

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-133/02 or destroyed pg-1

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SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

/ ORDER SHEET

Original Application No : 307 / 2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) Anura Dutta

-Vs-

Respondent (s) Leopold

Advocate for the Applicant (s) Mr G.B. Saha

Advocate for the Respondent(s) Mr M.K. Mishra
Mr D.C. Naha

Case.

Notes of the Registry

Date

Order of the Tribunal

23.9.02

Issue notice to show cause as to why this application shall not be admitted, Returnable by four weeks.

Also issue notice to show cause as to why interim order as prayed for shall not be granted. Mr.A.Deb Roy, learned Sr.C.G.S.C. accepts notice. Returnable by 26.9.02.

List on 26.9.02 for show cause.

Member

Vice-Chairman

pg

00/232
19/9/02
sdf/-
Notices prepared and sent to D. Section for issuing to the same to the respondents through Regd. post vide D.No-2811 to 2818 dt-8.10.02.

20
24.9.02.

26.9.02

Heard Mr. U.B. Saha, learned Sr. counsel for the applicant assisted by Mr. M.K. Mishra, learned counsel at length. Earlier, notices were issued on the respondents to show cause as to why an interim order would not be passed. No return so far filed.

Considering the facts and circumstances of the case and also the nature of the order for transfer and posting of the applicant, the operation of the impugned order dated 10.9.2002 shall remain suspended till the next date. Let the respondents submit its return on or before 10.10.2002. The matter shall again be posted for admission on 10.10.2002. In view of the suspension of the impugned order the respondents are directed to allow the applicant to work in his post prior to posting.

The respondents may come for modification of the order in the meantime.

Member

Vice-Chairman

26.9.2002

Heard Mr. U.B. Saha, learned Sr. counsel for the applicant assisted by Mr. M.K. Mishra, learned counsel at length. Earlier notices were issued on the respondents to show cause as to why an interim order would not be passed. No return so far is filed.

Considering the facts and circumstances of the case and also the nature of the order for transfer and posting of the applicant and other attending circumstances, we are of the opinion that an interim order is called for. We accordingly order upon the respondents to keep in abeyance the impugned Memo No. Vig/1-4/2002-2003 dated 10.9.2002 transferring the applicant from Agartala. The impugned order of transfer shall remain suspended in the meantime.

Let the respondents submit its objection/statement in writing if any. The case shall be posted again on 10.10.2002 for admission and further order. ~~XXX~~ It would also be open to the respondents to come up for modification/vacation of the interim order, if they are so advised.

Member

Vice-Chairman

mg

10.10.2002

Heard Mr. U.B. Saha, learned counsel for the appellant
Mr. A. Debroy, Sr. C.A.S.C. for the respondents.

Hearing concluded.
Judgment reserved.

mg,

A. Debroy
10/10.

W/s noted by
the respondents
on 10.10.2002.

A. Debroy
10/10

4
8.11.2002

Copy of the Judgement
has been sent to
The Office for Inquiry.
The one to the applicant
as well as to the
Govt. Advocate.

sls

11.10.02

3
Judgement delivered in open
Court, kept in separate sheets. The
application is dismissed in terms of
the order. No order as to costs.

ICC Sharma
Member

Vice-Chairman

mb

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXX~~ 307 of 2002, O.A.No.308/2002
O.A.No.309/2002 and O.A.No.310/2002.

DATE OF DECISION 11.10.2002

1. Smt A. Dutta (O.A.No.307/2002)
 2. Sri J. Debnath (O.A.No.308/2002)
 3. Shri H. Dasgupta (O.A.No.309/2002)
 4. Smt A. Dutta (O.A.No.310/2002)
- APPLICANT(S)

Mr U.B. Saha, Mr M.K. Misra and
Mr D.C. Nath

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

The Union of India and others RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C. and
Mr B.C. Pathak, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

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

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

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

5.

Judgment delivered by Hon'ble Vice-Chairman

} Yes

L

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.307 of 2002
Original Application No.308 of 2002
Original Application No.309 of 2002
And
Original Application No.310 of 2002

With
Misc. Petition No.133 of 2002 (In O.A.No.307/2002)

Date of decision: This the 11th day of October 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

1. O.A.No.307/2002

Smt Aniva Dutta, Postal Assistant,
Wife of Sri Tirthankar Chowdhury,
Joynagar, Agartala.

2. O.A.No.308/2002

Sri Janardhan Debnath, Postal Assistant,
Resident of Sripalli, Badharghat,
Arunchatinagar, Agartala.

3. O.A.No.309/2002

Sri Haru Dasgupta, Postal Assistant,
Resident of Bhattapukur,
Arunchatinagar, Agartala.

4. O.A.No.310/2002

Smt Ajita Dutta, Postal Assistant,
Wife of Sri Prabal Dutta,
Jagannath Bari Road, Agartala.

.....Applicants

By Advocates Mr U.B. Saha, Mr M.K. Misra and
Mr D.C. Nath.

- versus -

1. The Union of India, represented by the
Secretary, Ministry of Communication,
Government of India,
New Delhi.
2. The Director General, Posts,
Dak Bhawan, New Delhi.
3. The Chief Postmaster General,
North Eastern Circle, Shillong.
4. The Director of Postal Service (Head Quarters),
Office of the Chief Postmaster General,
North Eastern Circle, Shillong.
5. The Director, Postal Services,
Agartala Division, Agartala.

6. Smt Trishaljit Sethi,
Wife of Sri K.S. Sethi,
Director of Postal Services,
Agartala Division, Agartala.
7. Sri Lalhluna,
Director Postal Services (Head Quarters),
Office of the Chief Post Master General,
Shillong.
8. Sri B.R. Haldar,
Asstt. Director,
Office of the Chief Post Master General,
Shillong.Respondents
- By Advocates Mr A. Deb Roy, Sr. C.G.S.C. and
Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R

CHOWDHURY. J. (V.C.)

The issue is identical in all the four O.A.s concerning the legitimacy of the impugned order dated 10.9.2002 transferring the four applicants from Agartala Postal Division. The text of the order is reproduced below:

"The Chief Postmaster General, North Eastern Circle, Shillong hereby ordered the transfer/posting of the following officials of Agartala Postal Division under Rule 37 of P&T Manual Vol.IV to have immediate effect and in the interest of service.

Sl. No.	Name of official and Present place of posting	Postal Division to which posted on transfer
1.	Shri Janardhan Debnath, PA, Agartala HO	Meghalaya Division
2.	Shri Haru Das Gupta, PA, Agartala HO	Meghalaya Division
3.	Smti Aniva Dutta, PA, Agartala HO.	Dharmanagar Division
4.	Smti Ajita Dutta, PA, O/O DPS Agartala	Dharmanagar Division

The above four (4) officials who are being transferred out of Agartala Postal Division should be relieved within 14th September 2002 positively. If they are not relieved within the stipulated date, they will be deemed to have been relieved.

The Sr. Supdt. of P.O.s, Meghalaya Division, Shillong will immediately issue the posting order in respect of Shri Janardhan Debnath and Shri Haru Das Gupta. The Supdt. of P.O.s, Dharmanagar Division will also immediately issue the posting order in respect of Smti Aniva Dutta and Smti Ajita Dutta."

The applicants assailed the order of transfer as arbitrary, discriminatory and unlawful vitiated by improper exercise of power.

2. In view of the commonality of the factual matrix, the facts mentioned in O.A.No.307 of 2002 are referred to hereinbelow for the purpose of adjudication of all the four applications:

The applicant in O.A.No.307/2002 claimed to be the Treasurer of the Agartala Division, Branch of All India Postal Employees Union, Group C; the applicant in O.A.No.308/2002 similarly claimed to be the President of Agartala Division, Branch of All India Postal Employees Union, Group C; the applicant in O.A.No.309/2002 claimed to be the Divisional Secretary of Agartala Division, Branch of All India Postal Employees Union, Group C and the applicant in O.A.310/2002 claimed to be the Vice-President of Agartala Division, Branch of All India Postal Employees Union, Group C. The applicants, inter alia pleaded about the General Strike of Postal Employees that took place from 5.12.2000 to 18.12.2000 for fulfilling the economic demand of the employees of the Postal Department. It was also stated that the aforementioned strike was declared illegal by the authority, but due to mass employees participation, the authority could not initiate any disciplinary action against the Postal Employees including the applicants. The respondent No.6 joined as a Director of Postal Services, Agartala Division on 20.12.2000. According to the.....

the applicants the respondent No.6, on her joining as such tried to interfere in the Trade Union activities of the applicant's Association/Union work and threatened the Postal Groups C and D employees, who are the members of the Union. The applicants also referred to the incident that took place on 5.8.2002. It was also pleaded that on 29 and 30 July 2002 the respondent No.6 as Director, Postal Services, Agartala Division issued chargesheets to Shri Mrinal Kanti Das, Postal Assistant and Shri Kanti Ranjan Debbarma, Deputy Post Master, Agartala Head Office. It was stated that for the aforementioned action of the respondent No.6 the general employees of the Postal Department, Agartala Division expressed their unhappiness. According to the applicants a delegation of ten members of the All India Postal Employees Union Group C and D and National Union of Postal Employees Group C and D met the respondent No.6 in her Chamber at 11.00 A.M. under the leadership of the applicants and others with a request to withdraw the chargesheets issued under the relevant rules against the two employees. The respondent No.6 misbehaved with the Union leaders including the applicants and threatened them at the discussion. The applicants also referred to a communication dated 6.8.2002 sent by the respondent No.6 addressed to the Chief Secretary, Government of Tripura. According to the applicants the allegations made by the respondent No.6 against the applicants and the associates in the letter dated 6.8.2002 were false and fabricated and the same was done only to harass the applicants and the members of the Union to dissuade them from continuing with their Union activities for the interest of the

Postal.....

Postal employees. It was also pleaded that on the information received from the respondent No.6, the Chief Post Master General, N.E. Circle, Shillong sent two officers, namely the Director, Postal Services (HQ), Office of the Chief Post Master General and an Assistant Director of the Office of the Chief Post Master General for an enquiry about the alleged incident that took place on 5.8.2002. The two officers came to Agartala on 29.8.2002 and discussed with the applicant and other employees who were in the delegation at the time of discussions in the chamber of the respondent No.6. According to the applicants after enquiry nothing was found, however, surprisingly by the impugned order dated 10.9.2002 the applicants were illegally transferred. Hence the present applications assailing the impugned order of transfer as violative of Rules 37 and 37A of the P&T Manual and F.R. 15. The applicants also assailed the order of transfer as arbitrary, discriminatory and malafide and contended that the said order was not passed in public interest.

3. We issued notice on the respondents on 23.9.2002 and also issued notice as to why interim order should not be granted. On the returnable date, i.e. 26.9.2002 we passed an interim order keeping in abeyance the impugned Memo dated 10.9.2002 and ordered the respondents to submit written statement/objection in writing. Accordingly, the matter was posted to 10.10.2002 for admission. The respondents submitted written statement opposing the applications and also submitted a Misc. Petition No.133/2002 in O.A.No.307/2002 praying for vacation and/or modification of the interim order dated 26.9.2002.

4. We have heard Mr U.B. Saha, learned Sr. counsel for the applicants, assisted by Mr M.K. Misra, Advocate, at length. We have also heard Mr A. Deb Roy, learned Sr. C.G.S.C. as well as Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned Sr. counsel for the applicants took pain in placing before us the materials on record in support of his case. The learned Sr. Counsel also referred to the provisions of Rule 37 of the P&T Manual as well as the provisions of F.R. 15 and 22. Referring to the factual constituents, the learned Sr. counsel for the applicants submitted that the impugned order was passed as a measure of punishment and the alleged allegations mentioned in the complaint were the foundation of the order of transfer which was per se punitive in character. The learned Sr. counsel submitted that the order of transfer was grounded on malafide and extraneous considerations and therefore, the same was liable to be set aside and quashed. The learned Sr. counsel had also drawn our attention to the judgment rendered by the Ahmedabad Bench of the Tribunal and submitted that the Ahmedabad Bench by judgment and order dated 21.12.1995 in O.A.Nos.250, 267, 268 of 1994 and like cases held that the department itself had kept in abeyance the operation of Rule 37 itself and therefore, the impugned order of transfer in those cases were set aside and quashed. The learned Sr. counsel also referred to the decision rendered by the Gauhati High Court in Lilaram Bora Vs. Union of India and others, reported in 1982 (1) GLR 366; Ramzan Ali Ahmed Vs. Taiyab Ali Ahmed, reported in 1998(2) GLT 242 and Nikunja Ch Deka Vs. Assam Agricultural University and others, reported in 1992 (2) GLT 555.

