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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

ORDERS SHEET

APPLICATION NO.

414/2001

Applicant (s) Bhaba Kelite

Respondent(s) N.O. T. Gars

Advocate for the Applicant: R.S. Chancham, S. Chancham

Advocate for the Respondent: Addl. Case. A.K. Choudhury

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in the format of a Petition as per the said vide M.P. No. C.G.C.F. for Registration dated vide IPO/B/No. 66788631.	9.10.01	The application is admitted. Call for the records. Returnable by four weeks. Mr. A.K. Choudhury, learned Addl. C.G.S.C. accepts notice on behalf of respondents.
Dated..... 8.10.2001 By Registered		List on 20/11/01 for further order.
Steps filed. NS 8/10/2001	20.11.01 mb	CC (S)ha Member Vice-Chairman Heard Mr. S. Chauhan, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.
Pl. copy. NS 9/10/2001 10/10/2001		Mr. Choudhury, learned Addl. C.G.S.C. has questioned of maintainability of the application on the ground that the applicant was appointed as a Constable in Central Industrial Security Force (CISF). The applicant was removed from service by an order dated 6.4.01. Since the applicant is a member of the other armed forces of the union, the present act is not applicable in CISF.

Notice declared and hand over to Mr. A.K. Choudhury Addl. C.G.S.C. on his order dtd. 9/10/01.

10/10/01

Recd.
S. Chauhan
11/10/01

Contd/-

✓
✓
20.11.01 In our view also CISF is the other armed forces. Since, the act is not applicable, the application stands dismissed. No order as to costs.

Member

Vice-Chairman

mb

20.11.01 Heard Mr. S. Chauhan, learned counsel for the applicant and also Mr. A. K. Choudhury, learned Addl. C. G. S. C. for the respondents.

Mr. Choudhury, learned Addl. C. G. S. C. has questioned of maintainability of the application on the ground that the applicant was appointed as a Constable in Central Industrial Security Force (CISF). The applicant was removed from service by an order dated 6.4.2001. Since the applicant is/was a member of the "other armed forces of the union", the Administrative Tribunals Act, 1935 as amended is not applicable. In our view also CISF is the other armed forces. Since the act is not applicable, the application is not maintainable, hence dismissed. No order as to costs.

Member

Vice-Chairman

mb

K. C. Shaha

Member

b

8 OCT 2001

गुवाहाटी न्यायालय
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI.

O. A. NO. 414 /2001

Shri Bhaba Kalita

....Applicant.

-Versus-

Union of India & Others.

....Respondents.

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Filed by

Sudansh Chandra.

Advocate

8/10/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Filed by

O.A. NO. 414 /2001

Between

No. 961405494 Const/F

Bhaba Kalita CISF

Unit Othpp Obra (U.P.)

R/o Kerduguri

P.O.- Narengi,

Guwahati -26.

.....Applicant

AND

1. Union of India, through the
Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.

2. The Director General of
Central Industrial Security Force,
New Delhi.

3. The Deputy Inspector General,
CISF East Zone,
Head Directors, Eastern Sector,
Patliputra, Patna.

4. The Commandant,
CISF, Unit Othpp,
Obra, District-Sonebhadra (U.P.)

...Respondents

Bhaba Kalita 8/10
Throneh & Choudhury
Adv.

Details of Application

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

The present application under Section 19 of the Administrative Tribunal Act, 1985 is directed against the order of Removal dated 6/4/2001 from service ~~of~~ the order dated 18/7/2001 rejecting the appeal of the applicant by the Respondents. The applicant praying for setting aside consequential the order of removal dated 6/4/2001 and all ~~and~~ service benefits.

2. Jurisdiction of the Tribunal :-

The applicant declares that he has ceased to be in service by reason of removal from service and at present he is ordinarily residing within the Jurisdiction of this Hon'ble Tribunal.

3. Limitation :-

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

4. Facts of the Case :

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

4.2. That the applicant applied for a post of Constable in CISF. thereafter he undergone for physical test and medical examination and found eligible, suitable and qualified and fit for the post. The applicant No-961405494 Const/F Bhaba Kalita was appointed by order dated 26/3/96. The

applicant, after appointment had to undergo for probation for a period of 2 years at CISF Unit Nalco, Angul in Orissa. On 26/3/98 the applicant complied probation period which is apparent from the order dated 23/4/98.

Copy of Order dated 23/4/98 is
annexed as Annexure -A.

4.3. That the applicant, after completion of probation period confined in service and he was posted in CISF Unit Othpp, Obra in Sonebhadra district of Uttar Pradesh. The applicant was discharging his duties and function as entrusted to him.

4.4. That the applicant received an order dated 30/8/2000 passed by the Commandant, CISF whereby the applicant was put under suspension under Sub-Rule (1) of Rule-30 of CISF Rules-1969, with immediate effect, on a disciplinary proceeding was contemplated. He was further directed to report at 8 hours, 14,00 and 20,00 hours every day and he will be entitled for subsistence allowance.

Copy of suspension order dated
30/8/2000 is annexed as
Annexure - B.

4.5. That the Commandant, CISF by Order dated 25/10/2000 in reference of sub-Rule(5)(C) of Rule-30 of CISF Rules-1969 revoked the order of suspension dated 30/8/2000.

4.6. That by Memo No-V-15014/Disc/2000-2459 dated 25/10/2000 of 2 charges were framed by the Disciplinary

Authority against the applicant. The charge No-1 was that the applicant on 29/8/2000 2130 hours took alcohol and assaulted R.P. Tiwary and P.C. Tomar as a result they had to be treated in Project Hospital, Obra and hence the applicant committed indiscipline and misbehaviour.

The charge No-2 is also the same, which alleged that the applicant on 29/8/2000 at about 2130 hour took alcohol and assaulted R.P. Tiwary and P.C. Tomar. Blood was oozing from the nostril of P.C. Tomar and R.P. Tiwary for which they had to be treated in Project Hospital, Obra. The applicant was directed to submit his statement of defence.

Copy of Memo dated 25/10/2000 is
annexed as Annexure -C.

4.7. That on 3/11/2000 the applicant submitted ~~the~~ his statement of defence denying the allegation of indiscipline and mis-behaviour. In fact, P.C. Tomar, R.P. Tiwary and other were playing at card after 9 P.M. and they were making hue and cry. The applicant who was suffering from cough, after taking medicine was preparing to sleep. Since he got disturbance, he requested his colleagues to abandon playing card. As they did not stop at, the applicant took the card and upon that P.C. Tomar and R.P. Tiwary severely assaulted the applicant for which he sustained injuries and got treatment in Project Hospital, Obra.

Copy of statement of defence
dated 3/11/2000 is annexed
as Annexure -D.

4.8. That the disciplinary authority by Order dated 13-11-2000 proposed to hold an enquiry and for that purpose Inspector P.P.Singh was appointed as Enquiry Officer. The Enquiry Officer time to time directed the applicant to appear before the Enquiry officer. During the enquiry the prosecution side examined 11 witnesses and the applicant examined 3 witnesses. Ultimately by letter dated 20-1-2001 the Enquiry Officer submitted the enquiry report to the disciplinary authority. A copy of enquiry report was furnished to the applicant by forwarding dated 19-2-2001. This applicant has gone through the enquiry report and found that the Enquiry Officer only discussed the evidence and material of prosecution side. The Enquiry Officer has not discussed the evidence of the defence witness. The Enquiry Officer also not taken into not the enquiry sustained by the applicant and the treatment thereafter. The enquiry report since to be conducted to hold the applicant guilty. In fact the applicant was assaulted by his colleagues for making request to stop playing at card not to make hue and cry. The enquiry report is not best on entire record.

Copy of enquiry report dated
20-1-2001 with forwarding dated
19-2-2001 is annexed as
Annexure - E.

4.9. That the Commandant CISF Respondent No-4 without consulting entire record and report passed an order on 6-4-2001 whereby the applicant was removed from service w.e.f. 7-4-2001. The order of removal further indicates

that the applicant may prefer an appeal before the Deputy Inspector General, CISF, Patna. The order of removal is illegal, unjust, disproportionate and the applicant made victim of Regional discrimination.

Copy of order of punishment dated 6-4-2001 is annexed as Annexure-F.

4.10. That the applicant on 3-5-2001 prepared and filed an appeal addressing the Deputy Inspector General through proper channel. The said appeal the applicant prayed before the authority to set aside the order of punishment of the applicant. He further stated that the punishment is dis-proportionate to the charges of punishment.

The applicant in his appeal categorically stated that Atma Prakash, P.C.Tomar were beating the applicant for which the applicant had to get admitted in Project Hospital, Obra. The applicant exhibited the the certificate of doctor. Article -A charges ought to be framed against P.C.Tomar, Atma Prakash and R.P.Tiwarey for assaulting the applicant. The applicant also alleged that regional discrimination noted out to the applicant.

Copy of appeal dated 3-5-2001 is annexed as Annexure - G.

4.11. That the appellate Authority to the tune of Inquiry Officer, and Disciplinary authority hold that the applicant was in taxicated condition where there is medical report in this respect, the finding is baseless and surmise. . The Appellate Authority also disbelieved the applicant and Defence witness and hold that the applicant assaulted 3 persons, but the fact is that all

three persons assaulted the applicant and the applicant is victim of Regional discrimination. The appellate Authority wrongly hold that the punishment is adequate. In fact, the punishment cannot be justified from any angle. The Appellate Authority illegally rejected the appeal by Order dated 18/7/2001.

