

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 340/2001

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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

original APPLICATION NO. 340 / 2001

Applicant (s) Sohaisam J. Singh

Respondant(s) U. S. I Town

Advocate for the Applicant: M. Chanda, Mrs. N. D. Goswami, B.N. Chakraborty

Advocate for the Respondant: C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
This application is in form, but not in time. Consideration Petition is filed and filed vide M.P. No. 10 ... C.P. for Rs. 50/- deposited vide IPO/SC No 795488/13	4.9.01	Heard counsel for the parties. The application is admitted. Call for the records. List on 4/10/01 for further order.
Dated..... 21.8.2001 <i>By. Registrar</i> <i>BB</i>		<i>ICU Shau</i> Member
Office sealed and sent D/S for 0093, the hendant No 1 to 4 by and A.D.	mb 4.10.01	List on 13/11/01 to enable the respondents to file written statement.
9/01 chd & No. 3447 W 3450 dded 15/10/01	mb 13.11.01	<i>ICU Shau</i> Member List the case again on 18.12.2001 enabling the respondent to file written statement.
Service report are still awaited.	bb	<i>ICU Shau</i> Member Vice-Chairman

18.12.01

Written statement has been filed.
The case may now be listed for hearing.
The applicant may file rejoinder, if any.

27.11.2001

List on 22.1.02 for hearing.

W/S submitted
by the Respondents

U.U. Shar
Member

Vice-Chairman

Bob

mb

22.1.02

On the prayer of Mrs. N. D. Goswami learned counsel for the applicant case is adjourned to 4.2.02 for hearing.

No rejoinder has been filed.

By
21.1.02.

U.U. Shar
Member

Vice-Chairman

PG

Ans. Heard in Part. List again
on 28.2.2002.

23.1.2002

Rejoinder submitted.

by the applicant in reply
to the W/S submitted by
the Respondents.

OMO

A.K.T.
4/2

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

The Case is ready
for hearing.

U.U. Shar
Member

Vice-Chairman

By
1.2.02

trd

15.3.2002

Copy of the Judgt.
has been sent to the
Office, for issuing
in the case to the applicant
as well as to the Dr.
C.R.C. for the Recep
by 15/3/02

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 340/2001 of

DATE OF DECISION 28.2.2002

Sri Soraism Jugeshwar Singh

APPLICANT(S)

Mr. M.Chanda.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

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

NO

22

5

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 340 of 2001

Date of decision : This the 28th day of February, 2002.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Sri Soraisam Jugeshwar Singh,
Son of Shri Soraisam Ibouchou Singh
A.S.P.O.S. Kohima (Under suspension)
Village and P.O. Mongsangai
Via : Manipur University,
S.O.Imphal.

Applicant

By Advocate Mr. M.Chanda.

-versus-

1. Union of India
Through Secretary to the Government
of India, Ministry of Communication,
Department of Posts,
New Delhi.
2. Chief Postmaster General
Norh Eastern Circle,
Shillong.
3. Director of Postal Services,
Nagaland Division,
Kohima.
4. Sri K.R.Das (Inquiry Officer)
Co The Director of Postal Services,
Kohima.

...Respondents

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

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

This application under Section 19 of the
Administrative Tribunals Act, 1985 is directed and has
arisen out of the order passed by the Director of Postal

Services, dismissing the applicant from service after conducting a disciplinary proceeding vide order dated 1.2.2000. The afore mentioned order was upheld on appeal vide order dated 22.9.2000. The brief facts relevant for the purpose of adjudication are mentioned below :

The applicant was appointed as Time Scale Clerk in the then Manipur and Nagaland Postal Division on 14.6.1967. In course of time he was promoted to the cadre of Assistant Superintendent of Post Offices, Kohima Sub Division. By order dated 4.8.1994 the applicant was placed under suspension in exercise of powers conferred by Sub Rule (1) of Rule 20 of the CCS(CCA) Rules, 1965. By an Office Memorandum dated 27.7.95/11.8.95 the applicant was served with the statement of Article of Charges alongwith imputations of misbehaviour and connected documents. The statement of Article of charges are reproduced below :

"Article-I

Sri S.J.Singh while working as ASPOs Kohima Sub-D. Kohima during the period from 30.9.91 to 31.7.94 failed to send/submit the fortnightly diaries and the monthly summary of inspections for the period from 1.1.94 to 31.7.94 in violation of the provisions contained in Rule 292 and 293 of P&T Manual Vol-VIII (3rd Edition, 2nd reprint) and also vioated Rule 3 (I) (i) (ii) & (iii) of CCS (Conduct) Rule 1964.

Article - II

Shri S.J.Singh while working as aSPOS Kohima Sub Dn. Kohima during the period from 30.9.91 to 31.7.94 has shown that he carried out the inspections of 78 post offices during the year 1993 in his fortnightly diaries submitted to the Director of Postal Services, Nagaland,Kohima. But he did not submit any inspection reports of the above 78 (seventy eight) inspections he had carried out in contravention of Rule 300 of P & T Manual Vol-VIII (3rd Edition, 2nd reprint) thereby violated the Rule 3 (i) of CCS (Conduct) Rules 1964.

Article - III

Shri S.J.Singh while working as Assistant Superintendent of Post Offices, Kohima Sub-Dn. Kohima w.e.f. 30.9.91 to 31.7.94 failed to inquire the case of excess cash retained by SPM Phek S.O.

during the period from 18.7.94 to 29.7.94 although the matter of excess cash retention by SPM Phek S.O. was reported by the Post Master, Mohima H.O. and the said Shri S.J.Singh was directed by the Div. office. But Shri S.J.Singh did not carry out inquiry into the case which led to a fraud at Phek S.O. and thereby attract the violation of Rule 150(2) (i) of P & T Manual-VIII. Thus showing lack of integrity, lack of devotion to duty and unbecoming of a Govt. servant thereby infringed Rule 3 (1) & 3(2) (i) of CCS (Conduct) Rules, 1964.

Article - IV

Shri S.Jugeshwar Singh while working as ASPOS Kohima Sub-Dn. Kohima during the period from 30.9.91 to 31.7.94 drew the payand allowances of EDDA & EDMC Longmatra B.O. under Kiphire S.O. by putting false signatures of Shri K.Sangtam EDDA and Smt. T. Alemba Sangtam EDMC Longmatra B.O at Kohima H.O. after identification of the bills by the said Shri S.J.Singh as on 29.7.1994 and took the money and thereby attract infringement of Rule 3(1) (i) of CCS (Conduct) Rules, 1964."

The applicant submitted his written statement denying and disputing the charges. In due course an Inquiry Officer was appointed and the applicant participated in the said inquiry. The Inquiry Officer submitted his report on 17.2.99 holding the applicant guilty of charges except the charge no. III. A copy of the inquiry report was served upon the applicant inviting him to make representation. The applicant submitted his representation on 11.3.1999. On examination of the said representation of the applicant the Disciplinary Authority directed the Inquiry Officer to conduct further oral enquiry in view the points raised by the applicant. By Memo dated 7.4.99 the Inquiry Officer informed the concerned parties fixing the date of hearing for examination and cross examination of witness on 28.4.1999. From the materials on record it appears that the applicant submitted representation on 15.4.1999 for review of appointment of Inquiry Officer. The authority considered his representation and it was indicated in the order dated 7.6.1999 that proceeding was finalised after imposition of

Contd..

punishment vide Memo dated 17.11.1997. On appeal the appellate authority ordered for de novo proceedings from the state of appointment of Inquiry Authority. Accordingly de novo proceeding was initiated and the Inquiry Officer submitted its report. A copy of the inquiry report was sent to the delinquent officer. The applicant in his representation dated 11.3.1999 alleged that serious irregularities were in the conduct of oral inquiry. Taking note of the representation of the charged official the authority directed the Inquiry Officer on 5.4.1999 to conduct further enquiries in continuation to the oral inquiry keeping the observation of charged officer in mind. In pursuance of the direction, the Inquiry Officer fixed the date of further hearing on 28.4.1999. As per the order of the Inquiry Officer the charged officer attended the hearing fixed on 28.4.1999. On the other hand he submitted his representation dated 15.4.1999 wherein it was mentioned that the letter dated 27.11.97 was not delivered to him and the Inquiry Officer concluded the inquiry when proceeding was half completed only and the I.O.'s findings were biased. The authority on consideration of his representation did not interfere and directed the Disciplinary Authority to ensure that further enquiry as ordered is completed expeditiously and proceedings were decided. Finally, by the impugned order dated 1.2.2000 the applicant was dismissed from service. An appeal was preferred by the applicant which was also dismissed by a reasoned order dated 22.9.2000. Hence this application assailing the legality and validity of the impugned orders.

2. Mr. M.Chanda, learned counsel appearing on behalf of the applicant and Mr. A.Deb Roy, learned Sr. C.G.S. for the respondents. Mr. M.Chanda, learned counsel for the

Contd...

applicant contended that the order of dismissal from service is not sustainable on the ground of procedural infirmities as well as perversity writ large. On the other hand Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents opposing the application submitted that order of dismissal of service was issued after providing all opportunities to the applicant for his defence.

3. We have given our anxious consideration on this matter. From the materials on record it transpires that the charged officer was served with the statement of Article of charges. The Article of charges was specifically giving the details of the charges. The said charges were enquired into and the applicant was provided all the opportunities to defend his case. As no infirmity rendered in the proceeding, the finding arrived at by the Disciplinary Authority cannot be said to be perversed. On appeal, the Appellate Authority considered his appeal and considered all the pleas taken by the applicant and thereafter rejected the appeal. The appellate order cannot be said to be unsustainable.

4. For the reasons narrated above, we do not find any merit in this application. Accordingly the O.A. is dismissed. There shall, however no order as to costs.

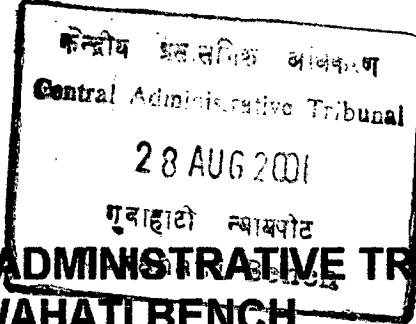
K. K. Sharma
(K.K.SHARMA)

Member(A)

D. N. Chowdhury
(D.N.CHOWDHURY)

Vice-Chairman

trd



**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. 340/2001

Sri Soraisam Jugeshwar Singh : Applicant

-Versus-

Union of India & Ors. : Respondents

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Filed by the applicant
through Advocate Sri G. N.
Chakravarthy on 27-8-2007.

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Filed by

Date

Advocate

S. J. Singh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 340/2001

BETWEEN

Shri Soraisam Jugeshwar Singh
Son of Shri Soraisam Ibouchou Singh
A... S.P.O.S. Kohima (Under suspension)
Village and P.O. Mongsangai
Via : Manipur University
S.O. Imphal

Applicant

-AND-

1. Union of India
Through Secretary to the Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.
2. Chief Postmaster General
North Eastern Circle,
Shillong.
3. Director of Postal Services,
Nagaland Division,
Kohima
4. Shri K.R. Das (Inquiry Officer)
C/o The Director of Postal Services,
Kohima

Respondents

1.

Particulars of order against which this application is made.

This application is made against the impugned order of penalty issued under letter No. B1/Disc/S.J.Singh/11 dated 1.2.2000 and also against the impugned Appellate Order issued under

S. J. Singh

Memorandum bearing No. Staff/1097/2000 dated 22.9.2000, whereby impugned order penalty of dismissal from service is confirmed in total violation of the relevant rules, laws and provisions made under CCS (CCA) Rules 1965 and also praying for a direction upon the respondents for immediate reinstatement in service with all consequential service benefit including monetary benefit.

4. **Facts of the Case**

4.1 That the applicant is a citizen of India holding a permanent civil post in the Department of post, as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India. The applicant while working as Assistant Superintendent of Post Offices, Kohima SubDivision, Kohima under the Director of Postal Services, Nagaland Division, Kohima was placed under suspension under DPS, Kohima Memo No. B444 dated 4.8.94 in exercise of the powers conferred by sub Rules (1) of Rule 10 of the CCS(CCA), Rules, 1965 by the Director of Postal Services (hereinafter referred to as DPS), Kohima.

A copy of the suspension order No. B444 dated 4.8.94 is annexed as Annexure-1.

4.2 That your applicant was initially appointed as Time Scale Clerk in the then Manipur and Nagaland Postal Division on 14.6.67, thereafter promoted as Upper Division Clerk in the Circle Office, Shillong in the year 1973. Again he was promoted to the cadre of Inspector of P.O.S. in 1975 followed by further promotion to the cadre of A.S.P.O.S in the year 1991 and posted at Kohima with effect from 30.9.91.

4.3 That it is stated that after a lapse of about one year from the date of suspension the applicant was served with a copy of Memorandum of charge sheet issued under Rule 14 of the CCS(CCA) Conduct Rules 1965 vide Memo No. B-1/Disciplinary/S.J.Singh dated 27.7.95 whereby charges regarding failure to submit the fort nightly dairies and monthly summary of inspections during

S. J. Singh

the period from 30.9.1991 to 31.7.94 and from 1.1.94 to 31.7.94 and also charges of non-submission of inspection report alleged to have been inspected by the applicant during the period from 30.9.91 to 31.9.94 and for failure to esquire the case of excess cash retained by SPM Phek during the period from 18.7.94 to 29.7.94. Although the allegation retention of excess cash by SPM Phek brought to the notice of the applicant by Post Master, Kohima and the charges for drawal of pay and allowances of EDDA and EDMC Longmatra Branch Office under Kiphire, by putting false signature of Shi K. Sangtam EDDA and Smt. T. Alenba Sangtam EDMC, Longmatra Branch office, Kohima by the applicant.

A copy of Memo dated 27.7.95/11.8.95 (without Annexure) is enclosed as Annexure-2.

4.4 That the DPS, Kohima appointed a number of Inquiry Officers to enquire into the disciplinary case against the applicant one after another followed by cancellation orders. Subsequently Shri A.R. Bhowmik, the then Supdt. Of P.O.S., Dharmanagar Division, was appointed as the I.O. vide DPS, Kohima Memo No. B1/Disc. /S.J.Singh dated 19.8.96 i.e. after a lapse of more than one year from the date of issue of charge sheet dated 27.7.95/11.8.95 and more than two years from the date of suspension dated 4.8.94. It may not be out of place to mention that the DPS, Kohima did not take any action for payment of initial subsistence allowance to the applicant for those long period of two years and as such question of subsequent review thereafter did not arise at all.

A copy of Memo dated 19.8.96 is annexed as Annexure-3.

4.5 That Sri A.R. Bhowmik, the Inquiry Officer fixed the date of preliminary hearing on 16.10.96 with its venue at Dharmanagar vide his office memorandum no. Rule 14/96 dated 10.9.96.

A copy of Memo dated 10.9.96 is annexed as Annexure-4.

S. J. Singh

4.6 That the applicant submitted a representation dated 27.9.96 to the said Inquiry Officer apprising him of the fact of non withdrawal of subsistence allowances from the date of suspension dated 4.8.94, and requested him to take timely action with the authority concerned for releasing of subsistence allowances including retrospective revision thereof to avoid the financial stringency faced by the applicant copies of the above mentioned representation were endorsed to the postmaster, Kohima H.O. and the DPS, Kohima, for favour of taking necessary actions on the matter. But no positive action was taken on the representation by anybody.

4.7 That the preliminary hearing was held on 16.10.96 at Dharma nagar ex-prate before it was confirmed as to reviewed Subsistence allowances were paid to the applicant or not in contravention of the departmental procedures and the provisions of the constitution of India. In his Daily Order Sheet dated 16.10.96 the I.O. simply mentioned that the function of the I.O. And the payment of subsistence allowances were independent to each other but he made the P.O. aware of the situation for necessary action

A copy of the Daily Order Sheet dated 16.10.96 is annexed as
Annexure-5.

4.8 That regular hearing into the Inquiry held on 11.12.96 at Dharmanagar Ex-prate as the applicant could not attend the said Inquiry due to financial stringency because of non-payment of subsistence allowances from the date of suspension dated 4.8.1994.

It is further submitted that your applicant at this crucial stage finding no other alternative especially due to non-receipt of subsistence allowance and also due to ex-parte proceeding approached this Hon'ble Tribunal through Original

S. J. Singh.

Application No.282/1996 praying inter alia for directions for immediate release of subsistence allowance along with arrears with effect from 4.8.94 and for quashing of the ex-parte proceeding held on 16.10.96 on which the applicant could not attend due to financial stringency due to non-receipt of subsistence allowance. The said Original Application 282/96. However, the said original application was disposed of with a direction to the respondents to consider payment of subsistence allowance to the applicant according to rules and merit of his case and also directed to dispose of representation of the applicant within one month from the date of the order of the Hon'ble Tribunal.

A copy of the order of the Hon'ble Tribunal dated 9.12.96 is annexed as **Annexure-6.**

4.9. That according to the directions of the Hon'ble Tribunal order as mentioned ~~in para 4.10~~ above a fresh application was submitted by the applicant on 30.12.96 to the DPS, Kohima to release the entitled subsistence allowances.

A copy of application dated 30.12.96 is annexed as **Annexure-7.**

4.10 That it was quite surprising to write that the DPS, Kohima intimated the applicant, after a long and intolerable gap of 30 months from the date of suspension dated 4.8.94 and also after applying all the available means, under his office letter No. B-1/Disc/S.J.Singh dated 22.1.97 and dated 5.3.97 that orders for subsistence allowances was already issued under his office memorandum No. B-444 dated 29.8.94.

One copy each of letters dated 22.1.1997 and dated 5.3.97 are annexed as **Annexures-8 and 9** respectively.

S. J. Singh.

4.11 That the applicant submitted a representation dated 7.2.97 to the DPS, Kohima stating the fact that a copy of office Memo. B-444 dated 29.8.94 being the order for grant of subsistence allowances to the applicant was never received by the applicant. Further he was requested to furnish the applicant with a copy of the order dated 29.8.94 and also prayed him to issue an order thereby increasing the subsistence allowances with retrospective effects according to the departmental rules. But so far no positive action on the said representation has been taken by the DPS, Kohima.

A copy of the representation dated 7.2.97 is annexed as **Annexure-10.**

4.12 That while the applicant was trying to get the initial grant of subsistence allowances and to get the case reviewed with retrospective effects it was just amazing to learn that the DPS, Kohima issued a review order of so called order for initial grant of subsistence allowances vide his office memo No. B-444/Pt-II dated 29.8.94 (in previous references the order for initial grant for subsistence allowances were stated to have been issued under order No. B-444 dated 29.8.94). According to the said review order No. B-1/Disciplinary/S.J.Single dated 3.3.97 the subsistence allowance was reduced to 50% of the initial grant i.e. fixed at 25% of the last pay drawn by the applicant just before he was placed under suspension on the plea that the applicant did not attend the proceedings of the Inquiry thereby delaying the finalization of the Inquiry. It appears that the DPS, Kohima either forgot or neglected to refer to the cause under which the applicant could not attend the said Inquiry. The action of the DPS Kohima was arbitrary, unfair, illegal, whimsical and colorable use of official powers to damage an innocent fellow government servant. Be it stated that it was just impossible on the part of the applicant and members of his

S. J. Singh.

family to stay alive with 25% of the applicant's pay and the sole intentions of the respondent No.3 were to ruin the applicant along with his members of the family before finalization of the disciplinary proceedings.

A copy of Memo No. B-1/Disciplinary/S.J. Single dated 3.3.97 is annexed as **Annexure-11.**

4.13 That the proceedings of the ex-parte inquiry was completed during the Month of August, 1997 and the DPS, Kohima (Disciplinary Authority) passed a punishment order under his office memo No. B-Disc/S.J. Singh dated 27.11.97 wherein it was ordered that the applicant is dismissed from service with immediate effect. The action of the DPS, Kohima was quite arbitrary, whimsical, illegal and in violation of the protections given in the constitution of India. While passing the order of dismissal the ignored the rules and procedures for taking ex-parte decision and the principles of Natural Justice but used the official powers with a bad motive.

A copy of order dated 27.11.97 is annexed as **Annexure-12.**

4.14 That the applicant submitted an appeal dated 30.1.98 to the P.M.G. Shillong through proper channel against the order of dismissal on 27.11.97. The PMG Shillong was pleased to dispose of the appeal under his office memo No. Staff/10940/98 dated 1.4.98 wherein the order of dismissal imposed vide DPS, Kohima memo dated 27.11.97 was set aside and that the case was remitted back to the DPS, Kohima for de-novo proceedings from the stage of appointment of Inquiry Officer.

A copy of PMG Shillong memo dated 01.4.98 is annexed as **Annexure.13.**

4.15 That the DPS, Kohima under his office Memo No. B-I/Disciplinary/S.J. Singh/ II dated 8.5.98 the applicant was

S. J. Single.

ordered to be deemed under suspension from the date of dismissal from service i.e. 27.11.97.

A copy of Memo dated 8.5.98 is annexed as Annexure-14.

4.16 That the DPS Kohima appointed Shi K.R. Das, SPDS, HQ, Kohima as Inquiry Officer of the said de-novo proceedings vide his order No.B-I/Disciplinary/S.J.Singh./II dated 28.4.98. Here it may not be out of place to mentioned that the DPS Kohima appointed the I.O. on 28.4.98 i.e. 11 days ahead of the applicant was deemed to be under suspension thereby showing the bad motive that order dated 8.5.98 as mentioned in para (4.15) was issued quite relevantly and that the order dated 28.4.98 is liable to be treated as null and void.

A order dated 28.4.98 is annexed as Annexure-15.

4.17 That the I.O. fixed the date of Preliminary Inquiry on 20.8.98 with its venue at Kohima and accordingly the applicant attended the same. The regular hearing was held on 8/99-98 at Kohima and in spite of objections raised by the applicant the I.O. continues the proceedings of the Inquiry in violation of Rules. As per his procedure the I.O. asked the P.O. to examine the applicant and in turn the P.O. examined the applicant pulling a score of questions. This type of the Inquiry is not prescribed anywhere in the relevant departmental rules and thus arbitrary, whimsical, illegal and liable to be treated as null and void.

A copy of Daily Order Sheet dated 9.9.98 is annexed as Annexure-16.

4.18 That date of meeting for regular hearing was fixed by the I.O. on 15.10.98. Unfortunately the applicant fell sick at his home town at Imphal and the I.O. was informed of the fact telegraphically under Imphal Telegram No. 104955 dated 14.10.98

S. J. Singh.

and I.O. was requested to fix another date. A medical certificate was also forwarded later on. However, the hearing was conducted ex-parte on 15.10.98 and all the three S.Ws were examined by the P.O. and the three S.Ws. could not be cross examined, in the absence of the applicant. But surprisingly enough the I.O. concluded the Inquiry on the same day in such a stage that the case on behalf of the charged official was yet to be started. Here the action of the I. O. was arbitrary, whimsical, illegal and adopted his own procedures in the departmental rules. Simply the I.O. wanted to submit his inquiry report with false findings ignoring the principles of the Inquiry from the beginning up to this stage is liable to be treated as null and void.

A copy of Daily Order Sheet dated 15.10.98 is annexed as **Annexure-17.**

4.19 That the I.O. forwarded a written brief of the P.O. to the applicant under his office letter No. E/I/Rule 14 Inquiry/S.J.Singh dated 21.10.98 and asked the applicant to submit his written brief within 10 days. Accordingly the applicant submitted his written brief on 8.11.98.

A copy of I.O.'s letter dated 21.10.98 is enclosed as **Annexure-18.**

4.20 That the DPS, Kohima forwarded to the applicant under his office letter No. B-1/Disciplinary/S.J.Singh/II dated 17.2.99 a copy of the I.O.'s report bearing number nil and dated nil and the applicant was directed to submit any representation/submission within 15 days. The applicant submitted his representations to the DPS, Kohima on 11.3.99..

A copy of the letter dated 17.2.99 and representation dated 11.3.1999 are annexed hereto as **Annexure-19 and 20** respectively.

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4.21 That suddenly the I.O. summoned the three S.Ws. under his letter No. E-1/Rule-14/S.J.Singh dated 7.4.99 to attend the Inquiry at Kohima on 28.4.99 and the applicant was also directed to attend the Inquiry on the same date i.e. 28.4.99. It may be presumed that the DPS, Kohima directed the I.O. to conduct supplementary Inquiry into the case but the applicant did not get any direction from anybody on the subject and the I.O. also did not mention anything of the kind in his letter dated 7.4.99. The actions of both the Disciplinary Authority and the I.O. are unfair and was a hidden conspiracy in nature just to harass the applicant in any form/manner as they liked. The action on the Inquiry report should have been taken prior to this stage according to the rules. As such the socalled Inquiry is liable to be treated as null and void and more particularly in view of the fact that inquiry report was submitted by Inquiry Officer prior to 17.2.1999 to the Disciplinary Authority.

A copy of the letter dated 7.4.99 is annexed as Annexure-21.

4.22 That the applicant submitted an appeal to the PMG, Shillong on 15.4.99 for changing the Inquiry Officer on the grounds as mentioned in the foregoing sub-paras as he became afraid of the facts that I.O. was bias, prejudice and partial. But unfortunately the PMG, Shillong intimated under his office Memo No. VIG/14/15/85 dated 7.6.99 and the present I.O. was directed to complete the inquiry. It is not known as to whether there was any inquiry on 28.4.99.

A copy of each of the appeal dated 15.4.99 and Memo dated 7.6.99 is annexed as Annexures-22 and 23 respectively.

4.23 That the subsistence allowance of the applicant which was fixed at 25% of the basic pay as mentioned in sub-para (4.12) above contained endlessly and finding no way out the applicant submitted an appeal to the PMG, Shillong on 16.4.99 for retrospective review of the same. The said appeal was forwarded

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by the DPS, Kohima to the CPMG (Staff), Shillong under his office letter no. nil dated 27.5.99. 22

A copy of each of the appeal dated 16.4.99 and letter dated 27.5.99 is annexed as **Annexures-24 and 25** respectively.

4.24 That in the meantime the DPS, Kohima reviewed the subsistence allowances of the applicant and was enhanced by 50% of the amount initially granted i.e. fixed at 50% of the basic pay under his Office Memo No. B-1/Disciplinary / S.J.Singh/II dated 25.5.99. Here again the action of the DPS, Kohima is not proper on the grounds that :

- a) The subsistence allowance should have been reviewed prior to 4.11.94 thereby enhancing the same to 75% of basic pay as there was no delaying tactics adopted by the applicant;
- b) That reducing the subsistence allowances by 50% of the initial grant as a result of review dated 3.3.97 was illegal and against the rules as already mentioned in sub-para (6.14) above. According to the rules and circumstances the allowance should have remained at 75% of basic pay i.e. unchanged as was supposed to have been fixed as in (a) above.
- c) That similarly the rate of 75% of basic pay should have remained unchanged on the review dated 25.5.99 as there was not even one occasion when the applicant adopted delaying tactics.

A copy of Memo dated 25.5.99 is annexed as **Annexure-26**.

4.25 That the PMG, Shillong was reminded by the applicant under his letter dated 17.8.99 for favour of issuing an order on the appeal dated 16.4.99 for review of subsistence allowances. But the DPS, Kohima forwarded the applicant under his letter No. B 1/Disciplinary/S.J. Singh/II dated 10.9.99 the remarks of the

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PMG, Shillong on the applicant's reminder dated 17.8.99 stating as the DP, Kohima had already reviewed the subsistence allowance on 25.5.99 and 3.6.99 no further review was found justified (on 3.6.99 there was no review except a corrigendum to the review dated 25.5.99). It is not understood as to why a copy of the full context of the PMG's order was not furnished to the applicant.

A copy of each of the reminder dated 17.8.99, DPS letter dated 10.9.99 and corrigendum dated 3.6.99 is annexed as **Annexures-27, 28 and 29 respectively.**

4.26 That the applicant begs to state that the refusals of the respondents specially respondents no. 2 and 3 to review the subsistence allowances retrospectively with effect from 4.11.99 i.e. end of the first 3 months of the suspension which is obligatory on the part of the respondent No.3 involves untold financial hardships on the part of the applicant who has been placed under suspension for a long period of 63 months. The rules and procedures prescribed by the Government of India on this behalf are quite clear and willful deviations on the part of the concerned authorities are nothing but misuse of official powers to the disadvantage of a fellow government servant. As already put forward in different sub-paras of para 6 of this application it is quite clear as to how the finalization of the disciplinary proceedings was prolonged due to mishandling of the case by the respondent nos. 3 and 4. Finding no other alternative the applicant again approached this Hon'ble Tribunal for redressal of his grievances by way of filing another Original Application being numbered as O.A. 400/99. The said O.A. was also disposed of on 6.1.2000 with the following order :

"This application has been filed by the applicant seeking certain reliefs. The applicant was at the material time working as Assistant

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Superintendent of post offices, Kohima SubDivision. On 4.8.1994 he was placed under suspension. According to him he has not been paid Subsistence Allowance in accordance with law. Besides, the prolonged suspension is also not in accordance with law.

We have heard Mr. S.N.Singh, learned counsel appearing on behalf of the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. for the respondents. Mr. Basumatary very fairly submits that as per Government instructions suspension cannot continue after the period prescribed and that too review has to be done within this period. Nothing has been done. The applicant is under suspension with effect from 1994. Prima facie we feel that the order of suspension is not in accordance with law. However, we are not deciding the matter. We direct the respondents to consider the prolonged order of suspension and decide the matter in accordance with the Government instructions and the decided cases. During this period of suspension if the suspension order is not in accordance with law, the respondents shall immediately revoke the suspension order and he shall also be paid the subsistence allowance strictly in accordance with law. Arrear accrued thereon, if any shall also be paid immediately to the applicant.

The application is disposed of. No order as to costs."

It is quite clear from the aforesaid order of the Hon'ble Tribunal that a direction is passed by this Hon'ble Tribunal to decide the matter in accordance with the Govt. instructions and also ordered that if the suspension order is not in accordance with law, the respondents shall immediately revoke the order of

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the suspension and the applicant shall be paid the subsistence allowance strictly in accordance with law. The applicant immediately after receipt of the order dated 6.1.2000 passed in O.A. No. 400/99 submitted a certificate copy of the same to the Director of Postal Services, Nagaland, Kohima through his representation dated 3.2.2000 praying inter alia for payment of subsistence allowance at the rate of 75% of the basic pay with effect from 4.11.1994. But finding no response the applicant submitted another representation addressed to the Chief Postmaster General, N.E. Circle on 28.3.2000 for payment of subsistence allowance at the rate of 75% of basic pay. Finding no response again approached the Director of Postal Services through his representation dated 23.8.2000 for payment of subsistence allowance. However in the meantime the Director of Postal Services without considering the case of the applicant for payment of subsistence allowance as per direction of the Hon'ble Tribunal passed in O.A. No. 400/99 on 6.1.2000, passed the impugned order of dismissal from service with immediate effect in pursuance of the proceeding instituted under Memorandum of Charge sheet dated 11.8.95, under Rule 14 of CCS (CCA) Rules, 1965 vide Director of Postal Services order issued under letter No.B-1/Disc/S.J.Singh/II dated 1.2.2000 which was subsequently confirmed by the Appellate Authority vide Memo No. Staff/109-7/2000 dated 22.9.2000, as such the entire action of the Director of Postal Services as well as the Chief Postmaster General, N.E. Circle, Shillong seems to be highly arbitrary, illegal and unfair. More so, in view of the fact the order passed by the Hon'ble Tribunal was never considered and complied with by the respondents as such finding no other alternative applicant again approached the Hon'ble Tribunal for a direction to the respondents for payment of subsistence allowance in the light of order passed by the Hon'ble Tribunal in O.A. No. 34/2001 with 18% interest.