5. The learned counsel for the respondents opposing the claim of the applicants referred to the facts mentioned in the written statement as well as to the Misc. petition No.133/2002 praying for vacation of the interim order. The learned counsel for the respondents submitted that the impugned order of transfer was passed due to administrative exigency so that the administration could run smoothly and subserve the public interest. Mr A. Deb Roy, learned Sr. C.G.S.C., stated that the transfer of a Government servant is an incidence of the service and that a Government servant does not possess a right not to be removed from a place of posting. The Tribunal in exercising power under Section 19 of the Administrative Tribunals Act, 1985 is not to act as an Appellate Authority. Mr B.C. Pathak, learned Addl. C.G.S.C., referring to the fact situation, submitted that the impugned order was passed on administrative grounds and since the said order was not violative of the statutory rules or constitutional provisions, the Tribunal would refrain from interfering with the administrative decision passed by the authority bonafide. Mr B.C. Pathak also sought to distinguish the cases referred to by the learned Sr. counsel for the applicants.

6. Transfer is always understood and construed as an incidence of service and therefore, it does not result in any alteration of the conditions of service. F.R. 15 (a) empowers the authority to transfer a Government servant from one post to another; provided that except- (1) on account of inefficiency or misbehaviour, or (2) on his written request, a Government servant shall not be transferred substantively to, or, except in a case

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covered by Rule 49, appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien. or would hold a lien had his lien not been suspended under Rule 14. But then, all powers must conform to the norms enshrined in Article 14 of the Constitution of India. Non-arbitrariness is an essential ingredient of Article 14 of the Constitution. A malafide exercise of power or for that matter arbitrary exercise of power or a transfer order passed malafide is obviously unlawful. The order is to be tested in the context of the fact situation. Chapter II of the P&T Manual Vol.IV regulates the transfer and posting. Under Rule 37 all officials of the department are liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials. Transfers should not, however, be ordered except when advisable in the interests of public service. Postmen, village postmen and Class IV servants should not, except for very special reasons, be transferred from one district to another. All transfers must be subject to the conditions laid down in Fundamental Rules 15 and 22. Under Rule 37-A transfers should generally be made in the April of each year so that the education of school going children of the staff is not dislocated. In emergent case or cases of promotion these restrictions will naturally not be applicable.

7. Mr U.B. Sahar, the learned Sr. counsel for the applicants particularly emphasised the complaint lodged by the respondent No.6 by her communication dated 6.8.2002 addressed to the Chief Secretary and also to the note submitted by the Inquiry Officer and the Director of Postal Services dated 5.9.2002. It would be appropriate

in.....

in this context to refer to the communication dated 6.8.2002 submitted by the respondent No.6 to the Chief Secretary, which reads as follows:

"This is to report to you the ugly incident involving gherao and assault on Director Postal Services, Agartala on 5th August 2002:

On 5th Aug I went to my office at around 10 A.M. A little thereafter, the union leaders, Mr Janardan Debnath and Mr Haru Dasgupta and others came to my chamber and demanded that the charge sheet issued by the department to Shri Kanti Debbarma Deputy Post Master, must be withdrawn immediately as he is due to retire soon. I explained that the power to withdraw a charge sheet is vested with the Chief Post Master General (Chief PMG) who is at Shillong. They were however very vociferous and insistent, upon which I suggested that a representation may be submitted which I could forward to the Chief PMG for necessary action. They refused to do so, and insisted upon me to withdraw it at once.

At this stage, I spoke on phone to the Director Postal Services (HQ) in the o/o Chief PMG Shillong who also spoke to Shri Janardan Debnath explaining to him that they may submit a representation to his office through the DPS Agartala. To this also, they did not agree and became more agitated and started shouting slogans and using objectionable language.

Thereafter (another 5 minutes or so) I got up and walked towards the door. Shri Haru Dasgupta and another employee (an Extra Depttl Stamp Vendor - union leader of the ED Agents- posted at Secretariate Post Office whose name I can't recall) blocked the door physically, and two ladies Smt Aniva Dutta and Smt Ajita Datta held me by the upper arms and dragged me into another room. I was so taken aback, that I screamed loudly, crying for help. Nevertheless, they forced me into a corner of the room and illegally detained me there.

I also saw that outside my chamber, in the corridor, there were about 100 odd people stationed. In this room several ladies and men gheraoed me. Mr Haru Dasgupta repeatedly taunted me and gave inciting speeches against me with wrongful and malicious statements. From time to time, Shri Janardan Debnath would come to me and give ultimatum to sign the papers for withdrawing the charge sheet. He said that as soon as I sign it, I will be allowed to go. I just kept quiet each time.

I then went towards the window and on seeing some police constables below, I shouted and screamed for help, beating the window grills with my hands to draw their attention. I may mention that the West Police Station is right opposite the Head Post Office and the office of DPS, but no one came from the police station to help. At this Mrs Aniva

Datta told me caustically 'Madam, this is Tripura. No police will come to help you' I suppose this statement speaks volumes about the state of affairs.

At around 1-30 P.M. again, Mr Janardan Debnath came up to me and said to me in a confidential tone that the situation is reaching boiling point and if I don't sign the papers immediately, it will explode and no one will be in a position to protect me from the crowd outside.

Gradually, the situation changed for the worse. The postal staff started leaving the room and in their place dangerous looking men and women gathered around me. I sensed that the situation is becoming more tense and mortally dangerous for me, so when Mr Janardan Debnath came to me again, I requested to be allowed to speak to the Chief PMG so that I may be able to sign the papers for withdrawal of the charge sheet. Thereafter, I spoke to the Chief PMG who at first did not agree. It was only after I convinced him that I was in grave danger, he said that I could sign whatever was necessary for my safety and security. I then signed the papers withdrawing the charge sheet, and only then, was I allowed to go.

I am deeply tormented and shocked by this incident and appeal to your kind self to take necessary action in the matter. The safety and security of the Centrl govt. officers posted in Tripura is the responsibility of the State Govt. In fact, I fear for my life and that of my family including my two small children, and I humbly submit for necessary security for self and family. It is due to this deep sense of fear and shock and fearing for the safety of my children that I have not lodged a formal FIR with the police. As a lady officer serving with sincerity and dedication in this far flung North Eastern Region of the country and working hard to improve the Postal Services in the State, this incident came as the most fearful inghtmare to me."

The learned Sr. counsel for the applicant also brought to our notice the communication sent by respondent No.6 addressed to the Chief Post Master General, N.E. Circle, Shillong drawing the attention of the Chief Post Master General. In the aforesaid communication, the respondent No.6 reported her version of the events that took place on 5.8.2002. In the said communication the respondent No.6 only reflected the apprehension of the Director of Postal Services, Agartala (respondent No.6) because of the events that took place. Admittedly, the Union leaders

who.....

who approached the respondent No.6 on 5.8.2002 demanded for withdrawal of the chargesheet issued against one of the Deputy Postmaster, who was due to retire soon. In the communication the respondent No.6 also narrated what transpired on that day which was similar to that reflected in her communication addressed to the Chief Secretary on 6.8.2002. Some of the passages of the communication addressed to the Chief Post Master General are reproduced below:

".....

I explained that the 'disciplinary cases' are totally beyond the purview of the unions and moreover the power to withdraw a charge sheet is vested with the Chief PMG who is at Shillong. They were however very vociferous and insistent, upon which I suggested that a representation may be submitted which I could forward to the Chief PMG for consideration. They refused to do so, and insisted upon me to withdraw it at once and their protests also starting taking an ugly turn.

.....

Thereafter (another 5 minutes or so) I got up and walked towards the door. Shri Haru Dasgupta and another employee (an Extra Depttl(GDS) Stamp Vendor- union leader of the ED Agents- posted at Secretariat Sub Post Office whose name I can't recall) blocked the door physically, and two ladies Smt Aniva Dutta (who works in Accounts branch of Agartala HO) and Smt Ajita Datta (Divisional office) held me by the upper arms and dragged me into another room. I was so taken aback, that I screamed loudly, crying for help. Nevertheless, they forced me into a corner of the room and illegally detained me there.

I also saw that outside my chamber, in the corridor, there were about 100 odd people stationed. In this room several ladies and men gheraoed me. Mr Haru Dasgupta repeatedly taunted me and gave inciting speeches against me with wrongful and malicious statements. This continued for quite some time. From time to time, Shri Janardan Debnath would come to me and give ultimatum to sign the papers for withdrawing the charge sheet. He said that as soon as I sign it, I will be allowed to go.

I then went towards the window and on seeing some police constables below, I shouted and screamed for help, beating the window grills with my hands to draw their attention. I may mention that the West Police Station is right opposite the Head Post Office and the office of DPS, but no one came from.....

from the police station to help. At this, Mrs Aniva Datta told me caustically 'Madam, this is Tripura. No police will come to help you.' I suppose this statement speaks volumes about the state of affairs.

At around 1.30 P.M. again, Mr Janardan Debnath came up to me again and said to me in a confidential tone that the situation is reaching boiling point and if I don't sign the papers immediately, it will explode and no one will be in a position to protect me from the crowd outside.

....."

Mr Saha also referred to Annexure F, annexed in M.P.No.133/2002. The same was a communication dated 9.8.2002 addressed to the Chief Postmaster General, N.E. Circle, Shillong by the Member (Personnel). By the said communication the Member suggested certain remedial steps like cancellation of any orders got signed/issued from DPS under duress and threat. Mr Saha submitted that by the said communication, the authority, in fact directed the appropriate authority to take punitive measure against the applicants. No such direction is discernible from the said communication. The said communication only reflects the reaction in response to the events that took place on 5.8.2002. The Member (Personnel) only offered some of his suggestions. As a matter of fact the authority on its own also caused an enquiry into the whole matter as reflected in Annexure B of the written statement. The administrative enquiry only posited the factual situation as was found by the Inquiry Officer. The said enquiry was not relating to any enquiry on misconduct. It was only an enquiry on the events that took place on 5.8.2002, which was reported by the respondent No.6.

9. The order of transfer was passed on administrative exigency to bring order and harmony. The order in question, in the fact situation cannot be held to be an order that was passed as a punitive measure. In Lilaram Bora (Supra), the High Court interfered because the order of transfer was made based on the complaint which was the foundation of the order. The aforesaid case was distinct from the present case. Here the applicants were transferred on administrative grounds. In Lilaram Bora's case the High Court had succinctly observed that had there been a case of undesirability of the applicant's stay at the Gauhati Airport for administrative reason (harmony among the staff posted at one place.....), the conclusion might have been different as was indicated in the judgment. No law requires an employee to be heard before his/her transfer for the exigencies of administration. Reference Director of School Education, Madras Vs. O. Karuppa Thevan and another, reported in 1996 (1) SLR 225 (226). Admittedly, the transfers of the applicants are not in violation of F.R. 15 and 22. So long a transfer is made on account of exigency of administration and not from a higher post to a lower post the transfer would be a valid one and not open to attack on the ground of Articles 14 and 16 of the Constitution of India. (Reference: E.P. Rayappa Vs. State of Tamil Nadu, reported in 1974 (2) SLR 348). The transfer did not involve any reversion to attract interference by the Tribunal. The impugned order of transfer was seemingly passed bonafide and no discernible grounds are assigned to contradict the bonafide. We are also not persuaded to accept the arguments of Mr Saha to the effect that Rule 37 is no more in operation. Mr Saha did not dispute that

no.....

no such order was passed by the authority deleting Rule 37 from the statute rules. The decision rendered by the Ahmedabad Bench of the Tribunal in O.A.No.250/1994 and like cases referred to by Mr Saha are distinguishable on facts. As per the judgment, the transfers were not within their own cadre and within the limits prescribed for such cadre. The decision rendered by the High Court in Nikunja Deka's case (Supra) involved a transfer passed malafide since the petitioner in that case was not in the good books of the Vice Chancellor and the Vice Chancellor wanted to get rid of him from the campus at Jorhat. The case referred in Ramzan Ali Ahmed (Supra) is a case on facts. Transfer of the appellant in the said case jeopardised the applicant's tenure of service. That was a case in which the transfer was made from a non-plan school to a plan school. That was also a proven case of colourable exercise of power.

8. Mr U.B. Saha, the learned Sr. counsel for the applicants, also submitted that each of the applicants are office bearers of the Union and as per the policy of the Government the applicants ought not to have been transferred out from Agartala. The learned Sr. counsel also submitted that the applicants only sought to ventilate their grievances and that all of them acted in discharge of their trade union activities. We find it difficult to accept the plea of Mr Saha justifying its right. There are more ways of killing a cat than by chocking it with cream. Trade Union activities is also to be confined within the parameters of law by which each citizen is protected. Trade activities are not above law, such stir are also required to conform to law, keeping in mind the peace and dignity of each individual. The

official.....

official guidelines guide, law only binds. On the given facts and circumstances, the authority only took the impugned measure to bring peace and harmony in the establishment.

10. Though we uphold the order of transfer on the facts and circumstances of the case, we have given our anxious consideration on the plea of the applicants, namely Smt Aniva Dutta in O.A.No.307 of 2002 and Smt Ajita Dutta in O.A.No.310 of 2002. Both the applicants are ladies who are having their families at Agartala. In the circumstances, we are of the opinion that those two applicants, namely Aniva Dutta and Ajita Dutta may submit their representations ventilating their grievances before the competent authority and if they make such representations within two weeks from the date of receipt of this order, the authority may sympathetically consider their grievances and pass appropriate order, keeping in mind the administrative exigencies. In such eventuality, the authority shall consider their representations preferably within a month from the date of receipt of such representations. Till completion of the aforesaid exercise in respect of the applicants in O.A.No.307/2002 and O.A.No.310/2002, the stay of the order of the transfer shall continue in respect of those two applicants.

