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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 127/02

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-127/02 Pg. 1 to 4
2. Judgment/Order dtd. 11/09/2002 Pg. 1 to 9 allowed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 127/02 Pg. 1 to 112
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. Filed by the Respondents No. 1, 2, 3 & 4 Pg. 1 to 19
8. Rejoinder. Filed by the Respondents 1, 2, 3 & 4 Pg. 1 to 22
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 127/2002
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s) S. P. Singh Xader

Respondent(s) U. O. I. Gurus

Advocate for Applicant(s) B. K. Sharma, P. K. Tiwari

S. S. Anand, Mrs. U. D. Das

Advocate for Respondent(s) CALL

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

This is an application in form
C. F. for Rs. 50/- deposited

vide IP / 70549/02

Dated 18.4.2002

Dy. Registrar

18.4.02

Adjourned on the prayer of learned
counsel for the applicant. List again on
22.4.2002 for admission.

Vice-Chairman

mb

22.4.2002

Prayer has been made by the learned
counsel for the applicant for adjournment of
of the case for admission.

Prayer allowed. List the case on
24.4.2002 for admission.

Vice-Chairman

bb

5.6.02

Mr. P. K. Tiwari learned counsel on behalf
of Mr. B. K. Sharma prays for adjournment to file
rejoinder. Prayer is allowed. List on 28.6.02
for hearing.

Vice-Chairman

Member

Steps taken
along with envelopes

Notice prepared and sent to SAs forming the Respondent No. 1 to 4 by Regd A.D.

D/M. 1332/35
Dtd 6/5/02

24.4.02

Heard Mr. P.K. Tiwari, learned counsel for the applicant.

Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.

List on 23/5/2002 for Admission.

(1) Service report were still awaited.

23.5.02

mb

23.5.02

List on 30.5.2002 alongwith O.A. No. 154/2002.

Vice-Chairman

29.5.2002

mb

30.5.02

Written statement has been filed. The application is admitted. The matter may now be listed for hearing on 5.6.2002 alongwith O.A. No. 154/2002.

W/S submitted by the Respondent No. 1, 2, 3 and 4.

Vice-Chairman

Appearance has been filed by Mr. A.K. Chaudhry, Addl. G.S.C.

4/6/02

mb

5.6.02

Mr. P.K. Tiwari, learned counsel appearing on behalf of Mr. B.K. Sharma, learned Sr. counsel for the applicant prays for adjournment to file rejoinder. Prayer is allowed. List on 28.6.2002 for hearing.

Vice-Chairman

No rejoinder has been filed.

27.6.02

Member

Vice-Chairman

lm

Notes of the Registry

Date

Order of the Tribunal

28.6.02

It has been stated by Mr A.K. Choudhury, learned Addl.C.G.S.C that he has received the rejoinder in the Court today.

On the prayer of the counsel for the parties the case is adjourned to 12.7.02.

ICU Sharma
Member

[Signature]
Vice-Chairman

pg

12.7.02

~~Mr. S. Sarma learned counsel~~

~~prays for adjournment~~

12.7.02

Mr. S. Sarma learned counsel prays for ~~little~~ accommodation on behalf of Mr. P.K. Tiwari learned counsel for the applicant. Let this case be listed for hearing on 15th July 2002.

ICU Sharma
Member

[Signature]
Vice-Chairman

lm

15.7.2002

H eard Mr. P.K. Tiwari, learned counsel for the applicant and also Mr. A.K. Choudhuri, learned Addl.C.G.S.C for the respondents at length. List the case again for hearing on 20.8.2002.

In the meantime the counsel for the respondents is directed to obtain necessary instruction on the matter.

ICU Sharma
Member

[Signature]
Vice-Chairman

bb

20/8.


Hearing Concluded: The respondents are directed to place the connected records before Mr. Choudhuri, Addl.C.G.S.C has undertaken to produce the

28.6.02

Rejoinder submitted by the applicant in reply to WPs.

Photocopy of ALRs of
Shri S.P. Singh Yadav
wef 1993 to 1999
submitted by Mr. A.K.
Choudhary, Addl. C.G.S.C.

in Court entered in the
Register & sent to High Court
A.K. Jais
10.9.

Judgment dtd 11/9/02
Communicated to the
Applicant & the
Parties concerned.


11.9.02

mb

Connected records by 10.9.02
Judgment removed,

Mto
A.K. Jais
20/8.

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


Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. NO. 127/2002 of

DATE OF DECISION 11th Sept 2002

Sri Suresh Pal Singh Yadav

APPLICANT(S)

Mr. P.K.Tiwari

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. A.K.Chowdhury, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

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

5. Judgment delivered by Hon'ble Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 127 of 2002.

Date of decision : This the 11th day of ~~August~~^{September}, 2002.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Suresh Pal Singh Yadav,
Inspector, Central Bureau of
Investigation, Office of the
Superintendent of Police, Central
Bureau of Investigation,
R.G.Baruah Road,
Sundarpur, Guwahati-781005.

...Applicant

By Advocate Mr. P.K.Tiwari.

-versus-

1. N.R.Roy, Special Inspector General
of Police (Operations) Criminal
Investigation Department, West
Bengal, Bhawani Bhawan,
Kolkata-700 027.
2. Dr. U.N. Biswas, Addl. Director,
Central Bureau of Investigation
(Retired), C/o Joint Director, CBI
(East Zone), MSO Building, Nizam
Palace, A.J.C. Bose Road,
Kolkata.
3. The Director,
Central Bureau of Investigation,
CGO Complex, Lodhi Road,
New Delhi.
4. The Union of India,
through the Secretary to the
Government of India, Ministry
of Personnel & Training,
New Delhi.

...Respondents

By Advocate Mr. A.K.Choudhury, Addl. C.G.S.C.

—

L W ✓

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O R D E R

CHOWDHURY J. (V.C.).

The propriety and validity in registering the Annual Confidential Report is the subject matter of dispute in this proceeding. By a Memorandum No. 511/CON/94(Pt)/98-GHY dated 29th September, 1999, the applicant was communicated as follows :

"He has a tendency to finalise cases without collecting evidence.

He is an indisciplined officer and exhibits insubordination occasionally."

The applicant submitted his representation dated 29.10.1999 questioning the correctness as well as legality of the adverse entries so far made against the applicant in his Annual Confidential Report in a detailed manner. In his representation the applicant mentioned that he was sent on deputation from U.P. Police in the year 1993 in CBI, Anti Corruption Branch, Shillong and during the term prior to the issuance of the adverse entry the applicant was rewarded and also obtained commendation certificates. The applicant contended that the adverse entries are per se, malicious and perversity writ large. The applicant also alleged mala fide against the Reviewing Officer. By a Memo dated 4.3.2002 the Superintendent of Police, CBI, Guwahati two letters, one by the Reviewing Officer in a communication dated 21.1.2002 as well as communication sent by the Regional Director CBI dated 28.2.2002. The full text of the aforementioned two communications are reproduced below :

To
Shri K.C. Kangoongo,
Deputy Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati, Assam.

Please refer to your CBI ID No. 1401/47/CBI/NER/99 dated (eligible) 2000 regarding adverse remarks on the ACR of Shri S.P.Singh Yadav, Inspector, CBI, ACB, Guwahati for the year 1998. During discussion of cases, it was found that cases handled by him lacked in investigation on medical points and when pointed out the same he behaved in an indisciplined manner in one of such meeting with officers, in Guwahati, he behaved in such an indisciplined manner that I was compelled to ask him to go out of the meeting.

I stand by the comments made by me. This type of officers must not be retained in CBI.

Sd/- Illegible
Special Inspector General of
Police (Operations)
Criminal Investigation Department,
West Bengal"

"2. Comments of the Additional Director, CBI EZ Kol. on the letter dated 21.1.2002 of Shri N.R.Roy, IPS, Former DIG, CBI, NER on the adverse remarks in the ACR of Shri S.P.Singh Yadav, Inspector, CBI, Guwahati for 1998.

"I do agree to the comments of the then DIG, CBI, NER Shri N.R. Ray."

Sd/- Illegible
28.2.2002
AD, CBI (Retd./Kolkata)

Finally, by a communication dated 4.4.2002 the Deputy Director (Admn), CBI, New Delhi informed the applicant that Director, CBI being the head of department considered all the grounds/justifications explained in the representation/appeal dated 29.10.1999 with reference to the adverse remarks of the Reviewing and accepting authority recorded in the ACR for the year 1998 and the same was finally rejected. Being aggrieved by the action of the respondents the applicant moved this Tribunal assailing the legitimacy of the adverse remarks made in the ACR against the applicant for the year 1998.

2. The respondents submitted its written statement denying and disputing the claim of the applicant on behalf of the respondents No. 1 to 4. In the written statement the

Contd..

respondents stated that the adverse remarks in the ACR of the applicant was lawfully recorded by the concerned authority on due application of mind and the competent authority also duly considered the representation of the applicant for expunging the adverse remarks in his ACR for the year 1998 and on proper consideration of the representation, the same was turned down.

3. The applicant in his application also incidentally referred other matters relating to his absorption in the CBI. Since we have not called upon to adjudicate the said issue in the said O.A., we would refrain from making any comment thereon, that strictly confine as to the rightness of the adverse remarks.

4. Mr. P.K.Tiwari, learned counsel appearing on behalf of the applicant took us through maze of documents and contended that the adverse entries recorded against the applicant lacked of objectivity, impartiality and fair assessment. The learned counsel submitted that the Reviewing authority taking not of an isolated incident in a most unfair manner recorded the adverse entry against the applicant. The learned counsel submitted that all throughout the applicant as an officer earned commendation and good record. The Reviewing Officer did not have the opportunity to assess the performance of the applicant. The learned counsel referred to the pleadings including the representation and stated that the Reviewing Officer took over the charge of DIG/CBI/NER/Guwahati on 8th March 1998 and worked up to March 1999 and in his short visit the Reviewing Officer was not fully acquainted with the task of the officer and with an oblique motive entered those adverse remarks against the applicant. The learned counsel also referred to the encounter met on 8.9.1998 on his first visit to office of the SP, CBI. On being totally upset with

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the behaviour of the said Officer the applicant in fact submitted application for repatriation, though later on withdrawn. The learned counsel also questioned the authority of N.R.Roy as a Reviewing Authority to deal with his representation on 21.1.2002 as well as on the authority of U.N.Biswas on attainment on superannuation on 28.2.2002. The aforesaid contention of the learned counsel assailing the action of the said two officer for dealing with his representation after their superannuation is not of much credence. The respondents did not commit any wrong by asking for the comment of those officers on the representation submitted by the applicant. Sri N.R.Roy Special Inspector General of Police (Operations) was the person who was the Reviewing Authority and made those two adverse remarks. There is no infirmity in the action of the authority in seeking the options from the concerned officer before deciding the representation. Similarly the other Officer Sri N. Biswas, Additional Director, CBI was the accepting authority. The said officer attained superannuated on 30.1.2002. An officer who attains superannuation even after demitting the office is permitted to give his report on his subordinate within one month of his retirement or demission of his office as per the Executive instruction issued by the Ministry of Personnel Public Grievances, Department of Personnel and Training dated January, 1993.

5. We have already indicated in details as to the adverse remarks made against the applicant. In the first instance it was noted to the effect that the officer finalises the case without collecting clinching evidence. The observation is seemingly very comprehensive and indiscriminate one. The comments forwarded by the said officer in his communication dated 28.1.02, on the other hand stated that those comments

Contd...

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were the outcome of discussion of cases with the officer and where it was found that the cases handled by the officer lacked investigation on medical points in his final comments. The Reviewing Authority stated that the cases handled by the concerned officer was wanting investigation on medical points whereas in the remark he mentioned that the officer had a tendency to finalise the cases without collecting clinching evidence. Needless to state that the comments appears to us too sweeping to meet the requirement of ACR. Needless to state that the ACR is the document of significance, it offers primary and credential information on officer. It also carries essential data for career advancement of officers. Such task is to be undertaken with high degree of responsibility. It is not to be used as a vehicle of punishment. It may also be mentioned that the report of the Investigating Officer need to go through different channels or different authorities and thereafter only cases are finalised. The comments must be made on objective assessment of the available materials. Such remarks must be founded upon facts and circumstances. It must be free from subjectivity, Indiscriminate, over drawing sludgy comments will not come to assist the officer correct his errors ^{sought} to be remedied. An Omnibus remarks of this fashion also deprives the officer to assail the remark before the higher authority.

6. From the comments of the officer it clearly indicated that the said remark to the effect that the officer seemingly behaved in an indisciplined manner, drawn from one isolated incident could not be taken as an input for recording the ACR.

7. The confidential rolls and character rolls are to be prepared to provide the input of the officer concerned. Writing of the Confidential Report on the one hand provides the officer concerned to make up his deficiency and to

Contd....

inculcate discipline and the other one is to improve the quality and excellence in efficiency of public servant. In recording ACR of an officer the higher officer requires to show objectively. The Supreme Court in its decision in the case of State Bank of India Vs. Kashinath Kher reported in (1996) 8 SCC 762 held as follows:

"The officer should show objectively, impartiality and fair assessment without any prejudices whatsoever with the highest sense of responsibility alone to inculcate devotion to duty, honesty and integrity to improve excellence of the individual officer. Lest the officers get demoralised which would be deleterious to the efficacy and efficiency in public service, they should be written by a superior officer of high rank."

8. The object of making adverse remarks is to assess competence of an officer on merits and performance of an officer concerned so as to grade him in various categories as outstanding, very good, good, satisfactory and average etc. The competent authority and the reviewing authority have to act fairly or objectively in assessing the character, integrity and performance of the incumbent.

9. As was mentioned earlier, the adverse entry is the result of the encounter against the applicant and the Reviewing Authority which took place on 8.9.1998. From the records it also appears that in hot haste the applicant also submitted an application to the authority requesting for being relieved to join to his parent department. The impugned adverse entry is based on a solitary incident. Where the subordinate officer faltered in his disposition towards the superior, the higher officer had also a public responsibility to invite attention of his subordinate, by advising him to correct his behaviour. If despite such opportunity ~~ther~~^W said officer failed to take corrective measure, in that event the superior officer was free to record his displeasure in the Annual Confidential Report furnishing a copy to the officer. In this context it

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would be appropriate to refer the following decision of the Supreme Court reported in 1997 4 SCC 7 in the case of State of U.P. Vs. Yamuna Shanker Mishra held as follows :

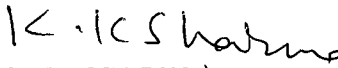
"The object of writing the confidential reports and making entries in them is to give an opportunity to a public servant to improve excellence. Article 51-A (j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency of administration would be augmented. The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential report objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of performance of the subordinate officer. It should be founded upon facts and circumstances. Though sometimes, it may not be part of the record, but the conduct, reputation and character acquire public knowledge to notoriety and may be within the knowledge of such officer. Before forming an opinion to make adverse entries in confidential reports, the reporting/reviewing officers should share the information which is not a part of the record, with the officer concerned. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, conduct, behaviour, integrity or corrupt proclivity. If, despite giving such an opportunity, the officer fails to perform the duty or correct his conduct or improve himself, necessarily the same is to be recorded in the confidential report and a copy thereof supplied to the affected officer so that he will have an opportunity to know the remarks made against him. If he feels aggrieved, it would be open to him to have it corrected by appropriate representation to the higher authorities or any appropriate judicial forum for redressal. Thereby, honesty, integrity, good conduct and efficiency get improved in the performance of public duties and standards of excellence in services constantly rises to higher levels and it becomes a successful tool to manage the services with officers of integrity, honesty, efficiency and devotion."


10. The whole exercise of preparing character roll is also to provide an opportunity to a Government Servant to overcome inadequacy and shortcomings. Recording of ACR is of far reaching consequence which is to be done with objectivity and careful consideration on the materials before the authority. An adverse remarks in the character rolls can

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obviously spoil the entire career of an officer. Before making adverse entry against an officer one must address himself as to whether it was at all imperative to make such remark to set right the wrong committed by the concerned officer. The applicant submitted his representation before the Director, CBI for expunging the recorded adverse entry in his ACR. On 4.4.2002 the applicant was informed that the same was finally rejected by the authority. The applicant was not informed about the actual order passed by the Director, the communication at least did not assign any reasons for rejection of the representation submitted by the applicant in detail. The Hon'ble Gauhati High Court in its judgement dated 5.2.2002 in W.P.(C) 3420/2001 also directed the authority to consider the representation of applicant submitted against the adverse remark for the year 1998 has so far not decided by the authority. In deciding the representation of the applicant it was expected from the authority after the High Court's order for assigning some reasons for rejection of the representation. Giving reasons are of utmost important. Reasons contains the link between the materials considered to reach at the conclusion and the end result. On consideration of all the aspects of the matter, we are of the opinion that the impugned adverse remarks recorded against the applicant for the year 1998 is unsustainable in law and therefore it is liable to be set aside. We accordingly set aside and quash the impugned Memorandum.

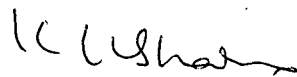
11. The application is accordingly allowed. There shall however, be no order as to costs.


(K.K.SHARMA)
Member(A)


(D.N.CHOWDHURY))
Vice-Chairman

trd

I authorize Hon'ble V.C to pronounce
judgement on my behalf.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Title of the Case : D.A. No. of 2002
 S.P. Singh Yadav ... Applicant
 - Versus -
 N.R. Roy & Ors. ... Respondents

I N D E X

Sl. No.	Particulars of the documents	Page No.
1.	Application ...	1 to 34
2.	Verification ...	35
3.	Annexure-A/1 colly ...	36 to 60
4.	Annexure-A/2 ...	61
5.	Annexure-A/3 ...	62
6.	Annexure-A/4 ...	63
7.	Annexure-A/5 ...	64
8.	Annexure-A/6 ...	65 to 82
9.	Annexure-A/7 ...	83 to 90
10.	Annexure-A/8 colly ...	91, 92, 93
11.	Annexure-A/9 ...	94, 95
12.	Annexure-A/10 ...	96, 97
13.	Annexure-A/11 ...	98
14.	Annexure-A/12 ...	99 to 112

For use in Tribunal's Office :

Date of filing :
Registration No.
REGISTRAR

Filed by / X
Kiddhartha
Sama
Admicate
16/04/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. of 2002

BETWEEN

Shri Suresh Pal Singh Yadav, Inspector
Central Bureau of Investigation, office
of the Supdt. of Police, Central Bureau
of Investigation, R.G. Baruah Road,
Sundarpur, Guwahati-781005.

... Applicant

AND

1. N.R. Roy, Special Inspector General
of Police (Operations) Criminal
Investigation Department, West
Bengal, Bhawani Bhawan, Kolkata-700
027.
2. Dr. U.N. Biswas, Addl. Director,
Central Bureau of Investigation
(Retired), C/O Joint Director, CBI
(East Zone), MSO Building, Nizam
Palace, A.J.C. Bose Road, Kolkata.
3. The Director, Central Bureau of
Investigation, CGO Complex, Lodhi
Road, New Delhi.
4. The Union of India through the
Secretary to the Government of
India, Ministry of Personnel &
Training, New Delhi.

.... Respondents

DETAILS OF APPLICATION

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

The present application is directed against the
following :

(i) Adverse remarks in the ACR of the Applicant for
the year 1998 communicated vide Memorandum No.
511/CON/1/94(PT)/98-GHY dated 29.9.99.

A/5 P64

(ii) Communication of the final decision of the
competent authority vide letter dated 4.3.2002 of

the Superintendent of Police, CBI, Anti-Corruption Branch, Guwahati.

A/8 P 91, 92, 93

(iii) Memorandum dated 4.4.2002 intimating the Applicant that his representation dated 29.10.99 addressed to CBI with regard to adverse remarks made by the Reviewing and Accepting Authority in Applicant's ACR for the year 1998, has been rejected.

A/11 P 98.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that he had filed the representation dated 29.10.99 against the adverse remarks in his ACR for the year 1998 as communicated vide Memorandum dated 29.9.99. The representation of the Applicant dated 29.10.99 was rejected by the Director CBI (Respondent No. 3) and rejection of the aforesaid representation was communicated to the Applicant vide memorandum dated 4.4.2002 thereby confirming the adverse remarks made in the ACR of the Applicant for the year 1998. The present application is therefore within the statutory period of limitation as provided under Section 21 of the Administrative Tribunals Act, 1985.

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4. FACTS OF THE CASE :

4.1 That the Applicant in the present case is aggrieved by the adverse remarks in his ACR for the year 1998. The adverse remarks were communicated to him vide Memorandum dated 29.9.99. The Applicant submitted the representation dated 29.10.99. The final decision of the competent authority was communicated to the Applicant vide letter dated 4.3.2002 of the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati. The aforesaid letter enclosed the letter dated 21.1.2002 of the then DIG, CBI, North East Zone, Guwahati (Reviewing Authority) (Respondent No.1) and the letter dated 28.2.2002 of the then Addl. Director, CBI, East Zone, Kolkata (Accepting Authority) (Respondent No. 2). Subsequently, vide memorandum dated 4.4.2002, the Deputy Director, CBI informed the Applicant that his representation/appeal dated 29.10.99 which was addressed to CBI with regard to adverse remarks made by the Reviewing and Accepting Authority in the ACR of the Applicant for the year 1998, has been rejected. The case of the Applicant in the present application is that the adverse remarks made in his ACR for the year 1998 are baseless and the same have been made in malafide exercise of power. These adverse remarks have been made in contravention of the instructions which are required to be followed by the Reviewing and the Accepting Authorities in preparing the Annual Confidential Report of a subordinate official. It is noteworthy that the Reporting Authority had given appreciative and positive remarks for the Applicant in

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his ACR for the year 1998. However, the Reviewing Authority (Respondent No.1) without disclosing any reason disagreed with the positive remarks of the Reporting Authority and gave adverse remarks to the Applicant. While doing so, the Reviewing Authority (Respondent No.1) acted contrary to the instructions it is required to follow in making confidential remarks about its subordinate. The Accepting Authority acting in total non-application of mind accepted the remarks of the Reviewing Authority resulting in finalisation of the Applicant's ACR for the year 1998. It is pertinent to mention that the competent authority while finalising the adverse remarks in the ACR of the Applicant have not dealt with the reasons for dismissing the representation of the Applicant. The memorandum dated 4.4.2002 is totally silent about the reasons and it is non-speaking. Though the representation of the Applicant dated 29.10.99 was detail and elaborate, but the memorandum dated 4.4.2002 while communicating the Applicant about the rejection of his representation is silent about the material particulars and does not assign any reason for rejection of the representation of the Applicant. Since finalisation of the adverse remarks in the ACR of the Applicant for the year 1998 is in violation of the established principles of preparation of Annual Confidential Report, therefore, the present application is being filed for expunction of the adverse remarks made therein.

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4.2 That the Applicant is an Inspector of Police in the Central Bureau of Investigation. Initially, he was Sub-Inspector in the UP Police and was later on appointed as Inspector of Police on deputation in Delhi Special Police Establishment Division of CBI. After his appointment, the Applicant joined as Inspector, CBI, Anti Corruption Branch in the office of the SP, CBI, Anti Corruption Branch, Shillong in September 1993. In the year 1995, when the SP's office was shifted from Shillong to Guwahati, the Applicant was also shifted to Guwahati.

4.3 That the performance of Applicant in CBI has been exemplary. In course of his service in CBI, the Applicant earned seventeen rewards and eight commendation certificates for his excellent investigation in various cases. Applicant also handled certain highly sensitive cases like a case relating to fraudulent withdrawal of advance T.A. against the Judges of the Hon'ble Gauhati High Court as well as the establishment staff of the Gauhati High Court from Kamrup Treasury. The amount was to the tune of more than Rs. 38 lacs. In this case also, the Applicant was given commendation certificate as well as cash reward for his effective investigation.

Documents showing the meritorious performance of the Applicant and the awards received by him are annexed herewith as ANNEXURES-A/1 colly.

4.4 That during September 1998, the Respondent No. 1 was the Deputy Inspector General of Police, CBI,

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North East Zone and in the said capacity he was a Reviewing Authority of the Applicant. The Respondent No.1 met the Applicant for the first time on 8.9.98 when he visited the office of the SP, CBI. That day there was a meeting in the office to review the investigation of the cases. The Applicant was one amongst other investigating officers and Public Prosecutors present on that day. In the meeting, the Respondent No. 1 had an interaction with the Applicant and he questioned him as to why the Applicant had given closure report in RC-27(A)/96-SHG. When the Applicant started explaining to Respondent No.1, the latter began putting hypothetical question to the Applicant which had no logical answers. The Respondent No.1 also humiliated the Applicant before all the officers which he was not supposed to do. During post lunch session, the Applicant apprised the Respondent No.1 that the closure recommendation of the RC-27(A)/96-SHG was given unanimously by the Branch SP, Senior Public Prosecutor and Deputy Legal Adviser since there was no evidence and also that there were inherent defects in the FIR itself. However, the Respondent No.1 remained adamant and he abused the Applicant in high pitch voice. The Applicant felt insulted and humiliated and submitted a letter dated 8.9.98 on the spot requesting the SP, CBI, Guwahati to repatriate him to his parent department in the State of Uttar Pradesh.

Letter of the Applicant dated 8.9.98 to SP, CBI is annexed as ANNEXURE-A/2.

4.5 That Shri B.N. Mishra, the then SP, CBI, Guwahati (Reporting Authority) under pressure from the Respondent No.1 forwarded the request of the Applicant for repatriation vide his letter dated 11.9.98. However, it is noteworthy that Shri B.N. Mishra, the then SP, CBI, Guwahati in his forwarding letter dated 11.9.98 neither passed any adverse remark against the Applicant nor referred to the incident occurred in the crime meeting involving the Applicant and the Respondent No.1.

Letter of SP, CBI, Guwahati dated 11.9.98 to DIG, CBI, North East, Guwahati, forwarding of the Applicant for repatriation to his parent department, is annexed as ANNEXURE-A/3.