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Copy of the Hon'ble Tribunal's order dated 6.1.2000, representation dated 3.2.2000, 23.3.2000 and 28.3.2000 are annexed as Annexure- 30, 31,32 and 33 respectively. 24

4.27 That it is stated that although the inquiry officer in total violation of relevant procedure of rules of CCS(CCA) Rules 1965 seems to have completed the proceeding which is instituted under memorandum dated 27.7.95 and accordingly submitted its inquiry report to the disciplinary authority and the same was forwarded again by the disciplinary authority to the applicant by the letter dated 17.2.99, enclosing a copy of the enquiry report dated nil. In the said enquiry report, it is relevant to mention here that the enquiry report submitted by the enquiry officer to the disciplinary authority before completion of the enquiry proceeding in a very hasty manner without discussing the evidences as required under the rule and surprisingly the said inquiry report was given to the applicant by the disciplinary authority i.e. Director of Postal Services, Nagaland, Kohima vide his letter bearing No. B-1/Disc/S J Singh/II dated 17.2.99 whereby liberty was granted to the applicant to make any representation against the inquiry report in writing to the Disciplinary Authority within fifteen days from the date of receipt of the inquiry report. The applicant also in terms of the directions contained in the letter dated 17.2.99 submitted a representation against the said inquiry report on 11.3.99 stating inter alia that the inquiry concluded by the Inquiry Officer before the applicant is examined. But unfortunately the applicant in the meantime fell sick and he was continued under medical treatment. But most surprisingly after submission of the inquiry report by the inquiry officer Sri K.R. Das, Superintendent of Post offices (AQ) Kohima, Nagaland issued letter bearing No. B-1/Rule-14/S.J. Singh dated 7.4.99 whereby again fixed a further date of hearing for examination and cross examination of witness as on 28.4.99 at 11.00 hrs in the office

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of the DPS, Kohima. It is also stated in the said letter dated 7.4.99 that since the evidence of the applicant was material therefore he was requested to attend the inquiry on the date time and place mentioned therein without fail. The applicant was highly shocked on receipt of the aforesaid impugned letter dated 7.4.99 issued by the inquiry officer and he could guess that the inquiry officer is working in a preconceived notion against the interest of the applicant in the said departmental proceeding as because the further inquiry proposed to be held on 28.4.99 as suggested by the inquiry officer in his letter dated 7.4.99 has been fixed all on a sudden without any notice and also without disclosing the reasons for holding such further inquiry as proposed on 28.4.99 when the inquiry report has already been submitted by the inquiry officer to the disciplinary authority, specifically holding that the charges proved against the applicant on the basis of the statement of the witnesses and documentary evidence made available before the inquiry proceeding, which would be evident from the letter dated 17.2.99 issued by the Director of Postal Services, Kohima whereby inquiry report is supplied to the applicant. Therefore proposal for holding further inquiry on 28.4.99 appears to be an error apparent on the face of the record and such arbitrary action on the part of the inquiry authority has vitiated the entire proceeding as the inquiry was conducted in total violation of Rule 14 and 15 of the CCS(CCA) Rules, 1965.

4.28 The applicant being highly aggrieved by the manner and method adopted by the inquiry officer in the aforesaid departmental proceeding reasonably apprehended a bias decision from the end of the inquiry officer in the said proceeding and accordingly in such a compelling circumstances the applicant finding no other alternative preferred an appeal before the Post Master General, N.E. Circle, Shillong for review of appointment of inquiry officer under Rule 14 of the CCS(CCA) Rules 965 on 15.4.1999. In

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the said appeal the applicant stated that the inquiry was to be held on 20.8.98 for charges framed, stated to be under DPS, Kohima letter No. B-2/DISC/SJ Singh dated 27.11.97, a copy of which was never delivered to the applicant in spite of oral and written protest on the confusing subject of the different memos as stated herein above. It is further stated that the inquiry officer did not pay any heed and continued the inquiry after supplying a copy of the charge sheet framing the charges under DPS Kohima Memo No. B-1/DISCIPLINARY/S J Singh dated 27.7.95/11.8.95. It is also stated by the applicant that the said inquiry officer concluded the inquiry on 15.10.1998 in a haphazard manner without observing the required formalities as was required under the Rules. The Presenting Officer also submitted his written brief on 15.10.98/16.10.98 and your applicant submitted his written brief on 8.11.98 and the inquiry officer submitted his report to the disciplinary authority on 17.2.99 but surprisingly inquiry officer fixed another date for hearing on 28.4.99 by its letter dated 7.4.99 after submission of inquiry report and it is also stated by the applicant that the disciplinary authority has directed the inquiry officer for holding a supplementary inquiry.

4.29 That your applicant begs to state that the order of suspension was passed in respect of the applicant by the Director of Postal Services, Nagaland Division, Kohima under Memo dated 4.8.1994 in exercise of the powers conferred by sub rule (1) of Rule 10 of the CCS(CCA) Rules, 1965. As per Rule 13 regarding Assistant it is a statutory obligation on the part of the respondents to review periodically the case of a Government servant under suspension in which charges has been served/filed to see what steps could be taken to expedite the progress of departmental proceedings and revoke the order permitting the government servant to resume duty at the same station or at a

different station. However, in this view the continuance of suspension is not justified having regard to the circumstances of the case at any particular stage. The first review has been prescribed to be undertaken at the end of three months from the date of suspension. It is also observed in Sub-rule (2) that the concerned authority should scrupulously observe the time limits laid down and review the case of suspension, in the interest of public service as well as to see whether suspension in his case is really necessary. It is further observed to consider whether suspension order should be revoked and the officer concerned should be permitted to resume duty if the investigation is likely to take moretime. But surprisingly in the instant case of the applicant no such review was made in respect of suspension of the applicant within the time prescribed by the Government and no fresh order was passed by the authority concerned as required under the rule regarding continuance of his suspension. In the circumstances it is presumed that there was no order of suspension issued by the authority after completion of 90 days from the date of initial order of suspension. The relevant portion of sub rule (1) of Rule 13 is quoted below :

"13. Review of suspension.

1. It is in the inherent powers of the disciplinary authority and also mandatory to review periodically the case of a Government servant under suspension in which charge sheet has been served/filed to see what steps could be taken to expedite the progress of the court trial/departmental proceedings and revoke the order permitting the Government servant to resume duty at the same station or at a different station, when in his view the continuance of suspension is not justified having regard to the circumstances of the case at any particular

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stage. The first review has been prescribed to be undertaken at the end of three months from the date of suspension." In view of the above, above specific provision of the rule the respondents ought to have been reviewed the case of the applicant after completion of 90 days from the date of initial order of suspension, but the Director of Postal Services in total violation of the above rule forced the applicant to continue under suspension without passing any fresh order as required under the rule for continuing him under suspension and that too without paying the subsistence allowance for two years from the date of initial suspension. However the payment of subsistence allowances has been paid to the applicant only after the applicant approached before this Hon'ble Tribunal through OA No. 282/96. Subsequently order has been passed reducing the rate of subsistence allowance to the extent of 50% from the existing rate of subsistence allowance on plea that the applicant did not make him available before the necessary officer on the date fixed. This decision of the respondents is highly arbitrary in view of the fact that by no stretch of imagination that the Government employee could able to present himself without subsistence allowance year after year. In this connection it is also relevant to mention here that the applicant is a resident of Imphal and when the preliminary enquiry proceeding was scheduled at Dhamanagar in the state of Tripura therefore it was impossible on the part of the applicant to make him available before the proceeding that too without subsistence allowance. However in the instant case although the reason for non appearance before the enquiry was satisfactorily explained before the enquiry office which was prevented to make him available before the enquiry office. Therefore further reduction of subsistence allowance to the extent of 50% is highly arbitrary, unfair and the same is against the canons of principles of natural justice. On that score alone the Hon'ble

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Tribunal be pleased to direct the Respondents to pay full pay and allowance or subsistence allowance alternatively at the rate of 75% from the completion of 90 days from the date of initial order of suspension till the actual date of order of dismissal from service i.e. 1.2.2000.

4.31 That it is stated that in view of the categorical direction from the Hon'ble Tribunal passed on 6.1.2000 in O.A. No. 400/99 the respondents were duty bound to review entire matter of Suspension, but unfortunately the case of the applicant was not considered for payment of subsistence allowance in the manner directed by the Hon'ble Tribunal its order dated 6.1.2000. It is categorically directed by the Hon'ble Tribunal that if the suspension is not in order in accordance with the Government instructions shall immediately revoke the suspension order and he would also be paid subsistence allowance strictly in accordance with law. But no action was taken by the respondents on the order dated 6.1.2000 passed by the Hon'ble Tribunal in spite repeated representations made by the applicant before the respondents. But surprisingly after receipt of the order dated 6.1.2000 passed in O.A. No. 400/99 the respondents on the other hand concluded the departmental proceeding in a very hasty manner in spite of repeated objections submitted by the applicant and the same is done with a ulterior motive to avoid the implementation of the order dated 6.1.2000 passed in O.A. No. 400/99 and ultimately the Director of Postal Services imposed the penalty of removal from service vide his order dated 1.2.2000 simply with the sole object not to implement the order of the Hon'ble Tribunal dated 6.1.2000. It is stated in the preceding paragraph how the applicant raised the objection regarding the decision of the enquiry officer to proceed the ex parte hearing and also in a very arbitrary manner in spite of repeated objections raised by the applicant. A mere perusal of the rules/instructions relating to the suspension issued by the

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Government of India from time to time it would be evident that no review of suspension order is made on completion of 90 days and further the respondents have reduced the subsistence allowance to the extent of Rs. 50% from the existing rate as stated above and subsequently the payment of subsistence allowance only restored only to the extent of 50% whereas as per rule the applicant is entitled to 75% of subsistence allowance immediately after completion of 90 days from the initial date of order of suspension. But no rule guidelines or instructions were followed by the respondents as such in the facts and circumstances Hon'ble Tribunal be pleased to direct the respondents to pay 75% on completion of 90 days from the date of initial order of suspension with 18% interest as because no separate order of suspension was passed in respect of the applicant on completion of 90 days of suspension. As such it can rightly be presumed that there is no order of suspension passed after completion of 90 days and the applicant has been forced to remain under suspension without any valid order, moreover no action was initiated in the light of order passed by the Hon'ble tribunal on 6.1.2000 in O.A. No. 400/99 which was passed and the same was also brought to the notice of the respondents and there was a specific direction to consider the matter of payment of subsistence allowance immediately but although the order was made available before the respondents by the applicant but no action has been taken in the light of the order passed on 6.1.2000 in O.A. 400/99 in the following circumstances finding no other alternative the applicant is again approached the Hon'ble Tribunal for direction upon the respondents to pay the full pay and allowance to the applicant during the period of suspension on completion of 90 days in the light of the Governments instructions/guidelines issued from time to time or at least 75% of subsistence allowance to the applicant with 18% interest.

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4.32 That it is stated that the applicant being disappointed with the manner and methods of enquiry adopted by the enquiry officer in a most arbitrary manner had approached the competent authorities for review on appointment of enquiry officer but surprisingly the disciplinary authority acted upon the enquiry report submitted by Sri K.R. Das, enquiry officer and considering the said enquiry report dated nil, the disciplinary authority in a most arbitrary manner and without application of mind came to the conclusion mechanically that the charges brought against the applicant under Article of Charges I,II and IV are established and it was also held that out of the four charges brought against the applicant three have been clearly established and the charges are very serious and also alleged that the said charges displayed not only gross negligence of duties but also lack of integrity of an important officer in the department which provides crucial postal service to the public should have been more responsible in discharging his duties and function but he completely neglected his duty by not submitting his fortnight diary, monthly summaries of inspection for the period from 1.1.1994 to 31.7.94 even though applicant might be on leave most of the time during the aforesaid period and not performing any outdoor duties. He could have submitted the diaries for the period when he was on duty if he was slightly more responsible. It is also alleged that the annual inspections are important for monitoring as well as detecting irregularities conducted by any P.O. During the year the applicant was entrusted with the task of inspecting the number of post offices during the particular year. However, it appears that the applicant did not care to carry out the inspection of 78 Post offices entrusted to him during the year 1993 and did not submit the inspection reports. This is gross dereliction of duty not expected from a responsible official like an ASPO and it is further alleged that the taking pay and allowances of EDDA and EDMC of Longmatra B.O.

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at Kohima H.O. on 29.7.94 by Shri S.J.Singh shows complete lack of integrity on the part of the C.O and instead of admitting his fault tried to cover it up by trying to mislead the enquiry officer and the prosecution witnesses. Such misconduct and lack of integrity are not expected from an important functionary like an ASPO in the department and it is held by the Director of Postal Services, Nagaland, Kohima being the disciplinary authority that the applicant is not fit too be retained in service and recommended for dismissal from service forthwith and accordingly it is ordered that the applicant be dismissed from service with immediate effect. In this connection it is stated that a mere reading of the impugned order of penalty issued under letter No. B-1/Disc/S.J.Singh/II dated 1.2.2000 that no discussion was made in the impugned order of penalty about the points raised by the applicant in his written brief submitted on 12.10.1999 to defend his case which is mandatory requirement as per the relevant rules. Moreover a mere reading of the impugned order of penalty dated 1.2.2000 it would be evident that the disciplinary authority did not take into consideration the objection raised by the applicant regarding submission of enquiry report before the completion of enquiry report to the disciplinary authority. But surprisingly the disciplinary authority acted upon the said enquiry report in spite of the fact that the same was brought to the notice of the disciplinary authority by the applicant vide his appeal dated 15.4.1999. Therefore on that score alone the impugned order of penalty dated 1.2.2000 is liable to be set aside and quashed.

Copy of written brief of the applicant dated 12.10.99 is annexed hereto and marked as Annexure- 34 respectively.

4.33 That your applicant being highly aggrieved by the impugned order of penalty of dismissal from service issued under order dated

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1.2.2000 preferred an appeal on 16.3.2000 addressed to the Chief Post Master General, NE Circle, Shillong i.e. the Appellate Authority through the Director of Postal Services, Nagaland, Kohima and in the said appeal the applicant inter alia stated how the applicant was harassed and treated during the pendency of the departmental proceeding by the authorities and depicted a detail picture how the applicant was denied subsistence allowance during the period of suspension. It is relevant to mention here that the Memorandum of charge sheet was served upon the applicant after a lapse of one year from the date of placing him under suspension and the initial payment of subsistence allowance was paid after a lapse of two years that too following the order of the Hon'ble Tribunal but surprisingly at a much lower rate than prescribed by the Government of India for payment of subsistence allowance i.e. only at the rate of 25% and the reduction of subsistence allowance was made on the alleged ground that the applicant did not cooperate with the enquiry proceeding, but the fact remains that due to non payment of subsistence allowance for a continuous period of two years from the date of initial suspension the applicant could not make him available before the enquiry proceeding at Dharmanagar from Imphal due to financial stringency. It is also relevant to mention here that the applicant on number of occasion approached the competent authorities regarding non receipt of subsistence allowance but in spite of that the enquiry officer held the ex-parte enquiry at 16.6.1997 at Dharmanagar. However the said enquiry was set aside on appeal and the case was remitted back for de novo proceeding under Memo dated 1.2.1998. It is also stated in the said appeal that the enquiry officer held the enquiry under the four charges framed against the applicant under DPS, Kohima Memo dated 27.11.9. The applicant also brought it to the notice of the enquiry officer verbally as well as in writing of the enquiry officer

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that the initial memorandum of charge sheet was issued under DPS, Kohima dated 27.7.95/11.8.95 whereas the enquiry officer started enquiry in respect of memorandum dated 27.11.97 but in fact there was no memorandum of charges received by the applicant bearing Memorandum No. B-2/Disc/S J Singh dated 27.11.1997. As such it is difficult to ascertain the correspondence of the memorandum of charges against which the enquiry officer proceeded with the enquiry. Although this fact was brought to the notice of the enquiry officer but no reply/communication was received by the applicant from the enquiry officer in this regard. Therefore on that score alone the entire proceeding is liable to be set aside and quashed.

It is also relevant to mention here that the applicant also categorically denied the contention of the enquiry officer in respect of article of charge no. I, II, III and IV in his appeal and further stated that it is not correct that the applicant could not produce any documentary evidence in respect of charges levelled against him and also categorically denied the allegation regarding drawal of pay and allowances of EDDA and EDMC of Longmatra Branch office and stated that the same is conspiracy hatched by a vested circle against the applicant. But unfortunately the competent authority vide his memo no. Staff/109-7/2000 dated 22.9.2000 confirming the penalty of dismissal from service holding that the appellate authority agrees with the decision of the disciplinary authority that the charges levelled against the applicant under memo dated 11.8.95 in Article I, II and IV stands proved beyond doubt and the applicant lacks integrity and devotion to duty and it is further observed by the Appellate Authority that he did not find any reason to interfere with the order of the disciplinary authority. A mere reading of the Appellate Order, it would be evident that there was no discussion on evidence as is required under the rule and the Appellate Authority simply mechanically

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repeated the statement made by the disciplinary authority in the order of penalty dated 1.2.2000. Therefore on this ground alone the impugned order of penalty dated 1.2.2000 as well as the appellate order dated 22.9.2000 are liable to be set aside and quashed. Moreover, even assuming but not admitting the fact that the charges levelled against the applicant has been proved in that event the punishment which has imposed upon the applicant by the disciplinary authority is too harsh and the same is disproportionate with the gravity of the charges levelled again the applicant. On that score alone the impugned order of penalty dated 1.2.2000 and the appellate order dated 22.9.2000 which was communication vide letter No. B1Disc/S J Singh/III dated 28.9.2000 is liable to be set aside and quashed.

In the compelling circumstances the applicant finding no other alternative approaching this Hon'ble Tribunal for a direction for protection of his valuable and legal rights and it is a fit case for the Hon'ble Tribunal to interfere with.

It is categorically stated by the applicant in his appeal dated 16.3.2000 that the enquiry officer has submitted the enquiry report to the disciplinary authority before completion of the enquiry proceeding which would be evident from the Director of Postal Services letter dated 17.2.99 whereas ex parte enquiry held on 28.4.1999 which was decided by the enquiry officer and communicated vide his letter dated 7.4.99 but neither the disciplinary authority nor the appellate authority taken note of this fact but imposed imposition of penalty of dismissal from service and no discussion was made either in the order of penalty dated 1.2.2000 or in the appellate order dated 22.9.2000. Therefore it is established beyond all doubts that the enquiry officer as well as disciplinary authority and also the appellate authority were pre-determined to impose penalty of dismissal upon the applicant without holding the enquiry in the manner prescribed under rule 14 of the CCS(CCA) Rules, 1965 and on that score alone the impugned order of

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penalty dated 1.2.2000 and the appellate order dated 22.9.2000 are liable to be set aside and quashed.

Copy of the impugned order of penalty dated 1.2.2000, appeal dated 16.3.2000 and Appellate order dated 22.9.2000 and letter dated 28.9.2000 are annexed as Annexure-35, 36, 37 and 38 respectively.

4.34 That this application is made bona fide and for the cause of justice.

5. Grounds for relief (s) with Legal Provisions(s).

5.1 For that inquiry report has been submitted by the inquiry officer K.R. Das has been submitted to the disciplinary authority before completion of the enquiry proceeding which would be evident from the letter No. B-1/Disc/S.J.Singh dated 17.2.99 (Annexure-19) issued by the Director of Postal Services, Nagaland, Kohima whereas further inquiry was held on 28.4.1999 as decided and communicated by the inquiry officer vide his letter dated 7.4.1999 (Annexure 21). On that score alone the entire inquiry proceeding as well as the impugned order of penalty dated 1.2.2000 and appellate order dated 22.9.2000 are liable to be set side and quashed.

5.2 For that the applicant has not been provided reasonable opportunity to defend his case properly before the inquiry proceeding as required under the rule. On that score alone the entire inquiry proceeding as well as the impugned order of penalty dated 1.2.2000 as well as the appellate order dated 22.9.2000 are liable to be set aside and quashed.

5.3 For that the applicant has not been paid subsistence allowance during the course of inquiry as required under the rule and thereby denied the reasonable opportunity to defend the case.

5.4 For that the inquiry proceeding has been conducted in a most arbitrary, illegal and unfair manner in total violation of

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relevant rules 14 and 15 of the CCS (CCA) Rules 1965 and on that score alone the impugned order of dismissal following the enquiry proceeding initiated under Memo dated 27.7.95/11.8.95 and the order of penalty dated 1.2.2000 are liable to be set aside and quashed.

5.5 For that the applicant submitted a detail appeal/representation on 15.4.1999 (Annexure-22) before the Chief Post Master General N.E. Circle, Shillong for review of appointment of inquiry officer by the disciplinary authority under Rule 14 of CCS (CCA) Rules, 1965 by the applicant on the ground of biasness and illegal, arbitrary and unfair conducting of inquiry proceeding. But most unfortunately without passing any order on the said appeal/representation preferred by the applicant on 15.4.1999 the disciplinary authority allowed the inquiry officer to hold further inquiry on 28.4.1999 although it is specifically admitted by the appellate authority that there were inadequacies on the part of the inquiry officer in conducting the inquiry and it was held that such inadequacy cannot be construed as bias and as such the appeal of the applicant was rejected after holding the ex parte inquiry on 28.4.1999 by the impugned letter dated 7.6.1999. The relevant portion of the order of Postmaster General dated 7.6.99 is quoted below :

" (d) I.O.'s report will be examined by the disciplinary authority and the C.O. has scope to submit representation against the I.O.'s report. Apparently the I.O.'s conduct of inquiry has certain inadequacies for which Disciplinary Authority has asked for further inquiries. Such inadequacy on the part of I.O. cannot be construed as "bias". The charged officer has not specifically advanced any instance of bias. He has mentioned about the fact that I.O is working under disciplinary authority and

S. J. Singh

I.O has already expressed his findings in his report earlier. Even then, obviously I.O. would be permeable to fresh facts and evidences that would be brought before him as a result of further inquiry ordered by disciplinary authority. It is not appropriate to pre-judge the result of further inquiry as ordered.

In view of the above, there is no scope for changing I.O. at this stage. I hereby direct the Disciplinary Authority to ensure that the further enquiry as ordered by him is completed quickly and the proceedings are decided early. I also direct the representationist to fully cooperate with the enquiry.

On that ground alone the impugned order of penalty dated 1.2.2000 as well as the appellate order dated 22.9.2000 are liable to be set aside and quashed.

- 5.6 For that the impugned order of penalty is disproportionate with the charges levelled against the applicant.
- 5.7 For that the entire proceeding is vitiated due to biasness and unfair conduct of enquiry proceeding by the enquiry officer Sri K.R.Das in spite of the protest of the applicant.
- 5.8 For that the enquiry proceeding has been conducted *ex parte* without disposing of the appeal of the applicant for review of appointment of the enquiry officer preferred on 15.4.1999.

6. Details of remedies exhausted.

The applicant states that he has no other alternative and efficacious remedy except by way of approaching this Hon'ble Tribunal.

7. Matters not previously filed or pending before any other Court/Tribunal.

S. J. Singh

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which the instant application has been made, before any Court or any other Tribunal nor any such application, writ petition or suit is pending before any of them.

8. **Reliefs sought for:**

In view of the facts and circumstances above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to admit the instant application, call for the records relating to the case of the applicant. And upon hearing on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

- 8.1 That the Hon'ble Tribunal be pleased to set aside the enquiry proceeding conducted in terms of Memorandum of Charge sheet issued under Memo No. 27/7/95 dated 11.8.1995 and further be pleased to set aside the impugned order of penalty of dismissal from service issued under Memorandum No.B1/DISC/S.J.Singh/11 dated 1.2.2000 and the Appellate Order issued under letter No. Staff/109-7/2000 dated 22.9.2000.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to reinstate the applicant in service with all consequential service benefits..
- 8.3 Any other relief or reliefs as entitled to the applicant under the facts and circumstances stated above as deemed fit and proper by the Hon'ble Tribunal.
- 8.4 Costs of the Application.

9. **Interim reliefs prayed for :**

The applicant does not pray for any interim order in this application but prays for expeditious disposal of this application.

10. **Details of the I.P.O.**

S. J. Singh

1. I.P.O. No. : 7G 548813
i. Date of Issue : 21-8-2007
iii. Issued from : G.P.O., Guwahati.
iv. Payable at : G.P.O., Guwahati.

11. **Details of enclosures**

As stated in the Index.

s. g. singh.

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

I, Sri Soraisam Jugeshwar Singh, son of Shri S. Ibochou Singh, aged about 53 years working as A.S.P.O.S, Kohima, resident of village and P.O. Mongangei, via M.U. S.O., Imphal, do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are the legal advice which I believe to be true and I have not suppressed any material facts.

I, sign this verification on this the 25th day of August, 2001.

Soraisam Jugeshwar Singh

Annexure-1

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DIRECTOR OF POSTAL
NAGALAND, KOHIMA

Memo B-444

Dt. 4.8.94

Whereas disciplinary proceedings against Shri S.J. Singh ASPOs, Kohima Sub Dn is contemplated.

Now, therefore, the undersigned in exercise of the powers conferred by sub Rule (1) of Rule 20 of the CCS (CCA) Rule 1965, hereby places the said Shri S.J. Singh under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Head quarter of Shri S.J. Singh should be Kohima and the said Shri S.J. Singh shall not leave the Headquarters without obtaining the previous permission from the undersigned.

Sd/-

(PATRICK INGTY)
DIRECTOR OF POSTAL SERVICES,
NAGALAND, KOHIMA.

*Signed
Mr.
Patrick
Director*

S. J. Singh

Annexure-2

GOVT. OF INDIA, MINISTRY OF COMMUNCATIONS
 DEPARTMENT OF POST ; INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SEVICES,
 NAGALAND ; KOHIMA - 797001

Memo No. B-1/Disciplinary/ S.J. Singh

Dated at Kohima the 27.7.95/11.8.95

MEMORANDUM

The undersigned proposes to hold an enquiry against Sri S.J.Singh ASPOS Kohima (U/S) under Rule-14 of the CCS (CCA) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A list of documents by which and a list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures-III & IV).

2. Sri S.J.Singh is directed to submit within 10 days of the receipt of this memorandum a written statement of this 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.J.Singh is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above 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) Rule, 1965 or the 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.J.Singh is invited to Rule 20 of the CCS(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 Govt. 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 S.J. Singh is aware of such representation and that it has been made at his

*Referred
Mr.
Advocate*

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instance and action will be taken against him for violation of Rule 20 of the CCS (CCA) Rule 1964.

6. The receipt of the memorandum may be acknowledged by Shri S.J.Singh.

Registered with A/D

To

Sri S.J.Singh(ASPOS Kohima) (U/S)
Vill-Sekmaijin BPO Sekmaijin
Imphal Manipur

Sd/- Illegible

(A.N.D. Kachari)
Director of Postal Services
Nagaland, Kohima-799001

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Annexure-2 (Contd.)

ANNEXURE-I

Statement of articles of chargeframed against Sri S.J.Singh Assistant Superintendent of Post Offices, Kohima Sub-Division Kohima.

Article - I

Sri S. J. Singh while working as ASPOs Kohima Sub-Dn. Kohima during the period from 30.9.91 to 31.7.94 failed to send/submit the fortnightly diaries and the monthly summary of inspections for the period from 1.1.94 to 31.7.94 in violation of the provisions contained in Rule 292 and 293 of P&T Manual Vol-VIII (3rd Edition, 2nd reprint) and also violated Rule 3 (I) (i) (ii) & (iii) of CCS (conduct) Rule 1964.

Article - II

Shri S. J. Singh while working as ASPOs Kohima SubDn. Kohima during the period from 30.9.91 to 31.7.94 has shown that he carried out the inspections of 78 Post offices during the year 1993 in his fortnightly diaries submitted to the Director of Postal Services, Nagaland : Kohima. But he did not submit any inspection reports of the above 78 (seventy eight) inspections he had carried out in contravention of Rule 300 of P&T Manual vol- VIII (3rd Edition, 2nd reprint) thereby violated the Rule 3(i) of CCS (conduct) Rules 1964.

Article - III

Shri S. J. Singh while working as Assistant Superintendent of Post offices Kohima sub-Dn. Kohima w.e.f. 30.9.91 to 31.7.94 failed to inquire the case of excess cash retained by SPM Phek S.O. during the period from 18.7.94. to 29.7.94 although the matter of excess cash retention by SPM Phek S.O. was reported by the Post Master Kohima H.O. and the said Shri S. J. Singh was directed by the Div. Office. But Shri S. J. Singh did not carry out inquiry into the case which led to a fraud at Phek S.O. and thereby attract the violation of Rule 150(2) (i) of P&T manual-VIII. Thus showing lack of integrity, lack of devotion to duty and unbecoming of a Govt. servant thereby infringed Rule 3(1) & 3(2) (i) of CCS(conduct) Rules 1964.

Article - IV

Shri S. Jugeshwar Singh while working as ASPOs Kohima Sub Dn. Kohima during the period from 30.9.91 to 31.7.94 drew the pay and allowances of EDDA & EDMC Longmatra B.O. under Kiphire S.O. by putting false signatures of Shri K. Sangtam EDDA and Smt. T. Alemba Sangtam EDMC Longmatra B.O. at Kohima H.O. after identification of the bills by the said Shri S.J. Singh as on 29.7.94 and took the money and thereby attract infringement of Rule 3(1) (i) of CCS (conduct) Rules 1964.

*Revised
Mr. Solanki*

A

Annexure-II

Annexure-2-(Contd.)

STATEMENT OF IMPUTATION OF MISBEHAVIOUR OR MIS CONDUCT AGAINST SRI S.J.SINGH ASPOS KOHIMA SUB-DIVISION, KOHIMA.

ARTICLE-I

As per Rule 293 of P & T Manual Vol.VIII (3rd Edition 2nd re-print) the said Sri S.J.Singh, ASPOS, Kohima Sub-Divn Kohima had to keep a diary in which he should briefly described the days work showing clearly not only every post office and mail line visited or inspected but also the name of every village visited the name of the post office by which it is served and the time spent at each village and post office.

Besides the action taken by him in respect of the cases which do not ordinarily require to be reported separately to the Divisional Head but ought to come his notice. In addition he should do the Mo.O. paid verification and carry out such check as prescribed in Rule 270 of P & T man Vol. VIII and make record of all the above in brief in the diary. And he should send/submit a copy of the diary for the proceeding works of each month in two occasions ones after the completion of first fortnight i.e. on 16th of each month and the other after completion of the 2nd fortnight i.e. on the 1st of the following month. The diary sent/submit on the first of the following months should be invariably accompanied by a summary of inspection works alongwith other documents as given in Rule 293(2) of P & T Manual Vol-VIII. Further as per Rule 292 of P & T Manual Vol.-VIII. Further as per Rule 292 of P & T Man. Vol. VIII, the said Sri S.J.Singh ASPOS Kohima Sub Division Kohima, should submit the periodical returns and documents as tabulated in the Rule, ibid, and in case of date for submission of any return falls on Sunday or holiday, the same should be despatched in the next working day. Although as per Rule -292 (1) and 293 (2) of P & T Man Vol. VIII diary of SDIPOS/ASPOS is required to be submitted to the Supdt. of Post offices weekly. As per the revised instructions the same is required to be submitted fortnightly on the 1st and 16th of each month and the authority to whom the same should be submitted is DPS/Kohima as he is the Head of Division. But the said Sri S.J.Singh while working as ASPOS Kohima Sub-Divn Kohima during the period from 30.9.1991 to 31.7.1994 did not submit the fortnightly diary and the monthly summary of inspections for the period from 1.1.1994 to 31.7.1994. It was vide DPS/Kohima letter No. IR/Programme'93 dated 20.12.1993, the said Sri S.J.Singh was assigned to the inspection work of 11 (eleven) Sos and 74 (Seventy four) EDEOs for inspection during the year 1994 failing in the jurisdiction of aSPOS Kohima SubDivision, Kohima. Since the said Sri S.J.Singh did not submit the fortnightly diaries and the monthly

*Pls. find
Sri.
Adi Nath*

summaries for January 1994 within the stipulated time, he was asked to submit the same vide DPS/Kohima letter No. A1/Diary/ASPOS/94 dated 3.2.1994 dated 24.3.1994, 29.4.1994, 6.5.1994 and 22.7.1994. Despite those repeated reminders the said Sri S.J.Singh did not submit the fortnightly diaries and monthly summaries. Thus the said Sri S.J.Singh violated the provisions of Rule 292 and 293 of P & T Manual Vol.VIII. As evident from the above actions the said Sri S.J.Singh failed to perform his part of duties and did not maintain absolute integrity and devotion to duty and unbecoming of a Govt. servant as per the provisions of rule 3(1) (i) (ii) + (iii) of CCS (Conduct) Rules 1964 which requires Govt. servant.

ARTICLE - II

As per Rule - 300 of P & T Manual Vol-VIII (34th Edition-2nd re-print) the said Sri S.J.Singh ASPOS Kohima SubDivision Kohima had no release/submit the inspection reported of 78 post offices which he had shown as inspected in the year 1993 as per his diaries for the year 1993. As per standing instructions contained in D.G. P & T every inspecting officers should release/submit the inspection remarks of Branch Post Offices and Sub-Post Offices within 7/15 days of inspections carried out. Shri S.J.Singh had shown in his fortnightly diaries for the year 1993, that the inspections of all Sos and Bos allotted to him for the year 1993 are completed as on 31.12.1993, but failed to release the inspection remarks to Divisional Head. He has been reminded to release the inspection remarks on the Post Office inspected by him on 14.8.1993, 11.10.1993, 18.11.1993 vide IPS Kohima letter No. IR/Programme/93 and DPS Kohima Do No. IR. Programme/93 dated 17.1.1994.

