The SW-1 replied that as records were with him , he could verify without the concerned messenger . The reply was quite improper as on this verification Rule 14 Charge sheet was issued to the SPS . Hence it was necessary on the part of the official who made the preliminary enquiry to abide by the appropriate rules so that there should not be any doubt at any point of time that the action were vindictive and charges framed are not vague .

SW-1 in his reply to examination -in- chief and cross examination mentioned that telegram no. 117/24 he found it out side office and other two telegram no. 187/8 and 188/8 he found in out turn box . On both occasion he himself found the undelivered

contd -----6/-

- 19 - 21

-----6-----

telegram and out turn box is kept in 1st floor attached to IR section under the control of SDE (IR). It is not understood why Sri D.R. Boro T/r had gone upstairs and opened this out turn box without the permission of the incharge of out turn box. It seems that it was known to SW-1 that two undelivered telegram were available in out turn box.

If we take it that the SPS has not made the delivery and given false signature in TI slip even then it cannot be believed that a man of general prudence would drop the messages in out side office out turn box so that he might be caught.

Further there was no complain from any of the three parties nor statement of any addressee had been procured during verification which is also raising doubt against validity of framing the charges.

On 27/12/99 during preliminary inquiry P.O. presented photo copy of the telegram no 187/8 and 188/8. The undersign as I.O. asked for the original copy and gave P.O. leave for collection of the original copy. P.O. came back after some time and produce the same photo copy with a certificate inscribed in it on back date is not proper and this creates obstruction to ascertain truth.

The defence witness DW -1 who was working in file section testified that out turn box was by the side of his seat which was opened by peon during the period. In answer to examination - in - chief question "whether TI can give complain to SDE (G) without informing SDE (IR)" , he mentioned that "This is gross wrong done". The formality is not observed.

The defence was given reasonable opportunity to refute, examine or rebut every point relied against him. The standard of proof required in a departmental enquiry differs materially from the standard of proof required in criminal trial.

contd---7/-

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-7-

In departmental enquiry standard of proof required is that of preponderance of probabilities and not proof beyond reasonable doubt. In the instant case the probabilities are not visible. Further Officer performing duties of a post cannot exercise statutory powers under the rules in which cannot delay the issuance of charge as a statutory power and could be done after joint of competent authority.

In the conclusion after ascertaining all the details of the event and relevant circumstances the undersign is of the opinion that charges framed against Sri N. Doka are not proved. Rather charges are framed without due care and attention. Hence the charged official may be exonerated from the charges.

## Enclosure:-

1. List of exhibits produced by P.O.
2. Deposition of prosecution witness
3. Deposition of defence witness
4. Written brief by P.O. and SPS
5. Application of SPS
6. Daily order sheet.
7. All the other documents submitted during inquiry

14(23)

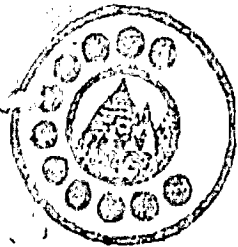
*[Signature]*  
(S.K. SIKIDAR)

Inquiry Officer,  
Sub-Divisional Engineer Telecom.  
Microwave Survey  
Guwahati-3.

12/6/2000

12/6/2000





कोर7/Corr-7

भारतीय दूरसंचार/DEPARTMENT OF TELECOMMUNICATIONS  
कार्यालय/Office of the

To

The Divisional Engineer cum  
Disciplinary Authority CTO/GH

PF-d/82/2000-2001/01  
No.....

Dated.... 28-07-2000

Sub:- Reports of I.O. in respect  
of Rule 14 case framed against  
Sri Nripundra Deka 1/Han, CTO/GH

Sir,

With reference to the above, I beg to state  
that the final reports of Inquiry officer is received  
by the u/s and the following observation of myself  
over the report is produced below for favour of your  
information and necessary action at your end please.

- (1) I am not agreed with the report of I.O. as  
the same is defective in my opinion.
- (2) In my opinion, the SPS should get punishment  
under Rule 14 case.

The whole case along with relevant  
documents and I.O.'s report are sent herewith  
for your further necessary action.

Enc:- As stated above.

(J.M. Basumatary)  
SDE (Admn), CTO/GH

True to  
file

Annex - D

22

No. DE/CTO/DISC/ND/2000-2001/05

Government of India  
Ministry of Communications  
Department of Telecommunications  
Office of the Divisional Engineer,  
Central Telegraph Office, Panbazar,  
Guwahati-781001.

