

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 188/2002

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants. Ashis Nang

-Vs-

Respondant(s) H. O. I. Gans

Advocate for the Applicant(s) S. Sarma, Min U. Das

Advocate for the Respondant(s) ALL CASE A. K. Chandley

Notes of the Registry	Date	Order of the Tribunal
<p>76574...590 13.5.2002 Dr. K. C. Choudhury Steps taken along with envelops. 17/6/02</p>	20.6.02	<p>Heard learned counsel for the parties.</p> <p>Application is admitted. Issue notice on the respondents. Call for records. Returnable by 4 weeks. List on 22.7.02 for orders.</p> <p><u>K. C. Choudhury</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>
<p>1-7-2002</p> <p>Notice prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D.</p> <p>Vide D. No. 1885 to 1887</p> <p>Date - 2.7.02.</p> <p><u>[Signature]</u> 17/7/02</p>	22.7.2002	<p>List the case on 20.8.2002 enabling the respondents to file written statements.</p> <p><u>[Signature]</u> Vice-Chairman</p>

No. written statement
has been filed.

By
19.8.02.

20.8.02 On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the Respondents further four weeks time is allowed to the Respondents to file written statement. List on 17.9.2002 for orders.

IC Choudhury
Member

[Signature]
Vice-Chairman

mb

No. written statement
has been filed.

By
5.11.02

17.9.02 No written statement so far filed by the respondents. Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents again prayed for time for filing written statement. Prayer is allowed.

List again on 6.11.2002 for orders.

[Signature]
Vice-Chairman

mb

No. written statement
has been filed.

By
4.12.02

6.11.02 List again on 5.12.2002 to enable the respondents to file written statement as prayed by Mr. A.K. Choudhury, learned Addl. C.G.S.C.

IC Choudhury
Member

[Signature]
Vice-Chairman

mb

No. written statement
has been filed.

By
3.1.03.

5.12.02 At the request of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement. List on 6.1.2003 for orders.

IC Choudhury
Member

mb

(3)

O.A. 188/2002

3

6.1.03 present ; The Hon'ble Mr Justice V.S. Aggarwal, Chairman
The Hon'ble Mr K.K.Sharma, Member (A).

No. reply has been filed.

In the absence of objection four weeks time is granted to file reply.
List on 4.2.03 for order.

32
3.2.03

K.K.Sharma
Member

V.S. Aggarwal
Chairman

pg

4.2.2003 Further four weeks time is allowed to the respondents for filing written statement on the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.
List again on 4.3.2003 for written statement.

No. written statement has been filed.

S.K.
Member

V.S. Aggarwal
Vice-Chairman

32
24.3.03

mb

11/3 Court did not sit today. The cases are adjourned to 25/3/2003.

M.P.
Aggarwal

26.3.03
Wife submitted
by in Respondent Nos.
1, 2 & 3.

25.3.2003 Written statement has been filed.
List the matter for hearing on 9.5.2003. The applicant may file rejoinder, if any, within two weeks from today.

Ad.

No. rejoinder has been filed.

S.K.
Member

V.S. Aggarwal
Vice-Chairman

mb

9.5.03 On the prayer of the learned counsel for the applicant the case is adjourned to 23.5.03 for hearing.

32
8.5.03

No. rejoinder has been filed.

S.K.
Member

V.S. Aggarwal
Vice-Chairman

pg

32
22.5.03

23.5.03

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

Put up again on 29.5.03 to enable Mr Choudhury to produce the connected records.

Written Statement
filed on behalf of
The respondent
No- 1, 2 & 3.


Member


Vice-Chairman

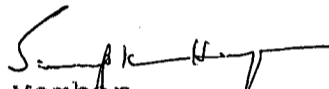
30
28.5.03:

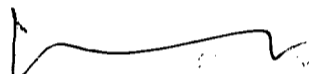
pg

29-5-03

Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is allowed in terms of the order. No order as to costs.


Member


Vice-Chairman

pg

6.6.2003

Copy of the Judgment
has been sent to the
D/Sec. for issuing
the same to the
applicant as well
as to L/tdv. for
the Regs. Dy.

HS

pg 3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. . 188 . . . of 2002.

DATE OF DECISION 29-5-2003.

Shri Ashis Naug APPLICANT(S).

Sri S.Sarma ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).

Sri A.K.Choudhury, Addl.C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR S.K.HAJRA, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Ho'ble Vice-Chairman

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 188 of 2002.

Date of Order : This the 29th Day of May, 2003.

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

The Hon'ble Mr S.K.Hajra, Administrative Member.

Shri Ashis Naug,
S/o Late Ramesh Ch. Naug,
Vill & P.O. Kanchanpur,
Via Bibekananda Road,
Silchar-788007,
Dist. Cachar, Assam.

...Applicant

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the Govt. of India,
Ministry of Communication,
Dak Bhawan, New Delhi.
2. The Director, Postal Services,
Dibrugarh Region, Dibrugarh,
Office of the PMG, Dibrugarh.
3. The Senior Superintendent of Post Offices,
Cachar Division,
Silchar-788001.

...Respondents

By Sri A.K.Choudhury, Addl.C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The controversy pertains to the validity and legality of the removal of the applicant as Extra Departmental Branch Postmaster (EDBPM) in the following circumstances.

2. The applicant was working under the respondents as EDBPM since 1980. In course of time he was transferred in the year 1986 to the Kanchanpur Branch Post Office. While he was serving as such a disciplinary proceeding was initiated against the applicant under Rule 8 of the P&T ED Agents (Conduct and Service) Rules, 1964. A statement of article of charges alongwith the proceeding was initiated vide order dated 20.4.99. The applicant was charged with the following article of charges :

Article-1 : Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 13.1.96 to 18.1.96 received one FPO 608 M.O.No. 1350 dated 4.1.96 for Rs. 2000/- payable to Sri Mahesh Singh C/O Sudhir Singh, DBC P.O. Kanchanpur (Chincoorie) Silchar Dt-Cachar on the 13-1-96 and effected payment of the said M.O. on 18.1.96 taking LTI of the above person alongwith the signature of the person who had taken the LTI of the payee but without signature and permanent address of the witness/identifier even though the payee's address was not within the delivery jurisdiction of Kanchanpur EDBO.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the rules 7, Rule 34 (with note I below) and Rule 109(1) (2) (4) of the Rules for Branch offices as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964.

Article : II - Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 3-2-96 to 8-2-96 received one FPO 989 M.O. No. 1513 dt. 15-1-96 for Rs. 2000/- payable to Sri Subal Chasa, C/o Dharam Bricks Co., P.O. Kanchanpur, Silchar-7 (Chincoorie) Dt-Cachar on the 3.2.96 and effected payment of the said MO on 8.2.96 with dated signature (with dated as 7.2.96) on one Sri Subal Chasa with signature of one M. Singh (Full name not eligible) as witness/identifier but without the full name and complete permanent address even though the payee's address was not within the delivery jurisdiction of the Kanchanpur EDBO.

Shri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the provisions of Rule 7, Rule 34 (with Note I below) and Rule 109 (1)(2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service Rules, 1964."

Article III : Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 16-2-96 received one FPO 1989 M.O.No. 1690 dated 18-1-96 for Rs. 2000/- payable to Vijoy Singh, C/o Mahesh Singh C/O Indra Bricks Co. P.O. Kanchanpur, Silchar-7, Vill Kanchanpur (Chincoorie) on the 14-2-96. On the same day viz 14-2-96 said Shri Ashis Nag also received another FPO 1989 MO No. 1694 dated 18-1-96 for Rs. 1500/- payable to one Sri Subol Singh C/O Surojit Singh C/o Indra Bricks Co. PO Kanchanpur, Silchar-7 vill Kanchanpur (Chincoorie) Dt-Cachar. Both the above MOs were appears to have been paid on 15.2.96 and charged on 16.2.96 in the BO A/c Book even though the payee's address of both of above not the delivery jurisdiction of Kanchanpur EDBO. In the both cases permanent address of the witnesses/identifiers were not taken by said Shri Ashis nag.

Shri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note I below) and Rule 109 (1)(2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct & Service) Rules, 1964.

Article-IV:Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14.2.96 to 17.2.96 received the following 2 MOs on 14.2.96:-

i) FPO - 1989 MO No. 1691 dated 18-1-96 for Rs.2000/- payable to sri Nijoya Singh C/o Sri Mahesh Singh C/O Indra Bricks Co. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt-Cachar.

FPO 1989 M.O No.1693 dated 18-1-96 for Rs.1000/- payable to Sri Subota Singh C/o Surajit Singh C/o Indra Bricks Co. PO Kanchanpur, Silchar-7 Vill Kanchanpur (Chincoorie) Dt-Cachar.

Both the above MOs were paid on 16-2-96 and charged as paid on 17.2.96 by said Sri Ashis Nag though the address of both the payees are not within the delivery jurisdiction of Kanchanpur EDBO. In both the cases permanent address of the respective witnesses/identifiers were not obtained by said Sri Ashis Nag.

Shri Ashis Nag EDBPM Kanchanpur EDBO (on put off duty) while working as such on 21.8.93 received a sum of Rs. 50/- from the depositor of Kanchanpur EDBO SB A/c No. 9701159 and SB pass book for depositing the amount in SB account. He entered the said amount of Rs.50/- in the pass book under his signature and authenticated by the office date stamp impression. But did not credit the amount in the Govt. Accounts of the office, and thereby considered to have acted in a manner violating the provisions of Rule 131(3) of the Rules for Branch offices and Rule 17 of the P&T ED Agents (Conduct & Services) Rules, 1964."

The enquiry officer submitted his report dated 13.10.2000 holding the applicant guilty of the charges. The full text of the enquiry report is also reproduced herein below :

I was appointed as P.O. by the SSPO's Cachar Dn Silchar to present the case as stated in the subject.

I am submitting herewith a written brief as P.O. on the above occasion is as follows :

The hearing of the case were held on 28.9.99, 12.11.99, 31.02.00, 18.07.00, 29.08.2000 & 22.09.00. I attended in the court in all dates except on 28.9.99 i.e. the day of preliminary hearing when Sri B.K.Das SDI as had given proxy in my place. On that very day Sri Ashis Nag, the charged official admitted the charge voluntarily in black and

white brought against him, the article No.V under Annexure I & II of the DO's File No.Fl-11/96-97/K.Pur/DA dated 20.4.99 reproduced in annexure-A.

In the regular hearing on 18.7.00 Shri B.R.Haldar ASPO's (North) Silchar as witness of the case stated that the addresses of the payees in all the money orders paid as stated in article I to IV under Annexure-I in DOs file was No.Fl-11/96-97/K.pur/Da dated 20.4.99 reproduced in Annex-B was not within the delivery jurisdiction of Kanchanpur EDBO.

In the conclusion I can say firm that all the charges levelled against Sri Ashis Nag are fully justified and proved beyond doubt."

On receipt of the enquiry report the applicant submitted his representation in writing. by the impugned order dated 30.11.2000 the disciplinary authority on the basis of the enquiry report and considering the materials on record imposed the penalty of removal. The applicant preferred an appeal before the appellate authority and the appellate authority by its order dated 10.12.2001 rejected the appeal. Hence this application assailing the legitimacy of the order of removal.

3. We have heard the learned counsel for the parties and perused the materials on record. The misconduct alleged against the applicant for Article I to IV are of similar in nature. The gravamen¹ of these charges ^{were to the effect} that the applicant while functioning as EDBPM Kanchanpur during the relevant time received money orders and effected payment but without signature and address of the witness/identifier even though the payees address was not within the delivery jurisdiction of Kanchanpur EDBO. The applicant was charged for violation of rule 7, 34 read with the note 1 below, Rule 109 (1)(2) (4) of the Rules for Branch Offices as well as Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964. As per Rule 109 the payment of money order at the window of the post office ^{was} is to be made only on satisfactory proof of the identity of the claimant with the person named in the money order. The relevant extract of Rule 109 is reproduced below :

In ordinary cases of this kind, payment must not be made unless the claimant is identified at the post office by some trustworthy person known to the branch postmaster or the claimant produces other evidence to establish his identity to the satisfaction of the branch postmaster. It must be understood that the statements of the identifying person are not to be accepted without full enquiry as to his actual knowledge of the claimant. He should always be asked to explain how he became acquainted with the claimant, and how long he has known him. The information obtained from the person, who identifies the claimant, must be such as will enable the post office readily to find the payee again, should any mistake or fraud have occurred, and with this object the permanent address of the payee, as vouched for by the person who identifies him, must be noted on the money order by the identifier who should add his own address below his signatures under the "identifier's certificate" printed on the money order form. If he refuses to comply with this request, the branch postmaster should exercise greater care in accepting the identification as genuine. It should not be considered evidence of the right of the claimant of a money order that the money has been remitted in response to a telegram sent by him.


In special cases, the branch postmaster may exercise his discretion as to making payment without insisting on strict compliance with the procedure described in the preceeding paragraph, provided that he is satisfied by such other evidence as the claimant may be able to produce regarding the latter's identity with the payee."

According to the respondents when the payees address was not within the jurisdiction of the branch office in that event he could disburse only on the basis of the signature and permanent address of the identifier. To that extent the department also relied upon the evidence of Mr B.R.Haldar. From the material evidence it appears that before the enquiry officer the enquiry authority admitted that the Rule 7 was not in vague. Mr Haldar however, stated that the payee of the money orders were outside the delivery jurisdiction of the branch office. There is no whisper in the charge memo that

the payments were not made to the genuine persons. The only allegation was that applicant ought to have obtained the signature and permanent address of the witness identifier. As per the requirement of the rule 109 the postmaster is to be satisfied about the identity of the payee and he was asked to take necessary steps to that extent. There is not allegation that this was not paid to the genuine person. None of the person named in the article of charges I to IV were also examined. Rule 34 of the rules for the branch post office provides that whenever registered or insured articles are delivered to illeterate person or in which money is paid to such person on account of money orders, savings bank withdrawals pay, wages, contingent charges or for any other purpose the addressee's or payee's thumb impression, seal or other mark should whenever practicable be taken on the proper document (receipt, acknowledgement money order, application for withdrawal etc. There is also no allegation that the payees thumb impression or signatures were not taken. The applicant was only charged for making payment without permanent address of the witness/identifier. The materials on record did not indicate that there was any contravention of the rules as alleged as regards rule 34. Evidence on record also did not clearly indicate as to the contravention of the rule 17 of the rules in regard to charge I to IV. As regards charge V the authority acted on the purported admission said to have been made by the applicant before the authority at the preliminary hearing. It seems that in the preliminary hearing the applicant stated in writing that he did not admit charges I, II, III and IV and thus therefore pleaded not guilty. In respect of Charge V he wrote that he admitted the charge and sought for condonation / ^{at the preliminary hearing.} Nonetheless when the matter was posted for hearing the applicant asked for the presence of Sri Sanjay Das of Kanchanpur to show and establish that he ^{receive a} did not ~~did not~~ a sum of Rs. 50/- from sri Sanjay

W.V.

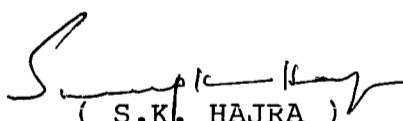
Das for depositing him money in the S.B A/c of Sri Das. As per allegation it was charged that the applicant entered the amount of Rs.50/- in the pass book but did not credit the same. The enquiry officer in his report did not make any comment on that issue on the score that the applicant admitted the same before the preliminary hearing. At the hearing stage as will appear from the enquiry officer's note dated 22.9.2000 that on the hearing date of 29.8.2000 the applicant desired to produce the witness No.2 in the article of charge No.V but he turned down the same since the article was admitted on the date of preliminary hearing on 28.9.99 and his request therefore could not be considered. The enquiry officer was not justified in refusing the applicant to produce his witness and establish his innocence more so of ^{view of his stand in the} in / written statement against the charge No.V. In the written statement referred earlier the applicant did not admit the fact but he gave his own explanation that could not have been taken as admission. The written statement of the admission was not however taken note of by any of these authorities. The disciplinary ^{against} authority did not record his findings / each charge. The disciplinary authority on the other hand held that although money orders were not payable from Kanchanpur EDBO as the payees resided beyond the delivery jurisdiction he held that as per procedure these ought to have been returned to the Accounts office but instead doing so he irregularly paying these money orders violating the rules. It appears that those findings of the disciplinary authority goes counter to the allegation levelled against the applicant. As regards charge V he only relied with the purported admission of the applicant made on 28.9.99 that taking into consideration the written statement as aluded earlier. The

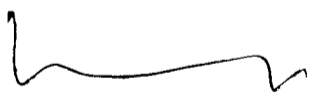


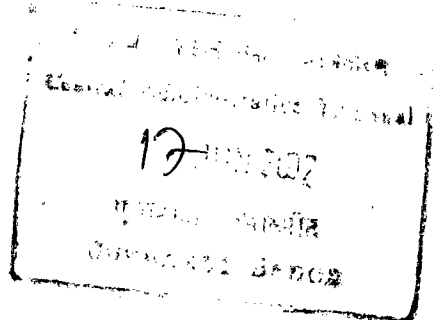
appellate authority also committed the same mistake. The appellate authority on the other hand gave its findings on matters which applicant was not even charged for. The appellate authority came to the finding that applicant made irregular payment of money orders amounting to Rs.10,500/- to the payees residing outside delivery jurisdiction of EBDO without obtaining proper witness and identification as required under rule 7, 34 and 109 of the rules fro Branch officers and caused loss of the aforesaid amount. The applicant was not charged for that. There is no finding given by the appellate authority as regards charge No.V and accepted the finding of the disciplinary authority. The appellate authority was duty bound under the statute to examine the merits of the case and give his own finding and was also taken into consideration as to whether procedural safeguards were granted and punishment made was commensurate with the gravity of the alleged misconduct.

On consideration of all the materials we are of the opinion that the impugned order of removal cannot be sustained and accordingly the impugned order of removal dated 30.11.2000 is set aside and consequently the appellate order dated 10.12.2001 is also set aside and quashed. The applicant shall be reinstated in service but he shall not be entitled to any backwages. The applicant shall however will be entitled to all other service benefits like seniority etc., except the backwages.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.


(S.K. HAJRA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 188 of 2002

BETWEEN

Shri Ashis Naug Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : Abha Das

Regn. No. :

File : WS7\ASHIS

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No.188..... of 2002

BETWEEN

Shri Ashis Naug
S/o Late Ramesh Ch.Naug
R/o Vill & P.O.: Kanchanpur
Via Vivekananda Road,
Silchar-788007.
Dist. Cachar, Assam.
..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Communication,
Dak Bhawan, New Delhi.
2. The Director, Postal Services
Dibrugarh Region, Dibrugarh
Office of the PMG, Dibrugarh.
3. The Senior Supdt.of Post Offices
Cachar Division,
Silchar-788001.
..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the orders
bearing No.F1-11/96-97/K.Pur/DA dated 30.11.00 passed by the
Sr.Supdt.of Post Offices and order bearing No.Staff/2/25-
4/01/RP(L) dated 10.11.01 issued by the Director of Postal
Services.

