

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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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.

892 / 2001

Applicant (S) D. N. Boruah

Respondant(s) K. O. L. Toms

Advocate for the Applicant: A. C. B. Majumdar, N. Borah, D. Borah

Advocate for the Respondant: CASE.

Notes of the Registry

Date

Order of the Tribunal

26.9.01

This application is in form
but not in the condonation

Petition is filed and filed vide

M. P. No. X C F

for Rs. 50/- deposited vide

IPO/BD No 64788304

Dated 12-9-2001

Dy. Registrar

25/9/01

Slips taken.

25/9/2001

pl. comply order
dated 26/9/2001

Slips received. Notice prepared
and sent to S/s for from the
respondent No 1 & 2 by Regd. A/D
& 2 & 3 by hand.

D/Mo 3753 & 3758

dttd 3/10/01

Heard counsel for the parties.
The application is admitted. Call for
records. Returnable by 2 weeks.

Issue notice as to why interim
order as prayed for shall not be
granted. Returnable by 2 weeks.

Mr. A. K. Choudhury, learned Addl.
C.G.S.C. accepts notice on behalf of
respondents.

In the meantime, one post of
STS of ITS Group A (Annexure C)
shall be kept vacant until further order.

List on 15/10/01 for order.

Member

Vice-Chairman

mb

Recd the copy of OA for
Rep. no. 3 & 4.
15.10.01
N

O.A. 392 of 01

15.10.01

At the request of Mr. A.K. Choudhury, learned Addl. C.G.S.C. 3 weeks time is allowed to file written statement, As the applicant is due to retire shortly, The respondents are directed to file the written statement within the time. List on 22.11. 01 for orders.

No written statement
has been filed.
21.11.01

lm

ICU Shetty
Member

22.11.2001

List the matter on 24.12.2002 to enable the respondents to file written statement.

ICU Shetty
Member

Vice-Chairman

bb

24.12.01

Written statement has been filed. The case may now be listed for hearing. The applicant may file rejoinder, if any, within 2 weeks from today.

List on 31.1.2002 for hearing.

ICU Shetty
Member

Vice-Chairman

21.12.2001
W/S submitted
by the Respondent Nos. 1, 2,
3 and 4.

PA mb

No rejoinder has
been filed.

31.1.2002

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

ICU Shetty
Member

Vice-Chairman

nk m

Recd copy
of the Judgment
11/2/02

14.2.2002
Copy of the Judgment
has been sent to the
Office for forwarding the
same to the applicant
by post.

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./RXX. No. 392 of 2001

DATE OF DECISION 31.1.2002

Shri Dinna Nath Baishya

PETITIONER(S)

Mr A.C. Buragohain, Mr N. Bora and

Mr D. Borah

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A.K. Choudhury, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

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

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

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

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.392 of 2001

Date of decision: This the 31st day of January 2002

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

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

Shri Dinna Nath Basha,
P.O.- Hengrabari, P.S. Dispur,
Last employed as Assistant Director,
(Management Information Science),
Office of the Chief General Manager,
Telecom, Assam Circle,
Guwahati.

.....Applicant

By Advocates Mr A.C. Buragohain, Mr N. Bora and
Mr D. Borah.

- versus -

1. The Union of India, represented by
The Secretary, Telecommunication,
New Delhi.
2. The Chairman,
Bharat Sanchar Nigam Ltd.,
Government of India Enterprises,
New Delhi.
3. The Chief General Manager, Telecom,
Bharat Sanchar Nigam Ltd.,
Assam Telecom Circle,
Guwahati.
4. The Deputy General Manager (Admn.),
Office of the Chief General Manager,
Telecom, Guwahati.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The matter pertains to posting on promotion to STS of ~~ITS~~ Group 'A' (DET). By order dated 31.8.2001 111 officers of TES Group 'B' who were posted to BSNL on their ad hoc promotion to STS of ITS Group 'A' (DET) were posted in the Circles indicated in the Annexure enclosed. The order indicated that their seniority would be determined with reference to their basic seniority in the substantive grade of TES Group 'B'. In the list, the name of the applicant was also included at

serial No.28. In the said order a condition was prescribed at para 3 which reads as follows:

"3. The officers shall not be promoted to the higher grade by the concerned Circles/Units:

- i. In case of disciplinary/vigilance case is pending against him
- ii. If the officer is under the currency of any penalty; or
- iii. The officer is on deputation to TCH, etc.

Such cases will be decided by this office on receipt of information from the concerned Telecom Circles. Information in this regard may be brought to the notice of this office within 15 days from the date of issue of this order."

In view of the said condition the applicant has not been posted to the higher grade, despite his promotion, in view of a departmental proceeding initiated against him by the respondents on 24.5.2001. By the aforementioned memorandum dated 24.5.2001, the Chief General Manager, Assam Telecom Circle initiated a proceeding under Rule 14 of the CCS (CCA) Rules, 1965, for conducting an enquiry as to the allegations mentioned in Annexure-I of the said memorandum. The statement of article of charge mentioned in the said Annexure-I reads as follows:

"While Shri D.N. Baishya was posted and functioning as SDOP, Dispur under O/O the GMT Kamrup Telecom District, Guwahati during 1993-94, he failed to maintain absolute integrity and devotion to his duty in as much as he issued certificates for having received materials of a total value of Rs.21425/- allegedly supplied by M/s Pallabi Enterprises M/s DCM Retail Stores. The said firms had supplied the materials at very high rates and the same were procured without any approved purchase order of the competent authority. Sri d.N. Baishya did not also maintain any stock register to keep accounts of the received materials supplied by the firms and thereby due to his aforesaid acts contravened the provision of rule 3(1) (i)(ii) & (iii) of CCS (Conduct) Rule 1964."

2. The applicant submitted his written statement denying and disputing the charges levelled against him. In the written statement the applicant indicated without conducting a proper verification the chargesheet was issued against the applicant. In the written statement the applicant mentioned that the general section of the Office of the General Manager, Kamrup, used to process the purchasing of stores and supplies it to the unit office. The suppliers supplied the materials to the Office of the General Manager which were distributed to the unit offices on the basis

of.....

of the requisition placed by the particular unit. The applicant who was only in the unit office received the articles as per law. The applicant also, in support of his statement, annexed the relevant documents before the authority. During the pendency of this proceeding the authority appointed one Shri P.D. Sonowal, DE(DI), Office of the Chief General Manager, Telecom, Guwahati as Inquiry Officer to enquire into the charges levelled against the applicant vide order dated 8.11.2001. It has been stated that the said enquiry is still pending.

3. The applicant in this application contended that the alleged charges are not sustainable in law. At any rate the applicant was not responsible for any lapses or alleged misconduct.

4. Mr A.C. Buragohain, learned counsel for the applicant, submitted that the alleged incident that took place in 1993-94 was sought to be revived at the time of the promotion of the applicant with oblique motive. Mr Buragohain submitted that the alleged statement of article with the imputation of misconduct did not disclose any misconduct, so far the applicant was concerned. The applicant was not responsible for placing any order or supply of the materials to the units. He was only held responsible for receiving the articles supplied. The learned counsel further submitted that since the promotion was of ad hoc nature there is no justification for denying the applicant the fruit of the promotion merely due to the pendency of the purported proceeding.

5. Mr A.K. Choudhury, learned Addl. C.G.S.C., on the other hand, submitted that a disciplinary proceeding is pending against the applicant. Since the applicant has submitted his written statement the matter requires to be enquired into and, in fact, the department took steps for conducting the enquiry by appointing the Inquiry Officer. Mr Choudhury also submitted that the Inquiry Officer, Shri P.D. Sonowal, though transferred from the Circle Office, Guwahati to the Office of the General Manager, Kamrup Telecom District, Guwahati vide order dated 27.11.2001 has been directed to complete the departmental inquiries already handed over to him while functioning as DE(Deptl. Enquiry) circle office. In the facts and

circumstances.....

circumstances of the case, the learned Addl. C.G.S.C. submitted that this is a fit case where the department should be allowed to complete the enquiry. If the applicant is found innocent he would be exonerated on completion of the enquiry.

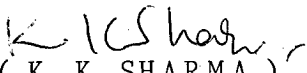
6. We have given our anxious consideration in the matter. WE are also of the opinion that instead of going into the merits of the charges by us at this stage, it would be appropriate if the matter is finally decided upon by the Disciplinary Authority itself. We, therefore, direct the respondents, more particularly the respondent No.3- Chief General Manager, BSNL, Assam Telecom Circle, Guwahati to complete and finalise the departmental proceeding within two months from today. It would be open to the applicant to take all the points that he has raised here before the Disciplinary Authority. We, however, could not find any justifiable reason for not giving effect to the order of promotion to the applicant by virtue of the order dated 31.8.2001. We were not made aware of any statutory rules withholding the promotion duly made for pendency of the proceeding. The case of the applicant was also considered for promotion and the competent authority found him suitable for promotion. The very promotion is itself on ad hoc promotion. The O.M. dated 14.9.1992, relied upon by the respondents, pertains to the measure at the time of consideration of Government servants for promotion. The applicant was found suitable for promotion and in fact, by the order dated 31.8.2001 the posting order was also issued. The order of posting was only an ad hoc measure. As per the Government Circular review was to be conducted after six months.

7. Considering the nature of the charge and other surrounding circumstances, it cannot be said that the promotion of the officer would be against public interest. At any rate the department concerned even did not indicate anything in its order. In the circumstances we are of the view that since the very promotion is of ad hoc nature, the applicant is not to be deprived of his due promotion. The respondents are accordingly directed to give effect to the promotional order by promoting the applicant

to.....

to the post of STS of ITS Group 'A' forthwith as an ad hoc measure.

