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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Salt
8.12.17

(See Rule 42)

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

ORDER SHEET

APPLICATION NO. 318 OF 2001

APPLICANT (S) B. N. D. Phukan

RESPONDENT (S) Notions

ADVOCATE FOR APPLICANT(S) Mr A.K. Choudhury, H. Rahman & N. Banerjee

ADVOCATE FOR RESPONDENT(S) Close.

- Notes of the Registry	dated	Order of the Tribunal
<p>This application is in form but not in time Condonation Petition is filed and filed vide M P. No <u>193/2001</u> C.F. for Rs 50/- deposited vide IPO/BD No. <u>548587</u> Dated.....<u>13.8.2001</u>.....</p> <p><i>[Signature]</i> A. Dy. Registrar <u>16/8/2001</u></p>	<p>16.8.01 mb</p>	<p>List on 10/9/01 for admission.</p> <p><i>[Signature]</i> Member <i>[Signature]</i> Vice-Chairman</p>
<p><u>DN No 3363 W-3367</u> dtd <u>3/9/01</u> along with MP 193/01</p> <p><i>[Signature]</i> <u>11/9/01</u></p>	<p>10.9.01 bb</p>	<p>The application is admitted. Call for the records.</p> <p><i>[Signature]</i> Member <i>[Signature]</i> Vice-Chairman</p>
<p>No written statement has been filed.</p> <p><i>[Signature]</i> <u>21.11.01</u></p>	<p>11.10.01 pg</p>	<p>The name of Mr A.K. Choudhury, as counsel for the applicant be struck off, as he is not in a position to appear in the case. Respondents are allowed 4 weeks time to file written statement.</p> <p>List on 22.11.01 for order.</p> <p><i>[Signature]</i> Member <i>[Signature]</i> Vice-Chairman</p>

22.11.2001

The name of Mr. A.K. Chaudhury learned counsel for the applicant is to be deleted. Office to act accordingly.

List on 3.1.2002 to enable the respondents to file written statement.

K. Ushara
Member

[Signature]
Vice-Chairman

bb

3.1.02

Written statement has been filed. The applicant may file rejoinder, if any, within 2 weeks from today.

List on 23.1.2002 for order.

K. Ushara
Member

[Signature]
Vice-Chairman

mb

23.1.02

Heard Mr. H. Rahman, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

Pleadings are complete. List the matter for hearing on 25.2.2002.

K. Ushara
Member

[Signature]
Vice-Chairman

mb

25.2.02

Prayer has been made on behalf of Mr. H. Rahman, learned counsel for the applicant for adjournment of the case. Prayer is allowed. List on 18.3.2002 for hearing.

K. Ushara
Member

[Signature]
Vice-Chairman

mb

18.3.2002

None appears for the applicant. List the case on 22.3.2002 for hearing.

K. Ushara
Member

[Signature]
Vice-Chairman

bb

22.3.02

It has been stated that Mr. H. Rahman learned counsel for the applicant is indisposed and the case is accordingly adjourned. List on 24.4.2002 for hearing.

K. Ushara
Member

[Signature]
Vice-Chairman

20.12.2001

W/S submitted by the respondents.

No. Rejoinder has been filed.

22.1.02

12.2.2002

Rejoinder filed by the applicant in reply to the W/S.

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OA 318/2001

Notes of the Registry	Date	Order of the Tribunal
	21/4	The case is adjourned to 13/5/02 as there is no Division Bench today. <i>M/s A. G. S. 29/4</i>
	13/5	Heard Mrs. H. Rehman, learned Counsel for the applicant & Mr. A. Debroy, SRI C. G. S. C. for the respondent. Hearing concluded. Judgment reserved. <i>M/s A. G. S. 13/5</i>
<i>trd</i>	23.5.02	Judgment pronounced in the open court. The application is allowed. No cost to the Tribunal.

[Signature]
Member

[Signature]
Vice-Chairman

trd

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 316 of 2001

with

Original Application No. 317 of 2001

with

Original Application No. 318 of 2001.

Date of decision : This the 23rd day of May, 2002.

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

The Hon'ble Sri K.K.Sharma, Member (A).

Original Application No. 316 of 2001.

Sri Deba Kanta Phukan
Son of Sri Kesha Ram Phukan
Technician II (2)
Regional Research Laboratory,
Jorhat, Assam.

...Applicant

By Advocate Mr. H. Rahman.

-versus-

1. The Union of India
(Represented by the Secretary,
Ministry of Science & Technology
Government of India, New Delhi).
2. Director General,
Council of Scientific and
Industrial Research Anusandhan Bhawan,
2, Rafi Marg, New Delhi-110001.
3. The Director,
Regional Research Laboratory
Jorhat-785006.
4. Administrative Officer,
Regional Research Laboratory
Jorhat-785006

...Respondents

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

Original Application No. 317 of 2001.

Shri Ram Nath Das,
Son of Late Bhadreswar Das,
Technical Assistant III (2)
Regional Research Laboratory
Jorhat, Assam.

...Applicant

By Advocate Mr. H. Rahman.

-versus-

Contd....

1. The Union of India,
(Represented by the Secretary,
Ministry of Science & Technology,
Government of India
New Delhi).
2. Director General,
Council of Scientific and Industrial
Research Anusandhan Bhawan,
2 Rafi Marg, New Delhi-110001.
3. The Director,
Regional Research Laboratory,
Jorhat-785006.
4. Administrative Officer,
Regional Research Laboratory,
Jorhat-785006.

...Respondents

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

Original Application No. 318 of 2001

Sri Brojendra Nath Deuri Phukan
Son of Late Moni Ram Deuri Phukan
Technician II (3),
Regional Research Laboratory
Jorhat, Assam.

...Applicant

By Advocate Mr. H. Rahman.

-versus-

1. The Union of India,
(Represented by the Secretary,
Ministry of Science & Technology,
Government of India
New Delhi).
2. Director General,
Council of Scientific and Industrial
Research Anusandhan Bhawan,
2 Rafi Marg, New Delhi-110001.
3. The Director,
Regional Research Laboratory,
Jorhat-785006.
4. Administrative Officer,
Regional Research Laboratory,
Jorhat-785006.

...Respondents

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

Contd...

O R D E R

CHOWDHURY J. (V.C.)

All the three applications were taken up together for disposal since common question of fact and law are involved. In all the three applications the applicants assailed the order of penalty dated 16.9.1999 reducing their pay for one year. A disciplinary proceeding was initiated against all the applicants. Allegations are also same and similar. Statement of Article of Charge framed against the applicant in O.A. No. 316/2001 is reproduced below :

" Article I

That Shri D.K.Phukan while functioning as Tech. II (1) during the period December, 1989 has applied for All India LTD to visit "Kanyakumari" for the block year 1986-89. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs.3,225.00 (Rupees three thousand and two hundred and twenty five only) was accordingly drawn by him as LTC advance.

WHEREAS Shri D.K. Phukan, Tech. II(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No. 693175 and got verified the same in support of his journey on LTC.

WHEREAS Shri D.K. Phukan, Tech. II(1) had submitted the LTC final bill NO. 1854/LTC/Adj./89 and got it passed for an amount of Rs.4,206.00 (Rupees four thousand two hundred and six only) from accounts Section without performing the Journey.

WHEREAS Shri D.K. Phukan, Tech. II (1)/his family members did not perform the journey on LTC and accordingly submitted an application to the competent authority for returning the LTC amount drawn by him and regretted for his misconduct."

