

701/600
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 319/2002

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

....

ORDER SHEET

Original Application No : 319/02

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Sonil Ch. Saha

-Vs-

Respondent (s) H. C. I. Sons

Advocate for the Applicant (s) M. Chanda, G. N. Chakrabarty

Advocate for the Respondent(s) Cafe H. Datta

Notes of the Registry	Date	Order of the Tribunal
<p>Notice has been sent to the Respondent No 1 to 3 by Registered A.D.O. on 26.9.02. Ref. No. 79535267 Date 26.9.02 P.D. 26.9.02 N.B. 27/9/02</p> <p>Steps taken Date N.B. 27/9/02</p> <p>Notice has been sent to the Respondent No 1 to 3 by Registered A.D.O. on 26.9.02. Ref. No. 79535267 Date 26.9.02 P.D. 26.9.02 N.B. 27/9/02</p>	<p>8.10.02</p> <p>mb</p>	<p>Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C. G.S.C. for the Respondents.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.</p> <p>List on 12.11.2002 for admission.</p> <p>L C Usha Member</p> <p>Vice-Chairman</p>

12.11.02

List on 25.11.2002 for

admission.

IC Usha

Member

L

Vice-Chairman

mb

25.11.02

Heard Mr. M.Chanda, learned
counsel for the applicant.

No reply so far filed by the
respondents pursuant to the notices
dated 8.10.2002. The application is
admitted. Call for the records.

List on 24.12.2002 for orders.

No hearing has been
fixed.

3
23.12.02

mb

L

Vice-Chairman

24.12.02

Mr. A.Deb Roy, learned Sr. C.G.S.
C. appearing on behalf of the respondents
sought for some time for filing written
statement. Prayer is allowed. List
on 30.1.2003 for written statement.

No written statement
has been filed.

3
29.1.03

mb

IC Usha
Member

L

Vice-Chairman

30.1.2003

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

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

Written statement has been
filed by the respondents. The case may
now be listed for hearing on 24.2.2003.
The applicant may file rejoinder, if any,
within two weeks from today.

No rejoinder has
been filed

3
21.2.03

mb

su
Member

L

Vice-Chairman

(3)

3

Notes of the Registry	Date	Order of the Tribunal
No rejoinder has been filed.	24.2.2003	Put up the matter on 7.4.2003 before the appropriate Bench.
<i>24/2/03</i>	mb	<i>Vice-Chairman</i>
No rejoinder has been filed.	13.5.03	Adjourned. List. 4.7.03 for hearing.
<i>12/5/03</i>	A.F.	<i>Div. Bench did not sit today. The case is adjourned to 11/8/2003.</i>
11/8/03		<i>Division Bench is not available. Adjourned to 15/9/03 for hearing.</i>
		<i>PTO 11/8.</i>
	15.9.2003	Present : The Hon'ble Sri K.V. Prahala dan, Member (A).
		No Division Bench is sitting. List again on 31.10.2003 for hearing
		<i>For Prahala dan Member</i>
<u>19-12-03</u>	mb	31.10.03 no d/Bench today. Adjud to 5.12.03.
WTS filed.		31.10.03 no d/Bench today, adj. to 22.11.03. BTO
No rejoinder filed.	5.12.03	no Bench today, adj. to 22.11.03. BTO

Notes of the Registry

Date

Order of the Tribunal

22.12.2003 Present: The Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman
 The Hon'ble Shri K.V. Prahladan, Member (A).

16.1.03

Copy of the Judgment
 has been sent to
 the Office of the Secretary
 to the Law to the applicant
 as well as to the
 N.C.S.C.

LL

Heard counsel for the parties.

Order passed, kept in separate
 sheets.The application is disposed of
 in terms of the order. No costs.

KV Prahladan
 Member

B
 Vice-Chairman

bb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./XXX. No. 111319 of 2002.

DATE OF DECISION 22.12.2003.

.....Sri.Sunil.Chandra.Saha.....APPLICANT(S).

.....Mr.M.Chanda, G.N.Chakraborty & H.Dutta.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

.....Union of India & Others.....RESPONDENT(S)

.....Mr.A.Deb Roy, learned Sr.C.G.S.C.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE B. PANIGRAHI, VICE CHAIRMAN.

THE HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Hon'ble ~~Maxx~~ Vice-Chairman.

A

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.319 of 2002.

Date of Order : This, the 22nd Day of December, 2003.
THE HON'BLE MR. JUSTICE B. PANIGRAHI, VICE CHAIRMAN.

THE HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri Sunil Chandra Saha
Son of Late Monomohan Saha
Resident of T.K.Das Lane
Khalihamari
Dibrugarh - 786 001
Assam.

..... Applicant.

By Advocates Mr.M.Chanda, Mr.G.N.Chakraborty & Mr.H.Dutta.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Department of Posts
New Delhi - 110 001.

2. The Director General (Posts)
Department of Posts
New Delhi - 110 001.

3. The Chief Postmaster General
Assam Postal Circle
Meghdoott Bhawan
Guwahati.

4. The Director of Postal Services
Assam Region, Meghdoott Bhawan
Guwahati.

5. The Superintendent of Post Offices
Dibrugarh Division
Dibrugarh, Assam.

..... Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R B E R (ORAL)

PANIGRAHI, J.(V.C.) :

This case has suffered a checkered history. This is the second round of litigation by which the applicant approached the Tribunal complaining non-payment of salary for the period he purports to have performed duty.

1. The applicant is serving as an Accountant Higher Selection Grade since 1996. While he was serving as such in the Head Post Office, Dibrugarh, he was transferred and posted

B

Contd./2

to North Lakhimpur Head Post Office as Assistant Postmaster (Accounts) vide order dated 13.12.1996. On receipt of the said order the applicant submitted a representation on 14.12.1996 to the Superintendent of Post Offices, Dibrugarh Division praying for cancellation/modification of the transfer order. But the authorities were not inclined to modify/cancel the order of transfer and he was released on 20.12.1996. It is stated that the applicant could not carry out the order of transfer at the relevant time on account of his serious ailment. Thereafter he submitted a representation for re-consideration, but such representation did not evoke any response. That is how the applicant, without finding any other alternative, submitted a notice for voluntary retirement w.e.f.1.7.1997, which was served on 25.6.1997. The authorities had ignored the offer of said voluntary notice, rather initiated disciplinary proceeding for disobeying their orders. The respondents also framed some other charges besides not joining at the transferred place. The applicant had approached the appellate authority for quashing of the article of charges, which were subsequently quashed by the appellate authority. On being dissatisfied with the revocation of the article of charges, the Superintendent of Post Offices, Dibrugarh Division again framed a fresh chargesheet on the self same ground. Therefore, the applicant has filed a case before the Tribunal in O.A. No. 62 of 1999 which was disposed of on 19.12.2000 with the following directions : -

" For the reasons stated above, we set aside and quash the Memo No.B2/S.C.Saha dated 4.8.97, Memo No.B2/S.C.Saha dated 28.8.97 and appellate order bearing Memo No.Staff/17-20/98 DR dated 16.4.98. The respondents are directed to immediately take appropriate measure for paying him salaries and allowances admissible to him, if necessary by regularising the period of absence by granting any kind of leave due to him. The applicant, if he still desires, may make application for voluntary retirement to the respondent No.3, Chief Postmaster General and if such application



Contd./3

is filed the respondent No.3 shall consider the same and pass necessary order as per law.

The application is accordingly allowed. There shall, however, be no order as to costs."

2: Mr.M.Chanda, learned counsel appearing for the applicant, has fervently pleaded that even after directions were issued the respondents failed to grant the salaries for the period and no action was taken upon notice of voluntary retirement. Thus they should be directed to pay the salaries for the period. Mr.A.Deb Roy, learned Sr.C.G.S.C. appearing for the respondents, in course of his submission, brought to our notice the order dated 14.9.2001 whereby the authorities had granted the applicant admissible leave and treated the other period as extra-ordinary leave. From the order it is revealed as under :-

"Earned Leave	1.10.97 to 8.10.97	=	8 days
HPL	9.10.97 to 10.10.97	=	2 days
EOL	11.10.97 to 31.12.97	=	82 days
Earned Leave	1.1.98 to 7.1.98	=	7 days
HPL	8.1.98 to 17.1.98	=	10 days
EOL	18.1.98 to 30.6.98	=	164 days
HPL	1.7.98 to 10.7.98	=	10 days
EOL	11.7.98 to 31.12.98	=	174 days
HPL	1.1.99 to 10.1.99	=	10 days
EOL	11.1.99 to 30.6.99	=	171 days
HPL	1.7.99 to 10.7.99	=	10 days
EOL	11.7.99 to 31.12.99	=	174 days
EOL	1.1.2000 to 10.1.2000	=	10 days
EOL	11.1.2000 to 30.6.2000	=	172 days
HPL	1.7.2000 to 10.7.2000	=	7 days
EOL	11.7.2000 to 19.12.2000	=	162 days
EOL	20.12.2000 to 31.12.2000	=	12 days
HPL	1.1.2001 to 10.1.2001	=	10 days
EOL	11.1.2001 to 20.6.2001	=	161 days

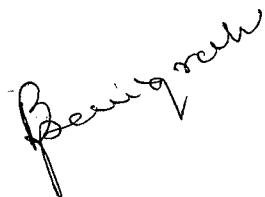
3. The main thrust of the applicant's counsel argument is that his entire salary for the period from 1.10.97 to 2.7.2001 is not being given, therefore, the respondents should be directed to pay the salary for the aforesaid period. The questions raised are to be considered as to whether the respondents can be forced to release the salary notwithstanding the fact that the applicant did not perform his duties. On careful perusal of the order of the Tribunal dated 19.12.2000 in O.A.62/1999 it is found that the respondents were directed

to release salaries and allowances admissible to him, if necessary by regularising the period of absence by granting any kind of leave due to him. The Tribunal has never, on earlier occasion, directed to pay the salaries for the entire period even when the applicant did not perform his normal duties. Therefore, from the period stated above, it is clear that from 1.10.97 to 20.6.2001 the respondents have granted the applicant leave admissible to him and also treated the other period as extra-ordinary leave as salaries for this period could not be paid to him. The order dated 14.9.2001 remained silent for the period 21.6.2001 till 2.7.2001.

