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

(DESTRUCTION OF RECORD RULES, 1990)

M.P-159/2000 order sheet pg-1
Disposal Date-8/6/2000

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R.A/C.P No.
E.P/M.A No. 159/2000

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 91/2000 OF 199

Applicant(s) *Sri Durward Chandra Das*

Respondent(s) *Union of India and ors.*

Advocate for Applicant(s) *Mr. S. Muktar, Mrs. S. Begum.*

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


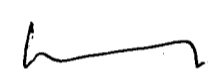

| Notes of the Registry | Date | Order of the Tribunal |
|--|--|--|
| <p>9-3-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A.D.</p> <p>Xtl Vide D.Nos. 748 to 751 Dtd- 10-3-2000</p> | <p>7.3.2000</p> <p>Ln</p> <p>8/3/2000</p> <p>22.3.00</p> | <p>Heard Mr, S. Muktar learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.</p> <p>Issue notice to show cause as to why application shall not be admitted. Mr. A. Deb Roy, Sr. C.G.S.C. receives notice on behalf of respondent No. 2.</p> <p>List on 7.4.2000 for consideration of Admission.</p> <p><i>[Signature]</i> Member(J)</p> <p><i>[Signature]</i> Member(A)</p> <p>On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. the case is adjourned till 10.4.00.</p> <p>List on 10.4.00 for consideration of admission.</p> <p><i>[Signature]</i> Member</p> |

| Notes of the Registry | Date | Order of the Tribunal |
|---|---------|---|
| <p>① Notice duly served on R. No. 1 & 4.</p> <p>② No. W/Statement has been filed.</p> | 10.4.00 | <p>Mr.S. Muktar, learned counsel for the applicant is present.</p> <p>Mr.B.C. Pathak prays for adjournment on behalf of Mr.A. Deb Roy, learned Sr.C.G.S.C.</p> <p>Heard counsel. List for consideration of admission on 8.5.00.</p> |
| <p><i>23/7.4.2000</i></p> <p><u>5.5.00</u></p> <p>Case has not been shown.</p> | mk | <p><i>Member</i></p> <p>Let the case be listed for consideration of admission on 25.5.00.</p> <p><i>Member (J)</i></p> |
| <p><u>7/6/00</u></p> <p>Show Cause has not been filed.</p> | mk | <p><i>There is no Bench today. Adj'd to 8.6.00.</i></p> |
| <p><u>8-9-2000</u></p> <p>Written statement has been filed by the respondents.</p> | 8.6.00 | <p>Present: Hon'ble Mr.D.C.Verma, Judicial Member.</p> <p>Learned counsel for the respondents seeks another 3 weeks time to file written statement. List on 29.6.00 for orders.</p> <p><i>Member(judicial)</i></p> |
| <p><i>Box</i></p> <p>The case is ready for hearing.</p> | lm | <p><i>There is no Bench today. Adj'd to 26.7.00.</i></p> |
| <p><i>22/7/2000</i></p> | 26.7.00 | <p><i>There is no Bench. Adj'd to 24.8.00.</i></p> |
| | 24.8.00 | <p><i>There is no Bench. Adj'd to 25.9.00.</i></p> |

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O-A. 91/2000

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| Notes of the Registry | Date | Order of the Tribunal |
|--|--------------------------|--|
| | 25.9.00 | <p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Written statement has been submitted. The case is ready for hearing. List for hearing on 14.11.2000. In the meantime the applicant may file rejoinder.</p> <p style="text-align: right;"> Vice-Chairman</p> |
| <p>7.11.2000</p> <p>Rejoinder has been filed by the applicant. Advise.</p> | <p>pg</p> <p>14-11</p> | <p>No D.B. Advansed to 9.3.2001</p> <p style="text-align: right;"><i>Mu</i> <i>A.K.S.</i> 14.11.</p> |
| <p><u>Don</u></p> <p>The case is ready for hearing.</p> <p><u>30</u> 13.11.2000</p> | <p>12.3.01</p> | <p>On the prayer of learned counsel for the applicant case is adjourned to 26.3.01 for hearing.</p> <p><i>K. C. Sharma</i> Member</p> <p style="text-align: right;"> Vice-Chairman</p> |
| <p><u>26-3-01</u></p> <p>WTS & Rejoinder have been filed. Case is ready for hearing.</p> | <p>lm</p> <p>26.3.</p> | <p>List it again on 15/5/2001 to enable the respondents to obtain necessary instructions on the matter.</p> <p style="text-align: right;"><i>Mu</i> <i>A.K.S.</i> 26.3.</p> |
| <p><u>34</u> 5-6-01</p> <p>The case is ready for hearing.</p> | <p>15.5.01</p> <p>bb</p> | <p>On the prayer made on behalf of Mr. S. Muktar, learned counsel for the applicant, the case is adjourned to 7.6.2001 for hearing.</p> <p><i>K. C. Sharma</i> Member</p> <p style="text-align: right;"> Vice-Chairman</p> |

| Notes of the Registry | Date | Order of the Tribunal |
|---|----------|---|
| | 7.6.2001 | <p>List the matter for hearing on 4.7.01 to enable Mr A. Deb Roy, learned Sr. C.G.S.C. to obtain instructions.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>nk m</p> |
| <p><u>19.7.2001</u></p> <p>Copy of the Judgment has been sent to the Office for filing the same to the applicant as well as to the lawyer for the Respondents</p> <p>vt</p> | 04.07.01 | <p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>bb</p> |

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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O.A.No..91..... of 2000.

DATE OF DECISION.4.7.2001.....

Shri Durlabh Chandra Das

PETITIONER(S)

Mr. S.Muktar & Mrs.S.Begum

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No..... OF

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

DATE OF DECISION.....

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the judgment ?
 4. Whether the Judgment is to be circulated to the other Benches ?
- Judgment delivered by Hon'ble **Vice-Chairman.**

ADVOCATE FOR THE

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE
O.A.No..... OF

THE HON'BLE

DATE OF DECISION.....

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 ?
- ADVOCATE FOR THE

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

THE HON'BLE O.A.No..... of

THE HON'BLE

DATE OF DECISION.....

- 1. Whether Reporters of local papers may be allowed to see the Judgment? PETITIONER(S)
- 2. To be referred to the Reporter or not?
- 3. Whether their Lordships wish to see the fair copy of the Judgment?

ADVOCATE FOR THE
RESPONDENT(S)

Whether the Judgment is to be circulated to the Reporters? Judgment delivered by Hon'ble

RESPONDENT(S)

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

THE HON'BLE O.A.No..... of

THE HON'BLE

DATE OF DECISION.....

- 1. Whether Reporters of local papers may be allowed to see the Judgment? PETITIONER(S)
- 2. To be referred to the Reporter or not?
- 3. Whether their Lordships wish to see the fair copy of the Judgment?

ADVOCATE FOR THE
RESPONDENT(S)

Whether the Judgment is to be circulated to the Reporters? Judgment delivered by Hon'ble

RESPONDENT(S)

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

THE HON'BLE O.A.No..... of

THE HON'BLE

DATE OF DECISION.....

- 1. Whether Reporters of local papers may be allowed to see the Judgment? PETITIONER(S)
- 2. To be referred to the Reporter or not?

