

30/100

5

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 107/2002

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI.

ORDER SHEET

Original No. 107/2002

Misc. Petition No.       

Contempt Petition No.       

Review Application No.       

Applicant(s) Chotela Singh

Respondent(s) H.O.I Goms

Advocate for Applicant(s) J.L. Sarkar, Smt. S. Debbar

A. Chakraborty

Advocate for Respondent(s) Cafe

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

2.4.02

Heard Mr. J.L. Sarkar, learned counsel for the applicant.

Issue notice of motion. Also issue notice to show cause as to why interim order prayed for shall not be allowed.

List on 26.4.2002 for admission.

Pendency of this application shall not be a bar on the part of the Respondents to consider the case of the applicant for promotion if any.

K. L. S. Khan  
Member

mb

26.4.02

Heard Mr. A. Deb Roy, learned Sr. C.G.S. C. for the Respondents.

No show cause or no written statement so far is filed by the Respondents.

The application is admitted. Call for the Records. Returnable by four weeks.

① Service report are still awaited.

24.4.02

Notice prepared and sent to Dls for mis. lli. Respondent No. 1 & 2 by Regd A/D.

D/N<sub>o</sub> 1091 to 92

Dtd 8/4/02

76549671

4.2.02

Dr. R. S. Chakraborty

4/4/02

2

Notices already sent  
vide DINo 10914092  
dtd 8/4/02  
by  
29/4/02

26.4.92 No show cause of no written statement so far is filed by the Respondents.

The application is admitted. Call for the records. Returnable by four weeks.

List on 27/5/2002 for orders.

No. show cause has been filed.

by  
24.5.02.

ICU Sharma  
Member

Vice-Chairman

mb

27.5.02 List on 17.6.2002 to enable the Respondents to submit written statement.

5.6.2002

W/s submitted by the Respondents.

Vice-Chairman

mb

17.6.92 Written statement has been filed. The case is ready for hearing. Accordingly, the matter is posted for hearing on 25.7.2002.

ICU Sharma  
Member

Vice-Chairman

mb

25.7.2002 Prayer has been made on behalf of Mr. J.L.Sarkar, learned counsel for the applicant for adjournment. The case is accordingly adjourned.

List the matter on 7.8.2002 for hearing.

ICU Sharma  
Member

Vice-Chairman

bb

3 3  
D.A.107/2002

Notes of the Registry

Date

Order of the Tribunal

7.8.2002

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


The Hon'ble Mr. K.K.  
Sharma, Member (Admn.)

Heard Mr. A. Chakraborty, learned  
counsel for the applicant and also Mr. A.  
Deb Roy, learned Sr. C.G.S.C. for the res-  
pondents.

This case is squarely covered by  
the judgment and order passed by this  
Bench in D.A. 47 of 2002 dated 30.7.2002.  
In the light of the said decision this  
application is also dismissed. No order  
as to costs.

ICU Sharma

Member



Vice-Chairman

bb

Order dtd. 7/8/02  
Communicated to  
the Hon'ble Court.

Notes of the Registry

Date \_\_\_\_\_

Order of the Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Guwahati Bench

Title of the case

# O.A. No.: 107 /2002

Sri Chotelal Singh

Applicant

----- versus -----

Union of India & ors.

Respondents

I N D E X

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3.	B	Copy of Charge sheet dated 06.2.2002	11-16

Filed by

(Anupam Chakraborty)

Advocate

X

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 167 /2002

BETWEEN

Sri Chotelal Singh

Working as Sr. Accounts Officer in the

P & T Accounts and Finance Service

Group- E, in the office of

GMTD, Dibrugarh.

Applicant

AND

1. Union of India represented by the  
Secretary to the Govt. of India,  
Ministry of Communication,  
Department of Telecommunications,  
New Delhi - 1.

