

501/600
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH: GUJARATI.5

ORIGINAL APPLICATION NO. 31/2001

Suresh Patel Singh. Yadav Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s) B.K. Sharma
P.K. Tiwari
U.K. Gondwani

For the Respondents: C.G.S.C.

NOTES OF THE REGISTRAR DATE ORDER

14.2.01 Present: Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman and Hon'ble Mr. K.K. Sharma, Administrative Member.

Heard learned counsel for the parties. Issue notice on the respondents as to why the Disciplinary Proceedings shall not be suspended. Returnable by 6 weeks. List on 29.3.01 for orders.

U.C. Sharma
Member

Vice-Chairman

lm

AS
14/02

3 weeks notice
received

Service of Notice
issued to the respondents
vide D. No. 598-600 dt 19.2.2001

ppm

20.3.01

As the respondents
their written statement

filed on 12.4.01

Examiner shall be
at the center at 10
days.

Examiner shall be

U.C. Sharma
Examiner

Da

12.4.01

List it before Division Bench on
23.4.2001.

N

12.4.01
Mr. written Statement has
been filed. trd

Vice-Chairman

iv

23.4.01

List on 26.4.01 to enable the re-
spondents to file written statement.
Interim order shall continue.

PG

K. Ushan
Member

Vice-Chairman

26.4.01

Written statement has not been
filed. List for Admission on 2.5.01

K. Ushan
Member

Vice-Chairman

lm

2.5.01

Passed over. List it on 3.5.2001
for consideration of admission.

K. Ushan
Member

Vice-Chairman

trd

3.5.01

List on 4.5.01 alongwith M.P. No.
83 of 2001 for admission.

K. Ushan
Member

Vice-Chairman

lm

Judgement

to the

Intimation

to be applied

as to the

4.5.01

Judgement pronounced in open court.
Kept in separate sheets. The application is
disposed of. No order as to costs.

K. Ushan
Member

Vice-Chairman

bb

File No. 615701

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION :::: GUWAHATI.

IN THE CENTRAL ADMINISTRATIVE TRIBUAL,
GUWAHATI BENCH (OA NO.31 OF 2001.

BETWEEN

Shri Suresh Pal Singh Yadav, Inspector.
(Under suspension),
Central Bureau of Investigation,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.G.Baruah Road, Sundarpur,
Guwahati-781 005.

Applicant.

AND

1. K.C.Kanungo,
Dy.Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati Respondents.

2. The Dy.Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati.

3. The Union of India,
through the Secretary,
to the Government of India,
Ministry of Personnel &
Training, New Delhi.

Submission by Respondent No.1 (who is also
respondent No.2)

Para 1. The application is directed against the

(i) A memorandum No.1378/12/COMP/SLC/NER/99(PT.I)
dated 11.5.2000 containing articles of charge and
(ii) Order No.4105/12/COMP/SLC/NER/99/(PT.I) dt.
21.10.2000, both issued by Respondent No.1, the latter
being the order rejecting the written statement of the
applicant being found unsatisfactory and instituting
Inquiry against the applicant by the respondent No.1.

Para.2. Though the applicant has averred that the
matter is well within the jurisdiction of the Hon'ble

Tribunal but the respondent No.1 has serious reservations about the same because both the orders referred to above were issued by Respondent No.1 on valid and legal ground elaborating detailed resaons, which were self-speaking in nature.

Para.3 (Limitation):- The appeal dt. 18.7.2000 referred to by the applicant against the charge sheet was not done under the rule 14 of the Delhi Special Police Establishment Act (Subordinate Rank) (Discipline and Appeal) Rules, 1965. which provides for an appeal against punishment and not against the charge sheet issued to the delinquent official. Moreover, the applicant was issued with the charge sheets and was kept under suspension, with the approval of Director, CBI.

Para .4. (FACTS OF THE CASE):-

Para.4.1. The applicant has alleged that his reply given to the charge sheet was rejected by Respondent No.1, with sole purpose of his harassment and victimisation and that the charges brought against him were trumped up charge based on allegations, concocted by the Disciplinary Authority which is not a fact and denied. The charge sheet was issued in conformity of the law and after proper application of the mind to the facts in issue. This was necessitated to maintain discipline and decorum in the office as the applicant was found to have committed serious acts of misconduct and insubordination and impropriety etc. which tended to subvert discipline of the office but for which the applicant was also kept under suspension with the approval of the Director,CBI, The orders

✓ of the CBI H.O. communicating order of the Director for keeping the applicant under suspension and for initiating Regular Departmental Proceedings against him was received from Addl. Director, CBI, Calcutta vide Fax Message No.79/18/STAFF/ JD(E)/99-CAL dt. 23.3.2000 which is marked as Annexure- A/ 1.

Para.4.2 The facts relate to the appointment of the applicant in CBI as Inspector which is a matter of record.

Para 4.3. The applicant has maintained that his performance in CBI was exemplary as he received several rewards and commendations during discharge of his official duties. These rewards and commendations which were issued to the applicant appear to have been done more or less , in routine manner and these do not attest to any exemplary performance of duty by the applicant. This fact is further clear from the copies of the respective orders/ certificates issued in these regards and enclosed with the application. This is further fortified from the report of Inspection dt. 01.07.97 of the Guwahati Branch, conducted by Shri N.Mallik, IPS, DIG (predecessor of Respondent No.1) whose observation in this regard is reproduced below :

" I have indicated in my previous inspection
that SP was very liberal in granting rewards for undeserving
cases. In my opinion the trend continued throughout the year, 1996 and also in early part of 1997. In fact, this tendency has been checked only after receipt of H.O. instruction regarding grant of rewards.

I had earlier pointed out that rewards should
be very selective and should be given not for routine works
but for extra ordinary piece of work, like arrest of

absconders, good and qualitative investigation, good recovery in searches, good trap cases or good convictions achieved. If the rewards are granted most liberally and indiscriminately, the same is bound to loose its importance.

It is therefore, clear that rewards and commendations granted to the applicant don't fall in any of the above categories. Moreover, the real character and conduct of the applicant and his perfunctory work and arrogant behaviour came to the notice of the Authority later, on account of which the following adverse remarks were recorded in the Applicant's ACR, during the period of the predecessor of Respondent No.1 and was communicated to the applicant, vide No.511 dt. 29.7.99.

- (i) "He has tendency to finalise cases without collecting clinching evidence.
- (ii) He is an indisciplined officer and exhibits insubordination occassionally".

Therefore the allegation made by applicant that the charge sheets were issued to him without applications of mind and were done not in conformity with law is absolutely baseless mischievous, malafide in nature and without substance, as these were done perfectly in accordance with law and after due application of mind.

Para.4.4. The applicant has attributed animus on the part of Respondent No.1 towards the applicant which, according to the applicant, developed after the applicant filed a petition (O.A. No. 338/99) before the Guwahati Bench of the Hon'ble Tribunal, assailing the order of repatriation of the applicant issued by CBI and seeking his

8

absorption in the organisation. This is thoroughly incorrect and mis-conceived as the order of repatriation of the applicant with immediate effect was issued not by the respondent No.1 but by the Head Office (H.O.) of CBI, even though the respondent No.1 had recommended in favour of the applicant requesting H.O. not for his immediate repatriation, vide No.1444/142/99-NER dt. 16.9.1999 enclosed (vide Annexure A/2). Moreover, it was not only the applicant alone who had been asked to be repatriated but various other Officials of CBI posted in the N.E.Region, both at Guwahati and Silchar Branches were ordered by H.O. for immediate repatriation after they completed their deputation tenure against which they have filed petitions, before the Hon'ble Tribunal. No charge sheets have been issued to any of them, unlike the applicant. These officials who had been ordered for immediate repatriation and who have filed Petitions in the Hon'ble CAT, Guwahati against order of repatriation are :

- (i) Shri K.M.Das, Inspector,CBI, Guwahati.
- (ii) Shri D.Dutta, Inspector,CBI, Guwahati.
- (iii) Shri A.K.Deb, P.P., CBI, Guwahati.
- (iv) Shri D.Bhattacharjee, Inspr.CBI,Silchar.
- (v) Shri M.J.Kutton, Constable,CBI, Silchar.
- (vi) Shri Johny Thomas, Constable, CBI, Silchar.
- (vii) Shri Ashit Kr. Deb, Constable ,CBI, Silchar.

The applications filed by last three official vide O.A. No. 416 of 1999 has already been dismissed by the Hon'ble Tribunal vide order dated 30.1.2001. Observing inter alia as under :-

"We have given our anxious consideration on

the matter. In our opinion a deputationist as such can not claim any right to continue in the borrowing department.

The deputationist continued to be an employee in his / her parent department but his / her service is placed on deputation to a post outside his cadre in another department on a temporary arrangement. On expiry of the period of deputation the employee is to go back to his / her parent department and to discharge the duty in the parent department in a same post or in a higher post if he / she earned promotion in the parent Department as per the service rules. The deputationist as such do not have any right for absorption in the borrowing department. No such rule /policy produced before us indicating any provision for absorption of the deputationist.

The above observation of the Hon'ble Tribunal is based on the decision of the Hon'ble " Delhi High Court in the case of Union of India Vs. Shri Mathura Dutta (CW.1721, 1889 and 1995/97) and the order of the Apex Court and Ors in Civil Writ No.1721, 1889, 1895, of 1997 and the order of the Apex Court dated 13.12.1999 in SLP No.16694-95/99. The respondents also referred relying upon the Judgement of the Principal Bench of this Tribunal in O.A. No. 872/98 (Prithvi Singh & Ors Vs. UOI & Ors) decided on 7.11.1998.

It is therefore prayed that the application of the present applicant filed vide O.A. No.338/99 may kindly be dismissed likewise, which is causing unnecessary trouble anxiety, loss of time to the respondents and CBI.

Para 4.5. It is not a fact that the applicant was convalescing on medical advice having suffered from severe

chest pain on 30.9.99. It has been apparent that the applicant unauthorisedly absented from duty, in order to evade the delivery of the H.O. order on him and other important communication from the Office of SP CBI Guwahati relating to his immediate repatriation and urgent matter which became clear from the subsequent conducts of the applicant.

Para.4.6. The allegation of Administrative highhandedness of respondent No.1 is without substance, baseless and hence denied.

Para.4.7. It is not a fact that Dr. Rupali Baruah whom the applicant had consulted for his alleged chest pain was the nearest available Doctor as made out by the applicant. In fact Dr. Rupali Baruah was some way related to the applicant and She was not authorised to issue any Medical Certificate or Treat any patient both in her official as well as in her private capacity. This fact has been confirmed by Prof. (Dr.) B.R.Baruah, Supdt. Guwahati Medical College Hospital in his letter No.MCH/829/82/381 dt. 4.5.2000 marked as Annexure- A/3.

Para 4.8. It is not a fact that the applicant had temporarily shifted to his in-law's house in Chenikuthi, Guwahati. This is because the report of official sent by S.P, CBI, Guwahati to the residence of the applicant during the relevant period would clearly testify to the contrary. Moreover, the applicant, at no point of time reported this fact about shifting of his residence to his in-law's house to the SP, CBI, Guwahati, where he is working and which he was duty-bound to do.

Again, the applicant has mentioned falsely

that he was advised rest after check up in the Guwahati Medical College Hospital. Whereas Dr. M.M.Deka, Principal-Cum- Supdt., Guwahati Medical College Hospsital, vide letter No. MCP/l/84/347 dt. Guwahati May, 03,2000 (marked as Annexure A/4) has stated that after check up on 1.10.99, no rest was recommended to the applicant. After 1.10.97, the applicant never reported again in the Guwahati Medical College Hospital for further treatment. On the contrary he obtained another medical certificate from Dr. Rupali Baruah, who had no locus standi to issue the certificate.

Para.4.9. The so called medical fitness certificate submitted by the applicant was not a valid and proper one. As such, the said certificate was rejected by the applicant's controlling Officer, i.e. S.P. CBI, Guwahati.

The applicant was called upon by his Controlling Officer SP CBI Guwahati vide letter No.DPSHL.1999/05583/A/20/157/93 dt.30.11.99(marked as Annexure A/5) to explain why the above period for which the applicant had applied for medical leave should not be treated as unauthorised absence .

Para.4.10 The facts narrated by the applicant have not been correctly stated and as such denied. In fact Shri J.N.Gogoi, SI who was asked by SP CBI, Guwahati to visit the residence of the applicant for delivering two letters (Closed covers) to the applicant , after visiting the applicant's house several times found the house under lock and key. The reports of Shri J.N.Gogoi, SI, who had also met the wife of applicant on 2nd.occassion, are enclosed as

Annexures A/60 and A/6 (2)

Para 4.11 The applicant has enclosed a copy of his written reply dated 6.12.99 - No comment.

Para 4.12 Already discussed under para 4.4. above.

Para 4.13. Due to unauthorised absence of the applicant from duty from 1.10.99 to 28.10.99 (28 days), no salary was paid to the applicant by the Controlling Officer of the applicant as per the rule.

Para 4.14. There is no such rule which would debar any controlling officer to verify the facts and pleas of his subordinate staff (applicant) regarding his unauthorised absence from duty, from the concerned deptt. And as such , the question of exercising of the Police power, as alleged by the applicant is thoroughly irrelevant, misconceived and beside the point.

Para 4.15. It is a fact that the applicant, through his wife had lodged a complaint to the Director, CBI and to Assam Human Rights Commission and had appealed to the Joint Director, CBI as stated by the applicant. Accordingly, Joint Director, CBI (now Addl.Director, East Zone) had conducted an inquiry into the said allegations made by the wife of the applicant which was found to be totally false and accordingly Joint Director, CBI, reported the matter to the Head Office. This fact subsequently came to the notice of respondent No.1 through the D.O. letter No.Dy.SDE 2000 003291/0079 dt. 06.03.2000 of Special Director (E),CBI.

The allegation of the applicant that CBI personnel indulged in an improper behaviour at the residence of the applicant and tried to intimidate his wife and daughter is purely mischievous and malicious and were found

false during the above inquiry. The reports of Shri Anil Borthakur, Head Constable and Shri Bhag Singh Katoch, Constable who were deputed by the S.P. to the residence of the applicant are enclosed as Annexure A/7 and A/ 8 alongwith the report of Shri A.K.Saha, DSP (vide No. A/10/157/93/04730 dt. 28.07.2000) marked as Annexure A/9. who was asked to verify the above complaint of Smt. Jonali Barua, wife of the applicant.

Para 4.16 : The applicant has alleged that sometime in November/ December, 1999 in file No.153/99/VOL.II/ NER, the Respondent No.1 in his note to SP,CBI, wrote that rewards should not be given to person like S.P.Singh Yadav who is using the reward money for fighting CAT cases against CBI. Shri Manoj Deb, PA who is maintaining the above file after going through the said file has certified that no such note was recorded by respondent No.1 in the above file. This is marked as Annexure A/10.

Para 4.17. The applicant has referred to the order dt. 28.3.2000, issued by respondent No.1, intimating the applicant that charge sheet will be served on the applicant on account of allegation of gross misconduct, lack of devotion to duty and integrity, deliberate defiance of the order of Superior Officer, insubordination and making false and motivated allegations against the superior officers by the applicant. In view of the above, the question of substantiating the allegations at that stage did not arise.

Para 4.18 The applicant has stated that for denial of benefit of Special Duty allowance to him, he has filed a separate application before the Hon'ble Tribunal.

Para 4.19 The applicant has enclosed copy of the order

of suspension dt. 26.4.2000, issued by Respondent No.1, as
Annexure-A/5 - No comment.

Para 4.20. SP CBI Guwahati vide letter No.A.10/175/93/01551 Dt. 8.3.2001. has intimated that list of witnesses and documents were served on the applicant on 9.2.2001 and 13.2.2001, which are marked as Annexure A/11.

Para 4.21. The applicant has detailed the charges communicated to him, vide Charge sheet dt. 17.5.2000, which has been enclosed with the application, as Annexure A/5 - No comments.

Para 4.22.

and

Para 4.23. The charges against applicant were not frivolous and vexatious as alleged by the applicant. The following fact incorporated in the statement of imputations served on the applicant (which the applicant himself enclosed as Annexure A/6 with his application) clearly testify the misconduct committed by the application and which are reproduced as under :-

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

(2) That said Shri S.P.Singh Yadav left his

residence, i.e. C/0. Jonali Baruah, Dorothi Apartment, 4th. Bye Lane, ABC, Tarun Nagar, G.S.Road, Guwahati to some unknown place without intimating his whereabouts to the office.

(3) That in order to prolong his repatriation, said Shri S.P.Singh took recourse to dialatory tactics by delaying matters entrusted to him, one such matter being related to RC.34(A)/94-SHG which was pending for preparation of SP's Report, as said Shri S.P.Singh Yadav did not prepare and submit the enclosures to the SP's Report in the above case. As a result, SP, CBI, ACB, Guwahati issued memo. vide No. 537/CON/29/92-SHG dt. 1.10.99 directing him to complete the Draft enclosures immediately, on priority, leaving all other work aside, by 10.10.99 failing which the matter will be viewed seriously but this Memo could not be served on Shri S.P.Singh Yadav as he evaded service of this Memo. and other official letters by leaving his residence for unknown place, without giving any intimation to the office about his whereabouts and about leave address which he was bound to do.

(4) In view of the urgent work pending with Shri S.P.Singh Yadav, SP CBI, ACB, Guwahati requested Dy.Director(Admn),CBI, Head office, New Delhi for extending the time of his repatriation which was not agreed upon as communicated Dy.Director (Admn) CBI, New Delhi vide Fax Message No.DPAD/G/1999.03638/A-20014/1609/93 dt. 15.10.99.

(5) That in view of the above, the repatriation order of S.P.Singh Yadav was sent by registered letter at his residential address but the registered letter was returned undelivered, with endorsement

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

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

(7) Under Leave Rule 19(3), Leave sanctioning authority, if not satisfied , can seek second medical opinion, but as said Shri S.P.Singh Yadav did not disclose his whereabouts during his period of unauthorised absence, no such action could be taken against him.

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

Yadav.

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

Para 4.24 No comment.

Para 4.25 The applicant never turned up in the GMCH after his first visit on 1.10.99. GMCH also did not advise any rest to the applicant. Thereafter, the applicant again manipulated a certificate from Dr.(Mrs.) Rupali Baruah who had no authority to issue such certificate. These conducts of the applicant clearly show that the so called sickness was invented one of the applicant who was trying to evade CBI all along to receive the urgent communication regarding his immediate repatriation.

Para.4.26. It is not a fact that no written statement has been submitted by the Respondent No.1. In reality , the SP CBI ACB Guwahati has already forwarded the requisite reply to Shri B.C.Pathak, Addl. Central Govt. Standing Counsel, CAT vide letter dt. 7.2.2001, with a copy to the Respondent No.1, which is marked as Annexure- A/12.

Para.4.27. It is not a fact that Dr. (Mrs) Rupali Baruah

who had issued Medical Certificate was competent to issue Medical Certificate. Moreover, the applicant being a CGHS beneficiary should have only submitted certificate issued by CGHS Doctor for sanctioning of his leave.

Para. 4.28. The allegation made by the applicant is without substance, baseless as explained above and is denied.

Para.4.29. The authority to punish the applicant for major penalty if such punishments are warranted, on the outcome of the Disciplinary Inquiry against him, would be the Disciplinary Authority of the Applicant in the Uttar Pradesh Police and not the Respondent No.1.

Para.4.30. The allegation is false, basless and motivated and hence denied. The Inquiry Officer has clarified that probation period for DSP os one year and is already over in his case . His posting at Shillong has come after successful completion of Phase -I and Phase -II of training and after clearing of written examination.

Para.4.31 Since the present application has not been admitted, therefore, the question of stopping all proceedings in this regard does not arise. The applicant has also not enclosed the copy of rlevant rule in this regard, along with the application.

Para.4.32.

There was no genuine and bonafide ground on the part of the applicant (i) not to receive the letter either himself or through his wife (ii) not to intimate his present whereabouts (iii) not to submit Medical Certificate from the competent Doctor certifying medical rest. These are official misconduct for which the applicant

can be proceeded against departmentally, even if his leave is sanctioned.

Para 4.33. The Preliminary Enquiry in the present context means the Preliminary hearing which the Inquiry Officer wanted to hold on account of various reasons to find out if all formalities had been completed before starting examination of formal witnesses etc.

Para 4.34. In case the applicant was finding genuine difficulty in attending the Inquiry at Shillong, which the applicant had none, he could have brought this fact to the notice of the Respondent No.1, sufficiently in advance. Moreover, Shillong being hardly 100 Km from Guwahati, It was quite possible on the part of applicant to return back on the same day after attending preliminary hearing.