8. With the above observation the application stands disposed of. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

nk m

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
25 SEP 2001
गुवाहाटी ब्याचपोट
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH.

O.A. NO. 392 of 2001.

BETWEEN

Sri Dina Nath Baishya, .. Applicant.

- AND -

The Union of India & Ors., .. Respondents.

- I N D E X -

<u>Sl.No.</u>	<u>Particulars.</u>	<u>Pages.</u>
1.	- Application.	- 1 to 12.
2.	- Annexure - A.	- 13 to 17
3.	- Annexure - B.	- 18 to 28
4.	- Annexure - C.	- 29 to 32
5.	- Vakalatnama.	
6.	- Notice.	

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(NIRAN BORAH)

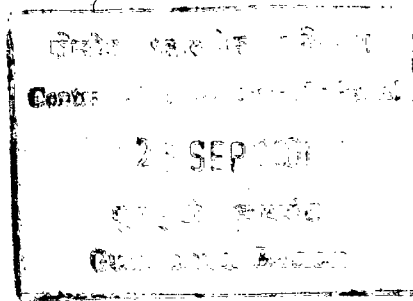
Signature of the Advocate.

For use in the Tribunal's Office.

Date of filing : 24th Sept 2001

Registration No :

Signature.



Filed by the
applicant Sri
Din Nath Bashya
through Nisan Bar
Advocate.
24-9-2001

DISTRICT :: KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI.

O.A. NO. _____/2001

IN THE MATTER OF :

Sri Dinna Nath Bashya,
Son of Late Dhaneswar Bashya,
P.O. Hengrabari, P.S. Dispur,
Village - Hengrabari,
District - Kamrup, Assam.

LAST EMPLOYED :

As an Assistant Director
(Management Information Science)
Office of the Chief General Manager
Telecom, Assam Circle, Ulubari,
Guwahati-7.

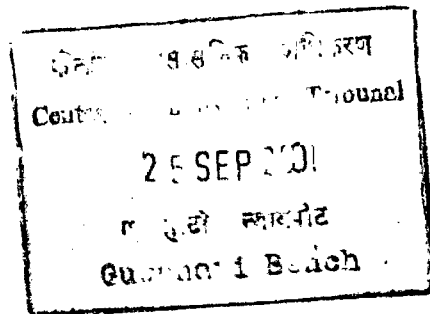
.... Applicant.

- Vrs -

1. The Union of India
(Represented by the Secretary,
Telecommunication, Sanchar Bhawan,
New Delhi.)
2. The Chairman,
Bharat Sanchar Nigam Ltd.
Govt. of India Enterprises,
New Delhi.

Contd.... P.2.

Dina Nath Bashya



- 2 -

3. The Chief General Manager,
Telecom, Bharat Sanchar Nigam Ltd.,
Assam Telecom Circle,
Ulubari, Guwahati-7.
4. The Deputy General Manager (Admn.),
Office of the Chief General Manager
Telecom, Ulubari, Guwahati-7.

Dina Nath Baishya

..... Respondents.

1. DETAILS OF APPLICATION :

Particulars of the Order :- Clause 3(i) of the Order
against which the No.F No.412-42/2001-Pers.1
application is made. dated 31.8.2001 issued by
the Corporate Office
Personnel 1 Section,
Bharat Sanchar Nigam Ltd.

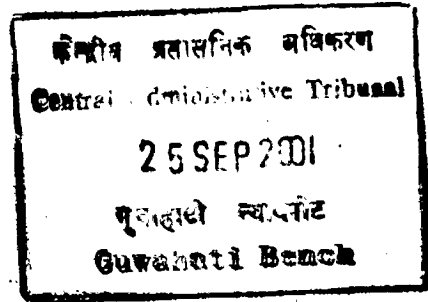
...(Annexure-C).

Page - 29 .

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

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

Contd..... P.3.



- 3 -

4. FACTS OF THE CASE :-

- (a) That, the applicant is a citizen of India and he is permanent resident of village Hengrabari in the District of Kamrup, Assam. He belongs to the Scheduled Caste Community.
- (b) That, the applicant is now 55 years of age and he has spent his long years in the Telecommunication Department. The applicant has been deeply involved with the organisation.
- (c) That, the applicant states that he joined in the earst-while Telecom Department, Govt. of India in the post of T/S Clerk on 5.3.1965 and was promoted to the post of Wireless Operator on 9.2.1971. Due to his efficiency and sincerity in his duty the applicant was promoted to the post of Junior Engineer in the Department on 5.6.1973. The applicant was again promoted to the post of Assistant Engineer (T.E.S. Group-B) on 25.11.1981 and worked in different places in the North-Eastern Region due to his heard work sincerety and efficiency, the petitioner was promoted to the post of Sub-Divisional Officer (Phones), Dispur and he joined there on 1.6.1992. The applicant was again promoted in the post of Sr. Sub-Divisional Engineer w.e.f. 6.2.1995 and worked in the post of S.D.O.(Phones), Dispur till 9.10.1996. Thereafter, the applicant was posted as Sub-Divisional Engineer (Cable Planning) at the office of the General Manager, Guwahati. The applicant has been working as Asstt. Director Telecom (Management Information Science) in the office of the Chief General

Contd.... P.4..

Dina Nath Baishya

Clerk - 1965

Operator 1971

Jr Eng (Gr D) 1973

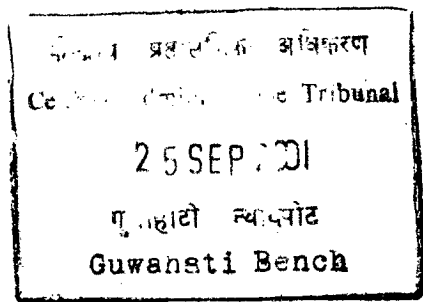
AS 81

S.D.O. 82

Sr SDO 95

Asst Dir →

Gr-A



- 4 -

Manager Telecom, Assam Circle, Ulubari, Guwahati-7.

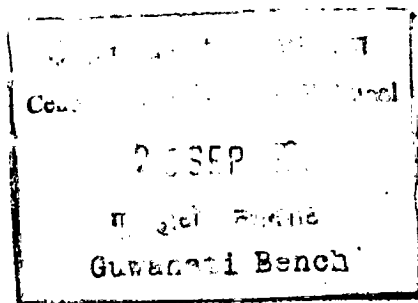
(d) That, the applicant respectfully states that he has long 36 years of dedicated and sincere service in the department to his credit.

(e) That, the applicant respectfully states that to his utter surprise he was served a show cause notice/ ^{on} 2.7.2001 vide No. Vig/Assam/Disc-X/00-01/4 dated 24.5.2001 with statement of Article of Charges and statement of imputation of Misconduct issued by the Chief General Manager, Assam Telecom Circle, Bharat Sanchar Nigam Limited.

Copies of aforesaid show-cause notice and statement of charge and statement of imputation misconduct are annexed hereto and marked as Annexure-A series.

(f) That, the applicant respectfully states that he was directed to submit his reply to the aforesaid show cause notice within 10 days from the date of receipt of the same. Accordingly the applicant submitted his written statement of defence to the Chief General Manager, Assam Telecom Circle on 10.7.2001 refuting the charges of allegation incorporated in the statement of Article of charge and statement of imputation of misconduct.

Contd.... P.5.



Copies of aforesaid written statement dtd. 10.7.2001 together with relevant annexures thereto are annexed herewith and marked as Annexure-B series.

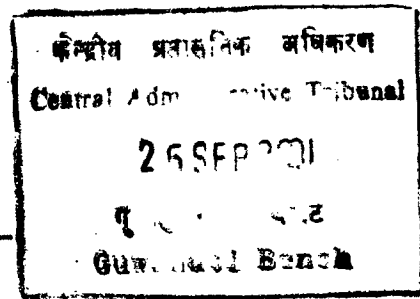
(g) That, the applicant respectfully states that he has no omissions or commissions as alleged in the show cause notice dated 24.5.2001. In fact the applicant had acted with all sincerity and efficiency throughout his service career the disciplinary authority has not taken any steps after the submission of the written statement dtd. 10.7.2001 (Vide Annexure-B). The delay in taking steps on the part of the respondent authorities has caused irreparable loss and injury to the applicant.

(h) That the applicant respectfully states that that by order No.F.No-412-42/2001-Pers-1 dated 31.8.2001 issued by the Bharat Sanchar Nigam Ltd. 111 Officers of T.E.S. Group-B who have been posted to B.S.N.L. on their ad-hoc promotion to S.T.S. of I.T.S. Group-A(DET). The name of the applicant has appeared at serial No.28 of the list 111 promotees.

A copy of the aforesaid order dtd. 31.8.2001 is annexed herewith and marked as Annexure-C.

(i) That, the applicant respectfully states that the Clause-3 of the aforesaid order dtd. 31.8.2001 (Vide Annexure-C) states as follows :-

Dina Nath Baidya



- 6 -

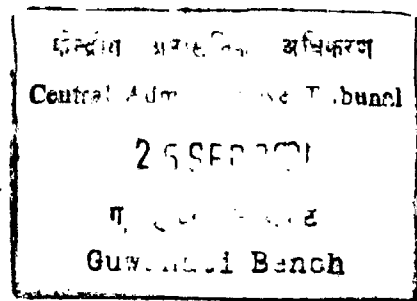
"3. The Officers shall not be promoted to the higher grade by the concerned Circles Units :

- (i) In case of disciplinary/vigilance case is pending against him ;
- (ii) If the Officer is under the currency of any penalty ; or
- (iii) The Officer is on deputation to TCII etc.

