

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 144/2000

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SECTION OFFICER (JUDI.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 144/2000

OF 199

Applicant(s) *Smt. Bina Parai Nath.*Respondent(s) *Minor of Dola and others.*Advocate for Applicant(s) *Dr. S. Kanunja*
*Dr. M. Pathak.*Advocate for Respondent(s) *C.G.-S.C.*

Notes of the Registry	Date	Order of the Tribunal
<p>1. The application is in form and within time. 2. F. of Rs 50/- 3. Deposited vide IPO/BD No. 694 B/21 Dated 8.4.2000</p> <p>My 10/4/00 B/21/2000</p> <p>Recd of Dr. S. Kanunja, Advocate Dated 11/5/2000</p>	25.4.2000	<p>Heard Dr. S. Kanunja, learned counsel for the applicant and Mr. B. S. Basumatary, learned Addl. CGSC for the respondents. Perused the application.</p> <p>Application is admitted. Issue notice on the respondents by registered post. Written statement on 26.5.00.</p> <p>Dr. Kanunja prays for an interim order. The applicant may submit representation within 10 days from today. The respondents are directed to consider payment of subsistence allowance to the applicant according to the rules and law and communicate an order to the applicant within one month from the date of receipt of the representation from the applicant.</p> <p>List on 26.5.00 for orders.</p>

6
Member

Notes of the Registry

Date

Order of the Tribunal

UOI 111/2000

4 - 5 - 2000

Service of notices prepared and sent to D. Section 200 issuing of the same to the respondents through Regd. post with A/D.

Vide D.No. 1312 to
1314 Dtd. 4.5.00

26.5.00

There is no Bench today.

Adj. to 7.6.00.

7.6.00

Present : Hon'ble Mr. D.C. Verma,
Judicial Member.

Mr. B.S. Basumatary, learned Addl. CGSC seeks 4 weeks time to file written statement. It should be clearly mentioned in the written statement whether the order passed by the Tribunal dated 11.8.99 has or has not been complied with and if not, reasons therefor. In case the representation has been decided, copy of the order be communicated to the applicant.

List on 10.7.00 for written statement and further orders.

Member (J)

8/6/00

Order dtd 7/6/00 communicated to the applicant. vide 1532/33
 dtd. 8/6/00
db
8/6/00

mk

BS
 7/6/20007.7.00

10.7.00

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

None for the applicant. At the request of Mr B.S., Basumatary, learned Addl. C.G.S.C. the case is adjourned and posted on 26.7.00 for written statement.

S. Biswas

Member (A)

22/9/2000

NO W/J/S has been filed

nkm

26.7.00 There is no Bench. Adj. to 14.8.00

BS

m

14.8.00

There is no Bench. Adj. to 8.9.00

BS

8.9.00

NO Bench. To be listed on 23.9.00

BS

Notes of the Registry	Date	Order of the Tribunal
13-12-2000 Written statement has been filed by the respondents No. 1, 2, 3, 4, 5.	8.12.00 lm	The case was brought at my instance to adjust the date of hearing from 11.12.00 for the Division Bench. The case is now ordered to be heard on 15.12.2000 instead of 11.12.2000. In the meantime, the respondents may file written statement, if any. Vice-Chairman
<i>Reo</i> The case is ready for hearing as regards WJS. NS 14/12/2000	15.12.00 trd as-1 7-2	List the matter on 25.1.2001 for hearing. No. 8-1. Adjourned to 7/1/2001. m/s Hans 35/1 Held over to 14.2.2001. m/s 4-1-2 7-2
22.3.2001 Copy of the Judgement has been sent to the Office for issuing the same to the applicant as well as to ADD. C.G.S.C. for the respon.	14.2.01 pg	Heard counsel for the parties. Hearing concluded. Judgment reserved. Vice-Chairman
	26.03.01 trd	Judgement and order pronounced in the open court. The application is allowed. No order as to costs. Vice-Chairman

the Registry	Date	Order of the Tribunal
<u>10-11-2000</u>	25.9.00	<p>Present : Hon'ble Mr. Justice D.N.Choudhury Vice-Chairman.</p> <p>Dr. S. Kannujna for the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. for the respondents.</p> <p>Mr. Basumatary prays for further time to file written statement. The matter relates to removal of service and accordingly Dr. Kannujna prays for early disposal. List the case for hearing on 13.11.2000. In the meantime the respondents may file written statement.</p> <p>Vice-Chairman</p>
1) Notice issued on 4.5.2000 vide NO. 1312 - 1316.		
2) Notice duly Served on R-2		
3) R- 1,3,4 + 5 still awaited.		
4) NO N/S has been filed by the Respondents	13.11.00	<p>Dr. S. Kanjuna, learned counsel is appearing on behalf of the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. for the respondents.</p> <p>The case is placed for hearing today again. The respondents has not yet filed written statement. A prayer was made again for extension of time for filing of written statement. Considering the plea of Mr. B.S. Basumatary, and upon hearing at some length further three weeks time is allowed to file written statement as a last chance. The matter be posted for hearing on 11.12.2000. In the meantime if the written statement is filed with copy to the opposite party the applicant may submit rejoinder if so desired.</p> <p>List on 11.12.2000 for hearing.</p> <p>Vice-Chairman</p>
	trd	

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./RXX No. 144/2000 . . . of

DATE OF DECISION 2.3.01

Smti Bina Pani Nath.

PETITIONER(S)

Dr. S. Kanunjan.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. B.S. Basumatary, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

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

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 144 of 2000

Date of decision : This the 2nd day of March, 2001.

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

Smt. Bina Pani Nath,
Resident of Mohonpur,
P.O. Mononpur,
Dist. Hailakandi, Assam.

...Applicant

By Advocate Dr. S Kanunjan.

-versus-

1. Union of India
represented by the Secretary to the
Government of India, Ministry
of Communication, New Delhi.

2. The Director of Postal Services,
Assam Circle,
Guwahati-1.

3. The Senior Superintendent of
Post Offices, Cachar Division,
Silchar-788 001.

4. Sri B.K.Sinha,
The Sub-Divisional Inspector of
Post Offices, Karikganj
Sub-Division, Karimganj.

5. The Sub-Divisional Inspector
of Post Offices, Hailakandi
Sub-Division, Hailakandi.

...Respondents.

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

O R D E R (ORAL)

CHAUDHURY J. (v.c.).

This application under section 19 of the Administrative Tribunals Act 1985 has arisen and is directed against the order dated 14.1.1997 passed by the Senior Superintendent of Post Offices, Cachar Division, Silchar - Respondent No.3, removing the applicant from her service as well as the order of rejection of appeal dated 29.12.99

Contd...

by the Director of Postal Services, Assam Region, Guwahati - Respondent No.2.

2. The bare facts relevant for the purpose of adjudication of the application are summed up below :

The applicant prior to passing of the impugned orders mentioned above was working as an Extra Departmental Branch Postmaster (hereinafter referred to EDPBM) at Mohonpur under Hailakandi district on and from 10.10.1968. In the pleading it was interalia stated that on 8.3.95 one Bijoya Rani Das holder of S.B. Account No. 98578 of the Branch Post Office, Mohonpur (hereinafter referred to BPO) came to the applicant for depositing certain amount alongwith the Pass Book. On a bare look at the Pass Book, the applicant found some of the signatures of the applicant against earlier deposits in different dates were forged. On enquiry Smt. Das told the applicant that the said amount were handed over to Shri Kashi Nath Dhupi, Extra Departmental Delivery Agent for depositing in her S.B. Account. On further enquiry it transpired that those amounts were not reflected in the Savings Book Journal Account and in Daily collection account and consequently not deposited to the Government Exchequer. The applicant found that the amount was defalcated by forging her signature without her knowledge by Kashi Nath Dhupi, EDDA. She reported the matter to the concerned authority on 13.3.1995 i.e. to the Inspector of Post Offices, Hailakandi - Respondent No.5 narrating the facts and requesting respondent No.5 for taking appropriate action against the said EDDA. In the aforementioned report the applicant also referred about the friendly relation between Smti Das and Kashi Nath Dhupi and for which she received some local complaints against Kashi Nath Dhupi. On 20.3.1995 some of the records belonging to Mohonpur EDPO were seized by the Sub-Divisional Inspector of Post Offices

Hailakandi Sub-Division - Respondent No.5 from the possession of the applicant on alleged misappropriation of Government money for SB/RD Account. On 27.3.1995 the Respondent No.5 issued the following order :

Please treat yourself "Put off" from duties with immediate effect and you are directed to hand over the charge of the BPM to Shri Paban Nath of O/S mails, Hailakandi.

Formal orders will be issued in due course." In terms of the aforementioned order the applicant handed over the charge as directed to one Paban Chandra Nath, a formal order was issued to that effect on 5.4.1995 by the respondent No.3 with effect from 27.3.1995. A disciplinary proceeding under Rule 8 of the and the Post and Telegraphs Extra Departmental Agents (Conduct and Service Rules) 1964 (hereinafter referred to EDA Conduct and Service Rules) was initiated on 2.1.1996 for holding the disciplinary enquiry to enquire into alleged charges cited in the Article I, II and III of Annexure I of the Notice. The relevant statement of Article of charges are reproduced below :

" Article - I

Smti Bina Pani Nath, while functioning as EDBPM Mohonpur EDBO accepted sum of Rs. 300.00 on 13.9.94., Rs. 500.00 on 5.10.94, Rs. 500.00 on 4.11.94, Rs. 700.00 on 6.12.94, Rs. 500.00 on 6.1.95, Rs. 800.00 on 3.2.95 Total Rs. 3300.00(Rs. three thousand three hundred). And the pass book of the Mohanpur SB A/c No. 98578 from the depositor of said SB A/c Smti Bijoya Rani Das for depositing the above noted amount on above dates for Rs.3,300/- standing open at the said EDBO. Smti Bina Pani Nath, EDBPM entered the said deposit in the pass book on each day authenticated the deposits by her initials and date stamp impression of the office, but did not credit the aforesaid sum of Rs. 3,300/- in the Govt. account as required under the provision of Rule 131 of the rules for Branch office.

" Article - II

Smti Binapani Nath, EDBPM, Mohanpur EDBO while functioning as such accepted the sum of Rs. 100/- on 30.4.94 Rs. 300/- on 30.6.94 (Total Rs.

400/-) and the pass book of the Mohanpur EDBO RD A/c No. 92026 from the depositor Shri Dilayar Hussain Laskar of Mohanpur for depositing the said amount to this RD account. She entered the said deposits in the RD pass books, authenticated the deposits by her initials and date stamp impression of the office but did not credit the aforesaid sum of Rs. 400/- in the Govt. accounts as required under the provision of Rule 131 of the Rules for branch office.

Article - III

Smti Bina Pani Nath, while functioning as EDBPM, Mohanpur EDBO during the period from 30.4.94 to 3.2.95 be her above acts mentioned in article I & II above exhibited lack of integrity and devotion to duty as required under the provision of Rule 17 of P & T ED Agents (Conduct and Service) Rules 1964."

The applicant submitted his written statement on 21.9.96 denying the charge of misappropriation. The relevant portion of the written statement dated 21.9.1996 is also reproduced below :

"That Sir, in reply to the charge framed against me in the Article 1,2, and 3 it is stated that I submitted my written statement earlier to the authority and the circumstances under which the amount was misappropriated were clearly explained to my written statement. However, it is again informed that the handwriting in the Pass Books were Shri Kashi Nath Dhupi, EDDA and the EDDA took the money in my absence and showed the amount as deposited by impressing the Date stamp of the office and put my signature in the Pass Books.

The misappropriate money was deposited by me only on the ground that I am working as BPM there and I could not avoid my responsibility in this respect.

You are there, therefore, requested kindly to take lenient view into the matter and exempt me from the charges framed against me as I am not actually responsible for the misappropriation."

The Sub Division Inspector of Post Offices, Karimganj, by his communication dated 5.8.1996 intimated the applicant to the effect that he was the enquiry *W.O. for as* *his*

Contd..

officer in the proceeding in question. Her evidence/proceeding was considered material. He accordingly requested to her appear before him on 21.8.1996 at 11.30 hrs. at Hailakandi Post Office without fail. On 21.8.1996 the enquiry officer held sitting in presence of the applicant and Shri K.M.Nath, SDPOS, Silchar. On the query made by the enquiry officer the applicant stated that she did not admit any of the charges and denied all the charges. As per the note of the enquiry officer the applicant was given a chance to go through the documents listed at Annexure-III of the said memorandum and for that purpose a date for examination of the documents was fixed on 24.9.96. The enquiry officer directed K.M. Nath, Presenting Officer to produce the documents on the date and venue for presentation of the case accordingly. The applicant was also directed to intimate the name and address of Defence Assistant if any positively latest by 31.8.1996. The proceeding was held on 24.9.1996. The full text of proceedings dated 21.8.96 is reporduced below :

"Smt. Binapani Nath, SPS was asked whether the memo of charges issued from Sr. Supdt. of P.O.s, Silchar vide his Memo No. El-1/95-96 dated 2.1.1996 was received by her and replied in affirmtive. Then the contents of the memorandum was ealborately read out and translated in Bengali and asked whether she understood the contents. She replied to have understood the charges. Smt. Binapani Nath was then asked whether she admit all the charges framed against her in the case. She does not admit any of the charges and denies all the charges straightway.

Smt. Binapani Nath has been given chance to go through the documents listed in Annexure-III of the aforesaid memorandum and for that purpose a date for examination of the documents is hereby fixed on 24.9.1996 at 1200 hrs at Hailakandi P.O. Sri K.M. Nath P.O. is requested to produce the documents on the date and venue as sbove and present the case accordingly.



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Smt. Bina Pani Nath is hereby directed to intimate the name and address of Defence Assistant if she desires to appoint at the latest by 31.8.96 positively provided to the person so desired should not have more than two cases in his hand and willingness letter should also be enclosed.

The court is therefore adjourned today."

The applicant before the enquiry pleaded here innocence and reiterated that the alleged misappropriation was made by Kashi Nath Dhupi. She also however stated that as the sole custodian of seals and other valuables she accepted her moral responsibility of the happening and accordingly she already deposited the alleged misappropriation of sum of Rs.3700.00 in the Govt. account. She also submitted an application in writing before the enquiry officer for concluding the proceeding. Thereafter the applicant was served with the impugned Memo No. Fl-1/95-96 dated 1.1.1997 passed by the Senior Superintendent of Post Offices - Respondent No 3 removing the applicant from service with effect from the date she was put off duty. The order also mentioned about the enquiry report dated 3.1.1997 that was submitted by the disciplinary authority holding the applicant as guilty. The applicant preferred an appeal before the Appellate Authority which was disposed finally on 29.12.99 as per direction rendered by the Tribunal in O.A. No. 199/99 dated 11.8.1999. Hence the present application assailing the order of removal of the applicant from service as well as the order of Appellate Authority as arbitrary, discriminatory and unfair.

3. The respondents submitted its written statement denying and disputing the claim of the applicant. The

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respondent inter alia contended that removal order was made lawfully after making an appropriate enquiry and the Appellate Authority disposed of the appeal as per law. Dr. S. Kanunjan, learned counsel for the applicant assailed the impugned action of the Respondents as arbitrary, discriminatory and patently unfair. Dr. Kanunjan submitted that the EDA Conduct Rules provides the procedure for imposing penalty only after holding an enquiry by providing a reasonable opportunity of being heard in respect of those charges. Penalty of dismissal or removal from service under the scheme of rules - only be provided after affording a reasonable opportunity of being heard in respect of the charges. Dr. Kanunjan, counsel for the applicant submitted that in the instant case the applicant was denied her right guaranteed in Article 311(2) of the Constitution as well by the service rules which seriously jeopardised her interest. The applicant was put off from duty on and from 27.3.1995 and since the aforementioned date she was denied from her livelihood. The purported enquiry prolonged more than a year and in view of the desperate situation the applicant had to beseech the authority for closing the ordeal in the name of the enquiry in which Dr. Kanunjan submitted that the matter was conducted in the circumstances could not be said to a just and fair enquiry providing reasonable opportunity to the charged official. Dr. Kanunjan also submitted that the authority acted in a most arbitrary fashion in holding the applicant guilty without considering the materials on record including the defence set out by the applicant from the initial stage. The findings arrived at by the enquiry officer was patently perverse and the Appellate Authority acquiesced to the perverse findings without applying its own mind. Attacking the impugned order of removal Dr. Kanunjan submitted that the said conclusion of guilt reached by the disciplinary authority was patently in violation of principles of

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natural justice without affording any opportunity to the applicant to assail and or counter the conclusion of guilt purportedly reached by the enquiry officer so much so even the report of the enquiry officer was withheld from the delinquent officer.