4. Therefore, in this background we direct the respondents to adjust this period with future earned leave from 21.6.2001 onwards upon a proper application be filed by the applicant for grant of earned leave for the period 21.6.2001 to 2.7.2001. On such application being filed by the applicant, we hope and trust that the respondent No.5 i.e. the Superintendent of Post Offices, Dibrugarh Division shall release the salaries for those period by treating it as earned leave. We also direct the respondents to examine whether salaries for the period other than extra-ordinary leave, have already been released to the applicant or not.

With the above observations, the application is disposed of. No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(B.PANIGRAHI)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O. A. NO. 319 / 2003

Sri S.C.Saha. ... Applicant.
-Versus-

Union of India & Others ... Respondents

Lists of dates and synopsis of the case

Synopsis of particulars in the application

Date	
1969	Promoted as Clerk in the Head Post Office,Dibrugarh.
1977	Promoted as accountant.
1985	Promoted to the post of L.S.G
31.12.1996	Transferred and posted at North Lakhimpur on promotion to the post of accountant H.S.G-II.
14.12.1996	Submitted representation for cancellation and modification of transfer order on the ground of domestic problem.
17.12.1996	Representation for review of transfer order was rejected.
20.12.1996	Petitioner was relieved from duty in pursuant to transfer order dated 13.12.1996.
16/21.04.1997	again submitted representations for allow him to continue in the same place of posting at Dibrugarh but to no result.
25.06.1997,01.10.1997	–Applicant submitted notice for voluntary retirement w.e.f 01.10.1997 under sub rule (3A) (a) under Rule 48-A of CCS Pension Rules 1972 (Para 3)
2/3.07.1997	It was informed to the applicant that voluntary retirement could not be accepted without assigning any reason.

filed by the applicant
Biswajit
Subrata Deka
Advocate
22.12.03

12

30.12.1996- **Applicant fell sick w.e.f. 30.12.1996. (Para 4.6, page-6)**

02.07.1997- **Memorandum of charge sheet initiated under Rule 16 of CCS (CCA) Rules, 1965 on the allegation for extending leave from time to time, obtaining Medical Certificate from physician with a view to averting further order.**

27.08.1997- **Imposed penalty of withholding next promotion for a period of 6 months.**

09.10.1997- **Appellate authority set aside the penalty order dated 27.08.1997. (Para-4.7, page-6&7)**

04.08.1997- **Disciplinary Authority again initiated 2nd Disciplinary proceeding, under Rule-14 on the allegation that the applicant endorsed a copy of reply of his defense statement to the Secretary of class III Union, although the applicant denied charges.**

28.08.1997- **Penalty of one increment imposed upon the applicant for 1 year with immediate effect.**

16.04.1998- **Appellate Authority reduced the penalty of stoppage of 1(one) increment from 1 year to 6 months.**

04.07.1997- **Another memorandum of charge sheet issued on the allegation that the applicant did not perform some allotted work for the first time during 28 years of service career.**

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22.01.2001- Lawyer notice issued by the counsel of the applicant for regularization of period of absence w.e.f.01.10.1997 to 07.01.2001.

06.09.2001- Applicant was asked to apply for leave by the respondent for regularization of his absence.

01.03.2002- Applicant submitted representation for proper implementation of Hon'ble Tribunal's order.

21.03.2002- It was informed to the applicant by the respondent that the period of absence has already been settled.

It is submitted that the period of absence of the applicant was regularized by leave available in the credit of the applicant without treating the period of absence as on duty at least for the period w.e.f 01.10.1997. (Para-4.15, page-16&17)

10.05.2002- Impugned order issued asking the applicant to apply for leave

16.05.2002- for regularization of entire period of absence in violation of the Tribunal's Order. (Annexure -9& 10).

PRAYER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O. A. No 319 /2002

Sri Sunil Chandra Saha : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

Sunil Chandra Saha
Advocate

Date 25-9-2002

3
Filed by the applicant
through Sri C. Chakravarty
Dewo cal on 25-9-2002

1
15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 319 /2002

BETWEEN

Sri Sunil Chandra Saha
Son of late Monomohan Saha
Resident of T.K.Das Lane,
Khalihamari,
Dibrugarh-786001
Assam

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Communication
Department of Posts,
New Delhi-110011.
2. The Director General (posts)
Department of Posts,
New Delhi-110001
3. The Chief Postmaster General,

Sunil Chandra Saha

Assam Postal Circle,

Meghdoot Bhawan,

Guwahati.

4. The Director of Postal Services,
Assam Region,
Meghdoot Bhawan
Guwahati

5. The Superintendent of Post Offices,
Dibrugarh Division,
Dibrugarh, Assam.

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned order dated 10.5.2002 issued by the Regional Office as well as also against the letter dated 16.5.2002 rejecting the prayer of the applicant for treating the period of absence as on duty and also praying for a direction upon the respondents to treat the aforesaid period of absence as on duty.

2. Jurisdiction of the Tribunal.

Suril Chandra Saha

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant was initially appointed as Clerk in the year 1969 in the Head Post Office, Dibrugarh under the then Chief Postmaster General, North Eastern Circle, Shillong. Thereafter he was promoted to the post of Accountant in the year 1977. The applicant further promoted to the post of Lower Selection Grade (for short LSG) in the year 1985 and thereafter promoted to the post of Accountant Higher Selection Grade (for short HSG) in the year 1996.
- 4.3 That while serving in the capacity of Accountant HSG-II in the Head Post Office, Dibrugarh, the applicant was transferred and posted to North Lakhimpur Head Post Office as Assistant Postmaster (Accounts) (for short APM) vide Superintendent of Post Offices Memo No. E-

Suresh Chandra Saha

4/Corr/Ch.II dated 13.12.1996. After receipt of the said transfer and posting order referred above the applicant submitted a representation dated 14.12.1996 addressed to the Superintendent of Post Offices Dibrugarh Division, Dibrugarh praying inter alia for cancellation/modification of transfer and posting of the applicant issued under order dated 13.12.1996 on the ground that the applicant is to look after his old ailing mother who is 76 years of old and requires constant medical treatment as she is a heart patient and daughter of the applicant also reading in Class IX in Victoria Girls' High School, Dibrugarh, who is suffering from chronic Bronchites and also on the ground, that the eldest son of the applicant is a neuro patient suffered Head injury due to scooter accident and at the relevant time was under medical treatment at Dibrugarh. The said representation was rejected by the respondents vide letter No. B2/S.C. Saha dated 27.12.1996. However the applicant received the order of release issued by the Assistant Superintendent of Post Offices, Dibrugarh vide letter No. B-4/Corr/Ch.II dated 20.12.1996. But the same could not be carried out by the applicant due to serious ailment of the applicant at the relevant point of time. Under the compelling circumstances finding no other alternative the applicant submitted another representation dated 16/21.4.97 addressed to the Chief Postmaster General, Assam Circle, Guwahati praying inter alia to allow him to continue at his present place of posting i.e. at

Suril Chandra Saha

Dibrugarh at least for a period of 2 years considering his domestic problems. However, no fruitful decision was taken by the authority in favour of the applicant for his continuation in his present place of posting i.e. at Dibrugarh.

Copy of the impugned order of transfer and posting dated 13.12.1996 and representation dated 16/21.4.97 are annexed hereto and the same are marked as **Annexure - 1 & 2** respectively.

4.4 That your applicant begs to stated that under the compelling circumstances as stated above finding no other alternative the applicant submitted notice for voluntary retirement under Rule 48-A of CCS (Pension) Rules, 1972 vide his letter dated 25.6.1997 whereby the applicant requested to allow him to go on retirement voluntarily with effect from 1.10.1997 under Sub Rule (3A) (a) under Rule 48-A of CCS (Pension) Rules, 1972 with an earlier date failing which the applicant may be allowed to retire voluntarily with effect from 1.10.1997 i.e. on completion of 3 months period from the date of submission of notice, on the ground that it is difficult on the part of the applicant to stay away from Dibrugarh due to unavoidable compelling acute domestic problems. The said voluntarily retirement notice dated 25.6.1997 was addressed to the Superintendent of Post offices Dibrugarh being the Head of Office at Dibrugarh.

Sumit Chaudhury Saha

A copy of the notice dated 25.6.1997 is annexed as
Annexure-3.