Likewise charges were also brought against two other applicants of O.A. Nos. 317/2001 and 318 of 2001. On 06.10.1997 all the three applicants submitted their written reply. In paragraph 3 of the written reply the applicants admitted the charge. The full extract of paragraph 3 of the said reply submitted by the applicant in O.A. No. 316/2001 is

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reproduced below :

"Sir, I without any force willing fully accepting the levelled charges and most sincerely appeal to you kindly to forgive me from my misconduct since, it was committed by me for the first time. I also assure you that such type of misconduct will never be repeated in my entire service period. In view of the above the Disciplinary Authority is earnestly requested kindly to ex-operate me from the charges. Moreover, I have refunded the entire L.T.C. money drawn by me during the year 1992-93. Since, I am a low paid employee and shouldering the entire responsibility of my family, your kind action in exonerating me from the charges will immensely help me to correct my misconduct in future. I once again assure you that such misconduct will never be repeated in future."

In a similar nature the two other applicants of this application submitted their written reply. The authority on consideration of their written reply alone held the applicant guilty of charges. Accordingly the order of penalty dated 16.9.1999 reducing their pay for one year was issued. The extract of the order dated 16.9.1999 is reproduced below:

"IT IS, THEREFORE, ORDERED that the pay of Sri Deba Kanta Phukan be reduced by Rs. 125.00 from Rs.5,000.00 to Rs. 4,875.00 in the time scale of pay of Rs. 4,500-125-7,000/- for a period of one year with effect from the 1st day of October, 1999. It is further directed that Shri Phukan will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay."

Likewise penalty was also imposed upon the two other applicants. They preferred appeal on 14.10.1999. Failing to get response from the authority they served Lawyer's Notice and thereafter moved this Application before the Tribunal under section 19 of the Administrative Tribunals Act, 1985 assailing the impugned order of penalty dated 16.9.1999 as arbitrary, illegal and disproportionate.

2. In the application the applicants mainly assailed the proceeding on the ground of delay. According to the

Contd..

applicants there was a delay in initiating the proceeding and on that count alone the impugned order of penalty dated 16.9.1999 is unsustainable and on that count the consequent punishment was also liable to be quashed.

3. Heard Mr. H.Rahman, learned counsel appearing on behalf of the applicants and Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents.

4. The respondents submitted writte statement and contended that the delay in initiating the proceeding was not deliberate. In the written statement it was also stated that after about a year from the date of purchase of Railway Ticket from a tout of Mariani Railway Station, an Investigating Officer of CBI (ACB), Shillong camped at orhat contacted the Director, RRL-Jorhat and informed their necessity to collect and take into possession the LTC bills submitted by a Group of Officers of RRL, Jorhat from September 1989 to 12th November 1990. The CBI started investigation in the matter one after another and the statements of the applicants were also recorded in 1991. The CBI subsequently submitted the report to the authority wherein the applicants were involved in fictitious LTC claims for initiating disciplinary action against the delinquent officials. The respondent authority made every effort to get refund of the money from the applicant and started initiation of disciplinary proceeding against the applicants. It was also mentioned in the written statement that the Appellate Authority considered the appeal of the applicants and rejected the same in course of time.

5. Mr. H.Rahman, learned counsel for the applicant mainly focussed his argument on three grounds. Learned counsel for the applicant firstly submitted that the

proceeding was initiated after a long lapse of time against the alleged misconduct. The applicants accepted the the LTC amount for the Block year 1986-89 and the money was refunded long back in the year 1991 whereas the proceeding was initiated in 1999 that too at the instance of the CBI. Mr. Rahman further submitted that the authority acted mechanically in initiating the proceeding at the instance of CBI that too after a long lapse of time. Mr. Rahman, learned counsel for the applicant in support of his contention referred to a decision rendered by the Supreme Court in the case of State of Madhya Pradesh Vs. Bani Singh and Another reported in 1990 Supple. SCC 738. The learned counsel for the applicant also referred the following decisions reported in 1992 (20) ATC 578, 1995 (31) ATC 227 and 1996 (32) ATC 563.

6. We have given our anxious consideration. There was no doubt some delay in initiating the proceeding. But from the materials on records it appears that the entire matter surfaced only after CBI investigation of a case where the applicants were cited as witness and their statements were recorded. The CBI also intimated the matter to the respondents thereafter the authority acted upon and initiated the proceeding. In the set of circumstances it cannot be said the delay in initiating the proceeding was inordinate and at any rate no prejudice was caused. The applicants on the other hand also admitted their guilt but sought for leniency. Mr. Rahman, learned counsel for the applicants next submitted that the authority, without jurisdiction imposed the penalty only on the basis of admission without holding proper enquiry. Learned counsel further submitted that the respondents acted unlawfully in imposing major penalty upon the applicants without holding any enquiry. In support of his

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contention the learned counsel referred to a decision of Calcutta High Court in the case of Randhir Singh vs. Union of India & Others, reported in (1999) 2 SLR 502. In reply to the said contention, Mr. A. Deb Roy, learned Sr. C.G.S.C. referred to the statutory provision, more particularly Rule 14 of the CCS (CCA) Rules, 1965 and submitted that there was no justification to hold any enquiry on the basis of admission of their guilt. As per the said statutory provision more particularly as per clause (v) (a) it cannot be said that the authority have acted illegally in not holding further enquiry. The applicants admitted the allegation in unequivocal terms, contended by Mr. A. Deb Roy, learned Sr. G.S.C.

7. Before going into the above issue it would be appropriate to take note of statutory provision Part VI of the Rule provided the procedure for imposing penalties. The material provisions are reproduced below :

" 14. Procedure for imposing penalties - (1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided by the Public Servants (Inquiries) Act 1850, where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Explanation - Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiry shall be construed as a reference to the disciplinary authority.

Contd...

(3) Where it is proposed to hold an inquiry against a Government Servant under this Rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up -

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
- (ii) a statement of the imputations of misconduct or mis-behaviour in support of each article of charge, which shall contain:
 - (a) a statement of all relevant facts including any admission or confession made by the Government Servant;
 - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and state whether he desires to be heard in person.

(5)(a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers if necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

(b) If no written statement of defence is submitted by the Government Servant the disciplinary authority may, itself, inquire into the articles of charge, or may, if it considers it necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose.....
.....

(16) When the case for the disciplinary authority is closed, the Government Servant shall be required to state his defence, orally or in

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writing, as he may prefer. If the defence is made orally, it shall be recorded, and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Present Officer, if any, appointed.

(17)

(18) The inquiring authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.....

Sub Rule (3) of Rule 15 : If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 11 should be imposed on the Government Servant, it shall, notwithstanding anything contained in Rule 16, make an order imposing such penalty."

8. . The statutory provisions are made to ascertain the guilt or otherwise of the Government Servant in accordance with rules. Rules are hand made of justice. The thematic contents of the Rule is to ensure fairness in action. The procedural reasonableness is introduced to promote justice and to prevent miscarriage of justice. Fairness is ensured by adhering to the rules of the game. The procedure enjoining in Part VI did not rule out an enquiry. Sub rule 5 (a) of Rule 14 itself indicates that when all the article of charges have been admitted by the Government Servant in his written statement in defence, the disciplinary authority is required to record his findings on each charge after taking such evidence as may think fit and act in the manner laid down in Rule 15. Rule 5 (a) did not rule out recording of evidence. It has conferred the discretion on the authority to take such evidence at it may think fit. The statutory rule as envisaged in Sub rule 18 of Rule 14 also cast the duty on the authority

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to question the delinquent officer on the circumstances appearing against him. Such scheme is made to enable the Government servant to show extenuating circumstances whether punishment is to be inflicted. The power of imposing penalty is entrusted on the authority on good and sufficient reason. Sub rule (3) of Rule 15 speaks of responsibilities reposed on the disciplinary authority in imposing penalty having regard to the findings on the articles of charges. Mr. A. Deb Roy, learned Sr. C.G.S.C. however submitted that where an employee admitted his guilt to insist upon the management to record evidence on the allegations will only an empty formality. In our view, it will not absolve the Disciplinary Authority from its responsibility of providing an opportunity to a Government Servant to offer his explanation for his conduct or to place before the authority any circumstance that would go to mitigate the gravity of the offence. The power of imposition of penalty is not arbitrary and rules are made to safeguard the interest of the delinquent officer. Rules are made for adherence and not for infraction. In the instant case the disciplinary authority in imposing the impugned punishment on the basis of the statement without adhering the prescribed procedure by law. The applicants prayed for exonerating them from the charges. In the written statement the respondents stated that the appeals were duly and carefully examined by the Appellate Authority and held that the penalty imposed upon them is a lenient one and there is no scope for further, diluting the same. For the reasons best known to the authority the Appellate Order was not produced. At any rate since the impugned orders of penalty dated 16.9.1999 in our view is in breach of the procedural propriety, On that ground alone the impugned orders are


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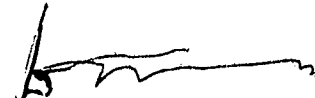
liable to be set aside/..

