

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 170/2002

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SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 170/2002

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants. Sri Arunabha Dutta

-Vs-

Respondent(s) W. O. I. Toms

Advocate for the Applicant(s) Mr. S. Ali, Min K. Chettri

Advocate for the Respondent(s) Addl. Case A. K. Chaudhury

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IP/31/2002 of 6.5.2002	28.5.02	Heard Mr. S. Ali, learned Sr. counsel for the applicant.
Dated 27.5.2002 H. D. Reg. No. 2525101		List on 4.6.2002 for admission.
<i>Steps taken 31.5.02 along with envelops</i>		<i>Vice-Chairman</i>
mb		
	4.6.02	None appears for the applicant. List on 11.7.02 for Admission
		<i>Vice-Chairman</i>
	11.7.02	
	Member	
lm		
5.11.02		Written statement has already been filed. Case is ready for hearing. List for hearing on 28.11.02. In the meantime the applicant may file rejoinder if any within two weeks.
lm		<i>Vice-Chairman</i>

(2)

O.A. 170/2002

11.7.02 Heard Mr. S. Ali, learned Sr. counsel for the Applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.

Notice prepared and sent to D. Section for issuing of the respondent Nos. 2, 3 and 4.

Vide D.No - 2203 to 2206
Dtd - 13-8-02.

BB
13-8-02

The application is admitted. Call for the records.

The Respondents are ordered to file written statement within four weeks from today.

List the matter on 14.8.2002 for orders.

K K Chakrabarty
Member

Vice-Chairman

mb

No written statement 14.8.02 Put up on 16.9.2002 for orders.
has been filed.

BB
13.9.02.

mb

K K Chakrabarty
Member

Vice-Chairman

16.9.2002 On the prayer made by Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. four weeks time is granted to file the respondents to file written statement.

List the case on 5.11.2002 for orders.

9.10.02
AIS submitted
by the Respondent Nos.
1, 2, 3 and 4.

BB

BB

28/11 Division bench did not sit today.
The case is adjourned to 17/12/2002.

BB
A. Deb Roy

17/12/2002 Division bench did not sit today. The case is adjourned to 27/12/2002.

BB
A. Deb Roy
17/12

27.1.2003 Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra, Administrative Member.

Written statement
has been filed.

Sr. On the prayer of Mr. S.Ali,
learned/counsel for the applicant the
case is adjourned. List the matter again
on 20.3.2003 for hearing.

33
18.3.03

Sum
Member

Vice-Chairman

mb

20/3. Division bench did not sit today.
The case is adjourned to 1/5/2003.
M/s
k

1/5. Division bench did not sit today,
The case is adjourned to 12/6/2003.
M/s
k

12.6.2003 Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. R.K. Upadhyaya
Administrative Member.

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

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

Ch. Syed Md.

Member

Vice-Chairman

bb

Copy of the Judgment
has been sent to the
Office for sending the
same to the applicant
by post.

AB

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXX. No. 170 of 2002xxf

DATE OF DECISION 12.6.2003.....

Shri Arunabha Dutta APPLICANT(S).

Mr. S. Ali, Sr. Advocate & Ms. K. Chettri. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

U.O.I. & Others. RESPONDENT(S).

Mr. A. K. Chaudhuri, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR R. K. UPADHYAYA, 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.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 170 of 2002.

Date of Order : This the 12th Day of June, 2003.

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

THE HON'BLE MR R. K. UPADHYAYA, ADMINISTRATIVE MEMBER.

Shri Arunabha Dutta
S/o Late Surya Kumar Dutta
Resident of Gosala
Maligaon
Guwahati.

... . . . Applicant.

By Sr.Advocate Mr.S.Ali & Ms.K.Chetri.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Dept. of Communication
New Delhi.
2. The Bharat Sanchar Nigam Ltd.,
Represented by the Chairman-cum-Managing Director
Sanchar Bhawan, New Delhi.
3. The Chief General Manager
Assam Telecom Circle, Ulubari
Guwahati-7.
4. The General Manager
Telecom District, Kamrup
Guwahati.

... . . . Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.):

The issue relates to legitimacy of the initiation and continuation of the departmental proceeding vide order dated 17.4.2002 pertaining to matters that took place in the year 1992.

1. Mr.S.Ali, learned Sr.counsel for the applicant contended that the conduct of the applicant did not call for any disciplinary proceeding so much so he only acted within discretionary power as Junior Accounts Officer which was subject to the approval of the higher authority. The learned Sr.counsel further submitted that the purported proceeding relate back to events that took place in the year 1992. It was not humanly possible to recall the details of

those transaction by the applicant and thereby defend his case by the applicant. Mr.Ali further condoned the acts of the Superior Officers, who had approved the acts of the applicant ~~and whereby~~ ^{Submitted in Respondents} dubbed as the Subordinate Officers were only subjected to the persecution in an illegal fashion. Mr.A.K.Chaudhuri, learned Addl.C.G.S.C., on the other hand, submitted that the issue involved pertains to determination of question of facts which can only be done on due enquiry on assessment of materials on records. Mr.Chaudhuri contended that this is not a case in which one can come to a conclusion at this stage that the charges are groundless without evaluation of facts.