4. Countering the argument advanced by Dr. Kanunjan, learned counsel for the applicant Mr. A. Deb Roy, learned Sr. C.G.S.C. on the other hand submitted that the enquiry was lawfully conducted after providing opportunities to the applicant to defend her case and thereafter the impugned order of penalty was passed. Mr. Deb Roy submitted as a matter of fact there was no dispute as regards the loss of Government monty. The applicant admitted her guilt and accordingly deposited the amount that was received from the accounts holder in question.

4. We have already referred to the allegations of charge brought against the applicant. The charge ws that the applicant accepted a sum of Rs. 3300/- on different dates. It was also alleged that the SB pass book of Mohanpur EDBO SB a/c No. 98578 from the depositor of said SB account Smti Bijoya Rani Das for depositing the said sum of Rs. 3300/- on different dates and the same were entered in the pass book on each day authenticating the deposit with her initial and dates stamp impression but did not credit in the Govt. accounts. Similarly in Article II it was alleged that the applicant accepted a sum of Rs. 100/- on 30.4.94, Rs. 300/- on 30.6.94, total Rs. 400/- against the RD accountNo. 92026 from the depositor for depositing the said amount in RD Account. The applicant entered the same deposit in the RD pass book authenticated by her initials and date stamps impression but did not credit in the Govt. account as required under the rules. In Article III the applicant was charged for exhibiting lack of integrity and devotion to duty for alleged lapse

mentioned in Article I & II.

6. The applicant did not admit the allegations more particularly the acceptance of money from the both the depositors as well as authentication of the deposits. On the other hand she alleged fraud/forgery against Kashi Nath Dhupi, EDDA wh allegedly accepted the money in her absence and showed the amount as deposited by impressing the Date Stamps impression and put her signature in the pass book. Since the matter was disputed it was for the respondents to prove and establish the guilt producing materials on records that the amount in question were accepted by the applicant and that she put her signature from the relevant records. No such materials are discernible. The enquiry report as referred to by the disciplianry authority did not reach any finding to the effect that it was the applicant who rceived the money from the depositors and entered the same in the record. The enquiry officer himself mentioned in his enquiry report that " the charged official in preliminary hearing on 21.8.96 denied all the charges straightway and wanted to go through the documents listed in Annexure III of the charge sheet. The C.O. examined the documents on 24.9.1996 and authenticated the documents were of Mohanpur B.O. She however denied the facts that the articles available on SB pass book No. 98578 on 13.9.94, 5.10.94, 4.11.94, .12.94, 6.1.95 & 3.2.95 and also the initials available in RD pass book No. 92026 on 30.4.94 & 30.6.94 were not her own but forged by shri Kashinath Dhupi, EDDA, Mohanpur". The enquiry officer emphasized on the fact that she took up the moral responsibility instead of referring to any materials indicating to the guilt of the charged official and abruptly came to the following conclusion :

"Taking into all the above facts, list of documents it is clear that the loss of Rs. 3700.00 sustained by the deptt. was due to

Contd..

negligence of duty and most irresponsibility on the part of Smti Binapani Nath about the safe custody of date seals and valuables of the office. Mere denial of the initials on the pass books is not acceptable and believable. The C.O. in her written statement on 24.9.96 mentioned clearly that she is responsible for the loss and thereby she has already paid the amount of loss in full to the Govt."

and therefore he reached the conclusion that charges were proved and established. The findings of the enquiry officer is patently perverse. The applicant took the moral responsibility and deposited the amount. By that itself is not sufficient to hold from materials on record that it was the applicant who accepted the sum from the depositor and entered the said deposit in the pass books and authenticated by her initials but did not credit the aforementioned sums in the Govt. account. The applicant, time and again indicated about her state of mind more particularly about traumatic condition due to deteriorating health condition of her husband who was suffering from carcinomic disease and finally succumbed to the said disease. She made her correspondences all throughout mentioning about the agonising situation time and again to the authority. The disciplinary authority mechanically accepted the report of the enquiry officer without applying its mind. The disciplinary authority also emphasized on her statement wherein she only accepted her moral responsibility. The disciplinary authority came to a new findings against the applicant that she allowed unauthorised person to accept money from the members of the public for depositing in their respective SB account though there was no such charge to that effect. The Appellate Authority also held the applicant guilty though alleged misappropriated money was long back deposited by the applicant during the year 1995 on coming to know about the alleged fraud committed by one of her colleague. Finding of the Appellate Authority also suffers from the vice of non application of mind. The Appellate Authority found that the

applicant has misappropriated the Govt cash and thereby she had lost the confidence of the Govt. as well as the public and therefore she was not fit to work as Post Master anywhere. The Appellate Authority further held that "though she has credited the misappropriated amount voluntarily, she cannot win back the confidence and trust that has been lost."

7. As mentioned earlier the applicant was put off from duty on and from 27.3.1995 and since then she ws not paid any allowance to that effect and the prolongation of the enquiry even impelled the applicant to request the Enquiry Officer to bring to an end the ordeal by closing the enquiry. Such enquiry in such circumstances cannot be said to be just and fair providing reasonable opportunity to delinquent officer in defending the case. The procedure adopted by the disciplinary authority in the circumstances cannot be said fair and just. It is a principle of legal policy that law should be just and the decision of the public authority should further the ends of justice. The public authorityu in democratic set up is entrusted with the duties to administer the law justlyand fairly. It is a principle of legal policy that person should not be deprived of his livelihood or penalised without any just and valid ground. The purported decision of the respondent authority, is not based on any material and or evidence to hold the applicant guilty. In the facts and circumstances the findings cannot be upheld as lawful. The purported decision of th respondents is in defiance of logic or accepted moral standard that no reasonable person who had applied his mind to the question could have arrived at such conclusion. In exercise of power the authority seemingly influenced by consideration which cannot be lawfully taken into consideration so much so that the conclusion of guilt

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arrived at by the respondents are in disregard to relevant consideration and for taking into consideration extraneous consideration; purported disciplinary enquiry putting of duty and thereby putting off duty without paying subsistence allowance also cannot be upheld as just and fair enquiry. Mr. S. Kanunjan, counsel for the applicant submitted that on the face of the statutory provision contained in Sub rule 3 of Rule 9 an employee cannot/could claim any allowance when he or she is/was kept off duty under the rules. Sub rule (3) of Rule was struck down as ultravires by the Bangalore Bench of the Tribunal on 13.7.1988 in O.A. No. 553 to 556 of 1987 (Peter J. Desouza and Ors) as violative of Article 14 and 16 of the Constitution. The decision of the Bangalore Bench is upheld in various SLPs by the Apex Court. The Bangalore Bench as well as the Supreme Court directed the Govt. of India that it would be open to it and to frame a new set of rules in place of Sub rule 3. The Apex Court further directed the Govt. of India to re-examine each case on merit as to whether the individual would be entitled to salary for the period he or she was kept off duty. As per the ratio laid down that an ED Agent is entitled to full salary for the off period normally in the event of exoneration from the charges. The salary for off duty period can only be denied on affording a reasonable opportunity to the ED Agent by assigning good reasons. Dismissal/removal of an ED Agent without providing any form of allowance for sustenance by itself amounts to denial of reasonable opportunity as per law.

8. On consideration of all the aspects of the matter we are of the view that the impugned order of removal from service dated 14.1.1997 and the Appellate order dated 29.12.1999 upholding the punishment are therefore cannot be sustained as lawful. Accordingly the

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order of penalty dated 14.1.1997 and the Appellate Order dated 29.12.1999 are set aside. The respondents are ordered to reinstate the applicant in service with full backwages forthwith.

9. The application is allowed to the extent indicated above. There shall, however, be no order as to costs.


(D.N.CHOWDHURY)
Vice-Chairman

trd

24 APR 2000

Guwahati Bench

In the Central Administrative Tribunal

Guwahati Bench :: Guwahati.

Title of the Suit : O.A. No. 144/2000

Smti Bina Pani Nath Applicant.

-Versus-

Union of India and others Respondents.

I N D E X

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Filed by
Smti Bina Pani Nath
Applicant
S.K. Komengna
Advocate

Before the Central Administrative Tribunal

Guwahati Bench :: Guwahati

O. C. No. 144 /2000

BETWEEN

Smti. Bina Pani Nath
resident of Mohonpur,
P.O. Mohonpur.

Dist. Hailakandi, Assam ... Applicant

AND

1. Union of India
represented by the Secretary to
the Government of India,
Ministry of Communication,
New Delhi.
2. The Director of Postal Services,
Assam Circle, Guwahati - 1
3. The Senior Superintendent of
Post Offices, Cachar Division,
Silchar - 788 001.
4. Sri B. K. Sinha,
The Sub-Divisional Inspector of
Post Offices, Karimganj Sub-Division,
Karimganj.
5. The Sub-Divisional Inspector of Post
Offices, Hailakandi Sub-Division,
Hailakandi ... Respondents.

Contd.....2



Details of the application :

1. Particulars of the order against which the application has been made :

This application has been made against the order dated 14-1-87 passed by the Senior Superintendent of Post Offices, Cachar Division Respondent No. 3 by which the applicant was removed from her service and also against rejection of applicant's appeal by respondent No. 2. dt 29-12-99

2. Jurisdiction :

The applicant declares that this Hon'ble Tribunal has got jurisdiction to adjudicate the matter in regard to which this application is made.

3. Limitation :

The applicant states that this application is made within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. Facts of the Case :

4.1. That the applicant is a citizen of India and a permanent resident of Assam and as such she is entitled to all the rights and protection as guaranteed under the Constitution of India and Laws framed there under.

4.2. That the applicant has been working as ED Br.P.M. (Extra Departmental Branch Post Manager) at Mohonpur

Contd.....3

S.W

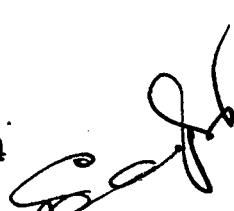
KLBO (in accents with Kalibari Bazar B.O.) in Hailakandi District in Assam from 10.10.1968. The applicant had been discharging her duties honestly, efficiently and to the fullest satisfaction of the superior officers with unblamed services records for the last 25 years.

The copy of the taking over charge on 10.10.68 is annexed hereto and marked as ANNEXURE - A.

4.3. That on 8.3.95, one Smti. Bijoya Rani Das holder of S.B.Account No. 98578 of the B.P.O. Mohonpur approached the applicant for depositing certain amount. At the first glance of the said pass book it was found that some of the signatures of the applicant against earlier deposits of some amounts in different dates were forged. Being enquired, Smti. Das stated that the said amount was handed over to Sri Kashi Nath Dhupi EDDA for deposit in her S.B. A/C. On further enquiry it was found that those amounts were not reflected in the S.B.Journal account and in Daily collection account and consequently not deposited to the Government exchequer. Thus it was apparent that the said amount was defalcated by forgoing the signature of the applicant without the knowledge of the applicant by Sri Kashi Nath Dhupi, E.D.D.A.

Immediate after detection of above facts the applicant submitted a detailed report on 13.3.1995 to the Inspector of Post Offices District Hailakandi (Respondent No.5) narrating the entire episode and requesting the respondent No.5 to take necessary action against the erring E.D.D.A. Shri Kashi Nath Dhupi.

Contd.....4



It may further be mentioned that in that report, applicant also pointed out that the said Smti. Das and Shri Kashi Nath Dhupi, E.D.D.A. were in good terms and were very much close to each other and the applicant received some more verbal complaints from the local public against Shri Kashi Nath Dhupi which required through investigation.

The copy of the said report dated 13.3.95 is annexed hereto and marked as ANNEXURE - B.

4.4. That on 20.3.95, all of a sudden some records (as many as 8 items) belonging to Mohonpur E.D.P.O. and been seized by the Sub-Divisional Inspector of Post Offices, Hailakandi Sub-Division (Respondent No. 5) from the possession of the applicant on alleged misappropriation of Government money amounting to Rs.3,700/- only.

The copy of the said seizure list dated 20.3.95 is annexed hereto and marked as ANNEXURE - C.

4.5. That on 27.3.95, the respondent No. 5 issued an order in white paper which reads as ("please treat yourself put off from duties with immediate effect and you are directed to hand over the charge of the B.P.M. to Shri Paban Ch. Nath O/S mails, Hailakandi.")

Formal memo will be issued in due course.

The aforesaid summary order was served on the Petitioner applicant without giving the applicant the barest minimum opportunity of being heard or any prior notice.

25

It may be mentioned that the said respondent No.5 is not the appointing authority of the applicant. Hence the order passed by the respondent No. 5 placing the applicant put off duty is illegal.

Copy of the said order dated 27.3.95 is annexed hereto and marked as ANNEXURE - D.

4.6. That the applicant on compliance with the aforesaid order dated 27.3.95 handed over the charge to Sri Paban Ch. Nath as directed on the same date i.e. 27.3.95.

The copy of the said handing over charge is annexed hereto and marked as ANNEXURE - E.

4.7. That on 5.4.1995, the Senior Superintendent of Post Offices, Cachar Division, Silchar (Respondent No.3) passed a formal order which reads inter alia "whereas a disciplinary case is contemplated the undersigned placed the said Smti. Binapani Nath off duty with effect from 27.3.95 (A.N.)

The said order further reads as

"During the period of his (her) off duty Smti. Binapani Nath will not be entitled to any allowances".

Thus the applicant was denied the minimum right to livelihood on mere contemplation of disciplinary proceeding which violates applicant's fundamental right as guaranteed under Article 21 of the Constitution of India. Moreover, aforesaid order 3.4.95 is cryptical and non-speaking one and hence the same is liable to be quashed.

The copy of the aforesaid order dated 5.4.1995
is annexed hereto and marked as ANNEXURE - F.

4.8. That on 2.1.96, an Office 'Memorandum' along with statement of Article of charges etc. were issued by the Sr. Superintendent of Post Offices i.e. the respondent No. 3 asking the applicant to submit written statement in respect of the article of charges. Accordingly the applicant submitted the written statement denying all the three charges levelled against her. It may be mentioned here that the original copy of the written statement was submitted to the authority while the office copy was retained by the applicant. But the office copy has been lost/misplaced which could not be found and annexed hereto. The applicant craves the leave of this Hon'ble Tribunal to direct the respondents to produce the copy of the written statement during the course of hearing of the case.

The applicant also craves leave of the Hon'ble Tribunal to allow her to take the grounds stated in the written statement of defence at the time of hearing of this application.

The copy of the said Office Memorandum dated 2.1.96 is annexed hereto and is marked as
ANNEXURE - G.

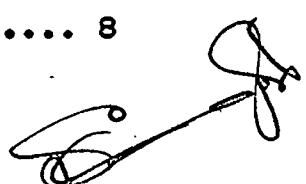
4.9. That the applicant on bonafide belief and with her all sincerity and devotion to duty, thought that she should not shirk moral responsibility, although she

was not even remotely connected with the defalcation of alleged money, she honestly deposited the said amount to the Govt's exchequer with much hardship only with a hope that all alleged charges against the applicant will be dropped considering her innocence and her integrity for the last 25 years of her service. Moreover, as there is no material loss to the respondents as stated here-in-above and hence it was a fit case to reinstate the applicant in service which has not been done by the respondents.

The copies of the money receipts against the aforesaid deposits are annexed hereto and are marked as ANNEXURE - H.

4.10. That on 29.1.96, the applicant in continuation of her written statement, against submitted a representation to the respondent No. 3 reiterating that the signature in the Pass Book were not of the applicant and which were forged by Sri Kashi Nath Dhupi, E.D.D.A. and that the applicant is in no way connected with the alleged mis-appropriation of Govt.'s money. The applicant also prayed for dropping the disciplinary proceedings against her. But the respondents did not consider the prayer of the applicant and also failed to initiate disciplinary proceedings against the real culprit.

The copy of the said representation dated 29.1.96 is annexed hereto and is marked as ANNEXURE - I.



