

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 104/2002

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SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Orginal No. 104/2002
Misc.Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant(s) S.P. Singh xadax

Respondent(s) N.R. Roy Toms

Advocate for Applicant(s) B.K. Sharma, P.K. Tiwari
U.K. Grover

Advocate for Respondent(s) Cafe

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
This is application in form C. F. for Rs. 50/- deposited vide IP No 79547856	<u>27.3.02</u>	Adjourned on the prayer of learned counsel for the applicant. List on 1.4.2002 for admission.
Dated B.C. 3.2002 <i>Dy. Registrar</i>		<i>U.C. Sharma</i> Member

Vice-Chairman

9.4.2002

Copy of the order
has been sent to the
Office for issuing the
summons to the L/Advocates
for the parties.

ff

for 3/4/2002

26/4/2002

*Mr. S. Sharma learned counsel for the
applicant states that the applicant is
interested to pursue the application in
view of certain developments. Mr. B.C. Pathak
learned Addl. C.G.S.C. has no objection.
Application is dismissed on withdrawal.
Liberty is given to the applicant to file
a fresh application if he aggrieved.*

I.C. Sharma
Member

lm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Title of the Case : O.A. No. 104 of 2002

S.P. Singh Yadav ... Applicant

- Versus -

N.R. Roy & Ors. ... Respondents

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For use in Tribunal's Office :

Date of filing :

Registration No.

REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. 104 of 2002

BETWEEN

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

... Applicant

AND

1. N.R. Roy, Special Inspector General
of Police (Operations) Criminal
Investigation Department, West
Bengal, Bhawani Bhawan, Kolkata-700
027.
2. Dr. U.N. Biswas, Addl. Director,
Central Bureau of Investigation
(Retired), C/O Joint Director, CBI
(East Zone), MSO Building, Nizam
Palace, A.J.C. Bose Road, Kolkata.
3. The Director, Central Bureau of
Investigation, CGO Complex, Lodhi
Road, New Delhi.
4. The Union of India through the
Secretary to the Government of
India, Ministry of Personnel &
Training, New Delhi.

... Respondents

DETAILS OF APPLICATION

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

The present application is directed against the
following :

- (i) Adverse remarks in the ACR of the Applicant for
the year 1998 communicated vide Memorandum No.
511/CON/1/94(PT)/98-GHY dated 29.9.99.
- (ii) Rejection of the representation of the Applicant
against the adverse remarks and finalisation of

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Filed by:
The Applicat
through
Regional Govt
Ass'tt
26/10/2002

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the same as communicated by the letter dated 4.3.2002 of the Superintendent of Police, CBI, Anti-Corruption Branch, Guwahati.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The applicant further declares that he had filed the representation dated 29.10.99 against the adverse remarks in his ACR for the year 1998 as communicated vide Memorandum dated 29.9.99. The finalisation of the ACR for the year 1998 was communicated to the Applicant vide letter dated 4.3.2002. The present application is therefore within the statutory period of limitation as provided under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant in the present case is aggrieved by the adverse remarks in his ACR for the year 1998. The adverse remarks were communicated to him vide Memorandum dated 29.9.99. The Applicant submitted the representation dated 29.10.99. The finalisation of the remarks was communicated to the Applicant vide letter dated 4.3.2002 of the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati. The aforesaid letter

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enclosed the letter dated 21.1.2002 of the then DIG, CBI, North East Zone, Guwahati (Reviewing Authority) (Respondent No.1) and the letter dated 28.2.2002 of the then Addl. Director, CBI, East Zone, Kolkata (Accepting Authority) (Respondent No. 2). The letter dated 4.3.2002 enclosing the aforesaid two different letters dated 21.2.2002 and 28.2.2002 of Respondents No.1 and 2 respectively implies the rejection of the representation of the Applicant dated 29.10.99 and finalisation of the adverse remarks in his ACR for the year 1998. The case of the Applicant in the present application is that the adverse remarks made in his ACR for the year 1998 are baseless and the same have been made in malafide exercise of power. These adverse remarks have been made in contravention of the instructions which are required to be followed by the Reviewing and the Accepting Authorities in preparing the Annual Confidential Report of a subordinate official. It is noteworthy that the Reporting Authority had given appreciated and positive remarks for the Applicant in his ACR for the year 1998. However, the Reviewing Authority (Respondent No.1) without disclosing any reason disagreed with the positive remarks of the Reporting Authority and gave adverse remarks to the Applicant. While doing so, the Reviewing Authority (Respondent No.1) acted contrary to the instructions it is required to follow in making confidential remarks about its subordinate. The Accepting Authority acting in total non-application of mind accepted the remarks of the Reviewing Authority resulting in finalisation of the Applicant's ACR for

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the year 1998. It is pertinent to mention that the competent authority while finalising the adverse remarks in the ACR of the Applicant have not dealt with the reasons for dismissing the representation of the Applicant. In fact, there is no whisper about the representation of the Applicant in the letter dated 4.3.2002 which contains two different enclosures in the form of letters dated 21.1.2002 and 28.2.2002 of Respondents No.1 and 2 respectively. From the communication dated 4.3.2002, only an inference can be drawn that the representation of the Applicant dated 29.10.99 has been rejected by the Respondents. Since finalisation of the adverse remarks in the ACR of the Applicant for the year 1998 is in violation of the established principles of preparation of Annual Confidential Report, therefore, the present application is being filed for expunction of the adverse remarks made therein.

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

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4.3 That the performance of Applicant in CBI has been exemplary. In course of his service in CBI, the Applicant earned seventeen rewards and eight commendation certificates for his excellent investigation in various cases. Applicant also handled certain highly sensitive cases like a case relating to fraudulent withdrawal of advance T.A. against the Judges of the Hon'ble Gauhati High Court as well as the establishment staff of the Gauhati High Court from Kamrup Treasury. The amount was to the tune of more than Rs. 38 lacs. In this case also, the Applicant was given commendation certificate as well as cash reward for his effective investigation.

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

4.4 That during September 1998, the Respondent No. 1 was the Deputy Inspector General of Police, CBI, North East Zone and in the said capacity he was a Reviewing Authority of the Applicant. The Respondent No.1 met the Applicant for the first time on 8.9.98 when he visited the office of the SP, CBI. That day there was a meeting in the office to review the investigation of the cases. The Applicant was one amongst other investigating officers and Public Prosecutors present on that day. In the meeting, the Respondent No. 1 had an interaction with the Applicant and he questioned him as to why the Applicant had given closure report in RC-27(A)/96-SHG. When the Applicant started explaining to Respondent No.1, the latter began

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putting hypothetical question to the Applicant which had no logical answers. The Respondent No.1 also humiliated the Applicant before all the officers which he was not supposed to do. During post lunch session, the Applicant apprised the Respondent No.1 that the closure recommendation of the RC-27(A)/96-SHG was given unanimously by the Branch SP, Senior Public Prosecutor and Deputy Legal Adviser since there was no evidence and also that there were inherent defects in the FIR itself. However, the Respondent No.1 remained adamant and he abused the Applicant in high pitch voice. The Applicant felt insulted and humiliated and submitted a letter on the spot requesting the SP, CBI, Guwahati to repatriate him to his parent department in the State of Utter Pradesh.

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Letter of the Applicant dated 11.9.98 to SP, CBI
is annexed as ANNEXURE-A/2.

4.5 That Shri B.N. Mishra, the then SP, CBI, Guwahati (Reporting Authority) under pressure from the Respondent No.1 forwarded the request of the Applicant for repatriation vide his letter dated 11.9.98. However, it is noteworthy that Shri B.N. Mishra, the then SP, CBI, Guwahati in his forwarding letter dated 11.9.98 neither passed any adverse remark against the Applicant nor referred to the incident occurred in the crime meeting involving the Applicant and the Respondent No.1.

11/11/2008

Letter of SP, CBI, Guwahati dated 11.9.98 to DIG, CBI, North East, Guwahati, forwarding of the Applicant for repatriation to his parent department, is annexed as ANNEXURE-A/3.

4.6 That the Respondent No.1 on receiving the letter of SP, CBI, Guwahati dated 11.9.98, immediately on the same very day i.e. 11.9.98 recommended the repatriation of the Applicant to Joint Director, East Zone, CBI, Kolkata and while doing so, he made an adverse remark against the Applicant that "Shri Yadav who was a deputationist from UP Police completed his deputation period and further it is found that his conduct is unbecoming of a CBI officer". It is stated that such a comment of the Respondent No.1 while recommending the repatriation of the Applicant to his parent department was uncalled for and unwarranted inasmuch as it was the Applicant who had taken initiative for his repatriation to the State of UP because he felt insulted by the behaviour of the Respondent No.1. When it was the Applicant who made a request for his repatriation and the SP, CBI had forwarded the letter of the Applicant for such repatriation, the Respondent No.1 had no business to make an adverse comment while recommending the repatriation of the Applicant to the Joint Director, East Zone, CBI, Kolkata. This shows the animus of the Respondent No.1 towards the Applicant.

Letter dated 11.9.98 of the Respondent No.1 recommending the repatriation of the Applicant to his parent department is annexed as ANNEXURE-A/4.

4.7. That the aforesaid incident makes it apparent that the Respondent No.1 was biased and prejudiced against the Applicant and he intended to victimise the Applicant. Since the Respondent No.1 bore a grudge against the Applicant, he was not expected to behave impartially in a free and fair manner while assessing the performance of the Applicant as an Inspector in CBI.

4.8. That the unfortunate behaviour of the Respondent No. 1 and his uncalled for observations against the Applicant while recommending latter's repatriation resulted in Applicant changing his mind of going back to his parent department. The Applicant instead decided to remain in Central Bureau of Investigation and to leave it only with clean image. Since from the beginning, the Applicant's performance in CBI was exemplary, therefore, it was difficult for him to go out of CBI with unjust and uncalled for observation of Respondent No.1. Hence the Applicant changed his mind and wrote a letter dated 30.10.98 to the Joint Director (Administration), CBI withdrawing his request for repatriation and stating that he was willing to continue in CBI.

4.9. That the request of the Applicant for his continuation in CBI and his withdrawal of his earlier letter dated 28.9.98 was turned down by the competent authority vide order dated 3.11.98 pursuant to which, the Applicant was directed to be repatriated to his parent department. The order dated 3.11.98 was followed

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by message dated 16.11.98 and the Applicant was directed to be repatriated forthwith.

4.10 That it was under these circumstances that the Applicant filed O.A. No. 338/99 before the Guwahati Bench of this Hon'ble Tribunal assailing the legality of the order of repatriation.

4.11 That meanwhile vide memorandum No. 511/1/94 (Pt)98-GHY dated 29.9.99, the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati communicated to the Applicant the following observations in his ACR for the year 1998 :

- (i) He has good very presentation of cases and expression.
- (ii) Very good knowledge of law and procedure.
- (iii) Very good in zeal and industry.
- (iv) Intelligent and can grasp a point correctly with reasonable skill.
- (v) Very good initiative.
- (vi) Very good investigative ability.
- (vii) Very good ability to collect intelligence/information.
- (viii) Punctual in attendance.
- (ix) Very good traits/special abilities.

However, apart from these very good and positive remarks, the following also appeared in his ACR as communicated vide memorandum dated September 29, 1999 :

- (i) He has a tendency to finalise cases without collecting clinching evidence.

(ii) He is an indisciplined officer and exhibits insubordination occasionally.

Pursuant to the memorandum dated 29.9.99, the Applicant was informed that if he wishes to make representation, he can do so within one month from the date of receipt of the communication.

Copy of the memorandum dated 29.9.99 is annexed as

ANNEXURE-A/5.

4.12 That since the Applicant's joining in CBI in the year 1993, this was the first occasion, when an adverse remark was communicated to the Applicant. Not only that the adverse remarks communicated were inconsistent with the very good and positive remarks made about the Applicant, but the same were also lacking in material particulars and were sweeping and general. It is noteworthy that the positive remarks made in the ACR of the Applicant for the years 1998 were that of Reporting Authority whereas the adverse remarks made therein were that of Respondent No.1 - the then Deputy Inspector General of Police, CBI, North East Zone, Guwahati (the Reviewing Authority).

4.13 That the Applicant submitted the representation dated 29.10.99 against the adverse remarks made in his ACR for the year 1998. The representation of the Applicant was elaborate and the Applicant therein dealt with the sequence of events which according to him culminated in Respondent No.1 making such an adverse remarks against the Applicant in malafide exercise of power.

Copy of the representation dated 29.10.99 is annexed as ANNEXURE-A/6.

4.14 That the Respondents sat over the representation of the Applicant dated 29.10.99 and did not finalise the ACR of the Applicant for the year 1998. Meanwhile the O.A. No. 338/99 was heard by this Hon'ble Tribunal during May 2001 and vide order dated 9.5.2001, the Hon'ble Tribunal dismissed the O.A. No. 338/99 on the ground that the deputationist does not have a right to continue on deputation if the borrowing department wants to repatriation on completion of his tenure.

4.15 That against the order of the Hon'ble Tribunal, the Applicant preferred W.P.(C) No. 3420/2001 before the Division Bench of the Hon'ble Gauhati High Court. The Hon'ble Gauhati High Court vide order dated 5.2.2002 disposed of the the W.P.(C) No. 3420/2001 by giving the following directions to the Respondent Central Bureau of Investigation :

"(i) If the representation of the Petitioner against the adverse remarks for the year 1998 communicated to him on 29.9.99 has so far not been decided by the competent authority, the decision on the same be taken within a month.

(ii) While deciding the representation as aforesaid, the observations made regarding the correctness of the adverse remarks made by the Central Administrative Tribunal should not be taken into consideration and the authority deciding the

representation should form its own opinion and come to independent findings.

(iii) After the decision on the representation is taken as aforesaid, the case of the Petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the subject and entire service record of the Petitioner. The result of the representation and any other relevant considerations including the Petitioner's application dated 8.9.98 or any previous application to the effect that he may be repatriated back to his parent department and withdrawal of that request after 8.9.98 may also be taken into consideration. This maybe done within one month of taking of the decision on the representation of the Petitioner against his adverse remarks.

With the aforesaid directions, the Hon'ble Gauhati High Court disposed of the writ petition with the observations that if the Applicant is adversely affected by any order that maybe passed by the competent authority, he would be at liberty to challenge the same before an appropriate forum.

Copy of the order dated 5.2.2002 passed in W.P.(C) No. 3420/2001 is annexed as ANNEXURE-A/7.

4.16 That in pursuance of the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. The Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati vide letter dated 4.3.2002

communicated the Applicant decision of the competent authority in respect of the adverse comment in his ACR for the year 1998. The aforesaid letter of the Supdt. of Police, CBI dated 4.3.2002 contained two enclosures viz. letter dated 21.1.2002 of the Respondent No.1 who at present is a Special Inspector General of Police (Operation), CID, West Bengal and the comments of the Respondent No.2 dated 28.2.2002.

Copy of the letter dated 4.3.2002 alongwith, two enclosures is annexed as ANNEXURE-A/B colly.

4.17 That the perusal of the enclosures of the letter dated 4.3.2002 reveals that the letter of Shri N.R. Ray (Respondent No.1 is dated 21.1.2002 and the same is the response to the letter of present DIG, CBI, NER dated (eligible)/2000. The aforesaid letter dated 21.1.2002 does not show that the Respondent No.1 took into consideration the representation of the Applicant dated 29.10.99 submitted by him against the adverse remarks communicated to him. Similarly, the next enclosure, which is the letter of the Respondent No. 2 dated 28.2.2002 does not show that whether or not the Respondent No. 2 applied his mind to the representation of the Applicant dated 29.10.99 against the adverse remarks. Apparently, both the letters of the Respondents No.1 and 2 dated 21.1.2002 and 28.2.2002 demonstrate total non-application of mind. These two letters also show that both the Respondents acted with prejudice and they had a close mind in regard to adverse remarks made in the ACR of the Applicant for the year 1998.