4.5 That your applicant begs to state that the Superintendent of Post Office vide letter No. C-1/V.F.N./S.Saha dated 2/3.7.1997 whereby it was informed to the applicant that his notice for voluntary retirement dated 25.6.1997 cannot be accepted for the time being without assigning reason thereof.

A copy of the letter dated 2/3.7.1997 is annexed hereto and marked as **Annexure-4.**

4.6 That it is stated that thereafter the applicant fell sick seriously and was compelled to go on leave on medical ground with effect from 30.12.1996.

4.7 That in the meanwhile the Superintendent of Post Office, Dibrugarh initiated series of disciplinary proceeding with bogus charge with the vindictive attitude as the applicant could not carry out the order of transfer and posting dated 13.12.1996 vide Memorandum dated 2.7.1997 on the allegation that the applicant failed to maintain devotion to his duties and acted in a manner which is unbecoming of a Government servant in contravention of Rule 3 (i) (ii) (iii) of CCS (Conduct) Rules, 1964 as because the applicant extended his leave from time to time obtaining medical certificate from physicians with a view to averting his transfer to North Lakhimpur Head Post Office. The said charges were brought against the applicant under Rule

✓ *Somil Chandra Saha*

16 of the Central Civil Services (CCS & CCA) Rules, 1965. However, the applicant on receipt of the said charge sheet immediately thereafter submitted his reply in compliance with the instructions laid down in the Memorandum dated 2.7.1997, although the Disciplinary Authority imposed penalty of withholding his next promotion for six months from the due date vide Memo No. B-2/S.C.Saha dated 27.8.1997. However the applicant preferred an appeal against the impugned order of penalty dated 27.8.1997 addressed to the Director of Postal Services, Assam Circle, Meghdoot Bhawan, Guwahati vide appeal dated 9.10.1997. The Appellate Authority after perusal of his representation dated 9.10.1997 was pleased to set aside the order of penalty dated 27.8.1997 issued by the Superintendent of Post Office, Dibrugarh vide Director of Postal Services, Guwahati, Assam Memo No. Staff/17-21/98/DR dated 13.4.1998.

4.8 That the Superintendent of Post Offices initiated 2nd disciplinary proceeding against the applicant vide Memorandum issued under Memo No. B2/S.C.Saha dated 4.8.1997 under Rules 14 of the Central Civil Service (Classification Control and Appeal) Rules 1965 whereby the Disciplinary Proceeding was initiated on the ground that the applicant endorsed a copy of the reply/defence statement to the Secretary, AIPEU Class III Union Dibrugarh seeking contravention into the matter in contravention of Rule 20 CCS (Conduct) Rules 1964 while

submitting the same in reply to the charge sheet dated 2.7.1997. However this allegation of charges of the Memorandum dated 4.8.1997 was denied by the applicant but the disciplinary authority imposed penalty upon the applicant stopping one increment for year when next due without cumulative effect vide Memo No. B2/S.C.Saha dated 28.8.1997. The applicant thereafter preferred an appeal before the Appellate Authority on 9.10.1997. However, the Appellate Authority vide their Memo No. Staff/17-20/98/DR dated 16.4.98 reduced the penalty i.e. the stoppage of one increment from one year to six months with all other conditions of penalty remaining same.

Most surprisingly another Memorandum of charge sheet was issued against the applicant vide Memo No. B2/S.C.Saha dated 4.7.1997 on the allegation that the applicant has failed to devotion to his duty and acted in a manner which is unbecoming to a Government servant under Rule 3 (I) (i) (ii) and (iii) of CCS (Conduct) Rules, 1964 and also on the ground that the applicant did not perform some of the allotted works. It is pertinent to mention here that at any point of time there was no Memo or warning from any of the higher authorities during his 28 years of service. But this allegation was brought against the applicant in the form of charges with a view of intention to harass the applicant as because he could not able to carry out the transfer and posting order dated 13.12.1996 due to domestic problems and also on the ground that the

Sumit Chandra Saha

applicant submitted his notice for voluntary retirement dated 25.6.1997. All these charges were brought at the instance of Shri Anil Baran Seal. The aforesaid charges brought against the applicant are bogus baseless and motivated and the same are initiated with vindictive attitude and also with an ulterior motive of the respondents to harass the applicant mentally and financially.

- 4.9 That your applicant further begs to stated that under 48-A of CCS (Pension) Rules, 1972 the applicant is entitled to go on voluntary retirement on completion of 20 years of qualifying service. In sub rule (2) of Rule 48-A wherein it is stated that the notice of voluntary retirement given under sub-rule (1) shall require acceptance by the Appointing authority. It is further stated that where the appointing authority does not refuse to grant permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.
- 4.10 That the applicant vide his representation dated 2.2.1998 addressed to the Superintendent of Post Offices, Dibrugarh Division, it is categorically requested to settle the retirement benefit including the pensionary benefit but no reply was received from the Superintendent of Post Offices, Dibrugarh Division.

Sumil Chandra Saheb

4.11 That your applicant also begs to state that the then Postmaster General, Assam Region, Shri B.K. Budki while working in the Regional Office of Assam Region asked to report the applicant in his office on 11.3.1998. The applicant accordingly met the then Postmaster General, Shri B.K. Budki, Assam Region on 11.3.1998 and in course of discussion Shri Budki requested the applicant to join in service at Dibrugarh. However the applicant expressed his inability on the ground that he is not in a position to continue in Accounts work, however if he is provided the post in general line other than Accounts work, he may rejoin. The conditional willingness was expressed by the applicant on verbal request of Shri B.K.Budki, the then Postmaster General vide his willingness submitted in the form of a letter dated 11.3.1998. The respondent No. 5 vide his letter bearing No. B2/S.C.Saha dated 4.5.1998 it is informed that since disciplinary case is pending against the applicant therefore his voluntary retirement cannot be considered at present.

4.12 That it is stated that in the compelling circumstances the applicant in anticipation of the order of voluntary retirement has been forced to remain out of employment with effect from 1.10.1997. It is relevant to mention here that the applicant's case for voluntary retirement

Sunit Chandra Saha

dated 25.6.1997 in fact not considered by the Respondent No.5 and the same was also not forwarded to the competent authority for consideration of his prayer to go on voluntary retirement with effect from 1.10.1997. It was obligatory on the part of the respondents to consider his case for voluntary retirement under the relevant Rules issued by the Government of India from time to time. But in the instant case the respondents made a deliberate departure from the prevailing rules and it was not possible on the part of the applicant to attend office after submission of notice for voluntary retirement and the applicant was on a bona fide belief that his case for voluntary retirement would be considered by the respondents favourably. It is relevant to mention here that at the time when notice for voluntary retirement was submitted by the applicant before the respondents there was no disciplinary proceeding pending before the respondents as such his case for voluntary retirement ought to have been considered.

4.13 That it is stated that the Respondent No.5 on receipt of the notice for voluntary retirement dated 25.6.1997 initiated a series of disciplinary proceedings against the applicant after a lapse of about one year, those disciplinary proceedings were after thought and the same were initiated on bogus charges with the sole intention to harass the applicant both mentally, physically and financially in such a compelling

Sumit Chandra Saha

circumstances the applicant remained out of employment in anticipation that he would be allowed to go on voluntary retirement.

4.14 That it is stated that in the compelling circumstances the applicant approached this Hon'ble Tribunal through O.A. No. 62 of 1999 with the following prayers :

"8.1 That the Hon'ble Tribunal be pleased to declare that the applicant has retired from the post of Accountant with effect from 1.10.1997 in terms of notice for voluntary retirement dated 25.6.1997 submitted by the applicant under provision of Rule 48-A (2) of CCS(Pension) rules, 1972.

8.2 That the departmental proceedings initiated against the applicant with memorandum of charge sheets issued under Memo No. B2/S.C.Saha/dated 4.8.1997 (Annexure-7) and the order of penalty imposed by the disciplinary authority issued under Memo No. B2/S.C.Saha dated 28.8.1997 (Annexure-8) and the Appellate Order bearing Memo No. Staff/17-20/98/DR dated 16.4.1998 (Annexure-10) be set aside and quashed.

8.3 That the respondents be directed to release the pensionary benefits to the applicant due

Simil Chandra Saha

and admissible with effect from 1.10.1997 with 18% interest with immediate effect.

8.4 That the Hon'ble Tribunal be pleased to set aside the impugned letter dated 4.5.1998
(Annexure-12)

8.5 Costs of the Application.

8.6 To pass any other order or orders as deemed fit and proper by the Hon'ble Tribunal under the facts and circumstances stated in the application."

The said O.A. was duly contested by the respondents and the said O.A. was decided favourably by this Hon'ble Tribunal on 19.12.2000 with the following observations and directions. The relevant portion of the judgment and order dated 19.12.2000 is quoted below

"3. We have heard Mr. M.Chanda, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents at length. Mr. Deb Roy despite his best effort could not satisfied us as to the legal pedigree of the second proceeding when the first proceeding on the same charge was closed by the Appellate Authority on evaluation of the evidence on record. Assuming the second proceeding was legally tenable, the respondents could not have

Sumilchandra Saha

awarded punishment to the applicant without following the procedure prescribed under the rule. The respondent No.6 in our view acted illegally and with impropriety in initiating the second proceeding. The malignity of the said respondent further appears from the fact that he kept the case of the applicant of voluntary retirement of the applicant in the cold storage without taking any steps for the disposal of the same. In the written statement the respondents stated that the Superintendent of Post Offices was not the competent authority to accept the same. The Chief Postmaster General was the competent authority to accept the notice for voluntary retirement. Fairness is the rule and in administration one should not overlook that aspect of the matter else public administration suffers. The respondents did not dispute of the application that was submitted by the applicant for voluntary retirement. If the Superintendent of Post Offices was not the competent authority either it ought to have returned otherwise was required to forward the same to the competent authority. The respondents action in this regard is seemingly arbitrary and unfair.