Copy of Order dated 18/7/2001 is annexed as Annexure - H.

4.12. That the applicant in earlier 2 occassion were imposed penalty of with-holding of one increment for one year and with-holding of one increment for 2 year which will have not effect of postponing future increments. In both the occassion the ~~app~~ applicant was imposed penalty without holding any enquiry Order Rule-35 of CISF Rule, 1969.

4.13. That the applicant was assaulted by P.C.Tomar, R.P.Tiwarey and Atma Prakash while the applicant requested them not to make hue and cry at 9.30 P.M. while the applicant was preparing for sleep as he had to ~~rise~~ at 3 A.M. morning for preparing breakfast. The finding of Enquiry Officer that one person assaulted 3 person~~s~~ is unjust and unbelievable. In fact the applicant has been victim of Regional discrimination charges should be framed against P.C. Tomar, R.P.Tiwarey and Atma Prakash which was not done.

4.14. That the D.W. Const/F Prahlad Gogoi, D.W-2 Const/F L.J. Nath clearly deposed before the Enquiry Officer

that P.C. Tomar was assaulting the applicant and Atma Prakash helping P.C. Tomar but the Inquiry Officer disbelieved the evidence without any reason. In fact both the defence witnesses were abused and faced anger of higher Officer for speaking the truth.

4.15. That the PW-1 M.L. Verma deposed that after getting information he visited Project hospital and found applicant is serious condition and unconscious. PW-2 also supported the contention of PW-1.

PW-3 also found Bhaba Kalita is injured condition and lying on ground and he was taken to hospital. PW-4 also supported PW-3. PW-5 also found applicant injured and cut mark. PW-9 admitted that they were playing at Card, PW-10 M.N. Brahma also stated that he saw quarrel, the found Bhaba Kalita not intoxicated; but the finding of Enquiry Officer of bound on record and holding Bhaba Kalita guilty is visiated by biasness.

4.16. That having been failed to get justice the applicant approached this Hon'ble Tribunal with bona-fide intention.

5. Ground For Relief with legal provision :

5.1. For that the applicant was assaulted by P.C. Tomar, Atma Prakash and R.P. Tiwary as a result the applicant became unconscious and he had to undergo for treatment in Project Hospital, Obra, the applicant exhibited medical certificate and 2 copies of photographs showing injuries but the Inquiry Officer submitted report holding the applicant guilty.

5.2. For that P.C. Tomar, Atma Prakash and R.P. Tiwary assaulted the applicant but the disciplinary Authority not issued ~~any~~ show cause to them, no charge framed against these 3 person. The applicant was alone who was beating by 3 colleagues.

5.3. For that the findings of Inquiry Officer that the applicant took alcohol is not based on any record. There is no medical evidence to support the contention of taking alcohol by the applicant.

5.4. For that even if it is presumed, but not admitting that there was assault/marpit between 2 side, the applicant in one side and other 3 P.C. Tomar, Atma Prakash and R.P. Tiwary on the other side and both side sustained injury even than removal of the applicant from service is disproportionate to the charge/crime.

5.5. For that the Inquiry Officer not believe the evidence of D.W-1, D.W.-2 and other witnesses which is illegal and unjust and perverse to record.

5.6. For that the applicant is victim of Regional discrimination in the law of Inquiry Officer and disciplinary Authority in as much as the Inquiry Officer and Disciplinary Authority, all along the proceeding took ~~bias~~ bias view against the applicant.

5. Details of Remedies Exhausted :

That the applicant states that he submitted appeal before the higher Authority on 3/5/2001. But the higher

Authority i.e. the Deputy Inspector General, CISF rejected the appeal by Order dated 18/7/2001. Now the applicant has no other alternative remedy other than approaching this Hon'ble Tribunal.

7. Matter not previously filed or Pending before any other Court :

The applicant declares that he has not filed any application, writ petition or suit in this respect in any other Court or authority, Tribunal.

8. Relief Sought for :-

In view of the facts and circumstances stated above, the applicant prays for following relief.:

8.1. Set aside quash the order of removal of the applicant by Order dated 6/4/2001 passed under Memo No-V-15014/CISF/Disc/2001/823;

8.2. and also set aside the Inquiry Report dated 20/1/2001 and

8.3. set aside and quash the appellate order dated 18/7/2001 passed vide No-V-11014/EZ/Ad.11/Apl.23/2001/5103.

8.4. Direct the Respondents to pray the applicant has arrears salary from 30/4/2000 to 24/10/2000 and also

8.5. Direct the Respondents to give the applicant all service benefits as admissible under law and Rules.

8.6. Pass such other orders as may be deemed fit and proper.

9. Interim Order passed for :-

Under the facts and circumstances the applicant do not pray for any interim order.

10. Application is filed through Advocate.:

11. Particular of I. P. O. :

i) Indian Postal Order. for Rs 50.00
ii) Date. 8/10/2001
iii) Payable at Guwahati. H.O.

12. List of Enclosure :-

As stated in the Index.

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

I, Shri Bhaba Kalita, son of Shri L.M. Kalita, resident of Kerduguri, Narengi, Guwahati-26 do hereby solemnly affirm and verify that the statement made in the application in paragraphs 4(1 to 7, 10, 12, 13, 14, 15 and 16) are true to my knowledge and those made in paragraphs 4(8, 9 and 11) are matter of record and true to my information and rest are my humble submission before this Hon'ble Tribunal, and I sign this verification on this 8th day of ~~September~~ ^{October} 2001 at Guwahati.


Signature

ANNEXURE A

-12-

Government of India
Office of the Commandant
Central Industrial Security Force
(Ministry of Home Affairs)

CISF Unit NALCO Angul,
Angul (Orissa)

NO.E-300-14/5/CISF/NTPC(K)/DOC,98-1472

Dated 25 April '98.

UNIT SERVICE ORDER PART I NO. 34 /98:

COMPLETION OF PROBATION PERIOD REG:

The following CISF personnel of CISF Unit, NTPC Kaniha, under the administrative control of this unit are hereby declared to have completed their probationary period satisfactory with effect from the dates as mentioned against their names, in terms of rule-19 of CISF Rules-1969 and as and when permanent vacancies become available, they are eligible for confirmation in the present rank:-

Sl/ No.	CISF No.	Rank	Name	Date of Apptt. in the present rank.	Date of completion of probation period.
01.	964750021	HC/DCPO	Revi P.M.	22-03-96(FN)	21-03-98
02.	964750012	HC/DCPO	Bal Kishan	21-03-96(AN)	21-03-98
03.	961406101	Const/F	Dipak Das	28-03-96(FN)	27-03-98
04.	961405500	Const/F	Arbind Deka	26-03-96(AN)	26-03-98
05.	961405713	Const/F	Phulen Kalita	27-03-96(FN)	26-03-98
06.	961405476	Const/F	Md. Ajijul Haque	26-03-96(AN)	26-03-98
07.	961405494	Const/F	Bhaba Kalita	26-03-96(AN)	26-03-98
08.	961405519	Const/F	Md. Sahajan Ali	26-03-96(AN)	26-03-98
09.	962293407	Const/F	L.R.Das	30-03-96(FN)	29-03-98

Hand 23/4
COMMANDANT
CISF UNIT NALCO ANGUL

Distribution:-

1. AIG/R&S, Pers, Estt.I & II
CISF HQrs., New Delhi.
2. The DIG(EZ) HQrs., Patna.
3. PF of the individual concerned.
4. USO Pt.I file,
5. Individual concerned.
6. Office copy.

W.M. Reddy
Par. P. Reddy

OFFICE OF THE COMMANDANT
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HOME AFFAIRS)

Unit: OTHPP Obra
Distt: Sonebhadra (UP)

No. P-15014/Disc/OTHPP/2000/ 4741

Dated: Aug 2000

Bo

O. R. D. E. R.

Whereas a disciplinary proceeding against CISF No. 961405494 Constable/Fire Bhaba Kalita of CISF Unit OTHPP Obra (Fire wing) is contemplated.

Now, therefore, the undersigned to exercise of the powers conferred by Sub-Rule (1) of Rule-30 of CISF Rules 1969, hereby places the above said member of the Force under suspension with immediate effect.

It is further order that during the period & that this order shall remain in the Force, the HQrs of the above member of the Force shall be OTHPP Obra. He shall not leave the HQrs without obtaining prior permission of the competent authority.

It is also ordered that during the period of suspension CISF No. 961405494 Constable/Fire Bhaba Kalita shall report at Hydel gate post CISF Unit OTHPP Obra at 0800 hrs, 1400 hrs and 2000 hrs every day without fail and shall put his signature in the register kept there for this purpose.

During the period of suspension, he will be entitled for the subsistence allowance, as admissible under the Rules.

① ~~copy~~

To

COMMANDANT/CISF

✓ No. 961405494 Const/F
Bhaba Kalita CISF Unit
OTHPP Obra

: Through DC/Fire. He is requested to serve the original copy of this order to individual on proper receipt and return duplicate copy of the order to this office for record.

Copy to:

DC/Fire
Coy Comdr/Fire
Account section, Document section
Quarter Master, Hydel gate incharge.

