

GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 134/2001

R.A/C.P No. ....

E.P/M.A No. ....

1. Orders Sheet, O.A-134/2001 ..... Pg. .... 1 ..... to ..... 2 .....
2. Judgment/Order dtd. 16/11/2001 ..... Pg. .... 1 ..... to ..... 4 ..... allowed
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A.....134/2001.....Pg.....1.....to.....82.....
5. E.P/M.P.....N.I......Pg.....to.....
6. R.A/C.P.....N.I......Pg.....to.....
7. W.S submitted by the Respondents Pg. .... 1 ..... to ..... 15 .....
8. Rejoinder submitted by the applicant Pg. .... 1 ..... to ..... 6 .....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

## FORM NO.4.

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWATHI BENCH ::::: GUNAHATIORDER SHEET  
APPLICATION NO

134 OF 2001

Applicant (s)

Sri Sardesam Jageswar Singh

Respondent(s)

Ceo 2018

Advocate for Applicant(s) Mr. M. Chanda, Mrs N. D. Goswami

Advocate for Respondent(s) Ma G. N. Chakrabarty

CGSC

Notes of the Registry

Date

Order of the Tribunal

This application is in form  
of application  
filed vide  
C.P.  
No. 301  
dated vide  
P.R.S. No. 64792/68  
Dated 3/4/2001  
1/e D. Register. 4/4/01

6.4.01

Present: Hon'ble Mr. Justice  
D.N. Choudhury, Vice-Chairman.  
Heard learned counsel for the  
applicant.

Application is admitted. Issue  
notice on the respondents. Call for  
records. List on 9.5.01 for orders.

Vice-Chairman

Replies not  
yet filed:

lm

55  
9.5.2001

No written statement so far  
has been filed by the respondent. The  
list is taken after four weeks to  
enable the respondents to file written  
statement.

List for order is on 13.6.2001.

Vice-Chairman

Replies filed. Notice  
prepared and sent to  
D/S. for giving the respondents  
No. 1 to 4 by Regd A.A.  
Wt. D/ No. 1929/ln/932  
29/5/01

bb

13.6.01

At the request of Mr. A. Deb Roy,  
Sr. C.G.S.C. four weeks time is allowed  
for filing of written statement.  
List on 13.7.01 for filing of written  
statement and further orders.

Member

No. W/S statement  
has been filed

Den  
12-7

13.7.01

Mr. M. Chanda learned counsel for the applicant stated that the case pertains to suspension and payment of subsistence allowance. List the case for order before Division Bench, on 13.8.01.

K C Usha  
Member

lm

No. written statement 13.8.01  
has been filed

22  
12.9.01

13.9.01

List on 13/9/01 to enable the respondent to file written statement.

K C Usha

Member

Vice-Chairman

No. written statement  
has been filed

22  
17.9.01

13.9.01

List on 17/9/01 to enable the respondent to file written statement.

K C Usha

Member

Vice-Chairman

Pleadings are complete. The matter may be listed for hearing. The applicant may file rejoinder, if any.

List on 16/11/01 for hearing.

K C Usha  
Member

Vice-Chairman

mb

16.10.2001

16.11.2001

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

K C Usha  
Member

Vice-Chairman

nkm

23.11.2001  
23.11.2001

Copy of the Judgment  
has been sent to the  
Office for Issuing  
the due to the 2/01  
for the parties.

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./XXX. NO. 134 . . . . . of 2001

16.11.2001  
DATE OF DECISION . . . . .

Shri Soraisam Jugeshwar Singh

APPLICANT(S)

Mr M. Chanda, Mrs N.D. Goswami and

Mr G.N. Chakraborty

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE  
RESPONDENTS.

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the Reporter or not ?
  3. Whether their Lordships wish to see the fair copy of the judgment ?
  4. Whether the judgment is to be circulated to the other Benches ?
5. Judgment delivered by Hon'ble Vice-Chairman

NO



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.134 of 2001

Date of decision: This the 16th day of November 2001

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

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

Shri Soraisam Jugeshwar Singh,  
Assistant Superintendent of Post Offices (under suspension),  
Kohima Sub-Division, Kohima,  
Resident of Village and P.O. Mongsangai,  
Imphal.

.....Applicant

By Advocates Mr M. Chanda, Mrs N.D. Goswami and  
Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the  
Secretary to the Government of India,  
Ministry of Communication,  
Department of Posts,  
New Delhi.
2. The Chief Postmaster General,  
North Eastern Circle,  
Shillong.
3. The Director of Postal Services,  
Nagaland Division,  
Kohima.
3. Shri K.R. Das (Inquiry Officer),  
C/o The Director of Postal Services,  
Kohima.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The O.A. is mainly concerned with the payment of subsistence allowances during the period of suspension in terms of F.R. 53.

2. The applicant, at the material time, was working as Assistant Superintendent of Post Offices, Kohima Sub-division. He was placed under suspension vide order dated 4.8.1994. He was granted subsistence allowance vide Memo No.B-444/pt-II dated 29.8.1994. The applicant did not receive the subsistence allowance. He made an application before this Bench



by way of O.A.No.282 of 1996 seeking for a direction for payment of subsistence allowance. This Bench by its order dated 9.12.1996 in the aforementioned O.A. directed the respondents to consider the case of the applicant for granting him subsistence allowance within the period specified. The applicant submitted his representation. By communication dated 22.1.1997 the applicant was informed that the subsistence allowance was sanctioned vide order dated 29.8.1994. By Order dated 3.3.1997 the subsistence allowance granted to the applicant vide order dated 29.8.1994 was further decreased to 25%. Finally, on the basis of an ex parte enquiry the applicant was dismissed from service vide order dated 27.11.1997. On appeal, the order of dismissal was set aside and the respondents were directed to make a De Novo enquiry. The Appellate Authority accepted the plea of the applicant that he could not attend the enquiry due to financial hardship occasioned due to the non-receipt of the subsistence allowance. The Appellate Authority also found that the failure to ensure appearance of prosecution witness before the Inquiry Officer was due to the fault of the Inquiry Authority. The Appellate Authority accordingly by order dated 1.4.1998 set aside the dismissal order. By order dated 8.5.1998 the applicant was placed under suspension from the date he was dismissed from service in terms of O.M. dated 27.11.1997. The applicant was allowed to draw subsistence allowance at the rate that was admissible to him prior to issue of the Memo dated 27.11.1997. On 3.6.1999 the respondent No.3- The Director of Postal Services, Nagaland, Kohima passed the following order:

"The words "enhanced by 50% of the amount initially granted" appearing in the last but one para of this office memo of even no dtd. 25.5.99 shall be substituted with the word "restored to what was admissible to him during the first 3(three) months of his suspension."

3. Finally, by order dated 22.9.2000 the applicant was dismissed from service. The present application, as indicated earlier, is confined to payment of subsistence allowance. According to the applicant the respondent authority fell into error in not making the statutory review of the suspension order. The order dated 3.3.1997 reducing the subsistence allowance of the applicant is also assailed as arbitrary and discriminatory. As mentioned earlier the applicant was placed under suspension on

4.8.1994. By order dated 27.11.1997, on the basis of an ex parte enquiry, the applicant was dismissed which was subsequently set aside by the Appellate Authority by order dated 1.4.1998. The materials on record also did not indicate that the applicant in any way could be held responsible for the delay in the enquiry. Due to the procedural lapses the earlier dismissal order was set aside and de novo enquiry was conducted. The statutory rules demand periodical review of the subsistence allowance as indicated in Clause (a) of F.R.53(1). The statutory procedures are introduced with a view to safeguard the interest of the employee as well as the public exchequer. A departmental enquiry is not required to be protracted. Executive instructions indicate that periodical review of the suspension was to be made from time to time. The first review was made on 3.3.1997 and thereafter also the review was to be made from time to time.

4. We have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. The materials available did not indicate that the suspension was prolonged for default directly attributable to the applicant. Because of the lapses on the part of the respondents in not paying the subsistence allowance the Appellate Authority set aside the order of dismissal. In the circumstances the impugned order dated 3.3.1997 reducing the subsistence allowance, therefore cannot be upheld. As per the provisions mentioned in F.R. 53 subsistence allowance may be increased to the level of 75% after the lapse of three months if the suspension was not prolonged because of any reason directly attributable to the Government servant. As alluded, the applicant could not be held responsible for the delay in the suspension.

5. For the reasons stated above the impugned order dated 3.3.1997 is set aside and the respondents are directed to take up the review exercise for awarding the subsistence allowance to the applicant at the rate of 75% as early as possible, preferably within three months from the date of receipt of the order. The increase shall be operative from three months after the date of suspension, i.e. three months after

4.8.1994. The respondents are directed to complete the aforesaid exercise as early as possible, preferably within four months from the date of receipt of the order.

6. The application is accordingly allowed. There shall, however, be no order as to costs.

*K. K. Sharma*  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

*D. N. Chowdhury*  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

nk m

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. ....134..../2001

Sri Soraisam Jugesihwar Singh : Applicant

-Versus-

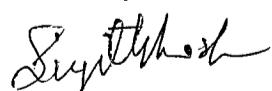
Union of India & Ors. : Respondents

**INDEX**

Sl. No.	Annexure	Particulars	Page No.
01.	---	Application	1-24
02.	---	Verification	25
03.	1.	Suspension Order dated 4.8.94	26
04.	2.	Memo dated 24.1.95	27
05.	3.	Representation dated. 26.6.96	28
06.	4.	Memo dated 27.7.95/11.8.95	29-30
07.	5.	Memo dated 19.8.96	31
08.	6.	Memo dated 10.9.96	32
09.	7	Representation dated 27.9.96	33-34
10.	8	Copy of the daily order sheet dt. 16.10.96	35
11.	9	Copy of the Tribunal's order dt. 09.12.96	36-37
12.	10	Copy of the application dt. 30.12.96	38-40
13.	11	Letter dated 22.01.97	41
14.	12	Letter dated 05.03.97	42
15.	13	Representation dated 07-02-97	43-44
16.	14	Memo No.B-1/Disc/S.J. Singh dt. 3.3.97	45

17.	15	A copy of the appeal dated 05.06.98	46-48 4 APR 2001
18.	16	Order dated 27.11.97	49-52 Guwahati Bench
19.	17	Memo dated 01.04.98	53-56
20.	18	Memo dated 08.05.98	57
21.	19	Order dated 28.04.98	58
22.	20	Daily order sheet dated 09.09.98	59
23.	21	Daily order sheet dated 15.08.98	60-61
24.	22	Copy of the IO's letter dated 21.10.98	62
25.	23	Letter dated 17.02.99	63
26.	24	Letter dated 07.04.99	64
27.	25	Appeal dated 15.04.99	65-67
28.	26	Memo dated 07.06.99	68-69
29.	27	Each of the appeal dated 16.04.99	70-73
30.	28	Letter dated 27.05.99	74
31.	29	Memo dated 25.05.99	75
32.	30	Remainder dated 17.08.99	76
33.	31	DPS letter dated 10.09.99	77
34.	32	Corrigendum dated 03.06.99	78
35.	33	Tribunal's order dated 06.01.2000	79
36.	34	Representation dated 03.02.2000	80
37.	35	Representation letter dated 28.03.2000	81
38.	36	Representation letter dated 28.03.2000 23.8.2000	82

Filed by



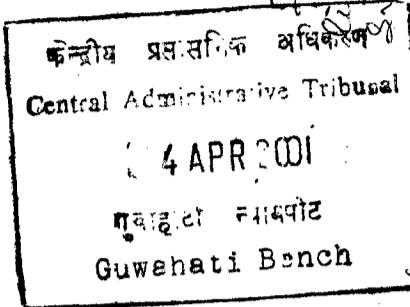
Advocate

Date :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A. No. 134 /2001



BETWEEN

Shri Soraisam Jugeshwar Singh  
Son of Shri Soraisam Ibouchou Singh  
A.. S.P.O.S. Kohima (Under suspension)  
village and P.O. Mongsangai  
Via : Manipur University  
S.O. Imphal

Applicant

AND

1. Union of India  
Through Secretary to the Government of India,  
Ministry of Communication,  
Department of Posts,  
New Delhi.
2. Chief Postmaster General  
North Eastern Circle,  
Shillong.
3. Director of Postal Services,  
Nagaland Division,  
Kohima
4. Shri K.R. Das (Inquiry Officer)  
C/o The Director of Postal Services,  
Kohima

Respondents

S. J. Singh.

**DETAILS OF APPLICATION**

**1. Particulars of order against which this application is made :**

This Application is made praying for payment for arrear subsistence allowance as per appropriate rate prescribed by the Government of India i.e. 75% and for quashing and setting aside of arbitrary orders of review dated 3.3.97 and 25.5.99 and corrigendum dated 3.6.99 and praying for a direction upon the respondents for payment of subsistence allowance (a) minimum rate of 75% of basic pay with effect from 4.11.94 till the order of dismissal from the service is passed, along with 18% interest over the arrear subsistence allowance due to the applicant as per the normal rate prescribed by the Government in the event of placement of suspension of Government Employee.

**2. Jurisdiction of the Tribunal.**

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

**3. Limitation**

The applicant further declares that the application is within the limitation prescribed under section 21 of the Administrative Tribunals Act, 1985,

**4. Facts of the Case**

4.1 That the applicant is a citizen of India holding a permanent civil post in the Department of post, as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India. The applicant while working as Assistant Superintendent of Post Offices, Kohima Sub-Division, Kohima under the Director of Postal Services, Nagaland Division, Kohima was placed under suspension under DPS, Kohima Memo No. B-444 dated 4.8.94 in exercise of the powers conferred by sub Rules (1) of Rule 10 of the CCS(CCA), Rules, 1985 by the

12  
1. 24 अप्रैल 1995 अधिकारी  
Central Administrative Tribunal  
प्रमाणित दस्तावेज़ द्वारा  
संग्रहीत गया

S. J. Senay

Director of Postal Services (hereinafter referred to as DPS),  
Kohima.

A copy of the suspension order No. B-444 dated 4.8.94 is annexed as Annexure-1.

4.2 That your applicant was initially appointed as Time Scale Clerk in the then Manipur and Nagaland Postal Division on 14.6.67, thereafter promoted as Upper Division Clerk in the Circle Office, Shillong in the year 1973. Again he was promoted to the cadre of Inspector of P.O.S. in 1975 followed by further promotion to the cadre of A.S.P.O.S in the year 1991 and posted at Kohima with effect from 30.9.91.

4.3 That the order of suspension dated 4.8.94 as mentioned in para 4.1 above was confirmed by the DPS, Shillong under his office Memo No. VIG/4/15/85 dated 24.1.85.

A copy of the Memo dated 24.1.95 is annexed as Annexure-2.

4.4 That in the order of suspension dated 4.8.94 it was mentioned that orders for payment of subsistence allowances admissible to the applicant during the period of suspension would be issued separately. But in spite of several personal enquiries with the office of the DPS, Kohima (competent authority) and the Postmaster, Kohima H.O. (Disbursing Officer) the applicant could not get any positive reply or result. Subsequently the applicant submitted a representation dated 26.6.96 to the DPS, Kohima, a copy of which was endorsed to the Postmaster, Kohima, H.O. for favour of issuing orders for subsistence allowances. But no action was taken from any authority.

A copy of representation dated 26.6.96 is annexed as Annexure-3.

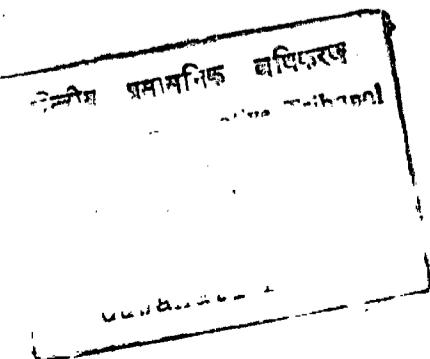
4.5 That it is stated that after a lapse of about one year from the date of suspension the applicant was served with a copy of Memorandum of charge sheet issued under Rule 14 of the

14  
 CCS(CCA) Conduct Rules 1965 vide Memo No. B-1/Disciplinary/S.J.Singh dated 27.7.95 whereby charges regarding failure to submit the Fortnightly dairies and monthly summary of inspections during the period from 30.9.1991 to 31.7.94 and from 1.1.94 to 31.7.94 and also charges of non-submission of inspection report alleged to have been inspected by the applicant during the period from 30.9.91 to 31.9.94 and for failure to enquire the case of excess cash retained by SPM Phek during the period from 18.7.94 to 29.7.94. Although the allegation retention of excess cash by SPM Phek brought to the notice of the applicant by Post Master, Kohima and the charges for drawal of pay and allowances of EDDA and EDMC Longmatra Branch Office under Kiphire, by putting false signature of Shri K. Sangtam EDDA and Smt. T. Alenba Sangtam EDMC, Longmatra Branch office, Kohima by the applicant.

A copy of Memo dated 27.7.95/11.8.95 (without Annexures) is enclosed as Annexure-4.

4.6 That the DPS, Kohima appointed a number of Inquiry Officers to enquire into the disciplinary case against the applicant one after another followed by cancellation ordrs. Subsequently Shri A.R. Bhowmik, the then Supdt. of P.O.S., Dharmanagar Division, was appointed as the I.O. vide DPS, Kohima Memo No. B-1/Disc. /S.J.Singh dated 19.8.96 i.e. after a lapse of more than one year from the date of issue of charge sheet dated 27.7.95/11.8.95 and more than two years from the date of suspension dated 4.8.94. It may not be out of place to mention that the DPS, Konica did not take any action for payment of initial subsistence allowance to the applicant for those long period of two years and as such question of subsequent review thereafter did not arise at all.

A copy of Memo dated 19.8.96 is annexed as Annexure-5.



S. J. Singh

4.7 That Sri A.R. Bhowmik, the Inquiry Officer fixed the date of preliminary hearing on 16.10.96 with its venue at Dharmanagar vide his office memorandum no. Rule 14/96 dated 10.9.96.

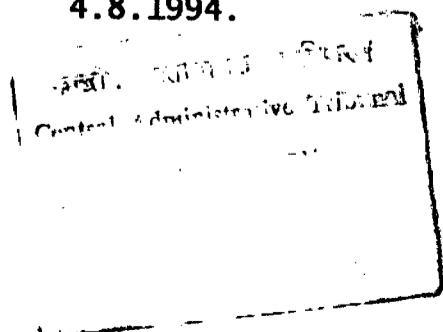
A copy of Memo dated 10.9.96 is annexed as Annexure-6.

