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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 59/2002

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FORM N 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBIAL : GUWAHATI BENCH.  
GUWAHATI.

ORDER SHEET

Original No. 5/2002

Misc. Petition No.       

Contempt Petition       

Review Application No.       

Applicant(s) S.B. Hazarika

Respondent(s) U.O.P. OM

Advocate for Applicant(s) In person

Advocate for Respondent(s) Adv. C. K. A.K. Chandley

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

This is application in form

C. P. for Rs. 50/- disposed

vide 79550465

Dated 20.2.2002

By 7/3/02

By 7/3/02

By 7/3/02

22.2.02

Heard Mr. S.B. Hazarika, in person.

The application is admitted. Call  
or the records.

List on 26.3.2002 for order.

Member

Vice-Chairman

mb

26.3.02

List on 30.4.2002 to enable the Respon-  
dents to file written statement.

Member

Vice-Chairman

mb

30.4.02

List on 29.5.02 to enable the respon-  
dents to file written statement.

Member

Vice-Chairman

lm

No written statement  
has been filed

29.4.02

No written statement  
has been filed.

30  
28.5.02

29.92

No written statement is forthcoming. Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents prayed for time to file written statement. List on 27.6.2002 for written statement.



Vice-Chairman

mb

27.6.02

On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. four weeks time is allowed for filing of written statement. List on 31.7.02 for orders.

No. Wks has been  
filed.

30  
30.7.02

Usha  
Member



Vice-Chairman

lm

31.7.02

List again on 28.8.2002 to enable Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the Respondents to file written statement.

No. Wks has been  
filed.

30  
28.8.02

Usha  
Member




Vice-Chairman

mb

28.8.02

List on 26.9.02 to enable the respondents to file written statement.

Usha  
Member



Vice-Chairman

lm

26.9.02, None present, ~~not~~ filed,  
written statement also not  
filed. List on 11/11/2002.

Mo  
A.K. Choudhury  
26.9

(2)

O.A. 59/2002

11.11.02

On the prayer of Mr. A.K.

Choudhury, learned Addl. C.G.S.C.

for the respondents further two weeks time is allowed to the respondents to file written statement. List the matter on 29.11.2002 for orders.

*IC Choudhury*

Member

*[Signature]*

Vice-Chairman

mb

29-11-02



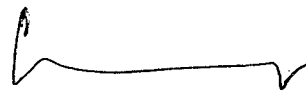

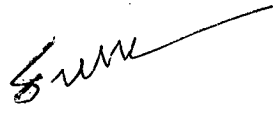


W/s on behalf  
of the respondent No. 1, 2 & 3  
has been submitted.

*[Signature]*

No. W/s has been  
filed.

*[Signature]*  
28.11.02



Note of the Registry	Date	Order of the Tribunal
<p>Order dtd. 29/11/02 Communicated to the applicant. to Sri S.B. Hazareika, S/o. Lt. K. Hazareika, CI (Postal) Divisional office, Kichima-1.</p> <p>21</p> <p>Received and communicated on 16/1/03 to Sri S.B. Hazareika, CI (Postal) Divisional Office, Kichima-797001. vide by Speed Post vide D/No. 62 dtd 16/1/03</p> <p>21/1/03.</p>	<p>29.11.02</p> <p>mb</p> <p>21.1.2003</p>	<p>Written statement has been filed. List the matter on 21.1.2003 for hearing. Office to inform the applicant about the date of hearing.</p> <p> Vice-Chairman</p> <p>present:- The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Office to indicate as to when the order dated 29.11.2002 was communicated and report.</p> <p>List the case again on 22.1.2003 for hearing.</p> <p> Member</p> <p> Vice-Chairman</p>
<p><u>DEPUTY REGISTRAR I/C</u> The order of the Tribunal dated 29-11- 2002 was sent to the applicant on 16.1.03. The Deputy Registrar to obtain necessary explanation from the responsible officer and put up the matter forthwith.</p> <p> <u>VICE-CHAIRMAN</u> 22.01.2003</p> <p>Explanation dtd 22/1/03 in C'file.</p> <p>Order dtd. 22/1/03 Communicated to the applicant on 23/1/03 by Regd. Post. On 23/1/03</p> <p>Speed Post sent vide No 59/02/03 62 dtd. 16/1/03 received back on 23/1/03 with a remarks - Addressee out of Station in C'file. On 23/1/03</p> <p>Explanation in 'C' file vide 10/2/03</p>	<p>22.1.03</p> <p>bb</p> <p>25.2.2003</p> <p>mb</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Perused the Office note. It seems that the order of the Tribunal dated 29.11.2002 was sent by the speed post to the applicant on 16.1.2003. Let the matter be posted for hearing on 25-2-2003.</p> <p> Member</p> <p> Vice-Chairman</p> <p>List on 9.4.2003 for hearing before the Division Bench.</p> <p> Vice-Chairman</p>

Note of the Registry	Date	Order of the Tribunal
<p>Wks filed by the R.No-1-3.</p> <p><u>By</u> 12.5.03</p> <p>No rejoinder has been filed.</p> <p><u>By</u> 28.5.03</p>	<p><u>9.4.03</u></p> <p><u>13.5.03</u></p> <p><del>29.5.2003</del></p> <p>29.5.2003</p> <p>7.7.2003</p>	<p>List. on 13.5.03 for hearing,</p> <p>By <u>order</u>,</p> <p>Adjourned, List on 29.5.03 for hearing.</p> <p>By <u>order</u>,</p> <p><del>Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr. S.K. Hajra, Administrative Member.</del></p> <p><del>put up the matter on 7.7.2003 again for hearing in presence of Mr. A. Deb Roy, learned Sr. C.G.S.C.</del></p> <p><del>Member Vice-Chairman</del></p> <p><del>Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr. S.K. Hajra, Administrative Member.</del></p> <p><del>No representation from the applicant side. The case is accordingly adjourned and again listed for hearing on 7.7.2003</del></p> <p><del>Member Vice-Chairman</del></p> <p>Put up the case for hearing against the first available Division Bench.</p> <p>Vice-Chairman</p>

(5)

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Notes of the Registry

Date

Orders of the Tribunal

Order dtd. 15/7/03  
Communicated to the  
Applicant to Sri S.B. Hazareka.

15.7.2003

The applicant who appears in person is not present today. Put up the matter again for hearing on 29.7.2003. Office to intimate the date of hearing to the applicant in the meantime.

Member

Vice-Chairman

bb

29.7.2003 Heard Mr. S.B. Hazareka (Appellant who appeared in person) & Mr. A.K. Chaudhary, Addl. C.G. Secy. for the respondents.  
Hearing Concluded,  
Judgment reserved.

7.8.2003

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

Member

Vice-Chairman

mb

(198.2002)

Copy of the Judgment handed over to the Addl. C.G. Secy for the Appellant, and its copy has been sent to the applicant by post.

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Notes of the Registry	Date	Orders of the Tribunal
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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / R.A. No. 59 . . . . of 2002.

DATE OF DECISION 7<sup>th</sup> of Aug 2003

Sri S.B. Hazarika . . . . .APPLICANT(S).

Applicant appeared in person . . . . . ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

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

Sri A.K.Choudhuri, Addl.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

Yes

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 59 of 2002.

Date of Order : This the 7<sup>th</sup> Day of August, 2003.

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

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

Shri S.B.Hazarika,  
Son of Late Khargeswar Hazarika,  
C.I.(Postal), Divisional Office,  
Kohima.

... Applicant

Applicant appeared in person.

- Versus -

1. Union of India,  
represented by the Director General of Posts,  
Dak Bhawan, New Delhi-1.
2. The Chief Postmaster General,,  
North Eastern Circle,  
Shillong-793001.
3. The Director of Postal Services,  
Manipur, Imphal-795001.
4. The Director of Postal Services,  
Nagaland, Kohima-797001.
5. The postmaster,  
Kohima Post Office,  
Kohima, Nagaland.

... Respondents.

By Shri A.K.Choudhuri, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

This application under Section 19 of the Administrative Tribunals Act 1985 has arisen and is directed against the order imposing a penalty of reduction of pay by six stages vide order dated 8.6.2001 passed by the Director of Postal Services which was upheld by the Chief Postmaster General in appeal vide order dated 29.1.2002 in the following circumstances.

A disciplinary proceeding was initiated against the applicant by memo dated 19.2.98 for the alleged misconduct as cited in the communication. The full text of the article of charges are reproduced below :

Article-I : Shri S.B.Hazarika, while working as SDIPOs Ukhurul Sub-Dn, during the period from 29-01-96(A/N)to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of each of those 54 (fifty four) Post Offices, to the Supdt. of Post Offices, Manipur division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur-Dn. Imphal. Similarly the said Sri S.B.Hazarika had shown to have inspected as many as 70 (seventy) Post Offices during the period from 01-01-97 to 31-12-97, but had not submitted a copy of the inspection remarks in respect of 45 (forty five) Post Offices, to the Supdt. of Post Offices, manipur-Dn. Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur-Dn. Imphal. By his above acts, the said Sri S.B.Hazarika violated the provision of Rule 300(2) of P&T Man. Vol.VIII read with DEpt. of Posts, New Delhi letter No.17-3/92-Inspn.Dated 02-07-1992 and Rule 3(1)(ii) of CCS (Conduct) Rules 1964.

Article : Shri S.B.Hazarika while working as SDIPOs Ukhurul Sub-Dn., during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhurul Sub-Dn. on the date noted against each.

<u>Name of the EDBO</u>	<u>Date of Inspn.shown by Shri S.B.Hazarika</u>
1. Chingjarai EDBO	25-02-1997
2. Sirirakhang EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997
5. Nungshong EDBO	15-07-1997
6. Pushing EDBO	20-07-1997

But, in fact, the said Sri Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the 1997. Therefore, by his above acts, the said Sri S.B.Hazarika, violated the provision of Rule 300(1) of the P&T Man. Vol.VIII, Rule 3(1)(i) of the CCS(Conduct) Rules 1964 and Rule 3(1)(iii) of the CCS (Conduct) Rules 1964."

The applicant submitted his written statement and the disciplinary authority appointed Enquiry Officer to enquire into the charges. The Enquiry Officer on completion of the enquiry submitted his report exonerating the applicant from the charge No.1, wherein he held that charge No.1 was not proved and Article-II of the charge was partially proved to the extent of three EDBOs out of six may not to have been inspected. A copy of the enquiry report was supplied to

charged official for submitting his representation. The disciplinary authority disagreed with the findings as regard the charge No.I and found the applicant guilty of the charge No.I by assigning reasons therefor and accepted the findings of the enquiry officer in respect of Article No.II accordingly imposed the punishment of reduction of pay. The applicant preferred an appeal and the appellate authority on consideration of the same rejected the appeal. Hence this application assailing the legality and validity of the order as arbitrary and discriminatory.

2. The respondents contested the application and submitted its written statement denying and disputing the contention raised by the applicant. In the written statement the respondents asserted that applicant was given full opportunities to defend his case and after enquiry and on consideration of the report of the enquiry officer as well as evidence on record the disciplinary authority found the applicant guilty of the charge and imposed the punishment which was upheld by appellate authority. It was asserted that the respondents althrough acted lawfully and therefore question of interference under Section 19 of the Administrative Tribunals Act does not arise.

3. The applicant conducted the case <sup>before us</sup> in person. Referring to the pleadings the applicant contended that he was denied with the procedural safeguard <sup>that</sup> caused miscarriage of justice. The applicant contended that the enquiry officer fixed the date of enquiry from 15.9.99 to 20.9.99 for evidence vide notice dated 12/23.9.99 with a direction to respondent No.4 to relieve the applicant. The applicant could not <sup>be</sup> present himself before the enquiry for hearing at Imphal since he was not released by the respondent No.4 and conducted the enquiry ex-parte even



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without giving further opportunity to the applicant to cross examine the witness. The enquiry was held on 16.9.99, 17.9.99 and 18.9.99 in the absence of the delinquent officer. Shri Hazarika invited our attention to the records of the proceeding and contended that he was also denied reasonable opportunity to examine witness. He particularly mentioned the name of N.C.Halder but the department failed to produce the said witness, thereby causing grave prejudice to the case of the applicant. Mr A.K.Choudhuri, learned Addl.C.G.S.C referring to the records submitted that the applicant was given full opportunity in the enquiry and the applicant failed to avail of the opportunity. The applicant was aware of the hearing at Imphal but without any just cause avoided to appear before the enquiry authority. Mr Choudhuri also stated that due notice was sent to Sri Halder, the witness for the applicant but he did not appear. It was for the applicant to cause production of his witness and the department was eager to extend all possible help.

4. We have perused the records and on consideration of materials on record it did not appear to us that there was any lapses on the part of the department in providing the procedural safeguard to the applicant. The applicant was made aware of the date of hearing and it was for him to appear in the enquiry proceeding and defend his case <sup>along with his witness</sup> ~~and defend his case~~. The contention of the applicant on that count therefore fails. Shri Hazarika further submitted that the disciplinary authority as well as the appellate authority faltered in the decision making process and acted arbitrarily in imposing the punishment. The applicant next contended that the respondents authority examined four departmental witnesses at Imphal in the absence of the applicant. For the sake of fairness the

Enquiry Officer was duty bound to provide an opportunity to cross examine the witnesses by recalling them<sup>contended Sri Hazarika.</sup> The appellate authority considered the appeal of the applicant but did not find any illegality in <sup>relying</sup> upon the testimony of these witnesses. Admittedly, the applicant was made aware of the enquiry it was his duty to be present there or otherwise intimate the enquiry officer for postponment of the proceeding but he did not ask for any adjournment. The Enquiry Officer recorded the testimony of the witnesses also those who were present. The applicant even thereafter<sup>also</sup> did not make any request for recalling of those witnesses subsequently when he attended the enquiry. Therefore we do not find any illegality on that count also. Shri Hazarika strenuously urged that the disciplinary authority fell into obvious error in rejecting the finding of the enquiry officer as regards to the charge No.I. Shri Hazarika contended that the disciplinary authority under the rules was free to disagree with the findings of the enquiry authority on any article of charge and record his<sup>own</sup> finding on such charge if the evidence on record is sufficient for the purpose. Emphasising on the statutory provision mentioned in 15(2) Shri Hazarika contended that the disciplinary authority while disagreeing must satisfy as to the materials in support of the conclusion on the basis from the materials on record. In other words Shri Hazarika contended that the finding holding the applicant guilty in charge No.1<sup>is</sup> contrary to the finding of the Enquiry Officer and<sup>is</sup> <sup>is</sup> perverse. The disciplinary authority <sup>is</sup> <sup>armed</sup> with the power to differ with the finding of the enquiry authority in terms of sub-rule 2 of Rule 15 of the CCS(CCA) Rules. That power is not absolute. The disciplinary authority can act as such only on the basis of the materials

on record and reach at his own findings if the evidence on record is sufficient for the purpose. The finding and recommendation of the Enquiry Officer are not ipso facto binding on the disciplinary authority. The disciplinary authority is required to consider the findings of the enquiry authority and is empowered with the discretion and freedom to depart from the findings. The discretion however, is not <sup>and unfettered.</sup> absolute. The disciplinary authority may disagree and record his own finding if the evidence on record is sufficient to reach such finding or conclusion. The Enquiry Officer on assessment of the materials on record found that the charge containing Article No.1 was not established. The enquiry authority to that extent evaluated to the deposition of SW-4 who was crucial in establishing the Article-I of the charge. The enquiry authority did not act only on the mere ipse dixit of the witnesses to the effect that the charged officials did not submit the inspection report in the year 1996-97. In the absence of any documentary evidence in support of the statement the enquiry officer was not inclined to accept the same. The Inquiry Officer while reaching the said conclusion he also referred to the fact that the documents were requisitioned but not produced to support the same. The Enquiry Officer on the basis of requisition of the charged official requisitioned the documents pertaining to monthly tour T.A. advance made in Divisional office, Imphal. The enquiry authority held adverse inference for non production of the records. The disciplinary authority also agreed with the department ought to have produced the additional documents and also found that by order dated 22.10.99 called for the file but found fault with the enquiry authority that it did not specifically asked the P.O. to produce the documents. The disciplinary authority acted upon the mere word of the SW-4 <sup>without any supporting document.</sup> The disciplinary authority while holding

the charge No.1 proved based on the oral statement of SW-4 without any support of documentary evidence and found fault with the order of enquiring authority on the score that in the absence of any specific direction to the P.O. to produce the documents non production of the documents was not fatal. In this case the enquiry officer allowed the prayer of the charged official for additional documents and made requisition for the same and an order was made by the Enquiry Officer. It was incumbent upon on the part of the respondents authority to produce the same on whose possession documents are/were kept. The aforesaid act of the enquiry officer was a direction under sub-rule 12 of Rule 14 and therefore there was not justification on the part of the authority in not producing the same at the time of enquiry for correct appraisal of the fact. Failure to produce the documents/evidence called for adverse inference. The statement of the SW-4 was based on documents. The documents were not claimed to be a privileged documents or related to State security. The respondents did not assign any reason for non production of the said documents. In the circumstances adverse inference drawn by the Enquiry Officer against the department for non production of documents cannot be said to be perverse, unreasonable or unjustified. The other ground for rejection of the finding of the enquiry officer in respect of charge No.1 was that the enquiry was held whereby the delinquent officer was given opportunity to prove his innocence. In other words according to the disciplinary authority it was the burden of the charged official to disprove the allegations and prove his innocence. The disciplinary authority in coming to the said conclusion fell into obvious error in overlooking the scheme of the statutory

rules. As per scheme of the rules the burden rests on the department to prove and establish the charge of misconduct on preponderance of probability. It is not for the delinquent officer to disprove the allegation. The disciplinary authority in its decision making process for rejecting the findings of the Enquiry Officer on this count fell into error by taking into consideration irrelevant and extraneous considerations overlooking relevant considerations. The finding of disciplinary authority in the facts and circumstances of the case as regard the charge No.1 is perverse and therefore unsustainable in law. The appellate authority also fell into same error in upholding the finding and the disciplinary authority in respect of charge No.1. The finding of disciplinary authority dated 8.6.2001 upheld by the appellate authority as per order dated 29.1.2002 in respect of article No.1 of the charge is therefore unsustainable in law wherein both the authorities held that article of charge was established in respect of charge No.1 is therefore liable to be quashed and accordingly quashed. On consideration of the materials on record the findings of the Enquiry Officer, disciplinary authority and the appellate authority, we do not find any illegality as regards their finding in respect of article No.2. The Enquiry Officer rightly considered the evidence on record and reached his own conclusion. The article II was partially proved. There was material to show that out of six offices alleged to be not inspected by the applicant, there were evidence to arrive conclusion that atleast three offices, namely, Kamang Kakching, Shangshak, Nungshong and Pushing EDBOs were rightly found to be not inspected. The disciplinary authority rightly addressed its mind to the relevant facts and on consideration

of the facts situation aggrieved with the finding of the enquiring officer and held that article II of the charge against the charged official was partially proved. No illegality is discernible in holding the applicant guilty in charge No.II.

5. On consideration of all aspects of the matter we partially allow this application in view of our conclusion that article NO.I was not proved and applicant was found to be guilty in respect of article II we are of the opinion that matter should now be sent back to the disciplinary authority for appropriate order in terms of sub-rule 4 of Rule 15 for imposition of appropriate penalty as per law. Consequently the order of disciplinary authority dated 8.6.2001 in respect of its finding on charge No.1 is set aside and respondents are directed to impose appropriate penalty as per law in the light of the findings in respect of charge No.2 as per law keeping in mind the observations made by us. The appellate order is also accordingly set aside to the extent indicated. The disciplinary authority is now directed to pass appropriate order as per law on the basis of its finding in respect of charge No.2.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.



( N.D.DAYAL )  
ADMINISTRATIVE MEMBER



( D.N.CHOWDHURY )  
VICE CHAIRMAN

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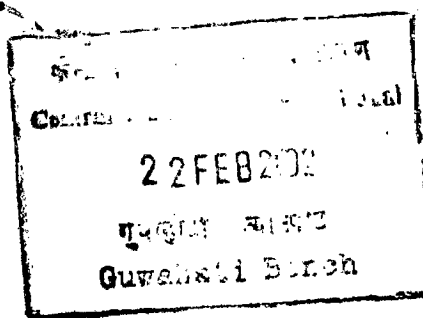
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWHATI BENCH : GUWHATI-5

*APPLICATION UNDER SECTION 19 OF  
THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT. 1985*

Title :- S.B.Hazarika  
Vs.  
Union of India & Others

COMPILATION NO-1  
APPLICATION AND THE IMPUGNED ORDER  
(WITH INDEX)

Recd  
AK Choudhary  
Addl Dy Sec  
22/2/02



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FORM NO.1  
(SEE RULE 4)

APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985

Title of the Case : S.B.Hazarika

Vs.

Union of India & Others.

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24.	" A-22 (i-xx) Copy of Inquiry Report dtd.27.9.00	74-93
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26.	" A-24 (i-vi) Copy of final order dtd. 8/6/01	96-101
27.	" A-25 (i-ii) orders Dated 31.8.01 of CAT/ Guwahati.	102-103
28.	" A-26 (i-xviii) Appeal dtd.12.9.01	104-121
29.	" A-27 (i-v) Appellate orders dtd.29.1.02	122-126
30.	W/s 127-192-	

Signature of the applicant.

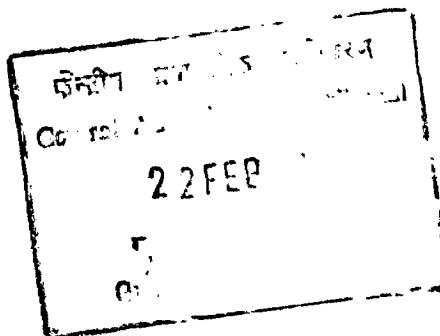
FOR USE IN TRIBUNAL'S OFFICE.

Date of Filing :-

Date of Received by post :- Submitted in person.

Registration No. :-

Signature  
For Registrar.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH::GUWAHATI-5.

Sri S.B. Hazarika  
S/O Lt.Khargeswar Hazarika  
C.I.(Postal), Divisional Office  
Kohima-797001

NAGALAND.

.....Applicant.

- Vs -

1. The Union of India  
Represented by  
The Director General of Posts  
Dak Bhawan  
New Delhi-110001.
2. The Chief Postmaster General  
North Eastern Circle,  
Shillong - 793001.
3. The Director of Postal Services,  
Manipur, Imphal-795001.
4. The Director of Postal Services,  
Nagaland, Kohima-797001.
5. The Postmaster,  
Kohima-797001,  
Nagaland.

.....Respondents.

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DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

- (i) Impugned punishment order No. Rule-14/S.B. Hazarika dated Kohima 8.6.2001 passed by the respondent No. 4 imposing the major penalty on the applicant that his pay be reduced by 6(six) stages from Rs. 6650/- to Rs. 5500/- in the time scale of Rs. 5500-175-9000/- for a period of 3 years w.e.f. 1.6.2001 with cumulative effect with further direction that the applicant will not earn increments of pay during the period of reduction and that on the expiry of the period, the reduction will have the effect of postponing his future increments of pay.
- (ii) Appellate orders of the Chief P.M.G., Shillong vide his Memo No. Staff/109-14/2001 dtd. 29.1.2002 rejecting the appeal.

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

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4. FACTS OF THE CASE :

- 4.1. That, the applicant joined the Department of posts on 1.8.72 as Postal Asstt. and was promoted to the Post of Sub-Divisional Inspector of post offices through Departmental Competitive Examination and worked as such from 1.6.1983. On 29.1.1996 the applicant was posted as Sub-Divisional Inspector of Post Offices (S.D.IPOs for short) at Ukhrul under Manipur Postal Division under the administrative control of the Resp. No.3.
- 4.2 That, on 19.2.98 the Resp. No.3 issued a charge-sheet under Rule 14 of the CCS(CCA) Rules, 1965 against the applicant. The charge-sheet consisted of two Articles of charges viz. Article-I and Article-II.
- (i) In Article-I it was charged that during the period from 29.01.96 to 31.01.98 the applicant had shown to have inspected 54 post offices in the year 1996. But he had not submitted any inspection report in respect of any of the said 54 Post Offices; that the applicant had shown to have inspected 70 Post Offices in the year 1997 but he had not submitted inspection reports in respect of 45 post offices to the Resp.No.3 and by the above act the applicant violated some Departmental rules and Rule 3(i) (ii) of the CCS(Conduct) Rules, 1964.
- (ii) In Article-II it was charged that the applicant while acting as SDIPOs, Ukhrul Sub-Divn. during the aforesaid period he had shown to have inspected 6(six) EDBOs (Extra Departmental Branch Offices) on various dates viz.

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Chingjaroi EDBO	on	25.02.97
Sirarakhang EDBO	on	29.03.97
Kameng Kakching EDBO	on	19.05.97
Shangshak EDBO	on	19.06.97
Nungshang EDBO	on	15.07.97
Pushing EDBO	on	28.07.97

But the applicant in fact, did not inspect the above Offices on any date and, therefore, the applicant violated the Departmental rules and Rule 3(i) (i) & (iii) of the CCS (Conduct) Rules, 1964.

A copy of the Charge-sheet dt.19.2.98 is annexed herewith and marked as Annexure-A-I.

4.3 That, on 8.5.98 the Resp.No. 3 appointed Sri S.C.Das the Dy.Supt. of Post Offices, Agartala as Inquiry Officer to inquire into the charges and appointed Sri N.C.Halder the Dy.Supt. of Post Offices, Imphal as Presenting Officer to present the case on behalf of the Disciplinary Authority i.e, the Resp.No.3.

A copy of the appointment Order of Inquiry Officer is annexed herewith and marked as Annexure-A.-2.

And

A copy of the appointment order of Presenting Officer is annexed herewith and marked as Annexure-A-3.

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4.4 That, thereafter, the applicant was transferred and posted as C.I. in the Office of the Resp.No.4 and the applicant joined the new incumbency on 02.02.99 and as per rules the Resp. No.4 became the Disciplinary Authority in place of Resp. No.3.

4.5 That, on 12/23.08.99 while the applicant was working as C.I. in the Office of the Resp.No.4 the Inquiry Officer (I.O. for short) issued notice to attend inquiry at Imphal in the Office of the Resp. No.3 from 15.9.99 to 20.9.99 for evidence on behalf of the prosecution and defence vide his Notice No.INQ/SBH/98-Vol.I dtd. 12/23.08.99, the copies of which were endorsed to all concerned including to the Resp. No.4 with direction to relieve the applicant of his duties to attend Inquiry.

A copy of the inquiry Notice dtd.12/23.08.99 is annexed herewith and marked as Annexure-A-4.

4.6 That, the applicant was neither relieved of his duties nor any order for relief of the applicant was issued by the Resp. No.4 in compliance to the direction of the I.O. for attending the inquiry at Imphal on the appointed dates i.e, from 15.9.99 to 20.9.99.

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4.7 That, the applicant, for being not relieved of his duties by the Resp. No.4, could not attend inquiry on 15.9.99 at Imphal and the I.O. held the inquiry ex-parte and, on that day the listed documents on behalf of the prosecution were produced and brought into records.

A copy of the ex-parte proceedings dtd.

15/9/99 is annexed herewith and marked as Annexure-A-5.

4.8 That, on 16.9.99 i.e, the following day also the I.O. held the inquiry ex-parte and allowed the State Witnesses (SW) to be examined by the Presenting Officer and on that day SW-I, Sri L.Ito Singh was examined in absence of the applicant without ordering for cross-examination by the applicant at a later stage.

A copy of the ex-parte proceeding dtd.16.9.99 is annexed herewith and marked as Annexure-A-6.

And

A copy of the deposition of Sri L.Ito Singh (SW-I) is annexed herewith and marked as Annexure-A-7.

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4.9 That, on 17.9.99 i.e, the following day also the I.O. held the inquiry ex-parte and allowed the P.O. (Presenting Officer) to examine the SWs who attended. On that day 3 SWs Viz-Sri S. Yarngai-SW-2; Sri V.S. Vareoso-SW-3 and Sri O. Dwijamani Singh-SW, 4 were examined in the absence of the applicant without ordering for Cross-examination of them by the applicant at a later stage.

A copy of the ex-parte proceeding dtd.17.9.99 is annexed and marked as Annexure-A-8.

A copy of the deposition of SW-2 dtd.17.9.99 is annexed and marked as Annexure-A-9.

A copy of the deposition of SW-3 dtd.17.9.99 is annexed herewith and marked as Annexure-A-10.

A copy of the deposition of SW-4 dtd.17.9.99 is annexed herewith and marked as Annexure-A-11.

4.10 That, on 18.9.99 i.e, the following day also ex-parte hearing was held by the I.O. As the SWs who were summoned for examination on that day did not turn up & the proceeding was adjourned.

A copy of the ex-parte proceeding dtd.18.9.99 is annexed herewith and marked as Annexure-A-12.



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- 4.11 That, on 20/9/99 the I.O. issued notice of Inquiry to be held on 21.10.99 at Agartala in the Office of the Director of Postal Services, Agartala the copies of which were endorsed to all concerned including the Resp. No. 4 to relieve the applicant of his duties to attend inquiry at Agartala. The Resp. No.4 also issued orders this time on 22/9/99 to attend inquiry on 21/10/99 at Agartala but not at Imphal as maintained by Resp. No.4 in his final order at para 9 (ii) & (iii).

A copy of the I.O.'s Notice dtd. 20.9.99 is annexed herewith and marked as Annexure-A-13.

And

A copy of the order dtd.22/9/99 of Resp. No.4 is annexed herewith and marked as Annexure-A-14.

- 4.12 That, on 21.10.99 the inquiry was held, but it was adjourned immediately after sitting before the applicant attended the inquiry as the SWs who were summoned for examination did not turn up.

A copy of the proceedings dtd.21.10/99 is annexed herewith and marked as Annexure-A-15.

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- 4.13 That, on 22/10/99 the inquiry was held again for defence of the applicant who attended the inquiry and submitted his defence. The applicant gave also a list of one defence witness and one additional document to be discovered and produced before the inquiry as there was a possible line of defence.

A copy of the list of defence witness and additional document to be produced as submitted by the applicant on 22.10.99 is annexed herewith and marked as Annexure-A-16.

- 4.14 That, the relevancy of the defence witness and the additional document was accepted by the I.O. and decided to summon the Defence witness and call for the additional documents.

A copy of the proceeding dtd. 22/10/99 showing the orders of the I.O. is annexed herewith and marked as Annexure-A-17.

- 4.15 That, on 11.2.2000 the Resp. No.4 appointed one Sri Narayan Das, ASPOs, Agartala (South) as Adhoc Presenting Officer as the regular Presenting Officer Sri N.C. Halder was named as Defence Witness by the applicant and asked the regular Presenting Officer to hand over the document to the Adhoc Presenting Officer who was to represent the case on behalf of the prosecution during examination-in-chief and Cross-examination of the regular Presenting Officer.

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A copy of the appointment order of the adhoc Presenting Officer is annexed herewith and marked as Annexure-A-18.

- 4.16 That, on 20.4/2000 the I.O. issued notice to attend inquiry on 10.5.2000 at Agartala for production of additional documents and examination of the Defence witness.

A copy of the inquiry Notice dtd. 20.4.2000 is annexed herewith and ordered as Annexure-A-19.

- 4.17 That, on 10.5.00 the inquiry was held at Agartala and the applicant attended the inquiry. The adhoc Presenting Officer, Sri N.C. Das also attended ; but the Defence witness who was the regular Presenting Officer did not attend. The additional document as demanded by the applicant and called for by the I.O. was also not produced before the inquiry. The Defence witness was reported to be not willing to appear as such.

A copy of the proceeding dtd. 10/5/00 is annexed herewith and marked as Annexure-A-20.

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- 4.18 That on 10.5.00 the evidence on behalf of the applicant had to be closed as it was useless on the part of the applicant to press for summoning of the Defence witness and production of additional documents because the Inquiry Officer was not armed with powers of a Civil Judge vested under Section 5 of the Departmental Inquiries (Enforcement of attendance of witnesses and production of documents) Act, 1972 to enforce the attendance of the defence witness and production of additional documents. The Inquiry Officer was appointed simply under Sub-rule (2) of Rule 14 of the CCS (CCA) Rules, 1965 without authorisation of the Central Govt. to exercise the powers specified in Section 5 of the Inquiries Act.

A copy of the Order of appointment of Inquiry Officer is already annexed herewith and marked as Annexure A-2.

- 4.19 That, on 12.10.2000 the Resp. No.4 under his endorsement No.Rule-14/S.B. Hazarika dtd.12.10.2000 forwarded a copy of the inquiry report submitted by the I.O. on 27/9/00 after taking into consideration of the written briefs submitted by both sides and asked the applicant to represent if any, against the inquiry report within 15 days of the date of receipt of the endorsement.

A copy of the endorsement dtd. 12.10.2000 is annexed herewith and marked as Annexure.A-21.

- 4.20 That, as per inquiry report submitted by the I.O. on 27.9.00 the Inquiry Officer found that the ~~change~~ under Article-I was not proved but the charge under Article-II was partially proved because in ~~the~~ Article 6 offices were alleged to be not inspected by the applicant but on inquiry 3 offices were found not inspected.

A copy of the inquiry Report dtd. 27.9.00 is annexed herewith and marked as Annexure.A-22.

- 4.21 That, on 25/11/00 the applicant submitted his representation against the Inquiry report and pleaded that the findings of the I.O. in respect of Article-I was ~~not~~rect but the findings in respect of Article-II was not correct.

A copy of the representation against the inquiry report is annexed herewith and marked as Annexure.A-23.

- 4.22 That, on 08/6/01 the final order disposing the disciplinary proceeding was passed by the disciplinary authority i.e, the Resp. No. 4 who disagreed with

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the findings of the Inquiry Officer in respect of Article-I and agreed with the findings in respect of Article-II and imposed the penalty of reduction of pay of the applicant by 6(six) stages from Rs.6650/- to Rs.5500/- in the time scale of Rs.5500-175-9000 for a period of 3 years w.e.f.01.6.01 with cumulative effect with further direction that the applicant would not earn increments of pay during the period of reduction and that on the expiry of the period the reduction will have the effect of postponing his future increments of pay.

A copy of the final order dtd.8/6/01 is annexed herewith and marked as Annexure-A-24.

- 4.23 That, the applicant moved an application under Section 19 of the Central Administrative Tribunal Act, 1985 in the Central Administrative Tribunal, Guwahati Bench on 30.8.2001 against the impugned order and the Hon'ble Tribunal directed the appellant to file an appeal to the appellate authority within 3 weeks and the appellate authority was ordered to dispose of the appeal preferably within two months from the date of submission of the appeal vide order dtd.31.8.01 in Case No.OA 347/2001.

A copy of the CAT's order dtd.31.8.01 is annexed herewith and marked as Annexure-A-25.

- 4.24 That, accordingly, the appellant preferred an appeal on 12.9.2001 to the Chief Post Master General, N.E. Circle, Shillong i.e, the appellate authority against the impugned order of punishment dtd.8.6.01 passed by the Respondent No.4.

A copy of the appeal preferred on 12.9.2001 is annexed herewith and marked as Annexure-A.26.

- 4.25 That, the Resp.No.2 i.e, the appellate authority disposed of the appeal and rejected the same on 29.01.2002 vide its Memo No.Staff/109-14/2001 dtd.29.01.2002.

A copy of the appellate order dtd.29.01.2002 is annexed herewith and marked as Annexure-A.27.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 CROSS-EXAMINATION OF STATE WITNESSES DENIED :-

State Witness(SW) - 1 was examined on 16.9.99 and SW-2, SW-3 & SW-4 were examined on 17.9.99 in absence of the applicant who could not attend the inquiry as he was not relieved of his duties by the Resp.No.4 who was at that time the controlling authority of the applicant. The Inquiry Officer also did not assign reasons in his orders as to why the proceedings could not be adjourned

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till a later date and what miscarriage of justice would have been caused had the proceedings been adjourned without examining the State witnesses and what compelled him to hold the inquiry ex-parte. The applicant was not offered to cross-examine the State Witnesses even at a later stage also when he attended the inquiry. The applicant was, therefore, denied the reasonable opportunity to prove his innocence whereby the Principles of Natural Justice were violated. The statutory provisions prescribing the mode of inquiry was, therefore, disregarded which vitiated the entire proceedings ab-initio. The order of penalty is, therefore, bad in law and is liable to be set aside.

LEGAL PROVISIONS RELIED UPON.

The requirement is satisfied if a witness examined in absence of the delinquent at an earlier stage of the proceedings is offered for Cross-examination at a later stage.

AIR 1963 SC 375

5.2 ADDITIONAL DOCUMENTS RELIED UPON & DEMANDED BY THE  
APPLICANT NOT PRODUCED FOR INSPECTION :-

The additional documents relied upon by the applicant were not produced by the Resp. No.3, because, if

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produced, it would be unfavourable to the prosecution. By not producing the additional documents the applicant was denied the reasonable opportunity to prove his innocence which also violates the principles of Natural justice as the applicant was denied to inspect the documents relied upon by him. The I.O. was also not intimated by the Resp. No. 3 that the Production of the Additional document would be against the public interest or security of the state. The impugned order of penalty passed by the Resp. No. 4, therefore, is malafide and capricious which is liable to be struck down.

LEGAL PROVISIONS RELIED UPON.

- i) The Custodian is required to produce the additional document before the I.O. and if the production of the document is considered opposed to public interest or security of the state its reasons for refusal should be intimated.

-Sub-rule(13) of Rule 14 of the CCS(CCA) Rules, 1965.

- ii) The delinquent is entitled to inspect even documents not relied upon by the Govt. for purpose of

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his defence and refusal to let him inspect them vitiates the inquiry. Inspection of such documents or his defence can be insisted upon by him even before filing written statement.

AIR 1971 Delhi 133

(Delhi) 1970 SLR 400.

5.3 DEFENCE WITNESS WHO WAS A DEPARTMENTAL EMPLOYEE WAS NOT COMPELLED TO ATTEND INQUIRY :-

The Presenting Officer who was summoned as Defence witness to attend inquiry on 10.5.2000 refused to attend the inquiry and did not attend on the ground that he was not willing to appear as such. The Inquiry Officer also did not issue summon again for his attendance. The willingness of the Presenting Officer to appear as Defence witness is irrelevant and what is relevant is his relevancy of evidence in the inquiry. Being a Departmental employee he cannot refuse to attend the inquiry as it is opposed to discipline. The attendance of the Presenting Officer as Defence witness could not be enforced as the Inquiry Officer was not vested with powers of a Civil Judge under Section 5 of the Departmental Inquiries (Enforcement of attendance of witnesses and production of documents) Act, 1972 for which the applicant

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had to be affected adversely. By not vesting the I.O. with the powers under the Inquiries Act, 1972 for enforcing the attendance of the Defence witness in the Inquiry the applicant was denied to inspect the Defence witnesses and the reasonable opportunity to prove his innocence which vitiates the proceeding. The order of penalty is, therefore, a nullity which should be quashed.

LEGAL PROVISIONS RELIED UPON.

- (i) The inquiry authority must take every possible step to secure presence of defence witnesses during the inquiry, specially if they happen to be the employees of that Department.

- Krishna Gopal Vs. Director Telegraphs  
60 CWN 692 (1956).

- (ii) It is the duty of the inquiring authority to summon the defence witnesses and for that purpose to write to their employees to direct the witnesses to appear before him for the purpose of examination in the inquiry. It would be highly improper, perverse and unjustified on the part of the Inquiry Officer to expect the delinquent to produce the witnesses on his own responsibility, Because it is futile to

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expect the employees to come forward voluntarily without employer's permission, during the office hours, to appear as witness against their employers and in favour of the delinquent.

-Shiv Dutt - Vs. State

AIR 1962 Punjab 355.

5.4 PUNISHMENT HAS BEEN IMPOSED WITHOUT EVIDENCE :-

As per inquiry report the Inquiry Officer found that the charge under Article-I was not proved as the additional document demanded by the delinquent was neither discovered and produced before the inquiry nor the I.O. was informed of the reason for non-production of the said document though the custodian of the document i.e. Resp. No.3 was requisitioned by the I.O.repeatedly to produce the same. The I.O. held that the document was not produced because, if produced, the charge under Article-I would not be sustained.

The Disciplinary Authority i.e, the Respondent No. 4 did not agree with the findings of the I.O. and held that the charge under Article-I was proved. In support of his finding the Resp. No. 4 over emphasized the oral evidence of SW-4 Sri Dwijamani Singh whose deposition was held by him to be crucial in sustaining the charge under Article-I.

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But the Counter finding of the Resp.No. 4 is not correct. Because SW-4 was examined on 17.9.99 in absence of the applicant who was at that time working in the office of the Resp. No.4, but he was neither relieved of his duties nor any order was issued for his relief to attend inquiry by the Resp. No. 4 whereby the applicant was denied the most valuable right to Cross-examine the SW-4 who was not offered for Cross-examination even at a later stage also. The Resp. No.4 had by passed this point and tried to divert the attention from this point saying in para 9 (ii) of his punishment order as follows :

"The C.O. was not debarred from attending the inquiry at any time. In fact, he was directed to attend the hearing at Imphal on 21.10.99 vide DPS,Kohima Memo of even No.dtd.22.9.99".

The above contention of the Resp. No.4 is not at all correct. The DPS, Kohima's Memo No.Rule-14/S.B. Hazarika dtd.22.9.99 (Annexure.A-14) was issued to attend inquiry at Agartala on 21/10/99 and not at Imphal where inquiry was held from 15/9/99 to 20.9.99 as per inquiry notice dtd.12/23.08.99 in respect of which no order was issued by the Resp. No.4 to attend the inquiry. Hence, the evidence of SW-4 is no evidence at all and any finding of guilt on the strength of deposition of SW-4 is not sustainable.

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(ii) Similarly, in respect of Article-II the I.O. reported that the charge under Article-II was found partially proved because only 3 EDBOs out of 6 EDBOs were found not inspected by the applicant as out of 6 SWs who were the Branch Postmasters of those Offices only 3 SWs deposed before the inquiry. The Resp. No. 4 accepted the findings of the I.O. in respect of this Article. The findings of the I.O. and agreement thereon of the Resp. No.4 was based on the depositions of SW-1, SW-2 and SW-3; but those SWs were also examined in absence of the applicant on 16.9.99 & 17.9.99 vide Annexures. A-6 & A-8 when the applicant were working in the office of the Resp. No. 4 but he was not relieved of his duties by the Resp. No.4 to attend the inquiry at Imphal which is at a distance of about 150 kms. and thereby the applicant was denied the reasonable opportunity to Cross-examine the SWs even at a later stage of the inquiry. This is the quality of oral evidence deposed by SW-1, SW-2 and SW-3 and on the strength of such evidence the I.O. has found the charge as proved in respect of 3 offices which was agreed to by the Resp. No.4 i.e, the Disciplinary Authority and the penalty was imposed accordingly.

5.5. THE ORDER OF PENALTY IS WITH RETROSPECTIVE EFFECT :-

The order of penalty was passed by the Respondent No.4 on 8.6.01 ; but its effect was ordered to be given from

01.06.01 i.e, with retrospective effect which is not permitted by rules. The order of penalty is, therefore, void and liable to be set aside.

5.6 APPELLATE ORDER WAS PASSED WITHOUT AFFORDING PERSONAL HEARING AS REQUESTED BY THE APPLICANT :-

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In para 5 of his appeal dtd.12.9.2001 the applicant requested for allowing a personal hearing before the appeal is decided as the appeal was preferred against a major penalty. But the appellate authority did neither allow the personal hearing nor assigned his reasons in his appellate orders why the appellant could not be allowed a personal hearing. Though it is within the ~~discretion~~ of the appellate authority the ~~discretion~~ cannot be exercised by the appellate authority as if the sky is the limit of ~~discretion~~. The appellate authority did not speak a single word in his order about personal hearing requested by the applicant. The appellate authority, therefore, exercised his authority arbitrarily and in a prejudicial manner. The appellate order is, therefore, a nullity.

LEGAL PROVISIONS RELIED UPON.

"It is one of the fundamental rules of our constitutional set up that every citizen is protected against exercise

Dudley

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of arbitrary authority by the State or its officers. Duty to act judicially would, therefore, arise from the very nature of the function intended to be performed; it need not be shown to be *super* added. If there is power to decide & determine to the prejudice of a person's duty to act judicially is implicit in the exercise of such power. If the essentials of justice *be ignored and an order to the prejudice* of a person is made, the order is a nullity".

AIR 1967 S.C.1269 at P.1271

" Discretion means sound discretion guided by law. It must be governed by rule, not by humour. It must not be arbitrary, vague, and fanciful."

AIR 1967 S.C.1427 at P.1434.

#### 5.7 APPELLATE AUTHORITY WAS JUST ANOTHER JULIAS CEASER :-

The appellate order passed by the appellate authority is just a mechanical order of the order passed by the Disciplinary authority. Neither the appeal was thoroughly examined nor objective assesment of the finding of the disciplinary authority was made by the appellate authority . The overall assesment of the appellate authority is that as the applicant did not attend the





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inquiry in some stages the inquiring authority was justified in holding the inquiry ex-parte and the applicant has no point to complain of denial of reasonable opportunity to prove his innocence. But the appellate authority did not like to admit that even in ex-parte inquiry the entire gamut <sup>of</sup> Rule 14 of the CCS(CCA) Rules, 1965 should be followed which was not followed by the Inquiry Officer. There is no record to show that the Inquiry Officer offered the State witnesses to the applicant for cross examination by him at a later stage when he attended the inquiry.

The appellate authority was silent on this point. It has not been denied by the appellate authority that the applicant was not relieved of his duties by the Resp.No.4 to attend inquiry on 15.9.99, 16.9.99, 17.9.99 when state witnesses were examined, it was not denied that additional document demanded by the applicant was not produced, it was not denied that the Defence Witnesses which was a departmental official was not compelled to attend the inquiry, it was not denied that the order of penalty was with retrospective effect; but still the appellate authority went on defending the findings of disciplinary authority. The burden of proof which lies on the prosecution was thrown to the shoulder of the applicant. The disagreement of the disciplinary authority

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with the findings of the Inquiry officer in respect Article -I was not at all discussed & left to the discretion of the disciplinary authority. The appellate authority, therefore, did not apply his mind to the appeal and mechanically decided what was decided by the disciplinary authority. The appeal to the appellate was, therefore, appealing just to another Julius Caesar.

In compliance to orders dtd. 31.8.2001 of the Hon'ble Central Administrative Tribunal, Guwahati Bench, in Case No.OA. 347/2001 the applicant preferred an appeal to the post master General, N.E.Circle, Shillong (Appellate Authority) on 12.9.2001 but it was rejected on 29.1.2002 by the Appellate authority vide its order No.Staff/109-14/2001 dtd. 29.1.2002.

A copy of the appellate order is annexed below to this application at P.P.-30-34 and also marked as Annexure-A-27. ✓

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has

been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT :

In view of the facts mentioned in para 6 above the applicant prays for the following relief(s) :-

It is prayed that your Lordships would be pleased to admit this application, call for the entire records of the case, ask the opposite parties to show cause as to why the impugned order dtd.8.6.01 (Annexure - A-24) should not be set aside and after perusing the causes shown, if any, and hearing the parties set aside the impugned order and pass such any other order or orders as Your Lordships may deem fit & proper.

And for this act of your kindness your applicant as in duty bound shall ever pray.

