

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 336/2002

R.A/C.P No.

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16. Counter Reply.

SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI
....

ORDER SHEET

Original Application No : 366 / 02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) Khagendra Kr. Bordoloi

-Vs-

Respondent (s) H. O. I Town

Advocate for the Applicant (s) D.C. Katha Hazarika, Mr. S.B. Choudhury
Mr. K. Ali

Advocate for the Respondent(s) CASE

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IPJ/BD No. 6575925 Dated 12.11.02 ... <u>Dy. Registrar</u> <u>15/11/02</u> <u>Steps taken</u> <u>15/11/02</u> <u>Copy not yet served on respondents.</u> <u>15/11/02</u> <u>Encls not received. Notice framed and sent to Dls for filing the Respondent No 1 to 5 by Regd. Ad.</u> <u>15/11/02</u> <u>DN No 3310 to 3314 dt 5/12/02</u>	22.11.02 lm 24.12.02 mb	Heard Mr.D.^C.KathaHazarika learned counsel for the applicant and also Mr.A.Deb Roy, Sr.CG.S.C. for the Respondents. Application is admitted. Call for records. List on 24.12.02 for Admission before Division Bench. <u>K.L. Sharma</u> Member Further four weeks time is allowed to the respondents for filing written statement. List on 30.1.2003 for written statement. <u>K.L. Sharma</u> Member <u>Vice-Chairman</u>

No written statement
has been filed

29.1.03

30.1.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury,
Vice-Chairman.

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

On the prayer of Mr. A. Deb
Roy, learned Sr. C.G.S.C. for the
respondents further four weeks time is
allowed to the respondents for filing
written statement.

List again on 3.3.2003
for written statement.

17.3.03
W/s submitted
by the respondents.

Sr
Member

Vice-Chairman

mb

3-3-2003 Court did not sit today, the case
is adjourned to 1/4/2003.

M/s

A.K.

1.4.2003

Written statement has been
filed. The case may now be listed for
hearing on 26.5.2003. The applicant
may file rejoinder, if any, within
two weeks from today.

No rejoinder has
been filed

23.5.03

Vice-Chairman

mb

26.5.2003

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

The Hon'ble Mr. S.K. Hajra,
Member (A).

On the prayer of Mr. D.C. Kath-
hazarika, learned counsel for the
applicant, the case is adjourned. List
the matter on 25.6.2003 for hearing.

No rejoinder has been
filed.

24.6.03

Sr
Member

Vice-Chairman

mb

25-6. Mr. Senanayake did not sit today,
the case is adjourned to 24.7.2003.

M/s

A.K.

Notes of the Registry

Date

Orders of the Tribunal

24.7.2003

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is partly allowed. No order as to costs.

Member

Vice-Chairman

nkm

11.8.2003

Copy of the Judgment has been sent to the Dy Sec. for 1st Div. 1st Div. to the office as well as to the Dy C.G.S.C. for the Registry

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Aug 13/8

Notes of the Registry

Date

Orders of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXX~~ No. 336 of 2002

DATE OF DECISION 24.7.2003

Shri Khagendra Kumar Bordoloi APPLICANT(S).

Mr D.C. Kath Hazarika, Smt S.B. Chaudhury and
Mr K. Ali. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

The Union of India and others RESPONDENT(S).

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

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

THE HON'BLE MR N.D. DAYAL, 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 Ho'ble Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.356 of 2002

Date of decision: This the 24th day of July 2003

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

The Hon'ble Mr N.D. Dayal, Administrative Member

Shri Khagendra Kumar Bordoloi
Sub-Post Master, Pabhoi,
Darrang Division, Tezpur,
Sonitpur.

.....Applicant

By Advocates Mr D.C. Kath Hazarika,
Smt S.B. Chaudhury and Mr K. Ali.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Communication,
New Delhi.
 2. The Chief Post Master General,
Assam Circle,
Guwahati.
 3. The Director of Postal Service,
O/o the Post Master General,
Dibrugarh Region,
Dibrugarh, Assam.
 4. The Superintendent of Post Offices,
Darrang Division,
Tezpur, H.O., Assam.
 5. The Superintendent of Post Offices,
Dibrugarh Division,
Dibrugarh, Assam.
- By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

.....

O R D E R (ORAL)

CHOWDHURY. J. - (V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the impugned order of punishment dated 28.1.2000 by way of reduction of pay by five stages from Rs.5,100/- to Rs.4,600/- in the scale of pay of Rs.4000-6000/- for five years with effect from 1.3.2000. By the

said order the applicant was also conveyed that he would not earn any increment of pay during the period of reduction. The applicant has also assailed the Appellate Order dated 29.8.2002 whereby the Appellate Authority rejected the appeal of the applicant and confirmed the order of the Disciplinary Authority.

2. The applicant at the relevant time was working as Sub-Post Master, Kokra during the period from 5.9.1984 to 28.4.1988. A disciplinary proceeding was initiated vide Memo dated 17.4.1989 under Rule 14 of the CCS (CCA) Rules, 1965 for alleged misconduct. The enquiry was completed and the Inquiry Officer submitted his report on completion of the enquiry. The authority, however, could not finalise the same since the enquiry report was lost. By Memo dated 4.6.1993 the applicant was intimated about the fact and informed that the earlier chargesheet was cancelled and a fresh chargesheet was issued vide Memo dated 7.6.1993. The enquiry was conducted and after completion of the enquiry and on receipt of the report of the Inquiry Officer the competent authority imposed the penalty of reduction of pay by two stages from Rs.1540/- to Rs.1480/- in the scale of pay of Rs.975-1660 for a period of two years without cumulative effect, vide order dated 29.12.1995. The applicant preferred an appeal before the Director of Postal Services, Guwahati. By order dated 2.5.1997 the Director, Postal Services set aside the order of punishment on the score of procedural lapses and ordered a fresh proceeding on the basis of the same charge. Accordingly a fresh proceeding was initiated against the applicant vide Memo dated 11.8.1997. The Inquiry Officer on completion of the enquiry.....

enquiry submitted his report and the Disciplinary Authority by the impugned order dated 28.1.2000 awarded punishment by way of reduction of pay by five stages from Rs.5,100/- to Rs.4,600/- in the scale of pay of Rs.4000-6000 for five years with effect from 1.3.2000 with the direction that the applicant would not earn any increment during the period of reduction and on expiry of the period the reduction will not have the effect of postponing his future increments of pay. The applicant preferred an appeal before the Appellate Authority, namely the Director of Postal Services and the Appellate Authority by his order dated 29.8.2002 rejected the appeal and confirmed the order of the Disciplinary Authority dated 28.1.2000. Nence this application assailing the legitimacy of the action of the respondents in imposing the impugned punishment.

3. We have heard at length Mr D.C. Kath Hazarika, learned counsel for the applicant and also Mr A. Deb Roy, learned Sr. C.G.S.C. The learned counsel for the applicant firstly contended that for the same charge the applicant was booked before the court and the court on consideration of the materials on record found that the applicant not guilty, and accordingly he was acquitted. For the same nature of lapses a disciplinary proceeding was initiated and similar materials which were discarded by the competent court of law was referred to and relied upon by the Disciplinary Authority and imposed the purported punishment unlawfully.

4. We have given our anxious consideration on the matter. The materials on record could not justify the claim of the learned counsel for the applicant that on

the.....

the same set of materials the applicant was punished by the Disciplinary Authority. Under the law, there is no bar for initiating disciplinary proceeding for the enquiry as to the alleged misconduct under the Disciplinary Rules of the department. In a criminal case the authority is basically concerned with the offence and offenders can be booked for the offence in the light of the Evidence Act and the accused can be punished only when the court is convinced that the prosecution has proved the case against the accused beyond any reasonable doubt. The test applicable to criminal case is not applicable in a departmental case. At any rate, we are not convinced that there is any material to show and establish that for the same offence/misconduct the applicant was exposed to a departmental proceeding.

5. Mr D.C. Kath Hazarika, the learned counsel for the applicant, next submitted that the applicant was unfairly dealt with by the authority. The learned counsel submitted that the alleged misconduct took place between 5.9.1984 and 28.4.1988 and the applicant had to go through the ordeal till the impugned order of penalty was imposed vide order dated 28.1.2000. In reply to the contention of the learned counsel for the applicant, Mr A. Deb Roy, the learned Sr. C.G.S.C., submitted that the respondent authority initiated a disciplinary proceeding as far back as 1989 and the applicant was served with the Memo of charges vide order dated 17.4.1989. The Inquiry Officer also submitted the report after completion of the enquiry. But the report got lost and therefore the said chargesheet was cancelled and the applicant was served with a fresh Memo of charges vide Memo dated 17.8.1993. The applicant did not object to it and participated in the enquiry and in that enquiry the applicant was

inflicted.....

inflicted with the punishment of reduction of his pay by two stages from Rs.1540/- to Rs.1480/- in the scale of pay of Rs.975-1660 for a period of two years without cumulative effect. However, on the appeal of the applicant the Appellate Authority set aside the order of the Disciplinary Authority for procedural flaws and a fresh enquiry was ordered as far back as 11.8.1997. The applicant participated in the enquiry and finally the impugned order dated 28.1.2000 was passed.

6. On consideration of the materials on record in its entirety, we do not find any illegality committed by the respondents in concluding the proceeding vide order dated 28.1.2000. There is no doubt the proceeding continued for a long time, but the respondents cannot be faulted for that. Fresh enquiry was made to render justice to the applicant. At any rate the applicant did not object to the proceeding that was initiated as far back as 11.8.1997. The learned counsel for the applicant further argued that the applicant was denied fair opportunity to defend his case. We have gone through the materials on record and on consideration of the materials on record we do not find that there was any procedural impropriety in conducting the enquiry. Lastly, the learned counsel for the applicant submitted that the punishment imposed on the applicant was per se disproportionate. The learned counsel for the applicant submitted that the applicant had already deposited the amount in question and that too as far back as in 1988. For whatever reason, the proceeding lingered on for long. For the same charge the applicant at one stage was imposed with punishment of reduction of his pay by two stages vide order dated

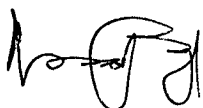
29.12.1995.....

29.12.1995 for a period of two years without cumulative effect. The learned counsel for the applicant, referring to Rule 27 of the Rules submitted that even the Appellate Authority which was duty bound to consider as to whether the penalty imposed was adequate or not acted arbitrarily.

7. Mr A. Deb Roy, learned Sr. C.G.S.C., stated that the Appellate Authority duly applied its mind and while passing the order confirming the punishment, it must be presumed that he considered the punishment lawful. Part VII of the Rules made provision for consideration of appeals by the Appellate Authority. The power of the Appellate Authority is coextensive with the Disciplinary Authority. It is also charged with a duty to consider the appeal and the statute imposes a duty on the Appellate Authority to look into as to whether the procedure laid down in the rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice; whether the findings of the disciplinary authority are warranted by the evidence on the record; and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe. The Appellate Authority is charged with a duty to see as to whether the punishment imposed on the facts was lawful. Admittedly, the proceeding dates back to the period between 1984 and 1988. For whatever reason it continued for years. Once the applicant was imposed a punishment of reduction of his pay by two stages which was passed as far back as 29.12.1995. The Appellate Order dated 29.8.2002 is too exhaustive, but it did not address its mind.....

mind to those aspects of the matter, more particularly the order dated 28.12.1995 imposing the penalty of reduction of pay by two stages. We, therefore, feel that the matter should go back to the Appellate Authority to consider as to the quantum of punishment imposed on the applicant on the facts and situation in the light of the observation made above. Since the matter is an old one the authority should take early steps for disposal of the matter, preferably within three months from the date of receipt of the order.

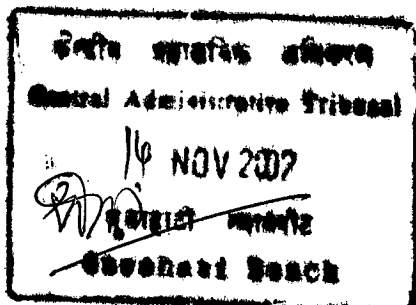
The application is thus partly allowed. There shall, however, be no order as to costs.



(N. D. DAYAL)
ADMINISTRATIVE MEMBER



(D. N. CHOWDHURY)
VICE-CHAIRMAN



Filed by the applicant
through Mr. Shahida
Begum Choudhury,
Advocate,
14/11/02
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

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

TITLE OF THE CASE O.A.No. 366 OF 2002

Sri Khagendra Kumar Bordoloi
then Sub-Post Master Lokra
Now Sub-Post Master, Pabhoi
Darrang Divn., Tezpur,
resident of Vill.-Borpam Tiniali
Sootia, Sonitpur.

... Applicant

-Versus-

The Union of India & Ors.

... Respondents

I N D E X

<u>Sl.Nos.</u>	<u>Annexures</u>	<u>Particulars</u>	<u>Pages.</u>
1.	A	Photocopy of the Judgement dtd. 30.1.93 passed by the Judicial Magistrate, Tezpur, Sonitpur.	16-17
2.	B	A photocopy of the Cancell- -tion order vide Memo No. F6-1(A)/88-89/2 dtd.4.6.93 issued by Respondent No.4.	18

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3. C A photocopy of the Memorandum
alongwith enclosures vide Memo
No.F6-1(A)/88-89/2 dtd.7.6.93
issued by Respondent No.4. 19-22
4. D A photocopy of the Inquiry
Order vide Memo No. F6-1(A)/88-89/
22 dtd. 17.8.93 issued by Respon- 23
-dent.No.4.
5. E A photocpy of the order vide
Memo No. F6-1(A)/88-89/2 dtd. 24-29
29.12. 95 issued by the Respon-
-dent No.4.
6. F A photocpy of the Departmental
Inquiry dtd. 6.6.89 issued by 30
Respondent No.4.
7. G A photocopy of letter of
Departmental Inquiry dtd. 31
17.9.93 issued by Respon-
-dent No.4.
8. H A photocopy of appeal dated 32-35
11.3.96 preferred by the appli-
-cant before Respondent No.4.
9. I A photocpy of the order
dated 10.9.96 passed in O.A. No. 36-37
181/96 by the Hon'ble Member (A),
Central Administrative Tribunal,
Guwahati Bench.

Contd...3

Khagendra Kr Bordoloi

10. J. A photocopy of the order
vide Memo No.F2-3/Misc/99-00 38-41
dtd. 28.1.2000 passed by
Supdt. of Post Offices,
Dibrugarh Division, Dibrugarh.
11. K. Appellate Order vide Memo No.
Staff/2/24-31/00/RP dtd. 29.8.02 42-46
passed by the Director of Postal
Services, O/O the Post Master
General , Dibrugarh Region, Dibru-
-garh.

Filed by

Shahida Begum Chandley.
Advocate

Kragendra K. Baruah.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. NO. 366 /2002

Sri Khagendra Kumar Bordoloi,
then Sub-Post Master Lokra
Now Sub-Post Master, Pabhoi
Darrang Division, Tezpur,
resident of Village- Barpam Tiniali
Sootia, Sonitpur.

... Applicant

-Versus-

1. The Union of India and Ors.,
represented by the Secretary to
the Govt. of ~~Assam~~ India,
Ministry of Communication,
New Delhi.
2. The Chief Post Master General, Assam
Circle, Guwahati-1, Assam.
3. The Director of Postal Service,
O/o The Post Master General,
Dibrugarh, Region, Dibrugarh,
Assam.
4. The Superintendent of Post Officers,
Darrang Division, Tezpur, H.O.-
784001 (Assam.).

Contd...2

Khagendra Mr. Bordoloi

Filed by the applicant
through Ms. Shalida
Begum Choudhury,
Advocate
14/11/02

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

.... Respondents

1. The particulars of the order against which
this application is made :

The application is made against the follow-
-ing order :.

This the pay of Sri K.K.Bordoloi now P.A.,
Charali S.O. and then SPM, Lokra, S.O. may be reduced
by five stages from Rs. 5,100/- to 4,600/- in the scale
of pay Rs. 4,000/- - 100- 6,000/- for the five years
with effect from 1.3.2000. It is further ordered that
he will not earn any increment of pay during the period
of reduction and that on expiry of this period the
reduction will not have the effect of postponing his
future increments of pay.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The applicant declares that the subject-
matter of the order against which he wants redressal is

Contd...3

Khagendra Kr. Bordoloi

within the limitation prescribed by the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

4.1. That the applicant is a citizen of India and a permanent resident of District-Sonitpur. As such, he is legally entitled to all the rights and privileges guaranteed to a citizen of India by the Constitution of India.

4.2. That your applicant had been working as S.P.M., Kokra during the period ~~of~~ from 5.9.84 to 28.4.88 and had a clear record of 23 years of faithful services in the establishment of the Respondents.

4.3. That shortage of cash amounting to Rs.44,140.09/- (Rupees forth four thousand One hundred forty and ~~Rs~~ Nine paise) only was found by the Supdt. of POs. Tezpur in the cash balance of the applicant's office on 29.4.88 in his absence. The reason of the shortage was that on the right of the day of receipt of the cash from the Head Office, some unknown persons overpowered the applicant on guapoint and snatched away the key of the office safe and took away the cash amount. Although the safe had double-locking system, the same was not locked by the clerk which facilitated the crime.

4.4. That accordingly, charges were framed and

Contd...4

Khagendra Kr. Borah

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show cause notice was werved upon the applicant vide office Memo No. F6-1(A)/88-89 dtd. 17.4.89 issued by the then Supdt. of P.O.s. Darrang Divn. Tezpur, The applicant submitted his defence statement. He was also personally heard , quasi- judicial inquiry was completed but no punishment was imposed on the applicant due to the fact that he was able to prove his innocence in Oral Inquiry.

4.5. That the authority has also realised the loss fund amounting to Rs.14,140.99 (Rupees forth Four thousand One hundred forty and nine paise) only from the salary and GPF of the applicant on different dates.

(Annexure-E)

4.6. That the authority even then, lodged on FIR case was registered being G.R Case No.702/88 U/s 409 I.P.C. with the Tezpur Police Station in which the applicant was prosecuted in the court of the Chief Judicial Magistrate (Tezpur). On the same ground/ cause of action and eventually, the applicant was found ~~th~~ not guilty of the charge and was acquitted and set at liberty forthwith after careful examination of the whole case.

A photocopy of the judgement dtd.30.1.93 issued by Magistrate(J), Tezpur, Sonitpur, is annexed herewith and marked as Annexure-A.

Contd...5

Kragendra Kr. Baral

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4.7. That even though there had been no loss to the Government at all, and all the charges framed against the applicant was also ordered to be treated as cancelled vide Office Memo No.F6-1(A)/88-89/2 dtd. 4.6.93, issued by the Respondent No.4, the applicant was again charged on the same ground vide office Memo No. F6-1(A)/88-89/2 dtd. 7.6.93 issued by the Respondent No.4.

A photocopy of the Cancellation order vide memo No.F6-1(A)/88-89/2 dated 4.6.93 issued by Respondent No.4 is annexed herewith and marked as Annexure-B.

A photocopy of the Memorandum alongwith enclosures vide Memo No.F6-1(A)/88-89/2 dated 7.6.93 issued by Respondent No.4 is annexed herewith and marked as Annexure-C.

4.8. That Department^{al} proceeding was held once again vide Memo No. F6-1(A)/88-89/2 dtd. 17.8.93 issued by the Respondent No.4 on the same charge and subsequently, punishment was inflicted upon the applicant vide Memo No. F6-1(A)/88-89/2 dated 29.12.95 issued by the Respondent No.4 whereby an order was passed that the pay of the applicant be reduced by 2 (two) stages from Rs. 1540/- to 1480/- in the scale of pay 975-25-1150-EB-30-1660 for a period of 2(two) years without cumulative effect, by not taking into consideration the written statement filed

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Khagendra K. Borde

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by the applicant and other related events.

Be it stated here, that on both the occasions, the Departmental Inquiries were conducted by different Officers. On one occasion (on 6.6.89) the Inquiry Officer was Sri B.K.Das and on the other occasion (on 17.9.93), it was Sri A.C.Das.

Photocopy of the Inquiry order vide Memo No.F6-1(A)/88-89/2 dated 17.8.93 issued by Respondent No.4 is annexed herewith and marked as Annexure-D.

Photocopy of the order vide Memo No. F6-1(A)/88-89/2 dtd. 29.12.95 is annexed herewith and marked as Annexure-E.

Photocopy of the letters of Departmental Inquiry dtd. 6.6.89 and 17.9.93 are annexed herewith and marked as Annexure-F and G respectively.

4.9. That finding no way out, the applicant preferred an appeal before the Respondent No.4 on 11.3.96 stating the fact that the whole inquiry proceeding was completed illegally as the procedure for holding enquiry was not followed. The whole Inquiry Report was not furnished to the applicant. The applicant was not even allowed to ~~xxx~~ cross-examine by the authority, which was admitted by the Respondents themselves in the order dtd. 29.12.95. But the said appeal/representation is pending till date without any steps being taken.

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A photocopy of the appeal/representation dated 11.3.96 is annexed herewith and marked as Annexure-H.

4.10. That subsequently, the applicant filed an application being O.A. No.181/96 before the Central Administrative Tribunal, Guwahati Bench. The said application was heard by the learned Member of the said Tribunal and an order was passed on 10.9.96 whereby the said application was disposed of as follows :-

" with a direction to the respondent No.2, Chief Post Master General, Assam Circle, Guwahati to dispose of the appeal dated 11.3.96 within three months from to-day. The respondent No.2 while disposing of the Appeal shall give the applicant personal hearing and the applicant is at liberty to submit all the contentions he has made in this O.A. before the appellate authority.

