

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

CP 40/04 under page-1

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O.A/T.A No. 324/2000

R.A/C.P No. 40/04

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SECTION OFFICER (Judl.)

balita
21/12/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 346/2000

M. Anandrayan. Roy APPLICANTS
versus.

Union of India &ors Respondents.

FOR THE APPLICANT(S) *Mr. S. Dutta*
ADVOCATE *Mrs. U. Dutta*

FOR THE RESPONDENT(S) *C.G.S.C*

Notes of the Registry

DATE

COURT'S ORDER

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

Heard Mr S.Dutta, learned counsel for the applicant and Mr B.S.Basumatary learned Addl.C.G.S.C for the respondent

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

List on 19.12.2000 for written statement and further orders.

[Signature]
Vice-Chairman

pg

On the prayer of Mr.B.S.Basumatary learned Addl.C.G.S.C. 3 weeks time is allowed for filing of written statement. List on 8.1.01 for filing of written statement and further orders.

[Signature]
Member

[Signature]
Vice-Chairman

~~for Rs. 500/- vide R.O. No. 503088 Dated 18.10.2000~~

[Signature]
Dy. Registrar.

[Signature]
18/10/2000

Notice prepared and sent to DIS for housing the respondent No 4 to 4 vide DINO 2494 to 2497 *[Signature]* 19.12.00
7/11/2000

[Signature]
23/10/00

18.12.00

no was filed

lm

Notice duly served on R No 284. Others are completed

[Signature]
20/12/00

Notice club served on R/No 1
By 5/1/01

8.1.01 On the prayer of learned counsel for the respondents four weeks time is allowed for filing of written statement. List on 8.2.01 for filing of written statement and further orders.

K. U. Sharma
Member

[Signature]
Vice-Chairman

lm

No. written statement has been filed.

By 7-2-01

8.2.01 List on 1.3.01 to enable the respondents to file written statement.

K. U. Sharma
Member

[Signature]
Vice-Chairman

lm

No. written statement has been filed.

By 28-2-01

1.3.01 List on 3.4.01 to enable the respondents to file written statement.

K. U. Sharma
Member

[Signature]
Vice-Chairman

pg

2000
has been
submitted by the
respondent.

3.4.01 List on 1.5.01 to enable the respondents to file written statement.

K. U. Sharma
Member

[Signature]
Vice-Chairman

lm

1.5.2001 List on 1.6.2001 to enable the respondents to file written statement.

K. U. Sharma
Member

[Signature]
Vice-Chairman

bb

Notes of the Registry

Date

Order of the Tribunal

2.5.2001

w/s. has been
submitted by the
respondents.

Pro

1.6.01

Written statement has already been
filed by the respondents.

The case may be listed for hearing
on 17-7-2001. The applicant may file re-
joinder, if any, within two weeks from
today.


Vice-Chairman

bb

No rejoinder has
been filed.

17.7.

There is a reference
with a further 21/8/2001.


Pro
A.K.S.
17.7

Pro
7.8.01

8.8.01

Heard counsel for the parties.
Hearing concluded, judgment delivered in
open Court, kept in separate sheets.

The application is allowed in terms
of the order. No order as to costs.


Member


Vice-Chairman

bb

29.8.2001

Copy of the Judgment
has been sent to the
Office for filing
in accordance to the applicant
as well as to the District
for the Respondent.



Notes of the Registry

Date

Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

6

Original Application Nos. 343 & 344 of 2000.

Date of Order : This is the 8th Day of August, 2001.

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

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

1. Sri Aniruddha Roy (O.A.343/2000)
S/O Late Aswini Roy
Vill. & P.O. Channighat
District. Cachar (Assam).
2. Sri Monoranjan Roy (O.A.344/2000)
S/O Late Jogesh Roy
Vill. & P.O. Channighat
District. Cachar (Assam). . . . Applicants.

By Advocate Mr. S. Dutta

- Vs -

1. The Union of India
Through the Secretary to the
Government of India,
Ministry of Defence
New Delhi-110001.
2. The Commandant
Counter Insurgency and Jungle Warfare School
C/o 99 APO.
3. The G.O.C.-in-Chief
Headquarter, Army Training Command
Shimla-171003.
4. The G.O.C.-in-Chief
Headquarters Eastern Command (DV)
Fort William
Calcutta. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

Both these two cases were taken up together for disposal, since it involve same question of law based on similar facts.

2. By order dated 27.7.99 the applicant in O.A. No.343 of 2000 was removed from service by the respondents in exercise of power conferred by the Sub Rule (viii) of Rule 11 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 as Conservancy Safaiwala

with effect from 27.7.99. The applicant in O.A.No.344 of 2000, a Civilian Cook, was also similarly removed from service in exercise of similar power. Both the applicants were removed from service on the grounds of habitual absence.

3. Mr. S. Dutta, learned counsel appearing for the applicants mainly focussed his argument on the point that the removal of the applicants were contrary to the procedure Rule. Admittedly, the applicants were civilian employees and they were covered by the CCS (CCA) Rules, 1965. The respondents also relied upon the CCS Rules, but unfortunately, the procedure prescribed by the Rules were not followed. The respondents on 4.12.98, in both the cases, asked the applicants to show cause for their alleged absence from their duty. The applicants submitted their reply to the show cause. The respondent authority, thereafter, held an enquiry by appointing an Enquiry Officer. By memorandum dated 31.5.99, in both the cases, the applicants were informed that the Enquiry Officer submitted his report and on consideration of the Enquiry Report, the respondent No.2, Station Commander held the applicants guilty of the charges and proposed to impose a major penalty. The applicants, thereafter, were removed by the impugned order dated 27.7.99. The applicants, in these applications, alleged that no formal enquiry was conducted by the respondent authority.

4. The respondents submitted their written statement and contended that the applicants were habitual absentees and disciplinary proceedings was initiated against them. The Enquiry Officer found the applicants guilty of

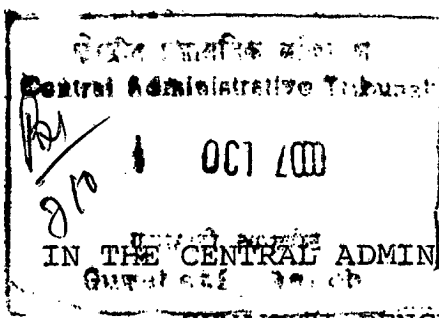
the charges and on consideration of the entire materials on records, the respondents/competent authority accordingly removed them from service. 9

5. The records were produced before us. From the records, it appears ^{to} us that the respondents authority did not adhere to the procedure prescribed by the Rules 14 of the CCS (CCA) Rules, 1965. The proceedings against the applicants were initiated for a major penalty and ^{state of} in that/circumstances, the respondents ought to ^{have} followed the procedure prescribed by the Rule 14. When Enquiry Officer was appointed, it was duty of the authority to prove and establish the charges levelled against the applicants in presence of the charged officials by giving them opportunity to defend their cases. No such procedure was maintained. The applicants were also not provided any defence assistant to protect their cases. Only the Enquiry Officer put questions to the applicants and recorded their statements. The procedure adopted by the authority is totally contrary to the CCS(CCA) Rules. The respondents authority failed to adhere to the procedure prescribed and in that circumstance the impugned order of punishment is arbitrary and violative of principles of natural justice and therefore cannot be sustainable in law. The impugned order of removal dated 27.7.99 ^{is} accordingly set aside. The respondents are directed to re-institute the applicants forthwith.

The applications accordingly stand allowed to the extent indicated above. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)



9

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

Title of the Case : O.A. No. 344/2000
Sri Monoranjan Roy : Applicant
-versus-
Union of India & Ors. : Respondents

I N D E X

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Date : 18.10.2000

Filed by

S. D. Roy
Advocate

অনোবধু মন্ডল

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by:-
The Petitioner
Through:-
Surajit Dutta
Advocate
18.10.2000

(An Application under Section 19 of the Administrative,
Tribunals Act, 1985).

O.A. No. 344/2000

BETWEEN

Sri Monoranjan Roy,
Son of Late Jogesh Roy
Village & P.O. Channighat
District-Cachar,
Assam

....Applicant

-AND-

1. The Union of India
Through the Secretary to the
Government of India, Ministry
of Defence,
New Delhi.
2. The Commandant,
Counter Insurgency and
Jungle ~~Emergency~~ Warfare School,
C/o 99 APO
3. The G.O.C.-in-Chief
Headquarter, Army Training Command,
Shimla-171003.
4. The G.O.C.-in-Chief
Headquarters Eastern Command (DV)
Fort William, Calcutta.

.... Respondents

Contd.....

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DETAILS OF APPLICATION.

1. Particulars of Order(s) against which this Application is made :-

This application is made against (i) the order dated 27.7.1999 passed by the Respondent No.2 arbitrarily and illegally removing the applicant from service without holding any proper inquiry as required under the law as well as (ii) the Memorandum dated 31.5.1999 issued by the Respondent No.2 arbitrarily proposing to imposing punishment of major penalty of removal from service.

2. Jurisdiction of the Tribunal.

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

3. Limitation

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals 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, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant initially joined under the Respondents on 4.11.1976 as a Conservancy Safaiwala in terms of the appointment letter dated 4.11.1976. Subsequently, vide an order dated 01, April 1983, he was

Contd...

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appointed on a regular appointment of Cook with effect from the same day against existing vacancy.

4.3 That ever since his appointment under the respondents, the applicant had been discharging his duties with sincerity and devotion. Unfortunately, during the month of October 1998 he fell sick due to attack of infective hepatitis and therefore had to remain under medical treatment of Dhalai Public Health Centre. Under this circumstance, he could not attend his duties w.e.f 19.10.1998 to 13.12.1998. He stated that as he was completely bed ridden and his wife was also sick at that time, he could not intimate his controlling authority about his illness in time. However, soon after his recovery he resumed his duties and also submitted medical Certificate showing the reason of his absence.

4.4 That in the meantime on 4.12.1998, the respondent No.2 issued a show-cause notice to the applicant asking him to justify his absence from duty and to show cause as to why the said period should not be treated as absent from duty and why necessary proceeding would not be initiated against him. As stated earlier, the applicant upon receipt of the same appeared before the respondents and submitted reply explaining the reasons of his absence. In support of his contention before the departmental authority, he also submitted a medical certificate dated 14.12.1998 issued from the Dhalai Public Health Centre. He stated that the applicant did not retain any copy of the reply to the show cause and therefore is unable to annex copy of the same to this application.