4.8 That the applicant submitted a representation dated 27.9.96 to the said Inquiry officer apprising him of the fact of non-drawal of subsistence allowances from the date of suspension dated 4.8.94, and requested him to take timely action with the authority concerned for releasing of subsistence allowances including retrospective revision thereof to avoid the financial stringency faced by the applicant copies of the above mentioned representation were endorsed to the postmaster, Kohima H.O. and the DPS, Kohima, for favour of taking necessary actions on the matter. But no positive action was taken on the representation by anybody.

4.9 That the preliminary hearing was held on 16.10.96 at Dharma agar ex-prate before it was confirmed as to reviewed Subsistence allowances were paid to the applicant or not in contravention of the departmental procedures and the provisions of the constitution of India. In his Daily Order Sheet dated 16.10.96 the I.O. simply mentioned that the function of the I.O. And the payment of subsistence allowances were independent to each other but he made the P.O. aware of the situation for necessary action

A copy of the Daily Order Sheet dated 16.10.96 is annexed as Annexure-8.

4.10 That regular hearing into the Inquiry on 11.12.96 at Dharma agar Ex-prate as the applicant could not attend the said Inquiry due to financial stringency because of non-payment of subsistence allowances from the date of suspension dated 4.8.1994.



S. J. Singh.

It is further submitted that your applicant at this crucial stage finding no other alternative especially due to non-receipt of subsistence allowance and also due to ex-parte proceeding approached this Hon'ble Tribunal through Original Application No.282/1996 praying inter alia for directions for immediate release of subsistence allowance along with arrears with effect from 4.8.94 and for quashing of the ex-parte proceeding held on 16.10.96 on which the applicant could not attend due to financial stringency due to non-receipt of subsistence allowance. The said Original Application 282/96. However, the said original application was disposed of with a direction to the respondents to consider payment of subsistence allowance to the applicant according to rules and merit of his case and also directed to dispose of representation of the applicant within one month from the date of the order of the Hon'ble Tribunal.

A copy of the order of the Hon'ble Tribunal dated 9.12.96 is annexed as Annexure-9.

4.11. That according to the directions of the Hon'ble Tribunal order as mentioned in para 4.10 above a fresh application was submitted by the applicant on 30.12.96 to the DPS, Kohima to release the entitled subsistence allowances.

A copy of application dated 30.12.96 is annexed as Annexure-10.

4.12 That it was quite surprising to write that the DPS, Kohima intimated the applicant, after a long and intolerable gap of 30 months from the date of suspension dated 4.8.94 and also after applying all the available means, under his office letter No. B-1/Disc/S.J.Singh dated 22.1.97 and dated 5.3.97 that orders for subsistence allowances was already issued under his office memorandum No. B-444 dated 29.8.94.

देसी नान्हिं बोर्डर

Guwanati BOR

S. J. Singh

One copy each of letters dated 22.1.1997 and dated 5.3.97  
is annexed as Annexures-11 and 12 respectively.

4.13 That the applicant submitted a representation dated 7.2.97 to the DPS, Kohima stating the fact that a copy of office Memo. B-444 dated 29.8.94 being the order for grant of subsistence allowances to the applicant was never received by the applicant, Further he was requested to furnish the applicant with a copy of the order dated 29.8.94 and also prayed him to issue an order thereby increasing the subsistence allowances with retrospective effects according to the departmental rules. But so far no positive action on the said representation has been taken by the DPS, Kohima.

A copy of the representation dated 7.2.97 is annexed as Annexure-13

4.14 That while the applicant was trying to get the initial grant of subsistence allowances and to get the case reviewed with retrospective effects it was just amazing to learn that the DPS, Kohima issued a review order of so called order for initial grant of subsistence allowances vide his office memo No. B-444/Pt-II dated 29.8.94 (in previous references the order for initial grant for subsistence allowances were stated to have been issued under order No. B-444 dated 29.8.94). According to the said review order No. B-1/Disciplinary/S.J.Single dated 3.3.97 the subsistence allowance was reduced to 50% of the initial grant i.e. fixed at 25% of the last pay drawn by the applicant just before he was placed under suspension on the plea that the applicant did not attend the proceedings of the Inquiry thereby delaying the finalization of the Inquiry. It appears that the DPS, Kohima either forgot or neglected to refer to the cause under which the applicant could not attend the said Inquiry. The action of the DPS Kohima

S. J. Senay

was arbitrary, unfair, illegal, whimsical and colorable use of official powers to damage an innocent fellow government servant. Be it stated that it was just impossible on the part of the applicant and members of his family to stay alive with 25% of the applicant's pay and the sole intentions of the respondent No.3 were to ruin the applicant along with his members of the family before finalization of the disciplinary proceedings.

A copy of Memo No.B-1/Disciplinary/S.J. Singh dated 3.3.97 is annexed as Annexure-14.

4.15 That subsequently the Postmaster Kohima H.O. started drawing and disbursing the pending subsistence allowances in place meals that is without the entitled house rent allowance on the plea that the applicant was not entitled to the H.R.A. as ordered by the DPS, Kohima. Finding no means the applicant had to approach the CPMG, Shillong with an appeal dated 5.6.98. The matter was finalized only during the month of Nov. '98 in favour of the applicant.

A copy of the appeal dated 5.6.98 is annexed as Annexure-15.

4.16 That the proceedings of the ex-parte inquiry was completed during the

Month of August, 1997 and the DPS, Kohima (Disciplinary Authority) passed a punishment order under his office memo No. B-1 Disc/S.J. Singh dated 27.11.97 wherein it was ordered that the applicant is dismissed from service with immediate effect. The action of the DPS, Kohima was quite arbitrary, whimsical, illegal and in violation of the protections given in the constitution of India. While passing the order of dismissal the ignored the rules and procedures for taking ex-parte decision

and the principles of Natural Justice but used the official powers with a bad motive.

A copy of order dated 27.11.97 is annexed as Annexure-16.

4.17 That the applicant submitted an appeal dated 30.1.98 to the P.M.G. Shillong through proper channel against the order of dismissal on 27.11.97. The PMG Shillong was pleased to dispose of the appeal under his office memo No. Staff/109-10/98 dated 1.4.98 wherein the order of dismissal imposed vide DPS, Kohima memo dated 27.11.97 was set aside and that the case was remitted back to the DPS, Kohima for de-novo proceedings from the stage of appointment of Inquiry Officer.

A copy of PMG Shillong memo dated 01.4.98 is annexed as Annexure.17.

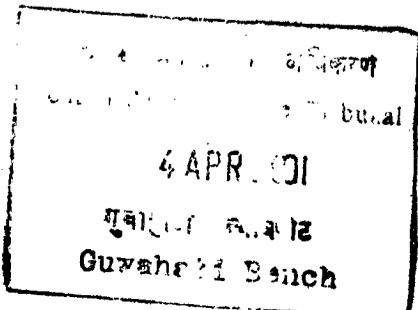
4.18 That the DPS, Kohima under his office Memo No. B-I/Disciplinary/S.J. Singh/ II dated 8.5.98 the applicant was ordered to the deemed under suspension from the date of dismissal from service i.e. 27.11.97.

A copy of Memo dated 8.5.98 is annexed as Annexure-18.

4.19 That the DPS Kohima appointed Shi K.R. Das, SPDS, HQ, Kohima as Inquiry Officer of the said de-novo proceedings vide his order No.B-I/Disciplinary/S.J.Singh./II dated 28.4.98. Here it may not be out of place to mentioned that the DPS Kohima appointed the I.O. on 28.4.98 i.e. 11 days ahead of the applicant was deemed to be under suspension thereby showing the bad motive that order dated 8.5.98 as mentioned in para (4.19) was issued quite relevantly and that the order dated 28.4.98 is liable to be treated as null and void.

A copy of the order dated 28.4.98 is annexed as Annexure-19.

4.20 That the I.O. fixed the date of Preliminary Inquiry on 20.8.98 with its venue at Kohima and accordingly the applicant



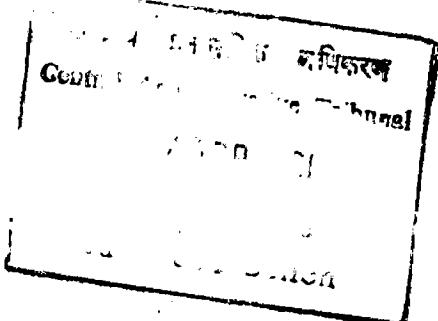
S. J. Singh

attended the same. The regular hearing was held on 8/9-9-98 at Kohima and in spite of objections raised by the applicant the I.O. continues the proceedings of the Inquiry in violation of Rules. As per his procedure the I.O. asked the P.O. to examine the applicant and in turn the P.O. examined the applicant pulling a score of questions. This stop of the Inquiry is not prescribed anywhere in the relevant departmental rules and thus arbitrary, whimsical, illegal and liable to be treated as null and void.

A copy of Daily Order Sheet dated 9.9.98 is annexed as Annexure.20

4.21 That date of meeting for regular hearing was fixed by the I.O. on 15.10.98. Unfortunately the applicant fell sick at his home town at Imphal and the I.O. was informed of the fact telegraphically under Imphal Telegram No. 104955 dated 14.10.98 and I.O. was requested to fix another date. A medical certificate was also forwarded later on. However, the hearing was conducted ex-parte on 15.10.98 and all the three S.W's were examined by the P.O. and the three S.Ws. could not be cross examined, in the absence of the applicant. But surprisingly enough the I.O. concluded the Inquiry on the same day in such a stage that the case on behalf of the charged official was yet to be started. Here the action of the I. O. was arbitrary, whimsical, illegal and adopted his own procedures in the departmental rules. Simply the I.O. wanted to submit his inquiry report with false findings ignoring the principles of the Inquiry from the beginning up to this stage is liable to be treated as null and void.

A copy of Daily Order Sheet dated 15.10.98 is annexed as Annexure-21.



S. G. Singh

4.22 That the I.O. forwarded a written brief of the P.O. to the applicant under his office letter No. E-I/Rule 14 Inquiry/S.J.Singh dated 21.10.98 and asked the applicant to submit his written brief within 10 days. Accordingly the applicant submitted his written brief on 8.11.98.

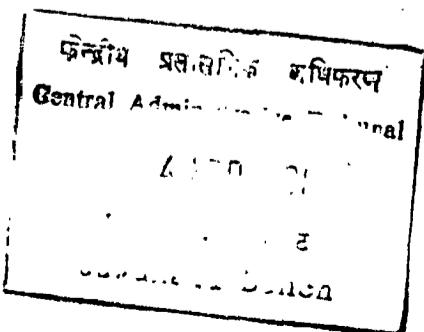
A copy of I.O.'s letter dated 21.10.98 is enclosed as Annexure-22.

4.23 That the DPS, Kohima forwarded to the applicant under his office letter No. B-1/Disciplinary/S.J.Singh/II dated 17.2.99 a copy of the I.O.'s report bearing number nil and dated nil and the applicant was directed to submit any representation/submission within 15 days. The applicant submitted his representations to the DPS, Kohima on 11.3.99.

A copy of the letter dated 17.2.99 is annexed as Annexure-23.

4.24 That suddenly the I.O. summoned the three S.Ws. under his letter No. E-1/Rule-14/S.J.Singh dated 7.4.99 to attend the Inquiry at Kohima on 28.4.99 and the applicant was also directed to attend the Inquiry on the same date i.e. 28.4.99. It may be presumed that the DPS, Kohima directed the I.O. to conduct supplementary Inquiry into the case but the applicant did not get any direction from anybody on the subject and the I.O. also did not mention anything of the kind in his letter dated 7.4.99. The actions of both the Disciplinary Authority and the I.O. are unfair and was a hidden conspiracy in nature just to harass the applicant in any form/manner as they liked. The action on the Inquiry report should have been taken prior to this stage according to the rules. As such the so-called Inquiry is liable to be treated as null and void.

A copy of the letter dated 7.4.99 is annexed as Annexure-24.



S. J. Singh

4.25 That the applicant submitted an appeal to the PMG, Shillong on 15.4.99 for changing the Inquiry Officer on the grounds as mentioned in the foregoing sub-paras as he became afraid of the facts that I.O. was bias, prejudice and partial. But unfortunately the PMG, Shillong intimated under his office Memo No. VIG/14/15/85 dated 7.6.99 and the present I.O. was directed to complete the inquiry. It is not known as to whether there was any inquiry on 28.4.99.

A copy of each of the appeal dated 15.4.99 and Memo dated 7.6.99 is annexed as Annexures-25 and 26 respectively.

4.26 That the subsistence allowance of the applicant which was fixed at 25% of the basic pay as mentioned in sub-para (4.14) above contained endlessly and finding no way out the applicant submitted an appeal to the PMG, Shillong on 16.4.99 for retrospective review of the same. The said appeal was forwarded by the DPS, Kohima to the CPMG (Staff), Shillong under his office letter no. nil dated 27.5.99.

A copy of each of the appeal dated 16.4.99 and letter dated 27.5.99 is annexed as Annexures-27-28 respectively.

4.27 That in the meantime the DPS, Kohima reviewed the subsistence allowances of the applicant and was enhanced by 50% of the amount initially granted i.e. fixed at 50% of the basic pay under his Office Memo No. B-1/Disciplinary / S.J.Singh/II dated 25.5.99. Here again the action of the DPS, Kohima is not proper on the grounds that :

- a) The subsistence allowance should have been reviewed prior to 4.11.94 thereby enhancing the same to 75% of basic pay as there was no delaying tactics adopted by the applicant;
- b) That reducing the subsistence allowances by 50% of the initial grant as a result of review dated 3.3.97 was illegal and against the rules as

*S. J. Singh*

already mentioned in sub-para (6.14) above. According to the rules and circumstances the allowance should have remained at 75% of basis pay i.e. unchanged as was supposed to have been fixed as in (a) above.

- c) That similarly the rate of 75% of basic pay should have remained unchanged on the review dated 25.5.99 as there was not even one occasion when the applicant adopted delaying tactics.

A copy of Memo dated 25.5.99 is annexed as Annexure-29.

4.28 That the PMG, Shillong was reminded by the applicant under his letter dated 17.8.99 for favour of issuing an order on the appeal dated 16.4.99 for review of subsistence allowances. But the DPS, Kohima forwarded the applicant under his letter No. B-1/Disciplinary/S.J. Singh/II dated 10.9.99 the remarks of the PMG, Shillong on the applicant's reminder dated 17.8.99 stating as the DP, Kohima had already reviewed the subsistence allowance on 25.5.99 and 3.6.99 no further review was found justified (on 3.6.99 there was no review except a corrigendum to the review dated 25.5.99). It is not understood as to why a copy of the full context of the PMG's order was not furnished to the applicant.

A copy of each of the reminder dated 17.8.99, DPS letter dated 10.9.99 and corrigendum dated 3.6.99 is annexed as Annexures-30, 31 and 32 respectively.

4.29 That the applicant begs to state that the refusals of the respondents specially respondents no. 2 and 3 to review the subsistence allowances retrospectively with effect from 4.11.94 i.e. end of the first 3 months of the suspension which is obligatory on the part of the respondent No.3 involves untold financial hardships on the part of the applicant who has been placed under suspension for a long period of 63 months. The

S. J. Singh.

rules and procedures prescribed by the Government of India on this behalf are quite clear and willful deviations on the part of the concerned authorities are nothing but misuse of official powers to the disadvantage of a fellow government servant. As already put forward in different sub-paras of para 6 of this application it is quite clear as to how the finalization of the disciplinary proceedings was prolonged due to mishandling of the case by the respondent nos. 3 and 4. Finding no other alternative the applicant again approached this Hon'ble Tribunal for redressal of his grievances by way of filing another Original Application being numbered as O.A. 400/99. The said O.A. was also disposed of on 6.1.2000 with the following order :

"This application has been filed by the applicant seeking certain reliefs. The applicant was at the material time working as Assistant Superintendent of post offices, Kohima Sub-Division. On 4.8.1994 he was placed under suspension. According to him he has not been paid Subsistence Allowance in accordance with law. Besides, the prolonged suspension is also not in accordance with law.

We have heard Mr. S.N.Singh, learned counsel appearing on behalf of the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. for the respondents. Mr. Basumatary very fairly submits that as per Government instructions suspension cannot continue after the period prescribed and that too review has to be done within this period. Nothing has been done. The applicant is under suspension with effect from 1994. Prima facie we feel that the order of

3. 7. 2000  
Guys  
Black

S. N. Singh

suspension is no in accordance with law. However, we are not deciding the matter. We direct the respondents to consider the prolonged order of suspension and decide the matter in accordance with the Government instructions and the decided cases. During this period of suspension if the suspension order is not in accordance with law, the respondents shall immediately revoke the suspension order and he shall also be paid the subsistence allowance strictly in accordance with law. Arrear accrued thereon, if any shall also be paid immediately to the applicant.

The application is disposed of. No order as to costs."

It is quite clear from the aforesaid order of the Hon'ble Tribunal that a direction is passed by this Hon'ble Tribunal to decide the matter in accordance with the Govt. instructions and also ordered that if the suspension order is not in accordance with law, the respondents shall immediately revoke the order of the suspension and the applicant shall be paid the subsistence allowance strictly in accordance with law. The applicant immediately after receipt of the order dated 6.1.2000 passed in O.A. No. 400/99 submitted a certificate copy of the same to the Director of Postal Services, Nagaland, Kohima through his representation dated 3.2.2000 praying inter alia for payment of subsistence allowance at the rate of 75% of the basic pay with effect from 4.11.1994. But finding no response the applicant submitted another representation addressed to the Chief Postmaster General, N.E. Circle on 28.3.2000 for payment of subsistence allowance at the rate of 75% of basic pay. Finding no response again approached the Director of Postal

S. J. Singh

Services through his representation dated 23.8.2000 for payment of subsistence allowance. However in the meantime the Director of Postal Services without considering the case of the applicant for payment of subsistence allowance as per direction of the Hon'ble Tribunal passed in O.A. No. 400/99 on 6.1.2000, passed the impugned order of dismissal from service with immediate effect in pursuance of the proceeding instituted under Memorandum of Charge sheet dated 11.8.95, under Rule 14 of CCS (CCA) Rules, 1965 vide Director of Postal Services order issued under letter No.B-1/Disc/S.J.Singh/II dated 1.2.2000 which was subsequently confirmed by the Appellate Authority vide Memo No.Staff/109-7/2000 dated 22.9.2000, as such the entire action of the Director of Postal Services as well as the Chief Postmaster General, N.E. Circle, Shillong seems to be highly arbitrary, illegal and unfair. More so, in view of the fact the order passed by the Hon'ble Tribunal was never considered and complied with by the respondents as such finding no other alternative applicant again approaching the Hon'ble Tribunal for a direction to the respondents for payment of subsistence allowance in the light of order passed by the Hon'ble Tribunal in O.A. No. 400/99 with 18% interest.