2. Upon hearing the learned counsel for the parties and on consideration of the materials on records we are of the opinion that the matter requires to be enquired into by the departmental authority providing the applicant all opportunity to raise all the issues. Mr S.Ali, learned Sr.counsel for the applicant contended that the departmental authority exercised its jurisdiction mechanically at the instance of CVC and therefore the same is liable to be set aside. We feel that this issue also can be raised by the applicant before the authority and the authority will be within its competence to deal with that issue also.

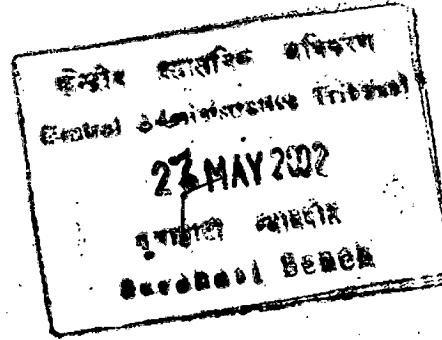
For all the reasons stated above, we are not inclined to intervene in the matter leaving it to the respondents to conclude the departmental proceeding expeditiously. Accordingly we direct the authority to conclude the departmental proceeding with utmost expedition preferably within a period of six months from the date of receipt of the order. Needless to state that the applicant shall be entitled to all the procedural safeguard in defending his case.

With these directions, the application stands disposed of. No order as to costs.

C. R. N. A. M.

(R.K.UPADHYAYA)
ADMINISTRATIVE MEMBER

D.N.CHOWDHURY
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

O.A. No. 170 /2002.

Shri Arunabha Dutta Applicant.

-VRS-

The Union of India & Ors.

..... Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
1.	Original application	- 1 to 8
2.	Verification	- 9
3.	Annexure-1	- 10 to

Filed by:-

Krishna Chettri
27/5/2002
(K. Chettri)

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUBATI BENCH AT
GUWAHATI.

(An application under section 19 of the
Central Administrative Tribunal Act, 1985).

O.A. NO. 170 /2002

Shri Arunabha Dutta Applicant.

-VRS-

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

1. PARTICULARS OF THE APPLICANT:-

Sri Arunabha Dutta,
S/o Late Surya Kumar Dutta,
resident of Gosala, Maligaon,
Guwahati.

2. PARTICULARS OF THE RESPONDENTS :-

1. The Union of India, represented by the Secretary to the Govt. of India, Department of Communication, New Delhi.
2. The Bharat Sanchar Nigam Ltd., represented by the Chairman-Cum-Managing Director, Sanchar Bhawan, New Delhi.
3. The Chief General Manager, Assam Telecom Circle, Ulubari, Guwahati-7.
4. The General Manager, Telecom District, Kamrup Guwahati.

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

Memorandum contained in No. Vig/Assam/Disc.XVI/19 dated 17.4.2002 issued by the Chief General Manager, Assam Circle, Telecom, Guwahati.

9
Filed by the
Applicant Through
me - Krishna Chatterjee
Advocate

Memorandum Address

- 2 -

4. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter is within the jurisdiction of the Hon'ble Tribunal at 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 was initially appointed as Time scale Clerk (T.S. Clerk) in 1965 and posted at Dibrugarh in the office of the Divisional Engineer, Telegraph. Thereafter the applicant was transferred to Guwahati in the same capacity in the month of December, 1978.

6.3. That in 1992, he was promoted to the post of Senior Section Supervisor and he was promoted to the post of Jr. Accounts Officer in the office of the Telecom District Manager, Guwahati on 3.1.1992.

6.4. That your applicant thereafter was promoted to the post of Assistant Accounts Officer and joined in the office of the Chief General Manager, Telecom Assam Circle in October, 1996.

6.5. That the applicant officiated as Accounts Officer from 17th July, 1999 and regularised in the said post in the month of August, 2000 in the same capacity. Now he is working as Accounts Officer S.V.P. and T.A.

6.6. That during the past service period he was working to the satisfaction of his superiors.

6.7. That to utter surprise of the applicant that the Chief General Manager, Assam Telecom Circle, Guwahati issued a Memorandum No.Vig/Assam/Disc.XVI/19 dated 17.4.2002 to the applicant which he received on 9.5.2002. The said memorandum has been sent by the Director (F & A) Finance and Accounts Office of the General Manager, Telecom District, Guwahati.

Annexure-1 is the photocopy of the memorandum No.Vig/Assam/Disc.XVI/19 dated 17.4.2002.

6.8. That on perusal of the Annexure-1 the applicant found that the Chief General Manager, Telecom Assam Circle has informed the applicant that it has been proposed to hold an enquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Alongwith the Annexure-1 the article of charge, statement of imputation and List of Documents have also been given as Annexure-I, II and III with a direction to submit show cause reply to the charge within 10(ten) days from the date of receipt of the Annexure-1.

