

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.
E.P/M.A No. 84/01

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SECTION OFFICER (Judl.)

fehira
5/12/17

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::: GUWAHATI

ORDER SHEET
APPLICATION NO 61 OF 2001

Applicant (s) S. P. Singh Yadav

Respondent(s) V. O.I. Govt

Advocate for Applicant(s) Mr. B.K. Sharma, Mr. S. Sarma

Advocate for Respondent(s) CGSC

Notes of the Registry Date Order of the Tribunal

1. P. is in form
2. Date 14.2.01
3. Present: Hon'ble Mr. Justice
D.N. Choudhury, Vice-Chairman and
Hon'ble Mr. K.K. Sharma, Administra-
tive Member.

Heard learned counsel for the
parties. Issue notice on the re-
spondents as to why the Disciplinary
Proceedings shall not be suspended
returnable by 6 weeks. List on
29.3.01 for orders.

CC (Usha) Vice-Chairman
Member

15.2.2001
Notice of notice issued
to the respondents
ref. No. 638-638/21
22.2.01

16.2.2001
29.3.01
Let the respondents file
their written statement.

List on 12.4.01 for admission
Endeavour shall be made to dispose
of the matter at the admission
stage.

Intoxicating liquor

CC (Usha)

12.4.01 List the matter before the Divisional
on 23.4.2001 for consideration of
admission.

20.4.01

Vice-Chairman

No cause has been
stated.

trd

23.4.01 List on 26.4.01 to enable the res-
pondents to file written statement.
Interim order shall continue.

I.C.Ushan
Member

Vice-Chairman

pg

26.4.01 Written statement has not been
filed. List for Admission on 2.5.01

I.C.Ushan
Member

Vice-Chairman

lm

2.5.01 Passed over. List on 3.5.01 for
consideration of admission.

I.C.Ushan
Member

Vice-Chairman

30.4.2001

w/c on behalf
of Respondents have
been submitted.

3.5.01

List on 4.5.01 alongwith M.P.No.84

Prop.
2001 for Admission.

I.C.Ushan
Member

Vice-Chairman

6/5/2001

Copy of the Judgment
has been sent to
the D.P.C.C. for issuing
the D.P.C.C. for issuing
the D.P.C.C. for issuing

lm

4.5.01

Judgement pronounced in open court.
Kept in separate sheets. The application

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 30, 31 & 61 of 2001

Date of Order: This is the 4th Day of May 2001.

HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER

Suresh Pal Singh Yadav, Inspector
(Under suspension),
Central Bureau of Investigation,
Office of the Suptd. of Police,
Central Bureau of Investigation,
R.G.Baruah Road, Sunderpur,
Guwahati - 781 005. Applicant

By Advocate Mr. B.K.Sharma, Mr. P.K. Tiwari
Mr. U.K.Goswami

-V-8-

1. K.C. Kanungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2. Respondents

By Advocate Mr. A.Dub Roy, Sr. C.G.S.C.

ORDER

CHOWDHURY J. (V.C.)

O.A. 30, 31 & 61 of 2001 are taken up for consideration together since all these Applications embrace self same issues arising out of like situations appertaining to the propriety of initiation of the three departmental proceedings. The applicant assailed the legitimacy of the aforesaid actions of the respondents as well as the continuance of the departmental proceedings against him, in these

O.A. 8.

Contd.: 2

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2. We have heard learned counsel for the parties at length. After going through the materials on records and upon considering the submission on behalf of the parties, we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable. The article of charges are framed against the applicant. He has already submitted his written statements denying and disputing the allegations. All things considered, we are not inclined to intervene and we are of the view that the departmental proceedings in question should proceed and come to its logical end as per law.

3. Enquiry Officer has already been appointed and from the conduct of Enquiry Officer and also from the materials on records, we do not perceive any disability in the Enquiry Officer and to debar him from the Enquiry. Considering all aspects of the matter we, however, feel that the respondent no.1 Shri K.C. Kanungo, Deputy Inspector General of Police should not act as a disciplinary authority. The applicant has specifically expressed his apprehension that he is not expecting to get treatment in hand of Respondent No.1 as the disciplinary authority.

4. Mr. B.K. Sharma, learned Senior counsel for the applicant particularly referred to us to the observations made by the aforementioned Officer of Police, in his order deciding to hold a formal enquiry after receipt of the written statement. Considering the findings and observations made in the aforesaid order read with the

written statement filed, we feel that it would not be appropriate for the said respondent to act as disciplinary authority and therefore he should be recused. We have adopted this course to recuse the Respondent No.1 to act as a disciplinary authority to avoid all misgivings. Justice not should only be done, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence. The concerned authorities including the Directors, CBI, are ordered to act accordingly. The enquiry shall now proceed as per law. We expect that the enquiry shall be conducted with utmost expedition. We, however, make it clear that the applicant should entitled to raise all the legal issues those are raised in the O.A.s including the maintainability of the departmental proceedings before enquiry as well as the disciplinary authorities.

With the observation made above, the applications stand disposed of. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

bb

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- FEB 2001 -
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 61 of 2001

Suresh Pal Singh Yadav ... Applicant

- Versus -

K.C. Kanungo & Ors. ... Respondents

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For use in Tribunal's Office :

Date of filing :

Registration No.

REGISTRAR

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

O.A. No. 61 of 2001

BETWEEN

Shri Suresh Pal Singh Yadav, Inspector (Under Suspension), Central Bureau of Investigation, office of the Supdt. of Police, Central Bureau of Investigation, R.G. Baruah Road, Sundarpur, Guwahati-781005.

... Applicant

AND

1. K.C. Kanungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati.
2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati.
3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.

.... Respondents

DETAILS OF APPLICATION

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

The present application is directed against the following :

(i) Memorandum No. 1516/12/COMP/SLC/NER/(Pt.II) dated 22.5.2000 containing article of charges issued by DIG, CBI, NER, Guwahati.

(ii) Order No. 4111/12/COMP/SLC/NER/99/Pt.II dated 22.10.2000 issued by the DIG, CBI, NER, Guwahati rejecting the written statement of the Appellant and instituting enquiry against the latter.

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2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that he had preferred the appeal dated 18.7.2000 under Rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline & Appeal) Rules, 1965 for the redressal of his grievance. However, the aforesaid appeal has not been disposed of yet and the Disciplinary Authority without waiting for the disposal of the appeal against the memorandum of charges has instituted the enquiry against the Applicant by rejecting his written statement of defence. The present application is within the period of limitation provided under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant in the present case is assailing the legality and validity of the memorandum of charges issued against him. The written statement of defence which was filed by the Applicant against the memorandum of charges has also been dismissed by the Disciplinary Authority and the enquiry has been initiated against him. The Applicant is not afraid of the enquiry. However, he is assailing the memorandum of

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charges because the same has been issued with the sole purpose of his harassment and victimisation. Disciplinary Authority in the present case is the maker of allegations against the Applicant. The enquiry is sought to be instituted on trumped up charges based on allegations made and concocted by the Disciplinary Authority. The memorandum of charges which is the subject matter of present application is not the only memorandum of charges that have been issued by the Disciplinary Authority (Respondent No.1) against the Applicant within the short span of 11 days as a part of its attempt to victimise the Applicant. Against all the three memorandum of charges, Applicant is preferring here separate original applications. The case of the Applicant is that the memorandum of charges in the present case has not been issued in conformity with law and the same displays total non-application of mind. The impugned memorandum of charges deals with the subject matter which belongs to the period anterior in time to the appointment of the Respondent No.1 in his present capacity as a Disciplinary Authority of the Applicant. The subject matter of the impugned memorandum of charge pertains to recommendation of the Applicant as Investigating Officer regarding closure of a certain disproportionate assets case under the provisions of Prevention of Corruption Act. The recommendation of the Applicant in the said case was independently examined by the Senior Public Prosecutor followed by SP, CBI and the Deputy Legal ADviser, CBI. The same was also examined by the then DIG, CBI (predecessor of the present Disciplinary Authority) and

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he also recommended closure. Thereafter the recommendation was further examined by Joint Director, CBI and thereafter the Court of Special Judge examined the same at its level and accepted the recommendation of closure. It is the case of the Respondent No.1 in the impugned memorandum of charge that the Applicant had malafide intention in recommending closure of the case and that he did not investigate the case properly. Since the impugned memorandum of charge against the Applicant has been issued in malafide exercise of power and the same is frivolous and vexatious, therefore, the Applicant is assailing the same in the present application.

4.2 That the Applicant is a citizen of India. Initially, he was Sub-Inspector in the UP Police and was later on appointed as Inspector of Police on deputation in Delhi Special Police Establishment Division of CBI. After his appointment, the Applicant joined as Inspector, CBI, Anti Corruption Branch in the office of the SP, CBI, Anti Corruption Branch, Shillong in September 1993. In the year 1995, when the SP's office was shifted from Shillong to Guwahati, the Applicant was also shifted to Guwahati.

4.3 That the performance of Applicant in CBI has been exemplary. In his more than six years of service in CBI, the Applicant earned seventeen rewards and eight commendation certificates for his excellent investigation in various cases. Applicant also handled certain highly sensitive cases like a case relating to

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fraudulent withdrawal of advance T.A. against the Judges of the Hon'ble Gauhati High Court as well as the establishment staff of the Gauhati High Court from Kamrup Treasury. The amount was to the tune of more than Rs. 38 lacs. In this case also, the Applicant was given commendation certificate as well as cash reward for his effective investigation. In his six years of service, only on one occasion i.e. vide No. 511 dated 29/7/99 the Applicant was communicated adverse remarks pertaining to the year 1998 by the predecessor of the Respondent No.1. The remarks were vague without supported by particulars. Applicant submitted his representation against the same and the same has not been disposed of as yet.

Documents showing the meritorious performance of the Applicant and the awards received by him are annexed herewith as ANNEXURES-A/1 colly.

4.4 That the difficulties of the Applicant started from October 1999 onwards when the Respondent No. 1 (the Disciplinary Authority) developed an animus against the Applicant. It all started with the Applicant filing O.A. No. 338/99 (admitted on 15.10.99) before the Guwahati Bench of the Hon'ble Tribunal assailing the order of repatriation from CBI and seeking his absorption in the said organisation. The Hon'ble Tribunal admitted the said O.A. and passed the interim order in favour of the Applicant on 15.10.99.

4.5 That the filing of the aforesaid Original Application piqued the Respondent No.1. Since during

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the period the aforesaid O.A. No. 338/99 was filed and moved before the Hon'ble Tribunal, the Applicant was convalescing on medical advice having suffered from severe chest pain on 30.9.99. Consequently, the Applicant absented from duty from 1.10.99 to 28.10.99 (total for 28 days). Applicant reported for duty on 29.10.99.

4.6 That immediately after passing of the impugned order in favour of the Applicant on 15.10.99 by this Hon'ble Tribunal in O.A. No. 338/99, series of incidents took place involving administrative highhandedness on the part of the Respondent No.1. In this connection, circumstances under which the Applicant abstained from duty from 1.10.99 to 28.10.99 (total for 28 days) and the matters related to the same have to be explained in seriatim and the same are stated hereinbelow.

4.7 That on ³⁰ 18.9.99, the Applicant felt severe chest pain and very high palpitation. The nearest Central Government Health Services (CGHS) dispensary from his residence at Guwahati is located at a distance of 7 to 8 kilometres. Moreover, the Applicant is not registered in any of the CGHS dispensaries. Hence under the circumstances, the Applicant was rushed to nearest available doctor of Gauhati Medical College Hospital who stays very close to the Applicant's residence. Be it stated here that the wife of the Applicant is an employee of the Government of Assam. The kind of ailment from which the Applicant suffered was such that the Applicant could not have been expected to go CGHS

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dispensary or to inform the department about his ailment.

4.8 That the Applicant on the very next day on 1.10.99 telephonically intimated his department about his physical problem. Subsequently on 5.10.99, he also sent the written intimation to the department in regard to his ailments. Since the Applicant's wife is a working lady and there was no one else to look after him during office hours, therefore, the Applicant was temporarily shifted to his in-law's house at Chenikuthi, Guwahati. It was there that the Applicant took necessary rest as per the medical advice. Here it is pertinent to mention that after a thorough check up in the Gauhati Medical College, the Applicant was advised rest and necessary medicine were prescribed to him.

4.9 That on being declared medically fit, the Applicant joined on 29.10.99 before noon and gave his joining report on that very date alongwith necessary documents/medical papers with the request for granting him 28 days' medical leave.

4.10 That in response to the requests made by the Applicant that he be granted 28 days' medical leave, the Superintendent of Police, CBI (ACB), Guwahati at the instance of the Respondent No.1 issued the memorandum dated ³⁰ 13.11.99 wherein it was stated that as per the Leave Rules, the non-gazetted Government servant should produce medical certificates from CGHS doctor if the Government servant is a CGHS beneficiary and residing within the limit of CGHS at the time of

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illness. In the said memo, few allegations were also made against the Applicant to the effect that he did not submit relevant medical certificates of doctor or any leave application in a prescribed form indicating the period of leave or nature of illness whereas through telephonic talk on 1.10.99 itself and the application dated 5.10.99 information was given to the department in regard to the ailment of the Applicant. Unfortunately, in the said memorandum, it was also alleged that even the residence of the Applicant was found under lock and key indicating thereby that the Applicant was not taking rest at his place and was possibly moving around. As stated earlier, such allegations were baseless inasmuch as Applicant was taking rest in his in-law's house at Chenikuthi, Guwahati because his wife being a working lady was unable to look after him.

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Copy of the memorandum dated 13.11.99 is annexed as ANNEXURE-A/2.

4.11 That the Applicant on receipt of the memorandum dated 13.11.99 submitted a written reply dated 6.12.99. In the aforesaid reply, the Applicant in detail gave explanation to the circumstances under which he was to contact his doctor at Gauhati Medical College. Applicant in his reply also dealt with the allegations made against him.

Copy of the Applicant's written reply dated 6.12.99 is annexed as ANNEXURE-A/3.

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4.12 That since the salary for the month of October 1999 was not given to the Applicant and there was a silence on the part of the Respondents after receipt of the Applicant's reply dated 6.12.99, therefore, the Applicant submitted a representation dated 19.12.99 to the Director, CBI, New Delhi. Applicant has reasons to believe that the Respondent No.1 was instrumental in withholding the salary of the Applicant for the month of October 1999 as he was angry by the conduct of the Applicant of approaching this Hon'ble Tribunal in O.A. No. 338/99 wherein he had assailed the legality of the order of his repatriation. Since in the aforesaid O.A., the impugned order was passed by the Hon'ble Tribunal on 15.10.99 which was during the period when the Applicant was absent from the office because of his taking rest having suffered from severe chest pain and palpitation on the night of 30.9.99, the Respondent No.1 formed an impression that the Applicant did not suffer from any chest pain and he was feigning illness because he wanted to buy time to move the Hon'ble Tribunal to obtain stay on the order of his repatriation.

4.13 That it was under these circumstances that at the behest of the Respondent No.1, the Applicant was not given the salary for the month of October 1999 and he was also not granted the medical leave for the period of his illness i.e. from 1.10.99 to 28.10.99 (total for 28 days).

4.14 That the Respondent No.1 apart from withholding the salary of the Applicant for the month of October

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1999 and refusing to sanction him medical leave for the aforesaid period, exercised police powers which he did not possess. In exercise of police powers, CBI personnel were sent to the Gauhati Medical College to interrogate the doctor who had issued medical certificate to the Applicant. Phone calls were made at the residence of the concerned doctor. Even the Supdt. of Gauhati Medical College was contacted by the CBI personnel and intimidated. The authority of Dr. (Mrs.) Rupali Barua, MBBS MD who is an Associate Professor in Gauhati Medical College and had issued sickness and fitness certificate to the Applicant, was questioned. It is noteworthy that the Respondent No.1 had no authority to send CBI personnel to Gauhati Medical College to interrogate the doctors and to intimidate Dr. (Mrs.) Rupali Barua, the Associate Professor of Gauhati Medical College who had issued sickness and fitness certificate to the Applicant. All these events created an atmosphere of intimidation and coercing.

4.15 That it was under these circumstances that the Applicant made a complaint to the Director, CBI on 23.12.99. Immediately after this on 10.1.2000 when the Applicant was in office, a few CBI personnels were sent to the Applicant's residence where his wife and a grown up daughter were alone at home. The CBI personnels indulged in an improper behaviour at the residence of the Applicant and tried to intimidate his wife and daughter as a result of this, wife of the Applicant sent a complaint to the Director of CBI and to Assam Human Rights Commission on 13.1.2000 and 8.2.2000

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respectively. An appeal was also made to the Joint Director, CBI on 27.3.2000.

4.16 That pursuant to these complaints, the Joint Director, CBI also came to Guwahati and verbally told the Respondent No.1 to behave in a proper manner. The bad blood between the Applicant and the Respondent No.1 showed its effect in Respondent No.1 even recommending minor penalties against the Applicant in different files viz. official notings dated 29.2.2000 in three different files i.e. File No. SA/SHG/99/20 ; SA/SHG/99/21 and SA/SHG/99/22 respectively. Moreover such was the degree of animus bore by the Respondent No.1 against the Applicant that some time in November/December 1999 in File No. 153/99/Vol. II/NER, the Respondent No.1 in his note to the SP, CBI wrote that rewards should not be given to person like S.P. Singh Yadav who is using the reward money for fighting CAT cases against CBI (emphasis added). It is due to this observation, that since 1999 reward and commendation certificates have not been conferred on the Applicant on many occasions when as per the CBI Manual, he was entitled to get such rewards and commendation certificates. The Applicant has also submitted representation to the competent authority in regard to the said matter. Applicant craves leave of the Hon'ble Tribunal to refer to the representations submitted by him to the competent authority in this connection at the time of hearing of his case.

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4.17 That thereafter the Respondent No.1 served on the Applicant an order dated 28.3.2000 wherein unsubstantiated allegations of gross misconduct, lack of devotion of duty and integrity etc. were made against the Applicant. The aforesaid order was silent on material particulars and it only stated that in view of gross misconduct of the Applicant, it has been decided to issue charge sheet on him for major penalty and that the Applicant should forthwith hand over charge of all cases with him to the DSP.

Copy of the order dated 28.3.2000 is annexed as
ANNEXURE-A/4

4.18 That when the prayer of the Applicant for payment of salary was ignored, the Applicant filed yet another Original Application being numbered O.A. 137/2000 (admitted on 18.4.2000) before this Hon'ble Tribunal. The aforesaid O.A. is also pending disposal. Since Applicant was also denied the benefits of Special Duty Allowance despite repeated requests, the Applicant preferred yet another Original Application being numbered O.A. No. 139/2000 (also admitted on 18.4.2000). This Original Application is also pending disposal before this Hon'ble Tribunal.

4.19 That filing of three different original applications by the Applicant further angered the Respondent No.1. As a result, the order dated 28.3.2000 was followed by the order of suspension dated 26.4.2000 pending disciplinary proceeding. The order was passed in exercise of power under sub-rule (1) of Rule 5 of

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Delhi Special Police Establishment (Subordinate Ranks)
(Discipline & Appeal) Rules, 1961.

Copy of the order of suspension Dated 26.4.2000
is annexed as ANNEXURE-A/5.

4.20 That after the order of suspension, the Applicant was served with three different charge sheets dated 11.5.2000, 17.5.2000 and 22.5.2000. Charge sheet dated 11.5.2000 was with regard to the absence of the Applicant from 1.10.99 to 28.10.99. This charge sheet did not enclose the list of witnesses and documents sought to be relied on by the Disciplinary Authority and the Applicant is assailing the validity of this charge sheet by filing a separate original application. The charge sheet dated 17.5.2000 (this charge sheet was also sent to Applicant without the list of documents and witnesses) is with regard to infirmities in submission/non-submission of weekly diaries during the period 1996 to 1999. Though the period shown is from 1996 to 1999, but allegations are only in regard to non-submission of weekly diary in the year 1997. The Applicant is preferring a separate Original Application assailing this charge sheet also. The third charge sheet is dated 22.5.2000 and the same forms the subject matter of the present case. This charge sheet also did not enclose the list of witnesses and documents sought to be relied on by the Disciplinary Authority. The impugned charge sheet contained only one charge which is as follows :

"(i) the Appellant, Inspector, CBI, while functioning as such in ACB, Guwahati Branch during 1996 to 1999

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committed gross misconduct by failing to maintain absolute integrity, devotion to duty and acting in a manner unbecoming of him inasmuch as he who was entrusted with investigation of RC.27(A)/96-SHG dated 127.7.96 against Shri Purna Kanta Bora, Superintending Engineer, ONGC, Nazira registered under Section 13(2) read with 13(i)(e) of PC Act, 1988 without investigation the case properly, recommended for its closure, apparently with malafide intention, showing gross negligence and lack of devotion to duty and thereby contravened Rule 3(1)(i), (ii) & (iii) of CCS Conduct Rules, 1964."

A copy of the charge sheet dated 22.5.2000 is annexed as ANNEXURE-A/6.

4.21 That as stated earlier, the Annexure-A/6 charge sheet was served upon the Applicant without the list of witnesses and documents. However, the Applicant submitted his written statement of defence wherein he justified his action and showed the frivolous, baseless and vexatious nature of charge framed against him. In regard to the above charge it is noteworthy that in the said case, FIR was registered against the accused Shri P.K. Bora in R.C.-27(A)/96-SHG under Section 13(2) reads with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and Original FIR was sent to the Court of Special Judge, Assam, Guwahati as per the procedure laid down under Criminal Procedure Code. The Court issued search warrant in pursuance of the same, searches were conducted in the residential and office

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premises of the accused at Mahsana (Gujarat), Sibsagar and Jorhat in Assam under the supervision of the then SP, CBI, Guwahati Branch Shri M.K. Jha and DSP Shri K.C. Choudhury. It is also noteworthy that the investigation was conducted under the supervision of the then SP, CBI, Anti Corruption Branch Shri M.K. Jha and Shri B.N. Mishra under the provision of Cr.P.C. wherein the Court of the Special Judge has ample powers to issue necessary direction to the investigating officer from time to time.

Copy of the written statement of defence submitted by the Applicant against the memorandum of charge sheet is annexed as ANNEXURE-A/7.

4.22 That in the said case, after the completion of the investigation, FR(i) was submitted by the Applicant. The final report (Part-II) was submitted by the then Senior Public Prosecutor and now Deputy Legal Adviser, CBI, Calcutta Shri J.S. Terang on 25.3.98. The final report of the Senior PP bears testimony to the fact that he applied his independent mind to the said case and after due application of mind, he approved the recommendation of the Applicant for closure of the case. In his report, Senior PP also gave a certificate to the effect that he has carefully gone through the FR(i) submitted by the Applicant and examined the case diaries coupled with material documents, plan of action etc. before giving his comments and opinion.

Copy of the report of Senior PP dated 25.3.98 is annexed as ANNEXURE-A/8.

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4.23 That the opinion and the report of the Senior PP was in conformity with CBI Manual according to which Senior PP/PP & APP are to give final comments on final reports in those cases which are marked to them in the prescribed format of final report (Part-II). It is also stated in the Manual that Senior PP/PP/APP while giving comments in FR(2) would also give certificate that "I have carefully gone through FR(i), I have examined case diaries, statement of witnesses, material documents, plan of action, details of exhibits etc. thoroughly before giving my comments and opinion."

4.24 That moreover CBI Crime Manual stipulates that the prosecuting staff must not depend entirely on the final report of the I.O. nor base their comments entirely on them. They should examine case diaries and statements of important witnesses as well as material documents/articles etc. before offering their comments. They have to consider not only the opinions and suggestions of the I.O., but also the relevant facts of the case. It is noteworthy that FR-II by Senior PP and now Deputy Legal Adviser J.S. Terang was given in the light of the instructions of the CBI Crime Manual.

Applicant craves leave of this Hon'ble Tribunal to refer to the guidelines and instructions contained in the CBI Crime Manual at the time of hearing of this case.

4.25 That after submission of FR-I and FR-II, the SP again scrutinised the said reports, case diaries and all documents and also carried out discussion with I.O.

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& Senior PP and now DLA Shri J.S. Terang and gave his comments on 2.4.98. It is pertinent to mention that under Prevention of Corruption Act, SP has statutory responsibility of investigation of disproportionate assets cases. The comments of the SP dated 2.4.98 in the said case were in tune with the opinion of the Applicant and the Senior PP.

4.26 That thereafter the Deputy Legal Advisor after having gone through the final report Part-I and II as well as SP's comments thereon gave his opinion on similar lines for closure of case on 12.5.98.

Comments of the Deputy Legal Adviser, CBI dated 12.5.98 is annexed as ANNEXURE-A/9.

4.27 That thereafter the aforesaid case came before the Deputy Inspector General of Police, CBI who was then holding additional charge of DIG, North eastern REgion. In his opinion, it was stated by the then DIG, North eastern REgion that he has gone through final reports and comments of Branch SP and Deputy Legal Advisor thereon and that he finds that there is no disproportionate asset case and therefore he agrees with the opinion of the Branch SP and the Deputy Legal Advisor and recommends the closure of the case.

Opinion of the DIG, CBI, NER dated 20.11.98 is annexed as ANNEXURE-A/10.

4.28 That the aforesaid case thereafter came before the Joint Director, East, CBI who in his observation dated 3.12.98 recommended closure of the case.

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Observation of the Joint Director, East, CBI dated 3.12.98 as communicated by DSP, CBI, Eastern Zone is annexed as ANNEXURE-A/11

4.29 That it is therefore seen that on the basis of FR-I, FR-II, SP's comments, DLA's comments, not only the DIG, CBI, NER independently examined the matter and carried out detailed discussion both with the Applicant as well as with the SP, CBI and after arriving at a bonafide satisfaction and taking more than sufficient time in scrutinising the file (as is evident from the date of submission of SP's report on 2.4.98 and DIG's comments on 20.11.98), he gave his comments on 20.11.98 for closure of the case.

4.30 That moreover on the basis of unanimous recommendation of the investigation officer (this Applicant), Senior PP, SP, Deputy Legal Advisor, DIG, the then Joint Director, East passed final order for closure of the case on 3.12.98 after undertaking proper scrutiny of the records and certainly after bonafide satisfaction regarding investigation.

4.31 That it was after receipt of the order from SP, CBI/ACB/Guwahati, Shri Om Prakash and on being authorised by SP in view of the closure of the case against the accused by Joint Director, East, the Applicant filed closure of the case under Section 173 Cr.P.C. in the competent Court of the Special Judge, Assam, Guwahati in May 1999.

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4.32 That the Court of the Special Judge, Guwahati under whose supervision and control, the case was investigated, scrutinised the final report filed under Section 173 Cr.P.C. which was duly forwarded by SP, CBI, ACB, Guwahati Shri Om Prakash vide letter No. 3/27(A)/96-SHG/07573 dated 17.6.99 and the Court of the Special Judge accepted the closure report and passed a detailed speaking order dated 14.2.2000 accepting the said final report.

Copy of the order dated 14.2.2000 passed by the Special Judge, Assam, Guwahati in Special Case No. 1/2000 is annexed hereto as ANNEXURE-A/12.

4.33 That as per CBI Crime Manual, verification of source information report (SIR), order for registration of FIR, order for conducting search/arrest and for filing charge sheet and closure report under Section 173 Cr.P.C. are done on the specific order of the competent officer of the CBI depending upon the stature/class/grade/pay scale of the accused/suspect. The same is done after thorough scrutiny of the proposal and reports by all the intermediary CBI officers and Law Officers who are important links between IO and the competent authority. In the instant case, Joint Director, East Zone, Calcutta wa the competent authority of CBI who is senior than the Respondent No1. It was as per the order of the Joint Director, East Zone, Calcutta that the closure report as filed in the Court and the same was accepted by the Court. Therefore, any review, revival or any action on the same cannot be taken by any other officer

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subordinate to the Joint Director, East Zone, Calcutta. It is noteworthy that in the present case, the Respondent No.1 suo moto dug up the case from the past records. The matter related to the period when the Respondent No.1 was not even in the scene and his predecessor was in charge who did not find any fault with the conduct of the present Applicant. In the present case, therefore, the Respondent No.1 neither had the power nor the authority to review the matters belonging to the past period wherein the decisions were taken by the officers senior and higher in rank than the Respondent No.1.

4.34 That therefore in view of detail and closed supervision of chain of senior officers and after their collective, honest, bonafide and unanimous decisions, it was highly unfortunate on the part of the Respondent No.1 to make allegation on the Applicant. The impugned charge-sheet, therefore, prima facie shows the animus of the Respondent No.1 against the Applicant.

4.35 That after submission of the written statement of defence, the Applicant also preferred the appeal under Rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline & Appeal) Rules, 1965 wherein the legality of the impugned charge sheet was challenged and the request was made to revoke the order of suspension. In his appeal, the Applicant also assailed the other two memorandum of charge dated 11.5.2000 and 17.5.2000 that were issued against him. The appeal filed by the Applicant, therefore was a

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comprehensive appeal dealing with all the three memorandums of charges viz. 11.5.2000, 17.5.2000 and 22.5.2000.

Applicant craves leave of the Hon'ble Tribunal to produce the copy of the appeal dated 18.7.2000 at the time of hearing of the case.

4.36 That appeal of the Applicant has not been disposed of as yet by the Appellate Authority.

4.37 That during the pendency of the appeal, the Respondent No.1 vide order No. 4111/12/COMP/ SLC/NER/ 99/Pt.II dated 22.10.2000 dismissed the contentions of the Applicant contained in his written statement of defence and directed the institution of the enquiry against the Applicant by passing a separate order dated 23.10.2000 appointing the Enquiry Officer.

Copy of the order dated 22.10.2000 passed by the Respondent No.1 is annexed as ANNEXURE-A/13.

Copy of the order dated 23.10.2000 passed by the Respondent No.1 appointing the Enquiry Officer is annexed hereto as ANNEXURE-A/14.

4.38 That the order dated 22.10.2000 passed by the Respondent No.1 clearly shows that the case has been passed in total non-application of mind. Respondent No.1. has advanced an argument that the senior officers who had recommended closure of the case had done so primarily on the report of the Applicant inasmuch as their views were totally based upon the report of the investigating officer (this Applicant). Hence it was

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contended by the Respondent No.1 that the final report of the Applicant is found to be shoddy, unreliable, false, misleading and fabricated and prepared without conducting thorough investigation, the officers concerned who had examined the final report of the I.O. (this Applicant) and had agreed with the recommendation cannot be held responsible merely for having agreed with the Applicant. It is submitted that the argument advanced by the Respondent No.1 is not sustainable in law inasmuch as the Senior PP and the Deputy Legal Adviser alongwith Supdt. of Police are required as per the provisions of CBI Manual to apply their independent mind and to scrutinise all possible documents. It is absurd to argue that the senior officers only examine the final report of the I.O. and nothing else and based their opinion solely on the final report and on nothing more.

4.39 That the animus of the Respondent No.1 towards the Applicant and his malicious exercise of power is also borne out by the fact that the FR-I in the aforesaid case was submitted by the Applicant when the post of DIG, CBI, NER was held by the predecessor of Respondent No.1 viz. Shri N.R. Roy. The predecessor of the Respondent No.1 was fully satisfied by the FR-I submitted by the Applicant. The detailed scrutiny was also made by the then S.P., Senior PP and the Deputy Legal Adviser. The Respondent No.1 deliberately with the attitude of harassing and victimising the Applicant looked for materials and the scope. If there was none, he tried to create one in the form of the impugned

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charge sheet. In the ordinary circumstances, it is not expected that the matter closed in the past would be dug up in future and allegations would be made. It is apparent that in the present case, Respondent No1. dug out the case closed in the past primarily for the purpose of harassing and victimising the Applicant.

4.40 That the order dated 22.10.2000 passed by the Disciplinary Authority ex-facie demonstrate that the Respondent No. 1 has come to the conclusion regarding guilt of the Applicant. Disciplinary Authority has a close mind and strong prejudice and no fruitful purpose would be served by participating in the disciplinary proceeding. In this connection, it is pertinent to mention that the Enquiry Officer who has been appointed to conduct an enquiry against the Applicant in the present case is undergoing a period of probation. The enquiry officer is yet to get confirmation of his services. It is the same very Disciplinary Authority (Respondent No.1) who is to confirm the services of the Enquiry Officer. Under these circumstances, Enquiry Officer is not expected to act independently. He would always be under the pressure of Disciplinary Authority. Hence the Applicant does not expect any justice from the disciplinary proceeding.

4.41 That vide letter dated 24.1.2001, the Enquiry Officer intimated the Applicant that 1.2.2001 has been fixed as the date for preliminary enquiry and that Applicant is to present for the same at 2.00 PM in the office of the Deputy Supdt. of Police, CBI, Anti-

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Corruption Branch, Oakland, Shillong. The letter surprised the Applicant inasmuch as in the present case memorandum of charge was served upon the Applicant long ago albeit without the list of witnesses and documents. It is the fundamental principle of service jurisprudence that preliminary enquiry is carried out prior to the issue of memorandum of charges. In preliminary enquiry, the explanation of the Government servant may be taken and documentary and oral evidence may be considered. It is usual when such a preliminary enquiry makes out a prima facie case against the official concerned, the charges are then framed against him and he is asked to show cause why disciplinary action should not be taken against him. In the present case, not only the memorandum of charge was served upon the Applicant long ago, but the Disciplinary Authority after considering the written statement of defence submitted by the Applicant rejected the same vide order dated 22.10.2000 and by the order dated 23.10.2000 appointed the Enquiry Officer. Hence after framing of the charge sheet and rejection of written statement of defence submitted by the Applicant, there is no rationale behind holding the preliminary enquiry. Applicant has reasons to believe that the preliminary enquiry is being held primarily for the purpose of prolonging the agony of the Applicant.

Copy of the letter dated 24.1.2001 is annexed as
ANNEXURE-A/15.

4.42 That the preliminary enquiry is being held in Shillong. For a long time, the Applicant is being paid

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50% of his salary as subsistence allowance. In Shillong, there is no guest house of the Central Bureau of Investigation. There is no place except the hotel where the Applicant can stay. Hence visit to Shillong and stay over there would cost the present Applicant extra expenses which he is unable to bear.

4.43 That under the circumstances, the Applicant after receiving the letter dated 24.1.2001 of the Enquiry Officer on 31.1.2001 sent the latter three different letters on the same date i.e. 31.1.2001. In these letters, the Applicant stated about the practical difficulties being faced by him in appearing before the Enquiry Officer at Shillong. It was also stated by the Applicant that the Disciplinary Authority has directed him not to leave the headquarter without obtaining previous permission of the Disciplinary Authority. It is also stated by the Applicant that his appeal against the memorandum of charges is still pending disposal before the Appellate Authority and till the same is disposed of, the enquiry against him should not be carried out. The Applicant also expressed his reservation in categorical terms about the impartiality of the Enquiry Officer in view of enormous pressure being exerted upon him by the Disciplinary Authority. It was stated by the Applicant that in view of the fact that the Enquiry Officer has not yet been confirmed in service and he is undergoing a period of probation would keep him under constant pressure of Disciplinary Authority and he would be compelled to toe the line of Disciplinary Authority. The Applicant also impressed

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upon the Enquiry Officer that along with the memorandum of charges, the Applicant was not supplied with the list of documents and witnesses sought to be relied on for the purpose of holding the enquiry.

Copies of three different letters of even date i.e. 31.1.2001 are annexed as ANNEXURE-A/16 colly.

4.44 That in the present case, despite the frivolous and vexatious nature of the enquiry, the Applicant is ready to face the same, but he wants such an enquiry to be held in an impartial manner. Applicant has reasons to believe that under the dispensation of the present Disciplinary Authority, enquiry against him would not be held in an impartial manner. Though Applicant has nothing against the present Enquiry Officer, but the very fact of the Enquiry Officer being under the probationary period, makes the capacity of the Enquiry Officer to hold such an enquiry in an impartial manner highly doubtful. In this connection, here it is stated that enquiry against the Applicant can be held at Calcutta which is the head office of the CBI in the Eastern Region. At Calcutta, there are guest houses of CBI wherein the Applicant can stay without incurring unnecessary expenditure. Moreover, at Calcutta, there are competent officers holding the same rank as that of the present Disciplinary Authority in Guwahati under whose supervision, the enquiry can be carried out. The present Disciplinary Authority because of its animus against the Applicant should not be permitted to take any decision in the present case.