4.6 That the Respondent No.1 on receiving the letter of SP, CBI, Guwahati dated 11.9.98, immediately on the same very day i.e. 11.9.98 recommended the repatriation of the Applicant to Joint Director, East Zone, CBI, Kolkata and while doing so, he made an adverse remark against the Applicant that "Shri Yadav who was a deputationist from UP Police completed his deputation period and further it is found that his conduct is unbecoming of a CBI officer". It is stated that such a comment of the Respondent No.1 while recommending the repatriation of the Applicant to his parent department was uncalled for and unwarranted inasmuch as it was the Applicant who had taken initiative for his repatriation to the State of UP because he felt insulted by the behaviour of the Respondent No.1. When it was the

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Applicant who made a request for his repatriation and the SP, CBI had forwarded the letter of the Applicant for such repatriation; the Respondent No.1 had no business to make an adverse comment while recommending the repatriation of the Applicant to the Joint Director, East Zone, CBI, Kolkata. This showed the animus of the Respondent No.1 towards the Applicant.

Letter dated 11.9.98 of the Respondent No.1 recommending the repatriation of the Applicant to his parent department is annexed as ANNEXURE-A/4.

4.7 That the aforesaid incident makes it apparent that the Respondent No.1 was biased and prejudiced against the Applicant and he intended to victimise the Applicant. Since the Respondent No.1 bore a grudge against the Applicant, he was not expected to behave impartially in a free and fair manner while assessing the performance of the Applicant as an Inspector in CBI.

4.8 That the unfortunate behaviour of the Respondent No. 1 and his uncalled for observations against the Applicant while recommending latter's repatriation resulted in Applicant changing his mind of going back to his parent department. The Applicant instead decided to remain in Central Bureau of Investigation and to leave it only with clean image. Since from the beginning, the Applicant's performance in CBI was exemplary, therefore, it was difficult for him to go out of CBI with unjust and uncalled for observation of Respondent No.1. Hence the Applicant changed his mind

and wrote a letter dated 30.10.98 to the Joint Director (Administration), CBI withdrawing his request for repatriation and stating that he was willing to continue in CBI.

4.9 That the request of the Applicant for his continuation in CBI and his withdrawal of his earlier letter dated 8.9.98 was turned down by the competent authority vide order dated 3.11.98 pursuant to which, the Applicant was directed to be repatriated to his parent department. The order dated 3.11.98 was followed by message dated 16.11.98 and the Applicant was directed to be repatriated forthwith.

4.10 That it was under these circumstances that the Applicant filed O.A. No. 338/99 before the Guwahati Bench of this Hon'ble Tribunal assailing the legality of the order of repatriation.

4.11 That meanwhile vide memorandum No. 511/1/94 (Pt)98-GHY dated 29.9.99, the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati communicated to the Applicant the following observations in his ACR for the year 1998 :

- (i) He has ^{hww} ~~Very~~ *good* presentation of cases and expression.
- (ii) Very good knowledge of law and procedure.
- (iii) Very good in zeal and industry
- (iv) Intelligent and can grasp a point correctly with reasonable skill.
- (v) Very good initiative.
- (vi) Very good investigative ability.

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(vii) Very good ability to collect intelligence/ information.

(viii) Punctual in attendance.

(ix) Very good traits/special abilities.

However, apart from these very good and positive remarks, the following also appeared in his ACR as communicated vide memorandum dated September 29, 1999 :

(i) He has a tendency to finalise cases without collecting clinching evidence.

(ii) He is an indisciplined officer and exhibits insubordination occasionally.

Pursuant to the memorandum dated 29.9.99, the Applicant was informed that if he wishes to make representation, he can do so within one month from the date of receipt of the communication.

Copy of the memorandum dated 29.9.99 is annexed as ANNEXURE-A/5.

4.12 That since the Applicant's joining in CBI in the year 1993, this was the first occasion, when an adverse remark was communicated to the Applicant. Not only that the adverse remarks communicated were inconsistent with the very good and positive remarks made about the Applicant, but the same were also lacking in material particulars and were sweeping and general. It is noteworthy that the positive remarks made in the ACR of the Applicant for the year 1998 were that of Reporting Authority whereas the adverse remarks made

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therein were that of Respondent No.1 - the then Deputy Inspector General of Police, CBI, North East Zone, Guwahati (the Reviewing Authority).

4.13 That the Applicant submitted the representation dated 29.10.99 to the Respondent No. 3 against the adverse remarks made in his ACR for the year 1998. The representation against the adverse remarks was addressed to the Respondent No.3 because he is the next higher authority after the Respondent No. 2 (Accepting Authority). As ordinarily, the adverse remarks are communicated only after completion of the entire process of preparation of ACR which means that only after the Accepting Authority accepts the remarks of Reviewing Authority, the ACR becomes complete and it is only thereafter that the adverse remarks are communicated to the official concerned to enable him to submit representation against the same. Hence against the adverse entries in his ACR for the year 1998, the Applicant submitted the representation to the Respondent No. 3 which is the next higher authority to the Accepting Authority (Respondent No. 2). The representation of the Applicant was elaborate and the Applicant therein dealt with the sequence of events which according to him culminated in Respondent No.1 making such an adverse remarks against the Applicant in malafide exercise of power and acceptance of the same by the Accepting Authority in total non-application of mind.

Copy of the representation dated 29.10.99 is annexed as ANNEXURE-A/6.

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4.14 That the Respondent No. 3 sat over the representation of the Applicant dated 29.10.99 for a long time. During the pendency of the representation before the Respondent No. 3, the O.A. No. 338/99 was heard by this Hon'ble Tribunal during May 2001 and vide order dated 9.5.2001, the Hon'ble Tribunal dismissed the O.A. No. 338/99 on the ground that the deputationist does not have a right to continue on deputation if the borrowing department wants to repatriate him on completion of his tenure.

4.15 That against the order of the Hon'ble Tribunal dated 9.5.2001 passed in O.A. No. 338/99, the Applicant preferred W.P.(C) No. 3420/2001 before the Division Bench of the Hon'ble Gauhati High Court. The Hon'ble Gauhati High Court vide order dated 5.2.2002 disposed of the the W.P.(C) No. 3420/2001 by giving the following directions to the Respondent Central Bureau of Investigation :

- "(i) If the representation of the Petitioner against the adverse remarks for the year 1998 communicated to him on 29.9.99 has so far not been decided by the competent authority, the decision on the same be taken within a month.
- (ii) While deciding the representation as aforesaid, the observations made regarding the correctness of the adverse remarks made by the Central Administrative Tribunal should not be taken into consideration and the authority deciding the representation should form its own opinion and come to independent findings.
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(iii) After the decision on the representation is taken as aforesaid, the case of the Petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the subject and entire service record of the Petitioner. The result of the representation and any other relevant considerations including the Petitioner's application dated 8.9.98 or any previous application to the effect that he may be repatriated back to his parent department and withdrawal of that request after 8.9.98 may also be taken into consideration. This maybe done within one month of taking of the decision on the representation of the Petitioner against his adverse remarks.

With the aforesaid directions, the Hon'ble Gauhati High Court disposed of the writ petition with the observations that if the Applicant is adversely affected by any order that maybe passed by the competent authority, he would be at liberty to challenge the same before an appropriate forum.

Copy of the order dated 5.2.2002 passed in W.P.(C) No. 3420/2001 is annexed as ANNEXURE-A/7.

4.16 That after the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. The Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati vide letter dated 4.3.2002 communicated the Applicant the final decision of the authority in respect of the adverse comment in his ACR for the year

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1998. The aforesaid letter of the Supdt. of Police, CBI dated 4.3.2002 contained two enclosures viz., letter dated 21.1.2002 of the Respondent No.1 who at present is a Special Inspector General of Police (Operation), CID, West Bengal and the comments of the Respondent No.2 dated 28.2.2002.

Copy of the letter dated 4.3.2002 alongwith two enclosures is annexed as ANNEXURE-A/B colly.

4.17 That from the letter of the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati dated 4.3.2002, it was not clear as to whether the same was issued in pursuance of the order of the Hon'ble High Court dated 5.2.2002 inasmuch as there was no whisper in the said letter about the disposal of the representation of the Applicant dated 29.10.99 which was pending before the Respondent No.3 - Director, CBI. The aforesaid letter did not contain any enclosure in the form of any order of the Director, CBI disposing of the representation of the Applicant dated 29.10.99. Hence there are strong reasons to believe that the letter dated 4.3.2002 of the Supdt. of Police, CBI was not issued in pursuance of the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. Hence it is safe to conclude that till the stage of issue of letter dated 4.3.2002 of the Supdt. of Police, CBI, there was no disposal of the representation of the Applicant dated 29.10.99 which was addressed to Director, CBI (Respondent No. 3).

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4.18 That the perusal of the enclosures of the letter dated 4.3.2002 reveals that the letter of Shri N.R. Ray (Respondent No.1) is dated 21.1.2002 and the same is the response to the letter of present DIG, CBI, NER dated (eligible)/2000. Similarly, the next enclosure, which is the letter of the Respondent No. 2 dated 28.2.2002 only contains the comments of Shri U.N. Biswas (Accepting Authority) to the effect that he agrees with the comments of the Reviewing Authority. Apparently, both the letters of the Respondents No.1 and 2 dated 21.1.2002 and 28.2.2002 demonstrate total non-application of mind. These two letters also show that both the Respondents acted with prejudice and they had a close mind in regard to adverse remarks made in the ACR of the Applicant for the year 1998. Moreover, it is noteworthy that the letter of Respondent No.1 dated 21.1.2002 was issued prior to the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. It is noteworthy that at that point of time, the Respondent No.1 was no longer in CBI and as such, he was no longer the Reviewing Authority. So far as the letter of the Respondent No. 2 dated 28.2.2002 is concerned, there is nothing to show that it has got any nexus with the order of the Hon'ble High Court dated 5.2.2002. Moreover, pursuant to this letter, the Respondent No.2 as Accepting Authority has only shown his agreement with Respondent No.1. However, in the case of the Respondent No.2 also it is noteworthy that the letter dated 28.2.2002 was issued when the Respondent No.2 was superannuated. Hence, the

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Respondent No.2 when he issued the letter dated 28.2.2002, had no competence to act as the Accepting Authority.

4.19 That the letter of Supdt. of Police, CBI dated 4.3.2002 was followed by another letter No. DPSH.2001 1955/WP 3420/01 dated 26.3.2002 enclosing therewith a Fax message dated 22.3.2002 of Administrative Officer, CBI, New Delhi. In the Fax message dated 23.2.2002, the Applicant was directed to appear before the Screening Committee in connection with his permanent absorption in CBI on 28.3.2002 at Delhi on 10.00 A.M. sharp. The Applicant was directed to report to the Deputy Director (Administration), CBI, New Delhi for the said purpose. Though the date given in the Fax message was 28.3.2002, but in the letter dated 26.3.2002, the same was altered to 1.4.2002.

Copy of the letter dated 26.3.2002 enclosing therewith a Fax message dated ~~22.3.~~2002 is annexed as ANNEXURE-A/9 colly.

4.20 That on receipt of the letter dated 26.3.2002 enclosing therewith a Fax message dated ~~22.3.~~2002, the Applicant vide letter dated 28.3.2002 informed the competent authority about the practical difficulties in immediately rushing to Delhi and to appear before the Screening Committee on 1.4.2002 (though the date given in the Fax message was 28.3.2002, but in the letter dated 26.3.2002, the same was altered to 1.4.2002). In his letter, the Applicant requested that he may at least be given 15 days time so that he can make the

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necessary preparation for appearing before the Selection Board. However, in his letter, the Applicant also drew the attention of the competent authority towards the fact that his representation dated 29.10.99 submitted by him against the adverse remarks for the year 1998 has still not been disposed of by the Respondent No.3. It was also stated by the Applicant that the non-disposal of the representation dated 29.10.99 is contrary to the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. Because it is only after disposal of the representation dated 29.10.99, the case of the Applicant for absorption in the CBI can be considered. However, in the present case, it was found that the CBI authorities without disposing of the representation of the Applicant dated 29.10.99 were going to consider the case of the Applicant for absorption in CBI thereby acting to his prejudice.

Copy of the letter dated 28.3.2002 is annexed as ANNEXURE-A/10.

4.21 That it was under these circumstances that the Applicant preferred O.A. No. 104/2002 before this Hon'ble Tribunal. In the aforesaid O.A., the Applicant while seeking expunction of the adverse remarks in the ACR of the Applicant for the year 1998, also prayed for an interim order that pending disposal of the aforesaid O.A., the Respondents should be restrained from considering the adverse remarks for the year 1998 while taking a decision pertaining to absorption of the Applicant in the CBI. prayers are made. In O.A. No.

224

104/2002, the Applicant highlighted the factum of non-disposal of his representation dated 29.10.99 and non-compliance of the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. It was stated by the Applicant that without disposing of his representation dated 29.10.99 against the adverse remarks in the ACR for the year 1998, the Respondents are going to consider the same while examining the case of the Applicant for absorption in the CBI.

4.22 That before the O.A. No.104/2002 could come on board for admission, the official Respondents, who by this time had become wiser after receiving the letter of the Applicant dated 28.3.2002 including the copy of O.A. No. 104/2002, issued the memorandum dated 4.4.2002 intimating the Applicant that his representation dated 29.10.99 which was addressed to the Director, CBI (Respondent No. 3) with regard to adverse remarks made by the Reviewing and Accepting Authority in the ACR of the Applicant for the year 1998, has been rejected. The aforesaid memorandum, thus communicated to the Applicant about the rejection of his representation dated 29.10.99 by the Director, CBI. It is noteworthy that prior to the memorandum dated 4.4.2002, the Respondents were totally silent about the fate of the representation of the Applicant dated 29.10.99. It is, therefore, clear that the memorandum dated 4.4.2002 informing the Applicant about the rejection of his representation dated 29.10.99, was issued as an after-thought because the Respondents found themselves in a difficult situation on the

allegations of the Applicant that the Respondents have not complied with the order of the Hon'ble Gauhati High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001 and without disposing of his representation dated 29.10.99, they are going to examine his case for absorption in CBI while taking into consideration the adverse remarks made in his ACR for the year 1998.

Coy of the memorandum dated 4.4.2002 is annexed as ANNEXURE-A/11.

4.23 That the memorandum dated 4.4.2002 was followed by the Fax message dated 11.4.2002 issued by the CBI Headquarter, New Delhi. The aforesaid Fax message was in response to the letter of the Applicant dated 28.3.2002 wherein the Applicant had asked for a reasonable period for appearing before the Interview Board in Delhi which was earlier scheduled for 1.4.2002. In the Fax message, the Applicant was directed to attend the personal interview before the Screening Committee in connection with his permanent absorption in CBI on 19.4.2002. It is stated that the Applicant has no hesitation in appearing before the Interview Board in terms of the Fax message dated 11.4.2002, however, he is disturbed by the certainty of Respondents taking into consideration the adverse remarks in his ACR for the year 1998 while considering his case for permanent absorption in CBI.

4.24 That the Reviewing Authority (Respondent No.1) can only be justified in making adverse observation only when it has sufficient occasions and opportunities

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to assess the performance of the Applicant. It is stated that the Respondent No.1 in his capacity of Reviewing Authority did not have sufficient opportunity to assess the performance of the Applicant. The Respondent No.1 took over the additional charge of DIG, CBI, NER, Guwahati on 8.3.98 and since then during his brief period of incumbency upto March 1999, he visited Guwahati on three/four occasions as would be seen from his tour diary :

- 8.3.98 - Taken over additional charge of DIG, CBI, NER, Guwahati.
- 9.3.98 - Attended office of the DIG, CBI, NER, Guwahati.
- 10.3.98 - -do-
- 11.3.98 - Left for Calcutta by IC 330
- 27.3.98 - Arrived at Guwahati
- 28.3.98 - Attended office of the DIG, CBI, NER, Guwahati.
- 29.3.98 - Departure to Calcutta.
- 7.9.98 - Arrival at Guwahati
- 8.9.98 - Attended Crime Meeting at the office of the SP, CBI, Guwahati.
- 9.9.98 - Departure to Itanagar.
- 11.9.98 - Arrival at Guwahati.
- 12.9.98 - Departure to Calcutta
- 3.12.98 - Came to Guwahati in connection with the suicide of Sub-Inspector in CBI one Sandeep Goyal.
- 5.12.98 - Departure to Calcutta.

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From the tour diary as shown above, it is evident that the Respondent No.1 (the Reviewing Authority) had no occasion to assess the performance of the Applicant, his nature, character and behaviour as there was no appropriate interaction between the Respondent No.1 and the Applicant. In this connection, it is noteworthy that since September 1993 when the Applicant joined the CBI on deputation, none of his superior officers orally in writing pointed out anything like the adverse remarks of Respondent No.1. The Respondent No.1 was the first senior officer who made such an observation against the Applicant and that also when he had no occasion of adequately interacting with the Applicant as he stayed in Guwahati for a very brief period.

4.25 That it is stated that the adverse remarks made by the Respondent No.1 are perverse being based on no evidence at all. The Applicant was never warned in the past. He was never advised in the past. The shortcomings that have been indicated in the form of adverse remarks were never pointed out to the Applicant at any point of time in the past. The sweeping observation made by the Respondent No.1 in his letter dated 11.9.98 while recommending the case of the Applicant for repatriation, by no stretch of imagination can be treated to be an advice in regard to any shortcoming in the Applicant. The aforesaid remark was absolutely vague and sweeping. Similarly, the adverse remark which was communicated to the Applicant vide memorandum dated 29.9.99 was equally sweeping, vague and general.

4.26 That there were two different adverse remarks which were communicated to the Applicant vide memorandum dated 29.9.99 :

(i) He has a tendency to finalise cases without collecting clinching evidence.

(ii) He is an indisciplined officer and exhibits insubordination occasionally.

The Applicant now would deal with the aforesaid two adverse remarks in the light of his own performance in CBI.

ADVERSE REMARK NO. 1 - "Tendency to finalise cases without collecting clinching evidence"

4.27 That during first six years of his service in CBI, (1993-1998) the Applicant investigated and filed charge sheet in seven cases i.e. RC-27(A)/93-SHG, RC-15(A)/93-SHG, RC-16(A)/93-SHG, RC-5(A)/94-SHG, RC-32(A)/94-SHG, RC-3(A)/96-SHG and RC-5(A)/96-SHG in the Court of the Special Judge, Assam, Guwahati. In all the cases, charges are framed against the suspect/accused person and in no case, the Hon'ble Court has passed any discharge or acquittal orders to buttress the malicious and perverse adverse remarks made by the Respondent No.1 in Applicant's ACR for the year 1998.

4.28 That it is a well understood practice in CBI and the same has also been clearly delineated in CBI Crime Manual that it is not the Investigation Officer alone (the Applicant was Investigation Officer at the

38

224

relevant point of time) who could finalise the case on his own and it is a collective responsibility of all the CBI officers i.e. SP, Public Prosecutor, Deputy Legal Adviser, DIG, Joint Director, Asstt. Legal Adviser, Legal Adviser and Director, CBI etc. depending upon the competence level of the case from the SIR/Complaint level to its verification, registration of FIR, investigation, finalisation of the case for filing charge sheet in the Law court, etc. In this connection, the Applicant craves leave of this Hon'ble Court to refer to para 15/185, 25/82, 23/80, 22/79, 11/68, 24/184 of the CBI Crime Manual at the time of hearing of this case. All the aforesaid paragraphs clearly show that finalisation of the case is a collective responsibility of the various senior officers and the Investigating Officer cannot be made scapegoat. The Applicant also craves leave of this Hon'ble Tribunal to refer to the relevant paragraph in connection with the same in his representation dated 29.10.99 which is submitted against the adverse remarks.

ADVERSE REMARK NO. 2 - He is an indisciplined officer and exhibits insubordination occasionally.

4.29 That it is stated that never in the past there was an incident suggesting that the Applicant is an indisciplined officer. It was never pointed out to the Applicant by any senior officer prior to making of such a remark by the Respondent No.1. Prior to the aforesaid adverse remark, the service career of the Applicant was unblemished. Applicant's service profile in UP police

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running into sixteen years and in CBI spanning six years is without any blemish and at no occasion any adverse remark was ever made against the Applicant. In any case, the Respondent No.1 hardly had any occasion to assess the Applicant and to know about his nature, behaviour and attitude. There was no basis for the Respondent No.1 to make such a remark against the Applicant. The remark of such nature ought to have been supported by some material. Reviewing Authority while making such a remark ought to have pointed out that in the past these shortcomings in the personality of the Applicant were pointed out to him. Unfortunately, the Reviewing Authority (Respondent No.1) remained totally silent about these aspects and only made a sweeping remark to the effect that the Applicant is an indisciplined officer.

4.30 That it is noteworthy that the Reporting Authority made highly appreciative and positive remarks against the Applicant for the year 1998. The Reporting Authority had an occasion to know the Applicant well. It had sufficient opportunity to assess the performance of the Applicant and as such, adequate weight ought to have been given to the remark of the Reporting Authority. Unfortunately, the Reviewing Authority allowed his personal prejudice to cloud his mind and deviated from the highly appreciative and positive remarks of the Reporting Authority which were made about the Applicant. While making such a deviation, the Reviewing Authority did not refer to any incident to buttress his adverse remarks. The remark made by the

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Respondent No.1 was sweeping, general and vague and was silent on material particulars.

In this connection, reference is made to the various clauses in the form for confidential report. Reference is specially made to the Part-IV of the form. Clause 17 of the Part-IV contains a heading - "Length of Service under the Reviewing Officer". It would be curious to note as to what was written by the Reviewing Officer under this heading in regard to the Applicant inasmuch as the Respondent No.1 in his capacity as Reviewing Officer hardly remained in Guwahati during his brief tenure as DIG, CBI, NER.

Reference is also made to clause 18 of Part-IV of the form which contains a heading - "Do you agree with the remarks of the Reporting Officer ? If not, indicate briefly the reason for disagreeing with Reporting Officer and the extent of disagreement against the respective column. (Explanation) : Officers are expected to clearly mention whether or not they agree with the remarks of the Reporting Officer against various items. Their own personal/general remarks also be added here." Similarly, clause 19 contains a heading "Overall assessment of performance and qualities" and clause 20 deals with "Comments on the gradings of the Reporting Officer".

All the aforesaid clauses are in Part-IV of the form which is required to be filled up by the Reviewing Officer. From the perusal of the various columns in Part-IV of the form, it is clear that the Reviewing

24

Officer is required to act objectively while assessing the remarks of Reporting Officer made about the officer reported upon. In the present case, from the nature of remark made by the Respondent No.1 in his capacity as Reviewing authority it is clear that the Respondent No.1 did not act objectively and instead he acted maliciously with a prejudice mind to malign and tarnish the service career of the Applicant.

Sample copy of the form for confidential report ~~containing~~ the required instructions is annexed as ANNEXURE-A/12.

4.31 That in the present case, the Reporting Officer acted fairly and made an objective assessment of the Applicant in writing the confidential report. Unfortunately, it was the Reviewing and the Accepting Authority which failed to act objectively and dispassionately. The facts and circumstances of the case clearly show that the Reviewing Authority had its own personal agenda to settle score with the Applicant and primarily for the purpose of maligning and tarnishing the service career of the Applicant, the Reviewing Authority deviated from the remarks of the Reporting Authority. Moreover, the Reviewing Authority was clearly prejudiced against the Applicant and as a result, it failed to be objective in its assessment of the Applicant. This coupled with the fact that the Reviewing Authority had no adequate opportunity of knowing the Applicant and of assessing his performance it clearly erred in hastily making an adverse remark against the Applicant.

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4.32 That the factum of Reviewing Authority acting with bias against the Applicant is borne out from its previous behaviour of making an observation against the Applicant in its letter dated 11.9.98 pursuant to which the letter of the Applicant of even date was forwarded wherein the Applicant had requested for his repatriation. The Reviewing Authority, therefore, acted with bias and malice in making adverse remarks against the Applicant. Apparently, the adverse remarks made by the Reviewing Authority was without any basis and consequently, the same were sweeping, general and vague.

4.33 That the facts and circumstances of the case makes it apparent that the Respondent No. 3 never applied his mind to the representation dated 29.10.99 of the Applicant. It was only when the Applicant vide his letter dated 28.3.2002 raised the issue of non-disposal of his representation dated 29.10.99 and questioned the propriety of examination of his case for permanent absorption in CBI while taking into consideration the adverse remarks made in his ACR for year 1998, that the official Respondents realised the mistake committed by them. To rectify their mistake and to repair the damage done by the letter dated 4.3.2002, the memorandum dated 4.4.2002 was issued. In this connection, it is pertinent to mention that filing of the O.A. No. 104/2002 also made the official Respondents wiser because in the aforesaid O.A., the Applicant had raised the issue of non-disposal of his representation dated 29.10.99. It was under these

circumstances, that the Respondents as an after-thought issued the memorandum dated 4.4.2002.

4.34 That it was incumbent upon the Respondent No. 3 to apply his mind to the representation submitted by the Applicant against the adverse remarks. The order of the Hon'ble High Court dated 5.2.2002 was also duly communicated to the Respondent No 3. Moreover, the aforesaid order was passed in presence of the counsel of CBI in the Gauhati High Court. Therefore, the Respondent No. 3 was well aware of the order of the Hon'ble High Court dated 5.2.2002 pursuant to which he was required to dispose of the representation against the adverse remarks for the year 1998. However, the Respondent No. 3 despite the order of the Hon'ble High Court chose not to act on the representation of the Applicant till the Applicant in is letter dated 28.3.2002 raised these issues. The Applicant has reasons to believe that it was only after his letter dated 28.3.2002 and filing of O.A. No. 104/2002 that the official Respondents as an after-thought issued the memorandum dated 4.4.2002 intimating the Applicant about the rejection of his representation dated 29.10.2002.

4.35 That the representation of the Applicant dated 29.10.99 was exhaustive and elaborate and he had raised various pertinent issues in the aforesaid representation. The memorandum dated 4.4.2002 does not assign any reason for rejection of the representation of the Applicant. The language of the memorandum

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indicates that there is no application of mind by the Respondent No. 3 on the representation of the Applicant and the same has been dismissed arbitrarily by a non-speaking order.

4.36 That in the present case, both the Respondents No.1 and 2 did not have the competence of taking a final decision on the adverse remarks in the ACR of the Applicant for the year 1998 inasmuch as the Respondent No.1 is no longer in CBI and at present is working as Special Inspector General of Police (Operations), Criminal Investigation Department, West Bengal. The letter dated 21.1.2002 was written by the Respondent No.1 in the aforesaid capacity. Hence, the Respondent No.1 was not the competent authority to act as the Reviewing Authority of the Applicant while finalising the Annual Confidential Report of the Applicant for the year 1998. Similarly, the Respondent No. 2 also does not have the competence to act as the Accepting Authority as he has been superannuated. The Respondent No.2 sent his final comments on 28.2.2002 i.e. after his superannuation.