11. Needless to recite that the Courts or Tribunals are not Appellate Forums to decide on transfers of officers on administrative grounds. As was observed by the Supreme Court in State of M.P. and another Vs. S.S. Kourav, reported in (1995) 3 SCC 270; "It is for the administration.....


: 16 :

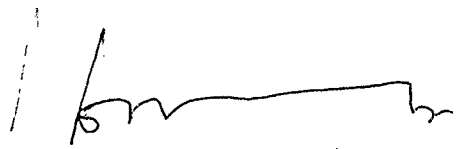
administration to take appropriate decision and such decisions shall stand unless they are vitiated by malafides or extraneous consideration without any factual background.'

12. On evaluation of the facts and the factual matrix, we are of the opinion that the impugned order of transfer was passed on administrative ground and the same was passed bonafide. The impugned transfer order is not vitiated by arbitrariness or malafide exercise of power.

13. Subject to the observations made above, the applications stands dismissed and the interim order dated 26.9.2002 stands vacated in respect of O.A.No.308/2002 and O.A.NO.309/2002.

NO order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

23rd

FORM I

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985

O. A 307 of 2002

Smti Aniva Dutta Applicant

Versus

Union of India and others Respondent

INDEX

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Aniva Dutta
Signature of the Applicant

FOR USE IN TRIBUNAL OFFICE

Date of filing :

or

Date of receipt by post :

Registration No. :

Signature for Registrar

Filed by
Aniva Dutta
through
Hanjir Das
Advocate
23/9/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

Original Application

of 2002

Smt Aniva Dutta, Postal Assistant
Wife of Sri Tirthankar Chowdhury
Joynagar
Agartala-799001

..... Applicant

VERSUS

1. Union of India
represented by the Secretary to
the Ministry of Communication
Government of India
New Delhi - 110 001
2. The Director General, Posts
Dak Bhawan,
New Delhi - 110 001
3. The Chief Postmaster General
North Eastern Circle
Shillong - 1
4. The Director of Postal Services (Head Quarters)
Office of the Chief Post Master General,
North Eastern Circle
Shillong-1
5. The Director, Postal Services
Agartala Division,
Agartala-799001
6. Smt Trishaljit Sethi
Wife of Sri K. S. Sethi
Director of Postal Services
Agartala Division
Agartala-799001

Arina
Date 25

7. Sri Lalhluna,
Director Postal Services (Head Quarters)
Office of the Chief Post Master General
Shillong-1

8. Sri B. R. Halder
Asst. Director
Office of the Chief Post Master General
Shillong-1

..... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE IS MADE

The application is directed against the office Memo No. viz/1-4/2002-2003 dated 10.09.2002 issued by the Director of the Postal Services (Hq.), office of the Chief Post Master General, Ne Circle, Shillong.

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the order against which she wants redressal is within the jurisdiction of the tribunal.

3. LIMITATION

The applicant further declares that the application is within limitation period as prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

4.1 That the applicant is a Citizen of India and working under the Department of Post of Union of India and at present working at office of the Postmaster, Agartala Head Post Office, Agartala.

4.2 That the applicant was appointed on 30. 07. 1979 as Postal Assistant. After her appointment, she is rendering her service to the satisfaction of the Departmental authority from the date of appointment till date. The

26
Date
Drive

applicant did never face any disciplinary proceeding and / or any other punishment or caution rather she was commended several times for her devotion and efficiency.

- 4.3 That it is stated that the employees working under the Director of Postal Services, Agartala Division are members of various employees Organization namely National Federation of Postal employees, Federation of National Postal Organization and Bharatiya Postal Employees Federation. The applicant is the Treasurer of Agartala Division, Branch of All India Postal Employees Union, Group-C which is federated with the National Federation of Postal Employees registered under the Trade Union Act, 1926.
- 4.4 That from 5th December to 18th December, 2000 there was a General Strike of Postal Employees all over India called by Joint Action Committee comprising of Federation of National Postal Organization, Bharatiya Postal Employees Federation and National Federation of Postal Employees federated body of All India Postal Employees Union Group-C & Group-D took the leadership in that strike for fulfilling the economical demand of employees of the Postal Department. It is to be mentioned here that the aforesaid strike was declared illegal by the authority, but due to mass employees participation, the authority could not initiate any disciplinary action against the Postal Employees including the applicant. On 20th December, 2000, Smti Trishaljit Sethi, (Respondent No. 6 herein) joined as the Director, Postal Service, Agartala being transferred and posted. After her joining as the Director, Postal Service, Agartala Division, she tried to interfere in the Trade Union activities of the applicant's Association / Union work and threatened the Postal Group-C and Group-D employees who are the members of applicant's Union and also told the applicant and Sri Haru Dasgupta, Janardhan Debnath of Agartala of Head Post Office and Smti Ajita Dutta of the office of Director Postal Services, Agartala to give up their Union activities and failing which the aforesaid employees including the applicant would have to face the dire consequences and she would not spare anybody, if necessary she would take-up the matter with the authority for transferring the applicant and her followers Group-C & Group-D employees outside the State of Tripura. She (Respondent No. 6) also misbehaved with the Group-C & Group-D employees who belong to the Union of the Applicant.
- 4.5 That regarding the misbehaviour and misdeeds of Smti Trishaljit Sethi, Director, Postal Service, Agartala Division with the Group-C & Group-D Postal Employees belonging to Applicant's Union were also taken-up by the applicant's Union with the Secretary, Ministry of Communication, Department of Posts as well as the Chief Post Master General, North Eastern Circle, Shillong. Copies of the letter dt. 14.05.2002 and 07.03.2002 are annexed hereto and marked as **Annexure 1** collectively.

Date
Arina

28

- 4.6 That on 29th & 30th July, 2002 said Smti Trishaljit Sethi, Director, Postal Service, Agartala Division issued charge-sheets to Sri Mrinal Kanti Das, Postal Assistant and Sri Kanti Ranjan Debbarma, Dy. Post Master, Agartala Head Office. Regarding the action taken by Smti Sethi (Respondent No. 6) against the aforesaid persons the general employees of the Postal Department, Agartala Division expressed their unhappiness.
- 4.7 That on 05.08.2002 a delegation of 10 members of All India Postal Employees Union Group-C & Group-D and National Union of Postal Employees Group-C & Group-D met with said Smti Trishaljit Sethi, Director, Postal Service, Agartala Division in her chamber at 11.00 AM under the leadership of the applicant and Sri Pradip Chakraborty, Partha Chakraborty, Sri Janardhan Debnath, Haru Dasgupta and Smt Ajita Dutta with a request to withdraw the charge-sheets issued under the relevant Rules against the aforesaid 2 (two) employees. At the time of discussion said Smti Trishaljit Sethi, Director, Postal Service, Agartala Division (Respondent No. 6) misbehaved with the Union Leaders including the applicant and threatened them. After the completion of the discussion she (Respondent No. 6) ultimately dropped the charge-sheet in question.
- 4.8 That on 6th August, 2002 said Smti Trishaljit Sethi (Respondent No. 6) made a false and fabricated allegation to the Chief Secretary, Government of Tripura, Agartala against the applicant and her associates namely Sri Janardhan Debnath, Ajita Dutta and Haru Dasgupta, copy of which was given to the Principal Secretary to His Excellency, the Governor of Tripura and Secretary to the Hon'ble Chief Minister. The Chief Secretary, Government of Tripura sent the aforesaid letter to the Superintendent of Police, West Tripura and who subsequently transmitted the same to the Officer In-charge, West Agartala Police Station and which was ultimately treated as F.I.R against the applicant and her associates. It is to be stated here that the allegations, made by Smti Trishaljit Sethi, Director, Postal Service, Agartala Division (Respondent No. 6) against the applicant and her associates in her letter dated 06.08.2002, are false and fabricated and was done only to harass the applicant and the members of her Union with an ulterior motive, so that they can not continue their union activities for the interest of the Postal Employees. It is stated that the employees assembled in the Chamber of Smti Trishaljit Sethi, Director Postal Service, Agartala Division (Respondent No. 6) neither misbehaved with her nor used any objectionable language as alleged in the letter dated 6th August, 2002 by Smti Trishaljit Sethi, Director, Postal Service, Agartala Division to the Chief Secretary of the State of Tripura.

A photocopy of the F. I. R. form along with the copy of the letter dated 06.08.2002 which has taken as complaint are annexed herewith and marked as **Annexure 2** collectively.

Date _____
Page 29

4.9 That Smti Trishaljit Sethi, Director, Postal Service, Agartala Division (Respondent No. 6) also informed the Chief Post Master General, N. E. Circle, Shillong regarding the alleged incident of 05.08.2002 and in response thereto, as it happens the Post Master General of N. E. Circle, Shillong send 2 (two) officers name Mr. Lalhuna, Director, Postal Service (Head Quarter), Office of the Chief Post Master General and Mr. B. R. Halder, Asst. Director of the office of the Chief Post Master General, Shillong for an enquiry about the alleged incident happened in the office chamber of smti Trishaljit Sethi, Respondent No. 6 and accordingly the aforesaid 2 (two) officers came to Agartala on 29/08/2002 and they discussed with the applicant and other employees who were in the delegation at the time of discussion in the chamber of Smt Sethi (Respondent No. 6). After enquiry they found nothing against the applicant and her associates in the delegation and hence the authority did not find any reason for taking any disciplinary action against them. But on 10/09/2002 vide office Memo No. Viz/1-4/2002-2003 the applicant was all on a sudden transferred from Agartala Postal Division to Dharmanagar Postal Division under Rule 37 of P & T Manual.

A copy of the transfer order is annexed hereto and marked as **Annexure 3**.

4.10 That it is stated that the impugned transfer order was issued not for any public interest but as there was a hitch between the Respondent No. 6 namely Smti Trishaljit Sethi, Director, Postal Service, Agartala Division and the applicant and her associates Union members, who were in the delegation on 05/08/2002 and as the applicant was an eyesore of Smti Trishaljit Sethi (Respondent No. 6) and she was an Union activist, Smti Sethi (Respondent No. 6) she has been sought transferred, earlier occasion also she threatened the applicant that she would transfer her outside the State of Tripura if applicant did not act to her dictate. It is also stated that the basic reason behind the transfer of the applicant and deemed release order (**Annexure 3** herein) issued by the authority only to satiate vengeance of Smti Trishaljit Sethi (Respondent No. 6) against the applicant not for any public interest but for extraneous consideration and as such said transfer and deemed release order is unreasonable, unfair and malafide and violative of Article 14 of the Constitution of India and as such liable to be set-aside.

4.11 That the transferring authority misused its power by transferring the applicant from Agartala Postal Division to Dharmanagar Postal Division in the guise of interest of service. It is also stated that, if, the Hon'ble Tribunal be pleased to crack the shell of innocuousness are which wraps the order of transfer and deemed release order (**Annexure 3**) then the Hon'ble Tribunal find the real purpose behind issuing the impugned transfer and deemed release order.

- 4.12 That though in the Rule 37 of the P & T Manual the word public interest is used for achieving a definite meaning and objective. In the impugned transfer order there is nothing regarding the public interest but in the interest of service. It is stated that interest of service always may not be the public interest, therefore, the Hon'ble Tribunal may call for the relevant files from which the transfer order is originated and the files relating to the enquiry done by the aforesaid 2 (two) Officers Sri Lalhuna, Director, Postal Service (H.Q) and Mr. B. R. Halder, Asst. Director, office of the Chief Post Master general regarding the alleged incident of 05/08/2002 in the chamber of Smti Trishaljit Sethi (Respondent No. 6). It is further stated that petitioner's service is only transferable within the Agartala Postal Division, not outside that.
- 4.13 That according to Rule 37A of the P & T Manual the general transfer of an employee of the Postal Department has to be made in the month of April of the relevant year. The applicant had to undergo 3 (three) major operation and she is under constant supervision of the specialist at Agartala. She would be left at lurch at Kamalpur. None is there except her husband to look after. The impugned transfer order would ruin possibility of recovery. It is further stated that the aforesaid Rule 37 of the P & T Manual has no application, so far the applicant is concerned as the authority subsequently modified the condition of service and the transfer liability of the applicant is within the Agartala Postal Division. Any transfer including the impugned transfer order of applicant beyond the Agartala Postal Division is unfair, unreasonable, illegal and violation of statutory provision and hence liable to be dismissed. A copy of letter dt. 23.08.90 is annexed hereto and marked as **Annexure 4**.
- 4.14 That the impugned transfer having been punitive in nature it has been issued contrary to the provision of F.R 15 and as such it has been issued in violation of rules.
- 4.15 That the Respondent No. 7 collusively with Respondent No. 6 has issued the impugned transfer order to achieve circuitously what could not be achieved fairly and legally. To quence vengeance the impugned transfer order has been issued, not for any other purpose.
5. GROUND FOR RELIEF WITH LEGAL PROVISIONS
- (i) For that the impugned transfer order has been issued in violation of rules vis-a-vis Rule 37 and 37A of the P & T Manual and F.R. 15 and as such it is liable to quashed.
- (ii) For that the impugned transfer order has been issued malafide not in the public interest or in the interest of the service and as such is liable to set aside and quashed.