4.18 That the Applicant in his representation dated 29.10.99 dealt elaborately with the circumstances surrounding the making of adverse remarks in his ACR for the year 1998. From the facts stated by the Applicant in his representation, it was clear that the Respondent No.1 in his capacity as Reviewing Authority acted with malice while making adverse remarks. Similarly, the Accepting Authority instead of addressing itself to the issues raised by the Applicant in his representation mechanically acted in the matter and simply affirmed/accepted the adverse comments of the Reviewing Authority in the ACR of the Applicant for the year 1998.

4.19 That the REviewing Authority (Respondent No.1) can only be justified in making adverse observation only when it has sufficient occasions and opportunities to assess the performance of the Applicant. It is stated that the Respondent No.1 in his capacity of Reviewing Authority did not have sufficient opportunity to assess the performance of the Applicant. The Respondent No.1 took over the additional charge of DIG, CBI, NER, Guwahati on 8.3.98 and since then during his brief period of incumbency upto March 1999, he visited Guwahati on three/four occasions as would be seen from his tour diary :

8.3.98 - Taken over additional charge of DIG, CBI, NER, Guwahati.

9.3.98 - Attended office of the DIG, CBI, NER, Guwahati.

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10.3.98 - do-

11.3.98 - Left for Calcutta by IC 330

27.3.98 - Arrived at Guwahati

28.3.98 - Attended office of the DIG, CBI, NER, Guwahati.

29.3.98 - Departure to Calcutta.

7.9.98 - Arrival at Guwahati

8.9.98 - Attended Crime Meeting at the office of the SP, CBI, Guwahati.

9.9.98 - Departure to Itanagar.

11.9.98 - Arrival at Guwahati.

12.9.98 - Departure to Calcutta

3.12.98 - Came to Guwahati in connection with the suicide of Sub-Inspector in CBI one Sandeep Goyal.

5.12.98 - Departure to Calcutta.

From the ~~totu~~ diary as shown above, it is evident that the Respondent No.1 (the Reviewing Authority) had no occasion to assess the performance of the Applicant, his nature, character and behaviour as there was no appropriate interaction between the Respondent No.1 and the Applicant. In this connection, it is noteworthy that since September 1993 when the Applicant joined the CBI on deputation, none of his superior officers orally or in writing pointed out anything like the adverse remarks of Respondent No.1. The Respondent No.1 was the first senior officer who made such an observation against the Applicant and that also when he had no occasion of adequately interacting with the Applicant as he stayed in Guwahati for a very brief period.

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4.20 That it is stated that the adverse remarks made by the Respondent No.1 are perverse being based on no evidence at all. The Applicants was never warned in the past. He was never advised in the past. The shortcomings that have been indicated in the form of adverse remarks were never pointed out to the Applicant at any point of time in the past. The sweeping observation made by the Respondent No.1 in his letter dated 11.9.98 while recommending the case of the Applicant for repatriation, by no stretch of imagination can be treated to be an advice in regard to any shortcoming in the Applicant. The aforesaid remark was absolutely vague and sweeping. Similarly, the adverse remark which was communicated to the Applicant vide memorandum dated 29.9.99 was equally sweeping, vague and general.

4.21 That there were two different adverse remarks which were communicated to the Applicant vide memorandum dated 29.9.99 :

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

The Applicant now would deal with the aforesaid two adverse remarks in the light of his own performance in CBI.

ADVERSE REMARK NO. 1 - "Tendency to finalise cases without collecting clinching evidence"

4.22 That during first six years of his service in CBI, (1993-1998) the Applicant investigated and filed charge sheet in seven cases i.e. RC-27(A)/93-SHG, RC-15(A)/93-SHG, RC-16(A)/93-SHG, RC-5(A)/94-SHG, RC-32(A)/94-SHG, RC-3(A)/96-SHG and RC-5(A)/96-SHG in the Court of the Special Judge, Assam, Guwahati. In all the cases, charges are framed against the suspect/accused person and in no case, the Hon'ble Court has passed any discharge or acquittal orders to buttress the malicious and perverse adverse remarks made by the Respondent No.1 in Applicant's ACR for the year 1998.

4.23 That it is a well understood practice in CBI and the same has also been clearly delineated in CBI Crime Manual that it is not the Investigation Officer alone (the Applicant was Investigation Officer at the relevant point of time) who could finalise the case on his own and it is a collective responsibility of all the CBI officers i.e. SP, Public Prosecutor, Deputy Legal Adviser, DIG, Joint Director, Asstt. Legal Adviser, Legal Adviser and Director, CBI etc. depending upon the competence level of the case from the SIR/Complaint level to its verification, registration of FIR, investigation, finalisation of the case for filing charge sheet in the Law court etc. In this connection, the Applicant craves leave of this Hon'ble Court to refer to para 15/185, 25/82, 23/80, 22/79, 11/68, 24/184 of the CBI Crime Manual at the time of hearing of this case. All the aforesaid paragraphs clearly show that finalisation of the case is a

collective responsibility of the various senior officers and the Investigating Officer cannot be made scapegoat. The Applicant also craves leave of this Hon'ble Tribunal to refer to the relevant paragraph in connection with the same in his representation dated 29.10.99 which is submitted against the adverse remarks.

ADVERSE REMARK NO. 2 - He is an indisciplined officer, and exhibits insubordination occasionally.

4.24 That it is stated that never in the past there was an incident suggesting that the Applicant is an indisciplined officer. It was never pointed out to the Applicant by any senior officer prior to making of such a remark by the Respondent No.1. Prior to the aforesaid adverse remark, the service career of the Applicant was unblemished. Applicant's service profile in UP police running into sixteen years and in CBI spanning six years is without any blemish and at no occasion any adverse remark was ever made against the Applicant. In any case, the Respondent No.1 hardly had any occasion to assess the Applicant and to know about his nature, behaviour and attitude. There was no basis for the Respondent No.1 to make such a remark against the Applicant. The remark of such nature ought to have been supported by some material. Reviewing Authority while making such a remark ought to have pointed out that in the past these shortcomings in the personality of the Applicant were pointed out to him. Unfortunately, the Reviewing Authority (Respondent No.1) remained totally silent about these aspects and only made a sweeping

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remark to the effect that the Applicant is an indisciplined officer.

4.25 That it is noteworthy that the Reporting Authority made highly appreciative and positive remarks against the Applicant for the year 1998. The Reporting Authority had an occasion to know the Applicant well. It had sufficient opportunity to assess the performance of the Applicant and as such, adequate weight ought to have been given to the remark of the Reporting Authority. Unfortunately, the Reviewing Authority allowed his personal prejudice to cloud his mind and deviated from the highly appreciative and positive remarks of the Reporting Authority which were made about the Applicant. While making such a deviation, the Reviewing Authority did not refer to any incident to buttress his adverse remarks. The remark made by the Respondent No.1 was sweeping, general and vague and was silent on material particulars.

In this connection, reference is made to the various clauses in the form for confidential report. Reference is specially made to the Part-IV of the form. Clause 17 of the Part-IV contains a heading - "Length of Service under the Reviewing Officer". It would be curious to note as to what was written by the Reviewing Officer under this heading in regard to the Applicant inasmuch as the Respondent No.1 in his capacity as Reviewing Officer hardly remained in Guwahati during his brief tenure as DIG, CBI, NER.

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Reference is also made to clause 18 of Part-IV of the form which contains a heading - "Do you agree with the remarks of the Reporting Officer ? If not, indicate briefly the reason for disagreeing with Reporting Officer and the extent of disagreement against the respective column. (Explanation) : Officers are expected to clearly mention whether or not they agree with the remarks of the Reporting Officer against various items. Their own personal/general remarks also be added here." Similarly, clause 19 contains a heading "Overall assessment of performance and qualities" and clause 20 deals with "Comments on the gradings of the Reporting Officer".

All the aforesaid clauses are in Part-IV of the form which is required to be filled up by the Reviewing Officer. From the perusal of the various columns in Part-IV of the form, it is clear that the Reviewing Officer is required to act objectively while assessing the remarks of Reporting Officer made about the officer reported upon. In the present case, from the nature of remark made by the Respondent No.1 in his capacity as Reviewing authority it is clear that the Respondent No.1 did not act objectively and instead he acted maliciously with a prejudice mind to malign and tarnish the service career of the Applicant.

Sample copy of the form for confidential report pertaining the required instructions is annexed as ANNEXURE-A/9.

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4.26 That in the present case, the Reporting Officer acted fairly and made an objective assessment of the Applicant in writing the confidential report. Unfortunately, it was the Reviewing and the Accepting Authority which failed to act objectively and dispassionately. The facts and circumstances of the case clearly show that the Reviewing Authority had its own personal agenda to settle score with the Applicant and primarily for the purpose of maligning and tarnishing the service career of the Applicant, the Reviewing Authority deviated from the remarks of the Reporting Authority. Moreover, the Reviewing Authority was clearly prejudiced against the Applicant and as a result, it failed to be objective in its assessment of the Applicant. This coupled with the fact that the Reviewing Authority had no adequate opportunity of knowing the Applicant and of assessing his performance it clearly erred in hastily making an adverse remark against the Applicant.

4.27 That the factum of Reviewing Authority acting with bias against the Applicant is borne out from its previous behaviour of making an observation against the Applicant in its letter dated 11.9.98 pursuant to which the letter of the Applicant of even date was forwarded wherein the Applicant had requested for his repatriation. The Reviewing Authority, therefore, acted with bias and malice in making adverse remarks against the Applicant. Apparently, the adverse remarks made by the Reviewing Authority was without any basis and the Reviewing Authority was without any basis and

consequently, the same were sweeping, general and vague.

4.28 That it was incumbent upon the Accepting Authority to apply its mind to the representation submitted by the Applicant against the adverse remarks. There is nothing to suggest that the representation of the Applicant dated 29.10.99 which was submitted against the adverse remarks communicated to him vide memorandum dated 29.9.99, was taken into consideration at all while accepting the adverse remarks made by the Reviewing Authority. It was incumbent upon the competent authority to address itself to the issues raised by the Applicant in his representation against the adverse remarks.

4.29 That the bias and malice of the Respondent No.1 and 2 is also seen in the fact that both these two Respondents sat over the matter for a very long time. Though the representation of the Applicant on 29.10.99, but the same was never disposed of. It was only after the order of the Hon'ble Gauhati High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001 that the letter dated 4.3.2002 was communicated by the Supdt. of Police, CBI enclosing the letters dated 28.2.2002 and 21.1.2002 of Respondent No. 2 and 1 respectively. It is, therefore, seen that both the private Respondents moved in the matter only when the order was passed by the Hon'ble Gauhati High Court in W.P.(C) No. 3420/2001.

22

4.30 That in the present case, both the Respondents No.1 and 2 did not have the competence of taking a final decision on the adverse remarks in the ACR of the Applicant for the year 1998 inasmuch as the Respondent No.1 is no longer in CBI and at present is working as Special Inspector General of Police (Operations), Criminal Investigation Department, West Bengal. The letter dated 21.1.2002 was written by the Respondent No.1 in the aforesaid capacity. Hence, the Respondent No.1 was not the competent authority to act as the Reviewing Authority of the Applicant while finalising the Annual Confidential Report of the Applicant for the year 1998. Similarly, the Respondent No. 2 also does not have the competence to act as the Accepting Authority as he has been superannuated. The Respondent No.2 sent his final comments on 28.2.2002 i.e. after his superannuation.

4.31 That pursuant to the order of the Hon'ble High Court, now that the Respondents have finalised the adverse remarks in the Applicant's ACR for the year 1998, they are going to take a final decision on the matter pertaining to absorption of the Applicant in the CBI. While considering the case of the Applicant for his absorption in CBI, the Respondents would certainly consider the adverse remarks in the ACR of the Applicant for the year 1998. The Applicant has shown as to how the adverse remarks in his ACR for the year 1998 are not sustainable in law. Therefore, the present case is a fit case wherein this Hon'ble Tribunal during the pendency of the present application may be pleased to

direct the Respondents not to take a final decision on the matter pertaining to absorption of the Applicant in the CBI.

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

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 Because the adverse remarks are sweeping, vague and general. These remarks are perverse in the sense that there is no material to support these remarks.

5.2 Because the Reviewing Authority (Respondent No.1) made the adverse remarks out of malice with the intention to humiliate and harass the Applicant. The remarks were made with the prejudiced mind and as such, the same have no legal sanctity.

5.3 Because the Reviewing Authority made the adverse remarks acting contrary to the remarks given by the Reporting Authority. While deviating from the remarks given by the Reporting Authority, the Reviewing Authority did not give reasons justifying making of adverse remarks. Moreover, the remarks were made in contravention of the instructions contained in the Annexure-A/9 form.

5.4 Because the Reviewing Authority had no occasion to assess the performance of the Applicant as it did not spend time in Guwahati. The Reviewing Authority came to Guwahati for a very brief period and barring 1/2 occasions, it did not even meet the Applicant. The

Reviewing Authority having no occasion of assessing the performance, nature and character of the Applicant for the required stipulated period, it had no competence to act as Reviewing Authority of the Applicant.

5.5 Because the Accepting Authority (Respondent No.2) acted with total non-application of mind and mechanically affirmed the adverse remarks of the Reviewing Authority.

5.6 Because in the communication dated 4.3.2002 intimating the Applicant about the finalisation of adverse remarks in his ACR for the year 1998 and the two different letters dated 28.2.2002 and 21.1.2002 enclosed therein, there is no whisper to even suggest that the competent authority took into consideration the representation of the Applicant dated 29.10.99 which was submitted against the adverse remarks. It was incumbent upon the competent authority to examine the representation of the Applicant and only thereafter the decision could have been taken on the finality or otherwise of the adverse remarks in the ACR of the Applicant for the year 1998.

5.7 Because the finalisation of the adverse remarks in the ACR of the Applicant for the year 1998 is contrary to the order of the Hon'ble Gauhati High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. In the aforesaid order, Hon'ble Gauhati High Court directed the Respondents to take an appropriate decision on the representation of the Applicant against the adverse remarks which was then pending before the Respondents.

M.W.

However, the Respondents have not considered the representation of the Applicant at all and they have finalised the adverse remarks in his ACR for the year 1998.

5.8 Because the adverse remarks in the ACR of the Applicant have been made in violation of the established principles of law which are required to be followed by the Reviewing and the Accepting Authorities.

6. DETAILS OF REMEDIES EXHAUSTED :

That in the present case, no other adequate alternative remedy is available to the Applicant under law.

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

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

8. RELIEFS SOUGHT FOR :

- 8.1 Expunge the adverse remarks in the ACR of the Applicant for the year 1998.
- 8.2 Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case for securing the ends of justice.
- 8.3 Award cost of this case to the Applicant.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, be further pleased to direct the Respondents to desist from taking a final decision in the matter pertaining to absorption of the Applicant in CBI.

10.

The Application is filed through Advocate.

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

- (i) I.P.O. No. : 76 54 7856
- (ii) Date : 13-3-2002
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 48 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4'1, 4'2, 4'3, to 4'10, 4'12, 4'14 to 4'16, 4'19 & 4'24, 4'26 to 4'30 4'51 to 5'8 are true to my knowledge ; those made in paragraphs 4'3, 4'4 to 4'6, 4'11, 4'13, 4'17, 4'18 & 4'25 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 26th day of March 2002 at Guwahati.

Suresh Pal Singh Yadav

OFFICE ORDER NO. 116 / DATED: 23/6/99.

