

0/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

3

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 10/2002

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench  
Guwahati

ORDER SHEET

APPLICATION NO. 10/2002

Applicant(s) Kanta Prasad Das.

Respondent(s) U.O. 1, 2 etc.

Advocate for Applicant(s) Mr. A.K. Roy, Mr. J. Gogoi

Advocate for Respondent(s) Case.

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C.F. for Rs. 50/- deposited vide IPO/2002 No 26 55 1479 Dated .... 10/01/2002</p> <p><i>[Signature]</i> By, Registrar</p> <p><u>Copies filed</u> <i>[Signature]</i> 16/01/02</p>	18.1.02	<p>Heard Mr. A.K. Roy, learned counsel for the applicant.</p> <p>Issue notice as to why the application shall not be admitted.</p> <p>List on 18.2.2002 for admission.</p> <p><i>[Signature]</i> Member <i>[Signature]</i> Vice-Chairman</p>
<p>Notice prepared and sent to D/S for issuing the Respondent No 1 &amp; 2 by Regd A.D. <i>[Signature]</i></p> <p>DINo <u>184 W 185</u> Dtd <u>28/1/02</u></p>	18.2.02	<p>List on 21.3.02 to enable the respondent to file written statement.</p> <p><i>[Signature]</i> Member <i>[Signature]</i> Vice-Chairman</p>
<p>No. written statement has been filed.</p> <p><i>[Signature]</i> <u>20.3.02</u></p>	21.3.02	<p><del>Heard learned counsel for the parties.</del></p> <p><del>The application is admitted. Call for the records. No further notice need to be issued. Written statement is accepted. List the matter for hearing on 23.4.2002.</del></p> <p><i>[Signature]</i> Member</p>

(2)

20.3.2002

W/S submitted  
by the Respondents through  
the Standing Counsel.

*[Signature]*

21.3.02

Heard Mr. I.Gogoi, learned  
counsel for the applicant and also  
Mr. A. Deb Roy, learned Sr. C.G.S.C.  
for the Respondents.

The application is admitted.  
Call for the records.

No further notice need to be  
issued. Written statement is accept-  
ed. List the matter for hearing on  
23.4.2002.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

17.5.2002

Rejoinder submitted  
by the applicant in  
reply to W/S.

*[Signature]*  
7/6/02

23.4. There is no witness tender today.  
The case is adjourned to 21.5.2002.

*[Signature]*  
M.D.  
A.M.

21.5.02

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

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

pg

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./XXX. No. . . . 10 . . . . of 2002.

DATE OF DECISION . . . . 21-5-2002...

Sri Kanta Prasad Das. . . . . APPLICANT(S)

Sri A.K. Roy. . . . . ADVOCATE FOR THE APPLICANT(S)

VERSUS -

Union of India, & Ors. . . . . RESPONDENT(S)

Sri A. Deb Roy, Sr. C.G.S.C. . . . . ADVOCATE FOR THE RESPONDENTS.

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

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

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

5. Judgment delivered by Hon'ble Vice-Chairman



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 10 of 2002.

Date of Order : This the 21st Day of May, 2002.

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

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

Shri Kanta Prasad Das,  
S/o Late Gorib Das,  
Baruachuburi,  
P.O. Deker Gaon,  
P.S. Tezpur, Dist. Sonitpur,  
Assam.

...Applicant

By Advocate Sri A.K.Roy.

- Versus -

1. The Union of India,  
represented by the Secretary,  
Govt. of India, Ministry of Defence,  
New Delhi.

2. The Garrison Engineer,  
Missamari, P.O. Missamari,  
Dist. Sonitpur, Assam

...Respondents

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

O R D E R

CHOWDHURY J.(V.C)

The following are the some of the reliefs prayed for  
in this application :-

i) to quash and set aside the Memorandum containing  
charge sheet dated 12.5.2001 vide  
No.C/1003/1417/ETC(Annexure-C),

ii) to direct the respondents to allow the applicant  
to join his duty as Safaiwala,

iii) to direct the respondents not to harrass the  
applicant and

iv) to direct the respondents to consider the grounds adduce by the applicant for his absence from duty.

