

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 378/01
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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO.

378 / 2001.

Applicant (S) Madan ch. Kachari

Respondant (S) U.O.D 90M

U.K. Prasad

Advocate for the Applicant: B.K. Sharma, S. Sarma, Mins U.D.M.

Advocate for the Respondant:

Case

Notes of the Registry

Date

Order of the Tribunal

25.9.01

This application is in form
but not in the correct form
Petition is filed not in the
M.P. No. 20548536
for Rs. 5/- de. vide
IPO/BE No 20548536
Dated 11.8.2001

Dy. Registrar

Pl. put up for signature
after remove the application

NS
20/9/2001

mb

NS
25/9/01

11.10.01

List on 23.11.01 to enable the
respondents to file written statement

Notice prepared and sent to
D/S for working the respondent
No 1 to 3. by Regd. A/D.

29/9/01

DINo 3834 to 3836

Dtd 5/10/01

pg

30.4.02

Written statement has been
filed. The case may now be listed for
hearing on 28.5.02. The applicant
may file rejoinder if any, within two
weeks.

Member

Vice-Chairman

Member

Member

Vice-Chairman

No. written statement
has been filed.

30
22.11.01

23.11.2001

List the case on 1.1.2002 to
enable the respondents to file written
statement.

K. C. Shetty
Member

[Signature]
Vice-Chairman

bb

1.1.02

List on 29.1.2002 to enable the
respondents to file written statement.

No. written statement
has been filed.

30
28.1.02.

K. C. Shetty
Member

[Signature]
Vice-Chairman

mb

29.1.02

List on 1.3.2002 to enable the
respondents to file written statement.

K. C. Shetty
Member

[Signature]
Vice-Chairman

mb

1.3.02

List on 26.3.2002 to enable the Respon-
dents to file written statement.

No. written statement
has been filed.

30
22.3.02.

K. C. Shetty
Member

[Signature]
Vice-Chairman

mb

26.3.02

List on 30.4.2002 to enable the Respon-
dents to file written statement.

No. written statement
has been filed.

30
29.4.02.

K. C. Shetty
Member

[Signature]
Vice-Chairman

mb

28/5. Pursued no Division Bench today.
The case adjourned to 12/6/02.

mb
AK 2
28/5

6.5.2002

W/s submitted
by the Respondents.

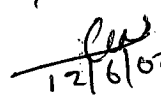

12/6/02

List again for hearing
on 26/6/02.

By order
[Signature]
12/6/02

(3)

OA 387/2001

Notes of the Registry	Date	Order of the Tribunal
	28.15	There is no Division Bench today. The case is adjourned to 12/6/02. mo HKS 28/
	12-6-02	List again for hearing on 26/6/02. By order  12/6/02.
	26.6.02	<p>In course of hearing learned counsel for the applicant stated that the Respondents had already recovered the amount, of except ^{the} penal interest of House Building Advance Rs.17000/- from the applicant vide order dated 4.12.2000. Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents was accordingly requested to produce the connected materials and accordingly the case was posted on 12.6.2002. The matter was posted for hearing today also. Mr. B.C.Pathak, learned Addl. C.G.S.C. sought for further time so that he can obtain necessary instructions from the respondents. The case is accordingly adjourned. List the matter again on 23.7.2002 for hearing.</p> <p>TC Uthappa Member</p> <p> Vice-Chairman</p> <p>mb</p>
	23.7.	Division Bench did not sit today. The case is adjourned to 14.8.2002. mo HKS 23/8/

O.A. 387/2001 378/2001

Notes of the Registry	Date	Order of the Tribunal
	14.8.02	<p>Pass over on the prayer of Ms. U2Das, learned counsel for the Applicant.</p> <p>List on 20.8.2002 for hearing.</p> <p>IC (Shary) Member Vice-Chairman</p>
	20.8.02	<p>On the ground of personal difficulty of Mr B.C.Pathak, learned Addl.C.G.S.C the case is adjourned.</p> <p>List again on 30.8.02.</p> <p>K-IC Shary Member Vice-Chairman</p>
	30/8	<p>The case is adjourned to 25/9/2002 as the applicant's counsel did not mt.</p> <p>Also A.K. Jay 30/8</p>
	25/9	<p>Heard Mr. S. Sarma, learned counsel for the appellant & Mr B.C. Pathak, Addl. C.G.S.C for the respondent.</p> <p>Hearing concluded.</p> <p>Judgment reserved.</p> <p>Also A.K. Jay 25/9</p>

P.F. in respect of
Smt M.C. Kachari hearing/
NO. A/A/HMA/MC/96-2001
is submitted by Mr B.C. Pathak
Addl C.G.S.C & the same is
sent along with the case file.

A.K. Jay
25/9

Handed over to Mr. B.C. Pathak,
Addl. C.G.S.C on 7/10/2002 after
obtaining his signature on the
register. A.K. Jay
7/10

5 4

7.10.02

Judgment delivered in open Court. Kept in separate sheets. Application is allowed. No costs.

30.10.02

Copy of the Indent
has been sent to the
Office for recording
the fine to the applicant
as well as to the Govt
Secy.
H.S.

lm

Member

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXXX~~ No. .378. of 2001

DATE OF DECISION 7th of Oct 2002

Shri Madan Ch. Kachari

APPLICANT(S)

Mr B.K. Sharma, Mr S. Sarma,

Mr U.K. Nair and Ms U. Das

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHOWHDURY, 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 ?

5.

Judgment delivered by Hon'ble Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.378 of 2001

Date of decision: This the 7th day of October 2002

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

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

Shri Madan Ch. Kachari,
Senior Auditor (Now Auditor),
Office of the Accountant General,
Nagaland, Kohima.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Ms U. Das.

- versus -

1. The Union of India, represented by the
Comptroller and Auditor General,
New Delhi.

2. The Accountant General (A&E),
Assam,
Maidamgaon, Guwahati.

3. The Senior Deputy Accountant General (A&E),
Nagaland, Kohima.

.....Respondents

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

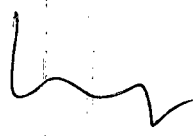
.....

O R D E R

CHOWDHURY. J. (V.C.)

In this application under Section 19 of the
Administrative Tribunals Act, 1985 the applicant has
sought for the following directions:

To set aside and quash the entire Disciplinary
Proceeding by setting aside the impugned Charge-
Sheet dated 17.7.1998, Disciplinary Authority's
order dated 1.5.2000 impugned notification dated
22.12.2000 and the Appellate Authority's order
dated 13.12.2000 with all consequential service
benefits.



2. Basic Facts : The applicant while working as Senior Auditor prayed for House Building Advance (HBA for short) amounting to Rs.17,000/- for purchase of a piece of land. Though the applicant took the loan the applicant failed to submit the registered sale deed. According to the applicant, because of the nature of the land the process of registration was to take some more time. When things rested at that situation, a disciplinary proceeding was initiated against the applicant for the alleged contravention of Rule 3(iii) of the CCS (Conduct) Rules on the score of failure to refund the amount with penal interest as per order No.61 dated 2.5.1997. The applicant submitted his reply in writing. Not being satisfied with the explanation of the applicant, the respondent authority conducted an enquiry and on conclusion of the enquiry, the Inquiry Officer submitted his report holding the applicant guilty of the charge. The applicant submitted his representation. The Disciplinary Authority finally by order dated 1.5.2000 found the applicant guilty of the charge for the alleged misconduct for contravention of Rule 3(iii) of the CCS (Conduct) Rules. The Disciplinary Authority accordingly imposed a punishment thereby reducing the applicant from the post of Senior Auditor with the scale of Rs.5000-100-8000 to the post of Auditor with the scale of pay of Rs.4000-100-6000 for a period of five years with effect from 1.5.2000 under Rule 11(vi) of the CCS (CCA) Rules, 1965. The pay of the applicant was accordingly fixed at Rs.5300/- in the scale of Rs.4000-100-6000. It was also ordered that he would not earn increments of pay during that period. It was further ordered that he would be restored to the post of Senior Auditor on expiry of the period of five years and on restoration.....

to the post of Sr. Auditor his pay would be fixed at Rs.6050/- and he would be eligible to earn increments from that stage, subject to fulfilment of other conditions/rules governing the grant of increment. The applicant preferred an appeal and by impugned order dated 22.11.2000 the authority proposed to enhance the penalty and finally by order dated 13.12.2000 imposed the following penalty:

"Now, therefore, the undersigned, in exercise of his powers as Appellate Authority conferred on him under Rule 26 and 27 of the Central Civil Services (Classification, Control and Appeal) Rules, has decided to enhance the penalty to Sh. Madan Chandra Kachari by the disciplinary Authority vide his Order No.A/A/4-28/97-98/17 dtd 1st May 2000 and hereby orders that, Sh. Madan Chandra Kachari Sr. Auditor, be reduced to the post of Auditor with the scale of pay Rs.4000-100-6000, from the post of Sr. Auditor with the scale of pay Rs.5,000-150-8000, for a period of 5 (five) years w.e.f. the date of issue of this order under Rule 11 (vi) of Central Civil Service (Classification, Control and Appeal) Rules 1965. It is further ordered that his pay fixed at Rs.4000/- (Rupees Four thousand only) in the scale of pay Rs.4000-100-6000 during the period of penalty. He shall not earn increments of pay during the period of reduction, and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. On the expiry of 5 (five) years, he will be restored to the post of Sr. Auditor. On restoration to the post of Sr. Auditor, his pay will be fixed at Rs.6050 (Rupees six thousand and fifty only) in the scale of pay Rs.5000-150-8000 and he will be eligible to earn increments from that stage, thereafter, subject to fulfilment of other conditions/rules governing the grant of increments of pay. It is finally ordered that, on restoration to the post of Sr. Auditor after a period of 5 (five) years, the original seniority of the official in the post of Sr. Auditor prior to the imposition of the penalty shall be restored."

Hence this application assailing the legitimacy of the order.

3. The respondents contested the claim of the applicant and submitted their written statement denying and disputing the claim of the applicant.

4. Mr S. Sarma, learned counsel for the applicant, assailing the legitimacy of the impugned orders contended that the authority fell into obvious error in not providing the applicant a fair deal in conducting the enquiry. The learned counsel for the applicant further contended that on the own showing of the respondents the applicant did not commit any misconduct calling for a disciplinary proceeding. The learned counsel contended that the applicant had asked for finance for purchase of land. Finally, at best it did not fructify and the respondent authority recovered the amount with penal interest. Therefore, question of initiation of disciplinary proceeding itself was unlawful and therefore the penalty imposed under those circumstances could not be sustained.

5. Mr B.C. Pathak, learned Addl. C.G.S.C., appearing on behalf of the respondents on the other hand contended that the alleged act of the applicant amounted to breach of conduct of the rules, so much so a Government servant, at all times is not authorised to do anything that is unbecoming of a Government servant. In the instant case though the money was realised, the conduct of the applicant was unbecoming of a Government servant and accordingly the said punishment was imposed.

6. The issue mainly arises as to whether the alleged acts of the applicant amounted to a misconduct within the meaning of Rule 3 (1) (iii) which interdicted a Government servant from doing anything which is unbecoming of a Government servant. From the materials on record it was apparent that a sum of Rs.17,000/- was sanctioned to the applicant on 1.9.1996. Under the HBA Rules, the purchase

was.....

was to be made and sale deed in respect thereof was required to be produced for inspection of the department concerned within the prescribed period or within such further time as the Government/Head of the Department may allow in this behalf, failing which the employee is liable to refund at once the entire amount to the Government together with interest. According to the respondents the applicant failed to submit the sale deed and by communication dated 14.3.1997 he was advised to submit the documents. According to the respondents, no doubt the applicant submitted some unregistered documents, but that did not fulfil the requirements. The applicant again asked for time, but failed. From the materials on record it, however, appears that the department recovered the said amount alongwith penal interest. As per the rules, the department proffered the scheme of providing the benefit of HBA. Such advances are given to the employees to facilitate them in owning a house/property of their own. It is a measure of providing social justice. Nonetheless, it is out and out an advance or loan which is to be refunded. The employer is the lender and the employee is the borrower. As a borrower, the employee is to refund the amount within the prescribed period failing which he has to pay penal interest. A sum of Rs.20,444/- out of Rs.25,903/- was already recovered from the applicant alongwith interest, leaving a balance of Rs.5,459/-. Failure to refund the amount within the period prescribed whether can be said to be an act that is unbecoming of a Government servant, it all depends on the facts and circumstances of the case.

7. In the order of the Disciplinary Authority it was clearly indicated that the applicant stated that he had actually purchased the land and due to non-completion of the.....

the registration process he could not produce the required documents in proof of his acquisition of land, and that those records would be submitted in due time. The applicant was allowed another opportunity by Memorandum dated 22.9.1999 to produce within ten days from the date of receipt of the memorandum all records available to substantiate his claim. The applicant also sought for time from the Disciplinary Authority to submit the requisite documents. The Disciplinary Authority allowed him time to furnish the documents on or before 1.11.1999. The applicant, however, failed to submit the records in support of his claim. The question here is only as to whether the said act of the applicant amounted to any misconduct. As alluded, no specific misconduct is alleged. The applicant is charged for doing something that is unbecoming of a Government servant within the meaning of Rule 3(1) (iii) of the CCS (Conduct) Rules. Misconduct amounts to "a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, wilful in character, improper or wrong behavior, its synonyms are misdemeanor, misdeed, misbehavior, delinquency, impropriety, mismanagement, offence, but not negligence or carelessness." (Black's Law Dictionary). In the same text misconduct in office is described as follows:

"Any unlawful behavior by a public officer in relation to the duties of his office, wilful in character. Term embraces acts which the office holder had no right to perform, acts performed improperly, and failure to act in the face of an affirmative duty to act."

8. Misconduct means something more than a mere error of judgment. Such conduct to become misconduct, it must indicate wrong conduct or improper conduct. It must show and establish transgression of some established and definite norms or standard, commission of a forbidden act, more than carelessness.


9. In the case in hand the authority fully recovered the amount alongwith the penal interest. The alleged act, in the facts and circumstances of the case cannot be said to attract the rigour of Rule 3(1) (iii) of the Rules. The findings of the Disciplinary Authority to the effect that the applicant misutilised the House Building Advance is patently perverse. The expression 'misutilisation' means perverse intermeddling of the HBA. The Disciplinary Authority while imposing the impugned penalty vide order dated 1.5.2000 also took into consideration irrelevant consideration by overlooking the relevant considerations which affected the ultimate decisions. The Appellate Authority in disposing of the appeal turned its back to the relevant facts and contrived a new charge without giving an opportunity to the charged official to meet the charges. The impugned Appellate Order dated 22.11.2000 also suffers from the vices of the non-application of mind and perversity as well.


10. In view of the facts and circumstances set out above the impugned orders dated 1.5.2000 passed by the Deputy Accountant General (Audit) vide Memo NO.A/A/4-28/97-98/17 (Annexure 4 of the O.A.) as well as the impugned order No.A/A/4-28/97-98/390 dated 13.12.2000 passed by the Accountant General (Annexure 8 of the O.A.)

are.....

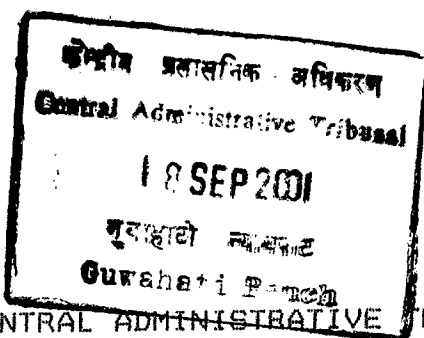
are thus set aside and quashed.

11. The application is thus allowed with all consequential benefits to the applicant. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 378 of 2001

BETWEEN

Shri Madan Ch.Kachari. Applicant.

AND

Union of India & ors. Respondents.

I N D E X

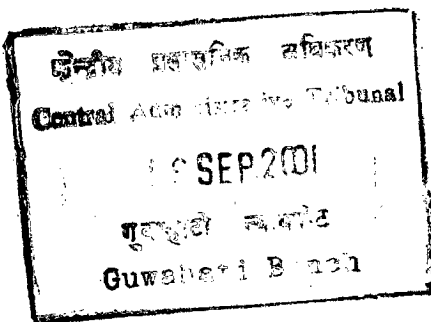
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Filed by : Asha Das

Regn.No.:

File : WS7/MADAN

Date :



Filed by
the applicant through
Alisha Das,
Advocate
17/9/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

D.A.No. ...378... of 2001

BETWEEN

Shri Madan Ch. Kachari,
Senior Auditor (Now Auditor)
Office of the Accountant General,
Nagaland, Kohima.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Comptroller and Auditor General,
New Delhi.
2. The Accountant General (A&E), Assam,
Maidamgaon, Guwahati-28.
3. The Senior Deputy Accountant General (A&E)
Nagaland, Kohima.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

The present application is directed against the
illegal action on the part of the respondents in issuing the
following orders/memorandums:

1. Memo No.Admn/Audit/4-28/97-98/639 dated 15.7.98
(Charge Sheet).
2. Order No.A/A/4-28/97-98/06 dated 21.7.98 (Inquiry
Report).

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3. Order No.A/A/4-28/97-98/17 dated 1.5.2000

(Disciplinary Authorities Penalty order).

4. Order No.A/A/4-28/97-98/390 dated 13.12.2000

(Appellate Authority's Order).

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protection guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant while was working as Senior Auditor took house building advance amounting Rs.17,000/- to purchase a plot of land under House Building Advance Rules. As per Rule applicant was to submit the registered sale deed. However, he could not produce the same within the stipulated time frame. The applicant intimated the fact to the respondents however, without waiting issued the

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memorandum dated 15.7.98 along with the Article of Charge.

