

GUWAHATI BENCH
GUWAHATI-05

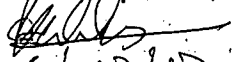
(DESTRUCTION OF RECORD RULES, 1990)

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6/11/2012

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH ::::: GUWAHATI

ORDER SHEET
Original APPLICATION NO. 101 OF 2001

Applicant (s) *Khaliqur Rahman*

Respondent(s) *U.O.I Govt*

Advocate for Applicant(s) *J.L. Sarkar, A.K. Sarkar, Mrs. S. Deka
Mr. A. Chakravarty*

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

Notes of the Registry	Date	Order of the Tribunal
<i>56 422518 26.2.2001 1/e. 13/3/01</i>	15.3.01	On the prayer of Mr. J.L. Sarkar learned counsel for the applicant case is adjourned to 23.3.01 for Admission. <i>J.L. Sarkar</i> Member <i>J.L. Sarkar</i> Vice-Chairman
	23.3.01	Adjourned on the prayer of the counsel for the applicant. List on 27.3.01 for admission. <i>J.L. Sarkar</i> Member <i>J.L. Sarkar</i> Vice-Chairman
<i>29-3-2001 Service of Notice issued to the respondents vide D. No. 1218-1224 Dt. 26.3.01.</i>	27.3.01	Application is admitted. Issue usual notice. Call for the records. List on 8.5.2001 for order. <i>J.L. Sarkar</i> Member <i>J.L. Sarkar</i> Vice-Chairman

pg
13
27/3/01

6.5.01 List on 7.6.01 to enable the respondents to file written statement.

K. C. White
Member

J. ...
Vice-Chair

PG

7.6.01 Written statement has already been filed. Applicant may file rejoinder, if any.
List on 16-7-2001 for order.

K. C. White
Member

J. ...
Vice-Chair

mb

13.8.01 Pleadings are complete. List on 17/9/ for hearing.

The applicant may file rejoinder if any.

K. C. White
Member

J. ...
Vice-Chairman

mb

17.9.01 Prayer has been made on behalf of the applicant for adjournment. Prayer is allowed. The case is accordingly adjourned to 12/11/01 for hearing.

K. C. White
Member

J. ...
Vice-Chairman

mb

12.11.01 Adjourned on the prayer of the applicant. Legal Services Bureau counsel for the applicant.

List on 12/12/01 for hearing.

K. C. White
Member

J. ...
Vice-Chairman

mb

Handwritten notes:
...
...

7/10/01
Copy has been filed.
at 10:30 7/10/01

Handwritten notes:
...

Handwritten notes:
...

7/12/01

Written statement has been filed

15/12/01

10/12

These 2 major issues are outstanding. The case is adjourned to 16/12/01.

Handwritten notes:
...

Notes of the Registry	Date	Order of the Tribunal
<p>W/S has been filed</p> <p><u>3</u> 20.2.02.</p> <p>mb</p>	<p>16.1.02</p>	<p>On the prayer of Mr.M.Chand, learned counsel, the case is adjourned. List on 21.2.2002 for hearing.</p> <p><i>K. Ushar</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>mb</p>	<p>21.2.02</p>	<p>Adjourned on the prayer of Sri A. Deb Roy, learned Sr. C.G.S.C. for the respondents to obtain necessary instructions.</p> <p>List on 4.3.2002 for hearing.</p> <p><i>K. Ushar</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>mb</p>	<p>4.3.02</p>	<p>Prayer has been made by Mr. J.L.Sarkar, learned counsel for the applicant for adjournment of the case. The case is accordingly adjourned. List on 9.4.2002 for hearing.</p> <p><i>K. Ushar</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>mb</p> <p><u>5.3.2002</u></p> <p>Reminder submitted by the applicant in reply to the W/S.</p> <p><i>[Signature]</i></p>	<p>9.4.02</p>	<p>Adjourned on the prayer of Mr. J.L. Sarkar, learned counsel for the applicant.</p> <p>List again on 2.5.2002 for hearing.</p> <p><i>K. Ushar</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>mb</p>	<p>2.5.</p>	<p>Heard Mr. D.L. Sarker, learned Counsel for the applicant & Mr. A. Debroy, Sr. C.G.S.C. for the respondent.</p> <p>Hearing Concluded.</p> <p>Judgment reserved.</p> <p><i>[Signature]</i> 2.5.</p>

Notes of the Registry	Date	Order of the Tribunal.
<p><i>27/5/02</i></p>	<p>15.5.02</p>	<p>Judgment delivered in open Court, kept in separate sheets. The application is dismissed. No order as to costs.</p> <p><i>McShane</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

5

O.A./R.x. No. 101 of 2001 . d/

DATE OF DECISION 15.5.2002

Sri Khalilur Rahman

APPLICANT(S)

Mr. J.L.Sarkar, Mr. A.K. Sarkar
Mrs. S.Deka, Mr. A.Chakrabarty.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Others.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?
- 5.

Judgment delivered by Hon'ble Admn. Member.

K. Ushay

K

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.101 of 2001

Date of Order: This the 15th Day of May 2002

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

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

1. Shri Khalilur Rahman,
P.A.Haibargaon Sub P.O.
S/O Late Hazi Abdul Jabbar,
resident of Dhing Road,
P.S. Nagaon(Sadar)
Dist. Nagaon, Assam Applicant

By Advocate Mr.J.L.Sarkar, Mr.A.K.Sarkar, Mrs.S.Deka
Mr.A.Chakraborty.

-Vs-

1. Union of India,
represented by the Secretary DPT of Posts, New Delhi.
2. The Chief Post Master General,
Assam Guwahati.
3. The Director of Postal Service
Assam Region, Guwahati.
4. Superintendent of Post Offices, Nagaon Division, Nagaon.

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

O R D E R.

K.K.SHARMA, MEMBER (ADMN):

By this application under Section 19 of the Administrative Tribunals Act the applicant has prayed for quashing and setting aside the order No.P 6-1/(c) 94/91 dated 25.6.1999 of Superintendent of Post Offices, Nagaon Division and Order No.Staff/24-26/99/RP dated 28.2.2000 of Director of Postal Service, Assam Region, Guwahati, dismissing the appeal against the penalty imposed on the the applicant. The applicant was working as Assistant Stamp Treasurer, Nagaon Head Post Office. By Memo No.

K. U. Sharma

contd/-

F6/(c/94-95 dated 3.6.1995 the charge sheet was issued to the applicant under Section 14 of the CCS(CCA) Rules alleging that the applicant has violated the Rules, provision of Rules 4(i) of P&T Financial Hand Book Vol.I and 3(1) (2) and 3(1) (iii) of the CCS Conduct Rules. The applicant had failed to credit the Sale proceeds of the postage and service Stamp and Stationeries which was detected during the Annual inspection and Verification from 14.11.94. The charge sheet contained two Article of charges -, the first Article of charge was that the applicant failed to credit the Sale proceeds of the postage and service Stamps amounting to Rs. 62,461.91/-, the second article of charge was that the applicant failed to hand over the charge of the Branch of Assistant Treasurer Stamp, Nagaon Head Office as ordered by the Post Master, Nagaon Head Post Office on 14.11.94 and thereby violated the provision of GID (25) below CCS(Conduct) Rules 1964. The Respondents appointed an Inquiry Officer. The Enquiry Officer submitted his report on 27.10.98 holding that both the charges were proved beyond doubt. The Inquiry Officer however, recommended to the Disciplinary authority that as the charged official voluntarily credited the amount of shortage of stamp stationery within a period of 15 days from the date of detection a lenient view should be taken. The Disciplinary authority by an order dated 25.6.99(Annexure 4 to the OA) imposed the penalty of reducing the pay to Rs. 4700 in the scale of Rs. 4000/- to 6000 for a period of 5 years with a direction that the applicant would not earn any increment of pay within the period of reduction and that on expiry of this period, the reduction and that on expiry of this period, the reduction will not have effect of postponing his future increment of pay. Being dissatisfied with the imposition of penalty the applicant submitted an appeal. The Appellate authority by an order

CCU Shetty

dated 28.2.2000 observed that applicant deserved a major punishment but the disciplinary authority had taken a lenient view and therefore, he did not interfere with the order of disciplinary authority.

3. Heard Mr.J.L.Sarkar learned counsel appearing on behalf of the applicant. The learned counsel for the applicant did not find any procedural irregularity regarding the action of the disciplinary authority and he has not challenged the order of disciplinary authority or appellate authority on the ground of malafide. The impugned order has been challenged on the ground that this was not a speaking order. Mr.J.L. Sarkar learned counsel elaborated the averments made in the application. It is stated that the Inquiry Officer did not take into consideration the written statement dated 17.11.94 ^{ed U} submitting by the applicant. 2) The Director Postal Service has not mentioned the dates on which the amount were not regularly credited by the applicant. 3) The charge sheet was not framed with correct amount of shortage. (4) The penalty imposed is not based on actual facts and findings and it is stated that there is no real shortage. The Disciplinary authority acted on presumption only. 5) The applicant had deposited Rs. 47,192.90 on 14.11.94 and that there was no shortage of amount of Rs. 31,008.90 on 14.11.94.(6) That on 15.11.94 the applicant was charged with a further shortage of Rs. 31,453.00.

3. Mr.J.L.Sarkar submitted that on 14.11.94 the applicant had deposited an amount of Rs. 31,008.90 but the same ^{was U} not accounted for on that day. For this he referred to the para 4.5 of the order of Disciplinary authority dated 25.6.99.

4. The Respondents have filed their written statement and Mr.A. Deb Roy, Sr.C.G.S.C. appeared on behalf of the respondents. It is stated that the incident of the verification

K Usharma

took place on 14.11.94 and the applicant has submitted his representation against the charge sheet on 9.11.98. Therefore, reference to the written statement dated 25.7.94 has no relevance in this case. The Inquiry Officer ~~representing~~ ~~an Officer~~ while hearing the case of the applicant took into account all relevant records connected with the case and also examined the additional documents as desired by the applicant. The written statement dated 17.11.94 was not listed document of the charge sheet and therefore has no relevancy with the charge sheet. Production of the same was neither required nor questioned by the applicant. The applicant could have opted for its production as Defence Exhibit on his behalf. The punishment has been awarded to the applicant as per merit of the case and thorough observations and careful assessment of the materials on records. Though the case is fit for removal or dismissal but the Disciplinary Authority took a very lenient view in disposing of the case. It is stated that the verification of counting of stamp and stationery was started on 14.11.94 and completed on 15.11.94 arriving at the shortage of Rs. 62,461.90 which was voluntarily credited as unclassified receipts by the applicant on different dates in instalments. This proves that the applicant admitted the correctness of the account for the shortage found in the stamp account. The applicant failed to refute the charge that there is no shortage. The total shortage of stamp and stationery balance was as under:

Shortage found on 14.11.94	= Rs.	31,088.90
shortage found on 15.11.94	= Rs.	31,453.00
		<hr/>
Total		Rs. 62,461.90

There was no compulsion and the shortage of whole amount was credited by the applicant voluntarily in instalments. The total sale proceeds deposited on 14.11.94 was actually Rs. 16,184.00/- instead of Rs. 47,192.90/-.

16.11.94

The ATR framed showed opening balance on 14.11.94 as under:

OS/14.11.94	= Rs.	14,25,009.70
Deduct sale on 14.11.94	= Rs.	16,184.00
Deduct stamp and Stationery actually found by physical counting on 14.11.94	= Rs.	14,08,825.70
	= Rs.	13,77,816.80
		<u>31,008.90</u>

was by
It ~~is~~ found by physical counting in the stamp and stationery, balance was also made good and deposited by the applicant to the Treasurer on 14.11.94 under his initials along with dated initials of the Treasurer- I on the Hand to Hand Receipt Book. This amount of Rs. 31,008.90 was kept out of account under 'C' Column in the Head Office Summary on 14.11.94 as Head office account was closed for that day and subsequently on the following day the shortage of Rs. 31,008.90 ~~was~~ found in the stamp and stationery balance on 15.11.94 was charged as UPC and corresponding entry was made for rupees for the same amount received from the applicant at 1900 hrs on 14.11.94 as UCR. The shortage of Rs. 31,008.90 was calculated and recorded in inventory wherein it was signed by the applicant. The applicant left the office without formal handing over his charge in prescribed manner. He parted with the keys before executing proper handing over the stock of stamp and stationery under his custody to his reliever under clear acquittance. The applicant was apprehending re-verification of the stamp and stationery and on 15.11.94, the applicant parted with the keys without formal transfer of the stock of stamp and stationery under acquittance with the clear thought and intention to throw the responsibility on others. The re-verification of stamp and stationery was carried out on 15.11.94. The further shortage of Rs. 31,453.00 found by physical re-verification on 15.11.94 was charged as UCP on 15.11.94 and the official

credited the amount of Rs. 31,453.00 voluntarily in seven instalments during the period from 19.11.94 to 30.11.94. The applicant has not placed any evidence to support the claim that he was pressurised to deposit the money.

5. We have carefully considered the submissions on behalf of the parties and have perused the records. The inquiry report has been perused, it is seen on 3rd October 1997. Mr. Gajen Baruah, Postmaster, Nagaon was ~~under~~ examined in presence of the applicant and his defence Assistant. The examination of Shri Baruah as per inquiry report is reproduced below:-

" During the examination of Shri G. Baruah, the then Postmaster Nagaon HQ has admitted that a shortage of postage stamp stationery and service stamp was detected amounted to Rs. 31008.90 on 14.11.94 during the annual inspection cum verification of Nagaon HQ has full knowledge about the shortage of stamp stationery on 14.11.96. K he also further admitted that another shortage of stamps / stationery and service stamps are counted to Rs. 31,4521/- was detected on 15.11.94 when the SPS Nagaon recounted stamps / stationery sheet by sheet on opening the packets / bundles. Sri G. Baruah the then Postmaster Nagaon HQ has admitted that he issued written order to Sri Khalilur Rahman the then ATR (Stamps) Nagaon to hand over the charge of the ATR stamps, to Sri Bipin Ch. Nath on the afternoon of 14.11.94. But the said Sri Khalilur Rahman the then ATR did not hand over the charge of his branch to Sri Nath and the charge of ATR (stamps) was with Sri Khalilur Rahman upto the close of 15.11.94. He categorically admitted during hearing that the charge of the office of ATR (Stamps) was with the said Khalilur Rahman till close of 15.11.94 and he failed to submit he charge report ACG 61 in the afternoon of 14.11.94 duly fill him and signed.

Sri G. Baruah, the then Postmaster was cross examined on the same date (25.11.97) by the defence Assistant in the presence of presenting officer. During the cross examination the defence assistant put several relevant questions to Sri Barua, the then pm. But nothing comes forward in the favour of the SPS. He was further assessed by the defence Assistant that whether there was shortage of stamps when the verification was carried out on 14.11.94 or otherwise Sri G. Baruah the then postmaster confined that there was a shortage of postage / stamp /

service stamps on 14.11.94 amounted to Rs. 31,008.90 lk. The SPS and his defence Assistant did not ask any question regarding shortage of stamps/stationery, service amounting to Rs. 31,452.00 (Rupees thirty one thousand four hundred fifty two) only which was detected on 15.11.94 when the closed packets/bundles were counted sheet by sheet. By the SPOS and other investigating officers assistant the SP^F/Nagaon during the investigation cum verification as all the relevant fact was brought out during the examination and cross examination no more question was placed by the W/S. "

Thereafter, the Inquiry Officer observed as under:-

"In course of examination of witnesses viz. PW1, PW1, PW2 and PW3 it was seen that all the witnesses stated in there deposition that there was a shortage of stamps and stationery detected on 14.11.94 for Rs.31,008.90 and Rs. 31,453.00 on 15.11.94 during the annual inspection of SP/Nagaon commenced on 14.11.94 completed on 15.11.94."