2. The applicant was appointed as Safaiwala under the respondents on 26.10.1987. According to the respondents the applicant joined the service and thereafter did not return to join his duty from 26.10.1987. According to applicant his father expired and he applied for leave and the authority refused to grant him leave and when he asked the authority to allow him to join the duty they did not allow him to join duty. By the memo dated 30.4.2001 the applicant was asked to submit an explanation why disciplinary action would not be taken against him for his absence from duty with effect from October 1987. According to the applicant on receipt of the letter he again went to the office of the Garrison Engineer, Missamari to join his duty but he was not allowed to join duty instead the authority handed over a charge sheet dated 12.5.2001 asking him to submit his defence statements within a period of 10 days. By the aforementioned memorandum the respondents served upon the applicant the article of charges alongwith statements of imputation of misconduct or misbehaviour. In the article of charges the applicant was charged for absence from duty with effect from October 1987 without any leave or intimation and he was charged with gross negligence of duty. The applicant submitted his

reply denying the charges. According to applicant after submission of reply he reported for duty but he was not allowed to join duty and thereafter he moved this application assailing the legitimacy of the disciplinary proceeding and also for a direction to allow him to join in the duty.

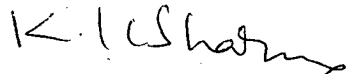
3. The respondents contested the claim and stated that the applicant was appointed vide order dated 26.10.1987 and he was placed for probation for a period of two years as per terms and conditions. Without any lawful permission the applicant absented from duty with effect from 27.10.1987. After an absence for more than fourteen years he was not allowed to join because, of the issuance of letter dated 30.4.2001 advising him to submit appropriate documents regarding his long absence from 27.10.1987. On initial appointment he was on probation for a period of two years.

4. We have heard Mr A.K.Roy, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. The materials on record clearly indicates that the applicant did not come to join his duty after his appointment on 26.10.1987. The appointment letter was issued on 26.10.1987. For whatever reason may be the applicant was absent. In normal course his name ought to have been struck off from the roll. The thing is continued in this way and the proceeding was initiated on 12.5.2001. There is no justifiable reason as to why the

6

authority could not act in time according to law. We also do not find any justifiable reason for continuance of the proceeding after lapse of time. On the ground of delay the impugned Charge Sheet dated 12.5.2001 is set aside. In view of the long absence of the applicant we do not find any justification to issue any direction for payment of salary/backwages to the applicant. Similarly we reject the prayer of the applicant for a direction on the respondents to allow him to join in his duty as Safaiwala.

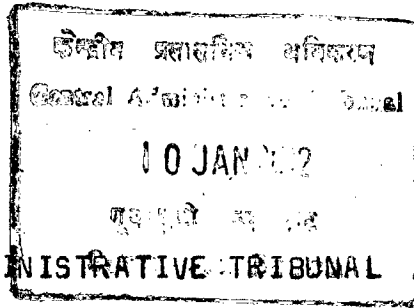
The application is partly allowed. There shall, however, be no order as to costs.

  
( K.K.SHARMA )

ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )

VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

O.A. No. 10 /2002

Shri Kanta Prasad Das

.. Applicant

-Versus-

Union of India & Ors.

.. Respondents

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For Office Use :-

Signature :-

Date -

10  
Filed by the  
applicant through -  
Indranil Das  
Advocate 10/1/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

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

O.A. No. \_\_\_\_\_/2001

BETWEEN

Shri Kanta Prasad Das  
S/o Late Gorib Das  
Baruachuburi,  
P.O. Deker Gaon  
P.S. Tezpur, Dist. Sonitpur,  
(ASSAM).

... Applicant.

AND

1. Union of India, represented by  
The Secretary, Govt. of India,  
Defence Department,  
NEW DELHI.
2. The Garrison Engineer  
Missamari, P.O. Missamari,  
Dist. Sonitpur, (ASSAM).