A copy of the said charge-sheet is annexed herewith and marked as Annexure-1.

4.3. That the applicant begs to state that pursuant to the aforesaid Annexure-1 charge-sheet dated 15.7.98 regular department proceeding was initiated by the respondents. The applicant participated in the said proceeding. After conclusion of the inquiry, the Inquiry Officer submitted the inquiry report of the case. To that effect the respondents have issued an order dated 21.7.99 enclosing the inquiry report.

A copy of the said order dated 21.7.99 enclosing the inquiry report is annexed herewith and marked as Annexure-2.

4.4. That the applicant begs to state that the entire proceeding was initiated against him for his non production of "Sale Deed" of land for which he took house building advance. In fact the land purchased by the applicant was an "echonia" one and because of this the process of registration took some time. The applicant requested the concerned authority to grant him some time to furnish the said "Sale Deed". The applicant wrote a letter to the concerned authority praying for some time to furnish the said sale deed. In reply to the said request made by the applicant vide his letter dated 6.8.99, the respondents have issued an order dated 22.9.99 directing the applicant to submit the sale deed within 10 days from the date of receipt

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of the memorandum. The sole contention of the charge-sheet was regarding furnishing of sale deed as required under the rule. Because of certain official procedure the said sale deed was made available to the applicant. In fact, in the said deed there was mistake in quoting the land particulars. The aforesaid fact was stated by the applicant even prior to issuance of the charge-sheet. It is noteworthy to mention here that prior to issuance of the charge-sheet, the applicant vide his letter dated 12.5.97 made it clear about the factual position.

A copy of the letter dated 12.5.97 is annexed herewith and marked as Annexure-3.

4.5. That after conclusion of the enquiry proceeding and after submission of inquiry report (Annexure-2), the Disciplinary Authority without taking in to consideration the materials on records passed the impugned order of penalty of reduction of rank from post of Senior Auditor with pay scale of Rs.5000 to 8000 to the post of Auditor with the pay scale of Rs.4000 to 6000 for a period of 5 years w.e.f. 1.5.2000 on the Rule-11 (vi) of CCS(CCA) Rules 1965. The pay of the applicant was fixed at Rs.5300/- in the pay scale of Rs.4000 to 6000. Further it was ordered that the applicant shall not earn any increment during that period.

A copy of the said order dated 1.5.2000 is annexed herewith and marked as Annexure-4.

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4.6. That the applicant after receipt of the aforesaid order dated 1.5.2000 preferred an appeal dated 8.5.2000. In the said appeal the applicant made a prayer for retrial of the case highlighting the factual position. The applicant in his appeal while highlighting the fact of the case made it known to the concerned authority that due to the lengthy process of the registration the sale deed in question could not be furnished to the office in time, even after his assurance. In his appeal he in fact undertook to submit all the relevant documents as and when same will be made available to him.

A copy of the said appeal dated 8.5.2000 is annexed herewith and marked as Annexure-5.

4.7. That on receipt of the aforesaid appeal preferred by the applicant issued a memorandum dated 22.11.2000 proposing that the punishment issued by the Disciplinary Authority vide order dated 1.5.2000 is required to be enhanced. Through this memorandum the said appellate authority directed the applicant to make representation if any within 10 days time.

A copy of the aforesaid order dated 22.11.2000 is annexed herewith and marked as Annexure-6.

4.8. That the applicant begs to state that by issuing the aforesaid order dated 22.11.2000 (Annexure-6) the

✓

respondents have decided to enhance the penalty imposed on him by the Disciplinary Authority. In the said order dated 22.11.2000 the Respondent have added certain new charges against the applicant. In those charges the applicant has been held in unutilising the House Building Advance with a fraudulent manner. Those elements were not available in the charge-sheet but the respondents have added those element only with the sale purchase to enhance the penalty. Admittedly the applicant purchased the plot of land but due to lengthy official procedure he could not submit the registered sale deed in time. In fact, the land purchased by the applicant is covered by dag No.137 PT/194 P.T. but due to inadvertent the circle office, Sibsagar wrongly quoted the dag No.as 186/175. To that effect the applicant preferred a representation dated 15.12.2000 to the Circle Officer, Sibsagar regarding rectification of the aforesaid wrong.

A copy of the aforesaid letter dated 15.12.2000 is annexed herewith and marked as Annexure-7.

4.9. That the applicant begs to state that at the relevant point of time, he preferred numbers of representations to the concerned authority appearing about the factual aspect of the matter. However the appellate authority without taking into consideration the factual matrix of the case issued an order bearing No.A/A/4-28/97-98/390 dated 13.12.2000 by which the applicant was holding the post of Senior Auditor has been reduced to the post of

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Auditor the pay scale of Rs.4000 to 6000 for a period of 5 years and his pay has been fixed at Rs.4000. By the said impugned order his increments have also stopped for the aforesaid 5 years and an expiry of that period the said reduction will have effect of postponing his future increments of pay. On expiry of aforesaid 5 years he will be restored to the post of Sr. Auditor and his pay will be fixed at Rs.6050/- and he will be eligible to earn increment from that stage thereafter, subject to fulfillment of other conditions and rules guiding the field.

A copy of the aforesaid impugned order dated 13.12.2000 is annexed herewith and marked as Annexure-B.

4.10. That the applicant begs to state that the enhancement of penalty made by the respondents is arbitrary and same depicts total non application of mind by the respondents. The crux of the charges are relating to non-furnishing of registered Sale-Deed as required under the Rule. In the charge-sheet itself the respondents have narrated the facts that the applicant has made several correspondents to the concerned authority. The said authority has also visited the Circle Office at Sibsagar, but due to wrong quoting of dag number, aforesaid anomaly and delay took place. The land in question was not a miyadi (periodic patta land) Patta and same was within the tribal belt. The applicant purchased the plot of land in the year 1996 but he had to pay the arrear rent or khajana w.e.f. 1987. Even till date miyadi patta has not been issued by the

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Circle Office. The applicant highlighting these facts preferred a representation dated 20.5.2001 to the concerned authority for consideration of his case.

A copy of the representation dated 20.5.2001 is annexed herewith and marked as Annexure-9.

4.11. That the applicant begs to state that when nothing was done he made a representation to the Comptroller and Auditor General of India, New Delhi praying for sympathetic consideration of his case. The applicant also requested that All India Audit and Accounts Association to look in to the matter and the said Association taking in to consideration the factual aspect of the matter preferred a representation dated 18.6.2001 to the Comptroller and Auditor General of India, New Delhi. The said representation is however yet to be replied to by the respondents.

A copy of the said representation dated 18.6.2001 is annexed herewith and marked as Annexure-10.

4.12. That the applicant begs to state that the proceeding initiated by the same depicts total non application of mind by the said respondents. The enquiry was initiated on a wrong notion of the fact and when the same was clarified by the applicant no further enquiry was made by the respondents. The registered sale deed could not be made avoidable to the concerned authority and the applicant all along has been apprising that fact to the concerned authority. The land document produced by the

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applicant is sufficient to prove that he has purchased the plot of land and the very root of the charge i.e. misutilisation does not come into play. Although prior to issuance of the charge-sheet the respondents initiated fact findings but copy of the same was never supplied to the applicant. The respondents have denied the applicant his valuable right of defence.

4.13. That the applicant begs to state that the respondents in proceeding against the applicant has made various procedural defects mainly non supply of relevant documents and not affording him reasonable opportunity of hearing. The Charge- Sheet and it's initiation clearly indicates the fact that the respondents have initiated the proceeding with a pre-determined mind and during the course of proceeding the Respondents took all the Charges to be proved even before it's conclusions. In fact, at various stages the applicant was preferring representation after representations apprising about the development but the Disciplinary and Appellate Authority did not take in to considerations and finally came to the conclusion that the applicant is guilty of the Charges.

4.14. That the applicant begs to state that during the currency of the proceeding even after submission of enquiry report the respondents kept on inquiring in to the matter without apprising anything about the same to the applicant. The respondents i.e. the Disciplinary and Appellate Authority took in to consideration various subsequent

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development and correspondence without there being and to the effect the Respondents have failed to provide reasonable opportunity to the applicant, and same vitiated the entire proceeding and caused prejudice to the defence of the applicant.

4.15. That the applicant begs to state that the appellate authority ought to have enhanced the penalty imposed on the applicant. Rather he ought to have set aside the order of the Disciplinary Authority on the aforesaid technical ground not affording reasonable opportunity to the applicant regarding the subsequent development/enquiry which took part in the proceeding. On this score alone the entire proceeding is liable to be set aside and quashed.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in proceeding departmentally against the applicant is illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India and laws framed thereunder.

5.2. For that the contentions/allegations raised by the Respondents in the charge-sheet dated 15.7.98 is baseless and vague and on this score alone the entire proceeding is liable to be set aside and quashed.

5.3. For that a factual enquiry was made by the respondent to find out the truth but nothing was communicated to the applicant and later on taking clue of

24

the aforesaid fact finding enquiry proceeding started taking the charge to be admitted by the applicant.

5.4. For that the applicant all alone was apprising the concerned authority about the factual development took place in the matter by submitting representations but same did not take place in the said proceeding. Rather the respondents took in to consideration certain subsequent development surfaced in subsequent enquiry but no opportunity was offered to the applicant and proceeding was concluded abruptly with a closed mind.

5.5. For that the applicant admittedly has utilised the House Building Advance by purchasing land in the year 1996 itself and the said fact was never in dispute in the proceeding. Therefore, the ingredients of the misutilising the House Building Advance does not exist. From the above it is crystal clear that the entire proceeding was initiated in a wrong notion of the fact and hence same is liable to be set aside and quashed.

5.6. For that the Disciplinary Authority imposed penalty on the applicant without taking in to consideration the contention raised by the applicant in his various representations. The said Disciplinary Authority came to the conclusion and imposed the penalty the applicant taking in to consideration certain irrelevant fact without any proper enquiry in to matter and hence same is liable to be set

aside and quashed.

5.7. For that the appellate authority illegally has issued the impugned memorandum dated 22.11.2000 without any basis. The said authority thereafter issued the impugned order of penalty dated 13.12.2000 enhancing the penalty. While issuing the said impugned order the appellate authority took in to consideration various irrelevant fact which were not there in the charge sheet without affording him the reasonable opportunity of hearing.

5.8. 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.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such

application , writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. [To set aside and quash the entire Disciplinary Proceeding by setting aside the impugned Charge-Sheet dated 17.7.98, Disciplinary Authority's order dated 1.5.2000 impugned notification dated 22.12.2000 and the Appellate Authority's order dated 13.12.2000 with all consequential service benefits.]

8.2. Cost of the application.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant does not pray for any interim order at this stage.

10.

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

1. I.P.O. No. : 76 548534
2. Date : 11/8/2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Madan Ch. Kachari , son of Late Thanu Ram Kachari, aged about 45 years, at present working as Auditor in the office of Accountant General, Nagaland , do hereby solemnly affirm and verify that the statements made in paragraphs.....1...10 S:8..... are true to my knowledge and those made in paragraphs are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 17. day of .~~Sept.~~ of 2001.

Signature.

Madan Ch Kachari

- 15 -

MEMORANDUM

ANNEXURE-1

The undersigned proposes to hold an inquiry against Shri Madan Ch. Kachari Sr. Ar. under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures-III and IV).

2. Shri Madan Ch. Kachari Sr. Ar. is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

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

5. Attention of Shri Madan Ch. Kachari Sr. Ar. is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Madan Ch. Kachari Sr. Ar. is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

No. Admn/Audit/4-28/97-98/639
Sr. Dy. Accountant General (Audit)
dt. 15.7.98
Shri Madan Ch Kachari, Sr. Auditor

Attested

Advocate.

- 16 -
ARTICLE - I

2 Statement of articles of charge framed Shri Madan Ch. Kachari, Sr. Auditor.

The said Shri Madan Ch. Kachari while functioning as Sr. Auditor had drawn on 1.9.96 Rs. 17,000/=(Rupees Seventeen thousand) only for purchase of plot of land under House Building Advance Rules. Shri Madan Ch. Kachari, Sr. Auditor was required to produce the Registered sale deed within two months of drawal of advance but he has failed to produce the documents even after one year, inspite of several reminders from his representation dated 14.3.97 and 2.4.97 it is presumed that he has not purchased any plot of land for which sanction of Rs. 17,000/=(Rupees Seventeen thousand) only was accorded and amount drawn by him. He has also failed to refund the amount with penal interest as ordered by the Head of the Department vide order No.61 dated 2.5.97.

The misutilisation of H.B.A. and subsequent failure to refund the amount with penal interest by Shri Madan Ch. Kachari, Sr. Auditor as ordered by the superior authority was thus, act of grave misconduct and unbecoming of a Government servant within the meaning of Rules 3(iii) of C.C.S(Conduct) Rule.

A N N E X U R E - II

That Shri Madan Ch. Kachari, Sr. Auditor had drawn Rs. 17,000/= being H.B.A. for purchase of land on 1.9.96 against S/O NO. Admn/Audit/Order No.140 dated 20.8.96. He was supposed to submit sale deed in original vide Rule 5(a)(I)(ii) of H.B.A. Rule by 31.10.96, but he had not submitted the same to the Admn. Section. He was asked to submit the same within 18.3.97 vide this office Admn/Audit/Order No.297 dated 14.3.97 which was subsequently extended and asked to produce by 4.4.97 vide Admn/Audit/Order/310 dated 31.3.97. But instead of submitting the sale deed he sought for extension of time upto 30.4.97 vide his application dated 18.3.97 on the plea that the sale deed will be given by the SDC/Registrar in the month of April '97. Again, vide his application dated 2.4.97, he had intimated that he would be able to submit the sale deed as and when it is available from the competent authority. Due to his failure to produce registered sale deed and other documents in support of purchase of land, he was asked to refund the entire amount of H.B.A. together with

(contd. 2/-)

Attested

[Signature]
Advocate.

penal interest Rs. 18,364/= (calculated upto 3.5.97) on or before 12.5.97 vide this office Admn/Audit/Order No. 61 dated 2.5.97. Despite repeated reminders he has neither produced the registered sale deed and other documents as called for vide Admn/Audit/Order No. 140 dated 20.8.96 nor refunded the amount of advance and penal interest (Rs.18,364/=) as ordered for vide this office Admn/Audit/Order No.61 dated 2.5.97.

ANNEXURE - III

1. Application for H.B.A.
2. Sanction order Admn/Audit/Order No. 140 dated 20.8.96.
3. Actual payees receipt dated
4. Shri Madan Ch. Kachari, Sr. Auditor's application dated 18.3.97, 2.4.97 and 12.5.97.
5. This office order nos. (1) Admn/Audit/order No.297 dated 14.3.97, (2) Admn/Audit/Order No.310 dated 31.3.97 and (3) Admn/Audit/Order No.61 dated 2.5.97.

SD-
Sr. Dy. Accountant General (Audit)

17000

R. 3(11) 2000

1.9.96

17000

3.3.97

Attested

By

Signature

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND:: KOHIMA.

No.A/4-28/97-98/06

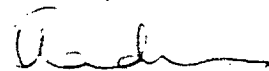
Dated 21st July 1999

MEMORANDUM

The attention of Shri Madan Chandra Kachari, Senior Auditor is drawn to charge sheet issued vide Memorandum NoA/A/4-28/97-98/639 dated 15th July 1998 and subsequent inquiry held on 10th March 1999 and 12th April 1999.

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

Encl.: As stated.



SR. DY. ACCOUNTANT GENERAL (AUDIT)

Copy to:

Shri Madan Chandra Kachari, Sr. Auditor

Attested

Advocate.

REPORT OF SHRI LANKIEWSAR PEGU INQUIRY OFFICER TO INQUIRE INTO CHARGES FRAMED AGAINST SHRI MADAN CHANDRA KACHARI, SR. AUDITOR, THE CHARGED OFFICIAL, OFFICE OF THE ACCOUNTANT GENERAL (AUDIT), NAGALAND, KOHIMA.

1. The Disciplinary Authorities order No. Admn./Au/4-28/97-98/306 dated 15th January 1999, I was appointed as an Inquiry Officer to inquire in to the charges framed against Shri Madan Chandra Kachari, Sr. Auditor, the Charged Official, office of the Accountant General (Audit), Nagaland, Kohima. The inquiry was commenced on 10th March 1999 at 11.00 AM and closed on 12th April 1999 at 11.00 AM. in all there were 2 (two) sitting. The inquiry was held in the Recreation Club room of the office of the Accountant General (Audit), Nagaland, Kohima.
2. According to the memorandum of the charged issued under memo A/A/4-98/96-97/639 dated 15th July 1998 to Shri Madan Chandra Kachari, Sr. Auditor the Charged Official a copy of which was made available to me. The charge was as enclosed to this report.
3. The statement of misconduct or misbehaviour in support of Article was as enclosed to this report.

FINDINGS OF INQUIRY

In course of holding inquiry against Shri Madan Chandra Kachari, Sr. Auditor, the charged official, it is observed that Shri Madan Chandra Kachari, Sr. Auditor (C.O) had applied for House Building Advance for purchase of land as per his application dated 20th May 1996 and sanction was accorded by the head of the office for Rs. 85,000/- vide sanction order No. Admn./Audit/Order/ No. 140 an amount of Rs.17,000/- being 1st instalment for purchase of land was paid to Shri Madan Chandra Kachari (CO) on 1st September 1996.

An agreement in Form 5 dated 9th August 1996 executed by Shri Madan Chandra Kachari, Sr. Auditor (CO), original sale deed in respect of purchase of land is required to be produced to authority within 2 (two) months from the date of drawal of advance for the purpose. He was supposed to produce the required document on 1st November 1996. He could not produce any document within stipulated period. However, after being served several memos to Shri Madan Chandra Kachari, Sr. Auditor the following documents are found submitted to authority by 21st February 1997.