- 4 -

6.9. That your applicant has asked for 15 days time to submit show cause reply aslo^t of documents have been referred in the charge sheet. In fact, he has not yet submitted his show cause reply to the charge brought against him. The charge brought against him is as follows:-

"Sri Arunabha Dutta while functioning as Junior Accounts Officer in the office of the Telecom District Manager, Guwahati during 1992 committed gross misconduct in as much as he pre-checked bill Nos.237, 238, 239 all dated 5.3.92 each amounting Rs.1,98,351.66 and bill Nos.578, 579, 580, 581 all dated 19.9.92 each amounting to Rs.1,90,723.00 of M/s B.R.Electricals, New Delhi for supply of PVC insulated twin galvanised steel dropwire despite of the fact that the supply was made by the Firm without proper delivery challans, receipt certificates on the bills were not properly certified, without putting any date and without mentioning page nos of Stock Register by the concerned authority. Further, that the purchasing Officer Sri Y.P.Kataria, TDM and Shri Kranti Kumar CGMT were not empowered to purchase the said non-approved items of DOT and thereby failed to observe the codal formalities of purchases laid down by the Department which are required under various rules/circulars, resulting to an illegal payments to the said Firms for total amounting to Rs.13,57,946.98.

Thus by his aforesaid act Shri Arunabha Dutta failed to maintain absolute integrity and devotion to duty and thereby contravened the Rules of 3(1)(i) & (ii) of CCS (Conduct) Rule, 1964."

6.9(i) That your applicant begs to state that from the Annexure-1 it appears that CBI enquiry was

conducted as far back in 2000 relating to the matters of 1992 i.e. matter happened in 8 years back and the charge brought against the applicant is not correct rather false.

That apart one of the officers viz Shri Kranti Kumar, the then Chief General Manager, Assam Telecom Circle, Ulubari, Guwahati who approved the purchase of articles in question contained in various bills have been exonerated from the charge and as such the applicant should also be exonerated from that charge brought against the applicant. Annexure-2 is the photocopy of letter dt. 20.8.01 issued by Director, CBI exonerating Sri Kranti Kumar, CGM, Assam Circle.

6.10. That your applicant begs to state that the charge brought against the applicant is defective as the Purchasing Officer is there above his head to check up the items whether stock or non-stock and whether the officers concerned can purchase the items in question and it is not the busyness of the applicant to check whether the purchase can be made by the officer.

6.11. That your applicant begs to state that in the statement of imputation in support of allegations made against the applicant, the said allegations ought to have been made against the Purchasing Officer and not against the applicant. Because the Purchasing Officer is solely responsible to look into this before purchasing the various items.

6.12. That your applicant begs to state that the charge/allegations brought against the applicant is not maintainable in law in view of the facts that to purchase and to ascertain availability of fund is the duty of the Purchasing Officer and not the duty of the applicant and hence the charge is defective, malafide and improper and

hence the Disciplinary Proceeding against the applicant is liable to be quashed.

7. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

7.1. For that the charge brought against the applicant is illegal, improper and malafide and hence the same is liable to be quashed.

7.2. For that the Disciplinary Proceeding against the applicant for pre-checking bills of 1992 and the charge brought against the applicant is after 8 years from the date of pre-checking of the bills by the applicant and as such the same is liable to be quashed.

7.3. For that the real person who is to face the charge is the Purchasing Officer and hence the Disciplinary Proceeding brought against the applicant is illegal, improper and malafide for which the same is liable to be quashed.

7.4. For that the proposed enquiry against the applicant is unwarranted as he is not involved in purchasing and ascertaining the availability of fund and also for approving articles to be purchased.

7.5. For that the applicant being Junior Accounts Officer is to assist the Accounts Officer. In fact, the Accounts Officer is solely responsible for any mistake committed and lapses occurred in making payment of the bills as per Rules 18 of the Posts and Telegraphs Financial Hand Book Vol.III Part-I Second Edition.

7.6. For that under Appendix-3 of the Posts and Telegraphs Financial Hand Book Vol.III Part-I (Second Edition) under serial No.17, all vouchers, contingencies,

work charges and requirement bills are to be preserved for only three years and thereafter all these documents became invalid.

7.8. For that the disciplinary authority has brought charge against the applicant on the basis of invalid documents, papers, vouchers etc and hence the departmental proceeding is vitiated and liable to be quashed.

7.9. For that Shri B.K. Deori, who was Divisional Engineer (Planning and Administration) Office of Telecom District Manager, Kamrup was also involved but the Disciplinary authority has exonerated him and thereby made discrimination in bringing charges against the applicant and hence the disciplinary proceedings against the applicant is liable to be quashed.

7.10. For that at any rate the disciplinary proceeding against the applicant is unwarranted and hence the same is liable to be quashed.