Approved
C2

OFFICE OF THE COMMANDANT, CENTRAL INDUSTRIAL
SECURITY FORCE

(Ministry of Home Affairs)

Unit Othpp. Obra

District-Sonbhadra (U.P.)

No.- V-15014/Dise/Othpp/2000-2459

Dated 25-10-2000

MEMORANDUM

- 1) Whereas it is proposed to proceed against CISF No-961405994 Ct/F Bhaba Kalita under Rule 34 of CISF Rule-1969. The enquiry is proposed for misbehaviour/indiscipline/negligence of duty detail of which provided in Annexure-I to the Memorandum. Indiscipline/misbehaviour based on which disciplinary proceeding is proposed is given in detail in Annexure-2. List of document and list of certificates are given in Annexure-3 and 4 respectively.
- 2) CISF No-961405494 Ct/F Bhaba Kalita is also directed to submit his statements of defence within 10 days indicating whether he will be heard in person.
- 3) CISF 961405494 Ct/F Bhaba Kalita is informed that these allegation will be inquired into which will not be admitted by him. Therefore the delinquent has to admit or deny the each allegation.
- 4) CISF No.961405494 Ct/F Bhaba Kalita further informed that if the delinquent will not submit his statement in defence or not present in person before competent authority then under Rule 3 of CISF Rule 1969 the authority shall proceed Ex-parte against the delinquent.

ATtested
C/

5) CISF No-961405494 Ct/F Bhaba Kalita also informed that it is prohibited to create any presence by approaching higher authority or any political personality. If such pressure is created then it will be submitted that the authority has knowledge of it and it is being done by approach of the delinquent and then the Rule 51 of CISF Rules-1969 the subject will be dealt strictly.

6) Acknowledgement of the memorandum is necessary.

Sd/- Illegible

Commandant.

CISF Obra, U.P.

To,

CISF No- 961405494 Ct/F Bhaba Kalita, CISF/F Unit Othpp Obra.

Copy to :-

1) Company Commandant 'Fire'
CISF Unit Othpp Obra.

Obtain signature with
date of delinquent of
duplicate copy after
delivering the original
and return to this office
for office record.

Record :

- 1) Record File.
- 2) Concern Company Commandant.
- 3) Case file.
- 4) Office file.

Annexure - I

STATEMENT OF ALLEGATION AGAINST CISF UNIT OTHPP OBRA
FIRE NO- 96140505494 CT/F. BHABA KALITA.

Statement of Allegation LOT

CISF No 961405494 Ct/F Bhaba Kalita of CISF Unit Othpp on 29-8-2001 at about 2-1-30 hr. took alcohol and assaulted No-942200038 Ct/F R.P. Tiwari and No-824490694 Hct/F Prem Chandra Tomar. Consequently both Prem Chandra Tomar and R.P. Tiwari got admitted in project Hospital, Obra. The delinquent committed indiscipline and misbehaviour. Hence this allegation.

Sd/L Illegible

Commandant CISF Unit
Othpp.

Annexure -II

Statement of allegation against No-961405 494 Ct/F Bhaba Kalita
CT CISF Unit Othpp. Obra.

CISF No-961405494 Ct/F Bhaba Kalita of Unit
Othpp. On 29-8-2000 at about 21.30 hour took alcohol and
assaulted No-942200038 Ct/F R.P. Tiwari and No-84449069 Hct/F
Prem Chandra Tomar. As a result blood was oozing from the
nostril of Prem Ch. Tomar and R.P. Tiwari for which they
had to be treated in Project Hospital, Obra, which is supported
by Diary No-855, 856 dated 29-8-2000.

Sd/- Illegible

Commandant
CISF, Unit
Othpp.

Annexure -III

List of documents in support of allegation made against
CT No. 96140 5494 Ct/F Baba Kalita CISF Unit Othpp. Obra.

- 1) Daily diary No - 855 and 856 dated 29-8-2000.
- 2) Report of treatment dated 29-8-2000 of Project Hospital Obra regarding treatment of Baba Kalita.
- 3) Report Prepared by Deputy Commandant vide No-15014/DIC/ Othpp/2000-1349 dated 30-8-2000.
- 4) Certificate issued by Project Hospital, Obra regarding treatment of Prem Ch. Tomar and R.P. Tiwari.
- 5) Any other document it necessary during the course of proceeding.

Sd/- Illegible

Commandant
CISF Unit
Othpp.

List of witnesses in support of allegation against CT No-
961405494 Ct/F Bhaba Kalita of CISF Unit Othpp, Obra.

- 1) CT 841350056/F M. L. Burma.
- 2) CT 701390051/F R. N. Sarma.
- 3) CT 7512023 K. K. Kalingar.
- 4) CT 744650051 Bharat Ram.
- 5) CT 703070054/F K. Padmanavan.
- 6) CT 925021780/F Harbir Singh.
- 7) CT 824490694/F Prem Ch. Tomar.
- 8) CT 942200038/F R. P. Tiwari.
- 9) CT 961404158/F W. J. Iswari.
- 10) CT 971360242/F M. N. Brahma
- 11) CT 9424420034/F Atma Prakash.
- 12) Other witnesses if found at the time of disciplinary proceeding.

Sd/- Illegible

Commandant
CISF Unit Othpp.

To,
The Respected Commandant,
CISF Unit Othpp. Obra,
District-Sonbhadra
(Uttar Pradesh)

Through Proper Channel.

Subject : Regarding letter No-15114/Disc/2000-2459.

Sir,

Respectfully I beg to state that No. 96140594 Ct/
Fire Bhaba Kalita is working under you in Fire.

I beg to state that the allegation made against
me for taking alcohol is not correct. Further there is
allegation that I assaulted No. 824490694 H.Ct/Prem Ch.Tomar
is also not correct and concocted. The delinquent not caused
any indiscipline and misbehaviour. The allegation made
against delinquent is with a view to harness him. The
delinquent clarify as follows :-

Clarification :-

On 29/8/2000 after 8 P.M. the delinquent was preparing
for sleep after completion his duty. As the delinquent was
suffering from cough, he took medicine. The delinquent had
to report for duty on 30/8/2000 at 3 A.M. At the time of
sleeping a few Constables No-944660012 Ct/F J.B. Singh;
No-942292127 Ct/F R.N. Soren, No-94229779 Ct/F S.C.Behara,
No-961404158 Ct/F W.J. Iswari, No-942200038 Ct/F R.P.Tiwari
were playing at Card, for which there was hue and cry and
the delinquent could not sleep. The delinquent was tried
and he request the colleague either to stop playing Card or
not to make noise as he was feeling tired. The delinquent

*AI typed
(2)*

- 2 -

requested then not to play at card as he was not well
colleagues
and he had duty at 3 A.M. next morning. But his ~~colleagues~~
did not pay attention. The delinquent took their Card
and went to sleep. After a while No-824490694 Hct/F
Prem Chand Tomar came and call me out of Barrack to
discuss a matter. I went outside the Barrack then 3/4
persons hold me and started assaulting me. They were
No-824490694 Hct/F Prem Chand Tomar, No-942440034 Ct/F
Atma Prakash, No-925021780 Hct/F Harbir Singh and No-
942200038 Ct/F R.P. Tiwari. While these 4 were assaulting
the delinquent, the delinquent shouted. After learning
the delinquent No-961403958/Ct/F P.Gogoi, No-961405315
971360242 Ct/F
- Ct/F L.J. Nath and No-~~961403958~~ M.N. Badra came
and saw the delinquent. The delinquent became unconscious
in unconscious condition I was brought to Project Hospital
Qr.No-701390051 on 31/8/2000 after treatment. This is his
classification. The delinquent not committed any mistake
from his side and the allegation levelled against me
is baseless.

Yours faithfully,

Ct No-961405494
Ct/F Bhaba Kalita
C/SF Unit Othpp.
Obra, Sonbhadra

Annexures -

- 1) Medical certificate
regarding treatment.
- 2) 2 copy photo showing injury.

OFFICE OF THE COMMANDANT
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HOME AFFAIRS)

Unit: OTAPP Odisha
District: Ganjam (Orissa)

No. V-15014/Disc/BS/2001/1090

Dated: 10 Feb' 2001

To

No. 961405494 Const/P
B Kalita
CISF Unit OTAPP Odisha : Through DC/PIro

Sub:- FORWARDING OF DEPARTMENTAL ENQUIRY REPORT.

A disciplinary proceedings Under Rule-34 of CISF Rules 1969 was initiated against you vide this office memorandum No. V-15014/Disc/2000/2459 dated 25.10.2000. Insep/Exe P P Singh of this unit was appointed as Enquiry Officer to inquire into the charge levelled against you.

The Enquiry Officer after completing enquiry has now submitted his enquiry report. A copy of the enquiry report alongwith findings of Enquiry Officer is sent herewith. You are directed to submit your representation against the findings of Enquiry Officer if any, within 10 days on receipt of this letter, otherwise order of the case will be passed on the basis of documents & evidence held in the case file.

D. B. Singh
COMMANDANT / CISF

Enclo: 13 only.

AIT Capital
PV

ENQUIRY REPORT

I, Insp/Exe. P.P.Singh, was appointed as enquiry officer vide Commandant CISF Unit, OTHPP Obra Sonchhadra, Office letter No. V- 15014/DISC/BK/2K-6260 dated 13./15.11.2000 to enquire into the charges framed against No. 961405494 const/Fire Bhaba Kalita vide charge Memorandum No. V - 15014/ O/2000-2459 dated 25.10.2000 under Rule 34 of CISF Rules, 1969.