2. The Chief General Manager,  
Assam Telecom Circle, Ulubari,  
Guwahati- 781 007.

Respondents

Details of the Application :

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

The application is made against the Charge-sheet number Vig/Assam/Disc.XIII/29 dated 06.02.2002 issued by the

Filed by Mr. applicant through  
A. Chakrabarti, Advocate  
1/4/2002

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

2. Jurisdiction:

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

3. Limitation:

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

4. Facts of the case:

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

4.2 That the applicant initially joined as Time Scale Clerk w.e.f. 22.10.1969 in the Department of Post & Telecommunications. He was promoted as Junior Accounts Officer in May, 1982 and as Deputy Accounts Officer (now designated as Assistant Accounts Officer), Group-B service w.e.f. 01.4.1987. He was officiating as Accounts Officer/IFA in the office of Area Manager, Dibrugarh in March 1992 on temporary and adhoc basis. He was thereafter promoted as Accounts Officer (for short AO) w.e.f. 16.12.1994 and as Senior Accounts Officer (for short Sr. AO) w.e.f. September, 1995 in the Indian P & T Accounts and Finance



service, Telecom Wing, Group - B. It is stated that the appointment/promotion to the post of Sr. AO in the P & T Accounts and Finance service, Telecom Wing, Group-B (Gazetted) is made by the Telecom Commission. The applicant's promotion, transfer and posting order in the cadre of Sr. AO in the P & T Accounts and Finance Service Group 'B' was issued in pursuant to DOT/New Delhi Memorandum. It is also stated that in 1992 a Senior Accountant and a JAO was posted under him.

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

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

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

4.6 That from the said schedule it is clear that the authorities for the accounts service have been prescribed specifically as competent authorities for imposing penalties and for the Accounts Officer Group-B service the general Manager or other authorities mentioned in the schedule empowered to impose penalties for item(i) to (iv) of Rule 11 are not competent to impose major penalties. Even for Group-C service Member, Post and Telegraph Board is the only competent authority to impose major penalties.

4.7 That the Rule 14 of the CCS CCA Rules prescribes the procedure for major penalties. Under Rule 2(g)

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

4.8 That a memorandum of charge-sheet number Vig/Assam/Disc.XIII/29 dated 06.02.2002 has been issued to the applicant under Rule 14 of the CCS CCA Rules 1965 under the signature of the Chief General Manager, Assam Telecom Circle, Guwahati-7. It is stated that Chief General Manager is not competent authority under the rules to issue the said charge-sheet to the applicant.

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

4.9 That the allegations of charges relate to the period 1992 in the matter of pre-checking of bills and giving pay orders for supply of materials. The authorities for the long years could not do anything in the matter of alleged irregularities in the pre-checking of the bills. To

cover up the matters of alleged irregularities the charge sheet has been issued to the applicant. The charge sheet is liable to be set aside for allegations during the period of about 10 years back.

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

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

4.12 That the applicant is no way responsible for the allegations and to give an eye-wash in the matter of alleged irregularities in the supply and payment of the materials by the executive side the applicant who is in accounts service have been sought to be implicated by the imputations irregularly by-passing the Telecom Commission, Member of which Commission is the only competent authority

to initiate a charge sheet against the applicant.

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

5. Grounds for reliefs with legal provisions:

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

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

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

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

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

6. Details of remedies exhausted:

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

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

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

8. Reliefs sought for :

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

8.1 The Charge sheet number Vig/Assam/Disc.XIII/29 dated 06.2.2002 issued by the Chief General Manager, Assam Telecom Circle be set aside and quashed.

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

8.3 Cost of the case.

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

9. Interim relief prayed for :

During the pendency of this application the applicant prays for the following relief:

9.1 The proceedings in the charge sheet number Vig/Assam/Disc.XIII/29 dated 06.2.2002 be stayed/suspended.

14

10.

11.

i)

15  
16

ii)

18  
77

iii

11

14)

85  
86

12.

Particulars of Enclosures :

As stated in the index.

Verification .....

Verification

I, Chotelal Singh, Son of Late Subedar Singh, resident of Dibrugarh, aged about 51 years do hereby verify that the statements made in para 1,4,6 and 7 are true my personal knowledge and those made in para 2,3 and 5 are true to my legal advice and the rests are my humble submission. I have not suppressed any material facts.