Joint Director(EZ)CBI/Calcutta vide his order dtd. 04/06/99 is pleased to sanctioned a cash reward to the following Executive staff of CBI/ACB/Guwahati for they have taken keen interest for all round development of the branch smooth functioning as well as shown interest investigation searches,surprise checks etc. as detailed below:-

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

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

5000/-

(Rupees five thousand)only

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

Superintendent of Police,
CBI/ACB/Guwahati.

Memo No. E/24/98/ER/68 Dated: 23/6/99.

Copy to :-

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

Superintendent of Police,
CBI/ACB/Guwahati

Attested
W.M.
Associate

- 30 -

Office order No. 3

Dated : 19/9/96

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

Sl. No.	Name & Designation	Amount Sanctioned	Commendation Certificate
---------	--------------------	-------------------	--------------------------

1. Shri S.P. Singh Yadav, Insp. ----- C. C.

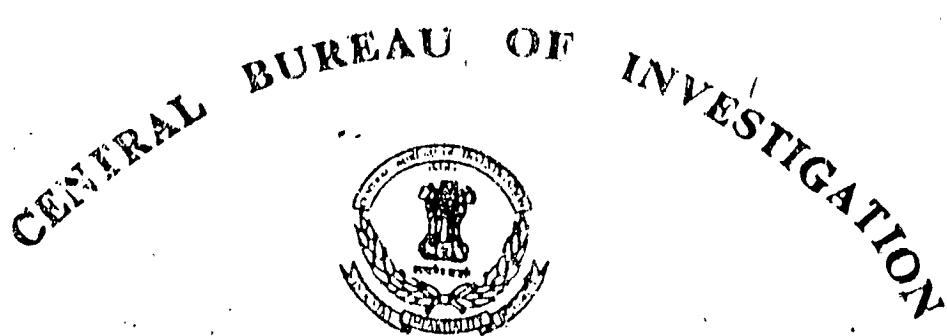
Superintendent of Police,
CBI, ACB, Guwahati.

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

Dated : 22-1-96

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

Refer 22/9/96
Superintendent of Police,
CBI, ACB, Guwahati.



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

Granted to Shri/S. R. SINGH XADAV, INSPR. IS HIGHLY COMMENDED,
FOR HIS GOOD WORK DONE IN CASE NO/RC.34(A)/96-BHG/
for.....

DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guahati

22/11/99

OFFICE ORDER NO. 117

Dated: 25/6 June '90

Complaint is hereby accorded for the grant of reward and C.C. to the following officer of CBI/ACB/Quonhati for his Good work done in Case No. RC.S(1)/98-89/0 as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Shri H.P. Singh, Inspt.	Rs. 600/- + C.O.
		/
		Rs. 600/-

(Rupees Six hundred) only

It is certified that the amount prescribed in M.G.O. Letter No. 29/6/83-IV, LIX dated 1/8/90 has not been exceeded in this regard.

(B.N. Mishra)
Superintendent of Police,
C.B.I./A.C.B./Quonhati.

Memo No. II/24/ 462-09

Dated: 25/6 June '90.

Copy to :-

1. S.B. Clerk alongwith Commendation Certificate for necessary entry in the Service Book.

2. M/s M/A Section in duplicate for m/a.

3. Person concerned.

(B.N. Mishra)
Superintendent of Police,
C.B.I./A.C.B./Quonhati.

01/-

000000

36
10-57
CENTRAL BUREAU OF INVESTIGATION



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

Granted to Smt. SURESH PAL SINGH YADAW, INSPECTOR
AS HIGHLY COMMENDED FOR HIS GOOD WORK DONE IN CASE NO/
for...../RCCS(N)/98-BHD/

DATED :
GUWAHATI.

SUPERINTENDENT OF POLICE
CBI/ACB/Guahati

OFFICE ORDER NO. 31

Dated 11/11/98

Section 18 is hereby exercised for the grant of cash reward and C.C. to the following officer for his good work done in Case No. RAJAS(A)/92-2000 as detailed below:-

Sl.No. Name & Designation	Amount rewarded.
1. S. N. P. Singh, I.A.S.	Rs. 1000/- + C.C. Rs. 1000/- + C.C.

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. Letter No. 28/4/81-AD.III dated 1/8/90 has not been exceeded in this regard.

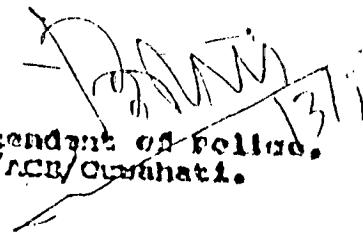
(B.H. MEENA)

Superintendent of Police,
CBI/ACB/Ornathali.

Mem. No. R/24/
Date No:- 28/3/98

Date:- 11/11/98.

- 1) A/C Section is duplicate for m/s.
- 2) S.H.O. Clerk alongwith the Commendation Certificate for necessary entry in the Service book.
- 3) Person rewarded.


Superintendent of Police,
CBI/ACB/Ornathali.

01/-

-000

CENTRAL BUREAU OF INVESTIGATION



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

Granted to Shri [S.P. Singh, IAS, 1980, 10 months/
recommended for his good work done in AC. 1615/SD-202]

for.....

DATED :
GUJARATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

01/01/2018 11:11:00

OFFICE ORDER NO. /

Date/- 11/10/97.

Direction is hereby accorded for the grant of cash reward and G.O. to the following officers for finalising the following cases targeted for 1997 in P.W.D. 11/97 & P.W.D. 5/96, P.W.D. 97 and P.W.D. 8/97 respectively as detailed below:-

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

(Rupees eight hundred only)

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD.XII dtd. 1/8/80 has not been exceeded in this regard.

(A) (2) M
Superintendent of Police,
CIV/CR/Div/Counter.

Memorandum No. 24/82/3-1/C

Copy to:- Date - 12/10/97.

1. B.O. Slip alongwith Commendation Certificate for necessary entry in the Service Book.
2. The A.O. Section in duplicate for n/o.
3. Person concerned.

(A) (2) M
Superintendent of Police,
CIV/CR/Div/Counter.

Ely

CENTRAL BUREAU OF INVESTIGATION



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

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

DATED :
GUWAHATI

(N/29/97)
SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

1/10/97

40

OFFICE ORDER NO. 195

DATED: 21/10/97

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

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. N. R. Das, Insp.	1500.00
2.	Sh. S. P. Singh, IAS, Insp.	1500.00
3.	Sh. R. P. Deka, Insp.	1500.00
	Total:-	4500.00

(Rupees Four thousand five hundred only)

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

Memo No. E/24/ 7/10/97

Copy to:-

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

Superintendent of Police,
CBI/ACB/Guwahati.

DATED: 21/10/97

EL.

1000/-

Superintendent of Police,
CBI/ACB/Guwahati.

OFFICE ORDER NO. 68

Dated: 13/3/97

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

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

(Rupees Four thousand eight hundred only)

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

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. E/24/ 1628229

Dated: 13/3/97

Copy to:-

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

(M) *16/3/97*
Supdt. of Police, CBI/ACB,
Guwahati.

100000

OFFICE ORDER NO. 15

Dated: 7/2/97

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

Sl. No.	Name & Designation	Amount rewarded
1.	Sh. P. Singh, Synday, Inspr.	Rs. 1500/-
2.	Sh. F. Limbec, I.C.	Rs. 300/-
3.	Sh. B. Lyngdoh, Commr.	Rs. 200/-
		Rs. 1000/-

(Rupees One thousand) only

It is certified that the amount prescribed in H.O. letter No.29/4/81-AU.III dated 2/8/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. E/24/932-33

Dated: 10/2/97

Copy to:-

1. A/C Section Anuplalita for n/a.

2. DPO Sonowal


7/2

Supdt. of Police, CBI/ACB,
Guwahati.

10/10/97

OFFICE ORDER NO. 215

Dated: 7/11/96

GOVERNMENT OF INDIA

Exhibition of the hereby recorded, for the grant of cash reward to the following officials for their good work done in case No. P.B.22(A)/96. S.O. on 12/11/96 was detailed below:-

Sl. No. Name & Designation CERTIFICATE Amount Reward.

1.	Sh. K. Dharman, Insp.	Rs. 200/- + C.C.
2.	Sh. H. D. S. Daga, Insp.	Rs. 200/- + C.C.
3.	Sh. S. L. Gogoi, Const.	For his good work. Rs. 100/- + C.C.

Case No. P.B.22(A)/96. S.O. on 12/11/96. Total = Rs. 500/-

(Rupees five hundred) only

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

Supdt. of Police, Guwahati.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. B/24/ 6969-70

Dated: 8/11/96

Copy to:-

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

Supdt. of Police, CBI/ACB,
Guwahati.

800

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

COMMENDATION CERTIFICATE

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

Supdt. of Police, CBI/ACB
Guwahati.

RECORDED

OFFICE ORDER NO. 211

Dated: 7/11/96

Designation is hereby accorded for the grant of cash reward to the following officials for their good work done in case NO.P.E.23(A)/96-SM on 12/7/96 as detailed below.

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

(rupees five hundred)only

It is certified that the amount prescribed in H.O. letter No. 28/4/81-AD, III dated 1/8/90 has not been exceeded in the case.

Suptt. of Police, C.M.R./A.C.B.,
Guwahati.

Home No. E/24/ 6981-82

Dated: 8/11/96

Copy to:-

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

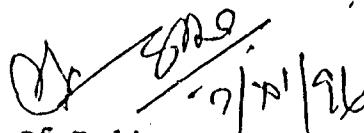

Suptt. of Police, C.M.R./A.C.B.,
Guwahati.

4400

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

COMMENDATION CERTIFICATE

Shri B.P. Singh, Yedav Insp. CBI/ACB/Guahati
is highly commended for his Good Work done in case
No. P.C. 23(A) 96-Sub on 12/7/96.


7/7/96

Supdt. of Police, CBI/ACB
Guahati.

OFFICE ORDER NO. 213

Dated: 7/11/96

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

Sl. No.	Name & Designation	Amount Rewarded
1.	Mr. A. B. Gupta, Inspector	Rs. 200/- + C.C.
2.	Mr. B. S. Singh Yadav, Inspector	Rs. 200/- + C.C.
3.	Mr. A. Dutta, D/Const.	Rs. 100/- + C.C.
4.	Mr. H. H. Chatterjee, Const.	Rs. 100/- + C.C.
		Total: - 700/-

(Rupees Seven hundred) only

It is certified that the amount prescribed in H.O. letter No. 29/4/91-AD, Z.Z.Z dated 1/8/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Omniplate.

Home No. B/24/ 6974-77

Dated: 8/12/96

Copy sent

1. Accounts Section in duplicate for necessary action.
2. Mr. S. N. Bhattacharya with the C.C. for necessary action.
3. Mr. B. Clark along with the C.C. for n/c in the S.B.

Supdt. of Police, CBI/ACB,
Omniplate.

ADDITION

GOVERNMENT OF INDIA,
OFFICE OF THE SUPERINTENDENT OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
A.C.B.I.GUJARATI.

COMMENDATION CERTIFICATE.

SIR, SPT Surya Yachan INSPR, CBI/ACB//
SIR MAHAN IS HIGHLY COMMENDED FOR HIS GOOD WORK
DURING CASE NO. RC. 29(A)/96-MH.

S. 7/10/96
SUPERINTENDENT OF POLICE, CBI, ACB,
GUJARATI.

OFFICE ORDER NO. 164

Dated: 27/8/96

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

Sl. No.	Name & Designation	Amount Rewarded
1. 1.	Shri A. B. Gupta, Inspector	Rs. 500/-
2. 2.	Shri S. P. Singh, Sub-Inspector	Rs. 500/-
	Total:-	Rs. 1000/-

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-AD, XII dated 1/9/90 has not been exceeded in this case.

Supt. of Police, CBI/NCB,
Guwahati.

Memo No. E/20/ 8-555-56/

Dated: 27/8 - 96.

Copy to:-

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

Supt. of Police, CBI/ACB,
Guwahati.

M
C
E

RRR

OFFICE ORDER NO.

132

Dated: 30/7/96

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

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

(Rupees Seven hundred & fifty) only

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

Supdt.of Police,CBI/ACB
Guwahati.

Memo No.E/26/1740-4B

Dated: 30-7-96.

Copy to:-

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

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

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

COMMENDATION CERTIFICATE

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

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

OFFICE ORDER NO. 8

to the D.O.

Dated: - 10.1.96

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

Sl. NO.	Name & Designation	Amount Reward.
1.	Sh. S. P. Singh Yadav, Inspector	Rs. 500.00/-
2.	Sh. B. Roy, S.I.	Rs. 500.00
3.	Sh. A. Mac, S.I.	Rs. 500.00
4.	Sh. B. K. S. I.	Rs. 500.00
Total :-		Rs. 2000.00

(Rupees two thousand) only

It is certified that the amount prescribed in H.O. letter 8/1/90 and 11 dt. 21.9.90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Guahati -

Memo No. E/24/II/ 218-77/

Dated: - 12.11.96

Copy to the :-

1. A/C Section in duplicate for necessary action.

2. Person Concerned.

Superintendent of Police,
CBI/ACB/Guahati ,

688888

Sanction Order No. 157

Dt/ 27/9 1995.

Sanction is hereby accorded for the grant of Cash Reward to the following Official for their Good Work done in connection with the case No. HC. 22(A)/9570/S.7 of P.C. Act. as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh. A. B. Gupta, Insp.	Rs. 250/-
2.	Sh. S. P. Singh, Insp.	Rs. 250/-
3.	Sh. A. Mao, S.I.	Rs. 150/-
4.	Sh. D. Munmon, S.I.	Rs. 150/-
5.	Sh. J. N. Gogoi, HC	Rs. 75/-
6.	Sh. B. B. Chettri, Constable	Rs. 50/-
7.	Sh. M. Bokah, Constable	Rs. 50/-
	Total:-	Rs. 975/-

It is certified that the amount prescribed in Head Office letter No. 29/4/81-AD.1.III dt. 1.8.90 has been paid to the concerned officials.

Superintendent of Police,
CBI (ACB) GAUHATI:-

Memo No. E/241/4069-70,

Dt/ 27-9-95.

Copy to :-

1. Account Section in duplicate for necessary action.
2. Person Concerned.

Superintendent of Police,
CBI (ACB) GAUHATI:-

Office Order No. 23

Date, 24.11.95

(DIO, CBI, SRO, Shillong) vide his order dated 30/12/94 is pleased to sanction Cash reward to the following staff of CBI, ACB, Shillong Branch as he has been entrusted five Cases viz. 27/93, 19/93, 3/94, 32/94, and 7/94. Out of which 2 Cases finalised and both were sent up for trial and remaining Cases are under investigation. He also attended misc. duties such as verification of Secret informations and conducting Raids etc. as detailed below:-

Sl.No.	Name & Designation	Amount rewarded
1.	Dhri. S.P. Singh Yadav, Inspx.	Rs. 750/-
Total		Rs. 750/-

(Rupees Seven hundred fifty) only.

Supdt. of Police, CBI, ACB,
Shillong.

Memo No. E/24/4666.67.01

Date, 30/11/95

Copy to the:-

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

Supdt. of Police, CBI, ACB,
Shillong.

01000000

164

OFFICE ORDER NO: 64Dtd: 23/02/94

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

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

(RUPAKS THREE THOUSAND) ONLY.
It is certified that the amount prescribed in the letter No. 29/4/81-AB, I.I.I dtd. 7/8/90 has not been exceeded in the case.

Superintendent of Police,
CSB/ACB/Shillong.

No: B/26/1147 - 48

Dtd: 23/02/94

Copy to :-

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

Supt. of Police,
CSB/ACB/Shillong.