4.45 That the present case is a fit case wherein the Hon'ble Tribunal may be pleased to stay holding of any enquiry pursuant to the impugned charge-sheet. Facts of the case and the circumstances surrounding it make it apparent that there is total non-application of mind on the part of the Respondent No.1 in issuing the charge-sheet. Allegations made against the Applicant are without any basis and the same do not disclose any misconduct. Moreover, malafide is writ large in issuing the impugned charge sheet against the Applicant. The Applicant has, therefore, made out a prima facie case for stay on holding of any enquiry pursuant to the impugned charge sheet. Balance of convenience is in favour of the Applicant and he would suffer irreparable loss and injury if the impugned charge sheet is not stayed.

4.46 That the Applicant files this application bonafide for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 Because the Disciplinary Authority acted with total non-application of mind in issuing the impugned charge sheet against the Applicant. The Respondent No.1 lost sight of the fact that the report was prepared by the Applicant under strict supervision of the chain of officers who at different stages carried out verification of the materials and documents and gave their approval to the conclusion and findings arrived at by the Applicant.

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5.2 Because preparation of final report by the Applicant and its submission leading to the closure of the case was at a point of time when the Respondent No. 1 was not the concerned authority. In fact, he was not even posted in the Region and had no idea about the aforesaid case. The predecessor of the Respondent No. 1 who was then the competent authority had fully satisfied himself about the nature and contents of the report of the Applicant. The Respondent No. 1 has issued the charge sheet maliciously primarily with the intention of harassing and victimising the Applicant.

5.3 Because the charge sheet has not been issued in conformity with the law and the same militates against the provisions of CBI Manual. Moreover, the charges framed against the Applicant do not disclose any misconduct.

5.4 Because the Respondent No.1 lost sight of the fact that when the investigating officer carries out the enquiry, there is a degree of discretion vested on him. ON a given set of materials, two reasonable persons may arrive at two different findings but that by itself cannot lead to the conclusion that a give set of finding was motivated and was palpably wrong. Moreover, under the CBI Manual in order to ensure that the cases are not closed on flimsy grounds there is a mechanism of strict supervision and control by senior officers. It was under the said mechanism that the final report submitted by the Applicant found its approval by the chain of senior officers.

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5.5 Because the order dated 22.10.2000 passed by the Respondent No.1 discloses his bias and pre-judgment of the guilt of the Applicant. The arguments advanced by the Respondent No.1 in the aforesaid order are baseless and without any foundation.

5.6 Because the Respondent No.1 in his order dated 22.10.2000 gravely erred in his stating that the higher authority in CBI after being apprised of the situation have approved the proposed course of action including disciplinary action that has been proposed against the Applicant. In this connection, it is noteworthy that the appeal submitted by the Applicant against the three different charge sheets is still pending disposal. There is no written order of any higher authority in CBI approving the course of action undertaken by the Respondent No.1.

5.7 Because the impugned charge sheet issued by the Respondent No.1 and the order dated 22.10.2000 are motivated. The Respondent No.1 is abusing his power to settle his personal score with the Applicant. The malice and the animus of Respondent No.1 towards the Applicant can be seen in the series of his action towards the Applicant. The impugned charge sheet and the order dated 22.10.2000 are therefore not tenable and the same are liable to be set aside.

5.8 Because the Enquiry Officer who has been appointed to conduct an enquiry against the Applicant in the present case is undergoing a period of probation. The enquiry officer is yet to get

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confirmation of his services. It is the same very Disciplinary Authority (Respondent No.1) who is to confirm the services of the Enquiry Officer. Under these circumstances, Enquiry Officer is not expected to act independently. He would always be under the pressure of Disciplinary Authority. Hence the Applicant does not expect any justice from the disciplinary proceeding.

5.9 Because the impugned charge sheet has not been accompanied by the list of witnesses and documents. The non-furnishing of the list of witnesses and documents to the Applicant has prejudiced him. Facts of the case created a genuine apprehension in the mind of the Applicant that after examination of his written statement of defence the Disciplinary Authority would decide about the list of documents and witnesses on which reliance would be placed in the enquiry. The procedure being followed by the Disciplinary Authority in holding the present enquiry is, therefore, illegal and the same has vitiated the present enquiry.

5.10 Because holding of the preliminary enquiry in the instant case is like putting the cart before the house inasmuch as memorandum of charges has already been served upon the Applicant and the Applicant also submitted his written statement of defence. Holding of preliminary enquiry thereafter is devoid of any meaning and the same can only be for the purpose of prolonging the suffering of the Applicant.

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6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant states that he had preferred an appeal dated 18.7.2000 under Rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline & Appeal) Rules, 1965 for the redressal of his grievance and assailing the legality of the impugned memorandum of charges. However, the aforesaid appeal has not been disposed of as yet and the Disciplinary Authority without waiting for the disposal of the appeal against the memorandum of charges has instituted the enquiry against the Applicant by rejecting his written statement of defence. The Applicant states that he has no other remedy available to him except to approach the Hon'ble Tribunal.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

8.1 Quash and set aside the charges contained in memorandum No. 1516/12/COMP/SLC/NER/(Part-II) dated 22.5.2000 issued by the DIG, CBI, NER, Guwahati (Respondent No.1)

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8.2 Quash and set aside the order No. 4111/12/COMP/SLC/NER/99/Pt.II dated 22.10.2000 passed by the DIG, CBI, NER, Guwahati.

And/or

Direct the reappraisal of impugned memorandum of charge dated 22.5.2000 by an authority other than the Respondent No.1 which is equal and/or higher in rank than the Respondent No.1 to decide and to determine whether the same requires holding of an enquiry against the Applicant.

8.3 Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case for securing the ends of justice.

8.4 Award cost of this case to the Applicant.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, be further pleased to -

(i) Stay holding of any enquiry pursuant to the charges contained in memorandum No. 1516/12/COMP/SLC/NER/(Part-II) dated 22.5.2000 issued by the DIG, CBI, NER, Guwahati

(ii) Stay the operation and effect of the order No. 4111/12/COMP/SLC/NER/99/Pt.II dated 22.10.2000 passed by the DIG, CBI, NER, Guwahati.

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The Application is filed through Advocate.

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

(i) I.P.O. No. : 5G 42 1941
(ii) Date : 30.01.2001
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 47 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.1, 4.2, 4.4 to 4.9, 4.12 to 4.15, 4.29 to 4.31, 4.33 to 4.36, 4.38 to 4.41, 4.42, 4.44 to 4.46 are true to my knowledge ; those made in paragraphs 4.8, 4.10, 4.11, 4.16 to 4.28, 4.32, 4.37, 4.41, 4.43 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 7/6 day of February 2001 at Guwahati.

Suresh Pal Singh Yadav

Annexure : A/Colly

OFFICE ORDER NO. 146 / DATED: 22/6/99.

Joint Director(EZ)CBI/Calcutta vide his order dtd 04.06.99 is pleased to sanctioned a cash reward to the following Executive staff of CBI/ACB/.Guwahati for they have taken keen interest for all round development of the branch smooth functioning as well as shown interest investigation searches,surprise checks etc. as detailed below:-

Sl.No.	Name & Designation	Amount Reward.
1	2	3

1.	Sh.R.P.Bose,Inspr.	Rs. 1000/-
2.	Sh.S.P.Singh Yadav ,Inspr	Rs. 1000/-
3.	Sh.L.Hangshing,Inspr.	Rs. 1000/-
4.	Sh.N.G.Khamrang,Inspr.	Rs. 1000/-
5.	Sh.N.R.Dey,Inspr.	Rs. 1000/-
		5000/-

(Rupees five thousand)only

It ia certified that the amount prescribed in H.O. letter No.29/1/81-AD III dtd.1/8/90 has not been exceeded in this regard.

Superintendent of Police,
CBI/ACB/Guwahati.

Memo No.E/24/98/22/6/99 Dated: 22/6/99.

Copy to :-

1. A/C Section in duplicate for n/a.
2. Person concerned.

Superintendent of Police,
CBI/ACB/Guwahati

After ke
for Lwin

Office order No. 23

Dated :- 22/11/99

Sanction is hereby accorded for the grant of C. C. to the following Executive staff for his good work done in Case No. RC 34(A)/96-SHG as detailed below :-

Sl. No.	Name & Designation	Amount Sanctioned	Commendation Certificate
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1. Shri S.P. Singh Yadav, Insp. ----- C. C.

Superintendent of Police,
CBI, ACB, Guwahati.

Memo No. E/24/ 366-67
Copy to :-

Dated :- 22-11-99

1. The S.B. Clk alongwith C. C. for necessary entry in his Service Book.

2. Person concerned.

Verley
Superintendent of Police,
CBI, ACB, Guwahati.

*Attested
P.W. Chawla*



**GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE**

Granted to Shri S.P.SINGH YADAV, INSPR, IS HIGHLY COMMENDED
FOR HIS GOOD WORK DONE IN CASE NO. RC.34(A)/96-SHG.

for.....

DATED :
GUWAHATI

Verley 22/11/99
SUPERINTENDENT OF POLICE
CBI/ACB/Guahati

*Attested
for C.I.W.*

OFFICE ORDER NO. 117

Dated: - 25th June '98.

Sanction is hereby accorded for the grant of reward and C.C.s to the following officer of CBI/ACB/Guwahati for his good work done in Case No. RC.S(1)/98-SIG as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Sh. Sip. Singh Yadav, Insp.	Rs. 600/- + C.C.
		<hr/>
		Rs. 600/-

(Rupees six hundred)only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in this regard.

(B.N.Mishra)
Superintendent of Police,
C.B.I./A.C.B./Guwahati.
11:11:11

Dated: - 25th June '98.

Memo No. II/24/ 4602-09

Copy to :-

1. S.S.Clark alongwith Commendation Certificate for necessary entry in the Service Book.
2. The 1/4/C Section in duplicate for n/a.
3. Person concerned.

Superintendent of Police,
CBI/ACB/Guwahati.

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CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri SURESH PAL SINGH YADAV, INSPECTOR
IS HIGHLY COMENDED FOR HIS GOOD WORK DONE IN CASE NO.
R.C.5(A)/98-SHG.
for

DATED :
GUWAHATI

Parikh
25/6/04
SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

OFFICE ORDER NO. 91

Dated :- 13th May '98

Sanction is hereby accorded for the grant of cash reward and C.C. to the following officer for his good work done in Case No. RC.16(A)/93-SHC as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	SD. S. P. Singh Yadav, Insp.	Rs. 1000/- + C.C.
		<u>Rs. 1000/- + C.C.</u>

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. letter No. 22/4/81-AD. III dated 1/8/90 has not been exceeded in this reward.

(S. N. MEGHRA)

Superintendent of Police,
CBI/ACB/Guwahati.

Memo No. P/24/
Copy to:- 2838-40

Dated:- 13th May '98.
12th

- 1) A/C Section in duplicate for n/a.
- 2) S.B. Clerk alongwith the Commendation Certificate for necessary entry in the Service Book.
- 3) Person concerned.

SD. N. MEGHRA
Superintendent of Police,
CBI/ACB/Guwahati.

Rs. 1/-

1000

CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S.P. Singh, Inspr. in BGR
COMMENDED for his good work done in SC.36(n)/92-SAC
for.....

DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guahati

[Handwritten signature]
B/502

বিশেষ পুলিশ স্থান্তি
SPECIAL POLICE ESTABLISHMENT

পুরস্কার বিভাগ
S.P.E.-S.R.

পুরস্কার বিভাগ
S.P.E.-S.R.

পুরস্কার বিভাগ
Reward Roll Committee of Special Police Establishment
Guwahati, Assam

Case No. Offense	Perpetrators of accused both in the conspiracy cases etc.	Facts of the case in brief	Result of investigation (if any)	Names and designation of Officers recommended for Re- wards & Commendations	Work done by each Officer	Recommendation of the Officer incharge of the Branch	Office of the I.G.P.
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1	2	3	4	5	6	7	8	9	
RC 161A/93-SHG	Sh. Surjeet Dasgupta, B.I., SBI, Diphu & Others	Disbursement of IRDP Loans to fictitious and non-existent persons to the tune of several lakhs of rupees	-	Sri S. P. Singh Yadav Inspector, CBI/ACB, Guwahati	This case was earlier inves- tigated by 3 I.O's who could not collect sufficient materi- als for launching the prose- cution against the accused persons. And thus a depart- mental action was recommended by the then I.O. Sr. P.P. also agreed with the opinion of the I.O. The then Branch SP also agreed with the opinion of the I.O. and Sr. P.P., even DLA has agreed with the same. Besides, that the case had a set back that some of the vital documents were lost due to the negligence of the then I.O. Sh. P. Saikia, Inspector who was responsible on this count to the parent department. The FR-I and FR-II alongwith branch comments and DLA's opinion when examined by the then DIG, Sh. N. Mallick, he was not satisfied with the investigation, as such he discussed the case with Sh. S. P. Singh Yadav and gave him open offer to re-investigate the case. Inspector S.P. Singh Yadav accepted the challenge and investigate the case thoroughly and collected sufficient materials against the accused persons. And thereafter the case was made out to launch prosecution against the accused Sh. Surjeet Dasgupta, the then Branch Manager, SBI, Diphu and 6 others. The work done by Sh. S.P.Singh Yadav is highly commended by the undersigned as well the then DIG. It was also commended by the technical officer, Banking which resulted into filing Charge Sheet after obtaining sanction from the competent authority. The charge has been filed against the accused persons on 6.4.98. above				

Sheet

In view of the facts mentioned, I highly
recommended that Inspector S.P. Singh Yadav deserves suitable
cash reward alongwith commendation certificate to encourage his
moral so in future also he may give expected result.

(M. K. Jha)
Supt. of Police.

21/4/98
S.P.E.

Scam fixed
Rs. One thousand
B.P. (B.P.)
B.M.
B.M.
45788

LIG

151

OFFICE ORDER NO. _____

Dated: - 10.12.97.

Sanction is hereby accorded for the grant of cash reward and C.C. to the following officers for finalising the following cases targetted for 1997 in PE.11/97, RC.5/96, PE.6/97 and PE.8/97 respectively as detailed below:-

Sl. No.	Name & Designation	Amount rewarded
1.	Sh. S.P. Singh Yadav, Inspx.	Rs. 300=00+C.C.
2.	Sh. Sandeep Doyal, Sub-Inspx.	Rs. 250=00+C.C.
3.	Sh. Manoj Banerjee, Sub-Inspx.	Rs. 250=00+C.C. Rs. 800=00

(Rupees eight hundred only)

It is certified that the amount prescribed in R.O. letter No. 29/4/81-AD.III dtd. 1/8/90 has not been exceeded in this regard.

(A) 17/12/97
24/12/97

Superintendent of Police,
CBI/ACB/Guwahati.

Memorandum No. B/24/82/3-15

Dated: - 3/12/97

Copy to:-

1. G.O.C. along with Commendation Certificate for necessary entry in the Service Book.
2. The A/C Section in duplicate for n/a.
3. Person concerned.

(A) 17/12/97
24/12/97

Superintendent of Police,
CBI/ACB/Guwahati.

SLV

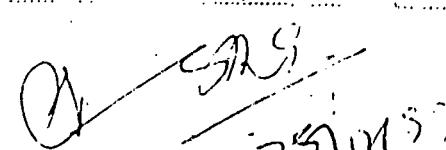
CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S.P.Singh Yadav, Inspr. is HIGHLY
COMMENDED for finalising of cases targetted for 1997
for in PE.11/97, and RC.5/94.

DATED :
GUWAHATI


SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati;

64/

OFFICE ORDER NO. 195

Dated: - 21/10 '97.

Joint Director(EZ),CBI/Calcutta vide his order dtd.
21/10/97 is pleased to sanction a Cash reward to the following
Officers of CBI/ACB/Guahati Branch for their Good work done
during his visit as detailed below:-

Sl.	Name & Designation No.	Amount Rewarded
1.	Sh.N.R.Dey,Inspr	1500-00
2.	Sh.S.P.Singh Yadav,Inspr.	1500-00
3.	Sh.R.P.Rose,Inspr.	1500-00
		<u>1</u>
	Total:-	4500-00

(Rupees Four thousand five hundred)only

It is certified that the amount prescribed in H.O. letter
No.08/01/90-ADV.dated 21/09/90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Guahati.

Memo No.E/24/ 7141-42

Dated: - 24/10 '97.

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Superintendent of Police,
CBI/ACB/Guahati.

EL.

10001

OFFICE ORDER NO. 68

Dated:- 13/3/97

Special Director ,CBI/New Delhi vide his order dtd.08/03/97 is pleased to sanction a cash reward to the following Insp. of of CBI/ACB/Guahati including Regional Office & Shillong Unit for their good work done during his visit as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Shri.R.P.Bose,Inspr.	Rs. 1200/-
2.	Shri.A.B.Gupta,Inspr	Rs. 1200/-
3.	Shri.S.P.Singh Yadav,Inspr	Rs. 1200/-
4.	Shri.K.Barman,Inspr	Rs. 1200/-
		<hr/> Rs. 4800/-

(Rupees Four thousand eight hundred only)

It is certified that the amount prescribed in H.O. letter No.08/01/90-AD.V.dated 21/09/90 has not been exceeded in the case.

Supdt.of Police,CBI/ACB,
Guahati.

Memo No.E/24/1628-29/

Dated:- 13/3/97

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Supdt.of Police,CBI/ACB,
Guahati.

OFFICE ORDER NO. 45

Dated: - 7/2/97

Sanction is hereby accorded for the grant of Cash reward to the following executive staff for their Good Work done during the year 1996 as detailed below:-

Sl. No.	Name & Designation	Amount rewarded
1.	Sh. S. P. Singh Yadav, Insp.	Rs. 500/-
2.	Sh. P. Limbou, ASI	Rs. 300/-
3.	Sh. S. Lyngdoh, Const.	Rs. 200/-
		Rs. 1000/-

(Rupees One thousand) only

It is certified that the amount prescribed in H.O. letter No.29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. E/24/ 932-33

Dated: - 10/2 '97

Copy to:-

1. A/C Section in duplicate for n/a.
2. Person concerned

Supdt. of Police, CBI/ACB,
Guwahati.

#####

OFFICE ORDER NO. 215

Dated: - 7/11/96

Sanction is hereby accorded for the grant of cash reward to the following officials for their good work done in case No.P.E.22(A)/96-SHC on 12/7/96 as detailed below:-

Sl. No.	Name & Designation	Amount Reward.
1.	Sh.K.Burman, Insp.	Rs. 200/- + C.C.
2.	Sn.S.P.Singh, Insp.	Rs. 200/- + C.C.
3.	Sh.S.L.Gogoi, Const.	Rs. 100/- + C.C.

Case No.22(A)/96-SHC on 12/7/96 Total :- Rs. 500/-

(Rupees five hundred) only

It is certified that the amount prescribed in H.O. letter No.29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supdt.of Police,CBI/ACB,
Guwahati.

Memo No.E/24/6969-70

Dated: - 8/11/96.

Copy to:-

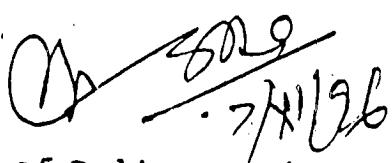
1. A/C section in duplicate for necessary action.
2. Person concerned.

Supdt.of Police,CBI/ACB,
Guwahati.

GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT. OF POLICE
A.C.B.GUWAHATI

COMMENDATION CERTIFICATE

Shri. S. P. Singh Yadav, Insp. CBI/ACB/Guwahati
is Highly Commended for his Good Work done in Case
No. PE. 22(A) /96-SHG on 12/7/96.


Supdt. of Police, CBI/ACB
Guwahati.

OFFICE ORDER NO. 211

Dated: - 7/11/96

Sanction is hereby accorded for the grant of cash reward/^{u.O.C.} to the following officials for their good work done in case No.P.E.23(A)/96-SIIQ on 12/7/96 as detailed below.

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh.K.Barman,Inspr.	Rs. 200/- +.C.C.
2.	Sh.S.P.Singh Yadav,Inspr.	Rs. 200/- +.C.C.
3.	Sh.S.L.Gogoi,Const.	Rs. 100/- +.C.C.
		<u>Total:- 500/-</u>

(Rupees five hundred)only

It is certified that the amount prescribed in H.O. letter No.29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supdt.of Police,CBI/ACB,
Guwahati.

Memo No.E/24/ 6981-82

Dated: - 8/11/96.

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

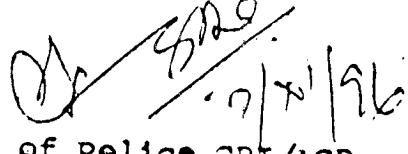
Supdt.of Police,CBI,ACB,
Guwahati.

11/11/96

GOVERNMENT OF INDIA:
CENTRAL BUREAU OF INVESTIGATION:
OFFICE OF THE SUPDT OF POLICE
A.C.B. GUWAHATI.

COMMENDATION CERTIFICATE

Shri S.P. Singh ~~Yadav~~ Inspri.CBI/ACB/Guahati
is highly commended for his Good Work done in Case
NO.PE.23(A) 96-SIG on 12/7/96.


Supdt. of Police, CBI/ACB
Guahati.

OFFICE ORDER NO. 213

Dated: 1/1/96

Sanction is hereby accorded for the grant of
cash reward to the following officer for their good work
done in case No. RC.29(A)/96-SIK as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. A. B. Gupta, Insp.	Rs. 200/- + C.C.
2.	Sh. S. P. Singh Yadav, Insp.	Rs. 300/- + C.C.
3.	Shri. A. Dutta, D/Const.	Rs. 100/- + C.C.
4.	Sh. H. War, Const.	Rs. 100/- + C.C.
		<u>Totals:- 700/-</u>

(Rupees Seven hundred) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. 2/24/6974-77

Dated: 8/1/96

Copy to:-

1. Accounts Section in duplicate for necessary action.
2. Parson ~~Opposed~~ alongwith the C.C. for necessary action.
3. S.B. Clerk alongwith the C.C. for n/e in the S.B.

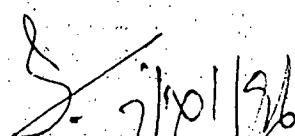
Supdt. of Police, CBI/ACB,
Guwahati.

888

GOVERNMENT OF INDIA,
OFFICE OF THE SUPDT. OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
A.C.B.GUWAHATI.

COMMENDATION CERTIFICATE.

SHRI. S.P. Senay Yachan INSPR.CBI/ACB/
GUWAHATI IS HIGHLY COMMENDED FOR HIS GOOD WORK
DONE IN CASE NO.RC.29(A)/96-SHG.


S.P. Senay Yachan
SUPDT. OF POLICE, CBI, ACB,
GUWAHATI.

OFFICE ORDER NO. 164

Dated: 29/12/96

Sanction is hereby accorded for the grant of Cash Reward to the following officers in which they have taken active part regarding shifting of the Branch Office from New Guwahati to Sundarpur as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. A.B. Gupta, Insp.	Rs. 500/-
2.	Sh. S.P. Singh, Yadav, Insp.	Rs. 300/-
Total:-		Rs. 1000/-

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supt. of Police, CBI/ACB,
Guwahati.

Memo No-E/24/ 855-56

Dated: 27/8 '96.

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.


Supt. of Police, CBI/ACB,
Guwahati.

OFFICE ORDER NO. 132

Dated: - 31/7/96

Sanction is hereby accorded for the grant of Cash Reward and C.C. to the following Officer for their good work done in Case No. RC.22(A)/96 u/s 120B, 420, 468, 471, IPC & Sec.13(2) r/w 13(1) (d) of P.C.Act, 1988 in which Sl. 1 conducted search with the assistance of Sl. No. 2 to 4 successfully in the residential premises of the accused and received incriminating documents/as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh.A.B.Gupta,Insp	Rs. 250/- + C.C.
2.	Sh.S.P.Singh,Insp	Rs. 250/- + C.C.
3.	Sh.J.N.Gogoi,H.C.	Rs. 150/- + C.C.
4.	Sh.Bhag Singh,Constable	Rs. 100/- + C.C. Rs. 750/- + C.C.

(Rupees Seven hundred & fifty) only

It is certified that the amount prescribed in H.O. Letter No.29/4/81-AD.III dated 1.8.90 has not been exceeded in the Case.

Supdt. of Police, CBI/ACB
Guwahati.

Memo No. E/24/ 4740-43

Dated: - 31-7-96.

Copy to:-

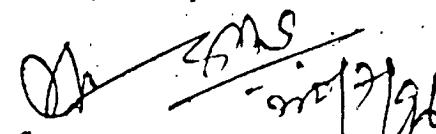
1. A/C Section in duplicate for necessary action.
2. Person Concerned.
3. S.B.Clerk alongwith commendation Certificate for necessary entry.

Supdt. of Police, CBI(ACB)@
Guwahati.

CENTRAL BUREAU OF INVESTIGATION,
OFFICE OF THE SUPDT. OF POLICE,
A.C.B., Guwahati:-20.

COMMENDATION CERTIFICATE

Sh. S. P. Singh, Insp. CBI/ACB, Guwahati is highly
commended for his good work in Case No. RC.22(A)/96.


Supdt. of Police, CBI(ACB),
Guwahati.

OFFICE ORDER NO. 8

Dated: - 10.1.96

DIG : CBI (N.R) GUWAHATI vide his order dtd. 8.1.96 is pleased to sanction a Cash Reward to the following officers in recognition to their good work done and sincere effort and perseverance to duties branch could achieved the Annual target well in advance as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh. S. P. Singh Yadav, Inspector	Rs. 500.00
2.	Sh. B. Roy, S. I.	Rs. 500.00
3.	Sh. A. Nao, S. I.	Rs. 500.00
4.	Sh. P. Roy, S. I.	Rs. 500.00
Total :-		Rs. 2000.00

(Rupees two thousand) only

It is certified that the amount prescribed in H.O. letter 8/1/90-AL-II dt. 21.9.90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Guwhati:-

Memo No.E/24/II/ 218-79

Dated: - 12/1/96

Coppy to the :-

1. A/C Section in duplicate for necessary action.
2. Person Concerned.

21/1/96
Superintendent of Police,
CBI/ACB/Guwhati

Office Order No. 23

Date... 24/11/95

DIG, CBI, SRO, Shillong vide his order dated 30/12/94 is pleased to sanction Cash reward to the following staff of CBI, ACB, Shillong Branch as he has been entrusted five Cases viz. 27/93, 15/93, 5/94, 32/94, and 7/94. Out of which 2 Cases finalised and both were sent up for trial and remaining Cases are under investigation. He also attended misc. duties such as verification of Secret informations and conducting Raids etc. as detailed below:-

Sl.No.	Name & Designation	Amount rewarded
1.	Shri S.P. Singh Yadav, Insp.	Rs. 750/-

Total Rs. 750/-

(Rupees Seven hundred fifty) only.

Supdt. of Police, CBI, ACB,
Shillong.

Memo No. E/24/1666.67.1

Date... 30/11/95

Copy to the:-

1. A/C Section in duplicate for recd.
2. Person concerned.

Supdt. of Police, CBI, ACB,
Shillong.

164

OFFICE ORDER NO: 64

DTD: 23/02/94

DIG/CBI/N.E. Region, Shillong has been pleased to sanction the following ~~As~~ Cash Reward to the under mentioned Staff for their good work done during the period 1993 as detailed below :-

SL. NO:	NAME & DESIGNATION	AMOUNT SANCTIONED.
1.	Shri A.K.Chakraborty, Insp.	Rs. 1,000/-
2.	Shri S.K.Kynospokosomwary	Rs. 1,000/-
3.	Shri S.P.Singh Yadav, Insp.	Rs. 540/-
4.	Shri P. Saikia, Insp.	Rs. 520/-
5.	Shri M.Sarania, Insp.	Rs. 540/-
	Sh. Sanjay Sen, Insp.	Rs. 500/-
	TOTAL	Rs. 3,000/-

(RUPEES THREE THOUSAND) ONLY.

It is certified that the amount prescribed in the letter No: 29/4/81-AB, III dt'd. 7/8/90 has not been exceeded in the Case.

Superintendent of Police,
CBI/ACB/Shillong.

No: R/24/1147 - 43

Dtd. 27/2/94.

Copy to :-

- 1) A/C Section in duplicate for necessary action.
- 2) Person concerned.

Super. of Police,
CBI/ACB/Shillong.

A. H. Sard
P. I. C. Div

GOVERNMENT OF INDIA,
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT. OF POLICE,
ANTI CORRUPTION BRANCH,
GUWAHATI : -5.

ANNEXURE - A/2

NO.DP/SHL/1999/~~057-23~~ /A/20/157/93 Dated, Guwahati 30/11/99

To

Sri S.P. Singh Yadav,
Inspr.CBI/ACB/Guwahati.

Sub :- Sanction of Commuted leave w.e.f.
01/10/99 to 28/10/99 - req.

Refer your application dtd.29/10/99 praying for Commuted leave w.e.f. 01/10/99 to 28/10/99. It is to inform that as per leave Rule 12(8) at page 154/C of Handbook 1999 it is stated that non Gazetted Govt. Servant should produce the medical Certificate from (i) C.G.H.S. Doctor if the Govt. Servant is a CGHS beneficiary and residing within the Unit of C.G.H.S. at the time of illness.

You have informed office through telephonic talk on 01/10/99 and petition dtd 05/10/99 that you will not be able to attend office due to illness, but you have not enclosed the medical Certificate of Doctor nor have you submitted any leave application in a prescribed form indicating the period of leave, nature of illness etc. The reasons given by you is not satisfactory due to the facts that as the officials of this office visited your house for delivering of urgent letter it is found that your house is remained under lock and key and on subsequent visit no satisfactory reply was given by your wife regarding your whereabouts etc.

In view of the above facts and circumstances, you are directed to explain as to why your leave period may not be treated as unauthorised absence.

Your explanation should reach this office within 3 days from issued of this memo failing which action will be taken as per rule.

Superintendent of Police,
CBI(ACB)Guwahati.

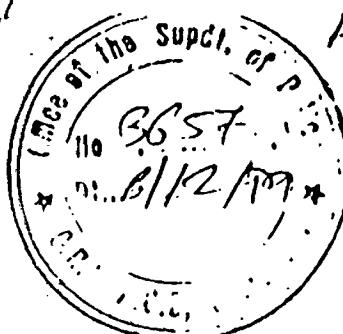
Memo No.DP/SHL/1999/ _____ /A/20/157/93 Dated:-
Copy to :-

1. The DIG/CBI(NER)Guwahati for favour of information please.

Superintendent of Police,
CBI(ACB)Guwahati.

el/-

-0-0-0-0-0-



The Supdt. of Police
CBI/ACB/SDE
Guwahati

Sub : Sanction of Commuted Leave w.e.f. 01/10/99 to 20/10/99

Ref : No. BP/Sh1/1999/05503/A/20/157/93 dtd. 30/10/99.

Sir,

May kindly refer on subject matter. In this connection I have to state that I am on deputation from State Police of Uttar Pradesh. I am not registered in any of the CGHS Dispensary located in Guwahati. My wife, who is also a State of Assam Govt. employee, in time of medical needs consult Gauhati Medical College, other State dispensary or nearest registered Medical practitioner.

Further the C.G.H.S. Dispensary located in Guwahati town are situated at 7/0 Kms. from my house and the said dispensary also, as they do not have full equipment and other medical facility, invariably refer the patients to Gauhati Medical College for treatment and as such on the advice of doctor dt. 30/10/99. I consulted G.M.C. Ghy, the certificate thereof is already submitted to you along with Medical Fitness certificate.

Further more it is stated that on 30/10/99 in the night I felt severe chest pain and very high palpitation therefore I did neither have time nor the said CGHS Dispensaries open at such time, as such I approached the nearest doctor of Gauhati Medical College, who advised for rest as well as some check-ups in gauhati medical College and as such I attended the Medical College on 1/10/99 and informed you telephonically as well as vide my written information dt. 05/10/99.

as my wife is also a working women and no one was there to look after me during office hours therefore I was temporarily shifted to my in-laws house at Chentkuthuli, Guwahati.

Contd... 2.

Attid
Pv 2

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2

So far as delivery of urgent letter is concerned, I do not know as yet the content thereof, nor you made me acknowledge any such letter as yet even after resuming my duties on 29/11/99 after submitting my Medical Fitness certificate and application to grant Medical Leave in prescribed format along with required enclosures.

I am suffering great financial hardships as you have not disbursed my salary even though two months had already elapsed. It is requested once again therefore that my salary may kindly be disbursed soon.

Yours faithfully,

223
6/12/99

C. SURESH PAL SINGH YADAV)
INSPI/CII/ACII/GIIY

Attn: Mr. P. K. D.

Annexure : A/4

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION :::: GUWAHATI.

ORDER.

1. As there are serious allegations of gross misconduct, lack of devotion of duty and integrity, deliberate defiance of the order of Superior officer, insubordination and making false and motivated allegations against superior officers against Shri S.P.Singh Yadav, Inspector, it has been decided to issue charge sheet on him for major penalty.

2. As further continuance in duty of Shri S.P.Singh Yadav would subvert discipline and spoil working atmosphere in the office. Shri S.P.Singh Yadav, Inspector is hereby ordered to handover charge of all cases with him (under investigation, trial, RDA) S.I.R. and complaints etc. to Shri A.K.Saha, Dy.S.P. including all correspondence made by him and received by him and deposit the listed documents, seized documents and documents otherwise received / collected by him during investigation / verification in the Makhana immediately. This process should be completed within 5 days at the most.

1/1/01/02
(K.C.Kantingo),
Dy. Inspector General of Police,
CBI, N.E.Region,Guwahati.

To Shri S.P.Singh Yadav, Inspector, CBI, ACB, Guwahati.
CBI ID No. 821/12/COMP/SLC/NER Dated 28.03.2000.

Copy to :

(1) Supdt. of Police, CRT, ACB, Guwahati for necessary action.

(2) Shri A.K.Saha, Dy.S.P., CBT, ACB, Guwahati.

*John K
P.C. Gaur*

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION :::: GUWAHATI.

O R D E R.

Whereas a disciplinary proceeding against Shri Suresh Pal Singh Yadav, Inspector, CBI, ACB, Guwahati is contemplated (Ref. CBI ID No. 821/12/COMP/SLC/NER dated 28.3.2000).

Now, therefore, the undersigned in exercise of the powers conferred by Sub-rule (1) of Rule 5 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal) Rules, 1961, hereby places the said Shri Suresh Pal Singh Yadav, Inspector, CBI, ACB, Guwahati under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force, the headquarters of Shri Suresh Pal Singh Yadav, Inspector, CBI, ACB, Guwahati should be Guwahati and the said Shri Suresh Pal Singh Yadav, shall not leave the headquarters without obtaining previous permission of the undersigned.

(*Challan No.*
(K.C. Kanungo),
Dy. Inspector General of Police,
CBI, N.E. Region, Guwahati.

To Shri S.P. Singh Yadav, Inspector, CBI ACB,
Guwahati.

(Through Supdt. of Police, CBI, ACB, Guwahati.

CBI ID No. 101/12/COMP/SLC/NER/99 Dated: 26.3.2000

Copy to the Director General of Police, Uttar Pradesh, Lucknow, alongwith a copy of CBI ID No. 821/12/COMP/SLC/NER Dt. 28.3.2000, for favour of information.

2. Copy to the Joint Director (East Zone), CBI, Calcutta alongwith a copy of CBI ID No. 821/12/COMP/SLC/NER dt. 28.3.2000 for favour of information.