Para 4.35. The allegation is baseless and without substance and hence denied. The Inquiry Officer has further clarified in his letter dt. 12.3.2001 (Annexure A/13) that thought he had not received separate letter of confirmation in service regarding completion of his probation but the present posting amounts to the same. He had further enquired in the CBI Academy and Head office CBI in this regard and he was told that no such letter is issued.

Para 4.36 There is no question of the Departmental Enquiry against the applicant being held by another DIG, as long as the applicant remains posted under the jurisdiction of Respondent No.1. In case he has got desire to do so, he can submit a petition to the appropriate authority seeking his transfer from Guwahati to Calcutta in his own interest which the competent authority may decide

as may be appropriate under the facts and circumstances of the case.

GROUND FOR RELIEF:

The grounds enumerated by the applicant under para 5.1 to 5.9 are without substance and have been presented in a distorted manner which are fit to be rejected, at the threshhold in as much as :-

Para.5.1 The Medical Certificate obtained by the applicant from Dr. (Mrs.) Rupali Baruah is an invalid one and the applicant cannot press his claim that the said certificate was genuinely issued there being nothing to suggest to the effect, as already discussed above under appropriate para.

Para.5.2 The order dt. 21.10.2000 passed by the Respondent No.1 does not disclose any bias or pre-judgement of the guilt of the applicant.

Para.5.3 The allegation made by the applicant against Respondent No.1, that the charge sheets were issued to settle personal score is false, motivated and malicious, as there is nothing to suggest to that effect.

Para.5.4. The charges are specific as detailed in the Articles of Charges and statement of imputations which has already been discussed above.

Para.5.5. The charges were neither frivolous nor vexatious.

Para.5.6 It is not a fact that Inquiry Officer is not competent to conduct the Enquiry on account of his undergoing probation ^{which} is also without substance as discussed above.

Para.5.7 As the conducts of the applicant were detrimental to the proper maintenance of discipline, in the office, it was felt imperative to take action against him and the misconduct on the part of the applicant were so grave and serious that he had to be kept under suspension and departmental proceedings initiated against him on account of various charges which has also been done with the approval of the Director, CBI.

Para.5.8 The list of documents and witnesses have already been furnished to the applicant as mentioned above.

Para 5.9. If the applicant think that Preliminary Enquiry is not called for which had been fixed for his benefit only, orders may kindly be issued for conducting regular hearing by taking formal evidence of the witnesses.

DETAILS OF REMEDIES EXHAUSTED.

Para.6. The present application filed by the applicant is premature, unwarranted, done with the sole motive of putting a spike in the wheel of Administration of justice, as a convenient ploy of adopting dialotary tactics by the applicant.

Para 7 No comment.

Para 8 No comment.

Para.9 There being no merit in the application, it is therefore submitted humbly that the application may be rejected in limine and with appropriate cost for the Respondents for causing undue harassment and mental agony, loss of valuable time and unwarranted expenditure.

Recd 16/3/2011
(K.C.Kanungo),
Dy.Inspector General of Police,
CBI, N.E.Region, Guwahati.

Confidential

FAX MESSAGE. / BY SPEED POST

TO DIG,CBI, N.E. REGION, GUWAHATI (.)

FROM SR.PA TO JD(EAST),CBI,CALCUTTA (.)

ORG. NO. 79 /18/STAFF/JD(E)/99-CAL. DATED 23.3.2000.

REFERENCE CBI ID NO. 383/12/COMP/SLC/NGR/99 DATED
11.2.2000 REGARDING COMPLAINT AGAINST SHRI S.P.SINGH,
INSPR. CBI, GUWAHATI(.) EXTRACT OF THE OBSERVATIONS OF
JOINT DIRECTOR (E), CBI, SDCBI (E) AND DCBI ARE SENT
HEREWITH IN SEPARATE ENCLOSED SHEET FOR TAKING
FURTHER NECESSARY ACTION (.) THIS ISSUES WITH THE
APPROVAL OF JD (EAST), CBI, CAL (.)

PA
10/1
27/1

ENCLO : AS ABOVE.

23/3/2000
(P.C.PAL)
SR.PA TO JD(EAST)
CBI/CALCUTTA.

Seen. DCB(E) has sent a confidential note to DCB(E) regarding the same matter. DCB(E) is fully convinced that the 128th ~~officer~~ ~~officer~~ S.P. SIR YANG should be placed under SUSPENSION. DIC N.E. is competent to place the ~~officer~~ under SUSPENSION. Since THE INSPECTOR ~~has~~ ~~already~~ MADE ENOUGH MOVE TO CREATE complications

8. I FEEL THAT DCB(E) AND DCB(E) MARKINALLY SEE THE REPORT OF DIC N.E. AS DCB(E) STATED ABOVE I HAVE ANNEED THIS REPORT VIDE ID NO. DPJDE 2000/57/70/Staff/SD(E)/20. - Cil dt 15.2.2000.

29/2/2000

SDCB(E) I have seen the enclosed report and underlined the relevant lines constituting serious misconduct on part of a 128th ~~officer~~ ~~officer~~ that he of remains under this person and P.D.A for major part of his initial against him

A.P.D.
8/2/00
07
8/6/00
73

Action is to be taken in accordance with the report file by 9.3.01.

Action accordingly

11/100

DYS DE 00544/2000
6/3/00

10/2/00
21/2/00
6/3/00

9/2/00

11/2/00

21
CENTRAL BUREAU OF INVESTIGATION, ANNEXURE A/2.
N.E. REGION, GUWAHATI IN REPLY TO OA NO. 31/2001.

Sub:

Repatriation of Shri S.P.Singh Yadav, Inspector
CBI, ACB, Guwahati.

H.O. No. DPADI 1999/00598/A-20014/1609/93 dt.
dated 18.2.99.

Ref:
CBI, ACB,
recommended.

Repatriation of Shri S.P.Singh Yadav, Inspector,
Guwahati Branch, at the moment is not

10/09/99
Received

Dy. Inspector General (K.C.Kanungo)
General of Police,
C.B.I., N.E. Region
Guwahati.

Dr. Tarsem Chand, Administrative Officer(E), CBI, New Delhi.
No. 1444/142/99-NER
Dated 16th Sept' 1999.

Q.C.

mk:

Rg
ANNEXURE A/3
IN REPLY TO OA NO. 31/2001.

2017/01/01

(140) 21

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

NO. MCP/1/84/347

Dtd. Guwahati, May 03, 2001.

From :-

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

To

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

Ref :-

Your letter No. 02709/A/20/157/93, Dtd. 03.05.2001

Sir,

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

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

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

3. She is not entitled to do private practice.

Thanking you,

Yours faithfully,

B.P.

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

Attested by

-:000:-

S. D. Deka
Superintendent of Police,
Central Bureau of Investigation
(A. S. Deka) Guwahati

22
466
CONFIDENTIAL

ANNEXURE A /4
IN REPLY TO OA NO. 31/2001.

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

NO. MCP/1/84/347

Dtd. Guwahati, May 03, 2000.

From :-

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

To

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

Ref :-

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

Sir,

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

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

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

3. She is not entitled to do private practice.

Thanking you,

Yours faithfully,

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

— 55 —
 GOVERNMENT OF INDIA,
 CENTRAL BUREAU OF INVESTIGATION,
 OFFICE OF THE SUPDT. OF POLICE,
 ANTI CORRUPTION BRANCH.

Annexure

A/2

GUWAHATI :—
 IN REPLY TO OA NO. 31/2001.

132

NO. DP/SHL/1999/05883 / A/20/157/93 Dated, Guwahati 30/11/99.

TO

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

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

Refer your application dtd. 29/10/99 praying for Commuted leave w.e.f. 01/10/99 to 28/10/99. It is to inform that as per leave Rule 12(8) at page 154/C of Handbook 1999 it is stated that non Gazetted Govt. Servant should produce the medical Certificate from (1) C.G.H.S. Doctor if the Govt. Servant is a CGHS beneficiary and residing within the Unit of C.G.H.S. at the time of illness.

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

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

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

(Signature) 22.11.99
 Superintendent of Police
 CBI(ACB) Guwahati.

Memo No. DP/SHL/1999/ A/20/157/93 Dated:-

Copy to :—
 1. The DIG/CBI(NER)Guwahati for favour of information please.

(Signature) 22.11.99
 Superintendent of Police
 CBI(ACB) Guwahati.

The Suptt of Police
CBI/ACB/ Guwahati

Sir

As ordered I have visited the residence
of S.P. Singh & other bsp. at Tarien naga for delivery
of closed cover and his residence order. But
I could not delivered the same to him on his house,
was found to under lock & key

However I enquired about him in
the neighbourhood but no body can say about his
present whereabouts. I waited there about one hour
but to no avail so back I returned to
Office. The closed cover & received order is return
herewith.

Submitted for favor of information

yours faithfully

Guwahati
21/1/99

(J. N. Gogoi S.I.)
CBI/ACB/GH

Let him

try again

21/1/99

20/1/99

The Subdt of Police
CBFI/ACB/Guwahati

Sir,

As per direction of your goadselb - I visited hsp. S.P. Singh yadov residence at G.S. Road Garun magor several times for handing over the closed Cover box. But I could not meet him all the times the house was found lock & key. Again on 21.10.99 I visited the same location on approaching I met his wife Mrs. Jinali Boraah who in a very bad manner passed remarks and also misbehaved using abusive languages saying ~~some where~~ Mr. S.P. Singh yadov has gone out in the morning ~~some where~~ he have no idea. And he have got no rights or power over the place where they are presently staying. Since by no means she will receive the letter.

Finally having no other option I myself ha and the to bring back the closed Cover which is enclosed along with the letter submitted for information and necessary action P.

Thru 28/10/00
P.D. : P.D.
returning : H.O. : H.O.
27/10

yours faithfully

(Signature)
17/10/2000

(J. N. Gogoi S.I.
CBFI/ACB/GH)

HC

1. उत्तर :- दिनांक 10-01-2000 आधारक्रम 50 वर्षीय ए.०. ने अपनी तक पत्र दिया और अद्यता दिया कि आप Comt (प्रभु) बाग दिल्ली के आदारजीवर में पत्र Shri S.P. Singh, Jader, Dpda के घर पर दै रख कर आये।
2. उत्तर :- ए.०. आदार ने अद्यता दिया और कहा प्रभाव नहीं।
3. उत्तर :- एवं साथ Comt (प्रभु) बाग दिये थे अपनी तक पत्र Shri S.P. Singh, Jader, Dpda के घर दिल्ली आ-11 दिनांक 10-01-2000।
4. उत्तर :- अपने घर के बाहर आ फ़ॉर्म बाग दिये वे कलिंग बील बोगा।
5. उत्तर :- Shri S.P. Singh Jader घर पर वही।
6. उत्तर :- कही जाया। अपने घर पर घर दीन कीन था पता करी।
7. उत्तर :- हम इस अभ्य जिपा था उन अभ्य Shri S.P. Singh Jader अद्यता नहीं था। अभ्य Shri S.P. Singh Jader, Dpda बोगा ही पता करी जिपा, नहीं।
8. उत्तर :- हाँ।
9. उत्तर :- आ. फ़ॉर्म बाग दिये के बाबा कि आदार का पत्र है, उन्हीने कहा कि अद्यता के पत्र हम नहीं हैं। आदार तो अद्यता जिपा है।
10. उत्तर :- नहीं।

3/8/2001 : SP Singh on E12
Raya Bari 312 1st floor H.C Block Thakur
on 1st office letter Revi 10 $\frac{1}{2}$ 2000

(2) 3/8/2001 : MTO of 1st floor SP Singh on E12
3/8/2001 : Borihalur on 1st floor

(3) 3/8/2001 : 312 1st floor H.C Borihalur 21

(4) 3/8/2001 : SP Singh on E12 in 2nd calling
well ariyai

(5) 3/8/2001 : SP Singh E12 in 1st 21

(6) 3/8/2001 : 312 1st 3rd E12 in 1st
on 1st 21 2nd 21

(7) 3/8/2001 : SP Singh on E12 2nd 21
4th floor SP Singh on 1st office in 1st
1st floor Panchayat SP Singh on 1st

(8) 3/8/2001 : CET

(9) 3/8/2001 : SP Singh on 1st office on 1st floor
on 1st floor 3rd 2nd 21 office on 1st
letter on 1st floor 2nd 21 office on 1st

10. 3/8/2001

By. No.	2409
Date	1-8-2000

(1) ~~1372~~ \rightarrow 1371

IP 15th April 92 from 600' elevation 100' (5)
Gardens 100' 17.2.2002

1945. 11. 11. 91. 11. 11. 1945.

31.7.2002

1) This question is for 100 points. $\rightarrow 100 \times 100$

198-10

is not in the position to do the same thing.

11. 10. 6. 1976 (12. 1. 1977) 63

115 N 16 2003 1975 1300 118400 1310

12. (2000-1978) 1978-1980
1978-1980 1980-1981

13 NOV 1968

951230 15 031116. 1 1000 1000 1000 1000



Dy. Na

Du

O/O. D... CBI, Guwahati

CONFIDENTIAL

32

175

GOVERNMENT OF INDIA
O/O THE SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ANTI-CORRUPTION BRANCH
R.G.BARUAH ROAD,SUNDARPUR
GUWAHATI - 5.

No.A/20/157/93/ 04730

DATE :: 28/07/2000

To

The Dy. Inspector General of Police,
Central Bureau of Investigation
N.E.Region,Guwahati.

Sub : Complaints lodged by Mrs.Jonali Barua regarding harassment by
CBI Officials on 10/01/2000 at her residence.

Ref : Your instructions dtd. 28/07/2000.

Sir,

On verification it is found that on 10/01/2000 Shri Anil Borthakur, Hd. Const. & Shri Bhag Singh Katoch, Const. both of CBI/ACB/Guwahati Branch were deputed to serve the Charge Sheet No. DO SHL/1999/0021/A/20/157/93 dtd. 10/01/2000 in a closed cover on Shri S.P. Singh Yadav, Insp. as he was not found present in the office. Accordingly the above said staff visited the residence Shri S.P. Singh Yadav. Shri Yadav was not present at his residence also. Mrs. Jonali Barua, W/o Shri S.P. Singh Yadav who was present at the residence refused to accept the close cover addressed to Shri S.P. Singh Yadav. On her refusal to accept the letter, both the staff return back to office. Shri S.P. Singh Yadav did not return to office till end of the office hours on 10/01/2000, therefore the C/sheet could not be served on him on 10/01/2000. However the next day i.e. on 11/01/2000 the C/sheet was handed over to Shri S.P.S. Yadav when he came to office. On 10/01/2000 Shri Anil Borthakur submitted a written report that the C/sheet could not be served on Shri Yadav as he was not present at his house and his wife also refused to accept it. On the scrutiny of Attendance Register and Movement Register of IO's, it is found that Shri S.P. Singh Yadav has signed the attendance register on 10/01/2000 at 09.30 hrs. which has been authenticated by SP. As per movement register Shri S.P. Singh Yadav left office on 10.00 hrs. after making entry in the movement register as follows :

10/01/2000
10.00 hrs.

Proceeding to Central Bank of India ,Adabari and Pan Mkt.Branch,
PNB Mahavir Mkt. Branch in connection with investigation of
RC.5(A)/98-SHG.

Sd/-
S.P.Sing
Inspector/Guahati

Further on scrutiny of the case diary file of case no.5(A)/98-SHG, it is found that Shri S.P. Singh Yadav has not written any case diary on 10/01/2000 (He has written CD No.140 on 9/1/2000 & CD No. 141 on 11/01/2000).

He does not appear to have ~~been~~ submitted his weekly diary after 9/1/2000.

I have personally interviewed Shri Anil Borthakur,HC & Shri Bhag Sing Katoch,Const, they stated that no untoward incident had happened at the residence of Shri S.P.Singh Yadav when they visited the residence of ~~Shri S.P.S. Yadav~~. They also stated that they were only instructed by ^{his} to deliver the close cover to Shri Singh at his residence. It is not a fact that they were asked to conduct any search. I am of the opinion that had such incident happened Shri S.P.Singh Yadav would have lodged a complaint against the staff for their misbehaviours with his family members. But neither Shri S.P.Singh Yadav nor Mrs. Jonali Barua brought any such charges against the staff at the relevant point of time. To SP.

I am , therefore, of the opinion that allegation against the CBI Staff is after thought and baseless. I am given to understand that Dr.Upen Biswas,IPS, Addl.Director,CBI(EZ), Calcutta (the then Lt. Director,CBI(EZ), Calcutta) during his last visit to Guwahati on 14/02/2000 recorded the statements of Anil Borthakur,Bhag Sing Katoch & Mrs. Jonali Barua and others in connection with a similar complaint . ^{However} Further details of the same are not available in the branch.

Yours faithfully,

39 28
(A.K. Saha)
Dy.Suptd. of Police (HQ)
CBI/ACB/Guahati

/nc.

34
29

ANNEXURE A/10.
IN REPLY TO OA NO. 31/2001.

Ref: OA No.30/2001 of Shri S.P.Singh Yadav, Inspector,
(Para 4^o16)

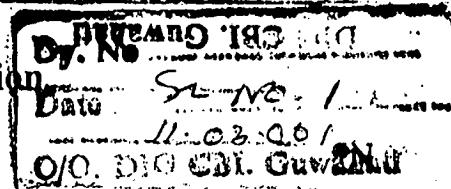
As desired by DIG CBI NE Region, I have thoroughly checked file No.153/99/VOL.II/NER which is being maintained by me. There is no such noting or facts recorded in the above file or in the Note sheet to show that DIG CBI NER had written any noting to indicate that reward should not be given to person like S.P.Singh Yadav, Inspector who is using reward money for fighting CAT case against CBI.

Manoj Kr Deb 5/3/2001
(Manoj Kr.Deb)
PA to DIG CBI NER,
Guwahati.

Dy.Inspector General of Police,CBI, NER,Guwahati.

-o0o-

Govt. of India
Central Bureau of Investigation
Anti-Corruption Branch
Guwahati



No.A10/175/93/ 81551
To

Dated :-8th March' 2001

The DIG,
CBI, NER, Guwahati.

Sir,
Sub :- OA 30/2001 filed by Sh. S. P. Singh Yadav, Insp (under suspension). 215

Please refer your letter No.831 OA/30/2001/NER dtd.8.3.2001 on the subject noted above. The clarification desired vide para 4.1 (last line), 4.20, 4.22, 4.23 & 4.24 are as under ;

4.1. It is not a fact that the documents were tempered.

4.20. The list of witnesses served on Sh. S.P. Singh Yadav, Insp on 13.2.2001 and list of documents with copies served on 9.2.2001. Weekly diaries for the year 1997 not submitted by Sh. S.P. Singh Yadav, Insp. for which reminders were issued to him vide letter dtd.30.6.97, 9.8.97, 24.9.97 and 9.2.98 (copies enclosed). However, diaries submitted by Sh. S.P. Singh Yadav, Insp. for the period from 1.1.98 to 30.9.99 and 29.10.99 to 9.1.2000.

4.22. Though the list of documents and witnesses not enclosed with the charge memo but the same were served to charge officer on 9.2.2001 & 13.2.2001 respectively. Monthly / Weekly diaries is being submitted by the I.O.'s to Supervising Officer i.e. SP/ Head of Office to keep track of the working of the I.O.'s. Though on submission of the diaries no acknowledgment is being issued to the I.O.'s but the same are being docated in office receipt register maintained in the Receipt and Despatch Section. Non submission of weekly diaries for the year 1997 by Sh. S.P. Singh Yadav, Insp. came to the knowledge of DIG during Annual Inspection of the Branch.

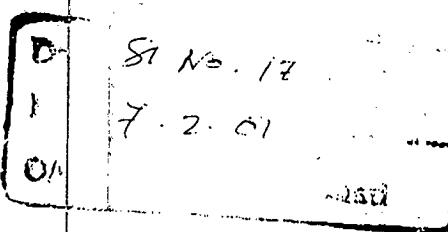
4.23. For scrutinising and passing the T.A. bills it is not necessary to consult the diaries, however the T.A. bills of Sh. S.P. Singh Yadav, Insp. for the year 1997 scrutinised and passed on the basis of approved Tour Programme. As regards one month addl. salary for the year 1997 for working on holidays was paid to Sh. S.P. Singh Yadav, Insp. after consulting attendance register.

4.24. Vide office order No.195 dtd.24.10.97 cash reward was granted to Sh. S.P. Singh Yadav, Insp. in connection with JD's inspection and not for finalising the targeted cases PE 11(A)/97-Shg. & RC 54/94-Shg. Since during the year 1994 the branch registered only 35 RCs, so the sanctioning of reward to Sh. S.P. Singh Yadav, Insp. in RC54/94-Shg. mentioned in the OA does not arise.