Such cases will be decided by this office on receipt of information from the concerned Telecom Circles. Information in this regard may be brought to the notice of this office within 15 days from the date of issue of this order".

(j) That, the applicant respectfully states that, the aforesaid Clause 3(i) is not tenable in law inasmuch as it is a settled law now that a pendency of disciplinary proceeding for a long time cannot be ground to with-held the promotion of the applicant. In the instant case the applicant submitted his written statement on 24.5.2001 (vide Annexure-B) in response to the show cause notice dated 24.5.2001 (received by the applicant on 2.7.2001) vide Annexure-B. It is the bound and duty of the respondent authorities to complete the whole process of the disciplinary proceedings drawn against the applicant within reasonable time.

Dina Nath Baishya



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(k) That, the applicant respectfully states that the Clause-4 of the aforesaid order dated 31.8.2001 (vide Annexure-C) states as follows :-

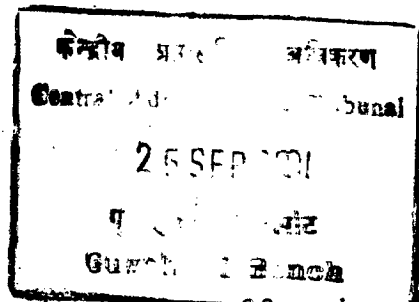
"In accordance with the instructions contained in DOT Office Circular No.12/75/2000 STG-1 dated 18.8.2000, the Officers are required to join their promotional assignment within a time period of 40(forty) days. The CGMT concerned may ensure that the station of posting orders in respect of the officers issued in time and such officer is relieved accordingly so as to enable him to join the promotional assignment within a prescribed time period of 40days from the issue of the promotion order by this office".

"In case of officer concerned fails to join in the promotional assignment within the prescribed time period of 40 days, he should not be allowed to be relieved or join the post thereafter. In such an event the promotion order shall become inoperative and the matter shall be reported to this office for further necessary action. Further no request for modification of promotion orders shall be entertained after the expiry of the 40(forty) days period."

"The C.G.M.T. concerned are further directed that the pending request of the officer(s) for modification of the promotion orders cannot be taken as a ground for holding of the implementation of the promotional orders in respect of the officer (s)."

Contd.... P.8.

Dina Nath Baisya



(1) That, the applicant shall suffer irreparable loss and injury, if the whole process of disciplinary proceedings is not completed within time limit. In other words, the applicant shall be deprived of his due promotion vide order dtd. 31.8.2001 if Clause 3(i) and Clause-4 of the order dtd. 31.8.2001 are allowed to be inoperation. In plain words the fate of the applicant is hanging in the balance. For no fault of his.

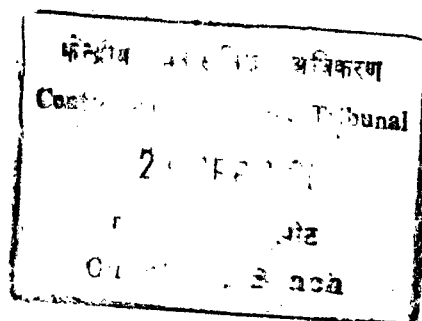
(m) That, the applicant respectfully states that he has not been found guilty of misconduct and therefore, the applicant cannot be deprived of his legitimate promotion on the plea of continuance of disciplinary proceedings. The applicant respectfully states that there is no Rule of Law to deprive of his promotion due to pending of disciplinary's.

5. GROUND'S OF RELIEF WITH LEGAL PROVISION :

5.1 For that, Clause 3(i) of the Order F.No.412-42/2001-Pers-1 dated 31.8.2001 (vide annexure-C) is, prima facie illegal and the same cannot stand the scrutiny of law and therefore, the same is required to be expungated.

5.2 For that, the condition incorporated in Clause-4 of the order F.No.412-42/2001-Pers-1 dated 31.8.2001 cannot be made applicable to the applicant to deprive him of his legitimate promotion due to inaction on the reply of the applicant (vide annexure-B) in response to the show cause notice dtd. 24.5.2001

Sina Nath Baishya



(vide annexure-A). The applicant in the instant case has been made to suffer for failure on the part of the respondent authorities to complete the disciplinary proceedings within reasonable time.

5.3 For that, discrimination meted out to the applicant in not giving effect to promotion to the post of S.T.S. of I.T.S. Group-A on the ground of continuance of disciplinary proceedings is violative of Articles 14 and 16 of the Constitution of India.

5.4 For that, the Clause 3(i) of the promotion order F.No.412-42/2001-Pers-1 dated 31.8.2001 (vide Annexure-C) is blatant violation of the Central Civil Service Rules, 1965 and therefore, the same is liable to be expunged.

5.5 For, that the respondents have committed illegality by depriving the applicant of his due promotion to the post of ITS Group-A on the strength of Clause-3(i) of the order dated 31.8.2001 which is not sustainable in the eyes of law.

5.6 For that, in any view of the matter the action/inaction of the respondents are not sustainable in the eyes of law.

6. DETAILS OF REMEDIES EXHAUSTED :

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

S. N. Singh

7. MATTER NOT PREVIOUSLY FILED OR PENDING IN OTHER COURT

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

8. RELIEF SOUGHT FOR :

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

8.1 To expurgate the Clause 3(i) of the promotion order dated 31.8.2001 (vide Annexure-C) whereby the respondents have been deprived of his due promotion to the post of STS of ITS Group-A of the service of the applicant.

8.2 To direct the respondents not to make Clause-4 of the order F.No.-412-42/2001-Pers-1 dated 31.8.2001 (Annexure-C) applicable in case of the applicant.

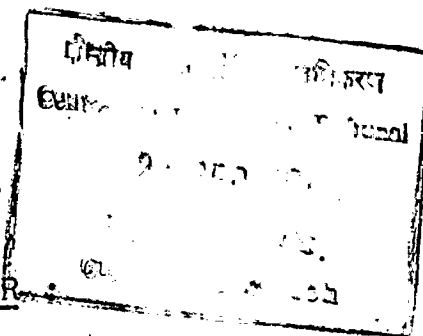
8.3 The respondents be directed to promote the applicant to the post of STS of ITS Group-A w.e.f. the date when the promotion of the similarly situated other incumbant have been made effective.

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

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

Contd... P.11.

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Jina Nath Baishya



9. INTERIM ORDER PRAYED FOR :

In the interim the applicant may please be promoted to the post of STS of ITS Group-A till the disposal of the Original Application by keeping the Clause-3(i) of the F-No-412-42/2001-Pers-1 dated 31.8.2001 (Annexure-C) kept in abeyance.

10. PARTICULARS OF IPO :

1. I.P.O. NO. : 66788304
2. DATE : 17-9-2001
3. PAYABLE AT : GUWAHATI.

11. LIST OF ENCLOSURE :

As stated in the INDEX.

.....

Dina Nath Baistya

- VERIFICATION -

I, Sri Dina Nath Baishya, S/O Late Dhaneswar Baishya, aged about 56 years, resident of Village-Hengrabari, P.O. Hengrabari, P.S. Dispur, District - Kamrup, Assam, do hereby verify the contents of paragraphs 4 (a, b, c, d, f, g, j, l, m, are true to my personal knowledge, and paragraphs e, h, k believe to be true on legal advice and that I have not suppressed any material facts.

And I set my hand on this verification, to-day the 24th September, 2001, at Guwahati.

Dina Nath Baishya
Signature of the Applicant.

Bharat Sanchar Nigam Ltd.
(a Govt. of India Enterprise)
O/O The Chief General Manager,
Assam Telecom Circle,
Guwahati-781007.

No : Vig/Assam/Disc-X/00-01/4

May, 24' 2001

MEMORANDUM

- 1) Shri D. N. Baishya, AD(MIS), O/O the CGMT, Guwahati formerly SDOP, Dispur under O/O the GMT, Kamrup Telecom District, Guwahati is hereby informed that it is proposed to hold an inquiry under Rule-14 of Central Civil Services(Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of 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 witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV)..
- 2) Shri D.N. Baishya 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 articles of charge.
- 4) Sri D.N. Baishya 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 CCS(CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him exparte.
- 5) Attention of Sri D.N. Baishya is invited to Rule 20 of the Central Civil Services(Conduct) Rules, 1964 under which no Govt. 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 Sri D.N. Baishya 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.

To

✓ Sri D. N. Baishya,
A. D. (MIS),
O/O CGMT, Assam Circle, Guwahati:

(J.K. CHHABRA)
Chief General Manager
Assam Telecom Circle,
Guwahati

Certified to be true Copy

Advocate

Annexure -I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SRI DINA
NATH BAISHYA, AD(MIS), O/O THE CGMT, GUWAHATI FORMERLY
WORKING AS SDOP, DISPUR UNDER O/O THE GMT, KAMRUP TELECOM
DISTRICT GUWAHATI.

