

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 362/2001.....

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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. 312 / 2001

Applicant (S) K.R. Deb

Respondant(S) U.U.I 90M

Advocate for the Applicant: J.L. Sarkar, S. Deba, A Chakrabarty

Advocate for the Respondant: CAC

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
and is in form of a
Petition is filed vide
M.P. No. X C.F.
for Rs. 200 deposited vide
IPO/BD No. 64788205
Date 6.9.2001

By Registrar
P.D.

V.B.
7/9/01

Steps taken
P.D.

10.9.01

We have heard Mr. J.L. Sarkar, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C for the respondents.

This is an application under section 19 of the Administrative Tribunals Act, 1985 assailing the order dated 1.6.2001. By the said order the applicant was placed under suspension on contemplation of disciplinary proceeding.

Mr. J.L. Sarkar, learned counsel for the applicant submitted that the order of suspension dated 1.6.2001 is liable to be revoked after expiry of three months in the absence of filing of charge sheet on the Government servant. Since no Charge Sheet was issued the order of suspension stands revoked.

We are however, not inclined to go into the issue on merit as the applicant has preferred an appeal before the authority and the same is pending and the same in our opinion need to be disposed by the appellate authority.

Contd..2


10.9.01

In the circumstances, we direct the appellate authority to dispose the appeal filed by the applicant on 11.7.2001 as expeditiously as possible preferably within four weeks from the receipt of the order. It would be open to the applicant to raise all the issues that were raised here, by filing a supplementary application to the respondents.

With this the application is disposed of.

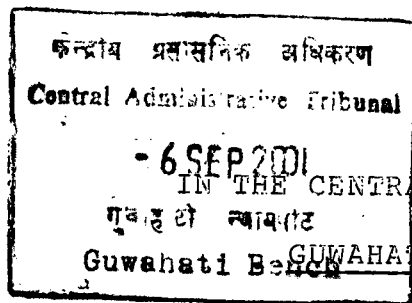
There shall, however, be no order as to costs.

KCS Sharma
Member


Vice-Chairman

bb

12.8.2001
Copy of the order
has been sent to the
D/Sec. for issue
the same to the L/As.
for the parties.
LCS
and copy of the response
appended 29/2/02



OA NO.

362 OF 2001

Sri Kalyan Ranjan Deb

- Versus -

U. O. I. & Others.

I N D E X

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Filed by :

[Signature]

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI:

O. A. NO. 362 OF 2001

BETWEEN

Sri Kalyan Ranjan Deb,
working as U.D.C.
in the office of the Income-Tax
Officer, Ward Duliajan.

.....APPLICANT.

AND

1. Union of India
through the Chief Commissioner
of Income Tax, NER, Saikia
Commercial Complex, Srunagar,
G.S. Road, Guwahati - 781005.
2. The Commissioner of Income Tax
"Aayakar Bhawan", M.G. Road,
Shillong - 793001.
3. The Additional Commissioner
of Income Tax,
Range - Dibrugarh, C.R. Building,
Dibrugarh.

5
R.R. Deb
Filed by Mr. Applicant
Ch. O. A. No. 362 of 2001
D. Ch. O. A. No. 362 of 2001
D. Ch. O. A. No. 362 of 2001

22/06/01

4. The Income-Tax Officer

Ward - Duliajan

O/o Income Tax Officer (SOD),

Duliajan.

.....RESPONDENTS.

5. Sri K.V.S. Prasad,

L.D.C., O/o Income Tax Officer,

Ward- Duliajan, Duliajan.

.....PROFORMA RESPONDENT.

DETAILS OF THE APPLICATION :

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

The application is made against the Order dated 01/06/2001 (Annexure - A-1 and A2) issued by the respondent No. 3 whereby the applicant has been placed under suspension, and for revocation of the said suspension Order.

