

100  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

MP-60/2002 ordered pg 1 to 2 **INDEX**  
dis missed date-08/05/02

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO.

394/2000

... Sri. Krishna Deo Singh ... Applicant.

Versus

Union of India & Ors . . . . . Respondents.

For the Applicant(s) Mr. A. Roy, S.S. Dey, M. Nain,

For the Respondents. Mr. A. Roy, C.G.S.C.

NOTES OF THE REGISTRAR

DATE

ORDER

This application is in form  
but not in form of  
Petition under Article 226  
of the Constitution of India  
for the purpose of  
IPO/BO No. 503898  
Dated.....15.11.2000

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

Heard Mr A.Roy, learned Sr.coun-  
sel for the applicant and Mr N A. Deb  
Roy, learned Sr.C.G.S.C for the res-  
pondents.

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

List on 8.1.2001 for written  
statement and further orders.

Heard Mr Roy, learned counsel for  
the applicant on the interim relief  
prayer. Also heard Mr A. Deb Roy.

Issue notice to show cause as  
to why the interim order as prayed  
for shall not be granted. Returnable  
by 8.1.2001.

[Signature]  
Vice-Chairman

pg

8.1.01

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

Requisites & Envelopes  
are filed with petition.

Dy. Registrar

[Signature]  
16.11.00

[Signature]  
16.11.00

Notice prepared and sent to D/Sec  
for conveying the respondents No 1 to 4  
by Regd (AID) vide D No 2979  
2982 dtd 4/12/00

[Signature]  
24/11/00

5-1-2000

Service report are  
still awaited.

[Signature]  
Notice duly served on  
R No 4. Others are admitted

[Signature]  
9/1/01

[Signature]

(2)

N

8.1.01 Heard Mr. A. Roy learned Sr. counsel for the applicant and Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents. Mr. A. Deb Roy has submitted that the respondents have failed to submit the written statement as ordered earlier. Notices were issued to the respondents to show cause as to why the application shall not be granted. Mr. Deb Roy prays for further 3 weeks time to file written statement. Prayer is allowed. Pendency of this application shall not be precluded the respondents to consider the case of the applicant for promotion.

*not submitted*  
*departmental proceeding*  
*despite the pendency*

Member Vice-Chairman

lm

8.1.01 Heard Mr. A. Roy learned Sr. counsel for the applicant and Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents. The respondents have not submitted the written statement as ordered earlier. Notices were issued to the respondents to show cause as to why the application shall not be granted. Mr. A. Deb Roy prays for further 3 weeks time to file written statement. Prayer is allowed. Pendency of the Departmental proceeding shall not preclude the respondents to consider the case of the applicant for promotion.

Member Vice-Chairman

*Order dtd. 8/1/01 Communicated 134 to the parties Counsel. vide D/No 2429 to 2200 dtd. 28/4/07*  
 12/01/07  
 14/11/07 lm

30.1.01 On List on 1.3.01 to enable the respondents to file written statement.

No. written statement has been filed.

Member Vice-Chairman

No. wrks has been filed. lm

*28.1.01*

Notes of the Registry	Date	Order of the Tribunal
	1.3.01	<p>No written statement so far filed. The respondents are directed to file the written statement, if any, within four weeks from today.</p> <p>List on 2.4.01 for order.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>pg</p>
<p>No. written statement has been filed.</p> <p><i>[Signature]</i> 23.4.01</p>	2.4.2001	<p>Two weeks time allowed to the respondents to file written statement. List for orders on 24.4.01.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>nkm</p>
	24.4.01	<p>Written statement has not been filed though several time was granted. Further <del>two</del> four weeks time is allowed for filing of written statement. List on 15.5.01 for orders.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>lm</p>
	15.5.01	<p>No written statement has so far been filed. The respondents are allowed a further four weeks time to file written statement subject to payment of a cost of Rs.500/-</p> <p>List for orders is on 14.6.2001.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>bb</p>

Notes of the Registry	Date	Order of the Tribunal
<p>Order dtd. 14/6/01 Communicated to the parties (Counsel) vide DINo 2199/2001 dtd. 14/6/01 2199/2001</p> <p>18/6/01</p> <p>No written statement has been filed.</p> <p>30.7.01</p>	<p>14.6.2001</p>	<p>By order dated 15-5-2001 learned counsel for the respondents <sup>ways</sup> granted four weeks time to file written statement subject to <sup>ways</sup> payment of cost of Rs.500/-. Mr.A.Deb Roy, learned Sr.C.G.S.C. has again requested for more time on the ground of receipt of the letter dated 17-2-2001.</p> <p>As a matter of last opportunity, we allow him four weeks further time to file written statement and also deposit the cost by the next date. A copy of this order shall be given to learned counsel for the respondents within 24 hours.</p> <p>Later on Mr.A.Deb Roy, learned Sr.C.G.S.C. produced a telegram No.29055/01/2001-AVU sent by Paryavaran Bhawan, New Delhi. Mr.Deb Roy, has been advised through this telegram to pray for three months time to enable the department for filing of written statement.</p> <p>List on 31-7-2001 for orders.</p> <p><i>K.C. Shah</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No. WIS has been filed.</p>	<p>bb 31.7.01</p>	<p>Time was granted for filing written statement. By order dated 15.5.01 the respondents was granted time to file written statement subject to payment of Rs.500/- and again granted time on the ground of receipt of the letter dated 17.2.01. By order dated 14.6.01, 4 weeks time was granted as last opportunity and also to deposit the cost. Learned Sr.C.G.S.C. has produced a Telegram before this Bench bearing no.29055/01/2001-AVU and prayer for time to file written statement. Accordingly, the case was listed today. No written statement filed nor cost was deposited. Shri A.Deb Roy, referred the same telegram dated 12.7.01 produced by the respondents and prays for time to file written statement. <u>we reject the prayer.</u></p> <p>List on 10/9/01 for hearing. The respondents are ordered to produce the connected records.</p> <p><i>K.C. Shah</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>mb 1/8/2001</p>	

6 4

Notes of the Registry	Date	Order of the Tribunal
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10.9.2001

Stand out on the prayer of the learned counsel for the applicant and be listed for hearing on 13.9.2001.

*IC Ushar*  
Member

*[Signature]*  
Vice-Chairman

bb

13.9.2001

The matter is heard in part. Hearing remained inconclusive. Accordingly, post the matter again on 17.9.2001 for further hearing.

*IC Ushar*  
Member

*[Signature]*  
Vice-Chairman

bb

17.9.

Heard Mr. A. Roy, learned counsel for the applicant & Mr. A. Debroy, B.A. C. G. S. C. for the respondent. Hearing concluded. Judgment reserved.

*M. A. Roy*  
17.9.

5.10.2001

Judgment pronounced. The application is disposed of. No order as to costs.

*IC Ushar*  
Member

*[Signature]*  
Vice-Chairman

nk m

30.10.2001

Copy of the order has been sent to the office for listing the case to the applicant as well as to the respondent.  
*[Signature]*

X

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.XX. No. . 394. . . . . of 2000

DATE OF DECISION

5/10/2001

Shri Krishna Deo Singh

APPLICANT(S)

Mr A. Roy, Mr S.S. Dey and  
Mr M. Nath

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE  
RESPONDENTS.

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

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

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

5.

Judgment delivered by Hon'ble Vice-Chairman

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.394 of 2000

Date of decision: This the <sup>5<sup>th</sup></sup> day of October 2001

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

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

Shri Krishna Deo Singh,  
Conservator of Forests (Conservation),  
Government of Arunachal Pradesh,  
Itanagar, Arunachal Pradesh.

.....Applicant

By Advocates Mr A. Roy, Mr S.S. Dey and Mr M. Nath.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Environment and Forests, New Delhi.
2. The Under Secretary to the Government of India, Ministry of Environment and Forests, New Delhi.
3. The Director, Government of India, Ministry of Environment and Forests, New Delhi.
4. The Government of Arunachal Pradesh, Represented by its Chief Secretar at Itanagar, Arunachal Pradesh.

.....Respondents

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

.....

O R D E R

CHOWDHURY. J. (V.C.)

The legitimacy and the propriety of the commencement as well as the continuance of the purported disciplinary proceeding under Rule 8 of the All India Service (Discipline and Appeal) Rules, 1969 (hereinafter referred to as the Rules) is the subject matter of this O.A. The bare bones are adumbrated below:

The applicant is a member of the Indian Forest Service (IFS for short) of the AGMUT Cadre. As a member of the service

*h*

he was posted in places like Andaman and Nicobar Islands, Dadra and Nagar Haveli Administration, Arunachal Pradesh etc. While the applicant was serving as a General Manager, Arunachal Pradesh Forest Corporation he was placed under suspension in exercise of power conferred under Sub-rule (1) of Rule 3 of the Rules for alleged omission and commission in the matter of certain dealings concerning the sale of Khair trees and certain other acts undertaken in his jurisdiction during the period 1981-86 while he was working as Deputy Conservator of Forests (DCF for short), Dadra and Nagar Haveli. Though the order of suspension was passed in 1991 it was not given effect to and the applicant was allowed to work as Conservator of Forests, Working Plan and Resources Survey Circle and General Manager at Arunachal Pradesh. The applicant assailed the aforementioned order of suspension in O.A. No.50 of 1993. Though in the order of suspension it was mentioned that disciplinary proceeding against the applicant was under contemplation no such proceeding was initiated at the time of institution of the aforementioned O.A. on 18.3.1993. By order dated 12.1.1994 the O.A. was finally disposed of whereby the order of suspension was quashed. By Memorandum dated 24.1.2000 the respondents initiated disciplinary enquiry under Rule 8 of the Rules and the applicant was served with a memorandum containing the articles of charge as well as the statement of imputation of misconduct or misbehaviour in support of the articles of charge. The relevant part of the articles of charge is reproduced below:

"ARTICLE-I

That said Shri Krishna Deo Singh, Son of Shri Siddheshwari Prasad Singh while functioning as Dy. Conservator of Forests at Silvassa, Union Territory of Dadra & Nagar Haveli, during the year 1979-1986 committed gross misconduct in as much as:

That said Shri Krishna Deo Singh showed undue favour to M/s Sainath Khata Factory by not revising the rates of sale of khair trees contract executed between the Administration of said M/s Sainath Khata Factory on 1.9.1973 and he also misled the Administration by suppressing the facts and in executing new contract of sale of khair trees, during the year 1979-86 and caused a wrongful loss to the tune of Rs.3,19,78,592.70 and corresponding gain to M/s Sainath Khata Factory.

"ARTICLE-II

That said Shri K.D. Singh while functioning as Excise Officer, Dadra & Nagar Haveli at Silvassa during the year 1982 to 1986 committed gross misconduct in as much as:

That said Shri K.D. Singh misused his official position in recommending for issue of Indian Made Foreign Liquor (IMFL) wholesale and retail sale licenses during his tenure as Excise officer and favoured Shri SI Khuntliwala, Ras Resort, Dan Tourist and showed discrimination to Shri J.G. Birari of Sakarvan Tourist.

That in the manner aforesaid, said Shri K.D. Singh exhibited lack of integrity, devotion to duty and acted in a manner highly unbecoming of a public servant and thereby contravened Rule 3 of Central Civil Services (Conduct) Rules, 1964."

2. The applicant submitted his written statement denying and disputing the charges on 6.3.2000. By two different orders dated 17.7.2000 the respondent authority appointed an Inquiry Officer to enquire into the articles of charge framed against the applicant and also appointed Mr R. Sanehwal, Under Secretary, Ministry of Environment and Forests as Presenting Officer to present the case in support of the articles of charge. The legality, correctness as well as propriety of the disciplinary proceeding is assailed in this O.A. as arbitrary, discriminatory that emanated from malafide exercise of power. The commencement of the proceeding after 14-20 years is also one of the grounds questioning the legitimacy of the proceeding.

3. A number of adjournments were granted on the plea of the respondents for filing of the written statement. Despite time granted the respondents did not file any written statement till conclusion of the hearing, nor any records were produced.

4. Mr A. Roy, Sr. Advocate assisted by Mr M. Nath, appearing on behalf of the applicant, submitted that on the ground of 14-20 years delay alone the impugned proceeding was liable to be quashed. Mr A. Roy, the learned Sr. counsel submitted that the impugned proceeding was initiated with improper motive only with a view to torture and tarnish the reputation and service career of the applicant. The learned counsel submitted that the applicant rendered his service honestly and diligently to the satisfaction of the authority and the testimony of his

efficiency.....

efficiency were reflected in the official despatches. The learned Sr. Counsel, in support of his contention, also referred to the letter of appreciation bearing No.LDNH/17/3/355 dated 1.2.1982 sent by the then Lieutenant Governor of Goa, Daman and Diu and Administrator of Dadra and Nagar Haveli appreciating the quality of the applicant's service. Referring to the articles of charge, the learned Sr. Counsel submitted that no misconduct was discernible from the facts imputed on the applicant in the statement of imputations. The learned counsel submitted that the applicant was not the authority in allotting or fixing the rates and it was executed at the higher level and he was only a cork in the wheel. Similarly, in the matter of granting India Made Foreign Liquor (IMFL for short) wholesale and retail sale licence the applicant was not the concerned authority. He was only to submit the report and thereafter decisions were taken by the higher authority. The learned counsel submitted that the applicant at best could make error of judgment in his recommendations, but that by itself would not amount to misconduct without anything more. In support of his contentions, the learned counsel referred to a number of decisions. Some of the decisions are referred hereto: State of Madhya Pradesh Vs. Bani Singh and another, reported in 1990 (Supp) SCC 738, State of Punjab and others Vs. Chaman Lal Goyal, reported in (1995) 2 SCC 570, State of Andhra Pradesh Vs. N. Radhakishan, reported in (1998) 4 SCC 154, A.P. Aggarwal Vs. Government of NCT of Delhi and another, reported in (2000) 1 SCC 600. Mr A. Roy also relied upon the decision of the Apex Court in Abdul Rehman Antulay and others Vs. R.S Nayak and another, reported in (1992) 1 SCC 225. The learned counsel also referred to the Government Instructions dated 16.8.1998 pertaining to expeditious disposal of disciplinary proceedings. The learned Sr. Counsel further submitted that the Disciplinary Rules provided the procedure for imposing penalty and discretion conferred on the authority to initiate proceeding only on good and sufficient reason. The discretion conferred on the authority was not arbitrary reason, but discretion coupled with duty. The learned counsel in support of his contention referred to the decision of A.P.

Aggarwal(Supra).....

2

Aggarwal (Supra) and the decision of the Gauhati High Court in Krishna Gopal Bhattacharyya Vs. State of Assam, reported in 2000(2) GLR 222.

5. Mr A. Deb Roy, learned Sr. C.G.S.C. while opposing the application submitted that the charges were only framed and the assertions made by the applicant could be assessed only on enquiry on evaluation of the facts. The applicant would be provided with all the opportunities to contest and defend the case as per law.