... Respondents

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

This application is directed against the refusal of the respondents to allow the applicant

Contd..2

৭/১১/০১ ৫/১১/০১ ২/১১

to join his duty and against the Memorandum containing charge sheet under Rule 14 of the C.C.S. (CCA) Rule vide No.C/1003/1417/ETC dt. 12/05/2001.

2. Jurisdiction :-

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

3. Limitation :-

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

4. Fact of the Case :-

i) That, the applicant is a Safai Wala under the Garrison Engineer Office, Missamari (Tezpur). He applied for Ten days leave during the month of October '1987 in order to perform his father's last ritual but the said authority refused to accept the same and last ritual and hence he went to his native place after informing the authority with a prayer to grant ten days leave. Keeping the leave application on the table.

ii) That, after performing his father's last ritual and after completion of ten days leave the applicant approached the authority to allow him to join his duty but the respondent No.2 did not allow him to join

without assigning any reason whatsoever and told him that his case will only be considered by the higher authority. Thereafter, the applicant visited the office of Garrison Engineer, Missamari (Tezpur) for quite a number of time, with the hope that he will be allowed to hin his duty on the day or the other but always he ~~was~~ was disheartend due to the inaction of the respon-  
-dents. Everytime he was given hope but nothing was actually done by the respondents. As the respondents have not refused directly to him by any black and white orde, and being unaware legal position, the applicant did not gether courage to approach the court or Tribunal during these fourteen year. He thought that if he approach any court of law, the authority may be annoyed and he will ~~an~~ loss the job ultimately.

iii) That, on 30/04/2001 the respondent No.2 has issued one letter vide No.C/1003/1402/ETC. thereby direct-  
-ing the applicant to report his duty and to subject explanation for his absence from duty. The applicant received the said letter only on 16.5.2001 and accordingly the applicant went to the office of Garrison Engineer, Missamari (Tezpur on 17.5.2001 to join his duty but he was not allowed to join. Instead of allowing him to join his duty, the said authority handed over a charge sheet dated 12.5.2001 and thereby asked him to submit his defence statements within a period of 10 days.

A copy of the letter dt 30/4/01 is annexed herewith as ANNEXURE - A  
One copy of the charge sheet dated 12.5.2001 is annexed herewith as Annexure-B.

411/10/14 21/2



- vii. That, the applicant states that under the provision of Rule 14 of the CCS (CCA) Rules, a statement of ~~the~~ the imputations of misconduct or misbehaviour in support of each article of charge shall contain a list of documents by which, and a list of witnesses by whom, the article of charge is proposed to be sustained. But, in the instant case, the charge sheet dated 12.5.2001 does not contain a list of witnesses by whom, the article of charges is prepared to be sustained and as such the said charge sheet is defective in as much as it violates the provision of Rule 14 of the CCS (CCA) Rules.
- viii. That the applicant states that as the charge leveled against him is absent with out leave, the authority could have allowed him to join duty, but the same had not been done which make it clear the intention of the respondents to remove him from job, moreso, when they did not allow him to resume duty inspite of letter dated 30.4.2001.
- ix. That, the applicant ~~is~~ further states that the charge sheet is issued by the authority after a long gap of fourteen years with the intention to harass and dismiss the applicant from service.
- x. That, being aggrieved by the said charge-sheet and the attitude of the respondents, the applicant

Contd..6

12/5 21/4 10/11/14

approach this Hon'ble Tribunal by filing this application on the following grounds.

5. GROUNDS :-

- i) For that the Memorandum containing the charge sheet is not maintainable in as much as it is issued after a long gap of fourteen years with the intention to harass and dismiss him from service.
- ii) For that the charge sheet brought against him under the said Memorandum dt. 12.5.2001 is also defective as it does not contain a list of witness by which each article of charges is proposed to be sustained and as such it violates the provision of Rule 14 of the CCS (CCA) Rule.
- iii) For that the intention of the respondents to harass and dismiss the applicant from service is very much clear from the fact that they are not allowing him to join his duty inspite of his repeated approach and prayer and with that intention kept the matter hanging for nearly fourteen years.
- iv) For that the respondents failed to consider the grounds adduced by the applicant for his absence from duty and issued the charge sheet after a long gap of fourteen years with the wrong intention.
- v) For that the action of the respondent is illegal, whimsical and arbitrary and hence is not maintainable.