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 91 of 2000.

Date of Order : This is the 4th Day of July, 2001.

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

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

Shri Durilabh Chandra Das,
Son of Late Sara Kanta Das,
Resident of Laokhowa Road,
P.O. Haibargaon, Nagaon,
District - Nagaon, Assam. . . . Applicant.

By Advocate Mr.S.Muktar & Mrs.S.Begum.

- Vs -

1. The Union of India, through the Secretary to the Govt. of India, Department of Telecommunication, New Delhi.
2. The Chief General Manager, Telecommunication, Guwahati.
3. The Telecom District Manager, Nagaon, Dist- Nagaon, Assam.
4. The Telecom District Engineer, Diphu Telecom District, Diphu, Assam. . . . Respondents.

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

O R D E R

CHOWDHURY, J.(V.C.):

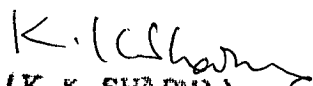
We have heard Mr.S.Muktar, learned counsel for the applicant and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.


2. It has been stated at the Bar that the inspection of documents is complete. Mr.Deb Roy submits that the applicant also has sought for inspection of some additional documents which are to be furnished by the department within short time.

3. Considering the facts and circumstances it is now clear that the departmental proceeding in question is now ready to take off. The proceeding in question is initiated in 1995. Taking all the aspects and the circumstances including the earlier order dated 3.12.1998 in O.A.No.204 of 1998, the respondents are ordered for completion of the departmental proceeding with utmost expedition. The respondents are directed to complete the disciplinary proceeding within four months from today without any further delay. The applicant is also directed to render necessary cooperation in the disciplinary proceeding.

With this, the application is finally disposed of.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE-CHAIRMAN

189 06 MAR 2000

APPENDIX-A
Guwahati Bench

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT, 1985.

Title of the Case : Original Application No. 91 /2000

I N D E X

| Sl.No. | Description of the documents relied upon | Page No. |
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| 1. | Application | 1- 14 |
| 2. | Verification | 15 |
| 3. | Annexure-A, Suspension order dt.23-5-95 | 16 |
| 4. | Annexure-B Memorandum dtd. 14-6-98 | 17 - 20 |
| 5. | Annexure-C, Representation dtd.9-6-97 | 21. |
| 6. | Annexure - D Order dated 24-6-98 | 22 - 23 |
| 7. | Annexure - E Order dated 3-12-98 | 24 - 25 |
| 8. | Annexure-F Letter dtd. 24-6-99 | 26 |
| 9. | Annexure-G, Order dated 26-7-99 | 27 |
| 10 | Annexure-H Order dtd. 24-8-99 | 28 |
| 11. | Annexure-I Order dated 8-10-99 | 29 |

Sunilalek Ch. Das
Signature of the Applicant

For use in Tribunal's Office:

Date of filing : 06-3-2000

or

Date of receipt :

by Post :

Registration No. : CA 91/2000

Signature of Registrar:

AS
6/3/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLICATION NO. 91 /2000

Filed by the applicant /0
Sundalah Ch. Das
through - Sheikh Muktar, Advocate
28-2-2000

Shri Durlabh Chandra Das,
Son of Late Sara Kanta Das,
Resident of Laokhowa Road,
P.O. Haibargaon, Nagaon,
District - Nagaon , Assam.

..... Applicant-

- Versus -

1. The Union of India, through the Secretary to the Govt. of India, Department of Telecommunication, New Delhi.
2. The Chief General Manager, Telecommunication, Guwahati.
3. The Telecom District Manager, Nagaon, Dist- Nagaon, Assam.
4. The Telecom District Engineer, Diphu Telecom District , Diphu, Assam.

.....Respondents.

DETAILS OF APPLICATION

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

Quashing of entire Disciplinary/Enquiry proceeding against the applicant initiated vide Memorandum No. Corr/ Con/D.Das-TOA/95-96/3 dated 14-6-95 issued by the Telecom District Engineer, Nagaon Delecom District, Nagaon.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

(I) That the applicant is a citizen of India and a permanent resident of the district of Nagaon, Assam.

(II) That being duly qualified and eligible the applicant was appointed/joined as adult peon on 18-3-78 in the Nagaon Telephone Exchange. Thereafter, the applicant passed the departmental examination and was promoted to the post of Telecom Office Assistant w.e.f. 1-8-89 and he was sent to the office of the Telecom District Engineer, Nagaon. Then in the month of July 1993 the applicant was brought to the Accounts Section in the said office. Since the date of his joining in the year 1978, the applicant has been discharging his duties, functions and responsibilities as Adult Peon/Telecom Office Assistant with utmost sincerity and dedication to the satisfaction of all concerned and as such the applicant has earned an unblemished service record.

(III) That the Telecom District Engineer, Nagaon (recently redesignated as Telecom District Manager, Nagaon)

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Sundaleh Ch. Das

issued an order vide No. Corr/Con/D.Das - T.O.A./95-96 dated 23-5-95 whereby the applicant was placed under suspension in contemplation of drawal of a disciplinary proceeding.

A copy of the order dated 23-5-95 is annexed hereto as Annexure- A.

14.6.95 (IV) That the Telecom District Engineer (TDE in short) issued a memorandum vide No. Corr/Con/D.Das- T.O.A./95-96/3 dated 14-6-95 enclosing the statement of articles of charge against the applicant for his alleged involvement in fraudulent drawal of an amount of Rs. 1,40,994/- in the said memorandum the applicant was directed to submit his written statement of defence within 10 days from the date of receipt of the said memorandum. It may be pertinent to mention here that the applicant received the said memorandum on 17-6-95.

The applicant states that in the said case of alleged fraudulent drawal of aforesaid amount other two persons viz Sri Rudra Singh Deka, Sub-Divisional Cashier and Sri Mohan Chandra Dewri, Divisional Cashier were also allegedly involved. The T.D.E , Nagaon issued a memorandum vide No. Corr/Con/M.C. Dewri-T.O.A.95-96/4 dated 22-6-95 enclosing the statement of articles of charge against Sri Dewri. Similarly , T.D.E., Nagaon issued a Memorandum vide No. Corr/Con/R.S. Deka/95-96/5 dated 22-6-95 enclosing the statement of articles of charge against Sri R.S. Deka.

It may be pertinent to mention here that the aforesaid Sri M.C. Dewri and Sri R.S. Deka have not yet been placed under suspension and they are discharging their duties till today. The applicant has been singled out by

Amalendu Ch. Das

the respondents and he has been suspended vide order dated 13-5-95 issued by the T.D.E., Nagaon. The Applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the 2 (two) memorandums dated 22-6-95 issued against Shri M.C. Dewri and R.S.Deka, at the time of hearing of this case.

A copy of the memorandum dtd. 14-6-95 is annexed herewith and marked as Annexure-B.

(V) That on 27-6-95 the applicant submitted his written statement of defence in regard to the said memorandum dated 14-6-95 before the Telecom District Engineer, Nagaon categorically denying all the alleged charges levelled against the applicant. The applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the said written statement dated 27-6-95 at the time of hearing of the case.