Regarding the second Article of charges findings of the Inquiry Officer is reproduced below:-

"As regards article II of the memorandum as F6-1(C) 94-95 dated 3.6.96 it is to mention here that Sri G.Baruah Postmaster Nagaon HQ issued order to the accused Officer to hand over the charge of the ATR(Stamp) Branch to. Sri Bipin Ch.Nath, PA Nagaon HQ on the closing hours of 14.11.94. Coming examination of Sri G.Baruah the then Postmaster, Nagaon HQ on 5.11.97 he admitted that he issued written order in the order book dt. 14.11.94 and directed Sri Khalilur Rahman to hand over the charge of ATR branch Nagaon HQ to Sri Bipin Ch. Nath as his oral order of SP/Nagaon . But he did not hand over the charge of the branch to Sri B.C.Nath PA duly signed the charge report in ACG 61. He also did not hand over the keys of the branch to the Postmaster or to Sri Nath. Sri G.Baruah, Postmaster stated that charge of the branch was with Sri Khalilur Rahman till 15.11.94. During cross examination of Sri G.Baruah the then Postmaster Nagaon on 5.11.97, the defenceand the SPS did not bring out any truth of the fact that the ATR(Stamp) was not with Sri Khalilur Rahman and it was with Postmaster. The said PW3 Sri G.Barua in his submission dt. 5.11.97 mentioned that the works regarding handing and taking over of the stamps/stationery in stock held in between Sri Khalilur Rahman and Sri.B. Nath on 15.11.94 K As the handing over and taking over took place in between Sri Nath and Khalilur Rahman on 15.11.94 it is presumed that Sri Rahman did not hand over the charge of the ATR(Stamp) branch on the closing hours of 14.11.94. "

6. The Inquiry Officer held that both the Article of charges were proved beyond doubt. We have also perused the

order of disciplinary authority. The Disciplinary Authority has again re-evaluated the material. The Disciplinary Authority observed that the applicant had shown receipt on 14.11.94 by physical verification, the Stamp and stationery worth verification was Rs. 13,77,816.80 indicating the shortage of Rs. 31,008.90. Further shortage of Rs. 31,453.00 was found in the next date. The amount of Rs. 31,008.90 found short and physical counting was made ^{good} by the applicant on 14.11.94 under his initials. The applicant also gave written statement dated 14.11.94, the statement was given before 19 hours when verification of the stamp and stationery was over. The Disciplinary authority has shown the amounts which were credited by the applicant from 15.6.94 to 12.11.94 only excepting four days viz, 22.3.94, 23.9.94, 1.10.94 and 11.11.94 total 109 days there were credits on account of sale of stamp and stationery as under:-

*Credits up to Rs.	1000.00	-	3 days
-do- above Rs.	1000.00 to Rs.	2000.00	- 7 days
-do- above Rs.	2000.00 to Rs.	3000.00	- 18 days
-do- above Rs.	3000.00 to Rs.	4000.00	- 38 days
-do- above Rs.	4000.00 to Rs.	5000.00	- 20 days
-do- above Rs.	5000.00 to Rs.	6000.00	- 12 days
-do- above Rs.	6000.00 to Rs.	7000.00	- 5 days
-do- above Rs.	7000.00 to Rs.	8000.00	- 3 days
-do- above Rs.	8000.00 to Rs.	9000.00	- 3 days

Total - 109 days

The Disciplinary Authority observed that the sale of Stamp and stationery ^{was shown} for Rs. 16,184.00 on 15.11.94. The charged official had never correctly credited the actual sale proceeds for a considerable period by showing fictitious stamp balance in the Register of Stamp balances. The Disciplinary Authority has further observed as under :-

10/11/94

contd/-9.

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"The charged official held custody of stock of stamp and stationery worth Rs. 13,77,816.30 after verification by the then SPOs. In such circumstances even a lay man would not have parted with the keys before executing proper handing over of the stock of stamp and stationery to his reliever under acquittance but a senior official like him failed to act so in the prescribed manner, So, it can be easily understood that apprehending re-verification of the stamp and stationery on 15.11.94, the charged official had parted with the keys without formal transfer of the stock of stamp and stationery under acquittance with the clear thought and intention to throw the responsibility on others and make some points in his favour as he had the knowledge that there had been abstraction of the sheets from the packets of stamp, which were not verified sheet by sheet and the total values of which were only taken into account during verification on 14.11.94. Had it not been the fact so, he would have been very serious and particular only for transfer of the stock under clear acquittance to his reliever. Thus, he made him responsible for further shortage of Rs. 31453.00 found by physical re-verification on 15.11.94."

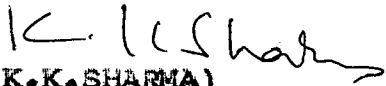
The Disciplinary authority awarded the penalty as indicated above.

7. We have given our careful consideration in submission of the parties and the fact that the shortage of Rs. 62,461.90 ^{good} was made/by the applicant, the amount was found short in his custody. The applicant has not challenged the legality of the enquiry and has not challenged the order of the disciplinary authority as mala fide, As mentioned by the disciplinary authority as well as the appellate authority, The shortage of stamp and stationery amount is^a serious matter, for which the higher penalty would have been awarded. The Respondents have taken lenient view, in view of the fact that the applicant had ^{good} made/the shortage, No illegality or arbitrariness is discernible on the facts of the case. The penalty imposed by the respondents is ~~not~~ commensurate with the offence. We find that there is no material to interfere with the impugned order.

U. U. Khan

contd/-

8. The application is accordingly, dismissed. There shall however, no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE-CHAIRMAN

LM

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
7 MAR 2001
गुवाहाटी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH : GUWAHATI

No. 101 of 2001

Sri Khalilur Rahman

..Applicant

-Vs-

Union of India

..Respondents

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F. Sankar
A. Sankar
Sankar
7/3/2001

DISTRICT - NAGAON

Filed by
Abul Sarker
Administrative
7/3/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH : GAUHATI

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

BETWEEN

1. Shri Khalilur Rahman,
P.A. Haibargaon Sub P.O.,
S/o Late Hazi Abdul Jabber,
resident of Dhing Road,
P.S. Nagaon (sadar)
Dist.- Nagaon, Assam.

... Applicant

-Vs-

1. Union of India,
represent by the Secretary DPT
of posts, New Delhi.
2. The Chief Post Master General,
Assam, Gauhati.
3. The Director of Postal
Service, Assam Region,
Gauhati.

Contd

K. Rahman

4. Superintendent of Post Offices
Nagaon Division, Nagaon.

1. DETAILS OF THE APPLICATION :

Particulars for which application is made :

- (i) The charge sheet issued by the Superintendent of Post Offices Nagaon Division, Nagaon vide Memo No.F6-1(c)/94-95 dated 3.6.96 under Rule 14 of CCS, CCA Rules 1965, against Shri Khalidur Rahman, Ex-Asstt. Stamp Treasurer Nagaon, Head Post Office, now Postal Assistant at haibargaon Sub-Post Office who worked at Nagaon Head Post Office as Assistant Stamp Treasurer from 5.3.93 to 14.11.94.
- (ii) Order of the Director of Postal Service Assam Region Guwahati vide Memo No. Staff / 24-26/99/RP 28.2.2000 on the appeal preferred by applicant and against the Memo No. P6-1(c)94-95 date 25.6.99 issued by the Superintendent of Post Office, Nagaon, Division, Nagaon.

2. JURISDICTION OF THE TRIBUNAL :

The application declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

K.Rahman

3. LIMITATION :

The applicant further declare that the application is within the limitation prescribed in the Section 21 of the Administrative Tribunal Act 1985. The applicant received the order dated 28.2.2000 passed by the Director of Postal Service on 8.3.2000.

4. FACTS OF THE CASE :

The facts of the case are given below :

- (i) That, the appellant Shri Khalilur Rahman, Ex. Asstt. Stamp Treasurer, Nagaon Head Post Office now working as Postal Asstt. Baibargaon. He worked at Nagaon HPO as Asstt. Stamp treasurer from 5.3.93 to 14.11.94.
- (ii) That, the appellant has been charge-sheeted vide Supdt. Post Office Nagaon Division Memo No. F6-1(c)/94-95 dated 3.6.96 under Rule 14 of CCS, CCA Rules (1965).
- (iii) That; under Article 1 of charge-sheet it was alleged that the applicant violated the provision of Rules 4(i) of P & T Financial Hand Book Vol.-1 and 3 (1) (2) and 3 (i) (iii) of the CCS conduct Rules 1964. It was alleged that the applicant had failed to credit the sale proceeds of the postage and

Contd...

R. Rahma.

service stamps and the stationeries amounting to Rs. 62,461,90/- which has been told to have detected during the annual inspection and verification from 14.11.94.

That under Article D of the charge sheet it was alleged that the applicant failed to hand over the charge of the branch of Asstt. Treasurer stamp, Nagaon Head Office as ordered by the Post Master and thereby violated the provisions of GID (25) below CCS (conduct) Rules 1964 and Rule 3(i)(iii) of the CCS (conduct) Rules 1964.

A copy of the charge sheet is annexed herewith and marked as

Annexure-1.

- (iv) That, the charge framed against the applicant was denied and he desired to be heard the case in person within the stipulated period and submitted the written statement on 25.7.94.

A copy of the Written Statement is annexed herewith and marked as

Annexure-2.

- (v) That, the Investigating Officer I/O and P/O was appointed and the report of the I/O and P/O were submitted to the disciplinary

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authority and the copy of the same was supplied to the applicant also.

A copy of the said report is enclosed as Annexure-3.

- (vi) That, the I/O and P/O while investigating the case did not taken into consideration all the relevant facts and documents of the case the written statement dated 17.11.94 submitted by the applicant was not taken into consideration and the Hand to Hand Receipt Book of A.T.R. which is a vital document was also not taken into account. In support of the charge only the following state witness and documents were taken into account :-

List of Documents :-

1. H.O. Summary dated 12.11.94, 14.11.94, 15.11.94.
2. Treasurer Cash Book, 12.11.94 to 15.11.94.
3. Stamp Balance Register, dated 12.11.94.
4. Post Master, Nagaon Order Book, 14.11.94.
5. Inventory 14.11.94.
6. Inventory 15.11.94.
7. Written statement of delinquent official dated 14.11.94.

(Written statement dated 17.11.94 not

taken into account).

Hand to hand receipt book of ATR, not taken into account.

List of Witness :-

1. Sri S. Choudhury, (ASPOS) Assistant Superintendent of Post Office, Nagaon.
2. Sri A. Rashid, Inspector of Post Office (C&PG) Nagaon.
3. Sri G. Baruah, Post Master, Nagaon, HPO (Joint custodian of stamps & stationeries along with the delinquent official).

(vii) That, the Supdt. Of Post Office Nagaon division vide his memo no. F6-1(c)/94-95 dated 25.6.99 awarded punishment reducing applicant's pay by one ~~stage~~ for five years by stepping the increments for that without considering the written statement ~~improper~~ ~~pro~~ prospective.

A copy of the Supdt. Order dated 15.6.99 is annexed herewith as

Annexure-4.

(viii) That, thereafter the applicant preferred an appeal against the aforesaid punishment awarded by the Supdt. Of Post Officer, Nagaon vide his order dated 25.6.99, before the Director of Postal Services, Assam

Contd...

Region, Guwahati-1, on 13.8.99 with the grounds as mentioned in the appeal.

A copy of the said appeal petition is annexed herewith as **Annexure-5.**

- (ix) That, however, the Director of postal service was pleased to uphold the order of the Supdt. Of Post Office, Nagaon Division, by his Memo No. Staff/24-26/99/RO dated 28.2.2000 without considering the grounds of appeal in proper perspective.

A copy of the order dated 28.2.2000 is enclosed as **Annexure-6.**

- (x) That, the aforesaid order of the Director of Postal Services, Assam Region, vide his Memo No. Staff/24-26/99/RP dated 28.2.2000 was not a speaking order. He has not mentioned the dates on which the amounts were not regularly been credited by the applicants. There is no mention of his opinion regarding Article-II of the Charge Sheet. As such the order is a non speaking and unreasoned order.

- (xi) That the charge sheet was not framed with correct amount of shortage with reference to

Head Office summary of Nagaon Head Post Office on 14.11.94.

(xii) That punishment awarded vide Memo No. F6-1(c)/94-95 dated 25.6.99 was based not on actual facts and findings. It was based only on suspicious and presumption. There were no real shortage and no shortage has also been proved. The Disciplinary Authority acted on presumption only.

(xiii) That there was no shortage at all. The alleged shortage was shown due to wrong application of the facts. The amount of Rs. 47,192.90 deposited in Hand to Hand received books was not properly calculated and caused difference and the respondents have not taken into account the total amounts deposited during the whole day on 14.11.94.

(xiv) That opening balance in Head Office summary of Nagaon HPO on 14.11.94 was Rs. 14,25,009.70.

Sale proceeds deposited on 14.11.94 in three

Spells (i) Rs. 11,712.00

(ii) Rs. 4,472.00

(iii) Rs. 31,008.90

Total credit = Rs. 47,192.90

47,192.70

[Handwritten signature]

(xv) That it is mentioned here that daily sale proceeds of stamps and stationeries are being credited to the Head Treasurer by recording in the same hand to hand receipt book of the branch. ~~After~~ The Postmaster and the applicant are joint custodian of stamps, cash etc. ^{After} the closing the Post Master, being the joint custodian sign the records on proper checking daily. ~~Mysteriously~~ on 14.11.94 the Postmaster, was not allowed to receive the account and sign on it. On 14.11.94 the account for the day was not allowed to be closed by the applicant. The account was closed by the inspecting authority showing a shortage of Rs. 31,008.90. Charge was taken by the postmaster, Nagaon H.P.O. on the basis of inventory prepared on 14.11.94 in presence office Supdt. Of Post Offices, Nagaon, and the applicant was relinquished from the branch.

(xvi) That, on 15.11.94 the applicant was called for to the branch to have a witness in inventories prepared at closing hrs. of 15.11.94. The authority unexpectedly again charged a further shortage of Rs. 31,453.00 and threatened if he did not agree to deposit the amount he would be handed over

Contd...

K. Rahman.

to police. The applicant disagreed with the charge but to save himself from police harassment he had no alternative but agreed to deposit the amount on Rs. 31,453.00 and deposited the same under proper receipt.

5. GROUND WITH LEGAL PROVISIONS :

- (i) For that he has been charged alleged shortage of money even though there was no actual shortage.
- (ii) For that he was charged for shortage on 14.11.94 taking the position in the mid-day before closing of the account of the day.
- (iii) For that the account of 14.11.94 was not closed duly signed by the Postmaster and the applicant jointly.
- (iv) For that applicant have been charged for alleged shortage for an incomplete account.
- (v) For that he applicant have been for alleged shortage on 15.11.2000 though on that date he was not in charge of the office and he was shifted from the post on 14.11.94.
- (vi) For that the appellate order not reasoned order and is not a speaking order.

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6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that he has exhausted all the remedies available under the relevant Rules.

7. MATTER NOT PENDING WITH ANY COURT :

The applicant further declares that no other case has been filed in any the court on this matter and no such case is pending before any court of law or any other authority or any other Bench of the Tribunal.

8. RELIEF SOUGHT FOR :

The facts and circumstances of the case the applicant prays for the following reliefs :-

- (i) Quashing and setting aside of the order passed by the Supdt. Of Post Offices, Nagaon Division, vide Memo No.1(c)/94-95 dated 25.6.99 and
- (ii) Order of the Director of Postal Service, Assam Region, Guwahati vide Memo No. Staff / 24-26/99/RP dated 28.2.2000 against the appeal preferred by Shri Khalilur Rahman, Asstt. Stamp Treasurer Nagaon Head Office now Postal Assistant.
- (iii) The amount deposited made by the applicant amounting to Rs. 31,453.00 be refunded with 18% interest.

Contd...

K.Rahman.

9. INTERIM ORDER PRAYED FOR :

As Your Lordship may deem fit and proper.

10. The Application is Filed Through Advocate**11. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :**

- (i) Number of Indian Postal Order. 56-422518
- (ii) Name of the issuing P.O. : G.P.O., Ghy.-1.
- (iii) Date of issue of the postal order :
- (iv) Post Office at which payable :

12. DETAILS OF INDEX :

AN INDEX in duplicate containing the details of the documents to relied upon is enclosed.

VERIFICATION :

I Shri Khalilur Rahman, S/o Late Hazi Abdul Jabbar, aged about 44 years, resident of Dhing Road, P.O. Haibargaon, P.S. Nagaon Sadar, Dist.- Nagaon, Assam do hereby declare and verify the statements made in paragraph 1, 4, 6, 7, 8, 9, 10, 11 and 12 in this application, are true to my knowledge and belief and those in paragraph 2, 3, and 5 are true as per legal advice and I have not suppressed my material fact.

Place :

Date : 13.3.01.