9. In view of our order on the above issue we do not consider to go into the other issues.

10. For the reasons cited above the impugned orders are set aside. The disciplinary authority may now initiate with the measures indicated in Sub rule (b) (a) of Rule 14 of the CCS (CCA) Rules, 1965 as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule including Rule 15.

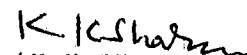
11. The applications are accordingly allowed. There shall however be no order as to costs.


(K.K.SHARMA)
Member (A)


(D.N.CHOWDHURY)
Vice-Chairman

trd

I hereby authorise Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman to pronounce the judgment and order in the open court also on my behalf.

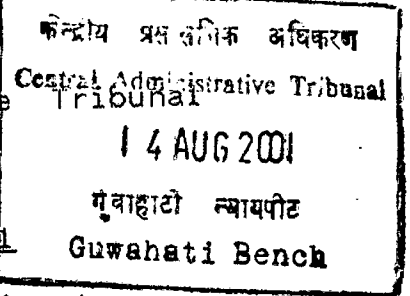

(K.K.SHARMA)
Member (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

AT GUWAHATI.

(An application U/s.19 of the Administrative Act, 1985).

ORIGINAL APPLICATION NO. 318 OF 2001



Sri B.N.D. Phukan

Applicant.

Versus

The Union of India & Ors.

Respondents.

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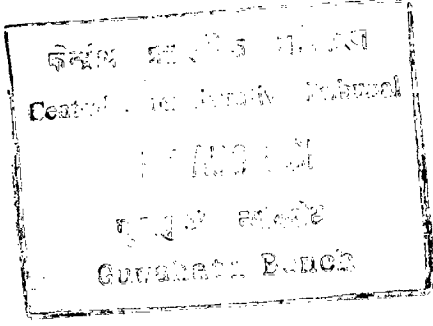
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Filed by -

Advocate.

Date of Filing : 14.8.2001
Registration No:

REGISTRAR.



Sri B. N. Deuri Phukan
Applicant-
through
Mukul Pal Barua
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

(An application U/s. 19 of the Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. OF 2001

Shri Brojendra Nath Deuri Phukan,
son of Late Moni Ram Deuri Phukan,
Technician II(3),
Regional Research Laboratory,
Jorhat, Assam.

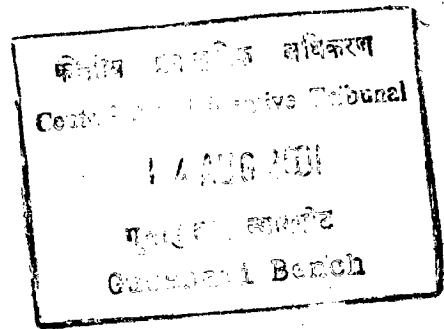
...APPLICANT

-VERSUS-

1. The Union of India,
(Represented by the Secretary,
Ministry of Science & Technology,
Government of India,
New Delhi).
2. Director General,
Council of Scientific and
Industrial Research Anusandhan Bhawan,
2, Rafi Marg, New Delhi-110001.

Contd.../-

*Brojendra Nath
Deuri Phukan.*



3. The Director,
Regional Research Laboratory,
Jorhat - 785006.

4. Administrative Officer,
Regional Research Laboratory,
Jorhat - 785006.

...RESPONDENTS

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

This application is made against the order No. RLJ-18(92)/97 dated 16.9.99 by which the salary of the applicant was reduced in the time scale of pay for a period of one year and also non-disposal of appeal dated 14.10.99 (Annexures-3 and 4).

2. JURISDICTION

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Tribunal.

3. LIMITATION.

The applicant further declares that the

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Brojendra Nath
Deuzi Phukan.

application is barred by Limitation under section 12 of the Act and so the applicant has filed a separate application for condoning the delay under section 21(3) of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE

1. That, the humble applicant is a citizen of India and a permanent resident of Jorhat, Assam. The applicant is presently working as Technician Grade II(3) in the Regional Research Laboratory, Jorhat, Assam.

2. That the applicant was initially appointed as Junior Laboratory Asstt. on 30.11.77 at the Regional Research Laboratory, Jorhat. In the year 1984 the applicant was promoted as Technician II(2). Thereafter in the month of November, 1991 the applicant was further promoted to the post of Technician II(3), the post he is presently holding.

3. That while the applicant was serving as Technician Gr. II (2) he availed the benefit of leave Travel Concession (LTC) and an amount of Rs. 11,380/- (Rupees Eleven thousand three hundred and eighty) was drawn by the applicant for the block year 1990-93.

4. That your humble applicant begs to state that

Contd.../-

*Brojendra Nath
Deuri Phakon.*

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
14 AUG 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

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after availing the benefits of LTC., he purchased the Railway Tickets from one Ticket Broker of Moriani Railway Station and as per his advice your humble applicant submitted the bills etc. to the RRL authorities.

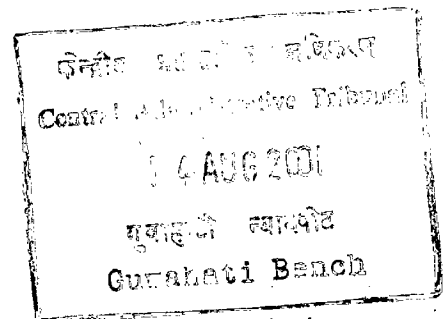
5. That your humble applicant begs to state that after about 5 years, a case was instituted against some Railway officials of Moriani Junction and in the said CBI Case No. RC-25(A) 90-SHG your humble applicant was made a witness and he was summoned by the CBI to appear and to depose in the case. Accordingly, your humble applicant appeared before the CBI and made the required statement in Case No. RC-25(A)90-SHG.

6. That your humble applicant begs to state that though the CBI case was instituted against the Railway Officers and the statement of the applicant was recorded by the CBI and in the said case it was also established that without availing the actual journey by the applicant and the family members, the LTC money was drawn by the applicant. As such so the CBI office directed your humble applicant to refund the entire money to the RRL.

7. That your humble applicant begs to ^{state} ~~the~~ that as per advice of the CBI Officers your humble applicant refunded the entire amount of money which was drawn as LTC on his own and the RRL authorities also accepted the amount without any objection.

*Brajendra Nath
Deuri Shukon.*

Contd.../-



8. That your humble applicant begs to state that the LTC amount was drawn by the applicant in 1991 and the same was refunded in 1993 and thereafter your humble applicant availed the benefit of LTC for the next period without any objection from the RRL authorities.

