

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 72102

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SECTION OFFICER (Judl.)

Kahlon
22/10/17

FORM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Orginal No. 72/2002
Misc.Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant(s) T. K. Sharma

Respondent(s) H. O. I. Govt.

Advocate for Applicant(s) M. Chanda, Mrs. N. D. Sarmah
G. N. Chakraborty

Advocate for Respondent(s) Deb.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
Application in form 1. Application filed 2. Application No. 72/2002 3. Date 28.4.2001 4. Dy. Registrar 5. P.D.	5.3.02	This is application assailing the penalty imposed on the applicant in terms of the CCS(CCA) Rules, 1965 after enquiry vide order dated 28.4.2001 and the consequ- ential order dated 20.7.2001 passed by the Respondents. The order of penalty is appeal- able. Upon hearing Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents, we are of the view that the applicant should first approach the authority. If aggrieved thereafter, he may approach this Tribunal. Considering the facts and all the aspects of the matter, we direct the applicant to prefer an appeal before the authority within one month from today. If such appeal is pre- ferred, the authority shall decide the appeal as per law and pass a reasoned order within
Slips taken P.D.		Contd/-

8.3.2002

Copy of the order
has been sent to the
spec. for I&B
the one to the I&B
in the parks.

SS

Ag 14/3

5.3.2002

three months from the date of
receipt of the appeal.

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

K L Shar

Member

Vice-Chairman

mb

4 MAR 2002

Guwahati Branch

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 72 /2002

Sri Tarini Kanta Sharma : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

Date : 3.3.2002

Advocate

Filed by the
Applicant Shri
Advocate Sri
G. K. Chakravarthy
on - 6-3-2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. 72/2002

BETWEEN

Sri Tarini Kanta Sharma
S/o Late Rati Kanta Dev Sarma
Village - Tangarkur
P.O. Patacharkuchi
District-Barpeta

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.
2. The Chief Postmaster General,
Assam Circle,
Meghdoot Bhawan,
Guwahati-781001
3. The Superintendent of Post Offices,
Nalbari, Barpeta Division,
Nalbari, Assam.

Tarini Kanta Sharma

4. The Postmaster,
Head Post Office,
Barpeta,
Assam.

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made against the impugned order penalty dated 28.4.2001 passed by the Superintendent of Post Offices, Nalbari, Barpeta Division, Nalbari and also against ✓ the impugned order dated 20.7.2001, ^{where Period of Suspension,} has been treated as non-duty in violation of judgment and order dated 12.5.1998 passed in O.A. No. 203 of 1993 and praying for a direction upon the respondents to treat the entire period of suspension or at least the period of suspension from 19.6.1985 to 19.7.2001 as on duty with all consequential service benefits including arrear salary, annual increments and re fixation of pay after granting regular increments for all purposes.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

Taran Lal Das

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protection and privileges as guaranteed under the Constitution of India. The applicant was an employee in the Postal Department at the material time, now compulsorily retired due to imposition of penalty of (Compulsory retirement) following order passed through Memo No. F.I-I/SB/83-84(II) dated 26.4.2001.

4.2 That it is stated that a Memorandum of charge sheet was served upon the applicant during the year 1984 vide Memorandum No. F.I-I/SB/83-84 dated 7.5.1984 and initiated a disciplinary proceeding under Rule 14 of CCS(CCA)Rules, 1965 on the alleged ground that while the applicant was functioning as SB clerk at Pathsala Sub Post Office during the period from 9.11.1971 to 21.7.1983 accepted deposits of Rs. 6,000/- (Six thousand) against Pathsala SB No. 1078050 on 29.9.1982 and Rs. 10000/- (Ten thousand) against Pathsala SB A/c No. 10786192 on 21.8.1982 and Rs. 1000/- against Pathsala SB account No. 1077604 on 20.01.1983 and did not credit these amounts to the Govt. on the dates of transactions or subsequently and thereby he had violated Rule 424(II) (a) of P & T Man. Vol IV Part II and 4 (1) of P & T Financial hand book Vol.I and thereby failed to maintain absolute integrity in contravention of relevant conduct Rules, 1964.

4.3 That the aforesaid departmental proceeding under Rule 14 of CCS (CCA) Rules 1965 has been conducted in total violation of the relevant procedures laid down in CCS(CCA) Rules 1965 and finally the said proceeding was concluded, imposing a penalty of dismissal from service vide order issued under Memo No. F.I/SB/83-84(II) dated 4.2.1991, without providing reasonable opportunities and thereafter the appellate authority also confirmed the penalty of

Jaswinder Singh

dismissal from service without application of mind and also in total violation of Rules.

4.4 That your applicant being highly dissatisfied with the order of penalty dated 4.2.1991 and the Appellate Order confirming the said impugned order of Penalty approached this Hon'ble Tribunal through O.A. No. 203/93(T.K.Sharma Vs. U.O.I and others) and the said case was contested by the respondents and the matter was finally decided on 12.5.1998 and the Hon'ble Tribunal was pleased to set aside the penalty order of dismissal from service as well as the appellate order passed by appellate authority. In the said judgment and order dated 12.5.1998 the Hon'ble Tribunal directed the respondents to treat the applicant to be in service with effect from 4.2.1991 with all consequential service benefits. However liberty was also granted to the *Respondent* applicant to initiate fresh proceeding in accordance with the provisions of law if so advised. It is also made clear in the said order, that if such inquiry is initiated must be completed within three months from the date of initiation.

A copy of the judgment and order dated 12.5.1998 is annexed as **Annexure-I**.

4.5 That your applicant after the judgment and order dated 12.5.1998 passed in O.A. No. 203/93, submitted representation on 10.6.1998, praying inter alia for his reinstatement in service.

A copy of the representation dated 10.6.1998 is annexed as **Annexure-II**.

4.6 That it is stated that vide order bearing Memo No. H-I/SB/83-84(II) dated 29.9.1998 the applicant placed under suspension from the date of the Original Order of dismissal i.e. with effect from 4.2.1991 and it is further stated that the applicant should remain under suspensions until further orders. This order of suspension with effect from 4.2.1991 is void ab initio as the same is contrary to the judgment

Tanveer Khan Sardar

and order dated 12.5.1998 passed in O.A. No. 203/93. It is pertinent to mention here that when there is a specific order of the Hon'ble Tribunal that the applicant is to be treated to be in service with all consequential benefits, therefore, the applicant cannot be placed under suspension with effect from 4.2.1991 and the said order dated 29.9.1998 as such is non est.

A copy of the order dated 29.9.1998 is annexed as **Annexure-III.**

4.7 That your applicant further begs to state that a Memorandum of charge sheet was again served upon the applicant vide Memorandum bearing letter No. F.I-I/SB/83-84(II) dated 12.11.98/7.12.98 on the same set of allegation which was contained in Memorandum dated 7.5.1984. The applicant after receipt of the said Memorandum of Charge sheet categorically denied the charges vide his reply dated 23.12.1998.

A copy of the Memorandum of charge sheet 12.11.98/7.12.98 and reply dated 23.12.98 are annexed as **Annexure IV and V** respectively.

4.8 That the Superintendent of Post Offices, Nalbari vide order bearing Memo No. F-I-I/SB/83-84 (II) dated 11.1.2001, revoked, the order of suspension with immediate effect and also issued the posting order of applicant as P.A. at Barpeta H.O. until further order. The applicant thereafter joined at Barpeta.

A copy of the order dated 11.1.2001 and order dated 18.1.2001 are annexed as **Annexure VI and VII** respectively.

4.9 That it is relevant to mention here that the respondent No.4 also passed an order for drawal of subsistence allowance at the rate of 75% of his basic pay with effect from 4.2.1991 with reference to earlier order dated 25.8.1987. In this connection it may be stated that this order of payment of subsistence allowance is also contrary to the judgment and

Jasani Lekh Dass

order dated 12.5.98 as because there is a specific direction of the Hon'ble

Tribunal to treat the applicant to be in service with effect from 4.2.1991. therefore payment of subsistence allowance is contrary to the order of the Hon'ble Tribunal rather the applicant is entitled to full pay and allowances with effect from 4.2.1991 till the actual date of reinstatement in service.

Copy of the order dated 7.10.1998 is annexed as

Annexure-VIII.

4.10 That your applicant further begs to state that the hearing of the Inquiry Proceeding took place on different dates and the applicant participated in the said proceedings and extended his best cooperation for early completion of the disciplinary proceeding as directed by the Hon'ble Tribunal. But most unfortunately in spite of his best cooperation the proceeding was badly delayed due to laches, negligence, action/inaction of the Presenting Officer/Inquiry Officer. It is categorically submitted that the proceeding is badly delayed at the instance of the respondents that too in violation of the direction passed by the Hon'ble Tribunal on 12.5.1998 wherein a specific direction was given to complete the proceedings within a period of three months. A mere perusal of the Inquiry Report it would be evident that the proceeding was delayed at the instance of the official respondents. It would further be evident that the additional documents prayed by the applicant as indicated in para 7 in the Inquiry Report has also not supplied to the applicant. It is categorically admitted in the Inquiry report that the Presenting Officer could not supply the Original Pass Book, ledger, copy, list of transactions ad demanded by the charged official for want of original Pass Book, ledger and non-appearance of PW-4, through Inquiry could not made.

Taran Lark Sard

It is also admitted by the Inquiry Officer in para 9 that prosecution witnesses did not appear in the inquiry in spite of several dates fixed for hearing and as such witnesses could not be examined but surprisingly, the Inquiry Officer, in spite of his clear admission that none of the witnesses examined, documents were not supplied to the applicant even then it is held that the charges has been proved against the applicant.

A copy of the letter dated 4.4.2001 along with the Inquiry Report is enclosed as **Annexure-IX**.

4.11 That your applicant immediately after receipt of the inquiry report dated 4.4.2001 submitted representation against the inquiry report and categorically pointed out the irregularities such as none of the prosecution witnesses could be produced by the Presenting Officer during the course of hearing, none of the documents were examined or supplied, Pass-Book also not produced and there was no discussion in the inquiry report as required under the rule and charges could not be proved and the inquiry report itself is contradictory. Documents demanded by the applicants also not supplied to him.

It would further be evident that in the written brief, the applicant also pointed out the aforesaid irregularities, the said written brief submitted by the applicant on 13.2.2001.

Copy of the representations dated 17.4.2001 against the inquiry report and written brief dated 13.2.2001 are annexed as **Annexure X & XI** respectively.