- 19 -

Annexure-A2

To

THE SUPDT OF POLICE,
CBI/ACB/GUWAHATI

Sir,

I had joined the CBI/ACB/Shillong branch on deputation from U.P. Police for an initial period of three years in September 1993. As the said period is already over in 1996 and I was not relieved despite my earlier representation in this regard. It is therefore requested that I may kindly be relieved at the earliest.

May be forwarded to
DIG

Yours faithfully

Sd/-
10.9.98

Sd/-
8.9.98
Suresh Pal Singh
Inspr/CBI/ACB/GHY

Afterword
Abd
Advocate

ANNEXURE A/3

(164)

S/1
OK

NO. 8/48/97.

GOVT. OF INDIA.

O/O THE SUPERINTENDENT OF POLICE.

CENTRAL BUREAU OF INVESTIGATION.

ANTI CORRUPTION BRANCH.

R.G. BARUAH ROAD, SUNDERPUR,

GUWAHATI - 781005.

Dated: 11/9 Sept '98.

TO

The Dy. Inspr. Genl. of Police,
C.B.I./N.E. Region,
Guwahati.SUB : Repatriation of Sri. S.P. Singh Yadav, Inspr.
CBI/ACB/Guwahati.

SIR,

Kindly find enclosed copy of representation submitted by Sri. S.P. Singh Yadav, Inspr. CBI, ACB, Guwahati for repatriation to his parent deptt.

Sri. Yadav, Inspr. joined this Branch from U.P. Police on deputation M.O. 24.9.93 for a period of 3 years. He is now continuing on extension. The CBI H.O. has moved the DIG (Personnel) U.P. Police (HQ), Allahabad for extension of his deputation upto 23.9.99 vide H.O. letter No. A-20014/1608/93-AD, dt. 31.12.97 for info.

However, as Sri. S.P. Singh Yadav, Inspr. has submitted for his repatriation to his parent deptt, I recommend that he may be repatriated.

Yours faithfully,

Superintendent of Police,
CBI/ACB/Guwahati.

Enclos: As stated.

-0000-

al/

Regd

165

NO. 6501

E/44/97

58
Sult
OK

GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE DY. INSPR. GENL. OF POLICE
GUWAHATI, M.E. REGION/CHENIKUTHI HILL SIDE
GUWAHATI-781 003
Dtd/ 1-11-97

To,

The Lt. Director (EZ)
CB I, Calcutta

Sub:

REPATRIATION OF SHRI S.P. SINGH YADAV,
INSPECTOR, CB I, GUWAHATI BRANCH

Sir,

Kindly find enclosed copy of representation
submitted by Shri S.P. Singh Yadav, Inspector, CB I, Guwahati
branch for repatriation to his parent department.

Shri Yadav who was a deputationist from U.P. Police
completed his deputation period and further it is found that
his conduct is unbecoming of a CB I Officer.

It is, therefore, recommended that Shri S.P. Singh
Yadav may immediately be repatriated to his parent department.

Enclos:- As stated
above.

Yours faithfully

W.D. 30.9.

(N.R.RAY)
DY. INSPECTOR GENERAL OF POLICE
CB I, NER, GUWAHATI

affixed
reby
Abu

Confidential

No. 511 /CON/1/94(Pl)/98-GHY

OFFICE OF THE SUPDT. OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ANTI CORRUPTION BRANCH
GUWAHATI

Dated - Monday, September 27, 1999

MEMORANDUM

Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati may note that following observation have been made in his ACR for the year/period 1998.

1. He has very good presentation of cases and expression.
2. Very good knowledge of Law and Procedure.
3. Very good in Zeal and Industry.
4. Intelligent and can grasp a point correctly with reasonable speed.
5. Very good Initiative.
6. Very good Investigative Ability.
7. Very good ability to collect Intelligence/Information.
8. Punctual in attendance.
9. Very good Traits/Special Abilities.

Following remarks also appeared in his ACR.

1. He has a tendency to finalise cases without collecting clinching evidence.
2. He is an indiscipline officer and exhibits insubordination occasionally.

In case Shri Suresh Pal Singh Yadav, Inspector wishes to make representation he can do so within one month of the receipt of this communication.

(OM PRAKASH)
Superintendent of Police
CBI :: ACB :: Guwahati

Shri Suresh Pal Singh Yadav, Inspector
CBI, Anti Corruption Branch
Guwahati

Attested
Very
Alocato

To

The Director, CBI
CBO Complex
Lodi Road
New Delhi

Through :

The Supdt. of Police,
CBI/ACB/SPE
Guwahati.

Ref : Your Memo No. 511/CON/1/94(Pt)/98-GHY dated
29.9.1999

Sir,

Kindly refer as above whereby I was communicated to make representation, if any, against the observations made in my ACR for the year /period 1998 as reproduced hereunder Ad-verbatim :

1. He has very good presentation of cases and expression.
2. Very good knowledge of law and procedure
3. Very good in zeal and industry
4. Intelligent and can grasp a point correctly with reasonable speed
5. Very good initiative
6. Very good investigative ability
7. Very good ability to collect intelligence/information
8. Punctual in attendance
9. Very good trials/special abilities.

Following remarks also appeared in his ACR

1. He has a tendency to finalize cases without collecting clinching evidence.
2. He is an indisciplined officer and exhibits insubordinate occasionally.

General Submission :

*Afterword
M. Agarwal
Advocate*

1. I have reasons to believe that adverse remarks made in my ACR were not by the Reporting Authority but by the Reviewing Authority. There were certain incidents in the past due to which I have reasons to believe that the Reviewing Authority (the then DIG, NER - Shri NR Roy) bore a grudge against me and despite the grading of "very good" given by the Reporting Authority, he as a Reviewing Authority gave me the grading "good" while making adverse remarks against me which form subject matter of the present representation. In the present representation I will make my submission proceeding on a premise that the adverse remarks were made by the Reviewing Authority and not by the Reporting Authority.
2. It is stated that the then Reviewing Authority - Shri N.R. Roy met me for the first time on 8.9.98 when he visited the office of the SP, CBI. That day there was a meeting in the office to review the investigation of cases. I was one among other investigating officers and PPs present on that day. In the meeting he had an altercation with me and questioned me why have I given closure report in RC-27(A)/96-SHG. When I was explaining him the case, he was putting hypothetical questions to me which have no logical answers. He humiliated me before all the officers which he was not supposed to do. During post lunch session I apprised him that closure recommendation of the RC-27(A)/96-SHG was given unanimously by the Branch SP, Sr. PP and DLA since there was no evidence and also that there were inherent defects in FIR itself as described in paragraphs hereinafter but Sri NR Roy was adamant and abused me in high pitch. I felt insulted and humiliated and submitted a letter on the spot requesting me to repatriate to my parent department. Since I could not relish the humiliation and abusive nature of treatment by Sri NR Roy on 8.9.98 in crime meeting, I was forced to submit representation to the SP/CBI/GHY seeking repatriation to my parent department. Sri BN Mishra, SP/CBI under pressure from NR Roy, DIG/CBI recommended for my repatriation. It is significant to note that Sri BN Mishra, SP/CBI/GHY neither passed any adverse remark nor referred the incident occurred in the crime meeting in his recommendation dated 11.9.98.

Shri NR Roy, DIG/CBI on the very same day i.e. 11.9.98 of receiving the abovesaid letter of SP/CBI dated 11.9.98 while recommending repatriation to JD(EZ) Calcutta made an adverse comment that "Sri Yadav who was a deputationist from U.P. Police completed his deputation period and further it is found that his conduct is unbecoming of a CBI Officer" which is quite uncalled for and appears to have been made with a pre-planned and motivated intention to secure my

repartiation from H.O. by giving a false and misleading picture to superior officer. Shri NR Roy in the aforesaid letter to H.O. with definite malice and motive further misled the H.O. that I completed my deputation period though my deputation period was extended upto 23.9.99 by H.O. as also referred to by the SP/CBI in his aforesaid letter.

Copy of my letter to SP/CBI annexed as Annexure-A.

Copy of SP/CBI/GHY letter to DIG/CBI dated 11.9.98 annexed as Annexure-B

Copy of DIG/CBI Shri NR Roy's letter dated 11.9.98 to JD(EZ), Calcutta annexed as Annexure-C.

3. Uncalled for observation which Shri NR Roy made on my application for repartiation has been assailed by me before the Guwahati Bench of CAT in OA 338/99. In the said OA. I have made a prayer for expunction of those remarks. The said OA has been admitted and the Hon'ble Tribunal has also passed an interim order. It is stated that conduct of Shri NR Roy in making an unwarranted and uncalled for observation in my application for repartiation is an indication of his malice towards me which clouded his mind and severely prejudiced him. Shri Roy acting as reviewing Authority therefore failed to be objective and dispassionate in his approach towards me and as an act of vendetta, he altered the grading of the Reporting Authority and made adverse entries without any basis.

4. It is stated that Reviewing Authority can only be justified in making adverse observations only when it has sufficient occasions and opportunities to assess the performance of the concerned Government officer. It is stated that Shri NR Roy did not have sufficient opportunity to assess my performance. Sri NR Roy, the DIG/CBI/Calcutta took over the additional charge of DIG/CBI/NER/Guwahati on 8th March 1998 and since then during his brief period of incumbency upto March 1999, he visited 3/4 occasions to Guwahati as would be seen from his tour diary:

8th March 1998	— Taken over additional charge of DIG/CBI/NER/Guwahati.
9th March 1998	— Attended office of DIG/CBI/NER/Guwahati.
10th March 1998	— do —
11th March 1998	— Left for Calcutta by IC 330

- 4 -

27th March 1998 - Arrived at Guwahati
28th March 1998 - Attended Office of
DIG/CBI/NER/Guwahati
29th March 1998 - Departure to Calcutta
7th Sept. 1998 - Arrival at Guwahati.
8th Sept. 1998 - Attended Crime Meeting at office
of the SP/CBI/Guwahati.
9th Sept. 1998 - Departure to Itanagar.
11th Sept. 1998 - Arrival at Guwahati.
12th Sept. 1998 - Departure to Calcutta
3rd Dec. 1998 - Came to Guwahati in connection
with the suicide of S.I. Sandeep
Goyal
5th Dec. 1998 - Departure to Calcutta.

It is thus evident that Sri NR Roy the Reviewing Officer has no occasion to assess my performance, character and discipline by interacting me during his incumbency as DIG holding additional charge of his post of DIG/CBI/NER/GHY for a brief period.

5. I joined CBI/ACB/Shillong Branch on deputation from Uttar Pradesh Police in September 1993 and during the period of last six years of service as Inspector, CBI, I was granted 16 rewards and conferred 8 commendation certificates by my superior officer for good work/investigation. During said period none of my superiors, orally or in writing pointed out anything like the said adverse remarks of reviewing officer Shri NR Roy.

Copies of rewards and commendation certificates (CC) annexed as Annexure-D Colly (D1 to D25)

6. It is submitted that the adverse remarks made against me are perverse being based on no evidence at all. I was never warned in the past. I was never advised in the past. The shortcomings that have been indicated in the form of adverse remarks were never pointed out to me at any point of time in the past. The sweeping observation made by Shri NR Roy on my application for repatriation - to the effect that my "conduct is unbecoming of a CBI officer" by no stretch of imagination can be treated to be ad advice in regard to my shortcomings. The said remark was absolutely

- 5 -

vague and sweeping and the present adverse remarks are no better either. It is submitted that if the Reviewing Authority disagrees with the assessment of the Reporting Authority, it must support its assessment with material particulars. The adverse remarks made by the Reviewing Authority are not sustainable in law for the simple reason that they are not supported by any material particular which can substantiate those adverse remarks.

7. The instructions that are contained in the form for confidential report clearly indicates that the Reviewing Authority should undertake the duty of filling out the form with the high sense of responsibility. Instructions state that the confidential report is not meant to be a fault finding process but a developmental one and the Reviewing Officer must make the report with due care and attention. it is submitted that the reviewing Authority while deviation from the assessment made by the reporting Authority failed to exercise due care and caution and made the adverse remarks without any supporting material.

Submissions in regard to adverse remark No. 1 "He has a tendency to finalise cases without collecting clinching evidence"

8. During last six years of my service in CBI, I investigated and filed charge sheet in seven cases i.e. RC-27(A)/93-SHG, RC-15(A)/93-SHG, RC-16(A)/93-SHG, RCS(A)/94-SHG, RC-32(A)/94-SHG, RC-3(A)/96-SHG in the court of Special Judge, Assam, Guwahati. In all the cases charges are framed against the suspect/accused persons and in no case, the Hon'ble Court has passed any discharge or acquittal orders so far to buttress the malicious and perverse adverse remarks made by Reviewing Officer Shri NR Roy, DIG in my ACR for the year/period 1998.

9. It is a well settled fact in CBI in practice and also as has been clearly delineated in CBI crime manual that it is not the I.O. alone who could finalise the case of his own, but it is a collective responsibility of all the CBI officers i.e. SP, PP, DLA, DIG, JD, ALA, LA & Director, CBI etc. depending upon the competency level of the case form the SIR/complaint level, its verification, registration of FIR, investigation, finalisation of the case, for filing charge sheet for law court prosecution/departmental action/closure report.

In this connection, it is worth while to pursue following para of CBI crime Manual:

Para 15/185 Page 56: As soon as the investigation is

complete, the IO will prepare the Final Report (Part-I) in the prescribed form and submit it to the Branch SP who will pass orders in respect of cases involving non-gazetted public servants and non-commissioner officers and seek orders and instructions from the DIG or Head Office as the case may be, in cases of other categories.

Para 25/82, Page 33 : Sr. PP/PP & APP will give final comments on final reports in those cases which are marked to them in the prescribed format Final Report (part-II) Sr. PP/PP/APP while giving comments in FR II also give certificate that "I have carefully gone through the FR-I, I have examined case diaries, Statement of witnesses, material documents, plan of action, details of exhibits etc. thoroughly before giving my comments and opinion."

para 23/80, Page 32 & 33 : (ii) Sr. P.P. will comment on FR-I & FR-II, scrutinize the charge sheets to be filed in Court and prepare draft sanction order.

(ix) In cases which are to be sent up for RDA, Sr. PP will be responsible for the preparation of draft charges, statement or allegations and list of witnesses, list of relied upon documents etc.

Para 22/79, Page 32 : The duties of DLA will include among others :

(i) Giving comments on Final Reports in all case of central units and comments on Final Reports of CBI Branches in cases against group A & B officers (vi) Checking of Sp's report, draft sanction order for prosecution, draft charges, statement of allegations in cases in which comments are given by him on Final Reports according to sub-para I and II above (vii) Scrutiny of results of court trials and RDA's and scrutiny of court diaries in respect of cases of the Branch, (viii) scrutiny of exonerations cases and those of inadequate punishment, mentioned in sub-paras (i) and (ii) above.

Para 11/68, Page 30 : Powers, Duties and Responsibilities of Branch SP

The SP is required to supervise the work of all sections of his office and to control and guide enquiries and investigations.

Para 24/184, Page 55 : Progress Report - The progress made in every case registered after obtaining the orders of the H.O. should be intimated to the Regional Office/DIG office through progress report which should be serially numbered. THE PROGRESS REPORTS ARE REQUIRED

TO BE PREPARED PERSONALLY BY THE SP WITH REFERENCE TO
THE INVESTIGATION DONE DURING THE PERIOD UNDER REVIEW.

The SP must ensure that the PR is a fair index of the Sp's own appreciation of the investigation conducted under his supervision by the I.O.