Contd...7

११/११/११ ५२/११ २/११

- vi) For that the action of the respondent is violative of fundamental rights of the applicant as has been guaranteed under Article 14, 16 and 21 of the Constitution of India.
- vii) For that at any rate the action of the respondents is not maintainable in the eye of law.

6. DETAILS OF REMEDIES AVAILED :-

That the applicant declares that he has taken recourse to all the remedies availed to him but failed to get justice and hence there is no other alternative efficacious remedy open to him other than to approach this Hon'ble Tribunal.

7. The matter not previously filed and/or pending before any Court :-

That the applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter before any court, authority or any other bench of this Hon'ble Tribunal nor any such application, writ petition or suit pending before any of them.

8. Relief sought for :-

Under the facts and circumstances stated above the applicant prays for the following relief :-

- i) To quash and set aside the Memorandum containing charge sheet dt. 12.05.2001 vide No.C/1003/1417/ETC (ANNEXURE-C).

Contd...8

द्वितीय पृष्ठ २१२

- (ii) To direct the respondents to allow the applicant to join his duty as Safai Wala.
- iii) To direct the respondent not to harass the applicant.
- iv) To direct the respondents to consider the grounds adduce by the applicant for his absence from duty.
- v) To grant any other relief as your Lordships may deem fit and proper.
- vi) Cost of the applicant.

9. Interim relief, if any :-

Under the fact and circumstances, the applicant prays that your Lordship may please to pass necessary Order staying the operation of the charge sheet dt. 12.5.2001 (ANNEXURE-B) and direct the respondents to allow the applicant join in duty as per letter dated 3.4.2001. (Annexure-A).

10. . . . .

11. Particulars of Indian Postal Order :-

- i) I.P.O. No. :- 7G 551479
- ii) Date of issue :- 10/01/2002
- iii) Payable at :- GPO, Guwahati

12. List of enclosures :-

As state in the Index .

১২/৫/০২ ৫২১৩ ১২/৫



CONFIDENTIAL

Tele Mil : 417

RECD AD  
Garrison Engineer  
Missaamari

C/1003/8 1402/EIC

30 Apr 2001

M/S/ NYA

Shri Kanta Prasad Das, Safaiwala

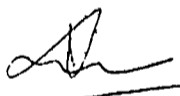
Vill : Dewrigaon

Post : Ketekibari, Tezpur (Assam)

ABSENT FROM DUTY WITHOUT PERMISSION/  
SANCTION


1. Ref this office letter No 1521/962/EID dt 18-8-98 and 1521/982/EID dt 14-10-98
2. You are absent from duty wef Oct '87. Your absent from duty without sanction of leave is in contravention to the rule which is viewed seriously and liable for disciplinary action as per existing rules.
3. In view of above you are directed to submit your explanation as to why disciplinary action should not be taken against you.
4. Your explanation should reach this office by 10 May 2001 without fail otherwise ex-parte decision will be final.
5. You are also directed to report duty by 10 May 2001 with appropriate documents, otherwise you will be terminated from your service without any notice for such unbecoming of Govt servant.

2001  
87  
14

  
(Ajit Kumar),  
Major  
Garrison Engineer

CONFIDENTIAL

26/11

attested by  
  
Advocate  
10/01/2002

File No : 417

- 11 -

REGISTERED ACK DUE  
Garrison Engineer  
Missamari

12 May 2001

20

4/1003/ 14/7/ETC

## MEMORANDUM

1. The president/undersigned proposes to hold an inquiry against MES NYA Shri Kanta Prasad Das s/wala under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rule, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-1). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II).

2. MES-NYA Shri Kanta Prasad Das, s/wala 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 desired to be heard in person.

