

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 127/2000
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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 127/2000 OF 199

Applicant(s) Sri Priya Basuk Roy.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. B K. Sharma,
Mr. S. Sarma

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

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form and within time, C. F. of Rs. 50 deposited vide IPO BD No. 56254 Dated 28.2.2000</p> <p>18-4-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D. vide D.Os. 1135 to 1142 Dtd. 19.4.2000.</p>	<p>11.4.00</p> <p>1m NS 11/4/2000</p> <p>16.5.00</p>	<p>Heard Mr. S. Sarma learned counsel for the applicant and Mr. B. S. Basumatary learned Addl. C.G.S.C. for the respondents</p> <p>Perused the application. <u>Application is admitted.</u> Issue notice on the respondents by registered post. Returnable by 4 weeks. List on 16.5.00 for written statement and further orders.</p> <p>Member</p> <p>Mr. S. Sarma for the applicant. Mr. A. Deb Roy, learned Sr. C.G.S.C seeks time to file written statement. Prayer allowed?</p> <p>List on 16.6.2000 for written statement and further orders.</p> <p>Member(J)</p>

Notes of the Registry

Date

Order of the Tribunal

Notice duly served
on R.No. 4 & 5 with R.No.

6.6.00

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

Mr. A. Deb Roy, learned Sr.
C.G.S.C. prays for four weeks time to
file written statement. Prayer
allowed.

List on 7.7.2000 for written
statement and further orders.

Member(J)

No written statement
has been filed.

trd

7.7.00

Present: Hon'ble Mr S. Biswas, Administrative
Member

None for the applicant. Mr A. Deb
Roy, learned Sr. C.G.S.C. wants further time
to file written statement. Accordingly the case
is adjourned and posted on 1.8.00 for written
statement.

Member(A)

23-11-2000

nkm

Written statement
has been filed by
the respondents

1.8.00

There is no case today.
Adjourned to 7.9.00

7.9.00

No case. To be listed on
13.11.00

The case is
ready for hearing
as per order of H/S.

13.11.00

Written statement filed. List for
hearing on 6.3.2001. The applicant may
file rejoinder in the meantime if they
so advised.

No Rejoinder has
been filed.

Vice-Chairman

pg

7.3.

No D.B. Adjourned to 4.5.2001

10/11/2000

37) O.A 127/2001

Notes of the Registry	Date	Order of the Tribunal
	4.5.01	Left over, with agenda on 24.5.2001. 10/10 A.K.B. 4.5.
12.6.2001 Copy of the Judge's has been sent to the Office for issuing the same to the applicant as well as to the H/A for the Respondent. H.S.	24.5.01	C.A.V. 10/10 6/10

Notes of the Registry	Date	Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./K.X. No. .127. of 2000.

DATE OF DECISION 8.6.2001.

Shri priya Bandhu Roy.

APPLICANT(S)

S/Sri B.K.Sharma, S.Sarma.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri 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.



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 127 of 2000.

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

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

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

Shri Priya Bandhu Roy,
Working as P.A. (Postal Store Department),
Bamunimaidan, Guwahati-21. . . . Applicant

By Advocate S/Sri B.K.Sharma, S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the
Govt. of India,
Ministry of Communication,
New Delhi.
2. The Director General (Posts),
Dak Bhawan, New Delhi-1.
3. The Member (P)
Postal Services Board,
Ministry of Communications,
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi-1.
4. The Chief Post Master General,
Assam Circle, Guwahati-1.
5. The Sr. Superintendent of post Offices,
Guwahati Division, Guwahati-1. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C)

This application under Section 19 of the Administrative Tribunals Act 1985 is directed against the order of imposing penalty of reduction of pay as well as the order passed by the appellate authority and the subsequent order passed by the postal department.

2. The applicant was holding the post of Sub postmaster at North Guwahati. By an order dated 11.10.83 the applicant was placed under suspension in contemplation of disciplinary proceeding. The applicant was not paid subsistence

allowance but subsequently with effect from 1.11.85 paid 25% of the subsistence allowance with effect from 1.10.85 which was subsequently increased to 45% by order dated 30.10.85. A charge memo dated 30.10.85 was issued to the applicant. ^{In} The aforesaid charge memo ^{it} was inter alia alleged that the applicant while functioning as SPM delivered V.P. articles to the addressee's beyond the normal period of detention without realising due demarage charges on them, did not credit to the Government Account, the value and commission of V.P. articles realised from the addressee on delivery of V.P. articles on the date of delivery of the V.P. articles which were credited on later dates; it was also alleged that the charged officer corrected the date of delivery of V.P. articles by over writing and dates put by the addressee's below their signature. The applicant was also charged that while he was placed under suspension the applicant accepted deposit of Rs.1200/- against an S.B.A/C on 30.10.83 and handed over the amount to the then SPM North Guwahati on 31.10.83 without the Pass Book. The applicant submitted his written statement denying the charges. The respondents without holding any enquiry by order dated 30.12.85/17.1.86 imposed the penalty of reduction of pay by two stages with cumulative effect. The applicant preferred an appeal and by order dated 18.5.87 the appeal was allowed and directed the authority to hold a de novo enquiry. A fresh enquiry was held and by order dated 27.6.89 the respondents imposed a penalty on the applicant for reduction of pay by 3 stages from Rs.1450/- to Rs.1360/- in the scale of his pay for a period of five years with effect from 1.7.1989. The applicant assailed the order of penalty before the appellate authority as arbitrary and discriminatory. By order dated 27.12.89

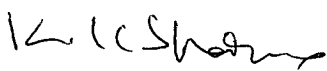
the said appeal was rejected. The applicant thereafter preferred review before the Staff Adalat. At the instance of the Staff Adalat the applicant preferred an appeal before the Postal Service Board and the Staff Adalat refused to entertain the application. The respondents authority also by order dated 27.10.99 passed under FR-54 (4) regulating the suspension period.

3. In this application the applicant had assailed the order imposing penalty as arbitrary, discriminatory and violative of principles of natural justice. The applicant in the application stated and contended that the respondents authority failed to hold a just and fair enquiry. The applicant was denied with the assistance of defence counsel and the Inquiry Officer also denied him to take witness. In fact the Inquiry Officer led the role of the Prosecuting Officer and cross examined the witnesses. The report of the Inquiry Officer was also not furnished to him.

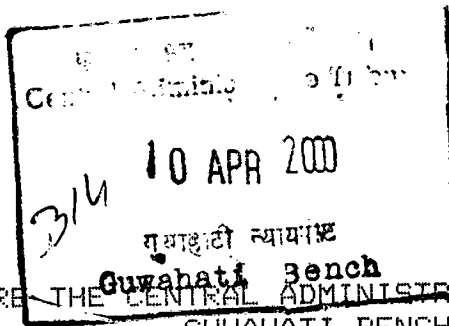
4. The respondents authority did not dispute the contentions of the applicant that the report of the Inquiry Officer was not furnished. In the written statement the respondents no doubt denied the allegation of the applicant that the enquiry was unfair and stated that the enquiry was held as per provisions laid down under Rule 14 of the CCS(CCA) Rules. The respondents authority despite opportunity granted did not produce the record. The applicant alleged althroughout that he was denied with justice. It was the duty of the respondents to produce the record and allay the grievances. We were not favoured to the report of the Inquiry Officer. In the order the disciplinary authority only considered a part of the written statement and not in its entirety. There is no admission of guilt by the delinquent

officer. Althroughout he pleaded the abnormal situation prevailed in the State at the relevant time. The said aspect was seemingly overlooked by the respondents. The disciplinary authority on the other hand held that the applicant failed to disprove the allegation. Needless to speak that it is the authority which comes with the charge and prove and establish the same. The materials on record did not inspire that a fair enquiry was conducted and that the department could prove and establish the guilt of the delinquent officer. For the foregoing reasons we are of the opinion that the impugned order of penalty is not sustainable in law and liable to be set aside and accordingly the order dated 27.6.89 and the consequent thereunder are set aside. The allegations pertaining to the period of 1983, considering the materials on record we do not find that it is a fit case in which the respondents authority should be provided an opportunity to hold an enquiry as per law.

The application is accordingly allowed. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



Title of the case :

D.A. No. 122 of 2000

Between

Shri Priya Bandhu Roy .. Applicant.

AND

Union of India & ors Respondents.

I N D E X

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Filed by : S. Sarma. Advocate

Regn.No.:

File : PRIYA

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative Tribunal Act, 1985)

O.A.No. 127 of 2000

BETWEEN

Shri Priya Bandhu Roy,
Working as P.A. (Postal Store Department),
Bamunimaidan, Guwahati-21.
..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Communication, New Delhi.
2. The Director General (Posts),
Dak Bhawan, New Delhi-1.
3. The Member (P)
Postal Services Board,
Ministry of Communications,
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi-1.
4. The Chief Post Master General,
Assam Circle, Guwahati-1.
5. The Sr. Supdt. of Post Offices,
Guwahati Division, Guwahati-1.
..... Respondents.

PARTICULARS OF THE APPLICATION

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

The instant O.A. is directed against the Departmental Proceeding initiated against the applicant way back in 1983 and the orders passed thereon including the final order dated 27.10.99.

2. LIMITATION:

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

Filed by
Shri Priya Bandhu Roy
Advocate
6/4/2000

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protections guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant while was serving as SPM North Guwahati was placed under suspension by an order dated 11.10.83.

As regards the entitlement to subsistence allowed during the period of suspension, it was stated while endorsing a copy of the suspension order dated 11.10.83 that the same would be issued separately.

A copy of the order dated 11.10.83 is annexed herewith and marked as Annexure-1.

4.3. That the applicant submitted several appeals and reminders for revocation of the orders of suspension but to no effect. In this connection, the appeals dated 24.10.83 and 24.1.84 may be referred to. Although the applicant was placed under suspension by an order dated 11.10.83 and the order regarding entitlement to subsistence allowance was to be communicated separately the applicant was not paid any subsistence allowance till granting of only 25% subsistence allowance vide memo No.F1-4/83-85 dated 8.1.85 w.e.f. 1.10.85. The allowance was increased by another 20% totaling the subsistence Allowance to 45% and the same was communicated by memo of even No. dated 30.10.85.

A copy of the memo dated 30.10.85 is annexed herewith and marked as Annexure-2.

4.4. That the applicant states that as against the entitlement of 50% of salary as subsistence Allowance, from the date of

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suspension, he was given only 25% and that too w.e.f. 1.10.85 leaving aside the period from 11.10.85. As per Rules the 50% sub allowance was to be raised to 75% after 3 months but the applicant was given only 45% by Annexure-2 order dated 30.10.85 by which another 20% was added to earlier 25%. Such action of the part of the Respondents was ex-facie illegal and due to non receipt of Subsistence Allowance as per entitlement, the applicant with his family members had to leave on hand to mouth and he was not in a position to advance the defence in the Departmental Proceedings. The Respondents did not give him the barest minimum as Subsistence Allowance for his survival along with his family members.

4.5. That amidst the above situation the applicant was issued with a charge sheet dated 30.10.85 against which the applicant submitted his written defence statement on 25.11.85. However, without holding and inquiry the Departmental Authority imposed an order of ~~penalty~~ on the Applicant by an order dated 30.12.85/ 17.1.86 imposing the penalty of reduction of pay by two stages from Rs.408/- to 396/- in the time scale of pay of Rs.260/- to 480/- for a period of 2 years w.e.f. 17.1.86 with cumulative effect.

A copy of the order dated 30.12.85/ ~~and~~ 17.12.86 is annexed herewith and marked as Annexure-3.

Since the memorandum of charge sheet dated 31.10.85 has been quoted in the said order, a copy of the charge sheet dated 31.10.85 is not annexed separately. For that the applicant craves leave of the Hon'ble Tribunal to produce the copy of the written statement dated 25.11.85 at the time of hearing.

4.6. That pursuant to the order of penalty the order of suspension against the applicant was revoked by an order dated 2.1.86 and he was posted as "Signaler" in Guwahati University H.O. 1

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A copy of the order dated 2.1.86 is annexed herewith and marked as Annexure-4.

4.7. That being aggrieved by the order of penalty the applicant preferred appeal on 24.2.86 followed by reminder dated 30.6.86 praying for setting aside the order of penalty on the grounds stated in the appeal. After a delay of more than one year, the appeal preferred by the applicant was allowed holding that the punishment imposed without holding inquiry was not in order. However, a denovo processing was ordered.

A copy of the order dated 18.5.87 is annexed herewith and marked as Annexure-5.

4.8. That after the aforesaid position a farcical enquiry was conducted against the applicant in which he was denied his right of defence at every stage. He was not given the assistance of a Defence counsel, right of cross examination was denied to him ; the documents relied upon were either not exhibited or exhibited behind the back of the applicant and the same were not supplied to him even on demand as will be evident from the proceeding file. The Inquiry Officer himself assumed the roll of presenting officer and thoroughly cross examined behind the back of the applicant and their statements were relied upon towards arriving at a conclusion without giving any opportunity to cross examine ~~those~~ witnesses. The applicant was also not given any opportunity to adduce his evidence and defence in the inquiry resulting in total violation of the principles of Natural justice and the procedure laid down in Rule 14 of CCS (CCA) Rule 1965. As per Rule 14 (16) of the said rules on closure of the case of the Departmental Authority, the turn of the deponent officer comes, but in the instant case, like putting the horse behind the cart, the Inquiry Officer thoroughly examined the applicant even before the Departmental Authority could start its case, and

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eventually after denial of all reasonable opportunity to the applicant as stated above, the Inquiry Report was prepared, however, copy of the same was not furnished to the Applicant, in absence of which, the applicant was in complete dark as to what manner and at all the charges were held to be established.

4.9. That after the aforesaid enquiry the applicant was imposed with the penalty of reduction in pay by three stages from Rs.1450/- to Rs.1360/- in the time scale of pay for aforesaid of five years w.e.f.1.7.89.

A copy of the order dated 27.6.89 is annexed herewith and marked as Annexure-6.

4.10. That the applicant states that in the impugned order dealing with the question of not giving adequate opportunity and time to submit the defence statement, it is stated that by letter dated 20.12.88 the defence statement was directed to be submitted on 20.12.88 on which date the applicant had prayed for time due to his illness, but he was granted only 2 days time. On 30.12.88 the applicant expressed his inability to submit his defence due to illness and prayed for only 3 days time for the purpose. Holding that the applicant was avoiding to submit his defence, he was not given any time. In the order such a situation in which the applicant was deprived of his right of defence has been held to be reasonable it has further been held that the applicant had no evidence to disprove the charges, and that he (had) no defence and or evidence to deny the charges, such findings itself will go to show the arbitrary and illegal manner in which the proceeding was conducted. The applicant was not even 3 days time to adduce his defence/evidence. This resulted in total denial of Natural justice and fair play and on this score alone the entire proceeding is liable to be set aside and quashed.

4.11. That in the impugned order, the Departmental Authority

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has recorded the statement behind the witness who were examined behind the back of the applicant and the right of cross examination of those witnesses was not given. Irrelevant and improper consideration found favour with the Departmental Authority while the real issues involved in the case were brushed aside.

4.12. That being aggrieved by the order of penalty the applicant preferred appeal on 31.7.89, in continuation of which he had submitted yet another appeal on 10.8.89.

Copies of the appeal dated 31.7.89 and 10.8.89 are annexed herewith and marked as Annexure-7 and 8.

4.13. That instead of repeating the contentions raised in those appeals the applicant reiterates and reaffirmed those continuous here in this O.A. and the same may be treated to be the contentions raised in this O.A.

4.14. That the appointing authority by his order dated 27.12.89 rejected the appeal preferred by the applicant without mentioning anything as to how the grounds urged in the appeals were taken in to consideration and/or dealt with. There is also no mention as to whether the subsequent appeal at Annexure-8 submitted by the applicant in continuation of his earlier appeal (Annexure-7) was taken in to consideration or not.

A copy of the order dated 27.12.89 is annexed herewith and marked as Annexure-9.

