

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 101/2002

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FORM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 101/2002
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s) Gopal Rai

Respondent(s) UOI & Ors.

Advocate for Applicant(s) Mr J.L. Sarkar, Mrs S. Deka
& Mr A. Chakrabarty

Advocate for Respondent(s) CGSC.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
	27.3.02	Heard Mr. A. Chakrabarty, learned counsel for the applicant. The application is admitted. Call for the records. Returnable by four weeks. List on 30.4.2002 for further order. <div>mb</div> <div>IC Usha Member</div> <div>Vice-Chairman</div>
74 547973 OT-03-2002 D. W. S. 22/3/02	30.4.02	On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. further four weeks time is allowed to file written statement. List on 29.5.02 for orders. <div>lm</div> <div>IC Usha Member</div> <div>Vice-Chairman</div>
No steps Steps taken. Notice returned and sent to Ds for filing the response No. 182 by Regd A.D. by 6/4/02 DINo 1104 & 1105 Dtd 9/4/02		

No Written Statement
has been filed.

31
28.5.02

29.5.02

No written statement is forthcoming. List again on 25.6.2002 for written statement.


Vice-Chairman

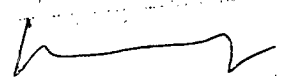
mb

25.6.02

Written statement are yet to be filed though time is granted. On the prayer of Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents further four weeks time is granted as a last chance.

List again on 11.7.2002 for orders.


Member


Vice-Chairman

mb

11.7.02

Written statement has been filed by the Respondents today. The case may now be listed for hearing on 14.8.2002. The applicant may file rejoinder, if any, within two weeks from today.

12.7.02

W/s Submitted
by the Respondents.


Member


Vice-Chairman

mb

14.8.02


Heard Mr. A. Chakrabarty, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the Respondents.

The matter is squarely covered by the decision rendered by this Tribunal in O.A. No. 47/2002 Mr. B.B. Mukharjee Vs. U.O.I. & Ors. disposed on 30/7/2002. In the light of the decision of the aforesaid O.A., the application is dismissed. No order as to costs.


Member


Vice-Chairman

mb

Order dtd 14/8/02
Communicated to the
Parties Commr. 

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Title of the case : D.A. No.: 101 /2002

Sri Gopal Rai : Applicant

----- versus -----

Union of India & ors. : Respondents

I N D E X

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Filed by

(Anupam Chakraborty)

Advocate

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 101/2002

BETWEEN

Sri Gopal Rai

Working as Sr. Accounts Officer in the
P & T Accounts and Finance Service
Group- B, in the office of
TDM, Dibrugarh.

Applicant

AND

1. Union of India represented by the
Secretary to the Govt. of India,
Ministry of Communication,
Department of Telecommunications,
New Delhi - 1.
2. The Chief General Manager,
Assam Telecom Circle, Ulubari,
Guwahati- 781 007.

Respondents

Details of the Application :

1. Particulars of the order against which the application is made :

The application is made against the Charge-sheet
number Vig/Assam/Disc.XIII/28 dated 06.02.2002 issued by the

Filed by the applicant
through D. Chakrabarty
22/2/2002

Chief General Manager, Assam Telecom Circle, Guwahati, who is not competent under CCS CCA Rules 1965, the Member, Telecommunications Commission is the competent authority under the said Rules. The charges also relate to a period about 10 years back.

2. Jurisdiction:

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

3. Limitation:

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

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the constitution of India.

4.2 That the applicant initially joined as Telecom Accounts Clerk w.e.f. 26.02.1974 in the Department of Post & Telecommunications. He was promoted as Junior Accounts Officer w.e.f. 12.12.1983 and as Deputy Accounts Officer (now designated as Assistant Accounts Officer), Group-B service w.e.f. 27.5.1988. He was officiating as Accounts Officer (Cash) at Dibrugarh in Indian P&T Accounts and Finance Service Group 'B' in March 1992 on temporary and adhoc basis. He was thereafter promoted as Accounts Officer (for short AO) w.e.f. 16.06.1995 and as Senior Accounts Officer (for short Sr. AO) w.e.f. 1.10.1998 in the

Indian P & T Accounts and Finance service, Telecom Wing, Group - B. It is stated that the appointment/promotion to the post of Sr. AO in the P & T Accounts and Finance service, Telecom Wing, Group-B (Gazetted) is made by the Telecom Commission. The applicant's promotion, transfer and posting order in the cadre of Sr. AO in the P & T Accounts and Finance Service Group 'B' was issued by Memo No. STES - 6/38/loose//pt-I/75 dated 15.3.1999 in pursuance of DOT/New Delhi Memo No. 10-1/98-SEA dated 23.2.1999. The name of the applicant appears against serial number 5 of the said order dated 23.2.1999. In 1992 a Senior Accountant and a JAO was posted under him.

Copy of the Order dated 12.12.1983, 25.8.1989, 16.06.1995 and 15.03.1999 ^{are} _{is} enclosed as series of Annexure - A.

4.3 That Part-II of The Schedule to the Central Civil Services Classification Control and Appeal Rules, 1965 (for short CCS CCA Rules) prescribes the authority competent to impose penalties and penalties which it may impose (with reference to item numbers in Rule 11). Serial Number 10 column-2 of the said part-II of the schedule deals with the Indian Post and Telegraph's Accounts and Finance Service, Telecom Wing, Group-B. Column-4 mentions the authorities competent to impose penalties with reference to Rule 11. Column-5 mentions the item numbers of Rule 11. Under the column-4 of the serial number 10 of the said schedule, Member, Telecommunications Commission is the authority competent to impose penalties under Rule 11, and items of Rule 11 are 'ALL' in column-5. The column-4 further mentions Advisor (Human resources Development), department of

Telecommunications; Head of Circle; Head of Telephone District; General Manager Telecommunications Stores; General Manager Project; General Manager Telecommunications Factories are authorities for penalties (i) to (iv), as mentioned in column-5 of the schedule.

4.4 That as per Rule 11 of the CCS CCA Rules penalties (i) to (iv) are minor penalties. Therefore the authorities empowered in Rule 10 for imposing penalties (i) to (iv) are not competent to impose major penalties. Such major penalties are enumerated in (v) to (xi) of the Rule 11. The Member, Telecommunications Commission is the competent authority under the said schedule to impose 'All' penalties and as such he is the competent authority to impose major penalties listed in Rule 11.

