50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

APPLICATION NO. 308 OF 2001

APPLICANT (S) Jyotirmoy Chakraborty

RESPONDENT (S) U.O.I Tors

ADVOCATE FOR APPLICANT(S) J.L. Sarkar, Mrs. S. Deka, A. Chakraborty

ADVOCATE FOR RESPONDENT(S) Case.

Notes of the Registry	dated	Order of the Tribunal
This application is in form but not accompanied by Condonation Petition. Filed vide M.P. No. C.F for Rs. 50/- deposited vide IPO/BD No 76 548390 Dated 8.8.2001 Dy. Registrar.	14.8.01	Heard Mr.J.L.Sarkar, learned counsel for the applicant. The application is admitted. Call for the records. List on 17/9/01 for further order. Member Vice-Chairman
Notice prepared and sent to D/S for issuing the respondent No 1 to 3 by Regd A/D vide D/No 3171 to 73 dtd 22/8/01 17/8/01	mb ~~17.9.01~~ 14/8/01	~~List after completion of service report.~~ ~~List on 1/10/01 for order.~~ ~~Member~~ ~~Vice-Chairman~~
(i) Service report are still awaited. 14.9.01	mb 17.9.01	List on 1/10/01 for completion of service report. Member Vice-Chairman
A/D card not yet received from the respondent. 28.9.01	mb 1.10.01	List on 16/11/01 to enable the respondents to file written statement. Vice-Chairman
	mb	

(2)

O.A.No.308/2001

No. written statement has been filed.

15.11.01

16.11.01 List on 24/12/01 to enable the respondents to file written statement.

Member Vice-Chairman

mb

11/12/2001

W/S submitted by the respondents.

24.12.01 Written statement has been filed. The case may now be listed for hearing. The applicant may file rejoinder, if any, within 2 weeks from today.

List on 5.2.2002 for hearing.

Member Vice-Chairman

mb

No. rejoinder has been filed.

4.2.02

5.2.02 Adjourned on the prayer of learned counsel for the applicant. List the matter for hearing on 14.3.2002.

Member Vice-Chairman

mb

No. rejoinder has been filed.

13.3.02

14.3.2002 On the prayer made By Mr.J.L.Sarkar learned counsel for the applicant the case is adjourned and listed for hearing on 2.4.2002.

Member Vice-Chairman

bb

1.4.2002

Rejoinder submitted by the applicant ~~against~~ in reply to the ~~reply of~~ W/S.

23/5/02

2.4.2002 There is no division today. The case is adjourned to 30.4.2002.

24

30.4.2002 Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is partly allowed. No order as to costs.

Member Vice-Chairman

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 308 of 2001

with

Original Application No.83 of 2002

Date of Decision 30.4.2002

Shri Jyotirmay Chakraborty ..... Petitioner(S)

Mr J.L. Sarkar, Mrs S. Deka and
Mr A. Chakraborty ..... Advocate for the Petitioner(s)

-Versus-

The Union of India and others ..... Respondent(s)

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

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the Judgment ?

4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice-Chairman

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.308 of 2001

With

Original Application No.83 of 2002

Date of decision: This the 30th day of April 2002

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

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

O.A.No.308/2001

Shri Jyotirmay Chakraborty,
Resident of Dharmanagarh,
North Tripura. .....Applicant

By Advocates Mr J.L. Sarkar, Mrs S. Deka and
Mr A. Chakraborty.

- versus -

1. The Union of India, represented by
   The Secretary, Government of India,
   Ministry of Communication,
   Department of Posts,
   New Delhi.
2. The Superintendent of Post Offices,
   Dharmanagarh Division,
   Dharmanagarh.
3. The Director of Postal Services,
   Office of the Chief Postmaster General,
   North Eastern Circle,
   Shillong. .....Respondents

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

O.A.No.83/2002

Shri Joytirmay Chakraborty,
Resident of Dharmanagarh,
North Tripura. .....Applicant

By Advocates Mr J.L. Sarkar, Mrs S. Deka and
Mr A. Chakraborty.

- versus -

1. The Union of India, represented by
   The Secretary, Government of India,
   Ministry of Communication,
   Department of Posts,
   New Delhi.
2. The Director of the Postal Services,
   Office of the Chief Post Master General,
   N.E. Circle,
   Shillong. .....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The two O.A.s were taken up together for hearing. In O.A.No.308 of 2001 the applicant has assailed the legality and validity of the order dated 3.4.2001 imposing the penalty of compulsory retirement. In O.A.No.83 of 2002 the applicant has challenged the order dated 23.10.2001 whereby the Appellate Authority dismissed the departmental appeal and upheld the order of compulsory retirement of the applicant.

2. The order dated 3.4.2001 imposing penalty of compulsory retirement was passed on holding a departmental enquiry. The applicant was served with a Memorandum containing the articles of charge and statement of imputation in conformity with Central Civil Services (Classification, Control and Appeal) Rules, 1965. The charges read as follows:

"Article-I

> That the said Shri Jyotirmoy Chakraborty while functioning as Offg. Complaint Inspector, Divisional Office, Dharmanagar during the period from 27.4.96 to 31.10.96 failed to carry out the written order of his higher authority vide memo No.B-333/Pt.II dated 20.1.97 wherein Shri Chakraborty was posted as SPM, Salema S.O. on revocation of his suspension order. The said revocation memo was received by Shri Chakraborty on 22.1.97. Thereafter Shri Chakraborty submitted a representation dated 29.1.97 and 10.2.97 against the said transfer order. The decision of the Supdt. of Post Office, Dharmanagar was communicated to him vide letter No.B-333/Pt.II, dated 31.1.97 and 10.3.97 which was received by him on 7.2.97 and 13.3.97 respectively. But Shri Chakraborty did not carry out the said written order of his superior authority and yet to join his place of posting.
>
> By his above act Shri Jyotirmoy Chakraborty shown a gross insubordination and also shown and disobedience by not carry out the written order

which considered to be acted in a manner which is unbecoming of a Govt. Servant and thereby violated the provision as envisaged in Rule-3(i)(iii) of C.C.S.(Conduct) Rules, 1964.

Article-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty failed to attend to the R.G.M. Hospital, Kailashahar on 8.7.97 as directed to him vide Supdt. of Post Office, Dharmanagar letter No.B-333/Pt.II dated 4.7.97. The said letter was received by Shri Chakraborty on 5.7.97. Hence Shri Chakraborty failed to carry out the written order of his superior authority.

By his above act Shri Jyotirmoy Chakraborty shown a gross insubordination and also shown disobedience by not carryout the written order which considered to be acted in a manner which is unbecoming of a Govt. Servant and thereby violated certain provisions as envisaged in Rule-3(1)(iii) of C.C.S.(Conduct) Rules, 1964.

Article-III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty remained absence from duty without proper permission from the date of revocation of his suspension vide Supdt. of Post office, Dharmanagar memo No.B-333/Pt.II dated 20.1.97 which was received by him on 22.1.97. Wherein the said Shri Chakraborty was posted as Sub-Postmaster, Salema S.O. on revocation of his suspension order. But Shri Chakraborty did not carryout the said order and remained on unauthorised absence from duty till date. Violating the provision of Rule-162 of P&T Manual Vol. III.

By his above act, Shri Jyotirmoy Chakraborty shown gross insubordination and also shown disobedience to his higher authority by not carry out the written order and remained absence from duty unauthorisedly violating the provisions of Rule-162 of P&T Manual Vol.III and also acted in a manner which is unbecoming of a Govt. Servant thereby violating the certain provisions as envisaged in Rule-3(1)(iii) of C.C.S.(Conduct) Rules, 1964."

3. The applicant submitted his reply denying and disputing the charge. An enquiry was conducted and the Inquiry Officer found the applicant guilty and accordingly submitted his report giving his finding that the charges were proved. The findings of the Inquiry Officer is

incorporated below:

"Article-I

The charged official submitted that he became a LSG accountant since 3.8.89 & opted Accounts line and such he has submitted representation dtd 29.1.97 to the Suptdt. of Po's Dharmanagar against the illegal order of transfer as Spm, Salema S.O. in general line. Although the Supdt. of Pos Dharmanagar in his letter dtd 31.1.97 has explained the Rules on the point (Ex. S-4) and asked him to join as Spm Salema SO till then the charged official did not carry out the order ofthe Supdt. of Pos Dharmanagar.

Article-II

The charged official was directed to attend before the medical board, R.G.M. Hospital, Kailashahar on 8.7.97. Accordingly he has applied for T.A. advance to proceed Kailashahar on 7.7.97 to Supdt. of POs, Dharmanagar. It is not said whether TA advance was refused or not. But if TA advance is also paid to him on 7.7.97 he could not also attend R.G.M. Hospital for his illness dtd 8.7.97. Of course the charged official on interrogation dtd 8.9.2K stated that he did not attend the R.G.M. Hospital on 8.7.97.

Article-III

The charged official in his defence Stt admitted the receipt of revocation & posting order. Because he has applied for 40 days Commuted leave wef 23.1.97 onwards on revocation of suspension order on medical ground. But his prayed leave was disallowed showing the reasons by the authority i.e. he was neither on duty nor on leave wef 23.1.97.

Findings

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above & owing to direct or indirect admission of the charged official, I hold that all the three charges against Sri Jyotirmoy Chakraborty are proved."

4. The report of the Inquiry Officer was furnished to the applicant. The applicant submitted his representation against the report of the Inquiry Officer. The Authority accepted the report of the Inquiry Officer and accordingly reached its finding that the charges were proved and imposed the penalty of compulsory retirement.

5. The applicant preferred an appeal before the Appellate Authority and the Appellate Authority by order dated 23.10.2001 dismissed the representation. Hence this application assailing the legality and validity of the order imposing the penalty as well as the Appellate Order.

6. Mr J.L. Sarkar, learned counsel for the applicant strenuously urged that the respondent authority fell into error in imposing the penalty of compulsory retirement in the absence of any material evidence against the applicant. The learned counsel submitted that the applicant was denied procedural safeguard at every stage. Referring to the charge memo, the learned counsel contended that the very nature of the charges were vague, which caused great prejudice to the applicant in defending his case. The learned counsel, referring to the findings of the Inquiry Officer vis-a-vis the findings and conclusion reached by the Disciplinary Authority as well as the Appellate Authority submitted that the authority imposed the penalty of compulsory retirement without applying its mind to the facts and circumstances of the case. Lastly, Mr Sarkar submitted that even if contrary to his submissions made above it be held that the charges were proved, on the fact situation the imposition of penalty of compulsory retirement was disproportionate.

7. Mr A. Deb Roy, learned Sr. C.G.S.C., opposing the application contended that the applicant was provided with all the opportunities and the respondent authority assiduously adhered to the CCS (CCA) Rules and furnished the applicant with the charge memo cntaining the nature of implication in clear terms and the applicant at no point of time made any objection to the charges and specifically

answered.....

answered to the charges. Mr Deb Roy also submitted that the witnesses and documents were examined in presence of the applicant and thereafter the Inquiry Officer on assessment of the materials on record found the applicant guilty of the charges. The enquiry report was furnished to the applicant. The applicant submitted his representation and on consideration of all the aspects of the matter the Disciplinary Authority accepted the enquiry report and found the applicant guilty. In inflicting the punishment the authority concerned assessed the nature of the misconduct, the nature of the charges and the evidence on record and taking all aspects into consideration, the authority rightly imposed the punishment. Mr Deb Roy also submitted that the Appellate Authority also considered all the aspects of the matter and thereafter dismissed the appeal and upheld the order of compulsory retirement.

8. The applicant was charged for gross insubordination and disobedience of the order of the higher authority in Article I. The authority referred to the memo dated 20.1.1997 by which his suspension order was revoked with a direction on the applicant to join as Sub-Postmaster, Salema Post Office. The applicant received received the said memo of revocation on 22.1.1997. On the own showing of the respondents the applicant submitted a representation on 29.1.1997 against the transfer order. The Superintendent of Post Offices rejected his representation by memo dated 31.1.1997 (Ex. S4) and advised him to join as SPM, Salema Sub Office within the permissibile period failing which it would be treated as unauthorised absence with effect from 23.1.1997. The applicant also submitted an application praying for

commuted.....

commuted leave with effect from 23.1.1997. By memo dated 10.3.1997 his prayer for leave was rejected on the ground that as per FR-55 no leave could be granted to a Government servant who was under suspension.. The full text of the communication dated 10.3.1997 is reproduced below:

> "As per FR-55, no leave is to be granted to a Government Servant who is under suspension, though this office issued revocation of your suspension order. You are still to comply with that order. Hence you are still under suspension."

By memo dated 25.3.1997 a corrigendum was issued in the following manner:

> "The last line appears in this office letter of even No. dated 10.3.97 regarding granting of commuted leave etc. may please be read as follows :-
>
> "Hence you are treated as unauthorised absence with effect from 23.1.97"."

9. The officer was charged for failure to carry out the order of the superior authority. On the face of the application for commuted leave which was also rejected on extraneous consideration cannot be said to be wilful disobedience of the order of the superior authority in the fact situation. The Inquiry Officer did not assign any reason, save and except his analysis as to how he found the applicant guilty of the charge. As regards Article II that the applicant refused to attend the R.G.M. Hospital, Kailashahar on 8.7.1997 the charged official mentioned that he was on leave from 1.10.1996 to 31.10.1996. The Superintendent of Post Offices, Dharmanagarh by letter dated 4.4.1997 did not issue any direction to attend any Medical Board for a second medical opinion. The applicant also stated that because of his illness on 8.7.1997 he could not attend the hospital and for that purpose he

submitted.....

submitted a medical certificate. The materials available from the record indicated that by communication dated 28.4.1997 the applicant was advised to attend the Medical Board at R.G.M. Hospital, Kailashahar on 12.5.1997. He attended the Medical Board, Kailashahar on 12.5.1997 and subsequently by memo dated 25.6.1997 the applicant was advised to attend the Medical Board at R.G.M. Hospital, Kailashahar on 8.7.1997. The applicant responded to the said communication and addressed a communication to the Superintendent of Post Offices, Dharmanagarh on 3.7.1997 seeking certain clarifications. It also appears that the applicant, in fact, sought for TA advance. According to the applicant the TA advance was not granted. However, according to the respondents the TA advance was sanctioned, but it was not accepted by the applicant. Be that as it may, on the own showing of the Inquiry Officer, the applicant could not present himself before the Medical Board on 8.7.1997 due to his illness. According to the Inquiry Officer even if TA advance was granted the applicant could not have attended the Medical Board on 8.7.1997 because of his illness. Therefore, Article II charging the applicant for gross insubordination and disobedience of the order of the superior authority was not substantiated. The findings of the Inquiry Officer, the Disciplinary Authority and the Appellate Authority on that count is thus unsustainable in law.

10. As regards the third charge of remaining absent from duty unauthorisedly, the Inquiry Officer himself mentioned that the charged official applied for commuted leave for forty days with effect from 23.1.1997, but that was rejected by the authority on the ground that his prayer for leave was disallowed vide Ex. S4. Ex. S4 is not

regarding.....

regarding the commuted leave. The commuted leave was rejected by order dated 10.3.1997 only on the ground that the applicant was under suspension. The official was charged for violation of Rule 162 of the P&T Manual Volume III. Rule 162 of the P&T Manual relates to permission for availing of casual or/other leave, which was to be taken in advance unless there were compelling reasons of medical or other urgent nature. On the face of the materials available on record, contravention of Rule 162 of the P&T Manual Volue III did not arise. The evidence on record did not specifically prove and establish any gross insubordination or disobedience of the order. But then, the applicant cannot be absolved from remaining absent from duty, more so in view of the communication 31.1.1997. The charge in Article III is, in our view, partially proved.

11. On overall consideration of the matter we find that the applicant not guilty of the charges in Article I and II. The charge in Article III is partially proved. On the basis of the finding that Article III is partially proved it would be difficult to sustain the order of compulsory retirement. The Appellate Authority while considering the appeal failed to take note of these aspects of the matter. We accordingly set aside the order dated 3.4.2001 passed by the Superintendent of Post Offices imposing the penalty of compulsory retirement and also the appellate order dated 23.10.2001 passed by the Appellate Authority. The matter is now remanded to the Disciplinary Authority to impose any punishment on the applicant other than the punishment of dismissal, removal or compulsory retirement on the basis of the finding that

charge.....

the charge in Article III is partially proved. The authority shall pass the appropriate order and the consequential order as early as possible, preferably within two months from the date of receipt of the order.

12. In the result O.A.No.83 of 2002 is allowed and O.A.No.308 of 2001 is partly allowed. There shall, however, be no order as to costs.

(K. K. SHARMA)
ADMINISTRATIVE MEMBER

(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm

In The Central Administrative Tribunal Guwahati Bench::
Guwahati.

OA No. 308 of 2001.

Shri Jyotirmay Chakraborty,

- Vs -

Union of India & Others.

I N D E X

Filed by-

Advocate

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati

OA No. 308 of 2001

BETWEEN

Shri Jyotirmay Chakraborty
Son of Sri S. R. Chakraborty
Resident of Dharmanagarh
North Tripura.

..... Applicant.

- AND -

1. Union of India represented by the Secretary, Govt. of India, Ministry of Communication Department of post. N.D.

2. Superintendent of Post Offices
Dharmanagarh Division
Dharmanagar - 799 250.

3. The Director of Postal Services
Office of the Chief Postmaster General
North Eastern Circle,
Shillong - 793001.

..... Respondents.

Filed by the applicant through A. Chakraborty Advocate 28/5/2001

Jyotirmay Chakraborty

Details of the application :

1. Particulars of the order against which the application is made :

P/2.....

The application is made against the order is Memo No. B-333/Pt. III dated 3-4-2001 (Annexure -A/11) imposing the penalty of 'compulsory Retirement' upon the applicant.

2. Jurisdiction :

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

3. Limitation :

The applicant declares that the application is within the period of limitation under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the constitution of India.

4.2 That the applicant joined service as postal assistant w.e.f 3-6-1973. He was promoted as Lower Selection Grade (for short LSG) Accountant w.e.f. 03-06-1989. He was officiating as complaint Inspector, Dharmanagar Division w.e.f. 26-4-1996. It is stated that the applicant was on Earned Leave w.e.f. 1-10-96 to 30-10-96 and joined on 31-10-96 (F/N). He was placed under suspension w.e.f. 31-10-96 (F/N) which was later on revoked by the Supdt. of Post Offices, Dharmanagar Division by the Memo No. B-333/Pt. II dated 20-01-97. On revocation of the suspension order the applicant was transfered as sub-postmaster, Salema SO. It is

stated that the applicant was in the Accounts Line/Cadre and he had been transfered to the General line. The applicant was sick and filed leave application on medical ground w.e.f. 23-1-97. On 10-3-1997 the respondent No. 2 by Memo No. B-333/Pt. II rejected the leave application of the applicant treating him still under suspension. On 25-3-97 the respondent No. 2 issued a corrigendum to the Memo No. B-333/Pt. II dated 10-3-97 and treated the applicant as unauthorised absentee w.e.f. 23-1-97.

Copy of the memo dated 10-3-1997 and corrigendum dated 25-3-97 are enclosed as Annexure - A/1 and A/2 respectively.

4.3 That thereafter by a letter dated 28-4-97 the Incharge, R.G.M. Hospital, Kailashahar asked the applicant to attend the Medical Board of R.G.M. Hospital, Kailashahar on 12-5-97. The applicant appeared before the medical board on 12-5-97 and the Medical Officer of R.G.M. Hospital certified the attendence of the applicant on the face of the said letter dated 28-4-97 (i.e Annexure - A/3). Then again the Incharge R.G.M. Hospital by a letter dated 25-6-97 asked the applicant to attend the Medical Board again on 8-7-97. This letter dated 25-6-97 was issued with reference to the letter No. B-333 dated 13-6-97. It is stated that the copy of the letter dated 13-6-97 was not served to the applicant. The applicant then wrote to the respondent No. 2 and wanted to know whether he (applicant) was further required to appear before the Medical Board on 8-7-97. The applicant also requested the respondent No. 2 to give him a copy of the letter No. B-333 dated 13-6-97. On 7-7-97 the applicant submitted T.A. bill for attending medical board on 12-5-97 and also applied for

T.A. advance for attending medical board on 8-7-97 . The applicant had suddenly fallen sick on 7-7-97 and he was advised to take rest for 5 days by the Doctor of the local ~~Ramnagar~~ Dharmanagar Sub-Divisional Hospital on 8-7-97. The applicant informed the respondent No. 2 about his sickness by his letter dated 9-7-97.

Copy of the letter dated 28-4-97 is enclosed as Annexure - A/3.

Copy of the letter dated 25-6-97 is enclosed as Annexure - A/4.

Copy of the letter dated 3-7-97 is enclosed as Annexure - A/5.

Copy of the letter dated 7-7-97 is enclosed as Annexure - A/6.

Copy of the letter dated 9-7-97 along with the medical certificate is enclosed as Annexure - A/7.

4.4 That the applicant filed his respresentation dated 29-7-97 to the Member (P), Department of Posts, New Delhi regarding his transfer from the post of LSG Accountant of Accounts line to the post of Sub-Post master of General line. By a letter dated 1st June, 1998 the Director (staff), Department of posts, New Delhi rejected the said representation of the applicant. It is stated that the Director (staff) is not the competent authority as per Govt. Instruction (1) below CCS(CCA) Rule 29.

Copy of the letter dated 1-6-98 is enclosed as Annexure - A/8.

P/5.....

4.5 That a chargesheet bering No. B.333/Pt.II dated 12.8.98 was framed by the respondent No.2 against the applicant with three Article of charges. The Article of charges are quoted in the enquiry Report which is Annexure -A/9. The allegation brought in the Article-I of charge is that the applicant failed to carry out the transfer order dated 20.1.97. As already stated that the applicant was transfered from the Accounts line/cadre to the General line against which he represented to the Member(P), Department of Posts, New Dekhi. It is also reiterated that the applicant was sick and filed a leave application on medical ground which was rejected by the respondent No.2 and treated the applicant as unauthorised absentee. It is further stated that the applicant had applied for commuted leave for 40 days w.e.f. 23/1/97 on medical ground duly supported by a medical certificate but the prayer was not granted on the ground of in admissibility under FR-55 by letter dated 10.3.97 (Annexure-P/1) followed by a corrigendum dated 25.3.97 (Annexure-A/2). The Inquiry Officer stated in his Inquiry report dated 12/11/2000 (Annexure-A/9, Page-37) that the applicants prayer for leave was disallowed by the authority for the reason that the applicant was neither on duty nor on leave w.e.f. 23.1.97.

The Article-II of charge is that the applicant failed to attend to the R.G.M.Hospital on 8.7.97 as was directed by the Office Memo dated 4.7.97. With regards to the above charge the applicant begs to reiterate the statements in paragraph 4.3 above.

contd...

Typed copy enclosed

The Article-III of charge is that the applicant remained unauthorised absent from duty from the date of receipt of the revocation Order of his suspension i.e. w.e.f. 22.1.97. It is reiterated that the applicant was sick and applied for commuted leave on medical ground for 40 days w.e.f. 23.1.97 duly supported by a medical certificate but the leave as praued for was not granted on the ground of inadmissibility under FR-55 which is arbitrary and whimsical. The applicant begs to state that the chargesheet is vague and abstract, the period of allegation are not articulated and not specific.

12.8.98 C/c

4.5A. That the defence statement against the charges has been submitted by the applicant with his application dated 21-8-98 to the respondent No.2 on the prescribed date of priminiary hearing on 10-11-98 a different memo of articles of charges bearing No.B-333/Pt.III dated 17-9-98 has been presented for enquiry. The regular hearing has been conducted by the Inquiry Officer on the three charge sheets viz i) B-333/Pt.III dated 17-9-98,

contd...

ii) B-333/DISC dated 17-9-98 and iii) BB-333/Pt.III dated 17-12-99. The copies of the above charge sheets were not given to the applicant. The enquiry of the original charge sheet No.B-333/Pt.II dated 12-8-98 has never been conducted. But the inquiry officer has submitted the Inquiry report dated 12-11-2000 with reference to the charge sheet No.B-333/Pt.II dated 12-8-98. The copy of Inquiry report has been given to the applicant along with the letter No. B-333/Pt.III dated 1-12-2000.

Copy of the Inquiry report dated 12-11-2000 alongwith the letter dated 1-12-2000 is enclosed as Annexure-A/9.

4.6. That the applicant has submitted his representation dated 15-12-2000 against the aforesaid Inquiry report to the respondent No.2. The respondent No.2 by Memo No.B-333/Pt.III dated 03-04-2001 has passed the final order imposing the penalty of "Compulsory retirement" upon the applicant.

Copy of the representation dated 15-12-2000 is enclosed as Annexure-A/10

Copy of the Order dated 03-04-2001 is enclosed as Annexure-A/11.

contd...

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4.7 That the enquiry officer wrote the report casually without support of documents/statements. His observation in the enquiry report that the applicant has directly or indirectly admitted all the charges framed against him and hnece all the charges have been proved , is perverse and wrong. It is stated that the enquiry officer has conducted the enquiry in a sloth shod manner and his findings are vague and abstract.

4.8 That the applicant begs to state that the Inquiry Officer Sri N. Das was appointed by Memo No. B-333/Pt. III dated 17-12-99. He (Inquiry Officer) was appointed on the proposal of Chief Postmaster General, N. E. Circle, Shillong (for short CPMG) and was directed to complete the enquiry within two months. It is stated that the CPMG can not make any proposal for appointing a particular person as Inquiry Officer since the CPMG has acted himself as Revision Authority for the disposal of the applicant's Revision Petition dated 04-09-98. The appointment of Sri Das as Inquiry Officer was irregular in the facts and circumstances of the case.

4.9 That the applicants begs to state that all the charges framed against him were vague and were not based on the facts. The findings of the Inquiry officer were also perverse and depending upon such perverse findings the applicant has been penalised most arbitrarily. There was no cogent reason for which the penalty of 'compulsory retirement' could be imposed upon the applicant.

4.10 That the applicant begs to state that his family consist of him his Father, mother , wife and two daughters. His elder

daughter is aged about 16 years and is a student and his younger daughter is aged about 4 years. It is also stated that the salary of the applicant was the only source of income to maintain his family. But most unfortunately the applicant has been penalised arbitrarily and for his no fault. It is further stated that if the applicant is not reinstated to the service, he and his family shall suffer an irreparable loss and injury.

4.11 That the applicant has submitted an appeal dated 27-4-2001 to the respondent No. 3 against the order dated 3-4-2001 but no reply has yet been received by the applicant. It is stated that there is no provision in any rule for staying operation of the order of punishment. The Hon'ble Tribunal is the only forum where the applicant has the scope to pray for the order of stay of the penalty.

Copy of the appeal dated 27-4-2001 is enclosed as Annexure - A/12.

4.12 That it is stated that the Annexure A/10 and A/12 above have been enclosed and the documents with these Annexure have not been enclosed and will be produced at the time of hearing.

5. Grounds for reliefs with legal provisions :

5.1 For that the charges framed against the applicant are vague and not based on the facts.

5.2 For that the findings of the Inquiry Officer were Vague, abstract and perverse and hence the impugned order dated 3-4-2001 is liable to be set aside and quashed.

5.3 For that the appointment of the Inquiry Officer was irregular and hence the impugned order is liable to be

set aside and quashed.

5.4 For that the enquiry has been conducted on three different charge sheets which were not given to the applicant, but enquiry report has been given in reference to the charge-sheet dated 12-8-98 on which no enquiry was conducted. For that the inquiry was conducted in most irregular manner and not within the scope of the CCS (CCA) Rules, 1965. The memorandum of charges in reference to which (numbering three) the enquiry was conducted were not delivered to the applicant.

5.5 For that the Inquiry Officer failed to appreciate the arguments and points placed by applicant in his defence statement.

5.6 For that the respondents have erred by keeping their reliance upon the perverse Inquiry Report to impose the penalty of 'compulsory retirement' upon the applicant and hence the impugned order is liable to be set aside and quashed.

5.7 For that the impugned order is the result of whimsical and arbitrary and offends Article 14 and 16 of the constitution of India .

5.8 For that none of the charges labeled against the applicant could be proved, but the Inquiry Officer arrived into the conclusion that the charges have been proved on a wrong notion that the applicant has directly or indirectly admitted the charges and hence the impugned order is liable to be set aside and quashed.

P/9.....

26

Typo is correct

6. Details of remedy ~~xxxxxxx~~ exhausted. :

The applicant has submitted an appeal without any result. There is no other remedy under any rule.

7. Matters not pending before any other court. :

The applicant declares that he has not filed any other case in any tribunal or court against the impugned order.

8. Reliefs sought for :

Under the facts and circumstances of the case, the applicant prays for the following reliefs :

8.1 The order dated 3-4-2001 (Annexure A/11) imposing the penalty of 'Compulsory Retirement' upon the applicant be set aside and quashed.

8.2 Cost of the case.

The above reliefs are prayed for on the grounds stated in para 5 above.

9. Interim relief prayed for :

During the pendency of this application the applicant prays for the following reliefs: The order dated 3-4-2001 be suspended and the applicant be allowed to resume his duty as LSG Accountant at Dharmanagarh Division.

The above reliefs are prayed for on the grounds stated in para 5 above.

P/10.....

27

10. This application has been filed through Advocate.

11. Particulars of postal order :

i) IPO No. : 7G548390

ii) Date of issue : 8/8/2001

iii) Issued from : Guwahati

iv) payable at : Guwahati

12. Particulars of enclosers :

As stated in the index.

Verification.....

Jyotiranjan Chowdhury

VERIFICATION

I, Jyotirmoy Chakraborty son of Sri S. R. Chakraborty aged about 50 years, resident of Dharmanagarh, North Tripura, do hereby verify that the statement made in para 1, 4, 6 to 12 are true to my personal knowledge and those made inpara 2, 3 and 5 are true to my legal advice and that I have not suppressed my material facts.

And I, sign this verification on this ...8.15... day of ~~June,~~ August 2001.

Jyotirmoy Chakraborty

Signature

Guwahati

ANNEXURE- A/1

DEPTT. OF POST : INDIA
OFFICE OF THE SUPDT. OF POST OFFICES
DHARMANAGAR DIVISION
DHARMANAGAR : 799250.

To

Shri Jyotirmoy Chakraborty,
S.P.M., Salema(Designate),
Now at Thana Road(Netaji Road Entrance),
Dharmanagar, North Tripura.

No. B-333/PT.II . Dated, Dharmanagar the 10.3.97.

Sub :- Prayer for commuted leave for 40(fourty) days w.e.f. 23.1.97 - Case of Shri Jyotirmoy Chakraborty.

Ref :- Your prayer dated nil.

As per FR-55, no leave is to be granted to a Government Servant who is under suspension, though this office issued revocation of your suspension order. But You are still to comply with that order. Hence you are still under suspension.

10/3/97

(S. C. Debbarman)
Supdt. of Post Offices,
Dharmanagar Division.
Dharmanagar : 799250.