4.15. That the applicant states that the aforesaid appellate order is a non speaking one and did not deal with the contentions raised in the appeal. Being aggrieved by the order of penalty and the appellate order, the applicant submitted an appeal/revision petition before the revisional/reviewing authority invoking the power under Rule 29 and 29 (A) of the CCS (CCA) Rules 1965. Same was submitted on 13.8.90 immediately after the receipt of the copy of the appellate order. However, the said

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appeal/revision petition is not readily available with the applicant and accordingly a direction may please be issued for production of the same before this Hon'ble Tribunal.

4.16. That in response to the said appeal/revision, the Disciplinary Authority asked for the documents from the applicant stating that the said petition did not accompany the documents, mentioned in his letter dated 22.8.90. Immediately on receipt of the said letter dated 22.8.90, the applicant by his letter dated 15.9.90 submitted the required documents. This was followed by the reminders submitted by the applicant on 30.9.90, 21.10.92, 6.1.93 etc. amidst this happenings, the case of the applicant was referred to, the staff Adalat which eventually opined that if the applicant prefers any petition to the Postal Service Board, the same should be sent through the controlling authority along with the comments for further consideration.

Copies of the letters dated 22.8.90, 15.9.90, 30.9.91, 21.10.92, 6.1.93 and the decision of the Staff Adalat dated 30.9.92 are annexed herewith and marked as Annexure-10, 11, 12, 13, 14 and 15 respectively.

4.17. That in response to the decision conveyed by Staff Adalat the applicant preferred an appeal before the Postal Service Board on 25.12.92 making a grievance against the penalty order and rejection of his appeal.

A copy of the petition dated 25.12.92 is annexed herewith and marked as Annexure-16.

4.18. That when the matter restored thus the applicant was surprised to receive an order dated 31.12.93 issued by the Member (P) Postal Services Board, by which the petition submitted by the applicant on 25.12.92 was held to be not entertainable on ground of unreasonable delay. Thus his case was not considered on merit

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although the applicant had submitted his appeal/revision petition way back in 1990 (13.8.90) which was duly entertained by the authorities. This being the position, the petition could not have been held to be a delayed one and rejected.

A copy of the order dated 31.12.93 is annexed herewith and marked as Annexure-17.

4.19. That on receipt of the said order dated 31.12.93, the applicant submitted a representation on 28.4.94 pointing out as to how there was no delay in preferring the petition and as to how the correspondence were going on since 1989 regularly. However, without considering the merit of the case, the case of the applicant was turned down on the ground that his case was already finalised vide Annexure-17 order dated 31.12.93, and to that effect applicant was communicated by the Departmental Authority its letter dated 3.6.94.

Copies of the representation dated 28.4.94 and letter dated 3.6.94 are annexed herewith and marked as Annexure- 18 and 19 respectively.

4.20. That in the meantime the applicant had made representation making a grievance against stoppage of his due increments. It will be pertinent to mention here that in the order of penalty dated 27.6.89 there was no mention regarding stoppage of increments during the period of operation of reduction in pay scale and the same was not a penalty. As a natural consequences thereto, the applicant was entitled to his due increments during the period of penalty but the same was denied to him. In this connection Rule-11 (V) of CCS CCA Rules 1965 may be referred to which provides for reduction to a lower stage in the time scale of pay for a specific period with further direction as to whether or not the Govt.servant will earn increments of pay during the period of reduction and whether on the expiry of such period ,

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the reduction will or will be not have the effect of postponing the future increments of pay. In the instant case there was no mention in the order of penalty regarding denial of increments and accordingly the applicant was entitled to his due increments, but the same was denied to him in a most illegal and arbitrary manner giving rise to double jeopardy.

4.21. That however, without considering the above aspect of the matter, the Sr.Suptd. of Post Offices by his letter dated 23.10.90 virtually modified the earlier penalty order even after disposal of the appeal on 27.12.89 by Annexure-9, holding that during the period of 5 years the applicant would not earn any increments and that he would be entitled to his normal increments after the punishment was over. Such a order was passed in total violation of the principles of Natural Justices and the penalties prescribed under the Rules. In any case after the matter had attained its finality with the disposal of the appeal, the Disciplinary Authority could not have modified the penalty order.

A copy of the order dated 23.10.90 is annexed herewith and marked as Annexure-20.

4.22. That the applicant states that adding insult to the injury, he was also deprived of his promotion. Under the Time Bound One Promotion (TBOP) Scheme on the ground of pendency of Departmental proceeding and consequent imposition of penalty. In this connection it is stated that so far the promotion under the TBOP scheme is concerned, same can not be denied on ground of pendency of departmental proceeding and/or imposition of penalty as has been held by various benches of the Hon'ble Tribunal. The applicant was granted his promotion by an order dated 2.9.94 w.e.f. 1.7.94 instead of making the same effective immediately on completion of 16 years of service which was the period of service fixed under TBOP Scheme, considering the stagnation in the matter

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of promotion. Be it stated here that the applicant entered in to the service of Postal Department 3.9.70.

A copy of the representation dated 29.7.94 and 2.9.94 are annexed herewith and marked as Annexure-21 and 22 respectively.

4.23. That the Department of Posts having regard to stagnation and there being no promotional avenue introduced yet another scheme known as Biennial Cadre Review (BCR) scheme under which an incumbent is entitled to another upgradation on completion of 26 years of service. Although the applicant was long over due for such up gradation under BCR, he was not given the such promotion. However, by the order dated 8.1.99 he has been shown to be promoted to the cadre of HSG-II (BCR) in the scale of pays Rs.5000-150-8000/- w.e.f. 1.1.97.

A copy of the order dated 8.1.99 is annexed herewith and marked as Annexure-23.

4.24. That perpetuating the illegalities being constantly perpetuated against the applicant, the Sr.S.P.O.S issued a memorandum dated 11.8.99 long after 16 years of initiative Departmental proceeding and 10 years of imposition of penalties asking the applicant to show cause as to why the period of suspension shall not be treated as duty for purpose of pension only and payment will be restricted to the subsistence allowance only paid to the applicant during the period of suspension. In the said order the period of suspension has stated to be on two spells.

A copy of the memorandum dated 11.8.99 is annexed herewith and marked as Annexure-24.

4.25. That pursuant to the said memorandum the applicant submitted his representation on 27.8.99 and 3.9.99. However, by the order dated 27.10.99 the representation have been rejected and it has been ordered that for the period of suspension, the

payment will be restricted to the subsistence allowance only already paid to the applicant.

Copies of the representation and order dated 27.8.99, 3.9.99 and order dated 27.10.99 are annexed herewith and marked as Annexure-25, 26 and 27 respectively.

4.26. That the applicant states that from above narration of the factual events it is emptily evident that it has been a story of victimisation of the applicant right from the date of suspension to the date of so called regularisation of period of suspension. Firstly, he was illegally placed under suspension; secondly he was deprived of his service due subsistence allowance as a consequence of which he along with his family members had to starve and as a natural consequence he could not adduce his proper defence in his departmental procedure; and thirdly, he was denied the reasonable opportunity to defence his case in the departmental procedure; fourthly, he has been imposed with an illegal penalty order; fifthly, his departmental appeal was not considered in its true prospective; sixthly, his review/revision pension was not considered on merit; seventhly, he has been illegally deprived of his due promotions and increments and now his salary for the period of suspension. All those deprivations are closely connected with each other and have arises out of a common cause of action.

4.27. That the applicant states that although he has been shown to be promoted under the BCR Scheme to the cadre of HSG-II by Annexure-23 order dated 8.1.99 w.e.f. 1.1.97, but in fact he has not been given the benefits of his such promotion, and the same has been withdrawn without any order in the name of said departmental procedure and non finality thereof. The applicant while making a representation against the properal vide Annex-

ure-24 memo dated 11.8.99 highlighted these aspects of the matter and stated as to how the Sr.Postmaster, Guwahati, GPO has not given him promotional benefits of HSG-II.

4.28. That the applicant states that on the face of the order dated 27.10.99 (Annexure-27) is not sustainable in as much as the order of penalty imposed on the applicant vide Annexure-3 order dated 30.12.85 which was set aside by the appellate authority vide Annexure-5 order dated 18.5.87 has been taken in to consideration towards passing the same. This speaks volumes of malafide and colourable exercise of power by the disciplinary authority taking advantage of the fact that the applicant belongs to the lower stratum of the service. Even otherwise also the said order is not sustainable and the illegalities of the reasoning given in the order stare on the face of it.

4.29. That the applicant states that on the face of it all the impugned orders are not sustainable both on the fact as well as on law. The penalty imposed on the applicant being devoid of any merit and same having been imposed denying the reasonable opportunity of defence, it is not at all sustainable and consequently the entire period of suspension is required to be treated on duty for all practical purposes. The deprivation of promotion both under TBOP and BCR in time, connecting the same with the Departmental Proceedings is also not sustainable in as much as promotion can not be denied on that ground, same having been granted in relaxation of normal rules of promotion to meet with the situation that had arisen out of stagnation. Similarly, the incremental benefits due to the applicant during the period of punishment could not have been taken away by a modified order, there being no mention regarding withholding of the same in the order of penalty. There is also no justification to deprive the applicant of the promotion under the BCR scheme even after the

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order of promotion taking recourse to the departmental procedure. The Postal Board and for that matter the reviewing/revisional authority, could not have rejected the prayer of the applicant in total disregard of its power and jurisdiction under Rule 29 and 29 (A) of the CCS (CCA) Rules 1965 which was invoked by the applicant. The authorities either became oblivious of the fact that the petitioner was preferred in time or the departmental authority did not place and/or apprise the said authority about the developments that had taken place pursuant to the submission of petition by the applicant. In this connection Annexure- 10-15 may be referred to. Now adding insult to the injury, with a total closed and biased mind, the Annexure-27 order dated 27.10.99 has been issued depriving the applicant even from due subsistence allowance.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

- 5.1. For that the applicant could not have been deprived of his subsistence allowance contrary to the Rules which had serious effect in his defence in the departmental proceeding.
- 5.2. For that the order of penalty could not have been imposed on the applicant pursuant to farcical enquiry and on the basis of unsustainable reasoning recorded in the order.
- 5.3. For that the applicant having not been given reasonable opportunity to defend his case and he having been drabbed of his right of defence by way of denying his defence in the proceeding which is evident in the impugned order of penalty itself and as such same is not sustainable.
- 5.4. For that connecting the matter of promotion both under TBOP and BCR scheme with that at the departmental proceeding, the applicant could not have been deprived of his such promotion and he ought to have been given such promotion from due date on completion of 16 years and 26 years of service.

5.5. For that even after giving the promotion under BCR scheme, bilately, same could not have been withheld taking recourse to the departmental proceeding and the penalty in as much as , such promotion are automatically earned by way of upgradation in relaxation of the normal rule of promotion , and the same was introduced to meet with the situation that had arisen due to stagnation.

5.6. For that the delay if any in invoking the channel of Departmental remedies can not be attributed to the applicant in as much as the applicant invoked the said channel in due time to which response was also given. The said response was either not apprised to the authorities or the said authority totally ignored the same, but for which the case of the applicant would have been denied on its merits.

5.7. For that the period of suspension could not have been ended to be treated in the manner as has been provided for in the Annexure-27 order dated 27.10.99 in as much as on the face of it, the said order is not sustainable, there being no consideration of the relevant aspects of the matter.

5.8. For that having regard to the totality of the circumstances, a close nexus is established in the sequence of events that have given rise to filing of the instant O.A. and the allegations perpetrated to the applicant over the years since 1983 has been a story of arbitrary and illegal exercise of power over the applicant and such actions are required to be interfered in exercise of power of judicial review by Hon'ble Tribunal.

5.9. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all

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the remedies available to them and there is no alternative remedy available to him.

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

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned order dated 27.10.99 (Annexure-27) directing the respondents to treat the period of suspension to be the period spent in duty entitled to the applicant the full salary for the said period.

8.2. To direct the respondents to give effect to the order of promotion granted in favour of the applicant vide Annexure-23 order dated 8.1.99 with all consequential benefits.

8.3. To direct the respondents to grant the said Annexure-23 (BCR) promotion and Annexure-22 promotion (TBOP) Promotion with retrospective effect i.e. the date on which the same became admissible to the applicant on completion of 16 and 26 years of service respectively with all consequential benefits of arrears salary etc.

8.4. To set aside and quash the order of penalty dated 30.12.85 (Annexure-3) and the appellate order dated 27.12.89 (Annexure-9) with all consequential benefits.

8.5. To set side and quash Annexure-20 order dated 23.10.90 directing the respondents to give the incremental benefits to the applicant.

8.6. To set aside and quash the entire departmental proceeding initiated vide charge sheet dated 31.10.85 and all orders passed thereon.

8.7. To direct the respondents to pay the sub.allowance for the period from 11.10.83 to 1.10.85 and to pay sub.allowance for the entire period of suspension in his due proportion of 50% and 75% of salary.

8.8. To direct the respondents to pay interest to the applicant as per the bank norms on the amount payable to the applicant including the amount payable as subsistence allowance.

8.9. Cost of the application.

8.10. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

The applicant does not pray for an interim order at this stage.

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11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 456254
2. Date : 20.2.00
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Priya Bandhu Roy, son of Shri Jogesh Ch.Roy, aged about 55 years, at present working as P.A., in the Postal Store Department, Bamunimaidan, Guwahati-21, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 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1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221,

Annexure-1

No. FI-4/EC-84
Government of India
Ministry of Communication

Place of issue - Guwahati Dated 11.12.83.

ORDER

Whereas a disciplinary proceeding against Sri Priya Bandhu Roy, SPM North Guwahati is contemplated.

Now, therefore, the undersigned in exercise of the power conferred by sub rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 hereby places the said Shri Priya Bandhu Roy under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Head Quarters of Shri Priya Bandhu Roy shall be North Guwahati and the said Shri Priya Bandhu Roy shall not leave the Head Quarters without obtaining the previous permission of the undersigned.

Sd/-

(Signature)

Sr. Supdt. of Post Offices
Guwahati Dn. Guwahati-1.

Copy to :-

- U/R 1. Shri Priya Bandhu Roy, SPM North Guwahati orders regarding subsistence allowance admissible to him during the period of his suspension will issue separately.
- U/R 2. The PM/Guwahati H.O. for information.
- U/R 3. The SPM, North Guwahati for information.
- U/R 4. The Staff Branch Divl. office, Guwahati-1.
- 5. D/C.

Sr. Supdt. of Post Offices,
Guwahati Dn. Guwahati-1.

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Annexure-2.

DEPARTMENT OF POSTS (INDIA)
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES
GUWAHATI DIVN. GUWAHATI : 781007

Memo No.: FI-4/83-85

Dated Guwahati the 22.10.85.

The subsistence allowance payable to Shri Priya Bandhu Roy, now P/A Maligaon Rly. Hd. Qrs. S.O. under suspension is hereby ordered to be increased by another 20% office memo of even No. dated 8.1.85 with effect from 1.10.85.

The total subsistence allowance to the official comes to 45%.

Sd/- (M. Iawphniaw)
Sr. Supdt. of Post Offices
Guwahati Divn. Guwahati-781007.

Copy to :-

1. The Postmaster, Guwahati University HO for information and taking necessary action.
2. The D.A.(P) Calcutta through PM Guwahati University H.O.
3. Shri Priya Bandhu Roy, P.A. Maligaon Rly Hd. Qrs. (U/S) for information.
4. Office copy.

Sd/- (M. Iawphniaw)
Sr. Supdt. of Post Offices,
Guwahati Divn Guwahati-781007.

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Annexure-3

DEPARTMENT OF POSTS (INDIA)
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES
GUWAHATI DIVN. GUWAHATI - 781007

Memo No.: F1-4/83-84

Dated Guwahati the 30.12.85.
17.1.86.

It is proposed to held an Inquiry under Rule 14 of the CCS (CCA) Rules 1965, against Shri Priya Bandhu Roy the then SPM North Guwahati S.O. now P.A. Maligaon Rly. Hd. Qtrs S.O. (U/S) under this office memo of even no. dated 31.10.85. The article of charges and statement of imputations of misconduct or misbehaviour in support of the article of charges as furnished in the aforesaid memo were as under.