The application is disposed of as anove and the applicant may approach this Tribunal again if he is aggrieved with the appellate order"

A photocopy of the order dtd. 10.9.96 in O.A. No.181/96 passed by the learned member Central Administrative Tribunal, Guwahati Bench is annexed herewith and marked Annexure-I.

Contd...8

Kragendra Kr. Borah

4.11. That the applicant obtained a certified copy of the aforesaid order dated 10.9.96 passed in O.A. No.181/96 by the learned Member, CAT, GB and approached the Respondents to do the needful. Accordingly, the Respondent No.4 vide his Memo No.2 F6-1(A)/88-89 dtd. 11.8.97 informed the applicant that it was proposed to hold an inquiry against him under Rule 14 of CCS(CCA) Rules 1965. Statement of Articles of Charges were also enclosed therein. The applicant submitted his written statement vide his letter dtd. 22.8.97 before the Respondent No.4 with a prayer to exonerate him from the charges. But subsequently, it was decided to hold regulars inquiry into the case and as such, inquiry officer was appointed.

The Inquiry was ultimately, conducted by the Respondent No.5, who was empowered by the Directorate vide ~~the~~ its memo No.4-13-99-VP dtd. 21.6.99. On Completion of the Inquiry, the Respondent No.5 passed on order vide Memo No. F2-3/Misc/99-00 dtd. 28.1.2000 which reads as under :-

" That the pay of Shri K.K.Bordoloi now P.A. Charali S O and the then SPM, Lokra so may be reduced by five stages from Rs.5,100/- to 4,600/- in the scale of pay Rs.4,000/- 100- 6,000/- for the five years with effect from 1.3.2000. It is further ordered that he will not earn any increment of pay during the period of reduction

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Kragendra Kr. Bordoloi

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and that on expiry of this period the reduction will not have the effect of postponing his future increments of pay."

A photocopy of the Inquiry Report vide Memo No.F2-3/Misc/99-00 dtd. 18.1.2000 issued by the Respondent 5 is annexed herewith and marked as Annexure-J.

4.12. That being aggrieved by the order dated 28.1.2000 issued by the Respondent No.5, the applicant preferred an appeal dated. 2.3.2000 before the Respondent No.3 which was rejected without proper scrutiny and the disciplinary order dated 28.1.2000 passed by the Respondent No.5 was confirmed vide Memo No.Staff/2/24-31/00 RP dated 29.8.2002 issued by the Respondent No.3.

So, the punishment / penalties have been morethan doubled by the Respondents without even proving the charges. Moreover, the loss amount was already realised from the salary and GPF of the applicant. It is clearly evident that the Respondents have a vindictive attitude towards the applicant and so this type of punishment/penalties have been inflicted. Thus, the punishment is disproportionate to the gravity of the charges. Hence, the Inquiry Report dated 28.1.2000 issued by the Respondent No.5 and the Appellate order dated 29.8.2002 issued by the Respondent No.3 are liable to be set aside and quashed.

Contd..10..

Khagendra K. Borah

-10-

Photocopy of the Appellate Order vide
Memo No.Staff/2/24-31/00/RP dtd.29.8.2002
is annexed herewith and marked as
Annexure-K.

-G R O U N D S-

- A. The order of punishment vide Memo No.F2-3/Misc/99-00 dated 28.1.2000 issued by the Respondent No.5 and the appellate order vide Memo No.Staff/2/24-31/00/RP dtd. 29.8.2002 passed by the Respondent no.3 are passed without conclusive proof and proper investigation / Inquiry and hence, liable to be set aside or quashed.
 - B. The said orders were passed without application of pure mind and with a vindictive attitude towards the applicant which is against law and established rules. The punishment disproportionate to the gravity of the charges imposed upon him.
 - C. The said orders are apparently illegal, founded on malafide and colourable exercise of power, where the inquiry/investigation were not conducted with due diligence, care and without violation of Principles of natural justice and hence, did not take into account the various privileges and protections of the Central employees.
5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

Contd...11

K. S. G. K. R. B. S. S.

- 5.1. For that malafide, discrimination, harassment being the foundation of the impugned orders vide Memo No.F2-3/Misc/99-00 dated 28.1.2000 issued by the Respondent No.5 and vide Memo No. Staff/2/24-31/00 RP dtd. 29.8.2002 issued by the Respondent No.3 are not maintainable in the eye of law and hence, liable to be set aside and quashed.
- 5.2. For that the said impugned orders against the applicant are not only illegal and arbitrary but also in gross violation of the principles of natural justices and administrative fair play and hence, liable to be set aside or quashed.
- 5.3. For that it is submitted that the said impugned orders dated 29.1.2000 and 29.8.2002 were passed by the Respondents No. 5 and 3 respectively whimsi-
-cally, arbitrarily, unilaterally and in gross violation of the provisions of Articles 14 and 16 of the Constitution of India and hence, liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has exhausted the Departmental remedies by filing appeal and there is no other alternative remedy available to him except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN SAY OTHER COURT :

The applicant further declares that he has not

Contd...12

Khagencha Mr. Borela

-12-

previously filed any writ petition or suit regarding the grievances in respect of which this application is made before/^{any} ~~may~~ court or any other Bench of this Hon'ble Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

In view of the facts mentioned in paragraph 4 above, the applicant prays for the following relief :

The Instant application may please be admitted, records be called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown, may be pleased to grant the following relief :-

- (i) to set aside or quash the impugned order vide Memo No.F2-3/Misc/99-00 dated 28.1.2000 issued by the Respondent No.5 ;
- (ii) to set aside or quash the impugned appellate order vide Memo No. Staff/2/24-31/60/RP dated 29.8.2002 issued by the Respondent No.3 ;
- (iii) refund of cash amount realised from the pay and GPF of the applicant ;
- (iv) payment of full wages w.e.f. 29.12.95.
- (v) cost of this application.

contd...13

Rhagendra K. Bardolai

— *Journal of the American Medical Association*, 1997

Journal of Management Studies, 19(1), 67-80.

Journal of Management Studies, 19(6), 701-718.

[illegible]

1990

[illegible]

60. The following are the names of the persons who have been appointed as members of the Board of Directors of the Corporation:

... ..

[illegible]

the 1990s, the number of people in the world who are under 15 years of age is expected to increase from 1.1 billion to 1.5 billion. The number of people aged 65 and over is expected to increase from 250 million to 450 million. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion.

[illegible]

Journal of Interpersonal Violence

[illegible]

[illegible]

100-443887-100

the 1990s, the number of people in the world who are under 15 years of age is expected to increase from 1.1 billion to 1.5 billion. The number of people aged 65 and over is expected to increase from 200 million to 400 million. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion.

[illegible]

-13-

(vi) it at all, punishment/penalty is to be inflicted, the previous punishment/penalty, whereby an order was passed by the Respondent No.4 vide Memo No.F6-1(A)/88-89/2 dated 29.12.95 that the pay of the applicant be reduced by 2(two) stages from Rs.1540/- to 1480/- in the scale of pay 975-25-1150-EB-30-1660 for a period of 2(two) years without cumulative effect, which may now be implemented on the basis of the gravity of the charge.

(vii) any other relief or reliefs to which the applicant is entitled to and as the Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of this application the applicant prays that the operation of the impugned orders vide Memo No.F2-3/Misc/99-00 dated 28.1.2000 issued by the Respondent No.5 and vide Memo No.Staff/2/24-31/00/RP dtd. 29.8.2002 issued by the Respondent No.3 may be stayed with further direction to allow the applicant to receive his present increment (full wages) w.e.f. 29.12.95 till final disposal of this application.

10. PARTICULARS OF THE I.P.O.

(1) No of the I.P.O. 7G575975

Contd...14

Khagendra Kr. Baral

-24 =

(ii) Date 12.11.2002

(iii) Payable at GOP, Guwahati.

11. LIST OF ENCLOSURES :

As stated in the Indix.

Verification.....

Kragendra Kr. Borah

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

I, Sri Khagendra Kumar Bordoloi, aged about 61 years, ~~at present~~^{then} working as Sub-Post Master Lokra now Sub-Post Master, Pabhoi, Darrang Division, Tezpur, resident of Village- Borpam Tiniali, Sootia, Sonitpur in the District of Sonitpur, Assam under the Superintendent of Post Offices, Darrang Division, Tezpur H.O., hereby solemnly ~~x~~ verify that the statements made in paragraphs 1 to 11 are true to my knowledge and I have not suppressed any material facts.

Place : *Guwahati*

Date : *14/11/20*

Khagendra Kr. Bordoloi

2.2.93 25.2.93 25.2.93 25.2.93 25.2.93

District: Sonitpur,

IN THE COURT OF JUDICIAL MAGISTRATE
TEZPUR.

G.R. Case No- 702/88

State

Versus

Khagendra Kr Bordoloi

U/S 409 I.P.C.

<u>C.L. No.</u>	<u>Date</u>	<u>Order</u>	<u>Sign</u>
	30.1.93	Accused person is present.	

Two Respondents were present. They are examined and discharged

Heard prosecution
No more witness is required to be examined as per submission of prosecution .
Hence evidence for prosecution is cleared.

Statement of the accused person recorded.

Heard urgent of both sides.

contd.....

*Certified to be true
S.B. Choudhary,
Advocate
14/11/02*

2.

Prosecution could
not prove the change
U/S 409 I.P.C. beyond all
reasonable doubt at all.

Hence I acquitt
the accused person and
let him at liberty forth-
with.

Sd/ R.Phukan,
(J) Magistrate,
Tezpur.

.....

Annexure - B

DEPARTMENT OF POSTS - INDIA
OFFICE OF THE SUPDT. OF POST OFFICES DARRANG DN TEZPUR

Memo. No. F6-1(A)/88-89/2Dated, Tezpur, the 4.6.93

Without prejudice to future action under C.C.S. (CCA) Rules 1965 being taken, the charges framed against Shri Khagendra Kr. Bardoloi, then Sub-Postmaster, Lokra and new PA(Sig.) Jamugurihat vide this office Memo. no. F6-1(A)/88-89 dtd. 17-4-89 issued by the then Supdt. of POs, Darrang Dn, Tezpur, is hereby ordered to be treated as cancelled agreeable to Govt. of India's instructions no. (9) below Rule-15 of CCS(CCA) Rules, 1965 as contained in DG P&T's letter no. 114/324/78-DISC-11 dt. 5-7-1979. It is considered necessary to inform the aforesaid Shri Khagendra Kr. Bardoloi, then SPM, Lokra, new PA/Sig. Jamugurihat that the charges under Rule-14 of CCS(CCA) Rules, 1965 is being initiated by the appropriate disciplinary Authority based on appropriate charges.

Sd/-
(N. Bhattacharjee)
Supdt. of Post Offices
Darrang Dn, Tezpur.

Copy to:-

- ✓ REGD. AD. 1) Shri Khagendra Kr. Bardoloi, PA/Sig.
Jamugurihat P.O.
- 2) The Asstt. Postmaster General (Vig) O/O the
Chief P.M.G. Assam Circle, Guwahati w.r. to her letter
no. VIG/14/5/85 dtd. 17.5.93 for information.
- 3) P.F. of the official.
- 4) The CR file of the official.

RB
Supdt. of Post Offices
Darrang Dn, Tezpur-784001.

.....

Certified to be true.
S.B. Chaudhry,
Advocate
14/11/02

DEPARTMENT OF POSTS-INDIA

OFFICE OF THE SUPDT. OF POST OFFICES DARRANG DN TEZPUR.

MEMORANDUM

Rule-14 of Central Civil Service (CCA) Rules, 1965.

No. F6-1(A)/88-89/2Dated, Tezpur 7-6-93

The undersigned propose to hold an inquiry against Shri Khagendra Kr. Bordoloi under Rule-14 of the CCS(CCA) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each Article of charge enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed. (Annexure-III and IV).

2. Shri Khagendra Kr. Bordoloi is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny each articles of charge.

4. Shri Khagendra Kr. Bordoloi is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 of above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the CCS(CA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule the inquiring authority may hold the inquiry against him EX-Parte.

5. Attention of Shri Khagendra Kr. Bordoloi is invited of Rule-20 of the CCS(CON) Rules 1964 under which no Govt servant shall bring or attempt to bring any political or outside influence to bear upon any Superior Authority to further its interest in respect of matters pertaining of his service under the Govt. If any representation is received on his behalf from another person in respect of any matters dealt with these proceedings it will be presumed that Shri Khagendra Kr. Bordoloi

is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the CCS(Con) Rules 1964.

6. The receipt of this memo may be acknowledged.

REGD. AD

To

(N. Bhattacharjee)
Shri Khagendra Kr. Bordoloi Supdt. of Post Offices
Darrang dh, Tezpur.
PA/Signaller,

Jamugurihat.

Certified to be true
S.B. Choudhury
Advocate
14/11/02

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM, LOKRA NOW PA (SIG) JAMUGURIHAT.

ARTICLE-1

That the said Shri Khagendra Kumar Bordoloi, while functioning as Sub-Postmaster, Lokra during the period from 5-9-84 to 28-4-88, requested the Postmaster, Tezpur HO vide his letters dtd. 19/4/88 and 21-4-88 to remit Cash for Rs. 40,000/- (forty thousand) only by showing fictitious liabilities. Said Shri Khagendra Kr. Bordoloi also did not place the requisition in the respective daily accounts as required under Rule-31(1)(2) of Postal Manual Vol-VI Part-111. Thus, Shri Khagendra Kr. Bordoloi is found responsible for the violation of Rule-31(1)(2) of Postal Manual VOL-VI Part-111.

Article-11

That during the aforesaid period and while functioning in the aforesaid office said Shri Khagendra Kr. Bordoloi, kept shortage of cash for Rs. 44,140.09 (Rs. Forty four thousand one hundred forty and paise nine) only in the cash balance of Lokra S.O. dtd. 28-4-88, which was detected by the SPOs, Tezpur during his visit to the P.O. on 29-4-88. However, said Shri Khagendra Kr. Bordoloi, credited the shortage amount of cash for Rs. 44,140.09 only to Govt. account as UCR on different dates subsequently.

Thus, the said Shri Khagendra Kr. Bordoloi is found responsible for the violation of the provisions of Rule-84(A) of Postal Manual Vol-VI Part-111, and also Rule-3(1) (ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-11

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM, LOKRA NOW PA JAMUGURIHAT.

That the said Shri Khagendra Kr. Bordoloi while functioning as SPM, Lokra during the period from 5-9-84 to 28-4-88, requested the PM, Tezpur HO vide his letter dtd. 19/4/88 and 21/4/88 respectively, to remit cash for Rs. 40,000/- (Forty thousand) only before 23rd April/88 by showing fictitious liabilities. He did not furnish the particulars of liabilities in the appropriate columns of the reverse side of the daily accounts. However, the PM, Tezpur HO remitted cash for Rs. 40,000/- (Forty thousand) only on 23.4.88 through O/S Cash, Tezpur who had handed over the remittance for Rs. 40,000/- only to the SPM, Lokra duly acknowledged in the diary at 12-30 hours. The attempt made by Shri Khagendra Kr. Bordoloi to collect cash on the pretext of fictitious liabilities from the H.O. and without observing the procedures laid down in Rule-31(1)(2) of Postal Manual VOL-VI Part-111 and therefore, said Shri Khagendra Kr. Bordoloi is found responsible for the violation of Rule-31(1)(2) ibid.

contd---2//

Article-11

That during the aforesaid period and while functioning in the aforesaid office, Said Shri Khagendra Kr. Bordoloi reported personally to the Supdt. of Post Offices, Darrang Dn, Tezpur in his chamber on 28-4-88 that a sum of Rs. 45,000/- (Forty five) thousand only was short in the cash balance of Lokra S.O. which he had handed over to some body on good faith. The Supdt. of POs, Tezpur verified the cash balance of Lokra physically on 29-4-88 and found total shortage for Rs. 44,140.09 (Rs. Forty four thousand one hundred forty and paise nine) only which was charged as UCP in the account of Lokra dtd. 29-4-88.

However, this shortage amount of Rs. 44,140.09 only had been credited subsequently by Said Shri Khagendra Kr. Bordoloi as UCR in the Govt. account on different dates voluntarily.

Thus, by keeping shortage of cash for Rs. 44,140.09 on in x in cash balance of the office dtd. 28.4.88, Shri Khagendra Kr. Bordoloi, is found responsible for the violation of Rule-84(A) of Postal Manual VOL-VI Part-III and also Rule-3(1) (ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR BORDOLOI, THEN SPM LOKRA NOW PA (SIG) JAMUGURIHAT.

....

1. SPM/Lokra's letter dtd. 19.4.88
2. SPM/Lokra's letter dtd. 21-4-88.
3. Lokra daily accounts dtd. 19/4, 20/4, 22/4/88.
4. Written statement of Sri K.K. Bordoloi dtd. 28-4-88.
5. Inventory dtd. 29-4-88.
6. Written statement of Sri Phanidhar Haloi, PA now SPM, Naharbari.
7. Written statement of Sri Pradip Das, ED Packer, Lokra dtd. 30.4.88.
8. ,, ,, of Sri Arabinda Das, dtd. 30.4.88, ED Messenger, Lokra.
9. ,, ,, of Sri Homnath Upadhaya dtd. 30-4-88, Postman, Lokra.
10. Diary of O/S Cash, Tezpur period -20.2.88 to 26.4.88.
11. Credit certificate dtd 25-7-90 4 PM T2 H-0.

contd...3//

33

ANNEXURE-IV

LIST OF WITNESSES BY WHOM the ARTICLE OF CHARGE FRAMED
AGAINST SHRI KHAGENDRA KR. BORDOLOI THEN SPM, LOKRA NOW PA
(SIG) JAMUGURIHAT, ^{AR E} PROPOSED TO BE SUSTAINED.

1. Sri G.V. ANANTHANARAYANAN ^{THEN} Supdt. of POs, Tezpur. ~~XXX~~
2. Sri Bindanda Hazarika, then ASPOs (HQ) Tezpur now Dy. Supdt.
O/D the DPS, Nagaland Kohima.
3. Sri Tarun Kalita, then SDO (P), Tezpur now SDO (P), Pathsala.
4. Sri Phanidhar Haloi, then PA, Lokra now SPM, Naharbari.
5. Sri Chandra Bahadur Rai vill. Headman, Somaipam, Lokra.
6. , , Kxi Krishna Bahadur Chetry, President Assam Rifle, Ex-
Serviceman, Assam, Lokra.
7. Sri Pradip Das, ED Packer ~~dt. 30.4.88.~~ Lokra.
8. , , Arabinda Das, ED Messenger, Lokra.
9. , , Homnath Upadhaya, Postman, Lokra.
10. , , Kxi Mohan Ch. Hazarika, O/S Cash, Tezpur.
11. , , Jitendranath Sarma, then ABM, Sub Account, Tezpur now
retired.

NB
(N. Bhattacharjee)
Supdt. of Post Offices
Darrang Dn, Tezpur-784001

.....

Daily order Sheet for Dis Preliminary Hearing

Disciplinary proceedings against Sri Khagendra Kr. Bordalai,
the then SpP.M. Lokra S.O. now P.A./ Jamugurihat S.O. vide
SPo/TZ memo no FB-1(A)/88-89/2 dtd 17-8-93
Present:-

1. Md. Kutebuddin Ahmed, Presenting Officer, & SD.1 (P) / Tezpur
2. Sri Khagendra Kumar Bordalai, P.A. / Jamugurihat S.O. the then
3. S.P.M. / Lokra S.O.

The charged official has received the Charge Sheet. He pleads not guilty.

2. The presenting officer is directed to offer inspection of the documents listed in Annexure-III to the charge sheet, to the charged officials (with his defence assistants, if any) in his office at 10.00 A.M. on 11-10-93 and on the subsequent day, if necessary. He also should supply to the charged officials the copies of the earlier statement, if any made by the witnesses during the preliminary inquiry.

3. The charged official should thereafter by 18-10-93 submit a list of additional documents he wishes to inspect and a list of witnesses he would like to examine, in his defence. Full particulars of the documents showing the custody and relevance to the charges must be furnished. In the case of witnesses the complete postal addresses, the name of and designation of their controlling authorities, if they are in public employment and their relevance to the charges has to be furnished.

4. The charged official should also intimate the name, designation and address of the employee, if any who will be assisting him during the inquiry. In case he has been allowed the assistance of a legal practitioner by the disciplinary authority, the name and address of such legal practitioner should be intimated together with a copy of the letter of permission.

5. The next date of hearing will be intimated in due course.

Date: 11/10/93
Presenting officer

Date: 11/10/93
Charged employee

Date: 11/10/93
Inquiry officer
नरेश्वरी बरपेटा / मुख्य कावाड
नरेश्वरी बरपेटा / कामरुल
नरेश्वरी 781338
Asst. Supt. of Post (H.O.)
Nalbari Bargaon D.O.
N. B. - 781338

Certified to be true
S. B. Choudhary,
Advocate
14/11/02

DEPARTMENT OF POST: INDIA
OFFICE OF THE SUPDT OF POST OFFICES: DARRANG DIVISION
TEZPUR:-784001.

Memo No:-F6-1(A)/88-89/2

Dated at Tezpur the 29-12-95.

In this office memo of even no dtd 7-6-93, it was proposed to take action against Sri Khagendra Kr Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO under Rule-14 of CCS (CCA) Rules, 1965 on the basis of the articles of charge enclosed therein. Said Sri Bardalai was given an opportunity to make such representation as he may wish against the proposal within 10(ten) days of receipt of the said memo. The articles of charge framed against him is as under:-

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SRI KHAGENDRA KR BARDALAI::SPM: LOKRA. NOW PA: JAMUGURIHAT SO.