4.11. That on 5.8.96, the Sub-Divisional Inspector of Post Offices, Karimganj Sub-Division (respondent No. 4) being the Enquiry Officer issued a notice under Rule 8 of P & T E.D.A. (conduct and service) Rules, 1964 to the applicant requesting her to appear before ~~x~~ him on 21.8.96 at 11-30 A.M. at Hailakandi.

The copy of the said notice dated 5.8.96 is annexed hereto and is marked as ANNEXURE - J.

4.12. That on 21.8.96, the applicant appeared before the said Enquiry Officer and deposed before him categorically denying all the 3 (three) articles of charges levelled against her; the fact of which was recorded in the proceedings by the Enquiry Officer. The hearing was adjourned for inspection of documents and the next date was fixed on 24.9.96.

The copy of the said proceeding dated 21.8.96 is annexed hereto and is marked as ANNEXURE - K.

4.13. That on 24.9.96, the applicant again appeared before the Enquiry Officer and on scrutinizing of records the applicant unambiguously asserted that signatures of the applicant in the S.B. A/C. #98578 and PD Pass Book No. 92026 were forged by Sri Kashi Nath Dhupi, E.D.O. The applicant also requested to verify those signatures by hand-writing expert in order to fix the responsibility in accordance with Law. But the respondent failed to prove the forged signature as procedure established by law.

carcinothane

It is pertinent to mention here that the applicant's husband expired in 1995 prematurely due to cancer and due to sudden demise of her husband the applicant had been passing her days through mental agony and financial stringencies. Taking the advantage of applicant's mental unsettled condition Sri Kashi Nath Dhupi E.D.D.A. might have committed the mischief. The applicant with a view to avoid further harassment, deposited the amount although she was in no way involved in the matter.

The copy of the hearing proceedings dated 24.9.96
is annexed hereto is marked as ANNEXURE - L.

4.14. That, after a long gap of six months the applicant was utterly shocked and surprised when she received the order dated 14.1.97 passed by the Respondent No. 3, removing her from service with retrospective affect from 27.3.95. The said order was passed on the basis of the report submitted by the Enquiry Officer, who held the following three charges against the applicant as established.

Contd..... 10

1. alleged mis-appropriation amounting to Rs. 3,300.00 in respect of deposit in SB A/C. No. 98578 of Smti. Bijaya Rani Das from 13.9.94 to 3.2.95.
2. alleged mis-appropriations of Rs. 400.00 in respect of deposit in RD A/C. No. 52026 ~~by~~ of Sri ~~Ex~~ Dilayer Hussain from 30.4.94 to 20.6.94.
3. And the aforesaid misappropriation was caused due to lack of integrity and devotion to do duty.

4.15. That on perusal of the enquiry report, the applicant painfully states that the Inquiry Officer has failed to take into consideration the crux of the factual aspect and in a very cryptic manner has submitted his report. From mere reading of the Inquiry Report, it becomes crystal clear that the Inquiry Officer has acted arbitrarily and illegally to come into a conclusion and there has been a total non-application of mind by that Inquiry Officer.

Inspite of the applicant's repeated insistence, the Inquiry Officer did not take any evidence from three vital and potential witnesses namely SB a/c and Pass Book holder Smti. Bijoya Rani Das and RD a/c Pass Book holder Sri Dilyar Hussain Laskar whose money were allegedly handed over to Shri Kashi Nath Dhupi, E.D.D.A. for deposit and also Sri Kashi Nath Dhupi. Moreover applicant emphatic assertion that Sri Kashi Nath Dhupi forged her signature in the aforesaid pass books, was not at all taken into cognizance by the Inquiry Officer and no steps were taken to authenticate the signature of the pass book,

though Forensic Expert, instead the Inquiry Officer most casually and arbitrarily commented in his report "mere denial of the initials on the pass books is not acceptable and believeable".

Thus the entire report is vitiated due to factual and procedural lapses. Hence the final order dated 14.1.97 based on the illegal findings of the Inquiry Officer is liable to be set aside and quashed.

The copy of the order dated 14.1.97 by the disciplinary authority along with the report of the Enquiry Officer is annexed hereto and is marked as ANNEXURE - M.

4.15. That the applicant begs to state that the respondents have acted in a very casual manner in coming to the conclusion and finally removing her from service. The respondents have failed to apply their minds and without going to the vital points and evidences to reach the finality of said Departmental Proceedings . A mere reading of the impugned order it is clear that the same has been passed in a very arbitrary manner without following the settled Principles of natural justice and procedure established by law.

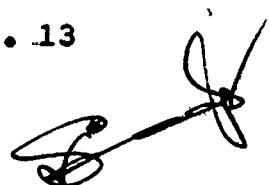
4.16. That the applicant begs to state that immediate after detection of signature which were not signed by her in the SB a/c Pass Book of Smti. Bijoya Rani Das and R/D a/c Pass Book of Dilyer Hussain the fact was reported to the respondent No. 5 alleging that the forgoing was

was made by Shri Kashi Nath Dhupi, E.D.D.A. as stated in para 4.3 of this application. But it is stated that no action was taken on that report by respondent No. 5. The respondents failed to prove forgoing by procedure of law.

4.17. That, the applicant begs to state that during the course of Enquiry the applicant brought to the notice of the Enquiry Officer regarding the fact that Smti. Bijoya Rani Das holder of S.B. Pass Book handed over money to Sri Kashi Nath Dhupi for deposit and signature of the applicant on the said Pass Book was forged which requires through investigation to find out the truth. But the authority concerned had failed to consider the most vital aspect of the matter and have come to such a arbitrary conclusion by which the service of the applicant has been jeopardised which consequently shattered the applicant's whole family and for which the applicant was suffering from different ailments, thereafter as her termination of service had direct effect on body and mind and her livelihood.

4.18. That, the applicant filed an appeal to the respondent No. 2 through respondent No. 3 against the aforesaid order of removal on 4.4.97 as per rule 10 of the Department of Post Extra Departmental Agents (conduct and Services) Rules, 1964.

A copy of the said appeal and the reminder are annexed hereto and are marked as ANNEXURE N & O.



4.19. That, Sri Kashi Nath Dhupi, who was the main person behind the entire happenings is still in service and no action has been taken against him. The applicant also states that her date of birth was 14.9.1943 as per School Certificate. As the retiring age is fixed at 65 yrs in case D.D.A. She would have retired on 18.9.2000 at the age of superanuation had shall been in service.

A copy of the aforesaid School Certificate dated 12.3.62 is annexed hereto and marked as ANNEXURE-P.

4.20. That being highly aggrieved with the arbitrary order of termination of her service, the applicant approached this Hon'ble Tribunal by an application No. A 199/99 which was disposed of by the Hon'ble Tribunal on 11-8-99 with a direction to the respondents to dispose of the applicant's pending appeal by a reasoned order within a period of 2 months from the date of receipt of the order.

A copy of the said order dated 11.8.99 is annexed hereto and marked as ANNEXURE - Q.

4.21. That on receipt of the certified copy of the aforesaid order, the applicant sent by Regd. Post on 27.8.99 a petition enclosing a copy of the Hon'ble Tribunal's order, requesting the Respondents No. 2 and 3 for early disposal of the long pending appeal.

The photocopies of the Postal Registration receipt

No. 2619 & 2620 dated 27.8.99 of Hailakandi P.O. are annexed hereto and marked as ANNEXURE - R.

4.22. That subsequently the applicant personally enquired at the office of the respondent No. 3 who acknowledged the receipt of the petition for disposal of the pending appeal.

4.23. That however, the respondent No. 2 had ultimately after the expiry of the time stipulated by the Hon'ble Tribunal, passed a cryptical and non-speaking order thereby rejecting the appeal dated 25.8.99 preferred by the applicant vide his order Memo No. Staff/2/25-15/99/PP dated 29.12.99 with a copy to the applicant. The said order was however received by the applicant at a much later date as on 15.2.2000.

By the said order the respondent No. 2 rejected the appeal and held as under -

"After going through the appeal, I do not find any ground to dis-agree with the findings of the disciplinary authority. A Post master during the course of his duty is responsible for government cash and valuables. Member of the public also entrust him with their money for savings bank deposit or for money order. A postmaster, therefore has to be scrupulously honest and must have the confidence of the Government as well as that of the public. In this case the appellant has mis-appropriated the Government cash and thereby

he has lost the confidence of the Government as well as the public and therefore she is not fit to work as postmaster any more. Though she has credited the mis-appropriated amount voluntarily, she cannot win back the confidence and trust that has been lost."

As stated hereinabove the order is vague and general has not been spoken regarding the infirmities and illegalities about the proceedings drawn against her and how she was led to face extreme penalty of her removal from service after long and unblemmed service rendered by the applicant for the last 25 years. Such cryptical and non-speaking ex parte order cannot sustain in law and the same is liable to be set aside and quashed. Moreover she has not been paid her legitimate dues of subsistence allowances and/or ex-gratia at the rate 50% of her total emoluments or any such ex-gratia or payments as entitled as per Government of India, Department of Posts Order No. 19-36/96 - ED and Trg. dated 13.1.97.

A copy of the order dated 29.12.99 along with the photo copy of the envelope showing the date as 14.2.2000 and 15.2.2000 and the relevant portion of the order dated 13.1.97 are annexed herewith as ANNEXURE - S, T and U respectively.

4.24. That the applicant finding no other alternative, again approached the Hon'ble Tribunal with the present

petition for getting justice and to be saved from complete peril.

5. Grounds for reliefs with legal provision.

5.1. For that, the arbitrary action of the respondents is violative of Article 311(2) of the Constitution of India which the applicant enjoyed being holder of Civil Post under the Govt. of India.

5.2. For that, the entire disciplinary proceedings from the beginning till the conclusion are vitiated by glaring procedural lapses as under :-

i) As per provision of the Rules, of Department of Post Extra Departmental Agents (Conduct and Services) Rules, 1964 an EDA can be 'Put off' duty only during the pendency of the enquiry and not when any enquiry is contemplated. In the instant case the applicant was treated put off duty in contemplation of an enquiry.

ii) As per provision of the aforesaid Rules, every effort should be made to finalise the disciplinary proceedings and to pass final orders so that he may not remain put off duty exceeding 120 days. But in the instant case the applicant was put off duty on 27.3.95 and the final order was passed on 14.1.97 i.e. the applicant was put off duty for about 668 days.

iii) taking of evidence from the directly connected witnesses were deliberately left out by the respondents inspite of repeated insistence by the applicant.

iv) no attempt was made by the respondent to prove the forged signature in the Pass Book through Forensic hand writing expert as asserted by the applicant and in accordance with law.

v) Hon'ble Supreme Court in recent judgement hold that the delinquent officer must be supplied with the copy of the inquiry report along with the recommendations if any, in the matter of proposed punishment to be inflicted. In the instant case the applicant was not supplied with the copy of the Inquiry Report prior to infliction of punishment.

vi) the applicant's innocence and bonafide in alleged misappropriation is completely proved when she submitted a report on 13.3.95 (Annexure-B) to the respondent No. 5 regarding alleged misappropriation and forgoing of signature of the applicant but the respondent did not take any concrete steps in the matter.

vii) the nature of penalty provisions of the aforesaid Rules says that the penalty may be imposed namely recovery from allowance of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders in the instance

case, the entire amount of Rs. 3,700/- has been deposited by the applicant on moral grounds hence her removal from service is highly illegal, excessived and too harsh. In view of the above procedure lapses, the disciplinary proceedings as well as the final order of removal from service are liable to be set and quashed.

5.3. For that, during the put off duty which means suspension from duty the applicant was denied any subsistence allowance to maintain her livelihood which violates the applicant's fundamental rights guaranteed under Article 14 and 21 of the Constitution of India. Hon'ble Gauhati High Court in a recent case held "it is a settled law that if an employee is put under suspension, the relation of employer and employee does not come to an end, it is only suspended temporarily so far survival of the employee and his family, the employer has to pay subsistence allowance payment of subsistance allowance follows from suspension and an employee cannot be deprived of this right." The Apex Court also held that a civil servant who is placed under suspension cannot be denied subsistence allowance. The Apex Court further held in R.K.Rajan's Case (1977) 3 S.C.C. 94, that the jural relationship of master and servant continues during the period of suspension of the Government Servant. This denial of subsistence allowance would amount to denial of fair opportunity to the applicant resulting in contravention of principles of natural justice. In a recent judgement by Hon'ble

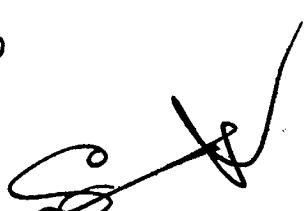
Hon'ble Tribunal, Ahmedabad Bench while deciding the identical issue, held that non-payment of subsistence allowance vitiates enquiry.

5.4. For that, the respondent treating Sri Kashinath Dhupi E.D.D.A. as innocent without proving the forged signature of the applicant in the S.B. a/c. Pass Book and B/D a/c Pass Book through hand-writing expert and holding the applicant guilty violates the Article 14 of the Constitution of India and the impugned order of applicant removal from service is liable to be quashed and set aside.

5.5. For that the respondent have passed the impugned order of removal from service in a cryptic manner and in flagrant disregard to the settled principle of natural justice and the same is liable to be set aside and quashed.

5.6. For that, the extreme penalty imposed on the applicant who rendered continuous services of more than 25 years with unblamish records, is unreasonably harsh which is not commensurate with the gravity of the offence charged and taking into consideration the fact that the misappropriated amount is only Rs. 3,700.00 and that too was deposited by the applicant without admitting the offence committed by herself, hence the same is liable to be set aside and quashed.

5.7. For that, the impugned final order of removal was passed without prior furnishing the copy of the report of



the Inquiry Officer, the proceedings cannot stand in law and is liable to be set aside and quashed.

In a recent case, the Hon'ble Gauhati High Court held that the proceeding was vitiated as the report of the Inquiry Officer was not furnished to the petitioner before the final order of removal was passed.

5.8. For that, the respondents have acted violating the existing provisions of law as well as departmental procedure in holding the applicant guilty of the charges hence the case is not sustainable in the eye of law and is liable to be set aside and quashed.

5.9. For that, in any view of the matter, the impugned action of the respondents is illegal, arbitrary and without application of minds which is not sustainable in the eye of law and hence the same is liable to be set aside and quashed.

5.10. That the respondent No. 2 rejected the appeal of the applicant by a very cryptical, non-speaking and as ex parte order on 29.12.99 and without giving any personal hearing and in violation of principle of nature justice.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of the case or to file additional statements if it is warrants.

6. Details of remedies exhausted :

That the applicant begs to state that she has exhausted all the remedies available to her and there is no other alternative remedy than to approach the Hon'ble Tribunal by way of filing the case.

7. Matters not previously filed or pending before any other court :

That the applicant beg to state that she has previously filed ~~xx~~ an application before the Hon'ble Tribunal regarding the grievances which was disposed of as aforesaid order dated 11-8-99. The respondent No. 2 in compliance of the said order disposed of ~~my~~ appeal petition rejecting my prayer much after the date stipulated by the Hon'ble Tribunal, accordingly fresh cause of action arose. This application has been filed before the Hon'ble Tribunal.

8. Relief sought for :

Under the facts and circumstances, the applicant 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 the records be further pleased to grant the following relief :-

8.1. The Hon'ble Tribunal be pleased to declare the action of the respondents exercising powers to place the applicant under put off

put off duty, without payment of subsistence allowance for about 2 years is arbitrary, illegal unconstitutional being violative of Article 14 and 21 of the Constitution of India and be pleased to quash and set-aside the enquiry proceedings and the findings depended upon it and the punishment imposed by the disciplinary authority.

8.2. Be pleased to declare the Enquiry proceedings, its findings and the punishment imposed by the disciplinary authority, as illegal invalid and in operative in law and is without application of mind and in violation of principles of natural justice and further direct the respondents to re-instate the applicant with all consequential service benefits including arrear salary, allowances etc.

8.3. Be pleased to declare the punishment of removal from services as arbitrary, illegal and without jurisdiction as the applicant was in no way involved into any kind of misappropriation of Govt's money and no pecuniary loss occurred to the Govt's exchequer.