8. DETAILS OF REMEDIES EXHAUSTED :-

That the authority has brought illegal charge against the applicant that is why the applicant has filed this original application before this Hon'ble Tribunal for quashing the disciplinary proceeding.

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

That the applicant declares that no case is pending against this subject matter in question either before the Court or in any Tribunal.

10. RELIEF SOUGHT FOR :-

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

i) Disciplinary Proceedings brought against the applicant at Annexure-1 which is illegal, improper and malafide, be quashed;

ii) The applicant be exonerated from the illegal charge brought against him;

iii) Any other relief or reliefs entitled to the applicant may kindly be granted to him.

11. INTERIM RELIEF IF ANY :-

In the interim, it is prayed that impugned Disciplinary proceeding contained in Memo No. Vig/Assam/Disc. XVI/19 dated 17.4.2002 at Annexure-1 issued by the Chief General Manager, Assam Telecom Circle, Guwahati may kindly be stayed till final disposal of this original application.

12. PARTICULARS OF THE IPO:-

i. Date : 27-5-2002

ii. No. 76574892

iii. Value : Rs 50/-

iv. Payable at Guwahati.

v. Name of Post Office :

13. ENCLOSURES:-

As per Index.

VERIFICATION

I, Shri Arunabha Dutta, Son of Late Surya Kumar Dutta, resident of Gosala, Maligaon, Guwahati, do hereby solemnly affirm and verify the statements made in paragraphs 155, 6.1 to 6.6, 8, 9, of the original application are true to my knowledge and those made in paragraphs 6.7, 6.8, 6.9, 6.9(1), 6.10, 6.11, 6.12, 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 27 th day of May, 2002 at Guwahati.

Arunabha Dutta
Signature.

Recd on 9/5/02

10

~~CONFIDENTIAL~~

N.K.DEKA
Director (F & A)
Kamrup Telecom District
Ulubari, Guwahati-07

Tele:- 452055 (O)

556011 (R)

No. DFA/Vig/A.D./3

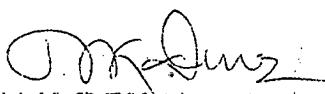
Dated, 9-05-2002.

To,

Shri Arunabh Dutta,
Accounts Officer,
O/O GM, Kamrup Telecom District,
Guwahati-07.

Please find enclosed herewith Memorandum (vide letter No. Vig/Assam/Disc.XVI/19 dated 17-4-02 (Annexure-I, II, III, IV included).

Your Defence statement should be sent to me within 10 days in quadruplicate in original alongwith your dated acknowledgement (in duplicate in original).


(N.K. DEKA)
DIRECTOR (F & A)
O/O GMTD/GUWAHATI.

Attested by
Pisba Deller
Advocate
27/5/2002

Bharat Sanchar Nigam Ltd.
 (A Govt. of India Enterprise)
 O/O The Chief General Manager
 Assam Telecom Circle, Guwahati-07.

No. Vig/Assam/Disc.XVI/19

Dated, 17-04-2002

MEMORANDUM

- 1) Shri Arunabh Dutta, Junior Accounts Officer O/O TDM Guwahati and now Accounts Officer O/O GMTD Guwahati is hereby informed that it is proposed to hold an inquiry against him under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

A copy of the first stage advice of CVC for instituting Major Penalty proceedings against Shri Arunabh Dutta, is also enclosed.

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

*Attested by
 Bishnu Chettri
 Advocate
 27/4/2002*

that Sri Arunabh Dutta is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rules 1964.

6) The receipt of the memorandum may be acknowledged.

To

Sri Arunabh Dutta,
Accounts officer
O/O GMTD Guwahati


(G.S. Grover)
Chief General Manager
Assam Telecom Circle, Guwahati-07.

Appealed by
Leishae Chelli
Advocate
27/5/2002

ANNEXURE-I

ARTICLE OF CHARGE FRAMED AGAINST SHRI ARUNABH DUTTA, THE
THEN JUNIOR ACCOUNTS OFFICER, O/O TDM GUWAHATI AND NOW
ACCOUNTS OFFICER O/O GMTD GUWAHATI.

Shri

That the said Arunabh Dutta while functioning as Junior accounts Officer in the Office of the TDM Guwahati during 1992 committed gross misconduct in as much as he pre-checked bill Nos. 237, 238, 239 all dtd: 5-3-92 each amounting Rs. 1,98,351.66 and bill Nos. 578, 579, 580, 581 all dtd. 19-9-92 each amounting to Rs. 1,90,723.00 of M/s B.R.Electricals, New Delhi for supply of PVC insulated twin galvanised steel dropwire, despite of the facts that the supply was made by the Firm, without proper delivery challans, receipt certificates on the bills were not properly certified, without putting any date and without mentioning page Nos. of the Stock Register by the concerned authority. Further, that the Purchasing Officer Sri Y.P.Kataria, TDM and Shri Kranti Kumar, CGMT were not empowered to purchase the said non-approved items of DOT and thereby failed to observe the codal formalities of purchases laid down by the Department which are required under various rules/circulars, resulting to an illegal payments to the said Firms for total amounting to Rs. 13,57,946.98.