(VI) That the said matter of fraudulent drawal of amount of Rs. 1,40,994/- in which the applicant and 2(two) others are allegedly involved was referred to the Central Bureau of Investigation (CBI) who registered a Case No. RC 18(A) 95-SHO. The telecom District Engineer, Nagaon vide

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Dulal Ch. Das

his different letters directed the applicant to appear before the C.B.I. authority at Guwahati and accordingly, the applicant appeared before the C.B.I. authority at Guwahati on 24-7-95, 7-9-95, 17-10-95, 8-11-95, 16-2-96, 10-4-96 and 30-7-96. But till date the C.B.I. authority has not submitted the charge-sheet in the said matter.

It may be pertinent to mention here that the C.B.I. Authority also directed Sri M.C. Dewri and Sri R.S. Deka to appear before them and accordingly interrogated them. The applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the said letters issued by the T.D.E., Nagaon directing the applicant to appear before the C.B.I. authority at Guwahati on different dates at the time of hearing of the case.

(VII) That the Telecom District Engineer, Nagaon issued a letter vide No. TDE/Deptt-Inquiry/95-96/1 dated 24-8-95 whereby he informed the applicant, Shri M.C. Dewri, Sri R.S. Deka and others that one Shri V. Vijoy Mohan, Chief Accounts Officer (SBP), office of the C.S. M.T., Assam Circle, Guwahati was appointed as the Inquiry Authority to enquire into the charges framed against Sri M.C. Dewri, Sri R.S. Deka and the applicant. Thereafter the T.D.E. Nagaon vide his letter No. TDE/Deptt-Inquiry/95-96/2 dated 8-1-96 informed Sri M.C. Dewri, R.S. Deka and the applicant that Sri V. Vijoy Mohan earlier Inquiry Authority was transferred and therefore one Sri K.N. Sharma, Sr. Accounts Officer was appointed as Inquiry Authority to enquire into the alleged charges framed against them. The applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the said letters dated 24-8-95 and 8-1-96 at the time of hearing of the case.

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Sundar Ch. Das

(VIII) That the applicant submitted representation as the Authority has not completed the disciplinary proceeding for a long time and the detailed representation was submitted before the T.D.E., Nagaon on 9-6-97 for withdrawal of the suspension order dated 23-5-95 issued by the T.D.E., Nagaon as the applicant and his entire family were suffering financially as well as from mental agony as no disciplinary proceeding has been held against the applicant except informing him of the same vide letter dated 24-8-95 issued by the T.D.E., Nagaon. Till today no representation has been disposed of by the authority. The disciplinary proceeding is still pending for more than 4 years which is illegal and violative of Fundamental Rights.

A copy of the said representation dated 9-6-97 is annexed hereto as Annexure-C.

(IX) That the applicant filed a Writ Petition before the Hon'ble Gauhati High Court for quashing the suspension order dated 23-5-95 which was registered and numbered as Civil Rule No. 2976/97. The applicant prayed for withdrawal of the Writ Petition with liberty to refile the same before the appropriate forum. The Hon'ble Court by its order dated 24-6-98 has allowed the applicant to withdraw the said writ petition and to refile the same before the appropriate forum. The respondents filed an affidavit-in-opposition in the said Civil Rule.

A copy of the order dated 24-6-98 passed in Civil Rule No. 2976/97 is annexed hereto as Annexure-D.

Contd....p/7

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Dinlal Ch. Dha.

Sundalah Ch. Das

(X) That thereafter, the applicant filed an application before this Hon'ble Tribunal challenging order of suspension dated 23-5-95 (Annexure)-A) issued by the Telecom District Engineer, Nagaon and the said application was registered and numbered as Original Application No. 204/98. The said application was heard on 3-12-98 and this Hon'ble Tribunal was pleased to dispose of the same by its order dated 3-12-98 directing the Respondents to dispose of the disciplinary proceeding within a period of two months from the date of receipt of that order.

A copy of the said order dated 3-12-98 passed in O.A.NO. 204/98 is annexed hereto and marked as Annexure- E.

(XI) That the Sub-Divisional Engineer (HRD), OAO Telecom District Manager (TDM in short), Nagaon vide his letter dated 24-6-99 informed the applicant that the authority had filed a Misc Petition before this Hon'ble Tribunal for extension of time for implementation of the order dated 3-12-98. Thereafter, the Divisional Engineer (P & A), Office of the TDM, Nagaon vide his order dated 26-7-99 revoked the order of suspension dated 23-5-95 as per relevant Rule. The applicant resumed his duties on 26-7-99 itself.

Photocopies of the letter dated 24-6-99 and order dated 26-7-99 are annexed hereto as Annexure- F & G respectively.

(XII) That the Sub-Divisional Engineer (HRD), Office of the TDM, Nagaon vide his order dated 29-7-99 transferred the applicant from the office of the TDM, Nagaon to TDE, Diphu. Thereafter, the Accounts Officer (Cash), Office of the TDM, Nagaon vide his order dated 29-7-99 relieved the applicant from the Accounts Section w.e.f. 30-7-99. The applicant joined the Office of the TDE, Diphu on 3-8-99. The applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the said orders dated 29-7-99 at the time of hearing of the case.

(XIII) That the Respondents received the said order dated 3-12-98 from the applicant as well as from the registry of this Hon'ble Tribunal. Thereafter, the Respondents filed an application being Miscellaneous Application No. 133/99 in O.A. No. 204/98 praying for extension of time to complete the enquiry in terms of the order dated 3-12-98 passed in O.A. No. 204/98. The said Misc. Application No. 133/99 was disposed of by this Hon'ble Tribunal by its order dated 24-8-99 wherein it was stated as follows :

"This petition has been filed for extension of time to complete the enquiry in terms of the order dated 3-12-98 passed in O.A.No. 204/98 of this Tribunal. We directed to complete the enquiry within 2 months from the date of receipt the order by holding day to day enquiry. Most unfortunately the enquiry has not yet been completed even after 7 months. The reason for delay according to the petitioner is that all the connected documents are with the Central Bureau of Investigation. We find difficulty

to accept the contention of the petitioners for their failure. However, we allow further 2 months time from today to complete the enquiry. If the petitioners fail to complete the enquiry within two months the entire enquiry proceeding shall be liable to be set aside and quashed.

Misc. Petition is disposed

Furnish a copy of this order to the counsel for the parties."

A photocopy of the said order dated 24-8-99 is annexed hereto and marked as Annexure- H.

(XIV) That though this Hon'ble Tribunal by its order dated 24-8-99 passed in Misc. Case No. 133/98 in O.A. No. 204/98 directed the Respondents to complete the enquiry against the applicant within two months from 24-8-99, but till today the Respondents have not done anything in this regard except issuance of the letter dated 8-10-99 by the TDE, Diphu vide No. X-1/TDE/DPU/D.Das-TOA/99-2000/1 whereby it was informed that Shri A.B. Saran, OSD, DI(ER), O/O CGMT/Patna has been appointed to inquire into the charges framed against the applicant in place of earlier Inquiry Authority Shri K.N. Sharma who has expressed his inability to function as Inquiry Officer. Since 8-10-99 the Respondents/authority has not taken any step in regard to the inquiry into the charges framed against the applicant. Hence, this application has been filed for quashing the enquiry/disciplinary proceeding

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D. Das

enquiry/disciplinary proceeding initiated against the applicant vide Memorandum No. Corr/Con/D.Das-TOA/95-96/3 dated 14-6-95 issued by the TDE, Nagaon is liable to be set aside and quashed in terms of the order dated 24-8-99 passed by the Hon'ble Tribunal in Misc. Case No. 133/99 in O.A. No. 204/98.