Sumit Chandra Saha

4. For the reasons stated above, we set aside and quash the Memo No. B2/S.C.Saha dated 4.8.1997, Memo No. B2/S.C.Saha dated 28.8.1997 and appellate order bearing Memo No. Staff/17-20/98 Dr dated 16.4.1998. The respondents are directed to immediately take appropriate measure for paying him salaries and allowances admissible to him, if necessary by regularising the period of absence by granting any kind of leave due to him. The applicant, if he still desires, may make application for voluntary retirement to the respondent No.3, Chief Postmaster General and if such application is filed the respondent No.3 shall consider the same and pass necessary order as per law."

It is quite clear from the judgment and order of the Hon'ble Tribunal that non-consideration of his prayer for voluntary retirement is arbitrary and unfair. It is further held by the Hon'ble tribunal that the respondents to take appropriate measures for paying the applicant salaries and allowances admissible to him, if necessary by regularizing his period of absence by granting any kind of leave due to him. Therefore it is quite clear that the period of absence should be treated as on duty. It is relevant to mention here that the applicant remained out of employment with effect from 1.10.1997 to 7.1.2001 as because the

Sumit Chandra Saha

applicant reported for duty on 8th January 2001 vide his letter dated 8.1.2001 addressed to the 'Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati.

A copy of the judgment, and order dated 19.12.2000 passed in O.A. 62/99 and the Joining report dated 8.1.2001 are enclosed as Annexure -5 and 6 respectively.

4.15 That your applicant thereafter submitted several representations on 22.1.2001 and Lawyer Notice on 8.2.2001 and also representation dated 9.7.2001 praying for regularization of his period of absence with effect from 1.10.1997 to 7.1.2001. But most surprisingly the respondents regularized the aforesaid period of absence by adjusting the entire leave which were in credit of the applicant without treating the aforesaid period as on duty. In this connection the applicant begs to refer the respondent's letter bearing No. B2.S.C.Saha (III) dated 6.9.2001 whereby the applicant was requested to apply for leave for regularizing his period of service. The applicant vide his representation dated 1st March 2002 again prayed for proper implementation of the order of the Hon'ble Tribunal. However the respondents vide their letter bearing No. B2/S.C.Saha (III) dated 21.3.2002 intimated the applicant that the issue regarding regularizing the absence period has already been settled in compliance to the order dated 19.12.2000. In this connection it may be stated that

Sunit Chandra Saha

the respondents regularized the period of absence by adjusting the period by leave available in the credit of the applicant without treating the period of absence as on duty and the said arbitrary decision was communicated to the applicant vide letter bearing No. B2/S.C.Saha (III) dated 16.5.2002 wherein the impugned letter bearing No. Vig/15/XXIV/R0/2001 dated 10.5.2002 wherein it is stated that the period of absence cannot be treated as on duty. It is further stated in the impugned order dated 10.5.2002 that the SPO Dibrugarh has requested the applicant on two occasions i.e. 30.1.2002 and 6.9.2001 for submission of leave application if he failed to do so the application for regularization of absence period cannot be considered as on duty. In this connection it may be stated that the period of absence ought to have been treated as on duty in terms of the judgment and order dated 19.12.2000. Therefore question of applying leave on the part of the applicant does not arise. As such the impugned order dated 10.5.2002 and 16.5.2002 is liable to be set aside and quashed.

A copy of the letter dated 6.9.2001, representation 1.3.2002, letter dated 21.3.2002 and impugned letter dated 10.5.2002 and 16.5.2002 are annexed as Annexure-7,8,9, and 10 respectively.

4.16 That in view of the judgment and order dated 19.12.2000 passed in O.A. 62/99 the period of absence with effect from 1.10.1997 to 7.1.2001 should be treated as on duty

Sumit Chandra Saha

and the applicant is entitled to arrear pay and allowances for the aforesaid period.

In the facts and circumstances stated above, finding no other alternative the applicant is again approaching this Hon'ble Tribunal for protection of his right and interest.

4.17 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the respondents illegally regularized the period of absence by adjusting the leave available in the credit of the applicant without treating the period of absence as on duty in violation of the judgment and order dated 19.12.2000 passed in O.A. 62 of 1999.

5.2 For that, the applicant is kept out of employment willfully without taking any decision to the application for voluntary retirement submitted by the applicant with effect from 1.10.1997 on extraneous consideration at the instance of Respondent no. 6 of O.A. 62 of 1999, as such respondents are duty bound to treat the aforesaid period of absence of the applicant as on duty and also to pay the salaries and allowance for the entire period of absence.

Sumit Ch. Saha
Sumit Chandra Saha

5.3 For that, this Hon'ble Tribunal held in para 3 of its judgment and order dated 19.12.2000 that non-consideration of the application of the applicant for voluntary retirement with effect from 1.10.1997 is arbitrary and the same is done with a mala fide intention.

5.4 For that, the period of absence from duty of the applicant with effect from 1.10.1997 till the date of resumption of his duties is liable to be treated as on duty in the facts and circumstances of the case and also in view of the judgment and order dated 19.12.2000 passed in O.A. No. 62 of 1999.

5.5 For that, rejection of the applicant vide order dated 16.5.2002 is arbitrary, unfair and illegal and contrary to the decision of the Hon'ble Tribunal passed in O.A. No. 62 of 1999 on 19.12.2000.

5.6 For that the Hon'ble Tribunal be pleased to declare that the period of absence of the applicant from duty with effect from 1.10.1997 to 2.7.2001 is resulted due to non consideration of the application dated 25.6.1997 of the applicant submitted for voluntary retirement with effect from 1.10.1997.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

Sunil Chandra Saha

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had previously filed an application which was registered as O.A. No.62 of 1999 and the same was disposed of on 19.12.2000 in favour of the applicant but he is denied with the benefit of salaries for the period between 1.10.1997 to 2.7.2001. The applicant further declares that no such Writ Petition or Suit is pending before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to direct the respondent to treat the period of absence with effect from 1.10.1997 to 2.7.2001 as on duty and further be pleased to direct the respondent to grant all consequential service benefits including full salaries and allowances with immediate effect.

Sunil Chandra Saha

8.2 Costs of the application.

8.3 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	:	7G 5752 67
ii) Date of Issue	:	20-9-2002
iii) Issued from	:	G.P.O, Guwahati
iv) Payable at	:	G.P.O, Guwahati

12. List of enclosures.

As given in the index.

Suril Chandra Sarker

VERIFICATION

I, Shri Sunil Chandra Saha, Son of late Monomohan Saha, aged about ... years, resident of T.K.Das Lane, Khalihamari, Dibrugarh-786001, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 25th day of September, 2002.

Sunil Chandra Saha

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Annexure-1

Department of Post : India
O/o the Supdt. Of Post Offices : Dibrugarh Division
Dibrugarh - 786001

Memo No. B-4/Coor/Ch-II Dt. At Dibrugarh the 13.12.96

The following transfer and posting orders are issued to have immediate effect in the interest of service.

1. Shri Sunil Ch. Saha, Accountant Dibrugarh H.O is transferred and posted as APM Accounts, North Lakhimpur H.O. vice Shri S.C.Roy transferred.

2. Sri Subodh Ch. Roy, APM Accounts North Lakhimpur HO is transferred and posted as Accountant Dibrugarh HO vide Sri S. Ch. Saha transferred.

No TA/TP will be allowed to Sri Roy as his case was considered at his own request.

Sd/- Illegible
(A.B.Seal)
Superintendent of Post Offices
Dibrugarh Division, Dibrugarh.

Copy to

1. The Postmaster Dibrugarh HO for information and necessary action.
2. The Postmaster, North Lakhimpur HO for information and necessary action.
- 3-4. The official concerned.
- 5-6. P.F. of the officials.
7. The Chief Postmaster General (Staff) Assam Circle, Guwahati.
- 8-9. Spares.

Sd/- Illegible

to be true copy
Mr. Ali S
Advocate
Certified
Superintendent of Post Offices
Dibrugarh Division, Dibrugarh

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Annexure-2

To

Shri I.Dewri
Chief Postmaster General
Assam Circle, Guwahati.

(Through Proper Channel)

Dated at Dibrugarh the 16/21 April 97

Subject : Order of my transfer as APM (A/CS). North Lakhimpur H.O. vide SPOS/DR Memo No. B-1/Corr/Ch-II dated 13.12.1996.

Respected Sir,

With due regards and humble submission, I beg to lay the following few lines regarding my transfer to North Lakhimpur H.O. vide the SPOS/DR Memo cited above for your kind perusal and needful action.

That Sir, I am to invite your kind attention to the fact that the Divisional Authority has issued my transfer order in place of my senior. Shri Subodh Ch. Roy APM(A/cs), North Lakhimpur H.O. who is far away to complete his tenure. As such, it is evident that the order has been issued at the swell will of the administration.