8.4. The Hon'ble Tribunal also be pleased to set aside and quash the order dated 29.12.99 (as in Annexure - 8) by which the appeal of the

of the applicant was rejected by a most cryptical and non-speaking order and also be pleased to direct the respondents ex-gratia payment in terms of the Government of India, Department of Posts Order No. 19-36/95-ED and Trg. dated 13.1.97 and apex courts law laid down.

8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and to which this Hon'ble Tribunal deems fit and proper in the interest of justice together with cost.

9. Interim order prayed for :

Pending disposal of this application, the applicant may be granted subsistence allowances to maintain her livelihood. The respondents be directed to pay ex-gratia payment in terms of the Annexure - U and the apex courts law laid down and/or to allow the applicant to be re-instated in her service.

10. Particulars of the I.P.O.

I.P.O. No. : OG 494321.

Date : 8-4-2002

Payable at : Guwahati C.P.O.

11. Enclosures :

As stated above.

VERIFICATION

I, Smti. Bina Rani Nath, wife of Late Mohim Chandra Nath, aged about 35 years resident of Village Mohonpur, P.O. Mohenpur, Dist. Hailakandi, Assam, do hereby solemnly affirm and verify that the statements made in para 3, 4(14, 16, 17, 22), 5, 6 and 7 are true to my knowledge and those made in para 1. (2 to 13, 15, 18, 19, 20, 21 and 23) are matters of records which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this 24 day of April of 2000 at Guwahati.

Bina Rani Nath

DEPONENT

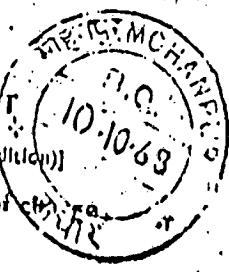
ANNEXURE-A

A.C.G.61

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

[See Rule 267, Posts and Telegraphs Financial Handbook, Volume I (Second Edition)]

Charge Report and Receipt for cash and stamps on transfer or change of



Certified that the charge of the office of E.A.M. Mohampur B.O.

made over by (name) S. Feri Mohim chandra Nath;

to (name) Bina purni Nath;

on (date) 10.10.68.

at (place) Mohampur.

after noon in accordance with Memo

dated 9.7.68

from the G.P.R.P. H.L.K.

Sub-div.

Bina purni Nath

Relieving Officer.

(P.T.O.)

Attah
S. J. Geet

—27—
ANNEXURE-B

To

The Inspector of Post Offices,
District Malakand, Assam.

Sub:

Detection of Fraudulent Act and
defalcation of Account in S.B.
Account No. 98578 of Srimati
Bijoya. Roni. Das.

of Mohanpur Branch Post Office
by Sri Krishnath Dhopi, BDDA (now
under suspension.)

Sir,

13.3.93.

With respect and humble submission,
I have the honour to state the following facts for
favour of kind information and necessary action.

That Sir, S.B. Account No. 98578 of the
Branch Post Office, Mohanpur, the holder of the S.B.
Account Smti Bijoya Roni ~~was~~ approached this
Branch Post Office on 6.3.93 for depositing certain
amount.

That sir, on first glance it is found that
Branch Post Master's signature is forged on the S.B.
Account Pass Book. On enquiry it is revealed that
the holder of the Pass Book on several occasions handed
over the Pass Book along with Cash for deposit to
Sri Krishnath Dhopi BDDA (now under suspension) for
ourning deposit without the knowledge of undersigned.

On scrutiny of the Pass Book it is seen
that the said sum used the official seal and forged
my signature on several deposits. On further scrutiny
of the S.B. journal following discrepancies were
detected against the dates mentioned :-

- (1) 13.9.94 Deposit shown Rs. 300.00
- (2) 5.10.94 " " Rs. 500.00
- (3) 4.11.94 " " Rs. 500.00

Contd. 2.

[Signature]

28-
8

(4) 6.12.94 Deposit shown Rs. 700.00
 (5) 6.1.95 " " Rs. 500.00
 (6) 3.2.95 " " Rs. 800.00

All these dues and deposits are recorded at a glance and these deposits are not entered in the S.B. Journal and daily accounts, i.e. these transactions are totally false. It will be worthwhile to mention here that the said Kashlambh Dhupi and the holder of the Pass Book are very much in friendly terms.

It is therefore prayed that the matter may kindly be verified and necessary action against erring P.D.D.A. under suspension be taken to protect the interest of the Department on due verification of facts as there were other complaints from the public of the locality against him.

You're faithfully,

Smti Binafani Nath
I.P.M.



M.D.C. - 13, 3/95

*Attn: Smti Binafani Nath
I.P.M.*

ANNEXURE-C

The following records were seized
from Mr. Lepser. Bo is in C.W. with a ledger
and appropriate to the Govt. in view
from SB/RD C/BS.

1) Bo of account Books for 10 Period
~~from 1.6.74 to 31.12.75~~
from 1.6.74 to 31.12.75

2) Bo A/P. 5000/- from 1.2.75 to 15.3.75

3) Bo Journal from 1.3.74 to 15.2.75

4) Bo Journal from 1.3.74 to 15.2.75

5) Bo Journal from 16.2.74 to 16.1.75

6) Bo Journal from 17.1.75 to 2.3.75

7) Bo SB Journal from 3.3.75 to 16.3.75

8) Bo RD Journal from 1.7.74 to 31.7.81

Signature of the
BPM
Ganti Bina Paninath

Ans.
20/3/75
Divisional Inspector
of Posts & Telcos
Mallabandhi Gram Panchayat
Muzaffarpur

attested

1. Copy to Op. B Divisional Inspector
of Posts Office
Hallikar Sub-Division
Torre Bazaar Ward
Bhar. Mohanpur B.O.
NO. A/100 Mohanpur. Dabhol N.H.

Sub:- Regarding fixation of
Mohanpur B.O.

Please treat yourself "Cut off"
from Sule 10/2 immovable property
and you are directed to hand
over the charge of the Bazaar
Shankar Ward. in part of which

formal memo will be issued
in due course.

Divisional Inspector
of Posts
Hallikar

attd

1/12/64 July

26

१०.१०.६१/A.C.O.-६१

भारतीय डाक विभाग

DEPARTMENT OF POSTS, INDIA

(प्रतिनिधि २०७, राजनार वित्त पुस्तकों का खण्ड I, फिरीय उन्नताण)

(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)

वार्ता की वदनी पर चार्ज रिपोर्ट और नकदी और टिकटों की रसीद
Charge, Report and Receipt for cash and stamps on transfer of charge

प्रमाणित निधि जाता है कि

Certified that the charge of the office of The B.P.M.
Mohampur B.O

(नाम) (name) वा
was made over by (name) Smti Binapani Nath

(नाम) (name) Smti Raben Ch. Nath

स्थान
at (place)

Mohampur

on the (date) 27/3/95 after noon in accordance with order
27/3/95

मार्ग
Date 27.3.95

के अनुसार दिनांक
from 3.03.1995 to 31.03.1995

Relieved Officer
भारतीय डाक विभाग
Relieved Officer

Relieving Officer
27/3/95
[८०१०३० (P.T.O.)

Smti Binapani Nath

Relieving Officer
27/3/95

attd

ANNEXURE-F

GOVT. OF INDIA
MINISTRY OF COMMUNICATION
DEPARTMENT OF POSTS
OFFICE OF THE SR. SUPDT. OF POST OFFICES, CACHAR DN.
SILCHAR-788001

No. A-99/PF

Dated Silchar the 3-4-1995

Whereas a disciplinary case is contemplated against Smti Binapani Nath, EDBPM, Mohanpur EDBO (in a/c with Kalibari Bazar S.O.) under Rule 8 of P&T ED Agent (Conduct and Service) Rule, 1964.

Now, therefore, the undersigned placed the said Smti Binapani Nath off duty with effect from 27-3-95 (A.N) under Rule 9(I) of the EDA (Conduct & Service) Rule, 1964.

During the period of his off duty, Smti Binapani Nath will not be entitled to any allowances. // ✓

SD/

(P. NATH)
Sr. Supdt. of Post Offices,
Cachar Dn: Silchar-788001.

Copy to:-

REGD/A.D. 1. Smti Binapani Nath, EDBPM, Mohanpur EDBO (put off duty) via Kalibaribazar S.O.
2. The SPDPOs, Hajlakandi Sub-Dn: w.r.to his letter No. Al/Mohanpur dated 27-3-95,
3. The Sr. Postmaster Silchar H.O. for information and necessary action.
4. The S.P.M. Kalibaribazar S.O.
5. The Vigilance Register, Divl. office, Silchar.
6. The ASPOm(HQ) Divl. office, Silchar,
7-8. Spare.

Sr. Supdt. of Post Offices,
Cachar Dn: Silchar-788001.

Attn: J

DRIVE, OR, THEDA
BUDDEY OR TAKEDAWAY,
DEPARTMENT OF POST
R. SUPPORT, OR, POST OFFICES, CACHING OR
TELEGRAMS, OR,

1000 No. F1-1/95-06

Dalton. Miller the 2-1-96

MEMORANDUM

The undersigned proposed to hold an enquiry against Smti. B.
Brijani Nath, EOBPM Mohanpur EDBO (now put off duty) under Rule 8
of P.R. E.O. Agents (Conduct and Service) Rules, 1964. The substance &
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 Article of charges (Annexure-I). A statement of the
imputations of mis-conduct or mis-behaviour in support of each
Article of charge is enclosed (Annexure-II). A list of documents by
which and a list of witnesses by whom the Articles of charge are
proposed to be sustained are also enclosed (Annexure-III and IV).

2. Smt. Nina Pand Nath, DOBPM Mohanpur, EDBO (now put off duty) is directed to submit within 10 (ten) days of the receipt of this memorandum/completion of inspection of listed documents, a written report of his defence and also to state whether she desires to appear in person.

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

5. Smti Binapani Nath, EDBPM Mohanpur, EDBO (on put off duty) further informed that if she does not submit his written statement of defence on or before the date specified in para 2 above or appears in person before the Inquiring Authority or other Agent conduct and service Rules 1964 or the orders/ directions issued in pursuance of the said rule, the Inquiring Authority may hold the inquiry against him ex parte.

The receipt of this Memorandum may be acknowledged.

(P. MATH)
Sr. Supdt. of Post Offices,
Cachar Dist: Silchar- 788001.

11. I wanted to:-

Anti Minapani Nath, EDPM Mohonpur (on put off duty
via Mahanup P.O., Kalibari Bazar, Dt- Maitakandi.
Official file (govt branch).

• ~~internal file (left branch)~~
vigilance file.
• (L) divi. office.

DEPARTMENT OF STATE
Washington, D. C.
Cable Address: WASHCABLE - 700001.

at High

APPENDICES

ANNEXURE I
Statement of witness or charges brought against Compt. and
Ch. Off. Compt. and Ch. Off. (now put off duty)
Article: I
Smt. Bina Pant, etc.

Article::

Accepted sum of Rs. 300.00 on 13-9-94
Rs. 500.00 on 5-10-94
Rs. 500.00 on 4-11-94
Rs. 700.00 on 6-12-94
Rs. 500.00 on 6-1-95
Rs. 800.00 on 3-2-95.
Total Rs. 3300.00 (Rs. 3300/-)

total Rs. 3300.00 (Rs. three thousand three hundred) on 3-2-95.
the deposit of said sum Rs. 3300/- standing
thereabove noted amount on above dates for Rs. 3,300/- standing
2. on at the said 2090. Sinti Bina Pani Nath, DIPM entered the deposit in
her initials and date stamp impression of the office; but did not
accept the aforesaid sum of Rs. 3,300/- in the Govt. Account as
required under the provision of Rule 131 of the rules for branch
office.

Article::: II

Article: II
Sinti Binapani Nath, DDOPI Mohanpur DDO while functioning
as such accepted the sum of Rs. 100/- on 30-4-94 us. 300/- on
30-6-94 (Total Rs. 400/-) and the pass book of the Shri Mohanpur
EDDO no A/c No. 92026 from the depositor Shri Vilayat Hussain
Baskar of Mohanpur for depositing the said amount to his
account. She entered the said deposit in the RD pass books,
authenticated the deposits by her initials and date stamp impre-
ssion of the office but did not credit the aforesaid sum of Rs.
400/- in the Govt account as required under the provision of
rule 131 of the Govt. of India Account of the rules for branch
offices.

Article :::: III

Article :: III
Smti Bina Pani Nath, while functioning as EDBPM Mohanpur during the period from 30-4-94 to 3-2-95 by her above acts mentioned in article I & II above exhibited lack of integrity and deviation to duty as required under the provision of Rule 17 of P.M. (Conduct and service) Rules 1964.

Article:: 1

131. Said Sinti Rina Puni Nath, thus violated the provisions of the rules for branch offices.

...2/-

attached

Müller et al.

around
this RD
(L) 110
110 lbs.
etc. believe
when math
calculated the
answers mostly

Article: III

Article:III
Smti Bina Pani Nath, while functioning as EDBO, Mohanpur, Muz. during the period from 30-4-94 to 3-2-95 did not credit the amount mentioned in the article I & II above to Govt. A/c on the dates mentioned in the article there in for depositing the said amount in the respective pass books. Said Smti Bina Pani Nath entered the aforesaid deposits in the respective pass books and authenticated the said entries by her initials and date stamp impressions on the respective dates of Mohanpur EDBO. But the said Smti Bina Pani Nath did not credit the aforesaid amount in the Govt. account of Mohanpur M.D.O on the respective dates or on any other subsequent date/dates.

Rule 17 of the PGT ED Agents (Conduct and service) Rule, 1964.

ALTEKIND LUTTI

1) SB pass book of Mohanpur SB A/c. No. 88578 depositor Bijoya
2) SB A/c Book of Bindle Behari Das vill Nitainagar P.O. Mohanpur.
3) SB pass book of Mohanpur RW A/c No. 92026 depositor Smiti
4) SB journal of EDBO from 3-1-92 to 14-3-95, SB-journal 29-A
5) SB A/c Book for the period 1-6-94 to 31-1-95 & sub. 95 to
15-3-95.

Annexure IV

Annexure IV
List of witnesses by whom the articles of charges framed against Smti Rina Pani Rath ED BPM Mohenpur EDDO (Now on put off duty) are proposed to be sustained.

1) Smti Bijoya Rani Das, depositor of Mohanpur SII A/C No. 1/2072 S/C Sri Deodar Behari Das, vill Nitulnagar Pt. II P.O. Mohanpur. 2) Smti Gulzar Hussain Laskar S/C late Kuresh Ali Laskar vill Mohanpur Pt. IV P.O. Mohanpur. 3) Smti Kali Prabha Kulkarni Subramani, Vill. Kulkarni.

Outline

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ANNEXURE-J

ANNEXURE
WITH THE TREATY
CONCERNING THE
TERRITORY OF PUNJAB.

Volume 1, 116 and 100 of Public and Telegraph Finan-
cial; Volume I, Second Edition and Rule 100 of
the "Handbook," Vol. III / Part I II First Supt.

HB 12680 1976-1977 39

भारतीय डाक विभाग

DEPARTMENT OF POSTS INDIA.

१ रान नार विड पालाम ५०८ १०८ नियम ४, १५४, १५९ नं।
 १६० तथा रान नार विड पालाम ५०८ १११ नियम ११।
 यानी वर्षावाण के नियम १०८ नं। नियम १०८ वाला
 उपर्युक्त।

7 See *Rules B, 154, 159 and 160 of Posts and Telegraphs Rules, 1947 Handbook, Volume I, Second Edition and Rule 160 of P. & T. Finance Handbook, Vol. III & Part I of Post Rule 160 (Repairs).*

ગુરુચાર્ચાળી Book No. WB 12680 રાખી નંબર Receipt No. 54

Received from V. S. S. 1000/-
W.H.S. 300/- 1000/-
On account of the present political situation
and the place the British 1/2 No. 3 Regt
dep. Sipri Siv. 1000/-
G.S. 1000/- 1000/-
40,000/- Bkn.

卷之三

DEPARTMENT OF EDUCATION

Monogrammed by
John C. H. Bannister
1891

117
Designation
S. 1-50P/L-38 Prg 91 dtd. 2-6-32
S. 1-50P/L-38 Prg 91 dtd. 2-6-32
S. 1-50P/L-38

soft

central

To

The Sr Superintendent of Post offices
Cochin Division, Silchar.