Yours faithfully

30
215
Superintendent of Police
CBI : ACB : Guwahati

ANNEXURE A/ 12
IN REPLY TO OA NO. 31/2001.



31
3
No.A/20/157/93/PT/

Govt. of India
Central Bureau of Investigation
O/o Supdt. of Police,
Sunderpur, Guwahati.

Dt. _____

To

Sh. B.C. Pathak,
Addl. CGSC, CAT
Guwahati.

Sub: OA No. 137/2000 filed by Sh. S.P. Singh Yadav, Inspr.

sir,

I am sending herewith 4 sets of written statement
in the above noted OA duly completed in all respect for
filing in the Hon'ble CAT, Guwahati.

Yours faithfully,

Encls: As stated.

Superintendent of Police,
CBI/ACB/Guwahati.

Endst. No.A/20/157/93/PT/

00764-65
Dated: 7/2/2001

Copy to: 1. The Administrative Officer (E) CBI, New Delhi with
ref. to letter No. DPAD12001/0450/A/20014/1609/93 (PT)
dt. 2.2.2001.

2. DIG/CBI/RO/Guwahati.

Superintendent of Police,
CBI/ACB/Guwahati.

ANNEXURE A/13
IN REPLY TO OA NO.31/2001.32
31
Dy. S.P. & SC NO. 8

Date 12.03.2001

TDS Guwahati

F A X

TO : DIG CBI NER GUWAHATI (.)
 FROM : DSP CBI ACB SHILLONG (.)

NO.DISC/1/851

DATE : 12/3/2001

1. REPLY TO PARA - 4.30.

THE PROBATION PERIOD FOR DSP'S IS ONE YEAR AND IT IS ALREADY OVER IN MY CASE(.) THOUGH I HAVE NOT RECEIVED ANY LETTER FROM HEAD OFFICE REGARDING COMPLETION OF MY PROBATION, MY POSTING AT SHILLONG HAS COME AFTER SUCCESSFUL COMPLETION OF PHASE-1 AND PHASE-2 OF TRAINING AND CLEARING OF WRITTEN EXAMINATION(.)

2. REPLY TO PARA - 4.35

THOUGH I HAD NOT RECEIVED ANY SEPARATE LETTER OF CONFIRMATION IN SERVICE, THE ORDER FOR THE PRESENT POSTING AMOUNTS TO THE SAME (.) I HAD ENQUIRED IN THE CBI ACADEMY AND HEAD OFFICE IN THIS REGARD BUT I WAS TOLD THAT NO SUCH LETTER IS ISSUED (.)

AK 12/3/2001
 DY. SUPERINTENDENT OF POLICE
 CBI/ACB, SHILLONG UNIT
 SHILLONG-1

P
 AK
 IC
 M3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos.30,31 & 61 of 2001

Date of Order: This is the 6th Day of May 2001.

HON'BLE MR. JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER

Suresh Pal Singh Yadav, Inspector
(Under suspension),
Central Bureau of Investigation,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.G.Barah Road, Sunderpur,
Guwahati - 781 005. Applicant

By Advocate Mr. B.K.Sharma, Mr. P.K. Tiwari
Mr. U.K.Goswami

-V 8-

1. K.C. Kanungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2. Respondents

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

O R D E R

CHOWDHURY J. (V.C.)

O.A. 30,31 & 61 of 2001 are taken up for consideration together since all these Applications embrace self same issues arising out of like situations appertaining to the propriety of initiation of the three departmental proceedings. The applicant assailed the legitimacy of the aforesaid actions of the respondents as well as the continuance of the departmental proceedings against him, in these O.A.s.

Contd..2

3>

2. We have heard learned counsel for the parties at length. After going through the materials on records and upon considering the submission on behalf of the parties, we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable. The article of charges are framed against the applicant. He has already submitted his written statements denying and disputing the allegations. All things considered, we are not inclined to intervene and we are of the view that the departmental proceedings in question should proceed and come to its logical end as per law.

3. Enquiry Officer has already been appointed and from the conduct of Enquiry Officer and also from the materials on records, we do not perceive any disability in the Enquiry Officer and to debilitate him from the Enquiry. Considering all aspects of the matter we, however, feel that the respondent no.1 Shri K.C. Kanungo, Deputy Inspector General of Police should not act as a disciplinary authority. The applicant has specifically expressed his apprehension that he is not expecting to get treatment in hand of Respondent No.1 as the disciplinary authority.

4. Mr. B.K. Sharma, learned Senior counsel for the applicant particularly referred to us to the observations made by the aforesaid Officer of Police, in his order deciding to hold a formal enquiry after receipt of the written statement. Considering the findings and observations made in the aforesaid order read with the

written statement filed, we feel that it would not be appropriate for the said respondent to act as disciplinary authority and therefore he should be recused. We have adopted this course to recuse the Respondent No.1 to act as a disciplinary authority to avoid all misgivings. Justice not should only be done, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence. The concerned authorities including the Directors, CBI, are ordered to act accordingly. The enquiry shall now proceed as per law. We expect that the enquiry shall be conducted with utmost expedition. We, however, make it clear that the applicant should be entitled to raise all the legal issues those are raised in the S.A.s including the maintainability of the departmental proceedings before enquiry as well as the disciplinary authorities.

With the observation made above, the applications stand disposed of. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

bb

Central

23/11/03
Tribunal
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

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

Title of the Case : O.A. No. 31 of 2001

Suresh Pal Singh Yadav ... Applicant

- Versus -

K.C. Kanungo & Ors. ... Respondents

I N D E X

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For use in Tribunal's Office :

| Date of filing : |

| Registration No. |

REGISTRAR

Filed by:
the Applicant
through
Advocate
Wijalkar Gonsal
25/11/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

D.A. No. 21 of 2000

BETWEEN

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

... Applicant

AND

1. K.C. Kanungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-9, Chenikuthi;
2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-9, Chenikuthi;
3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2, North Block.

.... Respondents

DETAILS OF APPLICATION

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

The present application is directed against the following :

- (i) Memorandum No. 1378/12/COMP/SLC/NER/99(Pt.I) dated 11.5.2000 containing article of charges issued by DIG, CBI, NER, Guwahati.
- (ii) Order No. 4105/12/COMP/SLC/NER/99/Pt.I dated 21.10.2000 passed by the DIG, CBI, NER, Guwahati rejecting the written statement of the Applicant and instituting enquiry against the latter.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which he wants redressal

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is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that he had preferred the appeal dated 18.7.2000 under Rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline & Appeal) Rules, 1965 for the redressal of his grievance. However, the aforesaid appeal has not been disposed of yet and the Disciplinary Authority without waiting for the disposal of the appeal against the memorandum of charges has instituted the enquiry against the Applicant by rejecting his written statement of defence. The present application is within the period of limitation provided under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant in the present case is assailing the legality and validity of the memorandum of charges issued against him. The written statement of defence which was filed by the Applicant against the memorandum of charges has also been dismissed by the Disciplinary Authority and the enquiry has been initiated against him. The Applicant is not afraid of the enquiry. However, he is assailing the memorandum of charges because the same has been issued with the sole purpose of his harassment and victimisation. Disciplinary Authority in the present case is the maker of allegations against the Applicant. The enquiry

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is sought to be instituted on trumped up charges based on allegations made and concocted by the Disciplinary Authority. The memorandum of charges which is the subject matter of present application is not the only memorandum of charges, there are in fact two other memorandum of charges that have been issued by the Disciplinary Authority (Respondent No.1) against the Applicant within the short span of 11 days as a part of its attempt to victimise the Applicant. Against all the three memorandum of charges, Applicant is preferring here separate original applications. The case of the Applicant is that the memorandum of charges in the present case has not been issued in conformity with law and the same displays total non-application of mind. Moreover, the charge-sheet against the Applicant has been issued in malafide exercise of power.

4.2 That the Applicant is a citizen of India. Initially, he was Sub-Inspector in the UP Police and was later on appointed as Inspector of Police on deputation in Delhi Special Police Establishment Division of CBI. After his appointment, the Applicant joined as Inspector, CBI, Anti Corruption Branch in the office of the SP, CBI, Anti Corruption Branch, Shillong in September 1993. In the year 1995, when the SP's office was shifted from Shillong to Guwahati, the Applicant was also shifted to Guwahati.

4.3 That the performance of Applicant in CBI has been exemplary. In his more than six years of service in CBI, the Applicant earned seventeen rewards and eight commendation certificates for his excellent investigation in various cases. Applicant also handled

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certain highly sensitive cases like a case relating to fraudulent withdrawal of advance T.A. against the Judges of the Hon'ble Gauhati High Court as well as the establishment staff of the Gauhati High Court from Kamrup Treasury. The amount was to the tune of more than Rs. 38 lacs. In this case also, the Applicant was given commendation certificate as well as case reward for his effective investigation. In his six years of service, only on one occasion i.e. vide No. 511 dated 29/7/99 the Applicant was communicated adverse remarks pertaining to the year 1998 by the predecessor of the Respondent No.1. The remarks were vague without supported by particulars. Applicant submitted his representation against the same and the same has not been disposed of as yet.

Documents showing the meritorious performance of the Applicant and the awards received by him are annexed herewith as ANNEXURES-A/1 colly.

4.4 That the difficulties of the Applicant started from October 1999 onwards when the Respondent No.1 (the Disciplinary Authority) developed an animus against the Applicant. It all started with the Applicant filing O.A. No. 338/99 (admitted on 15.10.99) before the Guwahati Bench of the Hon'ble Tribunal assailing the order of repatriation from CBI and seeking his absorption in the said organisation. The Hon'ble Tribunal admitted the said O.A. and passed the interim order in favour of the Applicant on 15.10.99.

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4.5 That the filing of the aforesaid Original Application piqued the Respondent No.1. Since during the period of the aforesaid O.A. No. 338/99 was filed and moved before the Hon'ble Tribunal, the Applicant was convalescing on medical advice having suffered from severe chest pain on 30.9.99. Consequently, the Applicant absented from duty from 1.10.99 to 28.10.99 (total for 28 days). Applicant reported for duty on 29.10.99.

4.6 That immediately after passing of the impugned order in favour of the Applicant on 15.10.99 by this Hon'ble Tribunal in O.A. No. 338/99, series of incidents took place involving administrative highhandedness on the part of the Respondent No.1. In this connection, circumstances under which the Applicant abstained from duty from 1.10.99 to 28.10.99 (total for 28 days) and the matters related to the same have to be explained in seriatim and the same are stated hereinbelow.

4.7 That on ³⁰ 18.9.99, the Applicant felt severe chest pain and very high palpitation. The nearest Central Government Health Services (CGHS) dispensary from his residence at Guwahati is located at a distance of 7 to 8 kilometres. Moreover, the Applicant is not registered in any of the CGHS dispensaries. Hence under the circumstances, the Applicant was rushed to nearest available doctor of Gauhati Medical College Hospital, ^{who} who stays very close to the Applicant's residence. Be it stated here that the wife of the Applicant is, an

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employee of the Government of Assam. The kind of ailment from which the Applicant suffered was such that the Applicant could not have been expected to go CGHS dispensary or to inform the department about his ailment.

4.8 That the Applicant on the very next day on 1.10.99 telephonically intimated his department about his physical problem. Subsequently on 5.10.99, he also sent the written intimation to the department in regard to his ailments. Since the Applicant's wife is a working lady and there was no one else to look after him during office hours, therefore, the Applicant was temporarily shifted to his in-law's house at Chenikuthi, Guwahati. It was there that the Applicant took necessary rest as per the medical advice. Here it is pertinent to mention that after a thorough check up in the Gauhati Medical College, the Applicant was advised rest and necessary medicine were prescribed to him.

4.9 That on being declared medically fit, the Applicant joined on 29.10.99 before noon and gave his joining report on that very date alongwith necessary documents/medical papers with the request for granting him 28 days' medical leave.

4.10 That in response to the requests made by the Applicant that he be granted 28 days' medical leave, the Superintendent of Police, CBI (ACB), Guwahati at the instance of the Respondent No.1 issued the memorandum dated 13.11.99 wherein it was stated that as per the Leave Rules, the non-gazetted Government

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

Copy of the memorandum dated 13.11.99 is annexed as ANNEXURE-A/2.

4.11 That the Applicant on receipt of the memorandum dated 13.11.99 submitted a written reply dated 6.12.99. In the aforesaid reply, the Applicant in detail gave explanation to the circumstances under which he was to contact his doctor at Gauhati Medical College. Applicant in his reply also dealt with the allegations made against him.

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Copy of the Applicant's written reply dated 6.12.99 is annexed as ANNEXURE-A/3.

4.12 That since the salary for the month of October 1999 was not given to the Applicant and there was a silence on the part of the Respondents after receipt of the Applicant's reply dated 6.12.99, therefore, the Applicant submitted a representation dated 19.12.99 to the Director, CBI, New Delhi. Applicant has reasons to believe that the Respondent No.1 was instrumental in withholding the salary of the Applicant for the month of October 1999 as he was angry by the conduct of the Applicant of approaching this Hon'ble Tribunal in O.A. No. 338/99 wherein he had assailed the legality of the order of his repatriation. Since in the aforesaid O.A., the impugned order was passed by the Hon'ble Tribunal on 15.10.99 which was during the period when the Applicant was absent from the office because of his taking rest having suffered from severe chest pain and palpitation on the night of 30.9.99, the Respondent No.1 formed an impression that the Applicant did not suffer from any chest pain and he was feigning illness because he wanted to buy time to move the Hon'ble Tribunal to obtain stay on the order of his repatriation.

4.13 That it was under these circumstances that at the behest of the Respondent No.1, the Applicant was not given the salary for the month of October 1999 and he was also not granted the medical leave for the period of his illness i.e. from 1.10.99 to 28.10.99 (total for 28 days).

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4.14 That the Respondent No.1 apart from withholding the salary of the Applicant for the month of October 1999 and refusing to sanction him medical leave for the aforesaid period, exercised police powers which he did not possess. In exercise of police powers, CBI personnel were sent to the Gauhati Medical College to interrogate the doctor who had issued medical certificate to the Applicant. Phone calls were made at the residence of the concerned doctor. Even the Supdt. of Gauhati Medical College was contacted by the CBI personnel and intimidated. The authority of Dr. (Mrs.) Rupali Barua, MBBS MD who is an Associate Professor in Gauhati Medical College and had issued sickness and fitness certificate to the Applicant, was questioned. It is noteworthy that the Respondent No.1 had no authority to send CBI personnel to Gauhati Medical College to interrogate the doctors and to intimidate Dr. (Mrs.) Rupali Barua, the Associate Professor of Gauhati Medical College who had issued sickness and fitness certificate to the Applicant. All these events created an atmosphere of intimidation and coercing.

4.15 That it was under these circumstances that the Applicant made a complaint to the Director, CBI on 23.12.99. Immediately after this on 10.1.2000 when the Applicant was in office, a few CBI personnels were sent to the Applicant's residence where his wife and a grown up daughter were alone at home. The CBI personnels indulged in an improper behaviour at the residence of the Applicant and tried to intimidate his wife and daughter as a result of this, wife of the Applicant

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sent a complaint to the Director of CBI and to Assam Human Rights Commission on 13.1.2000 and 8.2.2000 respectively. An appeal was also made to the Joint Director, CBI on 27.3.2000.

4.16 That pursuant to these complaints, the Joint Director, CBI also came to Guwahati and verbally told the Respondent No.1 to behave in a proper manner. The bad blood between the Applicant and the Respondent No.1 showed its effect in Respondent No.1 even recommending minor penalties against the Applicant in different files viz. official notings dated 29.2.2000 in three different files i.e. File No. SA/SHG/99/20 ; SA/SHG/99/21 and SA/SHG/99/22 respectively. Moreover such was the degree of animus bore by the Respondent No.1 against the Applicant that some time in November/December 1999 in File No. 153/99/Vol. II/NER, the Respondent No.1 in his note to the SP, CBI wrote that rewards should not be given to person like S.P. Singh Yadav who is using the reward money for fighting CAT cases against CBI (emphasis added). It is due to this observation, that since 1999 reward and commendation certificates have not been conferred on the Applicant on many occasions when as per the CBI Manual, he was entitled to get such rewards and commendation certificates. The Applicant has also submitted representation to the competent authority in regard to the said matter. Applicant craves leave of the Hon'ble Tribunal to refer to the representations submitted by him to the competent authority in this connection at the time of hearing of his case.

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4.17 That thereafter the Respondent No.1 served on the Applicant an order dated 28.3.2000 wherein unsubstantiated allegations of gross misconduct, lack of devotion of duty and integrity etc. were made against the Applicant. The aforesaid order was silent on material particulars and it only stated that in view of gross misconduct of the Applicant, it has been decided to issue charge sheet on him for major penalty and that the Applicant should forthwith hand over charge of all cases with him to the DSP.

Copy of the order dated 28.3.2000 is annexed as

ANNEXURE-A/4

4.18 That when the prayer of the Applicant for payment of salary was ignored, the Applicant filed yet another Original Application being numbered O.A. 137/2000 (admitted on 18.4.2000) before this Hon'ble Tribunal. The aforesaid OA is also pending disposal. Since Applicant was also denied the benefits of Special Duty Allowance despite repeated requests, the Applicant preferred yet another Original Application being numbered O.A. No. 139/2000 (also admitted on 18.4.2000). This Original Application is also pending disposal before this Hon'ble Tribunal.

4.19 That filing of three different original applications by the Applicant further angered the Respondent No.1. As a result, the order dated 28.3.2000 was followed by the order of suspension dated 26.4.2000 pending disciplinary proceeding. The order was passed in exercise of power under sub-rule (1) of Rule 5 of

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Delhi Special Police Establishment (Subordinate Ranks)
(Discipline & Appeal) Rules, 1961.

Copy of the order of suspension Dated 26., 4.2000
is annexed as ANNEXURE-A/5.

4.20 That after the order of suspension, the Applicant was served with three different charge sheets dated 11.5.2000, 17.5.2000 and 22.5.2000. Charge sheet dated 11.5.2000 was with regard to the absence of the Applicant from 1.10.99 to 28.10.99. It is this charge sheet which forms the subject matter of the present case. It is pertinent to mention that in regard to the non-sanctioning of leave for the said period and for non-payment of salary to him for the said period, the Applicant had preferred O.A. No. 137/2000 before the Hon'ble Tribunal. The O.A. was filed on 17.4.2000 and admitted on 18.4.2000 i.e. much before issue of the charge sheet dated 11.5.2000. The Respondent No. 1 till this date has not filed any counter in the said O.A. However, by issuing a charge sheet dated 11.5.2000 in the same subject matter, efforts are being made to harass the Applicant. Applicant in the present case is assailing the legality and validity of the charge sheet dated 11.5.2000. So far as other two charge sheets are concerned, the Applicant would be filing separate applications assailing the legality and validity of the same.

4.21 That the impugned charge sheet is dated 11.5.2000 and the same forms the subject matter of the present

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case. The impugned charge sheet contained two articles of charges viz. :

- (i) That the Applicant while being posted and functioning as Inspector in the office of SP, CBI, ACB, Guwahati during 1999 committed gross misconduct and behaved in a manner unbecoming of him inasmuch as he unauthorisedly absented from duty from 1.10.99 to 28.10.99 and later on with a view to regularise his unauthorised absence, submitted false/manipulated medical certificates including fitness certificate and doctor's prescription etc. and thereby contravened rule (3)(1)(i)(iii) of CCS Conduct Rules, 1964.
- (ii) That the Applicant while working as Inspector in CBI in the office of SP, ACB, Guwahati in order to evade service of urgent official letter on him relating to his repatriation to UP Police, communicated DD(A), CBI, New Delhi vide Fax message No. DPAD.11999 03447/A.20014/1609/93 dated 30.9.99 and subsequently through another letter of Head Office, CBI vide Fax message No. DP/AD.11999/03638/A-20014/1609/93 dated 15.10.99 by Deputy Director (Admn.), and other such important letters, left his residence, without informing his whereabouts to the office of SP, ACB, Guwahati, either himself or through any of his family members, with the disguised motive of obtaining a stay order from Hon'ble Gauhati Court/Central Administrative Tribunal, Guwahati.

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Bench thereby frustrating all efforts of SP, CBI, Guwahati to serve on him the repatriation order for his immediate repatriation to UP Police with a view to continue illegally in the CBI and thereby he showed lack of integrity and acted in a manner unbecoming of his position and contravened Rule 3(1)(i) and (iii) of CCS Conduct Rules, 1964. It is stated that the impugned memorandum of charges was not accompanied by the list of witnesses and documents and the Applicant till this very date has not been served with the list of witnesses and documents on the basis of which charges would sought to be proved.

Copy of the impugned memorandum of charges dated 11.5.2000 is annexed as ANNEXURE-A/6.