6. The question raised herein is the very competence of the authority as to the initiation and continuance of the proceedings. The disciplinary power of the respondents are not under challenge. The matter under challenge is the propriety and legality of the commencement of the proceeding and also the continuance of the proceeding as an abuse of the process. The discretion, howsoever expansive that may be, in an area where rule of law prevails such discretion is governed and circumscribed by law and under no circumstances it can be an unfettered one. The exercise of discretion must also pass the test of just, fair and reasonableness and conform to the norm delineated in Article 14 of the Constitution. Discretion imposes a duty to be fair, candid and unprejudiced and not arbitrary and not arbitrary and capricious. The concerned authority in its decision making process is required to act lawfully without being influenced by extraneous consideration. Similarly, a decision taken bonafide may also be fallible if applies on improper legal norms by answering wrong questions failing to take relevant facts into account.

7. In answer to the allegation of misconduct the applicant put up his explanation. The applicant, inter alia, stated that he was an Assistant Conservator of Forests under the control of the Deputy Conservator of Forests till 22.3.1981. There was no proposal from his end having any bearing on royalty of khair trees during 1979. His predecessor, Shri P.M. Sangal, IFS after examining all aspects of the issue of revision of rates proposed a change in the prevailing pattern of charging of a flat royalty rate per khair tree irrespective of girth class to unit conversion system. According to the applicant said Shri

Sangal.....

Sangal, IFS, had carried out an elaborate exercise by collecting and assessing market rates from all over the country and gave his recommendations. The applicant asserted that in 1982 he was a Deputy Conservator of Forests. In his note dated 21.8.1982 the applicant advised to drop the market rate. He placed before the authority both the agreements, i.e. the principal agreement of 1973 as well as the supplementary agreement for perusal of the authority. The note given by the applicant was examined by the Accounts Officer as well as the Collector and finally the Administrator approving the proposal put a condition that the period of agreement should be restricted to ten years instead of sixteen years. As regards the allegations contained in Article II pertaining to granting of IMFL licences, the authority to grant licence was the Excise Commissioner and not the applicant. As per the rules the Excise Commissioner after such enquiries and getting satisfied that there was no objection, as a matter of fact, was to sanction for issue of the licences. The applicant contended in his written statement that at all the relevant times he acted honestly and bonafide and acted without any motive and accordingly he asked for dropping of the proceedings.

8. As alluded, the respondents, despite opportunity given, did not come forward to explain any attending and attenuating circumstances for the delay in the proceedings. The applicant submitted his written statement as far back as 6.3.2000 and which remained unattended till the order was passed for appointment of Inquiry Officer on 17.7.2000. Thereafter no further progress was made in this regard. At least the materials available did not indicate any progress as to the enquiry. The continuance of the proceeding is helping none, save and except affecting the morale and career emendation of a civil servant. The continuance of the proceeding over the head of an employee itself is demoralising factor and also detrimental to the public service.

9. We fully agree with the submission of Mr A. Roy, learned Sr. Counsel that initiation of a disciplinary proceeding is not a matter of.....

of force. The discretion conferred is not unfettered or unlimited. Misconduct for negligence cannot be imputed in absence of failure on the part of the officer in discharging the official duty. An isolated act of omission or error of judgment would not ordinarily constitute a misconduct. The contention of the learned Sr. Counsel for the applicant that in the absence of any counter and/or rebuttal the assertions made in the application was to be treated as admitted carries force. Failure to submit written statement despite opportunities granted in such case is itself distressing and repugnant to public interest. As pointed out, besides the <sup>un-</sup>explained delay in initiation of the proceeding on January 2000, no discernible steps were taken for proceeding any enquiry though an Inquiry Officer and a Presenting Officer were seemingly appointed on 17.7.2000. Obviously, there is no order from this Tribunal staying the proceeding. These are indeed very disconcerting and we leave it to all concerned to ponder over the matter. The applicant also failed to place before us the relevant statutory rules and orders <sup>relating to</sup> during the duties of a Forest Officer in the matter of allotment of Forest Lease and the duties and responsibilities of an Excise Officer in recommending the IMFL licence and in the absence of materials on record we are not inclined to intervene at this stage.

10. Considering the facts as a whole we give the benefit to the respondents to conclude the enquiry positively within six months from today. If the proceeding is not concluded within the period prescribed the impugned proceeding would automatically come to an end. The applicant shall render full cooperation in concluding the enquiry. At the same time we direct the respondents to consider the case of the applicant for promotion without any reference and without taking note of the charges or pendency of the enquiry if he is found fit for promotion. If on consideration the respondents find him fit for promotion he should be promoted immediately without awaiting for the conclusion of the enquiry. This direction is made keeping in view the peculiar facts and circumstances of the case. Needless to state that the promotion so made shall, however, be subject to review after the

conclusion.....

conclusion of the enquiry in the light of the findings in the enquiry. The applicant shall be at full liberty to raise all the issues raised in this application including the issue of delay in initiation of the proceeding before the Disciplinary Authority or any other appropriate authority that may be required in due course.

11. Subject to the observations made above the application stands disposed of. There shall, however, be no order as to costs.

  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

ORIGINAL APPLICATION NO. 394 /2000

Shri Krishna Deo Singh ..... Applicant

Versus

Union of India and ors. .. Respondents

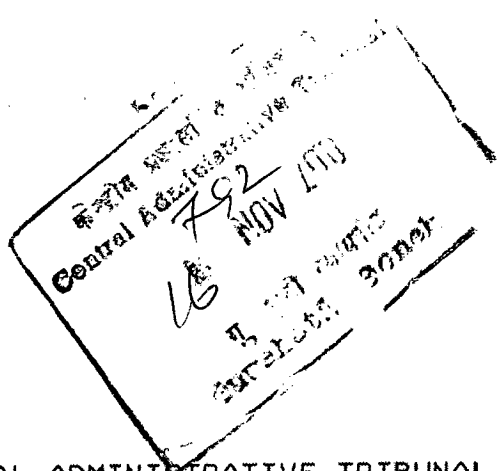
I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page Nos</u>
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2.	Verification	24
3.	Annexure - 1 Letter No.LDNH/17/3/335 dated 1.2.1982	25
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Filed by,

M. Nath,  
Advocate

15.11.2000



Filed by: Sri. Krishna Deo Singh  
16/11/99  
S. Krishna Deo Singh  
APPLICANT

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION NO. 394 /2000

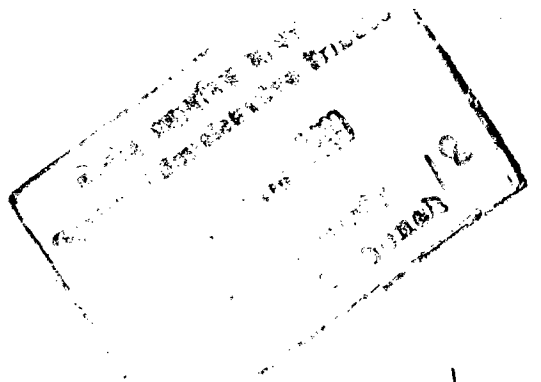
DETAILS OF APPLICATION

Particulars of the applicant :-

- (a) Name of the applicant : Shri Krishna Deo Singh
- (b) Designation, office in : Conservator of Forests  
which employed (Conservation), Govt. of  
Arunachal Pradesh,  
Itanagar, Arunachal  
Pradesh.
- (c) Office Address : Conservator of Forest  
(Conservation), Itanagar,  
Arunachal Pradesh.

Particulars of the respondents :

1. Union of India,  
represented by the Secretary to  
the Government of India, Minis-  
try of Environment and Forests,  
Paryavaran Bhawan, C.G.O.  
Complex, Lodi Road,  
New Delhi - 110 003.



- 2 -

2. Under Secretary to the Government of India, Ministry of Environment and Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi - 110 003.

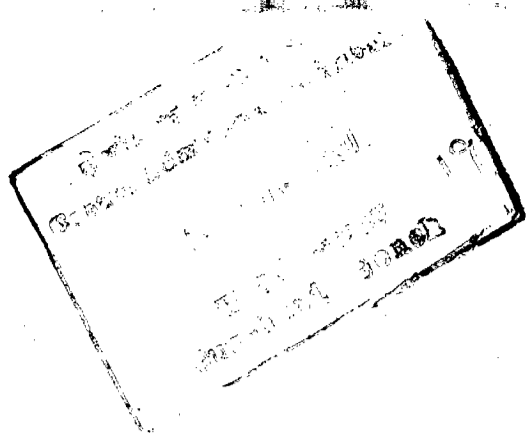
3. Director, Government of India, Ministry of Environment and Forests, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi - 110 003.

4. Government of Arunachal Pradesh, represented by its Chief Secretary at Itanagar, Arunachal Pradesh.

..... Respondents

1. Particulars of order/letter against which the application is made :

This application is made against the action of the Respondents No.1, 2 and 3 in initiating disciplinary proceeding and inquiry against your applicant vindictively in respect of some charges framed against the applicant relating to his tenure under the administration of Union Territory of Dadra and Nagar Haveli for the period of 1979-86 by the following orders :-



(i) Memorandum, No.29033/1/90-AVU dated 24.1.2000 issued by the Director, Government of India, Ministry of Environment and Forests, inter alia, containing the statements of charges and allegations framed against the applicant informing the intention of the Government to hold an inquiry against the applicant.

(ii) Orders dated 17th July, 2000 issued by the under Secretary to the Government of India, Ministry of Environment and Forests (Vigilance Unit) inter alia appointing Inquiry Officer and Presenting Officer for the purpose of conducting inquiry against the applicant in respect of disciplinary proceeding instituted against him.

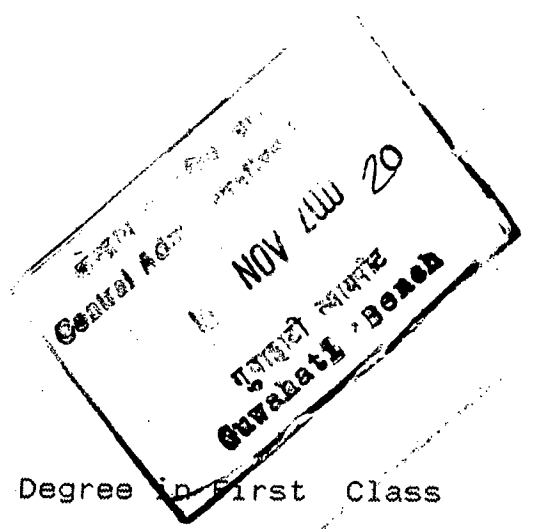
2. Jurisdiction of the Tribunal :

The applicant states that he is a member of Indian Forests Service serving at present under the Government of Arunachal Pradesh. Hence, it is declared that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitations :

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

4. Facts of the case :-



4.1 That after obtaining M.Tech Degree in First Class from Roorkee University in the year 1972, your applicant was selected and appointed to serve as a Hydrogeologist under the Gujrat Ground Water Board. Subsequently, on being selected by the Union Public Service Commission, your applicant joined Indian Forests Service on 24.4.1976. On completion of his training at the Indian Forests College, Dehradun and Lal Bahadur Shastri National Academy, Mussorie, your applicant was posted as Assistant Conservator of Forests (Probation) under the Forests Department of the Union Territory of Andaman and Nicobar Island vide and order dated 7.3.1978. The applicant was transferred in the same capacity to Dadra and Nagar Haveli Administration in the year 1979. Your applicant served in the capacity of Assistant Conservator of Forests (Probationer) under the Dadra and Nagar Haveli Administration till 22.3.1981 whereafter he took over the charge of the post of Deputy Conservator of Forests. On completion of the initial five years of service, your applicant was given senior scale in the post of Deputy Conservator of Forests under the Dadra and Nagar Haveli Administration with effect from 24.4.1981.

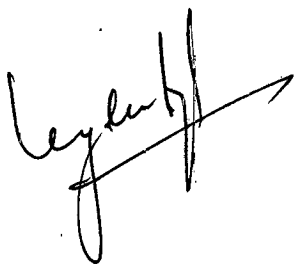
4.2 That during his tenure of service under the Dadra and Nagar Haveli Administration your applicant was also made to hold the charges of the post of Secretary to the Administrator, Dadra and Nagar Haveli, Collector, General manager of District Industries Centre, Registrar of Cooperative

Societies as well as Additional Director of Education. The services rendered by your applicant in all these capacities earned him appreciation and laurels from different authorities including the Administrator of Dadra and Nagar Haveli as well as the public at large. Even the leading national dailies like BLITZ carried reports highly commending the role played by your applicant as a honest, sincere and "radical minded" forests officer.

A Copy of such commendations in favour of your applicant during his tenure under the administration of the Dadra and Nagar Haveli is annexed herewith and marked as Annexure 1.

4.3 That in the year 1986 your applicant was transferred from Dadra and Nagar Haveli to Arunachal Pradesh. Your applicant joined in the post of Divisional Manager, Miao Project Division of Arunachal Pradesh Forest Corporation Limited on 6.11.1986. Subsequently, during the period from 1.4.1988 to 29.9.1989 your applicant also served as Divisional manager (Headquarter) in the said Corporation as well as in the posts of Deputy Conservator in the Arunachal Pradesh Forest Department.

4.4 That by an order dated 4.9.89 contained in order No.45011/1/89-IFS-1(i) your applicant was promoted to the post of Conservator of Forests. On his promotion your applicant held the charge of the post of General Manager (Indus-

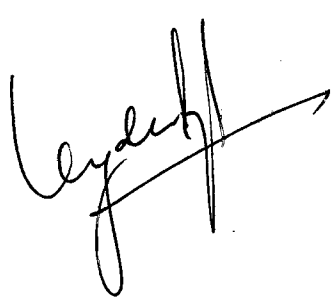


tries) in the Arunachal Pradesh Forests Corporation Limited and also took over the charge of the post of Conservator of Forests, Working Plan and Resources Wing on 23.10.1991 being reverted from the Corporation to the Forests Department. Your applicant served as Conservator till 26.2.1992 whereafter his service was again placed on deputation under the aforesaid Corporation and on and from 27.10.1992 he served as General Manager (Industries) of Arunachal Pradesh Corporation Limited.

4.5 That while the applicant was holding the dual charges of the post of Conservator of Forests under the Forest Department as well as the General Manager (Industries) under the Corporation, an order was passed by the Deputy Secretary to the Government of India, Ministry of Environment and Forests vide No.29033/1/90-AVU dated 17.9.1991 inter alia placing your petitioner under suspension in purported exercise of Rule 3(1) of the All India Service (Disciplinary and Appeal) Rules, 1969.

A copy of the aforesaid suspension order dated 17.9.1991 is annexed herewith and marked as Annexure - 2.