I submitted my representation dated 14.12.1996 add to the S.Posts/Dibrugarh expressing unavoidable domestic problems and that I am not in a position to leave Dibrugarh at this stage. For this reason I requested him to let me continue here as Asstt/Accountant, Dibrugarh H.O. which is lying vacant for long and is being managed by an unqualified hand. Nevertheless, the SPOS vide his letter No. B2/S.C.Saha 27.12.96 declined to accede my request.

*be
Certified to
true copy.
W. K. El
Advocate*

Though I have also been suffering from several chronic diseases, I did not bother for myself and once I decided to join at North Lakhimpur H.O. after expiry of my first spell of leave on medical ground from 30.12.96 to 28.1.97. But while I was availing joining time from 29.1.97, I again fell ill and as such had to extend leave from 01.02.97.

I was directed for second medical opinion vide the S.P.O.s letter B2/S.C.Saha dted 11.3.97. The examination was done by the Joint Director of Health Services, Dibrugarh District on 13.03.97 and it is gathered as per his opinion that my Medical ground was genuine. Nonetheless, the Divisional Authority did not issue my leave memo though I had admissible leave at credit. As a result, I could not draw my salary for two months viz. Feb and March 97 and had to face severe financial hardships on account of my mounting expenses especially on medicines for my prolong ailing old neuro-patient mother and neuro patient son.

In the circumstances, I had to approach you telegraphically for which I am really ashamed and beg pardon. I have however, since received the salary due to me.

Now, the SPOs/Dibrugarh despite receiving the requisites second Medical opinion has alleged me of remaining absent from duty vide his letter No. B2/S.C.Saha dated 11.04.97. It could not practically be understood what my learned local authority has meant to say in his letter as his wordings do not appear in conformity with the rules. It will perhaps not inordinate to say that the transferring authority is bearing an abortive effort to throw me to North Lakhimpur by hook or crook.

In fine, whatsoever Sir, taking into consideration the above write-up, I hereby plead your conscience to undertake a favourable decision and arrange for my services at Dibrugarh at least for the next two years. Last Sir, you

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decide the other way round, I would regret to go on voluntary retirement.

Earnestly looking forward for your valuable and favourable communication as early as practicable.

With profound regards,

I remain,

Yours faithfully,
Sd/-
(S.C.Saha)
Accountant, Dibrugarh H.O. on leave

Advance copy to :

Shri I. Deori, Chief Postmaster General, Assam Circle, Guwahati along with the copies of letters :-

1. SPOs/D Memo No. B-4/Corr/Ch II dated 13.12.96.
2. My representation to SPOs/DR dated 14.12.96.
3. SPOS/DR letter No. B2/S.C.Saha dated 27.12.96.
4. SPOS/DR B2/S.C.Saha dated 11.3.97
5. SPOS/DR B2/S.C.Saha dated 11.04.97

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Annexure-3

To
The Supdt. Of Post Offices
Dibrugarh divn.
Dibrugarh

Dated Dibrugarh the 25th June '97

Sub : **Voluntary Retirement under Rule 48-A of
CS(Pension) Rule 1972.**

Sir,

Tough this my final notice for voluntary retirement under Rule 48-A effecting from 1.10.97 (F/N), I would request your kind self to grant permission of my voluntary retirement at an earlier date under Sub-rule (3A) (a) w.e.f. 01.07.97 (F/N) on the ground that :

1. I am no more in a position to serve due to deteriorating condition of my health.
2. My family problems do not allow me to stay away of my leaving station in no way.

So as loosing more time is going against my Pensionary benefits. I would request you to kindly grant my voluntary retirement w.e.f. 1.7.97 (F/N).

I also affirm that I shall abide by the provision of Pension Sub-rule (3A) (b) regarding commutation of a part of my pension.

With regards,

Yours faithfully,
Sd/- Illegible
(S.C.Saha)
Accountant Dibrugarh HO on leave

be
Certified
true copy
W. C. S.
Advocate

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Annexure-4

Government of India
Department of Posts, India

From

Superintendent of Post Offices,
Dibrugarh Division,
Dibrugarh-786001

To

Sri Sunil Chandra Saha
Accountant, Dibrugarh H.O (on Leave)
T.K.Das Lane, Khalihamari,
Dibrugarh-786001

Dibrugarh the 2/3.7.97

Sub : **Voluntary retirement.**

Ref : Your letter dated 25.6.97

It is to inform you that your notice for voluntary retirement dated 25.6.97 cannot be accepted for the time being.

Sd/-

Superintendent of Post Offices
Dibrugarh Dn. Dibrugarh-786001

*to be
Certified
true copy
W.M.E.
Advocate*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 62 of 1999.

Date of Order : This the 19th Day of December, 2000.

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

The Hon'ble Mr M.P.Singh, Administrative Member.

Sri Sunil Chandra Saha
 Son of late Monomohan Saha
 resident of T.K.Das Lane,
 Khalihamari, Dibrugarh-786001.
 Assam.

. . . Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
 represented by the Secretary to the
 Govt. of India, Ministry of
 Communication, Department of Posts,
 New Delhi-110011.
2. Director General (Posts)
 Department of Posts,
 New Delhi-110001.
3. Chief Postmaster General,
 Assam Region, Meghdoott Bhawan,
 Guwahati.
4. Director of Postal Services,
 Assam Region, Meghdoott Bhawan,
 Guwahati.
5. Superintendent of Post Offices,
 Dibrugarh Division,
 Dibrugarh, Assam.
6. Sri Anil Baran Seal,
 Superintendent of Post Offices,
 Dibrugarh Division,
 Dibrugarh, Assam

. . . Respondents.

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

In this application under Section 19 of the Administrative Tribunals Act 1985 the applicant has assailed the impugned action of the respondents seriously affecting his service condition in the following circumstances.

Attest
 M.S. Saha
 Advocate

contd.. 2

2. The applicant is an employee under the respondents was initially appointed in the year 1969 at Head Post Office, Dibrugarh from which he was promoted from time to time. He was last promoted to the post of Accountant Higher Selection Grade (HSG for short) in the year 1996. While he was serving as such in Head Post Office, Dibrugarh he was transferred and posted to North Lakhimpur Head Post Office as Assistant Postmaster (Accounts) vide order dated 13.12.96. On receipt of the said order the applicant submitted a representation dated 14.12.1996 to the Superintendent of post Offices, Dibrugarh Division praying for cancellation or modification of the transfer order, which was instantly turned down by the said respondent on 27.12.96. and release order was issued on 20.12.96. It was stated in the representation that the applicant could not carry out the transfer order at the relevant point of time due to ^{his} serious _{another} ailment. Instead the applicant submitted ^{the} representation. But he did not receive any response. Situated thus the applicant submitted a notice for voluntary retirement under Rule 48-A of CCS(Pension) Rules 1972 on 25.6.97 seeking to go on retirement voluntarily with effect from 1.7.97 under sub-rule 3A(a) under Rule 48-A of the aforementioned Pension Rules, with an earlier date failing which the applicant may be allowed to retire voluntarily with effect from 1.10.97 i.e. on completion of 3 months period from the date of submission of notice, on the ground that it was not possible on his part to stay away from Dibrugarh due to unavoidable compelling domestic problems. The aforementioned notice was addressed to the respondent no.5, Superintendent of Post Offices, Dibrugarh Division. It may also be mentioned that respondent No.5 is ^{now} presently made a party alleging mala fide against him. By communication dated 2/3.7.97 the respondent

NO.5 informed the applicant that the notice for voluntary retirement could not be accepted for the time being. The Superintendent of Post Offices on the other hand initiated a disciplinary proceeding basically for not complying with the order of transfer. The applicant submitted his written statement. The Superintendent of Post Offices imposed penalty on the applicant by withholding his next promotion for six months from the date due by his order dated 27.8.97. The applicant preferred an appeal before the Director of Postal Service, Assam Circle, Guwahati and the Director by his order dated 13.4.98 set aside the punishment imposed on the applicant withholding his promotion. The appellate order was also indicated that the punishment awarded to the applicant by respondent No.5 was ^{unjustified} ~~perversion~~. The respondent No.5 seemingly not being satisfied with the order of the higher authority served upon the applicant the Memo dated 4.7.97 virtually on the same charges. The applicant submitted his written statement to the respondents denying the charges. This time also the respondents did not hold any enquiry as contemplated under the law. On the other hand the respondents had turned down his explanation and held that charge ~~was~~ framed against the applicant ^{was} ~~to prove~~. The applicant preferred appeal before the appellate authority. This time the appellate authority agreed with the finding of the disciplinary authority reduced the punishment of stoppage of one increment for one year awarded by the Superintendent of Post Offices, Dibrugarh on 28.8.97 to that of stoppage of one increment for six months with all other conditions remaining the same. The appellate authority failed to take note of the fact that the findings reached by the Superintendent of Post Offices was itself unjustified and perversed.

Same allegations were brought against the applicant by the disciplinary authority. The applicant denied the same. In these circumstances the disciplinary authority under the law was required to hold an enquiry by giving opportunity to the person concerned and thereafter is to examine the merits of the allegation. The respondent No.5 has only recounted his ipse dixit. That apart the respondents could not have initiated a second procedure on the same charge. The appellate authority overlooked those aspects of the matter and in a most illegal fashion upheld the order of the Superintendent of Post Offices.