Dinshah Ch. Das

(B) For that the reason shown by the Respondents for the delay in completing the enquiry proceeding is unbelievable and unacceptable. As such the entire enquiry/disciplinary proceeding initiated against the applicant vide memorandum No. Corr/Con/D.Das-TOA/95-96/3 dated 14-6-95 issued by the TDE, Nagaon is liable to be set aside and quashed in terms of the order dated 24-8-99 passed by this Hon'ble Tribunal in Misc Case No. 133/99 in O.A. No. 204/98.

(C) For that the Respondents have not completed the enquiry/disciplinary proceeding against the applicant for last five years inspite of the specific orders dated 3-12-98 and 24-8-99 from this Hon'ble Tribunal to complete the same. The respondents have not yet completed the inquiry proceeding against the applicant intentionally in colourable exercise of power for collateral purposes, malice in law as well as malice in facts and the same has been done by taking extraneous and irrelevant considerations by overlooking the relevant considerations which is illegal, unreasonable, arbitrary, without jurisdiction and violative of Article 21 of the Constitution of India. As such, the entire enquiry/disciplinary proceeding initiated against the applicant vide Memorandum No. Corr/Con/D.Das-TOA/95-96/3 dated 14-6-95 issued by the TDE, Nagaon is liable to be set aside and quashed in terms of the order dated 24-8-99 passed by this Hon'ble Tribunal in Misc. Case No. 133/99 in O.A. No. 204/98.

(D) For that after issuing the statement of Articles of Charge on 14-6-95 the Respondents have not done anything and happily sitting over the matter of enquiry/disciplinary proceeding keeping the applicant under suspension for more than 4(four) years (23-5-95 to 26-7-99) with some oblique motive is illegal, unjust, unreasonable, without jurisdiction and violation of Article 21 of the Constitution of India. As such, the entire enquiry disciplinary proceeding initiated against the applicant vide Memorandum No. Corr/con/D.Das-TDA/95-96/3 dated 14-6-95 issued by the TDE, Nagaon is liable to be set aside and quashed in terms of the order dated 24-8-99 passed by this Hon'ble Tribunal in Misc. Case No. 133/99 in O.A. No. 204/98.

(E) For that the Respondents have legal duty and obligation to complete the enquiry/disciplinary proceeding within a reasonable period of time. But in the instant case the Respondents have failed to discharge their duty and obligation vested upon them by law as they have not completed the enquiry proceeding against the application for last 5 (five) years inspite of orders dated 3-12-98 and 24-8-99 which is illegal, unjust, unreasonable, arbitrariness without jurisdiction and violative of Article 21 of the Constitution of India. As such the entire enquiry/disciplinary proceeding initiated against the applicant vide Memorandum No. Corr/Con/D.Das-TOA/95-96/3 dated 14-6-95 issued by the TDE, Nagaon is liable to be set aside and quashed in terms of the order dated 24-8-99 passed by this Hon'ble Tribunal in Misc. Case No. 133/99 in O.A. No. 204/98.

21
Dunlakh Ch. Das.

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Sundar Ch. Das

(F) For that due to the long pendency of the enquiry proceeding against the applicant, his entire family has been suffering from mental agony and they have already suffered financially for 4(four) years due to the suspension of the applicant. The Respondents have not completed the enquiry /disciplinary proceeding against the applicant since 1995 only to harass him inspite of the orders dated 3-12-98 and 24-8-99 which is illegal, unjust, improper, unreasonable arbitrary, without jurisdiction and violative of Article 21 of the Constitution of India. As such the entire enquiry/ disciplinary proceeding initiated against the applicant vide Memornadum No. ^Corr/Con/D.Das-TDA/95-96/3 dated 14-6-95 issued by the TDE, Nagaon is liable to be set aside and quashed in terms of the order dated 24-8-99 passed by this Hon'ble Tribunal in Misc. Case No. 133/99 in O.A. No. 204/98.

6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that he has availed all the remedies available to him.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

No application has been filed before any other Bench of the Tribunal or any other court, as such, at present, no application is pending before any Tribunal or court or law.

8. RELIEFS SOUGHT :

In view of the facts mentioned in paragraph 4 above the applicant prays for the following relief :-

(A) To set aside and quashed the entire Enquiry/ disciplinary proceeding against the applicant initiated vide memorandum No. Corr/Con/D.Das-TOA/95-96/3 dated 14-6-95 (Annexure-B) issued by the Telecom District Engineer, Nagaon Telecom District, Nagaon in terms of the order dated 24-8-99 passed by this Hon'ble Tribunal in Misc. Case No. 133/99 in O.A. No. 204/98 because after issuing the charge sheet dated 14-6-95 the Respondents have not done anything to complete the disciplinary proceeding inspite of the orders dated 3-12-98 and 24-8-99 passed by this Tribunal.

(B) Any other relief to which the applicant is entitled and/or deem fit and by this Hon'ble Tribunal.

9. INTERIM ORDER, IF ANY PRAYED FOR :

Pending final decision on the application, the applicant seeks issue of the following interim order :-

To stay/suspend the further proceeding of Enquiry/ Disciplinary proceeding against the applicant initiated vide memorandum No. Corr/Con/D.Das-TOA/95-96/3 dated 14-6-95 (Annexure-B) issued by the Telecom District Engineer, Nagaon Telecom District, Nagaon.

10. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :


- 1) Number of Indian Postal Order : OG 493452
- ii) Name of the issuing post office: Guwahati Head P.O.
- iii) Date of issue of postal order: 28-2-2000
- iv) Post Office at which payable : Guwahati Head
Post Office.

11. List of Enclosures :

As per Index.

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

I, Sfi Durlabh Chandra Das, son of Late Sara Kanta Das, aged about 50 years, working as Telecom Office Assistant in the Office of the Telecom District Engineer, Diphu, resident of Laokhowa Road, P.O. & PS- Haibargaon, Nagaon, District- Nagaon, Assam do hereby verify that the contents of paragraphs 4(I), 4(II) 4(IV) , 4(VIII) and 4(XV) are true to my personal knowledge and paragraphs 4(III), 4(V), 4(VI) 4(VII), 4(IX), 4(X), 4(XI), 4(XII), 4(XIII) and 4(XIV) being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions made before this Hon'ble Tribunal and that I have not suppressed any material fact.


Signature of the Applicant.

Date : 27-2-2000.

Place : Guwahati.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT ENGINEER NAGAON
NAGAON - 782001

No: Cofr/Con/D.Das-T.D.A/95-96 Dated at Nagaon the 23.05.95

23.05.95 BC

O R D E R

Whereas a disciplinary proceeding against Shri Durlabh Chandra Das, T.D.A. of Accounts section of this Office is contemplated.

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

It is further ordered that during the period that this order shall remain in force the headquarters of Shri Durlabh Chandra Das should be Nagaon and the said Shri Durlabh Chandra Das shall not leave the headquarters without obtaining the previous permission of the under signed.