4.37 That from the letter dated 26.3.2002 and the Fax message dated 22.3.2002, followed by Fax message dated 11.4.2002, it is clear that the CBI authorities are going to examine the case of the Applicant for absorption in CBI while taking into consideration the adverse remarks made against him for the year 1998. If the case of the Applicant for absorption is decided by considering the adverse remarks made in his ACR for the year 1998, the Applicant would be severely prejudiced

inasmuch as the aforesaid adverse remarks were made arbitrarily in malafide exercise of power. As the Respondents have chosen to stand by, the adverse remarks made in the ACR of the Applicant for the year 1998 and they intend to consider the same while examining the case of the Applicant for his absorption in CBI, therefore, the Applicant has no other alternative but to come before this Hon'ble Tribunal for expunction of the aforesaid adverse remarks. In the facts and circumstances of the present case, it is a fit case wherein the Hon'ble Tribunal may be to pass an interim order directing the Respondents not to take into consideration the adverse remarks made in the ACR of the Applicant for the year 1998 while deciding his case for absorption in CBI.

4.38 That the Applicant files this application bonafide for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 Because the adverse remarks are sweeping, vague and general. These remarks are perverse in the sense that there is no material to support these remarks.

5.2 Because the Reviewing Authority (Respondent No.1) made the adverse remarks out of malice with the intention to humiliate and harass the Applicant. The remarks were made with the prejudiced mind and as such, the same have no legal sanctity.

5.3 Because the Reviewing Authority made the adverse remarks acting contrary to the remarks given by the

Reporting Authority. While deviating from the remarks given by the Reporting Authority, the Reviewing Authority did not give reasons justifying making of adverse remarks. Moreover, the remarks were made in contravention of the instructions contained in the Annexure-A/12 form.

5.4 Because the Reviewing Authority had no occasion to assess the performance of the Applicant as it did not spend time in Guwahati. The Reviewing Authority came to Guwahati for a very brief period and barring 1/2 occasions, it did not even meet the Applicant. The Reviewing Authority having no occasion of assessing the performance, nature and character of the Applicant for the required stipulated period, it had no competence to act as Reviewing Authority of the Applicant.

5.5 Because the Accepting Authority (Respondent No.2) acted with total non-application of mind and mechanically affirmed the adverse remarks of the Reviewing Authority.

5.6 Because in the communication dated 4.3.2002 intimating the Applicant about the finalisation of adverse remarks in his ACR for the year 1998 and the two different letters dated 28.2.2002 and 21.1.2002 enclosed therein, there is no whisper to even suggest that the competent authority took into consideration the representation of the Applicant dated 29.10.99 which was submitted against the adverse remarks. It was incumbent upon the competent authority to examine the representation of the Applicant and only thereafter the

Ww

decision could have been taken on the finality or otherwise of the adverse remarks in the ACR of the Applicant for the year 1998.

5.7 Because the finalisation of the adverse remarks in the ACR of the Applicant for the year 1998 is contrary to the order of the Hon'ble Gauhati High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001. In the aforesaid order, Hon'ble Gauhati High Court directed the Respondents to take an appropriate decision on the representation of the Applicant against the adverse remarks which was then pending before the Respondents. However, the Respondents without considering the representation of the Applicant finalised the adverse remarks in his ACR for the year 1998 vide their communication dated 4.3.2002 which enclosed letters dated 21.1.2002 and 28.2.2002.

5.8 Because the adverse remarks in the ACR of the Applicant have been made in violation of the established principles of law which are required to be followed by the Reviewing and the Accepting Authorities.

5.9 Because the memorandum dated 4.4.2002 is non-speaking and does not assign any reason for rejection of the representation of the Applicant dated 29.10.99. The memorandum discloses total non-application of mind on the part of the Respondent No. 3 while dismissing the representation/appeal of the Applicant dated 29.10.99 which was made against the adverse remarks in his ACR for the year 1998.

3/4

6. DETAILS OF REMEDIES EXHAUSTED :

That in the present case, no other adequate alternative remedy is available to the Applicant under law.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

8.1 Expunge the adverse remarks in the ACR of the Applicant for the year 1998 as communicated vide memorandum dated 29.9.99 (Annexure-A/5).

8.2 Quash and set aside the memorandum dated 4.4.2002 (Annexure-A/11).

8.3 Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case.

8.4 Award cost of this case to the Applicant.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, be further pleased to stay the operation and effect of the memorandum dated 4.4.2002 (Annexure-A/11) with

9

direction to the Respondents to refrain from considering the adverse remarks made in the ACR of the Applicant for the year 1978 while examining his case for permanent absorption in CBI.

10.

The Application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

(i) I.P.O. No. : 76 549437
(ii) Date : 8/4/02
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

22/1

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

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 48 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 2, 4'2, 4'7, 4'9, 4'10, 4'12, 4'14, 4'21, 4'25-4'29 and 4'31-38 and 5 to 12 are true to my knowledge ; those made in paragraphs 1, 3, 4'1, 4'3-4'6, 4'8, 4'11, 4'13, 4'15-4'20, 4'22-4'24 and 4'30 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 16th day of April 2002 at Guwahati.

Suresh Pal Singh Yadav.

OFFICE ORDER NO. 46 / DATED: 22/6/99.

The Director (PZ) CB/CB/Catania vide his order dtd. 02.06.99 is pleased to sanction a cash reward to the following Executive staff of CB/CB/Catania for their keen interest for all round development of the branch smooth functioning as well as show a interest investigation searcher surprise checks etc. as detailed below:-

S. No.	Name & Designation	Amount Reward.
1		

- | | | |
|----|------------------------------|------------|
| 1. | Sh. R. E. Bose, Insp. | Rs. 1000/- |
| 2. | Sh. S. P. Singh Yadav, Insp. | Rs. 1000/- |
| 3. | Sh. L. Hangshing, Insp. | Rs. 1000/- |
| 4. | Sh. N. G. Khamrang, Insp. | Rs. 1000/- |
| 5. | Sh. N. R. Dey, Insp. | Rs. 1000/- |

5000/-

(Rupees five thousand) only

It is certified that the amount prescribed in H.O. letter No. 29/1/81-AD III dtd. 1/8/90 has not been exceeded in this regard.

Superintendent of Police,
CB/CB/Catania.

Memo No. P/24/99 *exhib. 1/2* Dated: 22/6/99.

Copy to:-

1. A/C Section in duplicate for n/a.
2. Person concerned.

Superintendent of Police,

CB/CB/Catania

Attested

[Signature]
Advocate.

Order order No. 37

Dated: 22/01/99

Sanction is hereby recorded for the grant of C. C. to the following Executive staff for his good work done in Case No. RC 34(A)/96-SHC as detailed below:-

Sl. No.	Name & Designation	Amount Sanctioned	Commendation Certificate
---------	--------------------	-------------------	--------------------------

1. Shri P. Singh Yadav, Inspr.

C. C.

Superintendent of Police,
CBI, ACB, Guwahati.

Memo No. E/24/ 396-67
Copy to:-

Dated:- 22-1-99

1. The S.B. Clk alongwith C. C. for necessary entry in his Service Book.

2. Person concerned.

22/1/99
Superintendent of Police,
CBI, ACB, Guwahati.

Attested
NDW
Advocate.

CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S. P. SINGH YADAV, INSPR. IS HIGHLY COMMENDED/
FOR HIS GOOD WORK DONE IN CASE NO. JC. 34(A)/96-ENG/
for

DATED :
GUWAHATI

24/11/99
SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

Attested
Den
Advocate.

DEMAND ORDER NO. 117

Dated: 25th June '98

Sanction is hereby accorded for the grant of reward and C.C. to the following officer of CRP/ACB/Guwahati for his good work done in Case No. RC.3(A)/98-510 as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Sh. H.P. Singh Yadav, Insp.	Rs. 600/- + C.C.
		<u>Rs. 600/-</u>

(Rupees six hundred) only

It is certified that the amount prescribed in H.O. letter No. 29/4/CL-2011 dated 1/8/90 has not been encashed in this regard.

(D.H. Mishra)
Superintendent of Police,
C.B.I./A.C.B./Guwahati.

Dated: 25th June '98.

Home No. 11/24/ 6002-05

Copy to :-

1. S.D. Clerk alongwith Commendation Certificate for necessary entry in the Service Book.
2. The M/C Section in duplicate for n/a.
3. Person concerned.

Superintendent of Police,
CRP/ACB/Guwahati.

Attested
[Signature]
Advocate.

CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri... SURJIT PAL SINGH YADAV, INSPECTOR/
IS HIGHLY COMMENDED FOR HIS GOOD WORK DONE IN CASE NO.
for... /R.C.S(A)/95-SHC.

DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

Attested
[Signature]
[Signature]

- 41 -

OFFICE ORDER NO. 91

Dated :- 11 May '98

Sanction is hereby recorded for the grant of cash reward and C.C. to the following officer for his good work done in Case No. RC/IS(A)/92-810 as detailed below:-

Sl.No.	Name & Designation	Amount rewarded.
1.	Sh. S. P. Singh Yadav, Inspt.	Rs. 1000/- + C.C. Rs. 1000/- + C.C.

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. letter No. 28/C/CLAD.III Dated 1/8/90 has not been exceeded in this regard.

(B.N. MEENA)
Superintendent of Police,
CH/ACB/Cuttack.

Memd No. R/24/ 2838-40
Dy. Insp.

Dated :- 12 May '98.

- 1) A/c Section in duplicate for n/a.
- 2) S.H. Clerk alongwith the Commendation Certificate for necessary entry in the Service Book.
- 3) Person concerned.

[Signature]
Superintendent of Police,
CH/ACB/Cuttack.

el/-

cc/CH

Accepted

[Signature]

CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S.P. Singh Yadav, Inspector, A.C. Noida
for his good work done in AC-15(1)/92-93

for

DATED :
GUWAHATI

[Signature]
13/5/92
SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

61/0

6000

Attended

[Signature]
24/5/92

OFFICE ORDER NO. _____

Dated: _____ 1997.

Section is hereby requested for the grant of cash reward of Rs. 500/- to the following officers for finalising the following cases targeted for 1997 in No. 11/97, No. 5/94, No. 1/97 and No. 8/97 respectively as detailed below:-

Sl. No.	Name & Designation	Amount awarded
1.	Sh. S. P. Singh Yadav, Inspr.	Rs. 300=00+C.C.
2.	Sh. Sandeep Doyal, Sub-Insp.	Rs. 250=00+C.C.
3.	Sh. Manoj Manojee, Sub-Insp.	Rs. 250=00+C.C.
		Rs. 800=00

(Rupees eight hundred only)

It is certified that the amount prescribed in H.O. Letter No. 29/4/81-AD.III dtd. 1/8/80 has not been expended in this regard.

Superintendent of Police,
C. I. / C. I. / C. I.

Dated: _____ 1997.

Number: 11/97/80/1/97

Copy to:-

1. H.O. Clerk alongwith Commendation Certificate for necessary entry in the Service Book.
2. The A/S Section in duplicate for n/s.
3. Person concerned.

Superintendent of Police,
C. I. / C. I. / C. I.

Attested

[Signature]
Advocate.

- 44 -

60

CENTRAL BUREAU OF INVESTIGATION



GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. & PENSIONS
COMENDATION CERTIFICATE

Granted to Shri S.P. Singh Yadav, Insp. in HIGHLY
COMMENDED for finalising of cases targetted for 1997
for In PE. 11/97, and RC. 5/944

DATED :
GUWAHATI

(1) *[Signature]*
SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati

Attested
[Signature]
Advocate.

OFFICE ORDER NO. 141

Dated:- 21/10 '97.

Joint Director(EZ), CBI/Calcutta vide H.O. order dtd. 21/10/97 is pleased to sanction a cash reward to the following officers of CBI/ACB/Guwahati Branch for their good work done during his visit as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. H. K. Joy, Insptr	1500-00
2.	Sh. A. P. Singh Yadav, Insptr	2500-00
3.	Sh. R. V. Das, Insptr.	1500-00
Total:-		4500-00

(Rupees Four thousand Five hundred only)

It is certified that the amount prescribed in H.O. letter No. 08/01/90-ADV. dated 21/09/90 has not been exceeded in the case.

Memo No. E/24/7141-6/2
Copy to:-

Superintendent of Police,
CBI/ACB/Guwahati.
Dated:- 21/10 '97.

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Superintendent of Police,
CBI/ACB/Guwahati.

EL.

10001

Attested
[Signature]
Advocate.

OFFICE ORDER NO. 46 /

Dated:- 13/8/97

Special Director, CBI/New Delhi vide his order dtd.08/03/97 is pleased to sanction a cash reward to the following Inspr. of OE CBI/ACB/Guwahati including Regional Office & Shillong Unit for their good work done during his visit as detailed below:-

Sl. No.	Name & Designation	Amount rewarded.
1.	Shri. R.P. Bose, Inspr.	Rs. 1200/-
2.	Shri. A.C. Gupta, Inspr.	Rs. 1200/-
3.	Shri. S.P. Singh Yadav, Inspr.	Rs. 1200/-
4.	Shri. K. Barman, Inspr.	Rs. 1200/-

Rs. 4800/-

(Rupees Four thousand eight hundred only)

It is certified that the amount prescribed in H.O. letter No.08/01/90-AD.V.dated 21/09/90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Memo No. E/24/ 1628 /

Dated:- 13/8 '97

Copy to:-

1. A.C. Section in duplicate for necessary action.
2. Person concerned.

Supdt. of Police, CBI/ACB,
Guwahati.

Accepted
[Signature]

11/11/11

- 47 -

OFFICE ORDER NO. 15

Dated:- 27/2/97

Sanction is hereby accorded for the grant of Case reward to the following executive staff for their Good Work done during the year 1996 as detailed below:-

Sl. Name & Designation Amount rewarded
No.

- | | |
|------------------------------|-------------------|
| 1. Sh. P. Singh Yadav, Zupt. | Rs. 500/- |
| 2. Sh. P. Liraboo, ... | Rs. 300/- |
| 3. Sh. R. Singh, Const. | Rs. 200/- |
| | <u>Rs. 1000/-</u> |

(Rupees one thousand only)

It is certified that the amount prescribed in H.O. Letter No. 29/1/81-AB.111 dated 7/3/80 has not been exceeded in the case.

Supdt. of Police, CBI/ACB,
Guwahati.

Mem. No. E/24/ 932-33

Dated:- 16/2 '97

Copy to:-

1. R/o Section in duplicate for n/a.

2. Person concerned

Supdt. of Police, CBI/ACB,
Guwahati.

Attested
[Signature]
Advocate.

OFFICE ORDER NO. 215 Dated:- 7/11/96
GOVERNMENT OF INDIA

Position of Inspector General of Police for the grant of cash reward to the following officials for their good work done in case No. P.N. 22(A)/96 on 12/7/96 as detailed below:-

Sr. No.	Name & Designation	Amount Reward.
1.	Sh. K. Narayan, Insp. x day, Insp. CBI/ACB/GV	Rs. 200/- + C.C.
2.	Sh. S. P. Singh, Insp. x day, Insp. CBI/ACB/GV	Rs. 200/- + C.C.
3.	Sh. S. L. Gogoi, Const. for his good work on	Rs. 100/- + C.C.

Case No. 22(A)/96 on 12/7/96 Total Rs. 300/-
(Rupees five hundred) only

It is certified that the amount prescribed in H.O. Letter No. 22/4/81-AD.III dated 1/8/90 has not been exceeded in this case.

Supt. of Police, CBI/ACB,
Guwahati.

Memo No. R/24/6969-70

Dated:- 8/11/96

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Supt. of Police, CBI/ACB,
Guwahati.

Admission
Admission

GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT. OF POLICE
A.C.B. GUWAHATI

COMMENDATION CERTIFICATE

Shri. S.P. Singh Yadav, Insp. CBI/ACB/Guwahati
is Highly Commended for his Good Work done in Case
No. PE. 22(A) / 96-SIX on 12/7/96.

[Signature]
7/11/96
Supdt. of Police, CBI/ACB
Guwahati.

Attested
[Signature]
Advocate.

OFFICE ORDER NO. 211

Dated: 7/11/96

Sup. Sign. is hereby accorded for the grant of cash reward to the following officials for their good work done in case No. P.E.23(A)/96-SM on 12/7/96 as detailed below.

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh. K. Barman, Insp.	Rs. 200/- + C.C.
2.	Sh. S. P. Singh Yadav, Insp.	Rs. 200/- + C.C.
3.	Sh. S. L. Gogoi, Const.	Rs. 100/- + C.C.
Total:-		500/-

(Rupees five hundred only)

It is certified that the amount prescribed in H.O. letter No. 26/4/81-AD.III dated 1/8/90 has not been exceeded in the case.

Supt. of Police, CBI/ACB,
Guwahati.

Order No. E/24/6981-82

Dated: 8/11/96

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

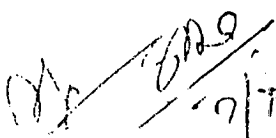
Supt. of Police, CBI/ACB,
Guwahati.

Attested
[Signature]
Advocate.

GOVERNMENT OF INDIA:
CENTRAL BUREAU OF INVESTIGATION:
OFFICE OF THE SUPDT OF POLICE
A.C.B. GUWAHATI.

COMMENDATION CERTIFICATE

Shri S.P. Singh Yadav Insp. CBI/ACB/Guwahaty
is highly commended for his Good Work done in Case
NO. PR. 23(A)/96-SK. on 12/7/96.


7/7/96
Supdt. of Police, CBI/ACB
Guwahati.

Attested

Associate.

OFFICE ORDER NO. 213

Dated: 7/11/ '96

Permission is hereby granted for the grant of each reward to the following officers for their good work done in case No. W.29(a)/26-1995 as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Mr. A. E. Gupta, Insp.	Rs. 200/- + C.C.
2.	Mr. B. Singh Yadav, Insp.	Rs. 200/- + C.C.
3.	Mr. A. Dutta, D/Const.	Rs. 100/- + C.C.
4.	Mr. H. War, Const.	Rs. 100/- + C.C.
		Total: Rs. 700/-

(Rupees Seven hundred) only

It is certified that the amount prescribed in H.O. letter No. 29/4/81-HQ, XXI dated 1/9/90 has not been exceeded in the case.

Supt. of Police, CH/ACB,
Gummati.

Case No. W/24/6974-77

Dated: 8/9 '96

Copy 401-

1. Accounts Section in duplicate for necessary action.
2. Person Mr. B. Singh with the C.C. for necessary action.
3. Mr. Clerk alongwith the C.C. for n/e in the B.B.

Supt. of Police, CH/ACB,
Gummati.

Accepted
Advocate.

GOVERNMENT OF INDIA,
OFFICE OF THE SUPDT. OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
A.C.B. GUMAHATI.

COMMENDATION CERTIFICATE.

SRI. S.P. Singh Yadav INSPR. CBI/ACB/
GUMAHATI IS HIGHLY COMMENDED FOR HIS GOOD WORK
DONE IN CASE NO. RC. 29(A)/96-DHO.

S. 7/10/96
SUPDT. OF POLICE, CBI, ACB,
GUMAHATI.

Attested
Adm
Certificate.

OFFICE ORDER NO. 164

Dated:- 22/8/96

Sanction is hereby accorded for the grant of Cash Reward to the following officers in which they have taken active part regarding shifting of the Branch Office from New Guwahati to Sundarpur as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. A. B. Gupta, Inspcr.	Rs. 500/-
2.	Sh. S. P. Singh, Yadav, Inspcr.	Rs. 500/-
Total:-		Rs. 1000/-

(Rupees one thousand) only

It is certified that the amount prescribed in H.O. No. 29/4/81-AD-XI dated 1/8/90 has not been exceeded in this case.

Supt. of Police, CBI/ACB,
Guwahati.

Memo No. E/24/ 8555-56

Dated:- 27/8/96

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person concerned.

Supt. of Police, CBI/ACB,
Guwahati.

###

Amended
W.S.
22/8/96

OFFICE ORDER NO. 138

Dated:- 30/7/96

Sanction is hereby accorded for the grant of Cash Reward and C.C. to the following officer for their good work done in Case No. MC.22(A)/96 U/s 120B, 420, 468, 471. IPC & Sec. 13(2) r/w 13(1) (2) of P.C.Act, 1988 in which Sl. 1 conducted search with the assistance of Sl. No. 2 to 4 successfully in the residential premises of the accused and received incriminating documents/as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded
1.	Sh. A.B. Gupta, Insp.	Rs. 250/- + C.C.
2.	Sh. D.P. Singh, Insp.	Rs. 250/- + C.C.
3.	Sh. J.N. Gogoi, H.C.	Rs. 150/- + C.C.
4.	Sh. Bhag Singh, Constable	Rs. 100/- + C.C. Rs. 750/- + C.C.

(Rupees seven hundred & fifty) only

It is certified that the amount prescribed in H.O. Order No. 29/4/SI-AD, III dated 1.8.90 has not been exceeded in the case.

Supdt. of Police, CBI/ACB
Guwahati.

Dated:- 30-7-96.

Memo No. E/24/1740-73

Copy to:-

1. A/C Section in duplicate for necessary action.
2. Person Concerned
3. S.B. Clerk alongwith commendation Certificate for necessary entry.

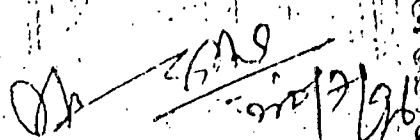
Supdt. of Police, CBI/ACB
Guwahati.

Attested
Advocate.

CENTRAL BUREAU OF INVESTIGATION,
OFFICE OF THE SUPDT. OF POLICE,
A.C.B., Guwahati:-20.

COMMENDATION CERTIFICATE

Sh. S. P. Singh, Insp. CBI/ACB, Guwahati is highly
commended for his good work in Case No. RC. 22(A)/96.


Supdt. of Police, CBI(ACB),
Guwahati.

Attested

Advocate.

OFFICE ORDER NO. 8

Dated: - 12/1/76

DIG : CHI (H.R) GUWAHATI vide his order dtd. 8.1.96 in
please to sanction a Cash Reward to the following officer in recogni-
tion to their good work done and sincere effort and perseverance to
duties branch could achieved the Annual target well in advance as
detailed below:-

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh. S. P. Singh Yadav, Inspector	Rs. 500.00 /
2.	Sh. B. Roy, S.I.	Rs. 500.00
3.	Sh. A. M. S. I.	Rs. 500.00
4.	Sh. B. Roy, S.I.	Rs. 500.00
Total :-		Rs. 2000.00

(Rupees two thousand) only

It is certified that the amount prescribed in H.O.
letter 8/1/90 AD-11 dt. 21.9.90 has not been exceeded in the case.

Superintendent of Police,
CBI/ACB/Guwahati:-

Memo No. E/24/11/ 18-77 /

Dated: - 12/1/76

Copy to the :-

1. A/C Section in duplicate for necessary action.
2. Persons Concerned.

Superintendent of Police,
CB/ACU/Guwahati

Attested
Advocate.

O.P. No. 10. 154 /

Dt/ 27/9. '95.

Sanction is hereby accorded for the grant of Cash Reward to the following Official for their Good Work done in connection with the case No. RC. 22(A)/95 U/S 7.62 P.C. Act. as detailed below:-

Sl. No.	Name & Designation	Amount Rewarded.
1.	Sh. A. B. Gupta, Inspr.	Rs. 250/-
2.	Sh. S. P. Singh, Inspr	Rs. 250/-
3.	Sh. A. Mao, S. I.	Rs. 150/-
4.	Sh. D. Mummoo, S. I.	Rs. 150/-
5.	Sh. J. N. Goel, HC	Rs. 75/-
6.	Sh. D. B. Chetri, Constable	Rs. 50/-
7.	Sh. M. B. B. Chetri, Constable	Rs. 50/-
Total:-		Rs. 975/-

It is certified that that the amount prescribed in Head Office letter No. 29/4/81-AD. III dt. 1.8.90 has been sanctioned.

Superintendent of Police,
CBI (ACB) GAUHATI:-

Memo No. E/24/4069-701

Dt/ 27-9- '95.

Copy to :-

1. Account Section in duplicate for necessary action.
2. person concerned.

Superintendent of Police,
CBI (ACB) GAUHATI:-

Attended
W. Sen
Associate.

Office Order No. 23

Date... 24/1/95

DIC, CBI, SRO, Shillong, vide his order dated 30/12/94 is pleased to sanction Cash reward to the following staff of CBI, ACB, Shillong Branch as he has been entrusted five Cases viz. 27/93, 12/93, 3/94, 32/94, and 7/94. Out of which 2 Cases finalized and both were sent up for trial and remaining Cases are under investigation. He also attended misc. duties such as verification of Secret informations and conducting Raids etc. as detailed below:-

Sl.No.	Name & Designation	Amount rewarded
1.	Mr. S.P. Singh Yadav, Inspr.	Rs. 750/-

Total Rs. 750/-

(Rupees Seven hundred fifty) only.

Supt. of Police, CBI, ACB,
Shillong.

Memo No. E/24/466/67.1

Date... 24/1/95

Copy to those:-

1. A/C Section in duplicate for r/a.
2. Person concerned.

Supt. of Police, CBI, ACB,
Shillong.

Advocate.

OFFICE ORDER NO: 64

DTD: 23/02/94

DIG/CSI/N.E. Region, Shillong has been pleased to sanction the following Ad Cash Reward to the under mentioned staff for their good work done during the period 1993 and detailed below :-

SL. NO.	NAME & DESIGNATION	AMOUNT SANCTIONED.
1.	Shri A.K. Chakraborty, Inspx.	
2.	Shri S. K. Das, Inspx.	Rs. 1,000/-
2.	Shri S.P. Singh Yadav, Inspx.	Rs. 500/-
3.	Shri P. Saikia, Inspx.	Rs. 500/-
4.	Shri M. Sarania, Inspx.	Rs. 500/-
5.	Sh. Sanjay Sen, Inspx.	Rs. 500/-
TOTAL		Rs. 3,000/-

(RUPEES THREE THOUSAND) ONLY.

It is certified that the amount prescribed in the letter No: 29/4/01-AD, III dtd. 7/8/90 has not been exceeded in the case.

Superintendent of Police,
CRI/ACD/Shillong.