ANNEXURE-I

Statement of articles of charges framed against Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. now P.A. Maligaon Rly. Hd. Qtrs. S.O. (U/S).

ARTICLE-I

That the said Shri Priya Bandhu Roy, while functioning as SPM North Guwahati S.O. during the period, delivered V.P. articles to the addressee's beyond the normal period of detention of V.P. articles without realising due demerage charges on them, thereby violating the provisions of Rule 231 (1)(2)(3)(4)(5)(6) of P&T Manual Vol. VI Part-I failed to maintain the duty enjoined in rule 3(i)(ii) of CCS (Conduct) Rules, 1964.]

ARTICLE-II

That during the period and while functioning in the aforesaid office, the said Sri Priya Bandhu Roy, did not credit to the Govt. Account, the value and commission of V.P. articles, realised from the addressee's on delivery of V.P. articles on the date of delivery of the V.P. articles but which were credited on later dates. No V.P. MQs were also issued on the date of delivery of the V.P. articles. Thereby, the said Shri Priya Bandhu Roy, violating the provisions of Rule 4(i)(a) and 5 of F.H.B. Vol. I and Rule 227(1)(4) of P&T Manual Vol. VI part-I, failed to maintain absolute integrity as enjoined in Rule 3(1)(i) of CCS Conduct Rules, 1964.

ARTICLE-III

That during the period and while functioning in the aforesaid office, the said Shri Priya Bandhu Roy, corrected the date of delivery of the V.P. articles, by over writing the dates put by the addressee's below their signatures on the V.P. intimations. He also corrected the amounts of the V.P. articles, in the V.P. intimations by over writing the amounts. Thereby, the said Shri Priya Bandhu Roy, violated the provisions of Rule 63 of FHB Vol. I and Rule 636 of P&T Manual Vol. and thus acted in a manner which is unbecoming of a Govt. servant as enjoined in Rule 3(1)(iii).

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ARTICLE-IV

Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. was placed under suspension vide memo of even No. dated 11.10.83. Being a suspended official, Shri Priya Bandhu Roy should be debarred from all Postal Business transactions but unauthorisedly, Shri Priya Bandhu Roy, accepted deposit for Rs.1200/- against the S.B.A/c No.985936 dated 30.10.83 though the amount was not credited to the Govt.A/c. Moreover, Shri Priya Bandhu Roy simply handed over the amount to Shri Dhiren Kumar the then SPM North Guwahati S.O. dated 31.10.83, without the Pass Book. Hence Shri Kumar the then SPM was credited the amount to the Govt. Account as u/c/r on 31.10.83, thereby violating the provisions of Rule 4 (1) of FHB Vol.I.

ANNEXURE-II

Statement of imputations of misconduct or misbehaviour in support of the articles of charges framed against Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. (U/S).

ARTICLE-I

Shri Priya Bandhu Roy, while functioning as SPM North Guwahati S.O. received the following V.P. articles on the dates shown against each as per Regd.parcel lists received and as per VPP/VPL Registers and abstracts. But the same were shown delivered on the dates noted against each, without realising the demarage charges, although the articles were detained more than prescribed period.

Particulars of V.P. Articles	Name and Address of the Addressees	date of receipt	Date of delivery.
1.New Delhi V.P. No.897 for Rs.280/-	Mrs.Pankaj Kumari Saikia, North Guwahati M.E.School.	14.4.83	9.6.83.
2.New Delhi V.P. No.1417 for Rs.205/-	Shri Kamal Kr. Mahanta C/O Ranjit Mahanta, Rajaduar.	3.5.83	19.9.83.
3.New Delhi V.P. No.453 for Rs.180/-	Shri Sankar Bhuyan Silsako, North Guwahati.	11.4.83	9.6.83.
4.New Delhi V.P. No.1166 for Rs.165/-	Shri Kabindra Burhagohain Rudreswar, N.Guwahati.	23.5.83	19.9.83.

Thus Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. violated the provisions of Rule 231 (1)(2)(3)(4)(5)(6) of P&T Man.Vol.VI Part-I.

ARTICLE-II

That Shri Priya Bandhu Roy, while functioning as SPM North Guwahati S.O. delivered the following V.P. articles by realising the prescribed value and commission on the dates shown against them as per dates put below the signature of the addressees but the said Shri Roy did not credit these values and commissions on the date of delivery and credited on later dates as detailed below:-

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Particulars of V.P. Articles	Name and Address of the Addressee	date of receipt	Date of actual delivery	Date of delivery shown
1. New Delhi V.P. No.897 for Rs.280/-8.40 Commission	Mrs.Pankaj Kumari Saikia, North Guwahati M.E.School.	14.4.83	19.4.83	9.6.83.
2. New Delhi V.P. No.1417 for Rs.205/-6.30 (Com)	Shri Kamal Kr. Mahanta C/O Ranjit Mahanta, Rajaduar.	3.5.83	9.5.83	19.9.83.
3. New Delhi V.P. No.453 for Rs.180/-5.40 (Com)	Shri Sankar Bhuyan Silsako, North Guwahati.	11.4.83	13.4.83	9.6.83.
4. New Delhi V.P. No.1166 for Rs.165/-5.10 (Com)	Shri Kabindra Burhagohain Rudreswar, N.Guwahati.	23.5.83	27.5.83	19.9.83.

Thus Shri Priya Bandhu Roy the then SPM North Guwahati S.O. violated the provisions of Rule 4(1)(a) and 5 of the FHB Vol.1 and Rule 227(1)(94) of P&T Manual Vol.VI Part-I and temporarily mis-appropriated the amount of value and commission of these V.P. articles.

ARTICLE-III

That Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. corrected the date of delivery of the V.P. articles put by the addressees below their signatures in the V.P. intimations at the time of taking delivery of the V.P. articles by overwriting. the style of over writings proves to be of said Priya Bandhu Roy, as they clearly resembles with the handwriting of the M.O. receipts posted in the V.P. intimations. The following are the cases :-

Particulars of V.P. Articles	Name and Address of the addressee	Dates put by Addressee	Date corrected by Shri Roy.
1. New Delhi V.P. No.897 for Rs.280/-	Mrs.Pankaj Kumari Saikia, North Guwahati M.E.School.	19.4.83	9.6.83.
2. Delhi V.P. No.1479 for Rs.160/-	Shri Madhab Ch. Das, Rajaduar North Guwahati.	24.4.83	9.6.83.
3. Delhi V.P. No.209 for Rs.165/-	Shri Premodhar Burhagohain, Rudreswar Rangmahal.	22.4.83	9.6.83.

Shri Priya Bandhu Roy, also overwrites the amounts in the amounts in the V.P. intimations in respect of New Delhi V.P. No.897 for Rs.280/- and New Delhi V.P. No.453 for Rs.180/- which are most objectionable.

Thus the said Shri Priya Bandhu Roy violated the provisions of Rule 63 of FHB Vol.1 and Rule 636 of P&T Manual Vol.II.

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ARTICLE-IV

Shri Priya Bandhu Roy, the then SPM, North Guwahati S.O. (U/S) accepted a deposit of Rs.1200/- against North Guwahati S.B.A/c No.985936 dated 30.10.83 which was not credited to the Govt.account on the same day. But the said amount was handed over to Shri Dhiren Kumar the then SPM North Guwahati S.O. on 31.10.83 without the pass book by Shri Roy. Shri Roy misappropriated the amount temporarily, thereby violated the provisions of Rule 4(1) of FHB Vol.I.

ANNEXURE-III

List of documents by which the articles of charges framed against Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. are proposed to be sustained.

1. V.P.Intimations of North Guwahati S.O. in respect of:-

(a) New Delhi V.P. No.897 for Rs.280/- addressed to Mrs.Pankaj Kumari Saikia, North Guwahati Girls H.E. School with M.O. receipt No.2706 dated 9.6.83.

(b) N.Delhi V.P. No.1166 for Rs.165/- addressed to Shri Kabindra Burhagohain, Rudreswar, North Guwahati with M.O.receipt No.2761 dated 19.9.83.

(c) New Delhi V.P. No. 1417 for Rs.205/- addressed to Shri Kamal Kumar Mahanta, Rajaduar, North Guwahati with M.O. receipt No.2756 dated 19.9.83.

(d) New Delhi V.P.No.453 for Rs.180/- addressed to Shri Sankar Bhuyan Silsako North Guwahati with M.O. receipt No.2707 dated 9.6.83.

(e) North Guwahati S.B. A/c No.98536, deposit of Rs.1200/- on 30.10.83.

2. M.O. issue receipt book of North Guwahati S.O. for the period from 9.6.83 to 19.9.83.

3. M.O. Issue journal of North Guwahati S.O. for 1st period of June '83 and 2nd period of Sept.'83.

4. VPP/VPL Registers of North Guwahati S.O. for the period from 1.4.83 to 30.9.83.

5. Regd.parcel lists received by North Guwahati S.O. dated 14.4.83, 28.4.83, 3.5.83, 11.4.83, 23.5.83, 18.4.83.

6. Regd/Parcel abstracts of North Guwahati S.O. dated 11.4.83, 14.4.83, 18.4.83, 28.4.83, 3.5.83 and 23.5.83.

7. Written statements of :-

(a) Mrs.Pankaj Kumari Saikia in connection with V.P.No.897.

(b) Shri Kabindra Burhagohain in connection with V.P.No.1166.

(c) Shri Kamal Kumar Mahanta in connection with V.P.No.1417.

(d) Shri Sankar Bhuyan in connection with V.P. No.453.

(e) Smt.Akanbala Brahmachari, Rangmahal in connection with North Guwahati S.B.A/C No.985936.

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ANNEXURE-IV

List of witnesses by whom the articles of charges framed against Shri Priya Bandhu Roy the then SPM North Guwahati S.O. are proposed to be sustained.

1. Shri Tarun Ch. Kalita, SDIPOs (E) Guwahati Divn.
2. Mrs. Pankaj Kumari Saikia, Head Mistress North Guwahati Girls H.E. School.
3. Shri Kabindra Burhagohain, Rudreswar North Guwahati.
4. Shri Kamal Kumar Mahanta, C/O Rajat Kr. Mahanta, Rajaduar, North Guwahati.
5. Shri Sankar Bhuyan Silsako, North Guwahati.
6. Smt. Akanbala Brahmachari Rangmahal.

Shri Priya Bandhu Roy was directed under this office memo of even no. dated 31.10.85 to submit within 10 days from the date of receipt of this memo, the written statement of his defence.

Shri Priya Bandhu Roy submitted his written defence statement dated 25.11.85 and the same was received by this office on 2.12.85.

I have gone through the statement of the imputation and written statement of defence of Shri Priya Bandhu Roy, thoroughly.

The charges against Shri Priya Bandhu Roy are proved beyond doubt, yet in his defence statement, he had denied but admitted in other ways the charges, leveled against him. His sincerity and integrity is thus not proved and he is not fit to be entrusted with a responsible post. Yet considering his length of service, I am inclined to take a lenient view, so that he may have sufficient opportunity his rectify himself.

ORDER

I, Shrimati M. Iawphniaw, the Sr. Supdt. of Post Offices, Guwahati Division, Guwahati therefore hereby order that the pay of Shri Priya Bandhu Roy be reduced by two stages from Rs. 408/- to 396/- in the time scale of pay Rs. 260/- to 480/- for a period of two years w.e.f. 17.1.86 with cumulative effect. It is further directed that Shri Priya Bandhu Roy will not earn increment of pay during the period of such reduction will have the effect of postponing the future increments of pay.

Sd/-
(Mrs. M. Iawphniaw)
Sr. Supdt. of Post Offices
Guwahati Divn. Guwahati-781007.

Copy to :-

1. The Postmaster Guwahati University HO for information and

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taking necessary action.

2. The Postmaster (G) Guwahati HO for information.
3. Shri Priya Bandhu Roy, P.A. Guwahati University, HO. for information.
4. The DA(P) for information.
5. The P/F of Shri Priya Bandhu Roy.
6. The CR File of the official.
7. The DPS Assam Region, Guwahati-1.
8. The vigilance officer Shillong.
9. Office Copy.

Sd/-
(M. Iawphniaw)
Sr. Supdt. of Post Offices
Guwahati Divn. Guwahati-781007.

ANNEXURE 3⁷ 4

7A
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DEPARTMENT OF POSTS (INDIA)
OFFICE OF THE SR.SUPDT. OF P.O.S., GH DN., GUWAHATI-781007

M/A-13/Misc/85-86

Dated Guwahati-7 the 2nd Jan/86.

In pursuance of this office Memo. No. FI-4/83-85
dt. 30.12.85 Shri Priya Bandhu Roy PA Maligaon under
suspension, on revocation of his suspension order, is
hereby posted as Signaller, Guwahati University H.O.

This order will hold good till further orders.

Sd/- Mrs. M. Iawphniaw
Sr. Supdt. of Post Offices,
Guwahati Dn., Guwahati-7.

Copy to:-

- 1) Shri Priyabandhu Roy, PA Maligaon Rly. HQ S.O.
(U/S) for information and to join accordingly.
- 2) P/F of the official.
- 3) The Postmaster, Guwahati University H.O.
- 4) The Inv. Br. Dvl. office, Guwahati-7.
- 5-6) Spare.

M. Iawphniaw
Sr. Supdt. of Post Offices,
Guwahati Dn., Guwahati-7

(10)

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ANNEXURE

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Department of Posts
Office of the Addl. Postmaster General, Assam, Guwahati-1.


Memo No. Staff/RD/9-18/86

Dated Guwahati the 18/5/87

This is an appeal preferred by Sri Priya Bandhu Roy, PA Maligaon Rly H.Q. against the decision of the Sr. Supdt. of POs, Guwahati for reduction of pay by two stages for two years with cumulative effect under his memo No.F1-4/83-84 dt. 17.1.86.

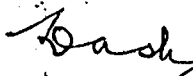
Sri Priya Bandhu Roy, PA Maligaon Rly H.Q. was charged under Rule 14 of the CCS(CCA) Rules 1965 and the official had denied the charges levelled against him. The SSPOs, Guwahati in his punishment memo stated that the official had denied the charges but admitted in other ways. So no enquiry was held and the punishment order was issued accordingly. As the official had denied the charges a formal enquiry could have been held. As the punishment order was issued without holding an enquiry, the punishment imposed by the SSPOs, Guwahati is not in order.

I Sri S.C. Sarma, D.P.S., Assam, Guwahati hereby set aside the punishment order of the SSPOs, Guwahati and order that a de novo proceeding to be started in this case.


(S.C. Sarma)
Director of Postal Services,
o/o the Addl. Postmaster General,
Assam, Guwahati-1.

Copy to :-

1. The SSPOs, Guwahati for necessary action.
2. Sri Priya Bandhu Roy, PA Maligaon Rly H.Q.
3. C.R. of the official.


For Addl. Postmaster General,
Assam, Guwahati-1.

DEPARTMENT OF POSTS (INDIA)
OFFICE OF THE SR.SUPERINTENDENT OF POST OFFICES
GUWAHATI DIVN.GUWAHATI : 781003

Memo No.: F1-4/83-84

Dated Guwahati the 27th June/89.

1. In this office memo of even no. dated 31.10.85 Shri Priya Bandhu Roy, then SPM North Guwahati was inform of the proposal to take action under Rule- 14 of the CCS (CCA) Rules 1965, on the basis of the following articles of charges and the imputations.

ANNEXURE-I

Statement of articles of charges framed against Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. now P.A. Maligaon Rly.Hd.Qrs.S.O. (U/S).

ARTICLE-I

That the said Shri Priya Bandhu Roy, while functioning as SPM North Guwahati S.O. during the period, delivered V.P. articles to the addressee's beyond the normal period of detention of V.P. articles without realising due demarage charges on them, thereby violating the provisions of Rule 231 (1)(2)(3)(4)(5)(6) of P&T Manual Vol.VI Part-1 failed to maintain the duty enjoined in rule 3(i)(ii) of CCS(Conduct) Rules, 1964.

