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

**(DESTRUCTION OF RECORD RULES, 1990)**

**INDEX**

O.A/T.A No...137/2000.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet. O.A-137/2000 Pg.....1.....to.....5.....
2. Judgment/Order dtd. 09/07/2001 Pg.....1.....to.....4.....allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....137/2000 Pg.....1.....to.....2.....8.....
5. E.P/M.P.....Nil Pg.....to.....
6. R.A/C.P.....Nil Pg.....to.....
7. W.S.....Pg.....1.....to.....32.....
8. Rejoinder.....Pg.....1.....to.....21.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

**SECTION OFFICER (JUDI.)**

## FORM NO. 4

(See Rule 42)

## In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 137/2000

OF 199

Applicant(s) Sreekrishna Pal Singh Yadav.

Respondent(s) Union of India and others.

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

Advocate for Respondent(s)

C. G. S.

Notes of the Registry	Date	Order of the Tribunal
1. Application filed on 10.4.2000 and within time. 2. Filled Rs. 50/- deposited vide IPO Bid No. 69421 Dated 18.4.2000 Handed over to Mr. G.L. Sanglyine for filing	18.4.00	Present: Hon'ble Mr G.L. Sanglyine, Administrative Member  Heard Mr P.K. Tiwari, learned counsel for the applicant and perused the application. Mr Tiwari submits that he is pressing relief at serial No.8.1 of the application and prays that he may be allowed to submit separate applications for the other reliefs. Prayer allowed.
Notes: Registration copy ADM (Yours)  Steps received Today on 26.4.2000.  264	26.5.00	The application is admitted. Issue notice on the respondents by registered post. List for written statement and further orders on 26.5.00.

nkm  
26.5.00There is no hearing today.  
Adjourned to 7.6.00

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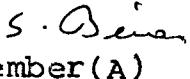
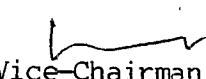
Member

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(2)

of 137/2000

Notes of the Registry	Date	Order of the Tribunal
<u>26 - 4 - 2000</u> Service of notices prepared and sent as D. Section 360 issuing of the same to the respondents. Through Regd. post with A.D. <u>By</u> vide D.Nos. 1232 & 1235 Dtd. 27.4.2000. m.k	7.6.00	As prayed for, two weeks further time is granted to the respondents to file written statement. List on 22.6.00 for written statement and further orders.   Member (J)
<u>Notice duly served on R.No - 4 &amp; 5 -</u> <u>By</u> 6-6-2000	22.6.00	There is no Bensu today. Adjourned to 12.7.00. m.k
<u>7-6-00</u> no resps has been filed by.	12.7.00	Present : The Hon'ble Shri S.Biswas, Administrative Member.  At the request of the learned counsel for the respondents the case is adjourned and posted to 7.8.2000 for filing written statement and further orders.
<u>11 - 07 - 2000</u> No. written statement has been filed.	7.8.00	 S. Biswas Member (A)  There is no Bensu today. Adjourned to 23.8.00. m.k
<u>19 - 9 - 2000</u> No. written statement has been filed.	23.8.00	No Bensu. adjourned to 20.9.00. m.k
<u>23 - 10 - 2000</u> 1) Notice duly served on R.No. 4 & 5. 2) No. resps has been filed.	20.10.00	Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.  On the prayer of Mr. B.S.Basumatary, learned Addl. C.G.S.C. two weeks time is allowed to file written statement.  List on 24.10.2000 for written statement and further orders.
<u>By</u>	trd	 Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
① No. wfs has been filed. ② Notice duly served on R.No. 4 & 5, other respondent are still awaited.	24.10.00	Present : Hon'ble Mr. Justice D.N.Chowdhury Vice-Chairman.  Mr. B.K.Sharma, learned Sr. counsel for the applicant and Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents. Mr. Pathak prays for four weeks time for filing of written statement. Prayer allowed. List on 21.11.2000 for written statement and further orders.
<i>By</i> 20.11.2000		<i>Vice-Chairman</i>
No. written statement has been filed.	trd 21.11.00	Two weeks time is granted to the respondents to file written statement on the prayer of Mr B.C.Pathak, learned Addl.C.G.S.C. List on 8.12.2000 for order.
<i>By</i> 12.12.2001		<i>Vice-Chairman</i>
No. wfs has been filed.	PG Akash 8/11.	ordered by the court to file the matter before D/o on 12.12.2001. <i>By</i> 8/12
No. written statement has been filed	8-12- 7.1.01	List after three weeks to enable the respondents to file written statement. List on 8.2.2001 for written statement and further orders.
<i>By</i> 7.2.01		<i>Vice-Chairman</i>
	trd	

(4)

Notes of the Registry	Date	Order of the Tribunal
	8.2.01	List on 23.2.01 to enable the respondents to file written statement.  I C I Sharmin Member
<u>15-2-2001</u>  Written Statement has been filed on behalf of Respondents No. 1 to 6.	1m 23.2.01	Written statement has been filed. The applicant may file rejoinder if any within 2 weeks. List on 12.3.01 for orders.  I C I Sharmin Member
	1m 12.3.01	Case is ready for hearing. List for hearing on 10.5.01. In the meantime the applicant may file rejoinder.  I C I Sharmin Member
	1m (0.5) 10.5.	Holiday. There was a reference. The case is adjourned to 11.6.2001. B/o A/o 11.5
<u>14.5.2001</u>  Rejoinder by the applicant against the w/s filed by the Respondents No. 1 to 6.		Passed over. List on 13.6.2001 for hearing.  B/o A/o
Rejoinder has been filed.  <u>25/6/01</u>		List for hearing on 18.6.2001  B/o A/o

Notes of the Registry	Date	Order of the Tribunal
<p>Copy of the order shall be given to Mr. Pathak.</p> <p><i>Copy of Order dttd. 18/6/01 communicated to Mr. B.C. Pathak Addl. Chs. &amp; vols. A/No 2159 and 20/6/01</i></p> <p><i>20/6/01</i></p> <p><i>20/6/01</i></p> <p><i>The case is ready for hearing as regards lefts and remainder.</i></p> <p><i>20/6/01</i></p>	18.6.01	<p>We have heard Mr. P.K. Tiwari, learned counsel for the applicant and Mr. B.C. Pathak, learned addl. C.G.S.C. for the respondents. After considering the entire facts and circumstances of the case in our opinion, the facts of the case are such that this dispute is not of a such nature which may be continued for long. Mr. Pathak has requested that he may be granted 15 days time to persuade the department to close the case amicably and also to inform the court.</p> <p>List on 9-7-2001 for hearing.</p> <p><i>K.C. Shrivastava</i> Member</p> <p><i>Vice-Chairman</i></p>
<p><i>17.7.2001</i></p> <p><i>Copy of the Judgment has been sent to the App. for issuing the same to the App. as well as to the Addl. C.G.S.C. for the Respondent.</i></p> <p><i>17.7.2001</i></p>	<p><i>17.7.2001</i></p> <p>9.7.2001</p> <p>nkm</p>	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. The respondents are directed to pay cost of Rs.1000/- (Rupees one thousand only).</p> <p><i>M.U. Shrivastava</i> Member</p> <p><i>Vice-Chairman</i></p>



CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./~~XXX~~ No. 137 of 2000

DATE OF DECISION 9.7.2001

Shri Suresh Pal Singh Yadav

APPLICANT(S)

Mr B.K. Sharma, Mr P.K. Tiwari and  
Mr S. Sarma

ADVOCATE FOR THE APPLICANT(S)

— VERSUS —

The Union of India and others

RESPONDENT(S)

Mr B.C. Pathak, Addl. 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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.137 of 2000

Date of decision: This the 9th day of July 2001

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

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

Shri Suresh Pal Singh Yadav,  
Inspector,  
Central Bureau of Investigation,  
Office of the Superintendent of Police,  
Central Bureau of Investigation,  
Guwahati.

.....Applicant

By Advocates Mr B.K. Sharma, Mr P.K. Tiwari  
and Mr S. Sarma.

- versus -

1. The Union of India, through the  
Secretary to the Government of India,  
Ministry of Personnel and Training,  
New Delhi.
2. The Director,  
Central Bureau of Investigation,  
New Delhi.
3. The Deputy Inspector General,  
Central Bureau of Investigation,  
Guwahati.
4. The Superintendent of Police,  
Central Bureau of Investigation,  
Anti Corruption Branch,  
Guwahati.
5. The Administrative Officer (E),  
Central Bureau of Investigation,  
Government of India,  
Administrative Division,  
New Delhi.

.....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The only controversy involved in this application  
pertains to the payment of salary of the applicant for the  
month of October 1999. The applicant served as an Inspector  
of Police under the respondents on deputation. On

completion of his deputation the applicant was repatriated to his parent department, which was a subject matter of a separate O.A., since disposed of. By this application the applicant has moved this Tribunal for a direction for payment of his salary for the period from 1.10.1999 to 28.10.1999. In the application it was, inter alia, stated that on 30.9.1999, at late night, the applicant felt severe chest pain and irritation. The nearest CGHS Dispensary from the applicant's residence at Guwahati, was located at a distance of 7 to 8 kilometres. It has also been stated that the applicant was not registered in any of the CGHS Dispensary, and therefore, he was taken to the nearest available Doctor of Gauhati Medical College who stayed very close to the applicant's residence. The applicant continued to be under treatment and on being declared medically fit, he joined duty on 29.10.1999. He submitted his joining report on 29.10.1999 alongwith necessary documents and medical papers requesting the respondent authority to grant him twentyeight days medical leave. Since the respondents did not respond to it and salary for the aforesaid period was not paid the applicant moved this O.A. for appropriate remedy.

2. The respondents contested the case and disputed the claim of the applicant. According to the respondents, the leave of the applicant was unauthorised, and therefore, the respondents did not commit any irregularity. The respondents also contested the admissibility of medical leave for the aforesaid period. We thought that this matter could be sorted out by the authority, more so, in view of the fact that the applicant is now repatriated to his parent department and the matter should have been amicably resolved by the department. The respondents, on the other hand, took a very obdurate stand and stated that the claim

for.....

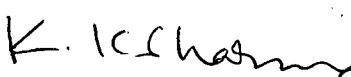
for medical leave was not permissible since the applicant did not submit any authorised medical certificate. According to the respondents the leave was not permissible under the CCS (Leave) Rules, 1972. Admittedly, these rules are not applicable so far a deputationist is concerned and deputationists are guided by the rules of the parent department. The very CCS Leave Rules, on which the respondents relied upon also indicate that leave can be granted on medical certificate made by a non-gazetted Government servant accompanied by a medical certificate in Form 4 given by an Authorised Medical Attendant or a registered medical practitioner. Admittedly, the applicant was examined and treated in the Gauhati Medical College Hospital and also by one Doctor (Mrs) Rupali Baruah, Assistant Professor, Comm. Medicine, Gauhati Medical College. Instead of relying on the medical certificate issued by the aforesaid Assistant Professor, who treated the applicant, the respondents made certain queries and took time investigating the matter and obtaining a report from the Dr B.K. Barah, Superintendent, Gauhati Medical College as to the credentials of Dr (Mrs) Rupali Baruah. The communication dated 4.5.2000 sent by Dr B.K. Barah, Superintendent, Gauhati Medical College to the Superintendent of Police, CBI, also indicated that Dr (Mrs) Rupali Baruah, M.D., was an Officer in the rank of Assistant Professor of Gauhati Medical College and therefore, the medical certificate issued by her to the applicant was not related with the Gauhati Medical College Hospital. The respondents mainly emphasised on the fact that the certificate issued by the aforesaid Doctor to the applicant was not related with the Gauhati Medical College Hospital. The report, however, did not indicate that the

Dr.....

Doctor (Mrs) Rupali Baruah was not a registered practitioner. The respondents instead of engaging themselves to other important issues, were more confined to some irrelevant and extraneous issues.

3. On hearing Mr P.K. Tiwari, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C., the respondents are directed to take necessary steps for payment of salary of the applicant on the basis of the medical certificate submitted by the applicant without insisting for any other certificate from CGHS. The respondents are directed to take necessary steps for payment of salary of the applicant for the aforesaid period within two weeks from the date of receipt of the order.

4. The application is accordingly allowed and the respondents are directed to pay cost of Rs.1000/- (Rupees one thousand only) to the applicant.

  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

Central Administrative Tribunal  
Guwahati Bench

17 APR 2000

32  
गुवाहाटी न्यायालय  
Guwahati Bench

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

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

Title of the Case : O.A. No. 132 of 2000

Suresh Pal Singh Yadav ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

I N D E X

Sl. No.	Particulars of the documents	Page No.
1.	Application	1 to 14
2.	Verification	15
3.	Annexure-1	16
4.	Annexure-2	17 - 21
5.	Annexure-3	22
6.	Annexure-4	23 - 24
7.	Annexure-5	25 - 26
8.	Annexure-6	27 - 28
9.	Annexure-7	
10.	Annexure-8	

For use in Tribunal's Office :

Date of filing :

Registration No.

REGISTRAR

14  
S. Subrahmanian, Advocate  
14. 4. 2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

D.A. No. 137 of 2009

BETWEEN

Shri Suresh Pal Singh Yadav, Inspector, Central Bureau of Investigation, office of the Supdt. of Police, Central Bureau of Investigation, R.G. Baruah Road, Sundarpur, Guwahati-781005.

... Applicant

AND

1. Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.
2. The Director, Central Bureau of Investigation, CGO Complex, Lodi Road, New Delhi.
3. The Deputy Inspector General, Central Bureau of Investigation, Chenikuthi, Nabagraha Hillside, Guwahati-781003.
4. The Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, R.G. Baruah Road, Sundarpur, Guwahati-781005.
5. The Administrative Officer (E), Central Bureau of Investigation, Government of India, Administrative Division, Block No. III, CGO Complex, Lodi Road, New Delhi-110003.

... Respondents

DETAILS OF APPLICATION

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

The present application is not any specified order, but the same is against the redressal of the following grievances :

- (i) Non-payment of salary to the Applicant for the month of October 1999.
- (ii) Non-payment of deputation duty allowance at the rate of 15% of the basic pay with effect from 1.8.97 to the Applicant.
- (iii) Non-payment of leave encashment to the Applicant since September 1993.
- (iv) Non-payment of food/nutrition allowance since September 1993

**2. JURISDICTION OF THE TRIBUNAL :**

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

**3. LIMITATION :**

The applicant further declares that the grievances of which the redressal is being sought are in the nature of continuous wrong. Moreover, the present application fulfills the requirement of limitation as envisaged under Section 21 of the Administrative Tribunals Act, 1985.