Article-i :- That the said Sri Khagendra Kr Bardalai while functioning as SPM, Lokra during the period from 5-9-84 to 28-4-88 requested the Postmaster, Tezpur HO vide his letters dtd 19-4-88 and 21-4-88 to remit cash for Rs 40,000/-(forty thousand) only by showing fictitious liabilities. Said Sri Khagendra Kr Bardalai also didnot place the requisition in the respective daily accounts as required under Rule-31(1)(2) of Postal Manual Vol-vi Part-iii. Thus Sri Khagendra Kr Bardalai is found responsible for the violation of Rule-31(1)(2) of Postal Manual VOL-vi Part-iii.

Article-ii:- That during the aforesaid period and while functioning in the aforesaid office said Sri Khagendra Kr Bardalai kept shortage of cash for Rs 44,140.09 (Forty four thousand one hundred forty & paise nine) only in the cash balance of Lokra SO dtd 28-4-88, which was detected by the SPOs, Tezpur during his visit to the PO on 29-4-88. However, said Sri Khagendra Kr Bardalai credited the shortage amount of cash for Rs 44,140.09 only to Govt. account as UCR on different dates subsequently.

Thus the said Sri Khagendra Kr Bardalai is found responsible for the violation of the provisions of Rule-84(A) of Postal Manual Vol.vi Part-iii and also Rule-3(1)(ii)(iii) of CCS (Conduct) Rules, 1964.

Said Sri K.K. Bardalai received the above memo on 9-6-93 and he submitted his written statement of defence on 16-6-93 which was received at this office on 18-6-93 which runs as under.

I have the honour to state that I have received your above memo enclosing the memo of charges against the occurrence of 27th, 28th of April, 1988. The similar memo of the same charges was also received by me in the month of April/1988, I submitted the defence statement, I was personally heard, quassi-judicial Inquiry was completed but no punishment what so ever was imposed on me obviously due to fact that I could not prove my innocence in the oral Inquiry. This case was tried in the Court of Law of course, the criminal aspect, but there also I had to appear before the trying court of Law in different dates for trial against the criminal charges framed by the state. But after careful examination of the whole case, I was found not guilty of the charges by the Learned Magistrate and was acquitted by the court of Law. This was the aspect however of the criminal side but of the same and the same case only.

But now it is very regretful affair to note that I have again been charge sheeted after every operation is over even though there is no loss to the Govt. at all and this is also initiated again after more than 5 years of time with the instrument of the provisions of DG's letter No 114/324/78-DISC-11 dtd 5-7-1979. Respected Sir, can you favour me with a copy of the said letter as practically no clerical staff do not get a touch of such instrumental sensitive letters.

contd at Page-2.

Certified to be true
S.B. Choudhary,
Advocate
14/11/02

-25- JHYK-E
17 41

(2)

However, Sir, I humbly submit my defence of each para of the charges against me as levelled now.

CHARGE 1 :- The failure to note in the daily account of the liabilities may be an omission on my part due to heavy pressure of work in the office but the liabilities were not fictitious. The exact facts and figures as on now after a lapse of 5 years can not be cited or stated by me in absence of records. But the Head Post Office after consideration and satisfaction of the liabilities sent the cash to my office through the s/s cash. It is a well established fact and procedure of the department that the Head Post Office after observing all formalities and after being fully satisfied of the liabilities sent the cash of Rs 40,000/- particularly when it was a heavy amount of cash. It is therefore not a fact that I attempted to get cash from Tezpur HPO in an irregular or fraudulent manner but requisitioned for cash to meet the genuine liabilities and I got the cash to clear up office liabilities only.

CHARGE No 2 :- The shortage of cash was found by the then Supdt of POs, Tezpur in the cash balance of my office on 29-4-88 in my absence. The shortage would be there because on the night of the day when I received the cash, some unknown people overpowered me on the point of revolver and snatched away the key of the office safe and took away the money from the office. The safe though had the double locking arrangements, this was not locked by the clerk which also facilitated the crime. It is not a fact that I gave the money to some one as noted in your charge. I was taken to the office of the Supdt of POs, they started interrogating me along with police officers. They were not ready to hear me or believe me whatever I wanted to say. I had to write what they wanted me to write. The money whether belonging to the Govt. or of personal can not be given to any-body particularly when the amount of money was Rs 44,140.09 paise. Giving such amount of money to somebody on good faith is unnatural and unusual. I, therefore, firmly state that the fact is this that the cash was forcibly taken away from me on the point of revolver. Lokra is a very solitary place isolated from the market area. There was no chowkidar in the office nor there was any staff quarters who would come forward to help me at the time of such an occurrence.

The shortage of cash was made good by me without loss of a single paise of loss to the Govt. I was acquitted in the court of Law for the criminal aspects. I would therefore pray to you to exonerate me from the charges without punishing me after 5 years of the occurrence.

Then an enquiry under Rule-14 of CCS(CCA) Rules, 1965 was ordered to be held vide this office memo of even no dtd 7-6-93. And accordingly Sri Atul Ch Das, ASP(HQ), Nalbari and Md Kutubuddin Ahmed, SDI(P), Tezpur were appointed as Inquiry Authority and Presenting Officer respectively.

The I.A. held preliminary enquiry on 5-10-93 and concluded the enquiry on 12-9-95 and submitted his Inquiry Report under his letter no EC-1/93-94 dtd 22-11-95 which runs as under.

Preliminary hearing of the disciplinary proceeding was held on 5-10-93 at s/o SPOs, Durrang Divn, Tezpur. The charged official Sri K.K. Bardalai pleaded not guilty. Thus Presenting officer Sri Kutubuddin Ahmed was directed to offer inspection of the listed documents to the charged official with his defence Assistant on 11-10-93 at 10 a.m. in his office and on the subsequent day if necessary. The presenting officer was also directed to supply to the charged official the copies of the earlier statement made by the witnesses during the preliminary inquiry. Accordingly the Presenting officer, Sri Kutubuddin Ahmed made the listed documents available to the charged official Sri K.K. Bardalai, the then SPM Lokra SO on 11-10-93 in the office of SDI(P), Tezpur Sub Division, Tezpur. Sri K.K. Bardalai, the charged official certified in writings that he examined all the listed documents on 11-10-93 and satisfied himself.

contd at page-3.

(X (3)

2. On the day of preliminary hearing itself the charged official Sri K.K. Bardalai the then SPM, Lokra SO new PA, Jamugurihat SO was also directed to submit a list of additional documents he wishes to inspect and a list of witnesses he would like to examine in his defence by 18-10-93. Besides, the charged official was also asked to intimate the name and designation and address of the employees, if any who will be assisting him during the inquiry. Accordingly the charged official furnished the list of addl. documents and witnesses to examine in his defence as follows:-

- Addl documents :- 1) DG P&T letter no 114/824/78-Disc-II dtd 5-7-79.
 2) Application of NSC holders to SPM, Lokra dtd 19-4-88 submitted by one Sri S.N. Singh.
 3) The diaries of Sri K. Mastan, SPOs, Barrang Dn. for the month of January and February/91.
- Witnesses :- 1) Sri K. Mastan the then Supdt of POs, Barrang Divn., Tezpur.

The charged official also intimated the name of Sri K. K. Day, Retd, officer of postal deptt. as his defence asstt.

Thereafter the oral inquiry on 10-12-93 and 29-12-93 could not be held as the charged official was not attended the inquiry. On the next that date of xxxxxx inquiry on 19-7-94, the charged official was clarified in support of the SPOs/Tezpur letter no F6-1(A)/88-89/2 dtd 4-11-93 that there was no relevancy of the addl. documents wanted by him to examine in his defence to the charges. Thus question of supply of the said addl. documents in oral inquiry do not arise. The request of the charged official to examine Sri K. Mastan, the then Supdt of POs, Barrang Divn also could not be acceded to as there was no relevancy of the said officer to the charged levelled against the charged official.

Sri K.K. Day, the defence assistant as named by the charged official was served regd. notice in respect of each date to attend the inquiry. But the said Sri K.K. Day did not attend on any date in the inquiry.

3. On the day of inquiry on 19-7-94 all the listed documents of the case were marked exhibits as under :-

- | | |
|---|-------------------------------------|
| 1). SPM/Lokra's letter dtd 19-4-88 | = Ex.-1 |
| 2). SPM's Lokra letter dtd 21-4-88 | = Ex.-2 |
| 3). Lokra's daily a/c dtd 19-4-88, 20-4-88 and 22-4-88 | = Ex.3(a), 3(b), 3(c) respectively. |
| 4). Written statement of Sri K.K. Bardalai dt 28-4-88 | = Ex.-4 |
| 5). Inventory dtd 29-4-88 | = Ex.-5 |
| 6). Written statement of Sri Phanidhar Bardalai | = Ex.-6 |
| 7). " " " " Pradip Das | = Ex.-7 |
| 8). " " " " Aravinda Das | = Ex.-8 |
| 9). " " " " Hemnath Upadhyaya | = Ex.-9 |
| 10). Diary of s/s cash for the period from 20-2-88 to 26-4-88 | = Ex.-10 |
| 11). Credit certificate dtd 25-9-90 | = Ex.-11. |

The charged official admitted that the above exhibits were examined by him on 11-10-93 and these are all genuine.

There is no further exhibits in this case either from prosecution side or from defence side.

4. Out of the listed witnesses the following witnesses were examined in the inquiry.

contd at page-4.

(4)

- 1). Sri Phanidhar Haloi, the then PA, Lokra SO.
- 2). Sri Mahan Ch Hazarika, B/S, Cash, Tezpur.
- 3). Sri G.V. Ananthanarayan, the then SPM, Tezpur.
- 4). Sri Jitendra Nath Sarma, the then AFM (Sub A/C), Tezpur HQ.
- 5). Sri Tarun Ch Kalita, the then SDI(P), Tezpur Sub Dn, Tezpur.

The following witnesses did not appear before the I.O. in spite of repeated notices served to them to attend the inquiry. Besides for their repeated failure to appear before the I.O. the Presenting Officer of the case wanted deletion of the witnesses as their oral evidence is not required to him in the inquiry.

- 1). Sri Binanda Hazarika, SPM, Nagaon Dn.
- 2). Sri Arabinda Das, EO Messenger, Lokra SO.
- 3). Sri Chandra Bahadur Rai, Village Postman.
- 4). Sri Krishna Bahadur Chetry, President, Assam Rifle, Ex. ser-
veman.
- 5). Sri Pradip Das, EO Packer, Lokra SO.
- 6). Sri Hemnath Upadhyaya, Ex postman, Lokra SO.

5. Copies of the daily order sheet as well as of deposition of witnesses were issued to the charged official under acquittance in respect of each date of oral inquiry.

6. After the case for the disciplinary authority was closed, the charged official as asked to submit his defence in writing as desired by him. Accordingly, the charged official Sri K.K. Bardalai submitted his defence statement on 20-7-95 vide Jamugurihat RL No 5359 dtd 21-7-95.

7. There was neither documents nor witnesses on the part of the defence side to produce in the inquiry. The charged official also did not want to examine himself on his behalf.

8. Before the conclusion of oral inquiry and being the I.O. of the case questioned the charged official on the circumstances appearing against the charged official and with this the case of the defence side was also closed on 12-9-95.

9. The presenting officer of the case submitted his written brief endorsing copy to the charged official which was received by me on 18-9-95.

10. The charged official Sri K.K. Bardalai the then SPM, Lokra SO now PA, Jamugurihat SO also submitted written brief in support of his defence and was received by me on 18-10-95.

11. During the inquiry, the charged official was allowed all reasonable opportunity to defend himself.

12. In the article 1 of the charges brought against Sri K.K. Bardalai, it was alleged that Sri Bardalai did not place the requisition for cash Rs 40,000/- to Tezpur HQ in the respective daily a/cs as required under the Rule 31(1)(2) of Postal Man.Vi Part.iii instead the charged official requested the Postmaster, Tezpur HQ vide his letter dtd 19-4-88 and dtd 21-4-88 to remit cash Rs 40000/- by showing fictitious liabilities.

13. a). Exhibit 1- the letter of SPM, Lokra SO dtd 19-4-88 reflect that the charged official wrote to Postmaster, Tezpur HQ in a piece of paper placing requirement of Rs 40,000/- on or before 23-4-88 for NSC discharge. Exhibit-3(a), the SO daily a/c of Lokra SO dtd 19-4-88 does not bear any particulars of liabilities against NSC or other items.

b). Exhibit-2, the SPM, Lokra SO letter dtd 21-4-88 reflects that the charged official requested the Postmaster, Tezpur HQ to supply cash Rs 40,000.00 intimating date fixed on 23-4-88. Exhibit-3(b), the SO daily a/c of Lokra SO dtd 20-4-88 and Exhibit-3(c) the SO daily account dtd 22-4-88 do not bear any particulars of liabilities against NSC.

c). Sri Jitendra Nath Sarma, the witness of the case and the then AFM sub a/c, Tezpur HQ in his depositions before I.O. on 28-3-95 confirmed the genuineness of the Ex.1, Ex.2, Ex.3(a), Ex.3(b), and Ex.3(c) and deposed that there was no remark/note of requisitioning cash on the SO daily a/c i.e. on Ex.1(a), Ex-3(b) and Ex.3(c). The said Sri Sarma witness to the case also stated that he

contd at page-5.

(5)

he got confirmation as to the liabilities in letter in the shape of XPL message from SPM, Lokra SO before remitting the cash to the SO. Another witness to the case Sri G.V. Anantanarayan, the then SPOs, Darrang Dn, Tezpur stated that the Postmasters are to oblige the requisition of cash made in a piece of paper also but it should be followed by note in the respective daily a/c of the SPM which may receive on a later date in HQ. The said witness to the case Sri G.V. Anantanarayan confirmed in reply to question put by the I.O. that noting of remarks of particulars of requisition made to HQ by the SO is must.

(d). Here in this instant case the charged official place requisition of cash in a piece of paper twice but the same was not confirmed by writing on the SO daily account of the dates or of the following day.

(e) The Presenting Officer of the case rightly argued in his written brief that there were no note of liabilities of Rs 40,000.00 in any of the SO daily a/cs dtd 19-4-88, 20-4-88 and 22-4-88 as to the payment of NSC as appearing in Ex.-1 and Ex-2. Apart from this even after receipt of cash the SO called liabilities was not cleared upto 28-4-88 though the date of payment was fixed on 23-4-88 as per Ex.-2 nor the surplus cash as remitted back to Tezpur HQ. Thus the Presenting Officer's argument in support of fictitious liabilities shown by the charged official reflects its merit.

(f). The charged official in his written brief stated that he had no experience to work independantly as a SPM, being a clerk promoted from the postman cadre after being postman from EDDA. The charged official also stated that the liabilities were shown but the same were perhaps not written in proper place in proper way.

The contention of the charged official is not convincing. The plea of having no experience is not at all acceptable and the Ex. 3(a), 3(b) and 3(c) clearly reflect that there were no particulars of liabilities on anyone of these against the NSC payment of Rs 40,000.00.

Besides, in reply to the question put by the I.O. the charged official stated that he forgot to place the requisition in the respective daily a/c in support of liability. Thus the charged official is taking different pleas time to time in support of his defence against article-1 of the charges which are not at all true and convincing.

Discussions above from 12, 13(a) to 13(f) of this report reflect that the article-1 of the charges brought against the said Sri K.K. Bardalai the then SPM, Lokra SO, now PA, Jamugurihat as to the violation of Rule 31(1)(2) of Postal Man. Vol.VI part-iii is fully established.

14. In the Article ii of the charges brought against the charged official it was alleged that the charged official kept shortage of Rs 44,140.09 in cash balance of Lokra SO on 28-4-88 and thus violated Rule 84(A) of Postal Manual VI Part.-iii.

15(a). Exhibit-4 reflects that there was shortage of Rs 44,140.09 when verification was conducted by the then SPOs, Darrang Division, Tezpur on 29-4-88 in presence of several independent witnesses. Exhibit-4 was confirmed to be genuine by the charged official as well as by the witnesses.

(b). Exhibit-4 also reflects that the charged official gave away Rs 45,000.00 from office cash on good faith to one Sri Haron Das. Thus shortage in cash balance of dated 28-4-88 has been admitted by the charged official.

(c). Sri G.V. Ananthanarayan, the then SPOs, Darrang Division, Tezpur, the witness of the case in his deposition confirmed the shortage of Rs 44,140.09 detected by him in cash balance of Lokra SO dtd. 28-4-88.

(d). Another witness to the case ~~xxxxxx~~ Sri Tarun Ch Kalita, the then SBI(P), Tezpur Sub Dn also confirmed in his deposition ~~xxxxxx~~ in the inquiry that there was shortage of Rs 44,140.09 in the cash balance of Lokra SO dtd. 28-4-88.

(e). Another witness to the case and the then PA of the Lokra SO, Sri Phanidhar Haldai also confirmed in his deposition before the I.O. that there was shortage of Rs 44,140.09 in the cash balance of Lokra SO dtd. 28.4.88.

(6)

f). Besides the charged official during the inquiry in reply to question put by I.O. on 12-9-95 clearly stated that he admits the total shortage of Rs 44,140.09 in cash balance.

g). Apart from above the charged official has not denied in his written brief dated 10-10-95 that there was shortage in cash.

In view of above discussion in para 14, 15(a) to 15(g) it is evident that the Article-ii of the charges brought against the charged official Sri K.K. Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO SO is fully established.

In the written brief the said Sri K.K. Bardalai, the then SPM, Lokra SO the charged official has contended that the deposition of Sri Phanidhar Halei is not at all acceptable to him because of 8 years gap in between the occurrence of the case and the date of his deposition, Sri K.K. Bardalai contended that the said Halei can not remember after 8 years as to what was written or shown in Daily account of dated 22-4-88 and 19-4-88. Contention of the said charged official is not at all correct. The SO daily a/c dated 22-4-88, 20-4-88 and 19-4-88 are the exhibits of the case and these have been admitted by the charged official as genuine. The daily a/c clearly agree to the facts deposed by the said witness Sri Phanidhar Halei. Thus the facts deposed by Sri Halei can not be challenged. Besides, Man may lie but documents cannot.

In view of the above facts and reasonings based on documents as well as an oral evidences it is established that both the articles of charge brought against Sri K.K. Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO are fully proved beyond doubt.

I have gone through the inquiry report of the I.O. and I also agree with the I.O. that all the ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXX~~ articles of charge brought against Sri K.K. Bardalai have been proved beyond doubt.

On the basis of the documentary and oral evidence adduced in the case, all the charges from Article-i to Article-ii against the official stands proved beyond reasonable doubt. But considering the length of service rendered by the official and with the hope of future rectification, I took a most lenient view of the case and award the following punishment to meet the end of justice.

ORDER

I, Sri B.K. Marak, Superintendent of Post Offices, Darrang Division, Tezpur:784001, hereby order that the pay of Sri Khagendra Kumar Bardalai, the then S.P.M., Lokra S.O., now Postal Assistant Jamugurihat S.O. be reduced by 2(Two) stages from Rs.1540/- to Rs.1480/- only in the scale of pay 975-25-1150-EB-30-1660 for a period of 2(two) years without cumulative effect.

(B.K. Marak),
Superintendent of Post offices
Darrang Division, Tezpur:784001

Copy to:-

- Recd. A/D. 1. Sri Khagendra Kumar Bardalai, P/A, Jamugurihat S.O.
2. The Postmaster, Tezpur HQ for information and necessary action.
3. The Postmaster General (Via.), Assam Circle, Guwahati:1.
4. Punishment Register.
5. C.R. File of the official.
6. P.F. of the official.
7. O.C.
8. Spare.

(B.K. Marak),
Superintendent of Post Offices
Darrang Division, Tezpur-784001

- 30 -

- 28 -
Annexure - F 46

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE SUPDT OF POST OFFICES: DARRANG DIVISION: TEZPUR

Mem No. F6-1(A)/88-89

Dated at Tezpur the 6.6.89

O R D E R

Whereas an inquiry under Rule 14 of CCS(CC&A) Rules, 1965 is being held against Shri Khagendra Kr. Bardoloi, the then offg. SPM Lokra now offg. PA Tezpur H.O.

And whereas the undersigned in exercise of the powers conferred by Sub Rule (2) of the said Rule, hereby appoints Shri B.K.Dam, ASPOs(DD), Darrang Division, Tezpur as Inquiring Authority to inquire into the charges framed against Shri Khagendra Kr. Bardoloi.

sd/-
(K. Mastan)
Supdt. of Post Offices
Darrang Division, Tezpur

Copy to :-

- U/R. 1) Shri B.K.Dam, Asstt. Supdt. of POs(DD), Darrang Divn, Tezpur.
A copy of the articles of charges is enclosed. He will please complete the inquiry within 75 days and submit his report.
- 2) Shri Khagendra Kr. Bardoloi, PA Tezpur H.O.
- 3) Shri J.Biswas, C.I. Tezpur.
- 4) O/C.

sd/-
Supdt. of Post Offices
Darrang Division, Tezpur.

*Certified to be true -
S.B. Choudhary,
Advocate
14/11/02*

RECEIVED

Annexure - G

Govt. of India.
Department of Posts.

No. PC-1/93-94.

Dated at Halbari the 17-9-93.

To, ✓
Sri Khagendra Kr. Bardelei.
P/A Jamugurihat S.O.
Dist. Sonitpur (Assam).

Sub:- Departmental Inquiry into the charges framed against
Sri Khagendra Kr. Bardelei the then SPH/Lekhra S.O.

Sir,

I have been appointed as Inquiring Authority to conduct inquiry in the case above cited, vide order No. P6-1(A)/88-89 dtd. 17.8.93 issued by Supdt. of Post Offices, Darrang Division Tezpur, a copy of which has been endorsed to you.

2. Accordingly, a preliminary hearing of the case will be held by me on 5.10.93 at 1200 Hrs. in the office of the Supdt. of Post Offices, Darrang Divn. Tezpur. You should present yourself along with your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case you fail to appear at the appointed date and time, proceeding will be taken ex-parte.