Khalilur Rahman,

Signature

K. Rahman,

No. F6-1(C)/94-95

Government of India

Department of Posts and Telegraphs

Dated at Nagaon the 3.6.96

MEMORANDUM

The undersigned proposes to hold an enquiry against Shri Khalilur Rahman under Rule 14 of the Central Civil Services (Classifications, control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is sent out in the enclosed statement of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witness by whom the articles of charges are proposed to be sustained are also enclosed (Annexure III & IV).

2. Shri Khalilur Rahman is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence are also to state whether he desires to be heard in person.

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

4. Shri Khalilur Rahman is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the

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[Handwritten signature and date]
7/5/2001

inquiring authority or otherwise fails or refuses to comply with the provision of rules 14 of the CCS (CC&A) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may held the inquiry against him ex-parte.

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

6. The receipt of this memorandum may be acknowledged.

Registered A/D

To, Supdt. Of Post Offices
Shri Khalilur Rahman Nawgaon Division,
The then Asstt. Treasurer (Stamps) Nagaon-782001
Nagaon H.O. & now P.A. Assam
Dhing P.O.

Enclosed

As above (3)

ANNEXURE-I

Statement of articles of charge framed against Shri Khalilur Rahman, the then Asstt. Treasurer (Stamp), Nagaon H.O. now P.A., Dhing S.O.

ARTICLE-I

That the said Shri Khalilur Rahman while functioning as Asstt. Treasurer (Stamp), Nagaon H.O. during the period from 5.3.93 to 14.11.94 failed to credit the sale proceeds of postage and service stamps and the stationary amounting to Rs. 62,461.90 (Rupees sixty two thousand four hundred sixty one and paise ninety) only which was detected during the annual inspection cum verification of Nagaon H.O. commenced from 14.11.94. By this act the said Shri Khalilur Rahman is alleged to have violated the provision of Rule-4(1) of P&T Financial Hand Book, Vol-I and 3(1)(i) and 3(1)(iii) of CCS(Conduct) Rules, 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Khalilur Rahman failed to hand over the charge of the branch as Asstt. Treasurer (Stamps), Nagaon H.O. as ordered by the Postmaster, Nagaon H.O. in the afternoon of 14.11.94 and thereby violated the provision of G.I.D. (25) below C.C.S. (Conduct) Rules, 1964.

ANNEXURE-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Khalilur Rahman, the then Asstt. Treasurer (Stamps), Nagaon H.O. now P.A. Dhing S.O.

ARTICLE-I

That the said Shri Khalilur Rahman, while functioning as Asstt. Treasurer (Stamps), Nagaon H.O. during the period from 5.3.93 to 14.11.94 did not correctly credit the sale proceeds of postage stamps and stationary and service stamps for a considerable period by showing fictitious stamps balances in the stamp balance register. During annual inspection cum verification of Nagaon H.O. commenced from 14.11.94 stamp and stationary and service stamp amounting to Rs. 62,461.90 (Rupees sixty two thousand four hundred sixty one and paise ninety) only was found short in his custody. Physical counting of postage stamp and stationary and service stamps was started at the closing hours of 14.11.94 which completed on 15.11.94. Shortage in stamp and stationary amounting to Rs. 31,008.90 only was found on counting of loose sheets and packets taking the packet as intact. An inventory dtd. 14.11.94 was prepared and the amount was charged as u.c.p. on 15.11.94.

On detailed counting of stamp and stationary on 15.11.94 another shortage instamp and stationary amounting to Rs. 31453/- (Rupees thirty one thousand four hundred fifty three) only was detected. During detailed counting piece by piece it was found that sheets from the packets/bundles were abstracted carefully without disturbing the outer covers of the packets/bundles. An inventory dated 15.11.94 was also prepared and the loss charged as u.c.p. on 15.11.94.

Shri Khalilur Rahman credited the amount of shortage detected on 14.11.94 and 15.11.94 voluntarily to the Govt. on the following dates and those were charged as U.C.R. on the same dates :-

- a) Rs. 31,000.90 on 15.11.94
- b) Rs. 1,000.00 on 19.11.94
- c) Rs. 1,400.00 on 21.11.94
- d) Rs. 1,100.00 on 23.11.94
- e) Rs. 5,000.00 on 24.11.94
- f) Rs. 7,000.00 on 26.11.94
- g) Rs. 10,000.00 on 29.11.94
- h) Rs. 5,961.00 on 30.11.94

As per the closing balance of stamps and stationary was Rs. 14,08,825.70 only but on counting the stamps and stationary from 14.11.94 and ended on 15.11.94 the actual stamp and stationary and service stamps was found worth Rs. 13,42,575.30 excluding stamp and stationary worth Rs. 3,788.50 sold on 15.11.94. Thus Shri Khalilur Rahman alleged to have violated the provision of Rule 4(1) of P&T Financial Hand Book.

4. Postmaster, Nagaon H.O. order book dtd. 14.11.94
5. Inventory dtd. 14.11.94
6. Inventory dtd. 15.11.94
7. Written statement dtd. 14.11.94 of Shri Khalilur Rahaman.

ANNEXURE-IV

List of witnesses by whom the articles of charge, framed against Shri Khalilur Rahaman, the then Asstt. Treasurer (Stamps), Nagaon H.O. and now P.A., Dhing S.O. are proposed to be sustained.

1. Shri S. Choudhury, ASPos, Nagaon Division.
2. Shri A. Rashid, IPOs (C&PG), Nagaon.
3. Shri G. Baruah, Postmaster, Nagaon H.O.

Supdt. Of Post Offices,
Nagaon Dn., Nagaon-782001.

[Handwritten signature]
21/3/2001

DEPARTMENT OF POST : INDIA
OFFICE OF THE SUPDT. OF POST OFFICES, NAGAON DN,
NAGAON-782001

Memo No.F6-1(C)/94-95

Dated at Nagaon, the 26th June/96

ORDER

WHEREAS an inquiry under Rule-14 of the Central Civil Service (Classification, Control and Appeal) Rule, 1965 is being held against Shri Khalilur Rahaman, the then Asstt. Treasurer (Stamp), Nagaon H.O. and now P.A., Dhing S.O.

AND WHEREAS the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned the case in support of the articles of charges.

NOW THEREFORE, the undersigned in exercise of the powers conferred by sub-rule(5) of Rule-14 of the said rules, hereby appoints Shri A.Hye, SDI of P.Os Nagaon West Sub-Div. Nagaon as the Presenting Officer.

(B. Hazarika)

Supdt. Of Post Officer,
Nagaon Dn, Nagaon-782001.

Copy to :-

1. Shri A.Hye, SDI of Pos, Nagaon West Sub-Division, Nagaon-782001.
2. Shri Khalilur Rahaman, the then Asstt. Treasurer(Stamp), Nagaon H.O., now P.A. Dhing S.O.
3. Shri J.B. Biswas, IA & Asstt. Supdt. Of Post Offices, Diphu Sub-Division, Diphu-782460.
4. O/C

5-0) 5pale5-6) 5nanc

Supdt. Of Post Offices
Nagaon Dn, Nagaon-782001.

XXXXXX

Handwritten signature and date:
Nagaon
26/6/96

DEPARTMENT OF POST : INDIA
OFFICE OF THE SUPDT. OF POST OFFICES, NAGAON DN,
NAGAON-782001

Memo No.F6-1(C)/94-95

Dated at Nagaon, the 26th June/96

ORDER

WHEREAS an inquiry under Rule-14 of the Central Civil Service (Classification, Control and Appeal) Rule, 1965 is being held against Shri Khalilur Rahaman, the then Asstt. Treasurer (Stamp), Nagaon H.O. and now P.A., Dhing S.O.

AND WHEREAS the undersigned considers that an Inquiry Authority should be appointed to inquire in to the charges framed against the said Shri Khalilur Rahaman.

NOW THEREFORE, the undersigned in exercise of the powers conferred by sub-rule(2) of the said rule, hereby appoints Shri J.B. Biswas, Asstt. Supdt. Of Post Offices, Sub-Division, Diphu as the Inquiry Authority to inquire into the charges framed against the said Shri Khalilur Rahman.

(B. Hazarika)

Supdt. Of Post Officer,
Nagaon Dn, Nagaon-782001.

Copy to :-

1. Shri Khalilur Rahman, the then Asstt. Treasurer (Stamp), Nagaon H.O. & now PA, Dhing S.O.
2. Shri J.B. Biswas, Asstt. Supdt. Of Post Offices, Diphu Sub-Division, Diphu-782460.
3. O/C
- 4-5) -Spares.

Supdt. Of Post Offices
Nagaon Dn, Nagaon-782001.

ANNEXURE 2

To,
The Supdt. of Post Offices,
Nagaon Dn, Nagaon-782001.

Sub : Departmental inquiry under Rule 14 of CCS (CCA) rule 1965 against Md. Khalilur Rahman, the than ATR stamp Nagaon HO and now PA Haibargaon SO.

Sir,

I have gone through the report of I.O. received vide your letter no. under reference and like to submit my representation as follows :

That sir, the I.O. has not played fair play and obviously drawn up a predetermined inquiry report over looking dispositions of the witnesses and relevancy of documents. The I.O. has completed his guilty instead of playing judicious/fair role in studying the case and canvassing the evidence. He has summerised the version of prosecution side and selected the same as the basis of his findings without disenssing validity of documents and dispositions of the witnesses. That sir, following are the basis of my above opinions.

ARTICLE-I

1. According to the statement of importation I worked as ATR (Stamp), Nagaon HO upto 14.11.94

Atty
N. M. M. M.
7/3

and I had handed over the key of the Stamp treasury to the Postmaster, Nagaon HO in the evening (Night) of 14.11.94.

2. S.W. Sri Rashid in answer to the cross examination Q-No-2 stated that I had been relieved from the charge of ATR stamp of Nagaon HPO on 14.11.94 and the Postmaster Nagaon HO was the custodian of stamp treasury for the overnight of 14.11.94.
3. S.W. Sri A. Rashid in answer to the cross examination Q-No-3 stated that I was not present at the time of opening of the stock of the stamp treasury on 15.11.94 when the rechecking had been started by the authority.
4. S.W. Sri A. Rashid in answer to the cross examination Q-No-1 stated that he found another man other than myself had been working as ATR stamp on 15.11.94 at Nagaon HO.
5. S.W. Sri Gajen Baruah in answer to the cross examination against Q-N-13 stated that selling of stamp on 15.11.94 at Nagaon HO was done by Sri Bipin Ch. Nath.
6. From the above points from 1 to 5 it is obviously proved that neither I had been the custodian of stamp treasury of Nagaon HO after 14.11.94 nor I was present or working in stamp treasury on 15.11.94. Therefore I cannot be

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held responsible for any loss or shortage of stamp treasury on 15.11.94.

7. According to HO summary and stamp balance register of Nagaon HO dt. 12.11.94 the opening balance of stamp treasury as on 14.11.95 was Rs. 14,25,009.70 (13.11.94 being Sunday). According to my hand to hand receipt book dt. 14.11.94 (DEX No-1) sale of stamp and stationery on 14.11.94 was Rs. 16,184.00 and the cash was fully transferred to the treasurer-1 of Nagaon HO in three parts in course of the days work. Thus the closing balance of the stamp treasury on 14.11.94 should have been Rs. 14,08,825.70 but in the treasurer cash book dtd. 14.11.94 sale of stamp and stationeries of Nagaon HO for Rs. 11,712.00 was only accounted for keeping balance amount of Rs. 4472.00 in 'C' column of HO summary dtd. 14.11.94 as stated by Sri Gajen Baruah in answer to the cross examination Q-No-7. Thus closing balance of stamp treasury of Nagaon HO as on 14.1.94 came to Rs. 14,13,297.70 and according to the HO summary dtd. 14.11.94 the same was the stamp balance. No amount was charged as UCR in the HO account dtd. 14.11.94 as evident and treasurer cash book of Nagaon dtd. 14.11.94.k Therefore it is obvious that there was no shortage or loss of any stamp in the treasury

branch or cash at Nagaon HO on ^{date} 14.11.94 at. all. Hence the charge framed against me is bogus and baseless. Mysteriously the I.O. has summed up his findings as the charge is proved beyond doubt without taking must related facts and figures into consideration.

ARTICLE - II

1. I had been ordered by the Postmaster Nagaon HO to handover the charge of stamp treasury of Nagaon HO to Shri Bipin Ch. Nath after closing of verification/ checking of stamp balances by the inspecting officers at 21.30 hrs. (Ref. Disposition of S.W. Sri A. Rashid in his answer to CE Q-No-1 and disposition of S.W. Shri S. Choudhury in his answer to CE Q-No-2). Sri B. Nath was not present at the Stamp treasury at that time.

2. The charge of the stamp treasury of Nagaon HPO was taken over from me by the Post master Nagaon HO on 14.11.94 at 21.30 hrs. On the basis of the inventory prepared on that day, neither checking stock by him self non giving me any chance for completing my stamp balance register and checking of my closing stock of stamp treasury (Ref. Disposition of Sri G. Baruah in answer to the cross examination Q-No-5 and state Ex/P-3).

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3. The key of the stamp treasury was taken over by the Postmaster from me at 21.30 hrs on 14.11.94 without insisting for signing any charge report (AGG-61) (Ref.-statement of imputation in *respect of* article-II).
4. From the above it is clear that I have not related the GID(25) below Rule 3 of CCS (conduct) Rule 1964.
5. In one hand I have been charge sheeted alleging non handing over of charge of stamp treasury on 14.11.94 and on the other hand the SW and the Postmaster Sri Gajen Baruah in answer to cross examination No-B stated that handing over and taking over of the charge of stamp treasury was continuing from 14.11.94 to 15.11.94. Thus the statement of imputations and the disposition of the state witness are found contradictory.
6. The I/O without giving any weightage to the above points one sidedly summed up his findings as charge proved beyond doubt.

From the above discussions it is obvious and beyond doubt that the I/O has not played judicious, fair and impartial role in summing up his finding in this case. He has overstepped his function expressing opinion/suggestion regarding decision of the Disciplinary Authority. The acceptability and validity of the IO's report in

this case questionable and a barrier to the space of fair principle and natural justice.

Therefore it is prayed that the Disciplinary Authority may kindly disagree with the findings of the I/O and exonerate me from the baseless charge.

With regards.

Yours faithfully,

Khalilur Rahman
PA/Haibargaon
9.11.98

Khalilur Rahman
7/3/2001

DEPT. OF POST INDIA

Regd. A/D

To,
Shri Khalilur Rahman
PA Haibargaon SO
P.O. Haibargaon-782002
Dist. Nagaon (ASS).

No.F4-1(C)/94-95 dtd Nagaon on 782001, 27.10.98

Sub : Deptt. Inquiry under Rule-14 of CCS (CCA)
Rules 1965-against Sri Khalilur Rahman the
ATR (Stamp) Nagaon to and now PA Haibargaon
S.O.

The report of the Inquiry Officer is enclosed. The Disciplinary Authority will take a suitable decision after considering all aspects of the report. If you wish to make any representation or submission. You may do so in writing to the Disciplinary Authority within 15 days of receipt of this letter.

(A.K. Biswas)

Encl. As above

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Inquiring report under Rule 14 of CCS (CCA) Rules 1965, against Sri Khalilur Rahman Ex ATR Nagaon to vide SP/Nagaon on letter no F6-1(C)/94-95 dt.3.6.96.

Sri A. K. Biswas the then ASP Diphu, sub Dn was appointed as Inquiry Officer to enquire into the charges leveled against Sri Khalilur Rahman Ex ATR stamps Nagaon to vide SP/Nagaon memo no F6-1(C)/94-95 dt. 15.9.95.

2. Sri Abdul Hye, Sub Dive 1 post Nagaon West Sub Dn. Nagoan was appointed as presenting Officer to present the case on behalf of the appointment vide SP/Nagaon memo no F6-1(C)/94-95 dt. 15.9.95.

3. The statement of articles of charge framed against Sri Khalilur Rahman the then Asstt. Treasurer (Stamp) Nagaon to runs as under :

ARTICLE - I

"That the said Sri Khalilur Rahman while functioning as Assistant Treasurer (stamp), Nagaon to during the period from 5.3.93 to 14.11.94 failed to credit the sale proceeds of postage stamps and service stamps/stationery amounting to Rs. 62,461.90 (Rupees sixty two thousand four hundred sixty one and paise ninety) only which was let detected during the ^{annual} amount inspection cum verification I Nagaon to commenced from 14.11.94. By this the said Sri Khalilur Rahman is alleged to have violated the provision of Rule 4(1) of PDT

Financial Hand Book vol.I and 3(1)(i) and 3(1)(iii) of CCS (Conduct) rules 1964.