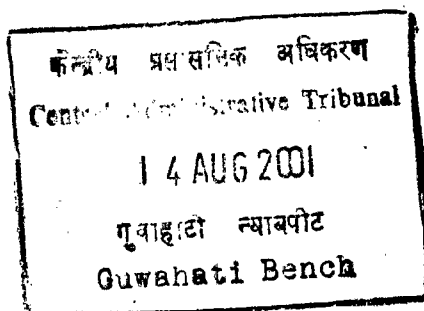
9. That your humble applicant begs to state that suddenly on 26.9.97 a memorandum bearing No. RLJ-18(92) - vig. 97 was issued to your humble applicant by the Acting Director, Jorhat Regional Research Laboratory, in connection with CBI case No. RC-25(A)/90 SHG.

10. That the applicant begs to state that on 26.9.1997 a Memorandum bearing No. RLJ-18((92)-vig/97 issued under the signature of the Acting Director, Regional Research Laboratory, Jorhat, was served upon him. In the said memorandum, the following Article of charge was framed against the applicant:

"That Sri B.N.D.Phukan, Tech, II(2) obtained false and fictitious Local Excess Fare Ticket bearing EFT No. 693181 dtd. 15.01.90 and got verified the same in support of his journey on LTC. Sri B.N.D. Phukan, Tech. II(2) had also submitted the LtC final bill No. 3033/LTC/Adj./89 and

Contd.../-

Brojendra Naik
Bhuri Phukan



got it passed an amount of Rs. 11,380.00 (Rupees eleven thousand three hundred and eighty only) from accounts section without *performing* the journey. This act was a misconduct committed by the said Sri B.N.D. Phukan, Tech.II(2)."

A copy of the said memorandum dated 26.9.1997 is annexed herewith and marked as ANNEXURE-1 to this application.

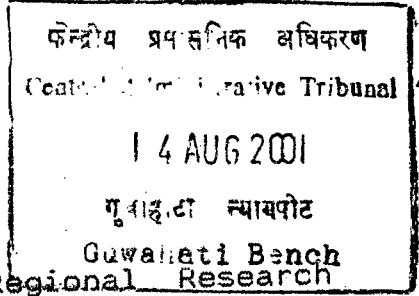
11. That the applicant begs to state that after receipt of the memorandum dated 26.9.1997, he submitted his reply to the charges framed against him on 3.10.1997. In his reply addressed to the Director, Regional Research Laboratory, the applicant prayed that since he had refunded the money he may be exonerated of the charges levelled against him.

A copy of the said reply dated 3.10.97 is annexed herewith and marked as ANNEXURE-2 to this application.

12. That the applicant begs to state that all of a sudden on 16.9.1999, after almost two years of his submitting the reply to the memorandum, an office order bearing No.RLJ-18(92)-Vig/92 dated 16.9.1999 issued

Contd.../-

*Brojendra Nath
Devi Phukan.*



under the signature of the Director, Regional Research Laboratory, Jorhat was served upon him. By the said order dated 16.9.99 it was ordered that the pay of the applicant was reduced by Rs. 125.00 (One hundred and twenty five) only from Rs. 6,000.00 (Six thousand) only to Rs. 5,875.00 (Five thousand eight hundred and seventy five) only in the time scale of pay of Rs. 5,550-175-9,900/- for a period of one year with effect from the first day of October, 1999. It was further directed in the said order that the applicant will not earn increment of pay during the period of reduction.

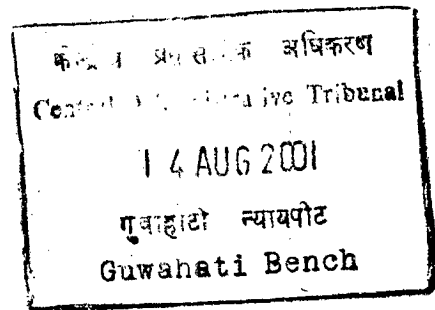
A copy of the said order dated 16.9.1999 is annexed herewith and marked as ANNEX-URE-3 to this application.

13. That the applicant begs to state that after receipt of the order dated 16.9.99 he submitted an appeal dated 14.10.99 before the Director, Regional Research Laboratory, Jorhat, praying for reviewing/waiving the major penalty imposed upon him vide order No. RLJ-18(92)-Vig/97 dated 16.9.1999.

A copy of the said appeal dated 14.10.99 is annexed herewith and marked as ANNEX-URE-4 to this application.

*Brojendra Nath
Deuri Phukan.*

Contd.../-



14. That the applicant begs to state that since the authorities did not respond to the appeal submitted by him on 14.10.99 he submitted a reminder dated 16.1.2001, addressed to the Director, Regional Research Laboratory, Jorhat.

A copy of the said reminder dated 16.1.2001 is annexed herewith and marked as ANNEXURE-5 to this application.

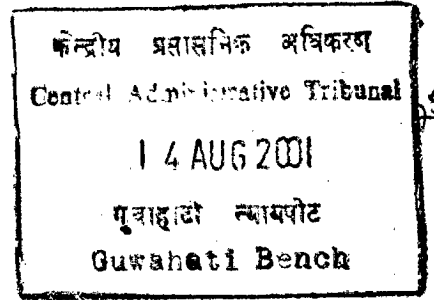
15. That the applicant begs to state that thereafter on 13.4.2001 they served a notice upon the Secretary, Ministry of Science and Technology, Government of India, New Delhi, through his advocate requesting him to withdraw the impugned order of punishment dated 16.9.1999. Copies of the said pleaders notice were also served upon the Director General, CSIR, New Delhi and Director, RRE, Jorhat.

A copy of the said notice dated 13.4.2001 is annexed herewith and marked as ANNEXURE-6 to this application.

16. That the applicant begs to state that even after receipt of the pleaders notice, authorities are yet to dispose of the appeal filed by the applicant for reviewing/waiving of the major penalty imposed vide order No. RLJ-18(92)-Vig./97 dated 16.9.1999.

Contd.../-

*Brijendra Nath
Deuri Phukan.*



17. That the applicant begs to state that he has no other alternative but to file this application before this Hon'ble Tribunal.

V. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

1. For that, the action of the authorities in imposing the major penalty of reduction of pay upon the applicant amounts to the imposing of double punishment for the same offence in as much as, the applicant had already refunded the amount of LTC withdrawn by him on his own.

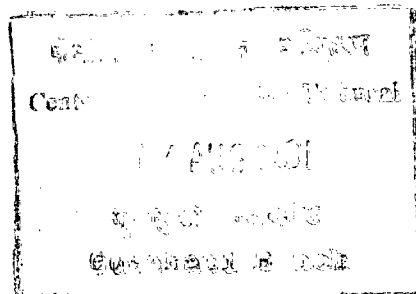
2. For that, the applicant after having refunded the entire amount of LTC withdrawn by him on his own cannot be held to be guilty of misconduct. As such, the impugned order dated 16.9.1999 is liable to be set aside and quashed.

3. For that, the action of the respondent in imposing the penalty of reduction in rank without holding any enquiry is not permissible under law. As such the same may be set aside and quashed.

4. For that, the punishment imposed against the applicant is a major penalty and without holding any enquiry a major penalty cannot be imposed. As such, the order of penalty may be set aside and quashed.

Contd.../-

*Brojendra Nath
Dawri Phukan.*



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5. For that, the applicant by his own when re-funded the amount drawn in the name of LTC account he can not be charged for misconduct and a major penalty cannot be issued against your humble applicant.

6. For that, even if the RRL authority is willing to give some penalty to your humble applicant. The penalty imposed by the authority is disproportionate and the same may be set aside and quashed.

7. For that, in any copy view of the matter the penalty imposed by the authority is not tenable in law and the same may be set aside and quashed.

VI. DETAILS OF REMEDY EXHAUSTED

The applicant declares that he has no other remedy except filing this application before this Hon'ble Tribunal and he has exhausted all other remedies available to him.

