

01/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 105/2003.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet O.A-105/2003 Pg..... 1 to 4
2. Judgment/Order dtd. 06/05/2005 Pg..... 1 to 3 Dismissed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 105/2003 Pg..... 1 to 48
5. E.P/M.P..... Pg..... to
6. R.A/C.P..... Pg..... to
7. W.S. Respondents Nos. 1, 2, 3, 4, 5 & 6 Pg..... 1 to 7
8. Rejoinder..... Pg..... to
9. Reply..... Pg..... to
10. Any other Papers..... Pg..... to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 105/103

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - A.K. Mukhopadhyaya

Respondents: - U.O.P Gang

Advocate for the Applicants: - Md. Adil Ahmed

Advocate for the Respondents: - Case

Notes of the Registry	Date	Site	Order of the Tribunal
This application is in form but not in time Condonation application is filed by the Applicant and is resisted vide P.C.O. No. 49025 Dated 20.4.2003	21.5.2003	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Member (A).	Heard Mr. A. Ahmed, learned counsel for the applicant.
<i>D.N.</i> By Registered <i>D.N.</i>			The application is admitted. Call for the records.
Steps taken alongwith envelops		mb	List again on 23.6.2003 for orders.
Notice issued & sent to DLS for any the Respondent No. 1 to 6. by Regd. A.D. DIN. 1092 to 1097	23.6.2003	mb	Mr. A.K. Choudhury, learned Addl. C.G.S.C. appearing on behalf of the respondents sought for time for filing written statement. Prayer is allowed. List again on 5.8.2003 for orders.
<i>D.N.</i> <i>D.N.</i>			<i>Vice-Chairman</i>
Service report are still awaited.		mb	<i>Vice-Chairman</i>

(2)

5.8.2003 List again on 3.9.2003 to enable the respondents to file written statement. This order is passed on the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.

23/8/03.

Member

Vice-Chairman

mb

3.9.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. K.V. Prahaladan, Administrative Member.

Put up again on 4.9.2003 in presence of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.

KV Prahaladan

Member

Vice-Chairman

mb

4.9.03

On the prayer of Mr. A.K. Choudhury learned Addl. C.G.S.C. prays for time to file written statement. Prayer is allowed.

List on 27.10.03 for filing of written statement and further orders.

KV Prahaladan

Member

Vice-Chairman

lm

27.10.2003

It appears that written statement has been filed. The case may now be listed for hearing. Applicant may file rejoinder within two weeks from today.

List the case on 1.12.2003 for hearing.

KV Prahaladan

Member

Vice-Chairman

bb

26/10/03

- W/S on behalf of the resp. Nos 1, 2, 3, 4, 5 and 6 have been submitted.
- No rejoinder.

(a)

22.1.2004

Present: Hon'ble Shri Bharat Bhushan,
Member (J)Hon'ble Shri K.V. Prahladan,
Member (A).

Mr A. Ahmed, learned counsel for the applicant and Mr A.K. Chaudhuri, learned Addl. C.G.S.C. are present. The learned counsel for the applicant prays for an adjournment. Prayer allowed. List the case for hearing on 16.2.04.

W/S has been
b/w.

Chs
31.3.04

KV Prahladan
Member (A)

J
Member (J)

7/12/04

nkm

07.10.2004

List on 02.12.2004.

(a) W/S on behalf
of the resp. Nos
1, 2, 3, 4, 5 and 6
have been submitted. bb

By Order

(b) Rejoinder has not
been filed. 3.1.2005

List on 15.2.2005 for hearing.

7/12/04

18.03.2005

KV Prahladan
Member (A)

Rejoinder has not been
filed by the applicant.

31.3.05

1/10 - Rejoinder has been
filed.

5-5-05

✓ w/s has been filed.
✓ no. rejoinder has been
filed.

KV Prahladan
Member

Vice-Chairman

bb

31.3.2005 Mr. A. Ahmed, learned counsel for the applicant is not present. Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents is present. Post on 6.5.2005.

Vice-Chairman

mb

6-5-05

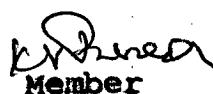
Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

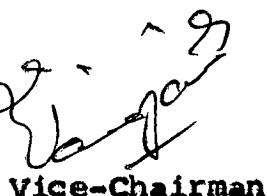
The application is dismissed. No order as to costs.

16.5.05

Copy of the
Judgment has been
sent to the Office
for issuing the
same to the applicant
as well as to
the addressee.

pg


Member


Vice-Chairman


Read copy of
AKC 17/5/05

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 105 of 2003.

DATE OF DECISION: 06.05.2005

Shri Anup Kumar Mukhopadhyay

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Ms. A.K. Chaudhuri, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K.V PRAHLADAN, 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 Hon'ble Vice-Chairman.

20-5-05
S. J. S. 9

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 105 of 2003.

Date of Order : This the 6th Day of May, 2005.

The Hon'ble Mr Justice G. Sivarajan, Vice-Chairman.

The Hon'ble Mr K.V.Prahladan, Administrative Member

Shri Anup Kumar Mukhopadhyay
Son of Late Biman Bihari Mukhopadhyay,
Executive Engineer (Civil)
Civil Construction Wing,
All India Radio,
Guwahati division,
Tarun Nagar, Bye Lane No. 1,
Guwahati - 5.

.... Applicant

By Advocate Mr A.Ahmed.

- Versus -

1. Union of India,
represented by the Secretary
to the Government of India,
Ministry of Information and Broadcasting,
A Wing, Shastri Bhawan,
New Delhi-1.
2. The Chief Executive Officer,
Prasar Bharati, Broadcasting
Corporation of India,
Akashvani Bhawan, New Delhi-1.
3. The Director General (AIR),
Parliament Street, New Delhi-1.
4. The Union Public Service Commission,
Dholpur House, Shah Jahan Road,
New Delhi-1.
5. The Chief Engineer, Civil-I,
Civil Construction Wing, All India Radio,
Suchana Bhawan, fifth Floor,
Lodhi Road, CGO Complex,
New Delhi-3.

6. The Superintending Engineer,
 Civil Construction Wing,
 All India Radio,
 Doordarshan Staff Colony,
 V.I.P Road, Hengrabari,
 Guwahati-36. Respondents

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

O R D E R (ORAL)

SIVARAJAN J.(V.C)

The applicant was an Executive Engineer (Civil), Civil Construction Wing of All India Radio, Guwahati Division. He is presently working out of the State at Delhi. He is aggrieved by an order dated 17.12.2002 awarding the penalty of 'Censure' in a disciplinary proceeding. The reason for awarding the penalty of censure is that he had exceeded his financial powers without obtaining prior permission from the higher authority. Mr A. Ahmed, learned counsel for the applicant submits that the applicant before exceeding the financial limit had sought for permission of the higher authority but the higher authority did not respond to the same and consequently the applicant assumes that permission had been granted.

2. Though the respondents had filed a written statement there is no averment with regard to financial excess except that the applicant had exceed the financial limit without obtaining prior permission from the Superintending Engineer concerned. Mr A.K.Chaudhuri, learned Addl.C.G.S.C on that basis submits that the penalty of censure awarded to the applicant is only a lesser punishment than what is required.

3. We have considered the rival contentions. Admittedly the applicant has no case that prior permission was obtained, in such circumstances we do not find any illegality in the order imposing penalty of censure awarded to the applicant for exceeding financial limit without prior permission.

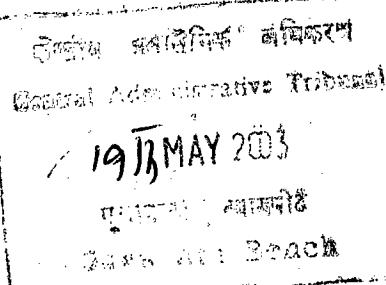
AKC

The application is accordingly dismissed. In the circumstances there will be
no order as to costs.

K.V.Prahladan
(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

G.Sivarajan
(G.SIVARAJAN)
VICE CHAIRMAN

pg



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. 105 OF 2003.

B E T W E E N

Sri Anup Kumar Mukhopadhyaya-Applicant
-Versus-

The Union of India & Ors -Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A	Photocopy of Office Memorandum No. C-13011/31/96- Vig. Dated 07-08-2000-21+32
Annexure-B	Photocopy of Judgment & Order dated 21-08-2001 in OA No. 283/2000.- 33 to 34
Annexure-C	Photocopy of Letter No. GCD/ AIR/GO-PF/AKM/99/284-88 Dated 12-09-2001. - 35

19th MAY 2002

2002

Annexure-D

Photocopy of Office order No.