Further, Shri S.J.Singh ASPOS Kohima Subdivision was entrusted the inspection of 11 (eleven) Sos and 74 (Seventy four) EDBOs for inspection during the year 1994 vide DPS, Kohima letter No. IR/Programme/93 dated 20.12.93. But he did not carry out a single inspection of Sos/BOs upto 31.7.1994. It is the duty of inspecting officers to carry out the inspection of BOs/SOs before completion of one year of the previous years of inspections of the office as laid the instructions contained in DG(P)s Circular issued time to time. Since no inspection report/information received on the inspection done, the said Sri S.J.Singh was reminded to expedite the inspections and to release the Irs vide DPS/Kohima letter No. A1/Diary/ASP/Kohima dated 3.2.1994, 24.3.1994, 29.3.1994 and 22.7.1994 and letter No. IR/Programme/94 dated 6.5.1994. Inspite of these repeated reminders the said Sri S.J.Singh did not carry out any single inspections allotted to him. Thus the said Sri S.J.Singh violated the provision of Rule 300 of P & T Manual-VIII (3rd edition re-print). As it is

clear from the above actions, that the said Sri S.J.Singh failed to perform his duties assigned to him and thereby violated the provisions of Rule-3(i) (ii) (iii) of CCS (Conduct Rules 1964 which requires a Government servant to maintain absolute integrity, devotion to duty and do nothing which is un-becoming of a Government servant.

ARTICLE-III

As per Rule - 218 of P & T Manual Vol.V (2nd edition) Shri S.J.Singh ASPOs Kohima Sub-divn had to proceed to Phek SO and to enquire about the retention of excess cash on receipt of reports/complaints from Postmaster Kohima HO and DPS Nagaland, Kohima. It is the duty of every inspector to make enquiry without a moments unnecessary delay of receipt of every complaint/report which points to fraud/misappropriation. As inspector is expected to be able to move at a moments notice towards any point in his jurisdiction, and if he delays to make an enquiry into a complaint which indicates fraud or a likelihood of fraud, he will be held responsible for all the consequences of the delay, whether the complaint was received direct or from a supeior officer. In addition he must make an enquiry as early as possible on such reports as prescribed in Rule-150 (2) & (3) of P & T Manual Vol-VIII. But the said Sri S.J.Singh ASPOs Kohima Sub-Division failed to proceed to Phek SO on the reports received regarding the retention of excess cash at Phek SO which is under his jurisdiction and did not enquire. The said Sri S.J.Singh ASPOs Kohima Sub-Division during the periods from 30.9.1994 to 31.7.1994 was informed by Postmaster Kohima vide his letter No. A-1/SAC/Corr-94/dated 29.7.1994, and directed by DPS Kohima letter No. E1/ECBM/dated 25.7.1994 and 29.7.1994 and saginram dated 28.7.1994 that the SPM Phek SO is retaining excess cash beyond the authorised limit without any justification and to rpoceed immediately to Phek SO for enquiry. But the said Sri S.J.Singh ASPOs Kohima Sub Division failed to proceed to Phek SO on the reports received regarding the retention of excess cash at Phek SO which is under his jurisdiction and did not enquire. The said Sri S.J.Singh ASPOs Kohima Sub Division during the periods from 30.9.1004 to 31.7.1994 was informed by Postmater Kohima vide his letter No. A1/SAC/Corr-94/Dated 29.7.1994, and directed by DPS Kohima letter No. E4/ECBM/dated 25.7.1994 and 29.7.1994 and saginram dated 28.7.1994 that the SPM Phek So is retaining excess cash beyond the authorised limit without any justification and to proceed immediately to Phek SO for enquiry. But the said Sri S.J.Singh ASPOs Kohima SubDiivision did not proceed to Phek SO for enquiry which caused a fraud of amounting to Rs. 1108,156.24 at Phek SO. Thus the said Sri S.J.Singh violated the

provisions of Rule 218 of P & T Man. Vol-V (2nd edition) and Rule 150 (2 & 3) 2nd re-print and has shown a gross negligence to his duty and failed to perform his part of duties and thereby totally violated the provisions of Rule 3(1) and 3(2) (1) of CCS (Conduct) rules 1964.

ARTICLE-IV

Shri S.J.Singh, while working as Assistant Superintendent of Post Offices Kohima Sub Division, Kohima during the periods from 30.9.1991 to 31.7.1994 drew the pay and allowances of Sri K. Sangtam EDDA and Smt. T.Abeola EDMC, Longmatra BO in a/c with Kiphire So for the period from Feb'94 to June 1994 and October '93 to January 1994 respectively with a false singature of both officials and drawn an amount of Rs. 2955/- and Rs. 2297/- respectively from Kohima HPO on 29.7.1994. Both pay and allowances were identitied by the said Sri S.J.Singh Assistant Superintendent of Post Offices Kohima Sub-Division. Thereby the displayed lack of integrity and thus violated Rule 3 (1) (i) of CCS (Conduct) Rules 1964.

ANNEXURE-III

**List of documents in which articles of charges framed against
Sri S.J.Singh, ASPOS Kohima Sub-Division.**

1. Inspection programme for the year 1994 vide DPS Kohima letter No. IR/Programme/93 dated 20.2.1993 containing 4 pages.
2. Original letter of DPS Kohima letter No. IR/Programme/94 dated 6.5.1994 showing No. of inspection to be done upto March'94.
3. Reminder letter No. A1/Diary/ASPOS/Kohima/94 dated 3.2.1994, 24.3.94, 24.9.94 and 22.7.1994.
4. Hand to hand receipt book with effect from 22.6.1994 to 22.7.1994.
5. Hand to hand receipt book with effect from 26.7.90 to 18.3.1993.
6. Inspections programme for the year 1993 containing 1 to 24/C. A1/Diary/ASPOS/Kohima/93 file page 1 to 34/C.
7. DPS letter IR/Programme/94 dated 11.1.1994.
8. DPS letter No. VR/PMG/Sh/dated 19.7.1993 and 4 (four) reminders on differnet dtes.
9. DPS letter No. VR/PMG/Sh/dated 4.6.1993 and 8 (eight) remiers on different dates.
10. DPS letter No. VR/PMG/Sh/dated 76.1993 and four eminers on different dates.
11. DPS letter No. VR/PMG/Sh/93 dated 1.11.93 and subsequent reminders on
12. DPS letter No. VR/PMG/Sh/93 dated 1.11.93 and subsequent reminders on
13. DPS letter No. VR/PMG/SH/93 dated 7.6.1994 and subsequent reminders on 29.10.1993 and 20.4.1994.
14. DPS letter No. VR/PMG/Sh/93 dated 29.6.93 and subsequent reminders on 15.8.1993, 17.11.93 and 21.4.1994.
15. DPS letter No. VR/PPMG/Sh/93 dated 4.6.1993 and subsequent reminders on 25.10.1993 and 21.11.1993.
16. DPS letter No. E4/ECBM dated 25.7.1994, 29.7.1994 and PM Kohima letter No. A1/SAC/Corr/94 dated 29.7.1994 and CI/1030/28/7/1994.
17. DPS letter No. Gr/letter Box dated 18.5.1993 and 4 (four) reminders, G-2/Motor line dated 13.7.1993 and 7 (seven) reminders and G-20/NHB dated 14.9.1993 and to reminders.
18. DPS letter No. IR/Inspecttions/Rlg dated 3.2.1993 containing 3 (thrtee) pages of IR programme 1993.
19. DPS letter No. A1/Diary/ASPOS/Kohima/93 dated 14.7.1993 and five reminders.
20. A statement from Sri K. Sangtam EDDA Longmatra BO dated 17.1.1995.
21. A statement from Smt. A Aleoba Sangtam EDMCLongmatra BO dated 17.1.1995.
22. A statement from A Besu Mao Treasurer Kohima HPO.

*Filed
Jas. Advocate*

23. A authorisation letter from ASPOs Kohima for making payment at Kohima HPO dated 29.7.1994.
24. TA Roplls No. 171 and 172 Longmatra BO under Kiphire SO.

Annexure-IV

List of witnesses by whom the articles of charge framed against Sri S.J.Singh Assistant Superintendent of Post Offices, Kohima Sub Division are proposed too be sustained.

1. Sri K. Sangtam, EDDA, Longmatra, BO>
2. Sri A Besu Mao Treasurer Kohima HPO..
3. Smt. T. Abeola Sangtam EDMC Longmatra BO.

Annexure-3

DEPARTMENT OF POST : INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SERVICES
 NAGALAND, KOHIMA-797001

Memo No. B1/Disc/S.J.Singh

Dt. Kohima the 19.8.96

ORDER

Whereas an inquiry under Rule 14 of the central Civil Services (CCA) Rules 1965 is being held against Sri S.J.Singh Ex-ASPOs Kohima (U/S).

And whereas the undersigned considers that an Inquiry Authority should be appointed to inquire into the charges framed against the said Sri S.J.Singh.

Sd/- Illegible

(F.P. SOLO)
 Director of Postal Services,
 Nagaland, Kohima-797001

Copy to :-

1. Sri A.R.Bhowmik, I/o Supdt of PO's Dharmanagar Division, Dharmanagar (Tripura North) for information and necessary action (Charge sheet and certificate of delivery enclosed).
2. Shri D.C. Deb, P/o ASPO's Kohima for information and necessary action.
3. Shri S.J.Singh Ex-ASPOs Kohima (u/s) for information. This office memo of even no. dated 17.6.96 stands cancelled.

Sd/- Illegible

(F.P. SOLO)
 Director of Postal Services
 Nagaland, Kohima-797001

*Alles Ted
 Law Advocate*

Annexure-4

DEPARTMENT OF POST : INDIA
 OFFICE OF THE SUPERINTENDENT OF POST OFFICES
 DHARMANAGAR DIVISION
 DHARMANAGAR- 799250

Memo No. Rule-14/96

Dated Dharmanagar the 10.9.96.

Whereas the undersigned was appointed as Inquiry Officer vide Director Postal Services, Kohima-797001 memo No. B1/Disc./S.J.Singh dtd. 19.8.96 to enquiry into the case under Rule 14 of C.S.S. (CCA) Rules 1965 against Shri S.J.Singh, EASPOS, Kohima (u/s).

Now, therefore the undersigned fixes the date of preliminary hearing into the case on 16.10.96 at 1000 hrs. at Dharmanagar in the chamber of the undersigned.

(A.R. Bhowmik)
 Supdt. of Post Offices,
 Dharmanagar Division,
 Dharmanagari : 799250
 & Inquiry Officer.

Copy to

Regd. A/D

1. Shri S.J.Singh, Ex-ASPOs, Kohima (u/s) at Kohima. He should attend the hearing on the date, time and venue fixed for the purpose. He may also intimate the undersigned the name and designation of the Govt. servant whom he wishes to appoint as Defence Assistant.
2. Shri D.C. Deb, Presenting Officer and ASPOs, Kohima 797001 who should attend the hearing accordingly.
3. The Director Postal Services, Kohima for information.

Sd/-

(A.R. Bhowmik)
 Supdt. of Post Offices,
 Dharmanagar Division,
 Dharmanagari : 799250
 & Inquiry Officer.

*Alleged
Advocate*

Annexure-5

INQUIRY UNDER RULE - 14 OF C.C.S. (CCA) RULES 1965 AGAINST
SHRI S.J.SINGH, ASPOS, KOHIMA NOW UNDER SUSPENSION.DAILY ORDER SHEET

16.10.96 Preliminary hearing of the case is held at Dharmanagar. Shri S.J.Singh, C.O. (Charged Official) submitted one representation dated 27.9.96 expressing doubt if he could be able to attend the hearing as he was not in receipt of subsistence allowance. Copy of the representation endorsed to D.P.S., Kohima. Since the payment of subsistence allowance and functions of I.O., are independent to each other, I.O. cannot pass any order except that P.O. is made aware of the same for further necessary action. The preliminary hearing was held ex-arte.

Regular hearing into the case will commence from 11.12.1996 and may continue up to 12.12.96 in the office of the undersigned at 100 hrs. No. separate Notice will be issued to C.O. or P.O. or the prosecution witnesses, P.O. will take action for appearance of P.W.S. accordingly. In the meantime P.O. will arrange inspection of documents by the C.O. listed in the memo of charges on a fixed date within 15.11.96/ Copy of the order sheet along with copy of the proceedings are made over to P.O. and the same posted to C.O.

Sd/- Illegible 16.10.96.
Inquiry officer.

*Rakesh
Devi, Advocate*

5/1
Annexure-6

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI**

Sri S.J.Singh : Applicant
—vs—
Union of India & Ors : Respondents

PRESENT

THE HON'BLE SRI G.L. SANGLYINE, MEMBER (A).

For the Applicants : Mr. J.L.Sarkar
Mr. M. Chanda, Advocates
For the Respondents : Mr. S. Ali, Sr. C.G.S.C.

9.12.96 Learned counsel Mr. M. Chanda for the applicant. Learned Sr. C.G.S.C. Mr. S. Ali for the respondents.

Heard Mr. M. Chanda for the applicant. Perused the contents of the application and relief sought. I find that this application is not to be admitted for scrutiny and decision. It is disposed of with the directions as mentioned herein below :

In this application the applicant has prayed for payment of subsistence allowance and to allow him change of Head Quarter. Mr. Chanda submits that he does not press the relief for change of Headquarter. Therefore, this application is only for payment of subsistence allowance. The applicant had submitted a representation dated 26.6.96 and reminder dated 27.9.96 for allowing him subsistence allowance to the Director, Postal Services, Nagaland. It has been stated that the representations have not been disposed of by the respondents. However, the applicant is directed to submit a fresh application to the competent authority of the respondents within three weeks from today for payment of subsistence allowance to him during the period of suspension. The respondents are directed to consider payment of subsistence

*Releged
Deputy
Advocate*

allowance to the applicant according to rules and the merit of his case. The respondents are further directed to dispose of the representation of the applicant within 1 month from the date of its receipt by respondent No.3 the Director of Postal Services, Kohima.

This application is disposed of. No order as to costs.

Copy of this order be sent to the counsel of the parties.

Sd/- Member (A)

Annexure-7

To

The Director of Postal Services,
Kohima, Nagaland.

Sub : Representation in terms of Hon'ble Tribunal order dated 9.12.1996 passed in O.A. 282/96 for immediate payment of subsistence allowance.

Sir,

Most humbly and respectfully, I beg to state that vide your order under Memo No. B-444 4.8.94, the undersigned was placed on suspension in exercise of power conferred by sub rule (1) of rule 10 of the CCS (CCA) rule 1965, in the said order of suspension it was stated that the order regarding subsistence allowances would be issued separately in favour of the undersigned, but unfortunately no order of subsistence allowance has been issued by the authority till date. In this connection it may be stated that the suspension order was communicated to me at my permanent home address at Imphal while I was on leave at my permanent residence at Imphal, therefore I had fallen sick at my residence at Imphal at the relevant time when the order of suspension was communicated. However, I expected that my subsistence allowance would be paid to me in terms of order dated 4.8.94, but surprisingly no action was initiated either by you or by any other departmental authority. I submitted representation dated 26.6.96 for payment of my subsistence allowance which was addressed to you for payment of my subsistence allowance and the undersigned also submitted reminder dated 27.09.96 but even then no action was taken for payment of subsistence allowance. I also regret to state that even my representation have not been replied. I also beg to point out that I have also enclosed necessary unemployment certificate along with my representation to facilitate the payment of subsistence allowances but to no result. In this connection it may further be stated that the charge sheet was issued only on 27.7.95 and preliminary enquiry alleged was to be held on 16.10.96 at Dharmanagar without releasing the subsistence allowance, and the same has been decided ex parte and I could not attend the preliminary enquiry due to financial hardship

*P. S. Sengupta
Advocate*

and the same was communicated to the enquiry officer well in advance. I also further to inform you that I could not attend the regular enquiry which was held on 11.12.96 and 12.12.96, because of financial hardship to maintain myself without subsistence allowance. It is more than two years that the subsistence allowance has not been paid to me and others.

Therefore I would further like to request you to release arrear of allowance as well as current subsistence allowance. This representation is submitted in terms of the Hon'ble Tribunal order dated 9.12.96 passed in O.A. 282/96 for your kind consideration.

Dated 30.12.96

Yours faithfully,

Sd/-
(Sri S.J.Singh)
A.S.P.O.s, Kohima
(U/S at vill & P.O. Mongoongei, Imphal)
Copy to :

The Postmaster, Kohima H.O. As already informed he is requested to make recoveries of H.B.A. and G.I.S. from the subsistence allowance. Up to date certificate of unemployment is enclosed herewith.

Sd/- 30.12.96
(S.J.SINGH)

61

Annexure-8

DEPARTMENT OF POST : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA : 797001

No.B1/Disc/S.J.Singh.

Dtd. Kohima the 22.1.97

10

Shri S. J. Singh,
ASPOs, Kohima (u/s),
Vill PO. Mongsangei,
Via Singjamei Bazar BO,
Imphal. Manipur

Sub : Drawal of subsistence allowances

With reference to your letter no nil dtd. 26.6.96 on the above mentioned subject, it is intimated that the "Subsistence allowance" was sanctioned vide memo of even no. dtd. 29.8.94

Sd/- dtd. 22.1.97
Director of Postal Services
Nagaland, Kohima-797001

Alleged
Law
AdvoCat

Annexure-9

Director of Postal Service
Nagaland Kohima - 797001.

No.B1/Disciplinary/S.J. Singh

Dated, Kohima 5.3.97

To

Shri S. J. Singh,
A.S.P.Os Kohima (U/S),
Vill and P.O. Mongaangei
Via Singjamei Bazar S.O.
Imphal, Manipur.

Subject : **Grant of subsistence allowance regarding.**

With reference to your representation dated 7.2.97 and CAT direction order no.282/1996 in memo no.25 dated 1.1.97 on this above mentioned subject, it is to inform you that subsistence allowance was already granted vide this office memo no.B444/II dated 28.8.94 with headquarter fixed at Kohima vide memo no.B.444/ dated 4.8.94. You may therefore take the payment of subsistence allowance from Kohima H.O.

Sd/-
Director of Postal Services
Nagaland :: Kohima - 797001

Copy to :

The postmaster Kohima H.O. for information.

Sd/-
Director of Postal Services
Nagaland :: Kohima - 797001

*Alleged
Jew
Advocate*

Annexure-10

To:

The Director of Postal Services,
Nagaland,
Kohima - 797001.

Sub : Drawal of subsistence allowance.

Ref : Your memo no.B1/DISC/S.J. Singh,
dt. 22.1.97.

Sir,

In acknowledging receipt of your letter cited above on 6.2.97 I would like to inform you that a copy of the sanction memo dated 29.8.94 was never delivered to me till date, and as a result several reminders were issued to you and even I had to approach the Honourable CAT, Guwahati. The fact of nonpayment of the subsistence allowance was also made known to Shri A.P. Bhowmik, S.P.O.s Dharmanagar and Enquiry Officer who in turn made aware of the fact to Shri D.C. Deb, Presenting Officer vide Daily order Sheet dated 16.10.96 and 11.12.96. According to the Daily order sheet dated 11.12.96 it is clear that the fact was brought to your notice by the said P.O. and the reasons for non "payment of subsistence allowance was not known to him. You are once again requested to send a copy of the sanction memo to me at an early date.

Secondly, it is to mention that you were requested several times for the issue of review order with retrospective effect according to the rules, but so far no response is forthcoming from your end. Here it is also to mention that there was no occasion on my part for using dilatory tactics in the process of the case, and as such you are requested to increase the subsistence allowance to 25 percent of the original rate from the beginning of the fourth month of suspension.

*Alleged
Dear Advocate*

Lastly, it is brought to your kind notice that I and my family members are at the jaws of death of starvation for non-releasing the subsistence allowance for more than a long period of thirty months. Hence you are requested to use your god offices so that I may be in a position to defend myself of the charges by giving an opportunity as defined in the rules and procedures.

Dt. 7.2.97

Yours faithfully,

Sd/-
(S. J. Singh)
A.S.O.Cs Kohima Div.,
(U/S) at Mongehangei
Via. M.U. Sub-Office
Imphal - 795003.

Copy to :

1. The Postmaster, Kohima S.O. 797001. He is requested to remit the subsistence allowance by M.O. and if necessary the commission may be deducted from the total amount. An up to date certificate of non-employment is enclosed herewith. He is also requested to intimate the undersigned the date of receipt of D.P.S. Kohima Memo No. B1/DISC/S.J. Singh dated 29.3.94 by his office.
2. Shri A.R. Bhowmik, S.P.Os Dharmanagar (I.O) 799230, for favour of information. It refers to his Daily sheet order dated 16.10.1996 and 11.12.1996.

Sd/-

S.J.Singh

Annexure-11

DEPARTMENT OF POST : INDIA
 OFFICE OF THE DIRECTOR POSTAL SERVICES
 NAGALAND : KOHIMA - 797001

Memo No. B1/Disciplinary/S.J.Singh

Dated, Kohima the 3.3.1997

Whereas Shri S.J.Singh, ASPOs, Kohima was placed under suspension vide memo No.B-444 dated 4.8.94. He was granted subsistence allowance vide Memo No. B444/Pt-II dated 29.8.1994. And whereas it is learnt that Shri S. J. Singh has not been attending the oral inquiry being conducted under Rule 14. The delay in not finalising the case is therefore, directly attributable to the charged official.

Therefore, the undersigned in exercise of the powers conferred under rule FR-53(2)(ii) issue the following orders to have immediate effect.

The subsistence allowance of Shri S.J. Singh, ASPOs, Kohima (u/s) granted vide memo No.B-444/II dt. 29.8.94 is hereby decreased by a suitable amount not exceeding 50% of the initial subsistence allowance.

He will be entitled to compensatory allowances admissible from time to time on the basis for pay of which he was in receipt on the date of his suspension subject to the fulfilment of other conditions laid down for the drawal of such allowances.

No payment shall be made unless he furnishes a certificate that he is not engaged in any other employment, business, profession or vocation.

Sd/-
 (F. P. SOLO)
 Director Postal Services
 Nagaland, Kohima

*P. Solo
 F. P. Solo
 Advocate*

Copy to :-

1. The Postmaster, Kohima H.O.
2. The D.A.(P) Calcutta.
3. The official concerned.
4. PF of the official.
5. The CPMG, N.E. Circle, Shillong w.r.t.
case file mark Vig/5/2/96-97/CAT.

Sd/-

(F. P. SOLO)

Director Postal Services
Nagaland, Kohima

Annexure-12

67

DEPARTMENT OF POST ; INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND : KOHIMA - 797001

Memo No. B1/Disciplinary/S.J.Singh Dated, Kohima the 27.11.1997

In this office memo of even no. dtd. 11.8.95 it was proposed to hold an enquiry under Rule 14 of CCS(CCA) Rules 1965 against Shri S.J. Singh, the then ASPO's Kohima Sub-Division. A statement of articles of charges and a statement of imputation of misconduct or misbehaviour in support of the articles of charges and a list of documents by which and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

Shri S. J. Singh was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri S. J. Singh the then ASPO's Kohima Sub-Dn. is as under :-

ARTICLE-I

Shri S. J. Singh while working as ASPO's Kohima SubDivn Kohima during the period from 30.9.91 to 31.7.94 failed to send/submit the fortnightly diaries and the monthly summary of inspections for the periods from 1.1.94 to 31.7.94 in violation of the provisions contained in Rule 292 and 293 of P&T Man.Vol.-VIII (3rd addition, 2nd re-print) and also violated Rule 3 (I) (i) (ii) & (iii) of CCS Conduct Rules 1964.

ARTICLE-II

Shri S. Jugeshwar Singh, while working as ASPO's Kohima Sub-Divn Kohima, from 30.9.91 to 31.9.94 has shown that he carried out the inspections of 78 Post Offices during the year 1993 in his fortnightly diaries submitted to Director Postal Services, Nagaland Kohima. But he did not submit any inspection reports of the above 78 (seventy eight) inspections he had carried out in contravention of Rule 300 of P&T Manual Vol.-VIII (3rd Edition-2nd reprint). Thereby violated Rule 3(1) of CCS (Conduct) Rules 1964.

ARTICLE-III

*Alfred
Jew
Advocate*

Shri S.J. Singh, while working as Assistant Superintendent of Postal Offices, Kohima Sub-Divn Kohima w.e.f. 30.9.91 to 31.7.94 failed to enquire the case of excess cash retained by SPM Phek SO during the period from 18.7.94 to 29.7.94, although the matter of excess cash retention by Sub Postmaster Phek SO was reported by the Postmaster Kohima and the said Shri S.J. Singh was directed to make immediate enquiry by the Divisional Head. But Shri S. J. Singh did not carry out enquiry into the case which led to a fraud at Phek SO and thereby attract the violation of Rule 218 of Postal Manual Vol.-V and Rule-150 (2) (i) of P&T Manual Vol-VIII. Thus showing lack of integrity lack of devotion to duty and unbecoming of a Govt. Servant, thereby infringed Rule-3(1) and 3(2)(i) of CCS (Conduct) Rules, 1964.

ARTICLE-IV

Shri S. Jugeshwar Singh, while working as ASPO's drew the pay and allowance of EDDA & EDMC Longmatra BO under Kiphire SO by putting false signature of Shri . Sangtam EDDA and Smt. T. Alemba Sangtam, EDMC Longmatra BO at Kohima H.P.O. after identification of the bills by the said Shri S.J. Singh as on 29.7.94 and took the money and thereby attract infringement of Rule3(I)(i) of CCS(Conduct) Rules 1964.

The charge sheet was served to Shri S.J. Singh through the SPO's, Manipur Division, Imphal. The same was received by Shri S.J. Singh on 12.10.95. Shri Singh did not submit any defence representation or submission against the charge sheet. Therefore, Shri A.R.Bhowmick the then SPO's Dharmanagar Division was appointed as I.O. to conduct the oral inquiry report, the charged official did not attend the inquiry. However, on the basis of documentary and oral evidence adduced during the inquiry, the I.O.L concluded that all the above charges levelled against Shri S.J. Singh are proved.

A copy of the inquiry report was supplied to the charged official inviting his representation or submission within 15 days vide this office memo dated 19.8.97. In reply, the C.O. asked for a copy of the charge sheet which was already delivered to him earlier. However, photo copy of the charge sheet was supplied to him again on 22.9.97. The same was received by Shri S.J. Singh on 3.10.97. Shri S.J. Singh has not made any representations or submission within the stipulated time of 15 days on receipt of the memo.

I have gone through the charges framed against the said Shri S.J. Singh, the report of the Inquiry Officer very carefully. Four articles of charges were framed against him. The charges in brief are that Shri S.J. Singh, failed to submit fortnightly diaries for the

period from 1.1.94 to 31.7.94. he was reminded several times to submit the diaries but there was no response from him. The second charge was that he failed to submit the IRs of 78 PO's which he has shown as inspected in his diaries in 1993. Though the offices were shown as inspected, IRs were not received by Divisional Office. Shri S.J. Singh was repeatedly asked to submit the IRs. But he did not pay any heed to the instructions issued by D.O. and did not submit IRs of the 78 Offices shown as inspected in his diaries. The third article of the charges against Shri S.J. Singh is that he failed to inquire the case of excess cash retained by SPM, Phek SO during the period from 18.7.94 to 29.7.94 though he was directed to make immediate inquiry by the Divisional Head. Shri S.J. Singh failed to conduct the inquiry of excess retention of cash by the SPM, Phek as a result of which a fraud amounting to Rs.108156.24 was committed by the then SPM Phek SO. The forth article of charges is that Shri S.J. Singh is alleged to have drawn the pay and allowance of the EDDA & EDMC of Longmatra BO in account with Kiphire SO by putting false signature of the ED Staff on 29.7.94. It has been established that a sum of Rs.2955/- and Rs.2297/- being the pay and allowances of Shri K. Sangtam EDDA and Smt. T. Alemba EDMC, Longmatra BO respectively was drawn by Shri S.J. Singh on 29.7.94 by putting false signature of the two ED Officials in the pay rolls. Therefore, all the four articles of charges against the official have been proved.

As the charges against Shri S.J. Singh did very serious in nature and he is partly responsible for the loss of Govt. Money amounting to Rs.1,13,408.24 he is not fit to be retained in service. I agree with the findings of the I.O. and hold that the charges levelled against Shri S.J. Singh are established. Shri S.J. Singh was given adequate time to refute the charges and establish his innocence. But he failed to do so. Therefore, considering all aspects of the case I am of the view that the ends of justice will be adequately met if Shri S.J. Singh is dismissed from service.

ORDER

Therefore, I Shri F.P. Solo, Director of Postal Services, Nagaland, Kohima and the disciplinary authority hereby order that Shri S.J. Singh, ASP(K) Sub-Divn(u/s) be dismissed from service with immediate effect.

Sd/-
(F. P. SOLO)
Director Postal Services
Nagaland, Kohima

Copy to :-

- 1) Shri S.J. Singh, ASP (K) Sub-Divn (u/s).
- 2) The Postmaster Kohima HO for n/a.
- 3) The DA (P) Cal. (through P.M. Kohima)
- 4) - 5) P/F CR of the official.
- 6) - 7) Spare.

Sd/-
(F. P. SOLO)
Director Postal Services
Nagaland, Kohima

Annexure-13

21

DEPARTMENT OF POST
OFFICE OF THE POSTMASTER GENERAL :: N.E. CIRCLE
SHILLONG-793 001.

Memo No. Staff/109-10/98, Dtd. at Shillong, the 01.04.98.

ORDER

Gone through the appeal dated 30.01.98 of Shri S. J. Singh, Ex-ASPOs, Nagaland Division against the imposition of punishment of dismissal from service vide order No.B/Disc/S.J. Singh dtd. 27.11.97.

2. Shri S.J. Singh was proceeded against under Rule-14 of C.C.S. (CCA) Rules, 1965 vide Memo No.B-1/Disc./S.J. Singh dated 27.7.95/11.8.95 for his failure to submit Fortnightly Diaries and Monthly Summary of inspections, his failure to submit Inspection reports of 78 Post Offices, his failure to make immediate enquiry into the matter of excess cash retention in Phek SubPost Office, and for drawing the pay & allowances of EEA & EDMC of Longmatra B.O. by putting false signatures of the incumbents. The appellant did not submit any representation after the receipt of the charge sheet. The Disciplinary Authority appointed Inquiry Officer and Presenting Officer. The oral enquiry against the appellant was initiated. But he did not participate in the enquiry. As a result, the enquiry was conducted ex-parte and the report was submitted on 13.8/97. A copy of the enquiry report was sent to the appellant for submitting representation if any. However, he did not make any representation. After taking the enquiry report and other relevant factors into account, the Director Postal Services, Nagaland Division imposed punishment of dismissal from service.

3. Now, Shri S.J. Singh has submitted an appeal against the punishment imposed by the D.P.S., Nagaland Division. In his appeal he has made mainly the following points :-

(i) That the appellant was put under suspension on 4.8.94, but he was not paid subsistence allowance. Even though he had communicated his inability to attend enquiry due to financial stringency on account of non-payment of subsistence allowance, the Inquiry officer conducted enquiry ex-parte.

*Ablesh
Jew
Advocate*

22

Annexure-13 (Contd.)

(ii) That the prosecution witnesses did not turn up on the date fixed for their examination. As a result, they were not examined by the presenting officer before the Inquiry officer and the charges were taken to be proved against the appellant on the basis of facts and figures without any corroboration from the witnesses.

(iii) That the punishment order issued by the Disciplinary Authority does not indicate the application of mind by the said authority as the order merely re-produced the articles of charges without any substantive reasons given in support of the decision taken.

(iv) That the appellant had submitted Fortnightly Diaries regularly for the period he was on duty and was not aware where the diaries were kept in the Divisional office.

(v) That he had submitted all the Inspection Reports in respect of the post offices inspected by him during the year, 1993.

(vi) That he had not received the letter dtd. 29.7.94 containing the direction from the D.P.S., Nagaland Division, Kohima to visit Phek sub-post on time for which he did not pay the visit.

Vii That he had identified the signatures of EDDA & EDMC of Longmatra B.O on humanitarian ground for enabling them to draw their allowances for meeting medical expenses.

4. I have gone through the appeal of Shri S.J. Singh and all the relevant records. I want to record my observations on the first two points raised by the appellant about the conduct of oral enquiry which has obvious bearing on the proceedings and punishment order.

(i) It was seen from the records that Shri S.J. Singh was put under suspension on 4.8.94. The subsistence allowance was sanctioned vide Memo No. B-444/Pt.II dated 29.8.94. The copies of the Memo were endorsed to all concerned including the appellant. Apparently, due to unauthorised absence of the appellant from Headquarters after his suspension, the memo was not received by him, which led to nonreceipt of subsistence allowance. The appellant had also filed a petition before C.A.T., Guwahati Bench in this matter. Without going to the reasons for nonreceipt of subsistence allowance by the appellant at this stage, it is suffice to note that he was not receiving subsistence allowance at the time of holding of oral enquiry.