Subj:

Submission of written statement of defence

Ref:

Your No. FI-I/95-96 dated 21.1.96

Sir,

In support of my defence, I beg to place before you the following few lines for favour of kind consideration and necessary action.

That Sir, in reply to the charge framed against me in the Article No. 1, 2, and 3 as it is stated that I submitted my written statement earlier to the authority and the circumstances under which the amount was misappropriated were clearly explained to my written statement. However, it is again informed that the handwriting in the Pass Books were Shri Kashinath Dhupi, EDDA and the EDDA took the money in my absence and showed the amount as deposited by impressing the Date stamp of the office and put my signature in the Pass Books.

The misappropriated money was deposited by me only on the ground that I am working as BPM them and I could not avoid my responsibility in this respect.

You are, therefore, requested kindly to take lenient view into the matter and exempt me from the charges framed against me as I am not actually responsible for the misappropriation.

Date: 29/1/96

Yours faithfully

Smt. Bina Devi Nath


Mem. of Inst. ANNEXURE - J

From

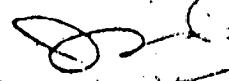
Suo. Dist. Inspector of P. U.
Karnataka and Mysore
Belgaum 560010

To Regd.

Smt. Benipati Nath
EDDA (Transport)
Mohorpur B.O.

No: A/1/By/EDA/Mohorpur Date/At cc 5-8-96.
Sub: Rule - 8 of Pdt EDA (Contract & Service) Rule,
1964. against Smt. Benipati Nath, EDA Mohorpur.

I am the Inquiry Officer in the
Proceedings against Smt. Benipati Nath, EDA
(Transport). Mohorpur B.O. Your evidence/ presence
is considered material. I request you to
appear before me on 21-8-96 at 1130 hrs
at Halkaradi P.O. without fail.


(B.K. Shinde)
Suo. Dist. Inspector of P. U.
Karnataka and Mysore
Belgaum 560010

Copied to

by 

- 1) K. M. Nath, EDA P.O. Belgaum West Sub. Dist.
Sikhs to attend and present the reason
of absence as above. (By hand)
- 2) The Smt. Inspector of P.O. Belgaum for his
intervention with him No. E1-145-56 21-8-1996.
- 3) The Smt. Inspector of P.O. Belgaum kindly
arrange setting arrangement at his office.

Sd/-
(B.K. Shinde)
Suo. Dist. Inspector of P. U.
Karnataka and Mysore
Belgaum 560010


attd

404 Annexure-K

(b)

Police Station, Muz. B. I. H. I. 22/8/96 (Continued)
 4. (b) (i) Under 1960 against Sri. Binapani Nath
 D.D.P.O. (Dist. M.) Mohanpur P.W.

Venue - Hailakandi P.O.

Date - 21-8-96.

Time - 11:00 AM.

Officers present:-

- 1) End. Binapani Nath, S.P.
- 2) Sri K. M. Nath, SDPO, Silchar & P.

Smt. Binapani Nath, S.P. was asked whether
 Smt. Meena of charges issued from S.D. Supdt. of P.W.
 was received by her and replied in affirmative. Then
 the contents of the memorandum was elaborately
 read out and translated in Bengali and asked
 whether she understood the contents. She replied
 that she understood the charges. End. Binapani Nath
 framed against her in the case. She does not
 advise any of the charges and desires all the
charges withdrawn.

Smt. Binapani Nath has been given time
 till 9 in the morning said memorandum as to when
 to fix a date for examination of the documents
 to her by fixed on 24-9-96 at 12:00 PM at
 Hailakandi P.O. Sri K. M. Nath P.O. is requested to
 produce the documents on the date and venue
 as above & present the case accordingly.

Smt. Binapani Nath is hereby directed to
 intimate to zone and address 2 days before
 Assistant of the district to appoint at the latest
 by 31-8-96 possibly provided the person to
 whom should not less than two days
 in advance, more than two days
 the court or magistrate (Court) also be enclosed
 the witness, as far as possible today.

Min. 21/8/96
 (K.M. Nath)
 (SDPO Silchar P.W.)
 P.P.

21/8/96
 (B.M. Laha)
 As D.M. Inspector of P.W.
 Kaliangpur Sub-Division
 Regiment 700/10

Attest
 J.P.

Annexure - 1

Proceedings of Rule 8 of P.T.O. & Agents
(Court of Criminal Appeals) dated 19.6.1966 against Shri. Birendra
Nath, Police (now P.D.F.) Mohanpur B.P.

Verdict - It is a fact of D.P.O.

Date - 26-9-86

Time - 12.00 noon.

Official process.

1) Sub. Birendra Nath, S.P.

2) S/o K. M. Nath, S.D.P.O. & Collector (W) + P.O.

Today is the date for examination of documents
listed in the charge sheet issued by S.P. Supt. of P.D.
Sircor with his memo no. E.I. 1/46-76 dt. 2-1-86
and the P.O. has accordingly been asked to produce
the documents as follows -

- 1) Mohanpur SB Cyc No 98578 deposited by Sircor on 13.7.84.
- 2) Mohanpur D.P.O. Book no 92026 deposited by Sircor on 30.6.84.
- 3) RD Journal of Mohanpur B.P. Period from 3-1-92 to 16-3-95
(Ex-2)
- 4) Mohanpur SB Journal for period from 29-6-91 to 16-3-95
(Ex-4)
- 5) Mohanpur B.P. Book Period from 1-6-94 to 30-1-95
+ 2/95 to 15-3-95; (Ex-5 & Ex-6)

The above all documents Ex-1 to 6 were
examined by Sub. Birendra Nath (S.P.) and with which
he (Sircor) gave a false statement to Mohanpur B.P. On the other
denied the fact that signatures available in the
above mentioned SB are from book no 98578 on 13.7.84,
S-1094, 6-11-94, 6-12-94; 6-1-95 + 3-2-95 and the
signature available in RD P/Book no 92026 on 30.6.84
+ 20-6-84 of him and she told that those signatures
were forged by S/o Kashi Nath Shrotri, S.D.A. Mohanpur.

Sub. Birendra Nath told her later on 26-8-86
that he/she will not engage any defense assistance
and she will plead herself. Today during C.I.
S/o D.P.O. as well remain silent in his statement
however, he will remain silent in his statement
however, he will not engage any defense assistance
and will not take up any defense assistance
according to his statement he is a P.D.P.

In D.P.O. previously he said that he was completely responsible
for his wife and other members of the family and
he worked voluntarily for the closure of
D.P.O. in case of

49 7.6

ANNEXURE 6

✓

Since the accused reported his
unwillingness in writing & positively before the
Highway Committee to continue the hearing
in any further, the case is therefore
closed and adjourned for ever.]

(B. K. Saini).

SD POS, Kozangarh
and Highway Officer.

attd
S

21

The following copy of S.D. 1 be forwarded.

On 13/9/94 State Stat. on examination of all the documents listed in Memorandum issued by S. S. As Sikkim State has been on 13/9/94 stated 21/1/94 produced before me. I finally the State Stat. on the withdraw of the case against me. Post Bond no 335378 on 13/9/94, 5110194, 4111194, 6112194, 6113194, 312195 and also the signature available in R.B. Post Box no 92026 on 30-9-94, 30-6-94 are not of L.O.D.A. of my office & cleverly manage to get the two post box.

The amount involved in the case was, actually, not recovered by me, but as I was in sole charge of the seals etc. I reluctantly accepting the responsibility of the happenings for which I already paid the amount of Rs 3700.00 Rs three thousand seven hundred only to the Govt. Since I took all the responsibility for the loss sustained by the department I do not want tolinger the case.

I therefore pray to you to give any further order I further beg to State that my statements submitted earlier in this case are true, Acceptability of the entire happenings for which I have sustained a loss was above of the loss due to seals etc. I pray for the release of the seals etc. I pray for the release of the seals etc.

Under the circumstances stated above I therefore pray to restate me. Considering the poverty of loss.

21-09-96

21.9.96
21.9.96
Siddhartha
SD 1703 at P.O. your faithfully,

Smti Binapurni Nath

attd. M. J.

44

Annexure-I

DEPARTMENT OF POST & TELEGRAMS
OFFICE OF THE MEMBER GOVT OF POST OFFICIALS
CASHIER DIVISION, SILECHAR - 781001

Memo No. F1-1/95-96

Dated Silchar the 14.1.97.

In this office memo of even no dated 2.1.96, it was proposed to hold an enquiry against Smti Binapani Nath, Mohanpur EDBO (now put off duty) under Rule 8 of P&T agents (conduct & service) Rules, 1964. The substance of the imputations of misconduct or misbehaviour on the basis of which the enquiry was proposed to be held was sent out in the form of charges (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each of the articles of charge was also enclosed there to (Annexure-II). List of documents by which and list of witness by whom the articles of charges were proposed to be sustained were also enclosed there to (Annexures-III & IV), which are reproduced below:-

ANNEXURE-I

Statement of article of charges framed against Smti Binapani Nath, EDBPM Mohanpur EDBO (now put off duty)

Article: I

Smti. Binapani Nath, while functioning as EDBPM Mohanpur EDBO accepted sum of Rs. 300.00 on 13-9-94
Rs. 500.00 on 5-10-94
Rs. 500.00 on 4-11-94
Rs. 700.00 on 6-12-94
Rs. 500.00 on 6-1-95
Rs. 800.00 on 3-2-95

Total Rs. 3300.00 (Rs. Three thousand
three hundred)

And the pass book of the Mohanpur SB A/C No. 98578 from the depositor of said SB A/C Smti Bijoya Rani Das for depositing the above noted amount on above dates for Rs. 3,300/- standing open at the said EDBO. Smti Binapani Nath, EDBPM entered the said deposit in the pass book on each day authenticated the deposits by her initials and date stamp impression of the office; but did not credit the aforesaid sum of Rs. 3,300/- in the Govt. account as required under the provision of Rule 131 of the rules for Branch Office.

Article: II

Smti Binapani Nath, EDBPM Mohanpur EDBO while functioning as such accepted the sum of Rs. 100.00 on 30.4.94 Rs. 300.00 on 30.6.94 (Total Rs. 400.00) and the pass book of them Mohanpur EDBO RD A/C No. 92026 from the depositer Shri Dilayor Hussain Laskar of Mohanpur for depositing the said amount to this RD account. She entered the said deposits in the RD pass books, authenticated the deposits by her initials and date stamp impression of the office but did not credit the aforesaid sum of Rs. 400.00 in the Govt account as required under the provision of Rule 131 of the rules for Branch Office.

Article: III

Smti Binapani Nath, while functioning as EDBPM Mohanpur EDBO during the period from 30.4.94 to 3.2.95 by her conduct mentioned in article I & II above exhibited lack of fidelity and devotion to duty as required under the provision of 17 of P&T agents (conduct and service) Rules 1964.

be Sealed

Attest

Signature

45

ANNEXURE : I

Statement of the Impropriety of conduct of
Smti Binapani Nath in support of the article of charges framed
against Smti Binapani Nath, EDBPM Mohanpur EDBO (now under
P.T.O. off duty).

Article : I

Smti Binapani Nath, while functioning as EDBPM
Mohanpur EDBO accepted a sum of Rs. 300.00 on 13.9.94, Rs.
500.00 on 5.10.94, Rs. 500.00 on 4.11.94, Rs. 700.00 on
6.12.94, Rs. 500.00 on 6.1.95, and Rs. 300.00 on 3.2.95
(Total Rs. 3300.00) (i.e. Three thousand three hundred only)
in the SB pass book of Mohanpur EDBO SB a/c no. 98578 from
the depositor of said SB account Smti Bijoya Kani Das for
depositing the said sum of Rs. 3300.00 on the above noted
dates Smti Binapani Nath EDBPM entered the above noted amount
in the pass book of SB a/c no. 98578 on the dates mentioned
above under her initials, cast the balances in the pass book
after each deposit and authenticated the deposits by the
date stamp impression of the EDBO and return the pass book to
the depositor. But Smti Binapani Nath did not credit the
above amount on the dates mentioned above or on any other
subsequent date in the books records and Govt. account of
Mohanpur EDBO.

Said Smti Binapani Nath, thus violated the
provisions of Rule 131 of the Rules for Branch Offices.

Article : II

Smti Binapani Nath while functioning as EDBPM
Mohanpur EDBO accepted the sum of Rs. 100.00 on 30.4.94
alongwith pass book of Mohanpur EDBO RD A/C No. 92026 from
the depositor Shri Dilyar Hussin Laskar for depositing the
above noted amount to the RD A/C No 92026. Smti Binapani
Nath entered the above noted deposits in the RD pass book
on each date mentioned above, cast the balance after each
deposit in the pass book under her initial and authenticated
by the date stamp impression of the EDBO Mohanpur and return-
ed the RD pass book to the depositor. But Smti Binapani Nath
did not credit the above noted amount on each date mentioned
above or on any other subsequent dates, in the books record
and Govt account of Mohanpur EDBO. said Smti Binapani Nath
thus violated the provision of Rules 131 of the Branch
offices.

Article : III

Smti Binapani Nath, while functioning as
EDBPM Mohanpur EDBO during the period from 30.4.94 to 3.2.95
did not credit the amount mentioned in the article I & II
above to Govt A/C on the dates mentioned there in for deposit-
ting the said amount in the respective pass books. Said Smti
Binapani Nath entered the aforesaid deposits in the respective
pass books and authenticated the said entries by her
initials and date stamp impressions on the respective dates
of Mohanpur EDBO. But the said Smti Binapani Nath did not
credit the aforesaid amount in the Govt. accounts of Mohanpur
EDBO on the respective dates or on any other subsequent date.

Said Smti Binapani Nath EDBPM Mohanpur EDBO,
thus failed to maintain absolute integrity and devotion to
duty as enjoined in Rule 17 of the P.T. E.B. agents (Conduct &
Service) Rules, 1954.

Attd

ANNEXURE I

Summons and documents by which the articles of charges on part off duty) are proposed to be sustained

- 1) SP Pass book of Mohanpur SB A/C No 98578 depositor Smti Rani Das, D/O Binode Behari Das Vill-Nitainagar P.O. Mohanpur.
- 2) RD Pass book of Mohanpur SB A/C No 92026 depositor Smti Bajur Hussain Laskar Vill- Mohanpur pt-IV P.O. Mohanpur.
- 3) RD Journal of EDBO from 3-1-92 to 14-3-95, SB Journal 29-5-91 to 16-3-95.
- 4) B.C. A/C book for the period 1-5-94 to 31-1-95 & Feb'95 to 15-3-95.

ANNEXURE II: IV

List of witnesses by whom the articles of charges framed against Smti Binapani Nath EDBPM (now on put off duty) are proposed to be sustained.

- 1) Smti Bijoya Rani Das, depositor of Mohanpur SB A/C No. 98578 D/O Shri Benode Behari Das, Vill- Nitainagar pt-II P.O. Mohanpur.
- 2) Md. Bajur Hussain Laskar S/O Late Hareech Ali Laskar Vill- Mohanpur pt- IV P.O. Mohanpur.
- 3) Shri A.Saha SDIPO's Hailakandi, Sub-Div. Hailakandi.

Smti Binapani Nath, EDBPM Mohanpur EDBO (now put off duty) was given opportunity to examine the listed documents and to submit written statement of her defence within 10 days wherein she should also state whether she desired to be heard in person.

Aforesaid memo dt. 2.1.96 was delivered to said Smti Binapani Nath on 11.1.96.

Smti Binapani Nath, EDBPM Mohanpur EDBO (now put off duty) submitted written statement of her defence under her letter dated 29.1.96, which is reproduced below:-

In support of my defence, I beg to place before you the following few lines for favour of kind consideration and necessary action.

That Sir in reply to the charge framed against me in the article no. 1, 2 and 3 it is stated that I submitted my written statement earlier to the authority and the circumstances under which the amount was misappropriated were clearly explained to my written statement. However, it is again informed that the handwriting in the pass books were Shri Fashirnath Dhupi, EDDA and the EDDA took the money in my absence and showed the amount as deposited by impressing the date stamp of the office and put my signature in the pass book.

The misappropriated money was deposited by me only on the ground that I am working as DPM there and I could not avoid my responsibility in this respect.

You are therefore, requested kindly to take framed against me as I am not actually responsible for the misappropriation.

In her written statement of defence dt. 29.1.96 she neither wanted to examine the listed documents nor desired to be heard in person.