Thus, by his aforesaid acts Shri Arunabh Dutta failed to maintain absolute integrity and devotion to duty and thereby contravened the Rules of 3(1)(i) & (ii) of CCS(Conduct) Rule, 1964.

(G.S. GROVER)

CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE, GUWAHATI-07.

*Attested by
Pradeep Chatterji
Advocate
27/5/2002*

ANNEXURE-II

✓

**STATEMENT OF IMPUTATION IN SUPPORT OF ALLEGATION MADE
AGAINST SHRI ARUNABH DUTTA, THE THEN JUNIOR ACCOUNTS
OFFICER, O/O TDM GUWAHATI AND NOW ACCOUNTS OFFICER O/O
GMTD KAMRUP.**

That the said Shri Arunabh Dutta, while functioning as Junior accounts Officer in the office of TDM Guwahati during 1992, was entrusted the job of pre-checking bills of suppliers/contractors alongwith other works.

While he had been doing pre-check of bills, he would have to see the following points :-

- i) Whether fund is available under the relevant head.
- ii) Whether purchases are made against the sanctioned estimates.
- iii) whether purchases are within the financial limit of the Purchasing Officer;
- iv) whether bill are prepared as per the terms and conditions laid down in the purchase order;
- v) whether bill are properly certified by the concerned authority regarding quantity, quality and they are according to the approved specification and entry in the Stock Register are certified.

Whereas M/s B.R.Electricals, New Delhi purportedly had supplied PVC insulated twin galvanised steel dropwire and had submitted 7(Seven) Nos. of bills as under :-

Sl.No.	Bill No. & Date	Amount	Quantity	Rate
1.	237 dtd. 5-3-92	Rs.1,98,351.66	26Kms	Rs. 6,999/-m per Km+taxes
2.	238 dtd. 5-3-92	Rs.1,98,351.66	26Kms	-Do-
3.	239 dtd. 5-3-92	Rs.1,98,351.66	26kms	-Do-
4.	578 dtd. 19-9-92	Rs.1,90,723.00	25Kms	-Do-
5.	579 dtd. 19-9-92	Rs. 1,90,723.00	25Kms	Do-
6.	580 dtd. 19-9-92	Rs. 1,90,723.00	25Kms	Do-
7.	581 dtd. 19-9-92	<u>Rs. 1,90,723.00</u>	25Kms	-Do-
		Rs.13,57,946.98		

While shri Arunabh Dutta pre-checked aforesaid bills, he failed to check the following deficiencies in these bills:-

- 1) The item PVC insulated twin galvanised steel dropwire was neither stock item nor regular item of DOT and said item was not as per TEC's specification of DOT. There was also no de-centralisation of order from DOT for procurement of stock item during 1992.

Attested by
Pratibha Deka
Advocate
27/3/2002

--2--

- ii) Non-availability certificate was not obtained from CTSD, Dispur before purchase of item.
- iii) No estimate was prepared and sanctioned before purchase of said item.
- iv) Purchase was made without calling tender and without observing codal formalities for purchase of stock item in case of emergency.
- v) None of the bills were accompanied with proper delivery challans in triplicate which is required as per clause of purchase orders
- vi) Purchasing Officer has no power to purchase the said materials without approvals of DOT and during purchase of said items financial limit of purchasing officer were exceeded in each case.
- vii) The consignees received the materials after expiry of delivery period and certified the said bills without mentioning any date and page No. of the Stock Register.

While Shri Arunabh Dutta pre-checked the aforesaid bills of M/s B.R.Electricals, he failed to point out deficiencies as mentioned above before the competent authority for remedial action.

Thus, by the above acts of commission and omission, Shri Arunabh Dutta failed to maintain absolute integrity and devotion to duty thereby contravened the provisions of Rule 3(1)(i) & (ii) of CCS(Conduct) Rules, 1964.

Attested by
Kanika Dutta
Advocate
27/5/2002

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI ARUNABH DUTTA, FORMERLY JUNIOR ACCOUNTS
OFFICER O/O TDM GUWAHATI AND NOW ACCOUNTS OFFICER O/O
GMTD GUWAHATI