4.5 That it is stated that Part-III of the schedule deals with the central civil services Group-C. Serial number 2 of the Part-III in column-2 deals with Post and Telegraph's Accounts Service; Senior and Junior Accountants. In column-4 competent authority to impose penalties under Rule 11 is Member, Post and Telegraph's Board, for 'All' penalties as per column-5. For items (i) to (iv) of Rule 11 (i.e. minor penalties) other authorities are competent.

4.6 That from the said schedule it is clear that the authorities for the accounts service have been prescribed specifically as competent authorities for imposing penalties and for the Accounts Officer Group-B service the general Manager or other authorities mentioned in the schedule

empowered to impose penalties for item(i) to (iv) of Rule 11 are not competent to impose major penalties. Even for Group-C service Member, Post and Telegraph Board is the only competent authority to impose major penalties.

4.7 That the Rule 14 of the CCS CCA Rules prescribes the procedure for major penalties. Under Rule 2(g) Disciplinary Authority means the authority competent under the Rules to impose any of the penalties in Rule 11. The Member, Telecommunications Commission is the competent authority under serial number 10 of the Part-II of the schedule to impose major penalty on the applicant and no other authority is competent to impose such(major) penalty. The Member, Telecommunications Commission is, therefore, the Disciplinary Authority in respect of imposition of major penalty on the applicant, and chief general manager is not the Disciplinary Authority for imposition of major penalty. The memorandum of charge-sheet for punishment under Rule 14, therefore, can be issued only by the Member, Telecommunications Commission on the applicant.

4.8 That a memorandum of charge-sheet number Vig/Assam/Disc.XIII/28 dated 06.02.2002 has been issued to the applicant under Rule 14 of the CCS CCA Rules 1965 under the signature of the Chief General Manager, Assam Telecom Circle, Guwahati-7. It is stated that Chief General Manager is not competent authority under the rules to issue the said charge-sheet to the applicant.

Copy of the memorandum of charge sheet dated 06.2.2002 with encloser is enclosed as Annexure-B.

4.9 That the allegations of charges relate to the period 1992 in the matter of pre-checking of bills and giving pay orders for supply of materials. The authorities for the long years could not do anything in the matter of alleged irregularities in the pre-checking of the bills. To cover up the matters of alleged irregularities the charge sheet has been issued to the applicant. The charge sheet is liable to be set aside for allegations during the period of about 10 years back.

4.10 That the Chief General Manager, Assam Telecom Circle, Guwahati instead of communicating the alleged irregularities to the higher authorities viz., Telecommunications Commission purported to settle up the matters at his administrative level and preferred to issue the charge sheet under his own authority, though he is not the competent authority under the CCS CCA Rules 1965.

4.11 That the applicant states that the allegations have been brought against him after a lapse of about 10 years. The applicant is at present working as Senior AO in the P & T Accounts and Finance Service, Telecom Wing, Group-B service and even then the charge sheet has been issued by the Chief General Manager who is not competent to issue the same. The Charge sheet is liable to be set aside and quashed.

4.12 That the applicant is no way responsible for the allegations and to give an eye-wash in the matter of

alleged irregularities in the supply and payment of the materials by the executive side the applicant who is in accounts service have been sought to be implicated by the imputations irregularly by-passing the Telecom Commission, Member of which Commission is the only competent authority to initiate a charge sheet against the applicant.

4.13 That the applicant received the said charge sheet dated 06.2.2002 on 6.3.2002 and thereafter by an application he has prayed for 30 days for defending his case. In the said application he has stated that the matters relate to 1992 and he failed to remember anything about it.

5. Grounds for reliefs with legal provisions:

5.1 For that the charge sheet has been issued by the Chief General manager, Assam Telecom Circle who is not competent to issue the same under CCS CCA Rules 1965.

5.2 For that the allegations in the charge sheet relate to 1992 as is evident from the Articles of charges and the statement of imputations. The charge sheet after a delay of about 10 years is liable to be set aside and quashed.

5.3 For that it is very difficult for the applicant to defend the charges after lapse of 10 years and it is not reasonably practicable to defend the same.

5.4 For that the charge sheet has been issued arbitrarily and is a denial of reasonable opportunity by lapse of long years and as such violative of Article 14, 16 and 311 of the Constitution of India.

5.5 For that in any view of the matter the issuance of the Charge Sheet is illegal, without any authority, and is liable to be set aside and quashed.

6. Details of remedies exhausted:

There is no remedy under any rule and this Hon'ble Tribunal is the only forum for redressal of the grievance.

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

The applicant declares that he has not filed any other case in any tribunal, Court or any other forum against the impugned order.

8. Reliefs sought for :

Under the facts and circumstances of the case, the applicant prays for the following reliefs :

8.1 The Charge sheet number Vig/Assam/Disc.XIII/28 dated 06.2.2002 issued by the Chief General Manager, Assam Telecom Circle be set aside and quashed.

8.2 Any other relief/reliefs the Hon'ble tribunal may deem fit and proper.

8.3 Cost of the case.

The above reliefs are prayed for on the grounds stated in para 5 above.

9. Interim relief prayed for :

During the pendency of this application the

applicant prays for the following relief:

9.1 The proceedings in the charge sheet number Vig/Assam/Disc.XIII/28 dated 06.2.2002 be stayed/suspended.

The above relief is prayed for on the grounds stated in para 5 above.

10. This application has been filed through Advocate.

11. Particulars of Postal Order :

i) I.P.O. No.	: 74 547972
ii) Date of issue	: 7.03.2002
iii) Issued from	: H.P.O.
iv) Payable at	: H.P.O.

12. Particulars of Enclosures :

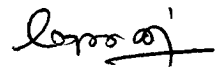
As stated in the index.

Verification.....

Verification

I, Gopal Rai, Son of Late Amar Sing Rai, resident of Tinsukia, aged about 55 years do hereby verify that the statements made in para 1,4,6 and 7 are true my personal knowledge and those made in para 2,3 and 5 are true to my legal advice and the rests are my humble submission. I have not suppressed any material facts.

And I, sign this verification on this
17th day of March, 2002.



Annexure - 1/1
JA-0

INDIAN POSTS AND TELEGRAMS DEPARTMENT
OFFICE OF THE GENERAL MANAGER N.E. TELECOM CIRCLE SHILLONG-793001.

NO. STB-187/Ch III

Dated at Shillong the 12-12-1983.

In pursuance of the DG P&T, New Delhi memo No. 18-5/83-SEA dated 29-11-83 the following transfer promotions and postings in the cadre of Telecom Junior Accounts Officers are ordered to have immediate effect.