Contd...

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Copies of the said show-cause notice dtd. 4.12.98 and the Medical Certificate dated 14.12.1998 are annexed herewith as Annexures - 1 & 2 respectively.

4.5 That the applicant, while submitting the reply to show cause, had duly explained the circumstances under which he had to remain absent from duty. It was categorically stated that the absence was not intentional, rather due to reasons beyond his control. He, therefore, prayed for favourable consideration of his case on humanitarian ground, as well.

4.6 That surprisingly thereafter on 31.5.1999, the respondent No.2 issued a Memorandum to the applicant proposing to impose upon him a punishment of removal from service. Be stated that, although it was written in the said Memorandum that a copy of the Inquiry Report was annexed to it, in fact no such copy was enclosed and the applicant was not informed about the Inquiry Report. Therefore, he could ^{not} make any effective representation against the same, if there was any. However, the said Memorandum revealed that the Respondent No.2 had agreed with the findings of the Inquiry Officer and held that the Article of Charges stood proved.

A copy of the said Memorandum dated 31.5.1999 is annexed herewith as Annexure-3.

4.7 That the applicant on receipt of the said Memorandum dated 31.5.99 submitted his reply stating that he had already explained the circumstances and thus had nothing more to elaborate. He, however, contended that he could realize his mistake and therefore tendered his sincere apology.

Contd...

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A copy of the said reply dated 15.6.1999 is annexed herewith as Annexure-4.

4.8 That thereafter the Respondent No.2, called the applicant for an interview on 12.7.1999, 13.7.1999 and 14.7.1999. The applicant accordingly appeared before the Respondent on the specified dates. But on neither of the dates he was interviewed and after taking his attendance on those dates he was ultimately allowed to go. It is therefore apparent that the above act of the Respondent No.2 is nothing but an eye-wash and most surprisingly the Respondent No.2 thereafter issued the impugned order dated 27.7.1999 removing the applicant from service from that day.

A copy of the aforesaid order is annexed herewith as Annexure-5.

4.9 That being aggrieved by the impugned order of penalty, the applicant filed an appeal dated 20.8.1999 before the Respondent No.3 who thereafter forwarded the same vide letter dated 29.8.1999 to the Headquarters, Eastern Command(DV), Fort William at Calcutta for necessary action as the Counter Insurgency and Jungle Warfare School has been placed under them for disciplinary and administrative purposes. The applicant states that since thereafter no action has been taken on the appeal filed him him and his grievances has remained unredressed. Under such circumstance, he filed an application to the No.4, on 10.11.1999 praying for early positive action. But till date nothing has been done and thus he has no alternative but to approach this Hon'ble Tribunal seeking redressal.

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Copies of the Appeal dated 20.8.1999, letter dated 29.8.1999 and application dated 10.11.1999 are annexed herewith as Annexures- 6,7 and 8 respectively

4.10 That from what has been narrated above, it is apparent that no formal proceeding whatsoever as required under the law has been held in the instant case. Besides, the applicant was never informed about commencement of any preliminary inquiry or the disciplinary proceeding or the appointment of the Inquiry Officer etc. It is stated that at no point of time any charge sheet containing the Article of Charges was issued to the applicant. It further appears that no Presenting Officer was appointed in the case and perhaps the Inquiry Officer himself acted as the Presenting Officer. Moreover, the applicant was never informed of his right to take assistance of or to engage defence assistant to defend his case. Therefore, it can be safely said that the applicant has been denied reasonable opportunity to defend himself and therefore the entire exercise has been vitiated due to non-compliance of the due process of law. Thus, the impugned order dated 27.7.1999 is liable to be set aside.

4.11 That this application is filed bona fide and in the interest of justice.

5. GROUND(S) FOR RELIEF(S) WITH LEGAL PROVISIONS :

- 5.1 For that, the impugned order dated 27.7.1999 is bad in law and thus liable to be set aside.
- 5.2 For that, in view of the fact that the applicant had to remain absent from duty in a compelling

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circumstance because of his illness, infliction of punishment of removal from service is highly illegal and not warranted in the facts and circumstances of the case.

- 5.3 For that, the Respondent authorities have acted in a most arbitrary manner in passing the order of punishment and therefore the impugned order dated 27.7.1999 is liable to be set aside.
- 5.4 For that, no formal proceeding as required under the law has been held against the applicant and on the contrary the entire exercise made by the respondents to punish him has been undertaken behind his back and therefore the impugned order imposing punishment is liable to be declared illegal.
- 5.5 For that, the respondents have whilly ignored the evidence on record in support of the applicant's case and have acted in a manner as if to make out and establish a case of unauthorised absence against him on the basis of past conduct which was beyond the scope and purview of the show cause notice dated 4.12.1998.
- 5.6 For that, the Respondent authorities have exceeded the jurisdiction in passing the impugned order of removal from service inasmuch as the same has been passed with any justifiable reason and basis.
- 5.7 For that, non-consideration of the appeal of the applicant by the Respondents has amounted to denial of justice to him which is unjust and against good conscience.

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5.8 For that, in any view of the matter the impugned order of punishment is bad in law and is liable to be set aside.

6. Details of remedies exhausted :

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. The applicant has submitted an appeal before the competent authority 20.8.1999 but no reply has been received by the applicant till filing of this application before the Hon'ble Tribunal.

7. Matter not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief(s) 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 impugned order of punishment dated 27.7.1999 be declared illegal and be set aside.
- 8.2 That the respondents be directed to reinstate the applicant in service with full service benefits.
- 8.3 Costs of the Application.

8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim Relief Prayed for :

The applicant though does not pray for any interim relief in the case, however, the Hon'ble Tribunal may be pleased to direct the respondents that pendency of this application shall not be a bar for considering the case of the applicant.

10.

This application is filed through Advocate.

11. Details of I.P.O.

- | | |
|-------------------|---------------------|
| i. I.P.O. No. | : 26 503086 |
| ii. Date of Issue | : 16.10.2000 |
| iii. Issued from | : G.P.O., Guwahati. |
| iv. Payable at | : G.P.O., Guwahati. |

12. List of enclosures

As stated in the Index.

.....Verification

অনোবস্থান

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

I, Sri Monorajjan Roy, son of late Jogesh Roy, aged about 45 years, resident of village and P.O. Channighat, District-Cachar, Assam, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 18th day of October, 2000 at Guwahati.

সুনোৱাজ্জন ৰয়

Signature

Counter Insurgency and
Jungle Warfare School
C/O 99 APO

6009/3/MR/Adm

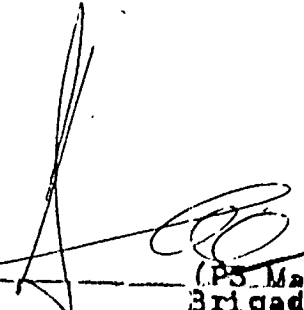
04 Dec 98

To

No - 14117461
Civ Cook, Shri Manoj Ranjan Roy
Vill & P.O. - Channighat
Dist - Cachar (Assam)

SHOW CAUSE NOTICE

1. You are absent from Govt duty, with effect from 19 Oct 98 to till date without taking prior approval/sanction of competent authority. It has also been observed from your past record that you were earlier warned for above said offence vide our letter No 6009/MRR/Adm dt 14 Mar 87, 6010/3/Adm dt 08 May 87, penalty imposed for absence of duty vide 6009/MR/Adm dt 30 Aug 98, memorandum issued to hold inquiry regarding absence from duty 6009/MR/Adm dt 01 Apr 89, vide 6009/MRR/Adm dt 13 Apr 93, memorandum issued to hold inquiry regarding absence from duty 6009/MR/Adm dt 18 Sep 93, 6009/2/Adm dt 02 Apr 96 and 6009/MR/Adm dt 23 Feb 98. In spite of strict warning you have failed to improve the performance of your duties.
2. You are habitually negligent in respect of duties for which you have been employed by this institution. Your above act has exhibited absolute lack of devotion to Govt duty. The persons have suffered and deprived of the food in the mess due to your act.
3. This act of yours is seriously viewed by the under signed.
4. You are directed to Show Cause as to why the above period should not be treated as absent from your duty and disciplinary proceeding initiated against you for the above said offence as per CCS(Conduct) Rules (1964) Rules-3, Para-24 and sub para-9.
5. your reply should reach this office within 10 days from the date of receipt of this notice.


(P.S. Mann)
Brigadier
Commandant

M/S
6/11/11

/COPY/

- 12 -

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Annexure-2

Dr. B.Das, M.B.B.S.
S.M.O.
Dholai P.H.C.
Regd. 7470 (AMC)

Ph. 52489

Date : 14.12.98

Clinical Findings

Rx .

Certified that Sri Mono Ranjan Roy,
35 years, Son of late Jogesh Roy of P.O. &
Village Channighat, District-Cachar has been
suffering from infective Hepatitis & PUS since
18.10.98 (vide Regd. No. 4008 Dholai PHC 19.10.98)
till date (Upto 13.12.98). He is still under my
treatment.

Sd/- Illegible

(B. DAS)

Senior Medical & Health Officer,
Dholai PHC, Dholai.

STANDARD FORM OF MEMORANDUM OF CHARGE FOR KANOR PENALTIES
(Rule 16 of CCS(CCA) Rules 1965)

Counter Insurgency and Jungle
Warfare School,
C/o 99 APO

No. 6009/MR/Adm

31 May 99

MEMORANDUM

1. The undermentioned is directed to enclose a copy of the Inquiry Report submitted by the Officer appointed to inquire into ~~xxxxxxx~~ the charges against No. 14117461 Shri Manoranjan Roy, Civilian Cook of CIJW School, C/o 99 APO.
2. On careful consideration of the Inquiry Report afore said the undersigned agrees with the findings of the Inquiry Officer and holds that the articles of the charges stand proved. Also on careful consideration of your records of service presented before me, I find you to be an habitual absentee, an omission amounting to disregard and negligence towards duty (Details at Appx). Despite warnings and counselling by superiors, you failed to improve your conduct and persisted in usual unauthorised absence from duty. As a result, you were awarded reduction of pay from Rs.883/- PM to Rs.775/- PM wef 01 Sep 98 for a period of one yr. A lenient view was taken on the above occasions on humanitarian grounds. Since you have failed to show any improvement, the undersigned has therefore, provisionally come to the conclusion that No.14117461 Sri Manoranjan Roy, Civilian Cook of the Counter Insurgency and Jungle Warfare School is found guilty and so the undersigned proposed to impose on him the major penalty of REMOVAL FROM SERVICE.
3. No 14117461 Shri Manoranjan Roy, Civilian Cook is hereby given an opportunity of making representation on the penalty proposed., but only on the basis of the evidence adduced during the inquiry. Any representation he may wish to make on the penalty proposed will be considered by the undersigned. Such representation, if any should be made in writing and submitted so as to reach the undersigned not later fifteen days from the date of receipt of this Memorandum by No. 14117461 Shri Manoranjan Roy, Civilian Cook.
4. The receipt of the Memorandum should be acknowledged.