While Shri D. N. Baishya was posted and functioning as SDOP, Dispur under O/O the GMT Kamrup Telecom District, Guwahati during 1993-94, he failed to maintain absolute integrity and devotion to his duty in as much as he issued certificates for having received materials of a total value of Rs. 21425/- allegedly supplied by M/s Pallabi Enterprise & M/s DCM Retail Stores. The said firms had supplied the materials at very high rates and the same were procured without any approved purchase order of the competent authority. Sri D.N. Baishya did not also maintain any stock register to keep accounts of the received materials supplied by the firms and thereby due to his aforesaid acts contravened the provision of rule: 3(1) (i)(ii) & (iii) of CCS(Conduct) Rule 1964.

without approved purchase order

मुख्य महाप्रबन्धक दूरसंचार
Chief General Manager Telecom
असम दूरसंचार परिमण्डल, गुवाहाटी-7
Assam Telecom Circle, Ghy-7

Certified to be true Copy


Advocate

Annexure -II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SRI D.N.
BAISHYA, AD(MIS), O/O THE CGMT, GUWAHATI FORMERLY
SDOP(P), DISPUR UNDER O/O THE GMT, GUWAHATI

Whereas Sh. D.N.Baishya was posted and functioning as SDO(P), Dispur under
o/o the GMT, Kamrup Telecom District, Guwahati during 1993-94.

Sh. D.N.Baishya received materials and certified the bills of M/s Pallabi
Enterprise, M/s DCM Retail Stores as follows :

Sl. No.	Bill No. & Date	Amount	Name of the Firm
1	PE/93-94/060 dtd 19-10-93	759	M/s Pallabi Enterprise
2	PE/93-94/064 dtd 23-11-93	1050	-do-
3	PE/93-94/072 dtd 14-12-93	5745	-do-
4	PE/93-94/100 dtd 23-3-94	10,291	-do-
5	4583 dtd 5-12-94	3580	M/s DCM Retail Stores

Sh. D.N.Baishya had certified the receipt of materials of total value of Rs.
21,425/- from the above mentioned firms.

As per the procedure in force, the General Section, o/o the G.M., Kamrup
Telecom District process the purchasing of materials on the basis of requisition received
from indenters. After getting approval from the competent authority, the purchase order
be issued to the approved shop/supplier. Purchase order generally signed by the
DE(Admn), O/O the GMTD, Kamrup. On supply of ordered item by the approved
supplier, the bill used to be lodged in the name of DE(Admn) through the indenting
officer and in turn the indenter forward the bill/ claim with his certificate in regard of the
quantity and quality etc. of the supplied material for payment.

Sri D.N.Baishya did not sent any requisition to the GMT office for supply of the
materials. Aforesaid firms had supplied the materials whereas no purchase orders were
placed by the competent authority.

M/s Pallabi Enterprise was not an approved firm for supply of materials in the
GMT office and raised bills at higher rates than approved rates.

Sh. D.N.Baishya failed to maintain any stock register/issue register for keeping
the accounts of receipt and issue of store materials.

Sh. D. N. Baishya failed to maintain absolute integrity and devotion to duty which
has been proved during investigation on the basis of oral and documentary evidences.

The above acts of commission and omission on the part of Sh. D.N.Baishya
contravene the provision of rule 3(1) (i)(ii) & (iii) of CCS(Copdnt) Rules, 1964.

Certified to be true Copy


Advocate

ANNEXURE - III

List of documents by which the Articles of charge framed against sri D.N.Baishya, AD(MIS), O/O the CGMT, Assam Telecom Circle, Guwahati the then SDO(P), Dispur under o/o the GMTD, Kamrup Telecom District are proposed to be sustained.

<u>Sl. No.</u>	<u>Particulars of document</u>	<u>Name of the firm</u>
1	PE/93-94/060 dtd 19/10/93	759 M/s Pallabi Enterprise
2	PE/93-94/64 dtd. 23/11/93	1,050 -do-
3	PE/93-94/072 dtd 14/12/93	5,745 -do-
4	PE/93-94/100 dtd 23/3/94	10,291 -do-
5	4583 dtd 5/12/94	3,380 DCM Retail Stores
6	CashBookNos.97,98,99,101,102,103,104,105,106,107,108,109,110,111,112,113,114,115,116,117,118,119,120,121,122,123,124,125.	
7	File No: G-8/Rubber Stamp/94-95/95-96	
8	File No: G-8/Tender/Rubber Stamp/95-96	
9	Stock Distribution Registers of Water Filters/Candle/1990-94.	
10	Bill Register(Steel Furniture of TDM Ghy)/1993-94.	
11	Bill Register of calculator 1985 to 1992/98.	
12	File No. 265/Calculator/1993-94 onwards.	
13	Register of Rubber Stamp/ Name Plate/Sign Board etc. 1991-92/95-96	
14	Surprise check Memorandum dtd 10-6-96	
15	Letter No: G-22/OBI/98-99/2 dtd 25/11/98.	
16	Letter No. GMT/Cash/CB/97-98 dtd 1-8-97.	
17	Blank letter heads of M/s Gopal Das, Pallabi Enterprise and	
18	Specimen signature of Mrs. Renu Bhuyan(total 5 sheets).	
19	Bill Book of M/s Pallabi Enterprise (2 Nps.).	

Certified to be true Copy


Advocate

Annexure - IV

List of witness by whom the Articles of charge framed against Sri D.N. Baishya, AD(MIS), O/O the CGMT, Guwahati the then SDOP, Dispur under O/O the GMT, Kamrup Telecom District, Guwahati are proposed to be sustained.

- 1) Sh. Amalendu Shyam Choudhury, DE(Admn), O/o the GMT, Kamrup, Guwahati.
- 2) Sh. Chandra Kanta Das, Accounts Officer (Cash) O/o the GMT, Kamrup, Guwahati.
- 3) Sh. Munindra Kr. Dey, S/o Lt. Mathura Mohan Dey, Sr. TOA(G) O/o the GMT, Guwahati.
- 4) Sh. Krishna Kanta Deka, S/o Lt. Dhaniram Deka, C.S.S.(G) O/o the GMT, Guwahati.
- 5) Sh. Nabin Ch. Kachari, S/o Lt. C.R. Kachari, Sr. C.S.S., General Section, O/O the GMT, Kamrup, Guwahati.
- 6) Sh. Dharam Ch. Deka, S/o Lt. Megha Deka, Sr. C.S.S. General Section, O/o the GMT, Kamrup, Guwahati.
- 7) Sh. Damodar Sharma, S/O Lt. Murari Sharma, S/O P-II, Dispur, R/O Maligaon Green Park colony, Guwahati-11.
- 8) Sh. Chaitesh Dey, S/O Niranjana Prasad Dey, AD(Vig) O/O GMT Kamrup, Guwahati.
- 9) Sh. S.C. Gupta, Govt Examiner, GRQD, Calcutta.
- 10) Sh. A.B. Gupta, Inspector, CBI, ACB, Calcutta.
- 11) Sh. K. Barman, Inspector, CBI/ACB/Guwahati.
- 12) Sh. D.P. Dutta, Inspector, CBI, ACB, Guwahati.
- 13) Sh. M. Sharma, Inspector, CBI, ACB, Guwahati.

Certified to be true Copy


Advocate

Annexure- 'B' Series.

To,

The Chief General Manager
Assam Telecom Circle
Guwahati-781007.

Dated at Guwahati the 10-07-2001

Sub : Written statement of defence.

Ref : Your memorandum vide no Vig/Assam/Disc-X/00-01/4 dtd. 24.05.2001.

Sir,

In inviting reference to your memorandum cited above received on 02.07.2001, I beg to submit hereunder the statement of defence against the charges framed against me.

That, the allegation that requisition was not sent to GMT office (the then TDM office) was totally baseless and without any substance. The preliminary enquiry team has failed to make proper enquiry to find out the facts. In fact the requisitions were placed to the TDM office from the office of the SDO(P) Dispur. In this regard it is to mention here that after inspection of documents in the office of SDO(P) Dispur, requisition letters were found which proves that there was no enquiry before issue of charge sheet..

(Copies of requisition letters are enclosed for ready reference)

That the allegation that the stock register issue register for keeping the accounts of receipt and issue of store was not maintained, is just another comment without any evidence and without any investigation. There is no evidence either oral or documentary mentioned in article III and IV of the memorandum to substantiate the allegation.

That general section o/o the GM Kamrup process the purchasing of stores and supplies it to the unit office. The suppliers were supplying the materials to GM office which was distributed to unit offices on the basis of the requisition placed from that unit. As such there was no lapse on the part of the SDO(P) Dispur office for placing the requisition.

That the materials supplied by the TDM office were general materials required for day to day work of the Sub-Division and for utilization in the IB under the control of SDO(P) Dispur. Had the investigating officer taken pain to enquire with SDO(P) office and all the records could have been verified by them, then the wastage of so many man days could have been avoided.

Certified to be true Copy


Advocate

That the materials in question were procured by the then TDM office on the rates fixed by that office and payments also been made by them as per statement made in annexure-II of the chargesheet. Then why the allegation has been made for non-submission of requisition letter is not understood. There were instances that the stores were procured by TDM office and were distributed to field units without asking for requisition.

In the circumstances taking into consideration all the points mentioned above it is to submit before your benign authority that there were no lapse on my part in submitting the certificate of receipt of materials when the materials were actually received for deptt.'s use. Hence the allegation may be dropped before initiation of further enquiry in the light of letter G.I., M.H.A., O.M. No. 11012/8/82-Est (A) dtd 8.12.1982 and as there is no prema facie case exist.