3. Copy to SP CBI ACB Guwahati for keeping in the Personal File of Inspector S.P. Singh Yadav, CBI, ACB, Guwahati.

*Abhijit
P.I.C. - Guwahati*

2017 02/03/2017

No. 1516 12 | COMP | SLC | NER |
(Pt. II)

Government of India
Central Bureau of Investigation
N.E. Region, Guwahati 781 003

Dated 22.5.2017

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati (under suspension), under Rule 8 of The Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal Rule 1961). The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of article of charge is enclosed (Annexure II).

2. Shri S.P. Singh Yadav is hereby 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 in respect of the articles of charge as are not admitted. He should, therefore, specifically admit or deny the article of charge.

4. Shri S.P. Singh Yadav, Inspector (u/s) 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 the Rules/Orders/Directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri S.P. Singh Yadav, Inspector (u/s) is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on

Aftered
F. K. Dinesh

his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri S.P. Singh Yadav, Inspector is aware of such a representation and that it has been made at his instance and action will be taken against him for such violation.

6. The receipt of the Memorandum should be acknowledged.

10.0.2.5
(K.C. Kanungo)
DIG CBI NER Guwahati
Name and designation of Competent Authority

To:

✓ Shri S.P. Singh Yadav, Inspector(U/S)
CBI, ACB, Guwahati
(Through SP, CBI, ACB, Guwahati)

Enclo:

Annexure:I and Annexure:II
(Page 1 to 7)

*Amited
R.K. Lwin*

ANNEXUR:I

**ARTICLE OF CHARGE FRAMED AGAINST SHRI SURESH PAL SINGH YADAV,INSPECTOR
CBI ACB GUWAHATI (NOW UNDER SUSPENSION)**

That Shri S.P. Singh Yadav, Inspector,(Sub.Inspector of U.P. Traffic Police on deputation to CBI as Inspector),while functioning as such in ACB,Guwahati Branch during 1996 to 1999 committed gross misconduct by failing to maintain absolute integrity, devotion to duty and acting in a manner unbecoming of him in as much as he, who was entrusted with investigation of RC.27(A)/96-SHG dl. 12.7.96 against Shri Purna Kanta Borah, Supdt.Engineer, ONGC, Nazira registered, u/s 13(2) r/w 13(i)(e) of P.C. Act, 1988 without investigating the case properly, recommended for its closure, apparently with malafide intention, showing gross negligence and lack of devotion to duty and thereby contravened Rule 3(1)(i),(ii) & (iii) of CCS conduct Rule.

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ANNEXURE:II

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF ARTICLE OF CHARGE
AGAINST SHRI S.P.SINGH YADAV,INSPECTOR CBI ACB GUWAHATI (NOW UNDER
SUSPENSION)

(1) That Shri S.P. Singh Yadav, (a Police S.I. on deputation from U.P. traffic Police) was working as Inspector in ACB,CBI, Guwahati Branch during 1996 to 1999.

(2) That a case vide RC. No 27(A)/96-SHG was registered in CBI, Guwahati Branch on 12.7.96 against Shri Purna Kanta Bora @ P.K. Borah , Supdt. Engineer, ONGC(here in after to be referred to as S.O.) for allegedly having acquired assets disproportionate to his known sources of income, u/s 13(2) r/w 13(i)(e) of PC Act, 1988 and the investigation of this case was entrusted to Said Shri S.P. Singh Yadav.(Here in after to be referred to as I.O.)

(3) It was alleged in this F.I.R that during 1986 to 1999, said Shri P.K. Borah(S.O.), had earned total income of Rs. 4,68,386.00 from all his sources while his assets were to the tune of Rs. 4,74,313.00 .The S.O. had incurred an expenditure,(1/3 of his total income) during the above period to the tune of Rs. 1,56,000/- and as such S.O. was alleged to have acquired and was in possession of assets disproportionate to his known sources of income, to the tune of Rs.1,62,155/- punishable u/s 13(2) r/w 13(i)(e) of P.C. Act, 1988.

(4) During investigation of this case searches were conducted on 10/10/96 at various places including residence and office of S.O. Inventories of House hold goods were also prepared.

(5) The CD file and FR(i) of the above case submitted by Shri S.P. Singh Yadav ,Inspector show that the I.O. did not conduct investigation of this case in proper manner, making a total mess of the investigation. He extended the check period beyond what was mentioned in the FIR, although short check period should have been selected ,keeping in view, the acquisition of major assets by the S.O, which in this case was confined to a period of 8 years(approx) from 1986 to March, 1994 as mentioned in the FIR It could have been further reduced by proper analysis but I.O. unnecessarily extended it upto December, 1977.Though on papers, he had taken the check period from 23/08/80 to 10/10/96, but virtually it was extended upto 31/12/97

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(6) A comparison of movable assets of SO as mentioned in the FIR and of what was actually found by IO as mentioned in his F.R(i) are given below:

Sl.No.	Item	Value movable assets (Shown in the F.I.R)	Value of Movable Assets as finally calculated by IO in F.R(i)
(i)	NSCs	Rs.80,000.00	Rs.55,000.00
(ii)	NSS	Rs.20,000.00	Nil
(iii)	UTI	Rs.10,000.00	Rs.20,000.00
(iv)	Jivandhara	Rs.14,800.00	Rs.14,800.00
(v)	Bank Balances	Rs.44,013.00(2 accounts) (A/c No.443 & 838)	Rs.58,095.00 (5 A/cs)
(vi)	Motor Cycle	Rs.31,500.00	Rs.31,000.00
(vii)	Car	Rs.1,00,000.00	Rs.1,50,000.00
(viii)	Firm Equipments	Rs.12,000.00	Rs.12,000.00
	Total:	Rs.3,12,313.00	Rs.3,30,895.00

(7) Moreover, movable assets which were not shown in the FIR, but found out by the I.O. during investigation and included in the Final calculation of Assets by I.O. as mentioned in the F.R(i) are as under:

(i)	Share	Rs.40,500.00
(ii)	Onida TV	Rs.22,700.00
(iii)	Refrigerator	Rs.13,000.00
(iv)	Booking of Fiat UNO	Rs. 2,300.00
(v)	Cash	Rs. 17,000.00
(vii)	IDBI Bond	Rs. 5,300.00
		Rs.1,00,800.00

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(8) Therefore, the total value of movable assets found out by the I.O. during investigation, as mentioned above under para 6 and para 7 above was Rs.3,30,895 + Rs.1,00,800 = Rs.4,31,695/-

(9) Thus there had been increase in value and number of movable assets by Rs. 1,19,382/- as found out by the I.O. during investigation, and as mentioned in the F.R(i)

(10) In case of immovable assets also the values of which was shown as Rs. 1,62,000/- in the F.I.R , consisting of two plots of land, increased upto Rs. 4,02 000.00 . This increase in value of immovable assets of S.O. was primarily on account of booking of a flat by S.O's wife at Delhi for which a sum of Rs.2,28,000.00 was paid to the housing Co-operative society at Delhi, during the check period, but the latter asset was not taken into account by the I.O. in the F.R(i), while making final calculation.

(9) The investigation had thus disclosed that the S.O. had deliberately concealed the above payment made to the Co-operative Society at Delhi by his wife, as well as other movable assets acquired by him in his name/ in the name of his wife. The aforesaid payment of Rs.2,28,000/- made to the Housing Co-operative Society was not disclosed by the S.O. in his proforma property returns which the S.O. had submitted on 3/3/97, to his Department , during investigation of this case. This was an act of deliberate gross misdeclaration and concealment on the part of the S.O. for which could have been made liable for prosecution/Regular Deptt. action, but I.O. in stead of recommending actions against the S.O. as above, recommended closure of the case.

(12) During investigation of the above case, a number of gross misconducts were committed by Shri S.P. Singh Yadav, Inspector as mentioned below.

(i) He did not scrutinise the seized documents nor did he submit any scrutiny report. The CDs do not indicate any such action on the part of the I.O.

(ii) He did not collect any evidence/ or evidence in proper manner to prove each item of income, assets, and expenditure of the S.O. As a matter fact, I.O. did not examine a single witness during investigation of this case; As such I.O. did not submit calender of evidence(oral) and Calender of evidence (documentary), along with the FR(i) , which constitute an integral and vital part of F.R(i), which he was bound to do

(iii) The I.O. wrote a few letters to some authorities/Bodies etc. for verifying expenditure and assets of the S.O. but without waiting for their replies or without showing the

result of the replies so obtained/ received in the case diary or FR(i), hurriedly submitted Final Report, Part I without collecting any evidence which was further facilitated due to lack of adequate supervision by the S.P in charge.

(iv) The I.O. did not consider various expenditures incurred by the S.O. during the check period, even though documentary evidence was available for proving such expenditure. He did so in order to make out the case, fit for closure.

(v) The S.O. was having five L.I.C Policies. The I.O. did not calculate premium paid by the S.O. on account of his five LICI policies, the annual premium against these policies being to the tune of Rs 30,328.00. I.O. also did not include these amounts in the expenditure of the S.O. during the check period, in order to favour the S.O.

(vi) Likewise, the I.O. did not include expenditures of the S.O. on many other heads like (i) educational expenditure of S.O.'s childrens. (ii) payments of house rent made by S.O. (iii) expenditures incurred on conveyances, including payments made towards road tax, insurance, POL and maintenance, as the S.O. was having one car and one motor cycle during the check period, on account of which the expenditure on these heads would have been very substantial.

(vii) The I.O. allowed a lot of benefits to the S.O. as alleged income of S.O. without any shred of evidence, merely based on statement of the S.O., and without verifying the S.O.'s statements.

(viii) The IO, did not disclose about the proforma property return dated 3.3.97, submitted by the S.O. which (S.O.) had received from the Dept. of the S.O., during investigation of this case, in order to allow various undue benefits to the S.O. which the S.O. himself did not show in his proforma property returns dtd. 3/3/97.

(ix) Like wise, IO allowed an income of Rs. 2,16,695.00 to the S.O. on account of matured values of NSCs etc. without collecting proper evidence and gave benefit of the entire matured sum of NSCs and other such investment as the income of the S.O. during the check period, whereas only interest earned by the S.O. against this investments should have been considered as his income during the check period, provided the S.O. had declared/shown these incomes in his Tax returns and property statements.

(x) The I.O. allowed benefit to the S.O. on account of agricultural income, to the tune of Rs. 86,700.00 during the check period, all though the S.O. in his property return

dtd.3/8/90 had shown agricultural income of Rs 21,000/- only which as such had been taken into account in the allegation made in the F.I.R.

(xi) The I.O. had shown an amount of Rs 2,300.00 as booking amount for booking Fiat UNO car by the S.O. although the S.O. had actually deposited a sum of Rs.23,300.00 against the said booking, showing thereby an undue benefit of Rs.21,000/- to the S.O. on this head.

(xii) The I.O. again allowed benefit of income to the S.O. to the tune of Rs.97,350.00 towards alleged profit made by the S.O. in the purchase and sales of shares during 1992 to 1994, although this was not shown by the S.O. in his proforma property return dtd. 3/3/97 nor in S.O's income tax returns.

(xiii) The I.O. also did not conduct any investigation or made any verification in this regard and gave the entire benefit to the S.O. obviously with improper/mala fide intention.

(xiv) The I.O. did not recommend any action against the S.O. but instead recommended the case to be closed against the S.O.

(xv) The I.O. did not recommend any action against the S.O. for concealment of his income, said to have been derived from the sale/purchase of shares. The speculation in purchase/sale of shares being itself a misconduct, which generally is prohibited in the conduct rule, the I.O. should have verified and recommended actions against the S.O. which he did not.

(xvi) The I.O. did not requisition the services of Technical Officer for scrutinising the seized documents in this case which he was mandatorily required to do, which further facilitated him for recommending closure.

(xvii) That it seems the actions of the I.O. was not critically examined by the Branch, for reasons best known to him. Law Officer who examined this case as such agreed, putting implicit faith on him (though uncalled for)

(xviii) That due to unanimous recommendations of closure of branch officials, based on the result of investigation and calculations made by the I.O. all had agreed with recommendation of I.O., without having any reason to suspect any mala fide at the relevant time, which has now become clear on in thorough study of case diaries etc. and analysis of facts mentioned by the I.O. in the F.R(i).

(xix) In the manner aforesaid said Shri S.P Singh Yadav ,showed lack of integrity ,lack of devotion to his duties and conducted in an unbecoming manner and thereby contravend Rule 3(1) (i),(ii) and (iii) of CCS Conduct Rule 1964.

Revised
P.K. Tiwari

To,
The Deputy Inspector General of Police
CBI/NER/Guwahati.

Through
The Supdt. of Police
CBI/ACB/Guwahati.

Ref: Your Memo No 1516/12/Comp/SLC/NER/PT(II) dtd. 22/5/2000.

Sir,

With reference to above Memorandum, Article of charge & statement of imputation of misconduct in support of article of charge against the undersigned, the following written statement is submitted :-

2. That the article of charge and the imputation thereof are hereby denied in toto as the said charge intended to be framed against me is without jurisdiction, perverse, malicious, vindictive, mischievous, false & incorrect, but seems to have been issued with the sole intention to cause injury and vexation to me and my family and mislead senior officers in respect of my devotion to duty and integrity by creating controversy and confusion out of nothingness.
3. That my written statements submitted earlier in pursuance of the memorandum DPSHL/2000/0021/A/20/167/93 dt 10/1/2000, and memo no 1477/0200/12/COMP/SLC/NER/99/Pt(III) dt 17/5/2000 issued by the DIG/CBI/NER may be treated as part of this written statement.
4. That in this case FIR was registered against the accused/suspect Sri P.K. Bora in Rc-27(A)/96-SHG U/S 13(2) r/w 13(1)(E) of PC Act 1988 and original FIR was sent to the Hon'ble court of special Judge, Assam, Guwahati as per the procedure laid down under Cr.PC. The Hon'ble Court issued search warrants and in pursuance to it searches were conducted in the residential & office premises of the accused at Mehsana, Gujarat, Sibsagar and Jorhat in Assam, under the supervision of the than SP/CBI/Ghy branch Sri M.K. Jha & Dy.SP Sri K.C. Choudhury

*Received
15/6/2000
(M. Tariq)*

Investigation was conducted under the supervision of the SP/CBI/ACB/Ghy Sri M.K. Jha & Sri B.N. Mishra and as per the procedure and guide lines of Cr.PC under which the Hon'ble court of special judge CBI has got ample power to issue necessary directions to the I.O. from time to time. After the completion of investigation FR(I) was submitted by me. The final report pt(II) thereon was submitted by the than Sr. PP/Now DLA/CBI Calcutta Sri J.S. Terang on 25/3/98. In this connection Para 25/82 Page 33 of CBI Manual may be seen which reads:- Sr.PP/PP & APP will give final comments on final reports in those cases which are marked to them in the prescribed format of final

*Attached
Rec. M. Tariq*

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report (Part-II). Sr.PP/PP/APP while giving comments in FR II also give certificate that " I have carefully gone through FR-I, I have examined case diaries, statements of witness, material documents, plan of action, details of exhibits etc thoroughly before giving my comments and opinion. "

"Further para 5/365 page 97 of CBI crime manual stipulates that The prosecuting staff must not depend entirely on the final report of the I.O nor base their comments only on them. They should examine case dairies and statements of important witnesses as well as material, documents/articles etc before offering their comments. They have to consider not only the opinions and suggestions of the I.O but also the relevant facts of the case ". It is nothing gain saying the fact that FR (II) by Sr.PP/Now DLA J.S. Terang were given in the light of aforesaid instructions of CBI crime mahual.

After submission of Fr(I) & FR(II) the SP again scrutinized the said reports, case dairies and all documents and had discussion with I.O & Sr. PP/Now DLA Sri J.S. Terang and gave his SP's Comments on 2/4/98. It is important to mention that under P.C. Act, SP has statutor, responsibility of investigation of D.A. cases and as such through various instructions/ direction/ notes/monthly progress report to DIG and JD/EZ/Calcutta available on crime file,SP/CBI was fully aware of the facts/circumstances and evidences (oral) and (documentary) available on record file.

Thereafter on the basis of FR(I), FR(II), SP's comments the than DLA/Now ALA Sri D.C. Sarkar in the manner and procedure as aforesaid gave his comments on 12/5/98.

On the basis of FR(I), FR(II), SP's comments, DLA comments, DIG/CBI/NER Sri N.R. Roy, I.P.S. again thoroughly scrutinized all the documents, CD file, etc. and had detailed discussion with me and SP/CBI and after bonafide satisfaction and taking more than sufficient time in scrutinizing the file (as is evident from the date of submission of SP's report on 2/4/98 and DIG's comments on 20/11/98) he submitted DIG's comments on 20/11/98.

On the basis of unanimous recommendations of IO, Sr. PP, SP, DLA, DIG the JD/EZ/CBI/Calcutta, now Addl. Director CBI Calcutta, DR Upen Biswas, I.P.S. passed final order for closure of the case on 3/12/98 again after undertaking proper scrutiny of the records in this regard and obviously after bonafide satisfaction regarding investigation.

After receipt of order from SP/CBI/ACB/Guahati Sri Om Prakash and on being authorised by SP, in view of the closure order of case against accused by JD/CBI/EZ/Calcutta, I filed closure of the case u/s 173 Cr.PC in the competent Court of Special Judge Assam, Guahati in May 1999. The Hon'ble Court of Spl. Judge Guahati under whose

supervision and control too the case was investigated, scrutinized the Final Report filed u/s 173 Cr.PC duly forwarded by SP/CBI/ACB Guwahati Sri Om Prakash vide letter no. 3/27(A)/96-SHG/07573 dt. 17/6/99, accepted closure report and passed a detailed speaking order on 14/2/2000 accepting the said final report.

Therefore in view of detailed and close supervision of chain of senior officers and after their collective, honest, bonafide and unanimous decision as per their best wisdom it is illegal, immoral, unethical un-officer like and mischievous to apportion alleged charges on IO alone and the fact itself speak deep malice and animus of the DIG/CBI against me. Further in this case closure order was passed by his senior and therefore is it not gross insubordination and indiscipline on the part of the DIG Sri Kirti Chandra Kanungo @ K.C. Kanungo DIG/CBI to rake up the issue without any permission from competent authority.

Moreover, the order of Hon'ble Court of Special Judge is a Judicial Order and questioning the propriety of the same by DIG/CBI Sri K.C. Kanungo, by issuance of the instant chargesheet amounts to Criminal Contempt of the Court for launching of which in competent Court of Jurisdiction, I reserve my rights.

5. That it is a basic common sense point which Mr. Kirti Chandra Kanungo @ K.C. Kanungo DIG/CBI do pretend not to know that when a criminal case is closed under the order of the competent Court of Law, the only way opened to the complainant under the law is to file a revision petition before the Higher Forum of Law or else a fresh case has to be registered against the suspect / accused and case has got to be reinvestigated de-novo by any other so called efficient IO beyond the supervisory control of Mr. K.C. Kanungo, DIG and if any result other than that as came out during the investigation of the earlier IO (myself) comes I may also be prosecuted under whatever provision of law of this land. However the pretentious silence of DIG/CBI in this regard and non observance of established procedure under the law and rule in such situation, but issuance of charge sheet setting out false and totally incorrect charges & impudications for departmental action against me by becoming complainant, inquiry officer witness disciplinary authority & Judge himself speaks his design & malicious intent to cause me injury anyhow for extraneous reasons. It is pertinent to mention herein that DIG/CBI/NER is not my controlling authority which is SP/CBI/ACB/Guwahati. Thus usurpation of the controlling & disciplinary power of SP/CBI/ACB/Ghy in this regard and throwing to the wind the bonafide speaking order of his superior i.e. JD/CBI/EZ/Calcutta Dr. Upen Biswas IPS as well as the orders of the Court of Special Judge Assam is nothing but an act of gross indiscipline, insubordination and malafide on the part of DIG/CBI Mr. K.C. Kanungo.

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6. That the remark of the DIG/CBI/NER in imputation vide Para-5 that "The I.O did not conduct investigation of the case in proper manner making a total mess of the investigation and that the I.O unnecessarily extended the check period upto December 1977 and upto 31/12/97" is unwarranted mischievous and misleading and it appears that he has not gone through the file properly. As I.O of the case I fixed the check period from 23/8/80 to 10/10/96 as per the instruction of the SP. There was legal grounds for fixing check period from 23/8/80 since the suspect joined the office on this said date and the end date of check period was fixed as 10/10/96, that is the date of search on which date, the inventory of movable properties prepared and documents pertaining to immovable properties were seized.

Further the suspect was working as Asstt Engineer in I.D.A. Education Project Assam Agril. University since 1977 and thereafter as Asstt. Engineer Assam P.W.D. since 1978 which is revealed from the scrutiny of staff card of ONGC on personal file of the suspect and as such a benefit of likely savings of Rs. 19,200/- were given from Dec.'77 to 23/8/80 i.e. beginning of the check period as shown in FR(I) which is absolutely logical and rational and which was also accepted / upheld by all concerned i.e. Sr.PP/SP/DLA/DIG/JD as well as Hon'ble court.

In the said imputation it is further alleged that "He (I.O) extended the check period beyond what was mentioned in FIR although short check period should have been selected keeping in view the acquisition of major assets by the S.O which in this case was confined to the period of eight years (approx) from 1986 to March 1994 as mentioned in the FIR. It could have been reduced by proper analysis" etc. is nothing but the foolish height of pretentious ignorance on the part of worthy DIG Sri K.C. Kanungo. The conjecture surmises and , guess apportioned by DIG in this regard itself shows his confusion and lack of certainty. By shortening the check period does he want not to give any benefit of likely saving to the suspect, which will be totally illogical, irrational and illegal. The fact however in reality are that the FIR in this case was registered on 12/7/96 on the basis of a SIR/Complaint submitted in 1993 in which verification was continued by three other Inspectors, out of whom two recommended for closure of the SIR/Complaint at verification stage itself, but surprisingly the assets income & expenditure were calculated upto 1993 only for the reasons best known to them and SP supervising the said verification of SIR/Complaint. However Mr K.C. Kanungo DIG observed a stoic silence on this point, instead he chose me as his target for extraneous consideration then the fact of the case.

Coming to the facts of the case, following logical, sound, practical, fair & just principles of investigation, check period was fixed as 23/8/80 to 10/10/96 since the accused joined ONGC on 23/8/80 and searches were conducted on 10/10/96. Even assuming for argument sake that check period should have been reduced as alleged by DIG in

imputation, the benefit of likely savings of the accused had to be invariably given in which case his total likely savings would have mounted to abnormal figures which ultimately had to be accepted.

Regarding alleged extension of check period from 23/8/80 to 10/10/96 upto Dec. 1997 rather virtually to 31/12/97, DIG/CBI did not show as to how the same was done, but setting out same in imputation without basis shows his blatant, malafide & Falsehood.

7. That by making averments in imputation in Para (6), (7), (8), (9) & (10) the DIG/CBI has with bad motive intended to project the increase in the value of assets set out in FIR and thereby sought to project strong case against S.O. However, the DIG pretentiously ignores the blunder in his calculation that while he does so he stick to the check period for the purpose of income upto March 1994 only. However the fact is that many assets & investments & expenditures were made by S.O. as stated in Para (7) & (10) subsequent to March 1994 and upto 10/10/96. Obviously in all fairness while computing value of assets acquired by S.O. as in Para (7) & (10) the income during the period in which said assets acquired, would have to be invariably taken care off. Thus herein the DIG with bad motive confused the issues and sought to make false case in perfect tune with the morals of "Blind man describing elephant by touching his different organs and creating controversy but failing obviously to describe the elephant as a whole". However, here worthy DIG/CBI Sri K.C. Kanungo is not at all blind but create controversy so that his mischievous attempts to harm the subordinates in the grab of even arbitrary and illegal supervision could be accepted by superior officers with credence.
8. That it has been alleged in the imputation at Para 10, Page 4 that "In case of immovable assets the value of which was shown as Rs. 1,62,000 in the FIR consisting of two plots of lands increased up to Rs. 4,02,000". This increase in value of immovable assets of SO was primarily on account of booking of a flat by SO's wife for which a sum of Rs. 2,28,000 was paid to the Housing Co-operative society at Delhi, during the check period, but the latter asset was not taken into account by the IO in FR-I while making Final calculation", is nothing but utter and intentional falsehood, since it has been clearly mentioned in the FR(I) submitted by me as well as in the statement (B), that is statement of assets at the close of period of check i.e. 10/10/96, prepared during course of investigation and enclosed with FR-I. This shows the extant of falsehood and mis-representation of actual fact our worthy DIG Sri K.C. Kanungo could resort to in his bid to cause injury to me on an issue which was closed by the JD/EZ/CBI Calcutta Dr. U.N. Biswas IPS and accepted by the Court long back.
9. That it is alleged that the SO deliberately concealed by not declaring to his department of the payment of Rs. 228000 in the name of his wife to housing cooperative society at Delhi and that the said act of deliberate

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gross misdeclaration and concealment on the part of SO for which could have been made liable prosecution / regular departmental action, but the IO instead of recommending against the SO above recommended closure of the case" is nothing but irrational, arbitrary and perverse statement.

The fact however is that during investigation it was found that aforesaid flat was booked by suspect's wife, who was a teacher and income tax assessee and that said amount was not paid by suspect as per his statement. The said fact was supported by documentary evidences available on record file and as such non declaration of the payment to the department does not violate departmental conduct rule.

This fact was discussed with Sr. PP/SP/DIG while having discussion in this regard and while rendering assistance in the preparation of their comments and as such said payments though were taken into account in the expenditure of suspect but non declaration perse does not entail any crime for recommending prosecution as alleged by the DIG more so because registration formalities of the said purchase were not completed then.

It is pertinent to point out here in that DIG/CBI Sri K.C. Kanungo himself obtained transfer advance to the tune of Rs. 80000 for shifting his family from Jammu to Guwahati but even after lapse of almost one year he has not utilized the said advance but earning interest thereon but without informing to department or filing I.T. returns in this regard or returning the said amount with penal interest of 18% as per rule. Is it not misappropriation / misuse of Govt. money or concealment of income or non declaration of income as because he is a senior CBI officer.

Similarly since his posting at Guwahati worthy DIG by misusing and abusing his official position is staying in furnished AC suite of Coal India Guest House on highly subsidized lodging and fooding charges or without payment getting himself declared as perpetual guest of Coal India, but suppressing this fact of his stay in Govt./PSU Inspection Quarters and as such not entitled for disbursement of HRA, he is drawing double HRA and thereby making illegal earning. Moreover during tour to different places he drew HRA including TA/DA but not even paid lodging charges then. Has the worthy DIG informed department about it and shown in his property return and IT returns regarding his earnings? Obviously Kaiser's wife should be above suspicion and investigation is an open minded exercise to bring out the truth not a closed minded exercise to subject the suspects to harassment and condemnation any how from the word 'go'.

10. That as alleged in Para 12(i) (ii) (iii) at Page 4 of the imputation that Sri S.P. Singh Yadav did not scrutinize the documents and that he did not collect any evidence, nor examined a single witness during investigation of the case, and that calendar of evidence (oral) and

(documentary) are not submitted along with FR-I and that hurriedly submitted final report, are also false and incorrect but invented with bad motive by the DIG/CBI for the purpose of issuing chargesheet, create controversy, mislead senior officers and make 'Tamasha' in the name of supervision.

It is pertinent to mention herein that in investigation of DA case under PC Act Statutory responsibility is that of Supdt. of Police. Herein this case documents so collected during search or obtained otherwise were properly scrutinized and Supdt. of Police personally also scrutinized all the documents available on record. In this connection discussion note of SP CBI, dt. 25/1/97, 7/6/97, 8/9/97 and 5/3/98 are available on CD File. Thus in view of the said allegations after 3 years, and closing of the case after following due process of Law and prevailing system and procedure of CBI are absurd and tantamount to subjecting IO under Fear of Perpetual Condemnation and harassment without any iota of responsibility of all concerned supervising officers and as such any succeeding officer for the heinous offence of straying IO's cow in the paddy field of any friend of supervising or disciplinary authority, will tempt them, as in this case, for reopening of the case, raising imaginary questions of how, why, what and than issue chargesheet like this with bad motive and animus creating bogey of falsehood and misleading controversy. It is important to mention herein that since my joining in CBI not a single chargesheet filed by me in competent court turned in acquittal or discharge of the accused. During 1999 to 2000 during incumbancy of DIG CBI Sri K.C. Kanungo, five cases were registered on the information submitted by me. During said period five results of RDA presented by me in CVC / other departments, were communicated and all turned into exemplary conviction. Since my joining in CBI in 1993 and until now I was granted 18 cash rewards and also conferred with 9 commendation certificates for excellent investigation regularly and consistently. Only after arrival of DIG/CBI Mr. K.C. Kanungo in July 1999 that he on the behest of a dismissed bank employee and CBI charge sheeted person in RC-7(A)/96 SHG and Assam Police Charge sheeted in Case No. 696/95 u/s 324/307/498A in Dispur Police Station, District Kamrup named Arun Baruah who is a close friend of DIG, that I was subjected to all sorts of denigration, condemnation and discrimination and as such despite registration of 5 cases on SIRs submitted by me, 3 surprise checks carried in pursuance of DCBI circular leading to registration of PE/RCs, securing conviction in all the 5 cases presented for departmental action and investigation of High Court referred and monitored case RC-34(A)/96-SHG and also RC-5(A)/98-SHG against CGM Telecom(T/F) Guwahati registered U/S 120 B, of IPC, Sec. 7 & 13(2) R/W 13(1)(e) of PC act 1988 having wide ramifications in entire North East Region during the period of DIG Sri K.C. Kanungo, however my good performance was not recognised, despite clear cut instruction as per DCBI circular in this regard for granting reward / commendation certificate. Though in similar circumstances others were granted reward and CC by DIG/SP an example in this regard

without prejudice and ill will are cited of Insp. K.M. Das who was granted cash reward and CC for conducting surprise check by DIG/CBI K.C. Kanungo. But I was discriminated for said recognition despite conducting 3 surprise checks which turned into registration of 3 cases for causing defalcation / wrongful loss of more than 35 lacs of Rupees.

However the worthy DIG is very eager to give memos and charge sheets at the drop of hat and false and flimsy ground even if he has to dug up the settled and closed issue by his predecessor or superior and as such he so far issued countless memos and charge sheets on 9 count of charges as yet, showing his deep prejudice, bias, malafide and animus against me which is the real cause culminating into issuance of said charge sheets.

Returning to the fact of said imputation it is further stated that on 8/9/97 the then SP/CBI after having detailed discussion and bonafide satisfaction as regards to the outcome of the investigation averred that "As there are no evidences of substantial assets against the accused / suspect therefore it will be extremely difficult to initiate law court prosecution" and therefore advised me to expedite investigation and submit FR-I soon. As such the said discussion note was taken on CD file which was then accepted by the then SP/CBI Sri M.K. Jha. Further the monthly progress report were sent by SP/CBI/GHY regularly to the competent authority in this case i.e. JD/CBI/EZ Calcutta Dr. Upen Biswas IPS through DIG/CBI/NER Sri N. Mullick IPS and others, obviously after appraising himself of the details of the investigation and discussion with me. This statements were made not to evade responsibility but to assert that investigation was done properly and supervised as per practice of "Collective Supervision" in CBI.

The allegation made in Para 12(ii) of the imputation are utter false and incorrect. The fact however is that all evidences as regards to income, assets and expenditures of the SO whereon the FR-I is based were properly taken into account during investigation and are available on the Record File.

Similarly it is also utter false and mischievous statement that calendar of evidence (oral) and (documentary) were not submitted with the FR-I. The fact however is that it was very much submitted and is available with FR(I). Non observance of same by DIG but setting out illegal allegation in imputation without making proper inquiry / verification of the fact or discussion with me is nothing but mischief to create controversy and mislead senior officers out of nothingness.

So far as the allegation that "IO did not examine a single witness during investigation of the case" is concerned, it is stated that worthy DIG may kindly see again the Provisions of Sec 161(1) of Cr.PC in this regard which does not cast any mandatory direction on the IO to examine all witnesses. Particularly in DA cases and more specifically in this case letters were despatched to the concerned officials / Deptt.

/ Institutions etc. for eliciting / confirming the facts of the case, clearly showing in the letters so despatched, to forward reply giving name, designation, addresses official and residential etc. of the reply forwarding authority. Thus after receipt of such letters the name, designation, address etc. of the letter forwarding officers proving the fact in question were taken on record file as well as calendar of evidence. Besides in the given circumstances of this case as it did not require personal examination of any witness nor the supervising officers directed to do so as such 161 statements of all the witnesses cited in calendar of evidence were not recorded.

11. that the allegations made in Para 12(iii) of the imputation that "IO wrote a few letters to some authorities / bodies etc. for verifying expenditure and assets of the SO but without waiting for their replies or without showing results of the replies so obtained / received in the case dairies or FR(I), hurriedly submitted final report (Part-I) without collecting any evidence which was facilitated due to lack of adequate supervision by the SP Incharge" are false, incorrect, misleading and mischievous and the worthy DIG Sri K.C. Kanungo could have saved himself from the consequences and embarrassment in his extra zeal to pin me down by issuing this chargesheet for extraneous considerations than alleged fact, had he scrutinized the documents, crime file / CD file properly and discussed the case with me. It is surprising indeed that the worthy DIG who issued charge sheet to two inspr. for failure on their part to receive him at N. Delhi Airport and consequently worthy DIG was unable to discuss the case in Taxi car with IO's while coming from Airport in New Delhi to CBI Guest House showing his pretentious workaholism, did not bother to discuss this closed case himself with me before issuing this illegal charge sheet.

The fact however in this regard is that letters to all concerned who could have thrown light on the income, assets and expenditures etc. of the suspect in the instant case were sent and replies of all those which were duly received are available on CD file / crime file and on the basis of the same, FR-I was prepared and those letters received and names of forwarding authority were shown on calendar of evidence (documentary and oral) respectively.

So far as the phrase "hurriedly submitted final report (Part I)" as used by the worthy DIG in the said context is concerned, I am to state that the said "Hurry and its obvious consequences" is a double edged sword used by the supervising officers likes of worthy DIG to assert their arbitrary actions at their will but without assuming consequent responsibility. In this connection worthy DIG may please see his own direction at Para 10, Page 3 of his CBI ID No. 45/3/5(A)/98 SHG dtd. 6/1/2000 in RC-5(A) 98-SHG which I quote "IO should submit Final Report (Part I) without delay and positively by the end of January, 2000. Failing which serious view will be taken calling for disciplinary action, if need be", though he was well aware that a great deal of investigations was still remained to be undertaken. Thus it is open to

be seen by one and all that how far legal morale ethical and fair on the part of worthy DIG/CBI Sri K.C. Kanungo is to charge me for alleged consequence of hurrying in one place and at another place lash me into hurry by putting sword of disciplinary action on my head but submit FR(I) in the case obviously without investigation. This case is now transferred to another IO Dy.SP/Sri A.K. Saha who is reportedly still carrying out investigation of the case. Thus it shows that in each and every case the DIG/CBI/NER Sri K.C. Kanungo without properly analysing the case and proper application of mind passes illegal and arbitrary orders to subordinate officers under threat of disciplinary action.

12. The allegations made in Para 12(iv) of imputations that "IO did not consider various expenditures incurred by the SO during the check period even though documentary evidence was available for proving such expenditure. He did so in order to make out the case fit for closure" is imaginary, capricious, false and incorrect statement borne out of the malice and animus against me as worthy DIG failed here to specifically mention which particular expenditure against which documentary evidence was available but not taken into account by me. The fact however, is that all available and verifiable expenditures have been taken into account.