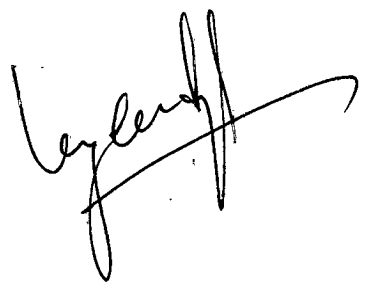
4.6 That the suspension order was apparently passed in connection with some alleged acts of omission/commission of your petitioner during his tenure under the administration of the Dadra and Nagar Haveli during the period of 1981-86. Being aggrieved against the aforesaid suspension order, your



applicant submitted a memorial on 3.12.1991 before the Secretary to the Government of India, Department of Environment and Forests. Having failed to receive any response to his memorial, the applicant thereafter submitted an appeal before the appropriate appellate authority on 10.6.1992. However, none of the aforesaid memorial or appeal having been disposed of by the authorities, your applicant approached this Hon'ble Tribunal by filing an application under Section 19 of the Administrative Tribunal Act challenging the suspension order dated 17.9.1991. The application was registered and numbered as Original Application No.50/93 before this Hon'ble Tribunal.

4.7 That by order dated 24.3.93 the original application No.50/93 was admitted by this Hon'ble Tribunal and a notice on the application as well as the interim relief was also issued to the respondents. Further, pending hearing of the show cause it was directed that status quo as on the date i.e. 24.3.93 shall be maintained in respect of suspension order. It may be mentioned herein that as till 24.3.93, the suspension order was admittedly not given effect to by the authorities of the Government of Arunachal Pradesh, your applicant continued to remain in active service.

4.8 That the application was finally heard and disposed of by order dated 12.1.1994 by this Hon'ble Tribunal inter alia quashing the suspension order dated 17.9.1991 and other consequential orders passed thereto. This Hon'ble

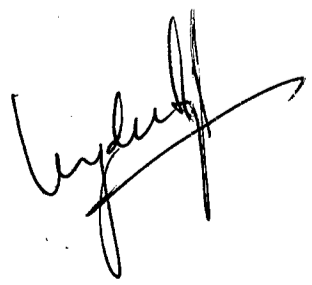


Tribunal was further pleased to observe that as no disciplinary proceeding was initiated by the authorities, there is no justification to keep alive the suspension order and the subsequent orders relating to subsistence allowance etc.

A copy of the aforesaid order dated 12.1.1994 passed by this Hon'ble Tribunal in Original Application NO.50.93 is annexed herewith and marked as Annexure - 3.

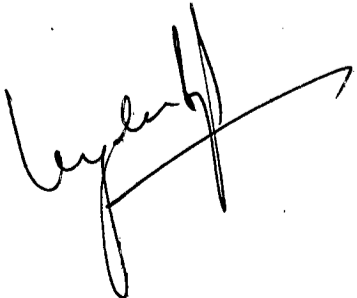
4.9 That after a lapse of six years thereafter on 23.2.2000 your applicant was served with a memorandum contained in No.29033/1/90-AVU dated 24.1.2000 issued by the Director, Government of India, Ministry of Environment and Forests inter alia stating that as it was proposed to hold an enquiry against your applicant under Rule 8 of the All India Service (Disciplinary and Appeal) Rules, 1969, the substance of imputation of misconduct and misbehaviour in respect of which inquiry was proposed to be held as set out in the article of charges along with the statement of imputation etc, list of documents and list of witnesses where being served upon the applicant. The applicant was further directed to submit his reply within 15 days.

A copy of the aforesaid memorandum dated 24.1.2000 along with the statement of article of charges, statement of imputation of misconduct, list of witnesses and list of documents supplied therewith is annexed herewith and marked as Annexure - 4.



4.10 That after receipt of the charges contained in the memorandum dated 24.1.2000 on 23.2.2000 your humble applicant submitted his reply thereto before the Secretary to the Government of India, Ministry of Environment and Forests specifically denying all the charges and allegations levelled against him. Else than factually controverting all the charges, your applicant also contended in his reply dated 6.3.2000 that initiation of the proceeding at such an enormous delayed stage has put his service career in jeopardy as his promotion to the next higher post was due within a very short time. The proceeding at such belated stage appeared to have been initiated with the intention to stall his promotion. He further specifically contended that serving of the charge sheet after a lapse of 14 years of initiation of inquiry was a outcome of efforts of some vested interest. Under the circumstances he prayed before the authorities to drop all the charges levelled against him. He further prayed that in case even after on examination of his written statements, the authorities decide to hold an enquiry, the same should be expedited so that the inquiry is completed within a period of six months.

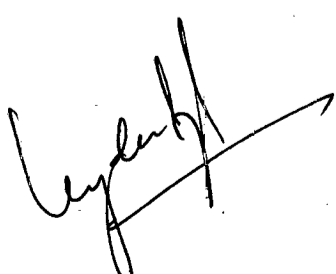
A copy of the written statement submitted by your applicant on 6.3.2000 is annexed herewith and marked as Annexure - 5.

A handwritten signature in black ink, appearing to be 'Vijayendra', is written in the bottom left corner of the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

4.11 That after your applicant submitted his written statement on 6.3.2000, the authorities again sat over the matter for more than 4 (four) months. Thereafter on 17th July, 2000, two orders were issued by the Under Secretary to the Government of India, Ministry of Environment and Forests (Vigilance Unit inter alia ordering appointment of Inquiry Officer to inquire into the article of charges framed against the applicant and a Presenting Officer to present the case in support of the article of charges against your applicant before the Inquiry Officer.

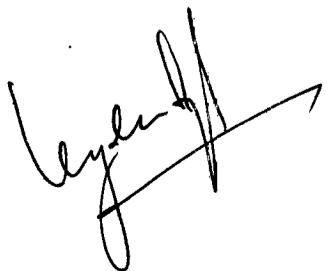
Copies of the aforesaid order dated 17th July, 2000 passed vide No.29033/01/90-AVU are annexed herewith and marked as Annexures - 6 and 7 respectively.

4.12 That your petitioner was inducted into the Indian Forest Service in the year 1976. Since his initial posting he had been serving under various authorities at remote places. Else than discharging his duties under the Forest Department of the Government of Arunachal Pradesh as well as Arunachal Pradesh Mineral Development and Trading Corporation Limited, your applicant was also asked to hold the additional charge of the post of Secretary to the Government of Arunachal Pradesh (Programme Implementation and Monitoring) vide an order dated 24.4.1995. Subsequently on 3.11.1995 he was appointed and designated as Special Secretary to the Chief Minister, Government of Arunachal Pradesh. The applicant was also ordered to function as Special Secre-



tary to the Government of Arunachal Pradesh in the Department of Mines and Science & Technology vide order dated 11.6.98. The applicant was thereafter repatriated to his parent department vide order dated 26.4.1999 and appointed as Managing Director of Arunachal Pradesh Forest Corporation Limited. However, he continued to hold the additional charge of the post of Managing Director of Arunachal Pradesh Mineral Development and Trading Corporation Limited till 10.6.99. At present the applicant is serving as Special Secretary to the Chief Minister of the Government of Arunachal Pradesh in addition to his duties in the post of Conservator of Forests. Due to his devotion to duty, loyalty and integrity in service, the applicant has earned distinction in service. In fact the charges raked up against him at this belated stage of his career concerning his tenure under the Dadra and Nagar Haveli Administration during the year 1979-86 is actuated by malice by vested interested quarters who wanted to somehow stall further elevation in the career of your applicant. After serving in all remote areas all through his life, when his candidature is now likely to be considered for deputation to Central Government in Delhi and other prime place of posting and when his next promotion is also due, the disciplinary proceeding has been initiated only to stall his promotion and further elevation in career.

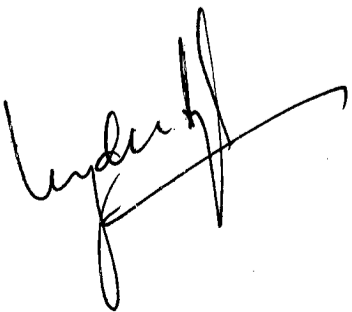
4.13 That else than the initiation of the disciplinary proceeding and continuation thereof at this belated stage after about 15 years having been vitiated by the falacy of



in-ordinate unexplained delay on the part of the authorities, the charges levelled against your applicant themselves are baseless and prima facie cooked up with an intention to harass your applicant.

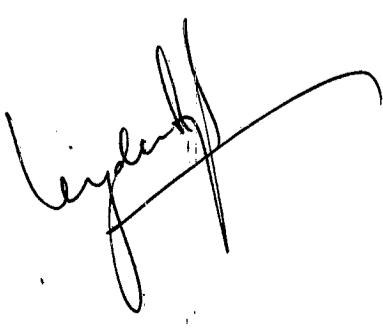
4.14 That the Article 1 of the charges allege that your applicant showed undue favour to M/S Sainath Katha Factory by not revising the rates of sale of Khair Trees contract executed between the administration and the said factory on 1.9.1973 and that the applicant misled the administration by suppressing the facts and not executing a new contract for sale of Khair Trees during the year 1979-86 thereby causing wrongful pecuniary loss to the public exchequer and corresponding gain to the factory.

This allegation is totally baseless in as much as as per the agreement of 1973, rate of royalty was being charged by the administration from the factory on the basis of per tree and not on the basis of girth or volume of tree which was most unscientific and unprofitable. The administration was loosing huge amount of revenue in this process. From 1973 till 1979 i.e. the tenure prior to your applicant, only 10 per cent increase of Rs.90 was affected every two years. In 1979 the then Deputy Conservator of Forests introduced the unit system of fixing royalty by which a tree with garth of 90 cm - 105 cm was considered one unit and rate per such unit was fixed at Rs.100/- with a provision of progressive increase of rates with increasing garth of trees. This



meant that a trees with garth class of 90cm - 105 cm would earn Rs.100/- while a tree of garth class of 225cm and above would earn Rs.1124.65, while under the than prevailing agreement of 1973 both the classes would have fetched uniform royalty of Rs.90 only. This introduction of new unit system substantially increased revenue realisation for the Government. However, all these decisions were taken at a time when your applicant was serving as Assistant Conservator of Forests till 22.3.1981. These decisions were taken by the Deputy Conservator of Forests and your applicant being the Assistant Conservator of Forests had no hand in the matter of fixation of royalty of Khair Trees in 1979. Hence, the allegation that the applicant having joined as Assistant Conservator of Forests on 10.12.1979 and the rate of Khair Trees was to be revised in the year 1979 and the applicant had failed to revise the rate as per the provisions of the contract knowingly and willingly is completely baseless. Even for subsequent periods, the fixation of royalty rates were not done at the instance of the applicant in as much as the decision was taken by the administration at various levels. It is thus not clear as to how the alleged loss to exchequer was counted by the authorities and as to how the applicant was at all responsible for the same.


4.15 That it has been further alleged that while putting up a new draft of contract which was executed on 17.9.82 between the administration and the factory, the applicant knowingly and intentionally with ulterior motive



did not mention the clause for revising the price of Khair trees periodically and revocation of contract at the unilateral decision of the administration thereby prejudicially affecting the interest of administration. This allegation is totally contrary to the records in as much as your applicant had put detailed proposal in the concerning file on 21.8.1982 giving all the facts by placing both the old agreement as well as the supplementary agreement for consideration and perusal of the authorities. The note was thereafter examined at various levels including the Accounts Officer who was also the Financial Advisor to the Administrator as well as the Collector ~~who was the Head of the Department~~ <sup>effecting necessary additions and revisions.</sup> Finally the Administrator approved the proposal. Hence, there was no occasion for the applicant to mislead the authorities under the circumstances. Further, the draft agreement including the amendments were further examined by the Accounts Officer who substantially modified the same and only thereafter the agreement in question was executed.

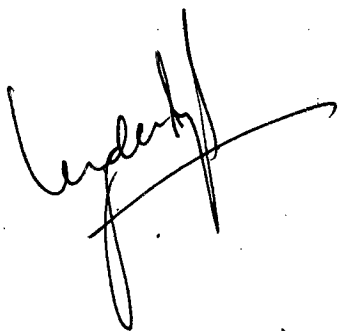
The role of your applicant was limited and restricted only as one of the processing officers in as much as the proposal was channeled through Accounts Officer cum Financial Adviser, Collector and lastly the Administrator. The agreement at any rate was not the personal product of your applicant.

4.16 That it is further alleged in the article II of



the charges that while functioning as Excise Officer of Dadra and Nagar Haveli during 1982 to 1986, your applicant committed misconduct by recommending licence to some applicant while discriminating against some others. In this connection, it is stated that the relevant Excise Duty Rules of 1976 at Chapter - 7 provides for the procedure for grant of the licence. As per law the duties are vested on the Excise Commissioner to make inquiries and to decide the question of issue of licence. Cases of all the applicants mentioned in the charge sheet were examined and decided by the Commissioner of Excise and your applicant being only an Excise Officer at that relevant period of time did not either had the power to grant any license nor he in fact granted or refused grant of any licence. All the acts done by the applicant during that period as an Excise Officer was purely in exercise of his official duty and there was no iota of malice or extraneous consideration in the action of your applicant. It is further interesting to note that the licence granted in those periods were never found illegal and infact the licencees are operating even as of date. Thus, if the licencees were not found to be invalid and the licencees are allowed to operate even as of date, it does not lie with the authorities to accuse your applicant of misconduct for recommending grant of those licences.

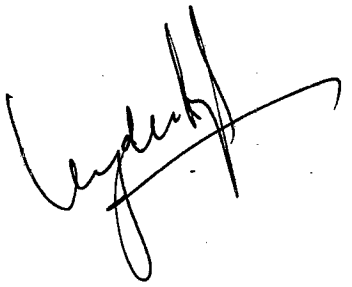
Your applicant also craves indulgence of this Hon'ble Tribunal to refer and rely on the text of his written statement dated 6.3.2000 to bring forth the apparent



incoherence, baselessness and flimsy nature of charges levelled against him. It is humbly reiterated that the charges are full of concoction and are unable to withstand the judicial scrutiny.

4.17 That under these circumstances your applicant is approaching this Hon'ble Tribunal praying for quashing of the entire disciplinary proceeding and inquiry initiated and pending against him for last more than one decade as well as for appropriate directions to the authorities so that initiation/pendency of the proceeding are not used as pleas by the respondents to pre-empt the promotion and elevation of your applicant in service. The applicant was promoted to his present post of Conservator of Forest way back in the year 1989 when he had superseded five officers on merit. His promotion to the next post of Chief Conservator of Forests is overdue. To the knowledge of the applicant these are atleast 5(five) posts to be filled up in that cadre and your applicant being one of the seniormost eligible officer is within the zone of consideration for the process of promotion. The Promotion Committee is due to meet for the purpose of selection at any date and the Applicant genuinely apprehends taking the plea of pendency of the impugned disciplinary proceedings, his candidature for promotion will not be considered by the authorities.