GROUND(S)

For the grounds stated in sub-paras (1) to (7) of para 5 above the order of penalty is a nullity one besides being an arbitrary and faulty disposal of the

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disciplinary proceeding. The order being worse than the worst one that may happen was issued in total disregard of statutory provisions or rules prescribing the mode of inquiry. The principles of natural justice were violated because the State Witnesses, which may be well described as Stock witnesses, were examined in absence of the delinquent official; because the delinquent was denied the right to cross-examine the SWs; because the additional documents i.e, defence documents relied upon and demanded by the delinquent were not supplied by the prosecution; because the defence witness was not produced for examination by the delinquent; because the findings of the disciplinary authority was based on no evidence and because the conclusion of the proceeding was so wholly arbitrary and capricious that no reasonable person could have easily arrived at the conclusion. The order of penalty is with retrospective effect and the adequacy of penalty is also malafide. The order of penalty is, therefore, so bad in law that it is commonly uncommon in the history of violation of principles of Natural justice and so, it is liable to be struck down as defunct and malacious.

9. INTERIM ORDER, IF ANY PRAYED FOR :

Pending final decision on the application, the applicant seeks the following interim relief(s) :-

✓ The operation of the impugned order dtd. 8.6.01 (Annexure-A-24) may please be stayed urgently till the

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final decision on the application preventing the loss caused to the applicant.

10. DOES NOT ARISE. (Submitted in person).

11. Particulars of Bank Draft/Postal Order filed in respect of the application fee :

Postal order No. Guwahati Postal Order No.7G550465

Date of issue 20/2/2002

Office of Issue : Guwahati G.P.O.(Night)

Office of Payment : Guwahati-5

Particulars of the Payee : Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.

12. LIST OF ENCLOSURES :

1. The impugned order dtd.8.6.01
2. Appellate Order dtd.29.1.2002
3. I.P.O. No.G.P.O.7G550465 dtd.20/2/2002 for Rs. 50/-
4. Annexures, A-1 to A-27 in compilation No.2.

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VERIFICATION

I, Sri S.B. Hazarika, son of Late Khargeswar Hazarika, aged about 51 years, working as C.I. in the Office of the Director of Postal Services, Nagaland, Kohima, resident of Vill-Bhaluckmari, P.O.Goshaibari, P.S. & Dist-Nowgong, (Assam) do hereby verify that the contents of Paras.....!..... to ...4...2...7..... are true to my personal knowledge and paras 5 to 6 believe to be true on legal advice and that I have not suppressed any material facts.



Date: 21.2.2002.

Signature of the applicant.

Place : Guwahati-5.

To

The Registrar,  
Central Administrative Tribunal  
Guwahati Bench  
Guwahati-5.

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DEPARTMENT OF POSTS : INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND : KOHIMA - 797001

No. Rule 14/S.B. Hazarika

Dated Kohima the 8-6-2001

In the office memo No. Diary/SDIPOs-Ukhrul/97 Dtd. 19.2.98 of DPS Manipur : Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules 1965 against Shri. S.B. Hazarika the then SDIPOs, Ukhrul Dn. Ukhrul. A statement of articles of Charges and a statement of imputation of mis-conduct and mis-behaviour in support of the article of charges and a list of documents by which and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri. S.B. Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri. S.B. Hazarika the then SDIPOs Ukhrul- Dn, Ukhrul.

29-1-96 } claimed to inspect  
to }  
31.1.98 } 54 post in 1996  
but  
not submitting

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ARTICLE - I

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub- Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of each of those 54 (fiftyfour) Post Offices, To the Supdt. of Post Offices, Manipur Division Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur- Dn Imphal. Similarly, the said Shri. S.B. Hazarika, had shown to have inspected as many as 70 (Seventy) Post Offices during the period from 01-01-97 to 31-12-97, but had not submitted a copy of the inspection remarks in respect of 45 (fortyfive) Post Offices, to the Supdt. of Post Offices, Manipur- Dn Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur- Dn Imphal. By his above acts, the said Shri. S.B. Hazarika violated the provision of Rule- 300 (2) of P & T Man. Vol VIII read with DEpt. of Posts/ New Delhi letter No. 17-3/92- Inspn. Dated 02-07-1992. and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

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ARTICLE - II

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Dn, on the date noted against each.

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Name of the EDBO	Date of Inspn. shown by Shri. S.B. Hazarika
1. Chingjarai EDBO	25-02-1997
2. Sirarakhang EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997
5. Ningshong EDBO	15-07-1997
6. Pushing EDBO	20-07-1997

But, in fact, the said Shri. Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri. S.B. Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII, Rule-3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. I have gone through the case carefully. Briefly, Shri.S.B.Hazarika, was chargsheeted under Rule 14 of the CCS (CCA) Rules 1965 vide DPS, Manipur Imphal memo no.Diary/SDIPOs Ukhrul/97, dtd. 19.2.98 with the following charges:-

i) While working as SDI (P) Ukhrul Sub-Divn from 29.1.96 to 31.1.98 he failed to submit inspection reports of 54 Post Offices in the year 1996 and 45 Post Offices in 1997 which were shown to have been inspected by him

ii) For having shown as inspected but did not inspect 6 EDBOs in Ukhrul Sub-Divn between 25.2.97 to 28.7.97.

4. Shri.Sunil Das, the then Supdt. of Post Offices, Agartala Divn, Tripura was appointed as the inquiry officer to inquire into the charges framed against Shri.S.B.Hazarika. After adducing both oral and documentary evidences the inquiry officer submitted his inquiry report vide his letter no.SP-1/INQ, dtd. 27.9.2000.

5. As per the findings of the inquiry officer Article I of the charge is not proved and Article-II of the charge as partially proved to the strength of 3 EDBOs out of 6 alleged not to have been inspected.

6. A copy of the report of the inquiry officer was supplied to the charged official for making representation, if any. Shri.Hazarika submitted his representation which was sent by RL NO.3096, dtd. 25.11.2000. While agreeing with the findings of the IO in respect of Article I, Shri.Hazarika disagreed with the findings of the IO in respect of Article-II of the charge on the following grounds:-

i) The BOs alleged not to have been inspected was on the basis of written statements and oral evidence of the BPMs of those three BOs viz. Kameng Kakching, Pushing and Shamshak BOs.

ii) The dates of the examination of those witnesses were fixed from 16.9.99 to 20.9.99 at Imphal when the CO was functioning as C.I in the CO the DPS Kohima.

iii) The enquiry was held exparte and the state witnesses were allowed to be examined by the PO in the absence of the CO and he was denied the opportunity of cross examination of the state witnesses.

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iv) The IO held regular hearing exparte in a hurry in the absence of the CO and did not record reasons for holding the enquiry exparte.

v) The decision of the IO to hold the enquiry exparte and to allow the examination of the state witnesses in the absence of the CO was unjust, unfair and unwarranted.

vi) Non examination of the state witnesses was objected to by the CO before the IO on 22.10.99 but the IO overruled the objection and did not record the plea and objection of the CO.

The CO, therefore, prayed to the Disciplinary Authority to exonerate him fully of all the charges rejecting the findings of the IO and in respect of 3 EDBOs found to be not inspected by the CO under the charge of Article II.

7. I have examined the chargesheet, deposition of state witnesses, written briefs of the PO and the CO, the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report. While accepting the findings of the inquiry officer in respect of the article II of the charges, the disciplinary authority disagrees with the IO in respect of IO's findings on Article I of the charge for the following reasons:-

i) Although there are short comings on the part of the then Disciplinary Authority in not including certain important documents in the listed documents on the basis of which the articles of charges were proposed to be proved and the presenting officer in not producing all the witnesses and additional documents as asked by the CO and permitted by the IO during the hearings, sufficient documentary and oral evidences have been produced during the oral inquiry to establish the charge against the CO.

ii) The deposition of SW-4, Shri.O.Dwijamani Singh, the then Dealing Asstt. IR branch, O/o the DPS Manipur, Imphal was crucial in substantiating Article I of the charges SW-4 deposed that he received 25 IRs out of 70 for the year 1997 and none for the year 1996. SW-4 also deposed that the CO did not submit the IRs inspite of repeated reminders. The CO challenged that the deposition of SW-4 was not corroborated by documentary evidence and might have been made on the basis of some records and not from his memory as he was not expected to keep the figures of the IRs submitted / not submitted by the different inspecting authority of the division and non production of documents leads the deposition to be false and fabricated. The plea of the CO was accepted by the IO who concluded that non production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by other documentary evidence. ✓

The contention of the IO is not acceptable. SW-4 was a mere witness and he was supposed to answer what he knew to be the truth. He was not supposed to bring the documents along with him until and unless he was asked to do so. He had deposed before the inquiry as he was asked for and it was the duty of the CO to contest what SW-4 deposed during the inquiry.

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iii) The contention of the CO that SW-4 cannot be expected to keep in memory all the figures of IRs submitted / not submitted by inspecting officers and which has been accepted by the IO is also not convincing. SW-4 had been working in the IR branch for a considerable period and it was not an impossible task to remember the numbers of IRs not submitted by the CO in 1996 and 1997. It was not only one or two but the IRs of all the POs stated to have been inspected by the CO in 1996 were alleged not to have been submitted by the CO. 53 IRs of 1997 were alleged not to have been submitted by the CO. It was, therefore, not a difficult thing for the SW-4 to keep in mind the number of IRs submitted/ not submitted by the CO.

iv) Another point raised by the CO and accepted by the IO is non-production of additional documents like monthly tour TA advance file for the period from July 1997 to March 98. It was argued by the CO that if the additional documents were produced these would be unfavorable to the prosecution. By this documents the CO tried to prove that subsequent TA advance was not granted unless IRs were submitted. This inference was accepted by the IO. The prosecution should have produced the additional documents as asked by the CO and permitted by the IO. However, on perusal of the records it is seen that though the IO in para 3 of his order no. 4 dtd.22.10.99 mentioned that he decided to call the file, he did not specifically ask the PO or the competent authority to produce the documents. Even if the documents as asked for were produced they are not likely to help the defence of the CO in the absence of any specific order which the CO should have produced if there was any. Therefore, in the absence of any specific order in support of the plea of the CO it was wrong to draw any inference due to non-production of certain additional documents.

v) The charge against the CO was that he did not submit some IRs of the POs which he claimed to have inspected in 1996 and 1997. He was given ample opportunities to deny the charge & establish his innocence. However, from the records of the inquiry proceedings it is seen that he did not attend the preliminary and regular hearings and took part in the oral inquiry only after evidence on behalf of the disciplinary authority was closed. For his defence the CO has raised issues like non-production of certain additional documents, non-production of original documents and lacuna in the deposition of state witnesses. But the CO has not produced any documentary or oral evidence to show that he had indeed submitted the IRs of the POs which were stated to have been inspected by him. Copies of the IRs or receipts of registered letters by which the IRs were submitted which are crucial documentary evidence were not produced by the CO to establish his innocence and disprove the charge.

In view of the above, article I of the charge against Shri.S.B.Hazarika is clearly established.

8. As far as Article-II of the charge is concerned the IO has concluded that the charge is partially proved to the extent that out of 6 EDBOs alleged not to have been inspected, non inspection of three BOs namely Kameng Kakchung, Pushing and Shamshak BOs has been proved. Even though the inspection of the remaining three BOs has not been established the Disciplinary Authority inclines not to dispute with the findings of the IO and hold the Article-II of the charge against the CO as partially proved.

9. The points raised by the CO in his representation against the report of the Inquiry Officer have also been considered:-

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i) The oral evidence as well as the written statements of the three BPMs whose offices were alleged not to have been inspected are crucial and sufficient evidence to prove that the three BO were not inspected by the CO in the year 1997. The BPMs are the custodians of all the BO records and as such their oral depositions and written statements as to whether the BOs have been inspected or not cannot be dismissed lightly. The other BO staff like EDDAs and EDMCs may or may not be present at the BOs during inspections. But no inspection of BOs can be carried out in the absence of the BPMs who are responsible for safe custody of the BO records. Therefore, unless contrary is proved, their written statements and oral evidence have to be accepted.

ii) The CO was not debarred from attending the enquiry at any point of time. In fact he was directed to attend the hearing at Imphal on 21.10.99 vide DPS Kohima memo of even no. dtd.22.9.99. But the CO deliberately chose not to attend the enquiry. As such the CO cannot claim that he was not relieved of his duty as CI, in the O/o the DPS, Kohima by the controlling authority and as such could not attend the enquiry. Sufficient opportunity was given but the CO did not avail the opportunity to attend the inquiry and cross examine state witnesses. Therefore, he was not denied but he did not avail the opportunity to cross - examine state witnesses.

iii) As the CO failed to attend the oral hearings fixed by the IO on several dates the enquiry was held ex parte upto the completion of the stage of presentation of prosecutions, documents and witnesses. As such non cross examination of State witnesses was due to non attendance of the hearings by the CO on the dates fixed for examination and cross examination of State witnesses.

iv) When the CO deliberately chose not to attend the inquiry on numerous dates fixed for preliminary and regular hearings by the IO and sufficient opportunities afforded to the CO, no specific reason is required to be recorded as to why the enquiry was held ex parte.

v) The decision of the IO to hold the enquiry ex parte and to allow the examination of State Witnesses was in order. When the CO chose not to attend the previous hearing there was no question of postponing the examination of witnesses due to the absence of the CO. If for any reason the CO could not attend the hearing on a particular date fixed by the IO he could have informed the IO and prayed for a postponement / adjournment. But there was no written communication to the IO from the CO's side.

10. In short sufficient opportunities were given to the CO to deny the charges and establish his innocence. But Shri.S.B.Hazarika just ignored the enquiry upto the stage of presentation of prosecution, documents and witnesses. Apart from pointing out deficiencies in the inquiry, he has not produced any relevant documentary or oral evidence to establish his innocence and disprove the charges. The charges against Shri.S.B.Hazarika are very serious. One of the main duties and functions of a Sub-Divisional Inspector of Post Offices, is the annual inspection of Post Offices. But Shri.Hazarika failed to carry out this main function of an IPO while working as SDI (P) Ukhrul Sub-Division between 29.1.96 to 31.1.98. Such kind of an irresponsible official is not fit to be retained in service. However, considering the facts and circumstances of the case, I feel that Shri.Hazarika should be given another opportunity to reform himself by retaining him in service and impose the following punishment on Shri. S.B. Hazarika :-

attested  
by  
24/2/02  
[Signature]

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ORDER


Therefore, I Shri. F.P. Solo, Director of Postal Services, Nagaland Kohima and the Disciplinary Authority hereby order that the pay of Shri. S.B. Hazarika, the then SDIPOs Ukhul Sub-Division now C.I. Divisional Office, Kohima (U/S) be reduced by 6 (six) stages from Rs. 6650/- to Rs. 5500/- in the time scale of Rs. 5500-175-9000/- for a period of three years w.e.f. 1-06-2001 with cumulative effect. It is further directed that Shri. S.B. Hazarika, C.I. Divl. Office, Kohima (U/S) will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay.

sd-

(F.P. Solo)  
Director of Postal Services  
Nagaland : Kohima - 797001

Copy to :-

1. The CPMG (INV) N.E. Circle, Shillong for information
2. The Postmaster Kohima H.O. for information and n/a.
3. The DA(P) Kolkata (Through the Postmaster Kohima H.O.)
4. The Director Of Postal services, Manipur : Imphal for information
5. Shri. S.B. Hazarika, C.I. Divl. Office Kohima (u/s).
6. PF of the Official
7. CR of the Official.
8. Office copy.

  
(F.P. Solo)  
Director of Postal Services  
Nagaland : Kohima - 797001

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DEPARTMENT OF POSTS  
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE  
SHILLONG-793 001.

MEMO NO.STAFF/109-14/2001,

Dated at Shillong, the 29.1.2002.

ORDER

This is a decision on the appeal dated 12.9.2001 of Shri S.B. Hazarika, at present working as Complaint Inspector (Postal), Divisional Office, Kohima, against the order of DPS, Kohima issued in Memo No.Rule-14/S.B. Hazarika dated 8.6.2001 vide which the punishment of reduction of pay of the official by 6(six) stages for a period of 3(three) years with cumulative effect was imposed on the official.

2. The chronology of events in this case in brief is as follows:-

- (i) Charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 issued to the official on 19.2.98.
- (ii) Inquiry completed and I.O. submitted his report on 27.9.2000.
- (iii) The Disciplinary Authority issued the punishment referred to above on 8.6.2001.

Normally an official to whom a punishment is awarded, is supposed to make the appeal to the prescribed Appellate Authority. However, in this case, it is seen that the charged official approached the Hon'ble Central Administrative Tribunal (CAT), Guwahati Bench, Guwahati vide O.A. NO.347 of 2001. The Hon'ble CAT,Guwahati was not inclined to go into the merits of the case at that stage and directed the appellant – Shri S.B. Hazarika to prefer a statutory appeal before the competent authority within three weeks vide their order dated 31.8.2001 in OA NO.347/2001. Further, the Hon'ble CAT, Guwahati directed the Appellate Authority to conclude the appeal preferably within two months from the date of receipt of the appeal if preferred by the appellant. Pursuant to this decision of the Hon'ble CAT, Guwahati, the official Shri S.B. Hazarika submitted his appeal directly to the Appellate Authority and copy endorsed to the Disciplinary Authority. The case alongwith the comments of the Disciplinary Authority was received in Circle Office, Shillong on 28.9.2001. The appellant had quoted some case Laws in his appeal and correspondence was entered with the appellant for supplying copies of records relied by him in his appeal. After protracted correspondence, no satisfactory reply was received.

The text of the Articles of charges against the official is reproduced below :-

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*21/10/02*  
*for*

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ARTICLE-I

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.01.96 (A/N) to 31.01.98 he had shown to have inspected as many as 54 post offices in the year 1996 but had not submitted a copy of the inspection remarks in respect of each of these 54 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly, the said Shri S.B. Hazarika had shown to have inspected as many as 70 post offices during the period from 01.01.97 to 31.12.97 but had not submitted a copy of the inspection remarks in respect of 45 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Shri S.B. Hazarika violated the provision of Rule 300 (2) of P&T Man. Vol.III read with Department of Posts, New Delhi letter No.17-3/92-Inspn. dated 2.7.92 and Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964."

ARTICLE-II

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.1.96 to 31.1.98 he had shown to have inspected the following EDBOs in Ukhrul Sub-Division on the date noted against each.

	<u>Name of the EDBO</u>	<u>Date of inspection shown</u>
1.	Chingjarai EDBO	25.2.1997
2.	Sirarkhang EDBO	29.3.1997
3.	Kamang Kakching EDBO	19.5.1997
4.	Shanshak EDBO	10.6.1997
5.	Nungshong EDBO	15.7.1997
6.	Pushing EDBO	20.7.1997

But, in fact, the said Shri Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year, 1997. Therefore, by his above acts, the said Shri S.B. Hazarika, violated the provisions of Rule 300 (1) of the P&T Manual Vol. VIII, Rule 3 (I)(i) of the CCS (Conduct) Rules, 1964 and Rule 3 (I)(iii) of the CCS (Conduct) Rules, 1964."

3. The main points put forward by the appellant in his appeal are as follows :-

- i) That I.O. held the enquiry on 15.9.99, 16.9.99, 17.9.99, 18.9.99 ex-parte. Thus, he did not get the scope to defend his case.
- ii) That he could not attend the enquiry on above dates as he was not relieved by the controlling authority i.e. DPS, Kohima although the copy of notice dated 12/23.8.99 was endorsed to DPS, Kohima also by the I.O.

- iii) That the additional documents demanded by him which were accepted by the I.O. and called for production during the inquiry on 10.5.2000 were not produced and examined.
- iv) The defence witness, Shri N.C. Halder, Dy. SP, Imphal although was summoned to attend the enquiry declined to become a defence witness, and no action was taken to compel him to depose before the I.O.
- v) That the prosecution witnesses – (1) Shri L. Ito Singh (SW-1), (2) Shri S. Yarngai (SW-2), (3) V.S. Varese (SW-3), (4) Shri O. Dwijamani Singh (SW-4) were examined in absence of the appellant without ordering for cross examination. So these witnesses cannot be treated as valid.
- vi) Shri O. Dwijamani Singh (SW-4), dealing assistant of the Divisional Office, Imphal, deposed that the appellant did not submit the IRs as listed in the charge-sheet i.e. 54 (fifty four) IRs of 1996 and 45 (forty five) IRs of 1997. This deposition made from his memory without support of any documents. The appellant argues that nobody can remember such information correctly without any support of evidence.
- vii) a) That the I.O. in his inquiry report held that charge under Article-I was not proved.  
  
b) That the I.O. in his inquiry report also held that the charges under Article-II was partially proved, because out of six offices, alleged to be not inspected by the appellant only three offices were found not inspected. But these findings also should not be treated as correct because the appellant was not given reasonable opportunity to cross-examine the state witness.
- viii) That the punishment order with retrospective effect with effect from 1.6.01 while the order was issued on 8.6.01 which is not admissible as per rule.

The appellant, therefore, prayed that the punishment order should be set aside.

4. I have gone through the appeal thoroughly with reference to relevant records. It is seen that -

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*By*  
*21/2/02*  
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(i) The appellant evaded attending the inquiry not only from 15.9.99 to 18.9.99 but on earlier dates also ( i.e. 25.8.98, 22.9.98 and 27.1.99 ) he did not attend the enquiry. As regards his non-relief, he alleged that DPS, Kohima did not issue any release order. The appellant was working in the office of DPS itself. He was summoned to attend the enquiry. It was incumbent on him to seek release order for attending the enquiry but he did not do so. As such, it cannot be said that he was denied chance to attend the enquiry. Moreover, he did not send any information also to the I.O., intimating the reasons for his inability to attend the enquiry. Therefore, the I.O. was justified in holding the enquiry ex-parte. The claim of the appellant stating that he did not get reasonable opportunity to defend his case, therefore, does not stand.

(ii) It is found to be a fact that the additional document i.e. the tour T.A. advance file of Divisional Office was neither furnished nor any reason for non-production was intimated to the I.O. But, in my opinion, T.A. advance file has no direct relevance to submission of IRs. Because, T.A. advances are generally sanctioned if the tour programme is approved and adjustment of previous T.A. advances are generally watched over.

(iii) Regarding non-attendance of the defence witness, Shri N.C. Haldar, it is found that the official expressed unwillingness in writing to be a defence witness and he did not attend the hearing on 10.5.2000. As recorded in the order sheet dated 10.5.2000, his further summoning was also not insisted upon by the appellant.

(iv) The state witnesses were examined during the hearing from 15.9.99 to 18.9.99 while the enquiry was held ex-parte. The appellant was himself responsible for not attending the enquiry. Hence, it cannot be said that he was not given opportunity to defend his case. Further, he did not request for recalling those witnesses for cross-examination when he attended the enquiry on subsequent dates. Hence, there is no ground to treat those witnesses as invalid.

(v) The SW-4 deposed regarding non-submission of IR from his personal knowledge. Even if he might not have recollected the numbers correctly, the fact of non-receipt of some IRs from the appellant was established. The appellant also did not furnish any proof of submission of any of the IRs from his side to disprove the statement of SW-4 and the substantive charge against him.

(vi) It is correct that the Inquiry Authority held that the charge under Article-I was not proved. But the Disciplinary Authority disagreed with this finding of the I.O. and recorded his own findings with reason for disagreement. This is permitted under Rule 15 of CCS (CCA) Rules, 1965. Therefore, DPS, Kohima - the Disciplinary Authority was well within his power to disagree with the findings of the I.O. in respect of charges under Article-I.

(vii) Regarding the effect of the punishment retrospectively, the controlling authority intimated that it was an inadvertent mistake. It would be effective either from the date of issue of order or prospectively.

*Admitted by*  
24/10/2002  
[Signature]



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5. On a careful consideration of the whole case I find that the charges against the official are quite grave. Inspection of offices under his control is the primary and important duty of a Sub-Divisional Inspector. Equally important is his duty to promptly submit all the Inspection Reports to his superiors. In the entire enquiry, the charged official has not brought any evidence to prove that he had fully discharged his duties of preparation and submission of Inspection Reports listed in the charges. He is trying to rely only on one premise that if he had not submitted his IRs he would not have been given further TA advance. I am surprised that a responsible officer of the rank of a Sub-Divisional Inspector should take recourse to such flimsy excuse in support of his case. Had he really submitted the Inspection Reports, there is no reason why they would not be available in the Divisional Office. Similarly, office copies and the forwarding letters relating thereto would be available in the SDI's office also. The Disciplinary Authority in its decision, especially para-7, sub-para-5 has dealt with this aspect in detail.

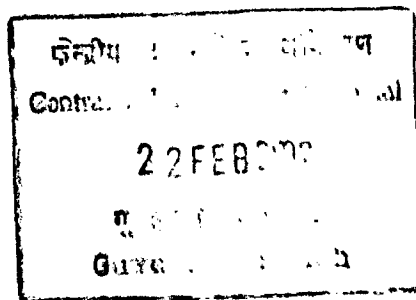
6. In my view the charged official deserves a much harsher punishment of removal from service. However, I take an overall rather liberal view of the case and treat the punishment already given to the official as adequate with a view to giving him a chance to improve as he has got so many years of service left. The appeal of the official is, therefore, hereby rejected.

(VIJAY CHITALE)  
Chief Postmaster General,  
N.E. Circle, Shillong-793 001.

Copy to:-

1. The Director Postal Services, Nagaland Division, Kohima-797 001.
2. Shri S.B. Hazarika, Complaint Inspector (Postal) through the Director Postal Services, Nagaland Division, Kohima.

(VIJAY CHITALE)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWHATI BENCH : GUWHATI-5

*APPLICATION UNDER SECTION 19 OF  
THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985*

Title :- S.B.Hazarika  
Vs.  
Union of India & Others

COMPILATION NO-2  
DOCUMENTS RELIED UPON  
(WITH IDEX)

FORM NO.1  
(SEE RULE 4)

APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985

Title of the Case : S.B.Hazarika

Vs.

Union of India & Others.

I N D E X

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2A	Appellate order dtd.29.1.02	30-34
<u>COMPILATION NO.2</u>		
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4.	" A-2 Copy of Appointment order of IO	45
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6.	" A-4 Copy of Inquiry Notice dtd.12/28.8.99	47
7.	" A-5 (i-vi) Proceeding dtd.15.9.99	48-53
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9.	" A-7 (i-ii) Copy of Deposition of SW-1 dtd.16/9/99	55-56
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11.	" A-9 Copy of Deposition of SW-2 dtd.17.9.99.	58
12.	" A-10 Copy of Deposition of SW-3 dtd.17.9.99	59
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14.	" A-12 (i-ii) Copy of Proceeding dtd.18.9.99.	61-62

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15.	Annexure A-13 Copy of inquiry Notice dtd.20.9.99	63
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22.A	" A-20 (i-ii) Copy of proceeding dtd.10.5.2000	71-72
23.	" A-21 Copy of endorsement furnishing inquiry Report.	73
24.	" A-22 (i-xx) Copy of Inquiry Report dtd.27.9.93-94-95	74-93
25.	" A-23 (i-ii) Copy of Representation against Inquiry Report	94-95
26.	" A-24 (i-vi) Copy of final order dtd. 8/6/01	96-101
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28.	" A-26 (i-xviii) Appeal dtd.12.9.01	104-121
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Signature of the applicant.

FOR USE IN TRIBUNAL'S OFFICE.

Date of Filing :-

Date of Received by post :- Submitted in person.

Registration No. :-

Signature  
For Registrar.

Annexure A-1/i

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DEPARTMENT OF POSTS, INDIA

OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR: IMPHAL-795001.

No. Diary/SDIPOS-Ukhrul/97

Dated at Imphal the 19.2.98

M E M O R A N D U M

The undersigned proposes to hold a inquiry against Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul . . . under Rule -14 of the Central Civil Services ( Classification, Control and Appeal ) Rules 1965. The substance of the imputation of misconduct and or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges ( Annexure-I ). A statement of the imputation of misconduct or misbehaviours in support of each article of charge is 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 ).

1. Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is directed to submit within 10 days of the receipt of this memorandum as 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 S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. 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 inquiry 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 Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is invited to Rule 20 of the CCS(Conduct) Rules, 1964, under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, 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.

Copy to:-

1. Shri S.B. Hazarika  
SDIPOS, Ukhrul Sub-Dn,  
Ukhrul.

2. Via/Stt.

Name and designation of  
competent Authority.

(LALHUNA)

Director Postal Services  
Manipur Division, Imphal-795001.

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ANNEXURE-I

Statement of article of charges framed against  
Shri.S.B.Hazarika, SDIPs/Ukhrul Sub-Dn.,Ukhrul.

Article-I

Shri.S.B.Hazarika, while working as SDIPs/  
Ukhrul Sub-Dn., during the period from 29/01/96(A/N)  
to 31/01/98, he had shown to have inspected as  
many as 54(Fifty Four) Post Offices in the year  
1996, but had not submitted a copy of the Inspection  
Remarks in respect of each of these 54(Fifty four)  
Post Offices, to the Supdt. of Post Offices, Manipur  
Division, Imphal or any other appropriate autho-  
rity in place of the Supdt. of Post Offices, Manipur  
Division, Imphal. Similarly, the said Shri.S.B.  
Hazarika, had shown to have inspected as many as  
70(Seventy) Post Offices during the period from  
01/01/97 to 31/12/97, but had not submitted a  
copy of the Inspection Remarks in respect of  
45(Fifty five) Post Offices, to the  
Supdt. of Post Offices, Manipur Division, Imphal  
or any other appropriate authority in place of  
the Supdt. of Post Offices, Manipur Division, Imphal.  
By his above acts, the said Shri.S.B.Hazarika  
violated the provisions of Rule-360(2) of P&T  
Man. Vol. VIII read with Deptt. of Posts/New Delhi  
letter No.17-3/92-Inspn. Dated. 02/07/1992, and  
Rule-3(1)(ii) of CCS(Conduct) Rules, 1964.

Article-II

Shri.S.B.Hazarika, while working as SDIPs/  
Ukhrul Sub-Dn., during the period from 29/01/96  
to 31/01/98, he had shown to have inspected the  
following EDs in Ukhrul Sub-Dn., on the date  
noted against each.

<u>Name of the ED</u>	<u>Date of Inspn. shown by Shri.S.B.Hazarika</u>
1. Chingjerei ED	25-02-1997
2. Sirarakheng ED	29-03-1997
3. Kamang Kakching ED	19-05-1997
4. Shangshak ED	10-06-1997
5. Nungshong ED	15-07-1997
6. Pushing ED	20-07-1997

But, in fact, the said Shri.Hazarika, did not at  
all inspect the above mentioned EDs either on  
the date noted against each or on any other date  
in the year 1997. Therefore, by his above acts,  
the said Shri.S.B.Hazarika, violated the provisions  
of Rule-360(1) of P&T Man. Vol. VIII, Rule-3(1)(i)  
of CCS(Conduct) Rules, 1964 and Rule-3(1)(iii) of  
CCS(Conduct) Rules, 1964.

(LALALUNA)  
Director Postal Services,  
Manipur:Imphal:795001.

Attended  
By  
20/2  
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3x  
6xANNEXURE-II

Statement of imputations of misconduct and/or misbehaviour in support of the articles of charges framed against Shri. S.B. Hazarika, SDPOs/Ukhrul Sub-Dn., Ukhrul.

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Article-I

That as many as 66 (Sixty six) EDs and 1 (One) S.O in Ukhrul Sub-Dn., were allotted to the share of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Dn., Ukhrul for inspection during the year 1996 vide SPOs/Imphal letter No. Inspection/Tour Programme/1996 dtd. 19/02/96 alongwith a copy of inspection programme for the year 1996. The said Shri. S.B. Hazarika, took over the charge of SDPOs/Ukhrul Sub-Dn on 29/01/96 (A/N) and prior to taking over the charge of the Sub-Dn., by the said Shri. S.B. Hazarika, one Shri. Moba Maring P.A., Imphal H.O was officiating as SDPOs/Ukhrul Sub-Dn from 01/01/96 to 29/01/96 (A/N). Of the 66 (Sixty six) EDs assigned to the SDPOs/Ukhrul Sub-Dn., for inspection during the year 1996, the said Shri. Moba Maring already inspected as many as 13 (Thirteen) EDs during the period from 01/01/96 to 29/01/96. Thus, as many as 53 (Fifty three) EDs and 1 (One) S.O were remaining for inspection, by the said Shri. S.B. Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub-Dn by the said Shri. Hazarika on 29/01/96 (A/N). The said Shri. S.B. Hazarika, in his fortnightly diaries and monthly summaries of the SDPOs/Ukhrul for the period from 29/01/96 (A/N) to 31/12/96, had shown to have inspected all the 53 (Fifty three) EDs and 1 (One) S.O which were remaining for inspection by the said Shri. S.B. Hazarika as on 29/01/96 (A/N). The list of 53 (Fifty three) EDs and 1 (One) S.O shown to have inspected by the said Shri. Hazarika has been enclosed as "ANNEXURE-A".

Similarly, as many as 71 (Seventy one) Post Offices i.e. 69 (Sixty nine) EDs and 2 (two) S.Os were assigned to the SDPOs/Ukhrul Sub-Dn., for inspection during the year 1997 vide SPOs/Imphal letter No. Inspection/Tour Programme/1997 dtd. 29.1.97 alongwith a copy of Inspection programme for the year 1997. Of the 69 (Sixty nine) EDs and 2 (Two) S.Os in the Ukhrul Sub-Dn., which were assigned for inspection by the said Shri. S.B. Hazarika as SDPOs/Ukhrul Sub-Dn., he had shown to have inspected all the 69 (Sixty nine) EDs and 1 (One) S.O on different date/dates during the period from 01/01/97 to 31/12/97, in his fortnightly diaries and monthly summaries of the SDPOs/Ukhrul submitted by the said Shri. Hazarika, for the aforementioned period from time to time. The list of 69 (Sixty nine) EDs and 1 (One) S.O which were shown to have been inspected by the said Shri. S.B. Hazarika during the year 1997 has been enclosed as "ANNEXURE-B".

That, as per Rule-300(2) of P&T Man. Vol. VIII, the said Shri. S.B. Hazarika, SDPOs/Ukhrul had to submit the copy of Inspection Remarks, in respect of each of the ED and S.O inspected by him, to the Supdt. of Post Offices, Manipur Division, Imphal, and in accordance with Dept. of Posts/New Delhi Letter No. 17-3/92-Inspr. Dtd. 02/07/92 the time limit for

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*attached*  
*24/2/97*  
*HS*

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submission/issuance of Inspection Remarks/Inspection Reports in respect of EDBO and S.O are 10(Ten) days and 15(Fifteen) days from the date of inspection respectively. But, the said Shri.S.B.Hazarika, had not, all all, submitted the copy of Inspection remarks in respect of 53(Fifty three) EDBOs and 1(One) S.O, which were shown to have been inspected by him ~~as~~ in 1996, as per ANNEXURE-A, to the Supdt.of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent/ date. Similarly, the said Shri.S.B.Hazarika, had not, at all submitted the copy of Inspection remarks in respect of 44 (forty four) EDBOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika on different date/dates during the year 1997. The list of 44 (forty four) EDBOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika ~~but~~ in the year 1997, but he did not submit I.Rs has been enclosed as ANNEXURE-C.

Therefore, it is imputed that the said Shri.S.B.Hazarika, by his above acts, violated the provisions of Rule-300(2) of P&T Man.Vol.VIII and orders contained in Deptt.of Posts/New Delhi letter No.17-3/92-Inspn. Dated.02/07/1992, and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

#### Article-II

The following EDBOs in Ukhrul Sub-Dn, which were assigned to the SDIPOs/Ukhrul Sub-Dn., for annual inspection for the year 1997 vide SSPOs/Imphal letter No.Inspection/Tour Programme/1997 Dtd.29.01.97, were shown to have been inspected by the said Shri.S.B.Hazarika as SDIPOs/Ukhrul, on the date noted against each.

<u>Name of the EDBO</u>	<u>Date of Inspn.</u>
1. Chingjaroi EDBO	25-02-1997
2. Sirarakhong EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997
5. Nungshomg EDBO	15-07-1997
6. Pushing EDBO	20-07-1997

The said Shri.S.B.Hazarika was working as SDIPOs/Ukhrul during the period from 29/01/96(A/N) to 31/01/98 and, he had shown to have inspected the above post offices as mentioned above in his fortnightly diaries pertaining to that period and also in the ~~the~~ monthly summaries of the SDIPOs/Ukhrul Sub-Dn., Ukhrul, submitted by the said Shri.Hazarika, for the respective months on which those offices had been shown to have been inspected. But, the EDOPMs of the above EDBOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Shri.S.B.Hazarika, SDIPOs/Ukhrul did not inspect their respective EDBOs in the year 1997 till the time of submission of respective intimations by each of the EDOPMs of above EDBOs in the months of Sept'97/Oct'97/Nov'97.

Therefore, it is imputed that the said Shri.S.B. Hazarika, did not at all inspect the aforementioned EDBOs on the dates noted against each and thereby violated the provisions of Rule-300(1) of P&T Man.Vol.VIII. In addition

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*Attended by*  
*24/10/97*  
*ASD*



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the said Shri. Bazarika, by his act of submission of false information regarding inspection of these above mentioned CDSSs, failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

*[Signature]*

(LALHLUNA)  
Director Postal Services,  
Manipur: Imphal: 795001.

*Attache*  
*24/2/02*  
*[Signature]*

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ANNEXURE-III

List of documents by which articles of charges framed against Shri.S.B.Hazarika, SDIPOs/Ukhrul Sub-Dn., Ukhrul are proposed to be sustained.

1. SPDS/Imphal letter No.Inspection/Tour Programme/1996  
Dtd.19/02/96 alongwith a copy of inspection programme  
for the year 1996 (of SDIPOs/Ukhrul Sub-Dn.,)
2. SSPOs/Imphal letter No.Inspection/Tour Programme/1997  
Dtd.29.01.97 alongwith a copy of inspection programme  
for the year 1997(of SDIPOs/Ukhrul Sub-Dn.,)
3. Fortnightly diary of SDI(P)/Ukhrul for the 1st fortnight of Feb/96  
No.A-1/Diary/SDI-UKL/95-96 dt.16/2/96.
4. -do- for the 2nd fortnight of Jan/96  
No.A-1/Diary/SDI-UKL/95-96 dt.1/16.1.96
5. -do- for the 2nd fortnight of Feb/96  
No.A-1/Diary/SDI-UKL dt.1.3.96
6. -do- for the 1st fortnight of Mar/96  
No.A-1/Diary/SDI-UKL/96 dtd.16.3.96
7. -do- for the 2nd fortnight of Mar/96  
No.A-1/Diary/SDI-UKL/96 dtd.1.4.96
8. -do- for the 1st fortnight of April/96  
No.A-1/Diary/SDI-UKL/96 dtd.17.4.96
9. -do- for the 2nd fortnight of April/96  
No.NIL DTD.NIL.
10. -do- for the 1st fortnight of May/96  
No.A-1/Diary/SDI/UKL dtd.17.5.96
11. -do- for the 2nd fortnight of May/96  
No.A-1/Diary/SDI/UKL dtd.3.6.96.
12. -do- for the 1st fortnight of June/96  
No.A-1/Diary/SDI-UKL dtd.17.6.96.
13. -do- for the 2nd fortnight of June/96  
No.A-1/Diary/SDI-UKL/96 dtd.1/7/96.
14. -do- for the 1st fortnight of July/96  
No.A-1/Diary/SDI-UKL dtd.16/07/96.
15. -do- for the 2nd fortnight of July/96  
No.A-1/Diary/SDI-UKL dtd.01/08/96.
16. -do- for the 1st fortnight of Aug/96  
No.A-1/Diary/SDI-UKL dtd.19/08/96.
17. -do- for the 2nd fortnight of Aug/96  
No.A-1/Diary/SDI-UKL dtd.02/09/96.
18. -do- for the 1st fortnight of Sept/96  
No.A-1/Diary/SDI-UKL/96 dtd.16/9/96.
19. -do- for the 2nd fortnight of Sept/96  
No.A-1/Diary/SDI-UKL/96 dtd.1/10/96.
20. -do- for the 2nd fortnight of Oct/96.  
No.A-1/Diary/SDI-UKL dtd.1/11/96.

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21.	Fortnightly diary of SDI(P)/Ukhru	for the 1st fortnight of Nov/96 No.A-1/Diary/SDI-UKL dtd.16.11.96
22.	-do-	for the 2nd fortnight of Nov/96 No.A-1/Diary/SDI-UKL dtd.2.12.96
23.	-do-	for the 1st fortnight of Dec/96 No.A-1/Diary/SDI-UKL dtd.16.12.96.
24.	-do-	for the 2nd fortnight of Dec/96 No.A-1/Diary/SDI-UKL dtd.31/01/97.
25.	-do-	for the 1st fortnight of Jan/97 No.A-1/Diary/SDI-UKL dtd.16/01/97.
26.	-do-	for the 2nd fortnight of Jan/97 No.A-1/Diary/SDI-UKL dtd.31/02/97.
27.	-do-	for the 1st fortnight of Feb/97 No.A-1/Diary/SDI-UKL dtd.16/02/97.
28.	-do-	for the 2nd fortnight of Feb/97 <del>XXXX</del> No.A-1/Diary/SDI-UKL dtd.1.3.97.
29.	-do-	for the 1st fortnight of Mar/97 No.A-1/Diary/SDI-UKL dtd.16.3.97.
30.	-do-	for the 2nd fortnight of March/97 No.A-1/Diary/SDI-UKL dtd.1.4.97.
31.	-do-	for the 1st fortnight of April/97. No.A-1/Diary/SDI-UKL dtd.21.4.97
32.	-do-	for the 2nd fortnight of April/97 <del>XX.XXX/XXXXXX/XXXXXXKXXXXX</del> No.NIL dt.NIL
33.	-do-	for the 1st fortnight of May/97 No.A-1/Diary/SDI-UKL dtd.16/5/97.
34.	-do-	for the 2nd fortnight of May/97 No.A-1/Diary/SDI-UKL dtd.32/06/97.
35.	-do-	for the 1st fortnight of June/97 No.A-1/Diary/SDI-UKL dtd.16/6/97.
36.	-do-	for the 2nd fortnight of June/97 No.A-1/Diary/SDI-UKL dtd.1/7/97.
37.	-do-	for the 1st fortnight of July/97 No.A-1/Diary/SDI-UKL dtd.16/7/97.
38.	-do-	for the 2nd fortnight of July/97 No.A-1/Diary/SDI-UKL dtd.1/8/97.
39.	-do-	for the 1st fortnight of Aug/97 No.A-1/Diary/SDI-UKL dtd.16.8.97.
40.	-do-	for the 2nd fortnight of Aug/97 No.A-1/Diary/SDI-UKL dtd.1.9.97.
41.	-do-	for the 1st fortnight of Sept/97 No.A-1/Diary/SDI-UKL dtd.16.9.97
42.	-do-	for the 2nd fortnight of Sept/97 No.A-1/Diary/SDI-UKL dtd.1.10.97
43.	-do-	for the 1st fortnight of Oct/97 No.A-1/Diary/SDI-UKL dtd.16.10.97
44.	-do-	for the 2nd fortnight of Oct/97 No.A-1/Diary/SDI-UKL dtd.1.11.97
45.	-do-	for the 1st fortnight of Nov/97 No.A-1/Diary/SDI-UKL dtd.16.11.97
46.	-do-	for the 2nd fortnight of Nov/97 No.A-1/Diary/SDI-UKL dtd.1.12.97

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47. Fortnightly diary } for the 1st fortnight of Dec/97  
of SDI(P)/Ukhru } No.A-1/Diary/SDI-UKL dtd.16.12.97
48. -do- for the 2nd fortnight of Dec/97  
No.A-1/Diary/SDI-UKL dtd.01.01.98.
49. Monthly summary } for the month of July/96  
of SDI(P)/Ukhru } No.A-1/Summary/SDI-UKL dtd.1.8.96
50. -do- for the month of Aug/96  
No.A-1/Summary/SDI-UKL dtd.2.9.96
51. -do- for the month of Sept/96  
No.A-1/Summary/SDI-UKL dtd.1.10.96
52. -do- for the month of Oct/96  
No.A-1/~~Summary~~ Inspn/Summary/SDI-UKL  
dtd.1.11.96
53. -do- for the month of Nov/96  
No.A-1/Summary/Inspn/SDI-UKL dt.2.12.96
54. -do- for the month of Dec/96  
No.A-1/Summary/96/Inspn. dtd.31.12.96.
55. -do- for the month of Jan/97  
No.A-1/Summary/Inspn/SDI-UKL dt.3.2.97
56. -do- for the month of Feb/97  
No.A-1/Summary/Inspn/SDI-UKL dt.3.3.97
57. -do- for the month of March/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.4.97
58. -do- for the month of April/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.5.97
59. -do- for the month of May/97  
No.A-1/Summary/Inspn/SDI-UKL dt.2.6.97
60. -do- for the month of June/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.7.97
61. -do- for the month of July/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.8.97
62. -do- for the month of Aug/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.9.97
63. -do- for the month of Sept/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.10.97
64. -do- for the month of Oct/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.11.97
65. -do- for the month of Nov/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.12.97
66. -do- for the month of Dec/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.1.98.
67. Shri.L.Pamching, BPM, Chingjarei EBO letter dtd.8/10/97  
addressed to SPOs/Imphal.
68. Shri.L.Its Singh, BPM, Kamang Kakching EBO letter dt.25.9.97  
addressed to SPOs/Imphal.
69. Shri.V.S.Vareise, EDBPM, Shangbhak EBO letter dtd.29/09/97  
addressed to SPOs/Imphal.
70. Shri.S.Yarngai, BPM, Pushing EBO letter dtd.09/10/97  
addressed to SPOs/Imphal.

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*[Handwritten signature]*  
24/10/97  
ABP

4-c/ix

43x7

--(4)--

71. Shri.R.Tuingayung, BPM, Sirarakhong EDOO letter dtd.9/10/97 addressed to SpOs/Imphal.
72. Shri.AS.Anderson, BPM, Nungshong EDOO addressed to OPS/Imphal received at Divisional office on 04/11/97.

(LALHLUNA)

Director Postal Services,  
Manipur:Imphal-795001.

Added

24/11/97  
ABP

A-1/10

44 24

ANNEXURE-IV

List of Witnesses by which the articles of charges framed against Shri.S.B.Hazarika, SDIPOs/Ukhrul Sub-Dn., Ukhrul are proposed to be sustained.

- 
1. Shri.L.Pamching,EDBPM, Chingjarei EDBD
  2. Shri.L.Ito Singh, EDBPM, Kamang Kakching EDBD
  3. Shri.V.S.Vareise, EDBPM, Shangshak EDBD
  4. Shri.S.Yarngai, EDBPM, Pushing EDBD
  5. Shri.R.Tuingayung, EDBPM, Sirarekhong EDBD
  6. Shri.AS.Anderson, EDBPM, Nungshong EDBD
  7. Shri.O.Owijamani Singh,  
D.A(IR/VR), Divisional  
office, Imphal.

(LACHUNA)

Director Postal Services,  
Manipur:Imphal:795001.

*[Handwritten signature]*  
24/10/20  
Asst

Annexure A-2

(9)

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75

Department of Post:India.  
Office of the Director Postal Services Manipur:Imphal.  
795001.  
\*\*\*\*\*

ORDER RELATING TO APPOINTMENT OF INQUIRING AUTHORITY  
(Rule 14 (2) of C.C.S.(CC&A) Rules 1965)

Memo No. Diary/SDIPOS-Ukhrul/97

Dated at Imphal,  
the 8.5.98.

Whereas an inquiry under Rule 14 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965 is being held against Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Division, Ukhrul.

And whereas the undersigned considers that an Enquiry Authority should be appointed to inquire into the charges framed against the said Shri. S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul.

Now, therefore the undersigned, in exercise of the powers conferred by Sub-Rule (2) of the said rule, hereby appoints Shri S.C. Das, Supdt. of Post offices, Agartala Division, Tripura as he has been nominated for appointment of I/O in this case vide CO No. Staff/S-92/83 dtd. 29.4.98. as the Inquiring Authority to inquire into the charges framed against the said Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul.

*SD/*  
(LALHLUNA)

Director Postal Services  
Manipur Divn. Imphal-795001.

Copy to:-

1. Shri S.C. Das, SPOS, Agartala-799001 for information and necessary action.
2. Shri N.C. Halder, SPOS, Imphal-795001 for information and n/action.
- ✓ 3. Shri S.B. Hazarika, SDIPOS Ukhrul Sub-Dn, Ukhrul for information.
4. The DPS, Agartala Dn, Tripura State for information and necessary action.

*gkda*  
*2/20/98*  
*ASB*

*ASB*

(LALHLUNA)

Director Postal Services  
Manipur Divn. Imphal-795001.

Annexure A-3

(10)

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Department of Post:India.  
Office of the Director Postal Services:Manipur:Imphal.  
795001.  
\*\*\*\*\*

ORDER RELATING TO THE APPOINTMENT OF PRESENTING OFFICER  
(Rule 14(5)(c))

Memo No. Diary/SDIPOS-Ukhrul/97

Dated at Imphal,  
the 08.05.98.

ORDER

Whereas an inquiry under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Division Ukhrul.

And Whereas the undersigned considers that a Presenting officer should be appointed to present on behalf of the undersigned the case in support of the articles of charge.

Now, therefore, the undersigned in exercise of the powers conferred by Sub-rule (5) (c) of Rule-14 of the said rules, hereby appoints Shri N.C. Halder, SPOS-Imphal as the presenting officer.

*Sdf=*  
(LALHLUNA)

Director Postal Services  
Manipur Divn. Imphal-795001.

Copy to:-

1. Shri N.C. Halder SPOS, Imphal-795001 for information and necessary action.
- ✓ 2. Shri S.B. Hazarika, SDIPOS/Ukhrul Sub-Dn, Ukhrul for information.
3. Shri S.C. Das, <sup>(1:01)</sup> SPOS, Agartala-799001 for information.

*Q.H. Das*  
*24/5/98*  
*ASB*

*Q.H. Das*  
(LALHLUNA)

Director Postal Services  
Manipur Divn. Imphal-795001.



Agartala A-4

27

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Department of Posts, India  
O/o the Director Postal Services, Tripura State: Agartala-1  
Chamber of the Dy. Supdt. of P.Os, Agartala.

\*\*\*\*\*

No. INC-1/BBH/98-Vol. I

Dated at Agartala, the 12.03.99

Sub: Departmental Inquiry under Rule 14 of  
C.C.S. (C.C.A.) Rules, 1965 initiated  
against Sh. S.B. Hazarika, IPOs (PG), O/o.  
the Director Postal Services, Kohima.

The regular hearing in the above mentioned case will be held w.e.f. 15.9.99 to 20.9.99 at 1100 hrs. daily in the office of the D.P.S., Imphal. The first day is fixed for bringing the listed documents on records. On 2nd, 3rd and 4th day evidence on behalf of the Disciplinary Authority shall be adduced and on 5th day evidence on behalf of the Charged official shall be adduced after he submits his written statement of defence.

Summonses for production witnesses duly signed by me are being sent to the P.O. for effecting service in the manner he may like to do. Summonses for defence witnesses who are considered relevant to the defence of the charged official.

( Sunil Das )  
Inquiry Officer,  
AND  
Dy. Supdt. of Post Offices,  
O/o the DPS, Agartala-799001

To

1. The Director Postal Services, Imphal for information. He is requested to relieve the presenting officer and the witnesses for attending the inquiry.
2. The Director Postal Services, Kohima for information. He is requested to relieve Shri S.B. Hazarika, IPO (PG), Kohima, the charged official for attending the enquiry.
3. Sri M.C. Halder, Dy. SPOs, Imphal and P.O. for information and to attend the enquiry. He will please find herewith summons issued to the prosecution witnesses and arrange to serve on them in the manner he may likes.
4. Sri S.B. Hazarika, IPO (PG), O/o the DPS, Kohima and charged official for information and attending the enquiry.
5. O/C.
6. Spare.

Inquiry Officer,  
AND

Dy. Supdt. of Post Offices,  
O/o the DPS, Agartala-799001

attnd  
21/4/02  
ASB

Annexure A-5/i

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(28) 48

EXTRACT OF DAILY ORDER SHEET IN THE DEPARTMENTAL INQUIRY  
UNDER RULE -14 OF CCS(CC & A) RULES, 1965 AGAINST  
SHRI. SHANZI BHUSIAN HAZARKA, TIE THEN SDIPOB, UKHRUL  
SUB DIVISION, UKHRUL UNDER MANIPUR DIVISION.

ORDER No.8 Dtd.15.9.99

The proceedings are taken up at 1100 Hours in the office of the Director Postal Services, Imphal in the presence of the Presenting Officer. The charged official has not turned up. Nor has he communicated through any source, the intimation of his inability to attend the proceedings and the reasons thereof. The case is, therefore, proceeded Ex-Parte. Documents that listed at Sl.1 to 66 in the annexure-III to the charge sheet and particularised below are produced in original and brought on record duly making them as reflected at the last column against each.

Sl. No.	Particulars of the documents	Exhibit Nos.
1.	SPOs/Imphal letter No.Inspection/ Tour programme/1996 Dtd.19/02/96 alongwith a copy of Inspection Programme for the year 1996(of SDIPOs/Ukhrul Sub-Dn.,)	Ex.S-1(a) to 1(c)
2.	SSPOs/Imphal letter No.Inspection/ Tour Programme/1997 Dtd.29.01.'97 alongwith a copy of inspection programme for the year 1997( of SDIPOs/Ukhrul Sub-Dn.,)	Ex.S-2(a) to 2(d)

Contd. P/2

Attested  
21/10/99  
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P/2  
A-57ii

19/29

Sl. No.	Particulars of the documents	Exhibit Nos.
3.	Fortnightly diary for the 1st fortnight of Feb/96 No.A-1/Diary/SDI- of SDI(P)/Ukhrul	Ex.S-3(a) to 3(b). UKL/95-96 Dtd.16/2/96.
4.	-do-	for the 2nd fortnight of Jan/96 No.A-1/Diary/SDI- UKL/95-96 dt.1/16.1.96
5.	-do-	for the 2nd fortnight of Feb/96 No.A-1/Diary/SDI-UKL dt.1.3.96.
6.	-do-	for the 1st fortnight of Mar/96 No.A-1/Diary/SDI-UKL/96 dtd.16.3.96
7.	-do-	for the 2nd fortnight of Mar/96 No.A-1/Diary/SDI-UKL/96 dtd. 1.4.96
8.	-do-	for the 1st fortnight of April/96 No.A-1/Diary/SDI-UKL/96 dtd. 17.4.96
9.	-do-	for the 2nd fortnight of April/96 No.NIL dtd.NIL.
10.	-do-	for the 1st fortnight of May/96 No.A-1/Diary/SDI/UKL dt.17.5.96
11.	-do-	for the 2nd fortnight of May/96 No.A-1/Diary/SDI/UKL dtd.3.6.96
12.	-do-	for the 1st fortnight of June/96 No.A-1/Diary/SDI-UKL Dtd.17.6.96
13.	-do-	for the 2nd fortnight of June/96 No.A-1/Diary/SDI-UKL/96 dt. 1.7.96
14.	-do-	for the 1st fortnight of July/96 No.A-1/Diary/SDI-UKL dtd. 16.7.96.
15.	-do-	for the 2nd fortnight of July/96 No.A-1/Diary/SDI-UKL Dt.1.8. 96
16.	-do-	for the 1st fortnight of Aug/96 No.A-1/Diary/SDI-UKL dtd.19.8.96

*Attache*  
*24/702*  
*AB*

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Sl. No.	Particulars of the documents	Exhibit Nos.
17.	Fortnightly diary of SDI(P)/Ukhrul for the 2nd fortnight of Aug/96 No.A-1/Diary/SDI-UKL dtd. 02.09.96	Ex.S-17(a) & 17(b)
18.	-do- for the 1st fortnight of Sept/96 No.A-1/Diary/SDI-UKL/96 Dtd.16/09/96.	Ex.S-18(a) & 18(b)
19.	-do- for the 2nd fortnight of Sept/96 No.A-1/Diary/SDI-UKL/96 Dtd.1.10.96	Ex.S- <del>18</del> 19(a) & 19(b)
20.	-do- for the 2nd fortnight of Oct/96 No.A-1/Diary/SDI-UKL dtd.1.11.96	Ex.S-20(a) & 20(b)
21.	-do- for the 1st fortnight of Nov/96 No.A-1/Diary/SDI-UKL dtd.16.11.96	Ex.S-21(a) & 21(b)
22.	-do- for the 2nd fortnight of Nov/96 No.A-1/Diary/SDI-UKL dtd.2.12.96	Ex.S-22(a) & 22(b)
23.	-do- for the 1st fortnight of Dec/96 No.A-1/Diary/SDI-UKL dtd.16.12.96	Ex.S-23(a) & 23(b)
24.	-do- for the 2nd fortnight of Dec/96 No.A-1/Diary/SDI-UKL dtd.01.01.97	Ex.S-24
25.	-do- for the 1st fortnight of Jan/97 No.A-1/Diary/SDI-UKL dtd.16.01.97	Ex.S-25(a) & 25(b)
26.	-do- for the 2nd fortnight of Jan/97 No.A-1/Diary/SDI-UKL dtd.01.02.97	Ex.S-26(a) & 26(b)
27.	-do- for the 1st fortnight of Feb/97 No.A-1/Diary/SDI-UKL dtd.16.02.97	Ex.S-27(a) & 27(b)
28.	-do- for the 2nd fortnight of Feb/97 No.A-1/Diary/SDI-UKL dtd.1.3.97	Ex.S-28(a) & 28(b)
29.	-do- for the 1st fortnight of Mar/97 No.A-1/Diary/SDI-UKL dtd.16.3.97	Ex.S-27(a) & 27(b)
30.	-do- for the 2nd fortnight of March/97 No.A-1/Diary/SDI-UKL dt.1.4.97	Ex.S-30
31.	-do- for the 1st fortnight of April/97 No.A-1/Diary/SDI-UKL Dt.21.4.97	Ex.S-31
32.	-do- For the 2nd fortnight of April/97 No. <del>XXX</del> NIL DTD. NIL	Ex.S-32(a) & 32(b)
	-do- for the 1st fortnight of May/97 No.A-1/Diary/SDI-UKL dtd.16.5.97	Ex.S-33(a) & 33(b)

Contd.P/~~SECRET~~ 4.

*Handwritten signature and date:*  
24/7/97  
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Sl. No.	Particulars of the documents	Exhibit Nos.
34.	Fortnightly diary of SDI(P)/Ukhrul for the 2nd fortnight of May/97 No.A-1/Diary/SDI-UKL dt. 2.6.97	Ex.S-34(a) & 34(b)
35.	-do- for the 1st fortnight of June/97 No.A-1/Diary/SDI-UKL dtd. 16.6.97	Ex.S-35(a) & 35(b)
36.	-do- for the 2nd fortnight of June/97 No.A-1/Diary/SDI-UKL Dt.1.7.97	Ex.S-36(a) & 36(b)
37.	-do- for the 1st fortnight of July/97 No.A-1/Diary/SDI-UKL dt.16.7.97	Ex.S-37(a) & 37(b)
38.	-do- for the 2nd fortnight of July/97 No.A-1/Diary/SDI-UKL dtd.1.8.97	Ex.S-38(a) & 38(b)
39.	-do- for the 1st fortnight of Aug/97 No.A-1/Diary/SDI-UKL dtd.16.8.97	Ex.S-39(a) & 39(b)
40.	-do- for the 2nd fortnight of Aug/97 No.A-1/Diary/SDI-UKL dtd.1.9.97	Ex.S-40(a) & 40(b)
41.	-do- for the 1st fortnight of Sept/97 No.A-1/Diary/SDI-UKL dt.16.9.97	Ex.S-41(a) & 41(b)
42.	-do- for the 2nd fortnight of Sept/97 No.A-1/Diary/SDI-UKL dtd.1.10.97	Ex.S-42(a) & 42(b)
43.	-do- for the 1st fortnight of Oct/97 No.A-1/Diary/SDI-UKL dtd.16.10.97	Ex.S-43
44.	-do- for the 2nd fortnight of Oct/97 No.A-1/Diary/SDI-UKL dt.1.11.97	Ex.S-44 (a) & 44 (b)
45.	-do- for the 1st fortnight of Nov/97 No.A-1/Diary/SDI-UKL dtd.16.11.97	Ex.S-45 (a) & 45 (b)
46.	-do- for the 2nd fortnight of Nov/97 No.A-1/Diary/SDI-UKL dtd.1.12.97	Ex.S-46 (a) & 46 (b)
47.	-do- for the 1st fortnight of Dec/97 No.A-1/Diary/SDI-UKL dtd.16.12.97	Ex.S-47(a) & 47(b)
48.	-do- for the 2nd fortnight of Dec/97 No.A-1/Diary/SDI-UKL dtd.1.1.98	Ex.S-48(a) & 48(b)
49.	Monthly-Summary of SDI(P)/Ukhrul for the month of July/96 No.A-1/Summary/SDI-UKL dtd.1.8.96	Ex.S-49.
50.	-do- for the month of Aug/96 No.A-1/Summary/SDI-UKL dtd.2.9.96	Ex.S-50

*Handwritten notes:*  
 Affid  
 2/10/97  
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p/s A-SPV 52

Sl. No.	Particulars of Documents	Exhibit Nos.
51.	Monthly Summary of SDI(P)/Ukhrul for the month of Sept/96 No.A-1/Summary/SDI-UKL dtd.1.10.96	Ex.S - 51
52.	-do- <i>Inspn</i> for the month of Oct/96 No.A-1/Summary/SDI-UKL dtd.1.11.96	Ex.S-52
53.	-do- <i>Inspn</i> for the month of Nov/96 No.A-1/Summary/SDI-UKL dtd.2.12.96	Ex.S-53
54.	-do- for the month of Dec/96 No.A-1/Summary/ <del>SDI-UKL</del> 96/ <del>UKL</del> Inspn dtd.31.12.96	Ex.S-54
55.	-do- for the month of Jan/97 No.A-1/Summary/Inspn/ SDI-UKL dtd.3.2.97	Ex.S-55
56.	-do- for the month of Feb/97 No.A-1/Summary/Inspn/ SDI-UKL dtd.3.3.97	Ex.S-56
57.	-do- for the month of March/97 No.A-1/Summary/Inspn/SDI- UKL dtd.1.4.97	Ex.S-57
58.	-do- for the month of April/97 No.A-1/Summary/Inspn/SDI- UKL dtd.1.5.97	Ex.S-58
59.	-do- for the month of May/97 No.A-1/Summary/Inspn/SDI- UKL dtd.2.6.97	Ex.S-59
60.	-do- for the month of June/97 No.A-1/Summary/Inspn/ SDI-UKL dtd.1.7.97	Ex.S-60
61.	-do- for the month of July/97 No.A-1/Summary/Inspn/SDI- UKL dtd.1.8.97	Ex.S-61
62.	-do- for the month of Aug/97 No.A-1/Summary/Inspn/SDI- UKL dtd.1.9.97	Ex.S-62
63.	-do- for the month of Sept/97 No.A-1/Summary/Inspn/SDI- UKL dtd.1.10.97	Ex.S-63
64.	-do- for the month of Oct/97 No.A-1/Summary/Inspn/ SDI-UKL dtd.1.11.97	Ex.S-64
65.	-do- for the month of Nov/97 No.A-1/Summary/Inspn/SDI- UKL dtd.1.12.97	Ex.S-65
66.	-do- for the month of Dec/97 No.A-1/Summary/Inspn/ SDI-UKL dt. <del>EX</del> 1.1.98	Ex.S-66

2. The original documents in respect of serial No.67 to 72 enlisted in the aforesaid Annexure-III are reported to have been rested with the Circle Office. The Presenting Officer, however, produces the photostat copies of all

Contd.P/~~66~~.6..

A-8/VI ~~1000~~ - P/6 -

53 63

these documents. These documents are the correspondences that made ~~by~~ to the Divisional Office, Imphal by certain EDBPMs, and all these EDBPMs are the enlisted Witnesses. Therefore, the photostat copies of these documents are brought on record, subject to their confirmation to be made by the respective issuing authority in each case, and marked them as noted against each below:-

S1. No.	particulars of the documents	Exhibit Nos.
1.	Shri.L.Pamching, BPM, Chingjaroi EDBO letter Dtd.1.10.97 addressed to SPOs/Imphal.	Ex.S-67
2.	Shri.L.Ito Singh, BPM, Kameng Kakching EDBO letter dtd.25.9.97 addressed to SPOs/Imphal.	Ex.S-68
3.	Shri.V.S.Vareiso, EDBPM, Shangshak EDBO letter dtd.29.09.97 addressed to SPOs/Imphal.	Ex.S-69
4.	Shri.Yarngai, BPM, Pushing EDBO letter dtd.09/10/97 addressed to SPOs/Imphal.	Ex.S-70
5.	Shri.R.Tuingayang, BPM, Sirarakhong EDBO letter Dtd.9.10.97 addressed to SPOs/Imphal.	Ex.S-71
6.	Shri.A.S.Anderson, BPM, Nungshong EDBO addressed to DPS/Imphal received at Divisional Office on 04.11.97	Ex.S-72

3. The proceedings are adjourned till 1100 Hours of 16.9.99 (ie. tomorrow) and will be resumed at the same place for ~~adducing~~ adducing the evidence on behalf of the disciplinary authority.

4. Extract of this order is endorsed to the P.O and the C.O

sd/

P.O

INQUIRY OFFICER.

No.INQ-1/S.B.H/98-Vol.I

Dtd, at Imphal 15.09.99.

Copy forwarded to:-

1. Shri.N.C.Halder, Presenting Officer & Dy.Supt.of Post Offices, Manipur Division, Imphal.

2. Shri.S.B.Bazarika, Charged Official & Complaint Inspector, O/o the Director Postal Services, Nagaland, Kohima-797001.

Read H/D

Attended  
by  
refractor  
AEP

INQUIRY OFFICER.

Annexure A-6

54/28/84

**EXTRACT OF DAILY ORDER SHEET IN THE DEPARTMENTAL INQUIRY  
UNDER RULE-14 OF CCS(CCA) RULES, 1965 AGAINST SHRI.  
SHANTI BHUSHAN HAZARIKA, THE THEN SDIPOs, UKHRUL SUB-DN  
UKHRUL**

ORDER No.09

DATED.16.09.99

The proceedings are taken up at 1100 Hours in the office of the Director Postal Services, Imphal in the presence of the P.O., while the C.O did not turn up.

To-day's date is fixed for examination of Shri.L.Ito Singh, EDBPM, Kameng Kakching EDBO and Shri.L.Pamching, EDBPM, Chingjaroi EDBO under Ukhrul S.O.. Of that, Shri.L.Ito Singh attended the proceedings, and his deposition is recorded as S.W.No.1, while Shri. L.Pamching did not turn up and nor he communicated the reason for his inability to attend the proceedings. The P.O also failed to inform the reason for the non-attendance.

The case will be taken up at 1100 Hours tomorrow in the same place for recording evidence on behalf of the Disc. Authority.

Copy of this order is endorsed to the P.O and the C.O. (under REGD.A/D).

PRESENTING OFFICER.

INQUIRY OFFICER.

No.ING-1/S.B.H/98/Vol.I Dtd,at Imphal the 16.9.99

Copy forwarded to:-

1. Shri.N.C.Halder, Present Officer & Dy.Suptd.of Post Offices, Manipur, Imphal for information.
2. Shri.S.B.Hazarika, Complaint Inspector, O/o the Director Postal Services, Nagaland, Kohima-797001 for information. A copy of deposition of S.W.No.1 Shri.L.Ito Singh, EDBPM, Kameng Kakching EDBO is enclosed.

INQUIRY OFFICER.



*Agaekwe A-7/1*

DEPOSITION OF-M S.W.No. 1

85

Deposition of Shri. L. Ito Singh, aged. 45-Years  
S/o. Late. L. Kanhai Singh, Resident of . Kameng  
Kakching Village, EDBPM, Kameng Kakching EDBO under  
Lamlong Bazar S.O

INQUIRY OFFICER.

PRESENTING OFFICER

*16/9/99*

I, Shri. L. Ito Singh, EDBPM, Kameng Kakching EDBO  
in account with Lamlong Bazar S.O do state that I am  
working as EDBPM/Kameng Kakching EDBO with effect from  
17-10-1977. In the year 1997, Shri. S.B. Hazarika was  
the SDIPOS of Ukhrul Sub-Dn. On 25.9.97, I received  
a letter from the Supdt. of Post Offices/Imphal asking  
me to intimate whether my office was inspected by the  
SDIPOS/Ukhrul, and whether I had received the Inspection  
Remarks. In reply, I intimated the said Supdt. of Post  
Offices that till that date, the SDIPOS/Ukhrul, Shri.  
S.B. Hazarika or any other SDIPOS had inspected my office  
and no Inspection Remarks was received by me. The exhibit  
marked Ex. S-68, is shown to me and I agree that this  
is my letter what I wrote to the Supdt. of Post Offices,  
Manipur, Imphal, on 25.9.97.

EXAMINATION IN CHIEF IS OVER.

Question's by the I.O:-

Mr. L. Ito Singh, you have stated that the inspection of  
your office for the year, 1997 was not done till 25.9.97.  
Whether the office was later inspected by anybody?

Answer :- Within a month of my above communication to  
the Supdt. of Post Offices, Imphal, Shri. S.B. Hazarika  
SDIPOS/Ukhrul visited my office and simply signed  
the M.O receipt book and did not issue any Inspec-  
tion remark in the whole year of 1997. The date  
of signing was shown as 19.5.97. He did not sign  
on any other record, and even did not count the  
cash and stamps in the office.

Question No. 2:- Would you please clarify as to why you  
did not object the record signed by the  
SDIPOS/Ukhrul Shri. S.B. Hazarika by putting


Contd. P/2...

A-7P ii  
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86


the back date?

Answer:- Since the record was examined and scrutinized by a higher authority, I have not gone through the dates etc., and just few days back I could detect that a back date was put.

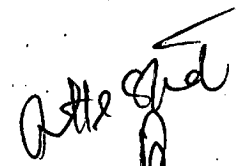
  
INQUIRY OFFICER

  
PRESENTING OFFICER

  
16/9/99  
DEPONENT (S.N -No.1)

  
Certified that the deposition was translated and explained ~~in the language in which he deposed~~ to the witness in the language in which he ~~deposited~~ deposed.

  
INQUIRY OFFICER

  
2/2/02  
A.P.

Annexure A-8

**EXTRACT OF DAILY ORDER SHEET IN THE DEPARTMENTAL INQUIRY  
AGAINST SHRI.S.B.HAZARIKA, THE THEN SDIPOs, UKHRUL SUB-DN,  
UKHRUL - HELD UNDER RULE-14 OF CCS(CC & A) RULES,1965.**

ORDER No.10

Dated.17.09.99.

The proceedings are taken up at 1100 Hours in the office of the Director Postal Services, Imphal in the presence of the P.O, while the C.O do not turn up.

To-day's date is fixed for examination of S/Shri. Yarngai, EDBPM, Pushing EDBO, Shri.V.S.Vareiso, EDBPM, Shangshak EDBO and Shri.R.Tuingayang, EDBPM Sirarakhong EDBO, and Shri.O.Dwijamani Singh, P.A., Divisional Office, Imphal. Of the above, Shri.R.Tuingayang, EDBPM, Sirarakhong EDBO has not turned up, nor he has communicated ~~xxxxxxx~~ the reason for his inability to attend the proceedings and the reason thereof. The P.O also is not in a position to give any reason for the non-attendance of the said witness.

S/Shri. Yarngai, V.S.Vareiso, & O.Dwijamani ~~xxx~~ Singh are examined as S.W-No.2, No.3 & No.4 respectively. The copies of depositions of these witnesses are endorsed to the P.O and the C.O alongwith the copy of this Order.

The proceedings are adjourned. The evidence ~~ex~~ on behalf of the disc.authority shall be adduced and recorded at 1100 Hours tomorrow in the same place.

PRESENTING OFFICER.

INQUIRY OFFICER.

No.INQ-1/S.B.N/98-Vol.I

Dtd, at Imphal the 17.09.99

**RECD:O/M. 1: Shri.N.C.Halder, Presenting Officer & Dy.Supt. of Post Offices, Manipur Division, Imphal for information alongwith copies of depositions of S.W-2, S.W.No.3 & No.4.**

**RECD:A/D. 2: Shri.S.B.Hazarika, Charged Official & Complaint Inspector, O/o the Director Postal Services, Nagaland Kohima-797001 for information alongwith copies of depositions of S.W.No.2, S.W.No.3 & S.W.No.4.**

INQUIRY OFFICER.

*Answer A-9* *231/58*  
*88*

Deposition of S.W.No.2

Deposition of Shri. S. Yarngai, aged. ~~about~~ 60-years  
S/o. Late. Kachuihung, resident of Pushing village  
Profession:- EDBPM, Pushing EDBO under Ukhrul S.O  
-----

I, Shri. S. Yarngai, EDBPM, Pushing EDBO  
in account with Ukhrul S.O under Manipur Division  
do state that I am serving as EDBPM/Pushing EDBO  
for the last 36(Thirty six) years. Pushing EDBO  
is under the jurisdiction of SDIPOS/Ukhrul Sub-Dn.,  
Ukhrul, and Shri.S.B.Hazarika was the SDIPOS/Ukhrul  
Sub-Dn., Ukhrul in the year 1997. On receipt of  
a letter from the Office of the Director Postal  
Services, Manipur asking me to inform whether the  
inspection of my office was carried out by the  
Sub-Divisional Inspector till then , on 9.10.97  
I informed the Director Postal Services, Manipur  
that my office was not inspected by Shri.S.B.Hazarika,  
Sub-Divisional Inspector,Ukhrul for the year 1997  
till then. The Ex.S-70, is the photostat copy of  
my letter Dtd.9.10.97 written to the Director Postal  
Services, Manipur,Imphal as mentioned earlier.  
I further state that Shri.S.B.Hazarika, SDIPOS  
neither inspected my office during the year 1997,  
nor I have not received any Inspection Remark  
till date.

EXAMINATION-IN-CHIEF OVER.

No Cross Examination.

No Re-Examination.

*Attested*  
*24/10/99*  
*AGC*  
*17/9/99*  
PRESENTING OFFICER.

Certified that the deposition is translated and  
explained to the witness in the language in which  
he deposed.

Date:-17.09.1999

*S. Yarngai*  
DEPONENT. *17.9.99*

*[Signature]*  
INQUIRY OFFICER.

*[Signature]*  
INQUIRY OFFICER

Annexure A-10

32/59  
89

Deposition of S.W.No.3 Dated.17th Sept'1999

Deposition of Shri. V.S. Vareiso, aged.38 years  
S/o. V.S. Shangkahao, resident of Shangshak village.  
Profession :- ED-Service (EDBPM /Shangshak EDBO)  
-----

I Shri. V.S.Vareiso, EDBPM/Shangshak EDBO under Lamlong Bazar S.O in Manipur Division state that I am working as EDBPM/Shangshak EDBO since 1978. On receipt of a letter from the office of the Director Postal Services, Manipur, Imphal in the month of Sept/1997, asking me to inform whether the inspection of my office was carried out till then for the year 1997, I informed that no inspection of my office was carried out after 7.6.95, and I requested to visit my office and carry out the inspection. Further I add that no inspection was carried out during the year 1997. I do agree that the EX.S-69, <sup>is the</sup> photostat copy of my letter stated earlier and I still hold the contents as correct and true.

Examination-in-Chief over.

No Cross-Examination.

No Re-Examination.

V.S. Vareiso BPM  
17-9-99.

DEPONENT.

Presenting Officer. 17/9/99

INQUIRY OFFICER.

Attested  
24/9/99  
[Signature]

Amendure A-11

60

Deposition of S.W.No.4 Dated.17.9.99

90

Deposition of Shri. O. Dwijamani Singh, aged.33-years  
S/o. Late. O. Modhu Singh, resident of Kwakeithel  
~~XXXXXX~~ Moirang Pural Leikai, Imphal

Profession:- Govt.Service.

I, Shri. O. Dwijamani Singh, resident of Kwakeithel Moirang Pural Leikai, Imphal and working as ~~XXXXXX~~ Postal Assistant, Divisional Office, Imphal do state that I am working in the Postal Department since Sept/1994. And, I am working in the Divisional Office ~~XXXXXXXXXXXX~~ since April/1996. I worked in the IR-Branch of the Divisional office from April/1996 to August/1998. The IR-branch of the Divisional office is dealing with the I.Rs of various inspecting authorities and diaries of the inspecting officers/officials and field officers in Manipur Postal Division. During my incumbency in the said branch, although I received the fortnightly diaries and monthly summaries often irregularly from the ~~said~~ SDIPs/Ukhrul during the year 1996, ~~said~~ I had not received any I.Rs from the said SDIPs for the year 1996. Similarly, although I received the fortnightly diaries and monthly summaries, often, irregularly, from the said SDIPs during the year 1997, I received only 25(Twenty five) out of 70(Seventy) Post Offices shown to have been inspected by the said SDIPs for the year 1997. Shri.S.B.Hazarika was working as SDIPs/Ukhrul Sub-Dn., Ukhrul during the above period. Under the instructions of controlling authority, several reminders were issued to Shri.S.B.Hazarika for immediate submission of I.Rs, but to no effect.

Examination-in-chief is over.

No Cross Examination.

No-Re-Examination.

PRESENTING OFFICER

DEPONENT.

INQUIRY OFFICER.

Annexure A-12/1 B/1 (B/S) 91

EXTRACT OF DAILY ORDER IN THE DEPARTMENTAL INQUIRY  
UNDER RULE-14 OF CCS(CC & A) RULES, 1965 AGAINST  
SHRI. S.B. HAZARIKA, THE THEN SDIPOS, UKHRUL SUB-DN,  
UKHRUL HELD ON 18-09-1999

-----

ORDER No.11

Dated . 18.09.99

The proceedings are taken up at 1100 Hours in the Office of the Director Postal Services, Imphal in the presence of Presenting Officer. The Charged official does, to-day also, not turn up. Nor he communicates the inability of his participation in the proceedings and the reasons thereof through any source. The proceedings are therefore continued ex-parte.

Shri.A.S.Anderson, EDBPM, Nungshong EDBO who was summoned for appearing to-day as prosecution witness, do not turn up. There is neither any intimation to me for the reason of his absence nor the P.O is in a position to give any reason for his absence. The P.O, however, states that his witness and the witnesses those failed to appear earlier viz. S/Shri. L. Pamching, EDBPM, Chingjaroi and R.Tuingma -ayang, EDBPM, Sirarakhong EDBO and 16.09.99 & 17.09.99 respectively, could not attend, might have been due to the fact that they are residing in a remote area and they might not have received the summon. On query he added that the transit time required by them is two days. The reasons adduced in support of their failure to appear on the scheduled date before the I.O is mere presumption and vague term in nature. Residence of the witnesses in the remote area can not stand amidst the way of appearing at the scheduled time and date, as the summons were sent out to them by Regd. Post, before 10-days ahead, while the normal transit is 3-days at the most. It is the duty of the prosecution to see that its witnesses are produced/appeared on the appointed date and time. Generally, a witness who is not able to attend the proceedings on a particular day, should sent direct intimation to the I.O explaining the circumstances in which he is unable to attend the proceedings. In the instant case, there is no such information either directly or through P.O or any other source. It also can not be held that during these 10-days, the summons were not received by the witnesses. The P.O further added that the prevailing unrestness of the state of Manipur is another cause for their non appearance. This point has got certain force and therefore I am inclined to give an opportunity to the prosecution for production of

Attested

24/2/02  
A.S.A.

A-12/P

62  
92

-- ( 2 ) --

these witnesses on the next date positively. The prosecution should note that it is their ~~xxx~~ cause to ensure that their witnesses are attending on the appointed date and time.

There will be no hearing on 20th Sept'99, that ordered by me earlier.

The proceedings will resume on ~~21-10-99~~ 21-10-99 (Thursday) at 1100 Hours in my chamber in the office of the Director Postal Services, Agartala for adducing further evidence on behalf of the prosecution. On 22-10-99, the evidence on behalf of the Charged Official shall be adduced after he submits his written statement of defence.

Summons to Prosecution witnesses ~~xxxxxx~~ those who failed to attend this time, duly signed by me are made over to the P.O for serving in the manner he may wish to do.

Copies of this order ~~xx~~ are endorsed to the P.O and the C.O.

Presenting Officer. 18/9/99

INQUIRY OFFICER.

No. INQ-1/S.B.H/98-Vol. I.

Dtd. at Imphal the 18.9.99

Copy forwarded to:-

1. Shri. N.C. Halder, Presenting Officer & Dy. Supdt. of Post Offices, Manipur, Imphal for information. Summons as mentioned above are enclosed.

REGD. A/D-----

2. Shri. S.B. Hazarika, Charged Official & Complaint Inspector, O/o the Director Postal Services, Nagaland, Kohima-797001 for information.

Attended  
24/10/99  
ASB

INQUIRY OFFICER.



Agartala A-13

CPC

63

93

Department of Posts, India.  
Office of the Director Postal Services: ~~XXXXXXXX~~ Agartala  
799001.

Memo.No. INQ-1/SBH/98-Vol.I. Dtd, at Imphal the 20.09.99

Sub:- Departmental Inquiry under Rule 14 of CCS  
(CC&A) Rules, 1965 against Shri. S.B. Hazarika,  
the then SDIPOs, Ukhrul Sub-Dn., Ukhrul,  
& now, Complaint Inspector, O/o the DPS, Kohima.

Further hearing in the aforesaid case will be held  
on 21.10.99 at 1100 Hours daily in the chamber of the under-  
signed in the office of the Director Postal Services, Agartala.  
On the first day, evidence on behalf of the prosecution shall  
be adduced and on the next and subsequent dates evidence on  
behalf of the charged official shall be adduced after he  
submits his written statement of defence.

Summonses for remaining prosecution witnesses have  
already been made over to the Presenting Officer for service  
in the manner he likes to do.

All concerned are requested to take necessary action  
on their part to ensure that the proceedings are attended by  
the Presenting Officer, the Charged Official and the Witnesses  
on the ~~xxxxx~~ appointed date(s), time and place.

(Sunil Das)  
INQUIRY OFFICER.

&  
Dy. Supdt. of Post Offices,  
O/o the DPS, Agartala-799001.  
Camp at: Imphal.

To.

1. Shri. N.C. Halder, Presenting Officer  
& Dy. SPOs, Imphal for compliance.
2. Shri. S.B. Hazarika, Charged Official  
& C.I., O/o the DPS, Kohima for compliance.

Copy to:-

1. The DPS, Kohima for kind information. He is requested  
kindly to relieve the Charged Official attending the  
proceedings.
2. The DPS, Imphal for kind information. He is requested  
kindly to relieve & direct the P.O & the witnesses for  
attending the inquiry.

A. Heng  
24/10/99  
ABG

INQUIRY OFFICER.

Anaeme A-14

(37) by 94

DEPARTMENT OF POSTS:INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND::KOHIMA-797001

NO: Rule 14/S.B.Hazarika

Dated, Kohima the 22.09.99

TO,

Shri. S.B.Hazarika  
Complaint Inspector  
Divisional Office, Kohima.

Sub:-

Departmental Inquiry under Rule-14 of CCS (CC&A) Rules, 1965 against Shri. S.B.Hazarika the then SDIPOs, Ukhrul Sub-Divn & now Complaint Inspector, O/O the Director of Postal Services, Nagaland, Kohima.

Please refer to Shri. Sunil Das IO & Dy. Supdt of POs, O/O DPS, Agartala camp at Implal memo no. INQ-1/SBH/58-Vol-I dtd. 20.9.99 on the above mentioned subject you are hereby directed to attend the inquiry on 21.10.99 at 11:00 hrs in the chamber of Dy. Supdt, of Post Offices, O/O the Director of Postal Services, Agartala without fail.

22/9/99  
(F.P.Solo)

Director of Postal Services  
Nagaland::Kohima-797001

Attended  
21/10/99  
ASB

Annexure A-15

(33)

65  
as

ORDER NO. 13  
DATED 21.10.99

Proceedings are taken up at 1100 hrs. in my chamber. The Presenting Officer attended while the CO neither attended nor inform as to his inability to attend and reasons thereof.

2. S/Shri A.S. Underdon, the BPM Nughthong EDBO, R. Thuingyang, the EDBPM Sirarakhong EDBO and L. Panching, the EDBPM Chingjaroi EDBO were summoned for appearing today as prosecution witnesses have again failed to turn up. There is either any information to me about the reasons of their absence, nor the PO is in a position to give any reasons for their absence. I, therefore, decide not to summons these witnesses any more.

3. Evidence on behalf of the disciplinary authority is closed.

4. The proceeding will be resumed tomorrow at 1100 hours at the same place for hearing defence evidence after the submission of written statement of defence by the CO.

5. Copies of this ordersheet have been endorsed to the PO and the CO.

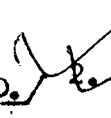
  
PRESENTING OFFICER

  
INQUIRY OFFICER

Department of Posts, India  
O/O the Director Postal Services: Tripura State: Agartala-1  
No. INQ-1/S.B.H/98-Vol-I. Dated at Agartala, the 21.10.99

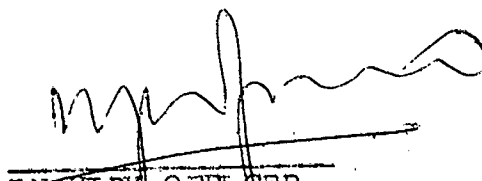
Copy forwarded to:-

1. Shri N.C. Halder, Presenting Officer & Dy. SPOs, Manipur, Imphal for information. Summons as mentioned above are enclosed.

REGD.  2. Shri S.B. Hazarika, Charged Official & Complaint Inspector, O/O the Director Postal Services, Nagaland, Kohima -797 001 for information.  
AD

Alleged

21/10/99  
ABF

  
INQUIRY OFFICER  
21/10/99

Agarwal A-18/

66

(11)

ab

To The Inquiry Officer,  
(Dr. Supth. Jos, Agarwal)

Subj: - Inquiry u/r-14 of the CCS (CCA) Rules, 1965  
— Production of document & examination  
of defence witness.

Sir,

The proceeding instituted against me is  
was actually fabricated by Sri N.C. Halder,  
Dr. Supth. Jos, Imprial out of malice & personal  
grudge against me. I, therefore, request you  
kindly to permit me to examine the following  
witness & to examine the following document and  
those have a possible line of defence.

Some of the witnesses

1. Sri N.C. Halder,  
Dr. Supth. Jos,  
Joshi & Co, Imprial

Relinquency

As per Agarwal - C  
Charge sheet the  
documents of the  
A & Z case admitted  
by the Supth. Jos,  
Imprial (Dr. Supth.)  
It is necessary to  
ascertain under what  
circumstances these  
letters were addressed  
to him.

Name of Document

2. Monthly four TA, advance  
for the SD Jos, Imprial  
for the month from July/92  
to March/98 maintained by  
the Jos & Co, Imprial

First T.A. Advance was  
not released on the  
ground that the SD Jos  
was submitted, but  
later on when the case  
submitted, T.A. advance  
also was released  
subsequently. It is  
necessary to ascertain

Attended

24/10/2002  
AOS

Copy to A.

A-16/ii

b7  
AT

(2)

Under what circumstances the  
Tom TA. advanced were released  
Subsequently.

For partially -

~~Don't know~~

22/10/8

(S.A. HAZARD)

W.H. 2/8  
6

21/10/8  
ABF

Annexure A-17/-

68  
98

ORDER NO. 14  
DATED 22.10.99

W

Proceedings are taken up at 1100 hours in my chamber in the office of the IPS, Agartala in the presence of the PO and the CO.

2. Today's date is fixed for hearing defence evidence after the submission of written statement of defence by the CO.

3. The CO submitted his defence statement dated 22.10.99 and prayed for production of monthly tour T.A. advance file for the period from July'97 to March'98 of SDIPOs Ukrol maintained by the DPS Imphal. In support of his prayer he states that the file will enlighten the material fact as to the submission/non submission of IR in questions as to the office used to release/sanction of T.A. advance only on submission of IRs. I find that the pleading has got certain force and the file may reflect the actual position. I, therefore, decide to call the file.

4. Further he prayed to produce Shri N.C. Halder, DSPOs, Imphal as defence witness to clarify the circumstance under which exhibit exs-67 to exs-71 were received. I find that the witness proposed to be examined as defence witness is likely to enlighten certain material facts and will be summoned in due course.

5. The CO, while asked, desires not to examine himself as defence witness.

6. Since the PO, Shri N.C. Halder, DSPOs, Imphal is proposed to be examined as defence witness, the Disciplinary authority Hon'ble DPS Kohima may kindly appoint another Presenting Officer either for the day's deposition of the said Shri N.C. Halder or for the entire period of rest proceedings.

7. Both the PO and the CO pleaded that they will not be available to attend the proceedings during the month of Nov'99 and Dec'99 as they will be badly engaged with inspection works. The position mine also same. As such the date of next hearing will be communicated later on.

8. Copies of this order sheet are ordered to the PO, the CO and the disciplinary authority.

C.O. P.O. I.O.

Department of Posts, India  
O/O the Director Postal Services, Tripura State, Agartala-1  
No. INQ-1/S.B.H/98-Vol. I Dated at Agartala, the 22.10.99  
Copy forwarded to:-

1. Shri N.C. Halder, P.O. & Dy. SPOs, Manipur, Imphal for information.
2. Shri S.B. Hazarika, C.O. & C.I., O/O the DPS, Nagaland Kohima-797 001 for information.
3. The D.P.S., Kohima. X
4. The DPS, Imphal X for kind information.

21/10/99  
Aet

INCHARGE D.P.S. CEB.

*Reference A-18*

*69*  
*69*

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE DIRECTOR, POSTAL SERVICES  
NAGALAND, KOHIMA-797001

No. Rule 14/S.B.Hazarika

Dated Kohima the 11-2-2000

Whereas an inquiry under Rule 14 of CCS (CCA) Rules, 1965 is being held against Shri. S.B. Hazarika, C.I. Divisional office, Kohima.

And whereas the present Presenting Officer Shri. N.C. Halder, Dy. SPOs Manipur, Imphal is unable to function as Presenting Officer, because of being a defence witness in the said case. The undersigned considers that an adhoc PO should be appointed to present the case on behalf of the undersigned.

Now therefore, the undersigned in exercise of the power conferred by Sub-rule 5 (c) of the said Rules, hereby appoints Shri. Narayan Das, ASPO, Agartala, South Sub-division as the Presenting Officer (Adhoc) and he will act as such during the period of examination in chief, cross examination, re-examination and further cross examination of Shri. N.C. Halder.

*Sd/-*

(F.P. Solo)

Director of Postal Services  
Nagaland, Kohima-797001.

Copy to:-

1. Shri. Narayan Das, ASPOs South Sub-Dn, Agartala for inf. and n/a.
2. Shri. N.C. Halder (PO) Dy. SPOs, o/o The DPS Manipur, Imphal. He is requested to Hand over the List of documents, if any to the Presenting Officer.
3. Shri. Sunil Das (IO) Dy. SPOs o/o The DPS, Agartala.
4. Shri. S.B. Hazarika (CO) C.I. divnl. office Kohima (At Sabroom Agartala-799145)
5. The DPS Manipur, Imphal for information.
6. Spare.

*Attended*  
*B*  
*21/2/00*  
*ASB*

*11/2/00*  
(F.P. Solo)

Director of Postal Services  
Nagaland, Kohima-797001.

*Annexure A-19*

(144) 70  
100

**DEPARTMENT OF POSTS : INDIA**  
**OFFICE OF THE DIRECTOR OF POSTAL SERVICES**  
**TRIPURA STATE : AGARTALA**

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NO. INQ/SBH

Dated at Agartala, the 20.04.2000

Sub : Departmental Inquiry under Rule - 14 of CCS (CCA) Rules, 1965 against Sri Santi Bhusan Hazarika, the then SDIPOs, Ukhral Sub Division, Ukhral, now Complaint Inspector, o/o the D.P.S. Kohima.

Further hearing in the above mentioned case will be held on 10<sup>th</sup> May, 2000 at 11:00 hrs daily at Agartala in the chamber of the undersigned. Summon for the defence witness has already been despatched under registered post.

All concerned are requested to take necessary action on their part to ensure that the proceedings are attended by the Presenting Officer, the Charged Officer, the defence assistant and the witness on the appointed date, time and place.

*Sd/-*  
(SUNIL DAS)  
Inquiry Officer  
&  
Dy. Supdt. of Post Offices  
O/o the D.P.S., Agartala - 799001.

Copy to :

1. Sri S.B.Hazarika, IPOs, PG, o/o the D.P.S., Kohima and the charged official for information and attending the inquiry.
2. Sri S.B.Hazarika, IPOs, PG, o/o the D.P.S., Kohima now residing at Sabroom, Tripura for information and attending the inquiry.
3. Sri Narayan Ch. Das, ASPOs, Agartala South Sub Division and Presenting Officer. He is requested to attend the proceeding and act as Presenting Officer during the period of deposition of Sri N.C.Haldar, Dy. Supdt. of Post Offices, Imphal who is the Presenting Officer of the case barring the time of his deposition.
4. Sri N.C.Haldar, DSPOs, Imphal and Presenting Officer of the case for information and necessary action. He will please bring the additional document requisition by the charged official as mentioned at para 3 of my order no.14 dtd.20.10.99 and also to present the case on behalf of the Disciplinary Authority except the period of his deposition.
5. The D.P.S., Kohima for information with reference of his office no.Rule - 14/SB Hazarika dtd.11.2.2000.
6. The D.P.S., Imphal for information and necessary action. He will kindly refer my letter of even no. dtd. 16.10.99, 12.1.2000 and 23.2.2000 and arrange to send the additional documents either through Sri N.C.Haldar, the Presenting Officer or by Insured Post before the date fixed for. In case the requisitioned additional documents not received in time, the inference would be drawn accordingly.
7. The D.P.S., Agartala for information.
8. o/c.

*Attest*  
*24/2002*  
*ASB*

*[Signature]*  
(SUNIL DAS)  
Inquiry Officer  
&  
Dy. Supdt. of Post Offices  
O/o the D.P.S., Agartala - 799001.



ORDER NO.15.

Dated,10-5-2000.

Proceedings are taken up at 1100 hour in my chamber in the office of the DPS,Agartala in the presence of the PO (Shri Narayan Das the adhoc PO) and the CO.

2. Todays date is fixed for production of additional documents and examination of defence witness. The PO,Shri Narayan Das who is appointed as PO for the period of deposition of Shri N.C.Halder,the regular PO as defence witness states that he did not receive the additional documents that requisitioned by me from the disciplinary authority or from the custodian.He further states that he did not receive any communication on this score from the custodian. I have also not received the document despite repeated reminder. Therefore, the inference can be drawn by all concerned.

3. Shri N.C.Halder,the defence witness did not turn up. He also did not communicate his inability to attend todays hearing. The CO also unable to say the reason of non attendance of the defence witness. Shri N.C.Halder in his letter No.Nil dtd.28.2.00 addressed to DPS,Nagaland and copy to me expressed his unwillingness. The CO did not press for further summoning of Shri N.C.Halder as defence witness. Therefor, no further date is fixed for recording the evidence of the said Shri Halder.

4. The CO produced the following particularised documents from his custody as defence evidence and they have been brought into record duly making as noted against each.

Photocopy of :-

- |   |        |
|---|--------|
| a) Dte. circular No.28-162/62 P.E.-1.<br>dtd. 5.8.65 fdd.                                     | Exd-1. |
| b) No.Rule 14/S.B.Hazarika.<br>dtd. 11/2/2000. issued by DPS,Kohima.                          | Exd-2. |
| c) Letter No. Diary/SDIPOs,Ukhrul/97.<br>dtd. 4.3.98 issued from office of the<br>DPS,IMPHAL. | Exd-3. |
| d) Letter No. Diary/SDIPOs-Ukhrul/97<br>dtd. 16.3.98 issued from DPS,Imphal.                  | Exd-4. |
| E) Memo No.Diary/SDIPOs-Ukhrul/92<br>dtd.25.9.92 issued by DPS,Imphal.                        | Exd-5. |

5. The CO desires to submit argument orally.Since the regular PO did not turn up, it is not come into light whether he also desires to submit argument orally. Therefore, the PO is directed to communicate his view within 25th instant for taking decision on fixation of date of argument.

6. The case is adjourned to a date to be communicated later on.

( P.T.O. )

Attended  
B  
24/2/02  
AAB

Amun A-20/ii

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7. Copies of this order sheet are endorsed to the PO(Adhoc PO) the CO and the disciplinary authority.

Sd/-

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PRESENTING OFFICER.

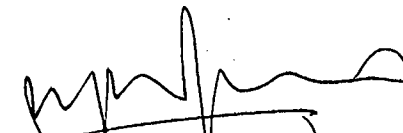
C.O.

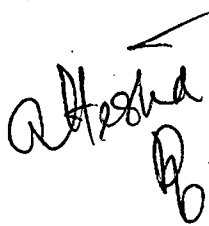
INQUIRY OFFICER.

No. INQ-1/S.B.H./98/Vol.I.Datedat, the 10th MAY,2000.

Copy forwarded to:-

1. Shri N.C.Halder, Present Officer & Dy.Suptd.of Post Offices, Manipur, Imphal for information.
2. Shri S.B.Hazarika, Complaint Inspector, O/O the Director Postal Services, Nagaland, Kohima-797001 for information. ~~A copy of deposition of S.W.No.1 Shri L.Ito Singh, EDBPM, Kameng Kachhing EDBO is enclosed.~~
3. Shri Narayan Das, Designated ASP, Tura, PO(Adhoc PO).
4. The DPS, Kohima for information & necessary action please.
5. Spare.

  
INQUIRY OFFICER

  
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**DEPARTMENT OF POSTS : INDIA**  
**OFFICE OF THE DIRECTOR OF POSTAL SERVICES**  
**NAGALAND : KOHIMA - 797001**

No. Rule 14/ S.B.Hazarika

Dated Kohima the 12-10-2000

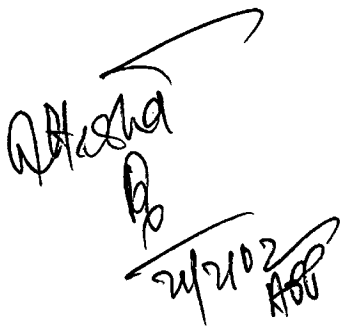
To,

Shri. S.B.Hazarika  
C.I Divisional Office Kohima (u/s)  
At Anandpara P.o:- Sabroom  
Tripura (S)

I am directed to forward herewith a copy of the report submitted by the Inquiry Officer. The Disciplinary Authority will take suitable decision, after considering the report. If you wish to make any representation or submission, you may do so in writing to the Disciplinary authority within 15 days of the receipt of this letter.

  
(K.R.Das)

Supdt. of Posts Office (HQ)  
For the Director of Postal Services  
Nagaland : Kohima- 797001

  
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## INQUIRY REPORT

In the Case Against  
Sri S.B.Hazarika,  
Complaint Inspector,  
o/o the D.P.S., Kohima

Under Sub-Rule (2) of Rule-14 of CCS(CCA) Rules, 1965, I was appointed by the Director Postal Services, Manipur State, Imphal as the Inquiry Authority to inquire into the charges framed against Sri S.B.Hazarika, the then SDIPOs, Ukul Sub Division, Ukul in Manipur Division, now Complaint Inspector, o/o the D.P.S., Kohima vide his memo no. Diary/SDIPOs-Ukul/97 dt.8.5.98. I have since completed the inquiry and on the basis of the documentary and oral evidences adduced before me prepared my inquiry report as under.

2. Presenting Officer :

Sri N.C.Haldar, Dy. Supdt. of POs, o/o the DPS, Imphal was appointed as Presenting Officer except the date 10.05.2000 on which the said Sri N.C.Haldar was summoned to depose as defence witness and Sri Narayan Das, ASPOs, Agartala South Sub Division was appointed as adhoc Presenting Officer for the period of deposition scheduled to be made.

3. Participation by the Charged Officer in the Inquiry and defence Assistant available to him

The C.O. did not participate in the inquiry till completion of the stage of presentation of prosecution's documents and witnesses. He, however, availed the opportunities of producing of defence evidences. He did not nominate any defence assistant to help him in producing the case on behalf of him; although he was apprised of the facilities available to him.

4. Date of hearing of the case :

The case was heard on 25.8.98, 22.9.98, 27.1.99, 15.9.99, 16.9.99, 17.9.99, 18.9.99, 21.10.99, 22.10.99, 10.5.2000 & 14.6.2000.

5.1. Documents Exhibited :

The following particularized documents were exhibited in the inquiry. Of them, the documents that particularized at Sl. No. 1 to 72 were produced on behalf of the Disciplinary Authority while that mentioned at Sl. No.73 to 77 were produced on behalf of the defence. They were brought on records duly marking as indicated against each.

Sl. No.	Particulars of the documents	Exhibit Nos.
1.	SPOs, Imphal letter no. Inspection/Tour Programme/1996 dt.19.02.1996 along with a copy of inspection programme for the year 1996 (of SDIPOs, Ukul Sub Division)	Ex.S - 1(a) to 1(c)

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Sl. No.	Particulars of the documents	Exhibit Nos.
2.	SPOs, Impihal letter no. Inspection/Tour Programme/1997 dtd. 29.01.1997 along with a copy of inspection programme for the year 1997 (of SDIPOs, Ukrul Sub Division)	Ex.S 2(a) to 2(d)
3.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Feb 96 No. A-1/Diary/SDI-UKI/95-96 Dtd. 16.2.96	Ex.S 3(a) to 3(b)
4.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Feb 96 No. A-1/Diary/SDI-UKI/95-96 Dtd. 16.2.96	Ex.S 4(a) & 4(b)
5.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Feb 96 No. A-1/Diary/SDI-UKI Dtd. 1.3.96	Ex.S 5(a) & 5(b)
6.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Mar 96 No. A-1/Diary/SDI-UKI/96 Dtd. 16.3.96	Ex.S 6(a) & 6(b)
7.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Mar 96 No. A-1/Diary/SDI-UKI/96 Dtd. 1.4.96	Ex.S 7(a) & 7(b)
8.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Apr 96 No. A-1/Diary/SDI-UKI/96 Dtd. 17.4.96	Ex.S 8
9.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Apr 96 No. NIL Dtd. NIL	Ex.S 9
10.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of May 96 No. A-1/Diary/SDI-UKI Dtd. 17.5.96	Ex.S 10
11.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of May 96 No. A-1/Diary/SDI-UKI Dtd. 3.6.96	Ex.S 11(a) & 11(b)
12.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of June 96 No. A-1/Diary/SDI-UKI/96 Dtd. 17.6.96	Ex.S 12(a) & 12(b)
13.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of June 96 No. A-1/Diary/SDI-UKI/96 Dtd. 1.7.96	Ex.S 13(a) & 13(b)
14.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of July 96 No. A-1/Diary/SDI-UKI Dtd. 16.7.96	Ex.S 14
15.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of July 96 No. A-1/Diary/SDI-UKI Dtd. 1.8.96	Ex.S 15
16.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Aug 96 No. A-1/Diary/SDI-UKI Dtd. 19.8.96	Ex.S 16
17.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Aug 96 No. A-1/Diary/SDI-UKI Dtd. 2.9.96	Ex.S 17(a) & 17(b)
18.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Sept 96 No. A-1/Diary/SDI-UKI/96 Dtd. 16.9.96	Ex.S 18(a) & 18(b)
19.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Sept 96 No. A-1/Diary/SDI-UKI/96 Dtd. 1.10.96	Ex.S 19(a) & 19(b)
20.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Oct 96 No. A-1/Diary/SDI-UKI Dtd. 1.11.96	Ex.S 20(a) & 20(b)
21.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Nov 96 No. A-1/Diary/SDI-UKI Dtd. 16.11.96	Ex.S 21(a) & 21(b)
22.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Nov 96 No. A-1/Diary/SDI-UKI Dtd. 2.12.96	Ex.S 22(a) & 22(b)

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Sl. No.	Particulars of the documents	Exhibit Nos.
23.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Dec 96 No.A-1/Diary/SDI-UKL Dtd.16.12.96	Ex.S - 23(a) & 23(b)
24.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Dec 96 No.A-1/Diary/SDI-UKL Dtd.1.1.97	Ex.S - 24
25.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Jan 97 No.A-1/Diary/SDI-UKL Dtd.16.1.97	Ex.S - 25(a) & 25(b)
26.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Jan 97 No.A-1/Diary/SDI-UKL Dtd.1.2.97	Ex.S - 26(a) & 26(b)
27.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Feb 97 No.A-1/Diary/SDI-UKL Dtd.16.2.97	Ex.S - 27(a) & 27(b)
28.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Feb 97 No.A-1/Diary/SDI-UKL Dtd.1.3.97	Ex.S - 28(a) & 28(b)
29.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Mar 97 No.A-1/Diary/SDI-UKL Dtd.16.3.97	Ex.S - 27(a) & 27(b)
30.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Mar 97 No.A-1/Diary/SDI-UKL Dtd.1.4.97	Ex.S - 30
31.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Apr 97 No.A-1/Diary/SDI-UKL Dtd.21.4.97	Ex.S - 31
32.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Apr 97 No. NIL Dtd. Nil	Ex.S - 32(a) & 32(b)
33.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of May 97 No.A-1/Diary/SDI-UKL Dtd.16.5.97	Ex.S - 33(a) & 33(b)
34.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of May 97 No.A-1/Diary/SDI-UKL Dtd.2.6.97	Ex.S - 34(a) & 34(b)
35.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of June 97 No.A-1/Diary/SDI-UKL Dtd.16.6.97	Ex.S - 35(a) & 35(b)
36.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of June 97 No.A-1/Diary/SDI-UKL Dtd.1.7.97	Ex.S - 36(a) & 36(b)
37.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of July 97 No.A-1/Diary/SDI-UKL Dtd.16.7.97	Ex.S - 37(a) & 37(b)
38.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of July 97 No.A-1/Diary/SDI-UKL Dtd.1.8.97	Ex.S - 38(a) & 38(b)
39.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Aug 97 No.A-1/Diary/SDI-UKL Dtd.16.8.97	Ex.S - 39(a) & 39(b)
40.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Aug 97 No.A-1/Diary/SDI-UKL Dtd.1.9.97	Ex.S - 40(a) & 40(b)
41.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Sept 97 No.A-1/Diary/SDI-UKL Dtd.16.9.97	Ex.S - 41(a) & 41(b)
42.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Sept 97 No.A-1/Diary/SDI-UKL Dtd.1.10.97	Ex.S - 42(a) & 42(b)
43.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Oct 97 No.A-1/Diary/SDI-UKL Dtd.16.10.97	Ex.S - 43
44.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Oct 97 No.A-1/Diary/SDI-UKL Dtd.1.11.97	Ex.S - 44(a) & 44(b)

  
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Sl. No.	Particulars of the documents	Exhibit Nos.
45.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Nov 97 No.A-1/Diary/SDI-UKL Dtd.16.11.97	Ex.S - 45(a) & 45(b)
46.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Nov 97 No.A-1/Diary/SDI-UKL Dtd.1.12.97	Ex.S - 46(a) & 46(b)
47.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Dec 97 No.A-1/Diary/SDI-UKL Dtd.16.12.97	Ex.S - 47(a) & 47(b)
48.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Dec 97 No.A-1/Diary/SDI-UKL Dtd.1.1.98	Ex.S - 48(a) & 48(b)
49.	Monthly Summary of SDI(P), Ukul. For the month of July 96 No.A-1/Summary/SDI-UKL Dtd.1.8.96	Ex.S - 49
50.	Monthly Summary of SDI(P), Ukul. For the month of Aug 96 No.A-1/Summary/SDI-UKL Dtd.2.9.96	Ex.S - 50
51.	Monthly Summary of SDI(P), Ukul. For the month of Sept 96 No.A-1/Summary/SDI-UKL Dtd.1.10.96	Ex.S - 51
52.	Monthly Summary of SDI(P), Ukul. For the month of Oct 96 No.A-1/Summary/SDI-UKL Dtd.2.9.96	Ex.S - 52
53.	Monthly Summary of SDI(P), Ukul. For the month of Nov 96 No.A-1/Summary/SDI-UKL Dtd.2.12.96	Ex.S - 53
54.	Monthly Summary of SDI(P), Ukul. For the month of Dec 96 No.A-1/Summary/SDI-UKL Dtd.31.12.96	Ex.S - 54
55.	Monthly Summary of SDI(P), Ukul. For the month of Jan 97 No.A-1/Summary/SDI-UKL Dtd.3.2.97	Ex.S - 55
56.	Monthly Summary of SDI(P), Ukul. For the month of Feb 97 No.A-1/Summary/SDI-UKL Dtd.3.3.97	Ex.S - 56
57.	Monthly Summary of SDI(P), Ukul. For the month of March 97 No.A-1/Summary/SDI-UKL Dtd.1.4.97	Ex.S - 57
58.	Monthly Summary of SDI(P), Ukul. For the month of Apr 97 No.A-1/Summary/SDI-UKL Dtd.1.5.97	Ex.S - 58
59.	Monthly Summary of SDI(P), Ukul. For the month of May 97 No.A-1/Summary/SDI-UKL Dtd.2.6.97	Ex.S - 59
60.	Monthly Summary of SDI(P), Ukul. For the month of June 97 No.A-1/Summary/SDI-UKL Dtd.1.7.97	Ex.S - 60
61.	Monthly Summary of SDI(P), Ukul. For the month of July 97 No.A-1/Summary/SDI-UKL Dtd.1.8.97	Ex.S - 61
62.	Monthly Summary of SDI(P), Ukul. For the month of Aug 97 No.A-1/Summary/SDI-UKL Dtd.1.9.97	Ex.S - 62
63.	Monthly Summary of SDI(P), Ukul. For the month of Sept 97 No.A-1/Summary/SDI-UKL Dtd.1.10.97	Ex.S - 63
64.	Monthly Summary of SDI(P), Ukul. For the month of Oct 97 No.A-1/Summary/SDI-UKL Dtd.1.11.97	Ex.S - 64
65.	Monthly Summary of SDI(P), Ukul. For the month of Nov 97 No.A-1/Summary/SDI-UKL Dtd.1.12.97	Ex.S - 65
66.	Monthly Summary of SDI(P), Ukul. For the month of Dec 97 No.A-1/Summary/SDI-UKL Dtd.1.1.98	Ex.S - 66

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Sl. No.	Particulars of the documents	Exhibit Nos.
67.	Photocopy of statement of Sri L. Panching, BPM, Chingjaroi EDBO letter dtd. 1.10.97 addressed to SPOs, Imphal.	Ex.S - 67
68.	Photocopy of statement of Sri L. Ito Singh, BPM, Kameng Kakching EDBO letter dtd. 25.9.97 addressed to SPOs, Imphal.	Ex.S - 68
69.	Photocopy of statement of Sri V.S. Varciso, EDBPM, Shangshak EDBO letter dtd. 29.9.97 addressed to SPOs, Imphal.	Ex.S - 69
70.	Photocopy of statement of Sri Yarngai, EDBPM, Pushing EDBO letter dated. 09.10.1997 addressed to SPOs, Imphal.	Ex.S - 70
71.	Photocopy of statement of Sri R. Tuingayang, BPM, Sirakhong EDBO letter dtd. 9.10.97 addressed to SPOs, Imphal.	Ex.S - 71
72.	Photocopy of statement of Sri A.S. Anderson, BPM, Nungshong EDBO address. to DPS, Imphal received at Divisional Office on 4.11.97	Ex.S - 72
73.	Photocopy of Dte. circular No. 28-162/62 P.E.-1 dtd. 5.8.65 fdd.	Exd - 1
74.	No. Rule 14/5, B. Hazarika, dtd. 11.02.2000 issued by D.P.S., Kohima - In original.	Exd - 2
75.	Letter No. Diary/SDIPOs, Ukhrul/97 dtd. 4.3.98 issued from office of the DPS, Imphal.	Exd - 3
76.	Letter No. Diary/SDIPOs-Ukhrul/97 dtd. 16.3.98 issued from DPS, Imphal.	Exd - 4
77.	Memo No. Diary/SDIPOs-Ukhrul/92 dtd. 25.9.92 issued by D.P.S., Imphal.	Exd - 5

#### 5.2. Documents not exhibited :

The charged officer (here under known as C.O.) prayed for production of monthly tour T.A. Adv file for the period from July 97 to March 98 of SDIPOs, Ukhrul Sub Division, maintained by the o/o the D.P.S., Imphal. In support of his claim the C.O. stated that the file would enlight the material fact as to the submission / non-submission of IRs in question as the office used to release / sanction T.A. advance only on submission of IRs. I find that the file might enlight / reflect material fact related to the matter under inquiry and placed requisition for the same before the DPS, Imphal vide my letter no. INQ-1/SBH/98-Vol-I dt. 26.10.99 followed by reminder 12.1.00, 23.2.00 & 20.4.00. The custodian of the document had neither claimed privilege of the document nor forwarded the document. Nor made any communication showing the reason of non-making of the availability of the requested documents.

6.1. The prosecution had desired to examine the following particularised witnesses; among them the witness at Sl. No. 2, 4, 5 & 6 were examined on the date shown against each and their deposition were brought into records as 'Marked' at the last column. The rest

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witnesses did not turn up despite issuance of repeated summons. Neither they had communicate the reasons of their inability to attend, nor the PO could explain the reasons of their non-attendance. It is the duty of the party to ensure attendance of their witness on the appointed date, time and place.

Sl. No.	Name and Particulars of witness	Date of deposition	Deposition marked as
1.	Sri L. Pamching, EDBPM, Chingjaroi EDBO	16.09.1999	Not turn up
2.	Sri L. Ito Singh, EDBPM, Kamang Kakching		SW-1
3.	Sri A.S. Anderson, EDBPM, Nungshang		Not known
4.	Sri O. Dwijamani Singh, OA (IR / VR), Divisional Office	17.09.2000	SW-4
5.	Sri V.S. Varcise, EDBPM, Shangshak EDBO	17.09.2000	SW-3
6.	Sri S. Yamegai, EDBPM, Pushing EDBO	17.09.1999	SW-2
7.	Sri R. Tuingayang, EDBPM, Sirarakhang EDBO		Not turn up

6.2. The C.O. prayed to produce Sri N.C. Haldar, DSPOs, Imphal and the P.O. of the case to clarify the circumstances under which the exhibit Exs-67 to Exs-71 were received by the office of the DPS, Imphal. I find the witness proposed to be examined as defence witness is likely to enlighten certain material fact and he was summoned. In response to the summon the said Sri N.C. Haldar in his letter no. nil dt. 28.02.2000 addressed to DPS, Nagaland, the disciplinary authority and copy to me expressed his unwillingness to depose as defence witness. He did not turn up on the scheduled date and time. The C.O. did not press for further summoning of the said Sri N.C. Haldar and virtually dropped.

7. Article of charge and substance of imputation of misconduct or misbehaviour :

The following two articles of charges have been framed against Sri S.B. Hazarika, the then SDIPOs, Ukhrul Sub Division, now Complaint Inspector, o/o the D.P.S., Nagaland.

Article of charge - I

Sri S.B. Hazarika, while working as SDIPOs, Ukhrul Sub Division during the period from 29.01.1996 (A/N) to 31.01.1998, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the Inspection Remarks in respect of each of these 54 (fifty four) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly the said Sri S.B. Hazarika had shown to have inspected as many as 78 (seventy eight) Post Offices during the period from 01.01.1997 to 31.12.1997, but had not submitted a copy of the Inspection Remarks in respect of 45 (forty five) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Sri S.B. Hazarika violated the provisions of Rule-308(2) of P&T Man. Vol. VIII read with Department of Posts, New Delhi letter No.17-3/92-Inspn Dated 02.07.1992 and Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

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Article of charge - II

Sri S.B.Hazarika, while working as SDIPOs, Ukhrul Sub Division, during the period from 29.01.1996 to 31.01.1998, he had shown to have inspected the following EDBOs in Ukhrul Sub Division, on the date noted against each.

Sl. No.	Name of the EDBO	Date of inspection shown by Sri S.B.Hazarika
1.	Chingjaroi EDBO	25.02.1997
2.	Sirarakhang EDBO	29.03.1997
3.	Kamang Kakching EDBO	19.05.1997
4.	Shangshak EDBO	18.06.1997
5.	Nungshong EDBO	15.07.1997
6.	Pushing EDBO	28.07.1997

But, in fact, the said Sri S.B.Hazarika did not at all inspect the above-mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Sri S.B.Hazarika, violated the provisions of Rule-308(1) of P&T Man. Vol. VIII, Rule-3(1)(i) of CCS (Conduct) Rules, 1964 and Rule-3(1)(iii) of CCS (Conduct) Rules, 1964.

The Statement of Imputation of Misconduct or Misbehaviour in support of the charges are as follows:

Article - I

That as many as 66 (sixty six) EDBOs and one SO in Ukhrul Sub Division were allotted to the share of Sub Divisional Inspector of Post Offices, Ukhrul Sub Division, Ukhrul for inspection during the year 1996 vide SPOs, Imphal letter No. Inspection/Tour Programme /1996 dtd.19.02.1996 along with a copy of Inspection Programme for the year 1996. The said Sri S.B.Hazarika took over the charge of SDIPOs, Ukhrul Sub Division on 29.01.1996 (A/N) and prior to taking over the charge of the Sub Division by the said Sri S.B.Hazarika, one Sri Moba Maring P.A., Imphal H.O. was officiating as SDIPOs, Ukhrul Sub Division from 01.01.1996 to 29.01.1996 (A/N). Of the sixty-six EDBOs assigned to the SDIPOs, Ukhrul Sub Division, for inspection during the year 1996, the said Sri Moba Maring already inspected as many as 13 (thirteen) EDBOs during the period from 01.01.1996 to 29.01.1996. Thus, as many as 53 (fifty three) EDBOs and one S.O. were remaining for inspection, by the said Sri S.B.Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub Division by the said Sri Hazarika on 29.01.1996 (A/N). The said Sri S.B.Hazarika, in his fortnightly diaries and monthly summaries of the SDIPOs, Ukhrul for the period from 29.01.1996 (A/N) to 31.12.1996 had shown to have inspected all the 53 (fifty three) EDBOs and one S.O. which were remaining for inspected by the said Sri S.B.Hazarika as on 29.01.1996 (A/N). The list of 53 (fifty three) EDBOs and one S.O. shown to have inspected by the said Sri S.B.Hazarika has been enclosed as "ANNEXURE-A".

Similarly, as many as 71 (seventy one) Post Offices, i.e., 69 (sixty-nine) EDBOs and 2 (two) SOs were assigned to the SDIPOs, Ukhrul Sub Division, for inspection during the year 1997 vide SSPOs, Imphal letter no. Inspection/Tour Programme.97 dtd.29.01.1997

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along with a copy of Inspection Programme for the year 1997. Of the 69 (sixty nine) EDBOs and 2 (two) SOs in Ukhrul Sub Division, which were assigned for inspection by the said Sri S.B.Hazarika as SDIPOs, Ukhrul Sub Division, he had shown to have inspected all the 69 (sixty nine) EDBOs and 1 (one) S.O. on different date(s) during the period from 01.01.1997 to 31.12.1997, in his fortnightly diaries and monthly summaries of the SDIPOs, Ukhrul submitted by the said Sri Hazarika for the aforementioned period from time to time. The list of 69 (sixty nine) EDBOs and one S.O. which were shown to have been inspected by the said Sri S.B.Hazarika during the year 1997 has been enclosed as "ANNEXURE-B".

That as per Rule-308(2) of P&T Man. Vol.VIII, the said Sri S.B.Hazarika, SDIPOs, Ukhrul had to submit the copy of Inspection Remarks, in respect of each of the EDBO and S.O. inspected by him, to the Supdt. of Post Offices, Manipur Division, Imphal and in accordance with Deptt. of Posts, New Delhi letter no.17-3/92-Inspn dtd.02.07.1992 the time limit for submission / issuance of Inspection Remarks / Inspection Reports in respect of EDBO and S.O. are 10 (ten) days and 15 (fifteen) days from the date of inspection respectively. But, the said Sri S.B.Hazarika, had not at all submitted the copy of Inspection Remarks in respect of 53 (fifty three) EDBOs and 1 (one) S.O., which were shown to have been inspected by him in 1996, as per "ANNEXURE-A", to the Supdt. of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent date. Similarly, the said Sri S.B.Hazarika had not at all submitted the copy of Inspection Remarks in respect of 44 (forty four) EDBOs and 1 (one) S.O., which were shown to have inspected by the said Sri Hazarika on different date(s) during the year 1997. The list of 44 (forty four) EDBOs and 1 (one) S.O. which were shown to have been inspected by the said Sri Hazarika in the year 1997, but he did not submit IRs has been enclosed as "ANNEXURE-C".

Therefore, it is imputed that the said Sri S.B.Hazarika, by his above acts, violated the provisions of Rule-308(2) of P&T Man. Vol.VIII and orders contained in Deptt. of Posts, New Delhi letter no 17-3/92-Inspn dtd.02.07.1992 and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

#### Article - II

The following EDBOs in Ukhrul Sub Division, which were assigned to the SDIPOs, Ukhrul Sub Division, for annual inspection for the year 1997 vide SSPOs, Imphal letter no. Inspection/Tour Programme/1997 dtd.29.01.1997 were shown to have been inspected by the said Sri S.B.Hazarika as SDIPOs, Ukhrul, on the date noted against each.

<u>Sl. No.</u>	<u>Name of the EDBO</u>	<u>Date of inspection</u>
1.	Chingjaroi EDBO	25.02.1997
2.	Sirarakhong EDBO	29.03.1997
3.	Kamang Kakchung EDBO	19.05.1997
4.	Shangahak EDBO	18.06.1997
5.	Nungshang EDBO	15.07.1997
6.	Pushing EDBO	26.07.1997

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The said Sri S.B.Hazarika was working as SDIPOs, Ukhrul during the period from 29.01.1996 (A/N) to 31.01.1998 and he had shown to have inspected the above Post Offices as mentioned above in his fortnightly diaries pertaining to that period and also in the monthly summaries of the SDIPOs, Ukhrul Sub Division, Ukhrul, submitted by the said Sri Hazarika, for the respective months on which those offices had been shown to have been inspected. But, the EDBPMs of the above EDBOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Sri S.B.Hazarika, SDIPOs, Ukhrul did not inspect the respective EDBOs in the year 1997 till the time of submission of respective intimations by each of the EDBPMs of above EDBOs in the months of Sept 97, Oct 97, Nov 97.

Therefore, it is imputed that the said Sri S.B.Hazarika did not at all inspect the aforementioned EDBOs on the dates noted against each and thereby violated the provisions of Rule-308(1) of P&T Man.Vol.VIII. In addition, the said Sri Hazarika, by his act of submission of false information regarding inspection of those abovementioned EDBOs failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

8. Case of the Disciplinary Authority :

- A. The prosecution in article-I impute that in the year 1996 as much as 66 EDBOs and 1 S.O. were assigned to the SDIPOs, Ukhrul Sub Division for inspection for the said year. The C.O. took over the charge of the SDI, Ukhrul on 29.01.1996 (A/N) and till then the preceding IPOs had already inspected 13 EDBOs. Thereby leaving 53 EDBOs and 1 S.O. for the rest of the year. The C.O. in his fortnightly diary for the period from 29.01.1996 to 31.12.1996 had noted down that all the offices were inspected. The prosecution further mentioned that similarly as many as 69 EDBOs and 2 SOs were assigned to the C.O. for inspection during the year 1997. The C.O. in his fortnightly diary from 01.01.1997 to 31.12.1997 had reported that the inspection work of the offices had been completed. The prosecution further added that the C.O. although reported inspection of all the offices assigned to him during the year 1996 and 1997 did not at all submitted the Inspection Remarks of 53 EDBOs and 1 S.O. in respect of 1996 and 44 EDBOs and 1 S.O. in respect of the year 1997 and thereby violated the provision of the Rule-308(2) of P&T Man.Vol.VIII and Deptt. of Posts, New Delhi letter No.17-3/92-Inspn dtd.2.7.92 according to which the time limit of submission of IR is fixed 10/15 days from the date of inspection and attracted the Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

In support of the allegation the P.O. pleaded the followings --

- i) Since the C.O. did not attend the proceeding till completion of adducement of evidence on behalf of the prosecution / disciplinary authority, it is clearly proved that he has nothing to say on his defence.
- ii) The P.O. emphasises over the deposition of SW-4, Sri O.Dwijamani Singh, Dealing Assistant, IR Branch, Divnl. Office, Manipur who stated that he

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received the fortnightly diary and monthly summary of the C.O. often irregularly during the year 1996 & 1997. He added that he received 25 IRs out of 70 for the year 1997 and none for the year 1996 from the C.O. despite several reminders issued to the C.O. under the instruction of the controlling authority. From this deposition the P.O. asserted that the charge is proved and the C.O. neither visited the 54 offices listed to the ANNEXURE "A" to the charge sheet and hence question does not arise about the receipt of the IR of 1996. Similarly he emphasised that the C.O. neither visited the 45 BOs as listed in ANNEXURE "C" of the charge sheet nor inspected during the year 1997 and the question of submission of IR does not arise.

- iii) The P.O. in para 7 of his brief pleaded that despite repeated reminders the C.O. did not submit the IRs and even respond to the reminders.
  - iv) The P.O. asserted that the C.O. being in-charge of a Sub Division, it is his fundamental duty that he should response the letters received from the Higher Authority. Keeping himself mum, it is proved he has nothing to say and neglected the order of the higher authority.
  - v) The P.O. further added that in reply to the question to the fact going against him made by the I.O. The C.O. reply "uncorroborated" which means the official has nothing to say against those points and thereby the charge is proved.
- B. In article-II the prosecution put up that the C.O. in his fortnightly diaries and monthly summaries for the period from 01.01.1997 to 31.12.1997 noted the inspection of the following BOs on the date showing against each.
- |    |                      |            |
|----|----------------------|------------|
| a) | Chingjarai EDBO      | 25.02.1997 |
| b) | Sirarakhong EDBO     | 29.03.1997 |
| c) | Kamang Kadching EDBO | 19.05.1997 |
| d) | Sahgshak EDBO        | 10.06.1997 |
| e) | Nungshang EDBO       | 15.07.1997 |
| f) | Pushing EDBO         | 28.07.1997 |

The EDBPMs of these offices intimated to the Director Postal Services in writing that their offices had not been inspected for the year 1997 by the C.O. till writing of the said communications by each of them and alleged that the C.O. did not at all inspected these offices on the date mentioned against each violating the provision of Rule-308(1) of P&T Man.Vol.VIII and Rule-3(1)(i) & 3(1)(iii) of CCS (Conduct) Rules 1964.

The following pleadings had been put forward by the P.O. toward sustaining of the charge.

- i) That the SW-1, Sri Lito Singh, EDBPM, Kamang Kachhing EDBO in his deposition stated that the SIDPOs, Ukhrul, Sri S.B.Hazarika or any other SIDPOs had not visited his office till 25.09.1997 and he did not received any

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Inspection Remarks till then and clearly proved that Sri S.B.Hazarika did not visit or inspect the office.

- ii) That the SW-2, Sri S.Yarangai, EDBPM. Pushing EDBO in his deposition stated that his office was not inspected by the C.O. till 09.10.1997 and thereby proved that the C.O. did not visit and inspect his office till then.
- iii) That the SW-3, Sri V.S.Varaiso, EDBPM. Sahgnshak EDBO in his deposition stated that his office was not inspected after 07.06.1995 till September 1997 for the year 1997 and thereby proved that the C.O. did not visit and inspect the office on the year 1997.
- iv) That on direction of the higher authority, the concerned offices had been asked to know the fact whether the office was actually visited and inspected by the C.O. In reply 25 offices intimated non-inspection of their offices and accordingly the report was submitted to the Chief P.M.G., Shillong on 11.12.1997.
- v) That out of 7 enlisted witnesses, 4 were examined. The rest 3 could not attend the hearing due to non-receipt of summons as these offices are situated in hilly and very backward area. Though they were asked again to attend the hearing at Agartala, they could not due to far distance.
- vi) That Sri Anderson, BPM, Nungsang in his letter dtd.14.10.1999 intimated that his health do not permit him to travel the long distance and as far the enquiry he begged to state that he did not know who was Hazarika, Inspector because he (Hazarika) never visited his office.

9. The case of the defendend.

The C.O. denied the charge and hold that the prosecution miserably failed to prove the charges brought against him. He pleaded the following in support of his claim. The points under 'A' are in r/o article of charge No.I and under 'B' in r/o article of charge No.II.

- A. i) Non-submission of written defence in response to the charges and non-attendance to the inquiry cannot be held as nothing to say in defence.
- ii) The plea of the PA that the reminders were issued asking submission of IR is not correct and the P.O. did not produce any such reminder to sustain the plea. The EXS-1 & EXS-2 not at all proved that the IRs were not submitted.
- iii) EXS-3 to EXS-66 are not at all the documents to prove that the IRs were not submitted, they are not transperating the submission / non-submission of IRs. The deposition of SW-4, Sri O.Dwijamani Singh is not corroborated by the documentary evidences. The deposition might have been made on the basis of some records not from memory as it was not expected to keep the figures of IRs submitted / non-submitted by different inspecting authority of the Division in his

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memory. Non-production of the said documents leads the deposition to be false and fabricated.

- iv) Non-production of hand-to-hand receipt book of receipt and despatch branch of the Divisional Office for the period from January 96 to April 98 had failed to show the actual fact as to handing over the IRs to the inspection branch.
- v) Non-production of additional documents shown by the C.O. viz. Monthly Tour T.A. advance file for the period from July 97 to March 98 of SIDPOs, Ukhrul maintained by the Divisional Office, Imphal and the reasons thereof has interred that the documents if produced be unfavourable to the person who withholds it i.e., prosecution.

B. i) EXS-68 to EXS-72 are not original ones, but photocopy. Therefore secondary evidence and can only be acceptable when the original destroyed or lost or cannot be produced in reasonable time. In this case no such reasons are explained and hence not admissible.

ii) The deposition of SW-1, SW-2 & SW-3 are suffered from short coming of (a) the original letter stated to be written by them to SPOs, Imphal were not shown to them at the time of their deposition & (b) the evidences are not conclusive. Inspection of a BO cannot be confirmed only on the basis of oral statement of the BPM who not alone constitute the establishment. There are other staff and they are equally relevant and material.

iii) Account Book, BO Journal, BO receipt book are the minimum documents, which required to be signed by the inspection authority in course of inspection of a Branch Office. These documents were not produced because, if produced, they would be unfavourable to the charge.

iv) The veracity of the letter written to the SPOs by those witnesses who did not turn up before the inquiry authority could not be tested & the charge of non-inspection of these offices is dried up.

v) Examination of Sri N.C.Haldar, DSPOs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4. But he did not turn up & inference goes against the said Sri N.C.Haldar agreeable to the section 114 of Indian Evidence Act third which emphasis that the court may presume if a man refers to answer a question which he is not compelled to answer by law, the answer if given, would be unfavourable to him.

#### 10. Analysis and assessment of evidences :

- (i) The article of charge-I is for non-submission of IRs in respect of the 54 offices enlisted in ANNEXURE 'A' to the charge sheet reported to have been inspected by the C.O. in the year 1996 as SIDPOs, Ukhrul Sub Division, Manipur Divn. Also for non-submission of IRs of 44 offices enlisted in ANNEXURE 'B' to the

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charge sheet reported to have been inspected in the year 1997 to SDIPOs, Ukhrul Sub Division in Manipur Divn. by the C.O. To prove the charge, the following ingredients are to be satiated.

- (1). That the C.O., during the period in question, worked as SDIPOs, Ukhrul Sub Division.
- (2). That the offices enlisted in ANNEXURE 'A' & ANNEXURE 'B' to the charge sheet were allotted to the SDIPOs for inspection during the year 1996 & 1997 respectively.
- (3). That the aforesaid enlisted offices are reported to have been inspected on the date shown against the respective annexure by the C.O.
- (4). That the C.O. did not submit the IRs in respect of those offices mentioned in the said ANNEXURE 'A' & ANNEXURE 'B'.
  - (a). The C.O. in no stage of the inquiry denied the fact of his working as SDIPOs, Ukhrul Sub Division, in Manipur Division during the period from 29.01.1996 to 31.01.1998. The EXS-3(a) to EXS-48(b), the fortnightly diaries of the C.O. reflected that the C.O. worked as SDIPOs, Ukhrul during the said period except the period from 05.08.1996 to 18.08.1996 and again from 07.04.1997 to 21.04.1997. On both the occasions he was on EL. In addition, those exhibits manifest the enjoyment of EL and restricted holiday during the period from 06.10.1997 to 17.10.1997 by the C.O. Therefore, it can easily be held that the C.O. worked as SDIPOs, Ukhrul Sub Division to the strength mentioned herein above.
  - (b). The EXS-1 & EXS-2 clearly revealed that the offices particularized in the ANNEXURE 'A' & ANNEXURE 'B' were allotted to the SDIPOs, Ukhrul Sub Division for carrying out inspection for the year 1996 and 1997 respectively. There was no denial of the C.O. on this point nor the documents were in question. Thus it can be easily held that these office were allotted enclosed for inspection by the C.O. during the year 1996 and 1997 as categorized in the said ANNEXURE 'A' & ANNEXURE 'B'.
  - (c). The exhibit EXS-3 to EXS-48 are the fortnightly diaries of the SDIPOs, Ukhrul Sub Division for the period of Feb 96 to Dec 97 submitted to the SPOs, the SSPOs and the DPS, Imphal by the C.O. The EXS-49 to EXS-66 are the monthly summary for the period from July 96 to December 97 submitted by the C.O. in the capacity of SDIPOs, Ukhrul to the Divisional Head. The authenticity of these documents are not questioned, nor disordered them by the C.O. in any stage of inquiry. These documents can be taken into account as

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authentic and of C.O.'s. These documents enlightened that the C.O. reported the inspection of the offices enlisted in ANNEXURE 'A' & ANNEXURE 'B' on the date shown against each.

- (d) The P.O. pleaded that the non-attendance of the C.O. clearly proves that the C.O. has nothing to say in his defence. While the C.O. argued that non-submission of written defence in response to the charge and non-attendance to the hearing of the inquiry not at all infer deficiency in defence. The law of the natural justice is that no adverse inference can be drawn for non-submission of written defence statement and non-attendance to the hearing by the C.O. And I don't think this will automatically prove the charge.
- (ii) The P.O. emphasis over the deposition of SW-4. Sri O.Dwijamani Singh, the then Dealing Assistant, IR branch of the Divisional Office, Imphal who has stated that he received 25 IRs out of 70 for the year 1997 and none for the year 1996 from the C.O. From this deposition, the P.O. pleaded that the charge is proved and the C.O. neither visited the offices particularized in ANNEXURE 'A' & 'B' to the charge sheet on the dates shown against each and hence question does not arise about the receipt of the IR. The C.O. averred that the deposition of SW-4 is not corroborated by the documentary evidences and the deposition might have been made on the basis of some records not from his memory as it was not expected to keep the figure of IRs submitted / not submitted by the different inspecting authority of the Division in his memory and non-production of the documents leads the deposition to be false and fabricated. Although the veracity of the deposition of SW-4 was not tested by the C.O. in course of hearing, but putting the above argument, a question mark is invited. One cannot keep in his memory how much what is what unless he maintains a record. Non-production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by the other documents produced.
- (iii) The P.O. further pleaded that despite repeated reminders the C.O. did not submit the IRs and even paid no response to the reminders. In course of inquiry no such pleading except in the brief was put forward by the P.O. and not any documentary prove was produced. The allegation was also not brought in the charge sheet or in the statement of imputation therein. It is an extenuous and have no weightage.
- (iv) The C.O. further added that the hand-to-hand receipt book for the period from Jan 96 to April 98 of the receipt and despatch branch is a vital document to the instant charge and non-production of the same has created deficiency in proving the charge. The argument of the C.O. cannot be held as correct. This document is not the vital document or primary document but the secondary. This document is required for corroboration to the truth-ness of maintenance of primary document i.e., the account of receipt of IRs. The C.O. has got the power to recall document / witness in case any lacuna arises on the evidence already adduced. But he cannot call witness or new document unless and otherwise mentioned by the either party

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and dropped later on. Or. name of which not come up in course of inquiry or mention in the statement of imputation or misbehaviour or misconduct. Calling of such document / witness is tantamount to bringing of personal knowledge. Therefore, the register of receipt of IR was not called for.

- (v) The C.O. strongly pleaded that non-production of additional document sought by the C.O. and permitted by the I.O. viz. monthly tour T.A. advance file for the period from July 97 to March 98 of SDIPOs, Ukhrul maintained in the Divnl. Office, Imphal and non-disclose of reasons of non-production has handicapped him in submission of effective defence. He urges to infer that the documents if produced, the unfavourable to the person who withhold it, i.e., prosecution. This argument has got irresistible forces. In course of requisition of the document the C.O. shown the relevancy of the document to the case as "First T.A. advances were not released on the ground that no IRs were submitted. But, later on, when the IRs were submitted T.A. advances were also released subsequently. It is necessarily ascertained under what circumstances the tour T.A. advances released subsequently". This relevancy was accepted by me and requisition for the documents was made followed by several reminders but no effect. Even no reason of withholding of the documents by the custodian was communicated. The P.O. also could not explain the reason of non-discovery of the document either in course of inquiry nor in his brief. The P.O. in his brief is quite silent on this score. And therefore, I can draw the inference that if the document produced, the position of non-submission of IRs would have not been supported what alleged to have.

From what discussed above at para 1(a) to 1(d) it is stood that while the ingredients delineated at para 1(1) to 1(3) are satisfied, the ingredients at para 1(4) is not satisfied and therefore, hardly sustained the article of charge-1

- 10.1. In article of charge No. II it is alleged that the C.O. while working as SDIPOs, Ukhrul during the period from 29.01.1996 to 31.01.1998 had shown inspection of following particularized offices on the date shown against each during the year 1997 in his fortnightly diaries of the year but he had not practically inspected on those dates or any subsequent dates of the year as asserted by the EDBPMs of those offices and thereby violated the provision of Rule-308(1) of P&T Man. Vol. VIII and failed to maintain absolute integrity, exhibited himself in a manner unbecoming of a Govt. servant attracted the provision of Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

i)	Chingjarai EDBO	on	25.02.1997
ii)	Sirarakhong EDBO	on	29.02.1997
iii)	Kamang Kakching EDBO	on	19.05.1997
iv)	Sahgshak EDBO	on	10.06.1997
v)	Nungshang EDBO	on	15.07.1997
vi)	Pushing EDBO	on	28.07.1997

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10.2. a) To sustain the charge, the following components are required to be sustained.

- (1) That the C.O. worked as SDIPOs during the period from 29.01.1996 to 31.01.1998.
  - (2) That the offices mentioned in the sub-para were allotted to the SDIPOs, Ukhrul for carrying out inspection during the year 1997
  - (3) That the offices were reported to have been inspected by the C.O. on the date shown against each.
  - (4) That the C.O. did not practically inspected these offices on the date shown against each and thereby violated the provision of Rule-308(1) of P&T Man. Vol. VIII and Rule-3(1)(i) & 3(1)(iii) of CCS (Conduct) Rules, 1964.
- b) As observed in sub-para 1(a) supra it is well settled that the C.O. worked as SDIPOs, Ukhrul during the period from 29.01.1996 to 31.01.1998 except the period from 05.08.1996 to 18.08.1996, from 07.04.1997 to 21.04.1997 and from 06.10.1997 to 17.10.1997 during which he was on EL & CL.
- c) The EXS-2 postulates that the offices particularized in the statement of imputation of misconduct or misbehaviour in support of charge of article-II were allotted to the C.O. for carrying out inspection during the year 1997. There was no denial of the C.O. on this point nor the document is disputed. Therefore, it is stood that these offices were allotted to the C.O. for carrying out inspection in the year 1997.
- d) The exhibits EXS-28(a) & (b), EXS-30, EXS-34(a) & (b), EXS-35(a) & (b), EXS-37(a) & (b) and EXS-38(a) & (b) are the diary of the C.O. for the 2<sup>nd</sup> fortnight of Feb 97, 2<sup>nd</sup> fortnight of March 97, 2<sup>nd</sup> fortnight of May 97, 1<sup>st</sup> fortnight of June 97, 1<sup>st</sup> fortnight of July 97 and 2<sup>nd</sup> fortnight of July 97 reflected that the C.O. reported to have inspected Chingjarai EDBO, Sirarakhong EDBO, Kamang Kachang EDBO, Sa'ngsha' EDBO, Nungshang EDBO and Pushing EDBO on 25.02.1997, 29.03.1997, 19.05.1997, 10.06.1997, 15.07.1997 & 28.07.1997 respectively. The authenticity of the documents were not questioned nor disowned by the C.O. Therefore, these documents can be taken into account as authentic and therefore it can easily be held that the C.O. had reported to the Divnl. Head inspection of these offices on the date shown against each.
- e) (i) The C.O. pleaded that the EXS-68 to EXS-72 are not the originals ones, but photocopy. Therefore secondary evidence and cannot be accepted unless the original is reported destroyed or lost or not able to produce in reasonable time. As no such reasons are explained or disclosed by the prosecution the document cannot be taken into account. He further pleaded that the veracity of the letter written to the SPOs, Imphal by those witnesses, who did not turn up before the

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inquiry authority could not be tested and the charge of non-inspection of their offices is dried up. The contention of the C.O. is examined and find that the EXS-68, EXS-70 and EXS-69 were authenticated by the SW-1, SW-2 & SW-3 in course of deposition made before me and hence these documents are authentic documents and can be taken into account without any question. The veracity of EXS-71 to EXS-72 could not be tested nor could be authenticated in course of inquiry due to non-attendance of the respective writer who were summoned in two occasions. Since these documents were submitted beyond the knowledge of the C.O. and these are the photocopies of the reported letters, these documents cannot be entertained as authentic.

- (ii) The P.O. to sustain the charge mainly depend upon the deposition of the SW-1, SW-2 & SW-3 and pleaded that they have categorically stated their office were not inspected by the C.O. on the date shown against each in the imputation of charge of article-II. The C.O. pleaded that the deposition of SW-1, SW-2 & SW-3 are suffered from shortcoming of (a) the original letter stated to be written by them to the SPOs, Imphal were not shown to them at the time of deposition and (b) the evidence are not conclusive. He further added that inspection of a B.O. cannot be confirmed only on the basis of oral statement of a BPM who is not alone constitute the establishment. There are other staff and equally relevant and material. The averment of the C.O. is not at all on correct putting. The photocopy of the letters written by the SW-1, SW-2 & SW-3 were shown to them at the time of deposition made before the I.O. and they admitted that these documents were written by them and sent to the SPOs concerned. It also cannot be held that their evidences are not conclusive as no other staff of the offices is produced as witness. They are being in-charge of the respective offices are mainly concern to the inspection and without them their office cannot be inspected while other staff of the establishment may or may not be present. Unless the veracity of the deposition of a witness is in question no collaborative evidence is necessary. The SW-1, Sri L.Ito Singh, EDBPM, Kamang Kakching EDBO categorically stated that the C.O. did not visit his office till 25.09.1997 and also he did not receive any inspection remark till then. The SW-2, Sri S.Yarangai, EDBPM, Puslung EDBO authenticated that EXS-70 as a photocopy of his letter and categorically stated that his office was not inspected by the C.O. till 09.10.1997. Again SW-3, Sri V.S.Variso, EDBPM, Sahganshak EDBO also authenticated that the EXS-69 as of photocopy of his letter and emphasised that his office was not inspected by the C.O. up to Sept '97. The deposition of all these witnesses have not been questioned nor appeared any doubt on the truth of their deposition. Therefore, the depositions can be taken into account as a fact.

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- (iii) The P.O. further pleaded that the higher authority asked to know the fact whether the offices were actually visited and inspected by the C.O. On query, 25 offices intimated non-inspection of their offices and accordingly a report was submitted to the C.O., Shillong. Nothing in this sort was enumerated in the charge of statement of imputation nor any document on this behalf was produced during the enquiry. Therefore, it is an extraneous matter and cannot be waited.
- (iv) The P.O. again pleaded that the three enlisted witness could not attend the hearing due to non-receipt of summons as their offices are situated in very backward and hilly area. Although they were summoned again to attend the hearing at Agartala, they did not due to far distance. This is not based on fact. The summons were sent to the P.O. for serving on the prosecution witness under Regd. Post vide Agartala H.O. RL No.234 dtd.24.8.99 with A/D and the said RL was received by him on 2.9.99 while the date of appearance of these witness was 17.9.99 and there was ample time to reach the summons to the respective witness. The transit can at the best requires 5 days to reach the corner of the Division. However, an opportunity was given to them to attend at Agartala. The distance cannot be a valid reason on the way of attending the proceedings. The P.O. should have ensured that his witnesses were attended on the fixed date and time. It is inactiveness on the part of the prosecution that their witnesses did not attend the hearing despite opportunities are offered.
- (v) The P.O. pleaded that Sri A.S. Anderson, BPML, Nungsang B.O. intimated him in letter dtd.14.10.99 that Sri Anderson could not attend due to his illness and categorically stated he do not know who was Hazarika, Inspector because he (Hazarika) never visited his office. No such letter is received by me, nor this type of document could be taken into account and therefore discarded.
- (vi) The C.O. pleaded that the account book, B.O. Journal and B.O. Receipt book are the minimum documents are required to be signed by the inspecting authority in course of inspection of a B.O. These documents were not produced because if produced they would be unfavourable to the charge. This argument cannot be held a valid one. This document could be produced in support of the allegation but without them the issue can be decided one-way or the other way. These documents are not at all a part of a document or series of documents without which the series will not be completed. As a result these documents are not required to fill up the lacuna or in evidence produced before me. These are other independent set of documents.

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(vii) The C.O. again pleaded that the examination of Sri N.C.Haldar, Dy. Supdt. of POs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4 but he did not turn up and emphasise that the inference may be drawn presuming that if a man refuse to answer question who is not compelled to answer by law, answer if given, would be unfavourable to him agreeable to the section 114 of Indian Evidence Act. The N.C.Haldar, Dy. Supdt. of POs, Imphal was cited as defence witness by the C.O. and summon was issued accordingly. Sri Haldar did not turn up for recording deposition on the date fixed for, instead expressed his willingness to the Disc. Authority endorsing a copy to the I.O. The C.O. did not press for further summoning of Sri N.C.Haldar as defence witness. Therefore, he was dropped. Again the I.O. was got no statutory power unless Govt. of India empower him under the enquiry act and in this instant case this was not done. Unless a person appeared before the I.O. for recording deposition and put question thereof, it cannot be said he did not answer the question and presumption can be drawn that if answered it would be unfavourable to the prosecution. It can be unfavourable to the defence also equally. This depends upon the question what would have been put if attended. The provision of section 114 of India Evidence Act is not applicable. Moreover, the witness was of the defence not of the prosecution. Nowhere in the charge sheet or in the statement of imputation the name of Sri N.C.Haldar or the designation of the Dy. Supdt. or the Supdt. was mentioned and therefore the deposition of the said Sri N.C.Haldar cannot be said material. His deposition was proposed for clarification of circumstances under which the exhibit EXS-68 to EXS-72 were addressed to the Supdt. of POs, Imphal. The circumstance under which the EXS-68, EXS-69 & EXS-70 written by the author of the letters, could have been got clarified by the cross examining them by the C.O., who did not avail the opportunity offered to him. Therefore, the argument mentioned to have made in this para by the C.O. is not sustained.

(viii) Under the conspectus of what discussed in para 10.2 to above, it is established that the C.O. had shown in his fortnightly diaries, EXS-34(a) & (b), EXS-35 (a) & (b) and EXS-38 (a) & (b) had reported inspection of Kamang Kakchingh EDBO, Sahgsahk EDBO and Pushing EDBO on 19.5.97, 10.6.97 & 28.7.97 but he did not actually visit the offices on those dates or any other day till 17.10.97, Sept 97 and 9.10.97 respectively.

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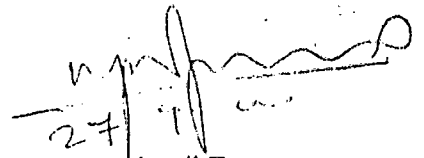
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### FINDINGS

11. On the basis of documentary and oral evidences adduced in the case before me and in view of the reasons given, I hold that the article of charge-I not proved and article of charge no. II proved to the strength of 3 EDBOs particularised at para 10.2 (e)(vii) out of six alleged to.
- 



(Sunil Das)

Dy. Supdt. of Post Offices

O/o the D.P.S., Agartala

&

Inquiry Officer

attested

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21/10/22  
Aob

Agartala A-28/ Sabarom RL No. 3046  
S-25/11/2000

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To  
The Director of Postal Services,  
Nagaland, Kohima-797 001.

Sub:- Representation against the inquiry report  
submitted by Sri Sunil Das, Dy. Supdt. of  
Post Offices, Agartala (Inquiry Officer).

Ref:- Your letter No. Rule-14/S.B. Hazarika Dated, 12.10.00.

Sir,

The representation against the inquiry report submitted  
by the Inquiry Officer has been submitted as follows.

1. The I.O. has reported in the findings of his inquiry report  
that the charge under Article-I has not been proved and the  
charge under Article-II has been partially proved to the extent  
of 3 EDBOs out of 6 EDBOs as these three EDBOs viz. Kameng Kak-  
ching, Shamshak and Pushing were found to be not inspected by  
the C.O.

2. The findings of the I.O. in respect of Article-I is correct  
while the findings of the Article-II in respect of the above 3 E  
EDBOs is not correct the reasons for which have been enumerated  
below in the succeeding paras.

3. That, the offices mentioned in para-1 above were found to  
be not inspected on the basis of written statements and oral  
evidences (depositions) of the BPMs of those EDBOs viz.

- |  |      |
|--|------|
| (1) L. It Singh, EDBPM, Kameng Kakching- | SW-1 |
| (2) S. Yarngai, EDBPM, Pushing           | SW-2 |
| (3) V. S. Vareiso, EDBPM, Shamshak       | SW-3 |

4. That, the dates of examination of those witnesses were  
fixed first by the I.O. from 16.9.99 to 20.9.99 at Imphal in  
the o/o the DPS, Imphal when the C.O. was functioning as C.I.  
in the o/o the DPS, Kohima.

5. That, the C.O. was not relieved of his duties by his centre-  
lling authority i.e. the DPS, Kohima after attending the inquiry at  
Imphal and so the C.O. could not attend the inquiry.

6. That, the I.O. held the inquiry ex-parte and the SWS were  
allowed to be examined by the P.O. in the absence of the C.O.  
and thereby the C.O. was denied the opportunity to cross examine  
the SWS to prove his innocence and thereby the principles of  
natural justice were violated.

7. That, the I.O. was appointed by the <sup>then</sup> Disciplinary <sup>then</sup> Authority  
i.e. the DPS, Imphal on 8.5.98 and the I.O. held the regular  
hearing of the case for examination of the SWS on 16.9.99 to  
20.9.99 (15.9.99 for production of documents for bringing into  
record). It is seen that the I.O. took more than 1 1/2 yrs time to  
fix the first date of examination of the SWS; but he could not  
afford even one month's time to the C.O. by adjourning the  
hearing. It is not understood why the I.O. was so hurry and  
hustle to hold the inquiry ex-parte and to allow to examine  
the SWS in absence of the C.O. The I.O. also did not assign

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reasons in his orders dated 15.9.99, 16.9.99, 17.9.99, & 18.9.99 justifying his action in holding the inquiry ex-parte and why the proceedings could not be adjourned till a further date or what miscarriage of justice would have happened had the proceedings been adjourned.

8. That, the decision of the I.O. to hold the inquiry ex-parte and to allow the examination of the SWS in absence of the C.O. was unjust, unfair and unwarranted. Because, total 6 SWS were summoned to be examined during the period from 16.9.99 to 20.9.99 in support of the charges under Article II out of which only 3 SWS turned up and other 3 SWS did not turn up. If I.O. was just, proper, sparing and upright, then it was his upright duty to disallow the examination of other SWS any more; but the I.O. gave another chance for examination of the SWS who did not turn up, and fixed date 21.10.99 for their evidence and summons to SWS were handed over to the P.O. for service to them. By the above act the I.O. gave more time to the P.O. while the C.O. was denied time for cross-examination of the SWS. The I.O., therefore, acted in a partisan manner giving weightage to the scale in favour of the prosecution. Principles of natural justice demand that justice should not only be done but also should be shown that justice has been done. In this case it has not been seen what justice has been done.

9. That, no appeal could be filed against the decision of the I.O. as no appeal lies against any order passed by an I.O. in the course of an inquiry under Rule-14 as per provisions of Rule-22(iii) of the CCS(CCA) rules, 1965. Nevertheless, this was vehemently objected before the I.O. on 22.10.99 in course of inquiry; but the I.O. did not record the plea and objection of the C.O. in his order dated 22.10.99. Hence, it was felt of no use to raise this issue before the I.O. and it was left to be agitated before the Disciplinary authority in the event of adverse report by the I.O.

10. That, under Rule-15(2) of the CCS(CCA) Rules, 1965 the disciplinary authority may reject the findings of the I.O. on any article of charge if the evidence record is sufficient for the purpose. The following are the sufficient record for this purpose:

I.O.'s Inquiry Notice dated 12/23.8.99; I.O.'s Orders Nos. 8 dated 15.9.99, order No. 9 dated 16.9.99, Order No 10 dated 17.9.99; Orders No. 11 dated 18.9.99 and inquiry notice dated 20.9.99 and order No. 14 dated 22.10.99.

It is, therefore, earnestly prayed that having regards to what has been submitted above you would be just and kind to exonerate fully the C.O. of all the charges rejecting the findings of the I.O. in respect of 3 EDBOs found to be not inspected by the C.O. under the charge of Article-II.

Date: - 25/11/00  
20.8.2000

Yours faithfully,

(S.B. HAZARIKA)  
C.O.

Annexure A-24/1

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DEPARTMENT OF POSTS : INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND : KOHIMA - 797001

No. Rule 14/S.B. Hazarika

Dated Kohima the 8-6-2001

In the office memo No. Diary SDIPOs-Ukhrul/97 Dtd. 19.2.98 of DPS Manipur : Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules 1965 against Shri. S.B. Hazarika the then SDIPOs, Ukhrul Dn, Ukhrul. A statement of articles of Charges and a statement of imputation of mis-conduct and mis-behaviour in support of the article of charges and a list of documents by which and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri. S.B. Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri. S.B. Hazarika the then SDIPOs Ukhrul- Dn, Ukhrul.

ARTICLE - I

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub- Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of each of those 54 (fiftyfour) Post Offices, to the Supdt. of Post Offices, Manipur Division Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur- Dn Imphal. Similarly, the said Shri. S.B. Hazarika, had shown to have inspected as many as 70 (Seventy) Post Offices during the period from 01-01-97 to 31-12-97, but had not submitted a copy of the inspection remarks in respect of 45 (fortyfive) Post Offices, to the Supdt. of Post Offices, Manipur- Dn Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur- Dn Imphal. By his above acts, the said Shri. S.B. Hazarika violated the provision of Rule- 300 (2) of P & T Man. Vol VIII read with DEpt. of Posts/ New Delhi letter No. 17-3/92- Inspn. Dated 02-07-1992, and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE - II

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Dn, on the date noted against each.

Q. H. Hazarika  
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Name of the EDBO	Date of Inspn. shown by Shri. S.B. Hazarika
1. Chingjarai EDBO	25-02-1997
2. Sirarakhang EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997
5. Nungshong EDBO	15-07-1997
6. Pushing EDBO	20-07-1997

But, in fact, the said Shri. Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri. S.B. Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII. Rule- 3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. I have gone through the case carefully. Briefly, Shri.S.B.Hazarika, was chargsheeted under Rule 14 of the CCS (CCA) Rules 1965 vide DPS, Manipur Imphal memo no.Diary/SDIPOs Ukhul/97, dtd. 19.2.98 with the following charges:-

i) While working as SDI (P) Ukhul Sub-Divn from 29.1.96 to 31.1.98 he failed to submit inspection reports of 54 Post Offices in the year 1996 and 45 Post Offices in 1997 which were shown to have been inspected by him

ii) For having shown as inspected but did not inspect 6 EDBOs in Ukhul Sub-Divn between 25.2.97 to 28.7.97.

4. Shri.Sunil Das, the then Supdt. of Post Offices, Agartala Divn, Tripura was appointed as the inquiry officer to inquire into the charges framed against Shri.S.B.Hazarika. After adducing both oral and documentary evidences the inquiry officer submitted his inquiry report vide his letter no.SP-1/INQ, dtd. 27.9.2000.

5. As per the findings of the inquiry officer Article I of the charge is not proved and Article-II of the charge as partially proved to the strength of 3 EDBOs out of 6 alleged not to have been inspected.

6. A copy of the report of the inquiry officer was supplied to the charged official for making representation, if any. Shri.Hazarika submitted his representation which was sent by RL NO.3096, dtd. 25.11.2000. While agreeing with the findings of the IO in respect of Article I, Shri.Hazarika disagreed with the findings of the IO in respect of Article-II of the charge on the following grounds:-

i) The BOs alleged not to have been inspected was on the basis of written statements and oral evidence of the BPMs of those three BOs viz. Kameng Kakching, Pushing and Shamshak BOs.

ii) The dates of the examination of those witnesses were fixed from 16.9.99 to 20.9.99 at Imphal when the CO was functioning as C.I in the O/o the DPS Kohima.

iii) The enquiry was held exparte and the state witnesses were allowed to be examined by the PO in the absence of the CO and he was denied the opportunity of cross examination of the state witnesses.

Affidavit

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iv) The IO held regular hearing exparte in a hurry in the absence of the CO and did not record reasons for holding the enquiry exparte.

v) The decision of the IO to hold the enquiry exparte and to allow the examination of the state witnesses in the absence of the CO was unjust, unfair and unwarranted.

vi) Non examination of the state witnesses was objected to by the CO before the IO on 22.10.99 but the IO overruled the objection and did not record the plea and objection of the CO.

The CO, therefore, prayed to the Disciplinary Authority to exonerate him fully of all the charges rejecting the findings of the IO and in respect of 3 EDBOs found to be not inspected by the CO under the charge of Article II.

7. I have examined the chargesheet, deposition of state witnesses, written briefs of the PO and the CO, the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report. While accepting the findings of the inquiry officer in respect of the article II of the charges, the disciplinary authority disagrees with the IO in respect of IO's findings on Article I of the charge for the following reasons:-

i) Although there are short comings on the part of the then Disciplinary Authority in not including certain important documents in the listed documents on the basis of which the articles of charges were proposed to be proved and the presenting officer in not producing all the witnesses and additional documents as asked by the CO and permitted by the IO during the hearings, sufficient documentary and oral evidences have been produced during the oral inquiry to establish the charge against the CO.

ii) The deposition of SW-4, Shri.O.Dwijamani Singh, the then Dealing Asstt. IR branch, O/o the DPS Manipur, Imphal was crucial in substantiating Article I of the charges SW-4 deposed that he received 25 IRs out of 70 for the year 1997 and none for the year 1996. SW-4 also deposed that the CO did not submit the IRs inspite of repeated reminders. The CO challenged that the deposition of SW-4 was not corroborated by documentary evidence and might have been made on the basis of some records and not from his memory as he was not expected to keep the figures of the IRs submitted / not submitted by the different inspecting authority of the division and non production of documents leads the deposition to be false and fabricated. The plea of the CO was accepted by the IO who concluded that non production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by other documentary evidence.

The contention of the IO is not acceptable. SW-4 was a mere witness and he was supposed to answer what he knew to be the truth. He was not supposed to bring the documents along with him until and unless he was asked to do so. He had deposed before the inquiry as he was asked for and it was the duty of the CO to contest what SW-4 deposed during the inquiry.

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iii) The contention of the CO that SW-4 cannot be expected to keep in memory all the figures of IRs submitted / not submitted by inspecting officers and which has been accepted by the IO is also not convincing. SW-4 had been working in the IR branch for a considerable period and it was not an impossible task to remember the numbers of IRs not submitted by the CO in 1996 and 1997. It was not only one or two but the IRs of all the POs stated to have been inspected by the CO in 1996 were alleged not to have been submitted by the CO. 53 IRs of 1997 were alleged not to have been submitted by the CO. It was, therefore, not a difficult thing for the SW-4 to keep in mind the number of IRs submitted/ not submitted by the CO.

iv) Another point raised by the CO and accepted by the IO is non-production of additional documents like monthly tour TA advance file for the period from July 1997 to March 98. It was argued by the CO that if the additional documents were produced these would be unfavorable to the prosecution. By this documents the CO tried to prove that subsequent TA advance was not granted unless IRs were submitted. This inference was accepted by the IO. The prosecution should have produced the additional documents as asked by the CO and permitted by the IO. However, on perusal of the records it is seen that though the IO in para 3 of his order no. 4 dtd.22.10.99 mentioned that he decided to call the file, he did not specifically ask the PO or the competent authority to produce the documents. Even if the documents as asked for were produced they are not likely to help the defence of the CO in the absence of any specific order which the CO should have produced if there was any. Therefore, in the absence of any specific order in support of the plea of the CO it was wrong to draw any inference due to non-production of certain additional documents. ✓

v) The charge against the CO was that he did not submit some IRs of the POs which he claimed to have inspected in 1996 and 1997. He was given ample opportunities to deny the charge & establish his innocence. However, from the records of the inquiry proceedings it is seen that he did not attend the preliminary and regular hearings and took part in the oral inquiry only after evidence on behalf of the disciplinary authority was closed. For his defence the CO has raised issues like non-production of certain additional documents, non-production of original documents and lacuna in the deposition of state witnesses. But the CO has not produced any documentary or oral evidence to show that he had indeed submitted the IRs of the POs which were stated to have been inspected by him. Copies of the IRs or receipts of registered letters by which the IRs were submitted which are crucial documentary evidence were not produced by the CO to establish his innocence and disprove the charge. ✓

In view of the above, article I of the charge against Shri.S.B.Hazarika is clearly established.

8. As far as Article-II of the charge is concerned the IO has concluded that the charge is partially proved to the extent that out of 6 EDBOs alleged not to have been inspected, non inspection of three BOs namely Kameng Kakching, Pushing and Shamshak BOs has been proved. Even though the inspection of the remaining three BOs has not been established the Disciplinary Authority inclines not to dispute with the findings of the IO and hold the Article-II of the charge against the CO as partially proved.

9. The points raised by the CO in his representation against the report of the Inquiry Officer have also been considered:-

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i) The oral evidence as well as the written statements of the three BPMs whose offices were alleged not to have been inspected are crucial and sufficient evidence to prove that the three BO were not inspected by the CO in the year 1997. The BPMs are the custodians of all the BO records and as such their oral depositions and written statements as to whether the BOs have been inspected or not cannot be dismissed lightly. The other BO staff like EDDAs and EDMCs may or may not be present at the BOs during inspections. But no inspection of BOs can be carried out in the absence of the BPMs who are responsible for safe custody of the BO records. Therefore, unless contrary is proved, their written statements and oral evidence have to be accepted.

15.9.99  
20.9.99  
The CO was not debarred from attending the enquiry at any point of time. In fact he was directed to attend the hearing at Imphal on 21.10.99 vide DPS Kohima memo of even no. dtd. 22.9.99. But the CO deliberately chose not to attend the enquiry. As such the CO cannot claim that he was not relieved of his duty as CI, in the O/o the DPS, Kohima by the controlling authority and as such could not attend the enquiry. Sufficient opportunity was given but the CO did not avail the opportunity to attend the inquiry and cross examine state witnesses. Therefore, he was not denied but he did not avail the opportunity to cross - examine state witnesses.

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iii) As the CO failed to attend the oral hearings fixed by the IO on several dates the enquiry was held exparte upto the completion of the stage of presentation of prosecutions, documents and witnesses. As such non cross examination of State witnesses was due to non attendance of the hearings by the CO on the dates fixed for examination and cross examination of State witnesses.

iv) When the CO deliberately chose not to attend the inquiry on numerous dates fixed for preliminary and regular hearings by the IO and sufficient opportunities afforded to the CO, no specific reason is required to be recorded as to why the enquiry was held exparte.

v) The decision of the IO to hold the enquiry exparte and to allow the examination of State Witnesses was in order. When the CO chose not to attend the previous hearing there was no question of postponing the examination of witnesses due to the absence of the CO. If for any reason the CO could not attend the hearing on a particular date fixed by the IO he could have informed the IO and prayed for a postponement / adjournment. But there was no written communication to the IO from the CO's side.

10. In short sufficient opportunities were given to the CO to deny the charges and establish his innocence. But Shri.S.B.Hazarika just ignored the enquiry upto the stage of presentation of prosecution, documents and witnesses. Apart from pointing out deficiencies in the inquiry, he has not produced any relevant documentary or oral evidence to establish his innocence and disprove the charges. The charges against Shri.S.B.Hazarika are very serious. One of the main duties and functions of a Sub-Divisional Inspector of Post Offices, is the annual inspection of Post Offices. But Shri.Hazarika failed to carry out this main function of an IPO while working as SDI (P) Ukhrul Sub-Division between 29.1.96 to 31.1.98. Such kind of an irresponsible official is not fit to be retained in service. However, considering the facts and circumstances of the case. I feel that Shri.Hazarika should be given another opportunity to reform himself by retaining him in service and impose the following punishment on Shri. S.B. Hazarika :-

A Hazarika  
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ORDER

Therefore, I Shri.F.P.Solo , Director of Postal Services, Nagaland Kohima and the Disciplinary Authority hereby order that the pay of Shri.S.B. Hazarika, the then SDIPOs Ukhru Sub-Dn now C.I.Divisional Office, Kohima (U/S) be reduced by 6 (six) stages from Rs.6650/- to Rs.5500/- in the time scale of Rs. 5500-175-9000/- for a period of three years w.e.f. 1-06-2001 with cumulative effect. It is further directed that Shri. S.B.Hazarika, C.I.Divl. Office, Kohima (U/S) will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay.

sd-

(F.P.Solo)  
Director of Postal Services  
Nagaland : Kohima - 797001

Copy to :-

1. The CPMG (INV) N.E.Circle , Shillong for information
2. The Postmaster Kohima H.O. for information and n/a.
3. The DA(P) Kolkata (Through the Postmaster Kohima H.O.)
4. The Director Of Postal services, Manipur : Imphal for information
5. Shri. S.B.Hazarika, C.I. Divl. Office Kohima (u/s)
6. PF of the Official
7. CR of the Official.
8. Office copy.

8/6/01  
(F.P.Solo)  
Director of Postal Services  
Nagaland : Kohima - 797001

Attended  
b  
24/10/02  
ABC

*Assume A-25/*

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*132*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO. 347/2001

Applicant (S) *S. B. Hazarika*

Respondant(S) *U.O.I. Gauhati*

Advocate for the Applicant: *In Person*

Advocate for the Respondant: *Cable*

Notes of the Registry

Date

Order of the Tribunal

*31.8.01*

Present : Mr. Justice D.N. Chowdhury,  
Vice-Chairman.

Heard Mr. S.B. Hazarika, in person and also  
Mr. A. Das Roy, learned Sr. C.G.S.C..

The order dated 8.6.2001 imposing the penalty of reduction of pay by six stages is assailed in this proceeding. Sri Hazarika, who argued his case, strenuously urged that the impugned order of penalty is liable to be quashed as arbitrary and discriminatory and violative of the article 14 of the Constitution of India. I am however, not inclined to go into the merits of the decision at this stage. Since on the own showing of Mr. Hazarika the order assailed here is appealable. I am therefore of the opinion that the ends of justice will be met if a direction is given to the applicant to prefer Statutory Appeal before the competent authority. Sri Hazarika, is accordingly granted three weeks time to prefer an Appeal, if such Appeal is filed the appellate authority shall examine the same and pass a reasoned order preferably within two months from the receipt of the appeal. The appellate authority is ordered to conclude the same within the period specified preferably within 2 months. Till the completion of the exercise, the penalty imposed on the



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*[Signature]*



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31.8.01

applicant order dated 8.6.2001 by Director of Postal, ~~Sxxxxxx~~ Nagaland shall remain suspended.



The application thus stands disposed of. There, shall however, be no order as to costs.

Sd/VICE CHAIRMAN

Memo. No. 3464

Dtd 17-9-01

Copy for information and necessary action to:

- 1) Smt S.B. Hazarika, S/O Lt. Khargeswar Hazarika, C.I. (Postal), Divisional Office Kohima - 797002.
- 2) Mr. A. Deb Roy, Sr. C.G.S.C, GAT, Guwahati Bench, Guwahati.

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AB

*Handwritten signature/initials*  
13/9/01  
Section Officer (2)  
12/9/2001

Annexure A-28f

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APPEAL

To  
The Chief postmaster General,  
N.E. Circle, Shillong-793001.

FORM NO. 1  
(SEE RULE 7)

Sub:- Appeal u/r 23 (11) of CCS(CCA) Rules, 1965.

I N D E X

Sl. No.	Description of documents relied upon	page
1A	Copy of Orders dtd. 31.8.01 of CAT, Guwahati.	1A - 2A
1.	Appeal	1 - 16
2.	Impugned order dtd. 08.06.01	17 - 28 (overleft 29 - 34)
3.	Annexure. A-1 (i-x) Copy of charge-sheet dtd. 19.2.98.	35 - 44
4.	" A-2 Copy of Appointment order of IO.	45
5.	" A-3 Copy of Appointment order of PO	46
6.	" A-4 Copy of Inquiry Notice dtd. 12/28.8.99.	47
7.	" A-5 (i-vi) proceeding dtd. 15.9.99.	48 - 53
8.	" A-6 Copy of proceeding dtd. 16.9.99	54
9.	" A-7 (i-ii) Copy of Deposition of SW-1 dtd. 16/9/99.	55 - 56
10.	" A-8 Copy of proceeding dtd. 17.9.99	57
11.	" A-9 Copy of Deposition of SW-2 dtd. 17.9.99.	58
12.	" A-10 Copy of Deposition of SW-3 dtd. 17.9.99.	59
13.	" A-11 Copy of Deposition of SW-4 dtd. 17.9.99.	60
14.	" A-12 (i-ii) Copy of proceeding dtd. 18.9.99.	61 - 62
15.	" A-13 Copy of Inquiry Notice dtd. 20.9.99.	63
16.	" A-14 Copy of order DPS, Kohima dtd. 22/9/99.	64
17.	" A-15 Copy of proceeding dtd. 21/x/99.	65

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9/1/02 RSP

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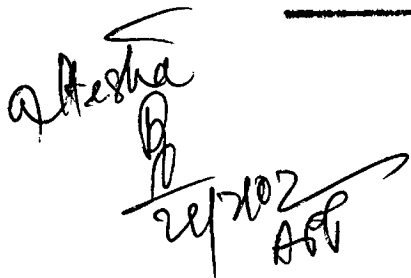
(11)

Sl.No.	Description of the Document relied upon	Page Nos.
18.	Annexure.A-16 (i-ii) Copy of list of DW & Addl. documents dtd.22.10.99.	66 - 67
19.	" A-17 Copy of proceeding dtd. 22.10.99.	68
20.	" A-18 Copy of order of appointment of Adhoc.P.O.	69
21.	" A-19 Copy of inquiry notice dtd.20.4.2000.	70
22.	" A-20 (i-ii) Copy of Proceeding dated 10.5.2000.	71 - 72
23.	" A-21 Copy of endorsement furnishing Inquiry report.	73
24.	" A-22( i-xx) Copy of Inquiry Report dated 27.9.2000.	74 - 93
25.	" A-23 (i-ii) Copy of representation against inquiry report.	94 - 95
26.	Annexure. A-24 (i-iv) Copy of Final order dt. 08.6.01.	96 -102

  
( S.B.HAZARIKA)

Date :- 12.9.2001.

Signature of the appellant.

  
24/10/02  
Adl

A-26/100

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- APPEAL -

To

The Chief postmaster General  
North Eastern Circle,  
Shillong-793001.  
(Appellate Authority)

Subj:- Appeal under Sub-rule (ii) of Rule 23  
of the CCS (CCA) Rules, 1965 against the  
orders passed by the DPS, Nagaland,  
Kohima.

Attested  
By  
24/10/2012  
HGF

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DETAILS OF APPEAL

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPEAL IS  
PREFERRED.

Impugned punishment order No. Rule-14/S.B. Hazarika dated Kohima 8.6.2001 passed by DPS, Kohima imposing the major penalty on the appellant that his pay be reduced by 6(stk) stages from Rs. 6550/- to Rs. 5500/- in the time scale of Rs. 5500-175-9000/- for a period of 3 years w.e.f. 1.6.2001 with cumulative effect with further direction that the appellant will not earn increments of pay during the period of reduction and that on the expiry of the period, the reduction will have the effect of postponing his future increments of pay.

2. LIMITATION :

The appellant further declares that the appeal is within the limitation period prescribed by the Central Administrative Tribunal, Guwahati Bench in its order dtd. 31.8.01 in Case No. C.A. -347/2001.

3. FACTS OF THE CASE :

3.1 That, the appellant was posted as Sub-Divisional Inspector of post offices (S.D.IOPS for short) at Ukhrul under Manipur postal division under the administrative control of the DPS, Manipur, Imphal on 29.1.1996.

3.2 That, on 19.2.98 the DPS, Imphal issued a charge-sheet under Rule 14 of the CCS (Gen.) Rules, 1965 against the appellant. The charge-sheet consisted of two Articles of charges viz. Article-I and Article -II.

1) In Article-I it was charged that during the period from 29.01.96 to 31.01.98 the appellant had shown to have inspected 54 post offices in the year 1996. But he had not submitted any inspection report in respect of any of the said 54 Post Offices; that the appellant had shown to have inspected 70 post offices in the year 1997 but he had not submitted inspection reports in respect of 45 post offices to the DPS, Imphal and by the above act the appellant violated x some Departmental rules and Rule 3(1) (ii) of the CCS (conduct) Rules, 1964.

A-26/114

24/10/02  
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(ii) In Article-II it was charged that the appellant while acting as SDIPOs, Ukhrul Sub-Divn. during the aforesaid period he had shown to have inspected 6 (six) EDBOs (Extra Departmental Branch Offices) on various dates viz.

Chingjaroi EDBO	on 25.02.97
Sirarakhang EDBO	on 29.03.97
Kameng Kakching EDBO	on 19.05.97
Shangshak EDBO	on 19.06.97
Nungshang EDBO	on 15.07.97
Pushing EDBO	on 28.07.97

But the appellant in fact, did not inspect the above offices on any date therefore, the appellant violated the Departmental Rules and Rule 3(1) (i) & (iii) of the CCS (Conduct) Rules, 1964.

A copy of the Charge-sheet dt. 19.2.98 is annexed herewith and marked as Annexure A-1.

3.3

That, on 8.5.98 the DPS, Imphal appointed Sri S.C. Das the Dy. Supdt. of post Offices Agartala as Inquiry Officer to inquire into charges and appointed Sri N.C. Halder- the Dy. Supdt. of post Offices, Imphal as presenting officer to present the case on behalf of the Disciplinary Authority i.e. the DPS, Imphal.

A copy of the appointment order of Inquiry Officer is annexed herewith and marked herewith and marked as Annexure A-2.

A copy of the appoint Order of presenting officer is annexed herewith and marked as Annexure A-3.

3.4

That, thereafter, the appellant was transferred and posted as C.I. in the Office of the DPS, Kohima and the appellant joined the new incumbancy on 02.02.99. As per rules the DPS, Kohima became the new Disciplinary Authority in place of DPS, Imphal.

3.5

That, on 12/23.08.99 while the appellant was working as C.I. in the office of the DPS, Kohima the inquiry officer (I.O. for short) issued notice to attend inquiry at Imphal

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in the office of the DPS Imphal from 15.9.99 to 20.9.99 for evidence on behalf of the prosecution and defence vide his Notice No. INQ/SBH/98-Vol.I dtd. 12/23.08.99, the copies of which were endorsed to all concerned including to the DPS, Kohima with direction to relieve the appellant of his duties to attend inquiry.

A copy of the inquiry Notice dtd. 12/23.08.99 is annexed herewith and marked as Annexure A-4.

- 3.6 That, the appellant was neither relieved of his duties nor any order for relief of the appellant was issued by the DPS, Kohima in compliance to the direction of the I.O. for attending the inquiry at Imphal on the appointed dates i.e. from 15.9.99 to 20.9.99.

- 3.7 That, the appellant for being not relieved of his duties by the DPS, Kohima could not attend inquiry on 15.9.99 at Imphal and the I.O. held the inquiry ex-parte and, on that day the listed documents on behalf of the prosecution were produced and brought into records.

A copy of the ex-parte proceedings dtd. 15/9/99 is annexed herewith and marked as Annexure. A-5.

- 3.8 That, on 16.9.99 i.e. the following day also the I.O. held the inquiry ex-parte and allowed the State Witnesses (SW) to be examined by the presenting officer and on that day SW-I, Sri L. Ito Singh was examined in absence of the appellant without ordering for cross-examination by the appellant at a later stage.

A copy of the ex-parte proceeding dtd. 16.9.99 is annexed herewith and marked as Annexure- A-6.

And

A copy of the deposition of Sri L.Ito Singh (SW-I) is annexed herewith and marked as Annexure. A-7.

- 3.9 That, on 17.9.99 i.e. the following day also the I.O. held the inquiry ex-parte and allowed the P.O. (Presenting Officer) to examine the

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SWS who attended, On that day 3 SWS viz-Sri S. Yarangal- SW-2, Sri V.S. Vareso-SW.3 and Sri O. Dwijamani Singh-SW.4 were examined in the absence of the appellant without ordering for Cross-examination of them by the appellant at a later stage.

A copy of the ex-parte proceeding dtd. 17.9.99 is annexed and marked as Annexure. A-8.

A copy of the deposition of SW-2 dtd. 17.9.99 is annexed and marked as Annexure. A-9.

A copy of the deposition of SW-3 dtd. 17.9.99 is annexed herewith and marked as Annexure. A-10.

A copy of the deposition of SW-4 dtd. 17.9.99 is annexed herewith and marked as Annexure. A-11.

3.10 That, on 18.9.99 i.e. the following day also ex-parte hearing was held by the I.O. As the SWS who were summoned for examination on that day did not turn up the proceeding was adjourned.

A copy of the ex-parte proceeding dtd. 18.9.99 is annexed herewith and marked as Annexure.A-12.

3.11 That, on 20/9/99 the I.O. issued notice of Inquiry to be held on 21.10.99 at Agartala in the Office of the Director of Postal Services, Agartala the copies of which were endorsed to all concerned including the DPS, Kohima to relieve the appellant of his duties to attend inquiry at Agartala. The DPS, Kohima also issued orders this time on 22/9/99 to attend inquiry on 21/10/99 at Agartala (but at Imphal as maintained by the DPS, Kohima at para 9 (ii) & (iii) of his final order dtd. 8.6.01).

A copy of the I.O.'s Notice dtd. 20.9.99 is annexed herewith and marked as Annexure. A-13.

And

A copy of the order dtd. 22/9/99 of Resp. No. 4 is annexed herewith and marked Annexure. A-14.

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24/10/2002  
APP



- 3.12 That, on 21.10.99 the inquiry was held, but it was adjourned immediately after sitting before the appellant attended the inquiry as the SWs who were summoned for examination did not turn up.

A copy of the proceedings dtd. 21/x/99 is annexed herewith and marked as Annexure A-15.

- 3.13. That, on 22/10/99 the inquiry was held again for defence of the appellant who attended the inquiry and submitted his defence. The appellant gave also a list of one defence witness and one additional document to be discovered and produced before the inquiry as there was a possible line of defence.

A copy of the list of defence witness and additional document to be produced as submitted by the appellant on 22.10.99 is annexed herewith and marked as Annexure A-16.

- 3.14. That, the relevancy of the defence witness and the additional document was accerted by the I.O. and decided to summon the Defence witness and call for the additional documents.

A copy of the proceeding dtd. 22/x/99 showing the orders of the I.O. is annexed herewith and marked as Annexure-A-17.

- 3.15. That, on 11.2.2000 the DPS, Kohima appointed one Sri Narayan Das, ASPO's Agartala (South) as Adhoc presenting officer as the regular presenting officer Sri M.C. Halder was named as Defence Witness by the appellant and asked the regular presenting officer officer to hand over the document to the Adhoc presenting officer who was to represent the case on behalf of the prosecution during examination of the regular presenting officer.

A copy of the appointment order of the adhoc presenting officer is annexed herewith and marked as Annexure-A-18.

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24-10-2002  
ASP

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- 7 -

- 3.16. That, on 20/4/2000 the I.O. issued notice to attend inquiry on 10.5.00 at Agartala for production of additional documents and examination of the Defence witness and asked the DPS, Imphal to send the additional documents either through the presenting officer or by insured post.

A copy of the inquiry Notice dtd. 20.4.2000 is annexed herewith and ordered as Annexure- A-19.

- 3.17. That, on 10.5.00 the inquiry was held at Agartala and the appellant attended the inquiry. The adhoc presenting officer, Sri N.C. Das also attended ; but the Defence witness who was the regular presenting officer did not attend. The additional ~~document~~ document as demanded by the appellant and called for by the I.O. was also not produced before the inquiry. The Defence witness was reported to be not willing to appear as such.

A copy of the proceeding dtd. 10/5/00 is annexed herewith and marked as Annexure- A-20.

- 3.18. That on 10.5.00 the evidence on behalf of the appellant had to be closed as it was useless on the part of the appellant to press for summoning of the Defence witness on production of additional documents because the Inquiry Officer was not armed with powers of a Civil Judge vested /Section 5 of the Departmental Inquiries (Enforcement of attendance of witness and production of documents) Act, 1972 to enforce the attendance of the defence witness and production of additional documents. The Inquiry officer was appointed simply under Sub-rule (2) of Rule 14 of the CCS (CCA) Rules, 1965 without authorisation of the Central Govt. to exercise the powers specified in Section 5 of the Inquiries Act. L under

A copy of the order of appointment of Inquiry officer is already annexed herewith and marked as Annexure. A-20

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- 3.19. That, on 12.10.2000 the DPS, Kohima under his endorsement No. Rule-14/S.B. Hazarika dtd. 12.10.2000 forwarded a copy of the inquiry report submitted by the I.O. on 27/9/2000 after taking into *Consideration* of the written briefs submitted by both sides and asked the appellant to represent if any, against the inquiry report within 15 days of the date of receipt of the endorsement.

A copy of the endorsement dtd. 12.10.2000 is annexed herewith and marked as Annexure.A-21.

- 3.20. That, as per inquiry report submitted by the I.O. on 27.9.00 the Inquiry officer found that the Charge under Article-I was not proved but the charge under Article-II was partially proved because in that Article 6 offices were alleged to be not inspected by the appellant but on inquiry 3 offices were found not inspected.

A copy of the Inquiry Report dtd. 27.9.00 is annexed herewith and marked as Annexure. A-22.

- 3.21. That, on 25/11/00 the appellant submitted his representation against the Inquiry report and that the findings of the I.O. in respect of Article-I was correct but the findings in respect of Article-II was not correct because the evidence on the basis of which the charge under Article-II was found to be partially proved was only the oral evidence (deposition) of SW 1, SW2 and SW 3 who were examined in absence of the appellant who was at that time working in the office of the DPS, Kohima but was neither relieved of duties nor was ordered to be relieved by the DPS, Kohima for which he could not attend Inquiry and thereby he was denied the reasonable opportunity to Cross-examine the State witnesses which violated the principles of Natural Justice and urged the DPS, Kohima to exonerate the him fully.

A copy of the representation against the inquiry report is annexed herewith and marked as Annexure- A-23.

Attested  
by  
21/10/02  
HSP

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- 9 -

- 3.22. That, on 08/6/01 the final order disposing the disciplinary proceeding was passed by the disciplinary authority i.e. the DPS, Kohima who disagreed with the findings of the Inquiry Officer in respect of Article-I and agreed with the findings in respect of Article-II and imposed the penalty of reduction of pay of the appellant by 6(six) stages from Rs. 6650/- to Rs. 5500/- in the time scale of Rs. 5500-175-9000 for a period of 3 years w.e.f. 01.6.01 with cumulative effect with further direction that the appellant would not earn increments of pay during the period of reduction and that on the expiry of the period the reduction will have the effect of postponing his future increments of pay.

A copy of the final order dtd. 8/6/01 is annexed herewith and marked as

7 Annexure-A-24.

4. Grounds for relief with legal provisions;
- 4.1. Denial of Cross-examination of State Witnesses violates the principles of Natural Justice and vitiates the inquiries :-

The appellant was denied the reasonable opportunity to cross-examine the State Witnesses which is a valuable right of the delinquent to prove his innocence. The I.O. also did not assign reasons in orders as to why the proceedings could not be adjourned on 15.9.99, 16.9.99, 17.9.99, 18.9.99 & 20.9.99 till a later date and what miscarriage of justice would have been caused had the proceedings been adjourned without examining the State Witnesses. Statutory provisions prescribing the mode of inquiry was, therefore, disregarded which vitiated the entire the entire proceedings abinitio. The order of penalty is, therefore, bad in law and is liable to be set aside.

LEGAL PROVISIONS RELIED UPON.

- (i) Rule 14(14) of the CCS(CCA) Rules, 1965.
- (ii) The prosecution witnesses must, ordinarily be examined in the presence of the delinquent, so that he may hear their evidence in support of the charge & cross-examine them before he is called upon to enter into his defence.

Vide Supreme Court Case Law  
- AIR 1963 SC 1719 (1720)

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21/10/02  
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- (iii) The delinquent should be given a reasonable opportunity of cross-examining the witnesses who are examined for the prosecution for the Departmental inquiry.

Vide Supreme Court Case law -

- AIR 1958 SC 300.

- (iv) The requirement is satisfied if a witness examined in the absence of the delinquent at an earlier stage of the proceeding is offered for cross-examination at a later stage.

Vide Supreme Court Case Law -  
- AIR 1963 SC 375.

4.2

Non-production of additional documents also relied upon & demanded by the delinquent amounts to denial of reasonable opportunity and violates the principles of Natural justice :-

The additional documents relied upon by the appellant was not produced by the DPS, Imphal, because, if produced, it would be favourable to the prosecution. By not producing the additional documents the appellant was denied the reasonable opportunity to prove his innocence which also violates the principles of Natural justice as the appellant was denied to inspect the documents relied upon by him. The I.O. was also not intimated by the DPS, Imphal that the production of the Additional Document would be against the public interest or security of the state. The Impugned order of penalty passed by the DPS, Kohima, therefore, is malafide and capricious which is liable to be struck down.

LEGAL PROVISIONS RELIED UPON.

- (1) Govt. Servant entitled to give notice for the discovery and production of unlisted i.e. additional documents.

- Rule 14 (11) (iii) of the CCS (CCA) Rules, 1965.

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APP

- (ii) The I.O. to give requisition to the Custodian of the additional documents for its discovery and production before the I.O.

- Rule 14 (12) of the CCS(CCA) Rules, 1965.

- (iii) The Custodian is required to produce the additional document before the I.O. and if the production of the document is considered opposed to public interest or security of the state its reasons for refusal be intimated.

- Sub-rule (13) of Rule 14 of the CCS (CCA) Rules, 1965.

- (iv) Raizada Trilok Nath Vs. Union of India 1967 (SC) SLR 959.

Supreme Court Case Law-

- (v) State of M.P. Vs. Chintamam Waishanpayan AIR 1961 SC 1623.

Supreme Court Case Law-

- (vi) The delinquent is entitled to inspect even documents not relied upon by the Govt. for purpose of his defence and refusal to let him inspect them vitiates the inquiry. Inspection of such documents for his defence can be insisted upon by him even before filing written statement.

Vide Delhi High Court Case Laws-  
AIR 1971 Delhi 133  
(Delhi) 1970 SLR 400.

**4.3 Refusal of presenting officer to be examined by the delinquent amounts to denial of reasonable opportunity :**

The Presenting officer who was summoned as Defence witness refused to attend the inquiry on the ground that he was not willing to appear as such. The willingness of the presenting officer to appear as Defence witness is irrelevant and what is relevant is his relevancy of evidence in the inquiry. Being & Departmental employee he cannot refuse to attend the inquiry as it is opposed to discipline. The attendance of the presenting officer as Defence

witness could not be enforced as the Inquiry Officer was not vested with powers of a Civil Judge under Section 5 of the Departmental inquiries (Enforcement of attendance of witness and production of documents) Act 1972 for which the appellant had to be affected adversely. By not vesting the I.O. with the powers under the Inquiries Act, 1972 for enforcing the attendance of the Defence witness in the Inquiry the appellant was denied to inspect the Defence witnesses and the reasonable opportunity to prove his innocence which vitiates the proceeding. The order of penalty is, therefore, a nullity which should be quashed.

LEGAL PROVISION RELIED UPON

- (1) The inquiry authority must take every possible step to secure presence of defence witnesses during the inquiry, specially if they happen to be the employees of that Department.

Vide Case Law-

- Krishna Gopal Vs. Director Telegraphs  
60 CWN 692 (1956).

- (ii) It is the duty of the inquiring authority to summon the defence witnesses and for that purpose to write to their employees to direct the witnesses to appear before him for the purpose of examination in the inquiry. It would be highly improper, perverse and unjustified on the part of the inquiry officer to expect the delinquent to produce the witnesses on his own responsibility. Because it is futile to expect the employees to come ~~from~~ forward voluntality without employer's permission, during the office hours, to appear as witness against the Disciplinary Authority and in favour of the ~~delinquent~~ delinquent.

Vide Punjab High Court Case Law-

- Shiv Dutt - Vs. State  
AIR 1962 Punjab 355.

4.4 punishment has been imposed in the absence of supporting evidence :-

- (1) As per inquiry report of the Inquiry officer found that the charge under Article-I was not proved as the additional document demanded by the delinquent was neither discovered and produced before the inquiry nor the I.O. was informed

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Affected  
21/10/2002  
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- 13 -

of the reason for non-production of the said document though the custodian of the document i.e., the DPS, Imphal was requisitioned by the I.O. repeatedly on 26.10.99, 12.01.2000, 23.02.2000 and 20.4.2000 vide para 6 of Annexure A-19 to produce the same. The I.O. held that the document was not produced the charge under Article-I would not be sustained.

The Disciplinary Authority i.e. the DPS, Kohima did not agree with the findings of the I.O. and held that the charge under Article-I was proved. In support of his finding the DPS, Kohima over-emphasized the oral evidence of SW-4 Sri Dwijamani Singh whose deposition was held by him to be crucial in sustaining the charge under Article-I. But the counter finding of the DPS, Kohima is not correct. Because SW-4 was examined on 17.9.99 in absence of the appellant who was at that time working in the office of the DPS, Kohima but he was neither relieved of his duties nor any order was issued for his relief to attend inquiry by the DPS, Kohima whereby the appellant was denied the most valuable right to Cross-examine the SW-4 who was not offered for Cross-examination even at a later stage also. The DPS, Kohima has bypassed this point and tried to divert the attention from this point saying in para 9(ii) of his punishment order as follows :-

"The C.O. was not debarred from attending the inquiry at any time. In fact, he was directed to attend the hearing at Imphal on 21.10.99 vide DPS, Kohima Memo of even No. dtd. 22.9.99".

The above contention of the DPS, Kohima is not at all correct. The DPS, Kohima's memo No. Rule-14/S.B. Hazarika dtd. 22.9.99 (Annexure A-14) was issued to attend inquiry at Agartala on 21/10/99 and not at Imphal where inquiry was held from 15/9/99 to 20.9.99 as per inquiry notice dtd. 12/23.08.99 in respect of which no order was issued by the DPS, Kohima to attend the inquiry. Hence, the evidence of SW-4 is no evidence at all and any finding of guilt on the strength of deposition of SW-4 is not sustainable.

*Attest*  
*[Signature]*  
24/7/02

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4.4 (11) Similarly, in respect of Article-II the I.O. reported that the charge under Article-II was found partially proved because only 3 EDBOs out of 6 EDBOs were found inspected by the appellant as out of 6 SWS who were Branch postmasters of those offices only 3 SWS deposed before the inquiry. The DPS, Kohima accepted the findings of the I.O. in respect of this Article. The findings of the I.O. and agreement thereon of the DPS, Kohima was based on the depositions of SW-1, SW-2 and SW-3; but those SWS were also examined in absence of the appellant on 16.9.99 & 17.9.99 vide Annexures. A-6 & A-8 when the appellant was working in the office of the DPS, Kohima ~~in~~ but he was not relieved of his duties by the DPS, Kohima to attend the inquiry at Imphal which is at a distance of about 150 Kms. and thereby the appellant was denied the reasonable opportunity to cross-examine the SWS even at a later stage of the Inquiry. This is the quality of oral evidence deposed by SW-1, SW-2 and SW-3 and on the strength of such evidence the I.O. has found the charge as proved in respect of 3 offices which was agreed to by the DPS, Kohima i.e. the Disciplinary Authority and the penalty was imposed accordingly.

4.5 The order of punishment is with retrospective effect.

The order of penalty was passed by the DPS, Kohima on 8.6.01; but its effect was ordered to be given from 01.06.01 i.e. with retrospective effect which is not permitted by rules. The order of penalty is to take effect either from the date of issue or from a later date but not from a date prior to the date of issue of the order. The order of penalty is, therefore, void which cannot operate and is liable to be set aside.

5. RELIEF (S) SOUGHT ;

In view of the facts mentioned in para 4 above the appellant prays for the following relief(s) :-

It is prayed that you would be pleased to admit this appeal, call for the entire records of the case, ask the I.O. to send the entire enquiry file maintained by him and hearing the appellant in person (allowing personal hearing) and set aside the impugned order dtd. 8.6.01 passed by the Disciplinary authority i.e. DPS, Kohima.

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And for this act of your kindness your appellant as in duty bound shall ever pray.

GROUND.

5.1 For the grounds stated in sub-paras (1) to (5) of para 4 above the order of penalty is a nullity one besides being arbitrary and faulty disposal of the disciplinary proceeding. The order being worse than the worst one that may happen was issued in total disregard of statutory provisions or rules prescribing the mode of inquiry. The principles of natural justice were violated because the State Witnesses, which may be well described as stock witnesses, were examined in absence of the delinquent official ; because the delinquent was denied the right to cross-examine the SWS ; because the additional documents i.e. defence documents relied upon and demanded by the delinquent were not supplied by the prosecution ; because the defence witness was not produced for examination by the delinquent ; because the findings of the disciplinary authority was based on no evidence and because the conclusion of the proceeding was so wholly arbitrary and capricious that no reasonable person could have easily arrived at the conclusion. The order of penalty is with retrospective effect and the adequacy of penalty is also malefide. The order of penalty is, therefore, so bad in law that it is commonly uncommon in the history of violation principles of Natural Justice and so, it is liable to be struck down as defunct and maleficious.

LEGAL PROVISIONS RELIED UPON

5.1 (1) The right to cross-examination is a very valuable right and, hence, prevention in any way by the inquiry officer of its effective exercise would vitiate the proceedings.

Case Laws referred -

- Chintamani's Case- AIR 1961 SC 1623
- Kashiprasad's Case- 1975 SLJ(Cal.) 19.

5.1 (11) One of the reason for adopting the procedure of recording all evidences in presence of the accused employee is that a witness probably might not dare to make the statement which he might make in his absence.

Case Law referred -

- Medhi Ram Vs. D.F.O.  
AIR 1955 pepsu 172.

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5.1 (iii) It is essential that evidence of all witnesses should be recorded in the presence of the accused employee.

Case Laws referred :

- Union of India Vs. T.R.Varma, AIR 1957 SC 882.
- S.Nenjundeswar Vs. State, AIR 1960 Mysore 159.

5.1 (iv) Request for access to relevant documents is violative of the Principles of Natural justice and the requirements of Article 311(2) of the Constitution of India which vitiates the proceedings.

Case laws referred:-

- State of M.P. Vs. Chitaram Vaishampayam  
AIR 1961 SC 1623.

6. INTERIM ORDER, IF ANY, PRAYED FOR.

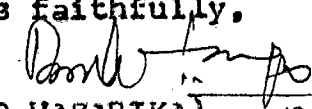
The penalty imposed on the appellant by the Disciplinary Authority i.e. The Director of Postal Services, Nagaland, Kohima has already been SUSPENDED by the Hon'ble Central Administrative Tribunal, Guwahati Bench vide its Order dated 31.8.2001 in Case No.O.A.-347/2001 (copy enclosed at the top of the Appeal) till the disposal of the appeal by the Appellate Authority who has been directed to dispose of the appeal within 2(two) months from the date of receipt of the appeal from the appellant who has been granted three weeks time to prefer the appeal.

Thanking you.

Enclo:- Copy of -

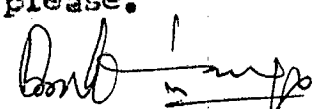
1. The impugned Order.
2. Annexures A1 to A24.
3. CAT's Order.

Yours faithfully,

  
(S.B. HAZARIKA) 12/9/01  
C.I. (Postal) Divisional Office  
Kohima-797 001.

Copy to:-

The Director of Postal Services, Nagaland, Kohima  
w/r to his Memo. No. Rule-14/S.B. Hazarika dtd.  
03.6.01 for information and n/a please.

  
(S.B. HAZARIKA) 12/9/01  
C.I. Nagaland, Kohima.


Agarwal A-27/i

15/122

**DEPARTMENT OF POSTS**  
**OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE**  
**SHILLONG-793 001.**

MEMO NO.STAFF/109-14/2001,

Dated at Shillong, the 29.1.2002.

**ORDER**

This is a decision on the appeal dated 12.9.2001 of Shri S.B. Hazarika, at present working as Complaint Inspector (Postal), Divisional Office, Kohima, against the order of DPS, Kohima issued in Memo No.Rule-14/S.B. Hazarika dated 8.6.2001 vide which the punishment of reduction of pay of the official by 6(six) stages for a period of 3(three) years with cumulative effect was imposed on the official.

2. The chronology of events in this case in brief is as follows:-

- (i) Charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 issued to the official on 19.2.98.
- (ii) Inquiry completed and I.O. submitted his report on 27.9.2000.
- (iii) The Disciplinary Authority issued the punishment referred to above on 8.6.2001.

Normally an official to whom a punishment is awarded, is supposed to make the appeal to the prescribed Appellate Authority. However, in this case, it is seen that the charged official approached the Hon'ble Central Administrative Tribunal (CAT), Guwahati Bench, Guwahati vide O.A. NO.347 of 2001. The Hon'ble CAT, Guwahati was not inclined to go into the merits of the case at that stage and directed the appellant – Shri S.B. Hazarika to prefer a statutory appeal before the competent authority within three weeks vide their order dated 31.8.2001 in OA NO.347/2001. Further, the Hon'ble CAT, Guwahati directed the Appellate Authority to conclude the appeal preferably within two months from the date of receipt of the appeal if preferred by the appellant. Pursuant to this decision of the Hon'ble CAT, Guwahati, the official Shri S.B. Hazarika submitted his appeal directly to the Appellate Authority and copy endorsed to the Disciplinary Authority. The case alongwith the comments of the Disciplinary Authority was received in Circle Office, Shillong on 28.9.2001. The appellant had quoted some case Laws in his appeal and correspondence was entered with the appellant for supplying copies of records relied by him in his appeal. After protracted correspondence, no satisfactory reply was received.

The text of the Articles of charges against the official is reproduced below :-

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ARTICLE-I

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.01.96 (A/N) to 31.01.98 he had shown to have inspected as many as 54 post offices in the year 1996 but had not submitted a copy of the inspection remarks in respect of each of these 54 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly, the said Shri S.B. Hazarika had shown to have inspected as many as 70 post offices during the period from 01.01.97 to 31.12.97 but had not submitted a copy of the inspection remarks in respect of 45 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Shri S.B. Hazarika violated the provision of Rule 300 (2) of P&T Man. Vol.III read with Department of Posts, New Delhi letter No.17-3/92-Inspn. dated 2.7.92 and Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964."

ARTICLE-II

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.1.96 to 31.1.98 he had shown to have inspected the following EDBOs in Ukhrul Sub-Division on the date noted against each.

	<u>Name of the EDBO</u>	<u>Date of inspection shown</u>
1.	Chingjarai EDBO	25.2.1997
2.	Sirarkhang EDBO	29.3.1997
3.	Kamang Kakching EDBO	19.5.1997
4.	Shanshak EDBO	10.6.1997
5.	Nungshong EDBO	15.7.1997
6.	Pushing EDBO	20.7.1997

But, in fact, the said Shri Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year, 1997. Therefore, by his above acts, the said Shri S.B. Hazarika, violated the provisions of Rule 300 (1) of the P&T Manual Vol. VIII, Rule 3 (1)(i) of the CCS (Conduct) Rules, 1964 and Rule 3 (1)(iii) of the CCS (Conduct) Rules, 1964."

3. The main points put forward by the appellant in his appeal are as follows :-

- i) That I.O. held the enquiry on 15.9.99, 16.9.99, 17.9.99, 18.9.99 ex-parte. Thus, he did not get the scope to defend his case.
- ii) That he could not attend the enquiry on above dates as he was not relieved by the controlling authority i.e. DPS, Kohima although the copy of notice dated 12/23.8.99 was endorsed to DPS, Kohima also by the I.O.

- A-28/iii
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- iii) That the additional documents demanded by him which were accepted by the I.O. and called for production during the inquiry on 10.5.2000 were not produced and examined.
  - iv) The defence witness, Shri N.C. Haldar, Dy. SP, Imphal although was summoned to attend the enquiry declined to become a defence witness, and no action was taken to compel him to depose before the I.O.
  - v) That the prosecution witnesses – (1) Shri L. Ito Singh (SW-1), (2) Shri S. Yarngai (SW-2), (3) V.S. Varese (SW-3), (4) Shri O. Dwijamani Singh (SW-4) were examined in absence of the appellant without ordering for cross examination. So these witnesses cannot be treated as valid.
  - vi) Shri O. Dwijamani Singh (SW-4), dealing assistant of the Divisional Office, Imphal, deposed that the appellant did not submit the IRs as listed in the charge-sheet i.e. 54 (fifty four) IRs of 1996 and 45 (forty five) IRs of 1997. This deposition made from his memory without support of any documents. The appellant argues that nobody can remember such information correctly without any support of evidence.
  - vii) a) That the I.O. in his inquiry report held that charge under Article-I was not proved.  
  
b) That the I.O. in his inquiry report also held that the charges under Article-II was partially proved, because out of six offices, alleged to be not inspected by the appellant only three offices were found not inspected. But these findings also should not be treated as correct because the appellant was not given reasonable opportunity to cross-examine the state witness.
  - viii) That the punishment order with retrospective effect with effect from 1.6.01 while the order was issued on 8.6.01 which is not admissible as per rule.

The appellant, therefore, prayed that the punishment order should be set aside.

4. I have gone through the appeal thoroughly with reference to relevant records. It is seen that -

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(i) The appellant evaded attending the inquiry not only from 15.9.99 to 18.9.99 but on earlier dates also ( i.e. 25.8.98, 22.9.98 and 27.1.99 ) he did not attend the enquiry. As regards his non-relief, he alleged that DPS, Kohima did not issue any release order. The appellant was working in the office of DPS itself. He was summoned to attend the enquiry. It was incumbent on him to seek release order for attending the enquiry but he did not do so. As such, it cannot be said that he was denied chance to attend the enquiry. Moreover, he did not send any information also to the I.O., intimating the reasons for his inability to attend the enquiry. Therefore, the I.O. was justified in holding the enquiry ex-parte. The claim of the appellant stating that he did not get reasonable opportunity to defend his case, therefore, does not stand.

(ii) It is found to be a fact that the additional document i.e. the tour T.A. advance file of Divisional Office was neither furnished nor any reason for non-production was intimated to the I.O. But, in my opinion, T.A. advance file has no direct relevance to submission of IRs. Because, T.A. advances are generally sanctioned if the tour programme is approved and adjustment of previous T.A. advances are generally watched over.

(iii) Regarding non-attendance of the defence witness, Shri N.C. Haldar, it is found that the official expressed unwillingness in writing to be a defence witness and he did not attend the hearing on 10.5.2000. As recorded in the order sheet dated 10.5.2000, his further summoning was also not insisted upon by the appellant.

(iv) The state witnesses were examined during the hearing from 15.9.99 to 18.9.99 while the enquiry was held ex-parte. The appellant was himself responsible for not attending the enquiry. Hence, it cannot be said that he was not given opportunity to defend his case. Further, he did not request for recalling those witnesses for cross-examination when he attended the enquiry on subsequent dates. Hence, there is no ground to treat those witnesses as invalid.

(v) The SW-4 deposed regarding non-submission of IR from his personal knowledge. Even if he might not have recollected the numbers correctly, the fact of non-receipt of some IRs from the appellant was established. The appellant also did not furnish any proof of submission of any of the IRs from his side to disprove the statement of SW-4 and the substantive charge against him.

(vi) It is correct that the Inquiry Authority held that the charge under Article-I was not proved. But the Disciplinary Authority disagreed with this finding of the I.O. and recorded his own findings with reason for disagreement. This is permitted under Rule 15 of CCS (CCA) Rules, 1965. Therefore, DPS, Kohima - the Disciplinary Authority was well within his power to disagree with the findings of the I.O. in respect of charges under Article-I.

(vii) Regarding the effect of the punishment retrospectively, the controlling authority intimated that it was an inadvertent mistake. It would be effective either from the date of issue of order or prospectively.

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5. On a careful consideration of the whole case I find that the charges against the official are quite grave. Inspection of offices under his control is the primary and important duty of a Sub-Divisional Inspector. Equally important is his duty to promptly submit all the Inspection Reports to his superiors. In the entire enquiry, the charged official has not brought any evidence to prove that he had fully discharged his duties of preparation and submission of Inspection Reports listed in the charges. He is trying to rely only on one premise that if he had not submitted his IRs he would not have been given further TA advance. I am surprised that a responsible officer of the rank of a Sub-Divisional Inspector should take recourse to such flimsy excuse in support of his case. Had he really submitted the Inspection Reports, there is no reason why they would not be available in the Divisional Office. Similarly, office copies and the forwarding letters relating thereto would be available in the SDI's office also. The Disciplinary Authority in its decision, especially para-7, sub-para-5 has dealt with this aspect in detail.

6. In my view the charged official deserves a much harsher punishment of removal from service. However, I take a overall rather liberal view of the case and treat the punishment already given to the official as adequate with a view to giving him a chance to improve as he has got so many years of service left. The appeal of the official is, therefore, hereby rejected.

(VIJAY CHITALE)  
Chief Postmaster General,  
N.E. Circle, Shillong-793 001.

Copy to:-

1. The Director Postal Services, Nagaland Division, Kohima-797 001.
2. Shri S.B. Hazarika, Complaint Inspector (Postal) through the Director Postal Services, Nagaland Division, Kohima.

Regd

(VIJAY CHITALE)

Attended  
24/10/2022  
AFB



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Central Administrative Tribunal  
29 NOV 2002  
GUWAHATI Bench

15x  
Union of India & Ors  
Respondent  
through  
Ajay Kumar Choudhary

Adm. Control Copy  
Bureau

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI.

In the matter of :

O.A. No. 59 of 2002.

S.B. Hazarika

.....

Applicant.

- Vs -

Union of India & Ors.

.....

Respondents.

Written Statement for and on behalf of Respondent  
No. 1, 2 and 3.

I, J.M. Datta, Asstt. Postmaster General (A&U),  
in the office of Chief Postmaster General, N.E. Circle,  
Shillong do hereby solemnly affirm and say as follows :

1. That I am the Asstt. PMG (A&U) in the office  
of the Chief Postmaster General, N.E. Circle Shillong  
acquainted with the facts and circumstances of the case.  
I have gone through a copy of the application and have  
understood the contents thereof. Save and except whatever  
is specifically admitted in this written statement, the  
other contentions and statement may be deemed to have been  
denied. I am competent and authorized to file this written  
statement of behalf of all the respondents.

2. ~~That with regard to~~

That the respondents at the outset beg to give the applicant brief history of the case as follows :

Complaint Inspector in the office of Director of Postal Services, Kohima was chargesheeted under Rule 14 of CCS(CCA) Rules, 1965 vide DPS Manipur memo No. Diary/SDIPOs-Ukhrul/97 dated 19.2.98 (Annexure-1)

(a) i. For having shown to have inspected as many as 54 post offices in the year 1996 but had not submitted any copy of the inspection remarks and claimed to have inspected 70 post offices in 1997 but had not submitted inspection remarks in respect of 45 post offices while working as Sub-Divisional Inspector of Post Offices Ukhrul during the period 25.01.96 to 31.01.98 and

ii. having shown to have inspected but did not inspect 6 Extra Departmental Branch Post Offices in Ukhrul Sub Division between 25.2.97 to 28.7.97.

(b) Shri Sunil Das the then Dy. Supdt. of Post Offices Agartala who was appointed as the Inquiry Officer in his inquiry report (Annexure-2) held article-I of the charge as not proved whereas article-II of the charge as partially proved to the extent that 3 EDBOs out of 6 were not inspected. The disciplinary authority <sup>Inquiry officer</sup> disagreed with the findings of the IO in respect of article-I of the charge but agreed with the Inquiry officer in respect of article-II of the charge and imposed

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the major penalty of reduction of pay of the charged official by 6 stages for a period of 3 years with cumulative effect vide punishment order No. Rule 14/ S.B. Hazarika dated 8.6.2001 ( Annexure-3).

(c) Not satisfied with the punishment order, the applicant approached the Hon'ble CAT Guwahati Bench vide O.A. 347/2001. The Hon'ble CAT Guwahati did not go into the merit of the case at that stage and directed the applicant to prefer a statutory appeal before the competent authority within 3 weeks vide its order dated 31.8.2001 (Annexure-4).

(d) The applicant submitted his appeal to the appellate authority who had disposed off the appeal upholding the decision of the disciplinary authority vide memo No. Staff/109-14/2001 dated 29.1.2002 ( Annexure-5).

PARAWISE COMMENTS:

3. That with regard to para 1(i) and (ii) of the application, the respondents beg to offer no comments.

4. That with regard to para 2 of the application, the respondents beg to offer no comments except that the applicant has not exhausted the Departmental remedies by way of filing a review petition to the President of India before filing this application.

5. That with regard to para 3, 4, 4.1, 4.2, 4.2(i), 4.2(ii), 4.3, 4.4 and 4.5 of the application, the respondents beg to offer no comments.

6. That with regard to the statements made in para 4.6 of the application the respondents beg to state that the inquiry notice dated 12/23.8.99 (Annexure-6) for respondent No.4 was inadvertently sent to DPS Imphal as missent. However, if the applicant was really interested in attending the hearing at Imphal from 15.9.99 to 20.9.99 he could have asked the controlling officer to be relieved instead of passively waiting for any direction of relief. The applicant intentionally did not ask to ~~be~~ be relieved nor brought to the notice of the controlling officer about the inquiry to be held at Imphal.

7. That with regard to the statements made in para 4.7 of the application the respondents beg to state that the Respondent No. 4 did not refuse to relieve the appellant to attend the inquiry at Imphal on 15.9.99. As the inquiry notice was served directly to the applicant by the Inquiry Officer (IO for short), the applicant could have asked the controlling officer for relief. It is not mandatory on the part of the controlling officer to issue further direction the charged officer to attend the oral inquiry after the inquiry notice was directly served to the charged officer by the Inquiry Officer. On the other hand the applicant deliverately chose not to attend the inquiry at that stage.

8. That with regard to the statements made in para 4.8 and 4.9 of the application the respondents beg to offer no comments except that the applicant could have sought for cross-examination of the witnesses at a later date, if he was really interested.
9. That with regard to para 4.10 of the application, the respondents beg to offer no comments.
10. That with regard to the statements made in para 4.11 of the application the respondents beg to state that on receipt of the inquiry notice for inquiry to be held at Agartala on 20.9.99, the applicant was directed to attend the inquiry by respondent no.4. The applicant is harping on not being relieved of his duties to attend the inquiry at Imphal. The applicant was directly served the inquiry notice and only a copy was endorsed to respondent no.4. The applicant never asked the controlling officer to be relieved of his duties.
11. That with regard to para 4.12, 4.13, 4.14, 4.15, and 4.16 of the application the respondents beg to offer no comments.
12. That with regard to the statements made in para 4.17 of the application the respondents beg to state that the regular presenting officer (PO for short) was directed to attend the inquiry as defence witness, but the PO was not willing to appear as such. If examination of the presenting officer as a defence witness was so vital for his defence, the applicant could have pressed for it as the Presenting Officer was a Govt. servant official who could be compelled to appear before the

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inquiry by the controlling authority. Similarly if the applicant had insisted upon, the additional document, though not relevant to the case, could have been produced before the inquiry.

13. That with regard to the statements made in para 4.18 of the application the respondents beg to state that if examination of a particular defence witness and additional document, as asked for by the applicant, are so vital for establishing the innocence of the charged officer, the applicant would not have given up without their production before the inquiry. Moreover, if the charged officer had formally asked for and proper requisition was placed before the competent authority the defence witness as well as the additional document could have been produced before the inquiry.

14. That with regard to ~~the~~ para 4.19, 4.20, 4.21, 4.22, 4.23, 4.24 and 4.25 of the application the respondents beg to offer no comment.

15. That with regard to the statements made in para 5.1 of the application the respondents beg to state that the inquiry notice for hearing at Imphal from 15.9.99 was directly sent to and duly received by the applicant. Only a copy of notice was endorsed to the respondent no.4. The applicant never submitted any application seeking permission to attend the inquiry nor permission was denied to him. It is the duty of the applicant to apply and request to be relieved of his ~~duties~~ duties for attending the inquiry. But he remained silent even, after receipt of the inquiry notice from the

Inquiry officer. Moreover, for any reason if he could not attend the inquiry on a particular date the applicant should have informed the inquiry officer and seek adjournment of the hearing. But the applicant never communicated his inability to attend the inquiry held at Imphal from 15.9.99 to 20.9.99. It was, therefore, obvious that the applicant was not interested in attending the inquiry at Imphal and the inquiry was held ex-parte. Even though state witnesses were examined in the absence of the charged officer, the applicant could have asked for cross-examination of the witnesses at a later stage. But the applicant did not produce any evidence to show that he had asked for cross examination of the witnesses after receipt of the daily order sheet alongwith the statements of witnesses .

The applicant was given reasonable and sufficient opportunity to defend himself and establish his innocence. But he deliverately ignored the inquiry upto the stage of presentation of prosecution, documents and witnesses. As such his contention that he was denied of reasonable opportunity to prove his innocence is not supported by facts.

16. That with regard to the statements made in para 5.2 of the application the respondents beg to state that the additional document like monthly tour TA advance for the period from July 1997 to March 1998, as asked by the charged officer and permitted by Inquiry Officer was not produced before the inquiry. However, from the records it is seen that though the Inquiry Officer in para 3 of his order no.4 dated 22.10.99 (Annexure-7) mentioned that he decided to call the file, he

did not specifically or formally ask the Presenting Officer or the competent authority to produce the document. The charged officer had not insisted on production of additional document nor had he established any relevancy of the additional document to the submission of the inspection reports or the co-relation between the additional document and the charge. Without establishing the relevancy of the additional document to the charge, it was presumptuous on the part of the charged officer to draw any inference.

17. That with regard to the statements made in para 5.3 of the application the respondents beg to state that the Presenting Officer of the case, Shri N.C. Halder expressed his unwillingness in writing to be examined as a defence witness and did not attend the hearing. But if examination of the Presenting Officer as defence witness was vital for defence of the charged officer, the applicant should have insisted upon and pressed for attendance of the Presenting officer as defence witness. The Presenting officer also being a Govt. servant could have been compelled to attend the inquiry as defence witness by the controlling officer. But the Inquiry Officer in his order sheet dated 10.5.2000 (Annexure-8) had noted that further summoning of the Presenting officer as defence witness was not insisted upon. Non-appearance of the Presenting officer as defence witness had not vitiated the inquiry nor the applicant was denied the reasonable opportunity to prove his ~~inn~~ innocence.



18. That with regard to the statements made in para 5.3(1) and 5.3(ii) of the application the respondents beg to state that the charged officer did not insist upon the attendance of the Presenting officer as defence witness. If the charged officer had insisted upon, the inquiry officer, was willing to compel the attendance of the Presenting officer as defence witness.

19. That with regard to the statements made in para 5.4(i) of the application the respondents beg to state that the Inquiry Officer did not specifically or formally ask the Presenting Officer or the competent authority to produce the additional document as asked by the charged officer and admitted by the Inquiry officer. The charged officer also did not insist upon production of the additional document. Hence, the inquiry was finalised without production of the additional document.

The disciplinary authority who is respondent no.4 is not bound by the findings of the Inquiry Officer. Under the provision of Rule 15(2) of CCS(CCA) Rules, 1965, the disciplinary authority may disagree with the findings of the inquiry authority, record reasons for such disagreement and record its own findings on any particular charge.

It is also not correct that the disciplinary authority over emphasized the oral evidence of SW-4, Shri. Devijawani Singh. As many as 77 (seventy seven) documents were produced by the prosecution as Annexure-III to substantiate the charges. So while disagreeing with the findings of the inquiry authority, the documents in Annexure III were relied on by the disciplinary authority before forming its own conclusions. The applicant

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has been over emphasizing the plea of not getting the opportunity to cross examine the state witness No.4. But the applicant himself was to be blamed for not availing the opportunity of attending the earlier state of inquiry and cross-examining the state witnesses as elaborately discussed in para 5.1 above.

Due to typographical error the venue of hearing on 21.10.99 was shown as Imphal instead of Agartala in the punishment order. As pointed out earlier the inquiry notice for hearing at Imphal from 15.9.99 to 20.9.99 was directly received by the applicant. It is not mandatory on the part of the controlling officer to issue another direction to the applicant to attend the inquiry. On receipt of the inquiry note directly from the inquiry officer, the applicant should have applied to the controlling officer for relief of duties. But the applicant deliberately decided not to attend the inquiry at Imphal at that stage and remained silent instead of seeking permission of relief from duties. The applicant also did not inform the inquiry officer about his inability to attend the inquiry from 15.9.99 to 20.9.99. As non attendance of the inquiry held from 15.9.99 to 20.9.99 is due to the fault of the applicant, the validity of the inquiry as well as the documentary and oral evidence adduced during that inquiry cannot be questioned by the applicant.

5.4(ii). The disciplinary authority and the inquiry authority are two separate entities having independent views of their own. The disciplinary authority may or may not agree with the finding of the inquiry officer as pointed out in para 5.4 above. However, in respect of article II of the charges, the disciplinary authority agreed with the findings of the inquiry officer. The

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The finding of the inquiry officer and the agreement of the disciplinary were not merely based on the depositions of SW-1, SW-2 and SW-3 but also on the documentary evidence of the documents mentioned in Annexure III to the chargesheet. The applicant was given the inquiry ~~aff~~ notice and the opportunity to cross-examine the state witnesses during the inquiry held at Imphal from 15.9.99 to 20.9.99. But the applicant ~~ignores~~ ignored the inquiry notice and did not attend the inquiry. When the notice of inquiry was received by the applicant well on time but did not attend the inquiry, the applicant cannot claim that he was denied of reasonable opportunity to cross-examine the state witnesses.

20. That with regard to the statements made in para 5.5 of the application the respondents beg to state that the date of effect of the punishment order was inadvertently shown as 1.6.01 whereas the order was issued on 8.6.01. However, the punishment order was given effect from the date of issue of the order or prospectively and not retrospectively.

21. That with regard to the statements made in para 5.6 of the application the respondents beg to state that the personal hearing is not mandatory. It is upto the appellate authority to grant or not to grant any personal hearing to the appellant. In this case the appellate authority did not consider it necessary to grant personal hearing to the appellant.

22. That with regard to the statements made in para 5.7 of the application the respondents beg to state that the

appellate authority had considered all the relevant documents and facts of the case before arriving at its own conclusion. The state witnesses were examined in the absence of the applicant as the applicant failed to attend the inquiry despite receipt of the inquiry notice well in advance. Even at later stage, the applicant did not demand for cross-examination of the state witnesses.

The appellate authority in para 4(i) of the appellate order clearly discussed about non-attendance of the inquiry at Imphal by the applicant. The claim of the applicant that he was not relieved of his duties to attend the inquiry and denied the opportunity to cross examine the state witnesses was refuted by the appellate authority. The additional document was not denied to the applicant, but formal proper requisition was not placed before the appropriate authority and the applicant also did not insist upon production of the same. Attendance of a defence witness was also not insisted upon by the applicant as may be seen from the order sheet dated 10.5.2000. The punishment order dated 8.6.2001 though inadvertently stated be effective from 1.6.2001 would have effect from the date of issue or prospectively.

The appellate order dated 29.1.2002 running into five pages would show that the appellate authority took great pains to discuss the relevant points and all the points raised by the applicant. Therefore, the allegation that there is no application of mind by the appellate authority is baseless.

23. That with regard to para 6 and 7 of the application, the respondents beg to ~~state~~ offer no comments.

24. That with regard to the statements made in para 8, of the application the respondents beg to state that the entire disciplinary proceedings against the applicant were conducted as per prescribed procedure. The inquiry was conducted by an Inquiry Officer and the applicant was given sufficient opportunity to disprove the charges and establish his innocence. The report of the Inquiry Officer was duly considered by the disciplinary authority before forming its own conclusion. After consideration of the entire gamut of the case, the disciplinary authority finally passed its order dated 8.6.2001 which is a speaking order. The appeal of the applicant against the order of the disciplinary authority was also duly considered by the appellate authority and finally disposed of the appeal vide order dated 29.1.2002. As such there is no justification as to why the order dated 8.6.2001 should be set aside..

The order dated 8.6.2001 is neither arbitrary nor faulty as it was issued after observing all the statutory provisions and rules. The state witnesses were examined in the absence of the applicant, as the applicant failed to attend the inquiry despite receipt of the inquiry notice well in advance and no intimation about the inability of the applicant to attend the inquiry was given to the Inquiry Officer. The additional document demanded halfheartedly by the applicant had no direct relevance to the charge. The applicant did not insist on appearance of the defence witness after the latter expressed his unwillingness to attend the

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inquiry as defective witness. In fact the whole disciplinary proceedings were conducted in a fair and just manner giving sufficient opportunity to the applicant to establish his innocence. But since the applicant miserably failed to disprove the charges and establish his innocence, he is making all kinds of baseless allegations against the disciplinary authority.

25. That with regard to para 9 of the application the respondents beg to state that the applicant is not entitled to any interim relief. sought for in the application .

26. That with regard to para 10 , 11 and 12 of the application the respondents beg to offer no comments.

27. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

Verification.....

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

I, J.M. Datta, APMG (A&U) office of the Chief  
Postmaster General, N.E. Circle, Shillong, being authorised  
and competent to sign the verification do hereby solemnly  
affirm and state that the statements made in paragraphs  
1, 3, -5, 8, 9, 11 & 14 are true to my knowledge  
and belief, those made in paragraphs 2, 6, 7, 10, 12, 13, 15 - 24  
being matters of records are true to my information derived  
therefrom and the rests are humble submissions before the  
Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 14<sup>th</sup> day of  
~~July~~ <sup>Nov.</sup>, 2002 at Guwahati Shillong.

*Jyoti May Datta*  
Deponent.

DEPARTMENT OF POSTS, INDIA

OFFICE OF THE DIRECTOR POSTAL SERVICES, MANIPUR: IMPHAL-795001.

No. **DIARY/ADPROG-IMP/97**

Dated at Imphal the **19.2.98**

M E M O R A N D U M

The undersigned proposes to hold a inquiry against Shri. **S. N. Hmarika, ADPROG-IMP/97** under Rule 20 of the CCS (Conduct) Rules, 1964, and Appeal Rules 1965. The substance of the imputation of misconduct and or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of the imputation of misconduct or misbehaviours in support of each article of charge is 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).

1. Shri. **S. N. Hmarika, ADPROG-IMP/97** is directed to submit within 7 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. **S. N. Hmarika, ADPROG-IMP/97** 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 inquiry 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 Shri. **S. N. Hmarika, ADPROG-IMP/97** is invited to Rule 20 of the CCS (Conduct) Rules, 1964, under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri. **S. N. Hmarika, ADPROG-IMP/97** 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 (Conduct) Rules 1964.

6. The receipt of the Memorandum may be acknowledged.

Copy to:-

1. Shri S.N. Hmarika  
ADPROG. IMP/97

Name and designation of competent authority  
Director of Postal Services  
Manipur Division, Imphal-795001.

(LALHUNA)



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ANNEXURE-I

Statement of article of charges framed against  
Shri.S.B.Hazarika, SO Insa/Ukhrul Sub-Dn., Ukhrul.

Article-I

Shri.S.B.Hazarika, while working as SO Insa/  
Ukhrul Sub-Dn., during the period from 29/01/96(A/N)  
to 31/01/98, he had shown to have inspected as  
many as 54(Fifty four) Post Offices in the year  
1996, but had not submitted a copy of the Inspection  
Remarks in respect of each of these 54(Fifty four)  
Post Offices, to the Supdt.of Post Offices, Manipur  
Division, Imphal, or any other appropriate auth-  
ority in place of the Supdt.of Post Offices, Manipur  
Division, Imphal. Similarly, the said Shri.S.B.  
Hazarika, had shown to have inspected as many as  
70(Seventy) Post Offices during the period from  
01/01/97 to 31/12/97, but had not submitted a  
copy of the Inspection Remarks in respect of  
45(Forty five) Post Offices, to the  
Supdt.of Post Offices, Manipur Division, Imphal  
or any other appropriate authority in place of  
the Supdt.of Post Offices, Manipur Division, Imphal.  
By his above acts, the said Shri.S.B.Hazarika  
violated the provisions of Rule-300(2) of P&T  
Man.Vol.VIII read with Deptt.of Posts/New Delhi  
letter No.17-3/92-Inspn. Dated.02/07/1997, and  
Rule-3(1)(i) of CCS(Conduct)Rules, 1964.

Article-II

Shri.S.B.Hazarika, while working as SO Insa/  
Ukhrul Sub-Dn., during the period from 29/01/96  
to 31/01/98, he had shown to have inspected the  
following EDs in Ukhrul Sub-Dn., on the date  
noted against each.

Name of the ED	Date of Inspn. shown by Shri. S.B.Hazarika
1. Chingjai ED	25-02-1997
2. Sirerakheng ED	29-03-1997
3. Kamang Kakching ED	19-05-1997
4. Shangshak ED	18-06-1997
5. Nungshong ED	15-07-1997
6. Pushing ED	28-07-1997

But, in fact, the said Shri.Hazarika, did not at  
all inspect the above mentioned EDs either on  
the date noted against each or on any other date  
in the year 1997. Therefore, by his above acts,  
the said Shri.S.B.Hazarika, violated the provisions  
of Rule-300(1) of P&T Man.Vol.VIII, Rule-3(1)(i)  
of CCS(Conduct)Rules, 1964 and Rule-3(1)(iii) of  
CCS(Conduct)Rules, 1964.

(L.A.H.LUNA)

Director Postal Services,  
Manipur Imphal 795001.

ANNEXURE-II

Statement of imputations of misconduct and/or misbehaviour in support of the articles of charges framed against Shri. S.B.Hazarika, SDPOs/Ukhrul Sub-Dn., Ukhrul.

Article-I

That as many as 66(Sixty six) EOBS and 1(One) S.O in Ukhrul Sub-Dn., were allotted to the charge of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Dn., for inspection during the year 1996 vide SDPO/Imphal letter No.Inspection/Tour Programme/1996 dtd. 15/02/96 alongwith a copy of inspection programme for the year 1996. The said Shri.S.B.Hazarika, took over the charge of SDPOs/Ukhrul Sub-Dn on 25/01/96(A/N) and prior to taking over the charge of the Sub-Dn., by the said Shri.S.B.Hazarika, one Shri.Maba Maring P.A., Imphal H.O was officiating as SDPOs/Ukhrul Sub-Dn from 01/01/96 to 25/01/96(A/N). Of the 66(Sixty six) EOBS assigned to the SDPOs/Ukhrul Sub-Dn., for inspection during the year 1996, the said Shri.Maba Maring already inspected as many as 13(Thirteen) EOBS during the period from 01/01/96 to 25/01/96. Thus, as many as 53(Fifty three) EOBS and 1(One) S.O were remaining for inspection, by the said Shri.S.B.Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub-Dn by the said Shri.Hazarika on 25/01/96(A/N). The said Shri.S.B.Hazarika, in his fortnightly diaries and monthly summaries of the SDPOs/Ukhrul for the period from 25/01/96(A/N) to 31/12/96, had shown to have inspected all the 53(Fifty three) EOBS and 1(One) S.O which were remaining for inspection by the said Shri.S.B.Hazarika as on 25/01/96(A/N). The list of 53(Fifty three) EOBS and 1(One) S.O shown to have inspected by the said Shri.Hazarika has been enclosed as ANNEXURE-A.

Similarly, as many as 71(Seventy one) Post Offices i.e. 69(Sixty nine) EOBS and 2(two) S.Os were assigned to the SDPOs/Ukhrul Sub-Dn., for inspection during the year 1997 vide SDPOs/Imphal letter No.Inspection/Tour Programme/1997 dtd.29.1.97 alongwith a copy of inspection programme for the year 1997. Of the 69(Sixty nine) EOBS and 2(Two) S.Os in the Ukhrul Sub-Dn., which were assigned for inspection by the said Shri.S.B.Hazarika as SDPOs/Ukhrul Sub-Dn., he had shown to have inspected all the 69(Sixty nine) EOBS and 1(One) S.O on different date/dates during the period from 01/01/97 to 31/12/97, in his fortnightly diaries and monthly summaries of the SDPOs/Ukhrul submitted by the said Shri.Hazarika, for the aforementioned period from time to time. The list of 69(Sixty nine) EOBS and 1(One) S.O which were shown to have been inspected by the said Shri.S.B.Hazarika during the year 1997 has been enclosed as ANNEXURE-B.

That, as per Rule-300(2) of P&T Man. Vol.VIII, the said Shri.S.B.Hazarika, SDPOs/Ukhrul had to submit the copy of inspection remarks, in respect of each of the EOBS and S.O inspected by him, to the Supdt.of Post Offices, Manipur Division, Imphal, and in accordance with Dept.of Posts/New Delhi Letter No.17-3/92-Inspection dtd.02/07/92 the time limit for

submission/issuance of Inspection Remarks/Inspection Reports in respect of EDPO and S.O are 10(Ten) days and 15(Fifteen) days from the date of inspection respectively. But, the said Shri.S.B.Hazarika, had not, at all, submitted the copy of Inspection remarks in respect of 53(Fifty three) EDPOs and 1(One) S.O, which were shown to have been inspected by him in 1996, as per ANNEXURE-A, to the Sundt. of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent date. Similarly, the said Shri.S.B.Hazarika, had not, at all submitted the copy of Inspection remarks in respect of 44(Forty four) EDPOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika on different date/dates during the year 1997. The list of 44(Forty four) EDPOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika but in the year 1997, but he did not submit I.Re has been enclosed as ANNEXURE-C.

Therefore, it is imputed that the said Shri.S.B.Hazarika, by his above acts, violated the provisions of Rule-300(2) of P&T Man.Vol.VIII and orders contained in Deptt. of Posts/New Delhi letter No.17-3/92-Inspn. Dated.02/07/1992, and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

#### Article-II

The following EDPOs in Ukhrul Sub-Dn., which were assigned to the SDPOs/Ukhrul Sub-Dn., for annual inspection for the year 1997 vide SDPOs/Imphal letter No.Inspection/Tour Programme/1997 Dtd.28.11.97, were shown to have been inspected by the said Shri.S.B.Hazarika as SDPOs/Ukhrul, on the date noted against each.

Name of the EDPO	Date of Inspn.
1. Chingjani EDPO	25-02-1997
2. Sirerakhong EDPO	29-03-1997
3. Kamang Kokching EDPO	19-05-1997
4. Shangshak EDPO	10-06-1997
5. Nungahong EDPO	15-07-1997
6. Pushing EDPO	28-07-1997

The said Shri.S.B.Hazarika was working as SDPOs/Ukhrul during the period from 29/01/96(A/N) to 31/01/98 and, he had shown to have inspected the above post offices as mentioned above in his fortnightly diaries pertaining to that period and also in the monthly summaries of the SDPOs/Ukhrul Sub-Dn., Ukhrul, submitted by the said Shri.Hazarika, for the respective months on which these offices had been shown to have been inspected. But, the EDPOs of the above EDPOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Shri.S.B.Hazarika, SDPOs/Ukhrul did not inspect their respective EDPOs in the year 1997 till the time of submission of respective intimations by each of the EDPOs of above EDPOs in the months of Sept'97/Oct'97/Nov'97.

Therefore, it is imputed that the said Shri.S.B. Hazarika, did not at all inspect the aforementioned EDPOs on the dates noted against each and thereby violated the provisions of Rule-300(1) of P&T Man.Vol.VIII. In addition

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the said Shri. Bazarika, by his act of submission of false information regarding inspection of these above mentioned DDOs, failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

(L. AHLONA)  
Director Postal Services,  
Manipur; Imphal-795001.

ANNEXURE-III

List of documents by which articles of charges framed against Shri. S.B. Hazarika, SDIPD/Ukhrul Sub-Dn., Ukhrul are proposed to be sustained.

1. SPDS/Imphal letter No. Inspection/Tour Programme/1996 Dtd. 19/02/96 alongwith a copy of inspection programme for the year 1996 (of SDIPD/Ukhrul Sub-Dn.,)
2. SPDS/Imphal letter No. Inspection/Tour Programme/1997 Dtd. 29.01.97 alongwith a copy of inspection programme for the year 1997 (of SDIPD/Ukhrul Sub-Dn.,)
3. Fortnightly diary of SDI(P)/Ukhrul for the 1st fortnight of Feb/96 No. A-1/Diary/SDI-UKL/95-96 dtd. 16/2/96.
4. -do- for the 2nd fortnight of Jan/96 No. A-1/Diary/SDI-UKL/95-96 dtd. 1/10.1.96
5. -do- for the 2nd fortnight of Feb/96 No. A-1/Diary/SDI-UKL dtd. 1.3.96
6. -do- for the 1st fortnight of Mar/96 No. A-1/Diary/SDI-UKL/96 dtd. 16.3.96
7. -do- for the 2nd fortnight of Mar/96 No. A-1/Diary/SDI-UKL/96 dtd. 1.4.96
8. -do- for the 1st fortnight of April/96 No. A-1/Diary/SDI-UKL/96 dtd. 17.4.96
9. -do- for the 2nd fortnight of April/96 No. NIL DTD. NIL.
10. -do- for the 1st fortnight of May/96 No. A-1/Diary/SDI/UKL dtd. 17.5.96
11. -do- for the 2nd fortnight of May/96 No. A-1/Diary/SDI/UKL dtd. 3.6.96.
12. -do- for the 1st fortnight of June/96 No. A-1/Diary/SDI-UKL dtd. 17.6.96.
13. -do- for the 2nd fortnight of June/96 No. A-1/Diary/SDI-UKL/96 dtd. 1/7/96.
14. -do- for the 1st fortnight of July/96 No. A-1/Diary/SDI-UKL dtd. 16/07/96.
15. -do- for the 2nd fortnight of July/96 No. A-1/Diary/SDI-UKL dtd. 01/08/96.
16. -do- for the 1st fortnight of Aug/96 No. A-1/Diary/SDI-UKL dtd. 19/08/96.
17. -do- for the 2nd fortnight of Aug/96 No. A-1/Diary/SDI-UKL dtd. 02/09/96.
18. -do- for the 1st fortnight of Sept/96 No. A-1/Diary/SDI-UKL/96 dtd. 16/9/96.
19. -do- for the 2nd fortnight of Sept/96 No. A-1/Diary/SDI-UKL/96 dtd. 1/10/96.
20. -do- for the 2nd fortnight of Oct/96 No. A-1/Diary/SDI-UKL dtd. 1/11/96.

Contd. P/2.....

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21.	Fortnightly diary of SDI (P)/Ukrain	for the 1st fortnight of Nov/96 No. A-1/Diary/SDI-UKL dtd. 16.11.96
22.	-do-	for the 2nd fortnight of Nov/96 No. A-1/Diary/SDI-UKL dtd. 2.12.96
23.	-do-	for the 1st fortnight of Dec/96 No. A-1/Diary/SDI-UKL dtd. 16.12.96.
24.	-do-	for the 2nd fortnight of Dec/96 No. A-1/Diary/SDI-UKL dtd. 31/12/97.
25.	-do-	for the 1st fortnight of Jan/97 No. A-1/Diary/SDI-UKL dtd. 16/01/97.
26.	-do-	for the 2nd fortnight of Jan/97 No. A-1/Diary/SDI-UKL dtd. 31/02/97.
27.	-do-	for the 1st fortnight of Feb/97 No. A-1/Diary/SDI-UKL dtd. 16/02/97.
28.	-do-	for the 2nd fortnight of Feb/97 No. A-1/Diary/SDI-UKL dtd. 1.3.97.
29.	-do-	for the 1st fortnight of Mar/97 No. A-1/Diary/SDI-UKL dtd. 16.3.97.
30.	-do-	for the 2nd fortnight of March/97 No. A-1/Diary/SDI-UKL dtd. 1.4.97.
31.	-do-	for the 1st fortnight of April/97. No. A-1/Diary/SDI-UKL dtd. 21.4.97
32.	-do-	for the 2nd fortnight of April/97 <del>NO. A-1/Diary/SDI-UKL dtd. 16.4.97</del> No. NIL dtd. NIL
33.	-do-	for the 1st fortnight of May/97 No. A-1/Diary/SDI-UKL dtd. 16/5/97.
34.	-do-	for the 2nd fortnight of May/97 No. A-1/Diary/SDI-UKL dtd. 30/05/97.
35.	-do-	for the 1st fortnight of June/97 No. A-1/Diary/SDI-UKL dtd. 16/6/97.
36.	-do-	for the 2nd fortnight of June/97. No. A-1/Diary/SDI-UKL dtd. 1/7/97.
37.	-do-	for the 1st fortnight of July/97 No. A-1/Diary/SDI-UKL dtd. 16/7/97.
38.	-do-	for the 2nd fortnight of July/97 No. A-1/Diary/SDI-UKL dtd. 1/8/97.
39.	-do-	for the 1st fortnight of Aug/97 No. A-1/Diary/SDI-UKL dtd. 16.8.97.
40.	-do-	for the 2nd fortnight of Aug/97 No. A-1/Diary/SDI-UKL dtd. 1.9.97.
41.	-do-	for the 1st fortnight of Sept/97 No. A-1/Diary/SDI-UKL dtd. 16.9.97
42.	-do-	for the 2nd fortnight of Sept/97 No. A-1/Diary/SDI-UKL dtd. 1.10.97
43.	-do-	for the 1st fortnight of Oct/97 No. A-1/Diary/SDI-UKL dtd. 16.10.97
44.	-do-	for the 2nd fortnight of Oct/97 No. A-1/Diary/SDI-UKL dtd. 1.11.97
45.	-do-	for the 1st fortnight of Nov/97 No. A-1/Diary/SDI-UKL dtd. 16.11.97
46.	-do-	for the 2nd fortnight of Nov/97 No. A-1/Diary/SDI-UKL dtd. 1.12.97

Contd. P/3.....