Date:- 11-08-2000

MEMORANDUM.

The undersigned proposes to hold an inquiry against Shri Nripendra Deka, Telegraph Man, CTO, Guwahati messenger No. 20 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 the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

(2) Shri Nripendra Deka is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

(3) He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

(4) Shri Nripendra Deka is further informed that if he does not submit his written statement of defence on or before the date specified in para. 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex-parte.

(5) Attention of Shri Nripendra Deka 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 Nripendra Deka 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 C.C.S. (Conduct) Rules, 1964.

(6) The receipt of the Memorandum may be acknowledged.

( D.K.Nath )

Divisional Engineer,  
Central Telegraph Office,  
Guwahati-781001.

To

✓ Shri Nripendra Deka, T/Man,  
Central Telegraph Office,  
Panbazar, Guwahati-781001.

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ANNEXURE-I

Statement of Article of charge framed against  
Shri Nripendra Deka, T/Man, CTO, Guwahati.

Article-I

That the said Shri Nripendra Deka (Messenger No.20) while functioning as T/Man in CTO, Guwahati, on 24-03-99, was issued a 'C' telegram bearing No.117/24 vide TI-117 dated 24-03-99 for delivery to the addressee. Shri Nripendra Deka did not deliver the said telegram on that date to the addressee but submitted the concerned TI-117 with a fake receipt signature of the addressee and thus violated Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules, 1964.

Article-II

Again the said Shri Nripendra Deka (Messenger No.20) while functioning as T/Man in CTO, Guwahati on 08-04-99 was issued 2(two) Nos. of 'C' telegrams bearing No.187/8 and 188/8 for delivery to the addressees vide TI-117 dated 08-04-99. Shri Nripendra Deka did not actually deliver these 2 telegrams but submitted the relevant TI-117 with fake acknowledgements as if the telegrams were delivered to the addressees by him on that date and thus violated Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules, 1964.

24

P. 2

36

ANNEXURE-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Nripendra Deka, Telegraph Man, CTO, Guwahati.

Article-I

That Shri Nripendra Deka (Messenger No.20) while functioning as T/Man on 24-03-99 was entrusted to deliver the 'C' telegram bearing No.117/24 along with 2 other telegrams through TI-117 dated 24-03-99. The said Shri Nripendra Deka submitted the TI-117 dated 24-03-99 on the same date with an illegible receipt signature against that very telegram No.117/24. Astonishingly after 6 (six) days i.e. on 30-03-99, that very particular telegram was found lying in the D.O. Section of CTO, Guwahati by Shri D.R.Boro, Town Inspector. The matter was then brought to the knowledge of S.D.E.(G), CTO, Guwahati by the T.I. who then arranged to deliver the Telegram No.117/24 through another T/Man named Shri Phatik Ch. Nath (Messenger No.36) on 30-03-99 vide TI-117 dated 30-03-99. As such it is evident that the said Shri Nripendra Deka did not actually deliver the telegram No.117/24 and submitted the relevant TI-117 with a fake receipt signature on 24-03-99. Shri Nripendra Deka either negligently and carelessly lost the telegram No.117/24 while it was in his custody or he deliberately misplaced the that very telegram with an ill-motive and malafide intension.

Thus the said Shri Nripendra Deka, T/Man has shown gross negligence in duty, lack of integrity and most careless about his responsibilities. He adopted malafide means to deceive public interest and furnished fake document to the department which are totally unbecoming from the part of a government servant and thus violated the provisions of Rule 3(1)(i) (ii) & (iii) of CCS (Conduct), Rules, 1964.