**4. FACTS OF THE CASE :**

4.1 That the Applicant is a citizen of India and he is a permanent resident of the State of Uttar Pradesh. The Applicant began his service career in the State of Uttar Pradesh wherein he was appointed as Sub-Inspector of U.P. Traffic Police. While working as Sub-Inspector in U.P. Traffic Police, the Applicant vide office order No. 1621/93 dated 14.10.93 was appointed as Inspector of Police on deputation in Delhi Special Police

Establishment Division of the Central Bureau of Investigation for a period not exceeding three years. The appointment was made effective from 24.9.93.

A copy of the office order dated 14.10.93 is annexed as ANNEXURE-1.

4.2 That in consequence of his appointment as Inspector in the Central Bureau of Investigation, hereinafter for short "the CBI", the Applicant was posted to the Anti Corruption Branch in the office of the Supdt. of Police, CBI, Shillong. The Applicant accordingly, joined in the said capacity at Shillong. Then in 1995, the office of the Supdt. of Police was shifted from Shillong to Guwahati and the Applicant was also shifted to Guwahati.

4.3 That in view of excellent service given by the Applicant as Inspector in the CBI, on completion of his deputation, the department vide letter dated 16.10.97 intimated to the Deputy Inspector General (Personnel), UP that services of the Applicant are required by the CBI and necessary sanction extending the period of Applicant's deputation for three years more upto 23.9.99 may be granted. on the basis of the aforesaid letter, the Applicant's period of deputation in CBI was extended for three more years upto 23.9.99. However, even after expiry of the period, the Applicant is presently functioning in the Central Bureau of Investigation in the capacity of Inspector, CBI.

4.4 That the first grievance of the Applicant is in regard to non-payment of salary for the month of

October 1999. The circumstances giving rise to the aforesaid grievance are stated herein below :

(i) Applicant is not registered in any of the CGHS Dispensary located in Guwahati. His wife is an employee of the Government of Assam. Both the Applicant and his wife at the time of medical requirement consult the Gauhati Medical College or any other State Dispensary or nearest Medical Practitioner.

(ii) On 30.9.99 at late night, the Applicant felt severe chest pain and very high palpitation. The nearest CGHS Dispensary from Applicant's residence at Guwahati, is located at a distance of 7 to 8 Kilometres. Moreover as stated earlier, the Applicant is not registered in any of the CGHS Dispensary. Hence, under the circumstances, the Applicant was rushed to nearest available doctor of Gauhati Medical College who stays very close to the Applicant's residence. It is stated that the kind of ailment from which the Applicant suffered was such that the Applicant could not have been expected to go to CGHS Dispensary or to inform the department about his ailment. It is noteworthy that the Applicant developed the symptom of heart problem at late night of 30.9.99. Under the circumstances, the Applicant could not have been faulted for contacting the doctor who was staying very close to his residence.

(iii) The Applicant the very next day on 1.10.99 telephonically intimated his department about his physical problem. Subsequently, on 5.10.99, he also

sent the written intimation to the department in regard to his illness.

(iv) Since Applicant's wife is a working lady and there is no one else to look after him during office hours, therefore, the Applicant was temporarily shifted to his in-law's house at Chenikuthi, Guwahati. It was there that the Applicant took necessary rest as per the medical advice. Here it is pertinent to mention that after a thorough check up in the Gauhati Medical College, the Applicant was advised rest and necessary medicines were prescribed to him.

(v) On being declared medically fit, the Applicant joined on 29.10.99 before noon. Applicant gave his joining report on that very day alongwith necessary documents/medical papers with the request for granting him 28 days' medical leave.

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29.10.99  
17  
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46  
1.10.99 b  
28.10.99  
26.

The joining report of the Applicant alongwith the medical papers are annexed as ANNEXURES-3 colly.

(vi) In response to the request made by the Applicant that he be granted 28 days' medical leave, the Supdt. of Police, CBI (ACB), Guwahati (Respondent No. 4) issued the memo dated 30.11.99 wherein it was stated that as per the Leave Rules 12(8) at page 154 of Handbook, 1999, the non-gazetted Government servant should produce medical certificate from (i) CGHS Doctor if the Government servant is a CGHS beneficiary and

residing within the limits of CGHS at the time of illness. In the said memo, few allegations were also made against the Applicant to the effect that he did not submit relevant medical certificate of Doctor or any leave application in a prescribed form indicating the period of leave or nature of illness whereas through telephonic talk on 1.10.99 itself and the application dated 5.10.99 information was given to the department in regard to ailment of the Applicant. Unfortunately, in the aforesaid memorandum, it was also alleged that even the residence of the Applicant was found under lock and key indicating thereby that the Applicant was not taking rest at his place and was possibly moving around. As stated earlier, such allegations are baseless inasmuch Applicant was taking rest in his in-law's house at Chenikuthi, Guwahati because his wife being a working lady is unable to look after him.

Copy of the memorandum dated 30.11.99 is annexed as ANNEXURE-3.

(vii) The Applicant on receipt of the memorandum dated 30.11.99 submitted a written reply dated 6.12.99. In the aforesaid reply, the Applicant in detail gave explanation to the circumstances under which he was to contact his doctor at Gauhati Medical College. Applicant in his reply also dealt with the allegations made against him.

Copy of the Applicant's written reply dated 6.12.99 is annexed as ANNEXURE-4.

(viii) Since the salary for the month of October 1999 was not given to the Applicant and there was a silence on the part of the Respondents after receipt of the Applicant's reply dated 6.12.99, therefore, the Applicant submitted a representation dated 19.12.99 to the Director, CBI, New Delhi. However, till now nothing has been done so far and Applicant has reasons to believe that Respondents are not interested in disbursing him the salary for the month of October 1999.

(ix) Being thus aggrieved by total inaction on the part of the Respondents, the Applicant also sent a legal notice to the Respondents No. 3 and 4. However, the legal notice also failed to evoke any response from the Respondents.

(x) That as per the Central Bureau of Manual (Administration), 3rd Edition, 1980 as well as Statement of Terms applicable to Inspectors on deputation to the Central Bureau of Investigation, the provisions of Central Civil Services (Leave) Rules, 1972 would be applicable to the Inspectors of the Central Bureau of Investigation. Moreover, the medical treatment shall be admissible to the Inspector of CBI as under the Central Civil Services (Medical Attendant) Rules. This Rules contain detailed provisions in regard to grant of leave on medical ground. Under the extant rules, the medical certificate is required to be

produced from a CGHS Doctor only if the concerned Government servant is a CGHS beneficiary and he is residing within the limits of CGHS at the time of illness. Moreover the rules also provide that in the event of Government servant not being a CGHS beneficiary, it would be sufficient compliance of law if medical certificate is given by a registered medical practitioner. It is stated that in the case of the Applicant, this requirement of law was amply fulfilled. Moreover, there were sound and cogent reasons for the Applicant not approaching the CGHS Doctor.

(xi). The extant rules provide for various kinds of leave viz. earned leave, half-pay leave, committed leave, extra-ordinary leave etc. Though leave cannot be granted as a matter of right, but when earned leave, commuted leave and half-pay leave are due to a Government servant and the same are not exhausted then before denying any of these leave, it is incumbent upon the Respondents to give reasons. Moreover, leave cannot be denied arbitrarily and capriciously.

(xii) The Respondents acted maliciously and arbitrarily in keeping quiet about granting of leave to the Applicant. Their action of not disbursing to the Applicant the salary of the month of October 1999 is, therefore, arbitrary and illegal. Since in the case of the Applicant, there are justified reasons for his praying for medical leave, the same cannot be denied to him. Moreover the Rules also provide for granting of such medical leave. However, the Respondents are acting

in contravention of the rules and by denying the Applicant the salary of the month of October 1999, they have violated the statutory rights of the Applicant.

4.5 That as per office memorandum of the Government of India dated 11.3.98 circulated vide letter No. 5/9/97-IWSE dated 4.5.98 of Administrative Officer (E)/CBI, the Applicant is entitled to the Deputation (Duty) Allowance at the rate of 15% of his basic pay subject to a maximum of Rs.1000/- p.m. The office memorandum dated 11.3.98 revising the rate of Deputation (Duty) Allowance came into effect from 1.8.97.

A copy of the office memorandum dated 11.3.98 alongwith the copy of the forwarding letter dated 4.5.98 is annexed as ANNEXURE-5.

4.6 That the Applicant - a deputationist from Uttar Pradesh Police is getting Rs.500/- only as deputation allowance @ 20% of basic pay subject to the maximum of Rs.500/- as was admissible in the pre-revised pay scale.

4.7 That since the Applicant's present basic salary in revised pay scale is Rs.8,100/-, therefore, the Applicant as per the office memorandum dated 11.3.98 is entitled to get Deputation (Duty) Allowance @ 15% of the basic pay subject to a maximum of Rs.1,000/- per month with effect from 1.8.97. However, despite giving other deputationist officers of the Branch, the revised Deputation (Duty) Allowance with effect from 1.8.97, the Respondents are continuing paying the Deputation

(Duty) Allowance to the Applicant at the pre-revised/old rate and limit.

4.8 That the Applicant also submitted the representation dated 3.7.98 agitating his grievance in regard to non-payment of Deputation (Duty) Allowance to him at an appropriate revised rate as per office memorandum dated 11.3.98. However, representation of the Applicant went unheeded and the Respondents chose not to deal with the same.

Copy of the representation dated 3.7.98 is annexed as ANNEXURE-6.

4.9 That non-payment of Deputation (Duty) Allowance to the Applicant as per the office memorandum dated 11.3.98 is a continuous wrong. The aforesaid wrong is continuing till today. Hence the Hon'ble Tribunal may be pleased to interfere with the same.

4.10 That when the Applicant was posted on deputation as Inspector of Police, CBI from U.P. Police since 24.9.93, he opted for pay and other allowance as admissible to him in his parent organisation while on deputation to CBI. It is stated that the Applicant is entitled for following perks/pay and allowances as per the Last Pay Certificate issued by the Applicant's parent department :

- (a) Rs.250/- per month as food allowance
- (b) Leave encashment for one month in lieu of earned leave not availed in the interest of official duty.

4.11 That the Applicant also submitted the representation dated 2.11.98 and 5.1.99 agitating his grievance in regard to non-payment of aforesaid allowances/benefits to him. However, no appropriate action was taken by the Respondents.

4.12 That to the knowledge of the Applicant, the Administrative Officer, CBI, New Delhi vide letter dated 21.1.99 intimated to the SP, CBI, Guwahati (Respondent No. 4) that no detailed instruction regarding leave encashment to the officers of UP police are available in Head Office and as such, further clarifications in this regard may be obtained from UP Government vide their order No. 4-488/10/2008 dated 25.8.89.

4.13 That the contention of the Respondents that instructions regarding leave Encashment to the officers of UP Police are not available in Head Office is not correct. It is stated that Head Office is aware of the rules governing the officers of UP police in regard to payment of the benefit of leave encashment. It is stated that as per the office memorandum dated 30.10.91 of the UP police, the Applicant is entitled to leave encashment for one month in lieu of earned leave not availed in the interest of official duty.

4.14 That since September 1993, the Applicant has not been paid the food allowance @ Rs.250/- per month as well as the benefit of leave encashment for one month in lieu of earned leave not availed per year in the interest of official duty, therefore, the Applicant is

220

entitled to be given the accumulated allowances with appropriate interest at the normal Bank rate i.e. 18%. It is also stated that the non-payment of food allowance at the rate of Rs.250/- per month along with leave encashment of one month per year since 24.9.93 is a continuous wrong. The wrong is continuing till today. Hence the same is required to be set right by the Hon'ble Tribunal.

4.15 That the Applicant files this application bonafide for securing the ends of justice.

**5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :**

5.1 That the non-payment of salary to the Applicant for the month of October 1999 is arbitrary, malafide and the same is in contravention of the rules.

5.2 That the non-payment of Deputation (Duty) Allowance to the Applicant at the revised rate since 1.8.97 is in contravention of office memorandum dated 11.3.98.

5.3 That the non-payment of food allowance to the Applicant at the rate of Rs.250/- per month and leave encashment for one month in lieu of extra-ordinary leave since September 1993 is in violation of terms and conditions of services governing the Applicant.

5.4 That the action of the Respondents of denying the Applicant the benefits of allowances and dues is not only in contravention of the rules, but the same is also without any just and sufficient reasons.

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**6. DETAILS OF REMEDIES EXHAUSTED :**

That the Applicant states that he has no other alternative efficacious remedy except by way of approaching this Hon'ble Tribunal.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

**8. RELIEFS SOUGHT FOR :**

Under the facts and circumstances stated above, the Applicant most respectfully prays 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 pleased to grant the following reliefs to the Applicant :

8.1 Direct the Respondents to pay the Applicant the salary for the month of October 1999 with interest at the Bank rate i.e. 18% accumulated on the same till the payment is made.

8.2 Direct the Respondents to pay the Deputation (Duty) Allowance to the Applicant as per the revised rate of 15% of the basic pay subject to a maximum of Rs.1000/- per month retrospectively with effect from 1.8.97 with interest at the Bank rate i.e. 18% accumulated on the same till the payment is made.

*www*

8.3 Direct the Respondents to pay the Applicant food allowance at the rate of Rs.250/- per month alongwith leave encashment for one month per year since September 1993 with interest at the Bank rate i.e. 18% accumulated on the same till the payment is made.

8.4 Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case.

**9. INTERIM ORDER PRAYED FOR :**

In the facts and circumstances of the case, the Applicants prays for interim relief in the nature of direction from this Hon'ble Tribunal that pendency of this application shall not be a bar for the Respondents to take appropriate action for redressal of Applicant's grievances as agitated in the present application.

**10. .....**

The Application is filed through Advocate

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

(i) I.P.O. No. : OG 494211

(ii) Date : 4-4-2000.

(iii) Payable at : Guwahati

**12. LIST OF ENCLOSURES :**

As stated in the Index.

*M.W.*

VERIFICATION

I, Suresh Pal Singh Yadav, Son of Late Netra Pal Singh Yadav, aged about 47 years, presently working as Inspector, Central Bureau of Investigation, Anti Corruption Branch, R.G. Baruah Road, Guwahati and residing at Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, Guwahati-781005, do hereby solemnly affirms and verify that the statements made in the accompanying application in paragraphs 1, 2, 3, 4.2, 4.3, 4.4(i) to (xii), 4.6, 4.9, 4.11, 4.12, 4.13, 4.14, 4.15, 6 and 7 are true to my knowledge ; those made in paragraphs 4.1, 4.5, 4.7, 4.8, 4.10 are true to my information being based on records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 14th day of March 2000 at Guwahati.

