

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 147/2002

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SECTION OFFICER (Judl.)

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 147/2002  
Misc Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicant's Sri Jibaw Ch: Nath

-Vs-

Respondant(s) Union of India Sors

Advocate for the Applicant(s) Mr. B. Malakar, Mr. R. Das,

Advocate for the Respondat(s) CSSC

Notes of the Registry

Date

Order of the Tribunal

14.05.02

Heard Mr. B. Malakar, learned  
counsel for the Applicant.

The application is admitted.  
Call for the records.

List on 12.6.2002 for orders.

Member

Vice-Chairman

mb

12.6.02

Await Service Report. List on  
28.5.02 for orders.

Member

Vice-Chairman

lm

28.6.02

On the prayer of Mr. A. Deb Roy,  
learned Sr. C.G.S.C. for the responde-  
nts further four weeks time is allowed  
to file written statement. List on  
6.8.2002 for orders.

Member

Vice-Chairman

mb

74-549462

25-4-2002

One Copy Short

9 Cops taken without  
Embls.

NB  
10/5/02

One Copy Short. Notice prepared  
and sent to D/S for using  
the Respondent No. 283  
by Regd. A.D. without  
Embls.

D/No. 1488 to 1490 1615

Dtd 27/5/02

① Service report are still awaited.

By  
11.6.02

6.9.02 List again on 3.9.2002 to enable the Respondents to file written statement as prayed by Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.

K. C. Sharma  
Member

[Signature]  
Vice-Chairman

mb

No. WLS has been filed.

By  
5.8.02

3.9.02 List again on 1.10.2002 for written statement on the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.

K. C. Sharma  
Member

[Signature]  
Vice-Chairman

mb

No. written statement has been filed.

By  
30.9.02

1.10.02 The respondents are yet to file written statement. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents again prayed for time for filing written statement. List on 12.11.2002 for orders.

K. C. Sharma  
Member

[Signature]  
Vice-Chairman

mb

No. WLS has been filed.

By  
11.11.02

12.11.02 List again on 11.12.2002 to enable the respondents to file written statement.

K. C. Sharma  
Member

[Signature]  
Vice-Chairman

mb

No. written statement has been filed.

By  
9.1.03

11.12.02 Written statement is yet to be filed. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents again prayed for time for filing written statement. We are allowed further four weeks time to the respondents for filing written statement. List on 10.1.2003 for orders

K. C. Sharma  
Member

[Signature]  
Vice-Chairman

mb

10.1.03 Present : The Hon'ble Mr Justice V.S. Aggarwal, Chairman,  
The Hon'ble Mr K.K.Sharma, Administrative Member.

None present for either side.

Written statement has not been filed. It is directed that it be filed within four weeks.

List on 10.2.03 for order.

No written statement has been filed.

*By*  
7.2.03

*K.K.Sharma*  
Member

*V.S. Aggarwal*  
Chairman

pg

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

Though time granted to the respondents no written statement so far filed. On the facts and circumstances the case is now listed for hearing on 21.3.03.

The respondents may file written statement, if any; within three weeks.

22/3/03

Written statement has not been submitted till to-day by the respondents.

*NS*  
20/3/03

*D.N. Chowdhury*  
Vice-Chairman

pg

21.3.03 Division Bench did not sit today. The case is adjourned to 7/5/2003.

*NS*  
*Am*

No written statement has been filed.

*By*  
6.5.03.

7.5.03

put up on 9.6.03 to enable the respondents to produce the connected records.

18.6.03

Additional affidavit submitted by the applicant.

pg

*S.B.*  
Member

*D.N. Chowdhury*  
Vice-Chairman

*NS*

4.8.2003

Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is allowed in terms of the order. No costs.

Member

Vice-Chairman

bb

11.8.2003  
Copy of the  
judgment has been  
sent to the Clerk  
for issuing the  
order to the applicant  
as well as to the  
prosecution.

HS 13/8

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / ~~XXX~~. No. . . . 147 . of 2002.

DATE OF DECISION 4.8.2003.....

. . . . . Sri. Jiban. Chandra. Nath . . . . . APPLICANT(S).

. . . . . Mr. B. Malakar & Mr. R. Das. . . . . ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

. . . . . Union. of India & Others, . . . . . RESPONDENT(S).

. . . . . Mr. A. Deb Roy, Sr. C.G.S.C. . . . . ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE MR N.D.DAYAL, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Ho'ble Vice-Chairman.



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 147 of 2002.

Date of Order : This the 4th Day of August, 2003.

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

THE HON'BLE MR N.D.DAYAL, ADMINISTRATIVE MEMBER.

Sri Jiban Chandra Nath  
Section Supervisor  
Office of the Sub-Divisional  
Engineer (EXT) Nagaon  
Bharat Sanchar Nigam Limited.

. . . . Applicant.

By Advocates Mr.B.Malakar & Mr.R.Das.

- Versus -

1. Union of India  
Represented by the Chief General Manager  
Bharat Sanchar Nigam Limited  
S.S.Bora Lane  
Ulubari, Guwahati.

2. The Telecom District Manager  
Nagaon Telecom District  
Nagaon.

3. The Sub-Divisional Engineer(HRD)  
Office of the TDM, Nagaon  
Assam.

. . . . Respondents.

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

O R D E R

CHOWDHURY, J.(V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is directed and has arisen against the order dated 30.1.2002 passed by the Telecom District Manager, Nagaon Telecom District withholding his promotion for three years w.e.f.14.5.2001. Admittedly, the impugned punishment was imposed on the applicant in aid of CCA(CCA) Rules, 1964.

1. Mr.B.Malakar, learned counsel appearing on behalf of the applicant, inter-alia contended that the impugned order imposing punishment on the applicant is obviously contrary to the principles of natural justice and fairplay in action. Mr.Malakar submitted that the disciplinary<sup>authority</sup> acted upon the findings reached by the Enquiry Officer<sup>but</sup> the applicant was kept in dark as to the contents of the Enquiry

Report submitted by the Enquiry Officer and passed the impugned order without furnishing him copy of the Enquiry Report and thereby disabling the applicant to submit his representation <sup>against</sup> the findings of the Enquiry Officer. The applicant in this application raised this issue at Para 6 (xii) and there is no rebuttal of the said statement from the respondents. The impugned order dated 30.1.2002 by which the penalty was imposed also did not indicate that the copy of the Enquiry Report was furnished to the applicant enabling him to submit representation against the report of the Enquiry Officer. The requirement of furnishing copy of the report of the Enquiry Officer is not only required to fulfill <sup>requirement of the principles</sup> of natural justice but the same is also part of statutory requirement embodied in Sub-rule 1(a) and 1(b) of Rule 15 of the Rules. The findings imposing the <sup>alone</sup> aforementioned penalty on the applicant on that ground <sup>is</sup> liable to be set aside.