- 1) Purchase order No. WS-700/LP/Pt.IV/91-92/79 dtd. 24-2-92
- 2) Purchase order No. WS-700/LP/Pt.IV/91-92/81 dtd. 25-2-92.
- 3) Purchase order No. WS-700/LP/Pt.IV/91-92/82 dtd. 26-2-92.
- 4) Purchase order No. WS-700/LP/Dropwire/92-93/4 dtd. 15-9-92
- 5) Purchase order No. WS-700/LP/Dropwire/92-93/5 dtd. 16-9-92
- 6) Purchase order No. WS-700/LP/Dropwire/92-93/6 dtd., 17-9-92
- 7) Purchase order No. WS-700/LP/Dropwire/92-93 dtd. 18-9-92.
- 8) Bill No. 237 dtd. 5-3-92 of M/s B.R.Electricals, New delhi for Rs.1,98,351.66 for supply of 26 Kms of the said PVC Dropwire to SDOT Kamrup agaisnt P.O No. WS-700/LP/Pt.IV/91-92/82 dtd. 28-2-92.
- 9) Bill No. 239 dtd. 5-3-92 of M/s B.R.Electricals, New delhi for Rs.1,98,35.66 for supply of 26 Kms of the said PVC Dropwire to SDOP Kamrup against P.O No. WS-700/LP/IV/91-92/79 dtd. 24-2-92
- 10) Bill No. 238 dtd. 5-3-92 of M/s B.R.Electricals New delhi for Rs. 1,98,351.66 for supply of 26 Kms of the said PVC Dropwire to SDOP Kamrup against P.O No. WS-700/LP/IV/91-92/81 dtd. 25-2-92.
- 11) Letter No. D-1/91-92/49 dtd. 30-3-92 of SDOT Kamrup alongwith enclosures of Bill nos. 237 dtd. 5-3-92 , 238 dtd. 5-3-92 and 239 dtd. 5-3-92 of M/s B.R.Electricals addressed to DE(P & A) O/O TDM Guwahati
- 12) Notings in notesheets of the bill file No. WS-700/LP/Bill at page no. 19,20 and 21.
- 13) Bill No. 581 dtd. 19-9-92 for Rs. 1,90,723/- of M/s B.R.Electricals, New Delhi for supply of 25 kms of the said PVC, Dispur to SDOP Dispur against P.O No. WS-700/LP/Dropwire/92-93/7 dtd. 18-9-92.
- 14) Letter No. G-5/92-93/2 dtd. 6-11-92 of SDOP Dispur addressed to AE Admn O/O TDM Guwahati.
- 15) Bill No. 578 dtd. 19-9-92 for Rs. 1,90,723/- of M/s B.R.Electricals, New delhi for supply of 25 Kms of the said PVC Dropwire to SDOP West against P.O No. WS-700/LP/Dropwire/92-93/4 dtd. 15-9-92
- 16) Letter No. S-1/SDOP/W/92-93 dtd. 6-11-92 of SDOP West addressed to DE(P & A) O/O TDM Guwahati.
- 17) Noting in the note-sheet of the bill file No. WM-706/90-91/SDOP West at page No. 19.
- 18) Bill No. 579 dtd. 19-9-92 for Rs. 1,90,723/- of M/s B.R.Electricals , New delhi for supply of 25 Kms of the said PVC Dropwire to SDOP East against P.O No. WS-700/LP/Dropwire/92-93/5 dtd. 16-9-92.
- 19) Letter No. WS-1/92-93/22 dtd. 6-11-92 of SDOP East addressed to the DE(P & A) O/O TDM Guwahati.
- 20) Noting in the Note-sheet of the bill file No. WM-706/SDOP(E)

*Attested by
Bishnu Chelli
Advocate*

- 21) Bill No. 580 dtd. 19-9-92 for Rs. 1,90,723/- of M/s B.R.Electricals New Delhi for supply of 25 Kms of the said PVC Dropwire to SDOP Central available.
- 22) Letter No. S-3/Bills LP/92-93/2 dtd. 4-11-92 of SDOP Central addressed to DE)P & A) O/O TDM Guwahati
- 23) Noting in the Note-sheet of the bill file No. WM-706/SDOP/Central/91-92.
- 24) Voucher No. 638 dtd. 11-11-92 against Bill No. 578 dtd. 19-9-92 of M/s B.R.Electricals for Rs. 1,90,723 for supply of 25 Kms of PVC Dropwire to SDOP West.
- 25) Voucher No. 635 dtd. 11-11-92 against Bill No. 579 dtd. 19-9-92 of M/s B.R.Electricals for Rs. 1,90,723/- for supply of 25 Kms PVC dropwire to SDOP East.
- 26) Voucher No. 636 dtd. 11-11-92 against bill No. 580 dtd. 19-9-92 of M/s B.R.Electricals for Rs. 1,90,723/- for supply of 25 Kms of PVC dropwire to SDOP Central.
- 27) Voucher No. 637 dtd. 11-11-92 against bill No. 581 dtd. 19-9-92 of M/s B.R.Electricals for Rs. 1,90,723/- for supply of 25 Kms of PVC Dropwire to SDOP Dispur.
- 28) Cash Book of O/O TDM Guwahati w.e.f. 30-3-92 to 11-5-92 at page No. 20.
- 29) Cash Book of O/O TDM Guwahati w.e.f. 14-10-92 to 11-11-92 at page No. 97.
- 30) Letter No. Vig/Assam/108 Vol-I/97-98/201 dtd. 9-8-99 of vigilance officer O/O CGMT Guwahati.
- 31) Posts and Telegraph Financial Hand Book, Volume -III, Pt.I
- 32) Schedule of financial Power, 1993.
- 33) Swamy's General Financial rules.
- 34) P & T Manual volume-X

ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLE OF CHARGE FRAMED
AGAINST SHRI ARUNABH DUTTA, FORMERLY JUNIOR ACCOUNTS
OFFICER O/O TDM GUWAHATI AND NOW ACCOUNTS OFFICER O/O
GMTD GUWAHATI.