13. That so far as the allegation made in Para 12(v) of imputation is concerned, it is not known that how the worthy DIG arrived to the total annual premium of LIC of the suspect as Rs. 30328 but even without mentioning the period thereof and risk date etc. though he is very quick and zealous being judgemental and in passing sweeping remarks misleading senior officials and thereby creating undesirable confusion and controversy. The fact however in this regard is that Rs. 14800 against Jeevan Dhara Policy, invested by suspect in 1991-92 only as shown in FIR/Proforma Return etc. and not Rs. 30328 mentioned by the DIG and as said investment of Rs. 14800 was taken into expenditure side in FR(I). So far as other deductions such as CPF, FPF Benevolent Fund, PLI, SSS, Income Tax, Professional Tax, CTD including other LIC are concerned they were already made while computing net salary of the suspect and as such said deductions amounting to Rs. 519732 were made from the gross salary of the suspect amounting to Rs. 1537263 between 1/9/80 to October 1996 as shown in detail in FR(I). Thus the question does not arise to show them in expenditure side again. So far as policy with yearly payment of Rs. 11573 in the name of Master Neet Borah S/o P.K. Borah is concerned its risk date was 25/3/95 while check period is 17/10/96. However, the said expenditure was also taken into account in aforesaid deductions. Regarding the annual premium of Mrs Nayanjyoti Borah w/o suspect the fact is that its risk date is 28/3/93 only and she paid it from her earnings as she was a teacher and small time entrepreneur and an income tax assessee. As such herein neither the income of the suspect and wife was clubbed with that of the

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suspect as aforesaid and naturally aforesaid premium since 1993 was not included in the expenditure of the accused.

14. That the allegation made in Para 12(vi) of imputation are already taken care of under the head non verifiable expenditures as the age of his three children at the end of check period as per personal file of suspect were 9 years, 6 years and 3 years and at that time they were studying in 4th, 1st and NIL class in the very private school Holy Name School where suspect's wife was teacher.

Further the suspect was staying in the ONGC quarter while posted at Sibsagar / Nazira and Mehsana and on his transfer to Mehsana the wife of the suspect was staying with her father Monoranjan Chutia at Sibsagar where the search was conducted in supervision of Dy.SP Sri K.C. Choudhury, as such payment of any house rent does not arise. As regards expenditures on POL incurred on conveyances are concerned the subject used to get car / M/C maintenance allowance. From ONGC and as such said expenditure is taken care of by said allowance. In view of it allegation of substantial expenditure on this account are unfounded and baseless.

It is also pertinent to mention here that a professional investigator should desist from making sweeping capricious remarks as circumstances of one case differs totally from others and some times contradictory results are obtained on same account. Thus there are circumstances wherein public servants instead of making expenditure on HRA makes substantial income, strange indeed. An example is our worthy DIG himself who is receiving double HRA by staying in a furnished Air Conditioned suite in Coal India Guest House but making highly subsidized payments, or making no payment at all, getting himself declared as Company's guest, since his posting at the last one year at Guwahati. Thus the worthy DIG in fact is making income than expenditure on account of HRA but without showing the same in his IT Returns or disclosing it to department. Besides worthy DIG is also misusing official vehicle from Coal India Guest House daily to avail the subsidized lunch provided to him as guest of Coal India. The distance between DIG/CBI/NER office and Coal India Guest House is about 15 km, thus DIG/CBI himself is misusing Govt. vehicle for 30 km each day (both ways journey) for launch alone.

15. That the allegation that "IO allowed a lot of benefits to the SO as alleged income of SO without any shred of evidence merely based on the statement of the SO and without verifying the SO's statement" is baseless malicious and incorrect. The worthy DIG though made such mischievous remarks but he has not specified the items or instances where alleged allowance of benefit without verification of evidence were given to the SO in this regard. Nor he has shown how the alleged benefits has prejudiced the prosecution case and materially altered the DA case in favour of SO.

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The fact available on file are however diametrically opposite to the mischievous remarks of worthy DIG. In this regard I would like to refer the gift of Rs. 40000 shown by the SO in FR(I) which were not taken into account while computing the income of the suspect as there were no bank transaction or reference of any legal instrument in this regard except written and signed certificate furnished by the SO on behalf of his mother and brothers. And therefore no allowance of this benefit was given. However the earlier DIG Sri N.R. Ray who scrutinized the file from 2/4/98 to 20/11/98 microscopically and discussed threadbare the case in presence of Sr. PP/SP also, with a view to find out any lacunae so that departmental action could be recommended as the case was going in closure and therefore asked to verify the fact that though the aforesaid gifts were not accounted while computing the income but find out if SO has informed to the department and if not recommend departmental action on this count (A bizarre proposition indeed). However the said fact was verified and lo and behold the SO has indeed informed to his department of Rs. 50000 gift from his mother and brother against purchase of land at Jorhat as shown in FR(I) and as such this proposition of RDA on this count was dropped.

Obviously the SO who should have been allowed further benefit of Rs. 50000 in his income in view of aforesaid and thereby further accentuating his income as in FR(I) was even not given said legitimate benefit.

Further through a certificate of Rs. 93600 paid as salary from 1988 to 1993 to suspects wife while she was working as teacher in Holy Name School, as issued by Rev Fr Palli Kunnel Principal of the said school was available on the file but even the said income was not clubbed with suspects income. Though this benefit should have been legitimately given, thus even further accentuating the income of the suspect in FR(I).

Moreover though the suspect furnished a statement of income and income tax certificates of his wife proving the income of his wife from knitting, embroidery and handloom, a common activity of the earnings of women in Assam, was also not taken into account while computing the income of the suspect. Thus as against the malicious allegation of DIG Sri K.C. Kanungo, of favouring the accused of income without shred of evidence the SO was infact been disfavoured of not accounting even legitimate income of Rs. $(50000+93600) = \text{Rs. } 143600$ at least.

16. That the allegation made in Para 12(viii) of imputation by the DIG Sri K.C. Kanungo that "the IO did not disclose about the proforma property return dated 3/3/97 submitted by the SO which SO (read IO, a badly drafted imputation) had received from the department of the SO during investigation of this case in order to allow undue benefits to the SO which SO himself did not show in his proforma returns dtd. 3/3/97" is malicious imaginary false and incorrect statement. The worthy DIG did

not show however which undue benefit specifically were allowed to the SO which materially altered investigation in favour of SO and as such for want of specificity I reserve my right to rebut the same as and when it is made known to me.

Further it is wrong to state that the said return were received from the Dept. of SO to IO who allegedly did not disclose. The fact how ever is that said return vide letter no. 14/18-Vig dtd. 15/3/97 from Manager (Vig) who addressed to SP/CBI/GHY who received it by appending his signature thereon, and all concerned as aforesaid i.e. Sr.PP/SP/DIG/DLA etc. had seen it and considered the relevant information therein while giving their opinion.

Therefore selective pickup of the IO alone for said malicious remark without considering the circumstances and system and procedure prevalent in this regard in CBI shows that DIG seems to suffer from Psychopathic Syndrome known as "SP Singh Phobia" which impels him with bad motive to rake up issues set at rest well in past as per collective unanimous opinion of all concerned and thereby create unwarranted and illegal controversy and confusion out of nothingness, but cause me vexation and injury any how by falsifying the facts, issuance of charge sheet by pick and choose basis disregarding circumstances to fend for only extraneous interests.

Under the circumstances I am afraid I may be given next charge sheet by worthy DIG for Fijian hostage drama by putting blame in my mouth even if it entails sparing coup leader George Speight, but setting out obviously false and baseless imputation thereon studded with high sounded English Jargon sufficient to mislead senior officers and confuse them into believing of DIG's mischievous charges atleast on paper.

17. That imputation in Para 12(ix) alleging "IO allowed an income of Rs. 216695 to the SO on account of material values of NSC etc. without collecting proper evidence and gave benefit of the entire matured sum of NSC's and other such investments as the income of the SO during check period whereas only interest earned by the SO against the investment should have been considered as his income during the check period provided the SO had declared / shown these income in his tax returns and property statements" is irrational, incorrect and ill founded conclusion made without understanding the case as a whole. The fact however is that the suspect from 1985 to 1989 in different years invested Rs. 80000 in NSC, as shown in FIR also. Obviously this investment will fetch the SO Rs. 160000 (approx) in different years from 1991 to 1995 as maturity value of NSCs. Obviously this will now be taken as his income as a whole but other investments made or reinstatement made out of aforesaid amount in NSC or any immovable property before check period will be taken as expenditure / investment and which have been considered and shown distinctively in the expenditure side of the suspect in FR(I). The other withdrawals made by

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SO from his CTD, NSS investments etc. as per available evidences as shown in FR(I) during check period further enhanced SO's income to 216695 and said benefit of income were legitimately been given by all concerned as aforesaid during their comments / opinion.

So far as the last sentence "Provided the SO had declared / shown those income in his tax returns and property statements" is concerned it is not known whether it is a part of imputation or mere observation. When worthy DIG himself is confused and not definite then how can he set out imputation. It seems worthy DIG himself has not gone through even FIR and verification report properly which accounts for the NSCs purchased by the SO and made known to the department also. As the verification report and FIR assets were worked out from the informations made available from the department. The said investments and income therefrom were confirmed and legitimately taken into account while preparing FR(I) and as such vague surmises, guess, observations, conjectures made by the DIG to buttress his conclusion are nothing but an attempt to confuse the issues only.

18. That the allegation made in imputation at Para 12(x) that "IO allowed benefit to the SO on account of agricultural income to the tune of Rs. 86700 during the check period although the SO in his property return dtd. 3/8/90 had shown agricultural income of Rs. 21000 only which as such, had been taken into account in the allegation made in the FIR" is an illogical, irrational and absurd statement on the part of the DIG/CBI Mr. K.C. Kanungo and reflects his confused state of mind and that is why he jumps at his convenience from FIR to Final Report to property returns to any other documents in his bid to advance his mischievous conclusion.

Thus when DIG talks of Rs. 21000 as per property return of suspect dtd. 3/8/90 and stick to said argument then even the FIR where check period was upto 1994 then how the SO could state about his future agricultural income upto 1994 and why the SIR/complaint verifying officers did not considered his agricultural income even from 3/8/90 to 1994 and why the DIG Mr. K.C. Kanungo is silent on this aspect. Thus had this been considered at the time of verification then certainly even this case would not have been registered. Infact the FIR against SO was registered on the complaint of ONGC which was verified by three officers of this branch out of which two officers recommended after verification for closure of the complaint but the third officer Lt. Insp. G.K. Das recommended for registration of the case which was considered and registered into instant case.

Thus the fact in this regard are that agricultural income to the tune of Rs. 86700 was shown during check period from 1980-81 to 10/10/96 but the alleged property return shows agricultural income of Rs. 21000 dtd. 3/8/90. Obviously it is not clear whether this is agricultural income from one financial year or since joining of the SO in ONGC and upto 3/8/90 or any other thing. It is a fact as revealed from the letters of the

SDC/Jorhat, Agricultural Extension Officer Jorhat and Cooperative farming society, Jorhat available on record File and also as per disclosure of property returns filed by the SO to his department that his family of 3 brothers have 48 bighas of ancestral agricultural land in Jorhat and that they are progressive farmers using modern techniques of agricultural farming and HYV paddy crops. Thus during 1980 to 10/10/96 i.e almost during 17 years an agricultural income of Rs. 86700 was shown which come to Rs. 5000 (approx) per year. Thus how insensible, irrational and illogical argument are of worthy DIG Mr. K.C. Kanungo not to give even this benefit of agricultural income to suspect official when this source of income was duly intimated to the Department.

19. That the allegation made in the imputation in Para 12(xi) that "The IO had shown an amount of Rs. 2300 as booking amount for booking Fiat Uno car by SO, although the SO had actually deposited a sum of Rs. 23300 against the said booking, showing thereby undue benefit of Rs. 21000 to SO on this head" is a classical and glaring example of fact twisting of whole investigation by worthy DIG Mr. K.C. Kanungo who without properly going through the case which was closed by JD/EZ/CBI/Cakcutta Dr. U.N. Biswas IPS, two years ago and reopened it without later's permission as well as permission of the Hon'ble Court and thereby brought forth an illegal charge sheet and imputation which reflect his ulterior motive, analysis of the fact from prejudiced mind, and bias attitude in undertaking the whole fault finding exercise, with bad motive and singular objective to bring out illegal charge sheets as many as possible, even by lying, falsifying the facts, or projecting twisted facts to buttress his malevolent conclusion to mislead senior officers / HO.

The facts however in this regard is that as per Letter ref. No. BAPL/UNO/8-13/97 dtd. August 1997 from Bass Auto Pvt. Ltd. Ahmedabad, the authorized booking agent of said Uno car and letter for permission dtd. 8/7/96 submitted by the suspect to his department showed that Standard Chartered bank offered car loan facilities for which booking amount was Rs. 21000 and said amount was offered by the bank as loan on interest thereon as Rs. 2300 to be paid by person booking the car. Thus the suspect paid Rs. 2300 as interest from his pocket intending to avail loan of Rs. 21000 and as such said payment only amounting to Rs. 2300 was taken on the expenditure side in The FR(I). The rest of Rs 21000 which was to be taken as loan from bank was obviously neither shown on the income side nor with expenditure side as income of Rs. 21000 through loan and expenditure amount in booking the car took place simultaneously and in view of it only Rs. 2300 was shown legitimately on expenditure side alone which was in fact paid extra from the pocket of SO.

20. That the allegation made in imputation Para 12(xii), (xiii), (xiv), (xv) are also false and incorrect. The evidences regarding income of 97350 on accounts of purchase and sale of Pacific Granite share are available.

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on record file and seen and discussed by Sr.PP/SP/DLA/the then DIG in detail and as such no question arises of any concealment of the fact in allowing such benefit legitimately to the suspect.

21. That the allegation made in imputation Para 12(xvi) that "The IO did not requisition services of Technical Officer for scrutinizing the seized documents in this case which he was mandatorily required to do, which further facilitated him for recommending closure" is false and incorrect and the said statement is made because of deep seated animus and malafide being harboured by the DIG Sri K.C. Kanungo in his mind against me which impels him to pin me down and subject me to injury any how picking me alone but sparing the long que of supervising authorities viz. SP/Sr.PP/DLA/DIG/JD and Court of Special Judge Assam as well. Further there is nothing like mandatory stipulation on the part of IO to requisition services of technical officer. Moreover if I am alone subjected to the liabilities for all faults than what for the long chain of supervising officers as aforesaid are made for, and certainly if one inspector as per the exalted opinion of worthy DIG Mr. K.C. Kanungo could befool all the aforesaid including Hon'ble Court and could secure unanimous passage of alleged malafide recommendations into closure of the case, but still remain singularly liable for alleged fault dug up by the likes of worthy DIG Mr. K.C. Kanungo anytime until the wretched soul of the IO is extended with protection to eternity by the almighty in heaven or hell (even hell is better as rules, fairness, propriety justice prevail their-in essential for realising dignity of human life, but not in the fiefdom of DIG Mr. K.C. Kanungo) then certainly the highest authority in department and Govt. of India needs to review its policy of supervision by such long que of supervisory authorities, incurring so much of expenditure on salary and establishment, when ultimately it is the lamb of an IO who is to be sacrificed for remissness of supervision on the part of said authorities.

22. That the allegation in imputation at Para 12(xvii) "That it seems the actions of the IO was not critically examined by the branch for reasons best known to him. Law officers who examined this case as such agreed putting implicit faith on him (though uncalled for)" is an immoral statement made by worthy DIG Mr. K.C. Kanungo. If I am not critically examined or examined otherwise by the branch then how come I am responsible for their mental condition and alleged benevolence of agreeing unanimously with my recommendation, and how could I know the reason thereof and should be liable to explain the same to esteemed personae of worthy DIG Mr. K.C. Kanungo two years I.A.I.R instead of being asked about it from the said officers who unanimously endorsed my recommendation after examination of the facts of the case.

It is surprising that why the worthy DIG/CBI who it seems to project himself as only repository of honesty and integrity by virtue of direct Dy.SP/CBI and thereby assuming the right of self proclaimed Jehadi to condemn all IPS officers and deputationists and pass derogatory

remarks against them during discussion with IO, did not ask from Sr.PP/now DLA Mr. J.S. Terang SP/CBI Mr. M.K. Jha & B.N. Mishra, the then DLA / now ALA Mr. D.C. Sarkar, DIG Sri N.R. Ray IPS JD/CBI/EZ, now Addl. Director CBI Calcutta Dr. U.N. Biswas IPS and last but not the least Court of Special Judge Assam Ghy, the reasons of implied faith all had in me unanimously, and reasons for not examining critically (with vindictive, unfair, illogical, irrational, injudicious mental condition of worthy DIG, and with insulting and abusive manner) what does the implicit faith by law officer in me, mean? And why worthy DIG stopped from his malicious remark upto law officer only or at the most Branch officer i.e SP, when the same was a unanimous decision of Sr.PP/SP/DLA/DIG/JD and Special Judge Court Assam, Guwahati.

So far as the fact regarding alleged statement as aforesaid is concerned, let the worthy DIG be enlightened that from 6/3/98 to 25/3/98 I was on tour to New Delhi in C/W Training Programme in CBI Academy and presenting case in CVC etc. and joined HQ on 26/3/98. While proceeding to New Delhi in C/W aforesaid and as per instruction of the then SP/CBI I handed over all the documents, CD File, other records, FR(I) etc. to Sub. Insp. Manoj Banerjee briefing him out the whole case and the said fact was also taken as a note on CD no. 83 dtd. 5/3/98 which worthy DIG pretentiously ignore to see and understand the facts, but jump upon at first available opportunity to level malicious charges and create controversy deliberately. Under the circumstances it was Manoj Banerjee SI with whom Sr.PP Sri J.S. Terang had his discussion for preparing FR(II) which was typed and finally signed by Sr.PP on 25/3/98. Therefore how could it be said that the law officer agreed with me for his alleged implicit faith in me? On the contrary he must have thoroughly seen and considered the facts as main IO of the case was not present at discussion. Further handing over of all the documents / records / CD file etc. to SI Manoj Banerjee as per instruction of SP/CBI, shows openness in my approach.

Further after submission of SP's comments on 2/4/98 after having joint discussion with Manoj Banerjee, SI and me, the DLA comments were given on 12/5/98 at Calcutta, where the said technical officer whose mandatory opinion were allegedly not taken by me in order to facilitate closure of the case was also available at arms length to render his valuable opinion in this case at mere asking. Obviously the DLA Sri D.C. Sarkar was not having that alleged implicit faith in me thereby obliging me with his benevolence of agreeing with my recommendation.

Further more since recommendations of DLA on 12/5/98 upto 20/11/98 i.e. more than six months the file was lying with the then DIG/CBI/NER Sri N.R. Ray IPS at Calcutta not because of implicit faith in me but for proper scrutiny only. The DIG/CBI/NER Calcutta visited Guwahati in September 1998 and discussed in detail in the same manner and style (perfectly critically in worthy DIG Sri K.C. Kanungo's parlance that

made Dy.SP K.C. Choudhury, Insp / K. Barman, CA / Manoj Deb and many others to put up application for premature repatriation against abusive and insulting behaviour of DIG) which made me to submit my repatriation application for transfer to my parent organisation i.e. U.P. Police in 1998 itself followed by undesirable, arbitrary remark of DIG which led to my repatriation, but for the intervention of Chief Justice, Gauhati High Court monitoring the High Court referred case being investigated by me, giving direction not to repatriate me until charge sheet in C/W said case is filed, that the said repatriation order could not materialized. But the present DIG/CBI Sri K.C. Kanungo in blatant violation of said direction of Court communicated vide SP/CBI ID No. 817/CA/GEN/Do/25/98-GHY Dt 21/12/98 without informing or permission form High Court, illegally and arbitrarily passed order for withdrawal of case although SP's report in this case was already sent and only charge sheet remained to be filed after receipt of prosecution sanction orders. The DIG/CBI/Calcutta who was no less a critical examiner than our present worthy DIG, not being able to succeed a mere wretched insp. repatriate at his will made adverse remarks in poor voiceless ACR of mine for the year 1998 as reviewing officer, before himself going on repatriation to his parent cadre West Bengal, despite the fact the Branch SP Sri B.N. Mishra gave excellent remarks, but accepting authority JD/EZ/CBI/Calcutta Dr. U.N. Biswas IPS may be because of his administrative compulsion just signed in the appropriate column of my ACR accepting the said capricious and arbitrary remark which was obviously communicated to me followed by again repatriation order with said stigma to my parent cadre. As it was very disgraceful for any self respectful person to come on deputation to CBI with all clean and excellent record but go with the malicious reward of stigma that too with out rhyme or reason. I represented the fact to DCBI/New Delhi against malicious remarks made by DIG N.R. Roy in my ACR and also moved the Hon'ble Bench of CAT Guwahati vide OA No. 338/99 whereby the Hon'ble Court suspended the said repatriation order based on the arbitrary and malicious comments of the then DIG/CBI Mr. N.R. Ray without having any adverse on record against me. This legacy of arbitrary victimization was passed on to the present worthy DIG, who vowed to see that since earlier DIG was having nothing adverse on record against me upto October 1999; which enabled Hon'ble Court to pass favourable order in my favour, that he made it a mission in understanding with earlier DIG that countless memos are issued all at once calling for explanation but even before stipulated time as set out in explanation, serve the charge sheet by putting me under suspension without disbursing even subsistence allowance though more than 1½ months has passed since suspension order. Besides stoppage of my salary for October 1999 which has not been disbursed even today despite my representation to DCBI and as such again I had to move Court but worthy DIG has issued another charge sheet in this regard too. The whole exercise were undertaken to subvert the justice in Court and to victimize me for daring to approach Court for justice.

In view of aforesaid the golden letters for fundamental rights of judicial remedies as enshrined in constitution of this nation seems to loose its sheen as no fundamental right or constitution is above than the defacto supervisory rights of the worthy DIG even if it is illegal, arbitrary, malafide, unfair and injudicious, and because the worthy DIG have thousand and one ways of subverting the justice dispensed by the Hon'ble Court, and which he is efficiently and excellently carrying out by issuance of many charge sheets, putting under suspension, stopping salary and subsistence allowance dishonouring family members etc.

Reverting to the main issue IN the aforesaid background it is further stated that how much the then DIG/CBI/NER Sri N.R. Ray was critical examiner (but certainly less than our worthy DIG Mr. K.C. Kanungo) could be seen from the fact that a bright young CBI inspector 1st Class post graduate in Physics, good composer of English poetry, Sandeep Goyal could not withstand THE critical examination of the then DIG/CBI N.R. Roy and finding no way out from said critical examination, the officer committed suicide.

However even the said critical examiner despite his arbitrary and malicious remarks without any basis leading to my victimization and vexation as aforesaid and adverse remark in ACR for 1998, showered his benevolence on me by reposing implicit faith in me and thus blessed me by agreeing to my allegedly malafide recommendation of closure of the case albeit only 6 months later, possibly without alleged mandatory opinion of technical officer sitting at his arms length in his office in order to facilitate closure of the case as per my alleged malafide desire and thus he paved way for the passing of closure order of the case by JD/EZ/CBI Calcutta Dr. U.N. Biswas IPS.

Further, lo and behold, even the Hon'ble Court did not desist from having alleged implied faith in me and it too accepted the closure report by passing detailed speaking order in this regard.

23. However the worthy DIG Mr. K.C. Kanungo who seems to be thinking himself as only repository of honesty and integrity and only savior of this corrupt nation, highest in order of corruption in the comity of nations on earth declared by a body consisting of men of white skinned race of superior wisdom, which is going to drain further because me like IO and all other supervising officers reposing implied faith in my recommendations, that the angel of honesty came to his dream in Jammu and agitated him to break his slumber and ordered him to move to Guwahati as a great crime has occurred there because of satanic instinct of implied faith of all concerned officers including Court in Suresh Pal Singh Yadav, which facilitated burial of a massive scam in the Hon'ble Court of Special Judge Assam Ghy, which accepted the burial report (closure report) based on implied faith of all concerned in IO. As such the worthy DIG, stirred up by the divine dream ordaining him to move Guwahati and salvage this great nation

from the proverbial last straw of corruption on the nation's back, set on to move Guwahati. However there was one hurdle that is transfer but for our worthy DIG, there is no hurdle as he has achieved excellence and invented novel and ingenious way of securing transfer, which is nothing but "Controversy" and if controversy does not give desired result than assault physically on any subordinate, get a police case registered and as such worthy DIG forced HO to transfer him from Dhanbad to New Delhi to Chandigarh to Jammu and finally to Guwahati. Whatever may that be worthy DIG created controversy in small branch of CBI at Jammu which obviously forced HO to not only transfer him from one hard area to only other available in country at Guwahati. However as the HO has transferred him giving colour of punishment posting, which obviously annoyed our worthy DIG who vowed and told to his another colleague over telephone in presence of an IO that "HO transferred me from Chandigarh to Jammu to make me unhappy but I was happy at Jammu and again HO transferred me from Jammu to Guwahati to make me unhappy but I am happy but I will make HO repent for their move". Thus fired with rage against HO as aforesaid which added fuel to fire to his controversy creating instinct, he set out with his mission at O/o CBI/NER/Ghy code named as "Operation Tumult CBI". As a result Dy.SP/K.C. Choudhury, Insp/K. Barman, CA to DIG/Manoj Deb submitted representation for premature transfer / repatriation. PP/M.V. Ramaniah, Daftari/Anjan Deb, CA to SP/Mukut Deb, Head Clerk/D.K. Dutta, family members of CBI officials submitted representation to HO against arrogant, abusive and illegal acts of our worthy DIG which are available in HO. However with the arrival of our worthy DIG the crime rate of corruption in entire North East Region nose-dived, which is proved from the statistical data that during the period of Sri N. Mullick IPS the then DIG/CBI/NER and because of his implied faith in IOs crime rate soured to 47 registration of cases from the targeted 35 during 1997, which declined to 30 in 1999 even with the arrival of worthy DIG and to 25 in 2000 during the reign of the worthy DIG. And in coming truly 21st century our worthy DIG's mission is to make NE Region corruption free under "Operation Tumult CBI" seems to be a reality when branch target of registration would be NIL and thereafter there will be no CBI as then worthy DIG will declare NE Region as corruption free a.la style our national mission of declaring "Polio Free Nation".

Further as because of misplaced implied faith earlier less worthy DIG's had in their subordinates, corruption was on the rise as evidenced from the rising graph of registration of cases. Therefore our present DIG in perfect tune of "Charity begins at home" started selected digging up the matters/cases rested in peace in the graveyard of CBI/ACB/Branch and then exhumed the skeleton in the form of non submission of weekly dairy by me in 1996 and obviously issued charge sheet for major penalty vide Memo No. 1477/12/Comp/SLC/NER/1999 Pt(iii) dtd. 17/5/2000.

Encouraged he further dug up and tumbled upon by another skeleton (not from the cupboard) which was laid to peace by the unanimous implied faith of Sr.PP/SP/DIG/DLA/JD/Special Judge Assam in IO, but how can the worthy DIG be satisfied and therefore he issued instant charge sheet against me for declaring it to superiors that it seems to be dead which the aforesaid officers confirmed to be so. But our DIG insisted that others are not responsible as they put the signature on the dotted line on Panch Nama as they had implied faith in the first declarant of dead i.e. me.

Un-relented in his zeal of making NER Crime Free and bring down registration of cases to zero by cleaning the CBI courtyard first, he now moved from past to present and then withheld my salary for the month of October which he did not release despite representation to DCBI, after waiting six months and finding no way out and being a fool of mine who had misplaced faith in the Hon'ble Courts of this nation and the citizens fundamental rights to seek judicial remedies as enshrined in the golden letters in our constitution, forgot that everything that glitters is not gold, and thus moved foolishly to the Guwahati bench of CAT for release of my October month salary on account of my remaining on medical leave vide OA No. 137/2000. The court though entertained my application but how can it interfere in the fiefdom of our worthy DIG. Obviously he again issued charge sheet for major penalty vide memo no. 1378/12/COMP/SLC/NER/PT(I) dtd 11/5/2000 for living in his fiefdom but reposing faith in another which if could prove will entail my extradition from not only CBI but also from my parent cadre UP Police.

Un-relented in his mission of making NER "Zero Crime Area" he enlisted the services of even undesirable contact man, dismissed bank employee and CBI charge sheeted person in RC-7A/96-SHG u/s 120B, 420, 468, 471, 477A IPC & under PC Act and also Assam Police charge sheeted person in Case No. 696/95 u/s 324/307/498A of IPC named as Arun Kumar Barua and entered into a friendship treaty with him in his "Operation Cleanup CBI" with assurance that earlier officers allowed the IO B.R. Roy Insp. to file charge sheet in the court by putting implicit faith in him and that he should not worry, he will be saved from conviction by not allowing further vital evidences important for conviction, submitted by Insp. Suresh Pal Singh Yadav from being adduced in court, and as such again he issued a chargesheet for major penalty for allegedly calling his excellence Arun Kumar Barua, his esteemed friend as "Chor". Since our worthy DIG is firm believer in retributive theory of punishment and seems to not agreeing with our culture of at least keeping women in high esteem and address them accordingly, therefore while setting out imputation in his charge sheet for major penalty he made "That woman said to be my wife" out of my wife. May be it is height of incivility on the part of Mr. K.C. Kanungo DIG/CBI who still remains worthy DIG, but it is neither strange for him nor a matter to take umbrage upon on the said remark

as he arrogantly thinks that a wife of a slave subordinate is also a slave in his fiefdom and she could be addressed in any way he likes.

Furthermore, our worthy DIG ably administering his fiefdom of CBI in NE Region seems to be believing firmly in the doctrine of his "Sovereignty" and that "King does no wrong" and as such any body's personal dignity, modesty has no meaning before sovereign in his fiefdom, therefore while serving the charge sheet he did not deem it fit to wait and serve it in person but issued the sovereign diktat from Shillong to his deputy i.e SP/CBI/GHY Om Prakash to ensure service of the charge sheet immediately and as such without waiting me to return from Special Judge Court Assam Guwahati where I was on duty in connection with some trial case, despatched two constables who landed at my residence and in a most bizarre and insulting manner tried the said charge sheet to be received by my wife, which she refused for obvious reasons that when I was on duty it should have been served on me and not to her. Irked on the incident she complained the matter to the DCBI and Assam Human Rights Commission. Though an inquiry was conducted by JD/CBI/CAL Dr. U.N. Biswas IPS, but our worthy DIG seems to remain undeterred perhaps convinced from his experience of so many years that HQ might have teeth, but they are meant for baring only and not to bite him, even if he displays height of incivility as aforesaid.

In his bid to make CBI/GHY/ACB Branch "Zero Registration Branch", he not only withheld the unanimous recommendation of branch for registration of three cases on the verification report arising out of RC-5(A) / 98-SHG being investigated by me but also passed order on the three files of SA/SHG/99/20, SA/SHG/99/21, SA/SHG/99/22, pertaining to the cases against telecom officials and contractors for awarding contracts on 200% to 500% higher than the prevailing market rates and thereby causing wrongful loss to the department to the tune of crores of Rupees, but worthy DIG would not put up for orders for registration of the three cases to JD/EZ/CBI/Calcutta Dr. U.N. Biswas but ordered on file for RDA Major Penalty for even submitting verification report. Unbelievable indeed but in the land of our worthy DIG such unbelievable things do happen normally.

Thus our worthy DIG has issued charge sheets on 9 counts so far in less than 3 months. The earlier less worthy supervising officers did not deem it fit to issue even a single memo in 7 years of service on deputation because all had allegedly misplaced implied faith in me.

Our worthy DIG is so fast indeed that even Einstein principle that nothing moves faster than light seems to fade before his speed, that he knows it before hand the replies to be submitted by subordinates as such he takes decision on the memos served even before the deadline set therein for submission of reply and as such he issued memo no. 753/12/COMP/SLC/NER dt. 22/3/2000 received by me on 23/3/2000 for giving immediate reply. He issued another memo

751/12/COMP/SLC/NER dt. 22/3/2000 received on 23/3/2000 fixing 10 days time for reply. He also issued observations vide memo no. 747/3/5(A)/98-SHG dtd. 22/3/2000 received as on 23/3/2000 running into 29 pages for reply and calling for disposal of the cases giving observation from CD no. 1 dt. 17/2/98 to CD No. 144 dt. 19/1/2000 for explanation immediately.

As mentioned afore two replies out of 3 were to be given immediately and for third one was given ten days time i.e. by 4/4/2000. But our worthy DIG Mr. K.C. Kanungo @ Kirti Chandra Kanungo is even ahead than our great socialist leader Dr. Ram Monahar Lohia, who used to say that "Zinda Komen Pannch Saal Intzaar Nahin Kartein". Thus our worthy DIG did not wait even 10 days set out in his one memo, leave apart other two and thus he passed order on 28/3/2000 itself vide CBI ID No. 821/12/COMP/SLC/NER for handing over charge of all cases (under investigation, trial, RDA complaints etc. to Sri A.K. Saha Dy.SP including all correspondences made and received by me and deposit the listed documents, seized documents and documents otherwise received / collected by me during investigation / verification in the malkhana and with further direction to complete the whole process within 5 days. It shows perhaps the overflowing integrity, extra devotion to duty and exemplary fairness, judiciousness on the part of the worthy DIG to be imitated by all less worthy supervising officers.

24. That the allegation made in imputation at Para 12(xviii) "that due to unanimous recommendation of closure of branch officials based on the result of investigations and calculations made by the IO all agreed with recommendation of IO without having any reason to suspect any malafide at the relevant time which has now become clear on the thorough study of case dairies etc. and analysis of facts mentioned by the IO in the FR(I)" is nothing but conclusion of a mischievous and malafide mind which has reserved judgement even before issuance of charge sheet not to say before even beginning of trial. The aforesaid discussion in fact clearly revealed falsification and distortion of the facts, intentional misrepresentation and falsehood of the facts of the case and totally bizarre illogical, injudicious, irrational analysis of the facts with singular bad motive and objective on the part of DIG Mr. K.C. Kanungo to some how injure me by misleading the superior officers and carrying out disciplinary proceeding in arbitrary and farcical manner throwing to the wind all cannons of justice and fair play. Therefore the imputation and charges are not at all proved. Further the DIG Mr. K.C. Kanungo has neither supplied me a copy of his inquiry report stating clearly check period, income, assets, expenditure etc. during check period the likely savings of the accused before beginning of check period as well as the detailed analysis of the facts as regards aforesaid at one place to give holistic view of facts, circumstances and evidences etc. and also with reasoned analysis as to how non adoption of DIG's plan of investigation vis-a-vis the investigation unanimously approved and accepted by Sr.PP/SP/DLA/DIG/JD as well as court has prejudiced the prosecution

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case and on receipt of the same again I reserve my right to file further written statement. Further DIG/CBI though created confusion without going through the files properly, with bad motive and mischief but he was unable to prove and project how the surplus income as calculated to the tune of Rs. 344387 unanimously by all aforesaid could turn out to be disproportionate even considering distorted and falsified facts of DIG as discussed above. It is also capricious and irrational to reserve malicious remark of unanimous recommendation to branch officials only, i.e IO/Sr.PP/SP alone. As discussed afore critical and detailed examination of the case was also done by DLA/DIG/JD and Court of Special Judge Assam. Senior officers than Branch Officials do not at all put their signature on dotted line. They are in fact final authority of decision making as per practice and procedure prevailing and also as per relevant instructions in CBI Crime Manual. In fact it is the superior officer only who after proper analysis and considerations of the fact make changes in the recommendation of subordinate officer. An example in this regard is PE-7(A)/94-SHG against a Jute Corporation of India official against which also unanimous recommendation of conversion of the case in RC was not accepted by the then DIG and the case was disposed off in PE itself recommending departmental action against the SO. Further in this case though the RDA was recommended on 9 charges and SPs report was prepared and signed by SP and sent to DIG/CBI who forwarded it to DLA/Mr. D.C. Sarkar for his opinion and who even without the knowledge of IO/SP directed the Sr.PP/Sri J.S. Terang to redraft SPs reports only on two counts of charges and accordingly SPs report was sent finally to SOs department on two count of charges only. The said fact of orders etc. are available on the note sheet of the crime file. Similar instances are available on almost all files including present worthy DIG who arbitrarily and injudiciously changed the recommendations of IO/PP/SP at his will. Thus keeping aside the superior official from the alleged malafide recommendation of branch official as regard any consequent liability and responsibility is again a reflection of bad motive and malafide mind of the worthy DIG to injure me on pick and choose basis.

