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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 358/2001

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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. 358/2001

Applicant (s) H. C. Chakrabarty

Respondent(s) W.O.I. Toms

Advocate for the Applicant: Mr. A. C. Bora & Mr. N. C. Basu

Advocate for the Respondent: Cash

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. The application Petition is filed and not filed by de M.P. for Rs. 300/- deposited vide IPO/80/76548994	12.9.01	<input type="checkbox"/> Heard learned counsel for the parties. <input type="checkbox"/> The application is admitted. Call for the records. <input type="checkbox"/> Issue notice as to why interim order under Memo No. ASM/TE/Staff/146/18 dated 4.7.2001 (Annexure-5) shall not be suspended. Returnable by 2 weeks. Mr. A. Deb Roy, learned Sr.C.G.S.C. accepts notice on behalf of the respondents. <input type="checkbox"/> In the meantime, the operation of the order dated 4.7.2001 is suspended till the returnable day. <input type="checkbox"/> List on 28/9/01 for further order.
3 Copies Sicks Received.		<u>I C U Sharma</u> Member
2 Copies Short Notice prepared and sent to DLS for Recordant No. 1283.		<u>Vice-Chairman</u>
W.O.I. No. 3528 & 3530 dtel 19/11/01	20.9.01 12/11/01	<input type="checkbox"/> List again on 19/11/01 to enable the respondents to file written statement.
No written statement has been filed.		<u>I C U Sharma</u> Member <u>Vice-Chairman</u>

Zay  
16.11.01

19.11.01

List on 20.12.01 to enable the respondents to file written statement.

No written statement has been filed.

Member

Vice-Chairman

3/1  
19.12.01

lm

20.12.01

List on 22.1.2002 to enable the respondents to file written statement.

No written statement has been filed.

3/1  
21.1.02

mb

22.1.02

List on 19.2.2002 to enable the respondents to file written statement.

In the meantime, interim order dated 12.9.2002 shall continue.

Order dtd. 22/1/02 communicated to the parties Counsel.

3/1  
23/1K C Sharma  
Member

Vice-Chairman

W/S has been filed on behalf of the respondent 1-5 at page 28-37.

mb

19.2.02

Pleadings are complete. The case may now be listed for hearing. The applicant may file rejoinder, if any, within two weeks from today. List on 20.3.2002 for hearing.

NB 3/2/02  
No rejoinder has been filedK C Sharma  
Member

Vice-Chairman

3/1  
19.3.02

20.3.2002

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

K C Sharma  
Member

Vice-Chairman

nkm

18.4.2002  
Copy of the Judgment has been sent to the parties for information as well as to the Appellants as well as to the Addl. CGSC by hand.

8

For 9/4/2002  
26.4.2002

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 358 of 2001

Date of Decision. 20.3.2002

- Shri Haren Chandra Chakraborty

Petitioner(s)

- Mr. A.C. Buragohain and Mr. N. Borah

Advocate for the  
Petitioner(s)

- Versus -

- The Union of India and others

Respondent(s)

- Mr. B.C. Pathak, Addl. C.G.S.C.

Advocate for the  
Respondent(s)

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.358 of 2001

Date of decision: This the 20th day of March 2002

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

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

Shri Haren Chandra Chakraborty,  
Village- Bhaskar Nagar B-Block,  
P.O. Bhaskar Nagar, District- Kamrup,  
Guwahati.

.....Applicant

By Advocates Mr A.C. Buragohain and  
Mr N.C. Bora.

- versus -

1. The Union of India, represented by the  
Secretary, Telecommunication,  
New Delhi.

2. The Chairman,  
Bharat Sanchar Nigam Limited,  
Government of India Enterprise,  
New Delhi.

3. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Assam Telecom Circle,  
Guwahati.

4. The General Manager (Finance),  
Office of the C.G.M.T.,  
Guwahati.

5. The Chief Accounts Officer  
(T.A. & TR),  
Office of the C.G.M.T.,  
Guwahati. ....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

In this application under Section 19 of the  
Administrative Tribunals Act, 1985 the applicant has  
assailed the legality and validity of the order dated  
4.7.2001 reverting the applicant from the post of  
Assistant Chief Accounts Officer to that of Sr. Accounts

Officer.

2. The applicant at the relevant time was holding the post of Senior Accounts Officer in substantive capacity. By order dated 31.7.2000 the General Manager (Finance), Assam Telecom Circle, Guwahati ordered for promotion of the applicant alongwith another as Assistant Chief Accounts Officer (A&P), CO/GH on purely on local officiating arrangement for 179 days. By order dated 6.2.2001 the said officiating arrangement was extended for another period of 179 days with effect from 27.1.2001. While the applicant was holding the post of Assistant Chief Accounts Officer, he was served with a Memorandum of charges No.Vig/Assam/Disc-X/6 dated 28.5.2001 vide order dated 29.5.2001. By the aforesaid Memorandum dated 28.5.2001 the applicant was served with a memorandum of charges for alleged commission and omission for alleged misconduct in contravention of the provisions of Rule 3(1) (i) (ii) (iii) of the CCS (Conduct) Rules, 1964. It has been stated that the applicant submitted his written statement of defence also, but the enquiry is yet to be completed. While things rested as such the impugned order was passed by which the applicant was reverted to his substantive post in view of the pending disciplinary proceeding. The legality and validity of the said order is under challenge before us.

3. Mr N.C. Borah, learned counsel for the applicant, stated and contended that the applicant was duly promoted, may be as an ad hoc measure, to a higher post and the alleged misconduct has nothing to do with the post he is presently holding. The learned counsel submitted that the applicant was promoted to a higher post on some assessment and now there was no justification for reverting him, more

so.....

so on the ground of pendency of disciplinary proceeding.

4. Mr. B.C. Pathak, learned Addl. C.G.S.C., on the other hand, submitted that the promotion of the applicant was made by way of a local arrangement. Under the normal course the promotions are made on All India basis by the competent authority. The promotion of the applicant was made purely as a stop-gap arrangement to tide over the exigency of service. According to the learned Addl. C.G.S.C., ad hoc local promotion did not bestow on the officer any right to hold the higher post. The respondent authority on good and sufficient reason initiated a disciplinary proceeding and the said disciplinary proceeding is under process. The very order of reversion dated 4.7.2001 itself indicated that the said order was passed in view of the pendency of the disciplinary proceeding against the applicant. Such measure is permissible in the light of the Government Instructions cited below Rule 11 of the CCS (CCA) Rules, 1965. As per the instructions, where an appointment has been made purely on ad hoc basis against a short-term vacancy or a leave vacancy or if the Government servant appointed to officiate until further orders in any other circumstances has held the appointment for a period less than one year, the Government servant shall be reverted to the post held by him substantively or on a regular basis, when a disciplinary proceeding is initiated against him. Appropriate action in such cases will be taken depending on the outcome of the disciplinary case.

5. Upon considering all the aspects of the matter the impugned order dated 4.7.2001 cannot be held to be unsustainable in law. We, however, feel that the

disciplinary.....

disciplinary proceeding need not be lingered. The applicant has already submitted his written statement of defence on 6.6.2001 and more than nine months elapsed in the meantime. We do not find any justification in continuation of the disciplinary proceeding indefinitely. WE feel that justice will be met if the respondents are directed to complete the disciplinary proceeding as early as possible, preferably within six months from the date of receipt of this order. The respondents are accordingly directed.

6. Subject to the observations made above the application is dismissed. There shall, however, be no order as to costs.

K. K. Sharma  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

( D. N. CHOWDHURY )  
VICE-CHAIRMAN

nkm

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Bench

केन्द्रीय अधिकारी बोर्ड का नियमित  
Central Administrative Tribunal  
Guwahati Bench

- 4 SEP 2001

GUWAHATI BENCH :

GUWAHATI.

O.A. CASE NO. 358 /2001.

CODE :

Sri Haren Chandra Chakraborty ... Applicant.

- VS -

Union of India & Others.

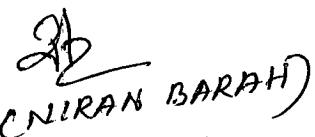
... Respondents.

MATTER :

BENCH :

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7.	-	Annexure - 6.	27

  
NIRJAN BARAH

Signature of the Advocate.

For use in the Tribunal's Office.

Date of filing :

Registration No:

DISTRICT:::KAMRUP

IN THE CENTRAL ADMINISTRATIVE

TRIBUNAL, GAUHATI BENCH

GUWAHATI

O.A. NO. 358 /2001

✓  
10  
Haren Ch. Chakraborty

IN THE MATTER OF :

Sri Haren Chandra Chakraborty

S/O (L) Girinendra Ch. Chakraborty

Vill. Bhaskar Nagar B-Block

P.O. Bhaskar Nagar

Dist. Kamrup, Guwahati-15.

LAST EMPLOYED :

As a Asstt. Chief Accounts Officer

(Accounts & Pension), Office of the

C.G.M.T., Guwahati, Assam.

... Applicant

-Versus-

1. The Union of India

represented by Secretary,

Telecommunication,

Sanchar Bhawan, New Delhi.

contd...2

Filed by the  
Applicant in  
Bharat Sanchar Nigam  
through Advocate  
Suresh Chandra  
Haran Ch. Chandra  
"Chapachali"

2. The Chairman,  
Bharat Sanchar Nigam Limited  
Govt. of India Enterprise  
New Delhi.
3. The Chief General Manager,  
Bharat Sanchar Nigam Limited  
Assam Telecom Circle, Guwahati,  
Ulubari, Guwahati-7.
4. The General Manager (Finance)  
Office of the C.G.M.T.  
Guwahati-7.
5. The Chief Accounts Officer  
(T.A. & TR), Office of the C.G.M.T.  
Guwahati-7.

.... Respondents

DETAILS OF APPLICATION :

1. Particulars of the order against which the application is made. :- Order issued under the Memo No. ASW/Staff/146/18 dated 4-7-2001 issued by Chief Accounts Officer (TA & TR) Office of the C.G.M.T./ 81/007 Bharat Sanchar Nigam Limited reverting the applicant from the post of Asstt. Chief Accounts Officer to Sr. Accounts Officer.

(Annexure-5).

contd...3

2. Jurisdiction of the :- The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :- The applicant further declares that the application is within the limitation period in Section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE :

(a) That, the applicant is a citizen of India and he is permanent resident of village Bhaskar Nagar B. Block in the district of Kamrup, Assam.

(b) That, the applicant is now 57 years of age and he was spent his long years in the Telecommunication department. The applicant has been deeply involved with the organisation. The applicant was Sr. Accounts Officer (Accounts & Pension) in the office of the C.G.M.T. Guwahati for last several years and he was the Sr. most Account Officer in Accounts & Pension Section.

-4-

(c) That, the B.S.N.L. (East-while Telecommunication Department, Govt. of India) has a Scheme to promote the officers under officiating system. The officiating post under the system carries pay and allowances of the officiating post.

(d) That, the applicant while working as Sr. Accounts Officer was promoted on local authority arrangement to the post of Asstt. Chief Accounts Officer in the scale of pay of Rs.8000/- to 35,500/- from the date of issue of the order for a period of 179 days (six months) by order No. STES-6/22/99 dated 31-07-2000 together with on Sri Biswajit Deb.

A copy of the aforesaid order dated 31-7-2000 is annexed hereto and marked as Annexure-'1'

(e) That, on completion of six months, by order No. STES-6/22/13 dated 6-2-2001 the services of the applicant in the post of Asstt. Chief Accounts Officer were extended for another period of 179 days (six months) with effect from 27-1-2001 in the same scale of pay of Rs.8000.00 - 35,500.00 together with Sri Biswajit Deb.

A copy of the aforesaid order dated 6-2-2001 is annexed hereto marked as Annexure-'2'

cont....5

(f) That, the applicant states that his pay in the post of Asstt. Chief Accounts Officer was fixed under F.R. 22(1)(a)(1).

(g) That, the applicant respectfully states that during his whole service career he has been discharging his duties with all efficiency and sincerity and there is no blemish in his long service records.

(h) That, the applicant respectfully states that while he was working as Asstt. Chief Accounts Officer, all on a sudden he received a order No. ASM/GM(F) Conf/dated 29-5-2001 issued by the Chief Accounts Officer (T.A. & TR Respondent No.5) where by a Memorandum of charges together with statement of imputation of Mis-conduct or mis ~~bad~~ behaviour were served on him.

A copy of the aforesaid order dated 29-5-2001 along with the Memorandum dated 28-5-2001 and statement of imputation of misconduct or misbehaviour are annexed here to and marked as Annexure 3 ~~xx~~ (a, b & C) respectively.

(i) That, the applicant respectfully states that, thereafter on 6-6-2001 the applicant submitted his representation in the form of reply in response to the order dated 29-5-2001 (vide Annexure-3(a,b & c)

A copy of the said representation dated  
6-6-2001 is annexed hereto markd as

Annexure- '4'

(j) That, the applicant respectfully states that he has categorically denied the allegations made in the Memorandum dated 28-5-2001 and statement of imputation and misconduct or mis-behaviour in his representation dated 6-6-2001 and requested the authorities the drop the charges against him.

(k) That, the applicant respectfully states that the Respondent authorities have not taken any steps on the representation dated 6-6-2001 submitted by him and the disciplinary proceedings have been kept pending by authorities on same extraneous reasons.

(l) That, the applicant respectfully states that to the utter surprise of the applicant the Chief Accounts Officer (TA & TR) (Respondent No.5) by his communication issued under Memo No. ASM/TR/Staff/146/18 dated 4-7-2001 informed the applicant the approval of the General Manager (F), **office** of the Chief General Manager Telecom, Assam Telecom Circle Guwahati-7 the Revision of the applicant "from the post of Chief Accounts Officer to Sr. Accounts Officer in view of the pending disciplinary case against the officer" (applicant).

contd...7

Haran Ch. Choudhury

-7-

A copy of the aforesaid communication dated 4-7-2001 is annexed hereto and marked as Annexure-5

(m) That, the applicant respectfully states that through the aforesaid communication dated 4-7-2001 (vide Annexure-5) was issued the applicant has been continuing in the post of Asstt. Chief Accounts Officer till date.

(n) That, the applicant respectfully states that the respondent authority has not issued any extension order in the post of Asstt. Chief Accounts Officer in respect of the applicant. However to the utter surprise of the applicant the (Respondent No.5) by his order No. A.S.M./TR/STAFF/146/2000-2001/19 dated 27-7-2001 extended the services of the said Sri Biswajit Deb in the Grade of Asstt. Chief Accounts Officer in scale of pay 8000.00 - 13,500.00 for another period - 179 days (six months) with effect from 27-7-2001. Through both Sri Biswajit Deb who was junior to the applicant and the applicant were initially promoted to the Grade of Asstt. Chief Accounts Officer by order dated 31-7-2000 (vide Annexure-1).

A copy of the aforesaid order dated 27-7-2001 is annexed hereto and marked as Annexure-6.

contd....8

(o) That, the Respondent authority has most illegally and arbitrarily and without giving and opportunity of being heard reverted the applicant to the post of Sr. Accounts officer from the post of Asstt. Chief Accounts Officer. This action of the Respondent authorities is violative of provisions of the Constitution of India, settled principles of natural justice and service jurisprudence.

(p) That, the applicant respectfully states ~~that~~ he has not been found guilty of mis-conduct and therefore, the applicant cannot be deprive of his legitimate promotion on the plea of continuance of disciplinary proceedings. The applicant respectfully states~~t~~ that there is no rule or law to deprive of his promotion due~~t~~ to pending of disciplinary.

(q) That, the reversion of the applicant to the post of Asstt. Chief Accounts Officer from the post of Sr. Accounts officer (vide Annexure-5) nothing but punishment imposed on ~~in~~ applicant without completion of the disciplinary proceedings and therefore, the impugned order dated 4-7-2001 is illegal, arbitrary, whimsical, malafide and therefore the same does not stand the scrutiny of law.

5. GROUNDS OF RELIEF WITH LEGAL PROVISION :

5.1. For that, prima facie the action on the part of the respondents is illegal so far as reversion of the service

of the applicant is concerned that too without assigning any reason and hence the same is liable to be set aside and quashed.

5.2. For that, the Reversion order dated 4-7-2001 (vide Annexure-5) for the post of Asstt. Chief Accounts Officer to the post of Sr. Accounts Officer, is illegal, arbitrary and the same is liable to be set aside and quashed.

5.3. For that the discrimination meted to the applicant in reverting the applicant from Asstt. Chief Accounts Officer to Sr. Accounts Officer is violative of Article 14 & 16 of the Constitution of India.

5.4. For that, the Reversion Order dated 4-7-2001 (vide Annexure-5) is blatant violation of 16(1)(b) of the Central Civil Service (C.C.A.) Rules 1965 and therefore the same is liable to be set aside and quashed.

5.5. For that, in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

5.6. For that, the Respondents have committed illegality by reverting the applicant from the post of Asstt. Chief Accounts Officer to Sr. Accounts Officer.

**6. DETAILS OF REMEDIES EXHAUSTED :**

That, the applicant declares that he have exhausted all the remedies available to her and there is no alternative remedy available to her.

**7. MATTER NOT PREVIOUSLY FILED OR PENDING  
IN OTHER COURT :**

That, the applicant declare that the matter is not previously filed or pending in any other court.

**8. RELIEF SOUGHT FOR :**

Under the facts and circumstances stated above, the following relief are sought :-

8.1. To set aside and quashed the impugned order dated 4-7-2001 (vide Annexure-5) where by respondent has reverted from the post of Asstt. Chief Accounts Officer to Sr. Accounts Officer of the service of the applicant.

8.2. The Respondent be directed to ~~applicant~~ for the promote applicant for the post of Asstt. Chief Accounts Officer from the post of Sr. Accounts Officer and allow to continue in post till the date of any superannuation.

8.3. To pay compensation for inflicting the applicant with illegal and non sustainable reversion order.

cond...

20

Haran Ch. Chawdhury

-11-

8.4. To all other reliefs that may be granted to the applicant under the facts and circumstances of the case.

8.5. To ~~any~~ relief that deem fit & proper by the Hon'ble Tribunal.

9) INTERIM ORDER PRAYED FOR:

In the interim the order issued under Memo No. ASM/ TR/Staff/146/18 dated 4-7-2001 (vide Annexure-5) reverting the applicant from the post of Asstt. Chief Accounts Officer to the Sr. Accounts Officer may please be stayed till the disposal of the Original Application.

10) PARTICULARS OF IPO

1. I.P.O. No. : 76548994
2. DATE : 4.9.2061
3. PAYABLE AT : GUWAHATI.

11) LIST OF ENCLOSURE :

As stated in the "INDEX".

2,  
Haren Ch. Chakraborty

VERIFICATION

I Sri Haren Chandra Chakraborty, S/O (L) Griendra Ch. Chakraborty, aged about ~~—~~ years, resident of 'ill. Bhaskar Nagar B-Block, P.O. Bhaskar Nagar, Kamrup Gueahati do hereby verify the statements made in para 4(a,b,c,f,g,h,k,m) are true to my knowledge and those made in para 4(d,e,l,I,l8n) are true to my information based on record which I believed to be true and rest are my humble submisson before this Court.

I signed this verification on this 4<sup>th</sup> day of September, 2001 at Guwahati.

Haren Ch. Chakraborty

Signature.

Annexure - '1'

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOM SERVICES  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM  
ASSAM TELECOM CIRCLE:GUWAHATI-781 007.

NO. STES-6/22/9

DATED AT GUWAHATI, THE 31.07.2000

General Manager(Finance), Assam Telecom Circle,Guwahati is pleased to issue the orders of temporary promotion and purely on local officiating arrangement in respect of the following Sr. Accounts Officer in the grade of Asstt. Chief Accounts officer in the Scale of Pay Rs. 8000-13500 to be effect from the date of issue of the order and shall remain in force for 179 days or till regular incumbents are available whichever earlier.

Sl. No.	Name of the Sr.AO	Promotion posting
01.	Shri H.C.Chakraborty	ACAO(A&P),CO/GH.
02.	Shri Biswajit Deb	ACAO(TR),CO/GH.

The officiating arrangement does not bestow on the officer any right for regular absorption in the cadre nor this period will be counted towards seniority in the cadre or for promotion to the next higher grade.

Pay of the officers on promotion will be fixed under FR-22(1)(a)(1).

Charge reports may be sent to all concerned.

24/

(A.K.CHELLENG)  
Asstt. General Manager(Admn)

Copy to:-

01. The Sr. PA to GM(F),Circle Office,Guwahati.
- 02-03. The CAO(TA)/(SBP),Circle Office,Guwahati.
- 04-05. The AO(A&P)/(TA),Circle Office,Guwahati.
- 06-07. The officers concerned.
- 08-09. The PFs of the officer.
10. Guard File.

AO(P)/AKH

For Chief General Manager Telecom

Certified to be true Copy

  
Advocate

BHARAT SANCHAR NICAM LIMITED  
(A Govt. of India Enterprise)  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM  
ASSAM CIRCLE :: GUWAHATI - 781007

No. : STES - 6 / 22 / 13

Dated at Guwahati the 06.02.2001

General Manager (Finance), Assam Telecom Circle, Guwahati, is pleased to issue the orders for extension of temporary promotion and purely on local officiating arrangement in respect of the following Sr. Accounts Officer in the grade of Asst. Chief Accounts Officer in the scale of pay Rs 8000 - 13500 for another period of 179 days w.e.f 27.01.2001 or till the regular incumbents are available whichever is earlier.

Sl. No.	Name of the Sr. A.O.	Promotion posting
1	Sh. H.C. Chakraborty	ACAO(A&P), CO/GH
2	Sh. Biswajit Deb	ACAO(TR), CO/GH

The officiating arrangement does not bestow on the officer any right for regular absorption in the cadre nor will this period be counted towards seniority in the cadre or for promotion to the next higher grade.

Pay of the officers on promotion will be fixed under FR - 22 (1) (a) (1).

Charge reports may be sent to all concerned.

10/

(A.K. Chelleng)  
Asstt. General Manager (Admn.)

Copy to :-

- 1) The Sr. PA to GM (F), CO / GH.
- 2,3) The CAO (TA) / (SBP), CO / GH.
- 4,5) The AO (A&P) / (TA), CO / GH.
- 6,7) The officers concerned. *Shri H.C. Chakraborty, Sr. A.O. (A&P), C.O./GH.*
- 8,9) The P/Fs of the officer.
- 10) Guard File.

W/M 24-2-01

*Attn:*

For CGMT/Assam Circle/Guwahati

Certified to be true Copy

  
Advocate

**BIHAR SANCHAR NIGAM LTD.**  
*(A Govt. of India Enterprise)*  
**OFFICE OF THE CHIEF GENERAL MANAGER**  
**ASSAM CIRCLE, GUWAHATI-781 007.**

NO: ASM/GM(F)/Conf/

Dated at Guwahati, the 29.05.2001.

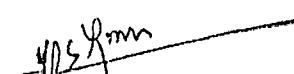
To

1. Shri H.C. Chakraborty  
 Sr. Accounts Officer(A&P)  
 O/o the CGMT, Assam Circle,  
 Guwahati.

2. Shri Arunabha Dutta,  
 Accounts Officer  
 DOT-CELL  
 O/o the CGMT, Assam Circle,  
 Guwahati.

Please find enclosed herewith the memorandum of charges vide NO.  
 Viz/Assam/Disc-X/6 dtd. 28.5.2001 issued by CGM Assam Circle.

Please acknowledge receipt of the same.

  
 (K. BALASUBRAMANIAN)  
 Chief Accounts Officer (TA&TR)  
 O/o C.G.M. Telecom  
 B.S.N.L.  
 Assam Circle, Guwahati

Certified to be true Copy

  
 Advocate

BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)  
O/O CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE, GUWAHATI-07.

No. Vig/Assam/Disc-X/6

Dated, May 28, 2001.

MEMORANDUM

- 1) Shri Haran Chandra Chakraborty, Sr. Accounts Officer, O/O the CGMT, Assam Telecom Circle, Guwahati the then Accounts Officer, O/O GMT, Kamrup Telecom District, Guwahati is hereby informed that it is proposed to take action against him under Rule-16 of CCS(CCA) Rules, 1965. A statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.
- 2) Shri Haran Chandra Chakraborty is hereby given an opportunity to make such representation as he may wish to make against the proposal.
- 3) If Haran Chandra Chakraborty fails to submit his representation within 10 days of the receipt of this memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Sri Haran Chandra Chakraborty ex-parte.
- 4) The receipt of this memorandum should be acknowledged by Shri Haran Chandra Chakraborty.

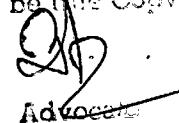


(J.K. CHHABRA)  
CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE  
GUWAHATI

To,

✓ Shri Haran Chandra Chakraborty,  
Sr. Accounts Officer (A&P),  
O/O the CGMT, Assam Circle,  
Guwahati-07.

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Advocate

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**STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SHRI HARAN CHANDRA CHAKRABARTY, SR. ACCOUNTS OFFICER, O/O THE CGMT, GUWAHATI THE THEN ACCOUNTS OFFICER, O/O THE GMT, KAMRUP TELECOM DISTRICT, GUWAHATI**

Sh. Haran Chandra Chakrabarty was posted and functioning as Accounts Officer in the o/o the GMT, Kamrup Telecom District, Guwahati during 1992-95.

Shri Haran Chandra Chakraborty had given pay orders for 179 Nos. of bills of M/s Pallabi enterprise, Guwahati, M/s Rajdhani Book Binding Works, M/s D.C.M./ Retail Stores, M/S CM Stores and M/s Furnishing House, Guwahati (As detailed in Annexure-A, B & C).

While Sh. Haran Chandra Chakraborty had given pay orders of the bills, he failed to do proper check/verification of the aforsaid bills and thereby firms were getting illegal pecuniary benefits. No indents for materials has been raised in the General Section of GMT Office for supply of said materials and no prior approval was obtained from the competent authority to purchase the said materials. No formal purchase order had been placed to the said firms. Neither the bills were received in the General Section nor processed through the General Section in the respective files. Bills were processed by one Sh.H.Biswas who was in no way concerned with the processing of said bills.

M/s Pallabi Enterprise was not an approved firm for supply of the said materials during 1992-93. M/s Rajdhani Book binding works was an approved firm for binding works in the GMT office and both the firms raised bills at higher rates than approved rates.

Sh. Haran Chakraborty failed to maintain absolute integrity and devotion to duty which has been proved during investigation on the basis on oral and documentary evidences.

The above acts of commission and omission on the part of Sh.Haran Chakraborty contravene the provision of rules 3(1) (i) (ii) (iii) of CCS(Conduct) Rules 1964.

(J.K.CHHABRA)  
CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE  
GUWAHATI

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ANNEXURE-A

Sl. No.	Bill No. & Date	Amount	Name of the firm
1	PE/92 dld. 11/5/92	1,160	M/s Pallab Enterprise
2	PE/92 dld. 24/8/92	1,080	-do-
3	PE/92 dld. 1/9/92	400	-do-
4	PE/92 dld. 15/12/92	4,600	-do-
5	PE/92 dld. 16/12/92	4,600	-do-
6	PE/92 dld. 23/12/92	1,200	-do-
7	PE/92 dld. 24/12/92	975	-do-
8	PE/93-94 dld. 12/4/93	325	-do-
9	PE/93-94 dld. 21/4/93	4,000	-do-
10	PE/93-94 dld. 21/4/93	1,080	-do-
11	PE/93-94/006 dld. 29/4/93	1,160	-do-
12	-do- 0015 dld. 9/6/93	1,300	-do-
13	-do- 018 dld. 30/6/93	4,000	-do-
14	-do- 039 dld. 10/8/93	10,000	-do-
15	-do- 035 dld. 15/7/93	1,560	-do-
16	-do- 029 dld. 21/7/93	6,600	-do-
17	PE/93-94 dld. 12/8/93	10,000	-do-
18	-do- 053 dld. 14/9/93	3,000	-do-
19	-do- 056 dld. 5/10/93	1,005	-do-
20	-do- 057 dld. 7/12/93	4,000	-do-
21	-do- 059 dld. 13/10/93	1,180	-do-
22	-do- 058 dld. 13/11/93	566	-do-
23	-do- 060 dld. 19/10/93	566	-do-
24	-do- 065 dld. 3/11/93	759	-do-
25	-do- 066 dld. 5/11/93	3,568	-do-
26	-do- 067 dld. 6/11/93	445	-do-
27	-do- 068 dld. 10/11/93	3,786	-do-
28	-do- 069 dld. 11/11/93	366	-do-
29	-do- 064 dld. 23/11/93	1,400	-do-
30	-do- 072 dld. 14/12/93	1,050	-do-
31	-do- 076 dld. 22/12/93	5,745	-do-
32	-do- 079 dld. 7/1/94	4,000	-do-
33	-do- 080 dld. 20/1/94	5,000	-do-
34	-do- 090 dld. 31/1/94	306	-do-
35	-do- 089 dld. 1/2/94	3,200	-do-
36	-do- 089 dld. 21/2/94	2,906	-do-
37	-do- 090 dld. 28/2/94	3,600	-do-
38	-do- 092 dld. 8/3/94	10,531	-do-
39	-do- 094 dld. 10/3/94	5,600	-do-
40	-do- 096 dld. 11/3/94	6,100	-do-
41	-do- 097 dld. 11/3/94	228	-do-
42	-do- 100 dld. 23/3/94	912	-do-
43	PE/94-95 dld. 22/4/94	10,291	-do-
44	-do- 02 dld. 30/4/94	3,450	-do-
45	-do- 05 dld. 30/4/94	527	-do-
		527	-do-

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46.	-DO-003 DTD. 6-5-94	304	-DO-
47.	-Do-003 dtd. 11-5-94	256	-do-
48.	-Do-004 dtd. 16-5-94	3,609	-do-
49.	-Do-005 dtd. 2-6-94	20,000	-do-
50.	-Do-007 dtd. 4-6-94	1,110	-Do-
51.	-Do-008 dtd. 8-6-94	2,350	-do-
52.	do-013 dtd. 27-6-94	255	M/s Pallabi enterprise
53.	-do-009 dtd. 18-6-94	435	-do-
54.	-do-016 dtd. 6-7-94	14,350	-do-
55.	-do-017 dtd. 8-7-94	3,550	-do-
56.	-do-019 dtd. 21-7-94	5,400	-do-
57.	-do-021 dtd. 22-7-94	4,900	-do-
58.	-do-022 dtd. 23-7-94	255	-do-
59.	-do-031 dtd. 23-8-94	4,600	-do-
60.	-do-042 dtd. 28-9-954	947	-do-
61.	-do-029 dtd. 18-8-94	1,715	-do-
62.	-do-025 dtd. 6-8-94	4,350	-do-
63.	-do-028 dtd. 12-8-94	255	-do-
64.	-do-024 dtd. 5-8-94	3,400	-do-
65.	-do-022 dtd. 2-8-94	2,800	-do-
66.	-do-050 dtd. 6-10-94	1,130	-do-
67.	-do-059 dtd. 8-11-94	2,836	-do-
68.	-do-067 dtd. 28-11-94	275	-do-
69.	-Do-079 dtd. 15-12-94	4,000	-Do-
70.	-do-080 dtd. 19-12-94	3,545	-do-
71.	-do-080 dtd. 29-12-94	3,750	-do-
72.	-do-85 dtd. 9-1-95	4,955	-do-
73.	-do-86 dtd. 7-2-95	300	-do-
74.	-do-87 dtd. 7-2-95	5,232	-do-
75.	-do-084 dtd. 2-3-95	4,400	-do-
76.	-do-086 dtd. 6-3-95	2,827	-do-
77.	-do-089 dtd. 15-3-9	1,334	-do-
78.	-do-90 dtd. 16-95	3,075	-do-
79.	-do-093 dtd. 29-3-95	61,000	-do-
80.	-do-091 dtd. 30-3-95	22,500	-do-
81.	PE/95-96/06 dtd. 7-6-95	1,003	-do-
82.	-do-06 dtd. 14-6-95	780	-do-
83.	-do-01 dtd. 20-4-95	1,778	-do-
84.	-do-07 dtd. 17-6-95	4,600	-do-
85.	-do-08 dtd. 26-6-95	3,400	-do-
86.	PE/94-95/028 dtd. 12-8-94	255	-do-
87.	-do-049 dtd. 7-10-94	1,52,500	-do-

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Sl.No.	Bill No. & Date	Amount	Name of the firm
1.	-do-50 dtd. Nil	870	M/s Rajdhani Book Binding works
2.	Bill No. Nil dtd.Nil	1,160	-do-
3.	596 dtd.27-4-93	1,175	-do-
4.	598 dtd. 30-4-93	875	-do-
5.	597 dtd. -do-	875	-do-
6.	371 dtd. 22-5-93	1,375	-do-
7.	370 dtd. 22-5-93	1,000	-do-
8.	369 dtd. 22-5-93	1,000	-do-
9.	RB-93 dtd. 23-9-93	900	-do-
10.	Nil dtd. 4-10-93	1,000	-do-
11.	Nil dtd. 5-1093	1,160	-do-
12.	Nil dtd. 18-10-93	800	-do-
13.	19 dtd. 22-12-93	1,500	-do-
14.	1018 dtd. 22-12-93	1,780	-do-
15.	1019 dtd. 31-12-93	580	-do-
16.	Nil dtd. 17.94 ✓	2,787	-do-
17.	RB-1054 dtd. 7-1-94	840	-do-
18.	RB-1055 dtd. 10-1-94	840	-do-
19.	RB-1056 dtd. 11-1-94	1,200	-do-
20.	RB-1056 dtd. 11-1-94	1,290	-do-
21.	RB-1058 dtd. 12-1-94	1,380	-do-
22.	1075 dtd. 18-1-94	1,950	-do-
23.	1076 dtd. 9-2-94	1,590	-do-
24.	1077 dtd. 18-2-94	1,830	-do-
25.	1078 dtd. 19-2-94	1,200	-do-
26.	Nil dtd.5-5-94	3,600	-do-
27.	Nil dtd. 5-5-94	1,974	-do-
28.	nil dtd. 6-5-94 X	1,170	-do-
29.	Nil dtd. 13-5-94	1,650	-do-
30.	1070 dtd. 17-6-94	2,835	-do-
31.	Nil dtd. 15-7-94	2,600	-do-
32.	1087 dtd. 3-8-94	2,718	-do-
33.	Nil dtd. 17-8-94	3,950	-do-
34.	1075 dtd.24-8-94	3,523	-do-
35.	dtd. 25-8-94	3,150	-do-
36.	1072 dtd. 1-9-94	3,582	-do-
37.	1073 dtd. 6-9-94	2,870	-do-
38.	1081 dtd. 12-9-94	1,200	-do-
39.	Nil dtd. 17-9-94	1,440	-do-
40.	1087 dtd. 23-9-94	2,550	-do-
41.	Nil dtd. 28-9-94	2,830	-do-
42.	Nil dtd. 3-10-94	3,170	-do-
43.	1071 dtd. 7-10-94	1,350	-do-
44.	Nil dtd. 21-10-94	4,050	-do-
45.	78 dtd. 8-11-84	1,410	-do-
46.	196 dtd. 16-11-94	1,260	-do-

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47.	1093 dtd. 16-11-94	5,900	-do-
48.	1094 dtd 20-11-94	4,470	-do-
49.	1094 dtd. 21-11-94	3,450	-do-
50.	1095 dtd. 26-11-94	790	-do-
51.	1088 dtd. 2-1-95	4,500	-do-
52.	182 dtd. 6-1-95	3,150	-do-
53.	1089 dtd. 12-1-95	4,650	-do-
54.	1083 dtd. 12-1-95	1,500	-do-
55.	Nil dtd. 16-1-95	2,700	-do-
56.	Nil dtd. 16-1-95	2,700	-do-
57.	Nil dtd. 22-1-95	3,210	-do-
58.	108 dtd. 24-1-95	1,500	-do-
59.	Nil dtd. 1-2-95	4,050	-do-
60.	Nil dtd. 17-2-95	1,590	-do-
61.	Nil dtd. 22-2-95	4,050	-do-
62.	Nil dtd. 22-2-95	2,220	-do-
63.	Nil dtd. 12-3-95	1,350	-do-
64.	1075 dtd. 16-4-95	1,965	-do-
65.	1197 dtd. 25-4-95	4,128	-do-
66.	1147 dtd. 25-4-95	4,128	-do-
67.	Nil dtd. 4-5-95	2,424	-do-
68.	Nil dtd. 7-5-95	1,710	-do-
69.	1070 dtd. 13-5-95	2,900	-do-
70.	1071 dtd 25-6-95	5,175	-do-
71.	1081 dtd. 20-8-95	1,200	-do-
72.	1082 dtd. 15-9-95	1,020	-do-
73.	1084 dtd. 28-9-95	2,755	-do-

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ANNEXURE - C

Sl.No.	Bill No. & Date	Amount	Name of the firm
1.	5285 dtd. 7-2-95	5,386	DCM Retail Stores
2.	5096 dtd. 28-3-95	1,790	-do-
3.	4583 dtd. 5-12-94	3,580	-do-
4.	4282 dtd. 9-11-94	1,772	-do-
5.	dtd. 26-3-94 X	143	-do-
6.	2287 dtd. 24-3-94 X	811	-do-
7.	2109 dtd. 19-2-94 X	4,091.5	-do-
8.	1133 dtd. 22-10-93 X	2,331	-do-
9.	413 dtd. 27-2-93 X	724	-do-
10.	479 dtd. 18-11-92 X	789	-do-
11.	62 dtd. 25-6-92 X	1,421	-do-
12.	380 dtd. 18-11-92	2,540	-do-
13.	39 dtd. 18-8-92	1,632	-do-
14.	52 dtd. 11-5-92	2,150.1	-do-
15.	405 dtd. 18-1-95	5,218	Furnishing house
16.	357 dtd. 3-2-93	1,700	-do-
17.	322 dtd. 1-3-93	1,710	CM Stores
18.	320 dtd. 27-2-93	1,710	-do-
19.	321 dtd. 27-2-93	1,780	-do-

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To

The Chief General Manager Telecom,  
Assam Circle,  
Guwahati-781007.

Sir,

With reference to your Memo no.Vig/Assam/Disc-X/6 dated 28.05.2001 received through the CAO(TA&TR) under his letter no.ASM/GM(F)/Conif/ dated 29.05.2001, I would like to place before you the following few lines for your sympathetic consideration and favourable orders please.

1. I categorically deny the charges brought against me for the reasons explained below from my memory as the original vouchers, files and Note Sheets which are very much essential to explain the position against each voucher based on which I have been charged are yet to be supplied. The same may kindly be supplied in case further explanations is considered necessary.
2. It is not known as to how Shri H. Biswas was allowed to process the bills. Perhaps he was ordered by the passing authority of the bills to expedite the payments.
3. As per the prevailing procedure the Senior Accountant and the JAO, on receipt of claim papers duly certified by the appropriate authority carry out the pre-checking of the same on the following points and then put up to the competent authority for pass orders.
  - (a) Whether proper certificate is given on the bill regarding work done or supply made.
  - (b) Arithmetical accuracy-whether the amount claimed with reference to the quantity supplied/works done as per the accepted rate is correct or otherwise.
  - (c) Head of account to which debitible is correct or not
  - (d) Financial power of the authority competent to sanction
  - (e) Whether proper entry is made in the Concerned Register
  - (f) Whether provision made in the Estimate and the same is sanctioned by the appropriate authority if estimated expenditure.
4. The passing authority after going through the above observations of the pre-check group may
  - (a) disallow the claim

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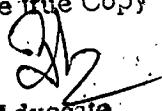
- (b) make query on the points he considers necessary to be clarified before hand or
- (c) pass the bills if he is satisfied that the work done/supply made was approved by him either in writing or verbally.

After final decision of the passing authority on the above points in the certified, pre-checked and passed bills only are put up to the DDO to sign the pay orders. The DDO used to sign the pay orders subject to availability of fund and proper allocation irrespective of facts as to whether the supply made/work done is as per the written orders or verbal orders of the competent authority as it is not mandatory to place formal orders in writing to the party against each formal requirement received in writing by the General section in respect of all petty works /purchases of urgent nature. Tenders/quotations are also floated by different sections other than General Section depending upon the nature of requirement and supply orders/work orders are placed by those sections as per the accepted terms and conditions keeping in view the "Internal delegation of financial power" delegated by the SSA head or as per order of higher authority.

It is evident from the facts stated above that the bills are sent to the DDOs at final stage for effecting payment only after observing the detailed procedures referred to above and such stage the DDO can not dishonour the pass orders of the competent authority-who after satisfying rates, movement of files etc. passes the bills. In other words, the nature of scrutiny referred to in your memo under reference are carried out before passing the bills and pay order is signed after going through the facts recorded in the Note Sheet of the concerned file.

(5) As regards payment of bills to "M/S Rajdhani Book Binding Works", so far I remember, the accepted rate of binding works the office of GMTD-Kamrup, Guwahati was very old and the binder was not willing to carry out the binding works at such old accepted lower rates, the DE(P&A) was pleased to accept a slightly higher rates which was undoubtedly less than the prevailing accepted rate of Circle Office as it was not possible to float fresh tenders due to certain reasons beyond control which he could not put in writing also. Hence, the bills of the binder duly certified, pre-checked and passed had to be paid by me as DDO.

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Continued to page 3 please

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(6) So far I recollect most of the items mentioned at the Annexure "C" are probably for use in the Inspection Quarters. In charge of the Inspection quarters were not having any financial power to purchase any item of Inspection quarters and as such purchases were made by the office of the GMTD\_Kamrup, Guwahati and the bills were processed as per the procedures stated in the foregoing paras after getting due certificate from the Inspection Quarters In charges.

(7) Last but not the least important facts to be mentioned here are :-

- (a) During the period of my working as AO(Cash) in the office of the GMTD-Kamrup, Guwahati I only followed the conventional practice prevailing the office for years together AND NOTHING NEW WAS INTRODUCED BY ME as far as disposal of bills are concerned.
- (b) The records relating to the period under review were inspected by the following inspecting authorities of the Department and when correct position was explained to them no objection was raised against these vouchers mentioned at Annexure A, B & C
  - i) Internal Check Inspection party of the Circle Office
  - ii) Director of Audit & Accounts (P&T), Calcutta
  - iii) Director, Internal Check Cell, DOT, ND.

In view of the facts stated above I request your good self to be kind enough to drop the charges brought against me so that I can discharge my due duties during the remaining period of service to the full satisfaction of my superior without any worry and anxiety and for which act of your kindness I shall be indebted to you for all the days to come.

Thanking you and awaiting your favourable orders please.

Yours faithfully,

*H.C. Chakraborty* 6/1  
( H. C. Chakraborty ) 0/1

Sr. Accounts Officer(A&P)  
O/O the CGMT, Assam Circle, Guwahati-7

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*SB*  
Advocate

Date : 06.06.2001  
Place : Guwahati.

Rec'd 11/7/01  
or  
P.M. 12/7/01

BHARAT SANCHAR NIGAM LIMITED  
Office of the Chief General Manager Telecom  
Guwahati 781 007.

Memo No: ASM/TR/Staff/146/18 dated at Guwahati the 04/07/2001.

Approval of the General Manager (F), Office of the Chief General Manager Telecom, Assam Telecom Circle, Guwahati 781 007 is hereby conveyed for the reversion of Shri H.C.Chakraborty from the post of Assistant Chief Accounts Officer to Sr. Accounts Officer in view of the pending disciplinary case against the officer.

This order takes effect from the A/N of today i.e., 04/07/2001.

*VPS/AM*  
Chief Accounts Officer (TA & TR)  
Office of the CGMT, Guwahati 781 007.

Copy to:

1. G.M. (F), D/o CGMT, GHY for information
2. A.G. A.O. (A&P) D/o CGMT, GHY
3. A.O. (TA), D/o CGMT, GHY
4. The officer concerned
5. The P/F of the officer
6. The Vigilence Officer D/o CGMT, GHY.

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*AB*  
Advocate

- 27 - Annexure - 6

Bharat Sanchar Nigam Limited  
(A Govt. of India Enterprise)  
Office of the Chief General Manager  
Assam Telecom Circle Guwahati, 781007

*Copy to*  
No. ASM/TR/Staff/146/2000-2001/19.

Dated at Guwahati the 07.01.

General Manager (Finance), Assam Telecom Circle Guwahati, is pleased to issue the order for extension of temporary promotion and purely on local officiating arrangement in respect of the following Sr. Accounts officer in the grade of Ass'tt. Chief Accounts officer in the scale of pay Rs.8000---13500 for another period of 179 days with effect from 27.07.2001 or till the regular incumbents are available, whichever is earlier.

SI.No.	Name of the officer	Promotion posting
01.	Shri Biswajit Deb.	ACAO(TR).CO/GH.

The officiating arrangement does not bestow on the officer any right for regular absorption in the cadre nor will this period be counted towards seniority in the cadre or for promotion to the next higher grade.

Pay of the officer on promotion will be fixed under FR - 22 (1) (a) (1).

Necessary charge report may be sent to all concerned.

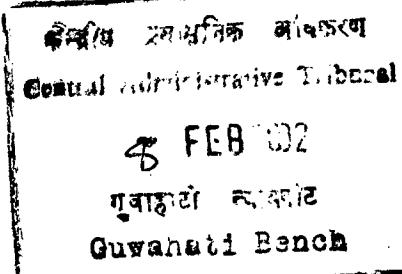
*up to mm*  
K. Balasubramaniam  
C.A.O. (TA&TR)  
O/o the C.G.M.T.  
Guwahati, 781007.

Copy to :-

01. The Sr.PA to GM(F).CO/GH.
- 02.03. The CAO(TA)/SBP.CO/GH.
- 04.05. The Ao(A&P)/(TA).CO/GH.
06. The officer concerned.
07. The personal file of the officer.
08. The guard file.

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*SL*  
Advocate



File No. 072902  
B.C. Pathak  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench : Guwahati 357

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 358 of 2001

Shri H.C. Chakrabarty

-Vs- .... Applicant

Union of India & Ors.

.... Respondents.

( Written Statements for and on behalf Respondent

No. 1, 2, 3, 4 and 5 )

The Written Statements of the aforesaid respondents  
are as follows :

1. That a copy of the O.A. No. 358/2001 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar, common written statements are filed for all of them.
2. That the statements made in the application, which are not specifically admitted, are hereby denied by the respondents.
3. That with regard to the statements made in para 1 of the application, the answering respondents state that the ~~application~~ the impugned order dated 04.07.01 (annexure-5) is in fact the termination of adhoc internal arrangement underwhich the applicant was ordered to officiate as Asstt. CAO in the absence of regular incumbent. The same does not amount to reversion in grade/cadre.

4. That the answering respondents have no comments to the statements made in para 2 of the application.

5. That with regard to the statements made in para 3 of the application, the respondents state that the applicant has not made any effort to settle his grievances through the usual departmental means. It was open to the applicant to file representation to the appropriate departmental authority for redress. In that case the Respondent Department could address to his grievance and atleast explain the administrative ground for terminating the officiating arrangement. The applicant did not even care to do so and prefer to approach the Hon'ble Tribunal for relief.

6. That with regard to the statements made in para 4(a), the respondents have no comment to offer .

7. That with regard to the statements made in para 4(b), the respondents state that there is a single post of Accounts Officer in the Accounts and Pension Section of the Circle Office and the applicant was officiating, in the said post.

8. That with regard to the statements made in para 4(c), the respondents state that the promotion to the cadre of ACAO, which is a Group 'A' Post is governed by Statutory Recruitment Rules. This being an All India Posts, the promotion to the cadre is decided by Telecom Commission on All India basis.

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In case of acute shortage and where it is felt that the filling up of the post would take time and it is not ~~advisable~~ advisable to keep the post vacant till that time, the head of Telecom Circle (CGMT), who enjoys limited power to resort to adhoc officiating arrangement at Circle basis, had allowed such officiating arrangement against such vacant post in the interest of service .

This is an internal arrangement necessitated by the shortage of regular incumbent in order to avoid disruption of service. Power has been delegated to head of circle to make short term local arrangement to tide over the situation which may arise from time to time. This is in the nature of purely stop gap arrangement aimed at ensuring smooth functioning of administrative, operational financial management. No Govt. Servant can claim the benefit of regular promotion from such arrangement as a matter of right. Neither this is a part of any promotional scheme..

9. That with regard to the statements made in para 4(d), the respondents state that the head of circle ~~if~~ in consultation with his IFA. Considered it prudent to make local short term arrangement against the prevailing 2 vacancies of ACAO in the circle. Accordingly, vide order dated 31.7.2000, the applicant and another Sr. A.O. were promoted on local adhoc basis to officiate against the prevailing vacancies of ACAO for a period not exceeding 179 days.

It is enjoined in the order that the adhoc local officiating promotion does not bestow on the officers any right

for absorption in the higher post. It is also implied that the authority reserves the right to terminate the arrangement without any notice and without assigning any reason thereof.

10. That with regard to the statements made in para 4(e), the respondents state that after the expiry of the term of 179 days similar arrangement was made again on 6.2.01 thereby giving a fresh opportunity of adhoc offg. promotion for another 179 days. This adhoc offg. promotion is also subjected to the terms and conditions as explained in the foregoing para.

11. That with regard to the statements made in para 4(f), the respondents state that during the period of adhoc officiating promotion the promotees are entitled to the scale of higher post. As and when the officiating arrangement comes to end the officer is again placed in the pay scale of his substantive grade/post.

12. That with regard to the statements made in para 4(g), the respondents state that there is allegation of serious irregularity against the applicant in the matter of payment of suspected fraud bills. After the preliminary enquiry into it, prima facie, appears that the applicant while working as Accounts and Disbursing Officer of the Kamrup Telecom District, has effected payment worth lakhs of rupees against private bills which are suspected to be false.

On the basis of the enquiry conducted by the CBI, the competent authority initiated regular Department inquiry under Rule 16 of CCS(CCA) Rules by issuing the

Memorandum of changes dated 28.5.2001.

13. That with regard to the statements made in para 4(h), the respondents state that as explained in above para regular Departmental proceeding was initiated against the applicant for good and sufficient reason. The competent authority applied his independant mind to the CBI findings report and satisfied himself that there is sufficient ground for proceedings against the applicant under the provision of CCS(CCA) Rules. Accordingly the Respondent No.3 issued the Memorandum of changes dated 28.5.2001. The said memorandum was delivered to the applicant through CAO (TR & TA) under his letter dated 29.5.01.

14. That with regard to the statements made in para 4(i) the respondents state that the applicant has submitted his representation dated 6.6.01 and the same will be duly considered by the appropriate disciplinary authority.

The applicant will also get the opportunity to produce his defence during the course of enquiry.

15. That with regard to the statements made in para 4(j&k), the respondents state that the regular Departmental proceedings having been started, the same will be processed strictly as per the provision of the CCS(CCA) rules. The inquiry authority will conduct the enquiry and examine the evidence /witness produced by the Disciplinary authority as well as the suspected Govt servant and submit his report on completion of inquiry. The Disciplinary authority will take his independent decision on the basis of the report and thereafter pass the final order.

pass the final order.

The Disciplinary proceeding is a quasi judicial process which may be allowed to reach a logical conclusion without interference.

16. That with regard to the statements made in para 4(i) the respondents state that according to the G.O.I's instruction No.(4) below Rule 11 of CCS (CCA) Rules, a Govt Servant appointed to officiate in higher post for a period of less than 1 year shall be reverted to the post held by him substantively or regular basis when a Disciplinary proceedings is initiated against him.

In the instant case, the applicant is a regular Sr. A.O. and he was promoted to ACAO on local adhoc officiating basis for a period of 179 days commencing from 27.01.2001. On the day of initiation of Disciplinary proceedings against the applicant, he had held the higher post for only 4 months. The circumstances of the case attracted the provision of instruction No. 4 below Rule 11 explained above. In the facts and circumstances of the case, the termination of the local arrangement and consequent reversion of the applicant to the post of Sr. A.O. is an essential administrative action.

The reversion of such an officiating Gover<sup>nment</sup> Servant to his regular post does not attract Article 311 as he has no right to hold the post. His reversion from Officiating post cannot be treated as punishment also.

17. That with regard to the statements made in para 4(m), the respondents state that the applicant having been reverted by a written order of the competent authority cannot continue

to hold the post of ACAO. It is altogether a different matter that after his officiating promotion to ACAO the applicant was discharging the same responsibility as he was doing as Sr. A.O. and after the reversion also he continues to discharge the same function as Sr. A.O. Hence, the contentions are denied.

18. That with regard to the statements made in para 4(n), the respondents state that the position of the applicant is not comparable to the other Sr. A.O. namely Shri B. Deb who continue to officiate as ACAO. It is not a question of Junior or Senior alone. The applicant has come under cloud and his conduct is under enquiry. In the given situation he does not deserve a consideration for any promotion till he is exonerated of the charges after the course of enquiry. The applicant is, therefore, not similarly situated with Sri B. Deb in the matter of officiating promotion.

19. That with regard to the statements made in para 4(o), the respondents state that the reversion of the applicant from the adhoc officiating post of ACAO to that of his regular post of Sr. A.O. is not a punishment. As the applicant has no ~~xx~~ rightful claim over the post of ACAO his reversion from that post to the post which he holds on regular basis, does not attract the provision of Article 311. It is also not necessary to assign any reason or to give notice for such reversion.

20. That with regard to the statements made in para 4(p), the respondents state that as already explained the applicant has no legitimate claim over the promotional post.

The termination of the Officiating promotion is rightly covered by the G.O.I's instruction No.(4) below Rule 11 of CCS(CCA) rules.

21. That with regard to the statements made in para 4(q), the respondents state that the reversion of the applicant from the adhoc local officiating post of ACAO to his substantive post of Sr. AO is not a punishment. This aspect was clarified by the Hon'ble Supreme Court in the case of an Inspector of Police who was holding the post of Dy. Supdt. in an officiating capacity but was subsequently reverted. It appeared that there was certain allegation of corruption against the officer and an inquiry was held. The reversion order was a simple one which did not give any reason or refer to any misconduct. The order was challenged on the ground that the reversion was really means as a penalty. The Supreme Court rejected the contention and held that his reversion was not bad in law and was not relevant.

( State of Maharashtra Vs. Abraham, Civil Appeal No. 69 of 1961).

22. That with regard to the statements made in para 5.1 to 5.6 of the application, the respondents state that in view of the facts and circumstances of the case and provisions of rules/law, the grounds shown by the applicant, can not sustain in law and hence the application is liable to be dismissed. The action of the respondents is neither arbitrary, illegal nor violative of any provisions of Article 14 and 16 of the

Constitution of India.

23. That with regard to the statements made in para 6 and 7 of the application, the respondents state that the applicant has not exhausted the alternative remedy available to him and approached to this Hon'ble Tribunal while the regular disciplinary proceeding is going on initiated against him. Hence, the application is liable to be dismissed with cost.

24. That with regard to the statements made in para 8.1 to 8.5, the respondents state that under the facts and circumstances of the case and provisions of rules/law, the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost as devoid of any merit.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties peruse the records, and after hearing the parties and perusing the records shall further be pleased to dismiss the application with cost and/or pass such further or other order that Your Lordships may deem fit and proper.

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VERIFICATION

I, Shri Shankar Chandra Das, presently working as Asstt. Director Telecom (Legal) being competent and duly authorised to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 to 24 are true to my knowledge and belief, those made in para \_\_\_\_\_ being matter of records, are true to my information derived. Therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 6<sup>th</sup> day of February, 2002 at Guwahati.

Shankar Chandra Das

Deponent.

শঙ্কর চন্দ্ৰ দাস

Assistant

কামীজি

O/o The

অসম টেলিকমিউনিকেশন্স লিমিটেড

Assam Telecom Circuit, Guwahati