P. C. Daimari
(P.C. DAIMARI)
T.D.E. Nagaon.
Nagaon.

Copy to :-

1. Shri Durlabh Chandra Das.
Lawkhowa Road, Haiborgaon, Nagaon.
2. The Accounts Officer (Cash)
O/O the T.D.E. Nagaon for information please
3. Personal file of Shri Durlabh Chandra Das.
4. The A.M.T. Dibrugarh, Upper Assam Area.

P. C. Daimari
(P.C. Daimari)
T.D.E. Nagaon.
Nagaon.

*Attested
Durlabh Chandra Das
Nagaon*

175 at 13:50

~~18~~ ~~17~~

Annexure -

B -17-
#

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT ENGINEER, NAGAOON
NAGAOON - 782001

No: Corr/con/D.Das-TDA/99-76/3

Dated at Nagaon the 14.06.1995

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Durilabh Chandra Das, TQA, under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. A statement of imputations of misconduct in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge.

2. Shri Durilabh Chandra Das is directed to submit within 10 (ten) days of the receipt of this memorandum a written statement of his defence and also to state whether he desire to be heard in person.

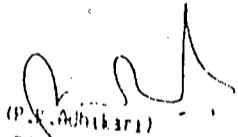
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

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

5. Attention of Shri Durilabh Chandra Das is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with these proceedings it will be presumed that Shri Durilabh Chandra Das is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the memorandum may be acknowledged.

By order in the name of the President.


(P.K. Adhikari)
Telecom District Engineer
Nagaon Telecom District
Nagaon-782001

contd. to next page

Atul
Shri Durilabh Chandra Das

-121-

To,

Shri Durilabh Chandra Das
Lakshma Road, Near Pani Tanki
PO:- Girls College, Naiborgam
Nagarn - 782002.

Copy to :-

Shri N.K.Deka : For favour of kind information.
Director (Finance & Accounts) :
O/O the C.S.M.T. Assam Circle :
Gwahati-781007 :

*Alanka
Dinesh Kumar*

Statement of articles of charge framed against Shri Durilabh Chandra Das.

Telecom office Assn

Article - I

That the said Shri Durilabh Chandra Das while functioning as T.O.A. at accounts section, D/O the T.D.E. Nagaon during the period from July '93 to May '95 intentionally manipulated pay bill and drawn excess amount of pay & allowances in his name and in the name of Shri Dimbeswar Das, Canteen Manager and Shri Hari Kanta Bordoloi, U.S.L. The total amount of manipulation is Rs.10,622/- (Rupees ten thousand six hundred and twenty two) only

Manipulation
the pay bill
&
drawn excess
on 2 pages.

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Durilabh Chandra Das has fraudulently drawn an amount of Rs.1,40,994/- (Rupees one lakh forty thousand nine hundred and ninety four) only as Over Time Allowances by falsifying the duty chart of OIA bills and increased the amount of OIA. He has also prepared some false claim on Government in respect of OIA.

Article - III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Durilabh Chandra Das has fraudulently increased the amount of General Provident Fund credit schedules against some officials by falsifying the Government records. The total amount increased in the EPF credit schedule by misusing of official position for personal gain is Rs.16,500/- (Rupees sixteen thousand five hundred) only.

Article - IV

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Durilabh Chandra Das has taken advances from his GPF accounts several times and in the GPF debit schedule debited the amount of Rs.16,750/- (Rupees fourteen thousand seven hundred and fifty) only against some officials thereby he falsified the Government records and misused his official position for personal gain.

Contd. to next page.

Attended
Shri MUKHERJEE

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#9-
-20-
Article - V

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Durllabh Chandra Das has shown recovery of House Building Advance against his name in the recovery register but actually the amount of HBA not recovered from the pay bill and thus he has drawn excess amount.

Article-VI

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Durllabh Chandra Das has prepared false bill for refund of excess recovery of over pay and bill for less payment against some official which is actually not due to the official against whom the same was drawn.

Article - VII

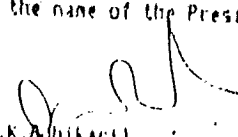
That during the aforesaid period and while functioning in the aforesaid office, the said Shri Durllabh Chandra Das has prepared supplementary GPF credit schedule in his name against the amount received through ACG-67 which is deposited by some other official and not by Shri Durllabh Chandra Das.

Thus it is clearly established that the following offence has been committed by Shri Durllabh Chandra Das.

1. Falsification of Government records.
2. Gross irregularity or negligence in the discharge of official duties with a dishonest motive.
3. Misuse of official position for personal gain.
4. False claim on the Government.

And by his above acts Shri Durllabh Chandra Das failed to maintain absolute integrity and devotion to duty and acted in a manner unbefitting of Government servant thereby contravening Rule 3(i)(i), (ii) and (iii) of CCS (Conduct) Rules, 1964

By order in the name of the President


(P.K. Ahir)
Telecom District Engineer
Nagaon Telecom District
Nagaon - 782001

Attended
Shri M. K. M. M.

Recd No. 9160
21/9/97

To
The Telecom District Engineer,
Nagaon Division,
Nagaon, Assam.

Dated Nagaon, the 9th June '97.

Subj: An appeal to withdraw the suspension Order.

Respected Sir,

At the outset I beg to be excused as I am to waste out your valuable time, finding no other alternative. As I am passing my days with family members as half-fed and half-clothed and facing the dire consequence gradually.

That Sir, as per your letter No. Corr/Con/-T.O.A./25-26 dtd. 23-05-95 I have been suspended more than two years I am passing my days under mental agony, because of no action as yet.

That Sir, your letter No. PDR/Deptt-Inquiry/95-86/1 dated 24-08-95 I am informed that a departmental inquiry is to be held, but no inquiry was held against me during these long period of two years. Moreover, C.B.I enquiry also withheld about one year.

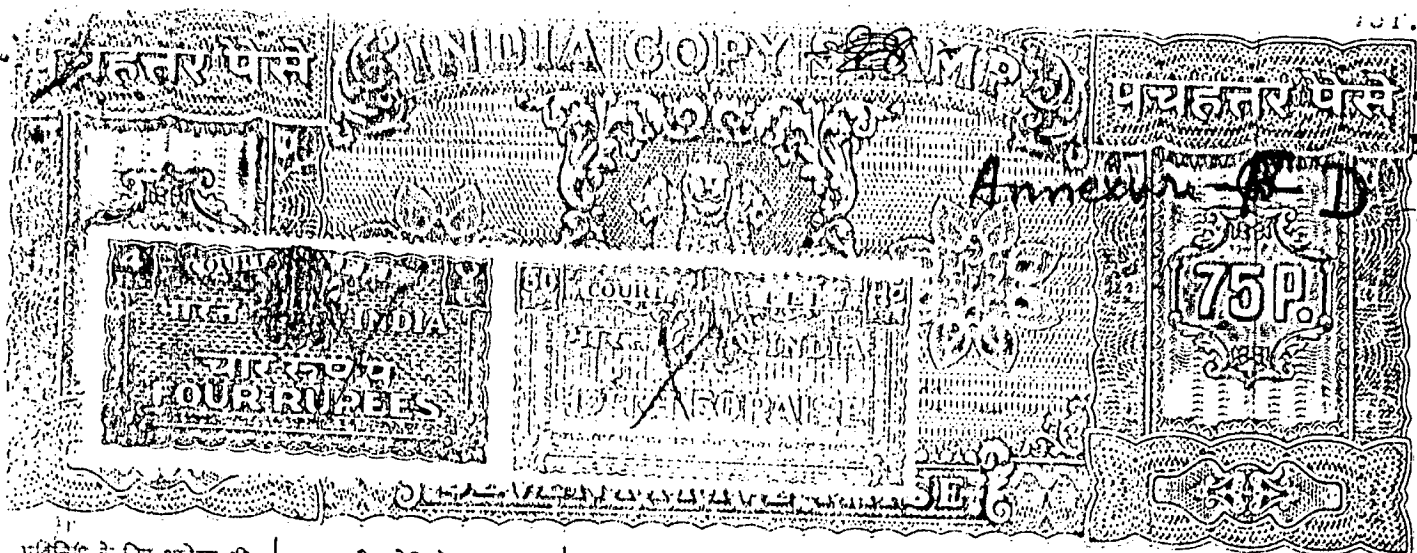
I, therefore pray, you will kindly allow me to join in my duties like others, by which I with my family members can save our lives. An early action in the matter will be highly appreciated.