25. That the allegations made in the imputation 12(xix) that "In the manner aforesaid Sri S.P. Singh Yadav showed lack of integrity, lack of devotion to his duty and conducted in an unbecoming manner and there by contravened Rule 3(i), (ii) and (iii) of CCS Conduct Rule 1964" are nothing but illegal and capricious and as discussed in aforesaid paragraph it is amply demonstrated that charge sheet and imputations were served by Mr. K.C. Kanungo @ Kirti Chandra Kanungo DIG/CBI/NER/Ghy, maliciously and mischievously by falsification and distortion of the facts in case to injure the undersigned for certain extraneous reasons and to settle scores for his personal enmity and on behalf of undesirable contact man, bank dismiss employee and CBI charge sheeted person Mr. Arun Kanti Barua who is a close friend of DIG/CBI. The said case was recommended unanimously by Sr.PP/SP/DLA/DIG for closure and final orders

thereon for closure were passed by JD/CBI/EZ Calcutta now Addl. Director/CBI/Calcutta Dr. U.N. Biswas IPS and following closure order from the competent authority final report u/s 173 Cr.PC was filed in Court of Special Judge who accepted the said final report by giving detailed speaking order with out any shred of comments on the investigation and as such also the undersigned cannot be held liable and responsible singularly for alleged imputation as the undersigned is not the decision making authority who was in this case Dr. U.N. Biswas IPS the then JD/CBI/EZ/Cal and new Addl. Director Calcutta.

Furthermore the said CCS Conduct Rule 1964 are not applicable on me being a deputationist and as such DIG lacks competence to issue charge sheet and at least not at all as regards to the said alleged imputation which in any case discloses contravention of the provision of IPC for which DIG/CBI/NER Mr. K.C. Kanungo should seek the permission of the Court for reopening the case and thus fresh investigation be conducted de-horse of his mischievous influence, and if any criminal liability is fixed as regard to my role alone or along with Sr.PP/SP/DIG/DLA etc. then obviously charge should be filed in court.

26. The last but not the least it will not be inappropriate to scrutinise and understand the purport and meaning of the closure order of the JD/CBI/EZ/Calcutta Dr. U.N. Biswas IPS . vide CBI ID No. 392/98/3/27(A)/96-SHG dt. 3/12/98 which reads :- "Who submitted the source information/ please ask his explanation, close the case". It therefore clearly shows the case ought not to be registered at all as the SIR/verification itself did not disclose any DA Case. It is important to mention herein that two complaint/SIR verification officers out of three viz. Insp. M. Sarania & Insp. P. Roy did not recommend the case for registration of RC, but the third one Insp./Lt. G.K. Das by distorting and misrepresenting the fact made the modest DA Case of Rs. 162000 in FIR. It is also pertinent to mention that assets declared in FIR are those which suspect has duly intimated to his department which supplied the said figure to CBI for complaint/SIR verification. Even the then SP/CBI/ACB Guwahati while analysing the facts of the investigation observed in his SPs comments which I quote :- "That this case was having very weak footing right from the beginning because Sri P.K. Bora has been working as Supdt. Engineer in ONGC and has been getting fat salary. However the case was registered since he was already processed and orders were obtained from the competent authority".

Obviously there were inherent weakness in the case and following blunders were committed by Late G.K. Das while conducting verification and submitting recommendation for registration of RC which DIG/CBI deliberately, pretentiously and mischievously chose to remain silent about. Thus following questions stares in the face of DIG Sri K.C. Kanungo who with bad motive racking up the controversy without even going through properly the FIR itself :-

1. when the case was registered on 12/7/96 then why the computation of income was restrained from 1986 to 1994 only and not upto July 1996
2. when it was confirmed during verification stage that the suspect was working as Asst. Engineer IDA Project since 1977 thereafter as Asst. Engineer PWD/Govt. of Assam w.e.f. 1978, and thereafter as Asst. Engineer ONGC w.e.f. 23/8/80 continuously then why his net pay during 1986 to March 1994 only were taken for recommending DA case? And why his legitimate likely savings since 1977 to 1986 for nine years were not taken into account while computing pay/income as per FIR.
3. when as per verification report and as shown in FIR Rs. 80000 investment were shown in NSC during 1985 to 1989 only and thereby computed inter-alia of DA of Rs. 162155 of the suspect then why before registration of FIR on 12/7/96 the income received after maturity period of 6 years amounting to Rs. 160000 were not taken into account in the legitimate income of the suspect which alone would have nullified the said DA of Rs. 162155?

It is obvious that at the beginning itself the Complaint/SIR was submitted for extraneous reasons and thereafter case was registered unfairly and illegally and in total disregard to the Plethora of DCBI circulars stipulating very cautious approach as regards to the registration of DA cases which may cause untold misery harassment and humiliation to the public servants.

Thus in view of the aforesaid detailed discussion the case after investigation was closed on the unanimous recommendation of IO/Sr.PP/SP/DLA/DIG and accordingly JD/CBI/EZ/Calcutta now Addl. Director CBI/Calcutta passed order for closure as above and the Hon'ble Court of Special Judge Assam rightly accepted final report u/s 173 Cr.PC by passing detailed speaking order discharging the suspect and ordering for return of documents.

However the DIG/CBI/NER with bad motive and mischief in mind issued this charge sheet for imputation by misrepresenting, distorting the facts and resorting to blatant lie to confuse and mislead senior officers with the singular purpose to injure me and subject me to undeserved humiliation, harassment and suspension.

I hereby appeal to the Additional Director CBI Calcutta Dr. U.N. Biswas IPS and DCBI to cause an impartial enquiry into the matter and save me from the illegal, unfair, arbitrary and injudicious action of DIG/CBI Mr K.C. Kanungo.

Date : 15.6.2002

(Signature)
SURESH PAL SINGH YADAV
INSP/CBI/ACB/GHY(u/s)

*Attached
Q.C. L.W.W.*

1. Case No. & date : RC. 27 (A)/96-SHG dt. 12/7/96.

2. Section of Law : U/s. 13(2) R/w 13(i)(e) of P.C. Act. 1988.

3. Name ~~xx~~ and design. of Prosecutor, preparing comments : Sh.J.S.Terang, Sr.PP.

4. Date when Fr-I was received : 23-03-98.

5. Date when Fr-II was prepared : 25-03-98.

6. Date when Frs were forwarded to H.O. :

7. Name & Design. of accused : Sh.Purna Kanta Borah Superintending Engineer/ Class-I Gazetted.

8. Brief story of the case :

The suspect officer(S.O.) entered in the service of Industrial Development Association, Education Project, Assam Agricultural University on 13-12-1977, then he has changed ~~the~~ his service by joining the Assam State PWD service from July'79 onwards and ag. in he has changed his service by joining in the O.N.G.C. service on 23-8-1980 as Assistant Executive Engineer(Civil) and he is continuing his service with the ONGC till the date of registration of this case on 12-07-96.

The instant case was registered on the basis of source information with the allegation that Sh.Purna Kanta Borah is having possession of assets which are disproportionate to his known sources of income.

Investigation has revealed that Sh.P.K.Borah is the ~~xxxxxx~~ eldest child of his parent, his father Lt.Ganesh Chandra Borah was ~~xxxxxx~~ blessed with the other children who are Chandra Kanta Borah (son) Nirmala Kumari (daughter), Krishna Kanta Borah (son) and Bishwa Kanta Borah (son), Nirmala Kumari was married to Shri Ghane Nath of Jorhat. ~~xxxxxx~~ She is employed as Private Secretary to the General Manager, Geo-Physicist, D.V.B., ONGC Project.

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Jorhat. Shri Chandra Kanta Borah, Sh. Krishna Kanta Borah and Shri Bishwa Kanta Borah are all employed in ~~xx~~-Oil-Paid services.

Shri Urna Kanta Borah was married in Jan/1983 with Smt. Nayantyoti Borah. And they were blessed with three children they are Upasana Borah (daughter), 11 years of age and studying in Class-V by now and Smt. Uddipanna Borah (daughter) 7 years of age and studying in Class-XI by now, and Sh. Neet Borah (son) 3 years 6 months of age by now. Smt. Nayantyoti Borah was from a well-to-do family.

For the purpose of investigation of this instant case the check period is taken from 23-8-80 the dt. on which Sh.P.K.Borah joined as Asstt. Executive Engineer in ONGC, Sibsagar, Nizara to 10-10-96 the date on which the I.O. equipped with x the search warrant from Hon'ble Court conducted searches in the house and premises of Sh.P.K.Borah at Village Tilikim, Distt. Jorhat at his resident premises, Nizara, Sibsagar and at ONGC Housing Complex Mehsana, ~~and~~ Gujrat.

The I.O. has obtained the statement of pay-particulars from Dy. Manager (F & A) T.B.G. (PDS) ERBC, ONGC Ltd. Sibsagar which was forwarded to SP, CBI, Guwahati by Sh.S.R.L.Kurdel vide his letter dtd. 20/10/97 for the period from 1985-86 to 1993-94 and for the remaining subsequent period till Feb/1997. The I.O. has obtained the pay-particulars from Dy. Manager (F & A) T.B.G., ONGC, Mehsana vide his statement dtd. 8/9/97 which was forwarded to SP/CBI/Guwahati by Manager (Vigilance) Sh.C. Gangaraju vide his letter dtd. 30/9/97 and for the period from 1980 to 1985-86, The I.O. has obtained the pay-particulars from the accused himself. On the basis of pay-particulars ~~show~~ so obtained the I.O. has calculated the gross amount of pay and allowances received by the suspect during the whole check period and came to ascertain that Rs.15,52,663/- was the amount earned by the suspect.

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In course of investigation the I.O. Sh.S.P.Singh Yadav, ¹⁰⁹ Inspr. has examined the suspect officer and tried to ascertain the other probable sources of income of the accused. And accordingly the I.O. has collected documents from Agricultural Extension Officer, Dabotia Circle, Titabor Agriculture Sub-Division Distt. Jorhat which supports the contention of the accused. And also ascertain the other sources of income as follows :-

- i) Divident and Interest Rs. 3,000/-
- ii) Income Tax Refund Rs 38,380/-
- iii) Maturity value Receipt on NSC and others Rs. 2116,695/-
- iv) Profit of Rs. 23,000/- by sale of Car Registration No. AMS- 1688 and profit of Rs. 8,000/- by sale of a ~~xxx~~ Car Registration No. WMW-291.
- v) Share Profit earned Rs. 97,350/-.

On the likely expenditure side the I.O. has made the calculations by deducting 1/3 of the gross income of the accused all from known sources of income. Thus, the I.O. has worked out the likely saving of the accused person for the whole check period as follows :

- A) Rs. 15,52,662 gross pay and allowances
- B) Other sources of income which were detailed above comes to Rs. 4,73,125/- the combination of ~~xxx~~ both the figures make Rs. 20,25,788/- and the assets which the accused was likely to have in possession earlier to the check period ascertained by the I.O. was Rs. 19,200/-. Therefore, on the date on which the check period ends the accused can be said to have a total earning of ~~Rs. 28x88x888~~ Rs. 20,44,988/- the 1/3rd of this figure makes Rs. 6,81,662.66 and Rs. 20,44,988 - Rs. 6,81,662.66 makes Rs. 13,63,325.34.

On the occasion of conducting the ~~xxx~~ searches the I.O. has made the inventory of the goods and particulars found which makes the total value of Rs. 4,76,306 which were ascertained and calculated on the basis of documentary and other evidences collected by the I.O. during the investigation.

The accused has made the payment of Rs. 2,28,000/- till the ending ~~xxxxxx~~ date of check period for purchase of a flat at New Delhi in the name of Smt. Nayanjyoti Borah. ~~xxxxxx~~ And one plot of land at Jorhat covered by DSC No. 5242 was purchased by the accused during the year 1988-89 for Rs. 42,000/- and another plot of land at Jorhat covered by DAC No. 5250 was purchased by the accused in the year 1993-94 for Rs. 1,32,000/- only, thus, for the acquisition of land and landed property the accused has made the expenditure of Rs. ~~4224000~~ 4,02,000/- only from his ~~xxxxxx~~ known sources of income.

9. Analysis :

The FIR allegations are not substantiated by the evidences collected during investigation and the evidences so collected are not sufficient to rebut the likely defences of the accused person.

The I.O. has collected the personal file of the suspect in respect of his service in the ONGC.

10. Difficulties : NIL.

11. Suggestions : NIL

12. Opinion :

I agree with the opinion of the I.O. recommending closure of the instant case as it is appearing from the evidences collected that in place of FIR allegations being substantiated the case is going otherwise favouring the suspect. There is no point on our part to make a prosecution case based on nothingness.

13. Recommendations:

I do the view of the I.O. in his FR-I.

14. Certificate :

Certified that I have carefully gone through the FR-I. I have examined case diaries, but I found that no witness has been examined by the I.O. and so no statement of witnesses are available but I have examined the material documents, plan of action etc. thoroughly before giving my comments and opinion.

J. S. Terang
(J.S.TERANG) S.R.PP/CLN/ACB
Guwahati/Dtd. 25/3/98

After read
A.P.C. 1/514

Comments of DLA, CBI, Calcutta Region in c/w RC No. 27(A)/96-SHG.

I have carefully gone through the Final Report Part I & II as well as SP's comments thereon. This case was registered on the basis of source information against Shri Purna Kanta Borah, Superintending Engineer, ONGC, Nazira, Assam u/s 13(2) r/w 13(1)(e) of P.C. Act, 1988 on the allegation that the accused officer while posted and functioning in various capacities in the ONGC, during 1986-1994 had amassed huge assets, both movable and immovable, by corrupt and illegal means which was grossly disproportionate to his known sources of income to the tune of Rs. 1,62,155/-.

2. In this case, there has been an unanimous recommendations of the branch officers viz. I.O., Sr.PP and S.P. for closure of the case since evidence collected during investigation does not support the allegations made in the FIR.

3. Investigation conducted has collected evidence, both oral and documentary, to establish the following figures of income during the check period from 23.8.80 (i.e. the date of joining ONGC) to 10.10.1996 (i.e. the date of search).

a) Assets during pre-check period	Rs. 19,200/-.
b) Income during the Check period	Rs. 15,42,670/-.
c) Expenditure during C.P.	Rs. 3,39,177/-.
(1/3rd of salary Income Rs.10,17,531 during C.P)	
d) Likely Savings during C.P.	Rs. 12,03,493/-.
e) Assets during C.P.	Rs. 8,78,306/-.
f) Likely saving plus Assets during the pre-check period.	Rs. 12,22,693/-.
g) Surplus Likely Savings during C.P.	Rs. 3,44,387/-.

4. Investigation has also revealed that Mrs. Borah was working as an Asstt. Teacher in a school at Sibsagar during the period from 1988 to 1993 and she received salary to the tune of Rs. 93,600/- . Besides, the accused officer also claimed a gift of Rs. 40,402.00, but the I.O. had not taken into account such gift as no cogent evidence could be produced by the accused officer. The fact of receipt of such gift has also not been intimated to his department.

5. Sr.PP has mentioned in his FR.II that no witness has been examined by the I.O. and so, statement of witnesses are not available in this case. This is highly unsatisfactory on the performance of the I.O. who needs to be reprimanded by the supervisory officer.

6. In view of the facts and circumstances of the case, as indicated above, I am also inclined to be in agreement with the unanimous recommendations of the branch officers that the case should be closed since the allegations of possession of disproportionate assets by the accused officer do not hold good; and on the otherhand, a surplus savings of Rs.3,44,387/- has come on record.

(D.C. Saikar)
Deputy Legal Adviser,
CBI/Calcutta Region.

Attested
P.C. Chawla

COMMENTS OF SP IN CASE NO 27(A)/96-SHG

112

1) Case No. & date of registration : RC 27(A)/96-SHG
Dt. 12.7.96.

2) (i) Recommendation of I.O. :

I.O. in his FR-I has recommended that case may be closed as the allegation could not be established.

(ii) Recommendation of Sr. P.P. :

Sr. P.P. in FR-II has also recommended to close the case.

3) Comments of SP (Allegation/else) :

(i) Allegation :

This case was registered on the basis of source information. It was alleged that the accused Sh. P. K. Borah was found to be in possession of assets disproportionate to his known sources of income.

On the basis of the SIR, verifying officer had worked out that Sh. P. K. Borah had received total income for the period from 1986 to 1994 at Rs. 3,12,258/- whereas during the said period he was found in possession of assets worth Rs. 4,74,313/- thus he was found in possession of assets excess to his known sources of income to the tune of Rs. 1,62,055/-. The case was having a very weak footing right from the beginning because Sh. P. K. Borah has been working as Superintending Engineer in ONGC and has been getting very fat salary. However the case was registered since he was already processed and orders were obtained from the competent authority.

Soon after the registration of the case, searches were conducted on 10.10.96 at the native place of Sh. P. K. Borah as well as at the place of his posting at Mehsana (Gujarat). Thus for the purpose to calculate the income, expenditure and assets the check period has finally been taken from 23.8.80 to 10.10.96 i.e. the date of searches.

Sh. P. K. Borah joined ONGC as Asstt. Engineer (Civil) on 23.8.80 at Silsagar project of ONGC and thereafter he was transferred to ONGC project at Mehsana in May 1993 as Superintending Engineer. In between he got promotion as an Executive engineer on 1.1.85. He also got promotion as Dy. Superintending Engineer on 1.1.88 and as Supdtng. Engineer he was promoted on 1.1.92. Prior to joining ONGC, Sh. Borah was working as Asstt. Engineer in Assam Agricultural University, Jorhat. From Agricultural University he joined the service as Asstt. Engineer in PWD. Sh. Borah is basically a Civil Engineer from Jorhat Engineering college in the year 1979. It is worth mentioning here

Attached
P.K. Linn

Contd.....

that though he passed Engineering in 1979 but during his study he had joined Agricultural University under IDA project right from 1977.

Sh. Borah was married to Smt. Nayanjyoti Borah D/O Monoranjan Chetla of Silsagar in January, 1983. He has got 2(two) daughters namely Upasana Borah and Uddipana Borah aged about 11 years and 7 years respectively and one son namely Sh. Neet Borah aged about 4 years. His both daughters are school going. Mrs. N. Borah was working as a teacher in an English medium school namely Holy Name School at Silsagar from the period 1988 to 1993.

Prior to the check period i.e. 13.12.77 to 23.8.80 i.e. while Sh. Borah was working in the state services his total income was Rs. 28,800/- . The details of which has been calculated by the I.O. in his FR-I in the column "Income before the check period" and I.O. has taken 1/3 as his expenditure during that period thus his total saving was Rs. 19,200/-.

During the check period, the investigation has disclosed the total income of Sh. Borah, the accused the details of which are as under :

1)	Net income from Salary	Rs. 10,17,531.00
2)	Dividend received by him during 95-96.	Rs. 3,000.00
3)	<u>Agriculture Income :</u> Sh. Borah has claimed Agricultural income right from 1980-81 to 1995-96 i.e. 1.4.81 to 10.10.96 The benefit of this income has been given because he has been informing his department from time to time regarding the income he has been getting from his Agricultural land and the matter has also been investigated.	Rs. 86,700.00
4)	<u>Income Tax refund :</u> He has claimed income towards Income tax refund which are as under : I) 1993-94 Rs. 20,380.00 II) 1995-96 <u>Rs. 18,000.00</u> Rs. 38,380.00	

Contd.....

5)

The maturity value received by Sh. Borah from NSC/NSS/CDS for the period from 1992-96 comes to Rs. 2,16,695/-

Rs. 2,16,695.00

of FR-I.

6)

Profit on Sell of assets :
 i) In 1984 he had purchased a car vide No. AUS-1688 after taking loan from department and the same was sold at Rs. 28,000/- which sold in 87-88 for Rs. 51,000/- thus he had earned Rs. 23,000/-

ii) In 1987 he purchased a car No. WNW-291 at Rs. 1,12,000.00 which he disposed off and sold in 1992 at Rs. 1,20,000.00 thus he earned profit of Rs. 8,000.00

total Rs. 31,000.00

7)

Profit from Share :
 In 1992 he had purchased shares worth Rs. 26,100/- and in 93 he disposed off for Rs. 1,23,450.00. This point has been investigated into and the shares were disposed of through brokers. The certificate of the brokers has been collected by the I.O. Thus under this head he earned a profit of Rs. 97,350/-

Rs. 97,350.00

8)

Income from interest from the different banks, Post offices etc.:

Rs. 52,014.00

Thus the total income of Sh. P. K. Borah comes to Rs. 15,42,670.00

From the salary during the check period his total income comes to Rs. 10,17,531.00. 1/3 of the same has been calculated as expenditure as such it comes to Rs. 3,39,177.00 thus the net income from salary during the check period comes to Rs. 6,78,354.00.

Besides, the benefit of the savings of Sh. P. K. Borah prior to the check period has already discussed above i.e. Rs. 19,200.00 is added to the net likely saving during the check period of Sh. P. K. Borah come to Rs. (15,42,670.00 - 3,39,177.00) + 19,200.00 = Rs. 12,22,693.00.

As against the likely saving of Sh. P. K. Borah, investigation has disclosed that he has acquired the assets worth Rs. 8,73,306.00. Itemwise details are given in FR-I under the heading "movable and immovable assets acquired during the check period".

Contd.

From the above, it can be seen that Sh. P. K. Borah has got surplus saving to the tune of Rs. 3,32,207.00

Total Income : Rs. 12,22,693.00

(-1) Assets acquired: Rs. 8,78,306.00

∴ Surplus saving : Rs. 3,44,387.00
Thus, it can be construed that the allegation against the accused Sh. P. K. Borah has not been able to be established.

The investigation has also disclosed that during the period from 1988 to 1993 Mrs. Borah was working as an Asstt. teacher in Holy Name School at Silsagar and she had received salary to the tune of Rs. 93,600.00.

Apart from the above, Sh. Borah had claimed a gift of Rs. 40,402.00 as detailed below:

Gift during 1992-93:
(i) Krishna Kanta Borah his brother has given him gift of Rs. 20,201/- Rs. 20,201.00
(ii) Mrs. Pravabati Borah his mother has given him gift of Rs. 20,201/- Rs. 20,201.00
Rs. 40,402.00

I. O. has not given benefit of this amount as the gift show receipt has not been supported by any documents. Moreover, he has not informed the department about the expenses of gift by him. In view of the above fact I am of the opinion that I.O. has rightly denied this benefit to the accused.

(ii) Recommendation :

In view of the facts as discussed above, I am constrained to agree with the recommendation of the I.O. and Sr. P.P. and recommend that the case may be closed as the allegation against the accused could not be substantiated.

(M. K. Jha)
Supdt. of Police,
CBT, ACB, Guwahati.

Attached
P.K. Borah

Calendar of Evidence (Dr.)

03/12/96 13:20

116
ANNEXURE-A/10

CENTRAL BUREAU OF INVESTIGATION
REGIONAL OFFICE, CALCUTTA

Sub:- Comments of DIG, CBI, N.K. Region in CBI,
Guwahati Branch case No. RC 27(A)/96-SHG.

I have gone through F.Rs. and comments of branch SP and the DLA thereon, copies of which are forwarded to the Jt. Director(East) for kind perusal and orders.

This is a Disproportionate Assets case registered against Shri P.K. Borah, Supdtg. Engineer, ONGC, Hazira, Assam.

During the course of investigation the allegation of possession of D.A. by the accused has not been established beyond doubt. Investigation was also made to see if the accused had failed to intimate his deptt. regarding receipt of gift and purchase of land. Investigation revealed that in both the instances the accused had duly intimated to his deptt.

The branch officers and DLA have unanimously recommended for closure of the case. I find that there is no D.A., rather there is a surplus income of Rs.3,44,387/- I, therefore, in agreeing with the branch and DLA recommend for closure of the case.

Submitted to the JD(East) for kind orders. This is a JD level case.

Enclos:- As above.

Dy. Insp. Genl. of Police,

CBI, Calcutta Region,

Holding Addl. charge of DIG/ER.

Jt. Director(East), CBI, Cal.
ID No. 2648 /3/27(A)/96-SHG. Dated: - 28/11/96

Attached
P.K. Chawla

D. K. Chawla
3/11/96

C. P. D. K. Chawla
3/11/96

ANNEXURE- A/11

CENTRAL BUREAU OF INVESTIGATION
EAST ZONE: CALCUTTA

Subject: Observation of JD(East) in RC 27(A)/96-SHG

May kindly refer to ID / Letter / Fax No.(s)
dated

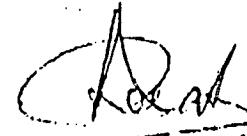
on the above noted subject.

Observations / comments of ~~DCM~~ / ~~SPBCL~~ / JD(E) is / are
reproduced below / enclosed for information and necessary action.

(C)

Who submitted the source information?

Please ask his explanation & close the
case."


Dy. Supdt. of Police 3/12/98
Eastern Zone / CBI
Calcutta

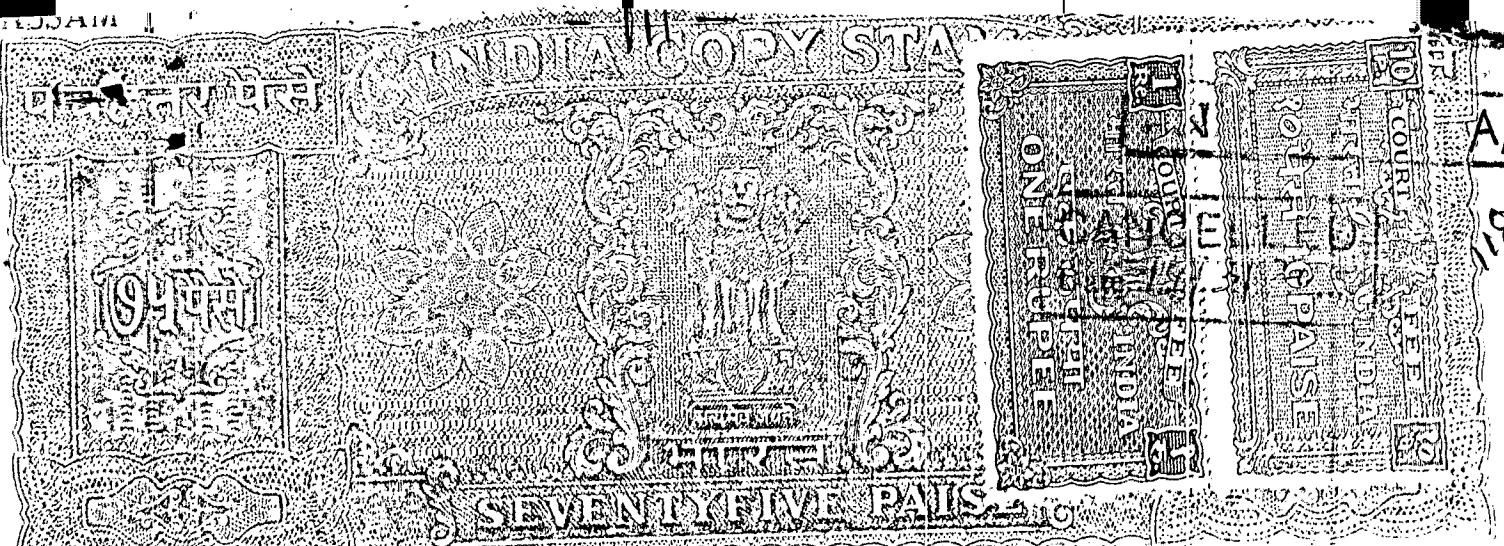
DIG/CB/1 N.E. Region Barracks Camp Calcutta

CBID No. 392/98/3/27(A)/96-SHG/42 dated: 3/12/98
Fox

Copy to SP, CBI, Barracks
and necessary action, for information

Dy. Supdt. of Police
Eastern Zone / CBI
Calcutta

Attached
F.I.C. L.W.W.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	राश्य और फोलिओ की अपेक्षित संख्या राजित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदन को प्राप्तिलिपि देने की तारीख Date of making over the copy to the applicant.
14 - 3 - 2000	14 - 3 - 2000	14 - 3 - 2000	14 - 3 - 2000	14 - 3 - 2000

IN THE COURT OF THE SPECIAL JUDGE :: ASSAM :: GUWAHATI.

SPECIAL CASE NO.1/2000

State

Vs.

Purna Kant Borah

Present:

Shri K. K. Das, M.A., LL.B.,
Special Judge, Assam,
GUWAHATI.

DATE

14.2.2000

O R D E R

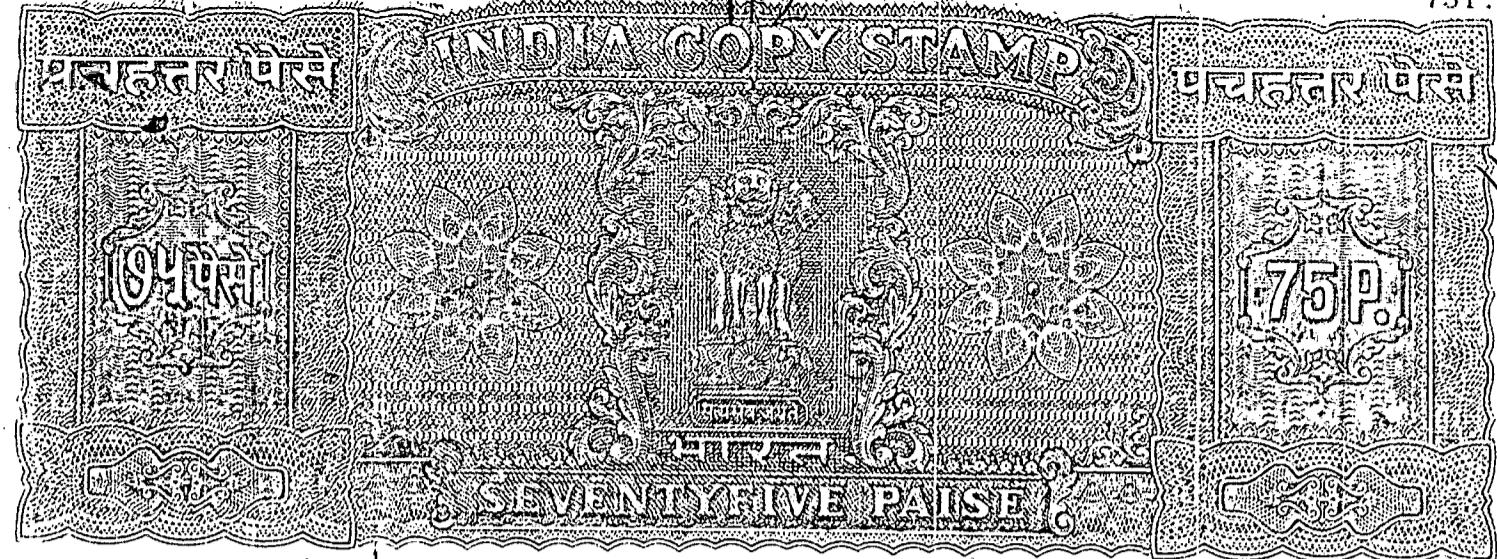
Seen the F.I.R. of R.C.27(A)96- SHG.
forwarded by the Supdt. of Police CBI/ACB/
Shillong vide his No. RC.27(A)96-SHG/4251
dated 12.7.96 alleging an offence U/s 13(2)
r/w 13(1)(e) of P.C. Act against the accused
Purna Kant Borah.

The case is registered. Also seen the
Final report submitted by Supdt. of Police
CBI/ACB/Guahati vide his letter No.
3/27(A)96-SHG/07573 dated 17.6.99. The
final report has been submitted.

Contd... 2/-

*Marked
P.C. Law*

A/1



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- : 2 :-

14.2.2000

Contd...

Seen the charge report.

Considering the materials on record the final report submitted by the I.O. is accepted. The accused is discharged.

Return the seized articles from whom it was seized in due course of time.

Sd/- K. K. Das,

Special Judge, Assam,
GUWAHATI.

TYPED BY

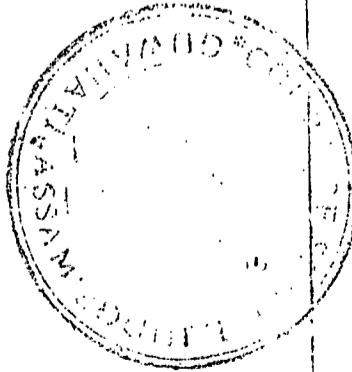
READ BY

COMPARED BY

14-3-2000
B. Bhattacharya
14-3-2000

Certified to be true copy

Sig. Khasnur Al.
14/3/2000
SP. 81
Authorised U/S 76, 1861 of 189



CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: :: GUWAHATI

Sub :

Departmental Inquiry proposed against Shri S.P. Singh Yadav under
rule 8 of the SDPE(Subordinate Ranks) (Discipline and Appeal Rule)
1961.

Charge sheet was served on Shri S.P. Singh Yadav, Inspector (under
suspension) vide memorandum No.1516/12/Comp/SLC/NER/Pt-II dt.22.5.2000,
proposing to hold departmental enquiry against him. Shri S.P. Singh Yadav was
directed vide this memo, to submit within 10 days, of the receipt of the
memorandum, a written statement of his defence and also to state whether he
desires to be heard in person. Shri S.P. Singh Yadav vide his letter dt.15.6.2000
submitted his reply to the charge sheet mentioned above.

2. The charged official (Shri S.P. Singh Yadav) has at the outset
denied the charge in toto alleging that it has been issued on him without jurisdiction
and that the charges as perverse, malicious, vindictive, mischievous, false and
incorrect and have been issued for misleading senior officer in respect of his
devotion to duty and integrity. All these grounds are imaginary and
hyperbolic, without basis.

3. The charged official has further tried to draw sympathy of others
officers including law officers and senior officers by alleging that since everybody
else had agreed with his recommendation for closure of the case, it would therefore,
by issuing charge sheet on him, tantamount to challenging their decisions, which all
of them had taken after bonafide satisfaction. He has further alleged that since
closure report submitted by him in this case which was forwarded by SP, CBI,
Guwahati to the Spl. Judge, Assam, Guwahati has been accepted by the latter on
14.2.2000, it would be improper and illegal to serve charge sheet on him, without
obtaining order of the competent court. He has also tried to mislead by saying that he

is not responsible for all these and S.P., CBI, Guwahati should be held responsible whose statutory responsible it was to do so. This tactics seems to be a dishonest ploy adopted by the charged official to confuse the issue to mislead the senior officers for gaining undue sympathy. In doing this, the charged official has safely forgotten that the officers concerned who had agreed / approved with the recommendation of the I.O. for closure of the case, did so merely basing their views on the final report submitted by the I.O., presumably in good faith and if the final report of the I.O. is found to be shoddy, unreliable, false, misleading and fabricated, prepared without conducting thorough investigation, the officers concerned who had examined the final report of the I.O. and had agreed with his recommendation which was finally approved by the higher authority can not be held responsible merely for having agreed with the I.O.s for his negligent and malafide conduct.

4. There is no necessity for obtaining order of the court for taking disciplinary action against the I.O. for his lack of sincerity, negligence, lack of devotion to duty and perfunctory and motivated investigation conducted in this case and the undersigned being the disciplinary authority is competent to take the action against him. In any case, the Higher Authority in CBI after being apprised of the situation have approved the proposed course of action, including his suspension and disciplinary action proposed against him which are being taken for his various acts of misconducts, lack of devotion to duty, insubordination and high-handed conduct/behaviour. The DGP, U.P. also been informed of the whole facts and they have not shown any disagreement with the course of action being taken against the Charged Official.