3. Receipt of this notice may please be acknowledged.

Yours faithfully.

(Sri A.C. Das)
Inquiring Authority.

Asstt. Supdt. of Post Offices,
(HQ) O/O the Supdt. of P.Os,
Halbari Barpeta Dn.
Halbari-781335.

Copy to:-

- 1) Mr. Kutubuddin Ahmed, S.D.I. (P) / Tezpur (Presenting Officer). He is also requested to attend the preliminary hearing at appointed date and time along with all listed documents in original.
- 2) The Supdt. of Post Offices, Darrang Division, Tezpur to taking necessary action for timely relief of the officials and to arrange sitting accommodation for inquiry.

Sd/-
Inquiring Authority.

&
Asstt. Supdt. of Post Offices,
(HQ) O/O the Supdt. of P.Os,
Halbari Barpeta Dn.
Halbari-781335.

Certified to be true.
S. B. Chandley,
Advocate,
14/11/02

Regd A/D

Annexure 4

The Chief Post Master General (Vig),
Assam Circle,
Guwahati.

Through the Superintendent of Post Offices,
Darrang Division, Tezpur - 784001.

Subject :- An appeal against the Order vide Memo NO.
F6-1(A)/88-89/2 dated 29.12.95 for reduction
of pay by 2 (Two) Stages from Rs.1540/- to
Rs.1480/- in the scale of pay 975-25-1150-
EB-30-1660 for a period of 2 (Two) years
without cumulative effect, by the Superin-
tendent of Post Offices, Darrang Division,
Tezpur.

Dated Tezpur, the 7th March'1996.

Sir,

The humble appellant begs to state as
follows :-

1. That the charges levelled against the
appellant, Shri Khagendra Kumar Bordoloi, then Sub-
Post Master, Sub-Post Office, Lokra and now Postal
Assistant, Jamugurihat Sub Post Office vide memo NO.
F6-1(A)/88-89 dated 7.4.89 by the Superintendent of
Post Offices, Darrang Division, Tezpur, of keeping
shortage of cash for Rs.44,140.00 (Rupees forty four
thousand one hundred forty) and paise nine) only in the
cash balance of Lokra, Sub Post Office during the
period from 5.9.84 to 28.4.88 while functioning in the
aforesaid Office, was cancelled agreeable to Government
of India's instructions NO. (9) Rule 15 of Central
Civil Services (CCA) Rules, 1965 as contained in DG P&T's
letter NO.114/324/78-DISC-11 dated 5.7.79 ; on 4.6.93
after completion of the department proceeding in the
year 1990.

Copy of the cancellation Order
dated 4.6.93 is annexed herewith
as Annexure - "A".

Contd.

Certified to be true.
S. B. Choudhury,
Advocate,
14/11/02

NOT INSURED
Amount of Stamps affixed Rs. P.
Received a Registered
Addressed to

Signature of Receiving Officer

2. That subsequently, the authority after disposal of the departmental proceeding again held an enquiry and served a show cause notice to the appellant on the same charges/on similar grounds vide memo NO.F6-1(A)/88-89/2 dated 7.6.93.

Copy to the memorandum alongwith enclosures dt.7.6.93 is annexed herewith as Annexure - B

3. That the authority had already realised the loss fund amounting Rs.44,140.09 (Rupees Fourty four thousand one hundred forty ~~and~~ and paise nine) only from the salary and GPF of the said appellant on different dates before the subsequent show-causes notice was served upon the appellant.

4. That the authority even then lodged an FIR vide G.R. Case NO.702/88 u/s.409 I.P.C. with the Tezpur Police Station in which the appellant was prosecuted in the Court of the Chief Judicial Magistrate (Tezpur), Sonitpur on the same ground cause of action as stated in the show cause notice dtd.7.6.93 and eventually appellant was acquitted in the said G.R. Case by Judgment dated 30.1.93.

Copy of the Judgment dated 30.1.93 is annexed herewith Annexure C

5. That again an Inquiry under Rule 14 of the Central Civil Services (CCA) Rules, 1965 was held at Guwahati ^{in situ} insense of Lokra where cause of action arises against the appellant vide memo NO.F6-1(A)/88-89/2 dated 17.8.93.

Copy of the Inquiry Order dt. 17.8.93 is annexed herewith as Annexure D.

Contd.

(3)

6. That the appellant states that the whole enquiry proceeding was completed illegally, as the procedure for holding such enquiry had not been followed. The whole enquiry report was not furnished to the appellant for submissions of proper statement of defence in same cause of action for the second time.

7. That the appellant states that in the enquiry in Inquiring Officer took the evidence of the prosecution witnesses, acting to be Presiding Officer and the appellant was neither informed about his right to cross-examine the witnesses nor he was allowed to cross-examine all of them. The Inquiry Officer also did not inform the appellant about his right to adduce the defence witnesses, if any, But the appellant produced his defence witnesses who were not examined by the authority.

8. That the punishment inflicted upon the appellant on the basis of the findings of the Inquiry Officer by the Superintendent of Post Offices on the charges of misconduct or misbehaviour is illegal, void and awarded arbitrarily.

Copy of the Order dt. 29.12.95
is annexed herewith as Annexure E

9. That the appellant states that the authority at the time of passing the impugned Order dated 29.12.95, failed to take into consideration the written statement filed by him and other events related to the matter and hence, such Order is bad in law and liable to be set aside.

Contd.

(4)

It is, therefore, prayed that your Honour would be pleased to admit this appeal, call for the records and after perusal of the records be pleased to set aside the impugned order dt. 29.12.95, of reduction of pay by 2 (two) stages from Rs.1540/- to Rs.1480/- in the scale pay 975-25-1150-EB-30-1660 for a period of 2 (Two) years without cumulative effect, passed by the Superintendent of Post Offices, Darrang Division, Tezpur and pass such Order(s) or direction(s) to ^{refund} ~~refuse~~ the disputed amount reduced from the salary and GPF of the appellant since 29.12.95.

Yours faithfully,



(Shri Khagendra Kr Bordoloi)
then Sub Postmaster, Lokra S.O
and now Postal Assistant,
Jamugurihat S.O. (since removed)
Village Jamugurihat,
P.O. Jamugurihat, Tezpur
District. Sonitpur, Assam.

Dated Tezpur,
The 11th March '96.

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Annexure - I *SN*

THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::::::: GUWAHATI

O.A.No.181/96.

K.K.Bordoloi

...
Versus
...

Applicant

Union of India & Ors.

Respondents.

- P R E S E N T -

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(A)

For the Applicant : Mr.D.C.Kath Hazarika,
Mr.S.B.Choudhury, Advocates.

For the Respondents: Mr.A.K.Choudhury,
Addl.C.G.S.C.

10-9-96 Learned counsel Mr.D.C.Kath
Hazarika for the applicant. Addl.
C.G.S.C. Mr.A.K.Choudhury for the
respondents.

In this application under
Section 19 of the Central Admini-
strative Tribunals Act 1985, the
applicant has prayed for setting
aside and quashing of the impugned
order conveyed by Memo No.F6-1(A)/
88-89/2 dated Tezpur the 29-12-95
by which the applicant was imposed
punishment of reduction by 2 stages
from Rs.1540/- to Rs.1480/- in the
scale of pay 975-25-1150-EB-30-1660
for a period of 2(two) years without
cumulative effect. Consequent to
this punishment the applicant submit-
ted an appeal dated 11-3-96 addre-
ssed to the Chief Post Master Gene-
ral(vig), Assam Circle, Guwahati.

contd/-



*Certified to be true.
S.B.Choudhury,
Advocate
14/11/02*

-2-

O.A.181/96

10-9-96 During the course of hearing for Admission it is gathered that this appeal is pending disposal before the Chief Post Master General, Assam Circle till date. It is considered that this application needs not be admitted at this stage. This application is disposed of with a direction to the respondent No.2, Chief Post Master General, Assam Circle, Guwahati to dispose of the appeal dated 11-3-96 within three months from to-day. The respondent No.2 while disposing of the Appeal shall give the applicant personal hearing and the applicant is at liberty to submit all the contentions he has made in this O.A. before the appellate authority.

The application is disposed of as above and the applicant may approach this Tribunal again if he is aggrieved with the appellate order.

Copy of the order be furnished to the counsel of both sides.

Sd/- MEMBER(A)

Memor. No. 3096

Dated 16/9/96

Copy for information and necessary action to :

1. Sri Khagendra Kumar Bordoloi, Postal Assistant, Jamugurihat, S.O., Village- Jamugurihat, P.O. Jamugurihat, Dist. Sonitpur(Assam),
2. The Secretary to the Govt. of India, Ministry of Communication, New Delhi.
3. The Chief Post Master General, Assam Circle, Guwahati -1.
4. The Superintendent of Post Offices, Darrang Division, Tezpur, H.O.-784001, Assam.
5. Mr. D.C. Kath Hazarika, Advocate, Gauhati High Court.
6. Mr. A.K. Choudhury, Addl. C.G.S.C., CAT, Guwahati Bench.

SECTION OFFICER(J)

11/9/96

Annexure - J

**DEPARTMENT OF POSTS ; INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, DIBRUGARH
DIVISION, DIBRUGARH-786001.**

Memo No.F2-3/Misc/99-00

Dated at Dibrugarh, the 28th January, 2000.

Superintendent of Post Offices, Darrang Division, Tezpur vide his memo No.F6-1(A)/88-89 dated 11.8.97 informed Shri Khagendra Kumar Bordoloi that it was proposed to hold an inquiry against him under Rule 14 of CCS(CCA) Rules, 1965. The substance of the imputation of misconduct or misbehaviour in respect of which the enquiry was proposed to be held was set in a statement of Article of charges and enclosed with the above memo. The following statements were also enclosed with the memo :

1. A statement of the imputation of misconduct or misbehaviour in support of each article of charge.
2. A list of documents by which the above charges were proposed to be sustained.
3. A list of witnesses by which the above charge were proposed to be sustained.

Shri Bordoloi was further directed to submit within 10-days of the receipt of the memo, a written statement of his and also to state whether he desires to be heard in person.

Shri Bordoloi submitted his written statement vide his letter dated 22.08.97 addressed to the Superintendent of Post Offices, Darrang Division, Tezpur with a prayer to exonerate from the charges. It was then decided to hold regular inquiry into the case and as such Inquiry Officer was appointed. Shri S.Roy, Asstt. Supdt. of Post Offices(H/Q), Tezpur was appointed as Inquiry Authority vide Superintendent of Post Offices, Tezpur memo no.F6-1(A)/88-89 dtd.16.9.97. Shri Roy completed the inquiry and submitted his inquiry report to the Superintendent of Post Offices, Darrang Division, Tezpur vide his no.A1/KKB/97 dtd.4.1.99. A copy of the above inquiry report was given to Shri K.K.Bordoloi giving him an opportunity to submit a representation if any. Shri Bordoloi submitted his representation vide his letter dated nil which was received by the Superintendent of Post Offices, Tezpur on 14.2.99.

Shri B.Hazarika, the present Superintendent of Post Office, Darrang Division, Tezpur who is the appointing authority in respect of the official holding the posts held by Shri K.K.Bordoloi and also the prescribed Disciplinary Authority was a material witness and will not be in a position to exercise the powers of the Disciplinary Authority competent to impose the penalties (v) to (ix) mentioned in Rule 11 of CCS(CCA) Rules, 1965. Thus the appropriate authority was requested to appoint ad-hoc disciplinary authority. Directorate vide its memo no.4-13-99-VP dated 21.6.99 communicated the order of the President to empower the Superintendent of Post Offices, Dibrugarh Division, Dibrugarh to function as the disciplinary authority.

*Certified to be true
S. B. Chandley,
Advocate
14/11/02*

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with the power to impose all the penalties specified in Rule 11 *ibid*. A copy of this memo was given to Shri K.K.Bordoloi.

I, the undersigned and the Disciplinary Authority have gone through all the relevant documents very carefully. I have also considered the case very carefully. Two Articles of charges were framed against Shri Bordoloi. They are:

Article-1

That the said Shri K.K.Bordoloi while working as officiating SPM, Lokra for the period from 5.9.84 to 28.4.88 requested the Postmaster, Tezpur vide his letter dated 19.4.88 and 21.4.88 to remit cash for Rs.40,000/- only by showing fictitious liabilities. The said Shri K.K.Bordoloi also did not place the requisition in the respective daily A/cs. as required under Rule 31(1)(2) of Postal Manual Vol.VI part III. Thus Shri K.K.Bordoloi is found responsible for the violation of Rule 31(1)(ii), 3(1)(iii) of CCS(Conduct) Rules, 1964.

Article-II

During the aforesaid period and while working in the aforesaid office, said Shri K.K.Bordoloi report personally to the Superintendent of Post Offices, Tezpur in his Chamber on 28.4.88 that a sum of Rs.45,000/- (Rupees fortyfive thousand) only was short in the cash balance of Lokro S.O. which he had handed over to some body on good faith. The Superintendent of Post Offices, Tezpur verified the cash balance of Lokro physically on 29.04.88 and found total shortage of Rs.44,140.09 (Rupees fortyfour thousand one hundred forty and paise nine) only which was charged as UCP in the account of Lokro on 29.04.88.

However, this shortage amount of Rs.44,140.09 only had been credited subsequently by said Shri K.K.Bordoloi as UCR in Govt. account on different dates voluntarily.

Thus by keeping shortage of cash for Rs.44,140.09 only in the cash balance of the office dated 28.04.88 Shri K.K.Bordoloi is found responsible for the violation of Rule 84 and 85 of Postal Manual Vol.VI part III and also Rule 3(1)(ii)(iii) of CCS(Conduct) Rules, 1964.

The fact of the case was not disputed.

The following exhibits were produced before the Inquiring Authority in support of the charge -

1. SPM/Lokra's letter No.19.04.88, 21.04.88.
 2. Lokra D/A dtd.19.04.88, 20.04.88 and 22.04.88.
 3. W/S dated 28.04.88 of Shri K.K.Bordoloi.
 4. Inventory dated 29.04.88.
 5. W/S of Phanidhar Haloi dated 30.04.88.
 6. W/S of Pradip Das dated 30.04.88.
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Shri K.K. Bordoloi, Tezpur dated 28.04.88.

Shri Hiren Das dated 30.04.88.

7. W/S of Arabinda Das dtd.30.04.88.

8. W/S of Hom Nath Upadhyay.

9. Diary of O/S cash, Tezpur for 20.02.88 to 26.04.88.

10. Credit certificate dated 25.09.90 of Postmaster, Tezpur.

During the enquiry and on the basis of the records, documents oral and written deposition, arguments and discussions and on the basis of statement dated 28.04.88 of Shri K.K. Bordoloi, it has been established that Shri Bordoloi requested the Postmaster, Tezpur H.P.O. on 19.04.88 and 21.04.88 for remittance of cash for Rs.40,000/- only by showing fictitious liabilities and kept shortage of cash for Rs.44,140.90 only in the cash balance of Lokra S.O. dated 28.04.88.

Shri Bordoloi in Article I has been charged with the following misconduct :

1. He requested the Postmaster, Tezpur H.P.O. vide his letter dated 19.04.88 and 21.04.88 to remit cash for Rs.40,000/- only by showing fictitious liabilities.

2. He did not place the requisition in the respective daily accounts as required under Rule 31(1)(2) of Postal Manual Vol. VI part III.

From the enquiry report and examination of the documents produced before the Inquiring Authority Ex-1(a) and 1(b) and Ex.No.2(a) and 2(b) it is established that the SPS Shri Bordoloi requested the Postmaster, Tezpur for remitting a sum of Rs.40,000/- through letters written on the pieces of paper on 19.04.88 and 21.04.88. Shri Bordoloi did not show any liability of his office in details. Further on the examination of the daily accounts of Lokra S.O. dated 19.04.88 [Ex-2(a)], 20.04.88 [Ex-2(b)] and 23.04.88 [Ex-2(c)] it is established that, the said Shri Bordoloi did not place the requisition in the respective daily accounts.

Shri Bordoloi in Article II has been charged with the following misconduct :

1. He kept shortage of cash for Rs.44,140.90 only in the cash balance of Lokra S.O. dtd.28.04.88 which was detected by the Superintendent of Post Offices, Tezpur during his visit to the Post Office on 29.04.88.

From the enquiry report and examination of the exhibits it is established that, there was a shortage of Rs.44,140.09 only in the cash balance of Lokra S.O. dated 28.04.88. It is established, from the inventory prepared during the visit of the Superintendent of Post Offices, Tezpur on 29.04.88 that the closing balance of the S.O. on 28.04.88 as per record should be Rs.47,367.42. But physically the amount of cash balance found as Rs.3,237.33 only. In his written statement dated 28.04.88, Shri K.K. Bordoloi has clearly stated that on 26.04.88 he gave a sum of Rs.45,000/- from the Govt. cash to one Shri Hiren Das of Lokra on good faith but not returned.

The written brief of the SPS has also been considered which is nothing but after thought. In his brief he stated that liabilities were shown in the daily account dated 23.04.88, 25.04.88 and 26.04.88. But he requested the Postmaster, Tezpur to remit the cash on or before 23.04.88 and the cash was remitted to him on 23.04.88 through the O/S (Cash), Tezpur. Thus writing the liabilities in the daily account dated 23.04.88/25.04.88 and 26.04.88 bears no meaning in connection with the remittance of Rs.40,000/- of 23.04.88.

Regarding the allegation in article II, the contents of the brief of the SPS, not acceptable for the reason widely discussed above.

Thus the charges framed in the article I and II of the Superintendent of Post Offices, Tezpur memo no.F6-1(A)/88-89 dated 11.8.97 against Shri K.K.Bordoloi stand proved.

In view of the above, I the undersigned and the designated Disciplinary Authority hereby award the following punishment.

That the pay of Shri K.K.Bordoloi now PA, Charali S.O. and the then SPM, Lokra S.O. may be reduced by five stages from Rs.5,100/- to 4,600/- in the scale of pay Rs.4,000/- - 100 - 6,000/- for the five years with effect from 1.3.2000. It is further ordered that he will not earn any increment of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his future increments of pay.

50/ - (A. B. Seal)
Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh-786001.

Copy to :

REGISTERED

of the official.

1. Shri K.K.Bordoloi, PA, Charali, Dist.Sonitpur.
2. The Postmaster, Tezpur-784001.
- 3-5. The Superintendent of Post Offices, Tezpur for P/F and C/R
- 6-7. Spares.


Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh-786001.

**DEPARTMENT OF POSTS-INDIA
OFFICE OF THE POSTMASTER GENERAL : DIBRUGARH REGION
DIBRUGARH.**

**Memo No. Staff/2/24-31/00/RP
Dated the 29th August 2002**

Appellate Order

- 1.(i) Appellant** : Shri Khagendra Kr. Bordoloi, the then SPM, Lokra S.O. now P.A. Mangaldoi H.O. under Darrang Division.
- (ii) The Appeal** : Appeal dated 2-3-2000.
- (iii) Order appealed** : Punishment of reduction of pay by 5(five) stages from Rs. 5100/- to Rs.4,600/- in the scale of pay Rs. 4000/- 100-6000/- for 5(five) years w.e.f.01-03-2000 and the official will not earn any increment of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his future increments of pay vide SPOs /Dibrugarh memo No. F2-3/Misc/99-00 dated 28-01-2000.
- (iv) Normal Disc. Authority.** : Supdt.of post offices,Darang Dn.,Tezpur.
- (v) Adhoc Disc. Authority** : Supdt.of Post offices ,Dibrugarh Division,Dibrugarh.
- (vi)Appellate Authority :** : DirectorPostal Services, Dibrugarh Region, Dibrugarh.

2.The cause of appeal.:

2.1. A charge sheet under Rule 14 of CCS(CCA) Rules , 1965 containing the following charges were issued against the appellant vide memo no. F6-1(A)/88-89 dated 11-08-97 by the Supdt of Post Offices,Darrang Division,Tezpur.

- (i) The appellant while working as offg. SPM ,Lokra S.O. for the period from 05-09-84 to 28-04-88 requested the Postmaster Tezpur H.O. vide his letter dated 19-04-88

*Certified to be true.
S.B. Choudhury,
Advocate
14/11/02.*

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and 21-04-88 to remit cash for Rs. 40,000/-(forty thousand)only by showing fictitious liabilities .The said Shri K.K. Bordoloi also did not place the requisition in the respective daily accounts as required under Rule 31(1) (2) of Postal Manual vol.VI Pt.III.

- (ii) During the aforesaid period while functioning in Lokra S.O. the appellant kept shortage of cash for Rs. 44,140.09(Rupees forty four thousand one hundred forty and paise nine)only in the cash balance of Lokra S.O. dated 28-04-88 which was detected by the SPOS Tezpur on 29-04-88. However, the appellant Shri K.K. Bordoloi credited the shortage amount of cash for Rs. 44,140.09 only to Govt. account as UCR on different dates subsequently.

2.2. The appellant submitted his defence against the charges of Disciplinary Authority.

- (i) The appellant stated that he received charge sheet again against the occurrence on 28th April/1988 . A similar memo of same charges was also received by him in the April/89 and June/93 and punishment order dated 29-12-95 was set aside by the DPS Guwahati.
- (ii) The appellant stated that failure to note in daily account of liabilities may be an omission on his part due to heavy pressure of work in the office but the liabilities were not fictitious .The exact facts and figures after a lapse of 10 years absence can not be cited or stated by him In absence of records. But the Head post office after due consideration and satisfaction of the liabilities sent the cash of Rs. 40,000/- to his office.
- (iii) The appellant stated that the shortage of cash was found by the then Supdt of Post offices ,Darrang Division,Tezpur in cash balance of his office on 29-04-88 in his absence .The shortage was there because on the night of the day when he received the cash some unknown people over powered him on the point of revolver and snatched away the key of the office safe and took away the money from the office.The safe though had the double locking arrangement this was not locked by the clerk which also facilitated the crime .The appellant also stated that it is not a fact that he gave the money to some one as noted in charge sheet .He first informed the O/C Charidua P.S.over phone but police failed to come and then he attended SPOs Tezpur.They started interrogating him and they were not ready to hear him or believe whatever he wanted to say. The appellant stated that he had to write that they wanted to him to write along with Police officer.

