

50/100

3

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

(DESTRUCTION OF RECORD RULES, 1990)

~~MP-112/02~~ ordersheet pg- 1 to 2  
disposal date- 20/11/02

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 146/2002  
Misc Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicants. Sri Ajayvir Singh

-Vs-

Respondant(s) Union of India & Ors

Advocate for the Appellant(s) Mr. S. Ali, Sr. Advt. Mr. K. Chetri

Advocate for the Respondant(s) CGSC B. C. Pathak for Respond. No 4

Notes of the Registry	Date	Order of the Tribunal
	14.5.02	Heard Mr. S. Ali, learned Sr. counsel for the Applicant. The application is admitted. Call for the records. List on 12.6.2002 for orders.
	mb	<u>Member</u> <u>Vice-Chairman</u>
	12.6.02	Await Service Report. List on 28.6.02 for orders.
	lm	<u>Member</u> <u>Vice-Chairman</u>
	28.6.02	On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents further four weeks time is allowed to file written statement. List on 6.8.2002 for orders.
		<u>Member</u> <u>Vice-Chairman</u>

76-549520

21-3-2002  
10/5

Steps taken

NB

10/5/02

Steps taken. Notice prepared and sent to Dls for filing the Respondent No. 1 to 4 by Regd. Adl.

D/No 1448 & 1451

Dtd 17/5/02

-No written statement  
has been filed.

21/8/02

12.8.02  
W/S submitted  
By the Respondent Nos. 1, 2,  
3 & 4.

20/8/02

26.8.02  
Rejoinder submitted by the  
appellant in reply to W/S.

27/8/02

2/11/2003

Copy of the Judgment has  
been sent to the D/Sec.  
for issuing the same to the  
applicant as well as to the  
Addl. C.S.C. for the Respondents.  
H.P.

6.8.02

On the prayer of Mr. B.C. Pathak,  
learned Addl. C.G.S.C. for the Respondents  
ten days time is allowed to the  
Respondents to file written statement.

List on 20.8.2002 for orders.

K.C. Sharma  
Member

[Signature]  
Vice-Chairman

mb  
20.8.02

Written statement has already  
been filed. The applicant may file  
rejoinder, if any, within two weeks  
from today. List the matter for  
hearing on 11.9.2002.

K.C. Sharma  
Member

[Signature]  
Vice-Chairman

mb

11.9.2002

Division Bench did not sit  
today to the case as adjourned  
to 7.10.2002 for hearing.  
Mrs. A.K. Sen  
11.9.

7/10/2002

Name appears for the  
appellant.  
List on 20/11/2002 for  
hearing.

Mrs. A.K. Sen  
7/10

20.11.2002

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

K.C. Sharma  
Member

[Signature]  
Vice-Chairman

nk m

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./~~XXX~~ No. 146 ..... of 2002

DATE OF DECISION.....20.11.2002.....

Shri Ajoy Vir Singh

APPLICANT(S)

Mr S. Ali and Ms K. Chetri

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

The Union of India and others

RESPONDENT(S)

Mr B.C. Pathak, Addl. C.G.S.C.

ADVOCATE FOR THE  
RESPONDENT(S)

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

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

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

Yes

Judgment delivered by Hon'ble Vice-Chairman



5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.146 of 2002

Date of decision: This the 20th day of November 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Ajoy Vir Singh,  
Hindi Officer,  
Office of the Chief General Manager,  
Telecom, Assam Circle,  
Guwahati.

.....Applicant

By Advocates Mr S. Ali and Ms K. Chetri.

- versus -

1. The Union of India, represented by the  
Secretary to the Government of India,  
Ministry of Communication,  
New Delhi.
2. The General Manager,  
Development and Administration,  
Assam Telecom Circle,  
Guwahati.
3. The Deputy General Manager (Administration),  
Office of the Chief General Manager,  
Telecom Circle,  
Guwahati.

4. Shri Mahesh Shukla,  
Telecom District Manager,  
Sagor, Madhya Pradesh.

.....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

In this application under Section 19 of the  
Administrative Tribunals Act, 1985 the applicant has  
assailed the legality and validity of the letter  
D.O.No.DGM(A)/CR Mov/2001 dated 28.5.2001 communicating  
the adverse remarks in the ACR for the period from

1.4.2000 to 31.3.2001. The impugned order itself indicates that the applicant earned a good report for the period from 1.4.2000 to 31.3.2001, but the Reviewing Officer in his turn made his remarks against columns 3 and 4 in part-V of the ACR, which reads as follows:

<u>"Column</u>	Remarks
3. Do you agree with the assessment of the officer given by the Reporting Officer. Is there anything you wish to modify or add?	No, because the reasons are:- 1. The officer being reported upon has not even filed the post on which he is working. 2. He has not been able to even translate say 5 pages of English in a day. 3. There were complaints regarding TOLIC and OLIC meetings.
4. General remarks with specific comments about the general remarks given by the Reporting Officer and remarks about the meritorious work of the officer including grading.	As noted above and further I note that:- 4. In column 8, relation with public have been shown as very good whereas he has no such duties. 5. His relationship with superiors/colleagues has been good but he misbehaved on occasions with Dr R.B. Singh and Dr Pandey of O/L Implementation Deptt.

This is being communicated to you so tht you may try to overcome the deficiencies and improve your performance. I hope, you will be able to earn good reports in all aspects in the years to come."

Being aggrieved by the aforementioned adverse entries in the ACR, the applicant submitted his representation dated 19.6.2001 before the Chief General Manager, Assam Telecom Circle for removal of the adverse remarks. Failing to get any response within a reasonable time, the applicant moved this O.A. assailing the legitimacy of the action of the respondents. The applicant also alleged malafide against the Reviewing Officer who was impleaded as respondent No.4.

2. The respondents in their written statement, amongst others, also took the plea of maintainability of the application before the Central Administrative Tribunal on the score that the respondent Nos.2, 3 and 4, namely the General Manager, Deputy General Manager and the Telecom District Manager have ceased to be authorities of the Government of India- respondent No.1, so much so that respondent Nos.2, 3 and 4 were assigned and transferred to Bharat Sanchar Nigam Limited (BSNL for short) and BSNL being a Company registered under the Companies Act, 1956. In the absence of any notification by the Government of India in terms of Section 14 of the Administrative Tribunals Act, 1985, the Tribunal has no jurisdiction to entertain the application. In addition, the respondents in the written statement also sought to support the action of the authority as lawful and asserted that the respondent No.4 correctly recorded his views on the basis of the materials on record.

3. We have heard Mr S. Ali, learned Sr. counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. Mr S. Ali submitted that the respondents fell into obvious error in recording the ACR without due application of the mind. The learned Sr counsel for the applicant submitted that the impugned order itself indicated that the respondents acted in a most mechanical and casual fashion in recording the ACR of the applicant in disregard of the accepted norms of recording ACR. The learned Sr. counsel for the applicant also submitted that the adverse entries recorded was perverse and the said recording reflected the malice of the respondent No.4 towards the applicant. Mr Ali also referred to a Bench decision of this Tribunal in Shri N. Hussain and others Vs. Union of India and others,

reported.....

reported in 1999 (2) SLJ (CAT) 121.

4. Countering the submission of Mr S. Ali, Mr B.C. Pathak, learned Addl. C.G.S.C. relied upon the written statement and also referred to the decision of the Supreme Court in Swatantar Singh Vs. State of Haryana and others, reported in AIR 1997 SC 2105 and also to the decision in State of M.P. and others Vs. Vishnu Dutta (VS) Dubey and others, reported in 1995 Supp (4) SCC 461.

5. Needless to state that the ACR of an officer is basically the performance appraisal of the concerned officer which will constitute the vital service profile in relation to his career advancement. An adverse remark can seriously jeopardise the career of an officer. In the event it is necessary for recording such remark in the ACR, the authority making such entry in the ACR must first be satisfied and reach a conclusion that the fact situation is such that it is imperative to make such remark to set right the wrong committed by the officer. Such decisions are to be taken objectively which must reflect impartiality and fair assessment devoid of any prejudice. Recording of ACR is a responsible task with the object to inculcate in the officer devotion to duty with sincerity and honesty. The whole exercise of making such remark in the ACR is to furnish the officer concerned the area of his weakness with a view to improve the quality of the officer vis-a-vis public service. The officer recording the ACR must address itself to the inadequacies and shortcomings of the concerned officer and to point out to the officer concerned those shortcomings for the improvement of the officer concerned as well as public service. We have only indicated the the very purpose and object.....



object of recording ACRs as is reflected from the policy laid down by the Government of India in the matter of recording ACR. The Supreme Court of India in a series of decisions also indicated the contour of recording ACR (Ref: M.A. Rajasekhar Vs. State of Karnataka and another, (1996) 10 SCC 369; P.K. Shastri Vs. State of M.P. and others, (1999) 7 SCC 329 and State Bank of India and others Vs. Kashinath Kher and others, (1996) 8 SCC 762. These are only a few of the instances in this area, which we addressed our mind).