Yet, as per procedure laid down in Rule 8 of U. P. P. & A. Agents (conduct & service) Rules, 1964 and to give sufficient scope to defend herself Shri B.K.Sinha, SDIPO's commanding sub-division Karimnagar was appointed as Inquiry Officer to inquire into the charges framed against Smti Binapani Nath. Shri K.M.Nath, SDIPO's Officer under the sub-division was appointed as presenting officer under this office on 29.1.96 (both).

Attached

Shri B.K.Sinha, the inquiry officer of the case, on completion inquiry submitted the inquiry report under his name no A1/Inq/EDA/Mohanpur dated 3.1.97, which is reproduced below:-

Inquiry Report in the case against Smt Binapani Nath, EDA Mohanpur EDBO under Rule 8 of the P&T ED Agents (Conduct & Service) Rules, 1964.

1.1 Name of I.O and letter of authority:-

(a) Sri B.K.Sinha SDIPO's, Karimganj appointed to act as I.O. vide Sr. Supdt. of PO's, Silchar memo no E1-1/95-96 dated 8.2.96.

(b) Name of P.O. :-

Sri K.M.Nath SDIPO's Silchar (W) Sub-Division.

(c) Name of charged official:-

Smt Binapani Nath EDBPM, Mohanpur B.O. (now Put off) None.

(d) Name of Defence Assistant:-

(e) Disciplinary Authority :-

The Sr. Supdt Of Post Offices, Cachar Division, Silchar.

2.1. The charged official participated in the enquiry from begining to end. No defence assistant was appointed and the charged official pleaded in the case her self. She vide her letter dt. 26.8.96 intimated the I.O. that she has no Defence Assistant and she her self will defend the case in due proceeding. Article of charge & substance of imputations of Smt Binapani Nath, while functioning as EDBPM Mohanpur B.O. conduct or misbehaviour. The following I, II, & III articles of charged have been framed against Smt Binapani Nath.

Article - I

Smt Binapani Nath, while functioning as EDBPM Mohanpur EDBO accepted sum of Rs.

Rs. 300.00 on 13-9-94

Rs. 500.00 on 5-10-94

Rs. 500.00 on 4-11-94

Rs. 700.00 on 6-11-94

Rs. 500.00 on 6-1-95

Rs. 800.00 on 3-2-95

Total Rs. 3300.00 (Rs. Three thousand three hundred)

And the pass book of the Mohanpur SB A/C No 98578 from the depositor of said SB A/C Smt Bijoya Rani Das for depositing the above noted amount on above dates for 3300.00 standing open at the said EDBO. Smt Binapani Nath, EDBPM entered the said deposit in the pass book on each day authenticated the deposits by her initials and date stamp impression of the office, but did not credit the aforesaid sum of Rs. 3300.00 in the Govt. account as required under the provision of Rule 131 of the Rules for Branch Office.

Contd- 5

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Article I II

Smti Binapnai Nath, ED BPM, Mohanpur while functioning as such accepted the sum of Rs. 3300.00 on 30-4-94, Rs. 400.00 on 10-5-94, Rs. 300.00 on 10-6-94 (Total Rs. 400.00) and the sum of Rs. 400.00 on 10-6-94. The sum of Rs. 400.00 was deposited in the Mohanpur EDBO RD A/C No. 92026 from the depositor Shri Dilayar Hussain Laskar of Mohanpur for depositing the said amount to this RD account. She entered the said deposit in the RD pass book, authenticated the deposits by her initials and date stamp impression of the office but did not credit the aforesaid sum of Rs. 400.00 in the Govt. account as required under the provision of Rule 131 of the Rules for Branch Office.

Article I III

Smti Binapnai Nath, while functioning as ED BPM, Mohanpur EDBO during the period from 30-4-94 to 3-2-95 by her above acts mentioned in article I & II above exhibited lack of integrity and devotion to duty as required under the provision of Rule 17 of P&T ED Agents (Conduct & Service) Rules, 1964.

4.0. Case of the D.A.:-
The Sr. Supdt of Post Offices Cachar Division Silchar framed charges in Article I & II against Smti Binapnai Nath that she has accepted sum of Rs. 3300.00 and Rs. 400.00 on dates detailed in aforesaid articles of charges for depositing the amount in SB A/C No 98578 & 92026 respectively which were authenticated by putting her initials and date stamp impressions on each dates but did not credit the amount in the Govt. account as required under Rule 131 of Rules of Branch Office.

The Sr. Supdt of Post Offices Silchar framed charge in Article III against Smti Binapnai Nath that by her acts mentioned in Article I & II exhibited lack of integrity and devotion to duty as required under the provision of Rule 17 of P&T ED Agents (Conduct & Service) Rules, 1964.

5.0. Case of the defendant :-
The charged official in preliminary hearing on 21-8-96 denied all the charges straightway and wanted to go through the documents listed in Annexure III of the charge sheet.

The C.O. examined the documents on 24-9-96 and authenticated the documents were of Mohanpur B.O. She however denied the facts that the articles available on SB pass book No. 98578 on 13-9-94, 5-10-94, 4-11-94, 6-12-94, 6-1-95, 10-1-95 and also the initials available in RD pass book No. 92026 on 30-4-94 & 30-6-94 were not her own but forged by Sri Kashinath Chhipi, EDBA, Mohanpur.

The C.O. took up the moral responsibility of the sole responsibility for the fact that she was not the sole responsible for the safe custody of Date Seal & other valuations of the office and thereby freely volunteered to continue for any further hearing of the case. In written statements on the day she prayed not to fix any further date for hearing & to close down case on that day. The hearing of the case was thereby closed on 24-9-96.

Affd
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D.P.

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1. Findings and Conclusions

1.1. Findings into all the above facts, list of documents it is clear that the loss of Rs. 3700.00 sustained by the Govt. was due to negligence of duty and most irresponsibility on the part of Smti Binapani Nath about the safe custody of date seals and vouchsafing of the office. More detail of the initials on the pass book is not acceptable and believeable. The C.O in her written statement on 24-1-96 mentioned clearly that she is responsible for the loss and thereby she has already paid the amount of Rs. 7.0. Findings.

7.1. On the basis of documentary evidences adduced in the case before me and in view of the reasons given above. I hold that all the three charges against Smti Binapani Nath EDBPM (now put off) Mohanpur B.O. were proved and established. Findings :-

In her written statement of defence dated 29-1-96 Smti Binapani Nath, EDBPM Mohanpur EDBO (now put off duty) admitted the moral responsibility for the defalcations mentioned in the Annexure I & II to this office memo of even no dt 2-1-96. In the enquiry held on 24-9-96 too the charged ED official admitted the moral responsibility for the loss of Govt. money being the EDBPM of Mohanpur ED BO and allowed unauthorised person to accept money from the members of public for depositing in their respective SB ~~deposits~~ since the charged ED official admitted all the articles of charges at all stages & it is not considered necessary to discuss here further and I also consider that the findings of the enquiry officer holding Smti Binapani Nath, EDBPM Mohanpur EDBO (now put off duty) solely responsible for the case is based on records & exhibits and I also hold her fully responsible for the loss of Govt money in the shape of movements of SB deposits. ✓

The offences committed by the charged ED officials calls for different action.

ORDER:-

I, Shri P. Nath, Senior Supdt of Post Offices, Cachar Division, EDBPM Mohanpur EDBO (now put off duty) do hereby orders that Smti Binapani Nath, EDBPM Mohanpur EDBO with effect from the date she was put off from duty.

1/1
(P. NATH)
Senior Supdt of Post Offices
Cachar Division Silchar-788001

Copy forwarded to
1. Smti Binapani Nath EDBPM Mohanpur EDBO, P.O. Mohanpur
Vila-Hailakandi Kalibaribazar, Dist-Hailakandi.
2. The Sr. Postmaster, Silchar H.O.
3. Anti file, Divl. office.
4. Punishment file Divl. office.
5. The SDI FOS Hailakandi Sub-Dn, Hailakandi.

8
Senior Supdt of Post Offices,
Cachar Division, Silchar-788001

attm

150/15
ANNEXURE (A)

Date - 4.4.97

To,
The Director of Post Offices
Assam, Guwahati-1.

(Through Mr. Superintendent of Post Offices, Guwahati Division,
Sildhar - 1)

Sub:- Appeal against the order dated 14.1.97 and prayer for re-instatement in service by setting aside the order of removal.

Respected Sir,

Most humbly and respectfully I beg to prefer this appeal against the order dt. 14.1.97 removing me from service on the following grounds :-

1. That the articles of charges framed against me were baseless and the same are not related to the appellant.
2. That all the charges were not proved, particularly the fact of forgery committed by Shri Kashi Nath Dhopi, EDDA.
3. That the Inquiry proceedings were vitiated due to glaring procedural lapses in fact as well as in law.
4. That the punishment inflicted to the appellant is extreme, unusual and too harsh.
5. That the alleged mis-appropriated amount of Rs.3,700/- has been already been deposited by the appellant shouldering her moral responsibility.
6. That the appellant is an innocent, duty bound servant and there has not been anything against her during her last 25 years of long service rendered for the interest of the Government of India.
7. That the appellant's mental and physical condition at the relevant time of occurrence of the alleged mis-appropriation of money, was not good as she lost her husband pre-maturely due to cancer. While the appellant was trying to overcome the most depressing situation, the appellant's subordinate took it as a chance and committed the crime in which she is in no way connected. The appellant is made to suffer for no fault of her own.

Under the above-mentioned facts and circumstances, I, the appellant pray that you would be gracious pleased to re-examine the order dt. 14.1.97 removing me from service, call for the records, and after examining the records of the case, would be pleased to re-instate me service with all service benefit considering my long experiences and unblemished 25 years of past service.

Yours faithfully,

Bina Banu Khal
Vill & P.O. Mohanpur
Hailakandi.

To,
The Director of Post Offices
Assam, Gauhati.

Dated 3rd Oct. 197

(Through the Sr. Superintendent of Post Offices,
Cachar Division, Silchar-1.)

Sub:- Reminder to my Appeal dt. 4.4.97 pending disposal.

Sir,

Most humbly and respectfully I beg to lay before you the following few lines for your kind and sympathetic consideration and necessary order:-

1. That I preferred an appeal on 4.4.97 against the order of removal dt. 14.1.97 thereby removing me from service. The said appeal is still pending disposal at your end.
2. That Sir, I am facing great financial hardship and therefore, I am suffering both physically and mentally. I am committing doctors continuously but I do not have money for better treatment. If you kindly allow my appeal and re-instate me in service, it would surely help me in these days of acute hardship.
3. That the real culprit of gas forgery is still working under you and he has not been punished, while I have been punished for no fault of my own.
4. That if my appeal is properly examined and I am heard, the real culprit would be seen and the entire matter of forgery would come to light and the forgery is proved in accordance with the provisions of law, the real culprit could be brought to the book.

Under the circumstances I pray that you would be kind enough to dispose of the appeal as early as possible and further be pleased to put me back in service with all benefit.

Yours faithfully,
Dinesh Panigrahi

Vill & P.O. Molanpur
Nalbari Dist.

Atta
SG

True Copy,

116

OFFICE OF THE HEAD MISTRESS : CHIOTIALI GIRL'S INSTITUTE, BELCHAR.

This is to certify that Shrimati BinaPani Nath Bell
 the 10. P. 100 who was a student of this school has duly passed
 the Matriculation Examination of the Gauhati University, held
 on 15th May 1981, and was placed in the 3rd Division. Her age
 on 1st March 1981 was 17 years 4 months 11 days.

She bears a good moral character.

Dated : 8th char.
 The 12th March/82

Ed/ B. S. Saha
 Head Mistress, 12.3.82.

CHIOTIALI GIRL'S INSTITUTE
 SUCCESSOR OF
 SHILLONG PATRY GIRL'S HIGH SCHOOL
 BELCHAR.

5/6/79
 Extra Head Mistress
 Belchar

attested
 S. S. S.

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 199/99

OF 199

Applicant(s) Govt. Peasant Party NarkRespondent(s) Central Govt. of IndiaAdvocate for Applicant(s) Mrs. N. Chaudhuri, Mr. M. Bhattacharya
Mr. B. S. Ramalingam.Advocate for Respondent(s) Mr. B. C. Pathak, Adl.C.G.S.

Notes of the Registry	Date	Order of the Tribunal
	11-8-99	<p>The applicant was working as Extra Departmental Branch Post Master at Mohanpur. A disciplinary proceedings was initiated against her and thereafter after enquiry she was found guilty of the charges and accordingly she was removed from service by Annexure R, dated 14-1-1997. Against that, pending aggrieved, the applicant preferred an appeal before the appellate authority by Annexure S dated 4-4-1997. However, the appellate authority has not yet been disposed of the appeal. Hence, in the present application,</p> <p>We have heard Mrs. Chaudhuri, learned counsel appearing on behalf of the applicant and Mr. B. S. Pathak, learned Adl.C.G.S.C. On hearing both sides and on perusal of the papers we feel that the appellate authority should dispose of the appeal. Accordingly, we dispose of this application with directions to the appellate authority namely, respondent No. 2, the Director of Postal Services, Anna Circle, G. Guwahati to dispose of the appeal by reasoned order, as early as possible, i.e. within a period of 2 months from the date of receipt of this order no costs.</p>

Certified to be true Copy
S. K. Bhattacharya

- 54 -

Annexure - RgM

दीमा नहीं NOT INSURED		क्रमांक No.
प्राप्ति गत टाके रुपये का मूल्य	A.D	2619
Amount of Stamps affixed	Rs 22 P.	2619
एक रजिस्टरेड पॉस्ट ऑफिस	Post Office	2619
Received a Registered Post	Post Office	2619
विद्युत वाला	Electrician	2619
Addressed to... P. M. Bazar, D. S. C. H.	Signature of Receiving Officer	2619
874-1		2619
दीमा नहीं NOT INSURED		2619
प्राप्ति गत टाके रुपये का मूल्य	Rs 22 P.	2619
Amount of Stamps affixed	Rs 22 P.	2619
एक रजिस्टरेड पॉस्ट ऑफिस	Post Office	2619
Received a Registered Post	Post Office	2619
पत्रांकन का नम्बर	Signature of Receiving Officer	2619
Addressed to... S. S. Chaturvedi, D. S. C. H.	Signature of Receiving Officer	2619
S. S. Chaturvedi - 1		2619

DEPARTMENT OF POSTS INDIA
 OFFICE OF THE POSTMASTER GENERAL, ASSAM REGION
 GUWAHATI-781001

Memorandum No. Staff/2/25-15/99/RP

Guwahati the 29th Dec/99

This is an appeal dt. 25.8.99 submitted by Smt. Binapani Nath, Ex- EDBPM, Mohanpur, Cachar Dn. against the order of removal from service imposed by the Sr. Supdt. of Post Offices Cachar Division, Silchar vide memo. No.F1-1/95-96 dt. 14.1.97.

I the undersigned and the appellate authority have gone through the appeal very carefully and also the proceedings, relevant records of the disciplinary case very carefully. My findings are given below:

After going through the appeal I do not find any ground to dis-agree with the findings of the disciplinary authority. A postmaster during the course of his duty is responsible for Govt. cash and valuables. Member of the public also entrust him with their money for Saving Bank Deposit or for money order. A Postmaster, therefore has to be scrupulously honest and must have the confidence of the Govt. as well as that of the public.

In this case the appellant had misappropriated the Govt. cash and thereby he has lost the confidence of the Govt. as well as the public and therefore she is not fit to work as Postmaster anymore. Though she has credited the misappropriated amount voluntarily, she cannot win back the confidence and trust that has been lost.

Therefore, I the undersigned and the appellate authority hereby reject the appeal submitted by Smt. Binapani Nath and uphold the punishment of removal from service awarded by the Sr. Supdt. of Post Offices, Cachar Division, Silchar vide his memo. No.F1-1/95-96 dt. 14.1.97.

Total non applicative

mark.

(B.SELVAKUMAR)

Appellate Authority

&

Director Postal Services

Assam Region:Guwahati-781001

Reqd.

Copy to -

1. Smt. Binapani Nath, Ex-EDBPM, Mohanpur BO
 2-3. S.S.P.Os, Cachar Division, Silchar.
 4. o.c.
 5. sparc.

27.3.95
 Director Postal Services
 Assam Region:Guwahati-781001

29.9.96
 Director Postal Services
 Assam Region:Guwahati-781001

att'd

E

Annexur-T

No. 57ath/2/25-15/99/RP ad. 29.12.99.