ARTICLE - II

That during the aforesaid period of while functioning in the aforesaid office, the said Sri Khalilur Rahman failed to hand over the charge of the branch as ATR (Stamps) Nagaon HO as ordered by the ~~Postmaster~~ Nagaon HO in the afternoon of 14.11.94 and thereby violated the provision of GID (25) below CCS (conduct) Rules, 1964 and Rule 3(1)(ii) of CCS (conduct) Rules 1964.

ANNEXURE II

Statement of imputation of misconduct and misbehaviour in support of the articles of charge framed against Sri Khalilur Rahman, the then ATR (Stamps) Nagaon HO.

ARTICLE I

That the said Sri Khalilur Rahman while functioning as Assistant Treasurer (Stamps) Nagaon HO during the period from 5.3.93 to 14.11.94 did not correctly credit the sale proceeds of postage stamps/stationery and service stamps for considerable period by showing factitious stamp balance in the stamp balance register. During annual inspection cum verification of Nagaon HO from 14.11.96 stamps / stationery and service stamp amounting to Rs. 62461.90 (Rupees sixty two

thousand four hundred sixty one and paise ninety) only was found short in his custody. Physical counting of postage stamp/stationary and service stamps was started at the clearing of 14.11.94 and which completed on 15.11.94. Shortage of stamps/stationery amounting for Rs. 31008.90 only was found on counting of loose sheets and packets taking 1 packets as intact. An inventory dtd. 14.11.94 was prepared and the amount was charged as LCP on 15.11.96.

On detailed counting of stamp and stationery on 15.11.96 another shortage in stamp and stationery amounting to Rs. 31,453.00 (Rupees thirty one thousand four hundred fifty three) only was detected. During detailed counting piece by piece it was found that sheets from the packets/bundles were abstracted carefully without disturbing the out covers of the packets/bundles. An inventory dt. 15.11.94 was prepared and the loss was charged as VCP on 15.11.94. Sri Khalilur Rahman credited the amount of shortage liteted on 14.11.94 and 15.11.94 voluntarily to the Govt. on the following dates and those were charged as WCR on the same date :-

- a) Rs. 31,000.00 on 15.11.94
- b) Rs. 1000.00 on 19.11.94
- c) Rs. 1400.00 on 21.11.94
- d) Rs. 1100.00 on 23.11.94
- e) Rs. 5000.00 on 24.11.94

- f) Rs. 7000.00 on 26.11.94
- g) Rs. 10,000.00 on 29.11.94
- h) Rs. 5961.00 on 30.11.94.

As per closing balance of stamp and stationery was 14,08,825.70 lonely. But on counting the stamp/stationery from 14.11.94 and ended on 15.11.96 the actual stamp/stationery/service stamp was found worth Rs. 1342,573.30 excluding stamp/stationery worth Rs. 3788.50 sold on 15.11.94. Thus Sri Khalilur Rahman alleged to have violated the provision of Rule 4(1) of PGT Financial hand book Vol.-I and Rule 3(1)(ii) and 3(1)(iii) of CCS (conduct) Rules 1964.

ARTICLE-II

That the said Shri Khalilur Rahman, while functioning as ATR (Stamp) Nagaon HO was asked by the Post master Nagon HO in writing to hand over the charge of the branch to Sri Bipin Ch. Nath in the afternoon of 14.11.94. But Sri Khalilur Rahman did not hand over the charge of the ATR (Stamp) Nagaon HO duly signed the charge report CACG. But only the keys of the branch was given to the Post master Nagaon HO.

Thus Sri Khalilur Rahman alleged to have violated the provision of GID 125. Below Rule 3 of CCS (conduct) Rules 1964 and Rule 3 (1) (ii) of CCS (conduct) Rules 1964.

ANNEXURE-III

List of documents by which the articles of charge framed against Sri Khalilur Rahman, the then ATR (Stamp) Nagaon HO.

1. H.O. summary dt. 12.11.94, 14.11.94 and 15.11.94.
2. Treasurer's cash dt. 12.11.96 dt. 15.11.94.
3. Stamp balance register dt. 12.11.94.
4. Postmaster Nagaon HO order book dt. 14.11.94.
5. Inventory dt. 14.11.94.
6. Inventory dt. 15.11.94
7. Written statement dt. 14.11.94 of Sri Khalilur Rahman.

ANNEXURE-V

List of witnesses by whom the articles of charge framed against Sri Khalilur Rahman the then ATR (Stamps) Nagaon HO.

1. Sri S. Choudhury, ASPOs Nagon.
2. Sri A. Rashid, 1 POS (CDPG) Nagaon.
3. Sri G. Barua, Postmaster, Nagaon.

Sri A.K. Biswas, ASPOs Diphu Sub Dn and Inquiry Authority had directed the SPS and Presenting Officer to hold the preliminary hearing at Nagaon Div. Office vide his letter no suit dt.

2019196. According the said preliminary hearing was held at on 2019196 at Div. Office at 11.30. The Presenting Officer presented the case before the I.A. on behalf of the SPS/Nagaon. The charge sheet was read out the SPS. By the Present Officer vide no. F6-1(C)/94-95 dt. 3.6.96 and the SPS has stated that he had understood the revision/content of the charge sheet and its articles of charge and also received the SOS Nagaon memo no F6-1(C)/94-95 dt. 3.6.96 and he stated that he denied all the articles of charge and liked to hear the case in person for further enquiry. He initiated that Sri Khabiruddin Ahmed, retired DPM Nagaon HO is engaged as his defence assistant is default the case and his prayer was granted. By the inquiry officer the date of preliminary hearing. The Inquiry Officer has directed the Presenting Officer to produce the listed documents on the date of next regular hearing. Accordingly the regular hearing was held On 22.11.96 in the presence of SPS and Defence Assistant and Presenting Officer had exhibited the listed documents as mentioned below for examination.

1. Ex/P-1 : Nagaon HO summary dt. 12.11.94,
14.11.94 to 15.11.94
2. Ex/P-2 : Nagaon HO Treasurer's cash dt
12.11.94.
3. Ex/P-3 : Nagaon HO Stamp balance register
dt. 12.11.94.

- 4. Ex/P-4 : Postmaster Nagaon HO order Book dt. 14.11.94.
- 5. Ex/P-5 : Inventory of Postage Stamp and Stationery dt. 15.11.94
- 6. Ex/P-6 : Inventory of Postage stamp and stationery dt. 15.11.94.
- 7. Ex/P-7 : Written statement dt. 14.11.94 of Sri Khalilur Rahman ATR (Stamps).

The SPS wanted to examine the above documents and he has been permitted to do so. By the I.A. on the presence of the P.O. and defence Assistant. The categorically admitted that the documents listed above are generous and authenticated under his dated signature. The (SPS) took the Xerox copy of the Inventory dt. 15.11.96 and copies of other documents were not required by him. He wanted the additional documents mentioned below for the examination and the P.O. was asked to supply the same on the date of next hearing.

- 1. Hand to hand receipt book of Nagaon HO of ATR during the Sri Khalilur Rahman worked.
- 2. Written statement dt. 15.11.96 of Sri Khalilur Rahman which was obtained during the investigation.
- 3. Stamp packed found intact on 14.11.94 during the investigation.

SPS

4. ACG 67 receipt book from 12.11.94 to 30.11.94 in C/W VCR made against the case.

As the documents mentioned at serial (1) and (3) have no relevancy in the case nod list be produced and only the documents as mentioned under serial (2) and (4) may be supplied during the next date of hearing.

The additional documents mentioned below have been produced on 21.12.94. By the P.O. and have been exhibited as under for examination and as are found relevant with the case.

1. DEX-1 : Nagaon HO hand to hand receipt book of ATR for the hand from 18.5.94 to 17.11.94.
2. DEX-2 : Written statement of Khalilur Rahman dt 15.11.96.
3. DEX-3 : Nagaon 1 to ACG67 receipt book containing huge 1 to 1000 for the period from 12.11.94 to 19.11.94.

The SPS examined the listed documents and stated that these are genuine and authenticated under dated initial.

In the mean time the Inquiry Officer was transferred and he has been de linked with the enquiry and the n/s was approved as Inquiry Authority to enquiry into the charges leveled

against Sri Khalilur Rahman, Ex. ATR (Stamp) Nagaon HO, vide SP/N99 memo no F6-1(C)/94-95 dated 19.6.97. The presenting officer remains the same.

The undersigned on being linked with the enquiry directed all the prosecuting witnesses to allotted before me on 23.X.97. But only Sri G.1 Barua Postmaster Nagaon and PW3 attended the hearing on 23.X.97. The PW3 namely Sri G. Barua, the then Postmaster Nagaon was examined in the presence of SPS and his defence assistant and presenting officer Sri Abdul Hye on 23.X.97. During the examination of Sri G. Barua, the then Postmaster Nagaon HO has admitted that a shortage of postage stamp stationery and service stamp was detected amounted to Rs. 31008.90 on 14.11.94 during the annual *inspection cum* verification of Nagaon HO has full knowledge about the shortage of stamp-stationery on 14.11.96.k he also further admitted that another shortage of stamps/stationery and service stamps are counted to Rs. 31,4521/- was detected on 15.11.94 when the SPS Nagaon recounted stamps/stationery sheet by sheet on opening the packets/bundles. Sri G. Barua the then Postmaster Nagaon HO has admitted that he issued written order to Sri Khalilur Rahman the then ATR (Stamps) Nagaon to hand over the charge of the ATR stamps, to Sri Bipin Ch. Nath on the afternoon of 14.11.94. But the said Sri Khalilur Rahman the then ATR did not hand over the charge of his branch to Sri Nath and

the charge of ATR (Stamps) was with Sri Khalilur Rahman upto..... the close of 15.11.94. He categorically admitted during hearing that the charge of the office of ATR (Stamp) was with the said Khalilur Rahman till close of 15.11.94 and he failed to submit he charge report ACG61 in the afternoon of 14.11.94 duly fill him and signed.

Sri G. Barua, the then Postmaster was cross examined on the same date (25.11.97) by the defence Assistant in the presence of presenting officer. During the cross examination the defence assistant put several relevant questions to Sri Barua, the then Pm. but nothing comes forward in the favour of the SPS. He was further assessed by the defence Assistant that whether there was shortage of stamps when the verification was carried out on 14.11.94 or otherwise Sri G. Barua the then postmaster confined that there was a shortage of postage/stamp/service stamps on 14.11.94 amounted to Rs. 31,008.90.1k The SPS and his defence Assistant did not ask any question regarding shortage of stamps/stationery/service amounting to Rs. 31,452.00 (Rupees thirty one thousand four hundred fifty two) only which was detected on 15.11.94 when the closed packets /bundles were counted sheet by sheet. By the SPOS and other investigating officers assistant the SP /Nagaon during the investigation cum verification. as all the relevant fact was brought out during the

examination and cross examination no more question was placed by the U/S.

Sri Abdul Rashid the then GOS (CDPG) and GW2 was also examined on 24.4.98. By the presenting officer in the presence of SPS and his defence Assistant during hearing held on 24.4.98. Sri Rashid GW2 was admitted that he had seen working as 1 POS (CDPG) during Nov. 94 and also assisted the SP/Nagaon during inspection cum verification commenced on 14.11.94 and he was personally present at the time of physical counting of postage stamps/stationery and service stamp on 14.11.94 and 15.11.96 Sri Rashid 1 POS (CDPG) and PW2 admitted that the inventory dt. 14.11.96 was prepared at the close of verification of postage stamps/stationery and service stamp in his presence and the same is correct of genuine. He stated that as his records the closing balance of postage/stationery and service stamps of Nagaon HO dt. 14.11.94 would have been Rs. 1408,825.70 (Rupees fourteen lakhs eight thousand eight hundred twenty five and paise seventy) only out on physical counting it was found for Rs. 13,77,806.80 (Rupees thirteen lakhs seventy seven thousand eight hundred six and paise eighty) only thereby a shortage of postage stamps /stationery & service stamps for Rs. 31008.90 (Rupees thirty one thousand eight paise ninety) only. Sri Rashid 1 POS (CDPG) and PW2 admitted also that he was present on 15.11.96 out the time of

physical counting of postage stamp/stationery and service stamp and preparation of inventory dt. 15.11.94 was done in his presence. He further clarified that as per..... the closing balance of stamps/stationery/service stamps should have been Rs. 13,74,028.30 but on physical counting it come to Rs. 13,42,575.30 (Rupees thirteen lakhs forty two thousand five hundred seventy five and paise thirty) only resulting a shortage of Rs. 31,453.00 (Rupees thirty one thousand four hundred fifty three) only. Sri Rashid 1 POS (CDPG) and PW2 during examination shorted that Sri ~~Sabailur~~ ^{Khalilur} Rahman SPS was submitted the written statement dt. 14.11.94 wherein the SPS admitted the shortage of postage stamps/stationery and service stamps amounting to Rs. 31,008.90 (Rupees thirty one thousand eight paise ninety) only as established after verification of postage/stationery and service stamps at the closing hrs of 14.11.94. He also took the responsibility of the said shortage amounted to Rs. 31008.90 and agreed as credit the same on 15.11.94.

Sri Abdull Rashid 1 POS (CDPG) and PW2 was cross examination only the same date 27.4.98 . By the SPS, the defence assistant was absent. The SPS stated in writing dt 27.4.98 that he would do the duty of cross examination by himself only and services of his defence assistant would not be

necessary at this stage. The SPS has been limited to perform the duty as prayed for.

The SPS wanted to know from the PW2 Sri Abdul Rashid about the time of verification of stamp/stationery and service stamp was shouted and evident on 14.11.94. The PW2 replied that it was started at 16.30 and closed at 21.00 hrs. The SPS further questioned that who was the custodian of stamps / stationery of Nagaon HO after the checking was over on 14.11.94 and Sri Rashid replied PW2 replied that our Sehalilur Rahman was perhaps relieved on 14.11.96 after checking was over on 14.11.96 and accordingly the Postmaster was the custodian but he could not remember the fact exactly. The SPS again asked the PW2 whether the stock of postage stamps/stationery was opened in the presence of Sri Sehalilur Rahman and PW2 i.e. Sri Abdulk Rashid, Sri Rashid replied that he was present but he has not seen Sri Sehalilur Rahman ATR stamps on 15.11.94. The SPS further asked whether PW2 had seen the prays of steel Almirah having stamps and stationery and who had possessed the same for the night of 14.11.94. He (PW2) replied that he had not seen the same the SPS again wanted to know that in the inventory of 15.11.94 stamps stationery are counted to Rs. 3788.50 was shown as stamp sold on 15.11.94 by shown and whose presence the same was given our for sale. The PW2 replied that he could not remember.

The presenting officer wanted to re examine the PW2 and he has been submitted to do so.

During the examination of PW2 by the presenting officer he wanted to know..... of the base and ~~...supporting...~~ document about the statement made by him that Sri Khalilur Rahman was relieved on 14.11.94 after checking was over on 14.11.94. The PW2 supplied that on next morning on 15.11.94 he found that another man was working in place of Sri Khalilur Rahman, ATR (Stamp) Nagaon HO No. further question was placed to the PW2 by the P.O.

The ~~u/s~~ has given the chance for recross examination of PW2 i.e. Abdul Rashid 1 POS (CDPG) by the SPS i.e. Sri Khalilur Rahaman Ex. ATR Nagoan but who ~~opined~~ that no question from his side. Sri S. Choudhury, ~~As. Pos~~ (Dn) and PW was examined on 28.4.98 in the presence of SPS by the presenting officer. During the examination on 28.4.98 Sri S. Choudhury ASP (Dn) and PW1 admitted that he assisted SP/Nagaon in ~~...~~ annual verification um inspection which was commenced on 14.11.94. He admitted that he was present at the time of physical verification of postage stamp/stationery of Nagaon HO at the closing hours of 14.11.94 and 15.11.94. He further admitted that on physical verification of stamp/stationery as mentioned above, shortage of stamp/stationery amounted to Rs. 31,008.90 (Rupees thirty one thousand eight and

ninety paise) only was detected on 14.11.94 and another shortage of the stamps/stationery and service stamp amounted Rs. 31,453.00 (Rupees thirty one thousand four hundred three) only was also detected at the closing hours of 15.11.94. He also stated during the hearing that Sri Khalilur Rahman Ex. ATR Nagaon HO submitted only written statement on 14.11.94 wherein he had admitted the shortage of stamp/stationery and service stamp worth Rs. 31,008.90 only and agreed to mark good the shortage on 15.11.94.