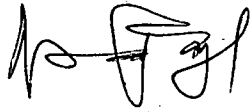
2. For all the reasons stated above and on hearing Mr.A.Deb Roy, learned Sr.C.G.S.C. the impugned order bearing No.X-7/TDM/NGG/CON/2001/16 dated 30.1.2002 imposing the punishment on the applicant of withholding promotion for three years is set aside and quashed. This however, will not preclude the authority to take remedial measure by providing a copy of the Enquiry Report to the applicant and thereafter pass appropriate order as per law. If the authority desires to do so it may do so within two months from the receipt of the copy of this order. In that event the respondents authority shall furnish a copy of the Enquiry Report to the applicant within the specified period enabling him to submit representation. If the copy of the Enquiry Report is submitted within the aforesaid period, the applicant shall file representation to the Enquiry Report to the concerned authority within three weeks from receipt of the Enquiry Report and the disciplinary authority shall take all steps



to conclude the proceeding within one month, from the date of receipt of the representation from the applicant. We felt for giving this direction on the score that the applicant is on the verge of retirement and that the issue of his promotion is also tied up.

Subject to the observations made above, the application is allowed.

There shall, however, be no order as to costs.



( N.D.DAYAL )  
ADMINISTRATIVE MEMBER



( D.N.CHOWDHURY )  
VICE CHAIRMAN

bb

9 MAY 2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI.

ORIGINAL APPLICATION NO. 147/2002

Sri Jiban Chandra Nath. ... Applicant.  
-VS-  
Union of India & Ors ... Respondents.

I N D E X

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10.	Annexure-VIII	
11.	Annexure-IX	

Filed by:

*Nwas*  
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI.

An application u/s 19 of the CAT Act, 1985.

Date of filing :

Registration No. :

Signature.

REGISTRAR

3.

Sri Jiban Chandra Nath,  
Section Supervisor,  
Office of the Sub-Divisional  
Engineer(EXT) Nagaon,  
Bharat Sanchar Nigam Limited.

*Filed by -  
Sri Jiban Chandra Nath  
Dated: 12/12/2002*

... Applicant.

-VERSUS-

1. Union of India - Represented  
by the Chief General Manager,  
Bharat Sanchar Nigam Ltd,  
S.R. Bora Lane,  
Ulubari, Guwahati.
2. The Telecom District Manager,  
Nagaon Telecom District, Nagaon.
3. The Sub-Divisional Engineer(HRD),  
Office of the TDM, Nagaon, Assam.

... Respondents.

1. PARTICULARS OF THE APPLICANT:

- |   |   |  |
|---|---|--|
| i) Name   | : | Sri Jiban Chandra Nath.  |
| ii) Father's name                                       | : |  |
| iii) Designation and<br>office under which<br>employed. | : | Section Supervisor,<br>Office of the<br>Sub-Divisional<br>Engineer(EXT) Nagaon,<br>Bharat Sanchar Nigam Ltd,<br>Nagaon, Assam. |

contd...4/-

*J. Nath*

4.

- iv) Particulars for service : As at (iii) above.  
of notice.

2. PARTICULARS OF THE RESPONDENTS:

- i) Name and designation: 1. Union of India,  
of the respondents. Represented by the  
Chief General Manager,  
Bharat Sanchar Nigam  
Limited,  
S.R. Bora Lane,  
Ulubari, Guwahati.

2. Telecom District  
Manager,  
Nagaon Telecom  
District, Nagaon.

3. Sub-Divisional  
Engineer(HRD),  
Office of the TDM,  
Nagaon, Assam.

- ii) Office address : As above.  
of the  
respondents.

- iii) Address for service : As above.  
of notice.

contd...5/-

Jc vath

5.

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

Order contained in Memo No.X-7/TDM/NGG/CON/2001/16 dated 30.1.2002 issued by the Telecom District Manager, Nagaon Telecom District withdrawing promotion of the applicant for 3 years with effect from 14th of May, 2001.

4. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the application is within the jurisdiction of this Tribunal.

5. LIMITATION:

That the applicant further declares that the application is within the limitation under Section 21 of the Central Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE:

- i) That the applicant is working as Section Supervisor in the Office of the Sub-Divisional Engineer(EXT) Nagaon, BSNL.
- ii) That while the applicant was working in the Office of the Telecom District Engineer,

contd...6/-

*J. N. Walli*

6.

Tezpur filled in Column No.6 of  
Service Book relating to one Sri Kalaram  
Das, Line Inspector which was vacant.

The insertion was the date of birth of  
Sri Kalaram Das and it was 29.9.39. The  
reason was that inside the Service Book  
of Sri Kalaram Das, a service roll of  
one Sri Kalamia was found and accordingly  
the insertion was made by the applicant  
due to inadvertance;

iii) That after the insertion aforesaid, the  
said Kalaram Das appeared in the Office  
and while confronting him the date of  
birth got inserted, he disowned the same  
saying that his date of birth was 10.2.32;

iv) That the above fact was brought to the  
notice of the Section Head who advised  
the applicant to re-write the column and  
accordingly the column No.6 was re-written  
by the applicant according to the own ad-  
mission of Sri Kalaram Das which was  
10.2.32;

v) That thereafter the Telecom District  
Manager, Nagaon, Telecom District issued

contd...7/-

*Jensali*

7.

a charge sheet under Memo No.X-3/TDM/  
NGG/CON/98-99/1 dated 27.7.98 and the  
following article of charges were framed  
against the applicant :

ARTICLE-I

The date of birth of Sri Kalaram Das, Line  
Inspector was recorded as 10.2.32 in the Service Book  
at Column No.6 which was altered as 29.9.39 with a  
note stating that 'wrongly entered the date of birth  
of Sri Kalaram Das' allegedly by Sri Jiban Chandra Nath  
who altered the record under his initial signature.  
The record in the service roll at Column 5 which was  
countersigned by the then Engineering Supervisor,  
Telegraph, Tezpur on 10.3.62 was also altered as  
29.9.39. Sri Jiban Chandra Nath agreed that it is his  
initial signature and handwriting.