And I, sign this verification on this  
28/5 day of March, 2002.





Annexure-A

11

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

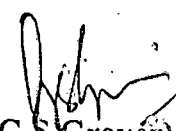
No. Vig/Assam/Disc.XII/29


Dated, 6-2-2002.

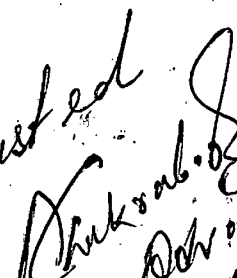
**MEMORANDUM**

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

To  
✓ Sri Chotelal Singh  
Sr. Accounts officer  
O/O GMT Dibrugarh

  
(G.S. Grover)  
Chief General Manager  
Assam Telecom Circle, Guwahati-07.

Received  
on 6/3/02  
(A/N)  


Admitted  
  
1/4/2002

Recd in  
26/2

-12-

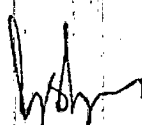
18

ANNEXURE - I

ARTICLE OF CHARGE FRAMED AGAINST SHRI CHOTELAL SINGH,  
FORMERLY ACCOUNTS OFFICER O/O TDE DIBRUGARH AND NOW SR.  
ACCOUNTS OFFICER, O/O GMT DIBRUGARH.

Shri Chote Lal Singh while posted and functioning as Accounts Officer, in the office of the TDE Dibrugarh during 1992 committed gross misconduct, in as much as he gave financial concurrence for purchase of 100 Km PVC insulated twin galvanised steel dropwire from M/s B.R. Electricals on 10-3-92, despite the fact that the Line Store materials was stocked item during that period and there was no de-centralisation of order to purchase of such item from DoT, New delhi. Further the said item of M/s B.R. Electricals was not approved item of DoT. The codal formalities for purchase of stocked items during emergency need, was not observed, which is required under different rules, circulars of deptt. resulting firm submitted 4 (Four) nos. of bills amounting to Rs. 7,62,892/- against 4 (Four) purchase order which were illegally paid to the said firm.

Thus Shri Chote Lal Singh, due to his aforesaid act, failed to maintain absolute integrity and devotion to duty and thereby contravened the rules of 3 (1) (i) & (ii) of CCS (Conduct) Rule 1964.

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

14/6/92

— 13 —

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ANNEXURE-II

STATEMENT OF IMPUTATION IN SUPPOR TO ALLEGATION MADE  
AGAINST SHRI CHOTE LAL SINGH, FORMERLY ACCOUNTS OFFICER O/O  
TDE DIBRUGARH AND NOW SR. ACCOUNTS OFFICER O/O GM  
DIBRUGARH

That the said Shri Chote Lal singh, was functioning as Accounts Officer, in the O/O TDE, Dibrugarh during 1992.

His main duties and functions as Accounts Officer are :

1. Compilation of accounts correctly in the divisions in accordance with the prescribed rules.
2. To apply preliminary checks initial accounts vouchers etc. with the prescribed rules.
3. To render general assistance and advise to the Divisional Engineer in all matter relating to accounts and budget estimates or to the operation of financial rules.

He was responsible for thorough examination of any purchase proposal as for ensure that procedures laid down by the department rules and terms and conditions for making purchases of stores have been fulfilled/adhered to strictly.

In case of any proposals does not fulfill the prescribed procedures terms and conditions, he must record in writing the reasons and return it to the authority concerned for remedial actions.

Shri C.L.Singh, Accounts officer had given financial concurrence on 10-3-92 for purchase of 100 Km PVC twin galvanised steel dropwire from M/s B.R. Electricals, New Delhi. He had further mentioned that he had confirmed that departmental supply of insulated GI Wire was not available in CTSD. But it is found that no such certificate was obtained from CTSD.