(ii) Records also indicate that the prosecution witnesses did not appear before the Inquiry Officer. It is not understood

why their presence could not be insisted and ensured as the witnesses were the employees/agents of the Department.

5. The fact needs recognition that the appellant had not received subsistence allowance regularly which could have affected his financial position. The plea of the appellant that he could not attend the oral enquiry due to financial problems arising out of non-receipt of subsistence allowance has some merit. Similarly, the failure to ensure appearance of prosecution witness before the I.O. appears to be an inadequacy so far as presentation of prosecution case is concerned. Taking these facts into consideration, I.S. Samant, Postmaster General, N.E. Circle, Shillong, do hereby set aside punishment of dismissal of service imposed vide D.P.S., Nagaland Memo No. B-1/Disc./S.J.Singh dated 27.11.97 and remit the case back to Disciplinary Authority for de novo proceedings from the stage of appointment of Inquiry Authority to inquire into articles of charges. Shri S.J.Singh will be deemed to be under suspension from the date he was dismissed from service in accordance with the aforesaid Memo of D.P.S., Nagaland. The appeal dated 30.01.98 of Shri S.J.Singh stands disposed of.

Sd/-

(S.SAMANT)
Postmaster General
N.E.Circle, Shillong-793001
Sri S.J.Singh,
Ex-ASPOs, Nagaland Division,
C/o D.P.S., Nagaland Division,
KOHIMA

Copy to :

1. The Director of Postal Services, Nagaland Division, Kohima.

Annexure-14

DEPARTMENT OF POST : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND : KOHIMA - 797001

Memo No. B1/Disciplinary/S.J.Singh/II

Dated Kohima 8.5.98

Shri S.J.Singh Ex-ASPOs Kohima Sub-Divn was imposed the punishment of dismissal from service vide this office memo no. B1/S.J.Singh dated 27.11.97.

Sri S.J.Singh has submitted an appeal against the punishment imposed by the undersigned. Subsequent to the appeal the PMG, NE Circle Shillong has disposed off and remit the case back to the undersigned for de novo proceedings.

Now, therefore the official Shri S.J.Singh will be deemed to be under suspension from the date he was dismissed from service in accordance with this office memo of even no. dated 27.11.97.

And accordingly the subsistence allowances is hereby ordered to be drawn and disbursed in favour of the official at the rate admissible to him prior to issue of Memo dated 27.11.97.

Sd/-

(P.P.SOLO)

Director of Postal Services
Nagaland : Kohima - 797001.

Copy to :-

1. The Postmaster Kohima HQ for information and n/action.
2. The D.A.(P) Calcutta (Through the P.M. Kohima HO)
3. Shri S.J.Singh, EX-ASPOs, Kohima Sub-Divn village and PO Monsangi, Via Manipur University Imphal-3.

Sd/- 8.5.95

(P.P.SOLO)

Director of Postal Services
Nagaland : Kohima - 797001.

*P. P. Solo
Postmaster
Kohima*

Annexure-15

DEPARTMENT OF POST : INDIA
 OFFICE OF THE DIRECTOR POSTAL SERVICES
 NAGALAND : KOHIMA - 797001

B1/Disciplinary/S.J.Singh/II

Dated Kohima the 28.4.98

ORDER

Where as an inquiry under Rule-14 of the Central Civil Services (classification, control and Appeal) Rules 1965 is being held against Shri S. J. Singh, Ex-ASPOs Kohima Sub Division U/S.

And where as the undersigned considers that presenting officer should be appointed to present on behalf of the undersigned the case in support of the articles of charges.

Now, therefore, the undersigned in exercise of the power conferred by sub-rule (5) c of Rule 14 of the said rules, hereby appoints Shri Md. Qutubuddin ASPOs, Kohima Sub-Div as presenting officer.

Sd/-
 (F. P. Solo)
 Director of Postal Services
 Nagaland : Kohima-797001

Copy to :-

1. Shri Md. Qutubuddin, ASPOs Kohima Sub Div (Presenting Officer).
2. Shri K. R. Das, SP (HQ) (Inquiry Officer).
3. Shri S. J. Singh, Ex-ASPOs Kohima Sub-Div, U/S, Vill & PO Mongsanga, via Manipur University, Imphal-3

Sd/-
 (F. P. Solo)
 Director of Postal Services
 Nagaland : Kohima-797001

*Alleged
 Dr.
 Advocate*

Annexure-16

Daily order sheet of rule 14 inquiry case against Shri S. J. Singh Ex ASPOs, Kohima held on 8.9.98 and continued up to 9.9.98 as under :-
 Date and time : 8.9.98 to 9.9.98 at 14 00 hrs and 800 hrs respectively.

Venue : O/O the ASPOs, Kohima.

Present : (1) Md. Qutubuddin, ASPOs and P.O.
 (2) Shri S. J. Singh CO.

The oral inquiry is held on 8.9.98 and continued to 9.9.98. Both this CO and P.O. are present in the inquiry. The P.O. has produced the lighted documents to CO who has inspected them and the documents are brought to records and exhibited marked as S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, S-11, S-12, S-13, S-14, S-15, S-16, S-17, S-18, S-19, S-20, S-21 and S-22.

The CO has been examined by the P.O. today. The CO has no witness. He has also cross-examined Mrs. T. Amongla APM, Kohima HO for this defence Assistant. The CO has requested to me today during inquiry for supplying of Photo copy of 3 (three) written statements i.e. EDDA, EDMC, Treasurer who are the witness. The CO may take extract of these documents he may take the photo copies.

The today's proceeding is hereby adjourned and the next date of hearing for evidence of witnesses will be fixed and communicated to CO and FO in time. Both the P.O. and CO have been requested to present the inquiry in the next hearing, without fail.

Copy given to :

Sd/-
 (K. R. DAS)
 I.O. & SPOS

*Alles Ted
 Law. Advocate*

Annexure-17

Daily order sheet of rule 14 inquiry case against Shri S. J. Singh Ex-ASPOS, Kohima and Division held on 15.10.98 as under :-

1. Date and time : 15.10.98 at 1400 hrs.
2. Venue : O/O the ASPOS Kohima.
3. Present : (1) Md. Qutubuddin, ASPOS and P.O.

Smt. Angmola
Defence Assistant.
(2) Shri K. Sangtam EDDA
Longmatra B.O.
(3) Shri A. Besu Mao
Ex-treasurer
Kohima H.O.
(4) Smt. T. Alamba
Sangtam
EDMC, Longmetra B.O.

Both the P.O. and defence Asstt. Have been present in the inquiry today before me. Shri S. J. Singh the C.O. has not attended the inquiry.

The date of today's oral inquiry was fixed as per the convenience of the C.O. Shri S.J. Singh Ex-ASPOS, Kohima but he failed to attend the inquiry.

All the witness of attended the inquiry before me and they have been examined and recorded their deposition of evidence in presence of the defence assistant who has been attended in the inquiry but she could not crossed the witnesses.

*Abesha
Law. Advocate*

Annexure-17 (Contd)

Both the P.O. and the defence assistant have been asked to submit their written brief to me within 10 days. Hence, the inquiry is hereby concluded today.

Sd/-
(K. R. Das)
15.10.98
Inquiry Officer

Copy given to :-

1. Shri Qutubddin and SRPS (HO) P.O. Kohima.
2. Smti. T. Angmola, Defence Assistant.
3. Shri S. J. Singh, C.O. and Ex. ASPOS.

Annexure-18

DEPARTMENT OF POST : INDIA
 OFFICE OF THE DIRECTOR POSTAL SERVICES
 NAGALAND : KOHIMA - 797001

B1/Rule14Inquiry/S.J.Singh/

Dated Kohima the 21.10.98

To,

Shri S.J. Singh,
 Ex-ASPOS, Kohima Sub-Divn u/s,
 At Vill & P.O. Mongsangai,
 Via Manipur University,
 Imphal-3

Sub :- SUBMISSION OF WRITTEN BRIEF IN R/O RULE 14
 INQUIRY CASE AGAINST SHRI S. J. SINGH, EX-ASPOS,
 KOHIMA.

A copy of the written brief in r/o rule 14 inquiry case
 dtd. 13.10.98 submitted by the PO Md. Qutubuddin, ASPOS, Kohima
 Sub-Divn., Kohima is sent h/w along with the daily order sheet
 and proceeding held on 15.10.98 are sent h/w.

You are requested please arrange to submit your written
 brief by your defence Assistant within 10 days of receipt of
 this letter.

1. Enclosure (4)

Sd/-
 (K. R. Das)
 Supdt. Of Post Offices & I.O.
 Kohima

*Alles Ted
 Law Advocate*

Annexure-19

DEPARTMENT OF POST ; INDIA
 OFFICE OF THE DIRECTOR POSTAL SERVICES
 NAGALAND : KOHIMA - 797001

B1/Disciplinary/S.J.Singh/

Dated Kohima the 17.2.99

To,

Shri S.J. Singh,
 Ex-ASPOS, Kohima Sub-Divn u/s,
 At Vill & P.O. Mongsangai,
 Via Manipur University, Imphal-3

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

Enclo : as above.

Sd/-
 (F.P. Solo)
 Director of Postal Services
 Nagaland Kohima -797001

*Alles Ted
 Jay, Devorah*

Annexure-19 (Contd.)

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND : KOHIMA-797001

Departmental 'De-novo' inquiry report under Rule 14 of CCS (CCA)

Rules1965 against Shri S. J. Singh ASPOs Kohima Sub Division Kohima (u/s).

I was appointed inquiry officer vide DPS Nagaland Kohima letter No.B1/Disc/S. J. Singh dtd. 27-11-97 to inquire into the charges framed against Shri S. J. Singh, ExASPOs Kohima Sub Division Kohima vide DPS Kohima memo No.B1/Disc/S. J. Singh dtd. 27-11-97.

Since I have completed the oral inquiry on the basis of documentary evidence listed on Annexure III of the memorandum No.B1/Disc/S. J. Singh dtd. 2711-97 and oral statement adduced before me by the CO as well as the deposition made by the prosecution witnesses during oral inquiry named in the Annexure IV of the said memorandum and prepared my inquiry report and 2 copies of which are forwarded to the Director, Postal Services, Nagaland Division Kohima for taking further action at his end.

The CO and the PO were co-operating in the oral inquiry held. The preliminary hearing was held as on 20.8.98 in the office of ASPOs Kohima Sub Division Kohima at 1400 hrs. Both the CO and the PO were attended in the inquiry I read out the charges to the CO as to whether admitted guilty or denied the charges.

*Deepti
Deepti Law
Advocate*

Annexure-19 (Contd.)

Since the CO denied the all charges framed against him by disciplinary authority i.e. Director Postal Services, Nagaland Kohima, thereafter, the oral inquiry proceeded and fixed the next date of hearing was held as on 8.9.98 and continued the sitting up to 9.9.98 at the office of ASPOs, Sub Division Kohima at 1400 hrs and 800 hrs respectively. Both the CO Shri S. J. Singh and PO Md. Qutubuddin were present in the inquiry. The PO had produced the listed documents to the CO Shri S. J. Singh who inspected them and then the document were brought into records and exhibited and marked as under :-

S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, S-11, S-12, S-13, S-14, S-15, S-16, S-17, S-18, S-19, S-20, S-21 and S-22.

The CO was asked to produce witness if any but he has no witness. The CO has nominated Mrs. T. Amongla Assistant Postmaster, Kohima HO as his defense assistant to defend the case on his behalf the next date of oral inquiry was held on 15.10.98 at 1100 hrs in the office of ASPOs, Kohima for deposition of witness. The date was fixed with consultation of CO conveniently in the previous date of hearing. All the witnesses, PO and the defence Assistant were present except the CO in the oral inquiry. The CO Shri S. J. Singh did not attend the inquiry on the plea that he was ill. CO, issued one telegram on 11.10.98 which was received by me on 16.10.98 while the hearing was over. All the witness were examined and crossed examined in presence of defence assistant Smt. T. Amongla APM Kohima HO, who was agreed for examining the witnesses in absence of the CO Shri S. J. Singh.

The article of charges and substance of imputation of misconduct and misbehavior framed against Shri S. J. Singh, Ex-ASPOs Kohima by the disciplinary authority DPS, Nagaland Kohima vide his letter No.B1/Disc/S. J. Singh dt. 27.11.97 were 4 (four) as under :-

1. Article No.I
2. Article No.II
3. Article No.III
4. Article No.IV

The article of charge no.I was that while Shri S. J. Singh CO was working as ASPOs Kohima Sub Division during the period from 30.9.91 to 31-7-94, he failed to submit his fortnightly diaries and monthly summary of inspection for the period from 1.1.94 to 31.7.94 as required.

The article of charge no.II was that while he (CO) was working as ASPOs, Kohima Sub Division Kohima for the period from 30-91 to 31-7-94 he had shown that he had carried out the inspection of 78 Post Offices for the year 1993 in his fortnightly diaries submitted to the DPS Nagaland Kohima but he failed to submit any of the inspection reports of the aforesaid 78 (seventy eight) Post Offices inspected by Him in the year 1993.

The article of charge no.III was that while said Shri S. J. Singh CO, was working as ASPOs, Kohima Sub Division for the period from 30.9.91 to 31.7.94, he failed to inquire the case of excess cash retention by the SPM, Phek SO, during the period from 18.7.94 to 29.7.94 although the matter was reported to him by the Postmaster, Kohima HO as well as he was directed by the Divisional Head to make immediate inquiry into the case. But said Shri S. J. Singh CO failed to carry out the inquiry despite of series of directions which led to a fraud at Phek SO amounting to Rs.1,08,156,24 sustained loss to the Govt.

The article of charge no.IV was that while said Shri S.J. Singh CO was working as ASPOs, Kohima Sub Division Kohima during the period from 30.9.91 to 31.7.94 he the CO drew the pay and allowances of EDDA and EDMC of Longmatra BO under Kiphire SO by forging the signature of Shri K. Sangtam EDDA and Smt. T. Alemba Sangtam EDMC, Longmatra BO at Kohima HO as on 29.7.94 and took the money by himself.

On the inquiry held on 20.8.98, I had read out all the above charges brought against said Shri S. J. Singh the accused by the disciplinary authority and explained to him as to whether admitted

guilty or deny the charges who ultimately denied all the charges, on the hearing held on 15.10.98, Shri K. Sangtam EDDA Longmatra BO under Kiphire SO and SW 1 on being examined by the PO deposed his evidence before me that he lodged complaint to the DPS, Kohima regarding non receipt of pay and allowances for the month of Feb/94 to June 94. Further he deposed that the signature in the A/Roll exhibit S-22 was not his own. He also further deposed his evidence that neither he came to Kohima HO on 29.7.94 nor took payment of any bill from Kohima HO.

Shri A. Besu Mao, Ex-Treasurer Kohima HO and SW 2 deposed his evidence in the inquiry held on 15.10.98 before me that he was working as treasurer at Kohima HO on 29.7.94. He also further deposed that the written statement as exhibited was his own written by himself. Again said Shri Mao deposed his evidence that Shri S. J. Singh ex-ASPOs(CO) came personally to the treasury room on 29.7.94 and took payment of pay bill of EDDA and EDMC Longmatra BO. He also further deposed his evidence that no ED staff of Longmatra BO had come to Kohima HO on 29.7.94 and took payment of bills. He also reiterated that the bill of Longmatra BO amounting to Rs.5252 was really given to the hand of Shri S. J. Singh, CO after duly counting.

Smt. T. Alemba Sangtam EDMC Longmatra BO and SW 3 on examination deposed her evidence on the hearing held on 15.10.98 before me that she lodged complaint to the DPS, Kohima regarding non receipt of pay and allowances from Oct'93 to June '94. She (SW 3) further deposed that the statement exhibited shown to her was her own. Further, she deposed that the signature in the A/Roll of Longmatra BO for July 94 was not her own. She also further deposed that she never came to Kohima HO on 29.7.94 and took payment of pay and allowances from Kohima HO on 29.7.94.

On the inquiry held on 27.8.99, I examined the CO. On being questioned that the CO Shri S. J. Singh did not submitted 78 inspection reports of Pos inspected by him during the period from 30.9.91 to 31.9.94, he stated to me that he submitted all the IRS except few during late period from 30.9.91 to 31.9.94, he stated to me

that he submitted all the IRS except few during late period of 1993 after resumption of duty on completion of E/L for 45 days w.e.f. 1/1/94. On being asked he (CO) also further stated that IRS were submitted either to the dealing assistant or to the receipt and despatch branch of DPS office. On being questioned the CO further stated to me that he had no records in support of submission of IRS as proof. But was available in S7 of prosecution witness and whereabouts of the latter period was not unknown to him.

On being questioned to CO Shri S.J. Singh that he was directed by the DPS, Kohima and Post Master a well to visit Phek SO and inquire about the excess cash retention by the SPM, Phek but failed as a result SPM Phek misappropriated a huge amount of Govt money. He (CO) stated to me that the first letter was delivered to him on 29.7.94 (in the afternoon), 30.7.94 and 31.7.94 were Saturday and Sunday respectively. Also he proceeded on leave on 1.8.94 and as such, there was no time on his part to visit the Phek SO.

Further, on being questioned CO stated to me that he never returned from leave to duty since 1.8.94 till date i.e. 27.8.99, as such could not visit the Phek SO and inquire into the cash retention at Phek by the SPM.

Again on being questioned that DPS, Kohima brought against the CO, Shri S. J. Singh that the CO took payment of pay and allowances of EDDA and EDMC Longmatra BO under Kiphire SO, on 29.7.94 forging the signature of them on A/Rolls at Kohima HO, the CO Shri said Singh stated to me that his answer will be as oral statement during the enquiry held on 27.8.99.

On being questioned that the EDDA and EDMC Longmatra BO and the Ex-Treasurer, Kohima HO Shri Besu Mao deposed that the signatures on the A/Roll were not their own and their signature were forged by Shri S. J. Singh (CO), the CO stated that the allegation of forging the signature and handing over the amount to him by the treasure was false and did not arise. He also added that it was a trick to befool him and the Department as well.

On being questioned to CO Shri Singh that Shri Besu Mao SW 2 stated in crossed examination held on 26.8.99 that CO said Shri Singh brought the A/Rolls himself to the treasury and requested him for payment to a unknown person with him (CO) who was the person to tell. The CO stated to me that the unknown person was EDA, Longmatra BO who was the husband and the father of EDDA and EDMC Longmatra BO and he added that the signatures on the 2 (two) A/Rolls were the EDDA and EDMC Longmatra BO.

The CO has cross examined the witness T. Alemba Sangtam EDMC (SW-3) Longmatra BO on the inquiry held on 4.8.99 as under :-

Shri S. J. Singh CO questioned as to whether that EDMC T. Alemba complained to DPS, Kohima regarding non receipt of pay and allowances about three or four months who stated to be true as instructed by then inspector.

Further, on being questioned by the CO to T. Alemba whether she received the pay and allowances for the aforesaid period from Kohima HO, she (witness) stated that she received after the complaint lodged, thereafter.

I have examined the witness T. Alemba, EDMC Longmatra BO, on being questioned who has signed the A/Roll of pay and allowances and whether the signature in the A/Roll was her own, she stated to me that she did not sign on the A/Roll.

Further, on being questioned from whom she received the pay and allowances, she stated to me that she received from Kiphire SO. On being questioned she stated to me that she did not come to Kohima HO on 29.7.94.

Again the CO Shri S. J. Singh cross examined the witness on the inquiry held on 26.8.99 as under :-

On being questioned by the CO to Besu Mao as to whether he worked as Treasurer on 29.7.94 at Kohima HO, he stated that he worked as treasurer on the said date.

Shri Besu Mao witness further stated on being questioned by the CO that Asstt.. Treasurer can not make payment on his behalf, and

Asstt.. Treasurer Shri Anil K. R. Barman was also present on 29.7.94. The witness A. Besu Mao again stated that he did not know the EDMC and EDMA personally. On being questioned by the CO the witness said Mao stated that in his previous deposition of evidence was that both the EDDA and EDMC Longmatra BO, did not come to Kohima HO on 29.7.94. The witness Mao further on being questioned by the CO stated that it was not known to him who signed the two A/Rolls which were paid on 29.7.94 but the A/Rolls were brought by Shri S. J. Singh CO and requested him for payment to him. The witness A.B. Mao also further stated on being asked that there was a person with Shri S. J. Singh CO and the payment was made to that person as instructed by Shri S. J. Singh CO.

Shri K. Sangtam EDDA Longmatra BO on cross examination by the CO Shri S.J. Singh stated that he was working at the BO since 10 yrs back and also added that his adopted father is N.T.Sangtam Chu and name of the BPM Shri N.T. Sangtam, the EDDA, witness also further added that the EDMC, Longmatra BO was adopted mother.

Shri K. Sangtam, EDDA, witness further stated on being questioned by the CO that he complained regarding non receipt of pay and allowances for the month of Feb/94 to June/94.

K. Sangtam also further on being asked by the CO stated that he received the amount but after along time through EDA, Longmatra BO.

On re examination by the PO Shri Ksh. Tomba Singh, Shri K. Sangtam EDDA, (witness) stated that he has not singed the A/Roll at the time of receiving the amount. Also added further that it was not known to him who has signed the A/Roll.

Shri K. Sangtam also stated on being asked by the PO that he complained direct to the DPS, Kohima after knowing the fact that the pay and allowances was drawn to some other official.

Oral defence argument made by the CO, Shri S.J. Singh during the inquiry held on 27.8.99 as under :-

The CO Shri Singh ASPO Kohima stated against the article of charge No.I for non submission of fortnightly diaries and monthly summary of inspection. He stated that for the period from 1.1.94 to 14.2.94 for 45 days was on earn leave and followed by another spell of leave for 64 days w.e.f. 1/4/94 to 3.6.94 out of ~~about~~ 108 days of the period in question he was on leave for 109 days and the rest 71 days was on duty. He further stated that no officiating arrangement was made for the leave period. For 71 days of duty, no out door duty was performed and remained in Head quarter for correspondence works and the diaries for these 71 days was submitted in due course to the DPS, Kohima, the CO also further defended that exhibit No.S⁷ is the diary file of the CO for the period from 1.1.93 to 31.12.93 which shows that he was regular in submitting the diaries and as such the charge of article No.I is refuted.

The CO further defended that the article of charge No. I was non submission of inspection report of 78 offices. He stated that the charge itself is defective and liable to be null and void as the period of duty was from 30.9.91 to 3.8.94. The CO also further added that almost all the inspection report for the period from 1.1.93 to 31.12.93 were submitted except a few for the late period of year 1993 as those pending IRI's also were submitted after he resumed duty from 45 days leave w.e.f. 1.1.94.

The CO defended the article of charge No.III his failure of timely inquiry of retention of excess cash by the SPM Phek SO for the period from 18.7.94 to 29.7.94 for which SPM defrauded a huge amount of Govt money, during the period that he received a letter from DPS, Kohima in the afternoon of 29.7.94 (Friday) and 31.7.94 were Saturday and Sunday respectively and the CO Shri S. J. Singh proceeded on leave w.e.f. 1.8.94 and never returned to duty till date. Hence no fault of the CO in this case and the charge is refuted.

The CO Shri S. J. Singh defended the article of charge No.IV regarding the pay and allowances of EDDA and EDMC Longmatra BO received by him as on 29.7.94 forging the signature of the EDDA and

EDMC on the A/Rolls from Kohima HO that the written statement of EDDA and EDMC Longmatra BO did. 17.1.95 were doubtful in nature on the ground that the hand writing on both the written statement exhibits-S 17 and S-19 belong to the same person.

The CO also further stated that at the time of examination of the witness by the PO on 15.10.98 in his absence Shri K. Sangtam EDDA stated that he was about 22 years old where as he admitted that he has been working as EDDA since 1.10.1980. In his written statement dtd.17.1.95 (S-17) from this it appeared that he was working as EDDA, Longmatra BO when he was 4 year old which was quite absurd and be treated as null and void.

The CO further stated that the whole establishment of Longmatra BO was the 3 (three) members of the same family i.e. father, mother and the adopted son, and the 3 (three) came to the CO ON 29.7.94 in the morning and requested him (CO) for disbursing the pay and allowance for some months from Kohima HO and also they submitted one application to him which was forwarded by him to the Postmaster, Kohima for consideration on humanitarian ground. Again, the CO added that they came back with two A/Rolls. Shri S. J. Singh (CO) also further stated that he sent them to Kohima HO for taking payment. Further, the CO also visited Kohima HO for some purpose and met the father that is EDA with 2 (two) A/Rolls at the counter of the treasury Kohima HO and he related the fact to the treasurer Shri A. Besu Mao then the whole amount was handed over to the EDA in his presence. As such, the article of charge No.IV is refuted.

The written brief submitted by Ksh Tomba Singh, ASPOs Kohima Sub Division and PO which was received on 27.9.99 has proved the article of charge No.I, II and IV beyond reasonable doubt the PO stated that during the inquiry the oral argument and plea of the CO that he submitted direct to the DPS office either to the dealing Asstt. of

the concerned branch or the receipt branch is only imaginary having no documentary evidence to prove. However, exhibits-4 is the hand to hand

receipt book maintained by the CO himself during his tenure as ASPOs Kohima and without proper entry in it. His defence of submission of the above reports are not acceptable. Hence, the charges under article No. I and II against the CO are proved without any hesitation.

The charge under article No. III against the CO related to the non-visit of Phek SO for inquiry with the retention of excess cash by the SPM, Phek SO. In this case the CO during the inquiry defended himself that on 29.7.94 (Friday) he received a letter from the DPS, Kohima directing him to visit the SO for the matter and the next day 30.7.94 was Saturday and 31.7.94 (Sunday) were holidays. Again the CO proceeded on leave from 1.8.94 and while on leave he was placed under suspension from 4.8.94. In such circumstances, the CO was not in a position to perform his normal duties. If the leave had not been granted and sufficient opportunity was given the CO could have visited the Phek SO for the retention of excess cash, inquiry.

The defence plea of the CO is considerable and hence the charge against him under this article III could not be proved.

The disciplinary authority in his article IV charged Shri S.J.Singh that he allegedly took payment of pay and allowance of EDDA and EDMC of Longmatra BO in a/c with Kiphire SO from Kohima HO on 29.7.94 by forging the signature of the ED staff. During the inquiry Shri K. Sangtam EDDA of the BO (SW2) and Smt. T. Alemba Sangtam EDMC of the said BO (SW-3) deposed that they never attended at Kohima HO on 29.7.94 to receive their allowance from Feb to June '94 and also stated that their signature in the A/Rolls is forged one.

Again A. Besu Mao (SW-2) the then Treasurer of Kohima HO deposed that Shri S. J. Singh came to the Treasury room of Kohima HO on 29.7.94 along with the A/Rolls and took payment of Rs.5252/- only from him, the (SW-2) also stated that no one EDDA and EDMC except the CO came to him on that day for receiving the payment. It is thus clear that the CO himself had taken payment of his allowances for the ED staff in the A/Rolls.

Moreover, no documentary evidence could be found in support of his defence to deny this charge. Hence, the charge against the CO, under this article also stands proved without any doubt.

The written brief of the CO did. 12.10.99 submitted is received by me on 28.10.99 as under :-

The article I charge of the CO was for non-submission of fortnightly diaries and monthly summary of inspection for the period from 1.1.94 to 31.7.94 while the CO was holding the charge of ASPOs Kohima from 30.9.91 to 31.7.94. The CO stated that he was on earn leave for 109 days i.e. from 1.1.94 to 14.2.94 (45 days) and again from 1.4.94 to 3.6.94 (64 days) respectively. The CO in his written brief further stated that disciplinary authority was too hasty in charging the CO in spite of the fact that all the relevant records were maintained and available in his office and the PO was eager to prove the charges in spite of the fact that the clear cut picture was focused during the proceeding of the inquiry, the CO also further stated that CO did not maintained hand to hand receipt book and exhibit S-4 was the hand to hand receipt book maintained by the Divisional Office in between DO and CO for the period from 22.84 to 29.7.94 and as such the PO will not get any entry of submission of any document from the office of the CO to the DO. Hence, non-maintenance of said book can not stand as a proof for the purpose in question, the CO further stated that exhibit no 7 (57) having 34 pages is the diary file of the CO maintained by the DO for the period from 1.1.93 to 31.12.93 and that those returns were submitted to the Divisional Office without entry in any hand to hand receipt book, likewise the due returns for duty period of 103 days were submitted to the Divisional Office and as such he refuted the charges.

Again CO in his written brief stated in r/o the article of charges no. II regarding non-submission of inspection reports carried out during the year 1993. CO stated to be the charge imaginary as because during the month of May 1993, the PMG, Shillong visited a good

no. of SOs and BOs in his Sub-Division and he found the IRs available in the order books, the CO further stated that had he not submitted the IRs, he would have faced the disciplinary action, the CO also further, stated that some IRs of late days of 1993 could not be submitted in time as the CO proceeded on leave.

But those IRs also submitted in piece meals when CO returned to duty from leave in 1994. As such CO, has refuted the charges under this article no.II.

As regards article no.III regarding failure of inquiry for retention of excess cash by the SPM, Phek SO for the period from 18.7.94 to 29.7.94 as a result of which SPM defrauded huge amount of govt. money, the CO stated in his written brief that the first report on the case vide DPS, Kohima, letter No.E-4/ECBM dated 25.7.94 addressed to SPM, Phek and copy endorsed to the CO (S6) was received by him on the evening of 29.7.94 (Friday) under hand to hand receipt book and 30.7.94 and 31.7.94 were Saturday and Sunday and that the CO proceeded on earned leave w.e.f. 1.8.94 and thereafter CO never returned to duty as the CO was placed under suspension while he was on leave at Imphal. As such, CO did not get time to inquire into the case and he refuted the charges.

Further, the CO stated against the article of charges no.IV which related to the taking payment of pay and allowance of the EDDA and EDMC of Longmatra BO by the CO himself forging the signature of the EDMC and EDDA on the A/Rolls, on 29.7.94 from the Kohima HO that on the cross-examination and re-examination held on 4.8.99 and 26.8.99 Smt. T. Alemba Sangtam EDMC Longmatra BO (SW-3) stated that she received the pay and allowances at later stage from Shire SO account office of Longmatra BO and the deposition on 15.10.98 and her statement (S-19) was not true. Again the CO stated that Shri K. Sangtam EDDA, Longmatra BO (SW-1) was the adopted son of Shri N.T. Sangtam EDA, Longmatra BO, and he used to sign records in different style as seen from (S-17) and deposition did. 15.10.98 and 26.8.99. CO further stated that K. Sangtam EDDA (SW-1) admitted received his pay

and allowances at Longmatra BO through EDA of the said BO during the cross-examination and re-examination held on 26.8.99.

Further, CO stated in his written brief that the statement given by A. Besu Mao, Ex-Treasurer (SW-2) on exhibit S-20 and deposition during inquiry on 15.10.98 and 26.8.98 were link less one another CO also stated that Shri Mao deposed on 15.10.98 that he made payment of the pay and allowances of the EDDA and EDMC of Longmatra BO direct to the CO Shri S. J. Singh on 29.7.94 but said Mao deposed on cross-examination on 26.8.99, he made payment to a person as identified by the CO.

Further, CO stated in his written brief that on 29.7.94 EDA, EDDA and EDMC of Longmatra BO came to the CO on 29.7.94 for allowing the EDDA and EDMC to draw their arrear pay and allowances from Kohima HO and the CO extended help in identifying their signatures on the A/Rolls. The CO also came to the Kohima HO and found EDA, standing at the counter of the Treasurer with the 2 (two) A/Rolls and then CO asked the Treasurer to make payment to the EDA and the payment was made to the EDA in presence of the CO. CO refuted the charge under article no.IV.

Now it appears from the written brief of PO that the CO Shri S.J. Singh did never submitted his fortnightly diaries, monthly summaries of inspection and inspection report direct to the DPS office or to the dealing Assistant concerned though he stated in his written brief as well as oral defence argument that he submitted direct to the DPS office or to the receipt and despatch branch of Divisional Office, since the CO could not produce any documentary evidence in support of submission. Hence, the article of charge No.I and II stands proved beyond reasonable doubt. As regards articles of charge No.III the CO in his written brief as well as oral argument stated that he received the first letter from DPS Kohima as on 29.7.94 regarding inquiry relating to the excess cash retention by the SPM, Phek which was Friday and next day was Saturday and 31.7.94 was Sunday and thereafter said Shri S.J. Singh CO proceeded on leave w.e.f. 4.8.94 and as such

CO was not in a position to visit Phek SO. Hence, the plea of CO is convincing. Also, CO did not resume duty after expiry of leave and he was placed under suspension while on leave and never returned to duty till date. The PO also stated in his written brief that he did not get opportunity to visit the Phek SO as because he proceeded on leave and was placed under suspension while on leave. Hence the defence plea of CO is acceptable and as such the charge against him under this article III could not be proved.