2. LIMITATION:

The applicant declares that the instant
application has been filed within the limitation period
prescribed under section 21 of the Central Administrative
Tribunal Act.1985.

Filed by
the applicant through
Usha Das,
Advocate
11/6/02

Aen

17

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

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

4.2. That in the year 1980 applicant got his appointment as Extra Departmental Branch Post Master (EDBPM). He was transferred in the same capacity in the year 1996 to the Kanchanpur Extra Departmental Branch Office (EDBO) in same capacity as EDBPM. During his service tenure at Kanchanpur, the Senior Supdt of Post Offices issued an OM bearing No. F1-11/96-97/K.Pur/DA dated 20.4.99 by which it was proposed to hold an enquiry against the applicant under Rule 8 of P&T ED Agent (Conduct and Service) Rules 1964. In the said Memorandum an Article of Charges as Annexure-I and the statement of imputation of misconduct and misbehaviour in support of the Article of charges has also been enclosed as Annexure-II along with a list of document and witness by whom the said Article of Charges are proposed to be sustained.

A copy of the aforesaid OM dated 20.4.99 is annexed herewith and marked as Annexure-1.

18

4.3. That the applicant against the said OM preferred a representation dated 3.5.99 praying for inspection of listed documents as reflected in Annexure-1 OM dated 20.4.99. Thereafter, on 31.5.99 the applicant submitted his detailed representation dated 31.5.99 denying the charges leveled against him.

A copy of the representation dated 31.5.99 is annexed herewith and marked as Annexure-2.

4.4. That the Respondents started preliminary hearing on the basis of Annexure-1 charges dated 20.4.99. The preliminary hearing took place on 28.9.99 and the applicant was given the chance to confront the charge-sheet and the applicant denied all the charges. Thereafter, the applicant prayed for production of additional documents namely (1) Village sorting list (2) Route list (M-53) and (3) Beat map.

The applicant craves leave of this Hon'ble Tribunal to produce records including Daily Order Sheet of the said enquiry at the time of hearing of the case.

4.5. That the Respondents after the conclusion of hearing issued an order dated 17.10.00 enclosing the written brief of the P.O. dated 13.10.00. In the said written brief the P.O. without elaborating the day to day hearing proceeding made a comment that the applicant had admitted the charge on the day of preliminary hearing. In fact, the order sheet dated 28.9.99 reveals the fact that the applicant did not admit the charges. On the other hand the P.O. being over enthusiastic drew a conclusion that all the charges leveled against the applicant is proved.

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A copy of the said letter dated 17.10.00 enclosing the P.O.'s brief dated 13.10.00 is annexed herewith and marked as Annexure-3.

4.6. That the applicant on receipt of the order dated 17.10.2000 preferred a representation on 30.10.00 praying for 30 days time to place his defence against the P.O.'s brief. In the said representation the applicant placed his inability to prepare the same as his earlier defence assistance N.N. Biswas passed away.

A copy of the said representation dated 17.10.00 is annexed herewith and marked as Annexure-4.

4.7. That the respondents without acting on the representation dated 17.10.00 preferred by the applicant issued an order dated 1.11.00 forwarding the copy of the enquiry report. In the enquiry report also reveals the fact that the entire proceeding was held on the presumption that the applicant has admitted the charges.

A copy of the enquiry report and forwarding is annexed herewith and marked as Annexure-5.

4.8. That after submission of the enquiry report the applicant preferred his representation dated 9.11.00 against the same. In the said representation the applicant while highlighting the factual position placed his argument on the issue. Instead of repeating the contention raised in the said representation the applicant begs to annex the same as Annexure-6.

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4.9. That on receipt of the representation the Senior Supdt.of. Post Offices issued the impugned order vide memo No.F1-11/96-97/K.pur/DA dated 30.11.00 by which he was removed from his service with immediate effect.

A copy of the said impugned order dated 30.11.00 is annexed herewith and marked as Annexure-7.

4.10. That the applicant on receipt of the aforesaid impugned order dated 30.11.00 preferred Appeal before the Appellate Authority. In the said Appeal the applicant while highlighting the factual matrix of the case discussed each and every steps of the procedure and highlighted the illegalities meted out to him.

A copy of the said Appeal is annexed herewith and marked as Annexure-8.

4.11. That the Appellate Authority on receipt of the Appeal preferred by the applicant issued the Appellate order bearing No.Staff/2/25-4/01 /RP(L) dated 10.12.2001 upholding the removal order issued by the Disciplinary Authority.

A copy of the said impugned order dated 10.12.01 is annexed herewith and marked as Annexure-9.

4.12. That the applicant begs to state that he has been serving as EDBPM since 1980 and during his service tenure he was never communicated with any adverse entries and he had a distinguish service career. The Respondent No.3 out of jealousy and with a malafide intention issued the Annexure-1

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Memorandum dated 20.4.99 incorporating certain vague and indefinite charges against the applicant. Mere reading of the Annexure-1 charge-sheet indicates the fact that all the charges are based on happening of early part of 1996 and same does not reflect any misconduct on the part of the applicant. The Article 1 to IV relates to payment made to payee in respect of money order without verifying the delivery jurisdiction. It is stated that the demarcation of delivery jurisdiction is usually made by the respondents with the help of village sorting list, Route list and Beat map. In the present case applicant during his service tenure since 1980 never apprised about the aforesaid objects nor copies of the aforesaid lists and maps were supplied to him.

4.13. That the applicant begs to state that from the Annexure-1 chargesheet dated 20.4.99 it reveals that charge No.1 to IV are relating to payment made through money order to the payee without complying the procedure. To that effect Rule-109 of Rule-3 for Branch Offices containing rules for the guidance of Branch Post Masters may be referred to. Rule 109(1) indicates the procedure meant for making payment of Money Order at the window. Whereas Sub Rule 2 of Rule 109 of the said Rules indicates the Procedure to be followed in respect of identifying the payee. At the same time Sub Rule 3 indicates special case wherein Branch Post Master may exercise his discretion as to making payment without insisting on strict compliance with the procedure described in above Sub Rules of 109, provided that he is satisfied by such evidence as the claimant may be able to procedure regarding the letters identity with the payee. In the present case the respondents although indicated the charge-

sheet regarding the charge but measurably failed to take notice of the Sub Rule 3 regarding exercise of discretionary power by the post master. The sole object of Sub Rule-3 of the Rule 109 of the said Rules is relating to subjective satisfaction of the Post Master concerned in respect of identification of payee. It is not a case of the Respondents that the payee as well as the Govt. incurred any pecuniary loss nor the payee made any subsequent claim. In the charge sheet it is clear that the respondents have totally misunderstood the Rules guiding the field and at the charge-sheet basing on which the proceeding has been initiated is therefore not sustainable and liable to be set aside and quashed.

4.14. That the applicant begs to state that in Annexure-1 charge sheet the respondents while framing the charges have taken the aid of the Rule 7 of the Rules for Branch Office. The Rule 7 speaks of village sorting list, Route list and beat maps. The said Rule 7 indicates clearly the number of village, Postman or EDDA, names of villages and location of letter boxes under the Head Village Sorting list. The Route list (M-53) indicates the names of the village which accompanies by a Route list indicating the Routes for those listed villages. In a nutshell Rule 7 of the said Rules classifies the villages and the Routes and in Short the Jurisdiction. The Rule however, also made it clear that the concerned Inspector of Post Offices is duty bound to supply the aforesaid lists and maps to the BOs. In the instant case the authority concerned never furnished the aforementioned lists and Map. The applicant in that view of the matter during the proceeding asked for production of

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village sorting lists, Route lists, and Beat Map, but the PO rejected his prayer and the defence Assistant of the applicant was never given the opportunity to place any argument in respect of the aforesaid additional documents. Apart from that the applicant was restrained from production of witness No.2 in respect of Article of charge No.5 and seriously prejudiced the defence of the applicant.

4.15. That the applicant begs to state that the Annexure-1 charge-sheet indicates Rule-34 of the Rules for Branch Offices more particularly the notes indicated below Rule 34(1), Rule 34 indicates the manner and method prescribed for delivery of Registered/insured or money on account of Money Orders etc. whenever practicable. The Note-1 below the Rule 34(1) indicates the Procedure to be adopted at the time of delivery of Registered/insured/payment made on account of money order to illiterate person wherein specification has been made for due attestation by illiterate/illiterate person. Similarly Note-2 & 3 of Rule 34(1) indicate the procedure to be followed at the time of effecting payment Money Order to illiterate person where no literate witness are available.. It is stated that the above Rule 34 in totality is only a part of Rule 109 of the said Rules and Rule 109 (3) lays down the discretionary power of the Post Master concerned taking into consideration his subjective satisfaction and as such under any circumstances Rule 34 can not operate independently and from the plain reading of the charge sheet it is clear that Rule 34 has been invoked independently while framing charge against the applicant. It is further stated that Rule 34 of the said Rules is not applicable in this case taking into

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consideration the Rule 109 of the said Rules. Rule 34 deals with the delivery of insured/Registered payment of DM etc in general whereas, Rule 109 makes it clear regarding the procedure as well as the power of the post master in invoking/relaxing those procedure. It is not a case of the respondents wherein the applicant has exercised his discretionary power causing loss to the Govt. and on this score alone the charge sheet can be termed as vague, indefinite and the proceeding drawn up on the basis of the charge sheet is therefore liable to be set aside and quashed.

4.16. That the applicant begs to state that during the enquiry he prayed for production of additional documents namely village sorting list, Route list (M-53) and Beat Map. During the course of hearing some fabricated sketch Map as Beat Map were produced. When the matter was pointed out by the applicant, the proceeding was abruptly concluded without any remark. However, other records have not been produced by the P.O. and the P.O. has failed to produce the other records and in fact, the P.O. has failed to show the official record supplying these to the EDBO, Kanchanpur. It was the case of the applicant in his written statement that as per Rule 7(2) of the Rules for Branch Offices the Sub Divisional Inspector has been entrusted the job of supplying the aforementioned lists and Map. The P.O. however, restrained the applicant to put forward any sort of arguments on the two additional documents supplied to him and abruptly closed the hearing. The P.O. also did not allow him to produce witness in respect of charge leveled against him in Article V of the charge sheet on the count that he

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had admitted his guilt in respect of the said charge. However, the applicant did not admit any guilt in respect of any of the charges. The contention made by the applicant in his written statement of defence dated 31.5.99 revealed the fact that he was not in a position of recollect what actually happened and therefore kept it open with a prayer to allow him to examine the said depositor (Sanjay Das) i.e. serial No.2 of the listed witness. It is stated that the last hearing date and the order sheet dated 22.9.00 reveals the fact that the respondents took into consideration the written statement dated 31.5.99 as an admission in respect of Article of charge No.V. The applicant in his representation made a conditional statement and also he made a specific prayer for cross examination of the depositor (Sanjay Das) but arbitrarily same has been denied. The Rule 8 of EDA conduct and service Rules in it's note below (9) indicate clearly that admission in respect of any charge will have to be unconditional. Admittedly no opportunity was given to the applicant in defending his case more particularly in respect of Article of charge No.V on the presumption that he has admitted charge No.V. No enquiry has been held in respect of Article of charge No.V. On this score alone the entire proceeding is vitiated and liable to be set aside and quashed including the impugned orders which are the net result of said farcical enquiry.

4.16.A. That the applicant begs to state that as

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stated above the Beat Map produced by the P.O. indicative of the fact that the Map in question was never supplied to the applicant and same is a fake one. The Map produced by the P.O. indicates the Map direction wrongly. In the first Map the village Changcorrie B.O. has been shown in Eastern Part, whereas in the other map said village has been shown in North. In the other map as usual N-S has been shown as N-W. Apart from that P.O. failed to produce any document supplying those map to the applicant. In the year 1980, at the time of opening of the Kanchanpur EDEO as per the prescribed procedure the office used to supply the stock list, despatched to the Branch Post Master, Kanchanpur. The Invoice dated 27.3.80, however does not indicate the fact regarding supply of village sorting list, Route list (M-53) and Beat Map.

Copies of the Invoice dated 27.3.80 and the Beat Maps are annexed herewith and marked as Annexure- 10.11 and 12, respectively

4.17. That the applicant begs to state that the P.O.s brief submitted in respect of the enquiry in question is per se illegal as same virtually motivated the Disciplinary Authority in coming to the conclusion that the applicant is guilty of the charges. The inquiry authority and

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Disciplinary Authority in fact acted as per the P.O.s brief and same has resulted issuance of the impugned orders removing the applicant from his service.

4.18. That the applicant begs to state that the Respondents have acted illegally in issuing the impugned order dated 30.11.00 removing the applicant from his service holding him guilty of charges leveled against him vide Annexure-1 charge sheet dated 20.4.99. The Disciplinary Authority, while coming to the conclusion has failed to take into consideration the factual matrix of the case and the Rules quoted in the charge sheet and without applying his independent mind - issued the impugned order. It is stated that from the plain reading of the said impugned order dated 31.11.00 it is clear that the representation submitted by the applicant has been taken into consideration while issuing same. The impugned order itself indicates the fact that the Annexure-2 representation dated 31.5.99 has not been taken into consideration and on this score alone the entire proceeding is vitiated and hence same are liable to be set aside and quashed.

4.19. That the applicant begs to state that the Appellate Authority has illegally passed the impugned Appellate Order dated 10.12.01 without discussing the materials on record. The said Authority has failed to take into consideration the representations and the appeal along with the Rules guiding the field and committed manifest error of law as well as fact and same thus not sustainable in the eye of law and liable to be set aside and quashed.

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4.20. That the applicant begs to state that both the impugned orders depicts total non application of mind by the concerned authority while issuing the same and failed to exercise their independent mind in this matter. Both the authorities ought to have noticed the irregularity and vagueness of the charge sheet, but surprisingly enough passed the impugned orders which are not sustainable in the eye of law and the entire proceeding is liable to be set aside and quashed.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in proceeding departmentally against the applicant and in issuing the impugned orders dated 30.11.2000 and 10.12.01 is per se illegal, arbitrary and same are violative of Article 14 and 16 of the Constitution of India and laws framed thereunder.

5.2. For that the applicant begs to state that the respondents ought not to have issued the Annexure-1 charge sheet dated 20.4.99 that too quoting the irrelevant provisions of Rules for Branch Offices and on this score alone the entire proceeding vitiated pursuant to the aforesaid chargesheet is not maintainable and liable to set aside and quashed.

5.3. For that the charges leveled against the applicant vide Annexure-1 charge sheet dated 20.4.99 are vague and indefinite and the respondents could not have proceeded departmentally against the applicant. The entire

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Departmental proceeding thus not sustainable and liable to be set aside and quashed.

5.4. For that the respondents in there P.O.'s brief made it clear that the applicant has admitted the charges leveled against him without taking into consideration the Annexure-2 representation dated 31.5.99. Entire proceeding was concluded on the surmise that the applicant has admitted the fact which is not factually correct and taking into consideration Rules 8 of EDA conduct & Service Rules, the respondents are duty bound to enquire into the matter adding evidence as well as witness to find out the truth of the allegations. In the instant case in fact no enquiry has been made to find out the truth and thus the applicant was prejudiced in placing his defence as the matter for want of reasonable opportunity as provided under the rules.

5.5. For that the Rules quoted in the charge sheet do not construct any misconduct as has been alleged by the respondents in their charge sheet and taking into consideration those Rules, entire proceeding is liable to be set aside and quashed.

5.6. For that the respondents have acted illegally in not following the procedure prescribed under Rule 8 of the conduct and service rules in concluding the Departmental proceeding and that apart is not providing the applicant his reasonable opportunity of hearing, entire proceeding is vitiated and liable to be set aside and quashed.

5.7. For that the disciplinary authority has acted illegally in holding the applicant to be guilty of the charges. The disciplinary authority while issuing the said impugned order dated 30.11.2000 have failed to exercise his independent mind in this matter as contemplated under the Rules and hence the said impugned order is liable to be set aside and quashed.

5.8. For that the specific authority while upholding the order of the disciplinary authority rejecting the appeal of the applicant, he failed to appreciate the factual matter of the case and thus committed manifest and thus quashed.

5.9. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of the Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares that he has not

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filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned departmental proceeding initiated pursuant to charge sheet dated 20.4.99 including the order of the disciplinary authority dated 30.11.00 and appellate authority dated 10.12.2001 and to reinstate the applicant with full back wages and other consequential service benefits including salary, seniority etc.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Considering the facts and circumstances of the case, the applicant prays for an interim direction to

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appoint him temporarily in any vacant post in the Kanchanpur
EDRO during the pendency of the OA, alternatively applicant
prays before this Hon'ble Tribunal for early hearing of
this matter.

10.
11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 7G 574590
2. Date : 13/5/02
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Ashis Naug, son of Late Ramesh Ch. Naug, aged about 49 years, resident of Village and P.O. Kanchanpur, vis Bibekananda Road, Silchar, Dist-Cachar, Silchar-788007, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 1, 4, 4, 4, 12-4, 15, 4, 17-4, 20, 4, 25 to 12 are true to my knowledge and those made in paragraphs 4, 2, 4, 3, 4, 5 to 4, 18 & 4, 4 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 10th day of JUNE of 2002.

Ashis Naug
Signature.

- 38 -
GOVT. OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS

ANNEXURE - 1

OFFICE OF THE SR? SUPDT. OF POST OFFICES: CACHAR DN:
SILCHAR-788001

M E M O R A N D U M

No. F1-11/96-97/K.Pur/DA

Dated Silchar the 20-4-1999

23/4/99
The undersigned proposed to hold an enquiry against Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) under rule 8 of P&T ED Agents (conduct and service) Rules, 1964. 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 charges (Annexure-I). The statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed (Annexure-III & IV).

2. Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is directed to submit within 10 (ten) days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is further informed that if he/she does not submit his written statement of defence on or before the date specified in para 2 above or does not appear in person before inquiring Authority or otherwise fails or refuses to comply with the provisions/rule-8 of the aforesaid rules, 1964 or the order of directions issued in pursuance of the said rule, the inquiry authority may hold the inquiry against him ex-parte.

5. Attention of Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is invited to rule 25 of the P&T ED Agents (conduct and service) Rule, 1964 under which No ED Agent shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his services 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 Ashis Nag EDBPM Kanchanpur (now put off duty) 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 25 ibid.