No: B/24/ 1117 - 43

Dtd. 23/2/94.

Copy to :-

- 1) A/C Section in duplicate for necessary action.
- 2) Person concerned.

Sd/-
Supt. of Police,
CRI/ACD/Shillong.

Advocate.

ANNEXURE-A/2

To

THE SUPDT. OF POLICE,
CBI/ACB/GUWAHATI

Sir,

I had joined the CBI/ACB/Shillong branch on deputation from U.P. Police for an initial period of three years in September 1993. As the said period is already over in 1996 and I was not relieved despite my earlier representation in this regard, it is therefore, requested that I may kindly be relieved at the earliest.

May be forwarded to DIG

Yours faithfully,

Sd/-

10.9.98

Sd/-

8.9.98

Suresh Pal Singh Yadav
Inspr/CBI/ACB/GHY

Attested:
WOM
Advocate.

- 62 -

26

ANNEXURE-A/3

No. /E/44/97
GOVERNMENT OF INDIA
O/O THE SUPDT. OF POLICE,
CENTRAL BUREAU OF INVESTIGATION
ANTI CORRUPTION BRANCH
R.G. BARUAH ROAD, SUNDARPUR,
GUWAHATI-781005

Dated 11/9/98

To

The Dy. Inspr. Genl. of Police,
CBI/N.E. Region,
Guwahati

Sub : Repatriation of Shri S.P. Singh Yadav,
Inspector, CBI/ACB/Guwahati.

Sir,

Kindly find enclosed copy of representation submitted by Shri S.P. Singh Yadav, Inspr, CBI, ACB, Guwahati for repatriation to his parent deptt.

Shri Yadav, Inspr. joined this branch from U.P. Police on deputation w.e.f. 24.9.93 for a period of 3 years. He is now continuing on extension. The CBI H.O. has moved the DIG (Personnel), U.P. Police (HQ), Allahabad for extension of his deputation upto 23.9.99 vide H.O. letter No. A-20014/1609/93-AD.I dtd. 31.12.97.

However, as Sri S.P. Singh Yadav, Inspr. has submitted for his repatriation to his parent deptt. I recommend that he may be repatriated.

Enclo. As stated

Yours faithfully,

Sd/- Illegible
11.9.98
Superintendent of Police,
CBI:ACB:Guwahati.

Attested
[Signature]
Attocate.

ANNEXURE-A/4

No. 6501/E/44/97.

GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
O/O THE DY. INSPR. GENL. OF POLICE
N.E. REGION, CHENIKUTHI HILL SIDE
GUWAHATI-781003

Dtd. 14.9.98

To

The Jt. Director (EZ),
CBI, Calcutta

Sub : REPATRIATION OF SHRI S.P. SINGH YADAV,
INSPECTOR, CBI, GUWAHATI BRANCH

Sir,

Kindly find enclosed copy of representation submitted by Shri S.P. Singh Yadav, Inspector, CBI, Guwahati branch for repatriation to his parent department.

Shri Yadav who was a deputation from U.P. Police completed his deputation period and further it is found that his conduct is unbecoming of a CBI officer.

It is, therefore, recommended that Shri S.P. Singh Yadav may immediately be repatriated to his parent department.

Enclo. As stated
above

Yours faithfully,

Sd/-

(N.R. RAY)
DY. INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

Atteste:

Advocate.

- 64 -

No. 511 /CON/1/94(P1)/98-GH

Confidential

Annexure - A/5₈₀

**OFFICE OF THE SUPDT. OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ANTI CORRUPTION BRANCH
GUWAHATI**

Dated - Monday, September ²⁹27, 1999

MEMORANDUM

Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati may note that following observation have been made in his ACR for the year/period 1998.

1. *He has very good presentation of cases and expression.*
2. *Very good knowledge of Law and Procedure.*
3. *Very good in Zeal and Industry.*
4. *Intelligent and can grasp a point correctly with reasonable speed.*
5. *Very good Initiative.*
6. *Very good Investigative Ability.*
7. *Very good ability to collect Intelligence/Information.*
8. *Punctual in attendance.*
9. *Very good Traits/Special Abilities.*

Following remarks also appeared in his ACR.

1. *He has a tendency to finalise cases without collecting clinching evidence.*
2. *He is an indisciplined officer and exhibits insubordination occasionally.*

In case Shri Suresh Pal Singh Yadav, Inspector wishes to make representation he can do so within one month of the receipt of this communication.

**Shri Suresh Pal Singh Yadav, Inspector
CBI, Anti Corruption Branch
Guwahati**

(OM PRAKASH)
Superintendent of Police
CBI :: ACB :: Guwahati

*This is entered by
Review - ann
Poc 4.3 P10 (30 line)*

Subepin & Gann

See WS P 8

Acc 12, Ant 12, P 13

81

To

The Director, CBI
CGO Complex
Lodi Road
New Delhi

29/1/99

Through :

The Supdt. of Police,
CBI/ACB/SPE
Guwahati,

Ref : Your Memo No. 511/CDN/1/94(Pt)/98-GHY dated
29.9.1999

Sir,

Kindly refer as above whereby I was communicated to make representation, if any, against the observations made in my ACR for the year /period 1998 as reproduced hereunder Ad-verbatim :

1. He has very good presentation of cases and expression.
2. Very good knowledge of law and procedure
3. Very good in zeal and industry
4. Intelligent and can grasp a point correctly with reasonable speed
5. Very good initiative
6. Very good investigative ability
7. Very good ability to collect intelligence/information
8. Punctual in attendance
9. Very good traits/special abilities.

Following remarks also appeared in his ACR

1. He has a tendency to finalize cases without collecting clinching evidence.
2. He is an indisciplined officer and exhibits insubordinate occasionally.

General Submission :

Advocate

1. I have reasons to believe that adverse remarks made in my ACR were not by the Reporting Authority but by the Reviewing Authority. There were certain incidents in the past due to which I have reasons to believe that the Reviewing Authority (the then DIG, NER - Shri NR Roy) bore a grudge against me and despite the grading of "very good" given by the Reporting Authority, he as a Reviewing Authority gave me the grading "good" while making adverse remarks against me which form subject matter of the present representation. In the present representation I will make my submission proceeding on a premise that the adverse remarks were made by the Reviewing Authority and not by the Reporting Authority.

2. It is stated that the then Reviewing Authority - Shri N.R. Roy met me for the first time on 8.9.98 when he visited the office of the SP, CBI. That day there was a meeting in the office to review the investigation of cases. I was one among other investigating officers and PPs present on that day. In the meeting he had an altercation with me and questioned me why have I given closure report in RC-27(A)/96-SHG. When I was explaining him the case, he was putting hypothetical questions to me which have no logical answers. He humiliated me before all the officers which he was not supposed to do. During post lunch session I appraised him that closure recommendation of the RC-27(A)/96-SHG was given unanimously by the Branch SP, Sr. PP and DLA since there was no evidence and also that there were inherent defects in FIR itself as described in paragraphs hereinafter but Sri NR Roy was adamant and abused me in high pitch. I felt insulted and humiliated and submitted a letter on the spot requesting me to repartiate to my parent department. Since I could not relish the humiliation and abusive nature of treatment by Sri NR Roy on 8.9.98 in crime meeting, I was forced to submit representation to the SP/CBI/GHY seeking repartiation to my parent department. Sri BN Mishra, SP/CBI under pressure from NR Roy, DIG/CBI recommended for my repartiation. It is significant to note that Sri BN Mishra, SP/CBI/GHY neither passed any adverse remark nor referred the incident occurred in the crime meeting in his recommendation dated 11.9.98.

Shri NR Roy, DIG/CBI on the very same day i.e. 11.9.98 of receiving the abovesaid letter of SP/CBI dated 11.9.98 while recommending repartiation to JD(EZ) Calcutta made an adverse comment that "Sri Yadav who was a deputationist from U.P. Police completed his deputation period and further it is found that his conduct is unbecoming of a CBI Officer" which is quite uncalled for and appears to have been made with a pre-planned and motivated intention to secure my

Adm

W.D.

Adm

- 3 -

repartiation from H.O. by giving a false and misleading picture to superior officer. Shri NR Roy in the aforesaid letter to H.O. with definite malice and motive further misled the H.O. that I completed my deputation period though my deputation period was extended upto 23.9.99 by H.O. as also referred to by the SP/CBI in his aforesaid letter.

Copy of my letter to SP/CBI annexed as Annexure-A.

Copy of SP/CBI/GHY. letter to DIG/CBI dated 11.9.98 annexed as Annexure-B

Copy of DIG/CBI Shri NR Roy's letter dated 11.9.98 to JD(EZ), Calcutta annexed as Annexure-C.

3. Uncalled for observation which Shri NR Roy made on my application for repartiation has been assailed by me before the Guwahati Bench of CAT in DA 338/99. In the said DA. I have made a prayer for expunction of those remarks. The said DA has been admitted and the Hon'ble Tribunal has also passed an interim order. It is stated that conduct of Shri NR Roy in making an unwarranted and uncalled for observation in my application for repartiation is an indication of his malice towards me which clouded his mind and severely prejudiced him. Shri Roy acting as reviewing Authority therefore failed to be objective and dispassionate in his approach towards me and as an act of vendetta, he altered the grading of the Reporting Authority and made adverse entries without any basis.

4. It is stated that Reviewing Authority can only be justified in making adverse observations only when it has sufficient occasions and opportunities to assess the performance of the concerned Government officer. It is stated that Shri NR Roy did not have sufficient opportunity to assess my performance. Sri NR Roy, the DIG/CBI/Calcutta took over the additional charge of DIG/CBI/NER/Guwahati on 8th March 1998 and since then during his brief period of incumbency upto March 1999, he visited 3/4 occasions to Guwahati as would be seen from his tour diary:

8th March 1998	-	Taken over additional charge of DIG/CBI/NER/Guwahati.
9th March 1998	-	Attended office of DIG/CBI/NER/Guwahati.
10th March 1998	-	- do -
11th March 1998	-	Left for Calcutta by IC 330

Amended
WOW
4/10/99

- 27th March 1998 - Arrived at Guwahati
- 28th March 1998 - Attended Office of DIG/CBI/NER/Guwahati
- 29th March 1998 - Departure to Calcutta
- 7th Sept. 1998 - Arrival at Guwahati.
- 8th Sept. 1998 - Attended Crime Meeting at office of the SP/CBI/Guwahati.
- 9th Sept. 1998 - Departure to Itanagar.
- 11th Sept. 1998 - Arrival at Guwahati.
- 12th Sept. 1998 - Departure to Calcutta
- 3rd Dec. 1998 - Came to Guwahati in connection with the suicide of S.I. Sandeep Goyal
- 5th Dec. 1998 - Departure to Calcutta.

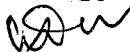
It is thus evident that Sri NR Roy the Reviewing Officer has no occasion to assess my performance, character and discipline by interacting me during his incumbency as DIG holding additional charge of his post of DIG/CBI/NER/GHY for a brief period.

5. I joined CBI/ACB/Shillong Branch on deputation from Uttar Pradesh Police in September 1993 and during the period of last six years of service as Inspector, CBI, I was granted 16 rewards and conferred 8 commendation certificates by my superior officer for good work/investigation. During said period none of my superiors, orally or in writing pointed out anything like the said adverse remarks of reviewing officer Shri NR Roy.

Copies of rewards and commendation certificates (CC) annexed as Annexure-D Colly (D1 to D25)

6. It is submitted that the adverse remarks made against me are perverse being based on no evidence at all. I was never warned in the past. I was never advised in the past. The shortcomings that have been indicated in the form of adverse remarks were never pointed out to me at any point of time in the past. The sweeping observation made by Shri NR Roy on my application for repatriation - to the effect that my "conduct is unbecoming of a CBI officer" by no stretch of imagination can be treated to be an advice in regard to my shortcomings. The said remark was absolutely

Attested



Advocate

vague and sweeping and the present adverse remarks are no better either. It is submitted that if the Reviewing Authority disagrees with the assessment of the Reporting Authority, it must support its assessment with material particulars. The adverse remarks made by the Reviewing Authority are not sustainable in law for the simple reason that they are not supported by any material particular which can substantiate those adverse remarks.

7. The instructions that are contained in the form for confidential report clearly indicates that the Reviewing Authority should undertake the duty of filing out the form with the high sense of responsibility. Instructions state that the confidential report is not meant to be a fault finding process but a developmental one and the Reviewing Officer must make the report with due care and attention. It is submitted that the reviewing Authority while deviation from the assessment made by the reporting Authority failed to exercise due care and caution and made the adverse remarks without any supporting material.

Submissions in regard to adverse remark No. 1 "He has a tendency to finalise cases without collecting clinching evidence"

8. During last six years of my service in CBI, I investigated and filed charge sheet in seven cases i.e. RC-27(A)/93-SHG, RC-15(A)/93-SHG, RC-16(A)/93-SHG, RC5(A)/94-SHG, RC-32(A)/94-SHG, RC-3(A)/96-SHG in the court of Special Judge, Assam, Guwahati. In all the cases charges are framed against the suspect/accused persons and in no case, the Hon'ble Court has passed any discharge or acquittal orders so far to buttress the malicious and perverse adverse remarks made by Reviewing Officer Shri NR Roy, DIG in my ACR for the year/period 1998.

9. It is a well settled fact in CBI in practice and also as has been clearly delineated in CBI crime manual that it is not the I.O. alone who could finalise the case of his own, but it is a collective responsibility of all the CBI officers i.e. SP, PP, DLA, DIG, JD, ALA, LA & Director, CBI etc. depending upon the competency level of the case from the SIR/complaint level, its verification, registration of FIR, investigation, finalisation of the case, for filing charge sheet for law court prosecution/departmental action/closure report.

In this connection, it is worth while to pursue following para of CBI crime Manual:

Para 15/185 Page 56: As soon as the investigation is

Attested

[Signature]

Advocate.

Complete, the IO will prepare the Final Report (Part-I) in the prescribed form and submit it to the Branch SP who will pass orders in respect of cases involving non-gazetted public servants and non-commissioner officers and seek orders and instructions from the DIG or Head Office as the case may be, in cases of other categories.

Para 25/82, Page 33 : Sr. PP/PP & APP will give final comments on final reports in those cases which are marked to them in the prescribed format Final Report (part-II) Sr. PP/PP/APP while giving comments in FR II also give certificate that "I have carefully gone through the FR-I, I have examined case diaries, Statement of witnesses, material documents, plan of action, details of exhibits etc. thoroughly before giving my comments and opinion."

para 23/80, Page 32 & 33 : (ii) Sr. P.P. will comment on FR-I & FR-II, scrutinize the charge sheets to be filed in Court and prepare draft sanction order.

(ix) In cases which are to be sent up for RDA, Sr. PP will be responsible for the preparation of draft charges, statement or allegations and list of witnesses, list of relied upon documents etc.

Para 22/79, Page 32 : The duties of DLA will include among others :

(i) Giving comments on Final Reports in all case of central units and comments on Final Reports of CBI Branches in cases against group A & B officers (vi) Checking of Sp's report, draft sanction order for prosecution, draft charges, statement of allegations in cases in which comments are given by him on Final Reports according to sub-para I and II above (vii) Scrutiny of results of court trials and RDA's and scrutiny of court diaries in respect of cases of the Branch, (viii) scrutiny of exoneration cases and those of inadequate punishment, mentioned in sub-paras (i) and (ii) above.

Para 11/68, Page 30 : Powers, Duties and Responsibilities of Branch SP

The SP is required to supervise the work of all sections of his office and to control and guide enquiries and investigations.

Para 24/184, Page 55: Progress Report - The progress made in every case registered after obtaining the orders of the H.O. should be intimated to the Regional Office/DIG office through progress report which should be serially numbered. THE PROGRESS REPORTS ARE REQUIRED

Attested

WOW
Advocate

TO BE PREPARED PERSONALLY BY THE SP WITH REFERENCE TO THE INVESTIGATION DONE DURING THE PERIOD UNDER REVIEW.

The SP must ensure that the PR is a fair index of the Sp's own appreciation of the investigation conducted under his supervision by the I.O.

Para 17/206, Page 60 : MONTHLY PROGRESS REPORT; Regional Branches will submit similar MPR's in regard to cases which has been classified as important. regional Branch cases folios will be prepared by the Link DIG and submitted to DCBI through the JD and ADCBI concerned.

Para 18/207 and 19/208, Page 61 : SP'S REPORT AND ENCLOSURE : SP's report is a very important documents and should be prepared PERSONALLY by the Sp. The concerned departments (Government undertakings assess the CBI investigation of their cases solely on the basis of the SP's report.

The internal differences of opinion among CBI officers should not find mention in the SP's report which should advance all argument and to justify the final orders passed by the competent authority in the CBI.

The following shall form the enclosures of the Sp's report :

(i) Draft sanction order which should be prepared carefully by the Sr. PP or PP with the assistance of the I.O. The office copy of the draft sanction order should be signed by the Law Officer who prepared it and the IO.

(ii) Draft article of charges and statement of imputations which should be prepared and signed by both the officers mentioned above.

(iii) Lists of witnesses and documents should be prepared by the IO and checked by the Sr. P.P.

(iv) Statement of the accused in narrative form followed by specific questions and answers.

(vi) Comments of DLA with the copy of SP's report should be sent to the CVC. If DIG and or other senior officers different from the comments of the DLA, then copies of notes/comments/Para 8 orders of such officers which led to the passing of the final orders should also be sent to the CVC.

Para 64, Page 28:

Attested

W.D.M.

Advocate.

FUNCTIONS OF DIG CONTROLLING CBI BRANCHES:

The DIG will function as senior operational and executive authority and be responsible generally for the collection of information and supervision of investigation of important cases.

(v) supervision of enquiries and investigation into cases involving Group A & B officers.

(vi) Scrutiny and passing of final orders in all cases of the type in (v) above. The DIG's scrutiny report in cases in which JD/ADCBI, DCBI are competent to pass final orders. (As per circular No. 21/20/87-PD dated 12.5.88) should be forwarded to the Head Office.

(ix) Progress of cases in courts and departmental proceedings.

Similarly the duties and responsibilities of JD/ADCBI/DCBI, ALA/LA etc. regarding supervision, scrutiny of investigation reports and passing of final orders in this regards are prescribed in the CBI crime manuals.

It is obvious that the said adverse remarks that "He is in the habit of filing charge sheet without collecting clinching evidence" is absolutely malicious and was made solely for the purpose of settling personal score with me. I have shown above that filing of cases is not the job of one individual alone and the whole chain of command has to act in tandem. Hence the adverse remarks made against me is without any basis.

10. It is highly unwarranted and sweeping remark that "He is in habit of filing charge sheet without collecting clinching evidence", however, the fact is that whatever and whichever case is endorsed to me by Branch SP, I had conducted thorough and exhaustive investigation inasmuch as that many new cases were registered while conducting the investigation of parent cases such as :

(i) RC-2(A)/96-SHG & RC-1(A)/96 SHG while investigating RC-16(A)/93-SHG.

(ii) RC-3(A)/96-SHG & RC-5(A)/96-SHG while investigating RC-5(A)/94-SHG

(iii) Submitted verified information report for registration of 3 separate cases while investigating RC-5(A)/98-SHG at present under investigation.

(iv) The High Court referred and monitored case No. RC-34(A)/96-SHG was registered on the local Audit Report

Attested

Advocate.

tested
W. A. W.
date.

In the light of the aforesaid fact, it is evident that the adverse remarks of Reviewing Officer Shri NR Roy appears to have been made devoid of objective and unprejudicial application of mind while reviewing the performance of my work and conduct but with malice, prejudice and revengeful for extraneous reasons only.

11. So far as the case being investigated by me during period under review are concerned no officer in CBI much less the officer who has reviewed and passed adverse comments in my ACR for 1998 that "I finalise case without collecting clinching evidence" have ever commented adversely either orally or in writing in crime file. Further no explanation was ever called from my superiors as regards to investigation conducted by me during my incumbency in CBI instead I was given reward and conferred commendation certificate for meticulous, detailed and thorough investigation.

During the relevant period I investigated following 4 cases detailed as hereunder :

(i) RC-16(A)/93-SHG : This case was earlier investigated by 3 other IOs who could not secure enough evidence for launching law court prosecution. Even the SP/Sr. PP/DLA etc. agreed for recommending only regular departmental action against the Bank officials. Furthermore even some vital documents of this case were lost from the CBI custody further jeopardizing the quality of the case for launching law court prosecution. However, the case was handed over to me by the then learned DIE/CBI/NER Sri N. Mullick for investigation. After conducting further investigation, I collected clinching evidence and filed charge sheet for law court prosecution in this case.

All my superior officers commended me for my outstanding investigation and I was suitably rewarded and also conferred CC by my superior officer. (Annexure-D6 & D7)

In this connection, it will be worthwhile to peruse the notings/comments of my superior officers in this case to grasp the quality of the case when it was handed over to me and complements of my superior officer for investigation conducted by me which enabled branch to file charge sheet.

(i) NOTING OF THE THEN SP/CBI SHRI N. SAHAY DT. 17.12.94 SL NO. 78 (ANNEXURE 'B' HIGHLIGHTING THE DIFFICULTIES IN LAUNCHING LAW COURT PROSECUTION ON THE REPORT OF EARLIER IO.)

"It has been observed during discussion that even

Attested
[Signature]
As above.

if the points as suggested by the earlier DIG, be attended to, it would not be possible to launch prosecution in this case because by attending those points no such evidence can be collected which can be termed as to be substitute of the lost documents."

Sd/-
N. SAHAY
SP/CBI/GHY

(ii) NOTING OF THE THEN HON'BLE DIG/CB SRI N. MULLICK DATED 20.4.95 AT SL. NO. 77, 78, 79 (ANNEXURE-'G')

The case and endorsement of the case for investigation to me

(iii) COMMENTS OF SR. PP SRI J.S. TERANG DATED 19.10.96 (ANNEXURE-'H')

"Before I conclude my comments I express myself in saving that the IO of this case Sri S.P. Singh Yadav has done tremendous labour in completion of the investigation by traveling to remote and distant places in the interior villages all on foot and also he has prepared calendar of evidences elaborately and clearly Sri. S.P. Singh Yadav, Inspector the IO of this case deserves commendation for the completion of the investigation in this case. I feel Sri Yadav may be fittingly rewarded by the authorities for this case."

Sd/-
(Joy Sing Terang)
(DLA/CBI/ACB/CALCUTTA)
Dt. 19.10.96

(iv) SP'S COMMENTS DT. 23.10.96 (ANNEXURE-I)

"From the facts as discussed above the present IO has really taken a lot of pain and made out a very good case which was almost going for departmental action but for the intervention of DIG, I must accept the commendable job done by the present IO. Now the case has been proved to be a very good case and I incline to agree with the unanimous recommendation of IO and Sr. P.P. and recommend prosecution of the accused person U/S 120B, 420, 409, 471, 468, 464 and 109 of IPC and Sec. 13(2) r/w 13(1)(d) of P C Act, 1988."

Sd/-
M.K. Jha
Supdt. of Police
CBI/ACB/GHY

(v) DIG/CBI COMMENTS DATED 30.4.97 (ANNEXURE-J)

Attested
[Signature]
Advocate

"Earlier Sri R. Biswas, Dy. SP submitted SFRI in December 1994 recommending RDA against the accused person. Practically he did not undertake any field investigation. Though the Sr. PP and DLA agreed with the IO. I felt that investigation was not properly carried out and something definitely could be done in this case."

"The case was endorsed to Sri S.P. Singh Yadav and he was also briefed about what we had been expecting from him. Sri Yadav took the challenge and during his investigation he could fix up the person who had signed/put his thumb impression in respect of fictitious person."

Sd/-
N. Mullick
DIG/CBI/NER/GHY

COMMENTS OF THE TECHNICAL OFFICER (BANKING) CBI/EAST ZONE/CALCUTTA AS ALSO AGREED TO BY JD (EZ) CALCUTTA SRI UPEN BISWAS (ANNEXURE-K)

Page 6, Para 62:

"IO Painstakingly tried to locate the real persons whose photographs were affixed on the loan documents".

Page 8, para 9 :

_____ The malafides of the accused are clearly proved. They were instrumental in misappropriating the amount of subsidy meant for upliftment of weaker section. We may agree with the recommendation of DIG."

Page 8 Noting of JD (E2):

"JD(E2) agrees to recommendation of TD Banking."

Sd/-
Illegible

RC-34(A)/96-SHG : This is a High Court referred and monitored case in which involved are 33 suspect/accused persons spread over to Gauhati High Court, Kamrup Treasury, SBI, AG (Accountant), Assam and A.G. (Audit), Assam, having wide ramifications in North East Region, involving systematic defrauding of treasury and Government of India funds to the tune of Rs. 39 lakhs (approx.) during 1985 to 1993.

In this case during period under review for the first time in the entire history of the CBI/Shillong Branch, order for attachment of properties of the accused persons worth Rs. 39 lakhs (approx.) were

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[Signature]

Advocate.

secured by me invoking the provisions of Criminal Law Amendment Ordinance, 1944 vide Misc. Case 206/98 in the court of District & Sessions Judge, Kamrup, Guwahati and thereby safeguarded the funds of the Government.

Having satisfied with the investigation conducted by me the Hon'ble High Court, Guwahati even intervened on the malicious recommendation of the then DIG/CBI/NER Sri NR Roy leading to my repatriation order and directed the then SP/CBI Sri BN Mishra not to repatriate me until finalisation of the case. In this case also for good investigation I was rewarded and conferred commendation certificate (annexure-D2 & D3).

This case was earlier investigated by Vigilance and Anti-Corruption Branch of Assam Police from 1993 to 1996 and filed two charge sheets also. However, the Hon'ble Gauhati High Court was not satisfied with the investigation and they vide Civil Rule No. 3104/96 the State of Assam -vs- Wahed Ali suo moto directed CBI to investigate it and withdraw the charge sheets filed by the State Police.

The then DIG/CBI/NER/GHY Sri N. Mullick vide his observation dated 15.10.96 directed the then SP/CBI/GHY Shri M.K. Jha to endorse the case to "Most effective officer of the Branch for investigation" and the then SP endorsed the case for investigation to me (Annexure-L)

The aforesaid orders/observations of my superior officer speak volumes of my investigative ability and integrity and the confidence they had in me in this regard.