30
Date
Arim

- (iii) For that the impugned transfer order is punitive in nature and as such it violates the provision F. R. 15 and as such is liable to be set aside and quashed.
- (iv) For that the impugned transfer order has been issued by an authority having no control or superintendence / competence over the services of the applicant.
- (v) For that the impugned transfer order has been issued on extraneous consideration and if the veil is lifted it would reveal that the said order has been issued to satiate personal vendetta of the Respondent No. 6
- (vi) For that the impugned transfer order coupled with the deemed release order is liable to be set-aside and quashed.
- (vii) For that the rest would be submitted orally at the time of hearing.

6. DETAILS OF THE REMEDIES EXHAUSTED

The applicant declares that since the impugned order contains the order of transfer as well as of the deemed release she was not in a position to submit a representation to the higher authority and she was faced with imminent effect.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The applicant further declares that she had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority of any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :

- (a) This Hon'ble Tribunal be pleased set aside and / or quash the impugned office memo no. viz/1-4/2002-2003 dt. 10.09.2002 issued by the Director of Postal Services (Hq.), office of the Chief Post Master General, N.E. Circle, Shillong forth with and in no time.

Anura Datta

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(b) This Hon'ble Tribunal be pleased to direct the Respondent and each of them to allow the applicant resume her duties on the previous place of posting i.e. in the place from where the Applicant has been sought to be transferred with special leave for the intervening period of the deemed release and the day of resumption.

(c) This Hon'ble Tribunal be pleased to pass further order or orders, direction or directions as deem fit and proper having regard to the circumstances of the case.

9. INTERIM ORDER, IF ANY PRAYED FOR

Pending final decision on the application, the applicant seeks the following interim relief :

This Hon'ble Tribunal be pleased to stay the impugned office memo no. viz/1-4/2002-2003 dated 10.09.2002 (Annexure 3 to the application) and to allow the applicant to resume duties in the previous place of posting

10. PARTICULARS OF BANK DRAFT FILED IN RESPECT OF THE APPLICATION

FEE :

State Bank of India Draft No. 965383 dt. 19.09.2002
of Rs. 50/-

11. LIST OF ENCLOSURES :

1. Bank draft
2. Copies of the application for service - 8 nos.
3. File size Envelop 8 nos.
4. Vokatnama

VERIFICATION

I, Smti Aniva Dutta, wife of Sri Tirthankar Chowdhury, age 44 years, working as the Postal Assistant in the Agartala Head Post Office, Agartala, resident of Joynagar, Agartala 799001 do hereby verify that the contents of paras A...1... to A...9... are true to my personal knowledge and paras A...10... to A...15... is believed to be true on legal advice and that I have not suppressed any material fact.

Date : 21. 09. 2002

Place : Agartala

Aniva Dutta
Signature of the applicant

To
The Registrar
Central Administrative Tribunal
Guwahati Bench
Guwahati

Form II
[See Rule 4 (4)]

RECEIPT SLIP

Receipt of the application filed in the Central Administrative Tribunal, Guwahati Bench by Smti Aniva Dutta working as the Postal Assistant in the Office of Director of Postal Services, Agartala, residing at Joynagar, Agartala 799001 is hereby acknowledged.

For Registrar
Central Administrative Tribunal
Guwahati Bench

NATIONAL FEDERATION OF POSTAL EMPLOYEES

B-7, Samru Place, Postal Staff Quarters,
Mandir Marg, New Delhi-110001

Ref. No. PF- 48/Tripura

Dated.....14.5.2002....

TO

Smt. Aparna Mohile,
Member (I&FS),
Postal Services Board,
New Delhi - 110 001.

Sub.: High handed and vindictive attitude of Director of Postal Services Agartala.

Madam,

This Federation is very much constrained to say that the working atmosphere in Agartala has reached the worst condition due to high handed and vindictive attitude of the Director of Postal Services, Agartala for your kind perusal we are enclosing copies of resolution as also copies of documents we have received from Agartala.

The perusal of the same will reveal that the D.P.S. is challenging the expertise of the medical practitioners that too even without referring the employees for second medical opinion.

ii) The D.P.S. is acting against the union leaders affiliated to NFPE.

iii) The employees going on leave on production of M.C. are not allowed to resume duties after expiry of leave when they come to join with a certificate of fitness.

iv) The officials taking leave of one day to attend the customary and ritual ceremony are treated "dies-non".

v) The D.P.S. is doing so many things for which she is not authorised under the rules.

The atmosphere is so surcharged that it may burst into resistance at any moment, we apprehend, jeopardising the smooth functioning of the Postal Services. Before the situation reaches such a shape, this Federation requests you to kindly intervene and do the needful so that the high handed attitude of the DPS is abandoned and cordial relation with the staff is restored.

Yours faithfully,

Encl:AS above.

Des Raj Sharma
(DES RAJ SHARMA)
Offg. Secretary General

Copy to :

- 1-2. General Secretary-PIII, P-IV, E.D. Union
- 3-4. Divl. Secretary, P-III, P-IV, Agartala-799001.
- 5-6. Divisional Secretary E.D./ Circle Secretary E.D. Union
- 7-8 Circle Secretary P-IV/ P-III N.E. Circle

*This to certify that
this document is a
copy of the original.
Dip Singh
Advocate*

No.NEC/P-III/Agartala

Dated Shillong the 07/02/2002.

To,
Sri Vijay Chitale
Chief Postmaster General,
N. E. Circle,
Shillong-793 001.

Sub:- Anti employees attitude/manner of the D.P.S. Agartala.

Sir,

It has been reported that the D.P.S. Tripura is initiating anti staff/union gesture at Agartala.

An example to the above, will speak of her unexpected and unjust attitude towards the staff/union which is not at all tenable.

Two of the staff of Radhakishorepur proceeded on leave on medical ground. On expiry of the leave, when they went to join with fitness certificates they were not allowed to join their duties on that day. When they went on leave on medical ground the DPS, Agartala forwarded those medical certificates produced to the medical board for second opinion. During the period of leave the medical board did not call them, and thus not allowing the officials to join their duties is not permissible according to rule in existence.

On 2nd March, 2002, the Divisional Secretary, Sri Haru Dasgupta and four other members visited Radhakishorepur for an organising tour in connection with mobilisation for the 14th March, 2002 union programme and when they came to know about the fact, discussed detail with the Postmaster, Radhakishorepur and the latter allowed the officials to join their duties on 05th March, 2002.

Amazingly, the D.P.S. Aartala called Haru Dasgupta for explanation as why Sri Haru Dasgupta had met the Postmaster, Radhakishorepur and discussed thereat and the reply of which to be furnished within seven days of time. Never in anywhere, A Secretary has so far been asked for explanation if he undertakes tour programmes for organisation matter which is an infringement of the democratic right.

Having been disgruntled by the derogatory behavior and animus of the DPS, Agartala, a delegation of the staff met the DPS to urge for immediate annulment of the said letter of explanation to the Divisional Secretary, but surprisingly within moments, Police arrived at the spot and the DPS left the place with police escort, which was unwarranted and cannot be defended.

Therefore, you are requested kindly to advise the DPS Agartala to forbear from this type of anti employee/anti union designed attitude henceforth and revoke the said letter of explanation forthwith so that situation does not turn from bad to worse and the cordial relation between the staff and the administration be maintained.

A line in reply with suitable action is solicited.

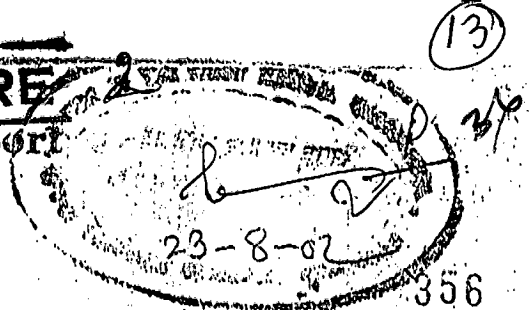
Yours faithfully,

(RAMANI BHATTACHARYYA)
Circle Secretary

- Copy to:
- 1) The President - Agartala
 - 2) The Divisional Secretary - Agartala
 - 3) General Secretary - P. 3 (A/B N/odd)
 - 4) Secretary General - N/E N/odd

This is to certify that
this document is a
copy of the original.
Slip change Adverse.

ANNEXURE
First Information Report
 (Under Section 154 Cr. P. C.)



13215-22
 22/8/02

*Distt./est./Rajp. S... Aq. wnt. Year... 2002 ... *File No... 172/02 ... *Date... 22.8.02
 (i) Act ... 9 to 10 ... *Sections ... 342/353/506/34 ... 9 to 10
 (ii) Act ... 1 ... *Sections ... 1 ...
 (iii) Act ... 1 ... *Sections ... 1 ...
 (iv) Other Acts & Sections...

3. (a) General Diary Reference / Entry No... 1293 ... Time ... 1830 hrs
 (b) *Occurrence of offence : *Day... *Date... 04.5.8.02 ... at ... around 1000 hrs ... a little time after
 (c) Information received Date... 22.8.02 ... Time ... 1830 hrs ... O.D. No. 1293
 at the Police Station :

4. Type of Information : Written/Oral

5. Place of Occurrence : (a) Direction and Distance from P.S... Director posted service the
 (b) *Address Post office show, about 200 yards from P.S.
 (c) In case outside limit of this Police Station then
 the name of P. S... District ...

6. Complainant/Informant :

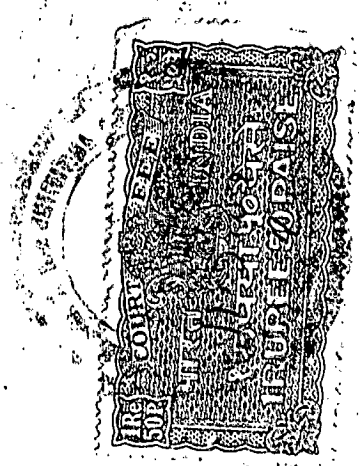
(a) Name... S/d - illegible (Mr. T. Sethi)
 (b) Father's/Husband's Name ... Not Noted
 (c) Date/Year of Birth... Not Noted
 (d) Nationality... Indian
 (e) Passport No... Date of Issue... Place of Issue
 (f) Occupation ... Govt. employee
 (g) Address... Director, Postal Service, Aq. P.S. - Aq. wnt. P.S.

7. Details of known/suspected/unknown/accused with full particulars :

- (1) Mr. Janardhan Debnath
- (2) Mr. Hari Das Gupta
- (3) Smt. Anita Datta
- (4) Smt. Ajita Datta
 along with other postal employee.

(Attach separate sheet if necessary)

13215-22
 22/8/02



Reasons for delay in reporting by the Complainant/Informant...

38

9. Particulars of properties stolen/involved (Attach separate sheet, if required)

10. *Total value of properties stolen/involved

11. *Inquest Report/U. D. Case No., if any

12. B. I. R. Contents : (Attach separate sheets, if required)

The original type Complaint which was received from SP (West) Dist office is treated as F.I.R. which is reproduced / enclosed here with.

19.9.02
Chief Examiner,
Criminal Copying Department,
Joint Judicial Magistrate's Court,
Bardhaman, Bardhaman.

13. Action taken : Since the above report reveals commission of offence(s) as mentioned at Item No. 2 registered the case and took up the investigation.

/directed... Read the case, of P.S. ... to take up the investigation/transferred to P.S. ... point of jurisdiction.

F. I. R. read over to the Complainant/Informant, admitted to be correctly recorded and a copy given to the Complainant/Informant free of cost.

S.D. Palouram
Don't multiply
the case
22/8/02

Signature of the officer in Charge,
Police Station with

Signature/Thumb impression of the Complainant/Informant

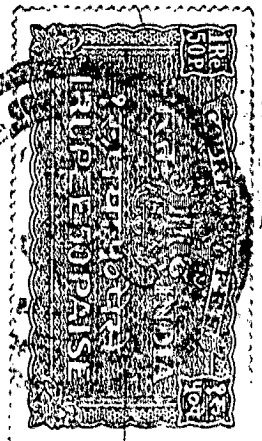
The Signature of the Complainant has already reflected in the original Complaint.

*Name : Nimesh Day
*Rank : S.D. Police
Number, if any : ...
22.8.02

TGPA-12-8-98-3,50,000-J. C. No. 7522

COMPILED BY
S. Palouram

This is to certify that this document is a copy of the original. Nimesh Day S.D. Don't multiply the case 22.8.02



NSO 7211-05/02
16/8

The Chief Secretary,
Govt of Tripura,
Agartala.