2. Jurisdiction :

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

contd.....P/3

3. Limitation ;

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

4. Facts of the case :

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

4.2 That the applicant joined service as L.D.C. with effect from 04.01.1978 and was promoted as U.D.C. with effect from 08.09.1989. While the applicant was working as U.D.C in the Office of the Income-Tax Officer, Ward - Duliajan, the respondent No. 3 issued a suspension Order dated 1.6.2001 whereby the applicant was placed under suspension with immediate effect. This order of suspension was served upon the applicant by Memo No. E-6/2000-01/Addl.CIT/DBR/584 dated 1.6.2001 which was received by the applicant on 4.6.2001. On the same day (i.e. on 4.6.2001) the applicant received another Order of suspension dated 1.6.2001 issued by the respondent No. 3. This order of suspension contains the reason for suspension whereas the earlier order is silent as to why a disciplinary proceeding against the applicant is contemplated.

contd.....P/4

Copy of the suspension order dated 1/6/2001 are enclosed as Annexure A/1 and A/2 respectively.

4.3. That the applicant was surprised to receive the order of suspension. In this connection the applicant begs to state the following facts :-

On 18.5.2001 the applicant put up some files before the respondent No. 4 for his signature along with the assessment record of the assessee Sri A.K. Goswami, Oil India Limited. The said respondent No. 4 asked Sri K.V.S. Prasad, L.D.C. to alter some figures relating to the aforesaid assessee in the Return receipt register. Accordingly Sri Prasad made the alteration in the said register under the direction of and in the manner advised by the respondent No. 4. When the above fact came to the knowledge of the applicant, he went to the chamber of the respondent No. 4 and expressed his views to the respondent No. 4 against such alterations. The respondent No. 4 took the matter as personal rather than official and became highly annoyed and agitated and became furious and violently started rebuffing and abusing the applicant. Thereafter, the respondent No. 4 out of his personal grudge gave a distorted and concocted report to the Additional Commissioner of Income Tax, Range - Dibrugarh (Respondent No. 3) against the applicant leveling certain charges. It is stated that the

contd.....P/5

9
12/10/01

respondent No. 3 did not make any preliminary inquiry about the truthness of the allegations in the report placed before him by the respondent No. 4 and passed the suspension order in a perfunctory manner and for some extraneous reason.

4.4 That the respondent No. 3 by his letter dated 29.5.2001 directed the respondent No. 4 to issue a show cause notice to the applicant as to why a disciplinary proceedings should not be started against the applicant. Before issuance of the said Show cause notice and without any scope of consideration of what the applicant had to say, the respondent No. 3 passed the suspension order on 1.6.2001 in a very haste manner ignoring administrative fairness.

4.5 That the respondent No. 4 issued a show cause notice on 4.6.2001 and the applicant replied to the same on 11.6.2001.

Copy of the show cause notice dated 4.6.2001 and the applicants reply dated 11.6.2001 is enclosed as Annexure - A/3 and A/4 respectively.

4.6 That the applicant on 11.7.2001 filed an appeal against the suspension order dated 1.6.2001 to the Commissioner of Income Tax, Shillong (Respondent No. 2) denying the allegations brought against him and

contd....P/6

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AKD/b

prayed for his (respondent No. 2) kind consideration and favourable Order and was expecting orders of revocation of the suspension. But no reply has been received by the applicant as yet.

Copy of the appeal dated 11.7.2001
is enclosed as Annexure - A/5.

4.7 That thereafter on 19.7.2001 the respondent No. 3 visited the office of the Income Tax Officer Ward- Duliajan and made enquiry in the case. But no further action in this regard has been taken by the respondents. More than three months have already elapsed but the respondents have not issued any charge sheet against the applicant. Circumstances in the case including enquiry made by the respondent No. 3 would reveal that there is no prima facie case against the applicant for which he may be placed under suspension. It is also stated that there is no cogent reason as to why the suspension of the applicant shall not be revoked.

4.8 That the applicant by his letter dated 11.6.2001 applied to the respondent No. 4 for supply of the copies of some relevant documents. But he has not been supplied with the aforesaid documents as yet. Without the documents it is also difficult for the applicant to give further/adequate reply to show cause.

contd....P/7

11
Waseh

Copy of the letter dated 11.6.2001
is enclosed as Annexure - A/6.

4.9 That the applicant begs to state that the suspension orders dated 1.6.2001 are the outcome of a pre-conceived notion and a very hasty decision just to punish the applicant for objecting against the alternations in the record as ^x explained above.