4.12 That the Superintendent of Post Offices Nalbari imposed penalty of "Compulsory Retirement" from service with immediate effect vide Memo No. FFI/SB/83-84 (II) dated 28.4.2001 upon the applicant. The said impugned order of penalty dated 28.4.2001 has been passed in total violation

Taran Nath Datta

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of the Hon'ble Tribunal's order dated 12.5.98 passed in O.A. No. 203 of 1993. It is pertinent to mention here that in the judgment dated 12.5.1998 there was a categorical direction that the proceeding must be completed within a period of "Three months" from the date of initiation of disciplinary proceeding i.e. from the date of issuance of Memorandum of charge sheet. Therefore the respondents ought to have completed the proceeding at any rate within 6.3.1999. But in the instant case the respondents have completed the proceeding after a lapse of **two years five months without taking leave from this Hon'ble Tribunal.**

It is relevant to mention here that the judgment and order dated 12.5.1998 passed in O.A. No. 203 of 1993 is binding upon the respondents as because the respondents did not prefer any appeal against the judgment and order dated 12.5.1998. On that score alone the impugned order of penalty order dated 28.4.2001 which has been passed without jurisdiction is liable to be set aside and quashed.

A copy of the impugned order of penalty dated 28.4.2001 is annexed as **Annexure-XII.**

4.13 That it is stated that the disciplinary authority did not consider any of the points raised by the applicant in his representation dated 16.4.2001 and in the written brief dated 13.2.2001 and also did not consider the report of the Inquiry Officer wherein it was categorically admitted by the Inquiry Officer that none of the witnesses were examined and documents asked for by the applicant also not supplied to him even then the disciplinary authority overlooking those aspects mechanically reached to the conclusion that charges have been proved and accordingly imposed the penalty of "Compulsory Retirement" from Govt. service vide impugned order dated 28.4.2001 in total violation of Rule 14 and 15 of the CCS(CCA) Rules, 1965. It is also relevant to mention here that no liberty was given to the applicant to prefer

Jaswinder Singh

any appeal to the Appellate Authority in the said impugned order of penalty dated 28.4.2001 as required under the Rule. On that score alone the impugned order dated 28.4.2001 is liable to be set aside and quashed.

4.14 That the Superintendent of Post Offices vide Order bearing letter No. F.I/SB/83-84(II) dated 17.5.2001 proposed to treat the period of suspension with effect from 19.6.85 to 19.01.2001 as non-duty in terms of the instructions laid down in F.R. 54-B on the ground that the applicant has already been imposed the said penalty of compulsory retirement. The applicant immediately thereafter submitted a detail representation against the order dated 17.5.2001 vide his representation dated 30.5.2001 wherein the applicant categorically stated that it is contrary to the order dated 12.5.1998 passed by the Hon'ble Tribunal in O.A. 203/93 and further stated that the said proposal will cause irreparable loss and injury to the applicant if the same is implemented in the matter of pensionary benefits.

A copy of the order dated 17.5.2001, reply dated 30.5.2001 are annexed as **Annexure XIII and XIV** respectively.

4.15 Most surprisingly, the Superintendent of Post Offices, Nalbari, vide impugned order bearing Memo No. F.I-I/SB/83-84(II) dated 20.7.2001 whereby the period of suspension from 19.6.1985 to 19.01.2001 has been arbitrarily treated as non-duty. However it is stated in the said impugned order that the pay and allowances for the period would be limited to the extent of subsistence allowance already paid. It is also stated that other facilities like pensionary benefits etc. as may be admissible under the provisions of Rules would be payable to the Govt. servant usually. The aforesaid decision of the Superintendent of Post Offices is highly arbitrary, illegal and contrary to the order dated 12.5.1998 passed by the Hon'ble Tribunal in O.A. No. 203 of 1993. It is pertinent to mention here that in the order dated 12.5.1998

Jasmin Usha Devi

there was a specific direction of the Hon'ble Tribunal that the applicant would be treated to be in service with effect from 4.2.1991 with all consequential service benefits and a further direction was given to the respondents that in the event of initiation of a fresh proceeding, the same must be completed within a period of three months from the date of initiation of the said fresh proceeding. Therefore treating the applicant under suspension with effect from 19.6.85 to 19.01.2001 is contrary to the direction of the Hon'ble Tribunal passed in O.A. No. 203/93 dated 12.5.1998. As such the decision of the Respondents to treat period w.e.f. 19.6.85 to 19.01.2001 as non duty is void ab initio and as such the impugned order dated 20.7.2001 is liable to be set aside and quashed.

A Copy of impugned order dated 20.7.2001 is annexed as
Annexure XV.

4.16 That it is stated that in view of the arbitrary decision contained in the impugned order dated 20.7.2001, the payment of full pay and allowances has been restricted to the extent of subsistence allowance and as a result the annual increments which were due to the applicant since 1985 as well as full pay and allowances due to the applicant has been denied. Moreover the full pay and allowances and increments have also been denied in the revised scale following the revision of pay scale by the Government of India on the recommendations of 4th and 5th Central Pay Commission respectively. Therefore, Hon'ble Tribunal be pleased to direct the respondents to pay full pay and allowances to the applicant on the revised scales as stated above after granting regular increment since 1985 in terms of the judgment and order dated 12.5.1998 in O.A. No. 203/93 and further be pleased to declare that the applicant is entitled to be continued in service in terms of the order dated 12.5.1998 referred to above and further be pleased to

Sanjukta Sen

direct the respondents to re fix the pay of the applicants after granting regular annual increments in the revised scale of pay, treating him as on duty for all purpose.

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

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

5.1 For that the order of penalty of compulsory retirement has been passed in total violation of the Judgment and order dated 12.5.1998 in O.A. No. 203 of 1993.

5.2 For that the fresh disciplinary proceeding initiated vide Memorandum dated 12.11.1998/7.12.1998 was completed after a lapse of about two and half years whereas there was a specific direction of the Hon'ble Tribunal to complete the fresh proceeding at any rate within a period of three months from the date of initiation of the proceeding.

5.3 For that the proceeding has been badly delayed at the instance of the respondents in spite of the best cooperation extended by the applicant.

5.4 For that relevant documents were not supplied to the applicants in spite of requests made by the applicant which is categorically admitted by the Enquiry Officer in his enquiry report.

5.5 For that none of the listed witnesses or documents relied upon by the Presenting Officer were examined in the enquiry proceeding which is categorically admitted by the enquiry officer in his enquiry report.

5.6 For that the decision of the enquiry officer to the extent that the charges have been proved against the applicant is contrary to the Records and the findings of the enquiry is based on no evidence.

Tarun Lekh Saini

5.7 For that decision of the respondents contained in the impugned order dated ¹⁰⁻⁷⁻²⁰⁰¹ ~~10-7-2000~~ to treat the entire period of suspension with effect from 19.6.85 to 19.01.2001 as non duty in terms of the instructions laid down in F.R. 54(b) on the alleged ground that the applicant has already been imposed the penalty of compulsory retirement is contrary to the direction passed in the judgment and order dated 12.5.1998 in O.A. 203 of 1993.

5.8 For that the applicant is entitled to arrear full pay and allowances along with annual increments and other consequential benefits in the revised scales with effect from 19.6.1985 till the date of compulsory retirement in view of the direction contain in the judgment and order dated 12.5.1998 in O.A., No. 203 of 1993.

5.9 For that penalty of compulsory retirement has been imposed upon the applicant in total violation of relevant Rule 14 of the CCS (CCA) Rules, 1965.

5.10 For that the applicant is entitled to the refixation of pay and allowances and other consequential benefits in terms of the order of the Hon'ble Tribunal dated 12.5.1998.

5.11 For that decision of the respondents for placing the applicant under suspension with effect from 4.9.1991 after the judgment and order dated 12.5.1998 is amount to contempt of court.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

Tanvi Vaish Dev

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

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. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs

- 8.1 That the impugned order of penalty issued under Memo No. F.I-I/SB/83-84(II) dated 28.4.2001 (Annexure-XII) be set aside and quashed.
- 8.2 That the impugned order bearing letter No. F-I/SB/83-84(II) dated 20.7.2001 declaring the period of suspension with effect from 19.6.1985 to 19.01.2001 as non duty in terms of the instructions laid in F.R. 54 (b) be set aside and quashed.
- 8.3 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to full pay and allowance with all consequential service benefits including annual increments in the revised scale of pay following the recommendation of the 4th and 5th Central Pay Commission and further be pleased to direct the respondents to make payment of the

Janvi Lata Dure

aforesaid arrear pay and allowances with 18% interest with immediate effect.

8.4 That the respondents be directed to refix the pay of the applicant in terms prayer No. 8.3 above.

8.5 Costs of the application.

8.6 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

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

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

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No. : 7G 547760
 ii) Date of issue : 2-3-202
 iii) Issued from : G.P.O., Guwahati.
 iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Tacni's last name

VERIFICATION

I, Sri Sri Tarini Kanta Sharma, S/o Late Rati Kanta Dev Sarma, aged about 60 years, resident of village - Tangarkur, P.O. Patacharkuchi, District Barpeta, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 4th day of February, 2002.

Tarini Kanta Sharma

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 203 of 1993.

Date of Order: This the 12th Day of May, 1998. Annexure-1

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Tarani Kanta Sarma,
 Ex Postal Assistant,
 Village Tangarkur,
 P.O. Patacharkuchi,
 Dist. Barpeta (Assam)

. . . Applicant

By Advocate Shri P.Prasad.

- Versus -

1. Union of India,
 represented by the Secretary,
 Telecommunications Department,
 New Delhi.

2. The Director of Postal Services,
 Assam Circle, Meghdoott Bhawan,
 4th Floor, Guwahati-1.

3. Superintendent of Post Offices,
 Nalbari Barpeta Division,
 Nalbari-781335.

. . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

O R D E RBARUAH J.(V.C)

The applicant was an employee in the Postal Department.