VII. MATTERS NOT PENDING IN ANY OTHER COURT/ TRIBUNAL

That applicant further declares that the subject mater of the application is not pending before any other court or Tribunal.

Contd.../-

*Brojendra Nath
Sauri Phukan.*

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केन्द्र 57 प्रीक अधिकरण
 ivo Tribunal
 14 AUG 2001
 गुवाहाटी बेंच
 Guwahati Bench

8.

RELIEF PRAYED FOR

Under the facts and circumstances stated above it is prayed that the impugned order No. RLJ-18(92)-Vig./97 dated 16.9.99 issued under the signature of the Director, Regional Research Laboratory, Jorhat be set aside and quashed.

IX.

INTERIM RELIEF PRAYED FOR. NIL

X.

PARTICULARS OF POSTAL ORDER

POSTAL ORDER NO DATE OF ISSUE : 548587 dt. 13-8-2001

PAYABLE AT : Guwahati

XI.

DETAILS OF INDEX

: ANNEXED

XII.

LIST OF ENCLOSURES :-

As per index.

*Brojendra Nath
 Deuri Bhatia*

Contd.../-

VERIFICATION

I, Shri Brojendra Nath Deuri Phukan, son of Late Moni Ram Deuri Phukan, aged about 43 years, Technician Gr. II(3) Regional Research laboratory, Jorhat, Assam do hereby solemnly affirm and verify as follows:-

1. That I am the applicant in the present application and as such acquainted with the faith and circumstances of the case.

2. That the statements made in the application and in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 16 and 17 are true to my knowledge and those made in paragraphs 10, 11, 12, 13, 14 & 15 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this the 14 th day of August, 2001.

Brojendra Nath Deuri Phukan
Deponent.

*Brojendra Nath
Deuri Phukan*

Contd.../-

ANNEXURE- 1

REGIONAL RESEARCH LABORATORY : JORHAT : ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-18(92)-Vig./97

September 1997

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri B.N.D. Phukan, Tech. II(2) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge. A statement of imputations of misconduct or misbehaviour in support of which the article of charge is proposed to be sustained is enclosed.

2. Shri B.N.D. Phukan, Tech. II(2) is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

Contd.../-

*Witnessed
Advocate*

4. Shri B.N.D. Phukan, Tech. II(2) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex-aparte.

5. Attention of Shri B.N.D. Phukan, Tech. II(2) 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 received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri B.N.D. Phukan, Tech. II(2) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

Sd/-Illegible,
29.6.97
R.K. Mathur,
Acting Director.

Contd.../-

Witnessed
Advocate

ANNEXURE-I

Statement of articles of charge framed against Shri B.N.D. Phukan, Tech. II(2)

Article I

That Shri B.N.D. Phukan while functioning as Tech. II(2) during the period December, 1989 has applied for All India LTD to visit "GOA" for the block year 1990-93. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs. 10,530.00 (Rupees Ten thousand five hundred and thirty only) was accordingly drawn by him as LTC advance.

WHEREAS Shri B.N.D. Phukan, Tech. II(2) obtained false and fictitious Local Excess Fare Ticket bearing EFT No. 693189 and got verified the same in support of his journey on LTC.

WHEREAS Shri B.N.D. Phukan, Tech. II(2) had submitted the LTC final bill No. 3033/LTC/Adj./89 and got it passed for an amount of Rs. 11,380.00 (Rupees eleven thousand three hundred & eighty only) from accounts Section without performing the Journey.

Contd.../-

Witnessed
Advocate

WHEREAS Shri B.N.D. Phukan, Tech. II(2)/his family members did not perform the journey on LTC and accordingly submitted an application to the competent authority for returning the LTC amount drawn by him and regretted for his misconduct.

Contd.../-

Attested
Advocate

ANNEXURE-II.

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri B.N.D. Phukan, Tech.II(2).

Article-I.

That the said Shri B.N.D. Phukan, Tech. II(2) obtained false and fictitious local excess fare ticket bearing EFT No. 693189 dtd. 15.01.90 and got verified the same in support of his journey on LTC. Shri B.N.D. Phukan, Tech. II(2) had also submitted the LTC final bill No. 3033/LTC/Adj./89 and got it passed for an amount of Rs. 11,380.00 (Rupees Eleven thousand three hundred and eighty only) from Accounts section without performing the journey. This act was a misconduct committed by the said Shri B.N.D. Phukan, Tech. II(2).

Now, therefore, by the above misconduct of the said Shri B.N.D. Phukan, Tech. II(2) failed to maintain absolute integrity and devotion to duty and thus contravened the provisions of CCS (Conduct) Rules, 1964 as made applicable to Council Servant.

Contd.../-

Witnessed
Advocate

ANNEXURE-III

List of documents by which the articles of charge framed against Shri B.N.D. Phukan, Tech. II(2) are proposed to be sustained.

1. Copy of sanction of LTC O.M.No. RLJ-13(321)-Estt/77 dated 22.12.89.
2. Copy of his application submitted to Office for recovery of the LTC amount.
3. Copy of LTC final bill No. 3033/LTC/Adj./89 dated 13.02.90.

Contd.../-

Witnessed
By
Advocate

ANNEXURE- 2

To

The Director,
Regional Research Laboratory,
Jorhat-785006, Assam.

Date 6 October, 1997.

Respected Sir,

I have the honour to acknowledge the receipt of O.M. No. RLJ-18(92)-Vig/97 dated September, 1997 leveling the charges of fictitious LTC claim submitted by me to the office for an amount of Rs. 11,380.00 (Rupees eleven thousand three hundred and eighty only.

Sir, I also acknowledge the receipt of article of charges annexed with the O.M. along with documentary evidence in support of levelled charges vide the aforesaid O.M.

Sir, I without any force willing fully accepting the levelled charges and most sincerely appeal to you kindly to forgive me from my misconduct since, it was committed by me for the first time. I also assure you that such type of misconduct will never be repeated in my entire future service period. In view of the above the Disciplinary Authority is earnestly requested kindly to ex-operate me from the charges. Moreover, I have refunded the entire L.t.C. Money drawn by me during the

Contd.../-

Witnessed
Advocate.

year 1992-93. Since, I am a low paid employee and shouldering the entire responsibility of my family, your kind action in exonerating me from the charges will immensely help me to correct my misconduct in future. I once again assure you that such misconduct will never be repeated in future.

Thanking you.

Yours faithfully,
Sd/-Illegible,
B.N.D. Phukan,
Designation: Tech. II
(2).

*Witnessed
Advocate*

Contd.../-

ANNEXURE- 3

REGIONAL RESEARCH LABORATORY : JORHAT : ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-18(92)-Vig/97

September 16, 1999

ORDER

WHEREAS Shri Borjendranath Deuri Phukan, Gr.II(3) was served with a Memorandum of Charge along with a Statement of articles of charge, Statement of imputation of misconduct or misbehaviour in support of the articles of charge and a list of documents by which the articles of charge framed against were proposed to be sustained to hold an inquiry against him under Rule 14 of the CCS (CCA) Rules, 1965, vide Memo of even number dated 26th September, 1997 and was directed to submit a written statement of his defence within the stipulated time and also to state whether he desired to be heard in person.

AND WHEREAS Shri Brojendranath Deuri Phukan, Gr. II(3) has submitted a written statement of his defence dated 06.10.97 whereby Sri Deuri Phukan has accepted the charges levelled against him willingly and without any force/condition denecessitating the authority to hold any formal inquiry. Thus, as a well -settled principle of law, Shri Deuri Phukan's admission of guilt

Contd.../-

*Witnessed
Advocate*

is explicit, unambiguous, unqualified and unequivocal in terms of the charges levelled against him.