Sd/- Illegible

No.14117461
Shri Manoranjan Roy
Civilian Cook
CIJW School
C/o 99 APO

(P.S.MANN)
Brigadier
Commandant

From : Shri Manoranjan Roy
Civilian Cook
CIJW School
C/o 99 APO

To

The Commandant,
Counter Insurgency and
Jungle Warfare School,
C/o 99 A. P. O.

Subject : MEMORANDUM

Respected Sir,

Kindly refer to your Memorandum No 6009/MR/Adm dated
31st May 1999.

I have already explained my position and problems to
the Departmental Enquiry Committee and have nothing more to
elaborate. My only humble submission is that I have fully
realized my mistake and tender my sincere apologies for the
inconvenience caused to you due to my long absence. If my
services are terminated my family and children will starve.
For the sake of my wife and children's life, I fervently seek
your kind mercy and request you to kindly give me a final
chance to improve myself and live upto your expectations. And
for this act of your kindness, all members of my family and I
shall ever remain grateful to you.

Yours faithfully,

Date : 15th Jun 99

(Manoranjan Roy)

6009/MR/Adm

~~SECRETARY TO THE GOVERNMENT~~
~~IN CHARGE~~Counter Insurgency and
Jungle Warfare School
C/o 99 APO

27 July 1999

ORDER

WHEREAS no.14117461 Shri Manoranjan Roy, Civilian Cook convicted being a habitual absentee as per CCS (Conduct) Rules (1964) Rule-3, Para 24 and Sub Para -9.

AND WHEREAS it is considered that the conduct of the said No. 14117461 Shri Manoranjan Roy, Civilian Cook which has led to his conviction is such as to render his further retention in the public service undesirable as to warrant the imposition of a major penalty;

AND WHEREAS No. 14117461 Shri Manoranjan Roy, Civilian Cook was given an opportunity of personal hearing (Intimate) sent vide letter No. 6009/MR/Adm dated 13 July 99) and received by No. 14117461 Shri Manoranjan Roy, Civilian Cook on 13 July 99.

AND WHEREAS the said No.14117461 Shri Manoranjan Roy, Civilian Cook has given a written explanation vide his letter No. Nil dated 15 June 99 received on 29 June 99 which has been duly considered by the undersigned;

NOW THEREFORE, in exercise of the powers conferred by Sub Rule (viii) of Rule 11 of Central Civil Services (Classification, Control and Appeal) Rules, 1965, the undersigned hereby removes the said No. 14117461 Shri Manoranjan Roy, Civilian Cook from service with effect from 27 July 99.

Sd/- Illegible

(PS MANN)
Brigadier
Commandant

certified to be true copy
Srijit Ghosh
Advocate



SIKANDAR H O 700001
No. 2300
Canteen No: 20-08-99
THE LT. GENERAL, GOC III C
SHIMLA

20-08-99

To
The Lt. General,
GOC in-C,
HQ- ARTILLERY,
Shimla (HP)

Sub: ~~Appeal against the order of removal.~~

Sir,

I shri Monoranjan Roy, Civilian Cook, CIJW School, Veirengte, Mizoram prefer this appeal under rule 23(11) and rule 26 of the CCS (CCA) Rules, 1965 against the impugned order dated 27-7-99 removing me from the above post held by me for & favour of your judicious consideration and necessary order quashing the impugned order of removal as stated above.

1. That I had been a permanent employee posted at CIJW School, Veirengte as Civilian Cook.
2. That due to my serious illness I could not attend my duty with effect from 19-10-98 to 13-12-98 and my wife was also completely had ridden and I submitted medical Certificate subsequently.
3. That Disciplinary action was initiated against me under rule 14 of CCS (CCA) Rules, 1965.
4. That I was not given reasonable opportunity to inspect list of documents. Moreover, the enquiry was conducted in total violation of the CCS (CCA) Rules, 1965.
5. That no Presenting Officer was appointed to present the case. As such Inquiry Officer acted himself both as Inquiry Officer as well as Presenting Officer which is violation of the CCS (CCA) Rules, 1965.
6. That I was not given opportunity by the Inquiry Officer to engage Defence Assistant to defend the case. During enquiry I was asked whether I wanted to call any body for defence which was nothing but my eye wash. As such I was deprived of the reasonable opportunity to defend the case.
7. The penalty of removal is too harsh for me and disproportionate to the quantum of offence if at all proved. No reasonable authority can throw his subordinate out of employment leaving his children and wife in the face of extreme misery of life. More so when such leave of absence was sanctioned formerly, the order of penalty of removal in the present case is ill motivated and against the natural justice. As such penalty of removal needs to be quashed to cite an example before the society that penalty should be proportionate to the quantum of offence and the power of penalty is not abused and misused by any authority to cause & sufferings to the low paid employees and their families.

....2....

8. That moreover, after the issue of proposed penalty vide Memo No. 6009/MR/Adm dt. 31-5-99 there is no provision of personal interview under CCS (CCA) Rules 1965 as was done on 12-7-99, 13-7-99 and 14-7-99 in my case which was ill motivated with malafide intention. Such order for interview was nothing but colourful exercise of power with some vested interest of the authority concern.

From the above your honour may kindly admit that the Disciplinary proceeding against the undersigned as above is in violation of CCS (CCA) Rules, 1965 which could not prove the charge of misconduct under CCS Conduct Rule 1964. Rather the Disciplinary authority was biased who did not feel it necessary to appoint Presenting Officer to present the case and also did not apply his mind while imposing the penalty of removal. He also being bias did not pay heed to my petition dated 15-6-99 submitted for mercy on humanitarian ground.

As such when the Disciplinary authority failed to perform his duty with due application of mind and also acted in violation of CCS (CCA) Rules, 1965 the order dated 27-7-99 imposing the penalty of removal is disproportionate, void and is liable to be quashed.

It is therefore prayed that yourself being the Appellate Authority in this case may kindly issue necessary order for my reinstatement in service with all benefits so as to save my family due to whimsical decision and illegal order of the above mentioned disciplinary authority and for that act of your kindness I shall remain over pray.

Yours faithfully,

(श्री मनोरंजन राय)
(MONORANJAN ROY)

No. 14117461

28

Tele : 2730

Headquarters
Army Training Command
Shimla - 171.003 (HP)

300052 / R

29 Aug 99

Headquarters
Eastern Command (DV)
Fort William, Calcutta

APPEAL AGAINST THE ORDER OF REMOVAL

1. Appeal against the order of removal recd from the following of CIJW School is encl herewith in original for your necessary action as CIJW School has been placed under your command for admv and discp purposes :-

(a) Sh. Anirudha Roy, Consy S/W.

(b) Sh. Monoranjan Roy, Civ Ck.

2. Action taken on the applications may please be intimated to the applicants.

Sd/- Illegible
(M.S.Chhikara.)
Col
Col 'A'
For GOC-in-C

Enclo : As above

Copy to :-

CIJW School - Alongwith a photostat copy of the appeal against the order of removal of the abovementioned pers.

2. Please inform the qudr accordingly.

Sh. Anirudha Roy, Consy S/W.
O/O.CIJW School, C/O. 99 APO

Sh. Monoranjan Roy, Civ Ck.
O/O.CIJW School, C/O. 99 APO.

28

Headquarters,
Eastern Command (DV),
Fort William,
C A L C U T T A

Dt. 10-11-1999

Sub:- Appeal against the order of removal

Hon'ble Sir,

With due respect and humble submission I am to state that I have appealed under Rule 23(ii) & Rule 26 of the CCS(CCA) Rules, 1965 to the Lt. General, GOC in-C, H-Q -ARTRAC, Shimla (HP) against the impugned order of removal (Copy enclosed for your ready reference) and the same has already been forwarded to you vide letter No. 300052/A dt. 29-8-99 by the Headquarters, Army Training Command, Shimla-171 003 (HP) for taking action in this respect with a intimation to the undersigned. (copy encl)

Sir, what is most unfortunate is that till date I have received no communication from your end.

I would request your goodself to enquire into the matter so as to enable me to join as early as possible thereby save me alongwith my family members from financial hardship.

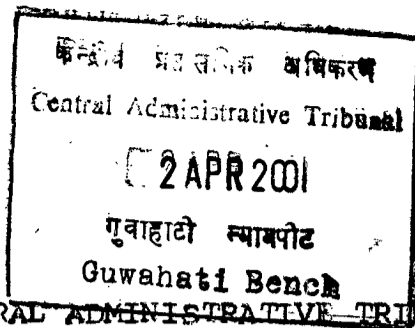
Your positive action in this regard will highly be acknowledged.

With regards,

Yours faithfully,

Self
MONORANJAN ROY

No. 14117461
C/o 33 APO,
CJW (choi),
Vairavite, Mizoram



Filed by

26/3/2001
(A. DEB ROY) 29
Sr. C. G. S. C.

G. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A. No. 334 OF 2000

Shri Dhanapati Laskar and others

-Vs-

Union of India & others

IN THE MATTER OF

Written statement submitted by
the respondents.

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

As per judgement and order dtd. 31.08.99 of Hon'ble CAT/Guwahati of O.A.No. 112/98.131/98 and 223/98, this office has taken action for regularisation of casual labourers as Temporary status as per DDT's norms. Casual labourers (Grant of temporary status and regularisation) scheme 1989. Accordingly the department has constituted a screening committee. This screening committee verified the payment particulars of 200 casual labourers.