The statement given by Sri Kalaram Das,  
Line Inspector reveals that he never approached  
anybody nor submitted any application for change of  
his date of birth and he also expressed his inability  
to submit the original school certificate in support  
of his date of birth. He produced a horoscope in  
support of his date of birth which was prepared in  
1982. Further, the date of birth mentioned in the

contd...8/-

*J. Nath*



8.

attestation form on 16.11.72 as 11.1.38.

It is evident from above that there was no request from the official concerned for change of date of birth. The date of birth was altered by Sri Jiban Chandra Nath without authority, consulting higher authorities, observing any formalities as laid down in Note-6 below FR.56, allegedly with dishonest motive clearly for his personal gain and misused this official position and failed to discharge his duties and by this act he violated Rule 3(1)(i)(ii) and (iii) of CCS(Conduct) Rules, 1964.

ARTICLE-2.

Sri Jiban Chandra Nath, SS, Office of the SDO Phones, Nagaon gave a statement to the Investigating Officer that the case of change of date of birth of Sri Kalaram Das, Line Inspector was processed through the Personal File of Sri Kalaram Das and with the consent of his superior the alteration was affected.

Further he stated that on the basis of the application received from Sri Kalaram Das with all relevant supporting documents such as school certificate

contd...9/-

J. C. Nath

etc. The entry was made by Sri Jiban Chandra Nath as directed by the then LSC Clerk and the Senior Accountant in the said personal file whereas Sri Kalaram Das, LI denied that he had requested for the same and even he expressed his inability to produce school certificate in support of his date of birth. The personal file of Sri Kalaram Das does not contain any documents and it is found that the case was not processed in that file. It is alleged that Sri Jiban Ch Nath gave a false statement misleading to the Administration and in this manner the provision of Rule 3(i)(ii) and (iii) of CCS(Conduct) Rules, 1964 has been violated.

A copy of the memorandum is annexed herewith and marked as Annexure-I.

vi) That on receiving the said charge sheet and the articles of charges the applicant denied the same and stated that the correction was made at the instance of Sri Kalaram Das who submitted an application for such correction. However, when Sri Kalaram Das reappeared in the Office and denied having filed any application for

contd...10/-

*Jemath*

correction, the same was corrected and, therefore, there was nothing for issuing the charge sheet;

vii) That after the charge sheet was issued, Sri M.R.Choudhury, Accounts Officer was appointed as Presenting Officer in place of Sri D. Gupta who had been transferred vide Memo No.X-7/TDM/NGG/CON/98-99/10 dated 22.6.2000. Sri A.B.Sarkn, O.S.D.(DI) Eastern Region, Bihar Circle, Patna was appointed Enquiry Officer vide Memo No. X-7/TDM/NGG/CON/98-99/3 dated 31.8.98. The applicant engaged Sri Golap Chandra Sharma, SSS/GMT Kamrup as his defence Assistant;

Copies of the appointment letters are annexed hereto and marked as Annexure-II, III & IV respectively.

viii) That during the enquiry Sri S. Subramaniam, the then AO in the Office of TDM, Tezpur, Sri DN Bhuyan, the then SS TDM, Tezpur, Sri Kalaram Das, Line Inspector and Sri L. Boro, Vigilance Officer, CGMT were

contd...11/-

Jenath

20  
11.

examined as Prosecution Witnesses.

The applicant besides examining himself also wanted to examine Sri DN Bhuyan, the then Section Supervisor in the Office of the TDM, Tezpur, but because of his illness he could not depose before the Investigating Officer. However, he had sent a written statement to the Enquiry Officer.

That the prosecution witnesses nowhere stated that the applicant had made the correction in the Service Book of Sri Kalaram Das. The prosecution sought to establish that there was no other employee named Kalamiya and as such there was no question of using the service roll of Sri Kalamiya against the blank column in the Service Book of Sri Kalaram Das;

- (x) That the applicant's further plea was that the correction made was with due permission of the then OET, Tezpur and the then Section Supervisor, Sri DN Bhuyan. The applicant had put up the case in the Service Book, correction file:

contd...12/-

*Jenath*

xi) That the applicant states that in the course of enquiry Sri DN Bhuyan, the then HSG in the Office of the DET, Tezpur submitted a written statement before the Enquiry Officer who had ~~be~~ *verified* that the correction in the Service Book was made as per office procedure with the knowledge of the office and the head of the administration. Sri Bhuyan had therefore requested to find out the concerned file where the case for correction of Service Book was put up, but interestingly there was no attempt on the part of the prosecution to find out the relevant case records.

A copy of statement of Shri DN Bhuyan is annexed hereto and marked as Annexure-V.

xii) That the applicant begs to state that the defence had further suggested that since both the applicant and Sri Bhuyan had been transferred from Tezpur division it was not possible on their part to trace out the records. The defence asked the Vigilance Officer whether he had

contd...13/-

*J. Swath*

verified those records, the Vigilance Officer stated that he did not find anything at Tezpur office. Both the Vigilance Officer and the Presenting Officer overlooked the matter. Sri Kalaram Das has, in the meantime, retired on the basis of the corrected date of birth which was, in fact, the actual date of birth. Here, it is stated that employees service books are checked up every year of the employees who retires within a period of 5 years. The service book of Sri Kalaram Das was not checked by the Audit. The intention of the applicant was clear as he had put his signature after making the correction. Therefore, there was no case for prosecution to allege that the correction in the Service Book was made malafide by the applicant with evil motive;

- xiii) That at the close of enquiry the Investigating Officer submitted his report to the disciplinary authority, but the finding arrived at by the Investigating Officer at the conclusion of the enquiry was not known to the applicant as no copy of the enquiry report was furnished to the

contd...14/-

*Justu*

applicant. However, acting on the report of the Enquiry Officer, the disciplinary authority vide office order contained in Memo No.X-7/TDM/NGG/CON/2001/16 dated 30.1.2002 imposed punishment on the applicant which is quoted below:-

".....the undersigned carefully considering the records in details submitted by Sri Jiban Chandra Nath, SS and all other effects and circumstances relevant to the case and considering the circumstances in totality and on the objective assessment of the entire case, hold the allegations established against Sri Jiban Chandra Nath, SS contained in Memo No.X-3/TDM/NGG/CON/98-99/1 dated 27.7.98. The undersigned, in exercising the Rule 11(ii) of CCS(CCA) Rules, 1965 hereby imposed the penalty on him for withdrawal of his promotion for 3 years with effect from I.O.'s order i.e. with effect from 14.5.2001."