The PO has proved the article of charge IV which relates to the drawal of pay and allowances of EDDA and EDMC of Longmatra BO under Kiphire SO. It has been established that CO took the payment of the bills from Kohima HO on 29.7.94 by forging the signatures of EDDA and EDMC of Longmatra BO. During inquiry Shri K. Sangtam (SW) stated that he never came to Kohima HO on 29.7.94 and took payment of the bills from Feb'94 to June'94. The written (SW1) also further denied the signature appearing on the A/Roll that the signature was not his own and it was forged signature. Further PO Ksh Tomba Singh stated in his written brief that Shri A. Besu Mao ExTreasurer of Kohima HO and (SW-2) deposed his evidence during inquiry that on 29.7.94 Shri S. J. Singh CO came to the treasury room personally and took payment of Rs.5252/- from him. Further said MAO deposed his evidence that no one else claiming to be as EDDA and EDMC of Longmatra BO had come to him for taking payment of the A/Roll on 29.7.94. Hence, the PO proved that the CO had taken payment of the allowances for the ED staffs in the A/Rolls as deposed by the (SW-1 & SW-2), moreover no documentary evidence could be produced in support of his defence to deny the charge. Hence, the article of charge-IV stands proved beyond doubt.

Hence, all the articles of charges framed against Shri S.J. Singh, Ex-ASPOs, Kohima Sub-Division Kohima have been discussed with reference to the exhibited documents as well as statement of CO written statement of CO, PO and also the witnesses SW, SW-2 and SW-3 adduced during oral inquiry held and analysed as under :-

On the inquiry held on 8.9.98 and 9.9.98 the listed documents were shown to the CO for inspection and exhibited. The CO during inquiry held on 9.9.98 stated that he submitted all the diaries except leave period for 45 days. But he could not produce any documentary evidence in support of submission of fortnightly diaries and monthly summary of inspection for the period from 1.1.94 to 31.7.94. Hence, it is clear evidence that said Shri S.J. Singh (CO) did not submit the fortnightly diaries and monthly inspection summaries. During the inquiry held on 9.9.98 the CO further stated that he submitted IRs of 65 Pos for the year 1993 to the DPS Office Kohima up to the end of December 93 and the remaining IRs submitted to the DPS Office on resumption of duty from availing 45 days leave.

But from the exhibit 5 it appears that the CO only submitted 5 IRs out of 85 Pos as stated by said S.J. Singh though he stated in his written statement also that he submitted all the IRs except few which was submitted on resumption of duties in 1994. But the CO could not produce any documentary evidence in support of submission of IR for 78 Pos. Hence, it is a clear evidence that said Shri S. J. Singh ASPOs (CO) did not submit the IRs for 78 Pos.

Further said Shri S. J. Singh CO has stated during inquiry held on 9.9.98 as well as in his written brief submitted and his oral defence arguments that during his incumbency as ASPOs Kohima from 18.7.94 to 29.7.94 received a letter from DPS, Kohima on 29.7.94 which was Friday for inquiry about the retention of excess cash by the SPM Phek SO, but said Shri S.J. Singh CO could not visit the Phek PO on the plea that 30.7.94 was Saturday and 31.7.94 was Sunday and he proceeded on leave w.e.f. 1.8.94, and he was placed under suspension while on leave for which he did not get opportunity to visit the Phek SO and inquire in to the matter as directed. Hence the charge under this article could not be proved.

The CO S.J. Singh stated in his written statement as well as his oral defence argument during inquiry held on 27.8.99 that all the ED staff of Longmatra BO were the members of the same family and

they came to him on 29.7.94 and requested him for arrear payment of pay and allowances of EDDA and EDMC and on identified by him Ex-Treasurer made payment of the A/Rolls to the EDA who was the husband of EDMC Smt. T. Alemba and father of adopted son of EDDA A.K. Sangtam which could not be believed and accepted since K. Sangtam EDDA and T. Alemba Sangtam EDMC, Longmatra BO under Kiphire SO and (SW-1 and SW-3) witness denied the signature of their own on the A/Rolls and stated forged signature one.

Hence, it is clear evidence that the pay and allowances was not taken by both the EDDA and EDMC of Longmatra BO and the payment was taken by said Shri S. J. Singh ASPO, Kohima (CO). On the other hand on the cross-examination held on 4.8.99, Smt. T. Alemba EDMC on being questioned by CO stated that she complained to the DPS, Kohima regarding non-receipt of pay and allowances for about 3 (three) or 4 (four) months. She also stated that she got the pay and allowances received the same in her deposition of evidence during inquiry and denied the signature on the A/Rolls. Also she stated that payment was received at Kiphire SO which is quite false or because of some other influence since the payment was made on 29.7.94 at Kohima HO.

Shri K. Sangtam EDDA, Longmatra BO during cross-examination held on 26.8.99 on being questioned by the CO Shri S.J. Singh stated that he lodged complaint to the DPS Kohima for nonreceipt of pay and allowances for the month of Feb'94 to June'94. He also further stated that he received the payment after a long time through the EDA Longmatra BO which is quite false and can not be accepted since he denied in his deposition of evidence during inquiry while the A/Rolls was paid at Kohima HO on 29.7.99.

Shri A. Besu Mao ex-treasurer stated during cross-examination held on 26.8.99 on being asked by the CO Shri S.J. Singh that the EDDA and EDMC did not come to Kohima HO on 29.7.94 and did not know who signed the A/Rolls but he signed A/Rolls was brought by

ax

said Shri S.J. Singh (CO) and asked him for payment to him. He also further stated on being questioned that there was a person with S.J. Singh (CO) and the payment was made to that person as instructed by Shri S.J. Singh ASPOs, (CO) which is quite false and can not be accepted since said Mao deposed his evidence during oral inquiry that Shri S.J. Singh ASPOs (CO) came to the Treasury room personally on 29.7.94 and took payment of pay and allowances of EDDA and EDMC of Longmatra BO and also the payment was made as per instruction of the then Postmaster, Kohima HO whose authority was seen in A/Rolls (exhibit S-22). Hence, it was an established fact that said Shri S.J. Singh ASPOs (CO) took payment of the pay and allowances of EDDA and EDMC of Longmatra BO from Kohima HO on 29.7.94.

The PO Shri Ksh Tomba Singh ASPOs, Kohima Sub-Division Kohima also proved all the charges except article of charge no.III framed against Shri S.J. Singh ASPOs (CO) beyond any reasonable doubt in his written brief did. 27.9.99 which was received by me on 29.9.99.

Shri S.J. Singh ASPOs, Kohima Sub-Division has failed to defend himself to the charges framed against him in his written brief did 12.10.99 which was received by me on 28.10.99.

Hence, it may be concluded on the basis of the documentary evidence as exhibited as well as oral evidence as adduced by the witnesses (SW-1, SW-2, SW-3) and statement made by the CO, Shri S.J. Singh Ex ASPOs, Kohima Sub-Division, Kohima during oral inquiry held.

In view of the reason as above, I hold my opinion that all the charges except article of charge No.III framed against Shri S.J. Singh Ex ASPOs, Kohima Sub-Division, Kohima by the disciplinary authority DPS, Nagaland Kohima vide his memo No.B1/Disc/S.J. Singh did 27.11.97 have been proved beyond my doubt and said Shri S.J. Singh found guilty of charges.

Sd/-

(K. R. Das)
Inquiry Officer and Supdt., POs
(HQ) Kohima, Nagaland.

*Reverend
Rev. Mr. Das*

ANNEXURE-20

To

The Director of Postal Services,
Nagaland Division,
Kohima-797001.

Sub : Representation against the Inquiry Report No. Nil dated Nil of the I.O., Shri K.R. SPOS, Kohima under Rule-14 of C.C.S. (CCA) Rules, 1965 against Sri S.J.Singh, Ex.ASPOs, Kohima.

Ref : Your NO. B-1/Disciplinary/ S.J.Singh dated 17.2.1999.

Respected Sir,

Kindly refer to your office letter cited above. As directed the undersigned, your C.O., is submitting this representations to your honour, the disciplinary authority, for favour of your kind perusal and favourable orders.

2. As the outset it is to point out that in the introductory Para that the was appointed as I.O. vide your office letter No.B-1/Disciplinary/S.J.Singh dated 27.11.1997 to enquire into the charges framed against the C.O. vide your Memo No. B1/Disc/S.J.Singh dated 27.11.1997. But so far the undersigned never received copies of the aforesaid two letters/Memos except a copy each of your Office Memo No. 1/Disciplinary/S.J.Singh dated 27.7.1995/11.8.1995 for holding an enquiry under Rule-14 of the CCS(CCA) Rules, 1965 and No. B-1/Disciplinary/S.J.Singh dated 28.4.1998 appointing Shri K.R. Das, S.P.O.S. Kohima as Inquiry Officer. Further it is to mention that on his first Daily order sheet dated 20.8.1998 the I.O. stated that the charges to be enquired were issued under your office Memo No. B-2/Disc./S.J.Singh dated 27.11.1997 where the C.O. honestly objected the defect orally and in writing during the enquiry but the I.O. did not pay any heed and the Inquiry continued.

3(i) In Para (1) of the written brief of the C.O. dated 8.11.1998 submitted to the I.O. the above facts as stated in the preceding para were already stated. But the I.O. tried to confuse the the fact as per para -4 of page 5-9 of his report.

*Respectfully
S. J. SINGH
Advocate*

(ii) On the facts as stated above your C.O. would like to apply to your honour humbly that the present report no. nil dated nil of the I.O. may kindly be treated as a prejudiced and biased one.

4. In para 3 of the said report the I.O. charged the C.O. for non cooperation during the Inquiry whereas the appreciated the P.O. was no evidence of reproach or appreciation either in any of his Daily Order sheets or elsewhere. It is crystal clear that the report is not based on facts but is partial, biased and against the law of Natural Justice. From this very expression of the I.O. any lay man may be able to imagine the outcome of the I.O. report.

5. The present case is a De novo proceedings against the orders of the DPS, Kohima, Memo No. B1/Disc/S.J.Singh dated 27.11.1997 and Shri K.R. Das, S.P.O.s, Kohima is directly subordinate to the DPS, Kohima, the disciplinary authority, who has already expressed an opinion on the allegations on the allegations in his Memo stated above. As such, the appointment of the said Shri K.R.Das as Inquiry Officer in this case is in violation of the instruction No. 5(i)(b), Chapter-I of P & T Manual, Vol.III.. Due to administrative hierarchy the present I.O. must be biased, unfair, unjust and non-judicious. Further the I.O. will be partial and one-sided.

6. The preliminary hearing for a different case other than the charges framed against your office memo no. B-1/Disciplinary/S.J.Singh dated 37.7.1995/11.8.1995 was held in the office of the ASPOs, Kohima on 20.8.1998 wherein the I.O. stated that the charges were brought against the C.O. vide your office Memo No. B2/Disc/S.J.Singh dated 27.11.1997, Copy of which was never received by the C.O., as already stated earlier. It is clear that from the very beginning of the Inquiry the I.O. started to use unfair means to confuse the C.O. in later hearings.

7. The first regular hearing of the confused De novo Inquiry was held on 3.9.1998 and 9.9.1998 in the office of the ASPOs, Kohima (here it is to mention that the C.O. denied all the four charges read other to line by the I.O. during the preliminary Inquiry) on 8.9.1998 the

I.O. was requested for supplying of photocopies of the written statements of the 3 PWs. But the I.O. in fact (Page1) of his Daily Order Sheet dated 9.9.1998 asked the C.O. either to take extracts or photo copies of the said statements. But the I.O. failed to ensure that the photo copies were supplied to the C.O. in violation of G.I.O. instruction no. 24(2) issued **labour** Rule 14 of CCS(CCA) Rules, 1965. Again the I.O. stated in Para 57 Page 5 of his Inquiry report that the C.O. did not turn up to collect the copies in spite of the fact that the C.O. attended the Inquiry both on 8.9.1998 and 9.9.1998. It shows that the I.O. is trying to hide the facts just to make the case more complicated on the part of the C.O.

7. On 9.9.1998 the P.O. examined the C.O. at the instance of the I.O. without following the procedures laid down in sub rules 14 to 16 of Rule 14 of CCS (CCA) Rules, 1965. According to subrule 18 of the said rule only the I.O. is entitled to examine the C.O. Thus the said I.O. violated the procedures and made a new procedure of his own thereby making the enquiry fruitless. It may not be wrong to say that the I.O. tried to prove the charges framed against the C.O. at any cost without following the departmental procedures.

8. At the of the Inquiry on 9.9.1998 the I.O. could not fix the date for the next hearing and later on the fixed the date on 15.10.98. The C.O. could not attend the Inquiry on 15.10.1998 as he fell sick and the fact was intimated to the I.O. on 14.10.1998 telegraphically but the Inquiry was held on 15.10.1998 *ex parte* in absence of the C.O. thereby the C.O. was deprived of the cross examination of three PWs.

9. The I.O. concluded the Inquiry on 15.10.1998 and the P.O. was asked to submit his written brief. It is a fact that the state of the Inquiry was in its middle and the I.O. neglected the provisions of Rule 16 to 19 of the Rules 14 of CCS(CCA) Rules, 1965 thereby depriving the C.O. of an adequate opportunities to defend himself from the charges.

10. None a faithful government servant your humble C.O. likes to represent the following sub-paras in connection with teh 4 (four) articles of charges brought against me vide your office memo No. A-1/Disciplinary/S.J.Singh dated 27.7.1995/11.8.1995 (not for any other charges as stated by the I.O. higher and thither) in consultation with the records/reports of the Inquiry for favour of your kind and judicious decisions.

A(i) The charge according to article i was for non-submission of fortnightly diaries and summaries of inspections during the period from 1.1.1994 to 31.7.1994. Both the I.O. and the P.O. were giving stresses for non maintenance of "Hand to Hand receipt Books" in between the office of the C.O. and the Divisional Office. But both of them could cited any rule of Procedure of the department for their stand. It may not be wrong to say that there was a plan in between the I.O. and the P.O. to baffle the C.O. anyway. To show the validity of the aforesaid plan the following three points are brought before your honour :

- (i) In the first para of the written brief of the P.O. under his No. A-1/Disc/S.J.Singh dated 16.10.1998 it was stated that the charge sheet was framed against the C.O. vide DPS, Kohima Memo No. B-1/Disc/S.J.Singh dated 11.08.95. The statement is totally false as stated in preceding paras.
- (ii) The I.O. stated in Para 2, Page 6 of his report bearing no. Nil and dated nil that the Exhibit No.7 (DPS office File No. A-1/Diary/ASP0s/Kohima/93 containing 34 pages) contained the diaries of the C.O. for the months of Nov. to Dec'93 only. Your honour will appreciate the fact that the said file bearing 34 pages contained the fortnightly diaries of the C.O. for the whole calendar year 1993. A diary file comprising of 34 pages cannot be the diaries for two months only. It shows that eh I.O. did not go through the file probably as he was too hasty to prove the charges by hook or by crook.

(a) (ii) The C.O. proceeded on leave for two spells i.e. from 1.1.94 to 14.2.1994 and again from 1.4.1994 to 3.6.1994 for which periods no diaries were needed to be submitted. Now the question arises for the period from 15.2.1994 to 31.3.1994 and again from 4.6.1994 to 31.7.1994. To speak the truth the C.O. could not move on tour during the aforesaid two spells of duty due to accumulation of heavy official works there was no arrangement to look after the sub division during the period of leave. As such simple diaries as "At Head quarters, did office works" were resubmitted. As stated earlier the diaries for the period from 1.1.1993 to 31.12.1993 were available in Exhibit No.7. The logical fact is that though no "..... to level book" from the office of the C.O. to the D.O. was maintained the diaries for the calendar year 1993 was available in D.O. likewise the diaries for the period as stated above must be available in the D.O. The argument of the I.O. that the C.O. could not produce any evidence for submission of the diaries is not supposed to keep private copies and that the charge is for non submission of such diaries from the authority where it is maintained there was no way out for the C.O. for requisition of such documents for defence. Hence the charge under this article does not stand proved beyond reasonable doubts.

(b) The article No.II charges the C.O. that he did not submit any I.R. of other offices be inspected during the year 1993 while he was working as ASPOs Kohima during the period from 30.9.1991 to 31.9.1994. The charge itself is defective as the C.O. did not work as ASPOs Kohima beyond 31.7.1991 and as such the charge is liable to be dropped from the view points of rules and procedure of other Inquiry. However, it is to mention that almost all the I.R.s for the offices inspected upto the end of Oct'93 were submitted to the D.O. upto 31.12.1993 before the C.O. proceeded on leave w.e.f. 1.1.1994. The pending I.P.S. were submitted after expiry of the leave. No evidence in this score could be

produced as to private copies of I.Rs are kept by the C.O. and requisition from the D.O. for any I.R. was meaningless as the charge itself was for non-receipt of any I.R. Hence the charge stands disproved.

(c) The article NO.III charges the C.O. for non -visiting of Phek S.O. in spite of directions from the D.O. and the PM/Kohima and the failure resulted defradation of huge Govt. money by the then S.P.M. , Phek, S.O. It is a fact that the direction dated 29.7.1994 from the d.o. was received by the C.O. in the evening of 29.7.1994 when there was no means of transportation to visit Phek S.O. Also it is a fact that there was a great family problem resulted from the sudden death of my eldest son who was a Captain in the Indian Army and my presence in my residence at Imphal was immediately required. 30.7.1994 was a holiday being Saturday and 31.7.1994 was a Sunday. The C.O. applied for a few days C.L. and left Kohima in consultation with the then DPC, Kohima. For reasons not known to the C.O. the then DPS Kohima placed me under suspension on 4.8.1994 while the C.O. was at Imphal. Thus there was no chance of the C.O. to visit Phek S.O. It may not be out of place to say before your honour that being human being your humble C.O. is also subjected to certain unavoidable family problems like as stated above. The then administrator could have directed somebody else for the purpose. Hence the argument of the I.O. that the C.O. could have visited Phek too on 30.7.1994 or postponed the leave is not tenable and the said charge stands disproved.

(d) The article No.IV charges that the C.O. took payment of the pay and allowances of the EDDA and the EDMC of Longmatra EDBO in account with Kiphire S.O. from Kohima H.O. on 29.7.1994 by forging their signatures on the A. Rolls. The charge itself is quite objectionable as it draws a positive conclusion before proper Inquiry was held thereby violating the provisions of rules/procedures/instructions laid down in CCS(CCCA) Rules,

1965. It was a fact that the C.O. identiried the two persons in front of the Treasurer...H.O. on their A Rolls wherein they signed and took payments from the said Treasurer. It is also a fact that no disbursing/paying officer/official will not disburse/pay any Govt. money to an identifier rather than the payees. During inspection of documents it was seen that the signatures of drawees appearing on the respective A/A Rolls and their written statements obtained during the time of preliminary investigations more identical. It would have been fair on the part of the I.O. to give another chance at least to cross examine the 3 P.W.s before the Inquiry was concluded on behalf of the Disciplinary Authority. The last but not the last to write is that the I.O. concluded the whole inquiry before the case of the C.O. was started. Hence this change stands as reasonable opportunities were not given to the C.O. as already related earlier.

Now your humble C.O. concludes the representation and hereby humbly submitted to your honour with the application that Natural Justice will be done from your honour's end.

Dated Kohima, the 11.03.1999

Yours faithfully,

Sd/-

(S.J.SINGH)
Ex. ASPOs, Kohima
and C.O.

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Annexure-21

OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND KOHIMA - 797001No. B-1/Rule-14/S. J. Singh
7.4.99

Dated at Kohima the

To,

1. Shri Sangtam, EDDA
Longmatra BO via Kiphire SO.
2. Shri A. Desu Mao, Ex-Treasurer Kohima HO
SPM, KPWD SO.
3. Smt. Alemba Sangtam, EDMG.
Longmatra BO Via Kiphire SO.

Sub : TO WITNESS

Since I have been appointed as inquiry officer vide DPS, Kohima Memo No.B1/Disciplinary/S. J. Singh dtd. 28.4.98 to inquire into the charges framed against Shri S. J. Singh, ASPOS Kohima Sub-Div. Kohima.

Now, I therefore in exercise of the power conferred by the above authority fixed the date next hearing for examination and cross-examination of witness as on 28.4.99 at 1100 hrs in the Office of DPS, Kohima.

Since your evidence is material, you are requested to attend the inquiry on the above date, time and place without fail.

Sd/-

(K.R. Das)
Supdt. Of Post Offices (HQ)
C/o Director of Postal Services
Nagaland Kohima 797001
And Inquiry Officer.

*Mr. K. R. Das
Advocate*

Annexure-21(Contd.)

Copy to :-

1. Md. Qutubuddin, ASPOs, Kohima Sub-Division who will please attend the inquiry positively.
2. Shri S. J. Singh, Ex-ASPOs, (U/S) Kohima Sub-Division at Vill & PO Mongangei, Via Manipur University, Imphal 3 who will please attend the inquiry without fail.
3. Smt. T. Amongla, Defence Assistant, now SPM Ongpangkong who has been requested to attend the inquiry positively.
4. The DPS, Kohima for information w.r.t. his letter of even no dtd. 5.4.99 who has been requested for relieve arrangement of T. Amongla SPM, Ongpangkong in time.

(K. R. Das)

Annexure -22

To,

The Postmaster General,
N.E. Circle, shillong-793001.

Through the DPS Kohima.

Sub :An appeal for review of appointment of Inquiry Officer under Rule 14
Of CCS(CCA) Rules 1965.

Ref :C.O. Memo No.Staf/109-10/98 dated 1.4.98 and D.P.S. Kohima
Memo No.B-1/DISCIPLINARY/S.J. Singh/II, dated 8.5.98.

Respected Sir,

The undersigned, your humble appellant, has the honour to approach your good self with the following few lines for favour of your kind considerations and favourable decisions :

2. That Shri K. R. Das, S.P.(HO) Kohima was appointed as Inquiry Officer (I.O.) vide D.P.S. Kohima memo no.B-1/DISCIPLINARY/S.J. Singh/II dated 28.4.98 in connection with the DeNovo proceedings under D.P.S. Kohima memo No.B-1/DISCIPLINARY/S.J. Singh dated 27.7.95/11.6.95.

3. That the inquiry was started on 20.8.98 for charges framed stated to be under D.P.S.

Kohima letter no.B-2/DISC/S.J. Singh dated 27.11.97 a copy of which was never delivered to the C.O. in spite of oral and written protests made by the C.O. on the confusing subject of the different memos as stated herein above the I.O. did not pay any heed and continued the inquiry after supplying a copy of the charges sheet framed under D.P.S. Kohima memo no.B-1/DISCIPLINARY/S.J. Singh dated 27.7.95/11.8.95.

4. That the said I.O. concluded the inquiry on 15.10.98 when the proceeding was half completed only. The P.O. submitted his written brief on 15.10.98/16.10.98, and your appellant submitted written brief on 8.11.98.

*Ritesh
Jew. Adv. & C.R.*

5. That the I.O. submitted his inquiry report to the Disciplinary Authority vide his no. nil dated nil (perhaps in the month of February). A copy of which was forwarded to the C.O. under D.P.S. Kohima letter No.B-1/DISCIPLINARY/S.J. Singh/II dated 17.2.99. A representation of the C.O. against the inquiry report was submitted to the Disciplinary Authority on 11.3.99.

6. That surprisingly the said I.O. fixed another date on 28.4.99 for appearing in the inquiry and he summoned three P.Hs for examination and cross-examination vide his no.E-1/Rule-14/S. J. Singh dated 7.4.99. Also the said I.O. forwarded three Photostat copies of the written statements of the three P.Ws which were denied to supply to the C.O. during the formal inquiry.

7. That presuming the action of the I.O. is for supplementary inquiry, but so far no direction of the Disciplinary Authority was received by the C.O. and also the I.O. did not mention anything on the subject.

8. That in para-3 of the report of the I.O. he decried the C.O. for non-cooperation during the inquiry and he appreciated the P.O. There was no evidence of non-cooperation of the C.O. during the inquiry and no evidence or occasion in support of his remark was mentioned in his report. It shows that the whole bindings of the I.O. are prejudicial and biased. That Shri K.R. Das, S.P. Kohima is directly subordinate to the D.P.S. Kohima who has already expressed an opinion on the allegations by dismissing the C.O. vide his memo no.B-1/DISC/S.J. Singh dated 27.11.97. As such the appointment of Shri K.R. Das, S.P. Kohima (HQ) as I.O. is not proper and due to administrative hierarchy the I.O. must be biased, unfair, unjust, and nonjudicial the examples of which have already been stated in the foregoing paras.

9. That the present I.O. has already submitted his final report expressing his recommendations that all the charges framed against the C.O. have been proved. As such the result of any supplementary inquiry will be biased and prejudicial.

Hence your humble appellant is requesting your good self to kindly

consider the facts and figures and to take necessary actions so that a new I.O. may be appointed for the said inquiry.

Yours faithfully,

Dt. 15.4.99

Sd/-
(S. J. Singh)
Ex-ASPOs Kohima

Advance copy to :-

The Postmaster General,
N.E. Circle, Shillong-793001 - for favour of information and necessary action.

Sd/-
(S. J. Singh)
Ex-ASPOs Kohima

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Annexure-23

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E.CIRCLE, SHILLONG.

Memo No. VIG/14/15/85

Dated at Shillong the 07.06.99

ORDER

Gone through the representation dated 15.4.99 submitted by Shri S.J.Singh, Ex-ASPOS, Kohima for review of appointment of the I.O. in the inquiry under Rule 14 of C.S.C. (CCA) Rules, 1965 against Shri S.J.Singh. It is seen that Shri S.J.Singh was proceeded under Rule 14 of CCS (CCA) Rules, 1965 vide D.P.S. Kohima Memo No. B-1/Disciplinary/S./J.Singh dated 27.5.1995. The proceeding was finalised after imposition of punishment vide Memo No. B-1/Disc./S.J.Singh dated 17.11.97. Shri Singh preferred an appeal against the order of punishment. While disposing his appeal, it was ordered to conduct de novo proceedings from the state of appointment of Inquiring authority vide this office Memo N. Staff/1090/98 dated 11.4.98. Accordingly the de-novo proceeding was initiated vide DPS, Kohima No. B1/Disc/S.J.Singh/II dated 28.4.99. After the inquiry, the I.O. submitted his report a copy of inquiry report was sent to the C.O. In his representation dated 11.3.99 the C.O. alleged serious irregularities in the conduct of oral inquiry. Taking the representation of the C.O. into consideration, the DPS, Kohima directed the I.O. on 5.4.99 to conduct further enquiries in continuation to the oral inquiry keeping the observation of C.O. in mind. In pursuance to this direction, the I.O. fixed the date of further hearing on 28.4.99. The C.O. did not attend the hearing. On the other hand, he has submitted his representation dated 15.4.99.

2. In the above mentioned representation Shri S.J.Singh put forward the following points :-

- (a) That the DPS, Kohima letter No. B2/Disc/S.J.Singh dated 27.11.97 was not delivered to him.
- (b) That the I.O. completed the inquiry when the proceeding was half completed only.

*Piles End
Rajeev
Advocate*

- (c) That the I.O. fixed date of hearing after submission of I.O.'s report and the C.O. did not receive any direction from the Disciplinary authority for holding attending supplementary inquiry.
- (d) That I.O.'s finding was biased.

I have gone through carefully the representation of the C.O. facts and circumstances of the case and my observations on the above points are as follows :-

- a) It has been established that the concerned charge sheet was delivered to C.O. and C.O. admitted that the Memo dated 27.11.97 was received by him (as per his appeal dated 30.1.98).
- b) The Disciplinary Authority, after receipt of the representation of the C.O. directed the I.O. on 5.4.99 to conduct further oral inquiry keeping in view the points raised by the C.O. in his representation.
- c) The I.O. fixed the date of inquiry as per direction given by the Disciplinary Authority as certain shortcomings were noticed by the Disciplinary Authority in the conduct of oral inquiry. Obviously such action was taken by the Disciplinary Authority in the conduct of oral inquiry. Obviously such action was taken by the Disciplinary Authority for the sake of natural justice for which C.O. could not have any objection.
- d) I.O.'s report will be examined by the disciplinary authority and the C.O. has scope to submit representation against the I.O.'s report. Apparently the I.O.'s conduct of enquiry has certain inadequacies for which Disciplinary Authority has asked for further enquiries. Such inadequacy on the part of the I.O. cannot be construed as "bias". The charged officer has not specifically advanced any instance of bias. He has mentioned about the fact that I.O. is working under disciplinary authority and I.O. has already expressed his findings in his report

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earlier, Even then, obviously I.O. would be permeable to fresh facts and evidences that would be brought before him as a result of further enquiry ordered by disciplinary authority. It is not appropriate to pre-judge the result of further enquiry as ordered.

In view of the above, there is no scope for charging I.O. at this stage. I hereby direct the Disciplinary Authority to ensure that the further enquiry as ordered by him is completed quickly and the proceedings are decided early. I also direct the representationist to fully cooperate with the inquiry.

(S. Samant)
Postmaster General
Shri S.J.SinghEx-ASPOs , Kohima
(Through DPS, Nagaland)

Copy to :
1-2. The Director Postal Services, Nagaland Division,
Kohima.
3. Office copy.

Annexure-24

To

The Postmaster General,
N.E. Circle,
Shillong-793001
Through the D.P.S., Kohima.

Sub : **Appeal for Review of Subsistence Allowances : Case of S.J.Singh, Ex. ASPOs, Kohima, now under suspension.**

Ref : D.P.S. Kohima Memo No. B-444 dated 4.8.1994 and D.P.S. Shillong Memo No. VIG/4/15/85 dated 24.2.1995.

Hon'ble Sir,

The undersigned, your humble appellant, in approaching your honour with the following few lines for favour of your kind perusal and favourable orders :

2. That while your appellant was on leave at his home town at Imphal, when he was working as ASPOs, Kohima, the DPC, Kohima placed him under suspension vide his office memo No. B-444 dated 4.8.1994 and the said order of suspension was confirmed by the DPS, Shillong under his Memo No. VIG/4/15/85 dated 24.1.95.
3. That subsequent to the issue of suspension order no order for subsistence allowance was received by your appellant in spite of repeated verbal and written requests to the Disciplinary Authority.
4. That a charge sheet was framed against the appellant vide DPS Kohima Memo No. B-1/Disciplinary/S.J.Singh dated 27.7.95/11.8.95 i.e. after a lapse of one year from the date of issue of suspension order dated 4.8.94.
5. That your humble appellant had to approach the CAT, Guwahati for the purpose of non sanctioning of S/A and a verdict of the said CAT was announced vide its O.A. No. 282/1996 under Memo No. 22 dated 1.1.97 (Photostat copy enclosed as Annexure-A).
6. That the DPS Kohima intimated your appellant under his office letter No. B.1/Disciplinary/S.J.Singh dated 5.3.1997 (Photostat copy enclosed as Annexure 'B') that the S/A was sanctioned vide his Office Memo No. B 444/II dated 29.8.94 which was never received by the appellant in spite of repeated requests for a period of about 2 years from the date of suspension.
7. That the DPS Kohima under his office Memo No. B-1/Disciplinary/S.J.Singh (Photostat copy enclosed as Annexure - 'B' dated 3.3.97 received the S/A of the appellant (at such

Annexure-24(Contd.)

*Pls. find
Yours
Advocate*

a time when no S/A was drawn and disbursed) thereby reducing the S/A to 25% of the basic pay on the ground that the appellant did not attend the oral inquiry.

8. That the appellant informed all concerned for his failure to attend inquiries due to financial stringency due to nonpayment of S/A and no appropriate action was taken by the concerned authorities.

9. That the appellant is under suspension for about 56 months and there has been no evidence on his part for using delaying tactics in processing the case. Further it may not be out of place to say that the delay in finalising the case is due to the administration for the reasons cited below :

- (i) Charge sheet was issued after a lapse of about one year from the date of suspension which is not a delatory tactics on the part of the appellant.
- (ii) Preliminary hearing of the case was filed on 16.10.96 i.e. after a lapse of about 26 months from the date of suspension which is not a delatory tactics on the part of the applicant.
- (iii) The inquiry could not be attended by the appellant due to financial stringency as stated in the foregoing paras and the case was concluded ex parte thereby the appellant was dismissed from service which is not a delatory tactics on the part of the appellant.
- (iv) On appear, the PMG, Shillong set aside the order of dismissal from service and remitted the D/P for de-novo proceeding vide his office Memo No. Staff/10940/98 dated 1.4.98 which is not a delatory tactics on the part of the appellant.
- (v) The de-novo proceeding was started on 20.8.98 and concluded on 15.10.98 and the I.O., Shri K.R.Das, SPOS, Kohima, submitted his final report to the D.O. under his No. Nil dated Nil (perhaps in the month of Feb'99).
- (vi) After conclusion of the de-novo case the I.O. again directed the appellant to attend the inquiry on 28.4.99 (perhaps for supplementary inquiry but there was no mention of any direction from the appropriate authority and no direction was received by the appellant). (an appeal against the appointment of the said I.O. has already been submitted to your office on 15.4.99 through proper channel).