Para 17/206, Page 60 : MONTHLY PROGRESS REPORT; Regional Branches will submit similar MPR's in regard to cases which has been classified as important. regional Branch cases folios will be prepared by the Link DIG and submitted to DCBI through the JD and ADCBI concerned.

Para 18/207 and 19/208, Page 61 : SP'S REPORT AND ENCLOSURE : SP's report is a very important documents and should be prepared PERSONALLY by the Sp. The concerned departments (Government undertakings) assess the CBI investigation of their cases solely on the basis of the SP's report.

The internal differences of opinion among CBI officers should not find mention in the SP's report which should advance all argument and to justify the final orders passed by the competent authority in the CBI.

The following shall form the enclosures of the Sp's report :

- (i) Draft sanction order which should be prepared carefully by the Sr. PP or PP with the assistance of the I.O. The office copy of the draft sanction order should be signed by the Law Officer who prepared it and the IO.
- (ii) Draft article of charges and statement of imputations which should be prepared and signed by both the officers mentioned above.
- (iii) Lists of witnesses and documents should be prepared by the IO and checked by the Sr. P.P.
- (iv) Statement of the accused in narrative form followed by specific questions and answers.
- (vi) Comments of DLA with the copy of SP's report should be sent to the CVC. If DIG and or other senior officers different from the comments of the DLA, then copies of notes/comments/Para 8 orders of such officers which led to the passing of the final orders should also be sent to the CVC.

FUNCTIONS OF DIG CONTROLLING CBI BRANCHES:

The DIG will function as senior operational executive authority and be responsible generally for the collection of information and supervision of investigation of important cases.

(v) supervision of enquiries and investigation into cases involving Group A & B officers.

(vi) Scrutiny and passing of final orders in all cases of the type in (v) above. The DIG's scrutiny report in cases in which JD/ADCBI, DCBI are competent to pass final orders. (As per circular No. 21/20/87-PD dated 12.5.88) should be forwarded to the Head Office.

(ix) Progress of cases in courts and departmental proceedings.

Similarly the duties and responsibilities of JD/ADCBI/DCBI, ALA/LA etc. regarding supervision, scrutiny of investigation reports and passing of final orders in this regards are prescribed in the CBI crime manuals.

It is obvious that the said adverse remarks that "He is in the habit of filing charge sheet without collecting clinching evidence" is absolutely malicious and was made solely for the purpose of settling personal score with me. I have shown above that filing of cases is not the job of one individual alone and the whole chain of command has to act in tandem. Hence the adverse remarks made against me is without any basis.

10. It is highly unwarranted and sweeping remark that "He is in habit of filing charge sheet without collecting clinching evidence", however, the fact is that whatever and whichever case is endorsed to me by Branch SP, I had conducted thorough and exhaustive investigation inasmuch as that many new cases were registered while conducting the investigation of parent cases such as :

(i) RC-2(A)/96-SHG & RC-1(A)/96 SHG while investigating RC-16(A)/93-SHG.

(ii) RC-3(A)/96-SHG & RC-5(A)/96-SHG while investigating RC-5(A)/94-SHG

(iii) Submitted verified information report for registration of 3 separate cases while investigating RC-5(A)/98-SHG at present under investigation.

(iv) The High Court referred and monitored case No. RC-34(A)/96-SHG was registered on the local Audit Report

- 9 -

of AG (Audit) Assam for defalcation of Rs. 24 lakhs approximately from Gauhati High Court and Kamrup Treasury during July 1990 to November 1993. However, during investigation by me, it was found that this fraudulent drawal was continuing from 1985 itself and that defalcation was actually to the tune of Rs. 39 lakhs (approx.) and accordingly, the scope of investigation was enlarged to unearth criminal conspiracy working since 1985 without detection of fraud.

Further while submitting Final Report-I which could be confirmed from crime files I have scrupulously followed all the guidelines referred in FR-I while analysing evidences and have also pointed "loopholes in the system and lapses on the part of officials/department" which facilitated the commission of crime as also pointed out "suggestions for improvement of systems and plugging loopholes" in order to stop recurrence of crime of similar nature.

The Sr. PP/DLA while analysing evidences in given cases has commended on this aspect as could be seen from the remarks in Final Report (Part-I)/comments which are reproduced hereunder :

COMMENTS OF DLA/CBI/ACB CALCUTTA IN RD034(A)/96-SHG (ANNEXURE-E PAGE 5)

RECOMMENDATION : "It is worth mentioning herein that while investigating the case, the IO had done labours and applied his mind as to how the commission of crime of the nature of this case could happen and taken place and as a result he has pointed out the lapses in enforcement of existing regulations and suggestions for the improvement of the present system which are appearing on page 272 to 280 and for this enthusiasm and labour the IO deserves commendation by way of cash rewards of encouragement."

Sd/-
(J.S. TERANG)
(DLA/CBI/ACB/CALCUTTA)

COMMENTS OF SR. PP IN FR-II (ANNEXURE-F PAGE 16)

As I found the commission of offence of this instant case is involving as many accused as fourteen in Nos. the required incriminating evidence in respect of each of the above said accused were collected by the IO. He has done much labour in the process of completing the investigation successfully, the IO has done commendable work.

Sd/-
(Joy Sing Terang)
(DLA/CBI/ACB/CALCUTTA)

- 10 -

In the light of the aforesaid fact, it is evident that the adverse remarks of Reviewing Officer Shri NR Roy appears to have been made dehors of objective and unprejudicial application of mind while reviewing the performance of my work and conduct but with malice, prejudice and revengeful for extraneous reasons only.

ii. So far as the case being investigated by me during period under review are concerned no officer in CBI much less the officer who has reviewed and passed adverse comments in my ACR for 1998 that " I finalise case without collecting clinching evidence" have ever commented adversely either orally or in writing in crime file. Further no explanation was ever called from my superiors as regards to investigation conducted by me during my incumbency in CBI instead I was given reward and conferred commendation certificate for meticulous, detailed and thorough investigation.

During the relevant period I investigated following 4 cases detailed as hereunder :

(i) RC-16(A)/93-SHG : This case was earlier investigated by 3 other IOs who could not secure enough evidence for launching law court prosecution. Even the then SP/Sr. PP/DLA etc. agreed for recommending only regular departmental action against the Bank officials. Furthermore even some vital documents of this case were lost from the CBI custody further jeopardizing the quality of the case for launching law court prosecution. However, the case was handed over to me by the then learned DIG/CBI/NER Sri N. Mullick for investigation. After conducting further investigation, I collected clinching evidence and filed charge sheet for law court prosecution in this case.

All my superior officers commended me for my outstanding investigation and I was suitably rewarded and also conferred CC by my superior officer. (Annexure-D6 & D7)

In this connection, it will be worthwhile to peruse the notings/comments of my superior officers in this case to grasp the quality of the case when it was handed over to me and complements of my superior officer for investigation conducted by me which enabled branch to file charge sheet.

(i) NOTING OF THE THEN SP/CBI SHRI N. SAHAY DT. 17.12.94 SL NO. 78 (ANNEXURE 'G' HIGHLIGHTING THE DIFFICULTIES IN LAUNCHING LAW COURT PROSECUTION ON THE REPORT OF EARLIER IO.

"It has been observed during discussion that even

- 11 -

if the points as suggested by the earlier DIG, be attended to, it would not be possible to launch prosecution in this case because by attending those points no such evidence can be collected which can be terms as to be substitute of the lost documents."

Sd/-
N. SAHAY
SP/CBI/GHY

(ii) NOTING OF THE THEN HON'BLE DIG/CB SRI N. MULLICK DATED 20.4.95 AT SL. NO. 77, 78, 79 (ANNEXURE-'G')

The case and endorsement of the case for investigation to me

(iii) COMMENTS OF SR. PP SRI J.S. TERANG DATED 19.10.96 (ANNEXURE-'H')

"Before I conclude my comments I express myself in saying that the IO of this case Sri S.P. Singh Yadav has done tremendous labour in completion of the investigation by traveling to remote and distant places in the interior villages all on foot and also he has prepared calendar of evidences elaborately and clearly Sri. S.P. Singh Yadav, Inspector the IO of this case deserves commendation for the completion of the investigation in this case. I feel Sri Yadav may be fittingly rewarded by the authorities for this case."

Sd/-
(Joy Sing Terang)
(DLA/CBI/ACB/CALCUTTA)
Dt. 19.10.96

(iv) SP'S COMMENTS DT. 23.10.96 (ANNEXURE-I)

"From the facts as discussed above the present IO has really taken a lot of pain and made out a very good case which was almost going for departmental action but for the intervention of DIG, I must accept the commendable job done by the present IO. Now the case has been proved to be a very good case and I incline to agree with the unanimous recommendation of IO and Sr. P.P. and recommend prosecution of the accused person U/S 120B, 420, 409, 471, 466, 464 and 109 of IPC and Sec. 13(2) r/w 13(1)(d) of P C Act, 1988."

Sd/-
M.K. Jha
Supdt. of Police
CBI/ACB/GHY

(v) DIG/CBI COMMENTS DATED 30.4.97 (ANNEXURE-J)

- 12 -

"Earlier Sri R. Biswas, Dy. SP submitted SFRI in December 1994 recommending RDA against the accused person Practically he did not undertake any field investigation. Though the Sr. PP and DLA agreed with the IO. I felt that investigation was not properly carried out and something definitely could be done in this case."

"The case was endorsed to Sri S.P. Singh Yadav and he was also briefed about what we had been expecting from him. Sri Yadav took the challenge and during his investigation he could fix up the person who had signed/put his thumb impression in respect of fictitious person."

Sd/-
N. Mullick
DIG/CBI/NER/GHY

COMMENTS OF THE TECHNICAL OFFICER (BANKING) CBI/EAST ZONE/CALCUTTA AS ALSO AGREED TO BY JD (EZ) CALCUTTA SRI UPEN BISWAS (ANNEXURE-K)

Page 6, Para 62:

"IO Painstakingly tried to locate the real persons whose photographs were affixed on the loan documents".

Page 8, para 9 :

The malafides of the accused are clearly proved. They were instrumental in misappropriating the amount of subsidy meant for upliftment of weaker section. We may agree with the recommendation of DIG."

Page 8 Noting of JD (E2):

"JD(E2) agrees to recommendation of TO Banking."

Sd/-
Illegible

RC-34(A)/96-SHG : This is a High Court referred and monitored case in which involved are 33 suspect/accused persons spread over to Gauhati High Court, Kamrup Treasury, SBI, AG (Accountant), Assam and A.G. (Audit), Assam, having vide ramifications in North East Region, involving systematic defrauding of treasury and Government of India funds to the tune of Rs. 39 lakhs (approx.) during 1985 to 1993.

In this case during period under review for the first time in the entire history of the CBI/Shillong Branch, order for attachment of properties of the accused persons worth Rs. 39 lakhs (approx.) were

- 13 -

secured by me invoking the provisions of Criminal Law Amendment Ordinance, 1944 vide Misc. Case 206/98 in the court of District & Sessions Judge, Kamrup, Guwahati and thereby safeguarded the funds of the Government.

Having satisfied with the investigation conducted by me the Hon'ble High Court, Guwahati even intervened on the malicious recommendation of the then DIG/CBI/NER Sri NR Roy leading to my repartiation order and directed the then SP/CBI Sri BN Mishra not to repartiate me until finalisation of the case. In this case also for good investigation I was rewarded and conferred commendation certificate (annexure-D2 & D3).

This case was earlier investigated by Vigilance and Anti-Corruption Branch of Assam Police from 1993 to 1996 and filed two charge sheets also. However, the Hon'ble Gauhati High Court was not satisfied with the investigation and they vide Civil Rule No. 3104/96 the State of Assam -vs- Wahed Ali suo moto directed CBI to investigate it and withdraw the charge sheets filed by the State Police.

The then DIG/CBI/NER/GHY Sri N. Mullick vide his observation dated 15.10.96 directed the then SP/CBI/GHY Shri M.K. Jha to endorse the case to "Most effective officer of the Branch for investigation" and the then SP endorsed the case for investigation to me (Annexure-L)

The aforesaid orders/observations of my superior officer speak volumes of my investigative ability and integrity and the confidence they had in me in this regard.

In this case, I have prepared FR-I running into about 300 pages which contains elaborate discussion of facts as well as evidence on each aspect/transaction in order to inspire the confidence of Hon'ble High Court. The then DIG/CBI/NER Sri Vijay Kumar, IPS and Sri A.L. Tiwari, ALA, New Delhi had personal discussion with me at their respective H.Q. and commended my investigation.

Sri J.S. Terang, DLA/CBI/NER vide his comments dated 15.02.99 also appreciated my investigation in which I unearthed the lapses in the Treasury System and the measures I have suggested for plugging the loopholes in the Treasury System and Accounting System of A.C. which is the root cause of much publicized LOC scam and Fodder Scam in Assam and Bihar respectively (Annexure-E)

It is pertinent to note that an exhaustive

- 14 -

questionnaire comprising of more than 5000 questions on large number of questioned documents were prepared by me and sent to the GE OD who without any further clarification given opinion which is clinching evidence for securing conviction of accused person in the case.

RC-5(A)/98-SHG: In this case an officer of the rank of CGM Telecom (T/F) is accused person having wide coverage and publicity in print as well as Electronic Media for months together in North East. This case was also endorsed to me by the then SP/CBI Sri M.K. Jha on the direction of the then DIG/CBI/NER/GHY Sri N. Mullick for effective investigation.

In this case also I was rewarded and conferred commendation certificate by the then SP/CBI/GHY Sri B.N. Mishra for good investigation (Annexure-D4 & D5)

This case was first registered with Assam Police following seizure of Rs. 29 lakhs from Sri. K. Ganesh the then CGM. Telecom (T/F) N.E. Region any while he was proceeding to his home town Madras carrying said amount. The case was subsequently transferred to CBI and the then SP endorsed the case for effective investigation to me in view of the wide ramifications in entire North East.

Meanwhile a collusive petition was filed in the court of Special Judge, Assam Guwahati by one Nimma Tsering Khrime, a tribal and an Ex-MLA of Arunachal Pradesh claiming the ownership of the said amount stating that the seized amount was handed over by him to Sri K. Ganesh for carrying to Madras for purchasing Diamond Jewelry on his behalf. The said petition got filed with dishonest intention by Sri K. Ganesh the accused from Sri Khrime to get him discharges from prosecution under the cover of orders to be passed by the Hon'ble Court in this petition.

However, with my meticulous investigation and effective assistance and instruction to Public Prosecutor, CBI the petition of Shri Khrime was dismissed and disallowed by the Hon'ble Court. Against the orders of the Special Judge they have preferred a criminal review petition before the Hon'ble High Court, Guwahati where also I perused the said petition by filing an exhaustive affidavit through the SP/CBI and ultimately no interim order was passed by the Hon'ble High Court. Investigation in this case is coming to a logical end due to my untiring efforts. Even in this case, the then DIG/CBI Sri Vijay Kumar commended my work and I am confident to bring the culprits to book by filing charge sheets shortly.

RC-27(A)/96-SHG : This is a D.A. case register against

AM

- 15 -

one Superintending Engineer of ONGC in September 1996 for possessing disproportionate assets of Rs. 1,62,000/- only to the known source of income. This case was endorsed to me for investigation. I conducted house searches under the supervision of Sri K.C. Choudhury, DY. SP and after thorough investigation submitted FR-I recommending closure of the case as the suspect official was found to have surplus income rather than disproportionate assets. The same recommendation were unanimously accepted by SP/Sr. PP/DIG/DLA and JD, CBI.