A copy of the said order is annexed herewith and marked as Annexure-VI.

xiv). That the applicant begs to state that he has completed 26 years of service and

*J. Narayan*

contd...15/-

16.

witness, ~~the~~ he could not be examined as he was transferred. Another state witness, Sri Kalaram Das was examined who said nothing against the applicant. The SW2 Sri L. Boro, VO simply proved the handwriting of the applicant who endorsed the correction with his own hand. Therefore, it is stated that the finding of the Enquiry Officer, if any, was perverse to the evidence on records and, as such, the impugned order is required to be set aside.

A copy <sup>each</sup> of Sri L. Boro's statement and the statement of Kalaram Das are annexed hereto and marked as Annexure-VII & VIII respectively.

7. RELIEF SOUGHT FOR:

Under the circumstances, the applicant prays that -

- i) The order in Memo No. X-7/TDM/NGG/CON/2001/16 dated 30.1.2002 imposing penalty on the applicant be set aside and/or quashed; and
- ii) The applicant be given his promotion due with effect from 24.7.98 with all consequential benefits thereon.

*Jenath*

contd...17/-



promotion under biennial cadre review was due to him on 24.7.98. The promotion has been held up since then i.e. till today the promotion of the applicant has been held up for more than 3½ years. This with-holding of the promotion by the disciplinary authority is without reason and now on the face of the order imposing punishment, the promotion of the applicant will be with-held for a period of 3 years with effect from 14.5.2001 and if the order is implemented against the applicant his promotion would be held up for over 6½ years. In that view of the matter, the order dated 31.1.2002 is liable to be set aside;

- xiv) That the applicant humbly submits that although the order dated 31.1.2002 is nicely worded but in reality it is otherwise. There is no documents worth evidence that the applicant was guilty of the allegation brought against him in the article of charges. Sri S. Subramaniam, the then AO in DET office, Tezpur although was cited as prosecution

contd...16/-

*J. Muthu*

11. MATTER NOT PENDING IN ANY OTHER COURT:

The applicant further declares that the subject matter of this application is not pending before any other Court or Tribunal.

12. PARTICULARS OF THE IPO:

- i) Number of IPC :
- ii) Name of issuing :  
Post office.
- iii) Post Office where :  
payable.

13. ANNEXURES:

- i) Memo No. X-7/TDM/NGG/CON/98-99/3 dated 31.8.98.
- ii) Memo No. X-3/TDM/NGG/CON/98-99/1 dated 27.7.98.
- iii) Memo No. X-7/TDM/NGG/CON/98-99/10 dt. 22.6.2000.
- iv) Deposition of Sri Kalaram Das, Line Inspector.
- v) Statement of Sri D.N. Bhuyan.
- vi) Deposition of Sri L.C. Boro.
- vii) Written brief on behalf of defence.
- viii) Written brief of prosecution.
- ix) Office order in Memo No. X-7/TDM/NGG/CON/2001/16 dated 31.1.2002.

contd...19/-

*Jenath*



**Standard form of charge-sheet for major panalties**  
**[Rule 14 of CCS (CCA) Rules]**

29

No. X-3/TDM/NGG/CON/98-99/1

Government of India

Ministry of Communications.

Dated. At Nagaon, the 27<sup>th</sup> July 1998

**MEMORENDUM**

1. The President/undersigned proposes to hold an inquiry against Shri. Jiban Chandra Nath, S/S, under Rule 14 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed(Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed(Annexure III and IV).
2. Shri. Jiban Chandra Nath is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shri. Jiban Chandra Nath, S/S further informed that if he does not submit his written statement of defence on or before the date specified in para.2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him *ex parte*.
5. Attention of Shri. Jiban Chandra Nath is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri. Jiban Chandra Nath is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rule, 1964.
6. Receipt of the Memorandum may be acknowledged.

\*By order and in the name of the President.

*SD Rajhans*  
27-07-98  
 (S Rajhans)

**TELECOM DISTRICT MANAGER  
 NAGAON TELECOM DISTRICT**

To ✓  
 Shri. Jiban Chandra Nath, SS(O)  
 SO(Phones)/Nagaon

*True and  
 Rajhans*

**Statement of imputation of misconduct or misbehaviour  
in support of the articles of charge framed against Shri. Jiban Chandra Nath,  
the then LA Asstt./TZ, now S/S, o/o the SDO(P)/Nagaon**

**Article - I**

The date birth of Shri. Kala Ram Das, LI was recorded as 10-02-32 in the Service Book at Col.6 which was altered as 29-09-39 with a note stating that "wrongly entered the date of birth of Shri. Kala Ram Das" allegedly by Shri. Jiban Chandra Nath who altered the record under his initial signature. The record in the Service Roll at Col.5 which was countersigned by the then Engineering Supervisor, Telegraphs, Tezpur on 16-03-62 was also altered as 29-09-39. Shri. Jiban Chandra Nath agreed that it is his initial signature and handwriting.

The statement given by Shri. Kala Ram Das, LI, reveals that he never approached anybody nor submitted any application for change of his date of birth and he also express his inability to submit the original School Certificate in support of his date of birth. He produced a horoscope in support of his date of birth which was prepared in 1982. Further, the date of birth mentioned in the attestation form submitted on 16-11-72 as 11-01-38.

It is evident from above that there was no request from the official concerned for change of date of birth. The date of birth was altered by Shri. Jiban Chandra Nath without authority, consulting higher authorities, observing any formalities as laid down in note-6 below FR-56, allegedly with a dishonest motive clearly for his personal gain and misused his official position and failed to discharged his duties and by this act he violated Rule-3 (1) (i) (ii) & (iii) of CCS (Conduct Rules), 1964.