Copy of the Hon'ble Tribunal's order dated 6.1.2000, representation dated 3.2.2000, ~~23.3.2000~~ and ~~28.3.2000~~<sup>23.08.</sup> are annexed as Annexure-33,34,35 and 36 respectively.

4.30 That your applicant begs to state that the order of suspension was passed in respect of the applicant by the Director of Postal Services, Nagaland Division, Kohima under Memo dated 4.8.1994 in exercise of the powers conferred by sub rule (1) of Rule 10 of the CCS(CCA) Rules, 1965. As per Rule 13 regarding Assistant it is a statutory obligation on the part of the respondents to review periodically the case of a Government servant under suspension in which charges has been

S. J. Singh

served/filed to see what steps could be taken to expedite the progress of departmental proceedings and revoke the order permitting the government servant to resume duty at the same station or at a different station. However, in his view the continuance of suspension is not justified having regard to the circumstances of the case at any particular stage. The first review has been prescribed to be undertaken at the end of three months from the date of suspension. It is also observed in Sub- rule (2) that the concerned authority should scrupulously observe the time limits laid down and review the case of suspension, in the interest of public service as well as to see whether suspension in his case is really necessary. It is further observed to consider whether suspension order should be revoked and the officer concerned should be permitted to resume duty if the investigation is likely to take more time. But surprisingly in the instant case of the applicant no such review was made in respect of suspension of the applicant within the time prescribed by the Government and no fresh order was passed by the authority concerned as required under the rule regarding continuance of his suspension. In the circumstances it is presumed that there was no order of suspension issued by the authority after completion of 90 days from the date of initial order of suspension. The relevant portion of sub rule (1) of Rule 13 is quoted below :

**"13. Review of suspension..**

1. It is in the inherent powers of the disciplinary authority and also mandatory to review periodically the case of a Government servant under suspension in which charge sheet has been served/filed to see what steps could be taken to expedite the progress of the court trial/departmental

*S. G. Singh*

proceedings and revoke the order permitting the Government servant to resume duty at the same station or at a different station, when in his view the continuance of suspension is not justified having regard to the circumstances of the case at any particular stage. The first review has been prescribed to be undertake at the end of three months from the date of suspension."

In view of the above, above specific provision of the rule the respondents ought to have been reviewed the case of the applicant after completion of 90 days from the date of initial order of suspension, but the Director of Postal Services in total violation of the above rule forced the applicant to continue under suspension without passing any fresh order as required under the rule for continuing him under suspension and that too without paying the subsistence allowance for two years from the date of initial suspension. However the payment of subsistence allowances has been paid to the applicant only after the applicant approached before this Hon'ble Tribunal through OA No. 282/96. Subsequently order has been passed reducing the rate of subsistence allowance to the extent of 50% from the existing rate of subsistence allowance on plea that the applicant did not make him available before the necessary officer on the date fixed. This decision of the respondents is highly arbitrary in view of the fact that by no stage of imagination that the Government employee could able to present himself without subsistence allowance year after year. In this connection it is also relevant to mention here that the applicant is a resident of Imphal and when the preliminary enquiry proceeding was scheduled at Dharmanagar in the state of Tripura therefore it was impossible on the part of the applicant to make him available before the proceeding that too

S. J. Senapati

without subsistence allowance. However in the instant case although the reason for non appearance before the enquiry was satisfactorily explained before the enquiry office which was prevented to make him available before the enquiry office. Therefore further reduction of subsistence allowance to the extent of 50% is highly arbitrary, unfair and the same is against the canons of principles of natural justice. On that score alone the Hon'ble Tribunal be pleased to direct the Respondents to pay full pay and allowance or subsistence allowance alternatively at the rate of 75% from the completion of 90 days from the date of initial order of suspension till the actual date of order of dismissal from service i.e. 1.2.2000.

4.31 That it is stated that in view of the categorical direction from the Hon'ble Tribunal passed on 6.1.2000 in O.A. No. 400/99 the respondents were duty bound to review entire matter of suspension, but unfortunately the case of the applicant was not considered for payment of subsistence allowance in the manner directed by the Hon'ble Tribunal its order dated 6.1.2000. It is categorically directed by the Hon'ble Tribunal that if the suspension is not in order in accordance with the Government instructions shall immediately revoke the suspension order and he would also be paid subsistence allowance strictly in accordance with law. But no action was taken by the respondents on the order dated 6.1.2000 passed by the Hon'ble Tribunal in spite repeated representations made by the applicant before the respondents. But surprisingly after receipt of the order dated 6.1.2000 passed in O.A. No. 400/99 the respondents on the other hand concluded the departmental proceeding in a very hasty manner in spite of repeated objections submitted by the applicant and the

S. J. Singla.

same is done with a ulterior motive to avoid the implementation of the order dated 6.1.2000 passed in O.A. No. 400/99 and ultimately the Director of Postal Services imposed the penalty of removal from service vide his order dated 1.2.2000 simply with the sole object not to implement the order of the Hon'ble Tribunal dated 6.1.2000. It is stated that the preceding paragraph how the applicant raised the objection regarding the decision of the enquiry officer to proceed the ex-parte and also in a very arbitrary manner in spite of repeated objections raised by the applicant. A mere perusal of the rules/instructions relating to the suspension issued by the Government of India from time to time it would be evident that no review of suspension order is made on completion of 90 days and further the respondents have reduced the subsistence allowance to the extent of Rs. 50% from the existing rate as stated above and subsequently the payment of subsistence allowance only restored only to the extent of 50% whereas as per rule the applicant is entitled to 75% of subsistence allowance immediately after completion of 90 days from the initial date of order of suspension. But no rule guidelines or instructions were followed by the

respondents as such in the facts and circumstances Hon'ble tribunal be pleased to direct the rate of 75% on completion of 90% from the date of initial order of suspension with 18% interest as because no separate order of suspension was passed in respect of the applicant on completion of 90 days of suspension. As such it can rightly be presumed that there is no order of suspension passed after completion of 90 days and the applicant has been forced to retain under suspension without any valid order, moreover no action was initiated in the light of order passed by the Hon'ble Tribunal on 6.1.2000 in O.A. No. 400/99 which was passed and the same was also brought to the notice

S. J. Singh

of the respondents and there was a specific direction to consider the matter of payment of subsistence allowance immediately but although the order was made available before the respondents by the applicant but no action has been taken in the light of the order passed on 6.1.2000 in O.A. 400/99 in the following circumstances finding no other alternative the applicant is again approached the Hon'ble Tribunal for direction upon the respondents to pay the full pay and allowance to the applicant during the period of suspension on completion of 90 days in the light of the Governments instructions/guidelines issued from time to time or at least 75% of subsistence allowance to the applicant with 18% interest.

4.32 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions :

5.1 For that the case of the applicant was not reviewed on completion of 90 days as required under the rule by the respondents and no separate order for continuation of suspension passed by the authority immediately after completion of 90 days as such there is no order for continuation of suspension with effect from 4.11.94. As such the applicant is entitled to full payment of pay and allowances with effect from 4.11.94 or at least subsistence allowance at the rate of 75% as per rule.

5.2 For that order of reduction of subsistence allowance to the extent of 50% on the alleged ground that the applicant did not appear before the enquiry proceeding was scheduled to be held at Dharmanagar is highly arbitrary, unfair and illegal as because no subsistence allowance released in favour of the applicant with effect 4.8.94 for two years which was duly intimated to the respondents including the

S. J. Singh

enquiry officer and which was recorded in the proceeding and on that alleged ground of non-appearance the subsistence allowances cannot be reduced as ordered by the respondents.

- 5.3 For that no review of suspension order was made during the span of 90 days but the so-called was made after a lapse of two years in total violation of the rule of suspension issued by the Government of India as such the applicant is entitled to 75% of subsistence allowance with effect from 4.11.94.
- 5.4 For that subsistence allowance has been paid after a lapse of two years by the respondents and the memorandum of charge sheet was served upon the applicant after a lapse of one year from the date of suspension and the enquiry proceeding was started thereafter without paying the subsistence allowance to the applicant.
- 5.5 For that the subsistence allowance has been paid to the applicant only after the direction passed by the Hon'ble Tribunal on 9.12.1996 in O.A. 282/96 that too after a lapse of two years from the date of suspension.
- 5.6 For that the order passed by the Hon'ble Tribunal on 6.1.2000 in O.A. No. 400/99 deliberately ignored by the respondents and concluded the proceedings in a very hasty manner with the sole intention to avoid the implementation of the order dated 6.1.2000 passed in O.A. No. 400/99 by the Hon'ble Tribunal in spite of repeated objections raised by the applicant regarding continuation of ex-parte proceeding.
- 5.7 For that the order of the Hon'ble tribunal passed on 6.1.2000 in O.A. 400/99 has not been considered by the respondents at any point of time although the same was brought to the notice of the respondents repeatedly

S. J. Singh

through representations of the applicant but the same has been deliberately violated by the respondents.

5.8 For that the applicant is entitled full pay and allowances or at least 75% of subsistence allowances as per rule on completion of 90 days from the initial order of suspension.

6. Details of remedies exhausted.

The applicant states that he has no other alternative and efficacious remedy except by way of approaching this Hon'ble tribunal.

7. Matters not previously filed or pending before any other Court/Tribunal.

The applicant declares that he had filed an application before this Hon'ble Tribunal and the same was registered as O.A. No. 400/99 and the same was disposed of on 6.1.2000 with direction to consider the case of the applicant regarding grant of subsistence allowance in the light of the Government instructions/guidelines but the respondents to avoid the implementation of the said judgement and order dated 6.1.2000 concluded the proceeding in a very hasty manner that to ex parte dismissing the applicant from service. The applicant further declares that no such application is pending before any other court or Tribunal or any other authority.

8. Reliefs sought for:

In view of the facts and circumstances above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to admit the instant application, call for the records relating to the applicant's case. And upon hearing on the cause or caused that may be shown and on perusal of the records be pleased to grant the following reliefs :

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to pay full pay and allowances to the

S. G. Singh

applicant with effect from 4.11.1994 that on completion of 90 days from the date of suspension or alternatively to pay subsistence allowance at the rate of 75% in terms of relevant rules and instructions till the date of order of dismissal from service is issued.

8.2 Costs of the application.

8.3 Any other relief or reliefs as entitled to the applicant under the facts and circumstances stated above as deemed fit and proper by the Hon'ble Tribunal.

9. Interim reliefs prayed for :

The applicant does not pray for any interim order in this application but prays for expeditious disposal of this application.

10. Details of the I.P.O.

i. I.P.O. No.	: 6 G 792168
ii. Date of Issue	: 4-4-01
iii. Issued from	: G.P.O., Guwahati.
iv. Payable at	: G.P.O., Guwahati.

11. Details of enclosures

As stated in the Index.

S. J. Singh

26  
VERIFICATION

I, Sri Soraisam Jugeshwar Singh, son of Shri S. Ibochou Singh, aged about 53 years working as A.S.P.O.S, Kohimia, resident of village and P.O. Mongsangei, via M.U., S.O., Imphal, do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are the legal advice which I believe to be true and I have not suppressed any material facts.

I, sign this verification on this the 4<sup>th</sup> day of April, 2001.

S. J. Singh

ANNEXURE

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND, KOHIMA.

Memo: B-4442

Dtd. Kohima 4-8-94

Whereas disciplinary proceedings against Shri. S.J.Singh, ASPOS, Kohima sub Dn is contemplated.

Now, therefore, the undersigned in exercise of the powers conferred by sub Rule(1) of Rule 10 of the CCS (CCA) Rule 1965, hereby places the said Shri. S.J.Singh under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Head quarters of Shri. S.J.Singh should be Kohima and the said Shri. S.J.Singh shall not leave the Head quarters without obtaining the previous permission from the undersigned.

S. J. Singh  
Sekmaiyan Vill. BPO  
Sekmaiyan, Imphal.

Sd/-

/ PATRICK INGTY /  
Director of Postal Services

Nagaland, Kohima.

Copy to:-

1. Shri. S.J.Singh, ASPOS, Kohima sub Dn for information.

Orders regarding subsistence allowances admissible to him during the period of his suspension will be issued separately.

2. Shri. N.K. Das, PM, Kohima HO.

3-5. P/F of the official/Suspension register/Punishment register.

6. Spare.

Director of Postal Services  
Nagaland, Kohima.

certified to be true copy  
S. J. Singh  
P.M.



TO the Annexure-2

DEPARTMENT OF POSTS  
OF THE CHIEF POSTMASTER GENERAL  
SHILLONG-793 001  
Memo No. VIG./4/15/85. Dated, Shillong-1, the 26th Jan. 1995.

whereas disciplinary proceedings against Shri. S.J. Singh, A.S.P.Os., Kohima Sub-Divn. is contemplated.

And Shri. S.J. Singh, A.S.P.Os., Kohima Sub-Divn. was placed under suspension by the Director Postal Services, Nagaland Division, Kohima vide his memo No.B-444 dated 4-8- '94.

Now, therefore, the aforesaid order of suspension is hereby confirmed.

SD  
(A.N.D. Kachari)  
Director of Postal Services,  
Shillong-793 001

Copy to:-

RJD  
1. Shri. S.J. Singh, A.S.P., Kohima Sub-Divn.,  
Kohima-797 001, Nagaland.

WJD  
2. The Director Postal Services, Nagaland Division,  
Kohima-797 001 with reference to his No.B-444 Pt.-II  
dated 6-1-95. The copy of Shri. S.J. Singh, may be  
served to him under receipt.

3) Office copy.

4. Spare.

(A.N.D. Kachari)  
Director of Postal Services,  
Shillong-793 001

Certified to be true copy  
S. J. Singh  
Post Master

Shri S.J. Singh  
ASP, Kohima (ats)  
C/o DPS Imphal  
Imphal

charge sheet  
is in vol. II

ANNEXURE -3

To

The Director of Postal Services,  
Nagaland Director, Kohima  
797001.

Sub: Headquarters relief under suspension.

Ref: Your office memo no. B.444 dated 4.8.94

Sir,

I would like to write that while I was are leave on medical ground at my residence at Mongshangei, Imphal there D.P.S. Kohima placed me under suspension vide his office memo cited above which was town delibered through the S.P.Os, Imphal. But unfortunately no action was taken for payment of subsistence allowance without which it was meet to impossible for me to stay at Kohima.

Secondly due to sudden deaths of my only brother on 29.12.93 and my elder son are 27.3.94 both my aged father who was left alone for 14 years to his own desting due to my postings out of my home town and my wife because mentully reteereded and in such domestic situation my presence at home was unavoidable and had to stay along with them.

In the face of the above mentioned circumstances you are earvently requested to approces my head quarters be temporarily fixed at Imphal during the period of suspension.

Yours faithfully,

Sd/- 26/6/96

( S.J. SINGH )

ASPOS Kohima Sub Dn (U/S) at  
Mongshangei, Imphal.

*Certified to be true  
S.J. SINGH  
ASPOS*

ANNEXURE - 4

GOVT. OF INDIA MINISTRY OF COMMUNICATIONS

DEPARTMENT OF POST: INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND: KOHIMA: 797001

MEMORANDUM

Memo No. B-1/Disciplinary/3. J. Singh  
Dated at Kohima the 27-7-95.

The undersigned proposes to hold an enquiry against Shri S.J.Singh ASPOS Kohima (U/S) under Rule-14 of the CCS(CCA) Rules, 1965. The substance of the imputations of mis-conduct or mis-behaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of mis-conduct or mis-behaviour in respect of each articles of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures-III & IV).

2. Shri S.J.Singh is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and ~~also~~ to state whether he desires to be heard in person.

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

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

5. Attention of Shri S.J.Singh is invited to Rule 20 of the CCS(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 Govt. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri S.J.Singh is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(CCA) Rule 1964.

*Copy filed to be true (GP)  
without any  
alteration*

-30-

6. The receipt of the memorandum may be acknowledged by Shri S.J.Singh.

Registered with A/D

To

Shri S.J.Singh (ASPOS Kohima) (U/S)

Vill-Sekmaijin BPO Sekmaijin

Imphal Manipur

*A.N.D.Kachari*  
(A.N.D.KACHARI)

Director of Postal Services

Nagaland, Kohima-797001

DEPARTMENT OF POST: INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND: KOHIMA: 797001

Memo No. B1/Disc./S.J.Singh.

Dt. Kohima the 19-8-96.

O R D E R

Whereas an inquiry under Rule 14 of the Central Civil Services (CCS) Rules 1965 is being held against Shri S.J.Singh Ex-ASPOs Kohima (U/S).

And whereas the undersigned considers that an Inquiry Authority should be appointed to inquire into the charges framed against the said Shri S.J.Singh.

Now, therefore the undersigned in exercise of the powers conferred by Sub-Rule (2) of the said rule hereby appoints Shri Amulya Ratan Bhowmik, Supdt. of PO's Dharmanagar Dvn, Dharmanagar (Tripura North) as the Inquiry Authority to inquire into the charges framed against the said Shri S.J. Singh.

Sd/  
( P.P.SOLE )  
Director of Postal Services  
Nagaland, Kohima-797001

Copy to:-

1. Shri A.R.Bhowmik, I/O Supdt of PO's Dharmanagar Division Dharmanagar (Tripura North) for information and necessary action (charge sheet and certificate of delivery enclosed).
2. Shri D.C.Deb, P/O ASPO's Kohima for information and necessary action.
3. Shri S.J.Singh Ex-ASPO's Kohima (u/s) for information. This office memo of even No dtd 17-6-96 stands cancelled.

*certified to  
by  
Smt. Bhupesh  
PDR*

( P.P.SOLE )  
Director of Postal Services  
Nagaland, Kohima-797001

DEPTT. OF POST : INDIA  
 OFFICE OF THE SUPDT. OF POST OFFICES  
 DHARMANAGAR DIVISION  
 DHARMANAGAR : 799250.

Memo No. Rule - 14/96, Dated, Dharmanagar the 10.9.96.

Whereas the undersigned was appointed as Inquiry Officer vide Director Postal Services, Kohima-797001 memo no. B1/Disc./S.J.Singh dt'd, 19.8.96 to enquire into the case under Rule-14 of C.C.S.(CCA) Rules 1965 against Shri S.J. Singh, Ex-ASPOS, Kohima(u/s).

Now, therefore the undersigned fixes the date of preliminary hearing into the case on 16.10.96 at 1000 hrs at Dharmanagar in the chamber of the undersigned.

<sup>2d)</sup>  
 (A. R. Bhownik)

Supdt. of Post Offices,  
 Dharmanagar Division,  
 Dharmanagar : 799250  
 & Inquiry Officer.

Copy to : ✓

Regd. A/D 1. Shri S.J. Singh, Ex-ASPOS, Kohima(u/s) at Kohima. He should attend the hearing on the date, time and venue fixed for the purpose. He may also intimate the undersigned the name and designation of the Govt. servant whom he wishes to appoint as Defence Asstt.