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

4. MES/NYA Shri Kanta Prasad Das, s/wala is further informed that if he does not submit his written statement of defence on or before the date of specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refused to comply with the provisions of Rule 14 of the CCS (CC&A) Rule s 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against ex parte.

5. Attention of MES-NYA Shri Kanta Prasad Das, s/wala is invited to Rule 20 of the Central Service (Conduct) Rule 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rule 1964.

6. The receipt of the Memorandum may be acknowledged.

(By order and in name of the President)

To: Shri Kanta Prasad Das s/wala  
 Will : Dewrgaon  
 Post : Tezpur (Keteki Bari)  
 Dist : Somitpur  
 State : (Assam)

( Ajit Kumar )  
 Major  
 Garrison Engineer

attested by  
 Adv. Advocate  
 10/01/2002


ANNEXURE - I

Statement of articles framed against MES - NYA

Shri Kanta Prasad Das, s/wala

ARTICLES OF CHARGE

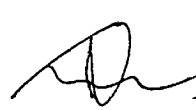
That the said Shri Kanta Prasad Das, s/wala while functioning as s/wala in GE Missamari absented himself from duty wef. Oct'87 without any leave or intimation and is charge with gross negligence of duty. ✓

  
( Ajit Kumar )  
Major  
Garrison Engineer

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge against Shri Kanta Prasad Das, s/wala

Shri Kanta Prasad Das while employed in GE Missamari absented himself from duty without any leave or intimation since Oct'87. He has thus shown gross negligence in duty and is liable for disciplinary action.

  
( Ajit Kumar )  
Major  
Garrison Engineer

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To

The G.E.  
Missamari.

Date: 23/7/2001

Ref: - Your Letter No.C/1003/1402/ETC  
dtd.30th April 2001.

Sir,

I have the honour to submit the following few lines  
for your kind consideration and sympathetic order:-

That as per Your Honour's instructions I went to  
Join in duty on 17th May, 2001 as I received the Letter  
referred above on 16th May' 2001 but I was not allowed to  
Join in my duties as for which with a heavy heart I  
had to return.

It is therefore, prayed that I may  
kindly be allowed to resume in duties  
in terms of Your above letter, for which  
act of Your kindness I shall be ever  
grateful to you.

Yours faithfully,

(K. P. Das )

S/Wala.

attested by  
Advocate  
10/05/2002

To.

The Garrison Engineer  
Missamari.

MEMORANDUM

Sir,

Reference your letter No.C/1003 /1417/EIC dt.12 may  
2001.

With reference to above I do hereby enclose my written  
statement of defence for your information and favourable order  
please.

Thanking you.

Yours faithfully,

Enclo:1

Date:21.5.2001.

(K.P.Das)

S /wala

collected by  
Advocate

10/01/2002

Statements of Defence

I, MES/NYA Shri Kanta Prasad Das, S/wala of GE Missamari do hereby furnish the following in my defence against GE Missamari Memorandum No.C/ 1003 /1417/EIC dtd.12.5.2001.

Sir, I was appointed as a Safiwala durin Oct, 1987 under GE Missamari, After joining in service a telegram from my native place I received and came to know that my father was expired. After receiving the painful message I told the ~~my~~ my the then I/C to sanction/ permit me at least 10 days leave but my leave was not sanctioned due to new appointment. Being a hindu fellow, I had to do the Kriya Karm and to join with my family members/mother at my village, I left office with verbal information. The fact was also brought to the notice of the then GE and respected CWE Rao Sabab.

Sir, After my father's kriya karm I fall sick and with sick I tried to join in office but the then office I/C did not allowed me to report duty, I tried many times but failed. After that no letter was issued to me to join in duty. But after 13 $\frac{1}{2}$  years back your honour has issued me a letter No.C/1003/1402/EIC Dt.30<sup>4</sup>/2001 to join duty. I am very grateful to your honour that you have given me an opportunity to join in duty,

Sir, charges framed against me are not willfully done by me. I brought the true fact in front of you for consideration the case sympathetically and advise me how to regularise the absent period. I should carry out your any type of favourable order on behalf of me.