In this case, I have prepared FR-I running into about 300 pages which contains elaborate discussion of facts as well as evidence on each aspect/transaction in order to inspire the confidence of Hon'ble High Court. The then DIG/CBI/NER Sri Vijay Kumar, IPS and Sri A.L. Tiwari, ALA, New Delhi had personal discussion with me at their respective H.O. and commended my investigation.

Sri J.S. Terang, DLA/CBI/NER vide his comments dated 15.02.99 also appreciated my investigation in which I unearthed the lapses in the Treasury System and the measures I have suggested for plugging the loopholes in the Treasury System and Accounting System of A.C. which is the root cause of much publicized LOC scam and Fodder Scam in Assam and Bihar respectively (Annexure-E)

It is pertinent to note that an exhaustive

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[Signature]
Advocate.

questionnaire comprising of more than 5000 questions on large number of questioned documents were prepared by me and sent to the GE OD who without any further clarification given opinion which is clinching evidence for securing conviction of accused person in the case.

RC-5(A)/98-SHG: In this case an officer of the rank of CGM Telecom (T/F) is accused person having wide coverage and publicity in print as well as Electronic Media for months together in North East. This case was also endorsed to me by the then SP/CBI Sri M.K. Jha on the direction of the then DIG/CBI/NER/GHY Sri N. Mullick for effective investigation.

In this case also I was rewarded and conferred commendation certificate by the then SP/CBI/GHY Sri B.N. Mishra for good investigation (Annexure-D4 & D5)

This case was first registered with Assam Police following seizure of Rs. 29 lakhs from Sri. K. Ganesh the then CGM. Telecom (T/F) N.E. Region any while he was proceeding to his home town Madras carrying said amount. The case was subsequently transferred to CBI and the then SP endorsed the case for effective investigation to me in view of the wide ramifications in entire North East.

Meanwhile a collusive petition was filed in the court of Special Judge, Assam Guwahati by one Nimma Tsering Khrime, a tribal and an Ex-MLA of Arunachal Pradesh claiming the ownership of the said amount stating that the seized amount was handed over by him to Sri K. Ganesh for carrying to Madras for purchasing Diamond Jewelry on his behalf. The said petition got filed with dishonest intention by Sri K. Ganesh the accused from Sri Khrime to get him discharges from prosecution under the cover of orders to be passed by the Hon'ble Court in this petition.

However, with my meticulous investigation and effective assistance and instruction to Public Prosecutor, CBI the petition of Shri Khrime was dismissed and disallowed by the Hon'ble Court. Against the orders of the Special Judge they have preferred a criminal review petition before the Hon'ble High Court, Guwahati where also I perused the said petition by filing an exhaustive affidavit through the SP/CBI and ultimately no interim order was passed by the Hon'ble High Court. Investigation in this case is coming to a logical end due to my untiring efforts. Even in this case, the then DIG/CBI Sri Vijay Kumar commended my work and I am confident to bring the culprits to book by filing charge sheets shortly.

RC-27(A)/96-SHG : This is a D.A. case register against

Attested
Advocate.

- 15 -

one Superintending Engineer of ONGC in September 1996 for possessing disproportionate assets of Rs. 1,62,000/- only to the known source of income. This case was endorsed to me for investigation. I conducted house searches under the supervision of Sri K.C> Choudhury, DY. SP and after thorough investigation submitted FR-I recommending closure of the case as the suspect official was found to have surplus income rather than disproportionate assets. The same recommendation were unanimously accepted by SP/Sr.PP/DIG/DLA and JD, CBI.

In fact there was serious lapse on the part of concerned CBI officers i.e. the then SP/PP/DIG/JD who failed to locate inherent lacunae in the verification report while scrutinizing it and thereby recommended and passed defective order for registration of D.A. case against suspect official though there was no D.A. case at the FIR stage itself as could be seen from the following facts as well as SP's comments (Annexure-M)

(i) The income of the accused from 1994-96 i.e. upto the date of registration was not taken into account by the officer who verified the SIR/complaint and all the aforesaid official failed to locate this inherent defect while scrutinizing of FIR in September 1996 as after receiving SIR/complaint in 1993 and obviously the corresponding income figure upto 1993 only was considered and thereafter for three years i.e. upto September 1996 the verification continued on the same old figures of income. Ultimately after registration of the case in September 1996 and conducting searches unconsidered income for the period 1994-96 was taken into account and thereby income exceeded the assets possessed by the suspect official.

(ii) The FIR was registered in September 1996 against a disproportionate asset of mere Rs. 1,62,000 only. However, the verifying officer as well as the entire chain of concerned official who scrutinised and recommended for registration of FIR as also the competent official who passed the final order for registration on the FIR, failed to appreciate the simple arithmetic fact that an amount of Rs. 80,000/- shown to have invested in NSC during 1985 to 1989 would have fetched as income an amount of Rs. 1,60,000/- after six years i.e. by 1995/96 and thereby making the D.A. as ZERO in 1995-96 when the final orders for registration of the case was passed.

(iii) The complaint/SIR against this case was submitted in 1993 by some other I.O. and verification on the orders of superior officers were conducted by Sri Mani Sarania, Inspector and thereafter Shri P. Roy, Inspector, who recommended for the closure of

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SIR/complaint. However, late G.K. Das, Inspector further did verification which culminated into registration of the case on the orders of JD(E2) Calcutta in September 1996. It is evident that a serious mistakes was committed by all concerned officer that while the verification continued for more than three years the concerned scrutinizing officials of the CBI continued to harp on the same old income figures of 1993. It is obvious that investigation revealed these lacunae and also the suspect was found to have rather surplus income. I recommended the closure of the case and accepted unanimously by my superior officers and as such closure orders were passed by DIG/CBI & JD(E2) Calcutta (Annexure-N & O).

This has been submitted only to show that I never shirked to call spade a spade and I firmly believe that object of investigation is to bring out unvarnished truth from the available facts, circumstances and evidence and project it without fear and favour.

12. During period under review (1998) the following cases were investigated by me :

- | | | |
|--|---|--|
| (i) RC-16(A)/93-SHG
(JD level case) | Filed charge sheet in law court for prosecution | Granted reward and CC for good investigation
(Annexure-D6&D7) |
| (ii) RC-34(A)/96-SHG
(High Court referred and monitored case
H.O. level case) | Under investigation | Reward and commendation certificate for good investigation
(Annexure D2&D3) |
| (iii) RC-5(A)/98-SHG
Against CGM, Telecom (T/F), NE Region, Guwahati
Shri K. Ganesh
(H.O. Level case) | Under investigation | Reward and commendation certificate for good investigation
(Annexure D4&D5) |
| (iv) RC-27(A)/96-SHG
(J.D. level case) | Closure Report U/S 173 Cr.P.C. on the orders of JD(E2) Calcutta | Nil |

It is noteworthy that neither the Reviewing Officer - Shri N.R. Roy, nor the accepting authority i.e. JD (E2) CBI Calcutta ever pointed out in any case file either orally or in writing that I have a tendency to finalise cases without collecting clinching evidence. Further in the Court of Hon'ble Special Judge, Assam which is accepted by the Hon'ble Court and has not passed any adverse comments or orders to reopen

Attested
[Signature]
Advocate.

the case.

Submission in regard to adverse remark No. 2 - He is an undisciplined officer and exhibits insubordination occasionally

13. It is submitted that never in the past there was an incident suggesting that I am indisciplined officer. It was never pointed out to me by any officer. My service career is unblemished. My service profile in U.P. Police running into 16 years and in CBI spanning 6 years is without any blemish. No adverse remarks was ever made against me. In any case Reviewing Authority hardly had any occasion to know me to understand me and the assess my performance. There is no basis for making such a remark against me. Remark of such nature must be supported by some material. reviewing Authority while making such a remark ought to have pointed out that in the past these shortcomings in my personality was pointed out to me. Reviewing Authority remained totally silent about this aspect and only made a sweeping remark that I am an indisciplined officer.

14. That this remark being vague, sweeping and without supported by any material particulars is not sustainable in law and is liable to be expunged.

Legal submission

15. The Hon'ble Supreme Court in S. Ramchandra Raju -vs- State of Orissa, 1994 Supp (3) SCC 424 emphasised on the need of objectivity of assessment by the competent authority in writing of the confidential report. The court pointed out that the career prospect of a subordinate officer largely depends upon the work and character assessment made by the competent authority and the latter should adopt fair objective dispassionate approach in estimating or assessing the character ability integrity and responsibility displayed by the concerned officer during the relevant period.

16. In the State of U.P. -vs- Yamuna Shankar Mishra, (1997) 4 SCC 7 the Hon'ble Supreme Court has recognised the application of the nature justice rule where the assessment were not based on the materials on record. In the said case, the court observed that sometimes the assessment may not be based on the records and in such circumstances the officer concerned should be taken into confidence. The court stated that before forming an adverse opinion, the authority writing confidentials should share the information which is not the part of the record with the officer concerned and have the information confronted by the officer and then make it part of the record. This amounts to an opportunity

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Advocate.

given to the erring officer to correct the errors of the judgment, conduct, behaviour etc. The court further observed that if despite being given such an opportunity, the officer fails to perform the duty correct his conduct or improve himself necessarily the same may be recorded in the confidential reports and a copy thereof supplied to the effected officer so that he will have an opportunity to know the remarks against him.

17. It is submitted that at no point of time I was ever told of my being an indisciplined officer. With the sole exception of the sweeping observation made by the then DIG Shri N.R. Roy on my application for repatriation that my conduct is unbecoming of a CBI Officer there has never been any occasion when anything adverse was told to me or brought to my notice. Even that observation on my application for repatriation is without any basis, because the manner in which it was made and the occasion on which it was made bear testimony to the malice said Shri N.R. Roy had towards me. Hence it is submitted that the observation in my confidential report that I am indisciplined officer is without any basis. The same is not based on any fact and the entry of the same in my confidential report is contrary to the principle laid down by the Hon'ble Supreme Court in the case of Yamuna Mishra (supra).

18. It is, therefore, prayed that the adverse remarks made against me are liable to be expunged. They are malicious in nature and are sweeping and vague. They have been made without any objectivity in total non-application of mind.

In the premises aforesaid I pray with utmost humility that the adverse remarks made against me may kindly expunged for which I would remain ever obliged.

Thanking you.

Yours faithfully

(Suresh Pal Singh Yadav)
Inspector, CBI
Anti-Corruption Branch
Guwahati

Attested

Advocate

प्रतिनिधि के दिनांक की तारीख Date of application for the copy	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आपेक्षक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.
18/12/2001	18/12/2001	18/12/2001	18/12/2001	18/12/2001

H. H. B. SAHAI & HIGH COURT
COURT OF ASSAM : NAGALAND : MIZORAM : MANIPUR : TRIPURA.
(HIZORAM & ARUNACHAL PRADESH)

CIVIL APPELLATE JURIS.

Appeal from Rs. 100 No. 3420 of 2001.

Suresh Pat Singh Yadav
Appellant
Petitioner

VERSUS

Union of India &
Respondent
Opposite-Party

For Appellant Mr. B. K. Sanmukh
Petitioner Mr. P. K. Thakur

For Respondent Mr. D. S. ...
Opposite-Party N. Upadhyay

By officer or Serial Date Office notes, reports, orders
Advocate No. of proceedings with signature

11/1/2002
[Signature]
2002

- 84 -
Guwahati Bench.

AND

IN THE MATTER OF :

Buresh Pal Singh Yadav, Inspector,
Central Bureau of Investigation,
Office of the SP, CBI, R.G. Baruah
Road, Sundarpur, Guwahati-5.

... petitioner

- VERSUS -

1. The Union of India through the
Secretary to the Government of
India, Ministry of Personnel &
Training, New Delhi.
2. The Director, Central Bureau of
Investigation, CGO Complex,
Lodhi Road, New Delhi.
3. N.R. Roy, DIG (Operations), CID,
Calcutta, the then DIG/CBI/North
East Region, Chenikuthi,
Guwahati.
4. The Deputy Inspector General,
Central Bureau of Investigation,
North East Region, Chenikuthi,
Nabagraha Hill Side, Guwahati-5.

Directed
V. S. N.
Associate.

5. The Supdt. of Police, Central
Bureau of Investigation, Anti
Corruption Branch, Sundarpur,
Guwahati.

6. The Deputy Inspector General of
Police (P), PAC Headquarters,
UP, Lucknow.

... Respondents

... abovenamed :

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[Signature]
[Signature]

by Officer vocate	Serial No	Date	Office notes, Reports, Order or proceeding with signature
	5.2.2002		<p style="text-align: center;"><u>BEFORE</u></p> <p>HON'BLE THE CHIEF JUSTICE MR R.S MONGIA HON'BLE MR JUSTICE AMITAVA ROY</p> <p>Whether an employee who is on deputation has a right to be absorbed in the Department to which he has been sent for deputation? The aforesaid question arises in the following circumstances :</p> <p>The petitioner who was working in the U.P. Traffic Police as S.I. He was sent on deputation to the CBI in the year 1993. In 1996 options were sought from those who were on deputation with the CBW whether they wanted to be considered for absorption in the CBI. The petitioner gave his option for being considered for absorption in the CBI. However, before any final decision could be taken on his option he withdrew the option by writing as follows on 8.9.98.</p> <p>" To The Superintendent of Police CBI/ACB/Guwahati. Sir,</p> <p>I had joined the CBI/ACB/ Shillong Branch on deputation from U.P. Police for an initial period of three years in September, 1993. As the said period is already over in 1998 and I was not relieved despite my earlier representation in this regard. It is therefore requested that I may kindly be relieved at the earliest."</p> <p style="text-align: right;">....2</p>

Attested
[Signature]
vocate

R

By Officer Date	Serial No	Date	Office notes, Reports, Order or proceeding with signature
	5.2.2002		<p>From the aforesaid letter it is quite clear that prior to 8.9.98 the petitioner had also requested that he be relieved but since he had not been relieved he made a request again on 8.9.98 to be relieved to join his parent Department. It is the case of the petitioner that later on he withdrew his request dated 8.9.98 for repatriating him to join the parent Department. He wanted that his case be considered for absorption in the CBI. This having not been done the petitioner filed an O.A. before the Central Administrative Tribunal. It may be observed here that in the year 1998, to be precise on 29.9.98, the petitioner was conveyed the adverse remark which are to the following effect :</p> <p>"(1) He has tendency to finalise cases without selecting clinching evidence.</p> <p>(ii) He is an indisciplined officer and exhibits insubordination occasionally"</p> <p>The Central Administrative Tribunal dismissed the O.A. holding that petitioner has no right to be absorbed while on deputation and further found nothing wrong in the recording of the adverse remarks. Hence the present writ petition.</p> <p>There cannot be any doubt that a deputationist has no right to be absorbed in the Department/ Organisation where he is sent on deputation.</p>

2002/02/05
V. S. S.
Secretary

by Officer Advocate	Serial No	Date	Office notes, Reports, Order or proceeding with signature
	5.2.2002		<p>Of course if there is any Policy or instruction to that effect then the case might be considered for absorption. In the present case there are no statutory rules providing for consideration of the cases for absorption of deputationist. Reliance is placed on the circular issued by the respondents on this subject. One of them being dated 17th December 1997 and another dated 25.11.1999. The Paragraph 4 of the Circular dated 17th December 1997 reads as under :</p> <p>"Henceforth SSPS of CBI are required to consider the request from Inspectors after they have served in CBI for at least five years as per criteria mentioned in the subsequent paragraph they would forward their names of suitable Inspectors in the prescribed proforma with their willingness (enclosed) to the Head office along with the recommendation of the respective DIG and JD. The recommendation to reach the Head office by 31st December/1997 so that the entire process can be completed by 31st March 1998. The SSP will certify that Inspectors recommended for absorption possess the prescribed qualification and fulfils other laid down criteria."</p> <p>The case of the petitioner is that his case was never considered for absorption. Learned counsel argued that the petitioner had made a representation against the adverse remarks for the year 1998 but no decision so far has been taken and in any case none conveyed to the petitioner.</p> <p>Even if no decision on the representation of the petitioner for absorption has been taken by the CBI, we are of the view that in presence of the adverse</p>

P 3

The objective remarks
are based on the performance
of the applicant for his yr 1997.

In view of the adverse remarks
in his yr 1998, if he
Respondents considered him for
reparation to his parent
dept.

Our report based on applicant's
furnished the same. Can be

By Officer Advocate	Serial No	Date	Office notes, Reports, Order or proceeding with signature
	5.2.2002		<p>remarks for the year 1998 [It will be futile to ask the Department to consider his case for absorption. Learned counsel argued that since the representation against the adverse remarks has so far been not decided and in any case no decision thereon has been conveyed to the petitioner yet the observations made by the learned Tribunal regarding the adverse remarks would prejudicially effect the consideration of the representation at the hands of the appropriate authority while deciding the same for expunging the adverse remarks. Under the aforesaid circumstances we think it appropriate to dispose of this writ petition by giving the following directions to the Respondent CBI.</p>

Observation
of
CAT re

Adverse Remarks
would prejudicially
affect the
consideration of Rep.

What were the
observations of
CAT in ACR

- (i) If the representation of the petitioner against the adverse remarks for the year 1998 communicated to him on 20.9.98 has so far not been decided by the competent Authority the decision on the same be taken within a month. ✓
- (ii) While deciding the representation as aforesaid the observations made regarding the correctness of the adverse remark made by the Central Administrative Tribunal should not be taken into consideration and the Authority deciding the representation should form its own opinion and come to independent findings.

WON

Filing by Officer Advocate	Serial No	Date	Office notes, Reports, Order or proceeding with signature
	512 2002		106
	(iii)		<p>After the decision on the representation is taken as aforesaid the case of the petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the subject and entire service record of the petitioner. The result of the representation and any other relevant considerations including the petitioner's application dated 8.9.1998 or any previous application to the effect that he may be repatriated back to his parent Department and withdrawal of that request after 8.9.98 may also be taken into consideration. This may be done within one month of taking of the decision on the representation of the petitioner against his adverse remarks.</p> <p>The writ petition stands disposed of accordingly. Needless to mention that if the petitioner is adversely affected by any order that may be passed by the Authority he would be at liberty to challenge the same before an appropriate forum.</p> <p>Till the matter is decided as aforesaid the petitioner be not repatriated to his parent Department. Copy of this Judgment and order, attested by the Bench Assistant be given to the learned counsel of the parties for onward transmission.</p>

*immediate
11/12/02*

*A. P. ...
11/12/02*

*Self R. S. ...
Chief Justice*

CERTIFIED TO BE TRUE COPY
K. S. ...
Date *11.12.02*
Supersitential (Copying Section)
Gauhati High Court
Authorized U/S 76, Act I, 1872

5/12/02

11/12/02

11/12/02

- 91- Annexure - A/8 colly 107

Government of India
O/o the Superintendent of Police
Central Bureau of Investigation
Anti-Corruption Branch
R.G. Baruah Road, Sundarpur
Guwahati-5.

No. DP/SHL2001/1481/E/36

Date :: 04/03/2002

To

Shri S.P. Singh Yadav
Inspector of Police (U/s)
Arundhati Apartment
Tarun Nagar,
Guwahati-5.

Sub : Communication of adverse remarks in your ACR for the
year, 1998.

Please find enclosed herewith the decision of the
competent authority in respect of the adverse comments in
your ACR for the year 1998, which is self explanatory.

Please acknowledge the receipt.

Encl:- 2 sheets.

1. Letter dt 24/1/2002 of Shri N.R. Ray
Spl Insp. General of Police (Operative)
CID East Bengal addressed to
Shri K.L. Karmakar, AIB/CBI/NTD
Guwahati

(Narayan Jha)
Superintendent of Police
CBI/ACB/Guwahati

2. Comments of the AD/CBI, (Retired)
Kolkata dt 28/2/2002

/nc.

Received

4/3/2002

LIBRARY - CBI
Gm

ANNEXURE-A/B Colly.

Special Inspector General of Police
(Operations)
Criminal Investigation Department,
West Bengal, Kolkata.

The 21.1.2002

To

Shri K.C. Kanoongo,
Deputy Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati, Assam.

Please refer to your CBI ID No. 1401/47/CBI/NER/99 dated (eligible).2000 regarding adverse remarks on the ACR of Shri S.P. Singh Yadav, Inspector, CBI, ACB, Guwahati for the year 1998. During discussion of cases, it was found that cases handled by him lacked in investigation on medical points and when pointed out the same he behaved in an indisciplined manner in one of such meeting with officers, in Guwahati, he behaved in such an indisciplined manner that I was compelled to ask him to go out of the meeting.

I stand by the comments made by me. This type of officers must not be retained in CBI.

Sd/- (N.R. Ray)
Special Inspector General of Police (Operations)
Criminal Investigation Department,
West Bengal.

RC 27(A) 96-5 H
is a case, Disprop L
4.17
denied in Mar-99

Approved
[Signature]
16/05/02

93 - 109
ANNEXURE-A/8 colly.

Comments of the Additional Director, CBI EZ Kol.
on the letter dated 21.1.2002 of Shri N.R. Roy, IPS,
Former DIG, CBI, NER on the adverse remarks in the ACR
of Shri S.P. Singh Yadav, Inspector, CBI, Guwahati for
1998.

"I do agree to the comments of the then DIG, CBI,
NER Shri N.R. Ray".

Sd/- U.N. Biswas,
28.2.2002
AD, CBI (Rtd./Kolkata)

31.1.02 Supranhi

Attes

Advocate.

ANNEXURE-A/9 colly.

GOVT. OF INDIA
CENTRAL BUREAU OF INVESTMENT
OFFICE OF THE SUPDT. OF POLICE
ACB :: GUWAHATI

No. DPSHL2001/1955/ WP 3420/01 Dated 26.3.02

To

Sri S.P. Singh Yadav Inspr.
CBI/ACB/Guwahati.

Sub : Absorption in CBI with reference to Hon'ble High
Court order passed in W.P.(C) No.3420/2001

Please find enclosed a copy of FAX Message No. DP
Apl. 2002/1008/A.20014/1609/93 dated 22.3.02 of AD(E)
CBI/New Delhi which is self-explanatory.

In this connection, you are advised to attend the
personal interview before Screening Committee at CBI
Hq. New Delhi on 1.4.2002 at 10 A.M. sharp in
connection with your permanent absorption in CBI.

You are also permitted by the competent authority
to leave the Hq. for aforesaid purpose.

Sd/- Illegible
Superintendent of Police,
CBI, ACB, Guwahati.

Attested

[Signature]
Advocate.

- 95 -

ANNEXURE-A/9
(Copy) (Contd.),

FAX MESSAGE

TO SP/CBI/ACB/GUWAHATI

INFO : 1. DIG/CBI/NER/GUWAHATI
2. JD(EAST)/CBI/KOLKATA

FROM : ADMINISTRATIVE OFFICER (E)/CBI/NEW DELHI

NO. DPAD12002/1008/A-20014/1609/93 DATED 22.3.2002

REFER YOUR ID NO.DPSHL 2002/1788/E/36 DATED 15.3.2002
REGARDING ABSORPTION OF SH. S.P.SINGH YADAV, INSPR.
(U/S) CBI/ACB/GUWAHATI (.) SH. S.P. SINGH YADAV INSPR.
MAY BE DIRECTED TO ATTEND THE PERSONAL INTERVIEW BEFORE
THE SCREENING COMMITTEE IN CONNECTION WITH HIS
PERMANENT ABSORPTION IN CBI ON 28.3.2002 AT 10.00 A.M.
SHARP (.) HE MAY BE DIRECTED TO REPORT TO THE DEPUTY
DIRECTOR (ADMN.)/CBI/NEW DELHI (.) THE DETAIL OF
REWARDS EARNED BY SH. S.P. SINGH YADAV DURING THE LAST
FIVE YEARS MAY ALSO BE FORWARDED TO HEAD OFFICE
ALONGWITH INTEGRITY CERTIFICATE BY RETURN SIGNAL (.)
MATTER MOST URGENT (.) REPLY MUST REACH HEAD OFFICE BY
26.3.2002 FORENOON(.)

ADMINISTRATIVE OFFICER (E)
CBI/NEW DELHI

Copy by post in confirmation to :

JD(East)/CBI/Kolkata
DIG/CBI/NER/Guwahati
SP/CBI/ACB/Guwahati

Attested
[Signature]
Advocate.

To
The Administrative Officer (E)
CBI, New Delhi.

Through the Superintendent of Police,
CBI, ACB, SPE, Guwahati

Sub : Absorption in CBI with reference to Hon'ble Gauhati High Court
Order passed in WP(C) 3420/2001

Ref : Letter No. DPSHL 2001 1955/WP3420/01 dtd. 26/3/02 of Supdt. of
Police, CBI, ACB, Ghy.

Sir,

I am in receipt of your Fax message vide no. DPAD/2002/1008/A20014/
1609/93 dtd. 22/3/2002, as communicated by letter under reference.

I am grateful that at least after a much delay my case is being considered
for absorption in CBI. In this connection the circulars issued by the CBI
HQ from time to time may be referred to. However, I would like to point out
the following which will have a bearing in the matter.

(i) As per direction of the Hon'ble Gauhati High Court passed in WP(C)
3420/2001, my representation made against the adverse remarks
pertaining to the year 1998, is required to be disposed of first and only
thereafter my case for absorption is directed to be considered. My
representation submitted before the Director, CBI on 29/10/1999 against
said adverse remark is still pending with him and has not been disposed
off as yet, meaning thereby that the first direction of The Hon'ble High
Court is yet to be complied with and even before that the second part of
the direction is being implemented.

(ii) By communication dated 4/3/2002 issued by Supdt. of Police, CBI,
ACB, Ghy under No. , I have been given copies of the
endorsement of the reviewing authority and accepting authority dated
21/1/2002 and 28/2/2002 respectively pertaining to my ACR / adverse
remark for the year 1998 in which there is not even any whisper as to
whether my representation has been taken into consideration. Be that as it
may the said process of recycling the matter through the reviewing and
accepting authority has put me in doubt as to whether the ACR for the
year 1998 and for that matter the adverse remark for the year 1998 was a
final one so as to constitute the ACRs of the said year. If the said ACR
was not a final one no adverse remark could have been communicated to
me and consequently my case is required to be considered dehorse the
said adverse remark. Alternatively if the said remark have its finality only
in 2002 then also the adverse remark will form part of the ACR for the year
1998 only in 2002. thus in either case those adverse remarks cannot be
taken into consideration towards consideration of my case for absorption
in the CBI more particularly in view of the fact that my representation

Advocate.

against the said adverse remark is still pending for disposal with the Director, CBI, New Delhi.