*Suresh Pal Singh Yadav.*

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HR  
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20/10/93

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No. A. 35018/12/92-AD.I(Pt.V)  
 Central Bureau of Investigation  
 Govt. of India  
 Kendriya Karyalaya Parisar  
 Block No.3, 4th Floor  
 Lodhi Road, New Delhi-110003

2575  
20/10/93

OFFICE ORDER NO. 1621 /93 DATED : 14-10-93

The Dy. Inspector General of Police, Central Bureau of Investigation, SPE hereby appoints Shri Suresh Pal Singh Yadav, Sub-Inspector of U.P.Traffic Police, as Inspector of Police on deputation in Delhi Special Police Establishment Division of CBI for a period not exceeding 3 years in the first instance with effect from the forenoon of 24.9.93 until further orders.

2. On appointment as Inspector of Police, he is posted to CBI/Shillong.

( N.V. RAMDAS /1/10  
 for ASSTT.DIRECTOR(b)/C.B.I.,  
 NEW DELHI,

Copy to :-

1. SP/CBI/Shillong w.r.t. his No.3/36/7072 dated 30.9.93. He is requested to send the service particulars of Shri Suresh Pal Singh.
2. DIG, CBI, Shillong
3. Director(Traffic), U.P.Police, Lucknow w.r.t. his order No. DT-104-92 dated 9/9/1993.
4. Shri Suresh Pal Singh Yadav, Inspector (through) SP/CBI/Shillong.
5. AO, P&AO, CBI, New Delhi.
6. PAs to DD(A)/AD(E)/AO(A)/CBI/New Delhi.
7. SP(Trg.)/DPC Cell, Gazette Asstt.'P' Div., CBI.
8. Office Order File (AD.I Section).

To

The Supdt. of Police  
CBI/ACB/SPE  
Sunderpur  
Guwahati.

Sir,

Kindly refer my telephonic message dt. 1/10/99 and written intimation dt. 5/10/99 regarding myself undergoing medical treatment and bedrest as per Doctor's Advice.

On being declared medicaly fit I am resuming my duties today i.e., 29/10/99 before noon.

The Doctors Medical Certificate / Advice slip enclosed herewith for your perusal and granting 28 days Medical Leave.

Yours faithfully,

Enclosure : As above

Suresh Pal Singh  
INSP/CBI/ACB  
GPHY.

বিজ্ঞানীর পরিদর্শন বর্ণনা

Depn. Regd. No. ....

গুৱাহাটী চিকিৎসা অধ্যবিদ্যালয়ের চিকিৎসালয়  
GAUHATI MEDICAL COLLEGE & HOSPITAL

চিকিৎসা বিষয়ক পদ্ধতি পর্যবেক্ষণ বিভাগ

OUT-PATIENTS DEPARTMENT (M. R. D.)

চিকিৎসালয় নং  
Hospital No. 1200বিভাগ  
S. & U.

Date - 10/07/79

নাম

Name Mr. Swarup Pal Singh বয়স 45yrs Sex M

ধৰ্ম

Religion H. Occupation Govt. Serv.

প্রতিভাবকর স্বামী  
Guardian's Name C/o Dr. R. Baruah গ্রাম/চৰ  
Village/Townজাতীয় পত্র/চৰ  
P. O. / T. O. C. S. P. S. Dist/State Kজাতীয় পত্র/চৰ  
Local Address Jaun Nagar, Guwahati

Short Clinical Notes :

① Cut points 10 days

Past history 1 yr back

Investigation :

Provisional diagnosis :

Pulse 96

BP 140/80

Treatment :

Cut W.D.

Follow up : (other side)

Office 6210

Date 13/7/79

GAUHATI MEDICAL COLLEGE HOSPITAL  
OUT-PATIENTS DEPARTMENT

ADVICE SLIP

Service & Unit Cancer Date 16/9/95  
Name Charmi Patel Hospital No 97860  
Age 65 Sex W Regd No 2360783  
Advice -

Ref -

ECG

Ans

14 ✓ ① Strengthen 1/2  
Sig 1/2g daily x 7 days

② Nine in ⑩  
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affice and x 5 days.

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Sig so apply locally

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Ans  
10/1/95

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DR. RUPALI BARUAH, M.D.  
Asst. Professor,  
Comm. Medicine  
GAUHATI MEDICAL COLLEGE

Phone No. 510833 (R)  
561325 (O)

Date 28<sup>th</sup> Oct '99

To whom it may concern

Certified that Mr. Suresh Pal Singh was under my treatment since 15-10-99 due to problems of severe back-pain which was later diagnosed to be slipped disc.

He was advised complete bed-rest + to avoid carrying heavy weight and other physical strain + medications as necessary.

He is better now and fit to resume his normal duties.

*Rupali*  
28/10/99  
Asst. Professor  
Dept. of Comm. Medicine  
Gauhati Medical College  
Gauhati-781032

DR. RUPALI BARUAH, M.D.  
Asst. Professor,  
Comm. Medicine  
GAUHATI MEDICAL COLLEGE

Phone No. 510833 (R)  
561325 (O)

Date 30/9/99

To whom it may concern.

Certified that Mr. S. P. Singh  
aged about 45 yrs. M, was/is  
under my treatment for  
complaints of Chest pain  
& palpitation.

He is advised to  
attend the Cardiology  
Dept. at Gauhati Medical  
College for the needful  
& advised to take  
rest for 15 days w.e.f.  
30.9.99. To avoid  
stress & tension & heavy  
physical work & to  
continue medication.

Asst. Prof.  
30.9.99.  
Asst. Professor  
Dept. of S. P. M.  
Gauhati Medical College  
Gauhati-781033

-22-

Annexure : 3

GOVERNMENT OF INDIA,  
CENTRAL BUREAU OF INVESTIGATION,  
OFFICE OF THE SUPDT. OF POLICE,  
ANTI CORRUPTION BRANCH,  
GUWAHATI :- 5.  
@@@@@@@@@

NO. DP/SHL/1999/05583 /A/20/157/93 Dated, Guwahati 30/11/99  
To

Sri S.P. Singh Yadav,  
Inspr. CBI/ACB/Guwahati.

Sub :- Sanction of Commuted leave w.e.f.  
01/10/99 to 28/10/99 - reg.

Refer your application dtd. 29/10/99 praying for Commuted leave w.e.f. 01/10/99 to 28/10/99. It is to inform that as per leave Rule 12(8) at page 154/C of Handbook 1999 it is stated that non Gazetted Govt. Servant should produce the medical Certificate from (i) C.G.H.S. Doctor if the Govt. Servant is a CGHS beneficiary and residing within the Unit of C.G.H.S. at the time of illness.

You have informed office through telephonic talk on 01/10/99 and petition dtd 05/10/99 that you will not be able to attend office due to illness, but you have not enclosed the medical Certificate of Doctor nor have you submitted any leave application in a prescribed form indicating the period of leave, nature of illness etc. The reasons given by you is not satisfactory due to the facts that as the officials of this office visited your house for delivering of urgent letter it is found that your house is remained under lock and key and on subsequent visit no satisfactory reply was given by your wife regarding your whereabouts etc.

In view of the above facts and circumstances, you are directed to explain as to why your leave period may not be treated as unauthorised absence.

Your explanation should reach this office within 3 days from issued of this memo failing which action will be taken as per rule.

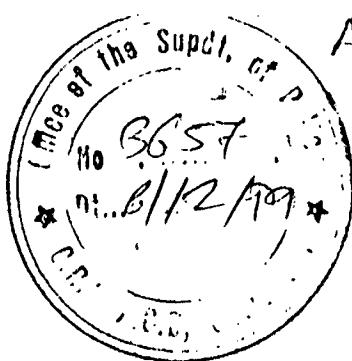
Memo NO. DP/SHL/1999/ \_\_\_\_\_ /A/20/157/93 Dated:-  
Copy to :-

1. The DIG/CBI(NER)Guwahati for favour of information please.

(S) 2/11/99  
Superintendent of Police,  
CBI(ACB)Guwahati.

(S) 2/11/99  
Superintendent of Police,  
CBI(ACB)Guwahati.

-22-  
-23-



To

The Supdt. of Police  
CBI/ACB/SDE  
Guwahati

Sub : Sanction of Commuted Leave w.e.f. 01/10/99 to 20/10/99

Ref : No. DP/Sh1/1999/05583/A/20/157/93 dtd. 30/11/99.

Sir,

May kindly refer on subject matter. In this connection I have to state that I am on deputation from State Police of Uttar Pradesh. I am not registered in any of the CGHS Dispensary located in Guwahati. My wife, who is also a State of Assam Govt. employee, in time of medical needs consult Gauhati Medical College, other State dispensary or nearest registered Medical practitioner.

Further the C.G.H.S. Dispensary located in Guwahati town are situated at 7/8 Kms. from my house and the said dispensary also, as they do not have full equipment and other medical facility, invariably refer the patients to Gauhati Medical College for treatment and as such on the advice of doctor dt. 30/09/99. I consulted G.M.C. Ghy, the certificate thereof is already submitted to you along with Medical Fitness certificate.

Further more it is stated that on 30/10/99 in the night I felt severe chest pain and very high palpitation therefore I did neither have time nor the said CGHS Dispensaries open at such time, as such I approached the nearest doctor of Gauhati Medical College, who advised for rest as well as some check-ups in gauhati medical College and as such I attended the Medical College on 1/10/99 and informed you telephonically as well as vide my written information dt. 05/10/99.

as my wife is also a working women and no one was there to look after me during office hours therefore I was temporarily shifted to my in-laws house at Chenikuthi, Guwahati.

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So far as delivery of urgent letter is concerned, I do not know as yet the content thereof, nor you made me acknowledge any such letter as yet even after resuming my duties on 29/11/99 after submitting my Medical Fitness certificate and application to grant Medical Leave in prescribed format along with required enclosures.

I am suffering great financial hardships as you have not disbursed my salary even though two months had already elapsed. It is requested once again therefore that my salary may kindly be disbursed soon.

Yours faithfully,

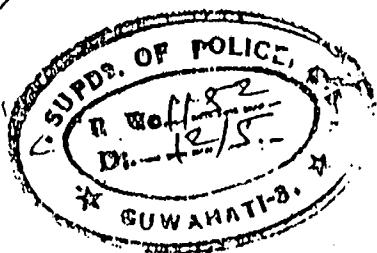
*Mew*  
6/12/99

( SURESH PAL SINGH YADAV )  
INSP/CBI/ACB/GHY

- 25 -

Annexure : 5

23



No. 5/8/97-IWSU  
Central Bureau of Investigation  
(Administration Division)  
Block No. 3, CGO Complex,  
Lodhi Road,  
New Delhi-110003.

Dated: 4-5-98

ENDORSEMENT

A copy of the undermentioned paper is forwarded for information and necessary action to:-

1. All DIsG, CBI.
2. DD(Co.), CBI, New Delhi.
3. Director, CFSL (CBI), New Delhi.
4. All Supdts. of Police, CBI (Local and Outside).
5. AO, P&AO, CBI, New Delhi.
6. PS to DCBI.
7. PSs to Spl. Directors & Addl. Directors, CBI.
8. Sr.PAs to all JDs, CBI.
9. All Sections, Divisions, Zones, CBI.

(Dr. Tarsem Chand)  
Admn. Officer(E)/CBI.

Paper forwarded:-

1. Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training OM No. 2/8/97-Estt.(PAY II) dated 11th March, 1998.  
Sub:- Grant of Deputation (Duty) Allowance - Recommendations of the Fifth Central Pay Commission -

~~DMR~~

~~DRB~~

~~DRB~~

- 26 -

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SP. No. 1 (R)

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39

No. 2/8/97-Estt. (PAY II)

GOVERNMENT OF INDIA

MINISTRY OF PERSONNEL PUBLIC GRIEVANCES & PENSIONS  
DEPARTMENT OF PERSONNEL & TRAINING

New Delhi, the 11th March, 1998

OFFICE MEMORANDUM

Subject - Grant of Deputation(Duty)Allowance  
Recommendations of the Fifth Central  
Pay Commission -

The undersigned is directed to say that at present the amount of Deputation ( Duty ) Allowance is regulated by the provisions contained in paras 4.1 and 6.1 of this Department's OM No. 2/29/91-Estt. (Pay II) dated 5th January 1994. The question of revising the amount of Deputation ( Duty ) Allowance on the basis of the recommendations made by the Fifth Central Pay Commission in Chapter 110 of their Report was under consideration of the Government. Consequent upon the decision taken by Government on these recommendations, the President in partial modification of the above referred provisions is pleased to decide the following rates of Deputation ( Duty ) allowance -

(a) 5% of the employee's basic pay subject to a maximum of Rs. 600/- per month when the transfer is within the same station; and

(b) 10% of the employee's basic pay subject to a maximum of Rs. 1000/- per month in all other cases.

2. The Deputation ( Duty ) Allowance shall be further restricted as under :-

(i) Pay + Deputation ( Duty ) Allowance shall not exceed the maximum of the scale of pay of ex-cadre post; and

(ii) Pay + Deputation ( Duty ) Allowance shall at no time exceed Rs. 22,400/- p.m.

3. The President is also pleased to decide that the restriction under FR 35 mentioned in paragraph 2 of this Department OM No.

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MB

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6/30/86-Estt. (Pay II) dated the 9th Dec., 1986  
will now be as under :-

(a)

For employees in receipt  
of basic pay upto  
Rs.8000/- p.m.

15% of the basic  
pay subject to a  
maximum of  
Rs.1000/- p.m.

(b)

For employees in receipt  
of basic pay above Rs.  
8000/- p.m.

12 1/2% of the  
basic pay subject  
to a maximum of  
Rs. 1000/-

4. Other provisions laid down in this  
Department's OM dated 5.1.1994, referred to  
above, would remain unchanged.

5. In so far as persons serving in the  
Indian Audit & Accounts Department are concerned  
these orders issue after consultation with the  
Comptroller & Auditor General of India.

6. These orders shall take effect from  
1st August, 1997. The cases of deputations prior  
to this date shall be governed by the orders  
dated 5th January, 1994, referred to in para 1  
above.

Hindi version will follow.

Encl 11.3.98

DEPUTY SECRETARY TO THE GOVT. OF INDIA  
(J. WILSON)

To

All Ministries/Departments  
as per standard list attached

To

The Superintendent of Police,  
CBI/A-B,  
Guwahati.

Sub: DEPUTATION ALLOWANCE.