4.22 That though the memorandum of charges did not contain the list of witnesses and documents, but even then the Applicant submitted his written statement of defence dated 25.6.2000 wherein he denied the charges in toto. In his detailed explanation, Applicant demonstrated the frivolous and vexatious nature of charges. The circumstances under which the Applicant remained absent from 1.10.99 to 28.10.99 have already been narrated in the preceding paragraphs, more over in O.A. No. 137/2000 which is pending disposal before this Hon'ble Tribunal, the Applicant has dealt with the circumstances under which he was absent from 1.10.99 to 28.10.99. Hence to avoid repetition, the Applicant is reiterating the averments made in the preceding

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paragraph that have dealt with the circumstances under which the Applicant was to remain absent from 1.10.99 to 28.10.99. The O.A. No.1 37/2000 deals with the right of the Applicant to get medical leave for the said period. If the aforesaid O.A. is adjudicated in favour of the Applicant, the same would regularise the absence of the Applicant for the said period and consequently the impugned memorandum of charges would be left without any basis.

Copy of written statement of defence dated 25.6.2000 is annexed as ANNEXURE-7

4.23 That however instead of filing written statement in O.A. No. 137/2000, the Respondent No.1 in order to harass the Applicant chose to issue the impugned memorandum of charges against him. On plain reading of the charges, it is clear that the Respondent No.1 was annoyed with the Applicant because he was successful in getting stay order from this Hon'ble Tribunal on 15.10.99 in O.A. No. 338/99. The sole objective behind issue of memorandum of charges was the belief of the Respondent No.1 that the Applicant was feigning illness because he wanted to move the Hon'ble Tribunal for getting the stay order on his repatriation and the Applicant was successful in his effort to do so.

4.24 That the Respondent No.1 rejected the written statement of the Applicant vide his order dated 21.10.2000 and by another order dated 23.10.2000, appointed the Enquiry Officer and the Presenting Officer for the purpose of enquiry against the Applicant.

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Copy of the order dated 21.10.2000 is annexed as
ANNEXURE-A/8.

4.25 That the Respondent No.1 in his order dated 21.10.2000 has admitted that the doctor who issued the medical certificate to the Applicant is a qualified MBBS MD and is working in the Community Medicine Department of Gauhati Medical College. From perusal of the order, it is clear that the Supdt. of Gauhati Medical College (on enquiry by CBI) informed the CBI authority that the Applicant had reported to the Hospital for treatment on 1.10.99 when ECG was conducted on him on the same day. However, despite these facts, the Disciplinary Authority (Respondent No.1) made unwarranted allegations against the Applicant that in order to regularise his unauthorised absence, the Applicant obtained sickness and fitness certificates from Dr. (Mrs.) Rupali Barua (an Associate Professor of Gauhati Medical College) in a dubious manner though the said Dr. (Mrs.) Rupali Barua officially had no power/no authority to issue any such certificate or treat any patient.

4.26 That the order passed is arbitrary and shows bias and prejudice of the Respondent No.1 (Disciplinary Authority) against the Applicant. The Respondent No.1 could have submitted written statement in O.A. No. 137/2000 which is pending before this Hon'ble Tribunal. However, instead of doing so, the Disciplinary Authority deliberately in order to harass the Applicant and to subvert his effort to get justice from this

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Hon'ble Tribunal has initiated disciplinary proceeding against him in the same subject matter.

4.27 That the order of Disciplinary Authority dated 21.10.2000 ex-facie demonstrate that the Disciplinary Authority has come to the conclusion that the Applicant was not sick and that the medical certificate obtained by the Applicant does not reflect the correct position. However, on the other hand, it is also undisputed that the qualified doctor of Gauhati Medical College Hospital issued medical certificate to the Applicant. It has also not been disputed that when the Applicant felt chest pain in the late night of 30.9.99, he had consulted the very doctor who had issued the medical certificate to him. Under the Leave Rules, whether the Applicant is entitled to leave for the period during which he was not physically fit, is an issue which can certainly be decided by this Hon'ble Tribunal in the O.A. pending before it. However, if the disciplinary proceeding against the Applicant is permitted to be carried out, the same would jettison the effort of the Applicant to get justice before this Hon'ble Tribunal.

4.28 That in O.A. No 137/2000 which is pending before this Hon'ble Tribunal, action of the Respondents of not sanctioning leave to the Applicant is also under scrutiny. However, in his order dated 21.10.2000, the Respondent No.1 has justified his action of not sanctioning leave without of course giving any explanation to this Hon'ble Tribunal in O.A. No. 137/2000. Action of the Respondent No.1 clearly shows

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that it is not willing to come before the Hon'ble Tribunal and is more keen in pursuing the disciplinary proceeding against the Applicant thereby using the same as an instrument of oppression against the Applicant.

4.29 That the result of the disciplinary proceeding in view of the nature of the order dated 21.10.2000 is a foregone conclusion. Applicant has reasons to believe that the Disciplinary Authority has made up its mind to punish the Applicant for what it considers an "unauthorised absence" for the month of October 1999.

4.30 That in this connection, it is pertinent to mention that the Enquiry Officer who has been appointed to conduct an enquiry against the Applicant in the case is undergoing a period of probation. The Enquiry Officer is yet to get confirmation of his services. It is the same very Disciplinary Authority (Respondent No.1) who is to confirm the services of the Enquiry Officer. Under these circumstances, Enquiry Officer is not expected to act independently. He would always be under the pressure of the Disciplinary Authority. Hence the Applicant does not expect any justice from the disciplinary proceeding.

4.31 That under the provisions of the Administrative Tribunals Act, once application is filed before the Hon'ble Tribunal and is admitted for the purpose of adjudication then in regard to the same subject matter, all proceedings should be stopped. Apparently, the action of the Respondent No.1 contravenes the

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provisions of the Act and the Rules. Purpose of the provisions is to ensure that there is no conflict in the decision arrived at by the departmental authority and the Hon'ble Tribunal in the same subject matter. However, in the present case, the Disciplinary Authority oblivious of the provisions and the relevant rules is flouting the same.

4.32 That in the impugned order dated 21.10.2000, the Respondent No.1 has held that the issue of sanctioning or non-sanctioning the leave is different from that of unauthorised absence. The argument is absurd inasmuch as on sanctioning of the leave, the unauthorised absence itself becomes authorised. When the leave is not sanctioned, in arbitrary exercise of power, then the victim of such an arbitrary exercise of power despite genuine and bonafide grounds for leave becomes the guilty of unauthorised absence.

4.33 That vide letter dated 16.1.2001, the Enquiry Officer intimated the Applicant that 23.1.2001 has been fixed as the date for preliminary enquiry and that Applicant is to present for the same at 10.00 A.M. at Shillong. The letter surprised the Applicant inasmuch as in the present case memorandum of charges was served upon the Applicant long ago albeit without the list of witnesses and documents. It is the fundamental principle of service jurisprudence that preliminary enquiry is carried out prior to the issue of memorandum of charges. In preliminary enquiry, the explanation of the Government servant may be taken and documentary and oral evidence may be considered. It is usual when

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such a preliminary enquiry makes out a prima facie case against the official concerned, the charges are then framed against him and he is asked to show cause why disciplinary action should not be taken against him. In the present case, not only the memorandum of charges was served upon the Applicant long ago, but the Disciplinary Authority after considering the written statement of defence submitted by the Applicant rejected the same vide order dated 4.8.2000 and by the order of the same date appointed the Enquiry Officer. Hence after framing of the charge sheet and rejection of written statement of defence submitted by the Applicant, there is no rational ~~why~~ behind holding the preliminary enquiry. Applicant has reasons to believe that the preliminary enquiry is being held primarily for the purpose of prolonging the agony of the Applicant.

Copy of the letter dated 16.1.2001 is annexed as
ANNEXURE-A/9.

4.34 That the preliminary enquiry is being held in Shillong. For a long time, the Applicant is being paid 50% of his salary as subsistence allowance. In Shillong, there is no guest house of the Central Bureau of Investigation. There is no place except the hotel where the Applicant can stay. Hence visit to Shillong and stay over there would cost the present Applicant extra expenses which he is unable to bear.

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4.35 That under the circumstances, the Applicant after receiving the letter dated 16.1.2001 of the Enquiry Officer sent the latter three different letters on the same date i.e. 20.1.2001. In these letters, the Applicant stated about the practical difficulties being faced by him in appearing before the Enquiry Officer at Shillong. It was also stated by the Applicant that the Disciplinary Authority has directed him not to leave the headquarter without obtaining previous permission of the Disciplinary Authority. It is also stated by the Applicant that his appeal against the memorandum of charges is still pending disposal before the Appellate Authority and till the same is disposed of, the enquiry against him should not be carried out. The Applicant also expressed his reservation in categorical terms about the impartiality of the Enquiry Officer in view of enormous pressure being exerted upon him by the Disciplinary Authority. It was stated by the Applicant that in view of the fact that the Enquiry Officer has not yet been confirmed in service and he is undergoing a period of probation would keep him under constant pressure of Disciplinary Authority and he would be compelled to toe the line of Disciplinary Authority. The Applicant also impressed upon the Enquiry Officer that along with the memorandum of charges, the Applicant was not supplied with the list of documents and witnesses sought to be relied on for the purpose of holding the enquiry.

Copies of three different letters of even date i.e. 20.1.2001 are annexed as ANNEXURE-A/10 colly.

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4.36 That in the present case, despite the frivolous and vexatious nature of the enquiry, the Applicant is ready to face the same, but he wants such an enquiry to be held in an impartial manner. Applicant has reasons to believe that under the dispensation of the present Disciplinary Authority, enquiry against him would not be held in an impartial manner. Though Applicant has nothing against the present Enquiry Officer, but the very fact of the Enquiry Officer being under the probationary period, makes the capacity of the Enquiry Officer to hold such an enquiry in an impartial manner highly doubtful. In this connection, here it is stated that enquiry against the Applicant can be held at Calcutta which is the head office of the CBI in the Eastern Region. At Calcutta, there are guest houses of CBI wherein the Applicant can stay without incurring unnecessary expenditure. Moreover, at Calcutta, there are competent officers holding the same rank as that of the present Disciplinary Authority in Guwahati under whose supervision, the enquiry can be carried out. The present Disciplinary Authority because of its animus against the Applicant should not be permitted to take any decision in the present case.

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

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 Because the Disciplinary Authority acted with total non-application of mind in issuing the impugned charge sheet against the Applicant. The Respondent No.1

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lost sight of the fact that the medical certificate was issued to the Applicant by a qualified doctor who also happens to be the Associate Professor of Gauhati Medical College. Moreover, the factum of Applicant being treated by the concerned doctor is not disputed. Even the genuineness of the medical certificate is undisputed inasmuch as the doctor who issue the same has admitted that the said certificate was issued. Moreover, even the Supdt. of Gauhati Medical College Hospital has admitted the fact that the ECG of the Applicant was done at the Hospital.

5.2 Because the order dated 21.10.2000 passed by the Respondent No.1 discloses his bias and pre-judgment of the guilt of the Applicant. The arguments advanced by the Respondent No.1 in the aforesaid order are baseless and without any foundation.

5.3 Because the impugned charge sheet issued by the Respondent No.1 and the order dated 21.10.2000 are motivated. The Respondent No.1 is abusing his power to settle his personal score with the Applicant. The malice and the animus of Respondent No.1 towards the Applicant can be seen in the series of his action towards the Applicant. The impugned charge sheet and the order dated 21.10.2000 are therefore not tenable and the same are liable to be set aside.

5.4 Because the impugned charge sheet does not disclose any misconduct on the part of the Applicant. The act of Applicant of challenging the administrative order of his department before this Hon'ble Tribunal

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cannot be construed to be an act of misconduct. The allegations that have been made against the Applicant are imaginary and it is too far fetched to suggest that the Applicant was feigning illness in order to buy sufficient time to approach the Hon'ble Tribunal for getting stay against the order of his repatriation.

5.5 Because the impugned memorandum of charges is frivolous and vexatious. They do not disclose any offence and as such liable to be quashed and set aside on this ground alone.

5.6 Because the Enquiry Officer who has been appointed to conduct an enquiry against the Applicant in the present case is undergoing a period of probation. The Enquiry Officer is yet to get confirmation of his services. It is the same very Disciplinary Authority (Respondent No.1) who is to confirm the services of the Enquiry Officer. Hence the Enquiry Officer is not expected to act independently. He would always be under the pressure of the Disciplinary Authority. Hence the Applicant cannot get any justice from the disciplinary proceeding.

5.7 Because the continuation of the disciplinary proceeding pursuant to the impugned memorandum of charges would subvert and jettison the proceeding pending before the Hon'ble Tribunal in O.A. No. 137/2000. Hence in the interest of justice, the impugned memorandum of charges is liable to be set aside and quashed.

2W.

5.8 Because the impugned charge sheet has not been accompanied by the list of witnesses and documents. The non-furnishing of the list of witnesses and documents to the Applicant has prejudiced him. Facts of the case created a genuine apprehension in the mind of the Applicant that after examination of his written statement of defence the Disciplinary Authority would decide about the list of documents and witnesses on which reliance would be placed in the enquiry. The procedure being followed by the Disciplinary Authority in holding the present enquiry is, therefore, illegal and the same has vitiated the present enquiry.

5.9 Because holding of the preliminary enquiry in the instant case is like putting the cart before the horse inasmuch as memorandum of charges has already been served upon the Applicant and the Applicant also submitted his written statement of defence. Holding of preliminary enquiry thereafter is devoid of any meaning and the same can only be for the purpose of prolonging the suffering of the Applicant.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant states that he had preferred an appeal dated 18.7.2000 under Rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline & Appeal) Rules, 1965 for the redressal of his grievance and assailing the legality of the impugned memorandum of charges. However, the aforesaid appeal has not been disposed of as yet and the Disciplinary Authority without waiting for the disposal

2w.

of the appeal against the memorandum of charges has instituted the enquiry against the Applicant by rejecting his written statement of defence. The Applicant states that he has no other remedy available to him except to approach the Hon'ble Tribunal.

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

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

8. RELIEFS SOUGHT FOR :

8.1 Quash and set aside the memorandum No. 1378/12/COMP/SLC/NER/99(Pt.I) dated 11.5.2000 containing article of charges issued by DIG, CBI, NER, Guwahati and his order No. 4105/12/COMP/SLC/NER/99/Pt.I dated 21.10.2000 rejecting the written statement of the Applicant and instituting enquiry against the latter.

and/or

In the alternative issue an appropriate direction that the enquiry against the Applicant would be carried out by a competent officer other than the present Enquiry Officer and the final decision about the Enquiry Officer's report shall not be taken by the Respondent No. 1 and the same would be taken by any other

2/23.

competent officer of the same rank as that of the Respondent No. 1. Direction may also be given to hold this enquiry either at Guwahati or at Calcutta.

8.2 Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case for securing the ends of justice.

8.3 Award cost of this application to the Applicant.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, be further pleased to stay holding of any enquiry pursuant to the memorandum No.1378/12/COMP/SLC/NER/99(PtI) dated 11.5.2000 containing article of charges issued by DIG, CBI, NER, Guwahati and his order No. 4105/12/COMP/SLC/NER/99/Pt.I dated 21.10.2000 rejecting the written statement of the Applicant and instituting enquiry against the latter.

10.

The Application is filed through Advocate.

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

(i) I.P.O. No. : 56.421054
(ii) Date : 4/1/2001
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

32W.

VERIFICATION

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 47 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.1, 4.2, 4.7, 4.8, 4.12 to 4.15, 4.20, 4.25 to 4.37, 4.34, 4.36 are true to my knowledge ; those made in paragraphs 4.3 to 4.6, 4.9 to 4.11, 4.16 to 4.19, 4.21 to 4.24, 4.35 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 24th day of January 2001 at Guwahati.

Suresh Pal Singh Yadav,

Annexure: A [colly]

OFFICE ORDER NO. 146 / DATED: 22/6/99.

Joint Director(EZ)CBI/Calcutta vide his order dtd 04.06.99 is pleased to sanctioned a cash reward to the following Executive staff of CBI/ACB/Guwahati for they have taken keen interest for all round development of the branch smooth functioning as well as shown interest investigation searches,surprise checks etc. as detailed below:-

Sl.No.	Name & Designation	Amount Reward.
1	2	3
1.	Sh.R.P.Bose,Inspr.	Rs. 1000/-
2	Sh.S.P.Singh Yadav ,Inspr	Rs. 1000/-
3.	Sh.L.Hlangshing,Inspr.	Rs. 1000/-
4.	Sh.N.G.Khamrang,Inspr.	Rs. 1000/-
5.	Sh.N.R.Dey,Inspr.	Rs. 1000/-
		/
		5000/-

(Rupees five thousand)only

It is certified that the amount prescribed in H.O. letter No.29/1/81-AD III dtd.1/8/90 has not been exceeded in this regard.

Superintendent of Police,
CBI/ACB/Guwahati.

Memo No.1/24/98/22/6/99 Dated: 22/6/99.

Copy to :-

1. A/C Section in duplicate for n/a.
2. Person concerned.

Superintendent of Police,
CBI/ACB/Guwahati

Attested
All Yours
A/Deputy

Office order No. 1075

Dated :- 20/01/99

Sanction is hereby accorded for the grant of C. C. to the following Executive staff for his good work done in Case No. RC 34(A)/96-SHIG as detailed below :-

Sl. No.	Name & Designation	Amount Sanctioned	Commendation Certificate
1.	Shri S.P. Singh Yadav, Insp.	-----	C. C.

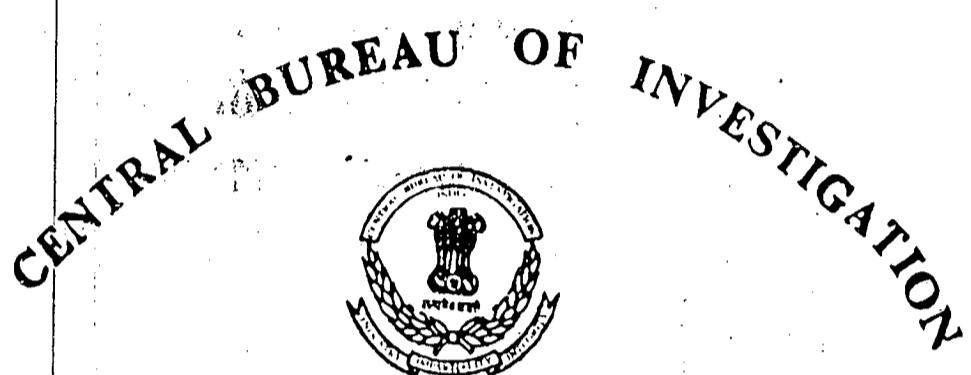
Memo No. E/24/ 05-266-67
Copy to :-

Superintendent of Police,
CBI, ACB, Guwahati.

Dated :- 20-1-99

1. The S.B. Clerk alongwith C. C. for necessary entry in his Service Book.
2. Person concerned.

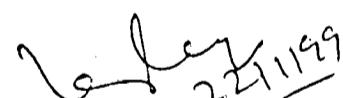
Ver 22/1/99
Superintendent of Police,
CBI, ACB, Guwahati.



**GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE**

Granted to Shri S.P.SINGH YADAV, INSPR. IS HIGHLY COMMENDED
FOR HIS GOOD WORK DONE IN CASE NO. RC.34(A)/96-SHG.

for



DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guahati;



OFFICE ORDER NO. 117

Dated: - 25th June '98.

Sanction is hereby accorded for the grant of reward and C.C. to the following officer of CBI/ACB/Guwahati for his good work done in Case No. RC.5(A)/98-SAC as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Un. S.I.P. Singh Yadav, Insp.	Rs. 600/- + C.C.
		<hr/>
		Rs. 600/-

(Rupees Six hundred) only

It is certified that the amount prescribed in M.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in this regard.

(B.N. Mishra)
Superintendent of Police,
C.B.I./A.C.B./Guwahati.
111111

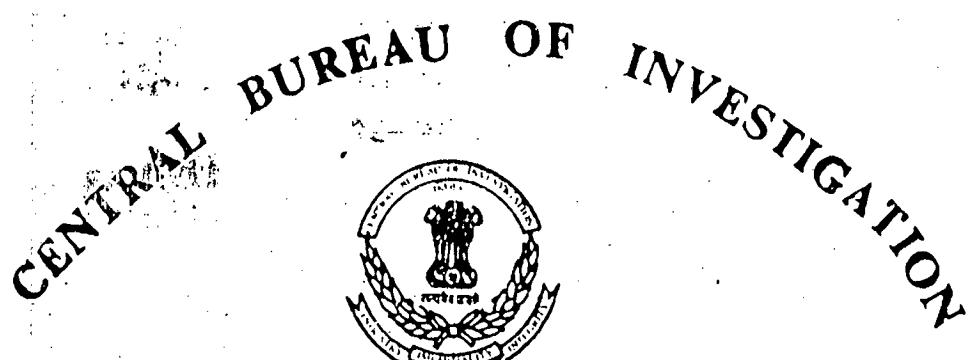
Mem No. II/24/ 602-09

Dated: - 25th June '98.