Thanking you.

Yours faithfully,

(K.P.Das  
S/was

Date:12 May 2001.

কেন্দ্রীয় প্রশাসনিক আদালত  
Central Administrative Tribunal  
20 MAR 2002  
গুৱাহাটী আদালত  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

O.A. NO. 10 OF 2002

Shri Kanta Prasad Das

-vs-

Union of India & Ors.


- And -

In the matter of ::

Written statement submitted by  
the respondents.

The respondents beg to submit written statements  
as follows :-

1. That with regard to para - 1 of OA, the respondents beg to state that MES/NYA Shri Kanta Prasad, was appointed in this office of GE, Missamari as S/Wala w.e.f. 26th Oct:87 vide GE Missamari PTO No.104 dated 26th Oct:87. The individual was an probation for two years as per terms and conditions of service. The individual without taking permission from the Government office absented himself with effect

  
(AHT KUMAR)  
Major  
GE Missamari

Contd...P/2.

Filed by

18/3/02

(AHT KUMAR)

Major

GE Missamari

CC (OFFICE)

CC (G.O. & C.)

C.A.T. Guwahati Bench

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from 27th Oct 187. After an absence of more than fourteen years when the individual came on 21st May 2001 he was not allowed to join duty because of the following facts :-

(a) Vide GE Missamari letter No. G/1003/1402/EIC dated 30th April 2001 the applicant was given a chance to submit documents regarding his long absence by 10th May 2001 but the individual failed to do so.

(b) Disciplinary proceedings for dismissal from service against the applicant who was on probation had already been initiated as per Government procedures since the applicant had failed to submit documents by due date.

2. That with regard to para - 2 & 3 of O.A., the respondents beg to offer no comments.

3. That with regard to para - 4.1 of OA, the respondents beg to state that the contentions of the applicant is not true. The applicant was a new recruit on probation and went absconding with only one day service. The records available in GE Missamari Office prove beyond doubt that the applicant never applied for leave. As a general practice leave is never denied to any individual in the Government office although leave cannot be taken as a right. All this only implies that the applicant willfully absented himself from duty. Further it is stated that the

the individual said that due to his father sudden death ten days leave is required to attend his house but as per record available in this office his father's expired before his joining in service which can be verified from his service record as well as CV role which was issued by Addl.Dy. Commissioner, Sonitpur, Tezpur it means the applicants statement is totally false and fraudulent.

4. That with regard to para - 4.ii of OA, the respondents beg to state that the applicant never reported for duty after he became absconding with effect from 27th Oct'87 the applicant has not given any facts/ dates in his application to substantiate his statement. An absence period of ten days is well within the jurisdiction of the Garrison Engineer to settle the issue. The applicant never reported for duty in the ensuing fourteen and half years of his absence period an thus question of denial of justice to the applicant does not arise.

5. That with regard to para - 4.iii of OA, the respondents beg to state that the respondents vide letter No.C/1003/1402/EIC dated 30th Apr'2001 had directed the applicant to report duty with appropriate documents substantiating the reasons for such long absence but the applicant failed to produce any relevant documents when he reported to the office on 17th May'01 thus he was not allowed to join duty but told to come

with relevant documents. In the mean time as final date for submission of absence documents had elapsed (10th May 2001) as given vide respondents letter referred above, disciplinary proceedings for termination of service against the applicant had already been started with issuing of memorandum No-C/1003/1417/EIC dated 12 May 2001 which was sent to the applicant by Registered Post and also handed over to the applicant when he reported on 17th May 2001.

6. That with regard to para - 4 (iv) of CA, the respondents beg to state that the applicant failed to produce documentary evidence in support of his long absence to the respondents and was not allowed to join duty for reasons stated in para - 4 (iii) above.

7. That with regard to para - 4(iv) of CA, the respondents beg to state that as already stated in para - 4 (iii) above disciplinary proceedings had already been initiated against the applicant after going through all the relevant government procedures before the applicant had reported to office on 17th May 2001.