Regd. A/D 2. Shri D. C. Deb, Presenting Officer and ASPOS, Kohima-797001 who should attend the hearing accordingly.

Regd. A/D 3. The Director Postal Services, Kohima for information.

<sup>✓</sup>  
 ( A.R. Bhownik )  
 Supdt. of Post Offices,  
 Dharmanagar Division,  
 Dharmanagar : 799250,  
 & Inquiry Officer.

ANNEXURE -3

To

Shri A.R. Bhowmik,  
Superintendent of Post Offices,  
Dharmanagar Division,  
Dharmanagar -799250.

Subject : Rule 14 enquiry case.

Reference: Your memo no. Rule-14/96, dated 10.9.1996.

Sir,

With reference to your memo cited above it is to intimate that the Postmaster, Kohima H.O. did not take any action to draw and disburse the subsistence allowance of the undersigned since 04.08.94 and also it appears that the D.P.S. Kohima did not take action for timely review of the subsistence allowance as enjoined in para II of F.R. 53(1)(ii) ~~2~~ (a). Now due to financial stringency it is afraid that the undersigned may not be able to attend the preliminary hearing on 16.10.1996.

You are, therefore requested to take timely action so that the subsistence allowance may be paid at an early date (including retrospective revision).

Dated 27.9.96

Sd/-  
( S.J. SINGH )  
A SPOS,

copy to

1. The postmaster Kohima H.O. 997001- He is requested to refer to my ~~order~~ endorsement letter no. nol dated 26.6.96 under Singjamei Bazar S.O. R.L. no. 1396 dated 26.6.96. He is again requested to take early action as per the provisions of F.R. 53(1)(ii) (a) GIMF O.M. No. F.19(4)-E.IV/55 dated 17.6.1958 rule 41 of P & T Manual volume III. A certificate of an employment is also enclosed herewith.
- Certified to be true copy  
S.J. SINGH  
A SPOS*

Annexure - 7 (Contd)

2. The director of postal services, 797001. He is requested kindly to refer my letter no nil dated 26.6.96 under singjonce Bazar S.O. R.L. No. 1396 dated 26.6.96 and take early action for retrospective revision of the subsistence allowance with effect from 2.11.94.

Sd/- 27.6.96

C\_E\_R\_TI\_F\_I\_C\_A\_T\_E

I, S.T. Singh, having been placed under suspension by order no. 444 dated 4.8.94 of DPS, Kohima while holding the post of ASPOS, Kohima Sub-Division do hereby certify that I have not been engaged in any business, profession or vocation for profit/remuneration/salary from 4.8.94 to date.

Sd/- S.J. SINGH

Vill & P.O. MONGSHANGEI,

IMPHALZ

INQUIRY UNDER RULE 4 & 14 OF C.C.S. (C.G.) RULES 1965  
AGAINST SHRI S. J. SINGH, ASPO, KOHIMA NOW  
UNDER SUSPENSION.

DAILY ORDER SHEET

16.10.96

Preliminary hearing of the case is held at Dharma-nagar. Shri S. J. Singh, C.O. (Charged Official) submitted one representation dtd. 27.9.96 expressing doubt if he could be able to attend the hearing as he was not in receipt of subsistence allowance. Copy of the representation endorsed to D.P.S., Kohima. Since the payment of subsistence allowance and functions of I.O. are independent to each other, I.O. cannot pass any order except that P.O. is made aware of the same for further necessary action. The preliminary hearing was held ex-parte.

Regular hearing into the case will commence from 11.12.96 and may continue upto 12.12.96 in the Office of the undersigned at 1000 hrs. No separate notice will be issued to C.O. or P.O. or the prosecution witnesses. P.O. will take action for appearance of P.W.s accordingly. In the meantime P.O. will arrange inspection of documents by the C.O. listed in the memo of charges on a fixed date within 15.11.96. Copy of the order sheet alongwith copy of the proceedings are made over to P.O. and the same posted to C.O.

*Asst. S. J. Singh  
(P.O.)  
16/10/96*

*Inquiry Officer.*

*16.10.96*

*Certified to be true (P.O.)  
Digitized by  
P.D.L.*

44

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: : : : : GUWAHATI  
O.A. No. 282/1996

Sri S.S.J.Singh

...  
Versus

Applicants.

Union of India & Ors. ...

Respondents.

P R E S E N T -

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(A)

For the Applicants : Mr. J.L.Sarkar,  
Mr. M.Chanda, Advocates.

For the Respondents; Mr.S.Ali, Sr.C.G.S.C.

9-12-96 Learned counsel Mr.M.Chanda  
for the applicant. Learned Sr.  
C.G.S.C. Mr.S.Ali for the respon-  
dents.

Heard Mr.M.Chanda for the  
applicant. Perused the contents of  
the application and relief sought.  
I find that this application is  
not to be admitted for scrutiny  
and decision. It is disposed of  
with the directions as mentioned  
herein below.

In this application the  
applicant has prayed for payment  
of submistence allowance and to  
allow him change of Head Quarter.  
Mr.Chanda submits that he does not  
press the relief, for change of  
Headquarter. Therefore, this appli-  
cation is only for payment of  
subsistence allowance. The applic-  
ant had submitted a representation  
dated 26-6-96 and reminder dated  
27-9-96 for allowing him subsis-  
tence allowance to the Director,  
Postal Services, Nagaland. It has  
been stated that the representa-  
tions have not been disposed of  
by the respondents. However, the  
applicant is directed to submit  
a fresh application to the compe-  
tent authority of the respondents  
within three weeks from to-day  
for payment of submistence allow-  
ance to him during the period

contd/-

(Circular Seal of the Central Administrative Tribunal, Guwahati Bench)

S.C. No. 282/1996

Date: 9-12-96

Place: Guwahati

Signature: [Signature]

Stamp: [Stamp]

Handwritten Note: "Certified to be true copy  
S. Ch. Chanda  
Adv."

O.A.282/96

9-12-96 of suspension. The respondents are directed to consider payment of subsistence allowance to the applicant according to rules and the merit of his case. The respondents are directed to dispose of the representation of the applicant within 1 month from the date of its receipt by respondent No.3 the Director of Postal Services, Kohima.

This application is disposed of.

No order as to costs.

Copy of this order be sent to the counsel of the parties.

Sd/- MEMBER(A)

Memo.No. 22

Dated 1/1/97

Copy for information and necessary action to :

1. Shri Serai Sam Jageshwar Singh, S/o Shri S. Ibechou, at Menusangei, Imphal.
2. The Secretary to the Govt. of India, Ministry of Communication, Deptt. of Posts, New Delhi.
3. Chief Postmaster General, Govt. of India, North Eastern Circle, Shillong.
4. Director of Postal Services, Nagaland, Kohima, P.O. Kohima, Nagaland.
5. Shri A.R. Bhownick (Inquiry Officer), Superintendent of Postal Services, Dharmanagar Division, P.O. Dharmanagar, North Tripura, Agartala.
6. Mr. M. Chanda, Advocate, Gauhati High Court, Guwahati.
7. Mr. S. Ali, Sr. C.G.S.C., C.A.T., Guwahati Bench.

*D. Samanta*  
26/12/96  
SECTION OFFICER (JUDL).

*26/11/*

Annexure-10

To

The Director Postal Services,  
Kohima, Nagaland.

Sub: Representation in terms of Hon'ble Tribunal order dated 9.12.96, passed in O.A. 282/96, for immediate payment of subsistence allowance.

Sir,

Most humbly and respectfully, I beg to state that vide your order under Memo No. B-444, 4.8.94, the undersigned was placed on suspension in exercise of power of conferred by sub rule ; (1) of rule 10 of the CCS(CCA) rule 1965, in the said order of suspension it was stated that the order regarding subsistence allowance would be issued separately in favour of the undersigned, but unfortunately no order of subsistence allowance has been issued by ~~any~~ the authority till date . In this connection it may be stated that the suspension order was communicated to me at my permanent home address at Imphal while I was on leave at my permanent residence at Imphal, therefore I had fallen sick at my residence at Imphal at the relevant time when the order of suspension was communicated . However, I expected that my subsistence allowance would be ~~paid~~ paid to me in terms of order dated 4.8.94, but surprisingly no action was initiated either by you or by any other departmental authority . I submitted representation dated 26.6.96 for payment of my substence allowance which was addressed to to you for payment of my subsistence allowance and the undersigned also submitted reminder dated 27.09.96, but even then

*(Certified to be true copy)*

Annexure-10 (Contd....)

then no action was taken for payment of subsistence allowance. I also regret to state that even my representation have not been replied, I also beg to point out that I have also enclosed necessary unemployment certificate alongwith my representation to facilitate the payment of subsistence allowance but to no result. In this connection it may further be stated that the chargesheet was issued only on 27.07.95 and preliminary enquiry alleged was to be held on 16.10.96 at Dharmanagar without releasing the subsistence allowance, and the same has been decided expertee and I could not attend the preliminary enquiry due to financial hardship and the same was communicated to the enquiry officer well in advance. I also further to inform you that I could not attend the regular enquiry which was held on 11.12.96 and 12.12.96, because of financial hardship to maintain myself without subsistence allowance. It is more then two years that the subsistence allowance has not been paid to me and others.

Therefore I would further like to request you to release arrear of allowance as well as current subsistence allowance. This representation is submitted in terms of Hon'ble Tribunal order dated 9.12.96 passed in O.A. 282/96 for your kind consideration.

Dated 30.12.96

Yours faithfully,

Sd/-

(SRI S.J. SINGH )  
A.S.P.Os, Kohima  
(U/S at Vill & P.O.  
Mongocngei, Imphal

Contd....

Annexure - 10 (Contd).....

Copy to :

The Postmaster, Kohima H.O. As already informed he is requested to make recoveries of H.B.A. and G.I.S. from the subsistence allowance. Upto date certificate of unemployment is enclosed herewith.

Sd/- 30.12.96

( S.J. SINGH )

- 24 -

ANNEXURE - 11

DEPARTMENT OF POST & TELEGRAMS  
OFFICE OF THE DIRECTOR OF POSTAL DIVISION  
NAGALAND, KOHIMA - 797001.

No:B1/Disco/3.J.Singh.

Dtd. Kohima the 22.1.97

To,

Shri. S. J. Singh.  
ASPOs, Kohima (u/s)  
Vill PO. Mongsangei.  
Via. Singjamei Bazar. BO.  
Imphal. Manipur.

Sub: Drawal of subsistence allowance.

With reference to your letter no nil dtd 26-6-96 on the above mentioned subject, it is intimated that the "subsistence allowance was sanctioned vide memo of even no dtd 29.8.94.

22/11/97  
Director of Postal Services  
Nagaland, Kohima - 797001.

W. 2. 1987. 5888 alt. 271.97  
R. 2. 1987.

11/11/97

certified to be true copy  
S. H. Smith  
as above

Annexure-12 ( Contd )

Director of Postal Service  
Nagaland Kohima -797001.

No.B1/Disciplinary/S.J. Singh

Dated, Kohima 5.3.97

To

Shri S.J. Singh  
A.S.P.Os Kohima (U/S)  
Vill and P.O. Mongsangei  
Via Singjamei Bazar S.O.  
Imphal, Manipur.

Subject : Grant of subsistence allowance regarding

with reference to your representation dated 7.2.97 and  
CAT direction order no. 282/1996 in memo no. 25 dated  
1.1.97 on this above mentioned subject, it is to inform  
you that subsistence allowance was already granted vide  
this office memo no. B 444/II dated 28.8.94 with headquarter  
fixed at Kohima vide memo no. B.444/ dated 4.8.94. You may  
therefore take the payment of subsistence allowance from  
Kohima H.O.

Sd/-

Director of Postal Services  
Nagaland :: Kohima - 797001.

Copy to :

The postmaster Kohima H.O. for information.

Sd/-

Director of Postal Services  
Nagaland :: Kohima -797001.

*certified to be true  
S. J. Bhattacharya  
Adv.*

Annexure - 13

To

The Director of Postal Services,  
Nagaland,  
Kohima - 797001.

Sub: Drawal of subsistence allowance.

Ref: Your memo no. B1/DISC/S.J. Singh,  
dt. 22.1.97.

Sir,

In acknowledging receipt of your letter cited above on 6.2.97 I would like to inform you that a copy of the sanction memo dated 29.8.94 was never delivered to me till date, and as a result several reminders were issued to you and even I had to approach the Honourable CAT, Guwahati. The fact of non-payment of the subsistence allowance was also made known to Shri A.R. Bhowmik, S.P.Os, Dharamnagar and Enquiry Officer who in turn made aware of the fact to Shri D.C. Deb, Presenting Officer vide Daily order Sheet dated 16.10.96 and 11.12.96. According to the Daily order sheet dated 11.12.96 it is clear that the fact was brought to your notice by the said P.O. and the reasons for non-payment of subsistence allowance was not known to him. You are once again requested to send a copy of the sanction memo to me at an early date.

*Certified to be true copy*  
Secondly, it is to mention that you were requested several times for the issue of review order with ~~extensive~~ retrospective effect according to the rules, but so far no response is forthcoming from your end. Here it is also to mention that there was no occasion on my part for using ~~extreme~~ dilatory

Annexure - 13 ( Contd )

tactics in the process of the case, and as such you are requested to increase the subsistence allowance to 25 percent of the original rate from the begining of the fourth month of suspension.

Lastly, it is brought to your kind notice that I and my family members are at the jaws of death of starvation for non-releasing the subsistence allowance for more than a long period of thirty months. Hence you are requested to use your good offices so that I may be in a position to defend myself of the charges by giving an opportunity as defined in the rules and ~~xxg~~ procedures.

dt. 7.2.97

Yours faithfully,

Sd/-

( S.J. Singh )

A.S.O.Os Kohima Div.,

(U/S) at Mongshangei

Via. M.U. Sub-Office

Imphal-795003

Copy to :

1. The Postmaster, Kohima S.O. 797001.

He is requested to remit the subsistence allowance by M.O. and if necessary the commission may be deducted from the total amount. An up-to-date certificate of non-employment is enclosed herewith. He is also requested to intimate the undersigned the date of receipt of D.P.S. Kohima memo no. b1/DISC/S.J. Singh dt. 29.3.94 by his office.

2. Shri A.R. Bhowmik, S.P.Os Dharamnagar (I.O) 799250, for for favour of information .It refers to dis Daily sheet order dt. 16.10.96 and 11.12.96.

Sd/-

S.J. Singh.

DEPARTMENT OF POST:INDIA  
OFFICE OF THE DIRECTOR POSTAL SERVICES  
NAGALAND : KOHIMA: 797001

MEMO.No.B1/Disciplinary/S.J.Singh  
Dated,Kohima the 3-3-1997.

Whereas Shri.S.J.Singh,ASPOS,Kohima was placed under suspension vide memo No.B-444 dated 4-8-94. He was granted subsistence allowance vide memo No,B-444/Pt-II dated 29-8-1994.

And whereas it is learnt that Shri.S.J.Singh has not been attending the oral inquiry being conducted under Rule-14. The delay in not finalising the case is therefore, directly attributable to the charged official.

Therefore, the undersigned in exercise of the powers conferred under rule PR-53(2)(ii)issue the following orders to have immediate effect.

The subsistence allowance of Shri.S.J.Singh, ASPOS,Kohima(u/s)granted vide memo No.B-444/II dt. 29-8-94 is hereby decreased by a suitable amount not exceeding 50% of the initial subsistence allowance.

He will be entitled to compensatory allowances admissible from time to time on the basis of pay as which he was in receipt on the date of his suspension subject to the fulfilment of other conditions laid down for the drawal of such allowances.

No payment shall be made unless he furnishes a certificate that he is not engaged in any other employment,business,profession or vocation.

sd/-  
(F.P.SOLO)  
Director Postal Services  
Nagaland,Kohima

Copy to:-

1. The Postmaster,Kohima H.O.
2. The D.A(P)Calcutta.
3. The official concerned.
4. PF of the official.
5. The CPMG,N.E.Circle,Shillong w.r.t case file mark.Vig/5/2/96-97/CAT.

5/3/97  
(F.P.SOLO)  
Director Postal Services  
Nagaland : Kohima

Certified to be true  
S. P. SOLO  
Adv.

To : The Director of Posts & Telegraphs, North-Eastern Circle, The Post Master General, 1, N.E. Circle, Imphal, and also to the Director of Posts & Telegraphs, North-Eastern Circle, Shillong- 793001, to inquire about the question and that I left Imphal on 1st August 1997.

Through the Director of Postal Services, Nagaland Division, 1, N.E. Circle, Kohima- 797001, to inquire about the question and that I left Imphal on 1st August 1997.

Sub :- Denial of House Rent Allowance while under suspension; and reference from

Ref :- Your office file marked 'staff/109-10/98' and D.P.S. Kohima File marked 'B-1/Disc/ S.J.Singh.'

Sir,

I have the honour to approach you good self with regard to the following facts for favour of kind perusal and favourable orders.

(i) That I was placed under suspension while on casual leave at my home town at Imphal vide DPS Kohima memo No. B-444 dt. 4-8-94.

(ii) That I was occupying a government quarter at Kohima in the designation of A.S. Pos Kohima sub-division which was hill specifically attached with the said post. Other than I granted leave to the said quarter to another. This is the reason of the DPS

(iii) That as the said quarter was attached with the specific post the authority allotted the quarter to different incumbents from the date of my suspension till date, the fact of which can very easily be varified from the office records maintained in the office of the DPS Kohima.

(iv) That I was quite surprised to learn the fact that the DPS Kohima denied and ordered the post Master Kohima H.Q. not to allow to draw and disburse the HRA entitled to me. I approached the concerned authority from the DPS Kohima on 10-7-97.

(v) That I humbly approached the DPS Kohima with a representation, dt. 10-7-97, so that my legitimate claim of the HRA

to be true  
Certified  
Suryakishore  
P.D.

- 2 -

- 3 -

might be disbursed from the date of suspension. But unfortunately the DPS Kohima passed an order vide his office memo No. BI/Disc/ S.J. Singh dt. 23-7-97 (Photostate copy enclosed as Annexure A) stating that I did not surrender the quarter and that I left station without permission.

(v) That I am entitled and finding no justification I have got no option except to approach your honour self for the same at Kohima and in spite of several requests to Change the head quarter is not done in any kind of trouble by leaving quarters at Imphal, the DPS Kohima rejected all the requests.

(vi) That my headquarters while under suspension was fixed at Kohima and in spite of several requests to Change the head quarter is not done in any kind of trouble by leaving quarters at Imphal, the DPS Kohima rejected all the requests.