Article-II

That the said Shri Nripendra Deka (Messenger No.20) while functioning as T/Man in CTO, Guwahati on 08-04-99 was allotted at 1725 hrs. to deliver 2 Nos. of 'C' telegrams bearing No. 187/8 & 188/8 vide TI-117 dated 08-04-99. Shri Nripendra Deka re-submitted the relevant TI-117 at 2030 hrs. on the same day with some illegible receipt signatures as a token of delivery of the said telegrams to the parties. But surprisingly after 4 (four) days i.e. on 12-04-99, both the telegrams No.187/8 & 188/8 were found inside the Cuttum Box of the I/R Section of CTO, Guwahati by the Town Inspector Shri D.R.Boro. The matter being brought in the knowledge of SDE(G), CTO, Guwahati on that date, arrangement was made to deliver these 2 telegrams by another T/Man named Shri Dwijen Borah (Messenger No.5), T/Man, CTO, Guwahati vide TI-117 dated 12-04-99. There fore, it is crystal clear that the said Shri Nripendra Deka, T/Man did not actually deliver the above mentioned 2 telegrams on 08-04-99 and adopted fraudulent procedure to fill up the TI-117 as proofs of delivery. It is also evident that Shri Nripendra Deka, T/Man either carelessly lost the 2 telegrams while it was in his custody or he deliberately misplaced the said telegrams with a malafide intension. Moreover, Shri Nripendra Deka furnished a false statement in reply of SDE(G), CTO, Guwahati letter No. TD-121/Ex-Memo/99-00/15 dated 15-04-99 vide his letter dated 16-04-99 stating that he delivered the said 2 telegrams to the addressees on the same date.

Contd.-

NO.DCO(E)20/78/Vol.IV/7/28

25 -  
Annex - 13  
Phone. Director: 547396  
382121 (K)  
Off. Supdt: 526954  
Fax: 0361-547396

भारत सरकार  
GOVERNMENT OF INDIA

गृह विभाग  
MINISTRY OF HOME AFFAIRS/ORDA MANTRALAYA

कार्यालय जनगणना निदेशक  
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM

नि. एच. रोड, गुवाहाटी-781007  
G. H. ROAD, ULUBARI, GUWAHATI-781007

दिनांक गुवाहाटी

Dated Guwahati the 18th Aug./2000

ORDER

Shri Rup Kumar Das son of Shri Bipin Das of Chaibari village under Patacharkuchi police station, Barpeta is hereby appointed on a purely temporary basis to the post of Chowkidar in the office of the Director of Census Operations, Assam, Guwahati in the scale of pay Rs.2550-35-2660-60-3200/- p.m. plus other allowances as admissible under Central Govt. rules as amended from time to time for a period upto 28.2.2001 or until further order whichever is earlier.

The appointment is subject to receipt of satisfactory PVR and production of Medical fitness certificate from the appropriate authority.

The above temporary appointment is made against the resultant vacancy occurred against the purely temporary posts sanctioned for 2001 Census. The sanction for the temporary posts will be discontinued and the incumbent have to be terminated even before the expiry of the term without notice and assigning any reason thereof and the Govt. would have no liability thereafter.

If he agrees to the above terms and conditions he may join immediately.

(A. MEDHI)  
ASSTT. DIRECTOR OF CENSUS OPERATIONS  
ASSAM GUWAHATI.

Memo No.DCO(E)20/78/Vol.IV/7/29-32 Date: 18/8/2000

- Copy to :
1. The Pay & Accounts Officer (Census), ASCH & M. Building, New Delhi-2.
  2. The A.D.C.O. (ULO).
  3. The Estt. Branch.
  4. The Accounts Branch.
  5. Shri Rup Kumar Das, Vill. Chaibari, P.O. & P.S. Patacharkuchi, Dist. Barpeta.

(A. MEDHI)  
ASSTT. DIRECTOR OF CENSUS OPERATIONS  
ASSAM GUWAHATI.

The copy  
by  
[Signature]

-26-

Thus the said Shri Nripendra Deka, T/Man has shown lack of integrity, gross negligence in duty, deliberate fabrication of official records. He adopted fraudulent means to deceive public interest and furnished false statement to the department which are totally unbecoming from the part of a government servant and thus he violated the provisions of Rule 3(1)(i), (ii) & (iii) of C.C.S. (Conduct) Rules, 1964.

#### ANNEXURE-III

List of documents by which the articles of charge framed against Shri Nripendra Deka, T/Man, CTO, Guwahati are proposed to be sustained.