Sir,

Kindly ref Circular/IWC No. 5/9/97 IWSU dt 4/5/98 of Administrative Officer (E)/CBI alongwith Office Memorandum No.2/8/97. ESTT (PAY 11) dt 11/3/98 regarding grant of Deputation (Duty) Allowance - Recommendation of the Fifth Central Pay Commission.

The undersigned is a deputationist from Uttar Pradesh Police and is getting Rs.500/- only as Deputation Allowance presently @ Rs. 20% of basic pay subject to the maximum of Rs.500 as was admissible in the pre-revised Pay scale.

However, the undersigned whose present basic salary in revised Pay scale is Rs.7900/- and who as per aforesaid circular is entitled for 15% of Deputation Allowance subject to maximum of Rs.1000/- w.e.f. 1.8.1997, is erroneously continued to be paid the said Allowance at the old rate of and limit and thereby is recurringly being deprived of Deputation Allowance @ Rs.500/- p.m. than the said Allowance being monthly Paid now.

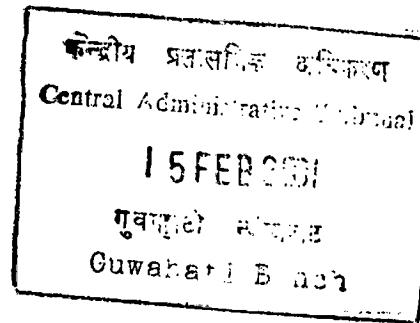
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It is also very surprising that Sri N.R. Dey, who is also a deputationist is being granted Rs.730/- per month on account of Deputation Allowance @ Rs.10% of basic Pay subject to the maximum Rs.1000/- p.m. while the undersigned is being paid the said Allowance subject to the limit of Rs.500/- only.

In view of the aforesaid it is requested that the undersigned may also be granted Deputation Allowance as per aforesaid memo and the arrears w.e.f. 1.8.1997 may also please be disbursed soon.

Yours faithfully,

( SUREST PAL SINGH )  
INSPR/CBI/ACB  
GUWAHATI-5.



(3. C. P. 101)  
 Filed by  
 Addl. Central Govt. Standing Commis-  
 sioner  
 Central Administrative Tribunal  
 Guwahati Bench : Guwahati

**IN THE CENTRAL ADMINISTRATIVE  
 TRIBUNAL  
 GUWAHATI BENCH : GUWAHATI.**

**O.A. NO. 137/2000.**

Sri Suresh Pal Singh Yadav

.....Applicant.

-Vs-

Union of India and 4 others,

.....Respondents.

(Written Statement on behalf of  
 Respondents No. 1 to 6).

The written statements of the aforesaid respondents  
 are as follows:

1. That the copy of the O/A No. 137/2000 (referred to as "application") has been served on the respondents. The respondents have gone through the said application and

understood the contents thereof. The interest and subject matter being common for all the above respondents, a common written statements is being filed for all of them.

2. That the statements made in the application, save and accept those which are specifically admitted, are hereby denied by the respondents.

3. That with regard to the statements in para 4.1 and 4.2 of the application, the respondents state that the applicant was a Sub-Inspector in U.P. Traffic Police and he was appointed as an Inspector in CBI on deputation, initially for a period of three years, vide Office Order No. 1621/93 dt. 14.10.1993 and was posted at CBI, Shillong Branch. On completion of his tenure, his parent department i.e. U.P. Police requested his repatriation vide let No. A-20014/1609 DT. 29.12.96 to SP, CBI, Guwahati, though the applicant vide his letter dt. 23.12.96 had offer his willingness for extension of his deputation period for three years and submitted his willingness for absorption in CBI which was not agreed upon by CBI Head Office.

4. That with regard to the statement made in para 4.3, the respondents state that the period of deputation of the applicant was further extended upto 23.9.99 and that the applicant's application dt. 8.9.98 to the CBI for repatriation to his parent department, the H.O., CBI issued his repatriation order vide FAX message No. DPAD.11999/03447/A-20014/1609/93 dt. 30th September, 1999 of Dy. Director(Admn.), CBI, New Delhi. It is submitted that pursuant to the aforesaid order of the Head Office dt. 30.9.99, the order dt. 20.10.99 was issued by SP/CBI/ACB/Guwahati for his relieving on repatriation in the afternoon of 20.10.99 and hence his continuance thereafter in

CBI is not legal and he is not entitled to claim any salary and allowances thereafter and for the period of his unauthorised absence after 30/9/99.

6. That with regard to the statements made in para-4(i) of the application that the applicant has not registered in any of the CGHS Dispensary at Guwahati, the respondents state that this is not correct. The applicant has his registration in CGHS vide Index No. 008927 issued by the SP, CBI, Guwahati on 12.05.97

The copy of the said index card is annexed as "R-1" and receipt of the applicant dated 12.05.97 as annexure "R-2".

7. That with regard to the statements made in para 4(ii) of the application, that he felt severe chest pain and a very high palpitation on 30.09.99 in the late night and that there was no CGHS Dispensary near his residence and that he rushed to the nearest available doctor of Guwahati Medical College who stays very close to the applicant's residence, the respondents state that these are all false and cooked up story. The applicant submitted a letter to the SP, CBI (respondent No.4) on 5.10.99 claiming that he was sick and under medical treatment and was advised for bed rest. The applicant did not mention the nature of ailment, did not enclose the medical certificate of the doctor nor submitted any leave application indicating period of leave etc. upon which the SP, CBI issued a Memo No. DP/SHG/1999/04596/A/20/157/93 dt. 6.10.99 directing him to resume duties immediately and said memo was sent to his residential address, C/o Junali Baruah, Dorothi Apartment, 4th

Bye Lane, A8C Tarun Nagar, G.S. Road, Guwahati, which was found to be locked and hence it could not be served. The applicant remained absent from his duties unauthorisedly from 1.10.99 onwards.

The copy of the application dt. 5.10.99 and memo dt. 6.10.99 of the SP, CBI, Guwahati are annexed as Annexure "R-3" and "R-4" respectively.

The respondents further state that as per Leave Rules (FR SR Part-III, Leave Rules, 1972) Rule NO. 19 r/w General Principles 8 of Swamy's Hand Book 2000 states that '8' "Grant of leave on medical grounds - Gazetted Govt. servant should produce medical certificate from Authorised Medical Attendant. Non-Gazetted Govt. servant should produce medical certificate from (1) a CGHS Doctor if the Govt. servant is a CGHS beneficiary and residing within the limits of CGHS at the time of illness and (2) AMA or a registered medical practitioner if not covered by CGHS-Rule 19(1) and OM dt. 7.10.97."

The copies of Leave Rules from Swamy's Hand Book 2000 page No. 154 and the O.M. dt. 7.10.97 are annexed as Annexure "R-5" and "R-6" respectively.

It is further stated that as per General Principles No.9 in Swamy's Hand Book 2000, at page NO. 154, leave sanctioning authority may secure second medical opinion if considered necessary - Rule 19(3). Since the applicant who was supposed

to intimate his address on leave to his controlling officer did not intimate, nor he was present in his house on any date when some one from the office of respondent No.4 visited his house including on 21.10.99 and 22.10.99, the controlling officer i.e. respondent No.2 could not secure second medical opinion on his illness. The applicant by his such conduct has contravened the conduct and discipline rules.

The real reason behind the applicant's unauthorised absence from duty with effect from 1.10.99 onward was that on 30.9.99 when the applicant last attended office, an urgent FAX message was sent by Dy. Director(Admn.), CBI, New Delhi vide No. DPAD/1999-03447 A-20014/1609/93 dt. 30.9.99 for immediate repatriation of the applicant to his parent department but the applicant did not want to be relieved from the CBI and wanted to continue illegally in CBI for which he was seeking some time to secure a stay order on concocted ground from the Hon'ble High Court/ CAT, Guwahati/ Guwahati Bench, as fully established by the Applicant's subsequent conducts, when the applicant filed WP(C) No. 5205 of 1999 before the Hon'ble Guwahati High Court on 06.10.1999 which came up for hearing on 11.10.99 for quashing of letter No. DPAD/1999-03447 A-20014/1609/93 dt. 30.9.99 issued by the Administrative Officer(E), CBI, New Delhi repatriating the applicant alongwith other prayers, which was dismissed by the Hon'ble High Court on withdrawal on the point of jurisdiction vide order dt. 12.10.99. The applicant filed a petition vide O.A. NO. 338 of 1999 and obtained a stay of his repatriation order on 15.10.99 which was intimated to the office of respondent No. 4 through a FAX message sent from unknown sources.

The copy of the stay order issued by Hon'ble CAT, Guwahati Bench in OA NO. 338/99 dt. 15.10.99 is annexed as Annexure "R-7".

8. That with regard to para No. 4.4 (iii) of the application, it is submitted that the written intimation of the applicant dt. 5.10.99 to the respondent No.4 was totally unnecessary and uncalled for. What the applicant was required to submit was an application for leave, in the prescribed proforma, supported by the Medical certificate from a competent doctor (in this case a CGHS Doctor) which the applicant could not do as the applicant was obviously not suffering from any ailments.

9. That with regard to para 4.4 (iv) the claim of the applicant that he had temporarily shifted to his inlaw's house at Chenikuthi, Guwahati for taking rest is again a bundle of lie as at no point of time, the applicant intimated to the office of respondent No.4 about his whereabouts/leave address, which the applicant was required to do, when seeking for leave. Even now, the applicant has not disclosed the complete address where he was staying during the leave period. The applicant has again mentioned falsely that he was advised rest after check up in the Guwahati Medical Hospital whereas Dr. M.M. Deka, Principal-cum-Supdt., Guwahati Medical College Hospital, vide letter No. MCP/1/84/347 dt. Guwahati May, 03,2000 (marked as Annexure R-8) that after check up on 1.10.99, no rest was recommended to the applicant. Thereafter, the applicant never turned up in the Guwahati Medical College Hospital for further treatment.

The copy of the letter dt. 3.5.2000 issued by the Doctor is annexed as Annexure "R-8".

10. That with regard to para 4.4.(v), the claim of the applicant that he was medically fit is obviously false. As mentioned above, the applicant never turned up in Guwahati Medical College Hospital after his first visit there on 1.10.99 where he was referred to by Dr. Rupali Baruah who had allegedly treated the applicant on account purported emergency and referred the applicant to Guwahati Medical College Hospital. Moreover, the so called fitness certificate dt. 28.10.99 issued by Dr. Rupali Baruah which the applicant had submitted at the time of his joining duty is not a valid and admissible one, as the said doctor is not at all authorised to issue any medical certificate in her official capacity which fact has been confirmed by Professor (Dr.) B.K. Barah, Supdt., Guwahati Medical College and Hospital in his letter No. MCH/829/82/381 dt. 4.5.2000.

Copy of the letter dt. 4.5.2000 is annexed as Annexure "R-9".

11. That with regard to para 4.4 (vi), the allegation made by the applicant that the house where he is residing was not found under lock and key and that the allegation made against him in this regard are baseless is negative by the report of Sri J.N. Gogoi, SI, CBI, ACB, Guwahati dt. 21.10.99 and 22.10.99 (which are marked as Annexure "R-10 and R-11" respectively). These two reports of Sri J.N. Gogoi, SI, clearly prove that whenever Sri J.N. Gogoi, SI visited applicant's house, he found that the said house was under lock and key, except on one

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occasion when the wife of the applicant Mrs. Junali Baruah was present in the house, who abused Sri Gogoi badly, informing him that the applicant had gone out for his work and his whereabouts was not known to her. Mrs. Junali Baruah, however did not tell Sri Gogoi that the applicant was suffering from illness. She also did not disclose the fact as claimed by the applicant that he was taking rest in his in-law's house at Chenikuthi. Had this claim of the applicant been true, Mrs. Junali Baruah would have no reason not to disclose this fact to Sri J.N. Gogoi, who was seeking for the applicant for serving urgent communications on him.

The copies of report dt. 21.10.99 and 22.10.99 are annexed as Annexure "R-10 and R-11" respectively.

12. That with regard to para No. 4.4 (vii), it is submitted that the belated reply dt. 6.12.99 given by the applicant was totally unsatisfactory and devoid of merit as the applicant was unable to explain satisfactorily any of the circumstances under which the applicant unauthorisedly absented himself from duty from 1.10.99 to 28.10.99, as sought for by the respondent No.4 vide Memorandum dt. 30.10.99.

13. That with regard to para No. 4.4(viii), it is a fact that the applicant had submitted a representation to the respondent No. 2 i.e. Director, CBI, New Delhi by passing the rule which the applicant was supposed to follow, according to which the applicant was required to submit his representation first to the next higher authority i.e. DIG, CBI, NER, Guwahati (respondent No.3). As the applicant did not follow the rule, the respondent No.2 was perfectly justified not to have responded

to the representation of the applicant. Even then, the respondent No.2 sought for factual position about the facts mentioned by the applicant in his representation to the respondent No. 2 vide W.T. Message No. DPAD/1999/04637/a.20014/1609/93 dt. 30.12.1999 (marked as Annexure "R-12") from the respondent No.4 about the circumstances leading to the cancellation of the leave application and respondent No.4 under letter No. DPSHL/2000/00269/A/20/157/93 dt. 11.1.2000 explained the factual position in this regard and also explained why salary for the period 1.10.99 to 28.10.99 had not been paid to the applicant (marked as Annexure "R-13").

The copies of the said letter dt. 30.12.99 and 11.1.2000 are annexed as Annexure "R-12 and R-13" respectively.

14. That with regard to para 4.4 (ix) of the petition, it is submitted that there is no rule under which the applicant was justified in having served the legal notices on the respondent No.3 and 4, which the applicant did without following the laid down procedure/rule. Since the applicant has not followed the laid down rule in this regard, the respondent No.3 and 4 were not duty bound to respond to this unwarranted diversionary tactics adopted by the applicant. It is further submitted by the respondent in this regard that the present petition has been filed by the applicant before the Hon'ble Tribunal of Guwahati Bench without exhausting the remedial measures available to the applicant under extent rules and as such is unjustified and totally uncalled for which has caused and would be causing to the respondents under harassment entailing loss of their time and energy etc. for which the applicant is liable to pay monetary

compensation to the respondents for causing financial loss without any just and reasonable grounds. Under the above circumstances the present petition filed by the applicant before the Hon'ble Tribunal, being devoid of merit should be rejected by the Hon'ble Tribunal at the thresh-hold.