CCW AIR ID Note No. C-13013/

19/94-SWG V-I/673 dated 17-

12-2002-3637

ANNEXURE-E - Photocopy NOEE/SLC/WO/83/4796 dated 30.12.1993

This Original application is made for seeking a direction from this Hon'ble Tribunal for quashing and setting aside the impugned Office Order CCW AIR ID Note No. C-13013/ 19/94-SWG V-I/673 dated 17-12-2002 issued by the Office of the Respondent No. 1 by which your applicant was imposed penalty 'Censure'.

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 103 OF 2003.

Sri Anup Kumar Mukhopadhyay

-Applicant.

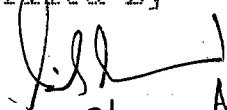
-Versus-

The Union of India & Ors. -Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1)	Application	1 to 19
2)	Verification	20
3)	Annexure -A	21 to 32
4)	Annexure -B	33 to 34
5)	Annexure -C	35
6)	Annexure -D	36 to 47
7)	Annexure -E	48
8)	Annexure -F	
9)	Annexure -G	
10)	Annexure -H	

Filed by


(Md. Ahsan Ali)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. OF 2003.

B E T W E E N

Sri Anup Kumar Mukhopadhyay
Son of Late Biman Bihari
Mukhopadhyay,
Executive Engineer (Civil),
Civil Construction Wing,
All India Radio,
Guwahati Division,
Tarun Nagar, Bye Lane No. 1
Guwahati-5.

- Applicant.

-AND-

1) Union Of India,
represented by the Secretary
to the Government of India,

Filed by
Sri Anup Kumar Mukhopadhyay
[] applicant
through []
(Adv. Ahmed) (3)
Advocate

Ministry of Information and Broad-casting, A Wing,
Sastri Bhawan, New Delhi-1.

2) The Chief Executive Officer,
Prasar Bharati, Broadcasting
Corporation of India,
Akashvani Bhawan, New Delhi-1.

3) The Director General (AIR),
Parliament Street, New Delhi-1.

4) The Union Public Service Commis-sion, Dholpur House, Shah Jahan
Road, New Delhi -11.

5) The Chief Engineer, Civil-I, Civil
Construction Wing, All India Radio,
Suchana Bhawan, Fifth Floor, Lodhi
Road, UCO Complex, New Delhi-3.

6) The Superintending Engineer,
Civil Construction Wing,
All India Radio,
Doordarshan Staff Colony,
V.I.P. Road, Hengrabari,
Guwahati-36.

- Respondents.

DETAILS OF THE APPLICATION:

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

The instant application is made against Office Order No. CCW AIR ID Note No. C-13013/19/94-SWG V-I/673 dated 17-12-2002 issued by the Office of the Respondent No.1 by which your applicant was imposed penalty of 'CENSURE'.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.



4. FACTS OF THE CASE

Facts of the case in brief are given below:

- 4.1] That your humble applicant is citizen of India and as such, he is entitled to all the rights and privileges and protection granted by the Constitution of India.
- 4.2] That your applicant begs to state that he is an M.Tech. in Civil Engineering, from Indian Institute of Technology, (IIT) Kharagpur. He was selected by the Union Public Service Commission for Indian Engineering Service. He was appointed as Assistant Engineer (Civil) in Civil Construction Wing, All India Radio. He joined on 04-01-1985. He was promoted to the post of Executive Engineer (Civil) in the year 1992. He was regularized as regular Executive Engineer (Civil) on June 1995. He is discharging his duties sincerely and to entire satisfaction to all concerned from his date of appointment in the Department. Now he has been posted as Executive

Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Guwahati-5.

4.3] That your applicant begs to state that the Office of the Respondent No. 3, i.e., the Director General of All India Radio, Civil Construction Wing, New Delhi issued an Office Memo No. C-13011/31/96-Vig. Dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/393 dated 25-08-2000 at Annexure-A to the applicant by which your applicant was charged under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965. The applicant received the Office Memo on 11-09-2000. In the said Article of Charges brought against the applicant during his posting from 1993-1994 as Executive Engineer (Civil) in civil Construction Wing, All India Radio, Silchar.

Annexure-A is the photocopies of Office Memorandum Memo No. C-13011/31/96-Vig. Dated 07-08-2000 and also Letter No. C-13013/19/94-SW(V)-II/393 dtd 25-08-2000 at Annexure-A) issued by the Office of the Respondents.



4.4) That your applicant begs to state that the Article of Charges which were brought against him at a belated stage, i.e., after 7 years during his posting as Executive Engineer (Civil), Civil Construction Wing, All India Radio, Silchar.

4.5) That your applicant begs to state that being aggrieved by this your applicant filed an Original Application No. 283/2000 before this Hon'ble Tribunal praying for quashing the Departmental Proceeding. The Hon'ble Tribunal on 25-09-2000 admitted the Original Application and finally heard the matter on 21-08-2001. The Hon'ble Tribunal was pleased to direct the applicant to submit a detailed written statement pursuant to the Memorandum dated 07-08-2000. It would be open for the applicant to raise the issue in the written statement that he has raise here. The applicant shall file such written statement within three weeks from the date of receipt of the order. On receipt of the written statement the Respondent authority may consider the same and take a decision as to whether the proceeding is to be continued. If the Respon-

9
dents take a decision to continue the proceeding in that event the Respondents may proceed so and conclude the said proceeding within three months from the date of receipt of the written statement of the applicant by providing the applicant a reasonable opportunity to defend the matter.

Annexure-B is the photocopy of judgment and order dated 21-08-2001 passed by the Hon'ble Tribunal in OA No. 283/2000.

4.6) That your applicant begs to state that the applicant filed his written statement before the Office of the Respondent No. 1 vide letter No. GCD/AIR/GO-PF/AKM/99/284-88 dated 12-09-2001.

Annexure-C is the photocopy of letter No. GCD/AIR/GO-PF/AKM/99/284-88 dated 12-09-2001.

4.7) That your applicant begs to state that the Respondents were not able to dispose the case of the applicant within the time



specified by the Hon'ble Tribunal. But they finally disposed of the matter on 17-12-2002 vide order No. CCW AIR ID Note No. C-13013/19/94-SWO V-I/673 by which your applicant was exonerated from the Articles of Charge-I, II and IV but the charge on Article No. III was proved against the applicant and punishment was imposed on him by giving him penalty of 'Censure'.

It may be worth to mention here that earlier your applicant was charged under Rule 14 of C.C.S. Conduct Rules at the time of issuing charge sheet against the applicant. But after the enquiry, based on enquiry report and CVC recommendation the status of the case has been converted and limited upto a Minor Penalty vide Ministry letter No. C-13011/31/ 96-Vig. Dated 23rd April 2002.

Annexure-D is the photocopy of Office Order No. CCW AIR ID Note No. C-13013/19/94-SWO V-I/673 dated 17-12-2002.

4.8 That your applicant begs to state that the Article-III of charges against the applicant are given below for kind perusal of this Hon'ble Tribunal.

ARTICLE-III:

"That the said Sri A K Mukhopadhyaya, the then Executive Engineer (C), CCW, AIR, Silchar had awarded the work on work orders in the financial year of 1993-94 for an amount of Rs. 11.79 Lakh, exceeding the limit of Rs. 5 Lakhs prescribed for Executive Engineer (C) in the CPWD Manual Manual and thus violated the guidelines as per CPWD Manual Vol. II-1990 (Khanna's Compilation) para 5, Section 16.

By the above act, Shri A K Mukhupadhyaya has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1)(ii) and 3(1)(iii) of Central Civil Services Conduct Rules, 1964.

In the above charges the Union Public Service Commission observed as follows:

"ARTICLE: III:

4.2 The Commission observe that the charge against the CO is that he has awarded the work orders in the Financial Year 1993-94 for an amount of Rs. 11.79 lakhs which is beyond the financial limits delegated to Executive Engineer to award work through work order. As per CPWD Manual Vol. II 1990 (Khanna's Compilation) Para 5, Section 16, the maximum financial limit of award of work through work orders by the Executive Engineer in charge of construction and maintenance division should not exceed beyond Rs. 5.00 Lakh per annum.

4.3] The Commission observe that the CO in his defence has stated that permission was asked from Superintending Engineer (C) through a letter. Therefore it is not his fault to exceed that limit. Moreover, the SE(C) should have exercised the total value of works issued under work orders for that particular year of all the divisions under his circles, which is also mentioned under same Manual Vol. II.