4.10 That the applicant has been suspended hurriedly without affording any opportunity to the applicant to represent himself. The suspension orders have been passed without exercising any circumspection nor any enquiry has been made before passing the suspension Orders. The respondents have acted arbitrarily. In the facts and circumstances of the case malice in fact and malice in ^{law} ~~case~~ is explicit.

4.11 That as per instructions of the Government of India every effort should be made to serve the charge sheet within 3 months of the date of suspension. In the present case neither the charge sheet has been issued during this long period nor any report has been made to the appropriate higher authorities showing the reasons for non issue and the delay in issue of charge sheet.

4.12± That it is stated that the Order of suspension has been made in a perfunctory and casual manner without any regard to the administrative

contd.....P/8

principles, justice and fair play. It is also stated that no public interest is served by keeping the applicant under suspension.

4.13 That the applicant works as Upper Division Clerk and in the Office there is no scope and likelihood of his working which may prejudice any investigation or enquiry.

5. Grounds for reliefs with Legal provisions :

5.1 For that the orders of suspension dated 1.6.2001 is the result of the malafide exercise of powers and hence the impugned orders are liable to be set aside and quashed.

5.2 For that the suspension order is the result of subjective view as a result of annoyance of the respondent No. 4 and hence the impugned orders are liable to be set aside and quashed.

5.3 For that no preliminary enquiry has been made by the respondent No. 3, to find out the truthness of the report placed before him by the respondent No. 4 before passing the suspension orders and hence the impugned orders are liable to be set aside and quashed.

5.4 For that the respondents have not given reasonable opportunity to the applicant and as such the

13
Wheeler

action is violative of the principle of natural justice and hence the impugned orders are liable to be set aside and quashed.

5.5 For that more than a period of 3 months have elapsed ^{after} ~~of~~ suspension but no charge sheet ^{has} ~~have~~ been issued by the respondents and hence the impugned orders are liable to be set aside and quashed.

5.6 For that the respondent No. 3 erred in keeping reliance upon the distorted report of the respondent No. 4 and acted arbitrarily and in a perfunctory manner and hence the impugned orders are liable to be set aside and quashed.

5.7 For that in any view of the matter the suspension orders are unjust and bad in law and hence the impugned orders are liable to be set aside and quashed.

5.8 For that keeping the applicant under suspension is whimsical, exproprious and arbitrary and as such offends Articles 14, 16 and 21 of the Constitution of India.

6. Details of remedy exhausted :

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

contd....P/10

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RPP/06

7. Matter not pending before any other Court :

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

8. Reliefs sought for :

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

8.1 The Orders dated 1.6.2001 by which the applicant has been placed under suspension be set aside and quashed.

8.2 The applicant be paid pay and allowances for the period kept in suspension.

8.3 Any other relief or reliefs as the Hon'ble Tribunal may deem fit and proper.

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

9. Interim relief prayed for :

During the pendency of this application the applicant prays that the suspension orders dated 1.6.2001 be stayed and the applicant may be allowed to resume duty.

✓
11/20/01

10 This application has been filed through Advocate.

11. Particulars of the Postal Order :

1) IPO No : 66 788 205
ii) Date of Issue :: 8/9/2001
iii) Issued from : G. newahati
iv) Payable at : G. newahati

12. Particulars of Enclosure :

As stated in the Index.

contd...to...Verification.

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

I, Kalyan Ranjan Deb, Son of Late Kshirode Ranjan Deb, resident of Digboi (Assam), aged about 49 years do hereby verify that the statements made in para 1, 4, 6 to 12 are true to my personal knowledge and those made in para 2, 3 & 5 are true to my legal advice and that I have not suppressed any material facts.

And I sign this Verification on this 6th day of September, 2001 at Guwahati.


S I G N A T U R E

Annexure - A/1
17

Received on 04/06/2001 — 13 —
at 1130 hrs.

Klocb
04/06/2001

OFFICE OF THE ADDL. COMMISSIONER OF INCOME TAX,
DIBRUGARH - RANGE, DIBRUGARH


Dated, Dibrugarh the 1st June 2001.

ORDER

Whereas a disciplinary proceeding against Sri Kalyan Ranjan Deb, UDC working in the office of the Income-Tax Officer (OSD), Duliajan is contemplated.