At the material time he was serving as Savings Bank Account Clerk in the Pathsala Sub Post Office. He was assigned certain duties such as deposit and withdrawal of Savings Bank Account. An article of charge alongwith statements of imputation was served on the applicant asking the applicant to show cause as to why action should not be taken against the applicant. As per the charge the applicant while functioning as S.B.Clerk at Pathsala sub Post office during the period from 9.11.1971 to 21.7.83 accepted deposits of Rs.10,000/- on 21.8.82 against Pathsala SB Account No.1078192 and Rs.1,000/- on 20.1.83 against Pathsala SB Account No.1077604 and did not credit these amount to the Government on the dates of transaction or subsequently

Appealed
 Date
 Adm. case

Q/H

and thereby infringed Rule 424(2) (ii) (a) of P & T Manual Volume VI Part II and Rule 4(1) of P&T Financial Hand Book Volume I and thereby failed to maintain absolute integrity in contravention of Rule 3(1) (i) of Central Civil Services (Conduct) Rules 1964. A disciplinary proceeding was initiated under the provision of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The applicant submitted reply to the show cause notice. The disciplinary authority not being satisfied appointed few enquiry officers one after another. Only the fourth Enquiry Officer Shri S.C. Nath, Superintendent of Postal Store Depot, Guwahati submitted his report after conducting the enquiry. The first Enquiry Officer so appointed Shri N.Choudhury recorded certain evidence. However, the learned counsel for the applicant submits that those records are not before this Tribunal. Mr S.Ali, learned Sr.C.G.S.C however not in a position to produce those evidence. The last Enquiry Officer had recorded some evidence considering some records such as Ledger, duplicate pass book and others with the help of the witnesses. However, when an objection has been raised by the applicant the Enquiry Officer adjourned the case until further orders without fixing any date and waited till disposal of the appeal. Thereafter, on 14.2.1990 again the enquiry was taken up by the Enquiry Officer Shri Nath. On that day the applicant remained absent. The Enquiry Officer in his report stated that in spite of service of notice the applicant remained absent. From the records produced by the respondents it appears that the charged officer submitted an application before the Enquiry Officer stating inter alia that he could not appear before the enquiry on 14.2.1990 as he did not receive notice from the Enquiry Officer in time to enable him to be present on the date of enquiry. It also appears

*Plaintiff
Advocate
Advocate*

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that the notice was served on him only on 14.2.1990 i.e. the date on which the enquiry was held and therefore it was not possible on his part to appear before the Enquiry Officer. As the applicant remained absent the witnesses were examined and enquiry proceeded ex parte and the documents were exhibited. While exhibiting the documents certain documents which the applicant wanted to inspect was not supplied to him on the ground that those documents might have been burnt. However, there was no proof of such burning. Besides this, the enquiry report referred to some documents the applicant desired to see but not allowed by the authority. On comming to know about this, proceeding taken on 14.2.1990 the applicant wanted to cross examine those witnesses which had already been examined on 14.12.1989. This prayer also rejected by the Enquiry Officer and after conclusion of the enquiry the Enquiry Officer found that the charge was fully established and accordingly submitted a report before the disciplinary authority and the disciplinary authority on receipt of the report dismissed the applicant from service. Hence the present application.

2. We have heard Mr P.Prasad, learned counsel appearing on behalf of the applicant and Mr S.Ali, learned Sr.C.G.S.C for the respondents. Mr Prasad submits before us that the documents which the applicant wanted to inspect was not supplied thereby violating the principle of natural justice. It was also in violation of the mandatory provisions of Rule 14 of the CCS (CCA) Rules 1965. As the applicant was denied the opportunity of inspecting the documents those documents could not have been taken by the Enquiry Officer for consideration. In this connection Mr Prasad submits that the proceeding is entirely vitiated by non compliance of the provision of Rule 14 of the CCS(CCA) Rules. Besides Mr Prasad submits that on 6.12.1989

Placed on file
Q.W.

the enquiry proceeding was stayed until further orders and without fixing any date and no notice was served on the applicant to be present on the next date. Therefore, on this ground also the proceeding was vitiated for violation of the Rule and the principle of natural justice. On these grounds the entire proceeding is vitiated by error of law and jurisdiction.

3. Mr S.Ali, learned Sr.C.G.S.C however tried to justify the impugned act. On the rival contention of the counsel for the parties it is to be seen whether the impugned orders can sustain in law. Mr Ali has produced records of the enquiry proceeding. In the enquiry proceeding there is no evidence that the notice was received by the applicant before the enquiry. However, the application submitted by the applicant indicates that he had received the notice on the date when the enquiry was conducted and it was not possible on his part to appear before the enquiry. This has not been controverted by the learned Sr.C.G.S.C. Therefore, in our opinion that the enquiry was not conducted by the Enquiry Officer in the manner contemplated under the provisions of CCS (CCA) Rules. The provision of Rule 14 is of mandatory in nature and therefore non compliance of the Rule is a serious irregularity. The disciplinary authority also without looking to these lacuna in making the enquiry awarded punishment of dismissal of the applicant by confirming the order passed by the disciplinary authority. In view of the above both dismissal order issued by the disciplinary authority and the appellate order passed by the appellate authority are illegal, unfair and unreasonable. Accordingly we set aside the said orders and direct the respondents to treat the applicant to be in service with effect from 4.2.1991 with all consequential benefits. However, our order shall not prevent the authority to initiate fresh proceeding in accordance with the provisions of

*Aftered
Jai
Dwarka*

law if so advised, as early as possible and such enquiry if invited must be completed within 3 months from the date of initiation. We have given this direction for early disposal of the fresh disciplinary proceeding as it is a very old matter.

Considering the entire facts and circumstances of the case, however, we make no order as to costs.



Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMN)

TRUE COPY

प्रतिलिपि

27/5/98

Section Officer (S)

गान्धारा अधिकारी (नियमित द्वारा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकारी
Guwahati Branch, Guwahati
गुवाहाटी अधिकारी, गुवाहाटी

27/5

To,

The Superintendent of Post offices,
Nalbari-Barpeta Division,
Nalbari - 781385.

Sub: Prayer for reinstatement in my original post of
postal Assistant in the postal division, Nalbari
Barpeta Division, Nalbari - 781335.

Ref: Original application No- 203 of 1993.

Dated Patacharkuchi the 6th June/98.

Respected sir,

With due respect I beg to enclose herewith a copy of
order in respect of criminal application No- 203 of 1993
for your kind action.

The justice Sri D.N. Baruas vice chairman central Ad-
ministrative Tribunal Guwahati bench guwahati directed you to
reinstate me as postal Assistant in your department as per
order vide 203 of 1993 with full duty pay with effect from
4-2-91 till this date of reinstatement.

I would therefore pray your honour kindly to issue
order enable me to join as postal Assistant at an early date
and oblige.

Yours faithfully,

Tarani Kanta Sarma
(Tarani Kanta Sarma)

p.o.- Patacharkuchi.

Dist- Barpeta, Assam.

pin.- 781326.

196798

*Attested
for
Advocate*

Copy forwarded to the
Director of Postal services
Assam circle, Meghdoct Bhawan.
4th floor, guwahati-1 to take
necessary action & favourable
orders.

(Tarani Kanta Sarma)

Enclosed copy of order no-203 of 1993 dt. 12-5-98.

DEPARTMENT OF POSTS: INDIA
 Office of the Superintendent of Post Offices
 Nalbari-Barpeta Division
 NALBARI-781335

Memo No. F1-1/SB/83-84 (II) Dated at Nalbari the 29-09-98.

MEMORANDUM

WHEREAS Sri Tardni Kanta Sarma the then PA, Pathala was dismissed from service with immediate effect vide this office memo of even no dtd 4-2-91.

WHEREAS, the said dismissal order has been set aside by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in their judgement dtd 12-5-98 against original application no 203 of 1993 and directed the authority to treat the applicant to be in service with effect from 4-2-91 with all consequential benefits.

WHEREAS, the Chief Postmaster General, Assam Circle, Guwahati has advised the undersigned to implement the order and directed to start denovo proceedings under Rule 14 of CCS (CCA) Rules 1965 from enquiry stage vide their letter no Vig/5/98/93-94 dtd 25-8-98.

Now, therefore the undersigned in exercise of powers confirmed by sub rule 10 (4) of the CCS(CCA) Rules 1965 hereby orders Sri Tardni Kanta Sarma the then PA/Pathala shall be deemed to have been placed under suspension from the date of the original order of dismissal in 4-2-1991 and shall confirm to remain under suspension until further orders.

It is further ordered that during the period that this ~~original~~ order shall remain in force the headquarters of Sri Tardni Kanta Sarma the then PA/Pathala be at Nalbari. and the said Sri Tardni Kanta Sarma shall not leave the headquarters without obtaining the previous permission of the undersigned.

Sob

(G.G.SINGHA)
 Superintendent

Copy to:

1. Sri Tardni Kanta Sarma Ex-Postal Asstt. vill-Tangarkur P.O. Patasharkuchi, Dist. Barpeta (Assam) for information.
2. The Postmaster, Nalbari B.O. for favour of information and necessary action.
3. The Chief Postmaster General(Vig) &/o of the Chief P.M.G. Assam Circle Guwahati for favour of information. w.r.t G.O.M's No. Vig/5/98/93-94 dtd 25-8-98.
4. OC
5. "paro.


 (G.G.SINGHA)
 Superintendent

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
NALBARI BARPEA DIVISION: NALBARI-781335

Govt. of India
Sup't. of Post Offices No. F1-1/SB/83-84(11)
Nalbari Barpara Division Government of India
Nalbari-781335 Ministry of
Date ... 12-11-98
7-12-98

MEMORANDUM

The President/undersigned proposes to hold an inquiry against Shri ... Tarani Kanta Sarm ... under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

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

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

4. Shri ... Tarani Kanta Sarm ... is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuse to comply with the provisions of Rule 14 of the C.C.S. (C.C.A.) 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 ... Tarani Kanta Sarm ... is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri ... Tarani Kanta Sarm ... 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 C.C.S. (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

Regd. Ad

Name and designation of Competent Authority

To Shri ... Tarani Kanta Sarm ...
Jhns. P/A Palkhan
F.I.D. & C.I. Nalbari
P.C. Nalbari

एक अधीक्षा नल्बारी बरपा
दाम 781335
Sup't. of Post Offices
Nalbari Barpara Division
Nalbari-781335

ANNEXURE - I

STATEMENT OF THE ARTICLES OF CHARGE FRAMED AGAINST SRI TARANI
KANTA SARMA, THE THEN SB CLERK, PATHSALA S.O.

Article of charge :

That Sri Tarani Kanta Sarma while functioning as SB clerk at Pathsala S.O. during the period from 9-11-71 to 21-7-83 accepted deposits of Rs.6000/- against Pathsala SB account No.1078050 on 29-9-82, Rs.10,000/- against Pathsala SB account No.1078192 on 21-8-82 and Rs.1000/- against Pathsala SB account No.1077604 on 20-1-83 and did not credit these amounts to the Govt. on the dates of transaction or subsequently.

Thus said Sri Tarani Kanta Sarma infringed Rule 424(2)(ii) (a) of P&T Man Vol VI part II and Rule 4(I) of P&T Financial Hand Book Vol I and thereby failed to maintain absolute integrity in contravention of Rule 3(I)(i) of C.C.S(Conduct) Rules, 1964.

ANNEXURE - II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SRI TARANI KANTA SARMA, THE THEN SB CLERK, PATHSALA S.O.

In that Sri Tarani Kanta Sarma the then SB clerk Pathsala S.O. received a deposit of Rs.6000/- (Rupees six thousand) only for deposit in Pathsala SB a/c No.1078050 on 29-9-82. The amount of deposit was tendered by one Sri G.M.Sarma, son and messenger of the depositor Sri Ananta Mohan Sarma. Sri Tarani Kanta Sarma accepted the amount from the messenger did not return the pass book after the transaction but granted a manuscript (SB 28) receipt thereof *signed* by himself. It revealed during enquiry that the transaction was not entered in Pathsala S.O. SB long book dated 29-9-82 and the amount was not brought into S.O. account against SB deposit on that date.