(vii) That I am still drawing my subsistence allowance from Kohima H.O. regularly although I am not attending the office as a government servant under suspension does not require to attend the office.

(viii) Lastly I approached the DPS Kohima with a humble representation dt. 8-5-98 requesting him to allow me to draw the HRA as admissible under the rules. But unfortunately, the DPS Kohima took his earlier stand and denied my legitimate claim vide his memo No. BI/Disciplinary/S.J. Singh/II dt. 19-5-98 (a photostate copy of the memo is enclosed as Annexure B).

The Post Master Kohima, N.C. Circle, memo No. 9/444

(ix) That I was supposed to vacate the quarter as it was specifically attached with the post of As Post Kohima, and that my headquarters during suspension was at Kohima which is a hill station as well as a classified city where other central government servants are drawing HRA, it appears that the decision of the DPS Kohima is quite contrary to the G.I. M.F., O.M. No. F.2(37)-E. II(B)/67., dt. the 24th September 1966, inserted as para (5) (v) of Government of India's orders below F.R. (53(1)).

(x) That your honour will accept the view that a government servant under suspension is entitled in the subsistence allowance as well as other legitimate allowance as per the rules and regulations of the Department. Here the drawing and disbursement officer is allowed to draw and disburse the entitled allowance etc without any specific orders from the higher authority on the orders on the specific case that has been issued. Now your honour will be of the view that the DPS Kohima is using his powers

which is disadvantageous to a fellow government servant which may be termed as using of unauthorised official powers for the unknown causes. I hope that the concerned department left

(xi) Being aggrieved and finding no justice I have got no option except to approach your good self so that the under harassmenties stated above may kindly be ended by issuing favourable orders from your good self.

Sub to: District of Braille Post Allowance while on  
casual suspension.

Dated 5-6-98  
Copy to your office to the concerned staff/109-10/98  
Yours faithfully, S. C. S. Singh, Post Master Kohima.

Sir,

I have the honour to inform you (S. C. S. Singh) that the following facts for favour of kind Ex-Ax-S, Post Kohima, are:

Copy to :-

- (i) That I was placed under suspension while on casual leave at my office at the Post Master Kohima H.O. Division, room No. B-444 at Kohima. The Post Master is Mr. R. D. D. D. Singh, room No. B-444 Shillong - 793001.
- (ii) That the Post Master, a government quarter at Kohima, in the division Kohima H.O. is Kohima subdivision which was specifically for information of the said post.
- (iii) That as the said quarter was allotted with the specific post the authority allotted the quarter to different incumbents from the date of my suspension till date (S. C. S. Singh) which can very easily be verified from the official Ex-Ax-S, Post Kohima. In the affix of the said quarter.
- (iv) That I was just surprised to learn the fact that the D.P.S. and concerned and ordered the post Master Kohima H.O. not to allow to do and do other than the D.P.S. entitled to do.
- (v) That I am fully unattached the D.P.S. Kohima with a compensation of Rs. 100/- per month as a Settlement claim of the D.P.S.

Curz(e)  
spare

## ANNEXURE-16

DEPARTMENT OF POST: INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND: KOHIMA: 797001.

Memo No.B-1/Disc/S.J.Singh  
Dtd. Kohima the 27.11.97.

In this office memo of even no.dtd. 11.8.95 it was proposed to hold an enquiry under Rule 14 of CCS (CCA) Rules 1965 against Shri. S.J.Singh, the then ASPO's Kohima Sub-Division. A statement of articles of charges and a statement of imputation of misconduct or misbehaviour in support of the articles of charges and a list of documents by which and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

Shri.S.J.Singh was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri. S.J.Singh the then ASPD's Kohima Sub-Dn. is as under:-

ORTIGI E-T

Shri.S.J.Singh while working as ASPO's Kohima Sub-Divn Kohima during the period from 30.9.91 to 31.7.94 failed to send/submit the fortnightly diaries and the monthly summary of inspections for the periods from 1.1.94 to 31.7.94 in violation of the provisions contained in Rule 292 and 293 of P&T Man.Vol.- VIII (3rd addition, 2nd re-print) and also violated Rule 3 (I) (i) (ii) & (iii) of CCS Conduct Rules 1964.

## ARTICLES-11

Shri.S.Jugeshwar Singh, while working as ASPO's Kohima Sub-Divn Kohima, from 30.9.91 to 31.9.94 has shown that he carried out the inspections of 78 Post Offices during the year 1993 in his fortnightly diaries submitted to Director Postal Services, Nagaland Kohima. But he did not submit any inspection reports of the above 78 (seventy eight) inspections he had carried out in contravention of Rule 300 of P&t Manual Vol.-VIII (3rd Edition-2nd reprint). Thereby violated Rule 3 (1) of CCS (Conduct) Rules 1964.

verified to be true copy  
S. L. Math  
Adv.

### ARTICLES-III

Shri.S.J.Singh, while working "as Assistant Superintendent of Post Offices, Kohima Sub-Divn Kohima w.e.f 30.9.91 to 31.7.94 failed to enquire the case of excess cash retained by SPM Phek SO during the period from 18.7.94 to 29.7.94, although the matter of excess cash retention by Sub Postmaster Phek SO was reported by the Postmaster Kohima and the said Shri.S.J.Singh was directed to make immediate enquiry by the Divisional Head. But Shri.S.J.Singh did not carry out enquiry into the case which led to a fraud at Phek SO and thereby attract the violation of Rule 218 of Postal Manual Vol.-V and Rule-150 (2) (i) of P&T Manual Vol.-VIII. Thus showing lack of integrity lack of devotion to duty and unbecoming of a Govt. Servant, thereby infringed Rule-3(1) and 3(2) (i) of CCS (Conduct) Rules, 1964.

### ARTICLE-IV

Shri.S.Jugeeshwar Singh, while working as ASPO's Kohima Sub-divn. Kohima during the period from 30.9.91 to 31.7.94 drew the pay and allowance of EDDA & EDMC Longmatra BO under Kiphire SO by putting false signature of Shri.K.Sangtam EDDA and Smt.T.Alemba Sangtam, EDMC Longmatra BO at Kohima H.P.O after identification of the bills by the said Shri.S.J.Singh as on 29.7.94 and took the money and thereby attract infringement of Rule-3(I) (i) of CCS (Conduct) Rules 1964.

The charge sheet was served to Shri.S.J.Singh through the SPO's, Manipur Division, Imaphal. The same was received by Shri. S.J.Singh on 12.10.95. Shri.Singh did not submit any defence representation or submission against the charge sheet. Therefore, Shri. A.R.Bhowmick the then SPO's Dharmanagar Division was appointed as I.O to conduct the oral inquiry report, the charged official did not attend the inquiry. However, on the basis of documentary and oral evidence adduced during the inquiry, the I.O concluded that all the above charges levelled against Shri.S.J.Singh are proved.

A copy of the inquiry report was supplied to the charged official inviting his representation or submission within 15 days vide this office memo dated 19.8.97. In reply, the C.O asked for a copy of the charge sheet which was already delivered to him earlier. However, photo copy of the charge sheet was supplied to him again on 22.9.97. The same was received by Shri.S.J.Singh on 3.10.97. Shri.S.J.Singh has not made any representations or submission within the stipulated time of 15 days on receipt of the memo.

I have gone through the charges framed against the said Shri.S.J.Singh, the report of the Inquiry officer very carefully. Four articles of charges were framed against him. The charges in brief are, that Shri.S.J.Singh failed to submit fortnightly diaries for the period from 1.1.94 to 31.7.94. He was reminded several times to submit the diaries but there was no response from him. The second charge was that he failed to submit the IRs of 78 PO's which he had shown as inspected in his diaries in 1993. Though the offices were shown as inspected, IRs were not received by Divisional Officer, so Shri.S.J.Singh was repeatedly asked to submit the IRs. But he did not pay any heed to the instructions issued by D.O. and did not submit IRs of the 78 Offices shown as inspected in his diaries. The third article of the charges against Shri.S.J.Singh is that he failed to inquire the case of excess cash retained by SPM, Phek SO during the period from 18.7.94 to 29.7.94 though he was directed to make immediate inquiry by the Divisional Head. Shri.S.J.Singh failed to conduct the inquiry of excess retention of cash by the SPM, Phek as a result of which a fraud amounting to Rs.108156.24 was committed by the then SPM Phek SO. The forth article of charges is that Shri.S.J.Singh is alleged to have drawn the pay and allowance of the EDDA & EDMC of Longmatra BO in account with Kiphire SO by putting false signature of the ED Staff on 29.7.94. It has been established that a sum of Rs.2955/- and Rs.2297/- being the pay and allowances of Shri.K.Sangtam EDDA and Smt.T.Alemba EDMC, Longmatra BO respectively was drawn by Shri.S.J.Singh on 29.7.94 by putting false signature of the two ED Officials in the pay rolls. Therefore, all the four articles of charges against the official have been proved.

As the charges against Shri.S.J.Singh did very serious in nature and he is partly responsible for the loss of Govt. Money amounting to Rs.1,13,408.24 he is not fit to be retained in service. I agree with the findings of the I.O and hold that the charges levelled against Shri.S.J.Singh are established. Shri.S.J.Singh was given adequate time to refute the charges and establish his innocence. But he failed to do so. Therefore, considering all aspects of the case I am of the view that the ends of justice will be adequately met if Shri.S.J.Singh is dismissed from service.

ORDER

Therefore, I Shri.F.P.Solo, Director of Postal Services, Nagaland, Kohima and the disciplinary authority hereby order that Shri.S.J.Singh ASP (K) Sub-Divn (u/s) be dismissed from service with immediate effect.

Sd/-  
( F.P.Solo )  
Director of Postal Services  
Nagaland, Kohima-797001.

Copy to:-

- 1) Shri.S.J.Singh, ASP (K) Sub-Divn (u/s).
- 2) The Postmaster Kohima HO for n/a.
- 3) The DA (P) Cal. (through P.M. Kohima).
- 4)-5) P/F CR of the official.
- 6)-7) Spare.

2/12/77  
(F.P.Solo)  
Director of Postal Services  
Nagaland, Kohima-797001

-40-

ANEXURE - 17/99

DEPARTMENT OF POST  
OFFICE OF THE POSTMASTER GENERAL::N.E. CIRCLE  
SHILLONG-793 001.

Memo No. Staff/109-10/98, Dtd. at Shillong, the 01.04.98.

O R D E R

Gone through the appeal dated 30.01.98 of Shri S.J.Singh, Ex-ASPOS, Nagaland Division against the imposition of punishment of dismissal from service vide order No.B-1/Disc./S.J.Singh dtd. 27.11.97.

2. Shri S.J.Singh was proceeded against under Rule-14 of C.C.S. (CCA) Rules, 1965 vide Memo No.B-1/Disc./S.J.Singh dated 27.7.95/11.8.95 for his failure to submit Fortnightly Diaries and Monthly Summary of inspections , his failure to submit Inspection Reports of 78 Post Offices, his failure to make immediate enquiry into the matter of excess cash retention in Phek Sub-Post Office , and for drawing the pay & allowances of EDDA & EDMC of Longmatra B.O. by putting false signatures of the incumbents. The appellant did not submit any representation after the receipt of the charge sheet. The Disciplinary Authority appointed Inquiry Officer and Presenting Officer. The oral enquiry against the appellant was initiated. But he did not participate in the enquiry. As a result, the enquiry was conducted ex-parte and the report was submitted on 13.8.97. A copy of the enquiry report was sent to the appellant for submitting representation if any. However, he did not make any representation. After taking the enquiry report and other relevant factors into account , the Director Postal Services, Nagaland Division imposed punishment of dismissal from service.

3. Now, Shri S.J.Singh has submitted an appeal against the punishment imposed by the D.P.S., Nagaland Division. In his appeal he has made mainly the following points :-

*Certified to be true copy  
Divyashakti  
PDR.*

... 2/-

- (i) That the appellant was put under suspension on 4.8.94, but he was not paid subsistence allowance. Even though he had communicated his inability to attend enquiry due to financial stringency on account of non-payment of subsistence allowance, the Inquiry Officer conducted enquiry ex-parte.
- (ii) That the prosecution witnesses did not turn up on the date fixed for their examination. As a result, they were not examined by the Presenting Officer before the Inquiry Officer and the charges were taken to be proved against the appellant on the basis of facts and figures without any corroboration from the witnesses.
- (iii) That the punishment order issued by the Disciplinary Authority does not indicate the application of mind by the said authority as the order merely re-produced the articles of charges without any substantive reasons given in support of the decision taken.
- (iv) That the appellant had submitted Fortnightly Diaries regularly for the period he was on duty and was not aware where the diaries were kept in the Divisional Office.
- (v) That he had submitted all the Inspection Reports in respect of the Post Offices inspected by him during the year, 1993.
- (vi) That he had not received the letter dtd. 29.7.94 containing the direction from the D.P.S., Nagaland Division, Kohima to visit Phek Sub-Post Office on time for which he did not pay the visit.

...3/-

(vii) That he had identified the signatures of EDDA & EDMC of Longmatra B.O. on humanitarian ground for enabling them to draw their allowances for meeting medical expenses.

4. I have gone through the appeal of Shri S.J.Singh and all the relevant records. I want to record my observations on the first two points raised by the appellant about the conduct of oral enquiry which has obvious bearing on the proceedings and punishment order.

(i) It was seen from the records that Shri S.J. Singh was put under suspension on 4.8.94. The subsistence allowance was sanctioned vide Memo No.B-444/Pt.II dtd. 29.8.94. The copies of the memo were endorsed to all concerned including the appellant. Apparently, due to unauthorised absence of the appellant from Headquarters after his suspension, the memo was not received by him, which led to non-receipt of subsistence allowance. The appellant had also filed a petition before C.A.T., Guwahati Bench in this matter. Without going to the reasons for non-receipt of subsistence allowance by the appellant at this stage, it is suffice to note that he was not receiving subsistence allowance at the time of holding of oral enquiry.

(ii) Records also indicate that the prosecution witnesses did not appear before the Inquiry Officer. It is not understood why their presence could not be insisted and ensured as the witnesses were the employees/agents of the Department.

5. The fact needs recognition that the appellant had not received subsistence allowance regularly which could have affected his financial position. The plea of the appellant that he could not attend the oral enquiry due to financial problems arising out of non-receipt of subsistence allowance has some merit. Similarly, the failure to ensure appearance of prosecution witness before the I.O. appears to be an inadequacy so far as presentation of prosecution case is concerned. Taking these facts into consideration, I, S.Samant,

...4/-

Postmaster General, N.E. Circle, Shillong, do hereby set aside punishment of dismissal of service imposed vide D.P.S., Nagaland Memo No.B-1/Disc./S.J.Singh dated 27.11.97 and remit the case back to Disciplinary Authority for de novo proceedings from the stage of appointment of Inquiry Authority to inquire into articles of charges. Shri S.J.Singh will be deemed to be under suspension from the date he was dismissed from service in accordance with the aforesaid Memo of D.P.S., Nagaland. The appeal dated 30.01.98 of Shri S.J.Singh stands disposed of.

*(S. SAMANT)*  
Postmaster General,  
N.E.Circle, Shillong-793 001.

✓ Shri S.J.Singh,  
Ex-ASPOs, Nagaland Division.  
C/O D.P.S., Nagaland Division,  
KOHIMA.

Copy to:-

1. The Director Postal Services, Nagaland Division  
Kohima.

DEPARTMENT OF POST:INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND : KOHIMA -797001.

Memo no; B1/Disciplinary/S.J.Singh/II  
Dated Kohima 8.5.98

Shri S.J.Singh Ex-ASPOs Kohima Sub -Dvn was imposed the punishment of dismissal from service vide this office memo no B1/S.J.Singh dtd. 27.11.97

Shri S.J.Singh has submitted an appeal against the punishment imposed by the undersigned. Subsequent to the appeal the PMG, NE circle shillong has disposed off and remit the case back to the undersigned for denovo proceedings.

Now, therefore the official Shri S.J.Singh will be deemed to be under suspension from the date he was dismissed from service in accordance with this office memo of even no dtd 27.11.97.

And accordingly the subsistence allowance is hereby ordered to be drawn and disbursed in favour of the official at the rate admissible to him prior to issue of memo dtd 27.11.97.

So-  
(F.P.SOLO)  
(Director of Postal services)  
Nagaland : Kohima -797001.

Copy to:-

- (1) The Postmaster Kohima HO for information and n/action
- (2) The D.A.(P) Calcutta (Through the P.M.Kohima HO)
- (3) Shri S.J.Singh, Ex-ASPOs Kohima Sub-Dvn village and PO Monsang, via Manipur University Imphal -3

6/5/98  
(F.P.SOLO)  
Director of Postal services  
Nagaland : Kohima -797001.

to be given COPY  
certified to be correct  
S. P. SOLO

ANNEXURE-19

233  
294

DEPARTMENT OF POST, INDIA  
OFFICE OF THE DIRECTOR, POSTAL SERVICES  
NAGALAND; KOHIMA-7970001

RJD

BI/Disciplinary/ S.J.Singh/II  
Dtd, Kohima the 28.4.98

## O R D E R

Where as an inquiry under Rule-14 of the Central Civil Services, (classification, control and Appeal) Rules 1965, is being held against, Shri S.J.Singh, Ex-ASPOs Kohima Sub Division U/S.

And where as the undersigned considers that a presenting officer should be appointed to present on behalf of the undersigned the case in support of the articles of charges.

Now, therefore, the undersigned in exercise of the power conferred by sub-rule (5) (c) of Rule 14 of the said rules, hereby appoints Shri Md. Qutubuddin ASPOs, Kohima Sub-Div as presenting officer.

sd/-

(F.P. Solo)

Director of Postal Services  
Nagaland; Kohima-797001

Copy to :-

- 1, Shri Md Qutubuddin, ASPOs Kohima Sub Div (Presenting officer)
- 2, Shri K.R.Das, SP (HQ) (Inquiry officer)
- 3, Shri S.J.Singh, Ex-ASPOs Kohima Sub-Div, U/S, vill & PO  
Mongsanga, via Manipur university, Imphal-3

28/4/98  
(F.P. Solo)

Director of Postal Services  
Nagaland; Kohima-797001

certified to be true  
S. J. Singh  
28/4/98

ANNEXURE-20

Daily order sheet of rule 14 inquiry case against Shri S.J. Singh Ex-ASPOS, Kohima held on 8.9.98 and continued upto 9.9.98 as under :-

Date and time                    8.9.98 to 9.9.98 at 1400 hrs and 800 hrs respectively.  
Venue :                            O/O the ASPOS, Kohima.  
Present :                            (1) Md. Qutubuddin, ASPOS and P.O.  
    (2) Shri S.J. Singh CO.