Encl:-as above(Nine copies)

Yours faithfully


(D.N. BAISHYA)
ADT (MIS)

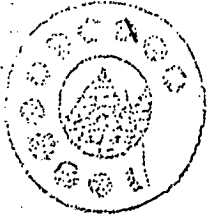
O/o the CGMT/Guwahati

Certified to be true Copy


Advocate

Corr-22

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS



सेवा
From

सेवा में
To

The R. B. (Electrical)
Telecom Electrical
Department
C.M.T. (G.H.)
Dated at 19/7/95

संख्या
No.

G-67/95-96/1-CC

Dated at

19/7/95

विषय :
Subject :

Requirement of
Electrical item at
Dispur I/B

Kindly fix one one tube
in each room of Dispur I/B
as present lighting arrangement
is not sufficient in each

(1) Tube light =
(complete)

Room no 1 2 3 (three)
Room no 2 2 1 (one)
Room no 3 2 1 (one)
Room no 4 2 1 (one)

(2) Syse (old) to be fitted in
General toilet

(2) T.V antenna = 1 (one)

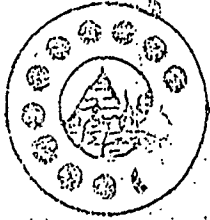
19/7/95

Certified to be true Copy

Advocate

Corr-22

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS



प्रेषक
From

सेवा में
To

The T.D.M./Gt

क्रमा संख्या।

No. 6-69/95-96/44

दिनांक

Dated at Gt 29/6/95

विषय :

Subject :

Requirement of I/B
materials for Dispur

Kindly supply the following materials
to Kamachya Guest (I/B) Dispur

- | | | | |
|-----|---------------|---|-----------|
| (1) | matte 8 1/2 | 2 | 3 (three) |
| | 3 1/2 x 6 1/2 | | |
| (2) | Hot case | 2 | 2 (two) |
| (3) | glass | 2 | 1 dozen |
| (4) | Cup plate | 2 | 1 dozen |
| (5) | Rice dish | 2 | 1 dozen |
| (6) | Katara | 2 | 12 sets |
| (7) | | | |

29/6/95
Sub-Divisional Officer, Phones
Dispur, Sub-Division, Guwahati

Certified to be true Copy

Advocate

Dept. of Telecom.
Of the SDO Phons Dispur
Gowahati.

To
The S.D.E (Admin)
Of the T.D.M. / G.M.

NO. G-69/91-015/35 Dated on 2.12.94.
Sub: Supply of wooden blankets &
Hot Case
Kindly arrange to supply 7 (Seven)
nos of wooden blankets and 1 (one) no of
Hot Case for the use of Kamakhya Guest House
dispur early.

at present having 7 (Seven)
nos for each person the
blanket is required)

Sub-Divisional Officer Phons
Dispur Sub-Division,
Dispur, Guwahati.
781 006.

Certified to be true Copy


Advocate

Department of Telecommunication
of the S.D.O. Phoned, Dispur

To the AE (Admin)

of the TDM, Guwahati

No - 6 69/TB/93-94/24 Dtd the 8.2.94

Sub - Supply of Stationery Items.

Kindly arrange to supply the
following items for the use of Karakhyia
Guest House, Wire less, Dispur.

- ① phenyl - 2 lino.
- ② P.S. - 20 pks.
- ③ Cement - 10 "

Sub-Divisional Officer, Phoned
Dispur Sub-Division
Dispur, Guwahati

Certified to be true Copy

Advocate

Corr-22

DEPARTMENT OF TELECOMMUNICATIONS

From

S.D.O. Phones,
Dispur.

To
The Telecom District Manager

Guwahati, Assam-781001

क्रम संख्या

No. G-69/I.B./Dispur/93-94/

दिनांक

Dated at Dispur the 29-1-94

विषय

Subject: Requisition for curtain cloth & others.

The following materials for the Dispur Inspection Quarter are urgently required. The said items were supplied at the time of opening of the I.B. and no further supply was made.

1. Repairing of sofa set. (1) minor repair.
2. Jute carpet in room No. 2
3. Curtain cloth for all the doors & windows. 80 metres.

(P.C.M. Products)

In addition to switching the. so and replacement of aluminium rods are also required for electrical purposes.

Sub-Divisional Officer Phones
Dispur.

Sub-Divisional Officer Phones
Dispur Sub-Division, Guwahati

Certified to be true Copy

Advocate

Corr-22

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS



देयक
From

सेवा में
To

Mr. T. M. / 11

क्रम संख्या

No. G-67/73-94/21

दिनांक


Dated at Guwahati the 3/12/91

विषय


Subject :

Kindly arrange to supply the following materials to Dispur 1/B
i.e. Kamakhya Guest House

- (1) Towel Small Size = 12 do (twelve)
- (2) Towel (bathing) = 10 do (ten)
- (3) Bed Sheet (medium size) = 6 do (six)
(white)
- (4) Mattress = 2 (two)
(6 1/2' x 3 1/2' size)
- (5) Pillow (cotton) = 5 (five) do
(13 size)


3/12/91
Sub-Divisional Officer, Phones
Phone Sub-Division, Guwahati

Certified to be true Copy


Advocate

Corr-22

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS



प्रमाण
From

शेता.मं
उ०

Ure T. D. 1/1/11

क्रम संख्या

No. A-30/72-73/84

दिनांक

Dated at Lucknow, the 4/7/11

विषय

Subject

Supply of
curtain cloth for
SDO Disp. office

Kindly supply the following items
for the office of SDO Phones
Disp.

① Curtain cloth
for window & door.

2 = 35 meter

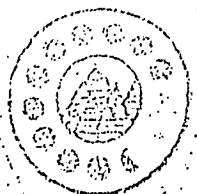
② Rod, hook etc for fitting the
curtain

There is also union item, no
curtain was supplied earlier in
one office.
The same may be supplied
early

Sup. Division Officer, Lucknow
Bihar Sub Division
Lucknow-781005

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Advocate



फॉर्म - 7 / Corr-7
 भारतीय दूरसंचार / DEPARTMENT OF TELECOMMUNICATIONS
 कार्यालय / Office of the T.D.M.
 To: Shri. J. N. Mahapatra

No. 8.270/13.11.13 Dated 24/12/13

Subject - Supply of Blankets for District 1/13

Kindly arrange to supply four (4) blankets for District 1/13.

At present only 4 (four) blankets are available and it is not sufficient for 7 beds.

Kindly do needful and oblige.

30/12/13

S.D.O. B. D. Singh

Certified to be true Copy

[Signature]
 Advocate

Corr-22

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS



प्रक
From

सेवा में
To

The T.D. N1
Gawahat

दिनांक

Dated at Gawahat. the 13/11/82

क्रम संख्या

No. G-69/82-83

विषय

Subject: Requisition of I.B.
Bottle Lenses

Kindly supply the following items for
the I.B. (Kamakhya Guest House) Borthala
for ensuring visit of high ranking officials

- ① Ceep plate B/C = 1 (one) dozen
- ② Plate 1/2 size " = 1 (one) dozen
- ③ Bati (medium size) = 1 (one) do.
- ④ Fitter (27 litres) = 1 (one)
- ⑤ Blanket (woolen) = 10 (ten) pieces
Single size

The same may please be supplied
early

Sub Divisional Officer, Phones
Dy. Secy to Division
Gangdall-781005

Certified to be true Copy

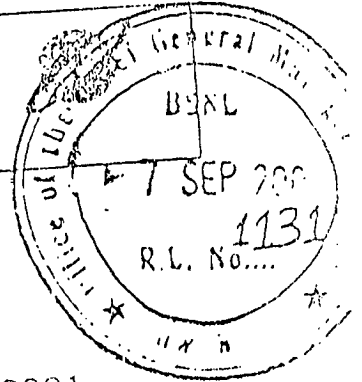
Advocate

73-79

Serial T



CORPORATE OFFICE
PERSONNEL - I SECTION
Sanchar Bhawan, New Delhi - 110 001.



F. No.412-42/2001-Pers.I

Dated: August 31, 2001.

ORDER

Subject: Posting on promotion of officers of TES Group 'B' to STS of ITS Group 'A' of on adhoc basis- Regarding

In pursuance of DoT Order No. 11-1/2001-STG-I dated 29.08.2001, the following 111 officers of TES Group 'B' who have been posted to BSNL on their ad-hoc promotion to STS of ITS Group 'A' (DET) are hereby posted in the Circles as indicated in the Annexure enclosed.

2. The officers would not have any claim for their seniority in STS of ITS Group-A based on this ad-hoc promotion. Their seniority will be determined with reference to their basic seniority in the substantive grade of TES Group 'B'.

3. The officers shall not be promoted to the higher grade by the concerned Circles/Units:

- i. In case of disciplinary / vigilance case is pending against him
- ii. If the officer is under the currency of any penalty; or
- iii. The officer is on deputation to TCIL, etc.

Such cases will be decided by this office on receipt of information from the concerned Telecom Circles. Information in this regard may be brought to the notice of this office within 15 days from the date of issue of this order.

4. In accordance with the instructions contained in DoT office Circular No.12/75/2000-STG.I dated 18/8/2000, the officers are required to join their promotional assignment within a time period of 40 (forty) days. The CGM concerned may ensure that the station of posting orders in respect of the officers are issued in time and the officer is relieved accordingly so as to enable him to join the promotional assignment within a prescribed time period of 40 days from the date of issue of the promotion order by this office.

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Advocate

-: 2 :-

In case the officer concerned fails to join the promotional assignment within the prescribed time period of 40 days, he should not be allowed to be relieved or join the post thereafter. In such an event the promotion order shall become inoperative and the matter shall be reported to this office for further necessary action. Further no request for modification of promotion orders shall be entertained after the expiry of the 40 [forty] days period.