In the case of Pathsala SB a/c No.1078192 Sri Tarani Kanta Sarma accepted a deposit of Rs.10,000/- (Rupees ten thousand) only from the depositor Sri Ramen Sarma on 21-8-82. The depositor was granted a manuscript (SB 28) receipt signing by said Sri Tarani Kanta Sarma himself and retained the pass book for entry of interest. The amount of Rs.10,000/- so accepted by Sri Tarani Kanta Sarma as deposit against the pass book a/c No.1078192 was not credited to the Govt.

Again said Sri Tarani Kanta Sarma, the then SB clerk Pathsala S.O. had accepted Rs.1000/- (Rupees one thousand) only on 20-1-83 from one Sri Golak Ch. Das messenger of the depositor Smt Bharati Das for deposit in the pass book account No.1077604. Sri Tarani Kanta Sarma entered the deposit in the said pass book, signed, date stamped and returned the pass book to the messenger. During enquiry Pathsala S.O. SB long book dated 20-1-83 could not be produced but it transpired from the list of transaction and S.O. account book of Pathsala S.O. dated 20-1-83 that Sri Tarani Kanta Sarma did not credit the amount to the Govt.

Thus Sri Tarani Kanta Sarma, the then SB clerk Pathsala S.O. violated Rule 424(2)(ii)(a) of P&T Man Vol VI part II and Rule 4(I) of P&T Financial Hand Book Vol I and thereby failing to maintain absolute integrity contravening Rule 3(I)(i) of C.C.S(Conduct) Rules, 1964.

contd..2...

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....2....

ANNEXURE - III

LIST OF DOCUMENTS IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED
AGAINST SRI TARANI KANTA SARMA, THE THEN SB CLERK PATHSALA S.O.

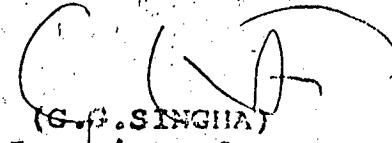
1. Fresh pass book account No. 1078050 and 1078192 and original pass book a/c No. 1077604 standing opened at Pathsala S.O.
2. Pathsala S.O. SB long book dated 29-9-82 & 21-8-82 and List of transaction dated 20-1-82.
3. S.O. account book of Pathsala S.O. dated 29-9-82, 21-8-82 and 20-1-83.
4. S.O. ledgers in respect of Pathsala S.O. SB a/c No. 1078050, 1078192 and 1077604.
5. Written statements of Sri G.M. Sarma dated 8-8-83, Written statement of Smt Bharati Das dated 9-9-83 and written statement of Sri Golak Das dated 9-9-83.

ANNEXURE - IV

LIST OF WITNESS IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED
AGAINST SRI TARANI KANTA SARMA, THE THEN SB CLERK PATHSALA S.O.

1. Sri Atul Ch. Das, then SDI(P) Pathsala now Wakil a. A-i (M.A.C.)
ofc (W.P.M.B), Siliguri (W.B.)
2. Sri Ananta Mehan Sarma Vill. Pub Kathalbari
3. Sri G.M. Sarma Post Bagmara Bazar.
4. Sri Ramon Sarma Vill & P.O. Patacharkuchi.
5. Smt. Bharati Das c/o Dr. Umesh Das, Pathsala.
6. Sri Golak Das Pathsala.
7. Sri Dwijwndra Nath Sarma then SPM (LSG) Barpeta Road now at
vill & P.O. Bamunikuchi via PR Patacharkuchi.

*Alleged
Witness
Sri Golak
Das*


G.F. SINGHAL
Superintendent

To.

The Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-78335.

Through proper channel.
Dated Nalbari the 21th Dec/98.

Ref: No. F I -1 /SB/83-84(II) dt.Nalbari
the 7th Dec/98.

Sir,

I have the honour to state that I received your memo dt. 7.12.98 on 16.12.98. I have gone through the whole charge framed against me. Accordingly, I have reason to adduce evidences and do hereby deny the charge. so, I like to be heard in person.

I therefore request you kindly to exonerate me from the charge and for the act of your kindness I shall remain ever grateful to you and oblige.

Yours faithfully,

Tarani Kanta Sarma

Tarani Kanta Sarma.

p/A Nalbari H.O (U/S)

Nalbari-781335

21/12/98.

23/12/98

*Plotted
by
Advocate*

DEPARTMENT OF POSTS : INDIA
 Office of the Superintendent of Post Offices
 Nalbari Barpeta Division
 Nalbari-781335

Memo No. F1-1/SB/83-24 (II) Date : 11-01-2001

O R D E R

Whereas an order placing Sri Tarani Kanta Sarma PA, Nalbari HO under suspension was made by the undersigned on 29-09-98 treating the official deemed to have been placed under continued suspension w.e.f. 04-02-91.

Now, therefore, the undersigned in exercise of the powers conferred by clause (C) of Sub rule (3) of Rule-10 of the central civil services classification, control and Appeal, Rules, 1965, hereby revokes the said order of suspension with immediate effect.

Sd-

(N. DAS)
 Supdt. of Post Offices
 Nalbari Barpeta Division
 Nalbari-781335

Read A.D.
 Copy to:

1. Sri Tarani Kanta Sarma, PA, Nalbari HO (u/s) now at vill-Tararkur, PO-Barbatabari via-Patacharkuchi SO for information.
2. The Postmaster, Nalbari HO for favour of information and necessary action.
3. The Staff Branch, Divl. Office, Nalbari for information and issue of necessary posting order of the official.
4. OC, Nalbari Barpeta Division
5. Spare.

H
 Supdt. of Post Offices
 Nalbari Barpeta Division
 Nalbari-781335

*Attested
 for
 Advocate*

Annexure-VII

DEPARTMENT OF POSTS : INDIA
Office of the Superintendent of Post Offices
Malbari Barpeta Division
Malbari-781335

Nov. B/A-13/Ch-III

Date 18.01.2001

The following posting order is issued in the interest of service to have immediate effect.

1. Sri Tarini Kanta Sarma, PA Nalbari HO (U/s) is reinstated to service on revocation of the deemed suspension vide this office memo No. F1-1/SB/83-84(II) dated 11.1.2001, is posted as PA, Barpeta HO until further orders.

Sd/-
(N.DAS)
Supdt. Of Post Offices
Malbari Barpeta Division
Malbari-781335

Copy to :

1. The Postmaster, Barpeta H.O. He is requested to release Sri Paramananda Das, immediately and the services of Sri Tarini Kanta Sarma may be utilised in his place.
2. Sri Tarini Kanta Sarma, PA Nalbari HO (U/S), now at vill-Tararkur, P.O. Barbatabari, via-Patacharkuchi, Barpeta.
3. PF
4. OC

Sd/-
Malbari Barpeta Division
Malbari-781335

*Revised
Recd.
Advocate*

Tarini Kanta Sarma

DEPARTMENT OF POSTS: INDIA
Office of the Superintendent of Post Offices
Nalbari-Barpeta Division
NALBARI-781305

No. F1-1/SB/83-84

Dated at Nalbari the 07-10-98

To:

The Postmaster,
Nalbari H.O.

Sub: Drawal of subsistence allowance to Sri Tarini Kt. Sarma
then PA Pathmala now under suspension.

Sri Tarini Kanta Sarma then PA Pathmala was dismissed from
service w.e.f. 4-2-91. But after an appeal, the Hon'ble Court CAT/GH
has set aside the punishment order and appellate order in their
judgement dtd 15-5-98.

In view of the above, the official has been placed under
deemed suspension w.e.f. 4-2-91 vide this office memo no F1-1/SB/
83-84 (ii) dtg 29-9-98.

Kindly arrange therefore to draw his subsistence allowance
@ 75% of his basic pay w.e.f. 4-2-91 as ordered and enhanced
previously vide this office memo of even no dtd 25-8-87.

[Signature]
(G.G.SINGHA)
Superintendent

Copy to:

1. Sri Tarini Kanta Sarma Ex. PA vill Tangarkur P.O. Pata-
charukuchi Dist. Barpeta (Assam).
2. The Chief Postmaster General, Assam Circle, Guwahati
(Vig Sec.) for favour of information w.r.t. his no.
vig/5/93/93-94 dtd 25-8-91.

[Signature]
(G.G.SINGHA)
Superintendent

*Revised
Jad
Private*

DEPARTMENT OF POSTS : INDIA
Office of the Superintendent of Post Offices
S/o SIC Nalbari Barpeta Division
Nalbari-781335

To

Regd
Sri Tarani Kanta Sarma, PA
Barpeta HO.

2.

Div. No. F1-1/SB/83-84(ii)
84(1), dated 17-3-2001

Date : 04-04-2001

3.

Sub: Rule-14 inquiry against Sri Tarani Kanta Sarma, PA, Barpeta HO -- Submission of written representation against I.O's final report.

Sri Dinesh Chandra
Assistant of the case

The Inquiry Authority in respect of your Rule-14 case has submitted his conclusive inquiry report on No. F1 23-03-2001.

A copy of the said report is sent herewith for your disposal. The Disciplinary Authority who has agreed to the findings and conclusion that the charges have been proved, will take suitable decision on the case after considering I.O's report soon. In the mean time, if you wish to make any representation or submission against the I.O's report, you may do so in writing to the Disciplinary Authority within 10 (ten) days from the date of receipt of this letter.

(iii) In case, your representation is not received within the stipulated time, it will be presumed that you have nothing to represent against it.

(iv) This is ex-urgent.
Post Box No. 107
A/C No. 107/83
107R/92 & 107/93.

Supdt. of Post Offices
Nalbari Barpeta Divn.
Nalbari-781335

Attested
Sri Advocate

Final Inquiry Report in connection with disciplinary proceeding under Rule-14 of CCS(CCA) Rules, 1965 brought against Sri Tarani Kanta Sarma, the then S.B. clerk, Pathsala SO.