The Screening committee has taken following norms for verification of records. Temporary status would be conferred to all the casual labourers currently employed and who have rendered a continuous service of at least one years out ofw which they must have been engaged on work for a period of 240 days (206 days in case of office observing five days week). Such casual labourers will be designated as

temporary status.

Ref. Letter no. 269-10/89-STN dtd.07.11.89

Copy enclosed herewith Annex-I

Ref Letter no. 269-4/93-STN-II dtd.17.12.93

Copy enclosed herewith Annex-II

Ref. Letter no.269-4/93-STN-II dtd.12.02.99

Copy enclosed herewith Annex-III

As per above scheme, grant of Temporary status to casual labourers is on 01.08.98.

Ref. Letter no.269-13/99-STN-II dtd.02.07.99

Copy enclosed herewith Annex-IV.

After verification of payment particular, the committee found eligible 168 out of 200 casual labourers for conferment of temporary status and remaining 32 casual labourers are not found eligible. Out of 32 casual labourers, 13 casual labourers have filed a CAT Case no.334/2000. The name of 13 casual labourers are as follows :

1. SHRI AJIT CHANDRA DAS.
2. SHRI DHANAPATI LAHKAR.
3. SHRI TARANI BORO.
4. MD. BHAINUR ALI.

Contd.....3/-

5. SHRI DHARANI BARMAN .
6. SHRI GAUTOM DAS .
7. SHRI KHANIL KR. BARMAN
8. SHRI PINAKI DUTTA .
9. SHRI BABUL CH. BAISHYA .
- ~~10.~~ MD. ATTER ALI .
11. SHRI UMESH CH. DAS .
12. MD. ABDUL SATTAR ALI .
13. SHRI MOHAN CH. DAS .

The bio-data and no. of days rendered service to departments are as follows.

1. A. Name of the casual labourer. Shri Ajit Ch. Das
Father's name : Shri Ratan Ch. Das
Address :- Vill/P.O. Dadara, Kamrup, Assam.
Date of birth : 01.03.70.
Date of initial Engagement 15.03.93.

B. No. of days rendered service in the year.

<u>Year</u>	<u>No of days rendered service</u>
1993	243
1994	277
1995	241
1996	305
1997	NIL

Contd.....4/-

Absent on 01.08.98.

He has joined in the service in the month of Dec'98. Though the casual labourer rendered service more than 240 days in 1993,1994,1995 and 1996, he was absent from the service from 11/96 to 31/07/98 and 01.09.98 i.e., break in service period is more than one year.

The casual labourer who have been engaged between the period of 31.03.85 to 22.06.88 and 23.06.88 to 01.08.98 and who have rendered continuous service in one year out of which they must have been engaged for a period of 240 days are entitled for conferment of temporary status.

This casual labourers is not having continuous service. Therefore, though he has joined on 12/98 and rendered 240 days service in the year 1993,1994,1995 and 1996, his case is not considered for conferment of temporary status.

2.A. Name of casual labourer	: Shri Dhanapati Lahkar.
Father's name	: Shri Haren Lahkar
Address. Vill/P.O.	: Lachima/ Sarthebari
Dist	: Barpeta, Assam.
Date of birth	: 01.01.1966
Date of initial engagement	: 01.04.1996.

Contd.....5/-

B. No. of days rendered service in year

<u>Year</u>	<u>No. of days rendered service</u>
1996	30
1997	NIL

Absent on 01.08.98. He has joined in the Dec'98.

He has ^{not} rendered 240 days service in the department in any year.

Therefore, he has no entitlement to be temporary status and his case is not considered.

3.A. Name of casual labourer : Shri Tarani Boro.
Father's name : Shri Rabi Ram Boro.
Address Vill/P.O. : Japia/Japia
Dist. : Kamrup, Assam.
Date of birth : 31.09.1975.
Date of Initial Engagement : 01.06.1993.

B. No. of days rendered service in a year.

<u>Year</u>	<u>No. of days rendered service</u>
1993	87
1994	Nil
1995	74
1996	172
1997	13
1998	76

Absent on 01.08.98. He has no record of the working in the department after 5/98. He has not rendered service 240 days in any year.

Therefore, his case is not considered.

4.A. Name of the casual labourer : Md. Bhainur Ali
Father's name : Late, Khasful Ali
Address : Vill/P.O. : Moranjana~~X~~ Rangia
Dist. : Kamrup, Assam.
Date of birth : 01.06.70.
Date of Initial Engagement : 01.10.93.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1993	60
1994	144
1995	115
1996	275
1997	167

Absent on 01.08.98. He was not in the service after 1997. Therefore, his case is not considered for conferment of Temporary status.

5.A. Name of casual labourer : Shri Dharani Barman
Father's name : Late, Rajani Barman
Address : Vill /P.O. : Jowardi/ Voitha
Dist. : Nalbari, Assam.
Date of birth : 01.03.1971
Date of initial engagement : 01.07.93

B. No. of days rendered service in a year

Contd.....7/-

<u>Year</u>	<u>No. of days rendered service</u>
1993	153
1994	273
1995	246
1996	121
1997	165

Absent on 01.08.98. He has joined in the service in 12/98. There is break of service from 01.01.98 to 01.08.98 i.e., break in service for 7 months.

Therefore, though he has rendered more than 240 days in 1994, 1995, he has no continuity of service from 01.01.98 to 01.08.98. So, his case is not considered for conferred of Temporary status. However, condonation of break period is under process.

6.A. Name of casual labourer : Shri Gautom Das
Father's name : Shri Gakul ch. Das
Address :
Date of birth : 01.11.77.
Date of engagement : 01.03.96.

B. No. of days rendered the service in a year

<u>Year</u>	<u>No. of days rendered the service</u>
1996	127
1997	275
1998	123

Absent for two months 6/98, 7/98 and 01.08.98. He has no continuity in the service from 01.06.98 to 01.08.98. Though he has joined in the service in 10/98, his case is not considered as there is

discontinuity in the service. However, his case is under process for condonation.

7.A. Name of casual labourer : Shri Khanil kr. Barman
Father's name : Shri Mahidhar Barman
Address: Vill/P.O. : Lachima/ Sarthebari
P.S./Dist. : Sarthebari/Barpeta, Assam.
Date of birth : 01.03.70.
Date of engagement : 01.07.94.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1994	49
1995	154+119=211
1996	168
1997	184
1998	213

He was present on 01.08.98, and rendered 240 days service to Department in the year of 1995. Therefore, his case is under process for conferment of Temporary status.

8.A. Name of casual labourer : Shri Pinaki Dutta
Father's name : Late, Ketaki Kr. Dutta
Address : N.D.Lane, Silchar-5
Cachar, Assam.
Date of birth : 21.04.1969.
Date of engagement : 01.09.1995.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1995	122

<u>Year</u>	<u>No. of days rendered service</u>
1996	366
1997	365
1998	181

Absent on 7/98 and 01.08.98. He was absent from the service since 7/98 and not joined in the service as per verification report. Therefore, his case is not considered for conferment of Temporary Status.

9.A. Name of the casual labourer : Shri Babul Ch. Baishya
Father's name : Shri Pabin Baishya
Address Vill./P.O. : Pachim par, Baghbari/
Rangia
Dist. : Kamrup, Assam.
Date of birth : 15.12.75.
Date of engagement : 01.03.1995.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1995	122
1996	366
1997	154

He was absent from 1/98 to 7/98 and 01.08.98. He was joined in the service in 12/98. He has no continuity in service from 1/98 to 7/98 and 01.08.98. therefore, his case is not considered for conferred of Temporary status. However, his case is under process for condonation.

10.A. Name of the casual labourer : Md. Attar Ali
Father's name : Md. Anzir Ali
Address : Vill/P.O. : Bamuni Gaon/Changshari
Dist. : Kamrup, AAssam
Date of birth : 01.05.75.
Date of engagement : 01.05.93.

B. No. of rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1993	Nil
1994	Nil
1995	61
1996	Nil
1997	153
1998	213

Upto 01.08.98.

He was absent on 01.08.98. He has not rendered 240 days service in any year. So, his case is not considered for conferment of Temporary status.

11.A. Name of casual labourer : Shri Umesh Ch. Das
Father's name : Late, Habi Ram Das
Address Vill : Akadi
P.O.-Dihina, P.S. Ha jo
Dist. Kamrup, Assam.
Date of birth : 30.12.1970.
Date of engagement : 01.03.1993.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1993	87+21=108
1994	51

<u>Year</u>	<u>No. of days rendered service</u>
1995	125
1996	Nil
1997	153
1998	213

He has not rendered 240 days service in a year. Therefore, he is not considered for conferment of Temporary status.

12.A. Name of casual labourer : Md. Abdul Satter Ali.
Father's name : Md. Abdul Salam Ali
Address : Vill.- Hapachara
P.O.- Gari Gram
Dist.-Bongaigaon, Assam.
Date of birth : 01.11.1972
Date of engagement : 01.01.1995.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1995	326
1996	152
1997	153
1998 (up to 01.08.98)	231

He has continuity in the service and he was present on 01.08.98. Therefore, his case is recommended for conferment of Temporary status by screening committee. The case is under process.

13.A. Name of casual labourer : Shri Mohan Ch. Das
Father's name : Late, Khargeswar Das
Address : Vill.-Akali. P.O?- Dihina
Dist. - Kamrup, Assam
Date of birth : 31.04.1973.
Date of engagement : 01.04.1994.

B. No. of days rendered service in a year

<u>Year</u>	<u>No. of days rendered service</u>
1994	49
1995	105
1996	91
1997	151

He was absent from 10/97 to 12/97 and 01.08.98
As there is a break in service and as he has not rendered 240 days services to the department in any year, therefore, his case is not considered, though he has joined the service again in 12/98.

1. That with regard to para 2 and 3 the respondents beg to offer no comments.
2. That with regard to para 4.1 and 4.2 the respondents beg to offer no comments
3. That with regard to para 4.3 the respondents beg to state that the casual labourers in this deptt. are engaged on no work no pay basis. Therefore, question of appointment does not arise. (Referred verification report of payment particulars by the screening committee in enclosed Annexure). However,

report of screening committee will be produced in the hearing, if called for.

4. That with regard to para 4.4 and 4.5 the respondents beg to offer no comments.

5. That with regard to para 4.6 the respondents beg to state that already benefit as per DOT is extended to labourers as per DOT norms.