- 1) Shri K.Nagarajan, Asstt. Director General (Vig) DOT New Delhi.
- 2) Shri A.S.Deb, SDE, CTSD, Guwahati.
- 3) Shri S.Taid, DE(Planning) O/O GMT Guwahati.
- 4) Shri C.K.Das, Sr. AO(Cash) O/O GMT Guwahati
- 5) Shri Upen Swargiary, CAO O/O TDM Bongaigaon.
- 6) Shri Ng.Khamrang, Inspector, CBI ACB Gfuwahati Branch.

*Attested by
Girish Chettri
23/5/2002*

CENTRAL VIGILANCE COMMISSION

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Commission in consonance with the recommendations of CBI and Department of Telecom advises initiation of major penalty proceedings against the following officers:-

1. S/Shri S.R.Sonowal, the then CAO
2. M.M.Sonowal, then SDOP
3. J.P.Yadav, then SDOT
4. D.N.Baishya, SDOP
5. S.B.Choudhary, then SDOP
6. P.C.Das, then SDOP
7. R.C.Das, Sr. Acctt(cash)
8. A.Dutta, then JAO
9. M.C.Sharma, then AO
10. K.N.Sharma, then AO
11. J.Saikia, then D.Asstt
12. S.Mubarak Ali, then SDOP
13. Atul Sharma, then AE
14. Ramnath Rava, then SDOT
15. Anil Saikia, then SDOP

The Commission observed that Shri Kranti Kumar, then CGM, Anam Circle on the basis of recommendation made by TDM, Guwahati had approved purchase of only a small fraction of the quantity viz 2%. The only comparative lapse on his part was that the proposal for purchase was since put-forth by TDM, Guwahati. Apparently, there does not appear any connivance on the part of Shri Kranti Kumar as a very small fraction of the proposal was cleared by him to tide over the requirement. In view thereof the Commission advises issue of Admn. Warning to Shri Kranti Kumar, the then CGM.

The Commission further observed that lapses/irregularities in case of S/Shri Y.P.Kataria, Ram Kumar, then TDMs and B.K.Deori, the then DE are although comparatively serious in nature but there does not appear to be any conspiracy on the part of these officers for deliberately causing loss to the department. It is observed that there has been a basic inherent mistake/lapse on the part of these officers since they have operated upon the rate of another circle viz J&K Circle instead of calling for tender in their own. In view thereof the Commission advises initiation of major penalty proceedings against S/Shri Y.P.Kataria and Ram Kumar, the then TDMs. Commission advises conveying of govt.'s displeasure to Shri B.K.Deori, the then DE, as he has since retired from service and no action is possible against him the episode being more than four year old.

Department may conduct the inquiry proceedings against the 17 officers as emerged from preceding notes by appointing their own I.O and revert to the Commission

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for 2nd stage advice, on conclusion of inquiry, proceedings alongwith their recommendations since emanated from the findings of I.O's report.

Department's F.No. 9-44/2001-VIG.I is returned herewith.

Indu Gupta
(Indu Gupta)
Director

23/8/2001
Department of Telecom (Sh. Ranbir Khanna, Sr. DDG (V) N. Delhi)

C.V.C's I.D Note No. 001/P&T/052 dated

20 AUG 2001

Encl. As above -

8 (V/T)

Ac 23/8/01

*On
23/8.*

ADG (V/S A)

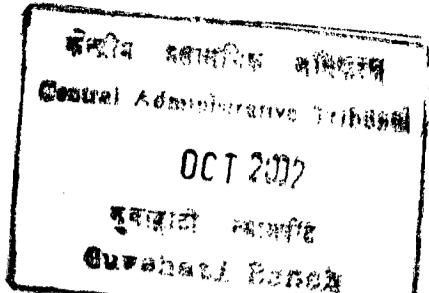
23/8

50 (Vig I)

*Shri RT
23/8/01*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL



GUWAHATI BENCH :::: GUWAHATI

Filed by: 29
Shyam Kanta Chanchal
Advocate
N.T. Central Govt.
Standing Counsel

In the matter of :

O.A. No. 170 of 2002

Arumabha Dutta.

..... Applicant.
- Vs -

Union of India & Ors.

..... Respondents.

Written statements for and on behalf of Respondents
Nos. 1, 2, 3 and 4.

I, S.C. Das, Asstt. Director (Legal) Office
of the Chief General Manager Telecom, Assam Telecom Circle,
Ulubari, Guwahati, do hereby solemnly affirm and say as
follows :

1. That I am the Asstt. Director (Legal) in the Office of the Chief General Manager, Telecom, Assam Telecom Circle, Guwahati and as such fully acquainted with the facts and circumstances of the case . I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I authorised to file the written statements on behalf of all the respondents.

