

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI, 5. (FORM NO. 4)
ORDER SHEET. (See Rule-42)

APPLICATION NO. 309/2000

Applicant(s) *Rafulla Chanda Saikia*

Respondents(s) *Union of India v/c.*

Advocate for Applicant(s) *Mr. A. Sarma*

Advocate for Respondent(s) *Mr. Col. Dr. Mr. A. Ozah*

*Ex-Officio
Rly. Advocate.*

Notes of the Registry.

DATE

ORDER OF THE TRIBUNAL

29.9.00

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

There is no representation. List on
2.11.00 for Admission.

[Signature]
Vice-Chairman

1m

2.11.00

There is no representation on behalf
of the parties.

List on 4.12.2000 for admission.

[Signature]
Vice-Chairman

pg

8.11.00

Heard Mr A. Sharma, learned counsel for
the applicant and Mr B.K. Sharma, learned
Railway standing counsel.

Issue notice to show cause as to why
this application shall not be admitted.
Returnable by two weeks.

List on 22.11.2000 for show cause and
admission. In the meantime the respondents
shall not make any further recovery from
the salary of the applicant in pursuance
of Annexure-X letter No.WB/GHY/C dated
19.5.2000 issued by respondent No.2.

[Signature]
Vice-Chairman

pg

25
8/11/2000

Notice duly served on
R.N.C. 3.

[Signature]

[Signature]
16/11/00

(2)

22.11.00 Heard Mr C.K.Das, learned counsel for the applicant and Mr S.Sarma, learned counsel for the respondents. Mr S.Sarma has prayed for four weeks time to file written statement. Prayer allowed.

List on 22.12.2000 for order.

Vice-Chairman

pg

A.K.Jay
22/12

Order communicated to the parties counsel
vide DINo _____

ddt _____
b/11/00 _____

22.12.00 Heard Mr.S. Sarma, learned counsel for the applicant.

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

The respondents may file written statement within four weeks. In the meantime, the interim order dated 8.11.2000 shall continue.

List on 25.1.2001 for written statement and further orders.

No written statement has been filed.

Vice-Chairman

3/12/01

mk

25.1.2001 Mr. S. S. Adjourned to 7.2.2001
A.K.Jay
25/12/01

7.2.01 Four weeks further time is allowed to file written statement. List on 14.3.2001 for written statement and further orders. Interim order dated 8.11.2000 shall continue.

Member

Vice-Chairman

No W.S has been
filed so far
trd
13.3.01

14.3.01 On the prayer of Mr.S. Sarma learned counsel for the respondents 4 weeks time is granted for filing of written statement. List on 2.5.01 for orders. Interim order shall continue.

Member

Notes of the Registry	Date	Order of the Tribunal
	8.6.2001	Mr. S. Sarma, learned counsel for the respondents, asked 4 weeks time to file written statement. In the mean time interim order dated 8.1.2001 will be continued. List on 18-7-2001 for order. ICUShan Member
<u>17.7.2001</u> No. W/C has been submitted.	18.7.01	On the prayer of Mr. S. Sarma learned counsel for the respondents four weeks time is allowed for filing of written statement. List on 22.8.01 for orders. ICUShan Member
<u>No. W/C has been filed.</u> <u>24/8/01</u> Written statement filed on behalf of the respondents.	22.8.01	Mr. S. Sarma, counsel for the respondents seeks time for filing of written statement. Three weeks time is allowed. Interim order dated 8.11.2000 shall continue. ICUShan Member
	trd	<i>WS 22/8/2001</i>

O.A. 309 of 2000.

Notes of the Registry	Date	Order of the Tribunal
	19.9.01	Written statement has been filed. The applicant may file rejoinder, if any, within 2 weeks from today. List on 12/10/01 for order.
Pl. caly SJS 15/10/01	mb 12.10.2001	Written statement has already been filed. Mr. A. Ozah, learned counsel appearing for the applicant prays for time for filing rejoinder. Prayer allowed. List the matter on 16.11.2001 for order. In the meanwhile the interim order dated 8.11.2000 will continue.
Order dtd. 10/10/01 communicated to the parties Copy b2 16/10/01	bb 16.11.01	Written statement has been filed. List for hearing on 4.1.2002. In the meanwhile the applicant may file rejoinder, if any. Interim order dated 8.11.2000 shall continue.
Order dtd. 10/10/01 communicated to the parties Copy b2 20/11/01	bb 4.1.02	List again on 1.2.2002 for hearing.
No. rejoinder has been filed. b2 31.1.02	mb 1.2.02	Heard Mr. S. Sarma learned counsel, in pa The respondents are directed to produce the records. List on 13.2.02 for hearing.
		Vice-Chairman

0.A.No.309/2000

Notes of the Registry

Date

Order of the Tribunal

13.2.2002

The matter has been heard by the Hon'ble Vice-Chairman on 1.2.2002. List the case before the Single Bench constituted by the Hon'ble Vice-Chairman on 1.3.02.

nkm

1.3.2002

None appears for the applicant to press the application. List again for hearing on 15.3.02.

nkm

15.3.2002

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.

nkm

27-3-2002

Copy of the judgment has been sent to the office for issuing the same to the applicant as well as to the City Standing Counsel on the Repp Drs.

88

Received
Rukmal
Advocate
1/4/02

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 309 of 2000

Date of Decision. 15.3.2002

Shri Prafulla Chandra Saikia

Petitioner(s)

Mr A. Sharma, Mr C.K. Das and

- Mr A. Ozah

Advocate for the
Petitioner(s)

Versus-

The Union of India and others

Respondent(s)

Mr J.L. Sarkar, Railway Counsel

Advocate for the
Respondent(s)

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

THE HON'BLE

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

W

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.309 of 2000

Date of decision: This the 15th day of March 2002

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

Shri Prafulla Chandra Saikia,
Presently residing at Bamunimaidan,
Railway Colony Quarter No.326A,
Guwahati.

.....Applicant

By Advocates Mr A. Sharma, Mr C.K. Das and
Mr A. Ozah.

- versus -

1. The Union of India, through the
General Manager,
N.F. Railway, Guwahati.
2. The Assistant Personnel Officer,
N.F. Railway, Lumding.
3. The Divisional Personnel Officer,
N.F. Railway, Lumding.
4. The Chairman,
Railway Co-operative Consumers Stores Limited,
New Guwahati.
5. The Assistant Registrar of
Co-operative Societies,
Guwahati.

.....Respondents

By Advocate Mr J.L. Sarkar, Railway Counsel

.....
O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

By order dated 19.5.2000 the respondents sought for recovery of a sum of 35,148.81 from the applicant on the strength of the communication dated 21.9.1999 sent by the Assistant Registrar of Co-operative Societies, Guwahati, Assam. The respondents sought to recover the aforementioned amount in 34 instalments at the rate of Rs.1034/- per month from May 2000 onwards. The applicant assailed the said order of recovery on various grounds.

2. During the course of hearing Mr A. Ozah, learned counsel for the applicant stated that the respondents are demanding different sums at different stages. According to the learned counsel the applicant has deposited a sum of Rs.27,954/- . That apart, the respondents has by virtue of the communication dated 19.5.2000 realised a sum of Rs.6000/- and odd. According to Mr Ozah the applicant has paid all the dues pertaining to the Co-operative Societies.

3. Mr J.L. Sarkar, learned Railway Counsel, stated that the Railway is recovering the said amount only on behalf of the Co-operative Society. The Railways are only interested to realise the actual amount due.

4. Upon hearing the learned counsel for the parties the following consent order is passed:

The applicant shall submit a representation before the Assistant Personnel Officer, N.F. Railway, Lumding narrating the full facts alongwith copies of the money receipts on or before 5.4.2002. The Assistant Personnel Officer shall fix a date convenient to all concerned for examination of the same and thereafter the authority shall determine the actual amount due to the applicant and if the applicant is liable to pay any amount that should be communicated to the applicant and thereafter the respondents shall be free to realise the same. If, in the event it is found that the applicant has paid more than what was due the respondents shall take steps to refund the excess amount to the applicant. The respondents shall take necessary steps to complete the exercise within 5.4.2002.

5. The application is accordingly disposed of. No order as to costs.

(D. N. CHOWDHURY)
VICE-CHAIRMAN

Central Administrative Tribunal
Guwahati Bench

628 27 SEP 2000

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

27/9/2K
O.A. No. 309 OF 2000.