- 1) Shri Judgepari Mehta, JAO Internal Check now offg as A.O. (I/C) Circle office, Shillong on being relieved is transferred to N.W. Circle. The posting order will be issued by the G.M. Telecom, Ambala. He is not entitled to the benefits of TA, Joining time etc.
- 2) Shri E.N. Warghat, JAO Internal Check now offg as A.O. C/O Executive Engineer P&T Civil En, Shillong on being relieved is transferred to Maharashtra Telecom Circle. The posting order will be issued by the G.M. Telecom, Bombay. He is not entitled to the benefits, of TA, Joining time etc.
- 3) Shri M.C. Srivastava, JAO Internal check circle office Shillong now offg as A.O. O/O DET Tezpur on being relieved is transferred to U.P. Telecom Circle. The posting order will be issued by the G.M. Telecom U.P. Lucknow.
4. Shri Tara Mahan Deb, JAO O/O the DET Dibrugarh on being relieved is transferred to West Bengal Telecom Circle. The posting order will be issued by the G.M. Telecom West Bengal, Calcutta.
5. Shri Ashutosh Mukherjee, JAO O/O the DET Tezpur on being relieved is transferred to West Bengal Telecom Circle. The posting order will be issued by the G.M. Telecom Calcutta.
6. Shri S. Mitra, JAO O/O DET Imphal on being relieved is transferred to West Bengal Telecom Circle. The posting order will be issued by the G.M. Telecom Calcutta.
7. Shri D. Sankar Rao, JAO Telecom Accounts now offg as A.O. Internal check C.O. Shillong is transferred and posted as JAO Internal check CO/Shillong vice Shri M.C. Srivastava.
- 8) Shri P.K. Kar, JAO now offg as A.O. O/O D.E. Phones Shillong is transferred and posted as JAO, Internal check C.O/Shillong vice Shri E.N. Warghat.
- 9) Shri Bankim Ch Das, JAO (A&P) Circle Office Shillong now offg as A.O. Budget CO/Shillong is transferred and posted as JAO Internal check C.O/Shillong vice Shri J.P. Mehta.

B. PROMOTIONS

The General Manager, N.E. Telecom Circle Shillong is pleased to promote the following officials Regular basis who have passed Part II of PET J.A.O. examination held in December, 1982 to the cadre of Junior Accounts Officers in the Junior Accounts officer service, Telecom Wing (Group C) till further orders and posted them as under.

- 1) Shrimati Binapani Das Bhattacharya TCA O/O LMT Guwahati is transferred and posted as JAO O/O Director K/W project, Guwahati vice Shri D. Sankaran JAO transferred to Madras phones.
2. Shri Binai Kr. Dey, Offg JAO O/O DET Jorhat is transferred and posted as JAO O/O DET Imphal vice Shri S. Mitra transferred to L.E. Guwahati.
3. Shri Surajit Ch. Kalita, Offg JAO Internal check CO/Shillong is transferred and posted as JAO O/O the Executive Engineer, P&T Civil En Shillong.

Contd...2/a

-1 2 3-

4. Shri Bijoy Bhushan Deb Roy, Offg JAO O/O A.O Telecom, is transferred and posted as JAO O/O Executive Engineer, P&T Civil in Guwahati.
5. Shri Prabir Ranjan Goswami, Offg JAO O/O A.O (Telecom) Shillong transferred and posted as JAO (A&P) Circle Office, Shillong vice Shri B.C. Das.
6. Shri Wazidur Rahman Chowdhury Offg JAO O/O DET, Shillong will continue as JAO in the same Office vice Shri D. Ram J.A.O transferred.
- 7) Shri Bhikendra Ch. Roy, Offg JAO Internal check, CO/Shillong transferred and posted as JAO O/O DET EMP against existing vacancy.
- 8) Md Abdul Mamid, Offg J.A.O O/O DET, Guwahati is transferred and posted as JAO O/O Executive Engineer P&T Civil Division, Jorhat.
- 9) Shri Naba Kumar Das, Offg JAO O/O Executive engineer, P&T Civil in Guwahati is transferred and posted as JAO O/O DET Tazpur vice Shri S. Mahherje transferred.
- 100 Shri Hirendra Ch. Roy, Offg JAO Internal check, CO/Shillong is transferred and posted as JAO O/O A.O. (Telecom) Shillong against existing vacancy.
- 11) Shri Gopal Rai, Offg JAO O/O DET Imphal is transferred and posted as JAO O/O DET Dibrugarh vice Shri T.M. Deb transferred.
- 12) Shri Chandra Kanta Das, Offg JAO O/O Executive Engineer, P&T Civil in Jorhat on being relieved is transferred to GM P&T Project Bombay. The posting order will be issued by the GM Project Bombay.
- 13) Shri Anu Bandyopadhyay Sahoo, Offg JAO O/O DET, Dimapur is transferred to Bombay Phones. The posting order will be issued by the GM Phones, Bombay.
- 14) Shri Sukphar Hemath Sohliya Offg JAO O/O A.O Telecom Shillong will continue as JAO in the same office, vice Shri D.S. Rao transferred.

The appointment of officials mentioned in S.L 1 to 14 above to the grade of JAO is subject to the condition that no disciplinary/vigilance case is pending against them. Necessary charge report of assumption of charge on regular promotion as JAO may please be sent to this office and to the P&T Directorate.

C. Officiating Arrangements.

The General Manager, N.E. Telecom Circle, Shillong is pleased to issue the following transfer, posting and promotion in the cadre of junior Accounts officer until further orders.

1. Shri Bambarudhar Barua Offg JAO O/O DET, Dimapur is transferred and posted as Offg JAO O/O DET Jorhat against existing vacancy.
- 2) Shri Rupendra Kr Nay, UMI SECC O/O BMC, Shillong and a qualified JAO is promoted temporarily purely on Adhoc basis and posted as Offg JAO Internal check O/O the GMT, Shillong until further orders or the regular incumbent is joined vice Shri F.K. Kar Offg as A.O.
- 3) Shri Sushil Behari Das, a qualified JAO O/O DET, Guwahati is promoted temporarily purely on Adhoc basis and posted as Offg JAO Internal check O/O the GMT, Shillong until further orders or the regular incumbent is joined Das Offg as A.O.
4. Shri Mohendra Boro, JAO O/O DET Guwahati is promoted purely temporary as Adhoc basis and posted as Offg JAO Internal check O/O the GMT, Shillong against existing vacancy until further orders or the regular incumbent is joined.