8. That with regard to para - 4(vi) of CA, the respondents beg to state that it is submitted that vide GE Missamari letter No-1521/902/EIC dated 14th Oct 98 also the applicant was served with show cause notice to explain his long absence period but the reply never came. As stated earlier the applicant never reported for duty prior to 17th May 2001 during his long absence period. The very fact that the Government office has given an individual fourteen years to explain his unlawfull

absence period indicates the good and just intentions of the government office.

9. That with regard to para - 4(vii) of CA, the respondents beg to state that the memorandum of charges issued against the applicant by the respondents is strictly as per the provisions laid in Rule - 14 of Central Civil Services (Classification, Control and appeal) Rule - 1965.

10. That with regard to para - 4(viii) of CA, the respondents beg to state that the applicant did not submit any concrete documentary proof for his long absence period and as disciplinary proceedings were already underway, the applicant being a temporary Government servant could not join duty.

11. That with regard to para - 4(ix) of CA, the respondents beg to state that the charge sheet was framed against the applicant to follow the normal Government procedures laid down and to give sufficient time to the applicant to submit the defence. Had the Government office been vindictive GE Misamari would not have given the applicant fourteen years to explain the long willfull absence by the applicant.

Contd...P/6

12. That with regard to para- 4(x) of OA, the respondents beg to offer no comments.
13. That with regard to para - 5(i) of OA, the respondents beg to state that the issue of memorandum containing the charge sheet has been issued to the applicant vide GE Missamari letter No-C/1003/1417/EIC dated 12 May 2001. The very fact that fourteen years of time was available with the applicant to submit his defence proves beyond the just and good intentions of the government office.
14. That with regard to para - 5 (ii) of OA, the respondents beg to state that ~~as~~ as regards list of witness required to be contained with the memorandum of charges is concerned it is stated that no such provisions exists in Rule 14 CCS(COA) 1965.
15. That with regard to para - 5(iii) of OA, the respondents beg to state that the applicant never approached for joining duty during the last fourteen years and only started attending office after receipt of GE Missamari letter No-C/1003/1402/EIC dated 30 Apr 2001. It is clear from the above that the applicant never had any intentions of joining duty but approached GE Missamari office only when he was directed to explain reasons for absence or else face disciplinary proceedings. Since the applicant could not produce conclusive documents to substantiate his long absence

Contd....P/7

and the disciplinary proceedings were under way the applicant could not join duty. The very fact that the Government office has given fourteen years to the applicant for joining duty speaks Volumes regarding the good and just intentions of the Government Office.

16. That with regard to para - 5(iv) of OA, the respondents beg to state that the grounds put forward by the applicant ~~his~~ regarding his long absence does not hold ground. In case GE Missamari office was not allowing him to join duty during the long absence period of fourteen years the applicant could have reported to the All Assam MES Union or to the Higher Headquarters i.e. Command Works Engineers, Tezpur which he never did there by indicating that the never had any intention of joining the Government duty.

17. That with regard to para - 5(v) & 5(vi) of OA, the respondents beg to offer ~~noxx~~ comments.

18. That with regard to para - 5(vii) of OA, the respondents beg to state that actions taken by the Government office are strictly as per the Government procedures laid down on the subject.

19. That with regard to para - 6 of OA, the respondents beg to state that as stated earlier the applicant during the long absence could have taken the help of All Assam MES Employees Union (actively operating in the Area) or could have approached CWE Tezpur or Chief Engineer Shillong Zone i.e. higher headquarter of GE Missamari, for redressal of grievances. This was never done by the applicant and hence statement now made is baseless.

20. That with regard to para - 7 of OA, the respondents beg to offer no comments.

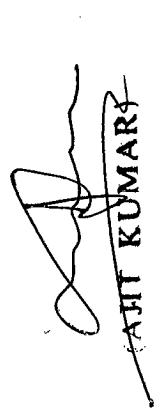
21. That with regard to para - 8 of OA, the respondents beg to state that with the request to dismiss the appeal of the applicant being baseless and without sufficient grounds.