(iii) From the above it is now clear that my case for absorption is being considered without the compliance of the first part of the direction of Hon'ble High Court as contained in its order dated 5/2/2002 in WP(C) 3420/2001 in compliance of which my case for absorption is stated to be under consideration.

My humble prayer would be to bear in mind the aforesaid factual aspect of the matter towards consideration of my case for absorption in the CBI in terms of the policy decision of the CBI as was reflected in WP(C) No. 3420/2001. As regard my appearance on 1/4/2002 before screening committee at New Delhi, on my approach to reservation counter of Guwahati Railway Station I find that there are no chances of my getting reservation at such a short notice enabling me to reach New Delhi so as to appear before Interview Board on 1/4/2002. It may be pertinent to mention that though the aforesaid Fax message dated 22/3/2002 was received in the Office on the same day however, it was communicated to me only on 27/3/2002 at 1100 Hrs while I was participating as Defence Assistant in regular departmental hearing against a CBI Official, Shri Mukut Das, SCS to the SP, CBI, Guwahati. In view of above I may please be given at least 15 days time so that I can appear before Selection Board which of course remains subject to your decision which might be taken in view of the infirmities in the matter as pointed out above.

With sincere regards.

Submitted

Yours faithfully,

W.D.
28/3/2002

(Suresh Pal Singh Yadav)
Insp. of Police, CBI (u/s)
Office of the Supdt. Of Police
CBI, ACB, Guwahati

Attested
W.D.
Advocate.

Attested

ANNEXURE- A/11

DPAD/2002/1097/A.20014/1609/9
CENTRAL BUREAU OF INVESTIGATION
Government of India
Block No. 3 4th Floor,
CGO Complex, Lodhi Road,
New Delhi 110001.

Dated : 4th April, 2002.

M E M O R A N D U M

Sub : Representation/Appeal dated 29.10.99 of Sh. Suresh Pal Singh Yadav, Inspr. (Under suspension) against the adverse remarks in his ACR for the year 1998.

Sh. Suresh Pal Singh Pal Yadav, Inspr. (under suspension) may refer his representation/appeal dated 29.10.99 addressed to Director, CBI with regard to adverse remarks made by the Reviewing and Accepting Authority in his ACR for the year 1998 to get these expunged.

2. The Director, CBI being the head of Department have consider all the grounds/justifications explained in his above referred representation/appeal with reference to the adverse remarks of the Reviewing and Accepting Authority given in his ACR for the year 1998 and has finally rejected the appeal.

Sd/-
4.4.02
(NAND KISHORE)
DEPUTY DIRECTOR (Admn.)
CBI/NEW DELHI

Sh. Suresh Pal Singh Yadav,
Inspector (Under Suspension),
CBI/ACB/Guwahati.

(through SP/CBI/ACB/Guwahati)

Attested

Advocate

Advocate

पुलिस उपाधीक्षकों/निरीक्षकों तथा उप-निरीक्षकों की गोपनीय रिपोर्ट का फार्म
केन्द्रीय अन्वेषण ब्यूरो

FORM FOR CONFIDENTIAL REPORT ON DY. SUPDTS. OF POLICE/INSPECTORS
AND SUB-INSPECTORS.
CENTRAL BUREAU OF INVESTIGATION

वैयक्तिक व्योरे

PERSONAL DATA

(जिस अधिकारी की रिपोर्ट लिखी जा रही है, उसके द्वारा भरे जाने के लिए)

(To be filled by the Officer reported upon)

-----को सम्बन्धित अवधि/वर्ष के लिए गोपनीय रिपोर्ट
Confidential Report for the Year/Period Ending.....

- अधिकारी का नाम
Name of the Officer.
- जन्म की तारीख
Date of Birth
- | | |
|-----------------|---------------|
| ऊँचाई
Height | वजन
Weight |
| छोटा
Chest | कमर
Waist |
- क्या अधिकारी अनुसूचित जाति/ अनुसूचित जनजाति का है
Whether the Officer belongs to Scheduled Caste/Scheduled Tribe. हाँ/नहीं
Yes/No
- पदनाम/रक/धारित पद
Desination/Rank/Post held
- वर्तमान ग्रेड में लगातार नियुक्ति की तारीख
Date of continuous appointment to the present grade viz
- क्या सीधी भर्ती पर नियुक्ति या प्रतिनियुक्ति पर
Whether direct recruit or deputationist
(यदि प्रतिनियुक्त है तो उस राज्य का नाम लिखें जहाँ से प्रतिनियुक्ति पर आए हैं)
(In case of deputationist, name of State from which on deputation).
- क्या स्थाई/अर्ध-स्थायी/अस्थायी है
Whether permanent/quasi-permanent/temporary.
- शाखा/यूनिट/कार्यालय जहाँ रिपोर्ट की अवधि/वर्ष के दौरान सेवा की और प्रत्येक में सेवा की अवधि
Branches/Units/Offices in which served during the year/period under report and the period of service in each.

Attested

Advocate.

10. नॉर्न/रिपोर्ट अवधि के दौरान स्टूडी/प्रशिक्षण पर अनुपस्थिति की अवधि
Period of absence from duty on leave/training during the year/period reported.

11. (क) शैक्षणिक योग्यताएं
(a) Educational Qualifications :
(ख) तकनीकी परीक्षा/प्रशिक्षण पाठ्यक्रम में उत्तीर्ण/अर्हता प्राप्त
(b) Technical Examination/Training Courses Passed/qualified.
(ग) भाषा ज्ञान
(c) Knowledge of Languages :
(i) पढ़ और लिख सकते हैं
(i) Able to read and write.
(ii) बोल सकते हैं :
(ii) Able to speak :

भाग-II
PART-II

(जिस अधिकारी की रिपोर्ट लिखी जा रही है उसके द्वारा भरे जाने के लिए)
(To be filled in by the Officer Reported upon)

1. कर्तव्यों का संक्षिप्त विवरण
Brief description of duties.

2. वर्ष के दौरान प्राप्त प्रशिक्षण पाठ्यक्रमों का विवरण
Particulars of training courses undergone during the year.

3. वर्ष के दौरान प्राप्त पदक और पुरस्कार पत्र
Medals or commendations received during the year.

4. (क) कृपया प्राथमिकता के आधार पर उन 8 से 10 लक्ष्यों/उद्देश्यों का उल्लेख करें जो आपके लिए निर्धारित किए गए हैं और/अथवा आपने स्वयं अपने लिए निर्धारित किये हैं।
(a) Please specify 8 to 10 targets/goals/objectives that were set for you and/or you set for yourself in order of priority.

Attested
[Signature]
Deccate.

4. (a) यदि लक्ष्य निर्धारित किए गए हैं तो उनमें किसे हर तक सफलता मिली है, विशेष कर अपराध संबंधी मामलों में गुप्तता प्रकट करने, सतर्कता कार्य, पंजीकरण, अन्वेषण, निपटारा तथा परीक्षण के संदर्भ में। आप अपने कार्य क्षेत्र में प्रयुक्त किये गए किसी प्रमुख सुधार/नव प्रवर्तन का भी उल्लेख कर सकते हैं।
- (b) Wherever targets have been fixed how far have they been achieved particularly in regard to collection of information, vigilance work, registration, investigation, disposal and supervision of crime. You can also highlight any major improvements/innovation introduced in your area of work.

- 5 (क) कृपया कालम 4 में बताए गए लक्ष्यों/उद्देश्यों की प्राप्ति में रही कमियों का संक्षेप में उल्लेख करें। यदि लक्ष्यों के प्राप्ति में कोई बाधाकारिताएं रही हों तो वे बताएं।
- (a) Please state, briefly, the shortfalls with reference to the targets/objectives/goals referred to in Col. 4. Please specify the constraints, if any.

- 5 (ख) कृपया उन कार्यमयों का भी उल्लेख करें जिनमें निर्धारित लक्ष्य से काफी अधिक उपलब्धियां रही हों और उनमें आपने योगदान का भी उल्लेख करें।
- (b) Please indicate items under which there have been significantly better/higher achievements compared to targets and your contribution thereto.

[Handwritten signature]

रिपोर्टिंग प्राधिकारी द्वारा भरा जाए
TO BE FILLED IN BY THE REPORTING AUTHORITY

1. क्या रिपोर्टिंग प्राधिकारी भाग II में किये गये स्व-मूल्यांकन से सहमत है? यदि नहीं, तो किस सीमा तक और क्यों?
Does the Reporting Authority agree with the Self Assessment made in Part II? If not, the extent of disagreement and reasons there of :

2. स्वास्थ्य
State of Health

(i) कृपया बतायें कि अधिकारी का स्वास्थ्य
(i) Please indicate whether the Officer's state of health is

- (क) अच्छा
(a) Good
(ख) साधारण
(b) Indifferent
(ग) सरान
(c) Bad

(ii) व्यक्तित्व तथा आचरण
(ii) Personality and manners :

- (क) अच्छा
(a) Good
(ख) औसत
(b) Average
(ग) सरान
(c) Poor

3. बुद्धिमत्ता और सूझबूझ
Intelligence and Understanding

- (क) विग्रहस्त तथा किसी भी मामले को, चाहे कितना भी जटिल हो, गली भाँति समझने की क्षमता है।
(a) Exceptional and has clear grasp of any matter, however, complicated.
(ख) बुद्धिमान तथा बिना समय मेंनाए, ठीक प्रकार से समझ सकते हैं।
(b) Intelligent and can grasp a point correctly with reasonable speed.
(ग) पर्याप्त समझबूझ
(c) Shows adequate grasp.
(घ) मंदबुद्धि और/अथवा बिना से अनसर गटक जाते हैं।
(d) Very Slow and/or often misses the point.

17/05/13
1000
1000

(i) तपस्वी पर ध्यान, तथ्यों की प्रस्तुत करने में गहराई तथा जानकारी में सम्पूर्णता
(i) Attention to details, accuracy in presentation of facts and thoroughness in examination

- (क) अत्यधिक विश्वसनीय तथा व्यापक।
- (a) Most reliable and comprehensive.
- (ख) सभी संगत तथ्यों पर विचार करते हैं।
- (b) Considers all relevant details.
- (ग) महत्वपूर्ण बातों पर ध्यान नहीं दे पाते और मूल विषय से भटक जाते।
- (g) Is unable to concentrate on vital details and loses perspective.
- (घ) गंभीरता का अभाव।
- (h) Inclined to be superficial.

(ii) निर्णय

(ii) Judgement

- (क) इनके प्रस्ताव ठोस तथा सुविचारित होते हैं।
- (a) His proposals are consistently sound and well thought of
- (ख) विश्वसनीय
- (b) Reliable
- (ग) उचित दृष्टिकोण अपनाते हैं
- (g) Takes a reasonable view
- (घ) अविश्वसनीय, अनिर्णय, कठोर, सख्त अथवा अनिश्चित।
- (h) Unreliable, undecided, rigid, superficial or erratic.

(iii) मामलों का प्रस्तुतीकरण और अभिव्यक्ति

(iii) Presentation of Cases and Expression

- (i) मौखिक अभिव्यक्ति
- (i) Oral expression
- (ii) लिखित अभिव्यक्ति
- (ii) Written expression
- (क) पूर्णतया स्पष्ट, संगत और तर्कपूर्ण।
- (a) Extremely clear, cogent and logical
- (ख) बहुत अच्छा तथा अपनी बात को स्पष्टता और संक्षेप में अभिव्यक्त करते हैं।
- (b) Very good and expresses himself clearly and concisely.
- (ग) अभिव्यक्ति में अच्छा।
- (g) Good in expression.
- (घ) सामान्य और काम चलाकू।
- (h) Just good and enough.
- (ङ) मामलों को उचित प्रकार से प्रस्तुत करने की योग्यता नहीं रखते हैं।
- (d) Does not have ability to present cases properly.

5.

विधि तथा प्रक्रिया संबंधी जानकारी
Knowledge of Law and Procedures

- (क) विधि तथा प्रक्रिया की निम्न जानकारी रखते हैं।
(a) Does possess exceptionally good knowledge of law and procedure.
(ख) विधि तथा प्रक्रिया की अच्छी जानकारी रखते हैं।
(b) His knowledge of law and procedure is good.
(ग) विधि तथा प्रक्रिया की जानकारी संतोषजनक है।
(c) His knowledge of law and procedure is satisfactory.
(घ) विधि तथा प्रक्रिया की पर्याप्त जानकारी नहीं रखते हैं।
(d) His knowledge of law and procedure is poor.

6.

उत्साह तथा परिश्रमी
Zeal and Industry

7.

प्रारम्भिक
Initiative

8.

अन्वेषण योग्यता
Investigative Ability.

9.

आसूचना/जानकारी एकत्र करने की योग्यता
Ability to Collect Intelligence/Information.

10.

पर्यवेक्षण तथा नियंत्रण
Supervision and Control

- (i) स्थिति और अनुशासन बनाए रखना।
(i) Maintenance of order and discipline.
(ii) निश्चय और उत्तरदायित्व की भावना पैदा करना तथा स्टाफ की क्षमताओं का पूरा-पूरा उपयोग।
(ii) Ability to inspire confidence, assume responsibility and get the best out of staff.
(iii) स्टाफ को प्रशिक्षण, सहायता तथा सलाह देने की क्षमता और अधीनस्थ कर्मचारियों को नियंत्रण में रखने का।
(iii) Capacity to train, help and advise the staff and ability to handle subordinates.

विशेष नोट :- (क) उक्त कालम 6 से 10 में अधिकारी को 'उत्कृष्ट', 'बहुत अच्छा', 'अच्छा', 'औसत' और 'औसत से कम' में वर्गीकृत किया जाए।

PS :- (a) In the Cols. 6 to 10 an Officer may be categorised as "Exceptional", "Very Good", "Average", "Below Average".

- (ख) रिपोर्टिंग अधिकारी को उस आधार का उल्लेख करना चाहिए जिस कारण उसने इस प्रकार का वर्गीकरण किया।
(b) The Reporting Authority should write the basis of his categorization.

11. अविश्वसनीयता में समय का पाबंद
Punctuality in Attendance

12. अभिरुचि और संभावना
Aptitude and Potential.

(कृपया निम्नलिखित में से दो ऐसे कार्यक्षेत्रों का उल्लेख करें जिनमें भविष्य में अधिकारी के निष्ठा तथा संतुष्टि प्राप्त करने की संभावना हो।)

(Please indicate two fields of work from amongst the following for possible specialisation and career development of the Officer.)

- (i) सामान्य प्रशासन
- (i) General Administration.
- (ii) कर्मिक प्रशासन
- (ii) Personnel Administration.
- (iii) प्रशिक्षण
- (iii) Training.
- (iv) समन्वय
- (iv) Co-ordination.
- (v) सतर्कता और भ्रष्टाचार नियंत्रण संबंधी कार्य
- (v) Vigilance and Anti-Corruption Work.
- (vi) विशेष अपराध :
- (vi) Special Crime :
- (क) परंपरागत अपराध
- (a) Conventional
- (ख) आर्थिक अपराध—
- (b) Economic Offences.
- (vii) कोई अन्य कार्यक्षेत्र (कृपया निर्धारित करें)
- (vii) Any other field of work (Please Specify).

13. विशेष गुण/विशेष योग्यता
Traits/Special Abilities.

- (i) सामान्य आचरण और व्यक्तित्व
- (i) General bearing and personality.
- (ii) सामाजिकता
- (ii) Sociability.
- (iii) कार्य के प्रति समर्पण
- (iii) Dedication to duty.
- (iv) स्थिति की समझ और तदनुसार कार्यवाई करने की क्षमता
- (iv) Appreciation of situation and quickness of response.
- (v) तपस्वीता पर ध्यान देना
- (v) Attention to detail.
- (iv) कार्यभार/दबाव में निपटने की योग्यता
- (iv) Ability to withstand pressure/stress.

Attester
Advocate.

- (vii) सैद्धांतिक निर्णय लेने की योग्यता
- (vii) Ability to take a principled stand.
- (viii) उपर्युक्त के अलावा अधिकारी का कोई अन्य विशेष गुण/विशेष योग्यता
- (viii) Any other traits/special abilities of the Officers other than those mentioned above.

14. अन्य अभिप्राय
Other Observations.

(इस स्थान का उपयोग उन विषयों के लिए किया जाना चाहिए जिनसे जो कुछ ऊपर कहा गया है, प्रभावित नहीं होता है। जो कुछ पहले कहा गया है, उसे पुनरावृत्ति न दोहराएं बल्कि विशेष बातों का उल्लेख करें। रिपोर्ट की अवधि के दौरान कोई निश्चित उपलब्धि तथा ऐसा कोई अन्य पहलू जिसका उल्लेख उपर्युक्त प्रोफार्मा में नहीं किया गया है। लेकिन रिपोर्टिंग अधिकारी विशेषांक से उल्लेख करना चाहता हो।)

(This space may be utilised for remarks which complete, corroborate or supplement what has been indicated above. This should not, however, be used for merely repeating in verbatim terms what has already been stated, specific points such as special accomplishments during the period under report and any other aspects not covered in the proforma given above which the reporting Officer considers specially worth mentioning may also be indicated here.)

15. कोटि निर्धारण
Grading

(उत्कृष्ट/बहुत अच्छा/अच्छा/औसत/ औसत से कम)

किसी अधिकारी को तब तक उत्कृष्ट कोटि नहीं दी जानी चाहिए जब तक कि उसमें विशिष्ट गुण तथा कार्य निम्नलिखित में न आया हो। ऐसे कोटि निर्धारण के लिए कारणों का स्पष्ट उल्लेख किया जाना चाहिए।

(Outstanding/Very Good/Good/Average/Below Average).

An Officer should not be graded outstanding unless exceptional qualities and performance have been noticed; grounds for giving such a grading should be clearly brought out).

Arrested
W.D.
Advocate

16. सत्यनिष्ठा
Integrity

- 107 -

123

(मह. मंत्रालय के का. जा. सं. 51/64-स्था. (क) दिनांक 21.6.85. में निहित अनुदेशों को ध्यान में रखा जाए।)
(Instructions contained in MHA OM No. 51/64-Estt(A) dated 21.6.85 should be kept in mind).

रिपोर्टिंग अधिकारी के हस्ताक्षर.....
Signature of Reporting Officer.....
नाम साफ अक्षरों में.....
Name in block letters.....
पदनाम.....
Designation.....
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख.....
Date.....

Attest
WDM
Advocate.

पुनरीक्षण अधिकारी की अभ्युक्तियां
REMARKS OF THE REVIEWING OFFICER

17. पुनरीक्षण अधिकारी के अधीन की गई सेवा की अवधि :-
Length of service under the Reviewing Officer.

18.

क्या आप रिपोर्टिंग अधिकारी की अभ्युक्तियों से सहमत हैं ? यदि नहीं तो रिपोर्टिंग अधिकारी से इस असहमति के कारणों का संक्षेप में उल्लेख करें तथा यह बताएं कि संबंधी मामले से आप कहां तक असहमत हैं।
Do you agree with the remarks of the Reporting Officer ? If not, indicate briefly the reason for disagreeing with Reporting Officer and the extent of your disagreement against the respective column.
(स्पष्टीकरण) : अधिकारी स्पष्ट रूप से यह बताएं कि विभिन्न मदों के संबंध में वह रिपोर्टिंग अधिकारी की अभ्युक्तियों से सहमत हैं अथवा नहीं। अपनी व्यक्तिगत/सामान्य अभ्युक्तियों को भी यहां उल्लेख करें।
(Explanation) : Officers are expected to clearly mention whether or not they agree with the remarks of the Reporting Officer against various items. Their own personal/general remarks also be added here).

19. निष्पादन तथा गुणों का समग्र मूल्यांकन।
Overall Assessment of Performance and Qualities.

20.

रिपोर्टिंग अधिकारी के कोटि निर्धारण पर टिप्पणियां :-
Comments on the Grading of the Reporting Officer.

पुनरीक्षण अधिकारी के हस्ताक्षर.....
Signature of the Reviewing Officer
नाम (साफ अक्षरों में).....
Name in block letters
पदनाम.....
Designation
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख.....
Date

Attention
WOM
Ad-care.

स्वीकार करने वाले प्राधिकारी की अभ्युक्ति
Remarks of the Accepting Authority

स्वीकार करने वाले प्राधिकारी के हस्ताक्षर.....
Signature of the Accepting Authority
नाम (साफ अक्षरों में)
Name in block letters
पदनाम.....
Designation
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख.....
Date

attested



अनुदेश
INSTRUCTIONS

1. गोपनीय रिपोर्ट एक महत्वपूर्ण दस्तावेज है। इससे किसी अधिकारी के निष्पादन का मूल्यांकन करने तथा भविष्य में उसके और आम जनता की समझना का पता लगाने के लिए सुविधा दी तथा महत्वपूर्ण जानकारी मिलती है। अतः उस अधिकारी को रिपोर्ट भरनी पड़ी है, रिपोर्टिंग अधिकारी, पुनरीक्षण अधिकारी तथा स्वीकार करने वाले अधिकारी को यह पार्श्व पूरी जिम्मेदारी से भरना चाहिए।

The Confidential Report is an important document. It provides the basic and vital inputs for assessing the performance of an officer and for his/her further advancement in his/her career. The officer reported upon, the Reporting Authority, the Reviewing Authority and the Accepting Authority should, therefore, undertake the duty of filling out the form with a high sense of responsibility.

2. गोपनीय रिपोर्ट के जरिए निष्पादन संबंधी इस मूल्यांकन का उपयोग मानव संसाधन विकास के लिए किया जाना चाहिए। रिपोर्टिंग अधिकारियों को यह समझना चाहिए कि इसका उद्देश्य अधिकारी का इस प्रकार से विकास करना है कि वह अपनी वास्तविक क्षमताओं को समझ सके। यह कोई दोष निकालने की प्रक्रिया नहीं है बल्कि एक विकासवादी प्रक्रिया है। इसलिए रिपोर्टिंग अधिकारी तथा पुनरीक्षण अधिकारी को उस अधिकारी की जिसकी रिपोर्ट लिखी जाती है, उसके निष्पादन, अभिरूपायों तथा समय-समय पर संबंधी कार्यों का उल्लेख करने में किसी प्रकार का संकोच नहीं करना चाहिए।

Performance appraisal through Confidential Reports should be used as a tool for human resource development. Reporting Officers should realise that the objective is to develop an officer so that he/she realises his/her true potential. It is not meant to be a fault-finding process but a developmental one. The Reporting Officer and the Reviewing Officer should not shy away from reporting shortcomings in performance, attitudes or overall personality of the officer reported upon.

3. सभी कालम ध्यानपूर्वक तथा सावधानीपूर्वक भरे जाने चाहिए और इन्हें भरने के लिए पर्याप्त समय दिया जाना चाहिए। यदि रिपोर्ट लापरवाही अथवा असावधानी से भरी जाएगी तो इसका पता उच्च अधिकारियों को बड़ी आसानी से लग जाएगा।

The columns should be filled with due care and attention and after devoting adequate time. Any attempt to fill the report in a casual or superficial manner will be easily discernible to the higher authorities.

4. यदि किसी अधीनस्थ कर्मचारी के रोजमर्रा के काम का सीधा संबंध वरिष्ठ अधिकारी से न हो तो रिपोर्टिंग अधिकारी को उसके निष्पादन का मूल्यांकन उसके काम का कम-से-कम एक बार विस्तृत निरीक्षण करने के बाद ही किया जाना चाहिए।

Performance evaluation by the reporting officer must not be done without having conducted at least one detailed inspection of the work of the subordinate unless the subordinate is one with whom his senior is inter-acting almost daily.

5. यदि पुनरीक्षण अधिकारी यह समझता है कि रिपोर्टिंग अधिकारी ने यह रिपोर्ट बिना उचित सावधानी अथवा ध्यान दिए बिना लिखी है तो उसे अपनी अभ्युक्ति का उल्लेख भाग IV के कालम 2 में करना होगा। सरकार इस अभ्युक्ति को रिपोर्टिंग अधिकारी की गोपनीय पंजी में दर्ज करेगी।

If the Reviewing Authority is satisfied that the Reporting Authority had made the report without due care and attention he shall record a remark to that effect in Part IV Column 2. The Government shall enter the remarks in the Confidential Roll of the Reporting Authority

Attested
[Signature]
Ad. Secy.

6. प्रत्येक उत्तर निस्तार से दिया जाना चाहिए। सादरी छोड़े गए स्थान से इस बात का संकेत मिलेगा कि उत्तर निदाना लम्बा होना चाहिए। शब्दों तथा वाक्यों का चयन सावधानीपूर्वक किया जाना चाहिए और उससे उत्तर लिखने वाले अधिकारी के अभिप्राय का सही-सही पता लगना चाहिए। कृपया सूर्यपट तथा सरल भाषा का प्रयोग करें। किसी भी गुण पर टिप्पणी करते समय "उत्कृष्ट", "बहुत अच्छा", "अच्छा", "औसत", "औसत से कम", जैसे बहुवाची शब्दों का प्रयोग नहीं करना चाहिए।

Every answer shall be given in a narrative form. The space provided indicates the desired length of the answers. Words and phrases should be chosen carefully and should accurately reflect the intention of the authority recording the answers. Please use unambiguous and simple language. Please do not use omnibus expressions like 'outstanding', 'very good', 'good', 'average', 'below average', while giving your comments against any of the attributes.

7. रिपोर्टिंग अधिकारी को वर्ष के आरम्भ में ही उस अधिकारी के परामर्श से, जिसके बारे में रिपोर्ट लिखी जानी है, मात्रात्मक/भौतिक/वित्तीय लक्ष्य निर्धारित करने होंगे। निष्पादन संबंधी मूल्यांकन उस अधिकारी, जिसकी रिपोर्ट लिखी जानी है तथा रिपोर्टिंग अधिकारी का एक संयुक्त काम है। पुलिस उपाधीक्षकों, निरीक्षकों तथा उप-निरीक्षकों के संबंध में रिपोर्टिंग वर्ष के आरम्भ में अर्थात् दिसम्बर में ही लक्ष्य/उद्देश्य निर्धारित कर दिए जाएं। रिपोर्टिंग वर्ष के दौरान कार्यभार ग्रहण करने वाले नए अधिकारियों के मामले में यह लक्ष्य/उद्देश्य उसके कार्यभार ग्रहण करने के समय निर्धारित किए जाएंगे।

The Reporting Officer, shall in the beginning of the year set quantitative/Physical/financial targets in consultation with each of the Officers with respects to whom he is required to report upon, Performance appraisal should be a joint exercise between the officer reported upon and the Reporting Officer. The Targets/Goals/Objectives be set at the commencement of the reporting year i.e. December in respect of Dy. Supdts. of Police, Inspectors and Sub-Inspectors. In case of an Officer taking up a new assignment in the course of reporting year, such Targets/Goals/Objectives shall be set at the time of assumption of new assignment.