Attested
Advocate
B. B. RAMANUJAM
Asstt. Headmaster
Head of Office & B. B.
B. B. Institution,
Dharmanagar, Tripura

20.1.97 Revd.
Forwd.

23.1.97. Appr. for leave
Regd. leave
10.3.97

9.98 D&OS.

RL No 5801 27/3/97 29/3/97 — 13 — ANNEXURE A/2 Annexure 13 A/2 31 30 37

DEPTT. OF POST : INDIA
OFFICE OF THE SUPDT. OF POST OFFICES
DHARMANAGAR DIVISION
DHARMANAGAR : 799250.

Memo No. B-333/Pt.II Dated, Dharmanagar the 25.3.97.

CORRIGENDUM

The last line appears in this office letter of even No. dated 10.3.97 regarding granting of commuted leave etc. may please be read as follows :-

" Hence you are treated as unauthorised absence with effect from 23.1.97".

Sd/-
(S. C. DebBarma)
Supdt. of Post Offices,
Dharmanagar Division,
Dharmanagar : 799250.

Copy to :-

Regd. A/D 1. Shri Jyotirmoy Chakraborty, GDS, Salema (Designate), now at Thana Road(Netaji Road Entrance), Dharmanagar, North Tripura.

U/R 2. The Postmaster, Dharmanagar H.O. This disposes his letter No. A2/J. Chakraborty dated 17.3.97.

Attested
28/4/97
B. B. BARMANIA
Asstt. Registrar(w)
Head of Office & D. B. B.
B. B. Institutes,
Dharmanagar, Tripura (N)

(S. C. DebBarma)
Supdt. of Post Offices,
Dharmanagar Division,
Dharmanagar : 799250.

~~Annexure~~ E

NO.F.1(8)-GEN/IC/RGMH/KLS/94/ 3954-59
GOVERNMENT OF TRIPURA
OFFICE OF THE INCHARGE R.G.M. HOSPITAL
KAILASHAHAR, TRIPURA NORTH
** ** ** ** ** ** **

ANNEXURE- A/3

Dated, Kailashahar the 28 th April 97.

To
Shri Ramjendra Malakar,
SPM, SPM, Kanchanbari S.O.
(on leave) at Kanchanbari,
North Tripura.

Shri Jyotirmoy Chakraborty,
SPM, Selema(Designate)
now at Thana Road
(Netaji Road entrance)
Dharmanagar, (N) Tripura.

Ref:- No.B- 390 Dt. 7.4.97.
No.B- 333/ Pt.II.

Sir,

With ref. to above you are requested to attend the Medical Board of Rajiv Gandhi Memorial Hospital Kailashahar, North Tripura on 12.5.97.

Yours faithfully

Incharge,
R.G.M. Hospital
Kailashahar, Tripura (N)

Copy to:-

1. The Chief Medical Officer (North) Kailashahar for information please.
2. The Superintendent of Post Office, Dharmanagar for information and necessary action please.
3. Dr. S. Nath, M.O. ..... Member of Medical Board of R.G.M. Hospital, Kailashahar for information & necessary action pl.
4. The Post Master, Dharmanagar Head Office for information and necessary action please.

28/4/97
Incharge,
R.G.M. Hospital
Kailashahar, Tripura North

attended Medical Board on 12-5-97

12-5-97
Medical Officer
R.G.M. Hospital
Kailashahar : Tripura (N)

Attested
Asstt. Postmaster
Head Office & L.
B. B. Institution
Dharmanagar, Tripura

— 15 —

~~Annexure~~ F

2/7/97

Registered

30 A/4

Government of Tripura
Office of the In-Charge, RGM Hospital
Kailashahar(N)Tripura

ANNEXURE- A/4

To

Sri Jyotirmoy Chakraborty SPM Salema (Designate),
Now at Thana Road(Netaji Road Entrance)Dharmanagar,
P.O.Dharmanagar,Dist.North Tripura

Sub;-Ref;-No.B-333 dated,at Dharmanagar the 13.6.97.

Sir,

With reference to above you are requested to attend the Medical Board of Rajiv Gandhi Memorial Hospital ,Kailashahar North.Tripura on 8.7.97.

No.F.1(8)GEN/SEN|IN|RGMH|KLS|N|94/ 4517-21 dt.25.6.97.

Your's faithfully,

In-Charge
R.G.M.Hospital
Kailashahar(N)Tripura

Copy to;-

1.Chairman of Medical Board,Dr.A.Dewan(CMC)North,Kailashahar for information & necessary action pl.

2.The Superintendent of Post Office,Dharmanagar for information and necessary action pl.

Dr. H. S. Bhattacharjee .....Member of Medical Board of RGM Hospital,Kailashahar for information & necessary action pl.

4.The Post Master,Dharmanagar Head Offices for information and necessary action pl.

In-Charge,
RGM Hospital
Kailashahar(N)Tripura.

Attested
A. D. RAMADHAN
Asstt. Headmaster
Head of Office & D. D.
A. B. Institution,
Dharmanagar, Tripura (N)

To — 16 — Anx. one — (12)

The Supdt. of Post Office
Dharmanagar Div.
Dharmanagar 799 250

TREASURE — A/5 (31)

Sub :- Attendance in Medical Board at Rajiv Gandhi Memorial Hospital, Kailashahar.

Ref :- In-Charge RGM Hospital Kailashahar No. F1(8) GEN/SEN/IN/RGMH/KLS/N/94-4517-21 Dt. 25/6/97

Sir,

With reference to your letter No. B-333 dt. 13/6/97, the I/c RGM Hospital has directed me to attend medical Board at Kailashahar on 8/7/97, but the letter Dt. 13/6/97, issued from your end, if enclosed ~~one~~ to me, has not yet been received by me. So, I am in a fix under which circumstance I have to attend medical Board on 8/7/97, without your kind permission.

In this context, I like to invite your kind attention that I have ~~attend~~ already attended medical Board on 12/5/97 as directed vide I/c, RGM Hospital, KSR No. F1(8)-GEN/IC/RGMH/KSR/94/3754-57 Dt. 28/4/97 with reference to your Letter No. B-333/Pt II Dt. 1/4/97.

A xerox copy of the attendance certificate endorsed by M.O. of the medical Board on 12/5/97 on the body of I/c, RGM Hospital, Kailashahar letter Dt. 28/4/97 is enclosed herewith for favour of your kind disposal.

Therefore, you are requested kindly favour me with the instruction whether it is necessary to me attend medical Board at Kailashahar further on 8/7/97, as directed, if so, a copy of your letter No. B-333 of 13/6/97 may kindly ~~cause~~ cause to be supplied to me and thus obliged.

Enclo :- As above

Dated at Dharmanagar
Dtd. 3/7/97

Yours faithfully
Tyohumoy Chakma 3/7/97
(Tyohumoy Chakma)
Accountant Div. Office, Dharmanagar
and Off Compound Inspector(Pk)
Dharmanagar, Dt.
Tripura Raj (Netaji Road Extension) Dharmanagar

Supdt. of Post Office
Dharmanagar Division
Dharmanagar-799250

Noted
Dharmanagar
Asstt. Headmaster
Head of Office & D. E. B.
B. E. Institution,
Dharmanagar, Tripura

—17— Annexure 9

32 A/6

(32)

34

ANNEXURE- A/6

To
The Supdt. of Pos
Dharmanagar Divn.
Dharmanagar 799 250.

Sub :- Submission of TA Bill and application for TA advance.

Supdt. of Post Offices,
Dharmanagar Division,
Dharmanagar-799250

Sir,

Kindly find enclosed herewith TA Bill in duplicate in connection with my journey to Kailashahar vide O/o RGM Hospital, KSR letter No. F1(8)-GEN/IC/RGCM/KLS/94-3954-59 Dt. 25/4/97 and an application for TA advance vide your letter No. B-333/Pt II Dt. 4/7/97 for favour of disposal.

Dated at Dharmanagar the 7/7/97

Yours faithfully
Jyotirmoy Chakraborty 7/7/97
(Jyotirmoy Chakraborty)
Accountant, Divn. Office
and Off. Complaints Inspector (M/S)
Dharmanagar.

Attested
26/7
A. B. Ramachandran
Asstt. Headmaster
Head of Office & D. B. Ins.
A. B. Institution,
Agartala, Tripura

18 Under Certificate of Posting
Dtd. 09/7/97

Annexure - R (34)

ANNEXURE - A/7

TO
THE SUPDT. OF POST OFFICES,
DHARMANAGAR DIVISION,
DHARMANAGAR - 799 250.

Sub:- Attendance in Medical Board at Rajib Gandhi Memorial Hospital, Kailashahar.

Ref:- Your No. B-333/Pt II Dated, 04/07/97.

Sir,

With due respect and humble submission I beg to state the following few lines for favour of your kind disposal.

1. That Sir, in pursuance of In-Charge RGM Hospital, Kailashahar letter No. F1(8)GEN/SEN/IN/RGMH/KLS/N/94/4517-21 Dated, 25/6/97, conveyed vide your letter No. cited above in response to my application Dated, 03/07/97 I was directed to appear before the Medical Board of the above Hospital on 8/7/97, the reason under which I have to appear before the Medical Board of the Hospital was not conveyed by both hospital authority or by you, though I have appeared before the Medical Board of the same Hospital for the first time for second Medical opinion on 12/5/97 as directed vide your letter No. B-333/Pt II Dated, 01/04/97.

2. That Sir, the matter has been brought to your kind notice vide my application Dated 03/7/97 requesting for conveyance the circumstances under which I have to appear before the Medical Board for the second time, but regret to state that my request was not acceeded to.

Inspite of it, I proposed to appear before the Medical Board for the second time on 08/07/97, but could not perform the journey for the reason appended below :-

(a) That I was not paid the advance prior to performance of journey from Dharmanagar to Kailashahar as applied for the advance vide my application Dated 07/07/97.

(b) That I became very much ill and my attending Physician advised for rest for five days vide Dharmanagar Sub-Divisional Hospital, Dharmanagar prescription/Ticket No. 8602 Dtd. 08/7/97. (Copy enclosed)

With regards.

CONTD....P/2.

A/7

36

-: (P/2) :-

Enclo:- A Xerox copy of Dharmanagar Hospital prescription/Ticket No. 8602 Dated, 08/07/97.

Yours faithfully,

Dated, at Dharmanagar,

The 9th July /1997

Jyotirmay Chakraborty 09/7/97

(JYOTIRMAY CHAKRABORTY),
LSG Accountant,
Divisional Office, Dharmanagar,
And
Offg Complaint Inspector,
Dharmanagar Division (u/s).

Copy to:-

Confidential: Posting 09/7/97

The In-Charge, Rajib Gandhi Memorial Hospital, Kailashahar, for information and neeessary action please. He is requested to intimate the circumstances under which the undersigned have to appear before the Medical Board for the Second time while the appearance for the first time directed vide Supdt. of Pos' Dharmanagar letter No. B-333/Pt II Dated 01/4/97 has already been made on 12/5/97 conveyed as per your letter No. F1(8)GEN/IC/RGMH/KLS/94/3954-59 Dated 28/4/97, the concerned records of your office will speak to itself, which may kindly be consulted.

Jyotirmay Chakraborty 09/7/97

(JYOTIRMAY CHAKRABORTY).

Attested 26/4

Asstt. Registrar
Head of Office & I
R. R. Institution
Dharmanagar, Tripura

******

33 A/7

37

Annexure-8

Sri Jyotirmay Chakim

46 yrs M

(14)

Rwanagar Sub-Divisional Hospital
8602

℞

① Tab Ciprofloxacin (500mg) (10)
1 tab 12 hrly

② Tab Pyrexon (650mg) (6)
1 tab 12 hrly

Adv ① Blood for MP

Rest for 5 days (five)

Dr
8/7/97

Attested

Dr. D. Chakraborty
Addl. Director of Health Services & Director
S. S. Institutions,
Agartala, Tripura (W)

Annexure-A (20) A/8

ANNEXURE- A/8

No.9-3/97-SPB-II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS
DAK BHAVAN, SANSAD MARG,

DATED AT NEW DELHI THE ~~IN MAY~~ 1st June, 1998.

Shri Jyotirmoy Chakrabarty, LSG Accountant Divisional Office, Dharmanagar and officiating Complaints Inspector Dharmnagar Division has represented to Member(P) dated 29.07.1997 followed by reminder dated 06.10.1997 regarding his transfer from the post of LSG Accountant of Accounts line to the post of Sub Postmaster of General Line.

2. The grievance of the official is that he preferred an appeal dated 25.03.1997 to DPS and Chief Postmaster General, North East Circle praying redressal in connection with transfer of his service from the post of Accountant of Accounts Line to the post of Sub Postmaster Salema of General Line but the same was rejected upholding of decision of Superintendent of Post Offices, Dharmanagar. The main pleas of the official to support his case are the following:-

i) consequent on the implementation of T.B.O.P. scheme he become a LSG Accountant since 03.06.1989 and opted for Accounts line. He was posted as Complaint Inspector on adhoc basis without his prior written consent.

ii) after availing of earned leave he was placed under suspension and that order was revoked with direction to join as Sub Postmaster without giving any opportunity to know the reason of his suspension and revocation.

iii) he has submitted a representation dated 29.01.1997 in connection with transfer order which was rejected vide Supdt. of Post Offices, Dharmnagar dated 31.01.1997. He preferred an appeal to DPS Shillong and same was also rejected vide letter dated 20.06.1997, which is not considered self speaking and reasoned order and also not passed over signature of appeallate authority as required under rule.

iv) Contention of the official is that the letter of Superintendent of Post Office Dharmmanagar in Para (i) it is clearly mentioned that reference in Para (i) is not in conformity with the rules and that his post has been shown as T.B.O.P. Postal Asstt. but he is a defecto and dejure LSG Accounttant as per option in 'Accounts line' of PO & RMS

Attested
S. B. Dutta Roy
Asstt. Headmaster
Head of Office & D. C.
S. B. Institution,
Dharmanagar, Sridoor (N)

Contd..2/-

Accountant exercised at the stage of completion of 16 years of service on offer, which has also been treated as final as per instructions in Directorate letter No. 9-7/84-SPB-II dated 26.09.1984.

v) He has mentioned that Directorate order dated 24.09.1996 has no connection with the transfer, posting or functioning of accountants.

2. The representation has been considered in detail. As it would be seen from the foregoing, the only grievance which Shri Jyotirmoy Chakrabarty, has brought out is that the instant transfer order is by way of punishment and is a miscarriage of law and it is also against the provision of natural justice.

3. So far as transfer order is concerned the official was chargesheeted and it may be mentioned that the official's suspension order was revoked dated 20.01.1997 with direction to Join as SPM. As per instructions dated 24.09.1996 it clarified that after the implementation of TBOP/BCR scheme there is no distintion between general line and Accounts line except for the limited purpose of functional necessity. Shri Chakrabarty had come up for notice for certain irregularities while he was working as Accountant and this was matter of enquiry and accordingly Shri Chakrabarty was posted as SPM Salema in general line. The official has been proceeded against under rule 14 of the CCS(CCA) Rules in Memo. No.B-333/Disc. dated 29.01.1997 of Supdt. of Post Office, Dharmanagar division. So the posting of the official as SPM in general line in this circumstances cannot be termed as a violation of the orders.

However, Chief Postmaster General, Assam Circle is directed to re-examine the case of posting of the official to the Accounts line on the completion of Rule 14 enquiry and keeping in view the outcome of the enquiry. In view of the reasons stated on prepage, I am directed to inform Shri Jyotimoy Chakrabarty that the representation contained in letter dated 29.07.1997 and reminder dated 06.10.1997 have been carefully considered and rejected.

Aruna Jain
29/05
(ARUNA JAIN)
DIRECTOR(STAFF)
29/5/98

Shri Jyotirmoy Chakraborty,
LSG Accountant Divisional Office,
Dharamanagar and Offg. Complaint Inspector, Dharamnagar Division.

(Through Chief Postmaster General North East Circle)

Attested
Principal
S. B. College
Headquarter
Head of Office & D. B. C
S. B. Institution,
Dharmanagar, Tripura (N.E.)

Contd..3/-

— 23 —

(1)

W/R

DEPARTMENT OF POSTS : INDIA
O/o the Superintendent of Post Offices, Dharmanagar Division, Dharmanagar-799250.

No. B-333/Pt.III, Dated, Dharmanagar the 01-12-2K.

To,
Shri Jyotirmoy Chakraborty,
SPM Salema (Designate),
Now at Thana Road,
(near Netaji Road entrance),
Dharmanagar – 799250.

Subject :- Submission of representation against Departmental Inquiry report under Rule-14 of C.C.S.(CCA) Rules,1965.

Please find herewith enclosed Departmental Inquiry report under Rule-14 of C.C.S. (CCA) Rules,1965 bearing No.INQ-14/J.M. Chakarborty, dated Tura 12-11-2K of Shri N. Das, Inquiry Officer & Asstt. Superintendent of Post Offices, West Garo Hills, Tura-794001 for submission of your representation to the undersigned within 15(Fifteen) days from the date of receipt of this letter.

Enclo :- As above.

1/12/02
Superintendent of Post Offices,
Dharmanagar Divn., Dharmanagar-799250.

Attested
2614
N. D. DAMA
Asstt. Headmaster
Head of Office & D. B. S
B. B. Institution,
Dharmanagar, Tripura

Inquiry Report on Departmental Inquiry under Rule-14 of C.C.S (C.C.A) Rules 1965 against Sri Jyotirmoy Chakraborty Spm Salema (Designate) under Dharmanagar H.O.

I. I Sri N. Das Aspo's South Sub-Div, Agartala, now Aspo's West Garo Hills Sub-Div, TURA was appointed as Inquiry Authority by the Supdt. of Po's, Dharmanagar Div, Dharmanagar vide his letter No. B-333/Pt III dtd 17.12.99 to inquire into the charges against Sri Jyotirmoy Chakraborty, Spm, Salema (designate) as framed vide the Spo's, Dharmanagar letter No. B-333/Pt II dtd 12-8-98 under CCS (CCA) Rules 1965.

I have since completed the inquiry on the basis of the documentary & oral evidence produced before me & have prepared the inquiry report as follows.

II. THE CHARGE SHEET

Statement of articles of charge framed against Sri Jyotirmoy Chakraborty, Sub-postmaster, Salema (designate)

Article - I

That the said Sri Jyotirmoy Chakraborty

Attested
2614
A. R. Chakraborty
Asstt. Headmaster
Board of Office & D. S. B.
S. E. Institution,
Dharmanagar, Tripura

While functioning as Offg. Complaint Inspector, Divisional Office, Dharmanagar during the period from 27-4-96 to 31-10-96 failed to carry out the written order of his higher authority vide memo. No. B-333/Pt. II dated 20-1-96 wherein Shri Chakraborty was posted as Spm, Salema S.O on revocation of his suspension order. The said revocation memo. was received by Sri Chakraborty on 22-1-97. Thereafter Sri Chakraborty submitted a representations dtd 29-1-97 & 10.2.97 against the said transfer order. The decision of the Supdt. of post offices, Dharmanagar was communicated to him vide letter no. B-333/Pt. II dtd 31.1.97 & 10-3-97 which was received by him on 7-2-97 & 13-3-97 respectively. But Sri Chakraborty did not carry out the said written order of his superior authority and yet to join his place of posting.

By his above act Shri Jyotirmoy Chakraborty shown a gross insubordination & also shown a disobedience by not carry out the written order which considered to be acted in a manner which is unbecoming of a Govt. servant & thereby violated the provision as envisaged in Rule-3(1)(iii) of CCS (Conduct) Rules 1964.

Attested
26/1
D. D. Ramchandran
Asstt. Headmaster (a)
Head of Office & C. B. B.
B. E. Institution,
Agartala, Tripura

Article — II

That during the aforesaid period & while functioning in the aforesaid office, said Sri Jyotirmoy Chakraborty failed to attend

P.T.O

to the R.G.M Hospital, Kailashahar on 8.7.97 as directed to him vide Sepoy. of Pos Dharmanagar letter no B-333/Part II dtd 4.7.97. The said letter was received by Sri Chakraborty on 5.7.97. Hence Sri Chakraborty failed to carry out the written order of his superior authority.

By his above act Shri Jyotirmoy Chakraborty shown a gross insubordination & also shown disobedience by not carry out the written order which considered to be acted in a manner which is unbecoming of a Govt. Servant & thereby violated certain provisions as envisaged in Rule 3(1)(iii) of CCS (Conduct) Rules-1964

Article - III

That during the aforesaid period & while functioning in the aforesaid office, the said Sri Jyotirmoy Chakraborty remained absence from duty without proper permission from the date of revocation of his suspension vide Sepoy of POs Dharmanagar memo. no. B-333/Part II dtd 20-1-97 which was received by him on 22-1-97, wherein the said Sri Chakraborty was posted as Sub-postmaster, Salema S.O. on revocation of his suspension order. But Sri Chakraborty did not carry out the said order & remained on unauthorised absence from duty till date, violating the provisions of Rule-162 of P&T manual Vol-III

Attested
A. C. RAKSHIT
Asstt. Director
Head of Office & S. B.
B. B. Institute,
Agartala, Tripura

Dis-

— By his above act, Sri Jyotirmoy Chakraborty shown gross insubordination & also shown disobedience to his higher authority by not carry out the written order & remained absence from duty unauthorisedly violating the provisions of Rule-162 of P&T Manual vol-III & also acted in a manner which is unbecoming of a Govt Servant thereby violated the certain provisions as envisaged in Rul-3(1)(iii) of CCS (Conduct) Rules-1964.

Annexure - II

Statement of imputation of misconduct or mis-behaviour in support of the articles of charges framed against Sri Jyotirmoy Chakraborty, Sub Postmaster (designate).

Article - I

That the said Sri Jyotirmoy Chakraborty while functioning as Offg Departmental Inspector, Divisional office Dharmanagar during the period from 27-4-96 to 31.10.96 was placed under suspension vide this office memo no. B-333/Pt II dtd 31.10.96. The said order of suspension was revoked vide memo. no. of even no. dated 20-1-97 with direction Sri Chakraborty to join as Sub postmaster, Salema S.O.. The said revocation memo was received by him on 22-1-97. Once qua Sri Chakraborty submitted a representation dtd 29.1.97 against the said transfer order. The decision of the Supdt. of Pos Dharmanagar on the said representation was communicated to him vide letter no. B-333/Pt II dtd 31.1.97.

Attested
[signature] 26/4/01
D. Majumder
Addl. Memorial
Head of Office & D. D. S
B. B. Institution,
Dharmanagar, Tripura

P.5

The said letter was received ~~was~~ by him on 7-8-97. But Shri Chakraborty did not carry out the said order of superior authority and yet to join his place of posting.

By his above act, Shri Jyotirmoy Chakraborty, shown a gross insubordination and disobedience which considered to be acted in a manner which is unbecoming of a Govt. servant & thereby violated certain provisions as envisaged in Rule-3(1)(iii) of CCS (Conduct) Rules 1964.

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty failed to attend the R.G.M Hospital, Kailashahar on 8.7.97 for the second medical opinion as directed to him vide Supdt. of Pol Dharmanagar bills no. A-333/MO and 4.7.97. The said bills was received by him on 5.7.97. But Shri Chakraborty did not attend the R.M.G. Hospital Kailashahar on 8.7.97 as intimated by the i/c, R.G.M Hospital, Kailashahar vide their bill no. F.1(8) Gen/IV R.G.M/KLS/V/96/4850-53 dtd 15.7.97. Thus Shri Chakraborty failed to carry out the written order of his higher authority.

By his above act, Shri Chakraborty shown a gross insubordination & disobedience by not carry out the written order of his higher authority which considered to be acted in a manner which is unbecoming of a govt servant & thereby violated certain provisions as envisaged in Rule-3(1)(iii) of CCS (Conduct) Rules 1964.

Attested
Sinha
Asstt. Headmaster
i/c Office & D. B.
S. E. Institution,
Agartala, Tripura

Article - III

That during the aforesaid period & while functioning in the aforesaid office, the said Sri Jyotirmoy Chakraborty remained absence from duty without proper permission from the date of revocation of his suspension order vide Sepdt. of Pos Directorate Lr No. B-333/PF II dtd. 20.1.97. which was received by him on 22-1.97 wherein the said Ex Sri Chakraborty was posted as Spm, Sarema S.O on revocation of his suspension order. But Sri Chakraborty did not carry out the said order & remained absence from duty unauthorisedly till today. Thus Sri Chakraborty violated the certain provisions as envisaged in Rule-162 of P&T manual vol-III.

By his above act Sri Jyotirmoy Chakraborty showed a gross insubordination & disobedience to his higher authority by not carry out the written order & remained absence from duty unauthorisedly violating the provisions of Rule-162 of P&T manual vol-III and also acted in a manner which is unbecoming of a Govt Servant thereby violated the certain provisions as envisaged in Rule-3(1)(iii) of CCS (Conduct) Rules 1964

Annexure - III

List of documents by which the articles of charge framed against Sri Jyotirmoy Chakraborty, Spm Sarema (designate) are proposed to be sustained.

Attested
S. Chakraborty
Asstt. Headmaster
Asst. Office & D. B
B. B. Institution,
Agartala, Tripura

1. Memo. No B-333/Pt II dtd 20-1-97.
2. A/D Card bearing No. B-333/Pt II dtd 20.1.97
3. Representation of Shri J. Chakraborty dtd 29-1-97
4. Letter No. B-333/Pt II dtd 31.1.97.
5. A/D Card bearing No. B-333/Pt II dtd 31.1.97.
6. Representation of Shri J. Chakraborty dtd 10.2.97
7. Letter No. B-333/Pt II dtd 10.3.97.
8. A/D Card bearing No. B-333/Pt II dtd 10.3.97.
9. Letter No. B-333/Pt II dtd 4.7.97
10. A/D Card bearing No. B-333/Pt II dtd 4.7.97.
11. Letter No. F.1(8) GEN/IN/RGMH/KLS/N/94/4850-53 dtd 15.7.97 of I/C, RGM Hospital, Kailashahar.

Annexure - IV

List of witnesses by whom the article of charge framed against Shri Jyotirmoy Chakraborty, upon Enquiry S.O. (Designate) are proposed to be sustained.

1. Shri Bimalendu Dey Kanungo PA Divisional Office, Dharmanagar

Attested
[signature] 26/4
Asstt. Headmaster
Head of Office & D. D. O.
B. B. Institution,
Dharmanagar, Tripura

III. List of exhibited Documents

Ex. S-1. Memo of No B-333/Pt II dtd 20.1.97 issued by SPOs/Dharmanagar.

Ex. S-2 AD Card bearing B-333/Pt II dtd 20.1.97 o/p Sri Jyotirmoy Chakraborty remote Inspection Thana Road Dharmanagar.

Ex. S-3 Representation of Sri Jyotirmoy Chakraborty dtd 29-1-97 o/to the Inspdt. of POs Dharmanagar.

Ex. S-4 Letter no. B-333/Pt II dtd 31.1.97 o/to Sri Jyotirmoy Chakraborty — Spm Salema (Designed) Thana Road Dharmanagar issued by the SPOs Dharmanagar.

Ex. S-5 AD Card bearing no. 333/Pt II dtd 31.1.97 o/to Sri Jyotirmoy Chakraborty —

Ex. S-6 Representation of Sri Jyotirmoy Chakraborty dtd 10.2.97 o/to the SPOs/DNR.

Ex. S-7. Letter no. B-333/Pt II dtd 10.3.97 issued by the SPOs/DNR o/to Sri Jyotirmoy Chakraborty

Ex. S-8. AD Card bearing no. B-333/Pt II dtd 10.3.97 o/to Jyotirmoy Chakraborty —

Ex. S-9. Letter no. B-333/Pt II dtd 4.7.97 o/to Sri Jyotirmoy Chakraborty.

Attested
P. PAMAR
Asstt. Headquarter
and of Office & D. B
A. B. Institution
Dharmanagar, Tripura

Ex. S-10. DD Card bearing no. B-333/Adj dtd 4.7.97 d/to Sri Jyotirmoy Chakraborty.

Ex. S-11. Letter no. F1(8) Gen/INS/AGMH/KLS/NS/94/4850-53 dtd 15.7.97 of the I/c, AGM Hospital Kailashahar d/to the SPOs/DNR.

Ex. D-1. A photo copy of representation of Sri Jyotirmoy Chakraborty dtd 10.10.91 d/to the Chief Postmaster General NE circle/SH.

IV. List of witness examined.

SW-1. Sri Bimalendu Dey Ramungo PA Divl office Dharmanagar.

V. Participation of the C.O in the inquiry

The hearing of the inquiry was held on 10.11.98, 25.1.99, 5-5.99, 29/30-6-99, 10/12.8.99, 11/12.11.99 & was conducted by the then I.O Sri A.A. Das ASPOs (HQ) Dharmanagar, now ASPOs/Bilonia but the charged official did not attend & participate on 29/30-6.99, 10/12-8-99 & on 11/12.11.99. I held the inquiry on 16-3-2K, 21/22-6.2K 24/25.7.2K & on 8.9.2K. The charged official remained absent on 16-3-2K & 24/25.7.2K as

Attested
Friend
26/4/01
D. D. Chakraborty
Asstt. Registrar
Dept of Office & D. B. of
B. B. Institution,
Agartala, Tripura

5

as the venue was outside his residence (HQ). The Charged official opted no defence assistant.

VI CASE OF THE DISCIPLINARY AUTHORITY

ARTICLE—I The P.O. on behalf of the Disciplinary Authority reiterated the article of charge as framed in the charge sheet & in support of the charge he produced the documentary evidence as exhibited under Ex.S-1, 2, 3, 4, 5, 6, 7 & 8. Shri Bimalendu Dey Kanungo was the witness there.

ARTICLE—II The P.O. on behalf of the Disciplinary authority presented the article of charge in the same form as in the charge sheet. In support of the article of charge he produced documentary evidence exhibited under Ex.S-9, 10, 11. Sri Bimalendu Dey Kanungo was witness there.

Article—III The P.O. reiterated the article of charge as in the charge sheet & produced documentary evidence as exhibited under Ex.S-1, 2. Sri Bimalendu Dey Kanungo was witness there.

Attested
26/4/01
A. B. HAZRA
Asstt. Headmaster
Head of Office & D. D. S
B. B. Institution,
Mahishadal, Haldia

51

VII CASE OF THE CHARGED OFFICIAL

Article-I The charged official stated in his defence statement dtd 8.9.98 that he was on leave from 1.10.96 to 30.10.96, he became a LSG Accountant since 3.6.89 & opted accounts line & thus order of transfer to general line being spm, Salem on revocation of suspension order has been made by the Supdt. of Dharmapuri infringing the Departmental rules & laws.

Article-II The charged official in his defence statement dtd 8.9.98 stated that he was on leave from 1.10.96 to 30.10.96, the Supdt. of POs Dharmapuri letter no. B-333/PF II dtd 4.7.97 was not the direction to attend medical board for second medical opinion at RGM hospital, Kailasahar on 8.7.97. The instant letter was issued in pursuance of the request to him vide In charge R.M.G Hospital Kailasahar no. 1(8) Gen/Sen/IN/RGMH/KLS/96/4517-21 dtd 25.6.97 to attend medical Board for unknown reason on 8.7.97. He stated due to sudden illness on 8.7.97 he could not attend R.G.M Hospital.

Attested
26/7
A. K. DEBARMA
Asstt. Headmaster
Asstt. Office & D. B. E.
B. E. Institution,
Agartala, Tripura

Article - III

The charged official stated in his defence statement dtd 8.7.2K that he was on leave from 1-10-96 to 30.10.96 & he had applied for 40 days commuted w.e.f 23-1-97 onwards on revocation of suspension order.

VIII

I have gone through the charge sheet, day to day proceedings, exhibited documents deposition of witness (SW-1 recorded on 22-6-00) defence statement, Briefs of the P.O. & C.O & all other relevant records & circumstances carefully & inclined to furnish my observation, analysis & assessment as follows.

OBSERVATION

Article - I

The charged official indirectly admitted the receipt of revocation & as well as posting order being Sub-postmaster, Salema S.O. Because has prayed for modification of posting order at the post of accounts line instead of SPM to Salema S.O. in Ex. S-3.

Attested
26/4/01
P. G. NAMASIVAYAM
Asstt. Postmaster
Head of Office & D. B. O
D. B. Institution,
Vadakkankulam, Tirunelveli

Article - II

The charged official in his defence statement directly & indirectly admitted the receipt of direction to attend the medical board R.K.M. Hospital Kailashahar & with reference to that direction he had applied for TA advance.

Article - III

The charged official indirectly admitted the receipt of revocation & posting order. He has applied for 40 days commuted leave w.e.f. 23-1-97 supported by a medical certificate.

ANALYSIS

Article - I

The charged official submitted

That he became a LSG accountant since 3-6-89 & opted Accounts line and since he has submitted representation dtd 29-1-97 to the Supdt. of Po's Dharmanagar against the illegal order of transfer as Spm, Salema S.O. in general line. Although the Supdt of Pos Dharmanagar in his letter dtd 31.1.97 has explained the Rules on the point (Ex. S-4) and asked him to join as Spm Salema S.O. Till then the charged official did not carry out the order of the Supdt. of Po's Dharmanagar.

Ex S-4

Attested
B. DHARA
Asstt. Headmaster
Head of Office & D. B. & B. E. Institution,
Dharmanagar, Tripura

P. 14

Article – II

The Charged Official was directed to attend before the medical board, R.G.M Hospital, Kailasahar on 8.7.97. Accordingly he has applied for TA advance to proceed Kailasahar on 7.7.97 to Supdt. of Pos, Dharmanagar. It is not said whether TA advance was received or not. But if TA advance is also paid to him on 7.7.97 he should not also attend R.G.M Hospital for his illness on 8.7.97. Of course the charged official on interrogation on 8.9.98 stated that he did not attend the RGM Hospital on 8.7.97.

Article – III

The Charged Official in his defence still admitted the receipt of revocation & posting order. Because he has applied for 40 days Commutted leave w.e.f 23-1-97 on-words on revocation of suspension order on medical ground. But his prayed leave was disallowed ~~[illegible]~~ showing the reasons by the authority i.e he was neither on duty nor on leave w.e.f 23-1-97.

Attested
8/6/07
A. B. RAMATHERA
Asstt. Headmaster
Head of Office & D. E. O.
B. B. Institution,
Dharmanagar, Tripura (N)

Contd - Page - 15 —

FINDINGS

On the basis of documentary & oral evidences adduced in the case before me and in view of the reasons given above & owing to direct or indirect admission of the charged official, I hold that all the three charges against Sri Jyotirmoy Chakraborty are proved.

(N. DAS)
INQUIRY AUTHORITY
Asstt. Supdt. of P. O. S.
West Garo Hills,
TURA—794001

Enclosed the following

i) A file containing exhibited document under Ex. S-1 to 11, Ex. D-1 & original bill no. Staff/10-11/91 and 24.11.91 from CAMP/SH. & representation of Sri J. Chakraborty dtd 10.10.91.

ii) A file containing days proceeding from the beginning, deposition & corres.

In a file
iii) Written str of defence submitted by the charged official 8.9.96
iv) Written briefs of the P.O. (A-1/Misc. dtd 15.9.96
v) And written briefs of the charged official dtd 3-10-96

Memo. INQ—14/J. M. Chakraborty Dated TURA 12-11-96.

Fwd to (1—2) the Supdt of Pos Dharmanagar Div Dharmanagar and his No. B-333/Pt III dtd 17.12.99

Asstt. Supdt. of P. O. S.
West Garo Hills,
TURA-794001

Attested
26/4
A. K. RAMAJUDHA
Asstt. Headmaster
and Officer & D. B.
B. S. Institution,
Agartala, Tripura

(Copy) ANNEXURE (D) = A/10

To

The Supdt. of Pos,
Dharmanagar Division.
Dharmanagar 799250

And

Disciplinary Authority.

Dated, Dharmanagar
The 15th Dec/2000

attested
A. B. BARAIYA
Asstt. Headmaster
Head of Office & B. B. O
B. S. Institution,
Dharmanagar, Tripura (N)

Subject :- Submission of representation on Inquiry Report against Disciplinary proceeding under Rule 14 of CCS(CCA) Rules , 1965 Against Shri Jyotirmay Chakraborty, LSG Accountant, Dharmanagar Division.

Reference:-Your letter No. B-333/pt. III Dated 01/12/2k.

Respected Sir,

We deponent begs to state that the Inquiry Report on the above subject is based upon supression of facts and misinformation and disinformation on all the articles of charges and there are hit by the principles of limitations in natural justice and thus all the articles of charges and Inquiry thereof are liable to be quashed/or dropped on the grounds appended below :-

1. ARTICLE - I :-

1.1. That Sir, the period of incumbancy from 27/4/96 to 31/10/96 as complaint Inspector, Dharmanagar Division is quite incorrect as per chargesheet presented during the course of enquiry since I had been as leave from 1/10/96 to 30/10/96 vide supdt. of pos, Dharmanagar Memo No. B-333/pt II Dated 17/10/96 while Shri Pradip Mazumder PA acted in my place with effect from the availing of incumbents leave.

The Copy of leave Memo bearing No. B-333/ pt-II Dated 17/10/96 of the supdt. of Pos' Dharmanagar is enclosed as Annexure-I.

The instant Annexure-I produced as Defence Document vide written statement of Defence Dated, 8/9/2000. But the Inquiry officer could not produce any point of non-tenability or non-acceptability on the points raised in the written statement of Defence.

Hence it is proved that the period of incumbancy as offg. complaint Inspector,

contd.....p/2

Dharmanagar Division from 27/4/96 to 31/10/96, envisaged in the chargesheet under the instant article of charge is not correct, which appears to be not specific and vagae. The charge should always be specific and not vague as established vide : AIR 1972 Cal 27 : 1973 (2) SLR 297 ; 1968 SLR 213 : 1968 SLJ 315 : 1968 cur LJ 174.

As such the instant charge is quashable on the grounds cited above.

1.2. That Sir, I have been working as qualified P.O. And RMS Accountant, Dharmanagar Division since 1981. Consequent on the implementation of Time Bound (one) promotion scheme I became a LSG Accountant since 03/06/1989 as per provision laid down in para 21 of Directorate's No. 31-26/83 PE -I Dated 17/12/1983 (Copy enclosed as Annexure -2) and opted 'Accountants line' of P.O. And RMS Accountant prior to placement as LSG Accountant as per instruction contained in Directorate's No. 9/7/84 SPB II Dated, 27.9.84 circulated vide C.O. Shillong No. Est/20-19/76-Ch II/Cor/84-85, dated, 18/10/84 (copy enclosed as Annexure-3), which has been treated as final and cannot be re-optable as provided under Directorate's circular No.43-15/84 PE dated, 16/3/88 circulated vide circle office, Shillong No. Est/20-19/83/II dated, 28.3.88 (copy enclosed as Annexure-4).

All the Annexure from SL No. 2 to 4 have been submitted as Defence Document vide written statement of Defence dated 8.9.00 but the Inquiry officer could not able to produce any point of dis-agreement against the defence documents produced thereon.

Thus it is established that the order of transfer in general line of a LSG Accountant of 'Accountants line', being sub-Postmaster, Saleme vide Supdt. of Pos, Dharmanagar Memo No.B-333/ Pt II dated, 20.1.97 (Marked as S-1) has been made by the Supdt. of Pos, Dharmanagar in fringing Departmental rules or Laws.

1.3. That Sir, the AD Card (Form No. RP-54) marked as S-2, wherin the signature of the addressee is found in illegible manner which is not of mine. As per provision of the rule or the space provided for the purpose of signature of AD card, the addressee should put his signature thereon as a mark of receipt of the Registered/Insured article. In the instant AD card some illegible strokes of pen/ball pen are in existence instead of signature of the addressee in the space provided for the pur-pose.

Contd...P/3.

As per collines combuild Essential Dictionary Signature is defined as, "..... Signature is your name, when you write it in your own characteristic way....."

And the initial is defined as,'..... initials are the set of capital letters which begin each of your names or begins your first name. For examples if your full name is kaven Anne Fox your initials are K.A.F.

The undersigned has requested to Inquiry officer vide my written statement of defence Dated 08/09/2000 to re-examine the strokes of pen/or ball pen in the AD Card through a hand writing expert before coming to a decision but he could not able to offer any decision on the point raised by me.

Thus it is proved that the disputed signature found available in the AD Card (S-2) is not of mine.

1.4. That Sir, the undersigned has submitted representation Dated 29/01/97 (marked as S-3) to the supdt. of Pos, Dharmanagar against the illegal order of transfer as sub-postmaster, Saloma in General line alongwith some Department Rulings/circulars for the purpose of service matters of PO And RMS Accountants of Accountants line, the submission of which is one of the fundamental right of a govt. servant and as such there is not violation of rules/or laws appears to be commited by the undersigned.

The Inquiry officer could not able to raise any points of non-acceptance in the Inquiry Report against the point stated in the written statement of Defence Dated 8/9/2000

1.5. That sir, the disposal of representation Dated 29/01/97 of the undersigned was received under supdt. of pos Dharmanagar letter No. B-333/pt II Dated 31/01/97 (marked as S-4), the contention of which is not conformity with the rules, rather false, baseless and whimsical.

The parawise Defence against the letter Dated 31/01/97 is as follows :-

contd....p/4.

" The posts..... not locus standi"

Defence :- The post of PO And RMS Accountant and the post of LSG general line are of two distinct lines of post for transfer, posting works and functioning vide Directorate Circular No. 9/7/84-SPB-II Dated 26/9/84 circulated vide C.O. Shillong No. Est/20/19/76/ch II/corr/84-85 Dated 18/10/84 and No. 9-3/94 SPB-I Dated 13/02/95 circulated vide C.O. Shillong No. Staff/25-Actt/Rlg/cor Dated, 17/02/95 (Copy enclosed as Annexure - 5).

The PO And RMS Accountants were bifurcated in two lines i.e. (a) LSG General line and (b) PO And RMS LSG Accountants. Accordingly, I opted for the said second line in the year 1989, on offer, at the stage of completion of 16 years of service before placement to TBOP scale, which became final as per aforesaid circular and thereby became LSG Accountant of the line of PO And RMS Accountant. The Department after getting the consent of the Hon'ble President of India, as stated thereon in the aforesaid circular, on this system, it became a rule of the Department to retain all the optees of 'Accounts Line' Accountants to their appropriate post with a view to prevent the misuse of their services in general line due to their qualification and option in 'Accountants line'. It has also been clearly clarified vide Directorate's circular No. 43-15/84 PE I dated, 16.3.88 circulated vide C.O. Shillong No. Est/20-19/83/II dated, 28/3/88 wherein it is also stated in para/item 2 that if an official of PO And RMS Accountant once opted for 'General line' cannot reopt the fixation and also cannot join the post of Accountant.

Moreover, the surrender of one promotion in the year 1991 as APM (A/cs) TURA vide my application Dated, 10/10/91 as stated in Supdt. of Pos, Dharmanagar letter no. B-333/pt II dated 31.1.97 (Marred as S-4) due to my inconvenience for the timebeing cannot for-go my standing in the service line or cadre. The copy of the said application dated 10.10.91 presented by the Disciplinary Authority vide Daily order Sheet 21/6/00 (Marked as Ex D-I), the copy of which is enclosed as Annexure-6, being the unwillingness to take promotion as APM (A/cs) TURA, submitted to the chief Postmaster General, NE Circle, Shillong, wherein existence of surrender of 'Accountants line' is not available. Besides, the Disciplinary Authority failed to supply the copy of acceptance of surrender of 'Accountants line' as relied upon by the Inquiry officer as Addl. Document required for defence vide daily order Sheet Dated 25.1.99.

Contd....P/5.

That the failure to give inspection of the documents relied on and asked for by the charged official and non- supply thereof is violation of natural justice and the enquiry is liable to be quashed vide established law : 82 CWN 538.

The application Dated 10/10/91 submitted to the chief Postmaster general, N.E. Circle shillong through the supdt. of Pos, Dharmanagar and the order of Transfer to TURA on promotion as APM (A/Cs) has been cancelled vide C.O. Shillong Memo No. Staff/o-11/91 Dated 24/10/91 (Copy enclosed as Annexure -7) and in pursuance of the order of C.O. Dated 24/10/91, the supdt. of Pos,Dharmanagar vide his memo no BB -12/c/DNR/Pt II Dated 01/11/91 (Copy enclosed as Annexure -8) ordered me to join as Accountant,Dharmanagar H.O. Had, there been any acceptance of surrender of Accountants line' and forgo my standing in my service line/ or cadre then the undersigned would not have been offered with promotion for the second time in the year 1992 as APM (A/cs), Kohima H.O. vide C.O. Shillong Memo No. Staff/ 10-11/81 Dated 11/11/92 (Copy enclosed as Annexure -9).

All the enclosures from Sl 5 to 9 have been submitted as Defence Document vide written statement of defence Dated 08/09/00 but the Inquiry officer could not able to produce any point of non-acceptability of the documents produced thereon.

Thus it transpires that the transfer and posting order of my services as sub-postmaster , Salema in general line is a deviation from the cardinal principle of law as per contents and spirits of said Rule/ or laws/or circulars.

Para (ii) of the supdt. of Pos Dharmanagar Letter No.B-333/pt. II Dated 31/1/97 (marked as S-4).

" It is for..... your service as such

Defence :- The Directorate's letter No. 44-60/96 SPB II Dated, 24/9/96 Circulated vide C.O. Shillong letter No. Staff/B-14/91/Cor dated 10/10/96 as stated in supdt. of Pos : Dharmanagar letter No. B-333/pt- II Dated 31/1/97 (marked As S-4) is for clarification/ modification of TBOP/BCR Scheme for protecting the seniority and promotion of some officials where seniority were adversely effected by adoption of TBOP/BCR Scheme.

Contd..p/6

It is exclusively for gradation list which does not mean abolition of the aforesaid two lines of service, which is holding good till this day as a rule of law. The said letter Dated 24/9/96 has no connection with the transfer, posting and fucntioning of Accountants line' of P.O. And RMS Accountant. Such things are to be guided by the present Directorate's circular No. 9/7/84 SPB- II Dated 26/9/84 followed by Directorate's Circular No. 9-3/94 SPB-I Dated 13/2/95, circulated vide C.O. Shillong No. Staff/25-Actt/RLG/Corr Dated 17/2/95.

Further, the PO And RMS Accountants are required to prefer option electing either (Accountants line' or 'general line' before placement of TBOP on completion of 16 years of service as provided under Directorate's circular No. 9/7/84 SPB-II Dated 26/9/84 Circulated Vide C.O. Shillong No. Est./20-19/76/Ch-II/cor/84-85 Dated 18/10/84 and as such the non-difference between 'Accountants line' and 'general line' under TBOP/BCR scheme as stated in the letter Dated 31/1/97 of the supdt. of Pos, Dharmanagar is contradictory and not conformity with the spirit and contents of the rules/or laws for the purpose since both the lines Viz. 'Accountants line' and 'general line' of P.O. R.M. S. Accountant take effect only from the date of placement of TBOP on the basis of option electing either of the line as provided under Rule stated earlier.

If the letter dated 24/09/96 has a connection with the policy of transfer of P.O. and RMS Accountant of 'Accountants line' then under which circumstances all the APM (A/cs)/BCR Accountant & LSG Accountants. of Accountants line' retained in the same line /or post since election of their line without having any transfer to general line or vice verse. Thus it is clearly evident that both the lines are holding good seperately till this day in respect of both TBOP and BCR.

Some of the instance out of several of PO And RMS Accountant of Accountants line ' having scales of pay of TBOP/BCR who are retained till this date in their elected line since long and who are not effected by transfer on the melafide ground of non-difference between

contd...p/7.

'Accountants line' or 'general line' under TBOP/BCR Scheme as stated in supdt. of Pos, Dharmanagar letter Dated 31/01/97.

SL. NO.	Name of officials.	Designation	office in which attached/post in which attached.
1.	Sri S.K. Seal.	BCR APM/(A/cs)	- Dharmanagar H.O.
2.	Sri A. Chakraborty.	LSG Acctt(TBOP)	- o/o the supdt. of pos Dharmanagar.
3.	Sri R. Banik.	BCR Acctt.	- Agartala H.O.
4.	Sri T. Das.	LSG Acctt(TBOP)	- R.K. Pur H.O
5.	Sri A. Dutta Roy.	LSG acctt(TBOP)	- o/o the sr. supdt. of pos' Meghalaya.
6.	Sri P.Paul Choudhury.	BCR Acctt.	- Silchar H.O
7.	Sri H. ~~Pane.~~ Paul	TBOP APM(A/cs)	- Agartala Divn.
8.	Sri R. Bagchi	BCR APM(A/cs)	- Tuta H.O.

and so on.

However, if the application of the melafide rule having no departmental clarification/instruction for the purpose of transfer has been effected only to me breaking of option in 'Accountants line' of PO And RMS Accountant without giving effect to other APM(A/cs) and LSG/BCR Accountant of 'Accountants line' of this department without considering my seniority out of all the PO And RMS Accountant not only in Dharmanagar division but also in rest division of this circle and also leaving a clear vacancy of PO Amd RMS Accountant in Dharmanagar Division then it will undoubtedly be said that the instant transfer is the burning instance of denial of equality before law or the denial of equal protenction of laws within the territory of India as prescribed under Article 14 of the Indian constitution.

More over it has also been clearly clarified in Directorate No. 22-6/2000 -PE I Dated. 17/05/2000 (Copy enclosed as Accexure- 10) that the TBOP /BCR Schemes are not promotions but placement in the same scale of pay on completion of 16 and 26 years of service only. Therefore, the claim of my standing in the post of Accountant after placement of TBOP on completion of 16 years of service having my

contd...P/8

eption in 'Accountants line' of PO And RMS Accountant is lawful.

The enclosure No. 10 has been submitted to the Inquiry officer alongwith my written statement of defence Dated 08/09/00 but the Inquiry officer could not able to produce any point of non-tenability of the document produced thereon.

Therefore, it is proved that the transfer of my service in general line terminating my option in Accountants line' of PO And RMS Accountant without giving effect to other officials of this line on the false and melafide ground as stated earlier is intentional as well as violation of Article 14 of the Indian Consitution.
para (iii) of the Supdt. of Pos Dharmanagar letter No. B- 333/pt-II Dated 31/01/97 (marked as S- 4).

" It is also..... .... and posting.
Defence :- With reference to the item (iii) of the Supdt. of Pos Dharmanagar letter No. B-333/pt- II Dated 31/01/97 it is stated that it has become a clear crystal fact of my transfer not being a normal one visits with inconvenience from the post of LSG Accountant of 'Accountants line' to the degraded post of sub- postmaster'Salema' a single handed sub-post office of general line pending disciplinary proceeding against me.

The post of LSG Accountant and the post of sub-postmaster salema are of two different lines of post in connection with transfer, posting and functioning. The transfer liability of SPM Salema is within the equivalent post available within the postal division under which he/she is working, whereas the post of Accountant is of that kind of post where transfer is liable within the Head post office/ Divisional office of that postal Division under which he/she is working. And also posted after passing the Departmental Examination prescribed for the purpose. where the facilities/ functioning of both the posts are different, then both the post may not be treated as equivalent in rank/grade as per established rule/ or laws.

The Inquiry officer could not put forward any point of non-acceptance of the claim offered in my written statement of defence Dated 08/09/00.

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Thus it is proved that the transfer of my service at Salema in general line terminating my option in 'Accountants line' exercised finally and terminating my line of service illogically to the post which is not appropriate as per line of service, pending finalisation of melafide disciplinary proceeding and stigma and as such it is tentamounting to reduction of Rank as per established law : 1969 SLR 576 (Delhi).

The instant transfer order in a different line than that of PO And RMS Accountant of 'Accountants line' for some cooked up allegation being by way of punishment is against the provision of natural justice as established vide : 1978(2) SLR 136.

1.6. That Sir, I applied for commuted leave for 40 days w.e.f. 23/01/97 onwards on medical ground duly supported by a medical certificate of unfitness to duty of my attending physician, but my leave as prayed for was not granted on the ground of inadmissibility under FR -55 (FR 55 : leave may not be granted to a government servant under suspension) vide supdt. of Pos Dharmanagar letter No.B-333/pt-II Dated 10/3/97 (Copy enclosed as Annexure -11) followed by a corrigendum vide supdt. of pos, Dharmanagar letter No. B-333/pt.II Dated 25/03/97 (Copy enclosed as Annexure - 12).

Therefore, the text and contention of the supdt. of pos, Dharmanagar letter No. B-333/ pt- II Dated 10/3/97 now appears to be as follows :-

" As per FR 55 no leave is to be granted to govt. servant who is under suspension though this office issued revocation of your suspension order. But you are still to comply with the order. Hence you are unauthorised absence from duty w.e.f. 23/01/97 "

The contention of the above letter clearly clarifies that the suspension of the undersigned is still continuing for non-admissibility of leave under FR :55 and as such the subsistence allowance is admissible as provided under rule and the order of transfer to the post of sub- postmaster salema issued infringing Departmental rules/ or laws stands cancelled on the strength of the supdt. of pos, Dharmanagar Division letter No. B- 333/ pt II Dated 10/3/97.

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The Inquiry officer clearly stated in his analysis against Article III of the instant Inquiry Report (page - 14) Dated 12/11/2k that the commuted leave wef 23/1/97 onwards on medical ground was disallowed serving the reasons by the authority i.e. the undersigned was neither on duty nor on leave wef 23/1/97.

The said authority disallowed the leave on the ground of inadmissibility under FR 55 and as such subsistence allowance is admissible as per FR - 55.

Therefore, the question of joining the new assignement as SPM, Salema during the period of suspension does not arise.

1.7. That Sir, the A/D. Card (Form No. RP-54) marked as S-5, wherein the signature of the addressee is found not in legible manner, which is denied as signature of mine. The Inquiry officer is requested to examine the signature available in the A/D through a handwriting expert vide my written statement of defence dated 8.9.2000, but the Inquiry officer remained silent on the issue.

Thus it is proved that the signature which is found available in the A/D card (S-5) is not of mine.

1.8. That Sir, the undersigned has submitted further representation dated 10.2.97 (marked as S-6) addressed to the Supdt. of Pos, Dharmanagar Division, along with circular of the Department bearing No. 43-15/84 PE I Dated, 16.3.88, conveyed vide C.O. Shillong No. EST/20-19/88 83/II dated 28.3.88 and Directorate's letter No. 9-3/94 SPB II dated, 13.2.95 for re-consideration of the transfer of my services to general line on the analogy of the circulars as mentioned in the representation, the submission of which is considered as fundamental right of a Govt. employee and thereby there was no violation of rules committed by the undersigned.

The Inquiry officer in his Inquiry Report Dated, 12.11.2K could not able to prefer any thing against the point raised in my written statement of Defence Dated 8.9.2000.

Thus it is proved that there was no violation of rule for submission the representation (S-6).

Contd....P/11.

1.9. That Sir, the supdt. of pos Dharmanagar has furnished reply vide his no B-333/ pt- II Dated 10/3/97 (marked as S-7), the text and contention of which is not conformity with the rules for the purpose of transfer and posting of a LSG Accountant of 'Accountants line'. All the points raised in the representation Dated 10/02/97 were not summercised in the reply and were not logically discussed how they are not tenable or acceptable as provided under for disposal of representation preferred by a Govt. Servant.

The logical point raised in my written statement of defence Dated 8/9/00 was not denied by the Inquiry officer in his inquiry Report dated 12/11/2k and as such it is proved that the reply of the supdt. of pos Dharmanagar in his letter No. B-333/pt-II Dated 10.3.97 (marked As S-7) is irregular and not conformity with the rules.

1.10- That Sir, the signature in the A/D Card marked as S-8) is not of mine for the reason as stated in para 1.3 and para 1.7.

1.11. That Sir, The Inquiry Report Dated 12/11/2k is not based on evidence brought on record. He has failed to draw his interference and record his reasoned conclusions in the Inquiry Report. The assesment of evidence enclosed as Defence Document and arguments on each charge were not furnished as per rule. His findings is not based on evidence adduced during the enquiry. His findings of direct or indirect admission of charge cannot be taken into account as a complete proof of the instant Article of charge I, since he ~~cannot~~ could not able to proof the charge straightway and beyond reasonable doubt.

Thus it is were proved that the charge under Article I is false, fabricated and melafide.

2. ARTICLE - II

2.1. That Sir, the period of incumbancy for 27/4/96 to 31/10/96 as complaint Inspector Dharmanagar Division is quite incorrect as per chargesheet presented during the course of enquiry since I had been

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on leave from 1/10/96 to 31/10/96 vide supdt. of pos Dharmanagar Memo No. B-333/pt II Dated 17/10/96, while Shri Pradip Mazumder PA acted in my place with effect from the availing of incumbant's leave.

The copy of leave Memo bearing No. B-333/ pt II Dated 17.10.96 of the supdt. of pos Dharmanagar is enclosed herewith as Annexure - I.

The instant Annexure -I produced as Defence Document vide my written statement of Defence Dated 8/9/2000. But the Inquiry officer could not produce any point of non-tenability or non-acceptability on the point raised in my written statement of Defence.

Hence, it is proved that the period of incumbancy as offg. complaint Inspector, Dharmanagar Division from 27/4/96 to 31/10/96 envisaged in the chargesheet under the instant article of charge is not correct, which appears to be not specific and vague. The charge should always be specific and not vague as established vide :AIR 1972 Cal 27 : 1973 (2) SLR 297 ;1968 SLR 213 : 1968 SLJ 315 : 1968 cur LJ 174.

As such the instant charge is quashable on the grounds stated above.

2.2. That Sir, the letter bearing supdt. of pos Dharmanagar Division No. B-333/pt- II Dated 4/4/97 (marked as S-9) the text and contention of which is not the direction to attend medical board., for second medical opinion at R.G.M. Hospital Kailashahar on 08/07/97 as alleged in the instant article of charge of the chargesheet. The instant letter has been issued in pursuance of the request to the undersigned vide in- charge, R.G.M. Hospital, Kailashahar letter No. F.I. (8) GEN/SEN/IN/RGMH)/KLS/94/2517-21 Dated 25/6/97 to attend medical Board on 8/7/97 for unknown reason.

2.3. That sir, the factual position is that I was actually directed to the chief medical officer, Kailashahar to appear before the Medical board, for re-examination of my illness from 23/1/97 vide supdt. of pos Dharmanagar division letter No. B-333/pt II dt. 1/4/97. (Copy of which is enclosed as Annexure - 13). Accordingly, I attended the medical board, Kailashahar on 12/05/97 for re-examination of my illness wef 23/01/97 vide incharge ,RGM Hospital,kailshhar letter No. F.1(8)-GEN/IC/RGMH/KLS/94/3954-59 Dated 28/04/97 and the certificate of my attendance on the vary date has duly been endorsed

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by the medical officer of the medical board on the body of the said letter Dated 28/04/97 (Copy enclosed as Annexure - 14)

2.4. That Sir, meanwhile a letter was received under in-charge, RGM Hospital , Kailashahar vide his No. F.1(8)GEN/SEN/IN/RGMH/KLS/N/94/4517-21 Dated 25/06/97 (Copy enclosed as Annexure-15) which contains the request to the undersigned to attend medical board. Kailashahar on 08/07/97 with reference to the supdt, pf pos Dharmanagar letter No. B-333/ Dated. 13/6/97 (ascertained from i/c, RGM Hospital, Kailashahar letter Dated 25/06/97) But unfortunately the particular letter Dated 13/6/97 of the supdt. of pos Dharmanagar as mentioned/noted in the i/c RGM Hospital, Kailashahar letter dated 25/6/97 or its endorsement or any other letter of the supdt. of pos Dharmanagar or from any other departmental authority conveying any direction with reasons for attendance in Medical Board,Kailashahar on 8/7/97 was not received by the undersigned and accordingly prayed to the supdt. of pos Dharmanagar vide application Dated 3/7/97 (Copy enclosed as Annexure - 16) to intimate the circumstances, under which I have to attend the medical Board, Kailashahar on 8/7/97 at the request of the in-charge, RGM Hospital, Kailashahar without having any direction from the appropriate authority of the department. But unfortunately the supdt. of pos Dharmanagar directed me to attend the medical Board, RGM Hospital Kailashahar vide supdt. of pos Dharmanagar letter bearing No. B-333/pt. II Dated 4/7/99 (marked as S-9) without conveying the reason for attendance thereof.

2.5. That Sir, I have submitted an application Dated 7/7/97 to the supdt. of Pos Dharmanagar (Copy enclosed as Annexure- 17)enclosing an application for TA Advance for journey to Kailashahar written to the supdt. of pos Dharmanagar letter No. B-333/ pt- II dated 4/6/97 and a TA bill in duplicate for performance of journey to Kailashahar on 12/5/97 for attendance on medical board, but regret to state that the TA Advance as prayed for was not paid to me prior to performance of journey to Kailashahar on 08/07/97,which violated the provision of rule for payment of TA Advance prior to commencement of journey/tour, while the TA bill for my appearance at medical Board, Kailashahar on 12/5/97 has been sanctioned by the supdt. of pos Dharmanagar vide his sanction bearing No.E5-71/97 Dated 09/09/97 for Rs. 79/- which was paid on 11/7/97 under Dharmanagar H.O , Bill No. B-45 of 07/97.

2.6. That Sir, I proposed to appear before the medical Board, Kailashahar on 08/09/97 at the request of

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the i/c,RGM Hospital, Kailashahar for unknown reason but could not perform the journey on account of sudden illness and my attending physician of the sub-Divisional Hospital, Dharmanagar advised me to take rest for 5(five) days for restoration of present ailments w.e.f. 8/7/97 vide sub-divisional Hospital, Dharmanagar prescription/Ticket bearing No. 8602 Dated 08/07/97 (Copy enclosed as Annexure - 18).

2.7. That Sir, the matter has been brought to the notice of the supdt. of pos Dharmanagar vide my application Dated 9/7/97 (Copy enclosed as Annexure - 19) the copy of which was also endorsed to the i/c, RGM Hospital, Kailashahar and posted under certificate of posting (Copy enclosed as Annexure - 20) to the concerned authorities but regret to state that nothing has been heard from the authorities on the matter till this date.

All the enclosed Annexure from 13 to 20 have been forwarded to inquiry officer as Defence Documents alongwith my written statement of Defence Dated 08/09/2000 but the Inquiry officer could not able to raise any point of non-acceptance in the Inquiry Report against points/documents raised/enclosed in my written statement of defence D ted 8/9/2000.

2.8. That Sir, In analying the case under Article II (page-14 of Inquiry Report) the Inquiry officer stated that the undersigned has applied for TA advance for journey to Kailashahar to attend medical board on 8/7/97 which was not paid to him on 07/07/97.He also admitted to the illness of the undersigned wef 8/7/97,which stands in the way of performing journey to Kailashahar on the date fixed for the purpose. Thus it is proved that :-

(a) the undersigned was not paid TA advance for performing journey to Kailashahar on 8/7/97.

(b) the proposed journey to Kailashahar for appearing at medical Board on 8/7/97 could not be performed by the undersigned for his sudden illness on 8/7/97.

Thus it is well established that the findings of Inquiry officer on direct or indirect admission of charge under Article -II of the instant chargesheet cannot be taken as'Proof' of the charge beyond reasonable doubt . Since he could not able to give definite findings on the article of charge individually.

2.9. That Sir, the signature on the A/D Card (Form No.RP-54) marked as S-10 is not of mine. Which is required to be got verified/ examined by a handwriting expert as stated in my written statement

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of defence dated 8.9.00, but the Inquiry officer could not able to hear the claim of the undersigned and remain silent.

Thus it is proved that the charge under the instant Article II is not factual at all, false and malafide.

3. ARTICLE-III.

3.1. That Sir, in respect of the disputed period of incumbancy as complaint Inspector, Dharmanagar Division from 27.4.96 to 31.10.96 has already been referred under para 1.1. and para 2.1. of Article I and Article II of the instant representation. Hence it is needless to refer it once again herein.

Thus it is proved that the period of as shown in the chare-sheet as incumbancy as complaint Inspector, Dharmanagar Division from 27.4.96 to 31.10.96 in incorrect and as such the instant charge is quashable on the ground stated earlier.

3.2. That Sir, the charge under the instant article is not specefic rather vague since the allegution as stated in the chargesheet is non-compliance of order of transfer vide Supdt. of Pos, Dharmanagar Memo No.B-333/pt II Dated, 20.1.97, while the period of charges brought under the instant article of charges related to 27.4.96 to 31.10.96, which is quashable on the ground of non-specification of the period related to the charge.

The Inquiry officer could not able to refute the point raised in my written statement of defence.

Hence, it is proved that the period of charge as shown in the instant article of charge is not specific and vague, which is quashable as established vide : AIR 1972 Cal. 27 : 1973(2) SLR 297 ; 1968 SLR 213 ; 1968 SLJ 315 : 1968 Cur LJ 174.

3.3. The period of remaining on unauthorised absence from duty w.e.f. 23.1.97 onwards is not correct since the undersigned has applied for commuted leave on medical ground for 40 (forty) days w.e.f. 23.1.97 onwards duly supported by a medical certificate of unfitness to duty of my attending physician but the leave as prayed for was not rejected but not granted on the ground of inadmissibilaty under FR 55 (FR 55 : leave may not be granted to a government servant under suspension) vide Supdt. of Pos, Dharmanagar letter No. B-333/pt II dated 10.3.97 (Copy enclosed as Annexure-11) bollowed by a corrigendum vide Supdt. of Pos, Dharmanagar letter No.B-333/pt II dated 25.3.97 (Copy enclosed as Annexure- 12)

Therefore, the text and contention of the Supdt. of Pos, Dharmanagar letter No. B-333/pt II dated 10.3.97 now appears to be as follows :-

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"As per FR 55 No leave is to be granted to a Govt. servant who is under suspension, though this office issued revocation of your suspension order, But you are still to comply with the order. Hence, you are unauthorised absence from duty w.e.f. 23.1.97."

The centention of the above letter clearly clarifies that the suspension of the undersigned is still continuing for inadmissibility of leave under FR 55 and the subsistence allowance is admissible as provided under rule which has already been discussed in para 1.6. and thus the order of transfer issued infringing Departmental Rules as SPM, Salama, stands cancelled since the application of FR.55 and treatment of unauthorised absence from duty cannot run concurrently as established under different rules/or laws.

3.4. That Sir, the Inquiry officer clearly stated in his analysis under Article III of the instant Inquiry Report (Page-14) Dated, - 12.11.2K that the commuted leave onwards of the undersigned en medical ground was disallowed serving the reasons by the authority i.e. the undersigned was neither on duty nor on leave w.e.f. - 23.1.97.

As the authority disallowed the leave on the ground of inadmissibility under FR 55 and as such subsistance allowance is allowance on the decission of the Supdt. of Pos, Dharmanagar vide his No. B-333/pt II dated 10.3.97.

The charge the-refore, brought against the undersigned in the instant Article III, remaining on unauthorised absence from duty w.e.f. 23.1.97 is false and fabricated.

3.5. That Sir, no document and witness was produced/presented by the government against the instant article of charge and examined thereof during the course of enquiry since a particular document (S-1 and S-2) produced and exhibeted against under Article I cannot be presented in different article of charge as provded in enquiry under Rule 14 of CCS (CCA) Rules 1965.

Thus it is well established that the findings of Inquiry orricer on direct or indirect admission of charge under Article III of the instant chargesheet is contradictory and cannot be taken as 'proof' of the charge beyond reasonable doubt since the Inquiry officer could not able to furnish definete findings on the specific article of charge individually and catagorically.

Hence, the allegution of remaining on "unauthorised absence from duty w.e.f. 23.1.97 brought against the undersigned in the instant article of charge III proved baseless and dishonest for the end of justice and requires redressal.

Contd....P/17.

4. That Sir, Shri Bimalendu Dey Kanangoe, PA, Divisional office, Dharmanagar (SW-I), who is the Dealing Assistant of Staff Branch, Divisional office, Dharmanagar stated in his deposition that the undersigned is a TBOP Accountant vide Daily order sheet Dated, 22.6.00. He stated the whole episode regarding vindictive treatment to the undersigned by imposing malafide suspension, revocation infringing Departmental rules and also application of FR 55 in his deposition dated 22.6.00. It is ascertained from the deposition that he is wel conversent about the details of the charge brought against the undersigned.

During the course of cross examination he clearly stated that he himself is the Dealing Assistant of the file from where the charge sheet has been issued. He also admitted that he knows something about the rulings or service matters of Po And RMS Accountant, being a Dealing Assistant of staff branch. Being a dealing Assistant of staff branch, ~~Being a Dealing Assistant of staff branch~~, especially, the related files from where the charge sheet has been issued, he is responsible for all the staff matter as per allotment of works preserebed vide Supdt. of Pos, Dharmanagar Memo No. EST/B-I dated, 10.5.93. But strangely enough, he avoided to depose all the matters relating to questions arising out during cross-examination on the vague answer "no comments", while he deposed that he Knows-something about the rulings on service matters of PO And RMS Accountant. From the actions and activities of the instant SW-I it is clearly evident that he is concealing the truth out of fear and force of somebody else who is standing behind the screen. He could not also furnish the required certificate that the deposition has been furnished without fear, force and freeness of mind.

Under enquiry of Rule 14 of CCS (CCA) Rules, 1965, the Govt. has given the opportunity to the charged official to bring out the factual position and truth through cross examination to the witnes to have a fair and clear understanding of the whole case to the Inquiry officer, which could not be done for the vague answer of "no comments" of SW-I and such the deposition of SW-I is one sided, colourful one and non acceptable and prejudicial.

The Inquiry officer faited to put forword any point of disagreement in his Inquiry Report dated 12-11-00 against the instant point raised in my written statement of defence dated, 8.9.00.

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Thus it is proved that the Inquiry report dated 12.11.00 is biased and exparte.

4. That Sir, non granting of commuted leave for 40 days w.e.f. 23.11.97 on medical ground for inadmisability under FR 55 entitles subsistence allowance and non-payment thereof even after repeated applications/representations to the concerned authorities and even after submission of representation to the effect to the Inquiry officer vide daily order sheet Dated, 21.6.00 is violation of Article 311(2) of the Indian constitution as the undersigned could not receive a reasonable opportunity of defending himself in the disciplinary proceeding on account of financial strengency caused for non-payment of subsistence allowance as established vide : AIR 1973 SC 1183.

As such the instant charges as well as the enquiry as whole is liable to be quashed for violation of natural justice as provided under Article 311(2) of the Indian constitution.

5. That Sir, it is ascertained from the Inquiry report that it is not based on evidence brough on record. The evidence and the defence documents were not weighed and evaluated inpartially. The Inquiry officer failed to draw his interference and record his reasoned conclusion. The assesment of evidence and agreements on each charges were not done under reperate headings. Moreover, his findings as "Direct" and "Indirect" admission of charge cannot be taken into account as a "Proof" of each and every charge categorically and beyond reasonable doubt.

Thus all the facts stated in the representation bring about the violation of natural justice under Article 311(2) of the Indian constitution as well as violation of Article 14 of the Indian constitution vide established laws/or rules as such it is a fit case to be quashed/or dropped since the fundamental right of the undersigned has been circumvented or defeated by the ingenuity or dexterity of the crafty chargesheet and instant Inquiry Report of the Inquiry officer.

Therefore, it is prayed that your good office would be graciously pleased to exonerate the undersigned from the stigma as alleged in the charges after consulting of the relevent records of the proceeding.

And your humble applicant awaits your earliest possible action in the context and shall ever pray.

With regards.

Enclo:- Annexure-1 to 20.

Dated, at Dharmanagar,

The 15th /2000.

Yours faithfully,

Sd/- Jyotirmay Chakraborty 15/12/00

(JYOTIRMAY CHAKRABORTY),
LSG Accountant,
O/o. the Supdt. of pos,
Dharmanagar Division,
And
Offg. Complaint Inspector, Dharmanagar Divn.

Attested

Sd/- 2/3/01

B. RAMADEVI
Asstt. Headmaster
Home of Office & B. B.
B. B. Institution,
Dharmanagar, Tripura

—57— Recd on 04/04/01 under Regd letter no 5749 3/4/01

ANNEXURE-A/11

DEPARTMENT OF POSTS : INDIA

O/o the Superintendent. of Post Offices, Dharmanagar Division, Dharmanagar-799250.

Memo No. B-333/Pt.III, Dated, Dharmanagar the 03.04.2001.

In this office memo No. B-333/Pt.II, dated 12.08.98, it was proposed to hold an enquiry against Shri Jyotirmoy Chakraborty, Sub-Postmaster, Salema S.O. (Designated) under Rule-14 of the CCS(CCA), Rules,1965 the substance of the imputation of misconduct or misbehavior in respect of which the enquiry is proposed to be held, statements of misconduct or misbehavior in support of each article of charge, list of documents by which and list of witness by whom the article of charges are proposed to be sustained were set out and enclosed to the said memo as Annexure-I,II,III & IV respectively. The said Shri Jyotirmoy Chakraborty was directed to submit within 10(Ten) days of the receipt of the said memorandum a written statement of his defence and also to state whether he desired to be heard in person. The said Shri Chakraborty submitted his written statement of defence on 21st. August,1998 denying all the charges leveled against him. Considering his statement of defence and the gravity of the case Shri Ranjit Kumar Das, the then ASPO's(HQ), O/o the Superintendent of Post Offices, Dharmanagar Division, Dharmanagar was appointed as Inquiry Officer and Shri Subrata Das, the then SDIPO's, Kailashahar was appointed as Presenting Officer endorsing copies of both the appointments to the said Shri Jyotirmoy Chakraborty (Hereunder known as C.O.). The case was referred to the I.O. for conducting enquiry under Rule-14 of CCS(CCA) Rules,1965. The I.O., Shri Ranjit Kumar Das was transferred to Aizawl in the middle of enquiry, while it was resting at the stage of holding of oral evidence on behalf of the disciplinary authority. And, he was unable to hold the enquiry at Dharmanagar, while the C.O. was not in a position to participate in the enquiry at outstation. Accordingly the I.O. is replaced by Shri Narayan Das, ASPO's, West Garohills, Tura who concluded the Inquiry on 08.09.2000 and submitted his report on 12.11.2000.

2. The disciplinary authority agreed with the findings of the I.O. and endorsed a copy to the C.O. for submission of representation if any he may wish to make against the finding of the I.O. The C.O. submitted his representation against the findings of the I.O. on 15.12.2000 which, inter alia , contented the same plea, that were put up in his brief to the I.O. There was no allegation of irregularities in conducting the inquiry under Rule-14 of CCS(CCA) Rules,1965 adduced by the C.O..

Contd.....P/2 ...

Attested
S. B. Bhattacharjee
Asstt. Headmaster
Head of Office & D. B. B.
B. B. Institution,
Dharmanagar, Tripura

Attested
Bhattacharjee
Advocate
10/8/2001

3. I have gone through the report of the Inquiring Officer, the disciplinary file, the documents as well as oral evidences produced before the Inquiry officer, and the representation made by the C.O. against the I.O's report and the enclosures there to. The points which come up in the circumstances of the case and that pleaded by the C.O. have been considered giving full concentration to the case and observed as appended below :-

(i) The article of charge I is for that the C.O. had failed to carry-out the order of the competent authority vide S.Posts, Dharmanagar letter No.B-333/Pt.II, dated 20.01.97. wherein, he was directed to join as SPM, Salema. Being aggrieved on the said posting order, the C.O. represented before the Supdt. of Post Offices, which was rejected duly discussing in details, on the points raised by him. The C.O. in his defence, pleaded the followings :-

(a) The C.O. denied his incumbency as Complaint Inspector, Dharmanagar from 27.04.96 to 31.10.96 showing the plea that during the period from 01.10.96 to 30.10.96 he was on leave and thereby the charge is not specific. The ground, as shown by the C.O. is too much flimsy. Availing of leave from 01.10.96 to 30.10.96 is a part of incumbency and continuation of incumbency to the post from which the C.O. proceeded on leave. Therefore, it cam easily be held that the C.O's incumbency as Complaint Inspector during the period from 27.04.96 to 31.10.96 is valid and correct.

(b) The C.O. pleaded that, he was working as Accountant Prior to his Officiating as Complaint Inspector and his promotion under TBOP is a placement in LSG-Accountant as the C.O. opted for Account-line in accordance with Dte's circular No. 43-15/84.PE.I, dated 16.03.88 and he cannot be posted against the post of general line and therefore, the Supdt. of Post Offices, Dharmanagar's memo No. B-333/Pt.II, dated 20.01.97 (Ex-1) ordering the C.O. to join as SPM, Salema is infringement of departmental rules and laws.

The averment of the C.O. is neither convincing nor tenable. Rather it is found illogical. The post of Accountant is a part and parcel of the Postal Assistant cadre with certain monthly allowance. It bears no distinct pay-scale, nor any distinct cadre. On introduction of one time bound promotion and Biennial cadre review schemes, there is no particular/ distinct promotion for accountant. The promotion of an incumbent is only with reference to his initial appointment to the cadre of Postal Assistant, nor for

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26/4/01

A. R. RAMAKRISHNA
Asstt. Headmaster
Head of Office & E. B.
E. B. Institution,
Ernakulam

holding the Post of accountant and therefore maintenance of separate line for accountant is no more.To simplify the promotion and avenue thereof, the Postal Directorate has issued circular from time to time modifying the earlier ones. The Dte's letter No.44-60/96 SPB-II, dated 24.09.96 clearly postulates that there is no distinction in between the general line and accounts line except for limited purpose of functional necessity. This clarification/ modification is the latest one and suppressed the earlier ones.

The C.O. was placed under suspension during the period from 01.11.96 to 20.01.97 for his alleged misconduct or misbehaviour reported to have been committed while he was functioning as accountant as well as Complaint Inspector, Dharmanagar as there was a threat of manipulation tempering of records. The suspension order was revoked on 20.01.97 with a view to utilize his service in other area of the department and ordered him to join as Sub-Postmaster, Salema which is a equal post that substantively hold by the C.O. and where possibility of tempering of evidences is totally nil. Being aggrieved, the C.O. agitated stage by stage before the appellate and the Reviewing authorities. Both the authorities rejected the representation and uphold the posting order. The latest one is as on 01.06.98. The C.O. thereafter neither agitated before any other authority nor joined the duty as ordered earlier. The fundamental rules is that the service of an employee can be had in any manner required by proper authority without prejudice to the status. In this instant case, the C.O. was not posted to a lower cadre than that what he possessed, rather in same cadre. The circumstances and the proposition of the rules clearly justified the posting order of the C.O. Thus it is crystally clear that the C.O. wantonly and willfully disobeyed the written order of the competent authority.

(c) The C.O. denied the signature on the A/D card marked As Ex.S-2 and desired consultation of hand writing expert .

The Ex.S-2 is an A/D card of a registered letter containing the memo No. B-333/Pt.II, dated 20.01.97 which enjoined the lifting of suspension order of the C.O. ordering him to join as Sub-Postmaster, Salema. It appears from the Ex.S-3 that the C.O. had received the said memo and represented against the posting order contained therein. The denial of the signature on the AD card desiring consultation of the hand writing expert is nothing but to create doubt in the mind of the concerned authority.

(d) The C.O. contented that the disposal of the CO's Representation dated 29.01.97 made under S.Posts, Dharmanagar's

Attested

26/4/09

D. D. PAMPANCHA
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B. B. Institution,
Dharmanagar, Tripura (N)

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letter No.B-333/Pt.II, dated 31.01.97 is not confirmatory to the rules vide Dte's circular No.9/7/84-SPB/II, dated 26.09.84. In support the C.O. stated that the refusal of promotion in the cadre of LSG-Accountant cannot be treated relinquishment of Accounts line.

The contention of the C.O. is not at all tenable. Rejection of his representation against the posting order as SPM, Salema is based on correct footing , because the service rendered by the C.O. as accountant was in-question and it was apprehended that there was probability of manipulation/ tampering of records by the C.O. for which he was placed under suspension with effect from 31.10.96(A/N) and revocation was made with a view to have his service in other area of the Department where no threat of manipulation of records. Further the Directorate letter No.9/7/84-SPB-II, dated 26.09.84 has been modified by subsequent direction. The latest one is 44-60/96-SPB-II, dated 24.09.96. The C.O. submitted appeal against the said posting order to the appellate authority who uphold the order. The C.O. further preferred petition to the Member Personal, Postal Service Board which also was rejected. Thus the order of the S.Posts, Dharmanagar is harmonized with the rules and the CO's contention cannot be held good.

(e) The C.O. argued that the non-produce of thedocuments vice the surrender letter of accounts line dated 10.10.91 of the C.O. and acceptance thereof, if any, is violation of the provision of natural justice. The C.O. further argued that the Dte's circular No.44-60/96-SPB-II, dated 24.09.96(Ex.S-4) is nothing but the clarification/modification of TBOP/BCR scheme for protection of the seniority and promotion of certain official and exclusively for gradation list which does not mean abolition of accounts line.

The argument of the C.O. does not at all hold good . The documents sought for viz. The reported surrender letter is very much lying with him and he annexed(Annexure-6&Ex.D-1) the same with his brief as well as representation against the I.O's report for taking into account. The same is considered and therefore, no violation of natural justice can be alleged. His interpretation that Ex.S-4 is exclusively for gradation list also cannot be sustained as it is ipso facto clarification and modification of earlier orders.

(f) The C.O. argued that in certain circles and certain Divisions the TBOP/BCR officials are working against the Accounts' line and he supposed to have it. His transfer in general line is therefore, violation of Article 14 of the constitution.

Attested

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Head of Office & D. D. H.
R. E. Institution,
Agartala, Tripura

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This averment also cannot be accepted to as because the competent authorities of certain Circles and certain Divisions might have required the service of their respective staff for that particular job in which the reported persons are posted. On that analogy, the C.O. cannot claim his right to have his posting against the particular post. Each case is to be judged on its own merits. And therefore, there is no violation of Article 14 of the constitution.

(g) That the representation dated 10.02.97 of the C.O. replied by The Supdt. of post Offices, Dharmanagar (Marked as Ex.S-7) is not conformity to the rules and therefore no violation by the C.O..

The contention of the C.O. is quite wrong. The C.O. had preferred representation dated 10.02.97 on the same rhyme and reasons that contained in his representation dated 29.01.97 and it was replied to referring the reasons delineated in the reply of earlier representation. The agitation against the posting order and reply to the representation made by the C.O. before the appellate and the reviewing authority to no effect and thereafter he is silent for a couple of years. Therefore, it is obviously stood that he is contented with the order of the reviewing authority and consequently the order of the Supdt. of Post offices, Dharmanagar is logical and lawful. Non carry out of which is insubordination.

(h) The C.O. alleged that, the inquiry report is not based on evidence brought on record.

The C.O. did not put up a single instance as to the particulars of record brought extraneously on arriving decision. Mere allegation without supporting evidence cannot prove it-self. The I.O's report is based on the records produced before him in course of inquiry.

(i) The C.O. argued that, the Post of LSG Accountant and the post of SPM, Salema are of two different line of post in connection with transfer. The functioning of both posts are different and cannot be treated as equivalent grade.

The averment of the C.O. is not correct. The pay scale of both the Posts are same and are of same LSG cadre. The Posts are equivalent to each other. The C.O. was initially appointed in the cadre of Postal Assistant (the erstwhile Postal clerk) and trained in Postal functions. On getting some written test the C.O. was posted as Postal Accountant with monthly allowance which was absorbed in fixation of his pay. On acquiring promotion replacement to the LSG cadre under TBOP scheme reckoning the service rendered in Postal Assistant cadre, not at all only as Accountant. As soon as the C.O. borne to the LSG cadre,

Attested

Asstt. Superintendent of Offices & D. B. R. B. Institution, Dharmanagar, Tripura

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the C.O. ceased to be the accountant and be abided by the ruling on LSG cadre. According to Dte's circular No.44-60/96-SPB-II, dated 24.09.96, there is no distinction between account's line and general line except for limited purpose of functional necessity required by the employer.

(j) From the discussion made in the fore-going sub-paras, it is clearly stood that. the C.O. could not extenuate the charge framed against him in article of charge-I. It is clearly proved that the memo No. B-333/Pt.II, dated 20.01.97 issued by the Supdt. of Post Offices, Dharmanagar revoking his suspension order and ordering him to join as Sub-Postmaster, Salema was received by him on 22.01.97. but the C.O. did not, deliberately, acted upon till this day despite his representations for redressal have been turned down by the reviewing authority lastly. He did not thereafter agitate before any other authority for the last two and a half year. The charge is, thus, proved without doubt.

(ii) . . Article of charge No.II is for non-attendance of the C.O. before the Medical Board for obtaining second medical opinion as directed by the Supdt. of Post Offices, Dharmanagar vide his letter No. B-333/Pt.II, dated 04.07.97. The C.O. denied the charge on the grounds that :

(a) The C.O. contented that the text of the S.Posts, Dharmanagar's letter No. B-333/Pt.II, dated 04.07.97 (Ex.S-9) is not the direction to attend the Medical Board for second medical opinion at R.G.M. Hospital, Kailashahar on 08.07.97, but the letter was issued in pursuance of the request of the C.O. having reference to the letter No.F1(8)Gen/SEW/IN/RGMH/KLS/N/94/4517-21, dated 25.06.97 issued by the In-charge, R.G.M. Hospital, Kailashahar directing the C.O. to attend before the Medical Board on 08.07.97.

The contention of the C.O. is not at all correct. The C.O. him-self in his brief as well as in his representation against the I.O's report categorically states that on receipt of the call letter of the In-charge, R.G.M. Hospital, Kailashahar viz. No.F1(8)Gen/SEW/IN/RGMH/KLS/N/94/4517-21, dated 25.06.97 he him-self wanted to know whether his attendance before the Medical Board was necessary. In reply the S.Posts, Dharmanagar intimated him to attend before the Board (Ex.S-9). Therefore, it is crystally clear that the Ex.S-9 is containing clear direction to appear before that Medical Board.

(b) The C.O. further contented that in accordance with the S.Posts, Dharmanagar's direction vide letter No.B-333/Pt.II, dated 04.07.97, the C.O. attended the Medical Board on 12.05.97 for

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obtaining the second medical opinion and also under the direction of the In-charge, R.G.M. Hospital, Kailashahar vide his No.F.1(8)-GEN/ IC/RGMH /KLS /94/3954-59, dated 28.04.97 and the certificate of attendance endorsed by the Medical Officer on the body of S.Posts, Dharmanagar letter was obtained (Annexure 14).

The Annexure 14 to the representation of the C.O. reflected that an initial of one reported to be the Medical Officer is available. It is not resemble to the initial/signature of the In-charge of the R.G.M. Hospital or the Chairman of the Board. The C.O. did not produce the person as defence witness for authenticating the initial. However, his appearance before the Board on 12.05.97 cannot be stood in the way of his appearance before the Board on 08.07.97 as called for by the Board followed by direction of the Competent authority. Non attendance is the violation of the written order of the Competent authority.

(c) That the C.O. was in dark as to the reason of his Attendance before the Medical Board on 08.07.97 as he sought for the circumstances under which he was directed to attend before the Medical Board on 08.07.97 to the S.Posts, Dharmanagar vide Annexure-16. On receipt of the S.Posts, Dharmanagar's letter dated 04.07.97, the C.O. applied for TA advance on 07.07.97 for the journey to be under taken by him in attending before the Board on 08.07.97, but the advance was not paid to him.

It is not correct that, the TA advance was not sanctioned, but the C.O. did not take payment of the amount which was sanctioned as soon as the application is received vide No.E5/TA-advance-72/97. Since he was directed to comply with the call of the In-charge, R.G.M. Hospital, Kailashahar, he was supposed to comply. Non-compliance is the in-subordination to the superior's order.

(d) That the C.O. could not perform the journey to attend before the Medical Board on 08.07.97 due to his illness in support of his contentions he submitted an OPD-Ticket bearing No. 8602 dated 08.07.97 of Dharmanagar Hospital and the matter was reported to the concern authority on 09.07.97.

This plea put forward by the C.O. is also failed to sustain justification toward his non-attendance before the Medical Board on 08.07.97 as because the necessity of second medical opinion does arise only when there is first medical opinion. The OPD, Dharmanagar Hospital's direction to take rest for 5(Five) days is a first medical opinion and also the direction does not contain bed rest. Nor the C.O. was

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D. B. Institution
Dharmanagar, Tripura

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admitted to the Hospital. Nor there was advice not to undergo any journey. Further the C.O. was supposed to proceed Kailashahar on 07.07.97, i.e. the previous day to the date fixed for as he had reported to have proceeded a day earlier on previous occasion. But he did not.

(e) The C.O. denied the signature on the A/D card in acknowledgement of the letter of the S.Posts, Dharmanagar, dated 04.07.97 of his own and requested for having hand writing expert's opinion.

This is a contradictory argument, while the contents of the register letter in respect of which the A/D is concerned is admitted by the C.O. to have been received and accordingly he made prayer for TA advance, he denied the signature in the A/D card. The C.O. willfully put his initial in a manner so that he can deny as his own at a later stage and to take advantage thereof. Thus his denial is nothing but to create ambiguity in the mind of the authority concerned.

(f) In the premise of the context delineated herein (sub-para II ibid.) above, it is established that the C.O. willfully and wantonly had failed to appear before the medical board convened on 08.07.97 at R.G.M. Hospital, Kailashahar, although, he received the call letter of the In-charge,R.G.M.Hospital, Kailashahar viz. No.F1(8)Gen/SEW/IN/RGMH/KLS/N/94/4517-21, dated 25.06.97 and the direction of the Competent authority viz. No.B-333/Pt.II, dated 04.07.97 well in time. The C.O. failed to exculpate him-self. Nor he could enunciate the circumstances lessening the gravity of charge. The charge is proved.

(iii) The article of charge No. III is for his unauthorized absence from duty w.e.f. 23.01.97 violating the provision of Rule-162 of P&T Manual Volume III. The C.O. denied the charge and put forward the following reasons :-

(a) That the charge is not specific as his incumbency as Complaint Inspector of Dharmanagar was not for the entire period from 27.04.96 to 31.10.96 and he was on leave from 01.10.96 to 30.10.96.

The argument is quite untenable. The period of leave is a part and parcel of the incumbency hold by an official before proceeding on leave.

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Sd
26/4/01
Asstt. Accountant
Head of Office & B. B. E. Institutes,
Agartala, Tripura (W)

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(b) That the C.O. argued that, the period of charge brought under the instant article of charge relates to 27.04.96 to 31.10.96 while the allegation of non-compliance of transfer order issued under memo No. B-333/Pt.II, dated 20.01.97 and therefore it is not a specific.

This argument of the C.O. is suffered from generality and naturality. The C.O. was under suspension during the period from 01.11.96 to 20.01.97 for his alleged misconduct and misbehaviour that reported to have been committed during his incumbency as Complaint Inspector as well as accountant. The S.Posts, Dharmanagar's memo No. B-333/Pt.II, dated 20.01.97 is the revocation order of the suspension which is continued action of his performance during the period from 27.04.96 to 31.10.96 and thereafter he did not perform his duty. The fact has been enumerated in the article of charge as well as in the statement of imputation of misconduct and misbehaviour clearly and specifically. The arguments therefore, failed to refute the charge leveled against him.

(c) That the period of remaining on unauthorized absence with effect from 23.01.97 onwards is not correct since the C.O. applied for Con muted leave on medical ground for 40(Forty) days w.e.f. the said date duly supported by a medical certificate of unfitness. The leave was not granted on the contention that as per FR-55 no leave is to be granted to a Govt. servant who is under suspension, though the S.Posts, Dharmanagar issued revocation of suspension order vide Annexure-11 & 12.

The argument is not at all convincing. Mere submission of application for leave does it-self not ensure granted. Granting of leave is subject to satisfaction of the leave granting authority. The Annexure-11 & 12 to the representation of the C.O. against the I.O's report can not be said the suppression or modification of the revocation order of suspension. The logical meaning of the same is that no leave can be granted unless and until the C.O. assume the duty. Any prudent person in the instant circumstances will come into conclusion of those letters as rejection of leave prayed for on the ground of non-joining on revocation and non-satisfying. Meaning cannot be derived as continuance of suspension. Once revoked cannot be continued. Instead, a fresh order of suspension on separate ground of misconduct and misbehaviour is absolutely necessary. Ergo, the contention of the C.O. that he is on continued suspension cannot be sustained.

(d) That No document and witness was produced by the disciplinary authority in respect of instant charge. Therefore the charge is not proved

Attested
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Asstt. Hoodmaster
Head of Office & B. B. Institution,
Dharmanagar, Tripura

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The plea is of no avail in the instant charge and circumstances thereof. The Ex.S-1 clearly evident that the suspension order of the C.O. was lifted on 20.01.97 ordering him to join and work as Sub-Postmaster, Salema. Instead of assumption of the charge of SPM, Salema, the C.O. applied for 40(Forty) days leave and thereafter remained silent and on unauthorized absence from duty. No where, in course of entire proceedings under Rule-14 of C.C.S.(CCA) Rules,1965 he asserted that he performed the duty of any kind any where. The dealing assistant of the staff Branch, office of the S.Posts, Dharmanagar (SW-1) categorically state that, the C.O. did not assume the duty till then. And therefore, it is beyond doubt that the C.O. did not perform his duty willfully and wantonly, since revocation of the suspension order.

(e) That the C.O. contented that the deposition of the SW 1 Shri Bimalendu Dey Kanangoe, P/A, Divisional Office, Dharmanagar is one sided and not admissible.

The veracity of deposition of SW-1 is not at all in-question as the questions that put during cross examination to which he expressed "No comments" is related to the interpretation of the prayer for redressal of grievances of the C.O. and the reply made by the Supdt. of Post Offices, Dharmanagar. He aptly and prudently replied as he is not authorized to comment upon or to clarify them. The SW-1 is to perform the clerical job. The dealing assistant is not empowered to clarify the meaning of the letters and to take decision thereon. Therefore, his deposition is admissible.

(f) That the C.O. further pleaded that non granting of leave and non payment of subsistence allowance even after repeated representations to concern authority had violated the reasonable opportunity on defending him-self in the disciplinary proceedings on account of financial stringency.

The averment of the C.O. is quite illogical. Leave connot be claimed as of right. Granting of the leave is subject to the satisfaction of the leave granting authority. In this instant case, the C.O. was informed that no leave can be granted unless and until he assumed the charge as discussed in sub para iii (c). The prayer for granting of leave was turned down. Further, the question of payment of subsistence allowance does not arise as because the C.O. was not al all under suspension, as soon as the suspension order is revoked, the continuance of suspension is automatically ceased irrespectively whether the suspended official acted upon the revocation order or not. The financial stringency, if any, to the C.O. is for his own cause of action, not, at all derived from the action of the employer.

Attested
Sunil
26/9/
B. S. RAMASOBRA
Asstt. Headmaster
Head of Office & D. B. O
B. B. Institutes,
Dharmanagar, Tripura (N)

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(g) The observations made in this sub-para clearly established that, the C.O. had received the Supdt. of Post offices, Dharmanagar memo No. B-333/Pt.II, dated 20.01.97 ordering the revocation of suspension order and directing to join as Sub-Postmaster, Salema , but the C.O. did not act upon the said order. Being aggrieved on the posting order, he agitated for redressal before the appellate and the reviewing authorities who up hold the aforesaid order. Still the C.O. did not assume the assignment. Instead, remained on un-authorized absence for such long period, obviously, cause strain and hardship over the existing staff. The rule 162 of P&T Manual Volume-III emphasizes that the official should inform his controlling authority the reason and the circumstances under which he is unable to attend duty by quickest mean. In this instant case the C.O. failed to communicate the reasons and the circumstances under which he failed to perform the duties. It further postulates that the leave should be availed after having granted, but nothing in this regard is existed. He failed to maintain the principle of the said rule. The C.O. failed to prove his innocence and therefore, the charge is proved.

4. Under the conspectus of the observations made herein above and the circumstances of the case clearly and obviously stood that all the charges are proved beyond shadow of doubt . The gravity of the offences are too serious warranting severe punishment. Taking into account the length of service rendered by the C.O. and his present age, I have taken a lenient view and concluded the proceeding with following order.

ORDER

I, Shri Sunil Das, Superintendent of Post offices, Dharmanagar Division, Dharmanagar do hereby impose the penalty of 'Compulsory retirement' upon the said Shri Jyotirmoy Chakraborty, the Sub-Postmaster, Salema(designated) with immediate effect.

Sd/-(SUNIL DAS)
Superintendent of Post Offices,
Dharmanagar Division, Dharmanagar-799250.

Copy to :-

1) Shri Jyotirmoy Chakraborty, Sub-Postmaster Salema S.O. (designated), now at Thana Road (Near Netaji Road entrance), Dharmanagar-799250.
2) The Postmaster, Dharmanagar H.O. for information and necessary action.
3) The DA(P), Kolkata-12 (Through the Postmaster, Dharmanagar H.O.).
4-5) The Chief Postmaster General (Staff/Vigilance), N.E. Circle, Shillong-793001 for information.
6-10) The Disc./CR./Personal/Vig./Punishment file of Divisional Office, Dharmanagar.
11) O/C.
12) Pension Sec., Divisional Office, Dharmanagar.
13) Spare.

(SUNIL DAS)
Superintendent of Post Offices,
Dharmanagar Division, Dharmanagar-799250.

Attested
A. K. BARDHAN
Asstt. Headmaster
Head of Office & D. D.
B. B. Institution,
Dharmanagar, Tripura

Attested
Advocate
10/8/2001

TO

THE DIRECTOR OF POSTAL SERVICES,
OFFICE OF THE CHIEF POSTMASTER GENERAL,
NORTH EASTERN CIRCLE,
SHILLONG - 793 001.

(THROUGH THE SUPDT. OF POS DHARMANAGAR)

Sub :- Appeal for redressal in connection with penalty of Compulsory Retirement under Rule 11(VII) of CCS(CCA) Rules, 1965 - case of Shri Jyotirmay Chakraborty LSG Accountant, office of the Supdt. of Pos: Dharmanagar Division, Dharmanagar.

Ref :- Supdt. of Pos, Dharmanagar Division Dharmanagar Memo No. B-333/ pt. III Dated 03/04/2001.

Respected Sir,

Most humbly and respectfully I would like to importune you in your busy schedule with an ardent belief that the circumstances submitted herein would deserve your kind and sympathetic consideration .

1. That, Sir the Memo of articles of charges bearing supdt. of Pos, Dharmanagar No. B-333/ Pt II Dated 12/8/98 for alleging unauthorised absence from duty has been received by me on 17/08/98.

2. That Sir, the required written statement of defence against the charges has been submitted to the supdt. of Pos. Dharmanagar vide application Dated 21/08/98.

3. That Sir, Shri Ranjit Kr. Das ASPOS(HQ) O/O the supdt. of Pos, Dharmanagar has been appointed as Inquiry officer to enquire into the charges vide Supdt. of Pos. Dharmanagar Memo No. B-333/ pt III Dated 17/9/98.

4. That Sir, Shri R.K.Das Inquiry office has directed vide his letter No. I.O./INQ/2/J Chakrabarty Dated 15/10/98 (Copy enclosed as Annexure - I) to attend the preliminary hearing on 10/11/98. to enquiry into the charges framed against me vide supdt. of Pos, Dharmanagar Memo No. B-333/pt III Dated 12/8/98.

5. That Sir, on the prescribed date of preliaminary hearing on 10/11/98 a different Memo of articles of charges bearing Supdt. of Post offices, Dharmanagar No. B-333/pt III Dated 17/09/98 has been presented for enquiry. The presenting officer has read out the same and explained the details of articles of charges vide Daily order sheet Dated 10/11/98 (Copy enclosed as Annexure -2).

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6. That Sir, the regular hearing has been conducted by the Inquiry officer on the following Dates, the respective Daily order sheets are enclosed herewith for your kind persual :-

Date of hearing.	Enquiry made against. the charge sheet	DOS Enclosed as
25/01/99	Supdt. of Pos, Dharmanagar Memo No. B-333/DISC Dated 17/9/98	Annexure - 3
5/05/99	- D O ---	" - 4
29-30/6/99	-- D O ---	" - 5
10/8/99	-- D O ---	" - 6
11/11/99	-- D O ---	" - 7
21/6/00	No.BB-333/pt III Dated 17/12/99	" - 8
22/6/00	-- D O ---	" - 9
24/7/00	-- D O ---	" -10
8/9/00	-- D O ---	" -11

7. That Sir, it is ascertained from the details enquires that the enquires of three charge sheets bearing same articles of charges have been conducted concurrently, Viz. (i) B-333/pt- III Dated 17/9/98,(ii) B-333/DISC Dated 17/9/98 and (iii) BB-333/ pt- III Dated 17/12/99.

8. That Sir, the presenting officer has submitted the written brief vide has letter No. AI/DISC Dated 15/9/00 against the enquiry held under Supdt. of Pos, Dharmanagar Memo No. B-333/ pt- III Dated 17/9/98.

9. That Sir, the Inquiry officer vide his letter No. INQ-14 / J.M. Chakrabarty Dated 12/11/2k has submitted the Inquiry report with reference to the charge framed against under Supdt. of Pos, Dharmanagar Memo No. B-333/pt- II Dated 12/08/98, whose enquiry was not conducted yet.

10. That Sir, the Supdt. of Pos, Dharmanagar vide his memo No. B-333/pt- III Dated 03/04/2001, has passed the final order awarding penalty under rule 11(VII) of CCS(CCA) Rules 1965 with reference to the fabricated Inquiry Report Dated 12/11/2k without consulting the records of enquiry.

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11. That Sir, the application Dated 08/11/99 submitted to the Supdt. of Pos, Dharmanagar (Copy enclosed as Annexure - 12) alleging bias against shri R.K. Das Inquiry officer along with other claims as stated thereon and it is ascertained that my application Dated 08/11/99 has been accepted by the Chief Postmaster general, N. E. Circle, shillong and the Shri R.K. Das has been replaced by Shri Naroyan Das, who was appointed as Inquiry officer to conduct the further Inquiry vide Supst. of Pos, Dharmanagar Memo No. B-333/pt-III Dated 17/12/99 (Copy enclosed as Annexure - 13) . But unfortunately other claims were not materialised as accepted vide my application Dated 08/11/99.

12. That Sir, it is ascertained from the Supdt. of Pos, Dharmanagar Memo No. B-333/ pt -III Dated 17/12/99 that the appointment of Shri Naroyan Das as Inquiry office has been made on the proposal of Chief Postmaster General N.E. Circle Shillong who was also directed to complete the enquiry with (2) two months as prescribed thereon.

13. That Sir, the Chief Postmaster General N.E. Circle shillong cannot make any proposal to a particular person for appointment of an Inquiry officer against enquiry under Rule 14 of CCS(CCA) 1965 since the CPMG, N.E. Circle shillong has acted himself as Revision Authority for disposal of my Revision petition Dated 04/09/98 vide his order No. Staff/Misc/ Adv. Remarks Dated 03/03/2000, conveyed vide Supdt. of Pos, Dharmanagar letter No. CR/Con/DNR/97 Dated 07/03/2000.

14. That Sir, the instant Inquiry officer has also failed to complete the enquiry with (2) two months as prescribed in Supdt. of Pos, Dharmanagar Memo No. B-333/ Pt -III Dated 17/12/99.

15. That Sir, (a) application Dated 16.2.00 (copy enclosed as Annexure-14) and Dated 5.5.00 (copy enclosed as Annexure-15) alleging irregularity of appointment of Sri Narayan Das, as Inquiry officer and (b) non-completion of enquiry within (2) two months as prescribed has been submitted to the Supdt. of Pos, Dharmanagar with a request for taking necessary action as per relevant rules, but nothing has been taken by the concerned authorities and continued the enquiry further violiting the provision of G.I. Instruction of para (16) below Rule 14 of CCS(CCA) Rules, 1965 (Compeled in Swami's manual on Disciplinary proceedings, for central government servants, seventh edition - 1997).

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16. That Sir, the Inquiry Report on the above subject is based upon supression of facts and misinformation and disinformation on all the articles of charges and there are hit by the Principles of Nature Justice and thus all the articles of charges and penalty thereof without conducting the enquiry of charges framed under Supdt. of Pos, Dharmanagar Memo No. B-333/ pt -II Dated 12/8/98 are liable to be quashed.

17. That Sir, the articles of charges submitted during the course of enquiry other than the Supdt. of Pos, Dharmanagar Memo No. dtd. 12/9/98) is false, perverse and dishonest and flies in the facr of facts and laws as stated below :-

ARTICLE - I : (As per charge sheet submitted during enquiry)

1.1. That Sir, yhe period of incumbancy from 27/4/96 to 31/10/96 as complaint Inspector, Dharmanagar as per charge sheet presented during the course of enquiry is quite incorrect since I had been on leave from 1/10/96 to 30/10/96 vide Supdt. of Pos,Dharmanagar Memo No. B-333/pt- II Dated 17/10/96 whilas Pradip Majumdar P.A. acted in my place with effect from the availing of incumbants leave.

The instant Leave Memo produced as Defence Document vide written statement of defence Dated 8/9/2000. But the Inquiry officer could not produce any point of non-tenability or acceptability on the points raised in the written statement of Defence.

Hence it is proved that the incumbancy as offg. complaint Inspector, Dharmanagar 27/4/96 to 31/10/96 as per chargesheet submitted during the course of enquiry is not correct. The Charge should always be specific and not vague as established vide : AIR 1972 Cal 27 ; 1973 (2) SLR 297 ; 1968 SLR 213 : 1968 SLJ 318 ; 1968 cur LJ 174.

The Inquiry office could not produce any disagreement on the point raised by the undersigned in the written statement of Defence and submitted enquiry report against the charges framed under supdt. of Pos, Dharmanagar vide his Memo No. B-333/pt- II of 12/8/98 whose enquiry was not conducted earlier.

The disagreement made in the Final order on Memo No.B-333/ Pt.- III Dated 03/04/2001 in para 3(i) (a) violated the provision of para(7) of G.I. instruction below Rules 15 of CCS(CCA) Rules 1965 (Compeled in Swam's Manuac on Disciplinary proccding for central

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Government servants, seventh edition, 1997) Since the authority could not communiate the reason of disagfeement of Inquiry Report before submission of representation by the undersigned.

1.2. That Sir, I have been working a qualified PO And RMS Accountant, Dharmanagar Division since 1981. Consequents on the implementation of Time Bound (one) promotion scheme I became a LSG Accountant since 30/06/1989 as per provision laid down in para 21 of directorate's No. 31-26/83 PE- I Dated 17/12/1983 (Copy enclosed as Annexure-16) and opted 'Accountants line' of PO And RMS Accountant prior to placement as LSG Accountant, on offer as oer instruction contained in Directorate's No. 9/7/84 SPB -II Dated 26/9/84 (Copy enclosed as Annexure - 17) which has been treated as final and cannot reoptable as provided under Directorate's Circular No. 43-15/84 PE Dated 16/3/86 (Copy enclosed as Annexure - 18)

All the Annexure from SL 16 to SL 18 have been submitted as Defence document vide written statement of Defence Dated 08/9/00 but the Inquiry officer could not able to produce any point of disagreement against the Defence documents produced thereon and submitted Inquiry Report Dated 12/11/2k against the charges framed under Supdt. of Pos, Dharmanagar Memo No. B-333/pt - II dated 12/8/98 without going through the Daily order sheets of the enquiry [illegible]

The disagreement made by the Supdt. of Pos, Dharmanagar in para 3(i)(b) violated the provision of para 7 of G.I. Instruction below Rule 15 of CCS(CCA) Rules 1965 since the Supdt. of Pos, Dharmanagar could not communicate the reason of disagreement on Inquiry Report before submission of representation by the undersigned.

The Directorate's letter No. 44-60/95 SPB-II dated 24/9/96 as stated (Copy enclosed as Annexure - 19) is for clarification/modification of TBOP/BCR Scheme for protecting the seniority and promotion of some officials whose seniority were adversely effected by adoption of TBOP/BCR Scheme. It is exclusively for gradation list which does not means abolition of the aforesaid two lines of service. which is holding good till thid day as a rule of Law. The letter dated 24/9/96 was not issued in suppression previous orders since there is no nofification is made in the circular regarding suppression of all other previous orders stating the files Nos regarding cancellation of the 'Accountants line' and general line' of PO And RMS Accountant from the Placement of TBOP Scales on the basis of option exercises finally.

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Had there been any circulation regarding abotition of two lines of Posts viz. Accountants line and General line, then CPMG, may not be directed by Directorate vide has letter No. 9-3/97-SPB-II, Dated 1.6.1998 (copy enclosed as Annexure-20) to reexamine the case of posting to 'Accountants Line' on completion of Rule 14 enquiry. The said Authority stated in last sentence of para 3 of letter dated 1.6.98 that since the undersigned was proveded against under Rule 14 of CCS(CCA) Rules,1965 and in this circumstance posting as SPM in general line is not violation of the orders. The transfer was not made on the ground of non-difference between Accounts line and general line as established in the said letter.

Thus it is established that the transfer of the undersigned on the ground of non-difference between Accounts line and general line was not made as per Directorate letter dated 1.6.98. Both the lines are not abolished after adoption of TBOD/BCR scheme which are holding good as a rule or law till this date.

Besides, the particular document the Directorate letter Dated 1.6.98 was neither relied upon by the Govt. as listed documents nor produced as other document during the course of enquiry and the Inquiry officer was also not referred the instant letter in his Inquiry Report Dated 12.11.2K which is viblation of enquiry under Rule 14 of CCS(CCA) Rules 1965.

1.3. That Sir, the AD card (Marked as S-2) wherein the signature of the addressee is found in illegible manner which is not of mine. As per provision of rule or the space provided for the purpose of signature of AD Card, the addressee should put his signature thereon as a mark of receipt of the Registered/Insured article. In the instant card some illegible strokes or pen/Ball pen are in existence instead of signature of addressee.

The undersigned has requested the Inquiry officer vide written statement of defence Dated 8.9.2000 to reexamine the strokes of pen/ball pen available in the AD Card through a hand writing expert before coming to a decision but he could not able to offer any decision on the point.

The disagreement on the matter offered in para 3(i)(C) of Supdt. of Pos, Dharmanagar Memo No. viblated the provision of para-7 of G.I. instruction below Rule 15 of CCS(CCA) Rules,1965.

1.4. That, the undersigned has submitted representation Dated, 29.1.97 (Marked as S-3) to the Supdt. of Pos, dharmanagar against the illegal order of transfer as Sub-postmaster, Salema in General line alongwith some Departmental Rulings/ Circular for the purpose of service matters of PO And RMS Accountant of Accountants line, the submission of which is one of the fundamental right of a govt. servant and as such there is no viblation of rules/or Laws appears

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to be committed by the undersigned.

The Inquiry Officer could not able to raise any point of non-acceptance on the point against the written statement of defence dated 8.9.00.

1.5. That Sir, the disposal of representation dated 29.1.97 of undersigned was received and Supdt. of Pos, Dharmanagar letter No. B-333/pt II Dated 31.1.97 (marked as S-4), the contention of which is not conformity with the rules, rather false, baseless and whinsical.

The parawise defence against the letter dated 31.1.97 is as follows :-

"The posts..... not locus stands".

Defence :- The post of PO And RMS Accountant and the post of LSG Genral line are of two distinct lines of post for transfer, posting, works and functioning vide Directorate circular No. 9/7/84-SPB II dated 26.9.84 (Copy enclosed as Annexure-17).

The PO And RMS Accountants were beforcated in two lines i.e. (a) LSG General line and (b) PO And RMS LSG Accountants, Accordingly I opted for the said second line in the year 1989, on offer, at the stage of completion of 16 years of service before placement to TBOP scale, which become final as per aforesaid circular and thereby become LSG Accountant of the line of P.O And RMS Accountant The Deptt. after getting the consent of the Hon'ble President of India as stated thereon in the aforesaid circular, on this system, it became a rule of the Department to retain all the oplees of 'Accountants line'. Accountants, to their appropriate post with a view to prevent the misuse of their services in general line. It has also been clearly clarified vide Directorate's circular No.43-15/84 PE I dated 16.3.88 (Annexure-18) wherein it has been stated in para/item 2 that if an official of PO And RMS Accountant once opted for 'General line' cannot re-opt the fixation and also cannot join the post of Accountant.

Moreover, the surrender of the promotion in the year 1991 as APM (A/cs), TURA vide my application dated 10.10.91 as stated in Supdt. of Pos, Dharmanagar letter No.B-333/pt II dated 31.1.97 due to my inconvenience for the time being cannot forgo my standing in the service line or cadre. The copy of the said application Dated, 10.10.91 presented by the Disciplinary Authority (Marked as Ex-D-1) (the copy of which is enclosed as Annexure-21), being the unwillingness to take promotion as APM (A/cs), TURA, submitted to the Chief Postmaster General, Shillong, wherein existence of surrender of 'Accounts line' is not available. Besides, the Disciplinary Authority failed to supply the copy of acceptance of surrender of 'Accounts line' required for defence vide daily order sheet dated, 25.1.99.

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That the failure to give inspection of documents relied on and asked for by the charged official and non supply thereof is violation of natural justice and the enquiry is liable to be quashed vide established Law : 82 CWN 538.

The application Dated 10.10.91 submitted to the Chief Postmaster General, Shillong and the order of transfer on promotion as APM (A/cs) TURA has been cancelled vide C.O. Shillong memo No. Staff/10-11/91, Dated 24.10.91 (copy enclosed as Annexure-22) and in persuance of the order of C.O. dated 24.10.91 the Supdt. of Pos, Dharmanagar vide his memo No. BB-12/C/DNR/pt II Dated 01.11.91 (copy enclosed as Annexure-23) ordered me to join as Accountant, Dharmanagar H.O. Had there been any acceptance of surrender of Accountant line and forgo my standing in my service line/or cadre then the undersigned would not have been offered with promotion for the second time in the year 1992 as APM(A/cs) Kohima H.O. vide C.O. Shillong memo No. Staff/10-11/81 dated 11.11.92 (copy enclosed as Annexure-24) so the question of surrender of Accounts line as stated thereon is false and fabricated.

Para (ii) of the Supdt. of Pos, Dharmanagar letter No.B-333/pt II dated 31.1.97 (marked as S-4).

It is for.....your service as duch:

Defence :- The Directorate's letter No.44-60/96 SPB II, Dated, 24.9.96 (Annexure-19) as stated in the Supdt. of Pos, Dharmanagar letter No.B-333/pt II Dated 31.1.97 is for clarification/modification of TBOP/BCR Scheme for protecting the seniority and promotion of some officials whose seniority were adversely effected by adoption of TBOP/BCR scheme. It is exclusively for gradation list which does not mean abolition of the aforesaid two lines of services, which is holding good till this day as a rule of Law. The said letter dated 24.9.96 has no connection with the transfer, posting and functioning of Accountants of Accountants line of PO And RMS Accountant. Such things are to be guided by the present Directorate's letter No.9.7.84 SPB-II dated,26.9.84 (Annexure-17) and Directorate's circular No. staff/25-Acctt/Rig/Corr Dated 13.2.95 (Annexure-24A).

Further, the PO And RMS Accountants are required to prefer an option electing either 'Accountants line' or 'General line' before placement of TBOP on completion of 16 years of service as provided under Directorate's Circular No.9/7/84-SPB-II Dated, 26.9.84 (Annexure-17) and as such the non-difference between Accountants line and general line under TBOP/BCR scheme as stated in the latter dated 31.1.97 of the Supdt. of Pos, Dharmanagar is contraditory and not conformity with the spirit and contents of the

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rules/or Laws for the purpose since both the lines VIZ, 'Accountants line' and 'General line' of PO And RMS Accountant take effect only from the date of placement of TBOP on the basis of optio) electing either of the lines as provided under rules.

There is no instruction was made in the clasification in circular dated 24.9.96 for the purpose of transfer liability of PO And RMS Accountant of Accountants line.

If the letter Dated 24.9.96 has a connection with the posting and transfer of PO And RMS Accountant of 'Accountants line' then under which circumstnaces all the BCR Accountant/LSG Accountant, of 'Accountants line' Have been retained in the same line/ or post since alection of their line of option without having any transfer to general line or vice vese. Thus it is clearly evident that both the lines are holding good seperately till this day in respect of both TBOP And BCR Scheme. So the clasification regarding transfer liability only to the undersigned having no effects to other Accountants on the ground of non-diffence between Accounts line and general line is self engeneeved by the Supdt. of Pos. Dharmanagar.

When the Accounts line and genefel line are effected only after placement of TBOP scales then the question of non-deffence between 'Accounts line' and 'general line' after implementation of TBOP scales does not arise.

Some of the instance out of several PO And RMS Accountant of 'Accountants line' having scales of pay of TBOP/BCR who are retained till this day in their elected line since long who are not effected on the melafide and self-engineered ground of non-diffence between Accounts line and general line.

Sl.No.	Name of official	Designa.	Office in which attached/post in which attached.
1.	Sri S.K. Seal	BCR APM(A/cs)	Dharmanagar H.O.
2.	" A. Chakraborty	LSG Acctt(TBOP)	O/O. the Supdt. of Pos Dharmanagar.
3.	" R. Banik	BCR Acctt.	Agartala H.O.
4.	" T. Das	LSG Acctt(TBOP)	R.K. Pos H.O.
5.	" K. Bhattacharya	BCR Acctt.	Agartala H.O.
6.	Smt A. Dutta Roy	LSG Acctt.(TBOP)	O/O. the Sr. Supdt. of Pos, Shillong.
7.	Sri P. Paul Choudhury	BCR Acctt.	Silchar H.O.
8.	" H. Paul	TBOP APM(A/cs)	Agartala H.O.
9.	" R. Bagchi	BCR APM(A/cs)	TURA H.O.

and so on

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Presently, Sri A. Chakraborty, Acctt. O/O. the Supdt. of Pos. Dharmanagar has been ordered to transfer as Acctt. Head Post Office, Dharmanagar without effecting has transfer to general line vide SP/DNR Memo No. B1/Rotation/DNR Dated, 09/04/01.

However, if the application of self-engineered rule having no departmental clarification/instruction for the purpose of transfer has been effected only to the applicant breaking the option in 'Accountants line' of PO And RMS Accountant without giving effect of transfer to other APM (A/cs)/BCR/LSG Accountant (TBOP) of 'Accountants line' without considering the seniority of the undersigned out of all the PO And RMS Accountant of Dharmanagar Division and leaving a clear vacancy of PO And RMS Accountant Dharmanagar H.P.O. where a unqualified postal Asstt. is working, who is junior in service of applicant and another post of Accountant is at O/O. the Supdt. of Pos, Dharmanagar, where a qualified PO And RMS Accountant in working, who is also junior as Accountant of the undersigned and as such it will undobtedly be said that the instant transfer in general line is melafide and a burning instance of denial of equality before law or the denial of equal protection of laws within the territory of India as prescribed under Article 14 of the Indian constitution (The posting position of Accountant shown on the date of transfer i.e. 20.1.97).

Moreover, it has also been clearly clarified in Directorates No. 22-6/2000 PE I dated, 17.5.2000 (copy enclosed as Annexure-25) that the TBOP/BCR Schemes are not the promotions but placement in the same scales of pay on completion of 16 and 26 years of service only. Therefore, the claim of his standing in the post of Accountant after implementation of TBOP on completion of 16 years of service having his option in 'Accountants line' of PO And RMS Accountant in lawful and justified.

1.6. That Sir, the decision of the Directorate letter No.9-3/97 SPB II dated 1.6.1998 in para 3 it is stated that 'after implementation of TBOP/BCR scheme there is no distination between general line and Accounts line except for the limited parpose of functional necessity. Which is not correct as per Directorate latter dated 24.9.96. The correct wording is found available in the Directorate's letter dated 24.9.1996 in para 1 of Clarification of point of issue as "under TBOP/BCR scheme there is no distinction between general line and Accountants line", which means that the scheme is indifferent for the purpose of TBOP/BCR. It does not mean abotition of said two lines of post. It has no connection with transfer policy of LSG Accountant of Accounts line.

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It is stated in last para 3 of said letter dated 1/6/98 (Annexure - 20) that the transfer as SPM Salema in general line is not violatic of orders for proceeding against under Rule 14 of CCS(CCA) Rules 1965 in Memo No. B-333/Disc Dated 29/01/97.

So it is proved that the transfer to general line as SPM Salema on the ground non-difference between Accountants line and general line is not tenable rather false.

The Said Authority concluded the decision with instruction to the Chie Postnaster general, Assam Circle (perhaps erronously written assam Circle instead of N.E. Circle) for re-examination of the case of transfer and posting to 'Accountants line' on completion of enquiry under Rule 14 of CCS(CCA) Rules 1965. Had there been any decision made on the abolition of both the lines of service that the Chief postnaster general may not be directed by the Directorate in the instant letter dated 1/6/98 to re-examine the case of transfer of the undersigned on completion of Rule 14 enquiry. Thus it is ascertained from the decision of the Directorate's New-Delhi's letter Dated 1/6/98 that after complimentation of TBOP/BCR Scheme the Existence of both 'Accountants line' and 'general line' remain unchanged. It is holding good till this date as a rule /or Laws.

So, the order of transfer termenating the option in Accounts line' exercised finally, on the plea of non-difference between Accountants line' and 'general line' after implementation of TBOP/BCR Scheme for the purpose of transfer to Accountant is irregular, Self engineered and out of clarification of the Department.

1.7. Para (iii) of Supdt. of Pos, Dharmanagar letter No. B-333/Pt -II Dated 31/01/97 (Marked as S-4)

" It is also..... posting.

Defence :- With reference to para (III) of the Supdt of Pos, Dharmanagar letter No. B-333/ pt. - II Dated 31/1/97 it is stated that it has become a clear crystal fact of the transfer of the applicant not being a normal one visits with inconvenience from the post of LSG Accountant of 'Accountants line' to the degraded post of sub-postmaster Salema a single handed sub-post office of general line pending disciplinary proceeding against me.

The Post of LSG Accountant and the post of Sub-postmaster Salema of one of two different lines of post in connection with transfer, posting and functioning. The transfer liability of Sub-postmaster Selama is within the equivalent post available within the postal division under which he/she is working, whereas the post

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of Accountant is of that kind of post whose transfer is liable within the Head post office/Divisional office of that postal division under which/ he/she is working, And also posted after passing the Departmental Examination prescribed for the purpose, where the facilities/functioning of both the posts are different, the both the posts may not be treated as equivalent in rank/grade as per established rule/or Law. If a govt servant has a right to a particular post, then the transfer/reduction from the post will operate penalty for he will loose the privilage of that post. The instant transfer order of the undersigned as SPM, Salema being by way of punishment and is a miscarriage of Law against the provision of Natural Justice.

The reduction in rank/grade accopanied by a stigma ie pending finalisation of melafide disciplimary proceeding is violation of Natural Justice under Article 311(2) of the Indian constitution vide established Law :- (1989) II SCWRI AIR : 1990 SC 77.

1.8. That Sir, the enquiry under Rule 14 of CCS(CCA) Rules 1965 proceeded against under Supdt. of Pos, Dharmanagar Memo No. B-333/pt- Disc Dated 29/01/97 has been finalised by awarding Minor punishment under Rule 11(iv) of CCS(CCA) Rules 1965 by withholding of one increment for 3(three) year without cumulative effect and the period of suspension has been regularised as period spent on duty treating the period of suspension as irregular vide Supdt. of pos' Dharmanagar Memo No. B-333/pt II (loose) Dated 4/4/2000 (Copy enclosed as Annexure - 26)

When the suspension has been treated as on duty and thereofore, the transfer on revocation of suspension terminating the option exercised finally is also stands irregular.

1. That Sir, since the enquiry under Rule 14 of CCS(CCA) Rules 1965 has been finalised and outcome of the enquiry concluded in Minor punishment, the undersigned has applied to the supdt. of Pos, Dharmanagar vide his application Dated 2/9/99 for modification of order of transfer on the analogy of last para of Directorate Memo No. 9-3/97 SPB II Dated 1/6/1998.

The CPMG, NE Circle Shillong vide his letter No. Staff/110-1/97 Dated 12/14/1/2000 conveyed vide supdt. of Pos, Dharmanagar letter No. B-333/pt -II (loose) dt. 24/01/2000 (Copy enclosed as Annexure - 27) favoured his kind decision that the modification of transfer and posting does not appear to be appropriate at this stage.

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The text and contents of the CPMG, N.E Circle shillong clearly clarifies that the order of transfer will be modified after attaining in a particular stage which is not permissable at the stage. He undoubtdly agreed with the modification of order of transfer after attaining in a particular stage.

Therefore, the award of punishment under Rule 11(VIII) of CCS (CCA) Rules 1965 vide Supdt. of Pos, Dharmanagar Memo No. B-333/pt-III Dated 03/04/2001 before attaining to that particular stage violated the spirits and contents of CPMG,NE Circle, shillong letter No. staff/ 110-1/97 Dated 12/14/1/2000

The Inquiry officer could not produce any argument against the line of posting of Accountants of Accounts line. The argument of the Supdt. of Pos, Dharmanagar vide para 3(i)(d)(e)(f) of Memo No.B-333/pt III Dated 03/04/01 is violation of para (7) of GI instruction & below Rule 15 of CCS(CCA) Rules 1965 as he did not communicate the disagreement to the undersigned alongwith Inquiry Report for submission of effective representation against the disagreement.

1.10. That Sir, The A/D Card marked as S-5 wherein the signature of the addressee is found not in legible manner, which is denied as signature of mine. The Inquiry officer was requested to examine the signature available in the A/D Card through a handwritting expert, but the inquiry officer remained silent on the issue, which is violation of Article 311(2) of the constitution.

1.11. That Sir, the undersigned has submitted further representation dtd. 10/2/97 (marked as S-6) addressed to the Supdt. of Pos, Dharmanagar alongwith circular of Department bearing No. 43-15/84 PE Dated 16/3/88 for re-consideration of the transfer of my services on the analogy of the aforesaid circular, the submission of which is considered as fundamental right of a govt. employee and thereby there was no violation of rule committed by the undersigned.

1.12. That Sir, the Supdt. of Pos, Dharmanagar has furnished reply vide his letter No. B-333/pt- II Dated 10/3/97 (marked S-7) the text and contention of which is not conformity with the rules for the purpose of transfer and posting of a LSG Accountant of 'Accountants line' All the points raised in the representation Dated 10/02/97 were not summerised in the reply and were not logically discussed how they were not tenable or acceptable as provided under rule for disposal of representation.

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1.12. That Sir, the signature in the card (marked as S-8) is not of mine for the reason as stated in para 1.3.

1.13. That Sir, the allegation as stated in para 3(i)(J) of Supdt. of Pos, Dharmanagar Memo No. B-333/pt- III Dated 03/04/01 is not correct. The Directorate vide his their letter No. 9-3/97/SPB-II Dated 01/06/1998 stated in last line of para 3 that the transfer of the undersigned has been made on the ground of my proceeding under rule 14 of CCS(CCA) Rules 1965 and also directed the CPMG to examine the case of transfer on completion of Rule 14 enquiry and accordingly the CPMG shillong has considered my prayer dated 2.9.99 by stating that the modification of transfer is not appropriate at this stage vide co.shillong No. staff/110-1-/97 dtd. 12/14/1/01. In other words, the transfer will be considered at the appropriate stage on modification.

Therefore, the allegation for non-submission of agitation before any other authority for the last two and half year is not correct to all.

1.14. That Sir, the Inquiry Report Dated 12/11/2k is not based on evidence brought on record, prepared without looking through the Daily order sheets of the enquiry and also against the charge sheet which is different than that of Memo No. B-333/pt- II dated 12/8/98. He has failed to draw his interference and record his reasoned conclusions. The assesment of evidence enclosed as & Defence Documents and argument [illegible] on each charges were not furnished as per rule. His findings are not based on evidence aduced during the enquiry. His finding of 'Direct' or 'indirect' admission of charge cannot be taken into account as complete proof of the instant Article charge I of the charge sheet presented during the course of inquiry, since the Inquiry officer could not able to proof the charge sheet straightway and beyond reasonable doubt.

Thus it is well established that the charge under Article I is false, fabricated and melafide and also the award of punishment under Rule 11(VII) of CCS(CCA) Rules 1965 before attaing the stage of modification of order of transfer violated the spirit and contents of C.O. Shillong Letter No. Staff/110-1/97 Dated 12/14/1/2000 which requires redressal.

contd... 15.

2. ARTICLE II (as per chargesheet presented during the course of enquiry).

2.1. That Sir, in respect of period of incumbancy as complaint Inspector, Dharmanagar Division for 27.4.96 to 31.10.96 has already been referred under para 1.1 of the Instant appeal. Hence it is needless to refer it once again herein.

2.2. That Sir, the letter bearing supdt. of Pos. Dharmanagar No.B-333/pt II dated 4.4.97 (Marked S-9), the text and contention of which is not the direction to attend medical board, for second medical opinion at R.G.M. Hospital, Kailashahar on 8.7.97 as alleged in the instant article of charge of the chargesheet. The Instant letter has been issued in pursuance of the request to the undersigned vide In-charge, R.G.M. Hospital, Kailashahar letter No.F.1(8)GEN/SEN/IN/RGMH/KLS/94/4517-21, dated, 25.6.97 to atterd medical Board on 8.7.97 for inknown reason.

2.3. That Sir, the trctual position is that I was actually directed to the Chief medical officer, Kailashahar to appear before the medical board, for reexamination of my illness from 23.1.97 vide Supdt. of Pos. Dharmanagar Division letter No.B-333/pt II Dated 1.4.97 (copy enclosed as Annexure-28). Accordingly, I attended medical board, Kailashahar on 12.5.97 for reexamination of my illness w.e.f. 23.1.97 vide In-charge, RGM, Hospital, Kailashahar letter No. F.1(8)-GEN/IC/RGMH/KLS/94/3954-59 dated, 28.4.97 and the certificate of my attendance on the very date has duly been endorsed by the medical officer of the medical board on the body of the said letter dated 28.4.97 (Copy enclosed as Annexure-29)

2.4. That Sir, meanwhile, a letter was received under In-charge RGM Hospital, Kailashahar vide his No.F.1(8)GEN/SEN/IN/RGMH/KLS/N/94/4517-21, Dated, 25.6.97 (copy enclosed as Annexure-30) which contains the request to the undersigned to attend medical board, Kailashahar on 8.7.97 with reference to the Supdt. of Pos, Dharmanagar letter No.B-333/Dated 13.6.97 (ascertained for the I/C, RGM Hospital, Kailashahar letter dated 25.6.97). But unfortunately the particular letter dated 13.6.97 of the Supdt. of Pos, Dharmanagar as mentioned in the I/C, RGM Hospital, Kailashahar letter dated 25.6.97 or its endorsement or any other letter of the Supdt. of Pos, Dharmanagar or from any other Departmental authority conveying any director with reason for attendance in medical board, Kailashahar on 8.7.97 was not recived by the undersigned and accordingly prayed to the Supdt. of Pos, Dharmanagar vide application dated 3.7.97 (copy enclosed as Annexure-31)

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to intimate the circumstances under which I have to attend medical board, Kailashahar on 8.7.97 at the request of the In-charge, RGM Hospital, Kailashahar without having any direction for the appropriate authority of the department. But unfortunately the Supdt. of Pos, Dharmanagar directed me to attend medical board, RGM, Hospital vide Supdt. of Pos, Dharmanagar letter bearing No. B-333/pt II Dated 4.7.97 (Marked as S-9) without conveying the reasons for attendance thereof.

2.5. That Sir, I have submitted an application dated 7.7.97 (copy enclosed as Annexure-32) enclosing an application for TA advance for journey to Kailashahar with referee to the Supdt. of Pos, Dharmanagar letter No.B-333/pt II dated 4.7.97 and a TA Bill in duplicate for performance of journey to Kailashahar on 12.5.97 for attendance on medical board, but regret to state that the TA Advance as prayed for was not paid to me prior to performance of journey to Kailashahar on 8.7.97, which violated the provision of rule for payment of TA Advance prior to commencement of journey/tour.

2.6. That Sir, I proposed to appear before the medical board, Kailashahar on 8.7.97 on the request of the I/C RGM Hospital, Kailashahar for unknown reason but could not perform the journey on account of sudden illness and my attending physician of Sub-Divisional Hospital, Dharmanagar advised me to take rest for five (5) days for restoration of present ailments w.e.f. 8.7.97 vide Sub-Divisional Hospital, Dharmanagar prescription/Ticket bearing No. 8602 dated 8.7.97 (copy enclosed as Annexure-33).

2.7. That Sir, the matter has been brought to the notice of the Supdt. of Pos, Dharmanagar vide my application dated 9.7.97 (copy enclosed as Annexure-34), the copy of which was also endorsed to the I/C. RGM Hospital, Kailashahar and posted under certificate of posting (copy enclosed as Annexure-35) to the concerned authorities but regret to state that nothing has been heard from the authorities on the matter till this date.

2.8. That Sir, In analysing the case under Article II (Page-14 of Inquiry Report) the Inquiry officer stated that the undersigned has applied for TA Advance for journey to Kailashahar to attend medical board on 8.9.97 which was not paid to him on 7.7.97. He also admitted the illness of the undersigned w.e.f. 8.7.97, which stands in the way of performing journey to Kailashahar on the date fixed for the purpose, Thus it is proved that :-

(a) The undersigned was not paid TA advance for performing journey to Kailashahar prior to 8.7.97.

(b) The proposed journey to Kailashahar for appearing at medical board on 8.7.97 could not be performed by the undersigned for his sudden illness on 8.7.97.

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2.9. That Sir, regarding sanction of TA Advance as stated in para 3(ii) (e) of the Supdt. of Pos. Dharmanagar Memo No.B-333/pt III dated 3.4.01, is false and incorrect. The disputed TA Advance was not sanctioned prior to journey to Kailashahar. The Supdt. of Pos. Dharmanagar carefully avoided to mention the date of sanction of TA Advance on the particular para. He simply mentioned the file No. from which the TA Advances are required to be sanctioned. Thus it is clearly promed that neither the TA advance was sanctioned prior to proposed journey to Kailashahar on 8.7.97 nor the information regarding sanction of TA Advance was convyed to the undersigned till this date.

2.10. That Sir, the disagreement against Inquiry Report as stated in para 3 (ii) (a) (b) (c) of the Supdt. of Pos. Dharmanagar Memo No. B-333/pt III Dated 3.4.01 violated the provision of para (7) of G.I. instruction below Rule 15 of CCS(CCA) Rules, 1965 since the disagreement was not communicated to the undersigned along with report of Inquiry for submission of representation against the disagreement.

2.11. That Sir, the undersigned was advised by the undersigned for taking rest for five days w.e.f. 8.7.97 vide Dharmanagar Hospital OPD Ticket No. as discumed in para 2.6. above.

The plea of non-containing of direction for bed rest as stated in para 3(ii) (d) of Supdt. of Pos. Dharmanafar Memo No. B-333/pt III dated 3.4.01 is nothing but a miscarriage of Law. There is no provision of rule is found available for the purpose of issuance of medical certificate by a medical officer in respect of a govt. servant directing bed rest. Besides, the undersigned has submitted application dated 9.7.97 as stated in para 2.7 above enclosing the OPD Ticket eontaning the direction of rest for five days. If there was any doubt for the illness of the undersigned, the Supdt. of Pos. Dharmanagar may refer the case to the medical Board for reexamination of the illness of the undersigned, which was not done.

Moreover, the disagreement against the Inwuiry Report, as stated in para 3 (ii) (d) of the Supdt. of Pos. Dharmanagar Memo No. B-333/pt III dated 3.4.01, violated the provision of para (7) of G.I. Instruction below rule 15 of CCS(CCA) Rules 1965 since the disagreement was not communicated to the undersinged alongwith Inquiry Report for submission of representation against the disagreement.

Thus it is well established that the finding of Inquiry officer is contradictory to the analysis as per his Inquiry Report. His findings on "direct" or "Indirect" admission of charge under Article II of the chargesheet presented during the enquiry cannot be taken as "Proof" of the charge beyond reasonable doubt since the Inquiry officer could not able to give the

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definete findings on the articles of charge individually and categorically.

2.12. That Sir, the signature on the A/D card (Marked S-10) is not of mine, which is required to be got verified/examined by a handwriting expert as stated in my written statement of defence and brief but the Inquiry remain silent on the issue.

Thus it is well proved that the charge under the instant article is not factual at all rather false and fabricated.

3. Article III (As per chargesheet presented during the course of enquiry) :-

3.1. That Sir, in respect of disputed period of incumbancy as complaint Inspector, Dharmanagar Division from 27.4.96 to 31.10.96 has already been referred to under para 1.1. and para 2.1. of Article I of the instant appeal. Hence it is needless to refer it once again herein.

3.2. That Sir, the charge under the instant article is not specific rather vague since the allegution as stated in the charge sheet is non-compliance of order of transfer vide Supdt. of Pos. Dharmanagar Memo No.B-333/t II dated 20.1.97, while the period of charge brought under the instant article of charge related to 27.4.96 to 31.10.96, which is quashable on the ground of non--specification of the period related to the charge.

Hence, it is proved that the period of charge as shown in the instant article of charge is not specific and vague.

3.3. That Sir, the period of remaining on unauthorised absence from duty w.e.f. 23.1.97 onwards is not correct since the undersigned has applied for commuted leave or medical ground for 40 (forty) days w.e.f. 23.1.97 onwards duly supported by a medical certificate of unfitness to duty of my attending physician. The leave as prayed for was not rejected due to exigencies of service but not granted on the ground of unadmissibility under FR 55 (FR 55 : leave may not be granted to a government under suspension. vide Supdt. of Pos, Dharmanagar letter No.B-333/pt II dated, 10.3.97 (copy enclosed as Annexure-36) followed by a corrigendum vide Supdt. of Pos, Dharmanagar letter No. B-333/pt II, dated, 25.3.97, conveying the modidification of only last line of his letter dated 10.3.97. (copy enlosed as Annexure 37).

Therefore, the text and contention of the Supdt. of Pos, Dharmanagar letter No.B-333/pt II dated 10.3.97 non appears to be as follows :-

"As per FR 55 No. leave is to be granted to a govt. servant who is under suspension, though this office issued

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revocation of your suspension order. But you are still to comply with the order. Hence you are unauthorised absence from duty w.e.f. 23.1.97."

The contention of the above letter clearly clarifies that the suspension of the undersigned is still continuing for inadmisibility of leave under FR 55 and the subsistence allowance is admissible as provided under rule and thus the order of transfer issued in fringing departmental Rules as SPM, Salema stands cancelled since the standing of order of transfer, application of FR 55 and treatment of unauthorised absence from duty cannot run concunently from the same date as established under rules/or Laws.

3.4. That Sir, the Inquiry officer clearly stated in his analysis under Article III of the instant Inquiry Report (Page 14) dated 12.11.2K that the commuted leave onwards of the undersigned on medical ground was disallowed serving reasons by the authority i.e. the undersigned was nither on duty nor on leave w.e.f. 23.1.97.

As the authority disallowed the leave on the reason of inadmissibility under FR 55 as such subsistence allowance is admissible on the decision of the Supdt. of Pos. Dharmanagar vide has No.B-333/pt II dated 10.3.97.

The argument as stated in para 3(iii) (c) of has memo No. B-333/pt III dated 3.4.01 that the logical meaning of FR 55 is that no oeave can be gra ted unless and until the undersigned assume the duty. The clarification of FR 55 as stated is made by own anabysis and self-engineered. There is no such logical meaning is found available in any of the constitutiond Law previbed for the purpose. The meaning not any law is always specific and not vague the supdt. of Pos. Dharmanagar could not produce any referee of clarification of logical meaning of FR 55 which is found available in the constitutiond Law.

Besides, the leave of the undersigned was not disallowed in the exigences of service but on the self engineered ground of logical meaning of the FR : 55 and as such undersigned can avail the maximum amount of continuous leave as prescribed under rule 12 of CCS(leave) Rules 1972 before assuming to new assignement on submission of application for leave (SR-I).

Moreover, the CPMG, NE Circle Shillong has agreed with the modification of transfer order vide his letter No. staff/110-1/97 dated 12/ 14/1/2000 as stated in para 1.9 above but the modification of order of transfer is not appropriate at this stage as stated therein. As such the award of punishment under Rule

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II(vii) of CCS(CCA) Rules, 1965 vide Supdt. of Pos. Dharmanagar Memo No. B-333/pt III dated 3.4.01 before attaning to the appropriate stage willful violation of text and contants of decision of the CPMG NE Circle, Shillong letter dated 12/ 14.1.00.

3.5. That Sir the disagreement as stated in para 3(iii)(c) of the Supdt. of Pos. Dharmanagar Memo No. B-333/pt III dated 3.4.01 is violation of para (7) of G.I. Instruction below Rule 15 of CCS(CCA) Rules 1965 since the disagreement was not communicated to the undersigned alongwith the Inquiry report for submission of representation against the disagreement.

3.6. That Sir, no document and witness was produced/presented by the government against the instant article of change and examined thereof during the course of enquiry since the particular document (S-1 and S-2) produced and exhibited against under Article I which cannot be presented in another article of charge as a document as provided in enquiry under Rule 14 of CCS(CCA) Rules, 1965.

Thus it is well established that the findings of the Inquiry officer on 'direct' or 'Indirect' admission of charge under Article III of the instant chargesheet is contradictory and cannot be taken as 'Proof' of the instant charge beyond reasonable doubt since the Inquiry officer could not able to furnish definiti findings on the speafic article of charge individually and categorically.

Hence, the allegution of remaining on "unauthorised absence" from duty w.e.f. 23.1.97 brought against the undersigned in the instant article of charge III proved false, baseless and dishonest for the end of justice.

19.4. That Sir, Bimalendu Dey Kanungoe, PA, divisional office (SW-I) who is the Dealing Assistant of staff Branch, Divisional office, Dharmanagar stated in his deposition that the undersigned is a TBOP Accountant vide Daily order sheet dated 22.6.99. He stated the whole episode regarding vindictive treatment to the undersigned by imposition melafide suspension, transferred on revocation infringing Departmental rule and also application of FR 55 in his deposition Dated 22.6.00. It is ascertained from the deposition that he is well conversent about the details of the charges brought against the undersigned.

During the course of cross examination he clearly stated that he himself is the dealing assistant of the file from where the charge sheet has been issued, the also admitted that he knows something about the rulings of service matters of PO And RMS Accountant. Being a Dealing Assistant of the Staff Branch

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he is responsible for all the staff matters as per allotment of works prescribed vide Supdt. of Pos, Dharmanagar Memo No. EST/B-1 Dated 10/5/93. But straingly enough, he avoided to depose all the matters relating to questions arising our during cross examinations on the vague answer 'No COMMENTS' While he deposed that he knows something about the rulings of service matters of PO And RMS Accountant. From the actions and activities of the instant SW-1 it is clearly evident that he is concealing the truth out of fear and force of somebody else who is standing behind the screen.

Under the enquiry of Rule 14 of CCS(CCA) Rules 1965, the govt. has given opportunity to the charged official to bring out the factual position and truth through cross examination to the witness to have a clear and fair understanding of the whole case to the Inquiry officer, which could not be done for the vague answer of 'No Comments' of SW-I and such the deposition of the SW -I is one sided colourful one, non-acceptable and prejudicial.

The Inquiry officer failed to offer any disagreement in the Inquiry Report against the instant point raided in my written statement of Defence Dated 8/9/00.

The disagreement stated in para 3(ii)(e) of Supdt. of Pos, Dharmanagar Memo No. B-333/pt III dated 03/04/01 is violation para (7) of GI instruction below Rule 15 of CCS(CCA) Rules 1965, since the disagreement was not communicated to the undersigned along with Inquiry Report for submission of representation against the disagreement.

20. That Sir, tep.ed application for payment of remuneration for non-granting of commuted leave for 40 days wef 23/1/97 on medical ground for inadmissibility under FR 55 have been submitted to the concerned authorities and non-payment thereof even after submission of representatimes to the effect to the Inquiry officer vide Daily order sheet Dated 21/6/00 is violation of Article311(2) of the Indian constitution as the undersigned could not receive a reasonable opportunity of depending himself in the disciplinary proceeding on account of financial strigency caused for non-payment of remuneration as established under Lawa.

21. That Sir, it is ascertained from the Inquiry Report that it is not based on evidence brought on record. The evidence and the defence document enclosed alongwith written statement of defence were not weighed and valuated impartially. The said defence docume-

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documents were not brought on Inquiry Report as evidence against the charge brought in the articles of charge. The Inquiry officer failed to draw his interference and record his reasoned conclusion. The assesment of evidence and arguments on each charge were not recorded under seperate headings.

Moreover, his findings as 'Direct' or 'Indirect' admission charge in to the contrary of the observation and analysis recorded in the Inquiry Report and as such the charges brought in the article of charges framed against me cannot be taken into account as a complete 'Proof' of each and every charge seperately and beyond reasonable doubt.

Thus all the facts stated in the appeal bring about the violation of Natural Justice as well as violation of Article 14 of the Indian constitution vide established Laws/ or Laws Rules and as such it is a fit case to be quashed/or dropped since the fundamental right of the undersigned has been circumvented or defeated by the ingenuity or dexiterity of the crafty charge sheet, Inquiry Report and instant final order.

Therefore it is prayed that your good office would be graciously pleased to exonerate the undersigned from the stigma as alleged in the charge after consulting the relevent records of the proceeding.

And

Allow the humble appellant to assume duties in the appropriate post at this stage on the analogy of C.O. Shillogg letter No. staff/110-1/97 Dated 12/14/1/00

Your humble appellant awaits your earliest possible action in the context and shall ever pray.

With kindest regards.

Enclo :- Annexure 1 to 37.

Yours Faithfully,

Jyotirmay Chakraborty

(JYOTIRMAY CHAKRABARTY) 27/4/01

LSG ACCOUNTANT.

O/O THE SUPDT. OF POS,

DHARMANAGAR DIVISION.

DHARMANAGAR.

(Retd. under Rule 11(VII) of CCS (CCA) Rules 1965).

Dated at Dharmanagar

The 27th April/2001

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 308 OF 2001

Shri Jyotirmoy Chakraborty

- Vs-

Union of India & Ors.

- And-

In the matter of :

Written statements submitted by the Respondents

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

(BRIEF HISTORY OF THE CASE)

Shri Jyotirmoy Chakraborty, the applicant entered in the Department of Posts : India on 03.06.1973 as Postal Assistant (inshort PA) after duly trained in Postal functions. On getting some test the applicant was allowed to work as Postal accountant on certain monthly allowance. There is no distinct cadre of Postal accountant and separate scale of pay, but a part and parcel of Postal Assistant Cadre. The applicant was promoted to the cadre of Lower Selection Grade w.e.f. 03.06.1989 on one 'Time Bound One Promotion' (in Shrot TBOP) introduced w.e.f. 30.11.1983 by virtue of length of service

rendered by him in the cadre of Postal Assistant including period of work of Accountant. Not at all on his performance as Accountant. There is no promotional avenue other than that of one TBOP scheme and 'Biennial Cadre Review' (in short BCR) scheme, according to which, the PA will get promotion on completion of 16 years and 26 years of service on those schemes respectively. The applicant was officiating Complaint Inspector of Dharmanagar Postal Division w.e.f. 27.04.1996 to 30.10.1996. On 31.10.96 the applicant was placed under suspension for his misconduct reported to have been committed while he was working as Accountant as well as Complaint Inspector, as there was a threat of manipulation/ tampering of records. A separate and distinct charge sheet, other than the Disciplinary proceeding in question was framed and set out. The suspension order was revoked on 20.01.1997 with a view to utilize his service in other area Station of the Department where manipulation/tampering of records is totally nil and ordered to join as Sub-Postmaster (in short SPM), Salema which is equal status of that of the applicant's substantive post. There is no reduction of amount of salary or responsibility or status. On receipt of the revocation order, the applicant submitted representation against the posting order which was rejected. Then he submitted appeal/ revision petition stage by stage which were also rejected. Although the applicant received the revocation order of suspension on 22.01.1997 and his representation rejected, he did not act upon, rather, he defied the order. The applicant was informed on 31.01.1997 that unless he acted upon

the revocation order within reasonable time, he would be treated as unauthorised absence w.e.f. 23.01.1997. The applicant ~~p~~ remained silent upto 26.02.1997, on which, he applied for 40 days Commuted leave w.e.f. 23.01.1997. The applicant had failed to Communicate his inability to resume duty in quickest means of communication in Rule 162 of P & T Manual Vol. III . The applicant informed the competent authority on elapsation of 36 days which is quite unbecoming of a Govt. servant. In response of his application, he was informed on 10.03.1997. The applicant's case of sickness was forwarded to Medical Board of the District to have the second opinion. The Medical Board asked him to attend before the Board on 08.07.1997, but he did not appear on the pretext of as Doctor's advised to take rest, which is neither tenable nor convincing as the question of getting second Medical opinion does arise only when there is a first Medical opinion. The advise of the Doctor to take rest was the first Medical opinion, not the second.

On acquiring promotion to the Lower Selection Grade on TBOP scheme by virtue of his status of PA, the applicant ceased to be the Accountant and be abided by the ruling on those scheme. According to the Director General, Department of Posts, New Delhi's letter No. 44-60/96-SPB-II, dated 24.09.1996 and No. 93-13/99-SPB-II, dated 23.12.1999, there is no distinction between accounts line and general line except for limited purpose for functional necessity. The word functional necessity is itself denotes the require-

requirement of the employer, not the employee.

On the conspectus of above fact the Disciplinary authority framed a charge sheet under Rule 14 of CCS(CCA), Rules, 1965 against the applicant for disobey the order of the Competent authority, for non appearing before the Medical Board, and for unauthorized absence from duty. The applicant denied the charges, as a result, Inquiry Officer (in short I.O.) & Presenting Officer (in short P.O.) were appointed. In course of proceedings of the said disciplinary case, the applicant moved a bias application against the I.O. Shri Ranjit Kumar Das, ASPO's and the Appellate authority uphold his prayer and ordered to change the I.O. since there was no competent officers in the territorial jurisdiction of the disciplinary authority. The disciplinary authority sought for approval of Chief Postmaster General to have the service of the officer belonging to the other Division and accordingly the Chief Postmaster General permitted to secure the service of Shri Narayan Das, ASPO's, Meghalaya Division. Thereafter, enquiry proceedings were participated by the applicant all along. There was no bias allegation from the part of the applicant ~~xxxxxxxxxxxxxxxxxxxx~~ against the subsequent I.O. The I.O. submitted his report and the proceedings were concluded by the Disciplinary authority observing all due formalities and with a speaking order.

Para-wise written statement:

1. That with regard to the statements made in para 1, of the application, the respondents beg to state that it is correct that the applicant was awarded with the penalty of "Compulsory Retirement" duly observing the procedure out lined in rule 14 of CCS(CCA), Rules, 1965.

2. That with regard to the statements made in para 2, of the application, the respondents beg to offer no comments.

3. That with regard to the statements made in para 3, of the application, the respondents beg to state that the case is barred by the section 21(1)(b) of Administrative Tribunal Act, 1985 as his appeal is pending with the appellate authority and 6 months has not yet been elapsed.

4. That with regard to the statements made in para 4.1, of the application, the respondents beg to offer no comments.

5. That with regard to the statements made in para 4.2, of the application, the respondents beg to state that it is a fact that the applicant, Shri Jyotirmoy Chakraborty, entered in the Department of Posts ; India on 03.06.1973 as Postal - Assistant after duly trained in Postal functions. On getting some test, the applicant was allowed to work as Postal Accountant on certain Monthly allowance. There is no distint cadre of Postal Accountant, nor any separate scale of pay but a part and parcel of Postal Assistant cadre. The Postal Assistants

are being allowed to work as accountant on getting test on account matter. The applicant was promoted to the cadre of Lower Selection grade (in short LSG) with effect from 03.06.1989 on one time Bound promotion (in short TBOP) scheme introduced w.e.f. 30.11.1983 by virtue of length of service rendered by him in the cadre of Postal Assistant including the periods of work of accountant, NOT at all, on account of the applicant's position as accountant. Nor the applicant was promoted to the cadre of L.S.G. accountant as he claimed of. The applicant was officiating as complaint Inspector of Dharmanagar Postal Division with effect from w 27.04.1996 to 30.10.1996 and was on earned leave during the period from 01.10.1996 to 30.10.1996. The applicant resumed to his duty of Complaint Inspector on 31.10.1996 and placed under suspension on the same date for his misconduct reported to have been committed while he was functioning as accountant as well as Complaint Inspector, as there was threat of manipulation of tampering of records. The suspension order was revoked on 20.01.1997 with a view to utilize his service in other area of the department and ordered to join as Sub-Postmaster, Salema which is an equal post that substantively held by the applicant and where possibility of tampering of evidences is totally nil. The Post carries same scale of pay as that of the applicant's substantive post and there is no reduction of amount of salary or responsibility or status. On acquiring promotion to the LSG (TBOP) cadre reckoning the service rendered in Postal Assistant cadre, not at all as accountant, the applicant ceased to be the accountant and be

abide by the ruling on LSG(TBOP) cadre. According to the Director General, Department of Post, New Delhi's letter no. 44-60/96-SPB-II, dated 24.09.1996 and no. 93-13/99/SPB-II, dated23.12.1999 (Annexure as R/1), on introduction of promotion on TBOP and biennial cadre review, there is no distraction between account's line and general line except for limited purpose of functional necessity. The word functional necessity, it-self, denote the requirement of the employer not the employee. It does not entail an employee any right over the mandatory posting as accountant or L.S.G. accountant, but made an optional provision of getting the service as and when necessiated by the employer. Therefore, the contention of the applicant that he is to be posted as accountant only is under surmise and conjecture.

Although the applicant received the revocation order of suspension on 22.01.1997, he did not act upon. Rather, he defied the order. The applicant was informed on 31.01.1997 that unless he acted upon the order of revocation within reasonable time, he would be treated on un-authorized absence with effect from 23.01.1997 vide the SPOs, Dharmanagar letter no. B-333/Pt.II, dated 31.01,1997. The said letter was received by him on 02.02.1997. The applicant remained silent till 26.02.1997, on which he applied for 40 days Commuted leave w.e.f. 23.01.1997 supported by a medical certificate issued on 23.01.1997. The applicant did not communicate his inability to resume duty in quickest means of communication as enjoined in rule 162 of Postal Manual Vol.III. The applicant informed the competent authority

on elapsation of 36 days, which is quite un-becoming of a Govt. servant. In response to his leave application he was informed on 10.03.1997 that his leave cannot be granted and in advertantly it was mentioned that he was in continuing suspension. The error was rectified by a corrigendum dated 25.03.1997.

Photo copies of the D.G. Posts circular No. 44-60/96-SPB-II dated 24.09.1996 and no. 93-13/99-SPB-II, dated 23.12.99 annexed as Annexure - R/1 and R/2 respectively.

Photo copy of Supdt. of PO's, Dharmanagar's letter No. B-333/Pt.II, dated 31.01.1997 Annexure- R/3 .

Extract of the rule 162 of P & T Manual Vol.III as Annexure - R4 herewith.

6. That with regard to the statements made in para 4.3, of the application, the respondents beg to state that it is correct that the case of the applicant was forwarded to the Medical Board of RGM Hospital, (District hospital), Kailashahar informing the applicant to appear before the Medical Board for obtaining second medical opinion as and when called for by the Board. The In-charge of the RGM Hospital asked the applicant to attend before the Medical Board on 12.05.1997. Getting no information either from Medical Board or from In-charge of RGM Hospital or from the applicant, the Chief Medical Officer of North District was addressed on 13.06.1997 to intimate whether the applicant appeared before the Medical Board on 12.05.1997 and to send the opinion formed by the

Board, endorsing a copy to the Sub-Divisional Inspector of Post offices, Kailashahar for ascertaining the fact. The SDIPOs reported in his letter no. A-1/Misc/Corr., dated 26.06.1997 that the date of examination of the applicant was re-fixed on 08.07.1997. The in-charge, RGM Hospital in his letter no. F.4(8)Gen/SEN/IN/RGMH/KLS/N/94/4517-21 dated 25.06.1997 asked the applicant again to appear before the Medical Board on 08.07.1997. The applicant in his letter dated 03.07.1997 wanted to know whether he was required to appear before the said Board again. The applicant was categorically informed that he should appeared before the Board as called for. He received the letter on 05.07.1997. The applicant applied for T.A. advance for the journey to be under gone on 07.07.1997, which was granted accordingly but the applicant did not take payment. The applicant did not comply with the direction, but reported sick supported by a photo copy of a prescription dated 08.07.1997 in which 5 days rest was advised.

7. That with regard to the statements made in para 4.4, of the application, the respondents beg to state that it not be held correct that the representation mentioned in para 4.4 of the application was considered by Director (Staff). It might have been considered by the Member (P) as it was addressed to him and his decision might have been communicated by the Director (Staff). The usual practice or customs of the Department of Posts is that a communication of decision of higher Officers are being communicated by the Director or Asstt. Director, Who ever may considered the said representation is

quite irrelevant in this instant case as this in not the subject matter of the Disciplinary proceedings nor the documents is support of the allegations brought against the applicant. Had the applicant not satisfied with the decision contained in the said letter, he could have further proceeded to the Court of Law for redressal of his grievances. But he did not. Instead, he harmonized with the decision for the last 3 years and now he has no legal right to agitate before the Hon'ble CAT as attracted by Section 21(1)(a) of Administrative Tribunal Act, 1985.

8. That with regard to the statements made in para 4.5, of the application, the respondents beg to state that it is correct that the applicant was charge sheeted for violation of 3 articles of charges. The allegation brought in the article of charge 1 is for his failure to carry out the revocation order issued by the Respondent no.2 in his letter no. B-333/Pt.II, dated 20.01.1997 wherein he was directed to join as SPM, Salema. Being aggrieved, the applicant agitated before the appellate authority and revising authority. Both authorities rejected the representation of the applicant and uphold the posting order. The latest one was on 01.06.98. The applicant, thereafter, neither agitated before any other authority including the judiciary nor joined the duty ordered earlier. His calmness on this point of agitation for the two and half years had automatically relinquished. No grievance of particular point of time can be revived after relinquishment. Had he not satisfied with the decision of the authority

concerned, he would have agitated before the appropriate forum within the limit of one year only, but he did not. Form his action, it is clearly stood that he was satisfied with order of the authority concerned . The fundamental Rule is that the service of an employee can be had in any manner required by proper authority without prejudiced to the status. In the instant case, the applicant was not at all been posted to a lower cadre than that what he posses, ~~xxxxxxxxxxxxxxxx~~ nor to a cadre to which he was not recruited for, rather in the same cadre. The suspension order was revoked with a view to utilize his service in other area of the Department and ordered to join as SPM, Salema where manipulation/tampering of records totally nil. The circumstances and proposition of rules clearly justify posting order of the applicant as SPM, Salema, the applicant wantonly and willfully disobeyed the written order of the competent authority.

The article II of the charge is for non-appearance before the Medical Board on 08.07.1997 for obtaining Second Medical opinion as called for by the In-charge, RGM Hospital and directed by the SPOs, Dharmanagar vide his letter No. B-333/Pt.II, dated 04.07.1997. But the applicant did not attend before the Medical Board on 08.07.1997 on the ground of his illness and the advise of the Doctor to take rest for 5 days. The reason adduced by the applicant neither tenable nor convincing as because the necessity of Second Medical opinion does arise only when there is Ist Medical Opinion.

The OPD, Dharmanagar Hospital's direction to take rest for 5 days is a Ist Medical opinion and therefore deserves for scrutiny by Medical Board for forming the Second Medical opinion. And also the direction did not contain bed rest, nor the applicant was admitted to Hospital, nor there was advise not to undergo any journey. Non-appearance before the Medical Board on 08.07.1997 clearly stood the defying of order of the Superior authority and gross indiscipline.

Copy ofSPO's, Dharmanagar letter No. B-333/Pt.II dated 4.7.1997 is annexed herewith and marked as Annexure - R/5.

The article iii of charge that the applicant remain unauthorized absence from duty w.e.f. 23.01.1997 violating the provision of rule 162 of P & T Manual Vol.III. The contention of the applicant that he was sick and applied for commuted leave for 40 days w.e.f. 23.01.1997 was not granted as per FR-55 and the charge sheet therefore vague and abstract is quite fallacious and fabricated. The logical meaning of SPOs, Dharmanagar letter no. B-333/Pt.II, dated 10.03.1997 is that no leave can be granted unless and until the applicant assume the duty. As soon as the revocation made, the continuous suspension automatically ceased irrespectively whether the suspended official acted upon the revocation order or not. Meaning cannot be derived as continuance of suspension. Once revoked cannot be continued. There was no fresh order of suspension and therefore, the applicant cannot be at all treated as under suspension w.e.f. 22.01.1997, the date in which the applicant received the

revocation order. Leave cannot be claimed as of right, Granting of leave is subject to the satisfaction of the leave granting authority. It is the Ist and foremost duty of the officer/official before proceeding to leave ensure that this leave is granted. ~~Mere~~ Mere submission of Medically unfit certificate does under no circumstances entail an official to proceed on leave on that count. Not to speak, when the medical unfit certificate of attended Doctor in question and forwarded to medical board to form second medical opinion as to the necessity of rest recommended to. In this instant case, the applicant did not appear before the medical board on flimsy ground. Had he appeared before the medical board, the fact would have come out and decision could be made accordingly. It is the applicant who feared to appear before the Medical Board thereby hindrance to face the truth.

9. That with regard to the statements made in para 4.5(a), of the application, the respondents beg to state that it is correct that, on 21.08.1998, the applicant submitted the written defence statement against the charge leveled in this office memo no. B-333/Pt.II, dated 12.08.1998 denying the charges. As a result I.O/P.O was appointed on 17.09.98. The rest of this para is suffers from veracity of circumstantial evidences. The applicant attended the preliminary hearing on 10.11.1998 on the notice of the I.O. vide I.O's letter no. IO/INQ/2/J. Chakraborty dated 15.10.1998 in which it is clearly enjoined that the preliminary hearing would be held in respect of the charges framed against the appellant

under SPOs, Dharmanagar memo no. B-333/Pt.II, dated 12.08.98. Moreover, there is no charge framed and set out against the appellant subsequent to the dated 12.08.1998 on any other misconduct or mishehaviour, not to speak of the same ground. Therefore, the I.O. could not read out the charge framed other than that what leveled under SPOs, Dharmanagar memo no. B-333/Pt. II, dated 12.08.1998. The I.O. might have quoted the memo No. and date of appointment of the I.O. i.e. memo no. B-333/Pt.III, 17.09.1998 instead of the memo No. and date of charge - sheet inadvertently. Again, the applicant admitted the receipt of the charge sheet in respect of charge framed against him and under enquiry and reported to have been understood. Had the enquiry not been held in respect of the charge leveled in memo No. B-333/Pt.II, dated 12.08.1998 how he admitted the receipt of charge sheet and understood the contents which is not at all existing nor any I.O. is appointed against the so called charge sheet. Thus, it can safely hold that the I.O. erroneously quoted the No. and date of charge sheet which canot vitiated the enquiry. The averment of enquiry into the 3 separate charge sheet is quite fallacious and fabricated. No such charge sheet was framed and set out against the applicant and therefore no question of holding enquiry on so called charge sheet does arise. In the daily order sheet, the I.O. quoted the authority No. i.e. the IO's appointment letter No. and date not the No. and date of the charge sheet. Examination of order sheet of the I.O. dated 25.01.1999 is clearly reflected that on inspection of enlisted document in the AnnexureIII to the charge sheet bearing memo no. B-333/Pt.II dated 12.08.1998,

the applicant admitted the documents. Therefore, it is clearly evident that the enquiry was held on the charges framed against the applicant in memo no. B-333/Pt.II dated 12.08.1998. During entire proceedings the applicant did not put up this plea, instead, he participated the proceedings actively. The applicant also did not put forward the plea in his brief submitted before the I.O. as well as representation made against the I.O.'s report. Perusal of his brief submitted to the I.O. and the representation made against the I.O.'s report is clearly evident that enquiry was held against the charge leveled in the memo No. B-333/Pt.II, dated 12.08.1998 and there was no variation to the fact and documents delineated thereto. The question automatically arise how he participated and made reference all a long to the charge sheet what he now state to have not been received by him. This point pleaded by the applicant maliciously with a view to create ambiguity in the mind of the authority and to mislead thereby.

Extract of I.O.'s daily order sheets datec 10.11.98 and dated 25.01.1999 as annexed herewith and marked as Annexure R/7.

10. That with regard to the statements made in para 4.6, of the application, the respondents beg to state that it is correct that the applicant was awarded with the penalty of "Compulsory Retirement" after duly considering the entire episode including the document produced and the witness examined by both sides before the enquiry authority, the brief submitted by the Presenting Officer and the applicant and the representation

made by the applicant against the enquiry report.

11. That with regard to the statements made in para 4.7, of the application, the respondents beg to state that the report of the inquiring authority is only on enabling documents which helps the Disciplinary authority in formulating his opinion and is intended to assist the Disciplinary authority, in coming to the conclusion about the guilty of the Govt. servant. It's findings are not binding on the Disciplinary authority who is to come on it's own conclusion on the basis of it's own assessment of the evidence forming part of the record of the enquiry. In the instant case, the applicant was given an opportunity to represent before the Disciplinary authority against the findings of the inquiry authority and the applicant availed of the opportunity. All the points pleaded by the applicant were duly considered and discussed by the disciplinary authority in the light of the documents and evidences that formed part of the record of the enquiry before coming into conclusion and recorded the observations of Disciplinary authority in the final order speakingly. There is no question of surmised and vague findings does arise.

12. That with regard to the statements made in para 4.8, of the application, the respondents beg to state that the respondent strongly denied the averment made in this para. The statement is not correct, but fabricated. The question of change of I.O. was come up on the moving of a bias allegation by the applicant against the then I.O. viz. Shri Ranjit Kr. Das, SSPOs, Mizoram Eas Sub-Division vide bias application of the

applicant dated 08.11.1999 (Photo copy enclosed). The appellate authority considered his prayer and ordered to change the I.O. since appointment of the I.O. from out side the territorial jurisdiction of the Disciplinary authority approval of the Circle head viz. Chief Postmaster General, N.E. Circle, Shillong to have the service of the Officer concern was necessitated and that was the reason for which the Chief Postmaster General's approval was obtained. The appointment of Shri Narayan Das, ASPOs, as Inquiry authority had never been challenged by the applicant nor the applicant brought any allegation of biasness in course of enquiry. While he abide by the proceedings that conducted by the said Shri Narayan Das all along, the applicant has no right to bring the appointment of Shri Narayan Das as I.O. into question mark. The appointment of said Shri Narayan-Das as I.O. on the approval of the Chief Postmaster General, Shillong does under no way at all vitiated the principal of natural justice.

Copy of letter of the applicant dated 8.11.1999 is annexed herewith and marked as Annexure R/8 .

18. That with regard to the statements made in para 4.9, of the application, the respondents beg to state that the contention made in this para is under surmise and conjecture. Devoid of iota of truth. Mere assertion does it-self not prove the statement. The charges framed against the applicant are very much based on fact and the conduct exhibited by the applicant. The conclusion of the proceedings were maded duly considering and discussing all the points that raised by the

applicant from time to time before the Inquiry authority and the Disciplinary authority and also the documents formed the enquiry. The report of I.O. nothing but to enable the Disciplinary authority in formulating latters opinion. In other words, to assist the Disciplinary authority in coming to the conclusion about guilty of the charge sheeted official/ Officer. The Disciplinary authority is to put his own observation irrespective of the enquiry report. In the instant case, this was done by the Disciplinary authority speakingly.

Photo copy of the Supdt. of PO's. Dharmanagar memo No. B-333/Pt.III, dated 3.4.2001, is annexed herewith and marked as Annexure - R/9.

19. That with regard to the statements made in para 4.10, of the application, the respondents beg to state that the averment made in this para is quite fallacious and fabricated. False statement is made with a ulterior motive to grow the sympathy of concerned authority for getting undue favour. According to family declaration submitted by the applicant on 01.02.1984. his family consists of himself, wife and one daughter and thereafter another daughter was born during the year 1996. His parents neither residing with him nor form a part of his family. Again, it is not at all correct that his famdly depend upon the salary of him. On the contrary, his wife is serving in the Education Department of Govt. of Tripura and now posted at Bir Bikram Institution, Dharmanagar. The applicant deliberately and want-only suppress the material information to mislead the Hon'ble CAT.

(photo copy family statement of the applicant dated 1.2.1984 is annexed herewith and marked as Annexure - R/10.

20. That with regard to the statements made in para 4.11, of the application, the respondents beg to state that the applicant had preferred two appeals one on 09.04.2001 and the other on 27.04.2001. Both the appeals are lying with the Appellate authority. Section 21(1)(b) of the Administrative Tribunal Act 1985 bars the filing of the instant case before the Hon'ble CAT until expiry of 6 months from the date of filing of the appeal. The instant case is, therefore, suffers from the limitation and liable to be dismissed.

21. That with regard to the statements made in para 4.12, of the application, the respondents beg to ~~state~~ offer no comments. The proposition of law may be checked up by the Hon'ble Sr. CGSC.

22. That with regard to the statements made in para 5.1, of the application, the respondents beg to state that strongly denied. The charged is framed on the basis of facts and the conduct exhibited by the applicant.

23. That with regard to the statements made in para 5.2, of the application, the respondents beg to state that the findings of the I.O. is to help the Disciplinary authority incoming into conclusion as to the guilt of a charge sheeted official. The enquiry report does itself not the conclusion of the proceedings.

24. That with regard to the statements made in para 5.3, of the application, the respondents beg to state that this is a flimsy ground. The appointment of I.O. was made duly agreeable to the rules. The applicant did not make any objection on the appointment of the I.O. and also he did not more bias application against the I.O. on the contrary, he harmonized with the proceedings conducted by the I.O. all along. This plea is formed after thought and cannot be sustained in the eye of law.

25. That with regard to the statements made in para 5.4, of the application, the respondents beg to state that this ground is quite fallacious and fabricated and made to create ambiguity in the mind of the concerned authority. There was other charge except the charges framed in Supdt. of Post offices, Dharmanagar memo no. B-333/Pt.II, dated 12.08.1998 and served on the applicant. In the order sheet, the I.O. had noted down the authority under which the I.O. conducted the enquiry. In other words I.O. have quoted the memo No and date of issue of I.O.'s appointment not the memo of date of issue of charge sheet. The applicant in course of preliminary hearing had admitted the receipt of the charge sheet in respect of the charge leveled in memo No. B-333/Pt.III, dated 17.09.1998. The question automatically arised how the applicant admitted the receipt of the charge sheet and understood the contents which is not at all existing nor served upon him as he asserted and no I.O. was appointed against the so called charge sheet. Practically, the I.O. misquoted the memo no. and date of the charge sheet. He

He quoted the No. and date of his appointment. This is a clerical mistake, not at all vitiated the proceedings and right of the applicant. The enquiry was held on the charges, documents and witnesses that delineated in the SPOs memo No. B-333/Pt.II, dated 12.08.1998 and the applicant participated in the enquiry all along without putting any question mark. While denying, if agreed that the enquiry was conducted on three charges and the applicant was not served with the charge sheet then why he participated in the enquiry ? He was not lawful bound. The ground, therefore, not sustained, quoting of wrong No. by the I.O. is a clerical mistake which did not change the article of charge, the statement of imputation, list of documents and the witnesses, based on which the enquiry was conducted and the charges leveled against the applicant in the Supdt. of Post Offices, Dharmanagar's memo no. B-333/Pt.II, dated 12.08.1998.

26. That with regard to the statements made in para 5.5, of the application, the respondents beg to state that it is immaterial whether the I.O. had appreciated all the points or not as his report is only to help the Disciplinary authority in coming into the conclusion as to the guilt. The observation of the Disciplinary authority is the factor in any Disciplinary case.

27. That with regard to the statements made in para 5.6, of the application, the respondents beg to state that this ground is under surmise and conjecture. The Disciplinary authority did not at all keep reliance upon the enquiry report only

but appreciated all the documents that formed part of the enquiry and made observations objectively on each and every points raised by the applicant all along the proceedings. The Disciplinary authority also made objective observation on the circumstances of the case .

28. That with regard to the statements made in para 5.7, of the application, the respondents beg to state that it is vehemently denied that there was any action of whimsical and arbitrary attracting the provision of article 14 and 16 of the Constitution of India. There was no violation of any rule prescribed for conducting the proceedings under Rule 14 C.C.S. (CCA) Rules, 1965.

29. That with regard to the statements made in para 5.8, of the application, the respondents beg to state that it is not correct. The proceedings was concluded on objective appreciation of records and circumstances of the fact.

30. That with regard to the statements made in para 6, of the applicant, the respondents beg to state that the applicant has not exhausted the Department channel. He submitted an appeal on 27.04.2001 and should have awaited for 6 months i.e. till 27.10.2001 as enjoined in Section 21(1)(b) of Administrative Tribunal Act, 1985.

31. That with regard to the statements made in para 7, of the application, the respondents beg to offer no comments.

32. That with regard to the statements made in para 8.1, of the application is not at all deserved to have the Penalty of "Compulsory Retirement" imposed upon him set aside, as the penalty was imposed on duly observing provision of natural justice and after duly considering all aspects objectively. The quantum of punishment also is quite commensurated with the gravity of offence.

33. That with regard to the statements made in para 8.2, of the application, the respondents beg to state that it is not entitled to.

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

Verification.....

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

I, Shri Sunil Das Supdt. of Pos Dharmanagar being authorised do hereby solemnly affirm and declare that the statements made in this written statement are true to my knowledge and information and I have not suppressed any material fact.

And I sign this verification on this 26 th day of November '2001

Sunil Das
Declarant.
26/11/01

Supdt. of Post Offices,
Dharmanagar, Division
Dharmanagar, 799250

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Filed by Rinkyoshi Advocate 1/4/02.

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 308/2001

Sri J. Chakraborty

Vs.

U.O.I. & Ors

In the matter of :

Rejoinder to the reply of written statement.

The applicant most respectfully beg to state that the written statement of the does not give the correct picture and begs to state as under :

1. That the applicant was placed under suspension w.e.f. 31.10.1996(A/N). His suspension was revoked with a direction to join on transfer as SPM, Salema by Memo No. B-333/Pt II dated 20.1.1997. The applicant prayed for commuted leave on medical ground w.e.f. 23.1.1997 for 40 days. But his prayer for leave was rejected on the ground of inadmissibility of leave under FR-55 vide letter No. B-333/PT II dated 10.3.1997 followed by a corrigendum dated 25.3.1997. The applicant did not join as the respondents treated him still then under suspension. Thereafter the applicant was charge-sheeted by Memo No.B-333/Pt II dated 12.8.1998 with 3(three) Articles of charges.

Copy of the Charge Sheet dated 12.8.1998 is enclosed as Document-1.

2. That the said Charge Sheet was framed for the period from 27.4.1996 to 31.10.1996 and the charges brought against the applicant were beyond that period. The Article-I of the charges was that the applicant failed to carry out

the order of his higher authority vide Memo No. B-333/Pt.II dated 20.1.1997. The Article-II of the charges was that the applicant failed to attend to the R.G.M Hospital on 8.7.1997 as directed to him by letter dated 4.7.1997. The Article-III of the charges was that the applicant remained absence from duty without proper permission from the date of revocation of his suspension by order dated 20.1.1997. It is submitted that all the above charges do not fall within the period for which the said Charge Sheet was framed. The Charge Sheet and order of the Disciplinary Authority is liable to be set aside and quashed on this count alone.

3. That on the date of preliminary hearing on 10.11.1998, a different charge sheet vide Memo No. B-333/Pt III dated 17.9.1998 was presented and read out by the Presenting Officer, the copy of which was never given to the applicant. Moreover, on other various date of hearing enquiry was conducted on another Charge Sheet Viz., Memo No. B-333/Disc dated 17.9.1998 on hearing date 25.1.1999, 5.5.1999, 29.6.1999, 30.6.1999,10.8.1999 & 11.11.1999. The copy of this Charge Sheet was also not given to the applicant. However, the applicant submitted his defense on the basis of the Charge Sheet Dated 12.8.1998 which was issued to him. It is also submitted that the original charge sheet No. B-333/Pt.II dated 12.8.1998 was not cancelled. The issuance of fresh charge sheet as mentioned above is violative of Govt. Of India Instruction in para (8) below Rule-15 of the CCS(CCA) Rules,1965. The Charge Sheet and order of the Disciplinary Authority is liable to be set aside and quashed on the ground that the respondents did not

act fairly and afford reasonable opportunity to the applicant.

Copy of the relevant order sheets of the Enquiry Proceedings are enclosed as Document-2.

4. That Shri Ranjit Kr. Das, ASPOS was appointed as Inquiry officer to conduct enquiry on the aforesaid charges. By a letter dated 8.11.1999 to the Superintendent of Post Offices, Dharmanagar Division (Disciplinary Authority) (for short SPO) the applicant prayed for changing of the said Inquiry Officer (for short IO) on account of biasness. He also prayed in the said letter for subsistence allowance as applicable to a suspended employee, and to allow him to join his appropriate post. By memo No. B-333/Pt.III dated 17.12.1999 the said SPO appointed Sri Narayan Das, ASPOS, Agartala as IO whose name was proposed by the Chief Post Master General, N.E. Circle, Shillong (for short CPMG). It is submitted that CPMG is the Revisional Authority and the said SPO is the Disciplinary Authority. The appointment of an IO is made by the Disciplinary Authority of his own and not on the proposal of the Revisionary Authority or anyone else with a view to keep the proceedings fair. In the instant case the appointment of Sri Narayan Das as an IO was as such irregular and not just and fair.

Copy of the letter dated 8.11.1999 and Memo dated 17.12.1999 is enclosed as Document - 3 and 4 respectively.

5. That as regards the applicant's other prayer

in the letter dated 8/11/99 viz., Subsistence allowance and joining in the appropriate post, the respondents did not replied anything to the applicant and compelled him to remain under suspension. The applicant by letters dated 16.02.2000 and 05.05.2000 also prayed for materialisation of his aforesaid prayers but no favourable result had come out.

Copy of the letter dated 16.2.2000 and 5.5.2000 is enclosed as Document - 5 and 6 respectively.

6. That the applicant by an application dated 21.6.2000 requested the IO to keep the enquiry in abeyance until he receives the admissible subsistence allowance and gets posting as per service line or cadre. The IO forwarded the said application to the Disciplinary Authority without any fruitful result.

Copy of the Order Sheet dated 21.6.2000 is enclosed as Document - 7.

7. That as regards the attending of Medical Board it is submitted that the applicant applied for TA advance but he was also not paid the same which is evident from the Inquiry Report (at Page -14).

8. That the Inquiry Officer could not substantiate his findings with reasons and held the charges proved on the basis of some vague and abstract opinion as "owing to direct or indirect admission of the charged official".

9. That the Disciplinary Authority passed the

impugned order dated 3.4.2001 without considering the day to day records of proceedings and without application of mind imposed the penalty of 'Compulsory Retirement' upon the applicant which amounts to removal from service.

10. It is humbly submitted that according to Rule 12 of CCS(Leave) Rules,1972 the maximum amount of continuous leave is 5 years.

11. That it is humbly submitted that the applicant is about 51 years old and only few years left for his regular superannuation i.e. at the age of 60. He is the only earning member of his family and he has dependent parents, wife and children.

12. That in the facts and circumstances the application deserves to be allowed.

Verification.....

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Verification

I, Jyotirmay Chakraborty do hereby verify that the statements in para 1 to 12 are true to my personal knowledge and I have not suppressed any material fact.

And, I sign this verification on this 28th day of March, 2002

Jyotirmay Chakraborty

Document - 1

DEPARTMENT OF POST : INDIA
OFFICE OF THE SUPDT. POST OFFICES : DHARMANAGAR DIVN.
DHARMANAGAR : 799250.

Memo No. B-333/Pt.II. Dated, Dharmanagar the 12-08-98.

MEMORANDUM

The undersigned proposes to hold an enquiry against Shri **Jyotirmoy Chakraborty** under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The Substance of the imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of Charge (ANNEXURE-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (ANNEXURE-II). A list of documents by which and a list of witnesses by shom, the articles of charge are proposed to be sustained are also enclosed (ANNEXURES-III and IV).

2. Shri **Jyotirmoy Chakraborty** is directed to submit within 10 (ten) days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri **Jyotirmoy Chakraborty** 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 orders/directions issued in persuance of the said rule, the enquiring authority may hold the enquiry against him ex-parte.

5. Attention of Shri **Jyotirmoy Chakraborty** 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 outside 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 in respect of any matter dealt within these proceedings it will be presumed that Shri **Jyotirmoy Chakraborty** is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

Sd/-
(S.C. DUD BARMA)
Supdt. of Post Offices,
Dharmanagar Dn., Dharmanagar : 799250.

Registered with A/D

(1) Shri **Jyotirmoy Chakraborty**, Sub-Postmaster, Salema (designate), Now at Thana Road (Netaji Road Entrance) Dharmanagar, N. Tripura.
(2) Vig. File, Divl. Office, Dharmanagar.
(3) P/F of the official.

12/8/98
Supdt. of Post Offices,
Dharmanagar Division,
Dharmanagar-799250

NAMASUDRA
Inspector, H.O. & D.D.O
Dharmanagar Division, Dharmanagar
N. Tripura, Tripura.

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ANNEXURE - I

27/4/96
31.10.96

Statement of articles of charge framed against Shri Jyotirmoy Chakraborty, Sub-Postmaster, Salema(designate).

Article - I

That the said Shri Jyotirmoy Chakraborty while functioning as Offg.Complaint Inspector, Divisional Office, Dharmanagar during the period from 27-4-96 to 31-10-96 failed to carry out the written order of his higher authority vide memo No.B-333/Pt.II dated 20-1-97 wherein Shri Chakraborty was posted as SPM, Salema S.O. on revocation of his suspension order. The said revocation memo was received by Shri Chakraborty on 22-1-97. Thereafter Shri Chakraborty submitted a representations dated 29-1-97 and 10-2-97 against the said transfer order. The decision of the Supdt.of Post offices, Dharmanagar was communicated to him vide letter No.B-333/Pt.II, dated 31-1-97 and 10-3-97 which was received by him on 7-2-97 and 13-3-97 respectively. But Shri Chakraborty did not carry out the said written order of his superior authority and yet to join his place of posting.

By his above act Shri Jyotirmoy Chakraborty shown a gross insubordination and also shown and disobedience by not carry out the written order which considered to be acted in a manner which is unbecoming of a Govt.Servant and thereby violated the provision as envisaged in Rule-3(1)(iii) of C.C.S.(Conduct) Rules,1964.

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty failed to attend to the R.G.M. Hospital, Kailashahar on 8-7-97 as directed to him vide Supdt.of Post Offices, Dharmanagar letter No. B-333/Pt.II dated 4-7-97. The said letter was received by Shri Chakraborty on 5-7-97. Hence Shri Chakraborty

Contd....P/2...

Copy attested

SHIL KR NAMASUDRAN
Headmaster, H.O. & D.D.O
Institution, Dharmanagar
Tripura, Tripura.

failed to carry out the written order of his superior authority.

By his above act Shri Jyotirmoy Chakraborty shown a gross insubordination and also shown disobedience by not carryout the written order which considered to be acted in a manner which is unbecoming of a Govt. Servant and thereby violated cartain provisions as envisaged in Rule-3(1)(iii) of C.C.S.(Conduct) Rules,1964.

Article - III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty remained absence from duty without proper permission from the date of revocation of his suspension vide Supdt.of Post offices,Dharmanagar memo No.B-333/Pt.II dated 20-1-97 which was received by him on 22-1-97. Therein the said Shri Chakraborty was posted as Sub-Postmaster, Salema S.O. on revocation of his suspension order. But Shri Chakraborty did not carryout the said order and remained on unauthorised absence from duty till date. Violating the provisions of Rule-162 of P&T Manual Vol. III.

By his above act, Shri Jyotirmoy Chakraborty shown gross insubordination and also shown disobedience to his higher authority by not carry out the written order and remained absence from duty unauthorisedly violating the provisions of Rule-162 of P&T Manual Vol.-III and also acted in a manner which is unbecoming of a Govt. Servant thereby violated the certain provisions as envisaged in Rule-3(1)(iii) of C.C.S. (Conduct) Rules,1964.

ANNEXURE - II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Jyotirmoy Chakraborty, SPM, Salema(designate).

Contd....P/3..

(3)

Article - I

That the said Shri Jyotirmoy Chakraborty while functioning as Offg. Complaint Inspector, Divisional office, Dharmanagar during the period from 27-4-96 to 31-10-96 was placed under suspension vide this office memo No.B-333/Pt.II dated 31-10-96. The said order of suspension was revoked vide memo of even No. dated 20-1-97 with direction Shri Chakraborty to join as Sub-Postmaster, Salema S.O. The said revocation memo was received by him on 22-1-97. Thereafter Shri Chakraborty Submitted a representation dated 29-1-97 against the said transfer order. The decision of the Supdt.of Post Offices, Dharmanagar on the said representation was communicated to him vide letter No.B-333/Pt.II dated 31-1-97. The said letter was received by him on 7-2-97. But Shri Chakraborty did not carry out the said written order of his superior authority and yet to join his place of posting.

By his above act, Shri Jyotirmoy Chakraborty, shown a gross insubordination and disobedience which considered to be acted in a manner which is unbecoming of a Govt. Servant and thereby violated certain provisions as envisaged in Rule-3(1)(iii) of C.C.S.(Conduct) Rules,1964.

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty failed to attend the R.G.M. Hospital, Kailashahar on 8-7-97 for the second medical openion as directed to him vide Supdt.of Post offices, Dharmanagar letter No.B-333/Pt.II dated 4-7-97. The said letter was received by him on 5-7-97. But Shri Chakraborty did not attend the R.G.M. Hospital, Kailashahar on 8-7-97 as intimated by the I/C.,R.G.M. Hospital, Kailashahar vide their letter No.F.1(8)GEN/IN/RGMH/KLS/N/94/4850-53 dated 15-7-97. Thus Shri Chakraborty failed to carry out the written order of his higher authority.

Contd....P/4.....

(4)

By his above act, Shri Jyotirmoy Chakraborty shown a gross insubordination and disobedience by not carry out the written order of his higher authority which considered to be acted in a manner which is unbecoming of a Govt. Servant and thereby violated certain provisions as envisaged in Rule-3(1)(iii) of C.C.S.(Conduct) Rules,1964.

Article - III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Jyotirmoy Chakraborty remained absence from duty without proper permission from the date of revocation of his suspension order vide Supdt.of Post offices, Dharmanagar letter No.B-333/Pt.II, dated 20-1-97 which was received by him on 22-1-97 wherein the said Shri Chakraborty was posted as SPM, Salema S.O. on revocation of his suspension order. But Shri Chakraborty did not carry out the said order and remained absence from duty unauthorisedly till today. Thus Shri Chakraborty violated the certain provisions as envisaged in Rule-162 of P&T Manual Vol-III.

By his above act, Shri Jyotirmoy Chakraborty shown a gross insubordination and disobedience to his higher authority by not carryout the written order and remained absence from duty unauthorisedly violating the provisions of Rule-162 of P&T Manual Vol-III and also acted in a manner which is unbecoming of a Govt. Servant thereby violated the certain provisions as envisaged in Rule-3(1)(iii) of C.C.S. (Conduct) Rules,1964

Contd.....P/5.....

(5)

ANNEXURE - III

List of documents by which the articles of charge framed against Shri Jyotirmoy Chakraborty, SPM, Salema S.O.(designate) are proposed to be sustained.

(1) Memo No.B-333/Pt.II dated 20-1-97.
(2) A/D card bearing No.B-333/Pt.II dated 20-1-97.
(3) Representation of Shri J. Chakraborty dated 29-1-97.
(4) Letter No.B-333/Pt.II dated 31-1-97.
(5) A/D card bearing No.B-333/Pt.II dated 31-1-97.
(6) Representation of Shri J. Chakraborty dated 10-2-97.
(7) Letter No.B-333/Pt.II dated 10-3-97.
(8) A/D card bearing No.B-333/Pt.II dated 10-3-97.
(9) Letter No.B-333/Pt.II dated 4-7-97.
(10) A/D card bearing No.B-333/Pt.II dated 4-7-97.
(11) Letter No.F.1(8)GEN/IN/RGMH/KLS/N/94/4850-53 dated 15-7-97 of the I/C, RGM Hospital, Kailashahar.

ANNEXURE - IV

List of witnesses by whom the articles of charge framed against Shri Jyotirmoy Chakraborty, SPM, Salema S.O.(designate) are proposed to be sustained.

(1) Shri Binalendu Dey Kanungoe, R/A, Divisional Office, Dharmanagar.

Attested

CUSHIL Kr. NATHASCHA
Asstt. Postmaster, H.O. & D.D.O
D.D. Institution, Dharmanagar
North Tripura, Tripura

preliminary hearing dated 10.11.97 against Shri Jyotirmoy Chakraborty (designated SPM Sabroom) under Rule 14 of CCS CCA Rules 1965.

Authority : SPOs Dharmanagar under memo no B-333/Pt III dated DNR the 17.9.98

2. T.O : Shri R. K. Das ASPOs Dharmanagar, vide B-333/Pt III dated 17.9.98

3. P.O : Shri Subrata Das SDI(Ps) Kailashahar Sub Division vide B-333/Part III dated 17.9.98

Shri Jyotirmoy Chakraborty SPS and Shri Subrata Das, P.O attended the hearing at scheduled time, date & place which was fixed on 10.11.98 at 11 hrs in the office of the SDI(Ps) Dharmanagar.

Shri Jyotirmoy Chakraborty SPS was asked whether he received the memo no B-333/Pt III dated 17.9.98 from SPOs Dharmanagar along with the charge sheet and in reply the said Shri Jyotirmoy Chakraborty SPS stated that he received the same.

The P.O Shri Subrata Das read out the articles of charges framed against Shri Jyotirmoy Chakraborty SPS under SPOs DNR memo no B-333/Pt III dated 17.9.98 and the same was explained before the SPS both in English and Bengali language. The SPS stated that he was understood the same. Shri Jyotirmoy Chakraborty SPS was

c.o page 2

P.O. SDI(Ps) 10.11.98

"A"

Copy noted

SHIV KR. NAMASUDRA
Headmaster, H. O. & D.D.O
B. Institution, Dharmanagar
North Tripura, Tripura.

Annexure → (11)

1. Hearing dated 25.1.99 charge sheet against Shri Jyotirmoy Chakraborty under Rule 14 (designated) SPM, Salbania under Rule 14 of CCS (CCA) Rules 1965.

1. Authority - SPOS Dharmanagar under memo No B-333/DISC dated 17.9.98

2. I.O Shri R.K. DAS ACP HQ DNR

3. P.O Shri Subrata Dey SDI Post KSR

4. Date & place of hearing 25.1.99 at the office Dharmanagar Sub Division

Shri Jyotirmoy Chakraborty SPS and Shri Subrata Dey P.O attended the hearing at scheduled time & place.

All the cited documents were produced for inspection by the C.O.

The C.O Shri Jyotirmoy Chakraborty inspected all the cited documents.

The C.O Shri J. Chakraborty has been given the opportunity to place those evidence of cited documents.

Prosecution Shri Chakraborty did not have any evidence except inspection of the documents. All the cited documents in the charge sheet were brought on record and marked as below:

1. memo No B-333/Pt-II dated 20.1.97 marked as exhibit S-1

2. A/D card bearing No B-333/Pt-II dated 20.1.97 marked as exhibit S-2

3. representation of Shri J. Chakraborty dated 29.7 marked as exhibit S-3.

C.O Proceed

Annexure - (12)

Hearing dated 5.5.99

Against Shri Jyotirmoy Chakraborty (designated) SPM, Sabroom under Rule 14 C.C.S. (C.C.A) Rules 1965

Authority - SPOS Dharmanagar under memo No. B-333/Disc. dated 17.9.98

2. I.O Shri R.K. DAS ASP Agartala East Sub division

3. P.O Shri Subrata Das SDI(P) Telia-mura Sub Division

4. Date and place of hearing 5.5.99 at 11 hrs SDI(P) office Dharma-nagar Sub Division

Shri Jyotirmoy Chakraborty SPS and Shri Subrata Das P.O attended the hearing at scheduled time & date & place.

Two numbers of additional documents sought for by Shri J. Chakraborty C.O were requested for supply by the D.A but the D.A supplied xerox copy of application of Shri J. Chakraborty dated 10.10.91 which has been handed over to the C.O today. But the C.O wanted to inspect the original of the same. The D.A is requested to supply the said application in original to the I.O before the next date of hearing.

The xerox copy of C.O. Shikang letter No. Staff/10-11/91 dated 24.10.91 supplied by the D.A as surrender of accounts line is not accepted by the C.O as varried with the requisition by the C.O. The D.A may kindly supply the documents of acceptance of the above surrender of arrear.

Pg 2 SPS TKM

5.5.99

5/5/99

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HEARING ~~XXXXXXXXXXX~~ IN THE MATTER OF INQUIRY UNDER RULE 14 OF C.C.S.(C.C.A) RULES,1965 AGAINST SRI JYOTIRMOY CHAKRABORTY.

Authority: Supdt. Of Post Offices,Dharmanagar
Memo. NO.B-333/Disc Dated 17.9.98.

I.O. : Sri R.K. Das,ASPOs (E) Aizawl Sub-Dn.
P.O. : Sri Subrata Das,SDIPOs,Teliamura Sub-Dn.

Date Of Hearing: 29.6.99 & 30.6.99

Time of Hearing: 1100 Hrs.

Vanue of Hearing: Office of the Director of Postal Services Mizoram,Aizawl-796001.

Sri Subrata Das,Presenting Officer and Sri Bimalendu Dey Kanungoe,State witness attended the hearing in/on/at scheduled time/date/vanue.But the Charged official Sri Jyotirmoy Chakraborty remained absent.

Sri Subrata Das Presenting Officer handed over following additional documents in original on behalf of the Disciplinary Authority to the I.O.

1) Original application Dated 10.10.91 of Sri Jyotirmoy Chakraborty.

2) Original letter of C.O. Shillong NO.Staff/10-11/91 Dated 24.10.91.

Examination of State witness Sri Bimalendu Dey Kanungoe (SW-1) could not be taken up since the C.O Sri Jyotirmoy Chakraborty did not turn up.There is no intimation to me about the reasons of his absence.I, therefore, decide to examine the state witness on the next date of hearing.

The hearing is adjourned .

The next date of hearing will be notified later on to all concerned.

A copy of todays proceedings is being sent to the Charged official/Disciplinary Authority.

Kanungoe 30/6/99 — State witness. | Presenting Officer. | Inquiry Officer.

Not a copy attested

SHRI R. NAMASUDRA
Postmaster, H.O. & D.D.O
Dharmanagar
North Tripura, Tripura.

Annexure - 7 (14)

147

HEARING IN THE MATTER OF INQUIRY UNDER
RULE 14 OF C.C.S. (C.C.A.) RULES 1965
AGAINST SRI JYOTIRMOY CHAKRABORTY.

Authority: Supdt. of Post Offices Dharmanagar Memo No B 333/Misc. Dated 17.7.98.

I.O. : Sri R.K.Das Then ASPOs S.D. Dharmanagar Dn.

P.O. : Sri Subrata Das SDI(Ps Teliamura.

Date of Hearing : 10.8.99

Time of Hearing : 1100 Hrs.

Venue of Hearing : C/o the Supdt. of Post Offices P.S.D. Silchar 25.

Sri Subrata Das Presenting officer and Sri Bimalendu Ley Kanungoe, state witness attended the hearing in/on/at scheduled time/date/venue. But the C.O. Sri Jyotirmoy Chakraborty remained absent. The C.O. however sent an endorsement dated 27.7.99 which has been received by the I.O. on the 4.8.99 and requested fixing up the venue of hearing at Dharmanagar. The Presenting officer on behalf of the Disciplinary authority however has no objection whatsoever regarding the issue. I have very carefully examined the request made by the C.O. with fullest regard to the principals of natural justice and the venue having been fixed at a convenient place for all the parties at c/o the Supdt. of Post offices P.S.D. Silchar. Further it may be mentioned here that the C.O. is entitled to TA/DA as per Govt. rules for attending such departmental Inquiry. The request of the C.O. is sympathetically regretted. The C.O. in his said endorsement reiterated nonpayment of his subsistence allowance w.e.f. 23.1.97 which has already been discussed at the hearing dated 5.5.99 with I.Os decision. This requires no further perusal since the I.O. has no locus-standi into the matter.

Examination of state witness Sri B.K. Kanungoe (SW-1) has not been taken up for the second time also as the C.O remain absent. However today also the I.O. do not proceed ex-parte rather as affording another opportunity to the C.O. to take part in the hearing at the time of evidence orally.

The hearing is adjourned. The next date of hearing will be intimated to all concerned later on.

A copy of today, a proceedings is being sent to the disciplinary authority/charged official.

Kanungoe 10/8/99
State witness

10.8.99
Presenting officer.

10.8.99
Inquiry officer.

Attested Copy

SUSHIL K. NAMASUDRA
Asstt. Manager, H.O. & D.D.O
R.D. Institution, Dharmanagar
North Tripura, Tripura.

148

HEARING IN THE MATTER OF INQUIRY UNDER RULE14 OF C.C.S.(C.C.A.) RULES1965 AGAINST SRI JYOTIRMOY CHAKRABORTY.

AUTHORITY: Supdt. of Post offices Dharmanagar Memo No B-333/Disc. Dated 17.9.98.

I.O. : Sri R.K.Das then ~~XXXXXXXXXXXXXXXXXXXX~~ ASPOs Dharmanagar, Now ASPOs East Sub Dn. Aizawl.

P.O. : Sri Subrata Das then SDPOs Kailashahar Now SDPOs Teliamura.

Date of Hearing: 11.11.99
Time of hearing: 1100 hrs.
Venue of hearing: Office of the Supdt. of ~~XXXXXXXXXXX~~ Postal Stores Depot, Silchar.

Sri Subrata Das Presenting Officer and Bimalendu Dey Kanungoe state witness attended the hearing in/on/at scheduled time/date/venue but the C.O. Sri Jyotirmoy Chakraborty remained absent. The C.O. however moved an endorsement dated 8.11.99 addressed to Supdt. of Post offices Dharmanagar and copy to The Director, of Postal Service NE Circle Shillong and to the I.O. through the Supdt. of Post Offices Dharmanagar sent vide his letter No B-333/Pt III dated 9.11.99 which has been receive by the undersigned on 11.11.99. The C.O. requested fixing up the venue of hearing at Dharmanagar as well as changing of the instant I.O. on the plea of biasness against the instant I.O.

I have very carefully gone through the request of the C.O. and found that the request on the ground of bias has not been made as soon as the I.O. has been appointed but made after the proceedings commenced and reached to an advanced stage. The C.O. also could not adduced any valid reason in support of biasness of the instant I.O.

However examination of state witness Sri Bimalendu Dey Kanungoe(SW-1) has not been taken up for the third time as the C.O. brought allegations of biasness of the instant I.O.

The hearing is stayed at this stage till decision of competent authority and passing appropriate orders thereon.

A copy of todays proceedings is being sent to the Disciplinary authority/Charged official and Director of Postal Service N.E. Circle Shillong.

Kanungoe 11.11.99 — STATE WITNESS(SW-1)

PRESENTING OFFICER 11.11.99

Dec 11.11.99 — INQUIRY OFFICER

Photo copy Attested

SUSHIL KR. NAMASUDRA
Actg. Headmaster, H. O. & D. D. O
H. E. Institution, Dharmanagar
North Tripura, Tripura

— 19 —

Recd (3) copies for Supdt. of Post Offices Dharmanagar Division Dharmanagar-799250

Document - 3

Annexure - (4)

TO

THE SUPDT. OF POST OFFICES

DHARMANAGAR DIVISION.

DHARMANAGAR 799 250.

Sub :- Attendance in the Enquiry under Rule 14 of CCS (CCA) Rules 1965.

And

Change of Inquiry officer on account of biasness.

Sir,

Most respectfully and humbly the deponent begs to lay before you the following few lines for favour of your kind consideration and sympathetic orders.

1. That Sir, the commuted leave as prayed for 40(Forty) days w.e.f. 23/01/97 has been disallowed vide your letter bearing No. B-333/pt. II Dated, 10/3/97, followed by a corrigendum of even No. Dated 25/03/97, which was issued for modification of last line (not the last sentence) only of your letter Dated, 10/03/97 as "Unauthorised absence from duty," on the plea of inadimissibility of leave under F.R. 55 (FR 55 :- leave may not be granted to a government servant under suspension), which means that the suspension of the undersigned is still continuing and as such he is entitled to subsistence allowance as provided under rule and the order of transfer to the post of sub-postmaster, Salema, issued by infringing Departmental rules, stands cancelled and thus the undersigned was deprived of from the opportunity of joining the new assignement on the strength of your letter Dated 10/03/97 and Dated, 25/03/97.

2. That Sir, inspite of repeated applications/representations submitted to your honour and to the higher authorities for the payment of subsistence allowance as per your decision discussed earlier, which can be seen in the concerned files and records available in your office, no remedial measure was taken yet.

3. That Sir, finding no other alternative the undersigned has prayed to the Inquiry officer vide application Dated 05/05/99 for

Contd....p/2.

Photocopy attested

(SUSHIL Kr. NAMASUDRA)
Asstt. Headmaster, H. O. & D. D. O
B. B. Institution, Dharmanagar
North Tripura, Tripura.

extension of his kind hand for redressal, who advised the undersigned to submit the application for the purpose to the appropriate authority vide Daily order Sheet of the enquiry under Rule 14 of CCS(CCA) Rules, 1965, Dated 05/05/99, which may kindly be referred to and allow the undersigned to draw the subsistence allowance as usual ; Otherwise the undersigned is unable to attend the further enquiry on account of financial stringency caused by Non-payment of subsistence allowance and ex-partie decision taken, if any, will be violation of the provision of Article 311(2) of the Indian constitution as established vide A.I.R. 1973 SC 1183. (Compiled in Swami's Manual on Disciplinary proceedings for Central Government servants, Seventh edition,-1997 in para (41) of G.I. Instractions below rule 14 of CCS(CCA) Rules, 1965.).

4. That Sir, holding of instant enquiry under Rule 14 of CCS(CCA) Rules, 1965 is in violation of contents of your letter no. B- 333/pt. III.Dated, 14/06/99, wherein it was decided that the merit of the case deserves holding of enquiry at Dharmanagar instead of outstation. The contentions of your letter bearing No. B-333/pt. III Dated 09/07/99 and letter of even No. Dated 02/08/99 also support holding of enquiry at Appropriate place instead of outstation.

As such, the undersigned welcomes the Enquiry at Dharmanagar instead of outstation as acceeded to by your good office.

5. That Sir, an application/petition Dated 09/08/99, addressed to the Director of postal services, 0/0 the Chief postmaster General, North Eastern circle, shillong, towards biasness and other reasons aduced thereon against the instant Inquiry officer has been submitted to your office on the even date. It is presumed that the same has since been forwarded to the concerned authority in time and the necessary action for stayal of enquiry has also been taken as provided in G.I. ,C.S. (Deptt. of per). O.M. No. 39/40/70 Ests (A) Dated 09/11/1972 (Compiled in Swami's Manual on Disciplinary proceedings for Central Government servants, seventh edition -1997, in para (16) of G.I. Instructions below Rule 14 of CCS(CCA) Rules, 1965.)

(Contd... P/3

However, the disposal of the instant application/petition Dated 09/08/99 may kindly caused to be intimated for further necessary action.

6. That Sir, a reference is also invited vide DG (p), New-Delhi's letter bearing No. 9-3/97/SPB II Dated 01/06/98, wherein it was decided that the underwigned is required to be posted in his appropriate line of service i.e. in'Accounts line' of P.O. & RMS Accountant on completion of enquiry under Rule 14 of CCS(CCA) Rules, 1965 initiated vide your Memo No. B-333/Disc Dated 29.1.97, which has since been completed ; but regret to state that he was deprived of his lawful right even after lapse of reasonable time of completion of enquiry, which violated the spirit and contents of the instructions of DG (P) as well as violates the provision prescribed in Article 14 of the Indian constitution.

It is also prayed once again that the application Dated 02/09/99 ineralia of the undersigned may kindly be referred to and allow him to join his appropriate post of P.O. &RMS' Accountant so that he may appear before a judicious Inquiry officer to defend his case.

Under the circumstances cited above, it is prayed that all the points raised in the application may kindly be examined sympathetically and allow the undersigned to have his subsistence allowance withheld since long, allow him to join to an appropriate post, as per his service line or cadre, and also allow him to appear before the enquiry under Rule 14 of CCS(CCA) Rules 1965 at Dharmanagar before a judicious Inquiry officer instead of instant one after considering the rules/or Laws as cited in the premises in particular and all other relevant rules/or laws in general for the sake of Natural Justice and equality before law as provided under Article 14 of the Indian Constitution.

Contd....P/4.

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:- (P / 4) -:

And your humble applicant as the duty bound awaits your early possible action and shall ever pray.

With regards.

Yours Faithfully.

Dated , at Dharmanagar.

The 08 th Nov./1999

Jyotirmoy Chakraborty
(JYOTIRMOY CHAKRABORTY 08/11/99
LSG ACCOUNTANT.
O/O the SUPDT. OF POS'
DHARMANAGAR DIVISION

AND

OFFG COMPLAINT INSPECTOR.
DHARMANAGAR DIVN. (U/S).

Copy to :-

1) The Director of Postal Services O/O the Chief Postmaster General N.E. Circle, Shillong through supdt. of pos' Dharmanagar for favour of his kind information and necessary action. He is requested to refer to the review petition Dated 09/08/99 of the undersigned for change of instant Inquiry officer for biasness etc, submitted through the supdt. of pos' Dharmanagar. It is ascertained from the A.D. card that the Dharmanagar Rl. No. 2792 Dated 09/08/99 containing the advance copy of the said review petition has been received by his office on 12/08/99.

2) Shri R.K. Das Inquiry officer and Asstt. supdt. of Pos' Aizwal 'E' Sub- Division, Aizawl, through the supdt. of pos' Dharmanagar for favour of his kind information and necessary action.

Jyotirmoy Chakraborty
(JYOTIRMAY CHAKRABORTY).
08/11/99

*****

23 Received on 24/12/99 Under RL No. 5459 Dtd. 22/12/99

Annexure — (5)

Document-4

DEPARTMENT OF POSTS :: INDIA
OFFICE OF THE SUPDT. OF POST OFFICES, DHARMANAGAR DIVISION :: DHARMANAGAR - 799250.

****

Memo. No. B-333/Pt.III Dated, at Dharmanagar the 17-12-99.

WHEREAS an inquiry under Rule-14 of the C.C.S (CCA) Rules, 1965 is being held against Shri Jyotirmoy Chakraborty, SPM, Salema (Designate).

WHEREAS Shri R.K. Das, the then ASPOs (HQ), O/O the Supdt. of POs, Dharmanagar was appointed Inquiring Authority to inquire into the charges against Shri Jyotirmoy Chakraborty, SPM, Salema (Designate) vide this office memo of even No. dated 17-9-98.

As the said Shri Chakraborty in his application dated 8-11-99 brought allegation of biasness against Shri R. K. Das, I.O. the then ASPOs (HQ), O/O SPOs, Dharmanagar and now ASPOs, Aizawl East Sub-Division, Aizawl while enquiry in progress and requested to take necessary action into the matter. The application of Shri Chakraborty dated 8-11-99 was forwarded to the Chief Postmaster General, N. E. Circle, Shillong for examination of the case vide this office letter of even No. dated 9-11-99. The Chief Postmaster General, N. E. Circle, Shillong in his letter No. Staff/109-Misc/19/99 dated 14-12-99 has proposed the name of Shri Narayan Das, ASPOs, Agartala South Sub-Division, Agartala for appointment as I.O.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (2) read with sub-rule (22) of Rule -14 of the C.C.S (CCA) Rules, 1965, hereby appoints Shri Narayan Das, ASPOs, Agartala South Sub- Division, Agartala as Inquiring Authority to enquire into the charges framed against the said Shri Jyotirmoy Chakraborty, SPM, Salema (Designate) vide Shri R. K. Das.

Sd/-
(S. C. Deb Barma)
Supdt. of Post Offices,
Dharmanagar Dn :: Dharmanagar.

Copy to:-

1. Shri Jyotirmoy Chakraborty, SPM, Salema (Designate), Now at Thana Road, (Near Netaji Road Entrance), Dharmanagar - 799250.
2. Shri Narayan Das, ASPOs, Agartala South Sub-Division, Agartala for information. He is requested to obtain the case file from Shri R. K. Das, ASPOs, Aizawl East Sub-Divn., Aizawl and complete the enquiry within two (2) months as instructed by the C.O., Shillong vide their letter dated 14-12-99.
3. Shri R.K. Das, ASPOs, Aizawl East Sub-Division, Aizawl for information. He is requested to handover the case file etc. to Shri Narayan Das, ASPOs, Agartala South Sub-Divn, Agartala immediately under intimation to this office.
4. The Chief Postmaster General (Staff), N. E. Circle, Shillong for favour of information w/r to C.O., Shillong letter mentioned above.
5. The Director of Postal Services, Tripura State, Agartala for favour of kind information and necessary action.
6. Shri Subrata Das, SDIPOs and P.O., Teliamura Sub-Division, Teliamura for infn.

7-8. Spare.

Supdt. of Post Offices
Dharmanagar Division
Dharmanagar - 799250

Photo Copy attested

(SUSHIL Kr. NAMASUDRA)
Asstt. Headmaster, H.O. & D.D.O
B. B. Institution, Dharmanagar
North Tripura, Tripura.

—24—

Received. 16/2/00

Document-5

TO
THE SUPDT. OF POST OFFICES',
DHARMANAGAR DIVISION,
DHARMANAGAR - 799 250.

Sub:- Enquiry under Rule 14 of CCS (CCA) Rules, 1965-case of Shri Jyotirmay Chakraborty, LSG Accountant, Dharmanagar Division.

Ref:- Your Memo No. B-333/Pt III Dated, 17/12/1999.

Sir,

Most humbly and respectfully I beg to lay before you the following few lines for favour of your kind consideration and sympathetic orders.

1. That Sir, the appointment of Inquiry officer, namely Shri Narayan Das, As Pos, Agartala South Sub-Division, Agartala vide your memo No. B-333/Pt III Dated, 17/12/1999 suffers from non-compliance of rules for the purpose of appointment of Inquiring Authority by a Disciplinary Authority.

2. That Sir, the instant Inquiring Authority, Shri Narayan Das failed to fulfill the condition of completion of enquiry within two (2) months as instrusted which is violation of role of Inquiry officer as provided under Rule since the Inquiry Authority has taken undue delay in the commencement and conduct of enquiry and thus allowed lengthening of the agony of the undersigned which becomes disqualification on the part of Inquiry officer and it can undoubtedly be said that the out come of the enquiry will not be fair and just.

3. That Sir, it is ascertained from your Memo No. B-333/Pt-III Dated 17/12/1999 that the application dated 08/11/99 of the undersigned has been considered for the purpose of change of Inquiry Authority, but unfortunately remaining other claims of the application Dated 08/11/99 were not materialised till this day.

Under the circumstnaces cited above, it is prayed that the points raised in the application may kindly be examined sympathetically and appropriate action may kindly be taken as per relevant rules and thus obliged.

With regards.

Dated, at Dharmanagar,
The 16th Feb. /2000.

Yours faithfully,
Jyotirmay Chakraborty 16/2/00
(JYOTIRMAY CHAKRABORTY),
LSG Accountant,
O/O. the Supdt. of Post,
Dharmanagar Division,
Dharmanagar, And,
Offg. Complaint Inspector
Dharmanagar Division (U/S).

Photo copy attested

(SUSHIL KR. NAMASUDRA)
Asstt. Headmaster, H. O. & D. D. C
B. B. Institution, Dharmanagar
North Tripura, Tripura.

Annexure → (9) Document-6

TO

THE SUPDT. OF POST OFFICES,
DHARMANAGAR DIVISIONS,
DHARMANAGAR 799 250.

Supdt. of Post Office
Dharmanagar Division
Dharmanagar-799250

Sub :- Enquiry under Rule 14 of CCS(CCA) Rules, 1965
case of Shri Jyotirmay Chakraborty, LSG Accountant,
Dharmanagar Division.

Sir,

Kindly refer to my application Dated 16/02/2000, received at your office on the even date, wherein it was stated in para(1) that the appointment of Inquiry officer, namely Shri Narayan Das, suffers from non-compliance of rules for the purpose of appointment of Inquiry officer by a Disciplinary Authority, in para(2), the instant inquiry officer violated the condition of completion of enquiry within two(2) months as prescribed, which is unjust and unfair and to the contrary of the rule prescribed for the Inquiry officer and in para (3) prayed for materialisation of remaining other claims of my application Dated 08/11/99, but regret to state that I have not favoured with the valued decision of your kind honour even after a lapse of more than two months.

Under the circumstances cited above, it is prayed that the points raised in the application Dated 16/02/00, may kindly be examined sympathetically and appropriate action may kindly be taken as per relevant rules and thus obliged.

Dated at Dharmanagar.

The 05th May ~~April~~ 2000

Yours Faithfully
Jyotirmay Chakraborty 5/5/00
(JYOTIRMAY CHAKRABORTY)
LSG ACCOUNTANT.
O/O of the Supdt. of Post office
DHARMANAGAR DIVISION.
AND
OFFG COMPLAINT INSPECTOR.
DHARMANAGAR DIVISION(U/S)

Photo copy attested

(SUSHIL CH. NAMASUDRA)
Asstt. Headmaster, H. O. & D. D. O
B. B. Institution, Dharmanagar
North Tripura, Tripura.

Annexure → (16) Document-7

Order sheet and 21-6-24

File no. INQ-14/J.M. Chakraborty

Enquiry no. SP/DNR no. BB-333

Pt-III and 17.12.79

The proceedings were taken up by me in the O/O the SDI POS Dharmanagar at 1100 hrs when the following were present.

1. Sri Subrata Das Presenting officer
2. Sri Jyotirmoy Chakraborty charged

& Sri Bimalendra Roy Kanungo as witnesses.

W2. Journeys date was given to show the original file as demanded by the charged offr no. mentioned in the 10th Oct 1991. & the file has been shown in presence of the P.O. The charged officer after seeing through the original file and 10/10/91 admitted the genuineness of the file. A copy of the same file has been handed over to him. The document is marked as Ex D-1. Formal acceptance of surrender of accounts line from appropriate Authority - not yet received. ~~Supplied~~ The disciplinary Authority is hereby requested to supply the acceptance of surrender of accounts line to me before the next date of hearing to be notified earlier.

W3. The C.O. moved an application and sought time/24 ~~stating that he will~~ a request to keep constant enquiry on allowance until he receives the admissible subsistence allowance & gets proper posting to appropriate post as pt service line or in future. ~~[illegible]~~ A copy of this prayer is being sent to the disciplinary Authority for consideration & note as I am not the concerned on the present.

pgs - 2

21/6/24

21/6/24

10.0

Bimal Roy

Chakraborty

(SUSHIL KR. RAMASCHAO)
Asstt. Headmaster, H. O. & D. D. O
B. B. Institution, Dharmanagar
North Tripura, Tripura.