The charged official Const/Fire Bhaba Kalita of CISF Unit OTHPP Obra (fire wing) appeared before the Enquiry Officer from the begining to the end of ~~in~~ the enquiry. He had no defence assistance. He himself defended the case. The enquiry was conducted from 7.12.2000 to 13.1.2001 and could be completed ~~in~~ in fourteen sessions.

The article of charge framed vide above mentioned charged memo against the charged official Ct. Bhaba Kalita is as under :-

CISF No. 961405494 Constable/Fire Bhaba Kalita of CISF Unit NTPC Kamiha at about 2145 hrs on 10.6.98 unauthorisedly entered into the telephone exchange by breaking the window glass with his hand, resulting which he got severe injury in his right hand. Thereafter he took one set P&T telephone bearing No.52141 and threw the same into nearby bushes which was recovered on 11.6.98. Thereby, No.961405494 Constable/Fire Bhaba Kalita exhibited an act of indiscipline which amounts to gross misconduct. Hence, the charge.

The charged official CT/F Bhaba Kalita at the outset denied the charge (in toto) during the preliminary

2.

hearing on 7.12.2000 while answering the Q.No.3. He pleaded not guilty of the charge. Hence the charge was inquired into.

The prosecution case

As per the charge memo and the documents on the basis of which the charge was framed, No.961403494 Ct/Fire, the charged official in the State of intoxication misbehaved with Ct. ~~R.K.~~ R.P.Tiware and injured him with first blow at his nose. When HC P.C. Tomar, CHM of the coy, tried to enquire about the matter Ct.Bhaba Kalita abused him and injur~~ed~~ him by fist blow. Both the P.C. Tomar and Const. R.P.Tiware were admitted in the p hospital for treatment. When St/F. K.Padmnabhon tried to pacify Ct. Bhaba Kalita, the charged official gave a clinched hand blow to Ct. M.N.Bartima also who was present at spot. Later on Const/F Bhaba Kalita was admitted in hospital for medical examination. Hx /F. P.C. Tomar and Ct. R.P.Tiware were admitted earlier for the treatment of their injury.

During the enquiry following prosecution witnesses were examined

1. No. 84/350056 Insp M.L. Verma (PW-1)
2. No. 701390051 SI R.N.Sharma (PW-2)
3. No. 7512023 Insp. K.K. Kalingon (PW-3)
4. No. 744650051 Insp. Bharel Ram (PW-4)
5. No. 703070054 SI K.Padmnabhon (PW-5)
6. No. 925021780 Hc/F Harbir Singh (PW-6)
7. No. 824490694 Prem Chand Tomar (PW-7)
8. No. 942200038 Ct/F R.P. Tiwary (PW-8)

- 3. -

9. No. 961404158 Ct/F W.J. Ishwary (PW-9)
10. No. 971360242 " M.N. Brahma (PW-10)
11. No. 942440034 " Atma Prakash (PW-11)

During the enquiry following prosecution exhibits were examined

1. G.D. No. 855 dated 29.8.2000
2. G.D. No. 856 dated 29.8.2000
3. Medical report in Ct Bhaba Kalita issued by the doctor of project hospital, obrs.
4. Dy. Commandant/Fire CISF Unit OTHPP obrs office letter No. V-15014/D.C.L./2000-1349 dated 30.8.2000
5. Medical treatment certificate in H.C.P.C. ~~Exmxx~~ and Ct R.P.Tiwari (both fire wing) issued by the Project hospital obrs dated 31.8.2000.
6. The list of statements (PWs) and the exhibits are as under
 1. No. 841350086 Inspector M.L. Verma, Coy Commander Fire Wing CISF Unit OTHPP obrs deposed during the enquiry that on 29.8.2000 at about 2150 he received information over telephone that Ct. Bhaba Kalita was injured Ct. R.P. Tiwary under the influence of liquor when he reached fire lines he learnt that all the injured have been sent to hospital. He immediately left for project hospital where he found Ct. Bhaba Kalita in ~~canton~~ swo. condition on the bed of the hospital. He (PW-1) tried to talk him but he felt smell of intoxicated/alcohol and the charged official was not in conscious state of mind. He further stated that when he talked to P.C. Tomar and Ct. R.P. Tiwary, who were also admitted in hospital, came to know that the charged official caused injury to both of them under the influence of alcohol.

4.

Insp. M.L.Verma stated that on duty doctor of Project Hospital has also given the report on the same line. During the cross examined the PW-1 stated that he saw the wounds (cut marks) on the body of the charged official and during the examination by the I.O. the PW-1 stated that he learnt that the cut mark was if any sharp weapon and that was made by his friends after the quarrel (between the charged official and Hc/F P.C.Tomar/ Ct.R.P.Tiwary)

No. 701390051 SI/Ram Newas Sharma (R.N.Sharma) - deposed that on 29.8.2000 after performing 'G' shift duty when he received message from fire lines, he rushed to the fire lines. He saw CI Bhaba Kalita lying in front of Barrak No.1 and Ct P.Gogoi and Ct. L.J.Nath standing there. He enquired the reason for lying from Ct. Gogoi and Ct. Nath who replied "he has consumed". In the mean time Insp. K.K.Kalingan arrived with Insp. Bharat Ram then they went to hospital with the charged official & Ct.Bhaba Kalita. The doctor of Project Hospital in his medical report mentioned the possibility of intoxication. PW-2 SI R.N. Sharma stated during the examination that when he saw Ct.Kalita in fire lines he (Kalita) was in state of intoxication and he (PW-2) also absened cut mark (probably made of blade) on the body of the charged official Ct. Bhaba Kalita.

No. 7512023 Insp/Exe. K.K. Kalingan (PW-3) stated during the enquiry that on 29.8.2000 at about 2210 hor. he received information from Dy.Commandant/fire to reach fire lines immediately where some incident of quarrel has appended. He alongwith Insp.Bharat Ram reached at fire line and found Ct. Bhaba Kalita lying on the ground. He felt smell of wine from the mouth of Ct.Bhaba Kalita. He alongwith other members brought Const. Bhaba Kalita in the project

5.

Hospital where he came to know from Hc/F P.C.Tomar that Ct.Bhaba Kalita has injured him and one other Ct. who was also admitted in the hospital. During the cross examination by the charged official he deposed that he is aware with the smell of wine and he felt smell of wine from the mouth of charged official. During the examination by the I.O. the PW-3 stated that he saw cut marks on the body of the charged official.

No. 74465005 Insp/Exe. Bharat Ram (PW-4)-stated that he was Unit duty Officer on 29.8.2000. ~~On enquiry~~ ^{receipt} of information he alongwith Insp. K.K.Malingan arrived in fire lines and saw one Const(to whom he recognised as Bhaba Kalita) lying on the ground. Many of the other force personnel were as standing there. He saw injury on the body of the Bhaba Kalita and ~~as~~ felt smell of wine from the mouth of the said Const. He alongwith other member of the ~~as~~ force brought Ct. Bhaba Kalita to the hospital where he saw Hc/F Tomar and one other const. on the bed. On enquiry he ~~as~~ revealed that Ct. Bhaba Kalita have injured them during the cross examination PW-4 (while answering the questions of the charged official Ct. Bhaba Kalita) stated that he saw cut marks of blade cut on the body of Ct.Bhaba Kalita and he also stated that Ct. Bhaba Kalita himself told him in the hospital that "earlier I have". The charged official cross examine PW-4 in detail.

No- 703070054 SI K.Padmnabhan (PW-5) stated during the enquiry that he was line officer (fire lines) on 29.8.2000. At about 2130 hrs CHM Hc Tomar informed him that Ct.Bhaba Kalita has injured Ct. R.P.Tiware. He (SI Padmnabhan) went to the lines and saw Ct.Bhaba Kalita alongwith some other

6.

member of standing there. After some time he saw Ct. Bhaba Kalita charging a flow which injured HC P. C. Tomar. Pw-5 then arranged vehicle and sent both the injured persons HC Tomar. Pw-5 then arranged vehicle and sent both the injured persons HC Tomar and const. Tiwang to the hospital. After some time, K.K. Kalingan, hyp. Bharat Ram and other arrived and took Ct. Bhaba Kalita to hospital. During the cross examination Pw. 5, Padmanabhan replied that he saw some cut mark probably of sharp weapon/blade on the body of the charged official. During the examination by I.O. the charged official stated that when he enquired on 29.8.2000 immediately after the incident came to know that Ct. Bhaba Kalita has beaten and injured Ct. R.P. Tiwary. Pw-5 stated that he did not seen anybody beating/manhandling or injuring Ct. Bhaba Kalita.

No. 925021780 HC/F Harbin Singh (Pw-6), stated that on 29-8-2000 he was detailed for line sontry duty in 'C' shift. At about 2130 on that day he saw Ct. R.P. Tiwary near recreation room. He saw bleeding from the nose of Ct. R.P. Tiwary. After some time he heard some loud sound and when went near the spot found bleeding from the nose of CHM HC. P. C. Tomar. After some time Const. Bhaba Kalita came at the line sentry post and asked the Pw-6 you have beaten me. During the cross Examination the Pw-6 stated that he saw blood stains in the hand of Ct. Bhaba Kalita and injury mark blow his neck portion.