4.4] The Commission observe that asking for the permission cannot be taken as a proof for grant of permission. The CO has not produced anything to prove that the SE(C) has accepted his proposal; simply writing to the SE would not empower him to transcend his financial limit having mandatory manual provisions. Hence, he has not completed the required procedure and as per records the charge is partly proved. If there was some urgency and time boundness of the project existed, the CO should have brought it to the notice of his SE in writing regarding that urgency, volume of pending works and the unspent budget grants before the end of the Financial Year without directly exceeding the budget grant in his own capacity and thus exceeding the delegated power.

4.5] The Commission further observe that it is clearly mentioned that if a work is to be given on work order without call of regular tender in excess of above limits, sanction of the SE should be obtained in individual case, and sanction does not mean merely asking to across the delegated financial boundaries.

Though, the CO has tried to regularize the lapses by requesting the SE to approve his proposal, the mandatory requirement of getting approval from SE has not been met with. Hence, the Commission hold article-III of the charge as proved the extent held proved by the disciplinary authority.

5) In the light of their findings as discussed above and after taking into account all aspects relevant to the case, the Commission consider that the ends of justice would be met in this case, if the penalty of 'Censure' is imposed on Shri A K Mukhopadhyay, E.E. (C), CCW, AIR, Guwahati. They advise accordingly.

6) The case records are returned herewith. Their receipt may kindly be acknowledge."

4.9) That your applicant begs to state that the above said penalty imposed by the Respondents is unfair and illegal. The applicant vide his letter No. EE/SLC/WO/83/4796 dated 30-12-1993 have requested the concerned Superintending Engineer for approval of exceed financial limit delegated to the Executive Engineer(C) as per CPWD Manual Vol.II Section 16. But the Superintending Engineer deliberately did not send any comment or approval to the applicant and also did not reject the above matter. The Superintendent should understand about the urgency of the work to be

25

>exercise during that financial year as well as all unspent budget grant.

ANNEXURE - F is the photocopy of letter NO EE/SLC/WO/83/4796 dated 30.12.1993

4.10) That your applicant begs to state that in the findings of the U.P.S.C. in para 4.5 of the impugned charges at Article-III it has been stated that "Sanction of the S.E. should be obtained in individual case". In fact, approval for individual is needed only in case of tender, but in case of work order mere information by the Executive Engineer to the Superintending Engineer regarding work order quotations for sanctioning excess amount limit is sufficient. As such, no approval is necessary for each individual case in case of work order.

4.11) That your applicant submits that the penalty imposed by the Respondents against the applicant is totally baseless and false. Hence, it is a fit case to interfere by the Hon'ble Tribunal by giving necessary direction to the respondent for quashing the impugned penalty imposed on applicant by the Respondent.

4.12) That your applicant submits that the Respondents deliberately done serious injustice for depriving his next promotion as Superintending Engineer (Civil) and also the Respondents have given mental trouble to the

Sw.

applicant by issuing Memo of Charges against your applicant after 7 years.

4.12) That your applicant submits that the case against the applicant has been decided by the Respondents beyond the time limit fixed by the Hon'ble Tribunal, i.e., after five months of the Hon'ble Tribunal's direction dated 21-08-2001 passed in O.A. 283/2000, to complete the Departmental Proceeding.

4.13) That your applicant submits that the actions of the Respondents are violative of the Principles of Natural Justice.

4.14) That your applicant submits that the Respondents have violated the fundamental rights of the applicant.

4.15) That this application is made bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, on the reasons and facts which are narrated above, the action of the respondents, is prima facie illegal and without jurisdiction.

5.2 For that, the actions of the Respondents are not maintainable in law as well as in facts.

5.3 For that, the applicant has applied for due permission and approval from the then Superintending Engineer (Civil) for exceeding his financial limits. But due to the reason best known to the then Superintending Engineer, he had not taken any steps for approval/disapproval of the matter in time and he simply forwarded the matter to the Vigilance. Hence, the penalty imposed on the applicant should be set aside and quashed.

5.4 For that, the Respondents have deliberately imposed the punishment



26

only to deprive the applicant for due promotion in time and also brought blemish to his service career. Hence, the penalty imposed on the applicant is liable to be set aside and quashed.

5.5 For that, in any view of the matter the action of the respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

B. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordships may be pleased to admit this petition, call for the records and after hearing the parties on the cause or causes that may be shown and on perusal of records to grant the following relief to the applicant:

8.1 to direct the respondents to set aside and quash the impugned order
No. CCW AIR ID Note No. C -
13013/19/94-SWG V-1/673 dated 17-12-02

by which the Respondents had imposed penalty of 'Censure' against your applicant;

8.2 to grant such further or other relief or reliefs to which the applicant may be entitled having regard to the facts and circumstances of the case.

8.3 Grant the Cost of this application to the applicant.

9) INTERIM ORDER PRAYED FOR:

At this stage no interim order is prayed for but if the Hon'ble Tribunal may deem fit and proper may pass any order or orders.

10) Application Is Filed Through Advocate.

11) Particulars of I.P.O.:

I.P.O. NO. 86490255

Date Of Issue 29.4.2003

Issued from Guwahati G.P.O.

Payable at Guwahati

12) LIST OF ENCLOSURES:

As stated above.

- Verification.

Jan

VERIFICATION

32

I, Sri Anup Kumar Mukhopadhyay, Son of Late Biman Bihari Mukhopadhyay, Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Tarun Nagar, Bye Lane No. 1 Guwahati-5 the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.4 — are true to my knowledge, those made in paragraphs 4.3, 4.5 to 4.8, 4.10 — are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 19th day of May 2003 at Guwahati.


Declarant

सूचना और प्रसारण मंत्रालय

MINISTRY OF INFORMATION & BROADCASTING

'ए' विंग शास्त्री भवन, नई दिल्ली - 110 001
'A' Wing Shastry Bhawan, New Delhi - 110 001तारीख 7.8.2000
Date

OFFICE MEMORANDUM

The President proposes to hold an inquiry against Shri A.K. Mukhopadhyay, Surveyor of Works (Civil), Civil Construction Wing, All India Radio, O/o Senior Surveyor of Works-I, New-Delhi (the then Executive Engineer (Civil), Civil Construction Wing, All India Radio, Silchar) 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 imputations of misconduct or misbehaviour in support of articles 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 A.K. Mukhopadhyay is directed to submit within 10 days of the receipt of this Office Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. Shri A.K. Mukhopadhyay 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 the articles of charge.

4. Shri A.K. Mukhopadhyay 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 the Central Civil Services (Classification, Control & Appeal) Rules, 1965, or the orders/ directions issued in pursuance of the said rule, the Inquiring Authority may hold the inquiry against him ex-parte.

Per amr

.....2/-

After 5m
Ad →
Advocate

- 20 - 22 -

6. Attention of Shri A.K. Mukhopadhyay 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 A.K. Mukhopadhyay 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 Central Civil Services (Conduct) Rules, 1964.

6. The receipt of the Office Memorandum may be acknowledged.

(BY ORDER AND IN THE NAME OF THE PRESIDENT)

(Signature)

(P.K. VARMA)

Under Secretary to the Government of India

R.H.3684597

अपर नवाय (प्रकाश)

Under Secretary (P.K.)

मुख्यमंत्री कार्यालय

Min. of Home Affairs & Environment

वायु संरक्षण, वायु प्रदूषण

Through DG FAIR

✓ Shri A.K. Mukhopadhyay
Surveyor of Works (Civil)
O/o SSW-I, CCW,
All India Radio,
New Delhi

*Attn: T
Attn: A*

23

STATEMENT OF ARTICLES OF CHARGE AGAINST SHRI A.K. MUKHOPADHYAY THE THEN EXECUTIVE ENGINEER (CIVIL) CCW, AIR, SILCHAR AND PRESENTLY WORKING AS SURVEYOR OF WORKS (C), SSW-I UNIT, CCW, AIR, NEW DELHI.

ARTICLE-1

That the said Sh. A.K.Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-I, New Delhi while working as Executive Engineer(C) CCW, AIR, Silchar during the year 1993-94 had awarded the following works of carriage of materials such as cement and steel:

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/GLC/WO/83/1883-85 dt. 1.6.93).
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar to telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

The above three works were awarded in the name of M/s Sunco Trade and Enterprises which was falsely represented by Sh. Uttam Choudhary. Eventhough Sh. B.Chakraborty is the sole proprietor of the said firm, Sh. Uttam Chaudhary falsely represented the said firm and entered in to contracts with the department in connivance with departmental officials Shri Mukhopadhyay and Sh.Ashutosh Rai the then Assistant Engineer (C). Before entering into contract with the department in the name of M/s Sunco Trade and Enterprises, Shri Uttam Chaudhary was holding the power of attorney of M/s North East Roadways and well known to the departmental officials including Sh. Mukhopadhyay.