Copy to :-

1. S.S. Clerk alongwith Commendation Certificate for necessary entry in the Service Book.
2. The M.A/C Section in duplicate for n/a.
3. Person concerned.

BMW/2569
Superintendent of Police,
CBI/ACB/Guwahati.



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri SURESH PAL SINGH YADAV, INSPECTOR
IS HIGHLY COMENDED FOR HIS GOOD WORK DONE IN CASE NO.
R.C.S(A)/98-SHG.

for

DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

DANW
25/6/80

*After Red
Well River*

OFFICE ORDER NO. 41

Dated :- 31st May '99.

Sanction is hereby accorded for the grant of cash reward and C.C. to the following officer for his good work done in Case No. RC.16(A)/93-BIG as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Sd. S. P. Singh Yadav, Inspector.	R. 1000/- + C.C. R. 1000/- + C.C.

(Rupees one thousand)only

It is certified that the amount prescribed in H.O. Letter No. 29/4/92-AD.III dated 1/6/90 has not been exceeded in this regard.

(B.N. MISHRA)

Superintendent of Police,
CBI/ACB/Guwahati.

Memo No. R/24/

Dated:- 31st May '99.
12th

Copy to:- 2836-40

- 1) A/C Section in duplicate for n/a.
- 2) S.B. Clerk alongwith the Commendation Certificate for necessary entry in the Service Book.
- 3) Paycom accounted.

Superintendent of Police,
CBI/ACB/Guwahati.

61/-

-000

CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S.P. Singh Yadav, Inspector of Police
for his good work done in SC.35(2)/83-RK.

DATED
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guahati

35/83
B.M.W.

Case No.	Accused Name	Reason of Accusation	Report of Inspector	Work done by Cash Counter	Report of the Cash Counter Officer	Order of the I.G.
1	2	3	4	5	6	7

R. 15A/93-95
Sh. Surjeet
Dasgupta, B.
Smt. Dipchu &
Others

Disturberment of
TDP Loans to
licitious and
non-existent
persons to the
tune of several
lakhs of rupees

Sri S. P. Singh Yadav
Inspector, CTI/ACB,
Guwahati

This case was earlier investigated by 3 I.O's who could not collect sufficient materials for launching the prosecution against the accused persons. And thus a departmental action was recommended by the then I.O. Sr. P.P. also agreed with the opinion of the I.O. The then Branch SP also agreed with the opinion of the I.O. and Sr. P.P., even DIA has agreed with the same. Besides, that the case had a set back that some of the vital documents were lost due to the negligence of the then I.O. Sh. P. Saitia, Inspector who was posted on this court to the parent department. The FR-I and FR-II alongwith branch comments and DIA's opinion when examined by the then DIG, Sh. N. Hallick, he was not satisfied with the investigation, as such he discussed the case with Sh. S. P. Singh Yadav and gave him open offer to re-investigate the case. Inspector S.P. Singh Yadav accepted the challenge and investigate the case thoroughly and collected sufficient materials against the accused persons. And thereafter the case was made out to launch prosecution against the accused Sh. Surjeet Dasgupta, the then Branch Manager, SBI, Dipchu and others. The work done by Sh. S.P. Singh Yadav is highly commended by the undersigned as well the then DIG. It was also commended by the technical officer, Banking which resulted into filing Charge Sheet after obtaining sanction from the competent authority. The charge has been filed against the accused persons on 6.4.98.

In view of the facts mentioned, I highly recommended that Inspector S.P. Singh Yadav deserves suitable cash reward alongwith commendation certificate to encourage his moral so in future also he may give expected result.

(M. K. Jha) 21/4/98
Suptt. of Police.

Approved
by
Suptt. of Police

L.G.

36

Guwahati
S.P. Singh
19.6.98

37

OFFICER ORDER NO. _____

Dated: 10/12/97.

Sanction is hereby accorded for the grant of cash reward and C.C. to the following officers for finalising the following cases targotted for 1997 in Pn.11/97, Pn.5/96, Pn.6/97 and Pn.8/97 respectively as detailed below:-

NO. Name & Designation	Amount rewarded
1. Sh.S.P.Singh Yadav, Inspr.	Rs. 300=00+C.C.
2. Sh.Sandeep Goyal, Sub-Inspr.	Rs. 250=00+C.C.
3. Sh.Manoj Banerjee, Sub-Inspr.	Rs. 250=00+C.C.
	Rs. 800=00

(Rupees eight hundred)only

It is certified that the amount prescribed in A.O. letter No.29/4/83-AD.III dtd.1/8/90 has not been exceeded in this regard.

(Signature)
Superintendent of Police,
CBI/CS/Chandni.

Memorandum No. 8/24/KR/3-15/

Dated: 27 Dec '97.

Copy to:-

1. S.B.Clark alongwith Commendation Certificate for necessary entry in the Service Book.
2. The A/C Section in duplicate for n/a.
3. Person concerned.

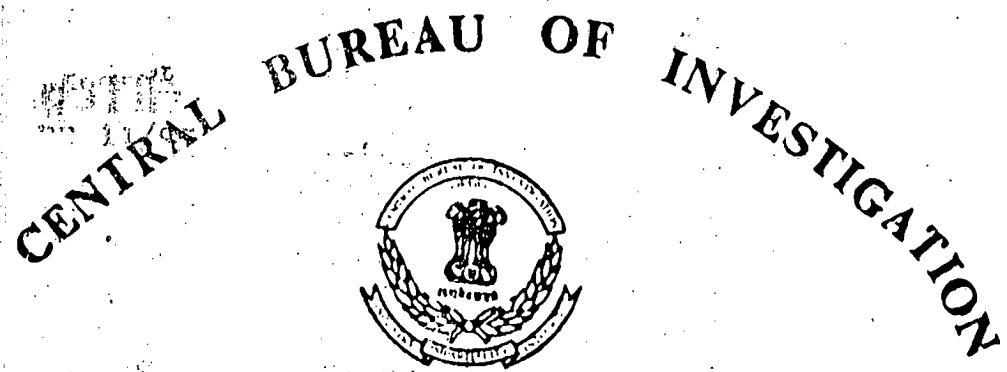
(Signature)
Superintendent of Police,
CBI/CS/Chandni.

14/

15/

16/

17/



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S.P.Singh Yadav, Insp. is HIGHLY
COMMENDED for finalising of cases targetted for 1997
for in PE.11/97, and RC.5/94.

DATED :
GUWAHATI

25/11/97
SUPERINTENDENT OF POLICE
CBI/ACB/Guahati;

*Attended
W. K. D. S.
B. D. S.*

OFFICE ORDER NO. 195

Dated: 21/10 '97.

Joint Director(EZ),CBI/Calcutta vide his order dtd.
21/10/97 is pleased to sanction a Cash reward to the following
Officers of CBI/ACB/Guahati Branch for their Good work done
during his visit as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh.N.R.Dey,Inspr.	1500-00
2.	Sh.S.P.Singh Yadav,Inspr.	1500-00
3.	Sh.R.P.Rose,Inspr.	1500-00
	Totals:-	4500-00

(Rupees Four thousand five hundred)only

It is certified that the amount prescribed in H.O. letter
No.08/01/90-ADV.dated 21/09/90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Guahati.

Dated: 21/10 '97.

Memo No.E/24/ 7141-12

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Superintendent of Police,
CBI/ACB/Guahati.

EL.

1000/-

OFFICE ORDER NO. 68 Dated: 13/3/97

Special Director ,CBI/New Delhi vide his order dtd.08/03/97 is pleased to sanction a cash reward to the following Insp. of CBI/ACB/Guahati including Regional Office & Shillong Unit for their good work done during his visit as detailed below:-

Sl. NO.	Name & Designation	Amount rewarded.
1.	Shri.R.P.Bose,Inspr.	Rs. 1200/-
2.	Shri.A.B.Gupta,Inspr	Rs. 1200/-
3.	Shri.S.P.Singh Yadav,Inspr	Rs. 1200/-
4.	Shri.K.Barman,Inspr	Rs. 1200/-
		<hr/> Rs. 4800/-

(Rupees Four thousand eight hundred & only)

It is certified that the amount prescribed in H.O. letter No.08/01/90-AD.V.dated 21/09/90 has not been exceeded in the case.

Supdt.of Police,CBI/ACB,
Guahati.

Memo No.E/24/ 1608-24/

Dated: 13/3/97

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Supdt.of Police,CBI/ACB,
Guahati.

111111

OFFICE ORDER NO.

45

Dated: - 7/2/97

Sanction is hereby accorded for the grant of cash reward to the following executive staff for their good work done during the year 1996 as detailed below:-

S1.	Name & Designation	Amount rewarded
No.		
1.	Sh. S. P. Singh Yadav, Inspector	Rs. 500/-
2.	Sh. P. Limbou, P.I.	Rs. 300/-
3.	Sh. E. Lyngdoh, Const.	Rs. 200/-
		Rs. 1000/-

(Rupees One thousand) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. E/24/ 932-33

Dated: - 10/2/97

Copy to:-

1. A/C Section in duplicate for n/a.
2. Person concerned

Supdt. of Police, CBI/ACB,
Guwahati.

#####

OFFICE ORDER NO. 215

Dated: 7/11/96

Sanction is hereby accorded for the grant of cash reward to the following officials for their good work done in case No. P.E.22(A)/96-SHO on 12/7/96 as detailed below:-

Sl. No.	Name & Designation	Amount Reward.
1.	Sh. K. Barman, Insp.	Rs. 200/- + C.C.
2.	Sh. S. P. Singh, Insp.	Rs. 200/- + C.C.
3.	Sh. S. L. Gogoi, Const.	Rs. 100/- + C.C.

On 12/7/96 Total :- Rs. 500/-

(Rupees five hundred) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. E/23/6969-70

Dated: 8/11/96

Copy to:-

1. A/C section in duplicate for necessary action.
2. Person concerned.


Supdt. of Police, CBI/ACB,
Guwahati.

H/11

Att. Officer
W. P. Officer
P. D. Officer

GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT. OF POLICE
A.C.B.GUWAHATI

COMMENDATION CERTIFICATE

Shri. S.P. Singh Yadav, Insp. CBI/ACB/Guahati
is Highly Commended for his Good Work done in Case
No. PE. 22(A) /96-SHG. on 12/7/96.


7/1/96

Supdt. of Police, CBI/ACB
Guahati.

OFFICE ORDER NO. 211

Dated: 7/11/96

Sanction is hereby accorded for the grant of cash reward to the following officials for their good work done in case No. P.E.23(A)/96-SUO on 12/7/96 as detailed below.

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh.K.Barma, Insp.	Rs. 200/- +.C.C.
2.	Sh.S.P.Singh Yadav, Insp.	Rs. 200/- +.C.C.
3.	Sh.S.L.Gogoi, Const.	Rs. 100/- +.C.C.
		<u>Total:- 500/-</u>

(Rupees five hundred)only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD, III dated 1/8/90 has not been exceeded in the case.

Supdt.of Police,CBI/ACB,
Guwahati.

Mem No. E/24/ 6981-82

Dated: 8/11/96.

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

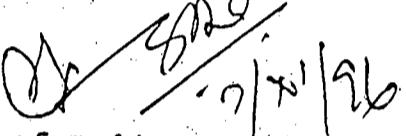
Supdt.of Police,CBI,ACB,
Guwahati.

1000

GOVERNMENT OF INDIA:
CENTRAL BUREAU OF INVESTIGATION:
OFFICE OF THE SUPDT OF POLICE
A.C.B. GUWAHATI.

COMMENDATION CERTIFICATE

Shri S.P. Singh ^{yadav} Insp. CBI/ACB/Guahati
is highly commended for his Good Work done in Case
NO. PE. 23(A) 1996-SIG on 12/7/96.


Supdt. of Police, CBI/ACB
Guahati.

OFFICE ORDER NO. 213

Dated: 7/11/96

Sanction is hereby accorded for the grant of cash reward to the following officer for their good work done in case No. RC.29(A)/96-SIK as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh.A.B.Cupta,Insp.	Rs. 200/- + C.C.
2.	Sh.S.P.Singh Yadav,Insp	Rs. 300/- + C.C.
3.	Shri.A.Dutta, D/Const.	Rs. 100/- + C.C.
4.	Sh.H.War,Const.	Rs. 100/- + C.C.
Total:-		700/-

(Rupees Seven hundred) only

It is certified that the amount prescribed in H.O. letter No.39/4/81-AD.IX dated 1/8/90 has not been exceeded in the case.

Supdt.of Police,CBI/ACB,
Guwahati.

Mem No. B/24/6974-77

Dated: 8/11/96

Copy to:-

1. Accounts Section in duplicate for necessary action.
2. Person concerned with the C.C. for necessary action.
3. S.P. along with the C.C. for n/e in the S.B.
4. S.B.Clerk along with the C.C. for n/e in the S.B.

Supdt.of Police,CBI/ACB,
Guwahati.

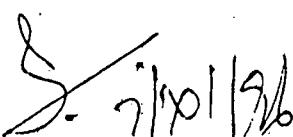
Subhadev
Mishra
Advocate

10000

GOVERNMENT OF INDIA.
OFFICE OF THE SUPDT. OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
A.C.B.GUWAHATI.

COMMENDATION CERTIFICATE.

SHRI. S. S. Saikia Yachan INSPR.CBI/ACB/
GUWAHATI IS HIGHLY COMMENDED FOR HIS GOOD WORK
DONE IN CASE NO. RC.29(A)/96-SHG.


S. S. Saikia Yachan
SUPDT. OF POLICE, CBI, ACB.
GUWAHATI.

*Shukla
Chalisa
P. D. C. A.*

OFFICE ORDER NO. 139

Dated: 31/7/96

Sanction is hereby accorded for the grant of Cash Reward and C.C. to the following Officer for their good work done in Case No. RC.22(A)/96 u/s 120B, 420, 468, 471, IPC & Sec. 13(2) r/w 13(1) (d) of P.C. Act, 1988 in which Sl. 1 conducted search with the assistance of Sl. No. 2 to 4 successfully in the residential premises of the accused and received incriminating documents/as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh.A.B.Gupta,Insp	Rs. 250/- + C.C.
2.	Sh.S.P.Singh,Insp	Rs. 250/- + C.C.
3.	Sh.J.N.Gogoi,H.C.	Rs. 150/- + C.C.
4.	Sh.Bhag Singh,Constable	Rs. 100/- + C.C. Rs. 750/- + C.C.

(Rupees Seven hundred & fifty) only

It is certified that the amount prescribed in H.O. Letter No. 29/4/81-AD.III dated 1.8.90 has not been exceeded in the Case.

Supdt. of Police, CBI/ACB
Guwahati.

Dated: 31-7-96.

Memo. No. E/24/ 4740-43

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned
3. S.B.Clerk alongwith commendation Certificate for necessary entry.

Supdt. of Police, CBI/ACB
Guwahati.

OFFICE ORDER NO. 164

Dated: 27/8/96

Sanction is hereby accorded for the grant of Cash Reward to the following officers in which they have taken active part regarding shifting of the Branch Office from New Guwahati to Sundarpur as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. A.B. Gupta, Insp.	Rs. 500/-
2.	Sh. S.P. Singh, Yadav, Insp.	Rs. 500/-
	Total:-	Rs. 1000/-

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supt. of Police, CBI/ACB,
Guwahati.

Memo No-E/24/ 555-56

Dated: 27/8 '96.

Copy to:-

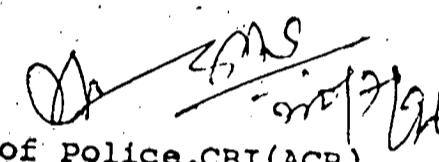
1. A/C Section in duplicate for necessary action.
2. Person concerned.

OB *BB*
Supt. of Police, CBI/ACB.
Guwahati.

CENTRAL BUREAU OF INVESTIGATION,
OFFICE OF THE SUPDT. OF POLICE,
A.C.B.: Guwahati:-20.

COMMENDATION CERTIFICATE

Sh. S.P. Singh, Insp. CBI/ACB, Guwahati is highly
commended for his good work in Case No. RC.22(A)/96.


Supdt. of Police, CBI(ACB),
Guwahati.

*Attested
by your
Respectfully
S. P. Singh*

OFFICE ORDER NO. 8

Dated: - 12.1.96

DIG : CBI (N.R) GUWAHATI vide his order dtd. 8.1.96 is pleased to sanction a Cash Reward to the following officers in recognition to their good work done and sincere effort and perseverance to duties branch could achieved the Annual target well in advance as detailed below: -

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh. S.P. Singh Yadav, Inspector	Rs. 500.00
2.	Sh. B. Roy, S.I.	Rs. 500.00
3.	Sh. A. Naq, S.I.	Rs. 500.00
4.	Sh. P. Roy, S.I.	Rs. 500.00
Total :-		Rs. 2000.00

(Rupees two thousand) only

It is certified that the amount prescribed in N.O. letter 8/1/90-AD-II dt. 21.9.90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Guwhati:-

Memo No. E/24/II/ 218-79

Dated: - 12/1/96

Copy to the :-

1. A/C Section in duplicate for necessary action.
2. Person Concerned.

12/1/96
Superintendent of Police,
CBI/ACB/Guwhati

OFFICE ORDER NO. 154

Dt/ 27/9 '95.

Sanction is hereby accorded for the grant of Cash Reward to the following Official for their Good Work done in connection with the Case No. RC. 22(A)/95 u/s 7 of P.C. Act. as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh.A.B.Gupta,Insp.	Rs. 250/-
2.	Sh.S.P.Singh,Insp.	Rs. 250/-
3.	Sh.A.Mao,S.I.	Rs. 150/-
4.	Sh.B.Murmuo,S.I.	Rs. 150/-
5.	Sh.J.N.Gogoi,HC	Rs. 75/-
6.	Sh.B.B.Chetri,Constable	Rs. 50/-
7.	Sh.M.Borah,Constable.	Rs. 50/-
Total:-		Rs. 975/-

It is certified that the amount prescribed in Head Office letter No.29/4/81-AU.III dt.1.8.90 has been paid in full in the case.

Superintendent of Police.

CBT(ACE) GAUHATI :-

Memo No. S/1241 4069-701

DT/ 27- P- 125.

Copy to :-

1. Account Section in duplicate for necessary action.
2. Person Concerned.

Superintendent of police.

—CBT (ACB) GAUHAR :-

Office Order No.

Date. 24/11/95

DIG, CBI, SRO, Shillong vide his order dated 30/12/94 is pleased to sanction Cash reward to the following staff of CBI, ACB, Shillong Branch as he has been entrusted five Cases viz. 27/93, 15/93, 5/94, 32/94, and 7/94. Out of which 2 Cases finalised and both were sent up for trial and remaining Cases are under investigation. He also attended misc. duties such as verification of Secret informations and conducting Raids etc. as detailed below:-

Sl.No.	Name & Designation	Amount rewarded
1.	Shri. S.P. Singh Yadav, Insp. Informer	Rs. 750/-

Total Rs. 750/-

(Rupees Seven hundred fifty) only.

Supdt. of Police, CBI, ACB,
Shillong.

Memo No. E/24/...../95

Date. 30/11/95

Copy to the:-

1. A/C Section in duplicate for m/s.
2. Person concerned.

Supdt. of Police, CBI, ACB,
Shillong.

164

OFFICE ORDER NO: 64

DTD: 22/2/94

DIG/CBI/N.E.Region, Shillong has been pleased to sanction the following Ad Cash Reward to the under mentioned Staff for their good work done during the period 1993 as detailed below :-

SL. NO:	NAME & DESIGNATION	AMOUNT SANCTIONED.
1.	Shri A.K.Chakraborty, Insp.	Rs. 1,000/-
2.	Shri S.P.Singh Yadav, Insp.	Rs. 540/-
3.	Shri P. Saikia, Insp.	Rs. 573/-
4.	Shri M.Sarania, Insp.	Rs. 549/-
5.	Sh. Sanjay Sen, Insp.	Rs. 560/-
TOTAL		Rs. 3,668/-

(RUPPEES THREE THOUSAND) ONLY.
It is certified that the amount prescribed in the letter No: 29/4/81-AB, III dt'd. 7/8/90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Shillong.

No: R/24/1147 - 45

Dtd. 22/2/94.

Copy to :-

- 1) A/C Section in duplicate for necessary action.
- 2) Person concerned.

Superintendent of Police,
CBI/ACB/Shillong.