Now, therefore, the undersigned, in exercise of the powers conferred by sub-rule (1) of rule 10 of Central Civil Services (Classification, Control and Appeal) rules, 1965, hereby places the said Sri Kalyan Ranjan Deb under suspension with immediate effect.

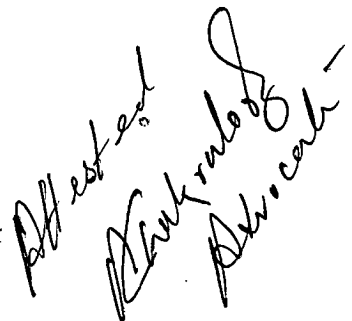
It is, however, ordered that during the period this order shall remain in force the head quarters of Sri Kalyan Ranjan Deb, UDC should be Duliajan and the said Sri Kalyan Ranjan Deb shall not leave the headquarters without obtaining the previous permission of the undersigned.


(N. LHUNGDIM)
Addl. Commissioner of Income-Tax,
Range-Dibrugarh

Memo No. E-6/2000-01/Addl. CIT/DBR/ 584 Dated 1.6.2001

Copy to:-

Sri Kalyan Ranjan Deb, UDC, O/o the ITO (OSD), Duliajan


Attested
Duly noted
Duly noted

(N. LHUNGDIM)
Addl. Commissioner of Income-Tax,
Dibrugarh - Range

Received on 04/06/2001
at 1130 hrs.

Kfse b
04/06/2001

OFFICE OF THE
ADDL. COMMISSIONER OF
INCOME-TAX,
RANGE - DIBRUGARH

Dated, Dibrugarh the 1st June 2001.

ORDER

Whereas a disciplinary proceeding against Sri Kalyan Ranjan Deb, UDC working in the office of the Income-Tax Officer (OSD), Duliajan is contemplated.

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It is, however ordered that during the period this order shall remain in force the head quarters of Sri Kalyan Ranjan Deb, UDC should be Duliajan and the said Sri Kalyan Ranjan Deb shall not leave the headquarters without obtaining the previous permission of the undersigned.

(N. LHUNGDIM)

Addl. Commissioner of Income-Tax,
Range-Dibrugarh

Memo No. _____ Dated 1.6.2001

Copy to:-

- ✓ 1. Sri K.R. Deb, UDC, O/o the ITO (OSD), Duliajan.
2. Sri S.C. Dutta, ITO (OSD), Duliajan
3. The Commissioner of Income-Tax, Aayakar Bhawan, Post Box No. 20, M.G. Road, Shillong for information.
4. The circumstances in which the order of suspension was made are as follows:

On 28.05.2001 on my return from leave, a letter from Sri S.C. Dutta, ITO, Duliajan, dated 18.05.2001 was handed over to me by Sri D.P. Haokip, Joint Commissioner of Income-Tax, Special Range, Dibrugarh who was holding Additional charge of Dibrugarh Range during my leave. In that letter, Sri Dutta stated that on 18.05.2001 at around 2 PM, Sri K.R. Deb, UDC had put up certain files for his signature. When one of the files was not returned to him because he suspected some mischief, Sri K.R. Deb entered his office chamber and charged him why the file was not returned to him. And when he was told that the file would be returned after sometime, Sri Deb started shouting, and, to avoid creating scene, the ITO had signed the file and returned to him. However, even after that Sri K.R. Deb went on

shouting and abusing with filthy words and held his left arm and forcibly dragged out from his office chamber to the staff room and holding his fist attempting to beat him up. With the help of the members of the staff who were present he escaped the situation. Accordingly on 29.05.2001, Sri S.C. Dutta, ITO was issued the letter directing him to issue a show cause notice to Sri K.R. Deb, UDC why disciplinary action should not be started against him for his misdemeanour resulting in assaulting and abusing his controlling officer and also forcing him to sign apparently tampered document. On 30.05.2001, Sri S.C. Dutta, ITO personally came and met me in my office at 11 AM and had brought with him certain files relating to the assessment of Sri Ajoy Kr. Goswami, Oil India Limited. Xerox copies of the return Form No. 2D, ITS-2D, order sheet of the file and also receipt of register of tax return, ITNS-190 was taken. As per preliminary inquiry it is found that on 07.10.2000, A.K. Goswami, the assessee filed the return bearing Sl. No. 5959 showing total income of Rs. 1,52,423/- and in Col. 9 of the receipt register it was found to be tampered with canceling some figure replacing with one. In the return form also the Sl. Nos. 24,25,26 and 27 appeared to have been tampered as the figures appear to have been erased and a new figure written. Also, in the order sheet on 30.03.2001 the inspector who processed the return found that tax payable was Nil and signed. However, on 17.05.2001 it was noted that the assessee submitted a petition dated 23.03.2001 praying for rectification of mistake order dated 30.03.2001 was revised u/s 154. As a result of this rectification, refund of Rs. 2508/- was granted on 22.05.2001.

Apart from the above offences and mischief committed by Sri K.R. Deb he had also committed a grave offence of shouting and abusing his controlling officer. He had also forced the ITO to sign some papers which are allegedly tampered. Not only this, he had physically assaulted his officer by dragging him out of his chamber abusing and assaulting him in the presence of the office staff and the assessee who are in the office at the relevant time. He is also alleged to have attempted to beat the ITO who had escaped due to the intervention of the members of the staff. At the relevant time Sri Jogesh Das, Assistant (Head Clerk), Sri R.C. Saikia, ITI, Sri B.K. Debnath, ITI, Sri K.V. Prasad, LDC, Sri P. Saikia, Daily Wage Worker, Sri Jyoti Sharma, and Smt. Jonali Das all casual workers of the office were present. It is also reported that Sri Ratul Neog, ITP, who had his office just below the Income-Tax Office had also rushed on hearing the shouting and met the ITO, Sri S.C. Dutta.

Having considered the above facts and circumstances it has been decided, in public interest, to put Sri K.R. Deb, UDC under suspension as:

1. his continuance in office is likely to seriously subvert discipline in the office in which he is working..
2. preliminary inquiry has revealed that a prima-facie case is made out which would justify is being proceeded against in departmental proceeding.

(N. LHUNGDIM)

Addl. Commissioner of Income Tax,
Dibrugarh - Range

Received on 04/06/2001
at 1130 hrs.

Annexure - A/3

— 16 —

K.R. Deb
04/06/2001

F. NO. K-1 Con. ITO/DLI/2001-02/ 404
OFFICE OF THE INCOME-TAX OFFICER

WARD - DULIAJAN

Dated the 4th June, 2001

To
Sri K. R. Deb, U.D.C.
Income-Tax Office,
DULIAJAN

Sub: Unruly behaviour - Regarding

With reference to above I am to inform you that on 18.05.2001, you put up certain Asstt. Records for my signature which I returned to you after my signature barring one file in respect of one salary case. This file was retained by me for some verification. Since you did not receive back the said Asstt. Record you immediately entered my chamber in a very ferocious mood and charged me why the said Asstt. Record was not returned to you. You also started shouting at the top of your voice abusing me for not returning the said Asstt. Record. As result of your extreme arrogance and force applied upon me, I felt myself helpless & I had no other alternative but to sign the file to avoid the unwanted situation. In spite of that you forcefully dragged me out of my chair holding me by arm and pulled me to the general office room. You continued your shouting at me using filthy words and attempted to beat me holding your fist at me.

Your misconduct and misdemeanour resulting in assaulting & abusing me which is a very very serious offence on your part and unbecoming of a Govt. Servant.

You are, therefore, directed to show cause as to why disciplinary action should not be initiated against you for such misconduct, misdemeanour & misbehaviour metted out to the Controlling Officer/ Head of Office, which is very serious & heinous offence.

Your reply should reach me on or before 11th June, 2001 positively.

04-06-2001
(S. C. DUTTA)
Income-Tax Officer
Ward-Duliajan

Memo No. K-1 Con. ITO/DLI/2001-02

Date the 4th June, 2001

Copy submitted to The Addl. Commissioner of Income-Tax,
Range - Dibrugarh, DIBRUGARH

With kind reference to his F. No. 1-2000-01 Addl. CIT DBR 582
Dated the 29th May, 2001.

(S. C. DUTTA)
Income-Tax Officer
Ward-Duliajan

To
The Income Tax Officer,
Ward – Duliajan.