7.

No. 824490694 Hc/F Premchand Tomar (Pw-7) stated that on 29-8-2001 Hc/F Premchand Tomar was CHM of the Fire Coy. at about 2130 CT/FRP. Tiwary came and reported him that Ct Bhaba Kalita has beaten him. He saw bleeding from the nose of CT/F R.P. Tiwary. Hc/F P.C. Tomar reported the matter to SI/F K. Padmanabhan. After some time when he went to lines and enquired the matter from the Bhaba Kalita the later replied that Ct R.P. Tiwary has sustained injury with the door of the barrack. The PW-7 brought Ct. Bhaba Kalita from the barrack to the ground in front of the two barracks. In the meantime some of force personnel came out from the barrack. CT Atmprakash was also among them. CT Atm Prakash asked Ct Kalita "R.P. Tiwary is a good person why have you beaten him?" in turn Bhaba Kalita attempted to assault CT Atm Prakash, PW-7 Hc/F R.C. Tomar tried to pacify Ct. Bhaba Kalita but CT L.J. Nath Catch told him and Ct. Bhaba Kalita charges blow on him which resulted injury and bleeding from the nose. On examination Hc/F P.C. Tomar (Pw-7) stated that he felt smell of alcohol when he went to Bhaba Kalita at the time of incident.

No. 942200038 CT/Fire Ramayan Prasad Tiwary (Pw-8) stated that on 29-8-2000 at about 2100 hrs. he went to his barrack and saw CT Bhaba Kalita eating mutton with wine as drink. He returned back from the barrack and started playing Cards with other friends. After some time Const Bhaba Kalita came in the barrack and charged a list blow on the nose of Ct R.P. Tiwary. He got up and went to

SI Padmanabhan for reporting the matter. The Pw-8 stated that after some time he saw injury and bleeding from the nose of Hc/F P.C. Tomar also. He further stated that he was admitted in Project Hospital from where referred to B.H.U. Varanasi for operation. During the Cross examination by the charged official the Pw-8 confirmed that CT Bhaba Kalita charged blow on him while he was playing Cards. However during the examination he stated that neither he nor anybody else beaten CT Bhaba Kalita.

No-961404158 CT W.J. Ishwari (Pw-9) stated during the enquiry that on 29.3.2000 at about 2110 Hrs. while he was playing Cards in the barrack, CT R.P. Tiwary came and started playing Cards at his place. In the meantime CT Bhaba Kalita came and pursued CT R.P. Tiwary as a result Const Tiwary fell down on the ground. He got up and ran away from there. Ct Bhaba Kalita followed CT R.P. Tiwary was sitting on the kot and there was no loud sound during the play. During the examination by I.O. the Pw-9 stated that whom CT Bhaba Kalita entered in the barrack he was looking normal.

No-971360242 CT/F M.N. Brahma (Pw-10) stated during the enquiry that on 29-8-2000 when he came out from the line for passing ~~toilet~~ ~~for passing~~ urine he saw quarrel between the P.C. Tomar and Ct Bhaba Kalita. He went to pacify them. While pacifying he sustained injury at his arm also. During the examination the PW-10 stated that when he saw CT Bhaba Kalita during quarrel with Hc/P P.C. Tomar, he was not intoxicated.

No-942440039 OT/F. Atma Prakash(Pw-11) stated during the enquiry that on 29-9-2000 at about 2130 hrs. he saw CT R.P. Tiwary injured and full of blood. He enquired the matter from CT R.P. Tiwary in the mean time CT Bhaba Kalita who was also present there rashed to him, caught him and charged a hand. Hc/F P.C. Tomar caught CT Bhaba Kalita as a result CT Atma Prakash was saved but CT Bhaba Kalita being caught by Hc P.C. Tomar turned towards him and gave him a blow punch resulting bleeding from the nose. Many of the Unit personnel separated CT Bhaba Kalita and CHM H.C. P.C. Tomar sent them to hospital with fire jeep. During the cross examination the Pw-11 stated that CT Bhaba Kalita was in light intoxicated state. During the examination by I.O. the Pw-11 stated that he did not seen any injury to CT Bhaba Kalita at the time of the incident.

Gist of Exhibiter

G. No-855 dated 29.8.2000(Pw-5)(Ex-1) was made by SI/F K. Padmanabhan at 29/8/2000 immediately after the incident (by the line officer). As per G. D. CT.R.P. Tiwary reported the duty officer that CT Bhaba Kalita has injured him. When duty officer went barrack CT Bhaba Kalita in alcholalic state and profound smell was felt by the duty officer. CT Bhaba Kalita abused and charged blow over the face of CHM Hc Bhaba Kalita in front of the duty officer CT Bhaba Kalita gave a fist blow charge to CT M. N. Brahma also. Duty officer considering the bleeding sent HC P.C. Tomar and CT R.P. Tiwary to hospital at about 2145 hrs. and informed the matter to Senior officers.

G.D. No. 856 dated 29.8.2000 (Pw-21 Ex-1) was recorded by SI R.N. Sharma at 2200 Hrs. in the may being Maint at Fire wing. As per the G.D. when SI R.N. Sharma arrived in fire lines saw CT Bhaba Kalita lying on the ground between the barracks. His clothings were torn and search mark on the body of the charged official. He felt profound smell from the mouth of CT Bhaba Kalita. He learnt on enquiry that CT Bhaba Kalita has beaten HC P.C. Tomar, CT R.P. Tiwary and CT M.N. Brahma. At about 2220 hrs. when Senior officers arrived at fire line they sent the injured persons to hospital for treatment on Medical Examination Medical Officer of Prgat Hospital issued Medical report in respect of charged official CT Bhaba Kalita.

Medical Report/Incident Report given to Officer Incharge Obra Police station in respect of CT/F Bhaba Kalita was issued at 11 P.M. on 29/8/2000 by the project Hospital Obra, Sonebhadra (U.P.). Vide St. No.01 of the report Order has given reason for admission in Hospital "after getting some injury perhaps taking some intoxicating item". The said report was examined before the charge official o copy of the report was issued to him by the Inquiry Officer.

Medical Report of He P.C. Tomar (Pw-7/Ex-1) is a discharge slip issued by the Project hospital Obra on his admission/ discharge from the hospital. As per the slip P.C. Tomar age-40 years was admitted in hospital on 29/8/2000 and for "injury face leading to fracture". The patient was discharge on 31/8/2000 from the hospital, with instruction to come for recheck on 4/9/2000. The was advised 04 days rest also. The report was readover to the charged official and copy was issued to him on his request.

11.

Medical Report of CT R.P. Tiwary (Pw-8/Ex-1). This a discharge slip issued by the Project Hospital Obra in the name of CT R.T. Tiwary. CT Tiwary was admitted on 29/8/2000 for injury face leading opstus and Nasal bone.

Special Report of Indiscipline given to Commandant CISF writ O.T.H.P.P. Obta by the Dy. Commandant Fire vide his office letter No -AO-15014/ /2000/ 1349 dated 30/8/2000 is a detailed report of the incident. The report was readover to the charged official and a copy was issued to him on his request.

THE DEFENCE CASE

The charged official submitted the following Exhibites during the enquiry and with his reply of the charge memorandum.

- 1) Discharge Certificate.
- 2) Two photographs of CT Bhaba Kalita with injury marks.
- 3) Cash Memo No. 544 Dated 10/9/2000 (Kerom Studio Obra)
- 4) Cash Memo No. 229 dated 26/8/2000 (Anup Mehal Store Obra)
- 5) Medical prescription issued to CT Bhaba Kalita on 26/8/2000 by Dr. G. N. Pathak No.-20632 (M. B. B. S.)

The charge Official submitted the names of following witnesses :

1. No. 961403858 Const/F P. Gogoi
2. No-96140 5315 Const/F L.J. Nath.

In his reply dated 3/11/2000 of the charge Memo he denied his guilt and during the preliminary hearing

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also the charged official denied the charges. In his defence statement which he ~~requested~~ requested the having an officer to mention on paper, the charge official stated that on 29.8.2000 he was detailed on Mess helper. At about 2140 he went for sleeping because he was to get up 0300 hrs. next day for preparation of breakfast. He was suffering from cough for which he took medicine and was ready for sleeping. Some of the members of the barrack were playing Cards. He told them either to stop playing or keep silence. Ct R.P. Tiwary who was also playing the card abased him and refused to stop the play. The charge official took over the Cards in his hand and was going to report the matter to the duty officer. In the meantime CT R.P. Tiwary tried to snatch the Cards from CT Bhaba Kalita but due to dash in wooden/kot he fell down. When he was going to report duty officer Hc P.C. Tomar abused him and charged a lathi on his back. charged official cried for help and CT/F P.Gogoi with CT L.J. Nath pacified the matter. Due to stroke of lathi he went unconscious. After some time he was taken to hospital. Durint the examination the charged official mentioned that the light off in lines 2200 hrs. He consumed cough syraf at 2100 to 2130 hrs. He also stated during the examination that he did not seen the sharp edged weapon from which CT Atma Prakash injured him. However he denied that he assaulted or injured any of the force personnel on that day.