The oral inquir is held on 8.9.98 and continued to 9.9.98. Both this CO and P.O. are present in the inquiry. The P.O. has produced the lighed documents to CO who has inspected them and the documents are brought to records and exhited marked as S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, S-11, S-12, S-13, S-14, S-15, S-16, S-17, S-18, S-19, S-20, S-21 and S-22.

The CO has been examined by the P.O. to day. The CO has no witness. He has also orominated Mrs. T. Amongla APm, Kohima HO for this defence Assistant. The CO has requested to me to day during inquiry for supplying of Photo copy of 3 (three ) written statements i.e. EDDA, EDMC, Treasurer who are the witness. The CO may take extract of these documents he may take the photo copies.

*with fix to be done by  
Smt. Mohd. S. DAS  
Smt. Mohd. S. DAS*

The todays proceeding is hereby adjourned and the next date of hearing for evidence of witnesses will be fixt and communicated to CO and P.O ~~and~~ in time. Both the P.O. and CO have been requested to present the inquiry in the next hearing, without fail.

copy given to :

1. Shri S.J. SINGH CO, (2) Md. Qutubuddin P.O. Kohima

Sd/- ( K.R. DAS )

I.O. & SPOS

Sd/- K.R. DAS

67

ANNEXURE -21

Daily ordersheet of rule 14 ~~maxim~~ inquiry case  
against Shri S.J. Singh Ex-ASPOS, Kohima and Division held on  
15.10.98 as under :-

1. Date and time : 15.10.98 at 1400 hrs.
2. Vanue : O/O the ASPOS Kohima.
3. Present : (1) Md. Qutubuddin, ASPOS and P.O.  
(2) Smt. Angmola

Defence Assistant

(3) Shri K. Sangtam EDDA

Longmetra B.O.

(4) Shri A. Besu Mao

Ex-treasurer

Kohima H.O.

(5) Smt. T. Alenpe

Sangtam

EDMC, Longmetra B.O.

*verified to be true copy*  
Not the P.O. and defence Asstt. have been present  
in the inquiry to day before me. Shri S.J. Singh the C.O.  
has not attended the inquiry .

The date of to day's oral inquiry was fixed as per  
the convenience of the C.O. Shri S.J. Singh Ex-ASPOS, Kohima  
but he failed to attend the inquiry.

All the witness of attended the inquiry before me  
and they have been examined and recorded their deposition  
of evidence in presence of the defent assistant who has been  
attedned in the inquiry but she could not crossed the witnesses.

Annexure - 21 ( Contd )

Both the P.O. and the depend assistant have been asked to submit their written brief to me within 10 days. Hence, the inquiry is hereby concluded to day

Sd/-

( K.R. Das )

15.10.98  
Inquiry Officer

Copy given to :

P.O.

1. Shri Qutabuddin and SRPS ( HO ) Kohima.
2. Smti. T. Angmola, Defence Assistant.
3. Shir S.J. Singh, C.O. and Ex. ASPOS.

ANNEXURE - 22.

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND : KOHIMA : 797001

No. E1/Rule 14 Inquiry/S.J. Singh Dtd. Kohima the 21.10.98

To,

Shri S.J. Singh,  
Ex-ASPOS, Kohima Sub-Offm u/s,  
at Vill C.P.O. Mongsaga,  
Via Manipur University,  
Imphal - 3.

Sub 1:- SUBMISSION OF WRITTEN BRIEF IN R/O RULE 14  
INQUIRY CASE AGAINST SHRI S.J. SINGH, EX-ASPOS  
KOHIMA.

A copy of the written brief in r/o Rule 14 inquiry case dtd. 15.10.98 submitted by the PG Md. Cutubuddin, ASPOS, Kohima Sub - Offm., Kohima is sent h/w along with the daily order sheet and proceeding held on 13.10.98 are sent h/w.

... You are requested please arrange to submit your written brief by your defence assistant within 10 days of receipt of this letter.

1. Enclosure (4)

( K.R.Das )  
Supdt. of Post Offices & I.O.  
Kohima

certified to be true  
S. J. Singh  
A.D.L.

ANNEXURE - 23

DEPARTMENT OF POSTS : INDIA  
C/O THE DIRECTOR OF POSTAL SERVICES  
NAGALAND KOHIMA-797001.

No. 8-1/Disciplinary/S.J. Singh      Dtd. Kohima the 17.2.99

To

Sir/S. J. Singh  
Ex-ASPOS, Kohima Sub-Division  
Vill 11 & PO Ronggangal  
Via - Manipur University, Imphal-3

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

Encl : as above

( P.P. Sole )  
Director of Postal Services  
Nagaland Kohima-797001.

certified to be true CPY  
S. P. Singh  
Adv.

ANNEXURE-24

OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND KOHIMA-797001

No. E-1/Rule-14/S.J. Singh  
To,

Dated at Kohima the 7.4.99

1. Shri Sangtam, BDDA  
Longnatre SD via Kiphire SC.
2. Shri A. Besu Mao, BNGC Ex-Treasurer Kohima PD  
SPM, KPNPD SD.
3. Smt. Alenla Sangtam, BOMC  
Longnatre SD Via Kiphire SD.

Sub : SUMMON TO WITNESS

Since I have been appointed as inquiry officer vide D.P.S., Kohima Memo No. B1/Disciplinary/S.J. Singh dtd. 26.4.98 to inquire into the charges framed against Shri S.J. Singh, ASPG's Kohima Sub-Div. Kohima.

Now, I therefore in exercise of the power conferred by the above authority fixed the date next hearing for examination and cross examination of witness as on 28.4.99 at 1:00 hrs in the Office of D.P.S., Kohima.

Since your evidence is material, you are requested to attend the inquiry on the above date, time and place without fail.

Sd/-

(K. R. Das)  
Supdt of Post Offices(HQ)  
C/o Director of Postal Services  
Nagaland Kohima 797001  
and Inquiry Officer.

Copy to : -

1. Md. Qutubuddin, ASPG's, Kohima Sub-Division who will please attend the inquiry positively.
2. Shri S. J. Singh Ex-ASPG's, (U/S) Kohima Sub-Division at Vill & No. Mongaongei, Via, Manipur University, Imphal-3 who will please attend the inquiry without fail.
3. Smt. T. Mongla, Defence Assistant, now Smt. Ongpangkong who has been requested to attend the inquiry positively.
4. The D.P.S., Kohima for information w.r.t. his letter of even no. dtd. 3.4.99 who has been requested for relieve arrangement of T. Mongla Smt. Ongpangkong in time.

*Certified to be true  
Sivallykhost  
D.P.S.*

( K. R. Das )

Annexure -25

To

The Postmaster General,  
N.E. Circle, Shillong - 793001.

Through the D.P.S. Kohima.

Sub : An appeal for review of appointment of Inquiry Officer under Rule 14 of CCS(CCA) Rules 1965.

Ref : C.O. Memo no. Staff/109-10/98 dated 1.4.98 and D.P.S. Kohima memo no. B-1/DISCIPLINARY/S.J.Singh/II, dated 8.5.98.

Respected Sir,

The undersigned, your humble appellant, has the honour to approach your good self with the following few lines for favour of your kind considerations and favourable decisions ;

2. That Shri K.R. Das, S.P. (HO) Kohima, was appointed as Inquiry Officer ( I.O. ) vide D.P.S. Kohima memo no. B-1/DISCIPLINARY/S.J. Singh/II dated 28.4.98 in connection with the De-Novo proceedings under D.P.S. Kohima memo No. B-1/DISCIPLINARY/S.J. Singh dated 27.7.95/11-8-95.

3. That the inquiry was started on 20.8.98 for charges framed stated to be under D.P.S. Kohima letter no. B-2/DISC/S.J. Singh dated 27.11.97 a copy of which was never delivered to the C.O. In spite of oral and written protests made by the C.O. on the confusing subject of the different memos as stated herein above the I.O. did not pay any heed and continued the inquiry after supplying a copy of the charge sheet framed under D.P.S. Kohima memo no. B-1/DISCIPLINARY/S.J.Singh dated 27-7-95/11.8.95.

*certified to be true copy  
Srinivas  
D.L.*

Annexure -25 (Contd)

4. That the said I.O. concluded the inquiry on 15.10.98 when the proceeding was half completed only. The P.O. submitted his written brief on 15.10.98/16.10.98, and your appellant submitted his written brief on 8.11.98.
5. That the I.O. submitted his inquiry report to the Disciplinary Authority vide his no. ndl dated nil (perhaps in the month of February ). A copy of which was forwarded to the C.O. under D.P.S. Kohima letter No. B-1/DISCIPLINARY/S.J. Singh/II dated 17.2.99 . A representation of the C.O. against the inquiry report was submitted to the Disciplinary Authority on 11.3.99.
6. That surprisingly the said I.O. fixed another date on 28.4.99 for appearing in the inquiry and he summoned three P.Ws. for examination and cross-examination vide his no. E-1/Rule-14/ S.J. Singh dated 7.4.99. Also the said I.O. forwarded three Photo state copies of the written statements of the three P.Ws which were denied to supply to the C.O. ~~During~~ during the formal inquiry.
7. That presuming the action of the I.O. is for supplementary inquiry, but so far no direction of the Disciplinary Authority was received by the C.O. and also the I.O. did not mention anything on the subject.
8. That in para -3 of the report of the I.O. he decried the C.O. for non-cooperation during the inquiry and he appreciated the P.O. There was no evidence of non-cooperation of the C.O.

Annexure-25 (contd )

during the inquiry and no evidence or occasion in support of his remark was mentioned in his report. It shows that the whole ~~K~~ bindings of the I.O. are prejudicial and biased. That Shri K.R. Das, S.P. Kohima is directly subordinate to the D.P.S. Kohima who has already expressed an opinion on the allegations by dismissing the C.O. vide his memo no. B-1/DISC/S.J. Singh dated 27.11.97. As such the appointment of Shri K.R. Das, S.P. Kohima (HQ) as I.O. is not proper and due to administrative heirarchy the I.O. must be biased, unfair, unjust, and non-judicials the examples of which have already been stated in the foregoing paras.

9. That the present I.O. has already submitted his final report expressing his recommendations that all the charges framed against the C.O. have been proved. As such the result of any supplementary inquiry will be biased and prejudicial.

Hence your humble appellant is requesting your good self to kindly consider the facts and figures and to take necessary actions so that a new I.O. may be appointed for the said inquiry.

Dt. 15.4.99

Advance copy to -

The postmaster General,  
N.E. Circle, Shillong  
793001

Yours faithfully,

Sd/-  
( S.J. Singh )  
Ex-ASPOS Kohima

- For favour of information and necessary action.

Sd/-  
( S.J. Singh )  
Ex-ASPOS Kohima.

DEPARTMENT OF POSTS  
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE, SHILLONG. O.  
facts, and the conduct of the case and my observations on the  
MEMO NO. VIG/14/15/85 Dtd. at Shillong, the 07.06.99

After consideration of the Report concerned charge sheet  
Gone through the representation dated 15.4.99 submitted Memo  
by Shri S.J. Singh, Ex-ASPO's, Kohima for review of appointment  
of the I.O. in the inquiry under Rule-14 of C.C.S. (CCA) Rules,  
1965 against Shri S.J. Singh. It is seen that Shri S.J. Singh was  
proceeded under Rule-14 of C.C.S. (CCA) Rules, 1965 vide D.P.S.  
Kohima Memo No. B-1/Disciplinary/S.J. Singh dated 27.5.95. The  
proceeding was finalised after imposition of punishment vide  
Memo No. B-1/Disc/S.J. Singh dated 17.11.97. Shri Singh preferred  
an appeal against the order of punishment. While disposing his  
appeal, it was ordered to conduct de-novo proceedings from the  
stage of appointment of Inquiring authority vide this office  
Memo No. Staff/109-10/98 dated 1.4.98. Accordingly the de-novo  
proceeding was initiated vide IPS, Kohima No. B1/Disc/S.J. Singh/II  
dated 28.4.99. After the inquiry, the I.O. submitted his report  
A copy of inquiry report was sent to the C.O. In his representation  
dated 11.3.99 the C.O. alleged serious irregularities in the conduct  
of oral inquiry. Taking the representation of the C.O. into  
consideration, the IPS, Kohima directed the I.O. on 5.4.99 to  
conduct further enquiries in continuation to the oral inquiry  
keeping the observation of C.O. in mind. In pursuance to this  
direction, the I.O. fixed the date of further hearing on 28.4.99.  
The C.O. did not attend the hearing. On the other hand, he has  
submitted his representation dated 15.4.99 expressed his findings  
in this regard. Even then, obviously I.O. would be

2. In the above mentioned representation Shri S.J. Singh put  
forward the following points :-

- (a) That the IPS, Kohima letter No. B-2/Disc/S.J. Singh  
dated 27.11.97 was not delivered to him.  
(b) That the I.O. completed the inquiry when the proceeding  
was half completed only by him for completed quickly and  
(c) That the I.O. fixed date of hearing after submission  
of I.O's report, and the C.O. did not receive any  
direction from the Disciplinary authority for holding  
attending supplementary inquiry. (A. Comment)  
(d) That I.O's finding was biased.

certified to  
Smt. Shyam  
Sarkar

contd... 2/-

I have gone through carefully the representation of the C.O. facts and circumstances of the case and my observations on the above points are as follows :- Dtd. at Mawilong, the 07.06.99

- a) It has been established that the concerned charge-sheet was delivered to the C.O. and the C.O. admitted that the Memo dated 27.11.97 was received by him (as per his appeal dated 30.1.98), the Injunction, Rule 14 of C.C.S. (C.A) Rules, 1961.
- b) The Disciplinary Authority, after receipt of the representation of the C.O., directed the I.O. on 5.4.99 to conduct further oral inquiry keeping in view the points raised by the C.O. in his representation.
- c) The I.O. fixed the date of inquiry as per direction given by the Disciplinary Authority as certain shortcomings were noticed by the Disciplinary Authority in the conduct of oral inquiry. Obviously such action was taken by the Disciplinary Authority for the sake of natural justice for which C.O. could not have any objection.
- d) I.O.'s report will be examined by the disciplinary authority and the C.O. has scope to submit representation against the conduct of I.O.'s report. Apparently the I.O.'s conduct of enquiry has certain inadequacies for which Disciplinary Authority has asked for further enquiries. Such inadequacy on the part of I.O. cannot be construed as 'bias' as the charged officer has not specifically advanced any instance of bias. He has only mentioned about the fact that I.O. is working under disciplinary authority and I.O. has already expressed his findings in his report earlier. Even then, obviously I.O. would be permeable to fresh facts and evidences that would be brought before him as a result of further enquiry ordered by disciplinary authority. It is not appropriate to pre-judge the result of further enquiry as ordered.

In view of the above, there is no scope for charging I.O. at this stage. I hereby direct the Disciplinary Authority to ensure that the further enquiry as ordered by him is completed quickly and the proceedings are decided early. I also direct the representationist to fully cooperate with the enquiry.

Direction from the Disciplinary authority for holding

disciplinary inquiry (S. Samant)  
Shri S.J. Singh Postmaster General  
Ex-ASPUS, Kohima I.O. I find his finding has biased.  
(Through DPS Nagaland)

Copy to :- 1-2) The Director Postal Services Nagaland Division,  
Kohima  
3) Office copy.

ANNEXURE -27

To

The Postmaster General, N.E. Circle,  
Shillong - 793001, through the D.P.S. Kohima.

Sub: Appeal for review of subsistence allowances : case of  
S.J. Singh, Ex-ASPOs, Kohima, now under suspension.

Ref: D.P.S. Kohima memo no. B-444 dated 4.8.94 and D.P.S.  
Shillong memo no. VIG/4/15/85 dated 24.1.95.

Hon'ble Sir,

The undersigned, your humble appellant, is approaching your honour with the following few lines for favour of your kind perusal and favourable orders :

2. That while your appellant was on leave at his home town at Imphal, when he was working as ASPOs, Kohima, the DPS, Kohima placed him under suspension vide his office memo no. B-444 dated 4.8.94 and the said order of suspension was confirmed by the DPS, Shillong under his memo no. VIG/4/15/85 dated 24.1.95.
3. That subsequent to the issue of suspension order no order for subsistence allowance was received by your appellant inspite of repeated verbal and written requests to the Disciplinary Authority.
4. That a charge sheet was framed against the appellant vide DPS Kohima memo no. B-1/Disciplinary/ S.J. Singh dated 27.7.95/ 11.8.95 i.e. after a lapse of one year from the date of issue of suspension order dated 4.8.94.
5. That your humble appellant had to approach the CAT, Guwahati for the purpose of non sanctioning of S/A and a verdict of the said CAT was announced vide its O.A. No. 282/1986 under memo

*Certified to  
Sachiv/Minister  
Par.*

Annexure - 27 ( Contd )

memo no. 22 dated 1.1.97 ( Photostat copy enclosed as Annexure 'A' )

6. That the DPS Kohima intimated your appellant under his office letter no. B.1/Disciplinary/S.J. Singh dated 5.3.97 (Photostat copy enclosed as Annexure 'B') that the S/A was sanctioned vide his office memo no. B444/II dated 29.8.94 which was never received by the appellant inspite of repeated requests for a period of about 2 years from the date of suspension.

7. That the DPS Kohima under his office memo No. B-1/Disciplinary/S.J. Singh ( Photostate copy enclosed as Annexure 'B' dated 3.3.97 received the S/A of the appellant ( at such a time when no S/A was drawn and disbursed ) thereby reducing the S/A to 25% of the basic pay on the ground that the appellant did not attend the oral inquiry.

8. That the appellant informed all concerned for his failure to attend inquiries due to financial stringency due to non-payment of S/A and no appropriate action was taken by the concerned authorities.

9. That the appellant is under suspension for about 56 months and there has been no evidence on his part for using dilatory tactics in processing the case. Rather it may not be out of place to say that the delay in finalising the case is due to the administration for the reasons cited below :

(1) Charge sheet was issued after a lapse of about one year from the date of suspension which is not a dilatory tactic on the part of the appellant.

## Annexure - 27 (Contd)

- (ii) Preliminary hearing of the case was fixed on 16.10.96 i.e. after a lapse of about 26 months from the date of suspension which is not a dilatory tactics on the part of the appellant.
- (iii) The inquiry could not be attended by the appellant due to financial stringency as stated in the foregoing paras and the case was concluded ex parte thereby the appellant was dismissed from service which is not a dilatory tactics on the part of the appellant.
- (iv) On appeal the PMG, Shillong set aside the order of dismissal from service and remitted the D/O for de-novo proceeding vide his office memo no. Staff/109-10/98 dated 1.4.98 which is not a dilatory tactics on the part of the appellant.
- (v) The de-novo proceeding was started on 20.8.98 and concluded on 15.10.98 and the I.O., Shri K.R. Das, SPOS, Kohima, submitted his final report to the D.O. under his no. nil dated nil (perhaps in the month of Feb '99).
- (vi) After conclusion of the de-novo case the I.O. again directed the appellant to attend the inquiry on ~~28~~ 28.4.99 (perhaps for supplementary enquiry but there was no mention of any direction from the appropriate authority and no direction fix was received by the appellant). This occasion is also not a dilatory tactics used by the appellant (an appeal against the appointment of the said I.O. has already been submitted to your office on 15.4.99 through proper channel).