The above promotions are subject to the condition that no disciplinary/vigilance cases are pending against them and that arrangements are made for regular appointment to the post of JAO and that adhoc services so rendered will not count for the purposes of seniority in the grade of JAO or for the purpose of promotion to the next higher grade. They will be treated as on deputation not exceeding 180 days and only transit time is allowed.

Necessary charge reports should sent to all concerned.

(MISS H.T. SARKHUTI)
CHIEF ACCOUNTS OFFICER
O/O THE GENERAL MANAGER: N.E. TELECOM.
CIRCLE: SHILLONG.

Copy to:-

1. The Director General, Jammu & Kashmir P&T (SEA) New Delhi, with memo No. 18-5/83-SEA dtd. 29.11.83.
2. All Divisional Engineers Telephones/Telegraphs N.E. Telecom Circle.
3. All Accounts Officers, O/o, the C.M.T. Shillong.
4. The General Manager, Telecom, N.W. Circle, Ambala.
5. The General Manager, Maharashtra Circle, Bombay.
6. The General Manager, Telecom, U.P. Circle, Lucknow.
7. The General Manager, West Bengal State Telecom Circle, Calcutta.
8. The General Manager, P&T Project Circle, Bombay.
9. The General Manager, Telephones, Bombay.
10. The District Manager, Telephones, Guwahati.
11. The Superintending Engineer, P&T Civil Circle, Shillong.
12. The Executive Engineer, P&T Civil Division, Guwahati, Shillong and Jorhat.
13. The General Manager, Task Force, Guwahati.
14. The Director, M/V. Project, Guwahati.
15. The Officials concerned.
16. The Personal files of the officials concerned.
17. Arrangement file of JAOs.
18. Spare.
19. The Director, Telecom, Shillong.

(MISS H.T. SARKHUTI)
CHIEF ACCOUNTS OFFICER
O/O THE GENERAL MANAGER: N.E. TELECOM.
CIRCLE: SHILLONG.

S/CHOSH

Copy to:

- 1. A.O. (A)
- 2. A.O. (C)
- 3. Sd/-
- 4. J/c

25/11/83
O/o T. & T.
Shillong.

graphs,

— 14 —

Annexure - P/2
AAG
17

No. 39-3/80-SEA
Government of India
Department of Telecom
Sanchar Bhawan, New Delhi-1.

Dated, the 25-0-1989

MEMORANDUM

Sub: Promotion of Junior Accounts Officers to the grade of Deputy Accounts Officers (now Assistant Accounts Officers).

Member(F) Telecom Commission is pleased to appoint the Junior Accounts Officers (as detailed in the Annexure to this O.M) belonging to Junior Accounts Officers, Telecom Wing Group 'C' as Deputy Accounts Officers (now Assistant Accounts Officers) in the scale of pay of Rs. 2000-60-2300-EB-75-3200 with effect from the date shown against each. The arrears of pay and allowances arising on this account may also be drawn and paid to these officers.

2. The promotion of these officers is subject to the condition that no disciplinary/vigilance case is pending against any of the officer. In case any disciplinary/vigilance case of the type referred to in this office letter No. 6-16/71-Disc dated 25-3-1972 read with this office letter No. 56-13/76-Disc I dated 8-9-76 is pending against these officers or some punishment like stoppage of increment is current, they should not be promoted and the matter should be reported to this office immediately.

3. These orders may be implemented immediately, and compliance reported to this office.

G. Narasimha
(K.N. Ganagathy)
Asstt. Director General (SEA)

Copy to:-

1. All Heads of Circles/Telephone Districts/Projects/Maintenance/
Factories/Stores/Task Force.

Rajender Prasad
(Rajender Prasad)
Section Officer (SEA)

*Attested
Rajender Prasad
Section Officer*

JUNIOR ACCOUNTS OFFICERS PROMOTED AS DEPUTY OFFICERS (NOW ASST. A.O.)

Graduation List No. (3) Date from which promotion given (4) Circle/Office working (5)

1. Sri/Smt. (2)				
2. Jhanush Kodi	1687	1-1-1988	MTNL, Bombay	
3. A. Mani	1688	1-1-1988	GMT, Ahmedabad	
4. Prabir Ranjan	1689	6-1-1988	GMT, Shillong	
5. Maklisur Rahman Chaudhury	1690	6-1-1988	GMT, Guwahati	
6. D.C. Upadhyay	1691	11-1-1988	M.P. Circle	
7. B.T. Ziro	1692	25-1-1988	GMT, MH Circle	
8. Jyotirmoy Das II	1693	25-1-1988	GMT (QA)	
9. Sunil Kumar Ahand	1694	25-1-1988	GMM, New Delhi	
10. Biswanath Padhi	1695	1-2-1988	GMM WTR Bombay	
11. Samir S. Gupta	1696	1-2-1988	GMT, WB Circle	
12. S. Janardhan Swamy	1697	1-2-1988	GMT	
13. Ashok Kumar Khoshu	1700	4-2-1988	J&K Circle	
14. S.A. Nargund	1702	5-2-1988	GMM WTR Bombay	
15. T. Sunder	1703	10-2-1988	GMM, New Delhi	
16. M. Lal	1704	10-2-1988	MTNL, Delhi	
17. Narash Kumar	1705	16-2-1988	MTNL, Delhi	
18. G. Gopalkrishna Pillai	1706	18-2-1988	MTNL, Bombay	
19. Sushil Kumar	1707	19-2-1988	MTNL, Delhi	
20. M.U. Guruswamy	1708	23-2-1988	MTNL, Bombay	
21. S. Subhakarshmi	1709	23-2-1988	GMT, Madras	
22. K. Ganesh	1711	29-2-1988	Madras Phones	
23. Om Prakash Sharma	1712	29-2-1988	Rajasthan Circle	
24. R. Suryanarayanan	1713	29-2-1988	MTNL, Bombay	
25. Shyam Lal Vyas	1714	12-3-1988	GMT, Ahmedabad	
26. Shiban Kumar Bhatt	1715	14-3-1988	J&K Circle	
27. C. Antony Xavier	1717	17-3-1988	MTNL, Bombay	
28. Alphonso	1718	18-3-1988	Punjab Circle	
29. Narinder Kumar Sharma	1719	23-3-1988	CTS Calcutta	
30. Prebhas Ch. Ghosh	1720	7-4-1988	MTNL, Delhi	
31. Parveen Passi		8-4-1988		