4.18 That the applicant has been made to suffer a lot due to no fault of his <sup>own</sup> for last 14 years due to this never



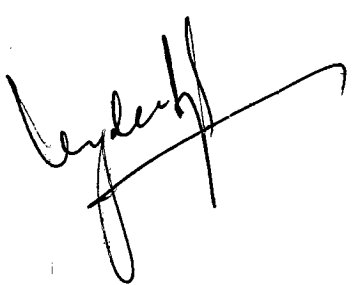
ending tirade against him. In spite of being found suitable and recommended for prime postings on deputation and training to Central Govt. Agencies and also abroad, he was not considered for the same due to pendency of the several proceedings against him on the same set of stale charges. If now at this stage of his career the applicant is deprived of his next promotion solely on the ground of the pendency of impugned inquiry, the same would be prejudicial and unfair.

5. Grounds :

5.1 That the applicant submits that the initiation of inquiry at such a belated stage i.e after more than 15 years of the alleged occurrence of commission and omission without any explanation from the authorities for such inordinate delay itself has vitiated the entire proceeding and consequentially the memorandum dated 24.1.2000 and the consequent orders dated 17.7.2000 (Annexures - 4, 6 and 7 respectively) are liable to be set aside and quashed.

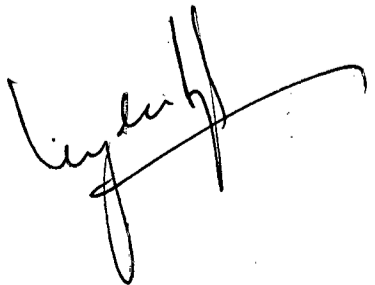
5.2 That the inquiry initiated against your applicant being based on perverse, stale, frivolous, baseless and concocted charges which are unable to withstand any judicial scrutiny, the entire disciplinary proceeding including the inquiry initiated against your applicant is liable to be set aside and quashed.

5.3 That the inquiry having been initiated at a belated-



ed stage on the basis of baseless charges only with a view to pre-empt and prevent the ensuing promotion and elevation in the career of your applicant, the disciplinary proceeding including the initiated inquiry is liable to be set aside and quashed.

5.4 That the very fact that the charges have been drawn in a most casual manner without any application of mind, would be evident from the fact that in the recital of charges at Annexure - II(B) of the Memorandum dated 24.1.2000 it has been stated that your applicant was posted as Assistant Conservator of Forests under the Union Territory of Dadra and Nagar Haveli from 10.12.1979 to 3.5.1990. While the fact remains that your applicant was transferred out of the Union Territory of Dadra and Nagar Haveli in the year 1986 itself and he joined under the Arunachal Pradesh Forests Corporation Limited as Divisional Manager, Miao Project Division on 6.11.1986. After 1986 he had no occasion to serve at any capacity under the Union Territory of Dadra and Nagar Haveli. Further for proving the charges, the authorities are taking recourse to list of witnesses and documents in connection with two C.B.I. cases namely R.C. 6/87 and R.C. 8/88. It is specifically stated herein that both the cases have since been closed by the C.B.I. without filing any charge sheet either against your applicant or any other person. Coupled with these facts, the apparent baselessness of the allegations contained in the Memorandum dated 24.1.2000 have rendered the entire process of inquiry

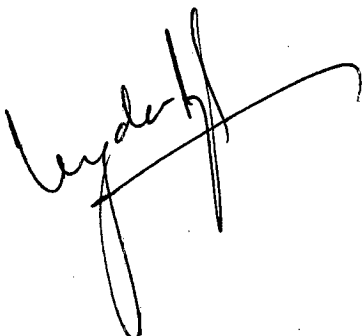


liable to be quashed by this Hon'ble Tribunal.

5.5 That the initiation of disciplinary proceeding against your applicant being based on the allegations regarding alleged act or omission committed after his appointment to the service while he was serving in connection with the affairs of the administration of Dadra and Nagar Haveli, the Central Government has not been vested with any power to initiate and/or institute the instant proceeding. Hence, the entire proceeding instituted and initiated vide Memorandum dated 24.1.2000 and the orders dated 17.7.2000 (Annexures - 4, 6 and 7 respectively) of the Central Government being without authority and in total violation of the mandates of Rule 7 of the All India Service (Discipline and Appeal) Rules, 1969 is liable to be set aside and quashed.

5.6 That the disciplinary proceeding in the form of present inquiry having been initiated after a lapse of about 14 years after the alleged act of commission or omission, it is destined to cause hardship and prejudice to your applicant in defending himself in as much as it is not possible for him to again recollect all the documents and records in his support or to gather other evidence. Hence, under these circumstances the present inquiry has to be interdicted.

5.7 That further the continuation of the departmental proceeding on the stale set of charges would be unfair and would result in violation of the principles of natural

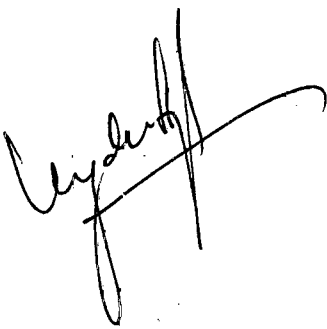


justice.

5.8 That a simple scrutiny of the list of witnesses appended to the Memorandum dated 24.1.2000 (Annexure-4) would show that most of the witnesses do not have any relation, whatsoever, with the charges contained in the Memorandum. The respondents have simply copied and produced the list of persons purportedly interrogated by C.B.I. in course of their enquiry in two cases, both of which were closed finally without filing charge-sheet. By producing a list of altogether 76(seventy six) witnesses, the authorities have exposed their design to unduely prolong the inquiry to the never-ending process.

5.9 That as per the latest executive instruction issued by the Central Vigilance Commission regarding time-frame of conducting disciplinary cases, the Presiding Officer has to be appointed immediately on receipt and consideration of defence statement. In this case the same was done after a lapse of 4(four) months. Thereafter, inquiry has to be conducted and report thereof has to be submitted within 6(six) months. In this case even till now no date for hearing has been fixed. This shows that callousness of the respondents and their design to keys the inquiry pending for all days to come.

6. Details of remedy exhausted :

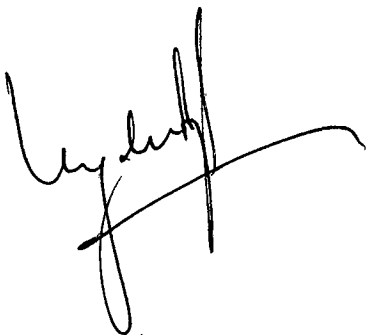


That although no appeal or any other form of remedy is prescribed under the statute namely the All India Services (Discipline and Appeal) Rules, 1969 against the impugned action of the respondents, the humble applicant has already filed his reply on 6.3.2000(Annexure-5) to the Memorandum of Charges dated 24.1.2000. In his memorandum of charges he has specifically pleaded for dropping the charges levelled against him and consequent closure of the disciplinary proceeding. However, the same being not adhered to by the authorities, your applicant does not have any other alternative or efficacious remedy else than by way of the present application before this Hon'ble Tribunal.

7. That the applicant further declares that the orders/impugned action against which the instant application is filed is not the subject matter of any previously filed or pending application before any other Court.

8. Relief Sought :

In the premises aforesaid, it is, therefore, prayed that Your Lordships be pleased to admit this petition, call for the records of the case and on hearing the parties be pleased to issue necessary order/direction quashing the entire disciplinary proceeding and the



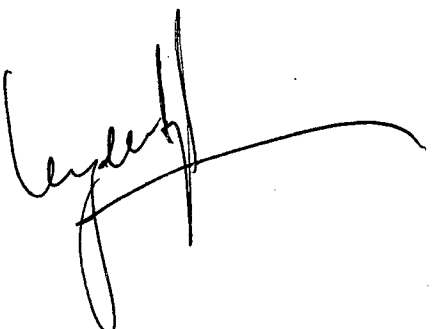
charges initiated by the Respondents No. 1, 2 and 3 vide their No.29033/1/90-AVU dated 24.1.2000 and 17.7.2000 (Annexures - 4,6 and 7 respectively) and also direct them not to proceed further with the disciplinary proceeding and inquiry as initiated vide the aforesaid memorandum and orders dated 24.1.2000 and 17.7.2000 (Annexures- 4, 6 and 7 respectively)

9. Interim relief :

In the interim -

(i) further proceeding in the matter of inquiry initiated against your applicant vide the impugned memorandum dated 24.1.2000 and the orders dated 17.7.2000 (Annexures - 4, 6 and 7 respectively) may be stayed.

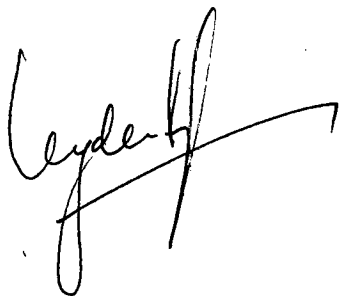
(ii) the respondents may be directed to consider the case of promotion of your applicant to his next grade/ posts without taking into consideration the factum of initiation/pendency of the disciplinary proceeding



against the applicant.

10. Particulars of Indian Postal Order :

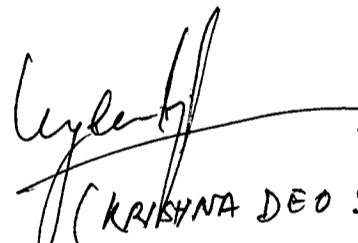
Indian postal order bearing No: 26 503898 dated 15-11-2000 for an amount of Rs.50/- payable in favour of Central Administrative Tribunal, Guwahati Bench is filed along with this application.

A handwritten signature in black ink, appearing to be 'Cyden H', with a long horizontal stroke extending to the right.

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

I, Shri Krishna Deo Singh, son of Shri Sidheshwari Prasad Singh by profession Government Servant and at present working as Conservator of Forest (Conservation) under the Government of Arunachal Pradesh at Itanagar do hereby verify that the statements made in this verification and in paragraphs 1, 2, 3, 4.1 to 4.4, 4.12 to 4.18, 6 and 7 are true to my knowledge while those made in paragraphs 4.5, 4.6, 4.7, 4.8, 4.9, 4.10 and 4.11 are true to my information derived from the relevant records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And in proof and verification thereof I put my hand on this the 14<sup>th</sup> day of November, 2000 at Guwahati

  
(KRISHNA DEO SINGH)  
14. 11. 2000

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u/

ANNEXURE - \* 1

JAGMOHAN  
LUTENANT GOVERNOR  
GOA, DAMAN AND DIU  
&  
ADMINISTRATOR  
DADRA & NAGAR NAVELI

NO.LDNH/17/3/355  
CABO RAJ NIWAS  
DONA PAULA

GOA - 403 004

1st February, 1982

My dear B.K.D Singh,

I am writing to convey my appreciation for the excellent work done by you in carrying out the instructions given by me for planting one million trees in the Dadra & Nagar Haveli Territory. The task assigned to you was very difficult, but you rose to the occasion and displayed a great deal of initiative and organisational skill. I trust, you will continue to put your best foot forward.

A copy of this appreciation letter is being placed in your personal file.

Yours sincerely,

Sd/-

( JAGMOHAN )

Shri K.D. Singh,  
Dy. Conservator of Forests,  
Dadra & Nagar Haveli,  
Silvassa - 396230 .

Copy to the Collector of Dadra & Nagar Haveli,  
Silvassa. This copy may be placed in Shri K.D. Singh's file.

Sd/-

( Jagmohan )  
Administrator  
1.2.1982

ATTESTED TO BE  
TRUE COPY

ADVOCATE

ANNEXURE - 2

Government of India  
Environment & Forests

PARYAVARAN BHAWAN,  
C.G.O. COMPLEX,  
LODI ROAD, NEW DELHI - 110003

No.29033/1/90-AVU

Dated the 17th September, 1991

O R D E R

1981-86

WHEREAS, it has come to the notice of the Government of India that Shri K.D. Sing, IFS (UT), while working as Deputy Conservaor of Forests (D.C.F), Dadra & nagar Haveli during the period 1981-86 has been chaged with acts of ommission and commission in the matter of certain dealings concering the sale of Khair trees and (certain other acts undertaken in his jurisdiction and under his order;

2. AND WHEREAS, a preliminary investigation report conducted by the Central Bureau of Investigation revealed a prima-facie case against the said Shri K.D. Singh and whereas disciplinary proceedings against the said Shri K.D. Singh are contemplated;

3. AND WHEREAS, it is considered that Shri K.D.Singh's continuance in the office will be against public interest;

4. AND WHEREAS, the Government of India, after carefully considering the available materials and circumstances of the case are satisfied that it is necessary and desirable in the publid interest to place said Shri K.D. Singh, IFS (UT) under suspension pending inquiry;

5. NOW, THEREFORE, in exercise of the powers conferred by sub rule(1) of Rule 3 of the All India Services

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(Discipline & Appeal) Rules, 1969, the Government of India hereby places the said Shri K.D. Singh, IFS(UT), General Manager, Arunachal Pradesh Forest Corp. Ltd., Itanagar under suspension with effect from the date of issue of this Order;

6. Shri K.D. Singh shall during the period of suspension be paid the subsistence allowance as admissible under Rule 4 of the All India Services (Discipline & Appeal) Rules, 1969;

7. During the period that this order shall remain in force the Headquarters of Shri K.D. Singh, IFS(UT) shall be Itanagar.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Sd/-

( M.G. GROVER )

Deputy Secretary to the Govt. of India

To

Sri K.D. Singh, IFS(UT)  
General manager,  
Arunachal Pradesh Forest Corp. Ltd.,  
Govt. of Arunachal Pradesh,  
Itanagar.

Copy to :-

1. The Principal Chief Conservator of Forests & Secretary (Forests), Government of Arunachal Pradesh, Itanagar.
2. Shri H.N. Sambharya, DIG of Police, Central Bureau of Investigation, Anti-Corruption Branch, Tanna House, 11-A, Nathalal Parekh Marg, Bombay.
3. The Pay & Accounts Officer, Ministry of Environment & Forests, New Delhi - 110 003.
4. PGC Section, Ministry of Environment & Forests, New Delhi-3 (2 copies)
5. The Deputy Conservator of Forests, Dadra & Nagar Haveli Administration, Silvassa,
6. Shri s.S. Hasurkar, Joint Secretary(H)

Sd/-

( M.G. GROVER )

Deputy Secretary to the Govt. of India

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ANNEXURE - 3

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI

ORIGINAL APPLICATION NO.50 OF 1993

Shri K.D. Singh ..... Applicant(s)

- Versus -

Union of India & ors. .... Respondent(s)

O R D E R

12.1.94

This application is heard. Learned Sr. Counsel Mr.A.R.Borthakur assisted by Advocate Mr.P.Bortkahur makes his submission on behalf of applicant. Learned Addl. C.G.S.C. Mr. A.K. Choudhury submits on behalf of respondents.