5. In order to assess the worth and veracity of the reply given by the Charged Official, the undersigned has gone through the C.D. file and relevant documents and got them checked through branch officials including Crime

Assistant. While going through the case diary file, an unsigned discussion note of the case held by the S.P with the IO is found enclosed with CD No. 24 dated 8/9/97. In this note, (page 92 of the CD file and page -3 of the discussion note) the details of premium paid against five different LIC policies of the accused and his family are indicated, as mentioned below:

<u>Sl. No.</u>	<u>Policy No.</u>	<u>Risk Date</u>	<u>Sum assured</u>	<u>Instalment of premiums</u>	<u>Name of Policy holder</u>
1.	33897325	17.05.80	15000/-	387.80 (Hly)	P.K. Bora
2.	440340367	28.03.92	100000/-	6947.00 (Yly)	-do-
3.	440552557	28.03.95	200000/-	11573.00 (Yly)	Mater meet Bora (L/A)
4.	440019163	06.05.89	100000/-	4653.00 (Yly)	P.K. Bora
5.	440340375	28.03.92	100000/-	6380.00 (Yly)	Mrg.Nayanjoti Borah,C/o P.K. Borah.

6. The total annual premium against these five policies comes to Rs. 30,328.60 and conservative calculation shows that total premium paid against these policies during check period upto 10.10.96 would be around Rs.1,40,200.60. But IO has, in his reply at para 13, denied this. The I.O. has neither verified the actual premium paid by the accused /his wife against these policies from L.I.C. nor taken the correct amount of premium paid against these policies during the check period, while calculating the expenditure of the accused. On the contrary he has asserted that the premiums against these policies were being deducted from the salary of the accused.

7. But from the salary statements / pay slips of the accused, it is found that only a sum of Rs. 612/- p.m. was being deducted from his salary which comes to Rs7,344/- per annum only and not Rs. 30,328.60/-. Moreover a glance at the seized documents (MR 54/96(10), showed that there were three premium receipts seized relating to policy number 440019163 (Sl. no. 4) and the sum total of premium paid against these three receipts comes to Rs. 21,489.30(ref page 15 to 17). These premiums were paid by cash which pertained to the period 5/93 to 5/96. As such the question of deduction of these premium from salary against this policy does not arise. The I.O. has not taken the actual premium paid into consideration against all the policies, excluding the deductions made from his salary.

8. The IO has given benefit of income to the accused to the tune of Rs.97, 350/- based on the latter's claim that he had sold 1500 shares of Pacific Granite , @ 82.30 per share, on 3/9/93 for total sum of 1, 23,450/- ,whereas these shares were purchased by him on 6/9/92 @ 17.40. The profit earned by the accused from the sale of these share was shown as capital gain and worked out to the tune of Rs 97,350/-. But in the property return dtd.3/3/97 , which the accused had submitted during investigation, the purchase and sale of these shares were not shown, nor the accused had sought permission /given intimation to his department regarding acquisition and disposal of these shares. Thus the accused violated the ONGC Conduct Rule for which disciplinary action should have been recommended against the accused by the I.O.,which he did not do.

9. As per the, Conduct Discipline and Appeal Rules, of ONGC Ltd. 1994, speculation in any stocks, shares or debentures are prohibited including frequent purchase or sale or both of shares , securities ,stock or debentures or other investment which are deemed as speculation within the meaning of this sub-rule(19.3) .Moreover as per sub rule19(4), for making investments in shares, securities, debentures or mutual funds scheme, etc. an intimation is required to be

given in the proforma, as prescribed in Annexure ONGC:CDA-7 to the Competent Authority, which the accused did not do. Yet the I.O. did not recommended any action against the accused on this score.

10. It is further observed that the IO did not seize the original income tax returns said to have been filed by the accused and his wife before the income tax authorities. This is a gross misconduct on his part. The I.O. merely relied on the statements of the accused and unauthenticated /unsigned documents produced by the accused before the I.O, which was uncalled for and unwarranted.

11. I.O. has also not verified the income of accused's wife from the authorities concerned where she was working or from where she is said to have derived her income. The IO has taken the statement of the accused and his wife as gospel truth without verification and without verification of these facts from income tax returns filed before the Income Tax Deptt. He also did not verify whether income shown by her in her income tax returns were manipulated income to cover up the illegal income of the accused.

12. Perusal of the duplicate CD file of the case available in the crime section further shows the last C.D. submitted by the I.O. was CD No.36 dtd. 16/12/98. In none of the CDs submitted by him, IO shown scrutiny of documents, seized during the search or collected during investigation. He has also not enclosed the scrutiny report of the documents in any of these CDs; neither this fact is reported any of the P.R relating to this case.

13. The Original CD file of this case is lying with Shri S.P. Singh Yadav (Charged Official). He should have deposited the original CD file in the Office while handing over charge which he did not do. By not doing so he has committed another misconduct. Even though SP, CBI, Guwahati Branch had issued a memo to him vide no. 05638/3/37(A)/96-SHG on 8th Sept'2000 directing Shri S.P. Singh

Yadav to deposit the original CD file of RC 27(A)/96-SHG with the crime clerk immediately, after obtaining a proper receipt, but so far, he has neither deposited the original CD file, nor responded to the above memo dtd. 8th Sept, 2000, issued by the S.P. The office copy of the said memo is enclosed.

14. Again, in the FR(I), while calculating the income of the accused, I.O. has taken a sum of Rs 2,16,695/- as matured value of NSCs without causing any verification. The entire sum of the matured value of NSCs was shown by the I.O. as his income i.e. profit on investment made in purchase of NSCs by the accused. The I.O. did not verify the movable and immovable property returns file of the accused (Personal file) seized during search(MR 54 /96(19), in which at page 18, the accused had shown his investment in purchase of NSCs from Sibsagar Post Office for a sum of Rs 80,000/-, during five years from 85-86 to 89-90. These NSCs, it seems had matured between 89-90 to 92-93 and as such the profits /gain by way of interest earned by the accused is (Rs. 2,16,695/- - Rs. 80,000/-) =Rs. 1,36,695/- But instead, the I.O. took the entire matured sum of NSC as accused income thereby giving to the accused an undue benefit of income of Rs. 80,000/- While doing so, the I.O. even did not verify from the Income Tax Returns of the accused to see if the said amounts of interest were shown by the accused in his income tax returns for the corresponding years.

15. As per Circular issued by CBI, while investigating D.A. Case (Ref Page 51 to 68 of CBI Circular / Standing Instruction Book) it is mandatorily required for I.O and the SP to seek the assistance of Technical Adviser, CBI at the earliest possible time. The I.O. was also required to incorporate this point in the plan of action. But nothing of this sort was done by the I.O. which facilitated him in making recommendation for closure of the case without conducting proper investigation.

16. The accused while booking a fiat UNO Car had actually expended a sum of Rs 23,300/- but I.O has shown only 2,300/- on this head. In his

explanation, he has justified this by showing that the accused had taken a loan of Rs. 21,000/- from the Bank for which he had paid interest of Rs.2,300/- only. As the repayment of loan was made by the accused the loan amount was used for booking of Flat UNO car the entire sum of Rs.23,300/- should have been shown as expenditure unless the booking amount was refunded later to the accused during the check period. This fact is also mentioned in the discussion note at page 92 of the CD file, attached to CD 24 dtd. 8/9/97.

17. In the matter of agricultural income also, the IO has given benefit of 86,700/- to the accused, although in the property return dtd. 3/8/90 the accused had shown agricultural income Rs 21,000/- only.

18. It is also found that the IO did not include expenditure of the accused on many heads such as educational expenditure of his children, expenditure on house rent, expenditure on conveyance including road tax POL maintenance (as the SO was having one car and one motor cycle and the expenditure on this head would have been quite considerable amount.)

19. As per CD file, the following letters were issued by the IO

Sl. No.	Letter No and date	to whom issued	page no in the CD file
1.	3/27(A)/96-SHG/3832 Dtd. 16/6/97	Mr. G. Mohan Eastern Gas Agency Nayanpur Path Ganeshguri Chariali, Guwahati-6	58
2.	3/17(A)/96-SHG/3830 Dtd. 16/6/97	Dr. R.K. Sharma President Pragjyotishpur Co-operative Gr. Housing Society Ltd. 4/4 Hawa Singh Block, Asiad Village Camp, New Delhi-110049	59
3.	3/27(A)/96-SHG/3834 Dtd. 16/6/97	The Land Settlement Officer Dy.Commissioner Office, Jorhat.	60

4.	3/27(A)/96-SHG/3833 Dt. 16/6/97	The Branch Manager SBI, Jorhat	62
5.	3/27(A)/96-SHG/3831 Dt. 16/6/97	The Regional Manager UBI, Sibsagar Region Donabora Road, Jorhat (Assam)	63
6.	3/27(A)/96-SHG/3983 Dtd. 23/6/97	The Manager, SBI Palvasan Branch Dist Mehsana, Gujrat.	65
7.	3/27(A)/96-SHG/3984 Dt. 23/6/97	The Manager, SBI, ONGC Coloy Br. Sibsagar	66
8.	3/27(A)/96-SHG/4571 Dt. 15/7/97	The Post Master, Mehsana HO Mehsana, 384001 Gujarat	69
9.	3/27(A)/96-SHG/4554 Dtd. 14/7/97	The Post Master, Head Post Office, Mehsana, Mehsana, Gujrat: 334001	70
10.	3/27(A)/96-SHG/4553 Dt. 14/7/97	The ONGC Employees Co.opee Credit and Thrift Society Ltd. ONGC Complex, Mehsana, Gujrat.	71
11.	3/27(A)/96-SHG/4552 Dt. 14/7/97	The Post Master Head Post Office, Sibsagar Sibsagar, 785640	72
12.	3/27(A)/96-SHG/4551 dtd. 14/7/97	The post Master, Head Post Office Sibsagar, Assam	73
13.	3/27(A)/96-SHG/4573 Dt. 15/7/97	Messers M.C.S. Ltd, Sri Venkatesh Bhawan Plot No. 27, Road No. 11 MIDC Area, Andheri (E) Mumbai-400093	75
14.	3/27(A)/96-SHG/4572 Dtd. 15/7/97	M/s Mafatlal Consultancy India Ltd. Calcutta 700071	76
15.	3/27(A)/96-SHG/4988 dtd. 5/8/97	The Sanskar Electronics Gujarat	81

16.	3/27(A)/96-SHG/4943 Dt. 5/8/97	The Branch Manager LICI, Sibsagar, Assam	82
17.	3/27(A)/96-SHG/4942 Dt. 5/8/97	Mehsana Radio Palace Raj Mehal Road, Mehsana	83
18.	3/27(A)/96-SHG/4941 Dtd. 5/8/97	The Company Secretary ONGCL, New Delhi	84
19.	3/34(A)/96-SHG/4940 Dtd. 5/8/97	M/s Bass Auto Private Limited Ahmedabad-380007.	85

20. But the CD file does not contain the replies of the above letters nor these have been shown in the FR(i) submitted by the IO.

21. IO did not enclosed calender of evidence, oral or documentary, while submltting FR (i). The copy of FR(I) which is undated Is available at pages 1 to 17 of the crime file (F.Rs) of RC. 27(A)/96-SHG. A typed copy of this FR(i) (unsigned) is available at page 18 to 30 .

22. The case diary file of the IO shows that he had not examined a single witness in this case and no statement of the witnesses are available in the CD file .This fact is also mentioned in the comments of Shri J.S. Terang , the then Sr. PP , now DLA dattd 25/3/98 at page 31 of FR(s) file .

23. Shri D.C. Sarkar the then Dy. Legal Adviser in his comments dtd. 12/5/98 at para.5 has also highlighted this fact. The DLA has mentioned in his comment that non-examination of a single witness by the I.O. is highly unsatisfactory for which I.O. needs to be reprimanded by the supervisory officer (page 41). But in the reply given by the IO, he has has not admitted a single fact /mistake mentioned above. On the contary he had made wild and baseless allegations against the undersigned imputing motive with a view to defame, humilliate and lower the dignity of the undersigned with malice, for which separate

actions have to be taken against him. Such conducts on the part of IO, including one mentioned at para 13 do not entitle him to enhanced subsistence allowance.

24. It is also seen from the documents at pages 36 to 40 and 44, 45, 46, 47 etc. of crime file containing original complaints and verification report etc that the accused was drawing HRA. But the IO has not taken into account payment of house rent by the accused for the period the accused was staying in hired accommodation.

25. On the whole, I find that there is no substance or merit in the reply given by Shri S.P. Singh Yadav to the charge sheets served on him as stated above. His reply/explanation is therefore rejected as being thoroughly unsatisfactory. In view of the above, the veracity of the charges levelled against Shri S.P. Singh Yadav, though not in doubt, still can only be tested during the oral inquiry, for which order shall be issued by the Disciplinary Authority shortly, by appointing Inquiry Officer and Presenting Officer and during the inquiry, Shri S.P. Singh Yadav should extend full co-operation for finalising the inquiry at the earliest.

100 Cen/22.10.2002
(K.C. Kanungo)
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

Sgri S.P. Singh Yadav (Through SP, CBI, Guwahati)

No. 4111 /12/Comp/SLC/NER/99/Pt.11

Dated: 22-10-2002

1. Director General of Police, U.P., Lucknow.
2. Addl. Director (EZ), CBI, Calcutta.
3. Supdt. of Police, CBI, ACB, Guwahati.

100 Cen/22.10.2002
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

After 2.11.2002

No 4121 /12/COMP/SLC/NER/99/(Pt.ii)

Government of India
Central Bureau of Investigation
O/O the Dy. Inspector General of Police
N.E. Region, Chenikuthi Hill Side,
Guwahati-781 003

Dated 23-10-2002

WHEREAS an Inquiry under Rule 8 of the Delhi Special Police Establishment (Subordinate Rank) (Discipline and Appeal) Rule, 1961 is being held against Shri Suresh Pal Singh Yadav, Inspector, CBI, ACB, Guwahati (now under suspension) (Ref. this ID No (i) 4111/12/Comp/SLC/NER/99/Pt.II Dated 22.10.2000 and (ii) 4105/12/Comp/SLC/NER/99/Pt.I Dated 21.10.2000)

AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to Inquire into the charges framed against said Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati (now under suspension).

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by subrule 3 of the said rule hereby appoints Shri V. Agashe, Dy. Supdt. of Police, CBI, ACB, Shillong Unit as the Inquiring Authority to inquire into the charges framed against the said Shri Suresh Pal Singh Yadav, Inspector, CBI, ACB, Guwahati (now under suspension).

Shri M. Banerjee, SI CBI, Guwahati is appointed as Presenting Officer to present the case before the Inquiring Authority.

1000 words
(K.C. Karungo)
DY. INSPECTOR GENERAL OF POLICE
CBI N.E.R GUWAHATI

Copy to:

1. ✓ Shri Suresh Pal Singh Yadav, Inspector, CBI, Guwahati (now under suspension) through SP, CBI, ACB, Guwahati.
2. Supdt. of Police, CBI, ACB, Guwahati.
3. Shri V. Agashe, Inquiring Authority, DSP, CBI, Shillong Unit.
4. Shri M. Banerjee, SI, CBI, ACB, Guwahati.
5. Director General of Police, U.P., Lucknow.
6. Addl. Director, CBI, Calcutta for favour of information.

*After 1st
Pic 2nd*

ANNEXURE-A/15

No. DISC/3/ 85

Government of India
Central Bureau of Investigation
O/o. Dy. Super. of Police
Anti-Corruption Branch,
Oakland, Shillong :- 1.

TO,

Dated : 24.1.2001.

Sh. S.P. Singh Yadav,
Insp. CBI/ACB/Guahati
(Under suspension)
(Through SP/CBI/ACB/Guahati).

Ref :- Memorandum No. 1516/12/COMP/SLC/NER/ (Part. II)
dated 22.5.2000.

The undersigned in the capacity as the Inquiring
Authority with reference to above Memorandum has fixed 1.2.2001
as the date for Preliminary Enquiry, you are hereby directed
to present yourself for preliminary enquiry at 2.00PM in the
O/o. Dy. SP/CBI/ACB/Oakland, Shillong :- 1 on the afore-said date.

24/1/2001

(VAIBHAV AGASHE)
Dy. Superintendent of Police
CBI(ACB)Shillong.
(ENQUIRY OFFICER)

No. DISC/3/ _____
Copy to :

Dated : 24.1.2001.

1. Copy forwarded to DIG/CBI/NER/Guahati for information
and necessary action, with a request to spare & direct
the following officers as per above programme - they are
Sh. S.P. Singh Yadav, Insp. CBI/Guahati (U/S) (CO) and
Sh. Manoj Banerjee, SI/CBI/Guahati (PO).
2. SP/CBI/ACB/Guahati for information & necessary action,
with a request to spare & direct Sh. M. Banerjee, SI/CBI/
Guahati (PO) to attend the P.H.
3. Sh. M. Banerjee, SI/CBI/Guahati (PO). He is requested to
attend the P.H. with the relied upon documents.

(VAIBHAV AGASHE)
Dy. Superintendent of Police
CBI(ACB)Shillong.

(ENQUIRY OFFICER)

Attnkd
P.M. Lwin
Received 2.7.2001
31/1/2001
12.00 hrs.

ANNEXURE-A/16

✓

To,

Sri Vaibhav Agashe
Dy. Supdt. of Police
CBI/ACB/SPE
Oakland,
Shillong - 1.

Sub : Memorandum No. 1516/12/COMP/SLC/NER/(Part.II0 dt.
22.5.2000.

Ref : Your letter no. DISC/3/82 dt. 24.01.2001. as received on
31.01.2001.

Sir,

May kindly ref above on the subject matter. In this connection I am forwarding herewith three separate letters containing 2,2 & 6 pages respectively (each page signed by me) for favour of your consideration and necessary action please.

Yours faithfully,

SPS
3/1/2001

(Suresh Pal Singh Yadav)

INSP/CBI/ACB/ U/s
Guwahati.

Attested
P.K. Datta

To

Sri Vaibhav Agashe
Dy. Supdt. of Police
CBI/ACB/Shillong
(Inquiry Authority)

Sub : Preliminary Enquiry in respect of charges vide Memorandum
No. 1516/12/COMP/SLC/NER/(Part.II) dt. 25.5.2000.

Ref : Your letter no. DISC/3/82 dt. 24.01.2001. as received on
31.01.2001.

Sir,

May kindly ref. as above on the subject matter whereby I am directed to present myself for preliminary Inquiry at 10 AM in the O/O the DSP/CBI/ACB Oakland Shillong-1 on 23/1/2000.

2. In this connection I am to state that I am unable to attend Inquiry as aforesaid for the following reasons :-

A) that the Disciplinary Authority i.e. DIG/CBI/NER Sri K.C. Kanungo vide his suspension order, CBI ID No. 1191/12/Comp/SLC/NER/99 dtd 28/4/2000 has directed me not to leave the Head Quarter without obtaining previous permission of DIG himself and since than I have received no communication from him as regards change of this condition restricting my movement outside Head Quarter i.e. Guwahati ever since my suspension w.e.f. 26.4.2000.

B) Furhter, you might be aware that as per provisions of suspension in fundamental rule if the period of suspension is extended beyond three months for any reason for which the suspended officer is not directly

Akhil
P.K.C.W.

and solely responsible for delay in Inquiry than his subsistence allowance would be increased to 75% of the pay. However long 9(nine) months has elapsed since my suspension w.e.f. 26/4/2000 without Inquiry and for no fault of mine in delay of Inquiry, and despite my appeal the Disciplinary Authority maliciously and with a sole malevolent objective of wrecking me mentally and financially didnot increased the subsistence allowance as per provision from 50% to 75% and thus condemning me to serious financial constraints and as such I am unable to attend Inquiry at Shillong and maintain myself at Shillong during course of Inquiry.

This is for kind information and necessary action please.

Yours faithfully,

(Suresh Pal Singh Yadav)
INSP/CBI/ACB/U/s
Guwahati.

P.K.P.
P.K.P.

To

Sri Vaibhav Agashe
Dy. Supdt. of Police, CBI/ACB
Shillong.
(Inquiring Authority)

105

Sub : Preliminary Enquiry in respect of charges vide Memorandum
No. 1516/12/COMP/SLC/NER/(Part.II) dt. 25.05.2000.

Ref : Your letter no. DISC/3/82 dt. 24.01.2001 as received on
31.01.2001.

Sir,

May kindly ref. above on the subject matter whereby I am directed to appear before you at Shillong on 23/1/2001 for preliminary Inquiry.

2. In this connection it is humbly submitted that in the subject matter neither the rule nor procedure whereunder the proposed Inquiry is to be conducted, has been mentioned. Further, the Disciplinary Authority, i.e. DIG/CBI/NER Sri K.C. Kanungo who himself prepared the charge memorandum after whatever preliminary Enquiry by him, failed to despatch as yet the essential and inseparable enclosures of charge memorandum i.e. list of witnesses and list of documents whereon the charges in proposed Inquiry are to be proved against me.

3. It is strange, but not beyond my prudent; that the Disciplinary Authority i.e. DIG/CBI/NER who is well aware of the fact and provision in CBI as well as procedural requirement of Disciplinary proceedings, that while sending SP's report to concerned departmental authorities for RDA proceedings, Charge memorandum, Article of charges, Statements of Imputation, List of witnesses and list of documents cited alongwith gists of witnesses and facts of documents to be cited in departmental proceedings etc, are invariably enclosed. Further-more for any failing in this regard he himself will call the investigating officer of

Attached
P.K. Agashe

W.W.

W.W.

the CBI to the Regional Office for preparing the same, but under no circumstances charge memorandum is sent without list of witness and list of documents to be relied upon.

In view of it, the reason, for failure on the part of DIG/CBI/NER to send them along with charge memorandum, and as heard in the department from reliable sources, are not far to seek but reasonably lead to believe that same has been done by Disciplinary authority with deliberate & malevolent objective to recast the said list of witnesses and list ^{OF} documents after receipt of my written statements in respect of charge memorandum to suite ~~his~~ design and in view of defence taken by me in W.S.

4. I have learnt now that said list of witnesses and list of documents are being casted under direction of DIG/CBI/NER Sri K.C. Kanungo. Whatever may as that be, I am least afraid of such malicious tactics of Disciplinary authority to secure tailor made Inquiry report under pressure from Inquiring Authority on the basis of tutored statement of witnesses and manufactured fact in documents after receipt of my written statement. However in the interest of justice & fairness and with a view to defend myself reasonably and properly, said list of witnesses and documents as proposed to be cited in said Inquiry be furnished to me first as per the provisions, and a reasonable time may also be provided to prepare my defence in view of above facts before any Inquiry.

This is for your kind consideration and necessary order please.

Yours faithfully,

22/3/1201

(Suresh Pal Singh Yadav)
INSP/CBI/ACB/ U/s
Guwahati.

Adm'd
P.C. 7/2011

To:

Sri Vaibhav Agashe
Dy. Supdt. of Police
CBI (ACB) Shillong
(Inquiring Authority)

Sub : Preliminary Enquiry in respect of charges vide Memorandum
No. 1516/12/COMP/SLC/NER/(Part.II) dt 25.05.2000.

Ref : Your letter no. DISC/3/82 dt. 24.01.2001. as received on
31.01.2001.

Sir,

May kindly ref. above on the subject matter. In this connection I have to submit.

2. That as you are aware that my appeal under rule 14 of DSPE(D.A) Rules against the order of suspension and memorandum of charges as above said, besides another memorandum of charges issued alongwith above said, vide No. 1516/12/Comp/SLC/NER(Pl II) dt. 22/5/2000 are pending before appellate authority i.e. Additional Director CBI/EZ/Calcutta for disposal. Thus in view of the fact that my appeal before ADCBI is pending for disposal, the inquiry against me should not be carried out until disposal, in as much as the completion of inquiry and imposition of the penalty on the basis of the same would render the appeal infructuous.
3. That it is also noteworthy that the inquiring officer who is appointed to undertake the Inquiry is undergoing probation period and confirmation of his service is depending upon the decision to be taken by Disciplinary Authority i.e Sri K.C. Kanungo DIG/CBI/NER. Therefore the

Attested
P.K. Linwa

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Inquiry Officer would be constantly under the pressure of the Disciplinary Authority and would be unable to exercise his Independent mind.

4. Further some incidents happened in recent past wherein the pay of the Inquiry officer was held up stating his official tour as unauthorized tour and the period on said tour as unauthorized absence and also in respect of his release from Shillong branch to join at New Delhi. On transfer where his respected wife (Newly wedded) is working, and thereafter the way he was not allowed to join at New Delhi on the message of Disciplinary Authority under threat of disciplinary action (which is still pending) and thus forcing him to recall and rejoin again at Shillong unit keeping the other departmental action in abeyance for time being, evokes a genuine apprehension in me that the Inquiry officer will be used as a tool by Disciplinary Authority to submit a tailor made Inquiry at the dictate of disciplinary authority by using the pending disciplinary matters against Inquiry Officer to succumb to the pressure of Disciplinary Authority that is Sri K.C. Kanungo DIG/CBI/NER.

5. It is also important to note the observation of the Disciplinary Officer i.e. DIG/CBI/NER appearing on page 84 of the Inspection Report of Guwahati branch by DIG during Dec'2000 that "The charged official has given his reply to these chargesheets which were not found satisfactory. Accordingly Sri V. Agashe DSP/CBI Shillong unit has been appointed as Enquiry Officer vide No. 4123/12/Comp/SLC/99 Pt(II) dt. 23/10/99 and Sri Manoj Banerjee SI as presenting officer. As E.O has been transferred to Delhi, he has been directed to get these inquiries completed early and before his relief". Under the circumstances the Inquiring Officer has no choice between Devil and the Deep-sea but only choice to be dictated by the Devil i.e. the choice offered by the worthy Disciplinary Authority i.e. DIG/CBI/NER Sri K.C. Kanungo to extract a tailor made Inquiry Report from Enquiry officer at the earliest with a view to pass punishment order against me

W.W. / W.W.

for extraneous considerations (already explained in appeal before ADCBI/EZ/Calcutta which is still pending disposal before him) and in bargain to withdraw disciplinary action against E.O., which may entail serious consequences for his entire service career, and than only release him to join his newly weded respected wife, separated by a distance of 2000 Km from the Enquiry Officer. A tempting choice indeed for any normal homosepian species of Darwin to jump upon with glea to grab the opportunity of joining the wife early, and in bonus earn the well deserved confirmation report of the DIG as well as dropping of proposed disciplinary matters, release of pay etc. for unauthorized absence etc. ordered to be made by the DIG/CBI/NER.

6. In my series of representation I have shown the animus of Disciplinary Authority against me and I have a reason to believe that Disciplinary Authority would exert his pressure on the Inquiring Authority to take a desired approach towards me in the inquiry. Therefore, in the interest of justice I request that a confirmed/permanent officer of the CBI, who is not directly working under him and outside his influence, should be appointed to act as an Inquiring officer. So that he can act independently & free from the pressure of the Disciplinary Authority.

7. Further it would not be inappropriate and out of place to bring to your notice, the reactionary, prejudicial, arbitrary and discriminatory remarks of Disciplinary Authority in his Annual branch inspection for the year 1999 and 2000 that "Reward should not be given to person like S.P. Singh who is using reward money for fighting cases against CBI".

"The last but not the least is gross partiality and harassment of department staff by deputationist officers, whose carrier prospects are being systematically damaged/destroyed in well planned manner and creating situation of internal infighting in organisation. They are adopting the Policy of divide and rule which has caused thorough demorlization among the departmental staff".

WW. WW

Thus in view of aforesaid observation, the truth is not far to seek and surmise that the Disciplinary Authority i.e. DIG/CBI/NER Sri K.C. Kanungo who is a departmental promotee is echoing his deep seated grouse against the deputationist in general and IPS officers in particular, through the mouth of lower staff, though none of them harbours or feed to such dangerous feelings in the organisation. May as that be, it is chilling and mortifying to learn that an officer of such an exalted position believes, harbours and propagate such dangerous doctrine, theorized on his real or imaginary perception, to describe the state of affairs in CBI. Therefore I have a reason to believe that the worthy proponent, discoverer and author of the Philosophy himself in reactionary vein under mental seize of the said philosophy is acting as a counter balance to systematically damage /destory the career prospects of me like deputationists in a well planned manner by initiating and instituting action against as many as 7 chargesheets for major and minor penalty with in a short span of 3 months on false flimsy & non existant grounds against which replies were given and appeal is pending for disposal under Rule 14 before ADCBI/EZ/Calcutta, putting me under suspension for more than 9 months until now without as per provision, stopping enhancing subsistence allowance after 3 months salary, ordering for not granting rewards as per his direction in inspection report of 1999. Not granting leave encashment in lieu of Earned leave as per existent provision, not granting deputation duty allowance at enhanced rate applicable since 1997, re-opening those matters without competence which were closed either by hon'ble court or his superiors like ADCBI Calcutta to find fault only but targetting superior I.P.S officers. The list is unending, however, last but not the least to mention is the passing of the order for initiating regular inquiry in all the chargesheets above said appointing Enquiry Officer by D.A. with full knowledge that my appeal against all of them are pending ^{for disposal} as yet before the appellate authority i.e. Additional Director CBI/EZ/Calcutta. Dr: U.N. Biswas I.P.S.,

a deputationist, which reeks malice of the Disciplinary Authority in as much as that the same was done with obvious motive to scuttle any move and obstruct application of Independent mind in disposal of my appeal by the appellate authority.

Thus I have a reason to believe that the Disciplinary authority with the aforesaid dangerous mental fixation has targetted me like lower deputationist as a tool for settling his career scars & scores as echoed by him in the aforesaid observation and I have a firm belief that the said chargesheets were issued by the disciplinary authority and passed order for initiating regular proceedings without sense of proportion and proper application of mind and under psychological infirmities as expressed by him in aforesaid Inspection Report, and thus I have a mortifying apprehension that any Inquiry under present Disciplinary Authority and by the Inquiry officer appointed by him will be a farce.

8. I am not afraid of above said 7 chargesheet issued so far or any other 700 might be contemplated by the Disciplinary authority, For Inquiry against me, after the Hon'ble Central Administrative Tribunal ordered for stay of my repatriation order in October 1999, but the important question herein is that why such senior officer should not learn to accept gracefully the verdict of the Hon'ble Court but use their supervisory and disciplinary stick to nullify the result of judicial orders and force obey their dictates outside court in the guise of supervision and impenetrable armour of Discipline, instituting inquiries at the drop of hats just to cause harrassment vexation and financial injury to lower subordinates. Thus I have a serious doubt that any Inquiry under present dispensation and in view of aforesaid could be carried out with Justice, Fairness and reasonable opportunity to defend myself.

N.D. N.W.

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I hope that necessary and appropriate action would be taken in the matter I have stated above and failing which I would be at liberty to seek appropriate legal remedies. I expect an expeditious reply of this request of mine and till the same is done Enquiry should not be started to precipitate the issue.

Yours faithfully,

220/31/11/2001

(Suresh Pal Singh Yadav)

INSP/CBI/ACB/U/s

Guwahati.

Attached
Pic file

सेन्ट्रल अडिमिनिस्ट्रेटिव बोर्ड
Central Administrative Board

30 APR 2001

गुवाहाटी फैसिलिटी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH (OA-NO:61 OF 2001)

BETWEEN

Shri Suresh Pal Singh Yadav, Inspector.
(Under Suspension),
Central Bureau of Investigation ,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.C.Baruah Road, Sundarpur,
Guwahati- 781 005.

Applicant.AND

1. K.C.Kanungo,
Dy. Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati.

Respondents.

2. The Dy. Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati.

3. The Union of India,
through the Secretary,
to the Government of India,
Ministry of Personnel &
Training, New Delhi.

Submission on behalf of Respondents including by Respondent
No.1 (who is also respondent No.2)

Para 1. The application is directed against the

(i) The memorandum No.1516/12/COMP/SLC/NER/(Pt.II) dated 22.5.2000 containing articles of charges
and
(ii) Order No.4111/12/COMP/SLC/NER/99/Pt.II dated 22.10.2000,
both issued by respondent no.1, the latter being the order rejecting the written statement of the applicant being found unsatisfactory and instituting Inquiry against the applicant.

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File No 26/3/01
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Para.2. Though the applicant has averred that the matter is well within the jurisdiction of the Hon'ble Tribunal but the respondent no.1 has serious reservations about the same, because both the orders referred to above, were issued by respondent no.1, on valid and legal ground, elaborating detailed reasons, which were self-speaking in nature.

Para.3. (Limitation) :- The appeal dt.18.7.2000 referred to by the applicant against the charge sheet was not done under the rule 14 of the Delhi Special Police Establishment Act(Subordinate Rank) (Discipline and Appeal) Rules, 1961, which provides for an appeal against suspension and not against the charge sheet issued to the delinquent official. Moreover, the applicant was issued with the charge sheets and was kept under suspension, with the approval of Director, CBI.

Para.4. (FACTS OF THE CASE) :-

Para.4.1. The applicant has alleged that his reply given to the charge sheet was rejected by respondent no.1, with sole purpose of his harassment and victimisation and that the charges brought against him were trumped up charges based on allegations, concocted by the Disciplinary Authority which is not a fact and denied. The charge sheet was issued in conformity with the law and after proper application of the mind to the facts in issue. This was necessitated to maintain efficiency, discipline and decorum in the office as the applicant was found to have committed serious acts of misconduct, negligence, improper investigation and insubordination and impropriety etc. which tended to subvert discipline of the office but for which the applicant was also kept under suspension with approval of the Director, CBI. The orders of the CBI H.O. communicating order of the Director for keeping the applicant under suspension and for initiating Regular Departmental Proceedings against him was received from Addl. Director, CBI, Calcutta vide Fax Message No.79/18/STAFF/JD(E)/99-CAL dt.23.3.2000, which is marked as Annexure-A/1.

There is no bar for taking disciplinary action against the applicant for acts of misconduct committed during period anterior in time to the

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appointment of respondent no.1 in his present capacity as Disciplinary Authority of the applicant. The report of investigation submitted by the applicant in RC.27(A)/96-SHG recommending closure of the case, though finally accepted by the competent Authority was based on the report and perfunctory investigation conducted by the applicant, forcing the higher officers to accept the recommendation willy-nilly. At the same time, it was pointed to the applicant by various officers who examined his report that his investigation was very poor and the applicant deserved to be reprimanded for conducting such investigation. In fact, the applicant recommended closure of the case without examining a single witness during investigation. Shri D.C. Sarkar the then Dy. Legal Adviser, CBI, now Additional Legal Adviser in his comment dt.12.5.98 at para 5 had observed that non-examination of a single witness by the I.O. is highly unsatisfactory for which I.O. needs to be reprimanded by the Supervising Officer. The comment of Shri D.C. Sarkar is enclosed as Annexure A/ 11(4).

Para.4.2. The facts relate to the appointment of the applicant in CBI as Inspector which is a matter of record.

Para.4.3. The applicant has maintained that his performance in CBI was exemplary as he received several rewards and commendations during discharge of his official duties. These rewards and commendations which were issued to the applicant appear to have been done more or less, in routine manner and these do not attest to any exemplary performance of duty by the applicant. This fact is further clear from the copies of the respective orders/ certificates issued in these regards and enclosed by the applicant with the application. It is further fortified from the report of Inspection dt.01.07.97 of the Guwahati Branch, conducted by Shri N.Mallik, IPS, DIG (predecessor of respondent no.1) whose observation in this regard is reproduced below :

" I have indicated in my previous inspection that SP was very liberal in granting rewards for undeserving cases. In my opinion the trend continued throughout the year, 1996 and also in early part of 1997. In fact, this tendency has been checked only after receipt of H.O. instruction regarding grant of rewards.

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I had earlier pointed out that rewards should be very selective and should be given not for routine works but for extra ordinary piece of work, like arrest of absconders, good and qualitative investigation, good recovery in searches, good trap cases or good convictions achieved. If the rewards are granted most liberally and indiscriminately, the same is bound to loose its importance.

It is therefore, clear that rewards and commendations granted to the applicant don't fall in any of the above categories.

Moreover the real character of the applicant and his perfunctory work and arrogant behaviour came to the notice of the Authority later, on account of which the following adverse remarks were recorded in the Applicant's ACR, during the period of the predecessor of respondent no.1 and was communicated to the applicant, vide No.511 dt.29.7.99.