Thanking you Sir,

Yours faithfully,

Gulab Ch. Das
Laakhwa P.O. near Panitank
S.P. Haibargaon
Dist - Nagaon (Assam)
Pin - 782002

Altogether
same name



22
26
27
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| प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोटो की अपेक्षित संख्या सूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and photos. | अपेक्षित स्टाम्प और फोटो देने की तारीख Date of delivery of the requisite stamps and photos. | तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant. |
|--|--|--|--|--|
| 25.6.98 | 14.7.98 | 15.7.98 | 16.7.98 | 16.7.98 |

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA; MANIPUR; TRIPURA;
MIZORAM AND ARUNACHAL PRADESH)

CIVIL RULE No. 2976/97.

Sri Durlabh Chandra Das ... Petitioner.

-vs-

1. The Union of India, represented by the Secretary to the Govt. of India, Department of Telecommunication New Delhi.
2. The Chief General Manager, Telecommunication, Guwahati.
3. The Director of Telecommunication, Dibrugarh.
4. The Telecom District Engineer Nagoan Telecom District Nagoan.

... Respondents.

PRESENT

THE HON'BLE MR. JUSTICE D.N. CHOUDHURY.

For the petitioner : Mr. S.K. Chand Mahammad
Mr. S.K. Muktar
Miss Sahida Begum
Advocates.

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

contd..

S. K. Muktar
Sahida Begum

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 204 of 1998.

Date of Order : This the 3rd Day of December, 1998.

Justice Shri D.N. Baruah, Vice-Chairman.

Shri G.L. Sanglyine, Administrative Member.

Shri Durlabh Chandra Das,
son of late Sara Kanta Das,
resident of Laokhowa Road,
P.O. Haibargaon, Nagaon (Assam) . . . Applicant.

By Advocate Sri S. Muktar.

- Versus -

1. The Union of India through the Secretary to the Govt. of India, Department of Telecommunications, New Delhi.
2. The Chief General Manager, Telecommunications, Guwahati.
3. The Telecom District Manager, Nagaon, Dist. Nagaon, Assam. . . . Respondents

By Advocate Sri S. Ali, Sr.C.G.S.C.

O R D E R

BARUAH J. (V.C)

This application has been filed by the applicant seeking certain directions. The case of the applicant is that at the relevant time he was working as Telecom Office Assistant in the office of the Telecom District Manager, Nagaon. In connection with some alleged defalcation of an amount of Rs. 1,40,994/- the applicant was suspended as far back on 23.5.1995 pending of drawal of a disciplinary proceeding. But to our surprise till now he is under suspension. The disciplinary proceeding has not yet been completed. As per rule disciplinary proceeding should commence immediately after the suspension and should be disposed of as early as possible. However, this had not

contd..2

S. Muktar
Advocate

happened in the present case. Hence this present application.

2. We have heard Mr S.Muktar, learned counsel appearing on behalf of the applicant and Mr S.Ali, learned Sr.C.G.S.C for the respondents. Mr Muktar submits before us that the authority has unnecessarily kept the disciplinary proceeding pending. The applicant has been kept under suspension without any reasonable cause. Mr Ali on the other hand submits that it is true that there has been delay but delay had been caused for various reasons. Mr Ali, however, has not elaborated as to why the delay was caused. Enquiry Officer was appointed long back in 1995 but the proceeding still remains incomplete. Mr Ali submits that it was because of seizure of the documents by the Central Bureau of Investigation. This should not have happened. It is really a sorry state of affair.

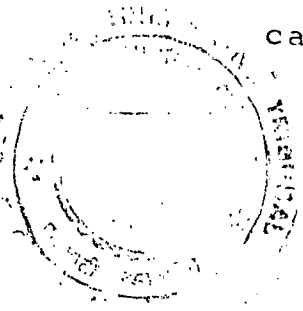
3. Considering the entire facts and circumstances we direct the respondents to dispose of the disciplinary proceeding as early as possible at any rate within a period of 2 months from the date of receipt of this order. If necessary by holding day to day enquiry within the mentioned period.

Considering the entire facts and circumstances of the case we however make no order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMN)

TRUE COPY
प्रतिलिपि



pg

[Handwritten Signature]
23/1/99

Section Officer (J)
प्राचार्य (अधीनस्थ)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Lucknow, U.P. (U.S. Court House)
एच.डी. मार्ग, गजपति.5

[Handwritten Signature]
23/1/99

*Attended
Sd/- Muktar*

DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON-782001.

No.E-317/CAT/99-2000/28


Dated at Nagaon the 24-06-99.

To .

Sri Durilabh Ch. Das, TOA(G)
(Under Suspension)
Laokhowa Road(Trivenipath)
P.O. Haiborgaon, Nagaon.

Sub :- Implementation of order dated 3.12.98 passed by the CAT, Guwahati.

With reference to your above petition dated 12.6.99 on the above mentioned subject, it is to intimate you that extension of time has been sought by the department from Honourable CAT, Guwahati through a misc. Petition.


Sub-Divisional Engineer(HRD)
O/O Telecom District Manager
Nagaon-782001.

M.P. No. 133/99
OA. 204/98

Filing date - 20.5.99

Sri J. L. Boro

Attested
Shri J. L. Boro

✓
REVOCATION OF SUSPENSION ORDER
{ Rule 10 (5)(C), CCS(CCA) Rules }

No. Corr/Con/D. Das-TOA/99-2000/1
Govt. of India
Ministry of Communications --
Dated at Nagaon, the 26th July'1999

O R D E R

WHEREAS, an order placing Sri. Durlabh Chandra Das, TOA, Accounts Section under suspension by the Telecom District Engineer, Nagaon on 23-05-95.

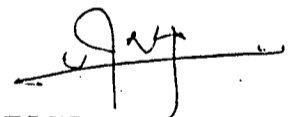
NOW, therefore, the undersigned in exercise of the powers conferred by Clause(C) of Sub-Rule (5) of Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules 1965 hereby revokes the said order of suspension with immediate effect.

sd/-

(K K Das)
Divisional Engineer(P&A)
O/o the TDM/Nagaon

Copy to :-

Sri. Durlabh Chandra Das, TOA
Accounts Section, Nagaon.