15. That with regard to para 4.4 (x) of the petition, it is reiterated that the applicant was required to avail the services from CGHS, as required unde the rule. This is because the applicant was issued the CGHS Index Card bearing No. 008927 which the applicant had received on 12.05.97 (marked as Annexure "R-1 and R-2") as has been stated earlier. Moreover, the claim of the applicant that his house is not located within the CGHS, Guwahati jurisdiction is also not correct. Moreover, Dr. Rupali Baruah whom the applicant had reportedly consulted on the purported ground of urgency is neither a doctor whose residence was nearest to the applicant's house, being situated at a distance of over 3/4km in between which GMCH (Guwahati Medical College & Hospital) is located besides residence/clinics of other qualified physicians and a Nursing Home viz. Aruna Memorial Hospital Pvt. Ltd., whom the applicant could have easily consulted. Moreover, Dr. Rupali Baruah was not authorised to treat any patient in her official capacity nor was she allowed to carry out any private practices as abundantly clarified by Prof. (Dr.) B.K. Borah, Supdt., GMCH and Dr. M.M. Deka, Principal-cum-Chief Supdt. in their letters marked as "R-8 and R-9" respectively.

It is further submitted in this regard that during secret enquiry conducted through Sri A.K. Saha, DSP, CBI, ACB, Guwahati, it revealed that there was some nexus between the applicant and Dr. Rupali Baruah through the applicant's wife on

account of which said Dr. Rupali Baruah was found to be uncooperative as reported by Sri A.K. Saha, DSP.

The copy of the report of Sri A.K. Saha, DSP is annexed as Annexure "R-14".

16. That with regard to para 4.4 (xi) of the petition, it is submitted that as the applicant was unable to satisfactorily explain his conduct and behaviour and was also unable to explain any of the circumstances leading to unauthorised absence of the applicant and for having deserted his house to prevent the respondent No. 4 to get the letter for his immediate repatriation served on the applicant and was unable to explain why the applicant submitted manipulated/falsified medical reports and certificates of fitness concealing the actual facts that he was not issued any certificate of rest by the GMCH when the applicant visited the Hospital on 1.10.1999 and therefore, the applicant had been issued a Memorandum vide letter No. 1378/12/Comp/SLC/NER/99 dt. 11.5.2000 in order to explain the charges against him for taking disciplinary action for major penalty, proposed to be initiated against him under Rule 8 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal Rule, 1961).

In view of the circumstances explained above, the question of sanction of leave to the applicant for his unauthorised absence for the period 1.10.99 to 28.10.99 and consequent payment of salary to the applicant for the said period of unauthorised absence from duty does not arise.

The applicant's conduct as mentioned above are clear indications of the fact that the applicant had acted with ulterior motive for evading his responsibilities in receiving the official letters relating to his immediate repatriation and had thereby caused undue harassment to the CBI authorities and staff and continue to do so with a view to his remaining in CBI on deputation illegally for the sake of his own vested interest even after the applicant's parent department i.e. U.P. Govt. had not granted further extension of the deputation period of the applicant in CBI after the said period expired on 23.9.1999.

17. That with regard to para 4.4 (xii) of the petition, it is submitted that there is apparently no justifiable ground on the part of respondent No. 4 to have sanctioned leave to the petitioner and consequently to pay his salary to him for the period from 1.10.99 to 28.10.99 on account of his unauthorised absence from duty. It is, further submitted that if respondent No. 4 could have done so, it would have created an unhealthy precedence, thereby encouraging others to indulge in similar conducts thereby subverting discipline in the office.

The respondents state that the averments of the petition at para No.4 have been replied properly in foregoing paras. The statement of the applicant that the respondents acted maliciously and arbitrarily in keeping quiet in granting of leave to the applicant is without any basis and it is only a wild allegation.

The respondents further state that in the order sheet of the Hon'ble Tribunal dt. 18.4.2000 it is mentioned that in respect of this application served on the respondents, Mr. P.K. Tewari, Counsel for the applicant will be pressing relief at Sl. No. 8.1

only and he will be filing separate application for other relief and the same prayer was allowed by the Hon'ble Tribunal. Hence, the respondents are not giving reply with regard to the other relief.

18. That with regard to the statements made in para 5.1 to 5.4 of the application, the answering respondents state that the grounds shown in the application are not tenable in law and hence the application is liable to be dismissed with cost.

19. That with regard to the statements made in paras 6 and 7 of the application, the answering respondents have no comments.

20. That with regard to the statements made in para 8 of the application, the respondents state that the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost being devoid of any merit.

#### P R A Y E R

In the premises aforesaid it is, therefore, prayed that your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with cost.

VERIFICATION

I Sri Om Prakash, presently working as Supdt. of Police, CBI, ACB, Guwahati, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in paras 1 to 20 are true to my knowledge and belief & paras 6, 7, 9 to 11, 13, 15 being mere records of my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed/concealed any material facts.

And I sign this verification in this 7th day of Feb., 2000 at Guwahati.

Om  
(Deponent) 7/2  
Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati,

NO 008927

भारत सरकार/GOVERNMENT OF INDIA १९८८  
स्वास्थ्य एवं परिवार फल्याण मंत्रालय/MINISTRY OF HEALTH AND FAMILY WELFARE

केन्द्रीय सरकार स्वास्थ्य योजना  
CENTRAL GOVERNMENT HEALTH SCHEME

1. राजकारी कर्मचारी का नाम (पूरा एवं स्पष्ट अक्षरों में) Name of Government employee (in full and block letters)	P.D. SUNDAR
2. सम्बंधित मंत्रालय/विभाग/कायालय Ministry/Department/Office in which employed	S.P.E./C.P.S./A.C.P. SUNDAR P.D. G.R.Y
3. घर का पता/Residential Address	Plot No-3 L.M.B.R.L. Amritsar G.R.Y
4. कें सरकार स्कॉलो औषधालय C.G.H.S. Dispensary	
5. परिवार के सदस्यों का व्योरा/Details of family members	<p>परिवार से आशय के बहुत पत्ती (अपना पति), बच्चों अथवा सीतेले बच्चों तथा आश्रित माता-पिता, आई-वहिन (छोटे), विधवा/पत्ती और विधवा वहिन से हैं। इसमें अन्य कोई भी 'सम्बन्धी सम्पत्ति' नहीं है।</p> <p>"Family" includes only wife (or husband), children or step children, dependent parents, minor brothers and sisters, widowed daughters and widowed sisters and no other relations are entitled.</p>

नाम Name	जन्म तिथि Date of Birth	सम्बंध Relation- ship	नाम Name	जन्म तिथि Date of Birth	सम्बंध Relation- ship
1. <u>MRS JONAZI</u>	28.1.58	WIFE	7.		
2. <u>MRS VINITA</u>	6.7.83	DAUGHTER	8.		
3. <u>MRS KOMAL DEV</u>	7.5.83	MOTHER	9.		
4.			10.		
5.			11.		
6.			12.		
[कृपा प्रदान प.त.ो]					

**Superintendent of Police,**

©B.E. & A.C.B. ; Guwahati.

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Ex Part of  
Register

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Sh. S.P. Singh Yadav, Dms. Cordon, 0089127  
Annexure 1  
08/02/92

Received CGHS Card

W.W.  
12/8/92

140/212  
Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati

Government of India,  
Office of the Supdt. of Police,  
Central Bureau of Investigation,  
Anti Corruption branch,  
R.G.B.Road, Sunderpur,  
Guwahati :-5.

Annexure R  
3  
Dated, Guwahati the 3/10/99.

M E M O

You have intimated on 05/10/99 giving reference to your Telephonic Message dtd. 01/10/99 that you are still under Medical Treatment and advised for bed rest.

You have not enclosed the Medical Certificate of the Doctor nor have you submitted any leave application in prescribed form indicating the period of leave, nature of illness etc.

Hence, leave is not sanctioned and the period of unauthorised absence will be treated as on leave without pay, thereby resulting in break of service. You are also directed to resume duties immediately.

SDM, 6110  
Superintendent of Police,  
CBI(ACB)GUWAHATI.

Sri S.P. Singh Yadav,  
Inspr.CBI/ACB/Guwahati.

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

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Announce R 4

To

THE SUPDT OF POLICE  
C.B.S / A.C.B / S.P.E  
GUWAHATI



Sir,

Kindly let my iceePhone message of  
dt- 1/10/99. I am still under medical  
Treatment and advised to bed re  
This is for your kind informa-  
tion and necessary action.

Yours,

✓  
Yours  
5/10

✓  
Wad  
15/10/99

SURESH PRASAD  
T.N.SP/C.B.S/IN-1  
G.H.Y

✓  
S.H.Y

✓  
S.P. 712

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati

## 12

Leave Rules

[Swamy's - FR &amp; SR, Part - III]

1. General Principles

1. Leave cannot be claimed as a matter of right.—*Rule 1 (1)*
2. The leave sanctioning authority may refuse or withdraw the leave application, but cannot alter the kind of leave due and applied for.—*Rule 1 (2)*
3. Leave of one kind taken earlier may be converted into another kind at a later date at the request of the official and with the sanction of the authority who granted the leave. For example, extra leave may be retrospectively converted into leave not due and earned leave into half-leave or earned leave on MC into commuted leave, etc. A Government servant should apply for such conversion within 15 days of completion of the relevant spell of leave. This, however, cannot be claimed as a matter of right by the official.—*Rule 10 (1) and (2)*
4. Conversion of one kind of leave into leave of another kind is permissible only when applied for by the official while in service and not after quitting service.—*Rule 10, GID*
5. Leave sanctioning authority may commute retrospectively periods of absence without leave into Extraordinary leave.—*Rule 32 (6)*
6. No leave of any kind can be granted for a continuous period exceeding five years except with the sanction of the President.—*Rule 12*
7. An official on leave should not take up any service or employment elsewhere without obtaining prior sanction of the competent authority.—*Rule 13*
8. *Grant of Leave on Medical grounds.*—Gazetted Government servant should produce medical certificate from Authorized Medical Attendant. Non-gazetted Government servant should produce medical certificate from (1) a CGHS Doctor if the Government servant is a CGHS beneficiary and residing within the limits of CGHS at the time of illness and (2) A Medical Practitioner if not covered by CGHS.—*Rule 19 (1) and (2), dated 7-10-1997.*
9. Leave sanctioning authority may excuse second spell of leave if necessary.—*Rule 19 (3)*
10. A Government servant who is on leave on medical grounds is permitted to return to duty only on production of a medical certificate from the AMA/CGHS Doctor/Registered Medical Practitioner in such case may be.—*Rule 24 (3) and OM, dated 7-10-1997.*

Supdt: of Police,  
C.B.I. : A.C.B. : Guwahati.

(HSL)

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(W)

11. Overstay of leave without proper sanction, will be debited against the leave account of the Government servant to the extent HPL is due and the excess treated as EOL. No leave salary is admissible for the entire period of overstay and the period of such overstay will not count for increment.---*Rule 25 (1) and dimiti instruction*.

12. Wilful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action.---*Rule 25 (2)*.

## 2. Earned Leave

1. *Credit:* Credit will be afforded in advance at a uniform rate of 15 days on the 1st of January and 1st of July every year. The credit to be afforded will be reduced by  $\frac{1}{10}$ th of extraordinary leave availed and/or period of absence during the previous half-year, subject to a maximum of 15 days and to the extent of such credit only.---*Rules 26 (1) and 27 (3) and DPAR u.o. note, dated 22-5-1980.*

2. *Accumulation:* Earned leave can be accumulated up to 300 days.---*Rule 26 (1) and O.M. dated 7-10-1997.*

3. While limiting the maximum of 300 days, where the balance of credit is less than 300 days, further advance credit of 15 days on 1st January/1st July will be kept separately and set off against the EL availed of during that half-year ending 30th June/31st December. However, if the leave availed is less than 15 days, the remainder will be credited to the leave account subject to the ceiling of 300 days at the close of that half-year.---*Rule 26 read with O.M. dated 7-10-1997.*

4. *Leave credit for the half-year in which a Government servant is promoted/removed/ dies in service:* The credit for the half-year in which he is likely to render in the calendar half-year in which he is appointed.---*Rule 27 (1)*

5. The credit for the half-year in which a Government servant is due to retire or resign from the service will be afforded at the rate of  $\frac{1}{2}$  days for every completed calendar month in that half-year up to the date of retirement/ resignation.---*Rule 27 (2) (a)*.

6. The credit for the half-year in which a Government servant is removed/dismissed from service or dies in service, will be afforded at the rate of  $\frac{1}{2}$  days per completed calendar month up to the end of the calendar month preceding the calendar month in which he is removed/dismissed/ dies.---*Rule 27 (2) (b)*

7. If a Government servant retires/resigns/is removed/is dismissed/dies in the middle of a calendar year the earned leave credited should be reduced at the rate of  $\frac{1}{10}$ th of any extraordinary leave taken in that half-year and the leave account regularized.---*GID (1), Rule 27.*

8. While affording credit, fraction of a day should be rounded off to the nearest day, e.g.  $7\frac{1}{2}$  days to be rounded as 8 days.---*Rule 27 (4).*

<sup>1</sup>NOTE.—[ In the case of leave preparatory to retirement or where cash payment in lieu of leave at credit is granted under Rule 39 ], an undertaking for recovery of the leave salary, if any, paid in excess, shall be taken from the Government servant.

**17. Leave not to be granted in certain circumstances**

Leave shall not be granted to a Government servant whom a competent punishing authority has decided to dismiss, remove or compulsorily retire from Government service.

**GOVERNMENT OF INDIA'S DECISION**

(1) **No leave during suspension.**—Leave may not be granted to a Government servant under suspension.

[ Fundamental Rule 55. ]

**18. <sup>2</sup>Deleted.**

**19. <sup>3</sup>[ Grant of leave on medical certificate to Gazetted and non-gazetted Government servants ]**

[ (1) An application for leave on medical certificate made by—

- (i) a Gazetted Government servant, shall be accompanied by a medical certificate in Form 3 given by an Authorised Medical Attendant;
- (ii) a non-gazetted Government servant, shall be accompanied by medical certificate in Form 4 given by an Authorised Medical Attendant or a Registered Medical Practitioner;

defining as clearly as possible the nature and probable duration of illness.

NOTE.— In the case of non-gazetted Government servant, a certificate given by a registered Ayurvedic, Unani or Homoeopathic medical practitioner or by a registered Dentist in the case of dental ailments or by an honorary medical officer may also be accepted provided such certificate is accepted for the same purpose in respect of its own employees by the Government of the State in which the Central Government servant falls ill or to which he proceeds for treatment. ]

(2) A Medical Officer shall not recommend the grant of leave in any case in which there appears to be no reasonable prospect that the Government servant concerned will ever be fit to resume his duties and in such case, the opinion that the Government servant is permanently unfit for Government service shall be recorded in the medical certificate.