The gist of defence statements are as under -

No. 961403858 CT/F Prahalad Gogoi (P.Gogoi) stated that on 29/8/2000 he saw Hc/F P.C. Tomar beating with lathi

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to CT Bhaba Kalita and CT Atma Prakash was helping Hc P.C. Tomar in doing so. CT M.N. Nath was also pacifying them. CT/F P.Gogoi told in loud voice "why you have beating a person" then P.C. Tomar and CT Atma Prakash ran away from there. During the examination the DW-1 stated that CT Atmaprakash was not beating/assaulting CT Bhaba Kalita but he was bolding him and was instigating Hc P.C. Tomar to assault. He also stated that he did not noticed any body with sharp edged weapon. While answering No-10 the Dw-1 CT. P.Gogoi accepted that he has also been punished for the same incident.

No-961405315 CT/F L.J. Nath(DW-2) stated during the enquiry that at about 2130 hrs he saw Hc P.C. Tomar a lathi in hand and rashing towards Kalita who was under the control of Atma Prakash. DW-2 CT L.J. Nath went at spot and rescued CT Bhaba Kalita from the Hc. P.C. Tomar and CT Atma Prakash. During the examination the DW-2 stated that he did not seen any sharp edged weapon wither in hands of Hc. P.C. Tomar or CT Atma Prakash but the DW-2 confined that HC Tomar charged lathi on CT Bhaba Kalita.

Defence Exhibits :

Discharge certificate issued on 31/8/2000 by the project hospital Obra shows that CT Bhaba Kalita aged 26 years was admitted in hospital on 29/8/2000 on bed No-17 (male ward) and was discharged on 31/8/2000 with two days rest.

Two photographs of CT Bhaba Kalita was submitted by the charged official during the submission of reply of charge Memo. Search marks are available on the chest and both the hands in the photograph. One bondage is also present on the right side of the chest in both the photographs. An envelop with Kiran stamp mark "Kiran Studio" was also submitted with the photographs.

Cash Memo No-544 dated 10/9/2000 was produced by the charged official during the enquiry. The case memo shows that three post Card ~~six~~ five photos were snaped on 3/9/2000 and was due for delivery on 10/9/2000 in KIRAN STUDIO, Obra Sonebhadra. The charged official during the enquiry linked the cash Memo with the photographs submitted by him with the reply of charge Memo.

Cash Memo No-229/dated 26/8/2000 of Arum Medicals Stores The charged official purchased medicines vide this cash memo. Benadry syrup is one of them.

Medical Prescription of Dr. G. N. Pathak (Private Doctor)
in respect of Bhaba Kalita was issued by the private doctor of obra for treatment of cough. Since a well operation hospital (Project) is available & consultation of private doctor for cough is having very light evidencelial value.

Facts Revealed during the Enquiry.

1. That No. 961405494 Ct/F Bhaba Kalita was working as mess helper in fire Mess for the period 26.9.2000 on 29.8.2000 after distributing lunch he was free from the mess duty till next day morning.

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2. On 29/8/2000 Ct R.P.Tiware alongwith other force personnel were playing, play Cards in the Unit lines just before the incident.
3. That the time of incident was between 2100 to 2200 on 29.8.2000.
4. That Hc P.C. Tomar and Ct. R.P.Tiware were admitted in the hospital in injured condition.
5. That Ct. Bhaba Kalita was also admitted in the hospital in injured condition.
6. That there had been scuffling between Ct. Bhaba Kalita and Hc. P.C. Tomar.
7. That Ct. R.P.Tiware was referred for B.H.U. where he underwent surgical operation (nasal bone).
8. That the medical officer of Project hospital Obra found CT Bhaba Kalita injured and the reason of injury was perhaps some intoxication.
9. That CT Bhaba Kalita under went the treatment of a Private Doctor G.N. Pathak for the treatment of cough which looks to be unusual.
10. That out of eleven prosecution witnesses none of them deposed before the enquiry officer that there had been any quarrel or manhandling between CT/F R.P.Tiware and CT/F Bhaba Kalita.
11. That both the Dw 3 deposed before the enquiry officer they saw Hc. P.C. Tomar charging Lathi on CT/F Bhaba Kalita.

12. That neither the prosecution nor the ~~xx~~ defence side saw any body causing sharp weapon cut on the body of the charged official. Even the chargecal official did not observed any sharp edged weapon during the time of the incident.
13. That the Medical Officer of project hospital did not mentioned any specific injury in the report. However the xray and medicines were prescribed and medicines were administered to him during the time of admission of and stay in hospital in respect of Ct. Bhaba Kalita.
14. That both the Defence witnesses were awarded with punishment for their misconduct during the same incident. Hence the value of their statements may not have high evidencial value.
15. Though the prosecution witnesses did not deposed much light on the incident but there are enough circumstantial evidences available to prove that there was manhadling and injury to HC P.C. Tomar and CT R.P. Tiwary.
16. Evidences one available against Hc/F P.C. Tomar and Const/F Atma Prakash also.

DISCUSSION IN DISPUTED FACTS :

The fact that CT/F Bhaba Kalita (the charge official) consumed alchohalic liquor on 29/8/2000 before the incident or not was examined in deep. Though very few of the prosecution witness ~~de~~posed that they found the chargical official in the state of intoxication, ~~excessive~~ but the medical report issue of by the Project hospital and other circumstantial evidence are available to prove that he was under the influence of intoxication. His

defence that he consumed cough syrup which caused intoxication is not admissible as he took one dose of Benadryl syrup between 2100 to 2130 hrs. on 29.8.2000. A normal dose of the syrup may not result in that much of intoxication. The fact that he indulged in manhandling with Hc/PC. Tomar and Ct. R.P. Tiwary was also examined and the charged official himself accepted during his statement that he collected/took over the cards from which Ct R.P. Tiwary alongwith other personnel were playing. This might be the begining of the quarrel. The statement of the charged official that they were making loud noise and causing disturbance in sleeping, has no material value as it was 2130 only which is a too early time for sleeping. His scuffling with HC P.C. Tomar was seen by the witnesses and injury of Hc. P.C. Tomar was proved by the medical officer also. His defence that he was going to report the matter to line officer may not be given with more value in the light of statement of the line officer K. Padmanabhan. The Btm. duty officer of the day Insp/Exe Bharat Ram during his statement deposed that the chargeal official Ct. Bhaba Kalita himself accepted before him "earlier drunk". The injury mark of sharp edged weapon was not mentioned in the medical/injury report given by the Medical officer of the Project Officer. The photograph submitted by the charged official shows many cut marks on the body, but the charged official could not noticed the weapon in the hand of CT Atma Prakash. He (CT Bhaba Kalita himself accepted during the examination that Hc/P.C. Tomar assaulted with lathi and CT Atma Prakash was instigating

to assault by hold the charged official. For causing injury at least a sharp edged weapon must be present at the scene, but neither the chargeal official not the DEOs seen any wean either in the hand of Ct Atma Prakash or in the area where the incident took place. At the time of charging the weapon the chargeal official must have felt accute pain and in a natural course his attention would have be diverted towards the weapon in question. One careful examination of the cut mark in question, one can very well understand that, such type of regular cut mark may not be charged/caused during the scuffling or quarrel.

CONCLUSION

Though evidences are available against Hc/G.O. P.C. Tomar and Ct. Atma Prakash also, but in the light of medical reports, careful examination of statement and documents it is very well clear that on 20.8.2000 evening const. No. 961405494 Bhaba Kalita consumed intoxicated drinks and willfully started quarrel with const. R.P. Tiwary and other force personnel while they were playing cards in Unit lines. If there was any complain the charged official could have reported to the line officer who was present in the same campus, but in place of reporting he preferred to seize the cards which was not within his charter of duties. Again he had not exchange with CHN Hc/F P.C. Tomar and charged a fist blow which resulted, injury to H.C.P.C. Tomar a senior members of the force. If the behave of HC P.C. Tomar was not proper to he could have reported the matter to the senior formation, but he failed and indulged in manhandling.

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Hence, I, No. 764030011, Insp/Exe. P.P.Singh,
told the article of charge framed against No. 961405494
Ct/F Bhaba Kalita, vide charge Memo No. H-15014/
2000/2459 dated 25-10-2000 proved.

Submitted please

Dated : 20/1/2001

(P.P.SINGH)
INSP/EXP

Office of the Commandant Central Industrial Security Force, Ministry of Home Affairs.

Unit Othpp., Obra

District -Sonebhadra(U.P.)

No- V-15014/Disc/Othpp/2001 / 823 dated 6/4/2001

O R D E R

1) No-961405494 Ct/F Bhaba Kalita who is posted at Unit Othpp, Obra was charged vide No-V-15014/Disc/2000/2459 dated 25/10/2000 under Rule 34 of CISF Rules 1969, The charge are as follows :-

" No-961405494 Ct/F Bhaba Kalita working at Unit Othpp., Obra on 29/8/2000 at 2130 hours took alcohol and assaulted No-824496694 Hct/F Prem Chandra Tomar and No-9422000-38 Ct/F R.P. Tiwary as a result both P.C. Tomar and R.P. Tiwary had to get admitted in Project Hospital, Obra for treatment. The Personnel is charged with misbehaviour and indiscipline in service."