2.3. In his appeal dated 02-03-2000 the appellant submitted the following:-

- (i) The charges against the appellant vide SPOs Tezpur Memo No. F6-1(A)/88-89 dated 17-04-89, was cancelled after completion of departmental inquiry in the year 1990.
- (ii) Subsequently the Disciplinary Authority again issue charge sheet to the appellant vide Memo No. F6-1(A)/88-89/2 dated 07-06-93
- (iii) The authority had already realised the loss fund amounting to Rs. 44140.09 only from the salary and GPF of the appellant on different dates before subsequent show cause notice was served upon him
- (iv) The authority even then lodged an FIR vide GR case No. 702/8 U/S 409 IPC with Tezpur Police station in which the appellant was prosecuted in the court of the Chief Judicial Magistrate, Tezpur on the same ground and eventually acquitted in the said GR case by the judgement dated 30-01-93.
- (v) The appellant stated that after completion of the second inquiry the Disciplinary Authority awarded punishment of reduction of 2 stages of pay from Rs. 1540/- to 1480/- in the scale of pay Rs. 975-22-1150-EB -30-1660 for a period of 2 years without cumulative effect vide order dated 29-12-95 which was set aside by the DPS, Guwahati the Appellate Authority vide his order no. Staff/17-2/97/TZ dated 09-05-97.
- (vi) The appellant stated that the authority (SPOs Dibrugarh) at the time of passing the punishment order dated 28-01-2000 failed to take into consideration the written statement filed by him and other event related to the matter.
- (vii) The appellant prayed for setting aside the punishment order dated 28-01-2000 and pass such order or direction for refunding of disputed amount.

3. OBSERVATION.

I have gone through the appeal and other related documents of the case very carefully and my observations are as follows:-

- (i) Due to missing of I.O's report from the office record the charge sheet dated 07-04-89 was cancelled vide SPOs/Tezpur memo No. F6-1(A)/88/89 dated 04-06-93.

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61
- (ii) Issue of fresh charge sheet under Rule 14 of CCS(CCA) Rules 1965 vide memo No. F6-1(A)/88-89/2 dated 07-06-93 was justified.
 - (iii) Loss occurred to the department due to non-observance of departmental rules is a gross negligence of duty on the part of the appellant.
 - (iv) When the misappropriation of Govt. money came to light the matter was duly reported to the Tezpur Police station and a criminal case was registered against the appellant. Subsequently the court acquitted the appellant from the criminal case.
 - (v) The appellant submitted an appeal to the DPS Guwahati against the punishment order of SPOs Tezpur vide memo No. F6-1(A)/88-89/2 dated 29-12-95. DPS, Guwahati set aside the punishment order dated 29-12-95 as the prescribed procedure was not followed by the Disciplinary Authority and it was further ordered that this would not debar the competent authority from initiating fresh proceeding on the basis of the same charges.
 - (vi) The ad-hoc Disciplinary Authority clearly considered the representation of the appellant and turned down the prayer of the appellant on valid and justified ground before issue of the order

ORDER.

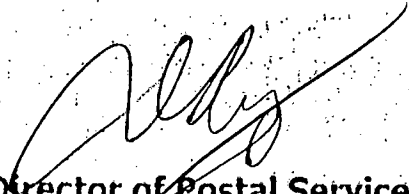
I, Shri V. C. Roy, Director Of Postal Services, O/O the Postmaster General, Dibrugarh Region Dibrugarh and Appellate Authority in accordance with rules 24(ii) of CCS(CCA) Rules 1965 hereby reject the appeal dated 2.3.2000 by Shri Khagendra Kr. Bardoloi, PA Mangaldoi HO (Appellant) and confirm the disciplinary order dated 28.1.2000 of the Supdt. of Post Offices, Dibrugarh Divn. Dibrugarh.

(V. C. Roy)
Director of Postal Services ,
O/O the Postmaster General
Dibrugarh Region ,Dibrugarh.

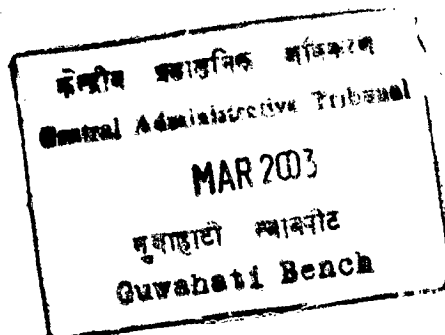
To
Shri Khagendra Kr. Bordoloi,
The then SPM, Lokra S.O.
Now P.A. Mangaldoi H.O. under
Darrang Dn., Tezpur.

Copy to:-

- ✓ 1.3. The Supdt. of Post Offices ,Darrang Division ,Tezpur. He will ensure delivery of one copy of the same to the appellant and to return one receipted copy to this office for record.
4. C.R. file of the official.
5. P.F.the official.
6. A.D.-I. R.O.Dibrugarh.
7. A.D.-II ,R.O. Dibrugarh.
8. Spare.



**Director of Postal Services
O/O Postmaster General
Dibrugarh Region,Dibrugarh.**



Pinanda Hazarika
Supdt. of Post Offices
Darrang Division
Tezpur-784001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 366 OF 2002

Shri Khagendra Kumar Bordoloi

- Vs- Applicant.

Union of India & Ors.

..... Respondents.

In the matter of :

Written Statement 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)

Shri Khagendra Kr. Bordoloi, while officiating as
Sub Post Master Lokra Post office during the period from
05.09.1984 to 28.04.1988 and ~~21.04.1988~~ requested in writing
to the Postmaster, Tezpur H.O. vide his letter dated 19.04.1988
and 21.04.1988 respectively to remit cash of Rs. 40,000/-
(Rupees forty thousand) only on or before 23rd April, 1988
by showing fictitious liabilities for NSC. The Postmaster
Tezpur H.O. remitted cash Rs. 40,000/- (Rupees forty thousand)
only on 23.04.1988 through cash overseer Tezpur H.O. who
handed over the remittance for Rs. 40,000/- to Shri K.K. Bordoloi,
S.P.M. Lokra Post office at 12.30 hours duly acknowledged
in the diary.

Sri K.K. Bordoloi, Sub-Postmaster, Lokra P.O. reported personally to then Supdt. of POs, Tezpur in his office chamber on 28.04.1988 that a sum of Rs. 45,000/- (Rupees fortyfive - thousand) only was short in the cash balance of Lokra Post office which he has given the amount to somebody on good faith. The Supdt. of Tezpur verified the cash balance of Lokra PO on 29.04.1988 and found shortage of cash Rs. 44,140.09 (Rupees forthfour thousand one hundred forty and paise ndne) only . However the said amount was recovered from Sri Bordoloi on different dates and credited into the Govt A/C. Therefore Sri K.K. Bordoloi was charge sheeted under Rule 14 of CCS(CCA) Rules 1965 by the Superintendent of Post offices, Tezpur memo no. F6-1(A)/88-89 dated 17.04.1989 and Sri B. K. Dam, ASP(Dn) and Sri J.B. Biswas Inspector (Public Grevience) were appointed as the Inquiry Officer and the Presenting Officer respectively to inquire into the charges levelled against Sri K.K. Bordoloi, Sri B.K. Dam (ASP(Dn) , the Inquiry Officer submitted his final report to the Superintendent of Post Offices, Tezpur on completion of Inquiry but said Inquiry Report was lost from the office for which the case could not be finalised by the Supdt. of POs Tezpur.

Under the above circumstances the said charge sheet was treated as cancelled by Memo No. F6-1(A)/88-89/2 dated 04.06.1993 informing the charged official to issue charge sheet afresh and fresh ~~charg~~ chargesheet was issued under Rule 14 of CCS(CCA) Rules, 1965 vide Memo No. F6-1(A)/88-89/2 dated 7.06.93. The CPMG, Guwahati appointed Sri Atul Das ASP (HQ) Guwahati as Inquiry Officer vide memo no. Vig/14/10/PO/93/Ch-III dated

dated 11.08.1993 and Md. Kutubuddin Ahmed, SDI(P) Tezpur was appointed as presenting officer by the Superintendent of Post Offices vide memo No. F6-1(A)/88-89/2 dated 17.08.1993. After receipt of Inquiry report from the Inquiry Officer, Sri Bordoloi was punished with reduction of pay by 2(two) stages from Rs.1540/- to Rs. 1480/- for a period of two years without cumulative effect vide memo No. F6-1(A)/88-89/2 dated 29.12.1995 and the charged official submitted an appeal before Director of Postal Services, Guwahati against the punishment imposed. The DPS, Guwahati after reviewing it set aside the said order of punishment vide memo No. Staff/17-2/97/Tz dated 02.05.1997 on the ground that the disciplinary authority failed to furnish a copy of Inquiry to the charged official before issuing punishment and ordered to initiate fresh proceedings on the basis of same charges. Sri Bordoloi was again charge sheeted vide memo No. F6-1(A)/88-89/2 dated 11.08.1997 and Sri S. Ray, ASP (HQ) and Sri B. Hazarika, SDI(P) Tezpur were appointed as Inquiry Officer and Presenting Officer respectively to enquire into the charges. On receipt of final Inquiry Report from the Inquiry Officer, the whole case was sent to the Superintendent of Post Offices, Dibrugarh for taking final decision, whom was appointed as Adhoc disciplinary authority by the President of India vide Directorate memo No. 4-13-99/VP dated 24.06.1999 as because Sri B. Hazarika, Superintendent of Post offices, Tezpur was a witness in this case. The Superintendent of Post Offices, Dibrugarh being the Adhoc disciplinary authority awarded punishment to Sri K.K. Borgoloi reduction of pay of 5(five) stages vide Supdt. of Post Offices, Dibrugarh memo No. F2-3/Misc/99-00 dated 28.06.2000. Sri Bordoloi preferred an appeal

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before the Director of Postal Services, Dibrugarh who rejected the same vide memo No. Staff/2/24-3/00/RP dated 29.03.2002.

Sri K.K. Bordoloi, the charged official has not completed all the channels of appeal i.e. PMG, CPMG, Director General etc. Therefore his appeal before CAT perhaps not tenable.

The respondents beg to submit para-wise written statement as follows :-

1. That with regard to the statement made in para 1, of the application the respondents beg to state that the applicant while he was working as Sub-Postmaster Lokra P.O. during the period from 05.09.1984 to 28.04.1988 requested Postmaster Tezpur H.O. in writing on 19.04.1988 and 21.04.1988 to remit cash for Rs. 40,000/- (Rupees fourty thousand) only showing fictitious liabilities for payment of NSC/KVP/MO's (Annexure -1). Postmaster Tezpur remitted cash for Rs. 40,000/- only on 23.04.1988 through O/S, Tezpur H.O. who handed over the remittance of Rs. 40,000/- only to applicant, SPM Lokra P.O. acknowledged in the diary of O/S cash Tezpur H.O., on 23.04.1988 at 12.30 hours.

The applicant, SPM Lokra personally reported to then Superintendent of Post Offices, Tezpur that he had given the amount to somebody on good faith. The SPOs/Tezpur physically verified the cash balance of Lokra post office on 29.04.1988, and found total shortage of Rs. 44,140.09 (Rupees ~~fourty thousand~~ forty four thousand one hundred forty and paise nine) only.

Under the above circumstances the applicant, Sub-Postmaster Lokra Post Office was charge sheeted under Rule 14

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of CCS(CCA) Rules 1965 by the Supdt. of Post Offices, Tezpur Memo No. F6-1(A)/88-89 dated 17.04.1989 and Rule 14 Inquiries were held as per provisions of CCS(CCA) Rules, 1965 against the applicant on different dates by the Inquiry authority appointed by the Supdt. of Post Offices, Darrang Division, Tezpur. After perusal of concluding report of the Inquiry Officer punishment was granted by competent authority.

2. That with regard to paras 2, 3, 4 and 4.1 of the application the respondents beg to offer no comments.

3. That with regard to the statement made in para 4.2, of the application the respondents beg to state that the applicant was awarded the following punishment under Rule 16 by the Superintendent of Post Offices, Nagaon Division, Nagaon.

- i. withholding of one increment vide SPOs/Nagaon memo no. B-38 dated 18.06.1981.
- ii. Punishment of % "CENSURE" vide SPOs/Nagaon Memo no. B-38 dated 06.10.1976.

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that shortage of cash amounting to Rs. 44,140.09/-(Rupees forty four thousand one hundred forty and paise none) only was found short by the then SPOs, Tezpur on 29.04.1988 while he visited Lokra Post Office on 29.04.1988 and verified the office cash balance. The amount was robbed of at gun point as explained by the applicant is hypothetical and false.

**Pinonla Pasarina
Supt. of Post Offices
Darrang Division
Tezpur-784001**

Lakra Post office is situated at the middle of Assam Rifles Cantonment where Army personnel are petrolling all the times. Further no other office staff have witnessed such scene/fact, that that persons coming to P.O. with fire arms. Other staff quarters are also attached in the same P.O. compound.

5. That with regard to the statement made in para 4.4, of the applicant was charge sheeted under Rule 14 of CCS(CCA) Rules 1965 for defalcation of Govt. money to the tune of Rs. 44,140.09 only vide Superintendent of Post Offices Tezpur Memo No. F6-1(A)/88-89/2 dated 17.04.1989. The charge sheet dated 17.04.1989 was cancelled on technical grounds vide Superintendent of Post Offices Memo No. F6-1(A)/88-89/2 dated 04.06.1993 (Annexure -II is enclosed herewith) informing the charged official to issue a fresh charge sheet.

6. That with regard to the statement made in para 4.5, of the application the respondents beg to state that any loss of Govt. money due to fault of official, must be paid by the official at fault. In this case the amount is lost from the custody of the applicant, so the amount was recovered from him.

7. That with regard to the statement made in para 4.6, of the application the respondents beg to state that all loss and fraud cases of the Govt. should be reported to the police.

8. That with regard to the statement made in para 4.7, of the application the respondents beg to state that the applicant deflected the Govt. money and his departmental proceedings were dropped on technical grounds informing the

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official in this regard and this is not a bar that the department can not initiate charges afresh. Hence fresh charge sheet was drawn under memo no. F6-1(A)/88-89/2 dated 07.06.1993 (Annexure-III is attached herewith).

9. That with regard to the statement made in para 4.8, of the application the respondents beg to state that the applicant was charge sheeted afresh vide this office memo no. F6-1(A)/88-89/2 dated 07.06.1993 (Annexure-III) under Rule 14 of CCS(CCA) Rules, 1965 for defalcation of Govt. money tune held of Rs. 44, 140.09 only and departmental inquiry was held as per provisions of CCS(CCA) Rules, 1965 in respect of Rule 14 cases by the Inquiry Authority appointed by Superintendent of Post Office, Tezpur and punishment of reduction of pay to 2(two) stages was awarded from the stage of Rs. 1540/- to 1480/- in the scale of pay Rs. 975-25-1150-30-1660 for a period of two years without cumulative effect vide SP/TZ Memo No. F6-1(A)/88-89/2 dated 29.12.1995 (Annexure-IV enclosed). The appealant submitted an appeal to Director of Postal Services, Assam Region, Guwahati against the punishment awarded by the Superintendent of Post Offices, Tezpur who set aside the said ~~award~~ punishment of Superintendent of Post Offices, Tezpur on the ground that the Disciplinary Authority failed to send a copy of Inquiry Report to the appealant before the issue of punishment order vide DPS, Guwahati Memo No. Staff/172/97/TZ dated 02.05.1997 (Annexure-V), explaining in the memo that the set aside order will not debar the competent authority from initiating fresh proceedings on the basis of same charges.

10. That with regard to paras 4.9 and 4.10, of the application the respondents beg to offer no comments.

11. That with regard to the statement made in para 4.11, of the application, the respondents beg to state that the Inquiry Authority appointed by the Disciplinary Authority Superintendent of Post Offices, Tezpur Memo No. F6-1(A)/88-89/2 dated 17.08.1993 (annexure-VI enclosed) as ~~is~~ per the provisions of CCS(CCA) Rules, 1965 in respect of Rule 14 cases. The whole Inquiry report along with related documents were sent to the Superintendent of Post Offices, Dibrugarh whom was appointed as adhoc Disciplinary authority by the president of India vide memo No. 4-13-99-VP dated 21.06.1999 (Annexure VII enclosed) for final decision as the SPOs, Tezpur was a witness into the case. Hence that the allegation that the inquiry was conducted by the Respondent No. 5 (SPOs, Dibrugarh) is not correct.

12. That with regard to the statement made in para 4.12, of the application the respondents beg to state that the appellate preferred an appeal before the Director of Postal services, Dibrugarh Region, Dibrugarh, who rejected the appeal after proper scrutiny vide DPS/Dibrugarh Memo No. Staff/2/24-3/00/HP dated 29.08.2002 (Annexure-VIII enclosed).

(A). The order of punishment awarded under Memo No. F2-3/Mise./99-00 dated 29.01.2000 (Annexure-IX enclosed) issued by the Respondent No. 5(SPOs Dibrugarh, adhoc disciplinary authority in the case) based on proper Inquiry report of the Inquiry Authority and valid documents.

(B). Vindictive attitude was not at all was taken by the authority concerned. Punishment was awarded based on facts and documents.

(C). The Inquiry was held properly and legally by the Inquiry Authority as per Rules. The Inquiry was not at all malafied, colourable. The appellate was given ample opportunity and time to defend himself in the course of Inquiry.

13. That with regard to the statement made in para 5.1, of the application the respondents beg to state that the order of punishment awarded under Memo No. F2-3/Misc./99/00 dated 28.01.2000 (Annexure-IX) issued by the Respondent No.5 (Superintendent of Post Offices, Dibrugarh, adhoc disciplinary authority in this case) and DPS Memo No. Staff/2/24-31/00/RP dated 29.08.2002 (Annexure-VIII) were justified and based on facts, evidences and records.

14. That with regard to the statement made in para 5.2, of the application the respondents beg to state that the said order is not at all arbitrary and illegal as the order was passed after holding inquiry by the Inquiry Authority and examination of valid documents based on facts, giving a due natural justice and opportunity to the appellate to defend himself in the proper forum.

15. That with regard to the statement made in para 5.3, of the application the respondents beg to state that the said orders were passed after due care and examination of proper documents giving ample opportunity to appellate defend himself.

16. That with regard to the statement made in para 6 , of the application the respondents beg to state that the appellate has not exhausted all the channels of the Department which lies open for appeal. The appellate was at liberty to approach before Postmaster General/Chief Postmaster General and Director General of Posts, New Delhi before approaching to Hon'ble CAT, Guwahati.

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

18. That with regard to the statement made in para 8.1, of the application the respondents beg to state that the said Memo No. F2-3/Misc/99-00 dated 28.01.2000 (Annexure-IX) cannot be set aside or quash which was a passed by the competent authority based on records, evidences and facts after holding proper inquiry

19. That with regard to the statement made in para 8.II, of the application, the respondents beg to state that the said order can not be set aside as the competent authority duly examined the Memo No. F2-3/Misc/97-00 dated 28.01.2000 which was issued by the competent authority.

20. That with regard to the statement made in para 8.III, the respondents beg to state that no amount was realised from the pay and G.P.G. of the applicant for the loss of Govt. money.

21. That with regard to the statement made in para 8.IV, the respondents beg to state that due entitled pay and allowances were paid to him w.e.f. 29.12.1995.

22. That with regard to the statement made in para 8.V, of the application the respondents beg to state that it is can not be agreed. The applicant made this application at his own accord.

SJ 73
Binanda Baraik
Supdt. of Post Offices
Darrang Division
Tezpur-784001

23. That with regard to the statement made in para 8.VI, of the application the respondents beg to state that the applicant indirectly admits the offence and willing to accept punishment as imposed under Memo No. F6-1(A)/88-89/2 dated 29.12.1995.

24. That with regard to the statement made in para 8.VII, of the application the respondents beg to state that no relief is admissible.

25. That with regard to the statement made in para 9, of the application the respondents beg to state that no interim order is justified.

Verification.....

-12-

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

I, Shri Pinonda Hazarika, presently working as Supdt. of POS, Darrang, Assam, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para _____ are true to my knowledge and belief and those made in para _____ 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 _____ th day of February, 2003.

Pinonda Hazarika

Declarant.

Supdt. of Post Offices
Darrang Division
Tezpur-784001

57/26

Annexure-I

Postmaster

Tempu Hr

(7 30)

Exhibit no. 2
19/7/97

1.0.19/8/97

Ex-1(6)
25/9/97

40,000/- Fixed on 23/4
average supply



1.0.19/8/97
on 23/4/97

Remitted Rs
40,000/-
on 23/4/97

21/4

Post

LORCA

Seen
25/9/97

21/4

Seen

21/10/97

(13)

(14)

Annexure-I

~~50~~
(50)

(79)

2/3/94

(14)

Exhibit no. 1
19-7-94
1.0

Post master

103 per

H.O.