Sri Prafulla Chandra Saikia. . . Applicant.

- Vs -

The Union of India and four others. . . Respondents.

I N D E X

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17.		

Filed by:

Chiranjib Barua
(ADVOCATE)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 308 of 2000

BETWEEN :

Sri Prafulla Chandra Saikia,
Son of Late Kaliman Saikia,
Presently residing at Bamunimaidan,
Railway Colony Quarter No. 326A
Guwahati-21

... Applicant.

- Vs -

1. The Union of India,
Through the General Manager,
N.F. Railway, Guwahati-21.
2. Assistant Personnel Officer,
N.F. Railway, Guwahati-1
3. Divisional Personnel Officer,
N.F. Railway, Lumding.
4. The Chairman,
Railway Co-operative Consumers Stores Limited,
New Guwahati, Guwahati-21.
5. The Assistant Registrar of Co-operative
Societies, Guwahati.

... Respondents.

Contd ...2.

2
Filed by
the applicant
Prafulla Ch. Saikia
through: Chiranjit Kr Das
Advocate

27.9.2000

Guwahati Administrative Tribunal

21 SEP 2000

Guwahati, Assam

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER/LETTER AGAINST WHICH THE APPLICATION IS MADE.

This application is made against a letter No. WB/GHY/C dated 19.5.2000 issued by the office of the Respondent No.2 i.e. the Assistant Personnel Officer, N.F. Railway, Guwahati to the applicant stating that an amount of Rs. 1034/- per month will be recovered from the applicant from May 2000 in 34 instalments.

2. JURISDICTION OF THE TRIBUNAL.

The applicant declares that this application is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION.

That the applicant declares that this application is filed before this Hon'ble Tribunal within the prescribed time limit as prescribed in the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE.

4.1. That the applicant is a citizen of India and as such, he is entitled to all the rights, proportions and privileges as granted under the existing Rules and Regulations as framed by the Respondents.

4.2. That the applicant joined the N.F. Railway in the year

Contd ...3.

Subrata

1976 as Trains Clerk, and was posted at Guwahati. Thereafter, your applicant in the year 1984 was promoted to Senior Trains Clerk and was posted at New-Guwahati Marchalling Yard. In the year 1984 your applicant was again promoted as a Head Station Clerk and was posted at New-Guwahati Marchalling Yard. It is pertinent to mention here in that although your applicant was posted at Guwahati, he was under the control and supervision of Lumding Division under the Divisional Personnel Officer, Lumding, i.e. respondent No. 3.

4.3. That the applicant begs to state that for better convenience and welfare of the employees and their employees/staffs working under the N.F. Railway, the Railway authority set-up a Co-operative Society in the name of Railway Co-operative Consumers' Stores Limited at New-Guwahati and the said society is registered under the Registrar of Societies being Registration No. C/28-1963-64 dated 5.8.64. In the said Society, your applicant was appointed as a Treasurer from 1.4.92 to 31.3.93 and again from 1.4.93 to 31.3.94.

4.4. That the applicant begs to state that during his tenure i.e. the period from 1.4.92 to 31.3.93 as Treasurer of the Society, your applicant served the said co-operative Society with utmost sincerity, honesty and for betterment of the Co-operative Society and due to his sincere efforts your applicant was appreciated by other members of the said Co-operative Society. After expire of earlier ~~xxxxx~~ tenure as a Treasurer, your petitioner was again entrusted with the responsibility of Treasurer in the ~~xx~~ said Society for the further period from 1.4.93 to 31.3.94.

Guwahati Bench

4.5. That your petitioner begs to state that although

he was the Treasurer of the Society, the Co-operative ~~Bank~~ Store was run by the Secretary, Treasurer and other members with the advice of Chairman and the Board.

4.6. That the applicant begs to state that while working as a Treasurer in the Railway Co-operative Consumers' Stores Ltd. for the tenure from 1.4.93 to 31.3.94, some financial irregularities were allegedly cropped-up and as a result of which the Chairman of the Railways co-operative Consumers' Stores Ltd. i.e. the respondent No. 4 vide letter No. RCCS/NLC/Chairman dated 30.4.94 placed your applicant under suspension w.e.f. 2.5.94 as he being the treasurer of the Society. By the said letter, the respondent No. 4 requested your applicant to hand-over the charge of Treasurer to one Sri N. C. Boro, Secretary of the said Society.

4.7. That the applicant begs to state that thereafter your applicant was chargesheeted by the respondent No. 4. Your applicant submitted his reply to the said charges on 27.5.94.

4.8. That the ~~p~~ applicant begs to state that thereafter vide letter No. RCCS/NLC/Chairman dated 1.6.94, issued by the Respondent No. 4, the suspension Order dated 30.4.94, was revoked w.e.f. 1.6.94 and your applicant was asked to ~~27 SEP 2000~~ attend the preliminary enquiry to ~~be~~ be held against the ~~charges~~ and to hand over charges including all cash/account, ~~vouchers~~ to Sri N. C. Boro, Secretary of the said Society. As per the said direction of the respondent No. 4, your applicant handed over the charges of Treasurer and other related document to Sri N. C. Boro, Secretary of said Co-operative Society.

Contd ...5.

Mur

4.9. That the applicant begs to state that thereafter the office bearers of the said Society made their own enquiries regarding financial irregularities of the Society and came to a finding that your applicant is liable to pay a sum of Rs. 24,138/- to Co-operative Society against the below mentioned vouchers.

<u>Sl. No.</u>	<u>Voucher No.</u>	<u>Date</u>	<u>Amount</u>
1.	1644	8.9.94	3,598.00
2.	1576	3.8.93	3,710.00
3.	1379	3.8.93	4,158.00
4.	2668	7.9.93	2,670.00
5.	2391	3.12.93	3,252.00
10.	2708	24.8.95	3,200.00
13.	3016	10.2.94	3,570.00

Rs. 24,138.00

It is pertinent to mention herein that the aforesaid amount of Rs. 24,138/- was not certified by either the Secretary or other office bearers of the said Society and your applicant was asked to deposit the said amount to the Co-operative Society. In addition to the said amount of Rs. 24,138/- your applicant was also asked to deposit two nos. of missing vouchers amounting to Rs. 3,647/- and Rs. 3,100/- respectively.

4.10. That the applicant begs to state that although the applicant is not liable to pay the said amount of Rs. 24,138/- to the society and the amount was fixed arbitrarily to the prejudice of the applicant, in as much as the same was fixed without affording any opportunity to defend,

Contd ... 6.

Maw

your applicant made a payment of Rs. 27,954/- to the Secretary of the society which was duly received and acknowledged by the Secretary/Treasurer of the Society.

Copies of receipt of dues issued by the Secretary of the Society are annexed hereto and marked as Annexure-I series.

4.11. That the applicant begs to state that the respondent No.4 i.e. the Chairman of the Co-operative Society vide letter No. ESTD/1/95-96 dated 14.12.95, asked your applicant to deposite a sum of Rs. 25,575.28 to the society within 7 days as the said amount is the final debit amount which was found after enquiries were conducted by the Advisory Board, RCCS/NGC as per the guidance of Government audit from the Asstt.

27 SEP 79 Registrar Co-operative Societies, Assam, Guwahati.

Guwahati Bench

A copy of letter dated 14.12.95 is annexed hereto and marked as Annexure - II.

4.12. That the applicant begs to state that your applicant received a letter vide No. ESTD/1/95-96, dated 6.2.96 issued by the Secretary of the said Society asking your applicant to deposite a sum of Rs. 51,917.76 being the debited as shown in the audited balance sheet of 1994-95. The said amount as being audited by the Asstt. Registrar of Co-operative Societies, Assam, Guwahati, i.e. respondent No. 5.

A copy of letter dated 6.2.96 is annexed hereto and marked as Annexure-III.

4.13. That the applicant begs to state that the respondent authorities asked the respondent No. 5 to make an enquiry into the irregularities of the Co-operative Society and accordingly one Sri H.K.Gogoi, the Senior Co-operative Societies made an

Maw

enquiry into the financial affairs of the societies as on 30.6.95 and submitted his report on 18.8.96. From the said report of the Senior Inspector Co-operative Societies it appears that your applicant had deposited a sum of Rs. 9,207/- to Sri M. C. Boro, the Secretary of the Society on 15.5.95 but the said amount was not deposited by the Secretary of the Society. Further the said report, the Senior Inspector it appears that your petitioner is liable to pay a total amount of Rs. 42,710.76 to the Society.