Similarly, Shri A. Sahani was working with M/s. Arunachal Carrying Corporation but the tender papers were issued to him on behalf of M/s North East Roadways. This fact has been admitted by Sh. Mukhopadhyay. The contract was awarded by Sh. Mukhopadhyay without scrutinising the documents properly. This is evident from the fact that the signature on different documents by Sh. Uttam Choudhary and Sh.A.Sahani are found varying and the question of authenticity and correctness of the documents produced by them to the department seems to be forged.

While entrusting the carriage work to the agency the Executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilferage, while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol.II 1990 (Khanna's

संस्कृत दस्ती
 (P. K. VARMA)
 उत्तर दिव्य (गोपनी)
 (Signature)
 Unit Secretary (W.C.)
 उत्तर दिव्य समिति
 Ministry of Information & Broadcasting
 M/o I&B, New Delhi, India
 भारत सरकार, नई दिल्ली

....2/-

(After C)
 J.S.
 Annex
 Annex

*Net value
Bank guarantee* ~~24~~ (02) *24* - 96

By the above act Sh. A.K.Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3 (1) (iii) of Central Civil Services Conduct Rules 1964. —

ARTICLE-II

That the said Sh. A.K.Mukhopadhyay issued the work order no. EE/SLC/WO/83/1983-85 dated 1.6.93 for conveyance of 50 MT of cement from Silchar to Shillong in the month of June 1993. In the month of August 93, 150 MT of cement was retransported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This is improper management by Sh. Mukhopadhyay causing infructuous expense to the exchequer in the carriage of material. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid retransportation to Silchar.

The rate adopted to justify the rates of transport is also found varying in different justification. The rate of hiring of truck per day has been found @ Rs.750/- for the work of carrying cement from Silchar to Shillong and for the other works of carrying materials from Silchar to Guwahati and Agartala to Silchar, the rate was taken @ Rs. 1500/- per day. This shows that the justification was inflated by Shri Mukhopadhyay and the concerned Assistant Engineer(C) in-charge of work.

By the above act Sh.Mukhopadhyay, has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-III

That the said Sh. Mukhopadhyay the then Executive Engineer (C) COW, AIR, Silchar had awarded the work on work orders in the financial year of 1993-94 for an amount of Rs. 11.79 lakhs, exceeding the limit of Rs. 5 lakhs prescribed for Executive Engineer(C) in the CPWD Manual and thus violated the guidelines as per CPWD Manual Vol.II 1990 (Khanna's Compilation) para 5, Section 16.

13/-

Attended
J. S. Adrian

By the above act Sh. Mukhopadhyay has failed to maintain absolute Integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1), (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-IV

That the said Sh.A.K.Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar disobeyed the instructions of his superior i.e. the Superintendent Engineer (C), Guwahati vide his circular no. AIR/CCW/SE_GH/CQNF-4/93/695-5704 dated 11.1.93 that no work should be awarded to Shri Utam Chaudhary who had falsely represented the firm M/s Sunco Trade and Enterprises. Sh. Mukhopadhyay continued to award different works to Shri Utam Chaudhary by defying the orders of the Super Intending Engineer.

By the above act Sh.A.K.Mukhopadhyay had shown wilful insubordination or disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1) (i), 3(1) (ii) and 3(1) (iii) of CCS (Conduct) Rules 1964.

Reverend —
(John B. H. H.)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
259
260
261
262
263
264
265
266
267
268
269
269
270
271
272
273
274
275
276
277
278
279
279
280
281
282
283
284
285
286
287
288
289
289
290
291
292
293
294
295
296
297
298
299
299
300
301
302
303
304
305
306
307
308
309
309
310
311
312
313
314
315
316
317
318
319
319
320
321
322
323
324
325
326
327
328
329
329
330
331
332
333
334
335
336
337
338
339
339
340
341
342
343
344
345
346
347
348
349
349
350
351
352
353
354
355
356
357
358
359
359
360
361
362
363
364
365
366
367
368
369
369
370
371
372
373
374
375
376
377
378
379
379
380
381
382
383
384
385
386
387
388
389
389
390
391
392
393
394
395
396
397
398
399
399
400
401
402
403
404
405
406
407
408
409
409
410
411
412
413
414
415
416
417
418
419
419
420
421
422
423
424
425
426
427
428
429
429
430
431
432
433
434
435
436
437
438
439
439
440
441
442
443
444
445
446
447
448
449
449
450
451
452
453
454
455
456
457
458
459
459
460
461
462
463
464
465
466
467
468
469
469
470
471
472
473
474
475
476
477
478
479
479
480
481
482
483
484
485
486
487
488
489
489
490
491
492
493
494
495
496
497
498
499
499
500
501
502
503
504
505
506
507
508
509
509
510
511
512
513
514
515
516
517
518
519
519
520
521
522
523
524
525
526
527
528
529
529
530
531
532
533
534
535
536
537
538
539
539
540
541
542
543
544
545
546
547
548
549
549
550
551
552
553
554
555
556
557
558
559
559
560
561
562
563
564
565
566
567
568
569
569
570
571
572
573
574
575
576
577
578
579
579
580
581
582
583
584
585
586
587
588
589
589
590
591
592
593
594
595
596
597
598
599
599
600
601
602
603
604
605
606
607
608
609
609
610
611
612
613
614
615
616
617
618
619
619
620
621
622
623
624
625
626
627
628
629
629
630
631
632
633
634
635
636
637
638
639
639
640
641
642
643
644
645
646
647
648
649
649
650
651
652
653
654
655
656
657
658
659
659
660
661
662
663
664
665
666
667
668
669
669
670
671
672
673
674
675
676
677
678
679
679
680
681
682
683
684
685
686
687
688
689
689
690
691
692
693
694
695
696
697
698
699
699
700
701
702
703
704
705
706
707
708
709
709
710
711
712
713
714
715
716
717
718
719
719
720
721
722
723
724
725
726
727
728
729
729
730
731
732
733
734
735
736
737
738
739
739
740
741
742
743
744
745
746
747
748
749
749
750
751
752
753
754
755
756
757
758
759
759
760
761
762
763
764
765
766
767
768
769
769
770
771
772
773
774
775
776
777
778
779
779
780
781
782
783
784
785
786
787
788
789
789
790
791
792
793
794
795
796
797
798
799
799
800
801
802
803
804
805
806
807
808
809
809
810
811
812
813
814
815
816
817
818
819
819
820
821
822
823
824
825
826
827
828
829
829
830
831
832
833
834
835
836
837
838
839
839
840
841
842
843
844
845
846
847
848
849
849
850
851
852
853
854
855
856
857
858
859
859
860
861
862
863
864
865
866
867
868
869
869
870
871
872
873
874
875
876
877
878
879
879
880
881
882
883
884
885
886
887
888
889
889
890
891
892
893
894
895
896
897
898
899
899
900
901
902
903
904
905
906
907
908
909
909
910
911
912
913
914
915
916
917
918
919
919
920
921
922
923
924
925
926
927
928
929
929
930
931
932
933
934
935
936
937
938
939
939
940
941
942
943
944
945
946
947
948
949
949
950
951
952
953
954
955
956
957
958
959
959
960
961
962
963
964
965
966
967
968
969
969
970
971
972
973
974
975
976
977
978
979
979
980
981
982
983
984
985
986
987
988
989
989
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1109
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1119
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1129
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1139
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1149
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1159
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1169
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1209
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1239
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1249
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1259
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1339
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1419
1420
1421
1422
1423
1424
1425
1426
1427
1428
1429
1429
1430
1431
1432
1433
1434
1435
1436
1437
1438
1439
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1449
1450
1451
1452
1453
1454
1455
1456
1457
1458
1459
1459
1460
1461
1462
1463
1464
1465
1466
1467
1468
1469
1469
1470
1471
1472
1473
1474
1475
1476
1477
1478
1479
1479
1480
1481
1482
1483
1484
1485
1486
1487
1488
1489
1489
1490
1491
1492
1493
1494
1495
1496
1497
1498
1499
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508
1509
1509
1510
1511
1512
1513
1514
1515
1516
1517
1518
1519
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1539
1540
1541
1542
1543
1544
1545
1546
1547
1548
1549
1549
1550
1551
1552
1553
1554
1555
1556
1557
1558
1559
1559
1560
1561
1562
1563
1564
1565
1566
1567
1568
1569
1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1579
1580
1581
1582
1583
1584
1585
1586
1587
1588
1589
1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1599
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1619
1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648
1649
1649
1650
1651
1652
1653
1654
1655
1656
1657
1658
1659
1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1669
1670
1671
1672
1673
1674
1675
1676
1677
1678
1679
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1719
1720
1721
1722
1723
1724
1725
1726
1727
1728
1729
1729
1730
1731
1732
1733
1734
1735
1736
1737
1738
1739
1739
1740
1741
1742
1743
1744
1745
1746
1747
1748
1749
1749
1750
1751
1752
1753
1754
1755
1756
1757
1758
1759
1759
1760
1761
1762
1763
1764
1765
1766
1767
1768
1769
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1779
1780
1781
1782
1783
1784
1785
1786
1787
1788
1789
1789
1790
1791
1792
1793
1794
1795
1796
1797
1798
1799
1799
1800
1801
1802
1803
1804
1805
1806
1807
1808
1809
1809
1810
1811
1812
1813
1814
1815
1816
1817
1818
1819
1819
1820
1821
1822
1823
1824
1825
1826
1827
1828
1829
1829
1830
1831
1832
1833
1834
1835
1836
1837
1838
1839
1839
1840
1841
1842
1843
1844
1845
1846
1847
1848
1849
1849
1850
1851
1852
1853
1854
1855
1856
1857
1858
1859
1859
1860
1861
1862
1863
1864
1865
1866
1867
1868
1869
1869
1870
1871
1872
1873
1874
1875
1876
1877
1878
1879
1879
1880
1881
1882
1883
1884
1885
1886
1887
1888
1889
1889
1890
1891
1892
1893
1894
1895
1896
1897
1898
1899
1899
1900
1901
1902
1903
1904
1905
1906
1907
1908
1909
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1929
1930
1931
1932
1933
1934
1935
1936
1937
1938
1939
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1949
1950
1951
1952
1953
1954
1955
1956
1957
1958
1959
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2019
2020
2021
2022
2023
2024
2025
2026
2027
2028
2029
2029
2030
2031
2032
2033
2034
2035
2036
2037
2038
2039
2039
2040
2041
2042
2043
2044
2045
2046
2047
2048
2049
2049
2050
2051
2052
2053
2054
2055
2056
2057
2058
2059
2059
2060
2061
2062
2063
2064
2065
2066
2067
2068
2069
2069
2070
2071
2072
2073
2074
2075
2076
2077
2078
2079
2079<br