6. In the instant case, however, the concerned authority is yet to pass any appropriate order on the representation submitted by the applicant for expunction of the adverse remarks which was submitted as far back as 19.5.2000. Mr B.C. Pathak submitted that the Chief General Manager, Telecom is not the concerned authority and therefore, the representation remained unattended. We could not appreciate the attitude of the respondents. When a representation is filed before the Chief General Manager and if the Chief General Manager was not the competent authority, the concerned authority should have sent the representation to the appropriate authority to deal with the same. Be that as it may, we now direct the applicant to submit a fresh representation before the Director General, who according to Mr B.C. Pathak is presently the Managing Director and the right person to deal with the representation. We accordingly direct the applicant to submit a fresh representation before the Director General-cum-Managing Director of BSNL who will deal with the representation and pass appropriate order in the light of

the.....

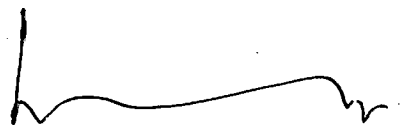
the observations made and pass appropriate order as per law. It may also be mentioned that we are not impressed with the plea of maintainability of the application which was already dealt with by us in like applications of the BSNL.

7. Mr S. Ali also submitted that the impugned adverse remarks may be used by the respondents in withholding the consideration of promotion of the applicant and therefore, sought for a direction to keep the impugned order communicating the adverse remarks to the applicant in abeyance till finalisation of the representation of the applicant. We do not consider to pass any order, so much so that in view of the fact that the representation of the applicant for expunction of the adverse remarks is yet to be considered and disposed of and therefore the same cannot be acted upon till finalisation of the representation.

8. Subject to the observations made above, the application stands disposed of. There shall, however, be no order as to costs.



( K. K. SHARMA )  
ADMINISTRATIVE MEMBER



( D. N. CHOWDHURY )  
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI.

*Ajoy Vir*

O.A. NO. 146 /2002.

Shri Ajoy Vir Singh

.....

Applicant.

-VRS-

Union of India & Ors

.....

Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages No.</u>
1	Original application	- 1 to 12
2	Annexure-1 to 1(4)	- 13 to 18
3	Annexure-2	- 19
4	Annexure-3	- 20
5	Annexure-4	- 21
6	Annexure-5	- 22
7	Annexure-6	- 23
8	Annexure-7	- 24
9	Annexure-8	- 25
10	Annexure-9	- 26
11	Annexure-10	- 27 to 29

Filed by:-

*Kishan Chellai*  
9/5/2002  
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI.

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

O.A. No. 146 /2002.

-Inbetween-

Ajoy Vir Singh ..... Applicant

-VRS-

Union of India & Ors..... Respondents.

1. PARTICULARS OF THE APPLICANT:-

Shri Ajoy Vir Singh,  
Hindi Officer, Office of the Chief  
General Manager, Telecom, Assam Circle,  
Ulubari, Guwahati-7.

2. PARTICULARS OF THE RESPONDENTS :-

1. Union of India, represented by the Secretary  
to the Govt. of India, Ministry of Communi-  
cation, Sanchar Bhawan, New Delhi.

2. The General Manager, Development and  
Administration, Assam Telecom Circle,  
Ulubari, Guwahati-7.

3. Deputy General Manager (Administration)  
Office of the Chief General Manager, Telecom,  
Assam, Circle, Guwahati-7.

4. Sri Mahesh Shukla, Telecom District Manager,  
Sagar, Madhya Pradesh,

Filed by  
Ajoy Vir Singh  
Through Mr. Chandra  
Advocate

Director Gen  
MD

13  
Jyoti Var

3. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE :-

The adverse remarks contained in D.O. No.DGM(A)/ CR.MOV/2001 dated 28.5.2001 issued by the Deputy General Manager(A), Office of the Chief General Manager, Telecom, Assam Circle, Guwahati-7.

4. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter on which this application is seeks redressal within the jurisdiction of the Hon'ble Tribunal, Guwahati.

5. LIMITATION :-

The applicant further declares that this application is within the limitation as prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :-

6.1. That your applicant is an Indian citizen and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.

6.2. That your applicant passed M.A. in Philosophy from Agra University in 1979 and M.A. in Hindi in 1984 from the said University. He also passed P.G.D. in Languastic from Agra University in 1982. He also obtained Post Graduate Diploma in translation from English to Hindi and Hindi to English in 1989 from Agra University.

Contd.....3

14  
Ajay Singh

Annexure-1 is the photocopy of the  
M.A. pass certificate of the applicant.

Annexure-1(1) is the photocopy of the  
M.A. in Hindi Certificate of the  
applicant.

Annexure-1(2) is the photocopy of the  
PG.D. in Linguistic certificate of  
the applicant.

Annexure-1(3) is the photocopy of the  
Diploma in Post Graduate in translation  
from English to Hindi and Hindi to  
English in 1989 of the applicant.

6.3. That your applicant was offered appointment  
of Hindi Officer on therecommendation of the Union Public  
Service Commission by the Assistant Director General (SGP)  
vide letter dated 29.7.88 in the pay scale of Rs.2000/- to  
Rs.3500/- p.m. with usual allowance and in case he accepts  
the offer of appointment then the applicant was requested  
to report to the Chief General Manager, Telecom, Bhopal  
within 15 days of the receipt of the offer.

Annexure-1(4) is the photocopy of the  
offer of the appointment dated 29.7.88  
issued by the Asstt. Director General  
(SGP), Ministry of Communication,  
Deptt. of Posts, New Delhi.

6.4. That before joining in the post of Hindi  
Officer at Bhopal the Assistant Director General(SGP) issued  
an order No.12-4/87-SPG dated 20.4.89 reviewing the earlier  
offer of appointment to the applicant and the applicant was

directed to report the General Manager, Telecom, Bombay within 15 days of thereceipt of the order.

Annexure-2 is the photocopy of the said order dated 20.4.89 issued by the Assistant Director General (SGP) Ministry of Communications, Department of Posts, New Delhi.

6.5. That the Assistant Director General (SGP) modified the earlier order dated 20.4.89 at Annexure-2 vide No.12-4/87-SPG dated 15.9.89 and directed the applicant to join in the office of the Chief General Manager, Telecom, Guwahati-7 in the same terms and conditions within 15 days as Hindi Officer.

Annexure-3 is the photocopy of the said order No.12-4/87-SPG dated 15.9.89 issued by the Assistant Director General (SGP), Govt. of India, Ministry of Communication, Department of Posts, New Delhi.

6.6. That the applicant joined in his duty in the office of the Chief General Manager, Telecom, Assam Circle, Guwahati on 29.9.89 as Hindi Officer as per Annexure-3.

6.7. That since then he has been sincerely and honestly working as Hindi Officer in the office of the Chief General Manager, Telecom, Assam Circle, Guwahati-7.

Contd.....5

*Jay Ver Si*

*Jay Ver 8*

6.8. That the Chief General Manager (Telecom) Assam Circle, Guwahati-7 being highly satisfied with his performance of duty issued a certificate on 5.9.91 to the applicant. In the certificate the Chief General Manager, Telecom stated that the applicant has exhibited extra ordinary skill in maintaining Hindi Teaching Scheme in the Circle. Further it was stated that the applicant left no stone unturned to implement official language policy in the Circle. He also stated that the applicant bears a good moral character and shows remarkably well behaviour to his seniors and affections to his subordinates.

Annexure-4 is the photocopy of the said certificate dated 5.9.91 issued by the Chief General Manager, Telecom, Assam Circle, Guwahati-7.

6.9. That the applicant was awarded merit certificate for commendable performance in implementation of the official language programme during the year 1990-91 by the Secretary, Official Language Department and Hindi Adviser to the Govt. of India.

Annexure-5 is the photocopy of the said certificate of the applicant.

6.10. That in the year 1991-92 the applicant was awarded merit certificate for commendable performance in implementation of the official language Programme during the year 1991-92.



Annexure-6 is the photocopy of the said certificate issued by the Secretary to the Govt. of India, Ministry of Home Affairs Department of Official Language.

6.11. That your applicant was adjudged Second for Commendable performance in implementation of the official language Policy during the year 1992-93 and a certificate was issued to that effect by the Secretary, Govt. of India, Ministry of Home Affairs, Department of Official Language.