AND WHEREAS on the face of the facts and circumstances of the case and on careful consideration of it vis-a-vis his written statement, the undersigned holds that the articles of charge levelled against him are proved beyond doubt.

IT IS, THEREFORE, ORDERED that the pay of Sri Borjendranath Deuri Phukan be reduced by Rs. 125.00 from Rs. 6,000.00 to Rs. 5,875.00 in the time scale of pay of Rs. 4,500-125-7,000/- for a period of one year with effect from the 1st day of October, 1999. It is further directed that Shri Deuri Phukan will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay.

IT IS FURTHER DIRECTED that regarding forfeiture/disallowance of future LTC, a separate order will be issued to him shortly.

To
Shri Brojendranath Deuri
Phukan, Gr. II(3) RRL,
Jorhat-6.

Sd/-Illegible,
Jagir Singh Sandhu
Director.

Attested
Advocate

Contd.../-

ANNEXURE- 4

To

The Director
Regional Research Laboratory,
Jorhat -785006 (Assam)

Date : 14.10.1999

Sub: Appeal for reviewing/waiving of major penalty
imposed vide order No. RLJ-18(92)-Vig./97 dtd.
16th September, 1999.

Respected Sir,

I have the honour to make a reference to the penalty order served on me vide your OM referred above and most sincerely I appeal to you sir, kindly to review your above order in consideration to the facts stated below.

That sir, the L.T.C.amount was refunded to the office at the verbal instruction of competent authority on the report of CBI (ACB), Shillong. The first installment was paid vide receipt no. 87/8634 dtd. 16.11.92. After the payment of the first installment, a subsequent order was on me to pay the balance amount which was then outstanding against me. The OM also indicated that in case if I fail to pay the amount immediately, action would be initiated against me as per Rules. Responding to the OM, the balance amount was also refunded to the office vide receipt No. 97/9671 dtd. 16.12.93 and no official action was initiated against me after the refund of the whole LTC advance of Rs.

Contd.../-

*Attested
Advocate*

11,380/- . Later observing considerable delay in the matter, it was hoped that the office would not take any further action probably as refund of the whole LTC amount was also a penalty to me.

That Sir, to my utter surprise on 6th Oct/97, after a period of more than 4/5 years after refunding the whole LTC amount a major penalty charge sheet was served on me vide OM No.RLJ-18(92)-Vig/97 dtd. September '97. This order which was never expected from the office from my side had further raised my mental worries and tension and I had to remain under total anxiety day and night. It was a most horrible period that I have ever faced in my service career. However, a reply to the major penalty order was duly given to the office requesting to ex-onerate me from the charges as the whole LTC amount was refunded to the office long back in response to verbal instructions.

That Sir, the authority took no disciplinary action against me for a long period of another two years. As such, I came to the conclusion that the matter has been closed. That Sir, the authority again vide OM No.RLJ-18(92)-Vig/97 dtd. September 16, 1999, has imposed a penalty of reduction of one increment of pay permanently to my great surprise. Sir, the above reduction will have serious effect in my service career

Contd.../-

Witnessed
Advocate

as well as financially. As I am a low paid employee, the above reduction will cause me a irreparable loss for which my family will also suffer equally.

Therefore, in view of the above facts and circumstances, I request you most sincerely once again to review/waive the above major penalty order and allow me to earn the increment during the period of reduction as a relieve to me from the financial hardship and more specifically from my mental worries.

I shall remain ever grateful to you Sir, and looking forward for your favourable order.

Thanking you.

Yours faithfully
Sd/-Illegible
(B.N.Deuri Phukan)
Tech. II(3)
RRL Jorhat.

*Witnessed
Advocate*

Contd.../-

ANNEXURE- 5

To

The Director,
Regional Research Laboratory,
Jorhat : 785006 (Assam)

Dated 16.01.2001

REMINDER : 1

Sub: Prayer for reviewing/waiving of Major Penalty
imposed vide Order No. FLJ-18(92)-Vig/97 dated
16th September, 1999.

Respected Sir,

I have the honour to make a reference to my
earlier application dated 14.10.99 regarding the subject
cited above.

Sir, in this connection, I would like to
inform you that I have not received any reply from your
office up-till now.

Therefore, Once again I request you Sir,
kindly to take necessary action at your end and relieve
me from my long mental worries and tension.

I remain Sir,

Yours faithfully,
Sd/-B.N.D.Phukan.

*Willed
B.N.D.
Advocate.*

Contd.../-

ANNEXURE- 7

To

The Secretary,
Ministry of Science & Technology,
Govt. of India,
New Delhi - 110001.

Dear Sir,

Under instruction of my clients No. 1 to 27 all of employees, Regional Research Laboratory, Jorhat - 6 and as instructed by them, I am addressing you this notice as contemplated u/s. 80 CPC, demanding you to say as hereunder:

1. That my above clients took LTC on various dates in the blocks year 1986-1989 and 1990-1993 as available to them, but unfortunately the said amounts so received were not spent in accordance with the terms of the Concessions extended to them.
2. That my clients purchased railway tickets for their journey from the brokers without knowing veracity of the tickets and accordingly those tickets were deposited in the office and the office in turn accepted and adjusted the amounts taking by its individual and the same was done on good faith.
3. That when the C.B.I. enquired the matter, detected that the books containing those tickets were

*Witnessed
A. B. S. S. S.
Aswacat*

stolen from the Railway Station and the C.B.I. directed the office to recover the entire amount and accordingly my clients refunded the entire amount to the office and the receipts were duly acknowledged to have received by my clients and my clients were under the impression that this chapter was closed once for all.

4. That the office for its failure to intimate the CBI regarding the recovery and closing of the matter, the matter was re-opened on the basis of the report submitted by C.B.I. to the Hon'ble Director General, Council of Scientific & Industrial Research, New Delhi on the impression that the local authority did not taken any steps to recover the entire amount on mistake of facts and the Hon'ble Director General, CSIR, New Delhi directed to proceed with under Rule 14 of CCS and accordingly charge-sheets were issued to my clients.

5. That my clients admitting entire arrear of their guilts due to bonafide mistakes and the authority took punitive measures against my clients depriving one and all my clients from their promotions with-holding one increment for life and all other facilities, are available to them causing invidious discrimination to those employees who left RRL, Jorhat or retired or died or any other reasons had caused and are actually causing serious loss and damage to my clients.

W. S. S. S.
Advocate

Contd.../-

Contd.../-

6. That as it appears the Memo No. RLJ-18(92)/Vig/97 dated September 16, 1999, in a double jeopardy and is not untenable under the law and thereby infringes the fundamental rights of my clients and the authority cannot and shall not triply punished an employees for one offence as alleged.

7. That the above facts and circumstances, I have been instructed to issue this notice as contemplated under section 80 C.P.C. demanding you to reveal and to withdraw the effects of the above cited Memo. imposed upon my clients within the statutory period of two months from the date of received of this notice, failing which I shall to constrain to take legal action under law for redressal of the grievances of my clients in the appropriate court of law and that without any further reference to you. Be it noted herein the event of your failure to comply with the as demanded herein above within the stipulated period my clients, most reluctantly shall be bound to proceed against you in the proper court of law, seeking adequate reliefs and in that case you shall be bound to bear all cost and compensations, incidental thereto including a sum of Rs. 1000/- towards the cost of this notice.

8. That my clients have submitted an appeal-cum-representation dated 27th and 28th September, 1999 sub-

Contd.../-

Witnessed
Atm...
Advocate

mitting to review the impugned order of the Memo as cited above which was duly acknowledged and received by the learned Director, Regional Research Laboratory, Jorhat and the same is still pending for disposal and my clients found no any adequate relief submitted a reminder dated 16th January, 2001 submitting to review the matter s it was the first offence which was to be looked into sympathetically to meet the ends of justice.

