

5/600

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 37/2002

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SECTION OFFICER (Judl.)

*[Signature]*  
22.11.07

ⓧ

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench  
Guwahati

ORDER SHEET

APPLICATION NO. 37 /2002

Applicant(s) K.C. Saikia

Respondent(s) W.O. 2 OSB.

Advocate for Applicant(s) Mr J.L. Sarkar

Mrs S. Deka & A. Chakrabarty.

Advocate for Respondent(s)

C.C.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C.F. for Rs. 50/- deposited vide 197/SD No 76/55/707 Dated 17.01.2002 <i>[Signature]</i> 16 Dy. Registrar 5/2/02</p>	<p>12.2.02</p> <p>mb</p>	<p>Heard Mr. J.L. Sarkar, learned counsel for the applicant. The application is admitted. Call for the records. List on 18.3.2002 for order.</p> <p><i>[Signature]</i> Member      <i>[Signature]</i> Vice-Chairman</p>
<p>Steps taken along with Encl. No. 14/2/02 Notice prepared and sent to D/S for info the Respondent. No. 14/3 by Regd A.B. D.C. No <u>503 to 505</u> Dtd <u>18/2/02</u></p>	<p>18.3.02</p> <p>mb</p>	<p>On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents the case is adjourned to file written statement. List on 22.4.2002 for order.</p> <p><i>[Signature]</i> Member      <i>[Signature]</i> Vice-Chairman</p>
<p>Service report were still accepted. <i>[Signature]</i> 15.3.02 No. 101 has been filed. <i>[Signature]</i> 19.4.02</p>	<p>22.4.2002</p> <p>bb</p>	<p>List the case on 22.5.2002 to enable the respondents to file writ- ten statement positively.</p> <p><i>[Signature]</i> Vice-Chairman</p>

2.5.2002

W/s submitted  
by the Respondents.

No rejoinder has  
been filed.

30  
20.6.02

22.5.02

Written statement has been filed.  
The case may now be listed for hearing  
on 21.5.2002. The applicant may file  
rejoinder, if any, within three weeks  
from today.

Member

Vice-Chairman

mb

21.6.02

Prayer has been made by Mr. A.  
Chakrabarty, learned counsel for adjour-  
ment of the case appearing on behalf  
of ~~the~~ Mr. J.L.Sarkar, learned counsel  
for the applicant who is out of station.  
Upon hearing Mr. Chakrabarty and Mr. A.  
Deb Roy, learned Sr. C.G.S.C. for the  
respondents the case is adjourned. List  
on 18.7.2002 for hearing.

Member

Vice-Chairman

mb

18.7.2002

Mr. J.L.Sarkar, learned counsel  
for the applicant has stated that in  
view of the subsequent development, he  
has been instructed not to press the  
application. Accordingly, the applica-  
tion is dismissed as not pressed, leav-  
ing it open to the applicant to seek  
appropriate remedy, if so advised.

Member

Vice-Chairman

bb

Order dtd. 18/7/02  
Communicated to the  
Karties Court.

14/8/02

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal  
- 5 FEB 2002  
गुवाहाटी बेंच  
3-Judicial Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI

Title of the case : O.A. No. 37 /2002

Sri Khagen Ch. Saikia : Applicant

versus

Union of India & ors. : Respondents

I N D E X

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2.	-	Verification	11
3.	A	Copy of Order dated 10.12.1996	12-15
4.	B	Copy of Charge sheet dated 7.1.2002	16-21

Filed by  
*Anupam Chakraborty*  
(Anupam Chakraborty)  
Advocate

Sri Khagen Chandra Saikia

In The Central Administrative Tribunal  
Guwahati Bench :: Guwahati.

O.A. No. /2002

BETWEEN

Sri Khagen Ch. Saikia

Working as Assistant Accounts Officer in  
the P & T Accounts and Finance Service,  
Telecom Wing, North Lakhimpur.

.....Applicant

AND

1. Union of India represented by the  
Secretary to the Govt. of India,  
Ministry of Communication,  
Department of Telecommunications,  
New Delhi - 1.
2. The General Manager,  
Kamrup Telecom District,  
Ulubari, Guwahati-7.
3. The Chief General Manager Telecom,  
Assam Circle, Ulubari,  
Guwahati- 781 007.

.....Respondents

*Filed by the applicant  
through D. Chakrabarti  
Persecutor  
5/2/2002.*

*Sri Khagen Chandra Saikia*

Details of the Application :-

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

The application is made against the Charge-sheet number GM/SDE(Vig)/X-97/01-02/4 dated 7.1.2002 issued by the General Manager, Kamrup Telecom District, Guwahati, who is not competent under CCS CCA Rules 1965, the Member, Telecommunications Commission is the competent authority under the said Rules. The charges also relate to a period about 10 years back, and meant for Junior Accountant/Senior Accountant but wrongly issued against the applicant who was neither Junior Accountant nor Senior Accountant.