6. That with regard to para 4.7,4.8,4.9 4.10 and 4.11 the respondents beg to state that this department conferred Temporary Status to eligible casual labourers as per DOT norms. The applicant and others are not considered to be temporary status as they do not fulfil the DOT norms.

7. That with regard to paras 4.13 and 4.14 the respondents donot agree. Department is doing as per DOT norms, and benefit is given as per DOT norms.

8. That with regard to para 4.15 the respondents beg to state that the department carried out the Hon'ble CAT/GH order 112/98 and 131/98.

9. That with regard to para 4.16 the respondents beg to state that facts and figure mentioned is not known to this department.

10. That with regard to para 4.17 the respondents beg to state that question of Senior does not arise. Department has regularized casual labourers as TSM as per DOT norms. Subject to eligibility criteria of DOT.

11. That with regard to para 4.18 the respondents beg to state that the applicants do not fulfil the required norms for regularisation.

GROUND FOR RELIEF WITH LEGAL PROVISION :-

12. That with regard to para 5.1 the respondents beg to state that casual labourers are engaged on no works no pay basis. In course of working, if any casual labourers fulfil the DOT criteria, benefit of regularisation is considered by the department. If any casual labourer does not fulfil the DOT norms, he has no right to claim for benefit conferred by the department.

13. That with regard to para 5.2 the respondents beg to state that the deptt. has regularised the casual labourers as per DOT norms, therefore, the question of favouritism does not arise.

14. That with regard to para 5.3 and 5.4 the respondents does not agree that their action is illegal and arbitrary.

15. That with regard to para 5.5, 5.6 and 5.7 the respondents beg to state that we follow DOT guideline only, not guideline from Postal Department. Therefore, violation of any Articles of Constitution does not arise.

.....

.....Verification

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VERIFICATION

I shri P. K. Ghosh

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

And I sign this verification on this 14
day of March 2001.

P. K. Ghosh
DECLARANT
S. D. B (ESTD)
of C. A. M. TIF
Cuwahati-1

(242)

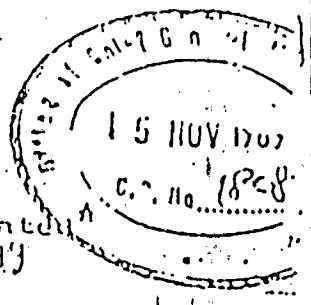
16

ANNEX-I

3 26 84

CIRCULAR NO. 1

Government of India
Department of Telecommunications
STN Section



7.11.87

No. 269-10/89-STN

New Delhi

Dated

To

The Chief General Managers Telecom Circles,
M.T.U.L., New Delhi/Bombay, Metro Distt. Madras/Calcutta
Heads of all other Administrative Units.

Subject: Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

Subsequent to the issue of instructions regarding regularisation of casual labourer in this office letter No. 269-29/87-STN dt. 10.11.87, a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom. Commission. Details of the scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

3. In this connection your kind attention is invited to letter No. 270-6/84-STN dt. 10.3.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom. Circles/Districts. Casual labourers could be engaged after 30.3.85 in Projects and Electrification Circles only for specific works and on completion of the work the casual labourers engaged were required to be retrenched. These instructions were reiterated in d.o. letter No. 270-6/84-STN dt. 22.4.87 and 22.5.87 from Member (Pers.) and Secretary of the Telecom. Department respectively. According to the instructions subsequently issued vide this office letter No. 270-6/84-STN dt. 22.6.88 fresh recruitment of casual labourers even for specific works for specific periods in Projects and Electrification Circles also should not be resorted to.

3.2 In view of the above instructions normally no casual labourers engaged after 30.3.85 would be available for consideration for conferring temporary status. In the unlikely event there being any cases of casual labourers engaged after 30.3.85 requiring consideration for conferment

.....2/-

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of temporary status, such cases should be referred to Telecom. Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non-retirement was resorted to.

3.3 No casual labourer who has been recruited after 30. should be granted temporary status without specific approval from this office.

4. The Scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom. Commission vide No. SMF/70/89 dt. 27.2.89.

5. Necessary instructions for the expeditious implementation of the Scheme may kindly be issued and payment of arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

ASSISTANT DIRECTOR GENERAL

Copy to :-

- P.S. to IAS (C)
- P.S. to Chairman Telecom. Commission
- Member (S)/Adviser (HRD), GE (Est.), GE (IR) for information.
- HCG/SEN/TE-11/115/Adm. I/CSE/PAT/SPB-I /SR See
- All recognised Unions/Associations/Federations

ASSISTANT DIRECTOR GENERAL

Pl. Circulate to Per Spec. Hqs. B-2/1

NO. 269-4/93-SIN-II
Government of India
Department of Telecommunications
SIN Section

New Delhi 17 DEC 1993 Dated

To

All Heads of Telecom. Circles/Metro Telecom. Distt.
All Heads of other Administrative Offices,
All Heads of Mce. Regions/Project Circles.

Subject: Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 engaged in Circles after 30.3.85 and upto 22.6.88.

Sir,

I am directed to refer to this office order No. 269-4/93-SIN dated 22/6/88, wherein orders were issued to extend the temporary status to all those Casual Mazdoors who were engaged by the Project Circles/Electrification Circles during the period 31.3.85 to 22.6.88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

22/6/88

2. The matter has further been examined in this office and it is decided that all those Casual mazdoors who were engaged by the Circles during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the Circles where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be treated under the above said scheme.

3. The engagement of Casual Mazdoors after 30.3.85, in violation of the instructions of the Deptt. Circular, has been viewed very seriously & it is decided that all past cases wherein recruitment has been made in violation of instructions of the Deptt. Circular dated 29.1.85 should also be analysed and disallowed by the concerned defaulting officers.

(Sd)

31/1/94

4. It has also been decided that engagement of any Casual Mazdoor after the issue of this order should be viewed very seriously and may be to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles, concerned Divisions II Officers and amount paid to such Casual Mazdoors for the works should be recovered from the person who has recruited/engaged Casual Labour in violation of these instructions.

Approved
[Signature]
11/12/93 (18/11)
Senior Divisional Engineer (SIN)
Office of the Telecom District Engineer
Number-73021

RECEIVED
[Signature]
15/11

.....2/-

47
 2-2
 - 2 -
 5. It is further stated that the services of all the Casual Mazdoors who have not rendered at least 30 days (206 days in the case of Administrative Officers observing 5 days a week) of service in a year on the date of issue of these orders, should be terminated after following the conditions as laid down in I.D. Act. 1947, under Section 25.F, G & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No. 3811/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully,

S.K. Dhawan
 (S.K. DHAWAN)
 ASSISTANT DIRECTOR GENERAL (SIN)

Copy to :-

1. All the staff members of Department JCM
2. All Recognised Unions/Associations
3. Budget/TE-I/TE-II/SEA/CWO/PAT/NOG/ER Sections of the Telecom. Commission.
4. SPB-I Section, Department of Posts, New Delhi.

No. Recd. 3/10/1993-ii. Dated 16/11/93. 4-1-94
 Copy forwarded for information, guidance if necessary.

- cc. 1. Mr. AGT, GN/DR.
 2. Mr. AGT/Confidential.
 3. Mr. AGT/AG/DA/SC/TS/NAO/JRT
 4. Mr. AGT/AG/DA/SC/TS/JRT
 5. Mr. AGT/AG/DA/SC/TS/JRT
 6. Mr. AGT/AG/DA/SC/TS/JRT
 7. Mr. AGT/AG/DA/SC/TS/JRT
 8. Mr. AGT/AG/DA/SC/TS/JRT
 9. Mr. AGT/AG/DA/SC/TS/JRT
 10. Mr. AGT/AG/DA/SC/TS/JRT
 11. Mr. AGT/AG/DA/SC/TS/JRT
 12. Mr. AGT/AG/DA/SC/TS/JRT
 13. Mr. AGT/AG/DA/SC/TS/JRT
 14. Mr. AGT/AG/DA/SC/TS/JRT
 15. Mr. AGT/AG/DA/SC/TS/JRT
 16. Mr. AGT/AG/DA/SC/TS/JRT
 17. Mr. AGT/AG/DA/SC/TS/JRT
 18. Mr. AGT/AG/DA/SC/TS/JRT
 19. Mr. AGT/AG/DA/SC/TS/JRT
 20. Mr. AGT/AG/DA/SC/TS/JRT
 21. Mr. AGT/AG/DA/SC/TS/JRT

A. K. P. Sharma
 (K.S.K.P. Sharma)
 AGT (etc.)
 AGT/Confidential

Approved
S.K. Dhawan
 14/12/98 (Adm)

5/10
 11
 05

ANNEX - III

18

28/c

48

119

No. 269-4/93-STN-II
Department of Telecommunications
(STN-II Section)

Dated 12.2.99

To:

- All Chief General Manager Telecom. Circles,
- All Chief General Manager Telephones Districts,
- All Heads of other Administrative Offices.

Subject: Sanction of posts of Regular Mazdoors for regularisation of Temporary Status Casual Mazdoors.

I am directed to refer to this office letter No. 269-10/89-STN dated 17.11.89 wherein the scheme called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" was communicated. As per the said scheme, casual labourers who were engaged before 30.3.85 and had completed 10 years of service, were made eligible for regularisation. Based on the above, instructions were issued vide this office letter No. S-1/92-TE-II dated 17.3.92, 6.7.93, 20.5.94, 8.5.95 and 30.9.96.

Even though there is a complete ban on recruitment of casual labourers, it has come to light that many circles, defying the ban orders, had recruited casual labourers even after the ban orders. Since, these casual labourers have completed 10 years of service, Employees Unions are pressing for the regularisation of the remaining casual labourers who were recruited after 30.3.85 and completed 10 years of service, on the analogy of earlier decision of Supreme Court on the subject.

Under these circumstances, the matter has once again been examined and it has been decided by the Telecom. Commission as a one time measure, on special consideration, to further delegate powers to all the Heads of Circles/Metro Districts, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of Regular Mazdoors for regularisation of "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989, who have completed 10 years of service as on 31.3.97 to the extent of the numbers indicated in Annexure A which has been compiled based on the information received from the Circles/Units. The post are to be created within the prescribed ceiling as on 31.3.91. The other conditions stipulated in the letter dated 17.3.92 remain unchanged.