**Article -II**

That Shri. Jiban Chandra Nath, S/S, o/o the SDO(Phones)/Nagaon gave a statement to the investigating officer that the case of change of date of birth of Shri. Kala Ram Das, LI, was processed through the personal file of Shri. Kala Ram Das and with the consent of his Superiors the alteration was effected.

Further, he stated that on the basis of the application received from Shri. Kala Ram Das with all relevant supporting documents such as School Certificate etc. The entry was made by Shri. Jiban Chandra Nath as directed by the then L.S.G Clerk and the Sr. Accountant in the said personal file whereas Shri. Kala Ram Das, LI, denied that he had requested for the same and even he expressed his inability to produce school certificate in support of his date of birth. The personal file of Shri. Kala Ram Das does not contain any documents and it is found that the case was not processed in that file. It is alleged that Shri. Jiban Chandra Nath gave a false statement misleading to the administration and in this manner the provision of Rule-3 (1) (i) (ii) & (iii) of CCS (Conduct Rules), 1964 has been violated.

*True and  
Not*

## STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF INQUIRY AUTHORITY

[RULE 14(2) OF CCS(CCA) RULE, 1965]

No. X-7/TDM.NGG/CON/98-99/3

GOVERNMENT OF INDIA

MINISTRY OF COMMUNICATIONS

DATED AT NAGAON, THE 31<sup>ST</sup> AUGUST '98

PLACE OF ISSUE:- NAGAON.

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is being held against Shri. Jiban Chandra Nath, SS(O), O/o the SDO(P)/Nagon.

AND WHEREAS, the President/the undersigned considers that an Inquiry Authority should be appointed to inquire into the charges framed against the said Shri. Jiban Chandra Nath, SS(O), O/o the SDO(P)/Nagaon.

NOW, THEREFORE, the President/the undersigned, in exercise of the powers conferred by su-rule (2) of the said rule, hereby appoints Shri. A. B. Saran, OSD(DI) ER, O/o the CGMT, Patna as the Inquiry Authority to inquire into the charges framed against the said Shri. Jiban Chandra Nath, SS(O), O/o the SDO(P)/Nagaon.

\*(By order and in the name of President)

- Sd -

(S. RAJHANS)

TELECOM DISTRICT MANAGER  
NAGAON TELECOM DISTRICT

COPY FOR INFORMATION NAD NECESSARY ACTION TO :-

1. SHRI. A. B. SARAN, OSD(DI) ER, O/O THE CGMT, PATNA, GROUND FLOOR, NEAR G.P.O CANTEEN - 800 001.
2. SHRI. D. GUPTA, A. O(CASH), O/O THE T.D.M/NAGAON.
- ✓ 3. SHRI. JIBAN CHANDRA NATH, SS(O), O/O THE SDO(P)/NAGAON.

*S. Rajhans*  
31-8-98  
(S. RAJHANS)

TELECOM DISTRICT MANAGER  
NAGAON TELECOM DISTRICT

*Ami*  
*ND*

STANDARD FORM OF THE ORDER RELATING TO THE APPOINTMENT OF  
PRESENTING OFFICER

[RULE 14 (5) ©]

No. X-7/TDM.NGG/CON/98-99/4

GOVERNMENT OF INDIA

DEPARTMENT OF COMMUNICATIONS

PLACE OF ISSUE: NAGAON

DATED AT NAGAON, THE 31<sup>ST</sup> AUGUST'98

ORDER

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri. Jiban Chandra Nath, SS(O), O/o the SDO(P)/Nagaon.

AND WHEREAS the \*President/undersigned considers that a Presenting Officer should be appointed to present on behalf of the \*President/undersigned the case in support of the articles of charge.

NOW, THEREFORE the \*President/undersigned in exercise of the powers conferred by sub-rule (5) © of Rule 14 of the said rules, hereby appoints Shri. D. Gupta, A.O(Cash), O/o the TDM/Nagaon as the Presenting Officer.

\*(By order and in the name of the President)

- Sd -  
(S. RAJHANS)

TELECOM DISTRICT MANAGER  
NAGAON TELECOM DISTRICT

COPY FOR INFORMATION & NECESSARY ACTION TO :-

1. SHRI. A. O(CASH), O/O THE TDM/NAGAON (PRESENTING OFFICER)
- ✓ 2. SHRI. JIBAN CHANDRA NATH, SS(O), O/O THE SDO(P)/NAGAON
3. SHRI. A. B. SARAN, OSD(DI) ER, O/O THE CGMT, PATNA.(INQUIRY AUTHORITY).

S. Rajhans  
31-08-98  
(S. RAJHANS)

TELECOM DISTRICT MANAGER  
NAGAON TELECOM DISTRICT

*True copy*  
*N. B. Saran*

Place : Nagaon

Govt. of India

Ministry of Communications

No.X-7TDM/NGG/CON/98-99/10

Dated at Nagaon, the 22<sup>nd</sup> June'2000


O R D E R

WHEREAS, an inquiry under Rule - 14 case of the Central Civil Services ( Classification Control & Appeal ) Rules, 1965, is being held against Sri. Jiban Chandra Nath, SS.

WHEREAS, Sri. D. Gupta, Accounts Officer (Cash) O/o the TDM/Nagaon was appointed as Presenting Officer to present the case against Sri. Jiban Chandra Nath, SS.

AND WHEREAS, Sri. D. Gupta, Accounts Officer (Cash) O/o the TDM/Nagaon after presented the case partly has since been transferred and it is necessary to appoint another officer as Presenting Officer to present the charges against Sri. Jiban Chandra Nath, SS.

NOW THEREFORE, the undersigned hereby appoints Sri. M. R. Choudhury, Accounts Officer, O/o the TDM/Nagaon as Presenting Officer to present the case framed against Sri. Jiban Chandra Nath, SS.

  
Telecom District Manager  
Nagaon Telecom District

Copy for information & necessary action to :-

1. Sri. M. R. Choudhury Accounts Officer, O/o the TDM/Nagaon
2. Sri. Jiban Chandra Nath, SS, O/o the TDE/Nagaon
3. Sri. A. B. Saran, OSD(DI) E.R, O/o the CGMT/Patna
4. Sri. D. Gupta, AO(Cash)/Silchar. He may please handed over all the documents of the case to Sri. M. R. Choudhury, Accounts Officer, O/o the TDM/Nagaon at the earliest.

  
Telecom District Manager  
Nagaon Telecom District

*True copy  
Nan*



Annexure - V.