本草綱目

Albert
John
Peter

STATEMENT OF IMPUTATION OF ARTICLES OF MISCONDUCT OR MISBEHAVIOUR AGAINST SH. A.K.MUKHOPADHYAY THE THEN EXECUTIVE ENGINEER (CIVIL) CCW, AIR, SILCHAR AND PRESENTLY WORKING AS SURVEYOR OF WORKS (C) OFFICE OF SSW-I, CCW, AIR, NEW DELHI.

ARTICLE-I

That the said Sh.A.K.Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-I New Delhi while working as Executive Engineer (C) CCW, AIR, Silchar during the year 1993-94 had awarded different works including the following works of carriage of materials such as cement and steel.

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/SLC/WO/83/1883-85 dt. 1.8.93).

2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).

3. Carriage of steel from CCW, AIR, Silchar to telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

All the above said works were awarded in the name of M/s Sunco Trade and Enterprises which was falsely represented by Sh. Uttam Choudhary. Eventhough Sh. B.Chakraborty is the sole proprietor of the said firm, the tender / quotation papers were issued to Sh. Uttam Chaudhary on forged documents. Before taking works under the name of M/s Sunco Trade and Enterprises he was holding the power of attorney of M/s North East Roadways which was an established agency in the department. The connivance of Sh.Mukhopadhyay and the concerned Assistant engineer (C) has been found in the issue of tender documents to Sh.Uttam Chaudhary in the name of M/s Sunco trade and Enterprises. Shri Uttam Chaudhary was found in his possession two Income-tax Clearance Certificates one in his own name and another in the name of M/s Sunco Trade and Enterprises. The signatures of Sh.Uttam Chaudhary has been found varying in both the Income-tax Clearance certificates and no effort was made by both Shri Mukhopadhyay, Executive Engineer (C) and Sh.Ashutosh rai, Assistant Engineer (C) to verify the authenticity of the documents produced by the same person, one in his name and other in the name of the firm M/s Sunco Trade and Enterprises.

Sh. A.Sahani was working with M/s. Arunachal Carrying Corporation but the tenders were issued to him on behalf of M/s North East Roadways. It is further found that the signature of Sh. Sahani was different on tender papers and it has been found that he had not visited Silchar during the time of tendering of the above-mentioned work. Hence the

Report
Sahani
Sahani (A.S)
Sahani (A.S)
Sahani (A.S)
Sahani (A.S)
Sahani (A.S)
Sahani (A.S)

Afftd
A.Sahani
A.Sahani

(27)

signature of Sh.A.Sahani representative of M/s Arunachal Carrying Corporation was forged in the tender schedules, there was no proper verification of credentials by Assistant Engineer and Executive Engineer (O). In all the three cases it is found that while issuing the tender/quotation papers no details regarding the registration, Income-tax Clearance was recorded in the schedule by the issuing officer. Sh. Mukhopadhyay issued work order/awarded the work without properly verifying the said requisites.

While entrusting the carriage work to the agency the Executive Engineer (O) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilferage as usual practice while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol.II 1990 (Khanna's Compilation) Bank Guarantee amounting 10% of the contract amount in addition to the security deposit has to be obtained from the conveyance agencies before commencement of work. Sh.Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By the above act Sh. A.K.Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 2(1) (i), 3(1) (ii) and 3 (1) (iii) of Central Civil Services Conduct Rules 1964.

ARTICLE-II

That the said Sh. A.K.Mukhopadhyay while working as Executive Engineer (O), CCW, AIR, Silchar has awarded the work of carriage of 50 MT of cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown vide work order no. EE/SLC/WO/83/1983-85 dated 1.6.93. In the month of August 1993 again 150 MT of cement was retransported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This amounts to total mismanagement on the part of Sh.Mukhopadhyay, inviting doubts in creating wasteful works causing infructuous expenditure to the exchequer. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid retransportation to Silchar. As per para 42 of the CPWD Manual it is the duty of the Executive Engineer to execute the works economically with efficient management.

The rates adopted in the local market justification was also found varying. The rate of hiring of truck per day has been taken @ Rs.750/- for the work of carriage of cement from Silchar to Shillong, and for the other work of carrying of material from Silchar to Guwahati, Silchar to Agartala, the rate adopted in the justification was @ Rs. 1500/- per day. Thus the justification were found inflated and awarded the works at higher rates.

(Signature)

... 3/ -

A. H. S.
J. J.
P. S.

By the above act Sh.Mukhopadhyay, has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-III

That the said Sh.Mukhopadhyay has awarded the work through work orders amounting to Rs. 11,78,699/- during the financial year of 1993-94 which is beyond the financial powers delegated to Executive Engineer to award the work through work order. As per CPWD Manual Vol.II 1990 (Khan's Compilation) para 5, Section 16, the maximum financial limit of award of work through work orders by the Executive Engineer incharge of construction and maintenance division should not exceed beyond Rs. 5.00 lakhs per annum. Thus Sh.A.K. Mukhopadhyay violated the guidelines laid down in CPWD Manual Vol.II by exceeding the financial powers delegated.

By the above act Sh.Mukhopadhyay has failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

ARTICLE-IV

That the said Sh.A.K.Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar was given instructions by the then Superintendent Engineer (C) to stop the payment of M/s Sunco Trade and Enterprises vide an express telegram dated 8.10.93 and not to award any work vide circular No.AIR/CCW/SE-GH/CONF-4/93/695-704 dt. 11.11.93 in favour of Shri Uttam Chaudhary. Inspite of it, Shri Mukhopadhyay awarded several works to Sh.Uttam Chaudhary in work orders amounting to Rs. 1,36,170/- for the period ending upto March 94. Sh. Uttam Chaudhary had falsely represented the firm M/s Sunco Trade and Enterprises which was factually owned by Sh.B.Chakraborty. However, Sh. Mukhopadhyay disobeyed the instructions given by his superior. This is wilful disobedience on the part of Sh.Mukhopadhyay to the orders of his superior.

By the above act Sh.A.K.Mukhopadhyay has shown wilful disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1) (i), 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules 1964.