6. The receipt of the memorandum may be acknowledged.

Sd/-
Sr. Supdt. of Post Offices,
Cachar Dn: Silchar- 788001.

REGD/AD. Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty)
PO & Vill Kanchanpur via V.N. Road S.O. Dt. Cachar.

Copy to:-

1. In file P/F of the official
2. In Vigilance file.
3. ASPO (HQ)
- 4- Spare.

Sd/-
Sr. Supdt. of Post Offices,
Cachar Dn: Silchar- 788001.

Attested
WDM
Advocate.

Statement of articles of charges framed against Sri Ashish Nag
EDBPM Kanchanpur EDBO (now put off duty)

Article-I

Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 13-1-96 to 18-1-96 received one FPO 608 M.O. No. 1350 dated 4/1/96 for Rs. 2000/- payable to Sri Mahesh Singh C/O Sudhir Singh, DBC P.O. Kanchanpur (Chincoorie) Silchar Dt- Cachar on the 13-1-96 and effected payment of the said M.O. on 18-1-96 taking LTI of the above person alongwith the signature of the person who had taken the LTI of the payee but without signature and permanent address of the witness/identifire even though the payees address was not within the delivery jurisdiction of Kanchanpur EDBO.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the rules 7, Rule 34 (with noted I below) and Rule 109(1)(2)(4) of the "Rules for Branch offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964."

Article :: II

Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 3-2-96 to 8-2-96 received one FPO 989 M.O. No. 1513 dt. 15-1-96 for Rs. 2000/- payable to Sri Subal Chasa C/o Dharam Bricks CO., PO Kanchanpur Silchar-7 (Chincoorie) Dt- Cachar on the 3-2-96 and effected payment of the said MO on 8-2-96 with dated signature (with date 7-2-96) of one Sri Subal Chasa with signature of one M. Singh (full name not eligible) as witness/identifier but without the full name and complete permanent address even though the payee's address was not within the delivery jurisdiction of the Kanchanpur EDBO.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the provisions of Rule 7, Rule 34 (with Note I below) and Rule 109 (1)(2) (4) of the "Rules for Branch offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service Rules, 1964."

Article:: III

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 16-2-96 received one FPO 1989 M.O. No. 1690 dated 18-1-96 for Rs. 2000/- payable to Vijoy Singh C/O Mahesh Singh C/O Indra Bricks CO, PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) on the 14-2-96. On the same day viz and 14-2-96 Said Shri Ashis Nag also received another FPO 1989 MO No. 1694 dated 18-1-96 for Rs. 1500/- payable to one Sri Subol Singh C/O Surojit Singh C/O Indra Bricks CO PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt- Cachar. Both the above MOs were appears to have been taken on 15-2-96 and charged on 16-2-96 in the BO A/c book even though the payees address of both of the delivery jurisdiction of Kanchanpur EDBO. In the both cases permanent address of the witnesses /identifiers were not taken by said Shri Ashis Nag.

Shri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note I below) and Rule 109 (1)(2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct & Service) Rules, 1964."

Article-IV

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 17-2-96 received the following 2 MOs on 14-2-96:-

1) FPO No. 1989 MO No. 1691 dated 18-1-96 for Rs. 2000/- payable to Sri Nijoya Singh C/O Sri Mahesh Singh C/O Indra Bricks Co. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt- Cachar.

Attested
Advocate.

R 7, 34

R 109 (1)(2)(4)

R 17 of

P&T

ED Agents (Conduct & Service) Rules 1964

FPO 1989 M.O. No. 1693 dated 18-1-96 for Rs. 1000/- payable to Sri Subota Singh C/o Surajit Singh C/O Indra Bricks CO. PO Kanchanpur, Silchar- 7 vill. Kanchanpur (Chincoorie) Dt- Cachar.

Both the above MOs were paid on 16-2-96 and charged as paid on 17-2-96 by said Sri Ashis Nag. The address of both the payees are not within the delivery jurisdiction of Kanchanpur EDBO. In both the cases permanent address of the respective witnesses/identifiers were not obtained by said Sri Ashis Nag.

Sri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (conduct and Service) Rules, 1964.

Article :V

Shri Ashis Nag EDBPM of Kanchanpur EDBO (now put off duty) while working as such on 21-8-93 received a sum of Rs. 50/- from the depositor of Kanchanpur EDBO SB A/c No. 9701159 and SB pass book for depositing the amount in SB account. He entered the said amount of Rs. 50/- in the pass book under his signature and authenticated by the office date stamp impression. But did not credit the amount in the Govt. Accounts of the office, and thereby considered to have acted in a manner violating the provisions of Rule 131(3) of the Rules for Branch offices and Rule 17 of the P&T ED Agents (Conduct & services) Rules, 1964.

(R/13)

ANNEXURE: II

Statement of imputation of misconduct or misbehaviour in support of each article of charge framed against Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty).

Article -I

Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 13-1-96 to 18-1-96 received one FPO-608 M.O. No. 1350 dated 4-1-96 for Rs. 2000/- payable to Sri Mahesh Singh C/O Sudhir Singh, DBC PO Kanchanpur (Chincoorie) Silchar Dt- Cachar on the 13-1-96 and entered in the same in the "BO journal" of the office on 13-1-96. On the 18-1-96 the above MO was paid to one Mahesh Singh obtaining LTI on the MO paid voucher (MO-8) wherein one Sri Sudhir Singh signed as witness/Identifier but the attestation of LTI by a resident witness was not obtained by said Sri Nag. The MO in question was paid by said Sri Nag even though the address of the payee was not within the delivery area of Kanchanpur EDBO.

By his above acts said Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with Note 1 below) and Rule 109 (1)(2)(4) of the "Rules for Branch offices" and thereby also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (conduct and service) Rules, 1964.

Article :II

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 3-2-96 to 8-2-96 received one FPO 989 MO No. 1513 dated 15-1-96 for Rs. 2000/- payable to Sri Subal Chasa C/O Dharan Bricks Co. PO Kanchanpur Silchar- 7 (Chincoorie) Dt- Cachar on 3-2-96 and entered the same in the "BO Journal" of the office. Dated initial of the paying official on the above MO indicates that payment was made on the 7-2-96 but charged in the accounts of the said office on the 8-2-96 though none of the payees or care party's address fall within the delivery area of Kanchanpur EDBO..

.....3/-....

Attorney
W.D. Sen
Advocate

Payment of the M.O. in question was also made without obtaining permanent address of the payee as well as of the witness/identifier.

By his above acts said Sri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the "Rules for Branch offices" and thereby also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964."

Article::III

Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 14/2/96 to 16-2-96 received the following 2 MOs on 14-2-96:-

i) FPO 1989 MO No. 1690 dated 18-1-96 for Rs. 2000/- payable to Vijoy Singh C/o Mahesh Singh C/o Indra Bricks Co. PO Kanchanpur Silchar-7 vill Kanchanpur (Chincoorie).

ii) FPO 1989 MO No. 1694 dated 18-1-96 for Rs. 1500/- payable to Sri Subal Singh C/o Surajit Singh C/o Indra Bricks Co. PO. Kanchanpur Silchar- 7 vill Kanchanpur (Chincoorie dt- Cachar.

Said Sri Nag has entered both the above MOs in the "BO Journal" of the office. From the dated initial of the paying official on MO paid vouchers of these MOs both these MOs were paid on 15-2-96 but charged as paid in the accounts of the said Kanchanpur EDBO on the 16-2-96 even though none of the payee's or care party's address fall within the delivery area of Kanchanpur EDBO.

Payment of the MO in question were also made without obtaining signature of any resident witness/Identifier and noting permanent address in the M.O. paid voucher.

By his above acts and Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore, considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the "Rules for Branch offices" and thereby also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (conduct and Service) Rules, 1964.

Article IV

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 17-2-96 received the following 2 MOs on the 14-2-96:-

i) FPO 1989 MO No. 1691 dated 18-1-96 for Rs. 2000/- payable to Sri Nijoya Singh C/o Mahesh Singh C/o Indra Bricks Co. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) dt- Cachar.

iii) FPO 1989 MO No. 1693 dt. 18-1-96 for Rs. 1000/- payable to Sri Subata Singh C/o Surajit Singh C/o Indra Bricks CO. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt- Cachar.

Said Sri Nag has entered both the above MOs in the "BO Journal" of the office. From the dated initial of the paying official on the MO paid vouchers of these 2 MOs both of these MOs were paid on 16-2-96 but charged as paid in the accounts of Kanchanpur EDBO on 17-2-96 even though none of the payee's or the care party's address fall within the delivery area of Kanchanpur EDBO.

Payment of these MOs in question were also made without obtaining signature of any resident witness/Identifier and noting permanent address in the M.O. paid voucher.

....4/-..

Attested
[Signature]
Advocate.

By his above acts said Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is, therefore, considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with note I below) and Rule 109 (1) (2) (4) of the "Rules for branch offices" and thereby is considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964."

Article IV

Shri Ashis Nag EDBPM of Kanchanpur EDBO (on put off duty) while working as such on 21-8-93 received a sum of Rs. 50/- (Rs. fifty) only and the pass book of Kanchanpur EDBO SB A/c No. 9701159 from the depositor of SB A/c Shri Sanjoy Das of Kanchanpur for depositing the amount in the aforesaid SB a/c. Shri Ashis Nag EDBPM had entered the amount of Rs. 50/- on 21-8-93, cast the balance in the pass book, after showing the deposit of Rs. 50/- and authenticated the entries with his initial and date stamp impression of his office. But said Shri Ashis Nag failed to credit the said sum of Rs. 50/- in the Govt. Account of the Kanchanpur EDBO on 21-8-93 and thereby considered to have acted in a manner violating the provision of Rule 131(3) of the "Rules for Branch offices" and also failed to maintain the absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (Conduct and services) Rule 1964

Annexure: III

List of documents by which the articles of charges framed against Sri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) are proposed to be sustained.

1-6. MO paid vouchers in respect of the following MOs:-

a) FPO -608 MO no. 1350 dated 1-1-96 for Rs. 2000/-

b) FPO -989 MO No. 1513 dated 18-1-96 for Rs. 2000/-

~~c) FPO -1989 MO No. 1520 dated 18-1-96 for Rs. 2000/-~~

d) FPO -1989 MO No. 1694 dated 18-1-96 for Rs. 1500/-

e) FPO -1989 MO No. 1691 dated 18-1-96 for Rs. 2000/-

f) Branch office journal of Kanchanpur EDBO for the period from 20-12-95 to 9-3-96.

8-11. BO daily accounts of Kanchanpur EDBO dated 09-01-96, 08/02/96, 15/16-02-96 and 16/17-02-96.

12. Branch office Account book of Kanchanpur EDBO from the period from 01-01-96 to 06-7-96.

13. Kanchanpur EDBO SB pass book A/c No. 9701159

14. Vivekananda Road SO ledger copy of SB A/c No. 9701159.

15. Silchar HO ledger copy of SB A/c No. 9701159.

Annexure: IV

List of witness by whom the articles of charges framed against Sri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is proposed to be sustained.

1. Shri B.R. Halder, Asstt. Supdt. of Post Offices, Silchar North Sub-Dn: Silchar.

2. Shri Sanjoy Das, Kanchanpur, depositor of Kanchanpur EDBO SB A/c No. 9701159.

Advocate

To
The Senior Superintendent of Post Offices,
Cachar Division,
Silchar - 788 001.

Ref : Your Memo No. P1-11/96-97/K.Pur/DA dtd.20-4-99.

Sub :- Written statement in defence.

Sir,

I have the honour to lay the following for favour of your kind consideration, perusal and necessary action.

1. That, I have done nothing which may warrant a departmental proceedings or departmental action against me.
2. That the allegation levelled by both the Annexure-I and Annexure - II are not correct, based on surmise and conjectures and neither reasonable nor proper. I do not admit any of the charges levelled against me. For the sake of brevity meticulous denial of each charge sentence by sentence is repaid/admitted ^{from whatever has not been} specifically hereinbelow are deemed to have been denied by me.
3. That Articles I to IV under Annexure - I and II of the charge memo alleged that the Kanchanpur EDBO received certain money orders from different Field Post Offices which is substantially true. But at the same time the allegation that the payees were not residing within the delivery jurisdiction of the Kanchanpur EDBO is not correct and true. No where in the money order ^{from} there is any column to write down the permanent address of the payee or the address of the identifier. As appears those allegations have been brought for the sake of allegation and the whole episode appears to be an attempt to put the ~~Court~~ before the house. The charge memo is very much silent about advices received by the Kanchanpur EDBO from the station of origin i.e., the field post Offices. Advices from the Post Office of origin speaks about the genuineness of a money order. It is surprising that even under Annexure - III the disciplinary authority carefully and deliberately avoided to rely on the advices received by the Kanchanpur EDBO from the field post offices against each of those money orders. No where in the charge memo it has been stated that those money orders were not genuine. No where in the charge memo it has been stated that there is any allegation from payee as to non-receipt.

Attested

Advocate.

of their money orders money. (Kanchanpur EDBO is within the jurisdictional control of the Vivekananda Road Post Office i.e. Silchar - 788 007. Kanchanpur EDBO does not receive any mail including money orders meant for it directly from the post office of origin. All the mail bags including the money orders are routed through the Vivekananda Road Post Office. Therefore, there must be entries of these money orders in the Vivekananda Road S.O. as it is the Office which sorts out the mails/money orders for the respective EDBOs under its control and jurisdiction. It is surprising that records of that S.O. has not been taken into account or left out deliberately while framing the charge memo against me. By this written statement of mine I would urge upon the disciplinary authority to call for relevant records from the different field post offices as well as from the Vivekananda Road S.O. keeping in view the ends of justice. Withholding of those documents as indicated herein above will be deemed as a deliberate withholding of material records and denial of reasonable opportunity and natural justice. I ~~reiterate~~ ^{reiterate} that I have done nothing in violation of Rule 7, Rule 34 (with note I below), Rule 109 (1) (2) (4) of the "Rules for Branch Offices, Rule 17 of the P&T ED agents (conduct & service) Rules, 1964 or in violation of any other rules under all the articles of allegation from Article - I to Article - IV of Annexure - I and II of the charges it has been admitted that Kanchanpur EDBO received those M.Os. If that be so, duty rests on the receiving office to effect the delivery as per advices which were also duly received by the Kanchanpur EDBO. If there was anything fishy in these ~~Memo~~ and Money orders advices those could have been well detected by the Vivekananda Road Sub Post Office which sorted out the mails/money orders for different EDBOs under its jurisdiction. The role of Vivekananda Road Sub Post Office has been overlooked by the authority, whether deliberately or not is not known to me but best known to the authority concerned. Apart from that records of the different field post offices has also not been placed in this case. Moreover persons who money ordered those from field post offices has also not been placed in this case. Moreover persons who cited as witnesses to show that there money orders were not genuine and fake. As the authority is silent about these points

Contd...P/3

Attested

[Signature]

Advocate

made

which I raised herein above it can be assumed that the authority is not supposing those money orders to be fake or not genuine but only based its charges on technicalities which in ^{all humaneness} my humble way I can submit that I did nothing intentionally or deliverately. There might be some omissions here and there which is common for a human being as "To err is human." God saved that the authority has not brought any charges of misappropriation or money ordered sum. The department is put to strict proof of the allegations levelled by it beyond all reasonable doubt and by preponderance of evidence.

3. That so far as allegations made under Article V of Annexure I and II of the charge memo I am ~~to~~ say that it was a ^{sheer} ~~rather~~ mistake on my part. In fact no deposit was made by the depositor Sri Sanjoy Das against his SB A/C on 21-8-93 but inadvertently the said entry was made in his savings bank pass book out of sheer mistake and therefore crediting of the alleged amount in the Govt. account of Kanchanpur ~~also~~ does not arise. So far I can recollect the depositor Sri Sanjoy Das came to the BDO, Kanchanpur on that fateful day and told me that he would deposit a sum of Rs. 50/- against his savings Bank account. Generally the villagers used to keep their pass books in the office. Relying him I took up his pass book and wrote the amount putting impression and of the office and my signature and then I told him to pay the amount. After searching his pocket he told me that he might have left the amount at his house and he was going to home to bring the amount. Unfortunately he did not turn up and in course of time I had also forgotten that ^{that} he deposited the amount I would have certainly made entries in ledger accounts etc. That was a bonafide mistake and there was no malafide behind that. I hope Sri Sanjoy Das, the depositor will also reveal the truth.

4. That already I have ~~also~~ instituted a Title Suit No. 8 of 1997 in the Court of Civil Judge (Junior Division) No. 1, Silchar relating to the facts in issue now alleged in the statement of allegations under Articles I to IV and the matter contained therein being the Session of the Court I am ^{refraining} ~~refraining~~ from making any further comment as to those subjudiced matters.

But if the authority decides to proceed with this proceedings a further I shall ~~only~~ ^{be} on the averments made

in that suit.

5. That as the matter involves issues concerning both law and facts I desire to be defended by a lawyer in this proceedings also. *Necessary permission may kindly be accorded to.*

6. That I have not violated any of the provisions as alleged.

7. That hereby I reserve my right to file additional written statement in case of discovery of new materials and facts.

8. In the premises above, I crave sympathy of your benighted honour for dismissing this proceedings and oblige.

Yours faithfully.

Ashish NAG

(ASHISH NAG)
EDBPM (Now put off duty)
Kanchanpur E.D.B.O.
P.S.- Silchar,
Dist.- Cachar (Assam)

Date : 31/3/99.

Attested
Wen
Advocate

Annexure-..3

To

Sri Ashis Nag

EDBPM /Kanchanpur EDBO

(Underput off duty)

Via Vivekananda Rd S.O.

Silchar-788007.

No. A1/Rule-8/A Nag Dated at Silchar 17.10.00

Sub.: Rule-8 Inquiry under P&T ED Agents

(Conduct Service) Rules 1964.

Please find herewith a written brief of the P.O.
of the case.

You are requested to submit your Defence statement
on the subject within 10 days for taking further necessary
action.

Enclo- As stated above.

(Seal)

I.P.O (P.M.I)

O/o the Sr.SPOS Cachar Dn

Silchar-788001.

Attested

W. B. M.
Advocate.

Annexure-..3

To

The Inquiry Officer & IPO (PMI)
O/o the Sr. Supdt of POs
Cachar Dn, Silchar-1.

No. PO/Rule-8/A Nag Dated at Silchar the 13.10.2000

Sub.: Rule-8 inquiry against Sri Ashis Nag EDBPM

Kanchanpur EDBO (Now on put off duty)

Ref. I.O.'s No. A1/Rule-8/A Nag & I.O.'s daily order sheet
dated 22.9.2k.

I was appointed as P.O. by the SSPD's Cachar Dn
Silchar to present the case as stated in the subject.