Annexure-7 is the photocopy of the said certificate issued by the Secretary, Ministry of Home Affairs, Department, of Official Language.

6.12. That the Secretary to the Govt. of India, Ministry of Home Affairs, Department of Official Language issued a merit certificate awarded to the applicant, Hindi Officer O/O the Chief General Manager, Telecom, Assam Circle, Guwahati for being adjudged 2nd for commendable performance in implementation of the official language Policy during the year 1996-97.

Annexure-8 is the photocopy of the merit certificate issued by the Secretary to the Govt. of India, Ministry of Home Affairs, Department of Official Language.

6.13. That your applicant states that since 1991 till 1996-97 his service have been commendable for which he was awarded merit certificates and all these things

have been recorded in his ACR. For the years 1997-98, 1999-2000 and 2000-2001 he has maintained commendable performance records which have been recorded in his ACR.

6.14. That your applicant to his great surprise and showing reason adverse remark communicated to the applicant by Shri Mahensh Shukla, Deputy General Manager (Administration), Office of the Chief General Manager, Telecom, Assam Circle, Guwahati-7 the Respondent No.4 for the period 1.4.2000 to 31.3.2001 stated that some adverse remarks in Part-V of the ACR have been given.

Annexure-9 is the photocopy of the adverse remark communicated by the Deputy General Manager (Admn) office of the Chief General Manager, Telecom, Assam Circle, Guwahati-7.

6.15. That after receipt of the Annexure-9 the applicant submitted his representation against the adverse remarks vide his letter dated 19.6.2001 addressed to the Chief General Manager, Telecom, Assam Circle, Guwahati-8.

Annexure-10 is the photocopy of the representation dated 19.6.2001 addressed to the Chief General Manager, Telecom, Assam, Circle, Guwahati-7.

6.16. That your petition in his representation at Annexure 10 clearly stated that he has been discharging

his duties with utmost devotion, deligate and sincerity. It is not a fact that the applicant has misbehaved Dr. R.D. Singh and Dr. B.N. Pandey, Officials in implementation Office. It may be mentioned in this connection that if there was such incidents either Dr. R.D. Singh or Dr. B.N. Pandey or any officials from the office of the Chief General Manager, Telecom, Assam Circle, Guwahati have not informed me about the alleged incidents. The applicant's officer also has not informed the applicant about the alleged incidents. So this so called allegation against the applicant is not correct but fabricated one with a view to malign the applicant for his good commendable service.

6.17. That the applicant begs to state that in the Annexure-9 the Reporting Officer has clearly stated that the applicant's public relation is very good. It is not correct that he has no public duties as stated ~~above~~ by the Deputy General Manager (Admn) who is a reviewing officer. He misconceived the duties of the applicant. He being Assistant Director (Official Language) he has public relation just to inform the public the utility of official language. If the public knows or greater understand of the utility of the official language they would get interest or attraction of the official language which will help not only the urban people but also rural population. This is the noble purpose of the official language.

6.18. That your applicant begs to state that the allegations brought by two Doctors viz Dr. R.D. Singh and Dr. B.N. Pandey cannot constitute a part of performance of his official duties and as such the same cannot be recorded as adverse remarks against the applicant in the ACR.

*Agay Ver S*

*Pray for Singh*

7. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

7.1. For that the applicant has all along earned commendable performance in his record and as such the allegations brought by two doctors against which no show cause notice was issued to the applicant the same cannot be recorded as adverse remarks in the ACR.

7.2. For that right from beginning of his service career he has earned very good and outstanding in the ACR and the two doctors being envious of his service records brought false and baseless allegations against the applicant which cannot be treated as a part of performance of his official duties.

7.3. For that the applicant has been awarded several certificates for commendable performance of his official language programme by the Secretary of the Ministry of Home Affairs under which department the applicant is working and the present adverse remarks given by the Deputy General Manager (Admn) the Respondent No.4 is being influenced by two doctors should not find place in the ACT as the allegations made by two doctors are beside the official duty of the applicant.

7.4. For that the adverse entry made by the Reporting Officer is malafide and hence it is liable to be quashed.

7.5. For that till date no officials of the office of the Chief General Manager, Telecom, Assam Circle, Guwahati in which department the applicant is working

has brought any allegations or complaint against performance of his duty.

7.6. For that the subject of language is solely connected with public and hence he has earned popularity amongst the public for making understandable the purpose of language.

7.7. For that the applicant is a Hindi Officer which is connected with public both rural and urban to make them understand the purpose of hindi language.

8. DETAILS OF REMEDIES EXHAUSTED :-

That the applicant filed representation against the adverse remarks shown in his ACR ~~for~~ the year 2000-01 to the Chief General Manager, Telecom, Assam Circle, Guwahati but upto now no reply has been given to him and hence he is compelled to file this original application before this Hon'ble ~~Law~~ Tribunal for expunging the adverse remarks recorded in ACR of the applicant.

9. MATTERS NOT PENDING IN ANY COURT OF LAW OR IN TRIBUNAL:-

The applicant declares that the subject matter is not pending in any Court of law or in Tribunal.

10. RELIEF SOUGHT FOR :-

Under the facts and circumstances narrated above the applicant prays for the following reliefs:-

- 1) The impugned adverse remarks at Annexure-9 may kindly be quashed;

*Ajay Kumar Singh*

*Agg. Mr. Singh*

ii) The show called adverse remarks should not be recorded in the ACR of the applicant who has maintained all along outstanding ACR from the date of joining in his service;

iii) To grant any other relief or reliefs as entitled by the applicant;

iv) To grant cost of the application against Shri Mahesh Shukla ~~xxxx~~ Respondent No.4 for bringing false and baseless remarks given by him in the ACR of the applicant.

11. PARTICULARS OF THE IPO:-

- i. Date :- 21.3.2002
- ii. No. 76549520
- iii. Value :- Rs 50/-
- iv. Payable at Guwahati.
- v. Name of the Post Office:

12. ENCLOSURES:-

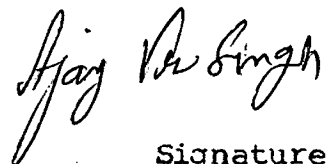
As per Index.

Verification.....

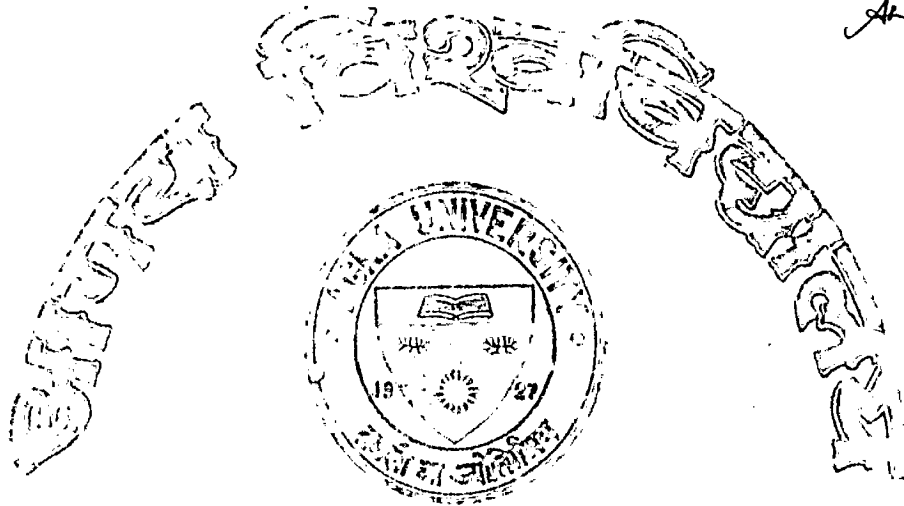
A F F I D A V I T

I, Shri Ajoy Vir Singh, Hindi Officer now redeisgnated as Assistant Director (L) of the office Chief of the General Manager, Telecom, Assam Circle, Ulubari Guwahati-7, do hereby solemnly affirm and verify the statements made in paragraphs 4, 5, 6.1, 6.7, 6.16, 6.17, 6.18, 7, 8, 9, 10. are true to my knowledge and those made in paragraphs 3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15 being matter of records are true to my information derived therefrom which I believe to be true and the rests are my humble submissions made before this Hon'ble Tribunal. And I have not suppressed any material facts in this case.

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



Signature.