- (01) TI-117 dated 24-03-99.
- (02) Report of Shri D.R. Boro, Town Inspector, CTO, Guwahati dated 30-03-99.
- (03) TI-117 dated 30-03-99.
- (04) Letter No. TD-121/X-Memo/98-99/11 dated 30-03-99 of SDE(G), CTO, Guwahati addressed to Shri Nripendra Deka, T/Man.
- (05) Letter No. TD-121/Ex-Memo/99-00/ dated 20-04-99 of SDE(G), CTO, Guwahati addressed to Shri D.R. Boro, Town Inspector.
- (06) Report of Shri D.R. Boro, Town Inspector dated 29-04-99 addressed to SDE(G), CTO, Guwahati.
- (07) TI-117 dated 08-04-99.
- (08) Report of Shri D.R. Boro, Town Inspector CTO, Guwahati dated 12-04-99 addressed to SDE(G), CTO, Guwahati.
- (09) TI-117 dated 12-04-99.
- (10) Letter No. 121/Ex-Memo/99-00/15 dated 15-04-99 of SDE(G), CTO, Guwahati addressed to Shri Nripendra Deka, T/Man.
- (11) Letter dated 16-04-99 of Shri Nripendra Deka, T/Man addressed to SDE(G), CTO, Guwahati.

Relevant to  
Article-I.

Relevant to  
Article-II.

#### ANNEXURE-IV

List of witnesses by whom the articles of charge framed against Shri Nripendra Deka, T/Man, CTO, Guwahati are proposed to be sustained.

1. Shri D.R. Boro, Town Inspector, CTO, Guwahati.
2. " Phatik Ch. Nath, T/Man (No. 36), CTO, Guwahati.
3. " Dwijen Borah, T/Man (No. ) CTO, Guwahati.

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No. DE/CTO/DISC/ND/2000-2001/08

Government of India  
Ministry of Communications,  
Office of the Divisional Engineer,  
Central Telegraph Office,  
Guwahati-781001.

Place:-Guwahati

Dated 13-09-2000.

O R D E R

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is being held against Shri Nripendra Deka, Telegraphman, CTO, Guwahati.

AND WHEREAS the undersigned considers that a ~~XXXX~~ Presenting Officer should be appointed to present on behalf of the undersigned the case in support of the articles of charge.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (2) (C) of Rule 14 of the said rules, hereby appoints Shri Shankar Chandra Das, SDE (Rectt.), O/O the CGMT, Assam Circle, Guwahati as the Presenting Officer.

( D.K.Hati )  
Divisional Engineer,  
Central Telegraph Office,  
Guwahati-781001.

Copy to:-

- 1) Shri Shankar Chandra Das, SDE (Rectt.), O/O the CGMT, Assam Circle, Guwahati-7 (Presenting Officer) with copies of necessary documents.
- ✓ 2) Shri Nripendra Deka, T/Man, CTO, Guwahati.
- 3) Shri A.B. Saran, OSD (DI), E.R., Patna (Inquiry Officer)
- 4) The D.G.M. (Admn), O/O the CGMT, Assam Circle, Guwahati for information please.

(R. 15/9/2000)  
Divisional Engineer,  
Central Telegraph Office,  
Guwahati-781001.

.....

True copy  
But  
for

Recd on 12/9/2k at 1500 hrs. Annex - F

Government of India  
Department of Telecommunications,  
Office of the Divisional Engineer, CTO, Guwahati-1.  
.....

No. DE/CTO/DISC/ND/2000-2001/06

Dated at Guwahati,  
the 12-09-2000.

To

Shri Nripendra Deka, T/Man,  
Central Telegraph Office,  
Panbazar, Guwahati-781001.

In response to this office memorandum No. DE/CTO/DISC/ND/2000-2001/05 dated 11-08-2000, you prayed vide your application dated 21-08-2000 for allowing another 10 (Ten) days time (beyond the normal time limit of 10 days) for submission of statement of defence.

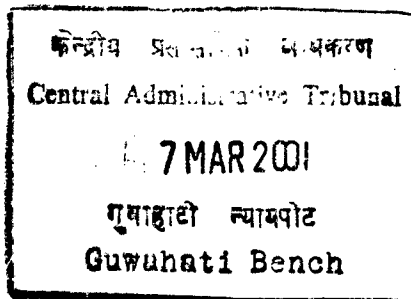
As it has already passed 20 days after issue of aforesaid memorandum and no statement of defence is received from you, it is presumed that you have nothing to say against the charges brought against you vide the aforesaid memorandum and thus it will be treated that you have not submitted any statement of defence.

Regarding the letter No. nil dated nil signed by you addressed to Divisional Engineer, Central Telegraph Office, Guwahati, it is stated that the arguments mentioned in the said letter have got no weightage as the earlier memorandum dated 30-07-99 issued by S.D.E. (G), CTO, Guwahati has been cancelled in the interest of justice. As such your request in the conclusion of your letter can not be acceded to.

(D.K. Nath)  
Divisional Engineer,  
Central Telegraph Office,  
Guwahati-781001.

me copy  
by  
Adv.