I am submitting herewith a written brief as P.O.
on the above occasion is as follows:

62/ The hearing of the case were held on 28.9.99,
31.11.99, 31.02.00, 18.07.00, 29.08.2000 & 22.09.00. I
attended in the court in all dates except on 28.9.99 i.e.
the day of preliminary hearing when Sri B.K.Das SDI as had
given proxy in my place. On that very day Sri Ashis Nag,
the charged official admitted the charge voluntarily in
black and white brought against him, the article No.V under
Annexure I & II of DO's File no. F1-11/96-97/K.pur/DA dated
20.4.99 reproduced in Annexure-A.

In the regular hearing on 18.7.00 Shri B.R.Haldar
ASPO's (North) Silchar as witness of the case stated that
the addresses of the payees in all the money orders paid as
stated in article I to IV under Annexure-I in DOs file was
No. F1-11/96-97/K.pur/DA dated 20.4.99 reproduced in Annex-B

Attested

Advocate

was not within the delivery jurisdiction of Kanchanpur EDO.

In the conclusion I can say firm that all the charges leveled against Sri Ashis Nag are fully justified & proved beyond doubt.

Encl- Annex- A & B.

(Seal)

Inspector of Post Offices & P.O.

(Compt. & Public Grievances)

cachar Division, Silchar 788001.

Attested
Advocate.

To

Sri L. M. Nath J. P.O. (P.M.)
Office of the S.O. S. P.O. of Post Office.
Cachar Dist. Silchar-788001

Ref:- Your Memo no. 41/ Rules/ A. Nang
Dt. at Silchar, 17.10.2000

Sub:- Prayer for another 30 (thirty) days
time for submitting my defence.

Sir;

I have the honour to state that
able to receive your memo tabered above, I went
to the residence of my defence Assn. Mr. Bishu
and learned that he died few days ago. For
preparation of my defence of the said case,
I depend upon one law-yr, I beg time
for finding one another defence Assn. For
this reason I am requesting (30) days another time
30 (thirty) days time for preparation & submit
my defence.

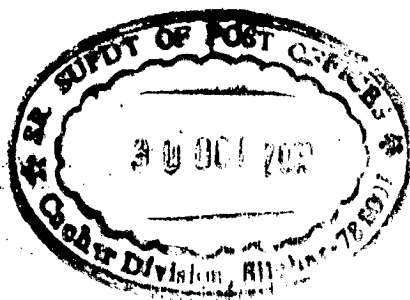
I request your
honour would be kind to grant another
30 (thirty) days time for submit my defence.

Date
30/10/2000

Yours faithfully

As his lawyer,
A. B. Singh

For B. Singh, Kanchanpur
under p.w. of Duty



Control

W.D.

2000

Received on 31/11/2000

- 30 -

ANNEXURE - 5

GOVT. OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS
OFFICE OF THE SR. SUDT. OF POST OFFICES: CACHAR DN:
SILCHAR-788001.

REGD/AD.

To,

Shri Ashis Nag,
EDBPM Kanchanpur
(Now Put off duty)
P.O. and Vill Kanchanpur
Via Vivekananda Road Silchar.
(S.O.)


No. F1-11/96-97/Kanchanpur

Dated Silchar the 1-11-2000.

Sub:- Rule 8 case initiated against Shri Ashish Nag EDBPM
Kanchanpur EDBO (Now Put off duty)

A Copy of the report of the Inquiry Officer in respect of the above case 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) fifteen days of receipt of this letter.

D/A - (As above)


Sr. Suddt. of Post Office
Cachar Dn: Silchar- 788001.

Attended

on

date

Annexure...5.

Inquiry report on disciplinary proceedings framed against Sri Ashis Nag EDBPM, Kanchanpur EDBO in a/c with V.N.Road So under Rule 8 of P&T ED Agents (Conduct and Service) Rule 1964.

The undersigned was appointed as Inquiry Officer by the SSPOS Cachar Dn Silchar vide Memo No.F1-11/96-97/K Pur/DA dated 26.7.99 and Sri P.K.Roy IPO(C) was appointed as Presenting Officer. Sri Ashis Nag vide his letter dated 28.10.99 had nominated Sri N.N.Biswas Rtd SPM as his defence assistant.

The article of charges framed against Sri Ashis Nag by the SSPSS/Silchar vide Memo No.F1-11/96-97/K.Pur/DA dated 20.4.1999 in brief are as under.

There are five articles of charges for violation of the provisions of Rule-7, Rule-34 (with note 1 below), Rule 109 (1)(2)(4) of the Rules for Branch offices Rule 17 of the P&T ED Agents (Conduct & Service) Rules 1964 as well as Rule 131(3) of the Rule for Branch Offices for the reasons while Sri Ashis Nag working as EDBPM, Kanchanpur EDBO (1) effected payments of F.P.O. 608 MD No.1350 dated 4.1.96 for Rs.2000/- payable to Sri Mohis Singh C/O Sudhir Singh, DBC PO Kanchanpur(Chincoorie) on 13.1.96 and effected payment of the said M.O. on 18.1.96 taking L.T.I. of the above person along with the signature of the person who had taken the L.T.I. of the payee but without signature and permanent address of the witness/identifier even though the payees address was not within the delivery jurisdiction of

Attested
[Signature]
Advocate.

Kanchanpur EDBO.

Effectuated payment of F.P.O. 983 MO No.1513 dated 15.1.96 for Rs.2000/- payable to Subal Chasar, C/o Dharam Bricks Co. P.O. Kanchanpur, Silchar (Chincorie) on 8.2.96 with dated signature (with date as 7.2.96 of one Sri Subal Chasar with signature of one M.Singh (full name eligible) as name and complete permanent address was not within the delivery jurisdiction of Kanchanpur EDBO.

(3) Effectuated payment of FPO 1989 MO No.1690 dated 18.1.96 for Rs.2000/- payable to Vijoy Singh C/o Mahesh Singh C/o Indra Bricks Co., P.O. Kanchanpur (Chincorie) Silchar -7 and F.P.O 1989 MO No.1694 dated 18.1.96 for Rs.1500/- payable to one Sri Subal Singh C/o Surojit Singh C/o Indra Bricks Co. P.O. Kanchanpur (Chincorie) Silchar-7 received both the MOs on 14.2.96 and effectuated payment on 15.2.96 and charged on 16.2.96 in the B.O. A/c book even though the payee's address of both of the above MOs is not within the delivery jurisdiction of Kanchanpur EDBO. In both the cases permanent address of the witness/identifiers were not taken by said Sri Asish Nag.

(4) Effectuated payment of (1) FPO 1989 Mo.No.1691 dated 18.1.96 for Rs.2000/- payable to Viyoya Singh, C/o Mahesh Singh, C/o Indra Bricks Co. P.O. Kanchanpur Silchar-7 (Chinchorie) (2) FPO 1989 Mo.No.1693 dated 18.1.96 for Rs.1000/- payable to Shri Subala Singh C/O Sirajit Singh C/o Indra Bricks Co. P.O. Kanchanpur Sil-7 vill Kanchanpur (Chinchorie) dist-Cachar. Both the MOs were paid on 16.2.96 but charged on 17.2.96 in the BO A/c book even though none of the payee's or care party's address fall within the delivery area of Kanchanpur EDBO.

Attested
A. Sen
Advocate.

Payments of these MOs in question were made without obtaining signature of any resident witness/identifier and nothing permanent address in the MO paid voucher.

(5) Sri Ashis Nag EDBPM/Kanchanpur EDBO (on put off duty) while working as such on 21.8.93 received a sum of Rs.50/- only and the Passbook of Kanchanpur B.O. SB A/c No.9701159 from the depositor of said SB A/c Sri Sanjay Das of Kanchanpur for depositing the amount in the aforesaid SB A/c. Sri Ashis Nag EDBPM had entered the amount of Rs.50/- on 21.8.93 cast the balance in the Passbook after showing the deposit of Rs.50/- and authenticated the entries with his initial and date stamp impression of his office. But said Sri Ashis Nag failed to credit the said sum of Rs.50/- in the Govt. Account of Kanchanpur EDBO on 21.8.93 and thereby considered to have acted in a manner violating the provisions of Rule 131(3) of the "Rules for Branch Offices" and also failed to maintain the absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (conducts & service) Rules 1964.

In the articles of charges in Annexure III 15 related documents and in Annexure IV two names witness to sustain the charges framed against Sri Ashis Nag S.P.S.

The preliminary hearing of the case was held on 28.9.99. The SPS Sri Ashis Nag admitted the charge brought vide Article No.V voluntarily and admitted himself guilty in writing dated 28.9.99 but he denies the first four charges brought vide Articles Nos I, II, III & IV.

Regular hearing were taken place on 1.2.00, 18.7.00, 29.8.00, 22.9.00. On 1.2.00 he expressed his inability to proceed examination in absence of his DA on

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4

regular hearing dated 18.7.00 sw No.1 Sri B.R.Haldar ASPOS North Sub Divn Silchar-1 was examined and re-examined of the SW-I it has been cleared. The Dharani Bricks Co. and Indra Bricks Co. are fall under the delivery jurisdiction of Chinchorie EDBO and not under the delivery jurisdiction of Kanchanpur EDBO.

The SPS admitted the charge brought vide Article No.V voluntarily and placed him guilty and the SW No.2 was related with the article of Charge so his examination did not considered necessary.

From the examination and re-examination of the SW-I it has been established that the SPS Sri Ashis Nag paid the MOS outside the delivery jurisdiction of Kanchanpur EDBO without observing the Departmental Rules.

From what have been discussed above the charge framed against the SPS Sri Ashis Nag vide Article Nos I,II,III,IV & V have been proved beyond any doubt. And the SPS himself admitted in writings the charge brought against him vide Article No.V.

From the above discussion and reasoning I am in opinion that the charges brought against the SPM Sri Ashis Nag EDBPM, Kanchanpur EDBO (under put off duty) proved beyond any doubt.

(Seal)

I.P.O.(PMI)

O/o the Sr.SPOS Cachar Dn
Silchar-788001.

Attested
Advocate.



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ANNEXURE-6

The Senior Superintendent of Post offices
Cachar District Division, Silchar 788001

Ref : Your memo No. F-11/96-97/ Kanchanpur
dated Silchar 1.11.2000

Memorandum of argument, in Brief,
Submitted by Shri Ashis Naug, Co.

Ref :

CHARGE

In short, the charge is that Shri Ashis Naug, EDBPM, Kanchanpur, effected the payments of the amounts of some money orders to the payees. whose addresses were not within the delivery jurisdiction of Kanchanpur EDBO.

AND

that Shri Ashis Naug received Rs. 50.00 on 21.8.93 for depositing it in S/B account No. 9701159 under his signature and authentication. But did not credit the amount in the Govt accounts of the office.

In order to prove the charges, the prosecution relied on the following documents :

M.O. paid vouchers in respect of the following vouchers.

- 1) F.P.O.- 608 M.O. No. 1350 dt. 4.1.96 for Rs. 2000.00
- 2) F.P.O. - 989 M.O. No. 1513 dt. 15.1.96 for Rs. 2000.00
- 3) F.P.O. - 1989 M.O. No. 1690 dt. 18.1.96 for Rs. 2000.00
- 4) F.P.O. - 1989 M.O. 1624 dt. 18.1.96 for Rs. 1500.00

Contd..p..2...

Attested
[Signature]
Advocate.

- 5) F.P.O.- 1989 M.O. No. 1691 dt. 18.1.96
for Rs. 2000.00
- 6) F.P.O. - 1989 M.O. No. 1593 dt. 18.1.96
for Rs. 1000.00
- 7) Branch office Journal of Kanchanpur EDBO for
the period from 20.12.95 to 9-3-96.
- ~~8)~~ 8-11 B.O. daily accounts of Kanchanpur EDBO dt.
9.1.96 11.2.96, 15/16 and 16/17-2-96 .
- ~~9)~~ 12 Branch office account book of Kanchanpur
EDBO from the period from 1.1.96 to 6.7.96.
- ~~10)~~ 13 Kanchanpur EDBO SB pass book a/c No. 9701159
- ~~11)~~ 14 Vivekananda Road so ledger copy of SB a/c No
9701159-
- ~~12)~~ 15 Silchar H.O. ledger copy of SB a/c No 8701159.

The prosecution also cited the following
persons / officer as witnesses.

- 1) Shri BR Halder, Asst. superintendent of P.O.
Silchar , North Sub- Division Silchar.
- 2) Shri Sanjay Das, Kanchanpur EDBO SB A/C No.
9701159.

The prosecution has examined one witness , namely
Shri B.R. Halder, ASP, North subdivision, Silchar.

Evidence.

1. The charges are based on documents and it was
the burden of the prosecution to prove the documents
as evidence. But the prosecution has not produced any
paper / document / record, for less to speak of proving
the same. The oral evidence of Shri B.R. Halder is legally
inadmissible under the provisions of Sec. 91 of the Evi-
dence Act and as such it cannot be considered against
Shri Ashis Naug.

Contd..P....3...

Attested
AD
Advocate.

- 3 -

2. There is absolutely no evidence regarding the other charge of depositing Rs. 50.00.

3. Kanchanpur EDBO is subordinate to Vivekananda Road Sub- Post office through which all mails including money-orders are sorted out and sent to EDBOs for delivery. It was the duty of Ashis Naug to deliver the MOs sent to him by Vivekananda Sub- post office to the payees and in fact, he discharges his official duty in the manner provided. Performance of duty in compliance with the procedure and Rules as well as in obedience with the direction of the higher authority is not dereliction in duty. It is not the allegation that the payees did not get the amounts of money orders or that Ashis Naug misappropriated the same.

4. That no opportunity has been given to adduce defence evidence.

It is pertinent to mention that there is nothing on record to show the jurisdiction / area of operation of Kanchanpur EDBO and Chincchoris EDBO. In the absence of any proof in this respect, the charge that Ashis Naug delivered the MOs which were outside his jurisdiction cannot stand at all against him.

It is prayed that the proceeding be dropped.

Date 9/11/2000

Yours faithfully

Ashis Naug

(ASHIS NAUG)

EDBPM, Kanchanpur EDBO

Now under put off duty

via Silchar 7 Cachar (Assam)

Copy to :-

Shri C.M. Nath, I.O. (PMI)

Office of the Sr. Assistant Secy of post offices
Cachar Division, Silchar - 788001. This is refer
to your letter No. A 1 / Rule 8/ A. Naug dt. 17.10.2000
for favour of information.

Sd/

(Ashis Naug)

ESBPO, Kanchanpur EDBO

Now under put off duty

via Silchar- 7 Cachar.

Attested

Advocate

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SENIOR SUPER OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

Memo No.F1-11/96-97/K.Pur/DA

Dated at Silchar the 30-11-2000.

Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) was informed under this office memo of even no. dated 20-04-99 of the proposal for taking action under Rule-8 of the P&T ED Agents (Conduct & Service) Rules, 1964 on the basis of the articles of charges attached thereto, which are reproduced below:-

ARTICLE-I

Shri Ashis Naug, while functioning as EDBPM, Kanchanpur EDBO during the period from 13-01-96 to 18-01-96 received one FPO 608 M.O No.1350 dated 04-01-96 for Rs.2000.00 payable to Shri Mahesh Singh C/O Sudhir Singh, DBC, P.O-Kanchanpur (Chincoorie) Silchar, Dt- Cachar on the 13-01-96 and effected payment of the said M.O on 18-01-96 taking LTI of the above person along with the signature of the person who had taken the LTI of the payee but without signature and permanent address of the witness/identifier even though the payees address was not within the delivery jurisdiction of Kanchanpur EDBO.

Shri Ashis Naug, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the rules 7, Rule 34 (with note 1 below) and Rule 109 (1) (2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964.

ARTICLE-II

Shri Ashis Naug, while functioning as EDBPM Kanchanpur EDBO during the period from 03-02-96 to 08-02-96 received one FPO 989 M.O No.1513 dated 15-01-96 for Rs.2000.00 payable to Shri Subal Chasa C/O Dharam Bricks Co. P.O- Kanchanpur, Silchar-7 (Chincoorie) Dt- Cachar on the 03-02-96 and effected payment of the said MO on 08-02-96 with dated signature (with date as 07-02-96 of one Shri Subal Chasa with signature of one M. Singh (full name not eligible) as witness/identifier but without the full name and complete permanent address even though the payee's address was not within the delivery jurisdiction of the Kanchanpur EDBO.

Shri Ashis Naug, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the provisions of Rule 7, Rule 34 (with note 1 below) and Rule 109 (1) (2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964.

Attested
[Signature]
Advocate

ARTICLE-III

Shri Ashis Naug, while functioning as EDBPM, Kanchanpur EDBO during the period from 14-02-96 to 16-02-96 received one FPO 1989 M.O No.1690 dated 18-01-96 for rs.2000.00 payable to Vijoy Singh C/O Mahesh Singh C/O Indra Bricks Co. P.O- Kanchanpur, Silchar-7, Vill-Kanchanpur (Chincoorie) on the 14-02-96. On the same day viz. 14-02-96 said Shri Ashis Naug also received another FPO 1989 MO No.1694 dated 18-01-96 for Rs 1500.00 payable to one Shri Subal Singh C/O Surojit Singh C/O Indra Bricks Co. P.O- Kanchanpur, Silchar-7 Vill-Kanchanpur (Chincoorie) Dt- Cachar. Both the above M.Os were appears to have been paid on 15-02-96 and charged on 16-02-96 in the B.O account book even though the payees address of both of the above M.Os is not within the delivery jurisdiction of Kanchanpur EDBO. In the both cases permanent address of the witnesses/identifiers were not taken by said Shri Ashis Naug.

Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with note I below) and Rule 109 (1) (2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct & Service) Rules, 1964".

ARTICLE-IV

Shri Ashis Naug while functioning as EDBPM, Kanchanpur EDBO during the period from 14-02-96 to 17-02-96 received the following 2 M.Os on 14-02-96:-

- i) FPO 1989 MO No.1691 dated 18-01-96 for Rs.2000.00 payable to Shri Nijoya Singh C/O Shri Mahesh Singh C/O Indra Bricks Co., P.O- Kanchanpur, Silchar-7, Vill-Kanchanpur (Chincoorie), Dt- Cachar.
- ii) FPO 1989 MO No.1693 dated 18-01-96 for Rs.1000.00 payable to Shri Subota Singh C/O Surajit Singh C/O Indra Bricks Co., P.O- Kanchanpur, Silchar-7, Vill- Kanchanpur (Chincoorie) Dt- Cachar.

Both the above M.Os were paid on 16-02-96 and charged as paid on 17-02-96 by said Shri Ashis Naug though the address of both the payees are not within the delivery jurisdiction of Kanchanpur EDBO. In both the cases permanent address of the respective witnesses/identifiers were not obtained by said Shri Ashis Naug.

Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note I below) and Rule 109 (1) (2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964".

ARTICLE-V

Shri Ashis Naug, EDBPM of Kanchanpur EDBO (on put off duty) while working as such on 21-08-93 received a sum of Rs.50.00 from the depositor

ARTICLE I
[Signature]
20/10

of Kanchanpur EDBO SB Account No 9701159 and SB pass book for depositing the amount in SB account. He entered the said amount of Rs.50.00 in the pass book under his signature and authenticated by the office date stamp impression. But did not credit the amount in the Govt. accounts of the office, and thereby considered to have acted in a manner violating the provision of Rule 131 (3) of the Rules for Branch Offices and Rule 17 of the P&T ED Agents (Conduct & Services) Rules, 1964.

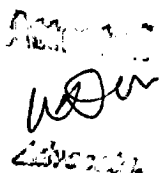
2. Said memo dated 20-04-99 was received by Shri Ashis Naug on 23-04-99 and under his letter dated 03-05-99 wanted to examine some records relating to the case Shri Ashis Naug has examined the records on 14-05-99 and his defence statement was received by this office on the 01-06-99 under his letter dated 31-05-99. The charges brought against said Shri Ashis Naug were denied by him under his letter dated 31-05-99.

3. As such it was considered necessary to hold procedural inquiry under rule ibid and accordingly Shri C.M. Nath, IPO (PMI), Silchar was appointed as Inquiry authority to inquire into the charges framed against said Shri Ashis Naug vide this office memo of even no dated 20-07-99. Shri P.K. Roy, IPOs (Complaints) was appointed as Presenting Officer to present the case on behalf of the Disciplinary Authority.

4. List of the documents by which and list of the witnesses by whom the articles of charges framed against said Shri Ashis Naug were also attached to the aforesaid memo dated 20-04-99, which are reproduced below:-

4.1 List of documents by which the articles of charges framed against Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) are proposed to be sustained.

- 1-6. MO paid vouchers in respect of the following M.Os:-
 - a) FPO-608 M.O No.1350 dated 04-01-96 for Rs.2000.00
 - b) FPO-989 M.O No.1513 dated 15-01-96 for Rs.2000.00
 - c) FPO-1989 M.O No.1690 dated 18-01-96 for Rs.2000.00
 - d) FPO-1989 M.O No.1694 dated 18-01-96 for Rs.1500.00
 - e) FPO-1989 M.O No.1691 dated 18-01-96 for Rs.2000.00
 - f) FPO-1989 M.O No.1693 dated 18-01-96 for Rs.1000.00
7. Branch office journal of Kanchanpur EDBO for the period from 20-12-95 to 09-03-96.
- 8-11. BO daily accounts of Kanchanpur EDBO dated 09-01-96, 08-02-96, 15/16-02-96 and 16/17-02-96.
12. Branch Office account book of Kanchanpur EDBO from the period from 01-01-96 to 06-07-96.
13. Kanchanpur EDBO SB pass book account No.9701159.
14. Vivakananda Road S.O ledger copy of SB account No.9701159.
15. Silchar H.O ledger copy of SB account No.9701159.



4.2.

List of witness by whom the articles of charges framed against Shri Ashis Naug, EDBPM Kanchanpur EDBO (now put off duty) is proposed to be sustained.

- a) Shri B.R. Halder, Asstt. Supdt of Post Offices, Silchar North Sub-Dn. Silchar.
- b) Shri Sanjoy Das, Kanchanpur, depositor of Kanchanpur EDBO SB account No.9701159.

5. During inquiry by the I.O Shri Ashis Naug, the charged EDBPM demanded additional documents as regards jurisdiction of Kanchanpur EDBO, which was supplied to the P.O on 01-12-99 and zerox copy of the related rules was sent to the I.O on 18-08-00.

6. The I.O, on completion of inquiry submitted his report with his letter No.A1/Rule 8/Inquiry/A.Naug dated 30-10-00 with the findings as follows:-

"From the above discussions and reasonings I am in opinion that the charges brought against the SPS Shri Ashis Naug, EDBPM, Kanchanpur EDBO (under put off duty) proved beyond any doubt."

7. A copy of the inquiry report of the I.O was sent to the charged EDBPM Shri Ashis Naug on 01-11-00 for submission of his representation, if any, within 15 days of receipt and Shri Ashis Naug, has submitted his representation under his letter dated 09-11-00.

I have gone through the following records/documents/reports of case:-

1. Documents from sl (1) to (15) mentioned in para 4 above.
2. Additional document as regards jurisdiction of the Kanchanpur EDBO fixed by the then ASPOs, Silchar North Sub-Dn. Silchar at the time of opening of the said EDBO.
3. Report of the I.O submitted with his letter No.A1/Rule8/Inquiry/A. Nag dated 30-10-00.
4. Representation dated 09-11-00 of Shri Ashis Naug.

8.1. Observation in respect of the inquiry report and documents:-

On the basis of the documents and additional documents supplied and shown to the charged ED Official it was proved beyond any shadow of doubt that all the F.A.M.Os mentioned in para 4.1 above were not payable from Kanchanpur EDBO as the payee/s of the FAMOs resides beyond the delivery jurisdiction of the said EDBO. As per rules and procedure in vogue these FAMOs should have been returned to the account office viz Vivakananda Road S.O with suitable remarks. But instead of doing so said Shri Ashis Naug, EDBPM, Kanchanpur (now put off duty) had irregularly paid those FAMOs and thereby clearly violated the provisions of Rules 7, 8 (with note I below), 109 (1) (2) (4) of the "Rules for branch Offices". And by doing so he has also failed to maintain

Attested
W.Dm.
Advocate.

absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (Conduct & Service) Rules, 1964.

8.2. As regards article V of the charges brought against him it appears that the charged ED Official Shri Ashis Naug, during the inquiry on the 28-09-99 had admitted the charge fully and pleaded himself guilty under his dated signature. As per rules, inquiry is to be made in respect of the charge/s not admitted and as such his plea of non-examination of the witness viz depositor of the SB account cannot in any way be acceded to. Due to admittance of his guilt this charge also proved beyond any shadow of doubt.

9. As already stated in para 8.1 & 8.2 above the undersigned has no doubt that all the charges levelled against Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) stand fully established and proved beyond any shadow of doubt and that Shri Ashis Naug, deserves exemplary punishment for violation of the rules mentioned above.

ORDER

I, Shri I.C. Sarma, Sr. Supdt of Post Offices, Cachar Dn. Silchar hereby order that Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) be removed from service with immediate effect.

Sd/-

(I.C. SARMA)

Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Copy to:-

1. Shri Ashis Naug, EDBPM, Kanchanpur EDBO (now put off duty) P.O & Vill-Kanchanpur, Via- V.N. Road S.O Dn. Cachar.
2. The Sr. Postmaster, Silchar H.O.
3. The ASPOs, Silchar North Sub-Dn. Silchar-788001.
4. Estt. Br. Divisional Office, Silchar-I
5. Punishment Register (ASP H/Q).
6. Vig Register (Fraud Br.)
7. Spare

[Signature]
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Attested
[Signature]
Attested

Under Regd with AD
 RL no 3352 dt 5/1/2001

To

Senior Superintendent of Post Offices,
 Cachar Division, Silchar-788001

Sub: Appeal under Rule 19/12 of Service Rules for Postal
 ED Staff. Arun, Paltaibazar,

Sir, Guwahati

I have the honour to submit appeal against the
 order passed under Memo No. PL-11/96-97/K. pur/DN dated
 30.11.2000. The appeal contains all material statements
 and arguments without any disrespectful or improper lang-
 uage and it is complete in itself.

The appeal is submitted today and it is within
 the period of limitation. It is not the repetition of any
 appeal already decided. - 788001 Dist Cachar, Assam

I, therefore, request you kindly to
 transmit the appeal to the appellate
 authority without avoidable delay as per
 the provisions of Rule 14 of the said
 Rules and for this act of kindness, I
 shall remain ever grateful. 2000 thereby
 removing the Yours faithfully service.

Date

S. 1. 2001

Enclos: That the Appellant has been working in the Extra

- 1) Memo of Appeal
- 2) Impressed order
- 3) Copy of Memo of Appeal

Attested
 [Signature]
 Advocates.

As his name
 Kan Chandra E.D.P.O.
 via Vivekananda Road
 Sil Char - 7

ANNEXURE - 8

To

The Chief Post Master General, Assam Circle,
Meghdoot Bhavan, Paltanbazar,
Guwahati - 1

Shri Ashis Nag, E.D.B.P.M. (removed), Kanchanpur
E.D.P.O., P.O & Village Kanchanpur via Vivekananda
Road, Silchar District Cachar, Assam

... Appellant

-Vs-

Senior Superintendent of Post Offices, Cachar
Division, Silchar - 788001 Dist Cachar, Assam

... Respondent

This is an appeal preferred by the
abovenamed Appellant against the
order passed by the Respondent on
30.11.2000 under Memo No. F1-11/
96-97/K.pur/DA dt. 30.11.2000 thereby
removing the Appellant from service.

The abovenamed Appellant most respectfully states:

1. That the Appellant had been serving as an Extra
Departmental Branch Post Master since 1980. He
had been serving in the aforesaid status/capacity
at Kanchanpur E.D.B.O in 1996.

Attested
h Dm
Advocate.

page 2

2. That while serving as such, the Respdt., by his Memorandum under No. F1-11/96-97/K.pur/DA, dated 20.4.99, proposed to hold an enquiry against the Appellant under Rule 8 of P & T E.D Agents (Conduct Service) Rules, 1964 on the alleged imputations of misconduct or misbehaviour based on some charges. The charges are briefly as follows:

(a) The Appellant affected the payments of the amounts of some money orders to the payees whose addresses are, as alleged, not within the delivery jurisdiction of Kanchanpur E.D.B.O.

(b) The Appellant received Rs. on 21.8.93 for depositing it in S/B account No. 9701159 under his signature and authentication but did not credit the amount in the Govt accounts of the office.

3. That the Appellant entered his defence in writing challenging the legality, propriety and truth of the charges levelled against him.

4. That the names of witnesses and the list of documents relied on by the Respdt were shown in the Memo No. F1-11/96-97/K.pur/DA dt 20.4.99. These are as follows:

List of documents by which the articles of charges are proposed to be sustained.

* 1-6 MO paid vouchers in respect of the following MOs:
a) FPO-608 MO No. 1350 dt 4.1.96 for Rs. 2000.00

Accepted
W.D. -
11/11/99

- 46 -

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page 3

- b) FPO-989 MO No 1513 dt 15.1.96 for Rs. 2000.00
 - c) FPO-1909 MO No. 1590 dt 18.1.96 for Rs 2000.00
 - d) FPO-1989 MO No. 1694 dt. 18.1.96 for Rs 1500.00
 - e) FPO-1989 MO No. 1691 dt 18.1.96 for Rs. 2000.00
 - f) FPO-1989 MO No. 1693 dt 18.1.96 for Rs. 1000.00
 - 7. Branch Office journal of Kanchanpur EDBO for the period from 20.12.1995 to 9.3.1996
 - 8-11. BO daily accounts of Kanchanpur EDBO dt 9.1.96, 8.2.96, 15/16.2.96 and 16/17.2.96
 - 12. Branch Office Account Book of Kanchanpur EDBO from the period from 1.1.96 to 6.7.96
 - 13. Kanchanpur EDBO SB pass book A/C No. 9701159
 - 14. Vivekananda Road BO ledger copy of SB A/C No. 9701159
 - 15. Silchar HO ledger copy of SB A/C No. 9701159
- List of witnesses by whom the articles of charges are proposed to be sustained.
- 1. Shri B.R.Halder, Asst. Supdt of Post offices Silchar North Sub Division Silchar
 - 2. Shri Sanjay Das, Kanchanpur, depositor of Kanchanpur EDBO SB A/C No. 9701159.
 - 5. That there was no complaint, oral or in writing, of any of the payees of the MOs/depositor referred to in the charges against the Appellant. That apart, the Appellant made payments of the said MOs to the payees concerned after exercising his discretion under Rule 109(3) of the Rules for Branch offices

Attested
Wm.
Mocca.

page 4

(containing rules for the guidance of BPMs). There was also no allegation of fraud or misrepresentation or misappropriation from any corner against the Appellant regarding the articles of alleged charges.

6. That as per the provisions of Rule 106 of the said Rules referred to in the preceding paragraph, it was the obligatory duty of the Appellant to deliver the amounts of the MOS made over to him to the payees. In fact, Kanchanpur EDBO was under Vivekananda ^{road} BPO. No list ~~of~~ or map of villages was proposed to be used against the Appellant as will be clearly evident from the list of documents described hereinbefore. There was not a scrap of paper, far less to speak of village sorting list as per Rule 7, to show that the places of residence of the payees were outside the jurisdiction of Kanchanpur EDBO or to show the area of delivery jurisdiction of Kanchanpur EDBO. No such list/map was ever prepared and sent to Kanchanpur EDBO before the initiation of the enquiry against the Appellant as per Rule 17(2) nor such list/map has legally been proved in the enquiry.
17. That it will be evident from the order sheets, evidence and the impugned order that no document mentioned in the Articles of charges and relied on by the Respdt has been legally proved in the enquiry. These were even not placed before EO/IO as a result of which the Appellant could not cross-examine the sole witness in respect of the said documents.

Noted
W.D.M.

page 5

8. That the non-crediting of Rs. 50.00 in the Govt accounts of the office was a sheer inadvertant and bonafide mistake
9. That it is very much pertinent to mention here that no opportunity to adduce evidence was given to the Appellant though he sought for the same in his paragraph 5 of his statement in defence.
10. That the village sorting list and the map are not dated and so it cannot be said, on the face of the same, as to on which date these were created. In fact, these are manufactured during the enquiry to use against the Appellant and to fill up the lacuna in the case. These list & map are not correct and proper as will be evident from the orders dt. 18.7.2000, 29.8.2000 and 22.9.2000.
11. That only one witness, Shri B.R. Halder, was examined. He did not prove any scrap of paper. The IO prepared a report and the Appellant also submitted his written argument. Thereafter, by the impugned order, the Appellant has been removed from service with immediate effect.

Being highly aggrieved by and dissatisfied with the impugned order, the Appellant prefers this appeal on the following amongst others:

G R O U N D S

1. For that the impugned order is illegal, improper and bad in law and on facts and as such it is liable to be set aside.
2. For that the alleged charges were mechanically framed without relevant and necessary materials and without applying judicial mind and as such the entire enquiry has been vitiated.

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Page 6

3. For that the impugned order is against the weight of evidence in the case.
4. For that the impugned order is exactly the repetition of the alleged articles of charges without discussing the evidence and without appreciating the same and this is also fatal for the prosecution/Respdt.
4. For that the Respdt failed to prove any document relied on and referred to in the articles of charges and the impugned order cannot be sustained in the absence of any proof of any of the said documents.
5. For that the removal of the Appellant has been major and severe under the facts and circumstances of the case.
6. For that non-giving of opportunity to the Appellant to adduce his evidence has caused miscarriage of justice.
7. For that the enquiry ought to have been dropped under the facts and circumstances of the case.
8. For that it ought to have been held that the Appellant did not violate the provisions of Rules 7,34 (with note 1 below), 109 (1), (2), (4) of the Rules for Branch offices, that he failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the P & T ED Agents (Conduct & Service) Rules, 1964.
9. For that the Respdt failed to consider that there is no legal evidence at all for sustaining removal of the Appellant.

Attested
WDM
Advocate.

page 7

10. For that the ~~impugned~~ report of the IO and the impugned order are baseless and legally unfounded.
11. For that the Respdit erroneously held that the alleged charges have been fully established and proved beyond any shadow of doubt against the Appellant.
11. For that the impugned order is otherwise illegal, improper and bad in law.

The Appellant, therefore, prays that your kindness would be pleased to admit this appeal, call for the record of the case and after hearing, allow the same by setting aside the impugned order and for this act of kindness, he shall ever pray.

dt. Ashinay
05/01.00)

Attestat
WDM
Advocate.

DEPARTMENT OF POSTS
OFFICE OF THE POSTMASTER GENERAL
DIBRUGARH REGION : DIBRUGARH - 786 001

No. Staff / 2 / 25 - 4 / 01 / RP (L)
dated 10.12.2001

APPELLATE ORDER

1.1. Appellant : Sri Ashis Nag, Ex-EDBPM, Kanchanpur BO

1.2. Appeal : The Appeal dated 5.01.2001

1.3. Order appealed against:

The order No. F1-11/96-97/K.Pur/DA dated 30.11.2000 of the Sr Supdt of Post offices, Cachar Division, Silchar imposing the penalty of removal from service on the appellant.

1.4. Disciplinary authority:

Senior Superintendent of Post offices, Cachar division, Silchar.

1.5. Appellate authority :

Director of Postal Services, Dibrugarh Region, Dibrugarh.

2. Cause of Appeal:

The appellant was proceeded against under Rule-8 of the P&T ED Agents (conduct and service) Rules, 1964 (now Rule 10 of GDS (Conduct and Employment) Rules, 2001 vide memo no. F1-11/96-97/K Pur/DA dated 20.4.99 of the Sr Supdt of Post offices, Cachar Division, Silchar for violation of rules 7, 34, 109 and 131 of the "Rules for Branch Post offices" as well as contravention of rule 17 of the P&T ED Agents (Conduct and service) Rules 1964 (now Rule 21 of GDS (conduct and employment) Rules 2001). The charges framed against the appellant were:

Attested
hdm
Advocate.

ARTICLE - 1: That Sri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 13.1.96 to 18.1.96 received one FPO 608 MO No. 1350 dated 4.1.96 for Rs. 2000/- payable to Sri Mahesh Singh, C/o Sudhir Singh, DBC Kanchanpur, Silchar and paid it on 18.1.96 obtaining LTI of the payee on the MO form without obtaining signature and address of the witness/ identifier, even though the payee hailed from outside the jurisdiction of Kanchanpur BO.

ARTICLE - 2: That the said Sri Nag while working as such, during the period from 3.2.96 to 8.2.96 received one FPO 989 MO NO. 1513 dated 15.1.96 for Rs. 2000/- payable to Sri Subal Chasa, c/o Dharam Bricks CO, Kanchanpur, Silchar-7 and effected its payment on 8.2.96 obtaining signature of one Subal Chasa with date of 7.2.96 on identification/ witness of one M Singh whose full name and complete address was wanting though payee was not within delivery jurisdiction of Kanchanpur BO.