## बनारस यूनिवर्सिटी

प्रस्तुत किया जाता है कि अजय वीर सिंह

(आगरा कॉलेज, आगरा)

के द्वारा प्रस्तुत किया गया है १९७१ की परीक्षा द्वितीय

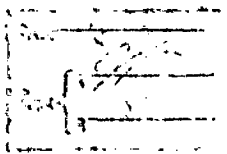
में अतीर्थ प्रश्न

दर्शन

विषय

बनारस यूनिवर्सिटी की उत्तरी प्रादेशिक

प्रश्न पत्र

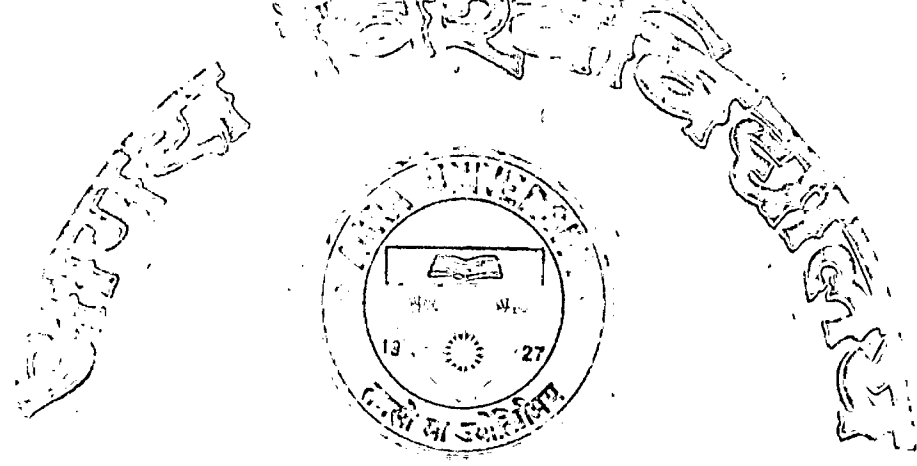


5334

9396

Attended by  
Kishor Chelbi  
Admission  
6/5/02





# सत्यमेव जयते

सत्यमेव जयते है कि अजय वीर सिंह  
(व्यक्तिगत)

सत्यमेव जयते है कि अजय वीर सिंह वृत्तीय

सत्यमेव जयते है कि अजय वीर सिंह हिन्दी

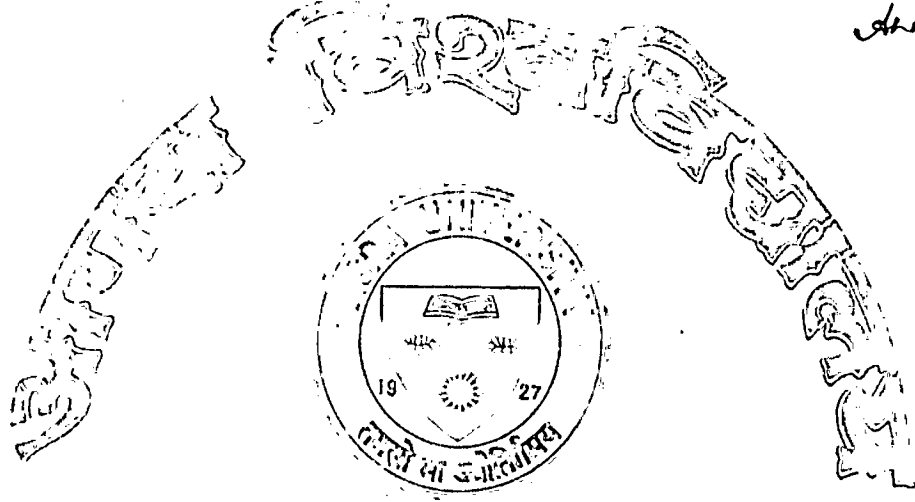
(Hindi)

सत्यमेव जयते है कि अजय वीर सिंह

सत्यमेव जयते है कि अजय वीर सिंह
सत्यमेव जयते है कि अजय वीर सिंह
सत्यमेव जयते है कि अजय वीर सिंह

Attested by  
Krishna Chellai  
Advocate  
8/5/2002

अजय वीर सिंह



# ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਫਿਜ਼ਲੇਟ ਹਵਾ ਵਿਸ਼ੇ ਵਿਸ਼ੇਸ਼

ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ

(ਜਨਮ 1940 ਈਸਵੀ ਤਥਾ ਭਾਖਾ ਵਿਭਾਗ ਵਿਧਾਪੀਠ, ਜਾਮਾ)

ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ 1940 ਈਸਵੀ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ  
ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ 1940 ਈਸਵੀ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ  
ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ 1940 ਈਸਵੀ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ

ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ 1940 ਈਸਵੀ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ  
ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ 1940 ਈਸਵੀ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ

ਪੰਜਾਬ ਹਾਈ ਕੋਰਟ ਵਿਖੇ 1940 ਈਸਵੀ ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ

1940 ਈਸਵੀ
1940 ਈਸਵੀ
1940 ਈਸਵੀ

1940/07

Attested by  
Kishna Chatter  
Advocate  
6/5/2002

ਅਗਸਤ 2002 ਵਿਖੇ ਪਾਤਲ ਹੈ ਕਿ ਅਜਯ ਵੀਰ ਸਿੰਹ

Dated the 27 July 1938.

✓ Shri/Shrimati Ajay Vir Singh

C/o Smt. Rameshwari Singh

94, MES Quarters (Naulakha)

Qrs. No. 25-26; Post office Sadar Bazar, Agra-232001. (U.P.)

Subject:- Appointment to posts of Hindi Officers in the  
Department of Posts/Department of Telecom.

Sir/Madam,

On the basis of the recommendations of the Union Public Service Commission, the Director General (Posts) is pleased to offer you an appointment against the post of Hindi Officer in the General Central Service Group 'B' on the following terms and conditions.

- i) 1) The appointment is against a temporary post but likely to be retained eventually on a permanent basis.
- ii) You will be on probation for a period of two years from the date of appointment which may be extended at the discretion of the competent authority.
- iii) The scale of pay of the post is Rs. 2000-60-2300-EB-75-3000-100-3500, with usual allowances and your initial pay will be fixed in this scale at Rs. \_\_\_\_\_ as per rules applicable to you.
- iv) On appointment you will be required to take an oath of allegiance/faithfulness to the Constitution of India or a solemn affirmation to that effect in the prescribed form.
- v) The appointment will be subject to the submission of the following.
  - (a) a declaration in the form enclosed at Annexure I. In the event of your having more than one spouse living or having a spouse living, you have married and your marriage is void by reason of its taking place during the life time of such spouse, the appointment will be subject to your being exempted from the enforcement of the requirement in this behalf;

...2/-

*Witnessed by  
Kishor Chandra  
Advocate  
6/4/2002*

- (b) Information in respect of your close relations in the form enclosed at Annex II, who are nationals of or domicile in other countries.
- vi) The appointment carries with it the liability to serve in any part of India or outside.
- vii) All other conditions of service will be governed by the relevant rules and orders of the Government of India as amended from time to time.
- viii) You are posted as Hindi Officer, I/O, General Manager, Telecom., Bhopal, M.P.

2. In case you accept the offer of appointment, you are requested to report to the General Manager Telecom., Bhopal (M.P.) within 15 days of the receipt of this offer. In case you fail to report within the prescribed period, this offer of appointment is liable to be treated as cancelled.

Yours faithfully,

(P.F. Sharma)

Asstt. Director General (SGP)

Copy forwarded to:-

1. The Secretary, UPSC, Dhoolpur House, New Delhi-110011  
Attention: Shri Ramji Singh, Dy. Secretary, w.r.t. letter No. F. 1/142/87-R IV, dt. 30.3.88.
2. PMG/CMT/DMT Telecom., Bhopal.
3. Director/Dy. Director of Accounts Postal/Telecom. Bhopal.
4. PS to Secretary(P)/PS to Secretary(T).
5. PS to Member(A)/PS to Secretary, P&T Board.
6. Director(OL)/Information Officer, Deptt. of Posts/Telecom.
7. CS to Member(P)/Deptt. of Posts/Deptt. of Telecom.
8. Hindi Section, Deptt. of Posts/SGP's Guard file.

(Subhash Chander)  
Section Officer (SGP)

NO. 12-4/87-SPG  
GOVERNMENT OF INDIA  
MINISTRY OF COMMUNICATIONS  
DEPARTMENT OF POSTS  
NEW DELHI-110001.

Dated 20-4-89.

Subject:- Appointment to the posts of Hindi Officers-  
cancellation of.

In supersession of our memo. of even no., dated 17-3-89 on the subject cited above, the offer of appointment to the post of Hindi Officer in Deptt. of Posts/Telecom. to Shri Ajay Vir Singh is hereby revived. Shri Singh is requested to report to the General Manager Telecom., Bombay (M.T.N.Ltd) within 15 days of the receipt of this offer failing which this offer of appointment is liable to be treated as cancelled.