30. Amel Kanti Doy	1721	11.4.88	Calcutta, Phones
31. Raj Roon	1722	13.4.88	GMP New Delhi
32. Subrata Raha	1723	19.4.88	GMP Calcutta
33. Ch. Nabi Hajam	1724	20.4.88	J&K Circle
34. Naya Majumdar	1725	21.4.88	WB Circle
35. S. Mallikarjuna Rao	1727	26.4.88	Maharashtra Circle
36. Md. Illayas	1728	29.4.88	MTNL, New Delhi
37. Gurbachan Singh	1729	3.5.88	Punjab Circle
38. Md. Shaukat Ali	1730	3.5.88	GMP Bombay
39. S. Madheswaran	1731	5.5.88	MTNL Bombay
40. B. Anand	1733	10.5.88	GMP Bombay
41. K. P. Unnikrishnan	1734	17.5.88	MTNL Bombay
42. P. Rathinavel	1736	17.5.88	MTNL Bombay
43. Hirendra Ch. Roy	1737	23.5.88	NE Circle
44. Ram Bhagat Mittal	1738	27.5.88	MTNL New Delhi
✓ 45. Gopal Rai	1739	27.5.88	GMP Guwahati
46. Kriposindhu Panda	1741	27.5.88	Orissa Circle
11-A. A. K. Tiwary	1698	1-2-88	M. P. Circle

GV24130

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER
GUWAHATI: GUWAHATI-781001

Letter No. G/30/PT-1/79 -

Dated Guwahati, the 16.06.95.

In pursuance of DOT/ED letter No. 9-1/95-SEA dt. 30.05.95 the following promotion and transfer orders are issued in the interest of service in the cadre of Sr. Accounts Officers/Account Officers to have immediate effect.

(A) Transfer :-

Sl. No.	Name of officers	Circle/Divn. Where working	Circle/Divn. to which posted
01.	J. Chenchalaiah, Sr. A.O.	E.E. Electrical Divn., GH	A.P. Telecom. Circle
02.	S. Radhakrishnan, AO	T.N. Circle	A.O. (Comp), C.O., GH

(B) Promotion and posting from A.A.O. to A.O. :-

01.	H.C. Sinha	TDE/SC	A.O. (Cash), %. TDE/SC
02.	C.L. Singh	TDM/DR	A.O. (Comp), %. TDM/DR
03.	S.C. Kalita	TF, GH	A.O., %. E.E., Elect. Divn. GH
04.	H.R. Choudhury	TDE/BGN	A.O. (SBP), %. TDE/BGN
05.	R. Suryanarayanan	Madras Phones	A.O. (IC), C.O., GH
06.	H.C. Roy	TDM/GH	Calcutta Telephones
07.	Gopal Raj	TDM/DR	A.O. (Cash), %. TDM/DR
08.	C.K. Das	TF, GH	A.O. (TR Co-ordination) %. TDM/GH
09.	T.K. Das	T.F., GH	A.O. (TA), C.O., GH
10.	D. Baruah	TDE/JRT	A.O. (SBP), %. TDE/JRT

The officers at Sl. No. A(2) and B(5), B(9) will report to the C.A.O., C.O., Guwahati.

Shri S.C. Kalita, AO, will move first and on his joining Shri J. Chenchalaiah, Sr. AO will stand relieved.

Shri H.C. Roy, AO, %. TDM, Guwahati will be relieved immediately on joining of Shri C.K. Das, AO, %. TDM, Guwahati.

Shri J. Chenchalaiah, Sr. AO and Shri H.C. Roy, AO may apply for TA/DA if necessary.

Normal charge reports shall be sent to all concerned.

(14/11)
Affected
Advocate

Self=
(K.D. Bhattacharjee), (1)
Asstt. Director, Telecom. (Staff)
Chief General Manager, Guwahati

Annexure-B/2

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S. No. 21

MAR 1999
Dibrugarh

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM
ASSAM CIRCLE : GUWAHATI : GUWAHATI - 781 007

NOTES-6/33/Loose//Pt-I/75

Dated the 15.03.99

In pursuance of DOT/New Delhi Memo.No.F.No.10-1/98-SEA dt.23.02.99, the following Accounts Officer who are officiating as Sr. Accounts Officer are reverted to their substantive cadre of Accounts Officer with effect from 29.09.98(AN) and the orders of promotion of the following Accounts Officer belonging to the India P&T Accounts and Finance Service Group 'B' Telecom Wing as Senior Accounts Officer in the scale of pay of Rs.8000-275-13500/- Group 'B' with effect from 1.10.98 on regular basis in terms of Ministry of Finance. Department of Expenditure O.M.No.F.6-10/91 dated 22.9.91 is hereby issued indicating the unit of their posting as noted below :-

Sl.No.	Name of A.O.	Unit
01.	Sri Harish Ch. Singha	TDM/Silchar
02.	Sri Chhotelal Singh	TDM/Dibrugarh
03.	Sri Surendra Ch. Kalita	C.O./Guwahati
04.	Sri M.R.Chaudhury	TDM/Silchar
05.	Sri Gopal Rai	TDM/Dibrugarh
06.	Sri Chandra Kanta Das	GMTD/Guwahati
07.	Sri Tapan Kumar Das	GMTD/Guwahati
08.	Sri Dambaru Baruah	TDM/Jorhat

On promotion to the cadre of Sr. A.O. pay of the above officers will be fixed under FR-22(1)(a)(i) (Old FR-22-C). The benefit of fixation of pay in the promotional scale of Rs.8000-13500/- will be allowed as per Government of India Decision No.18 below FR-22.

Necessary charge reports may be sent to all concerned.

(N.C.Das)
Asstt. General Manager(A)
O/O.Chief General Manager Telecom.,
Assam Circle, Guwahati-7.

Copy to :-

1. The Asstt. Director General(SEA), Deptt. of Telecom.,
Silchar Bhawan, New Delhi-110001.
2. The G.M.T.D., Kamrup, Guwahati.
- 3-5. The T.D.M. Silchar/Jorhat/Dibrugarh.
- 6-7. The D.F.A./C.A.O. C.O., Guwahati
- 8-9. The A.O.(TA)/(A&F). C.O., Guwahati.
- 10-17. Officers concerned.
- 18-23. P/F of the officers.
- 24-27. Guard file/Spec.

SAGAO/MIR/5

For Chief General Manager

Affected
Chakrabarti
Shrotri

1046/101

Amma vol-B
22

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Bharat Sanchar Nigam Ltd.
(A Govt. of India Enterprise)
O/O The Chief General Manager
Assam Telecom Circle, Guwahati-07.

No. Vig/Assam/Disc.XIII/28


Dated, 4-2-2002.