(Signature)

U.K. VARMA
सचिव (मंत्री)
Chief Secretary (Min.)
गोपनीय मंत्री
Min. of Environment & Forests
भारत सरकार, NC Secretariat
Delhi, India, New Delhi

After 1st
File → Annex 5

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE - FRAMED AGAINST SH. A. K. MUKHOPADHYAY, THE THEN EXECUTIVE ENGINEER (C), CCW, AIR, SILCHAR, PRESENTLY WORKING AS SURVEYOR OF WORKS (C), O/O SSW-1, CCW, AIR, NEW DELHI ARE PROPOSED TO BE SUSTAINED.

- 1) Work order no. EE/SLC/WO/83/1983-85 dated 1.6.93.
- 2) Agreement no. EE/SLC/24/93-94.
- 3) Agreement no. EE/SLC/25/93-94.
- 4) Draft NIT no. EE/SLC/26/93-94.
- 5) Draft NIT no. Nil for the work of carriage of Steel from CCW, AIR, Silchar to Telecom Civil Div. Guwahati.
- 6) Rejected tender of M/s North East Roadways. (Two nos.)
- 7) Notice inviting quotations No. AE/CCW/SLC/93-94/39(1)/68-72 dated 22.5.93. (with schedule and envelopes) 3 nos.
- 8) Analysis of rates for local market justifications for the carriage works (3 Nos.).
- 9) Letter no. EE/SLC/Tend/082/634 dt. 24.03.95.
- 10) Circular no. EE/CCW/SE-GH/Conf.-4/93/695-704 dt. 11.11.93.
- 11) Letter no. EE/SLC/Tend/082/694 dt. 05.01.95.
- 12) Income Tax Clearance Certificate in the name of
 - a) M/s Sunco Trade and Enterprises
 - b) Sh. Uttam Chaudhary (2 nos.)
- 13) Letter no. ACC-121-93/94 dt. 4.11.93 from M/s Arunachal Carrying Corporation
- 14) Letter dt. 14.10.93 by Sh. Uttam Chaudhary.
- 15) Letter dt. 1.11.93 from M/s North East Roadways.
- 16) Letter dt. 14.10.93 by Sh. B. Chakraborty.
- 17) CPWD Manual Vol. 1990 (Khanna's Compilation) Section 28, para 4.

Paras
-
(1, 2, 3, 4)
(5, 6, 7)
(8, 9, 10)
(11, 12, 13)
(14, 15, 16)
(17, 18, 19)
(20, 21, 22)
(23, 24, 25)
(26, 27, 28)
(29, 30, 31)
(32, 33, 34)
(35, 36, 37)
(38, 39, 40)
(41, 42, 43)
(44, 45, 46)
(47, 48, 49)
(50, 51, 52)
(53, 54, 55)
(56, 57, 58)
(59, 60, 61)
(62, 63, 64)
(65, 66, 67)
(68, 69, 70)
(71, 72, 73)
(74, 75, 76)
(77, 78, 79)
(80, 81, 82)
(83, 84, 85)
(86, 87, 88)
(89, 90, 91)
(92, 93, 94)
(95, 96, 97)
(98, 99, 100)
(101, 102, 103)
(104, 105, 106)
(107, 108, 109)
(110, 111, 112)
(113, 114, 115)
(116, 117, 118)
(119, 120, 121)
(122, 123, 124)
(125, 126, 127)
(128, 129, 130)
(131, 132, 133)
(134, 135, 136)
(137, 138, 139)
(140, 141, 142)
(143, 144, 145)
(146, 147, 148)
(149, 150, 151)
(152, 153, 154)
(155, 156, 157)
(158, 159, 160)
(161, 162, 163)
(164, 165, 166)
(167, 168, 169)
(170, 171, 172)
(173, 174, 175)
(176, 177, 178)
(179, 180, 181)
(182, 183, 184)
(185, 186, 187)
(188, 189, 190)
(191, 192, 193)
(194, 195, 196)
(197, 198, 199)
(200, 201, 202)
(203, 204, 205)
(206, 207, 208)
(209, 210, 211)
(212, 213, 214)
(215, 216, 217)
(218, 219, 220)
(221, 222, 223)
(224, 225, 226)
(227, 228, 229)
(230, 231, 232)
(233, 234, 235)
(236, 237, 238)
(239, 240, 241)
(242, 243, 244)
(245, 246, 247)
(248, 249, 250)
(251, 252, 253)
(254, 255, 256)
(257, 258, 259)
(250, 251, 252)
(253, 254, 255)
(256, 257, 258)
(259, 260, 261)
(262, 263, 264)
(265, 266, 267)
(268, 269, 270)
(271, 272, 273)
(274, 275, 276)
(277, 278, 279)
(280, 281, 282)
(283, 284, 285)
(286, 287, 288)
(289, 290, 291)
(292, 293, 294)
(295, 296, 297)
(298, 299, 299)
(299, 300, 300)
(300, 301, 302)
(302, 303, 304)
(304, 305, 306)
(306, 307, 308)
(308, 309, 310)
(310, 311, 312)
(312, 313, 314)
(314, 315, 316)
(316, 317, 318)
(318, 319, 320)
(320, 321, 322)
(322, 323, 324)
(324, 325, 326)
(326, 327, 328)
(328, 329, 330)
(330, 331, 332)
(332, 333, 334)
(334, 335, 336)
(336, 337, 338)
(338, 339, 340)
(340, 341, 342)
(342, 343, 344)
(344, 345, 346)
(346, 347, 348)
(348, 349, 350)
(350, 351, 352)
(352, 353, 354)
(354, 355, 356)
(356, 357, 358)
(358, 359, 360)
(360, 361, 362)
(362, 363, 364)
(364, 365, 366)
(366, 367, 368)
(368, 369, 370)
(370, 371, 372)
(372, 373, 374)
(374, 375, 376)
(376, 377, 378)
(378, 379, 380)
(380, 381, 382)
(382, 383, 384)
(384, 385, 386)
(386, 387, 388)
(388, 389, 390)
(390, 391, 392)
(392, 393, 394)
(394, 395, 396)
(396, 397, 398)
(398, 399, 400)
(400, 401, 402)
(402, 403, 404)
(404, 405, 406)
(406, 407, 408)
(408, 409, 410)
(410, 411, 412)
(412, 413, 414)
(414, 415, 416)
(416, 417, 418)
(418, 419, 420)
(420, 421, 422)
(422, 423, 424)
(424, 425, 426)
(426, 427, 428)
(428, 429, 430)
(430, 431, 432)
(432, 433, 434)
(434, 435, 436)
(436, 437, 438)
(438, 439, 440)
(440, 441, 442)
(442, 443, 444)
(444, 445, 446)
(446, 447, 448)
(448, 449, 450)
(450, 451, 452)
(452, 453, 454)
(454, 455, 456)
(456, 457, 458)
(458, 459, 460)
(460, 461, 462)
(462, 463, 464)
(464, 465, 466)
(466, 467, 468)
(468, 469, 470)
(470, 471, 472)
(472, 473, 474)
(474, 475, 476)
(476, 477, 478)
(478, 479, 480)
(480, 481, 482)
(482, 483, 484)
(484, 485, 486)
(486, 487, 488)
(488, 489, 490)
(490, 491, 492)
(492, 493, 494)
(494, 495, 496)
(496, 497, 498)
(498, 499, 500)
(500, 501, 502)
(502, 503, 504)
(504, 505, 506)
(506, 507, 508)
(508, 509, 510)
(510, 511, 512)
(512, 513, 514)
(514, 515, 516)
(516, 517, 518)
(518, 519, 520)
(520, 521, 522)
(522, 523, 524)
(524, 525, 526)
(526, 527, 528)
(528, 529, 530)
(530, 531, 532)
(532, 533, 534)
(534, 535, 536)
(536, 537, 538)
(538, 539, 540)
(540, 541, 542)
(542, 543, 544)
(544, 545, 546)
(546, 547, 548)
(548, 549, 550)
(550, 551, 552)
(552, 553, 554)
(554, 555, 556)
(556, 557, 558)
(558, 559, 560)
(560, 561, 562)
(562, 563, 564)
(564, 565, 566)
(566, 567, 568)
(568, 569, 570)
(570, 571, 572)
(572, 573, 574)
(574, 575, 576)
(576, 577, 578)
(578, 579, 580)
(580, 581, 582)
(582, 583, 584)
(584, 585, 586)
(586, 587, 588)
(588, 589, 590)
(590, 591, 592)
(592, 593, 594)
(594, 595, 596)
(596, 597, 598)
(598, 599, 600)
(600, 601, 602)
(602, 603, 604)
(604, 605, 606)
(606, 607, 608)
(608, 609, 610)
(610, 611, 612)
(612, 613, 614)
(614, 615, 616)
(616, 617, 618)
(618, 619, 620)
(620, 621, 622)
(622, 623, 624)
(624, 625, 626)
(626, 627, 628)
(628, 629, 630)
(630, 631, 632)
(632, 633, 634)
(634, 635, 636)
(636, 637, 638)
(638, 639, 640)
(640, 641, 642)
(642, 643, 644)
(644, 645, 646)
(646, 647, 648)
(648, 649, 650)
(650, 651, 652)
(652, 653, 654)
(654, 655, 656)
(656, 657, 658)
(658, 659, 660)
(660, 661, 662)
(662, 663, 664)
(664, 665, 666)
(666, 667, 668)
(668, 669, 670)
(670, 671, 672)
(672, 673, 674)
(674, 675, 676)
(676, 677, 678)
(678, 679, 680)
(680, 681, 682)
(682, 683, 684)
(684, 685, 686)
(686, 687, 688)
(688, 689, 690)
(690, 691, 692)
(692, 693, 694)
(694, 695, 696)
(696, 697, 698)
(698, 699, 700)
(700, 701, 702)
(702, 703, 704)
(704, 705, 706)
(706, 707, 708)
(708, 709, 710)
(710, 711, 712)
(712, 713, 714)
(714, 715, 716)
(716, 717, 718)
(718, 719, 720)
(720, 721, 722)
(722, 723, 724)
(724, 725, 726)
(726, 727, 728)
(728, 729, 730)
(730, 731, 732)
(732, 733, 734)
(734, 735, 736)
(736, 737, 738)
(738, 739, 740)
(740, 741, 742)
(742, 743, 744)
(744, 745, 746)
(746, 747, 748)
(748, 749, 750)
(750, 751, 752)
(752, 753, 754)
(754, 755, 756)
(756, 757, 758)
(758, 759, 760)
(760, 761, 762)
(762, 763, 764)
(764, 765, 766)
(766, 767, 768)
(768, 769, 770)
(770, 771, 772)
(772, 773, 774)
(774, 775, 776)
(776, 777, 778)
(778, 779, 780)
(780, 781, 782)
(782, 783, 784)
(784, 785, 786)
(786, 787, 788)
(788, 789, 790)
(790, 791, 792)
(792, 793, 794)
(794, 795, 796)
(796, 797, 798)
(798, 799, 800)
(800, 801, 802)
(802, 803, 804)
(804, 805, 806)
(806, 807, 808)
(808, 809, 810)
(810, 811, 812)
(812, 813, 814)
(814, 815, 816)
(816, 817, 818)
(818, 819, 820)
(820, 821, 822)
(822, 823, 824)
(824, 825, 826)
(826, 827, 828)
(828, 829, 830)
(830, 831, 832)
(832, 833, 834)
(834, 835, 836)
(836, 837, 838)
(838, 839, 840)
(840, 841, 842)
(842, 843, 844)
(844, 845, 846)
(846, 847, 848)
(848, 849, 850)
(850, 851, 852)
(852, 853, 854)
(854, 855, 856)
(856, 857, 858)
(858, 859, 860)
(860, 861, 862)
(862, 863, 864)
(864, 865, 866)
(866, 867, 868)
(868, 869, 870)
(870, 871, 872)
(872, 873, 874)
(874, 875, 876)
(876, 877, 878)
(878, 879, 880)
(880, 881, 882)
(882, 883, 884)
(884, 885, 886)
(886, 887, 888)
(888, 889, 890)
(890, 891, 892)
(892, 893, 894)
(894, 895, 896)
(896, 897, 898)
(898, 899, 900)
(900, 901, 902)
(902, 903, 904)
(904, 905, 906)
(906, 907, 908)
(908, 909, 910)
(910, 911, 912)
(912, 913, 914)
(914, 915, 916)
(916, 917, 918)
(918, 919, 920)
(920, 921, 922)
(922, 923, 924)
(924, 925, 926)
(926, 927, 928)
(928, 929, 930)
(930, 931, 932)
(932, 933, 934)
(934, 935, 936)
(936, 937, 938)
(938, 939, 940)
(940, 941, 942)
(942, 943, 944)
(944, 945, 946)
(946, 947, 948)
(948, 949, 950)
(950, 951, 952)
(952, 953, 954)
(954, 955, 956)
(956, 957, 958)
(958, 959, 960)
(960, 961, 962)
(962, 963, 964)
(964, 965, 966)
(966, 967, 968)
(968, 969, 970)
(970, 971, 972)
(972, 973, 974)
(974, 975, 976)
(976, 977, 978)
(978, 979, 980)
(980, 981, 982)
(982, 983, 984)
(984, 985, 986)
(986, 987, 988)
(988, 989, 990)
(990, 991, 992)
(992, 993, 994)
(994, 995, 996)
(996, 997, 998)
(998, 999, 1000)