ARTICLE-II

That during the period and while functioning in the aforesaid office, the said Sri Priya Bandhu Roy, did not credit to the Govt.Account, the value and commission of V.P. articles, realised from the addressee's on delivery of V.P. articles on the date of delivery of the V.P.articles but which were credited on later dates. No V.P.MOs were also issued on the date of delivery of the V.P.articles. Thereby, the said Shri Priya Bandhu Roy, violating the provisions of Rule 4(i)(a) and 5 of F.H.B. Vol.I and Rule 227(1)(4) of P&T Manual Vol.VI part-I, failed to maintain absolute integrity as enjoined in Rule 3(1)(i) of CCS Conduct Rules, 1964.

ARTICLE-III

That during the period and while functioning in the aforesaid office, the said Shri Priya Bandhu Roy, corrected the date of delivery of the V.P. articles, by over writing the dates put by the addressee's below their signatures on the V.P. intimations. He also corrected the amounts of the V.P. articles, in the V.P. intimations by over writing the amounts. Thereby, the said Shri Priya Bandhu Roy, violated the provisions of Rule 63 of FHB Vol.I and Rule 636 of P&T Manual Vol. and thus acted in a manner which is unbecoming of a Govt.servant as enjoined in Rule 3(1)(iii).

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ARTICLE-IV

Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. was placed under suspension vide memo of even No. dated 11.10.83. Being a suspended official, Shri Priya Bandhu Roy should be debarred from all Postal Business transactions but unauthorisedly, Shri Priya Bandhu Roy, accepted deposit for Rs.1200/- against the S.B.A/c No.985936 dated 30.10.83 though the amount was not credited to the Govt.A/c. Moreover, Shri Priya Bandhu Roy simply handed over the amount to Shri Dhiren Kumar the then SPM North Guwahati S.O. dated 31.10.83, without the Pass Book. Hence Shri Kumar the then SPM was credited the amount to the Govt. Account as u/c/r on 31.10.83, thereby violating the provisions of Rule 4 (1) of FHB Vol.I.

ANNEXURE-II

Statement of imputations of misconduct or misbehaviour in support of the articles of charges framed against Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. (U/S).

ARTICLE-I

Shri Priya Bandhu Roy, while functioning as SPM North Guwahati S.O. received the following V.P. articles on the dates shown against each as per Regd. parcel lists received and as per VPP/VPL Registers and abstracts. But the same were shown delivered on the dates noted against each, without realising the demurrage charges, although the articles were detained more than prescribed period.

Particulars of V.P. Articles	Name and Address of the Addresseees	date of receipt	Date of delivery.
1.New Delhi V.P. No.897 for Rs.280/-	Mrs.Pankaj Kumari Saikia, North Guwahati M.E.School.	14.4.83	9.6.83.
2.New Delhi V.P. No.1417 for Rs.205/-	Shri Kamal Kr. Mahanta C/O Ranjit Mahanta, Rajaduar.	3.5.83	19.9.83.
3.New Delhi V.P. No.453 for Rs.180/-	Shri Sankar Bhuyan Silsako, North Guwahati.	11.4.83	9.6.83.
4.New Delhi V.P. No.1166 for Rs.165/-	Shri Kabindra Burhagohain Rudreswar, N.Guwahati.	23.5.83	19.9.83.

Thus Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. violated the provisions of Rule 231 (1)(2)(3)(4)(5)(6) of P&T Man.Vol.VI Part-I.

ARTICLE-II

That Shri Priya Bandhu Roy, while functioning as SPM North Guwahati S.O. delivered the following V.P. articles by realising the prescribed value and commission on the dates shown against them as per dates put below the signature of the address-ees' but the said Shri Roy did not credit these values and commissions on the date of delivery and credited on later dates as detailed below:-

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Particulars of V.P. Articles	Name and Address of the Addressee	date of receipt	Date of actual delivery	Date of delivery shown
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1. New Delhi V.P. No.897 for Rs.280/-8.40 Commission	Mrs. Pankaj Kumari Saikia, North Guwahati M.E. School.	14.4.83	19.4.83	9.6.83.
2. New Delhi V.P. No.1417 for Rs.205/-6.30 (Com)	Shri Kamal Kr. Mahanta C/O Ranjit Mahanta, Rajaduar.	3.5.83	9.5.83	19.9.83.
3. New Delhi V.P. No.453 for Rs.180/-5.40 (Com)	Shri Sankar Bhuyan Silsako, North Guwahati.	11.4.83	13.4.83	9.6.83.
4. New Delhi V.P. No.1166 for Rs.165/-5.10 (Com)	Shri Kabindra Burhagohain Rudreswar, N. Guwahati.	23.5.83	27.5.83	19.9.83.

Thus Shri Priya Bandhu Roy the then SPM North Guwahati S.O. violated the provisions of Rule 4(1)(a) and 5 of the FHB Vol.1 and Rule 227(1)(94) of P&T Manual Vol.VI Part-I and temporarily mis-appropriated the amount of value and commission of these V.P. articles.

ARTICLE-III

That Shri Priya Bandhu Roy, the then SPM North Guwahati S.O. corrected the date of delivery of the V.P. articles put by the addressees below their signatures in the V.P. intimations at the time of taking delivery of the V.P. articles by overwriting. the style of over writings proves to be of said Priya Bandhu Roy, as they clearly resembles with the handwriting of the M.O. receipts posted in the V.P. intimations. The following are the cases :-

Particulars of V.P. Articles	Name and Address of the addressee	Dates put by Addressee	Date corrected by Shri Roy.
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1. New Delhi V.P. No.897 for Rs.280/-	Mrs. Pankaj Kumari Saikia, North Guwahati M.E. School.	19.4.83	9.6.83.
2. Delhi V.P. No.1479 for Rs.160/-	Shri Madhab Ch. Das, Rajaduar North Guwahati.	24.4.83	9.6.83.
3. Delhi V.P. No.209 for Rs.165/-	Shri Premodhar Burhagohain, Rudreswar Rangmahal.	22.4.83	9.6.83.

Shri Priya Bandhu Roy, also overwrites the amounts in the amounts in the V.P. intimations in respect of New Delhi V.P. No.897 for Rs.280/- and New Delhi V.P. No.453 for Rs.180/- which are most objectionable.

Thus the said Shri Priya Bandhu Roy violated the provisions of Rule 63 of FHB Vol.1 and Rule 636 of P&T Manual Vol.II.

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ARTICLE-IV

Shri Priya Bandhu Roy, the then SPM, North Guwahati S.O. (U/S) accepted a deposit of Rs. 1200/- against North Guwahati S.B.A/c No. 985936 dated 30.10.83 which was not credited to the Govt. account on the same day. But the said amount was handed over to Shri Dhiren Kumar the then SPM North Guwahati S.O. on 31.10.83 without the pass book by Shri Roy. Shri Roy misappropriated the amount temporarily, thereby violated the provisions of Rule 4(1) of FHB Vol. I.

2. Shri Roy was also directed in the said memo to submit his written statement of defence, if any, against the proposal within 10 days of the receipt of the memo.

3. Shri Priya Bandhu Roy submitted his written statement of defence dated 25.11.85 which was received in this office on 2.12.85 as reproduced below :-

"Respected Madam,

I Shri Priya Bandhu Roy, submit my statement the following facts and figure for favour of your perusal and sympathetic decision and order.

1. That Madam, I have suddenly received Memo No. F1-4/83 of 11/10/83 and relieved on 14.10.83. The reason of suspension was unknown since long October, 1985.

2. That Madam, on receipt of my suspension order I was struct dumb and I approached my SDI Shri Das who inspected my office on 14th Sept. 21.22 Sept. 1983. He politely told me he had no knowledge on the incident, he further told me that I should not suspect him in this respect stating that he had not notice any serious lapse on my part in course of inspection of my office. I believe him because in my S.O. A/C book he has given the remark that the balance found correct, he also signed Regd. of VP and other concerned official records with satisfactory remarks thereon.

3. That Madam, I Shri Priya Bandhu Roy appologise to your honour in my 15/16 years service records for the first time as I actually break in reference your above mentioned letters quoted, that privileges given to customer and delay delivery of VP articles.

Madam, I can in the name of God Sware and say that there was not the least of any misappropriation of Govt. money. My 15/16 years service records in the Deptt. will prove my statement.

4. That Madam, I state with very sorrowful heart that even if I am SPM or a clerk as the case may be in that Deptt. has got my price and prestige in the Deptt. and the Society as well.

Late delivery the VP articles and amount remitted to the sender actual dated stamp is affix in the paper of documents. Actually delivery the VP articles w/o realise the demarage charges as circumstances and situation compelled as follows:

(i) Due to abnormal political situation of Assam in 1983 and badly effected in Kamrup, Guwahati Divn. during the part

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days like (a) long days Non Co-Operation (b) Assan and (c) Guwahati Bandh (d) Public curfew (e) Chattra Sangram Andolan other etc.

5. As I was a Postmaster of locally and as a human being I was compelled to obey the situation as all most all real facts.

6. That madam, speak the truth that I have been a victim of personal grudge of Shri Naranjan Das SDI East Guwahati based on some personal matters which I do not like to narrate have because of the obvious reason. ✓

Madam, since long 3 years I have been suffered with my children and wife in this extreme hard days with small suspension allowances (25%) of course now in your act of consideration I able to draw 45% instead of 25% w.e.f. October, 1985.

7. As I was suspended SPM quarter was not vacated since long.

Office was opened by Class IV as previous on correct time. That day SPM Dhiren Kumar came in later and in my bad or good luck god knows my mother Brahmachari came to me as previous (She came long distance and Rangmahal B.O.) and alternately for long late SPM Dhiren my mother Brahmachary press and insist for accept money and allow her to go immediately as per urgent as my mother believe me heartly and after detention 1/2 hour. I compelled to accept and return BB with noted and date stamp and as soon as SPM Dhiren Kr. came to office I hand over Rs.1200/- along with Deposit slip in front of staff in my office.

Dhiren Kr. accepted Rs.1200/- and deposit slip w/o objection he was pleased upon me for my help.

I was stay in the SPM quarter since long that time SPM never say anything complain was arise in my hear.

This is the fact and speak the truth in my part.

9. That Madam, my humble prayer to your to take pity on me and issue necessary orders for my reinstation and allow me to combine in my same post for sake of safe guarding my prestige to the Deptt. and the locality of North Guwahati.

10. That Madam, again I apologized to your honour kindly consider me for the first time in service life."

4. Under this office memo of even No. dated 30.12.85, 7.1.86 and 5.2.86 Shri Priya Bandhu Roy was awarded punishment reducing his pay by two stages from Rs.420/- to 396/- for a period of two years w.e.f. 17.1.86 with cumulative effect.

5. Shri Priya Bandhu Roy preferred on appeal against the order of punishment and the appellate authority vide memo No.Staff/RD/9-18/86 dated 18.5.87 set aside the punishment and ordered denovo enquiry in to the case.

6. The view of the decision and order by the DPS/GH in the Memo referred to Para 5 above, a denovo enquiry was started upholding the charges and imputations already brought against him under the meo referred to para-I above.

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7. In recourse to the provisions laid down under Rule-14(2) of CCS(CCA) Rules 1965 Shri I.C. Sarma ASPOs and Shri K.Barman, C.I. Divl. office were appointed as the Inquiring authority & presenting officer respectively.

8. The enquiry authority on conclusion of the Inquiry submitted his report under letter No.B-2/P.Roy dated 8.6.89 with the assessment of evidence in respect of each point set out for determination and his findings thereon as reproduced below :-

"While pleading not guilty, Shri Priya Bandhu Roy (SPS) admitted the following facts during the enquiries held -

(i) That he accepted the amount of deposit from the depositor of N/GH SB A/C No.985936 on 30.10.83 and he entered the amount of deposit in the Pass Book and returned it to the depositor while he was under suspension (vide deposition dated 7.4.89).

(ii) That he received the following V.P. articles and entered them in the V.P. Register (EX-514) on the same day of its receipts.

- a) N/Delhi VPP No.897 recd.on 14.4.83.
 - b) N/Delhi VPP No.1417 recd.on 3.5.83.
 - c) N/Delhi VPP No.1166 recd. on 23.3.83.
- (Vide deposition dated 7.4.89).

(iii) That he issued the following M.O. receipts relating to the above mentioned V.P. articles :-

- a) N/GH MO No. 2707 dated 9.6.83.
 - b) N/GH MO No.2706 dated 9.6.83.
 - c) N/GH MO No.2756 dated 19.9.83.
 - d) N/GH MO No. 2761 dated 19.9.83.
- (Vide deposition dated 7.4.89).

In her deposition dated 23.8.88 Mrs. Pankaj Kumari saikia (SW-3) addressee of N/Delhi VPP No.897 reiterated the same facts what were stated in her w/statement dated 20.3.85 (Ex 516). She reiterated that the V.P. article added to her was taken delivery from North Guwahati P.O. on 19.4.83 on full payment of its value and commission.

The SPM North Guwahati remitted the value of the V.P. article by issuing VPMD under receipt No.2706 only on 9.6.83 (vide Ex.52) by correcting the date of delivery by the V.P. intimation through overwriting (Ex s1) although he got the value and commission of the V.P. article on 19.4.83 while the V.P. article was delivered.

Mr.Kamal Kr.Mahanta (SW-4) addressee of N/Delhi VPP No.1417 vide his deposition dated 23.8.88 confirmed the contents of his w/statement. He stated that the V.P. article addressed to him was taken delivery from North Guwahati PO on 9.5.83 on full payment of its value & commission. The value of the VP article was remitted by the SPM North Guwahati vide receipt No.2756 dated 19.9.83 (Ex S6) by showing the date of delivery of the VPP as 19.9.83 in the VP intimation by over writing against the correct date of delivery of 9.5.83 (Ex-95).

From the w/statement of Shri Kabindra Burhagohain dated 20.3.85 (Ex-S17) it is quite evident that he took full payment of its value and commission from North Guwahati PO on 27.5.83.

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This was confirmed vide his deposition dated 20.5.88 and 29.7.88 by Shri T.C. Kalita (SW-2). But the SPM issued the VPMO in lieu only on 19.9.83 vide MO receipt No.2761 (Ex S4) by showing the date of delivery as 19.9.83 in the VP intimation (Ex S3).

Shri Sankar Bhuyan in his w/statement dated 15.4.85 (EX-S19) stated that he took delivery of N/Delhi VPP No.453 from N.Guwahati. PO on full payment of its value and commission on 13.4.83. This was also confirmed by Shri T.C. Kalita (SW-2) vide his deposition dated 20.5.88 and 29.7.88. But the SPM North/Guwahati inspite of delivery of the VP article on 13.4.83 issued the concerned VP MO under receipt No.2707 (EX-S8) on 9.6.83 by putting the date of delivery in the V.P. intimation (Ex-S9) as 9.6.83.

In view of what has been stated above it is clearly proved that the SPS Shri P.B.Roy while functioning as SPM N/Guwahati failed to credit the values and commissions of the above four V.P. articles on the date of its delivery rather he misappropriated the values and commissions of those VP articles received from the deposition's concerned for a temporary period there by delayed the issue of VPMOs in lieu as shown above.

Regarding SB deposit : From the deposition of Smt.Aikan Bala Brahmachari dated 19.5.88 (SW-1) it is clear that Shri P.B.Roy then SPM North Guwahati who belongs to Bengali community accepted the amount of deposit of Rs.1200/- entered the amount in her Pass Book a/c No.9859 and returned the same to her. The SPS vide his deposition dated 7.4.89 admitting that he entered the amount of deposit in the Pass Book on 30.10.83 although on that day he was under suspension and after then entry was made he returned the Pass Book to Smt.Brahmachari. From the concerned Pass Book (Ex-S9) it is evidently proved that an amount of Rs.1200/- was deposited the a/c on 30.10.83 while Shri Dhiren Kumar (DW-2) stated in his deposition dated 20.2.89 that he received Rs.1200/- from P.B.Roy on 31.10.83 to be deposited in the S/B A/C No.985936 without the Pass Book.