9. That the causes of action for this notice arose at Jorhat within the jurisdiction on and from 20.09.97.

Copy to :

Yours faithfully,

1. The Hon'ble Director General,
Council of Scientific and
Industrial Research,
Anusandhan Bhawan,
2 Rafi Marg,
New Delhi - 110001.

(J.K.Adhyapok)
Jorhat, Assam.

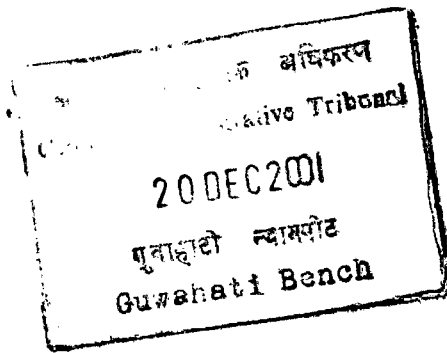
2. The Director,
Regional Research Laboratory,
Jorhat-785006.

All for their infor-
mation and immediate
action pl.

(J.K.Adhyapok)
Advocate,
Jorhat, Assam.

*Witnessed
Advocate*

Contd.../-



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

Filed by

19/12/01
Sr. C.A. B. C.
C.A. T. Guwahati Bench

O.A. NO. 318 OF 2001

Shri B.N.D. Phukan

-Vs-

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by
the respondents

The Written Statements on behalf of the respondents are as follows :

1. That with regard to the statements made in para 1, and 2, of the application, it is stated that the same are admitted.
2. That with regard to the statements made in para 3, the respondents beg to offer no comments.
3. That with regard to the statements made in para 4, the respondents beg to state that it is really a loathsome incident that after gathering more than 12 years of experience in the Regional Research Laboratory, Jorhat by holding the post of Gr.II(2), the applicant ventured to submit bills etc. to the Laboratory as per advice of a ticket broker of Mariani Railway Station without even materializing the onward and

return journeys.

4. That with regard to the statements made in para 5, the respondents beg to state what has been contended by the applicant, in this para is not at all a fact that after about 5 years, a case was instituted against some Railway ~~W~~ officials of Mariani Railway Station and in the said CBI Case, the applicant was made a witness. The exact situation of the case was that after about a year, from the date of purchase of the Railway ticket ~~from a tout~~ of Mariani Railway Station, an Investigating Officer of CBI (ACB), Shillong camped at Jorhat contacted the Director, RRL-Jorhat on Investigating Officer of CBI Case No. RC-25(A)/90-SHG and informed their necessity to collect and take into possession the LTC bills submitted by a group of officials of RRL-Jorhat from September, 1989 till 12th November, 1990. Followed by this, CBI started investigating the matter by summoning the LTC claimants one after another and thus the statements of the applicant was also taken by the Investigating Officer, CBI(ACB), Shillong on 04.03.1991. Naturally, the statements given by the applicant on 04.03.1991 before the Investigating Officer, CBI, cannot be construed as institution of a case by CBI after about 5 years from the date of purchase of the Railway ticket.

5. That with regard to the statements made in para 6, the respondents beg to state that the CBI as an Investigating Agency completed their work by investigating into the whole fraudulent LTC ~~air~~ episode and submitted their report to those government departments whose some of their employees were involved in the fictitious LTC claims case for initiating

disciplinary action against the delinquent officials with their recommendations or otherwise. On the other hand, the Competent Authority of the Regional Research Laboratory, Jorhat as a quasi-judicial authority made every effort to get refund the entire money of the delinquent officials and started initiation of disciplinary action against those officials as per CCS(CCA) Rules, 1965 and thus, the Competent Authority acted as per its own law of the land and not as per recommendation of the CBI.

6. That with regard to the statements made in para 7 and 8, the respondents beg to offer no comments.

7. That with regard to the statements made in para 9, the respondents beg to state that it is not all a fact that the Acting Director of RRL-Jorhat, suddenly issued a Memo to the applicant on 26.09.1997 in connection with the CBI Case No. RC-25(A)/90-SHG. The true position of the case was that the above fraudulent LTC claims case of the Laboratory had been a subject matter of correspondence between CBI, CSIR and RRL-Jorhat and ultimately, there had been no efficacious remedy but to initiate disciplinary action against the delinquent officials and thus to conclude and close the case once to all.

8. That with regard to the statements made in para 10 and 11, of the application, it is stated that the same are admitted.

9. That with regard to the statements made in para 12, the respondents beg to state that the same and except

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the words "all of a sudden" the contents of the para is true, since, the imposition of penalty dated 16.09.1999 cannot be said to be an act that has been done all of a sudden. It is the process of an action since the date of initiation of disciplinary proceedings till the date of conclusion of the case by imposing penalty against delinquent officials.

10. That with regard to the statements made in para 13 and 14, of the application, it is stated that the same are admitted.

11. That with regard to the statements made in para 15, the respondents beg to offer no comments.

12. That with regard to the statements made in para 16, the respondents beg to state that the Regional Research Laboratory Jorhat being a constituent establishment of the Council of Scientific & Industrial Research, Anusandhan Bhavan, Rafi Ahmed Kidwai Marg, New Delhi - 110 001 which is the Appellate/Superior Administrative/Disciplinary Authority had to forward the appeals of the delinquent officials of the Laboratory against whom penalties were imposed for favour of necessary action at their end. The appeals were duly and carefully examined by the Appellate Authority/Authority Higher than the Competent Disciplinary Authority and it has been held that the penalty imposed upon him was already lenient one, there is no scope for further diluting it. Thus the plea of the applicant for waiving/revoking the penalty order was not justified and hence it could not be acceded to. The matter was intimated to the applicant, but the applicant, on his part with the

plea of filing a case before the Central Administrative Tribunal, Guwahati Bench, Guwahati refused to receive the same.

13. That with regard to the statements made in para 17, the respondents begsto to state that it is stoutly denied that the applicant had no other alternative but to file this application before the Hon'ble Tribunal. The applicant should have waited for final disposal of the appeal. But, the applicant, taking the plea of filing a case before the Central Administrative Tribunal, Guwahati Bench, Guwahati refused to receive the same.

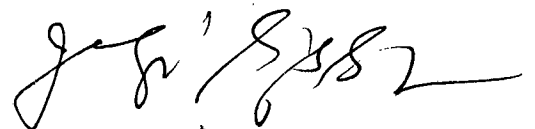
It is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with cost.

verification.....

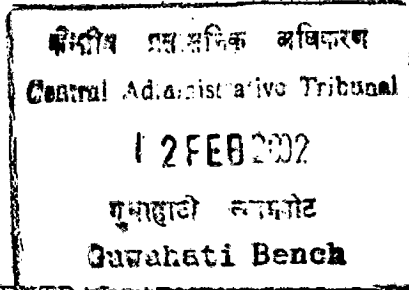
V E R I F I C A T I O N

I, ~~Shri~~ *M. J. S. Sanalhu*, Director,
Regional Research Laboratory, Jorhat, being authorised do
hereby solemnly affirm and declare that the statements made
in this written statement are true to my knowledge and
information and I have not suppressed any material fact.

And I sign this verification on this 19th day of
December, 2001,



निदेशक
DIRECTOR
अश्रम अनुसंधान प्रयोगशाला
Regional Research Laboratory
जोरहाट-६
JORHAT-6



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

H/d by
B. N.
through Haribur Rahman
Advocate
12/2/2002

O.A. NO. 318/2001

Sri Brojendra Nath Deuri Phukan

-Vs-

The Union of India & Others

And

IN THE MATTER OF :

Rejoinder filed by the applicant Shri B.N.D. Phukan in reply to the written statement submitted by the respondent.