10 That the D/O is keeping silent for a further review of the S/A which was fixed at the rate of 25% of the basic pay w.e.f. 3.3.97 which may be termed as injustice and in humanitarian taking into account the present standard of living.

In fine your humble appellant is approaching your good self to take the matter on humanitarian ground and cause to fix the S/A at 75% of the basic pay since 4.11.94 i.e. the due date for first review which was never done as stated above.

Thanking you in anticipation.

Dated 16.4.99

Yours faithfully,

Sd/-
(S.J.Singh)
Ex-ASPOs, Kohima
Copy to :

1. The PMG Shillong-793001 (Advance Copy).
2. The DPS, Kohima 797001.

Sd/-
(S.J.Singh)
Ex-ASPOs, Kohima

Annexure-25

DEPARTMENT OF POSTS : INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SERVICES
 NAGALAND KOHIMA

797001

To

The CPMG (Staff)
 N.E. Circle, Shillong

Subject : Appeal for review of subsistence allowance case of Sri
 S.J.Singh, ASPOs, Kohima Sub-Div (U/s).

A copy of an appeal received from S.J.Singh, ASPOs, Kohima Sub

Div(U/s) for review of subsistence allowance is sent herewith with the
 remarks that the subsistence allowance has since been reviewed and
 enhanced vide this office memo of even No. dtd. 25.5.199. A photocopy
 of the same is enclosed herewith for your kind information.

Enclo : As above

Sd/-

(F.P. SOLO)
 Director of Postal Services
 Nagaland Kohima -797001

Copy to

Shri S.J.Singh, ASPOs Kohima Sub-Div, at Vill. & Po. Mongangei
 via Manipur University, Imphal-3 for information.

Sd/-

F.P. SOLO)

Director of Postal Services
 Nagaland Kohima -797001

*Piles Jind
 New
 Advocate*

Annexure-26

DEPARTMENT OF POSTS ; INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND KOHIMA - 797001

Memo No. B-1-Disciplinary/S.J.Singh Dtd. Kohima the 25.5.1999

Whereas Sri S.J.Singh ASPOs Kohima Sub-Division was placed under suspension vide memo No. B-444 dated 4.8.1994 and was granted Subsistence Allowance vide Memo No.B-444/Pt.II dated 29.8.1994.

And whereas on review of the suspension order the subsistence allowance was reduced by 50% of the initial subsistence allowance granted vide Memo No. B-1/Disciplinary/S.J.Singh dtd. 3.3.1997.

And whereas on further review of the suspension it was felt that the subsistence allowance of Shri S.J.Singh needs to be revised.

Now, therefore, the undersigned in exercise of the powers conferred under F.R. (I) issued the following order to have immediate effect.

The subsistence allowance of Shri S.J.Singh is hereby enhanced by 50% of the amount initially granted.

Other allowances will continue to be entitled as admissible from time to time.

Sd/-

E. P. S. SPOLO

Director of Postal Services
Nagaland Kohima -
797001

Copy to:

copy to:

1. The Postmaster, Kohima HO.
2. The DA(P), Calcutta
3. Shri S.J.Singh, ASPOs Kohima Sub-Division (U/s), at Vill. & P.O. Mongangei via Manipur University, Imphal, Manipur.
4. PF of the official
5. The CPMG (Staff) N.E. Circle, Shillong w.r.t. his file mark staff/Misc/Apeals for information
6. Spare.

Sd/-

F.P. SOLO)

Director of Postal Services
Nagaland Kohima -797001

Albert Ted
Law
Advocate

Annexure-27

To

The Chief Postmaster General,
N.E.Circle,
Shillong-793001.

Sub : **Appeal for review of subsistence allowance with retrospective effect.**

Ref : Your office file marked ViG/14/15/85 and DPC, Kohima file marked B-1/Disciplinary/S.J.Singh/II.

Sir,

An appeal dated 16.4.1999 on the above subject was submitted to your office through the DPS, Kohima who forwarded the same to your office under his office letter No. Nil dated 27.5.99. But so far no ORDER has so far been received by the applicant.

Dated 17.8.1999

Yours faithfully,

Sd/-
(S.J.Singh)
Ex-ASPOs, Kohima
(U/s at Kohima)

Copy to :-

1. DPS Kohima for favour of information and necessary action.

Sd/-
(S.J.Singh)
Ex-ASPOs, Kohima
(U/s at Kohima)

*Alleged
Law
'Advocate'*

Annexure-28

Office of the Director of Postal Services
Nagaland : Kohima -797001

No. B-1/Disciplinary/S.J.Singh
Dated at Kohima the 10.09.99

To

Sri S.J.Singh
ASPOs Kohima Sub Div (U/s)
C/o Shri Kuesho
New Market
Behind Rengma Church
Kohima.

Sub :Review of Subsistence Allowance.

Refer your representation dated 17.8.1999.

The remarks of CPMG, N.E. Circle Shillong on your representation dated 17.8.1999 regarding review of subsistence allowance is appended below :

I am directed to inform that since the review of subsistence allowance of the above mentioned official has already been done by the DPS Kohima under his office memo dated 25.5.1999 and 3.6.1999, no further revision is found justified in this case.

The official may kindly be informed accordingly.

Sd/-Illegible
For Chief Postmaster General
N.E. Circle, Shillong

*Alleged
Jew
Advocate*

Annexure-29

DEPARTMENT OF POSTS : INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SERVICES
 NAGALAND ; KOHIMA -797001

No. B1/Disciplinary/S./J.Singh/II Dated at Kohima the 3.6.1999.

CORRIGENDUM

The words "enhanced by 50% of the amount initially granted" appearing in the last but one pers of this office memo of even no. dated. 25.5.99 shall be substituted with the word "restored to what was admissible to him during the first 3 (three) months of his suspension."

Sd/-

F.P. SOLO)

Director of Postal Services
 Nagaland Kohima
 797001

Copy to :

1. Shri S.J.Singh, ASPOs Kohima Sub-Division (U/s), at Vill. & P.O. Mongangei via Manipur University, Imphal, Manipur.
2. The Post Master, Kohima H.O. for information and necessary action please.
3. The DA(P), Calacutta 700001 through PM Kohima.
4. The CPMG (Staff) N.E. Circle, Shillong w.r.t. his file mark staff/Misc/Appeals for information
5. The CPMG (INV), N.E.Circle, Shillong with reference to his letter VIG/14/15/85 dated 28.5.99 for information. A photocopy of this office memo No. B-1/Disciplinary/S.J.Singh/II dated 25.5.99 is enclosed herewith for ready reference.

Sd/-

F.P. SOLO)

Director of Postal Services
 Nagaland Kohima 797001

*Mr. B. S. Reddy
 Advocate*

Annexure-30

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORDER SHEET

APPLICATION NO. 400/99

Applicant(s) : Sri Soraisam Jugeshwar Singh
 Respondent(s) : Union of India and Ors.
 Advocate for Applicant(s) : Mr.A.L.Singh,Mr.K.R.Singh,Mr.N.B.Singh,

Mr.S.N.Singh

Advocate for the Respondent(s) : B.S.Basumatary Addl.C.G.S.C

6.1.2000 Present : Hon'ble Mr. Justice D.N.Baruah, Vice-Chairman.

Hon'ble Mr. G.L.Sanglyine, Administrative Member.

This application has been filed by the applicant seeking certain reliefs. The applicant was at the material time, working as assistant superintendent of post offices, Kohima Sub-Division. On 4.8.1994 he was placed under suspension. According to him, he has not been paid Subsistence Allowance in accordance with law. Besides, the prolonged suspension is also not in accordance with law.

We have heard Mr.S.N.Singh, learned counsel appearing on behalf of the applicant and MR. B.S.Basumatary, learned Addl.C.G.S.C. for the respondents. Mr. Basumatary very fairly submits that as per Government instructions suspension cannot continue after the period prescribed and that too review has to be done within this period. Nothing has been done. The applicant is under suspension with effect from 1994. Prima facie, we feel that the order of suspension is not in accordance with law. However, we are not deciding the matter. We direct the respondents to consider the prolonged order of suspension and decide the matter in accordance with the Government instructions and the decided cases. During this period of suspension, if the suspension order is not in accordance with law, the respondents shall

*Rakesh
Law
Advocate*

immediately revoke the suspension order and he shall also be paid the subsistence allowance strictly in accordance with law. Arrear accrued thereon, if any, shall also be paid immediately to the applicant.

The application is disposed of. No order as to costs.

Sd/-VICECHAIRMAN
Sd/-MEMBER (A)

ANNEXURE-31

To

The Director of POS,
Nagaland,
Kohima.

Sub : Review of subsistence allowance with effect from
4.11.94.

Ref : Your office memo No.B.444 dated 4.8.94..

Sir,

I am humbly submitting that as my subsistence allowance was not relieved timely according to the rules I have been suffering for a long period. Subsequently I approached the Honble CAT, Guwahati on the matter and an order under application no.400/99 dated 6.1.2000 has been passed (a photostat copy of the order is enclosed).

Now I apply that your honour will kindly issue an order so that I may be granted a revised subsistence allowance at the rate of 75% of my basic pay with effect from 4.11.94 till date.

Your kind reply is awaited.

Yours faithfully,

Dated at Kohima
03.02.2000

Sd/-
(S. J. Singh)
Ex-ASPOS, Kohima

*Alfred
Law
Associate*

ANNEXURE - 32

To,

The Director of POS, Nagaland (U/R),
Kohima-797001.

Sub : Review of Subsistence Allowance w.e.f. 4.11.94

Ref : CAT Guwahati order dated 6.1.2000 in respect of application no.400/99 circulated under their no.CAT/GHY/JUDL/143 dated 19.1.2000 and your office case marked R-444.

Sir,

Your kind attention is invited to my representation dated 3.2.2000 followed by reminders dated 7.3.2000 and 28.3.2000 on the above subject. It appears that so far no action has been taken on the matter even after a lapse of more than 6 months.

It will be kind enough if the matter is finalised favourable now on that the applicants hardship to reapproach the CAT may be avoided. My present address is furnished below.

Dated at Kohima
23.03.2000

Sd/-
(S. J. Singh)
Ex-ASPOS, Kohima
C/o. M. Kunja Rani Singh
POSTAL COLONY, KOHIMA.

*Pls. see
S. J. Singh
Postal Colony*

ANNEXURE-33

To

The Chief Post master General, N.E.
Circle, Shillong-793001, through the
Director of Postal Services, Kohima.

Sub:- ORDER SHEET OF APPLICATION NO. 400/99 OF HONOURABLE CAT,
GUWATHI DT 6-1-2000 FOWARDER TO ALL CONCERNED VIDE THEIR.NO. CAT
/GHY /JUDL/143 DT. 19-1-2000.

Ref:- C.O. file marked staff/ 109-1098 and DPS, Kohima file
marked B-1/DISC/S.J.SINGH/II.

Sir,

The undersigned, your humble applicant, is approaching your good
self with the following few lines for favour of necessary action.

That while the applicant was working as ASPOS, Kohima sub On the
DPS, Kohima placed the applicant under suspension vide his office memo
no. B-444Dt. 4.9.94.

That received of subsistence allowance which was due on 4-11-94
was not done and in spite of repeated representation and appeal the
applicant was not paid the subsistence allowance at the rate as
prescribed in the rules i.e. 75% of pay w.e.f. 4-11-94.

That being aggrieved the applicant approached the Hon'ble CAT,
Guwahati and an order was issued in favour of the applicant as noted
in the subject.

That the DPS, Kohima was requested to issue necessary orders
under the applicant's letter Dt.32-2000followed by reminder dated 7-
3-2000. But so far nothing is fourth coming from the end of DPS,
Kohima.

Now the applicant is approaching your honour with a photocopy of
the CAT's order so that the verdict may be implemented at an early
date.

Dated 28-3-2000

Yours faithfully,
Sd/-

(S.J.Singh)
Ex- ASPOS,Kohima
Village L.P.O. Mongsabge
Via MU SO, Imphal

Copy to:

1. The DPS, Kohima for favour of necessary action.
2. The CPMG, Shillong as advance copy.

Sd/-

(S.J.Singh)
Ex- ASPOS,Kohima

*Plz find
New
Pervate*

Annexure-34

To

Shri K.R. Das, S.P.O.S.,
Kohima (I.O.)

Sub : **Submission of written brief in respect of Rule 14 Inquiry under CCS (CCA), Rules, 1965 against S.J.Singh, Su-ASPOS, Kohima, Sub-Dn.**

Ref : Your letter No. E-7/Rule-14/S.J.Singh, dated 28.9.1999.

Sir,

1. It is to write that the Preliminary hearing of the DeNovo proceedings in respect of D.P.S. Kohima Memo No. B1/Disc/S.J.Singh, dated 27.7.95/111.8.95 and PMG, Shillong Memo No. Staff/1020/98 dated 1.4.1998 was held on 20.8.99. Md. Qutubuddin, the then ASPOS, Kohima was the P.O. of the case up to 15.10.98 and thereafter Shri Ksh. Tomba Singh, ASPOS, Kohima Sub Division became the new P.O. since 26.8.1997.

2. During the preliminary proceedings dated. 20.8.98 one vital controversy arose in between the I.O. and the C.O. According to the I.O. the De-Novo proceedings were in respect of D.P.S. Kohima was No. B-2/Disc/S.J.Singh dated 27.11.97 and und whereas according to the C.O. the proceedings were in respect of DPS Kohima Memo No. B-1/Disc/S.J.Singh dated 27.7.95/11.8.95. However the C.O. is submitting herewith his written brief presuming that the proceedings were in respect of the letter Memo as mentioned above for favour of disposal by the I.O.

3. During the oral Inquiry dated 8/9.9.98 the P.O. examined the C.O. as instructed by the I.O. in spite of objections raised by the C.O. Under the existing prescribed procedure there is no stage of the P.O. to examine the C.O. during the course of the inquiry. Now, it is up to the higher authority to decide as to write the controversial Inquiry dated 8/9.9.98 should be treated as valid or not.

4. The second oral inquiry was fixed by the I.O. as 15.10.98 and that the same was conducted ex parte in spite of timely report of sick by the C.O. wherein all the three P.Ws were examined on behalf of the Disciplinary Authority and the I.O. conducted the inquiry on that day.

5. However, it appears that the Disciplinary Authority asked the I.O. for conducting supplementary Inquiry. The I.O. forwarded to the C.O. three photocopies of the written statements of the three P.W.s (supply of which was once denied by the I.O. for unknown reasons) under his office letter No. E1/Rule-14/S.J.Singh dated 9.4.99 and the supplementary inquiry resumed again on 4.8.99 and conducted on 27.8.99.

*Allesed
Jee.
Advocati*

6. A copy of the written brief of the new P.O. Shri Ksh Tomba Singh, ASPOs, Kohima under his Office Memo No. A-1/Disc/S.J.Singh dated 26.9.99 was received by the C.O. on 28.9.99 through the I.O. under his office letter No. E-1/Rule-14/S.J.Singh dated 28.9.1999. from the said written brief it can easily be seen that the P.O. failed to go through the whole proceedings painstakingly and that the same was imaginary and perfunctory one. The following paras will prove the above statement of the C.O.

7. The DPS, Kohima, Memo No. B-1/Disc/S.J.Singh dated 27.7.95/11.8.95 charges the C.O. on four articles of charges. Now, the C.O. is discussing them below seriatim being barred on the outcome of the Inquiry on different dates :-

A. The article I charges the C.O. for non-submission of fortnightly Diaries and monthly summary of inspections for the period from 1.1.94 to 31.7.94 while the C.O. was holding the charge of ASPOS, Kohima from 30.9.91 to 31.7.94. The material period for which the C.O. has been charged consists of 212 days out of which the C.O. was on two sets of E.L. for 109 days i.e. from 1.1.94 to 14.2.94 (45 days) and again from 1.4.94 to 3.6.94 (64 days) vide DPS Kohima Memo Nos.-B44 dated 13.1.94 and dated 6.6.94 respectively. Here, it is to mentioned that the disciplinary authority appears to be too hasty in charging the C.O. in spite of the fact that all the relevant records were maintained and available in his office and the P.O. was too eager to prove the charges in spite of the fact that the clear cut picture was focused during the proceedings of the Inquiry. The P.O. says that the Exhibit No.4 (marked as S4) was maintained by the C.O. as a hand to hand receipt books in between the office of the C.O. and the Divisional office Kohima and that no entry for submission of the returns in question was made in the said document thereby proving that the C.O. did not submit the returns to the D.O. On the other hand it is to clarify that the said Exhibit No. S-4 was the hand to hand receipt book maintained by the D.O. in between the D.O. and the C.O. for the period from 22.6.94 to 29.7.94 and as such the P.O. will not get any entry of submission of any documents from the office of the C.O. to the D.O.

Now, the C.O. desires to say that during the course of Inquiry it was already admitted that the C.O. did not maintain any hand-to-hand receipt books in between his office and the D.O. as there was not additional hand attached with the office of the C.O. for the purpose. But only non-maintenance of the said book cannot stand as a proof for the purpose in question.

The Exhibit No. 7 (S-7) having 34 pages is the diary file of the C.O. maintained by the D.O. for the period from 1.1.93 to 31.12.1993 and that those returns mere submitted to the D.O. without entry in any

hand to hand receipt book. Like-wise the due returns for the duty periods of 103 days as stated above were submitted to the D.O. on due dates of course it is worthy to mention that the C.O. could not perform any outdoor duties during the said 103 days of duty period as he was entirely engaged in office works as there was no arrangement to look after the sub Dn. during the long period of leave and that all the returns mere simply "At H0rs; did office works" Thus the charge under this article is hereby refuted.

B. The article no. II charged that while the C.O. was working as ASPOS, Kohima from 30-9-91 to 31-9-94 failed to submit any inspection report carried our during the calendar year 1993. The charge is just imaginary. During the month of May 1993 the PMG, Shillong visited a good number of S.OS and B.OS situated at far found all the I.RS of the office concerned duly posted with the respective order books. Had the IRS were not submitted by the C.O. in time it would have not been possible to kind the IRS in the office records and rather the C.O. might have faced with disciplinary action as the PMG was very particular with the I.RS. It is a fact that so I.RS for offices inspected during the late days of the year 1993 could not be submitted in piece meals when the C.O. returned to duty during the year 1994. Thus the charge under the article is refuted.

C. The article no III charged the C.O. that then SPM Phek S.O. defrauded a huge amount of government money during the period from 18.7.94 to 29.7.94 due to failure of timely Inquiry of the case by the C.O. Here it is be stated that the first report on the case vide D.P.S. Kohima letter no E- 4/ ECBM dated 25-7-94 of the S.P. Phek S.O. and copy enclosed to the C.O. (Sl6) was received by the C.O. on the evening of 29.7.94 (Friday) under hand to hand receipt book on 30.7.94 and 31.7.94 were Saturday and Sunday respectively and that the C.O. proceeded on C.L. w.e.f. 1.8.94 duly granted by the authority and thereafter the C.O. never returned to duty as he was placed under suspension w.e.f. 4.8.94 while he was on leave at Imphal. From here it is crystal clear that there was no clause on the post of the C.O. to enquiry into the case and as such the charge is refuted here with.

D. The article No.IV charges that the C.O. took the payment of the pay and allowance of the EDMC, Longmatra B.O. for the period from Feb'94 to June'94 and of the EDDA of the said office for the period from October '93 to June'94 from the treasurer Kohima H.O. on 29.7.94 by forging their signatures on the respective P/Rolls. The charge itself is defective as it is an expression of opinion as to the guilt of the C.O. and it is a statement which smacks of expression of opinion and draws a positive conclusion against the C.O. Here the P.O., Shri Ksh. Tomba Singh, states that both the EDMC and the EDDA did not receive the payments and that the C.O. took payment himself

directly from the treasurer, Kohima, H.O. The statement of the P.O. is quite imaginary and he neglected the results of Cross-examination and re-examination of the three S.W.s in course of the Inquiry dated 4.3.99 and 26.8.99.

(i) From the cross-examination and re-examination of Smt. T. Alemba Sangtam, EDMC, Longmatra B.O. (SW-3) on 4.8.99 the following vital points came to light :-

- (a) That the said SW-3 was illiterate.
- (b) That the SW-3 was the wife of Shri N.T. Sangtam who was the EDA of the same B.O.
- (c) That she lodged a complaint to the DPS Kohima for nonreceipt of pay and allowances for about 4 months as instructed by one Inspector.
- (d) That she received the pay and allowances at a later stage from Kiphire S.O., A/c office of Langmatra B.O.
- (e) That her statement on S-19 and depositions on 15.10.98 in absence of the C.O. regarding non-receipt of payment etc. were not true but were back biting on the instance of same third person.

(ii) Similarly the deposition made by Shri K. Sangtam EDDA Longmatra B.O. (SW-1) during the cross examination, re-examination and mode of signing on records revealed the following facts :-

- (a) That the said K. Sangtam was the adopted son of Shri N.T. Sangtam, EDA of Longmatra B.O.
- (b) That he used to sign records on different styles, perhaps with same motives, as seen from his signatures were quite different from one another and perhaps these might now being a member of different styles.
- (c) That he did not necessitate to tell anything as he liked as on S-17 he stated that he had been working as EDDA, Longmatra B.O. since 1.10.1980 whereas in his decision dated 15.10.98 he was about 22 years of age as on 15.x.98, i.e. he started working as EDDA when he was about 4 years old which is quite absurd.
- (d) That in spite of his earlier statement dated 17.1.1998 on S-17 and deposition dated 15.10.1998 regarding nonreceipt of his pay and allowances during the cross-examination and re-examination dated 26.8.99 he admitted that he had received the said payment at Langmatra B.O. through his father, EDA of the said B.O.

(iii) The statement given by Shri A. Baro Mao (SW-2) as S-20 and depositions during inquiry dated 15.10.98 and 26.8.99 were linkers with one another. In his written statement on S-20 and deposition dated 15.10.98 (in absence of the C.O.) the stand of Shri Mao was that he made the payment direct the C.O. on 29.7.94. But according to his deposition dated 26.8.99 (Question

No. 12 and its answer) he made the payment to a person as identified by the C.O. Also it is a point to state that the said Shri Mao did not know the office staff of Longmatra B.O. and as such he was not competent to declare that no staff of the said B.O. did not turn up Kohima N.O. as 29.7.94.

In fine it is to state that on 29.7.94 the EDA, the EDDA and the EDMC of Longmatra EDBO (members of the same family) approached the C.O. for allowing the EDDA and the EDMC to draw their arrear of pay and allowances from Kohima was to be admitted in a nursing home. On humanitarian ground the C.O. extended his help to them by identifying their signatures on the A/Rolls. The 29.7.94 (Friday) was the pay day of the administrative officers and when the C.O. approached the treasurer for taking payment of his salary the EDA was found standing at the counter of the treasurer with the two A/Rolls. Again on purely humanitarian ground the C.O. asked the treasurer to make payment to EDA who was the husband/father of the EDMC and the EDDA. The payment was made to the EDA in presence of the C.O. who could not say anything about the distribution etc. of the money afterwards among the family members. Hence, the charge under this article is refuted herewith.

Yours faithfully,

Sd/- Illegible 12.x.99

(S.J.SINGH)
Ex. ASPOs, Kohima
Dt. 12.10.99

Annexure-35

DEPARTMENT OF POSTS / INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SERVICES
 NAGALAND : KOHIMA - 797 001

No.B-1/Disc/S.J. Singh/II Dated at Kohima, the 1st Feb, 2000

In this office memo of even No. dated 11.8.95 it was proposed to hold an inquiry under Rule 14 of CCS (CCA) rules 1965 against Sri S.J. Singh, the then ASPOs Kohima SubDivision. A statement of articles of charges and a statement of imputation of misconduct or misbehavior in support of the articles of charges and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

Sri S.J. Singh was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defense and to state weather he desires to be heard in person.

Statement of articles of charges framed against Sri S. J. Singh the then ASPOs Kohima Sub-Dn. is as under :

Article - I

Sri S. J. Singh while working as ASPOs Kohima Sub-Dn. Kohima during the period from 30.9.91 to 31.7.94 failed to send/submit the fortnightly diaries and the monthly summary of inspections for the period from 1.1.94 to 31.7.94 in violation of the provisions contained in Rule 292 and 293 of P&T Manual Vol-VIII (3rd Edition, 2nd reprint) and also violated Rule 3 (I) (i) (ii) & (iii) of CCS (conduct) Rule 1964.

Article - II

Shri S. J. Singh while working as ASPOs Kohima SubDn. Kohima during the period from 30.9.91 to 31.7.94 has shown that he carried out the inspections of 78 Post offices during the year 1993 in his fortnightly diaries submitted to the Director of Postal Services, Nagaland : Kohima. But he did not submit any inspection reports of the above 78 (seventy eight) inspections he had carried out in contravention of Rule 300 of P&T Manual vol - VIII (3rd Edition, 2nd reprint) thereby violated the Rule 3(i) of CCS (conduct) Rules 1964.

*Allesfed
Jaww
Advocate*

Article - III

Shri S. J. Singh while working as Assistant Superintendent of Post offices Kohima sub-Dn. Kohima w.e.f. 30.9.91 to 31.7.94 failed to inquire the case of excess cash retained by SPM Phek S.O. during the period from 18.7.94. to 29.7.94 although the matter of excess cash retention by SPM Phek S.O. was reported by the Post Master Kohima H.O. and the said Shri S. J. Singh was directed by the Div. Office. But Shri S. J. Singh did not carry out inquiry into the case which led to a fraud at Phek S.O. and thereby attract the violation of Rule 150(2) (i) of P&T manual-VIII. Thus showing lack of integrity, lack of devotion to duty and unbecoming of a Govt. servant thereby infringed Rule 3(1) & 3(2) (i) of CCS(conduct) Rules 1964.

Article - IV

Shri S. Jugeshwar Singh while working as ASPOs Kohima Sub Dn. Kohima during the period from 30.9.91 to 31.7.94 drew the pay and allowances of EDDA & EDMC Longmatra B.O. under Kiphire S.O. by putting false signatures of Shri K. Sangtam EDDA and Smt. T. Alemba Sangtam EDMC Longmatra B.O. at Kohima H.O. after identification of the bills by the said Shri S.J. Singh as on 29.7.94 and took the money and thereby attract infringement of Rule 3(1) (i) of CCS (conduct) Rules 1964.

I have gone through the case carefully. Four articles of charges were framed against Shri S. J. Singh. Briefly the charges against Shri S. J. Singh are that, while working as ASPOs Kohima Sub Dn. during the period from 30.9.91 to 31.7.94, he :

- i. Failed to submit the fortnightly diaries and monthly summary of inspections for the period from 1.1.94 to 31.7.94.
- ii. Did not submit inspection reports of 78 Pos which were shown in his fortnightly diaries as inspected during the year 1993;
- iii. Failed to inquire the case of excess cash retention by the SPM Phek S.O. during the period from 18.7.94 to 29.7.94.
- iv. Drew the pay and allowances of EDDA and EDMC of Longmatra B.O. under Kiphire S.O. by putting false signatures in the pay bills at Kohima H.O. on 29.7.94. The charge sheet was served to Shri S. J. Singh through the SPOs, Manipur Div. Imphal and the same was received by Shri S. J. Singh on 12.10.95. Shri S. J. Singh did not submit and defence statement of representation against the charge sheet Shri A. R. Bhowmik, the then SPOs Dharmanagar Div. Was appointed as SO to conduct the oral inquiry against Shri S. J. Singh vide Memo No. dated 19.8.96. The CO did not attend the inquiry and the inquiry

was held ex-parte. The IO submitted the IR on 13.8.97. As per the findings of the IO all the charges framed against Shri S. J. Singh were proved.

Even through a copy of the IR the IO was supplied to the CO, Shri S. J. Singh did not submit any representation or submission against the IO's report within the stipulated time. The case was, therefore, finalised by the disciplinary authority with dismissal of Shri S. J. Singh from Service vide order dated 27.11.97. On appeal against the order of dismissal, the appellate authority i.e. the PMG N.E. Circle, Shillong set aside the punishment order dated 27.11.97. and ordered "de-novo" proceedings from the stage of appointment of inquiry authority to inquire into charges framed against Shi S. J. Singh vide order No. Staff/109-10/98 dated 1.4.98. In pursuance of the order of the appellate authority Shri K. R. Das SP (HQ) office of the Director of Postal Services, Nagaland : Kohima was appointed as the inquiry authority to inquire into the charges framed against Shri S. J. Singh vide Memo of even No. dated 28.4.98.

After conducting the oral inquiry during which the CO was given adequate opportunity to defend himself and prosecution witnesses examined, cross examined and re-examined, the IO submitted his IR on 17.11.99. A copy of the report of IO was sent to the CO inviting him to make any representation or submission within 15 days vide letter of even No. dated 17.11.99. The CO in his representation dated 14.12.99 prayed for extension of time up to 30.12.99 for submission of representation. As no representation was received even after the expiry of 30.12.99, CO was given 10 more days for submission of his representation vide letter dated 4.1.2000 which was delivered to the addressee at his home address at Imphal on 15.1.2000. Even though sufficient time was given to the CO for making representation, he did not make any. It is, therefore, presumed that he has no representation to make against the report of the Inquiry Officer.

As per the findings of the inquiry officer based on the documentary and oral evidence adduced during the oral inquiry all the articles of charges except Article III framed against Shri S. J. Singh were held as proved.

Article I of the charge against Shri S. J. Singh is that he failed to submit the fortnightly diaries and monthly summary of inspections for the period of 1.1.94 to 31.7.94. The CO pleaded that he was on leave for 109 days in two spells and was on duty for 71 days only during the period in question. During 71days on duty he did not perform any outdoor duty and remained in headquarters for correspondence work and diaries for those 71 days were stated to have

been submitted to DPS office. However the CO could not produce any documentary evidence to prove that he had submitted the aforesaid returns to the Div. Office. Hence his defence was not accepted and the Article I of the charges is held as proved.

Article II of the charges is that Shri S. J. Singh did not submit inspection reports of 78 P0s which were shown as inspected during 1993. The CO claimed that excepting a few all the IRs were duly submitted to the dealing Asstt. Or to the receipt and despatch branch of DPS Office. He also claimed that during the month of May 1993 when the PMG Shillong visited some farflung Pos the IRs were found duly pasted in the order books. Shri S. J. Singh, however, could not produce any documentary evidence to show that he had submitted the IRs to Div. Office. Hence Article II of the charges has also been held as proved by the IO.

Article III of the charge against Shri S. J. Singh is that he failed to inquire the case of excess cash retention by SPM Phek S.O. from 18.7.94 to 29.7.94. Failure on the part of Shri S. J. Singh to inquire is alleged to have led to misappropriation of Govt. money by the then SPM Phek S.O.; and corresponding loss to the Govt. The CO took the plea that he received a letter from Div. Office on 29.7.94 directing him to proceed to Phek. As 30.7.94 and 31.7.94 were Saturday and Sunday respectively and as he proceeded on leave on 1.8.94 he could not visit Phek S.O. to inquiry into excess cash retention by the SPM Phek. He never returned to duty till date of inquiry. The plea of the CO was accepted and the Article III of the charges has not been held as proved by the IO.

Article IV of the charges against Shri S. J. Singh is that the CO drew the pay and allowances of Shri K. Sangtam EDDA and Smt. T. Alemba Sangtam EDMC of Longmatra B.O. under Kiphire S.O. by forging their signatures at Kohima H.O. on 29.7.94. Shri A. Besu Mao Ex-treasurer Kohima H.O. and a prosecution witness deposed during oral inquiry that Sri S. J. Singh came to the treasury on 29.7.94 and took payment of paybills of EDDA and EDMC Longmatra B.O. amounting to Rs.5252.00 on 29.7.94 and that no ED Staff Longmatra B.O. had come to Kohima H.O. on 29.7.94 and took payment of bills. During examination and cross-examination the prosecution witness as Shri K. Sangtam and Smt. T. Alemba Sangtam deposed that they lodged a complaint to DPS regarding non-receipt of their pay & allowances. The signature on A/Roll of Longmatra B.O. were not theirs and that they never came to Kohima on 29.7.94.