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

O.A. NO. 301/2000 .

Shri Nripen Deka

- VS -

Union of India and others.

- AND -

IN THE MATTER OF :

Written Statement submitted by the  
Respondents in O.A. No. 301/2000.

The respondents beg to submit on brief history of the case before submitting para-wise written statement which be treated as a part of written statement.

BRIEF HISTORY OF THE CASE :

A charge sheet under Rule 14 of CCS (CCA), Rules, 1965 was issued against Sri Nripendra Deka, Telegraphman, C.T.O. Guwahati vide No. PF/D-82/99-2000 dated 30-07-99 by the SDE(G), C.T.O. Guwahati. Shri S.K. Sikidar, SDE (M/W) Survey, Guwahati-3 and Shri J.N. Dutta, Chief SS(O), CTO, Guwahati were appointed as Inquiry Officer and presenting Officer respectively for the purpose of inquiry into the charges brought in the said charge sheet.

Contd.....

On receipt of the inquiry report, the SDE (Admn). CTO, Guwahati (erstwhile post of SDE(G) forwarded the all relevant papers of the said case to the D.E., CTO, Guwahati (competent disciplinary authority for major penalty) with his comment for further necessary action and orders.

Thereafter, the D.E. CTO, Guwahati, on ~~through~~ <sup>thorough</sup> examination of all papers/records of the proceedings issued an order for cancellation of the said charge sheet and all follow up action on it proposing for issue of a fresh charge sheet appropriate to the nature of charges in the interest of justice.

Accordingly fresh charge sheet was issued vide No. DE/CTO/Disc/ND/2000-2001/05 dated 11-08-2000 by the D.E. CTO, Guwahati against Shri Nripendra Deka. An Inquiry Authority and a Presenting Officer have also been appointed afresh to inquire into the charges.

NOTES:

- i) An authority who is empowered to impose any major or any minor penalty on an official is called Disciplinary Authority. There is no bar to issue a charge sheet under Rule 14 (meant for major penalty) by a disciplinary authority who is empowered to impose only minor penalty on an official. As such, SDE(G) in looking after capacity can issue charge sheet under Rule 14 against a telegraphman.

Contd.....

ii) D.E., CTO, Guwahati is the competent authority to issue order for major penalty under Rule 14 and as such, the case with all relevant records was forwarded by the SDE (ADMN) for further necessary action.

iii) Competent disciplinary authority can accept the findings of an inquiry report or otherwise after thorough and careful examination. The competent authority may also cancel/drop a charge sheet/proceedings at any stage in the interest of justice and he may also issue a fresh charge sheet if considered necessary in the particular circumstances in the interest of justice.

PARA-WISE COMMENT

1. That with regard to paras 1, 1(a), (b), (c), Para-2, Para-3, Para-4(i) the respondents beg to offer no comments.

2. That with regard to para 4(ii), the respondents beg to state that it is correct that the charge sheet was issued by SDE(G), CTO, Guwahati. Shri S.K. Sikidar, SDE(M/W) Survey, Guwahati-3 was appointed as Inquiry Officer and Shri J.N. Dutta, Chief SS(O), CTO, Guwahati was appointed as Presenting Officer.

Through the officer who issued the charge sheet was looking after the job of SDE(G), he is competent to issue the charge sheet as per Departmental rule. Issue of charge sheet and issue of penalty order are two different things.

The appointment of Shri J.N. Dutta as P.O. is not at all against the rule as envisaged in CCS(CCA) Rules 1965.

3. That with regard to para 4(iii) the respondents beg to offer no comment.

4. That with regard to para 4(iv) the respondents beg to state that the contents of the para relates to charge sheet No. PF/D-82/99-2000 dated 30.07.99 which was subsequently cancelled by the D.E., CTO, Guwahati No. DE/CTO/Disc/ND/2000-2001/04 dated 31.07.2000 and as such it has got no weightage .

Copy of letter dated 31.7.2000 is enclosed as Annexure - R<sub>1</sub> .

4. That with regard to para 4(v), the respondents beg to offer no comment.

5. That with regard to para 4(vi) the Respondents beg to state that the issue of charge sheet and denovo inquiry was needed in the interest of justice.

6. That with regard to para 4(vii) the respondents beg to state that the appointment of Inquiry Officer and P.O. afresh is a quite justified and as per rule.