1. Sri Tarani Kanta Sarma the then SB clerk, Pathsala SO was charge sheeted under Rule-14 vide Supdt. of POs, Nalbari Barpeta Division, Nalbari memo No. F1-1/SB/83-84(11) dated 07-12-98.
2. The undersigned Sri Khargeswar Barman, SDI(P) Nalbari East Sub Division was appointed as Inquiry Officer, vide SPOs, Nalbari memo No. F1-1/SB/83-84(11) dated 17-11-99.
3. Sri T.D. Saha, SDI(P), Pathsala was appointed as Presenting Officer vide SPOs, Nalbari memo No. F1-1/SB/83-84(11) dated 17-11-99.
4. Sri Umesh Ch. Sarma, ASPOs(Divn) Tezpur was appointed as Defence Assistant of the case.
5. Sri T.D. Saha, SDI(P), Pathsala & P.O. of the case was changed and Sri Bhubaneswar Haloi was appointed as Presenting Officer vide SPOs, Nalbari memo No. F1-1/SB/83-84(11) dated 01-03-2000.
6. The listed documents under Annexure-III of above charge sheet are marked as under :-
 - (i) Fresh pass book no. 1078050, no. 1078192 and no. 1077604 against original. Standing at Ext. D(A1)
Pathsala SO Ext. D(A2)
Ext. D(A3)
 - (ii) Pathsala SO SB Ext. D2
Long Book dtd. Ext. D2A
29-9-82, 21-8-82 Ext. D2B
and list of transaction
dtd. 20-01-83.
 - (iii) SO A/C Book of Ext. D3
Pathsala SO dtd.
29-9-82, 21-8-82
and 20-1-83.
 - (iv) SO ledgers in r/o Ext. D4(A)
Pathsala SO SB Ext. D4(B)
A/C No. 1078050, Ext. D4 ©
1078192 & 1077604

*Altered
Recd
Govt. of Assam*

(v) (a) Written statement of Sri G.N. Sarma dtd. 08-08-83... Ext. D5 (A)
 (b) Written statement of Smt. Bharati Das dtd. 09-09-83 Ext. D5 (B)
 (c) Written statement of Sri Golak Das dtd. 09-09-83 Ext. D5 (C)

7.

The charged official applied for additional documents as below :-
 Used up Pass Books or receipt granted to depositors with proof of deposits including balance of pass book.

(a) List of transactions dated 29-09-82 and 21-08-82.
 (b) Original SO SB ledger card in respect of the a/c mentioned in the charged sheet or photo copies thereof.
 (c) Hand to hand receipt book dtd. 29-09-82, 21-08-82 and 20-01-83 maintained by charged official.

The P.O. has failed to supply the above noted additional documents to the charged official.

8. Prosecution witness are :-

PW-1- Sri Atul Ch. Das, then SDI(P), Pathsala now Supdt. of PSD, Guwahati.

PW-2- Sri Ananta Mohan Sarma, vill- Pub Kathalbari, PO- Baghmara Bazar.

PW-3- Sri G.M. Sarma, vill & PO- Patacharkuchi.

PW-4- Sri Ramen Sarma, vill & PO-Patacharkuchi.

PW-5- Smt. Bharati Das, c/o Dr.Umesh Das, Pathsala.

PW-6- Sri Golak Das, Pathsala.

PW-7- Sri Dwijendra Nath Sarma, then SPM (LSG) Barpeta Road now at vill & PO-Bamunikuchi, via-Patacharkuchi.

The hearing on proceedings of above case were held on following dates.

31-01-2000 - Hearing adjourned without any proceeding as Sri T.D. Saha, P.O. failed to attend in the inquiry.

*Attested
for
Advocate*

(i) Ext-D(A1), Ext-D5(A) :- Ext-D(A1) is a fresh pass book against Pathsala A/C No. 1078050 showing balance of Rs.305/- on 30-04-83. The charge of non credit of Rs.6000/- on 29-09-82 not found in the fresh pass book.

In the charge sheet it was mentioned that Sri Taruni Kanti Sarma the then SB clerk Pathsala received a deposit of Rs.6000/- against Pathsala SB a/c no. 1078050 on 29-09-82. The amount of deposit was tendered by one Sri G.M. Sarma, son o & messenger of the depositor, Sri Ananta Mohan Sarma, Sri T.K. Sarma accepted amount from the messenger did not return the pass book after transaction but granted a manuscript (SB-28) receipt thereof signed by himself. Sri T.K. Sarma did not enter the amount in Pathsala SO SB long book dtd. 29-09-82 and amount was not brought into SO a/c against SB deposit on that date.

In Ext. D5(A) Sri Girindra Mohan Sarma , son of Sri Ananta Mohan Sarma stated that sometime during January, 1983, he on behalf of his father, depositor SB a/c no. 1078050, tendered Rs.6000/- for deposit in pass book to Sri T.K. Sarma. In the charge sheet date of non credit shown on 29-09-82, whereas the messenger who handed over the pass book and amount of Rs.6000/- to Sri T.K. Sarma stated in his statement i.e. in Ext. D5(A) that sometimes during January 1983. Hence dates of deposits are contradictory. Due to non availability of original pass book, SB ledger and hand to hand receipt book and non appearance of PW-2 and PW-3 in the inquiry, the charge of non-crediting of Rs.6000/- in SB a/c no 1078050 on 29-09-83 brought against Sri T.K. Sarma could not proof.

(ii) Ext-D(A3), D5(C) and Ext-D2(B) :- Ext-D(A3) is a fresh pass book against Pathsala SB a/c no. 1077604 showing balance of Rs.3379/- on 25-07-83. Ext-D5(C) is a written statement of Sri Golak Das, messenger of SB depositor a/c no. 1077604, stated that he deposited a sum of Rs.1000/- n 20-01-83 against SB a/c no. 1077604. In Ext.D4(C) a sum of Rs.1000/- was found in deposit on 20-01-83 against a/c no. 1077604. But the amount of Rs.1000/- was not shown in original list of transaction dtd. 20-01-83 by Sri T.K. Sarma. The amount of Rs.1000/- also not incorporated in Govt. a/c. Thus non-credit of Rs.1000/- by Sri T.K. Sarma against Pathsala SB a/c no. 1077604 on 20-01-83 is hereby proved.

(iii) Ext-D(A2) and Ext-D4(B) :- Ext-D(A2) is a fresh pass book and Ext-D4(B) is a certified ledger copy. The statement of imputation of misconduct or misbehaviour in support of the charge against Sri T.K. Sarma shown in Annexure-II that Sri T.K. Sarma accepted a deposit of Rs.10,000/- against Pathsala SB a/c no. 1078192 on 21-08-82. The depositor was granted a manuscript receipt (SB-28) signed by Sri T.K. Sarma & retained the pass book for entry in interest. The amount so accepted by Sri T.K. Sarma on 20-01-83 by Sri T.K. Sarma did not credit the amount to the Govt.

The presenting officer could not produce/supply the original pass book, ledger copy list of transaction as demanded by charged official for want of original pass book, ledger and non- appearance of PW-4, through inquiry could not made. Hence the

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01-03-2000 :- Hearing adjourned without proceeding as Sri T.D. Saha, P.O. failed to attend in the inquiry.

31-03-2000 :- Sri B. Haloi, P.O. failed to attend in the inquiry. However, Sri P.C. Boro, ASPOs(HQ) Nalbari was temporarily appointed as P.O. to conduct the case vide SP/NLB No. F1-1/SB/83-84(11) dtd. 31-03-2000.

02-08-2000 :- Prosecution witnesses PW-2, PW-3, PW-4, PW-5 & PW-6 were summoned. But none attended in the inquiry. However letter addressed to :-

- (i) PW-2 was received back with remark of postman addressee expired.
- (ii) Letter issued to PW-3 was received back with remark of Postman addressee not known
- (iii) Letter issued to PW-4 was received back with remark of Postman addressee left without address.

03-10-2000 :- Hearing adjourned without any proceeding due to absence of P.O. & Defence Assistant.

03-11-2000 :- Examination of listed documents cited Annexure-III of charge sheet.

08-12-2000 :- PW-5 was summoned. None attended except charge official.

19-01-2001 :- All prosecution witnesses were summoned, but none attended. The P.O. was asked whether he would be able to produce the prosecution witnesses. The Presenting Officer requested to fix another date for hearing.

23-02-2001 :- All prosecution witnesses were summoned, but none attended in the inquiry.

Article :-

That Sri T.K. Sarma while functioning as SB clerk at Pathsala SO during the period from 09-11-71 to 21-07-83 accepted deposits of Rs.6000/- against Pathsala SB a/c no. 1078050 on 29-09-82, Rs.10,000/- against Pathsala SB a/c no. 1078192 on 21-08-82 and Rs.1000/- against Pathsala SB a/c no. 1077604 on 20-01-83 and did not credit these amounts to the Govt. on the dates of transactions or subsequently.

Thus said Sri Tarani Kanta Sarma infringed Rule-424(2) (11)(a) of P&T Man. Vol-VI part-II and Rule 4(1) of P&T Financial hand book vol-1 and thereby failed to maintain absolute integrity in contravention of Rule 3(1)(i) of CCS (conduct) Rules, 1964.

9. As all prosecution witnesses did not appear in the inquiry in spite of several dates fixed for hearing, so they could not be examined. However, documents listed in Annexure-III are examined and analysis noted below :-

*Attested
by
P.C. Boro & C.R.*

charge of non-crediting of Rs.10,000/- in SB a/c no. 1078192 on 21-08-82 brought against Sri T.K. Sarma the then SB PA, Pathsala SO can not proof.

10. The presenting officer did not go in Depth. of the case and he did not try to prove the case on fact.

Conclusion :

In Article-I, it was clearly mentioned that Sri T.K. Sarma while functioning as SB clerk at Pathsala SO during the period from 09-11-71 to 21-07-83 accepted deposit of Rs.6000/- against Pathasala SB a/c no. 1078050 on 29-09-82, Rs.10,000/- against Pathasala SB a/c no. 1078192 on 21-08-82 and Rs.1000/- against Pathasala SB a/c no. 1077604 on 20-01-83 and did not credit these amount to the Govt. on the dates of transaction or subsequently.

Thus said Sri T.K. Sarma infringed Rule-424(2)(11)(a) of P&T Man. Vol. VI Part-II and Rule 4(1) of P. Financial Hand Book Vol-1 and thereby failed to maintain absolute integrity in contravention of Rule 3(1)(i) of CCS (conduct) Rules, 1964.

Thus the discussion made above it is clear that Sri T.K. Sarma, SB clerk, Pathasala SO failed to SB credits into the Govt. account and the charges brought against him are hereby proved.

Sd/-

(K. BARMAN)
Inquiry Officer & SDI(P)
Nalbari (East) Sub Divn.

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Annexure-~~10~~ X

To

The Superintendent of Post Offices,
Nalbari-Barpeta Division,
Nalbari

Dated at Barpeta the 16th April/2001

Sub : Rule-14 enquiry against Sri Tarini Kanta Sarma P.A. Barpeta
H.O. - Submission of Written representation against I.O.'s
final report.

Ref : Your No. F1-1/SB/83-84(ii) dated 4.4.2001

Respected Sir,

I have the honour to submit the following representation
against the I.O.'s report.