10. That the D/O is keeping silent for a further review of the S/A which was fixed at the rate of 25% of the basic pay w.e.f.

Annexure - 27 ( Contd. )

w.e.f. 3.3.97 which may be termed as injustice and inhumane-tarian taking into account the present standard of living.

In fine your humble appellant is approaching your good self to take the matter on humanitarian ground and cause to fix the S/A at 75% of the basic pay since 4.11.94 i.e. the due date for first review which was never done as stated above.

Thanking you in anticipation.

Dated 16.4.99

Yours faithfully,

Sd/-

( S.J. Singh )

Copy to.

Ex-ASPOs, Kohima

1. The PMG, Shillong 793001 ( advance-copy ).

2. The DPS, Kohima 797001.

Sd/-

( S.J. Singh )

Ex. ASPOs, Kohima.

-j.A-

ANNEXURE - 2B

DEPARTMENT OF POSTS : INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND KOHIMA - 797001

To,

The CMG(Staff)  
N.E. Circle, Shillong.

Subject : Appeal for review of Subsistence  
allowance case of Shri S.J. Singh  
ASPOS Kohima Sub-Div. (U/S)

A copy of an appeal received from S.J. Singh ASPOS Kohima Sub-Div (U/S) for review of subsistence allowance is sent herewith with the remarks that the subsistence allowance has since been reviewed and enhanced vide this office memo of even no. dtd. 25.3.99. A photo-copy of the same is enclosed herewith for your kind information.

Enclosed : as above.

Sd/-

( P.P. Solo )  
Director of Postal Services  
Nagaland Kohima 797001.

Copy to

Shri S.J. Singh, ASPOS Kohima Sub-Div. at Vill  
& P.O Mongangrei via Manipur University, Imphal-3  
for information.

( P.P. Solo )  
Director of Postal Services  
Nagaland Kohima 797001.

Certified to be true copy  
Digitized by  
Par.

ANNEXURE 22

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND, KOHIMA-797001

Memo No. B-1/Disciplinary/S.J. Singh Dtd. Kohima the 23.3.99

Whereas Shri S.J. Singh ASPD's Kohima Sub-Division was placed under suspension vide memo no. B-444 dt. 4.2.94 and was granted Subsistence Allowance vide memo No. B-444/Pt. II dt. 29.2.94.

And whereas on review of the suspension order the subsistence allowance was reduced by 30% of the initial subsistence allowance granted vide memo No. B-1/Disciplinary/S.J. Singh dt. 3.3.97.

And whereas on further review of the suspension it was felt that the subsistence allowance of Shri S.J. Singh needs to be revised.

Now, therefore, the undersigned in exercise of the powers conferred under F.R. (1) issue the following order to have immediate effect.

The subsistence allowance of Shri S.J. Singh is hereby enhanced by 30% of the amount initially granted.

Other allowances will continue to be entitled as admissible from time to time.

Sd/-

(P.P. Solo)  
Director of Postal Services,  
Nagaland Kohima 797001.

Copy to :-

- Certified to be true copy  
S. P. Solo  
Copy to :-
1. The Postmaster, Kohima HQ
  2. The DA(P), Calcutta
  3. Shri S.J. Singh ASPD's Kohima Sub-Division (G/S) at Vill 4 P.O. Nongsaengi, via Manipur University Imphal-3, Manipur.
  4. FF of the Official
  5. The CPMS(Staff), N.d. Circle, Shillong w.r.t. his file mark staff/Misc/Appeals for information.
  6. Spare.

(P.P. Solo)

The

The Chief Postmaster General,  
N.E. Circle Shillong - 793001

Sub :- Appeal for review of subsistence  
allowance with retrospective effect.

Ref :- Your office file marked VIG/14/13/85 and  
IPS, Kohima file marked B-1/Disciplinary/  
S.J.Singh/II.

Sir,

An appeal dated 16.4.99 on the above subject  
was submitted to your office through the EPS, Kohima who  
forwarded the same to your office under his office letter  
no. nil dated 27.5.99. But so far no ORDER has so far been  
received by the appellant.

Now, therefore, I am approaching your goodself  
once again so that a favourable ORDER may kindly be issued  
at an early date.

Dated,  
17/8/99

Yours faithfully,

(S.J. Singh)  
Ex-ASPOS, Kohima  
(U/S at Kohima)

Copy to :-

- 1) EPS Kohima for favour of  
information and necessary action.

certified to be true by  
Sujitkumar  
Sujitkumar  
Sujitkumar

(S.J. Singh)  
Ex- ASPOS, Kohima.

ANNEXURE -31

O/O Director of Postal Services  
Nagaland : Kohima - 797001

No. B-1/Disciplinary/S.J.Singh

Dated at Kohima the 10.09.99

To

Shri S.J. Singh  
ASPOs Kohima Sub Div (U/S)  
C/O Shri Kuesho  
New Market  
Behind Rengma Church  
Kohima.

Sub: Review of subsistence allowance.

Refer your representation dated 17.8.99.

The remarks of CPMG, NE Circle Shillong on your representation dated 17.8.99 regarding review of subsistence allowance is appended below.

I am directed to inform that since the review of subsistence allowance of the above mentioned official has already been done by the DPS Kohima under his office memo dated 25.5.99 and 3.6.99, no further revision is found justified in this case.

The official may kindly be informed accordingly.

Sd/- eligible  
For Chief Postmaster General  
N.E. Circle, Shillong.

Sd/- eligible  
( K.R. Das )  
Supdt. of Post offices (HQ)  
For Director of Postal Services  
Nagaland Kohima - 797001.

*Certified to be true copy  
S.J. Singh  
DPS*

DEPARTMENT OF POSTS : INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND KOHIMA - 797001

No. B1/Disciplinary/S.J. Singh/11 Dated at Kohima the 3.6.99

QUADRIGAM

The words "enhanced by 50% of the amount initially granted" appearing in the last but one para of this office memo of even no dtd. 23.3.99 shall be substituted with the word "restored to what was admissible to him during the first 3(three) months of his suspension".

Sd/-

(F.P. Solo)  
Director of Postal Services  
Nagaland Kohima 797001.

Copy to :-

1. Shri S.J. Singh, ADPOs Kohima(U/S) at VIII & I/C Mongangal, Viz Manipur University Imphal-3, Manipur
2. The Postmaster, Kohima H.O for information and necessary action please.
3. The DA(P), Calcutta 700001 through PM Kohima.
4. The CPMG(Staff) N.E.Circle, Shillong w.r.t. his file mark staff/Appeals for information.
5. The CPMG(ANV), N.E.Circle, Shillong w.r.t. his letter VIG/14/13/83 dtd. 28.3.99 for information. A photocopy of this office memo no. B-1/Disciplinary/S.J. Singh/11 dtd. 23.3.99 is enclosed herewith for ready reference.
6. Spare.

certified to be true (CP)  
Sripad  
gdr.

(F.P. Solo)  
Director of Postal Services  
Nagaland Kohima 797001.

2790

The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

S.C NO 7

46

ANEXURE RE-33

ORDER SHEET

APPLICATION NO. 400/95 OF 199

Applicant(s) *Shri Soraikam Jogenwari Singh*

Respondent(s) *Union of India and ors.*

Advocate for Applicant(s) *M.L. A. Singh, M.L.R. Singh,  
M.N.B. Singh, M.S.N. Singh.*

Advocate for Respondent(s) *M.L.B. Singh.*

*M.L.S. Basumatary,  
Addl.C.G.S.C.*

6.1.2000 Present : Hon'ble Mr Justice D.N. Baruah,  
Vice-Chairman  
Hon'ble Mr G.L. Sanglyine,  
Administrative Member.

This application has been filed by the applicant seeking certain reliefs. The applicant was at the material time working as Assistant Superintendent of Post offices, Kohima Sub-Division. On 4.8.1994 he was placed under suspension. According to him he has not been paid Subsistence Allowance in accordance with law. Besides, the prolonged suspension is also not in accordance with law.

We have heard Mr S.N. Singh, learned counsel appearing on behalf of the applicant and Mr B.S. Basumatary, learned Addl. C.G.S.C for the respondents. Mr Basumatary very fairly submits that as per Government instructions suspension cannot continue after the period prescribed and that too review has to be done within this period. Nothing has been done. The applicant is under suspension with effect from 1994. Prima facie we feel that the order of suspension is not in accordance with law. However, we are not deciding the matter. We direct the respondents to consider the prolonged order of suspension and decide the matter in accordance with the Government instructions and the decided cases. During this period of suspension if the suspension order is not in accordance with law, the respondents shall immediately revoke the suspension order and he shall also be paid the subsistence allowance strictly in accordance with law. Arrear accrued thereon, if any shall also be paid immediately to the applicant.

The application is disposed of. No order as to costs.

Sd/-VICECHAIRMAN  
Sd/MEMBER (A)



**Certified to be true Copy**

प्रमाणित प्रतिलिपि

*11/11/2000*

Section Officer (J)

आनुसारा अधिकारी / अधिकारी शास्त्री  
Central Administrative Tribunal

केन्द्रीय अधिकारी 31, 32  
Guwahati, Assam, 781008

गुवाहाटी नगरपालिका, गुवाहाटी-8

*11/11/2000*

Certified to be true  
Lijjithosh  
Adv.

Annexure -34

To

The Director of POS, Nagaland, Kohima.

Sub: Review of subsistence allowance with effect  
from 4.11.94.

Ref : Your office memo no. B.444 dated 4.8.94.

Sir,

I am humbly submitting that as my subsistence allowance was not relieved timely according to the rules I have been suffering for a long period. Subsequently I approached the Hon'ble CAT, Guwahati on the matter and an order under application no. 400/99 dated 6.1.2000 has been passed ( a photostat copy of the order is enclosed ).

Now I apply that your honour will kindly issue an order so that I may be granted a revised subsistence allowance at the rate of 75% of my basic pay with effect from 4.11.94 till date.

Your kind reply is awaited.

Yours faithfully

Dated at Kohima

Sd/-

03/02/2000

( S.J. Singh )

Ex-ASPOS, Kohima.

*certified to be true copy  
Suril Singh  
P.W.D.*

28

ANNEXURE 35  
OFFICE OF THE O.

To:-

The Chief post master, General, N.E. Circle, Shillong -793001, through the Director of postal services, Kohima.

Kohima 787001

Sub :- ORDER SHEET OF APPLICATION NO. 400/99 OF HONOURABLE CAT, GUWAHATI DT 6-1-2000 FAVOURDED TO ALL CONCERNED VIDE THEIR NO. CAT/GHY/JUDL/143 DT. 19-1-2000.

Ref :- C.O. file marked staff/109-1098 and DPS, Kohima file marked B-1/DISC/S.J. singh/II.

Sir,

The undersigned, your humble applicant, is approaching your goodself with the following few lines for favour of necessary action.

2. That while the applicant was working as ASPOS, Kohima sube Dn the DPS, Kohima placed the applicant under suspension vide his office memo no. B-1-444 Dt 4.8.94.

3. That ~~revert~~ of sub-sistance allowance which was due ~~on~~ 4-11-94 was not done and inspite of repeated representation and appeal the applicant was not paid the subsistence allowance at the rate as prescribed in the rules i.e., 75% of pay w.e.f. 4-11-94.

4. That being aggrieved the applicant approached the hon'ble CAT, Guwahati and an order was issued in favour of the applicant as noted in the subject.

5. That the DPS, Kohima was requested to issue necessary orders under the applicant's letter Dt. 03.02.2000 followed by reminder dated 07-03-2000. But so far nothing is fouth coming from the end of DPS, Kohima.

Now the applicant is approaching your honour with a photo-copy of the CAT's order so that the Verdict may be implemented at an early date.

Yours faithfully,

( S.J.SINGH )

Ex-ASPOS, Kohima

Vill. L.P.O Mongsabge

Via : M.U. SO, Imphal

Dated - 28-3-2000

Copy to :-

- 1) The DPS, Kohima for favour of necessary action.  
 2) The CPMG, Shillong as advance copy.

( S.J.SINGH )  
Ex-ASPOS, Kohima.

To

The Director of POS, Nagaland. (U/R).  
DK. Kohima - 797001

Sub: Review of Subsistence Allowance w.e.f. 4.11.94

Ref: CAT Guwahati order dated 6.1.2000 in respect of application no. 400/99 circulated under their no. CAT/GHY/JUDL/143 dated 19.1.2000 and your office case marked R-444.

Sir,

Your kind attention is invited to my representation dated 3.2.2000 followed by reminders dated 7.3.2000 and 28.3.2000 on the above subject. It appears that so far no action has been taken on the matter even after a lapse of more than 6 months.

It will be kind enough if the matter is finalised favourable now so that the applicants hardship to re-approach the CAT may be avoided. My present address is furnished below.

Yours faithfully,

Dated at Kohima

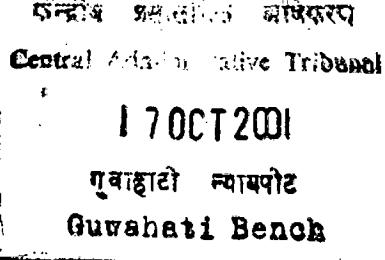
Sd/-

the 23.8.2000

( S.J. SINGH )

EX-ASPOS, KOHIMA  
C/O M.Kunja mani Singh  
POSTAL COLONY, KOHIMA.

certified to be true  
S. J. Singh  
Adv.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.134/2001

IN THE MATTER OF:

Sri Soraisam Jugesihwar Singh

.....Applicant

-Versus-

Union of India & Ors.

.....Respondents

-And-

IN THE MATTER OF:

Rejoinder submitted by the applicant in  
reply to the written statement submitted  
by the Respondents.

The above named applicant most humbly and respectfully begs  
to state as follows :

1. That your applicant has categorically deny the statements made  
while referring the brief history of the case and further begs to  
state that the contentions of the respondents that the applicant  
was unauthorisedly absenting from the Headquarter with effect from  
30.7.1994 and the allegation that the applicant all of a sudden  
wrote on 26.6.1996 from outside station that he was not in receipt  
of the subsistence allowance are categorically denied and further  
begs to state that applicant left the Head quarter office after  
maintaining all formalities and also after submission of leave  
application for the period from 30.7.1994 up to 4.8.1994 (applied  
for casual leave) and the order of suspension in fact received by  
the applicant at his home station while he was availing casual  
leave. Therefore the question of rejoining in service does not  
arise. Therefore, the contention of the respondents that the  
applicant was unauthorisedly absenting from Headquarter is not  
correct and the further allegations of the respondents that he

90  
Filed by the applicant  
through advocate Sri  
G.N. Chakravart.

might not have received the memo of subsistence allowance or might not have evading to draw his subsistence allowance from the Postmaster, Kohima Head office who was the competent authority to draw and disburse the subsistence allowance on the strength of the orders made on 29.8.1994 refused to ibid', the above statement is contrary to their ~~on~~ record. It would be evident from the suspension order dated 4.8.1994, wherein it is categorically stated that order regarding payment of subsistence allowance will be issued separately, but thereafter no order regarding payment of subsistence allowance was communicated to the applicant separately.

The applicant repeatedly approached the Postmaster, Kohima H.O. for payment of subsistence allowance but to no result and he was eagerly awaiting for an order for payment of the subsistence allowance as assured vide order dated 4.8.1994, ultimately finding no response the applicant approached the authorities by submitting representation on 26.6.1996 (Annexure-3).

It is relevant to mention here that the order of suspension was communicated to the home addressed of the applicant.

It is also relevant to mention here that the Memorandum of charge sheet dated 27.7.1995/11.8.1995 in fact served upon the applicant after a lapse of about one year. Therefore the action of the respondents itself establishes beyond all doubts how the proceeding is delayed by the respondents themselves.

It is further submitted that at no point of time it is informed that the order dated 29.8.94 has been passed for payment of subsistence allowance. The issuance of the order dated 29.8.1994 came to the notice of the applicant for the first time on 22.1.1997 (Annexure-11 to the Original Application).

Due to non-receipt of subsistence allowance the applicant also informed the same to the Inquiry Officer and also stated that it would be difficult to on his part to attend the hearing at Dharmanagar due to non-receipt of subsistence allowance, the same was recorded by the Inquiry Officer in the order sheet dated

16.10.1996 (Annexure 8 to the Original Application) and as a result the preliminary Inquiry was held ex parte.

In the compelling circumstances finding no other alternative the applicant approached the Hon'ble Tribunal through O.A. No. 282/1996 praying for a direction to the respondents for payment of subsistence allowance. The said O.A was disposed of at the admission stage on 9.12.1996 with a direction to the respondents to consider the payment of subsistence allowance to the applicant according to the rules and on the merit of the case and thereafter the order dated 22.1.1997 was issued to the applicant. Therefore the contentions of the respondents raised in the written statement are totally false and misleading.

It is stated that the payment of subsistence allowance is made after about a period of three years as such the action of the respondents itself is arbitrary and the same amount to denial of reasonable opportunity. It is also submitted that no review of suspension order is made in terms of the rule laid down by the Government of India as such, the applicant is entitled to full pay and allowances after completion of 90 days from the date of order of suspension.

2. That with regard to the statements made in paragraphs 1,2,3,4,6 and 8 are not correct and further begs to state that payment of subsistence allowance to the extent of 75% has been specifically provided in the Rule, the statement made in paragraph 1 is without application of mind and also without consulting the relevant rules. The applicant is entitled to 75% salary and allowances immediately after completion of 90 days from the initial date of suspension as per rule. It is categorically submitted that the order dated 29.8.1994 never communicated to the applicant and in fact the payment of subsistence allowance is made to the applicant after a lapse of about three years, although it was stated in the order of suspension dated 4.8.1994 that the order for payment of subsistence allowance would be issued separately, but unfortunately no such communication is received by

the applicant and in the compelling circumstances finally approached the Hon'ble Tribunal for payment of subsistence allowance, after submission of the representation dated 26.6.1996. Even the respondents did not feel furnish a reply to the applicant in response to his representation dated 26.6.1996. Therefore the whole action of the respondents is arbitrary, unfair and illegal.