( D.H. SARKAR. )  
ASSTT.DIRECTOR GENERAL (S)

Copy to:-

1. Sh. Ajay Vir Singh, C/O Sh. B.D. Singh, Allahabad Bank, Regional Office, Pan Bazar, Shaikh Building (Second Stor Guwahati (Assam) --781001 ( It may kindly be noted that n change in address was intimated to this office).
2. Sh. K. Subramanian, Asstt. General Manager (Admn.I), M.T.N. Ltd., Bombay.
3. Chief General Manager Telecom., Maharashtra Telecom Circle, Bombay (MTN Ltd).
4. Director of A/cs Postal, Nagpur.
5. Secretary, UPSC (Case Mark No. F.1/142/87-R IV, dt.30-3 refers).
6. PS to Secretary(P)/PS to Secretary (T)
7. PS to Member (P)/PS to Secretary, PS Board.
8. Director (OL), Deptt. of Posts/Telecom.
9. SO's Guard file.

( SUBHASH CHANDER )  
SECTION OFFICER (SPG)

Initiated by  
Krishna Chellai  
Advocate  
6/5/2002

No.12-4/87-SPG  
Government of India  
Ministry of Communications  
Department of Posts  
New Delhi-110001.

Dated the 15 September, 1989.

Subject:- Appointment to the posts of Hindi Officer in  
Department of Posts/Telecom.

In partial modification of Department of Posts order of even no., dt. 20.4.89, Shri Ajay Vir Singh who was earlier issued an offer of appointment as Hindi Officer and posted to the office of Chief General Manager Telecom., Bombay (MTN Ltd.) is now posted as Hindi Officer in the office of Chief General Manager Telecom., Guwahati under the same terms and conditions. Therefore, Shri Singh is requested to report to Chief General Manager, Guwahati within 15 days of the receipt of this offer, failing which the offer of appointment is liable to be treated as cancelled.

*D.H.*  
(D.H. Sarkar)

Asstt. Director General (SGP)  
Tele. NO. 3032356

Copy to:-

- ✓ 1. Sh. Ajay Vir Singh, C/O B.D. Singh, Allahabad Bank, Regional Office Pan Bazar, Shaikh Building (2nd Storey), Guwahati-781001.
2. Chief General Manager, Mahanagar Telephone Nigam Ltd., Telephone House, V.S. Marg, Dadar (W), Bombay-400028.
3. Chief General Manager Telecom, Assam Circle, Guwahati (Charge report of Sh. Ajay Vir Singh may kindly be sent to this office in due course).
4. The Secretary, UPSC (Case mark no. F 1/142/87-RIV, dt. 30.3.88).
5. Director of A/cs Postal, Shillong/Nagpur.
6. PS to Secretary (P)/PS to Secretary (T)/PS to Member (P)/PS to Secretary, PSND, Board.
7. Director (OL), Deptt. of Posts/Telecom.
8. SO's guard file.

*Attested by*  
*Kaishba Chelbi*  
*Advocate*  
*6/5/2002*

*(Subhash Chander)*  
Section Officer (SPG)

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOMMUNICATIONS  
ASSAM TELECOM CIRCLE:GUWAHATI:781 007.

CERTIFICATE

This is to Certify that Sri A.V. Singh, Hindi Officer of Chief General Manager Telecom, Guwahati has exhibited extra-ordinary skill in maintaining Hindi Teaching Scheme in this Circle. He also left no stone unturned to implement official language policy in this Circle.

He also bears a good moral character and shows remarkably well behaviour to his seniors and affections to his subordinates.

I wish him every success in life.

Date :- 05.9.1991.

( R. SUNDARARAJAN ) 57/91

CHIEF GENERAL MANAGER TELECOM  
ASSAM TELECOM CIRCLE GUWAHATI-781 007

मुख्य महा प्रबंधक दूरसंचार  
असम दूरसंचार सर्किल गुवाहाटी-7

Attested by  
Krishna Chelbi  
Adusate  
8/5/2002



भारत सरकार  
GOVERNMENT OF INDIA  
गृह मंत्रालय  
MINISTRY OF HOME AFFAIRS  
राजभाषा विभाग  
DEPARTMENT OF OFFICIAL LANGUAGE

प्रमाणित किया जाता है कि श्री अजय वीर सिंह, हिन्दी अधिकारी, असम दूरसंचार परिसंकेत, गुवाहाटी को राजभाषा कार्यान्वयन के कार्यक्रम के लिए वर्ष 1990-91 में श्रेष्ठ निष्पादन के लिए यह प्रशस्ति पत्र प्रदान किया गया।

*Certified, that Shri Ajay Veer Singh, Hindi Officer, Assam Telcom Circle, Guwahati is awarded this merit Certificate for Commendable performance in implementation of the Official Language Programme during the year 1990-91*

*विवेक*

*उप सचिव (कार्य)*  
Deputy Secretary (Impl)  
राजभाषा विभाग  
Deptt. of Official Language

सचिव, राजभाषा एवं हिन्दी सहायकार  
Secretary, Deptt. of Official Language &  
Hindi Advisor to the  
भारत सरकार  
Government of India

*Attested by  
Krishna Chellai  
Advocate  
6/5/2002*





भारत सरकार  
GOVERNMENT OF INDIA  
गृह मंत्रालय  
MINISTRY OF HOME AFFAIRS  
राजभाषा विभाग  
DEPARTMENT OF OFFICIAL LANGUAGE

प्रमाणित किया जाता है कि श्री ए. वी. सिंह, हिन्दी अधिकारी,  
असम दूरसंचार परिमंडल, गुवाहाटी  
को राजभाषा कार्यान्वयन के कार्यक्रम के लिए वर्ष 1991-92 में श्रेष्ठ  
निष्पादन के लिए यह प्रशस्ति पत्र प्रदान किया गया।

Certified that Shri. A. V. Singh, Hindi Officer,  
Assam Telecom Circle, Guwahati  
is awarded this merit Certificate for Commendable performance in  
implementation of the Official Language Programme during  
the year 1991-92.

Attested by  
Kishore Chelbi  
Advocate  
6/5/2002

सहायक सचिव  
राजभाषा विभाग



भारत सरकार  
Government of India

गृह मंत्रालय  
Ministry of Home Affairs

राजभाषा विभाग  
Department of Official Language

पूर्वोत्तर क्षेत्र  
North-East Region

यह प्रशस्ति-पत्र श्री ए. वी. सिंह, हिन्दी अधिकारी  
असम दूर संचार परिमण्डल, गुवाहाटी  
को 1992-93 में राजभाषा नीति के श्रेष्ठ निष्पादन के लिए  
द्वितीय स्थान प्राप्त करने पर प्रदान किया गया।

This Merit Certificate is awarded to Shri A.V. Singh,  
Hindi Officer, Assam Telecom Circle, Guwahati for  
being adjudged SECOND for Commendable performance in  
implementation of the Official Language policy during  
1992-93.

उप सचिव (कार्यान्वयन)  
Deputy Secretary (Impl)

Witnessed by  
Krishna Chatterji  
Advocate

6/5/2002 सचिव, भारत सरकार  
Secretary to the Govt. of India



- 25 -

Annexure - 8  
86  
B. S.

भारत सरकार  
Government of India

गृह मंत्रालय  
Ministry of Home Affairs

राजभाषा विभाग  
Department of Official Language

पूर्वोत्तर : 'ग' क्षेत्र  
N. E. : 'C' Region

यह प्रशस्ति-पत्र श्री अजयवीर सिंह, हिन्दी अधिकारी.....  
कार्यालय मुख्यमहाप्रबंधक, दूरसंचार विभाग, असम परिमण्डल, गुवाहाटी  
को 1996-97 में राजभाषा नीति के श्रेष्ठ निष्पादन के लिए  
द्वितीय स्थान प्राप्त करने पर प्रदान किया गया।

This Merit Certificate is awarded to Shri. A.V. Singh,.....  
Hindi Officer, O/O G.G.M. Telecom, Assam Circle, Guwahati.....for  
being adjudged SECOND for Commendable performance in  
implementation of the Official Language policy during  
1996-97.

उप सचिव (कार्यान्वयन)  
Deputy Secretary (Impl)

Attested by  
Secretary to the Govt. of India  
6/5/2002

DY. GENERAL MANAGER (ADMN)  
O/o THE CHIEF GENERAL MANAGER, TELECOM, GUWAHATI-7  
उप महाप्रबन्धक (प्रशा.)  
कापोलय, मुख्य महाप्रबन्धक, गुवाहाटी-781 007

Confidential.

D. O. No. DGM(A)/CR Mov/2001

Dated the 28<sup>th</sup> May, 2001.