In fact there was serious lapse on the part of concerned CBI officers i.e. the then SP/PP/DIG/JD who failed to locate inherent lacunae in the verification report while scrutinizing it and thereby recommended and passed defective order for registration of D.A. case against suspect official though there was no D.A. case at the FIR stage itself as could be seen from the following facts as well as SP's comments (Annexure-M)

(i) The income of the accused from 1994-96 i.e. upto the date of registration was not taken into account by the officer who verified the SIR/complaint and all the aforesaid official failed to locate this inherent defect while scrutinizing of FIR in September 1996 as after receiving SIR/complaint in 1993 and obviously the corresponding income figure upto 1993 only was considered and thereafter for three years i.e. upto September 1996 the verification continued on the same old figures of income. Ultimately after registration of the case in September 1996 and conducting searches unconsidered income for the period 1994-96 was taken into account and thereby income exceeded the assets possessed by the suspect official.

(ii) The FIR was registered in September 1996 against a disproportionate asset of mere Rs. 1,62,000 only. However, the verifying officer as well as the entire chain of concerned official who scrutinised and recommended for registration of FIR as also the competent official who passed the final order for registration on the FIR, failed to appreciate the simple arithmetic fact that an amount of Rs. 80,000/- shown to have invested in NSC during 1985 to 1989 would have fetched as income an amount of Rs. 1,60,000/- after six years i.e. by 1985/96 and thereby making the D.A. as ZERO in 1995-96 when the final orders for registration of the case was passed.

(iii) The complaint/SIR against this case was submitted in 1993 by some other I.O. and verification on the orders of superior officers were conducted by Sri Mani Sarania, Inspector and thereafter Shri P. Roy, Inspector, who recommended for the closure of

25
- 16 -

SIR/complaint. However, late G.K. Das, Inspector further did verification which culminated into registration of the case on the orders of JD(E2) Calcutta in September 1996. It is evident that a serious mistakes was committed by all concerned officer that while the verification continued for more than three years the concerned scrutinizing officials of the CBI continued to harp on the same old income figures of 1993. it is obvious that investigation revealed these lacunae and also the suspect was fond to have rather surplus income. I recommended the closure of the case and accepted unanimously my superior officers and as such closure orders were passed by DIG/CBI & JD(E2) Calcutta (Annexure-N & O).

This has been submitted only to show that I never shirked to call spade a spade and I firmly believe that object of investigation is to bring out unvarnished truth from the available facts, circumstances and evidence and project it without fear and favour.

12. During period under review (1998) the following cases were investigated by me :

(i) RC-16(A)/93-SHG	Filed charge sheet (JD level case)	in law court for prosecution	Granted reward and CC for good investigation (Annexure-D6&D7)
(ii) RC-34(A)/96-SHG	Under investigation (High Court referred and monitored case H.O. level case)		Reward and commendation certificate for good investigation (Annexure D2&D3)
(iii) RC-5(A)/98-SHG	Under investigation Against CGM, Tele tion com (T/F), NE Region, Guwahati Shri K. Banesh (H.O. Level case)		Reward and commendation certificate for good investigation (Annexure D4&D5)
(iv) RC-27(A)/96-SHG	Closure Report (J.D. level case U/S 173 Cr.P.C. on the orders of JD(E2) Calcutta		Nil

It is noteworthy that neither the Reviewing Officer - Shri N.R. Roy, nor the accepting authority i.e. JD (E2) CBI Calcutta ever pointed out in any case file either orally or in writing that I have a tendency to finalise cases without collecting clinching evidence. Further in the Court of Hon'ble Special Judge, Assam which is accepted by the Hon'ble Court and has not passed any adverse comments or orders to reopen

- 17 -

the case.

Submission in regard to adverse remark No. 2 - He is an undisciplined officer and exhibits insubordination occasionally.

13. It is submitted that never in the past there was an incident suggesting that I am indisciplined officer. It was never pointed out to me by any officer. My service career is unblemished. My service profile in U.P. Police running into 16 years and in CBI spanning 6 years is without any blemish. No adverse remarks was ever made against me. In any case Reviewing Authority hardly had any occasion to know me to understand me and the assess my performance. There is no basis for making such a remark against me. Remark of such nature must be supported by some material. reviewing Authority while making such a remark ought to have pointed out that in the past these shortcomings in my personality was pointed out to me. Reviewing Authority remained totally silent about this aspect and only made a sweeping remark that I am an indisciplined officer.

14. That this remark being vague, sweeping and without supported by any material particulars is not sustainable in law and is liable to be expunged.

Legal submission

15. The Hon'ble Supreme Court in S. Ramchandra Raju -vs- State of Orissa, 1994 Supp (3) SCC 424 emphasised on the need of objectivity of assessment by the competent authority in writing of the confidential report. The court pointed out that the career prospect of a subordinate officer largely depends upon the work and character assessment made by the competent authority and the latter should adopt fair objective dispassionate approach in estimating or assessing the character ability integrity and responsibility displayed by the concerned officer during the relevant period.

16. In the State of U.P. -vs- Yamuna Shankar Mishra, (1997) 4 SCC 7 the Hon'ble Supreme Court has recognised the application of the nature justice rule where the assessment were not based on the materials on record. In the said case, the court observed that sometimes the assessment may not be based on the records and in such circumstances the officer concerned should be taken into confidence. The court stated that before forming an adverse opinion, the authority writing confidentials should share the information which is not the part of the record with the officer concerned and have the information confronted by the officer and then make it part of the record. This amounts to an opportunity

- 18 -

given to the erring officer to correct the errors of the judgment, conduct, behaviour etc. The court further observed that if despite being given such an opportunity, the officer fails to perform the duty correct his conduct or improve himself necessarily the same may be recorded in the confidential reports and a copy thereof supplied to the effected officer so that he will have an opportunity to know the remarks against him.

17. It is submitted that at no point of time I was ever told of my being an indisciplined officer. With the sole exception of the sweeping observation made by the then DIG Shri N.R. Roy on my application for repartiation that my conduct is unbecoming of a CBI Officer there has never been any occasion when anything adverse was told to me or brought to my notice. Even that observation on my application for repartiation is without any basis, because the manner in which it was made and the occasion on which it was made bear testimony to the malice said Shri N.R. Roy had towards me. Hence it is submitted that the observation in my confidential report that I am indisciplined officer is without any basis. The same is not based on any fact and the entry of the same in my confidential report is contrary to the principle laid down by the Hon'ble Supreme Court in the case of Yamuna Mishra (supra)

18. It is, therefore, prayed that the adverse remarks made against me are liable to be expunged. They are malicious in nature and are sweeping and vague. They have been made without any objectivity in total non-application of mind.

In the premises aforesaid I pray with utmost humility that the adverse remarks made against me may kindly expunged for which I would remain ever obliged.

Thanking you.

Yours faithfully

(Suresh Pal Singh Yadav)
Inspector, CBI
Anti-Corruption Branch
Guwahati

प्रतिलिपि के लिए आवेदन की तारीख <u>Date of application for the copy.</u>	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख <u>Date fixed for notifying the requisite number of stamps and folios.</u>	अपेक्षित स्टाम्प और फोलिओ देने की तारीख <u>Date of delivery of the requisite stamps and folios.</u>	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी <u>Date on which the copy was ready for delivery.</u>	आवेदक को प्रतिलिपि देने की तारीख <u>Date of making over the copy to the applicant.</u>
18/2/2002	18/2/2002	18/2/2002	18/2/2002	18/2/2002

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ANNEXURE-A/7

IN THE GAUHATI HIGH COURT

COURT OF ASSAM : NAGALAND : MECHALAYA : MANIPURA TRIPURA,
MIZORAM & ARUNACHAL PRADESH)

CIVIL APPELLATE SIDE

Appeal from Civil Rule No. 3420 of 2001.

Sonu Singh Yadav
Appellant
Petitioner

Versus

Union of India & ors
Respondent
Opposite-Party

for Appellant
Petitioner Mr. B.K. Sanmukh
Mr. P.K. Tiwari

for Respondent
Opposite-Party

C. C. S. &
Mr. D. S. Mehta
N. Upadhyay

Notice by officer or
Advocate

Serial
No.

Date

Office notes, Reports, orders
or proceedings with signature
re

Attested
by
Advocate

IN THE MATTER OF :

Suresh Pal Singh Yadav, Inspector,
Central Bureau of Investigation,
Office of the SP, CBI, R.G. Baruah
Road, Sundarpur, Guwahati-5.

... petitioner

- VERSUS -

1. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.
2. The Director, Central Bureau of Investigation, CGO Complex, Lodhi Road, New Delhi.
3. N.R. Roy, DIG (Operations), CID, Calcutta, the then DIG/CBI/North East Region, Chenikuthi, Guwahati.
4. The Deputy Inspector General, Central Bureau of Investigation, North East Region, Chenikuthi, Nabagraha Hill Side, Guwahati-3.

5. The Supdt. of Police, Central Bureau of Investigation, Anti Corruption Branch, Sundarpur, Guwahati.

6. The Deputy Inspector General of Police (P), PAC Headquarters, UP, Lucknow.

... Respondents

... sho venamed :

Notifying by Officer
or Advocate

Serial
No.

Date

5.2.2002

Office notes, Reports, Order or
proceeding with signature

BEFORE

HON'BLE THE CHIEF JUSTICE MR R.S MONGIA
HON'BLE MR JUSTICE AMITAVA ROY

Whether an employee who is
on deputation has a right to be
absorbed in the Department to which
he has been sent for deputation?
The aforesaid question arises in the
following circumstances :

The petitioner who was working
in the U.P.Traffic Police as S.I.
He was sent on deputation to the CBI
in the year 1993. In 1996 options
were sought from those who were
on deputation with the CBI whether
they wanted to be considered for
absorption in the CBI.. The petitioner
gave his option for being considered
for absorption in the CBI. However, before
any final decision could be taken on
his option he withdrew the option
by writing as follows on 8.9.98.

" To
The Superintendent of Police
CBI/ACB/Guahati.

Sir,

I had joined the CBI/ACB/
Shillong Branch on deputation
from U.P.Police for an initial
period of three years in
September, 1993. As the said
period is already over in 1998
and I was not relieved despite
my earlier representation in
this regard. It is therefore
requested that I may kindly
be relieved at the earliest."

Received
Order copy
dl. 5.2.2002.
Bamidebati
Advocate

for [REDACTED]
7.2.2002.

Received the copy
of the order dt. 5.2.2002
S. K. Sharma
Advocate
S. K. Sharma
Advocate

ing by Officer
Advocate

Serial
No. Date Office notes, Reports, Order or
proceeding with signature

5.2.2002

From the aforesaid letter it is quite clear that prior to 8.9.98 the petitioner had also requested that he be relieved but since he had not been relieved he made a request again on 8.9.98 to be relieved to join his parent Department. It is the case of the petitioner that later on he withdrew his request dated 8.9.98 for repatriating him to join the parent Department. He wanted that his case be considered for absorption in the CHI. This having not been done the petitioner filed an O.A. before the Central Administrative Tribunal. It may be observed here that in the year 1998, to be precise on 29.9.98, the petitioner was conveyed the adverse remark which are to the following effect :

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

The Central Administrative Tribunal dismissed the O.A. holding that petitioner has no right to be absorbed while on deputation and further found nothing wrong in the recording of the adverse remarks. Hence the present writ petition.

There cannot be any doubt that a deputationist has no right to be absorbed in the Department/ Organisation where he is sent on deputation.

PY

ting by Officer
Advocate

Serial
No

Date

Office notes, Reports, Order or
proceeding with signature

5.2.2002

Of course if there is any Policy or instruction to that effect then the case might be considered for absorption. In the present case there are no statutory rules providing for consideration of the cases for absorption of deputationist. Reliance is placed on the circular issued by the respondents on this subject. One of them being dated 17th December 1997 and another dated 25.11.1999. The Paragraph 4 of the Circular dated 17th December 1997 reads as under :

BR
D

"Henceforth SSPS of CBI are required to consider the request from Inspectors after they have served in CBI for at least five years as per criteria mentioned in the subsequent paragraph they would forward their names of suitable Inspectors in the prescribed proforma with their willingness (enclosed) to the Head office along with the recommendation of the respective DIG and JD. The recommendation to reach the Head office by 31st December/1997 so that the entire process can be completed by 31st March 1998. The SSP will certify that Inspectors recommended for absorption posses the prescribed qualification and fulfills other laid down criteria."

The case of the petitioner is that his case was never considered for absorption. Learned counsel argued that the petitioner had made a representation against the adverse remarks for the year 1998 but no decision so far has been taken and in any case none conveyed to the petitioner.

Even if no decision on the representation of the petitioner for absorption has been taken by the CBI, we are of the view that in presence of the adverse

ing by Officer
Advocate

Serial No	Date	Office notes, Reports, Order or proceeding with signature
5.2.2002		

remarks for the year 1998 it will be futile to ask the Department to consider his case for absorption. Learned counsel argued that since the representation against the adverse remarks has so far been not decided and in any case no decision thereon has been conveyed to the petitioner yet the observations made by the learned Tribunal regarding the adverse remarks would prejudicially effect the consideration of the representation at the hands of the appropriate authority while deciding the same for expunging the adverse remarks. Under the aforesaid circumstances we think it appropriate to dispose of this writ petition by giving the following directions to the Respondent CBI.

- " (i) If the representation of the petitioner against the adverse remarks for the year 1998 communicated to him on 20.9.98 has so far not been decided by the competent Authority the decision on the same be taken within a month.
- (ii) While deciding the representation as aforesaid the observations made regarding the correctness of the adverse remark made by the Central Administrative Tribunal should not be taken into consideration and the Authority deciding the representation should form its own opinion and come to independent findings.

ing by Officer
AdvocateSerial
No

Date

Office notes, Reports, Order or
Proceeding with signature

5.2 2002

(iii) After the decision on the representation is taken as aforesaid the case of the petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the subject and entire service record of the petitioner. The result of the representation and any other relevant considerations including the petitioner's application dated 8.9.1998 or any previous application to the effect that he may be repatriated back to his parent Department and withdrawal of that request after 8.9.98 may also be taken into consideration. This may be done within one month of taking of the decision on the representation of the petitioner against his adverse remarks.

D.
The writ petition stands disposed of accordingly. Needless to mention that if the petitioner is adversely affected by any order that may be passed by the Authority he would be at liberty to challenge the same before an appropriate forum.

Till the matter is decided as aforesaid the petitioner be not repatriated to his parent Department. Copy of this Judgment and order, attested by the Bench Assistant be given to the learned counsel of the parties for onward transmission.

minicale
18/2/02

Smt A. Roy
Judg

Smt R. S. Mengde
Chief Justice

2387
5/2/02

CERTIFIED TO BE TRUE COPY	
<i>Subhankar Konika Debbarma</i>	
Date 18/2/02	
Superintendent (Copying Section)	
Gauhati High Court	
Authorised U/S 76, Act I, 1872	

18/2/02

Government of India
 O/o the Superintendent of Police
 Central Bureau of Investigation
 Anti-Corruption Branch
 R.G. Baruah Road, Sundarpur
 Guwahati-5.

No. DPSHL2001/ 1481/E/36

Date :: 04/03/2002

To

Shri S.P. Singh Yadav
 Inspector of Police (U/s)
 Arundhuti Apartment
 Tarun Nagar,
Guwahati-5.

Sub : Communication of adverse remarks in your ACR for the year, 1998.

Please find enclosed herewith the decision of the competent authority in respect of the adverse comments in your ACR for the year 1998, which is self explanatory.

Please acknowledge the receipt.

Enclosed 2 Sheets.