Attested
The Party Advocate

- 55 -
GOVERNMENT OF INDIA,
CENTRAL BUREAU OF INVESTIGATION,
OFFICE OF THE SUPDT. OF POLICE,
ANTI CORRUPTION BRANCH,
GUWAHATI :- 5.
(AOG@AOA)

Annexure A/2

AB

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

TO

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

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

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

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

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

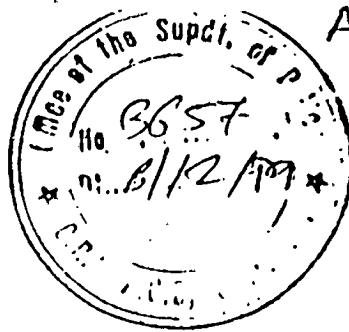
Your explanation should reach this office within 3 days from issued of this memo failing which action will be taken as per rule.

✓
Superintendent of Police,
CBI(ACB)Guwahati.

Memo No. DP/SHL/1999/ _____ /A/20/157/93 Dated:-
Copy to :-

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

✓
Superintendent of Police,
CBI(ACB)Guwahati.



To

The Suptt. of Police
CBI/ACB/SDE
Guwahati

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

Ref : No. DP/SH1/1999/05503/A/20/157/93 dt'd. 30/11/99.

Sir,

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

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

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

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

Contd... 2.

*Ranbir
Malpani
Advocate*

2

So far as delivery of urgent letter is concerned, I do not know as yet the content thereof, nor you made me acknowledge any such letter as yet even after resuming my duties on 29/11/98 after submitting my Medical Fitness certificate and application to grant Medical Leave in prescribed format along with required enclosures.

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

Yours faithfully,

22a/6/12/99

(SURESH PAL SINGH YADAV)
INSP/CH1/ACB/GIY

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION :::: GUWAHATI.

O R D E R .

As there are serious allegations of gross misconduct, lack of devotion of duty and integrity, deliberate defiance of the order of Superior officer, insubordination and making false and motivated allegations against superior officers against Shri S.P.Singh Yadav, Inspector, it has been decided to issue charge sheet on him for major penalty.

2. As further continuance in duty of Shri S.P.Singh Yadav would subvert discipline and spoil working atmosphere in the office. Shri S.P.Singh Yadav, Inspector is hereby ordered to handover charge of all cases with him (under investigation, trial, RDA) S.I.R. and complaints etc. to Shri A.K.Saha, Dy.S.P. including all correspondence made by him and received by him and deposit the listed documents, seized documents and documents otherwise received / collected by him during investigation / verification in the Makhana immediately. This process should be completed within 5 days at the most.

100003
Dy: Inspector General of Police,
CBI, N.E.Region, Guwahati.

To Shri S.P.Singh Yadav, Inspector, CBI, ACB, Guwahati.
CBI ID No. 821/12/COMP/SLC/NER Dated 28.03.2000.

Copy to :

(1) Supdt. of Police, CBI, ACB, Guwahati for necessary action.
(2) Shri A.K.Saha, Dy.S.P., CBI, ACB, Guwahati.

Attested
By Your
Advocate

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION :::: GUWAHATI.

O R D E R .

Whereas a disciplinary proceeding against Shri Suresh Pal Singh Yadav, Inspector,CBI,ACB, Guwahati is contemplated (Ref.CBI ID No.821/12/COMP/SLC/NER dated 28.3.2000).

Now, therefore, the undersigned in exercise of the powers conferred by Sub-rule (1) of Rule 5 of the Delhi Special Police Establishment (Subordinate Ranks)(Discipline and Appeal) Rules, 1961, hereby places the said Shri Suresh Pal Singh Yadav, Inspector,CBI,ACB, Guwahati under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force, the headquarters of Shri Suresh Pal Singh Yadav, Inspector,CBI,ACB, Guwahati should be Guwahati and the said Shri Suresh Pal Singh Yadav, shall not leave the headquarters without obtaining previous permission of the undersigned.

(K.C.Kanungo),
Dy. Inspector General of Police,
CBI, N.E.Region, Guwahati.

To Shri S.P.Singh Yadav, Inspector,CBI ACB,
Guwahati.

(Through Supdt. of Police,CBI,ACB, Guwahati).

CBI ID No. 1101 /12/COMP/SLC/NER/99 Dated: 28.3.2000

Copy to the Director General of Police, Uttar Pradesh, Lucknow, alongwith a copy of CBI ID No.821/12/COMP/SLC/NER Dt.28.3.2000, for favour of information.

2. Copy to the Joint Director (East Zone), CBI, Calcutta alongwith a copy of CBI ID No.821/12/COMP/SLC/NER dt.28.3.2000 for favour of information.

3. Copy to SP CBI ACB Guwahati for keeping in the Personal File of Inspector S.P.Singh Yadav, CBI, ACB, Guwahati.

Attested
W. G. N. Nair
Advocate

02955 off. 10/5/2003
No. 1378/12/Com/SLC(NER/99)
Government of India (P-1)
Central Bureau of Investigation
N.E. Region, Guwahati: 781 003
Dated 11.5.2000

MEMORANDUM

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

2. Shri S.P. Singh Yadav is hereby directed to submit, within 10 days of the receipt of this Memorandum, a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri S.P. Singh Yadav, Inspector (u/s) is further informed that if he does not submit his written statement of defence on or before the date specified in para. 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of the Rules/Orders/Directions issued in pursuance of the said rule, the inquiring authority may hold the Inquiry against him ex parte.

5. Attention of Shri S.P. Singh Yadav, Inspector (u/s) is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is

After A/c
Wet Seal
Advocate
11/5/2000

received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri S.P. Singh Yadav, Inspector is aware of such a representation and that it has been made at his instance and action will be taken against him for such violation.

6. The receipt of the Memorandum should be acknowledged.

Enclo: As above
SIX Sheets

1/11/53
(K.C. Kanungo)

DIG CBI NER Guwahati

Name and designation of Competent Authority

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

ANNEXURE -1

**ARTICLE OF CHARGES FRAMED AGAINST SHRI SURESH PAL SINGH
YADAV, INSPECTOR CBI ACB GUWAHATI(UNDER SUSPENSION)**

ARTICLE OF CHARGE NO.1

That Shri Suresh Pal Singh Yadav @ S.P. Singh while being posted and functioning as Inspector in the office of SP,CBI, ACB, Guwahati during 1999 committed gross misconduct and behave in a manner unbecoming of him in as much as he unauthorisedly absented from duty from 1.10.1999 to 28.10.99 and later on with a view to regularise his unauthorised absence submitted false/manipulated medical certificate, including fitness certificate and doctors prescription etc. and thereby contravened Rule 3(1)(i) and (iii) of CCS Conduct Rules, 1964.

ARTICLE OF CHARGE NO. 2

That said Shri Suresh Pal Singh Yadav while working as Inspector in CBI in the office SP,ACB, Guwahati in order to evade service of urgent official letter on him relating to his repatriation to U.P. Police Communicated DD(A) CBI New Delhi vide FAX message No.DPAD 1999 03447/A. 20014/1609/93 Dt. 30.9.99 and subsequently through another letter of Head Office CBI vide FAX Message No DP/AD.11999/03638/A-20014/1609/93 Dt.15.10.1999 by Dy. Director(Admn.) , and other such important letters ,left his residence, without informing his whereabouts to the office of SP,ACB, Guwahati , either himself or through any of his family member,with the disguised motive of obtaining a stay order from hon'ble Guwahati High Court/ Central Administrative Tribunal , Guwahati/Guwahati Bench thereby frustrating all efforts of SP,CBI, Guwahati to serve on him, the repatriation order for his immediate repatriation to U.P. Police, with a view to continue illegally in the CBI on [itatopm and he thereby showed lack of integrity and acted in a manner unbecoming of his position and contravened rule 3(1) (i) and (iii) of CCS Conduct Rule 19 64.

ANNEXURE-II(ii)

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

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

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

(3) That in order to prolong his repatriation, said Shri S.P.Singh took recourse to dilatory tactics by delaying matters entrusted to him, one such matter being of RC.34(A)/96-SHG which was pending for preparation of SP's Report as said Shri S.P.Singh Yadav did not prepare and submit the enclosures to the SP's report in the above case. As a result of which SP,CBI,ACB, Guwahati issued memo. vide 537/CON/29/92-SHG Dt. 1.10.99 directing him to complete the Draft enclosures immediately, on priority, leaving all other work aside, by 10.10.99 failing which the matter will be viewed seriously but this Memo. could not be served on Shri S.P.Singh Yadav as he evaded service of this Memo. and other official letters by leaving his residence for unknown place, without giving any intimation to the office about his whereabouts and about leave address which he was bound to do.

(4) In view of the urgent work pending with Shri S.P.Singh Yadav, SP, CBI, ACB, Guwahati requested Dy.Director (Admn) CBI, Head Office, New Delhi for extending the time of his repatriation which was not agreed upon as communicated Dy.Director (Admn) CBI, New Delhi vide Fax Messge No. DPAD/G/1999.03638/A-20014/1609/93 dt. 15.10.99.

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

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

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

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

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

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

That in the manner aforesaid Shri S.P.Singh Yadav showed lack of integrity, lack of devotion to duty and unbecoming conduct in contravention Rule 3(1)(i) and (iii) of CCS(Conduct) Rules, 1964.

ANNEXURE -II. (i)

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

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

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

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

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

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

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

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

:- 02 :-

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

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

(9) That as per certificate dt. 26.10.99 of Dr. Rupali Baruah, MD said Shri S.P.Singh was under her treatment since 15.10.99 due to problem of severe back pain which was later diagnosed to be sliped-Disc. He was advised complete bed rest avoid lifting heavy weight and physical stress and medication is necessary.

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

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

(12) Professor (Dr.) B.R.Baryah, Supdt. Guwahati Medical College and Hospital in his letter No. MCH/829/02/381 dated 4.5.2000, addressed to SP,CBI,ACB,Guwahati has clarified that Shri Suresh Pal Singh had reported to the Guwahati Medical

:- 03 :-

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

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

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

Attested
W. K. Baruah
Advocate

To

The Dy. Inspr. Genl. Police
 CBI/ACB/NER
 Guwahati.

Through :

The Supdt. of Police
 CBI/ACB/NER
 Guwahati.

Sub : Memo No 02955/ dt. 12/05/2000

1378/12/Comp/SLC/NER/99/Pt(I) dt. 11/5/2000

Ref : 1) My letter dt. 20/6/2K

2) Your letter No. DPSHL/2000/03830/A/20/157/93 dt. 20/6/2K

Sir,

May kindly ref. my letter dt. 20/6/2K on the subject matter referred above expressing my difficulties in submitting reply of last memo out of four other served on me, owing to non disbursal of my subsistence allowance for more than two months following suspension order by DIG/CBI/NER Sri K.C. Kanungo @ Kirti Chandra Kanungo R/O Coal India Guest House, G.S. Road, Ghy, and hence requesting you for grant of some time in order to enable me submit reply, which was refused straight way, without application of mind and with least humanitarian sensitivity and understanding under the circumstances referred in my above referred letter; but directing me vide your letter dt. 20/6/2000 itself to submit written statement immediately.

It is an irony that present worthy DIG/DBI/NER & SP/CBI/ACB Ghy who are so clever as to fatten their income illegally by resorting to as devious a means as drawing transfer advance but earning interest thereon by not utilisation it, availing transfer TA of entire family and also drawing double HRA, drawing double HRA but staying illegally in well furnished Air Conditioned suite of Govt./PSU Guest House against explicit FR/SR Rules, misusing Govt. vehicle for availing subsidized meals at PSU Guest House, misusing vehicles for private trip along with the family to Cherrapunji but showing said tour in log book at Shillong by coercing the driver and also availing illegally TA/DA, using SS fund for their meals and refreshment etc. but procuring receipts etc. from CA/Subordinate staff and depending upon Govt. coffer for as little purchase as thermometer for private use in the name of welfare, could be so insensitive and inconsiderate as to subject a subordinate to penury and starvation by callously not even releasing subsistence allowance for more than two months after putting him to suspension on the false, baseless and capricious charges by misrepresenting and distorting the facts mischievously and misleading the senior officers, are however very prompt to reject my plea for more time for submission of last written statement owing to financial difficulties but issue sovereign 'FARMAN' for immediate submission of written statement.

*After Red
Written
Deliver*

*As
16/6/2000
16/6/2000*

Be that as it may, as an humbled Govt servant, a member of a disciplined force and a considered slave of a deputationist to the aforesaid worthy officials, I am submitting my written statement "IMMEDIATELY" as directed in this regard, which is as follow.

2. That the allegations made in article of charge No. 1 of the subject memo that "Sri Suresh Pal Singh Yadav, While being posted and functioning as inspector of Police CBI/ACB, Guwahati during 1999 committed gross misconduct and behave in a manner unbecoming of him in as much as he unauthorisedly absented from duty from 1.10.99 to 28.10.99 and later on with a view to regularize his unauthorised absence submitted false/manipulated certificate, including Fitness Certificate and Doctors prescription etc. and thereby contravened Rule 3(1)(i) & (iii) of CCS conduct Rules-1964", are imaginary, baseless, false, capricious & malicious; and are out come of the malice, grudge and animus borne by the DIG/CBI/NER Sri Kirti Chandra Kanungo @ K.C. Kanungo, R/O Coal India Guest House, G.S. Road, Guwahati, against me for the reasons reflected in my written statements submitted against Memo No. (1) 1516 / 12 / Comp / SLC / NER / Pt (ii) dtd. 22/5/2000, (2) 1477 / 12 / Comp / SLC / NER / Pt (iii) dtd. 17/5/2000 and (3) DPSHL / 2000 / 0021 / A / 20167 / 93 dtd. 10/1/2000, which may be treated as part of written statement in the instant charge sheet too, and as such the said charges are denied in toto.
3. So far as my absence from 1/10/1999 to 28/10/99. For 28 days are concerned, it was not unauthorised. Moreover for not sanctioning the medical leave from 1/10/99 to 28/10/99 by the competent authority, I have already approached the Guwahati bench of Hon'ble Central Administrative Tribunal vide OA No. 137 of 2000. The issues before the Hon'ble Tribunal in the said case are whether or not I am entitled for Medical leave for aforesaid period. It is noteworthy that the Hon'ble Tribunal has admitted the aforesaid OA on being Prime facie satisfied about the merit of the case. In the event of the aforesaid OA being allowed in my favour, the Hon'ble Tribunal issuing necessary direction for sanctioning Medical leave for the relevant period, my alleged absence from the duty for the aforesaid period will be wholly authorized. Since the subject matter involving the charge No. 1 is also a subject matter pending consideration before the Hon'ble Tribunal, the DIG/CBI/NER Sri K.C. Kanungo should refrain from holding disciplinary proceeding in regard to the said matter. Propriety and the settled legal principles also demand that the DIG/CBI/NER Sri K.C. Kanungo should desist from arriving at any conclusion which might be contrary to the findings which might be arrived by the Hon'ble court of Central Administrative Tribunal.

It is submitted that no inquiry pertaining to charge No 1 can be carried out by the DIG/CBI/NER in view of the fact that the subject matter of charge is a matter, which is pending for consideration in the Hon'ble Tribunal.

It is denied that I submitted false and manipulated medical certificate, Fitness Certificate, Doctors prescription etc. The said medical & fitness certificate and Doctors prescription etc. were issued by the qualified Doctor, having requisite and specialized qualifications of MBBS, MD, who is duly registered in the registers of "Assam Medical Council" & "Indian Medical Council" constituted under the relevant Act and as such Inter alia enjoys the (1) Right to choose a patient (2) Right to practice Medicine (3) Right to dispense medicines (4) Right to add title description etc. to name (5) Right to issue medical certificates & (6) Right to give evidence as an expert. The said Doctor, therefore has the competence to issue said certificate & prescription etc. and the present DIG/CBI/NER Sri K.C. Kanungo lacks competence and qualifications to caste doubt on veracity of the above referred documents.

4. That so far as allegations made in Article of charge and statement of imputations are concerned, I deny it all *in toto*, being false, baseless, malicious and capricious. However, I reiterate and stand up by the statement and averments made by me in OA No 137/2000. Filed in this regard in the Guwahati bench of Administrative Tribunal even before the issuance of instant illegal charge sheet. Though the copy of the said OA was served upon you by the Registry, even then I am enclosing herewith again a copy of the same for your ready reference.
5. That the allegation made in statement of imputation against instant charge are all false imaginary, baseless, capricious and malicious and are culmination of malice, grudge & animus borne by the DIG/CBI/NER Sri K.C. Kanungo @ Kirti Chandra Kanungo and hence are also denied. However so far as para 3 of the imputation alleging "that in order to prolong his repatriation, said Sri S.P. Singh took recourse to dilatory tactics by delaying matters entrusted to him, one such matter being of RC-34(A)/96-SHG, which was pending for preparation of SP's report as said Sri S.P. Singh Yadav did not prepare and submit the enclosures to the SP's report in the above case. As a result of which SP/CBI/ACB Guwahati issued Memo vide 537/CON/29/92-SHG dt. 1/10/99 directing him to complete the draft enclosures immediately, on priority leaving all other work aside, by 10/10/99, failing which the matter will be viewed seriously but this memo could not be served on Shri S.P. Singh Yadav as he evaded service of this memo and other official letters by leaving his residence for unknown place, without giving any intimation to the office about his where about and about leave address which he was bound to do", is concerned it is submitted that firstly said imputation is a separate charge in itself and it has nothing to do with the article of charge no. 1 even then the fact is that the said memo No. 537/CON/29/92-SHG dt 1/10/99 containing said allegation was very much received by me and explanation in this regard was also submitted on 7/12/99. To SP/CBI/Ghy Sri Om Prakash as is evidenced from the receipt dt 7/12/99, by the steno to SP/CBI available with me.

It seems however that worthy DIG/CBI Sri K.C. Kanungo neither cared to go through properly CBI crime manual and other instructions of Head

Office regarding responsibility of preparation of SP's report. Nor he properly gone through my aforesaid explanation dtd. 7/12/99, but capriciously and maliciously held me responsible for the fault of Branch SP Sri Om Prakash, whose responsibility it was to prepare personally SP's report as per instructions explicitly contained in CBI crime manual. In this connection, I am again enclosing herewith a copy of the said explanation dt. 7/12/99 from Page No. 1 to 11 for your ready reference and in order to explain facts & circumstances in this regard.

Further more vide letter no. 1730 dtd. 15/10/99 and endorsement No. 3/34(A)/96-SHG/05295 dtd. 15/11/99 of Dy. SP(R), CBI/NER/Ghy Sri K.C. Choudhury, communicating the observation of JD/EZ/CBI, Dr. U.N. Biswas I.P.S during his inspection of branch dtd. 4.6.99 Fixing the disposal of RC-34(A)/96-SHG with in the year 1999.

But despite me being on medical leave w.e.f. 1/10/99 to 28/10/99 and also fully known to the fact that preparation of SP's report is SP's responsibility as per CBI manual and violation of which attracts RDA major penalty, I carried out the illegal order of SP/CBI Sri Om Prakash and prepared the SP's report comprising more than 350 computerised pages dealing the role of 33 nos. of accused/suspect in the case after receipt of Final orders in this regard from H.O on 13/9/99 & 15/9/99 and communicated to me on 28/9/99 as per notings in crime file, but submitted the said SP's report in completed form vide my note Sl.No. 217, 218, 219, 220, 221, dt. 24/11/99.

It is thus open to be seen by one and all, that how far rational it is to hold me responsible for allegedly "resorting to dilatory tactics in preparation of SP's report" consisting of such magnitude, involving dictation, typing, checking, correction of typo graphical mistakes, retying & rechecking etc. preparation of Draft sanction order, Article of charges, statement of imputations, calendar of evidences etc. against as many as 33 accused persons again with aforesaid exercise. Obviously in perfect tune of the morals of "Wolf & Lamb" story, lamb is being charged for coming late for the grand super of wolf".

ARTICLE OF CHARGE NO. 2

That the allegations made in the Article of charge No. 2 that said Sri Suresh Pal Singh Yadav while working as inspector in CBI in the office of SP/CBI Guwahati in order to evade service of urgent official letter on him relating to his repatriation to U.P. Police communicated by DD(A) CBI New Delhi vide Fax message No. DPAD 11999/03447/A 20014/1609/93 dt. 30.9.99 and subsequently through another letter of Head Office CBI vide Fax message No. DPAD 11999/03638/A-20014/1609/93 dt. 15/10/99 by Dy. Director, left his residence, without, informing the where about to the office of SP/ACB Guwahati, either himself, or through any of his family member with the disguised motive of obtaining a stay order from Hon'ble Guwahati High Court/Central Administrative Tribunal, Guwahati/Guwahati bench. Thereby frustrating all efforts of SP/CBI Guwahati to serve on him, the repatriation order for his immediate repatriation to U.P. Police, with a view to continue illegally in the CBI on deputation and he

thereby showed lack of integrity and acted in a manner unbecoming of his position and contravened Rule 3(1)(i) & (iii) of CCS conduct Rules 1964 is illegal, malicious, capricious and is result of deep seated animus and grudge borne by Sri K.C. Kanungo @ Kirti Chandra Kanungo DIG/CBI/NER, R/O Coal India Guest House, G.S. Road, Guwahati against me and as such are denied in toto.