(1)

Required Rs. 40 000/- on

before 23/4/88 for NSIC /
Discharge PL Confirm

(15)

850
283
567
150
717

Ex-1(a)
25-9-97

Post

10/20

65802-
43220-
109022-

66616-
18964-50
6600 50

Secy
11-10-93

(15) Ca
10/4/88
Sub Postmaster
11-10-93

Seen
11-10-93

DEPARTMENT OF POSTS -1101
OFFICE OF THE SUPDT. OF POST OFFICES DARRANG ON TEZPUR

Memo. No. F6-1(A)/88-89/2

Dated, Tezpur, the 4.6.93

Without prejudice to future action under C.C.S. (CCA) Rules 1965 being taken the charges framed against Shri Khagendra Kr. Bordalo, then Sub-Postmaster, Lokra and now PA(Sig.) Jamugurihat vide this office Memo. no. F6-1(A)/88-89 dtd. 17-4-89 issued by the then Supdt. of Pos. Darrang Dn, Tezpur, is hereby ordered to be treated as cancelled agreeable to Govt. of India's instructions no. (9) below Rule-1 of CCS(CCA) Rules, 1965 as contained in IG P&T's letter no. 114/324/78-DISC-11 dt. 5-7-1979. It is considered necessary to inform the aforesaid Shri Khagendra Kr. Bordalo, then SPM, Lokra, now PA/Sig. Jamugurihat the charges under Rule-14 of CCS(CCA) Rules, 1965 is being initiated by the appropriate disciplinary Authority based on appropriate charges.

()
(. Bhattacharjee)
Supdt. of Post Offices
Darrang Dn, Tezpur.

Copy to:-

RECD. AD. 1) Shri Khagendra Kr. Bordalo, PA/Sig.
Jamugurihat P.O.

2) The Asstt. Postmaster General (Vig) O/O the
Chief P.M.G. Assam Circle, Guwahati w.r. to her letter
no. VIG/14/5/85 dtd. 17.5.93 for information.

✓ 3) P.F. of the official.

4) The CR file of the official.

Supdt. of Post Offices
Darrang Dn, Tezpur-784001.

.....

(17) (16) Annexure - III 62 28

DEPARTMENT OF POSTS-INDIA
OFFICE OF THE SUPDT. OF POST OFFICES DARRANG DN TEZPUR.

MEMORANDUM

Rule-14 of Central Civil Service (CCA) Rules, 1965.

No. 16-1(A)/33-1/2

Dated, Tezpur 7-6-93

The undersigned proposes to held an inquiry against Shri

Khagendra Kr. Bordoloi

under Rule-14 of the CCS(CCA) Rules, 1965

The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-1)-A statement of the imputations of misconduct or misbehaviour in support of each Article of charge enclosed (Annexure-11). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed. (Annexure-111 and IV).

2. Shri Khagendra Kr. Bordoloi is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or denied each articles of charge.

4. Shri Khagendra Kr. Bordoloi is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 of above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule the inquiring authority may hold the inquiry against him EX-Parte.

5. Attention of Shri Khagendra Kr. Bordoloi is invited of Rule-20 of the CCS(CON) Rules 1964 under which no Govt servant shall bring or attempt to bring any political or outside influence to bear upon any Superior Authority to further its interest in respect or matters pertaining of his service under the Govt. If any representation is received on his behalf from another person in respect of any matters dealt with these proceedings it will be presumed that Shri Khagendra Kr. Bordoloi

is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the CCS(Con) Rules 1964.

6. The receipt of this memo. may be acknowledged.

REGD. AD

To

Shri Khagendra Kr. Bordoloi

(Rf)
M. Bhattacharya
Supdt. of Post Offices
Darrang dn, Tezpur.

PA/Signalier.

Jamugurihat.

(18) (17) 112, 63 79

ANNEXURE-1

STATEMENT ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM, LOKRA NOW PA (IG) JAMUGURIHAT.

ARTICLE-1

That the said Shri Khagendra Kumar Bordoloi, while functioning as Sub-Postmaster, Lokra during the period from 5-9-84 to 28-4-88, requested the Postmaster, Tezpur HO vide his letters dtd. 19/4/88 and 21-4-88 to remit cash for Rs. 40,000/- (forty thousand) only by showing fictitious liabilities. Said Shri Khagendra Kr. Bordoloi also did not place the requisition in the respective daily accounts as required under Rule-31(1)(2) of Postal Manual Vol-VI Part-III. Thus, Shri Khagendra Kr. Bordoloi is found responsible for the violation of Rule-31(1)(2) of Postal Manual VOL-VI Part-III.

Article-11

That during the aforesaid period and while functioning in the aforesaid office said Shri Khagendra Kr. Bordoloi, kept shortage of cash for Rs. 44,140.09 (forty four thousand one hundred forty and paise nine) only in the cash balance of Lokra S.O. dtd. 28-4-88, which was detected by the SPOs, Tezpur during his visit to the P.O. on 29-4-88. However, said Shri Khagendra Kr. Bordoloi, credited the shortage amount of cash for Rs. 44,140.09 only to Govt. account as UCR on different dates subsequently.

Thus, the said Shri Khagendra Kr. Bordoloi is found responsible for the violation of the provisions of Rule-64(A) of Postal Manual Vol-VI Part-III, and also Rule-3(1) (ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-11

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM, LOKRA NOW PA JAMUGURIHAT.

The said Shri Khagendra Kr. Bordoloi while functioning as SPM, Lokra during the period from 5-9-84 to 28-4-88, requested the PM, Tezpur HO vide his letter dtd. 19/4/88 and 21/4/88 respectively, to remit cash for Rs. 40,000/- (Forty thousand) only before 23rd April/88 by showing fictitious liabilities. He did not furnish the particulars of liabilities in the appropriate columns of the reverse side of the daily accounts. However, the PM, Tezpur HO remitted cash for Rs. 40,000/- (Forty thousand) only on 23.4.88 through O/S Cash, Tezpur who had handed over the remittance for Rs. 40,000/- only to the SPM, Lokra duly acknowledged in the diary at 12-38 hours. The attempt made by Shri Khagendra Kr. Bordoloi to collect cash on the pretext of fictitious liabilities from the H.O. and without observing the procedures laid down in Rule-31(1)(2) of Postal Manual Vol-VI Part-III and therefore, said Shri Khagendra Kr. Bordoloi is found responsible for the violation of Rule-31(1)(2) Ibid.

c dtd---2//

Article-11

That during the aforesaid period and while functioning in the aforesaid office, Said Shri Khagendra Kr. Bordoloi reported personally to the Supdt. of Post Office, Darrang Dn, Tezpur in his chamber on 28-4-88 that a sum of Rs.45,000/- (Forty five) thousand only was short in the cash balance of Lokra S.O. which he had handed over to some body on good faith. The Supdt. of POs, Tezpur verified the cash balance of Lokra physically on 29-4-88 and found total shortage for Rs.44,140.09 (Rs. forty four thousand one hundred forty and paise nine) only which was charged as UCP in the account of Lokra dtd. 29-4-88.

However, this shortage amount of Rs.44,140.09 only had been credited subsequently by Said Shri Khagendra Kr. Bordoloi as UCR in the Govt. account on different dates voluntarily.

Thus, by keeping shortage of cash for Rs.44,140.09 only in
xx
in cash balance of the office dtd. 28.4.88, Sri Khagendra Kr. Bordoloi, is found responsible for the violation of Rule-84(A) of Postal Manual VOL-VI Part-III and also Rule-3(1)(ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM LOKRA, NOW PA (SIG) JAMUGURIHAT.

....

1. SPM/Lokra's letter dtd. 19.4.88
2. SPM/Lokra's letter dtd. 21-4-88.
3. Lokra daily accounts dtd. 19/4, 20/4, 22/4/88.
4. Written statement of Sri K.K. Bordoloi dtd. 28-4-88.
5. Inventory dtd. 29-4-88.
6. Written statement of Sri Pharihar Halsei, PA now SPM, Naharbari.
7. Written statement of Sri Prellip Das, EO Jucker, Lokra dtd. 30.4.88.
8. ,, ,, of Sri Arabinja Das, dtd. 30.4.88, EO Messenger Lokra.
9. ,, ,, of Sri Hemnath Upadhyaya dtd. 30-4-88, Postman, Lokra.
10. Diary of D/S Cash, Tezpur period -20.2.88 to 26.4.88.
11. Grant Certificate dtd. 25/5/88 of M. T. Ho

contd. - "

LIST OF WITNESSES BY WHOM the ARTICLE OF CHARGE FRAMED
AGAINST SHRI KHAGENDRA KR. BORDOLOI THEN SPM, LOKRA NOW PA
(SIG) JAMUGURMAT, A.O.E. PROPOSED TO BE SUSTAINED.
.....

1. Sri C.V. ANANTHANARAYANAN HSN. Supdt. of POs, Tezpur. OOW
2. Sri Bindanda Hazarika, then ASPOs (HQ) Tezpur now Dy. Supdt.
O/O the DPS, Nagaland Kohima.
3. Sri Tarun Kalita, then SDI(P), Tezpur now SDI(P), Pathsalai.
4. Sri. Phanishor Halsei, then PA Lokra now SPM, Naharbari.
5. Sri Chandra Bahadur Rai vill. Headman, Sonaijan, Lokra.
6. .. Kst Krishna Bahadur Chetry, President Assam Rifle, Ex-
Serviceman, Assam, Lokra.
7. Sri Pradip Das, ED Packer dt. 30.4.88. Lolcy
8. .. Arabinda Das, ED Messenger, Lokra.
9. .. Homnath Upadhaya, Postman, Lokra.
10. .. Kst Mohan Ch. Hazarika, O/S Cash, Tezpur.
11. .. Jitendranath Sarma, then ABM, Sub Account, Tezpur now
retired.

(N. Bhattacharya)
Supdt. of Post Offices
Darrang On, Tezpur-784001

.....

DEPARTMENT OF POST: INDIA
OFFICE OF THE SUPDT OF POST OFFICES: DARRANG DIVISION
TEZPUR:-784001.

Memo No:-F6-1(A)/88-89/2

Dated at Tezpur the 29-12-95.

In this office memo of even no dtd 7-6-93, it was proposed to take action against Sri Khagendra Kr Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO under Rule-14 of CCS (CCA) Rules, 1965 on the basis of the articles of charge enclosed therein. Said Sri Bardalai was given an opportunity to make such representation as he may wish again to the proposal within 10 (ten) days of receipt of the said memo. The articles of charge framed against him is as under:-

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SRI KHAGENDRA KR BARDALAI::SPM: LOKRA. NOW PA: JAMUGURIHAT SO.

Article-i :- That the said Sri Khagendra Kr Bardalai while functioning as SPM, Lokra during the period from 5-9-84 to 28-4-88 requested the Postmaster, Tezpur HO vide his letters dtd 19-4-88 and 21-4-88 to remit cash for Rs 40,000/- (forty thousand) only by showing fictitious liabilities. Said Sri Khagendra Kr Bardalai also did not place the requisition in the respective daily account as required under Rule-31(1)(2) of Postal Manual Vol-vi Part-iii. Thus Sri Khagendra Kr Bardalai is found responsible for the violation of Rule-31(1)(2) of Postal Manual Vol-vi Part-iii.

Article-ii:- That during the aforesaid period and while functioning in the aforesaid office said Sri Khagendra Kr Bardalai kept shortage of cash for Rs 44,140.09 (Forty four thousand one hundred forty & paise nine) only in the cash balance of Lokra SO dtd 28-4-88, which was detected by the SPM, Tezpur during his visit to the PO on 29-4-88. However, said Sri Khagendra Kr Bardalai credited the shortage amount of cash for Rs 44,140.09 only to Govt. account as UCR on different dates subsequently.

Thus the said Sri Khagendra Kr Bardalai is found responsible for the violation of the provisions of Rule-84(A) of Postal Manual Vol.vi Part-iii and also Rule-3(1)(ii)(iii) of CCS (Conduct) Rules, 1964.

Said Sri K.K. Bardalai received the above memo on 9-6-93 and he submitted his written statement of defence on 10-6-93 which was received at this office on 10-6-93 which runs as under.

I have the honour to state that I have received your above memo enclosing the memo of charges against the occurrence of 27th, 28th of April, 1988. The similar memo of the same charges was also received by me in the month of April/1988. I submitted the defence statement, I was personally heard, quasi-judicial Inquiry was completed but no punishment what so ever was imposed on me obviously due to fact that I could not prove my innocence in the oral Inquiry. This case was tried in the Court of Law of course, the criminal aspect, but there also I had to appear before the trying court of Law in different dates for trial against the criminal charges framed by the state. But after careful examination of the whole case, I was found not guilty of the charges by the Learned Magistrate and was acquitted by the court of Law. This was the great honour of the criminal side but of the same side this was only.

But now it is very regretful affair to note that I have again been charged after my operation is over even though there is no loss to the Govt. at all and this is also initiated again after more than 5 years of time with the instrument of the provisions of DG's letter No 114/324/78-DISC-II dtd 5-7-1979. Respected Sir, can you favour me with a copy of the said letter as practically we clerical staff do not get a touch of such instrumental sensitive letters.

contd at Page-2.

(2)

However, Sir, I humbly submit my defence of each para of the charges against me as levelled now.

CHARGE 1 :- The failure to note in the daily account of the liabilities may be an omission on my part due to heavy pressure of work in the office but the liabilities were not fictitious. The exact facts and figures as on now after a lapse of 5 years can not be cited or stated by me in absence of records. But the Head Post Office after consideration and satisfaction of the liabilities sent the cash to my office through the e/s cash. It is a well established fact and procedure of the department that the Head Post Office after observing all formalities and after being fully satisfied of the liabilities sent the cash of Rs 40,000/- particularly when it was a heavy amount of cash. It is therefore not a fact that I attempted to get cash from Tezpur HFO in an irregular or fraudulent manner but requisitioned for cash to meet the genuine liabilities and I got the cash to clear up office liabilities only.

CHARGE No 2 :- The shortage of cash was found by the then Supdt of POs, Tezpur in the cash balance of my office on 23-4-88 in my absence. The shortage would be there because on the night of the day when I received the cash, some unknown people overpowered me on the point of revolver and snatched away the key of the office safe and took away the money from the office. The safe though had the double locking arrangements, this was not locked by the clerk which also facilitated the crime. It is not a fact that I gave the money to some one as noted in your charge. I was taken to the office of the Supdt of POs, they started interrogating me along with police officers. They were not ready to hear me or believe me whatever I wanted to say. I had to write what they wanted me to write. The money whether belonging to the Govt. or of personal can not be given to any-body particularly when the amount of money was Rs 44,140.09 paise. Giving such amount of money to somebody on good faith is unnatural and unusual. I, therefore, firmly state that the fact is this that the cash was forcibly taken away from me on the point of revolver. Lokra is a very solitary place isolated from the market area. There was no chowkidar in the office nor there was any staff quarters who would come forward to help me at the time of such an occurrence.

The shortage of cash was made good by me without loss of a single paise of loss to the Govt. I was acquitted in the court of Law for the criminal aspects. I would therefore pray to you to exonerate me from the charges without punishing me after 5 years of the occurrence.

Then an enquiry under Rule-14 of CCS(CCA) Rules, 1965 was ordered to be held vide this office memo of even no dtd 7-6-93. And accordingly Sri Atul Ch Das, ASP(HQ), Nalbari and Md Kutubuddin Ahmed, SDI(P), Tezpur were appointed as Inquiry Authority and Presenting Officer respectively.

The I.A. held preliminary enquiry on 5-10-93 and concluded the enquiry on 12-9-95 and submitted his Inquiry Report under his letter no EC-1/93-94 dtd 22-11-95 which runs as under.

Preliminary hearing of the disciplinary proceeding was held on 5-10-93 at e/s SPOs, Barrang Dijn, Tezpur. The charged official Sri K.K. Bardalai pleaded not guilty. Thus Presenting officer Sri Kutubuddin Ahmed was directed to offer inspection of the listed documents to the charged official with his defence Assistant on 11-10-93 at 10 a.m. in his office and on the subsequent day if necessary. The presenting officer was also directed to supply to the charged official the copies of the earlier statement made by the witnesses during the preliminary inquiry. Accordingly the Presenting officer, Sri Kutubuddin Ahmed made the listed documents available to the charged official Sri K.K. Bardalai, the then SPM Lokra SO on 11-10-93 in the office of SDI(P), Tezpur Sub Division, Tezpur. Sri K.K. Bardalai, the charged official certified in writings that he examined all the listed documents on 11-10-93 and satisfied himself.

2. On the day of preliminary hearing itself the charged official Sri K.K. Bardalai the then SPM, Lokra SO new PA, Jamugurihat SO was also directed to submit a list of additional documents he wishes to inspect and a list of witnesses he would like to examine in his defence by 10-10-93. Besides, the charged official was also asked to intimate the name and designation and address of the employee, if any who will be assisting him during the inquiry. Accordingly the charged official furnished the list of addl. documents and witnesses to examine in his defence as follows:-

- Addl documents :- 1) DG P&T letter no 114/824/78-Disc-ii dtd 5-7-79.
 2) Application of BSC holders to SPM, Lokra dtd 19-4-88 submitted by one Sri S.N. Singh.
 3) The diaries of Sri K. Mastan, SPOs, Barrang Dn. for the month of January and February/91.
- Witnesses :- 1) Sri K. Mastan the then Supdt of POs, Barrang Divn., Tezpur.

The charged official also intimated the name of Sri K. K. Dey, Retd, officer of postal deptt. as his defence addt. Thereafter the oral inquiry on 10-12-93 and 29-12-93 could not be held as the charged official was not attended the inquiry. On the next ~~xxxx~~ date of ~~xxxxing~~ inquiry on 19-7-94, the charged official was clarified in support of the SPOs/Tezpur letter no F6-1(A)/88-89/2 dtd 4-11-83 that there was no relevancy of the addl. documents wanted by him to examine in his defence to the charges. Thus question of supply of the said addl. documents in oral inquiry do not arise. The request of the charged official to examine Sri K. Mastan, the then Supdt of POs, Barrang Divn also could not be acceded to as there was no relevancy of the said officer to the charges levelled against the charged official.

Sri K.K. Dey, the defence assistant as named by the charged official was served regd. notice in respect of each date to attend the inquiry. But the said Sri K.K. Dey did not attend on any date in the inquiry.

3. On the day of inquiry on 19-7-94 all the listed documents of the case were marked exhibits as under :-

- | | |
|---|-------------------------------------|
| 1). SPM/Lokra's letter dtd 19-4-88 | = Ex.-1 |
| 2). SPM's Lokra letter dtd 21-4-88 | = Ex.-2 |
| 3). Lokra's daily a/c dtd 19-4-88, 20-4-88 and 22-4-88 | = Ex.3(a), 3(b), 3(c) respectively. |
| 4). Written statement of Sri K.K. Bardalai dt 26-4-88 | = Ex.-4 |
| 5). Inventory dtd 29-4-88 | = Ex.-5 |
| 6). Written statement of Sri Phanishar Bardalai | = Ex.-6 |
| 7). " " " " Pradip Das | = Ex.-7 |
| 8). " " " " Aravinda Das | = Ex.-8 |
| 9). " " " " Homnath Upadhyaya | = Ex.-9 |
| 10). Diary of e/s cash for the period from 20-2-88 to 26-4-88 | = Ex.-10 |
| 11). Credit certificate dtd 25-9-90 | = Ex.-11. |

The charged official admitted that the above exhibits were examined by him on 11-10-93 and these are all genuine.

There is no further exhibits in this case either from prosecution side or from defence side.

4. Out of the listed witnesses the following witnesses were examined in the inquiry.

contd at page-4.

- 1). Sri Phanidhar Haloi, the then SA, Lokra SO.
- 2). Sri Mohan Ch Hazarika, O/S, Cash, Tezpur.
- 3). Sri G.V. Ananthanarayan, the then SPOs, Tezpur.
- 4). Sri Jitendra Nath Sarma, the then APM (Sub A/C), Tezpur HO.
- 5). Sri Tarun Ch Kalita, the then SOI(P), Tezpur Sub Bn, Tezpur.

The following witnesses did not appear before the I.O. in spite of repeated notices served to them to attend the inquiry. Besides for their repeated failure to appear before the I.O. the Presenting Officer of the case wanted relation of the witnesses as their oral evidence is not required to him in the inquiry.

- 1). Sri Binanda Hazarika, SPOs, Neugaon Dn.
- 2). Sri Arabinda Das, ED Messenger, Lokra SO.
- 3). Sri Chandro Bahadur Rai, Village Postman.
- 4). Sri Krishna Bahadur Chetry, President, Assam Rifl., Ex. Ser-
vicer.
- 5). Sri Pradip Das, ED Packer, Lokra SO.
- 6). Sri Hemneth Upadhyaya, Ex postman, Lokra SO.

5. Copies of the daily order sheet as well as of deposition of witnesses were issued to the charged official under acquittance in respect of each date of oral inquiry.

6. After the case for the disciplinary authority was closed, the charged official as asked to submit his defence in writing as desired by him. Accordingly, the charged official Sri K.K. Bardalai submitted his defence statement on 20-7-95 vide Jamugurihat RL No 5359 dtd 21-7-95.

7. There was neither documents nor witnesses on the part of the defence side to produce in the inquiry. The charged official also did not want to examine himself on his behalf.

8. Before the conclusion of oral inquiry and being the I.O. of the case questioned the charged official on the circumstances appearing against the charged official and with this the case of the defence side was also closed on 12-9-95.

9. The presenting officer of the case submitted his written brief endorsing copy to the charged official which was received by him on 18-9-95.

10. The charged official Sri K.K. Bardalai the then SPM, Lokra SO now PA, Jamugurihat SO also submitted written brief in support of his defence and was received by him on 18-10-95.

11. During the inquiry, the charged official was allowed all reasonable opportunity to defend himself.

12. In the article 1 of the charges brought against Sri K.K. Bardalai, it was alleged that Sri Bardalai did not place the requisition for cash Rs 40,000/- to Tezpur HO in the respective daily a/c as required under the Rule 31(1)(2) of Postal Man.Vi Part.iii instead the charged official requested the Postmaster, Tezpur HO vide his letter dtd 19-4-88 and dtd 21-4-88 to remit cash Rs 40000/- by showing fictitious liabilities.