Registration

Label 4 (Small)



भारतीय पोस्टमास्टर जनरल
Postmaster General
काशी धन, गुवाहाटी 781001
Assam Region, Guwahati-781001

भारतीय पोस्टमास्टर
Postmaster General
काशी धन, गुवाहाटी 781001

भारतीय डाक सेवार्थ
ON INDIAN POSTAL SERVICE RL. NO. 3140
dt. 9/12/99

में जन में

To

Smt. Binepani Nath
Ex - E.S.B.P.M.
Mohanpur B.O.



(Cachar 52)
Reclaimed cl. 200 Alagapur P. T. B.O.

attd. R J



FREE SUPPLEMENT TO

Swamy's Compilation of

Service Rules for Postal ED Staff

(Seventh Edition, 1999)

Page 57, Rule 9. Put-off duty:

Substitute the following for the existing Rule 9 (1), (2) and (3):

(G.I., Dept. of Posts Order No. 19-36/95-ED and Trg., dated the 13th January, 1997.)

9. Put off Duty

(1) The appointing authority or any authority to which the appointing authority is subordinate or any other authority empowered in that behalf by the Central Government by general or special order may put an employee off duty:

- (a) where a disciplinary proceeding against him is contemplated or is pending; or
- (b) where a case against him in respect of any criminal offence is under investigation, enquiry or trial.

Provided in cases involving fraud or embezzlement, the employee holding any post specified in the Schedule to these rules may be put off duty by the Inspector of Post Offices or the Assistant Superintendent of Post Offices of the Sub-Division under immediate intimation to the appointing authority.

(2) An order made by the Inspector of Post Offices or the Assistant Superintendent of Post Offices of the Sub-Division under Sub-Rule (1) shall cease to be effective on the expiry of 15 days from the date of such order unless earlier confirmed or cancelled by the appointing authority or the authority to which the appointing authority is subordinate.

(3) An employee shall be entitled per month for the period of put off duty to an amount of compensation as *ex gratia* payment equal to 25% of his basic allowance together with admissible Dearness Allowance thereon on such 25% of basic allowance.

Provided that where the period of put off duty exceeds 90 days, the authority which made the order of put off duty shall be competent to vary the amount of compensation for any period subsequent to the period of first 90 days as follows:

attd

- (i) The amount of compensation as *ex gratia* payment may be increased by a suitable amount, not exceeding 50% of such compensation admissible during the period of the first 90 days, if in the opinion of the said authority the said period of put off duty has been prolonged, for reasons to be recorded in writing, not directly attributable to the Extra Departmental Agent.
- (ii) The amount of compensation as *ex gratia* payment may be reduced by a suitable amount not exceeding 50% of such compensation admissible during the first 90 days, if in the opinion of the said authority the period of put off duty has been prolonged due to reasons to be recording in writing directly attributable to the Extra Departmental Agent.

NOTE 1.— The rate of Dearness Allowance will be based on the increased or decreased amount of compensation admissible under sub-clauses (i) and (ii) above.

NOTE 2.— The payment of compensation for the put off duty period shall not be subject to furnishing of a certificate that the Extra Departmental Agent is not engaged in any other employment, business, profession or vocation.

Provided that an Extra Departmental Agent who has been absconding or remains absent unauthorizedly and is subsequently put off duty shall not be entitled to any compensation as *ex gratia* payment.

Provided further that in the event of an ED Agent being exonerated he shall be paid full admissible allowance for the period of put off duty. In other cases, such allowances for the put off duty can only be denied to the ED Agents after affording him an opportunity and by giving cogent reasons.

NOTE:— Any payment made under this rule to an ED Agent on his reinstatement shall be subject to adjustment of compensation already paid as *ex gratia*.

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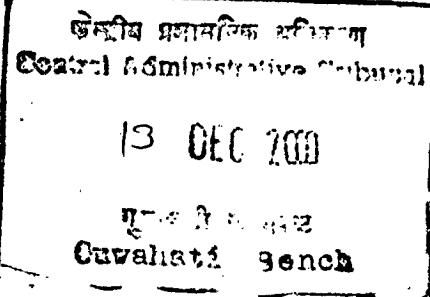
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.



O.A. NO. 144 OF 2000.

SMT. BINA PANI NATH

- VS -

UNION OF INDIA AND OTHERS.

WRITTEN STATEMENTS FOR AND ON BEHALF OF
RESPONDENT NOS. 1, 2, 3, 4 & 5.

I, Shri 1. C. SARMA, Sr. Supdt. of Post Offices, Cachar Dn. Silchar and I have been impleaded party respondents No. 3 in the instant O.A. I have received the copy of the aforesaid O.A. gone through same and understood the contents their of, as such I am competent to verify and file this written statement for my own behalf, as well as for and on behalf of respondents No. 1, 2, 4 & 5.

2. That this answering respondents does not admit any facts, at allegation statements and everments made in the O.A. save and except those have been specifically admitted here under in this written statement. Further this statement which are not borne on records have been categorically denied.

3. That before the traversing the parawise reply to the O.A. this answering respondents beg to state a

Filed by
S. C. Sarma, 78
RESPDT.
Through
Chhunilal Baromah
Asst. Commr. C.S.C.T.
13/12/2000

J. C. Sarma,
Senior Supdt., Post Offices,
Cachar Division, Silchar-788001.

Contd.....

brief background of the appointment of applicant.

Several complaints from the Public of the Mohanpur area were received by this office alleging non payment of amounts of Money orders, non credit of the amounts deposited by them in their respective SB and RD accounts etc. News items were also published in a good number of local "News Papers" alleging such irregularities by the Mohanpur Post Office. On 18.3.95 a public meeting was also held at Mohanpur nearby Mohanpur EDBO premises where one resolution alleging malpractice on the part of the staff of Mohanpur EDBO was adopted, a copy of which was sent to the Senior Supdt. of Post Offices, Silchar, with copy to others for taking suitable action, wherein as many as 94 numbers of local public put their signatures.

All these complaints, Newspaper cuttings resolution were sent to the Sub-Divisional Inspector of Post Offices, Hailakandi Sub- Division, Hailakandi for enquiry and submission of his report Enquiries made by the Sub-Divisional Inspector of Post Offices, Hailakandi revealed non credit of SB/RD/MSY deposits in 1 SB a/c, 2 RD A/Cs and 1 MSY A/C amounting Rs. 3904. 00 and non-payment of one money order for Rs. 2000.00 to the payee i.e. total amount of defalcation was found proved on preliminary enquiry was Rs. 5904.00.

Since a disciplinary action was contemplated against Smti. Binapani Nath, EDBPM Mohanpur EDBO she was placed

put off duty by the SDIPOs, Hailakandi as per Rule 9 (1) of the P & T ED Agents (Conduct and Service) Rules, 1964 with effect from 27.3.1995 (A/N) . Formal orders of "Put off duty" was issued by the Sr. Supdt. of Post Offices, Cachar Division, Silchar under his office No. A-99/PF dated 05-4-1995 as per Rule 9 (2) of the above rules.

Disciplinary proceedings were thereafter initiated against Smti. Binapani Nath, EDBPM Monahpur (Under Put off duty) under Rule 8 of the above rules, under this office memo No. F1-1/95-96 dated 2.1.96. Prescribed formalities were observed, stage by stage, and ultimately she was found responsible for non-credit of this amounts of SB deposits to Govt. accounts, for which charges were framed against her.

✓ Considering the Seriousness of the offences committed by the said Smti. Binapani Nath, which calls for deterrent action she was ordered to be removed from the Post of EDBPM, Mohanpur EDBO under this office memo No. F1-1/95-96 dated 14.1.97.

Smti. Binapani Nath, Ex-EDBPM Mohanpur EDBO thereafter preferred an appeal to the Director of Postal Services, Assam Guwahati, under her letter dated 4.4.97, against the aforesaid orders dated 14.1.97 issued by the Supdt. of Post Offices, Cachar Division, Silchar. The Director of Postal Services, Assam Region, Guwahati being

the Appellate Authority has rejected the appeal submitted by Smt. Binapani Nath and uphold the punishment of removal from service awarded by the Sr. Supdt. of Post Offices, Cachar Division Silchar, under his office memo No. Staff/ 2/25-15/99/RP dated 29.12.99.

4. That as regards the contents of paragraphs 1, 2 and 3 of the O.A. this answering Respondents does not make any comments.

5. That as regards the contents of paragraph 4.1 of the O.A. this answering Respondents does not make any comments. It may be mentioned here that the service as Extra departmental agents, including EDBPM is Governed by the "P&T BB Agents (Conducts and services) Rules, 1964" as corrected from time to time by the authority.

6. That as regards the contents of paragraph 4.2 of the O.A. this answering Respondent respectfully states that ~~the Respondents~~ Smti. Binapani Nath of village and P.O. Mohanpur P.S. Hailakandi had joined as Extra Departmental Branch Postmaster (not Branch Post Manager, as mentioned by the applicant) of Mohanpur EDBO on 10.10.68 and formal appointment letter was issued under this office memo No. A-99 dated 6.11.1968. It is a known fact that the nature of work to be performed by a ED Branch Postmaster i.e. handling Govt. cash, public Money, maintenance of proper accounts/records etc. calls for honesty and sincerity, for which character certificates from two respectable local persons as well as police verification report are being

obtained before issue of appointment letter.

7. That as regards the contents of paragraph 4.3 of the O.A. this answering Respondent respectfully states that Smti. Binapani Nath, might have submitted a report to the SD Inspector of post offices, Hailakandi, on 13.3.1995 but as per this office records complaint and news items in the several local News paper were received/published and the SDIPOs, Hailakandi was asked by this office to enquire into the allegations and submit detailed report to this office. Enquiries made by the said sub-Divisional Inspector of Post Offices, Hailakandi revealed some instances of non-credit of the amounts of SB and RD deposits received from the members of public in Govt. accounts.

As per service records of Smti. Binapani Nath, the then EDBPM of Mohanpur EDBO had been working continuously as EDBPM Mohanpur with effect from 10.10.1968 till 25.3.1995 (i.e. the enquiry conducted by the ~~SD~~ SDIPOs, Hailakandi) and she did never applied for any sorts of leave during this period of 10.10.1968 to 25.3.1995. It is a clean indication that said Smti. Binapani Nath, was on duty as EDBPM, Mohanpur EDBO from 10.10.1968 to 25.3.1995 and as such she was ~~solely~~ responsible for any mis-deed done in the capacity of EDBPM, Mohanpur EDBO. Pass books collected from the depositors reflects date stamp impression of the office against the deposits, which were not available in the accounts and records of the said office. As per

condition of service as EDBPM she was the custodian of Govt. cash, Postage and Revenue Stamps and the Date Stamp of the office. No un-authorised person can use the "Date Stamp" of an office unless un authorised use of the same is allowed or permitted by the EDBPM. In the above ~~six~~ circumstances it is an established fact that unless the said Sri Kashi Nath Dhupi, the Extra Departmental Agent was irregularly allowed by Smti. Bina Pani Nath to manage the works of EDBPM he would not have got the chance of accepting money and Pass Book for deposit in those Pass Books, which is the duty of EDBPM, as well as could not utilise the Date-Stamp of the office.

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As such, by this way or that way Smti. Bina - Pani Nath, the appointed EDBPM Mohanpur was solely responsible for the non-credit of public money in Govt. Accounts and records either committing the misdeed herself or facilitated such misdeed by allowing an unauthorised person irregularly to perform the duties scheduled to be performed by herself only. The plea of misdeed by said Shri Kashi - Nath Dhupi therefore does not stand at all.

7. That as regards the contents of paragraph 4.4. of the O.A. this answering Respondents respectfully states that ^{as} ~~the~~ directed by this office the Sub-Divisional Inspector of Post Offices, Hailakandi had carried out enquiry into the allegations and when, after conducting enquiry, he was confirmed ^{of} ~~or~~ non-credit of public money in the records and accounts of the office he had seized the relative records

granting receipt to the then EDBPM Mohanpur, as per rules and procedure.

8. That as regards the contents of the paragraph 4.5 of the O.A. this answering Respondents respectfully states that a formal letter with his office file No. and date was not issued by the Sub-Divisional Inspector of Post Offices Hailakandi putting her off duty as per Rule 9(1) of the P & T ED Agents (Conduct and Service) Rules 1964 and as such the above orders were not illegal, as alleged. Sarma
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"Put off duty" is not a punishment so that the person should be given opportunity to defend. Punishment was awarded after observing the formalities prescribed in Rule 8 of the above Rules.

It may be mentioned here that formal memo of placing herself under "Put off duty" with effect from 27.3.95 (A/N) was issued by this Officer under No. A-99/PF dated 5.4.1995 and it was also mentioned in the aforesaid orders that during the period of her off duty Smti. Binapani Nath would not be entitled to any allowance, as per the Rule 9(3) of the above rules prevailing on the date of issue of the said orders.

9. That as regards the contents of paragraph 4.6 of the O.A. this answering Respondent respectfully states that as per the orders of the Sub-Divisional Inspector of Post offices, Hailakandi the charge of the office was taken over by Shri Paban Ch. Nath on 27.3.95 (A/N) i.e. Smti.

Smti. Binapani Nath, the Ex-EDBPM Mohanpur was treated as placed under "Put off duty" with effect from the afternoon of 27.3.1995.

10. That as regards the contents of the paragraph 4.7 of the O.A. this answering Respondent respectfully states that put off duty orders were issued by this office under No. A-99/PF dated 5.4.1995 as per Rule 9(1) of the " P&T ED Agents (Conduct and Service) Rules, 1964 and the orders of non entitlement of any allowance ~~mixing~~ during the period of her put off duty were also included in the aforesaid orders dated 5.4.1995, as per Rule 9 (3) of the said rules, in force on that day.

11. That as regards the contents of paragraph 4.8 of the O.A. this answering Respondent respectfully states that no comments as regards the charges framed against Smti. Bina Pani Nath under this office memo No. F1-1/95-96 dated 2.1.96. She had submitted the written statement of her defence under her letter dated 29.1.96, copy of which is reproduced below :-

"In support of my defence I beg to place before you the following few lines for favour of kind consideration and necessary action."

That, Sir, in reply to charge framed against me in the Article No. 1, 2 and 3 it is stated that I submitted my written statement earlier to the authority and the circumstances under which the amount was misappropriated were

clearly explained to my written statement. However, it is again informed that the hand writing in the pass books were Shri Kashi Nath Dhupi, EDDA and the EDDA took the money in my absence and showed the amount as deposited by impressing the date stamps of the office and put my signature in the pass book.

The misappropriated money was deposited by me only on the ground that I am working as BPM there and I Sarang could not avoid my responsibility in this respect.

You are, therefore, requested kindly to take lenient view into the matter and exempt me from the charges framed against me as I am not actually responsible for the misappropriation".

Sd/- Smti. B. Pnath
Date 29.1.96

The applicant thus admitted her fault for the misappropriation of public money and therefore managed to refund the entire amount of public money defrauded.

12. That as regards the contents of paragraph 4.9 of the O.A. this answering Respondent respectfully states that as per Rule 17 of the "P&T ED Agents (Conduct and Service) Rules 1964 every employee (i.e. Extra Deptt. Employee) shall at all time maintain absolute integrity and devotion to duty. She had failed to maintain absolute integrity and devotion to duty as EDBPM Mohanpur and therefore refunded the principal amount defrauded in this case, to this Department.

It may not be out of place to mention here that the claims of the depositors, whose amounts of deposits were defrauded, had to be settled by this Department along with interest admissible to them on and from those amounts were deposited by them as were available from the date stamp impressions in the pass books and thereby this department has sustained loss of Rs. 2134.00 in the shape of payment of interest to the respective depositors, which is the material loss to this Department. ✓

13. That as regards the contents of paragraph 4.10 of the O.A. this answering Respondent respectfully states that her letter dated 29.1.96 was her representation against the charges framed against her under this office memo No. F1-1/95-96 dated 3.2.96 and it was not an addl. application as stated herein. In this connection my comments against para 4.8 above may kindly be referred to.