2. That it is very interesting and surprising that the present worthy DIG Sri K.C. Kanungo took about 8 months in his divine realization, i.e. 'ELHAM' in discovering my "disguised motive" of obtaining stay order" and serving this charge sheet, However he is unable to discover as yet any motive & circumstances behind obtention of stay orders from Hon'ble Guwahati High Court/CAT by PP Sri A.K. Deb, Insp. Sri D. Dutta, Insp. Sri K.M. Das of CBI Guwahati branch and Insp. Bhattacharjee, PP/Sri Ankur Sarkar and 3 other constables under CBI/Silchar branch, against the same repatriation order received from H.O., This selective and discriminatory discovery of alleged "disguised motive" and issuance of chargesheet against me by maliciously and capriciously attributing said "disguised motive, by DIB/CBI/Sri K.C. Kanungo speak volumes about his malice, animus and grudge against me.

It is pertinent to mention herein that present worthy DIG/CBI/NER Sri K.C. Kanungo @ Kirti Chandra Kanungo, while on deputation to Indian Oil Corporation at Calcutta, himself approached the Calcutta bench of Central Administrative Tribunal for restoration of seniority in the rank of S.P. which was rejected by the Hon'ble Tribunal after hearing. Be that as it may, the emphasis is to draw attention of worthy DIG/CBI towards his Paradoxical conclusion, that when he as SP, being aggrieved approach court, it is for seeking ends of justice. On the other hand when subordinate officials like me being aggrieved approaches the Hon'ble court for ends of justice, it becomes alleged disguised motive and for illegal ends of continuing in CBI" meriting issuance of charge sheet, in utter contempt and disrespect to the orders of Hon'ble Tribunal in this regard.

3. That it merits close scrutiny that present worthy DIG/CBI Sri K.C. Kanungo @ Kirti Chandra Kanungo, who could well read my motive resulting into issuance of charge sheet, but could not read the same in case of aforesaid officials in the similar event and circumstances, is why so much interested in my immediate repatriation, which was not effected earlier even on my personal request dt. 11/6/97, 10/9/98 in this regard.

Again, I was not repatriated and relieved in response to U.P., PHQ, Allahabad letter No. Ten-70-94 dt. May 20, 1996 for under going practical work training as RSI for promotion. Again I was not repatriated in response to U.P PHQ letter no. Ten-129-86/2 dt. March, 19, 1997 and CBI H.O. letter no. A-20014/1609/93/AD-I dt. 7 April 1997, clearly warning and intimating that as I was not relieved for practical training for promotional course on my posting at District Etawah, U.P., therefore only alternative available to me is to remain in CBI for Good, however in the

*With best regards
With your sincere regards*

event of it my name will be removed from the list of RSIs due to be promoted.

Further I was not repatriated on being promoted and posted as coy Comdr. In 38 Battalion PAC Aligarh, U.P., intimated to SP/CBI/Ghy vide letter No. PAC-1-207-97 dt. Lucknow July 20, 1997 of DIG/PAC, U.P., Lucknow. I was again not repatriated and relieved in response to letter No. T-79/97 dt August 28, 1997 of Comdt. 38 BN, PAC, Aligarh, U.P. requesting SP/CBI to relieve me immediately for being posted on promotion at 38 BN, PAC, Aligarh. Thus motives of concerned are loud and clear to be understood.

Further it was the CBI H.O which vide letter no. A-20014/1609/93 AD-I dtd. 1609-1997 addressed to DIG (Personnels) UP Police. HQ Allahabad, requested that* services of Sri Suresh Pal Singh Yadav, who has been working as Insp. of Police in CBI on deputation basis since 24/9/93 are still required by this department and it is not possible to relieve him at present. It is therefore requested that necessary sanction extending the period of his deputation for 3 years more i.e. upto 23/9/99 on the existing terms and conditions may be accorded and conveyed to this office at an early date. Therefore it was CBI which required my services.

It is however not known to me, whether the said consent, in view of aforesaid letters of competent officials of U.P. Police warning to struck off my name from the list of promoted officers, was communicated or not. It is thus open to see by one and all that how the illegality on the part of CBI H.O and competent authority in retaining me for 3 years more beyond prescribed tenure of deputation, without the express consent of competent authority of U.P. Police, despite their loud and clear warning, became illegality overnight on my part for approaching Hon'ble Guwahati bench of CAT, being genuinely aggrieved of higher and fire Policy in CBI.

Moreover in this case i.e. RC-34(A)/96-SHG which was being monitored and supervised by Hon'ble bench of Guwahati High Court, which on being learnt of my repatriation to U.P. Police in 1998 itself on the arbitrary recommendation of the than DIG/CBI/Calcutta Sri N.R. Roy IPS, Suomoto took up the case on 18/12/98 and ordered the than SP/CBI/Ghy Sri B.N. Mishra to remain present in the court on 19/12/98 for apprising the progress of the case and then directed him/competent authority, not to relieve me until charge sheet in this case is filed in the Court of competent jurisdiction. The said direction of the Court was communicated by SP/CBI Sri B.N. Mishra to competent authority vide his I.D No 817/CA/GEN/DO/25/98/Ghy dt.21/12/98.

Obviously had there been any wrong with me the SP/CBI Sri B.N. Mishra would have submitted it before the Hon'ble bench of the Gauhati High Court and Hon'ble Court would not have passed aforesaid order not to relieve me until charge sheet is filed.

Thus it is gross illegality, contempt and disrespect to the Hon'ble bench of Gauhati High Court direction by the present DIG/CBI/NER Sri Kirti Chandra Kanungo @ K.C. Kanungo to order withdrawl of the said case wherein only charge sheet was to be filed following receipt of sanction order for prosecution from competent authorities as also pressing for my immediate repatriation, and not any illegality on my part approaching the court on being aggrieved by any executive order.

It is pertinent to mention that more than three months have elapsed since handing over the charge of the said case to Dy. SP Sri A.K. Saha but chargesheet in the said case is not filed as yet, although I personally took pains to collect some of the sanction orders from competent authorities, which include Hon'ble Gauhati High Court before handing over charge of the case.

4. That it is submitted therefore that if a Govt. servant is aggrieved by any executive or administrative action, it is open for him, Under the law to approach a competent court of jurisdiction and questioning the very right of mine by DIG/CBI/NER Sri Kirti Chandra Kanungo @ K.C. Kanungo R/O Goal India Guest House, G.S. Road, Guwahati and attributing motive thereon to buttress his wild and capricious conclusions, culminating into issuance of impugned charge sheet, speak his deep seated grudge malice and animus against me as well as his malevolent design and desperation to see me actually out of CBI any how, as otherwise his personal interests and interest of undesirable contact man, dismissed and CBI charge sheet persons like Arun Kumar Barua in RC-7(A)/96-SHG and his other interests in civil disputes which are being taken care of by DIG/CBI/NER Sri K.C. Kanungo, would not be served. My complaint dt. 16/12/99 and evidence/information for further aducement during course of trial in special judge Assam court, vital for securing conviction of said Sri Barua, vide my report dt. 12/4/2000 are points in reference. It is surprising and incomprehensible that worthy DIG instead of taking any action in this regard is victimizing his very subordinate at the instance of said undesirable contact man with whom present DIG/CBI is very friendly.

Further the disguised motive of worthy DIG/CBI/NER Sri K.C. Kanungo could be seen from his observations in CBI case no. RC-5(A)/98-SHG vide ID No. 45/3/5(A)/98-SHG dtd. 6th Jan'2000 threatening me with disciplinary action without properly going through the case or discussion with me and ordering for immediate submission of FR-I, and my noting in this regard vide S/N. 162, 163, 164, 165, 166, 167 dt. 27.1.2000 in crime file. The worthy DIG deliberately and with bad motive deviated from the context of investigation, as apprised to SP as well as him vide aforesaid noting, to weekly diary vide his noting in crime file at S.I. No. 169 which reads "Does the SP understand the implications of IOs notings ? why has he not offered his comments and initiated action against him. Do I am to understand that SP is incapable to take any decision ? Has he submitted up to date W.Ds, if not, charge sheet may be issued to him.

Sd. K.C. Kanungo/DIG
2/2/2000

CB : PI reply.

Sd. Om Prakash
SP/CBI

170 - Sri S.P. Singh Yadav submitted weekly diary upto 9/1/2000. The file is engaged in R.O.

CB/Sd. Rajak
Crime Clerk

This threat and pressure was exerted with his illegal disguised motive with a view to extend leverage to the accused person, resulting into getting benefit by the accused during trial, consequent to hurriedly finalization of the case, which obviously would lack fool proof evidence.

It is pertinent and important to mention herein that this case is registered U/S 7 & 13(1)(e) of P.C. Act 1988 & 120B of IPC following recovery of huge cash with the accused Sri K. Ganesh CGMT task force Ghy at Guwahati Airport on 6/3/97 while he was proceeding to his home town at Madras. On inquiry by the seizure authority Sri D. Sharma executive Magistrate Kamrup the accused disclosed many names of private contractors working under him as having contributed said amount and also produced a certificate of a Firm in name and style as "Pragjyotish Construction Pvt. Ltd." showing that Rs. 5,00,000 were being sent on behalf of the company for purchasing machineries from Madras, the fact which was denied by Manoj Kumar Agarwalla the Director of the said company as well as of its sister concern "M/s Bongaigaon concrete Industries" supplying huge quantity of pipes to Task Force in N.E. Region under the accused Sri K. Ganesh. But the GEQD opinion on the said certificate confirmed the writing of said Sri Manoj Kumar Agarwalla confirming his involvement in the crime and conspiracy.

Further in this case clues regarding involvement of other bribe givers also surfaced during investigation attracting the ingredients and provision of 13(1)(a) of PC Act 1988 instead of sec- 7 only.

Further with a view to hood wink law and investigation one Sri Nimma Tsering Khirme, an ex MLA of Arunachal Pradesh, Member of National Executive Council of BJP, and husband of a senior IAS Officer named Anila Khirme at New Delhi and an accused in CBI case no. RC-39(A)/91-SHG, filed a petition in special judge court claiming the whole seized cash as having been given by him vide receipt dt. 4.9.97 for purchase of diamond jewellery from Madras. This petition was contested on the basis of investigation done so far and the Hon'ble Court dismissed the said petition. Sri Khirme has now moved to Guwahati High Court filing a Crl Revn. Petn. which is pending in the Court for last more than 1 1/2 years despite filing objection by the CBI. Obviously this petition is being kept

pending in High Court with definite motive to see the out come of the charge sheet and sections of law in which the charge sheet is to be filed by the CBI in Court.

Investigation in this regard however has conclusively proved that the money at all does not belong to said Sri Khrime, calling for his prosecution also for filing false claim in court on the basis of forged and manipulated documents. Further investigation has also established that the said cash were withdrawn from as many as 47 different Banks of North East, Calcutta and Bornbay within a very short period prior to date of seizure of aforesaid cash on 6.9.97. Scrutiny of files during investigation revealed massive irregularities in granting Contracts, Work orders and Purchase orders by Sri K. Ganesh, C.G.M. Telecom (T/F), a quid pro quo for the collection of money as aforesaid, withdrawn from so many Banks and obviously from so many persons, but the worthy present DIG/CBI Sri K.C. Kanungo vide aforesaid memo and SP/CBI/ACB Sri Om Prakash vide my note as aforesaid in crime file as well as vide CD No. 156 dt. 12/2/2000 wanted me not to conduct further investigation but submit FR(I) U/S 13(1)(e) of PC Act only against K. Ganesh.

In fact I had no objection in the said direction taking it as bona fide judgement of supervising officer but in view of evidences available under other section of law i.e 13(1)(a), 13(1)(d) of PC Act and Sec 192, 193 & 196 and 120B of IPC, I requested to pass suitable orders in crime file to submit FR(I) & then charge sheet under Sec. 13(1)(e) of PC Act only however they will not give said order in writing and as such I continued with further investigation in view of the facts surfaced during investigation.

Moreover without thorough investigation with fool proof evidence rebutting the Crl Revn. Petn. Of said Sri Khrime in High Court it would have been hazardous with the peril of discharge/acquittal of K. Ganesh during trial, once the pending Crl Revn. Petn. Of Khrime is allowed in the High Court to file charge sheet in 13(1)(e) of PC Act only, excluding other sections of law as aforesaid. Moreover there are fool proof evidence against N.T. Khrime to file charge sheet for filing false claim in court of law.

Further investigation however in this regard gave an entire new twist to the case favouring prosecution. It was thus found that a new currency packet of denomination 1x100x100 = Rs. 10000 bearing No. 6AT258201 to 6AT258300 was seized along with Rs. 29,32,200 from the possession of Sri K. Ganesh CGMT(T/F) on 6/9/97, 7/9/97 and deposited in sealed trunk in Kamrup Treasury by Assam Police on the order of CJM Kamrup on 10/9/97.

However investigation in this regard from RBI Guwahati revealed that the whole 6AT series of currency packet consisting of Rs. 1 crore from No. 6AT 2,00,000 to 6AT 3,00,000, obviously including aforesaid packet of Rs. 10000 (SI No 6AT258201 to 258300) were received by RBI Guwahati on 17/10/97 From RBI Calcutta, and RBI Guwahati despatched the same to SBI/Diphu branch on 4/11/97 Obviously the concerned officials of RBI Guwahati were perplexed and unable to explain the circulation of said packet of Rs 10,000 bearing No 6AT258201 to 6AT258300 in the market leading to its seizure on 6.9.97/7.9.97

i.e. even prior to the issuance of said 6AT series from RBI/Security Press Nasik. The matter assumed even more serious dimension given the fact that said packet of Rs. 10,000 was found to be genuine by concerned RBI Officials.

As the matter was very serious affecting the economy of nation and it was suspected to have involvement of ISI/extremist organisations of North East in circulating apparently genuine currency with duplicate numbers as that of genuine notes issued by RBI, a verified report was submitted by me on 16/3/2000 for registration of a P.E. immediately considering the gravity of the offence and security of the nation.

Moreover the fact also seriously put the said Sri Khrome in dock whose Crl Revn. Petn. claiming said money is pending before the High Court, as onus lies on him also to explain where from he has received said genuine but duplicate currency bearing the same no's. as aforesaid, seized from Sri Ganesh and claimed by him having given to K. Ganesh for purchasing diamond jewellery. However no action there upon seems to have been taken as yet. However vide his CBI ID no. 821/12/Comp/SLC/NER dtd. 28/3/2000 an order was passed for handing over all the case records of the case to Dy. SP/CBI Sri A.K. Saha.

It is also very interesting to let it be known that just on the second day of my handing over the case to Dy. SP Sri A.K. Saha, the vigilance officer of CGM Telecom Assam Circle Sri L. Boro asked over telephone straight as to who was given investigation of the said case after taking charge from S.P. Singh. According to Sri L. Boro the information were sought by Sri K. Ganesh. It is pertinent to note that how the information which was an internal matter of CBI so fast reached to the accused person. The reason is not far to seek given the fact that our worthy SP/CBI/ACB Sri Om Prakash is staying illegally in the Dispur Telecom guest house drawing double HRA even in gross violation of FR/SR Rules in this regard, where the present CGMT(T/F) Mr Sharan is also residing and is a convenient place of meeting with the accused Sri K. Ganesh, where he is being apprised the development of the case.

The issuance of instant charge sheet after 7 months of the incidence of subject matter which is pending in court and also issuance of several other charge sheet by DIG/CBI/NER has nothing to do with the facts of the charge sheet, but real "disguised motive" of the aforesaid officers under the influence of said accused Sri K. Ganesh and N.T. Khrome, is to somehow get me out from the said investigation of RC-5(A)/98-SHG which has clearly established a strong case against them U/S 13(I)(a), 13(1)(d), 131(e) of PC Act & Sec. 192, 193, 196 & 120B of IPC as well as their involvement in circulation of genuine duplicate currency possibly in racket with ISI/RBI/Security Press Nasik officials and thereafter file charge sheet against main accused Sri K. Ganesh U/S 13(1)(e) of PC Act only with all attendant hazards discussed afore.

It is nothing gain saying the fact that my alleged disguised motive will cost about Rs. 9000, approx. as salary of 28 days, on account of medical leave which is my right which DIG/CBI/NER Sri K.C. Kanungo maliciously and capriciously denied and created controversy by issuance of instant chargesheet and illegally withholding my salary without any corresponding order, but disguised motive of

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aforesaid officers and their decision not to probe properly the said case and currency aspect of the case and file charge sheet accordingly is perilous to the security and integrity of this nation.

5- That so far as said stay order is concerned it is granted by the Court on the merit of the case. Since the Hon'ble Tribunal passed the stay order in my favour, it leads to the conclusion that my case was a fit case for being passed an order for stay. Thus the charge No. 2 is malicious in nature and it shows frustration of the DIG/CBI/NER Sri K.C. Kanungo. It also underscores the fact that DIG/CBI Sri K.C. Kanungo bears a grudge against me because I moved to the court and obtained a stay order. The fact and circumstances under which the order of stay is passed, is for the court to decide. It is not open for the DIG/CBI/NER Sri K.C. Kanungo to enter into this area. However by doing so the present DIG/CBI Sri K.C. Kanungo has travelled beyond his jurisdiction and entered into an area which is exclusively the domain of judiciary.

It is denied that I tried to evade service of Fax message dt. 30/9/99, which could have well be served on the same day itself i.e. 30/9/99 when I was very much present in the branch and had discussion with SP/CBI Sri Om Prakash himself in the evening. Similarly I did not tried to evade the alleged Fax message dtd. 15/9/99. Moreover I had no chance of having the knowledge of said Fax messages to evade the alleged services of the same. It is also denied that I left my residence without informing my whereabouts to SP/CBI/ACB/GHY.

It is further stated that motive for approaching the court can never be 'disguised'. Motive is based on right and legally recognized and settled principles. These are the issues for the court to decide and on the basis of the same stay orders are passed.

The tone, tenor and contents of the charge No. 2 prima facie demonstrate the depth and intensity of malice, grudge and animus, the DIG/CBI/NER Sri K.C. Kanungo bear against me. By stating that I had approached the Hon'ble Central Administrative Tribunal for continuing illegally in the CBI, the DIG/CBI/NER Sri K.C. Kanungo has crossed the limits of jurisdiction, propriety and decency in as much as it shows contempt towards the Hon'ble Tribunal which passed the said order for stay. Prima facie satisfied about the legality of said order. It is only the Hon'ble Tribunal which is competent to decided whether my continuance in CBI is legal or illegal, and not the DIG/CBI/NER Sri K.C. Kanungo @ Kirti Chandra Kanungo.

It is submitted that the Article of charge No. 2 is not only improper but it is also disrespectful towards the Guwahati bench of Hon'ble Central Administrative Tribunal.

22/3/25.6.2000

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

*Attested
Uky Adwale*

CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: GUWAHATI.

Sub : Departmental Inquiry proposed against Shri S.P. Singh Yadav under rule 8 of the DSPE(Subordinate Ranks) (Discipline and Appeal Rule) 1961.

Charge sheet was served on Shri S.P. Singh Yadav, Inspector(under suspension) vide memorandum No.1378/12/Comp/SLC/NER/99(Pt-I) dt.11.5.2000, proposing to hold departmental enquiry against him. Shri S.P. Singh Yadav was directed vide this memo, to submit within 10 days, of the receipt of the memorandum, a written statement of his defence and also to state whether he desires to be heard in person. Shri S.P. Singh Yadav vide his representation dated 5.6.2000 requested SP, CBI, Guwahati to allow him 15 days time to enable him to submit his written statement. Finally vide his letter dt.25.6.2000 Shri S.P. Singh Yadav submitted his reply to the charge sheet mentioned above.

2. Perusal of the reply given by Shri S.P. Singh Yadav (charged official) shows that at the outset, he, instead of giving a straight forward reply to the charge sheet, has made false, malicious and baseless allegations, without any basis, against the undersigned of drawing transfer Advance and misusing the same, drawing of double H.R.A., staying illegally in Govt. / public sector Guest house, misuse of Govt. vehicle for private trip along with the family for going to Cherrapunji but showing the tour to Shillong, by coercing the driver to make false entry in the log book, misuses of S.S. Fund for meals and refreshments but procuring receipts etc from CA / subordinate staff, purchasing thermometer for private use, which have been done with mischievous intent, with a view to defame and malign the undersigned, for which separate disciplinary action would have to be taken against him. He has also clubbed SP, CBI,

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We your
parcels*

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Guwahati in the allegations made above. The above conduct of Shri S.P. Singh Yadav shows that he is a unworthy of getting enhanced subsistence allowance for which he has submitted a separate representation.