8.12.2000.

To  
The Enquiry Officer  
Rule-14 Case of CCA(CCS) in respect of  
Shri J C Nath, the then D/A of Staff  
Section, O/O the DET, Tezpur.

Sir,

It is come to know that a case of entry in service Roll of one Sri Kala Ram Das, Line Staff of Tezpur Division being brought up occurred about 15 years back where in I am made as witness.

That sir, my wife is suffering from cancer who was under treatment at Bombay and Gauhati besides, I am a diabetic patient. My mind is not in a position to recollect the circumstances happened long 15 years back.

That sir, to recapitulate, there was a case of wrong entry that was brought to the notice by one Mr. Kala Ram Das along with Sri Durga Das, an Assistant and made a scene in the office.

The matter by allowing him to proof the date of birth when date of birth entered in the service book. There was another line staff whose name appears to be Sri Kala Mia which have been put up together after taking to the notice of the then DET/TZ.

That sir, the victim might have brought the proof of his date of birth who put up in file as procedure to the higher authority for alteration. That Sir, unless the establishment's file for making correspondence regarding such matter along with personal file of Sri Kala Mia as well as of Sri Kala Ram Das is available it cannot be ascertained at present.

True only  
Not

It is therefore, requested that the concerned file may be searched along with the service roll of both the official line staff namely Sri Kala Ram Das and Sri Kala Mia along with the establishment file to get the true fact. Regarding non availability of file, it is to inform you that how the file left like, this is not understood as this file goes to the JOP and DET as procedure.

Further it is requested that no further communication be made with ~~the~~ me through E.O. except telephonic information in future. The present address is given for information.

Sincerely Yours

Debnath Bhuyan  
HSG/O/O the DET/TZ  
(now retired)

Add :

Sri Debnath Bhuyan  
C/O Sri Ripunjary Bhuyan  
Hatigarh Hill Side,  
Bye lane No. 2 (E)  
P.O. Bamunimaidan,  
Guwahati-21.

*Trilok*  
*Don*

भारत संचार निगम लिमिटेड  
BHARAT SANCHAR NIGAM LIMITED  
(भारत सरकार का उपक्रम)  
(A GOVT. OF INDIA ENTERPRISE)  
दूरसंचार निगम प्रबंधक कार्यालय  
OFFICE OF THE TELECOM DISTRICT MANAGER  
नगाँव - 782 001 (असम)  
NAGAON - 782 001 (ASSAM)

No: X-7/TDM/NGG/CON/2001/16

Dated at Nagaon, the 30TH Jan'2002

OFFICE ORDER

Whereas, a chargesheet was issued against Sri. Jiban Chandra Nath, S/S, O/o SDE(Ext)/Nagaon vide TDM/Nagaon memo No. X-3/TDM/NGG/CON/98-99/1 dated 27th July'1998 under disciplinary proceedings of Rule 14, CCS(CCA) 1965, and an Inquiry Officer was appointed for departmental inquiry into the case vide letter No. X-7/TDM/NGG/CON/98-99/3 dated 31-08-1998. In the time of inquiry Sri. Jiban Chandra Nath also admitted in his written statement dated 12-12-2000 that while he was functioning as D/A, O/o the TDM/Tezpur, he had changed the date of birth of Sri. Kalaram Das, L.I as 29-09-39 instead of 10-02-1932 without prior permission of competent authority.

After completion of departmental inquiry and inspection of all the relevant document, the I.O submitted his final report establishing the well-known provisions of Rule-3(I) (i) (ii) & (iii) of CCS (Conduct) Rule, 1964 against Sri. Jiban Chandra Nath, SS and charges levelled against him under Article - I & II of Annexure-I & II to the chargesheet stand 'Proved'.

The undersigned carefully considering the records in details submitted by Sri. Jiban Chandra Nath, SS and all other affects and circumstances relevant to the case and considering the circumstances in totality and on the objective assesment of entire case, hold the allegation established against Sri. Jiban Chandra Nath, SS, as contained in memorandum No. X-3/TDM/NGG/CON/98-99/1 dated 27-07-1998. The undersigned, in exercising the Rule 11 (ii) of CCS(CCA) Rule, 1965, hereby impose the penalty on him for withdrawal of his promotion for 3(three) years w.e.f I.O's order i.e. w.e.f. 14-05-2001.

12  
- Sd -  
(PANKAJ DAS)

TELECOM DISTRICT MANAGER  
NAGAON TELECOM DISTRICT

Copy to :-

- ✓ 1. Sri. Jiban Chandra Nath, SS, O/o the SDE(Ext)/Nagaon
2. The SDE(Ext)/Nagaon
3. The SDE(HRD) O/o the TDM/Nagaon
4. The AO(Cash)/Nagaon
5. Sri. L. Boro, VO, O/o the CGMT/Guwahati-7 along with a copy of I.O's order.

(PANKAJ DAS)

TELECOM DISTRICT MANAGER  
NAGAON TELECOM DISTRICT

True copy  
Nath

To,

Sri A.B. Saran,  
The Officer on Special Duty,  
Eastern Region,  
O/o the Chief General Manager,  
Bihar Telecom Circle,  
Patna-1

Sub: Brief of Defence Asstt. In respect of Rule-14 case against  
Sri J.C. Nath, Sr. TOA(G) of Nagaon Division.

Sir,

I have received the brief submitted by the Presenting Officer of the case, Sri M.R. Choudhury, Sr. AO of Nagaon Telecom District.

I have gone through the brief but I cannot agree with his statement. He has pointed out and declared that Sri J.C. Nath is guilty and fit for punishment. But he has not said anything regarding laps of the Department. In my previous brief at the time of hearing at Nagaon I have pointed out that the charges sheet given to Sri J.C. Nath is not correct because of the designation of SPS, Sri J.C. Nath is not correct. He is not a LDA and the name of the person whose date of birth was corrected by Sri Nath is also wrong. Subsequently Sri Nath intimated about the correct name of the person. After the laps of some months the name has been corrected. For these points the charge sheet is to be cancelled and if necessary the fresh charge sheet is to be issued. As per Rules no mistake should be done in issuing the charge sheet. But this has not been done and the presenting office has not indicated regarding the laps of the authority.

Sri J.C. Nath has been entrusted the duties for dealing the service records, service Book of line Staff. As the duty is allotted to him, he has corrected the service book and this is not un-authorised.