ARTICLE - 3: That the said Sri Nag while functioning as BPM Kanchanpur received one FPO 1989 MO NO. 1690 dated 18.1.96 for Rs. 2000/- payable to one Vijay Singh, C/O Mahesh Singh, Indra Bricks Co, Kanchanpur, Silchar -7 and another FPO 1989 MO NO. 1694 dated 18.1.96 for Rs. 1500/- payable to one Subal Singh, C/o Surojit Singh, Indra Bricks Co, Kanchanpur, Silchar-7 on 14.2.96. The said MOs were paid on 15.2.96 on witness/ identification but without noting the permanent address of the witness even though the payees of the said MOs hailed from the outside delivery jurisdiction of Kanchanpur BO.

ARTICLE - 4: That the said Sri Nag while functioning as EDBPM of Kanchanpur BO received the MOs viz. FPO 1989 MO No. 1691 dated 18.1.96 for Rs. 2000/- payable to one sri Nijoya Singh, c/O Mahesh Singh, Indra Bricks CO, Silchar-7 and FPO 1989 MO NO. 1693 dated 18.1.96 for Rs. 1000/- payable to one sri subota Singh, C/O Surojit Singh, Indra Bricks Co, Silchar-7 on 14.2.96. Both the MOs were paid on 16.2.96 but were accounted for in the BO account on 17.2.96. In both the cases, permanent address of the witness was not obtained even though the payees hailed from outside the delivery jurisdiction of Kanchanpur BO.

ARTICLE - 5: That the said Sri Ashis Nag while functioning as BPM, Kanchanpur accepted a sum of Rs. 50/- from the depositor for depositing in SB A/c no. 9701159 on 21.8.93. He made entry of the deposit in the pass book of the said account and authenticated with impression of BO

Amended
WOM
14.02.94

date stamps and his signature but did not credit the amount of deposit in the Govt account.

- 2.1. The necessary inquiry under rule -8 of the P&T EDA (Conduct and Service) Rules 1964/ rule of GDS(Conduct and employment) 2001 was duly held by an inquiry authority appointed to inquire into the charges. The Inquiry authority submitted the Inquiry report. In his findings contained in the report, all the charges were proved. Thereupon the disciplinary authority sent a copy of the Inquiry report to the appellant on 1.11.2000 for submission of representation. The appellant submitted his representation on 9.11.2000. On consideration of the representation, the disciplinary authority imposed the penalty of removal from service on the appellant vide the impugned order. Hence the appeal under consideration.

3. OBSERVATIONS:

- 3.1. I have perused the records of the proceedings and found that the procedures laid down in Rule-8 of P&T EDA (Conduct and Service) Rules 1964) now Rule 10 of DoP GDS (Conduct and employment Rules, 2001) have been duly complied with. There has been no violation of any provision of natural justice.

3.2. OBSERVATION ON THE APPEAL DATED 5.1.2001.

The appellant, in his appeal, has raised the following points. My observations on the same are:

- 3.2.1. The appellant, in para 1 of the appeal, has stated that his service as EDBPM of Kanchanpur EDBO was since 1980 and that he had been in the aforesaid capacity in 1996. This is the fact as per records.
- 3.2.2. In Para 2 of the appeal, the appellant has discussed the Memorandum of charge sheet served to him vide SSPOs Silchar Memo no. F1-11/96-97/K Pur/DA dated 20.4.99. Thus these are matter of records.
- 3.2.3. In Para 3 of the appeal, the appellant reiterated his submission of defence in writing against the charges. There is no dispute on the point of submission of defense by the appellant as per records. As such, the undersigned has nothing to comment on this point.
- 3.2.4. In Para 4 and its sub paras of the appeal, the appellant discussed the particulars of the listed documents by which the charges were proposed to

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be sustained and the witness by whom the charges were proposed to be sustained. These are part of records of the memo of charge sheet issued to the appellant and are on records. Hence, there is nothing to comment on these points by the undersigned.

3.2.5. In Para 5 of the appeal, the appellant states that there was no complaint of any of the payees of the MOs or the depositor of SB Account incorporated in the charges to suggest that there was fraudulent payment or misappropriation on the part of the appellant. He justifies that the MOs were paid to the payees concerned exercising his discretion under rule 109(3) of the Rules for BOs. I have judiciously perused this appeal and am of the view that the points raised with regard to complaints of payees or depositors have no relevance to the charges framed against the appellant. As regards the discretion mentioned by the appellant under Rule 109(3) of the Rules for BOs, the rules only prescribe the procedure for payment of Money orders by the Department. The rules do not confer any discretionary power for payment of MOs to the payees residing beyond the given delivery jurisdiction as alleged in the charges.

3.2.6. In Para 6 of the appeal the appellant has stated that it was obligatory on his part to deliver the money orders entrusted to him as per provision of rule 106 of the Rules for BOs. No list or map of the villages under Kanchanpur BO was made available to him. No evidence could be produced to show that the places of residence of the payee were outside the jurisdiction of Kanchanpur EDBO. No such list/ map was ever prepared and sent to Kanchanpur before initiation of the inquiry against him as per Rule 17(2) nor such list/ map has legally been proved in the inquiry. The undersigned has gone through the records of inquiry and found that copy of village sorting list/ map showing the delivery jurisdiction of Kanchanpur EDBO was supplied to the appellant during the inquiry on 22.9.2000. The Inquiry authority recorded them as to be one prepared on the basis of the originals issued at the time of opening of Kanchanpur EDBO and got admitted their genueness by the defence side. In view of this, I do not find the questions raised by the appellant regarding legality of the additional documents, viz the village sorting list/map acceptable. Further he had been working as BPM of Kanchanpur BO for long 15 years since 31.3.1980 and he was supposed to know or ascertain the names of the villages and the jurisdiction of the office as in charge of the office. For that reason, the argument about his ignorance of the delivery jurisdiction of the EDBO and its consequence to payment of the MOs to the payees residing outside delivery jurisdiction of the EDBO cannot be accepted.

[Handwritten signature]

3.2.7. In Para 7 of the appeal, the appellant states that no document mentioned in the charge sheet and relied upon, have been legally proved in the inquiry. They were not even placed before the inquiry authority as a result of which the appellant was deprived of cross-examination of the sole witness relevant to such documents. The undersigned has gone through the proceedings/ records of the inquiry. Records show that the appellant was given opportunity to examine the documents listed and relied upon in the charge sheet on 14.5.99 in the office of the SSPs, Silchar. The appellant gave a written declaration for having done so. Apart from that, the listed documents were produced during the inquiry on 12.11.99 and was duly inspected by the appellant. Out of two witnesses listed for evidence, one Sri B R Halder, Asstt Supdt was examined during inquiry held on 18.7.2000. The appellant also cross examined the witness through his Defence Assistant. The other witness relevant to Article of charges no. V was not summoned by the Inquiry authority as no evidence was called for because of admittance of the said charge by the appellant on the day of the Preliminary inquiry held on 28.9.99. In view of the above, the contentions of the appellant are not maintainable.

28/8/99

3.2.8. In para 8 of the appeal, the appellant states that non-crediting of the SB deposit of Rs. 50/- in the govt accounts of the office was an inadvertent and bonafide mistake. The undersigned has gone through his written admittance before the inquiry authority on 28.8.99. In that written confession, the appellant admitted the charge of non crediting the amount of SB deposits of Rs. 50/- (Article of the charge no. V) and pleaded guilty without any condition and ambiguity. I therefore find the plea now put forward by the appellant untenable.

3.2.9. In para 9 of the appeal, the appellant states that no opportunity to adduce evidence was given to him as sought for in paragraph 5 of his statement of defence. I have gone through the request made in para 5 of the statement in defence submitted by the appellant. He requested for permission of engaging a lawyer for defending his case to the Disc. Authority. But subsequently, the appellant nominated one Sri N N Biswas retired SPM to act as his Defence Asstt vide his letter-dated 28.10.99 addressed to the Inquiry authority. At no stage of inquiry he placed any request before the Inquiry authority for engaging a lawyer for defending his case. In view of this fact, I do not consider that any injustice was done to him.

3.2.10. In para 10 of the appeal, the appellant has questioned the correctness of the village sorting list and map produced during the inquiry as additional

Attested

Advocate.

documents. As discussed at length in para 3.2.6 above, I find no credibility in the contention of the appellant.

3.2.11. In para 11 of the appeal, the appellant states that only one witness Sri B R Halder was examined. He has further stated that the witness did not prove any scrap of paper. The appellant has expressed his dissatisfaction with the report of the inquiry authority and the impugned order; hence this appeal for setting aside the impugned order on the grounds that -

1. The impugned order is illegal, improper and bad in law.
2. The charges were mechanically framed without relevant materials and without applying judicial mind.
3. The impugned order is against the weight of evidence in the case.
4. The impugned order is exactly repetition of the alleged articles of charges without discussing the evidence and appreciating the same.
5. The Disc. Authority failed to prove any document relied upon.
6. The removal of the appellant has been severe under the facts and circumstances.
7. No opportunity was given to the appellant to adduce his evidence causing miscarriage of justice.
8. The appellant did not violate the provisions of rules 7, 34 (with note 1 below), 109 (1), (2) and (4) of the Rules for Branch Offices nor failed to maintain absolute integrity and devotion to duty as laid down in Rule 17 of the P&T EDA (Conduct and Service) Rules 1964.

I have already discussed about the evidence of the sole witness Sri B R Halder in para 3.2.7 above. In his deposition and replies to cross-examination during the inquiry held on 18.7.2000 the witness deposed that the residential addresses of the payees of the MOs were not within delivery jurisdiction of Kanchanpur EDBO. The witness deposed this evidence examining the addresses given in the MO forms (paid vouchers) produced in the inquiry. The defence side in their cross examination of the witness could not contradict this evidence. As such, the contention of the appellant about genuineness of the evidences adduced by the witness is not maintainable.

4. As regards the grounds stated by the appellant for setting aside the impugned order, I have examined the relevant facts on record and placed my observations as follows:

4.1. The order was issued by the disc. Authority after following the procedures and rules laid down in the EDA (Conduct and service) Rules 1964 (now DoP,

Attested
WDM
Advocate.

GDS (conduct and employment) Rules, 2001. Hence it cannot be said as illegal, improper and bad in-law.

- 4.2. The charges are found drawn up on the basis of facts and material evidences as per procedures laid down in rules. I do not see any reason to point out that the Disc. Authority did not apply its mind while framing the charges.
- 4.3. I have gone through the disciplinary order very carefully. The disc. Authority passed the order after appreciating the facts and evidences adduced during the inquiry by the Inquiry authority who submitted report with findings of the charges having been proved. The contention of the appellant that the order was against the weight of the evidence, is therefore not acceptable.
- 4.4. The Disc. Authority is required to discuss the articles of charges before assessing the evidences and passing the decision/ order. The Disc. Authority discussed the facts and evidence of the case before passing the order. I do not therefore find the contention of the appellant that the order was passed without appreciating the evidences of the case by the disc. Authority.
- 4.5. Records of the inquiry, deposition of the witness and report of the inquiry authority show that the charges against the appellant have been proved. The appellant could not specify the charges the Disc authority has failed to prove. In absence of any specific points, the contention of the appellant cannot be maintained.
- 4.6. The appellant has been removed from service vide the order of the Disc. Authority. The appellant states that the punishment is severe under the facts and circumstances. The appellant was proceeded against for irregular payment of 6 nos. of FPO money order worth Rs. 10,500/- in all to the payees residing outside delivery jurisdiction of Kanchanpur EDBO, that too without obtaining proper witness and identification as required under rule 7, 34 and 109 of the rules for Branch offices. Non observance of the prescribed procedures laid down in the said rules led to loss of Rs. 10,500/- sustained by the govt. due to payment of the MOs, which were later detected to be bogus MOs. The appellant indeed contributed to the said loss by his lack of devotion to his duty and failure to maintain absolute integrity as required under rule -17 of the EDA (Conduct and service) Rules 1964 (now Rule 21 of GDS (Conduct and employment) rules 2001). This certainly was a serious offence on the part of the appellant deserving severe penalty. The disc.

R 7
34
109

Attested
W.D.M.
Advocate

Authority passed the order keeping in view the gravity of the offences. The undersigned therefore does not consider the order as severe.

- 4.7. The appellant was given every reasonable opportunity to defend his case at all stages of the inquiry. The undersigned therefore does not agree with the statement that he was deprived of adducing his evidence causing miscarriage of justice.
- 4.8. The contention of the appellant that he did not violate the provision of Rule 7, 34 (with note 1 below) 109 (1)(2) and (4) is not maintainable in view of what has already been discussed in the foregoing paragraph 4. 6.
5. From the discussion made above, it is clear that the Disc. Authority passed the order after following the procedures prescribed in statutory rules and on the evidence adduced during the inquiry. The appellant had no case to demolish the evidences proved against him. The offence committed by the appellant was such that his continuance in the department is not desirable in the interest of service.

ORDER

The undersigned, Sri Subrat Das, Director of Postal Services, Dibrugarh Region, Dibrugarh and Appellate authority does not see any ground to intervene into the impugned order of the disciplinary authority and therefore **rejects** the appeal of the appellant. The order of removal of service given by the Disciplinary Authority is hereby confirmed.

sd/
(SUBRAT DAS)

DIRECTOR OF POSTAL SERVICES
DIBRUGARH REGION: DIBRUGARH

Copy to :

- Regd/As*
1. Sri Ashish Nag, EDBPM (removed), Kanchanpur via Vivakananda road, Silchar (Assam)
 2. The SSPOs Silchar.
 3. The appeal/petition section, RO Dibrugarh
 3. OC
 - 4.

[Signature]
(SUBRAT DAS)

Director of Postal Services
O/O PMG :DIBRUGARH

Attested
[Signature]
Advocate

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.
OFFICE OF THE SUPERINTENDENT OF POST OFFICES: LACHAR DIVISION: S.

Indent File No. J- 511.
Invoice No. 1

Dated, SILCHAR, 768005, the 27th March 60.

Articles of stock despatched to the Branch Postmaster, Lachanpur
C/O G.C. College S.O.

✓ 1. Optl. Date Stamp No. S- 917	-- 1 (one). Impression sheet enclosed
✓ 2. Optl. Date Seal No. S 917	-- 1 " " "
✓ 3. " Name Stamp No. S 917	-- 1 " " "
✓ 4. Postage Due Stamp No. S 917	-- 1 " " "
✓ 5. Letter Box	-- 1 " " "
✓ 6. Canvas Bag	-- 1 " " "
✓ 7. Tin Stamp Box	-- 1 " " "
✓ 8. Tin Tray	-- 1 " " "
✓ 9. Type Box	-- 1 " " "
✓ 10. L.C. Bag	-- 1 " " "
✓ 11. Rubber Pad	-- 2 (two).
✓ 12. P.B. Knife	-- 1 (one).
✓ 13. Post Office Board	-- 1 " "
✓ 14. Belgium Pad	-- 1 " "
✓ 15. Parcel Scale	-- 1 " "
✓ 16. Iron weights	-- 1 " "
✓ 17. Brass weights	-- 1 " each of 2 kg. 1 kg. 500 Gm. 200 Gm. 100 Gm.
✓ 18. Carton Paper	-- 1 " " of 50, 20, 10, 5, 2 & 1 Gm.
✓ 19. Order Book	-- 1 sheet.
✓ 20. Ink & Box (30 ml)	-- 1 No.
✓ 21. Reg. Letter Journal	-- 3 (three) Nos.
✓ 22. B.S. MS-87 (a) - Blanks No 001-100	

FORMS.

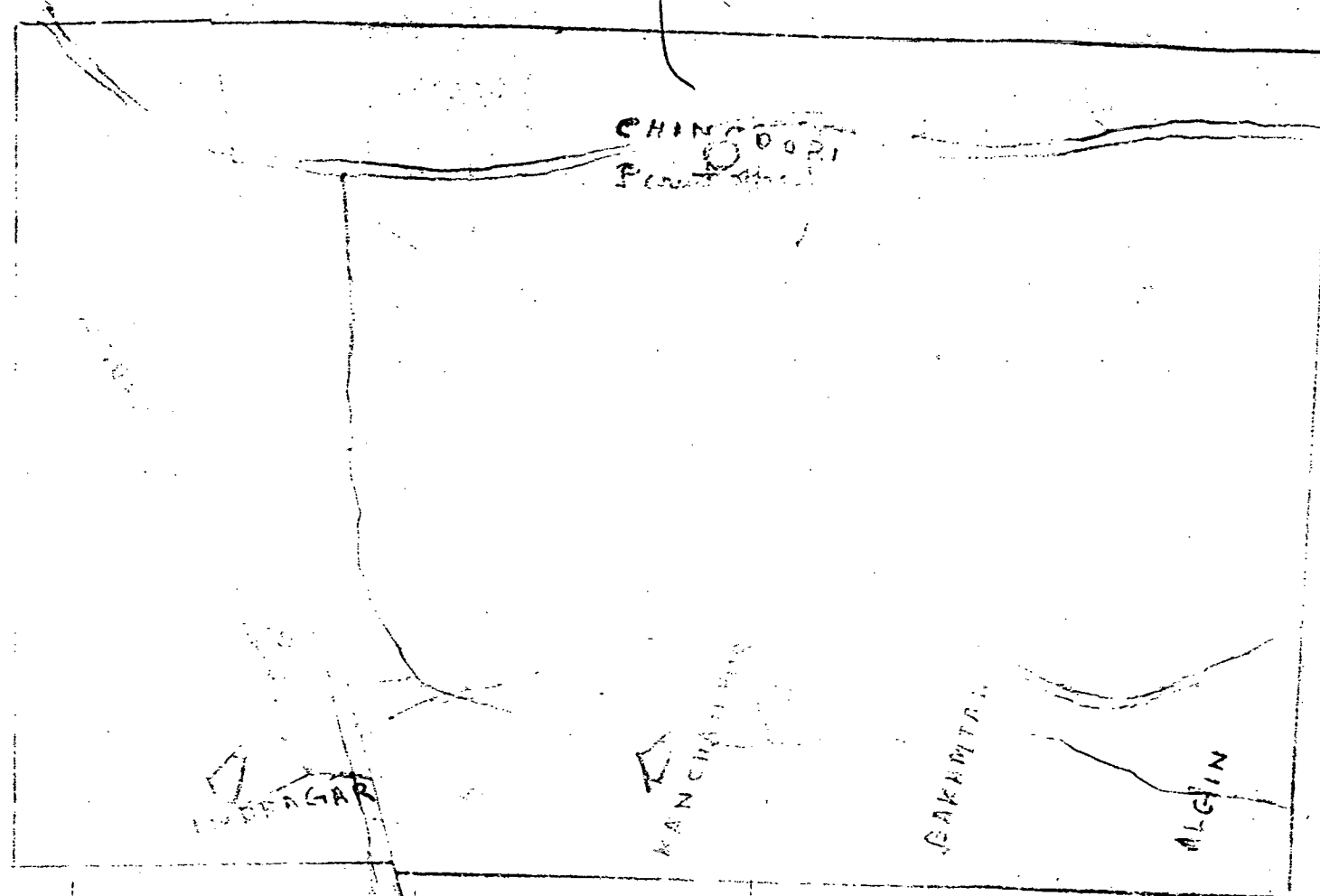
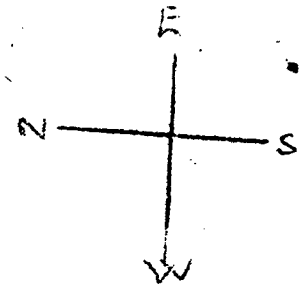
- ✓ 1. Pa-6 -- 1
- ✓ 2. Recd. list- 1
- ✓ 3. Parcel list-1
- ✓ 4. ACG-61
- ✓ 5. Est-5

[Signature]
For Supdt. of Post O
Lachar Division, Silchar

[Signature]
Loca

Sketch Map of 60 - CHANPUR

ANNEX 1177 - 11



- ROAD - ROAD
- ROAD - "
- ROAD
- ROAD - KHAL
- OFFICE
- SCHOOL
- SCHOOL

Amesha
W.D.M.