The CGM concerned are further directed that the pending request of the officer(s) for modification of the promotion order ~~cannot be~~ taken as a ground for holding of the implementation of the promotion orders in respect of the officer(s).

5. If there are any other administrative difficulties faced by the concerned Circle(s) for implementing the ad-hoc promotion order in respect of the officer(s), the concerned CGMT may come to the help of the notice of this office within the prescribed time limit. After this period will be entertained.
6. The leave, if any requested by the officers, who are under transfer, should not be allowed. If any officer desires leave, he should apply for leave to the Competent Authority only after joining the new post. The Competent Authority will sanction leave, if it is coming in the normal course.
7. The date on which the above order is given effect may be intimated and charge-reports sent to all concerned. A consolidated report of the officers who have relieved / joined their new post should be sent immediately on completion of 40 days from the date of this order.
8. This is further subject to the outcome of various cases pending in various courts.
9. This issues with the approval of Competent Authority.

(J.L.)
Assistant Director
Tel. No.

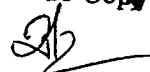
Certified to be true Copy


Advocate

ANNEXURE TO ORDER NO.412/42/2001-PERS.-1 DATED 31/08/2001.

S. No.	STAFF No.	NAME OF OFFICER (S/SHRI)	PRESENT POSTING	CIRCLE OF POSTING
1.	4492	D. P. GAUTAM	UP-WEST	J&K
2.	5470	ARUN KANTI BISWAS	ETP	ETP
3.	4789	S. K. SAHA	CTD	CTD
4.	5240	K. J. PANDYA	GUJ	GUJ
5.	5601	R. D. PATEL	GUJ	GUJ
6.	7892	BHASKARAN N.	AS	AS
7.	5886	M. N. PATEL	WTR	WTR
8.	7956	KANT LAXMI	UP-EAST	UP-EAST
9.	6062	KARTAR SINGH SAINI	PH	PH
10.	6206	T. T. NADGAUDAR	MH	MH
11.	6222	R. K. KAR	T&D	CTD
12.	6230	N. P. SABRAN	MH	MH
13.	6232	SUDARSHAN KR. AGARWAL	PH	PH
14.	6301	SEWAK RAM ANAND	PH	PH
15.	6343	MOHD. MUSTAFA KHAN	BBNL CO	BBNL CO
16.	6425	OM PRAKASH	HP	HP
17.	6459	PRADEEP KR. BASU	DOT HQ	DOT HQ
18.	6460	K. B. KHARE	MP	MP
19.	6462	BISHT A. S.	UTRCHL	UTRCHL
20.	6463	IQBAL MATIN FARRUQUI	UP-EAST	UP-EAST
21.	6464	S. G. KORRANAE	GUJ	GUJ
22.	6465	S. P. UPADHYA	BRBRAITT	BRBRAITT
23.	6475	A. K. SAHA	NE-I	NE-I
24.	6571	INDERDEO MAHOTA	ETR	ETR
25.	6622	KALIPADA DAS	ETR	ETR
26.	6632	JAHARLAL BISHAI	ETR	ETR
27.	6715	NIRMAL CH. SAHA	CTD	CTD
28.	6797	BAISHYA DINANATH	AS	AS
29.	6813	NAGARAJ K.	KTK	KTK
30.	33683	BISWANATH DAS	CTD	NE-II
31.	6952	S. K. JAIN	NTR	HR
32.	6964	M. T. PAUL	KRL	KRL
33.	6969	MOHD. ANWARUDDIN	CTD	CTD
34.	6976	D. VASANTHA RAJ	TN	TN
35.	6977	GULSHAN BHATIA	HR	HR
36.	6978	U. K. TIWARI	BRBRAITT	BRBRAITT
37.	6981	M. M. TIWARI	NE-II	NE-II
38.	6982	KEDAR NATH	BR	BR
39.	9816	NAYAK SURESH CHANDRA	OR	AGN
40.	9823	VENKATARAMAN M.	BR	BR
41.	7063	ORAMBA KUMAR LAHA	CTD	CTD

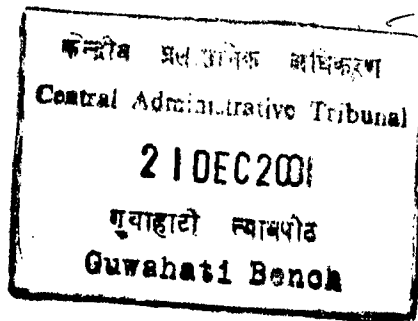
Certified to be true Copy


Advocate

S. No.	STAFF No.	NAME OF OFFICER (S/SHRI)	PRESENT POSTING	CIRCLE OF POSTING
42.	9827	KHADSE B. H.	MH	GUJ
43.	7070	PRAKASH CHANDRA	UP-WEST	UP(W)
44.	7078	BRAJ KISHORE PRASAD	BR	BR
45.	9835	ALI MOHD. SHAHANUR	AS	AS
46.	7107	RAM HET SHUKLA	UP-EAST	UP(E)
47.	7116	M. M. BHATNAGAR	RAJ	RAJ
48.	9880	B. M. C. VIDYASAGAR GUPTA	AP	NE-II
49.	9885	DIVAKARAN P.	AS	AS
50.	7194	JAGDISH SARAN SRIVASTAVA	CTD	CTD
51.	9893	GUPTA HARI CHARAN LAL	RAJ	J&K
52.	9934	VAISH KRISHNA KUMAR	UP-EAST	NE-II
53.	7281	JOYTISH CHANDRA DEB	CTD	CTD
54.	7294	J. A. PATEL	GUJ	GUJ
55.	9945	ROY P. K.	REPC	GUJ
56.	7299	TAPAN KANTI DUTTA	CTD	CTD
57.	9951	AGARWAL UMA NATH	UP-EAST	HP
58.	9956	SHIV RAM	NTP	NETP
59.	9958	SAHA AJIT KUMAR	CTD	NE-I
60.	9961	SANTOSH KUMAR	UP-WEST	UP(W)
61.	9977	CHANDRA NEMI	RAJ	J&K
62.	7375	KAJAL BEHARI DUTTA	CTD	CTD
63.	7386	KALI SHANKAR MUKHERJEE	CTD	NE-II
64.	7393	RAMA DIN YADAV	UP-EAST	UP(E)
65.	9996	MUKHOPADHYAY BIDESH K	CTD	CTD
66.	7423	NIRMAL KUMAR BASAK	CTD	CTD
67.	7425	SITA RAM MAHATO	CTD	CTD
68.	7434	AMIYA KUMAR BASU	BRBRAINT	BRBRAINT
69.	7440	RANJIT KR. CHATTOPADHYAY	CTD	CTD
70.	7442	RAMESH CHANDRA	NTR	UP(E)
71.	10013	SINGH RAMANAND	UP-EAST	UP(E)
72.	7446	M. S. ARORA	PB	PB
73.	10016	RAM DASS	UP-EAST	HP
74.	7451	RAMAKANT MISHRA	UP-EAST	UP(E)
75.	7457	CHARANJIT SINGH	PB	PB
76.	7474	NAYAB SINGH	NTR	HP
77.	7475	OM PRAKASH KUNDAL	NTR	NTR
78.	10072	N. M. PATEL	GUJ	GUJ
79.	10073	CHITTARANJAL DATTA	CTD	NE-I
80.	10075	V. K. PAUL	PB	PB
81.	10076	M. P. SHARMA	UP-WEST	UP(W)
82.	10079	KAILASH PRASAD JAISWAL	BR	BR
83.	10080	SACHIDANAND PD. SINHA	CTD	CTD
84.	10081	RAMESH CH. SRIVASTAVA	UP-EAST	HP

Certified to be true Copy

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUMAHATI BENCH ::: GUMAHATI.

*Union of India & Ors
through
Anup Kumar Choudhary*
21.12.01

In the matter of :

O.A. No. 392 of 2001.

Dina Nath Baishya

..... Applicant.

-Vs-

Union of India & Ors.

..... Respondents.

Written Statements for on on behalf of Respondents
Nos. 1, 2, 3 and 4.

I, S.C. Das, Asstt. Director (Legal), O/O
the Chief General Manager, Telecom, Assam Telecom Circle,
Ulubari, Guwahati, do hereby solemnly affirm and say as
follows :

1. That I am the Asstt. Director (Legal) in the
O/O the Chief General Manager, Telecom, Assam Telecom
Circle, Guwahati and as such fully acquainted with the
facts and circumstances of the case. I have gone through
a copy of the application and have ~~xxx~~ understood the
contents thereof. Save and except whatever is specifically
admitted in the written statements the other contentions
and statements may be deemed to have been denied. I
authorised to file the written statements on behalf of all
the respondents.

2. That the respondents have no comments to the statements made in paragraphs 4(a) and 4(b) of the application.

3. That the statements made in para 4(c) of the application are matters of record.

4. That with regard to the statements made in para 4(d), of the application, the respondents beg to state that there are instances of serious financial irregularities brought against the applicant. The matter was investigated by CBI and based on their report it appeared prima facie that the applicant is guilty of misconduct warranting Regular Departmental inquiry into the charges. Accordingly, inquiry proceedings were drawn by the competent authority by issuing the memorandum of charges under Rule 14 of CCS(CCA) Rules 1965.

A copy of the memorandum of charges is annexed hereto and marked as Annexure - A.