2) The personnel received the memo on 25/10/2000 and submitted his reply on 4/11/2000. There was departmental enquiry vide letter No-V-15014/Disc/EK/2K/6260 dated 13-5-2000 Inspector P.P. Singh was appointed Enquiry Officer. The Enquiry Officer by giving notices to the delinquent for hearing on 20/1/2001 completed the inquiry and submitted Enquiry report to the Disciplinary Authority. The Disciplinary

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Authority examined the Enquiry Report in detail and found that Inquiry was conducted as per rules. A copy of the Inquiry Report sent to Constable through the Deputy Commandant, Obra vide his letter No. V-15014/Disc/Bk/2001/1090 dated 19/2/2001. The Constable Inquiry Report in Hindi by his application dated 20/2/2001. On request of the Constable Hindi copy of Inquiry Report sent to him by letter No-V-15014/Disc/BK/2001 1334 dated 27/2/2001 through the Deputy Commandant. The Constable submitting his reply on 8/3/2001. The Constable stated that on 29/8/2000 he was posted in Fire-Wing and he was suffering from cough, from 26/8/2000 the Constable was getting treatment by Dr. G. N. Pathak and he was taking medicine according to advice of doctor. On the day of occurrence at 9 P.M. he took a dose of Benadril cough Syrup but cough was coming hence he took few a little amount of surup and he got slight relief. Thereafter he was preparing for sleep but Constable R.P. Tiwary along with few Constables were playing at Card and were ~~were~~ making in hue and cry and for that he could not sleep. The Constable went R.P. Tiwary and requested him that he was not well and he wanted to sleep because he had to attend duity at 3 A.M. He further executed not to play at Card and not to make hue and cry or to go some where to play at Card. But they did not stopped. The Constable with friendly approach took the Cards. Then Ct. R.P. Tiwary started abusing the Constable. R.P. Tiwary tried to snatch the card and a scuffle was there as a result he fell down on ground. Thereafter P.C. Tomar call the Constable outside the and shouted abusing and assaulting. There Ct. Atma Prakash/F got one stick to P.C. Tomar and Mr. Tomar started beating the Constable. Constable Atma Prakash also assaulted the

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Constable with sharp weapon and he sustained injuries. The Constable could not see what weapon Atma Prakash used injure him ~~xxxxxxxx~~ and the Constable became sub-conscious. The Constable further stated that he did not took alcohol on the day of occurrence, but he took Benadryl which is an alcohol mixed medicine.

3. After perusal of documents, after going through the Inquiry Report in detail and after going through the evidence of witness No. 1, 2, 3, 4, 5, 7, 8 and 11 it is found that the delinquent on 29/8/2000 after failing alcohol H.C./F P.C. Tomar and Ct/F R.P. Tiwary as a result both of them had to admitted in Project Hospital, Obra. Statement of ~~xxxxxxxx~~ delinquent of taking Benadryal is in correct and it is after thought to defend himself, none so the document like daily diary No- 855 and 856 dated 29/8/2000. The treatment certificate at 29/8/2000 to Ct/12 Bhaba, Kalita and the report submitted by Deputy Commandant dated 30/8/2000 and the treatment certificate of P.C. Tomar and R.P. Tiwary dated 31/8/2000 established that the delinquent dated 29/8/2000 at about 2130 after taking Alcohol assaulted Hct/F P.C. Tomar and Ct/F R.P. Tiwary as a result Hct/F P.C. Tomar and sustained injury in his nose and Ct/F R.P. Tiwary also sustained injury ~~in nostril~~ in nostril for which he was returned to Benaras Hindu University for treatment and which is reported by the certificate is and by Project Hospital, Obra. The delinquent assaulted his colleagues which is negligent of duty and misbehaviour. The delinquent in his defence examined ~~Examiner~~ D.W.F. P. Gogoi and Ct/F L.K. Nath. The D.W.F. P. Gogoi stated that Ct/F

not assaulting the delinquent but belonging P. C. Tomar so that he can assault the delinquent. He did not see any sharp weapon. D.W.-2 Ct/F 2k not stated that he did not see any sharp weapon in the hand of P.C. Tomar and Atma Prakash. From the evidence of D.W. it is proved that the delinquent was neither assaulted by sharp weapon nor by lathi as stated by Ct/F Bhaba Kalita that P.C. Tomar assaulted him for which sustained injury in hand and chest. From the evidence discussed above it is proved that Atma Prakash did not assaulted the delinquent any sharp weapon or by lathi and on such question of sustaining injury cannot arise to delinquent, the delinquent produced 2 photographs after being it seem that the delinquent himself caused injury by weapon like blade and falsey alleging against P.C. Tomar and Atma Prakash. The Disciplinary Authority think that the allegation against the delinquent is correct.

04. The Inquiry Officer after going through all documents and evidence of witnesses proved the allegation against delinquent correct. The act committed by Defence personnel is mis behaviour and indiscipline for which he is liable to be imposed severe punishment. Thereafter the Disciplinary Authority Under Rule 29A (Schedule-2) (read with Rule-31(b) of CISF) Rule, 1969 and Under Rule, 31(b) of Schedule-2 removed Ct/F 961405494 Bhaba Kalita from service w.e.f. 7-4-2001.

05. The delinquent suspended from 30/8/2000 to 24/10/2000 will be treated under suspicion. He will not get any allowance for the said period.

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06. If the delinquent desire then he may prefer an appeal to Deputy Inspector General, Patna within 30 days.

07. The delinquent be supplied tree ^{Copy} of his order. The service of the order will be ensured.

Sd/- Illegible

Commandant / CISF
Unit Othpp, Obra.

Copy to :

No. : 961405494 Const/Fire Bhaba Kalita "Fire Wing"
CISF Unit, Othpp, Obra.

Through

Deputy Commandant.

True Copy to :-

1. Deputy Commandant/Fire
2. A Court document Section
3. Office file.

From original copy of
this order to the
and after signature and
this office.

Received

7/4/2001

Before the Deputy Inspector General, Central Industrial Security Force, East Zone, HQRS Eastern Sector, Patliputta, Patna (Bihar)

Through:-The Commandant CISF, Unit OTHPP, OBRA, Sonebhadra, U.P.

Sub :- An appeal against the order of removal from service vide No.-V-15014/DISC/OTHPP/2001/823 Dt. 6/4/2001.

Respected Sir,

By Order dated 30-8-2000 vide No.-V-15014/DISC/OTHPP/2001/4744 I was placed under suspension. Thereafter by Order dated 25-10-2000 the order of suspension was revoked.

Again by Order dated 25-12-2000 Article of charges framed under Rule 34 of CISF Rule 1969, under Article of charges it is alleged that on 29-8-2000 at 9.30 P.M. by taking alcohol and I assaulted Prem Chand Tomar and R.P. Tiwari for which they were admitted for treatment in OBRA Hospital which is indiscipline and misconduct the force. The statement of imputation alleged that I around 9.30 P.M. on 29-8-2000 after taking alcohol assaulted Prem Chand Tomar and R.P. Tiwary without any cause. As a result there was bleeding from nostril of R.P. Tiwari for which he had to get treatment in Obra Hospital. A list of document also furnished and a list of witnesses also furnished.

An enquiry was ordered to be conducted by P.P. Singh, Inspector. During the enquiry 11 witnesses from prosecution side were examined and five documents relied on. From the defence side five documents exhibited and two defence witnesses examined. That during the entire proceeding few documents communicated in English and few documents communicated in Hindi which created a lot of trouble for me. My mother

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tounge is Assamese but no document is furnished to me in Assamese. During hearing following facts inter alia come to light :-

P.W.-1, Inspector M.L. Verma himself deposed that after receiving information of assault he visited Project hospital when he found CT Bhaba Kalita is serious condition in hospital bed and he was unconscious. During the cross examination M.L. Verma deposed that he saw wounds/cut marks on the body of appellants caused by his friend during quarrel.

P.W.-2 Ram Nivas Sharma deposed that after receiving message of assault he rashed to the spot and found CT Bhaba Kalita lying in front of barrack and also found CT. P.Gogoi and CT. L.J. Nath. He further deposed that he saw cut mark probably made of blade on body of appellant.

P.W.-3, K.K. Kalingam deposed that myself and Bharat Ram while reached fireline found Bhaba Kalita lying on the ground. He and other members brought Bhaba Kalita in the project Hospital. In cross examination he admitted that he saw cut mark on the body of the charge official.

P.W.-4, Bharat Ram deposed that he saw Bhaba Kalita lying on the ground. He saw injury on the body (Chest and hand) of Bhaba Kalita. He also said that he saw cut mark of blade on the body of Kalita.

P.W.-5, K. Padmanavan deposed that H.C. Tomar informed me that Bhaba Kalita injured R.P. Tiwari. Accordingly he went to the place of occurrence and found Bhaba Kalita and others. He further said that he saw cut marks probably

of sharp weapon/blade on the body of the charge official. He did not see any body beating.

P.W.-6, Harbin Singh, stated that he saw R.P. Tiwari and also found bleeding from the nose of P.C. Tomar. He further stated that he saw blood stain in the hand of Bhaba Kalita and injury mark below his nose portion.

P.W.-7, Prem Chand Tomar stated that Bhaba Kalita beaten him. He saw bleeding from the nose of R.P. Tiwari. He further enquired the matter from Bhaba Kalita who replied that R.P. Tiwari sustained injury with the door of barrack.

P.W.-9, W.J. Iswari stated that he was playing Card and R.P. Tiwari also playing Card. In the meantime Bhaba Kalita came and pushed R.P. Tiwari and Tiwari fell down on the ground he got up and ran away. Bhaba Kalita followed R.P. Tiwari. He further stated that when Bhaba Kalita entered he became normal.