.....2/-

Adarsh
Adarsh

28-30

(02.)

18) Submission of tender documents by Sh.A.Sanani under the letterhead of M/s north East Roadways dt. 28.05.93.

19) CPWD Manual Vol. II (Khanna's Compilation) Section 16, Para-5.

20) CPWD Code para 42

21) Letter no. AIR/CCW/SE-GH/CONF-4/93/843 dt. 20.6.94 endorsing the express telegram.

22) Power of Attorney of M/s North East Roadways in the name of Sh.Uttam Chaudhary vide deed no. 413 alongwith Circular no. NER/81/93-94/ dt. 15.8.93.

23) Circular No.AIR/CCW/SE-GH/CONF-4/93/695-704 dated 11.11.93.

Power of Attorney

M/s North East Roadways
Circular No. NER/81/93-94/
Date of 15.8.93.

Attn: Dr
S. Chaudhary

LIST OF WITNESSES BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SH.A.K.MUKHOPADHYAY, THE THEN EXECUTIVE ENGINEER (C), CCW, AIR, GUWAHATI, PREVIOUSLY WORKING AS SURVEYOR OF WORKS (C), O/O SSW-1, CCW, AIR, NEW DELHI ARE PROPOSED TO BE SUSTAINED.

- 1) Sh. Munshi Lal, retired Chief Engineer (C)-II, CCW, AIR, 121, Munirka Vihar, New Delhi.
- 2) Sh. Ashutosh Rai, Junior Engineer (C), O/o the SSW-1, CCW, AIR, Lok Nayak Bhawan, New Delhi.
- 3) Sh. Utttam Chaudhary, son of Late Sh. J.C.Chaudhary, Kushal Nagar, Bamuni Maidan, Guwahati-781021.
- 4) Sh.B.Chakraborty, Proprietor, M/s Sunco Trade and Enterprises, House no. 107, Kushal Nagar, Bamuni Maidan, Guwahati-781021./New Guwahati Railway Colony market, Guwahati-21.
- 5) Sh.D.P.Agarwal, Proprietor, Arunachal Carrying Corporation, KB 3, Barooah market, T.R. Phookan Road, Fancy Bazar, Guwahati-7810601.
- 6) Sh.A. Sahani, C/o Arunachal Carrying Corporation, Barooah Market, T.R.Phookan Road, Fancy Bazar, Guwahati-7810601.

(Signature)
Mr. *(Signature)*
Officer of India, N. C. S.
Officer of India, N. C. S.

Attest
Q.S. *Attest*

Regd. Post

Confidential

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(Vigilance Unit)

No. C-13013/19/94-SW(V)-II/ 393

DL.25-8-2k

Sh. A.K. Mukhopadhyay
Executive Engineer(c)
CCW: AIR
Guwahati.

Subject : Initiation of disciplinary proceedings against Sh. A.K. Mukhopadhyay, EE(C), CCW, AIR, New Delhi.

Please enclosed herewith Min. of I&B 's office memorandum no. C-13011/31/96-Vig. dt. 7/8/2000 in the work of " Misuse of powers in issue of quotations and tenders by Sh. A.K. Mukhopadhyay the then EE(C) Silchar.

It is requested that the dated acknowledgement of the above stated memorandum , in triplicate may be sent immediately , to this office, for onward transmission to DG AIR/Ministry of I&B.

This issues with the approval of CE-I

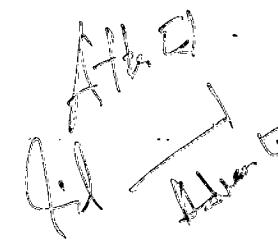
Encl:

1. Office memorandum No.
C-13011/31/96-Vig. dt. 7.8.2000(in original)
2. Acknowledgement slips in triplicate.


(M.R.K. NAIR)
Surveyor of Works ©(V)-I

Copy to :

DG AIR, Sh. Naresh Jaiswal, S.O. (Vig.) , Akashwani Bhawan, New delhi with reference to I.D. Note No. 7/11/97-VIG. DT. 16.8.2000 for information.