Dear Sri Singh,

While you have earned a good report for the period 1.4.2000 to 31.3.2001, there are some adverse remarks in part-V of the ACR which are indicated below :-

Column.

Remarks.

3. Do you agree with the assessment of the officer given by the Reporting Officer. Is there anything you wish to modify or add?

No, because the reasons are:-

1. The officer being reported upon has not even filled the post on which he is working.
2. He has not been able to even translate say 5 pages of English in a day.
3. There were complaints regarding TOLIC and OLIC meetings.

4. General remarks with specific comments about the general remarks given by the Reporting Officer and remarks about the meritorious work of the officer including grading.

As noted above and further I note that:-

4. In column 8, relation with public have been shown as very good whereas he has no such duties.
5. His relationship with superiors/colleagues has been good but he misbehaved on occasions with Dr. R.B. Singh and Dr. Pandey of O/L Implementation Deptt.

This is being communicated to you so that you may try to overcome the deficiencies and improve your performance. I hope, you will be able to earn good reports in all aspects in the years to come.

With best wishes,

Yours sincerely,  
(Mithlesh Shukla)

Sri Ajay Vir Singh,  
Hindi Officer,  
O/O CGMT, Guwahati.

Attested by  
Bishwa Chatterjee  
Advocate  
6/5/2002

DY. GENERAL MANAGER (ADMN)  
O/o THE CHIEF GENERAL MANAGER, TELECOM, GUWAHATI-7  
उप महाप्रबन्धक (प्रशा.)  
कापोलय, मुख्य महाप्रबन्धक, गुवाहाटी-781 007

Guwahati, Date- 19/06/2001.

To,

The Chief General Manager,  
Assam Telecom Circle,  
Ulubari, Guwahati-781007.

Sub: Request of removal of adverse - remarks from A C R for the  
period 1-04-2000 to 31-03-2001.

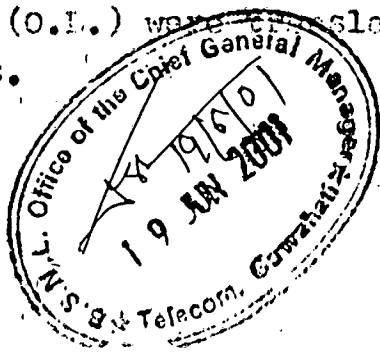
Sir,

With reference to D.G.M.(A) D.O.No.DGM(A)/CR/Mov/2001, date the 28th May, 2001, on the above mentioned subject, I have the honour to state the following para wise for favour of kind necessary action in the matter. Sir, when I received a copy of the above D.O. letter where in some adverse remarks have been recorded in my ACR for the period 1-04-2000 to 31-03-2001. It gave me great shock and I am very much surprised.

1. That Sir, I had been working as Hindi Officer now re-designated as Assistant Director (O.L.) in this office on regular basis w.e.f. 29-09-1989 to till date.

2. I would like to submit that since I joined this office, I have been discharging my duties with utmost devotion, diligence and sincerity. I feel, I have filled the post on which I am working and carrying out my duties with utmost satisfaction of higher officer for a long period with a solitary hand without any Assistance of Hindi Translator and Hindi Typist and class IV employee. All efforts were made to translate letters/circulars etc. received by A.D.(O.L) from different section of the circle office. There is no pending translation work with A.D.(O.L.). During the period 1-4-2000 to 31-3-2001 I have carried out the following duties.

(1). Translation from Hindi to English and viceversa. All documents sent to A.D.(O.L.) were translated in Hindi or English as per requirements.



Submitted by  
Kishore Chatterjee  
Admn Secy Contd.....  
6/5/2002

(ii). Circulation of Govt. orders/Documents in Hindi to all Divisional offices.

(iii). Minutes of the O.L.I.C. meeting issued Hindi.

(iv). One Hindi workshop was organised and as many as 9 officials were trained in noting and drafting in Hindi.

(v). Necessary correspondences were made with all T.O.L.I.C members offices stationed at Guwahati. As many as 110 officers are members of the T.O.L.I.C.

(vi). Hindi Books were purchased for the office library.

(vii). To propagate the use of Hindi, Hindi Competitions were organised for the children of Staff of the Telecom, Guwahati.

(viii). Name plate, Brass, Seal & standard proforma were prepared.

(ix). Hindi fortnight was celebrated in the circle and different Competition in Hindi were organised.

(x). As many as 15 officials were deputed for Hindi course Pragma and Hindi Typist Courses under the Hindi Teaching Scheme, Guwahati.

(xi). Subject of Service Books/Files were made by me in Hindi and English.

(xii). Noting and drafting in almost all files of the A.D.(O.L.) have been initiated in Hindi since long back.

(xiii). Hindi Library is being maintained by the A.D.(O.L.)

3. I have not received any type of compliants from T.O.L.I.C. and O.L.I.C. members since inception of above committees.

4. Not Applicable.

*Initiated by  
Hrishna Chatterji  
Advocate  
6/5/2002*

Contd....1.

5. I have no knowledge, that I have ever misbehaved with Dr.R.B.Singh and Dr.Pendey of O.L. Implementation office.

Under the circumstances and in the absence of Hindi Translator and Hindi Typist with a single hand I have carried out my duties for last 12 years. In this connection I would like to mention here that our office was awarded by the Deptt. of O.L. Ministry of Home Affairs during the year 1991-92, 1992-93, 1994-95 and 1997-98, respectively. The post of Hindi Translator and Typist create long back for the circle office is yet to be filled up. Moreover this office is located in non-Hindi area. However all out efforts were made by me to achieve the target fixed by the Deptt. of O.L. regarding implementation of O.L. policy of the Govt.

I, therefore, request your honour to kindly remove the adverse remarks at colum 3 & 4 of my A.C.R. for the period 1-4-2000 to 31-3-2001. For this act of your kindness I shall be highly obliged to you.

Yours faithfully,

*(Signature)*  
(A.V.SINGH)

Asstt.Director(O.L.)

O/o The C.G.M.T.

Assam Circle, Guwahati.

Copy to:-

1. D.G.M.(A), O/o THE C.G.M.T.Guwahati.  
For Kind information plse.
2. A.G.M.(T.T), O/o THE C.G.M.T.Guwahati.  
For kind information plse.

*Will be filed by  
Kaishava Chellu  
Advocate  
6/5/2002*

Shri Ajoy Vir Singh

- Applicant

- Vs -

Union of India &amp; Ors.

- Respondents

( Written statements for and on behalf of the Respondents  
No. 1, 2, 3 & 4 )

The Written Statements of the above-noted  
Respondents are as follows :

1. That a copy of the OA No. 146/2002 has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of the respondent No. 1 is not common and similar to the interest of the respondents No. 2, 3 and 4. After creation of the Company, named and styled as "Bharat Sanchar Nigam Ltd." (referred to as "BSNL") with effect from 1-10-2000, the respondents No. 2, 3 and 4 have ceased to be authorities of Govt. of India, respondent No. 1. As the power and authority of the respondents No. 2, 3 and 4 have been assigned and transferred to the said BSNL, they are now acting as authority and exercising power only under the overall control of the BSNL. However, the respondents have decided for the time being to file their written statements for all of them jointly.
2. That the Statements made in the application, which are not specifically admitted by the respondents, are thereby denied.



3. That before traversing the various paragraphs made in the application, the answering respondents raise the following preliminary objections for which the application is liable to be dismissed with cost :

(A) That the Govt. of India in pursuance to the New Telecom policy 1999, in order to corporatise the functions of Department of Telecom, created a Company named and styled as "Bharat Sanchar Nigam Ltd." (referred as "BSNL") with effect from 15-9-2000. This Company has been duly registered under the Companies Act, 1956. In accordance with the said policy, the Govt. of India has transferred all the business, assets and liabilities of Department of Telecom Services (DTS) and Department of Telecom Operations (DTO) to the said new Company w.e.f. 1-10-2000. The Department of Telecom, Ministry of Communications, Govt. of India, retained the matter of policy formulation with them. This was done vide Office Memo No. 2-31/2000. Restg. dated 30-9-2000.

By the said O.M. dated 30-9-2000, the Govt. of India also made it clear by Clause-4, that for the period of transition and transfer, the cases pending before the Courts/Tribunals/Arbitrators etc. were to be defended by the Company as assignee/successor in interest of the Govt./ Department of Telecom and such arrangement were made limited upto 31-12-2000. By Clause-5, it was also made categorically clear that in the matter relating to personnel (Government Servants) pending before various Tribunal, High Courts and

Supreme Court, the Company will defend as assignee or successor in interest as per existing Rules till the time employees are on deemed deputation with the Company. By Clause-6, it was also made clear that so far as the judgement/order/award already delivered prior to 1-10-2000, such judgement/order/award etc. would be implemented in letter and spirit by the Company in accordance with the Rules, Regulations, directions and statutes. All these instructions came into force with effect from 1-10-2000. The Department of Telecom also on 23-1-2001 issued the Notification of the "Resolution" which was published in the Gazette of India, Part-I, Section-I dated 17-3-2001.