- (i) **"He has tendency to finalise cases without collecting clinching evidence.**
- (ii) **He is an indisciplined officer and exhibits insubordination occassionally"**

Therefore the allegation made by the applicant that the charge sheets were issued to him by the respondent no.1 without applications of mind is absolutely baseless, mischievous and malafide in nature and without any substance, as these were done, perfectly in accordance with the law and procedure, after due application of mind.

Para.4.4. The applicant has attributed animus to the respondent no.1 which, according to the applicant, developed after the latter filed a petition (O.A. No.338/99) before the Guwahati Bench of the Hon'ble Tribunal, assailing the order of repatriation of the applicant issued by CBI and seeking his absorption in the organisation. This is thoroughly incorrect and mis-conceived as the order of repatriation of the applicant with immediate effect was issued not by the respondent no.1 but by the Head Office (H.O.) of CBI. On the contrary, the respondent no.1 had recommended in favour of the applicant, and had requested H.O. not for his immediate repatriation, vide No.1444/142/99-NER dt.16.9.1999

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which is enclosed vide Annexure- A/2. Moreover, it was not only the applicant alone who had been asked to be repatriated. Various other officials of CBI posted in the N.E.Region, both at Guwahati and Silchar Branch were ordered by H.O. for immediate repatriation after they completed their deputation tenure against which they filed petitions, before Hon'ble Tribunal. No charge sheets have been issued to any of them, unlike the applicant. These officials of CBI who had been ordered for immediate repatriation and who have filed petitions in the Hon'ble CAT, Guwahati Bench against their orders of repatriation are :

- (i) Shri K.M. Das, Inspector, CBI, Guwahati.
- (ii) Shri D.Dutta, Inspector, CBI, Guwahati.
- (iii) Shri A.K. Deb, PP, CBI, Guwahati.
- (iv) Shri D.Bhattacharjee, Inspector, CBI, Silchar.
- (v) Shri M.J.Kutton, Constable, CBI, Silchar.
- (vi) Shri Johny Thomas, Constabke, CBI, Silchar.
- (vii) Shri Ashit Kr. Deb, Constable, CBI, Silchar.

The application filed by last three officials vide O.A. No.416 of 1999 has already been dismissed by the Hon'ble Tribunal vide order dated 30.1.2001. observing inter alia, as under :-

"We have given our anxious consideration on the matter. In our opinion a deputationist as such can not claim any right to continue in the borrowing department. The deputationist continued to be an employee in his / her parent department but his / her service is place on deputation to a post outside his cadre in another department on a temporary arrangement. On expiry of the period of deputation, the employee is to go back to his / her parent department and to discharge the duty in the parent department in the same post or in a higher post if he / she earned promotion in the parent Department as per the service rules. The deputationists, as such, do not have any right for absorption in the borrowing department. No such rule / policy produced before us indicating any provision for absorption of the deputationist.

The above observation of the Hon'ble Tribunal is based on the decision of the Hon'ble "Delhi High Court in the case of Union of India Vs. Shri

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Mathura Dutta (CW.1721; 1889 and 1995/97) and the order of the Apex Court and Ors, in Civil Writ No.1721, 1889, 1895, of 1997 and the order of the Apex Court dated 13.12.1999 in SLP No.16694-95/99. The respondents also referred to and relied upon the Judgement of the Principal Bench of this Tribunal in O.A. No.872/98 (Prithvi Singh & Ors Vs. UOI & Ors) decided on 7.11.1998.

It is therefore prayed that the application of the present applicant filed vide O.A. No.338/99 may kindly be dismissed likewise, which is causing unnecessary trouble anxiety, loss of time to the respondents and CBI.

Para.4.5. It is not a fact that the applicant was convalescing on medical advice, having suffered from severe chest pain on 30.9.99. It has been apparent that the applicant unauthorisedly absented from duty, in order to evade the delivery of the H.O. order on him for his immediate repatriation, and other important communication from the office of SP CBI Guwahati and urgent matter which became clear from the subsequent conducts of the applicant.

Para 4.6. The allegation of Administrative high handedness of respondent no.1 is without substance, baseless and hence denied.

Para.4.7. It is not a fact that Dr. Rupali Baruah whom the applicant had consulted for his alleged chest pain was the nearest available Doctor as made out by the applicant. In fact Dr. Rupali Baruah was some way related to the applicant. She was not authorised to issue any Medical Certificate or Treat any patient, neither in her official nor in her private capacity. This fact has been confirmed by Dr. M.M. Deka, Principal-cum-chief Medical Supdt. Guwahati Medical College Hospital in his letter No.MCP/1/84/347 dt.3.5.2000 marked as Annexure-A/3.

Para.4.8. It is not a fact that the applicant had temporarily shifted to his in-law's house in Chenikuthi, Guwahati. This is because, the report of official sent by S.P., CBI, Guwahati to the residence of the applicant during the relevant period would clearly testify to the contrary. Moreover, the applicant, at no point of time reported this fact about shifting of his residence to his in-law's house to the SP, CBI, Guwahati, where he is working and which he was duty-bound to do.

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Again, the applicant has mentioned falsely that he was advised rest after check up in the Guwahati Medical College Hospital. Whereas Prof. (Dr.) B.R.Baruah, Supdt., Guwahati Medical College Hospital, vide letter No. MCH/829/82/381 dt.4.5.2000 (marked as Annexure A/4) has stated that after check up on 1.10.99, no rest was recommended to the applicant. The applicant also did not report again in the Guwahati Medical College Hospital for further treatment after 1.10.99. On the contrary, the applicant obtained another medical certificate from Dr. Rupali Baruah, who had no locus standi to issue any such certificate, and which was inadmissible.

Para.4.9. The so called medical fitness certificate submitted by the applicant was not a valid and proper one. As such, the said certificate was rightly rejected by the applicant's controlling Officer, i.e. S.P., CBI, Guwahati.

The applicant was called upon by his Controlling Officer i.e. SP CBI Guwahati, vide letter No.DPSHL.1999/05583/A/20/157/93 dt.30.11.99 (marked as Annexure A/5) to explain why the above period for which the applicant had applied for medical leave, should not be treated as unauthorised absence.

Para.4.10. The facts narrated by the applicant have not been correctly stated and is denied. In fact Shri J.N. Gogoi, SI who was asked by SP, CBI, Guwahati to visit the residence of the applicant for delivering two letters (Closed covers) to the applicant, after visiting the applicant's house several times found the house under lock and key. The reports of Shri J.N.Gogoi, SI, who had also met the wife of applicant on 2nd. occassion, are enclosed as Annexures A/6(1) and A/6 (2) . These reports clearly show that the applicant was not in his father-in law's house taking rest, as alleged. Had it been so, the applicant wife should have surely known this fact and informed CBI accordingly.

Para 4.11. The applicant has enclosed a copy of his written reply dated 6.12.99 - No comment.

Para 4.12. &

Para 4.13. Due to unauthorised absence of the applicant from duty from 1.10.99 to 28.10.99 (28 days), no salary was paid to the applicant by the Controlling Officer of the applicant as per the rule.

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Para 4.14. There is no such rule which would debar any controlling officer to verify the facts and pleas of his subordinate staff (applicant) regarding his unauthorised absence from duty, from the concerned deptt. And as such, the question of exercising of the police power, as alleged by the applicant is thoroughly irrelevant, misconceived and beside the point.

Para 4.15. It is a fact that the applicant, through his wife had loged a complaint to the Director, CBI and to Assam Human Rights Commission and had appealed to the Joint Director, CBI as stated by the applicant. Accordingly, Joint Director, CBI (now Addl. Director, East Zone) had conducted and inquiry into the said allegations made by the wife of the applicant which was found to be totally false and accordingly Joint Director, CBI, reported the matter to the Head Office. This fact subsequently came to the notice of respondent No.1 through the D.O. letter No.Dy.SDE 2000 003291/0079 dt.06.03.2000 of Special Director(E), CBI.

The allegation of the applicant that CBI personnel indulged in an improper behaviour at the residence of the applicant and tried to intimidate his wife and daughter is purely mischievous and malicious. The allegations were found false during the above inquiry. The reports of Shri Anil Borthakur, Head Constable and Shri Bhag Singh Katoch, Constable who were deputed by the S.P. to the residence of the applicant are enclosed as Annexure A/7 and A/8, alongwith the report of Shri A.K.Saha, DSP, vide No.A/10/157/93/04730 dt.28.07.2000, marked as Annexure A/9, who was asked to verify the above complaint of Smt. Jonali Barua, wife of the applicant.

Para 4.16. The applicant has alleged that sometime in November/ December, 1999, in file No.153/99/VOL.II/NER, the Respondent No.1 in his note to SP, CBI, wrote that rewards should not be given to person like S.P. Singh Yadav who is using the reward money for fighting CAT cases against CBI. Shri Manoj Deb, PA who is maintaining the above file after going through the said file has certified that no such note was recorded by respondent No.1 in the above file. This is marked as Annexure A/10.

Para 4.17. The applicant has referred to the order dt.28.3.2000, issued by respondent no.1, intimating the applicant that charge sheet will be served on the

applicant on account of allegation of gross misconduct, lack of devotion to duty and integrity, deliberate defiance of the order of superior officer, insubordination and making false and motivated allegations against the superior officers by the applicant. In view of the above, the question of substantiating the allegations at that stage did not arise.

Para 4.18. The applicant has stated that for denial of benefit of Special Duty allowance to him, he has filed a separate application before the Hon'ble Tribunal.

Para 4.19. The applicant has enclosed copy of the order of suspension dt.26.4.2000, issued by respondent no.1, as Annexure-A/5 - No comment.

Para 4.20. SP CBI Guwahati vide letter No.A.20/157/93/00832 dt.8.2.2000 has intimated that list of witnesses and documents were served on the applicant which is marked as Annexure A/11(1). The said list of witness and documents were sent to SP vide No.469/12/Comp/SLC/NER/99(Pt.II) marked as Annexure-A/11(2).

Para 4.21. The applicant did not conduct investigation properly and without examining a single witness recommended closure of the case.

Para 4.22. The opinion of Sr.PP, Shri J.S.Terang who examined the final report, shows clearly that the applicant did not examine a single witness during investigation as no statement of witness was/ is available in CD file. The opinion of Sr.PP dt.25.3.98 is marked as Annexure-A/11(3).

Para 4.23,

to

Para 4.25. Since the I.O. (applicant) did not examine a single witness, the question of perusal of statements of witness does not arise. Accordingly Shri J.S.Terang, Sr.PP certified as under.

"Certified that I have carefully gone through the FR(I). I have examined case diraries but I found that no witness have been examined by the I.O. and so no statement of witness are available in the case diary."

Para 4.26. As already stated above the then Dy. Legal Adviser in his opinion dt.12.5.98 (Annexure-A/11(4)), observed as under.

"Sr.PP has mentioned in his FR(II) that no witness has been examined by the I.O. and so, statement of witnesses are not available in this

case. This is highly unsatisfactory on the performance of I.O. who needs to be reprimanded by the supervising officer."

Para 4.27. Shri N.R.Ray, DIG in his comments dt.15.5.98 (Annexure-A/11(5)) also reiterated DLA view mentiond above, pointing our, inter-alia.

"Surprisingly in the FR(II), Sr.PP had mentioned that no statement of witness is available in this case and thus apparently, no witness has been examined. This is not only surprising but highly unsatisfactory. DLA has also observed accordingly. The branch SP should give his comments in this matter".

Para 4.28. In view of above Joint Director had no other option left than to agree with the views of officers above.

Para 4.29. The case was closed as I.O. (applicant) did not collect any evidence nor examined a single witness during investigation of the case.

Para 4.31. No Comments.

Para 4.32. No. Comments.

Para 4.33. The applicant has not furnished copies of relevant order/ Manual referred by him in the application. During inspection of the Guwahati Branch, the respondent no.1 found out various lapses of the applicant. As an inspecting officer of the Branch, the respondent No.1 was duty bound to examine all cases closed during investigation/ trial/ RDA to see if the closures were justified and take appropriate action against the defaulters.

Para 4.34. It is true that the work of the investigating officer (in this case the applicant) was required to be supervised by SP. That, however does not mean that the I.O. should not carry investigation properly and would throw the blame on the supervising officer for conducting shoddy and improper and motivated investigation. The question of supervison by higher officers became out of question as no proper report of progress of investigation was being sent regularly to higher officers.

**Para 4.35
and**

Para 4.36. Rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal) Rule, 1961. refer to Appeal against order of suspension. In the instant case, though respondent no.1 was competent to keep

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the applicant under suspension and initiate Disciplinary Action for major penalty under above Rule (marked as Annexure A/12 but he had taken prior approval of Director, CBI and as such the question of further appeal against the order of suspension does not arise. An extract of rule 14 of the above rule is mark as Annexure-A/13.

Para 4.37. Since there was no merit in the contention of the applicant in his written statement of defence, is as much as the applicant instead of replying to the charges against him, made wild and baseless allegations against respondent no.1, the written statement was rejected accordingly, vide order dtd.22.10.2000 passed by the respondent no.1 which has been enclosed by the applicant, along with his application, as Annexure-A/13.

Para 4.38. The order dtd.22.10.2000, of respondent no.1 was a detailed one, giving clear cut reasons as to why the defence of the applicant was not acceptable and pointing out the various lapses committed by the applicant. The applicant was found to have conducted improper and motivated investigation and did not examine a single witness during the investigation of the case nor incorporated all relevant facts in his Final Report. He also did not enclose, alongwith his Final Report, Calender of Evidence, oral and Documentary, which he was duty bound to do.

Para 4.39. The allegations of animus against respondent no.1 harboured towards the applicant, is thoroughly misconcieved and baseless. The conducts of applicant came under close scrutiny, alongwith other investigating officers, during inspection of Guwahati Branch of CBI in which applicant was serving.

Para 4.40. There is no question of coming to conclusion about the guilt of the applicant which has to be established during departmental enquiry only. Moreover, the final decision on the result of departmental proceeding has to be taken by the Disciplinary Authority of the applicant in the U.P. Police the applicant being a deputationist officer to CBI.

Para 4.41. The Preliminary Inquiry referred to by the applicant, is actually the Preliminary hearing which was proposed to be conducted by the Inquiry Officer to find out if all formalities had been completed before commencement of taking

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evidence of witnesses produced on behalf of the Disciplinary Authority. This was done to expedite the hearing only which the applicant does not want for his own vested interest.

Para 4.42

and

Para 4.43. The allegations made by the applicant are frivolous, baseless and without substance and hence denied. In case, the applicant was finding any genuine difficulty in attending the Inquiry at Shillong, which the applicant had none, he could have brought this fact to the notice of the Respondent No.1, sufficiently in advance. Moreover, Shillong being hardly 100 Km from Guwahati. It was quite possible on the part of applicant to return back on the same day after attending preliminary hearing.

Para 4.44. The allegation is baseless and without substance and hence denied. The Inquiry Officer has further clarified in his letter dt.12.3.2001 (Annexure-A/14) that though he had not received separate letter of confirmation in service regarding completion of his probation but the present posting amounts to the same. He had further enquired in the CBI Academy and Head Office CBI in this regard and he was told that no such letter is issued.

There is no question of the Departmental Enquiry against the applicant being held by another DIG, as long as the applicant remains posted under the jurisdiction of respondent no.1. In case, the applicant has desire to do so, he can submit a petition to the appropriate authority, seeking his transfer from Guwahati to Calcutta in his own interest which the competent authority may decide as may be appropriate, under the facts and circumstances of the case.

Para 4.45. As the conducts of the applicant were detrimental to the proper maintenance of discipline and efficiency, in the office, it was felt imperative to take action against him. Moreover, the misconducts on the part of the applicant were so grave and serious that he had to be kept under suspension and departmental proceedings initiated against him on account of various charges which has also been done with approval of the Director, CBI. Besides these charges the applicant has also been found to have charge sheeted an innocent person against decision of CBI Head Office in RC.15/93-SHG. Though the

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explanation of the applicant was called for by SP CBI Guwahati Copy endorsed to DIG vide no.00546/./15(A)/93-SHG dtd.23.1.2000 (Annexure-A/15), the applicant has not submitted any reply till date. The applicant also physically assaulted the complaint Shri A.K. Baruah for which disciplinary action has been taken against the applicant.

Para 5. GROUND FOR RELIEF WITH LEGAL PROVISION:

Para 5.1. The charge sheet was served on the applicant for not having conducted investigation properly in RC.27(A)/96-SHG and the various lapses on his part were pointed out in para No.5 to 24 of the order dtd.22.10.2000 issued by Respondent No.1 (which has been enclosed by the applicant with his petition as Annexure-A/13)

Para 5.2. The fact that the respondent No.1 was not posted as DIG when the applicant was carrying out investigation in the above case does not make any difference as the charge sheet can be issued at any time for the lapses committed whenever the matter came to the notice.

Para 5.3. The charge sheet have been issued in accordance with law and procedure. There is nothing in the CBI Manual which would militate against the impugned charge sheet on the applicant, issued vide No.1516/12/COMP/SLC/NER/ (PT.II) dtd.22.5.2000. The applicant has also not furnished copies of the relevant provisions of the CBI Manual on which he wants to bank upon.

Para 5.4. It is not the difference in opinion but the manner in which the applicant had conducted investigation, which was most callous and perfunctory leading to the closure of the case, which has been the subject matter of the charge sheet.

Para 5.5. The order dtd. 22.10.2000 of respondent no.1 is detailed one, giving clear cut reasons and pointing out facts and various lapses on the part of applicant for which he was charge sheeted.

Para 5.6. The allegations based on which the charge sheet was issued were incorporated in the inspection note of the respondent No.1 which was sent to the Joint Director/ Addl. Director vide No.121 dtd.15.1.2000. The relevant extract of

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the observation in the Inspection Report of respondent no.1(vide pages 43 to 48) is enclosed as Annexure-A/16 while forwarding letter as A-16(1).

Para 5.7. There is nothing as such to settle score with the applicant. The conduct of the applicant was so repugnant and so much detrimental to discipline decorum and efficiency that there was no other alternative left with respondent no.1 than to issue charge sheets against him for his various lapses. The applicant was also found unfit to be in CBI by the predecessor of respondent no.1, as mentioned above under para 43(Page 4).

Para 5.8. There is no merit in the contention of the applicant which has already been discussed under para 4.44 and Annexure A/14 above. The list of witnesses and documents were also furnished to the applicant, as has been mentioned under para 4.20 above(Annexure A/11(1) and Annexure A/11(2)).

Para 5.9. As mentioned earlier Preliminary hearing was intended to find out if all formalities have been completed for expeditious hearing.

Para 6. There is no provision under rule 14 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal) Rules,1961 for making appeal against the charge sheet.

Para 7. No comments.

**Para 8
and**

Para 9. There being no merit in the application as mentioned above, it is submitted that the application **may kindly be dismissed in limine, alongwith cost, for causing undue harrassement, tension and loss of time to the respondents.**

Recd by
(K.C. Kanungo)
Dy. Inspector General of Police,
CBI NER Guwahati(Respondent No.1).

Confidential

FAX MESSAGE. / BY SPEED POST

TO :DIG,CBI, N.E. REGION, GUWAHATI (.)

FROM SR.PA TO JD(EAST),CBI,CALCUTTA (.)

ORG. NO. 79 /18/STAFF/JD(E)/99-CAL. DATED 23.3.2000.

REFERENCE CBI ID NO. 383/12/COMP/SLC/NGR/99 DATED 11.2.2000 REGARDING COMPLAINT AGAINST SHRI S.P.SINGH, INSPR. CBI, GUWAHATI(.) EXTRACT OF THE OBSERVATIONS OF JOINT DIRECTOR (E),CBI, SDCBI (E) AND DCBI ARE SENT HEREWITH IN SEPARATE ENCLOSED SHEET FOR TAKING FURTHER NECESSARY ACTION (.) THIS ISSUES WITH THE APPROVAL OF JD (EAST),CBI.CAL(.)

PA
1C
2/1) ENCLO : AS ABOVE.

79/3/2000
(P.C.PAL)
SR.PA TO JD(EAST)
CBI/CALCUTTA.

G.D.
Superintendent of Police,
Central Bureau of Investigation
New Delhi

16
The Secy. DC(E) has sent a confidential
note to DCB(E) regarding the same matter.
DC(E) is fully concurred that the 12-gauge
stri S.P. SIR YAMAN SHOULD BE PLACED UNDER
SUSPENSION. DC N.E. IS COMPETENT TO PLACE THE
OFFICER UNDER SUSPENSION. SINCE THE INSPECTOR (H)
ALREADY MADE ENOUGH MOVE TO CREATE COMPLAINTS

8. I FEEL THAT DCB(E) AND DCB(E) MAY KINDLY
SEE THE REPORT OF DC N.E. AS ALREADY STATED
ABOVE I HAVE ANNECTED THIS REPORT VIDE FD NO.
DPUE 2000/57/70/Staff/DC(E)/2000. Col dt 15.2.2000.

29/2/2000

9. DCB(E) I have seen the enclosed
report and underlined the relevant
lines crushingly showing misconduct
on part of a sub-judge recommended
that he & remains under suspension
and P.D.A for major fraud be initiated
against him

A.P.D.
8/2/00
8/2/00
8/2/00

DUE DECO 05442000
6/3 10

21/2/00
6/3/2000

8/2/00
8/2/00

Action mounted

11/3/00

G.D. 11
Superintendent of Police,
Central Bureau of Investigation
(R.D.) Gavaham

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION, GUWAHATI, IN REPLY TO OA NO. 31/2001.

ANNEXURE A/2.

Sub: Repatriation of Shri S.P.Singh Yadav, Inspector
CBI, ACB, Guwahati.

Ref: H.O. No. DPADI 1999/00598/A-20014/1609/93 dt.
dated 18.2.99.

Repatriation of Shri S.P.Singh Yadav, Inspector.
CBI, ACB, Guwahati Branch, at the moment is not
recommended.

(K.C.Kanungo)
Dy. Inspector General of Police,
C.B.I., N.E.Region
Guwahati

Dr. Tarsem Chand, Administrative Officer(E), CBI, New Delhi.
No. 1444/142/99-NER Dated 16th Sept' 1999.

mk:

Superintendent of Police,
Central Bureau of Investigation
(C.B.I. Div.) Guwahati

Annexure A/3
04 NOV 2001

(18) - - CONFIDENTIAL

OFFICE OF THE PRINCIPAL CUM CHIEF SUPERINTENDENT
GAUHATI MEDICAL COLLEGE AND HOSPITAL :: GUWAHATI
::: :::::

NO. MCP/1/84/347

Dtd. Guwahati, May 03, 2000.

From :-

Dr. M. M. Deka, M.D.,
Principal-Cum-Chief Supdt.,
Gauhati Medical College & Hospital
Guwahati.

To

The Superintendent of Police,
Central Bureau of Investigation, ACB,
Sunderpur, Guwahati.

Ref :-

Your letter No. 02709/A/20/157/93, Dt. 03.5.2000.

Sir,

With reference to the above letter, I would like to inform you that -

1. Any registered M.B.B.S. Doctor is competent to issue certificate of ailments. But Dr. Rupali Baruah, MD is an officer in the rank of Assistant Professor working in Community Medicine Deptt. As such she cannot issue an official certificate.
2. It appears that Dr. Rupali Baruah has issued the certificate in her private capacity because no official number is there.
3. She is not entitled to do private practice.

Thanking you,

Yours faithfully,

DR
(Dr. M. M. Deka)
Principal-Cum-Chief Supdt.,
Gauhati Medical College & Hospital.

Annexure A/4

OA NO. 61/2001.

19

84



GOVERNMENT OF ASSAM

Office of the Superintendent
GAUHATI MEDICAL COLLEGE & HOSPITAL

Guwahati -781032. ASSAM. INDIA



No. MCH/829/82/ 381

Date 4-5-2000.

To

The Superintendent of Police
CBI, ACB, Sundarpur, Guwahati-5.

Subject:-

Information regarding medical certificate
in respect of Sri Suresh Pal Singh.

Ref:-

Your letter No. 02421/A/20/157/93, dated 17/4/2000.

Sir,

With reference to the letter number cited above, I
would like to furnish below the reply for favour of your information and
doing the needful.

- 1) As per record of OPD Cardiology, G.M.C. Hospital
Sri Suresh Pal Singh reported to this hospital
for treatment on 1-10-99 vide Hospital Entry
No. 17060/99 and Deptt. Regd No. 2062/99.
- 2) Dr. (Mrs.) Neena Nath, Resident Physician of
Cardiology Deptt. of G.M.C. Hospital had issued
the advice slip.
- 3) Photostate copies of the Cardiology OED for the
period from 1-10-99 to 27-10-99 provided. There
was no Cardiology OPD on 28-10-99.
- 4) The ECG was conducted on 1-10-99 vide ECG
Requisition Book, Deptt. of Cardiology Entry
No. 4349/99 (copy enclosed).
- 5) No rest was prescribed to the patient by
Dr (Mrs.) Neena Nath. Hence question of issuing
certificate from the G.M.C.H. does not arise.
- 6) The records reveal that the patient did not
visit subsequently after 1-10-99.
- 7) Dr. (Mrs.) Rupali Baruah, M.D. is an Officer
in the rank of Assistant Professor working
in the Community Medicine Deptt. of Gauhati
Medical College, Guwahati. As such the certifi-
cate which was issued by her to Sri Suresh
Pal Singh is not related with the G.M.C.H.

It appears that she had issued the
medical certificate in her private capacity.

Yours faithfully,

Prof. (Dr.) B. K. Baruah
Superintendent
Gauhati Medical College Hospital
Guwahati-32.

(20)

OA No. 61/2001

IN

ANNEXURE A/5.

ANNEXURE A/5.

— 55 —
GOVERNMENT OF INDIA,
CENTRAL BUREAU OF INVESTIGATION,
OFFICE OF THE SUPRT. OF POLICE,
ANTI CORRUPTION BRANCH,
GUWAHATI :—
IN REPLY TO OA NO. 61/2001.

Annexure A/5

A/2

132

NO. DP/SHL/1999/05583 /A/20/157/93 Dated, Guwahati 30/11/99.

To

Sri S.P. Singh Yadav,
Inspr.CBI/ACB/Guwahati.

Sub :- Sanction of Commuted leave w.e.f.
01/10/99 to 28/10/99 - req.

Refer your application dtd. 29/10/99 praying for Commuted leave w.e.f. 01/10/99 to 28/10/99. It is to inform that as per leave Rule 12(8) at page 154/C of Handbook 1999 it is stated that non Gazetted Govt. Servant should produce the medical Certificate from (1) C.G.H.S. Doctor if the Govt. Servant is a CGHS beneficiary and residing within the Unit of C.G.H.S. at the time of illness.

You have informed office through telephonic talk on 01/10/99 and petition dtd 05/10/99 that you will not be able to attend office due to illness, but you have not enclosed the medical Certificate of Doctor nor have you submitted any leave application in a prescribed form indicating the period of leave, nature of illness etc. The reasons given by you is not satisfactory due to the facts that as the officials of this office visited your house for delivering of urgent letter it is found that your house is remained under lock and key and on subsequent visit no satisfactory reply was given by your wife regarding your whereabouts etc.

In view of the above facts and circumstances, you are directed to explain as to why your leave period may not be treated as unauthorised absence.

Your explanation should reach this office within 3 days from issued of this memo failing which action will be taken as per rule.

Superintendent of Police,
CBI (ACB) Guwahati.

Memo No. DP/SHL/1999/ _____ /A/20/157/93 Dated:-

Copy to :-

1. The DIG/CBI (NCR) Guwahati for favour of information please.

Superintendent of Police,
CBI (ACB) Guwahati.

21

163

The Suptt of Police
CBI/ACB/ Guwahati

Sir

S.P. Singh Yolar exp. at Tarenraga for delivery
one Closed Box and his received order. But
I could not delivered the same to him on his house,
was found to under lock & key

However I enquired about him in
present whereabouts but no body can say about his
but to so no avail so such I returned to
Office - The Closed Box & received order is return
herewith.

Submitted for favor of information

Yours faithfully
(Signature)
21/10/99

(J. N. Gogoi S.I.)
CBI/ACB/GH/

Let him
try again
20/10/99

22

164

The Suptt of Police
CBI/ACB/ Guwahati

Sir,

As per direction of your goodness I visited hsp. S.P. Singh yadav residence at G.S. Road Garun magor several times for handing over the closed Cover dam. But I could not meet him all the times the house was found lock & key. Again on 21.10.99 I visited the same location on approaching I met his wife Mrs. Jinali Boruah who in a very bad manner passed remarks and also misbehaved using abusive languages saying ~~some where~~ Mr. S.P. Singh yadav has gone out in the morning some where she have no idea. And he have got no rights or power over the state where they are frequently staying. Since by no means she will receive the letter.

Finally having no other option I myself ha and the to bring back the closed Cover which is enclosed along with this letter for information and necessary action P.

yours faithfully

Chiru S.I.
1/21/99

(J. N. Gopi S.I.
CBI/ACB/GH)

They're 28/11
P.D. 11.00 AM
Tuition 11.00 AM
27/11

He

1. उत्तर :- तिरुनालम्पट 10-91, 2000 आम्रपालक 2657 जी ए.०. ने शुक्री तक पत्र भेजा और आदेश भेजा कि आप Comt (मृत) वाले लिहाजे के आवास जीकर्दे ये पत्र श्री S.P. Singh, Jodhpur के घर पर भेज कर आये।
2. उत्तर :- ए.०. आदाव ने आदेश भेजा और कहा प्रभाग नहीं।
3. उत्तर :- वर्त साथ Comt (मृत) वाले भिंह या श्री S.P. Singh, Jodhpur के घर भेजा था। तिरुनालम्पट 10-01-2000.
4. उत्तर :- श्रीकृष्ण घर के बाहर आ. फ्रॉन्टर वाले भिंह ने कोलंग बैल बराया।
5. उत्तर :- Shri S.P. Singh Jodhpur घर पर वही था।
6. उत्तर :- वही नहीं। उसके घर पर एक कोन कीवारी पाला वर्दी।
7. उत्तर :- हम श्रीकृष्ण जीपा या उसे जान्या Shri S.P. Singh Jodhpur अकिञ्चन नहीं वही था। उसे जान्या Shri S.P. Singh Jodhpur कोषा काला ही पाला वर्दी जीपा। वही।
8. उत्तर :- ए।
9. उत्तर :- आ. फ्रॉन्टर वाले भिंह ने खरापा कि आदाव का पता है, उन्होंने कहा कि अकिञ्चन के पता हम नहीं जीने। आदाव तो अकिञ्चन जीपा है।
10. उत्तर :- वही।

ப.ஒ.டி திருமதிக்குமராஜ் 000544 P-04 திருச்சிராப்பள்ளி - 517001

Count (a) and Count (b) are equal. Hence Q.E.D.

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3/2 :- SP Singh on E12 6X
पाया था। 3/2 दिन H.C. Bopthakur
on पाये office letter पाये थे 10 $\frac{1}{2000}$

(2) 3/2 :- MTO का नाम SP Singh का E12

3/2 Bopthakur का का E12

(3) 3/2 2/2 पाये H.C. Bopthakur 2T 1

(4) 3/2 :- SP Singh का E2 का नाम 2 calling
के लिए नहीं

(5) 3/2 :- SP Singh का का 1/1 नहीं था

(6) 3/2 :- 2/2 1/1 3/2 E12 का का का
नाम था परन्तु नहीं 1/1

(7) 3/2 :- का SP Singh का E12 का का
पेटी SP Singh का office का 1/1
नहीं Panayi SP Singh का E1

(8) 3/2 :- (ET) E1

(9) 3/2 :- SP Singh का wife का का का
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By. No.	2409
Date	1-8-2000



ANNEXURE - A/6.
IN REPLY TO OA NO. 307/2001
OA No. 61/2001

By: Na

Do

O/C. B. C. B. Guwahati

CONFIDENTIAL

25

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171

GOVERNMENT OF INDIA
O/O THE SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ANTI-CORRUPTION BRANCH
R.G.BARUAH ROAD,SUNDARPUR
GUWAHATI - 5.

No.A/20/157/93/ 04730

DATE :: 28/07/2000

To

The Dy.Inspector General of Police,
Central Bureau of Investigation
N.E Region, Guwahati.

Sub : Complaints lodged by Mrs.Jonali Barua regarding harassment by
CBI Officials on 10/01/2000 at her residence.

Ref : Your instructions dtd. 28/07/2000.

Sir,

On verification it is found that on 10/01/2000 Shri Anil Borthakur, Hd. Const. & Shri Bhag Singh Katoch, Const. both of CBI/ACB/Guwahati Branch were deputed to serve the Charge Sheet No.DO SHL/1999/0021/A/20/157/93 dtd. 10/01/2000 in a closed cover on Shri S.P. Singh Yadav, Insp. as he was not found present in the office. Accordingly the above said staff visited the residence Shri S.P.Singh Yadav. Shri Yadav was not present at his residence also. Mrs. Jonali Barua ,W/o Shri S.P.Singh Yadav who was present at the residence refused to accept the close cover addressed to Shri S.P.Singh Yadav. On her refusal to accept the letter , both the staff return back to office. Shri S.P.Singh Yadav did not return to office till end of the office hours on 10/01/2000, therefore the C/sheet could not be served on him on 10/01/2000. However the next day i.e. on 11/01/2000 the C/sheet was handed over to Shri S.P.S. Yadav when he came to office. On 10/01/2000 Shri Anil Borthakur submitted a written report that the C/sheet could not be served on Shri Yadav as he was not present at his house and his wife also refused to accept it . On the scrutiny of Attendance Register and Movement Register of IO's, it is found that Shri S.P.Singh Yadav has signed the attendance register on 10/01/2000 at 09.30 hrs. which has been authenticated by SP. As per movement register Shri S.P.Singh Yadav left office on 10.00 hrs. after making entry in the movement register as follows :

10/01/2000
10.00 hrs.

Proceeding to Central Bank of India ,Adabari and Pan Mkt.Branch,
PNB Mahavir Mkt. Branch in connection with investigation of
RC.5(A)/98-SHG.

26
176
Sd/-
S.P.Sing
Inspector/Guahati

Further on scrutiny of the case diary file of case no.5(A)/98-SHG, it is found that Shri S.P. Singh Yadav has not written any case diary on 10/01/2000 (He has written CD No.140 on 9/1/2000 & CD No. 141 on 11/01/2000).

He does not appear to have ~~been~~ submitted his weekly diary after 9/1/2000.

I have personally interviewed Shri Anil Borthakur,HC & Shri Bhag Sing Katoch,Const, they stated that no untoward incident had happened at the residence of Shri S.P.Singh Yadav when they visited the residence of Shri S.P.S. Yadav. They also stated that they were only instructed by ~~to do~~ to deliver the close cover to Shri Singh at his residence. It is not a fact that they were asked to conduct any search. I am of the opinion that had such incident happened Shri S.P.Singh Yadav would have lodged a complaint against the staff for their misbehaviours with his family members. But neither Shri S.P.Singh Yadav nor Mrs. Jonali Barua brought any such charges against the staff at the relevant point of time. To S.P.

I am , therefore, of the opinion that allegation against the CBI Staff is after thought and baseless. I am given to understand that Dr.Upen Biswas,IPS, Addl.Director,CBI(EZ), Calcutta (the then Lt. Director,CBI(EZ), Calcutta) during his last visit to Guahati on 14/02/2000 recorded the statements of Anil Borthakur,Bhag Sing Katoch & Mrs. Jonali Barua and others in connection with a similar complaint . ^{However} Further details of the same are not available in the branch.

Yours faithfully,

(A.K. Saha)

Dy.Suptd. of Police (HQ)
CBI/ACB/Guahati

/nc.

ANNEXURE A/10
IN REPLY TO OA NO. 30/2001.