1. Substituted, *vide* G.I., D.P. & A.R., Notification No. P. 14028/9/80-Est. (L), dated the 1st October, 1981.

2. Deleted, *vide* G.I., D.P. & A.R., Notification No. P. 13015/11/82-Est. (L), dated the 25th May, 1984.

3. Substituted, *vide* G.I., D.P. & A.R., Notification No. P. 13015/11/82-Est. (L), dated the 25th May, 1984.

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

(3) The authority competent to grant leave may, at its discretion, secure a second medical opinion by requesting a Government Medical Officer not below the rank of a Civil Surgeon or Staff Surgeon, to have the applicant medically examined on the earliest possible date.

(4) It shall be the duty of the Government Medical Officer referred to in sub-rule (3) to express an opinion both as regards the facts of the illness and as regards the necessity for the amount of leave recommended and for that purpose may either require the applicant to appear before himself or before a medical officer nominated by himself.

(5) The grant of medical certificate under this rule does not in itself confer upon the Government servant concerned any right to leave; the medical certificate shall be forwarded to the authority competent to grant leave and orders of that authority awaited.

(6) The authority competent to grant leave may, in its discretion, waive the production of a medical certificate in case of an application for leave for a period not exceeding three days at a time. Such leave shall not, however, be treated as leave on medical certificate and shall be debited against leave other than leave on medical grounds.

#### GOVERNMENT OF INDIA'S DECISIONS

(1) Certificates issued by railway medical authorities.—It has been decided that for the purpose of the grant of leave to the staff of Railway Audit Offices, the certificates of illness and fitness issued by the Railway medical authorities on the forms prescribed by the Ministry of Railways, may be accepted from the staff of all such offices.

[ G.I., M.F., Letter No. E. 5 (1)-EGI (B)/63, dated the 5th April, 1963. ]

(2) Procedure for securing second medical opinion.—1. Representations have been received from the Staff Associations that the Divisional Authorities are directing officials to appear before the Civil Surgeon concerned. This action on the part of the leave sanctioning authorities does not conform to the provisions of Rules 19 (3) and 19 (4) of the CCS (Leave) Rules, 1972, which contemplate—

- (i) the leave sanctioning authority may secure second medical opinion by requesting a Government Medical Officer not below the rank of Civil Surgeon or Staff Surgeon to have the applicant medically examined on the earliest possible date, and
- (ii) the Government Medical Officer will thereupon express an opinion both as regards the facts of the illness and as regards the necessity for the amount of leave recommended and for that purpose he may either require the applicant to appear before himself or before a Medical Officer nominated by himself.

2. In other words, the leave sanctioning authority, in case of doubt, may write, under intimation to the official concerned, for second medical

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FORM NO. 4  
(See Rule 42)

2001

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64In The Central Administrative Tribunal  
GUWAHATI BENCH : GUWAHATI

Annexure R 7

15

ORDER SHEET  
APPLICATION NO. 338/99 OF 199

Applicant(s)

Surash Pal Singh Yadav.

Respondent(s)

Union of India &amp; Ors.

Advocate for Applicant(s)

Mr. J.N. Choudhury

Mr. T. K. Sharma Mr. S. Saha.

Advocate for Respondent(s)

C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

15.10.99

Present : Hon'ble Mr Justice D.N. Baruah,  
Vice-Chairman and  
Hon'ble Mr G.L. Sangliyine,  
Administrative Member.

Application is admitted. Mr B.C. Pathak, learned Addl.C.G.S.C has entered appearance on behalf of all the respondents. No formal notice need be sent. List on 18.11.99 for written statement and further orders.

Mr J.N. Choudhury, learned counsel for the applicant prays for an interim order of stay of the impugned order of repatriation. Mr Pathak submits that he has not received any instruction. Issue notice to show cause as to why the order of repatriation shall not be suspended pending disposal of this application. Notice is returnable by four weeks. Meanwhile the repatriation order shall



Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

-contd.

Recd

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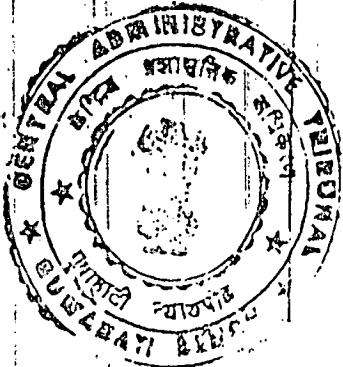
Report

Date

Office of the Tribunal

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15.10.99



remain suspended. Mr Choudhury submits that he has not received the impugned order and therefore he could not annexed with the application. He makes a prayer for a direction to the respondents to supply a copy of the repatriation order. Respondents shall supply a copy of the order to the applicant.

SD/- VICE-CHAIRMAN

SD/- MEMBER (A)

**Certified to be true Copy**

प्रमाणित प्रतिलिपि

*[Signature]* 22/10/99

Section Officer (J)

आनुमान अधिकारी (न्यायिक शास्त्र)  
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकारण  
Guwahati Bench, Guwahati-6  
पुस्तकालय : शाखादार, गुवाहाटी-6

SO

16

Annexure Pg

OFFICE OF THE PRINCIPAL CUM CHIEF SUPERINTENDENT  
GAUHATI MEDICAL COLLEGE AND HOSPITAL :: GUWAHATI

NO. MCP/1/84/347

Dtd. Guwahati, May 03, 2000.

From :-

Dr. M. M. Deka, M.D.,  
Principal-Cum-Chief. Supdt.,  
Gauhati Medical College & Hospital,  
Guwahati.

To

The Superintendent of Police,  
Central Bureau of Investigation, ACB,  
Sunderpur, Guwahati.

Ref :-

Your letter No. 02709/A/20/157/93, Dt. 03.5.2000.

Sir,

With reference to the above letter, I would like to inform you that -

1. Any registered M.B.B.S. Doctor is competent to issue certificate of ailments. But Dr. Rupali Baruah, MD is an officer in the rank of Assistant Professor working in Community Medicine Deptt. As such she cannot issue a official certificate.

2. It appears that Dr. Rupali Baruah has issued the certificate in her private capacity because no official number is there.

3. She is not entitled to do private practice.

Thanking you,

Yours faithfully,

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

(Dr. M. M. Deka)  
Principal-Cum-Chief Supdt.,  
Gauhati Medical College & Hospital.

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GOVERNMENT OF ASSAM  
**Office of the Superintendent**  
**GAUHATI MEDICAL COLLEGE & HOSPITAL**  
Guwahati -781032. ASSAM. INDIA



Annexure - R 9

Date 4-5-2000.

MCH/829/82/ 381

To

The Superintendent of Police  
CBI, ACB, Sundarpur, Guwahati-3.

Subject:-

Information regarding medical certificate  
in respect of Sri Suresh Pal Singh.

Ref:-

Your letter No.02421/A/20/157/93, dated 17/4/2000.

Sir,

With reference to the letter number cited above, I would like to furnish below the reply for favour of your information and doing the needful.

- 1) As per record of OPD Cardiology, G.M.C. Hospital Sri Suresh Pal Singh reported to this hospital for treatment on 1-10-99 vide Hospital Entry No. 17060/99 and Deptt. Regd No. 2062/99.
- 2) Dr. (Mrs.) Neena Nath, Resident Physician of Cardiology Deptt. of G.M.C. Hospital had issued the advice slip.
- 3) Photostate copies of the Cardiology OPD for the period from 1-10-99 to 27-10-99 provided. There was no Cardiology OPD on 28-10-99.
- 4) The ECG was conducted on 1-10-99 vide ECG Requisition Book, Deptt. of Cardiology Entry No. 4349/99 (copy enclosed).
- 5) No rest was prescribed to the patient by Dr. (Mrs.) Neena Nath. Hence question of issuing certificate from the G.M.C.H. does not arise.
- 6) The records reveal that the patient did not visit subsequently after 1-10-99.
- 7) Dr. (Mrs.) Rupali Baruah, M.D. is an Officer in the rank of Assistant Professor working in the Community Medicine Deptt. of Gauhati Medical College, Guwahati. As such the certificate which was issued by her to Sri Suresh Pal Singh is not related with the G.M.C.H.

It appears that she had issued the medical certificate in her private capacity.

Yours faithfully,

Prof. (Dr.) B. K. Baruah  
Superintendent

Gauhati Medical College Hospital  
Guwahati-32.

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

~~20/10~~(52) 240  
8362Sir  
The Supdt of Police  
C.B.I.C.S. Guwahati

(20)

Annexure 10

Sir,

As per direction of your govt. I visited Insp. S.P. Singh yadav residence at G.S. Road Jorun nager several times for handing over the closed cover box. But I could not meet him all the times the house was found lock & key. Again on 21.10.97 I visited the same location on approaching I met his wife Mrs. Jumali Bursuk who in a very bad manner passed remarks and also misbehaved using abusive languages saying ~~some other~~ Mr. S.P. Singh yadav has gone out in the morning ~~some other~~ she have no idea. And she have got no rights or power over the place where they are presently staying. Since by no means she will receive the letter.

Finally having no other option I myself have ~~had~~ to bring back the closed cover which is enclosed along with this submitted for information and necessary action PL.

Yours faithfully

(Signature)  
12/10/97(J. N. Gogoi S.I.  
C.B.I./A.C.B./G.H.)Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.27/10  
G.M.

Annexure R 11

The Supdt of Police  
B.B.I.A.C.B. Guwahati

Sir

As ordered I have visited the residence  
of S.P. Singh Yatav bsp. at Jadermajar for delivery  
of Chetak Party and his released order. But  
I could not deliver the same to him on his house  
was found to under lock & key.

However I enquired about him in  
present whereabouts but no body can say about his  
but do so no reply as such I returned to  
Hc. The Chetak Party released order is returned  
back.

Submitted for favor of information

Yours faithfully  
(Bogoi S.I.)  
12/10/73

(J. N. (Bogoi S.I.)

(B.B.I.A.C.B. G.H.Y.)

Supdt. of Police,  
G.B.I. : A.C.B. : Guwahati.

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Annexure

R-12

Printer : 29/12/99 21:13

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312/78

RCVED/Recd/printer

29/12/99 21:13

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PPDR

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RCVED/Recd/printer : 29/12/99 21:30

PPDR

ZCZC

GGG

BPBPI. DIAFP DP-DIAFP-0000256

SUPER AUTOMEX RETRAN REQUEST NUMBER: 146

INPUT ON 29/12/1999 21:00:00

TKS. LDR. DE. DLT. LIZZ. NR. 554 DR. 60  
29/12/1999 21:00:00

THEO. DTG. CRI. GUWAHATI

FROM. . . ADMINISTRATIVE OFFICER C.R. CRI. H.E.A. DEPT.

NO. BPBPI1999/04637/A. 20014/169/20

29/12/99

UNC

1. L.S.P. SINGH YADAV (INSPECTOR CRI. GUWAHATI) HAS SUBMITTED A  
PRESENTATION TO DCBT AGAINST NON-DISBURSAL OF HIS SALARY FOR  
A MONTH OF OCTOBER 99. THE FACTUAL POSITION IN THIS REGARD MAY BE  
PUBLISHED TO HEAD OFFICE GROUNTELY FOR PLACING THE MATTER BEFORE  
I.C.

19/01/2000  
BY RRY

EST

INPUT ON 29/12/1999 21:00:00

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati

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23/1/2000

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CENTRAL BUREAU OF INVESTIGATION  
OFFICE OF THE S.P.P.T. OF POLICE,  
ANTI CORRUPTION BRANCH,  
GUWAHATI :-5.  
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NO. DRSHL2000/ 80269 / A/20/157/93 Dated, Guwahati the 11/11/2000  
TO Annexure R 13

The Admin. Officer(E),  
CBI/ New Delhi.

Sub :- Representation of Sri S.P. Singh Yadav, Insp. to DCBI against non-disbursal of his salary for the month of Oct '99.

Ref :- Your WT Message No. DPAD 11999/04637/A.20014/1609/93 dtd. 20/12/99.

Sir,

With reference to above this is to inform you that on 01/10/99, Insp. S.P. Singh Yadav telephonically informs the office that he will be not able to attend office due to illness. On 5/10/99, he sent one application in this regard, but neither he submitted any leave application nor sent any medical certificate in support of his illness. As such his leave was not sanctioned for not submitting the leave application in prescribed form enclosing the medical certificate and he was asked to resume his duty immediately. But Shri Yadav did not resumed his duties and remained absent unauthorisedly.

In the meantime, as per order of H.O. communicated vide Fax Message No. DP/AD.11999/03638/A-20014/1609/93 dtd. 15/10/99 to relief Shri Yadav immediately even if he is on leave/sick leave. On 20/10/99, vide office order No. 211 dtd. 20/10/99, Shri S.P. Singh Yadav was relieved to join in his parent deptt., although he was absenting unauthorisedly from duty.

However, the said order could not be served upon him in his residence despite best of efforts by the branch, as he was found not available in his residence. His wife also refused to accept the said Order/letter. She also did not disclosed his whereabouts.

Shri Yadav, however, resumed his duties on 29/10/99 and submitted leave application for commuted leave w.e.f. 01/10/99 to 28/10/99. On the same day, the branch received an order dtd. 15/10/99 from Hon'ble C.A.T. Guwahati by fax from some unknown person/place in O.A. No. 338/99 filed by Insp. S.P. Singh Yadav against his repatriation order. The Hon'ble Tribunal Ordered to suspend the repatriation Order of Shri Yadav pending disposal of the said O.A.

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It is worth mentioning here that Shri Yadav, being a non-gazetted Govt. Servant as per leave Rule required to submit medical certificate from C.G.H.S. Doctor but he had submitted a medical certificate from a Doctor of Guwahati Medical College Hospital. As such he has been asked to submit his explanation vide this office letter No. DP/SHL/1999/05583/A/20/157/93 dtd. 30/11/99 (copy enclosed). The explanation has been received from Shri Yadav (copy enclosed) for consideration. Since Shri Yadav remained unauthorisedly absent from duty from 01/10/99 to 28/10/99, his leave has not been sanctioned and salary for that period has not been paid to him.

Yours faithfully,

Enclo:-As above.

Superintendent of Police,  
CBI (ACB) Guwahati.

el/-

-0-0-0-

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

Yours  
True copy  
P. K. Lohar  
Guwahati  
Sri S. P. &  
Dip Kumar  
Sarkar  
if  
Required  
Date

As directed by SP/CBI/ACB/Guwahati to-day I contacted Dr.Rupali Baruah, Asstt.Professor over phone at 6.15P.M. with a view to request her to send reply to this Office letter No. DPSHL2000/02425/A/20/157/93 dtd.17/04/2000.