The date of birth of Sri Kala Ram Das has been noted in Service Book of the official by Sri J.C. Nath from Service Roll. The service roll of Sri Kala Miya was also available inside of Service Book of Sri Kala Ram Das and by common mistake Sri Nath has entered the date of birth of Kala Miya in the Service Book of Sri Kala Ram Das. Later on after verification of Service Book Sri Kala Ram Das has objected regarding date of birth noted in his Service Book. Then Sri J.C. Nath and HSG clerk Sri D.N. Bhuyan have instructed Sri Kala Ram Das to submit his supporting documents. Accordingly he has submitted the same and Sri J.C. Nath has corrected the date of birth of Kala Ram Das putting the remarks and his signature with the permission of Head of Section. Before this Sri Nath has put up the case in Service Book correction file. This has the indication in the written statement of Sri D.N. Bhuyan the then HSG (copy enclosed).

After a few year Sri Nath and Sri Bhuyan have been transferred from Tezpur Division. So at present Sri Nath or Sri Bhuyan is unable to trace out old records of Tezpur Division. In my cross examination to V.O. of circle Office I asked whether he has verified the corresponding files and records. Then he told that he has not found anything at Tezpur office. This was the duty of V.O. and presenting officer. But they have overlooked the matter. On the other hand this is the duty of dealing assistant whether the Service Books of all officials have been filled up properly and correctly and if any mistake is noticed this is to be corrected observing proper procedure.

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At that time it was the instance that the dealing assistant have been ordered by the DE of Tezpur for collecting datas of Service Books from field offices for which the departmental vehicle has been provided to them. On the other hand Sri Kala Ram Das has been retired on the date as corrected. At the time of inquiry Sri Das said that the corrected date is his actual date of birth.

As per the existing rules of the department the Service and other particulars of the employees who will retire within five years are to be checked properly and the internal check and audit party are checking the Service Books in every year. But the Service Book of Sri Kala Ram Das has not been checked by any body. The reasons are not understood. In my opinion, these are the major laps of the department.

Lastly I may say that the correction made in Service Book by Sri J.C. Nathi has given the remarks for correction putting his signature. If he had any bad intention as pointed by the presenting officer he might not give his remarks and signature. From this point I may say that he has corrected the same with good intention for helping the official because the first entry was wrong which had been done by him. That was done with the permission of Head of Section. In day to day works maximum works are done on the basis of verbal instruction of authority. No written orders are issued. This case has also been done by Sri Nathi as per verbal order of Supervisor.

Sri J.C. Nathi is one of the sincere and good worker of Service Union. So, some office members of other rival union are trying to harm Sri Nathi. Due to such conspiracy, the old records at Tezpur office may be misplaced or destroyed for the authority should have to find out the old records.

Date : 12.02.2001  
Place : Guwahati.

Yours faithfully,

*(Signature)*  
(GOLAP CH. SARMA)  
DA of Sri J.C. Nathi.

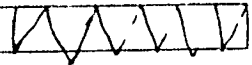
*True copy  
File*

Received on 29-1-01  
for file

**BHARAT SANCHAR NIGAM LIMITED  
OFFICE OF THE TELECOM DISTRICT  
MANAGER::NAGAON::**

No.: PO/NGG/J.C.N/00-001/

Dated at Nagaon the 30.1.2001.



To  
Shri A.B.Saran,  
The Officer on special duty  
Eastern Region.  
Office of the Chief General Manager Telecom,  
Bihar Circle, Patna-1.

Sub :- Disciplinary proceeding against Sri. Jiban Chandra Nath, S/S, O/O SDOP, Nagaon under Rule -14 of CCS(CCA) Rules, 1965.

The charges against Sri Jiban Chandra Nath S/S O/O SDOP, Nagaon, while functioning in the o/o the then TDE, Tezpur altered the entry against column 6 i.e. date of birth in the Service Book of Sri Kala Ram Das, L.I. as....." and in the Service Roll without authority and thus failed to observe the provision as laid down below note-6 of FR-56, misused official position with a dishonest motive in discharge of his official duties and thereby acted in a manner in contravention of Rule 3(1)(I & (iii) of CCS(Conduct Rules), 1964.

That the said Sri Jiban Chandra Nath, while functioning as S/S o/o SDOP, Nagaon, gave a statement to the investigating officer that the case of Sri Kala Ram Das, L.I. was processed through his personal file and with the consent of his superiors the entry of date of birth in the service book was altered which is false and misleading to the administration and thereby acted in a manner in contravention of Rule 3(1)(i) of CCS(Conduct Rules), 1964.

During the investigation the statement given by Sri Kala Ram Das, (SWS-1), that no written request by him was made for the correction of the date of birth even for one day while SWS-1 came to office for collection of stores, Sri Jiban Chandra Nath, S/S, O/O SDOP/Nagaon, (SPS) asked him to produce certificates in support of his date of birth which according to the SPS were lost and SWS-1 afterwards submitted his recently prepared horoscope along with one Doctors certificates for the same. Sri Jiban Chandra Nath (SPS) could not produce any

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Page No.:2::

proof of such application given by Sri Kala Ram Das to the investigating authority.

Sri Jiban Chandra Nath, SPS has stated in writing that he has corrected the date of birth on the first page of the service book on the instruction of the LSG Clerk of the then TDE, Tezpur and higher authority for which he could not produce any proof of such instruction before the investigating authority.

S.Ext.-09, the letter of Sri B.K. Goswami, the then TDE/Tezpur, it is very clear that there is no any Kala Mia ever worked in the Division and the question of correction in the service book by assuming that of Kala Mia by mistake does not arise.

It is clearly stated in FR-56, Chapter-48 that the date of birth once recorded cannot be altered, except in the case of a clerical error, without the previous order of a Department of the Central Government or an Administrator. Heads of Departments are authorised to exercise this power in the case of non-gazetted govt. servants under their control.