(B) That the instant OA No. 146/2002 has been filed after 1-10-2000 when the BSNL came into existence. The BSNL is a registered Company, a body corporate that can sue or be sued by its name for its claim and liability and other rights and duties. After the formation of BSNL, the BSNL will not come automatically within the jurisdiction of the Central Administrative Tribunal as provided under the CAT Act, 1985 and rules framed thereunder. A Corporation, a Society or other body, may be brought under the jurisdiction of the CAT only by separate notification as provided as a condition precedent under sub-section-2 of Section-14(3) of CAT Act, 1985. The Calcutta Bench of Hon'ble CAT in OA No. 198/2001 (Biswanath Banerjee Vs Union of India & Ors.) took a similar view and held vide order dated 1-3-2001 that unless the BSNL is notified by the Govt. of India that Court has no jurisdiction to entertain such petition.

The copy of O. M. dated 30-9-2000 and Gazette Notification dated 17-3-2001 are annexed as Annexure - R-1 and R-2.

4. That with regard to the statements made in paragraph 3 of the application, the respondents state that the impugned letter dated 28-5-2001 is nothing but the communication relating to the remarks given by the assessing authority (reporting authority) on the basis of self-assessment made by the applicant. This is not the final stage for assessing the confidential report for such purpose or intent relating to the service of the applicant. The purpose and object of communication is to afford opportunity to the particular employee to improve so that the efficiency in the public service are also improved. The respondents while assessing the performance of the incumbent, while such process is yet to culminate to finality, this Hon'ble Tribunal shall not interfere in the process which are being carried out as per law. The applicant has his alternate remedy to pray for review and if necessary for appeal. In the instant case these remedies are yet to be exhausted. Hence, the Hon'ble Tribunal shall not exercise jurisdiction in such matter which are in the domain of executive prerogative.
5. That with regard to the statements made in para 4 of the application, the respondents reassert the foregoing statements and state that the applicant being in deemed deputation under the BSNL, BSNL being not implicated as a necessary party and the respondents No. 2, 3 and 4 being implicated as party without implicating BSNL, this Hon'ble Tribunal shall not

exercise jurisdiction over the respondents No. 2, 3 and 4. The respondents also state that the BSNL and the respondents No. 2, 3 and 4 cannot be implicated as a party unless the Govt. of India brings the BSNL under the jurisdiction of the Hon'ble Tribunal by issuing necessary notification. Uptil now, there is no such notification. On the other hand, the impugned action relates to the executive prerogative under the given procedure of law. As the said procedure is being carried on, as per such procedure and the process is yet to come to final stage, this Hon'ble Tribunal shall not exercise jurisdiction in such matters.

6. That with regard to the statements made in paragraphs 5, 6.1 to 6.6, the respondents have no comments to offer.

7. That with regard to the statements made in paragraph 6.7, the respondents state that the claim of the respondent is not through and correct. The respondents deny that the applicant had been working sincerely because he has not been able to achieve the target regarding Raj Basha implementation in any region.

8. That with regard to the statements made in paragraphs 6.8, 6.9, 6.10, 6.11, 6.12 and 6.13, the respondents state that these are matters of records, hence nothing is admitted beyond such records. The respondents also state that such proof of good performance of an employee may not be yardstick of performance in a subsequent given period of time. The performance of the applicant during the period 2000-2001 have no relations with the performance from 1990 to 1997.

9. That with regard to the statements made in paragraph 6.14, the respondents state that the respondent No. 4 was the reviewing officer for the period 1-4-2000 to 31-3-2001. The respondent No. 4 communicated to the applicant the whole part of the confidential report including the adverse report. The respondent No. 4 as the reviewing officer noted whatever he felt and noted in the ACR and whatever he felt necessary to improve the performance of the applicant.

10. That with regard to the statements made in paragraphs 6.15 and 6.16, the respondents state that as it is not a civil suit in a Civil Court, the respondents are not in a position to bring the evidence on record about the misbehaviour of the applicant towards Dr R. D. Singh and Dr B. N. Pandey. The applicant misbehaved with the aforesaid two officers in a meeting, where so many other officers were also present. Such other officers that were present in the meeting and were the witness of applicant's misbehaviour are viz. Shri A. K. Chellang, AGM, Shri N. C. Das, AGM, Shri M. K. Modak, AD (Welfare), Shri N. C. Rabha, AD (Gen.), Shri S. C. Das, AD (Legal) etc. The meeting was presided over by the then Chief General Manager, Assam circle. The above-named witnesses including Dr R.D.Singh and Dr B. N. Pandey may be called for by this Hon'ble Tribunal and record their statements as to the veracity of the claim of the applicant that he didn't misbehave.

11. That with regard to the statements made in paragraph 6.17, the applicant's function and duties are very much limited to official language of Hindi. Translation from English to Hindi and Hindi to English etc. and he does not have any such work directly linked with general public like to the activities of the respondents for maintenance and installation connected with the telephone and other communication systems.

12. That with regard to the statements made in paragraph 6.18 of the application, the respondents state that the claim of the applicant that the allegations brought by the two doctors, namely Dr R. D. Singh and Dr B. N. Pandey, cannot constitute a part of the performance of his official duty and that cannot be regarded as adverse against him, has no legal support/base.

13. The ACR of an employee is a confidential review of his performance and such ACRs are written only on the basis of overall performance of the employee which includes his behaviour also. It is a document by which an officer is advised to improve further in the future. Therefore, the contention of the applicant are baseless.

14. That with regard to the statements made in paragraphs 7.1. to 7.7 of the application, the answering respondents state that the grounds shown by the applicant are not supported by any law or proof thereof. There is not a single piece of evidence on record to show that the

respondent No. 4 acted malafide in passing the adverse report while assessing the overall performance of the applicant. Mere allegation of malafide is not enough unless there is clear and cogent proof to support such allegations. Therefore, the respondent No. 4 is not liable to any such alleged malafide action.

15. That with regard to the statements made in paragraph 8 of the application, the answering respondents state that the authority of review of the adverse remark lies with the Chief General Manager (Telecom), Assam Circle, Guwahati, who is not implicated in this application. As the said reviewing authority has not been implicated as a party respondent, the respondents cannot make any statement regarding the position of the representation submitted to that authority and the matter of review.

16. That with regard to the statements made in paragraph 9 of the application, the respondents have no comments to offer.

17. That with regard to the statements made in paragraph 10(i), (ii), (iii) and (iv), the respondents state that in view of the facts and circumstances of the case and the provisions of law, the applicant is not entitled to any relief whatsoever, as prayed for and the application is, therefore, liable to be dismissed with cost.

18. That the respondents also state that the power and authority for assessing the annual performance of an official are very much limited to execute prerogatives based on established procedure. While the matter of review


(representation) relating to adverse report is resting with the reviewing authority and the said authority has not been implicated as necessary party, this Hon'ble Tribunal shall not exercise jurisdiction on such matter interfering with the power and procedure of such reviewing authority.

In the premises aforesaid, it is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to dismiss this application with cost.

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

I, Shri S. C. Das, presently working as the Asstt. Director (Legal), in the Office of the Chief General Manager, Bharat Sanchar Nigam Ltd., Ulubari, Guwahati-7, being duly authorised and competent to sign this Verification, do hereby solemnly affirm and state that the statements made in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 11 to 17 and 18 - are true to my knowledge and belief, those made in Paragraphs 3(A), 3(B) and 10 - being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Verification on this, the 8<sup>th</sup> day of August, 2002 at Guwahati.

  
(S. C. Das)  
DEPONENT  
Asstt. General Manager (Legal)  
Bharat Sanchar Nigam Ltd.  
Asstt. Telecom Circle, Guwahati-7



New Delhi, the 30<sup>th</sup> September, 2000.

OFFICE MEMORANDUM

Subject:- Transfer and assigning of existing and subsisting contracts, agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision, functions, of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1<sup>st</sup> October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1<sup>st</sup> October 2000. The Government has decided to retain the functions of policy formulation, licensing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and P & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1<sup>st</sup> October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1<sup>st</sup> October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing; and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31<sup>st</sup> December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1<sup>st</sup> October 2000.