So it is clearly proved that Shri P..B.Roy inspite of having under suspension on 30.10.83 accepted the SB transaction in respect of SB A/C No.985936 (N.Guwahati SO) unauthorisedly and he failed to credit the amount of deposit being Rs.1200/- on the same date of receipt i.e. on 30.10.83. Rather Shri P.B.Roy made over the amount to SPS vide his deposition dated 29.3.89 tried to take shelter of Assam Agitation and stated that due to abnormal situation prevailed in the state in 1983 the above irregularities came in to being and as such the irregularities were not intentional.

~~This~~ This plea can not be taken in to a/c because the SPS could not show any evidence that North Guwahati P.O. was not functioned on the dates of delivery of the V.P. articles u/r till the dates of credits of its value and commission by the SPS. So the irregularities committed by the SPS were found to be intentional as narrated in the forgoing paras.

In his written brief dated 17.4.89 Shri P.B. Roy stated that the reasonable time was not given to him for submitting his defence statement. This is quite incorrect.

The SPS was informed vide my letter No.B-2/P.B.Roy dated 20.12.88 the date fixed on 28.12.88 and submitted an appli-

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cation stating that he could not prepare the defence statement for his illness. So he prayed for seven days time. Since the SPS did not submit any M/C about his illness he was granted only two days time and asked him to submit his defence on 30.12.88 positively. The SPS appeared before me on 30.12.88 and expressed his inability to submit his defence owing to the illness of his defence asstt. and again prayed for 3 days time for this purpose. Thus the SPS was avoiding to submit his defence and therefore no further time was granted to him. This was informed the SPS vide my letter No.B-2/P.B.Roy dated 30.12.88. So there was no denial of reasonable opportunity to the SPS for submitting his defence. Since the SPS had no evidence to disprove the charges brought against him, he intentionally averted from submitting his defence. In his written brief dated 17.4.89 also he could not produce any evidence to deny the charges brought him except blaming the inquiry officer and the presenting officer.

Under the circumstances it is clearly and evidently proved that Shri P.B.Roy then SPM North Guwahati failed to maintain the provision of Rule 231 (1)(2)(3)(4)(5)(6) 227 (1)(4) of P&T Man Vol.IV Part-I Rule-4(i)(a) and 5 of FHB Vol-I and Rule-3(1)(i)(ii) of CCS(conduct) Rules 1964 while discharging his duties from 23.3.82 to 13.10.83 and the charges brought against him in the Articles of charges on the basis of the statement of imputations are attributable on him (Sri P.B. Roy).

11. Findings; - I therefore, find that the Articles of Charges based on the statement of imputations stand proved.

I have gone through the case and its various aspects such as the charges, the inquiry reports and relevant records and also the written statement of Sri Priya Bandhu Roy in great detail. I do not find any reasons to disagree with the findings of the inquiry authority. I also find no necessity to offer any additional points for discussion as the charged official was proved guilty as per oral and documentary evidence. The offence committed by the official is no doubt of in great magnitude involving moral turpitude which would merit and equal punishment. However, taking into account of all the aspects and considering his heavy responsibility to his family and also with the hope that the official would reform and render his remaining service in the dept with devotion and sincerity. I for the first time inclined to take a lenient view in this case and award him the following punishment.

" I Mrs.M.Iwaphniaw, Sr. Supdt. of Post Offices Guwahati Division hereby order that the pay of Sri Priya Bandhu Roy, P.A. Guwahati University be reduced by three (3) stages from Rs 1450/= to Rs 1360/= in time scale of his pay for a period of five years w,e,f, 1 st July, 89.

sd/=

Mrs. M Iawphaniaw.
Sr. Supdt of Post Offices.
Guwahati Division-781003.

Copy to;
regd A/D

1. Sri Priya Bandhu Roy, P.A. Gh University HO.

2. The Postmaster Guwahati University HO.

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3. The Sr. Post Master Guwahati HO.

4. Punishment file.

5. P/F of the official.

6. C.R. of the official.

7. Spare.

sd/=

Mrs. M Iawphaniaw.
Sr. Supdt of Post Offices.
Guwahati Division-781003.

To,
The Director of Postal Services,
North East Circle,
Guwahati-781001.

Subject;- Unfairly deduction of three stages from my pay from
1450/= to 1360/= under Rule 14 of CCS (CCA) Rules 1965
--- An Appeal for deliverance of all reduced increments
- regarding.

* * *

Respected Sir,

With reference to the subject cited above, I am to appeal that the Senior Superintendent of Postal Services, Guwahati Division, Guwahati-3 has reduced three stages from my pay Rs 1450/= to 1360/= under Rule 14 of CCS (CCA) Rules of 1965 vide her meo No.1-4/83-84, dated 27th June, 1989, which seems to be unfair and injustice with my future. In this connection I would like to light on unfairness and unjustified decision taken by the Hon'ble officer as under:-

I have been imposed two charges under Rule 14 of CCS(CCA) Rules of 1965:-

(1) I accepted a deposit of Rs.1200/- against GH SB A/C No.985939 on dated 30.10.83 which was not credited on the same day but the same was handed over to Shri Dhiren Kumar, the then SPM, North GH S.O. on 31.10.83 by me. Thus I misappropriated the amount temporarily and violated the provisions of Rule 4(1) of FHB Vol.I.

(2) The VPPs received, have been delivered lately and received amount against delivery has not been credited on the same day. Thus I misappropriated the Govt.money temporarily. (The Enquiry and decision taken portion of the memo No.F.1-4/83-84, dated 27.6.89 is enclosed).

Hon'ble Sir, during enquiry, I was so upset due to monetary crisis being I under suspension, its effect on my family and blame upon my honesty and efficiency, I could not cross the allegations. Now when I am feeling some mental relaxation and viwed on the allegations framed upon me, I reached the conclusion that all those charges were baseless only to trap me due to malicious feeling. The following points themselves will indicate the intention of my envious :-

(a) I was suspended on 14.10.83 and without holding an enquiry I was reduced my pay by two stages for two years with cumulative effect vide memo F.1-4/83-84, dated 17.1.86. You were kind enough you understood the reality, heard my appeal and set aside the above order vide your memo No.Staff/RD/9-18/86, dated 18.5.87 but the said period has not been regularised yet.

(b) Once after setting aside the order under F.R.54-A by the competent Authority, the period of withholding of increments is regularised and full payment is made for the period but still I have not been paid. It is disobey your order, sir.

(c) In this connection and in this case it was observed

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that neither enquiry officer nor punishment officer were keen to understand the situation of the case but they were in hurry to put me behind the bar of punishment. Therefore without my two stages of pay were reduced.

(d) I was charged in 1983 but enquiry was held after five years. This too late enquiry is the evidence of their intention that they wanted to harass me only.

(e) Time after time changing of their decision over the case indicates they were not awarded with the fact of the case and without knowing the fact they were lingering the case to harass me.

(f) After over of 5 years no party could remember the date of delivery taken and items of delivery but evidences have been collected on the basis of 'May be' and 'May not be' from the party. Such statement of evidence can not be called authentic.

(g) The exact date of delivery could not be collected only from the Postman book but during the enquiry it was not available. Hence date of actual delivery shown by the enquiry officer is not authentic.

The allegations made and charges leveled against me are baseless and decision taken by the Respected senior superintendent of Postal services on 'perhaps' basis, otherwise there was no misappropriation of Govt. money against which I have been harassed and consequently I have been stopped by three stages of pay from Rs.1450/- to Rs.1360/-.

I want to clear the facts as under. If you kindly go through the fact illustrated below, you will find that the allegations made against me were baseless and I have been punished of no reason:-

CHARGE, I: Shri Priya Bndhu Roy accepted Rs.1200/- on 30.10.83 from A/C No.985936 and handed over it to Shri Dhiren Kumar, the then SPM on next day on 31.10.83. Thus he misappropriated the money temporarily and violated the provisions of Rule 4(1) of FHB Vol.I.

NEGATION OF CHARGE, I : I have already narrated before the enquiry officer that I had handed over the amount of Rs.1200/- to the then SPM on the same day. The charge of acceptances of Rs.1200/- on 30.10.83 is baseless, because on 30.10.83 there was Sunday and Post Offices remained closed being holiday, so no account holder could expected to come over the post office to deposit the money. The date of deposit shown on 31.10.83 is correct. Hence, there was no misappropriation of money by me. The charge stands false against me.

CHARGE, II : Shri F.B.Roy delivered V.P.Ps lately to the party and received amount against delivery had not been credited on the same date. Thus it is a temporary misappropriation of Govt. money.

NEGATION OF CHARGE, II : During the period Assam along with Guwahati was under havoc terrible situation, whole Guwahati was running under Bandha, hesitation, curfew etc. No Govt. office was functioning properly. Hence delay in delivery was natural. So far credit the money on the same day, it is not correct to say that the credit had been shown lately. I had been very punctual in this regard. Every year inspection remarks has been put

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'good', 'checked and found correct'. The date of actual delivery shown by the enquiry officer are baseless. The actual date of delivery could be known through the Postman book but during the enquiry they did not get it. Without Postman Book actual date of delivery shown is on 'perhaps' basis which can be treated as an authentic. After five year no party could remember the actual date of delivery taken. Hence submission of evidence on 'May be' and 'may not be' basis can not certify that I had misappropriated the Govt. money. The charges leveled is baseless.

I, therefore, appeal your honour kindly to set aside whole of the case and I may kindly be freed from all the charges and my with held 5 increments may kindly be released and for the period the full pay and allowances may kindly be paid w.e.f. the date of suspension.

I shall be very grateful to your honour in my whole life.

Yours faithfully

(PRIYA SANDHU ROY)
Postal Assistant
Guwahati University Post Office
Guwahati-14.

Date 31 July, 1989.

Copy to :-

1. The Postmaster General, North East Circle, Guwahati-1 for information and necessary action.
2. The Senior Supdt. of Postal Services, Guwahati Division, Guwahati-3 for information.

Date 10.8.89

To
The Director of Postal Services,
Assam Circle,
Guwahati-781001.

Subject : Unfairly reduction of three stages from my pay from Rs.1450/- to 1360/- under Rule 14 of CCS(CCA) Rules 1965. An appeal for deliverence of all reduction increments- regarding.

Respected sir,

In continuation to my previous appeal, dated 31.7.89 on the above subject, I would further like to light on the false charges, leveled upon me under Article I,II and III vide memo No.F1/83-84, dated 27.6.89 by the respected senior Superintendent of Postal Services, Guwahati Division, Guwahati-3 through which I have been withheld increments. The false charges articlewise are mentioned as under along with my negation of charges stepwise :-

CHARGES UNDER ARTICLE I,II & III:- Shri P.S.Roy SPM did not credit the amount received against delivery of VPPs timely. Thus he misappropriated the Govt.money temporarily and violated the provisions of Rule 4(i)(a) and 5 of FHB Vol.I. The particulars of VPPs are given as under :-

Particulars of V.P. Articles	Name and Address of the Addressee	date of receipt	Date of actual delivery	Date of delivery shown
1.New Delhi V.P. No.897 for Rs.280/-B.40 Commission	Mrs.Pankaj Kumari Saikia, North Guwahati M.E.School.	14.4.83	19.4.83	9.6.83.
2.New Delhi V.P. No.1417 for Rs.205/-6.30 (Com)	Shri Kamal Kr. Mahanta C/O Ranjit Mahanta, Rajaduar.	3.5.83	9.5.83	19.9.83.
3.New Delhi V.P. No.453 for Rs.180/-5.40 (Com)	Shri Sankar Bhuyan Silsako, North Guwahati.	11.4.83	13.4.83	9.6.83.
4.New Delhi V.P. No.1166 for Rs.165/-5.10 (Com)	Shri Kabindra Burhagohain Rudreswar, N.Guwahati.	23.5.83	27.5.83	19.9.83.

NEGATAION OF CHARGES UNDER ARTICLES I & II:- The charges framed Article I&II are baseless and can not be called them authentic due to following reasons:-

1. The Enquiry Officer had submitted only date of receipt of VPPs, actual date of delivery and date of delivery by me but he had shown the date of intimation of VPPs to the addressees.
2. The VPPs are not delivered without intimation. .. of all post office mends them intimation then after adresses come to get delivery.
3. The differences in between date of receipt and date of actual delivery were of only one week which were expected dates

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of enquiry officer. In 1983 the situation of Assam alongwith Guwahati was so havoc that all the Govt. offices were irregular and improper in function. In such situation delivery shown by the enquiry officer was not knowing the date of actual delivery. If he had traced out the actual date of delivery, he should had no show the dates of intimation also to the addressees in support of dates of actual delivery.

4. I have already illustrated in my previous appeal dated 31.7.89 that the Postman Book was not available during enquiry. Hence they can not certify the date of actual delivery.

5. Every year my account had been inspected. Inspection officer had remarked 'Checked and found correct' every year. Hence it would be very unfair and unjust to say that my account and dealing had not been regular.

6. During entire case not a single paise was shown to be recovered from me against misappropriation of Govt. money. This may also tell that charges were false, untrue and I was honest and efficient towards my duties and Department.

7. Serial No.4 of the table will tell that I had been trapped without any fault. Rangmahal itself has a branch post office and delivery is made by the branch office. I had been involved in Rangmahal case also which was not directly related to me.

CHARGE UNDER ARTICLE -III: Shri P.B.Roy, SPM has corrected the dates of delivery put under signature by addressees. Followings are the causes. Thus Shri Roy violated the pro. of Rule 63 of FHB Vol. I and P&T Man. II:-

Particulars of V.P. Articles.	Name and Address of the addressees.	Dates put by Addressees.	Date corrected by Shri Roy.
1. New Delhi V.P. No. 897 for Rs. 280/-	Mrs. Pankaj Kumari Saikia, North Guwahati M.E. School.	19.4.83	9.6.83.
2. Delhi V.P. No. 1479 for Rs. 160/-	Shri Madhab Ch. Das, Rajaduar North Guwahati.	24.4.83	9.6.83.
3. Delhi V.P. No. 209 for Rs. 165/-	Shri Premodhar Burhagohain, Rudreswar Rangmahal.	22.4.83	9.6.83.

NEGATION OF CHARGE UNDER ARTICLE -III:-

1. I did not correct the dates of addressees put under their signature at all. This thing I have already mentioned in my written statement of defence during enquiry.

2. Sl. No. 2 of the above table itself will certify that I have been alleged of no allegation. Date of delivery put by addressees as shown by the enquiry officer on 24.4.93 is quite impossible. On 24.4.83 there was holiday which may kindly be verified. On holiday post offices were closed, then how did Shri Madhab Chandra Das, Rajaduar, North Guwahati get the delivery of VPP. This point indicate that I had only been involved for harassment and punishment.

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Sl.No.3 of the teble will tell that Rangmahal itself has a branch post office. Each and every delivery is made to the area through branch office. How I was responsible for the delivery of Rudreswar, Rangmahal.

4. All the dates of delivery shown by the enquiry officer are '..... dates' not 'actual dates'.

5. Enquiry report is not authentic. The enquiry officer has taken those days also in to account which were holidays. Hence report prepared and put before the Senior Supdt.of Postal Services is on 'Expectation basis' not 'Actual basis'.

Hence all the charges under the case are liable to be dismissed being it untrue, unfair and unjust.

The most important thing your honour which I want to illustrate here that no doubt our hon'ble officers have been delegated enough powers to govern the department but no power is bigger than and its It is on true as the sun rises in the east. The power is made by us but humanity is created by ..Circle. When one egonize the other without any reason or due to malicious feeling, he egonises God. You can not imagine your honour how did I spent my those six years under monetary crisis and mental disturbance. I have seen my family struggling with privation. Even an enemy could feel pity to see such situation but our Senior Superintendent was my own, my officer and a senior member of our family but she did not think over my problems the facts of the case why I have been alleged.

I pray your honour that I may kindly be released all withheld increments and my all legal dues from which I have been debarred due to the allegations, and oblige me.

I shall be very grateful to your honour for my whole life.

Yours faithfully

(PRIYA BANDHU ROY)
POSTAL ASSISTANT
Guwahati University P.O.
Guwahati-14.