The applicant Shri KD. Singh, IFS(UT) was suspended vide order No.29033/1/90-AVU dated 17.9.91 (Annexure-2) while serving as General Manager, Arunachal Pradesh Forest Corporation Limited, Government of Arunachal Pradesh for his alleged acts of omission and commission during the period 1981-86 as Deputy Conservator of Forests (DCF), Dadra and Nagar Haveli. Subsistence allowance during the period of suspension have been determined vide order No.29033/1/90-AVU dted 27.9.91 (Annexure-10) and No.29033/1/90-AVU dted 6.1.92 (Annexure-11). The applicant has assailed these three orders in this application under Section 19 of the Administrative Tribunals Act, 1985. It may be mentioned here that the suspension order was not given effect to and the applicant is serving as Conservator of Forests, Working Plan and Resourc-

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es Survey Circle and General manager at Arunachal Pradesh. It is stated in the application that the suspension order was made in September, 1991 contemplating to initiate disciplinary proceeding, but no disciplinary proceeding has been initiated till filing of this application on 18.3.93. It is an admitted fact that no disciplinary proceeding has been initiated till date. The prayer is to quash the suspension order as well as the order regarding fixation of subsistence allowance. The respondents have filed written statement. The some and substance of the written statement are that the respondents are yet to collect materials and data from Dadra & Nagar Haveli to initiate the disciplinary proceeding.

Mr. A.R. Borthakur submits that an ineffective suspension order contemplating disciplinary proceeding cannot be allowed to live for such a long period. Learned Addl. C.G.S.C. Mr. A.K. Choudhury submits that the respondents are sincerely attempting to collect the materials and data to initiate the disciplinary proceeding. Admittedly the impugned suspension order was issued in September, 1991 and was not given effect to. Subsequent orders fixing subsistence allowances were also not given effect to. The respondents could not make up their mind as yet to initiate disciplinary proceeding with definite charges. Under such circumstances, we find no justification to keep alive the suspension order and subsequent orders relating to subsistence allowance alive and they are liable to be quashed.

APPROVED  
18/3/93

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- 30 -

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Accordingly this application is allowed. The impugned suspension order No.29033/1/90-AVU dted 17.9.91 and orders No.29033/1/9-AVU dated 27.9.91 and No.29033/1/90-AVU dated 6.1.92 as to subsistence allowance are hereby quashed. We make no order as to cost.

Inform all concerned.

Sd/- VICE CHAIRMAN

Sd- MEMBER (ADMN)

@

No. 29033/1/90-AVU  
Government of India  
Ministry of Environment & Forests

Paryavaran Bhawan,  
C.G.O. Complex,  
Lodi Road, New Delhi - 110 003.

Dated 24.1.2000

**MEMORANDUM**

The President proposes to hold an inquiry against Shri Krishna Deo Singh (K.D.Singh), IFS (AGMUT), Managing Director, Arunachal Pradesh Mineral Development Trading Corporation Ltd., Itanagar under Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969. The substance of the imputations of the misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charges are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri K.D.Singh is directed to submit within 15 days of receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri K.D.Singh is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 8 of the AIS (D&A) Rules, 1969 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri K.D.Singh is invited to Rule 18 of the All India Services (Conduct) Rules, 1969 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior

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authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri K.D.Singh is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule 18 of the All India Services (Conduct) Rules, 1969.

6. The receipt of this memorandum may be acknowledged.

**BY ORDER AND IN THE NAME OF THE PRESIDENT**

*Atul Bagai*  
(ATUL BAGAI)  
DIRECTOR

Shri K.D.Singh, IFS (AGMUT)  
Managing Director,  
Arunachal Pradesh Mineral Development Corporation.  
Itanagar  
Arunachal Pradesh.

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ANNEXURE-I

Statement of Articles of charge as framed against Shri K.D.Singh, IFS (AGMUT-76), formerly Deputy Conservator of Forest and Excise Officer, Dadra & Nagar Haveli, Silvassa.

ARTICLE-I

That said Shri Krishna Deo Singh, Son of Shri Siddheshwari Prasad Singh while functioning as Dy. Conservator of Forests at Silvassa, Union Territory of Dadra & Nagar Haveli, during the year 1979-1986 committed gross misconduct in as much as:

Rates of Sale of Khair

That said Shri Krishna Deo Singh showed undue favour to M/s Sainath Khata Factory by not revising the rates of sale of khair trees contract executed between the Administration of said M/s Sainath Khata Factory on 1.9.1973 and he also misled the Administration by suppressing the facts and in executing new contract of sale of khair trees, during the year 1979-86 and caused a wrongful loss to the tune of Rs. 3,19,78,592.70 and corresponding gain to M/s Sainath Khata Factory.

By not revising the rates  
② Mislead the Admin  
Suppress the facts of revised rate

ARTICLE - II

The said Shri K.D.Singh while functioning as Excise Officer, Dadra & Nagar Haveli at Silvassa during the year 1982 to 1986 committed gross misconduct in as much as:

That said Shri K.D.Singh misused his official position in recommending for issue of Indian Made Foreign Liquor (IMFL) wholesale and retail sale licenses during his tenure as Excise officer and favoured Shri S Khuntliwala, Ras Resort, Dan Tourist and showed discrimination to Shri J.G Bifari of Sakarvan Tourist.

✓

That in the manner aforesaid, said Shri K.D.Singh exhibited lack of integrity, devotion to duty and acted in a manner highly unbecoming of a public servant and thereby contravened Rule 3 of Central Civil Services (Conduct) Rules, 1964.

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ANNEXURE-II (a)

Statement of Imputations of Misconduct or Misbehaviour in support of article of charge as framed against Shri K.D.Singh, former Deputy Conservator of Forest and Excise Officer, Dadra & Nagar Haveli, Silvassa.

That said Shri K.D.Singh had been functioning as Excise Officer, Dadra Haveli at Silvassa during the year 1982 to 1986. He was also holding the post-folios of Collector, Dy. Conservator of Forest and Secretary to the Administration of Dadra & Nagar Haveli during the relevant period.

That being the Excise Officer, said Shri K.D.Singh was supposed to make recommendations for issue of Indian Made Foreign Liquor (IMFL) whole-sale and retail-sale licences to the deserving applicants according to the Excise Rules of the Administration.

That as per the Excise Duty Rules and Act 1959, one person cannot have interest in two or more licences of the same kind in the same town. Said Shri K.D.Singh was also supposed to verify the character and antecedents of the applicants.

That said Shri K.D.Singh while functioning as Excise Officer showed favour to Shri SI Khuntliwala and recommended for issue of whole-sale and retail-sale IMFL for the purpose of selling and importing it for village Khutli while Shri SI Khutliwala was not legitimate applicant for getting the licences since he was detailed in Cofeposa Act for two times and his activities were offensive.

That said Shri K.D.Singh deliberately and wilfully disfavoured Shri JG Birari whereas he was legitimate applicant for recommending issue of IMFL licence in his favour.

That said Shri K.D.Singh recommended for transfer of the licence of Shri Khuntliwala from Khuli - remote village to Silvassa city to boost his sale without any reasonable ground.

That said Shri K.D.Singh also violated the provisions of excise rules by recommending issue of IMFL, whole-sale and retail-sale licence in favour of Dan Tourist of Shri Nasruddin Khutliwala son of said Shri SI Khuntliwala though said Shri SI Khutliwala was already having a retail-sale IMFL licence in the name of SI Bar at Silvassa.

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That said Shri K.D.Singh also recommended issue of IMFL whole-sale and retail-sale licence in the name of Ras Resort Hotels without any building or plan submitted as per rules and also allowed the quota for import as well as renewed the licence for a number of years without any building being in existence.

That in the manner aforesaid, said Shri K.D.Singh exhibited lack of integrity, devotion to duty and acted in a manner highly unbecoming of a public servant and thereby he contravened Rule 3 of Central Civil Services (Conduct) Rules, 1964.

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**Statement of imputation of misconduct in support of Article of Charge framed against Shri Krishna Deo Singh, S/o Siddheshwari Prasad Singh, Dy.Conservator of Forests, Union Territory of Dadra & Nagar Haveli, Silvassa.**

That Shri Krishna Deo Singh, IFS was posted as Asstt. Conservator of Forests at Silvassa, Union Territory of Dadra & Nagar Haveli, from 10.12.1979 to 3.5.1990 and, therefore, he was posted as Dy.Conservator of Forests for the period from 3.5.80 to 24.7.86. He was also working as Secretary to the Administrator of Union Territory Dadra & Nagar Haveli for the period from 20.10.81 to 29.2.82 and from 24.4.83 to 1986.

As Deputy Conservator of Forests, said Shri K.D.Singh was supposed to ensure the preservation, maintenance, expansion of forests of Union Territory Dadra & Nagar Haveli as well as regulate all works, sanctions and rates of various products according to various rules. He was also required to watch the interests of Administration while revising the prices for sale of khair trees. Moreover, he was supposed to give correct and truthful technical advise on various matters. Not only that, he was supposed to ensure maximum revenue to be collected from the various products.

Being Dy.Conservator of Forests, said Shri K.D.Singh was also supposed to collect the prevailing market rates from the adjoining States of Maharashtra & Gujarat for khair trees from time to time, so that the new rates of contract can be revised as per the conditions of principal agreement. He was also supposed to narrate the facts to the Administration while executing any new contract for khair trees to be sold under the provisions of revising the rates of khair trees, after a gap of particular period and revocation of the contract at the discretion of the Administration when the interests of Administration if prejudiced.

The contract dated 1.9.73 was executed between the Administration and Union Territory of Dadra & Nagar Haveli and M/s Sainath Katha Factory on 1.9.1973 for sale of khair trees. According to this contract, M/s Sainath Katha Factory was entitled to get 1000 to 1500 khair trees per year.

That there was provision in the aforesaid contract that after a gap of 2 years, the rates of royalty of khair tree shall be revised. The rates of royalty should be increased by 10% or at the prevailing market rate, whichever is higher. The aforesaid contract was also having a provision that in case of dispute, the decision of the Administration shall be final.

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That said Shri K.D.Singh joined as Asstt. Conservator of Forests on 10.12.1979 and the rate of khair trees was to be revised as per contract, in the year 1979, but said Shri K.D.Singh failed to revise the rate of sale of khair trees as per the provision of contract knowing and willingly.

That said Shri K.D.Singh was able to collect the prevailing market rate from the adjoining States of Gujarat and Maharashtra which are the surrounding states of Union Territory Dadra & Nagar Haveli. However, said Shri K.D.Singh did not collect the prevailing market rates of khair trees from the surrounding states of UT Dadra & Nagar Haveli though it was possible for him. Lack of collecting the prevailing market rates of sak of khair trees resulted into wrongful loss to the tune of Rs.85,76,552.84 to the Administration and corresponding gain to M/s Sainath Katha Factory, for the period 1979 - 1983. On the contrary, he increased the rates of sale of khair trees by 10% only whereas the prevailing market rates in the surrounding State Maharashtra were quite high. However, said Shri K.D.Singh did not collect the prevailing market rate and avoided the provisions of contract executed on 1.9.1973 with a view to give pecuniary advantage to M/s Sainath Katha Factory.

Another contract was executed on 17.9.1982 between the Administration of UT Dadra & Nagar Haveli and M/s Sainath Katha Factory for the year 1.10.1983 to 30.9.1992 i.e. for 10 years. Being Dy.Conservator of Forests and Secretary to the Administrator of Dadra & Nagar Haveli, said Shri K.D.Singh was supposed to protect the interests of the Administration. He was also supposed to ensure collection of maximum royalty from various products for which said Shri K.D.Singh was supposed to mention the important clauses and conditions in the draft of contract submitted by him.

Since said Shri K.D.Singh was posted at Silvassa since 10.12.1979 as Asstt. Conservator of Forests as well as Dy.Conservator of Forests and Secretary to the Administrator of UT Dadra & Nagar Haveli, he was having full knowledge regarding income from khair trees. Moreover, he was fully aware of the facts and prevailing market rates of hair trees in the surrounding State Maharashtra. The contract dated 1.9.1973 was available within his office and he was fully aware of the clauses and conditions of the said contract. However, while putting a new draft of contract, which was executed on 17.9.1982 between the administration and M/s Sainath Katha Factory said Shri K.D.Singh knowingly and intentionally with some ulterior motive or with intent to provide pecuniary advantage to M/s Sainath Katha Factory, did not mention the clauses of revising the prices of khair trees after a gap of particular period and revocation of contract at the discretion of Administration when the interests of Administrations is prejudiced. On the contrary, he misrepresented the

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Administration by suggesting the Administration to drop the clause of fixing the prices of khair trees as per the prevailing market rates.

That no sufficient matured khair trees were available or likely to be available within the Union Territory of Dadra & Nagar Haveli for the purpose of execution of the contract because a khair tree takes a period of 80 years for its exploitation girth. However, said Shri K.D.Singh misrepresented the Administration with intent to provide pecuniary advantage to M/s Sainath Katha Factory that UT Dadra & Nagar Haveli has massive plantation of khair trees. In fact, there were no sufficient matured khair trees available even to honour the contract. By misrepresentation of Shri K.D.Singh, M/s Sainath Katha Factory got an entitlement to collect 4000 khair trees per annum instead of 1500 which was the maximum limit.

That said Shri K.D.Singh intentionally did not put the clause of revising the rate within the specific period. Therefore, flat rate was fixed for all the khair trees for the period of 10 years which ultimately favoured M/s Sainath Katha Factory. It was a direct wrongful gain to M/s Sainath Katha Factory and corresponding loss to the Administration.

During the tenure of said Shri K.D.Singh, IFS from 1979 to 1986 the acts of Shri K.D.Singh caused wrongful loss to the Administration of Dadra & Nagar Haveli UT, to the tune of Rs. 3,19,78,592.70 and corresponding gain to M/s Sainath Katha Factory.

That said Shri K.D.Singh failed to maintain absolute integrity and devotion to duty and thereby contravened Rule 3(1) of All India Services (Conduct) Rules, 1968 and Rule 8 of All India Services (Discipline & Appeal) Rules, 1969.

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*(Signature)*

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**LIST OF WITNESSES IN RC 6/87 OF CBI/SPE/AHMEDABAD**

1. Shri Sitaram J.Gavali, (MP) ✓
2. Shri Tribuvan Kanojiya, Supervisor, Ras Resort
3. Shri J.G.Birari of Mandoni
4. Shri Farach and Damania of Agency real.Silvassa
5. Shri Ahmdi H.Mithani of Vandhara
6. Shri Suleman I.Khuntliwala
7. Shri Ashok K.Khemani of Khemani Bar, Silvassa ✓
8. Shri Amin Mohmad Badakhani, Manager of SI Bar, Silvassa
9. Shri Khokan Babu Biswas of Silvassa
10. Shri Braz Juje Coutinho.
11. Shri Marioo Nunes
12. Shri Himatsingh Durlabsingh.
13. Shri Jasanat James Pais.
14. Shri Nasuruddin Suleman Khuntliwala of Dan Tourist
15. Shri Dilipsingh Mangarola, RFO
16. Shri Manchharam Buggvanbhai Patel, Sr.Clerk, Silvassa
17. Shri Jethmal Bhagvandas Shah, Social Worker
18. Shri Jinabhai Govindji Patel, Steno to DCF
19. Smt.Nayanaben Mohanlal Joshi, Despatch clerk
20. Shri A.D.Nikkam, ACF & Excise Officer
21. Shri M.P.Patel, Asstt.Secretary
22. Shri Mansingh Meruji Desai
23. Shri Dara Mancherji Vaid of Jebbar
24. Shri Natwarsingh R.Rathod of Naroli
25. Shri R.Naldo Countinho
26. Shri M.K.Sharma, PI, CBI, Ahmedabad.