3. Coming to the charge No.1 which relates to unauthorised absence from duty from 1.10.99 to 28.10.99 and inorder to regularise the said unauthorised absence, the charge official having submitted false/manipulated medical certificates, including fitness certificate and doctor's prescription etc, Shri S.P. Singh Yadav has given no satisfactory reply, save and except harping that as he has approached Guwahati Bench of Hon'ble Central Administrative Tribunal (CAT), vide O.A. No.137 of 2000, for having been refused leave for his unauthorised absence during the above period etc and as the matter is pending before the Hon'ble Tribunal, no disciplinary action can be taken against him. Nevertheless, he has denied to have submitted any false manipulated medical certificate, and has claimed that the Doctor who had issued the said certificate was a qualified Doctor having registration and special qualification of MBBS, M.D. and registered with Assam Medical Council and Indian Medical Council and was having the right to choose patient, right to practice, dispense medicine and had right to issue medical certificate. Furthermore, the charged official instead of giving reply to the points mentioned in the charge and statement of imputations has mentioned very many irrelevant things, such as it was duty of SP to prepare SP's report though he had carried out illegal order of SP and prepared the SP's report in RC. 34(A)/96-SHG etc.

4. The claim of the charge official that as he had filed a petition in the Hon'ble C.A.T., Guwahati Bench, so no disciplinary

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proceeding should be initiated against him is devoid of merit. While the Hon'ble Tribunal will decide, in due course, whether refusal to sanction leave to Shri S.P. Singh Yadav by the SP during the former's unauthorised absence period as mentioned above, was justified or not and the decision of the same would be honoured, as duty bound, the filing of this petition by the charged official in the Tribunal cannot take away the right of Disciplinary Authority to take action against him for his Indisciplined, conduct unbecoming manner / behaviour, negligence and manipulative tactics adopted by him in order to outwit the disciplinary authority(Higher authority) which showed *prima facie* lack of *Integrity* in him. In other words sanction of leave or refusal to sanction leave and misconduct and misdemeanor by the charge official by unauthorised absence from duty etc are two separate issues which are to be treated accordingly and therefore the claim of the charge official, for not taking / initiating disciplinary action against him is without substance and hence rejected.

5. Like wise, the reasoning of the charged official that the Doctor who had issued the medical certificate, having acquired proper degree in medicine and having the right to practice was at liberty to choose her patient, issue medical fitness certificate, dispense medicine, is thoroughly irrelevant and beside the point. Although Professor (Dr.) B.K. Borah, Supdt. of Guwahati Medical College Hospital has categorically informed vide his letter dt.4.5.2000, that Dr. (Mrs.) Rupali Baruah, MBBS, MD (who issued the sickness certificate certifying rest as well as fitness certificate to Shri S.P. Singh Yadav) is working in the community medicine department of Guwahati Medical College and as such the certificate which was

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issued by her to Shri S.P.Singh Yadav is not related to Guwahati Medical College Hospital which were done in her private capacity. Professor (Dr.) B.K. Borah has also informed that Shri Suresh Pal Singh had reported to the Hospital for treatment on 1.10.99, when ECG was conducted on him on the same day but no rest was prescribe to the patient by the doctor concerned, namely Dr.(Mrs) Neena Nath, Resident Physician of Cardiology Department of Guwahati Meidical College. But in order to regularise his unauthorised absence, Shri S.P. Singh Yadav obtained sickness and fitness certificates from Dr.(Mrs.) Rupali Baruah in a dubious manner though the said Doctor, Mrs. Rupali Baruah officially had no power /, nor authorised to issue any such certificate or treat any patient. Therefore the certificates issued by said Doctor (Mrs. Rupali Baruah) are officially inadmissible/ invalid and no weightage / importance / cognizance can be giving to those certificate which have been rightly rejected by S.P. CBI, Guwahati.

6. Like wise, in respect allegation No.2 and imputations of misconduct connected therewith, Shri S.P. Singh Yadav has given evasive reply. He has made false and baseless allegation against the undersigned which has no bearing with the charge. For example, he has mentioned in his reply that the undersigned while on deputation to Indian Oil Corporation (I.O.C.) in Calcutta had approached the Calcutta Bench of Central Administrative Tribunal for restoration of seniority in rank of SP which was rejected by CAT. This is purely baseless and hypothécal, as the undersigned never approached the Hon'ble CAT for restoration of seniority or otherwise. Likewise Shri S.P. Singh Yadav has made various false and baseless allegations against the undersigned in a sarcastic manner, with a view to lowering the dignity and honour with mischievous

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intent and for defaming the undersigned for which separate actions need to be taken against him.

7. On the whole, I find that there is no substance or merit in the reply given by Shri S.P. Singh Yadav to the charge sheets served on him as stated above. His reply / explanation is therefore rejected as being throughly unsatisfactory. In view of the above, the veracity or otherwise of the charges levelled against Shri S.P. Singh Yadav can only be tested during the oral inquiry for which order shall be issued by the Disciplinary Authority shortly, by appointing Inquiry officer and presenting officer and during the inquiry, Shri S.P. Singh Yadav should extend full co-operation for finalising the inquiry at the earliest.

(K.C. Kanungo)

Dy. Inspector General of Police

CBI NER Guwahati.

Shri S.P. Singh Yadav (Through SP, CBI, Guwahati):

No. 4105 /12/Comp/SLC/NER/99/PT.I

Dated : 20.2.00.

Copy for information :

1. Director General of Police, U.P. Lucknow.
2. Addl. Director(EZ), CBI, Calcutta.
3. Supdt. of Police, CBI, ACB, Guwahati.

Dy. Inspector General of Police,
CBI NER Guwahati.

Att. By
W. A. W. P. Advocate

No. DISC/2/ ARS

Government of India
Central Bureau of Investigation
O/o. the Dy. Supt. of Police
Anti-Corruption Branch
Oakland, Shillong : 1.

Dated : 16.1.2001

TO,

Sh. S. P. Singh Yadav,
Inspector of Police
CBI(ACB) Guwahati.
(U/s)

(Through SP/CBI/ACB/Guwahati)

Ref :-

Memorandum No. 1378/12/COMP/NER/00
dated 11.5.2000.

The undersigned in the capacity as the
Inquiring Authority with reference to above memorandum
has fixed 23.1.2001 as the date for Preliminary Enquiry.
You are hereby directed to present yourself for Preliminary
enquiry at 10.00 AM in the O/o. the Dy. SP/CBI/ACB/Oakland,
Shillong : 1 on the aforesaid date.

16.1.2001

(VAIBHAV AGASHE)
Dy. Superintendent of Police
CBI(ACB) Shillong.

No. DISC/2/ _____ /
Copy to :

Dated :-

1. The DIG/CBI/NER/Guwahati for favour of information.
2. The SP/CBI/Guwahati for favour of information.
3. Sh. M. Benerjee, SI, CBI, Guwahati. He is requested
to be present during Preliminary Enquiry.

Att. by
Webzwan
Advocate

(VAIBHAV AGASHE)
Dy. Superintendent of Police
CBI(ACB) Shillong.

To,

Shri Vaibhav Agashe
Dy. Supdt. of Police CBI/ACB
Shillong

(Inquiry Authority)

Sub : Preliminary Inquiry vide Memo No. 1378/12/Comp/NER/99
dated 11.05.2000.

Ref : Your letter No DISC/2/48/ dt. 16.01.2001.

Sir,

May kindly ref. above on the subject matter whereby I am directed to appear before you at Shillong on 23/1/2001 for preliminary Inquiry.

2. In this connection it is humbly submitted that in the subject matter neither the rule nor procedure whereunder the proposed Inquiry is to be conducted, has been mentioned. Further, the Disciplinary Authority, i.e. DIG/CBI/NER Sri K.C. Kanungo who himself prepared the charge memorandum after whatever preliminary Enquiry by him, failed to despatch as yet the essential and inseparable enclosures of charge memorandum i.e. list of witnesses and list of documents whereon the charges in proposed Inquiry are to be proved against me.

3. It is strange, but not beyond my prudent, that the Disciplinary Authority i.e. DIG/CBI/NER who is well aware of the fact and provision in CBI as well as procedural requirement of Disciplinary proceedings, that while sending SP's report to concerned departmental authorities for RDA proceedings, Charge memorandum, Article of charges, Statements of Imputation, List of witnesses and list of documents cited, alongwith gists of witnesses and facts of documents to be cited in departmental proceedings etc, are invariably enclosed. Further-more for any failing in this regard, he himself will call the investigating officer of

*Attended
V. K. Agashe
P.D.O.*

2/2/01

19/11/2021

the CBI to the Regional Office for preparing the same, but under no circumstances charge memorandum is sent without list of witness and list of documents to be relied upon.

In view of it, the reason, for failure on the part of DIG/CBI/NER to send them along with charge memorandum, and as heard in the department from reliable sources, are not far to seek but reasonably lead to believe that same has been done by Disciplinary authority with deliberate & malevolent objective to recast the said list of witnesses and list of documents after receipt of my written statements in respect of charge memorandum to suite his design and in view of defence taken by me in W.S.

4. I have learnt now that said list of witnesses and list of documents are being casted under direction of DIG/CBI/NER Sri K.C. Kanungo. Whatever may be that be, I am least afraid of such malicious tactics of Disciplinary authority to secure tailor made Inquiry report under pressure from Inquiring Authority on the basis of tutored statement of witnesses and manufactured fact in documents after receipt of my written statements. However in the interest of justice & fairness and with a view to defend myself reasonably and properly, said list of witnesses and documents as proposed to be cited in said Inquiry be furnished to me first as per the provisions, and a reasonable time may also be provided to prepare my defence in view of above facts before any Inquiry.

This is for your kind consideration and necessary order please.

Yours faithfully,

SPS/2021

(SURESH PAL SINGH YADAV)
INSP/CBI/ACB/(U/S)
Guwahati

To

Sri Vaibhav Agashe
Dy. Supdt. of Police
CBI (ACB) Shillong
(Inquiring Authority)

Sub : Preliminary Enquiry in respect of charges vide
memorandum No. 1378/12/Comp/SLC/NER/99 dtd.
11/5/2000 &

Memorandum No. 1477-1480/12/Comp/SLC/NER/99(Pt III) dtd.
17/5/2000 &

Others

Ref : Your letter No. DISC/1/44 dt. 16.1.2000 &
DISC/2/48 dt. 16.1.2000 in respect of above

Sir,

May kindly ref. above on the subject matter. In this connection I have to submit.

2. That as you are aware that my appeal under rule 14 of DSPE(D.A) Rules against the order of suspension and memorandum of charges as above said, besides another memorandum of charges issued alongwith above said, vide No. 1516/12/Comp/SLC/NER(Pt II) dt. 22/5/2000 are pending before appellate authority i.e. Additional Director CBI/EZ/Calcutta for disposal. Thus in view of the fact that my appeal before ADCBI is pending for disposal, the inquiry against me should not be carried out until disposal, in as much as the completion of inquiry and imposition of the penalty on the basis of the same would render the appeal infructuous.
3. That it is also noteworthy that the inquiring officer who is appointed to undertake the Inquiry is undergoing probation period and confirmation of his service is depending upon the decision to be taken by Disciplinary Authority i.e Sri K.C. Kanungo DIG/CBI/NER. Therefore the

Inquiry Officer would be constantly under the pressure of the Disciplinary Authority and would be unable to exercise his Independent mind.

4. Further some incidents happened in recent past wherein the pay of the Inquiry officer was held up stating his official tour as unauthorized tour and the period on said tour as unauthorized absence and also in respect of his release from Shillong branch to join at New Delhi On transfer where his respected wife (Newly wedded) is working, and thereafter the way he was not allowed to join at New Delhi on the message of Disciplinary Authority under threat of disciplinary action (which is still pending) and thus forcing him to recall and rejoin again at Shillong unit keeping the other departmental action in abeyance for time being, evokes a genuine apprehension in me that the Inquiry officer will be used as a tool by Disciplinary Authority to submit a tailor made Inquiry at the dictate of disciplinary authority by using the pending disciplinary matters against Inquiry Officer to succumb to the pressure of Disciplinary Authority that is Sri K.C. Kanungo DIG/CBI/NER.

5. It is also important to note the observation of the Disciplinary Officer i.e. DIG/CBI/NER appearing on page 84 of the Inspection Report of Guwahati branch by DIG during Dec'2000 that "The charged official has given his reply to these chargesheets which were not found satisfactory. Accordingly Sri V. Agashe DSP/CBI Shillong unit has been appointed as Enquiry Officer vide No. 4123/12/Comp/SLC/99 Pt(II) dt. 23/10/99 and Sri Manoj Banerjee SI as presenting officer. As E.O has been transferred to Delhi, he has been directed to get these inquiries completed early and before his relief". Under the circumstances the Inquiring Officer has no choice between Devil and the Deep-sea but only choice to be dictated by the Devil i.e. the choice offered by the worthy Disciplinary Authority i.e. DIG/CBI/NER Sri K.C. Kanungo to extract a tailor made Inquiry Report from Enquiry officer at the earliest with a view to pass punishment order against me

(Vijay)

for extraneous considerations (already explained in appeal before ADCBI/EZ/Calcutta which is still pending disposal before him) and in bargain to withdraw disciplinary action against E.O., which may entail serious consequences for his entire service career, and than only release him to join his newly weded respected wife, separated by a distance of 2000 Km from the Enquiry Officer. A tempting choice indeed for any normal homosepian species of Darwin to jump upon with glea to grab the opportunity of joining the wife early, and in bonus earn the well deserved confirmation report of the DIG as well as dropping of proposed disciplinary matters, release of pay etc. for unauthorized absence etc. ordered to be made by the DIG/CBI/NER.

6. In my series of representation I have shown the animus of Disciplinary Authority against me and I have a reason to believe, that Disciplinary Authority would exert his pressure on the Inquiring Authority to take a desired approach towards me in the inquiry. Therefore, in the interest of justice I request that a confirmed/permanent officer of the CBI, who is not directly working under him and outside his influence, should be appointed to act as an Inquiring officer. So that he can act independently & free from the pressure of the Disciplinary Authority.

7. Further it would not be inappropriate and out of place to bring to your notice, the reactionary, prejudicial, arbitrary and discriminatory remarks of Disciplinary Authority in his Annual branch inspection for the year 1999 and 2000 that "Reward should not be given to person like S.P. Singh who is using reward money for fighting cases against CBI". "The last but not the least is gross partiality and harassment of department staff by deputationist officers, whose carrier prospects are being systematically damaged/destroyed in well planned manner and creating situation of internal infighting in organisation. They are adopting the Policy of divide and rule which has caused thorough demoralization among the departmental staff".

✓
C.W.W.

Thus in view of aforesaid observation, the truth is not far to seek and surmise that the Disciplinary Authority i.e DIG/CBI/NER Sri K.C. Kanungo who is a departmental promotee is echoing his deep seated grouse against the deputationist in general and IPS officers in particular, through the mouth of lower staff, though none of them harbours or feed to such dangerous feelings in the organisation. May as that be, it is chilling and mortifying to learn that an officer of such an exalted position believes, harbours and propagate such dangerous doctrine, theorized on his real or imaginary perception, to describe the state of affairs in CBI. Therefore I have a reason to believe that the worthy proponent, discoverer and author of the Philosophy himself in reactionary vein under "mental" seize of the said philosophy is acting as a counter balance to systematically damage /destory the career prospects of me like deputationists in a well planned manner by initiating and instituting action against as many as 7 chargesheets for major and minor penalty, with in a short span of 3 months on false flimsy & non existant grounds against which replies were given and appeal is pending for disposal under Rule 14 before ADCBI/EZ/Calcutta, putting me under suspension for more than 9 months until now without ^{enhancing subsistence allowance after 3 months} as per provision, stopping salary, ordering for not granting rewards as per his direction in inspection report of 1999. Not granting leave encashment in lieu of Earned leave as per existent provision, not granting deputation duty allowance at enhanced rate applicable since 1997, re-opening those matters without competence which were closed either by hon'ble court or his superiors like ADCBI Calcutta to find fault only but targetting superior I.P.S officers. The list is unending, however, last but not the least to mention is the passing of the order for initiating regular inquiry in all the chargesheets above said appointing Enquiry Officer by D.A. with full knowledge that my appeal against all of them are pending ^{for disposal} as yet before the appellate authority i.e. Additional Director CBI/EZ/Calcutta. Dr: U.N. Biswas I.P.S.,

W.W.

a deputationist, which reeks malice of the Disciplinary Authority in as much as that the same was done with obvious motive to scuttle any move and obstruct application of Independent mind in disposal of my appeal by the appellate authority.

Thus I have a reason to believe that the Disciplinary authority with the aforesaid dangerous mental fixation has targetted me like lower deputationist as a tool for settling his career scars & scores as echoed by him in the aforesaid observation and I have a firm belief that the said chargesheets were issued by the disciplinary authority and passed order for initiating regular proceedings without sense of proportion and proper application of mind and under psychological infirmities as expressed by him in aforesaid Inspection Report, and thus I have a mortifying apprehension that any Inquiry under present Disciplinary Authority and by the Inquiry officer appointed by him will be a farce.

8. I am not afraid of above said 7 chargesheet issued so far or any other 700 might be contemplated by the Disciplinary authority, For Inquiry against me, after the Hon'ble Central Administrative Tribunal ordered for stay of my repartriation order in October 1999, but the important question herein is that why such senior officer should not learn to accept gracefully the verdict of the Hon'ble Court but use their supervisory and disciplinary stick to nullify the result of judicial orders and force obey their dictates outside court in the guise of supervision and impenetrable armour of Discipline, instituting inquiries at the drop of hats just to cause harrassment vexation and financial injury to lower sub-ordinates. Thus I have a serious doubt that any Inquiry under present dispensation and in view of aforesaid could be carried out with Justice, Fairness and reasonable opportunity to defend myself.

(NW)

I hope that necessary and appropriate action would be taken in the matter I have stated above and failing which I would be at liberty to seek appropriate legal remedies. I expect an expeditious reply of this request of mine and till the same is done Enquiry should not be started to precipitate the issue.

Yours faithfully,

Rakesh
Malgoria
Advocate

W.W.
3/11/2001

(SURESH PAL SINGH YADAV)
INSPR/CBI/ACB (U/S)
Guwahati.

To

Sri Vaibhav Agashe
Dy. Supdt. of Police
CBI/ACB/Shillong
(Inquiry Authority)

Sub : Preliminary Enquiry in respect of charges vide Memorandum No. 1378/12/Comp/NER/99 dtd. 11.5.2000 and Memorandum No. 1477-1480/12/Comp/SLC/NER/99 dtd. 17.5.2000.

Ref : Your letter No. DISC/1/44 dtd. 16.1.2001

and

DISC/2/48 dtd. 16.1.2001 in respect of above.

Sir,

May kindly ref. as above on the subject matter whereby I am directed to present myself for preliminary Inquiry at 10 AM in the O/O the DSP/CBI/ACB Oakland Shillong-1 on 23/1/2000.

2. In this connection I am to state that I am unable to attend Inquiry as aforesaid for the following reasons :-

A) that the Disciplinary Authority i.e. DIG/CBI/NER Sri K.C. Kanungo vide his suspension order, CBI ID No. 1191/12/Comp/SLC/NER/99 dtd 28/4/2000 has directed me not to leave the Head Quarter without obtaining previous permission of DIG himself and since than I have received no communication from him as regards change of this condition restricting my movement outside Head Quarter i.e. Guwahati ever since my suspension w.e.f. 26.4.2000.

B) Furhter, you might be aware that as per provisions of suspension in fundamental rule if the period of suspension is extended beyond three months for any reason for which the suspended officer is not directly

2/2001

and solely responsible for delay in Inquiry than his subsistence allowance would be increased to 75% of the pay. However long 9(nine) months has elapsed since my suspension w.e.f. 26/4/2000 without Inquiry and for no fault of mine in delay of Inquiry, and despite my appeal the Disciplinary Authority maliciously and with a sole malevolent objective of wrecking me mentally and financially didnot increased the subsistence allowance as per provision from 50% to 75% and thus condeming me to serious financial constraints and as such I am unable to attend Inquiry at Shillong and maintain myself at Shillong during course of Inquiry.

This is for kind information and necessary action please.

Yours faithfully,

7/2/00
(SURESH PAL SINGH YADAV)
Inspector CBI/ACB/Shg
Guwahati