5. That with regard to the statements made in para 4(e), of the application, the respondents beg to state that Disciplinary proceedings have been drawn against the applicant by issuance of a charge sheet dated 24.5.01 and the same is inconclusive. The applicant attracted the condition laid down in para 3 of the promotion order. Accordingly the applicant was not promoted to the cadre of DE and the matter has been communicated to BSNL HQ. Corporate office under CGMT Guwahati No. STES-3/21/Pt.I/141 dated 15.10.01.

A copy of the communication dated 15.10.01

is annexed hereto and marked as Annexure -B.

6. That with regard to the statements made in para 4(f) and 4(g), of the application, the respondents beg to state that Disciplinary proceedings have been drawn against the applicant on 24.5.01 based on the report of the preliminary investigation conducted by the CBI which unearthed serious financial irregularities are conclusive and CVC is also of the opinion that there are materials to proceed against the applicant departmentally.

On receipt of the statement of defence from the applicant dated 10.7.01 the disciplinary authority constituted a departmental inquiry commission for findings out the nature of the charges brought against the applicant in due course.

7. That with regard to the statements made in para 4(h), of the application, the respondents beg to offer no comments.

8. That with regard to the statements made in para 4(i), of the application, the respondents beg to state that Disciplinary proceedings have been drawn against the applicant by issuance of a charge sheet dated 24.5.01 and the same is remained inconclusive. The officer attracted the condition laid down in para 3 of the promotion order. Accordingly the applicant was not promoted to the cadre of DE and the matter has been communicated to BSNL HQ, corporate office under CGMT Guwahati letter no. STES-3/21/Pt. 1/141 dated

dated 15.10.01. A copy of the communication is placed at Annexure -B.

9. That with regard to the statements made in para 4(j), 4(k), 4(l) and 4(m), of the application, the respondents beg to state that Govt. of India has laid down detailed guidelines about the promotion of Govt. servant against whom disciplinary proceedings are pending. These guidelines were issued following the judgement of dated 27.8.91 of the Supreme Court of India in Union of India etc. Vs. K.V. Janakoraman etc reported in AIR 1991 S.C. 2010. According to the para 2 of OM No.22011/4/91-Estt(A) dated 14.9.92, sealed cover procedure is to be adopted against a Govt. servant in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending. In para 2 of the order it is laid down that if the situation arises after the DPC, has recommended the promotion but before the Govt. servant is actually promoted, then the Govt. servant should not be promoted until he is completely exonerated of the charges framed against him.

A copy of O.M. dated 14.9.92 is annexed hereto and marked as Annexure - C.


10. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with cost.

Verification.....

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

I, S.C. Das, Asstt. Director (Legal), O/O
the Chief General Manager Telecom, Assam Telecom Circle,
Ulubari, Guwahati, ~~am~~ being authorised do hereby solemnly
affirm and declare that the statements made to this written
statement are true to my knowledge and information and
I have not suppressed any material fact.

And I sign this verification on this 20 th day
of December, 2001


Deponent.

Asstt. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781001

Bharat Sanchar Nigam Ltd.
(a Govt. of India Enterprise)
O/O The Chief General Manager,
Assam Telecom Circle,
Guwahati-781007.

No : Vig/Assam/Disc-X/00-01/4

(May, 24' 2001

MEMORANDUM

- 1) Shri D. N. Baishya, AD(MIS), O/O the CGMT, Guwahati formerly SDOP, Dispur under O/O the GMT, Kamrup Telecom District, Guwahati is hereby informed that it is proposed to hold an inquiry under Rule-14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of 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 witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).
- 2) Shri D.N. Baishya 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 articles of charge.
- 4) Sri D.N. Baishya 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 CCS(CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him exparte.
- 5) Attention of Sri D.N. Baishya is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Govt. 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 Sri D.N. Baishya 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.

To

Sri D. N. Baishya,
A. D. (MIS),
O/O CGMT, Assam Circle, Guwahati:

Attended
AK Chandra
Addl. Central Govt
Standing Counsel

(J.K. CHHABRA)
Chief General Manager,
Assam Telecom Circle,
Guwahati

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Annexure -1

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SILDINA
NATH BAISHYA, ADMISL O/O THE CGMT, GUWAHATI FORMERLY
WORKING AS SDOP, DISPUR UNDER O/O THE GMT, KAMRUP TELECOM
DISTRICT GUWAHATI

While Shri D. N. Baishya was posted and functioning as SDOP, Dispur under O/O the GMT Kamrup Telecom District, Guwahati during 1993-94, he failed to maintain absolute integrity and devotion to his duty in as much as he issued certificates for having received materials of a total value of Rs. 21425/- allegedly supplied by M/s Pallabi Enterprise & M/s DCM Retail Stores. The said firms had supplied the materials at very high rates and the same were procured without any approved purchase order of the competent authority. Sri D.N. Baishya did not also maintain any stock register to keep accounts of the received materials supplied by the firms and thereby due to his aforesaid acts contravened the provision of rule: 3(1) (i)(ii) & (iii) of CCS (Conduct) Rule 1964.

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मुख्य महाप्रबन्धक दूरसंचार
Chief General Manager Telecom
असम दूरसंचार परिमण्डल, गुवाहाटी-7
Assam Telecom Circle, Ghy-7

Attachee
AK Choudhury
Sd/- Central Govt.
Standing Counsel

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Annexure - II

**STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SRI D.N.
BAISHYA, AD(MIS), O/O THE CGMT, GUWAHATI FORMERLY
SDO(P), DISPUR UNDER O/O THE GMT, GUWAHATI**

Whereas Sh. D.N. Baishya was posted and functioning as SDO(P), Dispur under o/o the GMT, Kamrup Telecom District, Guwahati during 1993-94.

Sh. D.N. Baishya received materials and certified the bills of M/s Pallabi Enterprise, M/s DCM Retail Stores as follows :

Sl. No.	Bill No. & Date	Amount	Name of the Firm
1	PE/93-94/060 dtd 19-10-93	759	M/s Pallabi Enterprise
2	PE/93-94/064 dtd 23-11-93	1050	-do-
3	PE/93-94/072 dtd 14-12-93	5745	-do-
4	PE/93-94/100 dtd 23-3-94	10,291	-do-
5	4583 dtd 5-12-94	3580	M/s DCM Retail Stores

Sh. D.N. Baishya had certified the receipt of materials of total value of Rs. 21,425/- from the above mentioned firms.

As per the procedure in force, the General Section, o/o the G.M., Kamrup Telecom District process the purchasing of materials on the basis of requisition received from indentors. After getting approval from the competent authority, the purchase order be issued to the approved shop/supplier. Purchase order generally signed by the DE(Admn), O/O the GMTD, Kamrup. On supply of ordered item by the approved supplier, the bill used to be lodged in the name of DE(Admn) through the indenting officer and in turn the indenter forward the bill/ claim with his certificate in regard of the quantity and quality etc. of the supplied material for payment.

Sri D.N. Baishya did not sent any requisition to the GMT office for supply of the materials. Afore said firms had supplied the materials whereas no purchase orders were placed by the competent authority.

M/s Pallabi Enterprise was not an approved firm for supply of materials in the GMT office and raised bills at higher rates than approved rates.

Sh. D.N. Baishya failed to maintain any stock register/issue register for keeping the accounts of receipt and issue of store materials.

Sh. D. N. Baishya failed to maintain absolute integrity and devotion to duty which has been proved during investigation on the basis of oral and documentary evidences.

The above acts of commission and omission on the part of Sh. D.N. Baishya contravene the provision of rule 3(1) (i)(ii) & (iii) of CCS (Conduct) Rules, 1964.

Attested
AK Chandra
Addl. Central Govt.
Standing Counsel

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ANNEXURE - III

List of documents by which the Articles of charge framed against sri D.N.Baishya, AD(MIS), O/O the CGMT, Assam Telecom Circle, Guwahati the then SDO(P), Dispur under o/o the GMTD, Kamrup Telecom District are proposed to be sustained.

<u>Sl. No.</u>	<u>Particulars of document</u>	<u>Name of the firm</u>
1	PE/93-94/060 dtd 19/10/93	759 M/s Pallabi Enterprise
2	PE/93-94/64 dtd. 23/11/93	1,050 -do-
3	PE/93-94/072 dtd 14/12/93	5,745 -do-
4	PE/93-94/100 dtd 23/3/94	10,291 -do-
5	4583 dtd 5/12/94	3,480 DCM Retail Stores
6	CashBookNos.97,98,99,101,102,103,104,105,106,107,108,109,110,111,112,113,114,115,116,117,118,119,120,121,122,123,124,125.	
7	File No: G-8/Rubber Stamp/94-95/95-96,	
8	File No: G-8/Tender/Rubber Stamp/95-96,	
9	Stock Distribution Registers of Water Filters/Candle/1990-94.	
10	Bill Register(Steel Furniture of TDM Ghly)/1993-94.	
11	Bill Register of calculator 1985 to 1992/98.	
12	File No. 265/Calculator/1993-94 onward.	
13	Register of Rubber Stamp/ Name Plate/Sign Board etc. 1991-92/95-96	
14	Surprise check Memorandum dtd 10-6-96	
15	Letter No: G-22/OBI/98-99/2 dtd 25/11/98,	
16	Letter No. GMT/Cash/CB/97-98 dtd 1-11-97.	
17	Blank letter heads of M/s Gopal Das, Pallabi Enterprise and	
18	Specimen signature of Mrs. Renu Bhuyan(total 5 sheets).	
19	Bill Book of M/s Pallabi Enterprise (2 Nps.).	