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LIST OF WITNESSES IN RC.8/88

1. Shri N.C.Parikh, UDC, Edn. Department, Silvassa
2. Shri N.S.Kansara } Both from the office of Registrar of Companies
3. Shri J.S.Dave, } Government of India, Ahmedabad
4. Shri Ramesh Chandra S. Ozha, Head Clerk, Forest Department, D&NH
5. Shri N.Swaminathan, Audit Officer, O/o Accountant General, Ahmedabad.
6. Shri M.Y.Vaiyanapurkar, A.O-1, O/o the AG, Ahmedabad
7. Shri D.P.Vyas, Asstt. Secretary to the Collector, Silvassa
8. Miss Bufimiy A. Nunes, Steno to Accounts Officer, Silvassa
9. Shri R.S.Bhatia, Government, Pleader, Silvassa, R/o Deman.
10. Shri I.S.Patel, Asstt.Accounts Officer, Govt. Treasury, Daman
11. Shri Arvind Balkrishna Bhangare, IFS, Deputy Conservator of Forests, Dahanu Forest Division, Dhanu, Maharashtra
12. Shri Patiram Bakaramji Deshmukh, Asst. Pay & Accounts Officer, O/o Div. Manager F.D.C.M. Ltd., Dhanu
13. Shri J.G.Patel Steno to DCF, Silvassa
14. Shri Bhagwansingh Gulabsingh Desai, Accountant, O/o Dy.C.F. (North) Valsad Division, Valsad.
15. Shri A.G.Pinto, CCF, Gujarat State, Baroda.
16. Shri H.C.Dhavan, IFS, Dy.C.F., D&NH, Silvassa
17. Shri M.M.Patol, Wildlife Warden, D&NH, Silvassa
18. Shri M.K.Sharma PI/CBI/SPE/Ahmedabad
19. Shri M.S.Unni, Inspector, Income-tax, Company Circle, IT, Bomaby.
20. Shri R.C.Botle, UDC, Income tax, IT, Bomaby
21. Shri S.G.Sarangi, Inspector, IT, DRI, HQ, Bombay
22. Shri Varghese Joseph, Inspector, Company Circle, Bombay
23. Shri R.B.Dalvi, Inspector, DDI, Income-tax, Bombay.
24. Shri J.M.Kony, ITO, CTB, Bombay
25. Shri Rajubhai of Parmalal Soni, R/o, Ghatkopar (Goldsmith)
26. Shri B.C.Parmar, Inspector, Excise, Valsad and
27. Shri Chimanlal A. Mistry, Inspector, Income Tax, Surat
28. Shri T.M.Patel, Inspector, Excise, Valsad
29. Shri C.C.Chauhan, Inspector, Income-tax, Surat
30. Shri G.T.Christo, Inspector, Customs, Valsad
31. Shri J.P.Vohra, Inspector, Customs, Valsad
32. Shri D.R.Mohanty, Inspector, Income-tax, Surat
33. Shri K.H.Vohra, Branch manager, Bank of India, Ghatkoper West
34. Shri J.D.Bhatre, Officer, Bank of India, Ghatkopar, West
35. Shri V.Unikrishnan, Manager, Indian Bank, Ghatkopar East
36. Smt.C.Shashikala, Officer, Indian Bank, Ghatkopar East

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- 37. Shri V.P. Shah, Accountant
- 38. Shri S.S. Dhonde, Sub-Officer,
- 39. Shri S.S. Hasurkar, former Joint Secretary, Administration, CGO Complex,  
Ministry of Environment & Forests
- 40. Shri A.V. Gokak, Secretary, Forest Revenue & Forests Department,  
Mantralaya, Bombay.
- 41. Shri A.K. Vihal, IFS, Deputy Conservator of Forests, Union Territory of  
D&NH, Silvassa
- 42. Shri S.T. Gursahani, PI
- 43. Shri K.N. Sinha, PI
- 44. Shri M.M. Patel, PI
- 45. Shri K.M. Desai, PI
- 46. Shri S.V. Hair, PI
- 47. Shri J.K. Tayade, PI
- 48. Shri S.S. Shastri, PI
- 49. Shri D.M.N.S. Yadav, PI
- 50. Shri L.L. Padamkumar, PI

All from CBI/Ahmedabad

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LIST OF DOCUMENTS IN RC 6/87 OF CBI/SPE/AHMEDABAD

1. F.I.R. of RC 6/7 dated 9.2.87
2. Seizure Memo dated 29.3.87
3. File No. 1-2/24/Excise C-1 to C-27 and N-1 to N-11
4. File No. 1-2/25/Excise C-1 to C-7
5. File No. 1-2/21/Excise N-1 to N-17 and C-1 to C-103
6. File No. 1-2/23/Excise N-1 to N-11 and C-1 to C-75
7. Seizure Memo dated 3.4.87
8. Dictation Book 6/10 to 4/11
9. Seizure Memo dated 3.4.87
10. File having sd. Application of Khuntiliwala mark Exc/IMFL Rs.82
11. File AIM/Exc/81 & N-1 to N-18 C-1 to C-65
12. File 7-1/2/Exc/Part-File Vol. 1&2 and N-1 to N-12 and N-1 to N-116
13. File No. 1-1/14/Excise N-1 to N-3 C-1 to C-3
14. File No. 1-2/1/Exc/N-1 to N-9 to C-1 to C-103
15. File No. 1-2/26/Exc/N-1 to N-6 & C-1 to C-31
16. File Exc/IMFL/84-85 N-1 to N-4 & C-1 to C-31
17. File 1-2/24/Exc/Part-2 N-1 to N-3 & C-1 to C-21
18. Seizure dated 27.10.87
19. File AIM/LAW/IL No.3/59 N-1 to N-15 C-1 to C-67
20. D-21 Cop No.3/C-1 to C-91
21. D-22 Excise Duty Rules and Regulations.

14/4/87

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LIST OF DOCUMENTS IN RC 8/88 OF CBI/SPE/AHMEDABAD

1. F.I.R. in RC 8/88, dated 17.2.88 of SPE, Ahmedabad
2. Seizure Memo dated 25.4.88
3. File No.9-6/6-FD. Vol.I Having N-1 to N-79 & C-1 to C-503
4. File No. 9-6/6 FD Vol.II, N-1 to N-41 & C-1 to C-221
5. File 9-6/6 FD Part
6. File No.9-6/7-FD & N-1 to N-23 & C-1 to C-863
7. File No.9-6/7-FD Vol.II, N-1 to N-39 & C-1 to C-507 & (C-485 to 494 missing).
8. File No.2-3/1-FD N-1 to N-19 & C-1 to C-339
9. Letter No.ADM/EST/304 dated 9.3.82 of Admn. of Dadra Nagar & Haveli, Silvassa
10. ADM/Law/274 dated 11.11.65
11. Extract of General Financial Rule 12 of Government of India Decision (I)(ii)
12. Letter dated 23.8.88 bearing No.MPP/32/8/109 of CCF, Gujarat State
13. Letter dated 9-6/6-FD/2963 dated 1.12.88 of DDI, D&NH, Silvassa
14. Letter No.9-6/6-FD.99 dated 16.1.89 of DCF, D&NH Silvassa addressed to SP.
15. Working Plan for the forest of Dadra & Nagar Haveli
16. Extract of Chapter 12 page 460 of Indian Forest Utilization Vol.I
17. The Bombay Forest Manual Vol.I
18. Allocation of business Rules 1965 of Dadra Nagar & Haveli
19. Dadra Nagar & Haveli Forest Rules, 1966
20. Maharashtra Supply of Forest produce by Government (Revision of Agreements) Act, 1982
21. Guidelines for preparation of Working Plan and Felling of Forests
22. Panchanama dated 14.10.89
23. Panchanama dated 4.5.89
24. Seizure Memo dated 17.4.89.

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Annexure - 5

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**By Registered Post**  
**Dated March 6, 2000**

From : K.D. Singh, IFS, (AGMUT '76)  
Managing Director,  
Arunachal Pradesh Forest Corporation Ltd.  
Chimpu, Itanagar  
Arunachal Pradesh,  
Pin-791 111.

To

The Secretary to the Government of India,  
Ministry of Environment & Forests,  
Paryavaran Bhawan,  
CGO Complex,  
New Delhi.

Sub : Memorandum dated 24.01.2000 of Shri Atul Bagai,  
Director, Govt. of India, Ministry of Environment &  
Forests.

Sir,

Kindly refer to the memorandum dated 24.01.2000 of the Director, Government of India, Ministry of Environment & Forests regarding proposal to hold an inquiry against me under Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969. The Memorandum was received by me on 23.02.2000. I have gone through the statement of articles of charge and the statement of imputations of misconduct or misbehaviour in support of articles of charge as framed against me which relate to my tenure in Dadra & Nagar Haveli for the period from 1979-86. I deny all the articles of charge and say that the charges levelled against me are baseless, concocted and malicious. In support of my denial of the charges I am submitting the following facts on the basis information and data collected from various authorities for your kind consideration :

1. That the alleged incident of misconduct in discharge of my official duties occurred in 1979-86, whereas the disciplinary proceedings was initiated only in January'2000, after 20-14 years. As far back as in 1991 vide order dated 17.09.91 of the Ministry of Environment & Forests, Government of India I was ordered to be placed under suspension. However, impugned suspension order was not given effect to by the Government of Arunachal Pradesh and the same was stayed and finally quashed by the Central Administrative Tribunal, Guwahati Bench. A copy of the order of the Tribunal is placed at Annexure-I.

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2. The alleged lapse or misconduct was known to the authorities as early as in 1986-87. In 1989, I was promoted to the post of Conservator of Forests superseding five officers. Almost nine years have rolled by since I was ordered to be placed under suspension. I submitted my appeal to the Ministry of Environment & Forests, Government of India in December 1991, June 1992 and again in January 1999 to review the inquiry which was kept pending for such a long period and to pass necessary order closing the case and relieving me and my family from the mental agony and harassment we have been undergoing since last 14 years. A copy of my representation dated January, 1999 is placed at Annexure-II.

3. That having received no reply from the Government of India to my request I thought that the inquiry has since been closed or was in the process of being closed. But after receipt of the memorandum it became clear that my agony is prolonged further and I am condemned to live under the shadow of impugned inquiry and resulting ignominy. You will appreciate that it is unfair to continue with the inquiry after 14 years of its initiation and particularly when I am on the verge of being promoted to the next higher post.

4. That as DCF, Dadra & Nagar Haveli I was "supposed to ensure the preservation, maintenance, expansion of forests of Union Territory of Dadra & Nagar Haveli as well as regulate all works, sanctions and rates of various products according to various rules" as per the statement of imputation of misconduct in support of Article of charge framed against me. And respectfully I submit that I performed all these responsibilities of DCF to the best of my ability and integrity.

During my tenure in Dadra & Nagar Haveli, I recommended for moratorium on commercial tree felling which met the approval of the Administrator and perhaps for the first time in the country commercial felling was stopped in a Union Territory as far back as in 1982. Earlier considerable forest area used to be clearfelled. Plantations including canal bank plantations were raised on massive scale during my tenure and under my initiative and guidance. I was commended for my efforts by the Administrator, Shri Jagmohan. A copy of the commendation letter is placed as Annexure-III. I also took appropriate and innovative action for rehabilitation of catchment area of Damanganga Dam Project. My efforts were commended by Shri K.T. Satarawala, Administrator, Dadra & Nagar Haveli. A copy of the commendation letter is placed as Annexure-IV. It was under my initiative and guidance that a Adivasi Sanskritik Sangrahalaya, a tribal museum was set up in the UT of Dadra & Nagar Haveli. I also played a pivotal role in rehabilitation of Kathodis tribe who used to prepare katha from khair trees and in the process I had to fight

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exploitative forces. I did commendable works in the field of eco-tourism, industrial development and in the spread of co-operative movement in the Union Territory of Dadra & Nagar Haveli in my capacity as Collector, Registrar Cooperative Societies and Tourism In-charge. My efforts were commended by Dr. Gopal Singh, Administrator, Dadra & Nagar Haveli. A copy of the commendation letter is placed as Annexure-V.

5. That the allegation in Article-1 of the charge that I showed undue favour to M/s Sainath Katha Factory by not revising the rates of sale of khair trees contract executed between the Administration and the said Katha Factory on 01.09.1973 and that I misled the Administration by suppressing the fact and in executing the new contract of sale of khair trees, during the year 1979-86 and caused a wrongful loss to the tune of Rs. 3,19,78,592.70 and corresponding gain to M/s Sainath Katha Factory is totally untrue. My explanation given below will prove beyond doubt that the alleged loss is not based on rates prevailing at that point of time and the allegation is totally baseless and therefore I deny the charge.

6. That in accordance with the Clause 3 of the principal agreement of 1973 "the contractor shall pay to the Administration royalty rate of Rs. 90/- per khair tree felled" and that "the rate of royalty will be liable to be revised by the Administration after the end of every two years and earlier" and that "however the rate so revised should be increased by 10% or at the prevailing market rate whichever is higher".

From the above, it may be noted that the rate of royalty was charged per tree and not on the basis of girth or volume of the tree which was most unscientific and the Administration was losing revenue in the process. From 1973 till 1979 though market rates were assessed by the then DCFs but only 10% increase on Rs. 90/- was effected every 2 years by them. In 1979 Shri P.M. Sangal, IFS the then DCI introduced the unit system and requested M/s Shri Sainath Katha Factory to enter into a supplementary agreement. As per this system a tree of girth class 90cm - 105cm was considered one unit and at his instance the Administration fixed the rate of one unit as Rs. 100/- and under this system royalty rate progressively increased with increasing girth class. This in effect meant that a tree of girth class 90cm - 105cm and a tree of girth class 255cm and above would have earned the same royalty of Rs. 100/- had the provision of Clause-3 of the principal agreement of 1973 was applied. But in the changed system as per the supplementary agreement of 1979, a tree of girth class 90cm - 105cm would earn Rs. 100/- while a tree of girth class 255cm and above would earn Rs. 1124.65 i.e. Rs. 1024.65 more as royalty than what would have been earned under the provisions of the principal agreement. Thus there was substantial increase in revenue realisation.

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contrary to the imaginary alleged loss to the government and corresponding gain to M/s Sainath Katha Factory.