A copy of the said enquiry report dated 18.8.96 is annexed hereto and marked as Annexure - IV.

4.14. That the applicant begs to state that thereafter he received Notice No. CKGG.20/92-93 dated 10.7.96 from the respondent No. 5 i.e. the Asstt. Registrar Co-operative Societies directing your applicant to deposit a sum of Rs. 1,14,370.18 being the recoverable amount of the said Co-operative Society as per the balance sheet for the year 1995-96. By the said notice, your applicant was directed to deposite the same within 15 days from the date of receipt of the letter without fail or else legal action will be taken

27 SEP 1996 against your petitioner.

A copy of said notice dated 10.7.96 is annexed hereto and marked as Annexure - V.

4.15. That the applicant states that the on 14.5.98 he received a letter No. WB/GHY/C from the respondent No. 2 i.e. the Asstt. Personnel Officer, Guwahati, asking your applicant to show-cause in writing as to why the so-called mis-appropriated amount of Rs.42,710.76 belonging to the Co-operative Society should not be recovered from applicant's Salary.

A copy of said letter dated 14.5.98 is annexed hereto and marked as Annexure VI.

4-16. That the applicant begs to state that on received of the letter dated 14.5.98 issued by the respondent No.2 your applicant submitted a reply on 25.5.98 stating the actual facts with a further request to investigate the matter properly.

A copy of reply dated 25.5.98 is annexed hereto and marked as Annexure - VII.

4.17. That the applicant states that he on 16.10.98 received a show-cause notice No. T/MISC/GHY/98 issued by the office of the Senior A.R.M, N.F.Railway. Through the said notice your applicant was asked to deposite a sum of Rs. 42,710.76 to the Managing Committee of the said Society within 15 days from the date of received of the letter. By the said letter your applicant further asked to show-cause as to why DAR proceeding should not be drawn against your applicant. Your applicant thereafter on 2.11.99 submitted his reply to the show-cause notice dated 16.10.98 stating that your applicant had already paid an amount of Rs. 27,954/- including two missing vouchers by the then Secretary, Co-

operative Society Sri. G. Das.
General Administrative Tribunal

27 SEP 2000

Supreme Court
Bench

Copies of letter dated 16.10.98 and its reply dated 2.11.98 are annexed hereto and marked as Annexure - VIII & IX respectively.

4.18. That the applicant begs to state that thereafter he received a letter No. WB/GHY/C dated 19.5.2000 issued by the office of the Asstt. Personnel Officer, N.F. Railway

Contd ... 9.

Manu

i.e. respondent No.2 informing your petitioner that the mis-appropriated Co-operative money standing against your applicant had been confirmed by the respondent No. 5 i.e. the Asstt. Registrar of Co-operative Societies, Assam, Ghy. as Rs. 35,148.81. vide letter No. CKGOA/64/Pt-1/409 dated 21.1.99 as the said amount is recovered from your applicant, the same will be recover from the salary of your ~~petitioner~~ applicant, the same will be recover from the salary of your applicant in 34 instalments at the rate of Rs. 1034/- per month from May, 2000. In the said letter it was further stated that your applicant's earlier appeals are disposed of.

A copy of letter dated 19.5.2000 is annexed hereto and marked as Annexure-X.

4.19. That the applicant begs to state that on receiving the letter dated 19.5.2000 issued by the respondent No. 2, your applicant immediately submitted a representation/appeal on 12.6.2000 to the Chief Personnel Officer, N.F. Railway, Guwahati-21 with a copy to the respondent No.3 i.e. the Divisional personnel Officer, Lumding. In the said representation your petitioner apart from stating the actual facts has expressed his surprise as to how the respondent authorities came to conclusion that your applicant is liable to pay a sum of Rs. 35,148.81. The said representation was submitted to the Chief Personnel Officer, N.F. Railway, Guwahati and the respondent No. 3 by registered post on 12.6.2000.

A copy of the representation dated 12.6.2000 and the postal receipts are annexed hereto and marked as Annexure-XI and XII respectively.

Central Administrative Tribunal

27 SEP 2000

2nd Floor, Bldg. B
Opp. Lal Bazar
Guwahati - 781 001

Contd ... 10.

4.20. That your applicant begs to state that the respondent No.4 i.e. the Chairman of the Co-operative Stores or the Secretary of the said Co-operative Stores in various occasion has asked your applicant to submit different amounts of money by way of realisation of the alleged mis-appropriated money from your applicant. In one occasion, the respondent Co-operative society has stated that a sum of Rs. 24,138/- is realisable from your applicant for the period during which your applicant was working as a 'reasurer. Again vide various letters dated 14.12.95, 8.2.96, 10.7.96, 14.5.98 and 19.5.2000 your applicant was asked to deposit an amount of Rs. 25,575.28, Rs. 51,917.76, Rs. 1,14,370.18, Rs. 42,710.76 and Rs. 35,148.81 as a final mis-appropriated amount for the period when your applicant was serving as a Treasurer of the said Society. Further by an audit report dated 18.2.96 issued by the Sr. Inspector of Society, it was held that a balance amount of Rs. 42,710.76 was lying due against your applicant. In this connection your applicant states that in all the various letters different contradictory amounts were stated to be lying due against your applicant and as such it could be easily held that there is no actual deduction that is lying against your applicant in the said society and as such the letter dated 19.5.2000 stating the final outstanding amount of Rs. 35,148.81 lying against your applicant is arbitrary and illegal and the same misconceived against your applicant.

27 SEP 1998
4.21. That your applicant begs to state that against the various demand letters submitted by the respondent authorities asking your applicant to deposit the same as being the outstanding amounts, your applicant had submitted representations on 2.11.98, 11.3.99 and 12.6.2000, but the respondent authorities are yet to dispose off the said representations

although the Respondent authorities had stated that they had disposed of the representations dated 2.11.98 and 11.3.99. In this connection it is pertinent to mention herein that the respondent authorities had never passed any speaking orders against the representations dated 2.11.98 and 11.3.99 nor have made known the reply of the said two representations and when the letter dated 19.5.2000 was served on your petitioner for realisation of the amount of Rs. 35,148.81, your applicant is surprised to find that without disposing the earlier two representations the office of the respondent authorities held arbitrarily the report submitted by the Respondent No. 5 without offending any opportunity of being heard and as such the said letter dated 19.5.2000 directing realisation of the misappropriated amount is bad in law and is thus liable to be set aside and quashed.

4.22. That the applicant begs to state that he is a poor man and has to look after and maintain his family which consists of two school going children and his wife and if the respondent authorities are allowed to go on deducting an amount of Rs. 1034/- every month for 34 months till an amount of Rs. 35,148.81 is realised from your applicant which amount is not supposed to be realised from the

27 SEP 2000
Central Adminis
केन्द्रीय प्रा.
Guwahati Bench
Guwahati Cooperative Society i.e. the Respondent No. 4 the amount which is disputed by the applicant, if the applicant is not given any opportunity to correct his stand that he is not liable to pay the amount of Rs. 35,148.81 to the respondent authorities more particularly the Respondent No. 4, great harm will be caused to your applicant.

4.23. That the applicant begs to state that the respondent authorities have started the deduction of Rs. 1034/- out of the total monthly salary of your applicant since May, 2000 pursuant to the letter dated 19.5.2000, issued by the respondent No.2.

5. GROUND FOR RELIEF WITH LEGAL PROVISION

i) Deprivation of the applicant's legal rights to be heard before issuance of the office order/letter No. NB/GHY/C dated 19.5.2000 issued by the Respondent No.2 i.e. the Assistant Personnel Officer, N.F.Railway, Guwahati-1 informing your applicant that an amount of Rs. 1034/- is going to be deducted from the monthly salary of your applicant for 34 instalments from May 2000 the amount of which has already been started to be deducted from the salary for the month of May, 2000.

ii) Alleged disposal of the representations dated 2.11.98 and 11.3.99 by the respondent authorities without passing any speaking order and thereafter passing the order dated 19.5.2000 of an illegal deduction of an amount of Rs. 1034/- every month till 34 ~~xxx~~ number of instalments.

21 SEP 2001

iii) Non-disposal of the appeal dated 12.6.2000 submitted by your applicant.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant had submitted representations to the respondent authorities on 2.11.98, 11.3.99 and 12.6.2000,

of the said representations dated 2.11.98 and 11.3.99, your applicant was surprised to find vide letter No. WB/GHY/C dated 19.5.2000 (Annexure-X) that the said two representations have been disposed of by confirming by the Respondent No.5 i.e. the Assistant Registrar of Cooperative Societies, Assam, that your applicant is liable to pay an amount of Rs.35,148.81. The said two representations have been disposed without passing any speaking order. Moreover, the Appeal dated 12.6.2000 is yet to be disposed of by speaking order. As the respondent authorities have issued the order of deduction through the respondent No.2 i.e. Asstt. Personnel Officer, N.F. Rly. Guwahati without disposing the representation/ Appeal, being deprived of justice and there being no other alternative remedy available, the applicant is compelled to approach this Hon'ble Tribunal by filling the present O.A.

केन्द्रीय
Central Adm.

21 SEP 2000

गुवाहाटी अधिकारी
Guwahati Bench

MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY
OTHER COURT

That the applicant further begs to state that he had previously approached the Hon'ble Gauhati High Court by preferring a Writ Application W.P.(C) No.3202/2000, under Article 226 of the Constitution of India for issuance of a Writ in the nature of mandamus and or certiarari. The said matter came up before the Hon'ble Gauhati High Court on 16.6.2000 whereby the Hon'ble Gauhati High Court after hearing both the sides disposed of the Writ application with a direction to the applicant to approach the Central Administrative Tribunal for relief.

Contd ... 14.

Mac

A copy of Hon'ble Gauhati High Court order dated 16.6.2000 is annexed hereto and marked as Annexure - XIII.

8. RELIEF SOUGHT FOR :

In view of the facts and circumstances stated in paragraph 4 above, the applicant prays for the following reliefs :-

8.1. That the letter dated 19.5.2000 vide letter No. WB/GHY/C issued by the respondent No.2 directing the deduction of Rs. 1034/- per month ~~xx~~ starting from May, 2000, till 34 instalments be stopped.

8.2. That the applicant may be given an opportunity to defend himself by proving to the authorities that he is under no circumstances is liable to ~~xx~~ pay an amount of Rs. 35,148.81 to the respondent authorities.

21 SEP 2000

8.3. That the representations dated 2.11.98, 11.3.99 and 12.6.2000 the disposed of by a speaking order.

गुवाहाटी न्यायालय
Guwahati Bench

9. INTERIM RELIEF PRAYED-

The applicant as an interim relief have prayed for stay of letter No. WB/GHY/C dated 19.5.2000, issued by respondent No.2 i.e. the Asstt. Personnel Officer, N.F. Rly., Gauhati-1 stating that an amount of Rs. 1034/- are going to be deducted from the monthly salary of your applicant till 34 instalments- which has already been deducted from the salary of your applicant since May, 2000 be stayed.

10. That this present application filed through advocate.

11. PARTICULARS OF THE I.P.O.

- i. I.P.O. No. OG 495555
- ii. Date of issue - 25.9.2000.
- iii. Issue from Uzam Bazar Post office.
- iv. Payable at - Gauhati.

12. LIST OF ENCLOSURES :-

As stated in the Index.

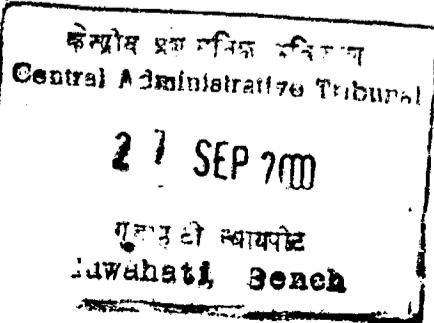
VERIFICATION

I Sri Prafulla Chandra Saikia, son of Late Kalimon Saikia, aged about 47 years by profession Service, resident of Bamunimaidan Rly. Colony QTR.No. 326A in the district of Kamrup, Assam, do hereby solemnly affirm and verify that the contents made in paragraphs 2, 3, 4, (41 to 4,23) are true to my knowledge and those made in paragraph 5 are matters of legal advice and the rest made in paragraph 8 and 9 are my humble submission made before this Hon'ble Tribunal and I have not suppressed any material facts.

And I sign this verification on 27th the day of September, 2000 at Guwahati.

Prafulla Ch. Saikia

DEPONENT



ANNEXURE I

As per Chairman. Recs/NGC Sri N.G. Roy I have denied the sums of Rs.14,108.00 (Rupees fourteen thousand one hundred eight only) against the following voucher:

1.	(i)	V/No. 1979	Rs. 4,158.00
	(ii)	V/No. 1576	Rs. 3,710.00
	(iii)	V/No. 3016	Rs. 3,570.00
	(iv)	V/No. 1855	<u>Rs. 2,670.00</u>
			Rs. 14,108.00

Among the above sums of rupees I have submitted the 1st instalment:

2.	(i)	Cash rupees	Rs. 4,000.00
	(ii)	Sri G.Das Ext. Sect. Recs/NGC missing one Voucher amount	Rs. 3,647.00
	(iii)	Sri G.Das Ex. Sect. Recs/NGC taking cash from me (Treasury) amounts	<u>Rs. 3,100.00</u>
			Rs. 10,747.00

(Rupees ten thousand seven hundred forty seven only)

Received on 24.10.94.

Item No.2(i)	Rs. 4,000.00
Four thousand only- from Ex. Treasurer -	
P.C. Saikia.	

Attested to be true copy

Sd/- Illigible

24.10.94.

Achyut Ghosh
Advocate

Contd....17

ANNEXURE I

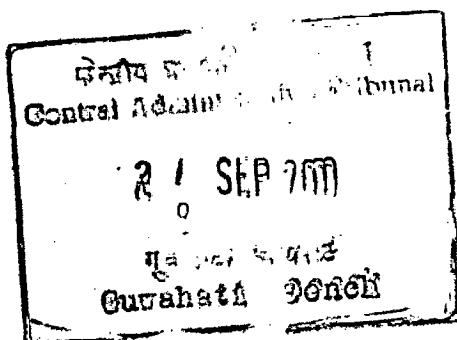
Date: 21.02.95.

Received Rs.5,000.00 (Rupees five thousand) from
Ex. Treasurer Sri P.C. Saikia.

Sd/- Illigible.

21.02.95

Secretary



Rly. Co-op Cons. Stores Ltd.

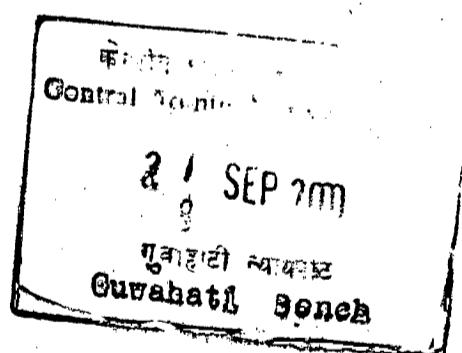
N.G.C.

ANNEXURE I

Received Rs.3,000.00 (Three thousand) only
from Ex. Treasurer P.C. Saikia on
15.03.95.

Sd/- Illigible

Secretary
Rly. Co-op. Con's Store Ltd.
New Guwahati.



ANNEXURE I

MONEY RECEIPT

Rly. Co-op. Consumer Store.

Received Rs.9,207.00 on 15.05.95 (Nine thousand
two hundred & seven) only from Ex. Treasurer
Sri P.C. Saikia.

Sd/- Illigible

K.C. Boro
Secretary.
Rly. Co-op. Cons. Store Ltd.

N.G.C.

2/1 SEP 7/77
Guwahati, Assam

(4)
N.S.F. Railway Co-operative Consumers' Stores Ltd.
NEW GUWAHATI, GUWAHATI-21

Registration No G/28-1963-64 Dated 5.8.64

Rly. T/Phone No. 205
PNT Phone No-550017

No. ESTD/1/95-26

Date.....14.11.95....

From.....Chairman,
Rly. CCS/NGC.To.....Sri P. C. Saikia.....
Ex-Treasurer 19.9.3-94
RCCS/NGC.Sub :- Final debit against Sri P. C. Saikia
Ex-Treasurer amounting Rs.25575.28 as on 12.12.95.

Dear Sir,

Based on your various representations enquiry was conducted by the Advisory Board, RCCS/NGC as per the guidance of Govt. Audit from Asstt. Registrar of Co-op. Societies Assam, Ghye a sum of Rs.25,575.28 yet to be deposited to, the Co-operative Societies.

It is needless to mention here that almost all the sittings of Advisory Committee during enquiry you are personally present and you were given all the necessary scope to represent your case.

You are therefore, requested to please deposit the above amount to the present treasurer of the Co-operative within 7 days from receipt of this letter failing which necessary action will be taken as per extent rules.

Chairman,
RCCS/NGC (Chairman) A/12-1/95
Rly. Co-op. Cons. Store LTD.
New Guwahati.

Copy to :- Asstt. Registrar of Co-operative Societies, Assam, Guwahati, with the request to coolete the special audit, so that immediate action to be taken to realise the public money at an early date.

Chairman,
RCCS/NGC.Chairman,
Rly. Co-op. Cons. Store LTD.
New Guwahati.

Attestation to be true Copy

Acyut Ozah

Advocate:

24/3
3/8/34
24/3/8/34
27/9/54/34
2/12/00
27/9/54/34

ANNEXURE III

N.F. RAILWAY Co-operative Consumers' Stores Ltd.

New Guwahati ; Guwahati - 23

Registration No.G/28-1963-64 dated 5.8.64

No.ESTD/1/95-96

From : Secretary,
Ghy CCS/NGC.

To : P.C. Saikia
Ex-Treasurer/Recs/NGC.

Sir,

Sub: Final debit against Sri P.C. Saikia,
Ex-Treasurer amounting Rs.35,148.00
and misappropriated amount Rs.16,768.93.

Ref: No.CCDG(A) 123/90/32 dt. 6.2.96.

In reference cited above, you are hereby informed that the Asstt. Registrar of Co-operative Societies, Assam Guwahati has audited the Accounts of this Stores for the year 1994-95. A debited amount has been shown in the audited balance sheet 1994-95 against you amounting Rs.35,148.83 (Recoverable amount)
Plus Rs.16,768.93 (recoverable suspance account)
Rs.51,917.76

You are therefore, requested to please deposit the above amounts to the present Treasurer of this Co-op. within 7 days from receipt of this letter failing which necessary action will be taken as per extent rule.

Sd/- Illigible

Secretary
Rly. Co-op. Consumers' Stores Ltd.
New Guwahati.

Enclosure : One copy audited note.

Contd....22

Attested to be true copy

Achyut Ogah
Advocate

1) The audit of New Guwahati Railway Co-op. Consumers' Stores Ltd for the year 1994-95 was taken up on 5.11.95 and after discontinuity for other works the same was completed on 12.12.95. Cash balance of Rs. 91,677'46 was verified and found correct. The Secretary is asked to deposit the same in the bank a/c immediately.

2) The Cash Balance as per audit as on 31.3.95 was Rs. 2,71,112'26 instead of Rs. 238,989'67 as per cash book. The differences are arises due to brought forward of less amount of cash balance on 31.3.94 and omission /errors in different dates and all the amount were with the following office bearers of the society.

(a) Sri P.C.Saikia, Ex-Treasurer :-	55,140'03
25,575'20	
Add bank balance adjusted at the time of handing over charge	3,210'00
Add credit sale to K.C.Barua at his own risk	607'55
Add credit sale & loan to Sri P.Peddar at his risk	<u>5,748'00</u>
(b) Sri M.C.Boro, Ex-Secy/Treasurer	48,440'11
Received from P.Saikia Ex-Tr. 21,503'45	
Add Received from P.Saikia but not accounted for	18,000'00
Add less amt.handed over to Sri B.Sarkar Tr. at the time of handing over charges	<u>14,936'66</u>
(c) Sri B.Sarkar, Treasurer	1,07,523'32
Total	2,71,112'26

The management of the society was re-constituted by the Annual General Meeting held on 21.5.95. It was surprising to note that the old Committee did not hand over the charges of the society formally to the newly elected body. However Sri A.Kalita the newly elected Secretary took over the charges of the society himself on 1.7.95 with cash balance of Rs. 37,150'60 and stock of the society on that day. Actual cash balance as per cash book on that day was Rs.291,954'06 was with the old Treasurer B.Sarkar. The balance of Rs. 254,805'46 was not yet handed over to the new Secretary by Sri Sarkar on the plea that all the amounts were not with him. The newly elected body held a meeting on 31.7.95 and formed an Advisory Committee consisting of 13 members to ascertain from whom the amount to be recovered. On scrutiny the Advisory Committee made liable of cash balance as on 31.3.95 was stated above and in the balance sheet. The Managing Committee of the society is requested to take necessary legal steps to recover the amount immediately as the business of the society is badly hampered.

3) Books & Records:- Although the Society well equipped with fully paid staff, it is found that the books and records maintained by the society is far from satisfactory. The cash book was not written daily for which the actual cash balance after closing of the business could not be ascertained. Huge amount of cash balance were kept with the Treasurer. Further, the cash book was not signed daily by the custodian of the cash. The management of the society is requested to take steps to deposit the cash balance in the bank and not to keep cash in hand exceeding the limit of the byelaws of the society. The general Ledger of the Society was not maintained for want of which it is very difficult for audit to get the figures readily available. The Managing Committee is requested to look into the matter seriously. Full time Accountant should be appointed and responsibility to be fixed for accounts works.

4) Business:- The business turnover was found very satisfactory and the society able to earn gross profit of Rs. 34,31,594'26 and after incurring all the management expenditures of Rs. 3,42,516'75 including the depreciation a/c of Rs. 14,489'45 and providing provision for shareholder's gift for Rs. 30,000'00 the society was able to earn net profit of Rs. 93,588'81 during the year under audit.

In the last year's balance sheet the recoverable amount from Sri P.Saikia, Ex-Treasurer and Sri S.Bey Salesman, was kept in the suspense a/c and shown in both the debit & credit side of the Trading A/C. Out of that an amount of Rs. 12,000'00 was recovered from Sri Saikia and this amount was credited in the Trading a/c of this year. The M.C. is requested to recover the balance amount from Sri Saikia & Bey.

Further, the following sale was not accounted for and as such shown recoverable from the following:-

(a) Sri Khagen Das, Salesman	6.10.95 :- Sale of Usha Prince Burner	Rs. 850'00
	24.10.95:- Idob Cook Line burner	900'00
		1750'00

(b) Sri L.Sarker Treasurer	23.2.95 less entre cloth sale	100'00
----------------------------	-------------------------------	--------

5) Management:- The meeting of the B/D held regularly and altogether 15 nos. of meeting held during the year. The A.G.M. was held on 21.5.95 and a new Committee was formed. The B/D is requested to take necessary steps to finalise the theft cash pending with Police.

Considering all the aspects viz., the management, financial condition and business of the Society, the society is classified as "B" class society for the year.

Sri. Auditor of Compt. Audit
Sri. Auditor of Compt. Audit

ENQUIRY REPORT ON RAILWAY COOPERATIVE CONSUMERS STORE LTD. NEW GUWAHATI
REGARDING THE CASH BALANCE OF THE ACCOUNT AS ON 30-6-95.

I, Shri H.K.Gogoi, Senior Inspector of Co-operative Societies, Guwahati make an enquiry of the above named Society on 13-3-96, 14-3-96 and 16-3-96 regarding the affairs of cash balance as on 30-6-95 vide the instruction of the Asstt. Registrar of Co-operative Societies, Guwahati.

Before starting the enquiry, I am satisfied that I have received the latest Balance-Sheet of the Society as on 31-3-95, which was prepared by Sri N. Aujuri Senior Auditor of Co-op Societies, Guwahati. The Cash Balance as per said Balance Sheet was stood Rs. 2,71,112.26, while it is found that cash balance as per cash Book of the Society was Rs. 2,58,909.67 only. The deference of Rs. 32,202.59 was fixed responsibility to Shri Bikash Sarkar, the then Treasurer of the Society. The said amount was not regularised by adjusting in the Cash Book by the auditor, on the closing day of the audit.

During the period from 1-4-95 to 30-6-95, Sri Bikash Barkar, the then treasurer of the Society maintained a Cash Book alongwith relevant records by holding the charge upto 30-6-95. As per provision of the Bye-law of the Society, the responsibility is fixed upon the treasurer regarding cash and stocks etc. However, It is interestingly noted that there is no any single signature in the cash Book by the person who maintained the records, Specially Cash Book. Moreover on the last day of his tenure of office as treasurer, he did not closed the Cash Book and as a result, Cash balance on that particular date cannot be ascertained.