That Sir, the I.O. admitted in para 7 of the report that not
a single defence document could be produced by the P.O. during
enquiry. The production of defence document to the charges
official is very essential as all possible opportunity should be
given to him.

That Sir, none of the prosecution witness could be produced
by the P.O. during enquiry in spite of several notices as admitted
by the I.O. in para 8 of the report. If the witnesses are genuine
and reliable it was their normal duties to appear before the I.O.
the witness have no base for which they did not appear before the
I.O.

That Sir, the pass Book is a vital documents where the
deposits are entered and authenticated by the initial and date
stamp of the P.O. But in this instant case not a single pass Book
showing the entires of deposit and date stamp could be produced.

That I.O. admitted in para 8(i) that without production of
Pass Book the charge of non credit could not be proved.

The I.O. admitted that he could not examine any of the
witnesses due to their absence in para 9 of his report. Although
he stated that he examined the listed documents but there is no
discussion in the report. He categorically admitted in para 8 (i)
that the charge of non-credit of Rs. 6000 in SB A/c No. 1078050 on

*Respected
Sri Advocate*

Tarini Kanta Sarma

29.9.83 could not be proved. Again he admitted in para 9 of his report that the charge of non credit of Rs. 10,000/- in SB A/c No. 1078192 on 21.8.82 could not be proved.

That Sir, in the face of his clear discussion in para 8 and 9 of his report, the I.O. concluded in his report that the charges have been proved. His report is contradictory. When he himself admitted that the charge could not be proved during his discussion but finally be termed the charges as proved without any locus standi.

I therefore request your honour to kindly go through the contradictory report of the I.O. carefully to examine the veracity of his report and decide my case judiciously. I am retiring from service after one week after rendering 40 years of unblemishing service.

I shall ever pray to God.

Yours faithfully,
Sd/- Tarini Kanta Sarma 17.4.2001
Sarani Kanta Sarma
P/A Barpeta H.O.

Date : 17.4.2001

*Allover
Jyoti Devi
Advocate*

Tarini Kanta Sarma

To

The Inquiry Officer and
Sub Divisional Inspector of
Post Offices, Nalbari Sub Division,
Nalbari

Dated at Barpeta the 13 Feb/2001

Sub :Written brief on the Rule 14 Case.

Sir,

With reference to your letter No. IO/Rule-14/T.K.Sarma dated 5.3.2001, I am submitting herewith as follows :-
That Sir, I was chargesheeted under Rule 14 vide SPOs Nalbari Memo No. F1-1/SB/83-84 II dated 29.9.98. It is well known to you that although the administration brought charges against me but could not bring a single witness during the enquiry. Even the relevant records required by me could not be produced by the Disciplinary authority during enquiry.

The P.O. submitted brief in a routine nature without discussing any documents. The listed documents were examined by me during enquiry but I raised points regarding the authenticity. There is no initial records to show that I accepted money from the depositors but did not credit into the Govt. account. The incident relates to the year 198283 and after a lapse of about 20 years nothing can be admitted without consulting the documents prepared/written by me.

Therefore there is no locus standi of the charges brought which are stated to be baseless and unfounded on records.

I have nothing to brief as it is known to you that the so called charges are baseless and could not be proved at all.

Under the above circumstances, I pray before you to consider my case impartially on its merit and exempt me from the charges

*Altered
Advocate*

Tarini Lakshmi

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levelled against me. I am going to retire from service in the next month i.e. on 30.4.2001 and as such I request you to decide the case early so that I can retire from service with all the pensionary benefits.

Yours faithfully,
Sd/-
(T.K.SARMA)
P.A. Barpeta
13.3.2001

Date 12.3.2001

Alleged
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Advo's side

Janan' kapt. Dinesh

DEPARTMENT OF POSTS :: INDIA
Office of the Superintendent of Post Offices :: Nalbari Barpeta Division
Nalbari-781335

Memorandum No. F1-1/SB/83-84(II)

Date :: 28-04-2001

Sri Tarani Kanta Sarma, PA Barpeta HO and the then PA Pathsala SO was prosecuted under Rule-14 of CCS(CCA) Rules, 1965 and after inquiry he was punished with dismissal from service vide this office memo of even no dtd. 04-02-91, on the allegations on article of charge framed against the said Sri Sarma vide this office memo of even no dtd. 07-04-84, and having the conduct of the inquiry under the provision of rules. The said Sri Sarma appealed before the Appellate Authority and DPS, Assam Circle, Guwahati against the punishment order and that his appeal was rejected by upholding the award of punishment to be justified. The said Sri Sarma being aggrieved filled an O.A. No. 203/93 in the Central Administrative Tribunal (CAT) Guwahati Bench, Guwahati and the Hon'ble CAT, Guwahati Bench, after hearing both the parties, had had the decision being as much as and delivered their judgement dtd. 12-05-98 holding interalia, the balance of benefit to the applicant and thereby set aside the punishment of dismissal from service with further direction to the respondents and the authority by treating the applicant to be in service with effect from 04-02-91 with all consequential benefits. However, there was further direction that the said order will not prevent the authority to initiate fresh proceeding in accordance with the provisions of law, if so advised and on any case it must be completed within 3 months from the date of initiation.

2. On that, understanding the Chief PMG, Assam Circle, Guwahati vide No. Vig/5/98/93/-94 dtd. 25-08-98 has advised the SPOs, Nalbari to implement the order of CAT with direction to start denovo proceedings under Rule-14 of CCS(CCA) Rules, 1965 from the inquiry stages.

In view of the said direction, Sri Tarani Kanta Sarma vide this office memo No. F1-1/SB/83-84(II) dtd. 12-11-98/07-12-98 was placed under deemed suspension from the date of the original order of dismissal i.e. from 04-02-91 and simultaneously it was informed that it was proposed to hold an inquiry against him under Rule-14 of the CCS(CCA) Rules, 1965.

3. That, it was informed under this office memo of even no dtd.

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While
Advocate*

12-11-98/07-12-98 and a statement of imputation of misconduct or misbehaviour in support of the article of charge on which action was proposed to be taken against him was also enclosed in the aforesaid memo. The article of charge (Annexure-1) and the imputation of misconduct and misbehaviour (Annexure-II), and the list of documents (Annexure-III) and Annexure-IV) list of witnesses were as under :-

ANNEXURE-I

Statement of the articles of charge framed against Sri Tarani kanta Sarma, the then SB clerk, Pathsala SO.

Article of charge

That Sri Tarani Kanta Sarma while functioning as SB clerk at Pathsala SO during the period from 09-11-71 to 21-07-83 accepted deposits of Rs.6000/- against Pathsala SB account no. 1078050 on 29-09-82, Rs.10,000/- against Pathsala SB account no. 1078192 on 21-08-82 and Rs.1000/- against Pathsala SB account no. 1077604 on 20-01-83 and did not credit these amounts to the Govt. on the dates of transaction or subsequently.

Thus said Sri Tarani Kanta Sarma infringed Rule 424(2)(ii)(a) of P&T Man. vol VI part-II and Rule 4(I) of P&T Financial Hand Book vol-I and thereby failed to maintain absolute integrity in contravention of Rule 3(1)(i) of CCS(conduct) Rules, 1964.

Annexure-II

Statement of imputation of misconduct or misbehaviour in support of the article of charge framed against Sri Tarani kanta Sarma, the then SB clerk, Pathsala SO.

In that Sri Tarani kanta Sarma, the then SB clerk Pathsala SO received a deposit of Rs.6000/- (Rupees six thousand) only for deposit in Pathsala SB a/c no. 1078050 on 29-09-82. The amount of deposit was tendered by one Sri G.M. Sarma, son and messenger of the depositor Sri Ananta Mohan Sarma, Sri Tarani Kanta Sarma accepting the amount from the messenger did not return the pass book after the transaction but granted a manuscript (SB-28) receipt thereof signed by himself. It revealed during

*Alleged
Sri Sarma*

inquiry that the transaction was not entered in Pathsala SO SB long book dated 29-09-82 and the amount was not brought into SO account against SB deposit on that date.

In the case of Pathsala SB a/c no. 1078192 Sri Tarani Kanta Sarma accepted a deposit of Rs.10,000/- (Rupees ten thousand) only from the depositor Sri Ramen Sarma on 21-08-82. The depositor was granted a manuscript (SB-28) receipt signing by the said Sri Tarani Kanta Sarma himself and retained the pass book for entry of interest. The amount of Rs.10,000/- so accepted by Sri Tarani Kanta Sarma as deposit against the pass book a/c no. 1078192 was not credited to the Govt.

Again the said Sri Tarani Kanta Sarma, the then SB clerk Pathsala SO had accepted Rs.1000/- (Rupees one thousand) only on 20-01-83 from one Sri Golak Ch. Das, messenger of the depositor Smt. Bharati Das for deposit in the pass book account no. 1077604. Sri Tarani Kanta Sarma entered the deposit in the said pass book, signed, date stamped and returned the pass book to the messenger. During inquiry, Pathsala SB long book dtd. 20-01-83 could not be produced but it transpired from the list of transaction and SO account book of Pathsala SO dtd. 20-01-83 that Sri Tarani Kanta Sarma did not credit the amount to the Govt.

Thus Sri Tarani Kanta Sarma, the then SB clerk Pathsala SO violated Rule 424(2)(ii)(a) of P&T Man Vol-VI part-II and Rule 4(1) of P&T Financial Hand Book Vol-1 and thereby failing to maintain absolute integrity contravening Rule-3(I)(i) of CCS (conduct) Rules, 1964.

Annexure-III

LIST OF DOCUMENTS IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SRITARANI KANTA SARMA, THE THEN SB CLERK PATHSALA S.O.

1. Fresh pass book account no. 1078050 and 1078192 and original pass book a/c no. 1077604 standing opened at Pathsala S.O.
2. Pathsala S.O. SB long book dated 29-09-82 & 21-08-82 and List of transaction dated 20-01-83.
3. S.O. account book of Pathsala S.O. dated 29-09-82, 21-08-82 and 20-01-83.
4. S.O. ledgers in respect of Pathsala S.O. SB a/c no. 1078050, 1078192 and 1077604.

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5. Written statement of Sri G.M. Sarma dated 08-08-83, Written statement of smt. Bharati Das dated 09-09-83 and written statement of Sri Golak Das dated 09-09-83.

Annexure-IV

LIST OF WITNESS IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SRI TARANI KANTA SARMA, THE THEN SB CLERK, PATHSALA S.O.