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As per the procedure prescribed for imposing a penalty in the Rule 8 of the P & T ED Agents (Conduct and Service) Rules, 1964, Shri B.K. Sinha SDIPOs Karimganj was appointed as Inquiring Authority under this office memo No. F1-1/95-96 dated 8.2.96 to enquire into the charges framed against said Smti. Binapani Nath.

The allegation put forward in the last sentence of the para is not based on facts. Shri Kashi Nath Dhupi, EDDA Mohanpur was also placed "Put off duty" and was punished by the Punishing Authority viz the SDIPOs, Hailakandi.

16. That as regards the contents of paragraph 4.11 of the O.A. this answering Respondent respectfully states that the notice was issued by the Inquiry Officer as per rules, cited herein.

17. That as regards the contents of paragraph 4.12 of the O.A. this answering Respondent respectfully states that the prescribed procedure to hold the inquiry was followed by the Inquiry Officer on the 21.8.96 and next date for examination of records by Smti. Binapani Nath was fixed on 24.9.96.

18. That as regards the contents of paragraph 4.13 of the O.A. this answering Respondent respectfully states that though Smti. Binapani Nath, stated on 24.9.96 after examination of the exhibits that the initials against the deposits entered in the pass books were not of her own but admitted the moral responsibilities for the mis-deed and prayed both in writing and verbally to the Inquiry Authority not to proceed further with the inquiry since she had accepted the moral responsibilities of the misdeed, which was granted by the Inquiring Authority. Her admittance of the moral responsibilities for the loss of public money consequent on her lapses in this way or that way is the proof that she had utterly failed to maintain absolute integrity and devotion to duty, as required under Rule 17 of the P & T ED Agents (Conduct and Service) Rules, 1964,

19. That as regards the contents of paragraph 4.14 of the O.A. this answering Respondent respectfully states that in view of what has been stated above, the failure on the part of Smti. Binapani Nath to maintain absolute integrity and devotion to duty, as required under Rule 17 of the above rules and in view of the prayer made by said Smti. Nath for closure of the inquiry, which might have been disgraceful to an aged lady due to unearthing of many other facts by the witnesses when examined and cross examined during enquiry, the prayer were perhaps granted by the Inquiring Authority at the stage. It may be mentioned here that Smti Nath had deposited the principal sums of defaulcated deposits only but this Department had to bear loss of Rs. 2134.00 by way of payment of interest to the defrauded depositors, as mentioned against para 4.8 above.

In sub-para (3) of para 4.13 Smti. Binapani Nath stated that her husband had expired prematurely in 1995 due to cancer. It may not perhaps be out of place to mention here that death by "Cancer" is most probably a long process of sufferings/ailments and might have been after prolong treatment. It is the confirmed fact that every family members must had passed their days and nights during prolong illness caused by attack of cancer of her late husband not to speak of the mental condition of the wife of the Cancer patient i.e. Smti. Binapani Nath EDBPM Mohanpur EDBO. Since there were as well as are no facility of treatment of cancer patient at Mohanpur area the patient might have been shifted elsewhere for treatment and in such case Smti. Nath should have

accompanied her husband, to remain in the side of her ailing husband availing leave from the post of EDBPM Mohanpur ~~EDBPM~~ EDBO. But, it is strange to see that the service records of said Smti. Nath does not reveal that said Smti. Nath ever had applied for any leave either during prolong illness/treatment of her late husband or even on the dates of her late husbands death as well as "Sraddha Ceremony". The dates of death and or Sraddha Ceremony are not known to this office, which are subject to be proved by "Death Certificate" issued by proper authority and may be before/after 27.3.95 (A/N) i.e. after the date of "Put off duty" Smti. Nath but the illness/treatment must have continued since long back. In the above circumstances it may not perhaps be out of assumption to mention here that she must have availed unauthorised leave on such various occasions engaging the services of the EDDA Sri Kashi Nath Dhupi herself un-officially to manage the works and duties of the EDBPM Mohanpur EDBO in her name in addition to his own works. And in such circumstance said Sri Kashi Nath Dhupi, EDDA was given the scope by herself (Smti. Nath) unauthorisedly to work as EDBPM Mohanpur EDBO in the name of Smti. Binapani Nath and thereby was tempted to commit fraud putting signature /initial as Binapani Nath, the appointed EDBPM, Mohanpur EDBO. She was, I am almost sure, got frightened of coming out of the truth on formal inquiry by the Inquiry Authority and as such prayed verbally and in writing to close the inquiry at the stage accepting the moral responsibility for the loss of public money.

20. That as regards the contents of paragraph 4.15 of the O.A. this answering Respondent respectfully states that in view of what has been discussed against above paras the Inquiry Authority had submitted to his findings confirming lack of integrity and devotion to duty, violating the provisions of Rule, 17 of the P & T ED Agents (Conduct and Service) Rules, 1964 on the part of said Smti. Binapani Nath which caused loss of public money to the extent of Rs. 3700.00 as well as Govt. Money to the extent of Rs. 2134.00 in the shape of payment of interest on the defalcated amounts to the respective depositors of SB and RD accounts.

The punishing authority also agreed with the findings of the Inquiring Authority and had considered that the offences committed by the charged ED Official were very serious in nature which calls for deterrent action and therefore had issued orders to the removal of Smti. Binapani Nath from the post of EDBPM Mohanpur EDBO with effect from the date of her put off duty, so that the period of her put off duty may not be considered as service as EDBPM Mohanpur EDBO.

21. That as regards the contents of paragraph 4.16 of the O.A. this answering respondent respectfully states that the Post of EDBPM of an office is very very responsible one since he or she is the sole representative of the Union of India in that particular locality where may not remain any other sorts of office of the Union of India as well as of the State Govt. He or she appointed in the post of EDBPM of an office is on duty bound require to accept huge amounts

on any particular items of works meant by the member of public, on behalf of the Union of India and to credit such public money in the proper accounts of the Govt. under proper head of accounts on each and every particular date.

In this particular case she had utterly failed to maintain absolute integrity and devotion to duty as prescribed in Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964, which was admitted by herself too during inquiry by the Inquiring Authority. Such sorts of unlawful activities on the part of a responsible post holder does not allow the punishing authority to exempt her from the charges framed against her rather warrants deterrent punishment to protect the honesty and fame of the Union of India in the mind of public. On that analogy proper and justified punishment was awarded on herself.

22. That as regards the contents of paragraph 4.17 of the O. A. this answering respondent respectfully states that the position has already been discussed in the foregoing paras and as such repeatation is not considered necessary.

23. That as regards the contents of paragraph 4.18 of the O.A. this answering respondent respectfully states that the circumstances under which a member of public got the scope of handing over pass book and money for deposit therein to some person, other than the appointed EDBPM has been discussed in para 4.13 above. The applicant, the

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appointed EDBPM of the office allowed such an unauthorised person to sit on her chair and manage the works and duties of the EDBPM illegally. A member of public attended post office for transaction would certainly hand over the money etc. to the person found working as EDBPM of the office. This irregular and unlawful activities of the appointed EDBPM would have certainly established and proved beyond any doubt had she not applied in written and prayed verbally too to the Inquiring Authority not to proceed with the inquiry on the basis of her accepting moral liabilities and responsibilities for the loss of public money. Being afraid of coming out the truth she had done it and the Inquiring Authority also considered to prayer of an aged lady favourably and concluded his inquiry at that stage granting her prayer. It may not perhaps be out of place to mention here that her acceptance of moral liability/responsibility is a clear and clean acceptance of the entire irregularities done in this case of loss of public money, which had compelled her to deposit the embezzled amount of public money, caused due her irregular and unlawful activities. The irregularities done by her as representation of the Union of India in the locality warrants exemplary punishment so that such other ED Staff(nearly 400 in number) do not try to such malpractice in their offices.

24. That as regards the contents of paragraph 4.19 of the O.A. this answering respondent respectfully states that the appellate Authority had considered the appeal but found that the applicant had failed to refute the charges

brought against her and it was also proved thereby that she had deliberately failed to maintain absolute integrity and devotion to her duties and had thereby lost the confidence of the Govt. as well as public of the locality and as such uphold the punishment rejecting the appeal preferred by her.

25. That as regards the contents of paragraph 4.20 of the O.A. this answering respondent respectfully states that it is not a fact that Shri Kashi Nath Dhupi was left behind untouched. He was also placed put off duty by the Appointing Authority viz. the Sub-Divisional Inspector of Post Offices, Hailakandi and was awarded with a punishment as was considered to be appropriate by him. It may be mentioned that the said Sri Kashi Nath Dhupi did not at all got the scope of receiving of public money and pass book etc. for deposit in Govt. accounts had he not been unauthorisedly and illegally allowed by the applicant, Smti. Bina Pani Nath to manage the duties of the EDBPM Mohanpur EDBO, as has been discussed, in previous paras. As regards her date of birth the applicant may be requested to submit admissible proof in original in support of her statement, since the records of this office tells otherwise.

26. That as regards the contents of paragraphs 4.20, 4.21, and 4.22 of the O.A. this answering Respondent does not make any comments.

27. That as regards the contents of paragraph 4.23 of the O.A. this answering Respondent does not make any comments warrants, other than what has already been stated

in foregoing paras, so far the disposal of the appeal is concerned.

27. As regards payment of ex-gratia allowance during the period of her put off duty it may be stated here that prior to 13.1.97 the ED Employees were not entitled to any ex-gratia allowance for the period for which he/she is kept off duty, vide Rule 9(3) of the P&T ED Agents (Conduct and Service) Rules, 1964. Payment of ex-gratia allowance to the put off duty ED Employees equal to 25 percent of the basic allowance together with admissible became admissible dearness allowance on such 25% of basic allowance became admissible with effect from 13th January, 1997 as per Govt. of India, Deptt. of Posts Order No. 19-36/95 ED and Trg dated 13.1.1997. Since she was removed from service under this office memo No. F1-1/95-96 dated 14.1.97 she would have been entitled to such allowance for one day only i.e. 13.1.1997 but payment of such allowance for 13.1.97 could not be sanctioned due to receipt of the above orders of the Govt. of India by this office much after 13.1.1997 and the applicant also did never submitted any such application to this office.

28. That as regards the contents of paragraph 4.24 of the O.A. this answering Respondent does not make any comments.

29. That as regards the contents of paragraph 5.1 of the O.A. this answering Respondent respectfully

states that from what has been stated in the forgoing paras it is evident that reasonable opportunities were allowed to the applicant to defend herself by this Department. During Inquiry by the appointed Inquiring Authority she herself applied to the said Inquiring Authority in writing and prayed verbally too not to proceed with formal inquiry further, the reasons for which was best known to her. And now the applicant is telling otherwise, which are not considered to be based on facts.

30. That as regards the contents of paragraph 5.2 of the O.A. this answering Respondent respectfully states that the prescribed procedures were rigidly followed by this Department, vide clarified against each sub-para below.

i) ED Employees can be put off duty even before initiation of the disciplinary proceedings by the competent authority as per para (3) of the letter No. 157-7/77 Disc. II dated 16.1.1997 from the D.G. P&T New Delhi, which has been included below the Rule 9 of the P&T ED Agents (Conduct and Service) Rules, 1964, as a clarification.

ii) There is no such rule that an ED Employee should not be kept put off duty exceeding 120 days. When put off duty period of an ED Employees exceeds 6 month, the matter is required to be brought to the notice of the higher authority justifying such prolong pendency, as per instructions below the above rule 9 ibid.

iii) Statement of the applicant is not at all based on facts. Instead of insisting for completion of formal inquiry by the appointed Inquiring Authority she had prayed in writing as well as verbally not to proceed with the formal inquiry further and thus created moral pressure being an aged lady on the Inquiring Authority not to proceed with the inquiry further.

iv) Examination by hand writing expert of FSL is only necessary if she would have been charged for criminal offence. But in this case she was charged for non observance of Deptt. Rules and procedures and thereby non-maintenance of absolute integrity and devotion to duty, violating the rule 17 of the P&T ED Agents (Conduct and Service) Rules 1964 and she also admitted the moral responsibility/liability of the fraudulent activities.

v) This case was finalised prior to the recent judgement of the Hon'ble Supreme Court and as such does not come under the purview of the said orders.

vi) At all the stages of preliminary enquiry as well as during inquiry by the appointed Inquiring Authority the applicant had accepted her moral responsibility for the embasslement of public money and as such she was found to be wholly responsible for violation of Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964.

vii) Nature of punishment varied from (i) Censure to (vi) dismissal from service as per Rule 7 of the P&T ED Agents (Conduct and service) Rules, 1964, ~~xx~~ corrected from time to time, to be imposed on an employee by the Appointing Authority taking into consideration the nature of offences done by the said charged employee. In this case the offence of embezzlement of public money, directly or indirectly by extending scope to some other unauthorised person to receive public money on her behalf was considered to be very serious in nature, which calls for deterrent action and as such appropriate punishment of removal from service was awarded on her. Refund of embezzled money voluntarily accepting the moral liability of the illegal activities does not in any way acquit a delinquent employee from the charges leveled against him/her.

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31. That as regards the contents of paragraph 5.3 of the O.A. this answering Respondent respectfully states that the Extra Departmental employees of this department are governed by the "P&T ED Agents (Conduct and Service) Rules, 1964" and ~~paym~~ not by the "Central Civil Services (Conduct) Rules, 1964" and payment of ex-gratia compensation to such put off duty ED Employees are decided as per Rule 9 of the said rules. The position has already been discussed in para 4.23 above.

32. That as regards the contents of paragraph 5.4 of the O.A. this answering Respondent respectfully states that these points have already been discussed and as such further clarification is not considered necessary at all.

33. That as regards the contents of paragraph 5.5 of the O.A. this answering Respondent respectfully states that the punishment was awarded after observing all the formalities in force at that time, as per clarification given on the above paras.

34. That as regards the contents of paragraph 5.6 of the O.A. this answering Respondent respectfully states that the charged ED official was punished with "Removal from Service" which is not the extreme punishment. The extreme punishment is "Dismissal from Services," which is a disqualification for further employment.

The charges of embezzlement of public money was proved beyond doubt and thereby she had lost the confidence of the Govt. as well as public of the locality. Mere consideration of the amount involved in the case and refund of the such embezzled amount voluntarily can not win back the confidence and trust she had lost by her own activities.

35. That as regards the contents of paragraph 5.7 of the O.A. this answering Respondent respectfully states that the position of this case has already been explained against sub-para (v) of para 5.2 above.

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36. That as regards the contents of paragraph 5.8 of the O.A. this answering Respondent respectfully states that the final orders of punishment were issued after observing all the prescribed rules and procedures in force at that time.

37. That as regards the contents of paragraph 5.9 of the O.A. this answering Respondent respectfully states that these points have same as above.

38. That as regards the contents of paragraph 5.10 of the O.A. this answering Respondent respectfully states that there is no provision of personal hearing for disposal of an appeal, which was disposed of as per rules.

39. That as regards the contents of paragraph 6 of the O.A. this answering Respondent respectfully states that in view of what has been discussed in details in the forgoing paras the applicant is not entitled to any of the remedies applied for, expecting ex-gratia payment for one day only viz. for 13.1.97.

40. That ~~is~~ as regards the contents of paragraph 7 of the O.A. this answering Respondent ~~respectfully states~~ does not make any comments, since already discussed.

41. That as regards the contents of paragraph 8 of the O.A. this answering Respondent respectfully states that the circumstances under which the applicant is not entitled to any relief, excepting what has been mentioned in para 6 above, has already been stated in details in the foregoing ~~is~~ paras.

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42. That as regards the contents of paragraph 9 of the O.A. this answering Respondent respectfully states that she is entitled to exgratia payment only for 1 day viz. 13.1.97, as already discussed.

43. That as regards the contents of paragraph 10 and 11 of the O.A. this answering Respondents does not make any comments. It may be mentioned here that the relative book of Service Rules of the Extra Departmental employees, as mentioned against various paras of the ~~written statement counter application~~ will be submitted to the Hon'ble CAT Guwahati Bench, as and when demanded.

VERIFICATION

I, G. C. SARMA Sr. Supdt. of Post Offices, Cachar Dn. Silchar, being authorised do hereby solemnly declare that the statements made in this written statement reply is true to my knowledge, information and believe.

And I sign this verification on this 8th day of December, 2000.

G. C. Sarma

Declarant.
Senior Supdt., Post Offices,
Cachar Division, Silchar-788001.