Date : 10th August, 1989.

Copy to :-

1. The Postmaster General, Assam Circle, Guwahati-1, for information and necessary action.
2. The Senior Superintendent of Postal Services, Guwahati Division, Guwahati-3 for information.

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ANNEXURE 9

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL : ASSAM CIRCLE
G U W A H A T I

54

Memo No. Staff/9-26/89
Dated Guwahati, the 27th Decm. '89

14

This is an appeal directed against the orders of punishment under Rule 14 of CCS(CCA) Rules, 1965 reducing Shri Priya Bandhu Roy, the then S.P.M., North Guwahati S.O. and now P.A., Guwahati University H.O. by 3 stages in the Time Scale of Pay for 5 years awarded by the Sr. Supdt. of P.O.s, Guwahati under Memo No.F1-4/83-84 dated 27-6-1989.

2. The case in brief : Shri Priya Bandhu Roy, the then S.P.M., North Guwahati S.O. was charge-sheeted by the Sr. Supdt. of P.O.s, Guwahati under Rule 14 of CCS (CCA) Rules, 1965 under Memo No.F1-4/83-84 dated 31-10-1985 on different counts for his failure to realise demurrage charges for detaining V.P. articles, non-credit of VP amount realised on due dates and entertaining one SB deposit for Rs.1200/- while under suspension. On conclusion of the disciplinary proceedings, the official was punished on 30-12-1985 with reduction by two stages in the time scale. The official thereupon preferred appeal and the appellate authority had set aside the punishment on 18-05-1987 with direction of enquiry denovo. Hence, the present appeal arises against the final orders of punishment passed by the disciplinary authority on 27-6-1989.

3. The appellant has argued that during the enquiry he was upset and could not refute the allegations. Now, he states that he was punished after lingering the case for 5 years without considering the facts and was harassed. The postman book was not found during the enquiry to ascertain the date of delivery of the VP articles. He has not misappropriated SB deposit of Rs.1200/- as the day of 30-10-83 was a Sunday and he handed over the amount on the same day of receipt i.e. 31-10-1983. That there was disturbance during the relevant period and the offices could not function properly resulting delay in delivery of VP articles. Therefore, he appealed to set aside the punishment awarded.

4. I have considered the facts leading to this appeal very carefully and found that prescribed procedures have been followed by the disciplinary authority and the officials was afforded reasonable opportunity to defend the case. Coming to the points of arguments of the appellant I find that he relied on facts not refuted by him during appropriate stage of enquiry and are not relevant here. Yet I am convinced from the records of the case that non-credit of V.P. amount on the dates of collection by Shri Roy was fully established and that he accepted the SB deposits of Rs.1200/- on 30-10-1983 and entered the transaction in the pass book on the date he was under suspension. The unusual situation whatever might be cannot absolve the government servant from gross misconduct concerning non-credit of money collected in the official capacity and thereby attracting moral turpitude. The question of

delay in . . .

delay in finalising the case was not unusual when the case had to be handled in different stages of procedural actions. Regarding quantum of punishment awarded I do not find room to invoke leniency and consider that the official deserves the punishment imposed by the disciplinary authority. The appeal, resultantly, stands rejected.

sd/-

(Col. S.C. Sarma)
Director of Postal Services,
Assam Circle, Guwahati-1.

Copy to :-

Regd/AD ✓

1. Priyabandhu Roy, Postal Assistant, Guwahati University Post Office, Guwahati - 14 for information w.r. to his appeal dated 31-7-1989.
2. The Sr. Supdt. of P.O.s, Guwahati Division, Guwahati (in duplicate).
3. Spare.

(Col. S.C. Sarma)
Director of Postal Services,
Assam Circle, Guwahati-1.

aaaaaa

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

From :
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-1

To:
Shri Priya Bandhu Roy
P.A. G.U.H.O.
Guwahati University H.O.

No.B.1/Appeal/P.B.Roy.

Dated Guwahati the 22.8.90

Sub : Documents in C/W appeal.

Ref.: Your appeal petition dated 13.8.90.

This is for your information that you have submitted an appeal petition without the documents which had been addressed to the D.G. P&T New Delhi through proper channel.

Therefore, it is requested to submit the copy of following memos for early settlement of the case.

1. Memo of Charge Sheet with statement of imputation.
2. Defence representation of the charge sheet.
3. Punishment order issued by the SSP/GH.
4. Appeal to the appellate authority i.e. to DPS.
5. Copy of order from the appellate authority.

Sd/-
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-1.

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Annexure-11

Date : 15th Sept.1990

To
The Senior Superintendent,
Postal Services
Assam Circle,
Guwahati.

Subject : Copies of some documents, desired by your honour-reg.

Respected Madam,

In response to your letter No.B-1/Appeal/PB Roy, dated 22.8.90, I am submitting herewith the copies of following previous letters as desired by you.

1. Copy of Charge Sheet.
2. Reply of Charge sheet in defence.
3. Copy of order by which punishment implemented.
4. Appeal to DPS (2 copies in different dates)
5. Reply received on appeal by DPS.

The above copies are for your kind perusal and necessary favourable action for settlement of case.

Yours faithfully

(P.B.Roy)
Postal Assistant
G.U. Post Office
Guwahati-14.

Encl: As stated above.

To
The Sr.Suptd.of Post.
Gauhati Div.
Gauhati-1.

Through SPM Udak Bakra S.o.

Subject : Copies of some documents, desired by your honour.

Respected Madam, Ref the letter No.Nil dated 15th Sept.90, in response to your letter No.B-1/Appeal/PB Roy dated 22.8.90, I have submitted all the documents the case on 15th Sept.90.

But it is regrete to inform you till date I have not yet any response from your end, kindly look in tothe matter and necessary favourable action for settlement of case.

Thanking yoy.

Yours faithfully

Priya Bandhu Roy
SPM/Udalbakra
Ghy-34

Date; 30.9.91.
No.UDBK/Staff/05.

Annexure-13
21.10.92

To
The Sr. Supdt. of Posts
Gauhati Div.
Gauhati-1.

Through proper channel.

Subj: For early settlement the case all documents have been submitted as required by you on 15th Sept.90.

Sir,

With ref. to the subject cited above, kindly ref my letter dated 30.9.91 which was send through SPM Udal Bakra vide letter No. UDBK/Staff/05 dated 30.9.91.

But it is to regret you that your honour till to date I have not yet received any response from your end, kindly look in to the matter as prayed for and early settlement the case.

I am awaiting for your early and sympathetic favourable order please.

Yours faithfully
Priya Bandhu Roy
PA GU HO.

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Annexure-14
Date : 6.1.93

To
The Sr Supdt.of Posts
Gauhati Div.
Ghy-1.

Through proper channel.

Subj: Copies of some documents desired by your honour- reg.

Respected Madam,

Ref.GU FM letter No.FM/Corr/APPL/ dated 21.10.92.

In response to your letter No.B-1/Appeal/PB Roy dated 22.8.90, I have already submitted all the documents as desired by you on 15th Sept.90.

In this connection several reminder has been submitted in time to time, but it is regret to inform you that till to date not yet settle the case nor yet any response from your end.

Kindly look in to the matter as prayed for at an early date.

Yours faithfully

Sri Priya Bandhu Roy
PA/GU/HO
6.1.93.

Advance copy :

1. DG P&T, New Delhi : For favour of your kind information, photostat copy of B-1/Appeal/PB Roy dated 22.8.90 and dated 15th Sept.90 is enclosed and prayed for early settlement of the case..

Department of Posts : India
Office of the Chief Postmaster General : Assam Circle::
Meghdoot Bhawan, 1st Floor : Guwahati-781001.
.....

No.SA/1/92/Rlgs

the 29th October 1992.

To

The SSPos/Guwahati.

Subject: Decision taken on staff Adalat held on 30.09.92 in Assam Circle, Guwahati.

A copy/extract(s) of the decision taken by the Staff Adalat held on 30.9.92 under the chairmanship of Chief Postmaster General, Assam Circle, Guwahati on the respective grievances of the Staff is sent herewith for favour of taking necessary action. A brief particulars of the grievances along with the name and designation of the official is also enclosed herewith for favour of ready reference.

Encl :: As above

Sd/-

(P.Dey)
Secretary
Staff Adalat & Accounts Officer
O/O the Chief Postmaster General
Assam Circle
GUWAHATI:: 781001.

Copy to :-

Shri Priya Bandhu Roy, P.A. Guwahati University, with reference to his application dated 27.7.92, an extract of the decision of the Staff Adalat held on 30.9.92 is enclosed for information.

Copy to File No.SA/3-19/92.

Sd/-

Secretary
Staff Adalat & Accounts Officer
O/o the Chief Postmaster General
Assam Circle, Guwahati-1.

SA/3-19/92 :

This is yet another representation against the punishment order imposed by Disciplinary Authority. The official had preferred an appeal against this punishment which was rejected by the Appellate Authority. If he prefers any petition to Postal Services Board, the same may be sent through Controlling Authority along with his comments for further consideration. The Adalat does not find this as fit case to be entertained in the Adalat.

Case is closed.

25.12.92

To

Before the Chairman
Postal Services Board.

Through the proper channel.

Sub.: Unfairly deduction of three stages from my pay from Rs.1450/- to Rs.1360/- under Rule 14 of the CCS(CCA) Rules of 1965. An appeal for deliverance of all reduced increments- regarding.

Respected Sir,

With reference to the subject above, I am to appeal that the senior Superintendent of Postal services, Guwahati Division, Guwahati-3 has reduced three stages from my pay Rs.1450/- to Rs.1360/- under Rule 14 of the CCS (CCA) Rules of 1965 vide her memo No.1-4/83-84, dated 27th June, 1989, which seems to be unfair and injustice with my future. In this connection I would like to taken by the Hon'ble officer as under :-

I have been imposed two charges under Rule 14 of CCS (CCA) Rules of 1965 :-

(1) I accepted a deposit of Rs.1200/- against CH SB A/C No.985936 on dated 30.10.83 which was not credited on the same day but the same was handed over to Shri Dhiren Kumar, the then SPM North GH S.O. on 31.10.83 by me. Thus I misappropriated the amount temporarily and violated the provisions of Rule 4(1) of FHB Vol.I.

(2) The VPFs received have been delivered lately and received amount against delivery has not been credited on the same day. Thus I misappropriated the Govt.money temporarily (The enquiry and decision taken portion of the memo No.F1-4/83-84 dated 27.6.89 is enclosed).

Hon'ble Sir, during enquiry I was so upset due to monetary crisis being I under suspension, its effect on my family and blame upon my honesty and efficiency. I could not cross the allegation. Now when I am feeling some mental relaxation and viewed on the allegations framed upon me. I reached the conclusion that all those charged were baseless only to keep me due to malicious feeling. The baseless following points themselves will indicate the intention of my envious:-

(a) I was suspended on 14.10.83 and without holding an enquiry I was reduced my pay by two stages for two years with cumulative effect vide memo No.F-1-4/83=84, dated 17.1.86. You are kind enough you understood the reality, heard by appeal and set aside the above order vide your memo No.Staff/RD/9-18/86, dated 18.5.87 but the said period has not been regularised yet.

(b) Once, after setting aside the order under F.R. 54-A by the Competent Authority, the period of withholding of increments is regularised and full payment is made for the period but of your order sir.

(c) In this connection and in this case it was observed

that neither enquiry officer nor punishment officer were keen to understand the situation of the case but they were in hurry to put me behind the bar of punishment. Therefore, without holding an enquiry my two stages of pay were reduced.

(d) I was charged in 1983 but enquiry was hold after five years. This too-late enquiry is the evidence of their intention that they wanted to harrass me only.

(e) Time after time changing of their decision over the case indicates they were not awarded with the fact of the case and without knowing the fact they were lingering the case to harass me.

(f) After over of 5 years no party could remember the date of delivery taken and items of delivery but evidences have been collected on the basis of 'May be' and 'May not be' from the party. Such statement of evidence can not be called authentic.

(g) The exact date of delivery could not be collected only from the Postman book but during the enquiry it was not available. Hence date of actual delivery shown by the enquiry officer is not authentic.

The allegations made and charges leveled against me are baseless and decision taken by the Respected senior superintendent of Postal services on 'perhaps' basis, otherwise there was no misappropriation of Govt. money against which I have been harassed and consequently I have been stopped by three stages of pay from Rs.1450/- to Rs.1360/-.

I want to clear the facts as under. If you kindly go through the fact illustrated below, you will find that the allegations made against me were baseless and I have been punished of no reason:-

CHARGE, I: Shri Priya Bndhu Roy accepted Rs.1200/- on 30.10.83 from A/C No.985936 and handed over it to Shri Dhiren Kumar, the then SPM on next day on 31.10.83. Thus he misappropriated the money temporarily and violated the provisions of Rule 4(1) of FHB Vol.I.

NEGATION OF CHARGE, I : I have already narrated before the enquiry officer that I had handed over the amount of Rs.1200/- to the then SPM on the same day. The charge of acceptances of Rs.1200/- on 30.10.83 is baseless, because on 30.10.83 there was Sunday and Post Offices remained closed being holiday, so no account holder could expected to come over the post office to deposit the money. The date of deposit shown on 31.10.83 is correct. Hence, there was no misappropriation of money by me. The charge stands false against me.

CHARGE, II : Shri P.B.Roy delivered V.P.Ps lately to the party and received amount against delivery had not been credited on the same date. Thus it is a temporary misappropriation of Govt. money.

NEGATION OF CHARGE, II : During the period Assam along with Guwahati was under havoc terrible situation, whole Guwahati was running under Bandha, hesitation, curfew etc. No Govt. office was functioning properly. Hence delay in delivery was natural. So far credit the money on the same day, it is not correct to say that the credit had been shown lately. I had been very punctual in this regard. Every year inspection remarks has been put

'good', 'checked' and found correct'. The date of actual delivery shown by the enquiry officer are baseless. The actual date of delivery could be known through the Postman book but during the enquiry they did not get it. Without Postman Book actual date of delivery shown is on 'perhaps' basis which can be treated as an authentic. After five year no party could remember the actual date of delivery taken. Hence submission of evidence on 'May be' and 'may not be' basis can not certify that I had misappropriated the Govt. money. The charges leveled is baseless.

I, therefore, appeal your honour kindly to set aside whole of the case and I may kindly be freed from all the charges and my with held 5 increments may kindly be released and for the period the full pay and allowances may kindly be paid w.e.f. the date of suspension.

I shall be very grateful to your honour in my whole life.

Yours faithfully,

(PRIYA BANDHU ROY)
Postal Assistant
Guwahati University Post Office
Guwahati-14.

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F.No.1/105/93-VP
Government of India
Ministry of Communications
(Department of Posts)
Dak Bhawan, Sansad Marg
New Delhi-110001.

Dated, 3/12/93.

ORDER

1. Shri Priya Bandhu Roy, Postal Asstt. Guwahati University H.O. has submitted a petition dated 25.12.92 against the penalty of reduction in his pay by three stages, i.e. from Rs.1450/- to 1360/- in the Time Scale of pay for a period of five years imposed by the disciplinary authority and upheld by the appellate authority.

2. At the outset it may be observed that the official has preferred this petition on 25.12.92 though his appeal was rejected on 27.12.89. The petition has thus been filed after a delay of about three years. While Rule 29 of CCS(CCA) Rules 1965, which provides for revision of an order, does not prescribe any time limit for preferring a petition, it can not mean that an official wanting to prefer a petition, must be so within a reasonable time and any delay beyond six months would be unreasonable. In the instant case the delay of about three years is too unconscionable to justify consideration of the petition.

3. In view of the foregoing the petition can not be entertained at this distant date and is hereby rejected on the ground of unreasonable delay.

Sd/-
(S.P.RAI)
MEMBER (P) POSTAL SERVICES BOARD.

Shri Priya Bandhu Roy
Postal Assistant,
Guwahati University Post Office,
Guwahati-14.

(Through CPMG, Assam Circle, Guwahati-781001).