I on the basis of the records so far available in the Society, prepare a Cash Account with due care by examining all relevant documents and each head of accounts. It is fixed that the cash balance as on 30-6-45 is fixed Rs. 3,07,910.63 (Please see the Cash account enclosed herewith).

The responsibility and liability of the above cash balance is fixed upon the following office bearers of the Society as follows:-

- | | |
|------------------------------------|-------------------|
| 1. Sri Bikash Sarkar (Treasurer) | = Rs. 2,24,321.69 |
| 2. " P.C.Saikia (Ex- Treasurer) | = Rs. 35,148.83 |
| 3. " H.O.Doro (Ex- Secretary) | = Rs. 48,440.11 |

Total : 5,07,110.63

However, during the later period Sri Bikash Sarkar, had handed over Rs. 37,150.60 to the present treasurer on 6-7-95 out of his total Cash balance of Rs. 2,24,321.69. The amount accordingly adjusted in the Current Cash Book of the Society. Moreover, he (Sri Sarkar) had made payment of Rs. 28,199.00 to a party against an outstanding bill in different dates. The Copy of the bill is enclosed herewith). Hence his liability of Cash Balance on this date will be Rs. 1,58,973.09 (Rs. 2,24,321.69-37,150.60-28,199.00 =Rs. 1,58,973.09). On the other hand Sri Sarkar had realised an amount of Rs.5000/- from Shyamal Dey on 28-5-95. against the Balance Sheet recoverable amount from Sri Dey. amounting Rs. 45,452.00 as per Balance Sheet 94-95. But Sri Sarkar had not adjusted in the Cash Book and hence his responsibility and liability of Cash balance will stand Rs. 1,58,973.09 + Rs. 5,000.00= Rs.1,63,973.09. The above amount is still lying with Sri Sarkar.

Attested to be true copy
Achyut Orah
Advocate.

In Case of recoverable amount from Sri M.C. Boro the then Secy. of the Society, he had received two amounts, Rs. 5,000.00 and Rs. 9,207.00 on 20-3-95 and 15-5-95 from Sri H.O. Dey and Sri P.O. Saikia respectively. But he did not deposited the amounts to the treasurer and retained on his custody till this date. Hence his liability in this date is Rs. 62,647.11 (Cash balance Rs. 40,440.11 + Rs. 5,000.00 + Rs. 9,207.00 = Rs. 62,647.11) (Please see the Photo copy of the documents).

As P.C.Sukia paid Rs. 9,207.00 to Sri H.C. Boro as per above documents his (Sukia) liability will be Rs. 35,148.83 + Rs. 7,561.00 = Rs. 42,710.76 Sri Sukia had paid Rs. 9,207.00 against the balance due recoverable amount of Rs. 16,768.93.

Now at present, the following amounts are made liable to the following office bearers as follows -

1. Sri Dikash Sarkar,	= Rs.	1,63,973.09
2. Sri N.C. Doro,	= Rs.	62,647.11
3. Sri P.C. Saikia,	= Rs.	42,710.76
4. Sri S.C. Dey,	= Rs.	35,452.08

It is reported by the Seoy. that Sri S. S. Roy, had deposited a sum of amount against his liability of Rs. 59,452.00. The management is requested to finalise the outstanding balance after adjusting the actual deposit amount during current period.

Hence management is directed to take suit action against the above office bearers immediately intimating to the department for obtaining sweet action in this regards .

(M.K.Cogoi,) Senior Inspector of Co-op Societies, G U N A H A T I .

Copy to:

Copy to the Secy. of the Society for information and taking necessary action.

Senior Inspector of Co-op Societies,
3 U W A 14 7 1.

GOVERNMENT OF ASSAM.
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, GUWAHATI.

No. CKGG. 20/92-93. Dated Guwahati, the 10th July/96.

From :- Sri A.K.Bhattacharjya,
Assistant Registrar of Co-operative
Societies, Guwahati.

To,

Sri Prafulla Ch. Saikia, (Ex-Treasurer),
N.F.Rly Coop: Con's C.S.Ltd. Bamunimaidan Ghy,
Head T.N.E. QR. NO. 326/A, Bamunimaidan N.F.Rly Col.
Ghy-21.

Sub :- NOTICE FOR RECOVERABLE AMOUNT OF N.F.RLY COOP: CON'S
C.S.LTD. BAMUNIMAI DAN GHY. AS PER B/S. FOR THE YEAR
1995-96.

Ref :- ESTD. 1/95-96, dt. 7-6-96.

Sir,

The Balance-Sheet for the year 1995-96 of N.F.Rly.Coop:
Con's C.S.Ltd. has reflected the recovery of Rs. 1,14,370.18.

Therefore, You are hereby directed to deposit the said
amount in the society's office within 15 days from the receipt of this letter
without fail. Otherwise, the undersigned is duly bound to take the legal
actions against you.

Yours faithfully,

20/7/96
Assistant Registrar of Co-operative
Societies, :::::::Guwahati.

Attested to be true Copy

Achyut Oza
Advocate

R
17/5/92

NO: WB/GHY/C

Office of the
APO-Guwahati
Dtd. 14/5/98

To,

✓ Sri P.C.Saikia,
Hd.TNC under YS/NGC
Thro: YS/NGCSub: - Mis-appropriation of co-operative money
from RCCS/NGC.

The secretary of RCCS/NGC has intimated vide his letter dated 29.4.96 and 4.2.98 that you are involved in the mis-appropriation of Railway co-operative money amounting to Rs. 42,710.76 from RCCS/NGC while you were working as treasurer in the year 1993-94. The alleged mis-appropriation of co-operative money has duly been audited by the Inspector of Asstt: Registrar of co-operative societies, Guwahati vide his audit report of 18/2/96.

In view of the above, you are hereby asked to show cause in writing as to why the mis-appropriated money will not be recovered from your salary. Your reply on the above should reach the undersigned within 15 days from the date of received of this letter failing which the amount will be recovered from your salary in instalment forthwith.

A.O
APO-GUWAHATI

Copy to: (1) GM(P)/MLG, (2) DRM(P)/LMG, (3) SR.DOM/LMG, (4) SR.ARM/GHY. (5) YS/NGC. He is advised to hand over the letter to Sri P.C.Saikia, Hd.TNC/NGC immediately and send the acknowledgement to APO/GHY.

A.O
APO-GUWAHATI

Attested to be true Copy
Achyut Ghosh
Advocate.

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ANNEXURE VII

From : Sri P.C. Saikia,
Ex-Treasurer/NGC Recs.

To : APO/GHY.

Sub : Statement.

Ref: Your letter No.WB/GHY/C dt.14.5.98.

With reference to your letter cited mention above, I beg to state few lines for your kind consideration and proper justification.

That Sir, I was the treasurer of NGC/Recs during the period from 1993 to 1994 March. During that period CB was amount Rs.6471.59 excluding the staff salary. Salary was Rs.12484.00 so that become Rs.84714.59 plus Rs.12484.00= Rs.97198.59.

Cash become short Rs.3636.59. On the other hand, the Chairman fixed up a liability of Rs.26138.00. So total liability come upon me is Rs.28024.00. Among the said debit amount, I have been paid Rs.21200.00. Remaining amount of Rs.6754.00 has been shown against in the missing voucher.

That Sir, I am very sorry to say that why Recs/NGC is against me. On the other hand, I hand over the all cash amount including staff ~~salary~~ short deposit and recoverable money from the staff and directions to the Secretary of that time.

That Sir, if you kindly ~~me~~ply me that the letters which you receipt from the Recs~~s~~NGC is very much grateful to me.

Therefore I solemnly request you to kindly investigate the matter with a grand manner and proper justification please.

Thanking you,

Encl: All submitting documents
due enclosed herewith for
your disposal please.

Sri Prafulla Ch. Saikia
Ex-Treasurer/Recs/NGC
25.5.98

Copy to: ,Sr. AHM/GHY for information and proper
justification please.

Attested to be true Copy
Achut Orah
Advocate

Contd....29

N.E. RAILWAY

NO. T/MISC/GHY/98

OFFICE OF THE
SR. ARM/GUWAHATI
DT: 16.10.98To
Shri P.C.Saikia,
Hd. TNC/STC

Through: YS/NGC.

Sub:- Show cause notice in connection with mis-appropriation of money of Railway consumers stores Ltd, NGC.