(K K Das)
Divisional Engineer(P&A)
O/o the TDM/Nagaon

Blind
Review Marked

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICANT NO. 133/99

OF 199

CA 204/98

Applicant(s) Union of India and or

Respondent(s) Dinkar Chandra Das

Advocate for Applicant(s) Mr. A. Deb Roy
G.C.G. S.C.

Advocate for Respondent(s) Mr. S. Mukherjee

1999
24.8.99

This petition has been filed for extension of time to complete the enquiry in terms of the order dated 3.12.98 passed in O.A.No.204/98 of this Tribunal. We directed to complete the enquiry within 2 months from the date of receipt the order by holding day to day enquiry. Most unfortunately the enquiry has not yet been completed even

after 7 months. The reason for delay according to the petitioner is that all the connected documents are with the Central Bureau of Investigation. We find difficulty to accept the contention of the petitioners for their failure

However, we allow further 2 months time from today to complete the enquiry. If the petitioners failed to complete the enquiry within two months the entire enquiry proceeding shall be liable to be set aside and quashed.

Misc.Petition is disposed of.

Furnish a copy of this order to the counsel for the parties.



24.8.99

24-8-99

Shri S. Mukherjee

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMIN)

P.T.O

Received on
10/10/99
[Signature]

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELCOM DISTRICT ENGINEER
DIPHU - (ASSAM)

NO X-1/TDE/DPU/D.Das-TOA/99-2000/1 Dated at Diphu, the 8.10.99

WHEREAS, an inquiry under Rule-14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, is being held against Sri. Durllabh Chandra Das, TOA.

WHEREAS, Shri. K. N. Sharma, Sr. Account Officer, O/o the CGMT/Guwahati was appointed Inquiry Authority to inquire into the charges against Shri. Durllabh Chandra Das, TOA vide order No. TDE/Deptt-inquiry/95-96/2 dated at Nagaon, the 08-07-96.

AND WHEREAS, Shri. K. N. Sharma, Sr. Account Officer, O/o the CGMT/Assam Telecom Circle, Guwahati has not initiated proceedings and expressed inability to function as Inquiry Officer for his present occupation and it is necessary to appoint another officer as Inquiry Authority to inquire into the charges against Shri. Durllabh Chandra Das, TOA.

NOW, therefore, the undersigned in exercise of the power conferred by sub-rule (2) read with sub-rule (22) of Rule - 14 of the CCS(CCA) Rules, 1965, hereby appoints Shri. A. B. Saran, OSD, DI(ER) O/o the CGMT/Patna to inquire into the charges framed against Shri. Durllabh Chandra Das, TOA vide Shri. K. N. Sharma, Sr. Account Officer.

(By order and in the name of the President)

- Sd -
(M.N.Pegu)
Telecom District Engineer
Diphu Telecom District

Copy for information & necessary action to :

1. Shri. A. B. Saran, OSD(DI), E.R, (Inquiry Authority) O/o the CGMT/Bihar Circle, Near G.P.O. Canteen, Patna - 800 001.
2. Shri. Durllabh Chandra Das, TOA, O/o the TDE/Diphu
3. Shri. D. Gupta, A.O(Cash)O/o the TDM/Nagaon(Presenting Officer).
4. Shri. S. Rajhans, TDM/Nagaon.

[Signature]
08.10.99.
(M.N.Pegu)
Telecom District Engineer

Attn of
Shri. Mukherjee

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
18 SEP 2000
O.A.NO. 91 OF 2000

Filed by

4/9/2000
39

(A. DESBROU)
Sr. C. O. F. C.

C. A. T., Guwahati Bench

Shri Durlabh Ch. Das

- VS -

Union of India & others

IN THE MATTER OF

Written statement submitted by the Respondents
in O.A.NO. 91/2000.

WRITTEN STATEMENT

1. That with regard to para 1 the respondents beg to offer no comment.
2. That with regard to para 2 the respondents beg to state that the factual position regarding the date of joining as Adult Peon in the department and thereafter promotion as TOA and posting in the office of TDE/Nagaon is not denied. The officials subsequent action of falsifying Govt, records with an interior motive and personal gains is contrary to his claim that he had worked with sincerity and dedication to the satisfaction of all concerned.
3. That with regard to para 3 the respondents beg to offer no comment.
4. That with regard to para ~~4.1~~ 4.1 the respondents beg to state that the charges are not only the fraudulent drawal of Rs.1,40,994/- but also the following:
 - (i) Intentional manipulation of pay bill and thereby excess drawal of pay and allowances in his name and two officials i.e. Sri Durlabh Chandra Das, Canteen Manager & Sri Hari Kanta Bordoloi, USL.
 - (ii) Falsifying Govt. records by way of fraudulently incurring the amount of GPF credit ~~at~~ schedule against some of officials to the tune of Rs.16,500/- (Rupees sixteen thousand and Five hundred)
 - (iii) Misusing officials position falsifying the GPF debit schedule

~~by debiting Rs.14,750/- (Rupees fourteen thousand seven hundred and~~

by debiting Rs.14,750/- (Rupees fourteen thousand seven hundred fifty) only against some officials instead of his own for the allowances had taken several times.

(iv) Fraudulent excess drawal by not effecting the HBA recovery against his name by falsifying the recovery register by showing as if the amount was recorded.

(v) Preparation of false bill for refund for excess recovery.

(vi) False preparation of supplementary GPF credit schedule in his name against the amount received through ACG-67 deposited by some other officials.

5. That with regard to para 4.ii the respondents beg to state the charge sheet were also issued against Sri Mohan Ch. Deori and Sri R.S.Deka vide the memo cited by the petitioner (~~copy enclosed~~).
6. That with regard to para 5.iii the respondents beg to state that when irregularities of serious nature as detailed in that comments for sub-para 1 of para 4 are detected and the officials was found to be directly involved, suspension order was issued as a first step. The charges against other two officials viz. Mohan Ch. Deori & Sri R.S.Deka mentioned by the petitioner are regarding the deviation from official procedure such as making payment without proper identification and getting the approval of A.O(Cash) where required. Thus, the petitioner was suspended for very serious nature of the offence involved whereas as ~~in~~ in the case of the other two officials cited by the petitioner, suspension was not resorted to, in view of less seriousness of the offense. The contention of the petitioner that he was singled out by the respondent is therefore not tenable.
7. That with regard to this para the respondents beg to state that the

petitioner gave his reply on 26.07.96. No further comment.