Attested
[Signature]
Advocate.

- (1) Sale deed in plain paper from the land owner (Shri Dhiren Gogoi) dated 9th September 1996 measuring are of land 1 Bigha 10 locha without indicating Dag No. and Patta No. ✓
- (2) Land Tax deposit receipt No. and Patta No. dated 16th September 1996 (Eksona)
- (3) Site Plan (photo copy).
- (4) Land Possession Certificate.
- (5) Surety Bond.

It is observed that documents mentioned above are found not valid documents as the sale deed in plain paper without indicating Dag No. and Patta No. is not authenticated from the concerned authority i.e. Registrar/ Sub-Registrar, ^{land revenue} The Land Tax Deposit receipt dated 16th September 1996 in favour of Shri Madan Chandra Kachari, Sr. Auditor is found as preceding the registration of land executed by the incumbent.

A sale deed in court stamp fee paper in respect of purchase of land measuring area of 2 katha 40 locha under Dag No. 186/175 is found submitted to authority by Shri Madan Chandra Kachari, Sr. Auditor (Co) The sale deed in court fee stamp is not acceptable as the sale deed is not authenticated by the authority concerned of the Registrar/ sub-Registrar. ^{land revenue}

As per provisions of HBA Rule, documents like original sale deed, non-encumbrance certificate, copy of site plan duly authenticated by the authority concerned are required to be produced in support of purchase of land. Shri Madan Chandra Kachari, Sr. Auditor (CO) is not in a position to produce such documents in support of his purchase of land even after several memos served to Shri Madan Chandra Kachari, Sr. Auditor for submitting required documents.

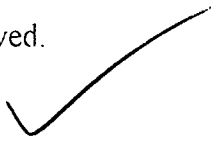
It is observed that sufficient chances have been allowed to Shri Madan Chandra Kachari, Sr. Auditor to produce the required documents in respect of purchase of land but he has failed to submit the documents as he does not have such documents.

Attested

[Signature]
Advocate.

Shri Madan Chandra Kachari, Sr. Auditor was asked to refund the amount drawn as HBA with penal interest vide memo No. Admn./Audit/order No. 61 dated 2nd May 1997. It is seen that in order to refund the amount of HBA drawn by him, Shri Madan Chandra Kachari, Sr. Auditor had applied for GPF Advance (NRA) from his GPF accounts.

Holding inquiry it is observed that till 12th April 1999, Shri Madan Chandra Kachari has failed to submit the required documents in support of his purchase of land. Rather his submission to enquiry committee was that no more supporting documents are available to him except what he had furnished already to the authority and he is ready to refund entire advance drawn by him together with penal interest. The documentary evidence and oral evidence lead me to conclude that the charge in Article 1 of the Memorandum No. A/A/4-28/96-97/369 dated 15/7/98 stand proved.



h/2
5/7/99

(L. F.E.C. 24)

1.0

Attested
asas
Advocate.

ANNEXURE-3

To

The Accountant General (Audit)

Nagaland, Kohima.

Sub: Reply of Memo No.Admn/Audit/HBA/MC/6-38/96-97/215 dated
2.5.96.

Sir,

With reference to your memo No.Admn /Audit /HBA/MC/6-38/96-97/215 dated 2.5.96, I have the honour to state that the H.B.A loan sanctioned for the purchased a plot of land at Silapather. But due to some unavoidable circumstances I could not produces the Registration of the plot of land in due time. So in order to refund the HBA sanctioned to me as ordered, I had applied for sanction from GPF (NRA) which is yet to be sanction.

Sir, other than GPF I have no other sources to repay the advance sanctioned to me. I therefore request to your honour to kindly expediate sanctioning of my GPF (NRA), so that I can make payment early.

Dated the Kohima

12th May, '97.

Yours faithfully

Madan Ch.Kachari

Sr.Ar.

Attested

Abas
Advocate.



OFFICE OF THE ACCOUNTANT GENERAL (AUDIT),
NAGALAND :: KOHIMA
797 001.

No. A/A/4-28/97-98/17

Dated: 1st May 2000.

ORDER.

Shri Madan Chandra Kachari, Senior Auditor, office of the Accountant General (Audit), Nagaland, Kohima was vide No. A/A/4-28/96-97/639 dated 15th July 1998 informed that action was proposed to be taken against him under Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the imputation of misconduct and misbehaviour that Shri Madan Chandra Kachari, had misutilised the House Building Advance granted to him and failed to refund the same with penal interest.

The charge sheet was received by Shri Madan Chandra Kachari on 16th July 1998. Shri Madan Chandra Kachari was to submit a written statement of his defence within 10 days from the date of receipt of the memorandum. However, Shri Kachari had not submitted any written statement either refuting or accepting the charges. This in turn necessitated a departmental inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

A copy of the Report of the Inquiry Officer was forwarded to Shri Madan Chandra Kachari under No. A/A/4-28/97-98/06 dated 21st July 1999 and was received by Shri Madan Chandra Kachari on 21st July 1999. The Report of the Inquiry Officer concluded that the charge framed against Shri Madan Chandra Kachari stands proved. Shri Madan Kachari vide his letter dated 6th August 1999 stated that he had actually purchased the land and claimed that due to non completion of the registration process he could not produce the required documents in proof of his acquisition of land, and that those records would be submitted in due time. Shri Kachari was afforded another opportunity, vide Memorandum No. A/A/4-28/97-98/32 dated 22nd September 1999 to produce within ten days from the date of receipt of the memorandum, all records available to substantiate his claim. In his request received by the Disciplinary Authority on 6th October 1999 Shri Kachari requested more time to collect the requisite documents from his home town. This request was also allowed by the Disciplinary Authority and Shri Kachari was granted a final opportunity to produce documents in support of his claim. Shri Kachari was directed vide A/A/4-28/97-98/ dated 13th October 1999, to furnish the said documents on or before 1st November 1999. However, Shri Kachari failed to furnish any record in support of his claim.

The undersigned, as Disciplinary Authority, based on the findings of the Inquiry Officer and other documentary evidence made available before me in this regard, and the failure on the part of Shri Kachari to furnish any record to substantiate his claim despite being granted more than sufficient opportunity to do so, conclude that it is beyond reasonable doubt that the said Shri Madan Chandra Kachari, Senior Auditor misutilised the House Building Advance granted to him and the said Shri Kachari failed to refund the money with penal interest as ordered by the competent authority. And that this action of Shri Madan Chandra Kachari was a grave misconduct within the meaning of Rule 3 (iii) of the Central Civil Services (Conduct) Rules.

Attested

Advocate.

40-24-

Now, therefore, the undersigned as Disciplinary Authority in exercise of the powers conferred under Rule 12 (2) and (3) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 orders as follows:

That Shri Madan Chandra Kachari, Sr. Auditor is hereby reduced from the post of Senior Auditor with the scale of pay Rs.5000-100-8000, to the post of Auditor with the scale of pay Rs. 4000-100-6000 for a period of 5 (five) years with effect from 1st May 2000 under Rule 11 (vi) of Central Civil Services (Classification, Control and Appeal) Rules 1965. That his pay will be fixed at Rs.5300/- (Rupees five thousand three hundred only) in the scale of pay, Rs. 4000-100-6000. And that he shall not earn increments of pay during this period. That he will be restored to the post of Senior Auditor on the expiry of five years. And that on restoration to the post of Sr. Auditor his pay will be fixed at Rs. 6050 (rupees six thousand and fifty only) and he will be eligible to earn increments from that stage, thereafter, subject to fulfillment of other conditions/ rules governing the grant of increment.

1550

[Signature]
1/5/2000
Dy. Accountant General (Audit)

Memo No. A/A/4-28/97-98/19-23

Dated 1st May 2000

Copy to:

- ✓ 1. Shri Madan Chandra Kachari, Senior Auditor, Office of the Accountant General, Nagaland
2. The P.S. to the Accountant General for information of Accountant General.
3. The Audit Officer (Administration) for necessary action.
4. The Service Book of Shri Madan Chandra Kachari, Senior Auditor
5. The PAO, IA&AD, Nagaland, Office of the Sr. Dy. Accountant General (A&E), Nagaland for information.

Attested
[Signature]
Advocate

[Signature]
1/5/2000
DEPUTY ACCOUNTANT GENERAL (AUDIT).

To, ✓

The Accountant General(AUDIT),
Nagaland, Kohima.

Subject:-

Prayer for re-trial in the case of reduce of grade and suspended increments.

Sir,

With reference to DAG(Au.)'s order No. A/A/4-28/97-98/17 dated 1.5.2000 and Memo No. A/A/4-28/97-98/19-23 dated 1.5.2000, regarding degrade from the post of Sr. Auditor to the lower post of Auditor in a lower pay of scale as well as the close off earn increments upto the period of 5(five) years, I have the honour to state the following few lines for your kind perusal and considerable re-trial please.

That's Sir, I have already been furnished the required documents relating to the advance of Rs. 17,000/- (Rupees Seventeen thousand) only, which was taken by me for purchasing of land except the Registration certificate to be issued by Government of Assam. For your kind information I like to intimate you that issue of a registration certificate by the government for the land owner is a very lengthy process. This is the root of inability in production of Registration Certificate to this office by me. However, registration of land-site which was purchased by me is under process. As well as completion of registration of the same, I will produce to this office without fail.

Sir, the disciplinary action taken and served through the aforesaid memo, against me is very sharp and affective to my family-life as well as to my ignore children who are ongoing study. Sir, I have no other source of income to bear expenditure in maintenance of my family in such an environment of high priced social life. I ensured that I would be able to furnish more reliable documents in connection with the purchasing of land for favour of my stand. Also, I ensure that the truth shall be placed before obtaining registration of land subject to allow me more few days time with your favourable consideration.

Under the above circumstances, I, therefore pray your kind honour to kindly re-trial of my case on humanitarian ground for the sake of family life and allow me once more convenient time for production reality of the problem. For the kindness on your consideration, I shall remain ever grateful to you and oblige, Sir.

Yours faithfully

(Shri Madan Ch. Kachari)

Auditor,
O/o the Accountant General(Au.)
Nagaland, Kohima.

Date: 08-05-2000.

Attested

[Signature]
Attrocat.

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OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND, KOHIMA.

No. A/A/4-28/97-98/356
Dated 22nd November'2000.

MEMORANDUM

Sh. Madan Chandra Kachari, Sr. Auditor availed of a House Building Advance of Rs. 17,000 in August 1996 for the purpose of purchase of land. This represented 20% of the total amount of Rs. 85,000 sanctioned to him for house-building purpose. In partial fulfillment of the requirement, Sh. Kachari produced various documents which indicated that he had either purchased land located at Dag no. 186/175 or at Dag no. 137/194 in Silapathar. Since there was reason to suspect that Sh. Madan Chandra Kachari had not purchased the land with the money provided for this purpose by the Govt. under the House Building Advance Rules, and had thereby misutilised the House Building Advance, an enquiry was ordered on 15th January 1999 by the competent authority under Rule 14 of the CCS (CCA) Rules. Accordingly, an enquiry was held, and it was concluded by the inquiry officer that the charge of misutilisation of House Building Advance against Sh. Madan Chandra Kachari stood proved. The findings of the Inquiry Officer were forwarded to Sh. Madan Chandra Kachari, Sr. Auditor on 21st July 1999 for his comments. On Sh. M.C. Kachari failing to produce any documents in support of his claim that he had not misutilised the House Building Advance granted to him, despite multiple opportunities to do so, the Disciplinary Authority vide his order dated 1st May 2000 imposed the penalty of reduction in rank from that of Sr. Auditor in the scale of Rs.5,000-150-8000 to that of Auditor in scale of Rs. 4000-100-6000 for a period of five years with cumulative effect, his pay would be fixed at Rs. 5300 during this period of Penalty. On the expiry of five years, Sh. Kachari would be restored to the post of Sr. Auditor and his pay fixed at Rs. 6050.

Sh. Kachari represented against this penalty vide his letter dated 8th May 2000 wherein he stated that the land had been purchased by him but that the Registration Certificate had not been issued by the Govt. of Assam. Sh. Kachari had also met the undersigned who is the Appellate Authority on 8/5/2000 in this regard.

The issue before the Appellate Authority was to establish whether Sh. Kachari had made a bonafide purchase under the Rules utilising the House Building Advance availed by him in August 1999. One such evidence would be, proof that the purchase of land and the availing of the advance were proximate in time i.e on or around August 1996. After protracted enquiries by officials of AG (Audit) Assam and of this office deputed for this purpose, the following is proved.

Attested

Advocate.

i) That Sh. Madan Kachari is neither in ownership or in possession of land under Dag.No. 186/175 in Silapathar.

- ii) The possessor of the above land is Sh. Mina Chutia, and not Sh. Madan Chandra Kachari, or Sh. Dhiren Gogoi from whom Sh. Kachari claimed to have purchased the land.
- iii) Sh. Kachari is in possession of land covered by Dag No. 137/194 in Silapathar, and such possession has been since 1987-88. In other words, even this land was not purchased utilising the money sanctioned to him towards House Building Advance.

Based on the above, and supporting evidence, the undersigned, as Appellate Authority concludes as under.

- i) That the charges against Sh. Madan Chandra Kachari on misutilisation of House building Advance resulting in the issue of penalty by the Disciplinary Authority vide his orders dated 1st may 2000 stand fully proved and sustained.
- ii) That despite his committing willfully and deliberately what tantamounted to a fraud on the Public Exchequer, Sh. Kachari was brazen enough to continue with the deception, and in the process deliberately wasted the time and resources of the Administration.

In view of the facts stated above, Sh. Madan Chandra Kachari is hereby informed that the Appellate Authority, after careful deliberation proposes to enhance the penalty awarded to him by the Disciplinary Authority vide his orders dated 1st May 2000. If Sh. Madan Chandra Kachari wishes to state anything in his defense before the Appellate Authority issues his final orders in this regard, he is directed to do so within 10 days of issue of this order, after which time, if no reply is received, it will be presumed that he has nothing further to say in this matter and orders issued accordingly.

A copy of Circle Officer, Sissiborgaon letters no. SBC/18/2000/1459 dated 19/6/2000 and no. SBC/18/2000/5233 dated 19/10/2000 is enclosed.

Randh
ACCOUNTANT GENERAL

Copy to:-

Sh. Madan Chandra Kachari, Sr. Auditor

Attested
CISAS
Director

New memo &
Deposited per 2/11/
Not in file

ANNEXURE-7

To
The Circle Officer, Sibsagar
R.V.Circle.

Dated the 15.12.2000

Sub: Clarification report regarding the land under Dag
No.137 and 194 of Silapathar town Block No.2 in the nature
of Shri Madan Ch.Kachari.

Sir,

With due respect and honour I beg to state that
the following few lines that Sir, I have purchased a plot of
land at Silapathar 2 no.Nagar Block. The land measuring 1
Bigha 10 L.at Dag No.137 pp/194 pt.

But Sir, it is seen that it was wrongly Booked the
Dag No.186/175. Therefore, I request you to kindly consider
my case and rectified the wrong No.186/175 instead of
137/194.

This is for information and kind consideration.

date. 15.12.2k

Yours faithfully

(MADAN CH.KACHARI)

Attested

Advocate.
Advocate.



OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND, KOHIMA.

No. A/A/4-28/97-98/390
Dated 13th December 2000.

ORDER

Sh. Madan Chandra Kachari, Sr. Auditor availed of a House Building Advance of Rs. 17,000 in August 1996 for the purpose of purchase of land. This represented 20% of the total amount of Rs. 85,000 sanctioned to him for house-building purpose. In partial fulfillment of the requirement, Sh. Kachari produced various documents which indicated that he had either purchased land located at Dag no.186/175 or at Dag no. 137/194 in Silapathar. Since there was reason to suspect that Sh. Madan Chandra Kachari had not purchased the land with the money provided for this purpose by the Govt. under the House Building Advance Rules, and had thereby misutilised the House Building Advance, an enquiry was ordered on 15th January 1999 by the competent authority under Rule 14 of the CCS (CCA) Rules. Accordingly, an enquiry was held, and it was concluded by the inquiry officer that the charge of misutilisation of House Building Advance against Sh. Madan Chandra Kachari stood proved. The findings of the Inquiry Officer were forwarded to Sh. Madan Chandra Kachari, Sr. Auditor on 21st July 1999 for his comments. On Sh. M.C. Kachari failing to produce any documents in support of his claim that he had not misutilised the House Building Advance granted to him, despite multiple opportunities to do so, the Disciplinary Authority vide his order dated 1st May 2000 imposed the penalty of reduction in rank from that of Sr. Auditor in the scale of Rs.5,000-150-8000 to that of Auditor in scale of Rs. 4000-100-6000 for a period of five years with cumulative effect, and his pay fixed at Rs. 5300 during this period of penalty. On the expiry of five years, Sh. Kachari would be restored to the post of Sr. Auditor and his pay fixed at Rs. 6050.

Sh. Kachari represented against this penalty vide his letter dated 8th May 2000 wherein he stated that the land had been purchased by him, but that the Registration Certificate had not been issued by the Govt. of Assam. Sh. Kachari had also met the undersigned, who is the Appellate Authority, on 8/5/2000, in this regard.

The issue before the Appellate Authority was to establish whether Sh. Kachari had made a bonafide purchase under the Rules utilising the House Building Advance availed by him in September 1996. One such evidence would be, proof that the purchase of land and the availing of the advance were proximate in time i.e on or around

Attested
Advocate.

August/September 1996. After protracted enquiries by officials of AG (Audit) Assam and of this office deputed for this purpose, the following is proved.

- i) That Sh. Madan Kachari is neither in ownership or in possession of land under Dag No. 186/175 in Silapathar.
- ii) The possessor of the above land is Sh. Mina Chutia, and not Sh. Madan Chandra Kachari, or Sh. Dhiren Gogoi from whom Sh. Kachari claimed to have purchased the land.
- iii) Sh. Kachari is in possession of land covered by Dag No. 137/194 in Silapathar, and such possession has been since 1987-88. In other words, even this land was not purchased utilising the money sanctioned to him towards House Building Advance.

Based on the above, and supporting evidence, the undersigned, as Appellate Authority concludes as under.

- i) That the charges against Sh. Madan Chandra Kachari on misutilisation of House building Advance resulting in the issue of penalty by the Disciplinary Authority vide his orders dated 1st may 2000 stand fully proved and sustained.
- ii) That despite his committing willfully and deliberately what tantamounted to a fraud on the Public Exchequer, Sh. Kachari was brazen enough to continue with the deception, and in the process deliberately wasted the time and resources of the Administration.

In view of the facts stated above, Sh. Madan Chandra Kachari was informed, vide this office letter No. A/A/4-28/97-98/356 dtd 22/11/2000, that the Appellate Authority, after careful deliberation, proposed to enhance the penalty awarded to him by the Disciplinary Authority vide his orders dated 1st May 2000.

In his reply dated 28/11/2000, Sh. Madan Chandra Kachari has stated that the occupation report submitted by the Sissiborgaon Revenue Circle No. SBC. 18/2000/5233 dt 19.10.2000 against Dag no. 137/194 is incomplete, and that the land is actually in Sh. Kachari's possession since 9th September 1996 after transfer by Sh. Dhiren Gogoi, the former land owner. Sh. Madan Chandra Kachari has also stated that he had, in his earlier communication to this office wrongly intimated the Dag. no. of his land as 186/175 instead of 137/194 which is actually in his possession. Sh. Kachari has requested either a de-novo thorough investigation by the concerned Revenue Circle Office, or to allow Sh. Kachari to produce reliable documents.

Attested

Advocate.

It would appear that the intention of Sh. Madan Chandra Kachari is to lead the Administration on a wild goose chase. From perusal of the files, it is observed that Sh. Madan Kachari had, time and time again, since February 1997, been asked to furnish the documents required to establish his claim. He has consistently failed to do so. Secondly, Sh. Kachari was asked during the enquiry as to what was the exact location of the land purchased by him. On two separate occasions, as seen from the daily order sheet for departmental proceedings dated 10th March 1999 and 12th April 1999, Sh. Madan Chandra Kachari had clearly and categorically stated that the land in his possession was located in Dag no. 186/175. Sh. Kachari had also stated in the Daily Order Sheet dated 12th April 1999 that the land owner for Dag no. 137/194 was also the original land owner for Dag no. 186/175, and that, after initially entering into an agreement to purchase land under Dag no. 137/194, Sh. Kachari finally purchased land under Dag no. 186/175. In token of his having made the above statements, Sh. Kachari also affixed his signature on the daily order sheets of 10th March 1999 and 12th April 1999. Having done so, Sh. Kachari is ESTOPPED from now denying that he had purchased land at Dag. no. 186/175 and that the land purchased by him in 1996 is actually land at Dag no. 137/194. Further, as clearly stated by the Circle Officer, Sh. Kachari has had the land at Dag no. 137/194 in his possession since 1987-88 and not 1996, when he availed of HBA for purchase of land.

It is therefore amply clear that Sh. Kachari has not only drawn House Building Advance on fraudulent grounds, he has time and time again wasted the time and resources of the Administration by deliberately misleading the authorities and leading them on a wild goose chase. This action of Sh. Madan Chandra Kachari was a grave and serious misconduct within the meaning of Rule 3(iii) of the Central Civil Services (Conduct) Rules.

Now, therefore, the undersigned, in exercise of his powers as Appellate Authority conferred on him under Rule 26 and 27 of the Central Civil Services (Classification, Control and Appeal) Rules, has decided to enhance the penalty to Sh. Madan Chandra Kachari by the disciplinary Authority vide his Order No.A/A/4-28/97-98/17 dtd 1st May 2000 and hereby orders that, Sh. Madan Chandra Kachari Sr. Auditor, be reduced to the post of Auditor with the scale of pay Rs.4000-100-6000, from the post of Sr. Auditor with the scale of pay Rs. 5,000-150-8000, for a period of 5 (five) years w.e.f. the date of issue of this order under Rule 11 (vi) of Central Civil Service (Classification, Control and Appeal) Rules 1965. It is further ordered

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that his pay fixed at Rs.4000/-- (Rupees Four thousand only) in the scale of pay Rs. 4000-100-6000 during the period of penalty. He shall not earn increments of pay during the period of reduction, and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. On the expiry of 5 (five) years , he will be restored to the post of Sr. Auditor. On restoration to the post of Sr. Auditor, his pay will be fixed at Rs. 6050 (Rupees six thousand and fifty only) in the scale of pay Rs.5000-150-8000 and he will be eligible to earn increments from that stage, thereafter, subject to fulfillment of other conditions/ rules governing the grant of increments of pay. It is finally ordered that, on restoration to the post of Sr. Auditor after a period of 5 (five) years, the original seniority of the official in the post of Sr. Auditor prior to the imposition of the penalty shall be restored.]

Reduction of Rank

Reduction of Pay

11 (5)
Step ACCOUNTANT GENERAL

Memo No. A/A/4-28/97-98/391-394

Dated 13th December 2000

Copy to:-

- 1) Sh. Madan Chandra Kachari, Sr. Auditor, Office of the Accountant General, Nagaland
- 2) The Audit Officer (Administration) for necessary action
- 3) The Service Book of Shri Madan Chandra Kachari, Senior Auditor
- 4) The PAO, IA&AD, Nagaland, Office of the Sr. Dy. Accountant General (A&E), Nagaland for information

Radh

ACCOUNTANT GENERAL

4.
Attested

Advocate.

To

The Accountant General(Audit),
Nagaland, Kohima

Subject:- *Prayer for condonation of HBA(Advance) for purchase of plot of land during the year 1996.*

Sir,

With due respect and humble submission on the subject cited above, I beg to state that I took HBA (loan) for purchasing a plot of land amounting to Rs.17,000/- as sanctioned by this office.

I had already been produced the following essential documents in that connection

- 1) Land Revenue/rent or khajana as imposed by the Government of Assam which was not paid by the land owner since 1987 to 1995. When I purchased a plot of land from the said land owner in 1996 I paid all the rent or khajana from 1987 to 2000 along with arrears (Receipt enclosed)
- 2) The agreement deed of the land in between land owner and myself stating with arrears, amount, boundary of the plot.
- 3) Certificate issued by the Land Revenue Collector (Mouzader) of the jurisdiction.
- 4) Certificate of C.O. (S.D.C.) of Sissiborgaon stating with plot & Dag Number.
- 5) Clarification issued by the C.O. (S.D.C) Sissibargoan Rev. circle, Sissiborgoan vide No.SBC/18/2000 date 20.12.2000 regarding Dag No.186/175 instead of 137/194 as possessed by myself. (Photo copy enclosed)
- 6) As per order and extract of D.A.G's order at P/127N of file No.A/A/PF/1-126/88=89 dated 4.12.2000 the principal amount of except penal interest of HBA Rs.17,000/- have been recovered by this office.

In view of the above, the arear is under tribal belt and block under the provision of Assam Government survey of the land by the Government of Assam, settlement office (C.O.) is done after every 30 years. As and when Miyadi Patta will be issued by the C.O. under the jurisdiction same document will be produced.

Attested
J. Das
Advocate

Therefore, I am to request you kindly to look in to the matter sympathetically that I am not able to draw my Pay & allowances from November 2000 to date which may please be released due to my financial hardship and obligatory to my family members. Further, I am to request you kindly to consider the deduction order from Sr. Auditor to Auditor service under your kindness. I shall be ever grateful to you

Thanking in anticipation.

Yours faithfully,

Madan Ch Kachari

(MADAN CH KACHARI)

~~Dated, Kohima the 1st May 2001~~

at Kohim H 20 May 2001.

Attested

[Signature]
Advocate.

All India Audit & Accounts Association

(Recognised by Govt. of India)

Head Quarters:

LIG-15/1089-90, Vasundhara,

P O - Sahibabad 201010

Distt. Ghaziabad (UP)

Tele-fax: 0575-774743

Ref. No/AIA.../B-1/2001/54.

Dated....18.06.2001..

To

The Comptroller & Auditor General of India.
10, Bahadur Shah Zafar Marg.
New Delhi-110002.

Subject:-Punishment awarded to Sri.Madan Ch.Kachari,Sr.Auditor,
Office of the Accountant General (Audit), Nagaland on
allegation of fraudulent use of H.B.A. sanctioned to
him-regarding.

Sir,

We have received a representation from Sri.Madan Ch. Kachari,Sr.Auditor, Office of the Accountant General (Audit), Nagaland, Kohima, contesting the findings of the administration on the above subject.

Sri.Kachari, in his representation stated that he has actually purchased a plot of land with the advance drawn by him but the Dag No. in the land record was shown wrongly and subsequently corrected also.

It seems the office has not accepted his plea and imposed severe penalty including recovery of the advance in lumpsum by attaching his total pay since November 2000. He has sought permission to file a case, in this regard, in CAT.

I would request you to kindly look into his case and if his contention of mistake in recording of Dag Number is found correct, imposition of penalty against him may be reviewed.

Further, I am to attract your attention to his non receipt of any salary since November, 2000. Being a Government servant if his total salary is adjusted against advance drawn by him and already spent in purchase of land, it would definitely

Contd.....P/2.

Attested

Advocate
Advocate,

All India Audit & Accounts Association

(Recognised by Govt. of India)

Head Quarters:

LIG-15/1089-90, Vasundhara,

P O - Sahibabad 201010

Distt. Ghaziabad (UP)

Tele-fax: 0575-774743

Ref. No/AIA.....

/ 2 /

Dated.....

be difficult for him to maintain his own expenditure as well as expenditure of his family.

Since we have no mechanism to verify the authenticity of his claim or otherwise, you are requested to kindly get his case reviewed by fresh enquiry and decide his case on merit. He may be exempted from recovery of advance in lump-sum till the case is reviewed.

Thanking you.

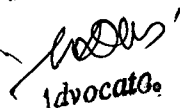
Yours faithfully,



(A. B. SEN.)
SECRETARY GENERAL.

General Secretary. All India Audit & Accounts Association.
Kohima.

Attested


Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O. A. No. 378 / 2001

Shri Madan Chandra Kachari.....Applicant

-Vs-

Union of India & Others.....Respondents

(The Written statements filed by the Respondents No. 1,2 & 3)

The Written statements of the above noted respondents are as follows:

1. That a copy of the O. A. No. 378 / 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 statement is filed by 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 statements made in para 1, the respondents state that the competent authority has taken the disciplinary action against Shri Madan Chandra Kachari, Auditor after observing relevant rules and procedures and Shri Kachari was always kept informed about these. Shri Kachari was also given reasonable opportunity by the competent authority to defend all the imputations and charges framed against him. As such, the action taken against him cannot be referred as illegal.

Filed by: J
Deputy
(B. C. Pathak) 30/4/02
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati
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4. That with regard to the statements made in para 2, 3 and 4.1, the respondents state that they have no comments to offer to these statements.

5. That with regard to the statements made in para 4.2, the respondents state that Shri Kachari was sanctioned and paid Rs. 17,000/- (Rupees Seventeen thousand) being House Building Advance (HBA) on 01-09-1996. As per Rule 5(a) (1) of HBA Rules, when part of the advance is given for purchase of land the same must be purchased and the Sale Deed in respect of thereof must be produced for inspection of the Department concerned within 2 (two) months of the date on which the amount is drawn or within such further time as the Government / Head of the Department may allow in this behalf, failing which the applicant shall be liable to refund at once the entire amount to Government together with interest thereon. As such, as per Rule, Shri Kachari had to submit that Sale Deed on or before 31-10-1996. Since Shri Kachari failed to comply with the Rules, he was served the following administrative orders directing him to submit the Sale Deed and other documents.

- (1) Admn / Audit / Order No. 246 Dated 03-01-1997 {Annexure - 1}
- (2) Admn / Audit / Order No. 279 Dated 20-02-1997

In response to the above said orders Shri Kachari finally submitted Sale Deed though not in original with other documents on 21-02-1997. {Annexure - 2} to the authority for verification.

Thereafter, the respondents issued the Admn / Audit / Order No. 297 dated 14-03-1997 {Annexure - 3} directing Shri Kachari to submit the following documents within 18-03-1997 as per the requirement of the Rules.

- (a) Sale Deed in Court Fee Stamp Paper (in original)
- (b) Actual Transfer Certificate of the title of land
- (c) Registration Certificate in respect of land
- (d) Non-encumbrance from Land Authority

In a reply dated 18-03-1997 to the above order Shri Kachari assured that he would submit the above-mentioned documents by 30 April 1997 {Annexure - 4}. Subsequently, Letter No. Admn / Audit / Order No. 310 dated 31-03-1997 was

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issued to the applicant {Annexure - 5} in response to which the applicant requested to allow him some more time to furnish the above documents {Annexure - 6}.

As the applicant failed persistently to furnish the required documents as called for as per the Rules, he was issued Letter No. Admn / Audit / Order No. 61 dated 02-05-1997 asking him to refund Rs. 18,364/- {Principal amount of the HBA + Penal Interest} on or before 12-05-1997 {Annexure - 7}.

In response to the above letter No. 61, the applicant submitted a reply on 12-05-1997 {Annexure - 8} thereby requesting to sanction from his GPF Account to refund the HBA paid to him. At this stage, the authority decided to initiate disciplinary proceedings against the erring official and he was served with a Charge Sheet vide No. Admn / Audit / 4-28/ 97-98 / 639 on 15-07-1998 that is after serving various Orders as mentioned above {Annexure - 9}. He was allowed twenty-one and half month's time with effect from 01-11-1997 (that is after the expiry of the prescribed time for the submission of Sale Deed after drawal of HBA). This indicates that more than sufficient opportunities had been granted to him for submitting the required documents. As such, his contention of the Administration issuing Charge Sheet without waiting his reply is baseless and unacceptable.

6. That the statement made in para 4.3 being matter of records, the respondents have no comments to offer.
7. That with regard to the statements made in para 4.4, the respondents State that the statements are not factually correct. The applicant has stated that in response to the applicants letter dated 06-08-1999 {Annexure - 10}, the respondent issued an order vide No. Admn/Audit/4-28/97-98/32 dated 22-09-1999 {Annexure - 11} directing the applicant to submit the Sale Deed within 10 days from the date of receipt of Memorandum. It is also stated that the Sale Deed was made available to the applicant and in the said Sale Deed there was mistake in quoting the land particulars. However, it may be mentioned that the Sale Deed was not submitted

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after the issue of the order instead an unregistered Sale Deed in Court Fee Stamp Paper of Rs. 2/- (Two) was submitted wherein the following discrepancies were detected. {Annexure - 12 & 13}:

Earlier Document submitted in plain Paper without Court Fee Stamp	Document (Unregistered) submitted in Court Fee Stamp (Rs. 2 / -)
1. Date of Sale	09-09-1996
2. Area of Land	09-01-1996
3. Dag No.	2 Katha 40 Locha
	137 / 194 (As per Certificate given by Circle Officer)
	186 / 175

Due to these glaring discrepancies it was impossible for the Disciplinary Authority to accept the Sale Deed furnished by him. Also in the para it is noted that Shri Kachari had clearly mentioned about the factual position vide his letter dated 12-05-1997. But the fact that in the said letter there was no mention of the factual position. Therefore, the contention made in the para is totally misleading and far from the truth.

8. That with regard to the statements made in Para 4.5, the respondents state that the Inquiry report was forwarded to Shri Kachari vide letter No. Admn / Audit / 4-28/97-98/32 dated 22-09-1999 which was received by him on 24-09-1999 and he was afforded again the final opportunity to defend against the charges framed against him and was also allowed to produce required documents to substantiate his claim within 10 days of the receipt of the said memorandum. The purpose of passing a copy of the Inquiry report to C.O. is to obtain his views on the findings of the Inquiry report. But in his reply he had not expressed his views on Inquiry report rather sought some more time to furnish the documents vide his representation dated 06-10-1999 {Annexure - 14}. His requested was granted by

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the authority vide order No. Admn / Audit / 4-28/97-98/ dated 13-10-1999 { Annexure – 15}. This indicates that C.O. had no comments on the findings of the Inquiry report. However, after the elapse of more than seven (7) months from the date of receipt of the Inquiry report, Shri Kachari remained silent and accordingly the Disciplinary Authority passed the order imposing penalty on him vide order No. Admn / Audit / 4-28 /97-98 /17 dated 01-05-2000 {Annexure – 16}. As such, it is to mention here that the authority considered all materials on record and afforded maximum reasonable opportunity before passing the order.

9. That with regard to the statements made in para 4.6, the respondents state that the HBA Rules do not provide for indefinite time for furnishing required documents and therefore his request to be allowed to furnish them as and when obtained is totally unreasonable and goes against the very spirit of accountability of a Government Servant.
10. That with regard to the statement made in para 4.7, the respondents state that after receipt of the punishment order No. Admn / Audit / 4-28/97-98/17 dated 01-05-2000, Shri Kachari submitted a representation on 08-05-2000 {Annexure – 17}, wherein he assured that he would furnish the reliable document of land purchase in favour of his stand. For that he sought some more time and also personally met the Appellate Authority with this request. The Appellate Authority had granted his request and gave one final opportunity of three (3) months time to prove his case and till then, the order No. Admn / Audit / 4-28/97-98/17 dated 01-05-2000 was kept in abeyance vide Appellate Authority Note {Annexure - 18 & 19}. The Appellate Authority vide the minutes of the discussion held with Shri Kachari in the presence of Shri Md. Hussain Ali, Audit Officer on 10-05-2000 allowed Shri Kachari the last chance to prove his case. Therefore, the allegation that the penalty required to be enhanced does not have any basis.
11. That with regard to the statements made in para 4.8, the respondents state that the Appellate Authority communicated to Shri Kachari both verbally and in writing

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the consequences of the penalty. When Shri Kachari failed to prove his case, the Appellate Authority decided to enhance the penalty imposed on him by the Disciplinary Authority. The issue before the Appellate Authority was to examine whether Shri Kachari had made a bonafide purchase of land by utilising the House Building Advance paid to him. For this purpose, the Appellate Authority took up the matter confidentially with the Accountant General, Assam vide D.O. No. Sr. D A G (Au) / confd/99-2000/26 dated 12-05-2000 {Annexure -20} and D.O. No. A/A/4-28/97-98/44 dated 05-06-2000 {Annexure - 21} to verify the statements submitted by the charged official. The Accountant General, Assam deputed Shri Pradeep Ckakraorty, SO of that Office for this purpose {Annexure - 22}. Accordingly, the Circle Inspector, Sissiborgaon vide his letter No. SBG/Settle/18/2000/1227 dated 30-05-2000 furnished a reply wherein it was stated that the land measuring 1 (one) Bigha 10 (ten) Losa covered by Dag No. 137 and 194 is under the possession of Shri Kachari w.e.f. 1987-1988 {Annexure - 23}. But it does not have any Ekchania Patta and Shri Kachari's name was not entered in 195 T.B. Also it is mentioned that Shri Kachari paid the T. B. Jarimana from 1993-94 at T. B. 370 of Silapathar Nagar Block No. 2.

Again, Appellate Authority vide his D.O. No. Admn / Audit / 4-28/97-98/49 dated 07-06-2000 {Annexure - 24} requested Accountant General, Assam to furnish the clear status of the land numbering 137/194 which is claimed to have been purchased by Shri Kachari and the particulars of remittance of land revenue in respect of that land. In reply of the above letter, Accountant General, Assam vide confidential letter A G (Au)/Kms-1/99/247 dated 23-06-2000 {Annexure - 25} furnished the reply along with the information obtained from the Circle Office (photocopy of the letter No. SBC/18/2000/1459 dated 19-06-2000 {Annexure - 26} obtained from the Circle Officer, Sissibargaon, Assam is attached).

Further, to confirm the claim of Shri Kachari, that he had purchased the land measuring 137/194 at Silapathar Town, a Sr. Audit Officer was deputed by the Appellate Authority. The officer issued a letter 10-10-2000 {Annexure - 27} to Circle Officer to clarify the position. The reply furnished by the Circle Officer vide No. SBC/18/2000/5233 dated 19-10-2000 {Annexure - 28} stated that to land

measuring 1 Bigha 10 Lesha covered by Dag No. 137 / 194 is under the possession of Shri Kachari by right of occupation but not by the right of inheritance. He occupied the land in 1987 – 88. This was also stated by the confidential note dated 23-10-2000 {Annexure – 29} submitted by the deputed officer. Therefore, it was proved beyond doubt that Shri Kachari did not use the HBA paid to him for the purpose for which it was sanctioned.

On the basis of the facts, which emerged during the verification, the Appellate Authority informed the applicant the proposal for enhancing the penalty awarded by the Disciplinary Authority' order No. A/A/ 4-28/97-98/356 dated 22-11-2000 {Annexure-30} along with the copy of clarification received from the Circle Officer, Sissibargaon. The applicant was afforded a reasonable time of 10 days to furnish the reply in this regard. Shri Kachari submitted a reply to the above order on 28-11-2000 {Annexure – 31} wherein it was stated that the land covering by Dag No. 137/94 was neither occupied by him nor his father since 1987-88, but purchased by him from Shri Dhiren Gogoi on 09-09-1996. But the report of the Circle Inspector, Sissibargaon categorically contradicts his statement. It states that the land measuring 1 (one) Bigha and 10 (ten) Losa covered by the Dag No. 137 (pt) and 194(pt) of Silapathar Town of Block No.2 is under possession of Shri Kachari since 1987-88 which is neither Ekchainia nor Miyadi. Shri Kachari is holding the land as a squatter and is neither remitting "Bedakhali Jarimana" in the form of land revenue against the said land from 1993-1994. Therefore, it is proved beyond doubt that Shri Kachari did not utilise the HBA paid to him for the purpose for which it was sanctioned. His claim that he purchased the land in 1996 with HBA has no basis in facts. The land that he claimed to have purchased that year was in fact in his possession since 1987-88.

It is alleged that the respondents have added certain new charges against the applicant. In this context, it is to mention here that no new charges were added by the respondents but it was only a comment of the appellate authority on the fraud committed by the applicant as he misutilised the HBA and made false declaration. Therefore, the contention of para 4.8 is not acceptable. The Appellate

Authority did not go beyond the scope of the charges mentioned in the original Charge Sheet and did not act with any prejudice or predetermination in this case..

12. That with regard to the statements made in para 4.9, the respondents state that the appellate authority issued the order No. Admn / Audit / 4-28/97-98/390 dated 13-12-2000 {Annexure - 32} after considering all facts of the case and also giving more than the sufficient time to the applicant to prove his stand. Therefore, the contention of the para cannot be sustained.
13. That with regard to the statements made in para 4.10 the respondents state that in view of the facts of the case, the allegation made by the applicant cannot sustain in law and hence it is denied.
14. That with regard to the statements made in para 4.11 the respondents state that the applicant has already represented to the Comptroller & Auditor General of India against the order of the Appellate Authority through the All India Audit & Accounts Association vide No. A/A/B-1/2001/53 dated 18-06-2001. Meanwhile this Office is forwarding the details of the case to Comptroller & Auditor General of India for his consideration as the Revising Authority as per Rule 29 of CCS (CCA) Rules.
15. That with regard to the statements made in para 4.12 it is submitted that as per HBA Rules Sale Deed is the vital document proving ownership of the claimant to the land which he has acquired and conferring title to the land to him. Also, it has to be submitted within two months from the date of drawal of the Advance. Through various administrative directives as detailed in comments against para 4.2., Shri Kachari was directed to submit the Sale Deed in original. However, Shri Kachari initially submitted the particulars of land claimed to have been purchased by him on plain paper and subsequently in Court Fee Stamp Paper. Further, some discrepancies were noticed in respect of the land particulars furnished by Shri Kachari vide the above-mentioned documents which is elaborated on comments

against para 4.4. Since there was sufficient prima facie evidence to suspect that Shri Kachari had misutilised the HBA drawn by him, one Memorandum No. A/A/4-28/97-98/639 dated 15-07-1998 {Annexure – 10} charging Shri Kachari on misutilisation of HBA was issued. Therefore, the contention that the enquiry was initiated on a wrong notion of fact is not acceptable. He has so far failed to submit any document, which proves his title and ownership to the land, which he claimed to have been purchased utilizing HBA. Also prior to the issuance of the Charge Sheet, several administrative orders directing the applicant to submit the required documents (as detailed vide comments against para 4.2) were issued. Therefore, entire contentions made vide this para are untenable.

16. That with regard to the statements made in para 4. 13, 4. 14 and 4. 15, the respondents state that during various stages of disciplinary proceedings since the issuance of Charge Sheet, the applicant was provided with relevant documents supporting the charge. It is pertinent to note here that in various representations submitted by the applicant after each stage of the disciplinary proceedings, the applicant has not made any requisition for any documents required by him. As mentioned in the above para regarding 4. 12, the Charge Sheet was issued on a right understanding of the facts based on the prima facie evidence before the authority. Further, during the course of proceeding that is (i) from issuance of the Charge Sheet; (ii) after submission of the enquiry report; (iii) before passing the disciplinary authority's order No. A/A/4-28/97-98/17 dated 01-05-2000 and (iv) before passing appellate authority order No. A/A/4-28/97-98/390 dated 13-12-2000 the applicant was afforded one more opportunity to defend himself. Therefore, it is simply clear that authorities have approached the entire disciplinary proceedings fully observing the codal procedures with independent application of mind and afforded the applicant all reasonable opportunity to defend himself.
17. That with regard to the statements made in para 5. 1 to 5. 8, the respondents state that under the facts and circumstances of the case, the grounds shown can not sustain in law and the application is liable to be dismissed with cost.

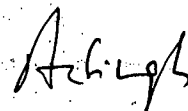
- 62
18. That with regard to the statements made in para 6 and 7, the answering respondents have no comments to offer.
19. That with regard to the statements made in para 8.1 to 8.2 and 9, the respondents state that as explained in the foregoing paragraphs, the applicant is not entitled to any relief whatsoever, as prayed for and hence the application is liable to be dismissed with cost as devoid of any merit.

In the premise 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 this application with cost.

VERIFICATION

I, Shri. A. K. SINGH....., presently working as A. G. NAGALAND being competent and duly authorised to sign this verification, do hereby solemnly affirm and state that the statements made in para. (4)^{1, 2, 3, 4, 6, 9, 13 to 18 and 19}..... are true to my knowledge and belief, those made in made in para 5, 7, 8, 10, 11, 12..... being matter of records are true to my information derived therefrom and the rest are my humble submission before this Honb'le Tribunal. I have not suppressed any material facts.

And I sign this verification on this 24th day April, 2002 at Guwahati, KOHIMA.



D e p o n e n t

Admin/Audit/Order No. 216.

DTN 3.1.97

ORDER

Shri Madan Ch. Kachare, S.A. is hereby asked to produce the following documents within ^{the next} ~~one~~ month positively to Admin. Sec. from the receipt of this order. Failure of which he is to refund the entire amount of K.B.A. loan by him.

- (1) Sale deed certificate in of purchase of the land
- (2) Mortgage deed and Surety bond

Authenticity: - Sr. DAC's order N- 215 N of file No. A/P/HGA/DC/16-33/96-97 dt. 2.1.97

Y. F.

Sd/-
Sr. A.C. (Admin)

Memo No: A/P/HGA/DC/16-33/96-97/1533 dt.

Copy to: -

- (1) Shri M.C. Kachare, Sr. A.C. *M.C. Kachare*
31/1/97

* The memo could not be served as ~~due to~~ he was on long leave & served on the first day of joining.

Sd/-
Sr. A.C. (Admin)

No. / 1000 / 1642
21/2/97

12

33

104

To

The Accountant General (Audit)
Nagaland : Kohima

Subject: Submission of Documents.

Sir,

With reference to AGN(AUDIT) letter No. "E 279 dated 20-2-97 regarding submission of documents on the subject cited above, I am to submit herewith the documents enclosed for said approval and necessary action.

It may be mention here that due to land on registration of Land purchase/Sale in the State of Nagaland. The documents pertaining to Sale deed under Revenue Act. is pending at the Authority concerned.

However the same will be submitted as and when obtained.

Yours faithfully

LIST OF ENCLOSURES.

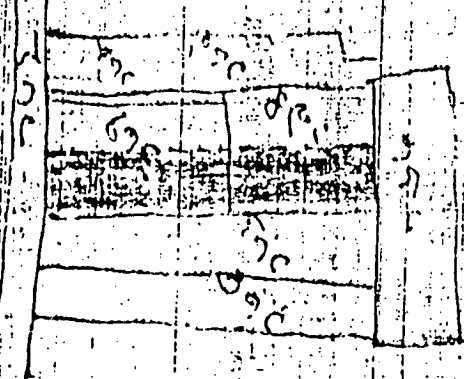
1. Sale Deed (not in original)
2. Land Tax Deposit receipt.
3. Site Plan
4. LandR Passagion Certificate.
5. Surety Bond.

(C) Mortgage Agreement form certificate

M. K. L. S. Ar. 21/2/97
(MADAN CHANDRA KACHARI)
S. Ar.

S. K. L. S. Ar. 21/2/97

दिनांक २०/११/२०१८
 दिनांक = २०/११/२०१८
 दिनांक = २०/११/२०१८



15
 10

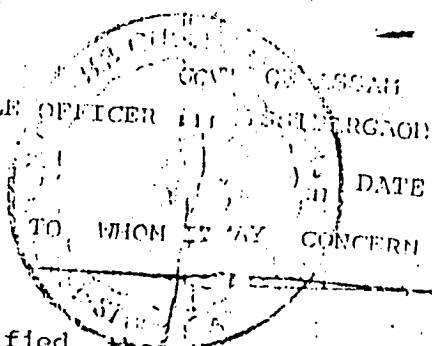
दिनांक २०/११/२०१८
 दिनांक = २०/११/२०१८

15

[Related to ANNEXURE-2]

30

87



OFFICE OF THE DISTRICT OFFICER IN CHARGE SIVASAGAR CIRCLE : SIVASAGAR
DATE :- 16.9.96
TO WHOM IT MAY CONCERN

Certified that the land scheduled below is in the name and under possession of Sri Madan Chandra Kachari
S/O Late - Jhanuvram Kachari is an inhabitant of Village -
Silapathar in Sivasagar of Dhemajai District

Schedule of Land
Mouza :- Sivasagar
Village :- Silapathar Town No. 2 Block.
Patta No. / T. No. - 370
Dig No. - 137, 124 (part)
Area :- 1 B. 0 K. - 10 L. 2 Only

16/9/96
District Officer
Sivasagar Circle

Immediate

(35)

Adm/ Credit/ order No. 297

ORDER

Dtd. 14/3/97

Sri Madan Ch. Kachari, Sr. Ar. is hereby asked to submit produce the following documents within 18th March '97 positively to Adm. Sec. from the date of receipt of this order. Failure of which he is to refund the entire amount of H.B.A. drawn by him with interest.

- (1) Sale deed in Court for stamp paper (original)
- (2) Actual Transfer Certificate of title of land.
- (3) Registration Certificate in respect of the land.
- (4) Non-encumbrance Certificate from land revenue authority.

(Authority - Adm's order of P/113 N dtd. 25/2/97 of file no. ADM/HR/13-3/88-52/pt. 11)

by
Sr. A.O. (Adm.)

Memo No. ADM/HR/ME/6-38/96-97/1857 Dtd. 14/3/97

Copy to - Sri M.C. Kachari, Sr. Ar.

Received
14.3.97
M.C. Kachari

by
Sr. A.O. (26-)

17

[ANNEXURE - 4]

(36)

69

To.

The Accountant General (Audit)
Kagaland: ; Kohima.

Subject:- Submission of Documents in respect of H.T.A

Sir,

With reference to the Administration's order No. 287 dated 14-03-97 on the subject cited above, I have the honour to state that the documents mentioned in the Memo will be given to the Competent Authority (S.D.O/Registrar) in the month of April 1997.

I would, therefore, request you kindly to allow me submit the Documents related to the House Building Advance by 30 of April 1997 and oblige.

Dated Kohima
the 18th March '97.

Yours faithfully

Kacham S. A.
(S.D. CH. KACHAM)
Sr. Auditor

19

V
[ANNEXURE - 5]

18

F. C. (37)

Admn/ Audit/Order No. 310

Dated 31/3/97

With reference to his application

dated 18.3.97 regarding submission of documents in support of purchase of land, Shri Madan Ch Kachari, Sr. As is informed that (1) Sale deed in Court fee Stamp paper (original) and (2) Non-encumbrance Certificate from land revenue authority do not require registration and ~~these~~ ^{these} should be these documents should be available with him if the transaction is over. However, ~~after~~ ^{all} ~~consideration~~ ^{consideration} he has, he is asked to submit the above documents called for vide Admn order no Admn/ Audit/Order no 297 dtd 14.03.97 on or before 4.4.97 failing which appropriate Administrative action may be taken against him. It may be noted that this is the last chance granted to him to submit the required documents called for.

4/2/97
I)

NB4A'

- Shri M. C. Kachari, Sr. As is further asked
- a) to state the date on which the registration of the transaction was deposited in the Reg. Registrar's office and the receipt of the documents for registration was issued to him by the Registrar's office. Copy of receipt issued by the Registrar's
 - b)

77

19

office in support of documents received by them
 no. (Registrar's office) from him may (S.M.C.
 Kachari, Sr. A.) may be produced to the
 by 24/6/97. 31.3.97.

C. Amrithy - AG's order of 10/10/97
 file no A/A/HB/D/MC/6-38/96-97/
 dtd 27.3.97)

By A.C.

file no - A/A/HB/D/MC/6-38/96-97/1965
 dtd 28.9.97.

20/10/97
 13/10/97

Copy to
 S.M.C. Kachari, Sr. A.

20
ANNEXURE - 6

38C

To The (A.G. CASE)
Nagaland, Kohima

Subj: H.B.A. Documents.

Sir,

With reference to the Admin.
Memo No. Admin/Audit/HBA/ME/6-38/46-97
dated 31.3.98 asking me to
furnish certain documents, I am to
state that Registration Certificate in
no any land will be issued by the
competent authority, & shall be
able to furnish the same when
I obtain the Registration Certificate
for my land. Now, the receipt
is not with me. All receipts and
documents is in my home.

Under the circumstances, I may
kindly be allowed some more time
to furnish the Registration Certificate.
The authority issues me the
other case. I am willing to
of the H.B.A. Advance taken (X)
by me

Dated 2.4.98.

Yours faithfully,

Madan R. Mariani

C.A.P. Section

VI
ANNEXURE - 7

21
OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND :: KOHIMA

Admn/Audit/Order No. 61

Dated. 2nd May '97

With reference to his application dated 2.4.97 regarding House Building Advance Shri M.C. Kachari, Sr. Ar is hereby asked to refund the House Building Advance drawn by him alongwith penal interest in one lump-sum which comes to Rs. 18,364/- on or before 12/5/97.

Failure to refund the amount with in the stipulated time will attract action under Rules.

(Authority :- AG's order at P/15ⁿ in the file No. Admn/Audit/HBA/MC/6-38/96-97).

Sd/-

Sr. Audit Officer (Admn)

Memo No. Admn/Audit/HBA/MC/6-38/96-97/215. Dated, 2/5/97

Copy to :-

Shri M.C. Kachari, Sr. Auditor.

by
Sr. Audit Officer (Admn)
2/5

Received
M. C. Kachari
5/5/97

VI
22

[ANNEXURE - 7]

(40)

24 C

Admn/Audit/Order No. 61.

Dt. 2/5/97

HBA dw.

Ref. to his application dtd 2/4/97 regarding
Shri M.C. Kachari, Sr Ar is herby
asked to refund the H.B.A drawn by
him alongwith penal interest within 12/5/97
in one lump instalment
Which comes to Rs. 18,364/- [with in] or before 102
12/5/97.

~~In case of~~ Failure to refund the amount
within the stipulated time will attract
action under Rules of discipline.

of
II

admr

(Authority - A's order at 1/15th dt 2/5/97
in the file No. A/A/HBA/M.C/6-38/
96-97)

for
Sr HO (Admn).

No. A/A/HBA/M.C/6-38/96-97/215. Dt. 2/5/97

10
11C

Copy to

Shri M.C. Kachari, Sr. Ar.

received
at 4.20 PM -
Kachari Sr Ar

for
210

VI

23

Admn/Oct/93

12/5/97

(41)

To The Accountant General (Audit)
Haidland, Kohima.

Sub:- Reply of Memo No Admn/Audit/
H.B.A/Mc/6-38/96-97/215 dt 2.5.96.

Sir,

With reference to your memo NO. Admn/Audit/H.B.A/Mc/6-38/96-97/215 dt 2.5.96, I have the honour to state that the H.B.A was sanctioned for the purchase of a plot of land at Gilapahar. But due to some unavoidable circumstances I could not produce the Registration of the plot of land in due time. So in order to refund the H.B.A sanctioned to me as ordered, I had applied for sanction from G.P.F (NRA) which is yet to be sanctioned.

Sir, other than G.P.F I have no other sources to repay the advance sanctioned to me. I therefore request to your honour to kindly expedite sanctioning of my G.P.F (NRA), so that I can make payment early.

Yours faithfully,

Madan Ch. Kachari

Sr. Ar.

Received on 12/5/97

To
L. Saman

12/5

Satish Kohima
12th May '97

24

①

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Madan Ch. Kachari Sr. Ar. under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures-III and IV).

2. Shri Madan Ch. Kachari Sr. Ar. is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

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

5. Attention of Shri Madan Ch. Kachari Sr. Ar. is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Madan Ch. Kachari Sr. Ar. is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

Memo No. D/P/4-28/97-98/639
dt. 15.7.98

Sd-
Sr. Dy. Accountant General (Audit)

To
Shri M. C. Kachari

Secy. Audit.

That Shri Madan Ch. Kachari Sr. Ar.
drawn Rs 17,000/- being H.P.A.

Received
15/7/98

25 (2)

ARTICLE - I

Statement of articles of charge framed Shri Madan Ch. Kachari, Sr. Auditor.

The said Shri Madan Ch. Kachari while functioning as Sr. Auditor had drawn on 1.9.96 Rs. 17,000/= (Rupees Seventeen thousand) only for purchase of plot of land under House Building Advance Rules. Shri Madan Ch. Kachari, Sr. Auditor was required to produce the Registered sale deed within two months of drawal of advance but he has failed to produce the documents even after one year, inspite of several reminders from his representation dated 14.3.97 and 2.4.97 it is presumed that he has not purchased any plot of land for which sanction of Rs. 17,000/= (Rupees Seventeen thousand) only was accorded and amount drawn by him. He has also failed to refund the amount with penal interest as ordered by the Head of the Department vide order No.61 dated 2.5.97.

The misutilisation of H.B.A. and subsequent failure to refund the amount with penal interest by Shri Madan Ch. Kachari, Sr. Auditor as ordered by the superior authority was thus, act of grave misconduct and unbecoming of a Government servant within the meaning of Rules 3(iii) of C.C.S (Conduct) Rule.

ANNEXURE - II

That Shri Madan Ch. Kachari, Sr. Auditor had drawn Rs. 17,000/= being H.B.A. for purchase of land on 1.9.96 against S/O NO. Admn/Audit/Order No.140 dated 20.8.96. He was supposed to submit sale deed in original vide Rule 5(a)(I)(II) of H.B.A. Rule by 31.10.96, but he had not submitted the same to the Admn. Section. He was asked to submit the same within 18.3.97 vide this office Admn/Audit/Order No.297 dated 14.3.97 which was subsequently extended and asked to produce by 4.4.97 vide Admn/Audit/Order/310 dated 31.3.97. But instead of submitting the sale deed he sought for extension of time upto 30.4.97 vide his application dated 18.3.97 on the plea that the sale deed will be given by the SDC/Registrar in the month of April '97. Again, vide his application dated 2.4.97, he had intimated that he would be able to submit the sale deed as and when it is available from the competent authority. Due to his failure to produce registered sale deed and other documents in support of purchase of land, he was asked to refund the entire amount of H.B.A. together with

(contd. 2/-)

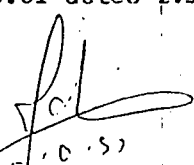
Shri Madan Ch. Kachari
had drawn Rs. 17,000/- being H.B.A.

contd. -

penal interest Rs. 18,364/= (calculated upto 3.5.97) on or before 12.5.97 vide this office Admn/Audit/Order No. 61 dated 2.5.97. Despite repeated reminders he has neither produced the registered sale deed and other documents as called for vide Admn/Audit/Order No. 140 dated 20.8.96 nor refunded the amount of advance and penal interest (Rs. 18,364/=) as ordered for vide this office Admn/Audit/Order No. 61 dated 2.5.97.

ANNEXURE - III

1. Application for H.B.A.
2. Sanction order Admn/Audit/Order No. 140 dated 20.8.96.
3. Actual payees receipt dated
4. Shri Madan Ch. Kachari, Sr. Auditor's application dated 18.3.97, 2.4.97 and 2.5.97.
5. This office order nos. (1) Admn/Audit/order No. 297 dated 14.3.97, (2) Admn/Audit/Order No. 310 dated 31.3.97 and (3) Admn/Audit/Order No. 61 dated 2.5.97.


28.0.97
Sr. Dy. Accountant General (Audit).

Order Audit
Jat 27/11/97

Adm Drawn Rs 17,000/- being H.B.A.

COB

27

(15)

To The Sr. Dy. Accountant General
Nagaland, Kohima

Sub:- Memo reply to your memo NOA/AI
4-28/97-92/639 dated 15.12 July
1998 and subsequent meeting held on
10th March 1999 and 15th April 1999.

Sir, Most respectfully I beg to state to
the subject cited above that I had
been shown Rs. 17,000/- being NIBA for
purchase of land and I had been utilised
the money for which it was sanction
to me. In support of my Land purchase
I had produced the requisite documents.
But due to non registration of said land
I could not submit the documents as
required by you in due time.

That Sir, regarding submitted
documents I would like to inform
you that the Land Revenue authority of
Assam does not produce any printed
documents without settlement of Registration
of land for which I compelled to submit
the same under attestation of the
concerning authority. I tried my self
to settle the case and attend in the
collector office in many time. Due to
non-availability of time I could not
pressured the authority in regular
basis that is why the Registration of
land is become to much delay. I am
deeply regretted that the Registration
of land not yet been settled.

Before purchase of land I have no such idea
that I will get more trouble in Registration.

E. D. NT

General (Audit)

Moreover, Sir, there is no scope to get the said documents immediately. I would like to surrender the money. As I have no other source of income, I am willing to repaid the money with penal interest in instalment basis from my monthly salary.

It is therefore requested you to kindly consider my case for which I feel grateful to you. I assure that no such error or mistake will never be repeated by me in future.

Yours faithfully

M. Kachari
(MADAN CH. KACHARI)
Sr. Asst.

29

(16)

ANNEXURE - II

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND, KOHIMA.

No. A/A/4-28/97-98/32
Dated 20th September 1999.

MEMORANDUM

A copy of the report of the Inquiry Officer who inquired upon the charge of misutilisation of House Building Advance against Shri Madan Chandra Kachari, Senior Auditor was forwarded to Shri Kachari vide Memorandum No. A/A/4-28/97-98/06 dated 21st July 1999. During the course of inquiry reasonable opportunity was afforded to Shri Madan Chandra Kachari to prove his claim that he had actually utilised the advance granted to him for the purpose which the advance was meant for. However, Shri Madan Chandra Kachari failed to furnish evidence to substantiate his claim. Therefore, as per the report of the Inquiry Officer, the charge against Shri Madan Chandra Kachari stands proved.

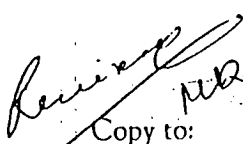
However, Shri Madan Chandra Kachari vide his reply dated 6th August 1999, had reiterated ~~(his stance)~~ that he had not misutilised the House Building Advance granted to him. Now, therefore, the under signed as Disciplinary Authority^{is} inclined to afford a final opportunity to Shri Kachari to produce all records available, to substantiate his claim.

His reply should reach the undersigned within 10 (ten) days from the date of receipt of this Memorandum.

Receipt of this memorandum may kindly acknowledged.


(E.M. Patton)

Dy. Accountant General.


Copy to:

Shri Madan Chandra Kachari, Senior Auditor.

MD 24/9/99

100
Registration

(231

(43)

2RS



श्री नरसिंह स्वामी
नरसिंह

श्री ३३०—

(१) श्री रामानन्द स्वामी

(२) श्री रामानन्द स्वामी

(३) श्री रामानन्द स्वामी - २५३३०

- 32 -
[ANNEXURE-13] (ub)

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND :: KOHIMA.

MEMO

Admn/Audit/Order No.53

Dated.25.9.98

Shri Madan Ch.Kachari, Sr.Auditor is hereby asked to explain the reason of following discrepancies e.g.date of sale dag no etc noticed from the documents/records submitted by him in connection with his purchase of land. Details given below:-

<u>Documents submitted earlier in plain paper.</u>	<u>Court fee stamp documents.</u>
1. Date of sale 9.9.96	9.1.96
2. Area of Land 1 Bigha 10 Locha	2 Katha 40 Locha.
3. Dag No-137/194(as per Certificate given by circle officer.)	186/175

2. Besides, his aforesaid land documents were not registered through sub-Register/ Register of concerned land records Department. As a result of which the documents of land furnished by him are not accepted by the Authority as a valid documents.

Authority:-
(Sr. D.A.G's order at P/20 M dttd 24/9/98 on file
No. Admn/Audit/HBA/MC/6-38/96-97) sd/-
Sr.Audit Officer/Admn

Memo No. Admn/Audit/HBA/MC/6-38/96-97/631 dated.25.9.98

Copy to:-

- 1) Shri Madan Kachari, Sr.Auditor to furnish the reply of above discrepancies in Admn (Audit) within 30th sept'98.

*Received
M. Kachari
7/10/98*

Sd/-
Sr.Audit Officer/Admn.

33

To

The Deputy Accountant General (Audit)
Nagaland, Kohima.

Sub: Request for extension of time

Sir,

With reference to Admin. Memo No A/A/
L-28/97-98/32 dt. 23-9-99 I am to state
that I have to enquire about the latest
position of registration of the land pur-
chased by me in the office of S.D.C.
at Ginkhargan Dist. Dhemaji and to
produce original sale deed.

But I could not proceed to
Dhemaji because of my financial
constraints in the end of the month
Sept. 99.

I therefore, request your honour
kindly to extend the time limit of
furnishing reply to the aforesaid memo
and allow me to proceed to my home
town for collection of requisite
documents from S.D.C. office to
demonstrate the utilisation of HBA
money.

In this connection, I request your
good self kindly to grant me 12 days
sick leave w.e.f. 18th Oct. 99.

Yours faithfully,

Madan Ch. Kachari

(MADAN CH. KACHARI)

Sr. Asst.

C.A.P. Section

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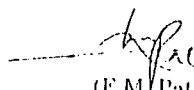
[ANNEXURE-15]

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT),
NAGALAND : KOHIMA
797 001.

No. A/A/4-28/97-98/
Dated: 13th October 1999.

MEMORANDUM

Shri Madan Chandra Kachari is hereby informed that extension of time as requested by him vide his representation dated nil, (received by the undersigned on 6th October 1999) is granted. He is hereby instructed to furnish the documents notified in memo No. A/A/4-23/97-98/32, dated 23rd September 1999 in support of his claim, if any, to the undersigned on or before 1st November 1999. No further extension shall be granted thereafter, and any document(s) submitted after 1st November 1999 shall not be considered.


(E.M. Patton)
Dy. Accountant General

Copy to:

1. Shri Madan Chandra Kachari, Senior Auditor.

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[ANNEXURE - 17]

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[ANNEXURE - 16]

**OFFICE OF THE ACCOUNTANT GENERAL (AUDIT),
NAGALAND :: KOHIMA
797 001**

No. A/A/4-28/97-98/17

Dated: 1st May, 2000.

ORDER

Shri Madan Chandra Kachari, Senior Auditor, office of the Accountant General (Audit), Nagaland, Kohima was vide No. A/A/4-28/96-97/639 dated 15th July 1998 informed that action was proposed to be taken against him under Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the imputation of misconduct and misbehaviour that Shri Madan Chandra Kachari, had misutilised the House Building Advance granted to him and failed to refund the same with penal interest.

The charge sheet was received by Shri Madan Chandra Kachari on 16th July 1998. Shri Madan Chandra Kachari was to submit a written statement of his defence within 10 days from the date of receipt of the memorandum. However, Shri Kachari had not submitted any written statement either refuting or accepting the charges. This in turn necessitated a departmental inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

A copy of the Report of the Inquiry Officer was forwarded to Shri Madan Chandra Kachari under No. A/A/4-28/97-98/06 dated 21st July 1999 and was received by Shri Madan Chandra Kachari on 21st July 1999. The Report of the Inquiry Officer concluded that the charge framed against Shri Madan Chandra Kachari stands proved. Shri Madan Kachari vide his letter dated 6th August 1999 stated that he had actually purchased the land and claimed that due to non completion of the registration process he could not produce the required documents in proof of his acquisition of land, and that those records would be submitted in due time. Shri Kachari was afforded another opportunity, vide Memorandum No. A/A/4-28/97-98/32 dated 22nd September 1999 to produce within ten days from the date of receipt of the memorandum, all records available to substantiate his claim. In his request received by the Disciplinary Authority on 6th October 1999 Shri Kachari requested more time to collect the requisite documents from his home town. This request was also allowed by the Disciplinary Authority and Shri Kachari was granted a final opportunity to produce documents in support of his claim. Shri Kachari was directed vide A/A/4-28/97-98/ dated 13th October 1999, to furnish the said documents on or before 1st November 1999. However, Shri Kachari failed to furnish any record in support of his claim.

The undersigned, as Disciplinary Authority, based on the findings of the Inquiry Officer and other documentary evidence made available before me in this regard, and the failure on the part of Shri Kachari to furnish any record to substantiate his claim despite being granted more than sufficient opportunity to do so, conclude that it is beyond reasonable doubt that the said Shri Madan Chandra Kachari, Senior Auditor misutilised the House Building Advance granted to him and the said Shri Kachari failed to refund the money with penal interest as ordered by the competent authority. And that this action of Shri Madan Chandra Kachari was a grave misconduct within the meaning of Rule 3 (iii) of the Central Civil Services (Conduct) Rules.

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Now, therefore, the undersigned as Disciplinary Authority in exercise of the powers conferred under Rule 12 (2) and (3) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 orders as follows:

That Shri Madan Chandra Kachari, Sr. Auditor is hereby reduced from the post of Senior Auditor with the scale of pay Rs.5000-100-8000, to the post of Auditor with the scale of pay Rs. 4000-100-6000 for a period of 5 (five) years with effect from 1st May 2000 under Rule 11 (vi) of Central Civil Services (Classification, Control and Appeal) Rules 1965. That his pay will be fixed at Rs.5300/- (Rupees five thousand three hundred only) in the scale of pay, Rs. 4000-100-6000. And that he shall not earn increments of pay during this period. That he will be restored to the post of Senior Auditor on the expiry of five years. And that on restoration to the post of Sr. Auditor his pay will be fixed at Rs. 6050 (rupees six thousand and fifty only) and he will be eligible to earn increments from that stage, thereafter, subject to fulfillment of other conditions/ rules governing the grant of increment.

Dy. Accountant General (Audit)

Dated 1st May 2000

Memo No. A/A/4-28/97-98/19-23

Copy to:

1. Shri Madan Chandra Kachari, Senior Auditor, Office of the Accountant General, Nagaland
2. The P.S. to the Accountant General for information of Accountant General.
3. The Audit Officer (Administration) for necessary action.
4. The Service Book of Shri Madan Chandra Kachari, Senior Auditor
5. The PAO, IA&AD, Nagaland, Office of the Sr. Dy. Accountant General (A&E), Nagaland for information.

115/2000
DEPUTY ACCOUNTANT GENERAL (AUDIT).

(22)
37

The Accountant General (AUDIT),
Nagaland, Kohima.

Subject:- Prayer for re-trial in the case of reduce of grade and suspended increments.

Sir,

With reference to DAF (Au.)'s order No. A/A/4-2/07-08/17 dated 1.5.2000 and Memo No. A/A/4-2/07-08/12-00 dated 1.5.2000, regarding de-grade from the post of Sr. Auditor to the lower post of Auditor in a lower pay of scale as well as the close off earn increments upto the period of 5 (five) years, I have the honour to state the following few lines for your kind perusal and considerable re-trial please.

That's Sir, I have already been furnished the required documents relating to the advance of Rs. 17,000/= (Rupees Seventeen thousand) only, which was taken by me for purchasing of land except the Registration certificate to be issued by Government Of Assam. For your kind information I like to intimate you that issue of a registration certificate by the government for the land owner is a very lengthy process. This is the root of inability in production of Registration Certificate to this office by me. However, registration of land-site which was purchased by me is under process. As well as completion of registration of the same, I will produce to this office without fail.

Sir, the disciplinary action taken and served through the aforesaid memo, against me is very sharp and effective to my family-life as well as to my ignore children who are ongoing study. Sir, I have no other source of income to bear expenditure in maintenance of my family in such an environment of high priced social life. I ensured that I would be able to furnish more reliable documents in connection with the purchasing of land for favour of my stand. Also, I ensure that the truth shall be placed before obtaining registration of land subject to allow me more few days time with your favourable consideration.

Under the above circumstances, I, therefore pray your kind honour to kindly re-trial of my case on humanitarian ground for the sake of family life and allow me once more convenient time for production reality of the problem. For the kindness on your consideration, I shall remain ever grateful to you and oblige, Sir.

Yours faithfully

M. Karan
(Shri Karan Ch. Kachari)

Auditor,
C/O The Accountant General (Au.)
Nagaland, Kohima.

Date:- 02-05-2000.

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38 [ANNEXURE -18]

(26)

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NOTE

Shri M.C. Kachari, Auditor met the undersigned to request for reconsideration of the major penalty imposed on him by the Disciplinary authority. Though Shri Kachari has not produced any required documents to support his claim on utilisation of the H.B. Advance, the undersigned, in his capacity as Appellate Authority has allowed Shri Kachari one final opportunity to prove his case. Accordingly, till further orders, the penalty imposed on Shri Madan Ch. Kachari (reduction of rank to the lower scale of pay) may please be kept in abeyance. The case may be put up for reconsideration within three months from the date of issue of this note.

Redu

Accountant General

D.A.G.(Audit)

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Certified that the above mentioned facts are as per the record of the discussion held with the Accountant General in the presence of Md. Hussain Ali, Audit Officer.

Date :- 10.5.2000

M.C. Kachari
(M.C. KACHARI)
Auditor

Certified that the discussions as above were held in my presence.

Date :

Md. Hussain Ali
(MD. HUSSAIN ALI)
Audit Officer

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[ANNEXURE-19]

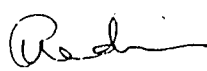
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Date :- 10.05.2000

Shri Madan Chandra Kachari, ^{As} (earlier Sr. Auditor) of this office met me on 8.5.2000 to represent against the major penalty imposed by the Disciplinary Authority reducing him to the rank of Auditor for a period of 5 years. He has applied for reconsideration of his case by the Appellate Authority. Shri Kachari has claimed in his representation that he has purchased a plot of land for the Rs.17,000 - H.B.A. taken by him, and that, since registration is a long drawn process, he has not been able to produce the registration certificate even though he purchased the land in September 1996.

Since the documents produced by him are mostly in Assamese, I had requested (in the presence of Shri Kachari) Shri Ali Hussain, Audit Officer who is an Assamese to help me to understand the documents. After due deliberation I feel that even though Shri Kachari has failed to produce the requisite documents despite several opportunities to do so, he should be afforded one last chance to prove his case. Though under the HBA rules, the official is required to produce proof of ownership of land, due to the peculiar land purchase practices prevalent in the tribal areas of Assam and sanctified by the State Government, the land revenue remittance documents would constitute sufficient proof of bonafide intent. I have informed Shri Kachari that some responsible officers/officials would be deputed either by myself or Accountant General, Assam to investigate his claim that he purchased the land only after the receipt of HBA of Rs.17,000 - from Government. I have, however, informed Shri Kachari that, if it is found that the land was in his possession before his availing of the HBA, as the Appellate Authority, I would take severe action against him, including enhancing the penalty. In case Shri Kachari was not confident of proving his case, he was asked whether he would like to withdraw his appeal. Shri Kachari however, insisted on pressing his case and has stated that he was willing to accept the consequences if need be.


Accountant General
19/5/2000

41 [ANNEXURE - 2B] 29

V. RAVINDRAN
ACCOUNTANT GENERAL

D.O. NO. Sr.DAG(Audit) Confdl 99-2000. 26
Dated the 12th May 2000.

Dear Shri

As mentioned in
[Please refer to] our telephonic conversation, I would be thankful if you could kindly depute an officer official from your office to the offices of the Sub-Deputy Collector SISI BURGAON, District DHEMALI, and the District Collector to *ascertain* from *which* date the Eksona land at Dag Nos 132 & 194(TB) has been shown as allotted to Shri Madan Chandra Kachari, Sr. Auditor of this office. Also, the information as to the date from which Shri Madan Chandra Kachari has been remitting land revenue in respect of this land may specifically be ascertained. Copies of necessary documents are enclosed.

My thanks in anticipation.

Yours faithfully,

Shri K Manjit Singh,
Accountant General(Audit), Assam.
Miadam Gaon, Beltola,
Guwahati - 781 029.

[ANNEXURE - 0]

42 (33)

कार्यालय महालेखाकार (लेखापरीक्षा), नागालैण्ड
कोहिमा - ७९७ ००१
OFFICE OF THE ACCOUNTANT GENERAL (AUDIT), NAGALAND
KOHIMA-797001

Confidential

Phone 22206 (O) Fax 0370 22947

No

Dated D.O. No. A/A/4-28/97-98/44
Dated 5th June 2000



V. Ravindran
Accountant General

Dear Sir,

Thank you for your very prompt action on my Confidential D.O. letter No. Sr. DAG (Audit)/Confdl./99-2000-26 dated 12th May 2000 regarding certain information relating to the ownership of land under the Sub-Divisional Collector of SISI BURGAON.

I am sorry to trouble you further in the matter. I would be grateful if you could depute your officials once again to the offices of Su-Deputy Collector SISI BURGAON, District DIHEMAJI and the District Collector, to ascertain whether land measuring 40 lechas/ 2 kathas falling under Dag No. 186/175 of SILAPATHAR is in the possession of Shri Madan Chandra Kachari s/o Late Thanuram Kachari, and if so, from what date land revenue has been paid by Shri Madan Chandra Kachari. Further, nature of the possession, i.e. whether 'EKCHANIA' or 'MIAYADI', may also be ascertained.

with warm regards

Yours sincerely,

Rach

Shri K. Manjit Singli,
Accountant General (Audit),
Assam, Guwahati.

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT), ASSAM,
BELTOLA, GUWAHATI - 29

No. MAC(N)/2000-2001/33

Date: 26.5.2000

To

The Deputy Commissioner,
Dhemaji, Assam.

Sub : Information regarding land in possession of Shri Madan Chandra Kachari

Sir,

In order to ascertain the authenticity of documents etc. in respect of land under Dag No.137 and 194 (FB) in Dhemaji District in possession of Shri Madan Chandra Kachari, a Senior Auditor of this department, I am to request you kindly to arrange to furnish the following information to Shri Pradip Chakravorty, Section Officer of this Office, who is deputed for the purpose.

1. The date from which the Eksona land at Dag No.137 and 194(FB) has been shown as allotted to Shri Madan Chandra Kachari.
2. The date from which Shri Kachari has been remitting land revenue in respect of this land.

Your co-operation will be highly appreciated.

Yours faithfully,

Deputy Accountant General

O. Sircilargam
Kindly furnish the
information regarding the
this is urgent

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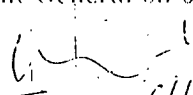
Registered with Acknowledgement

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND :: KOHIMA
797 001

Noi Admn./Audit/4-28/95-96/47

Dated: 6th June 2000MEMORANDUM

Shri Madan Chandra Kachari, Senior Auditor is hereby directed to furnish details of property (land) owned by him in the format enclosed. He may use the enclosed proforma and return the same to the Accountant General on or before 30th of June 2000.


Audit Officer (Administration)

Copy to:

Shri Madan Chandra Kachari, Senior Auditor,
C/o Mr. Alonso Kr. Zed,
Vill. Silapather Bangaon,
P.O. Silapather,
District Dhemaji,
Assam

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23

[ANNEXURE - 100]

(38)

Govt. of Assam.

Office of the Circle Officer, Sibsiborgaon Circle.

No. SBC/DOHO/18/2000/1227 dt. 30.5.2000

To

The Deputy Commissioner,
Dihomji

Sub: -

Submission of information regarding
land of Sri Madan Singhani

Ref: -

S.D.O. (S) Dihomji's letter No. Nil
dt. 25/5/2000.

Sir,

With reference to the subject-
noted above, I have the honour to
inform you that Sri Madan Singhani the land
measuring 4 B-10 is covered by
dog No. 137 and 194 is under the
possession of Sri Madan Singhani from
1987 to 88 as per recorded of land
records available in this office. Now
there is no Ekama Palia at dog No.
137 and his name is not mentioned
in the 194 T.B. is mentioned in the record.

2. He has paid the T.B
instalments from 1993-94 at T.B No 370
of Silapahar Nagar Block No. 2.

This is for your information and
necessary action.
Yours faithfully,

[Signature]
C. Circle Officer
Sibsiborgaon
Circle

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V. Ravindran
Accountant General

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CONFIDENTIAL

[ANNEXURE - 24]

कार्यालय महालेखाकार (लेखापरीक्षा)
कोहिमा - ७९७ ००१
OFFICE OF THE ACCOUNTANT GENERAL (AUDIT), NAG
KOHIMA 797001

Phone : 22206 (O) Fax : 0370-22947

No.

Dated

D.O. No. A/A/4-28/97-98/49

Dated 7th June 2000

Dear Sir,

Thank you for your prompt reply to my letter No. A/A/4-28/97-98/44 dated 5th June 2000, requesting further information regarding the land shown as allotted to Shri Madan Chandra Kachari. Your audit party has been very comprehensive in its search of the land records pertaining to Dag No. 137 & 194 (TB) and has fully satisfied my requirements stated in my first D.O. letter no. Sr. DAG (Audit)/Confid./99-2099/26 dated 12th May 2000. It is I who have been remiss. From further scrutiny of the case, I found that Shri Madan Chandra Kachari also owns another plot of land in the same area (Dag No. 186/175 of Silapather). My letter of 5th June 2000 was in connection with this second plot of land regarding which I would be very grateful if information could be collected.

Incidentally, you have mentioned in your FAX D.O. dated 6th June 2000, the land (Dag No. 137 & 194 (TB)) is neither Ekchania or Miyadi but is merely in the possession of Shri Kachari. It is not clear to me whether the status of Shri Kachari is only that of squatter, and if so whether, the Assam land revenue rules permit Shri Kachari to remit land revenue in respect of such land, as he has been doing.

My renewed apologies for the trouble.

With warm regards

Yours sincerely,

Shri K. Manjit Singh,
Accountant General (Audit),
Asam, Guwahati

47 [ANNEXURE - B] 25

(61)

महालेखाकार (लेखा परीक्षा), असम
Accountant General (Audit), Assam

K. MANJIT SINGH

SECRET AND PERSONAL

SPEED POST

D.O No: AG (Au)/KMS-1/99/247

Date: 23 June 2000

My dear Ravi.

Kindly refer to your Confidential D.O. letter No. A/A/4-28/97-98/49 dated 7 June 2000 requesting for further information regarding the land shown as allotted to Shri Madan Chandra Kachari at Dag No. 186/175 of Silapathar area.

2. The information as called for by you has since been collected from the Circle Officer Sisibargaon Revenue Circle by deputing an official from my office and highlights the following:

- (i) Shri Kachari is not in possession of any land under Dag No. 186/175 at Silapathar area. The land in question, is in possession of another person, viz., Shri Mina Chutia; and
- (ii) as Shri Kachari is not in possession of any land at Dag No. 186/175, he has not been remitting any land revenue against that land and no patta has also been issued to him.
- (iii) Khas Sarkari land (Government land) measuring 1 bigha 0 Katha 10 Lessas covered by Dag No. 137/(Pt) and 194 (Pt) of Silapathar Town (Block No. 2) is under possession of Shri Madan Chandra Kachari since 1987-88 which is neither Ekchania nor Miyadi. Shri Kachari is holding the land as a squatter and is remitting "Bedakhali Jarimana" in the form of land revenue against the above-mentioned land from the year 1993-94 in terms of Section 109 of Assam Land Records Manual 1981.

3. The papers in original received from the Circle Officer, Sisibargaon containing all the above-mentioned facts and indeed all the information you have asked for is enclosed.

With warm regards

Yours sincerely,

Kunwar Manjit Singh

Shri V. Ravindran,
Accountant General (Audit)
Nagaland,
KOHIMA - 797001

Maidamgaon, Beltola, Guwahati-781 029
☎ 91-0361-301959 Fax 91-0361-300817
E-mail : agauditassam@satyam.net.in

Circle Officer

48

(60)

[ANNEXURE - 26]

GOVT. OF ASSAM

OFFICE OF THE CIRCLE OFFICER :::: SISSIBARGAON REV. CIRCLE.

NO. SBC. 18/2000/ 1459

Date :- 19.6.2000

To

The Deputy Accountant General,
C/O The A.G. (Audit), Assam,
Beltala, Guwahati- 781029.

Subject :- Information regarding land in possession of
Shri Madan Kachar Chandra Kachari.

Sir,

With reference to your letter No. DAG(A)/2000-2001/35, dated 16.6.2000 on subject cited above, I am to furnish herewith the following information in regard to land in possession of Shri Madan Chandra Kachari as desired.

(1) On scrutiny of records of this office it ^{is} seen that Shri Madan Chandra Kachari is not holding any land under Dag No. 186/175 of Silapathar as on date. ~~Shri Madan Kachari, including the land under Dag No. 186/175~~ The land is in possession of Shri Mina Chutia under Dag No. 186/175.

(ii) As no land under Dag No. 186/175 was allotted to Shri Kachari, as such Shri Kachari has not been remitting any land revenue in respect of land under Dag No. 186/175.

(iii) As Shri Kachari is not in possession of any land under Dag No. 186/175 of Silapathar, no patta was issued to Shri Kachari in respect of this land.

(iv) Khas Sarkari land (Govt. land) measuring 1 Bigha 0 Katha 10 Lessas covered by the Dag No. 137(pt) and 194 (pt) of Silapathar Town of Block No. 2 is under possession of Shri Madan Chandra Kachari since 1987-88 which is neither Ekchania nor Miyadi. Shri Kachari is holding the land as a squatter and is remitting "Bedakhali Jarimana" in the form of land revenue against the abovementioned land from the year 1993-94 in terms of section 109 of Assam Land Records Manual 1981.

(v) Reply already furnished against para No. 4 mentioned above.

This is for favour of your kind information and necessary action.

Yours faithfully,

[Signature]
Circle Officer
19/6/2000

of the AG (Audit)
Kopaland
Camp Silapathar

To The Circle Officer,
Sibsibergnau
Silapathar
Dist: Dimaas

Subject: Clarification regarding purchase and possession
of land under Reg No 137 & 144 of
Silapathar Sub-Block in the name of Mrs
Madam Chandra Kachari

Ref: In writing a reference to your letter no.
SBC. 18/2000/1459 dt. 13.6.2000 and possession certificate
dt. 14.6.2000 on the above mentioned subject.
I am in request to kindly furnish clarification on the
following points since the two statements are not in
complete agreement.

1) Whether the Madam Ch. Kachari has purchased
the above (1452) land under Reg No 137 & 144 of
Nagpur BK No. 2 of Silapathar Sub-Block on the said
land is inherited since letter No. 1459 dt. 14.6.2000
stated that the land under the possession since
1987-88

(i) Whether the A. C. Kachari is paying 13 Janams
from 1996 only or he had paid Janams in
the form of land Revenue prior to that date also?

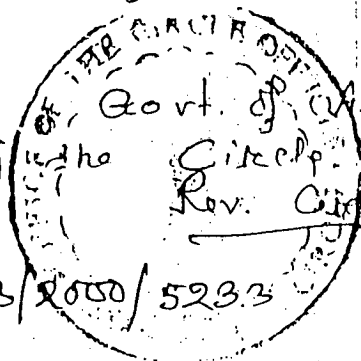
(ii) Now addition to the above land showing 15 to be
has been reported by the Dimaas and any other
listed in favour of Mrs. Kachari of Silapathar
as of date of statement may please be mentioned

Yours faithfully

Signature
Date

Office

...



Office of the District Officer, Sissiborgaon
Rev. Circle

No SBC. 18/2000/5233

Dt. 19.X.2000.

To

The Accountant General,
Nagaland, Kohima.

Sub: -

Clarification report regarding the
land under dag No 137 and 134
of Silapathar Town Block in the
name of Smt Madan Kachari

Ref: -

your investigating officer's letter
No. Nil dt. 18.X.2000.

Sir,

With reference to your investigating
officer's letter No. Nil dt. 18.X.2000 I am to
furnish herewith the following information in
regard to land in possession of Smt Madan
Kachari as desired.

1. The land measuring 13.10 L.
covered by dag No. 137 and 134 is
under the possession of Smt Madan Kachari
by right of occupation but not by right of
inheritance. He has paid the occupied
the land since ~~1986-87~~ 1987-88

2. He has paid the Bedakali
Bhadakali tax from 1986-87.

3. No patna was issued in
the name of Smt Madan Kachari of the
said land. Only the settlement proposal
has been sent to D.C. Shernaji for
settlement of the land.

This is for favour of your kind
information and No.

Yours faithfully,
19/10

5 L.

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निष्ठा-पत्र, ईशान्ति-क्रिया ११)

ଓଡ଼ିଆମାନଙ୍କ ଆନ୍ଧ୍ରାଧ୍ୟାତ୍ମ ୨୦୧୮/୨୦୧୯ର ମିଳି-
 ମିଳିତା-ଆନ୍ଧ୍ର ଆନ୍ଧ୍ରାଧ୍ୟାତ୍ମ ଦଳର ପ୍ରକାଶନ,
 ଶ୍ରୀରାମନ କଲ୍ୟାଣୀ-ନାମକ-ମିଳି-ମିଳିତା-
 ମିଳିତାଧ୍ୟାତ୍ମ ମଧ୍ୟ-୨୩୦ ସ୍ଥଳ-୭୭୦ ୨୫
 ପ୍ରକାଶନୀ ଶ୍ରୀରାମନ-୨୭୭ ନାମକ-ଆନ୍ଧ୍ର-୭
 ୨୦୮ ନାମକ-ଆନ୍ଧ୍ର-ସ୍ଥଳ-୨୨୦ ନାମକ-ମିଳି-
 ଓଡ଼ିଆ-ଆନ୍ଧ୍ର । ଓଡ଼ିଆ-କାମି-ଶ୍ରୀରାମନ-
 ନାମକ-ଆନ୍ଧ୍ର ।

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② नीकटस्थीय उपखंड-देवगढ़ जिला
कक्ष २२५ १/६-६२४ जिला हायकोर्ट-जालंधर।

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Confidential note

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After much effort I was able to reach Silapathar and to Sisibergaon Circle Office in the Shillong district of Assam. As per assignment I contacted the Circle Office. The Circle Office has been assigned the Circle Office and his office staff. Written reply from the Circle Office is attached herewith. From further query & investigation the following facts were disclosed from the Co. & the Spokesperson (HA) of the Co's office:

- (i) Shri Kachari had not purchased any land at Silapathar.
- (ii) Shri Kachari has occupied (unauthorisedly & forcibly) a plot of Govt Land measuring 1 Bigha 10 kds near Railway Station of Silapathar. The plot is under his occupation since 1987-88 and as a burial site, it is awaiting settlement and allotment in his name. However, Shri Kachari has made some development to the land and is also paying land revenue from 1986-87 onwards in the form of fines for unauthorised occupation.
- (iii) It has also been gathered that Shri M. C. Kachari has made some construction work at his parental home (at Gorigaon probably) and also at the occupied site.

Submitted for information and for final pl

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AG

Placed
23/12/2000



53 (75) - [ANNEXURE - 30]
OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND, KOHIMA.

No. A/A/4-28/97-98/356
Dated 22nd November 2000.

MEMORANDUM

Sh. Madan Chandra Kachari, Sr. Auditor availed of a House Building Advance of Rs. 17,000 in August 1996 for the purpose of purchase of land. This represented 20% of the total amount of Rs. 85,000 sanctioned to him for house-building purpose. In partial fulfillment of the requirement, Sh. Kachari produced various documents which indicated that he had either purchased land located at Dag no. 186/175 or at Dag no. 137/194 in Silapathar. Since there was reason to suspect that Sh. Madan Chandra Kachari had not purchased the land with the money provided for this purpose by the Govt. under the House Building Advance Rules, and had thereby misutilised the House Building Advance, an enquiry was ordered on 15th January 1999 by the competent authority under Rule 14 of the CCS (CCA) Rules. Accordingly, an enquiry was held, and it was concluded by the inquiry officer that the charge of misutilisation of House Building Advance against Sh. Madan Chandra Kachari stood proved. The findings of the Inquiry Officer were forwarded to Sh. Madan Chandra Kachari, Sr. Auditor on 21st July 1999 for his comments. On Sh. M.C. Kachari failing to produce any documents in support of his claim that he had not misutilised the House Building Advance granted to him, despite multiple opportunities to do so, the Disciplinary Authority vide his order dated 1st May 2000 imposed the penalty of reduction in rank from that of Sr. Auditor in the scale of Rs. 5,000-150-8000 to that of Auditor in scale of Rs. 4000-100-6000 for a period of five years with cumulative effect, his pay would be fixed at Rs. 5300 during this period of Penalty. On the expiry of five years, Sh. Kachari would be restored to the post of Sr. Auditor and his pay fixed at Rs. 6050.

Sh. Kachari represented against this penalty vide his letter dated 8th May 2000 wherein he stated that the land had been purchased by him but that the Registration Certificate had not been issued by the Govt. of Assam. Sh. Kachari had also met the undersigned who is the Appellate Authority on 8/5/2000 in this regard.

The issue before the Appellate Authority was to establish whether Sh. Kachari had made a bonafide purchase under the Rules utilising the House Building Advance availed by him in August 1999. One such evidence would be, proof that the purchase of land and the availing of the advance were proximate in time i.e. on or around August 1996. After protracted enquiries by officials of AG (Audit) Assam and of this office deputed for this purpose, the following is proved.

- i) That Sh. Madan Kachari is neither in ownership or in possession of land under Dag No. 186/175 in Silapathar.

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- ii) The possessor of the above land is Sh. Mina Chutia and not Sh. Madan Chandra Kachari, or Sh. Dhiren Gogoi from whom Sh. Kachari claimed to have purchased the land.
- iii) Sh. Kachari is in possession of land covered by Dag No. 137/194 in Silapathar, and such possession has been since 1987-88. In other words, even this land was not purchased utilising the money sanctioned to him towards House Building Advance.

Based on the above, and supporting evidence, the undersigned, as Appellate Authority concludes as under.

- i) That the charges against Sh. Madan Chandra Kachari on misutilisation of House building Advance resulting in the issue of penalty by the Disciplinary Authority vide his orders dated 1st May 2000 stand fully proved and sustained.
- ii) That despite his committing willfully and deliberately what tantamounted to a fraud on the Public Exchequer, Sh. Kachari was brazen enough to continue with the deception, and in the process deliberately wasted the time and resources of the Administration.

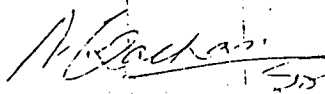
In view of the facts stated above, Sh. Madan Chandra Kachari is hereby informed that the Appellate Authority, after careful deliberation proposes to enhance the penalty awarded to him by the Disciplinary Authority vide his orders dated 1st May 2000. If Sh. Madan Chandra Kachari wishes to state anything in his defense before the Appellate Authority issues his final orders in this regard, he is directed to do so within 10 days of issue of this order, after which time, if no reply is received, it will be presumed that he has nothing further to say in this matter and orders issued accordingly.

A copy of Circle Officer, Sissiborgaon letters no. SBC/18/2000/1459 dated 19/6/2000 and no. SBC/18/2000/5233 dated 19/10/2000 is enclosed.


ACCOUNTANT GENERAL

Copy to:-

Sh. Madan Chandra Kachari, Sr. Auditor


22/11/2000

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The Accountant General (Audit)
Nagaland, Kohima.

Subject:- Memo. No. A/A/4-28/97-98/356 dated 22.11.2000 and mis-utilisation of HB Advance of Rs.17,000/= reg.

Sir,

With due respect, I have the honour to state the following few lines as I have been given the privilege to stand support from my side through your memo. ~~am~~ even number dated 22.11.2000, for which of your humanitarian greatness I am bound to bow down ~~my~~ head.

That's Sir, occupation report submitted from the Govt. of Assam vide Sissiborgaon Revenue Circle No. SBC.18/2000/5233 dtd. 19.10.2000, against Dag No. 137/194 in favour of Sh. Madan Ch. Kachari is quite incomplete. The said land covering by Dag No. 137/194 was ~~neither~~ neither occupied by my father Late Thanuram Kachari nor by me since 1987-88 as mentioned in above letter. Of course, the said land was purchased by me from Sh. Dhiren Gogoi, the former heir of the land under wrongly intimated Dag No. 186/175 during 1996, 9 September. As well as I ^{had} purchased the land from Sh. Gogoi we went to the concerned office to transfer the same from Sh. Dhiren Gogoi to Sh. Madan Ch. Kachari. This was done after realising arrear of revenue ~~dues~~ by Sh. Madan Ch. Kachari which was actually dues by Sh. Gogoi.

In fact, the wrong intimation of Dag No. 186-175 in stead of Dag No. 137/194 were come to the light during prosession of land settlement under Dhemaji District authority and accordingly the land covering by the Dag No. 137/194 ^{in hand} ~~was~~ proessed in the Madan Ch. Kachari's name.

On the above circumstances, I therefore, request your kind honour either to kindly arrange a thorough investigation once more from the land owner to concerned Revenue Circle office to the Govt. of Assam or, allow me to produce reliable documents on the controversial matter, which a lot of vexation has ~~been~~ ^{laped} ~~given~~ on me as mis-utilisation of money drawn from HB advance and proximacy thereon.

Date: 28.11.2000

yours faithfully

Madan Ch. Kachari
Sr. Auditor
(Shri Madan Ch. Kachari)
Sr. Auditor



OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
NAGALAND, KOHIMA.

No. A/A/4-28/97-98/390
Dated 13th December 2000.

ORDER

Sh. Madan Chandra Kachari, Sr. Auditor availed of a House Building Advance of Rs. 17,000 in August 1996 for the purpose of purchase of land. This represented 20% of the total amount of Rs. 85,000 sanctioned to him for house-building purpose. In partial fulfillment of the requirement, Sh. Kachari produced various documents which indicated that he had either purchased land located at Dag no. 186/175 or at Dag no. 137/194 in Silapathar. Since there was reason to suspect that Sh. Madan Chandra Kachari had not purchased the land with the money provided for this purpose by the Govt. under the House Building Advance Rules, and had thereby misutilised the House Building Advance, an enquiry was ordered on 15th January 1999 by the competent authority under Rule 14 of the CCS (CCA) Rules. Accordingly, an enquiry was held, and it was concluded by the inquiry officer that the charge of misutilisation of House Building Advance against Sh. Madan Chandra Kachari stood proved. The findings of the Inquiry Officer were forwarded to Sh. Madan Chandra Kachari, Sr. Auditor on 21st July 1999 for his comments. On Sh. M.C. Kachari failing to produce any documents in support of his claim that he had not misutilised the House Building Advance granted to him, despite multiple opportunities to do so, the Disciplinary Authority vide his order dated 1st May 2000 imposed the penalty of reduction in rank from that of Sr. Auditor in the scale of Rs. 5,000-150-8000 to that of Auditor in scale of Rs. 4000-100-6000 for a period of five years with cumulative effect, and his pay fixed at Rs. 5300 during this period of penalty. On the expiry of five years, Sh. Kachari would be restored to the post of Sr. Auditor and his pay fixed at Rs. 6050.

Sh. Kachari represented against this penalty vide his letter dated 8th May 2000 wherein he stated that the land had been purchased by him, but that the Registration Certificate had not been issued by the Govt. of Assam. Sh. Kachari had also made the undersigned, who is the Appellate Authority, on 8/5/2000, in this regard.

The issue before the Appellate Authority was to establish whether Sh. Kachari had made a bonafide purchase under the Rules utilising the House Building Advance availed by him in September 1996. One such evidence would be, proof that the purchase of land and the availing of the advance were proximate in time i.e. on or around

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August/September 1996. After protracted enquiries by officials of AG (Audit) Assam and of this office deputed for this purpose, the following is proved:

- i) That Sh. Madan Kachari is neither in ownership or in possession of land under Dag No. 186/175 in Silapathar.
- ii) The possessor of the above land is Sh. Mina Chutia, and not Sh. Madan Chandra Kachari, or Sh. Dhiren Gogoi from whom Sh. Kachari claimed to have purchased the land.
- iii) Sh. Kachari is in possession of land covered by Dag No. 137/194 in Silapathar, and such possession has been since 1987-88. In other words, even this land was not purchased utilising the money sanctioned to him towards House Building Advance.

Based on the above, and supporting evidence, the undersigned, as Appellate Authority concludes as under.

- i) That the charges against Sh. Madan Chandra Kachari on misutilisation of House building Advance resulting in the issue of penalty by the Disciplinary Authority vide his orders dated 1st May 2000 stand fully proved and sustained.
- ii) That despite his committing willfully and deliberately what tantamounted to a fraud on the Public Exchequer, Sh. Kachari was brazen enough to continue with the deception, and in the process deliberately wasted the time and resources of the Administration.

In view of the facts stated above, Sh. Madan Chandra Kachari was informed, vide this office letter No. A/A/4-28/97-98/356 dtd 22/11/2000, that the Appellate Authority, after careful deliberation, proposed to enhance the penalty awarded to him by the Disciplinary Authority vide his orders dated 1st May 2000.

In his reply dated 28/11/2000, Sh. Madan Chandra Kachari has stated that the occupation report submitted by the Sissiborgaon Revenue Circle No. SBC. 18/2000/5233 dt 19.10.2000 against Dag no. 137/194 is incomplete, and that the land is actually in Sh. Kachari's possession since 9th September 1996 after transfer by Sh. Dhiren Gogoi, the former land owner. Sh. Madan Chandra Kachari has also stated that he had, in his earlier communication to this office wrongly intimated the Dag no. of his land as 186/175 instead of 137/194 which is actually in his possession. Sh. Kachari has requested either a de-novo thorough investigation by the concerned Revenue Circle Office, or to allow Sh. Kachari to produce reliable documents.

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It would appear that the intention of Sh. Madan Chandra Kachari is to lead the Administration on a wild goose chase. From perusal of the files, it is observed that Sh. Madan Kachari had, time and time again, since February 1997, been asked to furnish the documents required to establish his claim. He has consistently failed to do so. Secondly, Sh. Kachari was asked during the enquiry as to what was the exact location of the land purchased by him. On two separate occasions, as seen from the daily order sheet for departmental proceedings dated 10th March 1999 and 12th April 1999, Sh. Madan Chandra Kachari had clearly and categorically stated that the land in his possession was located in Dag no. 186/175. Sh. Kachari had also stated in the Daily Order Sheet dated 12th April 1999 that the land owner for Dag no. 137/194 was also the original land owner for Dag no. 186/175, and that, after initially entering into an agreement to purchase land under Dag no. 137/194, Sh. Kachari finally purchased land under Dag no. 186/175. In token of his having made the above statements, Sh. Kachari also affixed his signature on the daily order sheets of 10th March 1999 and 12th April 1999. Having done so, Sh. Kachari is ESTOPPED from now denying that he had purchased land at Dag no. 186/175 and that the land purchased by him in 1996 is actually land at Dag no. 137/194. Further, as clearly stated by the Circle Officer, Sh. Kachari has had the land at Dag no. 137/194 in his possession since 1987-88 and not 1996, when he availed of HBA for purchase of land.

It is therefore amply clear that Sh. Kachari has not only drawn House Building Advance on fraudulent grounds, he has time and time again wasted the time and resources of the Administration by deliberately misleading the authorities and leading them on a wild goose chase. This action of Sh. Madan Chandra Kachari was a grave and serious misconduct within the meaning of Rule 3(iii) of the Central Civil Services (Conduct) Rules.

Now, therefore, the undersigned, in exercise of his powers as Appellate Authority conferred on him under Rule 26 and 27 of the Central Civil Services (Classification, Control and Appeal) Rules, has decided to enhance the penalty to Sh. Madan Chandra Kachari by the disciplinary Authority vide his Order No. A/A/4-28/97-98/17 dtd 1st May 2000 and hereby orders that, Sh. Madan Chandra Kachari Sr. Auditor, be reduced to the post of Auditor with the scale of pay Rs. 4000-100-6000, from the post of Sr. Auditor with the scale of pay Rs. 5,000-150-8000, for a period of 5 (five) years w.e.f. the date of issue of this order under Rule 11 (vi) of Central Civil Service (Classification, Control and Appeal) Rules 1965. It is further ordered

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that his pay fixed at Rs.4000/-- (Rupees Four thousand only) in the scale of pay Rs. 4000-100-6000 during the period of penalty. He shall not earn increments of pay during the period of reduction, and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. On the expiry of 5 (five) years, he will be restored to the post of Sr. Auditor. On restoration to the post of Sr. Auditor, his pay will be fixed at Rs. 6050(Rupees six thousand and fifty only) in the scale of pay Rs.5000-150-8000 and he will be eligible to earn increments from that stage, thereafter, subject to fulfillment of other conditions/ rules governing the grant of increments of pay. It is finally ordered that, on restoration to the post of Sr. Auditor after a period of 5 (five) years, the original seniority of the official in the post of Sr. Auditor prior to the imposition of the penalty shall be restored.

ACCOUNTANT GENERAL

Memo No. A/A/4-28/97-98/391-394

Dated 13th

December 2000

Copy to:-

- 1) Sh. Madan Chandra Kachari, Sr. Auditor, Office of the Accountant General, Nagaland
- 2) The Audit Officer (Administration) for necessary action
- 3) The Service Book of Shri Madan Chandra Kachari, Senior Auditor
- 4) The PAO, IA&AD, Nagaland, Office of the Sr. Dy. Accountant General (A&E), Nagaland for information


ACCOUNTANT GENERAL