MEMORANDUM

- 1) Shri Gopal Rai, Sr. Accounts Officer O/O DET(Maintenance) Tinsukia formerly AAO O/O TDE Dibrugarh is hereby informed that it is proposed to hold an inquiry against him under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).
- 2) Shri Gopal Rai is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.
- 3) He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each articles of charge.
- 4) Shri Gopal Rai is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of CCS(CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him *ex parte*.
- 5) Attention of Sri Gopal Rai is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sri Gopal Rai is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.
- 6) The receipt of the memorandum may be acknowledged.

To

✓ Sri Gopal Rai,
Sr. Accounts officer
O/O DET(Mtce) Tinsukia


(G.S. Grover)

Chief General Manager
Assam Telecom Circle, Guwahati-07.

4/2/02

Recd on
06-03-2002

06/03/2002

Attested
Marked
Adm. cont.

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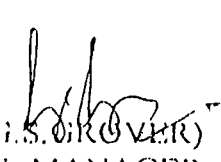
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ANNEXURE - I

ARTICLE OF CHARGE FRAMED AGAINST SHRI GOPAL RAI, SR.
ACCOUNTS OFFICER, O/O THE DET (MAINTENANCE), TINSUKIA

That the said Shri Gopal Rai while functioning as Asstt. Accounts Officer, in the office of the TDE, Dibrugarh during 1992 committed gross misconduct in as much as he pre-checked bill No. 272, dtd. 1-4-92, 273 dtd. 1-4-92, 415 dtd. 8-7-92, 429 dtd. 14-7-92, 432 dtd. 14-7-92 each amounting to Rs. 1,90,723/- and bill No. 441 dtd. 16-7-92 for Rs. 1,52,578/- of M/s B.R. Electricals, New delhi for supply of PVC insulated twin galvanised steel dripwire, despite the fact that the supply was made by the firm, without proper delivery challans, and receipt certificates on the bills were not properly certified, without proper delivery challans and receipt certificates on the bills were not properly certified, without putting any date and without mentioning page no. of the stock register by the concerned authority, further Purchasing Officer Shri A.N. Rai was not empowered to purchase the said items and thereby failed to observed codal formalities of purchases laid down in the department which are required under various rules/circular of the department, resulting an illegal payments of the amounting to Rs. 11, 06,193/- made to the firm.

Thus Shri Gopal Rai due to his aforesaid acts failed to maintain absolute integrity and devotion to duty and thereby contravened the Rules of 3(1) (i) and (ii) of CCS(Conduct) Rule-1964.


(G.S. GROVER)
CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE
GUWAHATI-07

Per
10/10/92

ANNEXURE-II

STATEMENT OF IMPUTATION IN SUPPORT OF ALLEGATION AGAINST
SHRI GOPAL RAI, FORMERLY AAO O/O TDE, DIBRUGARH, NOW
SR. ACCOUNTS OFFICER, O/O THE DE(MTCE) TINSUKIA.

Shri Gopal Rai, while posted and functioning as Asstt. Accounts Officer, in the O/O the TDE, Dibrugarh during 1992, he was entrusted the job of pre-checking of supplies/contractors bills along with other works.

While he had been doing pre-check of bills, he would have to see the following points:-

- i) Whether fund is available under the relevant head.
- ii) Whether purchase are made against the sanctioned estimates;
- iii) Whether purchase is within the financial limit of purchasing officer;
- iv) Whether purchase procedures has duly observed by the purchasing Officer;
- v) Whether bill is prepared as per terms and conditions laid down in the purchase order;
- vi) Whether bill is properly certified by the concerned authority regarding quantity, quality and they are according to the approved specification and entry of stock certificates.

M/s B.R. Electrics, New -Delhi supplied PVC Insulated Twin Galvanised Dropwire and submitted 6 (Six) nos. of bills as follows;

Sl.No.	Bill No. and Date	Amount	Quantity	Rate.
1.	272 dtd. 1-4-92	Rs. 1,90,723/-	25 Kms	@Rs.6,999/- per Km+ taxes
2.	273 dtd. 1-4-92	Rs. 1,90,723/-	25 Kms	---do-
3.	415 dtd. 8-7-92	Rs. 1,90,723/-	25 Kms	---do-
4.	429 dtd. 14-7-92	Rs. 1,90,723/-	25 Kms.	---do-
5.	432 dtd. 14-7-97	Rs. 1,90,723/-	25 kms	---do-
6.	441 dtd. 16-7-92	Rs. 1,52,578/-	20 Kms	---do-

While Shri Gopal Rai pre-checked aforesaid bills, he failed to check the following deficiencies in these bills.

- 1) The item PVC insulated twin galvanised steel dropwire was neither stock item nor regular item of DoT and said item was not as per TECs specification of DoT. There was also no de-centralisation of order from DoT for procurement of stock item during 1992.
- 2) Non availability certificate was not obtain from CTSD, Guwahati before purchase of said item.

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- 25
- 3) No estimate was prepared and sanctioned before purchase of said item.
 - 4) Purchase was made without calling tender and without observing codal formalities for purchase of stock item in case of emergency.
 - 5) None of the bills were accompanied with proper delivery challan in triplicate which is required as per clause of purchase order.
 - 6) Purchasing Officer has no power to purchase the said materials without approval of DoT and during purchase of said items financial limit of purchasing officer were exceeded in each case.
 - 7) The consignees received the materials after due date of delivery and certified the bills without mentioning date of receipt and page no. of stock register.

While Shri Gopal Rai pre-checked the aforesaid bills of M/s B.R. Electricals, he failed to point out deficiencies as mentioned above before the competent authority for remedial action.

Thus, by his above acts, the said Shri Gopal Rai, failed to maintain absolute integrity and devotion to duty thereby contravened the provisions of rule 3(1) (i) & (ii) of CCS(Conduct) Rules 1964.

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ANNEXURE -III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI GOPAL RAI FORMERLY AAO O/O TDE, DIBRUGARH AND
NOW AR.ACCOUNTS OFFICER O/O DET (MTCE), TINSUKIA ARE
PROPOSED TO BE SUSTAINED.