* Approval of Telecom. Commission is also conveyed for delegation of powers to grant temporary status to casual labourers

19

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to the extent of number indicated against the respective circles in Annexure 'B' which also has been compiled based upon the information furnished by the Circles/Units concerned.

As the numbers indicated in the Annexures A and B are furnished by the Circles/Units concerned, there should not be any variation in the figures. In case, there is a change, Heads of Circles should refer the cases to TCHQ explaining the reasons therefor.

Recruitment of casual labourers was completely banned w.e.f. 22.6.88 and instructions were issued time and again for identifying the officers/officials responsible for engaging casual labourers in spite of the ban orders. The non-compliance of the instructions issued by this office in true letter and spirit led to the Department having to bear a huge avoidable financial burden. This is a serious lapse. It is observed that circles are hesitating to identify and fix responsibility on the errand Officers/officials. Therefore, Heads of circles/Units are once again requested to initiate necessary action against the officials concerned and intimate the action taken against them to this office by 28.2.99 as directed by the Chairman Telecom. Commission.

This issues with the concurrence of Internal Finance vide their Dy. No. 47/FA-1/98 dated 13.1.98.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)
Tele. 3716723

210

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Annexure 'B'

Casual labourers to be given Temporary Status as on 1.8.98

CIRCLE	CLs to be granted Temporary Status
ALTTC	0
A&N	0
AP	NA
AS	NA
BH	347
BRBRAIT	0
CHENNAI TD	4
CTD	450
DNW	1
ETP	318
ETR	229
GUJ	177
HIP	790
IHR	25
J&K	27
KRL	24
KTK	188
MHI	NA
MP	NA
MIINI DI	15
MIINI BY	23
NCES	0
NE	350
NETF	249 ✓
NIP	50
NTR	NA
OR	16
PB	12
QA	0
RAJ	56
RE NAGPUR	105
SIP	6
STR	29
T&D JBP	0
TN	160
TS CA	0
UPE	200
UPW	NA
WB	50
WTP	119
WTR	26
TOTAL	4046

11
13

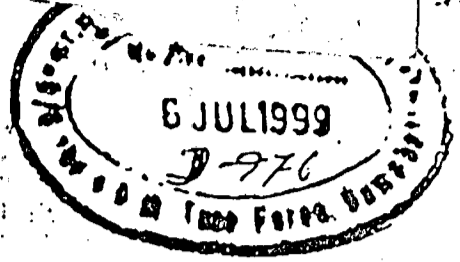
Annexure 'A'
TSMs eligible for regularisation as on 31.3.97
(Engaged between 1.4.86 and 31.3.87)

CIRCLE	TSMs to be regularised
ALTIC	0
A&N	0
AP	329
AS	77
BH	48
BRBRAIT	0
CHENNAI TD.	82
CTD	97
DNW	0
ETP	0
ETR	0
GUJ	151
HP	0
HR	7
J&K	4
KRL	26
KTK	102
MH	238
MP	21
MI NL DI	39
MI NL BY	11
NCES	0
NE	24
NETF	31
NIP	179
NTR	108
OR	5
PB	27
QA	0
RAJ	48
RE NAGPUR	0
SIP	0
STR	5
T&D JBP	0
TN	37
TS CA	0
UPE	106
UPW	15
WB	3
WIP	189
WTR	72
TOTAL	2081

21

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ANNEXURE - IV



No. 269-13/99-STN-II
Government of India
Department of Telecommunications
Sanchar Bhawan
STN-II Section

New Delhi

Dated 2.7.99

To

All the Chief General Manager Telecom. Circles,
All the Chief General Manager Telephones Districts,
All Heads of other Administrative Offices.

Subject: Grant of temporary status to the Casual Mazdoors as on 1.8.98.

Sir,

I am directed to refer to Telecom. Commission Head Quarter letter No. 269-4/93-STN-II dated 12.2.99 circulated with our letter No. 269-13/99-STN-II dated 12.2.99 on the above mentioned subject.

This office has received references from various Circles regarding the effective date of the above mentioned letter dated 12.2.99. In this connection, it is clarified that the date of issuing of this letter i.e. 12.2.99 may be treated as the effective date of this order. The specific number of Casual Labourers against whom approval for grant of temporary status was conveyed to the Circles, vide our above mentioned letter may therefore be granted temporary status w.e.f. the date of issue of the above mentioned letter i.e. 12.2.99, subject to other conditions being fulfilled.

Yours faithfully,

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

*Pasn. H.
Pl. discuss with 2 files*

Dir (P/A)

Encl -

*Recd
52
4/7/99*

DT (RSH)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
30 APR 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

33
Recd by
30/4/01
E.C.S.S.C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A NO. 344 OF 2000

Shri Manoranjan Roy

- Versus-

Union of India and Others.

-And-

In the matter of :

Written Statement submitted by
the Respondents

The respondents Most Respectfully beg to submit
the written statement as follows :

FACTS OF THE CASE

1. No 14117461 Ex Civilian Cook Manoranjan Roy was initially employed as a Conservancy Safaiwala on 05 November 1976. He was subsequently given a permanent appointment as a Cook on 01 April 1983.

2. Ever since the appointment of the applicant in 1983 to 31 Dec 98, he absented himself for a total period of 1127 days. The individual was found to be a habitual offender for absenting himself without sufficient cause. His indiscipline is evident from the punishments/warnings administered to him as mentioned below :-

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<u>Ser No</u>	<u>Details</u>	<u>Date of Award</u>	<u>Punishment</u>
	<u>Punishment</u>		
(a)	Absent without leave wef 19-21 Apr 88 (Rule 3 of C.C.S (Conduct) Rules 1964)	19 Apr 88	Basic Pay reduced from Rs 883/- to Rs 775/- pm for a pd of 1 year
(b)	Absence from duty without lve on 14 Oct, 15 Oct, 26 Oct, 28 Oct and 29 Oct 83	02 Nov 83	Written Warning issued on 02 Nov 83
(c)	Absence from duty from 05 to 09 Feb 84	13 Feb 84	Written Warning issued on 13 Feb 84
(d)	Absence from duty on 13 Feb, 14 Feb and also from 01 to 13 Mar 87	14 Mar 87	Written Warning issued on 14 Mar 87 vide No 6009/MRR/Adm. dated
(e)	Absence from duty from 28 Dec 97 to 23 Feb 98	23 Feb 98	Written Warning issued on 23 Feb 98 dt 6009/MR/Adm dt 23 Feb 98

3. In the year 1998, he remained absent for a pd of 56 days wef 19 Oct 98 to 13 Dec 98. The individual failed to substantiate his Claim with the relevant supporting documents like prescrip tion of medicines, receipt for purchase of medicines except the medical certificate from SMO Dholai Primary Health Centre (P.H.C) to cover up the absence period. It is pertinent to mention that PHC Dholai is not a nominated medical centre. All such cases need to be referred to Silchar Medical College.

4. An inquiry was conducted against the individual for his absence, after he had shown utter disregard to rules and regula tions and a total indifference to discipline. Loose discipline is contagious with many civilian employees and he proved to be a star example in this. It is likely that the individual would not have joined duty, as it is evident that he woke up to re-join duty only after a notice was served to him on 04 Dec 98. The individual had failed to show any improvement, even though cos metically he had been promising to improve his conduct. In the year in which the Inquiry was conducted, he had absented himself for a period of 212 days.

5. Thus, as per directions and findings of the Inquiry, the individual was removed from service under the provisions of sub rule (viii) of Rule 11 C.C.S (C.C.A) 1965 wef 27 Jul 99, after giving adequate oportunities for improvement.

Parawise Comments

6. That with regard to Para 1 the respondents beg to state that the order for removal of the applicant was not illegally and arbitrarily passed. A proper Inquiry was conducted as per the provisions of C.C.S (C.C.A) 1965.

7. That with regard to Paras 2.3.4.1 to 4.2 the respondents beg to offer no comments.

8. That with regard to Para Para 4.3. the respondents beg to state that the remarks that the applicant had been discharging his duties with sincerity and devotion are not substantiated by facts and are not agreed to. Since the appointment of the applicant as Conservancy Safaiwala on 05 Nov 76 and subsequently as a Cook from 01 Apr 83 onwards, the individual had absented himself for a total period of 1127 days in addition to his leave

entitlements. The same is verifiable from his record of service. Photocopy of details of absence are attached herewith as Appendix 'A'. Secondly, there are a number of employees who regularly commute to School from Dholai which is only 15 Kms from their duty station. Some of these employees are :-

(a) CSBO (Civilian Exchange Operator) Shri JR Roy.

(b) Civilain Cook Shri Narayan Paul.

(c) Civilian Fatiguan Shri Ramu Paul.

The applicant could have forwarded his requirement of leave of absence and information through these employees. The reason of sickness of the individual for not being able to travel a distance of 20 Kms in almost two months indicates lack of aptitude as borne by the details of absence. The fact that the individual was a habitual offender is amply clear from warnings/show cause notices served to the individual, the details of which are mentioned in Para 1 of Annexure 1 of the O.A. The contention of the applicant that he was bed-ridden because of a disease like viral hepatitis is also not convincing, as this disease does not make him unable to inform the department or to apply for leave.

9. That with regard to Para Para 4.4 the respondents beg to state that this Establishment has a well equipped medical centre, which is also open to civilian employees paid out of defence estimates. The applicant did not report to the Medical Inspection Centre neither during his illness nor later.

(a) The individual has managed to get medical certificate from PHC Dholai. However, during the Inquiry, had failed to substantiate his claim by producing supporting documents like prescription of medicines, receipts for purchase of medicines etc. Had the individual been actually ill he could have produced the above to substantiate his claim.

Silchar Medical College is also located at a distance of about 30 Kms from Dholai. The place is connected by NH road and transport from School plies to Silchar on an every day basis. The applicant could have availed the facilities at Silchar Medical College in case of serious illness.

(b) In the Inquiry report, the individual has himself pleaded guilty.

(c) All the above adequately substantiate the claim that the applicant obtained the medical certificate from SMO Dholai to cover up his absence, where details of medicines prescribed or administered have not even been mentioned.

(d) Sole reason for a prolonged absence as being because of viral hepatitis is not convincing, as this disease in no way restricts the movement of the patient for almost 56 days.

10. That with regard to Para 4.5 the respondents beg to state that the circumstances explained by the applicant are not at all convincing and were in no way beyond his/his family members control. Even a letter posted could have been a proof enough. The fact that he has been taking his leave of absence for granted is a habit, is largely clear from his record of past absence which is annexed as Appendix 'A' to this affidavit in opposition. The fact that all his cases, including the present one was considered on humanitarian grounds is amply clear from the punishments already mentioned in Para 2 of this affidavit,

wherein he was left with only minor punishments. Each time the individual has only given false assurances, but has never improved his conduct wherein he was left with only minor punishments. Each time the individual has only given false assurances, but has never improved his conduct. In repeatedly absenting himself, he has wilfully denied the men of our School the services for which he was employed.

(a) It is therefore amply clear that the case was considered favourably on a number of instances before inducing this one. Documentary and circumstantial evidence adequately pointed out the habitual absence and wilful neglect of the applicant to duty.

(b) The individual did not plead for mercy before the disciplinary authority.

11. That with regard to Para 4.6 the respondents beg to state that :-

(a) The Memorandum No 6009/MR/Adm dt 31 May 99 clearly states in Para 1 that copy of the Inquiry report is enclosed. The contention of the individual is not true. The signature of the individual were obtained on a receipt while handing him a copy of the Memorandum. Photocopy of the same is attached herewith as Appendix 'B-1' and 'B-2'.

12. That with regard to Para 4.7 the respondents beg to state that the individual had tendered an apology this time also, but he had been doing the same whenever he was absent without sufficient cause in the past too. In reply to question No 3 asked to the applicant by the Commandant Counter Insurgency and Jungle Warfare School, during details of hearing, that inspite of verbal and written apologies why has he not shown any improvement the applicant had no answer. Copy of record of hearing is attached as Appendix 'C' to this Counter Affidavit.

13. That with regard to Para 4.8 the respondents beg to state that the individual was intimated in writing regarding interview with the Commandant Counter Insurgency and Jungle Warfare School on 14 July 1999 vide our letter No 6009/MR/Adm dt 13 July 1999 and a receipt also obtained from the individual. Record of hearing, wherein 5 questions were asked is available.

(a) The contention of the applicant, that the Interview was an eye wash, is therefore untrue. The Record of Interview is attached as Appendix 'C' as already mentioned in reply to Para 4.7 above.

14. That with regard to Para 4.9. the respondents beg to state that the complete case files were in the process of scrutiny by Headquarters Eastern Command, Fort William Calcutta Legal Branch. The case was also scrutinized by Headquarters Army

Training Command. The contention of the applicant that his grievances have remained unredressed, therefore, is not correct.

15. That with regard to Para 4.10 the respondents beg to state that A complete Inquiry was conducted. The applicant's belated claim that no formal proceedings were conducted is untrue.

(a) The Inquiring Officer was detailed vide our Convening Order No 5040/CO/A dt 29 Dec 2000. Copy of the same is attached as Appendix 'D' to this Counter Affidavit.

(b) The Presenting Officer was not appointed as it is not a mandatory requirement as per Rule 14, sub para 5(c) of the C.C.S (C.C.A) Rules 1965. Where the disciplinary authority itself inquires into any article of charge, or appoints an inquiry authority for holding any inquiry into such charge, it may appoint Presenting Officer. However, the same is not a mandatory requirement. Photocopy of Rule 14, sub para 5(c) of the C.C.S (C.C.A) Rule 1965, is attached herewith as Appendix 'E'.

(c) As regards the opportunity for defence of the applicant, the Inquiry Officer had clearly asked the applicant in Question No 3 of statement given by him during the Inquiry, held on 05 Jan 99, whether he would like to call any person in his defence, to which the applicant replied in the negative. After having read out the articles of charge, to the applicant, he was asked whether he pleads guilty to the

Charge, and whether he has any defence to make. To this also, the applicant pleaded guilty to the Charges framed against him. Copy of this extract of Inquiry Report, duly signed by the applicant and the Inquiry Officer is attached herewith as Appendix 'F'.

16. With regard to Para 4.11 and Para 5.1 the respondents beg to offer no comments.

17. That with regard to Para 5.2. the respondents beg to state that as already mentioned earlier, the reasons for the Individual to absent himself were in no way compelling. Punishment of removal from service was warranted keeping in view his loose discipline. Leave is not a right, but only a privilege. The applicant not only violated this, but also absented himself illegally.

18. That with regard to Para 5.3 the respondents beg to state that no arbitrary order has been passed by the concerned authority. Orders for his removal were based on facts of the case, that emanated during the Inquiry.

19. That with regard to Para 5.4. the respondents beg to state that a proper Inquiry was held as required by Rules.

20. That with regard to Para 5.5. the respondents beg to state that the facts of the case which emerged during the Inquiry adequately point out the applicant's guilt, which he has himself accepted. The case of unauthorised absence has not been made based on his past conduct of illegal absence, but on his present offence and absence which was included in the Show Cause Notice. Though his past conduct is beyond the scope and purview of the inquiry, but the law cannot be blind to his past misconduct, which only high lights his attitude and non seriousness towards his profession, and his indifference to discipline.

21. That with regard to Para 5.6 the respondents beg to state that the authorities have not exceeded the jurisdiction in passing the order for removal from service of the applicant. The appointing and disciplinary authority is fully empowered to remove from service any employee who is proved a habitual offender and acts in an indisciplinary manner, which is proved by an Inquiry.

22. That with regard to Para 5.7 the respondents beg to state that the appeal of the applicant was adequately considered by the Commandant Counter Insurgency and Jungle Warfare School and was under consideration of Headquarters Eastern Command and Headquarters Army Training Command.

23. That with regard to Para 5.8 the respondents beg to offer no comments.

24. That with regard to Para 6 the respondents beg to state that the appeal was suitably considered by Commandant Counter Insurgency and Jungle Warfare School, but was rejected, based on findings of the Inquiry, and the habit and past practices of the Individual, where he had made a number of such pleas without any improvement.

25. That with regard to Paras 7, 8.1, 8.2, 8.3, 8.4 and 9 the respondents beg to offer no comments.

26. That it is prayed that the grounds for relief with legal provisions are found unconvincing. It is also stated that in view of the details mentioned above, it is amply evident that an Inquiry was conducted and the order to remove the applicant was fully legal, and in conformity with the Rules.

27. That it is therefore requested to the Honourable Tribunal that the case be considered in the light of the facts mentioned herein and plea of an indisciplined civilian employee seeking for an unwarranted redress be not entertained further and case be treated as null and void.

VERIFICATION

I, Major Sandeepinder Singh, Officiating Officer Commanding, Administrative Wing being authorised do hereby solemnly declare that the statement made in this written statement are true to my knowledge, belief and information and I have not suppressed any material fact.

And I sign this verification on this 29 day of April 2001.



Declarant

Sandeepinder Singh

Maj

Offgoc Admi Wing

CISW School

10/11/01

(16) 3

APPENDIX A

Appn A
(34)

RECORD OF ABSENCE YEAR WISE IN RESPECT
OF NO 121174-03 CIV COOK MANORANTAN ROY
OF COUNTER INSURGENCY AND JUNGLE
WARFARE SCHOOL

1. Year wise record of absence in respect of Civ Cook Manoranjan Roy is as given below

<u>SNo</u>	<u>Year</u>	<u>Days of Absence</u>
1.	1983	10 Days
2.	1984	17 Days
3.	1986	15 Days
4.	1987	58 "
5.	1988	110 "
6.	1989	46 "
7.	1990	127 "
8.	1991	27 "
9.	1992	13 "
10.	1993	52 "
11.	1994	82 "
12.	1995	143 "
13.	1996	78 "
14.	1997	134 "
15.	1998	219 "

Total absence

1127 Days

C 70

[Signature]

Asst/Officer
Officer in Charge
Warfare School

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Appendix B

Handwritten initials and marks in the top right corner.

STANDARD FORM OF MEMORANDUM OF CHARGE FOR MAJOR PENALTIES
(Rule 16 of CES (CA) Rules 1973)

Counter Insurgency and
Jungle Warfare School
c/o 99 APO

6009/MR/Adm

31 May 99

MEMORANDUM

1. The undermentioned is directed to enclose a copy of the Inquiry Report submitted by the Officer appointed to inquire into the charges against No 14117461 Shri Manoranjan Roy, Civilian Cook of CIJW School, c/o 99 APO.

2. On careful consideration of the Inquiry Report aforesaid, the undersigned agrees with the findings of the Inquiry Officer and holds that the articles of the charges stand proved. Also on careful consideration of your records of service presented before me, I find you to be an habitual absentee, an omission amounting to disregard and negligence towards duty. (Details at Appx). Despite warnings and counselling by superiors, you failed to improve your conduct and persisted in usual unauthorised absence from duty. As a result, you were awarded reduction of Pay from Rs 883/- PM to Rs 775/- PM wef 01 Sep 98 for a pd of one yr. A lenient view was taken on the above occasions on humanitarian grounds. Since you have failed to show any improvement, the undersigned has therefore, provisionally come to the conclusion that No 14117461 Shri Manoranjan Roy, Civilian Cook of the Counter Insurgency and Jungle Warfare School is found guilty and so the undersigned proposes to impose on him the major penalty of REMOVAL FROM SERVICE.

3. No 14117461 Shri Manoranjan Roy, Civilian Cook is hereby given an opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during the inquiry. Any representation he may wish to make on the penalty proposed will be considered by the undersigned. Such representation, if any, should be made in writing and submitted so as to reach the undersigned not later fifteen days from the date of receipt of this Memorandum by No 14117461 Shri Manoranjan Roy, Civilian Cook.

4. The receipt of the Memorandum should be acknowledged.

(PS Mann)
Brigadier
Commandant

No 14117461
Shri Manoranjan Roy
Civilian Cook
CIJW School
c/o 99 APO

C.T.C.

6009/MR/Adm
CIJW School

Handwritten marks in the bottom right corner.