The CO took the plea that the written statement of the EDMC and EDDA were doubtful in nature on the ground that the handwritings on the two written statements belong to the same person. Shri S. J. Singh

also pointed out that the signatures of Shri K. Sangtam on his written statement (S-17) and during deposition dated 15.10.98 and 26.8.99 were different. He also pointed out that Shri K. Sangtam did not hesitate to tell anything as he liked as may be seen from contradictory statements he made about his age (S-17) and his deposition on 15.10.98. Both the EDMC and EDDA admitted having received their pay and allowances later at Kiphire S.O. and Longmatra B.O. respectively during cross examination. Shri Besu Mao also deposed on 26.8.99 that he made payment to a person as identified by the CO. The CO also took the plea that the EDA, EDDA and EDMC of Longmatra who are all members of the same family approached the CO or help in drawing the pay & allowances of EDDA and EDMC of Longmatra at Kohima H.O. The CO extended help to the treasurer to taking payment. The pleas taken by the CO were not found convincing as it was clearly established in the earlier depositions of Shri Besu Mao that Sri S. J. Singh came to the treasury room and took payment of pay & allowances of EDDA and EDMC Longmatra B.O. and also the payment was made as per instruction of the Post Master Kohima H.O. whose authority was seen in A/Rolls. Hence according to the IO it was an established fact that Sri S. J. Singh took payment of the pay & allowances of EDDA and EDMC of Longmatra B.O. from Kohima H.O. on 29.7.94.

Though the CO has mentioned some minor procedural shortcomings, by and large the oral inquiry has been conducted in a fair and reasonable manner. The CO has been given ample opportunity to defend himself and to cross-examine the prosecution witnesses. The findings of the IO also appear to be fair and reasonable. The disciplinary authority is, therefore, inclined to agree with the findings of the IO for reasons given in the foregoing paras.

As regards to article I of the charges the CO took the plea that he was on earned leave for 109 days between 1.1.94 to 31.7.94 and for the remaining period on duty he spent most of the time in headquarters doing office works and did not perform any outdoor duty. He claimed to have submitted the fortnightly diaries for the period he spent on duty to Div. Office. He relied on exhibit No.57 which is the diary file of the CO maintained by the Div. Office from 1.1.93 to 31.12.93 to show that he was regular in submitting the fortnightly diaries and monthly summaries of inspections. However, the fortnightly diaries contained in the diary file pertain to the year 1993. Not a single fortnightly diary or monthly summary of inspection for the year 1994 is available in that file. On the other hand the CO was reminded by the DO to submit his fortnightly diaries and summaries of inspection vide Divisional Office letter No.A-1/DIARY/ASPO/94 dated 3.2.94 (S-3), 24.3.94 (S-4) and 22.7.94 (S-5). It is, therefore, clear that the charge that Shri S. J. Singh failed to submit fortnightly diaries and

monthly summary of inspection from 1.1.94 to 31.7.94 is clearly established beyond any reasonable doubt.

As regards the *Article II* of the charges the CO took the plea that excepting a few all the IRs for 1993 were submitted to the Office of the Director of Postal Services. He also claimed that during the visit of the PMG Shillong to some Pos all the IRs were found duly pasted in the order books. However the CO could not produce any documentary evidence like office copies of the IRs or forwarding letters to support his claim. On the other hand from the file No. IR/Programme/1993 marked as S-6, it is seen that the CO was reminded to send the wanting IRs for 1993 marked as S-6, it is seen that the CO was reminded to send the wanting IRs for 1993 by the DPS on 17.1.94. The charge that Shri S. J. Singh failed to submit inspection reports of 78 Pos which were shown as inspected during 1993 is also established beyond reasonable doubt.

As regards Article III of the charges Shri S. J. Singh pleaded that he received DO savingram and Memo No. E4/ECBM dated 25.7.94 (S-18) only on 29.7.94. And as 30.7.94 and 31.7.94 being Saturday and Sunday respectively and he having proceeded on leave from 1.8.94, the CO had no opportunity to visit Phek S.O. Even though Saturday is an administrative holiday, it is a working day for the operative offices like Phek S.O. Shri S. J. Singh could have proceeded to Phek on 30.7.94. However as the IO has exonerated the CO of this charge, the CO is given the benefit of doubt.

The *Article IV* of charges which is the most serious charge is that Shri S. J. Singh drew the pay & allowances of EDDA and EDMC of Longmatra B.O. under Kiphire S.O. by putting false signatures in pay bills at Kohima H.O. on 29.7.94. The plea and the version put forth by the CO to refute this charge are contrary to documentary and oral evidence adduced during the inquiry. It has been established that Smt. T. Alemba Sangtam EDMC (PW S3) and Shri K. Sangtam, EDDA of Longmatra B.O. had lodged complaints (S-17) and (S-19) that their pay and allowances were drawn at Kohima H.O. by some person at Kohima H.O. by putting false signatures on their payrolls. Shri S. J. Singh wrote to the Postmaster on 29.5.94 (S-21) recommending payment of the accompanying bills at Kohima H.O. as a special case on humanitarian grounds. On the recommendation of Shri S. J. Singh, payment was allowed at Kohima H.O. on A/Rolls (S-22) the signatures were duly identified by Shri S. J. Singh. As per statement (S-20) of Shri A. Besu Mao, Treasurer Kohima H.O. a sum of Rs.5252.00, being the pay and allowances of EDDA and EDMC of Longmatra B.O. was paid to Shri S. J. Singh on 29.7.94. Smt. T. Alemba Sangtam and Shri K. Sangtam have also deposed that the signatures on the A/Rolls were not theirs and that they never came to Kohima on 29.7.94. All documentary, oral and

circumstantial evidence show that the pay and allowances of the EDMC and EDDA on Longmatra B.O. were drawn by Shri S. J. Singh at Kohima H.O. on 29.7.94. The Article IV of charges against Shri S. J. Singh is also, therefore, established.

Out of the four articles of charges framed against Shri S. J. Singh three have been clearly established. The charges are very serious and Shri S. J. Singh displayed not only gross negligence of duty but also lack of integrity. As an important functionary in a department which provides crucial postal communication services to the public Shri S. J. Singh should have shown more responsibility in discharging his duties and functions. But he completely neglected his duty by not submitting his fortnightly diaries and monthly summary of inspections for the period from 1.1.94 to 31.7.94. Even though he might be on leave most of the time during the period and not performing any outdoor duties, he could have submitted the diaries for the period when he was on duty, if he were a little more responsible.

Annual inspections are important for monitoring as well as dictating irregularities committed by any PO during the year. The CO was entrusted with the tasks of inspecting a number of Pos during a particular year. However it appears that Shri S. J. Singh did not care to carry out the inspections of 78 Pos entrusted to him during 1993 and did not submit the inspection reports. This is gross dereliction of duty not expected from a responsible official like an ASPO.

The taking of pay and allowances of EDDA and EDMC of Longmatra B.O. at Kohima H.O. on 29.7.94 by Shri S. J. Singh shows complete lack of integrity on the part of the CO. Instead of admitting his fault Shri S. J. Singh tried to cover it up by trying to mislead the IO and the prosecution witnesses. Such misconduct and lack of integrity are not expected from an important functionary like an ASPO in the Department.

In view of the above I am of the considered view that Shri S. J. Singh is not fit to be retained in service. He may, therefore be dismissed from service forthwith.

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ORDER

Therefore, I Shri F. P. Solo, Director of Postal Services, Nagaland : Kohima and disciplinary authority hereby order that Shri S. J. Singh ASPO Kohima Sub-division (under suspension) be dismissed from service with immediate effect.

Sd/-
(F. P. Solo)
Director of Postal Services
Nagaland : Kohima - 797 001.

Copy to :

- 1) Shri S. J. Singh, ASPO, Kohima Sub-Div (u/s).
- 2) The Chief PMG, N.E. Circle, Shillong.
- 3) The DA (P) Calcutta (through P.M. Kohima).
- 4) The Post Master Kohima H.O.
- 5) & 6) P/F CR of the official.
- 6) Spare.

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The Chief Postmaster General,
N. E. Circle,
Shillong-793001.

Through the Director of Postal Services,
Nagaland Dn, Kohima-797001.

Sub :- AN APPEAL AGAINST THE ORDER OF DISMISSAL FROM SERVICE
OF THE APPELANT UNDER DPS, KOHIMA MEMO NO.B-1/DICS/S.J.
SINGH/II DATED 01-02-2000.

Ref :- C.O. FILE MARKED STAFF/10940/98 AND DPS, KOHIMA FILE
MARKED B-1/DISC/S.J. SING/II

Honourable Sir,

The undersigned, your humble appellant, was initially appointed as T.S. Clerk in the department of posts in the year 1967 and promoted as D.U.D.C., Circle Office in the year 1973. Again he was promoted to the cadre of Inspector of P.O.s in the year 1975 followed by a further promotion to the cadre of ASPOS in the year 1991 and posted at Kohima as ASPOS, Kohima Sub-Dv with effect from 30.9.91.

2. While working as such the appellant proceeded on casual leave for a few days and left Kohima on Sunday, the 13-94 (C.L. was from 1.8.94) for his home town at Imphal just to perform some religious functions for the sudden death of his only brother on 29.12.93 and his eldest son who was a Captain in the Indian Army on 29.3.94. While performing the combined function on 4.8.94 your appellant received a call from Kohima that he was placed under suspension from that very date and it was nothing but a bolt from the blue.

3. Now your humble appellant is approaching your good self with the following facts of the case for favour of your kind perusal and favourable orders :-

3.2 That the appellant was placed under suspension while he was on C.L. at Imphal under D.P.S. Kohima Memo No. 844 dated 4.8.94 and the same was confirmed by the D.P.S., Shillong under his office Memo No. VIG/4/15/85 dated 24.1.95.

3.3 That the appellant approached the D.P.S. Kohima and the postmaster, Kohima personally several times for drawing his subsistence allowances but to no effect. The appellant submitted two representations to the D.P.S. Kohima on 26.6.96 and 27.9.96 for the same purpose but to no effect. Finally the appellant

Missed
Dear - Salvatore

took the help of the Hon'ble Central Administrative Tribunal, Guwahati vide their order No.282191 dated 9.12.96 and only after that the D.P.S. Kohima was pleased to intimate the appellant under his office letter No.B-1/DISC/S.J. Singh dated 22.1.97 that order for subsistence allowance was issued on 29.8.94. But so far a copy of the said order is yet to be received in spite of repeated request. Here your appellant is of the view that the said disciplinary authority tried to harass him to such extent that he should not be able to subsist and able to defend himself. It may not be wrong to resume that from the very beginning of the disciplinary proceedings the disciplinary authority was biased and prejudiced.

A copy of the Central Administrative Tribunal, Guwahati order No.282191 dated 9.12.96 is enclosed as Annexure 1.

3.4 That the disciplinary authority framed a charge sheet under his office Memo No.B-1/DISC/S.J. Singh dated 27.7.95/11.8.95 that is after a lapse of one year from the date of suspension. Here too it may be presumed that there was no *prima facie* case against the appellant on the date of the initiation of the disciplinary action and the charges were made up after one year artificially to avoid administrative lapses on the part of the disciplinary authority.

3.5 That Shri Amulya Ratan Bhowmik, the then SPOS Dharmanagar was appointed as IO of the proceedings under D.P.S. Kohima Memo No.B-1/DISC/S.J. Singh dated 19.8.96 that is after a lapse of two years from the date of initiation of the case on 4.8.94. Your honour would be of the view that the delay caused was no fault of the appellant and again it is to mention that the disciplinary authority did not take any action to see as to whether

- i) The entitled subsistence allowance had been paid as mentioned in the foregoing paras,
- ii) The mandatory review of the subsistence allowance had been done and
- iii) Review of the suspension order for revocation had been done but nothing was done. It may not be wrong on the part of the appellant to say that the disciplinary authority forgot the value of natural justice and as such the whole proceedings are liable to be treated as biased and prejudiced.

3.5 That the above mentioned I.O. concluded the inquiry on 16.6.97 ex-parte in spite of repeated request to all concerned regarding non drawal of subsistence allowance and the

disciplinary authority was pleased to punish the appellant by dismissing him from service vide his office Memo. No.B/DISC/S. J. Singh dated 27.11.97. It clearly shows that the said disciplinary authority was already biased and prejudiced.

A copy of D.P.S. Kohima Memo No.B1/DISC/S. J. Singh dated 27.11.97 is enclosed as Annexure 2.

3.6 On appeal, your honour was pleased to set aside the punishment of dismissal from service and the case was remitted back for de-novo proceedings under your office Memo No.STAFF/109-10/98 dated 1.4.98.

3.7 The D.P.S. Kohima appointed Shri K.R. Das, SPOS (Hq) of his office as I.O. of the case under his office Memo No.B-1/Disciplinary/S. J. Singh/II dated 28.4.98 whereas the order for the appellant to be deemed under suspension was issued under his office Memo of even No. dated 8.65.98 i.e. a lapse of ten days from the date of appointment of the I.O. This action of the disciplinary authority is quite objectionable and shows a keen interest for awarding a punishment to the appellant and a clear proof of biased and prejudice.

A copy each of D.P.S. Kohima Memo dated 28.4.98 and 8.5.98 are enclosed as Annexure-III & IV.

3.8 That the appointment of Shri K. R. Das, SPOS (Hq), Kohima who was directly subordinate to the disciplinary authority was not proper and against the rules as due to administrative hierarchy the I.O. must be biased and prejudiced.

3.9 That the preliminary of the de-novo proceedings was started on 20.8.98 and the I.O. stated that he was holding the inquiry into the four charges framed against the appellant under D.P.S. Kohima Memo No.B-2/DISC/S.J. Singh dated 27.11.97. The appellant brought to the notice of the I.O. verbally and as well as in writing of the I.O. but the I.O. did not pay any heed. Further the I.O. stated in para 2 of his inquiry report to the disciplinary authority under No.nil dated nil that he was appointed as I.O. under D.P.S. Kohima Memo No.B-1/Disciplinary/S.J. Singh/II dated 27.11.97 to inquire into the charges framed under D.P.S. Kohima Memo No.B1/DISC/S.J. Singh dated 27.11.97. In fact both the Memos as stated above do not exist at all in connection with this case and as such the very inquiry report and any punishment order passed being based on such a contradictory report are liable to be treated as null and void. In this respect your kind attention is invited to paras (3.4) and (3.7) of this appeal.

A photocopy of the inquiry report is enclosed as Annexure-V.

3.10 That your honour will be of the view that from the beginning itself the case twisted to many folds e.g. nonwithdrawal of S.A. for about two years, nonreview of S.A. at the end of 90 days of suspension, nonissue of charge sheet from more than one year, non-review of the case for revocation in due course, ex-partes inquiry before payment of S.A., passing of punishment order of dismissal from service being based on the ex-partes inquiry report and procedural defects of the I.O. in course of the de-novo proceedings etc. For the defects mentioned above the appellant had to face untold sufferings financially and mentally for about six long years losing his prestige of position among his colleagues, members of family and society. Hence your honour is earnestly requested to kindly interfere into the matter by passing a favourable order in the name of the natural justice.

4.1 In spite of the wrong information of the I.O. as mentioned in para (3.9) above and presuming that the present de-novo proceeding was in respect of the D.P.S. Kohima Memo No.B 1/DISC/S.J. Singh dated 27.7.95/11.8.95 the appellant is now placing the facts of the proceedings in front of your honour for favour of your kind perusal.

4.2 That on the date of preliminary hearing dated 20.8.98 the I.O. read out 4 articles of charges stated to be framed under D.P.S. Kohima Memo No.B-2/DISC/S.J. Singh dated 27.11.97 which does not exist at all and the appellant denied all the 4 charges categorically and in the I.O. of the fact of non-existence of such a memo.

4.3 That the regular hearing was started on 8.9.98 and at the outset the appellant objected in writing regarding non-existence of the above mentioned memo but the I.O. continued the proceedings. On 9.9.98 the I.O. examined the appellant at the instance of the I.O. in spite of verbal objections from the appellant for not following the procedures laid down in subrule 14, 15, 16 and 18 of Rule 14 of CCS (CCA) rules, 1965. In short the I.O. adopted his own procedures just to prove the charges be baffling the appellant. This is a bright example of the I.O. being biased and prejudiced and hence the report of the I.O. will not be quasi-judicial and natural justice.

4.4 On the date of the subsequent hearing on 15.10.98 the appellant could not attend the inquiry as he felt sick and the I.O. was informed of the fact in time. All the three P.W.S. were examined in absence of the appellant and there was no cross-examination. Surprisingly the I.O. concluded the inquiry in this stage before the case of the C.O. (appellant) was started thereby violating the provisions of SubRules 16-19 of rule 14

of CCS (CSA) Rules 1965. Here your honour will agree with the fact that the I.O. was too keen to report that all the charges had been proved just in the middle of the proceedings showing that he was biased and prejudiced.

4.5 That the I.O. submitted his report to the disciplinary authority under his number nil dated nil and the appellant submitted his representation to the Disciplinary Authority on 11.3.99.

4.6 That suddenly the I.O. re-opened the case again by serving summons to the P.W.s and asked the appellant to attend the inquiry on 28.4.99 under his No.Et/Rule-14/S.J. Singh dated 7.4.99.

4.7 That being puzzled your appellant submitted an appeal to your honour on 15.4.99 for changing the I.O. but unfortunately the appeal was declined under your office memo No.VIG/15/85 dated 7.6.99 and the proceedings continued.

5. In article I of the memo of charges under D.P.S. Kohima memo No.B-1/DISC/S.J. Singh dated 27.7.95/11.8.95 the appellant was charged for non-submission of fortnightly diaries and monthly summary of inspection for the period from 1.1.94 to 31.7.94. It is a fact that the appellant did not submit the said returns for the period from 1.1.94 to 14.2.94 and again 1.4.94 to 3.6.94 as he was on

leave. Now the question arises for the period from 15.2.94 to 31.3.94 and again from 4.6.94 to 31.7.94 during which period the appellant could not perform any outdoor duty as he was busy with correspondence works, submission of pending inspection 7 in number, were simply the words "at Hqrs did office works". The views of both the I.O. and the D.A. that the appellant could not produce any documentary evidence in support of his defence is not tenable. When the charge itself was for non-submission of the said returns there was no way of the appellant for requisitioning the documents and the appellant was not supposed to keep private copies of the official diaries. Further, it is to be added that the S-7 produced during the inquiry was the diary file of the appellant for the calendar year 1993 maintained by the divisional office showing that the appellant was punctual in submission of the returns. Hence the charge under this article is refuted.

5.2 The article-II charges the appellant that he did not submit any I.R. of 78 P.Os inspected by him during the year 1993 the appellant inspected 85 P.Os. and not 78 P.O.s as alleged, most of the I.R.s pertaining up to the month of October 1993 were submitted up to the month of December 1993 before he

proceeded on leave. Both the I.O. and D.A. stuck to the same point that the appellant could not produce any documentary evidence for submission of the I.R.s and as such the charge has been proved. The plea is not tenable, no inspecting officer keeps his copy privately of any I.R. and when the charge itself was for non-receipt of the reports there was no way for the appellant to call for his evidence. Hence the charge stands disapproved as mentioned.

5.3 The article No.III charges the appellant for his failure to visit Phek S.O. timely which resulted a fraud committed by the then S.P.M.A.s both the I.O. and the D.A. are of the opinion that there was no fault of the appellant in this case no further arguments appeared to be stated. Hence this charge is refuted.

5.4 The article No.IV charges the appellant that on 29.7.94 he took payment of the pay and allowances of the E.D.D.A. and the E.D.M.C. of Longmatra B.O. in a/c with Kiphire S.O. from Kohima H.O. by putting false signature. In fact this very article of charge, which is a conspiracy in nature hurts the appellant mentally to an intolerable measure. Your honour the fact of the case happened as follows.

In the morning of 29.7.94 the E.D.A. of the Longmatra B.O. accompanied with the E.D.D.A. and the E.D.M.C. approached me with an application so that the pays and allowances for few months of both the E.D.D.A. and the E.D.M.C. might be drawn and disbursed from Kohima Hq. Here it is to mention that the E.D.D.A. was the son of the E.D.A. and the E.D.M.C. was the wife of the E.D.A. who stated that his wife, the E.D.M.C., was to be treated at Kohima. As the a/c office Kiphire S.O. from where the pay and allowances were supposed to be disbursed situated more than 100 kms away from Kohima the appellant wanted to help them and the postmaster Kohima was requested to draw and disburse the bills from Kohima H.O. itself. During office hours of the same day they came back to my office with two A/Rolls and they signed on the respective A/Rolls and the appellant identified their signatures and handed over the A/Rolls to them for taking payment.

As 29.7.94 was pay day of the appellant (30 and 31.7.94 being Saturday and Sunday) also visited the treasury branch of Kohima H.O. to take payment of his salary and met the E.D.A. Longmatra B.O. with the two A/Rolls. Casually I requested the treasurer to make payment to him as the appellant had already identified the rolls thinking that he was the E.D.A. and father and husband of the E.D.D.A. and the E.D.M.C.

respectively. Later on the E.D.D.A. and the E.D.M.C. submitted on complaint to the postmaster Kohima that they did not received their respective amount in connivance with one unknown person who identified himself as and Inspector. On the day of examination of the three prosecution witness by the P.O. in absence of the appellant all the three stuck to their earlier stands. But on 4.8.99 when the E.D.M.C., Shrimati T. Aleupe Sangtam(SW-3) was cross-examined (her husband, the E.D.A. was the interpreter) she came out with the fact that she received the amount. Likewise when the E.D.D.A., Shri K. Sangtam was cross-examined on 26.8.99 he also revealed the fact that he received the amount. Also on cross-examination of Shri A. Besu Mao, the then treasurer Kohima H.O. on 26.8.99 he came out with the fact that he handed over the whole amount to a person who was identified by the appellant as the E.D.A. of Longmatra B.O. Now it may not be wrong to presume that the episode was nothing but a plot against the appellant. Hence this charge is also refuted.

6. In your humble appellant is approaching your honour with full hope that by using your good offices the appellant will get the ends of natural justice by quashing the order of punishment under D.P.S., Kohima Memo No.B1/S.J. Singh/II dated 1.2.2000.

A photocopy of D.P.S. Kohima Memo dated 1.2.2000 is enclosed as Annexure-VI Yours faithfully,
Dated Kohima
The 16th March 2000
Illegible

Sd/

(S. J. Singh)
Ex ASPOS, Kohima
Vill & P.O. Mongsangei,
Via M.U. Imphal

Copy to :-

1. The Director of Postal Service, Kohima for favour of information and necessary action.
2. The Chief Post Master General, Shillong, a copy in advance.

a. (S. J. Singh)

Ex ASPOS, Kohima

Annexure-37

DEPARTMENT OF POSTS
OFFICE OF THE POSTMASTER GENERAL, N.E. REGION, SHILLONG-793 001

Memo No. Staff/109-7/2000
the 22.09.2000

Dated at Shillong,

This is an appeal dated 16.3.2000 submitted by Shri S. J. Singh, Ex-ASPOs, Kohima against the punishment order issued by the DPS, Kohima under his office Memo No.B-I/Disc/S.J. Singh/II dated 1.2.2000. Under DPS, Kohima Memo No.BI/Disc/S.J. Singh dated 11.8.95 disciplinary proceeding under Rule-14 of CCS (CCA) Rules, 1965 was initiated which was finalised under DPS, Kohima memo dated 1.2.2000 awarding the appellant a punishment of dismissal from service.

2. In the appeal under consideration, the appellant has brought out the following points :-

That he was placed under suspension vide Memo No.B-444 dated 4.8.94, his subsistence allowance was not paid to him in time, charge sheet was issued after a lapse of one year, and on appeal punishment order dated 27.11.97 was set aside and de-novo inquiry ordered.

- (a) Continuance of suspension order issued after appointment of I.O. which proved the biasness of the Disc. Authority.
- (b) That Shri K. R. Das, I.O. is biased due to administrative hierarchy.
- (c) That the I.O. misquoted the date of charge sheet during inquiry and in his report.
- (d) Three PWs were examined in the absence of C.O.
- (e) That the appellant could not produce any documentary evidence against the charges under Article I and II because he was not supposed to keep private copies of diaries, IRs.

*Mesled
Jaw
Devarach*

(f) - That in r/o charges under Article IV, the EDMC and EDDA submitted the receipt of amount and the Ex. Treasurer admitted that he handed over the whole amount to a person who was identified by the appellant as EDA. The appellant has requested for consideration of his appeal, to set aside the order of punishment and to decide the case on the basis of natural justice.

I have gone through the appeal and all relevant records carefully. The view on the points raised by the appellant is as below :-

- (a) The grievances of the appellant had been redressed under C.O. Memo No. Staff/109-10/98 dated 1.4.98.
- (b) On the basis of C.O. order under No. Staff/10910/98 dated 1.4.98, I.O. was appointed on 28.4.98 and appellant was informed on 8.5.98 that he would be deemed to be under suspension from the date he was dismissed from service due to remission of the case for de-novo inquiry by the appellate authority. It is immaterial whether order of appointment of I.O. or order of deemed suspension was issued first. It does not reflect any hint of biasness of the disciplinary authority.
- (c) There is nothing wrong in appointment of Shri K.R. Das as I.O. whether the I.O. is subordinate to the Disc. authority in the administrative hierarchy or not immaterial.
- (d) In the de-novo inquiry, the date of charge sheet might had been misquoted by the I.O. or wrongly typed. However, there were four specific charges and the oral inquiry was conducted to inquire into those specific four charges. The appellant also was very much aware of these specific four charges and was given reasonable opportunities to refute the charges framed against him.

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It also not found convincing that the appellant was misled by a small omission in quoting the correct no. by the I.O. The I.O. read out all the charges as contained in the memo dated 11.8.95 to the appellant on 20.8.98. The charges as contained in memo dated 11.8.95 were categorically denied by the appellant. As such the appellant can not claim non-existence of a memo containing specific charges which were denied by him. The appellant is presenting this appeal and refuting the four specific charges brought against him shows that the appellant is aware of the de novo inquiry in r/o memo dated 11.8.95 and not any other memo which might have been misquoted by the I.O.

(e) The appellant did not attend inquiry on 15.10.98. On 14.10.98 he sent a Telegram which was received by the I.O. on 16.10.98, i.e. after the inquiry was held on 15.10.98. During the inquiry on 15.10.98, the witnesses, PO and defence assistant were present. Opportunity was also given to the defence assistant to cross-examine the witnesses. However, in view of the objection raised by the appellant, he was given opportunity to cross-examine the witnesses during the hearing held on 26.8.99. Hence the plea of the appellant in this matter is found baseless.

(f) The appellant denied the charges under Articles I and II. The appellant's denial should be supported by evidences. During inquiry he could not produce and evidence (viz. Office copies of diaries, IRs, forwarding letter, copy of invoice, etc.) in support of his denial. On the other hand, he was reminded by the Divl. Office to

submit diaries/IRs. Hence the points raised by the appellant have no ground.

(g) The story about the payment of allowances of the ED staff of Longmatra BO put forth by the appellant is found completely different from what has been established during the inquiry. Smt. T. Alemba Sangtam, EDMC and Shri K. Sangtam, EDDA of Longmatra BO had lodged complaint that their pay & allowances had been drawn at Kohima H.O. by some person by putting false signatures on the pay rolls. They had also deposed that they never came to Kohima on 29.7.94. The Treasurer, Kohima H.O. also deposed that the appellant came to the treasury on 29.7.94 and took a sum of Rs.5252.00 being the pay and allowances of EDDA & EDMC. The signatures on the pay rolls have also been verified and identified by the appellant as his own signatures. In view of the above evidence position, the points mentioned by the appellant are found not at all convincing.

From the facts of the case and relevant records, I agree with the Disciplinary Authority that the charges levelled against the appellant under memo dated 11.8.95 in Article No.I, II and IV stand proved beyond doubt and the appellant lacks integrity and devotion to duty. As such, I do not find reason to change the order of the Disciplinary Authority.

Sd/-
(ZASANGA)
Postmaster General,
N.E. Region, Shillong,
Appellate Authority.

Shri S. J. Singh
Ex. ASPOs, Kohima
(Through DPS, Kohima).

Copy to :-
1-2. The Director Postal Services, Nagaland Division, Kohima.
3. Office.

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA - 797 001

No.B-1/Disc/S.J. Singh/III
the 28-9-2000

Dated at Kohima,

To,

Shri S. J. Singh,
ASPO's Kohima,
P.O. Monsangni,
Via Manipur University,
Imphal-3.

Please find enclosed herewith a copy of the PMG, N.E.
Circle Shillong memo No. Shillong memo No. Staff/1097/2000 dtd. 22-9-
2000 in connection with your appeal dtd. 16.3.2000 for favour of your
kind information

Enclosed :- As above

Sd/-
(K. R. Das)
For the Director of Postal services
Nagaland : Kohima -797001

*Mr. K. R. Das
Advocate*

केन्द्रीय प्रशासनिक बोर्ड
Central Administrative Tribunal

27 NOV 2001

प्रमाणपत्र वार्ता

संख्या : 13879

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Filed by

26/11/01

(2. MEMORANDUM
3. C. S. C.
4. P. T. P.
5. Guwahati Bench)

O.A. NO. 340/2001

Shri S.J. Singh

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written statements submitted by the
Respondents

The respondents beg to submit brief history of
the case, before submitting para-wise written
statements, which may be treated as part of the
written statement.

(BRIEF HISTORY OF THE CASE)

Shri S.J. Singh, the then ASPOs, Kohima Sub-
Division, was placed under suspension vide DPS Kohima memo
No. B-444, dated 4.8.94 as a disciplinary proceeding was
contemplated against him. The suspension order of Shri
S.J. Singh was confirmed by circle office vide memo No.
Vig/4/15/85, dated 24.1.95.

Shri S.J. Singh was chargesheeted vide DPS memo
No. B-1/Disciplinary/S.J. Singh, dated 27.7.95 for not sub-
mitting the fortnightly diaries and monthly summary of
Inspection for the period from 1.1.94 to 31.7.94, non submission

-2-

of IRs of 78 POs which were shown as inspected during 1993, failure to inquire the case of excess cash retention by the SPM Phuk so during the period from 18.7.94 to 29.7.94 which led to a fraud by the SPM and drawal of pay and allowances of EDMC and EDDA Longmatra B.O. under Kiphire SO by putting false signatures on the pay rolls at Kohima HO on 29.7.94.

Shri S.J. Singh did not submit any defence statement of representation against the chargesheet Shri A.R. - Bhowmick, the then SPOs, Dharmanagar Division was appointed as IO to conduct the oral inquiry against Shri S.J. Singh, vide memo, dated 19.8.96. The applicant did not attend the inquiry and the inquiry was held ex parte. The IO submitted his final inquiry report on 13.8.97. The charges framed against Shri S.J. Singh were proved by the IO and Shri S.J. - Singh was dismissed from service vide DPS Kohima memo dated 27.11.97.

On appeal against the order of dismissal, the appellate authority, i.e. the PMG, N.E. Circle Shillong set aside the ~~pink~~ punishment order dated 27.11.97 and ordered de-mote proceeding from the stage of appointment of Inquiry Authority vide order No. Staff/109-10/98 dated 1.4.98. In pursuance of the order of the appellate authority, Shri K.R. - Das, the then Dy. SPOs O/O the DPS, Kohima was appointed as IO. The IO after conducting the oral inquiry submitted his inquiry report on 17.11.99. A copy of the report of IO was supplied to the applicant, inviting him to make representation, if any, within 15 days. ~~The applicant is inviting him to make representation if he has any within 15 days.~~ The applicant in his representation dated 14.12.99 prayed for extension of time upto

-3-

30.12.99 for submission of his representation. The applicant was given 10 more days for submission of his representation vide letter dated 4.1.2000 which was delivered to the applicant at his home address on 15.1.2000. No representation was received even though sufficient time was given to the applicant. The case was, therefore, finalised by dismissal of Shri S.J. Singh from service vide order No. B-1/Disciplinary/S.J. Singh/II dated 1.2.2000. An appeal was preferred by the applicant to PMG, N.E. Circle, Shillong against the punishment order of DPS, Kohima dated 1.2.2000. However, the appellate authority agreed with the findings of the Disciplinary authority on the basis of which, the penalty was imposed and confirmed the punishment order vide Circle Office Memo No. Staff/109-7/2000 dated 22.9.2000.

The respondents beg to submit para wise written-statements as follows :

1. That with regard to ~~para~~ the statement made in para 4, of the application, the respondents beg to state that the order of penalty passed by the Disciplinary Authority on 1.2.2000 and confirmed by the Appellate Authority on 22.9.2000 do not suffer from any infringement of CCS(CCA) Rules 1965 and as such the question of reinstatement of the official is not tenable.
2. That with regard to ~~para~~ the statement made in para 4.1, of the application, the respondents beg to state that Shri S.J. Singh, the then ASPOs, Kohima Sub-Division, Kohima Sub Division was placed under suspension vide ~~P~~ DPS, Kohima memo no.444 dated 4.8.94 as a major disciplinary proceedings

-4-

was contemplated against him.