Date : 11/06/2001

Sub : Unruly behaviour matter regarding -

Sir,

Kindly refer to your letter F. No. K-1/Con./ITO.DLJ./2000-2001/404 dated 04/06/2001 on the above subject.

In this connection it is submitted that you were directed by the Additional C.I.T., Range-Dibrugarh on 29-05-2001 to issue a show cause notice to me as has been stated by him in his suspension order dated 01/06/2001 served on me on 04/06/2001 under his Memo No. Nil dated 01/06/2001.

That Sir, in compliance to the direction of the Addl.CIT, Range-Dibrugarh as stated above, you issued and served on me the show cause notice only on 04/06/2001 vide your letter under reference though by that point of time the suspension order dated 01/06/2001 by the Addl.CIT, Range-Dibrugarh was served on me as stated earlier, levelling certain charges on me on flimsy grounds based on mere surmise and conjectures. Thus camouflaging your unlawful act of tampering government records which is the cause of action supported by evidence/witness. Moreover, after issuance and service of suspension order, legal right on authority for issuance of show cause notice is redundant as per the provisions of the C.C.S.(C.C.A.) Rules, 1965. As such, no explanation and or reply is found called for. However, if circumstances so warrants, your kind instruction is solicited.

Yours faithfully,

(K. R. Deb)

U.D.C.

Income Tax Office,

Duliajan.

COPY

18

Annexure - A/5

BY REGISTERED A/D. POST

CONFIDENTIAL

To
The Commissioner of Income Tax,
"Aayakar Bhawan",
M.G. Road
P.O. - SHILLONG - 793 001.

Dated the 11th July, 2001.

Sir,

Sub : Appeal under Rule 23(i) of the C.C.S.(C.C.A.) Rules, 1965
against the order of suspension dated 01/06/2001 in respect of
Shri Kalyan Ranjan Deb, UDC, I.T. Office, Duliajan.

With due respect, your humble appellant petitioner begs to lay before you the following few lines for favour of your kind consideration and favourable orders.

2. That Sir, your humble appellant petitioner was placed under suspension by the Additional Commissioner of Income Tax, Range Dibrugarh vide his two sets of order of suspension dated 01/06/2001 under Rule 10(1) of the CCS(CCA) Rules, 1965.
- 3) That Sir, a copy of suspension order dated 01/06/2001 made by the Addl. CIT, Range Dibrugarh was served upon your humble appellant on 04/06/2001 vide his Memo. No. E-6/2000-01/Addl. CIT/DBR/584 dated 01/06/2001 although the copy was unsigned (copy enclosed for favour of your kind perusal and ready reference vide Annexure - I).
- 4) That Sir, another copy of suspension order dated 01/06/2001 made by the Addl. CIT, Range Dibrugarh was served upon your humble appellant on 04/06/2001 bearing No. - - dated 01/06/2001 (copy enclosed for favour of your kind perusal and ready reference vide Annexure-II).
- 5) That Sir, a show cause notice was served upon your humble appellant on 04/06/2001 by the Income Tax Officer, Ward-Duliajan, vide his F.No. K-1/Con/ITO/DLJ/2001-02/404 dated 04/06/2001 directing your humble appellant to show cause as to why disciplinary action should not be taken against the appellant and also directing the appellant to give reply to the show cause so as to reach the ITO on or before the 11th June, 2001 (copy enclosed for favour of your kind perusal and ready reference vide Annexure- III).
- 6) That Sir, your humble appellant begs to submit that neither any caution nor any circumspection was exercised while passing the suspension order by the Addl. CIT, Range Dibrugarh, rather the order was passed for extraneous considerations.

Contd....2.

7) That Sir, your humble appellant begs to submit that no any preliminary inquiry was made as per the provisions of the CCS(CCA) Rules, 1965 before passing the suspension order dated 01/06/2001 under Rule 10(1) of the CCS(CCA) Rules, 1965 although the Income Tax Officer, Ward-Duliajan was directed by the Addl. CIT, Range Dibrugarh, vide letter dated 29/05/2001 as referred to in the suspension order dated 01/06/2001 to issue a show cause notice to your humble appellant as to why disciplinary proceedings should not be started against the appellant as the first stage/step of causing preliminary inquiry, but before issuance of the show cause notice, the suspension order was issued and served in a very haste without taking into account all factors, for causing lasting damage to your humble appellant's reputations and dignity for protesting against the unlawful and wrongful act of the Income Tax Officer, Ward-Duliajan.

As such this can be said that the order of suspension was made in a perfunctory or in a routine and casual manner which is not in conformity to the provisions of CCS(CCA) Rules, 1965 and, therefore, contradictory to the spirit of the departmental proceedings as well.

8) That Sir, your humble appellant begs to submit that the unlawful, unjust, arbitrary, biased and ex-parte suspension order dated 01/06/2001 was passed by the Addl. CIT, Range Dibrugarh, basing exclusively on the false and distorted report of the Income Tax Officer, Ward-Duliajan, dated 18/05/2001, as referred to by the Addl. CIT, Range Dibrugarh in his suspension order dated 01/06/2001 under the circumstances in which the order of suspension was made for which there was distorted information.

9) That Sir, your humble appellant petitioner begs to submit that on 18/05/2001 after putting up a particular assessment records of an assessee, the Income Tax Officer, Ward-Duliajan under his executive direction / order to Shri K.V.S. Prasad, LDC, the Counter Receipt Clerk and the junior-most staff of the office got the records, relating to that particular asstt. records of the assessee, **tampered and fabricated by way of mutilation changing of the figure of number(s) of enclosures in the Return Receipt Register of the preceeding year.**

10) That Sir, your humble appellant begs to submit that when the mischievous matter of malicious plot of conspiracy as referred to in Para 9 above came to the knowledge of your humble appellant, the appellant went to the chamber of the Income Tax Officer, Ward-Duliajan and told him that whatever he had done with malintention was not only unethical, improper but also illegal. Moreover, he had taught a very bad teachings / lessons to a juniormost staff and, thereby, set a very bad precedent and example in the government office. On hearing this, the ITO became furious and violently started rebuffing and abusing your humble appellant petitioner using highly objectionable uiparliamentary words and unconstitutional words and had ultimately dumped upon your humble appellant his unlawful and wrongful act for detecting and objecting to his mischievous misdeed and managed to place your humble appellant under suspension by fabricating facts.

Contd....3.

11) That Sir, your humble appellant begs to submit that out of his personal grudge due to detection and objecting to his unlawful acts, the ITO has prepared and sent his distorted imaginary report to the Addl. CIT, Range Dibrugarh against your humble appellant leveling certain charges on flimsy grounds on his own imaginary distorted facts, obviously, just to cover-up, to deceive, to hide and camouflage to divert at the mistaken end, his unlawful act and to malign and harass your humble appellant.

12) That Sir, your humble appellant begs to submit that the Income Tax Officer, Ward-Duliajan had stated in his show cause notice dated 04/06/2001 and also as stated in the suspension order dated 01/06/2001 that out of the certain asstt. records that were put up to the ITO for his signature by the appellant on 18/05/2001, the ITO had retained one file in respect of one salary case for verification, ultimately had to sign the said file claimed to be being helpless out of force applied on him by your humble appellant, as described. But it is amply clear that on verification of the afore-said file, it was found in order and there being nothing wrong he had granted a refund of Rs. 2,508/- to the referred assessee on 22/05/2001 in pursuant to the rectification order under section 154 of the Income Tax Act, 1961 which was put up to the Income Tax Officer, Ward-Duliajan for signature on 18/05/2001, as stated by the Additional Commissioner of Income Tax, Range Dibrugarh in his suspension order dated 01/06/2001 when there was no said to be application of force and / or any element of helplessness on 22/05/2001.

13) That Sir, your humble appellant begs to submit that from the facts as stated above, it is crystal clear that the suspension orders dated 01/06/2001 were the outcome of a preconceived motion and a very hasty decision just to make your humble petitioner victim for raising the voice against the unlawful and wrongful act of tampering and fabricating government records of the Income Tax Officer, Ward-Duliajan as your humble appellant petitioner had no knowledge that the ITO is above law and / or can do no wrong.

On the other hand, the government records proved to have been conspiratorily tampered and fabricated by the Income Tax Officer, Ward-Duliajan, and then false imaginary defaming allegation of alleged misbehaviour etc. misreported, but Sir, in a very contrary manner, your poor appellant petitioner has been unnecessarily punished by way of placing under Suspension and, thereby, hurled to extreme hardship, misery, trauma and mental torture attaching four poor souls. The Guaranteed Constitutional Fundamental Human Rights are at stake. Hence, your poor appellant petitioner prays for justice.

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14)

That Sir, your humble appellant petitioner begs to submit that in view of the facts and circumstances as stated above, your honour is fervently prayed for favour of kind consideration and favourable order under Rule 27(1) read with Rule 10(5)(c) of the C.C.S.(C.C.A.) Rules, 1965 against the orders under Rule 10(1) of the CCS(CCA) Rules, 1965 dated 01/06/2001 which are not only unlawful, unjust, arbitrary, biased but also bad-in-law.

And for this act of kindness, your humble appellant petitioner shall ever pray.

Encls. As stated above.

Yours faithfully,

Sd/-
(Kalyan Ranjan Deb)
UDC
(Appellant Petitioner under suspension)
Office of the Income Tax Officer,
DULIAJAN

REGISTERED WITH A/D.

Copy for favour of information to the Additional Commissioner of Income Tax,
Range Dibrugarh, P.O.- C.R. Building, Dibrugarh.

Sd/-
(Kalyan Ranjan Deb)
UDC
(Appellant Petitioner under suspension)
Office of the Income Tax Officer,
DULIAJAN

* * *

To
The Income Tax Officer,
Duliajan.

Date : 11/06/2001

Sir,

Sub: Request for supply of copies of documents in the case of
Shri Ajoy Kumar Goswami(GIR.No.O-1/G-1968):Re-

With reference to the Order dated 01/06/2001 passed by the Additional Commissioner of Income Tax ,Range Dibrugarh, Dibrugarh, under his Memo.No. E-6/2000-01/Addl.CIT/DBR/584 dt. 01/06/2001, a copy thereof endorsed to you, I beg to request you kindly to supply/provide me with the following relevant documents in relation to the above Order dated 01/06/2001, as an appeal against the Order dt. 01/06/2001 is under consideration to prefer:-

- 1) Copy of ITO, Duliajan"s letter dated 18/05/2001 referred to in the Addl.CIT"s Order & dated 01/06/2001.
- 2) Copy of Income Tax Return filed by Shri Ajoy Kr.Goswami for the assessment year 2000-2001 on 10/07/2000.
- 3) Copies of all 3(three) enclosures, i.e., I) Salary Certificate, ii) H.B.L.Certificate, and iii) Computation Sheet enclosed along with the above Income Tax Return filed on 10/07/2000, as mentioned in Sl.No. 2 above.
- 4) Copy of Order Sheet(s) in respect of the assessment records of Shri Ajoy Kumar Goswami(GIR.No. O-1/G-1968) for the assessment year 2000-2001.
- 5) Copy/~~Part~~ of the relevant Income Tax Return Receipt Register, wherein, as per preliminary inquiry, it was found to be tampered with cancelling some figures replacing with One, as referred to in the above Order of the Addl.CIT, Dibrugarh dated 01/06/2001.

With regards,

Yours faithfully,

(Kalyan Ranjan Deka)
UDC
Income Tax Office, Duliajan.

Contd. 2

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Copy for information and necessary kind action to :-

- ✓1) The Chief Commissioner of Income Tax, NER, "Saikia Commercial Complex", 2nd Floor, Sreenagar, G.S. Road, Guwahati - 781 005.
- ✓2) The Commissioner of Income Tax, "Aayakar Bhawan", M.G. Road, P.B. No. 20, P.O. - Shillong-793 001.
- ✓3) The Additional Commissioner of Income Tax, Range Dibrugarh, P.O. - C.R. Building, Dibrugarh.
- 4) The Circle General Secretary, ITEF, NE Circle, "Saikia Commercial Complex", Sreenagar, G.S. Road, Guwahati - 781 005.
- ✓5) The Zonal Secretary, ITEF, NE Circle, Dibrugarh Zone, P.O. - C.R. Building, Dibrugarh.
- 6) The Branch Secretary, ITEF, NE Circle, Duliajan Branch, P.O. - Duliajan.

(Kalyan Ranjan Deb)
UDC
Income Tax Office,
Duliajan.