P.W.-10, M.N. Brahma stated that he saw quarrel between P.C. Tomar and Bhaba Kalita, while there was quarrel Bhaba Kalita not intoxicated.

P.W.-11, stated that P.C. Tomar caught Bhaba Kalita and as a result there was assault among them.

I exhibited Discharge Certificate from Hospital, two photographs showing injury marks, cash memo of medical store, Medical Prescription issued by Dr. G.N. Pathak and produced two witnesses in my defence namely, P. Gogoi and L.J. Nath. I denied the charge. The appellant about 2140 went to sleep

because the next day I had to get up at 3 A.M. for preparing break-fast. Further I was suffering from cough and took medicine. Some of the members were playing Cards. I told them either to stop playing or keep silence. On that R.P. Tiwari abused me. P.C. Tomar, Atma Prakash and R.P. Tiwari charged me with a lathi. CT. P. Gogoi and CT. L.J. Nath were trying to pacify them.

Prahla Gogoi D.W.-1 stated that he saw P.C. Tomar bearing the appellant with lathi. Ct. Atma Prakash was helping P.C. Tomar. Ct. M.N. Brahma was trying to pacifying them. P. Gogoi further told that why you all beating one person.

D.W.-2 L.J. Nath stated that at about 2130 he saw P.C. Tomar with a lathi and rushing towards me. Ct. L.J. Nath was trying to rescue the appellant.

After going through the deposition of all PWs and DWs and exhibits it is crystal clear that P.C. Tomar, R.P. Tiwari and Atma Prakash got furious on the request to stop playing card and or keep silence. They assault me by lathi, blade and blow. In the said assault the appellant sustained cut injury and wounded for which he had to undergo treatment. It is not a case that the appellant assaulted Prem Chand Tomar and R.P. Tiwari after taking alcohol. It is also not a case that only R.P. Tiwari sustained injury. The appellant sustained serious cut injury and lathi injury than that of injury sustained by R.P. Tiwari got admitted in the hospital but the appellant also got admitted in the hospital which is established by witnesses

and documents. The enquiry officer himself found that Ct. Bhaba Kalita was admitted in hospital in injured condition. Further the enquiry officer found that there has been scuffling between Bhaba Kalita and P.C. Tomar. The Medical officer of Project Hospital, Obra found Bhaba Kalita injured. Prior to incident the appellant was under treatment of a private Doctor, G.N. Pathak. The enquiry officer found that non of the witnesses deposed before him as there was quarrel and manhandling between R.P. Tiwari and Bhaba Kalita. Both the D.W. stated that they saw P.C. Tomar charging with lathi to Bhaba Kalita. The enquiry officer also found that the appellant was injured and medicine administered to him. The enquiry officer wrongly hold that although non of the witnesses proved manhandling and injury to P.C. Tomar and R.P. Tiwari but circumstancial evidence proved the same. lastly the enquiry officer found evidence against P.C. Tomar and Atma Prakash.

In conclusion the enquiry officer also held that evidences are available against P.C. Tomar and Atma Prakash. The enquiry officer absolutely mistaken to hold that Bhaba Kalita consumed drinks and started quarrels with R.P. Tiwari. The enquiry officer absolutely wrong to say that the appellant could have complaint the matter. Although non of the witnesses supported but he hold that the appellant charged a fist blow to P.C. Tomar. Although the charge not at all proved but the enquiry officer wrongly hold that charges against Bhaba Kalita is proved.

In fact P.C. Tomar and Atma Prakash were found guilty by the enquiry officer but, the appellant charged with

Article of charges. It is strange that despite of the finding of enquiry officer charges are not framed against P.C. Tomar and Atma Prakash which is discrimination against the appellant. The other personnel namely P.C. Tomar, Atma Prakash and R.P. Tiwari as per evidence were guilty who assaulted the appellant but, they were not charged and punished. The appellant was assaulted by three personnels and over and above punished by the commandant removal service by way of ~~removal~~ from ~~service~~. On the facts and circumstances of the case the punishment of removal from service is illegal and liable to be set aside by the appellate authority. The punishment by way of removal from service is disproportionate to the Article of Charges, if any; to shock Judicial conscience. Where there are three persons assaulted the appellant causing him injury they were not charged and punished, on the contrary the appellant charged and punished and the same is nothing but, regional discrimination meted out to the appellant.

Yours faithfully

Place : Gwalior
Date : 03/05/2001

961405494 CT,
Bhaba Kalita
CISF

BY REGISTERED POST/

OFFICE OF THE DEPUTY INSPECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HOME AFFAIRS)

Eastern Zone HQrs.,
CISF Office Complex,
Boring Road Patliputra,
P A T N A-800 013.

NO-V-11014/EZ/Ad.11/Apl.23/2001/5103 . Dated : the 18th July, 2001.

O R D E R

1) No. 96140549 Ex-Const/Fire B. Kalita, formerly of CISF Unit Othpp Obra has submitted an appeal to the undersigned against the penality of 'REMOVAL FROM SERVICE' awarded by Commandant, CISF Unit OTHPP Obra vide final order No. V-15014/CISF/Disc/2001/B23 dated 6/4/2001 for the following charge:-

" No-961405494 Ct/F Bhaba Kalita working at Unit Othpp Obra on 29/8/2000 at 2130 hours took alcohol and assaulted No-824496694 Hct /F Prem Chandra Tomar and No -9422000-38 Ct/F R.P. Tiwary as a result both P.C. Tomar and R.P. Tiwary had to get admitted in Project Hospital, Obra for treatment. The personnel is charged with misbehaviour and indiscipline in service."

2) The appellant was dealt under rule 34 of CISF Rules 1969 for the above charge by the disciplinary authority vide charge memorandum No. V-15014/Disc/2000/2459 dated 25.10.2000. In a duly constituted departmental enquiry, the Enquiry Officer

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proved the charge levelled against the appellant. Having agreed with the findings of the Enquiry Officer, the disciplinary authority awarded him the aforesaid punishment. Being aggrieved with the punishment order, he has submitted an appeal to the undersigned which is in time.

3. The appellant has mainly contended that during the course of enquiry, some documents were communicated to him in English and few documents in Hindi which created a lot of trouble to him; that he was going to sleep at about 2140 hrs and requested to stop the playing of cards or keep silence; that after going through the statements of all PWs, DWs and exhibits, it is crystal clear that P.C. Tomar, R.P. Tiwari and Atma Prakash got furious on the request to stop playing cards; that they assaulted him with lathi, blade and blow; that he sustained injury and had to undergo treatment; that it is not a case that he assaulted P.C. Tomar and R.P. Tiwari after taking alcohol; that the Enquiry Officer found that there was a quarrel between P.C. Tomar and the appellant; that the Enquiry Officer wrongly hold him guilty without any evidence or statements of PWs; that despite of the findings of the Enquiry Officer, the charges were not proved against P.C. Tomar & Atma Prakash which is discrimination against him; that the punishment of 'REMOVAL FROM SERVICE' is disproportionate to the Article of charge; that three personnel assaulted him and caused injury but they were not charge sheeted and punished.

4. I have examined the case records in the light of plea raised by the appellant and observed that the appellant was in an intoxicated condition and had given a blow to Const. R.P. Tiwari on his nose resulting in serious nasal bone

injury and bleeding. The appellant again gave a blow to HC/Fire P.C. Tomar when he asked him not to beat R.P. Tiwari. His contention that Const/F R.P. Tiwari, Const/F Atma Prakash and P.C. Tomar got furious on his request to stop playing of cards or keep silence, is found false and an afterthought only to coverup his misdeed. The appellant did not mention anywhere during the course of enquiry that he was having any problem to understand the deposition in Hindi or in English and such plea at this stage is not maintainable. The plea of the appellant that he had assaulted with lathi, blade and blow by HC/Fire P.C. Tomar, Const/Fire R.P. Tiwari and Const/Fire Atma Prakash is also found false. During the course of enquiry, no one deposed that the appellant was manhandled and beaten up. It was also confirmed from the report of Doctor that the appellant was in an intoxicated condition and there was no such injury on his body which can be attributed that he was beaten by lathi. If the appellant found the persons playing cards in the adjorning barrack which disturbed him to sleep, he should have approached to the line duty officer but he failed to do so. I am of the view that he did not adopt correct procedure and used criminal Force against his senior which is not tolerated in a disciplined Force like CISF.

5. On examination of records it appears that the punishment is adequate considering the charge which is very serious. CISF is a disciplined Force where duty and discipline are paramount importance to the member of the Force. The appellant used criminal force against his senior without any valid reasons which was highly irregular and not expected of a Force Personnel. In view of the proved

charge, there is no need for me to interfere as the punishment commensurate with the gravity of offence, committed by the appellant. Accordingly the appeal submitted by No. 961405494 Ex-Const/Fire B. Kalita has been considered and Rejected being devoid of merit.

6. This order shall be served in duplicate to the last known address of the appellant, receipt of which shall be acknowledged by him in duplicate copy and returned to this office for record.

DEPUTY INSPECTOR GENERAL/EASTERN ZONE

To

No. 961405494 Ex-Const/F : In duplicate through
Bhaba Kalita registered post/AD
S/O L. M. Kalita
R/O Kenduguri
P.O. - Narengi
Guwahati - 26
Distt : Kamrup
Assam