3. We have heard Mr M.Chanda, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. Mr Deb Roy despite his best effort to could not satisfy us as to the legal pedigree of the second proceeding when the first proceeding on the same charge was closed by the appellate authority on evaluation of the evidence on record. Assuming the second proceeding was legally tenable, the respondents could not have awarded punishment to the applicant without following the procedure prescribed under the rule. The respondent No.6 in our view acted illegally and with impropriety in initiating the second proceeding. The malignity of the said respondent further appears from the fact that he kept the application of voluntary retirement of the applicant in the cold storage without taking any steps for the disposal of the same. In the written statement the respondents stated that the Superintendent of Post offices was not the competent authority to accept the same. The Chief Postmaster General was the competent authority to accept the notice for voluntary retirement. Fairness is the rule and in administration one should not overlook that aspect of the

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matter also public administration pattern. The respondents did not dispute of the application that was submitted by the applicant for voluntary retirement. If the Superintendent of post offices was not the competent authority either it ought to have returned otherwise was required to forward the same to the competent authority. The respondents action in this regard is seeming arbitrary and unfair.

4. For the reasons stated above, we set aside and quash the Memo No. B2/S.C.Saha dated 4.8.97, Memo No. B2/S.C.Saha dated 28.8.97 and appellate order bearing Memo No. Staff/ 17-20/98 DR dated 16.4.98. The respondents are directed to immediately take appropriate measure for paying him salaries and allowances admissible to him, if necessary by regularising the period of absence by granting any kind of leave due to him. The applicant, if he still desires, may make application for voluntary retirement to the respondent No.3, Chief Postmaster General and if such application is filed the respondent No.3 shall consider the same and pass necessary order as per law.

The application is accordingly allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/MEMBER (Adm)

Certified to be true Copy
प्राप्ति, प्रविलिपि

গুৱাহাটী বিধুত বৰ্তমান কৰিব।

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To,
 The Chief Postmaster General,
 Assam Circle, Meghdoot Bhawan,
 Guwahati. (Through proper channel)

Sub :- Submission of Judgement & Order dated 19-12-2000 passed in Original Application No. 62 of 1999 of the Hon'ble Central Administrative Tribunal, Guwahati Bench and Prayer for implementation of the same allowing the undersigned to continue in service as Accountant at Dibrugarh.

Respected Sir,

I have the honour to invite your kind attention on the subject cited above and further beg to request you to implement the Judgement and Order dated 19-12-2000 passed in Original Application No. 62 of 1999 and also kindly allow me to continue in service at Dibrugarh and arrange to release my arrear pay and allowances and other consequential benefits in terms of the Judgement and Order dated 19-12-2000.

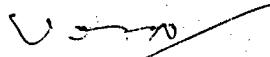
A copy of the Judgement and Order dated 19-12-2000 is enclosed for favour of your ready reference.

Your decision to allow me to continue in service kindly be communicated to the undersigned at the following address.

However, I beg to offer myself for duty today on 08-01-2001 at 09.30 hrs to the Postmaster, Dibrugarh.

With best regards,

Yours faithfully,


 (Sunil Ch. Saha)
 Accountant, Dibrugarh
 At T. K. Das Lane,
 Kaliashamari,
 Dibrugarh.

Contd... P/2

Dated: At Dibrugarh,
 The 8th Jan 2001


 Attested
 Md. Ali
 Advocate

.....P/2.....

Copy for favour of information and necessary action to :-

- 1) The Union of India, represented by the Secretary to the Govt. of India, Ministry of Communication, Deptt. of Posts, New Delhi-110011.
- 2) The Director General (Posts), Department of Posts, New Delhi-110011.
- 3) The Chief Postmaster General, Assam Region, Meghdoott Bhawan, Guwahati. (Advance Copy by Post)
- 4) The Director of Postal Services, Assam Region, Meghdoott Bhawan, Guwahati.
- 5) The Superintendent of Post Offices, Dibrugarh District, Dibrugarh.
- 6) The Postmaster, Head Post Office, Dibrugarh.



(Sunil Ch. Saha)

Wt:40grams,
F5:17.00,Amt:5.00 , 08/01/2001 , 12:45



Wt:40grams,
F5:17.00,Amt:5.00 , 08/01/2001 , 12:45

2-12-00
R.A. 12/2000
3/10/2001

Letter to the Regional Director, INDM

Op

महाराष्ट्र राज्य विभाग
राज्य नियन्त्रण विभाग
Supintendent of Posts Office
Alibaug Tal., Alibaug - 786 001

Op

महाराष्ट्र राज्य विभाग
राज्य नियन्त्रण विभाग
Supintendent of Posts Office
Alibaug Tal., Alibaug - 786 001

Sri. Savit. Ch. Sarker
ATM 11/25 North Lakhimpur Ho
No. B-2/5, C Sarker (III) add. at Alibaug
the 6th Sept/2001

Sub: Regularisation of absenting period i/c/w
Op. No. 68/99 filed at N.T. Generalate by
Sarker

Please refer to this office
letter of leave mentioned below and
Sarker apply for leave for regularization
of absenting period - leave as admissible
at your credit.

महाराष्ट्र राज्य विभाग
राज्य नियन्त्रण विभाग
Supintendent of Posts Office
Alibaug Tal., Alibaug - 786 001

Copy to -

- 1) The Chief Postmaster, Regional Head Office
for forward of verbal communication.
- 2) The Postmaster General (Vis. Sec) Alibaug
Region, Alibaug and send letter no.
Vcg/5/III/20/19 dated 19/1/2001 for furnishing
Kind information.

Ad

महाराष्ट्र राज्य विभाग
राज्य नियन्त्रण विभाग
Supintendent of Posts Office
Alibaug Tal., Alibaug - 786 001

Attested
M. S. Sarker
Advocate

To

The Postmaster General,
Dibrugarh Region, Dibrugarh.

(Through proper channel.)

Dated at Dibrugarh the 1st. March / 2002.

Sub:- Implementation of the judgement and order dtd 19/12/2000
Passed in O. A No. 62 of 1999 of the Central Administrative
Tribunal, Guwahati Bench, Guwahati.

Ref:- Supdt. Of Post Offices Dibrugarh Division, Dibrugarh letter
No. B2 / S. C. Saha(iii) dated 14-09-2001 and 8/11-02-2002.

Respected Sir,

This is regarding implementation of the order of the honourable
Central Administrative Tribunal quoted above on the subject.

That Sir, The supdt. Of Post Offices Dibrugarh Division as a measure
Of implementation of the order of the said judgement, granted me
leave of different kinds at his suit will without my application vide his
No. B-2 / S. C. Saha(iii) dtd 14-09-2001 although in the order of the
said judgement there is no specific mention as to the grant of leave.

Against the grant of leave I submitted my representation dated
08-11-2001 addressed to the Supdt. Of Post Offices, Dibrugarh Dvn,
Dibrugarh (copy enclosed) with copy to you and others. In
response, the Supdt. Vide his letter No. B2 / S. C. Saha (iii) dated
08/11-02-2002 (copy enclosed) intimates me that the issue raised
by me in my representation dated 08-11-2001 has already been
considered in full compliance.

That Sir, In the C. C. S (leave) Rules, no such provision is found
that leave to an official can be granted without application at the
wish of the Authority. More over, Right to ask for a particular kind
of leave rests with the Govt. servant under AG's decision below Rule
29 of the said leave Rules (AG's No. 21-A/271-36, dtd. 20-1-1937).

As such, I am approaching your honour to be kind enough to
review and peruse all aspects of the matter in the light of proper
Justice and direct the Supdt. Of PO's Dibrugarh Division, Dibrugarh
to regularize the period of absence under reference towards duty
canceling the leaves already sanctioned and for this act of kindness I
shall remain ever grateful.

Contd. to page-2.

Attestd
H. C. S.
Advocate

With best regards.

Yours faithfully,

(Sunil Chandra Saha)
Asstt. Postmaster (Accounts)
North Lakhimpur H. P. O.

Copy to :-

- 1) The Chief Postmaster General, Assam Circle, Meghdoott Bhawan, Guwahati - 781001.
- 2) The Director of Postal Services, O/O the Chief Postmaster General, Assam Circle, Guwahati - 781001.
- 3) Supdt. Of Post Offices, Dibrugarh Division, Dibrugarh.
- 4) Director General of Posts, New Delhi - 110001.
- 5) The Honourable Minister of Communication (Dept. of Posts), New Delhi - 110001.

(Sunil Chandra Saha).

P&TB P.T.T. of Posts INDIA

O/o

मानव विवर
 राजस्थान, राजगढ़ - 786 001
 संघीय संस्थान विभाग
 अधिकारी पाल, दिल्लीगढ़ - 786 001

J.

Shri Sunil Chandra Saha
 1PM A/15, North Laxmi Kämpur - 110

replies

M. B. 21s. C. Saha (II) Dated at Dilibugarh the
 21st March/2002

Sub. Regularization of absence period

Reff: Your representation dated 1/3/2002

The issue raised by you in
 your representation dated 1/3/2002 regarding
 the regularization of absence period has
 already been settled in compliance to
 judgment and order passed in OA No
 62/99 on 19-12-2000 by Hon'ble CAT

Yours etc.