(25) - 55
To
The Member (P) Postal Services Board,
Govt. of India
Ministry of Communications,
(Department of Posts)
Dak Bhawan, Sangad Marg
New Delhi - 110 001.

5257/10/14/92
66 18
ANNEXURE 18

Through Proper channel.

Ref : Order No. P. No. 1/165/93-VP dtd 31-12-93

Sir,

With reference to your letter quoted above I have the honour to inform you that it has been observed by your honour that I have preferred the appeal at a belated stage causing delay of above three years. In this context I am to inform you that correspondences were being done since 1989 to 1994 regularly. The enclosed photostat copies of the corresponding letters will speak about the facts.

Further I would like to draw your kind attention to enquire into the matter, calling upon the relevant documents to meet the ends of justice. If the records are called for, it will be evident that I have been taking all steps within time.

Under the circumstances it is prayed that your honour may be pleased to review the matter sympathetically and to pass order accordingly.

And for this act of kindness I shall ever pray.

Enclosures: 10 (Ten only)

Yours faithfully,

Priya Bandhu Roy
(Priya Bandhu Roy)
PA/50-3B
Meghdoot Bhawan
Guwahati GPO
Guwahati-1
28/1/94

Advance copy forwarded along with enclosures -
to Member(P) Postal Service Board

Annexure-19.

DEPARTMENT OF POSTS, INDIA

From :

To :

O/o the Chief Postmaster General
Assam Circle, Guwahati-781001.

Shri Priya Bandhu Roy
PA/SO SB Meghdoot Bhawan
GH.GPO, GHY-1.

No. Staff/15-4/93

Dated at..

Subject : Representation for reconsideration of Dte's judgement
order on petition.

Your representation dated 28.4.94 addressed to Member
(P), PSB, New Delhi has been examined and returned simply to this
office since the case has already been finalised by Dte's vide
their letter No.1/105/93 VP dated 31.12.93.

This for your information.

Sd/-

(I.C. Sarma)

Asstt. Postmaster General (Staff)

O/o the Chief Postmaster General

Assam Circle, Guwahati-781001.

Copy to :

The SSPOS, Guwahati.

Sd/-

(I.C. Sarma)

Asstt. Postmaster General (Staff)

O/o the Chief Postmaster General

Assam Circle, Guwahati-781001.

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DEPARTMENT OF POSTS (INDIA)
OFFICE OF THE SR.SUPDT. OF P.O.S., GH DN., 3RD FLOOR,
MEGHDOOT BHAWAN, GUWAHATI-781001.

To

Shri Priya Bandhu Roy,
PA/Guwahati University HO.

Regd

No.FI-4/83-84

Dated at Guwahati-1 the 23rd Oct/90.

Sub:-Implementation of normal increment stopped
by SSP/Guwahati

Ref:-Your letter No. Nil dt. 10.10.90.

The case has been examined and it is found that the order of punishment imposed on you is very clear "That the pay of Shri Priyabandhu Roy, PA Guwahati University HO be reduced by 3(three) stages from Rs.1450/- to Rs.1360/- in time scale of his pay for a period of five years w.e.f. 1st July/89" The pay will remain fixed in the same stage for complete 5(five) years and no increment will ~~be~~ *even* during this period. The normal increments will be ent~~ire~~ after the punishment period is over.

This is for your information.

M. Lauphner

Sr.Supdt. of Post Offices,
Guwahati Dn., Guwahati-1.

Copy to:-

The Postmaster, Guwahati University HO for information
w.r.t. his letter No.A2/S.Book/PB Roy dt. 17.10.90.

Sr.Supdt. of Post Offices,
Guwahati Dn., Guwahati-1.

2
To
The Senior Supdt. of Post Offices,
Guwahati Division/Guwahati.

(Through the Sr. Postmaster, Guwahati G.P.O.).

Dated, Guwahati, the 29th July 1994.

Respected Sir,

With due respect I beg to lay before you the following few lines for favour of sympathetic consideration.

That Sir, I joined in the service on 3.9.70 and as such I have completed 23 years of complete service but I did not received the Time-Bond Promotion due to my punishment for stoppage of increment for last three years. My punishment has already been over by June/94. As such I am entitled for 1st Time-bond promotion for which you are requested to look into the matter very sympathetically and allow me to avail of T.B. promotion at an early date.

For this act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

Priyabandhu Roy

(Sri Priyabandhu Roy)
P.A. Guwahati H.O.

Advance copy to :-

1. The Senior Supdt. of Post Offices,
Guwahati Division/Guwahati.
2. D.P.S./Assam Circle/Guwahati.

DEPARTMENT OF POSTS INDIA
OFFICE OF THE SR.SUPDT.OF POST OFFICES,GH.DIV.
GUWAHATI-781001

No.B/A-Promotion/TB/91-92, dated at Guwahati the 2.9.94.

(1) The following officials of PA.Postman and Gr.D Cadre who have completed 16 years services in the grade are hereby promoted to the next higher grade carrying scale of Pay Rs.1400/- to 2300/-, 975/- to 1540/-, and 800/- to 1150/- respectively w.e.f. the date noted against each official under TBOP scheme in accordance with DG New Delhi No.31-26/83 dated 17.2.83.

(2) As laid down in para 8 of the Directorate aforesaid letter the promoted officials inter seniority in the lower grade will remained unchanged in the gradation list in their basic cadre.

(3) Cases of officials included in the list but found not eligible if any should be reported to this office before effect to.

(4) Copies of charge reports from the officials on assumption charge in their higher grade should be sent to this office.

<u>Name/Degn/Office</u>	<u>PA/Cadre</u>	<u>Date of effect of TBOP</u>
1. Shri Priya Bandhu Roy	PA/GHY HO	1.7.94
2. Md.Mushibuddin Ahmed/II	-do-	10.8.91.
3. Shri Samin Ch.Deka	PA/Amingaon	15.12.91.
4. Shri Sona Ram Das	PA/F.Bazar	12.11.92.
5. Shri Ananta Kr.Das	PA/GHY HO	22.6.92
6. Shri Mazibuddin Ahmed	-do-	5.3.92.

Postman Cadre:

1. Shri Jogendra Nath Sarma	F/Man, Silpukhuri	12.11.90.
2. Shri Phanidhar Baishya	F/Man, Rehabari	8.7.91.
3. Shri Dharanidhar Deka	F/ManGHY/HO	27.9.91.
4. Shri Farmud Ali	F/Man Amerigog	18.3.93.
5. Shri Khargeswar Das	F/Man, Silpukhuri	19.3.93.
6. Shri Mohan Ch.Medhi	F/Man, GHY HO.	23.3.93.
7. Shri Prafulla Ch.Thakuria	F/Man,ASL, SO.	11.11.90.
8. Shri Pratap Ch.Kalita	F/Man, GHY HO.	23.3.93.
9. Shri Bhadra Ram Das	-do-	24.3.93.
10. Shri Hareswar Das	-do-	11.11.90.
11. Shri Niren Ch.Das	-do-	23.3.93

Group 'D' Cadre:

1. Shri Bhagirath Sarkar	Gr.D Offg.P/man Rehabari	2.5.93.
2. Munindra nath Deka	Gr.D, Kahilipara	2.9.92.
3. Mrs.Malati Prava Baishya	Gr.D, GHY HO.	22.7.92.
4. Mrs.Dipti Basfore	Safaiwala, P&T Dis. Panbazar	2.4.85.

Sd/-
(I.Phngewnungsang)

- 60 -
Sr.Supdt.of Post Offices,
Guwahati Dn.Guwahati-781001.

Copy to :-

- 1-20 : The Officials concerned.
- 21-40 : The PFs concerned.
- 41-42 : The Sr.PMG Guwahati GPO/PM-Guwahati University H.O.
- 43-45 : Spares.

Sd/-
Sr.Supdt.of Post Offices
Guwahati Dn, Guwahati-781001.

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DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SR.SUPDT.OF POST OFFICES, GH.DIV.
GUWAHATI-781001.

No.B2/BCR/HSG-II/92

Dated at Guwahati the 8.1.99.

In guidance of the Chief PMG Assam Circle, Guwahati, letter No.Staff/17-1/98BCR promotion dated 17.12.98 the following officials are promoted to the cadre of HSG-II (BCR) under the 2nd time bound promotion scheme carrying scale of pay Rs.5000-150-8000 w.e.f. the dates shown against places of posting of the officials in HSG-II (BCR) cadre are also shown against each.

Sl.No.	Name of the officials	Present Post held	proposed place of posting	Date of effect of HSG-II(BCR)
01.	Shri Nabin Ch.Boro	PA/GHWGPO	PA/GHGPO	1.7.98
02.	Shri Achyutananda Das	PA/Dvl.office	PA/Dvl.office	-d0-
03.	Shri Bhaben Ch.Das	PRI(P)/GH GPO	PRI(P)GH GPO	-do-
04.	Shri Abhiram Kalita	PA/Silpukhuri	PA/Slpk	1.1.99
05.	Mrs. Pranati De	PA/GH GPO	PA/Gh GPO	1.1.95
06.	Shri Harendra Mn.Deka	PA/Gh GPO	PA/Gh GPO	1.7.98
07.	Shri Narendra Nath Talukdar	SPM/Digarua	SPM/Digarua	SO 1.7.97
08.	Shri Priyabandhu Roy	SPM/Odalbakra	SPM/Odalbakra	1.1.97
09.	Shri Dhiren Ch.Mali	SPM/Barduar	SPM/Barduar	1.1.97
10.	Shri Ram Ch.Das	PA/Mlg.Rly.HQ	PA/Mlg.Rlg.HQ	1.1.99
11.	Shri Prabhat Ch.Rabha	SPM/Boko SO	SPM/Boko SO	1.7.98
12.	Shri Narayan Ch.Das	SPM/A.Tribune	A.Tribune SO	1.7.98

Usual charge report be changed and sent to all concern.

Sd/-

Sr.Supdt.of Post Offices,
Guwahati Division, Guwahati-781001.

Copy to:-

- 1-12. The officials.
- 2-24. The PFs of the officials.
25. The Sr.P.M. GH GPO.
26. The P.M. G.U. HO.
27. The Estt.branch o/o the SSP/Ghy.
28. ASP(W) ASP(Dn.)/SDI/CI. Guwahati Dn.
29. The C.P.M.G. Assam Circle, Guwahati-1.
30. O/c.
31. Spare.

Sd/-

Sr.Supdt.of Post Offices,
Guwahati Division, Guwahati-781001.

ANNEXURE - 24

Department of Posts : India :
Office of the Sr. Supdt. of POs : Guwahati Division :
Meghdoot Bhawan 3rd floor : Guwahati : 781 001.
... ..

No B-1579(L)

August 11, 1999

MEMORANDUM

WHEREAS Shri P.B. Roy, the then SPM North Guwahati SO was placed under suspension with effect from 14.10.83 vide memo no. F1-4/83-84 dated 18.11.83 and charge sheeted under memo no. F1-4/83-84 dated 11.07.84, followed by awarding punishment of reduction of pay by 2 (two) stages from Rs.408.00 to Rs. 396.00 for a period of 2 (two) years with cumulative effect vide memo no. F1-4/83-84 dated 30.12.85/17.01.86. Again Shri Priya Bandhu Roy, the then SPM North Guwahati SO was placed under suspension w.e.f. 12.09.84 vide memo no. F1-4/83-84 dated 09.09.84 and charge sheeted under memo no. F1-4/83-84 dated 03.10.85 followed by awarding punishment of reduction of pay by 3 (three) stages from Rs.1450.00 to Rs.1360.00 for a period of 5 (five) years w.e.f. 01.07.89 vide memo no. F1-4/83-84 dated 27.06.89.

AND WHEREAS the undersigned under provision laid down in FR-54(4) proposes that the period of suspension from 14.10.83 to 10.07.84 and from 12.09.84 to 02.01.86 shall be treated as duty for counting qualifying service for the purpose of pension only and payment will be restricted to the subsistence allowance only paid to him for both the periods.

NOW THEREFORE, Shri Priya Bandu Roy now working as PA, PSD Guwahati is hereby given an opportunity of making representation on the proposed decision. Any representation if any should be made in writing and submitted so as to reach the undersigned, not later than 15 days from the date of receipt of this show cause notice by Shri Priya Bandu Roy.

The receipt of the memo should be acknowledged by Shri Priya Bandu Roy.

(J.N. SARMAH)
Sr. Supdt. of Post offices
Guwahati Division, Guwahati.

Recd Copy to :-

Shri Priya Bandu Roy, PA PSD, Guwahati - 781 021.

SSROs Guwahati.

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To,

The Senior Supdt. of Post Offices
Guwahati Division, Guwahati-781 001

(Through proper channel)

Sub : Prayer for treatment of suspension period as duty
for all purpose - case of Shri Priya Bandhu Roy
now PA at Postal Stores Depot, Guwahati.

Ref : Your Memorandum No. B-1579(I) dtd 11.8.99.

Respected Sir,

With due respect, I have the honour to state that
the period of suspension has been treated as duty only for
conting of qualifying service which will have no affect as
my service will be beyond 33 years at the time of retirement.

That Sir, I was promoted to the HSG-II BCR vide
C.O.'s memo No. Staff/17-1/98/BCR promotion dtd 17.12.98 w.e.f.
1.1.97 which was communicated vide your memo no. B2/BCR/HSG-II/
92 dtd 8.1.99. The Senior Postmaster, Guwahati GPO did not
give me the promotional benefit of HSG-II BCR the season of
which is not known to me. In the meantime I have joined at
postal Stores Depot, Guwahati on transfer.

That Sir, I have been denied the HSG-II promotion
by the Senior Postmaster Guwahati GPO as well as by the
Postal Stores Depot, Guwahati though the effect was given
from 1.1.97 by the C.O.

Under the circumstances it is requested kindly
to cause issue necessary instructions so that I may get the
benefit of HSG-II promotion from 1.1.97.

Thanking you in anticipation.

Yours faithfully,

Priya Bandhu Roy

Dated Guwahati-781 021
the 27.8.99

(Priya Bandhu Roy)
PA, Postal Stores Depot,
Guwahati-781 021

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To

The Sr Superintendent of Post Offices
Guwahati Division
Guwahati - 781001

Through Proper channel

Subject:- Prayer for consideration of suspension period
(for delay delivery of article) period from
14-10-83 to 10-07-84 and 12-09-84 to 02- 01- 86
as duty for all purpose.

Ref your memo no B-1579(L) dated 11-08-99

Respected Sir,

On receipt your memorandum No. B-1579(L) dt 11-08-99
I am a helpless employee witnessed a dream of hope of justice.

That Sir, in the said memo it is discussed how I have been
punished severely for the period from 14-10-83 to 10-07-84 and
12-09-84 to 02-01-86.

That Sir, after a space of period I have been again
considered for punishment on the same issue for twice.

Now, your kind honour is considering my case and want
to treat the period from 14-10-83 to 10-07-84 and 12-09-84 to
02-01-86 as duty for counting qualifying service for the purpose
of pension only.

In humble submission I beg to pray before your honour to
kindly confer justice to your employee serving in the department
and consider the period in duty for all purpose for which of your
act of kindness , I shall remain ever greatfull to you.

Thanking you.

Yours faithfully,

Priya Bandhu Roy

(Priya Bandhu Roy)

3rd Sep '99

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SR. SUPDT. OF POST OFFICES, GUWAHATI DN.
GUWAHATI-781001.

No.B-1579(1)

Dated 27.10.99.

Shri P.B.Roy, the then SPM, North Guwahati SO and now working as PA PSD, Guwahati was placed under suspension with effect from 14.10.83 to 10.7.84 vide memo No.F1-4/83-84 dated 11.10.83 and charge sheetd under memo No.F1-4/83-84 dated 11.7.84 following by awarding punishment of reduction of pay by 2 (two) stages from Rs.408/- to Rs/.396/- for a period of two years with cumulative effect vide memo No.F1-4/83-84 dated 30.12.85/17-1-86. Again Shri P.B. Roy was placed under suspension w.e.f. 12.9.84 to 2.1.86 vide memo No.F1-4/83-84 dated 9.9.84 and charge sheeted under memo No.F1-4/83-84 dated 3.10.85 followed by awarding punishment of reduction of pay by 3 (three) stages from Rs.1450/- to Rs.1360/- for a period of 5(five) years w.e.f. 01.7.89 vide memo No.F1-4/83-84 dated 27.6.99.