With reference to DRM/P/LMG's letter No.E/58/10/LM/NGC(W) dtd. 5.6.98 & as reported by Sr Inspector Co-operative societies/Guahati that during your tenure as treasurer of the Rly. Co-operative consumer stores /NGC in the year 1993-94 you failed to hand over a cash amount of Rs.42.710.76 to the newly elected managing committee of the said co-operative as per cash balance. You are hereby asked to deposit the amount of Rs.42.710.76 to the Managing committee of the co-operative consumer stores /NGC within 15 days on receipt of this letter.

You are also hereby asked to show cause as to why DAR proceedings should not be initiated for this gross irregularity and misappropriation of public money.

Sr. ARM/GHY 6/10

Copy to:

1. DRM/P/LMG in reference to his letter No.E/58/10/LM/NGC(W) dated 5.6.98.
2. APC/GHY for information and necessary action.
3. Secretary, RCCS Ltd/NGC for information.
4. DRM(O)/LMG for information.
5. Sr. Inspector co-operative consumer society/GHY for information.

Sr. ARM/GHY

10/10/98
3000
4207
5000
2125470

Attached to be true copy
Subrata Chakraborty
Advocate.

ANNEXURE IX

From: Sri P.C.Saikia
HdSTC/NGC

To: N.F. Railway.

Through : YS/NGC.

Sub: Show Cause Notice.

Ref: Your letter No.T/MISC/GHY/98 dated 16.10.98.

Sir,

In reference to your above quoted office letter, it is informed you that I have already been submitted show cause on 27.5.98 vide APC/GHY's office letter No.WB/GHY/C dt.14.5.98. But I have not received any letter from DRA(P) LMG regarding the above reference. However, again, I have stated the above matter for your disposal please.

1. During the period from 1993 to 1994 (April'93 to March'94) CB was amount of Rs.84714.59.
2. Staff salary was Rs.12484.00.
3. Ex. Managing committee fixed up liability amount of Rs.27954.34.
4. I have already been paid amount of 27954.00 (including two missing voucher by Sect. RecsNGC Sri G.Das)
5. I have been submitted amount of Rs.93312.25 (including short deposit by saleman recoverable from the staff and directors of that period).
6. All the documents of short deposit voucher of recoverable from the staff and directors have been submitted to the Secretary of Recs¹NGC (Sri P.C.Boro).

These are the actual fact. Now again I solemnly request you to kindly investigate the matter with good manner and proper justification please.

Enclosure: Submitted all documents

Thanking you,

Sri Prafulla Ch. Saikia,
HdSTC/NGC
2.11.98

Copy to : DRM(P) LMG for information and proper justification.

Sri Prafulla Ch. Saikia,
HdSTC/NGC.

Attested to be true copy
Achyut Ghosh
Advocate.

N.F. Railway.

Office of the
Asstt. Personnel Officer
Guwahati-I

No. NB/GHY/C

Dt. 19.5.2000

To,
Shri P.C. Saikia,
NSTC/NGC.

(Thro. YG/NOC)

Sub:- Recovery of co-operative misappropriated money.
Ref:- Your Representation dtd. 2.11.98 & 11.3.99.

In reference to your representation mentioned above, this is to inform you that the mis-appropriated Co-operative money standing against you, has been confirmed by Assistant Registrar of Co-operative Societies, Guwahati, Assam as Rs. 35,148/81/- vide his letter No-CKOO A/64/Pt. I/409 dated 21.9.99. Hence, the aforesaid amount will be recovered from your salary in 34 instalments of Rs. 1034/- p.m. from May 2000 onwards and your aforesaid appeals are stand disposed off.

This has the sanction of the competent authority.

*Kevalam
19.5.2000*
APO/GHY

Copy to:-

1. Sr.ARM/GHY for kind information.
2. CS/P/bill at office for making recovery as indicated etc.
3. Chairman, Rly. Consumers Co-operative stores, New-Guwahati for information in reference to his letter dated 15.12.98.

29/4/00
APO/GHY

27
6

Attached to be true copy

*Achyut Ghosh
Advocate*

Date : 12.6.2000

To

The Chief Personnel Officer,
N.F. Railway, Guwahati-12

Sub : Representation / Appeal
Sir,

With due respect I have the honour to inform you that I was working as a Treasurer in the Railway Co-operative Consumers' Stores Ltd., Dhemundiaidam during the period from 1.4.92 to 31.3.93 and 1.4.93 to 31.3.94. During my tenure from 1.4.92 to 31.3.93 as a Treasurer of the said Co-operative Society, I rendered my service as a Treasurer of the said Society to the satisfaction of all concerned. But during the tenure from 1.4.93 to 31.3.94 while I was working as a Treasurer of the said Co-operative Society, some anomalies regarding cash etc. cropped up in the said Society which I was not at all involved. Inspite of this, an enquiry was conducted by the Chairman of the said Co-operative Stores. Thereafter, an audit was made for the year 1994-95 by the Asstt. Registrar of Co-operative Societies, Assam, Guwahati and a debit amount of Rs. 51,917.76 is shown to be recoverable from me. Thereafter the Secretary of the said Co-operative Stores vide letter No. ESTD/1/95-96 dated 8.2.96 directed me to deposit the said amount of Rs. 51,917.76 to the Treasurer of the said Society within 7 (seven) days.

That Sir, again on 10.7.96 vide letter No. EKCG. 20/92-93 issued by the Asstt. Registrar of Co-operative Societies, Assam, Guwahati I was directed to deposit

Contd..... P/2.

Attested to be true Copy
Adyut Orah
Advocate.

Sri Prafulla Ch. Saikia

- 2 -

an amount of Rs. 1,14,370.18 as a recovery of the Balance-sheet for the year 1995-96 of the N.F.Railway Co-operative Consumers' C.S. Ltd. By the said notice, I was directed to deposit the same within 15(fifteen) days from the date of receipt of the said letter dated 10.7.96.

That Six, again on 14.5.98 vide letter No. MD/CHY/C issued by the office of the APO, Gwahati, N.F. Railway a show cause notice was issued to me asking me to submit my written statement in defence as to why I should not deposit an amount of Rs. 42,710.76 which is the alleged mis-appropriated amount of the Railway Co-operative Consumers' Stores Ltd. for the year 1992-94 the period during which I was working as a Treasurer. By the said letter, I was also asked to submit my reply within 15(fifteen) days from the date of receipt of the said letter dated 14.5.98.

That Six, I on 25.5.98 submitted my reply to the said show cause notice dated 14.5.98 issued by the APO - Gwahati stating all the facts.

That Six, I thereafter received a letter No. T/MSC/CHY/98 dated 16.10.98 issued by the Senior ARA/CHY, N.F. Railway asking me to deposit an amount of Rs. 42,710.76 to the Managing Committee of the said Society as I had failed to hand over the said cash amount to the Managing Committee of the said Co-operative Society. By the said letter, I was also asked to show cause as to why DAR Proceedings should not be initiated against me.

Sri Prafulla Ch. Saikia 5

- 3 -

That Sir, I thereafter again received a letter vide No. 48/CHV/C dated 19.5.2000 issued by the Office of the Assistant Personnel Officer, R.E. Railway, Guwahati stating that the Asstt. Registrar of Co-operative Societies, Assam, Guwahati has confirmed an amount of Rs. 35,148.01 as the misappropriated amount standing against me and hence an amount of Rs. 1,034/- shall be deducted from my salary in 34 instalments till realisation from May, 2000.

That Sir, I further states that although my earlier representations dated 2.11.98 and 11.3.99 are yet to be disposed of and as I had not been given any opportunity to defend myself and in showing/clarifying that the above stated amount are not at all realisable from me, I therefore, with most sincerity request you to consider my representations sympathetically and at the same time to give me an opportunity to show that the above stated amounts are not at all realisable from me as I had already made some payments which was duly acknowledged by the Treasurer/secretary of the said Co-operative Stores Ltd.

That Sir, I further states that I have already deposited the amount of Rs. 27,934/- which was duly received and acknowledged by the Secretary/Treasurer but the said amount was not taken into consideration while confirming the amount by the Asstt. Registrar of Co-operative Societies, Guwahati, as shown in the impugned letter dated 19.5.2000 issued by the Assistant Personnel Officer, Guwahati-1.

Sri Bapuji Ch.Saini

* 4 *

Furthermore, I also request you that till my representations are not disposed of, the said letter No. BB/GHY/C dated 19.5.2000 may be kept in abeyance.