Shri C.L.Singh had given financial concurrence for purchase of said item despite the fact that

1. Line Store materials was stocked item of DOT and there was no de-centralisation of orders for purchase of any type of GI wire.
2. The local purchase of stocked item of stores should be resorted only in cases where they are not readily available in the store depot and due to urgency it is not possible to wait for supply through store organisation and for this first a certificate of non-availability of relevant stores in concerned store depot is to be obtained

and got recorded and purchase should be made observing all codal formalities from the approved members at the approved rates.

3. No field evaluation can be carried out for any newly introduced telecom items without reference of Telecom Engineering Cell (TEC).
4. The items of M/s B.R. Electricals were not approved item of DOT during 1992.
5. There was no rules, circulars in the Telecom Deptt. regarding adoption of tender approved by other circle.

Shri C.L. Singh failed to point out the required codal formalities to Area Director, Dibrugarh while he has given financial concurrence for purchase of PVC insulated twin galvanized steel dropwire from M/s B.R. Electricals.

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

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ANNEXURE - III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED  
AGAINST SHRI CHOTE LAL SINGH FORMERLY ACCOUNTS OFFICER O/O  
TDE DIBRUGARH AND NOW SR. ACCOUNTS OFFICER O/O GMT  
DIBRUGARH ARE PROPOSED TO BE SUSTAINED.

- 1) File No. Eng. S-41/DTDR/92-93 regarding ; PVC coated wire (allotement) O/O Area Director Telecom, Dibrugarh (Relevant pages N/s-5, N/s-6, N/s-7, N/s-8, N/s-10, N/s-13, N/s-14, N/s-18 and page 42 to 58, 59 to 98, 59 to 243, 251 to 260.
- 2) Bill No. 270 dtd. 21-03-92 of M/s B.R. Electricals.
- 3) Bill No. 271 dtd. 1-4-92 of M/s B.R. Electricals.
- 4) Bill No. 272 dtd. 01-04-92 of M/s B.R. Electricals.
- 5) Bill No. 273 dtd. 01-04-92 of M/s B.R. Electricals.
- 6) Counterfoil of cheque books (two nos.) O/O TDM Dibrugarh.
- 7) Counterfoil copy of cash book page No. 65 and 88 two sheets of o/o TDM Dibrugarh.
- 8) Counterfoil of cheque book (Two nos) of O/O TDM Nagaon.
- 9) Cheque issued Register w.e.f. 23-02-91 to 7-4-94 of O/O TDM Nagaon.
- 10) One file of O/O the SDE, Bokakhat containing issue slips etc.
- 11) One file of o/o the SDE(T) Naharkatia containing bills challan purchase order etc. issue slips.
- 12) Stock register of O/O SDOT Tinsukia.
- 13) Stock and Issue Register of o/o the SDOT Nagaon.
- 14) Letter No. 9-102.97-Vig.I dtd. 28-6-99 issued by Sh. K. Nagarajan, Asstt. Director General (Vig.).
- 15) Letter No. W-266/INS/G.I Wire/98-99/Misc/38 dtd. 27-5-99 alongwith enclosures issued by Sh. S.C. Ray, Asstt. G.M. (S-II) for CGMT's Calcutta-3.
- 16) Letter No. 9-5/98-Vig-I dtd. 13-4-99 issued by Shri R. Krishnamurthy, Director (VRIT) New Delhi alongwith enclosures.
- 17) One cash book No. 276 of o/o TDE Dibrugarh w.e.f. 18-8-92 to 20-10-92.
- 18) Letter No. PLSP/2-52/99-2000/2 dtd. 23-3-2000.
- 19) Postal Telegraph Financial Hand Book, Vol-I (Genl)
- 20) General Financial Rules.
- 21) Post and Telegraph financial Hand Book Vol-II.
- 22) Post and Telegraph Manual Vol-X

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ANNEXURE -IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED  
AGAINST SHRI CHOTELAL SINGH FORMERLY AO O/O TDE, DIBRUGARH  
AND NOW SR. AO O/O GMT DIBRUGARH ARE PROPOSED TO BE  
SUSTAINED.

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH :: GUWAHATI.

O.A. NO. 107 OF 2002

Shri Chotelal Singh.

-VS-

Union of India & ors.