8. दोनों ही संबंधित अधिकारियों को इन लक्ष्यों/उद्देश्यों को भली-भांति जान और समझ लेना चाहिए। उपलब्धि संबंधी लक्ष्य का निर्धारण करते समय मदवार प्रभाविकता, कार्य की प्रकृति और कार्य क्षेत्र को ध्यान में रखकर तथा उस निर्धारित लक्ष्य का ध्यान में रखकर निर्धारित की जानी चाहिए जो उस अधिकारी के कार्य की प्रकृति से जुड़े हो जिसके संबंध में रिपोर्ट लिखी जानी है।

The Targets/Objectives/Goals should be clearly known and understood by both the officers concerned. While fixing the targets for achievements, priority should be assigned item wise, taking into consideration the nature and the area of work and any special features that may be specific to nature of the work of the officer to be reported upon.

9. यद्यपि कार्य निष्पादन संबंधी मूल्यांकन वर्ष के अन्त में किया जाता है, तथापि इस बात को ध्यान में रखते हुए कि यह मानव संसाधन विकास का माध्यम है, रिपोर्टिंग अधिकारी तथा उस अधिकारी को जिसकी रिपोर्ट लिखी जानी है, वर्ष के दौरान नियमित अंतराल पर कार्य-निष्पादन की समीक्षा करनी चाहिए और इसमें सुधार के लिए आवश्यक कदम उठाने चाहिए।

Although, performance appraisal is a year end exercise, in order that it may be a tool for human resource development, the Reporting Officers and the Officer report upon should meet during the course of the year at regular intervals to review the performance and to take necessary corrective steps.

10. मूल्यांकन करने वाले प्रत्येक अधिकारी को उस अधिकारी के, जिसका मूल्यांकन किया जाना है, कार्य-निष्पादन, आचरण, गतिशीलता तथा क्षमताओं के संबंध में यथासम्भव सही स्थिति का उल्लेख करना चाहिए।

It should be the endeavour of each appraiser to present the truest possible picture of the appraisee in regard to his/her performance, conduct, behaviour and potential.

Attested

[Signature]

Ad:

11. एक ही रैंक के कुछ पदों पर अन्यो की अपेक्षा अधिक काम होता है। किसी एक पद पर कार्यभार और दायित्व में भी समान-मान्य अंतर होता है। मूल्यांकन करते समय इन तथ्यों को भी ध्यान में रखना चाहिए और इनके संबंध में समुचित रूप में टिप्पणी को जानी चाहिए।

Some posts of the same rank may be more exacting than others. The degree of stress and strain in any post may also vary from time to time. These facts should be borne in mind during appraisal and should be commented upon appropriately.

12. गुणों संबंधी जिन पहलुओं पर अधिकारी को मूल्यांकन किया जाना है उनका उल्लेख प्रत्येक कॉलम में किया गया है। मूल्यांकन को इनसे संबंधित तथा अन्य संगत पहलुओं के संबंध में उत्तर देना चाहिए।

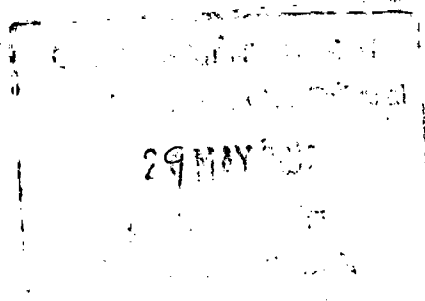
Aspects on which an appraisee is to be evaluated on different attributes are delineated below each column. The appraiser should deal with these and other aspect relevant to the attributes

टिप्पणी : सत्यनिष्ठा से संबंधित कॉलम को भरते समय निम्नलिखित प्रक्रिया अपनाई जानी चाहिए :-

NOTE : The following procedure should be followed in filling up the column relating to integrity:-

- (i) यदि अधिकारी की सत्यनिष्ठा में कोई संदेह न हो तो इसका स्पष्ट उल्लेख किया जाना चाहिए।
- (ii) If the Officer's integrity is beyond doubt, it may be so stated.
- (iii) यदि कोई संदेह अथवा शंका हो तो कॉलम को खाली छोड़ देना चाहिए और निम्नानुसार कार्यवाई की जानी चाहिए।
- (ii) If there is any doubt or suspicion, the column should be left blank and action taken as under
- (क) एक अलग गुप्त नोट लिखकर अनुवर्ती कार्यवाई की जाए। इस नोट की एक प्रति गोपनीय रिपोर्ट सहित अगले वरिष्ठ अधिकारी को भी भेजी जाए जो यह सुनिश्चित करेगा कि अनुवर्ती कार्यवाई अतिशीघ्रता से की जाए। जहां सत्यनिष्ठा प्रमाणित करना अथवा गुप्त नोट लिखना सम्भव न हो उन मामलों में रिपोर्टिंग अधिकारी को स्थिति के अनुसार या तो यह लिखना चाहिए कि उसने उस अधिकारी के काम को पर्याप्त समय तक नहीं देखा है जिससे कि वह निश्चित निर्णय दे सके अथवा यह कि उसने अधिकारी के विरुद्ध कोई प्रतिकूल बात नहीं सुनी है।
- (a) A separate secret note should be recorded and followed up. A copy of the note should also be sent together with the Confidential Report to the next superior Officer who will ensure that the follow up action is taken expeditiously. Where it is not possible either to certify the integrity or to record the secret note, the Reporting Officer should state either that he has not watched the officer's work for sufficient time to form a definite judgement or that he has heard nothing against the officer, as the case may be.
- (ख) यदि अनुवर्ती कार्यवाई के फलस्वरूप संदेह या शंकाएं दूर हो जाती हैं तो उस अधिकारी की सत्यनिष्ठा प्रमाणित की जानी चाहिए और गोपनीय रिपोर्ट में तदनुसार प्रविष्टि की जाए।
- (b) If, as a result of the follow up action, the doubts or suspicions are cleared, the officer's integrity should be certified and an entry made accordingly in the Confidential Report.
- (ग) यदि संदेह या शंकाओं की पुष्टि हो जाती है तो इस तथ्य का भी उल्लेख किया जाना चाहिए और इसे संबंधित अधिकारी को बता दिया जाना चाहिए।
- (c) If the doubts or suspicions are confirmed, this fact should also be recorded and duly communicated to the officer concerned.
- (घ) यदि अनुवर्ती कार्यवाई के फलस्वरूप, संदेह या शंकाएं न तो दूर होती हैं और न ही उनकी पुष्टि होती है तो कुछ और समय तक अधिकारी के आचरण पर नज़र रखी जानी चाहिए और उसके बाद ऊपर 'क' और 'ग' में बताए गए अनुसार कार्यवाई करनी चाहिए।
- (d) If, as a result of the follow up action, the doubts or suspicions are neither cleared nor confirmed, the officer's conduct should be watched for a further period and thereafter action taken as indicated at (b) and (c) above.

Witnessed
Advocate.



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

In the matter of

O.A. No. 127 of 2002

S.P. Singh Yadav - Applicant

-Vs-

Union of India & Ors - Respondent

Union of India + ors 129
- Respondent
through:-
Shri Kumar Chandra
Adal C. S. C.
29/5/02

**WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENT NOS.1,2, 3 & 4**

I, Narayan Jha, Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Guwahati do hereby solemnly affirm and say as follows :-

1. That, I am the Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement, the other contentions and statements may be deemed to have been denied. I am competent and authorised to file this written statement for and on behalf of Respondents Nos.1, 2, 3 & 4.
2. That with regard the statements made in paragraph 4.1 of the application, the deponent begs to state that, it is not fact that the adverse remarks made in the ACR of the applicant for the

year 1998 are baseless and made in malafide exercise of power and in contravention of instructions. The adverse remarks were specific, clearly disclosing the nature of work done by the applicant for the year 1998 and his conduct towards superior officers. Therefore, the acceptance of adverse remark by the Accepting Authority was conscious decision taken after proper application of mind. No need for communicating any reason for rejecting the representation of the applicant by the Respondent No. 3 was felt, as the applicant in his representation had not brought out any good and sufficient reasons for acting otherwise.

3. That with regard the statements made in paragraph 4.2 of the application, the deponent begs to state that, the same relates to the joining of the applicant in CBI, Shillong Branch and subsequently in Guwahati on account of shifting of the Branch which is a matter of record and needs no comment.
4. That with regard the statements made in paragraph 4.3 of the application, the deponent begs to state that, the applicant has indulged himself in self glorification and self aggrandisement by highly exaggerating his own merit by stating that his performance was exemplary in CBI, on account of which he had received various rewards and commendations, copies of which have been enclosed with the applicant. The fact however, is that these rewards and commendations given to the applicant were more or less of routine nature, which were given either for finalisation of cases, given to the applicant along with all others during the visit of higher officer to the Branch, for conducting searches, for shifting records from one

101

place to another, all of which were general in nature, and were also given to most of the staff, to act as incentives for higher motivation. But unfortunately this had not the desired effect on the applicant, which rather produced the opposite effect as the applicant's works and conduct deteriorated sharply since 1998 onwards after which, the applicant received adverse entries in his ACRs in successive years which were communicated to him. Moreover, out the seventeen rewards given to the applicant during his entire tenure in CBI, the adverse entry in the applicant's ACR related to the year 1998, during which the applicant had received two rewards both of which were given by the Branch SP only and not by DIG or JD. One of these rewards was in connection with investigation of RC 5(A)/98-SHG done by the applicant, who subsequently being found responsible for delaying the investigation badly, it resulted finally in the case getting transferred to another I.O. The other reward given to the applicant during 1998 pertained to RC 16(A)/93-SHG for good work done in which the charge sheet was filed after almost 5 years in which Investigating Officer were changed several times, the applicant being the last. This case finalised after 5 years causing utmost delay as against stipulated period of six months and as such no reward should have been given to the applicant. Moreover, none of these rewards given to the applicant actually qualified for any reward in terms of DCBI Standing Order No. 32 dated 27.12.96 which was also cited by the applicant himself in one of his complaints to Director, CBI against ADCBI (Respondent No.2) which is

marked as A/2 to the O.A. According to this, rewards should be sanctioned in only any of the following cases :

- (i) When the officer has shown more than ordinary initiative to accomplish results which is instrumental to or very helpful for the detection of an offence / collection of very important clue to work out the case.
- (ii) Notable effects of the officers / officer resulting in a break through in a very difficult and blind case.
- (iii) Detection of the case in a very short span of time owing to the painstaking efforts made by the officers or team of officers.
- (iv) Conviction of accused charge sheeted without any adverse comments by the court against the investigation by CBI
- (v) Arrest of absconding accused vital to the trial of the case filed by the CBI in the court etc.
- (vi) Successful traps of quality, soon after the event.
- (vii) Disposal of long pending Trial Cases, tracing of absconding accused etc.

Thus, no reward was given to the applicant for excellent and speedy investigation, and for lack of which the applicant was given adverse entry in his ACR as because he was responsible for having resulted in the closure of the case RC 27(A)/96-SHG without proper investigation being done for which the applicant was served charge sheet for major penalty and disciplinary proceedings were started against him which is still in progress. Hence, it can not be said by any stretch of

133

imagination that the adverse entries made in the ACR of the applicant were vague, general and without basis.

5. That with regard the statements made in paragraph 4.4 of the application the deponent begs to state that, the applicant has admitted himself that Respondent No. 1 being DIG of the N.E. Region had met the applicant on the **first time on 08.09.98**, while holding crime meeting in Branch Office during which the Respondent No. 1 reviewed the investigation of cases and during the said meeting the Respondent No. 1 found the work of the applicant highly perfunctory leading to the closure in RC 27(A)/96-SHG. When the respondent No. 1 asked the applicant to explain why the case ended in closure, the applicant instead of replying to the pertinent questions raised by the Respondent No.1 in the said meeting behaved towards Respondent No. 1 in an insulting and humiliating manner as a result of which the Respondent No. 1 was obliged to ask the applicant to leave the room. This has been made clear from the Respondent No. 1's letter dated 21.01.2002 to the present DIG, CBI, N.E. Region, Guwahati which was sought by way of clarification from Respondent No. 1 and which has been enclosed with the O.A as Annexure A/8.

The applicant has mentioned that the subject case which was discussed with him by the Respondent No.1 in the said meeting was closure of RC 27(A)/96-SHG. Incidentally, in the above case it was found by the present DIG, CBI, NER during Branch Inspection that the applicant had closed the above case without conducting proper investigation, obviously with oblique / malafide intention on account of

184

which the applicant has been served with charge sheet and departmental proceedings were initiated against him which is still in progress, though the applicant had tried unsuccessfully by approaching Hon'ble Central Administrative Tribunal, Guwahati bench and also Hon'ble Guwahati High Court to get the charge sheet quashed.

6. That with regard the statements made in paragraph 4.5 of the application, the deponent begs to state that, there is nothing on record that Shri B.N. Mishra, the then SP, CBI, Guwahati, the Reporting Authority, had forwarded the request of the applicant for his repatriation vide letter 11.09.98, under pressure. It further shows that although the applicant voluntarily submitted an application for his immediate repatriation, it was in reality a black mailing tactic adopted by the applicant, who had hoped that SP, CBI, Guwahati would not forward his application. The applicant's further assertion that the Reporting Authority had given him good report without taking into account the above incident in the crime meeting etc. in also not borne out from record.

7. That with regard the statements made in paragraph 4.6 of the application the deponent begs to state that, in view of what transpired during the meeting between Respondent No. 1 and the applicant, it is clear that the Respondent No. 1 was perfectly justified for having recommended the applicant's case for immediate repatriation, who himself did not want to continue also. While forwarding the application, the Respondent No. 1 had rightly observed that the applicant's conduct was unbecoming of a CBI officer. This observation

of Respondent No. 1 has been amply proved to be justified from the subsequent conducts of the applicant, who was kept under suspension for his unbecoming conduct followed by many charge sheets served on him for major and minor penalty proceedings. The applicant has further mentioned that the Respondent No. 1 was not justified in making his observation which is not correct as the Respondent No. 1 was duty bound to mention the reasons for having recommended for immediate repatriation of the applicant.

8. That with regard the statements made in paragraph 4.7 of the application the deponent begs to state that, as Respondent No. 1 met the applicant for the first time in the Crime Meeting on 08.09.98 which the applicant himself has admitted, there is therefore no question on the part of Respondent No. 1 of having harboured any grudge towards the applicant. The opinion which the Respondent No. 1 had formed about the applicant during the said crime meeting, was based purely on his interactions with the applicant, his assessment of applicant's work and his unbecoming conduct found out during the said meeting, but for which the Respondent No. 1 was compelled to ask the applicant to leave the room. This shows the gravity of misbehaviour of the applicant towards Respondent No. 1.

9. That with regard the statements made in paragraph 4.8 of the application the deponent begs to state that, the applicant voluntarily submitted a petition on 8.9.98 seeking for his immediate repatriation from the CBI but subsequently he changed his mind when he found to his chagrin that his

application had been forwarded, both by the SP and the DIG. This clearly shows that applicant had no intention to leave CBI and was trying to blackmail by taking advantage of CBI's need for deputationist Inspector for running the organisation. This belief is further fortified from the fact that even after applicant was repatriated, the later resorted to all sorts of ploys to delay the repatriation order meaning thereby the applicant had his private agenda for continuing in the CBI.

10. That with regard the statements made in paragraph 4.9 of the application the deponent begs to state that, the deponent has no comment as the facts stated here relates to the applicant's request being made for withdrawal of his earlier application which was turned down by the competent authority of the CBI and the applicant was directed to be repatriated to his parent department.
11. That, the deponent begs to offer no comments to the statements made in Paragraph 4.10 of the application.
12. That with regard the statements made in paragraph 4.11 of the application, the deponent begs to state that, this para relates to adverse entry in the ACR of the applicant for the year 1998 - No comment.
13. That with regard the statements made in paragraph 4.12 of the application, the deponent begs to state that, it relates to the adverse remark communicated to the applicant. This communication not being discrete, can not be broken up in parts showing which portion was written by whom. The

139

adverse entry was communicated to the applicant showing his over all performance, both good and bad points, taken / mentioned separately.

14. That with regard the statements made in paragraph 4.13 of the application, the deponent begs to state that, as no merit was found in the representation of the applicant dated 29.10.99, it was finally rejected by the Respondent No. 3.
15. That with regard the statements made in paragraph 4.14 of the application the deponent begs to state that, there was no merit in the representation of the applicant for expunging the adverse remark in his ACR for the year, 1998 is borne out by the fact that even when the applicant filed application before Hon'ble Central Administrative Tribunal vide O.A No. 338/99, it was dismissed on 09.05.2001.
16. That with regard the statements made in paragraph 4.15 of the application, the deponent begs to state that, against the said order of the Hon'ble Tribunal, the applicant filed a Writ Petition vide No. 3420/2001 before the Division Bench of the Hon'ble High Court, Guwahati, which too was disposed off on 05.02.2002.
17. That with regard the statements made in paragraph 4.16 of the application the deponent begs to state that, it relates to the fact of the decision of the competent authority rejecting the representation of the applicant for expunging the adverse entry in the ACR for the year 1998 - was communicated to him by the SP and hence require no further comment.

18. That with regard the statements made in paragraph 4.17 of the application, the deponent begs to state that it is obvious that the action taken in this regard was in response to the order passed by the Hon'ble High Court and needed no further elaboration.
19. That with regard the statements made in paragraph 4.18 of the application, the deponent begs to state that, the applicant has affirmed that the Reviewing Authority / Accepting Authority who retired from service on 31.01.2002 (AN) had no competency to take action in this regard after his retirement. This is not correct, in view of the Circular issued by Govt of India, DP & T vide No. 21011/1/93-Estt(A) dated January, 1993 copy of which is **enclosed as Annexure - A** and according to which, such action can be taken within one month of the retirement.
20. That with regard the statements made in paragraph 4.19 of the application the deponent begs to state that, this relates to the communication made to the applicant for appearing before the Screening Committee at CBI, New Delhi, on 01.04.2002 and hence requires no comment.
21. That with regard the statements made in paragraph 4.20 of the application, the deponent begs to state that, due to certain confusion about final decision on the representation of the applicant for expunging the Adverse remarks in his ACR, the Screening Committee which was proposed to be held on 01.04.2002 cancelled the meeting which was subsequently

93

held on a later date in which the applicant had himself appeared.

22. That with regard the statements made in paragraph 4.21 of the application the deponent begs to state that, this being relating to application filed by the applicant vide No. 104/2002 before the Hon'ble Central Administrative Tribunal, Guwahati Bench and hence requires no comment.
23. That with regard the statements made in paragraph 4.22 of the application, the deponent begs to state that, the representation made by the applicant was finally rejected by DCBI (Respondent No. 3) which was communicated to the applicant.
24. That with regard the statements made in paragraph 4.23 of the application, the deponent begs to state that, it is a matter of record and needs no comments.
25. That with regard the statements made in paragraph 4.24 of the application, the deponent begs to state that, Respondent No. 1 remained in charge of DIG of N.E. Region from 08.03.98 to 08.02.99 i.e for almost a year. As such there were adequate opportunities afforded to him to come across the work and conduct of the applicant. The work of the applicant can be judged not merely by personal interaction, but also by going through his various reports and comments and result of the work entrusted to him which the Respondent No. 1 as Reviewing Authority had adequate opportunity to do so.

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26. That with regard the statements made in paragraph 4.25 of the application, the deponent begs to state that, as stated in the previous paras mentioned above, observations made in the ACR of the applicant for the year 1998 was quite specific regarding quality of work done by the applicant as well as his conduct and not vague as alleged by the applicant.
27. That with regard the statements made in paragraph 4.26 of the application, the deponent begs to state that, the applicant has represented on the adverse portion of the remarks made in his ACR communicated to the applicant vide Memo dated 29.09.99 and hence requires no comment.
28. That with regard the statements made in paragraph 4.27 of the application, the deponent begs to state that, the applicant has highlighted about his achievement for the period prior to the year 1998, during which no adverse entries were made in his ACR and as such these are superfluous, not being germane to the issue which relates to the period 1998 only. The applicant has asserted that the closure of the case i.e RC 27(A)/96-SHG was not the decision taken by him alone but by higher authority in CBI. It is to be clarified here that though the final decision is taken at a higher level but it is guided mostly on the result of the investigation done by the I.O. (applicant in this case) and depends on the thoroughness of the work done by him. No doubt, the Final Report of the Investigating Officer in CBI is examined by Public Prosecutor / Sr. Public Prosecutor / Dy. Legal Adviser, Supdt. of Police, DIG, etc. depending upon the status of the accused persons and the applicant has referred here to the relevant paras of the CBI

141

Crime Manual in this regard, namely Paras (i) 15/185, (ii) 25/82, (iii) 23/80, (iv) 22/79, (v) 11/68, (vi) 26/184 of CBI Crime Manual about which there is no dispute. **The applicant however, can not escape his own responsibilities in having carried out perfunctory work, merely because his report was examined by different officers at different level and final decision for closure was taken at higher level as this decision was based on the recommendations of the applicant.** ✓

29. That with regard the statements made in paragraph 4.28 of the application the deponent begs to state that, the fact that the applicant has been receiving adverse report continuously since 1998 onwards would support the fact that the adverse entry in his ACR for the year 1998 was not made without ground or sufficient reasons or without basis.
30. That with regard the statements made in paragraph 4.29 of the application, the deponent begs to state that, it is not correct, as stated by the applicant that the Reviewing Authority (Respondent No. 1) did not have sufficient opportunity to assess the work and conduct of the applicant, as Respondent No. 1 had the opportunity to watch the performance of the applicant for almost a year from 08.03.98 to 08.02.99.
31. That with regard the statements made in paragraph 4.30 of the application, the deponent begs to state that, as mentioned above, the adverse entry in the ACR was not bifurcated showing which entry was made by whom. Irrespective of what was commented / stated by the Reporting Authority / the

142

Reviewing Authority / the Accepting Authority - the final decision is that of the accepting authority, which overrides the entries which conflicts / contradicts with the opinion of Accepting Authority.

32. That with regard the statements made in paragraph 4.31 of the application, the deponent begs to state that, in view of what has been stated above, there is no merit in the contention of the applicant that the Reviewing Authority had not sufficient opportunity of knowing the applicant's work and conduct etc.
33. That with regard the statements made in paragraph 4.32 of the application, the deponent begs to state that, the question of bias on the part of the Reviewing Authority (Respondent No. 1), which has been raised by the applicant is without any basis and hence untenable.
34. That with regard the statements made in paragraph 4.33 and 4.34 of the application, the deponent begs to state that, it is not a fact that the Respondent No.3 without applying his mind to representation dated 29.10.99 of the applicant had rejected the same. As mentioned earlier, certain confusion had arisen before the Screening Committee had scheduled its meeting for considering the case of the applicant for his absorption in CBI at the initial stage which was rectified subsequently and the representation of the applicant was disposed of by the Respondent No. 3 eventually, although the said representation had been disposed by the Addl. Director, CBI who, as far of Inspectors are concerned, was a level above Accepting

143

Authority and as such no prejudice has been caused to the applicant in this regard.

35. That with regard the statements made in paragraph 4.35 of the application the deponent begs to state that, there was no merit in the representation of the applicant dated 29.10.99 on account of which the Hon'ble Central Administrative Tribunal also rejected the same.

36. That with regard the statements made in paragraph 4.36 of the application, the deponent begs to state that, even though the Respondent No. 1 was not holding the post of DIG in CBI, it was he, who had dealt with the ACR of the applicant for the year 1998 and as such as Reviewing Authority he was competent to give his view on the representation of the applicant, the final decision of which was taken by the Respondent No. 3. The applicant has also not mentioned, if the Respondent No. 1 was not competent to comment on his representation, who else was to deal in his matter in lieu of Respondent No. 1. Likewise, Respondent No. 2 who was Addl. Director, CBI and has Superannuated on 31.01.2002 (AN) was still competent to deal with the subject matter, vide Circular No. 21011/1/93-ESTT(A) of January, 1993 of Govt. of India, DP & T, New Delhi **enclosed as Annexure "A"**, according to which such opinion / views can be given within one month since the date of retirement. The applicant has also not stated who would have examined the representation in place of Respondent No. 2 on account of his retirement.

144

37. That with regard the statements made in paragraph 4.37 of the application, the deponent begs to state that, there is no question of the applicant being prejudiced in any manner. The applicant's conduct has come to the notice of higher authorities of CBI on numbers occasions even after 1998. The applicant is in the habit of making false and baseless complaint against one and all without barring higher officer, including all those who came in his way or made or passed any adverse remark against him. He has made false complaints on several occasions against Dy.SP, SP and DIG, etc. to the Director, CBI, to the Central Vigilance Commission, the Chairman Human Rights Commission etc. and all these complaints were found false, malicious and baseless after inquiries and perusal. The applicant has not even spared the present SP who took over charge on 23.07.2001, whom he has threatened and attempted to physically assault and against whom SP, CBI, Guwahati has lodged a complaint to higher authority. The applicant also made false complaint against present DIG when he had called the complainant, who had lodged complaint against the applicant and the applicant after having come to know this physically assaulted the complainant before the office chamber of DIG and when this fact was reported and Disciplinary action taken against the applicant, the applicant started making false, baseless and wild allegations against the DIG. He has made many such false complaints against the present DIG as the applicant thought that he was responsible for his suspension and for Disciplinary actions taken against him. The applicant has not even spared the Retainer Counsel

145

of CBI who fought his case for CBI in the Hon'ble High Court, Guwahati and got his petition dismissed. Due to gross misconduct and unbecoming behaviour of the applicant who was trying to malign and defame officers of CBI and also the organisation by making false complaint, the applicant has been kept under suspension with the approval of Competent Authority and continued to remain as such until he was finally repatriated vide Office Order No. 101/2002 dated 12.05.2002 communicated vide letter No. DPGWH2002/2873/OA/3420/2000 dated 12.05.2002. The applicant has got no right for continuing in CBI on deputation far less any right for being absorbed in the CBI. In the face of such grave misconduct on the part of the applicant leading to his suspension and disciplinary proceeding the question of his absorption in CBI is out and out ruled out. There is no merit in the application filed by the applicant which is being used as ploy and tactics to delay the matter unnecessarily for lingering his stay in CBI as long as it could be possible.