2. That the respondents beg to raise as follows :-

The application is pre-matured as the applicant has not exhausted the remedy available within the Department and more particularly the reasonable opportunity provided in CCS(CCA) Rules.

Though the impugned memorandum dated 17.4.2002 the applicant was informed of the charges framed against him and the evidence/witness by which the charges are proposed to be established. The applicant was also directed to submit his representation if any, within 10 days of receipt. Instead of submitting his written statement of defence to the departmental authority the applicant has filed the above O.A. in defiance of the direction of the charge issuing authority.

3. That with regard to the statements made in para 3, of the application the respondents beg to state that the impugned memorandum of charges was issued by the Competent authority for good and sufficient reason. The proceedings initiated under the CCS(CCA) Rules may be allowed to be completed to reach its logical conclusion.

4. That the respondents have ^{no comments} to the statements made in paragraph 4, 5 and 6.1 of the application the respondents beg to offer no comments.

5. That with regard to the statements made in para 6.2, 6.3, 6.4, 6.5 and 6.6 of the application the respondents beg to state that the applicant entered the Department as

T.S. Clerk and after successive promotion presently holding the post of Accounts Officer. The Department has never obstructed the career progression at any stage.

6. That with regard to the statements made in para 6.7 of the application the respondents beg to state that the charge-sheet was issued by the Competent Disciplinary authority and delivered to the applicant through his controlling officer. The charge-sheet was issued on the basis of CBI enquiry report and advice of the CWC.

7. That with regard to the statements made in para 6.8 of the application the respondents beg to state that the charge-sheet was prepared in the prescribed format and delivered with required annexures to give the applicant a complete idea of the charges framed against him and the evidence/witness by which the said charges are proposed to be established during the course of departmental enquiry. The applicant was also directed to submit his written statement of defence. There is no deficiency in the impugned charge-sheet.

8. That with regard to the statements made in para 6.9 of the application the respondents beg to state that the applicant failed to submit his written statement and thus defied the direction of the Disciplinary authority.

The applicant as a Central Govt servant is subjected to the provision of CCS(CCA) Rules.

9. That with regard to the statements made in para 6.10, of the application the respondents beg to state that the subject matter of the charge relates to irregular purchase of non-standard PVC insulated twin galvanized steel dropwire and payment of bills amounting Rs. 1357946.68 in contravention of rules governing the checking of bills prior to such payment.

The CBI made through investigation and found that there has been an irregularity of enormous amount in purchase of store material and payment of bills.

The CVC examined the report and recommended departmental action against all erring officials including the applicants for their omission and commission.

10. That with regard to the statements made in para 6.11 of the application the respondents beg to state that the competent disciplinary authority examined the CBI report and CVC advice and applied his independent mind. It Prima facie appeared that there is ground for initiating formal departmental proceedings against the applicant and took a conscious decision to issue the impugned charge-sheet.

11. That with regard to the statements made in para 6.11 and 6.12 of the application the respondents beg to state that since a departmental proceeding has already been initiated against the applicant and the formal enquiry is still incomplete, it is not desirable to pre-Judge the guilty or innocence of the applicant at this stage. The charged Govt servant will have the opportunity to produce

his defence before the enquiry officer in due course of hearing and the charges will eventually stand or fall on the basis of the materials produced before the inquiry authority.

12. That with regard to the statements made in para 12 of the application the respondents beg to state that the applicant is entitled to engage a defence counsel to present his case before the enquiry authority and he is also free to produce evidence and witness to disprove the charges. Apart from that he can also make representation against the inquiry report and finally make appeal, revision petition to appropriate authority. CCS(CCA) Rules provides all the opportunity to the charged Govt. servant to defend against the charges. The applicant is at liberty to avail of the opportunities to establish his innocence in the normal departmental course.

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

Verification

VERIFICATION

I, S.C. Das, Asstt. Director (Legal), O/O
the Chief General Manager Telecom, Assam Telecom Circle,
Ulubari, Guwahati, being authorised do hereby solemnly
affirm and declare that the statements made in paragraphs
1, 4 + 12 of this written statement are
true to my knowledge, those made in paragraph 2, 3, 5 - 11
being matters of record are true to my information derived
therefrom and those made in the rest are humble submission
before the Hon'ble Tribunal.

And I sign this verification on this 3rd day
of ^{October} September, 2002 at Guwahati.

Sherkar Ch Das
প্রাপ্তি দ্বারা দ্বারা (স্বীকৃত)
Assam Telecom Circle, Guwahati
গুৱাহাটী, অসম
১৯৮০ চৰি বৰ্ষে কৰিবলৈ কৰিবলৈ
১৯৮০ চৰি বৰ্ষে কৰিবলৈ, গুৱাহাটী
Assam Telecom Circle, Guwahati