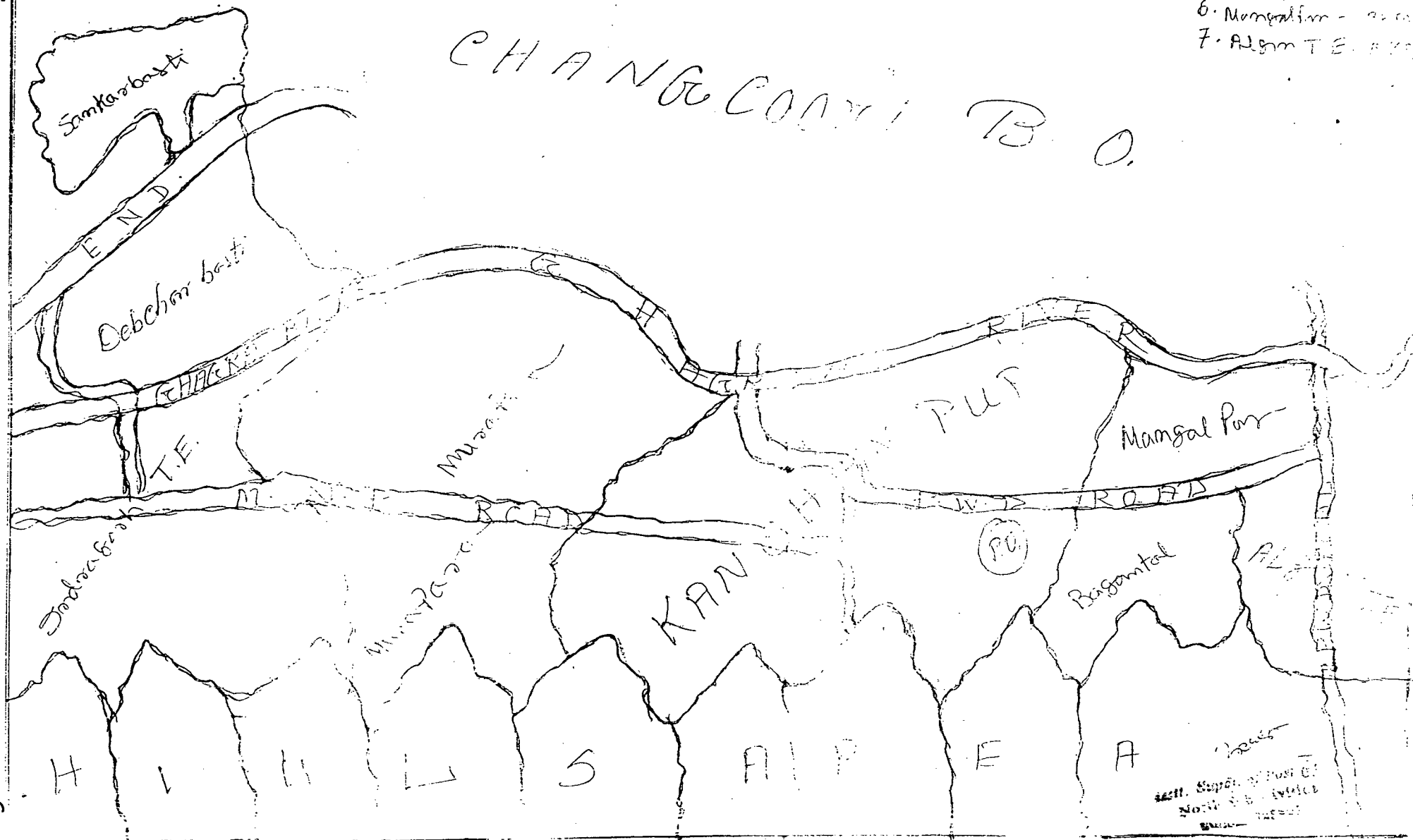
Office
Sub-Division
7/10/15

Long Survey by KANAI LAL T.W. B.O.

- 61 -

1. Samkarbati - 2 1/2 km
2. Debehari - 3 km
3. Indragarh T.E. - 3 1/2 km
3. Kamachan T.E. - 2 km
4. Bagantol Basti - 2 km
5. Mura Pura T.E. - 2 km
6. Mangalpur - 2 km
7. Alga T.E. - 2 km

CHANG COOP B.O.



Attested
Advocate.

(62)

Filed by -
AK Chandra
25/3/03
Jay Kishore Barbhuiya

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::GUWAHATI

In the matter of :-

O.A. No.188 of 2002

Ashis Nag ... Applicant

-Versus-

Union of India & Others

... Respondents

Written statements for and on behalf of
Respondents Nos.1,2 & 3.

I, Jay Kishore Barbhuiya Senior Superintendent
of Post Offices, Cachar Division, Silchar, do hereby
solemnly affirm and say as follows :-

1. That I am the Senior Superintendent of Post
Offices, Cachar Division, Silchar and as such acquainted with
the facts and circumstances of the case. I have gone through
a copy of the application and have understood the contents
thereof. Save and except whatever is specifically admitted
in this written statement, the other contentions and
statements may be deemed to have been denied and the
applicants should be put to strict proof of whatever they
claim to the contrary. I am authorized and competent to
file this written statement on behalf of all the respondents.

2. That the respondents beg to state the brief
history of the case as follows :-

That the applicant being appointed as Extra
Departmental Branch Postmaster, Kanchanpur EDBO by the
competent authority had been working as such since 31-3-1989
(A.N). As per condition of service of the EDBPM he is to
perform Postal business and monetary transactions in connection
with Postal business with the members of Public of the Postal
jurisdiction of the said Kanchanpur EDBO as was supplied to
the said EDBO at time of opening of the said office.

On receipt of information regarding payment of
several Begus Money orders purported to have been issued
from various Field Post Offices (Army Post Offices) department-
al enquiries were made which revealed that 65 numbers of High

Contd...p/2-

ब.रि.स. हाक अधीक्षक

काकाड़ मंडल सिलचर-788001

Sr. Supdt. of Post Offices

Cachar Division Silchar-788001

Valde Bogus Money orders were paid by Kanchanpur EDBO during the period from October, 1995 to May, 1996 and that though the payees of most of these H.V. Bogus Money Orders were not residing within the jurisdiction of the said Kanchanpur. As per existing rules and procedures these Bogus HVMOs were not payable from Kanchanpur EDBO at all since the payees were residing outside the delivery jurisdiction of the said Kanchanpur EDBO as per addresses of the payees written on the body of these Bogus HVMOs. These HVMOs should have been returned by Kanchanpur EDBO to its account office Vivekananda Road S.B. with suitable remarks to the effect that the payees were residing beyond its delivery jurisdiction. It further revealed on Departmental enquiries that though there was a post of extra Departmental Delivery Agent for the purpose of effecting delivery of Postal letters/articles/money orders etc. to the respective addressee/payees yet in this particular case none of these H.V. Bogus Money orders were handed over to the said Extra Departmental Delivery Agent of Kanchanpur EDBO but were paid by the applicant himself at the premises of Kanchanpur EDBO.

For such extra initiative taken by the applicant EDBPM, Kanchanpur EDBO instead of handing over to the Extra Departmental Delivery Agent of his office, for the purpose of payment, give rise of justified grounds that it was done by him with some evil motive behind in collaboration with the respective payees or even with the so called remitters of these H.V. Bogus money orders.

In the above circumstances, the applicant had been placed under "Put off duty" as per Rule 9 of the "P&T ED Agents (Conduct and Service) Rules, 1964" (which was in force at that time) under this office memo No.A-587/PF, dated 13-8-96 since it was contemplated to initiate disciplinary proceedings against him under Rule 8 *ibid*.

In course of verification of Past works of the applicant as EDBPM Kanchanpur EDBO an instance of non-credit of a sum of Rs.50/- to Govt. accounts on the 21-8-1993 which was received by him from the depositor of Kanchanpur EDBO SB Account No.9701159 on that date along with the said SB pass Book for deposit in the said SB Account.

Contd..p/3-

परिष्कारक कार्यालय
आचार्य विद्यापीठ-788001
St. Supdt. of Post Offices
Cachar Division Silchar-788001

Jay Krishna Barik

64

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(3)

The applicant EDBPM Kanchanpur had entered the said amount of Rs.50/- in the said Pass Book on 21-8-93, cast balance in the said Pass Book after this deposit of Rs.50/- entered by him and had authenticated the entries with his initial and "Date Stamp" impression of the Kanchanpur EDBO but did not credit the said amount of Rs.50/- in the records and accounts of his office (Kanchanpur EDBO) on the 21-8-93.

Disciplinary proceedings were therefore drawn under this office memo No.F1-11/96-97/K,Pur/DA dated 20-4-1999 and the applicant was given all the prescribed facilities to defend his case before the undersigned through representation as well as before the Inquiring Authority appointed to enquire into the charges framed against him. The charge in respect of non credit of SB deposit of Rs.50/- on 21-8-93 was admitted by him but though denied the charges of payment of HV Bogus Money orders beyond the jurisdiction of Kanchanpur EDBO yet the charges were proved by the Inquiring Authority during enquiry, a copy of the report of the I.A. was sent to the said applicant, as per rules of this Department.

Since one of the charges framed against the applicant was admitted by him and the other charges were proved during inquiry by the Inquiring Authority it was considered that retention of the applicant in the post of EDBPM Kanchanpur EDBO any more would be unsafe in the interest of public service. The applicant who was already under "put off duty" was therefore, removed from the said service under this office memo No.F1-11/96-97/K,Pur/DA dated 30-11-2000.

3. That the respondents have no comments to the statements made in paragraph 1,2,3 and 4.1 of the application.
4. That with reference to the statements made in paragraph 4.2 of the application, the respondents beg to state that the appointed provisionally as EDBPM Kanchanpur EDBO for a period of 3 months with effect from 31-3-88(A/N) under SPOs Cachar Division Silchar memo No.H3/687/C dtd.6-6-88.
5. That with reference to the statements made in paragraph 4.3 of the application, the respondents beg to state that in reply to the application dated 3-5-99 he was allowed to inspect listed documents under letter No.F1-11/96-97/K,Pur/DA,dtd.7-5-99. He had inspected the documents on 14-5-99 and submitted the written statement of his defence under his letter dated 31-5-99.

Contd..p/4-

For Release Barabunga

STAFF P.O. NO. 148/88001
Sr. Supdt. of Post Offices
Cachar Division Silchar-788001

((4)

6. That with reference to the statements made in paragraph 4.4 of the application, the respondents beg to state that Shri C.M. Nath, the then Inspector of Post Offices (PMI) Silchar was appointed as Inquiry Officer to enquire into the charges framed against him on 26-7-99.

7. Preliminary enquiry was held on 28-9-99 and the applicant denied the charges brought under Articles I to IV of Annexure-I and Annexure-II of the memo dated 28-4-99. But said applicant admitted the charges fully brought under Articles-V of Annexure-I and Annexure-II and pleaded himself guilty. As such the say of the applicant in respect of "denial of all charges" is absolutely incorrect (Xerox copy of the order sheet dated 28-9-99 enclosed) vide Annexure-A.

On the next hearing dated 12-11-99 the charged ED official requested for supply of 3 additional documents viz (1) Village Sorting list (1) Route list and (3) Beat Map.

In reply a Xerox copy of the "names of the village to be served by Kanchanpur EDBO" was supplied to the presenting Officer on 1-12-99 but the charged ED Official was still demanding for "Route List" and "Beat Map" of the said Kanchanpur EDBO. Thereafter a Xerox copy of Rule 7 of the "Rules for Branch Offices" was supplied to the P.O. for examination of the charged ED Official. A photo copy of the said Rule 7 is also sent herewith (vide Annexure-B) wherefrom it may kindly be seen that since Kanchanpur EDBO has only one delivery staff (i.e. Extra Departmental Delivery Agent) there was no need to supply "Route List" and "Beat Map" but only the Village sorting list" i.e. names of the village to be served by the EDDA of Kanchanpur EDBO which was supplied to the Office by the then Inspector of Post Offices, Silchar South Sub-Division, Silchar at the time of opening of Kanchanpur EDBO on 31-3-88(A/N).

Xerox copy of the order sheet dated 12-11-99 is enclosed (Annexure-C).

7. That with reference to the statements made in paragraph 4.5. of the application, the respondents beg to state that it is a fact that charged ED Official had admitted the charge in respect of Article V of the Annexure-I and II on the 28-9-99 in the preliminary hearing and pleaded himself guilty of charge vide Xerox copy of the said order sheet dated 28-9-99, with dated signature of the applicant is send herewith (vide para 4.4 above).

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(5)

During enquiry by the inquiry Officer it was found that the addresses written on the "Money Orders" were either "Dharam Brick Co" or "Indra Bricks Co." which were not situated within the delivery jurisdiction of Kanchanpur EDBO and more over signature of the care-party or any other witnesses having permanent address of the locality was not obtained at the time of effecting payment by the applicant and as such the charges framed against him were reported as proved.

8. That with reference to the statements made in paragraph 4.6 of the application, the respondents beg to state that letter dated 17-10-2000 was due to be replied within 10 days time which the applicant had failed and as such the Inquiry Officer might have considered that the charged ED Official had nothing to say against the written 'Brief' of the P.O. In such circumstances the I.O. had submitted his final report to the SSPOs, Cachar Division, Silchar on the 30-10-2000. His application dated 30-10-2000 and not 17-10-00 as stated was received at this office on the same date but it could not be taken into consideration as the I.O.'s report was also submitted on 30-10-2000.

9. That with reference to the statements made in paragraph 4.7 of the application, the respondents beg to state that no representation dated 17-10-2000 was received instead one representation dated 30-10-00 was received, which could not be taken into consideration due to the circumstances explained in para 4.6 above. A copy of the "Inquiry Report" submitted by the I.O. was forwarded to the charged ED Official on 1-11-2000 to give him sufficient scope to defend himself in each and every stage of the disciplinary proceedings.

10. That with reference to the statements made in paragraph 4.8 of the application, the respondents beg to state that in reply to this office letter dated 1-11-2000 with a copy of I.O.'s report dated 30-10-2000, the charged ED Official submitted his representation under his letter dated 9-11-2000. A Xerox copy of the same is enclosed (vide Annexure-D). The above representation dated 9-11-2000, may be constructed as follows :-

The grounds on which the articles of charges (I to IV) were proved was discussed by the I.O. in his report, where from it may be seen that payment of the "Money Orders" were made by the applicant to persons who were not residing within the delivery jurisdiction of Kanchanpur EDBO.

Contd...p/6-

For Kishore Dasgupta

7/10/2000
St. Supd. Post Office
Cachar Division Silchar-788001

The listed documents in respect of the charge of non credit of Rs.50/- being the deposit dated 21-8-93 (as available in Annexure-I of the application) were examined by the charged ED Official the applicant on 14-5-99 (vide para 4.3 above). Over and above on 28-9-99 the applicant had admitted the charge and pleaded himself guilty (vide para 4.4 above).

Vivekananda Road S.O. is to forward the M.O. to that office as was found written on the M.O. form. Office of receipt is to examine as per "List of village under delivery jurisdiction of Kanchanpur" as to whether it was payable from his office or not. Each and every post office has its own jurisdiction for delivery of articles, money orders etc. and should act accordingly. If an article or money order is found not payable/deliverable from this office it was to be sent back to the Account Office (Vivekananda Road S.O.) with suitable remarks. The applicant was charged for payment of "Money Orders" to such persons who were not residing within the delivery jurisdiction of Kanchanpur EDBO only and not with any other charge, as mentioned by the applicant in para 3 of his representation dtd.9-11-2000.

Sufficient facilities were extended to the applicant in each and every stage, as per rules/procedures and a xerox copy of the list of village to be served by Kanchanpur EDBO was also supplied to him, vide para 4.4 above.

11. That with reference to the statements made in paragraph 4.9 of the application, the respondents beg to state that since one of the charges (Article V) was admitted by the applicant pleading himself guilty (Para 4.4 above) and the other four charges (Article I to IV) were proved during enquiry, orders for removal from service were issued under memo No.F1-11/95-97/K.Par/DA dated 30-11-2000.

12. That the respondents have no comments to the statements made in paragraph 4.10 of the application.

13. That with reference to the statements made in paragraph 4.11 of the application, the respondents beg to state that no comment Grounds under which the appeal was not considered by the Authority has been mentioned by the said authority in the order dtd.10-12-81.

14. That with reference to the statements made in paragraph 4.12 of the application, the respondents beg to state that no comment in respect of past service of the applicant. Irregularities as and when came to light it was decided on the merit of the case, as already discussed in foregoing paras, and he was placed

(7)

"Put off duty" and on completion of Departmental inquiries disciplinary proceedings were initiated observing the "P&T ED Agents (Conduct and Service) Rules 1964. Points raised by the applicant in this para have already been discussed in details with xerox copies of the records/rules etc. which had proved the charges in respect of 4 charges and the other 1 was admitted by himself during enquiry by the Inquiry Officer.

15. That with reference to the statements made in paragraph 4.13 of the application, the respondents beg to state that the applicant was charged with the specific charge for violation of Rule 7, Rule 34 (with Note 1 below) and Rule 109 (1)(2)(4) of "Rules for Branch Offices" as well as Rule 17 of the P & T ED Agents (Conduct and Service) Rules, 1964. The particular sentence of Rule 109 (1) is as follows :-

"When the person claiming payment of a money order calls at the post office to receive payment, whether at the request of the Postman or Village Postman or on the delivery of the notice of the arrival of a Money Order exceeding in value of the limit of amount of a single money order fixed for payment through a Village Postman or an Extra Departmental Delivery Agent or his own accord it must be left to the Branch Postmaster to decide in each case whether the claimant has been satisfactorily identified or not".