Attested
[Signature]
Adm. Control & Cranding Control

Annexure - IV

List of witnesses by whom the Articles of charge framed against
Sri D.N. Banishyn, AD(MIS), O/O the CGMT, Guwahati (the then SDOP, Dispur
under O/O the GMT, Kamrup Telecom District, Guwahati are proposed to
be sustained.

- 1) Sh. Ainalendu Shyam Choudhury, DE(Admin), O/o the GMT, Kamrup, Guwahati.
- 2) Sh. Chandra Kanta Das, Accounts Officer (Cash) O/o the GMT, Kamrup, Guwahati.
- 3) Sh. Munindra Kr. Dey, S/o Lt. Mathura Mohan Dey, Sr. TOA(G) O/o the GMT, Guwahati.
- 4) Sh. Krishna Kanta Deka, S/o Lt. Dhaniram Deka, C.S.S.(G) O/o the GMT, Guwahati.
- 5) Sh. Nabin Ch. Kachari, S/o Lt. C.R. Kachari, Sr. C.S.S., General Section, O/O the GMT, Kamrup, Guwahati.
- 6) Sh. Dharam Ch. Deka, S/o Lt. Megha Deka, Sr. C.S.S. General Section, O/o the GMT, Kamrup, Guwahati.
- 7) Sh. Damodar Sharma, S/O Lt. Murari Sharma, SDO-II, Dispur, R/O Maligaon Green Park colony, Guwahati-II.
- 8) Sh. Chaitesh Dey, S/O Niranjan Prasad Dey, AD(Vig) O/O GMT Kamrup, Guwahati.
- 9) Sh. S.C. Gupta, Govt. Examiner, GRQD, Calcutta.
- 10) Sh. A.B. Gupta, Inspector, CBI, ACB, Calcutta.
- 11) Sh. K. Barman, Inspector, CBI/ACB/Guwahati.
- 12) Sh. D.P. Dutta, Inspector, CBI, ACB, Guwahati.
- 13) Sh. M. Sharma, Inspector, CBI, ACB, Guwahati.

Attached
AK Choudhury
Vig. Control Copy
Planning Control

ANNEXURE-B

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)
Office of the Chief General Manager
Assam Telecom Circle:Guwahati-781 007.

NO.STES-3/21/Pt.I/141

DATED AT GUWAHATI, THE 15.10.2001

TO

Shri J.B.Jain
Asstt. Director General(Pers.I)
BSNL,Corporate Office,
Personnel-I Section,
Sanchar Bhawan,New Delhi-110 001.

Sub: Posting on promotion of officers of TES Group'B' to
STS of ITS Group'A' of on adhoc basis- case of Shri
Dinanath Baishya,ADT(MIS).

Ref: BSNL,New Delhi order No. 412-42/2001-Pers.I dated
31.08.2001.

Shri Dinanath Baishya(Staff No. 6797),ADT(MIS),O/o the
CGMT,Assam Circle,Guwahati has been ordered for promotion from
TES Group'B' to STS of ITS Group'A' on adhoc basis vide
BSNL(HQ),New Delhi memo No as mentioned above under reference.

But Shri D.N.Baishya could not be promoted to STS of
ITS Group'A' cadre due to pending of vigilance case contemplated
against him. He was found involoved in CBI case No. RC-22(A)/96-
SHG and CVC has adviced to initiate RDA Majorr penalty under Rule
-14 against him. Accordingly, Shri Baishya has been charge-
sheeted under Rule-14 vide letter dated 24.05.2001.

(N.C.Das)

Asstt. General Manager(Staff)

TRF'B'/AKH

Copy to:- The Asst (Admin), Circle Office, Guwahati for
information.

Attested
Addl. General Com
Standing Counsel

Asstt. Director Telecom (Staff)
O/o The Chief General Mgr. GBI
Assam Telecom Circle, Guwahati

No. 2201/14/91-Estt.

Government of H.

Ministry of Personnel, Public Grievances and Pensions

Department of Personnel and Training

North Block, New Delhi - 110001

Dated, the 14th Sept., 1992.

OFFICE MEMORANDUM

Subject: Promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation - Procedure and guidelines to be followed.

disciplinary/court proceedings are pending or guidelines to be followed.

The undersigned is directed to refer to Department of Personnel & Training OM No. 2201/12/86-Estt. (A) dated 12th January, 1990 and subsequent instructions issued from time to time on the above subject and to say that the procedure and guidelines to be followed in the matter of promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation have been reviewed carefully. Government have also noticed the judgement dated 27.08.1991 of the Supreme Court in Union of India etc. vs. K.V. Jankar et al. (AIR 1991 SC 2010). As a result of the review and in supersession of all the earlier instructions on the subject (referred to in the margin), the procedure to be followed in this regard by the authorities concerned is laid down in the subsequent para of this OM for their guidance.

2. At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:-

- Government servants under suspension;
- Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- Government servants in respect of whom prosecution for a criminal charge is pending.

2.1 The Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC, including 'Unfit for Promotion', and the grading awarded by it will be kept in a sealed cover. The cover will be deposited with the Departmental Promotion Committee. In respect of Shri (name of the Government servant) Not to be opened till the prosecution against Shri (name of the Government servant) is concluded. The proceedings of the DPC need only contain the note 'The DPC has recommended to fill the vacancy in the higher grade only in an exceptional case'. The findings regarding suitability for promotion to the grade of (name of the Government servant) shall be kept in a sealed cover. The findings are contained in the attached sealed cover. The authorities concerned are advised to fill the vacancy in the higher grade only in an exceptional case. The same procedure outlined in para 2.1 above will be followed by the Departmental Promotion Committee convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

2.2 The same procedure outlined in para 2.1 above will be followed by the Departmental Promotion Committee convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

3. On the conclusion of the disciplinary case/criminal prosecution against the Govt. servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover and his promotion will be made on the basis of such position. The Government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so. It is not possible to anticipate and enumerate exhaustively all the circumstances under which such denial of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. These are only some of the circumstances where such denial can be justified.

3.1 If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the disciplinary proceedings or the findings of the criminal prosecution shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

3.2 It is also clarified that in a case where disciplinary proceedings have been held under the relevant disciplinary rules, 'censure' should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attached to the Government servant, at least the penalty of 'censure' should be imposed.

4. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finish it as quickly as possible should be made. The sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authority should review the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of consideration by the Departmental Promotion Committee which had adjudged his suitability and kept it in the sealed cover. Such a review should be

GENERAL DGS VIGILANCE DISCIPLINARY RULES.

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done subsequently also every six months. The review should, *inter alia*, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite their completion.

8. In spite of the six monthly review referred to in para 4 above, there may be some cases, where the disciplinary case/criminal prosecution against the Government servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him *ad-hoc* promotion based on the following considerations:-

- Whether the promotion of the officer will be against public interest;
- Whether the charges are grave enough to warrant continued denial of promotion;
- Whether there is any likelihood of the case coming to a conclusion in the near future;
- Whether the delay in the finalisation of proceedings, departmental or in a court of law, is not directly or indirectly attributable to the Government servant concerned; and
- Whether there is any likelihood of misuse of official position which the Government servant may occupy after *ad-hoc* promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arise out of the investigations conducted by the Bureau.

5.1 In case the appointing authority comes to a conclusion that it would not be against the public interest to allow *ad-hoc* promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on *ad-hoc* basis. Where the Government servant is considered for *ad-hoc* promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution against him.

5.2 After a decision is taken to promote a Government servant on an *ad-hoc* basis, an order of promotion may be issued making it clear in the order itself that:-

- the promotion is being made on purely *ad-hoc* basis and the *ad-hoc* promotion will not confer any right for regular promotion; and
- the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserve the right to cancel the *ad-hoc* promotion and revert at any time the Government servant to the post from which he was promoted.

5.3 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the *ad-hoc* promotion already made may be confirmed and the promotion treated as a regular one from the date of the *ad-hoc* promotion with all attendant benefits. In case the Government servant could have normally got his regular promotion from a date prior to the date of his *ad-hoc* promotion with reference to his placement in the DPC proceedings kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of national promotion as envisaged in para 3 above.

5.4 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, the *ad-hoc* promotion granted to him should be brought to an end.

6. The procedure outlined in the preceding paras should also be followed in considering the claim for confirmation of an officer under suspension, etc. A permanent vacancy should be reserved for such an officer when his case is placed in sealed cover by the DPC.

7. A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions contained in this O.M. will be applicable in his case also.

8. In so far as the personnel serving in the Indian Audit and Accounts Department are concerned, these instructions have been issued after consultation with the Comptroller and Auditor General of India.

9. Hindi version will follow.

(M.S. RALI)
DIRECTOR

To All Ministries and Departments of the Government of India with usual number of spare copies.
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Copy forwarded for information to:-

- Central Vigilance Commission, New Delhi.
- Central Bureau of Investigation, New Delhi.
- Union Public Service Commission, New Delhi.
- Comptroller and Auditor General, New Delhi.
- President's Secretariat/Vice-President's Secretariat/Lok Sabha and Rajya Sabha Secretariat.
- Prime Minister's Office.
- Chief Secretaries of All States and Union Territories.
- All Officers and Administrative Sections in the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

(M.S. RALI)
DIRECTOR

Attested
M.C. Dhillon
Asst. Central Govt. Secy.