I, Shri Brojendra Nath Deuri Phukan, Son of Late Moni Ram Dueri Phukan, working as Technician II(3), Regional Research Laboratory, (RRL), Jorhat, Assam, and I am the applicant in the present case. A copy of the written statement filed by the Director, RRL, Jorhat, on behalf of all the respondents is received by me and having gone through the written statement I have understood the content thereof and I file this rejoinder as follows:

Contd...2/-

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1. That, in reply to the statement made in paragraph 4 & 5, I beg to state that as per the RC case registered RC 25(A)/90-SHG, the case of Railway officials as well as employees of RRL, Jorhat was thoroughly investigated by the CBI and after collecting evidence against the allegations the Superintendent of Police, CBI by his official correspondence NO. NDST No. 3/25(A)/90-SHG 2584-85 dated 28.4.92 addressed to the Chief Vigilance Officer, Maligaon and Director, the RRL, Jorhat recommended for imposing minor penalties against 61 employees of the director, RRL, Jorhat. In the said letter the draft charges, statement of allegations and the list of witnesses and documents were also forwarded by the CBI to initiate a departmental proceeding. In the said recommendation letter dated 28.4.1992 it was clearly mentioned that minor penalties may be imposed against 61 employees of the Director, RRL, Jorhat.

Though the report was forwarded on 28.4.1992 and the humble petitioner has deposited voluntarily the amount, which he has drawn, as LTC in the year ¹⁹⁹⁰⁻⁹³ 1986-89 and the money was deposited on 16.11.92 much earlier than the recommendation of the CBI. As per my application dated 22.7.1991 I have requested the Director RRL, Jorhat to

deduct the LTC amount from my salary, which I have taken for the Block year ¹⁹⁹⁰⁻⁹³ 1986-89 as per my own request and voluntarily I have deposited the money. It is not correct that after the initiation of the disciplinary proceedings against me, I have deposited the amount,

A copy of the application dated 22.7.1991 and a copy of the letter of the SP, CBI is enclosed herewith and marked as ANNEXURE-A and ANNEXURE-A 1 respectively.

2. That, in reply to the statement made in paragraph 7, I beg to state that the true position of the case is that all the employees of the RRL, Jorhat drawing the Leave Travel Concession (LTC) when realised their own mistake for drawing the amount LTC without availing their journey for which money was paid to them refunded the LTC amount voluntarily by their own in 1991 and 1992. The SP, CBI also by their communication dated 28.4.92 recommended for minor penalties against the employees who wer involved in **false** claim of LTC, the Director of RRL, Jorhat claosed the file as all the money was refunded by the employees voluntarily and willingly. The recommendations was made by SP, CBI on 28.4.1992 and there was no proceeding and no

no action was initiated against the employees by the authority up to 26.9.1997. So naturally the employees anxieties were over when the money was refunded and no action was initiated against any employees up to 1997. So after a gap of about five years when the show cause was issued against the employees they have submitted their replies stating everything in their reply and prayed before the authority for consideration of their case leniently. But when the case was instituted against the employees as per recommendatins of the CBI, it is not just and fair to impose a major penalty by the authority without conducting any enquiry of their own when the recommendation was a minor penalties.

3. That, in reply to the statement made in paragraph 8,10,11 and 12 it is not correct that the disciplinary processing for initiation of inquiry against the employees was pending but after 28,4.92 the Director of RRL, Jorhat , was not acted on the reccomendations of the CBI till 1997. After a gap of five years the show case was issued for imposing a major penalty as per Rule 11 of the CCS Rules when the recommendation of penalty was a minor penalties. The CBI has rightly reccomended for minor penalties against all 61 employees of the

Director ,RRL, Jorhat after investigating the matter thoroughly and after collecting the witnesses and considering the gravity of the offences. A minor penalty is justified by the CBI while entire exercise of the investigation was conducted by the CBI. The appellate authority while considering the appeal did not apply their mind as per the report submitted by the CBI and so the punishment which was imposed against the applicant was not considered by the appellate authority though it is disproportionate punishment and not recommended by the CBI.

4.... That, in reply to the statement made in praragraph no.13 it is submitte d that the applicant has not other alternative after filing the appeal to the authority but to approach the honourable Tribunal praying for justice which was denied to them by the authority.

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

I, Shri Brojendra Nath Deuri Phukan, S/O
Late Moni Ram Deuri Phukan, Technician II(3),
Regional Research Laboratory, (RRL), Jorhat, Assam,
and I am the applicant in the present case, do
hereby solemnly declare that the particulars given
above are true and correct to the best of my
knowledge, belief and information & sign this
verification on this the 12th day of February
2002 at Guwahati.

Brojendra Nath Deuri Phukan.

DEPONENT.

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To

The Director,
Regional Research Laboratory,
Jorhat. 6.

Sir,

I have the honour to refer to the LTC taken by me during the block year 1990-93 may be recovered from my pay in instalment.

Yours faithfully

B. N. DEORI PHUKON
(B. N. DEORI PHUKON)
Perm. II (2)
22/7

attested
S. S. Saha
Advocate

CONFIDENTIAL/REGD WITH A/D:

No. 3/25(A)/90-SHG/2582-83
GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT. OF POLICE
CBI (ACB) OAKLAND, SHILLONG:-1

Dtd. Shillong the 28th April '92

To,

1. The Chief Vigilance Officer,
N.F. Railway, Maligaon
2. The Director, Regional Research Laboratory,
Jorhat.

SUB: SP'S REPORT IN RC. 25(A)/90-SHG.

Sir,

I send herewith 2 sets of SP's Report which gives the facts of the above case, the allegations and result of investigation.

2. The report will show that there is sufficient material for initiating action as below:-

- (1) RDA for Major Penalty against Sh J.K. Mukherjee, Dy. Station Supdt. N.F. Rly, Mariani, Rly. Stn.
- (ii) RDA for minor penalties against 61 employees of the O/o Director, Regional Research Laboratory, Jorhat listed from sl 2 to 60 in SP's Report.

3. Draft charges, Statement of allegations and the lists of witnesses and documents are sent herewith for initiating departmental proceedings. Only specimen of Draft Statement of imputation in respect of 61 employees of RRL, Jorhat is enclosed for doing needful action by the Deptt itself.

4. The services of the Investigation officer of the CBI would be available to the Enquiry officer for securing the attendance of witnesses, producing documents and exhibits explaining the gist of the evidence available and for giving such clarification as may be required.

5. The date and venue of the departmental enquiry may kindly be communicated to us at the appropriate time so that we may depute the IO to assist the Enquiry officer.

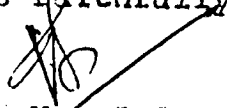
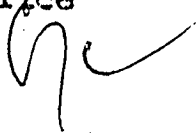
6. Sh G.K. Das, Inspector, CBI, ACB, Shillong will present the case before the enquiry Officer and he may be nominated for the purpose at the appropriate time.

Attested
J. Debra
Advocate

7. The SP's Report sent herewith may please be treated as a confidential documents and no reference to it may be made in the charge or the statement of allegation issued to the accused officer.

8. The result of departmental enquiry may kindly be communicated to us in due course.

Yours faithfully


(S . K . SAIKIA)
Superintendent of Police
CBI (ACB) Shillong 

E NDST. NO. 3/25(A)/90-SHG/2584-85 Dtd 28/4/97

Copy forwarded for favour of information and necessary action to:-

1. Dy. Inspector General of Police, CBI, Regional Office, Shillong.
2. G. K . DAS, Inspector CBI, Shillong.

Superintendent of Police
CBI (ACB) Shillong 