- 1) File No. Eng. S-41/DTDR/92-93 regarding ; PVC coated wire (allotement) O/O Area Director Telecom , Dibrugarh (Relevant pages N/s-5, N/s-6, N/s-7, N/s-8, N/s-10, N/s-13, N/s-14, N/s-18 and page 42 to 58, 59 to 98, 59 to 243, 251 to 260.
- 2) Bill No. 272 dtd. 01-04-92 of M/s B.R.Electricals.
- 3) Bill No. 273 dtd. 01-04-92 of M/s B.R.Electricals.
- 4) Bill No. 432 dtd. 14-7-92 of M/s B.R.Electricals.
- 5) Bill No. 429 dtd. 14-7-92 of M/s B.R.Electricals.
- 6) Bill No. 415 dtd. 08-07-92 of M/s B.R.Electricals.
- 7) Bill No. 441 dtd. 16-7-92 of M/s B.R.Electricals.
- 8) Counterfoil of cheque books (two nos.) O/O TDM Dibrugarh.
- 9) Counterfoil copy of cash book page No. 65 and 88 two sheets of o/o TDM Dibrugarh.
- 10) One file of o/o the SDOT Dibrugarh containing bills, P.O issued slips etc.
- 11) Letter No. 9-102/97-Vig-I dtd. 28-6-99 issued by Sh. K.Nagarajan, Asstt. Director General (Vig).
- 12) Letter No. W-266/INS/G.I Wire/98-99/Misc/38 dtd. 27-5-99 aongwith enclosures issued by Sh. S.C.Ray, Asstt. G.M. (S-II) for CGMT's Calcutta-3.
- 13) Letter No. 9-5/98-Vig-I dtd. 13-4-99 issued by shri R.Krishnamurthy, Director (VRIT) New Delhi alongwith enclosures.
- 14) One Cash book No. 276 of o/o TDE Dibrugarh w.e.f. 18-8-92 to 20-10-92.
- 15) One Cash book No. 274 of o/o TDE Dibrugarh.
- 16) Letter No. PESP/2-52/99-2000/2 dtd. 23-3-2000.
- 17) Postal Telegraph Financial Hand Book, Vol-I (Genl)
- 18) General Financial Rules.
- 19) Post and Telegraph financial Hand Book Vol-III.
- 20) Post and Telegraph Manual Vol-X

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ANNEXURE -IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI GOPAL RAI FORMERLY AAO O/O TDE DIBRUGARH AND
NOW SR. ACCOUNTS OFFICER O/O THE DET (MAINTANANCE) TINSUKIA
ARE PROPOSED TO BE SUSTAINED.

- 1) Shri Haran Chandra chakraborty, S/O Lt. G.C.Chakraborty, Sr. Accounts Officer, O/O the CGMT Assam Circle, Guwahati-07.
- 2) Shri Dipak Gupta, S/o Lt. R.K.Gupta, Accounts Officer, O/O the TDM Nagaon.
- 3) Shri Dambaru Baruah, S/O Bhadreswar Baruah, Accounts Officer, O/O TDM Jorhat.
- 4) Shri Naba Kumar Das, S/o Lt. Moheswar Das, Chief Accounts Officer, O/O CGMT Kamrup, Guwahati.
- 5) Shri Jyotirmoi Roy, ToA (Telecom Officer Assistant) S/O Lt. G.Roy, O/O TDM Dibrugarh.
- 6) Shri Subrata Sarkar, S/o Lt.K.J.Sarkar, Telecom Office Assistant O/O TDM Dibrugarh.
- 7) Shri K.Nagarajan, Asstt.director General(Vig), Department of Telecommunication West Block -1, Wing -2 Ground Floor, R.K.Puram, New Delhi- 110066.
- 8) Shri S.C.Roy, Asstt. General Manager (S-II) O/O the CGMTs, 3A-Choranghee Place, Calcutta-13.
- 9) Shri Ashim Abbas, Director (T & C) DoT Sanchar Bhawan, Ashoka Road, New Dehi.
- 10) Shri Ardhendu Sekhar Deb, S/o Lt. A.K. Deb, SIDE(Stores) O/O CTSD, Guwahati
- 11) Shri M.Sharma, Inspector, CBI ACB Ghy and IO of the case.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

O.A. NO. 101 OF 2002

Shri G. Rai, Sr. AO.

-VS-

Union of India & ors.

-And -

In the matter of ::

Written statementsubmitted by
the Respondents.

The Respondents beg to submit written statement
as follows :-

1. That with regard to para - 1 the respondents
beg to state that the impugned memorandum of charges dated
06/02/2002 was issued by The Chief General Manager ,
Assam Telecom Circle as the prescribed disciplinary authority
within his competence and under the provision of CCS(CCA)
rules, particularly Rule 2(g) and Rule 13(2).

Through the memo, the applicant was informed of
the specified charges framed against him and the documentary
evidences/witness by which the charges are proposed to
be established. The applicant was also instructed to submit
the written statement of defence within 10 days.

The applicant has been afforded the opportunity to
present his defence but he has failed to submit his written
statement of defence within the prescribed time limit. He
has not attempted the remedy available to him departmentally
and filed the present OA. The OA is pre-matured as he has not
exhausted the departmental remedy.

12/11/02
filed by
Prakash
11/11/02
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

2. That with regard to para - 2 of CA, the respondents beg to offer no comments.

3. That with regard to para - 3 of O.A., the respondents beg to state that as stated in para - 1 above is prematured as he has not exhausted the opportunity available to him departmentally within the provision of CCS(CCA) Rules.

4. That with regard to para 4.2 & 4.1 of OA, the respondents beg to offer no comments.

5. That with regard to para - 4.3 of O.A., the respondents beg to state that as per CCS(CCA) Rule 13(2) " A disciplinary authority competent under this rule to impose any of the penalties in clauses (i) to (iv) of Rule - 11 may institute disciplinary proceedings against any Government Servant for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule - 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties."

Since the CGMT is the competent authority to impose any of the penalties specified in clause (i) to (iv), he is also the competent authority to institute disciplinary proceeding against the said G.Mi for imposition of penalties specified in (v) to (ix). (A copy of Rule-13 is Annexed as Annexure - R - 1).

Contd...I/3

6. That with regard to para - 4.4 of O.A, the Respondents beg to state that no penalty either major or minor has been awarded to the applicant by any authority. Disciplinary proceedings against Shri G.Rai is instituted by the order dated 06-02-2002 and the same will be dealt with strictly as per the provision of the CCS(CCA) Rules.

7. That with regard to para 4.5 of O.A., the respondents beg to state that no penalty either major or minor has been awarded to the applicant by any authority. Disciplinary proceedings against Shri G.Rai is instituted by the order dated 6/2/2002 only thereafter the same will be dealt with under the Departmental Rules.