7. That I was serving as Assistant Conservator of Forests under the control of DCF till 22.03.1981 and held the charge of DCF intermittently in absence of regular DCF. There was no proposal from my side having bearing on royalty of khair trees in 1979. Therefore, the allegation that in the year 1979, I failed to revise the rate of sale of khair trees as per the provision of contract is totally false for I was not even in-charge of the Division and therefore the question of revising rates by me in 1979 did not arise. Therefore, the allegation in the statement of imputation of misconduct in support of Article-I of charge that "said Shri K.D. Singh joined as Assistant Conservator of Forests on 10.12.1979 and the rate of khair trees was to be revised as per contract, in the year 1979, but said Shri K.D. Singh failed to revise the rate of sale of khair trees as per the provision of contract knowingly and willingly" is malicious and without any basis.

8. As a matter of fact the then DCF Shri P.M. Sangal, IFS after examining all aspects of the issue of revision of rates proposed a change in the prevailing pattern of charging of a flat royalty rate per khair tree irrespective of girth class to unit conversion system. As far as I remember Shri Sangal, IFS, the then DCF had carried out an elaborate exercise by collecting and assessing market rates from all over the country. He found that the rates varied widely. In Gujrat the royalty rate effective from 1976-77 to 1982-83 in different divisions for the standard unit of 90-105cm girth also varied widely. The rates subsequently collected by me shows that in North and South Divisions of Dangs the rate was Rs. 41.25 per unit during the period 1979 to 1982-83 whereas in Bulsar, Rajpipla, Vyara, Godhra etc. the same was Rs. 50.87 per unit during the same period. In Baria division of Gujrat the rate was Rs.89.37 per unit. The rates in these divisions remained static for 5 years. These are matters of record.

9. That in the auction of khair wood held in May, 1979 under the supervision of the then DCF average price realised per tree by the Forest department of Dadra & Nagar Haveli was much less than the weighted average royalty for khair trees calculated on the basis of unit conversion system. Thus, the market rate, if auction rate is considered as market rate, was less than the rate arrived at on the basis of unit conversion system. This is also a matter of record.

10. After careful consideration of all the above facts, Shri Sangal, IFS, DFO recommended that existing rate of royalty and the pattern of charging royalty on khair trees be changed. He introduced the unit conversion system and with the approval of the competent authority the

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royalty of Rs. 100/- for the tree having girth class 90-105cm and corresponding rise in rates for trees of higher girth classes were fixed. Thus it was the decision of the Administration and not of any single individual officer to fix the royalty rate of Rs. 100.00 for the tree having girth class 90-105cm and corresponding rise in rates for trees of higher girth classes. And by adopting this system the Administration gained substantially. Therefore, the consequent alleged loss of Rs. 85,76,552.84 to the Administration and corresponding gain to M/s Sainath Katha Factory, for the period 1979-1983 because I did not collect the prevailing market rates of khair trees from the surrounding States of UT Dadra & Nagar Haveli is totally misplaced. It is not known as to how this loss was worked out and whether the rate on the basis of which the figure of loss is arrived at had the approval of the competent authority. It was the approved draft supplementary agreement which was perhaps signed by the Collector when I was holding the charge of DCF. Therefore, the charge against me that "Shri K.D. Singh was able to collect the prevailing market rates from the adjoining States of Gujrat and Maharashtra which are the surrounding States of UT of Dadra & Nagar Haveli. However, said Shri K.D. Singh did not collect the prevailing market rates of khair trees from the surrounding States of UT of Dadra & Nagar Haveli though it was possible for him" is not only factually incorrect but also misleading. ✓

I may bring to your kind notice that all my predecessors since 1973, if I remember correctly, had increased rates by 10% after every 2 years till the change in pattern of charging royalty from tree basis to unit basis was introduced in 1979. If the imaginary basis on which the loss has been calculated is applied retrospectively all my predecessors since 1973 would also be responsible for loss of revenue to the government exchequer. Implementation of the system of charging royalty on unit basis in 1979 formed the basis of the supplementary agreement. This system was most scientific and resulted in substantial gain vis-a-vis old system of charging royalty on tree basis. The alleged lapse of collecting prevailing market rate on my part and consequent alleged loss of Rs. 85,76,552.84 to the Administration are not true because entire exercise, as submitted above, of collecting market rates, their analysis etc. were duly completed by Shri Sangal, IFS well before I appeared on the scene and the same were placed before the competent authority and a conscious decision was taken to fix the rate as Rs. 100/- per unit. This shows that some vested interests were overactive to frame me by hook or crook to ruin my service career.

11. That "while putting a new draft of contract, which was executed on 17.09.1982 between the Administration and M/s Sainath Katha Factory said Shri K.D. Singh knowingly and intentionally with some ulterior motive or with intent to provide pecuniary advantage to M/s Sainath Katha Factory, did not mention the clauses of revising the prices of

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khair trees after a gap of particular period and revocation of contract at the discretion of Administration when the interests of Administration is prejudiced. On the contrary, he misrepresented the Administration by suggesting the Administration to drop the clause of fixing the prices of khair trees as per the prevailing market rates" is totally untrue. My note dated 21.08.82 vide which a proposal was moved to drop market rate includes all the details, if I remember correctly, to help the authority arrive at a conscious decision. I had placed both the agreements i.e. the principal agreement of 1973 as well as supplementary agreement for perusal of the authority. Even a cursory reading of the said note will make it abundantly clear that there was no attempt on my part to hide any fact which could have possibly favoured M/s Sainath Katha Factory. The note was examined by the then Accounts Officer as well as Collector. Hon'ble Administrator Shri Jagmohan while approving the proposal put a condition that the period of agreement should be restricted to 10 years instead of 16 years. On the basis of the approved proposal a draft agreement including the amendments was marked to Accounts Officer to examine it. If I remember correctly, the Accounts Officer examined the draft agreement and had made some corrections and also added a tabular form of royalty rate to be charged. Therefore, the allegation that I misled the authority is baseless and is an attempt by some disgruntled elements to tarnish my image of a clean and upright officer.

12. That an elaborate exercise was done by the then DCF to assess the market rate at the time of entering into supplementary agreement as per new system is obvious from the submission made at paras 6 to 10. It may be appreciated that the rate available in the market is that of khair timber in depot and not of the standing trees in forests. As per the agreement the rate is charged for trees standing in forests. It was difficult to assess market rate for a standing tree particularly in view of the fact that the contractor is supposed to pay the full price of the tree even if it is hollow from inside and that the rates of khair timber in depots in adjoining States of Maharashtra and Gujrat were varying widely from district to district and from place to place within a district. Moreover, the contractor was not only supposed to bear the cost of felling and transportation of khair trees but was also to pay rent for the depots and all such expenses such as pay and allowances of special officers for marking of trees, measuring tree girth etc. for issuing transit passes and supervising the operations undertaken by the contractor in the concession area. These facts are matters of record. The aforesaid reasons have bearing on fixing the rate of standing trees in forests and therefore the market rate arrived at from depot cannot be compared to fix the rate for standing trees and particularly in revision of rates.

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13. That the allegation that the Administration of UT of Dadra Nagar & Haveli sustained a wrongful loss to the tune of Rs. 3,19,78,592.70 and corresponding gain to M/s Sainath Katha Factory is without any basis. As a matter of fact the new system had increased the revenue manifold for the same tree if compared with the system of charging royalty adopted as per the principal agreement of 1973. Moreover, it is not known as to how the market rates for khair trees for the years in question were arrived at and by whose authority on the basis of which the loss has been calculated. The whole exercise was done with an intent to tarnish my image of an efficient and clean officer and to malign and humiliate me.

14. That my proposal of amendment to the Clause-3 of the principal agreement was moved on the basis of the supplementary agreement which was arrived at after an elaborate exercise and with a view to streamline the system of charging royalty. The proposal was duly examined by the Accounts officer of the Administration who was also the Financial Adviser to the Administrator. He, in fact after examining the draft agreement had made some corrections and had also added a tabular form stating royalty rates to be charged. The allegation that I did not mention the important clauses and conditions in the draft of contract submitted by me is totally untrue and malicious. The record shall bear my submission.

15. That in retaining the Clause of revision after 2 years by putting it either 10% or market rate whichever is higher, the said Clause, in my view was *ex facie*, omnibus and was capable of civil disputes and endless litigation in as much as the rates even "in a state" itself varied from place to place and secondly in Maharashtra the rates were fixed after the trees are felled and brought to the depot whereas in Gujrat the practice followed was to fix the rate of standing trees. In Dadra & Nagar Haveli, the system of Gujrat was followed from the very beginning so much so that the working plan was also prepared by the officers of the Gujrat Forest Department. Therefore, the only rational basis which could have been adopted in the instant case were of Gujrat only and not of any other states. In other places instance and situation were neither comparable nor adoptable. Besides the rates were varying from place to place. In Maharashtra the method adopted was to sell the cut wood in the depot and how much amount was incurred by the State on harvesting of trees and their transportation to the depot was not clear. In these circumstances and to minimise disputes and make the contract rational and workable I had proposed deletion of market rate and increase of rate by 10%. These are revenue matters and in case revenue was to be affected adversely the same should have been pointed out by the Accounts Officer who was also the Financial Adviser to Administrator.

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16. That the reasons given for modification of clauses in the principal agreement were duly vetted by the Accounts Officer (Financial Adviser to the Administrator), Secretary to Administrator and Collector. As stated the proposal stipulated an increase which was more than the prevailing rate in Gujrat state. Thus, there has been no loss of revenue, and on the contrary, there has been accrual to the exchequer.

17. That duly approved agreement was signed by the Collector. My instrumentality is restricted in as much as I was only a processing officer and ultimately the proposal went upto higher ups i.e. Collector and Administrator and also got vetted by the Accounts Officer who was the Financial Adviser to Administrator and the proposal was approved by the superiors, who within their right were competent to disapprove the same had it been illegal and / or wrong in any manner whatsoever. In their wisdom they upheld the proposal and approved the same. Moreover, if the clauses of revision in the proposed agreement were in any way to affect the revenue of the state, the Accounts Officer who also functioned as Financial Adviser to Administrator should have given his suggestions to that effect for incorporation into the proposed agreement. The Accounts officer was also the Finance Adviser to Administrator and his concurrence was obligatory in cases having bearing on the revenue of the government. And he did concur with the proposal.

18. On the above premises it is inconceivable to find falsity with me particularly when I had placed before the authorities each and every facets relating to the issues under consideration and when it was within their powers to reject or modify or to call for any further particulars and / or ask for any more clarifications and / or make any suggestions which were binding on me. The charge that the fault lies with me, when I was lowest in the rank is an attempt of vested interests by distorting facts and imputing motive to the acts done in good faith. I, to the best of my knowledge have not passed any order which was repugnant to the provisions of the Agreement. The charge is an outcome of the design of vested-interests who have been trying to harass me by finding some faults.

19. The allegation that while putting a new draft of contract, which was executed on 17.09.1982 between the Administration and M/s Sainath Katha Factory, I did not mention the clauses of revising the prices of khair trees after a gap of particular period and revocation of contract at the discretion of Administration knowingly and intentionally with some ulterior motive or with intent to provide pecuniary advantage to the said Katha factory is totally untrue. The examination of relevant files shall reveal the fact. As far as I remember I had put up draft agreement covering

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all the aspects of the principal Agreement, 1973 and supplementary agreement. The allegation that I did not mention the clauses of revising the prices and khair trees and revocation of contract etc. knowingly and intentionally is mischievous. I deny the charge.

20. It is also interesting to note the pattern of increase and decrease in market rates in Maharashtra from the table annexed hereto showing the variation to the rates in Gujrat and Maharashtra states (Annexure-VI). The figures show that there has been wide variation in rates. The rates in Gujrat and Dadra & Nagar Haveli are for standing trees on unit basis, whereas the rates in Maharashtra are depot rates per cubic meter. It may be seen that in the year 1978-79 Dahunu Division of Maharashtra had realised sale rates of khair wood as Rs. 2080/- per cubic meter whereas in the same depot in the year 1981-82 sale rate realised was Rs. 1620/- per cubic meter i.e. Rs. 460/- per cubic meter less. Similarly, in Thane Division of Maharashtra the rate realised was Rs. 2370/- per cubic meter in the year 1978-79 whereas in the same Division the rate realised in the year 1981-82 was only Rs. 1555/- per cubic meter i.e. Rs. 815/- per cubic meter less. Thus, there is no uniformity in increase or decrease of rates with passage of time. The rates are dictated by market force i.e. demand of khair wood. In case of Gujrat and Dadra & Nagar Haveli the clause of agreement for supply of khair tree on standing basis and unit system was such that there would always be a upward revision i.e. 50% every 10 years in Gujrat and by 10% every 2 years in case of Dadra & Nagar Haveli. In other words, the rates in Maharashtra went up and down widely while in Gujrat and Dadra & Nagar Haveli it showed increasing trend over the years.

21. The rates of Maharashtra *prima facie* appear to be high in comparison to Gujrat and Dadra & Nagar Haveli mainly because the rates in Maharashtra are for Khair wood in depot per cubic meter. The expenditure on felling of trees and transportation to depot are internalised in the rates. Whereas in case of Gujrat and Dadra & Nagar Haveli the rates are of standing trees and on the basis of unit system i.e. the volume of tree of girth class 90cm-105cm and corresponding increase in rates with increase in girth class. It is not possible to establish a correlation between rate of standing tree and that of Khair wood in depot when market rates fluctuate so widely. It is not known to me as to how and on what basis the figures of loss of Rs. 85,76,552.84 during 1979 to 1983 and Rs. 3,19,78,592.70. from 1979 to 1986 are arrived at.

22. That increase in the upper limit of number of trees to be allotted from 1500 to 4000 was subject to availability. It is a fact that maximum area was covered under khair plantation. The increase in number

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of trees was suggested limiting it to actual availability. The allotments were made only after confirming the availability of khair trees by the Range officer in the forest coupes and in Maliki (Private) land. If there was no mature tree how M/s Sainath Katha Factory would have possibly been benefitted? The statement of allotment and marking of trees in file should bear me out. Therefore, the question of misleading the Administration did not arise and I deny the charge.

23. The allegation that I did not put the clause of revising the rate within the specified period and that a flat rate was fixed for all the khair trees for the period of 10 years which ultimately favoured M/s Sainath Katha Factory is totally misleading. The fact is that a flat rate for all the khair trees were charged till 1979 as per the provisions of the principal agreement, 1973 which was changed through supplementary agreement. The submission made at para 6 explains the point at issue. The allegation is not only baseless but if analysed without any bias will go to prove that the system adopted was substantial improvement over the prevailing system till 1979. If a comparison is made between the change of rate of khair trees between the period 1973-79 and 1980-1986, it would be clear that the change in rate of khair tree during the period 1973-79 i.e. in 7 years was from Rs. 90/- to Rs. 108/- only whereas the change from the period from 1979-1985 i.e. in 6 years was from Rs. 100/- to Rs. 133.10 per unit. And change of pattern of charging royalty on unit conversion system itself had increased the rates manifold. Explanation may kindly be seen at para 6. Therefore, the charge that during my tenure and due to my action the Administration of Dadra & Nagar Haveli UT suffered a wrongful loss of Rs. 3,19,73,592.70 and that M/s Sainath Katha Factory gained correspondingly is fabricated and baseless. I deny the charge and respectfully submit that it is an attempt to frame me somehow by the vested interests who are jealous of my achievements in Dadra & Nagar Haveli.