2. Jurisdiction:

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

3. Limitation:

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

4. Facts of the case:

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

4.2 That the applicant joined as Junior Accounts officer (for short JAO) w.e.f. 13.5.1991 in the Department

Sri Khagen Chandra Saikia

of Telecommunications in the Junior Accounts Officers service, Telecom wing; Group -C. He was promoted as Assistant Accounts Officer w.e.f. 1.10.1995 in the Indian P & T Accounts and Finance service, Telecom Wing, Group - B. It is stated that the appointment/promotion to the post of Assistant Accounts Officer in the P & T Accounts and Finance service, Telecom Wing, Group-B (Gazetted) is made by the Telecom Commission. The Member(F), Telecom Commission was pleased to appoint the applicant to the said P & T Accounts and Finance service, Telecom Wing, Group-B (Gazetted) and the office memorandum was communicated by the order dated 10.12.1996 of the Department of Telecommunications. The name of the applicant appears against serial number 92 of the said order dated 10.12.1996.

Copy of the Order dated 10.12.1996 is enclosed as Annexure - A.

4.3 That in the year 1992 the applicant was posted at Nagaon as JAO under Telecom District Engineer (for short TDE), Nagaon Telecom Division, Nagaon. It is reiterated that during 1992 he worked as JAO, and it is stated that he did not work as Junior Accountant or Senior Accountant. A Junior Accountant was posted under him in the said office. As already stated, w.e.f. 1.10.1995 he is working as Assistant Accounts officer Group-B and he is now posted at North Lakhimpur.

4.4 That Part-II of The Schedule to the Central Civil Services Classification Control and Appeal Rules, 1965 (for short CCS CCA Rules) prescribes the authority competent to impose penalties and penalties which it may impose (with reference to item numbers in Rule 11). Serial number 10,

X  
Sri Khagen Chanda Saini

column-2 of the said part-II of the schedule deals with the Indian Post and Telegraph's Accounts and Finance Service, Telecom Wing, Group-B. Column-4 mentions the authorities competent to impose penalties with reference to Rule 11. Column-5 mentions the item numbers of Rule 11. Under the column-4 of the serial number 10 of the said schedule, Member, Telecommunications Commission is the authority competent to impose penalties under Rule 11, and items of Rule 11 are 'ALL' in column-5. The column-4 further mentions Advisor (Human resources Development), department of Telecommunications; Head of Circle; Head of Telephone District; General Manager Telecommunications Stores; General Manager Project; General Manager Telecommunications Factories are authorities for penalties (i) to (iv), as mentioned in column-5 of the schedule.

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

4.6 That it is stated that Part-III of the schedule deals with the central civil services Group-C. Serial number 2 of the Part-III in column-2 deals with Post and Telegraph's Accounts Service; Senior and Junior Accountants. In column-4 competent authority to impose penalties under

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Rule 11 is Member, Post and Telegraph's Board, for 'All' penalties as per column-5. For items (i) to (iv) of Rule 11 (i.e. minor penalties) other authorities are competent.

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

4.8 That the Rule 14 of the CCS CCA Rules prescribes the procedure for major penalties. Under Rule 2(g) Disciplinary Authority means the authority competent under the Rules to impose any of the penalties in Rule 11. The Member, Telecommunications Commission is the competent authority under serial number 10 of the Part-II of the schedule to impose major penalty on the applicant and no other authority is competent to impose such(major) penalty. The Member, telecommunications Commission is, therefore, the Disciplinary Authority in respect of imposition of major penalty on the applicant, and general manager is not the Disciplinary Authority for imposition of major penalty. The memorandum of charge-sheet for punishment under Rule 14, therefore, can be issued only by the Member, Telecommunications Commission on the applicant.

4.9 That a memorandum of charge-sheet number

Sri Khagen Chandra Saikia

GM/SDE(Vig)/X-97/01-02/4 dated 7.1.2002 has been issued to the applicant under Rule 14 of the CCS CCA Rules 1965 under the signature of the General Manager, Kamrup Telecom District, Guwahati-7. It is stated that general Manager is not competent authority under the rules to issue the said charge-sheet to the applicant. It is further stated that the charge-sheet has been issued with non application of mind. The charges were intended to be brought against Junior Accountant/ Senior Accountant in the Office of TDE, Nagaon during 1992. The applicant was neither Junior Accountant nor Senior Accountant in the Office of the TDE, Nagaon during 1992. But even then charge-sheet has been issued to him.

Copy of the memorandum of charge sheet dated 7.1.2002 with encloser is enclosed as Annexure-B.

4.10 That the allegations of charges relate to the period 1992 in the matter of pre-checking of bills for supply of materials. The authorities for the long years could not do anything in the matter of alleged irregularities in the pre-checking of the bills. To cover up the matters of alleged irregularities the charge sheet has been issued to the applicant. The charge sheet is liable to be set aside for allegations during the period of about 10 years back.

4.11 That the General Manager, Kamrup telecom District, Guwahati instead of communicating the alleged irregularities to the higher authorities viz., Telecommunications Commission purported to settle up the matters at his

administrative level and preferred to issue the charge sheet under his own authority, though he is not the competent authority under the CCS CCA Rules 1965.

4.12 That the applicant received the charge sheet on 7.1.2002 and after that he was transferred to North Lakhimpur in the Office of the TDE, North Lakhimpur. He has joined at North Lakhimpur and by an application dated 15.1.2002 has prayed for 30 days for defending his case. In the said application he has stated that the matters relate to 1992 and he failed to remember anything about it.

4.13 That the applicant states that in 1992 he was JAO in the Office of the TDE, Nagaon and the allegations meant for Junior/Senior Accountant have been brought against him, that too after a lapse of about 10 years. the applicant is at present working as Assistant Accounts Officer in the P & T Accounts and Finance Service, Telecom Wing, Group-B service and even then the charge sheet has been issued by General Manager who is not competent to issue the same. The Charge sheet is liable to be set aside and quashed.

4.14 That the applicant is no way responsible for the allegations and the allegations were not within the scope of the applicant's duties. to give an eye-wash in the matter of alleged irregularities in the supply and payment of the materials by the executive side the applicant who is in accounts service have been sought to be implicated by the imputations irregularly by-passing the Telecom Commission, Member of which Commission is only the competent authority to initiate a charge sheet against the applicant.

5. Grounds for reliefs with legal provisions:

5.1 For that the charge sheet has been issued against the applicant with the mistaken notion that he was Junior/Senior Accountant.

5.2 For that the charge sheet has been issued on irregularities alleged to be committed by Junior Accountant/Senior Accountant.

5.3 For that the allegations are meant for Junior Accountant/Senior Accountant.

5.4 For that the charge sheet has been issued by the General manager, Kamrup telecom District who is not competent to issue the same under CCS CCA Rules 1965.

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

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

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

Sri Khagen Chandra Saitika

6. Details of remedies exhausted:

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

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

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

8. Reliefs sought for :

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

8.1 The Charge sheet number GM/SDE(vig)/X-97/01-02/4 dated 7.1.2002 issued by the General Manager, Kamrup Telecom District be set aside and quashed.

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

8.3 Cost of the case.

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

9. Interim relief prayed for :

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

9.1 The proceedings in the charge sheet number GM/SDE(vig)/X-97/01-02/4 dated 7.1.2002 be stayed/suspended.

Sri Khagen Chandra Saikia

The above relief is prayed for on the grounds stated in para 5 above.

10. This application has been filed through Advocate.

11. Particulars of Postal Order :

i) I.P.O. No. : 74 551709

ii) Date of issue : 17.11.2002

iii) Issued from : City H.P.O.

iv) Payable at : H.P.O. Gkp.

12. Particulars of Enclosures :

As stated in the index.

Verification.....

Sri Khagesh Chandra Saikia

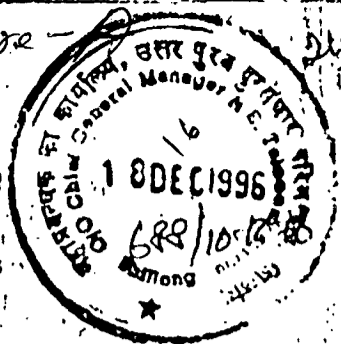
Verification

I, Khagen Ch. Saikia, Son of Late Tilok Chandra Saikia, resident of B.B. Road, Nagaon, aged about 46 years do hereby verify that the statements made in para 1,4,6 and 7 are true my personal knowledge and those made in para 2,3 and 5 are true to my legal advice and the rests are my humble submission. I have not suppressed any material facts.

And I, sign this verification on this 2nd day of February, 2002 at Guwahati.

Sri Khagen Chandra Saikia

12- हिंदी में कार्य करने पर जोर  
याचन है  
हृदय की धड़कन



No.39-1/94-SEA  
Government of India  
Department of Telecommunications  
Sanchar Bhawan, New Delhi-110001.

Dated the 10th December, 1996.

OFFICE MEMORANDUM

Sub:- Promotions and posting in the grade of Asstt. Accounts Officers.

Member (F) Telecom Commission is pleased to appoint the following Junior Accounts Officers belonging to the Junior Accounts Officers Service, Telecom Wing, Group "C" to the grade of Assistant Accounts Officers in the P&T Accounts and Finance Service, Telecom Wing, Group "B" (Gazetted) in the scale of pay of Rs.2000-60-2900-EB-75-3200 with effect from 1-10-95:-

S1. Name of the Official Circle/Office where working as No. S/Shri/Smt. JAO.

- |                              |                  |
|------------------------------|------------------|
| 1. P. SHANMUGAM              | TN TELECOM.      |
| 2. TAPAN JYOTI HALDER        | GMTS CALCUTTA    |
| 3. DEBASHIS MITRA            | CALCUTTA PHONES  |
| 4. C.S. MAHAJAN              | MTNL, BOMBAY     |
| 5. KIRATI ACHARYA            | ORISSA TELECOM   |
| 6. A.N. KARACHE              | MAHARASHTRA TELE |
| 7. SUBHASH CHAND             | MTNL, DELHI      |
| 8. G.L. KAUL                 | J&K TELECOM.     |
| 9. K. SREERAMAMURTHY         | AP TELECOM       |
| 10. S. ABDUL SATTAR          | AP TELECOM.      |
| 11. SADASIVANI SIV KUMAR     | ORISSA TELECOM   |
| 12. V.K. GOEL                | UP TELECOM.      |
| 13. JAGADISH SINGH           | UP TELECOM.      |
| 14. A.A. SADHU               | UP TELECOM.      |
| 15. RAJENDRA KUMAR AGNIHOTRI | GUJARAT TELECOM. |
| 16. V. LAKSHMAIAH            | UP TELECOM.      |
| 17. MD. FAROQUE              | AP TELECOM.      |
| 18. P.P. FERNANDES           | BIHAR TELECOM    |
| 19. LALJI KESRI              | MH TELECOM       |
| 20. S. ROHINI                | UP TELECOM       |
| 21. GOBINDA BANERJEE         | MADRAS PHONES    |
| 22. D.S. KATORE              | WB TELECOM       |
| 23. LAL SINGH                | MH TELECOM       |
| 24. RAMESH CHAND             | UP TELECOM       |
| 25. RAMESH CHANDER SHARMA    | NCES DELHI       |
| 26. SWAPAN KR. KAR           | MTNL DELHI       |
| 27. M.S. KHAN                | GMM CALCUTTA     |
| 28. PRAN GOPAL BASAK         | UP TELECOM       |
|                              | GMP CALCUTTA     |

*Handwritten signatures and dates:*  
Pran Gopal Basak  
5/2/2012

29.	R.C. MATHICS	MH TELECOM	
30.	YASH PAL GUPTA	J&K TELECOM	
31.	HARJIT SINGH BAWA	MTNL DELHI	
32.	MAHESH PRASAD	MTNL DELHI	
33.	T.C. LAKSHMI BAI	MADRAS PHONES	
34.	OM PARKASH JNA	UP TELECOM	
35.	E. CHRISTE PARIMALA	TN TELECOM	
36.	KANTI RANJAN GUHA	GMP CALCUTTA	
37.	AMIT DAS GUPTA	GMP CALCUTTA	
38.	MOHD MOHMOOD JANY	AP TELECOM	
39.	NAND KISHORE	HARYANA TELECOM	
40.	OM PARKASH SHARMA	RAJ. TELECOM	
41.	M.R. BARBHAIYA	ASSAM TELECOM	
42.	SHYAM NARAYAN THAKUR	BIHAR TELECOM	
43.	P.V.V. BHAGIRATHI RAO	AP TELECOM	
44.	P.S. NAGARAJA	MTNL BOMBAY	
45.	RAM KRISHANA BAJPAI	UP TELECOM	
46.	CH. YADAGIRI	AP TELECOM	
47.	GORA CHAND DUTTA	GMP CALCUTTA	
48.	MANBAR SINGH NAYAL	MTNL DELHI	
49.	D.P. BHOLE	MH TELECOM	
50.	T. MALLAIAH (SC)	AP TELECOM	
51.	PHOOL SINGH CHAUHAN	MP TELECOM	
52.	MOOL CHAND PRAJAPAT	RAJ TELECOM	
53.	V. KRISHNAMURTHI	TN TELECOM	
54.	VINOD KUMAR BAJAJ	GMS CALCUTTA	
55.	K.N. PARASHURAMI	MTNL BOMBAY	
56.	SURYA LAL	UP TELECOM	
57.	SUBHASH CHANDRA DUBEY	BIHAR TELECOM	
58.	MANU BHATTASALI	WB TELECOM	
59.	U.D. PRABHU	MTNL BOMBAY	
60.	S. VARALAKSHMI	AP TELECOM	
61.	G. RAMAKRISHNA	GMM MADRAS	
62.	A.B. CHAUDHURY	ASSAM TELECOM	
63.	S.N. UPADHYAY	UP TELECOM	
64.	D. PRABHAKARA RAO	AP TELECOM	
65.	SOM NATH BASAK	GMS CALCUTTA	
66.	BRAJENDRA SINGH	GMM CALCUTTA	
67.	VINAY MOHAN GUPTA	TELE DTE	
68.	K.C. VENKATA REDDY	AP TELECOM	
69.	K.S. VIJAYALAKSHMI	KERALA TELECOM	
70.	LAKSHMI PREMI KUMAR	MADRAS PHONES	
71.	ALOK KUMARI CHATTOPADHYAY	GMM CALCUTTA	
72.	BHEEM SINGH YADAV	CGMP, UNZ	
73.	KASHMIRI LAL	PUNJAB TELECOM	
74.	RAM DEO PAL	UP TELECOM	
75.	JAGANNATH CHAKRABORTHY	ASSAM TELECOM	
76.	JIBOTOS BISWAS	TF GUWAHATI	
77.	RADHEY SHAM SACHDEVA	HARYANA TELECOM	
78.	R. USHA	KERALA TELECOM	
79.	V. GUNASEKHARAN	GMM MADRAS	
80.	KUSAI HARIJAN (SC)	UP TELECOM	
81.	K. SHIVARAMA KARANTH	KARNATAKA TELECOM	
82.	GURURAJ ROHIDEKAR	KARNATAKA TELECOM	
83.	P. TAMILSELVAN T. SAMUEL	TN TELECOM	

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84.	R.K. KACHHAP	MP TELECOM
85.	ARUN KUMAR SHUKLA	UP TELECOM
86.	J. BRAHMA CHARY	GUJARAT TELECOM
87.	SANJAY GARG	PUNJAB TELECOM
88.	P.L. MONDAL (SC)	MP TELECOM
89.	D.S. PATHAK	UP TELECOM
90.	T.B. MANOHARI	TN TELECOM
91.	T. GOVINDA BHATI	KARNATAKA TELECOM
92.	<del>KHAJAN CH SAIKIA</del>	<del>ASSAM TELECOM</del>
93.	KRISHANANDAN SINGH	BIHAR TELECOM
94.	KASHAR MAL (SC)	MTNL ND
95.	M. PANNEERSELVAN-I	TN TELECOM
96.	N.S. RAJALAKSHMI	MADRAS PHONES
97.	SUBRATA ROY	TELE. DTE. MADRAS
98.	K. GURUMURTHY	GMP MADRAS
99.	RAMA KANT LAL DAS	BIHAR TELECOM
100.	BRIJESH KUMAR	RAJASTHAN TELECOM
101.	AMAR DUTT LAKHERA	MTNL INDIA
102.	MOHINDER NATH	PUNJAB TELECOM
103.	HIRA LAL (SC)	MTNL ND
104.	PROMATHA HALDER (SC)	WB TELECOM
105.	KUMARI SUMITA ASH	WB TELECOM
106.	PRANESH D. JOSHI	KARNATAKA TELECOM
107.	S. HANUMANTHA RAO	GMP MADRAS
108.	D.J. CHAUHAN (SC)	GUJARAT TELECOM
109.	G. RAMESH	GUJARAT TELECOM
110.	A.H. QUERESHI	RAJASTHAN TELECOM
111.	S. JOHNSON RODRIGO	MTNL BOMBAY
112.	M. VENKATESWARA RAO	GMS CALCUTTA
113.	RAM JUJAWAN RAM (SC)	UP TELECOM
114.	R. AROKIASAMY	TN TELECOM
115.	PITAM SINGH RAWAT (ST)	MTNL ND
116.	SUMER RAM (SC)	BIHAR TELECOM
117.	MOTI LAL	UP TELECOM
118.	SHAILENDRA KR SHARMA	UP TELECOM

2. All the officers mentioned above on promotion as Asstt. Accounts Officer are allotted to the same circles in which they are working at present and the Heads of circles may post them against the existing vacancies.

3. The promotion of the officers is further subject to the condition that no disciplinary/vigilance case is pending or contemplated against the officer. In case of any disciplinary/vigilance case of the type referred to in this office Letter No.6-16/71-Disc. dated 25-3-72 read with this office Letter No. 56-13/76-Disc. I dated 8-9-76 and the DOP&Trg. OM No.22011/4/91-Estt.(A) dated 14-9-92 is pending against the officer or some punishment like stoppage of increment is current, he should not be relieved on promotion and the matter should be reported to this office immediately.

4. The seniority of the officers will be communicated

82/72 22-74-02

No. 170.2.56.2 (3)

seperately.

5. Compliance should be reported to this office immediately.

*Int'l*

(SUNIL KUMAR CHUGH)  
Asstt. Director General (SEA)

Copy to:

1. Chief General Manager, Telecom, AP/ASSAM/BIHAR/GUJARAT/HARYANA/HIMACHAL PRADESH/J&K/KARNATAKA/KERALA/MP/MAHARASHTRA/NE/ORISSA/PUNJAB/RT/TAMILNADU/UP(E)/UP(W)/WEST BENGAL/ALTTC/GZ/NCES, N.DELHI/TASK FORCE, GUWAHATI
2. Chief General Manager, Telephones, Calcutta/Madras
3. Chief General Manager, Telecom Projects, New Delhi/Bombay/Calcutta/Madras.
4. Chief General Manager, Telecom Mtce., New Delhi/Bombay/Madras/Calcutta.
5. CGM. Telecom Stores, Calcutta
6. F.A.MTNL, Jeewan Bharti Bldg. New Delhi
7. CGM, MTNL Bombay/New Delhi.
8. CGM Telecom Factory, Calcutta.
9. CGM REP Nagpur.
10. Sr. DDG(F)/Director(SEA), Telecom Dte.
11. PPS to Member(F).

(B.R.DHAWAN)  
Accounts Officer (SEA)

The enclosed report is submitted for the information of the Government and for their consideration. It is requested that the Government may be pleased to take necessary action thereon.

Yours faithfully,  
Asstt. Director General (SEA)


No: GM/SDE(NS)/X-97/01-02/4

Dated the 07-01-2002

**MEMORANDUM**

1. Sri Khagen Sainia, A.A.O., o/p the D.E. (C.T.O), G.H. is hereby informed that it is proposed to hold an Inquiry against him under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the Inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).
2. Sri Khagen Sainia, A.A.O., 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, specially admit or deny each articles of charge.
4. Sri Khagen Sainia, A.A.O. is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provision 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 Sri Khagen Sainia, A.A.O., is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Sri Khagen Sainia, A.A.O., is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.
6. The receipt of the Memorandum may be acknowledged.

To Sri Khagen Sainia, A.A.O.  
o/p The D.E. (C.T.O), G.H.

  
General Manager  
Kamrup Telecom District  
Ulubari, Guwahati-07.

Attended  
Khagen Sainia  
A.A.O.  
5/2/2002

**ARTICLE OF CHARGE TO BE FRAMED AGAINST SHRI  
KHAGEN SAIKIA, ASSTT. ACCOUNTS'S OFFICER O/O GMID/GH  
THE THEN JR. ACCOUNT'S OFFICER, O/O TDE NAGAON.**

Shri Khagen Saikia while posted and functioning as Jr. Accountant, in the office of the TDE, Nagaon during 1992 committed gross misconduct, in as much as he pre-checked bill No.271, dtd.1/4/92, 433 dtd.15/7/92, 434 dtd.15/7/92, 435 dtd.15/7/92, each amounts Rs.1,90,723/- of M/s B.R. Electricals, New Delhi for supply of pvc Insulated twin galvanised steel dropwire and recommended that same to be passed despite the fact that the supplied were made by the firm without proper delivery challans, and receipt certificates on the bills were not properly certified without putting any date and without mentioning page no. of the stock register by the concerned authority, though the Purchasing Officer Shri A.N. Rai was not empowered to purchase the said items and thereby failed to observe codal formalities of purchase laid down in the department which are required under various rules / circular of the department resulting an illegal payments of the amounting to Rs.7,62,892/- made to the firm.

Thus Shri Khagen Saikia due to his aforesaid acts he failed to maintain absolute integrity and devotion to duty and thereby contravened the Rules of 3(1) of CCS (Conduct) Rule 1964.

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ANNEXURE - II

**STATEMENT OF IMPUTATION IN SUPPORT OF ALLEGATION  
MADE AGAINST SHRI SAIKIA, ASSTT. ACCOUNTS' OFFICER,  
O/O GMD/GH, THE THEN JR. ACCOUNT'S OFFICER, O/O TDE  
NAGAON.**

Shri Khagen Saikla, while posted and functioning as Sr. Accountant in office of the TDE, Nagaon during 1992, he was entrusted the job of pre-checking of suppliers / contractors bills along with other works.

While he had been doing pre-check of bills, he would have to see the following points ;

- i) Whether fund is available under the relevant head ;
- ii) Whether purchase are made against the sanctioned estimates ;
- iii) Whether purchase is within the financial limit of purchasing officer ;
- iv) Whether purchase procedures has duly observed by the purchasing officer ;
- v) Whether bill is prepared as per terms and conditions laid down in the purchase order ;
- vi) Whether bill is properly certified by the concerned authority regarding quantity, quality and they are according to the approved specification and entry of stock certificate ;

M/s B.R..Electricals supplied PVC Insulated Twin Galvanised Steel Dropwire and submitted 4 (four) nos. of bills as follows ;

Sl. No.	Bill No. & dt.	Amount	Quantity	Rate
1.	271 dtd.1/4/92	Rs.1,90,723/-	25 km	@ Rs.6,999/- per km + taxes
2.	433 dtd.15/7/92	Rs.1,90,723/-	-do-	-do-
3.	434 dtd.15/7/92	Rs.1,90,723/-	-do-	-do-
4.	435 dtd.15/7/92	Rs.1,90,723/-	-do-	-do-

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While Shri Khagen Salkia pre-checked aforesaid bills, he failed to check the following deficiencies in these bills.

- 1) The item pvc insulated twin galvanised steel dropwire was neither stock item nor regular item of DoT and said item was not as per TECs specification of DoT. There was also no de-centralisation of order from DoT for procurement of stock item during 1992.
- 2) Non availability certificate was not obtained from CTSD, Guwahati before purchase of said item.
- 3) No estimate was prepared and sanctioned before purchase of said item.
- 4) Purchase was made without calling tender and without observing codal formalities for purchase of stock item. In case of emergency.
- 5) None of the bills were accompanied with proper delivery challan in triplicate which is required as per clause of purchase order.
- 6) Purchasing Officer has no power to purchase the said materials without approval of DoT and during purchase of said items financial limit of purchasing officer were exceeded in each case.
- 7) The consignees received the materials after due date of delivery and certified the bills without mentioning date of receipt and page no. of stock register.

While Shri Khagen Salkia pre-checked the aforesaid bills of M/s B.R. Electricals he failed to point out deficiencies as mentioned above before the competent authority for remedial action.

Thereby he failed to maintain absolute integrity and devotion to duty which has proved on the basis of oral and documentary evidence.

By the above acts of commission and omission of Shri Khagen Salkia contravened the provisions of Rule 3(1) of CCS (Conduct) Rules ' 1964.

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ANNEXURE - III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGES  
FRAMED AGAINST SRI KHAGEN SAIKIA, A.A.O./O/O THE  
G.M.KAMRUP TELECOM DISTRICT, GUWAHATI THE THEN J.A.O.  
ARE PROPOSED TO BE SUSTAINED.

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1. File No. Eng-S-41/DTDR/92-93 regarding PVC coated wire (allotment) O/O the Area Director, Telecom, Dibrugarh (relevant pages N/S-5, N/S-6, N/S-7, N/S-8, N/S-10, N/S-13, N/S-14, N/S-18 and page 42 to 58, 59 to 98, 59 to 243, 251 to 260.
2. Bill No. 271 dtd. 01-4-92 of M/S B.R. Electricals.
3. Bill No. 433 dtd. 15-7-92 of M/S B.R. Electricals.
4. Bill No. 434 dtd. 15-7-92 of M/S B.R. Electricals.
5. Bill No. 435 dtd. 15-7-92 of M/S B.R. Electricals.
6. Counterfoil of cheque book (two Nos.) of O/O the TDM, Nagaon.
7. Cheque issued Register w.e.f. 23-02-91 to 7-4-94 of O/O the TDM, Nagaon.
8. Authority letter dtd. 2-3-92.
9. Letter No. E-48/99-2000/23 dtd. 10-12-99 along with bill and challan.
10. One bunch of papers containing bills challan of M/S B.R. Electricals, New Delhi of O/O the SDO(T), Nagaon.
11. Stock and Issue Register of O/O the SDO(T), Nagaon.
12. Letter No. 9-102/97-Vig-1 dtd. 28-06-99 issued by Shri K. Nagarajan, Asstt. Director General (Vig).
13. Letter No. W-266/INS/G.I. Wire/98-99/Misc/38 dtd. 27-05-99 along with enclosures issued by Shri S.C. Ray, Asstt. G.M. (S-II) for CGMT's, Calcutta-3.
14. Letter No 9-5/98-Vig-I dtd. 13-04-99 issued by Shri R. Krishnamurthy, Director (VRIT), New Delhi along with enclosures.
15. One estimate file JRT/L & W/DE-00044/92-93 O/O TDE, Nagaon.
16. Letter No. PLSP/2-52/99-2000/2 dtd. 23-3-2000.
17. Postal Telegraph Financial Hand Book, Vol-I (Genl).
18. General Financial Rules.
19. Post & Telegraph Financial Hand Book, Vol-III.
20. Post & Telegraph Manual Vol-X.

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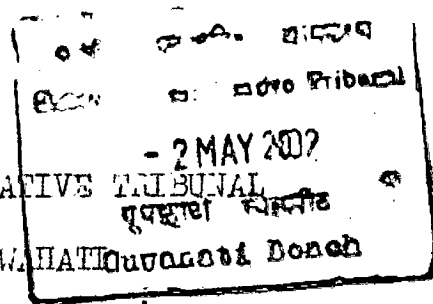
## ANNEXURE - IV

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**list of witness by whom the Articles of Charge framed against Shri Khagen Saikia, A.A.O., O/o The G.M., Kamrup telecom District, Guwahati - 7 the then J.A.O. are proposed to be sustained.**

01. Shri Haren Chandra Chakraborty, S/o Late G.C.Chakraborty, Sr. Accounts Officer, O/O The CGMT, Assam Telecom Circle, Guwahati-7.
  02. Shri Dipak Gupta, S/o Late R. K. Gupta, Accounts Officer, O/o The TDM, Nagaon.
  03. Shri Dambaru Baruah, S/o Bhadreswar Baruah, Accts. Officer, O/o The TDM, Jorhat.
  04. Shri Naba Kumar Das, S/o Late Moheswar Das, Chief Accts. Officer, O/o The CGMT, Kamrup, Guwahati.
  05. Shri Jyotirmol Roy, TOA ( Telecom Office Assistant ), S/o Late G. Roy, O/o The TDM, Dibrugarh.
  06. Shri Subrata Sarkar, S/o Late K. J. Sarkar, TOA ( Telecom Office Assistant ), O/o The TDM, Dibrugarh.
  07. Shri K. Nagarajan, Asstt. Director General (Vig), Department of telecommunication, West block-1, Wing-2 ground floor, R.K.Puram., New Delhi - 110066.
  08. Shri Ashim Abbas., Director ( F&C ), DoT, Sanchar Bhawan, Ashoka Road, New Delhi.
  09. Shri Ardhendu Sekhar Deb, S/o Late A. K. Deb, SDE ( Stores ), O/o The CTSD, Guwahati.
  10. Sh. M. Sharma, Inspr. CBI, ACB, Guwahati and I.O. of the case.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI



Filed by

22/5/02  
(A. DEB ROY)  
Sr. C. G. S. C.

C. A. T. Guwahati Bench

O.A. NO-37 OF 2002

Shri Khagen Chandra Saikia,

-vs-

Union of India & Others.

-AND-

In the matter of ::

Written statement submitted by the respondents.

The respondents beg to submit written statement as follows :-

1. That with regard to paras 4.1 & 4.2, the respondents beg to offer no comments.
2. That with regard to para - 4.3, the respondents beg to state that the applicant worked as JAO in 1992 at Nawgaon under TDE/NGG. At present the applicant is on deputation at North Lakhimpur.
3. That with regard to para - 4.4 of O.A., the respondents beg to state that as it is a case of Rule 14 the member of Telecom Commission is the competent authority for imposing major penalties. The subrule(2) of Rule 13, Head of circle may institute disciplinary proceeding against any Govt. Servant.
4. That with regard to para - 4.5 of OA, the respondents beg to offer no comments.
5. That with regard to para - 4.5 of O.A., the

respondents beg to state that Member of Telecom Commission is the competent authority to impose penalties under Rule - 11 for ALL Penalties.

6. That with regard to para - 4.7 of O.A., the respondents beg to offer no comments.

7. That with regard to para - 4.8 of OA, the respondents beg to state that the allegation of the applicant is denied. The memorandum of charge sheet for punishment under Rule 14 can be issued by the member of Telecom commission is not correct. In this case the Head of Circle is the authority to issue charge sheet of disciplinary proceedings under Rule-14.

8. That with regard to para - 4.9 of O.A., the respondents beg to state that it is true. The GM/ KTD (General Manager, Kamrup Telecom District) is not the competent authority to issue chargesheet under Rule - 14. In the Draft statement of Imputation, the C.B.I. authority has mentioned Shri Khagen Chandra Saikia as Jr. Accountant/ Sr. Accountant. It was a clerical mistake and corrected as JAO instead of Jr. Accountant/ Sr Accountant in the fresh charge sheet issued ~~xxx~~ by Head of circle. Jr. Accountant or Sr. Accountant is not the criteria but the charge framed by C.B.I. against Shri Khagen Ch. Saikia is correct for prechecking bills without observing Deptt. Norms.

Contd...P/3

9. That with regard to para - 4.10 of O.A., the respondents beg to state that Article of Charge has framed by C.B.I. so question does not arise to set aside the charge sheet issued by Head of circle. It is correct the subject of charge is 10 years old.
10. That with regard to para - 4.11 of O.A., the respondents beg to offer no comments.
11. That with regard to para - 4.12 of O.A., the respondents beg to state that the applicant is on deputation at North Lakhimpur.
12. That with regard to para - 4.13 of O.A. the respondent beg to state that the General Manager Karrup Telecom District is not the authority to issue charge sheet under Rule -14 thereafter the fresh charge sheet issue by Chief General Manager, the Head of Circle in ~~supse~~ supersession of order No- GM/SDT Vig.)/X-97/2001-2002/14 dtd.7.1.2002.
- 13 That with regard to para - 4.14 of O.A., the respondents beg to state that the allegation of the applicant is baseless and improper. The applicant is fully responsible for prechecking the bills as per deptt.norms laid down in JAO's duties. Member of Telecom Commission is not the authority to issue charge sheet under Rule-14. In this case, the Head of circle the disciplinary authority who is competent to impose any of the penalties ~~Authority who is~~ specified in clauses (i) to(iv) of Rule 11 may institute disciplinary proceedings against any Govt.servant for the imposition of any of the penalties.

specified in clauses (v) to (ix) of rule 11.

14. That with regard to para - 5.1 to 5.7 of C.M. the respondents beg to state that the applicant is not entitle to get any relief as fresh charge sheet issued by head of circle in supersession of General Manager, Kamrup Telecom District order.

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

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

I, *Shri Kamakhya Ranjan Das* presently working as *S.D.E. (Legal)* be duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para *One to fourteen* are true to my knowledge and belief, these made in para ~~xxx~~ 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 facts.

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

*Kamakhya Ranjan Das.*

Declarant.

उप-मंडल अभियन्ता (विधि)  
Sub-Divisional Engineer (Legal)  
भारत संचार निगम लिमिटेड PSNL  
कार्यालय महाप्रबंधक, कामरूप दूरसंचार जिला  
Office of the GM / KTD  
गुवाहाटी / Guwahati-781 007.