Sri S. Choudhury ASPOS (Dn) and PW1 was cross examined by the SPS on 28.4.98 in the present of the presenting officer. During the cross examination he was assessed whether he had participated in checking of stamps/stationery of Nagaon HO on 14.11.94 dt. 15.11.94 HO (The PW1) applied that he was engaged on physical verification of stamps/stationery on Nagaon HO on 14.11.94 and 15.11.94. He was asked at what time it was started and closed on 14.11.94 and 15.11.94. He replied it was started during evening time on 14.11.94 and closed at about 21.30 hrs. on 15.11.94 it was started during the morning but the closing time could not be recollected. He was further ^{asked} ~~assessed~~ whether he could ~~say~~ ^{say}.... under whose custody the stamp/stationery were ~~kept~~ ^{kept}.... on 14.11.94 after checking is over. He replied he could remember. The was further questioned by the SPS whether the stock

was opened in the presence of the PW1 he stated that he could not remember same. He was again asked whether he had seen Sri Khalilur Rahman Ex. ATR at the starting ~~work~~ of rechecking of stamps and stationery of Nagaon HO on 15.11.94. He replied that he could not remember exactly. He was questioned that an inventory on 14.11.94 was prepared Nagaon during stamp/stationery of Nagaon whether he admits it. He replied in affirmative. He was asked that as his chargesheet the very was handed over to PM/Nagaon on 14.11.94 after the examine was over whether he admits it or otherwise. He replied he has not seen it and also he has got no knowledge about the matter. He was again asked whether regarding handing over the stamps worth Rs. 3788.50 was given out from the stock on the opening of 15.11.94. The PW1 replied he could not exactly remember the incidence. The examination and cross examination was included on 28.4.98 and the presenting officer was asked whether re examination of PW1 is required to be conducted or otherwise. He replied in negative. The SPS was also asked whether he souted to re-cross examine PW1 of otherwise and he replied in negative.

As the examination was over on 28.4.98 the presenting officer was directed to submit the written brief if he so desire on or before 15.5.98. The Written brief was received from the presenting officer was received from the presenting officer on

28.5.98 and the copy of the brief was also endorsed to SPS. The SPS was there directed to submit the defence statement to this office within a period of 15 days and which was received by the nos. on 12.6.95..

Discussions and observation - I have gone through the written brief of the presenting officer, defence statement of the charged official Sri Khalilur Rahman Ex. ATR stamp Nagaon HO and examination of witnesses viz PW1, PW2 and PW3 and the relevant list of documents by which memorandum was drawn up against Sri Khalilur Rahman Ex ATR (Stamps) Nagaon HO very carefully and observed the following :-

The SP/Nagaon on Dn, started the annual inspection cum verification of Nagaon HO on 14.11.94 at the closing hours and he was assisted by the Pos (CDPG) and ASPOS(Dn) Sri Abdul Rashid, Sri S. Choudhury respectively. Sri G. Barua was the postmaster Nagaon HPO and Sri Khalilur Rahman was the Assistant Treasurer (Stamp) Nagaon on HO responsible for stamp branch Nagaon HO. the postmaster Nagaon was jointly responsible for ATR (Stamps) Nagaon HO. The verification of stamp /stationery and service stamp. Was started in the coming of 14.11.94 and detected a shortage of stamp/stationery and service stamp are amounting to Rs. 31,008.90 (Rupees thirty one thousand eight and

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paise ninety) only on physical counting of stamp/stationery and service stamps from the loose sheets/bundles. The inventory was ^{drawn with reference to the} ~~shown~~ the daily signed by the custodian and the witnesses were ^{taken} ~~forever~~. The amount was changed as ^{UCP.} ~~VCP~~. The actual official had submitted his written statement on 14.11.94 and he has admitted the shortage of Rs. 31008.90 and took the responsibility of the shortage vide his written statement dt. 14.11.94 that he will make good the entire amount by 15.11.94. He accordingly deposited the amount of Rs. 31,008.90 (Rupees thirty one thousand eight and paise ninety) only to the Govt. ^{account} ~~2~~ as ~~VCP~~. On ~~15.11.94~~ Counting of postage/stationery and service stamps on 15.11.94 and there shortage amounting Rs. 31,453/- (Rupees thirty one thousand four hundred fifty three) only was detected and the amount charged as VCP on 15.11.94.1k as his records closing balance of stamp and starting on 14.11.94 should have been Rs. ~~13,338,28.30~~ out on physical counting of stamps/stationery service stamps who found on 15.11.94 amounted to Rs. 13,42,575.30. Thus there was shortage of Rs. 31,453.00 was also charged as VCP on 15.11.94. In course of examination of witnesses viz. PW1, PW2 and PW3 it was seen that all the witnesses stated in there deposition..... that there was a shortage of stamps and stationery detected on 14.11.94 for Rs. 31,008.90 and Rs. 31,453.00 on 15.11.94 during the

annual inspection of SP/Nagaon commenced on 14.11.94 completed on 15.11.94.

As regards article II of the memorandum as F6-1(C)/94-95 dt. 3.6.96 it is to mention here that Sri G. Barua postmaster Nagaon HO issued order to the accused officer to hand over the charge of the ATR (Stamp) Branch to Sri Bipin Ch. Nath, PA, Nagaon HO on the closing hours of 14.11.96. Coming examination of Sri G. Barua the then Postmaster, Nagaon HO on 5.11.97 he admitted that he issued written order in the order book dt. 14.11.94 and directed Sri Khalilur Rahman to hand over the charge of ATR branch Nagaon HO to Sri Bipin Ch. Nath as his oral order of SP/Nagaon. But he did not hand over the charge of the branch to Sri B.C. Nath PA duly signed the charge report in ACG 61. He also did not hand over the Keys.... of the branch to the Postmaster or to Sri Nath. Sri G. Barua, Postmaster stated that charge of the branch was with Sri Khalilur Rahman till 15.11.94. During cross examination of Sri G. Barua, the then Postmaster Nagaon on 5.11.97, the defence and the SPS did not bring out any truth of the fact that the ATR (Stamp) was not with Sri Khalilur Rahman and it was with Postmaster. The said PW3 Sri G. Barua in his submission dt. 5.11.97 mentioned that the works regarding handing and taking over of the stamps/stationery in stock held in between Sri Khalilur Rahman and Sri B. Nath on 15.11.94.k As

the handing over and taking over took place in between Sri Nath and Khalilur Rahman on 15.11.94 it is presumed that Sri Rahman did not hand over the charge of the ATR (Stamp) branch on the closing hours of 14.11.94.

FINDINGS OF THE CASE

I have checked all the relevant records and on the basis documentary evidences as adduced In the case and the deposition of the witnesses examined and form the above discussions the u/s have come to the conclusion that the charges framed against Sri Khalilur Rahman EX ATR (Stamps) Nagaon HO under Annexure-I and article I vide SP/Nagaon memo no F6-1(C)/94-95 dt. 3.6.96 is proved beyond doubt.

As regards articles II of the charges, I have gone through the records i.e. the order Book of the Postmaster Nagaon HO dt. 14.11.94 (during hearing) and on the basis of deposition made by Sri G. Barua, Ex postmaster on 5.11.97 and on the basis of above discussions (in the page.....), the u/s have come to conclusion that the article no of the SPOs Nagaon Dn memo no F6-1(C)/94-95 dt. 3.6.96 has been proved beyond doubt.

Though both the charges viz. articles I and articles II of the memo no F6-1(C)/94-95 dt. 3.6.96 from the SPOs Nagaon have been proved beyond

doubt, the ^{U/S} request the Disc. Authority to take a lenient view in the case while deciding the disc. case against the said official as the official had voluntarily credited the amount of shortage of stamp stationery within a period of 15 days ^{from} ~~from~~ the date ^{of} ~~of~~ detection.

The relevant records and enquiry file along with two copies of report are enclosed.

DA (as above)

(K. R. Roy)

[Handwritten signature]
[Handwritten initials]
 2/3

DEPARTMENT OF POSTS

OFFICE OF THE SUPDT. OF POST OFFICES : NAGAONDN:

NAGAON-782001

Memo No. F6-1(C)/94-95

Dated at Nagaon the 25.06.99

1. Read the following :

- 1) This office memo No.F6-1(C)/94-95 dtd. 03.06.96.
- 2) Letter dtd. 11.06.96 submitted by Shri Khalilur Rahman intimating that he desired to be heard in person.
- 3) Inquiry Report of the Inquiry Authority dtd. 23.10.98.
- 4) Written Representation dtd. 09.11.98 submitted by Shri Khalilur Rahman against the Inquiry Report.

Shri Khalilur Rahman the then Assistant treasurer (Stamps), Nagaon HO and now PA, Haibargaon SO was informed vide this office memo No. F6-1(C)/94-95 that it was proposed to take action under Rule-14 of CCS (CCA) Rules-1965. The statement of articles of charges, the statement of imputation of misconduct or misbehaviour in support of the article of charge framed against the said Shri Khalilur Rahman, a list of documents by which and a list of witnesses by whom the articles of charge proposed to be sustained were enclosed as Annexures I, II, III & IV.

Contd

2. The articles of charge framed against Shri Khalilur Rahman are as under :-

ANNEXURE-I

Statement of articles of charge framed against Shri Khalilur Rahman the then Asstt. Treasurer (Stamp), Nagaon HO now PA, Dhing SO.

ARTICLE-I

That the said Shri Khalilur Rahman while functioning as Asstt. Treasurer (Stamp), Nagaon HO during the period from 05.03.93 to 14.11.94 failed to credit the sale proceeds of postage and service stamp and the stationery amounting to Rs. 62,462.90 (Rupees sixty two thousand four hundred sixty one and paise ninety) only which was detected during the annual inspection-cum-verification of Nagaon HO commenced from 14.11.94. By this act the said Shri Khalilur Rahman is alleged to have violated the provision of Rule-4(I) of P&T Financial Hand Book Vol.-I and 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules-1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Khalilur Rahman failed to hand over the charge of the branch as Asstt. Treasurer (Stamp), Nagaon HO as ordered by the Postmaster, Nagaon HO in the afternoon of 14.11.94 and thereby violated the

with the documentary and the oral evidences very carefully. The Inquiring Authority in his findings held that the articles of the charge under the Annexure-I had been proved beyond doubt on the basis of the documentary evidences and the deposition of the listed witnesses examined at the inquiry. The Inquiring Authority submitted a request to the Disciplinary Authority to take a lenient view in the case while disposing of the disciplinary case against the charge official on account of voluntary credit of the amount found short in the stamp and stationery within 15 days from the date of detection of the case. The Inquiring Authority has no jurisdiction in submission of such a request to the Disciplinary Authority.

2. When the case for the prosecution side was closed on 28.4.98, the charged official was not required to state his defence, orally or in writing. The SPS replied in negative when asked for whether any additional witness was required to be examined on his behalf. So, there was no witness to be examined on behalf of the charged official. The charge official did not prefer any submission to examine himself in his own behalf. And the Inquiring Authority also did not question him on the circumstances appearing against him in the evidence for the purpose of

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enabling the charged official to explain any circumstances appearing in the evidence against him. The Inquiring Authority directed the P.O. to submit the written brief on 21.5.98 and send a copy of the same directly to the charged official. The charged official on receipt of a copy on P.O's brief, submitted his written brief on 20.6.98 which was forwarded through the Sub Postmaster, Haibargaon SO on 26.6.98 to the I.A. He termed this brief as "written defence". He raised no objection to the I.A. for not requiring him to state his defence, orally or in writing and for not questioning him on the circumstances appearing against him in the evidence when he did not prefer to examine himself in his own behalf. Subsequently also, in his brief-cum-written defence dtd. 20.6.98 as well as in his representation dtd. 9.11.98 submitted against the Inquiry Report he raised no objection in this connection.

3. The then SPOs Nagaon took up the inspection Nagaon HPO on 14.11.94 for the year 1994. In course of physical verification of the stamp and stationery in stock with the Asstt. Treasurer (Stamp), Nagaon HO a shortage of Rs. 31,008.90 (Rupees thirty one thousand eight and paise ninety) only was found in the balance of stamp and stationery and inventory was prepared. The physical verification of stamp

and stationery was carried out by the then SPOs, Nagaon with the assistance of the then ASPOs (Dn), Shri S. Choudhury and the then C.L. Nagaon Shri A. Rashid. The inventory prepared on 14.11.94 was duly witnessed by the following officials :-

1. Shri A. Rashid, the then C.I. Nagaon.
2. Shri S. Choudhury, the then ASPOs (Dn), Nagaon.
3. The M. Gayan, the then APM, Nagaon HO
4. Shri R.M. Das, the then SDIPOs, Nagaon West Sub-Dn.

The aforesaid inventory prepared on 14.11.94 was duly signed by the following officer/officials :-

- i) Shri B. Hazarika, the then SPOs, Nagaon.
- ii) Shri G. Baura, the then Postmaster, Nagaon HO.
- iii) Shri K. Rahman, the then Asstt. Treasurer (Stamp) and the Charged Official.

A copy of the inventory was duly receipted by the charged official and he submitted a written statement on 14.11.94 as under :-

"On verification of stamp physically by the Supdt. Of Post Offices on 14.11.94 found short in balance of the stamp for the amount of Rs. 31008.90. Stamp and Stationeries found Rs. 13,77,816.80 instead of Rs. 14,08,825.70. The reason for the shortage, as to the best of knowledge is quite unfortunate for me. As the amount found short in my hand I will make good the entire amount tomorrow the 15th Nov./94".

The above written statement dtd. 14.1.94 of the charged official was duly witnessed by Shri S. Choudhury the then ASPOs (Dn), Shri A. Rashid the then C.I., Nagaon, Shri R.M. Das, the then SDIPOs, Nagaon West Sub Dn. Nagaon-782001 and Shri M. Gayan, the then APM, Nagaon H.O.

The said W/S dtd. 14.11.94 (EX/P-7) is a clear and specific admission of shortage of Rs. 31,008.90 in the stamp and stationary balance from his custody. According to his written brief-cum-defence dtd. 20.6.98 he got the sound at about 2000 hrs. regarding shortage of stamps and at about 2100 hrs he was asked to hand over the charge to Shri Bipin Ch. Nath the then Treasurer No.1, Nagaon HO. So in this statement of the charged official in his written brief-cum-defence dtd. 20.6.98, he has tried to establish it that he had worked for the whole day as ATR(Stamp) on 14.11.94 and had been present up to 2100 hrs during the verification of stamp and stationery taken up by the SPOs, Nagaon and others and after 2100 hrs he made over the keys only instead of proper handing over the charge with the details of stamp and stationery as enjoined in the rules according to the written order of the Postmaster. An order was given by the then Postmaster, Nagaon HO on 14.11.94 in the ORDER BOOK (EX/P-4) as under :

"Md. Khalilur Rahman Asstt. Treasurer (Stamp) will please hand over charge of Asstt. TR (Stamp) to

YK/11/94

Shri Bipin Ch. Nath on today afternoon as per verbal order of the Supdt. Of Post Offices, Nagaon camp at Nagaon HO."

The charged official put his dated initial on the order book in token of having seen the order of the Postmaster. Transfer of charge was required to be done in between him and Shri Bipin Ch. Nath. So, the charged official should not have parted with the keys until and unless the charge of the ATR (Stamp) was formally and properly made over by him and Shri Bipin Ch. Nath who was to give acquittance for the stamp and the stationery actually handed over to him by the charged official. parting with the keys only to the Postmaster had not made him absolutely free from the responsibilities and custodianship of the stamp and stationary held by him. It was his personal duty and responsibility to ensure proper handing over of the stamp and stationery to Shri Bipin Ch. Nath after physical counting by both the officials. He had not done so. He maintained the idea that he relinquished the charge of the ATR (Stamp) by parting with the keys to the Postmaster. The charged official had completed 15 (fifteen) years of service as on 14.11.94 and so, he was well conversant with the Rules and working procedures of the Department. But he acted in contravention of the Rules and there was breach of order by him.

4.1 It was Sunday on 13.11.94. As per the Treasurer Cash Book (EX/p-2) and Hand to Hand Receipt Book maintained by the ATR (Stamp) (DEX-1), the opening balance of the Stamp and stationery (excluding CRF stamp shown separately in the T.C.B.) was for Rs. 14,25,009.70. The ATR (Stamp) Shri Khalilur Rahman showed Rs. 16,184.00 as the amount realized on sale of stamp and stationery in the (DEX-1). By physician verification on 14.11.94, the stamp and stationery worth Rs. 13,77,816.80 were found in the stock. Thus, a sum of Rs. 31,008.90 was found short in the balance of stamp and stationery on 14.11.94 as detailed below :-

O.B./14.11.94	Rs. 14,25,009.70
Deduct sale on 14.11.94	Rs. 16,184.00
	<hr/>
	Rs. 14,08,825.70
Deduct stamp and stationery actually found by physically counting on 14.11.94	Rs. 13,77,816.80
	<hr/>
Shortage found in the balance of stamp & stationary and duly entered in the inventory dtd. 14.11.94.	Rs. 31,008.90

4.2 A sum of Rs. 31,453.00 was further found short in the balance of stamp and stationary by

physical re-verification on 15.11.94 as detailed below :

Stamp and stationery balance found on 14.11.94 by physical counting. Rs. 3,77,816.80

Deduct sale before completion of verification on 15.11.94 item wise and denomination wise one after another. Rs. 3,788.50

Rs. 3,74,028.30

Deduct stamp and stationery actually found by physical counting on 15.11.94 Rs. 3,42,575.30

Subsequent shortage found in the stamp and stationary and duly entered in the inventory dt. 15.11.94 Rs. 31,453.00

4.3 The total shortage found in the stamp and stationery balance by physical counting was as under :-

Shortage found on 14.11.94	Rs. 31,008.90
Shortage found on 15.11.94	Rs. 31,453.00
	<u>Rs. 62,461.90</u>

Rupees sixty two thousand four hundred sixty one and paise ninety only.

The total shortage in the stamp and stationery balance found by physical counting 15.11.94 and entered in the Inventory Dt. 15.11.94 can be arrived at as under :

O.B./14.11.94 Rs. 14,25,009.70

Deduct

sale of stamps and stationery

taken into account in the

Inventory Dt. 14.11.94 (-) Rs. 16,184.00

Rs. 14,08,825.70

Deduct

sale of stamps and stationery

taken into account in the

Inventory Dt. 15.11.94 (-) Rs. 3,788.50

Rs. 14,05,037.20

Deduct

stamps and stationery

found by physical

verification (-) Rs. 13,42,575.30

Total amount of shortage

found in the stamps and

stationery balances Rs. 62,461.90

4.4 The amount of sale of stamp and stationery was deposited by the charged official to the Treasurer No.1 in three intervals on 14.11.94 as under : as per DEX-1 i.e. Hand to Hand Receipt Book of the ATR (Stamps) :

- i) Rs. 1673.50 (entered at Sl 3 in receipt side of the TCB i.e. EX/P-2)
- ii) Rs. 10038.50 (entered at Sl 17 in the receipt side of the above TCB)
- iii) Rs. 4472.00 (it was kept as unaccounted item in the TCB on 14.11.94 and duly accounted for on 15.11.94 being entered at

Total Rs. 16184.00 (sl 4 in the receipt side of the TCB).

As lout of the total sum of Rs. 16184.00, a sum of Rs. 4472.00 deposited by the charged official at the last hours of the day on 14.11.94 was kept unaccounted on 14.11.94 and subsequently the same was taken into account on the following day i.e. on 15.11.94, there was automatically a difference of Rs. 4472.00 in between the closing balance of stamp and stationery shown in the TCB(Ex/P-2) and in the HO summary (Ex/P-1) with that balance found by physical counting and entered in the inventory dtd. 14.11.94 as under :

- i) Closing balance of stamp and stationery as per TCB & HO summary on 14.11.94 - Rs. 14,13,297.70
- ii) Balance of stamp and stationery found and noted in the inventory dtd. 14.11.94 - Rs. 14,08,825.70
- iii) Difference due to non-accounting stamp sale of Rupees 4472.00 - Rs. 4,472.00

4.5 A sum of Rupees 31,008.90 (Rupees thirty one thousand eight and paise ninety) only as detailed below, which was equivalent to the amount of shortage found by physical counting in the stamp and stationery balance was also made good and deposited by the charged official to the Treasurer-1 at 19.00 hrs. on 14.11.94 under his initial along with the dated initial of the Treasurer-1 on the Exhibit DEX-1.

Contd...

G.C. Notes 50 X 600	=	Rs. 30,000.00
-do- 10 X 100	=	1,000.00
-do- 2 X 1	=	2.00
Coins	=	6.90
<hr/>		
Total		Rs. 31,008.90

The Exhibit DEX - I makes it very clear that the verification of the stamp and stationery was over before 19.00 hrs. This amount of Rs. 31008.90 was kept out of account under "C" column in the HO summary on 14.11.94 and subsequently on the following day the shortage of Rs. 31008.90 found in the stamp and stationery balance on 14.11.94 was charged as UCP and simultaneously the amount made good by him at 19.00hrs on 14.11.94 was shown as UCR in the HO summary and TCB. So it may be assessed well that the written statement dtd. 14.11.94 (EX/P-7) had been given by him first and subsequently after submission of the written statement he made good the amount after some time, as because he had assured to pay the money on the following day in his written statement. ✓

4.6 On the day of inspection by the then Supdt. Of Post he had credited a sum of Rs. 16184.00 on account of sale of stamp and stationery in three intervals on 14.11.94. the Exhibit DEX-1 was maintained by him. The following amounts were credited by him from 15.6.94 to 12.11.94

on account of sale of stamp and stationery by him as per the Exhibits, DEX-I and EX/P-2.

- 15.6.94=Rs.3374.50,
- 16.6.94=Rs.2990.50,
- 17.6.94=Rs.3667.50,
- 18.6.94=Rs.1220.00,
- 20.6.94=Rs.5069.00,
- 22.6.94=Rs.5200.00,
- 23.6.94=Rs.3571.50,
- 24.6.94= Rs.4427.00
- 25.6.94= Rs.254550,
- 27.6.94= Rs.4642.50
- 28.6.94= Rs.4590.60.
- 29.6.94= Rs.2669.50
- 30.6.94/1.7.94= Rs.6733.00, 2.7.94= Rs.2807.50
- 4.7.94= Rs.4482.00,
- 5.7.94= Rs.3680.50
- 6.7.94= Rs.3681.00,
- 7.7.94= Rs.3261.00
- 8.7.94= Rs.4486.00,
- 9.7.94= Rs.1173.50
- 11.7.94= Rs.3780.50,
- 12.7.94= Rs.4723.00
- 13.7.94= Rs.3714.00
- 14.7.94= Rs.2947.00
- 15.7.94= Rs.2643.00,
- 16.7.94= Rs.1361.50
- 18.7.94= Rs.2742.50,
- 19.7.94= Rs.3767.50
- 20.7.94= Rs.2963.00,
- 21.7.94= Rs.2042.50
- 22.7.94= Rs.2282.00,
- 23.7.94= Rs.1327.50
- 25.7.94= Rs.6116.50,
- 26.7.94= Rs.3713.50
- 27.7.94= Rs.576.50,
- 28.7.94= Rs.3422.00
- 29.7.94= Rs.4348.50, 30.7.94/1.8.94= Rs.8540.00
- 2.8.94= Rs.4527.50,
- 3.8.94= Rs.4267.50
- 4.8.94= Rs.3669.50,
- 5.8.94= Rs.4589.00
- 6.8.94/8.8.94= Rs.6001.00
- 9.8.94= Rs.5559.00
- 10.8.94= Rs.3425.00,
- 11.8.94= Rs.4033.00
- 12.8.94= Rs.4529.50,
- 13.8.94= Rs.2527.00
- 16.8.94= Rs.4715.00,
- 17.8.94= Rs.3000.00
- 18.8.94= Rs.2648.00,
- 19.8.94= Rs.3186.00
- 20.8.94= Rs.1618.00,
- 22.8.94= Rs.19011.00

(including postage of Rs. 18039.00)

23.8.94= Rs.3686.50,	24.8.94= Rs.3075.50
25.8.94= Rs.4400.50,	26.8.94= Rs.3388.50
27.8.94= Rs.3333.50,	00.8.94= Rs.4777.00
1.9.94= Rs.8762.50,	2.9.94= Rs.5152.00
3.9.94= Rs.5351.00,	5.9.94= Rs.7167.50
6.9.94= Rs.3694.00,	7.9.94= Rs.1756.00
8.9.94= Rs.3514.00,	9.9.94= Rs.3586.00
10.9.94= Rs.2259.50,	12.9.94= Rs.3932.00
13.9.94= Rs.3063.00,	14.9.94= Rs.3614.00
15.9.94= Rs.2262.50,	17.9.94= Rs.5128.00
19.9.94= Rs.3816.00,	20.9.94= Rs.3966.00
21.9.94= Rs.3404.00,	23.9.94= Rs.11052.00
24.9.94= Rs.3713.50,	26.9.94= Rs.3108.50
27.9.94= Rs.3313.50,	28.9/1.10.94= Rs.10928.50
3.10.94= Rs.5807.00,	4.10.94= Rs.4821.50
5.10.94= Rs.5642.00,	6.10.94= Rs.5519.00
7.10.94= Rs.5522.00,	8.10.94= Rs.4201.00
10.10.94= Rs.8454.00,	11.10.94= Rs.1780.50
12.10.94= Rs.250.00,	15.10.94= Rs.2185.00
17.10.94= Rs.2228.00,	18.10.94= Rs.3976.00
19.10.94= Rs.3499.00,	21.10.94= Rs.7899.50
22.10.94= Rs.6865.50,	24.10.94= Rs.4214.50
25.10.94= Rs.5465.00,	26.10.94= Rs.2225.00
27.10.94= Rs.3294.00,	28.10.94= Rs.4248.50
29.10.94= Rs.3076.50,	31.10/1.11.94= Rs.7650.00
2.11.94= Rs.5084.50,	4.11.94= Rs.3777.00
5.11.94= Rs.3458.00,	7.11.94= Rs.6454.50
8.11.94= Rs.4266.50,	9.11.94= Rs.2195.00
10.11.94= Rs.3400.00,	11.11.94= Rs.12875.00
12.11.94= Rs.3863.00.	

From the above data, it is evident that except on the four dates viz 22.8.94, 23.9.94, 1.10.94 and 11.11.94 there were credits on account of sale of stamp and stationery as under :

Credits upto Rs. 1000.00 - 3 days	
-do- above Rs. 1000.00 to Rs. 2000.00 - 7 days	
-do- above Rs. 2000.00 to Rs. 3000.00 - 18 days	
-do- above Rs. 3000.00 to Rs. 4000.00 - 38 days	
-do- above Rs. 4000.00 to Rs. 5000.00 - 20 days	
-do- above Rs. 5000.00 to Rs. 6000.00 - 12 days	
-do- above Rs. 6000.00 to Rs. 7000.00 - 5 days	
-do- above Rs. 7000.00 to Rs. 8000.00 - 3 days	
-do- above Rs. 8000.00 to Rs. 9000.00 - 3 days	
<hr/>	
Total - 109 days	

Out of the credits made on account of sale of stamp and stationery on the above mentioned 109 days, most of the credits were made in between Rs. 250.00 to Rs. 4821.00 on 86 days. So, it automatically gives rise of suspicion as to hw on the day of Inspection itself, there was sale of stamp and stationery for Rs. 16184.00. So, it maybe assessed and concluded that the charged official had never correctly credited the actual sale proceeds of stamp and stationery for a considerable period by showing fictitious stamp balance in the Register of Stamp balances (EX/P-3). Whether the then Head Postmaster had been signing the Register of Stamp Balances with or without carrying out physical verification of stamp and stationery may be a

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question but such question or doubt has no concern with the own responsibilities of the charged official as no one can escape or claim to be free from his own fault at the lapse of others if any.

5 The charged official held custody of stock of stamp and stationery worth Rs. 13,77,816.80 after verification by the then SPOs. In such circumstances, even a lay man would not have parted with the keys before executing proper handing over of the stock of stamp and stationery to his reliever under acquittance but a senior official like him failed to act so in the prescribed manner. so it can be easily understood that apprehending re-verification of the stamp and stationery on 15.11.94, the charged official had parted with the keys without formal transfer of the stock of stamp and stationery under acquittance with the clear thought and intention to throw the responsibility on others and make some points in his favour as he had the knowledge that there had been abstraction of the sheets from the packets of stamp, which were not verified sheet by sheet and the total values of which were only taken into account during verification on 14.11.94. Had it not been the fact so, he would have been very serious and particular only for transfer of the stock under clear acquaintance to his reliever.

Thus, he made him responsible for further shortage of Rs. 31453.00 found by physical re-verification on 15.11.94.

- 6 Re-verification of stamp and stationery was carried out on 15.11.94 item wise and denomination-wise one after another. During this re-verification a sum of Rs. 3788.50 was taken into account as sale of stamps and the stock was arrived at accordingly at the close of re-verification. There was also sale of stamps of Rs. 168.00 on the day after re-verification item wise and denomination-wise one after another. This total amount of sale of Rs. 3956.50 was kept "unaccounted" in the "c" column of the TCB (EX/P-2). Thus amount of sale of stamp and stationery was duly reflected in the TCB at Sl 2 of the receipt side on 16.11.94.

As per the Inventory dtd. 15.11.94 the balance of the stamp and stationery was found for Rs. 13,42,575.30 whereas in the TCB dtd. 15.11.94 and HO summary dtd. 15.11.94 stamp and stationery balance was shown for Rs. 13,46,363.80 on account of keeping the sale of stamp for Rs. 3956.50 out of account under /C' column. Thus, there was nothing wrong in the stamp balance found on physical verification on 15.11.94.

- 7 Further shortage of Rs. 31,453.00 found by physical re-verification on 15.11.94 was charged as UCP on 15.11.94 and the official credited this amount of Rs. 31,453.00 voluntarily in seven instalments during the period from 19.11.94 to 30.11.94. He has failed to submit any evidence of pressurizing him to credit the money. Had he not been guilty, he would not have credited the amount under any circumstances. He himself had taken time to credit the amount at his own convenience in seven instalments.
- 8 As the re-verification of the stamps and stationery not in loose state but containing in the packets sheet by sheet was required on the following day, i.e. 15.11.94, the shortage of stamp and stationery worth Rs. 31,008.90 found on 14.11.94 was not credited as UCP on 14.11.94 but recorded in the Inventory dtd. 14.11.94 duly receipted by the charged official. Whole amount of shortage i.e. Rs. 62,461.90 was charged as UCP on 15.11.94.
- 9 Thus, the charged official has failed to refute the articles of charge brought against him under Article-I and Article-II of the Annexure-I of the charge Memo.

- 10.1 In view of the above observations and assessment of the materials on records,

the articles of charge brought against him, stand proved.

10.2 The offences committed by Shri Khalilur Rahman are very serious in nature. Considering the gravity of the offences committed and past record of his services the undersigned is left with no other option but to conclude this disciplinary case with the following order to meet the end of justice.

ORDER

The undersigned, Shri A. K. Biswas, Supt. Of Post Offices, Nagaon Dn, Nagaon-782001 and Disciplinary Authority as empowered by the President of India under Rule 12 of CCS (CCA) Rules 1965 and in exercise of the powers conferred by the Rule 15 of CCS (CCA) Rules, 1965 hereby orders that the pay of Shri Khalilur Rahman, PA, Haibargaon SO be defuced by one stage from Rs. 4800.00 to Rs. 4700.00 in the time scale of pay of Rs. 4000.00-100.00-6000.00 for a period of five years with effect from 01.7.99. It is further directed that Shri Khalilur Rahman will not earn increment of pay during the period of reduction and that on expiry

of this period, the reduction will not have effect of postponing his future increment of pay.

(A.K. Biswas)

Suptd. Of Post Offices
Nagaon Dn Nagaon-782001

Copy to-

1. Shri Khalilur Rahman, PA, Haibargaon SO.
2. the Postmaster, Nagaon HO.
3. The DA(P), Calcutta (through PM, Nagaon HO)
- 4-5. The Postmaster General (Staff.Vigilance) Assam region, Guwahati-781001.
6. Punishment Register.
- 7-8. CR/PF of the official
- 9-10. OC/Spare.

(A.K. Biswas)

Suptd. Of Post Offices
Nagaon Dn Nagaon-782001

A.K. Biswas
7/3

To,
The Regional Director of Postal Services,
Assam Region, Guwahati-1.

Through the Supdt. of Post Offices,
Nagaon Dn, Nagaon (Assam) 782001.

Dated at Nagaon the 13th Aug/99.

Sub : Appeal against the order of the punishment
issued by the SPSS, Nagaon Dn.

Respected Sir,

With due respect and humble submission I
beg to prefer the following appeal to your good
self for favour of your kind consideration and
sympathetic order.

That sir, I have been awarded punishment
vide Supdt. of Post Offices, Nagaon Dn, memo No.
F6-1(C)/94-95 dtd. 25.6.99 as follows -

"The undersigned Sri A.K. Biswas, Supdt.
of Post offices, Nagaon Dn, Nagaon 782001 and
disciplinary authority as empowered by the
President of India under Rule 12 of CCS (CCA)
rules, 1965 and in exercise of powers conferred by
Rule 15 of CCS (CCA) Rules, 1965 hereby order that
the pay of Sri Khalilur Rahman PA, Haibargaon SO,
be reduced one stage from Rs. 4800.00 to
Rs. 4700.00 in the time scale of pay of
Rs. 4000.00-100.00-Rs.6000.00 for a period of five

Chand

years w.e.f. 1.7.9. It is further directed that Sri Khalilur Rahman will not earn increment of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing his future increment of pay".

That sir, the so called charge framed were as follows :-

While working as ATR/Stamps Nagaon during the period from 5.3.93 to 14.11.94 I failed to credit the sale proceeds of stamps and stationeries amounting to Rs. 62,461.90, and again for the aforesaid period I failed to hand over the charge of the Branch of ATR/Stamp, Nagaon HO as ordered by the Postmaster Nagaon HO on 14.11.94.

To prove the charge framed against me the disciplinary authority listed the following documents :-

1. HO summary dtd. 13.11.94, 14.11.94 & 15.11.94.
2. Treasurer's Cash Book dtd. 13.11.94 to 15.11.94.
3. Stamp balance register, dtd. 13.11.94.
4. Inventory dtd. 14.11.94.
5. Inventory dtd. 15.11.94.
6. Written Statement dtd. 14.11.94 of Sri Khalilur Rahman.
7. Hand to hand receipt book of that Branch, (Additional documents).

The disciplinary authority listed the following persons as state witness -

1. Sri S. Choudhury, ASPOS, Nagaon Dn.
2. Sri A. Rashid, IPOS (C&PG) Nagaon.
3. Sri G. Baruah, Postmaster, Nagaon HO.

That sir, the disciplinary case against me were inquired by two enquiry authority, Sri J. Biswas, ASPOS, Diphu and Sri K.R. Roy, ASPOS, Diphu.

That Sir,

The actual fact of the attributed charges were as follows -

Wanting of postage stamp and stationeries of Nagaon HO was started on 14.11.94 at the middle of the Business hours at random. As a result stamps and stationeries in my stock could not be arranged smoothly (stamp balance exceeds abnormally beyond the maximum capacity) as it was a very big amount and I could not arrange them immediately for carrying lout the inspection by the inspecting authority. Checking was done simultaneously by several persons keeping me along and I was to remain as spectator of the fact. Since it was started by several persons at a time, I could not keep watch upon the counting/verification properly. Opportunity for rechecking of stamps and stationeries after their verification was over, both by me and my joint custodian was not allowed

for the confirmation. The days work was not allowed to be completed by my self. Even the stamp balance register for the day was not allowed to be written by me. The inspection continued till 21.30 hrs. The inspection authority, on completion of their duty prepared inventory of the stamps and stationeries of Nagaon HO as on 14.11.94 on physical verification with amount of Rs. 13,77,816.80 against the summary fig Rs. 14,08,825.70 resulting a discrepancy of Rs. 31,008.90. The inspecting authority showed the amount of Rs. 31,008.90 as found short of stamp balance and stationeries of Nagaon HO on 14.11.94. But I denied the shortage. The authority threatened me verbally that if the shortage is denied by me then they had no alternative to handed over me to the police. Thinking on the consequence of Police case, as well as to save my reputations I agreed to made good the shortage as per provision of "making good" of our department.

At about 21.30 hrs the inspecting authority ordered the Postmaster for the relinquishment of me from that Branch. The Postmaster ordered in his order book to hand over the charge to Sri Bipin Nath, the then treasurer-1 of Nagaon HO. Sri Nath was not physically present there at that moment, the Supdt. of Post Offices asked the Postmaster Nagaon HO to assume the charge on the basis of checking made by the inspecting

authority and the inventory of the articles, prepared thereon on 14.11.94. The Supdt. also ordered me to hand over the keys of the branch along with stock to Sri Gajen Baruah, the then Postmaster, Nagaon HO providing me a copy of the inventory of stamps and stationeries as prepared by the inspecting authority on 14.11.94. The then Postmaster, Gajen Baruah, in presence of the then Supdt. of Post Offices, Nagaon Dn, Sri Binonda Hazarika accepted the key along with the copy of the inventory prepared on 14.11.94 and did not insisted upon having exchange of change report, (Ref. Disposition of Sri G. Baruah on his cross examination).

The next working day I was not allowed to work in the treasury branch. Even at the time of reopening of the treasury the stock was not opened and checked in my presence. I did not credit any amount of shortage amounting Rs. 31,008.90 as UCR nor the authority insisted me to credit the sum subsequently. As I know the amount was reconcited by the authority on 14.11.94.

On my elimination from that Branch on 14.11.94 another person was allowed to be worked from the next working day in from 15.11.94 another person worked there independently. Strangely At the closing hours the inspecting authority prepared another inventory on 15.11.94 on stamps and stationeries of Nagaon HO and asked me to sign

there. I had gone through the inventory with an amount of Rs. 13,42,575.30p for 15.11.94 and signed there as witness. Since my incumbency to that Branch is nowhere mentioned in the inventory, I had no objection to sign there.

Strangely enough, on taking a sign on the inventory prepared on 15.11.94 on stamps and stationery of Nagaon HO, the inspecting authority forcibly argued to credit an amount of shortage of Rs. 31,453.00. They argued that I might be held responsible of the total shortage that had been found by them on 14.11.94 and 15.11.94. I had posted it but they were continuing with there unjustified argument. Even they did not allow me to leave the room without depositing the amount on giving an undertaking to credit the ^{and} shortage also. This time also they threatened me to hand over to the police. Apprehending the police harassment, to save my reputation and also to keep my self clean in the eye of law I again agreed to made the amount good unprotest and subject to rechecking of my past account. But the authority gave me no chance to recheck my past account and instisted to credit the amount. Since I promised to ful-fill the govt. loss. I deposited the seem in several instruments by selling ornaments of my wife, some house hold goods as well as taking loan form my friends and family members.

That sir, during the oral inquiry into the case the dispositions of the state witness were nothing but confusing, and contradictory as narrated in my written brief dtd. 20.6.98 (enclosed as Annexure-A)

That sir, the documentary support of the change framed against me were full of ambiguity, confusing and contradictory as narrated in my written brief narrated above.

Still the inquiry authority without giving due weightage and consideration to my arguments and reasoning's as narrated in my written brief dtd. 20.6.98 has drawn up a predetermined and partial inquiry report over looking the dispositions of the state witness and the relevancy of the documents.

On receipt of the inquiry report through the disciplinary authority I submitted a representation as follows-(enclosed as annexure-B).

But the disciplinary authority without disenssing the points of defence submitted by me has concluded his observations and findings with some imaginary reasoning.

As for example in the statement of imputations of misconduct and misbehaviour it was alleged that I did not correctly credit the sale proceeds of stamps and stationeries force considerable period by showing fictitious stamp

figures in the stamp balance register. To justify the attributed charges the disciplinary authority had cited the example of daily sale of figures from 15.6.94 to 12.11.94, wherein he has made analysis of the questions of stamp sale in various names. To prove that the credit of stamps sale on the day of inspection by the SPOS, Nagon was abnormally high, but the disciplinary authority himself overlooked that stamp sale on some date during the period as mentioned by him in between below one thousands to Rs. 12,000/- under such circumstances the stamp sale fig. On the day of inspection cannot be justified as abnormal. More over to what extent one days sale fig of stamp and stationeries cannot be predicted.

That sir, Sri Gajen Baruah, the then Postmaster, Nagaon HO in his disposition as state witness categorically admitted that he checked the stamp balance register regularly. Then, the conclusion of the disciplinary authority that I never correctly credited the sale proceeds of stamps and stationeries for a considerable period is nothing but imaginary. Moreover the charge sheet itself contains no specific date on which I had not correctly credit the sale proceeds of stamps and stationeries showing fictitious figures in the stamp balance register. As such the alleged

Contd...

imputations is not definite clear and specific due to which I could not place my defence properly.

That sir,

The charge sheet itself speaks that I worked as ATR/Stamp of Nagaon HO up to 14.11.94. But I had been forcibly held responsible for a shortage of stamps and stationeries occurred in the stamp treasury of Nagaon HO on 15.11.94 on which I had been in anyway related to the stamp treasury of Nagaon HO as specifically clarified in the dispositions of the state witness.

The only question arises whether there was any shortage of stamps and stationeries at Nagaon HO on 14.11.94 upto the period to which I actually worked there. On this regard I beg to say as follows-

According to the statement of imputations I worked as ATR/Stumps of Nagaon HO up to the date of 14.11.94. As per instruction of the authority I handed over the stock of stamps and stationeries along with the keep of the Branch to Sri Gajen Baruah, the then Postmaster, Nagaon HO. On the basis of physical verification and inventory of the articles of stamps and stationeries dtd. 14.11.94 in presence of the inspecting authority State witness Sri A. Rashid clearly stated in his dispositions that I had been releingguished form the ATR/Stamps of Nagaon HO on 14.11.94 and the

then Postmaster Nagaon, Sri Gajen baruah was the custodian of that Branch for the overnight of 14.11.94. From his dispositions at the time of examination of witness it was clarified by him that I was not present in the Stamp treasurer of Nagaon HO when the stock of Stamp and stationeries was reopened for and checking on 15.11.94. From his dispositions it was also clarified that another man worked in the stamp try of Nagaon HO independently on 15.11.94 other than myself state witness. Sri Gajen Baruah, in his disposition of the time of examination of the witness clarified that selling stamps at Nagaon HO was done by Sri Bipin Nath. That sir, from the above noted arguments and dispositions of the state witness it is cleared that I had been in no way connected with stamp treasury of Nagaon HO on 15.11.94 and another man worked there independently. Therefore, I cannot be held responsible for any loss or shortage that had been happened there on after 15.11.94.

Actually there was not shortage in stamp balance of Nagaon HO up to 14.11.94. The inspecting authority had started the inspection at the middle of the working hrs. (Ref. examination of witness : state witness A. Rashid's disposition) on 14.11.94. As the stamp balance was abnormally high (Rs. 14,08,825.70) the inspecting authority hurriedly performed the inspection and they could not avoid the mistake. They ignore the actual credit of

amount by my self on that day more over an amount of Rs. 4472.00 which was duly credited by me to the govt. account was ignored for the day i.e. in the treasurer's cash book and kept the amount in 'C' column in the HO summary without any reason. My hand to hand receipt book for the day i.e. 14.11.94 will speak the truth (DEX/1).

Hence the disciplinary authority framed the charge sheet with a wrong fig showing in it.

According to the hand to hand receipt book and HO summary taking all the amount into the consideration no shortage is found in the stamp balance figure of Nagaon HO on 14.11.94.

Therefore Article-I of the charge sheet is nothing but imaginary and base less.

That sir, regarding the article-II of the charge-sheet I beg to state that the inspecting authority at about 21.00 hrs on 14.11.94 ordered the then Postmaster, Sri Gajen Baruah to take over the charge from me. Accordingly the then Postmaster, Sri Baruah ordered me to hand over the charge of my branch to Sri Bipin Ch. Nath, the then treasurer I Nagaon HO. As Sri Nath was not physically present there, Sri Gajen Baurah, the then Postmaster, Nagaon HO at the instruction of the Supdt. of Post office, camped there, assumed the charge of ATR/Stamp of Nagaon HO on the basis of inventory prepared by the inspecting authority

on physical verifications of stamps and stationeries on 14.11.94 along with keys of the branch in presence of the inspecting authority.

On the following day i.e. on 15.11.94 another person worked in there independents by opening the stock in the morning in my absence. Therefore, the allegation framed against me of not handing over the charge as ordered by the Postmaster is nothing but motivated and ill feeling. Parting with the ~~key~~ of the branch after hanging an order in presence of the Head of the division on the basis of inventory of articles dtd. 14.11.94 on stamps and stationeries Nagaon HO to the joint custodian is not unjustified and unlawful. Had I been denied the order on that night there was apprehension of another charge of denial from the authority moreover if the procedure was not correct the Head of the division who was also present there should have barred me to do so. The postmaster did not insisted me having the charge report signed on that day. That sir, one again I beg 'retread the entire disciplinary proceedings drama as narrated above is nothing but a conspiracy against me and I beg natural justice from your highness in consideration of the following points :-

1. In the charge sheet framed against me both the article i.e. Article-I & Article-II are not definite and clear and correct. The whole

of it is full of ambiguity, confusion and contradictory.

2. The inquiry is found not to be free from biasness of the I.O. since the tactfully avoided the incidents in this findings and observations which was to intended in his findings.
3. I myself as well as my joint custodian was not given my chance to recheck the accounts and stock of stamp treasury of Nagaon HO on 14.11.94.
4. If the inspection was not completed why the inventory of stock of stamps and stationeries was prepared and handed over it to the delinquent officer on 14.11.94.
5. If the inspection was not completed why the delinquent officer, K. Rahman was charge with shortage and how the inspecting authority came into conclusion that there was a shortage of stamps and stationeries amounting to Rs. 31,008.90 in the stamp treasury.
6. If the inspection was not completed on 14.11.94 why the stock was not allowed to be kept and reopened under the joint custody on 14.11.94 with the accused.
7. why all the keys and of the doors of the Post office including treasuries strong room and

Contd...

almirahs were allowed to be kept by Sri Gajen Baruah only on 14.11.94 to 15.11.94.

8. If it was a fact, the dispositions of the State witness should have the same. But here it is found contradictory and full of confusion.
9. The PAs of the stamps and stationeries which from its contents were taken away very carefully, as speak the charge sheet should have preserved for the examination.
10. State witness Gajen Baruah at the time of answering the question of the PO (Q/3) disclosed that modulus operand of the verification of stamps and stationeries of Nagaon HO Dn 14.11.94 was not cleared to him. Then how he on subsequent questions at the time of examination of witness admitted the shortage of stamps and stationeries of nagaon HO on 14.11.94.

So, as entire facts and figures as narrated in the charge sheet are found to be imaginary, Pre-determined and motivated which was framed to defence me and to dethrone me from the charge of Divisional Seenatory of P-III of AIPEU, Nagaon Dn, very tactfully cohereion I had been unaniamously selected for 3rd ~~Consecutive~~ term.

Over and above the disciplinary authority in his observations and findings against item no.4 as follows - "so it automatically give rise of

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suspicion as how on that day on inspection itself there was a sale and stationeries for Rs. 16,184.00".

It reveals that the disciplinary authority arrived in to his conclusion on basis of doubt and suspicion.

That sir, finally in the item W of the findings and observations the disciplinary authority noted as follows -

"Considering the gravity of offence committed and past record of his service there under signed left no other option but to conclude the disciplinary case with the following order to meet the end of the justice." That sir, so for my knowledge is concern I had been rendering sincere service to the department since 1979 and I have no spot in my service records. The findings of the disciplinary authority regarding my Post service records but my sentiment and I feel, it, has also gone against natural justice.

Under the above circumstances I beg that your highness will be kind enough to go through the fact of the case and issue a sympathetic order setting the bias and unjustified punishment order of the Supdt. Of Post offices, Nagaon Dn, and for your act of kindness I shall remain ever grateful to you.

I remain sir,
Yours faithfully,

Khalilur Rahman
PA/Haibargaon-782002

Encl : Annexure-A
Annexure-B

[Handwritten signature and initials]

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

Memo No. Staff/24-26/99/RP

28th Feb/2000

Sri Khalilur Rahman, Ex-PA, Nagaon HO now PA, Haibargaon has preferred an appeal against the Memo No.F6-1(C)94-95 dt. 25.6.99 issued by Supdt. Of Post Offices, Nagaon Division, Nagaon. He is proceeded against under Rule 14 of C.C.S. (CCA) Rules-1965 under Supdt. Of P.Os, Memo No. F6-1(C)94-95 dt. 3.6.96 on the charges that while Shri Rahman was functioning at Asstt. Treasurer, Nagaon HO from 5.3.93 to 14.11.94 failed to credit the sale proceeds of Postage and Service Stamps and stationery amounting to Rs. 62,461.90 which was detected during inspection cum verification of Nagaon HO commencing from 14.11.94, out of which Rs. 31,008.90 was voluntarily deposited by Shri Rahman on 14.11.94 and the remaining of Rs. 31,453.00 in seven (7) installments during the period from 19.11.94 to 30.11.9. The disciplinary authority after conclusion of the proceedings has awarded the punishment of reduction of his pay by one stage for 5 years vide memo. No. F6-1(c)/94-95 dt. 25.6.99.

I have gone through the relevant papers, Inquiry Report, Service Book, brief history and charge sheet and I find that there is gross negligence on the part of the appellant who was working as Asstt.

Yours faithfully

Handwritten signature and initials
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Treasurer (Stamps) of Nagaon HO having responsibility of keeping accounts of the Stamps and Stationery and other sale proceeds to credit to the Govt. Accounts but Sri Rahman has failed to keep proper accounts of the stamps and sale proceeds of the Govt. records. He deserves major punishment but the Stpdt. Of P.Os, Nagaon has taken a lenient view and therefore I do not like to interfere with the disciplinary authority.

I SRI B. SELVAKUMAR, appellate Authority & Director Postal Services, Assam Region uphold the order of Supdt. Of P.Os, Nagaon issued vide Memo No. F6-1(c)/94-95 dt. 25.6.99.

(B. SELVAKUMAR)

Director Postal Services
Assam Region : Guwahati-781001

Copy to-

1. Sri Khalilur Rahman, P.A. Haibargaon S.O.
- 2-3. The Supdt. of Post Offices, Nagaon Division, Nagaon-782001.
4. O.C.
5. Spare.

Director Postal Services
Assam Region : Guwahati-781 001

[Handwritten signature]
2/3

(88)

Filed by 155
10/9/21
7/6/01
C.C. S.S.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUAHATI BENCH ::: GUAHATI

O.A. NO. 101 OF 2001

Shri Khalilur Rahman

- Vs -

Union of India & Ors.

- And

In the matter of :

Written Statement submitted by the
Respondents

The Written Statements of the abovenoted respondents are as follows :

1. That a copy of the O.A. 101/2001 (hereinafter referred to as the "application") has been served in the respondents. The respondents have gone through the said application and understood the contents thereof. The interest of all the respondents being common and similar, they have filed the common written statements.
2. That the statements made in the application, which are not specifically admitted, are hereby denied by the respondent.
3. That with regard to para 4(i) and 4(ii), the respondents beg to ~~not~~ offer no comments.
4. That with regard to para 4(iii), the respondents beg to state that the Rule 3(1)(2) and 3(1)(iii) of the CCS Conduct Rules 1964 as mentioned in the para may kindly be read as 3(1)(i) and 3(1)(iii) of the CCS Conduct Rules, 1964.

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5. That with regard to para 4(iv), the respondents beg to state that no comment regarding denial of charge framed by Shri Khalilur Rahman and holding of inquiry. Shri Khalilur Rahman submitted his written representation dated 9.11.98 against the Inquiry Report which has been annexed and marked as Annexure -2 by the applicant. Incident took place 14.11.94 and therefore, his written statement dated 25.07.94 as indicated in this paragraph is not relevant in this case.

6. That with regard to para 4(v), the respondents beg to offer no comments.

7. That with regard to para 4(vi), the respondents beg to state that the IO and P.O during the hearing of the case took into account all relevant records connected with the case considered necessary in course of inquiry. The Hand to Hand Receipt Book of AIR for the period from 18.5.94 to 17.11.94 was produced and examined as additional document on behalf of the SPS as desired by the SPS for examination. The Written statement dated 17.11.94 which was not the listed document of the charge sheet and therefore has no relevancy with the charge sheet. Production of the same was neither required nor questioned by the SPS. As such the allegation submitted by the applicant are not based on facts. He could have opted for its production as Defence Exhibit on his behalf.

8. That with regard to para 4(vii), the respondents beg to state that the punishment awarded was according to the merit of the case and after thorough observations and careful assessment of the materials on records. It is a fit case for

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for removal or dismissal but the Disciplinary Authority took a very lenient view in disposing of the case.

9. That with regard to para 4(viii), the respondents beg to offer no comment.

10. That with regard to para 4(ix), the respondents beg to offer no comments.

11. That with regard to para 4(x), the respondents beg to offer no comment.

12. That with regard to para 4(xi), the respondents beg to state that the charge sheet was framed with correct amount of shortage with reference to the Head Office Summary of Nagaon Head Post Office, dated 14.11.94 and 15.11.94. It may be mentioned that counting of stamp and stationery was started on 14.11.94 and completed on 15.11.94 arriving at the shortage of Rs. 62,461.90 which was voluntarily credited as Unclassified Receipts by the applicant Shri Khalilur Rahman on the different dates in instalments. This proves that the applicant Shri Khalilur Rahman admitted the correctness of the account for the shortage found in the stamp balance and had nothing to say against it. Shri Rahman also failed to refute the charge at any stage during inquiry.

13. That with regard to para 4(xii), the respondents beg to state that the allegation of the applicant is not at all true. The Disciplinary Authority on the basis of all the facts and figures and also all the materials on record disposed of the case after careful consideration. The Disciplinary Authority has given very clear and narrative observations. The

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The shortage of stamps and stationery and Service Stamps detected on 14.11.94 and 15.11.94 is quite correct, and it has been proved beyond doubt. The Disciplinary Authority acted properly and even very leniently in view of his past record of service though it is a fit case for removal or dismissal according to the gravity of the case. The question of presumption does not arise at all.

14. That with regard to para 4(xiii), the respondents beg to state that the statement of the applicant is not based on fact. The total shortage found in stamp and stationery balance by physical counting for both the days are as under :

Shortage found on 14.11.94	= Rs. 31,008.90
Shortage found on 15.11.94	= Rs. 31,453.00

Rs. 62,461.90

Shri Rahman failed to refute the charge framed against him and this admitted the fact of shortage and credited voluntarily the entire amount to the Govt. account in order to recoup the loss sustained by the Govt. There was no compulsion. There was no pressure. There was no threat. He credited the whole amount voluntarily in instalments.

15. That with regard to para 4(xiv), the respondents beg to state that the total sale proceeds deposited on 14.11.94 was actually Rs. 16,184.00 instead of Rs. 47,192.90. As per the Treasurer's Cash Book and Hand to Hand Receipt Book maintained by the ATR (Stamp), the opening balance of the stamp and stationery (excluding CRF stamp) shown separately in the Treasurer's Cash Book was for Rs. 14,25,009.80. The ATR (Stamp) Shri Khalilur - Rahman showed Rs. 16,184.00 as the amount realised on sale of

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stamp and stationery in the Hand to Hand Receipt Book. By physical verification on 14.11.94, the stamp and stationery worth Rs. 13,77,816.80 were found in the stock. Thus a sum of Rs. 31,008.90 was found short in the balance of stamp and stationery on 14.11.94 as detailed below :

OS/14.11.94	=	14,25,009.70
Deduct sale on 14.11.94	=	16,184.00
Deduct stamp and stationery actually found by physical counting on 14.11.94	=	14,08,825.70
		<u>13,77,816.80</u>
		<u>31,008.90</u>

(Shortage found in the balance of stamp and stationery and duly entered in the inventory on 14.11.94)

A sum of Rs. 31,008.90 only which was equivalent to the amount of shortage found by physical counting in the stamp and stationery balance was also made good and deposited by the applicant to the Treasurer -I at 19.00 hrs on 14.11.94 under his initial along with dated initial of the Treasurer-I on the Hand to Hand Receipt Book. This amount of Rs. 31,008.90 was kept out of account under 'C' Column in the Head Office Summary on 14.11.94 as H.O. account was closed for that day and subsequently on the following day the shortage of Rs. 31,008.90 found in the stamp and stationery balance on 15.11.94 was charged as UCP and simultaneously, the amount made good by him at 1900 hrs on 14.11.94 was shown as UCR in the Head Office Summary and the Treasurer's Cash Book.

16. That with regard to para 4(xv), the respondents beg to state that the shortage of Rs. 31,008.90 in stamp and stationery balance on 14.11.94 was calculated and recorded in inventory wherein Shri Khalilur Rahman was also one of the

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signatories. He, therefore, cannot deny what had actually happened on that day. Shri Khalilur Rahman left office without formal handing over his charges in prescribed manner. He parted with the keys before executing proper handing over the stock of stamp and stationery under his custody to his reliever under clear acquittance. So, it can be easily understood that apprehending re-verification of the stamp and stationer on 15.11.94, the Applicant parted with the keys without formal transfer of the stock of stamp and stationery under acquittance with the clear thought and intention to throw that responsibility on others and make some points in his favour as he had the knowledge that there had been abstraction of the stamp sheets from the packets of stamps, which were not verified sheet by sheet on open condition and the total values of the packets were only taken into account during verification on 14.11.94.

17. That with regard to para 4(xvi), the respondents beg to state that re-verification of stamp and stationery was carried out on 15.11.94 item wise and enomination-wise one after another. Thus, further shortage of Rs. 31,453.00 found by physical re-verification on 15.11.94 was charged as UCP on 15.11.94 and the official credited the amount of Rs. 31,453.00 voluntarily in seven instalments during the period from 19.11.94 to 30.11.94. He has failed to submit any evidence of pressurizing him to credit the money. What had been done was according to his own Conscience, Knowing full well that he committed the sin and he was to get rid of it.

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18. That with regard to para 6 and 7, the respondents have no comments.

19. That with regard to the statements made in para ~~Sixteen~~ 8 and 9 the respondents state that the application being devoid of any merit as stated in this written statements and as under the facts and law, is liable to be dismissed with cost.

It is threrfore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall further be pleased to dismiss the application with cost.

Verification.....

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

I, Shri *H. Ahmed*, *Supdt. of Post Offices,*
Nagaon being authorised do hereby verify and declare
that the statements made in this written statement are true
to my knowledge, information and believe and I have not
suppressed any material fact.

And I sign this verification on this th day
of May, 2001 at Guwahati.



Declarant.
बतिलक डकबर
Superintendent of Post Offices
बतिलक डकबर / Nagaon Division
बतिलक / Nagaon - 782001.

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati.

O.A. No. 101/2001

Sri Khalilur Rahman

Vs.

U.O.I. & Ors

In the matter of :

Rejoinder in reply to the Written
Statement

The humble applicant most respectfully beg to state as under :

1. That the applicant has gone through the Written Statement filed by the respondents and understood the contents thereof.
2. That in reply to the statements in Written Statement the applicant reiterates the statement in the O.A. and does not admit any statement which are not supported by records.
3. That in reply to the statements in para 7 and 8 it is stated that the respondents failed to consider all the necessary records and entries therein and arbitrarily came to a finding that the applicant failed to credit sales proceeds of stamp and stationery. It is also stated that the Inquiry Officer did not explain in his report as to how shortage of stamp & stationery was there. The Disciplinary Authority also passed the order dated 25.6.1999 (Annexure-4 to the OA) without application of mind. The disciplinary authority in his said order though showed the calculation of shortage on 14.11.94 and 15.11.94 but could not substantiate with reason as to how the applicant is liable for that.

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Filed by the applicant
through A. Chakraborty
Advocate
6/2/2002

4. That in reply to the statements in paragraph 12 to 15 the applicant begs to mention the following accounting procedure of the post offices for better convenience which will show that the applicant is no way liable for the charges leveled against him.

The books of accounts maintained by the post offices are (a) Treasurer Cash Book, (b) Stamp Register, (c) Hand to Hand Receipt Book and (d) HO Summary. The details of each of these are :

(a) Treasurer Cash Book : All the day to day receipts of stamp and stationery are recorded first in this book and sales proceeds of stamp & stationery are deducted therefrom. The balance of this book is the physical stock of stamp & stationery and cash. Variation (shortage/surplus) in the physical stock with the balance of this book may arise for wrong entry in this book or may be for pilferage of stock etc. This book is maintained by Treasurer-I, and the applicant is not responsible for any wrong entry in this book. It is stated that a sales proceeds of Rs.31,008.90/- on 14.11.1994 was not recorded in this book though received by the Treasurer-I from the applicant. The respondents have shown the said sales proceeds under Column 'c' of the HO summary as Un-classified receipt (for short UCR). It is pertinent to mention that for any UCR, a receipt in Form ACG-67 is required to be issued. The respondents have received the amount (Rs.31,008.90/-) as a sales proceeds from the applicant and hence question of issuing the said receipt in Form No. ACG-67 to the applicant does not arise, and no such receipt was issued to him.

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(b) Stamp Register : All the day to day receipts are also recorded in this book and issues are deducted therefrom. The balance of this book is the physical stock of stamp and stationery. This book was maintained by the applicant and was checked and verified on a day to day basis by the Post Master who is the joint custodian of the Post Office Account. It is stated that the sales proceeds of Rs.31,008.90/- on 14.11.1994 was recorded in this book and there was no dispute of physical stock with the balance of this book.

(c) Hand to Hand Receipt Book : All the issues of stamps and stationery to the applicant are recorded in this book and cash (sales proceeds) deposited by the applicant to the Treasurer-I are deducted therefrom. This book was maintained by the applicant and was checked and verified by the Post Master on day to day basis who is the joint custodian of the Post Office Account. It is stated that the said sales proceeds of Rs.31,008.90/- on 14.11.1994 was duly recorded in this book.

5. That in reply to the statement in paragraph 16 to 17 it is stated that in pursuant to the order to hand over charges the applicant handed over the keys to the Post Master who is the joint custodian of the post office account on 14.11.1994. The Post Master as the Head of the Post Office took over the charges on the basis of the inventory prepared on 14.11.1994. The applicant was ordered to work in the other branch of the same post office w.e.f 15.11.1994 and he worked there accordingly. The stock as found on physical verification as on 14.11.1994 was not

under the joint custody of the applicant with the Post Master. It is also stated that re-opening of stock on 15.11.1994 and re-verification of the same on 15.11.1994 was not done in the presence of the applicant. The applicant humbly begs to submit that physical stock as per inventory prepared by the Inspecting Authority on 14.11.1994 was under the custody of the Post Master for the over-night and the same balance was carried forward as opening balance on 15.11.1994 for the purpose of preparing the inventory on 15.11.1994. The applicant was not any way related with the custody of stock and sales of stamp and stationery on 15.11.1994. It is reiterated that the applicant was deputed with the other works of the post office on 15.11.1994. The sales proceeds for the day of 15.11.1994 was deducted from the opening balance and even then an additional shortage of stamp & stationery of Rs.31,453/- was found for which the applicant can not be held liable in any way.

6. That the applicant begs to submit that the applicant sought for the Hand to Hand Receipt Book to defend his case but inquiry authority denied to supply the same and hence the applicant could not defend his case properly. It is stated that the disciplinary authority could not establish the shortage of stamp and stationery and acted on his suspicion that the sales proceeds on 14.11.1994 was above the average sales calculated for some period. It is pertinent to mention that total sales includes the supply of stamp and stationery to the sub-post offices also. It is further stated that the sales proceeds for the day of 14.11.1994 was handed over by the applicant to the Treasurer-I which can be revealed from the Hand to Hand

Receipt Book. It is submitted that the charges brought against the applicant are ambiguous, vague and abstract. The order passed by the appellate authority is a non-speaking order. The appellate authority failed to discuss the points raised by the applicant in his appeal. The appellate authority has also not discussed any anything about the Article-II of charges in his Order dated 28.2.2000.

Verification.....

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Verification

I, Khalilur Rahman, Son of Late Hazi Abdul Jabbar, resident of Dhing Road, Haibargaon, Nagaon do hereby verify that the statements made in the above rejoinder are true to my knowledge and belief.

And I, sign this verification on this 1st day of March, 2002.

Khalilur Rahman