Attested
 M. S. Saha
 Advocate

मानव विवर
 राजस्थान, राजगढ़ - 786 001
 संघीय संस्थान विभाग
 अधिकारी पाल, दिल्लीगढ़ - 786 001

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
DIBRUGARH DIVISION DIBRUGARH

No. B-2/S.C. Saha (ii) Dated at Dibrugarh the 16th May/2002.

Sub : Regularisation of absence period

Ref: Your representation dated 13-02

This is in continuation of this office letter of even no. dated 21-3-02. Your request for regularization of absence period treating as duty cancelling the leaves already sanctioned cannot be considered as you have been granted leave of admissible kind available in your leave account in compliance to judgement and order passed in OA No. 62/99 on 19-12-20000 by Hon'ble CAT, Guwahati.

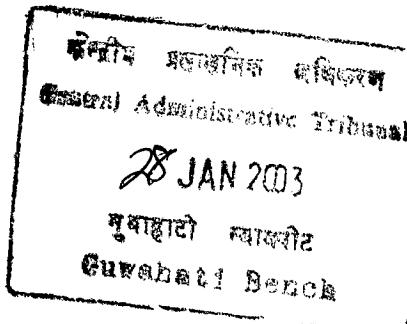
The observation of Hon'ble PMG,Dibrugarh communicated vide RO's letter no. VIG/5/XXIV/RO/2001 dated 10.5.2002 is furnished below for your information.

"The absence cannot be treated as duty. It is seen that the applicant did not submit any leave application for regularisation of period of leave of absence. The SPO, Dibrugarh had requested him twice i.e. 30.01.2001 and 6.9.2001 to submit leave application. But he failed to do so.

In view of this the application cannot be considered the official may be informed"

Superintendent of post offices
Dibrugarh Division, Dibrugarh - 786001

Attest to
as well
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

In the Matter of :

O.A. NO. 319 OF 2002

Shri Sunil Chandra Saha

..... Applicant

Union of India & Others.

..... Respondents.

In the Matter of :

Written Statements submitted by
the Respondents

The respondents beg to submit a brief history of the case which may be treated as a part of the Written Statement.

(BRIEF HISTORY OF THE CASE)

The applicant Accountant Dibrugarh Head Office was transferred and posted as Assistant Postmaster (Accounts) North-Lakhimpur Head Office vide this office memo no. B-4/ Corr/Ch II dated 13.12.96 on promotion/completion of tenure. The official has been working at Dibrugarh since 1979 and completed his tenure long ago. On receipt of the transfer order, the said applicant submitted a representation dated 13.12.1996 seeking revision of his transfer order but his representation could not be accepted at that time as the Assistant Postmaster North-Lakhimpur Head Office as well as

the applicant both the officials completed their respective tenure. However the applicant was assured that his case would be considered in due course. Instead of joining in his new assignment the applicant proceeded on leave and extended leave w.e.f. 30.06.96 on medical ground upto 24.03.99. Thereafter the applicant did not submit leave application till 20.06.2001. During his leave, the applicant submitted an application for voluntary retirement on 25.06.97 seeking voluntary retirement citing two specific condition stated below:-

1. He is no more in a position to serve due to deteriorating condition of his health.
2. The family problem did not allow him to stay away leaving station in no way.

The official did not submit medical certificate to the effect of his health condition. However, application for voluntary retirement forwarded to Circle Office, Guwahati vide SPOs, Dibrugarh letter no. C-1/VEN/S.Saha dated 7.8.97. In the mean time the official also submitted application to Circle Office against his transfer order to North-Lakhimpur Head Office which was also turned down by Circle Office vide CO's letter no. Staff/PP/153-8/93/CI dated 8.5.97 communicated to the Postmaster, Dibrugarh H.O. vide SPOs Dibrugarh letter no. B-2/S.C. Saha dated 15.05.97. The application for voluntary retirement of the applicant had been forwarded to Circle Office under SPOs Dibrugarh letter no. C-1/VEN/S.Saha dated 07.08.97 in term of appointing authority being the Chief Postmaster General, Assam Circle, Guwahati. Disciplinary proceedings

against the official under Rule 14 & Rule 16 were initiated and in view of the pendency of the disciplinary proceedings against the official the Voluntary retirement case of the official could not be considered at that time. In the meantime, the official has filed a case in the CAT, Guwahati Bench Guwahati under OA No. 62/99, notice of which was received by this office on 26.03.99 and the Hon'ble CAT, Guwahati Bench passed judgement and order in OA No.62/99 dated 19.12.2000 directing this office to regularise the period of absence of the applicant designated Assistant Postmaster (Accounts) North-Lakhimpur Head Office by granting him any kind of leave due to him and the applicant if he still desires may make application for voluntary retirement to the authority concerned. In order to implement the judgement of CAT, Guwahati the official was asked vide this office letter no. B-2/S.C. Saha dated 30.01.2001 to (1) submit necessary leave application (SR-1) for regularisation of his absence period (2) submit option for Voluntary Retirement as per prescribed rule if he desires but the official did not submit leave application/option for Voluntary Retirement and did not feel any necessity to communicate any information to the authority concerned instead the official filed another case at CAT, Guwahati under case OA No.112/2001, on the following ground :-

1. Non sanction of GPF withdrawal amounting to Rs. 3000/- by this office in response to his application for GPF withdrawal dated 26.12.2000.
2. Non payment of leave salary by regularising his period of absence.

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3. Not allowing him to join at Dibrugarh as prayed vide his application dated 8.1.2001.

The judgement of the case OA No.112/2001 received by this office on 15.10.2001. The following action have been taken prior to receiving the CAT Judgement.

1. GPF withdrawal amounting to Rs. 3000/- has been sanctioned vide SPOs Dibrugarh memo no. E-9/GPF Widl./ S.C. Saha dated 19.03.2001, paid to the applicant on 17.09.2001.

2. Regularisation of absenting period :- The official was granted leave of admissible kind due to him for the period w.e.f. 01.10.97 to 24.03.99 on medical certificate with SR-1 and for the period w.e.f. 25.03.99 to 20.06.01 without leave application (SR-1) vide this office memo no. B-2/S.C. Saha III dated 14.09.2001 and 09.11.2001. The applicant was asked to submit leave application of his absenting period for regularisation of same but did not submit leave application. In order to comply with the judgement of CAT Guwahati passed on 19.12.2000 in OA No. 62/99, the applicant was sanctioned leave without leave application. The applicant was paid arrear pay and allowances amounting to Rs. 39,893/- (Rupees thirty - # nine thousand eight hundred ninety three only) being the salary for the period of his absence regularised by granting

Contd.....

leave of admissible kind due to him w.e.f. 01.10.97 to 30.06.01 on 17.09.2001. The official joined at North-Lakhimpur H.O. as Assistant Postmaster (Accounts) on 03.07.2001 (F/N) on transfer.

PARAWISE COMMENTS: written statement:

1. That with regard to the statements made in para 1 of the application the respondents beg to state that the applicant was granted leave of admissible kind due to him for the period w.e.f. 01.10.97 to 24.03.99 on medical certificate with SR-1 and for the period w.e.f. 25.03.99 to 20.06.2001 without leave application (SR-1) vide this office leave memo no. B-2/S.C.Saha III dated 14.9.2001 and 9.11.2001 as per the Judgement and Order dated 19.12.2000 passed in O.A. No. 62/99 by CAT, Guwahati. In para no.4 of the judgement the CAT has directed the respondents to take appropriate measure immediately for paying him salaries and allowances admissible to him if necessary by regularising the period of absence by granting any kind of leave due to him. In order to avert the contempt of CAT Judgement the applicant was granted leave without ~~waiting~~ waiting for any leave application for the period w.e.f 25.03.99 to 20.06.01 as the official did not turn up to

-6-

submit the same though requested vide this office letter no. B-2/S.C.Saha dated 30.01.2001 and 06.09.2001. Proper action has been taken for regularisation of absence period by granting leave. Content of the para is not tenable and liable to be rejected.

2. That with regard to paras 2, 3, 4.1 and 4.2 of the application the respondents beg to offer no comments.
3. That with regard to the statements made in para 4.3 of the application the respondents beg to state that the transfer order under SP0s Dibrugarh Division, Dibrugarh was issued vide memo no. B-4/Corr/Ch II dated 13.12.96 in the interest of service and the applicant was working in the same station since 1979 and completed his tenure long long ago. However in consideration of the representation submitted by the applicant on 14.12.96, under letter no.B-2/S.C. Saha dated 27.12.96 the applicant was informed that although his prayer could not be considered immediately but he would be brought back to Dibrugarh as early as possible in accordance with the turn comes. Thus, the allegation of rejection of his representation dated 14.12.96 is not the fact and nothing but on after thought. The application dated 16.4.97 against the transfer order to North-Lakhimpur H.O. of the applicant

Contd.....

was forwarded to the Chief Postmaster General, Assam Circle, Guwahati vide SPOs, Dibrugarh letter no. B-2/S.C. Saha dated 05.02.97 which was turned down by Circle Office Guwahati vide letter no. Staff/RP/153-8/93/II dated 08.05.97 the same was communicated to Postmaster Dibrugarh HO. Transfer is a condition of service and it take effect on the part of a particular official holding the transferable job after completion of normal tenure. Hence in this case the applicant worked at Dibrugarh since 1979 for long about 17 years till the official went on continuous leave w.e.f. 30.12.96. As there is a provision for rotation transfer in this Department, the applicant has been given due justice and promoted to the cadre of Assistant Postmaster (Accounts) and posted at North Lakhimpur Head Office.