That Sir, I once again pray before you to consider my case sympathetically and at the same time consider the fact that I have to support my family which consists of my wife and two minor childrens. I, further fervently pray to exonerate me fully from the alleged charges.

Thanking you,

Yours sincerely,

Sri Prafulla Ch. Saini

(P.C. SAINI)
HSTC / N.C.C.

12/6/2000

Copy to :-

The Divisional Personnel Officer, N.E. Railway, Lumbini for information.

Sri Prafulla Ch. Saini

(P.C. SAINI)
HSTC / N.C.C.

12/6/2000

-36-

ANNEXURE - XII



(CHINCHWAD RPO
REG. 6784
NAME: PVR OFFICER.
CITY: CHINCHWAD
000

IND FEE RS. 0 / P-Stamp Rs. 0
AKT: 17/04/ REG. 204 / 17/04/2000 16

शारतीय दाता

(CHINCHWAD RPO
REG. 6785
NAME: PVR OFFICER.
CITY: GHY 17
000

IND FEE RS. 0 / P-Stamp Rs. 0
AKT: 17/04/ REG. 204 / 17/04/2000 16

Attested to be true copy
Adv. Ozah
Advocate.

date as of application for the copy	date for the fixing the meeting of the rogue site member of C.T.A.P. to delive	date of delivery of the rogue site stamp and folios.	date on which the copy was ready for delivery	date of making over the copy to the applica
16. (- 2000)	23-6-2000	23-6-2000	23-6-2000	23-6-2000

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:TRIPURAS
MIZORAM AND ARUNACHAL PRADESH)

W.P.(C). NO. 3202/2000

Shri Pratulla Chandra Saikia, Son of Late Kaliman
Saikia, Presently residing at Bamunimaidan Railway
colony QTR No. 3264 ,Guwahati -21. ..Petitioner.

-Vs-

1. The Union of India, Through the General Manager,
N.F Railway,Guwahati- 12.
2. Asstt. Personnel officer,N.F. Railway,Guwahati -12.
3. Divisional Personnel officer,Railway Lumding
4. The Chairman, Railways co-operative Consumers
Stores Ltd.New Guwahati, Guwahati- 21.
5. Asstt. Registrar of Co-Operative Societies,Guwahati
.. Respondents.

:PRESENT;

THE HON'BLE MR. JUSTICE P.G.AGARWAL.

Contd...2/-



-2-

For the petitioner:- A. Sarma, Mr. C. K. Das, Mr. A. Ogah.

For the respondent:- Q.G.S.C.

Date of order O R D E R

16.6.2000

Heard Mr. C. K. Das learned counsel for the petitioner and the learned central Govt. Standing counsel.

The petitioner is a Railway employee and he has challenged the order of deduction from his salary of certain amount which is alleged to have been misappropriated.

The central Administrative Tribunal Guwahati has jurisdiction over the employees of the N.F. Railway. The petitioner may approach the Central Administrative Tribunal Guwahati for relief, if any.

The writ petition stands disposed of accordingly.

Sd/-P.G. AGARWAL,

JUDGE.

TYPED BY

READ BY

COMPARED BY

Certified to be true Copy

Debush Ch. Goswami

Superintendent (Copyist)

GAUHATI HIGH COURT

Authorised U.S. 76 Act of 1978

23/6/2000

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati. Guwahati Bench

फेन्ट्री नं. १०८८
Central Administrative Tribunal
Guwahati Bench
31 AUG 2001
Guwahati Bench

OA No. 309 of 2000

Sri P. C. Saikia.

... Applicant

- Vs -

U.O.I. & Others.

... Respondents.

In the matter of :

Written statement on behalf of
the Respondents

The respondents in the above case most respectfully beg
to state as under:

1. That the respondents have gone through the Original Application and have understood the contents thereof.
2. That the respondents do not admit any statement except those which are specifically admitted in this written statement. Statements not admitted are denied.
3. That in reply to the statements in paragraphs 4.3 to 4.5 it is stated that the applicant was elected as treasurer of Railway Co-operative consumer's stores Ltd. , New Guwahati in 1992 through secret ballot votes by the members of the co-operative society and was not appointed as stated by the applicant. It is also stated

Filed by the respondent
through A. Chakraborty
30/8/2001

that the treasurer is the sole custodian of the cash book of the co-operative and is responsible for updating the same. The chairman and the Secretary have the responsibility to supervise the overall works of the co-operative society.

4. That in reply to statements in Paragraphs 4.9 to 4.10 it is stated that as per resolution of Annual General Meeting a 3 member committee was formed to conduct enquiry into the financial irregularities involving the applicant. The said committee summoned the applicant to explain the charges brought against him and accordingly the applicant attended before the committee and explained in his defence. Hence the allegation that he was not afforded any opportunity to defend himself is false, malicious and mislending.
5. That in reply to statements in para 4.11 to 4.12 it is stated that the final amount recoverable from the applicant was confirmed by the Asst. Registrar of the Co-operative society as Rs. 35,148.8/- by a letter dated 21-9-99.
6. That in reply to the statement in para 4.13 it is stated that ARCS/Guwahati deputed one senior Inspector of Co-operative society, Sri H. K. Gogoi to conduct special audit / enquiry into the misappropriated money and accordingly he submitted his report on 18.8.96 showing recoverable amount of Rs. 42,710.76 against the applicant after duly taking into account Rs. 9207/- deposited by the applicant to the then

Secretary. It is also stated that the amount of Rs. 42,710.76 was later corrected and confirmed by ARCS/Guwahati as Rs. 35,148.83 before recovery.

7. That in reply to the statements in para 4.15 to 4.16 it is stated that the Secretary RCCS/New Guwahati had intimated to APO/GHY by his letter No. RCCS/I/MISP/97-98 dated 4-2-98 alongwith audit report conducted by co-operative Inspector of State Govt. that the applicant was involved in misappropriating Rs. 42,710.76 and requested to recover the amount from his salary. Accordingly the applicant was asked by APO/GHY by his letter dated 14-5-98 to submit his written reply. but no such reply has been received from the applicant.

8. That in reply to statement in para 4.17 it is stated that the Secretary, RCCS/NGC requested DRM(P)/Lumding to take necessary action for the recovery of embezzled money from the applicant. Thereafter DRM(P)/Lumding advised Sr. ARM/GHY to take necessary action, Sr. ARM/GHY issued a show cause notice asking the applicant to deposit the mis-appropriated money. It is denied that the applicant had deposited Rs. 27,954/-. It is stated that no money can be received by the co-operative society without issuing money receipt for the same.

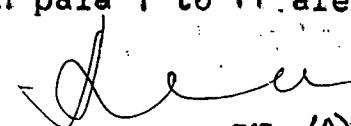
9. That in reply to the statements in para 4.18 it is stated that the applicant submitted an application dated 11-3-99 requesting APO/GHY to re-investigate the matter. The APO/GHY by his letter No. WB/GHY/C dtd. 30-3-99 requested the ARCS/GHY to re-examine and

communicate his decision regarding the recoverable amount from the applicant. The ARCS/GHY by his letter No. CKG/OP/64/Part-I/409 dated 21-9-99 confirmed that the amount recoverable from the applicant is Rs. 35,148.81. In this context it is pertinent to mention that as per chapter - XII, Sec-70 of the Assam Co-operative Act 1946 (substituted by Assam Act-XIII of 1975) respondent No. 5 is the competent authority to decide matter regarding assessment and recovery of co-operative money. On receipt of the said letter from ARCS/GHY the case was put-up to Sr. ARM/GHY, the local controlling officer of the applicant, and he ordered for recovery of the aforesaid amount from the applicant and accordingly recovery was started @ Rs. 1034/- per month from May, 2000.

10. That in reply to the statements in para 4.19 to 4.21 it is stated that after receiving representation from the applicant the matter was re-examined and the applicant was held responsible for mis-appropriation of the said amount of Rs. 35,148.81 and recovery of the same was recommended which was communicated to the applicant by letter dated 19-5-2000.
11. That in the facts and circumstances of the case the application deserves to be dismissed with cost.

VERIFICATION

I A. K. NIGAM Working
as Chief Personnel office (Admn) N. F. Rly. do
hereby verify that the statements made in para 1 to 11 are true
to my knowledge.


Office (A)

Guwahati

22/8/2001

Signature