On receiving the call She got furious and told me that She had taken exception to the language used in the letter. She demanded to know if the enquiry is being made in connection with any Criminal case against any body. She also threatened that She would file defamation suit against the authority of C.B.I. for harrassing her.

I tried to pacify her stating that SP:CBI: wanted to know certain informations only from her and She should not be so agitated.

Lastly She told that She would be available at her residence on 04/05/2000 at 10.30 A.M. and SP can visit her. She would not talk to any body else.

I feel that She is in no mood of co-operation. At this Stage it would not be advisable to contact her personally.

( A.K. SAHA )  
Dy. Supdt. of Police, CBI,  
ACB/Guwahati.

S. P.

Supdt. of Police,  
C.B.I. : A.C.B. : Guwahati.

केन्द्रीय प्रशासनिक अधिकारण  
Central Administrative Tribunal

14 MAY 2001

गुवाहाटी न्यायपाट  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. 137/2000

Suresh Pal Singh Yadav ... Applicant

- Versus -

Union of India & Ors. ... Respondents

REJOINDER BY THE APPLICANT AGAINST THE  
WRITTEN STATEMENT FILED BY THE RESPONDENTS NO. 1 TO 6

The Applicant begs to state as follows :

1. That I am the Applicant in the present case and as such well conversant with the facts and circumstances of the case. I have received the copy of the written statement filed by the Respondents No.1 to 6. I have read the same and understood the contents thereof. Save and except the statements specifically admitted hereinbelow, all other statements made in the aforesaid written statement are denied. Before giving parawise reply to the written statement, I crave leave of this Hon'ble Tribunal to make certain preliminary submissions.

PRELIMINARY SUBMISSIONS

2. That the basic contention of the Respondents is that since the Applicant did not follow the procedure and requirements laid down under the provisions of Central Civil Services (Leave) Rules, 1972, therefore, he could not have been granted the medical leave. In this connection, it is noteworthy that Rule 2 (k) of the CCS (Leave) Rules, 1972 clearly lays down that the Rules shall not apply to persons serving under the

Filed by:  
the Applicants  
through  
Mr. Md. Md. Goni  
Advocate  
11-5-2001

223

Central Government department on deputation from a State Government or any other source for a limited duration. The Applicant having come the CBI on deputation from the UP Police is not covered by the provisions of CCS (Leave) Rules, 1972. Since the CBI administrative manual is silent about the application of any specific rule in the case of CBI Inspectors who have come on deputation from a State Government, therefore, the Applicant is governed by the Leave Rules of his parent department i.e. UP Police. It is stated that under the Leave Rules applicable to the UP Police a certificate given by a registered medical practitioner is sufficient to grant medical leave to the concerned employee. In the case of the Applicant, this requirement was duly fulfilled.

Applicant craves leave of this Hon'ble Tribunal to furnish before the Hon'ble Tribunal the Leave Rules applicable to the UP Police.

3. That during the pendency of O.A. No. 137/2000, the Respondents served upon the Applicant a charge sheet dated 11.5.2000 with regard to the absence of the Applicant with effect from 1.10.99 to 28.10.99. It is noteworthy that in regard to the same subject matter, the O.A. No. 137/2000 was filed by the Applicant before this Hon'ble Tribunal on 17.4.2000 and the same was admitted on 18.4.2000 i.e. much before the issue of the charge sheet dated 11.5.2000. Till the date of issue of the charge sheet, the Respondent No. 1 did not file any counter in the aforesaid O.A.

223

Copy of the charge sheet dated 11.5.2000 is annexed as ANNEXURE-A/1.

4. That the Applicant assailed the legality of the charge sheet dated 11.5.2000 by filing O.A. No. 31/2001. The aforesaid O.A. has been finally disposed of by this Hon'ble Tribunal vide order dated 8.5.2001 directing the change of Disciplinary Authority. The Hon'ble Tribunal has also made an observation that the charge sheet dated 11.5.2000 appears to be unsustainable in law.

5. That not only the Respondent No.1 withheld the salary of the Applicant for the month of October 1999 and refused to sanction the medical leave for the aforesaid period, but he in order to ascertain the veracity of the Applicant falling sick during the aforesaid period, exercised police powers which he did not possess. In exercise of police powers, CBI personnel were sent to the Gauhati Medical College to interrogate the doctor who had issued medical certificate to the Applicant. Phone calls were made at the residence of the concerned doctor. Even the Superintendent of the Gauhati Medical College was contacted by the CBI personnel and intimidated. The authority of Doctor Mrs. Rupali Barua, MBBS MD who is an Associate Professor in Gauhati Medical College and had issued sickness and fitness certificate to the Applicant, was questioned. The Respondent No.1 had no authority to send CBI personnel to Gauhati Medical College to interrogate the doctors and to intimidate Dr. (Mrs.) Rupali Barua. All these events created an atmosphere of intimidation and terror.

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6. That being faced with such a situation, the Appellant made a complaint to the Director, CBI on 23.12.99. Immediately after this on 10.1.2000 when the Applicant was in office, a few CBI personnel were sent to the Applicant's residence where his wife and a grown up daughter were alone at home. The CBI personnel indulged in an improper behaviour at the residence of the Applicant and tried to intimidate his wife and daughter. As a result of this, wife of the Applicant sent a complaint to the Director of CBI and to Assam Human Rights Commission on 13.1.2000 and 8.2.2000 respectively. An appeal was also made to the Joint Director of CBI on 27.3.2000.

7. That Dr. Mrs. Rupali Barua who had issued the medical certificate to the Applicant, clarified the factum of her issuing such a certificate and also her competence to do so. This was done in response to the queries made to her by the CBI. In this connection, reference is made of the letter of Dr. Barua dated 2.5.2000 addressed to the Supdt. of Police, CBI, ACB, Guwahati. In this letter, it was specifically stated by Dr. Barua that the Applicant was examined and treated and advised as necessary in the private capacity of the said doctor. It was also stated that the Applicant had come with anxiety complaining of acute pain in chest with palpitation and high blood pressure and he was treated as an emergency case and was also advised to take specialist treatment at the department of cardiology, Guwahati Medical College. Dr. Barua also stated that as a qualified registered

222

medical practitioner she has rights and privileges including right to chose a patient, examined, prescribe and certify and also refer for specialist services when necessary.

Copy of the letter dated 2.5.2000 is annexed hereto as ANNEXURE-A/2.

PARAWISE REPLY

8. That in regard to paragraph 3 of the written statement, the Applicant has no comment to make. However, he admits nothing that is not borne on records. It is also made clear that it was the CBI itself that had desired the extension of the deputation period of the Applicant and its statements to the contrary which is now being made are not correct.

9. That in regard to paragraph 4 of the written statement, it is stated that the order of repatriation of the Head Office dated 30.9.99 was subject matter of challenge in O.A. No. 338/99. In the said O.A., the Applicant had assailed the order of his repatriation from CBI and sought his absorption in the said organisation. The aforesaid O.A. was admitted on 15.10.99 and the interim order in favour of the Applicant was passed on 15.10.99 itself thereby staying the repatriation of the Applicant. Hence it is wrong on the part of the Respondents to say that the continuation of the Applicant after 20.10.99 was not legal and he is not entitled to claim any salary and allowances thereafter for the period of his unauthorised absence after 30.9.99.

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10. That in regard to paragraph 6 of the written statement, it is stated that the issuance of card bearing the index No. 008927 issued by the SP, CBI is not the same thing as registration of the Applicant with the CGHS Dispensary. Respondents are deliberately confusing the two issues which are separate. Though the Applicant was issued the card, but he did not register himself in any CGHS Dispensary because he did not find it feasible due to the reasons that have been explained in the Original Application.

11. That the averments made in paragraph 7 are denied. It is denied that the factum of Applicant falling sick in the late night of 30.9.99 is a false and cooked up story. By making such averments, Respondents are insulting the doctor who had examined the Applicant and had issued the medical certificate to him. There is no basis for the Respondents to make such a sweeping statement. The letter of the doctor dated 2.5.2000 is self explanatory. It is an admitted position that the Applicant was examined by Dr. (Mrs.) Rupali Barua. In this connection, the Applicant craves leave of this Hon'ble Tribunal to rely upon the averments made in O.A. No. 31/2001 and the written statement of the Respondents filed therein. The references made by the Respondents of the provisions of CCS (Leave) Rules, 1972 and of the Swamy's Book are baseless inasmuch as the CCS (Leave) Rules, 1972 are not applicable in the present case. The contrary legal position taken by the Applicant in his O.A. No. 137/2000 was not legally correct and having realised the correct legal position,

the Applicant is setting it right in his present rejoinder. The Respondents have taken pains to explain what they considered to be the real reason behind the Applicant's unauthorised absence. They are entitled to give wings to their imagination. That is their prerogative. Be that as it may, they will have to act in accordance with law and they cannot deny medical leave to the Applicant if he is entitled to the same on flimsy and imaginary grounds.

12. That in regard to paragraph 8 of the written statement, it is stated that the Applicant had fulfilled all the requirements and he had submitted all the necessary particulars to the Respondents alongwith the relevant medical documents. In this connection, the Applicant reiterates and reaffirms the averments made in the original application.

13. That in regard to paragraphs 9 and 10 of the written statement, it is stated that Dr. M.M. Deka did not examine the Applicant. He was examined by Dr. (Mrs.) Rupali Barua, the Associate Professor of Gauhati Medical College. Late at night when the person develops physical problems and complications, it is natural for him to approach a family doctor. Dr. (Mrs.) Rupali Barua was well known to the Applicant and she was accessible to him even late at night. Competence of Dr. Barua to examine the Applicant is undisputed. Her qualification to issue medical certificate is also undisputed. It is immaterial whether the medical certificate was issued by Dr. Barua in her official or unofficial capacity. It is wrong to say that the fitness certificate dated

28.10.99 issued by Dr. Rupali Barua is not a valid certificate and as such, the same is inadmissible. Even Dr. M.M. Deka in his letter dated 3.5.2000 (Annexure R/B to the written statement) has stated that any registered MBBS doctor is competent to issue certificate of illness and certainly Dr. Barua is a registered doctor. The certificate issued by her might have been in her unofficial capacity, but the same does not dilute the factum of Applicant having been examined by her. Hence the averments made by the Respondents in paragraph 9 and 10 of the written statement are without any basis and the same are frivolous and vexatious.

14. That in regard to paragraphs 11 of the written statement, it is stated that if the Respondents chose to totally relying on the reports of Sub-Inspectors, then there is nothing much which the Applicant can do about it. The tormentors are not expected to implicate one another. In the present case, Applicant was the victim and the Sub-Inspectors who submitted the reports acted at the behest of the Respondents. The vigour and zeal displayed by the Respondents in carrying out investigations against the Applicant was unfortunately lacking in probing the conduct of those who came to the residence of the Applicant.

15. That the averments made in paragraphs 12 are denied. It is stated that the absence of the Applicant was not unauthorised and the same was due to his illness which was properly explained and timely informed to the Respondents, but since the Respondents

had a personal score to settle with the Applicant, they chose to make an issue out of it.

16. That in regard to paragraph 13 of the written statement, the Applicant does not have any comment to make the same being borne on records. However, it is stated that notwithstanding the official hierarchy, it is important to have a bonafide conduct. For redressal of grievance, one can certainly approach the higher authority and they are expected to have a liberal approach.

17. That in regard to paragraph 14 of the written statement, it is stated that Respondents are not competent to decide that whether or not Applicant was justified in serving the legal notice on Respondents No. 3 and 4. There is no principle of law which prevents or restrains the Applicant on serving the legal notice. It is further stated that the original application filed by the Applicant is within the legal parameters of Section 19 and 20 of the Administrative Tribunals Act, 1985.

18. That in regard to paragraph 15 of the written statement, it is stated that it is unreasonable to suggest that one must avail the services form CGHS come what may. No reasonable person can suggest that even if one has a heart attack late at night, one must wait for CGHS Dispensary to open the next day which also might be situated at a far away place. The circumstances under which the Applicant approached Dr. Mrs. Barua justified the conduct and behaviour of the Applicant. In a given situation and time which doctor is

72

approached is decided by the factors like personal contact and accessibility of the doctor. There might have been thousand doctors between the residence of Dr. Mrs. Rupali Barua and the Applicant's residence. It is the trust, faith and the accessibility of the doctor at late night which is a decisive factor in such circumstances. Respondents are right in suggesting that there is some nexus between Dr. Rupali Barua and the Applicant. It is stated that nexus is total and complete and Applicant is not shy about the same. Dr. Barua has been a family doctor of Applicant for a very long time. Every family member of the Applicant is taken to her for treatment. It is also made clear that the nexus is not through the Applicant's wife, but it is through the Applicant directly. So far as uncooperative attitude of Dr. Barua towards the Respondents is concerned, it is stated that since Dr. Barua did not toe the line of Respondents and did their bidding, the Respondents quite naturally are unable to digest the stand of Dr. Barua in the present matter.

19. That in regard to paragraph 16 of the written statement, it is stated that the Applicant has rightly explained his conduct and behaviour during the period of his illness. It is not the behaviour of the Applicant, but the behaviour of the Respondents which is unreasonable. It is denied that the Applicant submitted manipulated/falsified medical report. It is stated that Respondents should refrain from making such baseless and false allegations. Sweeping statements

200

made by the Respondents only display their malicious intent and unreasonable behaviour.

20. That in regard to paragraph 17 of the written statement, it is stated that there are just and sufficient reasons for Respondents to sanction leave to him for the period from 1.10.99 to 28.10.99. Respondents by refusing to sanction leave (without however passing any order to the said effect) have acted arbitrarily and unreasonably.

21. That in view of the facts and circumstances above, the O.A. deserves to be allowed with cost and the Applicant is entitled to get his salary for the period 1.10.99 to 28.10.99.

VERIFICATION

I, Suresh Pal Singh Yadav, the Applicant in O.A. No. 137/2000, do hereby solemnly affirm and verify that the statement made in paragraphs 1, 2, 5, 6,  
8 to 20 are true to my knowledge and those made in paragraphs 3, 4, 7 being matters of records are true to my informations derived therefrom and the rests are my humble submissions.

And I sign this verification on this 11th day of May 2001.

Suresh Pal Singh Yadav

No. 1378/12/Com/SC/NER/99/

Government of India (P-1)

Central Bureau of Investigation

N.E. Region, Guwahati: 781 003

Dated... 11.5.2000

### MEMORANDUM

The undersigned proposes to hold an inquiry against Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati (under suspension) under Rule. 8 of The Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal Rule 1961). The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II).