Photo copies of letter nos. B-4/Corr/ ChII dated 13.12.96, Staff/RP/153-8/93/II dated 18.5.97 and B-2/S.C. Saha dated 15.5.97 are annexed hereto and marked as Annexures- 1, 2 and 3 .

4. That with regard to the statements made in para 4.4, of the application the respondents beg to state that the application for voluntary retirement was forwarded to Circle Office vide SPOs, Dibrugarh letter no. C-1/VFN/S.Saha dated 07.08.97 as the liability of acceptance of the application of voluntary retirement rests with the Circle Office Guwahati in case of the applicant.

-8-

5. That with regard to the statements made in para 4.5, of the application the respondents beg to state that the inference of ~~in~~ the applicant is not true. The applicant was replied that his application for voluntary retirement could not be accepted in view of the pendency of disciplinary proceedings at that time. The statement made in this para is nothing but uncalled for motivated and baseless.

6. That with regard to the statements made in para 4.6, of the application the respondents beg to state that on receipt of the transfer order issued vide SPOs, Dibrugarh Memo no. B-4/Corr/Ch II dated 13.12.96 the said Sri Saha submitted a representation dated 13.12.96 seeking revision of his transfer order but his representation could not be accepted at that moment as the Assistant Postmaster North-Lakhimpur Head Office as well as Sri Saha both the officials completed their tenure by that time, instead of joining in his new assignment sri Saha went on leave w.e.f. 30.12.96 on medical ground.

7. That with regard to the statements made in para 4.7, of the application the respondents beg to state that the contention of the applicant is not correct because he was charge ~~sheeted~~ sheeted under Rule 14 of CCS(CCA), Rules 1965 vide SPOs, Dibrugarh memo no. B-2/S.C. Saha dated 04.07.97. Charges were well grounded and proved and punishment awarded vide DPS Guwahati memo no. Staff/Rule-14/S.C. Saha/98 dated 28.09.98 stoppage of one increment for 3 months from the day it is due without cumulative effect.

Photo copies of Punishment order of DPS Guwahati and

-7-

Charge Sheet no. B-2/S.C. Saha dated 4.7.97
and Judgement of DPS Guwahati no. Staff/Rule -19/
S.C. Saha/98 dated 28.9.98 are annexed hereto
and marked as Annexures- 4 and 5.

8. That with regard to the statements made in para 4.8, of the application the respondents beg to state that the applicant enjoined every opportunity in course of enquiry and the punishment was duly commensurated with the gravity of offence and awarded to him after considering the report of the Inquiry Officer and observing all the points carefully by the appropriate authority.

9. That with regard to the statements made in para 4.9, of the application the respondents beg to state that the application for voluntary retirement was forwarded to Circle Office vide SPOs, Dibrugarh letter no. C-1/VFN/S. Saha dated 07.08.97 as the liability of acceptance of the application of voluntary retirement rests with the Circle Office Guwahati in case of the applicant. The liability of acceptance of the application of voluntary retirement does not rests with this office. The contention of the applicant is not true. The applicant was informed vide this office letter no. B-2/S.C. Saha dated 04.05.98 that the request of the applicant could not be acceded to due to pendency of disciplinary proceedings.

Copies of the C.O's letter no. Wlf/RP/2 153/93/¹⁶
dated 23.4.98 and B-2/S.C. Saha dated 4.5.98 are
annexed herewith and marked as Annexures- 6 and 7.

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10. That with regard to the statements made in para 4.10 of the application the respondents beg to state that the inference of the applicant is not true because unless the application for voluntary retirement is accepted he is not entitled for any benefit. Further mere submission of the application for voluntary retirement can not bestow any right on the applicant to seek all the retirement benefit including pensionary benefit.

11. That with regard to the statements made in para 4.11 of the application the respondents beg to state that due to pendency of disciplinary case voluntary retirement could not be considered at that time. However he was asked vide SPOs, Dibrugarh letter no. B-2/S.C. Saha dated 30.01.01 to submit option for voluntary retirement after observing all formalities as prescribed under Rule based on the judgement and order passed by CAT, Guwahati on 19.12.2000 in OA No. 62/99 filed by Sri S.C. Saha but the applicant did not submit option for the same instead, the applicant joined at North-Lakhimpur Head Office on 03.07.2001 on transfer.

Copy of letter no. B2/S.C. Saha dated 30.1.01 is annexed hereto and marked as Annexure - 8.

12. That with regard to the statements made in para 4.12, of the application the respondents beg to state that the inference of the applicant is not correct. The application for Voluntary retirement was forwarded to Circle Office, Guwahati vide SPOs Dibrugarh letter no. C-1/VFN/S.C. Saha

-11-

dated 07.08.97 as liability of acceptance of the application of voluntary Retirement rests with the Circle Office Guwahati in case of the applicant. Decision of Circle Guwahati was communicated to the applicant vide SPOs, Dibrugarh letter no. B-2/S.C. Saha dated 04.05.98. Disciplinary proceedings were already initiated prior to 01.10.97 vide this office charge sheet no. B-2/S.C. Saha dated 04.07.97.

Copies of the letter B-2/S.C. Saha dated 4.5.98 Charge sheet no. B-2/S.C. Saha dated 4.7.97 and 4.8.97, C-1/VFN/S.C. Saha dated 7.8.97 and 2.7.97 are annexed herewith and marked as Annexures - 9, 10, 11, 12 and 13. respectively.

13. That with regard to the written statements made in para 4. 13 of the application the respondents beg to state that the contention of the applicant is not correct because he was Charge sheeted under Rule 14 of CCS(CCA) Rules 1965 vide SPOs, Dibrugarh memo no. B-2/S.C. Saha dated 04.07.97. Charges were well grounded and proved and punishment awarded vide DPS Guwahati memo no. Staff/Rule-14/S.C. Saha/98 dated 28.09.98 stoppage of one increment for 3 months from the day. It is due without cumulative effect.

Copies of Charge sheet no. B-2/S.C. Saha dated 4.7.97 and Judgement of DPS Guwahati no. Staff/Rule-19/S.C. Saha/98 dated 28.9.98 are annexed herewith and marked as Annexures- 4 and 5.

-2- 12 -

14. That with regard to the statements made in para 4.14 of the application the respondents beg to state that the applicant filed a case at CAT, Guwahati under case OA No. 62/99 and Hon'ble CAT has passed judgement on OA No.62/99 on 19.12.2000 and action has been initiated as per order of the CAT at this end .

15. That with regard to the statements made in para 4.15 of the application the respondents beg to state that the respondents beg to state that the applicant was granted leave of admissible kind due to him for the period w.e.f. 01.10.97 to 24.03.99 on medical certificate with SR-1 and for the period w.e.f. 25.03.99 to 20.06.01 without leave application (SR-1) vide this office leave memo no. B-2/S.C. Saha III dated 14.9.2001 and 9.11.2001 as per the judgement and order dated 19.12.2000 passed in OA No. 62/99 by CAT, Guwahati. In para no.4 of the judgement the CAT has directed the respondents to take appropriate measure immediately for paying him salaries and allowances admissible to him if necessary by regularising the period of absence by granting any kind of leave due to him. In order to avert the contempt of CAT Judgement the applicant was granted leave without wairing for any leave application for the period w.e.f. 25.03.99 to 20.06.01 as the official did not turn up to submit the same though requested vide this office letter no. B-2/S.C.Saha dated 30.01.2001 and 06.09.2001. Proper action has been taken for regularisation of absence period by granting leave. The applicant submitted representation dated 08.11.01 and 01.03.01

- 13 -

for regularisation of his absence period cancelling leave period already sanctioned by SPOs Dibrugarh Division, Dibrugarh memo no. B-2/S.C.Saha III dated 14.09.2001 and 09.11.2001 which could not be considered as action regarding regularisation of absence period has already been taken in compliance to judgement and order passed by CAT Guwahati on 19.12.2000 in OA No. 62/99. Content of the para is not tenable and liable to be rejected.

Copies of CAT Judgement of OA no.62/99 dated 19.12.2000 , Leave Memo no. B-2/S.C. Saha dated 14.9.2001, B-2/S.C. Saha dated 9.11.2001, B-2/S.C. Saha III dated 8.2.2002 and B-2/S.C. Saha III are annexed herewith and marked as Annexures-14, 15, 16, 17 and 18.

16. That with regard to the statements made in para 4.16 of the application the respondents beg to state that action has been initiated as per the judgement and order of CAT, Guwahati passed in OA No. 62/99 dated 19.12.2000 and the applicant was paid arrear of Pay & Allowances a sum of Rs.39893/- on 17.09.2001 for the period of his absence which was regularised by granting ~~leave~~ leave of admissible kind due to him.

It is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with cost.

Verification....

VERIFICATION

I, Sri Ganesh Chandro Hazarika, presently working as Subpost Master, Silvrapuram, Alu, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in paragraphs 1, 4, 5, 6, 8, 10, 14 and 16 are true to my knowledge and belief and those made in paragraph 3, 7, 9, 11, 12, 13, 15 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 20th day of December, 2002,

Sri Ganesh Chandro Hazarika
Declarant.