8. That with regard to para - 4.6 of O.A., the respondents beg to state that as reiterated in foregoing paras the ~~Chief~~ General Manager is the prescribed competent authority for imposing one of the minor penalties for good and sufficient proceedings. The disciplinary proceedings against G.Rai has been instituted by the order dated 6/2/2002.

9. That with regard to para - 4.7 of O.A., the respondents beg to state that for imposing one of the ~~minor~~ major penalties as defined in Rule - 11 of CCS (CCA) Rules, the procedure prescribed in Rule - 14 of CCS(CCA) Rules is a precondition.

According to Rule 14(2), whenever a Disciplinary Authority is of the opinion that there are grounds for enquiring into the truth of any imputation of misconduct or misbehaviour against a Govt. Servant the disciplinary authority may itself enquire it or appoint an inquiry authority to enquire in the truth thereof.

Rule 14(3) & 14(4) laid down that the disciplinary authority shall draw or cause to draw up the charge sheet prescribed therein and deliver the same to the charged Govt. Servant.

As regards the authority to institute the proceeding it is made clear in Rule - 13 of CCA(CCA) Rules that an authority competent to impose any of the penalties specified in clause (1) to (iv) of Rule - 11 may institute disciplinary proceedings for imposition of any of the penalties specified in clause (v) to (ix) of Rule - 11 notwithstanding that such disciplinary authority is not competent under these Rules to impose any of the later penalties.

It is abundantly clear that the disciplinary authority, who is competent to impose one of the minor penalties, is also competent to institute disciplinary proceedings for imposing one of the major penalties.

As stated in Para - 4.3 to 4.6 above and also admitted by the applicant, the CGMT is well within his competence to issue the impugned memorandum of charges against the applicant.

10. That with regard to para - 4.8 of O.A., the respondents beg to state that as explained in foregoing paras particularly in para - 4.7 the CGMT is competent under the expressed provisions of the Rule - 13 of institute the proceedings for imposition of major penalty by issuance of charge sheet to the applicant.

contd...P/5

11. That with regard to para 4.9 of O.A., the respondents beg to state that the subject matter of the charge relate to irregular payment against doubtful supply of nbr - standard stored item in violation of departmental norms governing the purchase of Telecom Stores.

The CBI made through enquiry into the purchase of non- standard equipment from dubious manufacturers. Loose ends of the case are spread over different parts of India and the premier Investigating Agency took its own time to complete the investigation. The enquiry also involved the technical examination of the quality of the purchased item and assessment of manufacturing cost thereof by the experts. The process is a time consuming one and considering the volume of paper works at different ends, the time taken for the completion of the investigation is not unjustified.

After the completion of preliminary investigation, the departmental authority examined the report in consultation with CVC and come to the conclusion that there are grounds for regular departmental enquiry against the suspected Govt. Servant to inquire into the truth. Accordingly the proceedings have been drawn by issuing the charge sheet.

12. That with regard to para - 4.10 of O.A., the respondent beg to state that the enquiry report has been examined at the highest level of the Department. The matter was also referred to CVC for their advice. In fact it is on the advice of CVC that the highest decision making authority of the department decided that there is valid ground to proceed against the applicant departmentally for the prima facie charge amounting to grave misconduct.

13. That with regard to para - 4.11 of O.A., the respondents beg to state that the charges are framed on the basis of documentary evidences available with the department. The passage of time since the period of occurrence will not in any way prejudice the case against the applicant.

The charge sheet has been issued after due application of mind and careful examination of the CBI Enquiry Report based of documentary evidences. The proceedings have been initiated by competent authority in the prescribed manner under a well defined set of Rules. The same may be allowed to take the lawful course for logical conclusion.

14. That with regard to para - 4.12 of O.A., the respondent beg to state that the applicant is free to present his case and defend himself against the charges before the Departmental inquiry Authority. The charges will stand or fall on the basis of records produced before the I.O. in course of enquiry. It is beyond the scope to prejudge the guilt or innocence of the applicant at this stage.

15. That with regard to para - 4.13 of O.A. the respondents beg to state that the applicant was specifically directed to submit the written statement of the defence within 10 days from the date of receipt of the impugned charge sheet dated 17.01.2002. The applicant has failed to comply with the direction within the specified time limit.

He has made request for 30 days time for submission of his written statement and thereafter approached the Hon'ble Tribunal by filing the OA. The same is premature as liable

to be dismissed.

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

I, Shri Shankar Chandra Das presently
working as Asst Director Telecom (Legal) be duly authorised
and competent to sign this verification, do hereby
solemnly affirm and state that the statements made in
para 1 to 4, 6 to 15
are true to to my knowledge and belief, these made in
para 5 and being matter
or records, are true to my information derived therefrom
and the rest are my humble submission before this Hon'ble
Tribunal, I have not suppressed any material facts.

And I sign this verification on this 16 th
day of May , 2002 at Guwahati

Shankar Chandra Das

Declarant.

सहायक निदेशक

Assistant Director

कार्यालय, गैर आवासीय

O/o The Chief Engineer, Guwahati

असम दूरसंचार परामर्शक, गुवाहाटी-7

Assam Telecom Circle, Guwahati-7

Where the officer who is the prescribed disciplinary authority is/will be the complainant and/or the witness in a disciplinary proceeding, another officer should be specified as disciplinary authority by a special order of the President under Rule 14 (2) of the CCS (CCA) Rules, 1957 [corresponding to Rule 12 (2) of 1965 Rules].

[Decision taken in G.I., M.H.A., File No. 7/29/61-Est. (A).]

(5) **No bar for authority who conducted preliminary enquiry functioning as Disciplinary Authority.**—The authority who conducts the preliminary enquiry into a case of misconduct, etc., of a Government servant will not be debarred from functioning as a disciplinary authority in the same case, provided it has not openly given out its findings about the guilt of the accused official.

[Para. 60, P. & T. Manual, Vol. III.]

(6) **Powers of prescribed punishing authority.**—A penalty can be imposed only by the prescribed punishing authority, and an appellate authority or any other authority higher than the appropriate punishing authority cannot exercise any concurrent original disciplinary jurisdiction. In no circumstances should an authority higher than the punishing authority issue any direction in regard to the penalty to be imposed. Neither should a punishing authority obtain the guidance or comment of any superior authority in this respect. Nothing in this rule shall affect the authority of the President to impose any of the penalties on any Government servant.

[Para. 156 of P. & T. Manual, Vol. III.]

13. Authority to institute proceedings

(1) The President or any other authority empowered by him by general or special order may—

- (a) institute disciplinary proceedings against any Government servant;
- (b) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in Rule 11.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of Rule 11 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.