2. Shri S.P. Singh Yadav is hereby directed to submit, within 10 days of the receipt of this Memorandum, a written statement of his defence and also to state whether he desires 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 S.P. Singh Yadav, Inspector (u/s) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of the Rules/Orders/Directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri S.P. Singh Yadav, Inspector (u/s) 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 in these proceedings, it will be presumed that Shri S.P. Singh Yadav, Inspector is aware of such a representation and that it has been made at his instance and action will be taken against him for such violation.

6. The receipt of the Memorandum should be acknowledged.

Enclo: As above  
SIX Sheets

(K.C. Kānungs)

DIG CBI NER Guwahati  
Name and designation of Competent Authority

To

Shri S.P. Singh Yadav, Inspector(U/S)  
CBI, ACB, Guwahati  
(Through SP, CBI, ACB, Guwahati)

1  
87

ANNEXURE -1  
**ARTICLE OF CHARGES FRAMED AGAINST SHRI SURESH PAL SINGH  
YADAV, INSPECTOR CBI ACB GUWAHATI(UNDER SUSPENSION)**  
**ARTICLE OF CHARGE NO.1**

That Shri Suresh Pal Singh Yadav @ S.P. Singh while being posted and functioning as Inspector in the office of SP,CBI, ACB, Guwahati during 1999 committed gross misconduct and behave in a manner unbecoming of him in as much as he unauthorisedly absented from duty from 1.10.1999 to 28.10.99 and later on with a view to regularise his unauthorised absence submitted false/manipulated medical certificate, including fitness certificate and doctors prescription etc. and thereby contravened Rule 3(f)(i) and (iii) of CCS conduct Rules, 1964.

**ARTICLE OF CHARGE NO. 2**

That said Shri Suresh Pal Singh Yadav while working as Inspector in CBI in the office SP,ACB, Guwahati in order to evade service of urgent official letter on him relating to his repatriation to U.P. Police Communicated DD(A) CBI New Delhi vide FAX message No.DPAD 11999 03447/A. 20014/1609/93 Dt. 30.9.99 and subsequently through another letter of Head Office CBI vide FAX Message No DP/AD.11999/03638/A-20014/1609/93 Dt.15.10.1999 by Dy. Director(Admin.) , and other such important letters ,left his residence, without informing his whereabouts to the office of SP,ACB, Guwahati , either himself or through any of his family member,with the disguised motive of obtaining a stay order from Hon'ble Guwahati High Court/ Central Administrative Tribunal , Guwahati/Guwahati Bench thereby frustrating all efforts of SP,CBI, Guwahati to serve on him, the repatriation order for his immediate repatriation to U.P. Police, with a view to continue illegally in the CBI on deputation and he thereby showed lack of integrity and acted in a manner unbecoming of his position and contravened rule 3(1) (i) and (iii) of CCS Conduct Rule 1964.

ANNEXURE-II(ii)

STATEMENT OF IMPUTATION OF MISSCONDUCT IN SUPPORT OF  
ARTICLE OF CHARGE NO. II FRAMED AGAINST SURESH PAL SINGH  
YADAV, INSPECTOR, CBI, ACB, GUWAHATI (UNDER SUSPENSTON).

(1) That Shri S.P.Singh Yadav, last attended office on 30.9.99 before reporting sick w.e.f. 1.10.99. On 30.9.99 a Fax message from Dy.Director (Admn),CBI, New Delhi vide No.DPAD 1099/03447/A-2014/1609/93 dt. 30 SEP 1999 was sent vide which said Shri S.P.Singh Yadav was asked to be relieved on repatriation by 30.9.99 AN positively. Shri S.P.Singh Yadav did not want to be relieved from CBI from the next day onwards i.e. w.e.f. 1.10.99 absented from duty unauthorisedly claiming that he had fallen sick.

(2) That said Shri S.P.Singh Yadav also left his residence (C/0.Junali Baruah, Derothi Appartment, 4th, Bye Lane, ABC, Tarun Nagar, G.S.Road, Guwahati) to unknown place without intimating his whereabouts to the office.

(3) That in order to prolong his repatriation,said Shri S.P.Singh took recourse to dilatory tactics by delaying matters entrusted to him, no such matter being of RC.34(A)/96-SHG which was pending for preparation of SP's Report as said Shri S.P.Singh Yadav did not prepare and submit the enclosures to the SP's report in the above case. As a result of which SP,CBI,ACB, Guwahati issued memo. vide 537/C/11/29/92-SHG Dt. 1.10.99 directing him to complete the Draft enclosures immediately, on priority, leaving all other work aside, by 10.10.99 failing which the matter will be viewed seriously but this Memo. could not be served on Shri S.P.Singh Yadav as he evaded service of this Memo. and other official letters by leaving his residence for unknown place, without giving any intimation to the office about his whereabouts and about leave address which he was bound to do.

(4) In view of the urgent work pending with Shri S.P.Singh Yadav, SP, CBI, ACB, Guwahati requested Dy.Director (Admn) CBI, Head Office, New Delhi for extending the time of his repatriation which was not agreed upon as communicated Dy.Director (Admn) CBI, New Delhi vide Fax Message No. DPAD/G/1999/03638/A-2014/1609/93 dt. 15.10.99.

(5) That in view of the above, the repatriation order of

3 89

Singh Yadav was sent by registered letter at his residential address but the registered letter was returned undelivered, with endorsement dt. 27.10.99 and 28.10.99 by the Postman to the effect that N.F. not found, addressee out of station for long time, showing clearly thereby the intention of Shri S.P.Singh Yadav for having left his residence. Otherwise he would have disclosed/ intimated his leave address and would have accepted the letter, or got the same redirected through his family member to the actual address, where he was staying then.

(6) That Shri J.N.Gogoi, SI,CBI, Guwahati visited the residence of Shri S.P.Singh Yadav several times at G.S.Road,Tarin Nagar for serving the Dak but all the time the house was found under lock and key. On 21.10.99 when said Shri J.N.Gogoi visited house of Shri S.P.Singh Yadav again and met his wife Mrs. Junali Baruah, the latter behaved badly with him using abusive language, saying that S.P.Singh Yadav had gone out for his work and his whereabouts was not known to her. She did not inform Shri Gogoi that Shri S.P.Singh Yadav was suffering from any ailments, indicating clearly thereby that the plea of S.P.Singh Yadav , that he was suffering from illness was concocted and false.

(7) Under Leave Rule 19(3), leave sanctioning authority, if not satisfied, can seek second medical opinion, but as said Shri S.P.Singh Yadav did not disclose his whereabouts during his period of unauthorised absence.

(8) As said Shri S.P.Singh Yadav did not disclose his whereabouts, the competent authority to sanction his leave was unable to take any further action in this regard, including obtaining a second medical certificate for verifying the genuineness of the claim of Shri S.P.Singh Yadav.

(9) As per rule 24(3), O.M. No dated 7.10.97, a Government servant who is on leave on medical certificate, will be permitted to return to duty, only on production of Medical Certificate of fitness from MW/ CHS Doctor but Shri S.P.Singh Yadav, while praying for leave on medical ground did not submit any valid medical certificate / certificate recommending rest from MW and valid fitness certificate admissible as per the medical rule. On the contrary , he secured improper and incorrect medical certificate from Dr.(Mrs) Rupali Baruah, who was not even competent and authorised to issue any such certificate, either in her official or private capacity.

That in the manner aforesaid Shri S.P.Singh Yadav showed lack of integrity, lack of devotion to duty and unbecoming conduct in contravention of Rule 30(i) and (ii) of (conduct) Rules, 1964.

ANNEXURE -II. 62

4  
90

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF  
ARTICLE OF CHARGE NO.1 FRAMED AGAINST SHRI SURESH PAL SINGH  
YADAV, INSPECTOR,CBI,ACB,GUWAHATI,( UNDER SUSPENSION).

(1) That Shri Suresh Pal Singh Yadav, while working as Inspector, CBI, ACB, Guwahati unauthorisedly absented himself from duty with effect from 1.10.99 till 28.10.99.

(2) That said Shri S.P.Singh Yadav did not submit any application for earned leave or leave on Medical ground supported by a Medical certificate from an authorised Medical attendant/ CGHS Doctor. He even did not submit any medical certificate after he allegedly fell sick indicating nature of illness, the number of days for which the doctor recommended him for rest, though certificate from any doctor other than CGHS doctor is not admissible under the leave Rule.

(3) Accordingly SP, CBI,ACB, Guwahati vide Memo. No. 1999/04596/A/10/157/93 dt. 6.10.99 intimated him the above commissions on his part and further directed him to join duty immediately mentioning further that his leave could be sanctioned to him and his unauthorised absence would be taken as leave without pay resulting in break of service.

(4) But said Shri S.P.Singh Yadav did not receive any letter sent either through person or post and evaded doing so by leaving his residence without communicating his whereabouts to office.

(5) That residential address of Shri S.P.Singh Yadav, as per office record and his petition filed in the CAT is C/0. Junali Baruah, Dorothi Appartment, 4th. Bye Lane, ABC, Tarun Nagar, G.S.Road, Guwahati.

(6) That on 5.10.99 said Shri S.P.Singh Yadav submitted an application to SP CBI ACB Guwahati which was received vide Receipt No. 3003 dt. 5.10.99. In the said application Shri S.P.Singh Yadav intimated that he is sick and under medical treatment and was advised bed rest. He did not submit any Leave application nor sought leave for specific period nor sent any doctor's certificate recommending rest as per requirement under the rules.

(7) That on 29.10.99 Shri S.P.Singh Yadav, reported

for duty and submitted joining report received vide Receipt No. 3232 dt. 29.10.99. He submitted, alongwith joining report, Medical Leave Application, Advice Slip of Guwahati Medical College Hospital dt. 1.10.99, Certificate dt. 30.9.99 of Dr. Rupali Baruah, MD, Asstt. Professor, Communicative Medicine, Guwahati Medical College, a purported fitness certificate dt. 28.10.99 of Dr. Rupali Baruah.

(8) That as per Certificate dt. 30.9.99 of Dr. Rupali Baruah, S.P.Singh Yadav was under her treatment for complaint of Chest Pain and palpitation and was advised to attend Cardiology Department of Guwahati Medical College Hospital for needful. Shri S.P.Singh Yadav accordingly reported in the Guwahati Medical College Hospital vide Slip No. 2062/99 but no rest was recommended to him. He deliberately concealed this fact and did not report duty. He also did not visit Guwahati Medical College Hospital after 1.10.99.

(9) That as per certificate dt. 2.10.99 of Dr. Rupali Baruah, MD said Shri S.P.Singh was under her treatment since 15.10.99 due to problem of severe back pain which was later diagnosed to be slipped-Disc. He was advised complete bed rest avoid lifting heavy weight and physical stress and medication is necessary.

(10) That Dr. M.M.Deka, Principal-Cum-Chief Supdt. Guwahati Medical College Hospital vide letter No. MCP/1/84/347 Dt. Guwahati, May, 03, 2000, addressed to Supdt. of Police, CBI, ACB, Sundarpur, Guwahati has clarified that Dr. Rupali Baruah, MD working in the rank of Asstt. Professor, in Community Medical Department is not competent to issue any official medical certificate, though any registered MBBS Doctor is competent to issue a certificate of ailment.

(11) That Dr. M.M.Deka, as aforesaid, has further clarified in the above letter that Dr. Rupali Baruah had issued the said certificate in her private capacity as no official number is assigned in the said certificate. Dr. Deka has further clarified that Dr. Rupali Baruah is not authorised to do private practices.

(12) Professor (Dr.) B.R.Baryani, Supdt. Guwahati Medical college and Hospital in his letter No. MCH/P29/82/381 dated 4.5.2000, addressed to SP, CBI, ACB, Guwahati has clarified that Shri Surosh Pal Singh had reported to the Guwahati Medical

- 03 -

college and Hospital for treatment on 1.10.99, vide Hospital entry No.17060/97 and Dept. Regd. No.2062/99 and was tested by Dr. (Miss) Neena Nath, Resident Physician of Cardiology Deptt. of GMC Hospital. The ECG of the patient was conducted on 1.10.99 but no rest was prescribed to the patient.

(13) Inspite of this fact that, said Suresh Pal Singh did not report for duty. On the contrary he continued to remain absent till 28.10.99 and in collusion with Dr. Rupali Baruah secured a medical rest certificate and Medical fitness certificate which she was not competent to issue nor were admissible under the leave rule under Medical ground.

(14) That the above circumstances clearly showed that Shri S.P.Singh Yadav in order to evade the letter of repatriation, sent by CBI Head Office on 30.9.99 and for securing a stay order from <sup>High</sup> Court Guwahati unauthorisedly absented from duty, left his residence without sending intimation of his leave address and submitted false and invalid Medical certificate of fitness and therefore showed lack of integrity, lack of devotion to duty and unbecoming conduct and contravened 3(1)(i),(iii) of C.C.S(Conduct) Rules,1964.

Dr. (Mrs) Rupali Baruah, M.B.B.S., M.D.,  
ASST. PROFESSOR, COMMUNITY MEDICINE  
GAUHATI MEDICAL COLLEGE.

Regd. No. 9936

Date- 21<sup>st</sup> May '2000  
Guwahati.

To

The Supdt of Police  
CBI, ACB, Bunderpore  
Guwahati - 5

Ref: NO DP SHL 2000/02425/A/20/157/93 dt. 17-4-2000  
Received by me on the 18-4-2000 at 5.30 P.M  
by hand Office person at my residence

Sub: Medical Leave application submitted by Sh. S.P. Singh  
Yadav, Inspector, CBI, ACB, Guwahati.

Sir,

In reply to your queries, I have to say  
that — Mr. S.P. Singh Yadav was examined and  
treated and advised as necessary in my private  
capacity but without any remuneration/doctor's fees.

As the patient came with anxiety and  
suffering from acute chest pain with palpitations and  
high Blood pressure he was treated as an emergency  
case and also advised to take specialist's treatment  
at the Dept of Cardiology, Gauhati Medical College.  
As a qualified Registered Medical Practitioner I  
have certain Rights and Privileges including "Right to  
choose a patient, examine, prescribe and certify  
and also refer for specialist services when  
necessary."

On 15-10-99 patient Mr. S.P. Singh Yadav consulted me for  
sudden acute back pain which was diagnosed as  
slipped disc for which treatment is first PLATE BLO REST  
and some pain killer tablets.

The certificates have been issued by me on  
my own letter pad as I have seen the patient  
in my private capacity as a qualified Registered  
Medical Practitioner but without taking any remuneration  
or doctor's fees. On both occasions patient came with acute  
disorders and treated as emergency case.

Dr. Rupali Baruah

21/5/2000