10:06th Aug. 2002

73-8-02

Subject: Ghirao and assault on Director Postal Services, Agartala on 5th August 2002

This is to report to you the ugly incident involving gherao and assault on Director Postal Services, Agartala on 5th August 2002:

On 5th August, went to my office at around 10 AM. A little thereafter, the union leaders, Mr. Janardan Debnath and Mr Haru Dasgupta and others came to my chamber and demanded that the charges against me should be dropped.

Deputy Post Master, must be withdrawn immediately as he is due to retire soon.

I explained that the power to withdraw a charge sheet is vested with the Chief Post Master General (Chief PMG) who is at Shillong. They were however very vociferous and insistent, upon which I suggested that a representation may be submitted which I could forward to the Chief PMG for necessary action. They refused to do so, and insisted upon me to withdraw it at once.

At this stage, I spoke on phone to the Director Postal Services (HQ) in the o/o Chief PMG Shillong who also spoke to Shri Janardan Debnath explaining to him that they may submit a representation to his office through the DPS Agartala. To this also, they did not agree and became more agitated and started shouting slogans and using objectionable language.

Thereafter (another 5 minutes or so) I got up and walked towards the door. Shri Haru Dasgupta and another employee (an Extra Deptl Stamp Vendor -union leader of the ED Agents- posted at Secretariat Post Office whose name I can't recall) blocked the door physically, and two ladies Smt. Aniva Dutta and Smt Ajita Dutta held me by the upper arms and dragged me into another room. I was so taken aback, that I screamed loudly, crying for help. Nevertheless, they forced me into a corner of the room and illegally detained me there.

I also saw that outside my chamber, in the corridor, there were about 100 odd people stationed. In this room several ladies and men gheraoed me. Mr Haru Dasgupta repeatedly taunted me and gave inciting speeches against me with wrongful and malicious statements. From time to time, Shri Janardan Debnath would come to me and give ultimatum to sign the papers for withdrawing the charge sheet. He said that as soon as I sign it, I will be allowed to go. I just kept quiet each time.

I then went towards the window and on seeing some police constables below, I shouted and screamed for help, beating the window grills with my hands to draw their attention. I may mention that the West Police Station is right opposite the Head Post Office and the office of DPS, but no one came from the police station to help. At this, Mrs. Aniya Datta

19.9.02

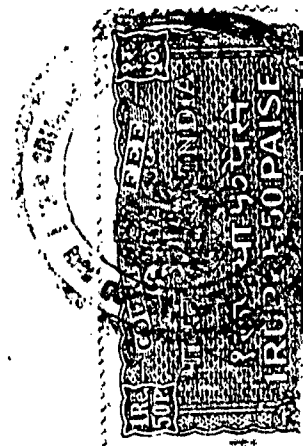
Chief Examiner,

Original Copying Department

Chief Judicial Magistrate's Court

Chief Engineer, Air Force

Compared to
1991



told me caustically 'Madam, this is Tripura. No police will come to help you.' I suppose this statement speaks volumes about the state of affairs.

At around 1.30 P.M. again, Mr. Janardan Debnath came up to me and said to me in a confidential tone that the situation is reaching boiling point and if I don't sign the papers immediately, it will explode and no one will be in a position to protect me from the crowd outside.

Gradually, the situation changed for the worse. The postal staff started leaving the room and in their place dangerous looking men and women gathered around me. I sensed that the situation is becoming more tense and mortally dangerous for me, so when Mr. Janardan Debnath came to me again, I requested to be allowed to speak to the Chief PMG so that I may be able to sign the papers for withdrawal of the charge sheet. Thereafter, I spoke to the Chief PMG who at first did not agree. It was only after I convinced him that I was in grave danger; he said that I could sign whatever was necessary for my safety and security. I then signed the papers withdrawing the charge sheet, and only then, was I allowed to go.

I am deeply tormented and shocked by this incident and appeal to your kind self to take necessary action in the matter. The safety and security of the Central govt. officers posted in Tripura is the responsibility of the State Govt. In fact, I fear for my life and that of my family including my two small children, and I humbly submit for necessary security for self and family. It is due to this deep sense of fear and shock and fearing for the safety of my children that I have not lodged a formal FIR with the police. As a lady officer serving with sincerity and dedication in this far flung North Eastern Region of the country and working hard to improve the Postal Services in the State, this incident came as the most fearful nightmare to me.

Thanking you,

Yours Faithfully,

T. Sethi
(Mrs. T. Sethi)
Director Postal Services
Agartala, Tripura

Copy to:

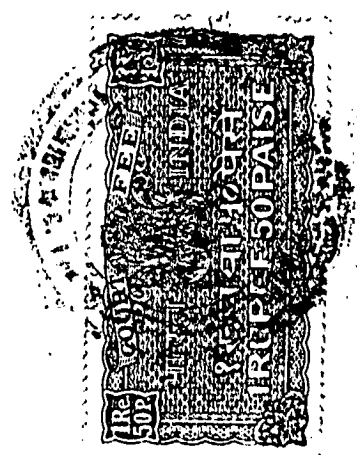
1. Principal Secretary to the Governor of Tripura, for the kind information of His Excellency, The Governor of Tripura.
2. Secretary to Chief Minister, Tripura, for the kind information of Honourable Chief Minister.

Received on 22.8.02
at 1830 hrs from S/O (WPT)
office and regd. cert with
PS case no. 172/02 WIS-312/
353/506/31 etc.

Nivech Dey
Hon. WPT
22.8.02

Compared by
19/9/02
This is to certify that
this document is a copy
of the original.
Sd/- Chandan Kumar
Advocate.

RECEIVED TO THE VICE CHANCELLOR
19.9.02
Chief Examiner,
Original Copying Department,
And Judicial Magistrate's Office,
Gangtok, Sikkim



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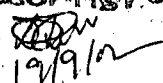
Date of application for the Copy	Date given satisfying the requisites number dated receipt	Date to which copy was for delivery	Date of making over the copy to applicant.
19.9.02	19.9.02	19.9.02	19.9.02

C.A. No. 1398

Folio 4 folios

Court Fee 3.00

Words.....

Completed by

 19/9/02

I, Principal Secretary to the Government of Madras, do hereby certify that the above is a true and correct copy of the original document.

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(17)

ANNEXURE-

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE SHILLONG

Memo No. Vig/1-4/2002-2003

Dated Shillong, the 10-9-2002

The Chief Postmaster General, North Eastern Circle, Shillong hereby ordered the transfer/posting of the following officials of Agartala Postal Division under Rule-37 of P&T Manual Vol.IV to have immediate effect and in the interest of service.

Sl. no.	Name of official and present place of posting	Postal Division to which posted on transfer
1	Shri Janardhan Debnath, PA, Agartala HO	Meghalaya Division
2	Shri Haru Das Gupta, PA, Agartala HO	Meghalaya Division
3	Smti Aniva Dutta, PA, Agartala H.O.	Dharmanagar Division
4	Smti Ajita Dutta, PA, O/O DPS Agartala	Dharmanagar Division

The above four (4) officials who are being transferred out of Agartala Postal Division should be relieved within 14th September 2002 positively. If they are not relieved within the stipulated date, they will be deemed to have been relieved.

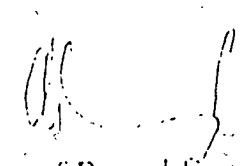
The Sr. Supdt. of P.Os, Meghalaya Division, Shillong will immediately issue the posting order in respect of Shri Janardhan Debnath and Shri Haru Das Gupta. The Supdt. of P.Os, Dharmanagar Division will also immediately issue the posting order in respect of Smti Aniva Dutta and Smti Ajita Dutta.

(LALHUNA)

Director of Postal Services(Hq)

Copy to :-

- 1) The D.P.S., Agartala.
- 2) The Sr. Supdt. of Post Offices, Meghalaya Division, Shillong.
- 3) The Supdt. of Post Offices, Dharmanagar.
- 4) The Sr. Postmaster, Shillong GPO.
- 5) The Postmaster, Agartala/Dharmanagar.
- 6) The officials concerned.


Director of Postal Services(Hq)
N.E. Circle, Shillong

*This is to certify that
this document is a copy
of the original.
D/11/10/2002
A.D.R.*

ANNEXURE

COPY

Copy of the Dte. letter No. 20-12/90-SPB-I dated 23-8-90 addressed to all heads of Postal Circles.

Sub :- Deletion of transfer liability clause from Appointment offer.

Sir,

As per long standing practice and convention, there is a clause in the initial appointment letters of the employees of the Department of Posts to the effect that they can be transferred anywhere in the country under special circumstances.

2. Since in actual fact a vast majority of Group C and Group D employees are never subjected to the transfer liability implied in this clause, it is felt that such a condition is not necessary in the appointment orders.

3. The matter has been considered carefully in consultation with the Ministry of Law. It is hereby ordered that no clause or condition relating to transferability anywhere in the country, under special or general circumstances, should from now on be mentioned in the appointment orders issued to Group C and Group D employees of the Department of Posts. Such a clause existing in the case of the employees already in service also is hereby cancelled with immediate effect and their appointment order would also stand so modified with effect from the date of issue of this letter.

4. It is also directed that these orders may be given wide publicity and also got noted by all the Group C and Group D staff. Necessary entry in this behalf may also be made in their Service Books, in due course.

5. Please acknowledge receipt.

6. Hindi version will follow.

Yours faithfully,

Sd/-

(R. KRISHNAMOORTHY)
ASSTT. DIRECTOR GENERAL (SEN)

No. B-43/R

at Agt HQ 10.9.90

To ① All PMS & SPMS is Agt HQ.

② All SDIPs is Agt HQ.

For information

Director Postal Services
Tripoli
Assistance (M)

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of the original
and is
correct

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A
DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: N.E. CIRCLE: SHILLONG

No. Staff/41-2/90

Dated Shillong, the 6-9-90

To

- ✓ 1) The Director of Postal Services,
Aizawl/Agartala/Imphal/Kohima/Itanagar.
2) The Supdt. of P.Os, Shillong/Dharmanagar.
3) The Supdt. P.S.D., Guwahati/Silchar.
4) The Manager, R.L.O., Shillong.
5) All Group Officers, C.O., Shillong.
6) The Spl. Postmaster, Shillong G.P.O.
7) The J.A.O. (Bgt), C.O., Shillong.
8) The Dealing Shares, Staff Section, C.O., Shillong.

Sub :-

Deletion of transfer liability clause from
Appointment offer.

Sir,

A copy of the D.G. Posts, New Delhi's letter
No. 20-12/90-SPB-I dated 23-8-90 on the above mentioned
subject is sent herewith for your information, guidance
and necessary action.

Kindly acknowledge receipt.

Yours faithfully,

(L. Punga)

Asstt. Postmaster General (S&E)

Encl: As above

Copy to :-

- 1) The Circle Secretary, P-III, C/O Sr.
Postmaster, Shillong G.P.O.
- 2) The Circle Secretary, P-IV & Postman,
C/O Supdt. of P.Os, Shillong.
- 3) The Circle Secretary, All India Postal
Administrative Union, C/O Chief P.M.G.,
Shillong-793001.

For Chief Postmaster General,
N.E. Circle, Shillong.

K. D. V.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 307 OF 2002

Sati. Aniva Dutta

- Vs -

Union of India & others

In the matter of :

Written Statements submitted
by Respondents

The respondents beg to submit ^{below} the Brief
history of the case ~~is given below~~, which
may be treated as part of the written -
statement.

One Sri Kanti Ranjan Debbarma, Deputy Postmaster,
Agartala H.O. had committed serious irregularities in issuing
randomly Agent receipt books to the SAS (NSC) Agents far in
excess of the authorized limit as is authorized by the Depart-
ment. Department Rule lays down that only receipt book
equivalent of Rs. 50,000/- can be issued to an individual
agent at a time whereas in violation of the said rule, Shri
Kanti Rn. Debbarma issued receipt book far in excess of the
limit to an individual agent. (Annexure-A, Copy of the
Dte order No. 107-24/96-SB dated 24.11.98). For this offence
and irregularities Sri Debbarma was charge sheeted under
Rule-14 of CCS (CCA) Rule, 1965 by DPS Agartala for major

Filed by
(H. DEBROY)
10/10/02
Sr. C. G. S. C.
Q. A. T., Guwahati Bench

punishment. The official Sri Kanti Rn Debbarma was due to retire on 31.8.2002. The staff unions of Agartala agitated against the charge sheet and compelled DPS Agartala to drop the charge sheet under duress, threat and compulsion. In the process DPS was Gheroad and man-handled.

On enquiry, it was found that there is sufficient reason to transfer the staff union leaders Agartala Viz. Sri Janardhan Debnath, President NFPE, ~~Shri~~ Haru Das Gupta, Secretary, NFPE, Smt Ajita Dutta and Smt Aniva Dutta, the union members of the Agartala Postal Division (Annexure-B . Enquiry reporty). They were accordingly transferred to Meghalaya Division and Dharmanagar Division under Rule-37 of P & T manual Vol-IV (Annexure-C), to ensure discipline and maintaining normal postal service for the public interest. Being aggrieved they filed case individually under O.A. No. 308/02, 309/02, 310/02 and 307/02 respectively.