- Letter dt 21/1/2002. Shri N.R. Ray
 Spl. Inspr. General of Police (Operational)
 C.I.D. West Bengal and address of
 to Shri K.L. Kanungo, A16/1(B) NE22
 Guwahati.
- Comments of Mr. AN/CBI, (Reclined)
 Kolkata dt 28/2/2002

(Narayan Jha)
 Superintendent of Police
 CBI/ACB/Guwahati

Attested
 N.K.G.
 Advocate
 Inc.

Received
 21/2/2002
 4/3/2002
 LIBRARY CAT
 GATE

ANNEXURE-A/B Colly.

Special Inspector General of Police
(Operations)
Criminal Investigation Department,
West Bengal, Kolkata.

The 21.1.2002

To

Shri K.C. Kanoongo,
Deputy Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati, Assam.

Please refer to your CBI ID No. 1401/47/CBI/NER/99 dated (eligible).2000 regarding adverse remarks on the ACR of Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati for the year 1998. During discussion of cases, it was found that cases handled by him lacked in investigation on medical points and when pointed out the same he behaved in an indisciplined manner in one of such meeting with officers, in Guwahati, he behaved in such an indisciplined manner that I was compelled to ask him to go out of the meeting.

I stand by the comments made by me. This type of officers must not be retained in CBI.

Sd/- (N.R. Ray)
Special Inspector General of Police (Operations)
Criminal Investigation Department,
West Bengal.

*N.R. Ray
W.C.I.Y.
B.B.C.*

ANNEXURE-A/B colly.

Comments of the Additional Director, CBI EZ Kol.
on the letter dated 21.1.2002 of Shri N.R. Roy, IPS,
Former DIG, CBI, NER on the adverse remarks in the ACR
of Shri S.P. Singh Yadav, Inspector, CBI, Guwahati for
1998.

"I do agree to the comments of the then DIG, CBI,
NER Shri N.R. Ray".

Sd/- U.N. Biswas,
28.2.2002
AD, CBI (Rtd./Kolkata)

पुलिस उपाधीकारों/निरीक्षकों तथा उप-निरीक्षकों की गोपनीय रिपोर्ट का फार्म
केन्द्रीय अन्वेषण ब्यूरो

FORM FOR CONFIDENTIAL REPORT ON DY. SUPDTS. OF POLICE/INSPECTORS
AND SUB-INSPECTORS.
CENTRAL BUREAU OF INVESTIGATION

वैयक्तिक व्यापे

PERSONAL DATA

(जिस अधिकारी की रिपोर्ट लिती जा रही है, उसके द्वारा गरे जाने के लिए)

(To be filled by the Officer reported upon)

-----को समाप्त अवधि/वर्ष के लिए गोपनीय रिपोर्ट
Confidential Report for the Year/Period Ending.....

1. अधिकारी का नाम
Name of the Officer.
2. जन्म की तारीख
Date of Birth
3. कृद
Height
सीमा
Chest
4. वजन
Weight
कमर
Waist
5. वर्तमान पद
Desination/Rank/Post held
6. वर्तमान ग्रेड में लगातार नियुक्ति की तारीख
Date of continuous appointment to the present grade viz
7. जाता रीधी भर्ती पर नियुक्ति या प्रतिनियुक्ति पर
Whether direct recruit or deputationist
(यदि प्रतिनियुक्ति है तो उस राज्य का नाम लिये जाने से प्रतिनियुक्ति पर आए है)
(In case of deputationist, name of State from which on deputation).
8. नाम राई/रायाईत/आरथाई हैं
Whether permanent/quasi-permanent/temporary.
9. शाखा/पृणिट/कार्यालय जहां रिपोर्ट की अवधि/वर्ष के दौरान सेवा की और प्रलेक में सेवा की अवधि
Branches/Units/Offices in which served during the year/period under report and the period of service in each.

Attector
Advocate

11. 10. वर्ष/रिपोर्ट अवधि के दौरान छुट्टी/प्रशिक्षण पर अनुपायित की अवधि
Period of absence from duty on leave/training during the year/period report. Q6

11. (क) शैक्षणिक योग्यताएँ
(a) Educational Qualifications :
(i) तकनीकी परीक्षा/प्रशिक्षण पाठ्यक्रम में उत्तीर्ण/अर्हता प्राप्त
(b) Technical Examination/Training Courses Passed/qualified.
(ii) जावा ज्ञान
(c) Knowledge of Languages ;
(i) पढ़ और लिख सकते हैं
(ii) Able to read and write.
(iii) बोल सकते हैं :
(iii) Able to speak :

12. (म) ज्ञान

NC

भाग-II

PART-II

(जिस अधिकारी की रिपोर्ट लिखी जा रही है उसके द्वारा भरे जाने के लिए)
(To be filled in by the Officer Reported upon)

(म) 1. द्वारा की संक्षिप्त विवरण
Brief description of duties.

(a)

2. वर्ष के दौरान प्राप्त प्रशिक्षण पाठ्यक्रमों का विवरण
Particulars of training courses undergone during the year.

(ख)

3. वर्ष के दौरान पदक और प्रशंसा पत्र
Medals or commendations received during the year.

(ग)

4. (क) नृपया प्राधिकारिकता के आधार पर उन 8 से 10 लक्ष्यों/उद्देश्यों का उल्लेख करें जो आपके लिए निर्धारित नहीं हैं और/अथवा आपने खंग अपने लिए निर्धारित नहीं हैं।
(a) Please specify 8 to 10 targets/goals/objectives that were set for you and/or you set for yourself in order of priority.

(द)

4. (a) यदि लक्ष्य निर्धारित किए गए हैं तो उनमें निया तक साझेकरा गयी है, विशेष कर आपराध संबंधी गमनों में युवकों प्राप्त वरने, सतर्कता कार्य, पंजीकरण, अन्वेषण, निपटान तथा उपलब्धि के मानक में उपर वर्षों कर्ता द्वारा लाए गए किये गए किसी प्रमुख सुधार/वर्ग फ्राईन का जी उल्लेख कर सकते हैं।

(b) Wherever targets have been fixed how far have they been achieved particularly in regard to collection of information, vigilance work, registration, investigation, disposal and supervision of crime. You can also highlight any major improvements/innovation introduced in your area of work.

5. (a) कृपया कालम 4 में बताए गए लक्ष्यों/उद्देश्यों की प्राप्ति में रही कठियों का संक्षेप में उल्लेख करें। यदि लक्ष्यों का पांच में नोई बाध्यतारिताएं रही हों तो वे बताएं।

(b) Please state, briefly, the shortfalls with reference to the targets/objectives/goals referred to in Col. 4. Please specify the constraints, if any.

5. (a) कृपया उन कार्यमयों का भी उल्लेख करें जिनमें निर्धारित लक्ष्य से काफी अधिक उपलब्धियां रही हैं और उनमें आपने योगदान का भी उल्लेख करें।

(b) Please indicate items under which there have been significantly better/higher achievements compared to targets and your contribution thereto.

रिपोर्टिंग प्राधिकारी द्वारा भरा जाए
TO BE FILLED IN BY THE REPORTING AUTHORITY

QV

1. नया रिपोर्टिंग प्राधिकारी जाए।।। में निम्न ग्रन्थ-पूर्वानुक्रम रो सहमत है। यदि नहीं, तो निम्न कारण क्या हैं ?
Does the Reporting Authority agree with the Self Assessment made in Part II ? If not, the reasons of disagreement and reasons thereof :

2. स्वास्थ्य
State of Health

(i) कृपया निम्न विकल्पों का स्वार्थ
(i) Please indicate whether the Officer's state of health is

(क) अच्छा
(a) Good
(ल) साधारण
(b) Indifferent
(म) खराम
(c) Bad

(ii) व्यक्तित्व तथा आदरण
(ii) Personality and manners :

(क) अच्छा
(a) Good
(ल) औसत
(b) Average
(म) खराम
(c) Poor

3. बुद्धिमत्ता और सूझावूजा
Intelligence and Understanding

(क) विशेषज्ञ तथा विशेष भी भागले को, चाहे वितना भी जटिल हो, भली भाँति समझने की क्षमता है।
(a) Exceptional and has clear grasp of any matter, however, complicated
(ल) बुद्धिमान तथा विषय को विना समय गंवाए होकर प्रभाव से राख सकते हैं।
(b) Intelligent and can grasp a point correctly with reasonable speed.
(म) पर्याप्त समझवूजा
(c) Shows adequate grasp.
(घ) भंदबुद्धि और/अथवा विषय से अनसार भटक जाते हैं।
(d) Very Slow and/or often misses the point.

4. कार्य की कोटि
Quality of Work

Q9

(ii) वाक्तीकृत पर ध्यान, तथा को प्रत्येक कानून में विश्वसनीयता तथा जीवन-प्रक्रिया में सम्पूर्णता
(ii) Attention to details, accuracy in presentation of facts and thoroughness in examination

(क) अत्यधिक विश्वसनीय रथा कुशाग्रवृद्धि
(a) Most reliable and comprehensive.
(ख) सभी संगत व्यौरों पर विचार करते हैं।
(b) Considers all relevant details.
(ग) महत्वपूर्ण बातों पर ध्यान नहीं दें पाते और मूल विषय से भटक जाना।
(c) Is unable to concentrate on vital details and loses perspective.
(घ) गंभीरता का अभाव।
(d) Inclined to be superficial.

(ii) निर्णय
(ii) Judgement

(iii) इनके प्रस्ताव ठोस तथा सुविचारित होते हैं।
(a) His proposals are consistently sound and well thought of
(ख) विश्वसनीय
(b) Reliable
(ग) उचित गृष्टिकोण अपनाते हैं
(c) Takes a reasonable view
(घ) अविश्वसनीय, अनिर्णीत, कठोर, सरली अथवा अनिश्चित।
(d) Unreliable, undecided, rigid, superficial or erratic.

(iii) मामलों का प्रस्तुतीकरण और अभिव्यक्ति
(iii) Presentation of Cases and Expression

(i) भौतिक अभिव्यक्ति
(i) Oral expression
(ii) लिखित अभिव्यक्ति
(ii) Written expression
(क) पूर्णतया, स्पष्ट, सशक्त और तकरागंत।
(a) Extremely clear, cogent and logical
(ख) बहुत अच्छा तथा अपनी बात ने स्पष्टतापा और संक्षेप में अभिव्यक्त करते हैं।
(b) Very good and expresses himself clearly and concisely.
(ग) अभिव्यक्ति में अच्छा।
(c) Good in expression.
(घ) रागान्व और नाम यताक
(d) Just good and enough.
(ङ) मामलों को उचित प्रकार से प्रस्तुत करने की योग्यता नहीं रखते हैं।
(e) Does not have ability to present cases properly.

5. विधि तथा प्रक्रिया संबंधी जानकारी
Knowledge of Law and Procedures

24

- (i) विधि तथा प्रक्रिया की विशेष जानकारी नहीं है।
- (a) Does possess exceptionally good knowledge of law and procedure.
- (b) His knowledge of law and procedure is good.
- (c) His knowledge of law and procedure is satisfactory.
- (d) His knowledge of law and procedure is poor.

6. उत्साही तथा परिश्रमी
Zeal and Industry

7. प्रारंभणित
Initiative

8. अन्वेषण योग्यता
Investigative Ability.

9. आर्थ्यना/जानकारी एकत्र करने की योग्यता
Ability to Collect Intelligence/Information.

10. प्रारंभण तथा नियंत्रण
Supervision and Control

- (i) रिस्ति और अनुशारान बनाए रखना।
- (ii) Maintenance of order and discipline.
- (iii) विषवास और उत्तरदायित्व की भावना पैदा करना तथा स्टाफ की क्षमताओं का पूरा-पूरा उपयोग।
- (iv) Ability to inspire confidence, assume responsibility and get the best out staff.
- (v) रेटाफ को प्रशिक्षण, सहायता तथा सलाह देने की क्षमता और अधीनरथ कर्मचारियों को नियंत्रण में रखना।
- (vi) Capacity to train, help and advise the staff and ability to handle subordinat

विशेष गोट :- (क) उनस कालम 6 से 10 में अधिकारी को 'उत्कृष्ट', 'बहुत अच्छा', 'अच्छा', 'औसत' और 'औसत से कम' में वर्गीकृत किया जाए।

PS :- (a) In the Cols. 6 to 10 an Officer may be categorised as "Exceptional", "Very Good", "Average", "Below Average".

(b) रिपोर्टिंग प्राधिकारी को उस आधार का उल्लेख करना चाहिए जिस तारण उसने इस प्रमार का वर्गीकरण किया।

11. उपलब्धि में समय का पालन
Punctuality in Attendance

12. अभिक्षमता और समर्थता
Aptitude and Potential.

(कृपया निम्नलिखित में से दो ऐसे कार्यक्षेत्रों का उल्लेख करें जिनमें अधिकारी के विविषिष्टता तथा संवृद्धि पापा करने की संभवता हो।)

(Please indicate two fields of work from amongst the following for possible specialisation and career development of the Officer.)

- (i) सामान्य प्रशासन
- (ii) General Administration.
- (iii) कार्यक्षम प्रशासन
- (iv) Personnel Administration.
- (v) प्रशिक्षण
- (vi) Training.
- (vii) समन्वय
- (viii) Co-ordination.
- (ix) रक्षणा और ग्राहकार मित्राण संबंधी कार्य
- (x) Vigilance and Anti-Corruption Work.
- (xi) विशेष अपराध :
- (a) Special Crime :
- (b) Conventional
- (c) आर्थिक अपराध
- (d) Economic Offences.
- (e) कोई अन्य कार्यक्षेत्र (कृपया विवरित करें)
- (f) Any other field of work (Please Specify).

13. विशेष गुण/विशेष योग्यता
Traits/Special Abilities.

- (i) सामान्य आवरण और व्यक्तित्व
- (ii) General bearing and personality.
- (iii) सामाजिकता
- (iv) Sociability.
- (v) कार्य के प्रति समर्पण
- (vi) Dedication to duty.
- (vii) विधियों की समझ और तदनुसार कार्रवाई करने की तत्परता
- (viii) Appreciation of situation and quickness of response.
- (ix) विविल पर ज्ञान होना
- (x) Attention to detail.
- (xi) कार्यालय/दबाव से निपटने की योग्यता
- (xii) Ability to withstand pressure/stress.

(vii) सैन्यांतिक निर्णय लेने की योग्यता
 (viii) Ability to take a principled stand.
 (ix) उपाधिरा के अतिरा अधिकारी का कोई अन्य विशेष गुण/विशेष योग्यता
 (x) Any other traits/special abilities of the Officers other than those mentioned above.

14. अन्य अभिमत

Other Observations.

(इस खाल का उपयोग उन दिग्नियों के लिए निक्षिया जाना। यांत्रिक अधिकारी जो गुरुत्व कारण करता है, उनका यहां अथवा पूर्ति होती है। जो सुल्ल पहले कहा गया है, उसे धुमापिरा कर न दोहराएं बल्कि विशेष बातों का उल्लेख कर, रिपोर्ट की अवधि के दौरान कोई विशिष्ट उपलब्धि तथा ऐसा कोई अन्य पहलू जिसका उल्लेख उपर्युक्त प्रोफायर्म में न लेखिन रिपोर्टिंग अधिकारी विशेषत्व से उल्लेख करना चाहता है।)

(This space may be utilised for remarks which complete, corroborate or supplement has been indicated above. This should not, however, be used for merely repeating in terms what has already been stated, specific points such as special accomplishments of the period under report and any other aspects not covered in the proforma given above, the reporting Officer considers specially worth mentioning may also be indicated here.)

15. कोटि निर्धारण

Grading

(उत्कृष्ट/बहुत अच्छा/अच्छा/औसत/ औसत से कम)

विसी अधिकारी को तब तक उत्कृष्ट कोटि नहीं दी जानी चाहिए जब तक कि उसमें विशिष्ट गुण तथा कार्य नियामन में न आया हो। ऐसे कोटि निर्धारण के लिए कारणों का स्पष्ट उल्लेख किया जाना चाहिए।

(Outstanding/Very Good/Good/Average/Below Average).