(27)

PT

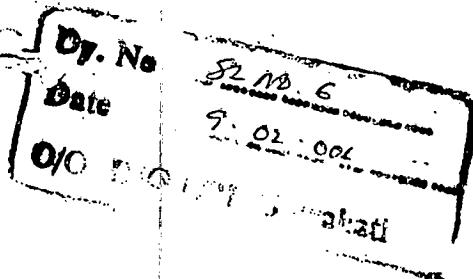
Ref: OA No.30/2001 of Shri S.P.Singh Yadav, Inspector,
(Para 4°16)

As desired by DIG CBI NE Region, I have thoroughly checked file No.153/99/VOL.II/NER which is being maintained by me. There is no such noting or facts recorded in the above file or in the Note sheet to show that DIG CBI NER had written any noting to indicate that reward should not be given to person like S.P.Singh Yadav, Inspector who is using reward money for fighting CAT case against CBI.

Manoj Kr Deb 5/9/2001.
(Manoj Kr. Deb)
PA to DIG CBI NER,
Guwahati.

Dy. Inspector General of Police, CBI, NER, Guwahati.

-oo-



NO.A/20/157/93-SHG/

Govt. of India
 Central Bureau of Investigation
 O/o Supdt. of Police,
 Sunderpur, Guwahati.

42
28

Dated, the _____

To

Sh. S.P. Singh Yadav, Inspr
U/S.

Sub:

Departmental Enquiry vide C/Sheet No.1378/12/Comp/
NER/99 dt.11.5.2000

Find enclosed copies of relevant documents as per list enclosed in the above noted departmental enquiry. Some of the documents of which copies have not been furnished are already available with you and some of which may be inspected in presence of the presenting Officer after/during the preliminary hearing.

Superintendent of Police,
CBI/ACB/Guwahati.

Endst.No.A/20/157/93/

80832
Dated: 8/12/2001.

Copy to the Dy.Inspr.General of Police,CBI,RO,Guwahati
w.r.t.469/12/COMP/SLC/NER/99(PT.II) dt.8.2.2001.

80832
Dy. Insp. General of Police
CBI/ACB/Guwahati.

Superintendent of Police,
CBI/ACB/Guwahati.

Annexure A/11(2) Annexure A/11(2) 11

OA No. 61/2001

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION :::: GUWAHATI.

Sub: Charge sheet issued against Shri S.P.Singh Yadav,
Inspector,CBI,Guwahati (under suspension) vide
Memo. No.1516/12/COMP/SLC/NER/PT.II
Dt. 22.5.2000.

Zerox copy of the listed documents are enclosed
herewith in respect of above departmental proceeding.

2. The remaining documents of which copies have not
been furnished are either available with the C.O. or he
can inspect the documents as soon as possible in presence of
the Presenting Officer after / during the Preliminary
Hearing. A fresh list of these documents alongwith copies
are enclosed a set of which may be delivered to the Charged
officer to-day (8.2.2001) as desired by DIG.

Enclo: As stated:

8-2-2001
for R.O. CBI, N.E.Region Guwahati

SP CBI ACB Guwahati.
No. 469 /12/COMP/SLC/NER/99/(PT.II) Dated 8-2-2001.

No. 470 /12/COMP/SLC/NER/99 (PT.II) Dated 8-2-2001

Copy alongwith list of documents & copies of
documents forwarded to :

(1) Shri V.Agahse, DSP CBI Shillong Unit (I.O.)
(2) Shri Manoj Banerjee, SI CBI Guwahati (P.O.)

No. 471

SC

ANNEXURE A-1L (3)

Govt. of India
Central Bureau of Investigation
Guwahati
Final Report - II

OA No. 61/2001

30

PAW

1. Case No. & date : RC. 27(A)/96-SHG dt. 12/7/96.
2. Section of Law : U/s. 13(2) R/w 13(i)(e) of P.C. Act. 1988.
3. Name ~~of~~ and design. of Prosecutor, preparing comments : Sh.J.S.Terang, Sr.PP.
4. Date when FA-I was received : 23-03-98.
5. Date when FA-II was prepared : 25-03-98.
6. Date when FA's were forwarded to H.O. :
7. Name & Design. of accused : Sh.Purna Kanta Borah Superintending Engineer/ Class-I Gazetted.

8. Brief story of the case :

The suspect officer(S.O.) entered in the service of Industrial Development Association, Education Project, Assam Agricultural University on 13-12-1977, then he has changed ~~his~~ his service by joining the Assam State PWD service from July '79 onwards and ag. in he has changed his service by joining in the C.N.G.C. service on 23-8-1980 as Assistant Executive Engineer(Civil) and he is continuing his service with the CNGC till the date of registration of this case on 12-07-96.

The instant case was registered on the basis of source information with the allegation that Sh.Purna Kanta Borah is having possession of assets which are disproportionate to his known sources of income.

Investigation has revealed that Sh.P.K.Borah is the ~~xxxxxx~~ eldest child of his parent, his father Lt.Ganesh Chandra Borah was ~~xxxxxx~~ blessed with the other children who are Chandra Kanta Borah (son) Nirmala Kumeri (daughter), Krishna Kanta Borah (son) and Bishwa Kanta Borah (son), Nirmala Kumeri was married to Shri GhanaNath of Jorhat. ~~xxxxxx~~ She is employed as Private Secretary to the General Manager, Geo-Physicist, D.V.B., CNGC Project.

Contd...

Jorhat. Shri Chandra Kanta Borah, Sh. Krishna Kanta Borah and Shri Bishwa Kanta Borah are all employed in Oil-Paid services.

Shri Purna Kanta Borah was married in Jan/1983 with Smt. Nayanjyoti Borah. And they were blessed with three children they are Upasana Borah (daughter), 11 years of age and studying in Class-V by now and Smt. Uddipanna Borah (daughter) 7 years of age and studying in Class-II by now, and Sh. Neet Borah (son) 3 years 6 months of age by now. Smt. Nayanjyoti Borah was from a well-to-do family.

For the purpose of investigation of this instant case the check period is taken from 22-8-80 the dt. on which Sh. P.K. Borah joined as Asstt. Executive Engineer in ONGC, Sibsagar, Nizara to 10-10-96 the date on which the I.O. equipped with a search warrant from Hon'ble Court conducted searches in the house and premises of Sh. P.K. Borah at Village Tilikim, Distt. Jorhat at his resident premises, Nizara, Sibsagar and at ONGC Housing Complex Mehsana, Saurashtra, Gujarat.

The I.O. has obtained the statement of pay-particulars from Dy. Manager (F & A) T.B.G. (PCS) EBC, ONGC Ltd. Sibsagar which was forwarded to SP, CBI, Guwahati by Sh. S.R.L. Kurdel vide his letter dtd. 20/10/97 for the period from 1985-86 to 1993-94 and for the remaining subsequent period till Feb/1997. The I.O. has obtained the pay-particulars from Dy. Manager (F & A) T.B.G., ONGC, Mehsana vide his statement dtd. 8/9/97 which was forwarded to SP/ CBI/Guwahati by Manager (Vigilance) Sh. C. Nangaraju vide his letter dtd. 30/9/97 and for the period from 1980 to 1985-86, The I.O. has obtained the pay-particulars from the accused himself. On the basis of pay-particulars so obtained the I.O. has calculated the gross amount of pay and allowances received by the suspect during the whole check period and came to ascertain that Rs. 15,52,663/- was the amount earned by the suspect.

Contd...

In course of investigation the I.O. Sh.S.P.Singh Yadav, Insp. has examined the suspect officer and tried to ascertain the other probable sources of income of the accused. And accordingly the I.O. has collected documents from Agricultural Extension Officer, Dahotia Circle, Titabor Agriculture Sub-Division Distt. Jorhat which supports the contention of the accused. And also ascertain the other sources of income as follows :-

- 1) Dividend and Interest Rs. 3,000/-
- ii) Income Tax Refund Rs 38,380/-
- iii) Matuirty value Receipt on NSC and others Rs. 216,695/-
- iv) Profit of Rs. 23,000/- by sale of Car Registration No. AMS- 1688 and profit of Rs. 8,000/- by sale of a ~~xxx~~ Car Registration No. WML-291.
- v) Share Profit earned Rs. 97,350/-.

~~xxx~~ On the likely expenditure side the I.O. has made the calculations by deducting 1/3 of the gross income of the accused all from known sources of income. Thus, the I.O. has worked out the likely saving of the accused person for the whole check period as follows :

- A) Rs. 15,52,662 gross pay and allowances
- B) Other sources of income which were detailed above comes to Rs. 4,73,125/- the combination of ~~xxx~~ both the figures make Rs. 20,25,788/- and the assets which the accused was likely to have in possession earlier to the check period ascertained by the I.O. was Rs. 19,200/-. Therefore, on the date on which the check period ends the accused can be said to have a total earning of ~~xxx~~ Rs. 20,44,988/- the 1/3rd of this figure makes Rs. 6,81,662.66 and Rs. 20,44,988 - Rs. 6,81,662.66 makes Rs. 13,63,325.34.

On the occasion of conducting the ~~xxx~~ searches the I.O. has made the inventory of the goods and particulars found which makes the total value of Rs. 4,76,306 which were ascertained and calculated on the basis of documentary and other evidences collected by the I.O. during the investigation.

the accused has made the payment of Rs. 2,28,000/- till the ending ~~xxxxxx~~ date of check period for purchase of a flat at New Delhi in the name of Bmt. Nayanjyoti Borah. ~~xxxxxx~~ And one plot of land at Jorhat covered by DAC No. 5242 was purchased by the accused during the year 1988-89 for Rs.42,000/- and another plot of land at Jorhat covered by DAC No. 5250 was purchased by the accused in the year 1993-94 for Rs.1,32,000/- only, thus, for the acquisition of land and landed property the accused has made the expenditure of Rs. ~~xxxxxx~~ 4,02,000/- only from his ~~xxxxxx~~ known sources of income.

9. Analysis :

The FIR allegations are not substantiated by the evidences collected during investigation and the evidences so collected are not sufficient to rebut the likely defences of the accused person.

The I.O. has collected the personal file of the suspect in respect of his service in the ONGC.

10. Difficulties : NIL.

11. Suggestions : NIL

12. Opinion :

I agree with the opinion of the I.O. recommending closure of the instant case as it is appearing from the evidences collected that in place of FIR allegations being substantiated the case is going otherwise favouring the suspect. There is no point on our part to make a prosecution case based on nothingness.

13. Recommendations :

I do the view of the I.O. in his FR-I.

14. Certificate :

Certified that I have carefully gone through the FR-I. I have examined case diaries, but I found that no witness has been examined by the I.O. and so no statement of witnesses are available but I have examined the material documents, plan of action etc.

before giving my comments and opinion.

301 Suby

Comments of DLA, CBI, Calcutta Region in c/w RC No. 27(A)/96-SHG.

I have carefully gone through the Final Report Part I & II as well as SP's comments thereon. This case was registered on the basis of source information against Shri Purna Kanta Borah, Superintending Engineer, ONGC, Nazira, Assam u/s 13(2) r/w 13(1)(e) of P.C. Act, 1988 on the allegation that the accused officer while posted and functioning in various capacities in the ONGC, during 1986-1994 had amassed huge assets, both movable and immovable, by corrupt and illegal means which was grossly disproportionate to his known sources of income to the tune of Rs. 1,62,155/-.

2. In this case, there has been an unanimous recommendations of the branch officers viz. I.O., Sr.PP and S.P. for closure of the case since evidence collected during investigation does not support the allegations made in the FIR.

3. Investigation conducted has collected evidence, both oral and documentary, to establish the following figures of income during the check period from 23.8.80 (i.e. the date of joining ONGC) to 10.10.1996 (i.e. the date of search).

a) Assets during pre-check period	Rs. 19,200/-.
b) Income during the Check period	Rs.15,42,670/-.
c) Expenditure during C.P. (1/3rd of salary Income Rs.10,17,531 during C.P)	Rs. 3,39,177/-.
d) Likely Savings during C.P.	Rs.12,03,493/-.
e) Assets during C.P.	Rs. 8,78,306/-.
f) Likely saving plus Assets during the pre-check period.	Rs.12,22,693/-.
g) Surplus Likely Savings during C.P.	Rs. 3,44,387/-.

4. Investigation has also revealed that Mrs. Borah was working as an Asstt. Teacher in a school at Sibsagar during the period from 1988 to 1993 and she received salary to the tune of Rs. 93,600/- . Besides, the accused officer also claimed a gift of Rs. 40,402.00, but the I.O. had not taken into account such gift as no cogent evidence could be produced by the accused officer. The fact of receipt of such gift has also not been intimated to his department.

5. Sr.PP has mentioned in his FR.II that no witness has been examined by the I.O. and so, statement of witnesses are not available in this case. This is highly unsatisfactory on the performance of the I.O. who needs to be reprimanded by the supervisory officer.

(4c)

(35) 79

6. In view of the facts and circumstances of the case, as indicated above, I am also inclined to be in agreement with the unanimous recommendations of the branch officers that the case should be closed since the allegations of possessions of disproportionate assets by the accused officer do not hold good; and on the otherhand, a surplus savings of Rs.3,44,387/- has come on record.

D. C. Sarkar 12/5/78
(D.C. Sarkar) Deputy Legal Adviser,
CBI/Calcutta Region.

Annexure A-11 (S)
O A NO. 61/2001

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Central Bureau of Investigation
Calcutta Regional Office.

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Sub:- Comments of DIG, CBI, N.E.R. in RC 27(A)/96-SHG.

In the aforesaid case, the allegation in brief was that Shri P.K.Borah, Supdtg. Engineer, ONGC, Nazira, Assam had acquired assets disproportionate to his known sources of income, during the period 1986 to 1994 by corrupt and illegal means, to the tune of Rs.1,62,155/- . Investigation conducted and evidence collected during the period of check I.e. 23.8.90(the date of joining) to 10.10.96(the date of search) had shown a surplus saving of Rs.3,44,387/-.

2. Investigation had also revealed that Mrs. Borah was employed in a school during 1988 to 1993 and had received around Rs.93,600/- as salary. The accused has claimed that he had received a gift worth Rs.40,402/- . However, it was not accepted by the I.O. as no cogent evidence in support of the said gifts could be produced by the accused officer. Neither any intimation regarding this receipt of gifts had been furnished by him to his department/authority.

3. Surprisingly in the FR-II, Sr. PP had mentioned that no statement of witness is available in this case and thus apparently, no witness has been examined. This is not only surprising but highly unsatisfactory. DLA has also observed accordingly. The Branch SP should give his comments in this matter.

4. It is also necessary to find out as to whether, under the prevailing Departmental Rules, the accused officer was required to intimate his authority about receipt of gifts etc. If any such lapse/violation could be found, we can at least recommend departmental action against him.

5. Branch SP also should indicate as to what was the outcome of verification made during SIR stage and the basis of recommendation for registering an RC against the said officer.

2
15/5/98
(N.R.Ray)
Dy. Insp. Genl. of Police
CBI: N.E. Region.

SP/CBI/Guwahati

CBI ID Note No. 878/RC 27(A)/96-SHG

Dt: 15/5/98

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SCHEDULE

Annexure A/12 (1) Annexure - A/12
OA NO. 61/2001

DESCRIPTION OF RANK OR POST.	APPOINTING AUTHORITY.	AUTHORITY ENDOWED TO IMPOSE PENALTIES AND PENALTY WHICH IT MAY IMPOSE.		
		AUTHORITY	PENALTIES	APPELLATE AUTHORITY.
1	2	3	4	5
			<ul style="list-style-type: none"> (i) Fatigue duty in the case of Constables only; (ii) Extra Guard Duty (in the case of Head Constables and Constables only); (iii) Black Mark; (iv) Censure; (v) Withholding of increments or promotion; (vi) Recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders; (vii) Reduction to a lower rank or post or to a lower time scale of to a lower stage in a time scale; (viii) Compulsory retirement; (ix) Removal from service which shall not be a disqualification for future employment; (x) Dismissal from service which shall ordinarily be a disqualification for future employment. 	

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DELEI SPECIAL POLICE ESTABLISHMENT
(SUBORDINATE RANKS)

1. Inspectors including Technical Inspectors, Assistant Public Prosecutors Grade-I	Dy.Inspr. General of Police.	(1) Supt.of Police/ Assistant Inspn. General of Police. (2) Dy.Inspt.Genl. of Police.	(iv) to (vii) All	(1) Dy.Inspt.Genl. of Police. (2) Inspector General of Police.
2. Sub-Inspers. including Technical Sub-Inspectors, Asstt.Public Prosecutors Grade-II and Asstt.Sub-Inspector.	Dy.Inspr. Genl.of Police.	(1) Supdt.of Police/ Asstt.Inspector General of Police. (2) Dy.Inspt.Genl.of Police.	(iv) to (vii) All	(1) Dy.Inspt.Genl. of Police. (2) Inspector Genl.of Police.
3. Head Constables.	Supdt.of Police/(1) Dy.Supdt.of Police. Asstt.Inspector General of Police.	(1) Dy.Supdt.of Police (2) Supdt.of Police/AIG.	(ii) All	(1) No appeal allowed. (2) Dy.Inspt. General of Police.
4. Constables.	SP/AIG.	(1) Dy.Supdt.of Police (2) Supdt.of Police/AIG.	(i) & (ii) All	(1) No appeal allowed. (2) Dy.Inspt.Genl.of Police.

NOTE: (1) In respect of Subordinate Police Officer the ranks of HCs & FCs attached to Headquarters of the Delhi Special Police Establishment, the Asstt.Director(P) will exercise the powers of the Supt.of Police as noted above. SP Hqrs. in CBI H.O. will now exercise the powers in place of AD(P).
 (2) In particular cases in which the Inspr.Genl.of Police was actually the appointing authority, the punishments at items vii to x will be awarded by him.

Contd...274

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EXTRACT OF
THE DELHI SPECIAL POLICE ESTABLISHMENT (SUBORDINATE RANKS)
(DISCIPLINE AND APPEAL) RULES, 1961.

PART - IV APPEALS.

14. APPEALS AGAINST ORDERS OF SUSPENSION:

" A subordinate Police Officer may appeal against an order of suspension to the authority to which the authority which made or is deemed to have made the order is immediately subordinate."

ANNEXURE A/10/14
IN REPLY TO OA NO. 101/2001.

SL NO. 8

Dated 12.03.2001

Guwahati

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F A X

TO : DIG CBI NER GUWAHATI (.)
FROM : DSP CBI ACB SHILLONG (.)

DATE : 12/3/2001

NO. DISC/1/ 851

1. REPLY TO PARA - 4.30.

THE PROBATION PERIOD FOR DSP'S IS ONE YEAR AND IT IS ALREADY OVER IN MY CASE(.) THOUGH I HAVE NOT RECEIVED ANY LETTER FROM HEAD OFFICE REGARDING COMPLETION OF MY PROBATION, MY POSTING AT SHILLONG HAS COME AFTER SUCCESSFUL COMPLETION OF PHASE-1 AND PHASE-2 OF TRAINING AND CLEARING OF WRITTEN EXAMINATION(.)

2. REPLY TO PARA - 4.35

THOUGH I HAD NOT RECEIVED ANY SEPARATE LETTER OF CONFIRMATION IN SERVICE, THE ORDER FOR THE PRESENT POSTING AMOUNTS TO THE SAME (.) I HAD ENQUIRED IN THE CBI ACADEMY AND HEAD OFFICE IN THIS REGARD BUT I WAS TOLD THAT NO SUCH LETTER IS ISSUED (.)

12/3/2001
DY. SUPERINTENDENT OF POLICE
CBI/ACB SHILLONG UNIT
SHILLONG-1

AK
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M3

SP CBI ACB Guwahati.
No. 546/12/COMP/SLC/NER/99/PT.I (Vol.I) Dated 19-3-2001.
CBI, N.E.Region, Guwahati.

Copy alongwith enclosures to :

Dy. Director (Admn) CBI, New Delhi.

SC

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GOVERNMENT OF INDIA
 CENTRAL BUREAU OF INVESTIGATION
 OFFICE OF THE SUPDT. OF POLICE
 ANTI - CORRUPTION BRANCH
 SUNDERPUR, GUWAHATI-5.

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Dy. No. 279
 Date 24-01-2001
 O/O. DIG CBI. Guwahati

Reminder

No. /3/15(A)/93-Shg.

Dated _____

To

Shri S.P. Singh Yadav,
 Inspector of Police (U/S),
 Guwahati.

Sub:- RC 15/93-SHG. Submission of your explanation thereon as called by DIG-req.

Please refer this office endorsement No. 07572 dtd. 6/12/2000 and letter dtd. 22/12/2000 the explanation called for from you is still awaited. You were allowed to peruse the concerned file etc as desired by ~~you~~ you in your letter dtd. 14/12/2000.

You are hereby directed to submit ~~as~~ your explanation within 5(five) days from receipt of this letter as the same is to be put up to DIG for further necessary action.

CK
 23/1/01
 Superintendent of Police,
CBI : ACB : Guwahati.

Endst. No. 07546 /3/15(A)/93-Shg.

Dated 23/1/01

Copy for information to :-

✓ The DIG/CBI/NER/Ghy. with ref to his IDNO 298 dtd. 19-1-2001.
 Immediate action would be taken on receipt of explanation from Sh. Yadav.

Superintendent of Police,
CBI : ACB : Guwahati.

Eh/

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i) SI/SHG/99/16 : This SIR was entrusted to him on 23/9/99. It is pending verification. IO should submit verification report at an early date.

ii) SI/SHG/98/11 : I.O. has already submitted his report which has been sent to JD(E) on 4/11/99.

(iv)(11)(47) COMPLAINT :

i) CO/SHG/99/28 : This was marked to IO on 13/12/99 which is under verification and should be completed early.

(iv)(11)(48) INSPECTOR S. P. SINGH YADAV : During inspection of ACB, Guwahati Branch all IO.s were called for interview by the undersigned. Inspector S. P. Singh Yadav though he was called to report to the DIG at RO for discussion of his cases he did not report.

From his personal file it is seen that he joined CBI on deputation from U. P. Police on 24/9/93. During his entire tenure in CBI since his joining he had finalised 10 cases out of which the following two cases ended in closure.

- i) RC 20(A)/96-SHG
- ii) RC 27(A)/96-SHG

None of his cases which have been disposed of finally. These are all pending under RDA or Trial, as given below :

i)	RC 15(A)/93-SHG	Pending Trial
ii)	RC 16(A)/93-SHG	Pending Trial
iii)	RC 27(A)/93-SHG	Pending Trial
iv)	RC 3(A)/96-SHG	Pending Trial
v)	RC 5(A)/96-SHG	Pending Trial
vi)	RC 5(A)/94-SHG	Pending Trial/RDA

CASES PENDING IN RDA :

i)	PE 7(A)/94-SHG	Pending RDA
ii)	PE 12(A)/95-SHG	Otherwise disposed of

CASES CLOSED DURING INVESTIGATION :

i) RC 27(A0/96-SHG : This case was registered against Shri P. K. Borah, Supdt. Engineer, ONGC, Nazira who reportedly an officer in the Agreed List.

(iv)(11)(50) In the FIR registered on 12/7/96, it was alleged that the SO during 1986 to 1994, had total income of Rs. 4,68,286.00 while his assets were to the tune of Rs. 4,74,313.00. The SO had incurred expenditure during the above period to the tune of Rs. 1,56,000/- (calculated as one third of income)

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and as such he was alleged to have acquired assets disproportionate to his known sources of income , punishable u/s 13(2) r/w 13(1)(e) of PC Act, 1988.

(iv)(11)(51) During investigation searches were conducted on 10/10/96 at various places including residence and office of SO. Inventories of House hold goods were also prepared.

The perusal of CD file and FR(i) shows that the I.O. either did not know how to conduct investigation of a DA case or he had deliberately made a total mess of investigation. He had taken an extended check period beyond what was mentioned in the FIR. The check period should have been selected making it as short as possible, keeping in view acquisition of major assets by the SO. which in this case was confined to a period of 8 years (approx) from 1986 to March, 1994 as given in the FIR. It should have been reduced but was unnecessarily extended to December, 1977. Though on papers, I.O. had shown check period from 23/08/80 to 10/10/86, he virtually extended it up to 13/12/77. A comparision of movable asstes of SO in the FIR and what was actually found by IO as mentioned in his FR(i) is given below .

Item	Value shown in FIR	Final calculation
NSC	Rs. 80,000.00	Rs. 55,000.00
NSS	Rs. 20,000.00	NIL
UTI	Rs. 10,000.00	Rs. 20,000.00
Jevandhara	Rs. 14,800.00	Rs. 14,800.00
Bank Balance	Rs. 44,013.00(2 accounts) A/c No. 443 & 838	Rs. 58,095.00 (5 A/cs
Motor Cycle	Rs. 31,500.00	Rs. 31,000.00
Car	Rs. 1,00,000.00	Rs. 1,50,000.00
Farm Equipments	Rs. 12,000.00	Rs. 12,000.00
Total Rs. 3,12,313.00		Rs.3,30,895.00

(iv)(11)(52) Movable assets which were not shown in the FIR, but found out during investigation and included in the Final calculation of Assets by IO are as under :

Share	Rs. 40,500.00
Onida TV	Rs. 22,700.00
Refigerator	Rs. 13,000.00
Booking of Fiat UNO	Rs. 2,300.00
Cash	Rs. 17,000.00
IDBI Bond	Rs. 5,300.00
	Rs.1,00,800

(iv)(11)(53) Thus there has been increase in movable assets by 1,19,382.

likewise in case of immovable assets also the value of
which was shown as Rs.1,62,800/- in FIR, consisting of the plot of land, licensed

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upto 4,02,000.00 , on account of booking of a flat by S.O's wife at Delhi for which a sum of Rs, 2,28,000.00 was paid to the housing Co-operative society at Delhi , during the check period .

It is therefore apparent from above that the S.O. had deliberately concealed the above payments and assets acquired by him in the name of his wife , which he did not disclose it in his proforma property returns submitted on 3/3/97 to his Department during investigation of this case. This gross misdeclaration on the part of the S.O. would have made him liable for prosecution or atleast he should have faced regular Deptt. action, but I.O. in stead recommended closure of the case.

Apart from the above , a number of gross misconducts have been committed by the I.O. during investigation of the above case , as mentioned below .

(i) I.O. did not scrutinised the seized documents nor did he submit any scrutiny report . The CD does not indicate any such action on the part of the I.O.

(ii) He did not collect proper evidence to prove each item of income, assets, and expenditure of the S.O. As a matter fact, the I.O. did not examine a single witness during investigation of this case and as such did not submit calender of evidence (oral) and Calender of evidence (documentary), alongwith the FR.(i) submitted by him.

(iii) The I.O. wrote a few letters to some authorities /Bodies etc. for verifying expenditure and assets of the S.O. but without waiting for their replies or without showing the result of the replies so obtained in the case diary or FR(i) , hurriedly submitted Final Report ,part:I without collecting any evidence, being in league with S.P. Shri M.K. Jha .

(iv) The I.O. did not consider various expenditures incurred by the S.O. during the check period , even though documentary evidence were available to proof such expenditure , in order to make out a case for closure .

(v) The I.O. did not calculate premium paid by the S.O. on account of five LICL policy to the tune of 5.15 lakhs ,the annual premium of the these policies being to the tune of Rs 30,328.00 and did not include these amounts in the expenditure of the S.O. during the check period .

(vi) Likewise , the I.O. ,did not include expenditures of the S.O. on many other heads like (i)educational expenditure of the childrens.(ii)payments of house rent made by S.O.(iii)expenditures incurred on conveyances,including payment made towards road tax, insurance , POL and maintainance , as the S.O was having one car and one motor cycle during the check period ,which would have been quite substantial.

(vii) The I.O. allowed a lost of benefit to the S.O. on account of his income without any shred of evidence and without any logic , merely on statement of the S.O.

(viii) The I.O did not disclose about the proforma property return submitted by the S.O. dated 3/3/97 , collected during investigation of this case in order to allow various benefits to the S.O. which the S.O. himself did not show in his proforma property return dtd. 3/3/97, obviously with malafide intention .

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(ix) Like wise , IO allowed income to the tune of 2,16,695.00 on account of matured values of NSCs etc. without collecting proper evidence and giving benefit of the entire matured sum of NSCs and other such investment as the income of the S.O. during the check period , whereas only interest earned by the S.O. against this investments should have been considered as his income during the check period , provided he had declared /shown these incomes in his Tax returns and property statements .

(x) The I.O. allowed benefit agricultural income to the tune of 86,700.00 to the S.O. during the check period , all though the S.O. in his property return dtd. 3/8/90 had shown income of Rs 21,000.00 on the said , which had accordingly been taken into account in the allegation against the S.O. in the F.I.R.

(xi) The I.O. has shown an amount of Rs. 2,300.00 as booking amount for booking Fiat UNO car thought the S.O. had actually deposited a sum of Rs. 23,300.00 against the said booking .

(xii) The I.O. again allowed benefit of income to the S.O. to the tune of Rs. 97,350.00 towards alleged profit made by the S.O. in the purchase and sales of shares during 1992 to 1994, although this was not shown by the S.O. in the proforma property return dtd. 3/3/97 nor in the income tax return filed by the S.O. The IO also did not conduct any verification in this regard and gave the entire benefit to the S.O. obviously with fraudulent intention .The I.O did not recommend any action against the S.O. for concealment of this income of the S.O. said to have been derived from the sale/purchase of shares .The speculation in purchase /sale of shares is itself a misconduct generally prohibited in the conduct rule .The I.O. did not requisition the services of Technical Officer for scrutinising the seized documents in this case which mandatorily required to be done obviously with dishonest intention,for closure of the case .

(xiii) Shri M.K. Jha, SP who supervise the investigation of this case winked to all these gross misconduct of the I.O. and did not point out at any time any of these lapses and directed the I.O. to submit FR(i) hurriedly as is clear from the Case Diary No.24 dated 8/9/97 submitted by the I.O. in which the following facts were recorded

“ During the discussion, the worthy S.P. averred that as there are no evidence of substantial assets against the suspect , therefore it would be extemly difficult to initiate a law prosecutuion case against the suspect. However, he advised to expedite the investigation and give FR(i) soon , discussion note is enclosed herewith for perusal .”

Thereafter the I.O. submitted FR(i) after examinint the accused and taking into account what the accused stated as the absolute truth.

There are other factors to show that both the I.O. and SP Shri M.K. Jha were responsible for closure of the case with the Malafide intention on account of which an RC may be registered against them.

(1)RC.34(A)/96-SHG:This is High Court referred case. The allegation relates to misappropriation of about Rs. 38 Lakhs by some employees Guwahati High Court, such as Record Arranger(Class-IV). Upper Division Asstt, Treasury Officials, Audit officials etc. the main

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accused is Shri Wahid Ali, a Class-IV employees who has already been dismissed from service. The orders of Special Director on the F.Rs in this case was received in the Branch in the month of Aug/Sept but lot of delay took place in the preparation of SP's report. The articles of charges statements of imputations, draft sanction orders were also not properly prepared and checked as a result of which the SP's report had to be returned by the Regional Office again and again. The I.O. did not collect the relevant conduct rules applicable to the officials against whom RDA was recommended by him. As a result the SP's report could not be forwarded to the Registrar, Guwahati High Court which could be done only 31/12/1999. The explanation of the IO has also been called for by the undersigned and he has been directed to get the draft charge sheet prepared vetted and keep ready which would be filed after sanction for prosecutions are received. This should be expedited by the IO through personal contact. The Sanctioning Authority should be examined before issuing sanction order with reference to original documents and statements of witnesses recorded by the IO relevant to the charge. This procedure should be followed in all cases where sanctions are required to be issued.

(2) RC. 5(A)/98-SHG Dt.11/2/98: The above case was registered on 11/2/98 under section 7 and 13(i)(e) of PC Act, 1988 and Section 120B IPC against Shri K.R. Ganesh and others, pursuant to seizure of Rs 25,31,200/- from his possession at Guwahati Air Port on 6/9/97, followed by seizure of another Rs 4 lakhs during search of his house at Guwahati. Shri K.R. Ganesh also confessed before Shri Dinesh Sharma, Executive Magistrate, Kamrup, Guwahati that seized Cash were paid to him by different contractors/parties whom he had favoured by issuing various types of work orders but subsequently alleged that his statement was extracted under coercion. Thereafter he has been taking different stands at different times.

I have found that the I.O. is unnecessarily delaying in investigation in this case and not taking prompt action on the instruction issued by the undersigned. As huge amount of cash was recovered from the possession of the accused who is under suspension, the I.O. should have confined the investigation to a small period, say about 1 year or so on the allegation of D.A but instead of so doing he has unnecessarily expanded the investigation in different directions as a result of which the investigation is dragging unnecessarily.

In this case though, seized cash recovered from the possession of the accused consisted of a number of bundles of currency note of Rs. 100/- and Rs. 500/- denominations bearing bank slips, of different bank. The I.O. was asked out to whom these bundles of cash were issued. But though he has examined the Bank Officials, but he has not found out so far, to whom

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(a)

these bundles had been issued, who should all be examined. This exercise is important to rebut the plea of the accused and other persons who are colluding with him in creating false defence. the I.O. has been asked to complete the exercise by end of January, 2000 and submit FR-I failing which actions would be taken against him.

The conduct of this I.O. is worth mentioning here. After his order for repatriation was issued by HO the I.O. did not attend office. His whereabouts could be traced after many days, he submitted medical certificate showing that he was sick. But actually, he was trying to obtain a stay order from the CAT/ High Court. After his petition was dismissed by Hon'ble Guwahati High Court, he has filed another petition in the CAT., Guwahati Bench against the order of repatriation which is yet to be decided.

There were complaints against him and the complainant Shri A.K. Baruah was called to the Regional Office by Dy. S.P. , Shri K.C. Choudhury on the instruction of undersigned and after he was examined Shri S.P. Singh Yadav finding the complainant in the Regional Office lost his temper and began assaulting the complainant abused him in unparliamentary language in front of the room of DIG. When his explanation was called for, he has started making false allegations against DIG and other staff concerned alleging that this is a conspiracy made against him to defame him. The SP has been asked to initiate RDA against the inspector and report the matter to CAT about his aforesaid conduct and unworthiness of the Inspector to continue in CBI any longer.

ADANI MAO, INSPECTOR: No personal interview could be held with him during inspection as he is posted at Shillong Unit, at Shillong. However , he is having the following cases with him under investigation:

(1) RC. 31(A)/96-SHG Dated 13.9.96: This case was registered against (i) Lt. Col. V. K. Mahajan(@ MGAR)(A-1), (ii) Maj. I.S. Basnet(@ MGAR)(A-2), (iii) Maj. Pwan Wahi of 3 MGAR(A-3) (iv) Nb/sub. P.S. Verma, (A-4) (v) LNK Mjukund Das (A-5) and (vi) M/s Kapcon (A-6), on the allegation that the accused person conspired among themselves pursuant to which 20 thousand Gorkha Hats were purchased from M/s Kjapcon (A-6) at exorbitant rates and 100% payments were made to the supplier even though the accused firm had supplied Gorkha Hats much less in quantity and quality causing loss of several lakhs to the Govt. of India etc. This case was transferred to the present I.O. on 11.12.98 from the previous I.O. Shri D.B. Singh, pursuant to his transfer to Bombay. The previous I.O. had examined 12 witnesses and the present IO has more or less examined the same number of witnesses but so far no evidence has been collected

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Annexure A/16(1) By: Sri. Moushumi
O A No 61/2001
CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: :: GUWAHATI

Sub:

INSPECTION OF ACB GUWAHATI BRANCH BY DIG
CBI N.E.REGION GUWAHATI

I am enclosing herewith a copy of the inspection report of Guwahati Branch held by the undersigned at different times during December'99 and January'2000, for favour of your information and necessary action.

*Received
14.1.2000*
(K.C. KANUNGO)
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To
JD(E), CBI, Calcutta.
U.O. No. 121

Dated: 15-1-2000

Reed Inspection report contained
Pages 01 to 104 and Annexure - Containing
Pages 01 to 27. *Recd 21/1/2000.*
(Panmaj Kr. Ssn. Const).

ref: 14