18

Appx
(Refers to Para 2
of Memorandum dated
31 May 99)

RECORD OF ABSENCE YEAR WISE IN RESPECT OF NO 14117461 CIVILIAN
COOK MANORANJAN ROY OF COUNTER INSURGENCY AND JUNGLE WARFARE
SCHOOL

<u>Ser No</u>	<u>Year</u>	<u>Days of Absence</u>
1.	1983	10 days
2.	1984	17 days
3.	1986	15 days
4.	1987	50 days
5.	1988	110 days
6.	1989	44 days
7.	1990	127 days
8.	1991	27 days
9.	1992	13 days
10.	1993	52 days
11.	1994	82 days
12.	1995	143 days
13.	1996	78 days
14.	1997	139 days
15.	1998	212 days

Total absence 1127 days

etc
Sundar
raj
raj oc adm wing

19

139

X

Receipt

~~94~~

94

Recd 215W School letter no
60091M1Bdm dt 31/05/99

Army

14117461

Sig

No 14117461

Ru 0004

Name Muramjan

5/5/6/99 Jun 99

CTC

[Signature]

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2000
3000
4000

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Appx 'A'

(Refers to Para 3 of Order No
6009/MR/Adm dated July 1999)

Appendix c

RECORD OF HEARING IN RESPECT OF NO 14117461 COOK (UNIT)
SHRI MANORANJAN ROY BY THE DISCIPLINARY AUTHORITY
ON 1st JUL 99

14117 199

Details of hearing are as under :-

Q. 1. How many years of service you have completed ?

Ans. 18 yrs $\left\{ \begin{array}{l} \text{As per records 22 yrs, 8 months and 9 days; Qualifying} \\ \text{service 19 yrs, 5 months and 15 days} \end{array} \right\}$

I

Q. 2. It has been verified from your record of service that you have absented yourself without obtaining permission from the concerned authority, frequently. Total absent period is 1179 days. It shows disregard and negligence towards Govt duties. What are the reasons for your frequent absence ?

Ans. My parents have died. Except for my wife there is nobody else except my wife to look after my few children. Further I remain sick. These are the reasons for my prolonged absence.

I

Q. 3. A number of times you have been given verbal and written warnings to improve yourself but you have not shown any improvement. You have been found guilty and in spite of your verbal as well as written apology, you have failed to show any improvement. What do you have to say in this regard ?

Ans. No answer

Q. 4. Since you are employed as cook & nobody else can replace you; Did you ever realise that the men are deprived of food the day you absented yourself without any reasons/intimation. What do you have to say in this regard ?

Ans. No answer.

etc
[Signature]

[Signature]

211

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G. 5. It has been proved that you are negligent in performance of assigned duties and found guilty by a bd of offrs as per our Inquiry Report. You are liable to be punished. Do you want to say anything in this matter?

Ans. This time I should be left with a minor punishment. In future I will show improvement in regard to my absence from duty.

The above questions were read out to the individual in Hindi, the language he fully understood.

(Signature of the individual)

Witnesses

1. Maj BM Tripathi, OC Adm Wing

Signature of witness 1
14 JUL 99

2. Sub BK Gurung, JOM

Signature of witness 2
JCB17/35
14 JUL 99

(Signature of Disciplinary Authority)

Signature of Disciplinary Authority
27 Jul 99
14 Jul 99

CTC

Signature of CTC
Maj/OC
OC Adm Wing
CIV School



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CONVEYING ORDER

Appendix 1

ABSENT FROM DUTIES: CIVILIAN EMP

1. A Court of Inquiry composed as under will assemble at a place, date and time to be fixed by the Presiding Officer to investigate into the circumstances under which the following civilian employees of the School absented from duties :-

(a) No 1411746 Civ/CK Nilkanta Roy.

(b) No 14117546 Consy/Safaiwala Anirudha Roy.

(c) No 1411746 Civ/Cook Mano Hanjan Roy.

Presiding Officer - Lt Col RK Bhardwaj
OC Demo Coy.

Members - Capt Dinesh Pathania
Courses Wing.

Sub SK Gurung,
Camp Pl

2. The Court will pursue CCS (Conduct) Rules 1964 for completion of C of I and pin point the responsibility of the absence.

3. C of I proceedings, separately for each employee, will be fwd to this Branch, in triplicate incl manuscript copy, by 10 Jan 98.

5040/CO/A
Counter Insurgency and
Jungle Warfare School
c/o 99 APO

(MS Dahiya)
Col
Col Adm

21 Dec 98

Distr:-

1. Lt Col RK Bhardwaj - For necessary action.
2. Courses Wing - Our letter No 5040/CO/A dt 28 Dec 98 is hereby cancelled.
3. Adm Wing - Please ensure that all the documents of the above named employees are submitted to the Presiding Offr.
4. Office copy.

CTC

[Signature]

Maj/Col

Offr OC Adm Wing

99 APO School

23

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RULE 14
MAJOR
PENALTIES

RULE 14]

PROCEDURE FOR IMPOSING PENALTIES

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PART VI

PROCEDURE FOR IMPOSING PENALTIES

14. Procedure for imposing major penalties

(1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided in this Rule and Rule 15, or in the manner provided by the Public Servants (Inquiries) Act, 1850 (37 of 1850), where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

EXPLANATION.—Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Government servant under this rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up—

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
- (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain—
 - (a) a statement of all relevant facts including any admission or confession made by the Government servant;
 - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article or charges is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence,

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C.C.S. (C.C.A.) RULES

[RULE 14

the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

(b) If no written statement of defence is submitted by the Government servant the disciplinary authority may itself inquire into the articles of charge, or may, if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding any inquiry into such charge, (it may) by an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

(d) The disciplinary authority shall

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[Signature]

Maj/Capt

Offr Adm Wbr

(25)

ANNEX F

(27)

INQUIRY IN THE CASE OF NO 14117461 SHRI
MANORANJAN, CIVILIAN COOK, OF COUNTER INSU-
RGENCY AND JUNGLE WARFARE SCHOOL, BY THE
ORDER OF BRIG. P.S. MANN SIM COMMANDANT
COUNTER INSURGENCY AND JUNGLE WARFARE
SCHOOL C/O 99APO

Charge framed against No 14117461 Shri Manoran-
jan, civilian cook, of CIJW School.

ARTICLE-I

1. That the said Shri Manoranjan, civilian cook while functioning as a Civilian Cooks in CIJW School of 99APO (Field) absented himself from duty from 19 Oct 98 to 29 Dec 98 without prior sanction of any leave.

2. Shri Manoranjan ^{Roy} Civilian Cook by his above act exhibited absolute lack of devotion to duty and conduct unbecoming of a government servant thereby violating Rule 3 of the CCS (Conduct) Rules 1964.

Defence of the Government Servant in respect of
each Article of the Charge.

3. After having read out the article of charge to

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none of them informed.

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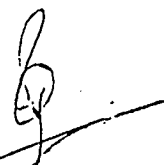
Q2. Have you been charge sheeted for absence from duty in the past?


Ans2. Yes I have been charge sheeted before but I have not absented without any reason.

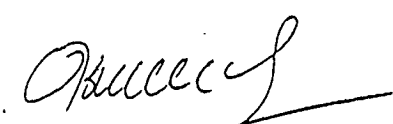
Q3. Do you wish to call any person in your defence?

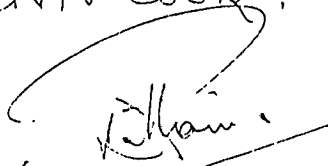
Ans3 No I don't want to call anybody in my defence.

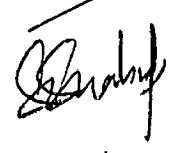
The above statement has been read over to the individual in Hindi which he understands and signs it as correct.


FC 617135
Sub SK Sharma
Member


Shri Manojanjan Roy
Civil Cook.


Lt Col RK Bhardwaj
Inquiring Officer.


(D. Pathania)
Capt-
Member

CTC


FINDINGS ON EACH ARTICLE OF CHARGE

5. The inquiry held in accordance with the Rule 14 of the CCS Rules has the following findings.

- (a) Shri Manoranjan has produced a medical certificate for his absence from 18 Oct 98 to 13 Dec 98 without any ^{other} supporting documents (attached as exhibit)
- (b) Shri Manoranjan has no reasons for his absence from 14 Dec 98 to 29 Dec 98.
- (c) Shri Manoranjan made no efforts during his absence to inform the authorities about his illness.
- (d) Shri Manoranjan is a habitual offender as seen from past records - Record of absence attached as appn A.

C/099 APO (Field)

05 JAN 1989

[Signature]

IC - 05/1/99

LT COL R K BHARDWAJ

INQUIRING OFFICER

[Signature]

Capt D. Pathania

Members - 1

2. Sub SIK Gurnani

etc
[Signature]

ASSESSMENT OF EVIDENCE IN RESPECT OF EACH

ARTICLE OF CHARGE

6. The inquiry held in accordance with the Rule 11 of the C.S. Rules 1965 has found that No 14117461. Sri Manoranjan civilian Cook of CTSW School is GUILTY of the charge framed against him as mentioned in the Article of Charge.

7. The foregoing inquiry consisting of four manuscript pages, has been recorded by me at the Counter Insurgency and Jungle warfare School c/o 99 APO (Field) on 05 JAN 1999, in the presence and within the hearing distance of the accused.

c/o 99 APO (Field.)
05 JAN 1999

[Signature]

Lt Col RK BHARDWAJ
INSURING OFFICER

Members -

1. Capt *[Signature]* Pathan
2. Sub-*[Signature]* Gurung

CTC
[Signature]

(29)

STATEMENT OF THE ...
Roy OF COUNTER INSURGENCY / JUNGLE WARFARE
MADRASI SCHOOL

1. I No 141766 Civ Cook, Shri Manoranjan Roy of Counter Insurgency and Jungle warfare school have been working in the school since 1983.
2. I would like to state that I fell sick on 19 Oct 98 and was under medical treatment for a long time.
3. Here I would also like to state that during my illness, my wife also fell sick and was under treatment.
4. I was under treatment at Dholai PHC and have produced medical document pertaining to the illness of my wife and self.

QUESTIONS BY THE INQUIRING OFFICER

Q1. Did you make any efforts to inform anybody during your illness about your inability to join duty?

Ans. I requested my person's going to weekly hall at Vairangte to inform my superiors at the school about my illness but probably

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Shri Manoranjan Civilian Cook, with the language he understands, he was asked whether he pleads guilty to the charge or has any defence to make.

↳ Shri Manoranjan pleads GUILTY to the charges framed against him.

By 1417461

Shri Manoranjan Roy
Civilian Cook

Sub S.K. Gurung
Member

Capt D Pathania
Member

05/1/99
ACol R K Bhardwaj
Inquiring Officer

CIC
Sd/-
Offg Adm W/O