From the statement and depositions of the SWS-1 and the Vigilance officer, it is proved beyond doubt that Sri Jiban Chandra Nath, S/S, O/o SDOP/Nagaon (SPS) has given false statement misleading to the administration and in this manner committed grave misconduct and failed to maintain absolute integrity and acted in the manner unbecoming of a government servant.

sd/—  
(M.R. Choudhury)

(Sr.A.O (Cash)-cum- Presenting Officer  
O/o the Telecom District Manager, Nagaon

Copy to Sri Jiban Chandra Nath, S/S, O/o SDOP/Nagaon

M.R. Choudhury 30/1/2001.  
(M.R. Choudhury)

Sr. A.O (Cash)-cum- Presenting Officer  
O/o the Telecom District Manager, Nagaon

**Statement of article of charge framed against  
Shri. Jiban Chandra Nath, the then LDCA, TA, Tezpur, now S/S, O/o the  
SDO(Phones), Nagaon**

**Article - I**

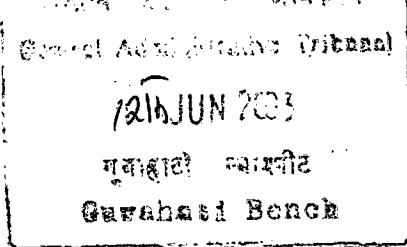
That the said Shri. Jiban Chandra Nath, S/S, O/o the SDO(P)/Nagaon, while functioning in the o/o the TDE, Tezpur altered the entry against column 6 i.e. date of birth in the Service Book of Shri Kalaram Das, L.I, as 29-09-39 from 10-02-1932 with a remark that "wrongly entered the date of birth of Shri. Kalaram Das" and in the Service Roll without authority and thus failed to observe the provision as laid down below note-6 of FR-56, misused official position with a dishonest motive in discharge of his official duties and thereby acted in a manner in contravention of Rule-3 (1) (i) (ii) & (iii) of CCS (Conduct Rules), 1964.

**Article - II**

That the said Shri. Jiban Chandra Nath, while functioning as S/S, o/o the SDO(Phones), Nagaon gave a statement to the investigation through his personal file and with the consent of his superiors the entry of date of birth in the service was altered which is false and misleading to the Administration and thereby acted in a manner in contravention of Rule-3 (1) (i) (ii) & (iii) of CCS (Conduct Rules), 1964.

*True with  
Signature*





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

O.A. 147/02.

Jiban Ch. Nath

...Applicant

Vs-

Union of India & Ors.

...Respondent

IN THE MATTER OF:

An additional affidavit in connection  
with the case.

I, Shri Jiban Chandra Nath, do hereby solemnly  
affirmed state as follows:-

1. That I am the applicant in the above O.A.  
and as much I am acquainted with the facts and circumstances  
of the Case.
2. That in para 6(VIII) of the application  
it was stated that during enquiry Sri S. Subramanian  
the then A.O. in the Office of TDM/Tezpur, Sri D.N.  
Bhuyan, the then SS/TDM, Tezpur Sri Kalaram Das, Line  
inspector and Sri L. Boro, Vigilance Officer, CGMT were  
examined as prosecution witnesses \_\_\_\_\_"  
Here in place of the word 'examined' it should have  
been 'cited'. This is a typical mistake cropped up  
through oversight.

Filed by -  
Sri Jiban Ch Nath  
- Applicant  
Through - Ratul Das  
Advocate.

3. That in para-6(six) of the application it has been stated that Sri S. Subramanian the then A.O. in the DET Office, Tezpur although was cited as prosecution witness, he could not be examined as he was transferred. The deponent states that there was nothing ambiguity in the statements made in para -6(VIII) and 6(XV) and the mistake ~~in~~<sup>in</sup> para 6(iii) relating to the word examined was simply a typical mistake and it does not materially impair the correctness of the factual position.

4. That the deponent did not file any written statements in the inquiry. A statement in writing was obtained from the applicant for preliminary enquiry.

A copy of the signed statement is annexed here with for perusal by the Tribunal.

5. That the mistake appearing in paragraph referred to herein above was inadvertent and through oversight. It was not intentional.

6. That the statements made in this affidavit and in para 1, 4..... are true to my knowledge and those made in para 2, 3..... being matters of records are true to my information

derived therefrom which I believe to be  
and the rest are my humble submission before  
the Hon'ble Tribunal.

And I sign this affidavit on this      th day  
of May/2003, at Guwahati.

Identified by:

*Gibson Chandra Nath*  
DEPONENT

*Ratul Das*  
Advocate

-36-  
15

ANNEXURE -

No. OSD(PT)100/98

M

Venue O/O TDM NGG

Dt . 12.12.2000

Question by I.O. under CCS (CCA) Rules-14(18)

Question : Please brief to the enquiry, if any, the circumstances appearing against you in the evidences during the course of recording the deposition of prosecution witnesses that has not been brought to the notice of the inquiry as yet and you prefer to explain in your defence

Answer :

As a practice of the section and as per instruction of the Head of Section (HSG) on scrutiny of the service books of the officials it is found that the column of date of birth in the first page of service book of Sri Kala Ram Das was vacant though other columns of the service book were filled up and signed by the official and by the field officer (the then EST) and to fill up the said column by mistake the date of birth of Sri Kala Miya whose service roll was available with the service book of Sri Kala Ram Das I made wrong entry in the first page of service book of Sri Kala Ram Das regarding date of birth (which was come to the notice later on) on personal inspection by Shri Kala Ram Das when it came to his notice that his date of birth was wrongly entered and he demanded for immediate correction. On personal approach by Sri Kala Ram Das, the Section Head Sri D.N. Bhuyan the then LSG checked up the service book of Sri Kala Ram Das and the Service Roll of Sri Kala Miya agreed for wrong entry and asked Sri Kala

*True copy  
Ratul Das  
Advocate*

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Ram Das ~~xxx~~ for production of his necessary age proof documents which were not available in the office. Generally service book is fill up as per the records of service roll on production of his age proof documents. by Sri Kala Ram of the Section head (Sri D.N. Bhuyan) personally checked up and after necessary permission from the head of division through the concerned service book correspondence file, the section head instructed me to put the correct date of birth in the first page service book of Sri Kala Ram Das willing the ~~xxx~~ previous date of birth putting my initial and giving the mark "wrongly entered the date of birth of Sri Kala Mily" and then I handed over the service book to the Section head for further necessary action which was in practice. It was done as a wrong entry and not corrected the date of birth previously written by some other person and the service particularly may be available in circle gradation list.

Sd/- A.B- SHARAN  
Inquiring Authority

Sd/- Jiban Ch. Nath  
12.12.2K