Copy of order dated 24.11.98 is annexed hereto and marked as Annexure - A.

Copy of enquiry report is marked as Annexure - B.

Copy of Rule 37 of P & T Manual Vol-IV is marked as Annexure - C.

Parawise Written Statement :

1. That with regard to paras 1 to 3 and 4.1 to 4.3 of the application the respondents beg to offer no comments.
2. That with regard to the statements made in para 4.4 of the application the respondents beg to state that averment admitted to the extent that no disciplinary action was initiated

against any of the staff but No work No pay Rule was implemented against all the officials/staff participating in the strike from 5th to 18th December, 2000 including the applicant. The statement made in the para that on joining as DPS, ^{Smt.} T. Sethi tried to interfere in the union activities by persuading the prominent members of the service union whose names indicated in the statement, either to give up the union activities or be ready for dire - consequences are not based on facts or records. So the statement is totally not correct and is not admitted.

3. That with regard to the statements made in para 4.5, of the application the respondents beg to state that action under CCS (Leave) Rules, cannot be termed as irregular. Accusations are false and unsubstantiated.

4. That with regard to the statements made in para 4.6 of the application the respondents beg to state that ^{it was} admitted that the charge sheets were issued against both the officials as stated in the para. The action was according to CCS(CCA) Rules, 1965 and CCS(Conduct) Rules, 1964 ; was proper, justified and appropriate for the specific case against the applicant.

5. That with regard to the statements made in para 4.7 of the application the respondents beg to state that ^{it was} admitted to the extent that they met and persuaded her for withdrawal of the charge sheets but the statement of misbehaviour by Smt. T. Sethi is totally false and baseless. Report to the Chief Secretary (Annexure-2 of O.A.) will show the real

picture of intimidation by a collective body of employees compelling DPS Smt. Sethi to drop the charge sheets.

6. That with regard to the statements made in para 4.8, of the application the respondents beg to state that no complaint was made. It was an information to the state Govt. Justified action taken by the State Govt. is beyond the power and control of the Department.

7. That with regard to the statements made in para 4.9 and 4.10 of the application the respondents beg to state that it is a fact that DPS (HQ) Sri Lalhluna accompanied by Sri B.R. Halder an Asstt. Director of the Office of the Chief PMG visited Agartala to investigate the incident but the statement of the Applicant that nothing was found against was false and baseless and not admitted. The incident leading to threat and intimidation were reported as true in the report. According to the report transfer of the official to other Division was justified and was in the interest of service. More over transfer orders are generally issued according to the administrative convenience and in the interest of service. It is not correct to say that transfer orders issued are not for any public interest. Any transfer order if issued is in the interest of public service. In course of discharging of duty administrative and disciplinary powers of all levels of officers are exercised in fair and transparent manner for maintaining

the public service so the transfers are justified and reasonable, not unfair and mala fide . Transfer of an official is not violation of civil right of a Govt. servant under Article 14 of the constitution. This is a condition of service.

8. That with regard to the statements made in para 4.11 of the application the respondents beg to state that accusing the transferring authority with allegation of mis-utilisation of power is baseless. Transfer orders were issued for the public interest.
9. That with regard to the statement made in para 4.12 & 4.13 of the application the respondents beg to state that Department of posts is a public utility Department. So every effort is made by the Department for availability of better service to the public and it is for their interest. Transfer of any official in the interest of service means in the interest of Public because this is done for maintaining normal postal service for the interest of public. So the applicant's elucidation of public interest is not correct. Both bears the same meaning. Further provision of service Rules permit transfer anywhere in India. In this case transfer was ordered in the interest of maintaining disciplined and normal postal service for the public interest.
10. That with regard to the statements made in para 4.14 & 4.15 of the application the respondents beg to state that transfer orders were issued in the interest of public for maintaining normal postal service.

11. That with regard to the statements made in para 5.I, 5.II and 5.III of the application the respondents beg to state that as the transfer orders were issued in the interest of service and for maintaining normal postal service, they not be quashed.
12. That with regard to the statements made in para 5.IV of the application the respondents beg to state that the transferring authority is not only the appellate authority of the applicant but also the Chief Executive of the Region having absolute ~~power~~ power over the applicant and controlling authority of DPS of the Division, and according to provision of Rules he is empowered to transfer anybody in the public interest.
13. That with regard to the statements made in para 5.V and 5.VI of the application the respondents beg to state that the statement is incorrect and malicious. Transfer orders were issued in the interest of service for maintaining normal postal service and as such not quashable.
14. That with regard to the statements made in para 5.VII of the application the respondents beg to offer no comments.
15. That with regard to the statements made in para 6 of the application the respondents beg to state that the application is subjected to Remedies exhaustion under Rule-20 of Administrative Tribunal Act and is not admissible, hence liable to be rejected.

16. That with regard to para 7 of the application the respondents beg to offer no comments.

17. That with regard to the statements made in paras 8.a, 8.b and 8.c of the application the respondents beg to state that in view of the above facts and narration what have stated/narrated in the above paras the applicant is not entitled to any relief sought for.

18. That with regard to para 9 of the application the respondents beg to offer no comments.

Verification.....

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

I, Shri Bipul Rayjan Halder, presently
working as Asst Director of Postal Services NE circle being duly
authorised and competent to sign this verification, do
hereby solemnly affirm and state that the statements made
in paras 1 to 18 are true to my knowledge
and belief and those made in para brief history being
matter of records, are true to my information derived
therefrom and the rest are my humble submission before this
Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 10th day
of October, 2002.

DECLARANT.

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ANNEXURE - A

Department of Post, India
Office of the Director Postal Services, Tripura State
Agartala-799001

No. SBR-16/Rlg/Corr/III. Dated at Agartala the-12th-January-99.

To,

1. The Postmaster,
Agartala/R.K.Pur H.O.
2. All SPM in Agartala Division.

Subject :- Supply of Receipt Books to SAS AGENTS.

In continuation of this office letter of even number dtd. 9.10.98 on the subject cited above some Circles have misconstrued the wording of para-1 of Dte D.O. letter No. 107/24/96-SB dtd. 26.8.98 which was enclosed with our above letter. However another letter received from the Dte. clarifying the para-1 of the D.O. letter dtd. 26.8.98 reproduced by the C.O. vide his letter No. SB/48/VIII/Rlg/Corr/Pt.II. dated 8.12.98. on the subject cited above enclosed herewith for information and necessary action.

For Director Postal Services
Tripura State
Agartala-799001

Copy of the Dte's letter No. 107-24/96-SB dtd. 24.11.98 referred to above.

In continuation of this office letter of even number dtd. 26.6.98 on the subject cited above, Some Circles have misconstrued the wordings of para-1 of that letter has been reported by the S/S Agents from some circles. In this connection, the clarification on this aspect is given below :-

The maximum limit of the Cash receipt books to be issued to the Agent is Rs.50,000/- at a time. If the receipt books are consumed and the cash is deposited in the post office, the agent can obtain again the receipt books on the same day. In other words, he can obtain receipt books more than one occasion on the same day. The idea is that he would not retain cash more than Rs.50,000/- at a time.

It is requested that necessary instruction may be issued accordingly to all concerned.

SD/- Kalpana Tewari,
Director(SB),

BADAL

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ANNEXURE - B

19

INQUIRY REPORT ON POSTAL STAFF AGITATION OF AGARTALA POSTAL DIVISION ON 5TH AUGUST, 2002 AGAINST THE D.P.S., AGARTALA.

As directed by the Chief P.M.G., N.E. Circle, to enquire into the agitation of Postal staff unions of Agartala Postal Division viz., National Federation of Postal Employees Union (NFPEU) and the Federation of National Postal Employees Union (FNPEU) on 5th August 2002 against the D.P.S., Agartala Postal Division and the alleged man-handling of the DPS by the agitating staff, I proceeded to Agartala on 28th August 2002, conducted and finished necessary enquiry on 29th August 2002 and returned to Shillong on 30th August 2002. The findings of my enquiry based on statements given by the staff, verbal discussions with the staff, the report of the DPS and my own observations are as follows.

Circumstances leading to the agitation

Shri Kanti Deb Barma, Deputy Postmaster of Agartala HO was charge sheeted under Rule-14 of CCS (CCA) Rules, 1965 under D.P.S., Agartala memo No. SB/AARB/02 dated 30th July 2002 for irregularities in issuing Savings Bank Agent's receipt books to the Agents. The staff unions, feeling that Rule-14 charge sheet against the official was not justified in view of the gravity of the offence and the fact that he is going to retire very shortly i.e., on 31st August 2002, started their agitational programme immediately on 1st August, 2002 in the room of the Postmaster, Agartala HO as the DPS was away to Shillong on Business Development Meet. When the DPS returned to Agartala and attended the office on 5th August 2002 at about 1000 hours, the members of the aforesaid unions started gathering themselves in large numbers in the corridor outside the DPS chamber. While most of them remained in the corridor, their leaders Shri Janardhan Debnath and Shri Haru Das Gupta, Vice President and Secretary of NFPE respectively and Shri Pradip Bhattacharjee and Shri Partho Chakraborty also President and Secretary of FNPEU respectively entered the chamber of the DPS and demanded immediate withdrawal of Rule-14 charge sheet against Shri Kanti Deb Barma. The D.P.S., did not give in to their demand easily. So the full scale agitation including gherao had ensued. It is important to mention here that the unions did not submit any official memorandum to the DPS requesting for withdrawal of the charge sheet against Shri Kanti Deb Barma. Instead they only verbally demanded withdrawal of the charge sheet.

During the agitation on 5-8-02, at noon time, the DPS has spoken to me over phone informing me about it and requested me to speak to Shri Janardhan Debnath, the Vice President of NFPE. On telephone, I told Shri Janardhan Debnath that either the charge sheeted official or the union can represent to the Chief PMG against the charge sheet if they feel dissatisfied. As also reported by the DPS Agartala, she discussed the issue with the Chief PMG In-charge. Circle Office has also received a written report from the DPS Agartala and another letter from Shri A.S.I.S. Paul, Member (P) No. M(P)/Misc/NE/02 dated 9th August 2002 for taking prompt suitable action.

The gravity of the offence committed by Shri Kanti Deb Barma leading to Rule-14 charge sheet against him

The gravity of the offence/lapses committed by Shri Kanti Deb Barma, the charge sheeted official was examined. Under Dte's letter No. 107/24/96-Sb.II dated 26-8-98 addressed to all heads of postal circles and circulated to all divisions of this Circle, a copy of which was also given to the Postmaster, Agartala HO under DPS Agartala letter No. SBR-16/ Rlg/Corr/III dated 12-1-99, it was clearly stipulated that maximum limit of cash receipt books to be issued to individual Small Accounts Savings Agent (SAS) at a time is not to exceed an amount equivalent

of Rs. 50,000/- and that strong action should be taken against the erring postal officials in charge of issuing receipt books to the agents. Also whenever any receipt book is supplied to the Agents, it should be ensured that the authorised limit of Rs. 50,000/- is not exceeded in individual case. Moreover, it should also be ensured against counter foils of used receipt book, the amount so collected earlier have been deposited in the Post Office. In direct contravention of this existing rule, the charge sheeted official Shri kanti Deb Barma while working as DPM, Agartala HO during the period from 1-1-2002 to 12-1-2002 and from 30-1-2002 to 31-1-2002 (14 days) had issued receipt books randomly to the following SAS agents as given below.