22. That with regards to para - 9 of OA, the respondents beg to state that the same has already been stated in para - 8 of ~~application~~ above.

23. That with regard to para - 10 of OA, the respondents beg to ~~state that~~ offer no comments being blank in original application.

24. That with regard to paras - 11 & 12 of OA, the respondents beg to offer no comments.

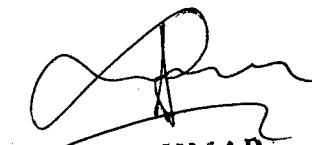
VERIFICATION.....

  
AJIT KUMAR  
Major  
GE Missamari 33

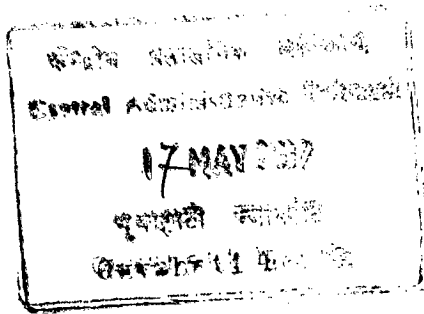
V E R I F I C A T I O N .

I, Shri Ajit Kumar, Major, GE Missamari be duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in para \_\_\_\_\_ are true to my knowledge and belief, these made in para \_\_\_\_\_ being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal, I have not suppressed any material facts.

And I sign this verification on this 19 th day of March : 2002 at Guwahati

  
AJIT KUMAR  
Major  
GE Missamari

Declarant.



Filed by the applicant  
through  
Indrajit Choudhury  
Advocate, 17/5/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A.NO. 10/2002

Shri Kanta Prasad Das

-vs-

Union of India & Ors.

- AND -

IN THE MATTER OF :-

*Rejoinder*

An additional statement on behalf of  
the applicant.

The above named applicant most tumbly begs to  
state as follows :-

1. That I have been served with a copy of written  
statement through my advocate who gone through the same  
and translated me the same and accordingly I come to know  
that there is some false statement in the written statement  
and hence this additional statement.
2. That I reiterate that my father has expired in the  
year 1987 immediately after few days of my joining and hence  
there can not be any record or document in the service  
record in connection of expiry of my father before my joining.  
Before my joining, my Bada-father was expired and not my

contd.....

5/2-11/02

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father. The name of my father was Shri Gorib Das who expired after my joining in the service. Had there is any record with the respondent regarding death of my father, they should have produced the same before this Hon'ble Tribunal alongwith the written statement. Probably they are in confusion regarding "Bada-Father" and father.

3. That after returning from the native place on completion of last ritual performance, the applicant went to his office to join the duty but the immediate superior officer refused him stating that unless and untill higher authority pass any order in that respect, he can not be allowed to join. Being an illeterate person, the applicant believed the same and went to office from time to time to get positive information and accordingly thirteen and half year have passed away and ultimately he got the letter dated 30.4.2001.

4. That as have no document regarding the absence of thirteen and half years, the athority refused to allow him to join duty on 17.5.2001 and handed over a chargesheet dated 12.5.2001.

5. That the applicant states and submit that from the very fact it is clear that hās immediate superior authority/reporting authority never informed about his leave to the higher authority other wise the chargesheet could have been issued much earlier, if the applicant was realy absconding.

6. That the applicant submits that there is no fault of his own, in fact he has already been subjected of injustice and hence the original application may be allowed.

contd....3.

VERIFICATION

I, Shri Kanta Prasad Das, son of Late Gorib Das, aged about 33 years, resident of Barua chuburi, under P.O. Deker-Gaon, Dist Sonitpur(Assam) do hereby solemnly varify that the statements made in paragrabs 1 to 6 above are true to best of my knowledge and belief and the rests are my humble submission befofe this Hon'ble Tribhnal.

And I sign this verification on this the 17<sup>th</sup> day of May 2002 at Guwahati.

Place - Guwahati

Date - 17.5.2002

কান্তা প্রসাদ দাস

DEPONENT

কান্তা প্রসাদ দাস