-And-

IN THE MATTER OF ::

Written statement submitted by the  
respondents.

The respondents beg to submit written statement  
as follows :-

1. That with regard to para - 1 of O.A., the  
respondents beg to state that the impugned memorandum of  
charges dated 6-2-2002 was issued by Chief General Manager,  
Assam Telecom Circle as the prescribed disciplinary  
authority within his competence and under the provision  
of CCS(CCA) rules, particularly Rule - 2(g) and Rule 13(2).

Through the memo, the applicant was informed of the  
specified charges framed against him and the documentary  
evidences/witness by which the charges are proposed to  
defence within 10 days.

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

Filed by

31/5/02  
(A. DEB ROY)  
Sr. C. G. S. C.  
C. A. T. Guwahati Bench

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

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

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

5. That with regard to para - 4.3 of O.A., the respondents beg to state that admittedly, the CGMT is empowered to impose one of the penalties prescribed in Sub- Para (i) to (iv) of Rule - 11 but the Rule - 13 of the CCS(CCA) Rules empowers the authority to institute Disciplinary proceedings against the applicant for imposition of any of the penalties prescribed in sub - para (v) to (ix) of Rule - 11.

As per CCS(CCA) Rule - 13(2) A disciplinary authority competent under this rule to impose any of the penalties in clauses (i) to (iv) of Rule - 11 may institute disciplinary proceedings against any Government Servant for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule - 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.



Since the CGMT is the competent authority to impose any of the penalties specified in clause (i) to (iv), he is also the competent authority to institute disciplinary proceedings against the said C.Singh for imposition of penalty specified in (v) to (ix).

(A Copy of Rule - 13 is annexed as Annexure - R -1.)

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

7. That with regard to para - 4.5 of O.A., the respondents beg to state that no penalty either major or minor has been awarded to the applicant by any authority. Disciplinary proceedings against Shri C.Singh is instituted by the order-dated 06-02-2002 only thereafter the same will be dealt with under the Departmental Rules.

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

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

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

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

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

As stated in para - 4.3 to 4.6 above and also admitted by the applicant the CGMT is the prescribed competent authority for imposing one of the penalties specified in clause (1) to (iv) of Rule - 11. That being so, the said authority is also competent to institute proceedings for imposition of one of the penalties mentioned in clause (v) to (ix) of Rule - 11.

In view of the above position of law the CGMT is well within his competence to issue the impugned memorandum of charges against the applicant.

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

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

11.

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

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

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

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

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

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

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13. That with regard to para - 4.13 of O.A., the respondents beg to state that the applicant was specifically directed to submit the written statement of the defence within 10 days from the date of receipt of the impugned charge sheet dated 17.01.2002. The applicant has failed to comply with the direction within the specified time limit. He has made request for 30 days time for submission of his written statement and thereafter approached the Hon:ble Tribunal by filing the OA. The same is pre-mature as liable to be dismissed.

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

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

I, Shri Shankar Chandra Das presently  
working as Assistant Director Telecom (Legal) be duly authorised  
and competent to sign this verification, do hereby solemnly  
affirm and state that the statements made in para 1, 2,  
5 to 13 are true to my knowledge and belief,  
those made in the paras  
being matter of records, are true to my information  
derived therefrom and the rest are my humble submission  
before this Tribunal, I have not suppressed any material  
facts.

And I sign this verification on this 28 th day  
of May : 2002.

Shankar Chandra Das  
28/5/2002

Declarant.

সহায়ক নির্দেশক (আইন), (অসম)  
Assistant Director Telecom (Legal)  
কোয়ালিফিকেশন, মধ্য অসম টেলিফোন বোর্ড,  
O/o The Chief Engineer, Assam Telecom,  
অসম টেলিফোন বোর্ড, গুৱাহাটী-৭  
Assam Telecom Circle, Guwahati-7

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

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

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

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

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

[ Para. 436 of P. & T. Manual, Vol. III. ]

### 12. Authority to institute proceedings

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

(a) institute disciplinary proceedings against any Government servant;

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

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