Date of issue	Name of the Agent	Value of receipt books	Against a deposit of
3-1-2002	Shri Ashish Sutradhar	Rs. 2,50,000/-	Rs. 1,10,000/-
3-1-2002	Shri Rajib Acharjee	Rs. 2,50,000/-	Rs. 80,000/-
4-1-2002	Shri Rajib Acharjee	Rs. 2,50,000/-	NIL
7-1-2002	Shri R.K. Paul	Rs. 3,00,000/-	Rs. 63,000/-
9-1-2002	Shri Atanu Ghosh	Rs. 4,50,000/-	NIL
9-1-2002	Shri R.K. Paul	Rs. 4,50,000/-	Rs. 1,30,000/-
10-1-2002	Shri Atanu Ghosh	Rs. 8,60,000/-	Rs. 3,50,000/-
10-1-2002	Shri Ashish Sutradhar	Rs. 4,60,000/-	Rs. 75,000/-
10-1-2002	Shri R.K. Paul	Rs. 5,60,000/-	Rs. 43,000/-
10-1-2002	Shri Subash Das	Rs. 2,60,000/-	Rs. 45,500/-
11-1-2002	Shri Ashish Sutradhar	Rs. 4,60,000/-	Rs. 1,84,600/-
11-1-2002	Shri Parimal Saha	Rs. 4,50,000/-	Rs. 5,000/-
12-1-2002	Shri Rakhsh Saha	Rs. 2,50,000/-	Rs. 1,00,000/-
12-1-2002	Shri Santosh Banik	Rs. 4,50,000/-	Rs. 2,10,000/-
12-1-2002	Shri Subash Das	Rs. 2,50,000/-	Rs. 31,000/-
31-1-2002	Shri A.R. Sutradhar	Rs. 4,50,000/-	Rs. 1,05,000/-
31-1-2002	Smti Gita Saha	Rs. 3,00,000/-	Rs. 61,000/-
31-1-2002	Shri R.K. Paul	Rs. 5,00,000/-	Rs. 43,000/-
31-1-2002	Shri Santosh Banik	Rs. 5,50,000/-	Rs. 32,000/-

Explanation was called from Shri Kanti Deb Barma for such lapses for which he stated that he was not aware of the ruling and he committed the lapses out of ignorance. However, his claim of ignorance cannot absolve him from the lapses as he was supposed to be conversant with the ruling being a senior employee and having more than 30 years of service in the Department. The gravity of the irregularity is such that occurrence of a huge fraud can not be ruled out unless and until the counter foils of the used receipt book of the above mentioned agents were all physically verified to establish whether the actual value of used receipt books were deposited by them or not. As it is seen, receipt books worth of Rs. 2,50,000/- and above were supplied to all the above mentioned agents, and if the agents after procuring business equivalent of such amounts abscond, the Department will face serious problems since receipt books were issued for big sums far in excess of the authorised limit of Rs. 50,000/- at a time. Therefore, the irregularities committed by the charge sheeted official is considered to be serious as it cannot be ruled out whether there will be fraud cases or not out of it. The D.P.S., Agartala having realised the seriousness of the irregularities had him charge sheeted under Rule-14.

Rule-16 charge sheet against Shri Mrinal Kanti Das, PA, Agartala H.O.

This case was not a major issue of the agitation but since it was also dropped by the DPS Agartala along with that of Shri kanti Deb Barma during the agitation of the staff, I also get it examined. The case is of minor nature. The official issued intimation to the wrong

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addressee of the VP Pkt. Realising his mistake, he issued another intimation to the correct addressee. The correct addressee turned up at the Post Office after two days to deliver the VP Pkt. However, Shri Mrinal Kanti Das had already returned the article to the sender the day before. The article was re-called and subsequently delivered to the addressee. The official belongs to the FNPEU, therefore, FNPEU joined the agitation because of him.

The following persons were examined, their statements taken and the main contents of the statements were discussed below.

(1) Statement of Shri Pranab Chakraborty, Postmaster, Agartala H.O.

He was also gheraoed by the staff on 5th August 2002. On being called by the D.P.S., he was allowed to go by the staff who gheraoed him. He had seen that the lobby (corridor) of Divisional office was full of staff and slogans were shouted in front of the chamber of the DPS. Shri Janardhan Debnath led him to the room where the C.I., sits (Customer Care Centre room). The door was blocked by the lady staff, but they allowed him to enter into the room. In that room, the DPS was standing in front of the window looking at the road. Shri Janardhan Debnath asked him to tell DPS about the dropping of the charge sheets. He told the DPS the demand of the staff unions and apprised her that the situation may turn to worse. He remained in the room with the DPS for about an hour during which Shri Janardhan Debnath turned up several times demanding dropping of the charge sheets. Meanwhile, there was lot of shouting outside the room and the door of the room was blocked by the lady staff of Agartala HO and Divisional office. He discussed again the situation with the DPS and Shri Janardhan Debnath also placed again their demand to the DPS. After some time, the DPS talked with DPS (HQ) Shillong and after that she called her PA and CI and she issued the memo of dropping of charge sheets. After that the staff left the scene and the DPS also left the office. Shri Pranab Chakraborty returned to his normal work at 4 PM. He went to his scooter and found that the rear wheel of the scooter was punctured. He also found that his name plate was also removed. He also alleged that he was physically pushed forward in front of the DPS chamber. He further stated that on that day i.e., 5th August 2002, the DPS Agartala signed the memo dropping the charge sheets under pressure from the staff side. The statement of Shri Pranab Chakraborty is enclosed as Annexure-I.

(2) Statement of Shri S.C. Deb Barma, Dy. S.P.Os, O/O the D.P.S., Agartala.

He was away on inspection from 1st to 3rd August 2002. He attended office as usual on 5-8-2002 and came to know from the letter of the Postmaster, Agartala HO that some agitation by staff union took place at Agartala HO in connection with the charge sheets issued to Shri Kanti Deb Barma, DPM Agartala HO and Shri Mrinal Kanti Das, PA, Agartala HO demanding immediate withdrawal of those charge sheets. After the arrival of the DPS, he heard voices of staff union members from the chamber of the DPS and assumed that informal meeting was going on with the DPS in connection with the issuance of the charge sheets of Shri Kanti Deb Barma and Shri Mrinal Kanti Das. He heard loud voices and could feel the movement of the staff in the corridor. Feeling the situation was serious, he tried to go out of his room, but could not as in the mean time, the whole passage of the corridor was full of mob so far as he could see and there was no room for a step even. All his efforts to come out of his room failed. Later when he came out of his room, the agitationist staff and the DPS were already gone. He heard from people telling that the tyres of the inspection vehicle were punctured. Regarding the happenings in the chamber of the DPS, he could not get any information as nobody was willing to tell and he only felt that there was some unpleasant happenings.

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Questions were also asked from Shri S.C. Deb Barma, DSP and from his replies, it is understood that he rarely goes to his DPS during office hours. He visits her only as and when she calls him that is about once in a day. He knew about the charge sheet against Shri Kanti Deb Barma when he was told by the DPS. He also could not identify what was exactly said when he heard loud voices in the corridor. During the whole duration of the agitation say about three hours and a half, Shri S.C. Deb Barma, DSP had not intervene at all with the agitating staff members on behalf of the DPS. As an immediate subordinate to the DPS, he should have interfered to be of help to the DPS and put sense to the agitating staff which he did not do. His statement is enclosed as Annexure-II.

(3) Statement of Shri Tapas Nath, Offg. C.I., O/O D.P.S., Agartala.

On 5-8-2002, he attended the office at 1030 hours. He found his members (union) sitting in the verandah (corridor) and he came to know that some union leaders of FNPO and NFPE had gone to the chamber of the DPS to meet her. The number of the members of the staff increased in the corridor and they were willing to know the outcome of the discussion between DPS and the union leaders. After an hour, as there was no electricity in the office, he went out to get fresh air and went down to the ground floor of the HPO and was sitting and discussing with the APM(SB). At about 1 PM, he was told by some Group-D official that he was called by the DPS. He found DPS madam sitting in the Customer Care Centre room with Postmaster, Agartala HO and the DPS asked him to unlock the telephone of Customer Care Centre. After he did so, he left the room and went back to APM(SB) in the ground floor of HO. (DPS office is also located in the building of Agartala HO). He was again called by the DPS and DPS told him to drop the charge sheets against Shri Kanti Deb Barma and Shri Mrinal Kanti Das. He collected the respective file numbers from PA of the staff branch. As dictated by the Postmaster, Agartala HO, he typed out the memo for dropping the charge sheets from the computer. The DPS signed those memo of dropping the charge sheets. Shri Tapas Nath made photo copies and despatched them. After signing the memo, the DPS left the office.

Further questions were asked from Shri Tapas Nath. On being asked whether he heard any slogans or shouting in or outside the chamber of DPS, he denied, there was no slogan shouting as long as he was in the office. His idea regarding the circumstances leading to the dropping of the charge sheets by the DPS, was that she did it in consultation with the Chief PMG, Shillong. Regarding physical touch or manhandling of the DPS when she was trying to go out of the office, he said, he had not seen or heard anything.

Shri Tapas Nath being officiating C.I., working in the Divisional office was supposed to know all that happened during the period of agitation on 5-8-02. However, it appears that he had not given the full truth of what he had seen due to fear of the staff union. His statement is enclosed as Annexure-III.

(4) Statement of Shri Jayanta Bhattacharjee, Offg. PA to DPS Agartala.

When DPS attended the office on 5-8-02, he switched on the electricity for her room. In the meantime, he found NFPE and FNPO union leaders along with many others approaching to the chamber of DPS. Some of these people entered into the DPS chamber and many others were waiting in the corridor. He was told by somebody that they came to get the charge sheets issued to Shri Kanti Deb Barma and other official withdrawn. In the corridor, they started shouting slogans. The persons who went to the chamber of DPS were coming out and getting in frequently. After an hour and a half, the meeting with the DPS was still continuing. He went out and when he came back to his room, he found the situation intensified and there was shouting in front of the chamber of DPS. He could not enter his room again. After a few

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moments he heard the crowd suddenly cried out "Hold her, don't let her go". He tried to go nearer but failed. After some time he was called by the DPS and he went inside the Customer Care Centre room and he was asked to bring the file from where the charge sheets were issued to Shri Kanti Deb Barma. He fetched the file from the DPS room and gave it to Shri Tapas Nath, the C.I. The C.I., and the Postmaster, Agartala HO then dictated him and he typed memos for the withdrawal of charge sheets of Shri Kanti Deb Barma and other official. Shri T.K. Nath brought the print out to the DPS and the DPS signed them. The DPS left the office around 2 PM.

Further questions were asked from Shri Jayanta Bhattacharjee. He identified that some persons who were going out and going in were Shri Janardhan Debnath, Vice President, NFPE, Shri Haru Das Gupta, Secretary, NFPE, Shri S.C. Bhattacharjee and Shri Mrityunjoy Shome. Some of them were leaders of staff union but all of them took leading part in the agitation. He stated that the DPS was in her own chamber, then she went to Customer Care Centre room. He had no idea why the DPS was in the Customer Care Centre room, but he believed that DPS felt suffocation in her own room due to power cut and she wanted to go to another room. In the later part of the agitation, he was not in his room which is adjacent to DPS room as he went out to the toilet. When he came back, the corridor was full of agitationist staff and he could not enter his room again. He did not see whether the agitationist physically touched or manhandled the DPS but he said the agitationist obstructed the corridor and the DPS was not allowed to go out. Regarding whether he has seen Shri Sujit Choudhury, EDSV during the agitation whom the DPS Agartala reported to have blocked her way, he said Shri Sujit Choudhury was present and he has seen him. His statement is enclosed as Annexure-IV.

(5) Statement of Shri Pradip Chakraborty, PRI(P) Agartala H.O., President, FNPEU.

On 5th August 2002, he went to the chamber of the DPS with other staff and requested the DPS to re-consider the case of two charge sheets sympathetically. DPS discussed the matter with Circle Office, Shillong in their presence over phone. Thereafter the room of the DPS became dark and hot because of the power cut, conversation was going on with the delegates. Then he went out of the room to take tea with Shri Partho Chakraborty in the ground floor and resumed his duty. After a long time, he went to the DPS office and found that both the charge sheets have been dropped.

On being asked whether the DPS was abused with ugly languages and threatened with dire consequences unless the charge sheets were withdrawn, Shri Pradip Bhattacharjee had not heard anything like this. Whether the DPS was obstructed physically when she is going out of the office to avoid any untoward incident, he stated that no such thing occurred in his presence. Nothing is known to him regarding circumstances leading to the withdrawal of the charge sheets by the DPS.

I asked Shri Pradip Bhattacharjee why his union FNPEU joined the agitation and his reply was that they formed a common front with the NFPE in the issue of payment of Special Duty Allowance (SDA) already and as such they joined the agitation on that account, also the other official charge sheeted under Rule-16 Shri Mrinal Kanti Das is a member of their union. He appears to be a reasonable man and he assured me the support of his union if the present DPS continues in Agartala. His statement is enclosed as Annexure-V.

(6) Statement of Shri Partho Chakraborty, System Manager, VSAT, Agartala H.O.

On 5-8-2002, he along with 8 to 10 staff members attended the chamber of DPS and requested her to re-consider the cases of two charge sheeted officials on humanitarian ground. The DPS asked the delegation to give it in writing. He came out of the room as it was dark and had a cup of tea with Shri Pradip Chakraborty and then he resumed his work. After some time, he again went up to DPS office and came to know that the DPS was sitting in the adjacent room. After a while, the DPS dropped the cases and left the office. On being asked further questions, he said he was not present at the time when DPS was trying to go out of the office to avoid any unpleasant incident. He has no idea as to how the DPS was taken to Customer Care Centre room, and whether the charge sheets were dropped under any compulsion. He also could not recollect his memory whether Shri Sujit Choudhury, EDSV, Secretariat Post Office was present or not during the agitation. His statement is enclosed as Annexure-VI.

(7) Statement of Shri Sambhu Rakshit, Driver to DPS Agartala

His original statement is given in Bengali. English translation is prepared.