Now, the undersigned under provision laid down in FR-54(4) proposed vide memo No.B-1579(L) dated 11.8.99 that the period of suspension from 14.10.83 to 10.7.84 and from 12.9.84 to 2.1.86 shall be treated as duty for counting qualifying service for the purpose of pension only and payment will be restricted to the subsistence allowance only paid to him for both the periods.

Shri P.B.Roy was given an opportunity of making representation if any on the proposed decision vide memo No.B-1579(1) dated 11.8.99 and said Shri P.B. Roy had received the above memo and submitted his written representation dated 27.8.99 to the undersigned on 3.9.99. In his representation Shri Roy has stated as follows:-

" With due respect, I have the honour to state that the period of suspension has been treated as duty only for counting of qualifying service which will have no affect as my service will be beyond 33 years at the time of retirement.

That Sir, I was promoted to the HSG-II BCR vide C.O.'s memo No.Staff/17-1/98/BCR promotion dated 17.12.98 w.e.f. 1.1.97 which was communicated vide your memo No. B2/BCR/HSG-II/92 dated 8.1.99. The Senior Postmaster, Guwahati GPD did not give me the promotional benefit of HSG-II BCR the reason of which is not known to me. In the meantime I have joined at Postal Stores Depot, Guwahati on transfer.

That Sir, I have been denied the HSG-II promotion by the Senior Postmaster, Guwahati- GPD as well as by the Postal Stores Depot, Guwahati through the effect was given from 1.1.97 by the C.O.

Under the circumstances it is requested kindly to cause issue necessary instructions so that i may get the benefit of HSG-II promotion from 1.1.97".

The case has been considered very carefully and found that he has nothing more to say against the proposal and it may

Alleged

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-66-

be mentioned here that the disciplinary cases were ended with major penalties.

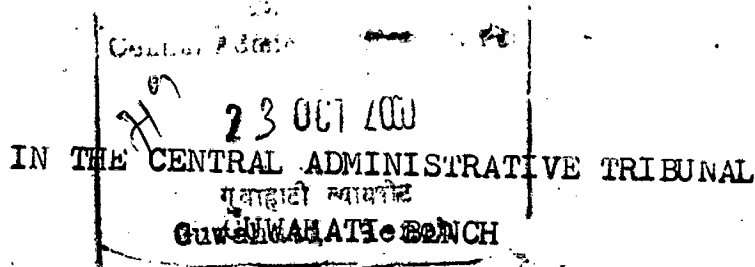
In view of the above, I, Smt. B.R. Chakravorty do hereby order that the period of suspension from 14.10.83 to 10.7.84 and from 12.9.84 to 2.1.86 may be treated as duty for counting qualifying service for the purpose of pension only and the payment will be restricted to the subsistence allowances only already paid to him.

Sd/-
(Smti. B.R. Chakravorty)
Sr. Supdt. of Post Offices,
Guwahati Division, Guwahati-781001.

Copy to :-

1. Shri P.B. Roy, the then SPM, North Guwahati SO and now working as PA. PSD Guwahati.
2. The Sr. Postmaster, Guwahati GPO for information.
3. The Supdt. of PSD, Guwahati, Bamunimaidan, Ghy-21 for information,
4. The CPMG(Vig) Assam Circle, Guwahati.
- 5-6. CR/PF files.
7. Spare.

Sd/-
(Smti. B.R. Chakravorty)
Sr. Supdt. of Post Offices,
Guwahati Division, Guwahati-781001.



O. A. NO. 127 OF 2000

Sri Priya Bandhu Roy

- VS -

Union of India & others

IN THE MATTER OF :

Written statement submitted by the Respondents.

(WRITTEN STATEMENT)

Brief history of the case, which may be treated as part of the written statement.

Sri Priya Bandhu Roy now PA, PSD Guwahati while functioning as the SPM North Guwahati SDO was placed under suspension w.e.f. 14.10.83 vide SSPOs Guwahati Divn memo no. F1-4/83-84 dated 11.10.83 contemplating disciplinary against him for alleged involvement of temporary misappropriation of govt. money in respect of VP articles delivered.

The said suspension was revoked under SSPOs. Guwahati memo no. F1-4/83-84 dated 5.7.84 and the official resumed duty as PA, Maligaon Rly, HQ SO w.e.f. 11.7.84.

The said Shri Roy while under suspension unauthorisely accepted a sum of Rs. 1200.00 only being the SB deposit from the holder of North Guwahati SO when the case came to light the official was against placed under suspension vide SSPOs/GH memo no. F1-4/83-84 dated 6.9.84. The order of suspension was given effect w.e.f. 12.09.84.

The official was charged sheeted under Rule 14 of CCS(CCA) Rules 1965 vide SSPOs, Guwahati memo no. F1-4/83-84 dated 31.10.85.

Contd.... 2/P

The proceeding against him was finalized vide SSPOs, Guwahati memo no. F1-4/83-84 dated 17.01.86 inflicting on him the ~~penalty~~ penalty of reduction of pay by two stages for a period of two years with cumulative effect.

The official preferred an appeal vide his letter dated 30.6.86 against the order of penalty. The appellate authority disposed of the appeal and ordered for De-novo inquiry setting aside the punishment awarded vide DPS/GH memo no. Staff/RD/9-18/86 dated 18.05.87.

As per order of the appellate authority a de novo enquiry on original proceeding was conducted and the I. A. on completion of the inquiry submitted his findings holding the charges against the official as proved.

Therefore, the disciplinary authority vide memo no. F1-4/83-84 dated 27.6.89 finalised the proceeding with the imposition of the penalty of reduction of pay of the official by 3 stages for a period of 5 years.

The order of punishment was also appealed against by appeal dated 31.7.89 submitted to the DPS/GH. The appellate authority vide memo no. Staff/9-26/89 dated 27.12.89 disposed of the appeal with the order upholding the punishment awarded by the disciplinary authority.

The official submitted a petition dated 25.12.92 against the penalty to the DG Posts, New Delhi. The petition was rejected on the ground of unreasonable delay.

The official was granted TBOP promotion w.e.f. 1.7.94 i.e. on the very next day of completion of punishment period.

Contd..... 3/P

The official was erroneously granted BCR promotion w.e.f. 1.7.97 though the official has completed 26 years of service on 1.7.97 but due to non qualifying service from 14.10.83 to 10.07.84 and from 12.09.84 to 02.01.86, the BCR promotion could not be implemented.

1. That with regard to paras, 2, 3, 4.1 and 4.2 the respondents beg to offer no comment.

2. That with regard to para 4.3 the respondents beg to state that the applicant was placed under suspension by the Respondent no. 5 under memo no. F1-4/83-84 dated 11.10.83 and the said order of suspension was given effect from 14.10.83. As per records the applicant was granted subsistence allowance equal to leave on half average pay by the Respondent No. 5 memo no. F1-4/83-84 dated 27.10.83. The said suspension order was revoked with immediate effect vide memo no. F1-4/83-84 dated 5.7.84 and the order was given effect from 11.7.84.

The applicant was placed again under suspension with effect from 12.9.84 by the Respondent No. 5 memo no. F1-4/83-84 dated 6.9.84 and subsistence allowance admissible as per rules laid down in FR 53 (1)(a) was granted to him vide memo no. F1-4/83-84 dated 10.10.84 payable from 12.09.84.

Subsistence allowance was reduced by 25% vide memo no. F1-4/83-84 dated 8.1.85 with effect from 01.01.85 as per provision laid down in FR 53(1)(II)(a) embodied vide G.I.M.F.OM no. F(1)-EIV A/66 dated 30.6.1966. The applicant was placed under suspension on both the said occasion pending investigations into alleged defalcation of Govt. money. His appeal for revocation of suspension order were considered but was not conceded before the appropriate time in the interest of investigation.

The said subsistence allowance was increased by another 20% w.e.f. 1.10.85 vide SSPOs, Guwahati memo no. F1-4/83-84 dated 30.10.85.

3. That with regard to para 4.4 the respondents beg to say that the rate of subsistence allowance was determined as per provisions laid down in FR 53(1) and enhance and reduction of the same was ordered on periodical review taking into merit of the circumstances with conformity to guiding principles laid down in rules. Other matters as stated in para 4.3.

4. That with regard to para 4.5 the respondents beg to state that the punishment order against the applicant for the first instance of offence was issued without holding oral enquiry as the applicant admitted the charges in otherways. However the said order of punishment was set aside by the appropriate Appellate authority with orders for de novo proceedings against the applicant.

5. That with regard to para 4.6 and 4.7 the respondents beg to offer no comment.

6. That with regard to para 4.8 the respondents beg to state that the contentions of the applicant are not true and based on records. Inquiry was held as per provision laid down in Rule 14 of CCS(CCA) rules 1965 and the applicant was given reasonable opportunity to defend the case in all stages.

7. Para No. 4.9 : No comment. comment.

8. That with regard to para 4.10 the respondents beg to state that the applicant was given reasonable opportunity as prescribed in rules in every stage of departmental inquiry held against him. The allegation against the inquiry authority that he was denied of proper defence is not true but malicious and without base.

The Inquiry authority conducted the spirit of impartiality and offered every justified and reasonable opportunity considering the merits of the submissions of the applicant. There was co-operation and full participation by the applicant throughout the inquiry and never raised a complaint of biasness of the Inquiry authority.

9. That with regard to para 4.11 the respondents beg to state that the statement made in the para have no iota of truth. The applicant tries to cover up the facts on record by his imaginary contentions, The Disciplinary authority (Respondents no. 5) passed the order of punishment against the applicant after assessing the evidences and materials and findings of the Inquiry authority. The witness were examined/cross examined during the oral inquiry by the Independent Inquiry Authority not by the Disciplinary authority as alleged by the applicant. The order of punishment has deliberated the facts clearly.

10. That with regard to paras 4.12 and 4.13 the respondents beg to offer no comment.

11. That para No. 4.14 that the Appellate authority disposed of the appeal of the applicant after due consideration of the issues/points raised by the applicant in his appeals. The issues in the appeals and ground for rejection have been discussed in clear terms in the order passed by the appellate authority.

12. Para No. 4.15 : No comment.

13. That with regard to para 4.16 the respondents beg to state that the applicant submitted an appeal petition on 13.8.90 addressed to the Director General, Post and Telegraph New Delhi against the appellate order that too

without supporting documents. The applicant was advised to submit the wanting documents which he complied on 15.9.90. The appeal petition was not properly worded and addressed to appropriated authority. Here in this case the applicant should have preferred a petition addressed to the Member (Admn) Postal Services Board, New Delhi. However, the case was examined by the Staff Adalat of Circle office which disposed of the same with further direction to the authority to forward a petition if received from the applicant to Postal service Board, New Delhi.

14. Para No. 4.17 : No comment.

15. That with regard to para 4.18 the respondents beg to state that the petition so made by the applicant was rejected by the member (Admn) Postal Services Board on the ground of unreasonable delay in submission of the petition i.e. after about three years from the date of disposal of the appeal.

16. That with regard to para 4.19 the respondents beg to state that in fact the applicant failed to prefer a petition to the appropriate authority within reasonable period of disposal of his appeal. He preferred the petition to Postal services board, New Delhi only after receipt of decision/advice of the staff Adalat. By that time a period of about three years had elapsed since the date of disposal of his appeal. The applicant is solely responsible for the inordinate delay in submission of the petition.

17. That with regard to para 4.20 the respondents beg to state that the applicant was punished with reduction of his pay by three (3) stages from Rs. 1450/- to 1360/- for a period of 5 (five) years from 01-07-89 vide SSPOs, Guwahati no. F1-4/83-84 dated 27.06.89. Thus during this

period the applicant was neither entitled to get increment no promotion as being the punishment in force.

18. That with regard to para 4.21 the respondents beg to state that as in para 4.20 above. Thus during this period the applicant was neither entitled to get increment nor promotion as being the punishment in force.

The order was not modified. The applicant made representation increments for the periods. His pay remained reduced vide his application dated 10.10.90. A reply was sent to him by the Respondents No. 5 on 23.10.90 clarifying the issue and regarding his claim which was not due. This reply did not tantamount to any modification of the order of punishment.

18. That with regard to para 4.22 the respondents beg to state that the applicant was granted TBOP w.e.f.

1.7.94 i.e. on the very next day following the expiry ~~of~~ of the punishment period. A major penalty of reduction of his pay by 3 stages from Rs. 1450 to 1360 for 5 years was imposed on the applicant on finalisation of disciplinary proceedings against him. The punishment took effect from 1.7.89. His promotion under TBOP could not be granted during the currency of the punishment from 1.7.89 to 30.6.94 as per guidelines provided in Rule 11 of CCS(CCA) Rules 1965. The contention of the applicant ~~that~~ that promotion under TBOP scheme can not be denied even if disciplinary proceedings is on or consequent punishment imposed is not true. Promotion to higher grade under TBOP scheme is also subject to fitness and clean record during the period of consideration by the Department Promotion Committee established by rules.

19. That with regard to para 4.23 and 4.24 no comment.

20. That with regard to para 4.25 it is stated that the applicant remained under suspension for the period from 14.10.83 to 10.07.84 and 12.09.84 to 02.01.86. Regularisation of these suspension periods was processed and finalized as per rule provided in FR 54 after giving opportunity to the applicant.

21. That with regard to para 4.26 the respondents beg to state that the official was placed under suspension for alleged involvement of temporary misappropriation of Govt. money in respect of VP articles delivered from 13.10.83 to 10.07.84. Again he was placed under suspension on allegation of accepting SB deposit from a SB a/c standing at North Guwahati SO during his suspension period unauthorisely.

Regarding granting of subsistence allowance the same has been mentioned in para 4.3 above. The contentions of the applicant that he was victimized by illegal suspension held against him are not true and based on facts. The above mentioned action had to be taken against the applicant in the interest of administration and discipline in the spirit of statutory rules and the applicant faced the consequences as results of his misdeeds.

22. That with regard to para 4.27 the respondents beg to state that the applicant's case for promotion to HSG II grade on completion of 26 years of continuous service under BCR scheme could not be decided due to non regularization of the periods of his suspension. His name was erroneously included in the panel of the officials granted promotion under BCR scheme. The irregularity was set right dropping the name of the applicant from the approved list.

23. Para 4.28 : No comment.

24. That with regard to para 4.29 the respondents state that the punishment order was issued keeping in view the merits of the case. Regarding promotion of TBOP and BCR, the promotions were granted from the date of their entitlement.

25. That with regard to para 5.1 the respondents state that subsistence allowance was paid to the applicant as mentioned in para 4-3 above.

26. That with regard to para 5.2 the respondents state that inquiry was held as per provision laid down in rule 14 of CCS(CCA) Rules 1965 and punishment awarded on the basis of inquiry report.

27. That with regard to para 5.3 the respondents state that the applicant was allowed to defend the case in inquiry.

28. That with regard to para 5.4 and # 5.5 the respondents beg to say that reply has already given in para #x2 4.27 above.

29. That with regard to para 5.6, 5.7, 5.9, 5.9, 6 and 7 the respondents beg to offer no comments.

30. That in view of above the applicant is not entitled to got any relief prayed for by the applicant in para 8.1 to 8.10. The case was decided on merits and the period of suspension has been treated as duty for counting qualifying service for the purpose of pension only restricted to subsistence allowance already paid to him after consideration of the merit of the case.

VERIFICATION

I Shri. B.R. Chakravarty
being authorised do hereby solemnly declare that the
statements made in the written statement are true to
my knowledge, believe and information and no material
fact has been suppressed.

And I sign this verification on this 24th day of
August-2000.

B. R. Chakravarty

DECLARANT

Dr. Superintendent of Post Office,
गुवाहाटी मंडल, गुवाहाटी-781001
Sivasat Division, Guwahati 781001