An Officer should not be graded outstanding unless exceptional qualities and performance have been noticed; grounds for giving such a grading should be clearly brought out).

16. सत्यनिष्ठा
Integrity

- 95 -

AK

(यह गवालय के ना. जा. रा. 51/64 रखा. (ए) दिनांक 21.6.85, में निर्दित अनुदेशों को ध्यान में रखा जाए।)
(Instructions contained in MHA OM No. 51/64-Ext(A) dated 21.6.85 should be kept in mind).

रिपोर्टिंग अधिकारी के हस्ताधत.....
Signature of Reporting Officer.....
नाम साफ अक्षरों में.....
Name in block letters.....
पदनाम.....
Designation.....
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख.....
Date.....

पुनरीक्षण अधिकारी की अभ्युक्तियां
REMARKS OF THE REVIEWING OFFICER

17. पुनरीक्षण अधिकारी के अधीन की गई सेवा की अवधि :-
Length of service under the Reviewing Officer.

18. नया आप रिपोर्टिंग अधिकारी की अभ्युक्तियों से सहमत हैं ? यदि नहीं तो रिपोर्टिंग अधिकारी से इस अग्रहाति के कारण संक्षेप में उल्लेख करें तथा यह बताएं कि यह संवर्धी कालगा या आप वहां तक असहमत हैं।

Do you agree with the remarks of the Reporting Officer ? If not, indicate briefly the reasons for disagreeing with Reporting Officer and the extent of your disagreement against the respective column.

(स्पष्टीकरण) : अधिकारी स्पष्ट रूप से यह बताएँ कि विभिन्न मालों के संबंध में वह रिपोर्टिंग अधिकारी की अभ्युक्तियां नहीं हैं अथवा नहीं। अपनी व्यक्तिगत/सामान्य अभ्युक्तियां नहीं यहां उल्लेख करें।

(Explanation) : Officers are expected to clearly mention whether or not they agree with the remarks of the Reporting Officer against various items. Their own personal/general remarks also be added here).

19. गिरावट तथा गुणों का समाप्त गूल्यांकन।
Overall Assessment of Performance and Qualities.

20. रिपोर्टिंग अधिकारी के कोटि निर्धारण पर टिप्पणियां।
Comments on the Grading of the Reporting Officer.

पुनरीक्षण अधिकारी के हस्ताक्षर.....
Signature of the Reviewing Officer

नाम (साफ अक्षरों में).....
Name in block letters

पदनाम.....
Designation

(रिपोर्ट की अवधि के दौरान)
(During the period under report)

तारीख.....
Date

स्वीकार करने वाले प्राधिकारी की अनुभिति
Remarks of the Accepting Authority

स्वीकार करने वाले प्राधिकारी के इस्ताधर
Signature of the Accepting Authority
नाम (साफ अक्षरों में)
Name in block letters
पदनाम
Designation
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख
Date

अनुदेश
INSTRUCTIONS

1. गोपनीय रिपोर्ट एक महत्वपूर्ण दरतावेज़ है। इससे किसी अधिकारी के निष्पादन का मूल्यांकन करने तथा अपने में उपकरणों और आगे बढ़ने की संभावना का पता लगाने के लिए मुख्याली तथा महत्वपूर्ण जानकारी मिलती है। अतः उस अधिकारी का निष्पादन करने वाली जानी है, रिपोर्टिंग अधिकारी, पुनरीक्षण अधिकारी तथा रखीकार करने वाले अधिकारी को यह पार्ट पूरी विस्तृती से जाना चाहिए।

The Confidential Report is an important document. It provides the basic and vital inputs for assessing the performance of an officer and for his/her further advancement in his/her career. The officer reported upon, the Reporting Authority, the Reviewing Authority and the Accepting Authority should, therefore, undertake the duty of filling out the form with a high sense of responsibility.

2. गोपनीय रिपोर्ट के जारिए निष्पादन संबंधी इस मूल्यांकन का उपयोग मानव संराधन विकास के लिए किया जाना चाहिए। रिपोर्टिंग अधिकारियों को यह समझना चाहिए कि इसका उद्देश्य अधिकारी का इस प्रकार से विकास करना है कि यह अपनी वारतावरक क्षमताओं को समझ सके। यह कोई दोष निकालने की प्रक्रिया नहीं है बल्कि एक विकासात्मक प्रक्रिया है। इसलिए रिपोर्टिंग अधिकारी तथा पुनरीक्षण अधिकारी को उस अधिकारी की जिसकी रिपोर्ट लिखी जानी है, उसके निष्पादन, अभियुक्तिंग अथवा मानव संवित्ति संबंधी गमियों का उल्लेख करने में निर्दीश प्रकार गा राखें चाहिए।

Performance appraisal through Confidential Reports should be used as a tool for human resource development. Reporting Officers should realise that the objective is to develop an officer so that he/she realises his/her true potential. It is not meant to be a fault-finding process but a developmental one. The Reporting Officer and the Reviewing Officer should not shy away from reporting shortcomings in performance, attitudes or overall personality of the officer reported upon.

3. सभी कालम ध्यानपूर्वक तथा सावधानीपूर्वक भरे जाने चाहिए और इन्हें भरने के लिए पर्याप्त समय दिया जाना चाहिए। गोपनीय रिपोर्ट लापरवाही अथवा असावधानी से भरी जाएगी तो इसका गता उच्च अधिकारियों को बड़ी आसानी से लग जाएगा।

The columns should be filled with due care and attention and after devoting adequate time. Any attempt to fill the report in a casual or superficial manner will be easily discernible to the higher authorities.

4. यदि किसी अधीनस्थ कर्मचारी के रोजमरा के काम का सीधा संबंध वरिष्ठ अधिकारी से न हो तो रिपोर्टिंग अधिकारी ने उसके निष्पादन का मूल्यांकन उसके काम का कम-से-कम एक बार विस्तृत निरीक्षण करने के बाद ही किया जाना चाहिए।

Performance evaluation by the reporting officer must not be done without having conducted at least one detailed inspection of the work of the subordinate unless the subordinate is one with whom his senior is inter-acting almost daily.

5. यदि पुनरीक्षण अधिकारी यह समझता है कि रिपोर्टिंग अधिकारी ने यह रिपोर्ट बिना उपित सावधानी अथवा ध्यान दिए बिना लिखी है तो उसे अपनी अभ्युक्ति का उल्लेख भाग IV के कालम 2 में करना होगा। सरकार इस अभ्युक्ति को रिपोर्टिंग अधिकारी की गोपनीय पंजी में दर्ज करेगी।

If the Reviewing Authority is satisfied that the Reporting Authority had made the report without due care and attention he shall record a remark to that effect in Part IV Column 2. The Government shall enter the remarks in the Confidential Roll of the Reporting Authority.

प्रत्येक उत्तर विस्तार से दिया जाना चाहिए। खाली लोडे गए स्थान से इस बात का संकेत गिरेगा कि उत्तर निश्चय लाना चाहिए। शब्दों तथा वाक्यों का यथन सावधानीपूर्वक किया जाना चाहिए और उससे उत्तर लिखने वाले अधिकारी के नामप्राप्त का राजी-भासी पर्याय लाना चाहिए। कृपया सुरक्षित तथा सारल भाषा का प्रयोग करें। किसी भी गुण पर टिप्पणी करते समय “उल्कूट”, “बहुत अच्छा”, “अच्छा”, “अोसत”, और से कहने से कग”, जैसे बहुभावी शब्दों का प्रयोग नहीं करना चाहिए।

Every answer shall be given in a narrative form. The space provided indicates the desired length of the answers. Words and phrases should be chosen carefully and should accurately reflect the intention of the authority recording the answers. Please use unambiguous and simple language. Please do not use omnibus expressions like 'outstanding', 'very good', 'good', 'average', 'below average', while giving your comments against any of the attributes.

6. रिपोर्टिंग अधिकारी को वर्ष के आराग में भी उस अधिकारी के परामर्श से, जिसके बारे में रिपोर्ट लिखी जानी है, मानविक/गौतमिक/वित्तीय संबंध निर्धारित करने होंगे। निष्पादन संबंधी भूल्यांकन उस अधिकारी, जिसकी रिपोर्ट लिखी जानी है तथा रिपोर्टिंग अधिकारी का एक संयुक्त काग है। पुलिस उगाधीकरों, निरीक्षकों तथा उप-निरीक्षकों के संबंध में रिपोर्टिंग वर्ष के आराग में अधीत दिसम्बर में भी संध्या/उद्देश्य निर्धारित कर दिए जाएं। रिपोर्टिंग वर्ष के द्वारा कार्यान्वयन ग्रहण करने वाले वर्ष अधिकारी के मामले में यह संध्या/उद्देश्य उसके कार्यभार ग्रहण करने के समय निर्धारित किए जाएं।

The Reporting Officer, shall in the begining of the year set quantitative/Physical/financial targets in consultation with each of the Officers with respects to whom he is required to report upon, Performance appraisal should be a joint exercise between the officer reported upon and the Reporting Officer. The Targets/Goals/Objectives be set at the commencement of the reporting year i.e. December in respect of Dy. Supdts. of Police, Inspectors and Sub-Inspectors. In case of an Officer taking up a new assignment in the course of reporting year, such Targets/Goals/Objectives shall be set at the time of assumption of new assignment.

7. दोनों भी संबंधित अधिकारियों को इन संध्यों/उद्देश्यों को भर्ती-भासी जान और समझ लेना चाहिए। उत्तराधिकारी संबंधी संध्यों का निर्धारण करते समय मद्दवार प्राधिकरण, कार्य की प्रकृति और कार्य क्षेत्र को ध्यान में रखकर तथा उस विभिन्न अफसरों का ध्यान में रखकर निर्धारित की जानी चाहिए जो उस अधिकारी के कार्य की प्रकृति से जुड़े हो जिसके संबंध में रिपोर्ट लिखी जाना है।

The Targets/Objectives/Goals should be clearly known and understood by both the officers concerned. While fixing the targets for achievements, priority should be assigned item-wise, taking into consideration the nature and the area of work and any special features that may be specific to nature of the work of the officer to be reported upon.

9. यद्यपि कार्य-निष्पादन संबंधी गूल्यांकन वर्ष के अन्त में किया जाता है, तथांग इस बात को ध्यान में रखते हुए कि वह मानव संसाधन विनाश का माध्यम है, रिपोर्टिंग अधिकारी तथा उस अधिकारी को जिसकी रिपोर्ट लिखी जानी है, वर्ष के द्वारा निश्चित अन्तराल पर कार्य-निष्पादन की समीक्षा करनी चाहिए और इसमें सुधार के लिए आवश्यक कदम उठाने चाहिए।

Although, performance appraisal is a year end exercise, in order that it may be a tool for human resource development, the Reporting Officers and the Officer report upon should meet during the course of the year at regular intervals to review the performance and to take necessary corrective steps.

10. गूल्यांकन करने वाले प्रत्येक अधिकारी को उस अधिकारी के, जिसका गूल्यांकन किया जाना है, कार्य-निष्पादन, आवरण, व्यवहार तथा क्षमताओं के संबंध में यथासम्भव सही स्थिति का उल्लेख करना चाहिए।

It should be the endeavour of each appraiser to present the truest possible picture of the appraisee in regard to his/her performance, conduct, behaviour and potential.

11. एक ही श्रेणी के कुछ पदों पर अन्यों की अधिक काम होता है। विशेष पद पर कार्यालय और दबाव में जी गमन-गमन पर अन्तर होता है। गृह्यांकन गतिसे समय इन तथ्यों को भी ध्यान में रखना चाहिए और इनके संबंध में समुदाय स्वरूप से टिप्पणी की जानी चाहिए।

Some posts of the same rank may be more exacting than others. The degree of stress and strain in any post may also vary from time to time. These facts should be borne in mind during appraisal and should be commented upon appropriately.

12. युग्मों संबंधी जिन पदलुओं पर अधिकारी को गृह्यांकन दिया जाना है उनका उल्लेख प्रत्येक कालम में किया गया है। गृह्यांकन को सम्बन्धित तथा अन्य संगत पदलुओं के संबंध में उत्तर देना चाहिए।

Aspects on which and appraisee is to be evaluated on different attributes are delineated below each column. The appraiser should deal with these and other aspect relevant to the attributes

टिप्पणी : सत्यनिष्ठा से संबंधित कालम को भरते समय निम्नलिखित प्रक्रिया अपनाई जानी चाहिए :-

NOTE : The following procedure should be followed in filling up the column relating to integrity:-

- यदि अधिकारी की सत्यनिष्ठा में गोई सन्देह न हो तो इसका सार्वत्र उल्लेख दिया जाना चाहिए।
- If the Officer's integrity is beyond doubt, it may be so stated.
- यदि गोई सन्देह अधिकारी को साकारा तो इसका को ताली छोड़ देना चाहिए और निम्नानुसार कार्यालय की जानी चाहिए।
- If there is any doubt or suspicion, the column should be left blank and action taken as under:
 - एक अलग गुप्त नोट लिखकर अनुबर्ती कार्यालय की जाए। इस नोट की एक प्रति गोपनीय रिपोर्ट सहित आगे बढ़िए अधिकारी को भी भेजी जाए जो यह सुनिश्चित करेगा कि अनुबर्ती कार्यालय अतिशीघ्रता से की जाए। जहां सत्यनिष्ठा प्रमाणित करना अधिकारी गुप्त नोट लिखना सम्भव न हो उन मामलों में रिपोर्टिंग अधिकारी को स्थिति के अनुसार या तो यह लिखा जाहिए कि उसने उस अधिकारी के काम को पर्याप्त समय तक नहीं देखा है जिससे कि वह निश्चित निष्पक्ष देख सके अधिकारी यह कि उसने अधिकारी के विरुद्ध कोई प्रतिकूल बात नहीं मुनी है।
 - A separate secret note should be recorded and followed up. A copy of the note should also be sent together with the Confidential Report to the next superior Officer who will ensure that the follow up action is taken expeditiously. Where it is not possible either to certify the integrity or to record the secret note, the Reporting Officer should state either that he has not watched the officer's work for sufficient time to form a definite judgement or that he has heard nothing against the officer, as the case may be.
 - यदि अनुबर्ती कार्यालय के फलस्वरूप संदेह या शंकाएं दूर हो जाती हैं तो उस अधिकारी की सत्यनिष्ठा प्रमाणित की जानी चाहिए और गोपनीय रिपोर्ट में तादृग्राह प्रविष्ट की जाए।
 - If, as a result of the follow up action, the doubts or suspicions are cleared, the officer's integrity should be certified and an entry made accordingly in the Confidential Report.
 - यदि संदेह या शंकाओं की पुष्टि हो जाती है तो इस तथ्य का भी उल्लेख दिया जाना चाहिए और इसे संबंधित अधिकारी को बता दिया जाना चाहिए।
 - If the doubts or suspicions are confirmed, this fact should also be recorded and duly communicated to the officer concerned.
 - यदि अनुबर्ती कार्यालय के फलस्वरूप, संदेह या शंकाएं न हो जाती हैं तो कुछ और समय तक अधिकारी के आवरण पर नज़र रखी जानी चाहिए और उसके बाद उपर 'A' और 'B' में बताए गए अनुसार कार्यालय कार्यालय की जानी चाहिए।
 - If, as a result of the follow up action, the doubts or suspicions are neither cleared nor confirmed, the officer's conduct should be watched for a further period and thereafter action taken as indicated at (b) and (c) above.