1. Sri Atul Ch. Das, then SDI(P) Pathsala.	
2. Sri Ananta Mohan Sarma	vill & PO Pub Kathalbari
3. Sri G.M. Sarma	P.O. Baghmara Bazar.
4. Sri Rainen Sarma	Vill & PO- Patacharkuchi.
5. Smt. Bharati Das, c/o Dr. Umesh Das, Pathsala/	
6. Sri Golak Das, Pathsala	
7. Sri Dwijendra Nath Sarma then SPM (LSG) Barpeta Road now at vill & P.O.- Bamunikuchi, via-Patacharkuchi.	

4. That the said Sri Tarani Kanta Sarma was given an opportunity to make his written statement of defence against the proposal of taking action against him under Rule-14 of CCS(CCA) Rules, 1965 within 10 (ten) days from the date of receipt of the said memo. He was also asked to state whether he desires to be heard in person. The said Sri Tarani Kanta Sarma received the said Memo on 16-12-98 and he submitted his written representation dtd. 21-12-98 and received on 23-12-98. Sri Tarani Kanta Sarma has interalia stated that he has reason to adduce evidences and do hereby deny the charge. So he likes to be heard in person.

5. That the conditions being such, it was decided to hold an oral inquiry by the appointment of an Inquiring Authority and a Presenting Officer. And, therefore, Sri P. Nath, then AD(EST), O/o the Chief PMG, Assam Circle, Guwahati was appointed as Inquiring Authority to inquire into the article of charge vide this office Memo F1-1/SB/83-84 dtd. 11-01-99 and Sri N.N. Sarma, Dy. Postmaster, Guwahati GPO was appointed as Presenting Officer to present the case on behalf of the Disc. Authority vide this office Memo no. F1-1/SB/83-84 dtd. 11-01-99. The aforesaid Sri N.N. Sarma showed his unwillingness for the reason that the charged official is a relative. On being his application forwarded to the Circle Office, Guwahati, the Chief PMG, Assam Circle, Guwahati vide No.Vig/5/98/93/94 dtd. 05-02-99 nominated Sri H. Nath, ASPOs, Guwahati Division as P.O. in place of the said Sri N.N. Sarma. Accordingly, the said Sri H. Nath was appointed as P.O. vide this office Memo no. F1-1/SB/83-84(H) dtd. 09-02-99. No

*Alfred
Jin
Advocate*

hearing could be held even after more than 10 months had elapsed from the appointment of the aforesaid I.O. & P.O. Therefore, in the event of inability to act as I.O. by Sri P. Nath and in consequence of transfer of Sri H. Nath (P.O.), the Chief PMG, Assam Circle, Guwahati vide No. Vig/5/98/93-94 dtd. 04-11-99 directed to appoint I.O./P.O. in this case from amongst the inspectorial staff within this Division. Accordingly, Sri Khargeswar Barman, SDI(P) Nalbari(E) and Sri T.D. Saha, the then SDI(P) Pathsala were appointed as I.O. and P.O. respectively vide this office Memo no. F1-1/SB/83-84(II) dtd. 17-11-99. That as and when, Sri T.D. Saha, P.O. failed to attend in preliminary hearing fixed on 31-01-2000 & 01-03-2000 and in consequence of his transfer to Circle Office, Sri Bhubaneswar Haloi, SDI(P) Pathsala was appointed as P.O. vide this office Memo no. F1-1/SB/83-84(II) dtd. 01-03-2000. In the event of failure to attend in inquiry by Sri Bhubaneswar Haloi as P.O. on 31-03-2000, Sri P.C. Boro, the then ASPOs(HQ), Nalbari was appointed as P.O. temporarily for one day i.e. on 31-03-2000, without cancellation of the appointment of Sri Bhubaneswar Haloi as P.O. for subsequent hearings. The I.O./P.O., have constantly pursued to complete the inquiry as early as possible and do with the fixation of dates and holding continuous hearing without any leave.

6. The Inquiry Authority, so appointed to Sri Khargeswar Barman, SDI(P) Nalbari(E) after completion of inquiry submitted his Final Inquiry Report dated 04-04-2001.

In his inquiry report, Sri Khargeswar Barman, I.O. & SDI(P), Nalbari(E) has held that the charges brought against Sri Tarani Kanta Sarma are hereby proved.

7. That under this office Memo no. dtd. 04-04-2001 a copy of inquiry report was forwarded to the said Sri Tarani Kanta Sarma, PA Barpeta HO. It was informed that the Disciplinary Authority has agreed to the findings and conclusion that the charges have been proved. However, an opportunity under the provision of rules has been granted to the Govt. servant with direction to make any representation or submission as he may wish to do so in writing to the Disciplinary Authority within 10(ten) days of receipt of the letter.

8. That the said Sri Tarani Kanta Sarma submitted his written Representation dtd. 16-04-2001 against the I.O.'s report which has been received in this office on 17-04-2001. Sri Tarani Kanta Sarma has interalia stated that :

*Reested
Sant. Advocate*

(i) The I.O. in para-7 of his report has started that the P.O. has failed to supply the list of transaction dtd. 29-09-82 & 21-08-82, original SO SB ledger card in respect of the a/cs mentioned in the charge sheet & photo copy thereof and hand to hand receipt book dtd. 29-09-82, 21-08-82 and 20-01-83 maintained by the charged official.

(ii) That none of the prosecution witnesses could be produced by the PO during inquiry inspite of several notices.

(iii) That the original pass books were not produced during the inquiry and the I.O. in para 8(i) of the report has stated that without production of the pass book the charge of non-credit could not be proved.

(iv) While the I.O. could not examined any of the witnesses due to their absence, he has stated that he has examined the listed documents, but there is no discussion in the report.

(v) That the I.O. in his report has stated that the charge of non credit of Rs.6,000/- in SB a/c no. 1078050 on 29-09-82, and the charge of non credit of Rs.10,000/- in SB a/c no. 1078192 on 21-08-82 could not be proved.

9. That I have gone through the charge sheet, statement of defence, submitted by the Govt. servant, list of documents and the impact of evidences through, the Inquiry Report and the Representation of the official, against the face of the inquiry report and other relevant factors very carefully, minutely and judiciously.

The analysis of the documents and the assessment of the evidences, have been such that :-

(i) The I.O. , though has made the inquiry short, has given every opportunity to the Govt. servant, and the presenting officer, to make the attendance of the prosecution witnesses sharp. He could have taken the actual ways and means of the attendance of the prosecution witnesses under the provision of Law and Enforcement of Attendance of witnesses and Production of Documents, Act 1972, for attendance of witnesses by serving sumunior through the court of Law. Hence, the responsibility by holding blame to him that the Presenting Officer did not go in depth of the case and he did not try to prove the case of fact. It is unexpected that even a witness, with the status of a Supdt. of Postal Department , Guwahati did not care to

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with the status of a Supdt. of Postal Department, Guwahati did not care to attend the departmental inquiry, summoned to give evidence on behalf of the department, who happens to be the officer, doing preliminary inquiries.

(ii) It appears that the original pass books have been obtained by the official when he was working as PA, Pathsala, by granting manuscript receipt (SB-28) of both the pass books of SB account No. 1078050 and 1077604 and the disposal was rested with the official and later on a fresh pass book on each case appears to have been issued. Therefore, the asking for the production of the original pass book as defence documents is quite illusory. The entry of the pass book on the dates will never reflect on the fresh pass books. This is a long pending case and some documents have been supplied during the earlier inquiry and it appears that the denovo-inquiry should generally be started from the inquiry stage only. The documents as wanted such as ledger copy or list of transaction, could have been produced during inquiry, if it could at all be made necessary, but for the position being otherwise at large.

(iii) The I.O. has forgotten to bring the impact of the standard proof in departmental inquiries and the burden of proof, being as much as that he has examined the documents and have had the idea that the original pass books have been obtained by the official by granting manuscript receipt (SB-28) and the disposal of these was with him and later issue of the fresh pass book, where the entries of the previous pass books are not to be had in fact and last balance will only be transferred to the fresh pass book. Thus the credits may not be in the pass book but there must be in the SB ledger, and the relevant credits in the SO Account are not there, being the transfer of total figure from the SB transaction list. This will be as much as that the burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence. Similarly for example, a Treasurer who could not account for some amounts put in his charge and he was thus prosecuted against for mis-appropriation, but the stand of the person, that the prosecution is to prove that he has mis-appropriated the money, vis-à-vis, the burden on the prosecution is to prove that the amount was entrusted to the charge of the person. Once it is done, it is for that person to come up with sufficient evidence to prove that he applied the amount for the purpose for which it was entrusted to him. Thus the official, who received the money from the depositors for credit to their SB accounts, on behalf of the

*Bhawan
Jain
Advocate*

Govt., must be credited to Govt. Accounts, for which he was entrusted and failure to it, he has been charged and it is proved.

(iv) The I.O. in his report, after analysis of the documents and assessment of evidences, has come to the conclusion that Sri Tarani Kanta Sarma while functioning as SB clerk, at Pathsala SO during the period from 09-11-71 to 21-07-83 accepted deposit of Rs.6,000/- against Pathsala SB account no. 1078050 on 29-09-82, Rs.10,000/- against Pathsala SB account No. 1078192 on 21-08-82 and Rs.1000/- against Pathsala SB account No.1077604 on 20-01-83 and did not credit these amounts to the Govt. on the dates of transactions or subsequently. Thus it is clear that Sri Tarani Kanta Sarma, SB clerk, Pathsala SO failed to do credits into Govt. and the charges brought against him are hereby proved.

10. While, this case has been inquired into and established the charges to be proved and the punishment awarded with the dismissal from the services and in the appeal the punishment was upheld. There after the official being aggrieved has filed an O.A. No. 203/93 in the CAT, Guwahati and the disposal and the direction has been such that the enquiry was not conducted by the Enquiry Officer, on the manner contemplated under the provisions of CCS(CCA) Rules, 1965. The provision of Rule-14 is mandatory in nature and, therefore, non-compliance of the rule is a serious irregularity. The disciplinary authority also without looking to these lacunae in making the enquiry, awarded punishment of dismissal of the applicant by the disciplinary authority and confirming the order by the appellate authority. In view of the above, both dismissal order issued by the disciplinary authority and the appellate order passed by the appellate authority are illegal, unfair and unreasonable. Accordingly set aside the said orders and direct the respondents to treat the applicant to be in service with effect from 04-02-91 with all consequential benefits. However, this order shall not prevent the authority to initiate fresh proceedings in accordance with the provisions of law, if so advised. This order of the CAT, Guwahati, was implemented under this memo of even no dated 29-09-98, by placing Sri Tarani Kanta Sarma under deemed suspension w.e.f. 21-02-91 and drawing proceedings under this office memo of even no dated 12-11-98 now been brought under disposal with the completion of the enquiry Rule-14 of CCS(CCA) Rules, 1965 for finalisation.