#### Article-II

1. It is alleged in the Article-II that I was functioning as Excise Officer in Dadra & Nagar Haveli from the year 1982 to 1986 and committed gross misconduct by recommending wholesale and retail sale licence of IMFL to Shri S.I. Khutliwala, Hotel Ras Resort, Hotel Dan Tourist and discriminated against Shri J.G. Birari of Sakarvan Tourist. It is submitted that Excise Duty Rules, 1969, Chapter-VII elaborately covers the procedure for grant of licences both wholesale and retail sale for sale of IMFL.

Rule 47 - Application and Procedure for licence - (I) says that any person desirous to obtain licence shall make the application to the Excise Commissioner and it is the Excise Commissioner, who after making

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such inquiries and getting satisfied that there is no objection shall sanction the issue of licence (Annexure-VII). The procedure followed in Dadra & Nagar Haveli from very beginning and even now is to verify only the place and premises and distance between the premises of those of other licenced liquor vendors or place of worship like temple, church, mosque or schools. There is no procedure or provision to verify the conduct or antecedent of the person desirous to obtain licence. It is malafide to say that I favoured Shri S.I. Khutliwala knowingly. Extract of Chapter-VII (licences for sale) is reproduced at Annexure-VII.

2. It is pertinent to mention that Shri S.I. Khutliwala is still holding the licence in Dadra & Nagar Haveli and had there been any rule or regulation to debar the COFEPOSA detainee his licence should have been cancelled by now. On my inquiry it is revealed that the concerned authorities are still renewing his licence.

3. Rule 59 elaborately covers regarding the persons debarred from holding licences without the previous sanction of the Administrator save with express permission in writing of the Administrator. As such no violation of any kind has been caused as alleged.

4. The licences of Shri S.I. Khutliwala and Hotel Dan Tourist are different. The Rule 59 does not debar separate persons from having the interest in two or more shops for wholesale or retail sale of the same kind of liquor in the same city or town or village.

5. In the year 1984, there was no single good hotel in Dadra & Nagar Haveli and the first decent hotel established was Dan Tourist Hotel. Since Shri Nasruddin Khutliwala was the son of Shri S.I. Khutliwala, who was having a wholesale and retail sale licence and though he was not debarred from holding the licence, an abandoned precaution was taken to put the facts above board regarding their relation i.e. father and son. The details in this regard on file should bear me out. The licence was issued by the Excise Commissioner, which was perfectly legal and as per the rule. The charge that I favoured Shri S.I. Khutliwala is not only false but mischievous. I deny the charge.

6. It is not true that the transfer of the licence of Shri Khutliwala from Khutli - a remote village - to Silvassa city was made to boost his sale without any reasonable ground. It may be submitted that in Dadra & Nagar Haveli, each licence is granted giving a specific quota of liquor i.e. IMFL and Beer and it would not have made the difference as the quota had remained same at Khutli or after his licence was transferred to Silvassa. The decision of transfer of his licence to Silvassa was taken in public interest as at that time there was shortage of licenced vendors at Silvassa.

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and there was shortage of liquor which again was not in the interest of government as it had given rise to illegal imports, evasion of duty and bootlegging. Rules 61 provides for the provision for transfer of shops and licences from one place to other with the permission of the Excise Commissioner (Annexure-VI). In this case also the facts were put above the board in the file, as far as I remember, and the transfer was effected only after due approval of the competent authority i.e. Excise Commissioner of Dadra & Nagar Haveli. Therefore, I deny this baseless charge that I recommended transfer of licence to favour Shri S.I. Khutliwala.

7. As regards the case of Ras Resort, it is submitted that it was first 3-Star category hotel proposed in Dadra & Nagar Haveli and to attract the investment in the hospitality sector, it was necessary to give a kind of assurance by granting wholesale and retail sale licence to Ras Resort Hotel. Excise Commissioner is the authority to grant licence. However, it is malafide and mischievous to say that Ras Resort was allowed the quota for import without any building being in existence. It is vehemently denied that no quota for import was granted for release and released for sale. No sale of any kind of liquor was allowed till the complete building of the hotel was constructed and inauguration of the hotel was made.

8. That I was fully involved in developing Dadra & Nagar Haveli as a tourist spot by developing underutilised, unutilised and degraded areas from eco-tourism point of view. Incidentally, I was holding the charge of Excise Officer in ex-officio capacity. I was also holding the charge of Tourism department.

9. That I recommended for issue of Indian Made Foreign Liquor (IMFL) to Shri S. Khutliwala, Ras Resort and Dan Tourist in my capacity as Excise Officer with the sole intention to promote tourism and not to show any favour to anyone. The licences were issued by the Excise Commissioner i.e. the then Collector as per rule.

10. That I did commendable works in the Union Territory of Dadra & Nagar Haveli not only in the fields of preservation of forests, afforestation and eco-development but also in the field of eco-tourism are evident from the commendation letters and many news items two of which I could salvage was published in the Indian Express May 31, 1986 and in Blitz dated May 4, 1985 which are annexed hereto and marked Annexure-VIII & IX.

11. That I showed discrimination in grant of licence of IMFL to one Shri J.G. Birari of Sakarvan Tourist is a baseless allegation. If I remember correctly Shri Birari had placed an application for issue of

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✓ IMFL licence at a place that was near a school. As per the provision of the ✓ Dadra & Nagar Haveli Excise Duty Regulation I could not recommend the application to the Excise Commissioner for the area was falling within 500 mtr of the school. It is a totally baseless allegation that I willfully disfavoured Shri J.G. Birari though he was legitimate applicant for recommending issue of IMFL licence. I deny the charge.

12. That it was not in my knowledge that Shri S.I. Khutliwala whose application I recommended to Excise Commissioner for grant of IMFL licence was a COFEPOSA detenu and it never came to my notice that his activities were offensive. Moreover, district authority i.e. Collector who was the licencing authority being ex-officio Excise Commissioner was in a better position to judge whether he was a suitable applicant or not for grant of licence. I deny the charge.

13. That I recommended for transfer of the licence of Shri Khutliwala from Khutli - a remote village to Silvassa city to boost his sale without any reasonable ground is totally misleading. I recommended the application in public interest. Moreover, the recommendation would not have been accepted by the Excise Commissioner had this not been in public interest and in accordance with the rule. I deny the charge.

14. That I violated the provisions of Excise Rules by recommending issue of IMFL wholesale and retail sale licence in favour of Dan Tourist of Shri Nasruddin Khutliwala, son of said Shri S.I. Khutliwala though said Shri S.I. Khutliwala was already having a retail sale IMFL licence in the name of SI Bar at Silvassa. It may be appreciated that Dan Tourist was a hotel and licence was granted to Dan Tourist. Shri Nasruddin Khutliwala, being the son of said Shri S.I. Khutliwala is not debarred from holding licence. Rule 59 of the Dadra & Nagar Haveli Excise Duty Regulation may kindly be referred to. Moreover, I forwarded the application in my capacity as Excise Officer and the Excise Commissioner as per rule 47(2) of Dadra & Nagar Haveli Excise Duty Rules "after making such inquiry and hearing such authorities as he thinks necessary, is satisfied that there is no objection he shall sanction the issue of licence" granted licence. Therefore, the charge is baseless.

Moreover, I recommended the application in the interest of tourism promotion as this was the only hotel worth name in Silvassa at that point of time. If there was any violation of provision of Excise Rule, though I do not think there was any, my recommendation would not have been accepted by the Excise Commissioner. Therefore, I deny the charge.

The above submission makes it abundantly clear that the allegations are made with ulterior motive.

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15. That I recommended issue of IMFL wholesale and retail sale licence in the name of Ras Resort Hotel without any building or plan submitted as per rules and also allowed the quota for import as well as renewed the licence for a number of years without any building being in existence is not correct. As a matter of fact, licence to Ras Resort Hotel was recommended as an incentive to develop unutilised area for developing the same as a resort. No permit was ever granted without ensuring proper building and plan for import of IMFL quota. Moreover, I am not the licencing authority as it is clear from the Rule 47(2) of the Dadra & Nagar Haveli Excise Department Rules (Annexure-VII). The allegation is baseless and made with ulterior motive to damage reputation of an upright officer and as such all the above charges are liable to be quashed and set aside.

16. That it is submitted respectfully that by virtue of initiating the proceedings at such an enormous delayed stage has put my service career in jeopardy. I have every chance to be promoted to next higher post within a short time, therefore, the proceedings at this delayed stage seem to have been started to stall my promotion. The serving of the chargesheet after a lapse of 14 years of the initiation of the inquiry, clearly shows that the allegation/charges were superficial and flimsy and incapable of being sustained under the laws of the land.

17. That the starting of proceedings at this late stage is an outcome of the efforts of vested interests to malign and humiliate me by distorting facts and imputing motive to the acts done in good faith.

18. That I, myself and my family members are going through untold anxiety, mental agony and frustration since last 14 years. The chargesheet has given a severe jolt to my image as a sincere and honest officer. The intention behind issuing my suspension order in the year 1991 which was subsequently quashed by the Hon'ble Central Administrative Tribunal, Guwahati Bench and serving the chargesheet after a gap of 9 years has caused irreparable loss to my image of an honest officer.

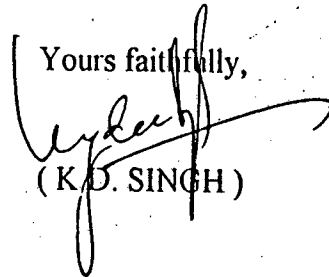
In the premises aforesaid, I would request for proper verification of the original records of the case which would prove beyond doubt that the charges levelled against me are not based on facts but on conjectures. I would, therefore, request you kindly to accept my written statement and drop the charges levelled against me. Most respectfully, I may also submit that in case you consider it necessary to have further clarification on any issue, I would request you to be kind enough to hear me in person. I should be highly obliged, if you could kindly examine the records and my service dossier, it would reveal the fact that a sincere,

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ADVOCATE

hardworking and upright officer has been framed by unscrupulous elements against whom he fought in various capacities during his tenure in Dadra & Nagar Haveli. In case you decide to hold an inquiry, I would request you kindly to expedite the same and ensure completion of the inquiry within six months. I shall be highly obliged.

Thanking you,

Yours faithfully,  
  
(K.D. SINGH)

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ADVOCATE

No. 29033/01/90-AVU  
Government of India  
Ministry of Environment & Forests

Paryavaran Bhavan  
CGO Complex, Lodi Road  
New Delhi - 110003

Dated 17<sup>th</sup> July, 2000

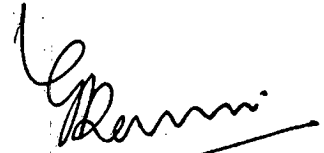
**ORDER**

Whereas disciplinary proceedings have been instituted and an inquiry is proposed to be held against Shri K.D. Singh, IFS (AGMUT) under rule 8 of AIS (D&A) rules, 1969.

And whereas President considers it necessary to appoint an Inquiry officer to inquire into articles of charges framed against Shri K.D. Singh, IFS.

Now, therefore the President in exercise of powers conferred on him under sub-rule (2) of Rule 8 of AIS (D&A) rules, 1969 hereby appoints Shri V. Kannan, Commissioner for Departmental Inquiry as Inquiry Officer to inquire into charges framed against Shri K. D. Singh, IFS.

For and on behalf of the President of India.



(G. DEVNANI)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

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TRUE COPY

ADVOCATE

Copy to:-

- (i) Shri K.D. Singh, IFS, Managing Director, Arunachal Pradesh Forest Development Corporation, Arunachal Pradesh, Itanagar
- (ii) Shri V. Kannan, Commissioner for Departmental Inquiry and Inquiry Officer, Satarkata Bhavan, General Pool Offices Complex, Block -A, INA, New Delhi.
- (iii) Shri Inder Singh, Deputy Secretary, Central Vigilance Commission, Satarkata Bhavan, General Pool Offices Complex, Block-A, INA, New Delhi - 110 023., w.r.t. O.M.No. 2U/03/UTS/1 DATED 9.6.2000
- (iv) The Chief Secretary, Government of Arunachal Pradesh, Itanagar.
- (v) Administrator, Dadra and Nagar Haveli, Silvassa.
- (vi) The Superintendent of Police, CBI, SPE, Opposite St. Xavier's High School, Sector 10-A, Gandhinagar, Gujarat.



(G. DEVNANI)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

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ADVOCATE

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No. 29033/01/90-AVU  
Government of India  
Ministry of Environment & Forests

(Vigilance Unit)

Paryavaran Bhavan  
CGO Complex, Lodi Road  
New Delhi - 110003

Dated 17<sup>th</sup> July, 2000

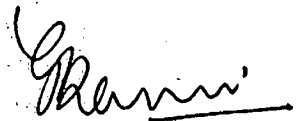
ORDER

WHEREAS an inquiry under rule 8 of All India Service (Discipline & Appeal) Rules, 1969 is being held against Shri K.D. Singh, IFS (AGMUT: 1979).

AND WHEREAS THE President considers it necessary to appoint a Presenting Officer to present case in support of articles of charge against the said officer before the inquiring authority.

NOW, THEREFORE, the President in exercise of powers conferred by rule 8 of AIS (B&A), hereby appoints Shri R. Sanehwal, Under Secretary, Ministry of Environment & Forests as Presenting Officer to present the case in support of the articles of charge against the said officer, before the inquiring authority.

For and on behalf of the President of India.



(G. DEVNANI)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

Copy to:-

1. Shri K.D. Singh IFS, Managing Director, Arunachal Pradesh Forest Development Corporation, Arunachal Pradesh, Itanagar.

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ADVOCATE

- (ii) Shri V. Kannan, Commissioner for Departmental Inquiry and Inquiry Officer, Satarkata Bhavan, General Pool Offices Complex, Block -A, INA, New Delhi.
- (iii) Shri R. Sanehwal, Presenting Officer/Under Secretary, Ministry of Environment & Forests, New Delhi
- (iv) Shri Inder Singh, Deputy Secretary, Central Vigilance Commission, Satarkata Bhavan, General Pool Offices Complex, Block-A, INA, New Delhi - 110 023, w.r.t. O.M.No. 24/03/4TS/1 dated 9.6.2000.
- (v) The Chief Secretary, Government of Arunachal Pradesh, Itanagar.
- (vi) The Administrator, Dadra and Nagar Haveli, Silvassa.
- (vii) The Superintendent of Police, CBI, SPE, Opposite St. Xavier's High School, Sector 10-A, Gandhinagar, Gujarat.



(G. DEVNANI)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA