

30/100

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

3

✓ (DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

✓  
O.A./T.A No. 218/01

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

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

1. Orders Sheet..... CA .....Pg. 1 .....to 2 .....
2. Judgment/Order dtd. 22.11.2001 .....Pg. X .....to 10 Separate order .....  
218
3. Judgment & Order dtd. ....Received from H.C/Supreme Court
4. O.A. .... 218/2001 .....Pg. 1 .....to 45 .....
5. E.P/M.P. ....Pg. ....to. ....
6. R.A/C.P. ....Pg. ....to. ....
- ✓ 7. W.S. ....Pg. 1 .....to 9 .....
8. Rejoinder. ....Pg. ....to. ....
9. Reply. ....Pg. ....to. ....
10. Any other Papers. ....Pg. ....to. ....
11. Memo of Appearance. ....
12. Additional Affidavit. ....
13. Written Arguments. ....
14. Amendment Reply by Respondents. ....
15. Amendment Reply filed by the Applicant. ....
16. Counter Reply. ....

SECTION OFFICER (Judl.)

Salita  
7/12/17

FORM NO.4  
(See Rule 42 )

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

ORDER SHEET  
APPLICATION NO ...218...OF 2001.

Applicant (S) G.C. Deka

Respondent (S) LEO 1 ODS.

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

2 Miss C. Das.

Advocate for Respondent (s) Mr. A. Deb Roy,  
Sr. C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

8.6.2001

This application is in form  
but not in time Condonation  
Petition is filed not filed vide  
M.P. No. .... C.F.

for Rs. 50/- deposited vide

IPO/BD No. GG 792088

Dated..... 9.5.2001.....

By Dy. Registrar, 16/6/2001.

mb

Requists filed 3 copies  
only. 4.7.01

Notice prepared and sent to  
D/O for LEO 1 ODS by hand.  
No 1 to 3 by Regd. A.D. by hand.  
Vide B/L No 2341 to 2343 dtd  
3/7/01.

by 11/7/01.

Order dtd 4/7/01 Communicated  
to the parties Counsel vide  
B/L No. .... dtd  
5/7/01.

lm

Mr. S. Sharma, learned counsel for the  
applicant has prayed for interim relief  
against recovering of Rs. 67,500/- being  
recovered @ 1875 per month.

The application is admitted.

Mr. A. Deb Roy Sr. C.G.S.C. prayed for  
for issue notice as to why interim relief  
shall not granted.

List on 4-7-2001 for order.

K. C. Sharma  
Member

Issue notice to show cause as  
to why the interim order shall not  
be granted. Mr. A. Deb Roy Sr. C.G.S.C.  
prays for further time for filing  
of objection. List on 7.8.01 for  
orders. In the meantime the respon  
dents are directed not to make any  
recovery from the salary till the  
returnable date.

K. C. Sharma  
Member

Vice-Chairman

(2)

O.A.No.218/2001

✓ Show cause has not been filed.

31  
6.8.01

Order dtd 7/8/01 communicated to the parties. Contd. vide D.No. ——— dtd ———

9/8/01.

7.8.01

List it again on 5/9/01 to enable the respondents to file the written statement.

In the meanwhile, the interim order dated 4.7.01 shall continue.

K. U. Sharma

Member

h

Vice-Chairman

mb  
5.9.01

Written statement has been filed. 3 weeks time is allowed to the applicant to file rejoinder, if any.

List on 27/9/01 for order. In the meanwhile, the interim order dated 4.7.01 shall continue.

K. U. Sharma

Member

30.8.2001

W/S has been

submitted by the Respondents.

mb  
27.9.01

NS  
5/9/01

Written statement has been filed. The case, may now be listed for hearing.

List on 22/11/01 for hearing.

K. U. Sharma

Member

h

Vice-Chairman

mb

22.11.2001

No. rejoinder has been filed.

31  
28.9.01

No. rejoinder has been filed.

31  
21.11.01

28.11.2001

Copy of the order has been sent to the office for issuing the rule to the L.A.A. for its parties.

48

On the strength of a disciplinary proceeding, the respondent authority ordered for recovery of a sum of Rs.67,500/- (Rupees sixty seven thousand five hundred only) from the applicant, vide order No.FI-8/95-96 dated 19.4.2001. Against the ssaid order the applicant has preferred an appeal before the Appellate Authority.

Heard Mr S. Sarma, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. Mr Deb Roy submitted that the appeal is under consideration. In the circumstances we are not inclined to go into the merits of the case. Instead we direct the Appellate Authority to decide the appeal expeditiously, preferably within three months from the date of receipt of the order. Till disposal of the aforesaid appeal, the interim order dated 4.7.2001 suspending the recovery shall continue.

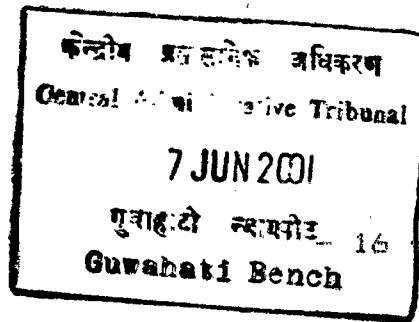
The O.A. stands disposed of accordingly.

K. U. Sharma

Member

h

Vice-Chairman



THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI

O.A. No. 218 of 2001

Shri Gobinda Chandra Deka

... Applicant

- Versus -

Union of India & Crs.

... Respondents

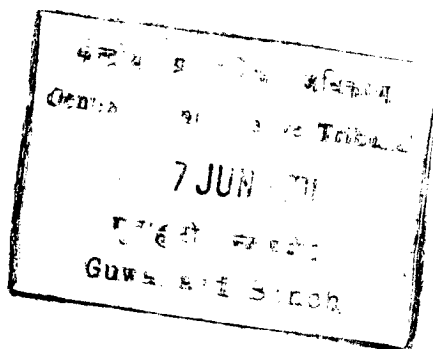
I N D E X

SL. No.	Particulars of the documents	Page No.
1.	Writ Application ...	1 to 11
2.	Verification ...	12
3.	Annexure- 1 ...	13-15
4.	Annexure- 2 ...	16
5.	Annexure- 3 ...	17
6.	Annexure- 4 ...	18-20
7.	Annexure- 5 ...	21-25
8.	Annexure- 6 ...	26-31
9.	Annexure- 7 ...	32-33
10.	Annexure- 8 ...	34-43
11.	Annexure- 9 ...	44-45

Filed by :

Advocate

C:\WS4\SS\08



Filed by  
the applicant through  
Alaha Das,  
Advocate  
7/6/2001

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI

(Application under Section 19 of the Central  
Administration Tribunal Act, 1985)

O.A. No. \_\_\_\_\_ of 2001

BETWEEN

Gobinda Chandra Deka,  
at present working as Postal Asstt. in  
the Guwahati University Post Office,  
Ghy.

... Applicant.

- AND -

1. Union of India, represented by the  
Secretary to the Government of India,  
ministry of communication, Department of  
Post, New Delhi-1.

2. The Director of Postal Service,  
Office of the Chief Post Master General  
Guwahati-1.

3. Senior Superintendent of Post  
offices, Guwahati Division, Guwahati-1.

... Respondents

DETAILS OF APPLICATION

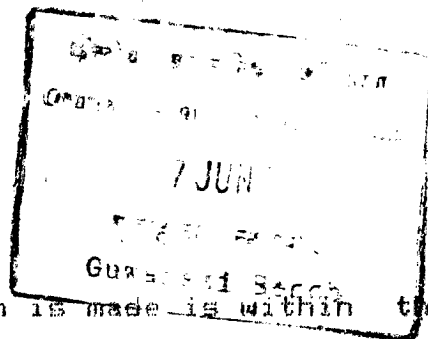
1. PARTICULARS OF THE ORDER AGAINST WHICH THE  
APPLICATION IS MADE :

The present application is directed against the  
orders dated 19.4.2001 issued by the Senior  
Superintendent of Post Offices by which a sum of Rs.  
67,500/- is sought to be recovered from the Applicant  
from his monthly salary.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter in

*G.Deka*



respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and as such he is entitled to all the rights protections and privileges as guaranteed by the constitution of India.

4.2 That the Applicant while working as Postal Assistant in the Reharbari S.O. the Respondent No. 3 issued a memorandum bearing No. FI-8/95/96 dated 25.8.97 enclosing statement of Article of charges under Rule 14 of CCS (CCA) Rules, 1965. In the said charge sheet the Respondents narrated 2 Article of charges relating to issuance of 4 Kishan Vikash Patra, to one Sri Amalendu Das Gupta. The crux of the facts relating to issuance of the charge sheet is relating to issuance of 4 Kishan Vikash patra amounting Rs. 40,000/- applied for 4 Kishan Vikash Patra amounting Rs. 1,000/- each totally an amount of Rs. 4,000/- only. On 12.5.98 said Sri Das Gupta submitted his application for issuance of KVP amounting Rs. 4,000/- only. On receipt of such application the post master concerned however issued 4 KVP amounting Rs. 10,000/- each instead of Rs. 1,000/- The said fact was not known to the Applicant because of the fact that the post master

*gDeka*

used to keep the KVP in his custody under lock and key and he is the competent authority to issue the KVP on application. However, the post master concerned could not be investigated and held responsible because of his sudden demise. The Respondents to substantiate their lose issued the charge-sheet to the present Applicant only with the sole purpose to harrash him.

A copy of the charge-sheet dated 25.8.97 is annexed herewith and marked as Annexure-1.

4.3 That on receipt of the aforesaid chargesheet the Applicant preferred a representation dated 5.9.97 denying the charges leveled against him. The Applicant also in the said representation placed his desire to be heard in person.

A copy of the said reply is annexed herewith and marked as Annexure-2.

4.4 That the Applicant thereafter again preferred a representation dated 22.4.98 in which he made a prayer for 3 additional witnesses.

A copy of the said representation dated 22.4.98 is annexed herewith and marked as Annexure-3.

4.5 That on receipt of the representation from the Applicant enquiry proceeded and the presenting officer (P.O.) submitted his written brief and the same was communicated o the present Applicant vide letter bearing No. EC-6/96-97 dated 11.1.99. In the said forwarding letter enclosing the written brief there has

*g. Deba*

- 4 -

been a direction to the Applicant to submit his written brief within 15 days.

A copy of the letter dated 11.1.99 enclosing the written brief of the P.O. is annexed herewith and marked as Annexure-4.

4.6 That on receipt of the written brief submitted by the presenting officer the Applicant submitted his written brief on 8.2.99 highlighting the factual aspect of the matter. The Applicant has also highlighted the fact as to how one Late M.C. Deke the then SPM rehabari made the mistake in issuing 4 KVPs amounting Rs. 10,000/- each instead of Rs. 1,000/-. Finally at the time of its maturity, the mistake could be pointed out and one Mr. R. Rasul and Mr. P.C. Mahanta the then SPM and PA respectively instead of rectifying the mistake corrected the application form and in the figure instead of Rs. 4,000/- another Zero was added and in the word 'ty' has been added which read as "Forty". During the course of enquiry the aforesaid fact was admitted by the then SPM and PA.

A copy of the written brief is annexed as Annexure-5.

4.7 That after submission of Annexure-5 written brief, the enquiry officer submitted his enquiry report and same was communicated to the Applicant vide letter bearing No. F1-8/95-96 dated 1.4.99.

A copy of the enquiry report is annexed as Annexure-6.

*Deke*



4.8 That the Applicant begs to state that in the finding the enquiry officer has categorically mentioned that the charges leveled against the Applicant are not proved. However, the direction has been issued to the Applicant to submit a representation against a enquiry report. Accordingly the Applicant submitted his representation on 23.4.99.

A copy of the said representation dated 23.4.99 is annexed as Annexure-7.

4.9 That on receipt of the representation dated 23.4.99 against the enquiry report the disciplinary authority issued an order bearing No. F1/8/95-96 dated 19.4.2001 by which a penalty has been imposed on the Applicant of Rs. 67,500/- from his monthly salary @ 1875 per month.

A copy of the disciplinary authority order dated 19.4.2001 is annexed herewith and marked as Annexure-8.

4.10 That the Applicant begs to state that the disciplinary authority has not taken into consideration the actual fact of the case and the admission made by the witnesses while coming to the conclusion. The disciplinary authority also did not take into consideration the enquiry report and in the observation part while dis-aggregating with the report of the enquiry officer gave certain irrelevant consideration of the fact and without affording any opportunity to the Applicant issued the impugned order.

4.11 that the Applicant, the aforesaid facts preferred

*Geka*

statutory appeal before the appellate authority i.e. the Director of Postal Service on 25.5.2001. It is pertinent to mention here that as soon as the order of the Disciplinary authority has been communicated to the Applicant, the said authority started implementation of the said order knowing fully well regarding the pendency of the appeal. Apart from that the Applicant in his appeal dated 25.5.2001 has made a specific prayer for stay of operation of the impugned order dated 19.4.2001 but the said authority kept on recovering the amount from the salary of the Applicant.

A copy of the appeal dated 25.5.2001 is annexed as Annexure-9.

4.12 That the Applicant begs to state that the entire proceeding conducted by the Respondents was a farcical one at every stage of the said proceeding he was denied his valuable right to defence. He was not given the opportunity of hearing and the documents relied by the Respondents during the course of hearing has been taken into consideration behind the back of the Applicant without exhibiting the same. The enquiry officer assumed the role of presenting officer and thoroughly cross examined the witnesses behind the back of the Applicant and those statements have been taken into consideration while coming to conclusion. Even the witnesses relied by the Applicant have not been allowed to depose without giving reasonable opportunity to the Applicant. The Respondents during the course of aforesaid proceeding violated various provisions

*gpekar*

contained in Rule 14 of the CCS(CCA) Rules, 1965 and the same vitiated the entire proceeding.

4.13 That the Applicant begs to state that the disciplinary authority while coming to the conclusion has failed to take into consideration the articles of charges and from the said impugned order i.e. 19.4.2001 it is crystal clear that the penalty imposed on the Applicant is total defferent and has got no relevance with the charge-sheet.

4.14 That the Applicant begs to state that as stated above the Respondents have violated almost all the provisions laid down in CCS (CCA) Rules, 1965 in proceeding departmentally against him. Even the very initiation of the proceeding by issuing the charge-sheet was illegal as the same is vague and indefinite.

4.15 That the Applicant begs to state that adding insult to his injury the Respondents have illegally withhold his due promotion under the Binieal cadre Review Scheme. In the year 2000, March the Applicant after having completed 26 years of service became due for his promotion under the said BCR scheme but due to pendency of the aforesaid departmental proceeding same has been denied to him. However, there are various executive instructions as well as verdict emphasizing the fact that while extending the benefit of BCR Scheme, there is no bar as such to consider the said promotion even during pendency of departmental proceeding.

4.16 That the Applicant begs to state that the

*gDeka*

Respondents after issuance of impugned Annexure-8 order dated 19.4.2001 started deducting an amount of Rs. 1875.00 per month from the salary of the Applicant. it is further stated that the said authority knows fully well that the Applicant has preferred an appeal and in the said appeal there has been a specific prayer for stay of operation of the said order dated 19.4.2001, but without waiting for the result of the appeal, deduction has been started from the pay of the Applicant with effect from April 2001 itself. The Applicant is a low paid employee and as such the amount of recovery made from him has led him virtually to starvation. it is therefore the Applicant prays for an interim order from this Hon'ble Tribunal directing the Respondents to suspend the operation of the impugned order dated 19.4.2001 (Annexure-8) till the finalisation of the DA. In case the aforesaid prayer made by the Applicant is not granted, the present Applicant will suffer irreparable loss and injury.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action/inaction on the part of the Respondents in issuing the impugned order is illegal, arbitrary and violative of the principle of natural justice and same is liable to be set aside and quashed.

5.2 For that the charge-sheet issued by the Respondents are illegal inasmuch as same is vague and indefinite. On this score alone, the impugned departmental proceeding is liable to be set aside and quashed.

gpeba

5.3 For that the Respondents during the said departmental proceeding has violated various provisions of CCS(CCA) Rules 1965 and opportunity as required under the said Rule has been denied to him, and this score alone entire proceeding is liable to be set aside and quashed.

5.4 For that the Respondents, mainly the disciplinary authority has failed to give adequate opportunity to the Applicant in every stage of the proceeding and same depicts total non-application of mind and have same is is liable to be set aside and quashed.

5.5 For that the Respondents have deliberately withhold the promotion of the Applicant on the name of pendency of departmental proceeding which is per-se illegal, arbitrary and violative of principles of natural justice and administrative fairplay.

5.6 For that the Respondents have denied the reasonable opportunity of the Applicant to defend his case violating principles of natural justice and on this score alone the impugned action on the part of the Respondents are liable to be set aside and quashed.

5.7 For that in any view of the matter the action/inaction on the part of the Respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

*Deva*

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that they have no other alternative and efficacious remedy except by way of filing this application. He is seeking urgent and immediate relief.

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

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

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned order dated 19.4.2001.

8.2 To direct the Respondents to extend the benefit of the BCR scheme which was held up illegally by the Respondents on the name of pendency of department proceeding, with all consequential service benefit.

*Lydeka*

8. 3 To direct the Respondents to refund the amount already recovered from his salary while implementing the impugned order dated 19.4.2001 with due interest. ✓

8.4 Cost of the application.

8.5 Any other relief/reliefs to which the Applicant is entitled to under the facts and circumstances of the case and as may deemed fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

During the pendency of the OA the Applicant prays for an interim order directing the Respondents not to recover any amount from his salary by suspending the operation of the impugned order dated 19.4.2001.

10. ....

The application is filed through Advocate.

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

i) I.P.O. No. : 66 7920 88  
ii) Date : 9/5/2001  
iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

*gBaka*

- 12 -

### VERIFICATION

I Shri Gobinda Chandra Deka, son of Late Bolo Ram Deka, aged about 58 years at present working as Postal Asstt. in the Office of the Guwahati University Post Office, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case. I am competent to verify this case and the statements made in paragraphs 1, 2, 3, 4, 10 and 4.12 to 4.16 & 5 to 12 are true to my knowledge ; those made in paragraphs 4.2-4.9, & 4.11 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 7th day of June 2001.

*Gobinda Chandra Deka*



MAHARAJA OF KASHI

O.P. Saha

এসি এমজি এফসি

Superintendent of Post Offices,

GOVT OF INDIA

MINISTRY OF COMMUNICATION: : গণপ্রসার বিভাগ, গুৱাহাটী-৭৮১০০১.

No. F1-8195-96

Guwahati Division, Guwahati-781001

Dated (Guwahati):-1, the 25/8/97

## MEMORANDUM

The undersigned proposed to hold an Inquiry against Shri Gobinda Ch. Deka under Rule 14 of the Central Civil Services (Classification Central 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 set out in the enclosed statement of articles of charge (Annexure-I). A statement of imputations of misconduct or misbehaviour in support a list of documents in which and a list of witnesses by whom the articles charge are proposed to be sustained are also enclosed (Annexure-III).

2. Shri Gobinda Ch. Deka is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

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

5. Attention of Shri Gobinda Ch. Deka is invited to Rule 20 of the Central Civil Services (Conduct) Rules 1964 under which no Govt. Servant shall bring or attempt to bring any political or prejudicial influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Govt. if any representation is received on his behalf from another person presumed that Shri Deka 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 the CCS (conduct) Rules 1964.

The receipt of the Memorandum may be acknowledged.

Sr. Supdt. of Post Offices,

গণপ্রসার বিভাগ, গুৱাহাটী-৭৮১০০১

Guwahati Division, Guwahati-781001

To:-

Shri Gobinda Ch. Deka

BA, GU. H. O.

Guwahati-781001

- 781001

Attested

Advocate.

- 14 -

18

Statement of article of charges framed under Rule 14 of CCS (CCA) Rules 1965 against Shri Gobinda Chandra Deka, the then PA, Rehabari SO.

ANNEXURE - I

Article :- I ||| Shri Gobinda Ch. Deka while working as PA, Rehabari SO issued 4 (four) Nos. of 5/2 KVPs of Rs. 10,000.00 deno. each on 12.05.90. The total amount against sale of 4 KVPs was Rs. 40,000.00 (Rupees forty thousand) but Shri Gobinda Ch. Deka credited Rs. 4000.00 (Rupees four thousand) only to the govt. a/c on the same date i.e. on 12.5.90. Thus Shri Gobinda Ch. Deka misappropriated Rs. 36,000.00 (Rs. 40,000 - 4,000 = 36,000) by not crediting the amount into govt. account.

Shri Gobinda Ch. Deka, PA Rehabari SO (now PA, GU HO) by his above noted act violated the provisions of Rule 4(1) of FHB Vol I and thereby failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS (Conduct) Rules, 1964.

Article :- II ||| Shri Gobinda Ch. Deka while working as PA, Rehabari SO one Shri Amalendu Das Gupta (investor) presented an application for purchase of 5/2 KVPs (NC-1) and Rs. 40,000.00 in cash for direct purchase of KVPs from the office counter. But Shri Gobinda Ch. Deka shown the KVPs sold through the authorised agent Smti. S. Bhattacharjee (Authority no. 563/KMP-ASM/85).

Shri Gobinda Ch. Deka by his above noted act violated Rule 12(1)(h) and Rule 17(10)(a) of PO SB Manual Vol. II and thereby failed to maintain absolute integrity and devotion to duty which is unbecoming to a govt. servant as enjoined in Rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules 1964.

ANNEXURE + II

Article :- I ||| Shri Gobinda Ch. Deka, PA Rehabari SO while working as such issued the following 5/2 KVPs of Rs. 10,000.00 deno. each on 12.5.90 on receipt of application for purchase of KVPs (NC-1) from the investor Shri Amalendu Das Gupta.

<u>Deno.</u>	<u>Sl. No.</u>	<u>Date of issue</u>	<u>Amount</u>	<u>Regn.No.</u>
10,000/-	5/2 KVP 082301	12.05.90	10,000.00	23
10,000/-	082302	12.5.90	10,000.00	23
10,000/-	082303	12.05.90	10,000.00	23
10,000/-	082304	12.05.90	10,000.00	23

The sale value of the 4 KVPs was Rs. 40,000.00 but Shri Gobinda Ch. Deka, PA Rehabari credited Rs. 4,000.00 only against the sale proceeds of 4 (four) KVPs on that date. Thus Shri Gobinda Ch. Deka misappropriated (Rs. 40000 - 4000 = 36000) Rs. 36,000.00 in violation of Rule 4(1) of FHB Vol I and thereby displayed lack of integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS (Conduct) Rules 1964.

Contd...2....

Attested  
[Signature]  
Advocate.

**Article :- II** Shri Gobinda Ch. Deka while working as PA Rehabari SO one Shri Amalendu Das Gupta tendered Rs. 40,000.00 alongwith the application for purchase of 5 1/2 KVPs at the post office counter at Rehabari PO for direct ~~xxx~~ purchase. But Shri Deka ~~xxxx~~ later shown the KVPs as sold through authorised agent Smti. S. Bhattacharjee ( Authority no. 563/ KMP-ASM/85). The investor Shri Amalendu Das Gupta denied the purchase of the KVPs in question through any agent as stated in his written statement dated 17.6.96. Thus Shri Deka issued 5 1/2 KVPs from Sl. no. 082301 to 304 on 12.5.90 and shown as sale through authorised agent.

Shri Gobinda Ch. Deka PA, Rehabari by his above noted act violated the provision as laid down in Rule 12(1)(h) and Rule 17(10)(a) of PO SB Man. Vol. II and thereby failed to maintain absolute integrity and devotion to duty which is unbecoming of a govt. servant as enjoined in Rule 3(1)(i) and 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules 1964.

#### ANNEXURE + III

List of documents by which the article of charges framed against Shri Gobinda Ch. Deka the then PA, Rehabari SO are proposed to be sustained

01. SO a/c book for the period from Oct/89 to Aug/90 (one book)
02. Rough khata from 02.04.90 to 27.09.90
03. KVP issue journal dated 12.05.90
04. Application for purchase of KVP (NC-1) Sl. No. 23 dated 12.5.90
05. Photocopy of KVP no. 5 1/2 KVP/00CC 082301 - 304 (four)
06. Photocopy of KVP stock book (page no. 35) in respect of Rs. 10,000.00 deno.
07. W/s of Shri Amalendu Das Gupta dated 17.06.96
08. W/s of Shri Gobinda Ch. Deka dated 20.11.95

List of witnesses by whom the article of charges framed against Shri Gobinda Ch. Deka, the then PA, Rehabari SO is proposed to be proved.

01. Shri Amalendu Das Gupta ( investor ), C/o Mr. P. Kar, B.K. Kakati Road ( back of the Apol Tent House ), Ulubari Guwahati - 781 007.
02. Shri U.C. Sarma, ASPOs (Divn), Guwahati.

Sr. Suddt. of POs  
Guwahati Division, Guwahati.

*adg*  
1/2/96

To

The Senior Superintendent of Post  
Guwahati Division Guwahati-1.  
Dated Guwahati the 05-09-97.

Respected sir,

The receipt of your memorandum bearing No.F1-8/95-96  
dt. 25-08-97 along the enclosure thereto is hereby acknowl-  
edged.

I would like to inform you that the charges fromed  
against me under the Articles No.1 & 2 are hereby fully  
*denied* ~~denied~~ since the factual datas of the case were deliber-  
ately *omitted* in Annexure II of the charge sheet and  
therefore I desire to be heard in person in the ~~proceed-~~  
*Proceedings* ~~ings~~ of the inquiry as peroposed to be held vide your  
*above* ~~all one~~ memorandum. The scope of submission of my defence  
representation at this stage was curbed by your malafide  
and ~~pre~~ *attitude* ~~judiced~~ *displayed* ~~attitude~~ *displaced* in the allegations  
since ~~brought~~ against me and consequently my defence ~~over~~  
*is* ~~of~~ submitted, will be prematured .

I hope this will meet with your persqual realistic  
decisions in the course of the case.

Yours faithfully,

(SRI GOBINDA CH. DEKA)  
P.S. Guwahati G.P.O.

*Attested*  
*li Das*  
Advocate.

To

Shri B. Kalita,  
Inquiry Officer,  
I As Pos Guwahati (W),  
Sub-Division.

Dated, Guwahati the 22-4-98.

Sub. : Inquiry under Rule 14 against me.

Sir,

With reference to the inquiry proposed to be held against me under Rule 14, I beg to state that the following witnesses possessing definite close to the disclosure of truth and reality in the above case, should have been listed as S/w in the annexure IV of the memo of charges,

- (1) S/o. Mahesh Deka the then SPM Rehabari now SPM B. Nagar.
- (2) Rafiqur Rasul the then SPM Rehabari now retired .
- (3) Prabhat Ch. Mahanta, PA Rehabari SO.

The deposition of the above witnesses is vital, relevant in the interest of justice and this will be obvious after exam/cross exam of the S/w Shri U.C. Sharma.

Kindly assess and get the above witnesses listed on behalf of the state so that the conduct of inquiry may not end in unilateral and arbitrary motives.

Yours faithfully,

*Govinda Ch. Deka*

( GOVINDA CH. DEKA )

P.A. Guwahati G.P.O.

Date : 22-4-98.

\*\* O \*\*

*Attested*

*h Rao*  
Advocate.

Annexure-4.

From

Sri B. Kalita,  
I.O. and ASP, Ghy.  
(West Sub Dn.  
Guwahati.

No. EC-6/96-97

Dated at Ghy the 11.1.99

To

Sri Gobinda Ch. Deka,  
PA/Guwahati GPO

A copy of the written brief received from the PO and SDIC(P)/Guwahati (East) Sub-Dn vide his No. AI/Rule-14/B.C. Deka dated 8.1.99 is sent h/w for submission of your written brief.

You are hereby directed to submit the written brief within (15) fifteen days from the date of receipt of this letter.

Enclo :

one only.

Sd/- Illegible  
Superintendent of Post.  
Guwahati West Sub-division  
Guwahati-1.

Attested

*li Das*  
Advocate.

- 14 -

Annexure-

Written brief in r/o Rule 14 inquiry case against Sri G.C. Deka PA, Guwahati GPO.

The undersigned was appointed as the Presenting Officer by the SSPOS/Guwahati vide Memo No. F-1/8/95-96 dtd. 30.8.97 for presentation of the case contemplated in his office Memo No. even dtd. 25.8.97 against Sri Gobinda Ch. Deka P.A. Guwahati GPO before the Inquiry Authority.

The substance of imputation of misconduct or misbehaviour in respect of which the Disciplinary Authority had proposed to take action against Sri. G.C. Deka PA, Guwahati GPO is as follows - that Sri G.C. Deka while working as PA, Rehabari S.O. issued 4 Nos of KVPs of deno Rs. 10,000.00 each on 12.5.90. The total amount against sale of 4 KVPs was Rs. 40,000.00 but Sri G.C. Deka credited Rs. 4000.00 only to the Govt. A/C on the same date. Thus Sri G.C. Deka misappropriated Rs. 36,000.00/- by not crediting the amount into Govt. Account.

and No. 2 Sri Gobinda Ch. Deka while working as PA, Rehabari S.O. One Sri Amalendu Das Gupa (Investor) presented an application for purchase of 5 1/2 KVPs (NC-1) and Rs. 40,000.00 in cash for direct purchase of KVPs from office counter. But Sri Gobinda Ch. Deka shown the KVPs sold through the authorised agent Smti S. Bhattacharjee.

The inquiry authority had the date of preliminary hearing on 10.11.92 and regular hearing on 30.4.98, 22.6.98, 15.9.98, 5.11.98 and 31.12.98. On 30.4.98 documents as listed in the Annexure-III of the Memorandum were produced before the I.O. and examined and admitted by the SPS while the witnesses listed in Annexure-IV and the witnesses produced by the SPS were examined on 22.6.98, 15.9.98 and 5.11.98, 31.12.98 (PW-1, PW-2, DW-1, DW-2 & DW-3) PW-1 remained absent from the enquiry on the other hand PW-2 authenticated Ex-18, Ex-3. In respect of Ex. No. 4. PW-2 stated that the SB counter PA Rehabari S.O. dtd. 15.11.95 DW-3 admitted that the correction from four to forty both in words and figures was made by him as per instruction of then SPM/Rehabari S.O. DW-2. The DW-1 the SPM/Rehabari S.O. dtd. 12.5.90 in his deposition stated that the then SB counter P.A. Sri G.C. Deka (SPS) requisitioned for 4 nos. of 5 1/2 yrs. KVP for Rs. 4000.00 and accordingly he supplied him 4 Nos of KVP, but by mistake he supplied 4 Nos of KVPs of Deno Rs. 10,000/- each instead of deno Rs. 1000.00. DW-2 the SPM/Rehabari S.O. dtd. 15.11.95 in his deposition stated that the PW-1 produced 4 KVPs of Deno Rs. 10,000/- each for discharge, DW-3 was asked accordingly. But on scrutiny of the records some irregularities were notice by the DW-3 and brought to the notice of the D.W-2 and payment was held up. After scrutiny of all the records the correction from four to forty both in words and figures was made by the DW-1 as per instruction of DW-2.

Attested

Advocate.

- 20 -

- 18 -

The SPM DW-1 Might have done mistake by supplying 4 Nos of KVPs of deno Rs. 10,000/- each instead of Rs. 1000/- each to his subordinate through oversight. But Sri G.C. Deka the SPS being the counter P.A. and fully conversant with his job should thoroughly check the KVPs with relaxation to the purchase application before handing over the same to the customer. He might be fully conversant with the difference of different deno of certificates. But he failed to identify the differences in this case. This fairplay has taken place due to his negligence. So he cannot be escaped from his responsibility.

Dated at Guwahati  
the 8th Jan '99

Sd/-

(C.M. Nath)

P.O.S. SDIPOS, Guwahati  
East Sub Dn. Ghy-1

No. A1/Rule-14/G.C. Deka dtd. at Guwahati 8.1.99

Copy in duplicate forwarded to the Inquiry authority  
and ASPOS West Sub Dn., Guwahati-1.

Sd/-

(C.M. Nath)

P.O.S. SDIPOS, Guwahati  
East Sub Dn. Ghy-1

Attested

*h. Das.*  
Advocate.



To,

Shri B. Kalita, I.O. & ASPOS/GH (W)  
Sub-Division, Guwahati -1.

Dated, Guwahati the 8/2/99.

Sir,

With due respect and having reference to your letter No. Ec -6/96-97 dt. 11/1/99 under which the written brief submitted by the P.O. under his No. A1/Rule-14/G.C. Deka dt. 8/1/99, I beg to submit the following defence statement in regard to the outcome of the proceeding held against me by you under Rule No. 14 of the C.C.S. (CCA) Rules 1965 .

The articles of charge No. I & II framed and brought against me under the SSP/GH memorandum No. P-1 - 8/95-96 dt. 25/8/97, were entrusted to you for holding departmental inquiry and findings under SSP/GH memo No cited above dt. 30/9/97.

The written brief submitted by the P.O. shows that the P.O. having No ~~sub~~ sustained ~~many~~ elements of proof in regard to the articles of charge deviated from the ~~pur~~view of the bonafides of the charges but switched over and ~~of~~ined that foul play took place due to negligence of mine but he did not categorically mention as to whether I was charged for negligence. Hence the brief does not hold good so for the chargs are concerned .


Contd.....2.

BSC. V. S.  
adras  
Admission

The P.W. II Shri U.C. Sharma who made preliminary investigation into the case, clearly stated in his deposition as well as cross examination by the defence on 22/6/98 that the application for purchase of KVPS ex L No. 4 by the investor, for the value for Rs. 4,000/- both in figure and words and it was amply proved beyond reasonable doubt that the purchaser Shri Amalendra Das Gupta P.W.I ~~with~~ tendered Rs.4,000/- (Rupees four thousand only) with the application (N.C-I) duly filed and signed which was duly credited in the account of the P.O.

The oral evidences collected through the examination of the D.W.S. S/S P. Rasul and P.C. Mahanta the then SPM & PA respectively of Rehabari P.O. also corroborate the fact that the figure and words of Rs. 4,000/- embodied in ex L No. 4 were altered to Rs.40,000/- at the time the investor claimed the maturity value, for Rs. 80,000/- under impression of error made in filling up the form but <sup>in</sup> the doing so it was not seen that the original word "Four" was vivid to which "Ty" was added to read the word "Forty" this was un-called for and had no locustandy. That Sir, it came to light during examination by you vide order sheet No. 5 dt. 31/12/98 that I placed indent to the SPM incharge for supplying 4 KVPS of Rs. 1,000/- deno to which KVPS of Rs. 10,000/- deno X 4 were supplied through mistake as admitted by Shri M.C. Deka the then SPM Rehabari, on

Contd.....3.

Attested  
  
 Advocate.

12/5/90 during his deposition as Defence witness dt. 5/11/98 in the form of question and answers. The KVPS supplied as per indent were issued after noting the serials in the reverse of the NC -I as Nos 5 1/2 KVP 082301 to 304 on 12/5/90 of Rs. 1,000/- x 4 which occurred through bonafide mistake as also the colour of the KVPS of deno Rs. 1,000/- and Rs. 10,000/- resemble the same.

That Sir, the P.W.I. Sri Amalendu Das Gupta, with deliberate motives avoided attendance to the inquiry and filed a money suit in the court to have higher monetary benefit out of his legal claim of Rs. 8,000/- as matured. Hence his ~~under~~ claim was down right rejected.

That Sir, my prayer for inspection of the WPSU filed in the court by the department in respect of the above money suit filed by Shri Das Gupta, was unlawfully rejected as per your observation made in order dated dt. 31/12/98 though it was noted in your order sheet No. 3 dt. 15/9/98 that the investor avoided attendance owing to his money suit being subjudiced. The counter statement filed by the department in regard to the money suit would have served as exclusive defence of mine against the charges but it was denied by you against the material justice.

That Sir, it is pertinent to point out that the Disc authority with deliberate intention did not

Contd.....4.

Attesten

*M Das*  
Advocate.

cite the names of S/S M.C. Deka the then SPM Rehabari, R. Rasul and P.C. Mahanta the then SPM & PA respectively of Rehabari P.O. as prosecution witnesses where depositions were most *vila* and relevant as they were stated to have been examined by the P.W. II U.C.Sharma who made preliminary investigation of the case.

That Sir, the mistake left undetected even at the time the KVPS were delivered to the purchaser after noting the Nos in the application form (reverse side) as per Nos of the KVPS supplied the issue journal being prepared at the closing hours.

That Sir, the amount of Rs. 4,000/- tendered by the investor was duly credited with *honesly* .

That Sir, the article of charge No. II is inconsistent for want of oral and corroborative evidence of the Agent and the copy of the *bill* ~~file~~ submitted by the Agent for Commission.

Considering the facts and circumstances brought to light during your inquiry and proceedings, it can be safely contended that the charge of misappropriation of Rs. 36,000/- illegally and irrationally *framed* ~~formed~~ by the disc authority before it was inquired into, was not established and it was abvious that the charges were unfounded, malicious and preponderance against reality .

Contd.....5.

*Advocate.*

It is therefore fervently requested that you would be kind and judicious enough to apply your mind to assess the facts and findings and thus exonerate me fully from the furview of the charge and allegations to meet the ends of justice and equity.

Yours faithfully ,

( GOVINDA CH. DEKA )  
Now P. A. Guwahati GPO.  
Guwahati-1.

24. 7. 54  
M.D.A.  
LAWYER.

1/R

C/N - 26-

ANNEXURE - 6

30

Regd/A.D.

Deptt. of P&S: Indn.

O/Otlc  
Sd/-  
Inspector, Deptt. of P&S, Indn.  
Regd. No. 781001.  
Sd/-  
Inspector, Deptt. of P&S, Indn.  
Regd. No. 781001.

NO-FI-8/95-96 Dated at Simrhati, 1-4-99.

To  
Shri. Gobinda Ch. Deka.  
Vikrampur PA. Rehabari SO.  
New. PA. Simrhati S.P.O.  
Simrhati-781001.

Sub:— Inquiry Report in re/o Ruk-1 case against  
Shri. Gobinda Ch. Deka, Vikrampur PA. Rehabari SO.  
New. PA. Simrhati S.P.O.

A Copy of Inquiry Report received  
from the Inquiry Officer is enclosed herewith  
for your information and submission of  
defence representation if any on the report.

Please note that your representation  
should reach to this office within 7 days from  
the date of receipt of this letter. In case you fail  
to submit the same within the stipulated period  
decision will be taken ex-facto.

Enclosure:

Photo copy of I.O. Report  
dttd 5-3-99.

08/04/99  
The P&S Officer  
Simrhati  
Sd/-  
Inspector, Deptt. of P&S, Indn.  
Regd. No. 781001.

Attested  
Advocate.

28

Rule-4 of CCS (A) Rules, 1965 against Sri Gobinda Ch. Deka then P.A. - Rehabar SO and now P.A. Guwahati G.P.O.

The undersigned was appointed as the Inquiry Authority to enquire into the charges framed against Sri Gobinda Ch. Deka, then P.A. Rehabar and now P.A. Guwahati, by the Sr. Supdt. of Post Offices, Guwahati Division vide memo no F1-8/95/96 dated 30-9-77. Sri C.M. Nath SDICP Guwahati (East) sub-or. was appointed as the Presenting Officer.

The charges framed against Sri Gobinda Ch. Deka in memo no F1-8/95-96 dated 25/10/77 of the SSP/Guwahati-Division in brief is as follows -

"That Sri Gobinda Ch. Deka while working as P.A. at Rehabar SO in SO counter has accepted Rs 40,000/- (Rs forty thousand) from one Sri Anandendu Dasgupta who tendered at the counter for purchase of 5 1/2 yrs. K.V.P. for Rs 40,000/- along with the application for purchase of K.V.P. Accordingly 4 nos of K.V.P. of 10,000/- each (total for Rs 40,000/-) were issued to Sri Das Gupta, but Sri Deka failed to credit the full amount of Rs 40,000/- and instead, he credited Rs 4000/- (Rs four thousand) only and thereby misappropriated Rs 36,000/- and thereby violated the provisions of Rule 4(i) of F.H.B. Vol-I and thus failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS (Conduct) Rules, 1964."

The other article of charge is that Sri Gobinda Ch. Deka while working as P.A. at Rehabar SO on 12-5-90 one Sri Anandendu Dasgupta had presented cash Rs 40,000/- for purchase of 5 1/2 yrs. K.V.P. along with the application at the counter personally and Sri Deka accepted it. But said Sri Deka had shown the K.V.Ps sold through an agent viz Sri S. Bhattacharjee (Authority no 563/KMP-ASM/85). And thus Sri Gobinda Ch. Deka had violated Rule 12(1)(b) & Rule 17(1)(a) of P.O.S. Manual Vol. II and thereby failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i), 3(1)(ii), and 3(1)(iii) of CCS (Conduct) Rules, 1964."

Attested

Advocate.

The undersigned made the preliminary hearing of the case on 10/11/97 where the charged SDW had denied the charge framed against him and desired to hear in person. Also SD Deka wanted to take assistance of the defence assistance and ~~was~~ nominated one SD Nageshwar Nath Datta, retired SPM as his defence counsel. Thereafter the oral inquiry came up on the following dates - 30-4-98, 22-6-98, 15-9-98, 05/11/98, and concluded on 31/12/98.

In the 1st regular hearing the PO had produced the document as listed in the Annexure II of the memorandum no F1-8/95-96 dated 25/8/97. The PO was given opportunity to produce additional documents in support of the article of charge before examination of the prosecution witness. Also he was permitted to examine additional witnesses if he desired, but he did like such. The charged SDW had desired to examine the following witnesses as defence -

- i) SD Mahesh Deka, then SPM Rahabar and now retired SPM Bodvanagar.
- ii) SD Rabiur Rasul, then SPM Rahabar and now retired.
- iii) SD Prabhat Ch. Mahanta, then P.A. Rahabar.

The relevancy of the above three witnesses was considered material and therefore, permitted to be examined by the charged SDW.

There were two prosecution witnesses as listed in the original memorandum. Both of them were called for on 22/6/98. The PW no 2 SD U. C. Sarmah had attended while the PW no 1 SD Anandendu Dain Gupta (investor) did not. The PW no 2 was examined by the PO and then cross examined by the defence counsel. No re-examination by the PO was done. The PO had examined him (PW no 2) in one point.

The PW no 1 was again called for to appear before the PO on 15/9/98, but he did not. At the same time the PW no 1 had informed vide his letter dated 18/6/98 that he would not be able to attend the inquiry as because he had filed a title suit in the court against the Dept. The PO, therefore, decided to drop the PW no 1 as he (PW no 1) had categorically refused to depose or his witness.

*[Signature]*  
*[Signature]*



Defence witnesses S/Sri Rabinir Rasul then SPM Rehabar (now retired) who was on duty on 15/4/95 and Mahesh ch. Deka then SDO Gating SPM, Rehabar who held charge on 12/5/90 were examined by the Defence counsel on 05/11/98. Rabinir Rasul was cross-examined by the P.O. while he did not cross-examine Sd Mahesh ch. Deka.

The other D.W. (No. 3) Sd Prabhakar ch. Mahant was examined and cross-examined by the Defence counsel and the P.O. on 31/12/98.

The oral inquiry was concluded on 31/12/98 and the P.O. and the charged SDO were directed to submit written brief. Accordingly the P.O. had submitted his written brief on 31/1/99, which is as follows -

(Annexure - A).

A copy of the written brief of the P.O. was furnished to the charged SDO Sd Gobinda ch. Deka on 11/1/99 directing him to submit his written brief within (15) fifteen days of receipt. Sd Deka submitted his brief on 08/1/99 which was received by the undersigned on 11/2/99. It reads as under -

(Annexure - B).

The P.O. in his written brief could not argue as much as required to prove charges framed against the SDO in the Rule 14 case. He remained silent about the actual ~~act~~ article or charge framed against the SDO and his discussion as well as argument to prove it, he simply pointed out the omissions committed by the charged SDO when had occurred due to his negligence on 12/5/90 in issuing G.Os of KVPS.

The ~~presenting~~ SDOs could not take steps to prove the article II of charge although he was given reasonable opportunity to produce additional documents or examination or additional witness.

I have gone through the written brief of the charged SDO Sd Gobinda ch. Deka and agree with his opinions except at last but one para in page No. 3. Every natural justice was allowed to him unconditionally.

Libas.

1) The SPM Rehabar was the custodian of the K.V.P. stock. He himself made entries of the K.V.P.s (deno, Rs 10,000/-) in the stock registers on 12/5/90, then issued and made over to the counter P.A. viz the charged official for delivering it to the investor. But the SPM did not examine the application for purchase of K.V.P. of Sri Anandendu Das Gupta. He (the SPM in charge Sri Mahesh ch. Doka) had prepared his daily a/c of the day taking the amount of Rs 4000/- as K.V.P. sale and put his signature in the issue journal (Ex. no 3), (Ex. no 1) and (Ex. no 2), (Ex. no 4), (Ex. no 5a, 5b, 5c & 5d). His responsibility can't be avoided.

2) The charged official had accepted Rs 4000/- from the investor along with the application. He obtained the four K.V.P.s (Ex. no 5a, 5b, 5c & 5d) duly issued by the SPM under his dated signature, but did not care to mind the value of the K.V.P.s - actually he received from the SPM. His little negligence ~~may cause~~ will now cause the Dept. to sustain a great loss. He is as much responsible as the SPM Sri Mahesh ch. Doka.

3) Sri Rajkumar Rasul, the then SPM Rehabar who was on duty on 15/11/95 (now retired) had instructed Sri Prabhakar ch. Mahanta (DW-no 2 & 3 respectively) to ~~alter~~ alter the figure of Rs 4000/- to Rs 40,000/- both in words and figures comparing the denomination of 4 K.V.P.s produced for encashment by the investor - Sri Anandendu Das Gupta. The instruction of the DW-no 2 (Rajkumar Rasul) to alter the figure of Rs 4000/- to 40,000/- to his subordinate is not a negligible one but warrants major penalties - although he was let off to go freely.

4) The DW-no 3 Sri Prabhakar ch. Mahanta had altered the figure of Rs 4000/- to Rs 40,000/- in the original application (Ex. no 4) by adding "ty" after "Four" and making Rs 4000/- as Rs 40,000/- to fulfill the demand of the investor while he was asked to do so by the SPM. Sri Mahanta being a senior P.A. rendering several years of service did not hesitate to commit such an offence, which warrants severe punishment.

Attested  
  
 Advocate.

Sh Mahanta CDW no 3) had spotted the original document (Ex no 4) to challenge the ~~the~~ undue claim of the investor.

Under the circumstances as mentioned in the findings (from lto 4) I am in the opinion that the article of charges framed against Sh Mahanta et. al. stands not proved in misappropriation of Rs 26,000/- as well as in showing sale of KVPs through agent which were actually sold in the court on 12/5/90.

Dated at Guj the  
05/03/99.

B.M.  
05/03/99  
B. Kalita,  
D.O. & Appr/ Guj  
(West) Sub. In.  
Tribunal West Sub. Division  
701 301  
701 301  
701 301  
701 301

NO EC-6/96-97

Dated at Guwahati the 05/03/99

copy - submitted to --

The for Supdt. of Post Office, Guwahati  
Dr, Guwahati - 1 for the kind disposal,

#### Enclosures

- 1) Memo no FI-P/95-96 dt. 25/8/97
- 2) Preliminary Inquiry dt. 10/11/97
- 3) Order sheet no 1 dt. 30/4/98
- 4) Order sheet no 2 dt. 22/6/98
- 5) Order sheet no 3 dt. 15/9/98
- 6) Order sheet no 4 dt. 05/11/98
- 7) Order sheet no 5 dt. 31/12/98
- 8) W/ Pdt. dt. 08/1/99 (Annexure - A)
- 9) W/ Pdt. dt. 08/1/99 (Annexure - B)

B.M.  
05/03/99  
B. Kalita,  
D.O. & Appr/  
Guj (West).

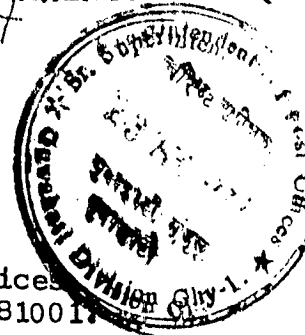
For the Sub. Division of P.O.  
Tribunal West Sub. Division  
701 301  
701 301  
701 301  
701 301

Attested

Adv.  
Advocate.

TO,

The Senior Supdt. of Post Offices  
Guwahati Division, Guwahati - 781001.



Dated, Guwahati the 23.4.99.

Sub:- Report and findings of the Inquiry Officer in  
respect of Rule 14 case against me.

Respected Sir,

With reference to your letter No. F1-8/95-96 dt. 1.4.99, I beg to state that in your aforesaid reference, I was called upon to submit my defence representation on the findings of the I.O. referred to above.

In this respect I may be permitted to point out that the I.O.'s findings are attributed to prejudice, controversy and hostility and therefore his conduct of business is not free from bias. Obviously he did not differentiate the conduct of business of a domestic court of the department to which he was authorised with certain restriction and the preliminary investigation into a first information report. His order contradicts his findings factually.

It is further mentioned that the findings of the I.O. has not been agreed upon or disagreed and the I.O. after having tested the oral and documentary evidences adduced relating to the specific charges ~~formed~~ against me, opined in clear terms that the articles of charges ~~stated~~ not proved. The matter was duly contested and well defended.

The discussions made in his findings in paras 1 to 4 are not relevant but superfluous and clear deviation from the actual spirit and purpose of the provisions of the C.C.S. (C.C.A.) Rules 1965.

Contd.....2/-

Attested

*lilly*  
Advocate

- : 2 : -

Under the facts and circumstances my defence representation in absence of any ~~fact~~ proposal will be, you will agree, uncalled for. Since the charges were not established I may kindly be let off in the interest of justice and equity and for the act of your kind consideration, I shall remain ever grateful.

Yours faithfully,

*Gobinda Chandra Deka*  
*P.A. Guwahati G.P.O.*

( Gobinda Ch. Deka )  
Now P.A. Guwahati G.P.O.

Attested  
*hidas*  
Advocate.

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

\*\*\*\* \*\* \*\*\*\*

No ::: FI-8/95-96.

April 19, 2001

In this office memo of even no. dated 25.08.97 it was proposed to take action against Shri Gobinda Chandra Deka, the then PA Rehabari SO ( now PA Guwahati University HO) under Rule 14 of CCS(CCA) Rules 1965 on the following misconduct or misbehaviour.

" Article - I (Annexure-I) :: Shri Gobinda Ch. Deka while working as PA Rehabari SO ISSUED 4 (FOUR) NOS. OF 5 ½ KVPs of Rs. 10,000.00 deno each on 12.05.90. The total amount against sale of 4 KVPs was Rs. 40,000.00 ( Rupees forty thousand ) but Shri Gobinda Ch. Deka credited Rs. 4000.00 ( four thousand ) only to the govt. a/c on the same date i.e. 12.05.90. Thus Shri Gobinda Ch. Deka misappropriated Rs. 36,000.00 (Rs. 40,000 - 4,000 = 36,000) by not crediting the amount into the govt. account.

Shri Gobinda Ch. Deka PA Rehabari SO ( now PA GU HO) by his above noted act violated the provisions of rule 4(1) of FHB Vol. I and thereby failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS(Conduct) Rule, 1964.

Article :: II :: Shri Gobinda Ch. Deka while working as PA Rehabari SO one Shri Amalendu Das Gupta (investor) presented an application for purchase of 5 ½ KVPs (NC-I) and Rs. 40,000.00 in cash for direct purchase of KVPs from the office counter. But Shri Gobinda Ch. Deka shown the KVPs sold through the authorised agent Smti. S. Bhattacharjee ( Authority no. 563/KMP-ASM/85).

Shri Gobinda Ch. Deka by his above noted act violated Rule 12(1)(h) and Rule 17(10)(a) of PO SB Manual Vol II and thereby failed to maintain absolute integrity and devotion to duty which is unbecoming of a govt. servant as enjoined in, Rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS(Conduct) Rules, 1964.

Article - I (Annexure-II) :: Shri Gobinda Ch. Deka PA Rehabari SO while working as such issued the following 5 ½ KVPs of Rs.10,000.00 deno. Each on 12.05.90 on receipt of application for purchase of KVPs (NC-I) from the investor Shri Amalendu Das Gupta.

Deno.	Sl. No.	Date of issue	Amount	Regn.no.
10000/-	5 ½ KVP 082301	12.05.90	10,000.00	23
10000/-	082302	12.05.90	10,000.00	23
10000/-	082303	12.05.90	10,000.00	23
10000/-	082304	12.05.90	10,000.00	23

The sale value of the 4 KVPs was Rs. 40,000.00 but Shri Gobinda Ch. Deka PA Rehabari credited Rs. 4,000.00 only against the sale proceeds of 4 (four) KVPs on that date. Thus Shri Gobinda Ch. Deka misappropriated (Rs.40000 - 4000 = 36000) Rs.

Attested

  
Advocate.

36,000/- in violation of Rule 4(1) of FHB Vol. I and thereby displayed lack of integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS(Conduct) Rules 1964.

Article - II :: Shri Gobinda Ch. Deka while working as PA Rehabari SO one Shri Amalendu Das Gupta tendered Rs. 40,000.00 along with the application for purchase of 5 ½ KVPs at the post office counter at Rehabari PO for direct purchase. But Shri Deka later shown the KVPs as sold through authorized agent Smti. S. Bhattacharjee (Authority no. 563/KMP-ASM/85). The investor Shri Amalendu Das Gupta denied the purchase of the KVPs in question through any agent as stated in his written statement dated 17.6.96. Thus Shri Deka issued 5 ½ KVPs from sl. No. 082301 to 304 on 12.5.90 and shown as sale through authorised agent.

Shri Gobinda Ch. Deka PA Rehabari by his above noted act violated the provision as laid down in Rule 12(1)(h) and Rule 17(10)(a) of PO SB Manual Vol. II and thereby failed to maintain absolute integrity and devotion to duty which is unbecoming of a govt. servant as enjoined in Rule 3(1)(i) and 3(1)(ii) and 3(1)(iii) of CCS(Conduct) Rules 1964."

Shri Gobinda Ch. Deka was asked to submit his defence representation if any on the charge framed against him within a stipulated period fixed by this office. Shri Gobinda Ch. Deka received this office memo no. F1-8/95-96 dated 25.08.97 and submitted his defence representation dated 05.09.97 as follows.

"The receipt of your memorandum bearing no. F1-8/95-96 dated 25.08.97 along the enclosure thereto is hereby acknowledged.

I would like to inform you that the charges framed against me under the Articles no. I and II are hereby fully denied since the factual datas of the case were deliberately omitted in Annexure II of the charge sheet and therefore I desire to be heard in person in the proceeding if the inquiry as perposed to be held vide your above memorandum. The scope of submission of my defence representation at this stage was curbed by your malafide and prejudiced attitude displayed in the allegations since brought against me and consequently my defence even if submitted, will be prematured.

I hope this will meet with your personal realistic decisions in the course of the case."

Shri B. Kalita, ASPOs (West) sub division Guwahati was appointed as Inquiry Authority to enquire into the charges brought against Shri Gobinda Ch. Deka under this office memo of even no. dated 30.09.97.

Shri B. Kalita, Inquiry Authority submitted his inquiry report under his letter no. EC-6/96-97 dated 05.03.99 as follows.

"The undersigned was appointed as the Inquiry Authority to inquire into the charges framed against Shri Gobinda Ch. Deka then PA Rehabari and now PA Guwahati by the Sr. Supdt. of POs., Guwahati Division vide memo no. F1-8/95-96 dated 30.09.97. Shri C.M. Nath SDI(P) Guwahati East sub divn was appointed as Presenting Officer.

The charges framed against Shri Gobinda Ch. Deka in memo no. F1-8/95-96 dated 25.08.97 of the SSPOs., Guwahati division in brief is as follows :-

*[Handwritten signature]*  
Ad-60116

That Shri Gobinda Ch. Deka while working as PA at Rehabari SO in SB counter has accepted Rs. 40000/- (Rs. Forty thousand) from one Shri Amalendu Das Gupta who tendered at the counter for purchase of 5 ½ yrs. KVPs for Rs. 40,000.00 along with the application for purchase of KVP on 12.05.90. Accordingly 4 nos. of KVPs of 10,000.00 each (total for Rs. 40,000/-) were issued to Shri Das Gupta but Shri Deka failed to credit the full amount of Rs. 40,000/- and instead he credited Rs. 4000/- (Rs four thousand) only and thereby misappropriated Rs. 36,000/- and thereby violated the provisions of Rule 4(1) of FIB Vol. I and thus failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS (Conduct) Rule 1964.

The other article of charge is that Shri Gobinda Ch. Deka while working as PA at Rehabari SO on 12.05.90 one Shri Amalendu Das Gupta had presented cash Rs. 40,000/- for purchase of 5 ½ yrs KVP along with the application at the counter personally and Shri Deka accepted it. But said Shri Deka had shown the KVPs sold through an agent viz Smti. S.Bhattacharjee (Authority no. 563/KMP-ASM/85). And thus Shri Gobinda Ch. Deka had violated Rule 12(1)(h) and Rule 17(10)(a) of PO SB Manual Vol. II and thereby failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS(Conduct) Rules, 1964. "

The undersigned made the preliminary hearing of the case on 10.11.97 where the charged official had denied the charges framed against him and desired to hear in person. Also Shri Deka wanted to take assistance of the defence assistance and nominated one Shri Nagendra Nath Dutta, retired SPM as his defence counsel. Thereafter the oral inquiry came up on the following dates - 30.04.98, 22.06.98, 15.09.98, 05.11.98, and concluded on 31.12.98.

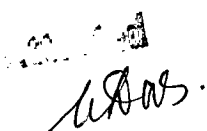
In the first regular hearing the PO had produced the documents as listed in the Annexure III of the memo no. FI-8/95-96 dated 25.08.97. The PO was given opportunity to produce additional documents in support of the article of charge before examination of the prosecution witness. Also he was permitted to examine additional witnesses if he desired, but he did like such. The charged official had desired to examine the following witnesses as defence witness.

- i). Shri Mahesh Deka, then SPM Rehabari and now SPM Binovanagar
- ii). Shri Rafiqur Rasul, then SPM Rehabari now retired
- iii). Shri Prabhat Ch. Mahanta then PA Rehabari.

The relevancy of the above three witnesses was considered material and therefore permitted to examine by the charged official.

There were two prosecution witnesses as listed in the original memorandum. Both of them were called for on 22.6.98. The PW no. 2 Shri U.C. Sarmah had attended while the PW no. 1 Shri Amalendu Das Gupta (investor) did not. The PW no. 2 was examined by the PO and then cross examined by the defence counsel. No re-examination by the PO was done. The IO had examined him (PW no. 2) in one point.

The PW no.1 was again called for to appear before the IO on 15.09.98 but he did not. At the same time the PW no. 1 had intimated vide his letter dated 18.6.98 that he would not be able to attend the inquiry as because he had filed a title suit in the Court against the Department. The IO therefore decided to drop the PW no. 1 as he had categorically refused to depose of his witness. Defence witness Shri Rafiqur Rasul then

  
Advocate



SPM Rehabari (now retired) who was on duty on 15.11.95 and Mahesh Ch. Deka then officiating SPM Rehabari who held charged on 12.05.90 were examined by the defence counsel on 5.11.98. Refiqur Rasul was cross examined by the PO while he did not cross examine Shri Mahesh Ch. Deka.

The other DW no. 3 Shri Prabhat Ch. Mahanta was examined and cross examined by the defence counsel and the PO on 31.12.98.

The oral inquiry was concluded on 31.12.98 and the PO and the charged official were directed to submit written brief. Accordingly the PO had submitted his written brief on 8.1.99 which is as follows.

"The undersigned was appointed as the Presenting officer by the SSPOs, Guwahati vide memo no. FI-8/95-96 dated 30.09.97 for presentation of the case contemplated in his office memo no. even dated 25.8.97 against Shri Gobinda Ch. Deka, PA Guwahati GPO before the Inquiry Authority.

The substance of imputation of misconduct or misbehaviour in respect of which the disciplinary authority had proposed to take action against Shri Gobinda Ch. Deka PA Guwahati GPO is as follows :-

That Shri G.C. Deka while working as PA Rehabari SO issued 4 nos. of 5 ½ yrs KVPs of deno Rs. 10,000/- each on 12.05.90. The total amount against sale of KVPs was Rs. 40,000.00 but Shri G.C. Deka credited Rs. 4,000.00 only to the govt. a/c on the same date. Thus Shri G.C. Deka misappropriated Rs. 36,000.00 by not crediting the amount into govt. account.

And no. 2 Shri Govinda Ch. Deka while working as PA Rehabari SO one Shri Amalendu Das Gupta (Investor) presented an application for purchase of 5 ½ KVPs (NC 1) and Rs. 40,000.00 in cash for direct purchase of KVPs from office courier. But Shri Govinda Ch. Deka shown the KVPs sold through the authorised agent Smti. S. Bhattacharjee.

The Inquiry Authority had fixed the date of preliminary hearing on 10.11.97 and regular hearings on 30.4.98, 22.6.98, 15.9.98, 5.11.98 and 31.12.98. On 30.4.98 documents as listed in the Annexure III of the memorandum were produced before the IO and examined and admitted by the SPs. While the witnesses listed in Annexure IV and the witnesses produced by the SPS were examined on 22.6.98, 15.9.98, and 5.11.98, 31.12.98 (PW 1, PW 2, Dw1, Dw 2 and Dw 3). Pw 1 remained absent from the enquiry on the other hand PW 2 authenticated ex-1, 2 and ex-3. In respect of Ex no. 4, pw 2 stated that the SB counter PA Rehabari SO dated 15.11.95 DW 3 admitted that the correction from four to forty both in words and figures was made by him as per instruction of the then SPM Rehabari SO Dw-2. The DW1 the SPM Rehabari SO dated 12.05.90 in his deposition stated that the then SB counter PA Shri G.C. Deka (SPS) requisitioned for 4 nos. of 5 ½ yrs KVPs for Rs. 4000.00 and accordingly he supplied him 4 nos. of KVPs but by mistake he supplied 4 nos. of KVPs of deno. 10,000/- each instead of deno. Rs. 1000/- each. Dw2 the SPM Rehabari SO dated 15.11.95 in his deposition stated that the pw-1 produced 4 KVPs of deno. Rs. 10,000/- each for discharge Dw-3 was asked accordingly. But on scrutiny of the records some irregularities were noticed by the DW-3 and brought to the notice of the Dw 2 and payment was held up. After scrutiny of all the records the

Attested

*[Signature]*

Attocate.

correction from four to forty both in words and figures was made by the Dw-I as per instruction of Dw-2.

The SPM Dw-I might have done mistake by supplying 4 nos. of KVP's of deno. Rs. 10000/- each instead of Rs. 1000.00 each to his subordinate through oversight. But Shri M.C. Deka the SPS being the counter PA and fully conversant with his job should thoroughly check the KVP's with relation to the purchase application before handing over the same to the customer. He might be fully conversant with the difference of different deno. Of certificates. But he failed to identify the differences in this case. This foul play has taken place due to his negligency. So he can not be escaped from his responsibility.

A copy of the written brief of the PO was furnished to the charged official Shri Gobinda Ch. Deka on 11.01.99 directing him to submit his written brief within (15) fifteen days of receipt. Shri Deka submitted his brief on 8.2.99 which was received by the undersigned on 11.2.99. It reveals as under :-

" With due respect and having reference to your letter no. EC-6/96-97 dated 11.01.99 under which the written brief submitted by the PO under his no. A1/Rule 14/GC Deka dated 8.1.99, I beg to submit the following defence statement in regard to the outcome of the proceedings held against me by you under Rule no. 14 of CCS(CCA) Rules, 1965.

The articles of charged no. I and II framed and brought against me under the SSP/GH memo no. FI-8/95-96 dated 25.08.97, were entrusted to you for holding departmental inquiry and findings under SSP/GH memo no. cited above dated 30.9.97.

The written brief submitted by the PO shows that the PO having no sustained elements of proof in regard to the article of charges deviated from the purview of the bonafides of the charges but switched over and opined that foul play took place due to negligence of mine but he did not categorically mention as to whether I was charged for negligence. Hence the brief does not hold good so far the charges as concerned.

The PW II Shri U.C. Sarma who made preliminary investigation into case, clearly stated in his deposition as well as cross examination by the defence on 22.6.98 that the application for purchase of KVP's ex L. no. 4 by the investor, for the value for Rs. 4,000/- both in figure and words and it was comply proved beyond reasonable doubt that the purchaser Shri Amalendu Das Gupta, Pw 1 tendered Rs. 4,000/- ( Rupees four thousand) only with the application (NC 1) duly filled and signed which was duly credited in the account of the PO.

The oral evidences collected through the examination of the Dws Shri R. Rasul and P.C. Mahanta the then SPM and PA respectively of Rehabari PO also corroborate the fact that the figure and words of Rs.4,000/- embodied in ex L. no. 4 were altered to Rs. 40,000/- at the time the investor claimed and maturity value, for Rs. 80,000/- under impression of error made in filing up the form but in doing so it was not seen that the original word "four" was vivid to which "Ty" was added to read the word "Forty" this was uncalled for and had no locus-standy. That Sir, it came to light during examination by you vide order sheet no. 5 dated 31.12.98 that in placed indent to the SPM incharge for supplying 4 KVP's of Rs. 1,000/- deno to which KVP's of Rs. 10,000/- den X 4 were supplied through mistake as admitted by Shri M.C. Deka the then SPM Rehabari, on 12.05.90 during his deposition as defence witness dated 5.11.98 in the form of question

Attested

*Advocate.*

and answers. The KVPs supplied as per indent were issued after noting the serials in the reverse of the NC-I as nos. 5 1/2 KVP 082301 to 304 on 12.5.90 of Rs. 1,000 x 4 which occurred through bonafide mistake as also the colour of the KVPs of deno. Rs. 1,000.00 and Rs. 10,000/- resemble the same.

That Sir, the Pw-I Shri Amalendu Das Gupta, with deliberate motives avoided attendance to the inquiry and filed a money suit in the court to have higher monetary benefit out of his legal claim of Rs. 80,000/= as matured. Hence his-claim was down right rejected.

That Sir, my prayer for inspection of the WPSU filed in the court by the department in respect of the above money suit filed by Shri Das Gupta, was unlawfully rejected as per your observation made in order sheet dated 31.12.98 through it was noted in your order sheet no. 3 dated 15.9.98 that the investor avoided attendance owing to his money suit being subjudiced. The counter statement filed by the department in regard to the money suit would have served as exclusive defence of mine against the charges but it was denied by your against the material justice.

That Sir, it is pertinent to point out that the disciplinary authority with deliberate intention did not cite the names of S/S M.C. Deka the then SPM Rehabari, R. Rasul and P.C. Mahanta the then SPM and PA respectively of Rehbari SO as prosecution witnesses where depositions were most vital and relevant as they were stated to have been examined by the PW II U.C. Sarma who made preliminary investigation of the case.

That Sir, the mistake left undetected even at the time the KVPs were delivered to the purchaser after noting the Nos in the application form (reverse side) as per Nos of the KVPs supplied the issued journal being prepared at the closing hours.

That Sir, the amount of Rs. 4000/- tendered by the investor was duly credited with honesty.

That Sir, the article of charge no. II is inconsistent for want of oral and corroborative evidence of the Agent and the copy of the bill submitted by the Agent for commission.

Considering the facts and circumstances brought to light during your inquiry and proceedings, it can be safely contended that the charge of misappropriation of Rs. 36,000/- illegally and irrationally framed by the disc authority before it was inquired into, was not established and it was obvious that the charges were unfounded, malicious and preponderance against reality.

It is therefore fervently requested that you would be kind and judicious enough to apply your mind to assess the facts and findings and this exonerate me fully from the purview of the charge and allegations to meet the ends of justice and equity."

The PO in his written brief could not argue as much as required to prove charges framed against the official in the Rule 14 case. He remained silent about the actual article of charge framed against the official and his discussion as well as argument to prove it. He simply pinpointed the omissions committed by the charged official which had occurred due to his negligency on 12.05.90 in issuing 4 nos. of KVP.

The Presenting officer could not take steps to prove the article IV of charge although he was given reasonable opportunity to produce additional documents or examination of additional witness.

Attested

*Advocate.*  
Advocate.

7 - 60 -

44

I have gone through the written brief of the charged official Shri Gobinda Ch. Deka and agree with his opinions except at last but one para in page no. 3. Every natural justice was allowed to him unconditionally.

Findings of the oral inquiry :- 1). The SPM Rehabari was the custodian of the KVP stock. He himself made entries of the KVPs (deno. Rs.10000/-) in the stock register on 12.05.90, then issued and made over to the counter PA viz the charged official for delivering it to the investor. But the SPM did not examine the application for purchase of KVP of Shri Amalendu Das Gupta. He (the SPM IN CHARGE Shri Mahesh Ch. Deka) had prepared his daily a/c of the day taking the amount of Rs. 4000/- as KVP sale and put his signature in the issue journal (Ex no. 3), (ex no. 1), (Ex.no. 2), (Ex. No. 4), (Ex no. 5a, 5b, 5c and 5d). His responsibility can not be avoided.

2). The charged official had accepted Rs. 4000/- from the investor along with the application. He obtained the four KVPs (ex. No. 5a, 5b, 5c and 5d) duly issued by the SPM under his dated signature, but did not care to mind the value of the KVPs actually he received from the SPM. His little negligence will now cause the department to sustain a great loss. He is as much responsible as the PSPM Shri Mahesh Ch. Deka.

3). Shri Rafiqur Rasul, the then SPM Rehbari who was on duty on 15.11.95 (now retired) has instructed Shri Prabhat Ch. Mahanta (Dw no. 2 and 3 respectively) to alter the figure of Rs. 4000/- to Rs. 40,000/- both in words and figures comparing the denomination of 4 KVPs produced for encashment by the investor Shri Amalendu Das Gupta. The instruction of the Dw no. 2 (Rafiqur Rasul) to alter the figure of Rs. 4000/- to 40,000/- to his subordinate is not a negligible one but warrants major penalties although he was let off to go freely.

4). The Dw no. 3 Shri Prabhat Ch. Mahanta had altered the figure of Rs. 4000/- to Rs.40,000/- in the original application (Ex no. 4) by adding "ty" after "four" and making Rs. 4000/- as Rs. 40,000/- to fulfil the demand of the investor while he was asked to do so by the SPM. Shri Mahanta being a senior PA rendering several year of services did not hesitate to commit such an offence which warrants severe punishment. Shri Mahanta (Dw no.3) had spoiled the original document (ex no. 4) to challenge the undue claim of the investor.

Under the circumstances as mentioned in the findings (from 1 to 4) I am in the opinion that the article of charges framed against Shri Gobinda Ch. Deka stands not proved in misappropriation of Rs. 36,000/- as well as in showing sale of KVPs through agent which were actually sold in the counter on 12.05.90. ""

A copy of the inquiry report of the IO was sent to Shri Gobinda Ch. Deka, the then PA Rehabari SO now PA, Guwahati University HO under this office letter of even no. dated 01.04.99 for submission of his representation if any within 7 days from the date of receipt of this letter Shri Gobinda Ch. Deka accordingly submitted his representation dated 23.04.99 as follows :-

Accessed

*le Das*  
Advocate.

" With reference to your letter no. FI-8/95-96 dated 01.04.99, I beg to state that in your aforesaid reference, I was called upon to submit my defence representation on the findings of the IO referred to above.

In this respect I may be permitted to point out that the IO's findings are attributed to prejudice, controversy and hostility and therefore his conduct of business is not free from bias, obviously he did not differentiate the conduct of business of a domestic court of the department to which he was authorized with certain restriction and the preliminary investigation into a first information report. His order contradicts his findings factually.

It is further mentioned that the findings of the IO has not been agreed upon of disagree and the IO after having tested the oral and documentary evidences adduced relating to the specific charges framed against me, opined in clear terms that the articles of charges stand not proved. The matter was duly contested and well defended.

The discussions made in his findings in paras 1 to 4 are not relevant but superfluous and clear deviation from the actual spirit and purpose of the provisions of the CCS(CCA) Rules, 1965.

Under the facts and circumstances my defence representation in absence of any proposal will be, you will agree, uncalled for. Since the charges were not established I may kindly be let off in the interest of justice and equity and for the act of your kind consideration, I shall remain ever grateful."

Observation :-

I have gone through the inquiry report of the IO, the charges framed against Shri Gobinda Ch. Deka and the defence representation submitted by the official in the case very carefully and I could not agree with the findings of the IO on the following points :-

- 1). On examination and cross examination of Shri U.C. Sarmah, Prosecution witness no. 2; it has come to light that the certificates were shown as sold through Authorised agent though the certificates were purchased directly from the PO counter.
- 2). Shri Gobinda Chandra Deka issued the 5 ½ yrs KVPs bearing no. 00CC-082301 to 082304 of deno. Rs. 10,000/- each but the said certificates were journalised in KVP issue journal as Rs. 1000/- each and the total casted as Rs. 4000/- only.
- 3). Investor wrote his name and address in black ink and the other entries were in blue ink and the writings were also differed each other.
- 4). On examination and cross examination Shri Rafiqur Rasul, SPM Rehabari (Retd), defence witness; it has come to light that Rupees four thousand was written in the application for purchase of KVP both in words and figures which was made as Rupees forty thousand at the time of discharge.
- 5). From the written statement dated 17.6.96 (ex no. 7) of Shri Amalendu Das Gupta, purchaser of the said KVPs, it is clear that the purchaser tendered Rs. 40,000/- only along with the application direct to the counter and not through any NS Agent.

*Advocate.*

6). From the written statement dated 20.11.95 of Shri Gobinda Ch. Deka the following points have come to light.

- a). The KVP nos. and amount were written by Shri Gobinda Ch. Deka ;
- b). All the four KVP certificates were issued by Shri Gobinda Ch. Deka;
- c). KVP issue journal of Rehabari SO dated 12.05.90 was written by Shri Gobinda Ch. Deka ;
- d). Shri Gobinda Ch. Deka confessed that the irregularity has been committed by him as he presumed after examination of all records and exhibits.

The I.O. in his findings stated as follows :-

The KVPs of deno. Rs. 10,000/- was given by the then SPM, Rehabari SO to Shri Gobinda Ch. Deka on his verbal requisition without examination the application for purchase of KVPs by Shri A. Das Gupta.

The SPM Rehabari SO handed over KVPs of deno Rs. 10,000/- each to Shri Gobinda Ch. Deka who failed to notice the deno of 4 (four) KVPs though the KVPs were filled by him which costs him responsible.

Para 3 and 4 of IO's report has no relevancy with the charges framed against Shri Gobinda Ch. Deka.

Had the KVPs were sold at the counter by Shri Gobinda Ch. Deka, the name of N.S. Agent in the application for purchase of PO certificates would have not come. This aspect has not been discussed by the IO.

In the representation dated 23.04.99 of Shri Gobinda Ch. Deka tried to avoid his responsibilities stating his defence representation as uncalled for since the charges were not established in the report of the I.O.

From the above observations/findings, it is clear that Shri Gobinda Ch. Deka issued four KVPs of deno. Rs. 10,000/- each and the no. of KVPs including total amount of such KVPs were written by him in the application form but the value so collected has not been credited to the govt.

Thus by above acts, Shri Gobinda Ch. Deka has violated the provisions of Rule 4(I) of FHB Vol. I and failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(1)(i) and 3(1)(ii) of CCS(Conduct) Rules, 1964.

Again as per purchaser the KVPs were purchased by him from the counter where Shri Gobinda Ch. Deka was the PA ON THAT DAY AT Rehabari but from the application for purchase of PO certificates, it is evident that the certificates were shown sold through the Authorised Agent Smti. S. Bhattacharjee ( Authority no. 563/KMP-ASM/85). Shri Gobinda Ch. Deka could not refute the charge.

Thus by above acts, Shri Bobinda Chandra Deka has violated 12(1)(h) and 17(10)(a) of PO SB Manual Vol. II and thereby failed to maintain absolute integrity and devotion to duty which is unbecoming of a govt. servant as enjoined in Rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964. The offence committed by the charged official is willful and grave in nature. The undersigned does not agree with the findings

Attested

*[Signature]*  
Advocate

and conclusion of the IO in this case. The reasons and the facts in this regard have already been clearly discussed in the punishment order and hence I dispose the case by awarding the following penalty on Shri Gobinda Ch. Deka, the then PA, Rehabari SO to meet the end of justice.

ORDER

I, Mrs. B. Radhika Chakravarthy, Sr. Supdt. of Post offices, Guwahati Division, Guwahati in exercise of power conferred in Rule 10 of CCS(CCA) Rules, 1965 hereby order that a sum of Rs. 67,500.00 ( Rupees sixty-seven thousand five hundred ) only be recovered from Shri Gobinda Ch. Deka, the then PA Rehabari SO and now PA Guwahati University HO in 36 monthly instalment @ Rs. 1875.00 per month to be commenced from the salary of 4/2001 payable in 5/2001.

*Self*  
[B. Radhika Chakravarthy]  
Sr. Supdt. of Post offices  
Guwahati Division : Guwahati.

Copy to :-

- Copy to :-*
- 01. Shri Gobinda Ch. Deka, the then PA Rehabari now PA , GU HO.
  - 02. The Postmaster, Guwahati University HO, Guwahati - 14.
  - 03-04. The Chief PMG (Vig), Assam Circle, Guwahati.
  - 04-05. CR/PF of the official.

*B*  
[ B. Radhika Chakravarthy ]  
Sr. Supdt. of Post offices,  
Guwahati Division : Guwahati.

- 00 -

Attested

*Advocate.*  
Advocate.

To,  
The Director Postal Services  
O/O C.P.M.S.,  
Assam Circle,  
Guwahati - 781001.

Dated, Guwahati University the 25.5.2001.

Respected Sir,

The humble <sup>appellant</sup> ~~apprehant~~, with due submission, begs to place before you goodself in following appeal for favour of your kind perusal and an upright decision after careful examination of the charges and allegations in the matter.

That Sir, the Disc. Authority Viz. SSP/Guwahati in her memo No. Fl-8/95-96 dt. 19.4.2001, awarded on the <sup>appellant</sup> ~~apprehant~~, the penalty of recovery of Rs. 67,500/- from his salary and in execution of the said order of penalty, a sum of Rs. 1875/- being the first instalment was recovered in the pay bill for 4/2001.

(A copy of the aforesaid order of punishment is attached him for your ready reference to the appeal).

That Sir, the Disc. Authority under her Memorandum No. Fl-8/95-96 dt. 25.8.97 proposed to hold an Inquiry against your <sup>appellant</sup> ~~apprehant~~ under Rule 14 of the C.C.S. (C,CA) Rules, 1965 and accordingly the articles of charge and allegation were set out.

(Annexures from I to IV of the memorandum are attached).

That Sir, the Inquiring Authority appointed for the purpose after having carefully examined both the oral and documentary findings relating to the charges recorded his verdict in the following terms -

'Under the circumstances as mentioned in the findings (From I to 4) I am in the opinion that the articles of charges framed against Shri Govinda Ch. Deka stands not proved in misappropriation of Rs. 36,000/- as well as in showing the sale of K.V.P.s through agent which were actually sold in the counter on 12.5.90'. That Sir, on this and as directed by the Disc. Authority under her letter No. Fl-8/95-96 dt. 1.4.99 and also in the event of the charges not established, the <sup>appellant</sup> ~~apprehant~~ submitted his representation, inter alia making a <sup>appellant</sup> ~~servant~~ request for <sup>exonerating</sup> ~~exonerating~~ your <sup>appellant</sup> ~~apprehant~~ from the clutches of the C/s.

Attested

12.5.2001

Contd...P/2



-2-

That Sir, the penalty order quoted above, indicates clear deviation of the Disc. Authority from what was advanced through <sup>appellant</sup> ~~flawless~~ ~~feandless~~ ~~garrent~~ of proceedings conducted by the I.O.

That Sir, the discussion held in the penalty order were beyond the ambit of charges originally framed and the penalty was malicious and a forceful imposition without any second thought and logic.

That Sir, the penal order of recovery of Rs. 67,500/- from your <sup>appellant</sup> ~~appellant~~ Rs. 1875/- per <sup>month</sup> ~~month~~ against the unsustained charge of difalcation of Rs. 36,000/- was harsh, career damaging and unbearable as the same will lead the appellant to financial hardships effecting the education of the children.

That Sir, the title suit cited in the penalty order has no bearing on the charges and not defensible while making the order of penalty.

That Sir, impugned order of penalty was not commensurable but a clear manifestation of undue grudge and malice.

That Sir, the impugned order of penalty of high flown recovery may kindly be considered for a 'stay' at this stage till a favourable decision of the appeal is taken.

In the above facts and circumstances, your humble appellant prays that the impugned order of penalty, be set aside in the light of what has been assessed by the I.O. and thus restore justice and enquiry in the matter giving a scope for better performance by your appellant.

D.A.

as stated above.

Yours faithfully,

*G.C. DEKA* *2.5.5.01*

( G.C. DEKA ) P.A.

Guwahati University  
Post Office.

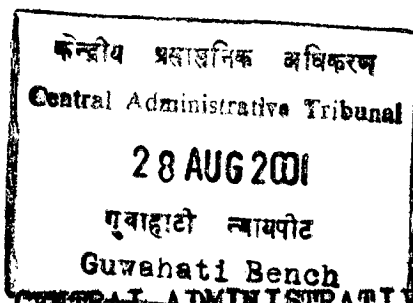
Copy to :

The Sr. Supdt. of P.O.S. Guwahati Divn. Guwahati - 781001 for favour of her information and necessary early action in the matter of the above appeal.

*G.C. DEKA*  
( G.C. DEKA )

*Advocate*

*Advocate*



Filed by

28/8/01

(A. DEBROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 218 OF 2001

Shri Gobinda Chandra Deka

- Vs -

Union of India and Others.

- And -

In the matter of :

Written statement submitted by the  
respondents

The respondents beg to submit a brief history  
of the case which may be treated as a part of  
written statement.

( BRIEF HISTORY OF THE CASE )

While checking the KVPs presented by one Shri  
Amalendu Dasgupta for encashment on maturity; the SPM Rehabari  
detected credit of Rs. 4000/- only lieu of Rs. 40,000/- being  
the actual face value of the KVPs at the time of their sale  
on 12.5.90 and reported the matter to SSPOs. Guwahati on  
16.11.1995.

In course of inquiry it is seen that the appli-  
cation for purchase of PO certificates was not filled up the  
Investor himself except putting signature on the space provided  
for it. It revealed that Shri Gobinda Ch. Deka who accepted  
the amount of Rs. 40,000/- from the said Investor prepared the  
application for purchase. While doing so, Shri Deka noted  
the value of the KVPs as Rs. 4000/- in the amount column

of the application instead of Rs. 40,000/- . Moreover Shri Gobinda Ch. Deka also prepared the issue list showing the amount of Rs. 4000/-. The SPM Rehabari Shri Mahesh Ch. Deka also miserably failed to detect the irregularities in the application for purchase. It is also seen that the KVPs were purchased through an agent Sati. Subhra Bhattacharjee holding an authority no. 563/EMP-ASM/85. But in fact, the KVPs were not purchased through an agent as stated by the Investor. The Agent however admitted the signature as of her own, but no commission has been found preferred against the sale in record. It is thus suspected that Shri Deka used the application form having agent's signature obtained earlier. Scrutiny of the stock register of KVPs reveals that the said 4 KVPs were issued from the stock of denomination of Rs.10,000/- on 12.5.99 and handed over to Shri Gobinda Ch. Deka for making over to the Investor. Shri Deka wrote the necessary entries in those 4 KVPs of deno Rs.10,000/- each and handed over to the Investor against tendered money amounting Rs. 40,000/- only. The short credit of Rs. 36,000/- was detected only on 15.11.95 when the Investor presented all those KVPs for encashment on their maturity at Rehabari SO.

When the Investor presented the certificates for encashment on 15.11.95, the concerned PA. Rehabari corrected the entries in the application form and converted Rs. 4000/- to Rs. 40000/- both in figures and words. However, the SPM did not make any payment as he found the credit of Rs. 4000/- . But then

But the Investor's claim remained unsettled. Then in the year 1997 the Investor filed a ~~xxx~~ CSE in the Consumer Forum. The District Consumer Forum of Kamrup district in its order dated 26.10.98 gave judgement in favour of the petitioner and the department was not only asked to reimburse the full maturity value on the sum of Rs. 40,000/- but also pay interest of 12% w.e.f. 12.11.95. Further an amount of Rs.2000/- was ordered to be paid as compensation against mental agony and another Rs. 1000/- as cost.

Shri Gobinda Ch. Deka was charge sheeted under Rule 14 of CCS(CCA) Rules, 1965 under SSPOs. Guwahati memo no. F1-8/95-96 dated 25.6.97 and awarded punishment under memo dated 19.4.2001 against which the applicant Shri G.C. Deka filed O.A. No. 218/01 in the Hon'ble CAT, Guwahati.

Shri Mahesh Ch. Deka 5 P.M. Rehabari SO was charge sheeted under Rule 16 of CCS(CCA) Rules 1965 under SSPOs. Guwahati Division, Guwahati memo no. F1-8/95-90 dated 25.8.97 but he has been expired on 21.02.2000 before finalisation of the case and thus the case has been dropped.

PARAWISE COMMENTS -

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

2. That with regard to para 4.2, the respondents beg to state that not based on fact. Shri Amalendu Das Gupta tendered Rs. 40,000/- at Rehabari SO counter on 12.5.90. The applicant Shri Gobinda Ch. Deka filed up the application form by himself. Shri Mahesh Ch. Deka, SPM, Rehabari SO and

-4-

custodian of the stock of PO certificates handed over 4(four) KVPs of deno. Rs. 10,000/- each to the applicant for issue. The applicant filled up all the necessary blank of the 4 KVPs by himself and the necessary blank<sup>form</sup> of the 4 KVPs by himself and handed over to the Investor Shri Amalendu Das Gupta against his tendered amount. The applicant noted the particulars of KVPs on the reverse side of the application. The issued list was prepared by the applicant and the amount of issue price was shown as Rs. 1000/- each and Shri Mahesh Ch. Deka, SPM Rehabari SO signed on it. Shri Amalendu Das Gupta did not authorise any agent to purchase KVPs of valued Rs. 40,000/- whereas the KVPs were shown sold through agent Shri S. Bhatta-chargee, 563/KMP-ASM/85 by the applicant. The lapses on the part of the applicant was mentioned in the charge sheet dated 25.8.97 on the basis of documents and witnesses.

3. That with regard to paras 4.3, 4.4 and 4.5, the respondents beg to offer no comments.

4. That with regard to para 4.6, the respondents beg to state that it is not based on fact. Shri Mahesh Ch. Deka, SPM Rehabari SO handed over 4 KVPs of deno Rs. 10,000/- each to the applicant for issue, had the applicant asked for giving 4 KVPs of deno Rs.1000/- each to the SPM Rehabari and had the SPM Rehabari gave the applicant 4 KVPs of deno Rs.10000/- each instead of deno Rs.1000/- each it would have been the duty of the applicant to detect the mistake before issue of those KVPs. The role of Mr. R. Rasul and Mr. P.C. Mahanta the then SPM and PA respectively are found irrelevant as their acts

whatever may be as on 15.11.95 i.e. after ~~3 1/2~~ 5 1/2 years of occurrence of the case.

5. That with regard to paras 4.7 and 4.8, the respondent beg to offer no comments.

6. That with regard to para 4.9, the respondents beg to state that the punishment has been imposed on applicant considering all aspects of the case.

7. That with regard to para 4.10, the respondents beg to state that the Respondent no.3 being the Disciplinary Authority of the case passed the order taking consideration the deposition, examination and cross examination of witnesses of the case and the documents also taken into account before passing the order. Also it is added that as per provisions laid down in Rule 15(2) of CCS(CCA) Rules. 1965, it is not necessary to inform the charged officer that it disagrees with the findings of the Inquiry Authority before passing order.

8. That with regard to para 4.11, the respondents beg to state that as per provision laid down in Rule 28 of CCS(CCA) Rules 1965, the Disciplinary Authority will give effect to the orders passed by the Appellate authority and thus the orders passed by the Disciplinary Authority will remain in force till any such orders passed by the Appellate authority.

9. That with regard to para 4.12, the respondents beg to state that it is not based on facts. The Respondent 3 being the Disciplinary Authority has followed strictly

the various provisions contained in Rule 14 of the CCS(CCA) Rules 1985.

10. That with regard to para 4.13, the respondents beg to state that it is not based on fact. The charge of articles were non crediting of Rs. 36,000/- only to Govt. Account on 12.5.90 and the KVPs purchased in the counter were shown as purchased through agent on 12.5.90. The Investor Shri Amalendu Dasgupta filed a case in Consumer Forum, Kamrup Guwahati under no. 92/97 and the case was finalised against the department and the Investor was paid Rs. 1,15,000/- (Maturity value Rs. 80,000/- \* interest Rs. 35000) against credit of Rs. 8000/- (being the maturity value of Rs. 4000/- credited on 12.5.90) only. The Department has sustained loss amounting to Rs. 10700/- only in the case. The SPM Rehabari of that date named Shri Mahesh Ch. Deka has been expired on 21.2.2000 before finalisation of disciplinary case drawn against him.

11. That with regard to para 4.14, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.12 above.

12. That with regard to para 4.15, the respondents beg to state that there is no relevancy in the applicant's BCR promotion with the punishment order dated 19.4.2001. If any grievance lies with the applicant regarding non receipt of BCR promotion in due time the applicant has right to submit his grievance to the Respondent no.2 through proper channel.

13. That with regard to para 4.16, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.11 above.

14. That with regard to paras 5.1 and 5.2, the respondent beg to state that it is not sustainable.
15. That with regard to para 5.3, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.12 above.
16. That with regard to para 5.4, the respondents beg to state that the applicant was given reasonable opportunity as per provisions laid down in Rule 14 of CCS(CCA) Rules, 1965.
17. That with regard to para 5.5, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.15 above.
18. That with regard to para 5.6, the respondents beg to submit the comments what have already made against the foregoing paragraph 5.4 above.
19. That with regard to para 5.7, 6 & 7, the respondents beg to offer no comments.
20. That with regard to para 8.1, the respondents beg to state that it is not admissible.
21. That with regard to para 8.2, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.15 above.
22. That with regard to paras 8.3, 8.4 and 8.5, the respondents beg to state that it is not admissible.
23. That with regard to para 9, the respondents beg to state that it is not admissible as the applicant has preferred an appeal to the Appellate Authority and the same is under examination with Respondent no. 2.



VERIFICATION

I, Shri B.R. Chakravarty, Sr. Supdt.  
of Post Offices 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 July, 2001.

B. Radhika.  
Declarant.

(Sd/-) B. Radhika  
Sr. Superintendent of Post Offices  
General Post Office, Bangalore-761001  
Central Division, Bangalore-761001