11. That the article of charge and the statement of the imputation

Robert J. Lewin
Associate

have been equal that Sri Tarani Kanta Sarma, as a Govt. servant and working as SB clerk, at Pathsala SO and entrusted with the duties of receiving SB deposits and giving SB withdrawals and relevant credit of the amount, through the SB transaction lists to Govt. account. But the charges have been that Sri Tarani Kanta Sarma accepting the amount of SB deposits from the depositors or tenderers made the entries in the pass books, but did not make credit of the amount to Govt. accounts. Hence the charge of non-credit of total amount of deposit for Rs.17,000/- against 3 SB accounts, is established. The representation of Sri Tarani Kanta Sarma, is some what different and there is no defeating element to the article of charge and also the imputation of charge.

Thus Sri Tarani Kanta Sarma, has lost his credibility of innocence, integrity and devotion to duty, in his official performance. Thus the basic element of character and conduct of a Govt. servant is lost, and consequently, there was loss to the department, and the subsidiary offenders suffered a lot by monetary punishment etc.

However, I have been constrained to consider the family background and longer service in the department of the Govt. servant and unless I show some sympathy, it would be, as good as having no human consideration and natural justices.

Therefore, to keep the balance of justice and the inconveniences of the Govt. servant and the Govt. loss still pending, it is decided at last with the award of punishment that ;

ORDER

I, Shri N. Das, Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari, do award Sri Tarani Kanta Sarma, PA, Barpeta HO with the punishment of 'Compulsory Retirement' from Govt. service with immediate effect, under Rule-11(vii) of CCS(CCA) Rules, 1965.

Sd/-

(N. DAS)
Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

*Feeless
Adv.
Advocate*

Copy to:

1. The Chief PMG (Vig), Assam Circle, Guwahati for favour of information.
2. The Postmaster, Barpeta HPO for information.
3. Sri Tarani Kanta Sarma, PA, Barpeta HO for information.
4. The Accountant, Divl. Office, Nalbari for necessary action.
5. The Staff Branch, Divl. Office, Nalbari for necessary action.
6. The Punishment Register, Divl. Office, Nalbari.
7. PF
8. CR file.
9. OC


—Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

*Blessed
Jew
Advocate*

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Annexure - XIII
Ranu - A.D.
A.M. xvi - 12

DEPARTMENT OF POSTS :: INDIA
Office of the Superintendent of Post Offices :: Nalbari Barpeta Division
Nalbari-781335

To

Sri Tarani Kanta Sarma, Ex-PA, Barpeta H.O.
Now at vill-Tangarkur, PO-Barbatabari
via-Patacharkuchi SO

No.F1-1/SB/83-84(U)

Date :: 17-05-2001

O R D E R

Whereas, you were placed under DEEMED suspension for contemplation of a departmental disciplinary proceedings drawn against under this office memo No. F1-1/SB/83-84 dtd. 14-06-85 and 29-09-98.

And whereas, a Rule-14 inquiry was initiated against you vide this office memo of even no dtd. 07-12-98 for violation of Rule-424(2)(ii)(a) of P&T Man Vol-VI Pt-II and Rule-4(I) FIIB Vol-I contravening Rule 3(I)(i) of CCS (conduct) Rules, 1964.

And while the JO has submitted his conclusive inquiry report on 23-03-2001 holding all the charges brought against, being proved beyond doubt categorically.

And whereas, the Rule-14 case has since been finalised vide this office memo of even no dtd. 28-04-2001, awarding the punishment of compulsory retirement from service with effect from 28-04-2001 under Rule-11(vii) of CCS(CCA) Rules, 1965.

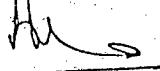
Thus it has been effectively imperative that you were under suspension/deemed suspension w.e.f 19-06-85 to 19-01-2001, and the period is required to be finalised.

Now, therefore, the above period of suspension/deemed suspension has to be regularised according to ~~as~~ para(3) of Administrative Instructions below FR-54-B being the period of suspension to be treated as "Non Duty" for the ~~case~~ of awarding a major penalty of compulsory retirement under Rule-11(viii) of CCS(CCA) Rules, 1965.

As such, it is proposed to regularise that the period of suspension from 19-06-85 to 19-01-2001 is to be treated as non duty.

However, you may submit written representation if any against the proposal within 10 days from the date of receipt of this letter. In case you fail to submit the said representation within the prescribed time, it will be held that you have nothing to do and the case will be finalised ex parte.

The receipt of this memo be acknowledged.


(N. DAS)
Supt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

*Allected
Advocate*

To,

The Superintendent of post offices,
Nalbari Barpeta division, Nalbari-781335.

Dated Patacharkuchi the 30th May/2001.

Sub: Regularisation of suspension period from 19/6/85 to
19.1.2001.

Ref: Your No- F 1-1/SB/83-84 II dated 17.5.2001.

Respected Sir,

With due respect and humble submission I beg to lay before you the following few lines for favour of your kind consideration and favourable orders.

That sir, it is well known to you that my suspension and dismissal from service were illegal as opined by the Honourable CAT, Guwahati vide order dtd. 12.5.98. Thereafter the department instituted denovo enquiry and the enquiry authority without going through the oral and written evidences forcibly proved the charges. The final order also passed by your kind honour punishing by awarding compulsory retirement. I can not blame anybody as it is my unfortunate luck.

However your proposal to treat my long suspension period as non duty has come to me as a bolt from the blue. I suffered for long ~~approx~~ fifteen years by remaining under suspension. It was a punishment for me but I could not express my grief to anybody except the honourable CAT Guwahati.

That sir, after rendering long forty years of service I retired from service with effect from 29.4.2001. It is the expectation of all Govt. servant to get their full pension at the end of the service life. I am also not an exception. If my suspension period is treated as non duty I will not get full pension and my long service life will be of no value at all.

Therefore I request you kindly to treat my period of suspension as duty at least for the purpose of pension so that I can get the benefit of qualifying service.

I have no other representation to make before your kind honour. This will be my last request before your goodself.

Yours faithfully,

Taran Kanta Sarma

(T.K. Sarma)

Retd. P.A. Barpeta H.O.

Now at Vill- Tangarkur,

P.O.-Patacharkuchi.

Dist-Barpeta, Assam.

*Specified
Barpeta 30/5/2001*

DEPARTMENT OF POSTS :: INDIA
Office of the Superintendent of Post Offices :: Nalbari Barpeta Division
Nalbari-781335

Memo No. FI-1/SB/83-84(11)

Date :: 20-07-2001

Sri Tarani Kanta Sarma, Ex-PA Barpeta HO was placed under deemed suspension vide this office memo of even no dtd. 14-06-85 as a disciplinary proceeding had been under contemplation against him. Thus the period of suspension of Sri Tarani Kanta Sarma from 19-06-85 to 19-01-2001 requires to be regularized.

The said Sri Tarani Kanta Sarma was informed vide this office letter of even no dtd. 17-05-2001 being proposal to treat the said period of suspension as non duty for the cause of awarding a major penalty of compulsory retirement under Rule-11(vii) of CCS(CCA) Rules, 1965. He was given an opportunity to submit his written defence statement if any against the said proposal within 10 days from the date of the receipt of the above letter.

That Sri Tarani Kanta Sarma received the letter in time and submitted his written defence representation on 30-05-2001 which was received in this office on the same date. In his written representation he has stated that ;

1. His suspension and dismissal from service were illegal as opined by the Hon'ble CAT Guwahati vide order no. 12-05-98. He has also stated the inquiry authority has forcibly proved the charges without going through the oral and written evidence in the denovo inquiry instituted against him.
2. He can not blame anybody as it was his unfortunate luck.
3. It was a punishment for him of remaining him under suspension for long fifteen years.
4. He will not get the full pension benefit if his above period of suspension is treated as non duty. So he requested the authority to treat the period as duty at least for the purpose of pension.

*Affected
Order
Date*
I have gone through the written statement of Sri Tarani Kanta Sarma and the relevant records relating to the suspension of the official carefully and minutely. The punishment awarded was not illegal. The punished official has failed to submit any appeal and it is time barred now usually. The original period of suspension of Sri Tarani Kanta Sarma, was set right by the cause of his dismissal from services, which has letter been set aside by the Hon'ble CAT, Guwahati Bench under its contention being as much as that the provision of Rule-14 case is mandatory in nature and therefore non compliance of the rule is a serious irregularity. Hence, the punishment was set aside and however, let with directions that this order will not prevent the authority to initiate fresh disciplinary proceedings, if necessary in accordance with the provision of law. The order of the said Hon'ble CAT, Guwahati was implemented and Sri Tarani Kanta Sarma was placed under deemed suspension from the date of dismissal. However, under the consideration of the competent authority, a denovo proceedings under Rule-14 of CCS(CCA) Rules, 1965, was drawn and after due enquiry with the grant of every opportunity, was concluded, and on the merit of the enquiry report and submission of the representation by the official, he was awarded with the punishment of compulsory retirement, a major punishment under the provisions of CCS(CCA) Rules, 1965.

Hence, it has been necessary to decide the entire period of suspension and deemed suspension from 19-06-85 to 19-01-2001, reasonably, judiciously and under the provisions of rules, under the provisions of rules while it was held that the entire period of absence from duty be treated as 'Non-duty', an opportunity, with the issue of a notice was granted to the official to make his representation against the proposal, which he made as stated above.

The period of suspension treated as 'Non-duty' in easier of departmental proceedings where the Govt. servant is not fully exonerated of the earlier order is set aside solely on the ground of non compliance with the requirement of some mandatory provisions of Rule-14 of CCS(CCA) Rules, 1965 arising with the requirement of article 311, in court cases, under the said analogy, it is decided that except for the pensionery, benefits under the provisions of rules, the proportionate pay and allowances for the period of suspension and deemed suspension, the amount so determined will not be less than what was paid as subsistence allowances. Therefore, to meet the ends of justice it is decided with the order that;

ORDER

I, Sri N. Das, Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari do the decision under the provisions of CCS(CCA) Rules, 1965 read with para 3 of Govt. of India's order below FR 54 B being the period of suspension from 19-06-85 to 19-01-2001 to be treated as non duty. But the pay and allowances for the period would be limited to the extent of subsistence allowances already paid. Other facilities like pensionery benefits etc as may be admissible under the provision of Rules will be payable to the Govt. servant usually. This has been granted under the provisions and in exercise of the discretion granted to the competent authority.

Sd/-

(N. DAS)
Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

Copy to:

1. Sri Tarani Kanta Sarma, Ex-PA Barpota HO now at vill Tongarpur PO-Patacharkuchi, Barpeta for information.
2. The Acctt. Divl. Office, Nalbari for information and n/a.
3. The Postmaster, Barpeta HO for favour of information and n/a.
4. The Staff Branch, Divl. Office, Nalbari for information.
5. The PF.
6. OC
7. Sparc.

Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

Officed
Chd.