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47. Fortnightly diary of SDI(P)/Ukhruil } for the 1st fortnight of Dec/97  
No.A-1/Diary/SDI-UKL dtd.16.12.97
48. -do- } for the 2nd fortnight of Dec/97  
No.A-1/Diary/SDI-UKL dtd.31.12.98.
49. Monthly summary of SDI(P)/Ukhruil } for the month of July/96  
No.A-1/Summary/SDI-UKL dtd.1.8.96
50. -do- } for the month of Aug/96  
No.A-1/Summary/SDI-UKL dtd.2.9.96
51. -do- } for the month of Sept/96  
No.A-1/Summary/SDI-UKL dtd.1.10.96
52. -do- } for the month of Oct/96  
No.A-1/Summary/Inspn/Summary/SDI-UKL  
dtd.1.11.96
53. -do- } for the month of Nov/96  
No.A-1/Summary/Inspn/SDI-UKL dt.2.12.96
54. -do- } for the month of Dec/96  
No.A-1/Summary/96/Inspn. dtd.31.12.96.
55. -do- } for the month of Jan/97  
No.A-1/Summary/Inspn/SDI-UKL dt.3.2.97
56. -do- } for the month of Feb/97  
No.A-1/Summary/Inspn/SDI-UKL dt.3.3.97
57. -do- } for the month of March/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.4.97
58. -do- } for the month of April/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.5.97
59. -do- } for the month of May/97  
No.A-1/Summary/Inspn/SDI-UKL dt.2.6.97
60. -do- } for the month of June/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.7.97
61. -do- } for the month of July/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.8.97
62. -do- } for the month of Aug/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.9.97
63. -do- } for the month of Sept/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.10.97
64. -do- } for the month of Oct/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.11.97
65. -do- } for the month of Nov/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.12.97
66. -do- } for the month of Dec/97  
No.A-1/Summary/Inspn/SDI-UKL dt.1.1.98.
67. Shri.L.Pamching, BPM, Chingjerei EBO letter dtd.8/10/97  
addressed to SPDe/Imphal.
68. Shri.L.Ita Singh, BPM, Kamang Kakching EBO letter dt.25.9.97  
addressed to SPDe/Imphal.
69. Shri.V.S.Vareias, EBO BPM, Shengbhak EBO letter dtd.29/09/97  
addressed to SPDe/Imphal.
70. Shri.S.Yarngai, BPM, Pushing EBO letter dtd.09/10/97  
addressed to SPDe/Imphal.

Contd.P/4.....

24 (S) -150- 180  
---(4)---

71. Shri. R. Tuingshyung, BPN, Sirarakhong E000 letter dtd. 9/10/97 addressed to SPOs/Imphal.
72. Shri. AS. Anderson, BPN, Nungshong E000 addressed to SPS/Imphal received at Divisional office on 04/11/97.

(LALHLUNA)

Director Postal Services,  
Mairpur:Imphal-795001.



25 (A) 151-181

ANNEXURE IV

List of Witnesses by which the articles of charges framed against Shri.S.B.Hazrika, SDIPs/Ukhrul Sub-Dn., Ukhrul are proposed to be sustained.

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1. Shri.L.Pamching, EOPM, Chingjarei EOPM
2. Shri.L.ito Singh, EOPM, Kamang Kakching EOPM
3. Shri.V.S.Vareise, EOPM, Shangshak EOPM
4. Shri.S.Yarngai, EOPM, Pusing EOPM
5. Shri.R.Tuingayung, EOPM, Sirarakhong EOPM
6. Shri.AS.Anderson, EOPM, Nungshang EOPM
7. Shri.G.Owijamani Singh,  
S.A(IR/VR), Divisional  
office, Imphal.

(LALHLUNA)  
Director Postal Services,  
Manipur: Imphal: 795001.

ANNEXURE-A

26 10 -152-82

List of 53(Fifty three)EDBOs and 1(One)S.O shown to have been inspected by Shri.S.B.Hazarika,SDIPOs,Ukhrul during the year 1996, but no I.Rs were submitted to the Supdt.of Post Offices, Manipur Division,Imphal

Sl. No.	Name of the EDBO	Date on which the office was shown to have been inspected by Shri.S.B.Hazarika,SDI(P) Ukhrul Sub-Dn.,Ukhrul.
(1)	(2)	(3)
1.	Nongada	07.02.96
2.	Sawombung	08.03.96
3.	Yourbung	06.02.96
4.	Ngaimu	07.05.96
5.	Phadeng	11.05.96
6.	Sijang Mongjang	15.5.96
7.	Loute Tangkhul	23.02.96
8.	Chadong	13.03.96
9.	Hundung	03.04.96
10.	Shiroi	19.02.96
11.	Chingmang	10.06.96
12.	Semol	22.02.96
13.	Taretkhul	23.02.96
14.	Grihang	03/04.7.96
15.	Aishi	05.07.96
16.	Huime	12.07.96
17.	Khongdei Shimpfung	13.07.96
18.	Maokot	29.07.96
19.	Nongdam Tangkhul	26.06.96
20.	Phaknung	17.07.96
21.	Thawai	19.06.96
22.	Sirarakhong	05.03.96
23.	Tongou	23.04.96
24.	Paoyei	25.04.96
25.	Sanakeithel	26.04.96
26.	Chamu	26.07.96
27.	Huining	22.8.96
28.	Nungpi Khunou	23.07.96
29.	Nunguhong	24.08.96
30.	Pushing	04.09.96
31.	Lambui	06.07.96
32.	Huidrom	20.5.96
33.	Shangshak	07/08.7.96
34.	Kongpat Khunou	27.08.96
35.	Lamlong Gate	30.08.96
36.	Lungphu	29.08.96
37.	Phungyar	28.08.96
38.	Moirang, Pural	17.10.96
39.	Mapum	04.11.96
40.	Leisan	09.11.96
41.	Choither	22.10.96
42.	Chingjaroi	15.02.96
43.	Khayang	04.11.96
44.	Thiwa	14.11.96
45.	Kachai	19.11.96
46.	Ngari Khullen	20.11.96
47.	Paorei	21.11.96
48.	Tushem	26.11.96
49.	Chahyang	10.12.96
50.	Jessami	10.12.96
51.	Kongai	10.12.96
52.	Soraphung	10.12.96
53.	T.C.Compound	31.12.96
<u>NAME OF THE S.O</u>		
1.	Somdal S.O	09.12.96

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ANNEXURE-B

List of 69(Sixty nine) EDBOs and 1(One)S.O which were shown to have been inspected by Shri.S.D.Hazarika,SDIPOs/ Ukhul during the year 1997.

Sl. No.	Name of the EDBO	Date of Inspection shown
1.	(2)	(3)
10.	Leikoiching	03.02.97
2.	Maku	05.02.97
3.	Lamlai	04.03.97
4.	Yourbung	11.01.97
5.	Takhel	21.01.97
6.	Nongada	10.01.97
7.	Chingjaroi	25.02.97
8.	Shitroi	18.02.97
9.	Semol	24.01.97
10.	Loute Tangkhul	05.03.97
11.	Sirarakhong	29.03.97
12.	Sawombung	06.03.97
13.	Chadong	13.03.97
14.	Hungung	29.04.97
15.	Litan	03.04.97
16.	Tongou	18.03.97
17.	Sanakeithel	22.04.97
18.	Ngaimu	28.04.97
19.	Phadang	26.04.97
20.	Sijang Mongjang	24.04.97
21.	Huidrom village	03.05.97
22.	Ningthemchakhul	05.05.97
23.	Taretkhul	08.05.97
24.	Chingmang	12.05.97
25.	Kh.Makhong	14.05.97
26.	Sameng Kakching	19.05.97
27.	Yaingangpokpi	20.05.97
28.	Thawai	21.05.97
29.	Nongdam Tangkhul	23.05.97
30.	Tuinem	05.06.97
31.	Grihang	29.05.97/03.09.97
32.	Aishi	09.06.97
33.	Lambui	11.06.97
34.	Shangshak	10.06.97
35.	Huimi	14.06.97
36.	Khongdei Simphung	17.06.97
37.	Phaknung	21.06.97
38.	Paoyei	25.07.97
39.	Lungpi Khunou	28.06.97
40.	Chamu	05.07.97
41.	Maokot	09.07.97
42.	Huining	11.07.97
43.	Nungshong	15.07.97
44.	Kongpat Khunou	17.07.97
45.	Phungyar	21.07.97
46.	Lungphu	23.07.97
47.	Lamlong Gate	30.07.97
48.	Pushing	28.07.97
49.	Khamasom	06.08.97
50.	Chassad	02.08.97
51.	Moirang Pural	29.08.97
52.	Choither	11.08.97
53.	Khayang	14.08.97
54.	Mapum	11.09.97
55.	Leisen	23.08.97
56.	Thiwa	19.09.97
57.	Kachai	18.09.97
58.	Ngari Khullen	28.06.97
59.	Paorei	27.09.97
60.	Tushem	03.10.97

Contd.P/2....

(1)	(2)	(3)
62.	Phungoham	21.10.97
61.	Chiehyang	25.10.97
63.	Jessami	05.11.97
64.	Kongai	06.11.97
65.	Tolloi	10.11.97
66.	Kharasom	19.11.97
67.	Soraphung	17.11.97
68.	T.C.Compound	21.11.97
69.	Chingai	25.11.97

NAME OF THE S.O

1. Somdal S.O 18.12.97/19.12.97

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# ANNEXURE-C

List of 44 (forty four) EDBOs and 1 (One) S.O which were shown to have been inspected by Shri.S.B.Hazarika, SDIPOs, Ukhrul during the year 1997, but he did not submit ~~xxx~~ to the Supdt.of Post Offices, Manipur Dn, Imphal

Sl. No. Name of the EDBO Date on which the office was shown to have been inspected by Shri.S.B.Hazarika, SDIPOs, Ukhrul

1. Leikoiching	03.02.97
2. Yourbung	11.01.97
3. Nongada	10.01.97
4. Chingjaroi	25.02.97
5. Shirol	18.02.97
6. Semol	24.01.97
7. Loute Tangkhul	05.03.97
8. Sirarakhong	29.03.97
9. Sawombung	06.03.97
10. Chadong	13.03.97
11. Hundung	29.04.97
12. Litan	03.04.97
13. Tongou	18.03.97
14. Sanakeithel	22.04.97
15. Ngaimu	28.04.97
16. Phadeng	26.04.97
17. Sijang Mongjang	24.04.97
18. Huidrom village	03.05.97
19. Ningthemchakhul	05.05.97
20. Chingmang	12.05.97
21. Yaingangpokpi	20.5.97
22. Thawai	21.05.97
23. Nongdam Tjangkhul	23.05.97
24. Tuinem	05.06.97
25. Lambui	11.06.97
26. Shangshak	<del>XXXXXX</del> 10.06.97
27. Huimi	14.06.97
28. <del>XXXXXXXXXXXXXXXXXXXX</del> Chamu	<del>XXXXXX</del> 05.07.97
29. Phaknung	21.06.97
30. Paoyel	25.07.97
31. Nungpi Khunou	28.06.97
32. Maokot	09.07.97
33. Nungshong	15.07.97
34. Kangpat Khunou	17.07.97
35. Phungyar	21.07.97
36. Lungphu	23.07.97
37. Lamlong Gate	30.07.97
38. Khamasom	06.08.97
39. Chassad	<del>XX</del> 02.08.97
40. Khayang	14.08.97
41. Leisen	23.08.97
42. Thiwa	19.09.97
43. Kachai	18.09.97
44. T.C.Compound	21.11.97

## NAME OF THE S.O

1. Somdal S.O 18.12.97/19.12.97.

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## INQUIRY REPORT

In the Case Against  
Sri S.B.Hazarika,  
Complaint Inspector,  
o/o the D.P.S., Kohima

Under Sub-Rule (2) of Rule-14 of CCS(CCA) Rules, 1965, I was appointed by the Director Postal Services, Manipur State, Imphal as the Inquiry Authority to inquire into the charges framed against Sri S.B.Hazarika, the then SDIPOs, Ukul Sub Division, Ukul in Manipur Division, now Complaint Inspector, o/o the D.P.S., Kohima vide his memo no. Diary/SDIPOs-Ukul/97 dt.8.5.98. I have since completed the inquiry and on the basis of the documentary and oral evidences adduced before me prepared my inquiry report as under.

2. Presenting Officer :

Sri N.C.Haldar, Dy. Supdt. of POs, o/o the DPS, Imphal was appointed as Presenting Officer except the date 10.05.2000 on which the said Sri N.C.Haldar was summoned to depose as defence witness and Sri Narayan Das, ASPOs, Agartala South Sub Division was appointed as adhoc Presenting Officer for the period of deposition scheduled to be made.

3. Participation by the Charged Officer in the Inquiry and defence Assistant available to him

The C.O. did not participate in the inquiry till completion of the stage of presentation of prosecution's documents and witnesses. He, however, availed the opportunities of producing of defence evidences. He did not nominate any defence assistant to help him in producing the case on behalf of him; although he was apprised of the facilities available to him.

4. Date of hearing of the case :

The case was heard on 25.8.98, 22.9.98, 27.1.99, 15.9.99, 16.9.99, 17.9.99, 18.9.99, 21.10.99, 22.10.99, 10.5.2000 & 14.6.2000.

5.1. Documents Exhibited :

The following particularized documents were exhibited in the inquiry. Of them, the documents that particularized at Sl. No. 1 to 72 were produced on behalf of the Disciplinary Authority while that mentioned at Sl. No.73 to 77 were produced on behalf of the defence. They were brought on records duly marking as indicated against each.

Sl. No.	Particulars of the documents	Exhibit Nos.
1.	SPOs, Imphal letter no. Inspection Tour Programme 1996 did.19.02.1996 along with a copy of inspection programme for the year 1996 (of SDIPOs, Ukul Sub Division)	Ex.S - 1(a) to 1(c)

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Sl. No.	Particulars of the documents	Exhibit Nos.
2.	SPOs, Imphal letter no. Inspection/Tour Programme/1997 dtd.29.01.1997 along with a copy of inspection programme for the year 1997 (of SDIPOs, Ukul Sub Division)	Ex.S - 2(a) to 2(d)
3.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Feb 96 No.A-1/Diary/SDI-UKL/95-96 Dtd.16.2.96	Ex.S - 3(a) to 3(b)
4.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Jan 96 No.A-1/Diary/SDI-UKL/95-96 Dtd.1/16.1.96	Ex.S - 4(a) & 4(b)
5.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Feb 96 No.A-1/Diary/SDI-UKL Dtd.1.3.96	Ex.S - 5(a) & 5(b)
6.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Mar 96 No.A-1/Diary/SDI-UKL/96 Dtd.16.3.96	Ex.S - 6(a) & 6(b)
7.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Mar 96 No.A-1/Diary/SDI-UKL/96 Dtd.1.4.96	Ex.S - 7(a) & 7(b)
8.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Apr 96 No.A-1/Diary/SDI-UKL/96 Dtd.17.4.96	Ex.S - 8
9.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Apr 96 No.NIL Dtd.NIL	Ex.S - 9
10.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of May 96 No.A-1/Diary/SDI-UKL Dtd.17.5.96	Ex.S - 10
11.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of May 96 No.A-1/Diary/SDI-UKL Dtd.3.6.96	Ex.S - 11(a) & 11(b)
12.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of June 96 No.A-1/Diary/SDI-UKL/96 Dtd.17.6.96	Ex.S - 12(a) & 12(b)
13.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of June 96 No.A-1/Diary/SDI-UKL/96 Dtd.1.7.96	Ex.S - 13(a) & 13(b)
14.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of July 96 No.A-1/Diary/SDI-UKL Dtd.16.7.96	Ex.S - 14
15.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of July 96 No.A-1/Diary/SDI-UKL Dtd.1.8.96	Ex.S - 15
16.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Aug 96 No.A-1/Diary/SDI-UKL Dtd.19.8.96	Ex.S - 16
17.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Aug 96 No.A-1/Diary/SDI-UKL Dtd.2.9.96	Ex.S - 17(a) & 17(b)
18.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Sept 96 No.A-1/Diary/SDI-UKL/96 Dtd.16.9.96	Ex.S - 18(a) & 18(b)
19.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Sept 96 No.A-1/Diary/SDI-UKL/96 Dtd.1.10.96	Ex.S - 19(a) & 19(b)
20.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Oct 96 No.A-1/Diary/SDI-UKL Dtd.1.11.96	Ex.S - 20(a) & 20(b)
21.	Fortnightly Diary of SDI(P), Ukul. For the 1 <sup>st</sup> fortnight of Nov 96 No.A-1/Diary/SDI-UKL Dtd.16.11.96	Ex.S - 21(a) & 21(b)
22.	Fortnightly Diary of SDI(P), Ukul. For the 2 <sup>nd</sup> fortnight of Nov 96 No.A-1/Diary/SDI-UKL Dtd.2.12.96	Ex.S - 22(a) & 22(b)

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Sl. No.	Particulars of the documents.	Exhibit Nos.
23.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Dec 96 No.A-1/Diary/SDI-UKL Dtd.16.12.96	Ex.S - 23(a) & 23(b)
24.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Dec 96 No.A-1/Diary/SDI-UKL Dtd.1.1.97	Ex.S - 24
25.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Jan 97 No.A-1/Diary/SDI-UKL Dtd.16.1.97	Ex.S - 25(a) & 25(b)
26.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Jan 97 No.A-1/Diary/SDI-UKL Dtd.1.2.97	Ex.S - 26(a) & 26(b)
27.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Feb 97 No.A-1/Diary/SDI-UKL Dtd.16.2.97	Ex.S - 27(a) & 27(b)
28.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Feb 97 No.A-1/Diary/SDI-UKL Dtd.1.3.97	Ex.S - 28(a) & 28(b)
29.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Mar 97 No.A-1/Diary/SDI-UKL Dtd.16.3.97	Ex.S - 27(a) & 27(b)
30.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Mar 97 No.A-1/Diary/SDI-UKL Dtd.1.4.97	Ex.S - 30
31.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Apr 97 No.A-1/Diary/SDI-UKL Dtd.21.4.97	Ex.S - 31
32.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Apr 97 No. NIL Dtd. NIL	Ex.S - 32(a) & 32(b)
33.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of May 97 No.A-1/Diary/SDI-UKL Dtd.16.5.97	Ex.S - 33(a) & 33(b)
34.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of May 97 No.A-1/Diary/SDI-UKL Dtd.2.6.97	Ex.S - 34(a) & 34(b)
35.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of June 97 No.A-1/Diary/SDI-UKL Dtd.16.6.97	Ex.S - 35(a) & 35(b)
36.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of June 97 No.A-1/Diary/SDI-UKL Dtd.1.7.97	Ex.S - 36(a) & 36(b)
37.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of July 97 No.A-1/Diary/SDI-UKL Dtd.16.7.97	Ex.S - 37(a) & 37(b)
38.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of July 97 No.A-1/Diary/SDI-UKL Dtd.1.8.97	Ex.S - 38(a) & 38(b)
39.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Aug 97 No.A-1/Diary/SDI-UKL Dtd.16.8.97	Ex.S - 39(a) & 39(b)
40.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Aug 97 No.A-1/Diary/SDI-UKL Dtd.1.9.97	Ex.S - 40(a) & 40(b)
41.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Sept 97 No.A-1/Diary/SDI-UKL Dtd.16.9.97	Ex.S - 41(a) & 41(b)
42.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Sept 97 No.A-1/Diary/SDI-UKL Dtd.1.10.97	Ex.S - 42(a) & 42(b)
43.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Oct 97 No.A-1/Diary/SDI-UKL Dtd.16.10.97	Ex.S - 43
44.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Oct 97 No.A-1/Diary/SDI-UKL Dtd.1.11.97	Ex.S - 44(a) & 44(b)



Sl. No.	Particulars of the documents	Exhibit Nos.
45.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Nov 97 No.A-1/Diary/SDI-UKL Dtd.16.11.97	Ex.S - 45(a) & 45(b)
46.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Nov 97 No.A-1/Diary/SDI-UKL Dtd.1.12.97	Ex.S - 46(a) & 46(b)
47.	Fortnightly Diary of SDI(P), Ukrul. For the 1 <sup>st</sup> fortnight of Dec 97 No.A-1/Diary/SDI-UKL Dtd.16.12.97.	Ex.S - 47(a) & 47(b)
48.	Fortnightly Diary of SDI(P), Ukrul. For the 2 <sup>nd</sup> fortnight of Dec 97 No.A-1/Diary/SDI-UKL Dtd.1.1.98	Ex.S - 48(a) & 48(b)
49.	Monthly Summary of SDI(P), Ukrul. For the month of July 96 No.A-1/Summary/SDI-UKL Dtd.1.8.96	Ex.S - 49
50.	Monthly Summary of SDI(P), Ukrul. For the month of Aug 96 No.A-1/Summary/SDI-UKL Dtd.2.9.96	Ex.S - 50
51.	Monthly Summary of SDI(P), Ukrul. For the month of Sept 96 No.A-1/Summary/SDI-UKL Dtd.1.10.96	Ex.S - 51
52.	Monthly Summary of SDI(P), Ukrul. For the month of Oct 96 No.A-1/Inspn/Summary/SDI-UKL Dtd.2.9.96	Ex.S - 52
53.	Monthly Summary of SDI(P), Ukrul. For the month of Nov 96 No.A-1/Inspn/Summary/SDI-UKL Dtd.2.12.96	Ex.S - 53
54.	Monthly Summary of SDI(P), Ukrul. For the month of Dec 96 No.A-1/Summary/96/Inspn Dtd.31.12.96	Ex.S - 54
55.	Monthly Summary of SDI(P), Ukrul. For the month of Jan 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.3.2.97	Ex.S - 55
56.	Monthly Summary of SDI(P), Ukrul. For the month of Feb 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.3.3.97	Ex.S - 56
57.	Monthly Summary of SDI(P), Ukrul. For the month of March 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.4.97	Ex.S - 57
58.	Monthly Summary of SDI(P), Ukrul. For the month of Apr 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.5.97	Ex.S - 58
59.	Monthly Summary of SDI(P), Ukrul. For the month of May 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.2.6.97	Ex.S - 59
60.	Monthly Summary of SDI(P), Ukrul. For the month of June 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.7.97	Ex.S - 60
61.	Monthly Summary of SDI(P), Ukrul. For the month of July 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.8.97	Ex.S - 61
62.	Monthly Summary of SDI(P), Ukrul. For the month of Aug 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.9.97	Ex.S - 62
63.	Monthly Summary of SDI(P), Ukrul. For the month of Sept 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.10.97	Ex.S - 63
64.	Monthly Summary of SDI(P), Ukrul. For the month of Oct 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.11.97	Ex.S - 64
65.	Monthly Summary of SDI(P), Ukrul. For the month of Nov 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.12.97	Ex.S - 65
66.	Monthly Summary of SDI(P), Ukrul. For the month of Dec 97 No.A-1/Summary/Inspn/SDI-UKL Dtd.1.1.97	Ex.S - 66

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Sl. No.	Particulars of the documents	Exhibit Nos.
67.	Photocopy of statement of Sri L. Pamehing, BPM, Chingjaroi EDBO letter dtd. 1.10.97 addressed to SPOs, Imphal.	Ex.S - 67
68.	Photocopy of statement of Sri L. Ito Singh, BPM, Kameng Kakching EDBO letter dtd. 25.9.97 addressed to SPOs, Imphal.	Ex.S - 68
69.	Photocopy of statement of Sri V.S. Variso, EDBPM, Shangshak EDBO letter dtd. 29.9.97 addressed to SPOs, Imphal.	Ex.S - 69
70.	Photocopy of statement of Sri Yaringai, EDBPM, Pushing EDBO letter dated. 09.10.1997 addressed to SPOs, Imphal.	Ex.S - 70
71.	Photocopy of statement of Sri R. Tungavang, BPM, Sirarakhong EDBO letter dtd. 9.10.97 addressed to SPOs, Imphal.	Ex.S - 71
72.	Photocopy of statement of Sri A.S. Anderson, BPM, Nungshong EDBO addressed to DPS, Imphal received at Divisional Office on 4.11.97	Ex.S - 72
73.	Photocopy of Dte. circular No. 28-162/62 P.E.-1 dtd. 5.8.65 fdd.	Exd - 1
74.	No. Rule 14/S.B. Hazarika, dtd. 11.02.2000 issued by D.P.S., Kohima — In original.	Exd - 2
75.	Letter No. Diary/SDIPOs, Ukhrul/97 dtd. 4.3.98 issued from office of the DPS, Imphal.	Exd - 3
76.	Letter No. Diary/SDIPOs-Ukhrul/97 dtd. 16.3.98 issued from DPS, Imphal.	Exd - 4
77.	Memo No. Diary/SDIPOs-Ukhrul/92 dtd. 25.9.92 issued by D.P.S., Imphal.	Exd - 5

## 5.2. Documents not exhibited :

The charged-officer (here under known as C.O.) prayed for production of monthly tour T.A. Adv file for the period from July 97 to March 98 of SDIPOs, Ukhrul Sub Division, maintained by the o/o the D.P.S., Imphal. In support of his claim the C.O. stated that the file would enlight the material fact as to the submission / non-submission of IRs in question as the office used to release / sanction T.A. advance only on submission of IRs. I find that the file might enlight / reflect material fact related to the matter under inquiry and placed requisition for the same before the DPS, Imphal vide my letter no. INQ-1/SBH/98-Vol-I dt. 26.10.99 followed by reminder 12.1.00, 23.2.00 & 20.4.00. The custodian of the document had neither claimed privilege of the document nor forwarded the document. Nor made any communication showing the reason of non-making of the availability of the requisitioned documents.

6.1. The prosecution had desired to examine the following particularised witnesses; among them the witness at Sl. No. 2, 4, 5 & 6 were examined on the date shown against each and their deposition were brought into records as 'Marked' at the last column. The rest

witnesses did not turn up despite issuance of repeated summons. Neither they had communicate the reasons of their inability to attend, nor the PO could explain the reasons of their non-attendance. It is the duty of the party to ensure attendance of their witness on the appointed date, time and place.

Sl. No.	Name and Particulars of witness	Date of deposition	Deposition marked as
1.	Sri L.Pamchung, EDBPM, Chingjaroi EDBO		Not turn up
2.	Sri L.Ito Singh, EDBPM, Kamang Kakching	16.09.1999	SW-1
3.	Sri A.S.Anderson, EDBPM, Nungshang.		Not known
4.	Sri O.Dwijamani Singh, OA (IR / VR), Divisional Office	17.09.2000	SW-4
5.	Sri V.S.Vareise, EDBPM, Shangshak EDBO	17.09.2000	SW-3
6.	Sri S.Yamgai, EDBPM, Pushing EDBO	17.09.1999	SW-2
7.	Sri R.Tuingayang, EDBPM, Sirarakhang EDBO		Not turn up

6.2. The C.O. prayed to produce Sri N.C.Haldar, DSPOs, Imphal and the P.O. of the case to clarify the circumstances under which the exhibit Exs-67 to Exs-71 were received by the office of the DPS, Imphal. I find the witness proposed to be examined as defence witness is likely to enlight certain material fact and he was summoned. In response to the summon the said Sri N.C.Haldar in his letter no. nil dt.28.02.2000 addressed to DPS, Nagaland, the disciplinary authority and copy to me expressed his unwillingness to depose as defence witness. He did not turn up on the scheduled date and time. The C.O. did not press for further summoning of the said Sri Haldar and virtually dropped.

7. Article of charge and substance of imputation of misconduct or misbehaviour

The following two articles of charges have been framed against Sri S.B.Hazarika, the then SDIPOs, Ukhrul Sub Division, now Complaint Inspector, o/o the D.P.S., Nagaland.

Article of charge - I

Sri S.B.Hazarika, while working as SDIPOs, Ukhrul Sub Division during the period from 29.01.1996 (A/N) to 31.01.1998, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the Inspection Remarks in respect of each of these 54 (fifty four) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly the said Sri S.B.Hazarika had shown to have inspected as many as 78 (seventy eight) Post Offices during the period from 01.01.1997 to 31.12.1997 but had not submitted a copy of the Inspection Remarks in respect of 45 (forty five) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Sri S.B.Hazarika violated the provisions of Rule-308(2) of P&T Man. Vol. VIII read with Department of Posts, New Delhi letter No.17-3/92-Inspn Dated 02.07.1992 and Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

Article of charge - II

Sri S.B.Hazarika, while working as SDIPOs, Ukhrul Sub Division, during the period from 29.01.1996 to 31.01.1998, he had shown to have inspected the following EDBOs in Ukhrul Sub Division, on the date noted against each.

Sl. No.	Name of the EDBO	Date of inspection shown by Sri S.B.Hazarika
1.	Chingjaroi EDBO	25.02.1997
2.	Sirarakhang EDBO	29.03.1997
3.	Kamang Kakching EDBO	19.05.1997
4.	Shangshak EDBO	18.06.1997
5.	Nungshong EDBO	15.07.1997
6.	Pushing EDBO	28.07.1997

But, in fact, the said Sri S.B.Hazarika did not at all inspect the above-mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Sri S.B.Hazarika, violated the provisions of Rule-308(1) of P&T Man. Vol. VIII, Rule-3(1)(i) of CCS (Conduct) Rules, 1964 and Rule-3(1)(iii) of CCS (Conduct) Rules, 1964.

The Statement of Imputation of Misconduct or Misbehaviour in support of the charges are as follows :

Article - I

That as many as 66 (sixty six) EDBOs and one SO in Ukhrul Sub Division were allotted to the share of Sub Divisional Inspector of Post Offices, Ukhrul Sub Division. Ukhrul for inspection during the year 1996 vide SPOs, Imphal letter No. Inspection/Tour Programme/1996 dtd.19.02.1996 along with a copy of Inspection Programme for the year 1996. The said Sri S.B.Hazarika took over the charge of SDIPOs, Ukhrul Sub Division on 29.01.1996 (A/N) and prior to taking over the charge of the Sub Division by the said Sri S.B.Hazarika, one Sri Moba Maring P.A., Imphal H.O. was officiating as SDIPOs, Ukhrul Sub Division from 01.01.1996 to 29.01.1996 (A/N). Of the sixty-six EDBOs assigned to the SDIPOs, Ukhrul Sub Division, for inspection during the year 1996, the said Sri Moba Maring already inspected as many as 13 (thirteen) EDBOs during the period from 01.01.1996 to 29.01.1996. Thus, as many as 53 (fifty three) EDBOs and one S.O. were remaining for inspection, by the said Sri S.B.Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub Division by the said Sri Hazarika on 29.01.1996 (A/N). The said Sri S.B.Hazarika, in his fortnightly diaries and monthly summaries of the SDIPOs, Ukhrul for the period from 29.01.1996 (A/N) to 31.12.1996 had shown to have inspected all the 53 (fifty three) EDBOs and one S.O. which were remaining for inspected by the said Sri S.B.Hazarika as on 29.01.1996 (A/N). The list of 53 (fifty three) EDBOs and one S.O. shown to have inspected by the said Sri S.B.Hazarika has been enclosed as "ANNEXURE-A".

Similarly, as many as 71 (seventy one) Post Offices, i.e., 69 (sixty-nine) EDBOs and 2 (two) SOs were assigned to the SDIPOs, Ukhrul Sub Division, for inspection during the year 1997 vide SSPOs, Imphal letter no. Inspection/Tour Programme/97 dtd.29.01.1997

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along with a copy of Inspection Programme for the year 1997. Of the 69 (sixty nine) EDBOs and 2 (two) SOs in Ukhrul Sub Division, which were assigned for inspection by the said Sri S.B.Hazarika as SDIPOs, Ukhrul Sub Division, he had shown to have inspected all the 69 (sixty nine) EDBOs and 1 (one) S.O. on different date(s) during the period from 01.01.1997 to 31.12.1997, in his fortnightly diaries and monthly summaries of the SDIPOs, Ukhrul submitted by the said Sri Hazarika for the aforementioned period from time to time. The list of 69 (sixty nine) EDBOs and one S.O. which were shown to have been inspected by the said Sri S.B.Hazarika during the year 1997 has been enclosed as "ANNEXURE-B".

That as per Rule-308(2) of P&T Man. Vol.VIII, the said Sri S.B.Hazarika, SDIPOs, Ukhrul had to submit the copy of Inspection Remarks, in respect of each of the EDBO and S.O. inspected by him, to the Supdt. of Post Offices, Manipur Division, Imphal and in accordance with Deptt. of Posts, New Delhi letter no.17-3/92-Inspn dtd.02.07.1992 the time limit for submission / issuance of Inspection Remarks / Inspection Reports in respect of EDBO and S.O. are 10 (ten) days and 15 (fifteen) days from the date of inspection respectively. But, the said Sri S.B.Hazarika had not at all submitted the copy of Inspection Remarks in respect of 53 (fifty three) EDBOs and 1 (one) S.O. which were shown to have been inspected by him in 1996, as per "ANNEXURE-A", to the Supdt. of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent date. Similarly, the said Sri S.B.Hazarika had not at all submitted the copy of Inspection Remarks in respect of 44 (forty four) EDBOs and 1 (one) S.O., which were shown to have inspected by the said Sri Hazarika on different date(s) during the year 1997. The list of 44 (forty four) EDBOs and 1 (one) S.O. which were shown to have been inspected by the said Sri Hazarika in the year 1997, but he did not submit IRs has been enclosed as "ANNEXURE-C".

Therefore, it is imputed that the said Sri S.B.Hazarika, by his above acts, violated the provisions of Rule-308(2) of P&T Man. Vol.VIII and orders contained in Deptt. of Posts, New Delhi letter no.17-3/92-Inspn dtd.02.07.1992 and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

#### Article - II

The following EDBOs in Ukhrul Sub Division, which were assigned to the SDIPOs, Ukhrul Sub Division, for annual inspection for the year 1997 vide SSPOs, Imphal letter no. Inspection/Tour Programme/1997 dtd.29.01.1997 were shown to have been inspected by the said Sri S.B.Hazarika as SDIPOs, Ukhrul, on the date noted against each.

<u>Sl. No.</u>	<u>Name of the EDBO</u>	<u>Date of inspection</u>
1.	Chingiaroi EDBO	25.02.1997
2.	Sirarakhong EDBO	29.03.1997
3.	Kamang Kakching EDBO	19.05.1997
4.	Shangahak EDBO	18.06.1997
5.	Nungshang EDBO	15.07.1997
6.	Pushing EDBO	26.07.1997

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The said Sri S.B.Hazarika was working as SDIPOs, Ukhrul during the period from 29.01.1996 (A/N)-to 31.01.1998 and he had shown to have inspected the above Post Offices as mentioned above in his fortnightly diaries pertaining to that period and also in the monthly summaries of the SDIPOs, Ukhrul Sub Division, Ukhrul, submitted by the said Sri Hazarika, for the respective months on which those offices had been shown to have been inspected. But, the EDBPMs of the above EDBOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Sri S.B.Hazarika, SDIPOs, Ukhrul did not inspect their respective EDBOs in the year 1997 till the time of submission of respective intimations by each of the EDBPMs of above EDBOs in the months of Sept 97, Oct 97, Nov 97.

Therefore, it is imputed that the said Sri S.B.Hazarika did not at all inspect the aforementioned EDBOs on the dates noted against each and thereby violated the provisions of Rule-308(1) of P&T Man.Vol.VIII. In addition, the said Sri Hazarika, by his act of submission of false information regarding inspection of those abovementioned EDBOs failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

#### 8. Case of the Disciplinary Authority

A. The prosecution in article-1 impute that in the year 1996 as much as 66 EDBOs and 1 S.O. were assigned to the SDIPOs, Ukhrul Sub Division for inspection for the said year. The C.O. took over the charge of the SDI, Ukhrul on 29.01.1996 (A/N) and till then the preceding IPOs had already inspected 13 EDBOs. Thereby leaving 53 EDBOs and 1 S.O. for the rest of the year. The C.O. in his fortnightly diary for the period from 29.01.1996 to 31.12.1996 had noted down that all the offices were inspected. The prosecution further mentioned that similarly as many as 69 EDBOs and 2 SOs were assigned to the C.O. for inspection during the year 1997. The C.O. in his fortnightly diary from 01.01.1997 to 31.12.1997 had reported that the inspection work of the offices had been completed. The prosecution further added that the C.O. although reported inspection of all the offices assigned to him during the year 1996 and 1997 did not at all submitted the Inspection Remarks of 53 EDBOs and 1 S.O. in respect of 1996 and 44 EDBOs and 1 S.O. in respect of the year 1997 and thereby violated the provision of the Rule-308(2) of P&T Man.Vol.VIII and Deptt. of Posts, New Delhi letter No.17-3/92-Inspn dtd.2.7.92 according to which the time limit of submission of IR is fixed 10/15 days from the date of inspection and attracted the Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

In support of the allegation the P.O. pleaded the followings —

- i) Since the C.O. did not attend the proceeding till completion of adducement of evidence on behalf of the prosecution / disciplinary authority, it is clearly proved that he has nothing to say on his defence.
- ii) The P.O. emphasises over the deposition of SW-4, Sri O.Dwijamani Singh, Dealing Assistant, IR Branch, Divnl. Office, Manipur who stated that he

received the fortnightly diary and monthly summary of the C.O. often irregularly during the year 1996 & 1997. He added that he received 25 IRs out of 70 for the year 1997 and none for the year 1996 from the C.O. despite several reminders issued to the C.O. under the instruction of the controlling authority. From this deposition the P.O. asserted that the charge is proved and the C.O. neither visited the 54 offices listed to the ANNEXURE "A" to the charge sheet and hence question does not arise about the receipt of the IR of 1996. Similarly he emphasised that the C.O. neither visited the 45 BOs as listed in ANNEXURE "C" of the charge sheet nor inspected during the year 1997 and the question of submission of IR does not arise.

- iii) The P.O. in para 7 of his brief pleaded that despite repeated reminders the C.O. did not submit the IRs and even respond to the reminders.
- iv) The P.O. asserted that the C.O. being the in-charge of a Sub Division, it is his fundamental duty that he should response the letters received from the Higher Authority. Keeping himself mum, it is proved he has nothing to say and neglected the order of the higher authority.
- v) The P.O. further added that in reply to the question to the fact going against him made by the I.O. The C.O. reply "uncorroborated" which means the official has nothing to say against those points and thereby the charge is proved.

B. In article-II the prosecution put up that the C.O. in his fortnightly diaries and monthly summaries for the period from 01.01.1997 to 31.12.1997 noted the inspection of the following BOs on the date showing against each.

a)	Chingjarai EDBO	25.02.1997
b)	Sirarakhong EDBO	29.03.1997
c)	Kamang Kadching EDBO	19.05.1997
d)	Sahgshak EDBO	10.06.1997
e)	Nungshang EDBO	15.07.1997
f)	Pushing EDBO	28.07.1997

The EDBPMs of these offices intimated to the Director Postal Services in writing that their offices had not been inspected for the year 1997 by the C.O. till writing of the said communications by each of them and alleged that the C.O. did not at all inspected these offices on the date mentioned against each violating the provision of Rule-308(1) of P&T Man.Vol.VIII and Rule-3(1)(i) & 3(1)(iii) of CCS (Conduct) Rules 1964.

The following pleadings had been put forward by the P.O. toward sustaining of the charge.

- i) That the SW-1, Sri Lito Singh, EDBPM, Kamang Kakching EDBO in his deposition stated that the SDIPOs. Ukhrul, Sri S.B.Hazarika or any other SDIPOs had not visited his office till 25.09.1997 and he did not received any

Inspection Remarks till then and clearly proved that Sri S.B.Hazarika did not visit or inspect the office.

- ii) That the SW-2, Sri S.Yarangai, EDBPM, Pushing EDBO in his deposition stated that his office was not inspected by the C.O. till 09.10.1997 and thereby proved that the C.O. did not visit and inspect his office till then.
- iii) That the SW-3, Sri V.S.Varaiso, EDBPM, Sahgnshak EDBO in his deposition stated that his office was not inspected after 07.06.1995 till September 1997 for the year 1997 and thereby proved that the C.O. did not visit and inspect the office on the year 1997.
- iv) That on direction of the higher authority, the concerned offices had been asked to know the fact whether the office was actually visited and inspected by the C.O. In reply 25 offices intimated non-inspection of their offices and accordingly the report was submitted to the Chief P.M.G., Shillong on 11.12.1997.
- v) That out of 7 enlisted witnesses, 4 were examined. The rest 3 could not attend the hearing due to non-receipt of summons as these offices are situated in hilly and very backward area. Though they were asked again to attend the hearing at Agartala, they could not due to far distance.
- vi) That Sri Anderson, BPM, Nungsang in his letter dtd.14.10.1999 intimated that his health do not permit him to travel the long distance and as far the enquiry he begged to state that he did not know who was Hazarika, Inspector because he (Hazarika) never visited his office.

9. The case of the defendend.

The C.O. denied the charge and hold that the prosecution miserably failed to prove the charges brought against him. He pleaded the following in support of his claim. The points under 'A' are in r/o article of charge No.I and under 'B' in r/o article of charge No.II.

- A. i) Non-submission of written defence in response to the charges and non-attendance to the inquiry cannot be held as nothing to say in defence.
- ii) The plea of the PA that the reminders were issued asking submission of IR is not correct and the P.O. did not produce any such reminder to sustain the plea. The EXS-1 & EXS-2 not at all proved that the IRs were not submitted.
- iii) EXS-3 to EXS-66 are not at all the documents to prove that the IRs were not submitted, they are not transperating the submission / non-submission of IRs. The deposition of SW-4, Sri O.Dvijamani Singh is not corroborated by the documentary evidences. The deposition might have been made on the basis of some records not from memory as it was not expected to keep the figures of IRs submitted / non-submitted by different inspecting authority of the Division in his



memory. Non-production of the said documents leads the deposition to be false and fabricated.

- iv) Non-production of hand-to-hand receipt book of receipt and despatch branch of the Divisional Office for the period from January 96 to April 98 had failed to show the actual fact as to handing over the IRs to the inspection branch.
- v) Non-production of additional documents shown by the C.O. viz. Monthly Tour T.A. advance file for the period from July 97 to March 98 of SDIPOs, Ukhrul maintained by the Divisional Office, Imphal and the reasons thereof has interred that the documents, if produced be unfavourable to the person who withholds it i.e., prosecution.

B. i) EXS-68 to EXS-72 are not original ones, but photocopy. Therefore secondary evidence and can only be acceptable when the original destroyed or lost or cannot be produced in reasonable time. In this case no such reasons are explained and hence not admissible.

ii) The deposition of SW-1, SW-2 & SW-3 are suffered from short coming of (a) the original letter stated to be written by them to SPOs, Imphal were not shown to them at the time of their deposition & (b) the evidences are not conclusive. Inspection of a BO cannot be confirmed only on the basis of oral statement of the BPM who not alone constitute the establishment. There are other staff and they are equally relevant and material.

iii) Account Book, BO Journal, BO receipt book are the minimum documents, which required to be signed by the inspection authority in course of inspection of a Branch Office. These documents were not produced because, if produced, they would be unfavourable to the charge.

iv) The veracity of the letter written to the SPOs by those witnesses who did not turn up before the inquiry authority could not be tested & the charge of non-inspection of these offices is dried up.

v) Examination of Sri N.C. Halder, DSPOs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4. But he did not turn up & inference goes against the said Sri N.C. Halder agreeable to the section 114 of Indian Evidence Act third which emphasis that the court may presume if a man refers to answer a question which he is not compelled to answer by law, the answer if given, would be unfavourable to him.

#### 10. Analysis and assessment of evidences :

- (i) The article of charge-I is for non-submission of IRs in respect of the 54 offices enlisted in ANNEXURE 'A' to the charge sheet reported to have been inspected by the C.O. in the year 1996 as SDIPOs, Ukhrul Sub Division, Manipur Divn. Also for non-submission of IRs of 44 offices enlisted in ANNEXURE 'B' to the

charge sheet reported to have been inspected in the year 1997 to SDIPOs, Ukhrul Sub Division in Manipur Divn. by the C.O. To prove the charge, the following ingredients are to be satiated.

- (1) That the C.O., during the period in question, worked as SDIPOs, Ukhrul Sub Division.
- (2) That the offices enlisted in ANNEXURE 'A' & ANNEXURE 'B' to the charge sheet were allotted to the SDIPOs for inspection during the year 1996 & 1997 respectively.
- (3) That the aforesaid enlisted offices are reported to have been inspected on the date shown against each in the respective annexure by the C.O.
- (4) That the C.O. did not submit the IRs in respect of those offices mentioned in the said ANNEXURE 'A' & ANNEXURE 'B'.
  - (a) The C.O. in no stage of the inquiry denied the fact of his working as SDIPOs, Ukhrul Sub Division, in Manipur Division during the period from 29.01.1996 to 31.01.1997. The EXS-3(a) to EXS-48(b), the fortnightly diaries of the C.O. reflected that the C.O. worked as SDIPOs, Ukhrul during the said period except the period from 05.08.1996 to 18.08.1996 and again from 07.04.1997 to 21.04.1997. On both the occasions he was on EL. In addition, those exhibits manifest the enjoyment of EL and restricted holiday during the period from 06.10.1997 to 17.10.1997 by the C.O. Therefore, it can easily be held that the C.O. worked as SDIPOs, Ukhrul Sub Division to the strength mentioned herein above.
  - (b) The EXS-1 & EXS-2 clearly revealed that the offices particularized in the ANNEXURE 'A' & ANNEXURE 'B' were allotted to the SDIPOs, Ukhrul Sub Division for carrying out inspection for the year 1996 and 1997 respectively. There was no denial of the C.O. on this point nor the documents were in question. Thus it can be easily held that these office were allotted enclosed for inspection by the C.O. during the year 1996 and 1997 as categorized in the said ANNEXURE 'A' & ANNEXURE 'B'.
  - (c) The exhibit EXS-3 to EXS-48 are the fortnightly diaries of the SDIPOs, Ukhrul Sub Division for the period of Feb 96 to Dec 97 submitted to the SPOs, the SSPOs and the DPS, Imphal by the C.O. The EXS-49 to EXS-66 are the monthly summary for the period from July 96 to December 97 submitted by the C.O. in the capacity of SDIPOs, Ukhrul to the Divisional Head. The authenticity of these documents are not questioned, nor disordered them by the C.O. in any stage of inquiry. These documents can be taken into account as

authentic and of CO's. These documents enlightened that the C.O. reported the inspection of the offices enlisted in ANNEXURE 'A' & ANNEXURE 'B' on the date shown against each.

- (d) The P.O. pleaded that the non-attendance of the C.O. clearly proves that the C.O. has nothing to say in his defence. While the C.O. argued that non-submission of written defence in response to the charge and non-attendance to the hearing of the inquiry, not at all infer deficiency in defence. The law of the natural justice is that no adverse inference can be drawn for non-submission of written defence statement, and non-attendance to the hearing by the C.O. And I don't think this will automatically prove the charge.
- (ii) The P.O. emphasis over the deposition of SW-4. Sri O. Dwijamani Singh, the then Dealing Assistant, IR branch of the Divisional Office, Imphal who has stated that he received 25 IRs out of 70 for the year 1997 and none for the year 1996 from the C.O. From this deposition, the P.O. pleaded that the charge is proved and the C.O. neither visited the offices particularized in ANNEXURE 'A' & 'B' to the charge sheet on the dates shown against each and hence question does not arise about the receipt of the IR. The C.O. averted that the deposition of SW-4 is not corroborated by the documentary evidences and the deposition might have been made on the basis of some records not from his memory as it was not expected to keep the figure of IRs submitted / not submitted by the different inspecting authority of the Division in his memory and non-production of the documents leads the deposition to be false and fabricated. Although the veracity of the deposition of SW-4 was not tested by the C.O. in course of hearing, but putting the above argument, a question mark is invited. One cannot keep in his memory how much what is what unless he maintains a record. Non-production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by the other documents produced.
- (iii) The P.O. further pleaded that despite repeated reminders the C.O. did not submit the IRs and even paid no response to the reminders. In course of inquiry no such pleading except in the brief was put forward by the P.O. and not any documentary prove was produced. The allegation was also not brought in the charge sheet or in the statement of imputation therein. It is an extenuous and have no weightage.
- (iv) The C.O. further added that the hand-to-hand receipt book for the period from Jan 96 to April 98 of the receipt and despatch branch is a vital document to the instant charge and non-production of the same has created deficiency in proving the charge. The argument of the C.O. cannot be held as correct. This document is not the vital document or primary document but the secondary. This document is required for corroboration to the truth-ness of maintenance of primary document i.e., the account of receipt of IRs. The I.O. has got the power to recall document / witness in case any lacuna arises on the evidence already adduced. But he cannot call witness or new document unless and otherwise mentioned by the either party

and dropped later on. Or. name of which not come up in course of inquiry or mention in the statement of imputation or misbehaviour or misconduct. Calling of such document / witness is tantamount to bringing of personal knowledge. Therefore, the register of receipt of IR was not called for.

- (v) The C.O. strongly pleaded that non-production of additional document sought by the C.O. and permitted by the I.O. viz. monthly tour T.A. advance file for the period from July 97 to March 98 of SDIPOs, Ukhrul maintained in the Divnl. Office, Imphal and non-disclosure of reasons of non-production has handicapped him in submission of effective defence. He urges to infer that the documents if produced, the unfavourable to the person who withhold it, i.e. prosecution. This argument has got irresistible forces. In course of requisition of the document the C.O. shown the relevancy of the document to the case as "First T.A. advances were not released on the ground that no IRs were submitted. But, later on, when the IRs were submitted T.A. advances were also released subsequently. It is necessarily ascertained under what circumstances the tour T.A. advances released subsequently". This relevancy was accepted by me and requisition for the documents was made followed by several reminders but no effect. Even no reason of withholding of the documents by the custodian was communicated. The P.O. also could not explain the reason of non-discovery of the document either in course of inquiry nor in his brief. The P.O. in his brief is quite silent on this score. And therefore, I can draw the inference that if the document produced, the position of non-submission of IRs would have not been supported what alleged to have.

From what discussed above at para 1(a) to 1(d) it is stood that while the ingredients delineated at para 1(1) to 1(3) are satisfied, the ingredients at para 1(4) is not satisfied and therefore, hardly sustained the article of charge-I.

- 10.1. In article of charge No. II it is alleged that the C.O. while working as SDIPOs, Ukhrul during the period from 29.01.1996 to 31.01.1998 had shown inspection of following particularized offices on the date shown against each during the year 1997 in his fortnightly diaries of the year but he had not practically inspected on those dates or any subsequent dates of the year as asserted by the EDBPMs of those offices and thereby violated the provision of Rule-308(1) of P&T Man. Vol. VIII and failed to maintain absolute integrity, exhibited himself in a manner unbecoming of a Govt. servant attracted the provision of Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

i)	Chingjarai EDBO	on	25.02.1997
ii)	Siraklong EDBO	on	29.02.1997
iii)	Kamang Kakching EDBO	on	19.05.1997
iv)	Sahgshak EDBO	on	10.06.1997
v)	Nungshang EDBO	on	15.07.1997
vi)	Pushing EDBO	on	28.07.1997

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10.2. a) To sustain the charge, the following components are required to be sustained.

- (1) That the C.O. worked as SDIPOs during the period from 29.01.1996 to 31.01.1998.
- (2) That the offices mentioned in the sub-para were allotted to the SDIPOs, Ukhrul for carrying out inspection during the year 1997.
- (3) That the offices were reported to have been inspected by the C.O. on the date shown against each.
- (4) That the C.O. did not practically inspect these offices on the date shown against each and thereby violated the provision of Rule-308(1) of P&T Man. Vol. VII and Rule-3(1)(i) & 3(1)(iii) of CCS (Conduct) Rules, 1964.

b) As observed in sub-para 1(a) supra it is well settled that the C.O. worked as SDIPOs, Ukhrul during the period from 29.01.1996 to 31.01.1998 except the period from 05.08.1996 to 18.08.1996, from 07.04.1997 to 21.04.1997 and from 06.10.1997 to 17.10.1997 during which he was on EL & CL.

c) The EXS-2 postulates that the offices particularized in the statement of imputation of misconduct or misbehaviour in support of charge of article-II were allotted to the C.O. for carrying out inspection during the year 1997. There was no denial of the C.O. on this point nor the document is disputed. Therefore, it is stood that these offices were allotted to the C.O. for carrying out inspection in the year 1997.

d) The exhibits EXS-28(a) & (b), EXS-30, EXS-34(a) & (b), EXS-35(a) & (b), EXS-37(a) & (b) and EXS-38(a) & (b) are the diary of the C.O. for the 2<sup>nd</sup> fortnight of Feb 97, 2<sup>nd</sup> fortnight of March 97, 2<sup>nd</sup> fortnight of May 97, 1<sup>st</sup> fortnight of June 97, 1<sup>st</sup> fortnight of July 97 and 2<sup>nd</sup> fortnight of July 97 reflected that the C.O. reported to have inspected Chingjarai EDBO, Sirarakhong EDBO, Kamang Kaching EDBO, Sahgshak EDBO, Nungshang EDBO and Pushing EDBO on 25.02.1997, 29.03.1997, 19.05.1997, 10.06.1997, 15.07.1997 & 28.07.1997 respectively. The authenticity of the documents were not questioned nor disowned by the C.O. Therefore, these documents can be taken into account as authentic and therefore it can easily be held that the C.O. had reported to the Divnl. Head inspection of these offices on the date shown against each.

e) (i) The C.O. pleaded that the EXS-68 to EXS-72 are not the originals ones, but photocopy. Therefore secondary evidence and cannot be accepted unless the original is reported destroyed or lost or not able to produce in reasonable time. As no such reasons are explained or disclosed by the prosecution the document cannot be taken into account. He further pleaded that the veracity of the letter written to the SPOs, Imphal by those witnesses, who did not turn up before the

inquiry authority could not be tested and the charge of non-inspection of their offices is dropped up. The contention of the C.O. is examined and find that the EXS-68, EXS-70 and EXS-69 were authenticated by the SW-1, SW-2 & SW-3 in course of deposition made before me and hence these documents are authentic documents and can be taken into account without any question. The veracity of EXS-71 to EXS-72 could not be tested nor could be authenticated in course of inquiry due to non-attendance of the respective writer who were summoned in two occasions. Since these documents were submitted beyond the knowledge of the C.O. and these are the photocopies of the reported letters, these documents cannot be entertained as authentic.

- (ii) The P.O. to sustain the charge mainly depend upon the deposition of the SW-1, SW-2 & SW-3 and pleaded that they have categorically stated their office were not inspected by the C.O. on the date shown against each in the imputation of charge of article-II. The C.O. pleaded that the deposition of SW-1, SW-2 & SW-3 are suffered from shortcoming of (a) the original letter stated to be written by them to the SPOs, Imphal were not shown to them at the time of deposition and (b) the evidence are not conclusive. He further added that inspection of a B.O. cannot be confirmed only on the basis of oral statement of a BPM who is not alone constitute the establishment. There are other staff and equally relevant and material. The averment of the C.O. is not at all on correct putting. The photocopy of the letters written by the SW-1, SW-2 & SW-3 were shown to them at the time of deposition made before the I.O. and they admitted that these documents were written by them and sent to the SPOs concerned. It also cannot be held that their evidences are not conclusive as no other staff of the offices is produced as witness. They are being in-charge of the respective offices are mainly concern to the inspection and without them their office cannot be inspected while other staff of the establishment may or may not be present. Unless the veracity of the deposition of a witness is in question no collaborative evidence is necessary. The SW-1, Sri L. Ito Singh, EDBPM, Kamang Kalching EDBO categorically stated that the C.O. did not visit his office till 25.09.1997 and also he did not receive any inspection remark till then. The SW-2, Sri S. Yarangai, EDBPM, Pushing EDBO authenticated that EXS-70 as a photocopy of his letter and categorically stated that his office was not inspected by the C.O. till 09.10.1997. Again SW-3, Sri V.S. Variso, EDBPM, Sahganshak EDBO also authenticated that the EXS-69 as of photocopy of his letter and emphasised that his office was not inspected by the C.O. up to Sept 97. The deposition of all these witnesses have not been questioned nor appeared any doubt on the truth of their deposition. Therefore, the depositions can be taken into account as a fact.

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- (iii) The P.O. further pleaded that the higher authority asked to know the fact whether the offices were actually visited and inspected by the C.O. On query, 25 offices intimated non-inspection of their offices and accordingly a report was submitted to the C.O., Shillong. Nothing in this sort was enumerated in the charge of imputation nor any document on this behalf was produced during the enquiry. Therefore, it is an extraneous matter and cannot be waited.
- (iv) The P.O. again pleaded that the three enlisted witness could not attend the hearing due to non-receipt of summons as their offices are situated in very backward and hilly area. Although they were summoned again to attend the hearing at Agartala, they did not due to far distance. This is not based on fact. The summons were sent to the P.O. for serving on the prosecution witness under Regd. Post vide Agartala H.O. RL No.234 dtd.24.8.99 with A/D and the said RL was received by him on 2.9.99 while the date of appearance of these witness was 17.9.99 and there was ample time to reach the summons to the respective witness. The transit can at the best requires 5 days to reach the corner of the Division. However, an opportunity was given to them to attend at Agartala. The distance cannot be a valid reason on the way of attending the proceedings. The P.O. should have ensured that his witnesses were attended on the fixed date and time. It is inactiveness on the part of the prosecution that their witnesses did not attend the hearing despite opportunities are offered.
- (v) The P.O. pleaded that Sri A.S. Anderson, BPM, Nungsang B.O. intimated him in letter dtd.14.10.99 that Sri Anderson could not attend due to his illness and categorically stated he do not know who was Hazarika, Inspector because he (Hazarika) never visited his office. No such letter is received by me, nor this type of document could be taken into account and therefore discarded.
- (vi) The C.O. pleaded that the account book, B.O. Journal and B.O. Receipt book are the minimum documents are required to be signed by the inspecting authority in course of inspection of a B.O. These documents were not produced because if produced they would be unfavourable to the charge. This argument cannot be held a valid one. This document could be produced in support of the allegation but without them the issue can be decided one-way or the other way. These documents are not at all a part of a document or series of documents without which the series will not be completed. As a result these documents are not required to fill up the lacuna or in evidence produced before me. These are other independent set of documents.

(vii) The C.O. again pleaded that the examination of Sri N.C. Haldar, Dy. Supdt. of POs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4 but he did not turn up and emphasise that the inference may be drawn presuming that if a man refuse to answer question who is not compelled to answer by law, answer if given, would be unfavourable to him agreeable to the section 114 of Indian Evidence Act. The N.C. Haldar, Dy. Supdt. of POs, Imphal was cited as defence witness by the C.O. and summon was issued accordingly. Sri Haldar did not turn up for recording deposition on the date fixed for, instead expressed his willingness to the Disc. Authority endorsing a copy to the I.O. The C.O. did not press for further summoning of Sri N.C. Haldar as defence witness. Therefore, he was dropped. Again the I.O. was got no statutory power unless Govt. of India empower him under the enquiry act and in this instant case this was not done. Unless a person appeared before the I.O. for recording deposition and put question thereof, it cannot be said he did not answer the question and presumption can be drawn that if answered it would be unfavourable to the prosecution. It can be unfavourable to the defence also equally. This depends upon the question what would have been put if attended. The provision of section 114 of India Evidence Act is not applicable. Moreover, the witness was of the defence not of the prosecution. Nowhere in the charge sheet or in the statement of imputation the name of Sri N.C. Haldar or the designation of the Dy. Supdt. or the Supdt. was mentioned and therefore the deposition of the said Sri N.C. Haldar cannot be said material. His deposition was proposed for clarification of circumstances under which the exhibit EXS-68 to EXS-72 were addressed to the Supdt. of POs, Imphal. The circumstance under which the EXS-68, EXS-69 & EXS-70 written by the author of the letters, could have been got clarified by the cross examining them by the C.O., who did not avail the opportunity offered to him. Therefore, the argument mentioned to have made in this para by the C.O. is not sustained.

(viii) Under the conspectus of what discussed in para 10.2 to above, it is established that the C.O. had shown in his fortnightly diaries, EXS-34(a) & (b), EXS-35 (a) & (b) and EXS-38 (a) & (b) had reported inspection of Kamang Kachhing EDBO, Sahgsahk EDBO and Pushing EDBO on 19.5.97, 10.6.97 & 28.7.97 but he did not actually visit the offices on those dates or any other day till 17.10.97, Sept 97 and 9.10.97 respectively.

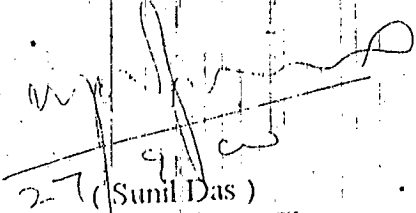


(vii) The C.O. again pleaded that the examination of Sri N.C. Haldar, Dy. Supdt. of POs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4 but he did not turn up and emphasise that the inference may be drawn presuming that if a man refuse to answer question who is not compelled to answer by law, answer if given, would be unfavourable to him agreeable to the section 114 of Indian Evidence Act. The N.C. Haldar, Dy. Supdt. of POs, Imphal was cited as defence witness by the C.O. and summon was issued accordingly. Sri Haldar did not turn up for recording deposition on the date fixed for, instead expressed his willingness to the Disc. Authority endorsing a copy to the I.O. The C.O. did not press for further summoning of Sri N.C. Haldar as defence witness. Therefore, he was dropped. Again the I.O. was got no statutory power unless Govt. of India empower him under the enquiry act and in this instant case this was not done. Unless a person appeared before the I.O. for recording deposition and put question thereof, it cannot be said he did not answer the question and presumption can be drawn that if answered it would be unfavourable to the prosecution. It can be unfavourable to the defence also equally. This depends upon the question what would have been put if attended. The provision of section 114 of India Evidence Act is not applicable. Moreover, the witness was of the defence not of the prosecution. Nowhere in the charge sheet or in the statement of imputation the name of Sri N.C. Haldar or the designation of the Dy. Supdt. or the Supdt. was mentioned and therefore the deposition of the said Sri N.C. Haldar cannot be said material. His deposition was proposed for clarification of circumstances under which the exhibit EXS-68 to EXS-72 were addressed to the Supdt. of POs, Imphal. The circumstance under which the EXS-68, EXS-69 & EXS-70 written by the author of the letters, could have been got clarified by the cross examining them by the C.O., who did not avail the opportunity offered to him. Therefore, the argument mentioned to have made in this para by the C.O. is not sustained.

(viii) Under the conspectus of what discussed in para 10.2 to above, it is established that the C.O. had shown in his fortnightly diaries, EXS-34(a) & (b), EXS-35 (a) & (b) and EXS-38 (a) & (b) had reported inspection of Kamang Kakehlingh EDBO, Sahgsahk EDBO and Pushing EDBO on 19.5.97, 10.6.97 & 28.7.97 but he did not actually visit the offices on those dates or any other day till 17.10.97, Sept 97 and 9.10.97 respectively.

FINDINGS

11. On the basis of documentary and oral evidences adduced in the case before me and in view of the reasons given, I hold that the article of charge-I not proved and article of charge no.II proved to the strength of 3 EDBOs particularised at para 10.2 (e)(vii) out of six alleged to.

  
(Sunil Das)  
Dy. Supdt. of Post Offices  
O/o the D.P.S., Agartala  
&  
Inquiry Officer

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Annexure-3

DEPARTMENT OF POSTS : INDIA  
OFFICE OF THE DIRECTOR OF POSTAL SERVICES  
NAGALAND : KOHIMA - 797001

No. Rule 14/S.B. Hazarika

Dated Kohima the 8-6-2001

In the office memo No. Diary/SDIPOs-Ukhrul/97 Dtd. 19.2.98 of DPS Manipur : Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules, 1965 against Shri. S.B. Hazarika the then SDIPOs, Ukhrul Dn, Ukhrul. A statement of articles of Charges and a statement of imputation of mis-conduct and mis-behaviour in support of the article of charges and a list of documents by which and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri. S.B. Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri. S.B. Hazarika the then SDIPOs Ukhrul Dn, Ukhrul.

ARTICLE - I

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of each of those 54 (fifty four) Post Offices, to the Supdt. of Post Offices, Manipur Division Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur- Dn Imphal. Similarly, the said Shri. S.B. Hazarika, had shown to have inspected as many as 70 (Seventy) Post Offices during the period from 01-01-97 to 31-12-97, but had not submitted a copy of the inspection remarks in respect of 45 (forty five) Post Offices, to the Supdt. of Post Offices, Manipur- Dn Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur- Dn Imphal. By his above acts, the said Shri. S.B. Hazarika violated the provision of Rule- 300 (2) of P & T Man. Vol VIII read with Dept. of Posts, New Delhi letter No. 17-3/92- Inspn. Dated 02-07-1992, and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE - II

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Dn, on the date noted against each.

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Name of the EDBO	Date of Inspn. shown by Shri. S.B. Hazarika
1. Chingjarai EDBO	25-02-1997
2. Sirarakhang EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997
5. Nungshong EDBO	15-07-1997
6. Pushing EDBO	20-07-1997

But, in fact, the said Shri. Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri. S.B. Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII, Rule-3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. I have gone through the case carefully. Briefly, Shri. S.B. Hazarika, was charge-sheeted under Rule 14 of the CCS (CCA) Rules 1965 vide DPS, Manipur Imphal memo.no.Diary/SIDIPOs Ukhul/97, dtd. 19.2.98 with the following charges:-

- i) While working as SDI (P) Ukhul Sub-Divn from 29.1.96 to 31.1.98 he failed to submit inspection reports of 54 Post Offices in the year 1996 and 45 Post Offices in 1997 which were shown to have been inspected by him
- ii) For having shown as inspected but did not inspect 6 EDBOs in Ukhul Sub-Divn between 25.2.97 to 28.7.97.

4. Shri. Sunil Das, the then Supdt. of Post Offices, Agartala Divn, Tripura was appointed as the inquiry officer to inquire into the charges framed against Shri. S.B. Hazarika. After adducing both oral and documentary evidences the inquiry officer submitted his inquiry report vide his letter no.SP-1/INQ, dtd. 27.9.2000.

5. As per the findings of the inquiry officer Article I of the charge is not proved and Article-II of the charge as partially proved to the strength of 3 EDBOs out of 6 alleged not to have been inspected.

6. A copy of the report of the inquiry officer was supplied to the charged official for making representation, if any. Shri. Hazarika submitted his representation which was sent by RL NO.3096, dtd. 25.11.2000. While agreeing with the findings of the IO in respect of Article I, Shri. Hazarika disagreed with the findings of the IO in respect of Article-II of the charge on the following grounds:-

- i) The BOs alleged not to have been inspected was on the basis of written statements and oral evidence of the BPMs of those three BOs viz. Kameng Kakching, Pushing and Shamshak BOs.
- ii) The dates of the examination of those witnesses were fixed from 16.9.99 to 20.9.99 at Imphal when the CO was functioning as C.I in the O/o the DPS Kohima.
- iii) The enquiry was held ex parte and the state witnesses were allowed to be examined by the PO in the absence of the CO and he was denied the opportunity of cross examination of the state witnesses.

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iv) The IO held regular hearing exparte in a hurry in the absence of the CO and did not record reasons for holding the enquiry exparte.

v) The decision of the IO to hold the enquiry exparte and to allow the examination of the state witnesses in the absence of the CO was unjust, unfair and unwarranted.

vi) Non examination of the state witnesses was objected to by the CO before the IO on 22.10.99 but the IO overruled the objection and did not record the plea and objection of the CO.

The CO, therefore, prayed to the Disciplinary Authority to exonerate him fully of all the charges rejecting the findings of the IO and in respect of 3 EDBOs found to be not inspected by the CO under the charge of Article II.

7. I have examined the chargesheet, deposition of state witnesses, written briefs of the PCO and the CO, the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report. While accepting the findings of the inquiry officer in respect of the article II of the charges, the disciplinary authority disagrees with the IO in respect of IO's findings on Article I of the charge for the following reasons:-

i) Although there are short comings on the part of the then Disciplinary Authority in not including certain important documents in the listed documents on the basis of which the articles of charges were proposed to be proved and the presenting officer in not producing all the witnesses and additional documents as asked by the CO and permitted by the IO during the hearings, sufficient documentary and oral evidences have been produced during the oral inquiry to establish the charge against the CO.

ii) The deposition of SW-4, Shri. O. Dwijamani Singh, the then Dealing Asstt. IR branch, CO/o the DPS Manipur, Imphal was crucial in substantiating Article I of the charges SW-4 deposed that he received 25 IRs out of 70 for the year 1997 and none for the year 1996. SW-4 also deposed that the CO did not submit the IRs inspite of repeated reminders. The CO challenged that the deposition of SW-4 was not corroborated by documentary evidence and might have been made on the basis of some records and not from his memory as he was not expected to keep the figures of the IRs submitted / not submitted by the different inspecting authority of the division and non production of documents leads the deposition to be false and fabricated. The plea of the CO was accepted by the IO who concluded that non production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by other documentary evidence.

The contention of the IO is not acceptable. SW-4 was a mere witness and he was supposed to answer what he knew to be the truth. He was not supposed to bring the documents along with him until and unless he was asked to do so. He had deposed before the inquiry as he was asked for and it was the duty of the CO to contest what SW-4 deposed during the inquiry.

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iii) The contention of the CO that SW-4 cannot be expected to keep in memory all the figures of IRs submitted / not submitted by inspecting officers and which has been accepted by the IO is also not convincing. SW-4 had been working in the IR branch for a considerable period and it was not an impossible task to remember the numbers of IRs not submitted by the CO in 1996 and 1997. It was not only one or two but the IRs of all the POs stated to have been inspected by the CO in 1996 were alleged not to have been submitted by the CO. 53 IRs of 1997 were alleged not to have been submitted by the CO. It was, therefore, not a difficult thing for the SW-4 to keep in mind the number of IRs submitted/ not submitted by the CO.

iv) Another point raised by the CO and accepted by the IO is non-production of additional documents like monthly tour TA advance file for the period from July 1997 to March 98. It was argued by the CO that if the additional documents were produced these would be unfavorable to the prosecution. By this documents the CO tried to prove that subsequent TA advance was not granted unless IRs were submitted. This inference was accepted by the IO. The prosecution should have produced the additional documents as asked by the CO and permitted by the IO. However, on perusal of the records it is seen that though the IO in para 3 of his order no. 4 dtd. 22.10.99 mentioned that he decided to call the file, he did not specifically ask the PO or the competent authority to produce the documents. Even if the documents as asked for were produced they are not likely to help the defence of the CO in the absence of any specific order which the CO should have produced if there was any. Therefore, in the absence of any specific order in support of the plea of the CO it was wrong to draw any inference due to non-production of certain additional documents.

v) The charge against the CO was that he did not submit some IRs of the POs which he claimed to have inspected in 1996 and 1997. He was given ample opportunities to deny the charge & establish his innocence. However, from the records of the inquiry proceedings it is seen that he did not attend the preliminary and regular hearings and took part in the oral inquiry only after evidence on behalf of the disciplinary authority was closed. For his defence the CO has raised issues like non-production of certain additional documents, non-production of original documents and lacuna in the deposition of state witnesses. But the CO has not produced any documentary or oral evidence to show that he had indeed submitted the IRs of the POs which were stated to have been inspected by him. Copies of the IRs or receipts of registered letters by which the IRs were submitted which are crucial documentary evidence were not produced by the CO to establish his innocence and disprove the charge.

In view of the above, article I of the charge against Shri. S.B. Hazarika is clearly established.

8. As far as Article-II of the charge is concerned the IO has concluded that the charge is partially proved to the extent that out of 6 FIDBOs alleged not to have been inspected, non inspection of three BOs namely Kameng Kakching, Pushing and Shamsak BOs has been proved. Even though the inspection of the remaining three BOs has not been established the Disciplinary Authority inclines not to dispute with the findings of the IO and hold the Article-II of the charge against the CO as partially proved.

9. The points raised by the CO in his representation against the report of the Inquiry Officer have also been considered:-

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i) The oral evidence as well as the written statements of the three BPMs whose offices were alleged not to have been inspected are crucial and sufficient evidence to prove that the three BO were not inspected by the CO in the year 1997. The BPMs are the custodians of all the BO records and as such their oral depositions and written statements as to whether the BOs have been inspected or not cannot be dismissed lightly. The other BO staff like EDDAs and EDMCs may or may not be present at the BOs during inspections. But no inspection of BOs can be carried out in the absence of the BPMs who are responsible for safe custody of the BO records. Therefore, unless contrary is proved, their written statements and oral evidence have to be accepted.

ii) The CO was not debarred from attending the enquiry at any point of time. In fact he was directed to attend the hearing at Imphal on 21.10.99 vide DPS Kohima memo of even no. dtd. 22.9.99. But the CO deliberately chose not to attend the enquiry. As such the CO cannot claim that he was not relieved of his duty as CI, in the O/o the DPS, Kohima by the controlling authority and as such could not attend the enquiry. Sufficient opportunity was given but the CO did not avail the opportunity to attend the inquiry and cross examine state witnesses. Therefore, he was not denied but he did not avail the opportunity to cross - examine state witnesses.

iii) As the CO failed to attend the oral hearings fixed by the IO on several dates the enquiry was held exparte upto the completion of the stage of presentation of prosecutions, documents and witnesses. As such non cross examination of State witnesses was due to non attendance of the hearings by the CO on the dates fixed for examination and cross examination of State witnesses.

iv) When the CO deliberately chose not to attend the inquiry on numerous dates fixed for preliminary and regular hearings by the IO and sufficient opportunities afforded to the CO, no specific reason is required to be recorded as to why the enquiry was held exparte.

v) The decision of the IO to hold the enquiry exparte and to allow the examination of State Witnesses was in order. When the CO chose not to attend the previous hearing there was no question of postponing the examination of witnesses due to the absence of the CO. If for any reason the CO could not attend the hearing on a particular date fixed by the IO he could have informed the IO and prayed for a postponement / adjournment. But there was no written communication to the IO from the CO's side.

10. In short sufficient opportunities were given to the CO to deny the charges and establish his innocence. But Shri. S.B. Hazarika just ignored the enquiry upto the stage of presentation of prosecution, documents and witnesses. Apart from pointing out deficiencies in the inquiry, he has not produced any relevant documentary or oral evidence to establish his innocence and disprove the charges. The charges against Shri. S.B. Hazarika are very serious. One of the main duties and functions of a Sub-Divisional Inspector of Post Offices, is the annual inspection of Post Offices. But Shri. Hazarika failed to carry out this main function of an IPO while working as SDI (P) Ukhrul Sub-Division between 29.1.96 to 31.3.98. Such kind of an irresponsible official is not fit to be retained in service. However, considering the facts and circumstances of the case, I feel that Shri. Hazarika should be given another opportunity to reform himself by retaining him in service and impose the following punishment on Shri. S.B. Hazarika :-

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182  
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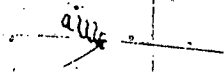
ORDER

Therefore, I Shri. F.P. Solo, Director of Postal Services, Nagaland, Kohima and the Disciplinary Authority hereby order that the pay of Shri S.B. Hazarika, the then SDIPOs Ukhru Sub-Div. now C.I. Divisional Office, Kohima (U/S) be reduced by 6 (six) stages from Rs. 6650/- to Rs. 5500/- in the time scale of Rs. 5500-175-9000/- for a period of three years w.e.f. 1-06-2001 with cumulative effect. It is further directed that Shri. S.B. Hazarika, C.I. Divl. Office, Kohima (U/S) will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay.

  
(F.P. Solo)  
Director of Postal Services  
Nagaland : Kohima - 797001

Copy to :-

1. The CPMG (INV) N.E. Circle, Shillong for information
2. The Postmaster Kohima H.O. for information and n/a.
3. The DA(P) Kolkata (Through the Postmaster Kohima H.O.)
4. The Director Of Postal services, Manipur : Imphal for information
5. Shri. S.B. Hazarika, C.I. Divl. Office Kohima (u/s)
6. PF of the Official
7. CR of the Official
8. Office copy.

  
(F.P. Solo)  
Director of Postal Services  
Nagaland : Kohima - 797001



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GENERAL SECRETARIAT

CHARGE SHEET

APPLICATION NO.

B-17/2001

Mentor(s) B. B. Hazarika

Respondent(s) U.O.I. Govt.

Agents for the Applicant: Mr. P. S. Sanyal

Agents for the Respondent: C.A.S.C.

Name of the Registry

1. Date

Order of the Tribunal

31.8.01

Present: Mr. Justice D.N. Chowdhury,  
Vice-Chairman.

Heard Mr. S.D. Hazarika, in person and also  
Mr. A. Deb Roy, learned Sr. C.A.S.C.

The order dated 8.6.2001 imposing the  
penalty of reduction of pay by six stages is  
annulled in this proceeding. Sri Hazarika, who  
argued his case, strenuously urged that the impugned  
order of penalty is liable to quash as arbitrary  
and discriminatory and violative of the article  
14 of the Constitution of India. I am however,  
not inclined to go into the merits of the decision  
at this stage. Since on the own showing, Mr.  
Hazarika the order annulled here is appealable.  
I am therefore of the opinion that the order of  
annulment will be set aside if a petition is given to the  
applicant to prefer Statutory Appeal before the  
competent authority. Sri Hazarika, is accordingly  
granted three weeks time to prefer an Appeal, if  
such Appeal is filed the appellate authority shall  
examine the same and pass a reasoned order prefer-  
ably within two months from the receipt of the  
Appeal. The appellate authority is ordered to  
conclude the same within the period specified  
preferably within 2 months. Till the completion  
of the appeal, the penalty imposed on the

Contd/-



58 -184-

31.8.01

applicant order dated 8.6.2001 by Director  
of Postal, ~~xxxxxx~~ Nagaland shall remain  
suspended.

The application thus stands disposed  
of. There, shall however, be no order as to  
costs.



SD/ VICE CHAIRMAN

Certified to be true Copy  
সত্যনিশ্চিত প্রতিলিপি

N. S. Singh  
10/9/2001

Section Officer (3)  
আসাম প্রশাসনিক আদালত  
General Administrative Tribunal  
কেন্দ্রীয় প্রশাসনিক আদালত  
Guwahati Bench, Guwahati.  
গুৱাহাটী বেঞ্চ, গুৱাহাটী

159  
-185- 94/1 215

DEPARTMENT OF POSTS  
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE  
SHILLONG-793 001.

MEMO NO.STAFF/109-14/2001,

Dated at Shillong, the 29.1.2002.

ORDER

This is a decision on the appeal dated 12.9.2001 of Shri S.B. Hazarika, at present working as Complaint Inspector (Postal), Divisional Office, Kohima, against the order of DPS, Kohima issued in Memo No.Rule-14/S.B. Hazarika dated 8.6.2001 vide which the punishment of reduction of pay of the official by 6(six) stages for a period of 3(three) years with cumulative effect was imposed on the official.

2.

The chronology of events in this case in brief is as follows:-

- (i) Charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 issued to the official on 19.2.98.
- (ii) Inquiry completed and I.O. submitted his report on 27.9.2000.
- (iii) The Disciplinary Authority issued the punishment referred to above on 8.6.2001.

Normally an official to whom a punishment is awarded, is supposed to make the appeal to the prescribed Appellate Authority. However, in this case, it is seen, that the charged official approached the Hon'ble Central Administrative Tribunal (CAT), Guwahati Bench, Guwahati vide O.A. NO.347 of 2001. The Hon'ble CAT, Guwahati was not inclined to go into the merits of the case at that stage and directed the appellant - Shri S.B. Hazarika to prefer a statutory appeal before the competent authority within three weeks vide their order dated 31.8.2001 in OA NO.347/2001. Further, the Hon'ble CAT, Guwahati directed the Appellate Authority to conclude the appeal preferably within two months from the date of receipt of the appeal preferred by the appellant. Pursuant to this decision of the Hon'ble CAT, Guwahati, the official Shri S.B. Hazarika submitted his appeal directly to the Appellate Authority and copy endorsed to the Disciplinary Authority. The case along with the comments of the Disciplinary Authority was received in Circle Office, Shillong on 28.9.2001. The appellant had quoted some case Laws in his appeal and correspondence was entered with the appellant for supplying copies of records relied by him in his appeal. After protracted correspondence, no satisfactory reply was received.

The text of the Articles of charges against the official is reproduced below :-

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-186-  
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ARTICLE-I

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.01.96 (A/N) to 31.01.98 he had shown to have inspected as many as 54 post offices in the year 1996 but had not submitted a copy of the inspection remarks in respect of each of these 54 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly, the said Shri S.B. Hazarika had shown to have inspected as many as 70 post offices during the period from 01.01.97 to 31.12.97 but had not submitted a copy of the inspection remarks in respect of 45 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Shri S.B. Hazarika violated the provision of Rule 300 (2) of P&T Man. Vol.III read with Department of Posts, New Delhi letter No.17-3/92-Inspn. dated 2.7.92 and Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964."

ARTICLE-II

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.1.96 to 31.1.98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Division on the date noted against each.

	<u>Name of the EDBO</u>	<u>Date of inspection shown</u>
1.	Chingjarai EDBO	25.2.1997
2.	Sirakching EDBO	29.3.1997
3.	Kamang Kakching EDBO	19.5.1997
4.	Shanshak EDBO	10.6.1997
5.	Nungshong EDBO	15.7.1997
6.	Pushing EDBO	20.7.1997

But, in fact, the said Shri Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year, 1997. Therefore, by his above acts, the said Shri S.B. Hazarika, violated the provisions of Rule 300 (1) of the P&T Manual Vol. VIII, Rule 3 (1)(i) of the CCS (Conduct) Rules, 1964 and Rule 3 (1)(iii) of the CCS (Conduct) Rules, 1964."

3. The main points put forward by the appellant in his appeal are as follows :-

- i) That I.O. held the enquiry on 15.9.99, 16.9.99, 17.9.99, 18.9.99 ex-parte. Thus, he did not get the scope to defend his case.
- ii) That he could not attend the enquiry on above dates as he was not relieved by the controlling authority i.e. DPS, Kohima although the copy of notice dated 12/23.8.99 was endorsed to DPS, Kohima also by the I.O.

- 64 - 187 2/3
- iii) That the additional documents demanded by him which were accepted by the I.O. and called for production during the inquiry on 10.5.2000 were not produced and examined.
  - iv) The defence witness, Shri N.C. Haldar, Dy. SP, Imphal although was summoned to attend the enquiry declined to become a defence witness, and no action was taken to compel him to depose before the I.O.
  - v) That the prosecution witnesses - (1) Shri L. Ito Singh (SW-1), (2) Shri S. Yaringal (SW-2), (3) V.S. Vareso (SW-3), (4) Shri O. Dwijamani Singh (SW-4) were examined in absence of the appellant without ordering for cross examination. So these witnesses cannot be treated as valid.
  - vi) Shri O. Dwijamani Singh (SW-4), deating assistant of the Divisional Office, Imphal, deposed that the appellant did not submit the IRs as listed in the charge-sheet i.e. 54 (fifty four) IRs of 1996 and 45 (forty five) IRs of 1997. This deposition made from his memory without support of any documents. The appellant argues that nobody can remember such information correctly without any support of evidence.
  - vii) a) That the I.O. in his inquiry report held that charge under Article-I was not proved.  
b) That the I.O. in his inquiry report also held that the charges under Article-II was partially proved, because out of six offices, alleged to be not inspected by the appellant only three offices were found not inspected. But these findings also should not be treated as correct because the appellant was not given reasonable opportunity to cross-examine the state witness.
  - viii) That the punishment order with retrospective effect with effect from 1.6.01 while the order was issued on 8.6.01 which is not admissible as per rule.

The appellant, therefore, prayed that the punishment order should be set aside.

4. I have gone through the appeal thoroughly with reference to relevant records. It is seen that -

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(i) The appellant evaded attending the inquiry not only from 15.9.99 to 18.9.99 but on earlier dates also (i.e. 25.8.98, 22.9.98 and 27.1.99) he did not attend the enquiry. As regards his non-relief, he alleged that DPS, Kohima did not issue any release order. The appellant was working in the office of DPS itself. He was summoned to attend the enquiry. It was incumbent on him to seek release order for attending the enquiry but he did not do so. As such, it cannot be said that he was denied chance to attend the enquiry. Moreover, he did not send any information also to the I.O., intimating the reasons for his inability to attend the enquiry. Therefore, the I.O. was justified in holding the enquiry ex-parte. The claim of the appellant stating that he did not get reasonable opportunity to defend his case, therefore, does not stand.

(ii) It is found to be a fact that the additional document i.e. the tour T.A. advance file of Divisional Office was neither furnished nor any reason for non-production was intimated to the I.O. But, in my opinion, T.A. advance file has no direct relevance to submission of IRs. Because, T.A. advances are generally sanctioned if the tour programme is approved and adjustment of previous T.A. advances are generally watched over.

(iii) Regarding non-attendance of the defence witness, Shri N.C. Haldar, it is found that the official expressed unwillingness in writing to be a defence witness and he did not attend the hearing on 10.5.2000. As recorded in the order sheet dated 10.5.2000, his further summoning was also not insisted upon by the appellant.

(iv) The state witnesses were examined during the hearing from 15.9.99 to 18.9.99 while the enquiry was held ex-parte. The appellant was himself responsible for not attending the enquiry. Hence, it cannot be said that he was not given opportunity to defend his case. Further, he did not request for recalling those witnesses for cross examination when he attended the enquiry on subsequent dates. Hence, there is no ground to treat those witnesses as invalid.

(v) The SW-4 deposed regarding non-submission of IR from his personal knowledge. Even if he might not have recollected the numbers correctly, the fact of non-receipt of some IRs from the appellant was established. The appellant also did not furnish any proof of submission of any of the IRs from his side to disprove the statement of SW-4 and the substantive charge against him.

(vi) It is correct that the Inquiry Authority held that the charge under Article-I was not proved. But the Disciplinary Authority disagreed with this finding of the I.O. and recorded his own findings with reason for disagreement. This is permitted under Rule 15 of CCS (CCA) Rules, 1965. Therefore, DPS, Kohima - the Disciplinary Authority was well within his power to disagree with the findings of the I.O. in respect of charges under Article-I.

(vii) Regarding the effect of the punishment retrospectively, the controlling authority intimated that it was an inadvertent mistake. It would be effective either from the date of issue of order or prospectively.

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5. On a careful consideration of the whole case I find that the charges against the official are quite grave. Inspection of offices under his control is the primary and important duty of a Sub-Divisional Inspector. Equally important is his duty to promptly submit all the Inspection Reports to his superiors. In the entire enquiry, the charged official has not brought any evidence to prove that he had fully discharged his duties of preparation and submission of Inspection Reports listed in the charges. He is trying to rely only on one premise that if he had not submitted his IRs he would not have been given further TA advance. I am surprised that a responsible officer of the rank of a Sub-Divisional Inspector should take recourse to such flimsy excuse in support of his case. Had he really submitted the Inspection Reports, there is no reason why they would not be available in the Divisional Office. Similarly, office copies and the forwarding letters relating thereto would be available in the SDI's office also. The Disciplinary Authority in its decision, especially para-7, sub-para-5 has dealt with this aspect in detail.

6. In my view the charged official deserves a much harsher punishment of removal from service. However, I take an overall rather liberal view of the case and treat the punishment already given to the official as adequate with a view to giving him a chance to improve as he has got so many years of service left. The appeal of the official is, therefore, hereby rejected.

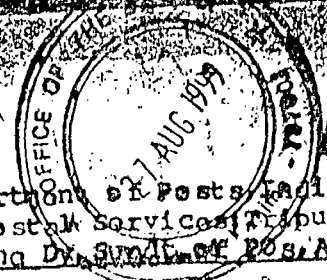
(VIJAY CHITALE)  
Chief Postmaster General,  
N.E. Circle, Shillong-793 001.

Copy to:-

1. The Director Postal Services, Nagaland Division, Kohima-797 001.
2. Shri S.B. Hazarika, Complaint Inspector (Postal) through the Director Postal Services, Nagaland Division, Kohima.

(VIJAY CHITALE)

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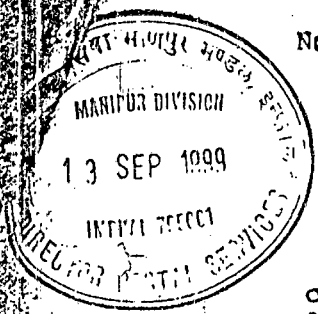


Department of Posts, India  
O/o the Director Postal Services, Tripura State: Agartala-1  
Chamber of the Dy. Supdt. of PS, Agartala.

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No. INQ-1/SBH/98-Vol. I, Dated at Agartala, the 12.08.99



Sub: Departmental Inquiry under Rule 14 of C.C.S. (C.C.A.) Rules, 1965 initiated against Sh. S.B. Hazarika, IPOs (PG), O/O, the Director Postal Services, Kohima.

The regular hearing in the above mentioned case will be held w.o.f. 15.9.99 to 20.9.99 at 1100 hrs. daily in the office of the D.P.S., Imphal. The first day is fixed for bringing the listed documents on records. On 2nd, 3rd and 4th day evidence on behalf of the Disciplinary Authority shall be adduced and on 5th day evidence on behalf of the Charged official shall be adduced after he submits his written statement of defence.

Summonses for production witnesses duly signed by me are being sent to the P.O. for effecting service in the manner he may like to do. Summonses for defence witnesses who are considered relevant to the defence of the charged official.

( Sunil Das )  
Inquiry Officer,  
AND  
Dy. Supdt. of Post Offices,  
O/O the DPS, Agartala-799001

To

1. The Director Postal Services, Imphal for information. He is requested to relieve the presenting officer and the witnesses for attending the inquiry.
2. The Director Postal Services, Kohima for information. He is requested to relieve Shri S.B. Hazarika, IPO (PG), Kohima, the charged official for attending the enquiry.
3. Sri N.C. Haldar, Dy. SPOs, Imphal and P.O. for information and to attend the enquiry. He will please find herewith summons issued to the prosecution witnesses and arrange to serve on them in the manner he may like.
4. Sri S.B. Hazarika, IPO (PG), O/O the DPS, Kohima and charged official for information and attending the enquiry.
5. O/C.
6. Sparo.

Missent for  
APS Imphal  
le

Inquiry Officer  
AND  
Dy. Supdt. of Post Offices,  
O/O the DPS, Agartala-799001



ORDER NO. 14  
DATED 22.10.99

Proceedings are taken up at 1100 hours in my chamber in the office of the DPS, Agartala in the presence of the PO and the CO.

2. Today's date is fixed for hearing defence evidence after the submission of written statement of defence by the CO.

3. The CO submitted his defence statement dated 22.10.99 and prayed for production of monthly tour T.A. advance file for the period from July '97 to March '98 of SDIPOs Ukrol maintained by the DPS Imphal. In support of his prayer he states that the file will enlight the material fact as to the submission/non submission of IR in-questions as the office used to release/sanction of T.A. advance only on submission of IRs. I find that the pleading has got certain force and the file may reflect the actual position. I, therefore, decide to call the file.

4. Further he prayed to produce Shri N.C. Halder, DSPOs, Imphal as defence witness to clarify the circumstance under which exhibit exs-67 to exs-71 were received. I find that the witness proposed to be examined as defence witness is likely to enlight certain material facts and will be summoned in due course.

5. The CO, while asked, desires not to examine himself as defence witness.

6. Since the PO, Shri N.C. Halder, DSPOs, Imphal is proposed to be examined as defence witness, the Disciplinary authority Hon'ble DPS Kohima may kindly appoint another Presenting Officer either for the day's deposition of the said Shri N.C. Halder or for the entire period of rest, proceedings.

7. Both the PO and the CO pleaded that they will not be available to attend the proceedings during the month of Nov '99 and Dec '99 as they will be badly engaged with inspection works. The position mine also same. As such the date of next hearing will be communicated later on.

8. Copies of this order sheet are ordered to the PO, the CO and the disciplinary authority.

*[Signature]*  
C.C.

WACB  
P.O.

22/10/99

*[Signature]*  
22/10/99

22/10/99

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Humour 7

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ORDER NO.15.

Dated, 10-5-2000.

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Proceedings are taken up at 1100 hour in my chamber in the office of the DPS, Agartala in the presence of the PO (Shri Narayan Das the adhoc PO) and the CO.

2. Today's date is fixed for production of additional documents and examination of defence witness. The PO, Shri Narayan Das who is appointed as PO for the period of deposition of Shri N.C. Halder, the regular PO as defence witness states that he did not receive the additional documents that requisitioned by me from the disciplinary authority or from the custodian. He further states that he did not receive any communication on this score from the custodian. I have also not received the document despite repeated reminder. Therefore, the inference can be drawn by all concerned.

3. Shri N.C. Halder, the defence witness did not turn up. He also did not communicate his inability to attend today's hearing. The CO also unable to say the reason of non attendance of the defence witness. Shri N.C. Halder in his letter No. Nil dtd. 28.2.00 addressed to DPS, Nagaland and copy to me expressed his unwillingness. The CO did not press for further summoning of Shri N.C. Halder as defence witness. Therefore, no further date is fixed for recording the evidence of the said Shri Halder.

4. The CO produced the following particularised documents from his custody as defence evidence and they have been brought into record duly marking as noted against each.

Photocopy of :-

- |  |        |
|--|--------|
| a) Dte. circular No. 28-162/62 R.A.-1.<br>dtd. 5.8.65 fdd.                                       | Exd-1. |
| b) No. Rule 14/S. B. Hazarika.<br>dtd. 11/2/2000 issued by P.S. Kohima.                          | Exd-2. |
| c) Letter No. Diary/SDIP Os, Ukhrul/97.<br>dtd. 4.3.98 issued from office of the<br>DPS, IMPHAL. | Exd-3. |
| d) Letter No. Diary/SDIP Os-Ukhrul/97<br>dtd. 16.3.98 issued from DPS, Imphal.                   | Exd-4. |
| e) Memo No. Diary/SDIP Os-Ukhrul/92<br>dtd. 25.9.92 issued by DPS, Imphal.                       | Exd-5. |

5. The CO desires to submit argument orally. Since the regular PO did not turn up, it is not come into light whether he also desires to submit argument orally. Therefore, the PO is directed to communicate his view within 25th instant for taking decision on fixation of date of argument.

6. The case is adjourned to a date to be communicated later on.

7. Copies of this order sheet are endorsed to the PO and (adhoc PO), The co and the disciplinary authority.

PRESENTING OFFICER

C.O. 10/5/00

INQUIRY OFFICER