He said there was 'Dharna' in their office on 5-8-2002. That day some ED staff caught him and took him in the back side and they told him the DPS kills their man and so they will not leave him also. After some time, he came to his vehicle and he saw the air of the tyres were taken out and the vehicle could not be driven. The DPS has gone by Speed Post vehicle. He reported the matter to the DSP Agartala who said he did not know anything and he may report the matter to the DPS. He gave air to the tyres and kept the vehicle in the garage. He did not know the names of the ED staff who had taken him, he knows by their faces only. DPS was not abused in his presence. As he was in the ground floor, he has not seen or could not say anything whether DPS was obstructed or not. His statement is enclosed as Annexure-VII.

No statement regarding this incident could be taken from Shri Janardhan Debnath, Vice President, NFPE, Shri Haru Das Gupta Secretary, NFPE, Smti Ajita Dutta, PA Divisional office, Agartala and Mrs. Aniva Dutta, PA, Agartala HO. All of them refused to give their statements saying that they have been arrested in connection with the agitation and released on bail, and the lawyer advised them against giving any statement without his consent. I called and spoke to them one by one explaining to them that I came to enquire into this incident under the order of the Chief PMG and since it was a departmental inquiry, they should give correct statements without hesitation and any refusal to give statement will tantamount to undermining the deptl. authority and non co-operation against the inquiry officer and inquiry proceedings. They promised that they would consult their lawyer and let me know again. But neither did they let me know nor came back to me again. Therefore, the above mentioned four officials Shri Janardhan Debnath, Shri Haru Das Gupta, Smti Ajita Dutta & Smti Aniva Dutta did not cooperate in the enquiry process. All of them were the staff whom the DPS reported as taking leading part in the agitation.

An EDSV of Secretariat Post Office whom the DPS named him as having blocked the door of her office while she was trying to go out is identified as Shri Sujit Choudhury. I also called him and requested him to give his statement regarding the agitation, but he vehemently denied his presence in the Divisional office on the day of the agitation as he was working in the Secretariat Post Office and he had no business in the Divisional office. However, Shri Jayanta Bhattacharjee, PA to DPS has confirmed his presence in the agitation and he had seen him that day in the Divisional office. His statement was not taken because of his refusal.

Findings of the inquiry

On 5-8-02, the DPS attended the office at about 1000 hours and sat in her own office chamber. Within another 10 minutes or so, the leaders of the staff unions both NFPE and FNPEU such as Shri Janardhan Debnath, President NFPE, Shri Haru Das Gupta, Secretary NFPE, Shri Pradip Bhattacharjee, President, FNPEU, Shri Partho Chakraborty, Secretary, FNPO with some others entered the chamber of the DPS and requested her to drop Rule-14 charge sheet against Shri Kanti Deb Barma, DPM Agartala HO and Rule-16 charge sheet against Shri Mrinal Kanti Das, PA, Agartala HO. The DPS did not agree with their request, therefore, discussions and arguments were going on. In the mean time more and more staff of Divisional office and Agartala HO arrived at the DPS office and the corridor, the only passage for going in and out was filled with them and fully blocked. They started shouting slogans as confirmed by the statement of Shri Pranab Chakraborty, Postmaster, Agartala HO and Shri S.C. Deb Barma, Dy. SPOs, who also confirmed there were shouts. The union leaders kept on pressing the DPS for withdrawal of the charge sheets without success. In the meantime, there was failure of electricity, the room of the DPS became dark, hot and suffocating. At about 1200 hours, the DPS Agartala spoke to me over phone and told me about the agitation and I suggested to her that the charge sheeted officials and the staff unions could make representations against the charge sheets to Circle Office which is also the prescribed procedure for redressal of staff grievance. DPS also asked me on phone to spoke to Shri Janardhan Debnath, President, NFPE who is the main leader of the agitation. I spoke to him and suggested to him that the charge sheeted officials or the union leaders could represent their grievances to Circle Office. As per the statement of Shri Jayanta Bhattacharjee, PA to DPS, Shri Janardhan Debnath, Shri Haru Das Gupta, Shri S.C. Bhattacharjee and Shri Mrityunjoy Shome appeared to be in the fore front organising this agitation. As the room of the DPS was dark, hot and suffocating due to power cut and due to immense physical and mental pressure from the agitating staff, the DPS tried to go out of her room but the door was blocked physically by the staff whom the DPS named them in her report as Shri Haru Das Gupta and EDSV of Secretariat SO who is the leader of ED Agents and who is identified as Shri Sujit Choudhury. She was then physically caught by the arm by the two ladies Smti Aniva Dutta and Smti Ajita Dutta and took her to the adjacent room of Customer Care Centre. Shri Jayanta Bhattacharjee, PA to DPS has said in his statement that he heard voices shouting "Hold her, don't let her go". This can be the voices of the male member asking the lady staff to hold the DPS and not let her go. At the instance of their male members, the two ladies Smti Ajita Dutta and Smti Aniva Dutta as also claimed by the DPS report, caught the DPS by the arm and took her inside the Customer Care Centre room. As Shri Jayanta Bhattacharjee heard the voices saying "Hold her, don't let her go", the DPS must have been physically touched and manhandled by the above mentioned two lady staff. The male members of the union would have definitely requested the lady staff to manhandle the DPS if they found it necessary to do such a thing as the DPS is a lady officer and physically touching and manhandling by anybody other than the lady staff would have been a highly objectionable manner. Even though they may not have personal ill feeling against the DPS, the two ladies would definitely obey the request of their male members since they were all agitating for the same purpose.

When the DPS was already in the Customer Care Centre room, she called for Pranab Chakraborty, Postmaster, Agartala HO for advice and consultation. The Postmaster accordingly went to the DPS and remained with her for about one hour and during this time Shri Janardhan Debnath came several times demanding dropping of the charge sheets and he also asked Shri Pranab Chakraborty to persuade the DPS to drop the charge sheets. Here also, the door was blocked by the lady staff of the Agartala HO and Divisional office. These developments are corroborated by the statement of Shri Pranab Chakraborty, Postmaster, Agartala HO. At long last because of repeated shouting and threat, the DPS finally decided to drop the charge sheets against Shri Kanti Deb Barma and Shri Mrinal Kanti Das. As per her

report, she also spoke to the Chief PMG In-charge who advised her to do anything for her own safety. Memos for dropping the charge sheets were then prepared, signed by the DPS and issued. After dropping the charge sheets, all the agitating staff left the scene and the DPS also left for her residence. On getting down to the ground floor where her vehicle stood, she found all the tyres of the vehicle deflated as stated in the statement of Shri Sambhu Rakshit driver to DPS. She had gone to her residence in the Speed Post vehicle.

The DPS Agartala reported the incident of this agitation to the Chief PMG, N.E. Circle and Member (P) of Postal Directorate. On the basis of the letter of the Member (P) dated 9-8-2002 the memo of this office No. Rule-14/K.Deb Barma/2002 dated 12-8-2002 and No. Rule-16/M.K.Das/2002 dated 12-8-2002 were issued canceling DPS Agartala memo No. SB/AAR/02 dated 5-8-2002 dropping Rule-14 charge sheet against Shri Kanti Deb Barma and No. B-455 dated 5-8-2002 dropping Rule-16 charge sheet against Shri Mrinal Kanti Das, PA, Agartala HO and thereby making Rule-14 charge sheet against Shri Kanti Deb Barma and Rule-16 charge sheet against Shri Mrinal Kanti Das stand. The DPS Agartala has also reported this incident to the Chief Secretary, Govt. of Tripura, Agartala. I met the Special Secretary for Home of the State govt., and he told me that the copy of the DPS report was marked to the D.G., Police. The D.G., Police must have been taking action which leads to the arrest of Shri Janardhan Debnath, Shri Haru Das Gupta, Smti Ajita Dutta and Smti Aniva Dutta. They were however released on bail.

In course of my enquiry and while taking the above statements of the staff and talking to them, it seems to me that most of them have not given correct statements except Shri Pranab Chakraborty, Postmaster, Agartala HO. Shri S.C. Deb Barma, DSP disclaimed knowledge of agitation and he only said he heard shouts and he believed discussion between the union leaders and the DPS were going on in the chamber of the DPS. As immediate subordinate of the DPS, he was also to intervene during the agitation and try to help the DPS in settling the issue. I think he has failed in his duty as DSP particularly in this agitation issue. Shri Pradip Bhattacharjee, Shri Partho Chakraborty and Shri Tapas Nath denied occurrence of any unruly behaviour like shouting slogans, using abuse languages etc. Nobody claimed to have any knowledge about the physical touch and manhandling of the DPS by any staff. I, therefore, presume that all the members of the staff unions have agreed not to disclose the real truth while giving their statements..

What can be gathered from the statements of Shri Pranab Chakraborty, Postmaster, Agartala HO and Shri Jayanta Bhattacharjee, PA to DPS is that DPS was subjected to tremendous mental pressure by the agitationist and she was also manhandled by the lady staff when she was trying to get out of her room and put her inside Customer Care Centre room. During the period of agitation for about 3 hours, when she was confined to her room and then to Customer Care Centre room, she suffered great physical and mental strains. All alone she was facing the angry staff and in order to avert the situation, she had no alternative except to drop the charge sheets as demanded by the agitating staff. A responsible officer like DPS would not simply drop the charge sheets issued after careful consideration unless she was subjected to immense mental and physical pressure.

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Conclusion

As stated in the foregoing, I conclude this enquiry report by agreeing that the DPS Agartala was subjected to extreme mental agony by the agitating staff on 5-8-2002 and due to that she dropped the charge sheets issued against Shri Kanti Deb Barma and Shri Mrinal Kanti Das under duress threat and compulsion from the staff union. For years together, Agartala Postal Division has a dubious distinction of being the only Postal Division out of seven Postal Divisions of North East Circle where the staff unions are far more militant and aggressive against the administration. We have seen during the incumbency of earlier DPS like Shri Bhagat and Shri Ram Bharosa frequent demonstrations, slogan shoutings and gheraoes were the order of the day. Nowhere in other Postal Divisions were the DPS being gheraoed except in Agartala. We have seen that any change in the administrative and operational matters introduced by the DPS were always obstructed and negated by the staff union if that goes against their vested interest. Staff unions try to dominate and control the administration rather than being controlled and dominated by the administration. Any rotational and tenure transfer will invite endless complaints and arguments. In fact, the present DPS Smti Trishaljit Sethi has brought a lot of developments in business activities, mail management, building maintenance and in philately. She is also able to reduce to a great extent huge arrears in SB posting of Agartala and R.K. Pur HOs and also in ledger agreements of SBCO of both the HOs. It seems the staff unions see changes and improvements she has affected as infringement on their interest. Agitations which we do not have in other postal divisions of the North East happen incessantly in Agartala division. The staff unions there are far worse, very militant and much more aggressive than their counterparts of other divisions. Charge sheeting an official even though on the verge of his retirement cannot be totally avoided if the offence committed by him warrants such an action and if the action of the DPS Agartala in issuing Rule-14 charge sheet against Shri Kanti Deb Barma is found highly unjustified by the official concerned and the staff unions, they could have resorted to normal prescribed channel by making a representation to next higher authority or by going to CAT or law courts. Instead of doing that the staff unions of Agartala directly launched the agitation by gheraoing the DPS for about three hours and subjected her to tremendous physical and mental pressure which I feel is totally unjustified. In order to ensure effective administration in Agartala division in future it is felt necessary to take suitable and deterrent disciplinary action against the union leaders and staff who were playing the leading part in this agitation.

(LALHLUNA)

Inquiry Officer and
Director of Postal Services (HQ)
N.E. Circle, Shillong.

The 05 Sept. 2002 -
Shillong.

CHAPTER II

ANNEXURE-C

TRANSFERS AND POSTINGS

GENERAL RULES.

33. The following general rules apply equally to officers of all the different branches unless it is otherwise expressly specified as applicable to a particular branch or to a particular class of Government servants. Further rules regarding "Transfer of office" are given in the *Posts and Telegraphs Financial Handbook*, Volume I.

POWERS.

34. The powers of the Director-General, the Head of a Circle and subordinate authorities to sanction transfers and postings of a member of the Department are laid down in the Schedule of administrative powers in the *Posts and Telegraphs Manual*, Volume III.

35. All transfers, changes of headquarters and special duties of gazetted officers should be communicated to the Director-General and to the Audit office as laid down in the *Posts and Telegraphs Financial Handbook*, Volume I.

CONDITIONS OF TRANSFERS.

35. The rules regarding transfers of officials otherwise than for the public convenience will be found in Part VII of the Administrative Instructions issued by the Governor-General in Council and published as Appendix No. 3 to the *Posts and Telegraphs Compilation of the Fundamental and Supplementary Rules*.

37. All officials of the Department are liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials. Transfers should not, however, be ordered except when advisable in the interests of the public service. Postmen, village postmen and Class IV servants should not, except for very special reasons, be transferred from one district to another. All transfers must be subject to the conditions laid down in *Fundamental Rules* 15 and 22.

37-A. Transfers should generally be made in April of each year so that the education of school going children of the staff is not dislocated. In emergent cases or cases of promotion this restriction will naturally not operate.

38. Transfer at one's own request.

(1) Transfers of officials when desired for their own convenience should not be discouraged if they can be made without injury to the rights of others. However, as a general rule, an official should not be