13. a). Exhibit-1- the letter of SPM, Lokra SO dtd 19-4-88 reflect that the charged official wrote to Postmaster, Tezpur HO in a piece of paper placing requirement of Rs 40,000/- on or before 23-4-88 for NSC discharge. Exhibit-3(a), the SO daily a/c of Lokra SO dtd 19-4-88 does not bear any particulars of liabilities against NSC or other items.

b). Exhibit-2, the SPM, Lokra SO letter dtd 21-4-88 reflects that the charged official requested the Postmaster, Tezpur HO to supply cash Rs 40,000.00 intimating date fixed on 23-4-88. Exhibit-3(b), the SO daily a/c of Lokra SO dtd 20-4-88 and Exhibit-3(c) the SO daily account dtd 22-4-88 do not bear any particulars of liabilities against NSC.

c). Sri Jitendra Nath Sarma, the witness of the case and the then APM sub a/c, Tezpur HO in his depositions before I.O. on 20-3-95 confirmed the genuineness of the Ex.1, Ex.2, Ex.3(a), Ex.3(b), and Ex.3(c) and deposed that there was no remark/note of requisitioning cash on the SO daily a/c i.e. on Ex.3(a), Ex-3(b) and Ex.3(c). The said Sri Sarma witness to the case also stated that he

contd at page-5.

he got confirmation as to the liabilities in letter in the shape of XPL message from SPM, Lokra SO before remitting the cash to the SO. Another witness to the case Sri G.V. Anantanarayan, then SPOs, Darrang Dn, Tezpur stated that the Postmasters are to oblige the requisition of cash made in a piece of paper also but it should be followed by note in the respective daily a/c of the SPM which may receive on a later date in HO. The said witness to the case Sri G.V. Anantanarayan confirmed in reply to question put by the I.O. that noting of remarks of particulars of requisition made to HO by the SO is must.

(d). Here in this instant case the charged official place requisition of cash in a piece of paper twice but the same was not confirmed by writing on the SO daily account of the dates or of the following day.

(e) The Presenting Officer of the case rightly argued in his written brief that there were no note of liabilities of Rs 40,000.00 in any of the SO daily a/cs dtd 19-4-88, 20-4-88 and 22-4-88 as to the payment of NSC as appearing in Ex.-1 and Ex.2. Apart from this even after receipt of cash the SO called liabilities was not cleared upto 28-4-88 though the date of payment was fixed on 23-4-88 as per Ex.-2 nor the surplus cash as remitted back to Tezpur HO. Thus the Presenting Officer's argument in support of fictitious liabilities shown by the charged official reflects its merit.

(f). The charged official in his written brief stated that he has no experience to work independently as a SPM, being a clerk promoted from the postman cadre after being postman from EJDA. The charged official also stated that the liabilities were shown but the same were perhaps not written in proper place in proper way.

The contention of the charged official is not convincing. The plea of having no experience is not at all acceptable and the Ex. 3(a), 3(b) and 3(c) clearly reflect that there were no particulars of liabilities on anyone of these against the NSC payment of Rs 40,000.00.

Besides, in reply to the question put by the I.O. the charged official stated that he forgot to place the requisition in the respective daily a/c in support of liability. Thus the charged official is taking different plea time to time in support of his defence against article-1 of the charges which are not at all true and convincing.

Discussions above from 12, 13(a) to 13(f) of this report reflect that the article-1 of the charges brought against the said Sri K.K. Baradalai the then SPM, Lokra SO, now PA, Jamuguri at as to the violation of Rule 31(1)(2) of Postal Man. Vol.Vi part-iii is fully established.

14. In the Article ii of the charges brought against the charged official it was alleged that the charged official kept shortage of Rs 44,140.00 in cash balance of Lokra SO on 28-4-88 and thus violated Rule 84(A) of Postal Manual Vi Part.-iii.

15(a). Exhibit-4 reflects that there was shortage of Rs 44,140.00 when verification was conducted by the then SPOs, Darrang Division, Tezpur on 29-4-88 in presence of several independent witnesses. Exhibit 4 was confirmed to be genuine by the charged official as well as by the witnesses.

(b). Exhibit-4 also reflects that the charged official gave away Rs 45,000.00 from office cash on 28-4-88 to one Sri Haran Das. Thus shortage in cash balance of Lokra SO on 28-4-88 has been admitted by the charged official.

(c). Sri G.V. Ananthanarayan, the then SPOs, Darrang Division, Tezpur, the witness of the case in his deposition confirmed the shortage of Rs 44,140.00 detected by him in cash balance of Lokra SO dtd. 28-4-88.

(d). Another witness to the case ~~xxxxxx~~ Sri Tarun Ch. Kalita, the then SDI(F), Tezpur Sub Dn also confirmed in his deposition ~~xxxxxx~~ ~~xxx~~ in the inquiry that there was shortage of Rs 44,140.00 in the cash balance of Lokra SO dtd. 28-4-88.

(e). Another witness to the case and the then PA of the Lokra SO Sri Phanishar Haloi also confirmed in his deposition before the I.O. that there was shortage of Rs 44,140.00 in the cash balance of Lokra SO dtd. 28.4.88.

(6)

f). Besides the charged official during the inquiry in reply to question put by I.O. on 12-9-95 clearly stated that he admits the total shortage of Rs 44,140.09 in cash balance.

g). Apart from above the charged official has not denied in his written brief dated 10-10-95 that there was shortage in cash.

In view of above discussion in para 14, 15(a) to 15(g) it is evident that the Article-ii of the charges brought against the charged official Sri K.K. Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO is fully established.

In the written brief the said Sri K.K. Bardalai, the then SPM, Lokra SO the charged official has contended that the deposition of Sri Phanidhar Halei is not at all acceptable to him because of 8 years gap in between the occurrence of the case and the date of his deposition. Sri K.K. Bardalai contended that the said Halei can not remember after 8 years as to what was written or shown in Daily a/c dated 22-4-88 and 19-4-88. Contention of the said charged official is not at all correct. The SO daily a/cs dated 22-4-88, 20-4-88 and 19-4-88 are the exhibits of the case and these have been admitted by the charged official as genuine. The daily a/cs clearly agree to the facts deposed by the said witness Sri Phanidhar Halei. Thus the facts deposed by Sri Halei can not be challenged. Besides, Man may lie but documents cannot.

In view of the above facts and reasoning based on documents as well as on oral evidences it is established that both the articles of charge brought against Sri K.K. Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO are fully proved beyond doubt.

I have gone through the inquiry report of the I.O. and also agree with the I.O. that all the ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXX~~ articles of charge brought against Sri K.K. Bardalai have been proved beyond doubt.

On the basis of the documentary and oral evidence adduced in the case, all the charges from Article-i to Article-ii against the official stands proved beyond reasonable doubt. But considering the length of service rendered by the official and with the hope of future rectification, I take a most lenient view of the case and award the following punishment to meet the end of justice.

ORDER

I, Sri B.K. Marak, Superintendent of Post Offices, Barrang Division, Tezpur:784001, hereby order that the pay of Sri Khagendra Kumar Bardalai, the then S.P.M., Lokra S.O., now Postal Assistant Jamugurihat S.O. be reduced by 2(Two) stages from Rs.1540/- to Rs.1400/- only in the scale of pay 975-25-1150-ES-30-1660 for a period of 2(Two) years without cumulative effect.

(B.K. Marak)
Superintendent of Post off
Barrang Division, Tezpur:78

Copy to:-

1. Sri Khagendra Kumar Bardalai, P/A, Jamugurihat S.O.
2. The Postmaster, Tezpur HQ for information and necessary action.
3. The Postmaster General (Vig.), Assam Circle, Guwahati:
4. Punishment Register.
5. C.R. File of the official.
6. P.F. of the official.
7. D.C.
8. Spare.

(B.K. Marak)
Superintendent
Tezpur

27

Annexure - I

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Department of Post, India
Office of the Chief Postmaster General, Assam Circle,
4th Floor, Meghdoot Bhawan, Guwahati - 781001.
No. Staff/172/97/TZ,
Dated Guwahati, May 01, 1997.

This is a case of an appeal submitted by Shri Khagendra Kumar Bordoloi, PA, Darrang Division, against punishment order issued by the Supdt. of Post Offices, Darrang Division, Tezpur vide his Memo.No.F6-1(A)/88-89/2 dated 29.12.95. The undersigned who is the appellate authority, have scrutinised the appeal and other related documents very carefully. My findings are given below.

I have first considered whether punishment was awarded after following laid down procedures and whether there was any violation of any natural justice. My attention was drawn to paras. 1, 2 and 6 of the appeal in this regard.

It is seen that a charge sheet under Rule 14 of CCS (CCA) Rules, 1965 vide Memo.No.F6-1(A)/88-89 dated 17.4.89 was issued against the appellant by SPOs, Tezpur. ~~XXXXXXXXXX~~ Inquiries were also conducted, but before the proceedings could be completed the charges were cancelled vide Memo.No.F6-1(A)/88-89/2 dated 4.6.93. Fresh Charge Sheet under Rule 14 of CCS (CCA) Rules, 1965 was again issued by the SPOs, Tezpur vide Memo.No.F6-1(A)/88-89 dated 7.6.93 which resulted in the punishment order appealed against. This point was raised by the appellant in his defence submitted to the disciplinary authority stating that he was charge sheeted on similar charges in April, 1989. This was not denied by the disciplinary authority in his punishment order. Neither was this denied when the disciplinary authority submitted para-wise comments on the appeal.

As per DG P&T's letter No.114/324/78-Disc.II dated 5.7.79 when a proceeding under Rule 14 or Rule 16 of the CCS (CCA) Rule, 1965 are dropped, the disciplinary authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reasons for cancellation of the original charge sheet or for dropping the proceeding are appropriately mentioned and it is duly stated in the order that the proceedings were dropped without prejudice to further action which may be considered in the circumstances of the case.

In the appellant's case it is seen that proceedings under Rule 14 initiated vide SPOs, Tezpur Memo.No.F6-1(A)/88-89/2 dated 17.4.89 was cancelled and subsequently fresh proceedings was initiated vide Memo. of even no. dated 7.6.93. However, in SPOs, Tezpur's Memo.No.F6-1(A)/88-89/2 dated 4.6.93 cancelling the proceedings under Rule 14 of CCS (CCA) Rules, 1965, the reason for such cancellation was not specifically mentioned. Thus ~~xxx~~ violated DG P&T's instruction contained in the Memo. No.114/324/78-Disc.II dated 5.7.79.

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Again as per Government of India, Department of Per. & Trg. O.M. No.11012/13/85-Est(A) dated 26.11.89, it is stated that where an inquiry has been held in accordance with the provisions of Rule 14 of COS(CCA) Rules, the disciplinary authority, if it is different from the inquiry authority, shall before making a final order in the case, forward a copy of the inquiry report to the Government Servant concerned giving him an opportunity to make any representation or submission he may desire to do so in writing.

In the instant case, it is seen that the disciplinary authority before issuing punishment order failed to send a copy of the Inquiry Report to the appellant.

Therefore I find that on two counts, the prescribed procedure was not followed by the disciplinary authority. These can be assumed to be violation of natural justice.

Hence, without examining the other arguments put forward by the appellant as it will be superfluous, I, Shri A.N.D. Kachari, Director of Postal Services, Assam Circle, Guwahati and the Appellate Authority, hereby set aside the punishment of reduction of pay by 2 stages from Rs.1540/- to Rs.1480/- only in the scale of pay Rs.975-25-1150-EB-30-1660/- for a period of 2 years without cumulative effect imposed on the appellant Shri Khagendra Kumar Bordoloi, Postal Assistant, Darrang Postal Division vide SPOs, Tezpur Memo.No.F6-1(A)/88-89/2 dated 29.12.93.

I further order that my above order will not debar the competent authority from initiating fresh proceedings on the basis of the same charges.

(A.N.D. Kachari),
Director of Postal Services,
Assam Circle, Guwahati-781001.

Copy to:-

Shri Khagendra Kumar Bordoloi, Postal Assistant,
JANUGURIGHAT SO - 784188.
2-3. The Supdt. of Post Offices, Darrang Division,
Tezpur-785 001.

4-5. The Postmaster, Tezpur-784 001.

6. O/O.

(A.N.D. Kachari),
Director of Postal Services,
Assam Circle, Guwahati-781001.

REGISTERED

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Annexure VI
58 7/10

DEPARTMENT OF POSTS, INDIA.
OFFICE OF THE SUPDT. OF POST OFFICES: DARRANG DN
TEZPUR:-784001

Memo No:-F6-1(A)/88-89/2

Dtd. 17-8-93

ORDER

WHEREAS, an inquiry under Rule-14 of CCS(CCA) Rules 1965, is being held against Sri Khagendra Kumar Bardalai, SPM, Lokra.

AND WHEREAS, the undersigned considers that an Inquiry Officer's Authority should be appointed to inquire into the charges framed against Sri Khagendra Kr. Bardalai.

NOW THEREFORE, the undersigned is exercise of the powers conferred by sub Rule(2) of the said rule, hereby appoints Sri Atul Ch Das, ASPOS(HQ), O/O Supdt of POS, Nalbari as Inquiry Officer's Authority to inquire into the charges framed against the said Sri Khagendra Kr. Bardalai.

(N. Bhattacharjee)
Supdt. Of Post Offices
Darrang Dn, Tezpur:-784001.

Copy to:-

- Regd - 1) Sri Khagendra Kr Bardalai, PA, Jamugurihat for information.
- 2) Sri Atul Ch Das, ASPOS(HQ), O/O the Supdt. Of POS, Nalbari
The following documents are enclosed:-
1) Memo no F6-1(A)/88-89/2 dtd 7-6-93
ii) Copy of defence statement dtd. 16-6-93 of Sri K.K. Bardalai.
- 3) The Chief Postmaster General (Vig), Assam Circle, Guwahati for information w/r/t memo no Vig/14/IO/PO/93/Ch.11 dtd. 11-8-93.
- 4) Sh. Khatunuddin Ahmed, S2108/72

6/2
Supdt. Of Post Offices
Darrang Dn., Tezpur:-784001.

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Annexure VII

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No. 4-13-99-VP
Government of India
Ministry of Communications
Department of Post
New Delhi-110001

Dated:

21 JUN 1999

ORDER

Whereas it has been reported to the President that disciplinary proceedings have been initiated/are contemplated against Shri K. K. Bardoloi, SPM, Lokra SO.

And whereas the said Shri K.K. Bardoloi, SPM, Lokra SO was initially appointed by the Supdt. of Post Offices, Nagaon division, Nagaon.

And whereas the Supdt. of Postoffices, Darrang division, Tezpur who is the appointing authority in respect of the officials holding the posts held by Shri K.K. Bardoloi, SPM, Lokra SO and also the prescribed Disciplinary Authority is likely to be material witness and will not be in a position to exercise the powers of the Disciplinary Authority competent to impose the penalties (v) to (ix) mentioned in Rule 11 of CCS(CCA) Rules, 1965.

Now, therefore, the President in pursuance of the provisions of Rule 12 of the said rules hereby orders that Supdt. of Postoffices, Dibrugarh Dn. Dibrugarh shall be empowered to function as the Disciplinary Authority of the said Shri K.K. Bardoloi SPM, Lokra SO with powers to impose all the penalties specified in Rule 11 ibid.

An appeal against the orders passed by Supdt. of Postoffices, Dibrugarh Dn., Dibrugarh will lie to the Director of Postal Services, Assam Region, Guwahati.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Shri K. K. Bardoloi,
SPM, Lokra SO.

B. S. Chopra
(B. S. CHOPRA)
DESK OFFICER(VP)

(Through Postmaster General, Assam Region, Guwahati.)

REGISTERED

Copy to the Postmaster General, Assam Region, Guwahati with reference to his letter No Vig/6/Adhoc/DA/Corr/98 dated 10.5.99. Spare copies of the order are sent herewith for transmission to the official and to the office where he is employed.

B. S. Chopra
(B. S. CHOPRA)
DESK OFFICER(VP)

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**DEPARTMENT OF POSTS-INDIA
OFFICE OF THE POSTMASTER GENERAL : DIBRUGARH REGION
DIBRUGARH.**

**Memo No. Staff/2/24-31/00/RP
Dated the 29th August 2002**

Appellate Order

1.(I) Appellant

: Shri Khagendra Kr. Bordoloi, the then SPM, Lokra S.O. now P.A. Mangaldoi H.O. under Darrang Division.

(ii) The Appeal

: Appeal dated 2-3-2000.

(iii) Order appealed

: Punishment of reduction of pay by 5(five) stages from Rs. 5100/- to Rs.4,600/- in the scale of pay Rs. 4000/- 100-6000/- for 5(five) years w.e.f.01-03-2000 and the official will not earn any increment of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his future increments of pay vide SPOs /Dibrugarh memo No. F2-3/Misc/99-00 dated 28-01-2000.

**(iv) Normal Disc.
Authority.**

: Supdt.of post offices,Darang Dn.,Tezpur.

**(v) Adhoc Disc.
Authority**

: Supdt.of Post offices ,Dibrugarh Division,Dibrugarh.

(vi)Appellate Authority :

: DirectorPostal Services, Dibrugarh Region, Dibrugarh.

2.The cause of appeal.:

2.1. A charge sheet under Rule 14 of CCS(CCA) Rules, 1965 containing the following charges were issued against the appellant vide memo no. F6-1(A)/88-89 dated 11-08-97 by the Supdt of Post Offices,Darrang Division,Tezpur.

(i) The appellant while working as offg. SPM, Lokra S.O. for the period from 05-09-84 to 28-04-88 requested the Postmaster Tezpur H.O. vide his letter dated 19-04-88

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and 21-04-88 to remit cash for Rs. 40,000/-(forty thousand)only by showing fictitious liabilities .The said Shri K.K. Bordoloi also did not place the requisition in the respective daily accounts as required under Rule 31(1), (2) of Postal Manual vol.VI Pt.III.

- (ii) During the aforesaid period while functioning in Lokra S.O. the appellant kept shortage of cash for Rs. 44,140.09(Rupees forty four thousand one hundred forty and paise nine)only in the cash balance of Lokra S.O. dated 28-04-88 which was detected by the SPOS Tezpur on 29-04-88. However, the appellant Shri K.K. Bordoloi credited the shortage amount of cash for Rs. 44,140.09 only to Govt. account as UCR on different dates subsequently.

2.2. The appellant submitted his defence against the charges of Disciplinary Authority.

- (i) The appellant stated that he received charge sheet again against the occurrence on 28th. April/1988 . A similar memo of same charges was also received by him in the April/89 and June/93 and punishment order dated 29-12-95 was set aside by the DPS Guwahati.
- (ii) The appellant stated that failure to note in daily account of liabilities may be an omission on his part due to heavy pressure of work in the office but the liabilities were not fictitious .The exact facts and figures after a lapse of 10 years absence can not be cited or stated by him in absence of records. But the Head post office after due consideration and satisfaction of the liabilities sent the cash of Rs. 40,000/- to his office.
- (iii) The appellant stated that the shortage of cash was found by the then Supdt of Post offices ,Darrang Division,Tezpur in cash balance of his office on 29-04-88 in his absence .The shortage was there because on the night of the day when he received the cash some unknown people over powered him on the point of revolver and snatched away the key of the office safe and took away the money from the office.The safe though had the double locking arrangement this was not locked by the clerk which also facilitated the crime .The appellant also stated that it is not a fact that he gave the money to some one as noted in charge sheet .He first informed the O/C Charidua P.S.over phone but police failed to come and then he attended SPOs Tezpur.They started interrogating him and they were not ready to hear him or believe whatever he wanted to say. The appellant stated that he had to write that they wanted to him to write along with Police officer.

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2.3. In his appeal dated 02-03-2000 the appellant submitted the following:-

- (i) The charges against the appellant vide SPOs Tezpur Memo No. F6-1(A)/88-89 dated 17-04-89 was cancelled after completion of departmental inquiry in the year 1990.
- (ii) Subsequently the Disciplinary Authority again issue charge sheet to the appellant vide Memo No. F6-1(A)/88-89/2 dated 07-06-93
- (iii) The authority had already realised the loss fund amounting to Rs. 44140.09 only from the salary and GPF of the appellant on different dates before subsequent show cause notice was served upon him
- (iv) The authority even then lodged an FIR vide GR case No. 702/8 U/S 409 IPC with Tezpur Police station in which the appellant was prosecuted in the court of the Chief Judicial Magistrate, Tezpur on the same ground and eventually acquitted in the said GR case by the judgement dated 30-01-93.
- (v) The appellant stated that after completion of the second inquiry the Disciplinary Authority awarded punishment of reduction of 2 stages of pay from Rs. 1540/- to 1480/- in the scale of pay Rs. 975-22-1150-EB -30-1660 for a period of 2 years without cumulative effect vide order dated 29-12-95 which was set aside by the DPS, Guwahati the Appellate Authority vide his order no. Staff/17-2/97/TZ dated 09-05-97.
- (vi) The appellant stated that the authority (SPOs Dibrugarh) at the time of passing the punishment order dated 28-01-2000 failed to take into consideration the written statement filed by him and other event related to the matter.
- (vii) The appellant prayed for setting aside the punishment order dated 28-01-2000 and pass such order or direction for refunding of disputed amount.

3. **OBSERVATION.**

I have gone through the appeal and other related documents of the case very carefully and my observations are as follows:-

- (i) Due to missing of I.O's report from the office record the charge sheet dated 07-04-89 was cancelled vide SPOs/Tezpur memo No. F6-1(A)/88/89 dated 04-06-93.

- 34 33 294 95
- (ii) Issue of fresh charge sheet under Rule 14 of CCS(CCA) Rules 1965 vide memo No. F6-1(A)/88-89/2 dated 07-06-93 was justified.
 - (iii) Loss occurred to the department due to non-observance of departmental rules is a gross negligence of duty on the part of the appellant.
 - (iv) When the misappropriation of Govt. money came to light the matter was duly reported to the Tezpur Police station and a criminal case was registered against the appellant. Subsequently the court acquitted the appellant from the criminal case.
 - (v) The appellant submitted an appeal to the DPS Guwahati against the punishment order of SPOs Tezpur vide memo No. F6-1(A)/88-89/2 dated 29-12-95. DPS, Guwahati set aside the punishment order dated 29-12-95 as the prescribed procedure was not followed by the Disciplinary Authority and it was further ordered that this would not debar the competent authority from initiating fresh proceeding on the basis of the same charges.
 - (vi) The ad-hoc Disciplinary Authority clearly considered the representation of the appellant and turned down the prayer of the appellant on valid and justified ground before issue of the order.

ORDER.

I, Shri V. C. Roy, Director Of Postal Services, O/O the Postmaster General, Dibrugarh Region Dibrugarh and Appellate Authority in accordance with rules 24(ii) of CCS(CCA) Rules 1965 hereby reject the appeal dated 2.3.2000 by Shri Khagendra Kr. Bordoloi, PA Mangaldoi HO (Appellant) and confirm the disciplinary order dated 28.1.2000 of the Supdt. of Post Offices, Dibrugarh Divn. Dibrugarh.

Sd/—

(V. C. Roy)

Director of Postal Services
O/O the Postmaster General
Dibrugarh Region, Dibrugarh.

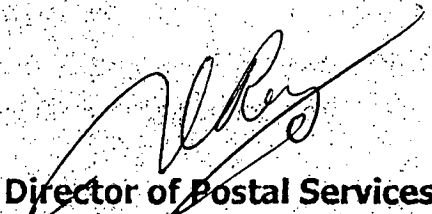
To
Shri Khagendra Kr. Bordoloi,
The then SPM, Lokra S.O.
Now P.A. Mangaldoi H.O. under
Darrang Dn., Tezpur.

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Copy to:-

- ✓ 1.3. The Supdt. of Post Offices ,Darrang Division ,Tezpur. He will ensure delivery of one copy of the same to the appellant and to return one receipted copy to this office for record.
4. C.R. file of the official.
5. P.F.the official.
6. A.D.-I. R.O.Dibrugarh.
7. A.D.-II ,R.O. Dibrugarh.
8. Spare.


**Director of Postal Services
O/O Postmaster General
Dibrugarh Region,Dibrugarh.**

46 (35) (36) 81 99
Annexure IX (125)

DEPARTMENT OF POSTS ; INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, DIBRUGARH
DIVISION, DIBRUGARH-786001.

Memo No.F2-3/Misc/99-00

Dated at Dibrugarh, the 28th January, 2000.

Superintendent of Post Offices, Darrang Division, Tezpur vide his memo No.F6-1(A)/88-89 dated 11.8.97 informed Shri Khagendra Kumar Bordoloi that it was proposed to hold an inquiry against him under Rule 14 of CCS(CCA) Rules, 1965. The substance of the imputation of misconduct or misbehaviour in respect of which the enquiry was proposed to be held was set in a statement of Article of charges and enclosed with the above memo. The following statements were also enclosed with the memo :

1. A statement of the imputation of misconduct or misbehaviour in support of each article of charge.
2. A list of documents by which the above charges were proposed to be sustained.
3. A list of witnesses by which the above charge were proposed to be sustained.

Shri Bordoloi was further directed to submit within 10-days of the receipt of the memo, a written statement of his and also to state whether he desires to be heard in person.

Shri Bordoloi submitted his written statement vide his letter dated 22.08.97 addressed to the Superintendent of Post Offices, Darrang Division, Tezpur with a prayer to exonerate from the charges. It was then decided to hold regular inquiry into the case and as such Inquiry Officer was appointed. Shri S.Roy, Asstt. Supdt. of Post Offices(H/Q), Tezpur was appointed as Inquiry Authority vide Superintendent of Post Offices, Tezpur memo no.F6-1(A)/88-89 dtd.16.9.97. Shri Roy completed the inquiry and submitted his inquiry report to the Superintendent of Post Offices, Darrang Division, Tezpur vide his no.A1/KKB/97 dtd.4.1.98. A copy of the above inquiry report was given to Shri K.K.Bordoloi giving him an opportunity to submit a representation if any. Shri Bordoloi submitted his representation vide his letter dated nil which was received by the Superintendent of Post Offices, Tezpur on 14.2.99. (4.1.99)

Shri B.Hazarika, the present Superintendent of Post Office, Darrang Division, Tezpur who is the appointing authority in respect of the official holding the posts held by Shri K.K.Bordoloi and also the prescribed Disciplinary Authority was a material witness and will not be in a position to exercise the powers of the Disciplinary Authority competent to impose the penalties (v) to (ix) mentioned in Rule 11 of CCS(CCA) Rules, 1965. Thus the appropriate authority was requested to appoint ad-hoc disciplinary authority. Directorate vide its memo no.4-13-99-VP dated 21.6.99 communicated the order of the President to empower the Superintendent of Post Offices, Dibrugarh Division, Dibrugarh to function as the disciplinary authority

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with the power to impose all the penalties specified in Rule 11 ibid. A copy of this memo was given to Shri K.K.Bordoloi.

I, the undersigned and the Disciplinary Authority have gone through all the relevant documents very carefully. I have also considered the case very carefully. Two Articles of charges were framed against Shri Bordoloi. They are:

Article-1

That the said Shri K.K.Bordoloi while working as officiating SPM, Lokra for the period from 5.9.84 to 28.4.88 requested the Postmaster, Tezpur vide his letter dated 19.4.88 and 21.4.88 to remit cash for Rs.40,000/- only by showing fictitious liabilities. The said Shri K.K.Bordoloi also did not place the requisition in the respective daily A/cs. as required under Rule 31(1)(2) of Postal Manual Vol. VI part III. Thus Shri K.K.Bordoloi is found responsible for the violation of Rule 31(1)(ii), 3(1)(iii) of CCS(Conduct) Rules, 1964.

Article-II

During the aforesaid period and while working in the aforesaid office, said Shri K.K.Bordoloi report personally to the Superintendent of Post Offices, Tezpur in his Chamber on 28.4.88 that a sum of Rs.45,000/- (Rupees fortyfive thousand) only was short in the cash balance of Lokro S.O. which he had handed over to some body on good faith. The Superintendent of Post Offices, Tezpur verified the cash balance of Lokro physically on 29.04.88 and found total shortage of Rs.44,140.09 (Rupees fortyfour thousand one hundred forty and paise nine) only which was charged as UCP in the account of Lokro on 29.04.88.

31(1)(ii)

However, this shortage amount of Rs.44,140.09 only had been credited subsequently by said Shri K.K.Bordoloi as UCR in Govt. account on different dates voluntarily.

Thus by keeping shortage of cash for Rs.44,140.09 only in the cash balance of the office dated 28.04.88 Shri K.K.Bordoloi is found responsible for the violation of Rule 84 and 85 of Postal Manual Vol. VI part III and also Rule 3(1)(ii)(iii) of CCS(Conduct) Rules, 1964.

The fact of the case was not disputed.

The following exhibits were produced before the Inquiring Authority in support of the charge -

1. SPM/Lokra's letter No.19.04.88, 21.04.88.
2. Lokra D/A dtd.19.04.88, 20.04.88 and 22.04.88.
3. W/S dated 28.04.88 of Shri K.K.Bordoloi.
4. Inventory dated 29.04.88.
5. W/S of Phanidhar Haloi dated 30.04.88.
6. W/S of Pradip Das dated 30.04.88.

- 38 37 82 98
6. W/S of Arabin Das dtd. 30.04.88.
 7. W/S of Arabin Das dtd. 30.04.88.
 8. W/S of Hom Nath Upadhyay.
 9. Diary of O/S cash, Tezpur for 20.02.88 to 26.04.88.
 10. Credit certificate dated 25.09.90 of Postmaster, Tezpur.

During the enquiry and on the basis of the records, documents oral and written deposition, arguments and discussions and on the basis of statement dated 28.04.88 of Shri K.K. Bordoloi, it has been established that Shri Bordoloi requested the Postmaster, Tezpur H.P.O. on 19.04.88 and 21.04.88 for remittance of cash for Rs.40,000/- only by showing fictitious liabilities and kept shortage of cash for Rs.44,140.90 only in the cash balance of Lokra S.O. dated 28.04.88.

Shri Bordoloi in Article I has been charged with the following misconduct :

1. He requested the Postmaster, Tezpur H.P.O. vide his letter dated 19.04.88 and 21.04.88 to remit cash for Rs.40,000/- only by showing fictitious liabilities.

2. He did not place the requisition in the respective daily accounts as required under Rule 31(1)(2) of Postal Manual Vol. VI part III.

From the enquiry report and examination of the documents produced before the Inquiring Authority Ex-1(a) and 1(b) and Ex.No.2(a) and 2(b) it is established that the SPS Shri Bordoloi requested the Postmaster, Tezpur for remitting a sum of Rs.40,000/- through letters written on the pieces of paper on 19.04.88 and 21.04.88. Shri Bordoloi did not show any liability of his office in details. Further on the examination of the daily accounts of Lokra S.O. dated 19.04.88 [Ex-2(a)], 20.04.88 [Ex-2(b)] and 23.04.88 [Ex-2(c)] it is established that, the said Shri Bordoloi did not place the requisition in the respective daily accounts.

Shri Bordoloi in Article II has been charged with the following misconduct :

1. He kept shortage of cash for Rs.44,140.90 only in the cash balance of Lokra S.O. dtd.28.04.88 which was detected by the Superintendent of Post Offices, Tezpur during his visit to the Post Office on 29.04.88.

From the enquiry report and examination of the exhibits it is established that, there was a shortage of Rs.44,140.09 only in the cash balance of Lokra S.O. dated 28.04.88. It is established from the inventory prepared during the visit of the Superintendent of Post Offices, Tezpur on 29.04.88 that the closing balance of the S.O. on 28.04.88 as per record should be Rs.47,367.42. But physically the amount of cash balance found as Rs.3,237.33 only. In his written statement dated 28.04.88, Shri K.K. Bordoloi has clearly stated that on 26.04.88 he gave a sum of Rs.45,000/- from the Govt. cash to one Shri Hiren Das of Lokra on good faith but not returned.

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88.10.01: The written brief of the SPS has also been considered which is nothing but after thought. In his brief he stated that liabilities were shown in the daily account dated 23.04.88, 25.04.88 and 26.04.88. But he requested the Postmaster, Tezpur to remit the cash on or before 23.04.88 and the cash was remitted to him on 23.04.88 through the O/S (Cash), Tezpur. Thus writing the liabilities in the daily account dated 23.04.88/25.04.88 and 26.04.88 bears no meaning in connection with the remittance of Rs.40,000/- of 23.04.88.

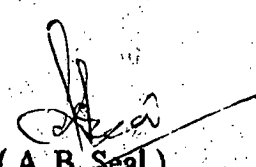
Regarding the allegation in article II, the contents of the brief of the SPS^{1/2} not acceptable for the reason widely discussed above.

Thus the charges framed in the article I and II of the Superintendent of Post Offices, Tezpur memo no.F6-1(A)/88-89 dated 11.8.97 against Shri K.K.Bordoloi stand proved.

In view of the above, I the undersigned and the designated Disciplinary Authority hereby award the following punishment.

That the pay of Shri K.K.Bordoloi now PA, Charali S.O. and the then SPM, Lokra S.O. may be reduced by five stages from Rs.5,100/- to 4,600/- in the scale of pay Rs.4,000/- - 100 - 6,000/- for the five years with effect from 1.3.2000. It is further ordered that he will not earn any increment of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his future increments of pay.

o/c


(A. B. Seal)

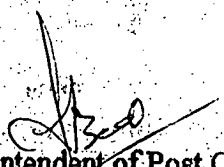
Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh-786001.

Copy to:-

REGISTERED

of the official.

1. Shri K.K.Bordoloi, PA, Charali, Dist.Sonitpur.
2. The Postmaster, Tezpur-784001.
- 3-5. The Superintendent of Post Offices, Tezpur for P/F and C/R
- 6-7. Spares.


Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh-786001.

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16 AUG 1993
DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE
GUWAHATI-781001.

No. Vig/14/IO/PO/93/Ch. II,
Dated at Guwahati, the 11-8-93./

To

- 1) SPOs/Tezpur.
2) SPOs/Nalbari.

Sub: Appointment of IO/PO in Rule-14 cases.

Ref: (1) SP/Tz No. F6-1(A)/88-39/2 dtd. 21-6-93/22-7-93.
(2) SP/Nalbari No. F1-03/A/Cash/92-93 dtd. 23-6-93.

I have been directed to inform you that the DPS is pleased to appoint the following officers to act as IO in the following cases.

- (1) In Rule-14 case of : I.O.: T.K. Chowdhury,
Paramananda Das, ASPOs (Plg)
RPA/Barpeta HO (U/S) O/O CPMG,
Assam Circle,
Guwahati-781001.
- (2) In Rule-14 case of : I.O.: Atul Ch. Das,
K.K. Bordoloi, then ASPOs (HQ),
SPM, Lokra S.O. O/O the SPOs,
Nalbari.

2. As regards Presenting Officers, they may be appointed locally.

(A. Anurag)

Asstt. Postmaster General (Vig)
O/O the CPMG, Assam Circle, Guwahati

PA case memo

16/8/93

Shri K. U. Akhane
SA/PS/TZ may
be appointed as P.O.
in this case
17/8/93

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Adm. no. = E

DEPARTMENT OF POSTS - INDIA
OFFICE OF THE SUPDT. OF POST OFFICES DARRANG DN TEZPUR.

M E M O R A N D U M

Rule-14 of Central Civil Service (CCS) Rules, 1965.

EG-1(A)188-89

Dated, Tezpur 11/8/77

The undersigned propose to hold an inquiry against Shri

Khagendran K. Bardola under Rule-14 of the CCS (CCA) Rules, 1965

The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each Article of charge enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed. (Annexure-III and IV).

2. Shri K. K. Bardola is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny each articles of charge.

4. Shri K. K. Bardola is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 or if he does not appear in person before the inquiring authority or if he fails or refuses to comply with the provisions of Rule-14 of the CCS (CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule the inquiring authority may hold the inquiry against him EX-Parte.

5. Attention of Shri K. K. Bardola is invited of Rule-20 of the CCS (Con) Rules 1964 under which no Govt servant shall bring or attempt to bring any political or outside influence to bear upon any Superior Authority to further its interest in respect of matters pertaining of his service under the Govt. If any representation is received on his behalf from a other person in respect of any matters dealt with these proceedings it will be presumed that Shri K. K. Bardola

is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the CCS (Con) Rules 1964.

6. The receipt of this memo may be acknowledged.

REGD. AD

To

Shri Khagendran K. Bardola

P. A. Jamugurihat So.

A. Sonitguri

(B. K. Baruah)
Supdt. of Post Office
Darrang Division, Tezpur

সদর দপ্তর, ৩৭ ৭৪০০১
Supdt. of Post Offices
Darrang Division, Tezpur-784001

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ANNEXURE-I

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST SHRI KHAGENDRA KUMAR BARDOLOI, THE THEN OFFG. SPM LOKRA AND NOW OFFG. PA JAMUGURIHAT SO.

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ARTICLE-I

That the said Shri Khagendra Kumar Bardoloi while working as offg. SPM Lokra for the period from 5.9.84 to 28.4.88 requested the Postmaster, Tezpur vide his letter dtd. 19.4.88 and 21.4.88 to remit cash for Rs. 40,000/- (Rs. forty thousand) only by showing fictitious liabilities. The said Shri K.K. Bardoloi also did not place the requisition in the respective daily A/Cs as required under rule-31(I)(2) of Postal Manual Vol. VI Pt. III. Thus Shri K.K. Bardoloi is found responsible for the violation of Rule 31(I)(2) of Postal Manual Vol. VI Pt. III and also Rule 3(I)(ii)(iii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office the said Shri K.K. Bardoloi kept shortage of cash for Rs. 44140.09 (Rs. Forty four thousand one hundred forty and paise none) only in the cash balance of Lokra SO dtd. 28.4.88 which was detected by the SPOs, Tezpur during his visit to the PO On 29.4.88. However, said Shri K.K. Bardoloi credited the shortage amount of cash for Rs. 44140.09 only to Govt. account as UCR on different dates subsequently.

Thus the said Shri K.K. Bardoloi is found responsible for the violation of the provisions of Rule 84 and 85 of Postal Manual Vol. VI Pt. III and also rule 3(I)(ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGES FRAMED AGAINST SHRI KHAGENDRA KUMAR BARDOLOI, THE THEN OFFG. SPM LOKRA AND NOW OFFG. PA JAMUGURIHAT.

That the said Shri Khagendra Kumar Bardoloi while working as offg. SPM-Lokra during the period from 5.9.84 to 28.4.88 requested the Postmaster, Tezpur HO vide his letter dtd. 19.4.88 and 21.4.88 respectively, to remit cash for Rs. 40,000/- (Rs. forty thousand) only before 23rd April/88 by showing fictitious liabilities. He did not furnish the particulars of liabilities in the appropriate columns of the reverse side of the daily accounts. However, the Postmaster, Tezpur HO remitted cash for Rs. 40,000/- (Rs. forty thousand) only on 23.4.88 through O/Cash, Tezpur who had handed over the remittance for Rs. 40,000/- only to the SPM Lokra duly acknowledged in the diary at 12-30 hrs. The attempt made by Shri K.K. Bardoloi to collect on the pretence of fictitious liabilities from the HO ~~substantiated~~ ~~by the~~ ~~Postmaster, Tezpur HO~~ ~~deliberate~~ his wilful motive to misappropriate the Govt. cash and therefore the said Shri K.K. Bardoloi is considered to have violated the provisions of Rule 31(I)(2) ~~ibid~~ and also Rule 3(I)(ii)(iii) of CCS (Conduct) Rules, 1964.

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ARTICLE-II

That during the aforesaid period and while working as in the aforesaid office, said Shri K.K. Bardoloi reported personally to the SPOs, Tezpur in his chamber on 28.4.88 that a sum of Rs 45000/- (Rs. forty five thousand) only was short in the cash balance of Lokra SO which he had handed over to some body on good faith. The SPOs, Tezpur verified the cash balance of Lokra physically on 29.4.88 and found that total shortage for Rs. 44140.09 (Rs. forty four thousand one hundred forty and paise nine) only which was charged as UCP in the account of Lokra on 29.4.88.

However, this shortage amount of Rs. 44140.09 only had been credited subsequently by said Shri K.K. Bardoloi as UCR in Govt. account on different dates voluntarily.

Thus by keeping shortage of cash for Rs. 44140.09 only in the cash balance of the office dtd. 28.4.88 Shri K.K. Bardoloi is found responsible for the violation of Rule 84 and 85 of Postal Manual Vol. VI Pr. III and also Rule 3(i)(ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGES FRAMED AGAINST SHRI KHAGENDRA KUMAR BARDLOI, THE THEN OFFG. SPM LOKRA AND NOW OFFG. PA JAMUGURIHAT ARE PROPOSED TO BE SUSTAINED.

- 1) The SPM-Lokra's letter dtd. 19.4.88, 21.4.88.
- 2) Lokra D/A Dtd. 19.4.88, 20.4.88, 22.4.88, 21.4.88, 23.4.88, 25.4.88 to 29.4.88.
- 3) Written statement of Shri K.K. Bardoloi dtd. 28.4.88.
- 4) Inventory dtd. 29.4.88.
- 5) W/S of Shri Phanishar Haloi, PA now PA Charali dtd. 30.4.88.
- 6) W/S of Shri Pradip Das, ED Packer Lokra dtd. 30.4.88.
- 7) W/S of Shri Arabinda Das, ED Messg. Lokra dtd. 30.4.88.
- 8) W/S of Shri Hemnath Upadhaya, Postman Lokra dtd. 30.4.88 now retired.
- 9) ~~W/S of Shri~~ Diary of O/S Cash, Tezpur for the period from 20.2.88 to 26.4.88.
- 10) Credit certificate dtd. 25.9.90 of PM, Tezpur.

ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGES FRAMED AGAINST SHRI KHAGENDRA KUMAR BARDLOI, THE THEN OFFG. SPM LOKRA AND NOW OFFG. PA JAMUGURIHAT SO, ARE PROPOSED TO BE SUSTAINED.

- 1) Shri G.V. Ananthanarayanan, the then SPOs, Tezpur now retired.
- 2) Shri Binanda Hazarika, the then ASP(HQ) Tezpur now SPOs, Nowgong.
- 3) Shri Tarun Ch. Kalita, the then SBI(P) Tezpur now SBI(P) Hojai Sub.Division, Hojai.

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- 4) Shri Phanidhar Haldai, the then PA Lokra now PA Charali.
- 5) Shri Krishna Bahadur Chetry, President, Assam Rifle, Ex-Service man, Assam, Lokra.
- 6) Shri Pradip Das, ED, Lokra.
- 7) Shri Arabinda Das, ED Messg. Lokra.
- 8) Shri Hemnath Upadhyaya, Postman Lokra now retired.
- 9) Shri Mohan Ch. Hazarika, C/S Cash, Tezpur now retired.
- 10) Shri Jitendra Nath Sarma, the then AFM Tezpur HO now retired

(B. K. Marak)
Supt. of Post Offices
Darrang Division, Tezpur.