3. That your applicant categorically denies the statements made in paragraphs 9,10,12,13,14,15,16 and 18 of the written statement and further begs to state that the respondents cannot shark the responsibilities by making misleading statement before the Hon'ble Tribunal that it was the responsibility of the applicant to receive the subsistence allowance ~~from~~ <sup>for</sup> the Postmaster Kohima H.O. <sup>h-</sup> who is DDO after furnishing necessary certificate that he was not engaged in any other employment. In this connection it may be stated that the necessary certificate was furnished by the applicant to the SPO, Dharmanagar Division on 27.9.1996 and prior to that there was no scope on the part of the applicant to submit such certificate as because Postmaster Headquarters, Kohima never responded for payment of subsistence allowance in spite of repeated approaches. As such the contentions of the respondents are not correct.
4. That your applicant categorically denies the statements made in paragraphs 19,20,22,23,24,26,27,28,30,31,32,33,34,35,36,37,38,40 and 41 and further begs to reiterate the statements made in the Original Application and it would be crystal clear that no review for revocation of suspension order or for enhancement of subsistence allowance were done by the respondents within the time limit prescribed by the Government of India, but the decision of reduction of subsistence allowance to the extent of 50% has been taken by the respondents in a very arbitrary manner without following the rules laid down by the Government of India and without any fault on the part of the applicant. Fresh de novo

inquiry was ordered by the respondents themselves as the higher authority was satisfied that there were procedural lapse in conducting the proceedings by the Enquiry Authority and also on the ground that reasonable opportunity has been denied to the applicant by denying the payment of subsistence allowance for about two years when the applicant was placed under suspension. Therefore, applicant cannot be faulted for passing the order de-novo enquiry by the respondents themselves after conclusion of the Enquiry Proceedings at the initial stage.

5. That your applicant always extended his full cooperation for early completion of the proceedings but surprisingly the applicant has been forced to raise objection on different occasions where there are violation of rules, the disciplinary authority has no unfettered discretion to reduce the subsistence allowance in violation of established rules and also without considering the records of the Enquiry Proceedings.

In the facts and circumstances stated above, the application deserves to be allowed with costs.

25

VERIFICATION

I, Sri Soraisam Jugeshwar Singh, son of Shri S. Ibbou Singh, aged about 53 years working as A.S.P.O.S, Kohimia, resident of village and P.O. Mongsangei, via M.U., S.O., Imphal, do hereby verify and declare that the statements made in paragraphs 1 to 5 in this rejoinder are true to my knowledge and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts.

I, sign this verification on this the 11th day of October, 2001.

Soraisam Jugeshwar Singh.

*S/C*

*S. Sarma*

*Appt 6187  
6/6/95*

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH :: GUWAHATI**

**O.A. NO. 134 OF 2000**

**Shri S.J. Singh**

**- Vs -**

**Union of India and Others**

**- And -**

**In the matter of :**

**Written Statement submitted by the  
respondents**

**The respondents beg to submit a brief history  
of the case which may be treated as a part of  
the written Statement.**

**( BRIEF HISTORY OF THE CASE )**

Shri S.J. Singh, the then ASPOs, Kohima Sub-Division, Kohima was placed under Suspension vide DPS Kohima memo no. B 444 dated 4.8.94 (Annexure 1) for a major disciplinary proceedings was contemplated against him. The subsistence allowance was sanctioned to the applicant vide memo No. B-444 dated 29.8.94 (Annexure 2) with a copy duly sent to the applicant. While under suspension, the RoR of the applicant was fixed at Kohima and he was asked not to leave H.Qs. without obtaining the prior permission from the concerned Authority.

The suspension order of the applicant was confirmed by the **Circle Office** vide memo No. Vig/4/15/85 dated 24.1.

or cond. 96  
1st to 4th  
Nov 30 7.96  
and below  
P.M. to the Period  
of Service  
96

That the applicant was unauthorisedly absenting from HQs. w.e.f. 30.7.94 and had not been attending HQs since then and as a result of that he might not have received the memo of subsistence allowance or might have endeavoured to draw his air subsistence allowance from the Postmaster. Kohima H.O. who was the competent authority to draw and disburse the subsistence on the strength of the orders made on 29.8.94 referred to ibid. Incidentally this office has no role in respect of the payment of subsistence allowance after issue of the said memo. It was in between the applicant and the Postmaster Kohima H.O. to draw and make payment. The onus for taking payment however, lies with the applicant as he was to furnish a certificate that he was not engaged in any other employment business profession or vocation.

*Applicant has given the certificate when ever it is drawn by him*

All of a sudden the applicant wrote on 26.6.96 from outside station i.e. Monghaingaon, Imphal that he was not in receipt of the subsistence allowance. He also filed a case to the Hon'ble CAT for the subsistence allowance and the case no. 232/96 was disposed by the Hon'ble CAT by giving direction to the applicant to submit a fresh application which was to be disposed by the respondent according to rules.

*Not directed to the place of residence*

The applicant was absenting unauthorisedly from headquarters from 30.7.94 and only on 26.6.96 he brought to the notice of Divisional Office that he was not receiving his subsistence allowance which he was supposed to draw from the Postmaster. Kohima without any intervention of Divisional Office. He also made an application on 26.6.96 for change of HQs which was rejected by the DPS. He was also asked to explain

*Change of Post of*

the circumstances under which he had left station without any permission and intimation ( Annexure-3). Due to his unauthorised absence from headquarters not only that he did not draw his subsistence allowance but also hampered the inquiry which in fact could not be proceeded promptly. The applicant might be absenting from the HQs with an intention to jeopardise the inquiry and to place the department in embarrassing position.

Although he made complaint of non receipt of the subsistence allowance and non issue of the order s thereto, it was found that the orders of the subsistence allowance was issued well in time within the month in which the official was placed under suspension.

Regarding review of subsistence allowance it may be said that due to absence of the official from HQs and other administrative exigencies, it could not be issued in time. But it did not in any way go against the applicant as the delay in finalising the departmental proceedings against the applicant was directly attributable to the applicant and consequently his subsistence allowance was reduced by 50% of the original subsistence allowance. Further to this the applicant was never denied drawal of subsistence allowance at an half pay or half average pay until the competent authority passed an order under P.R. 53(1)(ii)(a).

The second and subsequent review of the subsistence allowance was made vide order No. B-1/DISCIPLINARY/ S.J. Singh/II dated 25.5.99.

The first application could not be examined as it was not done in time.

99

*To Compt  
to go  
Order  
Cent  
Leave  
Rec  
B  
Opf*

**PARAWISE COMMENTS**

1. That with regard to para 1, the respondents beg to state that no rate as such has been prescribed by the Govt. of India. The applicants claim for 75% of basic allowance is not in consonance of any rule. According to IR 53(1) (ii)(a) the applicant is payable half pay or half average pay and in addition dearness allowance, if admissible on the basis of such leave salary. The authority is however, competent to
2. That with regard to para 4.1 and 4.2, the respondents beg to offer no comments.
3. That with regard to para 4.3, the respondents beg to state that the order of suspension was confirmed on 24.1.95 and not 24.1.85 as stated.
4. That with regard to para 4.4, the respondents beg to state that the order for payment of subsistence allowance was issued vide memo No. 3-444/Pt.II dated 29.8.1994. The applicant had been unauthorisedly absenting from the HQs from 30.7.1994 and for that reason ~~hence~~ he might have not received the memo of subsistence allowance as between 30.7.1994 to 26.6.1996. he did not ask for the subsistence allowance either from the drawing and disbursing authority or from the authority who suspended the applicant.
5. That with regard to para 4.5, the respondents beg to state that a major penalty proceeding against the applicant was contemplated and as such the applicant was placed under suspension. Issue of chargesheet subsequently was follow up action in respect of the case.

6. That with regard to para 4.6, the respondents beg to state that the competent authority is empowered to charge the enquiry officer in exigencies of service. The memo for payment of subsistence allowance was issued in time on 29.8.1994. within the month in which the applicant was placed under suspension. The onus lied with the applicant to draw or not draw the subsistence allowance.

7. That with regard to para 4.7, the respondents beg to offer no comments.

8. That with this regard to para 4.8, the respondents beg to state that the subsistence allowance was granted on 29.8.1994 and onus for non drawal lied with the applicant.

9. That with regard to para 4.9, the respondents beg to state that the subsistence allowance was never denied or stopped. It was the responsibility of the applicant to receive subsistence allowance from the Postmaster, Kohima who is drawal and disbursing authority after furnishing necessary certificate that he was not engaged in any other employment, business, profession or vocation as per P.R.53(2). The applicant could easily approach the respondent in case his subsistence allowance was refused by the drawing and disbursing authority. But he never approached the respondent any day before 26.6.1996. The question of reviewed increased subsistence allowance did not arise under such circumstances.

10. That with regard to para 4.10, the respondents beg to state that the applicant was not drawing his subsistence

allowance of his own and as such his contention that due to financial stridency he could not attend the inquiry was blatant distortion facts. The Hon'ble Tribunal also did not admit the application and directed the applicant to apply afresh for subsistence allowance to the competent authority. The competent authority also informed the applicant that the payment of subsistence allowance was ordered on 29.8.1994.

11. That with regard to para 4.11, the respondents beg to offer no comments.

12. That with regard to para 4.12, the respondents beg to state that the payment of subsistence allowance was ordered in time and it was not brought to the notice of the respondent prior to 26.6.1996, the respondent had no scope to know that the applicant was avoiding to take payment of the subsistence allowance. In reply to the letter dated 30.12.96 from the applicant it was informed to him that necessary order for subsistence allowance was issued on 29.8.1994.

13. That with regard to para 4.13, the respondents beg to state that the applicant was duly informed that the order for subsistence allowance was issued on 29.8.1994, it was not considered necessary to send a copy of the memo again.

14. That with regard to para 4.14, the respondents beg to state that the order for initial subsistence allowance was already issued on time and it was the responsibility of the applicant to have it from the concerned authority. And the subsistence allowance was reviewed in accordance with of

102

W.M.C  
1/1/1978  
102

provision of P.R. 53(1)(ii)(a)(ii) considering the merits of the case. ( The facts remained that the applicant had been absenting from the R.R.C. unauthorisedly from the date of his suspension or earlier and he did not take payment of the subsistence allowance even though the necessary orders was issued on time and he was also not attending the enquiry ).

15. That with regard to para 4.15, the respondents beg to state that the applicant was paid subsistence allowance as per rule 53(1)(ii)(a) and disputed B.R.A might have been paid after proper scrutiny of the case.

16. That with regard to para 4.16, the respondents beg to state that the respondent acted according to the power conferred on him as disciplinary authority . His decision is always open to appeal as per rule .

17. That with regard to para 4.17 and 4.18, the respondents beg to offer no comments.

18. That with regard to para 4.19, the respondents beg to state that there was no lacuna. The penalty of dismissed from service which was imposed upon the Govt. Servant was set aside in appeal and the case was remitted for further proceedings the order of suspension shall be deemed to have continued in-force on and from the date of the original order of dismissal. So the appointment of Inquiry Officer earlier to the order of deemed suspension could not be treated as irregular.

19. That with regard to para 4.20, the respondents beg to state that the objection could be raised during the inquiry

but no objection was raised at the time of inquiry as revealed from the daily order sheet which was also authenticated by the applicant.

20. That with regard to para 4.21, the respondents beg to state that the I.O. fixed 15.10.98 for regular hearing. The telegram sent by applicant was received on 16.10.98 after the date of inquiry. Since the date of inquiry was fixed on 15.10.98 and all the witnesses. PO and Defence Assistant were present, all the witnesses were examined in presence of his defence Assistance. His Defence Assistant got the chance to examine the witnesses on his behalf the Defence Assistant did not object to the examination of the witnesses. The applicant was also given opportunity for cross examination of the witnesses during the hearing is held on 26.8.1999.

21. That with regard to para 4.22 and 4.23, the respondents beg to offer no comments.

22. That with regard to para 4.24, the respondents beg to state that the disciplinary authority remitted the case to the Inquiring Authority for further inquiry and report thereupon the Inquiring Authority proceeded to hold the further inquiry as provided in Rule 15 of (COA) Rules, 1965.

23. That with regard to para 4.25 and 4.26, the respondents beg to offer no comments.

24. That with regard to para 4.27, the respondents beg to state that the respondent reviewed the

the subsistence allowance as per circumstances of the case. And there is no lucuna therein.

25. That with regard to para 4.28, the respondents  
began to offer no comments.

26. That with regard to para 4.29, the respondents beg to state that the circumstance of the case ~~as was~~ as such that the subsistence allowance could not be reviewed earlier than the date of the date of the review. The applicant was all along absenting from his H.Q.s. He did not take subsistence allowance for a long time succeeded only 26.6.96 with a plea that he was not receiving subsistence allowance although it was ordered in time. The subsistence allowance was decreased in first review as the delay in finalising the disciplinary proceedings was directly attributable to the applicant and in the second review it was increased. The revocation of suspension was not found justified in the interest of service. The claim of the applicant for payment of subsistence allowance 75% is quite contrary to the rules. The rule only provides self pay average pay. An increase or decrease of the subsistence allowance depends on the competent authority as per circumstance of the case.

27. That with regard to para 4.30, the Respondents  
beg to state that the applicant was placed under suspension as  
major penalty proceedings were contemplated against him. While  
under suspension, the applicant remained out of KFC unauthor-  
isedly for a very long time i.e. from 20.7.1994 to 26.6.1996, for  
which proper inquiry was delayed and he was also not drawing

his subsistence allowance was issued and not in a position to attend inquiry. He was also not attending inquiry. As such, the circumstances was as such that the review of the suspension was not considered necessary.

28. That with regard to para 4.31, the respondents beg to state that the applicant was placed under suspension vide Rule 10(1)(a) and 10(3) of the COS (CCA) Rule, 1965. His subsistence allowance was regulated vide ~~RE~~ 53(1)(A)(a). His subsistence allowance was reviewed twice. In first review his subsistence allowance was decreased by 50% and in subsequent review it was increased by 50%. The official was never denied subsistence allowance at the rate of half pay or half average pay prior to the review of the subsistence allowance.

*Point under  
Praised only  
to law*

The applicant was unauthorisedly absenting from head quarters prior to his suspension and even after placing him under suspension. The applicant Hrs was fixed at Kohima in the suspension order itself. But he never stayed in the Hrs and so much so that he even did not turn up for taking his subsistence allowance for the period from 4.6.94 to 26.6.96. His absence from the Hrs made a mess to the entire affairs. As a result the entire enquiry was delayed and the subsistence allowance also could not be reviewed. But it might be pointed out that non review of the subsistence allowance in time rather went in favour of the applicant, because the prolong suspension was due to the reasons attributable to the applicant. The Hon'ble CMT in their order dated 6.1.9900 in the application No. 400/99 did not decide the matter. They only asked the respondent to consider the prolonged order of suspension and

and decide the matter in accordance with the Govt. instructions. The major penalty proceedings against the applicant was concluded on 1.2.00 and the Hon'ble CAS's order was received on 5.2.00. So the matter stands settled here as the applicant was no longer under suspension by the time. But it might be pointed out that the respondent always acted in accordance with law and Govt. instructions thereof. The applicant is payable only half pay or half average pay and not 75% as alleged. The Competent Authority is empowered to increase or decrease the subsistence allowance by 50% of the subsistence allowance. In applicant's case, subsistence allowance was first decreased by 50% and then increased by 50%. His claim for 75% is not in accordance with law.

29. That with regard to para 4.32, the respondents beg to offer no comments.
30. That with regard to para 5.1, the respondents beg to state that the rule 1065 Xe 9 of the CCS(CCA) Rules 1965 clearly states that an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so. Since the order of suspension was not revoked or modified and as such the applicant was eligible to get only the half average pay and a such revision as was made from time to time by the competent authority.
31. That with regard to para 5.2, the respondents beg to state that it has clearly clarified that the subsistence allowance was sanctioned to the applicant in due time. The

The onus lied with the applicant to draw or not to draw the subsistence allowance. The applicant could easily draw the subsistence allowance from the Postmaster, Kohima HO by furnishing necessary certificate to the effect that he was not employed otherwise. He remained absent from HQs unauthorisedly and did not draw the allowance and is now trying to shift responsibility to the respondent. As such his non appearance before the Inquiry Officer could be termed intentional.

32. That with regard to para 5.3, the respondents beg to state that the increase of subsistence allowance is not automatic. The competent authority is competent either to increase or decrease the subsistence allowance. In this case, the subsistence allowance was decreased in the first review due to the reasons stated in the Review order.

33. That with regard to para 5.4, the respondents beg to state that as stated in foregoing para, it is reiterated that the subsistence allowance though sanctioned in time was not drawn by the applicant due to his own reasons. One of the reason is his unauthorised absence from HQs.

34. That with regard to para 5.5, the respondents beg to state that the Hon'ble Tribunal did not pass any adverse remarks against the respondent. It was informed to the applicant that the subsistence allowance was sanctioned in time. But it was due to his own reasons, he did not draw the subsistence allowance.

35. That with regard to para 5.6, the respondents beg to state that the correct position is that on receipt of the Inquiry Report, the same was sent to the applicant on 17.11.99 and thereafter the proceedings were finalised on 1.2.2000. So the question of hasty decision did not arise.

36. That with regard to para 5.7, the respondents beg to state that the subsistence allowance was reviewed twice. The prolonged suspension was due to the dilatory tactics adopted by the applicant in the conduct of major penalty proceedings initiated against him. The disciplinary proceedings had been finalised with the penalty of dismissal of the applicant from service w.e.f. 1.2.2000 and the Hon'ble Court's order was received on 7.2.2000.

37. That with regard to para 5.8, the respondents beg to state that it is not admitted. The applicant was entitled to only half or half average pay during suspension as proved in ER 53(1)(ii)(a) and such increase or decrease as ordered by the competent authority from time to time.

38. That with regard to para 6, the respondents beg to state that the applicant could submit review petition to the member (P) of the Postal Services, Board of for remedy. Moreover, the limitation period for submission of application to the Hon'ble CAT may also be examined.

39. That with regard to para 7, the respondents beg to offer no comments.
40. That with regard to para 8.1, the respondents beg to state that the applicant was entitled to half pay half average pay as provided in M 53(1)(ii) (a) as he was under suspension during the period under reference.
41. That with regard to para 8.2, the respondents beg to state that the applicant is also not entitled to any other relief or relief.
41. That with regard to para 9 and 10, the respondents beg to offer no comments.

Verification.....

## VERIFICATION

I, Shri

being authorised do hereby verify and declare  
that the statements made in this written statement are true  
to my knowledge, information and believe and I have not  
suppressed any material fact.

And I sign this verification on this 10<sup>th</sup>  
day of July, 2001, at Guwahati.

Declarant.