Rule 109 (4) reads as follows :-

"If the Branch Postmaster has any doubt or suspicion in connection with a money order, he should refer the matter to the account office before effecting payment".

Since the payees of these 4 money orders were residing outside the delivery jurisdiction of Kanchanpur EDBO and since no information or notice as to the arrival of the Money Orders were given to them by Kanchanpur EDBO it was a case of suspicion as to how the payees could get the information of arrival of such money orders to some other Post Office wherefrom they were not in receipt of delivery of postal articles, money orders etc. in the past. In such circumstances of the applicant EDBPM Kanchanpur EDBO should have reported the matter to its account office viz Vivekananda Road S.O. as per Rule 109 (4) ibid. Instead he took over-interest in effecting payment of those money orders at his own accord violating the delivery jurisdiction and other rules in this respect. The question of satisfaction of the EDBPM FOR effecting payment of money orders is to be considered

For Higher Authorities

पत्रिका विभाग
स्ट. सु. ऑफिस
काशी विभाग-768001

(8)

if the payee were residing within the delivery jurisdiction of his office. The Postmasters are required to perform postal transaction particularly in the matter of delivery of Postal articles, Money orders etc. within its delivery jurisdiction. The point "Jurisdiction" is a vital point to be decided. If the "Jurisdiction" is not established the question of satisfaction or otherwise does not arise at all.

16. That with reference to the statements made in paragraph 4.14 of the application, the respondents beg to state that the names of the village to be served by Kanchanpur EDBO i.e. "Village Sorting List" was supplied to Kanchanpur EDBO by the then SDIPOs Silchar South Sub-Division, Silchar on 31-3-88 (A/N) itself and the EDBPM Kanchanpur had been performing the duties as regards "Jurisdiction" on the strength of the said list. The point has already been discussed in details in para 4.4 above with Photo Copy of the Rule 7 of the "Rules for Branch Offices".

The question of production of witness No.2 was not considered necessary since the charged official had admitted the charge in article V and pleaded himself guilty vide para 4.4 above with Xerox copy of order sheet dated 28-9-99.

17. That with a reference to the statements made in paragraph 4.15 of the application, the respondents beg to state that the question of delivery of a Postal article or money order received by a post office is to be decided not on the basis of the name of the "PO" written thereon by the sender/remitter but on the basis of "Delivery jurisdiction" of that office, as per orders of the competent authority. The question of obtaining the signature of "Resident witness" arises if the article/Money order is deliverable from the office of receipt, as per address written thereon by the sender/remitter, or as per jurisdiction of the office fixed by the competent authority.

18. That with reference to the statements made in paragraph 4.16 of the application, the respondents beg to state that the question of "Village Sorting List" "Route List" and "Best Map" has already been discussed in details in para 4.4 above with photo copy of the Rule 7 of "Rules for Branch Offices". List of village was supplied by the then SDIPOs Silchar South Sub-Division on 31-3-88(A/N). Other items are not required to be supplied since there was only one delivery agent in the office and as such fixation of jurisdiction of each delivery agent did not arise at all.

19. That with reference to the statements made in paragraph 4.16(A) of the application, the respondents beg to state that the question of supply of "Route List and Beat Map" to Kanchanpur EDBO did not arise at all due to the fact that there was only one post of ED Delivery Agent in the Office. This has already been discussed in details in para 4.4 and 4.16 above.

20. That with reference to the a statements made in paragraph 4.17 of the application, the respondents beg to state that the P.O. had pointed out the fact on the basis of the documents and evidences during enquiry by the I.O., his opinion in his "brief" submitted to the I.O. The charged official had failed to submit his "brief" within the date fixed for the purpose as discussed in para 4.6 above.

21. That with reference to the statements made in paragraph 4.18 of the application, the respondents beg to state that final orders were issued on the basis of (1) Enquiry report of the I.O. and (2) Representation submitted by the charged ED Official on the findings of the I.O. in respect of each article of charge on receipt of a copy thereof from this office.

In this case the Disciplinary Authority had discussed all the relative points in the final orders dated 30-11-2000 and issued orders as per merit of the case.

22. That with reference to the statements made in paragraph 4.19 of the application, the respondents beg to state that the appellate Authority had discussed the circumstances under which the orders of the Disc. Authority was upheld by him, in the order dated 10-12-2001

Contd... 9/10-

बन्धु डाक अफीसक
आगाह संख्या १८७७-३३००१
Sr. Superintendent, P.O. Offices
Cashier Division, Secunderabad-788001

23. That with reference to the statements made in paragraph 4.20 of the application, the respondents beg to state that both the orders were issued observing all the formalities and discussing the irregularities committed by the applicant and as such valid in the eyes of law.

24. That with reference to the statements made in paragraph 5.1 of the application, the respondents beg to state that orders were issued observing all the formalities and as such these are to be decided as valid.

25. That with reference to the statements made in paragraph 5.2 of the application, the respondents beg to state that the points have since been discussed in various sub paras of para 4 above and as such the orders are be upheld.

26. That with reference to the statements made in paragraph 5.3 of the application, the respondents beg to state that out of 5 charges the charge No.1 to IV were proved during enquiry by the I.O. and the charge No.V was admitted before the I.O. and pleaded himself guilty and as such the question of setting aside the order does not arise at all.

27. That with reference to the statements made in paragraph 5.4 of the application, the respondents beg to state that the question of examination of evidence and witness arises as and when the charged person do not admit the charge. The particular charge in article V was admitted by himself pleading himself guilty as a result of which it was decided as established on the strength of his admittance of guilt. Evidences and witnesses in respect of the remaining articles of charges (I to IV) were examined during enquiry by the I.O.

28. That with reference to the statements made in paragraph 5.5 of the application, the respondents beg to state that at least one of the articles of charges was admitted and the others were proved during enquiry and as such the question of setting aside the order does not arise at all.

29. That with reference to the statements made in paragraph 5.6 of the application, the respondents beg to state that the disciplinary proceedings were initiated in accordance with the Rule 8 of the "P&T ED Agents (conduct and Service) Rules, 1964"

which was in force at that time. It is evident from the reply given in the various para, Sub para, above that ample opportunity /scope was given to him to defend himself in each and every stage right from the date of initiation of charge-sheet up-to the date of issue of final orders by supplying copies of order-sheets of stage to stage hearing by the I.O, brief of P.O., copy of I.O's report etc. He himself did not avail the scope of submission of his written brief, on receipt of copy of the brief of P.O., within the time limit fixed by the I.O.

30. That with reference to the statements made in paragraph 5.7 of the application, the respondents beg to state that one of the articles of charges was admitted by himself and the others were proved during enquiry and as such the orders were issued and were kept upheld by the Appellate Authority.

31. That with reference to the statements made in paragraph 5.8 of the application, the respondents beg to state that the reasons for upholding the punishment were discussed in his order and therefore were valid and to be kept upheld.

32. That with reference to the statements made in paragraph 5.9 of the application, the respondents beg to state that the punishment orders were issued observing all the rules/procedures, as discussed in the foregoing paras and as such to be kept upheld.

33. That that the respondents have no comments to the statements made in paragraph 6, 7 & of the application.

34. That with reference to the statements made in paragraph 8 of the application, the respondents beg to state that no relief, as prayed for, is found admissible.

35. That with reference to the statements made in paragraph 9 of the application, the respondents beg to state that since the punishment orders were issued observing all the rules and procedures of the Departmental there appears to be no justified ground for issued of any interim order, as prayed for.

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

Contd..p/12-

For Release Barabunga

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

I, *Jay Kishore Barbhuiya* Senior Superintendent
of Post Offices, Cachar Division, Silchar being duly
authorised and competent to sign this verification do hereby
solemnly affirm and state that the statements made in
paragraphs 1, 3, 12, 33 & 34 of the application are ²
true to my knowledge and belief, those made in paragraphs
4-11, 13-23 being matter of record are true to my information
derived there from and those made in the rest are humble
submission before the Hon'ble Tribunal. I have not suppressed
any material facts.

And I sign this verification on this the 15th day
of Jan, 2003

Jay Kishore Barbhuiya

DEPONENT

वरिष्ठ डाक अधीक्षक
काछाड़ मंडल, जलचर-788001
Sr. Superintendent of Post Offices
Cachar Division Silchar-788001

Department of Public Justice

at Bangalore

Case No. 309 of 1999 under Cr.P. Sec. 138 of the Negotiable Instruments Act, 1881 against Sri Ashw. Nay. Chandra Kumar Chaturvedi (under protest - fully).

Section 138 - Cheque - Dishonour - Cr.P. Sec. 138/96/97/K.P.J./D.A

Venue - Chikmagalur District C.O.

Prosecution - Sri G.M. Naidu S.O.

Defence - B. Das - P.O. (Attn.)

Date - 24.9.99 - Ashw. Nay. Chandra Kumar Chaturvedi.

Re: Preliminary hearing of the case started at about 12 o'clock. The charged official was asked to produce in court the Memorandum No. H-1/96/97/K.P.J./D.A. No. 20-1999 from the S.O. Sri Ashw. Nay. Chandra Kumar Chaturvedi. The charged official admitted the receipt of the said Memo. The P.O. read out the charges framed vide the above Memo against him and explained the meaning in local language. The charged official Sri Nay. Chandra Kumar Chaturvedi admitted that he had understood the meaning of the charges.

In respect of Article Charge presented in Article 138 of the Negotiable Instruments Act, 1881 the charged official stated that the Cheque No. 2000 issued by him and paid by Western Union Ltd. actual payee Western Union Ltd. his delivery jurisdiction. But he denied the charge brought against him totally and did not plead guilty. Similar charges were presented in Articles 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

In respect of charges brought vide Articles 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

In respect of charges brought vide Articles 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 7

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Annexure B

7. ग्राम छंटाई सूचियां और मार्ग सूचियां तथा गस्त के नक्शे—(1) ग्राम छंटाई सूचियों में (क) उन ग्राम डाकियों या अतिरिक्त विभागीय वितरण एजेंट के क्रमांक, जिन्हें वितरण के लिए वस्तुएं सौंपी जाती हैं, और (ख) हर ग्राम डाकिये या अतिरिक्त विभागीय वितरण एजेंट जिन गांवों की डाक बांटता है उनका नाम वर्णक्रमानुसार दिया रहता है। ग्राम छंटाई सूची में यह भी दिखाया रहता है कि किन गांवों में लेटर बक्स लगे हैं और इन लेटर बक्सों में से किन-किन में बदलने योग्य पट्टियां लगी हुई हैं।

(2) उपमण्डल निरीक्षक एक ग्राम छंटाई सूची तैयार करेगा और उसे हर शाखा डाकघर को देगा। जिस शाखा डाकघर के साथ ग्राम डाकिये भी संलग्न हैं उसके हर डाकिये को निरीक्षक द्वारा दी गई मार्ग सूची (एम-53) की एक प्रति शाखा डाकघर को भी दी जाएगी। इस मार्ग सूची में उन गांवों का नाम दिया रहेगा। जिनकी गस्त पर डाकिया जाएंगे। किसी निश्चित गस्त और निश्चित तथा अनिश्चित मिनी-बुली गस्तों के मामले में, मार्ग-सूची के साथ का एक नक्शा भी लगा रहेगा और साथ ही इस बात का भी निर्देश रहेगा कि ग्राम डाकिया किस मार्ग से जाएगा, किन दिनों को वह डाकघर से रवाना होगा और किन दिनों को वह लौटकर डाकघर आएगा, किन दिनों पर वह किन-किन गांवों में जाएगा और किन गांवों में उसे पड़ाव डालने की अनुमति है। ग्राम छंटाई-सूची के साथ ही साथ मार्ग-सूची और गस्त का नक्शा डाकघर में लटका दिया जाना चाहिए।

7. Village sorting lists and route lists and beat maps.—(1) The village sorting list shows (a) the Nos. of the village postmen or Extra departmental delivery agent to whom articles are made over for delivery, and (b) the names of the villages that are served by each village postman or extra departmental delivery agent arranged in alphabetical order. The village sorting list also shows in what villages letter-boxes are placed and which of these letter-boxes are provided with changeable plates.

(2) A village sorting list will be prepared and supplied to each branch office by the sub-divisional inspector. A branch office to which village postmen are attached will also receive from the inspector a copy of the route list (M-53), issued by him to each village postman, showing the names of the villages to be visited by the latter. In the case of fixed or combined fixed and unfixed beats, the route list will be accompanied by a map of the beat and will also show the route to be followed by the village postman, the days fixed for his departure from, and return to the Post Office, the day on which each village should be visited by him and the villages in which he is allowed to halt. The village sorting list, as well as the copies of route lists and beat maps, should be hung up in the post office.

Route List
M-53

Rule 8/Suppny/A.Nag. Dated 12-11-99.

Order sheet dtd 12-11-99.

Regular hearing of the case (Examination of ~~witness~~ ~~documents~~ ~~can~~ fixed on 12-11-99 vide Memo no - A/12 Rule 8/A.Nag dtd 26-10-99.

Accordingly the hearing was started at Vihelmandra Rd So. on 12-11-99 at 11.30 hrs. The C.O. Sri Ashis Nag and the P.O. attended the hearing. The Proposed D.A. Sri N N Biswas also attended. The C.O. was asked to produce two defence assistant. The C.O. stated that the application for nomination of D.A. was submitted to D.V. office on 28-10-99, the same was not handed over to me till today. However the C.O. produce the actual copy of his letter dt 28-10-99 through which the nominated Sri N N Biswas as his D.A. This request is considered and the hearing started accordingly.

The listed documents were inspected and exhibited as from Ex. no. 1 to Ex. no 15. The D.A. requested to supply the following documents as additional documents:

- ① Village Sorting list
- ② Route list (M-53)
- ③ Beat Map

The P.O. is requested to cause to collect and supply these documents to the D.A.

The date of next hearing will be ~~fixed~~ fixed later on.

The hearing for the day is adjourned.

80/12/11/99

Attached
A. Singray
12/11/99

6.10 PM
50/12-11-99

To :

The Senior Superintendent of Post offices
Cachar District Division, Silchar 788001

Ref : Your memo No. F-11/96-97/ Kanchanpur
dated Silchar 1.11.2000

Memorandum of argument , in Brief,
Submitted by Shri Ashis Naug, Co.

Ref :

CHARGE

In short , the charge is this that Shri Ashis Naug, EOBPM, Kanchanpur, effected the payments of the amounts of some money orders to the payees. whose addresses were not within the delivery jurisdiction of Kanchanpur EOBD.

AND

that Shri Ashis Naug received Rs. 50.00 on 21.8.93 for depositing it in S/B account No. 9701159 under his signature and authentication. But did not credit the amount in the Govt accounts of the office.

In order to prove the charges, the prosecution relied on the following documents :

M.O. paid vouchers in respect of the following vouchers .

- 1) F.P.O. - 608 M.O. No. 1350 dt. 4.1.96 for Rs. 2000.00
- 2) F.P.O. - 989 M.O. No. 1513 dt. 15.1.96 for Rs. 2000.00
- 3) F.P.O. - 1989 M.O. No. 1690 dt. 18.1.96 for Rs. 2000.00
- 4) F.P.O. - 1989 M.O. 1694 dt. 18.1.96 for Rs. 1500.00

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- (78) (103) 45
- 2 -
- 5) F.P.O.- 1989 M.O. No. 1691 dt. 18.1.96
for Rs. 2000.00
 - 6) F.P.O. - 1989 M.O. No. 1693 dt. 18.1.96
for Rs. 1000.00
 - 7) Branch office journal of Kanchanpur EDBO for
the period from 20.12.95 to 9-3-96.
 - 8)-11 B.O. daily accounts of Kanchanpur EDBO dt.
9.1.96 8.2.96, 15/16 2.96 and 16/17-2-96 .
 - 12) Branch office account book of Kanchanpur
EDBO from the period from 1.1.96 to 6.7.96.
 - 13) Kanchanpur EDBO SB pass book a/c No. 9701159
 - 14) Vivekananda Road so ledger copy of SB a/c No
9701159-
 - 15) Silchar H.O. ledger copy of SB a/c No 8701159.

The prosecution also cited the following
persons / officer as witnesses.

- 1) Shri BR Halder, Asst. superintendent of P.O.
Silchar , North Sub- Division Silchar.
- 2) Shri Sanjay Das, Kanchanpur EDBO SB A/C No.
9701159.

The prosecution has examined one witness , namely
Shri B.R. Halder, ASP, North subdivision, Silchar.

Evidence.

1. The charges are based on documents and it was
the burden of the prosecution to prove the documents
as evidence. But the prosecution has not produced any
paper / document / record, far less to speak of proving
the same. The oral evidence of shri B.R. Halder is legally
inadmissible under the provisions of Sec. 91 of the Evi-
dence Act and as such it cannot be considered against
Shri Ashis Naug.

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- 3 -

2. There is absolutely no evidence regarding the other charge of depositing Rs. 50.00.

3. Kanchanpur EDBO is subordinate to vivekananda Road Sub- Post office through which all mails including money-orders are sorted out and sent to EDBOs for delivery . It was the duty of Ashis Naug to deliver the MOs sent to him by Vivekananda Sub- post office to the payees and in fact, he discharged his official duty in the manner provided. Performance of duty in compliance with the procedure and Rules as well as in obedience with the direction of the higher authority is not dereliction in duty . It is not the allegation that the payees did not get the amounts of money orders or that Ashis Naug misappropriated the same.

4. / That no opportunity has been given to adduce defence evidence.

It is pertinent to mention that there is nothing on record to show the jurisdiction / area of operation of Kanchanpur EDBO and Chincoorie EDBO . In the absence of any proof in this respect, the charge that Ashis Naug delivered the MOs which were outside his jurisdiction cannot stand at all against him.

It is prayed that the proceeding be dropped.

Date . 09.11/2000
(05/11/2000)

Yours faithfully
Ashis Naug
(ASHIS NAUG)
EDBPM, Kanchanpur EDBO
Now under put off duty
via -Silchar 7 Cachar (Assam)

Copy to :-

Shri C.M. Nath, I.O. (PMI)
Office of the Sr. superintendent of post offices
Cachar Division , Silchar - 788001. This is refer
to your letter No. A 1 / Rule 8/ A. Naug dt.17.10.20
for favour of information.

Attended
[Signature]
[Stamp]

Sd/
(Ashis Naug)
EDBPO, Kanchanpur EDBO
Now under put off duty
via Silchar- 7 Cachar.