8. That with regard to para 6.1 the respondents beg to state that the petitioner and the other two officials cited by the petitioner were directed to appear before the CBI authorities as per the directives received from the CBI. Since the matter is handled by the CBI, it is not known whether the chargesheet issued against or not.
9. That with regard to para 6.II the respondents beg to offer no ~~comment~~ comment.
10. That with regard to para 7 the respondents ~~beg to state~~ ^{has} not denied, ~~the contents of the para.~~ _{by}
11. That with regard to para 8 the respondents beg to state that the offence committed by the official was grave. The petitioner was paid subsistence allowance at 75% of the pay and allowances ~~EXCEPT~~ except SCA & HRA. The HRA & SCA was paid at full rate. ~~The department could not advance with the departmental proceedings as all the relevant documents were seized by the CBI Authority.~~ ✓
12. That with regard to para 9,10,11,and 12 the respondents beg to offer no comments.
13. That with regard to para 13 the respondents beg to state that the department in pursuance of Hon'ble CAT's judgement is very much keen to complete the disciplinary proceedings within the time frame fixed by the Hon'ble CAT. I.O. & P.O. were appointed at appropriate time. But after contacting the CBI office a number of times, the department is unable to get the copies of relevant documents. Effort is on to complete the disciplinary proceeding within a reasonable ~~xx~~ time as soon as the documents are made available.
14. ~~Appointment of another Inquiry Officer~~ That with regard to para 14 the respondents beg to state that Appointment of another Inquiry Officers was necessary as the earlier ~~xx~~ I.O expressed his

inability to function due to his present assignment. The department is very much aware of Hon'ble CAT's judgement regarding time frame fixed for disposal but copies of relevant documents could not be collected from CBI authority to proceed with the case. The suspension order against the petitioner has been withdrawn considering the delay in finalisation of the case as well as hardship faced by the petitioner. Hence, ^{quashing} ~~quashing~~ the disciplinary proceeding against the official should not arise.

15. That with regard to para 15 and 16 the respondents beg to state that it is as detailed in para 14.

16. That with regard to para 16(c) the respondents beg to state that there is no any bad intention on the part of the department to prolong the departmental proceeding against the official unreasonably and undue exercise of power. The proceeding could not be completed within the time frame, fixed by the Hon'ble CAT and the disciplinary proceeding should not be quashed in the ground detailed in para 14.

17. That with regard to para 16(d) the respondents beg to state that the relief has been given to the petitioner by way of revoking suspension, considering delay in finalisation of the case as well as hardship faced by the petitioner. The offence made in the malpractice for the personal gain of the petitioner is of serious nature and for time limit could not be adhered to, for revoking of suspension.

18. That with regard to para 16(e) and 16(f) the respondent beg to state the comment is to be same as in para 14 and 16, 16(c) & 16(d) respectively.

VERIFICATION

I, Sri/Smt. Ganesh ch. Sarma, Asst. Director Telecom. of

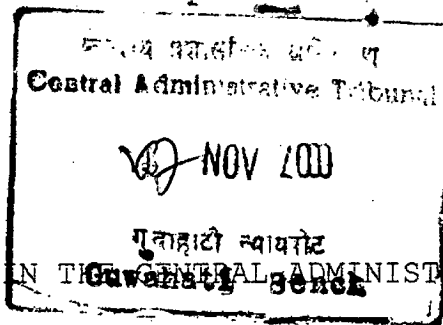
Guwahati, being authorised do hereby declare that the statement made in this written statement are true to my knowledge and information and no material facts has been suppressed.

And I sign this verification on this 25th day of Aug. 2000

G. Sarma

Declarant

Asst. Director Telecom (Legal)
O/O to C. G. M. Telecom
Assam Circle, Guwahati-781007



GUWAHATI BENCH :: GUWAHATI.

ORIGINAL APPLICATION NO. 91 OF 2000

IN THE MATTER OF :

O.A. No. 91/2000

Shri Durlabh Chandra Das

Applicant

- Versus-

Union of India and ors.

Respondents.

A N D

IN THE MATTER OF :

A counter to the written statement
filed by the Respondents.

C O U N T E R

1. that with regard to the statements made in paragraph 2 of the written statement, the applicant begs to reiterate and reaffirm the statements made in paragraph 4(II) of the Original Application.

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Filed by the applicant
Durlabh Chandra Das, 35
through - Sheikh Muktar, Advocate
7.11.2000

D. Lal Bahadur Chandra

2. That with regard to the statements made in paragraph 4 of the Written statement, the applicant begs to reiterate and reaffirm the statements made in paragraphs 4(IV) of the Original Application and states that the same are matters of record.

3. That the statements made in paragraph 6 of the Written Statement are incorrect and denied by this applicant and begs to reiterate and reaffirm the statements made in paragraphs 4(IV) of the Original Application.

4. That the statements made in paragraph 7 of the Written Statement are denied and the applicant begs to reiterate and reaffirm the statements made in paragraph 4(V) of the Original Application.

5. That with regard to the statements made in paragraph 11 of the written statement, the applicant begs to reiterate and reaffirm the statements made in paragraph 4(VIII) of the Original Application.

6. That with regard to the statements made in paragraphs 13, 14 and 15 of the Written Statement, the applicant begs to state that the respondents have admitted that they are unable to get/collect

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the copies of relevant documents from CBI authority to proceed with the case which means that inspite of repeated orders from this Hon'ble Tribunal to complete the disciplinary proceeding within a stipulated period, there is no likelihood of proceeding/completion of the same in near future and the disciplinary proceeding may continue for an indefinite period causing great mental agony and financial hardships to the applicant. Hence, this Hon'ble Tribunal may be pleased to set aside and quash the entire disciplinary proceeding against the applicant in terms of the order dated 24-8-99 passed in Misc. Application No. 133/99 in O.A. No. 204/98. The applicant begs to reiterate and reaffirm the statements made in paragraphs 4(XIV) and 4(XV) of the original application.

Shalabh Chandra Rao

7. That the statements made in paragraph 16 of the Written statement are incorrect and hence denied by this applicant and states that the respondents have admitted that they are unable to collect the relevant documents from CBI authority to proceed with the disciplinary proceeding against the applicant. Hence, if this Hon'ble Tribunal does not interfere by way of quashing the entire disciplinary proceeding as per order dated 24-8-99 passed in Misc. Application No. 133/99 in O.A. No. 204/98, the

respondents will get a licence to continue with the said disciplinary proceeding for an indefinite period which is legally not permissible.

8. That with regard to the statements made in paragraph 17 of the written statement so far as "The offence made in the malpractice for the personal gain of the petitioner" is incorrect and denied by this applicant and states that though the suspension order has been revoked, the mental agony and financial hardships ^{will} continue with the continuance of the disciplinary proceeding. Hence, this Hon'ble Tribunal may be pleased to quash the entire disciplinary proceeding against the applicant as per said order dated 24-8-99 passed by this Hon'ble Tribunal.

9. That the applicant submits that from the facts and circumstances of the case as stated above, it is apparently clear that it is a fit case wherein Your Lordships may be pleased to grant the relief prayed for in the Original Application No. 91/2000 for the ends of justice and equity.

4/12/38
D. M. Chandra

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

I, Shri Durlabh Chandra Das, aged about 50 years, son of Late Sara Kanta Das, working as Telecom Office Assistant in the Office of the Telecom District Engineer, Diphu, Resident of Laokhowa Road, P.O. & P.S. - Haibargaon, Nagaon, District-Nagaon, Assam do hereby verify that the contents of paragraphs 1 to 8 are true to my knowledge and the rest are my humble submissions made before this Hon'ble Tribunal and that I have not suppressed any material fact.

I sign this verification on this 28th day of October, 2000 at Guwahati.

Durlabh Chandra Das
Signature of the Applicant