3. That with regard to the statement made in para 4.2, of the application, the respondents beg to state offer no comments.

4. That with regard to the statement made in para 4.3, of the application, the respondents beg to state that the delay in issuing the charge sheet after a lapse of one year from the date of suspension was caused by the delay in investigation of the case by the concerned investigating officer and submission of his report. There was prima facie case against the applicant and the charges were framed against the applicant vide memo no. B1/Disc/S.J. Singh, dated 27.7.95/11/8.95 and a copy delivered to the applicant through SPOs Imphal on 2.9.95. Four articles of charges were framed against Shri S.J. Singh. Briefly the charges against Shri S.J. Singh were that, while working as SAsPOs, Kohima Sub-Division, during the period from 30.9.91 to 31.7.94 he ;

i. Failed to submit fortnightly diaries and monthly summary of inspections for the period from 1.1.94 to 31.7.94.

ii. did not submit inspection report of 78 POs, which were shown in his fortnightly diaries as inspected during the year 1993.

iii. failed to inquire the case of excess cash retention by the SPM, Phek SO during the period 18.7.94 to 29.7.94.

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iv. drew the pay and allowances of EDDA and EDMC, Longmatra BO under Kiphire SO by putting false signatures in the pay bills at Kohima HO on 29.7.94.

Out of the four articles of charges framed against Shri S.J. Singh, Article I, II and IV were clearly established. Considering the seriousness of the charges and gross negligence and lack of integrity on the part of the applicant, he was dismissed from service vide this office memo no. B1/Disc/S.J. Singh, dated 1.2.2000.

5. That with regard to the statement made in para 4.4, of the application, the respondents beg to state that chargesheet under Rule 14 of CCS(CCA) Rules 1965 against Shri S.J. Singh was issued vide memo no. B1/Disc/S/J/Singh, dated 27.7.95/11/8/95 and delivered to the CO through SPOs, Imphal on 2.9.95. The applicant, however did not submit any defence statement. It was, therefore, considered necessary to appoint an IO and PO to inquire into charges. Circle Office was therefore, approached for nomination of suitable officer for appointment as IO and PO. Finally S/Shri A.R. Bhownick and D.C. Deb were appointed as IO vide this office memo. dated 17.6.96 and 19.8.96. Delay in the appointment of IO and PO was due to non availability of suitable officers. Subsistence allowance was sanctioned to the applicant vide memo no. B-444/Pt.II, dated 29.8.94 and a copy was duly endorsed to the applicant. If the applicant had not left Headquarters unauthorisedly and remained at Kohima, he could easily find out the position and collect the subsistence allowance from

from Kohima HO. The suspension order of Shri S.J. Singh was reviewed on 4.2.97 and the subsistence allowance was reduced to an amount not exceeding 50% of what the applicant was initially getting, as the applicant was not attending the oral inquiry.

6. That with regard to the statement made in para 4.5, of the application, the respondents beg to state offer no comments.

7. That with regard to the statement made in para 4.6, of the application, the respondents beg to state that the subsistence allowance was never denied or stopped. The order for initial subsistence allowance was issued on time and it was the responsibility of the applicant to have it from the concerned authority. The applicant was drawing his subsistence allowance and as such his contention that due to financial stringency he could not attend the inquiry was a blatant distortion of facts.

8. That with regard to the statement made in para 4.7, of the application, the respondents beg to state that the SA was granted on 29.8.94 and onus for non-drawal lied with the applicant. The applicant could easily have approached the respondents in case his subsistence allowance was refused by the DDO. But he never approached the respondent before 26.6.96.

9. That with regard to the statement made in para 4.8, of the application, the respondents beg to state that the submission made by the applicant is not true. Necessary orders for subsistence allowance was issued on 29.08.1994 i.e., the

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the month in which he was placed under suspension. It was the duty of the applicant to receive subsistence allowance from the Postmaster, Kohima H.O by furnishing necessary certificate of non-employment. But the fact is that the applicant was absenting unauthorisedly from his headquarters and never approached the appropriate authority for drawing his subsistence allowance. He only surfaced on or after 26.6.1986, that is, after a long gap of about two years. This clearly showed that he had the ulterior motive behind nonwithdrawal of subsistence allowance. The allegation made by him that due to non-payment of subsistence allowance he could not attend enquiry was a misrepresentation of the facts. He did not at all co-operate with the IO and never attended the oral inquiry. The reason for holding the inquiry ex parte is recorded in the IO's report.

The Hon'ble CAT did not admit the application. In its judgement dated 9.12.96, the Hon'ble Tribunal did not make any adverse remarks against the respondents. The court only asked the applicant to apply afresh for subsistence allowance to the competent authority and the respondent to dispose off the application according to the rules and merit of the case within one month. The respondents found that necessary order was issued in time and no action lied with the respondents and the applicant intentionally evaded to taking payment.

10. That with regard to the statement made in para 4.9, of the application, the respondents beg to state that a suitable reply to the representation dated 30.12.96 was given to the applicant vide this office letter no. B1/Disc/S/J/Singh/II, dt. 22.1.97 (22.1.97).

-8-

11. That with regard to the statement made in para 4.10, of the application, the respondents beg to state that contrary to the submission made by the applicant it might be stated that the order for subsistence allowance was issued in time as stated above and as the applicant was unauthorisedly absending from HQrs, he neither drew the subsistence allowance by observing the formalities as enshined in F.R. 53(2) nor brought to the notice of the respondent in case the subsistence allowance was not given by the Postmaster, Kohima, till 26.6.96. The fact is that he intentionally did not draw the subsistence allowance.

12. That with regard to the statement made in para 4.11, of the application, the respondents beg to state that the applicant was duly informed that the order for subsistence allowance was issued on 29.8.1994, it was not considered necessary to send a copy of the memo again. And his subsistence allowance was duly increased or decreased according to merit of the case.

13. That with regard to the statement made in para 4.12, of the application, the respondents beg to state that order for initial subsistence allowance was issued on time and it was the responsibility of the applicant to have it from the concerned authority. And the subsistence allowance was revised in accordance with of provision of F.R. 53(1)(ii) (a)(ii) on considering the merits of the case. The fact is that the applicant had been absenting from the headquarters unauthorisedly from the date of his suspension or earlier and he did not take payment of the subsistence allowance even though necessary order was issued on

-9-

time and he was also not attending the enquiry.

14. That with regard to the statement made in para 4.13, of the application, the respondents beg to state that the respondent no.5 acted according to the power conferred on him as Disciplinary Authority. His decision is always open to appeal as per rule.

15. That with regard to the statement made in para 4.14 and 4.15, of the application, the respondents beg to offer no comments.

16. That with regard to the statement made in para 4.16, of the application, the respondents beg to state that on appeal, the appellate authority set aside the order of dismissal and remitted the case for de-novo inquiry vide Circle Office memo No. Staff/109-10/98 dated 4.4.98. As per direction of the appellate authority, Shri K.R. Das, the then Dy. SPoS (HQ), O/O the IPS Kohima and Md. Qutubuddin, the then ASPOs Kohima were appointed as IO and PO respectively, vide memo No. dated 28.4.98. The applicant was informed vide memo dated 8.5.98 that he would be deemed under suspension from the date he was dismissed from service on 27.11.97, due to remission of the case for de-novo proceeding by the appellate authority. It is immaterial whether order for appointment of IO and PO or order of deemed suspension was issued first. It also does not reflect any mind/opinion of the respondent as the order dated 28.4.98 can not be treated as null and void.

17. That with regard to the statement made in para 4.17, of the application, the respondents beg to state that the

objection could be raised during the inquiry but no objection was raised at the time of inquiry as revealed from the daily order sheet, which was also authenticated by the applicant.

18. That with regard to the statement made in para 4.18, of the application, the respondents beg to state that the IO fixed 15.10.98 for regular hearing. The telegram sent by the applicant was received on 16.10.98 after the date of inquiry. Since the date of inquiry was fixed on 15.10.98 and all the witnesses, PO and Defence Assistant ~~xx~~ were present, all the witnesses were examined in presence of his defence assistant. His defence assistant got the chance to examine the witnesses on his behalf. The defence assistant did not object to the examination of the witnesses. The applicant was also given opportunity for cross-examination of the witnesses during the hearing held on 26.8.1999.

19. That with regard to the statement made in para 4.19 and 4.20, of the application, the respondents beg to offer no comments.

20. That with regard to the statement made in para 4.21, of the application, the respondents beg to state that the disciplinary authority remitted the case to the Inquiring Authority for further inquiry and report thereupon the Inquiring Authority proceeded to hold the further inquiry as provided in Rule 15 of (CCA) Rules, 1965.

21. That with regard to the statement made in para 4.22 and 4.23, of the application, the respondents beg to offer no comments.

22. That with regard to the statement made in para 4.24, of the application, the respondents beg to state that the respondent reviewed the subsistence allowance as per circumstances of the case and there is no lacuna therein.

23. That with regard to the statement made in para 4.25, of the application, the respondents beg to offer no comments.

24. That with regard to the statement made in para 4.26, of the application, the respondents beg to state that the circumstance of the case was as such that the subsistence allowance could not be reviewed earlier than the date of the review. The applicant was all along absenting from his headquarters. He did not take subsistence allowance for a long time. He surfaced only on 26.6.96 with a plea that he was not receiving subsistence allowance although it was ordered in time. The subsistence allowance was decreased in the first review as the delay in finalising the disciplinary proceedings was directly attributable to the applicant and in the second review it was increased. The revocation of suspension was not found justified in the interest of service. The claim of the applicant for payment of subsistence allowance @ 75% is quite contrary to the rules. The rule only provides half pay average pay. An increase or decrease of the subsistence allowance depends on the as per circumstance of the case.

-12-

25. That with regard to the statement made in para 4.27, of the application, the respondents beg to state that the IO submitted his first inquiry report on 9.2.99. However, when a copy of the IO's report was supplied to the applicant for making representation, if any, the applicant raised certain procedural irregularities like, non supply of the listed documents to the applicant, examination of the applicant by the PO, no opportunity was given to the applicant to cross examine the 6 witnesses and finalisation of the Inquiry before the case of the defence was taken up. In view of the omissions pointed out by the applicant, the IO was directed to conduct further Inquiry keeping in view the objections raised by the applicant. During the regular hearing held on 27.3.99, the applicant was examined by the IO. The IO conducted the remaining oral Inquiry as per prescribed procedure. As such the allegation that the IO adopted his own procedures to prove the charges is not true. The whole Inquiry proceedings were conducted in a fair and proper manner.

26. That with regard to the statement made in para 4.28, of the application, the respondents beg to state that in view of the objection raised by the applicant in his representation dated 11.3.99, the IO was directed to conduct further Inquiry as pointed out in para 4.27. Accordingly the IO fixed the next date of hearing on 28.4.99 for cross-examination of witnesses by the applicant. But the applicant, did not attend the Inquiry and preferred and appeal to the CPMG, for change of IO. But the appeal was turned down by the appellate authority vide CO memo No. Vig/14/1585 dated 7.6.99.

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27. That with regard to the statements made in para 4.29, of the application, the respondents beg to state that the applicant was placed under suspension as a major penalty proceeding was contemplated against him. While under suspension, the applicant remained out of headquarters unauthorisedly for a very long time i.e. from 30.7.1994 to 26.6.1996, for which proper inquiry was delayed and he was also not drawing his subsistence allowance intentionally and when it surfaced he started pretending that orders for subsistence allowance was not issued and not in a position to attend inquiry. He was also not attending inquiry. As such, the review of the subsistence allowance was also automatically delayed. It was irony of the fact that the applicant who was absenting unauthorisedly from the HQs and not cooperated during the preliminary inquiry and thereafter at the time of Inquiry under Rule 14 of the CCS of CCA(Rules) 1965 and intentionally avoiding taking payment of subsistence allowance had been blaming the deptt. of not giving payment of subsistence allowance. The applicant was demanding enhancement of subsistence allowance in view of sub rule(2) knowing it fact that he had not been drawing the original subsistence allowance. The subsistence allowance was duly revised as soon as he started taking payment of original subsistence allowance.

26. That with regard to the statements made in para 4.31, of the application, the respondents beg to state that the applicant was placed under suspension vide Rule 10(1) (a) and 10(3) of the CCS(CCA) Rule, 1965. His subsistence allowance was regulate vide IR 53(i) (II)(a). His subsistence allowance was reviewed twice. In first review his subsistence allowance was decreased by 50%

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and in subsequent review it was increased by 50%. The official was never denied subsistence allowance at the rate of half pay or half average pay prior to the review of the subsistence allowance.

The applicant was unauthorisedly absenting from headquarters prior to his suspension and even after placing him under suspension. The applicant's headquarters, was fixed at Kohima in the suspension order itself. But he never stayed in the HQs. and so much so that he even did not turn up for taking his subsistence allowance for the period from 4.8.94 to 26.6.96. His absence from the HQs made a mess to the entire affairs.

As a result the entire enquiry was delayed and the subsistence allowance also could not be reviewed.

But it might be pointed out that ~~the~~ non review of the subsistence allowance in time rather went in favour of the applicant, because the prolonged suspension was due to the reasons attributable to the applicant.

The Hon'ble CAT in their order dated 6.1.2000 in the application No.400/99 did not decide the matter. They only asked the respondents to consider the prolonged order of suspension and decide the matter in accordance with the Govt. instructions. The major penalty proceedings against the applicant was concluded on 1.2.2000 and the Hon'ble CAT's order was received on 5.2.2000. So the matter stands settled here, as the applicant was no longer under suspension by the time.

The applicant is entitled to only half pay or half average pay and not 75% as claimed. The Competent Authority is empowered to increase or decrease the subsistence allowance by 5% of the subsistence allowance sanctioned initially. In the applicant's case, subsistence allowance was first decreased by 5% and then increased by 50%. His claim for 75% is not in accordance with law.

29. That with regard to the statements made in para 4.32, of the application, the respondents beg to state that the whole inquiry proceedings were conducted in a fair and proper manner. After conducting the oral inquiry during which the applicant was given adequate opportunity to defend himself and prosecution witnesses examined, cross-examined and re-examined, the IO submitted his inquiry report on 17.11.99. A copy of the IO's report was sent to the applicant, inviting him to make any representation or submission within 15 days vide letter no. dated 17.11.99. The applicant in his representation dated 14.12.99 prayed for extension of time upto 30.12.99 for submission of his representation. As no representation was received even after the expiry of 30.12.99, the applicant was given 10 more days for submission of his representation vide letter dated 4.1.2000, which was delivered to the applicant at his home address at Imphal on 15.1.2000. Even though sufficient time was given to the applicant for making representation, he did not make any. It was therefore, presumed that he had no representation to make against the report of the IO and the case was decided.

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30. That with regard to the statements made in para 4.33, of the application, the respondents beg to state that an appeal against the punishment order dated 1.2.2000 was preferred by the applicant to CPMG, N.E. Circle, Shillong. The appellate authority agreed with the findings of the disciplinary authority on the basis of which penalty was imposed and hence confirmed/upheld the punishment order. As regards non-payment of subsistence allowance as alleged by the applicant, it has clearly been clarified in foregoing paras. It might be reiterated that the applicant was intentionally avoiding to take payment of the subsistence allowance. He never approached the appropriate authority i.e., the Postmaster, Kohima H.O. who was drawing and disbursing authority of the subsistence allowance. Payment of subsistence allowance is subject to submission of a non employment certificate and he could draw the subsistence allowance on submission of the necessary certificate as provided in the rule. The subsistence allowance is also to be paid monthly like payment of salary. Had he not received the subsistence allowance on expiry of a month, he could approach the competent authority alleging non payment. But he approached the authority only after two years which itself proved that the applicant was out of headquarters. So his contention that due to non-receipt of subsistence allowance he could not attend inquiries was not tenable.

The applicant also submitted that the disciplinary authority had been harsh and the punishment was disproportionate to the charges brought against him. This submission also could not be agreed to.

There were as many as four articles of charges and not one of it be construed as minor. Disciplinary authority therefore, thought that the punishment was quite reasonable in view of the charges. It was not true that the disciplinary authority was predetermined to punish the applicant with dismissal.

31. That with regard to the statements made in para 4.34, of the application, the respondents beg to offer no comments.

32. That with regard to the statements made in para 5.1 of the application, the respondents beg to state that the denovo proceeding were conducted by Sari K.R. Das, and the first inquiry report was submitted by the IO on 9.2.99, which was duly supplied to the applicant vide letter dated 17.2.99 for making representation, if any. In view of the objections raised by the applicant vide his representation dated 11.3.99, the case was remitted to the Inquiry Officer for further inquiry as per Rule 15 of the CCS (CCA) Rules, 1965. The Inquiry Officer thereupon proceeded inquiry according to the provision of Rule 14 of the rules referred to ibid.

33. That with regard to the statements made in para 5.2, of the application, the respondents beg to state that upon this the applicant was summoned as per rule and his defence assistant was also asked to attend the inquiry to cross-examine the witnesses. As such there was no lacuna on the part of the Inquiry Officer. Reasonable opportunities were always given to the applicant to defend the case. So the order of penalty dated 1.2.2000 as well as the appellate order dated 22.9.2000 could

could not be held as irregular.

34. That with regard to the statements made in para 5.3, of the application, the respondents beg to state that the submission made by the applicant was quite contrary to the fact. The subsistence allowance was duly sanctioned by the respondent no.3 on 29.8.94. It was the applicant who is to be blamed for not taking payment. He could take payment of the subsistence allowance from the Postmaster, Kohima by producing certificate of non employment. But he never came for taking payment from the Postmaster, Kohima. In fact he was out of station and never visited his headquarters on or before 26.6.96. The integrity of the applicant remained doubtful, as he was silent about the period from 04.08.94 to 26.6.1996. During the period mentioned above he never approached either to the Postmaster, Kohima who was the paying authority or the respondent no.3 in case the subsistence allowance was not paid by the Postmaster, Kohima.

35. That with regard to the statements made in para 5.4, of the application, the respondents beg to state that the submission of the applicant was quite contrary to the fact. The applicant was given ample and reasonable scope to defend the case. But he preferred to remain absent from the inquiry. Even then he was always provided with the necessary daily order sheets as and when inquiry was held.

36. That with regard to the statements made in para 5.5, of the application, the respondents beg to state that the order of CPMG issued vide letter No. Vig/14/15/85 dated 7.6.99 is self-explanatory, as such further comment on the point is not

considered necessary.

37. That with regard to the statements, made in para 5.6, of the application, the respondents beg to state that there were four specific charges and the inquiry was conducted into these specific four charges, which the applicant was very much aware of.

38. That with regard to the statements, made in para 5.7, of the application, the respondents beg to state that in view of the omissions pointed out by the applicant, the IO was directed to conduct further inquiry keeping in view the objection raised by the applicant. Accordingly the inquiry proceeding was conducted by the IO as prescribed. Therefore, the allegation that the IO was biased and prejudiced is not based on facts.

39. That with regard to the statements made in para 5.8, of the application, the respondents beg to state that the appeal preferred by the applicant for change of the IO was turned down by the appellate authority vide memo No. Vig/14/15/85 dated 7.6.99 as such the question of not disposing the appeal does not arise.

40. That with regard to the statements made in para 6, of the application, the respondents beg to state that the applicant could remit review petition to the member (P) of the Postal Service Board for remedy, the limitation period for submission of application to the Hon'ble CAT may also be examined.

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41. That with regard to the statements made in para 7 & 8 of the application, the respondents beg to offer no comments.

42. That with regard to the statements made in para 8.1, of the application, the respondents beg to state that the inquiry was held as per procedure of inquiry prescribed in Rule 14 & 15 of the CCS (CCA) Rules 1965 and penalty was imposed on the basis of evidence adduced during the inquiry. Hence, the question setting aside the inquiry proceeding and penalty does not arise.

43. That with regard to the statements made in para 8.2, of the application, the respondents beg to state that the Hon'ble CAT is prayed to consider the gravity of charges framed against the applicant and the behaviour of the applicant from the date of his suspension to the date of his dismissal from the service. It might be seen that he was quite non-cooperative from the beginning to the end. While under suspension he was out of headquarters and never came to take payment of subsistence allowance or queried about subsistence allowance when he was charge sheeted and IO fixed date for inquiry he did not attend inquiry on the plea of non payment of subsistence allowance. His entire attitude was to find fault with the inquiry and not about to defend the case with facts and figures.

44. That with regard to the statements made in para 8.3, of the application, the respondents beg to state that the applicant is not entitled to any relief or reliefs.

45. That with regard to the statements made in para 8.4, of the application, the respondents beg to state that the cost of application should be denied.

46. That with regard to the statements made in para 9 & 10, of the application, the respondents beg to offer no comments.

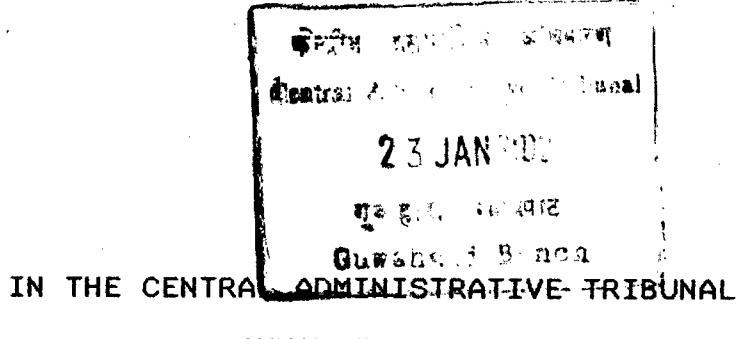
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VERIFICATION

I, Sri Pradip Chakrabarty
Dy. Supdt. of P.O.S, Kohima 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 th day
of November, 2001, at Guwahati.


Declarant.



23 JAN 2001

Regd. No. 4012

Guwahati Bench

Petition by the applicant
Through Advocate Sri
G. N. Chakravarthy on
23-1-02. For 121

In the matter of :

O.A. No. 340 of 2001

Sri S.J.Singh

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the applicant in reply to the written statement submitted by the Respondents.

The applicant above named most humbly and respectfully begs to state as under :

1. That he has gone through the written statements and has understood the contents thereof.
2. That in reply to the Brief History of the case stated in the written statement, the applicant begs to submit that after a lapse of about one year from the date of suspension, the applicant was served with a copy of the charge sheet dated 27.7.1995 bearing the alleged charges. Thereafter, the Director of Postal Services, Konboka, appointed a number of inquiry officers one after another to enquire into the Disciplinary case against the applicant and subsequently appointed Sri A.R.Bhowmick, the then Supdt. Of P.O.s, Dharmanagar Division as the I.O. on 19.8.1996 i.e. after a lapse of more than one year from the date of issue of charge

sheet dated 27.7.1995/11.8.1995 and more than two years from the date of suspension dated 4.8.1994. On the basis of ex parte enquiry, the applicant was illegally ordered to be dismissed from service vide order dated 27.11.97 which having been represented against by the applicant to the higher authority, the Postmaster General, Shillong was pleased to set aside the order of dismissal dated 27.11.97 directing for de-novo proceedings from the stage of appointment of inquiry officer. Accordingly, the D.P.S., Kohima appointed Sri K.R.Das, SPDS, HQ, Kohima as I.O. of the said de novo proceedings vide his order dated 28.4.1998. Surprisingly, vide memo dated 8.5.1998 issued by the Director of Postal Services, Kohima, the applicant was ordered to be deemed under suspension with effect from 27.11.97 i.e. the date of dismissal from service whereas only 11 days ahead i.e. on 28.4.98 the said D.P.S., Kohima appointed Sri K.R.Das as the Inquiry Officer, which clearly indicates the motive of the respondents. Thereafter, the entire inquiry proceedings were conducted in an illegal, unfair and unjust manner violating all established procedures of law and finally imposing a punishment of dismissal from service on the applicant vide impugned order dated 1.2.2000 followed by its confirmation by the Appellate Authority vide order dated 22.9.2000 rejecting the appeal made by the applicant. The way the inquiry was conducted is bad in law and vitiated by serious irregularities as have been narrated by the applicant in the O.A.

3. That the applicant categorically denies the statements made in paragraphs 1 and 2 of the written statement and begs to state that the order of penalty dated 1.2.2000 and order of confirmation by the appellate authority dated 22.9.2000

suffers from serious irregularities and biasness and hence are not tenable in the eye of law.

4. That the applicant categorically denies the statements made in paragraph 4 of the written statement and begs to state that after elapse of about one year from the date of suspension the applicant was served with a copy of the charge sheet dated 27.7.1995. The charges alleged against the applicant also could not be substantiated in the inquiry.
5. That the applicant emphatically denies the statements made in Para 5 of the written statement and begs to submit that the D.P.S., Kohima appointed a number of inquiry officers, one after another, to enquire into the disciplinary case against the applicant, subsequently appointing Sri A.R. Bhowmick, the then Superintendent of Post Offices, Dharmanagar Division as the I.O. The memo dated 29.8.94 sanctioning the subsistence allowance as stated by the Respondents was never received by the applicant and the Hon'ble Tribunal be pleased to direct the respondents to produce the relevant proof and records to that effect before the Hon'ble Tribunal. Further the applicant never left and Headquarters except on occasional visit to his home town and he had been pursuing for his subsistence allowance all along.
6. That the applicant categorically denies the statements made in para 7,8, and 9 of the written statement and begs to submit that the applicant could not attend inquiry due to financial distress in want of subsistence allowance and he did not receive any order dated 29.8.1994 as stated, granting his subsistence allowance. He had all along been approaching the authorities for his subsistence allowance. The

respondents deliberately misinterpreted the order dated 9.12.1996 of the Hon'ble Tribunal passed in O.A. No. 282 of 1996.

7. That the applicant categorically denies the statements made in paragraphs 11,12 and 13 of the written statement and begs to submit that the applicant did not receive any order granting subsistence allowance. Rather, he had been approaching the respondents time and again for release of his subsistence allowance but with no result. The applicant also did not absent from Headquarter as alleged, except on casual/occasional visit to his home place.
8. That the applicant categorically denies the statements made in paragraphs 14 of the written statement and begs to state that by passing an order of dismissal from service on the basis of ex -arte inquiry against the applicant, the respondents violated the constitutional provisions and principles of natural justice.
9. That the applicant categorically denies the statements made in para 16 of the written statement and begs to state that while the DPS, Kohima appointed Shri K.R.Das as I.O. on 28.4.1998, only after 11 days i.e. on 8.5.1998 the said DPS issued an order that the applicant would be deemed to be under suspension with effect from 27.11.1997 the day of dismissal, making his motive clear.
10. That the applicant categorically denies the statements made in para 17 of the written statement and begs to submit that he raised the objection during the inquiry which was not heeded to.

11. That the applicant categorically denies the statements made in para 18 of the written statement and begs to state that the applicant having fallen sick, could not attend the inquiry on 15.10.1998 which he duly informed to the I.O. But the I.O. conducted the inquiry ex-parte and concluded the inquiry in absence of the applicant violating the principles of law and natural justice.
12. That the applicant categorically denies the statements made in paragraphs 20,22 and 24 of the written statement and begs to state that the Respondents proceeded with the inquiry on 28.4.1999 without disclosing the purpose to the applicant whereas the inquiry report was submitted by the I.O. earlier on 17.2.1999.

Further, the subsistence allowance was not paid in spite of constant approach by the applicant and the applicant did not absent from Head quarter at any point of time as alleged except on occasional visit to his home place.

13. That the applicant categorically denies the statements made in paragraphs 25 and 26 of the written statement and begs to state that the I.O. conducted the concluding part of the inquiry only on 28.4.1999 whereas he submitted his enquiry report to the Disciplinary Authority prior to that specifically holding that the alleged charges were proved against the applicant which is evident from the letter dated 17.2.1999 of the D.P.S., is evident from the letter dated 17.2.1999 of the DPS, Kohima. This gives ample testimony as to what extent the I.O. was biased and pre-determined and acting to the detriment of the applicant. In spite of

representing these facts to the Appellate Authority also acted on the bias inquiry report of the I.O. and turned down the appeal of the applicant. As such, the entire proceeding of the inquiry is vitiated and conducted in total violation of Rule 14 and 15 of the CCS (CCA) Rules, 1965 and are not tenable in the eye of law.

14. That the applicant categorically denies the statements made in paragraphs 27 and 28 of the written statement and begs to submit that the applicant was placed under suspension vide order dated 4.8.1994 and as per rule it is statutory obligation of the respondents to review the suspension order after 90 days for revocation of suspension order etc. as per progress of the departmental proceedings. The Respondents failed to do so and also did not pay his subsistence allowance on a false plea that the applicant had absented from Headquarter. They did not act properly even in spite of the directions given by the Hon'ble Tribunal to that effect in its order dated 6.1.2000 passed in O.A. No. 400/99.
15. That the applicant categorically denies the statements made in paragraphs 29 of the written statement and begs to submit that the inquiry was conducted in a completely unfair and illegal manner. The I.O. submitted the inquiry report even before the completion of the inquiry and the same was brought to the notice of the Disciplinary Authority by the applicant vide his appeal dated 15.4.1999 but the Disciplinary Authority acted on the said inquiry report ignoring this fact and other objections of the applicant and passed the impugned order of penalty dated 1.2.2000.

16. That the applicant emphatically denies the statements made in paragraphs 30 and 34 of the written statement and asserts that the Appellate Authority i.e. the OPMG, N.E. Circle, Shillong also acting mechanically and unfairly rejected the appeal of the applicant dated 16.3.2000 made against the impugned order dated 1.2.2000 and upheld the order of penalty dated 1.2.2000 and upheld the order of penalty dated 1.2.2000 although the applicant apprised the CPMG of all the irregularities made in the inquiry proceeding.

Regarding subsistence allowance, the same was not paid to the applicant in spite of his continued approaches and the respondents resorted to a false plea that the applicant absented from the Headquarter.

17. That the applicant categorically denies the statements made in paragraphs 32 and 42 of the written statement and begs to state that the I.O. Sri K.R.Das submitted his inquiry report before the completion of the inquiry proceeding specifically holding that the charges levelled against the applicant has been established as evident from the letter dated 17.2.1999 (Annexure-19 to the O.A.) of the DPS, Nagaland whereas the concluding part of the inquiry was conducted subsequently on 28.4.1999. On that score alone the entire inquiry proceeding as well as the impugned order of penalty dated 1.2.2000 and appellate order dated 22.9.2000 are liable to be set aside and quashed.

18. That the applicant categorically denies the statements made in paragraphs 33 and 35 of the written statement and reiterates that the applicant was not provided reasonable opportunity to defend his case during the inquiry and as such

the impugned order dated 1.2.2000 and Appellate Order dated 22.9.2000 are liable to be set aside and quashed.

19. That the applicant categorically denies the statements made in paragraphs 36,38 and 39 of the written statement and begs to submit that the CPMG, N.E. Circle, Shillong vide his letter dated 7.6.1999 rejected the appeal dated 15.4.1999 of the applicant most mechanically. The CPMG in the said letter admitted that the I.O's conduct of inquiry has certain inadequacies and further endorsed that the I.O. has already expressed his findings in his report earlier. In this situation, ordering for the inquiry by the same I.O. is meaningless and pre-conceived. On that ground alone the impugned order dated 1.2.2000 as well as Appellate Order dated 22.9.2000 are liable to be set aside and quashed.

20. That the applicant categorically denies the statements made in paragraph 37 of the written statement and begs to reiterate that the penalty imposed on the applicant is disproportionate to the charges levelled.

21. That the applicant categorically denies the statements made in paragraph 40 of the written statement and begs to submit that he approached the Hon'ble Tribunal only after his appeal/presentation failed to yield any consideration.

22. That the applicant categorically denies the statements made in paragraph 43 of the written statement, the applicant begs to state that the statements given by the Respondents are contrary to the facts and hence the Hon'ble Tribunal be pleased to reinstate the applicant in service with all consequential service benefits.

23. That the applicant categorically denies the statements made in paragraphs 44,45 and 46 of the written statement, the applicant begs to state that he is entitled to the relief(s), interim relief and costs of the application as prayed for.
24. That in the facts and circumstances, the applicant humbly submits that he is entitled to the reliefs prayed for and the O.A. deserves to be allowed with costs.

VERIFICATION

I, Sri Soraisam Jugeshwar Singh, son of Shri S. Ibochou Singh, aged about 54 years working as A.S.P.O.S, Kohima, resident of village and P.O. Mongsangei, via M.U., S.O., Imphal, applicant in the O.A. No.340/2001, do hereby verify and declare that the statements made in paragraphs 1 to 24 in this rejoinder are true to my knowledge and I have not suppressed any material facts.

I, sign this verification on this the 22nd day of January,

2002

Soraisam Jugeshwar Singh.