(VINOD VAISH)

Secretary to the Government of India

To

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology), Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission.
8. Joint Secretary, DoT.

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9. Joint Secretary(A), DoT.
  10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.
  11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles; Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
  12. All Principal Chief Engineers / Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
  13. Chief Architects - Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
  14. All Chief General Managers - Telecom Factories, with request to communicate these orders to all units working under their administrative control.
  15. Sr.DDG(TEC)
  16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)
  17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.
  18. Sr.DDG(IC & A)
  19. Executive Director, C-DOT.
  20. Sr.DDG(Vigilance), DoT
  20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited.

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2000 entered into between the President of India, acting through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications (DoT) and Bharat Sanchar Nigam Limited, the business of providing tel.com services in the country, maintaining the telecom network, running the tel.com factories by the Department of Telecom Services (DTS) and the Department

of Telecom Operations (DTO) [which were earlier provided by Department of Telecommunications (DoT)] has been transferred to the newly formed company viz. Bharat Sanchar Nigam Limited (BSNL) with effect from 1st October 2000.

2. All assets & liabilities (except certain assets which will be retained by DoT required for the units and offices under control of DoT) of the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) stand transferred to BSNL w.e.f. the said date.

3. All the existing contracts, agreements and MOUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and building and supply of services, subsisting on date of transfer of business and/or required for operations of BSNL also stand transferred and assigned to BSNL w.e.f. 1st. October 2000.

4. BSNL is solely responsible for honouring these contracts, agreements and MOUs for due performance and in case of disputes to sue and be sued as the successor/assignee under the said contract agreement and MOU and shall be liable for any defaults, delays or non-performance.

5. With effect from 1st October 2000 any reference in any correspondence, bills, notices, and other

documents to the Department of Telecom Services or the Department of Telecom Operations having been issued before 1st October 2000 by either the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read as reference to the BSNL.

6. With effect from 1st October, 2000 any bill, notice or other document issued by the BSNL bearing any reference to the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read to be a reference to the BSNL.

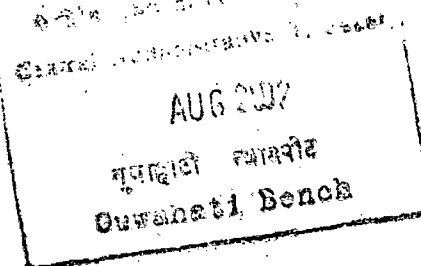
7. With effect from 1st October, 2000 all cheques, drafts/other instruments under which payment is to be made in favour of the Government of India in respect of monies owed to the Department of Telecom Services and/or the Department of Telecom Operations shall, wherever the context so permits and allows, be drawn in favour of Bharat Sanchar Nigam Limited.

#### ORDER

ORDERED that a copy of this resolution be communicated to all State Governments, all Ministries and Departments of Govt. of India.

ORDERED that the resolution be published in the Gazette of India for general information.

HARISH KUMAR  
Director (Regis.)



Filed by the  
Applicant  
Ajoy Vir Singh  
Kishor Chandra  
Delwade  
26.8.2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI.

O.A. No.146/2002

Ajoy Vir Singh ..... Applicant.

-VRS-

Union of India & Ors .... Respondents.

IN THE MATTER OF :-

Rejoinder submitted by the  
applicant in response to the  
written statement submitted by  
the respondents.

The humble applicant submits his rejoinder  
in reply to the written statement submitted  
by the respondents as follows:-

1. That with regard to the statements made in paragraphs 1, 2, 3A, 3B of the written statement of the respondents, the applicant begs to state that he has no comments as the same being matters of records. The applicant further begs to state that he has no information about taking over of the function of the earlier Telecommunication by the BSNL w.e.f: 1.10.2000. That apart no option was offered to the applicant either by the Govt. of India or by the BSNL. Hence he has now filed a misc petition for making BSNL as party Respondent No.5 in the O.A.

2. That with regard to the statements made in paragraph 4 of the written statement submitted by the respondents, the applicant begs to state that the same is not correct but Annexure-9 to the O.A clearly indicates

some adverse remarks which have been entered in his service book so he is compelled to file this O.A. before this Hon'ble Tribunal to quash the same. As the adverse remark is given against the applicant so he has no alternative but to file this O.A. before this Hon'ble Tribunal to quash the adverse remark at Annexure-9.

3. That with regard to the statements made in paragraph 5 of the written statement, the applicant begs to state that due to ignorance of the applicant BSNL was not made party in the O.A., now he has filed a misc petition before this Hon'ble Tribunal for making BSNL party Respondent in the O.A. Non impleading the BSNL as Respondent No.5 in the O.A. the applicant is not fated because he is a gazetted officer and no option has been asked from him either to stay in BSNL or to remain as employee of the Union of India. The applicant further states that uptill now officers are still now in the Govt. of India and the applicant has been appointed by the Govt. of India and posted in the office of the Chief General Manager, Assam Telecom Circle at Guwahati.

4. That with regard to the statements made in paragraph 6 of the written statement, the applicant has no comments.

5. That with regard to the statements made in paragraph 7 of the written statement, the applicant begs to state that the same is not correct. For doing best and ordinary works for the success of teaching in Hindi and other subjects in other areas he has been given a lot of commendable certificates of his service which have been annexed in this O.A., so question that he has not been

able to achieve target regarding Raj Bhasa implementation in any region does not arise at all.

6. That with regard to the statements made in paragraph 8 of the written statement, the applicant begs to state that it is not correct that performance of 2000-01 is no way related with the performance of 1992-1997 because good performance of an employee is recorded by going of the earlier performance as well as the present performance.

7. That with regard to the statements made in paragraph 9 of the written statement, the applicant begs to state that the same is disputed and not correct and hence denied by the applicant. As the Reviewing Officer is committed serious mistake and illegality so he approached this Hon'ble Tribunal for setting aside the mistake and illegality committed by him.

8. That with regard to the statements made in paragraph 10 of the written statement, the applicant begs to state that the same is not correct and hence denied. The Reviewing Officer himself has brought the names of Dr. R.D. Singh and Dr. B.N. Pandey under whom the applicant does not work and that apart the authority without issuing any notice to the applicant regarding misbehaviour meted out by the applicant before the said two doctors and this has been recorded by the Reviewing Officer at the instance of above two doctors which is illegal, improper and without jurisdiction and hence the adverse remark is liable to be quashed.



*Gay V. Singh*  
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9. That with regard to the statements made in paragraph 11 of the written statement, the applicant begs to state that the same is not correct and he reiterates the same/statements made in paragraph 6.17 of the O.A.

10. That with regard to the statements made in paragraph 12 of the written statement, the applicant begs to state that the same is not correct and no legal support or any other support as required with some adverse remark as brought in his official record and he has a right to challenge the same against officers who record adverse remarks against the applicant.

11. That with regard to the statements made in paragraph 13 of the written statements, the applicant begs to state that the same is not correct and stoutly denied.

12. That with regard to the statements made in paragraph 14 of the written statement, the applicant begs to state that grounds have ~~are~~ been drawn from the facts stated in the O.A. and record of proofs or evidence of proofs are there in the impugned adverse remarks and in the annexures annexed to the O.A.

13. That with regard to the statements made in paragraph 15 of the written statement, it is stated that the Chief General Manager, Telecom, Assam Telecom Circle, Guwahati is not impleaded as the Deputy General Manager (Administration) office of the Chief General Manager, Assam Telecom Circle, Guwahati has issued adverse remarks

at Annexure-9 of the O.A. So he has been made party and not the Chief General Manager.

14. That with regard to the statements made in paragraph 16 of the written statement, the applicant has no comments to offer.

15. That with regard to the statements made in paragraph 17 of the written statement, the deponent begs to state that the same is not correct. In fact, the applicant is entitled to relief sought for in the O.A. with cost.

16. That with regard to the statements made in paragraph 18 of the written statement, the applicant begs to state that the review authority is Respondent No.4 who has been made party in this case. It is not a fact that the reviewing authority has not been made as the party in this case.

17. That the applicant submits that he is entitled to all the relief sought for in this O.A. No.146/2002.

Verification.....

VERIFICATION

I, Shri Ajoy Vir Singh, Hindi Officer now redesignated as Assistant Director (L) of the office of the Chief General Manager, Telecom, Assam Circle Ulubari, Guwahati-7, do hereby solemnly affirm and verify the statements made in paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 are true to my knowledge and those made in paragraphs 1, 2, 3, 5, 6, 8 (partly) being matter of records are true to my information derived therefrom which I believe to be true and the rests are my humble submissions made before this Hon'ble Tribunal. And I sign this verification on this the 10th day of August, 2002.

*Ajoy Vir Singh*  
Signature.