7. That with regard to para 4(viii) the respondents beg to offer no comment.

8. That with regard to para 5, the respondents beg to state that <sup>they have</sup> it not agreed. The applicant has got the scope of furnishing his statement of defence before the Inquiry ~~Officer~~ Authority in the proceedings of denovo ~~inquiry~~ inquiry. The applicant is also liable to get all ~~reasonable~~

reasonable opportunities from the independent inquiry authority. Moreover, in all such cases of disciplinary cases, <sup>a delinquent</sup> ~~an accused~~ official have the right of appeal to the Appellate Authority even after issue of any punishment order by a disciplinary authority.

8. That with regard to paras 6 and 7 the respondents beg to offer no comments.

9. That with regard to para 8 the respondents beg to state that the proceedings not to be stayed as the proposed inquiry is meant to find the truth in the interest of justice.

10. That with regard to para 9 the respondents beg to state that the Disciplinary Authority is the right person to examine a report of an Inquiring Authority whether it is appropriate or otherwise.

An Inquiring Authority is to comment only whether the charges are proved or not, but the Inquiry Officer can not recommend exoneration or any punishment to be imposed in a Inquiry Report.

11. That with regard to paras 9 and 10 the respondents beg to offer no comment.

Verification .....

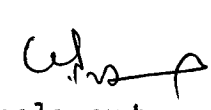
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-6-

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

I, Shri Ganesh Chandra Sarma

being authorised do here by solemnly declare that the statement made in this written statement are true to my knowledge , believe and information and I have not suppressed any material fact.

And I sign this verification on this 19<sup>th</sup> day  
of ~~December, 2000~~<sub>CH</sub>. February, 2001.

  
Declarant.

7

Amuse-R<sub>1</sub>35  
47

No. DE/CTO/Disc/ND/2000-2001/01  
 Government of India,  
 Department of Telecommunications  
 Office of the Divisional Engineer  
 Central Telegraph Office, Panbong  
 Guwahati-781001.

Dated at Guwahati, the 31-07-2000.

O R D E R.

WHEREAS, a charge sheet was issued against Shri Nripendra Deka, Telegraph Man, CTO, Guwahati vide SDE(G), CTO Guwahati No. PF/D-82/99-2000 dated 30-07-99 proposing to hold an enquiry under Rule 14 of CCS(CCA) Rules/1955.

AND WHEREAS, Shri S.K.Sikidar, SDE(M/W) Survey, O/O Divisional Engineer, M/W Survey, Guwahati-3 was appointed Inquiring Authority vide SDE(G), CTO, Guwahati No. PF/D-82/99-2000/1 dated 31-08-99 to inquire into the charges of above mentioned charge sheet.

AND WHEREAS, the reports with all relevant papers of the aforesaid case have been forwarded to the undersigned vide SDE(Admn), CTO, Guwahati No. PF-d/82/2000-2001/01 dt 28-07-2000 for taking necessary action on the basis of reports and records of the case.

NOW, on scrutiny and careful examination of the aforesaid charge sheet, inquiry report and all relevant papers it is found that there is some flaw and inherent defect framing the charge sheet as well as there are procedural mistakes through out the whole process of inquiry conducted by the Inquiring Authority.

NOW, considering the circumstances of the case and the interest of justice, the undersigned as Disciplinary Authority cancels the aforesaid original charge sheet thereby drops all the followup proceeding on it with intention to issue a subsequent charge sheet appropriate to the nature of the charges as envisaged vide D.G. Pet letter No.114/324/78-DISC.II dated 5th July, 1979.

(D.K.Nath) 31.7.2000  
 Divisional Engineer,  
 Central Telegraph Office,  
 Guwahati-781001.

Copy to :-

1. Shri Nripendra Deka, T/Man, CTO, Guwahati along with a copy of inquiry report & a copy of report of SDE(G).
- 2) The S.D.E. (Admn), CTO, Guwahati.
- 3) Shri S.K.Sikidar, SDE (M/W) Survey (Inquiring Authority) O/O the D.E., (M/W) Survey, Guwahati-3.
- 4) The S.D.E. (Vig), O/O the G.M.Telecom, KTD, Guwahati-7.
- 5) The D.E. (Admn), O/O the G.M.Telecom, KTD, Guwahati-7.

(D.K.Nath) 31.7.2000  
 Divisional Engineer,  
 Central Telegraph Office,  
 Guwahati-781001.