- 38 That, the deponent begs to submit that the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with cost.

146

VERIFICATION

I, Narayan Jha, Superintendent of Police, Central Bureau of Investigation, (Anti Corruption Branch,) Guwahati, being authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraph1,.....6,.....10 + 11.....of the Written Statement are true to my knowledge, there made in paragraph.....2-5, 7-9, 12-37.....being matters of record are true to my information derived therefrom which I believe to be true and there made in the rest are humble submissions before the Hon'ble Tribunal.

I have not suppressed any material fact.

And I sign this verification on the29th.....day of May, 2002 at Guwahati

Narayan Jha
Deponent
29.5.2002

ANNEXURE - A.

19 Annexure - 11

(COPY)

CONFIDENTIAL.

NO. 21011/1/93-Estt (A)
GOVERNMENT OF INDIA,
MINISTRY OF PERSONNEL, PUBLIC RELATIONS
DEPARTMENT OF PERSONNEL & TRAINING

NEW DELHI, DATE

JANUARY, 1993.

OFFICE MEMORANDUM

Sub : Confidential Report - Preparation and Maintenance of.

The undersigned is directed to say that in accordance with Para 1 (ii) of this Department's O.M. No. 21011/1/77-Estt (A) dated 30.1.78 where a reporting Officer retires or otherwise demits office, he may be allowed to give the report on his subordinates within one month of his retirement or demission of Office. It has been decided to extend this provision hitherto applicable only to the reporting Officer, to the Reviewing Authority also to enable him to review ACRs of his subordinates within one month after his retirement or demission of Office.

2. Ministries / Department are requested to bring this to the notice of all concerned for information and necessary action.

(Sd/- S.K. Patra.)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

To

All Ministries / Departments of Govt. of India with usual number of spare copies.

No. 21011/1/93-Estt (A)

Date: _____ January, 1993.

Copy to :-

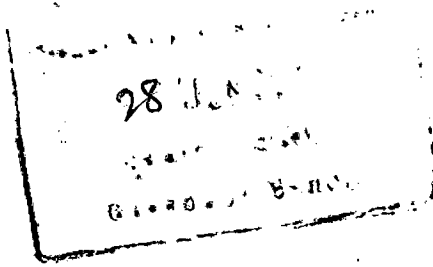
1. The Comptroller & Auditor General of India,
2. The Central Vigilance Commission.
3. The Union Public Service Commission.
4. Lok Sabha / Rajya Sabha Sectt.
5. The Commissioner of Linguistic Ministries, Allahabad.
6. All attached and subordinate Offices of MHA & DPCT.
7. All Administrative Section in DPCT.

(Sd/- S.K. Patra.)
DEPUTY SECRETARY TO THE GOVT. OF INDIA,
N. DELHI.

Attested

29.5.2002
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5

-cc-



1/18
Filed by the applicant
through the advocate
Pavan Kumar Tiwari
28/6/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 127/2002

S.P. Singh Yadav

- versus -

Union of India & Ors.

REJOINDER OF THE APPLICANT TO THE WRITTEN STATEMENT
FILED BY THE RESPONDENTS NO.1, 2, 3 AND 4

The Applicant in the above mentioned O.A. begs to state as follows :

1. That the Applicant has gone through the copy of the W.S. filed by the Respondents No.1, 2, 3 and 4 and has understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the W.S. are denied. Further the statements which are not borne on records are also denied and the said Respondents are put to the strictest proof thereof.

2. That with regard to the statements made in paragraph 2 of the W.S., it is stated that the adverse remarks made in the ACR of the Applicant for the year 1998 are self-explanatory. These adverse remarks have been made in contravention of the instructions which are required to be followed by the Reviewing and the Accepting Authority in preparing the annual confidential report of a subordinate officer. It is noteworthy that the Reporting Authority had given

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appreciative and positive remarks for the Applicant in his ACR for the year 1998. However, the Reviewing Authority (Respondent No. 1) without disclosing any reason disagreed with the positive remarks of the Reporting Authority and gave adverse remarks to the Applicant. While doing so, the Reviewing Authority (Respondent No. 1) acted contrary to the instructions it is required to follow in making confidential remarks about its subordinates. The Accepting Authority acted in total non-application of mind and accepted the remarks of the Reviewing Authority resulting in finalisation of the Applicant's ACR for the year 1998. It is reiterated that the competent authority while finalising the adverse remarks in the ACR of the Applicant have not dealt with the reasons for dismissing the representation of the Applicant. The memorandum dated 4.4.2002 is totally silent about the reasons and it is non-speaking. Though the representation of the Applicant dated 29.10.99 was elaborate, but the memorandum dated 4.4.2002 while communicating the Applicant about the rejection of his representation remained silent about the material particulars and did not assign any reason for rejection of the representation of the Applicant.

The Hon'ble Tribunal may be pleased to direct the Respondents to produce the relevant records pertaining to making of annual confidential remarks in the ACR of the Applicant for the year 1998 including the remarks of the Reporting Authority.

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3. That the statements made in paragraph 4 of the written statement are denied. It is denied that the rewards and commendations given to the Applicant were more or less of routine nature which were given either for finalisation of cases or given to the Applicant alongwith all others during the visit of higher officer to the Branch for conducting searches, for shifting records from one place to another etc. It is stated that the rewards and commendation certificates were given by Applicant's superior officers which reflected their own bonafide assessment of the work, conduct and performance of the Applicant at the relevant time. Therefore, it is not exaggeration of the own performance/achievement by the Applicant but an objective attempt to highlight his other superior officers' assessment which the present DIG, CBI Shri K.C. Kanoongo is reading down unreasonably and arbitrarily to suit his own malicious design against the Applicant. Respondents' claim of irrelevancy of the reward and commendation certificates is incorrect and the same is also not tenable in the light of the Director, CBI's standing order No. 32 dated 27.12.96. It is stated that reward and commendation certificate is sufficient acknowledgment of outstanding performance of the awardee during that quarter of the year and accordingly, gradation is marked in the ACR. It is pertinent to point out that during 1998-99, gradation of the Applicant in respective ACRs were deliberately lowered than the fair, objective and rationale grading

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of "very good". The latter gradation was to be conferred deservedly on the Applicant as he was conferred with two rewards and commendation certificate in each year by his superior officers thereby acknowledging Applicant's performance as "outstanding" in two quarter of each aforesaid years. It is further stated that the rewards are given in conformity with DCBI standing order in this regard and to call these rewards as of routine nature tantamounts to lowering the DCBI standing order. It is stated that there was no deterioration in the Applicant's work since 1998 onwards, but the same was the consequence of the malice of the Respondent No.1. It is denied that the Applicant was found responsible for delaying the investigation badly in RC-5(A)/98-SHG. It is stated that if the Applicant was guilty of any laches in investigation, the Respondents could have initiated appropriate action against him, but the same was never done. The Respondents are deliberately trying to lower the value and status of their own rewards to suit their convenience. The Respondents have copiously referred to the guidelines for giving rewards in terms of the DCBI standing order No. 32 dated 27.12.96. The clause IV of the said guidelines categorically states that the rewards should be sanctioned when the accused is convicted/charge sheeted without any adverse comments by the court against the investigation by the CBI. It is stated that the Applicant has secured conviction as Investigating Officer in RC-32(A)/94-SHG with rigorous

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imprisonment of five years and fine of Rs.10,000/-. However, no reward was given to the Applicant by either SP or DIG. This was not done at the behest of the present DIG Shri K.C. Kanoongo who passed an order in Branch Inspection Report for the year 1999 on 14.1.2000 to the effect that "SP should stop giving reward indiscriminately which sometime puts the branch in awkward position as in case of Shri S.P. Singh Yadav who is using it to advantage while fighting his case in CAT, Guwahati". It is further stated that no accusation can be made against the Applicant for closure of the case RC-27(A)/96-SHG. It is stated that same is the subject matter of disciplinary proceeding wherein the Applicant in his written statement has given an effective and proper reply of the allegation made against him. Till this very date, the disciplinary proceeding has not been completed and the Respondents are keeping quiet in the matter. Be that as it may, it is stated that RC-27(A)/96-SHG was closed after the approval of all the higher authorities upto the level of Joint Director, CBI. The Respondents to suit their sinister design are deliberately harassing the Applicant by falsely implicating him in the said case.

Copy of the aforesaid observation dated 14.1.2000 is annexed as ANNEXURE-R/1.

4. That with regard to the statements made in paragraph 5 of the written statement, it is stated that if the Respondent No. 1 did not ask any pertinent to question

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to the Applicant, he only put hypothetical question to the Applicant which has no logical answer. When the enquiries were made by the Respondent No.1 as to why the Applicant had given closure report in RC-27(A)/96-SHG, the Applicant apprised the Respondent No. 1 that the closure recommendation of the RC-27(A)/96-SHG was given unanimously by the Branch SP, Senior Public Prosecutor and Deputy Legal Adviser since there was no evidence and also that there were inherent defects in the FIR itself. However, the Respondent No.1 remained adamant and he abused the Applicant in high speech voice. It is denied that the behaviour of the Applicant towards the Respondent No.1 was insulting and humiliating. It is stated that the event that had occurred on 8.9.98 was referred to by the Respondent No.1 in his letter dated 21.1.2002. This only goes on to show that the letter dated 21.1.2002 is an after thought as the same has been manufactured primarily for the purpose of countering the allegations of the Applicant made in the Original Application pending before this Hon'ble Tribunal. It is denied that the RC-27(A)/96-SHG was closed by the Applicant without conducting proper investigation. When the charge sheet in regard to the same was served on the Applicant, the Applicant assailed the legality of the same and sought its quashing by filing an O.A. before this Hon'ble Tribunal. This Hon'ble Tribunal in the aforesaid case vide its common order dated May 4, 2001, made certain pertinent observations and the Applicant craves leave

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of this Hon'ble Tribunal to refer to the same at the time of hearing of this case. Be that as it may, till this very date, the disciplinary proceeding in the aforesaid case has not been concluded and the Respondents are keeping quiet in the matter. The reason for Respondents for not proceeding with the disciplinary proceeding are not far to seek. The Respondents have not proceeded with the disciplinary proceeding because they do not have materials to prove the Applicant guilty. The conduct of the Applicant in the case in question was above board and the approval of all the higher authorities was taken while submitting closure report in RC-27(A)/96-SHG.

Copy of the common order dated 4.5.2001 is annexed as ANNEXURE-R/2.

5. That the statements made in paragraph 6 of the written statement are denied and the averments made in para 4.5 of the O.A. are reiterated and reaffirmed. It is reiterated that the Reporting Authority had given good report in the ACR of the Applicant and the Respondents should be directed to produce the report of the Reporting Authority..

6. That with regard to the statements made in paragraph 7 of the written statement, it is stated that the comment of the Respondent No.1 while recommending the repatriation of the Applicant to his parent department was uncalled for and unwarranted as it was the Applicant who had taken initiative for his repatriation

to the State of UP because he felt insulted by the behaviour of the Respondent No.1. When it was the Applicant who made a request for his repatriation and the SP,CBI had forwarded the letter of the Applicant for such repatriation, the Respondent No.1 had no business to make an adverse comment while recommending the repatriation of the Applicant to the Joint Director, East Zone, CBI, Kolkata. It is further stated that the present Supdt. of Police, CBI, ACB, Guwahati who had signed the verification in the written statement is not the competent authority to justify the conduct of the Respondent No.1. The incident which occurred was exclusively between the Respondent No.1 and the Applicant and no third party can analyse the said incident without being privy to the information pertaining to the said incident. Mere submission of charge sheet for major and minor penalty proceeding cannot be the sufficient material to paint the Applicant in a poor light. The charges are required to be proved and till they approve, the same cannot be made use of tarnishing any one's image. The fact that the Respondents till this very date have not proceeded with the disciplinary proceeding after receiving the written statement of the Applicant only goes on to show their inability to prove the charges against the Applicant in a disciplinary proceeding.

7. That with regard to the statements made in paragraph 8 of the written statement, it is stated that the fact that the Respondent No.1 made up his mind

about the integrity, competence and ability of the Applicant only by meeting him once for few minutes in the crime meeting goes on to show the prejudice of the Respondent No.1. The only fault of the Applicant was that in the said crime meeting, he did not act in a subservient manner and discharged his duty with his head high. The Respondent No.1 suffered from inflated ego and he could not bear the sight of a junior officer who would not accept irrelevant remarks and improper observations of a senior officer. Confidential reports are not prepared for destroying the service career of a Government servant. The same also cannot be used as a weapon to settle personal scores with individual whom the senior officer does not like for his own personal reasons.

8. That with regard to the statements made in paragraph 9 of the written statement, it is stated that the unfortunate behaviour of the Respondent No.1 and his uncalled for observations against the Applicant while recommending his repatriation resulted in Applicant changing his mind of going back to his parent department. The Applicant wanted to leave the Central Bureau of Investigation only with clean image. The Applicant came from the State of UP with the clean image and he wanted to go back with the clean image. The personal prejudices of senior officers could not have been the sound and cogent reason for tarnishing the clean image of the Applicant. It is reiterated that from the beginning the Applicant's performance in

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154

CBI was exemplary and therefore it was difficult for him from the CBI with unjust and uncalled for observations of Respondent No.1. It was due to this that the Applicant changed his mind and wrote a letter dated 30.10.98 to the Joint Director (Admn.), CBI withdrawing his request for repatriation and stating that he was willing to continue in CBI. It is denied that the Applicant was trying to blackmail by taking advantage of CBI's need for deputationist Inspector for running the organisation. It is further stated that the recourse to court of law for redressal of one's grievance cannot be described as a "ploy".

9. That with regard to the statements made in paragraph 13 of the written statement, it is stated that the adverse remarks made in the case of the Applicant are not in conformity with the guidelines and executive instructions issued in connection with the preparation of Annual Confidential Report. The Reviewing and Accepting Authorities must have good and sufficient reasons for deviating from the remarks made by the Reporting Authority. In the case of the Applicant, there appears to be no good and sufficient reason for deviating from the remarks made by the Reporting Authority.

10. That with regard to the statements made in paragraph 15 of the written statement, it is stated that the O.A. No. 338/1999 was in regard to the repatriation of the Applicant and it has nothing to do

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with the adverse remarks of the Applicant for the year 1998. If there was no merit in the representation of the Applicant, then it is not understood as to why the Respondent No. 3 sat over the representation of the Applicant dated 29.10.99 for a long time. It was only after the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001 wherein direction was given for disposal of the representation of the Applicant dated 29.10.99, that the Respondents disposed of the same vide letter dated 4.3.2002 which was written by SP, CBI, ACB, Guwahati.

11. That while denying the statements made in paragraph 19 of the written statement, the Applicant reiterates and reaffirms the statements made in paragraph 4.18 of the O.A. With regard to competence or otherwise of the Reviewing/Accepting Authority in regard to taking any decision in the matter of Applicant after retirement, the Applicant reserves his right to make appropriate submission at the time of hearing of this case.

12. That with regard to the statements made in paragraph 25 of the written statement, it is stated that the Respondent No.1 had no justification in making adverse observation against the Applicant inasmuch as there was no sufficient occasion or opportunities for Respondent No.1 to judge/assess the performance/ability of the Applicant. While denying the statement made in paragraph 25 of the written statement, the Applicant

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reiterates and reaffirms the statements made in paragraph 4.24 of the O.A.

13. That with regard to the statements made in paragraph 26 of the written statement, it is stated that the observations made in the ACR of the Applicant for the year 1998 were not specific and the same were vague. These observations were silent on material particulars and were contrary to the principles of law laid down in the matter of preparation of annual confidential report.

14. That with regard to the statements made in paragraph 28 of the written statement, it is stated that the fact that prior to the year 1998, there were no adverse entries made in the ACR of the Applicant only goes on to show his general competence and ability. Certainly an Inspector who consistently gave "very good" to "outstanding" performance from 1993 to 1997 cannot all of a sudden become below average in the year 1998 onwards. It is not that something was wrong with the Applicant, but it is the Respondents alone who were unable to accept a self-respecting and dignified subordinate who refused to take unwarranted and uncalled behaviour of senior officers. It is further stated that if the investigation carried out by the Applicant in RC-27(A)/96-SHG was perfunctory, then why the same was not pointed out by those very senior officers who examined the report submitted by the Applicant. It is only the present DIG Shri K.C.

Kanoongo who dug up the old records and made an allegation against the Applicant that in the aforesaid case, his investigation was perfunctory. Moreover, if the arguments of the Respondents are taken to its logical end, then the same should also result in drawing up a disciplinary proceeding against the then Joint Director, CBI, DIG, Deputy Legal Adviser, Supdt. of Police etc. It is apparent that only for the purpose of victimisation and harassment of the Applicant, allegations were made against him for closure of the case RC-27(A)/96-SHG. It must also not be forgetting that the closure of the aforesaid case has a final seal of approval of the Court of competent jurisdiction.

15. That in regard to the statement made in paragraph 29 of the written statement, it is stated that if receiving of adverse report continuously since 1998 can be the justification for making adverse entry for yet another year, then conversely receiving appreciative and positive reports continuously since 1993 should also be a just and sufficient reason for getting such an appreciative report for the year 1998 and onwards. From the facts it is clear that it was only after the arrival of the present Respondents that the Applicant started getting the adverse report. The factum of Applicant getting the adverse report had more to do with the personal predilection and prejudices of the senior officers than the work performance of the Applicant.

222

16. That the statements made in paragraph 30 of the written statement are denied and it is stated that the Reviewing Authority (Respondent No. 1) did not have sufficient opportunity to assess the conduct of the Applicant. It is denied that the Respondent No. 1 had the opportunity to watch the performance of the Applicant for almost a year from 8.3.98 to 8.2.99. In this connection, the Applicant places reliance on the averments made in paragraph 4.24 of the O.A.

17. That with regard to the statements made in paragraphs 31, 32 and 33 of the written statement, it is stated that the relevant records pertaining to preparation of the annual confidential report of the Applicant for the year 1998 are necessary to demonstrate as to how the Reviewing and the Accepting Authorities deviated from the reports of the Reporting Authority who had better opportunity to assess the work performance of the Applicant. The Respondents should be directed to produce the reports of the Reporting Authority which is an integral part of the preparation of annual confidential report of the Applicant for the year 1998. It is not disputed that the final decision is that of the Accepting Authority which overrides the entries which conflicts/contradicts with the opinion of the Accepting Authority, but for doing so, the Accepting Authority must have sound and cogent reason. Personal prejudices cannot be the guiding factor in taking a contradictory view than that of the Reporting

Authority. In this connection, the Applicant reiterates and reaffirms the statements made in paragraphs 4.30, 4.31 and 4.32 of the O.A.

18. That the Applicant denies the statements made in paragraph 34 of the written statement and reiterates and reaffirms the statements made in paragraph 4.33 and 4.34 of the O.A. Here it is noteworthy that in this case, the Addl. Director, Dr. U.N. Biswas was the same person who as Joint Director, CBI was designated as Accepting Authority of the Applicant in the preparation of his annual confidential report. Therefore, it is seen that the very authority which was the Accepting Authority of the Applicant had decided the representation of the Applicant dated 29.10.99 which was made against the adverse remarks of the same very authority.

19. That the statements made in paragraph 35 of the written statement are frivolous and vexatious. There is no question of the Hon'ble Tribunal rejecting the representation of the Applicant dated 29.10.99. It is stated that the Hon'ble Tribunal does not examine the merits of the representation in exercise of its jurisdiction.

20. That while reiterating and reaffirming the statements made in paragraph 4.36 of the O.A., the Applicant disputes the veracity of the contents made in paragraph 36 of the written statement. It is stated

2202

that it is not for the Applicant to point out as to who else if not the Respondent No.1, was competent to comment on his representation. The principle of law is settled that one cannot be judge in his own cause. The representation was submitted against the adverse remarks which were made by the Respondent No. 1 in his capacity of Reviewing Authority and the same were accepted by the Respondent No. 2 in his capacity as Accepting Authority. Obviously, neither of the two Respondents could have examined the representation of the Applicant.

21. That with regard to the statements made in paragraph 37 of the written statement, it is stated that the averments made in paragraph 37 are not a reply of the statement made by the Applicant in paragraph 4.37 of the D.A. The Respondents have not specified as to what are those false complaints which were made by the Applicant against his senior officers. The averments made in paragraph 37 of the written statement are vague and vexatious and the same are silent on the material particulars. Para 37 of the written statement discloses the real object and motive behind the victimisation and harassment of the Applicant. The Respondents cannot decide as to whether the complaints made against them were true or false. It has not been stated as to whether any appropriate enquiry was carried out to ascertain the veracity of the complaints made by the Applicant. Senior officers of the CBI are not expected to admit the complaints made against them

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as true. The statements that the Applicant is in the habit of making false complaints against all those who cross his path are sweeping, general and vague. The statements of such nature demonstrate the mind set of the Respondents and explain the real motive behind the harassment and victimisation of the Applicant. Without taking the enquiry against the Applicant to its logical end, it is not open for the Respondents to give their finding that the Applicant had in fact committed grave misconduct. As to whether or not the Applicant had committed a misconduct can only be decided on conclusion of the independent, fair and impartial disciplinary proceeding. In this connection, it is pertinent to mention that the written statement has been verified by an officer who had no personal knowledge of the events that it transpires during 1998, 1999 and 2000. The copy of the written statement that has been served on the counsel of the Applicant does not show as to what paragraphs of the written statement are true to the knowledge and what statements are true to the information being based on records. The written statement itself has been filed in a perfunctory manner.

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VERIFICATION

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 48 years, resident of Dorothy Apartment, 4th Eye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statement made in paragraphs 1, 2, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 & 21 true to my knowledge ; those made in paragraphs 3, 4 & 10 being matters of records are true to my informations derived therefrom and the rests are my humble submissions. I have not suppressed any material fact.

And I sign this verification on this 28th day of June 2002 at Guwahati.

Suresh Pal Singh Yadav.

166
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(XI) Actions are required to be taken for making recovery of excess expenditure from officers whose telephone bills at office and residence are abnormally high much above the ceiling. A clearcut ceiling needs to be laid down above which the officer has to pay from his pocket, instead of getting approval of higher Officers who routinely approve excess expenditure as they themselves are not free from such blemishes.

(XII) Mileage given by vehicles of branch are poor which needs to be checked to find out the reasons for such poor mileage and corrective actions taken within a month.

(XIII) There are shortage of constable drivers. The H.O. may allow the Region to make few direct recruitment of constable driver to overcome the difficulties due to which vehicle are lying idle without being put to proper use.

(XIV) SP should lay down clear cut target for each I.O and P.P. in consultation with D.I.G. in the beginning of the year for laying down time limit for disposal of old cases, new cases, collection of SIR of quality including trap and D.A. cases, disposal of cases from Trial RDA, Complaint etc.

X (XV) SP should stop giving reward indiscriminately which sometime puts the branch in awkward position as in case of Shri S.P. Singh Yadav who is using it to his advantage while fighting his case in CAT, Guwahati.

(XVI) SP should undertake itemwise verification of case properties in the Malkhana which he has not done as yet which should be done without further delay

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14.1.2000
(K.C. Kanungo)

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

Om. Prakash, Supdt. of Police, CBI, Guwahati
CBI ID NO. _____

Dated. 13.1.2000

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14.1.2000

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 30, 31 & 61 of 2001

Date of Order: This is the Day of May 2001.

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

HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

Suresh Pal Singh Yadav, Inspector
(Under suspension),
Central Bureau of Investigation,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.G. Bazar Road, Sundarpur,
Guwahati - 781 005. ... Applicant

By Advocate Mr. D.K. Sharma, Mr. P.K. Tiwari
Mr. U.K. Goswami

-Vg-

1. K.C. Kamungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2. ... Respondents

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

O R D E R

CHOWHURY J. (V.C.)

O.A. 30, 31 & 61 of 2001 are taken up for consideration together since all these Applications embrace self same issues arising out of like situations appertaining to the propriety of initiation of the three departmental proceedings. The applicant assailed the legitimacy of the aforesaid actions of the respondents as well as the continuance of the departmental proceedings against him, in those

O.A.s.

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2. We have heard learned counsel for the parties at length. After going through the materials on records and upon considering the submission on behalf of the parties, we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable. The article of charges are framed against the applicant. He has already submitted his written statements denying and disputing the allegations. All things considered, we are not inclined to intervene and we are of the view that the departmental proceedings in question should proceed and come to its logical end as per law.

3. Enquiry Officer has already been appointed and from the conduct of Enquiry Officer and also from the materials on records, we do not perceive any disability in the Enquiry Officer and to debilitate him from the Enquiry. Considering all aspects of the matter we, however, feel that the respondent no.1 Shri K.C. Kanungo, Deputy Inspector General of Police should not act as a disciplinary authority. The applicant has specifically expressed his apprehension that he is not expecting to get treatment in hand of Respondent No.1 as the disciplinary authority.

4. Mr. B.K. Sharma, learned Senior counsel for the applicant particularly referred to us to the observations made by the aforementioned Officer of Police, in his order deciding to hold a formal enquiry after receipt of the written statement. Considering the findings and observations made in the aforesaid order read with the

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167

written statement filed, we feel that it would not be appropriate for the said respondent to act as disciplinary authority and therefore he should be required. We have adopted this course to recuse the Respondent No.1 to act as a disciplinary authority to avoid all misgivings. Justice not should only be done, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence. The concerned authorities including the Director, CBI, are ordered to act accordingly. The enquiry shall now proceed as per law. We expect that the enquiry shall be conducted with utmost expedition. We, however, make it clear that the applicant should be entitled to raise all the legal issues those are raised in the O.A.s including the maintainability of the departmental proceedings before enquiry as well as the disciplinary authorities.

With the observation made above, the applications stand disposed of. There shall, however, be no order as to costs.

Certified to be true Copy
प्रमाणित प्रतिलिपि

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Handwritten signature and date 6/5/2011

Officer (3)
Central Administrative Tribunal
New Delhi

Handwritten signature and date 2/5/2011