Surveyor of Works ©(V)-I

33
45

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE - B

Original Application No.283 of 2000

Date of decision 11th October 2000

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

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

Anup Kumar Mukhopadhyay,
Executive Engineer (Civil),
Civil Construction Wing,
All India Radio, Guwahati Division,
Guwahati.

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Information and Broadcasting,
New Delhi.
2. The Chief Executive Officer,
Prasar Bharati,
Broadcasting Corporation of India,
New Delhi.
3. The Director General,
Prasar Bharati
Broadcasting Corporation of India,
Civil Construction Wing,
All India Radio,
Government of India,
New Delhi.
4. The Chief Engineer, Civil Construction Wing,
All India Radio,
New Delhi.

Superintending Engineer,
Civil Construction Wing,
All India Radio,
Guwahati.

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

.....Applicant

.....Respondents

ORDER (ORAL)

CHOWDHURY, J. (V.C.)

The legitimacy as well as the continuance of the departmental proceeding vide Memo dated 7.8.2000 is the subject matter of the controversy. The departmental proceeding initiated on 7.8.2000 pertains to some alleged acts that took place in June 1993.

Abdul
Advocate

2. Mr A. Ahmed, learned counsel for the applicant, submitted that the impugned proceeding suffers from the vice malafide, which was sought to be initiated at the instance of the rival suppliers/contractors and encouraged by the then Superintending Engineer (Civil), Civil Construction Wing, Guwahati. Mr Ahmed submitted that the purported proceeding was initiated with an oblique motive other than public interest. The learned counsel further submitted that the purported enquiry was initiated not at the instance of the Disciplinary Authority, but only at the instance of the vigilance department. Mr A. Deb Roy, learned Sr. C.G.S.C., however, submitted that the enquiry was done after completion of the preliminary enquiry and therefore, it took some time.

3. We have heard the learned counsel for the parties at length. Undoubtedly, the proceeding was initiated after seven years, but then we are not inclined to make any comment at this stage, only with the view that we allow the respondent authority to complete the proceeding with utmost expedition.

4. Considering all the aspects of the matter we are of the view that ends of justice will be met if a direction is issued to the applicant to submit a detailed written statement pursuant to the Memorandum dated 7.8.2000. It would be open for the applicant to raise the issues in the written statement that he has raised here. The applicant shall file such written statement within three weeks from the date of receipt of the order. On receipt of the written statement the respondent authority may consider the same and take a decision as to whether the proceeding is to be continued. If the respondents takes a decision to continue the proceeding in that event the respondents may proceed so and conclude the said proceeding within three months from the date of receipt of the written statement of the applicant by providing the applicant a reasonable opportunity to defend the matter.

5. Subject to the direction made above, the application stands disposed of, leaving it open to the applicant to move the Tribunal thereafter, if the occasion arises. There shall, however, be no order as to costs.

SD/ VICE CHAIRMAN
SD/ MEMBER (ADM)

Attested
C. J. & Advocate

Certified to be true copy
Affidavit
23/8/2007

Section Officer (J)
Mr. T. S. Deka (मानिक देका)
of Administrative Tribunal
State Election Commission
Lower Bench, Guwahati-8
Assam, India

CONFIDENTIAL

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
GUWAHATI DIVISION: TARUN NAGAR: BYE LANE 1
GUWAHATI-5

No. GCD/AIR/GO-PF/AKM/99/ 284-80

Date: 12-09-2001

To

The Under Secretary
(Sri P.K. Verma - by name)
Ministry of Information & Broadcasting
A-Wing, Sastri Bhawan
New Delhi-110001

Subject: Judgement dated 21.8.2001 of Hon'ble Guwahati CAT in respect of OA No. 283 of 2000.

Sir,

With reference to the above, enclosed please find herewith the decision of the Court order in respect of the application No. 283 of 2000 filed by me against the office memorandum No. C-13011/31/96-Vig. Dated 7-8-2000 issued from your office.

In the said order the court has directed to the applicant to file written statement stating all the facts as stated in the application while submitting it to the court. In this respect, it is to mention here that the copy of the application is already with the department forwarded by Government Counsel during the period of court case, where I have stated my all points of the grievances. Necessary decision on such grievances produced in the application may kindly be taken based on the facts submitted which is as directed by court.

No other points in addition to the grievances mentioned in the application are now added for consideration. As per decision of the Court 3(three) Months time has allowed for disposing of the case. So this may kindly be treated as most urgent.

Encl. As stated

Yours faithfully,

Executive Engineer(Civil)
CCW AIR Guwahati Division

Copy to:

1. The Secretary to the Govt. of India, Ministry of Information & Broadcasting, A-Wing, Sastri Bhawan, New Delhi-1 - for information along with a copy of judgement.
2. The Chief Executive Officer, Prasar Bharati, Broadcasting Corporation of India, Akashvani Bhawan, New Delhi-1. - for information along with a copy of judgement.
3. The Chief Engineer(Civil)-I(Kindly attn. to Shri M.R.K. Nair, SWO(V)), CCW AIR, Soochan Bhawan, 5th floor, Lodhi Road, CGO Complex, New Delhi-3 - for information along with a copy of judgement.
4. The Superintending Engineer(Civil), CCW AIR, Guwahati - for information along with a copy of judgement.

Executive Engineer(Civil)

*Spouse
CEC(C)*

*Attested
Jit
Adarsh*

Confidential
By Regd. Post.

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(VIGILANCE UNIT)

5th Floor, Soochna Bhawan
CGO Complex, Lodi Road
New Delhi- 110003

No.C-13013/19/94-SW©V-I /

DT.

Subject : Initiation of disciplinary proceedings against Sh. A.K. Mukhopadhyaya EE ©, CCW, AIR, Guwahati.

Please find enclosed Min. of I&B order no. C-13011/31/96-Vig. dt. 14.11.02 on the subject cited above, in original . It is requested that dated acknowledgement for receipt of the above order may be sent immediately to this office .

Encl: As above.

Ans/Gen 6
(AVINASH KUMAR GUPTA)
SURVEYOR OF WORKS ©(V)-I

Sh. A.K. Mukhopadhyaya , EE©, CCW, AIR, Guwahati
CCW AIR I.D. Note No. C-13013/19/94-SW©V-I /693 DT. 17.12.02

Copy to :

1. Sh. Imran Farid, S.O.(Vig.) Akashvani Bhawan, New Delhi for information..
2. E.O.-I to CE-I , CCW, AIR , Soochna Bhawan, New Delhi alongwith copy of above said order for information and further necessary action please.

SURVEYOR OF WORKS ©(V)-I

*After Ed
J.S. - Bawali*

37-
CONFIDENTIAL
IMMEDIATE
n9

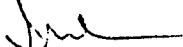
PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO

(VIGILANCE SECTION)

Subject :- Initiation of disciplinary proceedings against Shri A.K. Mukhopadhyay, EE©, CCW, AIR, Guwahati.

Ministry of I&B's Order No. C-13011/31/96-Vig. dated 14.11.2002 on the above subject is sent herewith, in original.

2. CCW, AIR, New Delhi, is requested that the aforesaid order meant for Shri A.K. Mukhopadhyay, EE©, may be got delivered to him and his dated acknowledgement obtained, in duplicate, may be sent to this Directorate for onward transmission to the Ministry of I&B.


(IMRAN FARID)
Section Officer

CCW, AIR (Shri M.S. Mehta, SW©Vig.I), Soochna Bhawan, New Delhi
PB(BCI) DG:AIR, I.D. Note No. 7/11/96-Vig., dated the 21-11-2002

Attached
Q.S. - Bawent

भारत सरकार

GOVERNMENT OF INDIA

सूचना और प्रसारण मंत्रालय

MINISTRY OF INFORMATION & BROADCASTING

'ए' विंग शास्त्री भवन, नई दिल्ली - 110 001

'A' Wing Shastri Bhawan, New Delhi - 110 001

तारीख/Date 14.11.2002

ORDER

WHEREAS disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, were initiated against Shri A.K. Mukhopadhyay, the then Executive Engineer (Civil), Civil Construction Wing, All India Radio, Guwahati, vide this Ministry Office Memorandum No.C-13011/31/96-Vig. dated 7.8.2000, on the following Articles of Charge:-

ARTICLE - I

That the said Shri A.K. Mukhopadhyay, Surveyor of Works (C), CCW, AIR, O/o SSW-I, New Delhi, while working as Executive Engineer (Civil), CCW, AIR, Silchar during the year 1993-94 had awarded the following works of carriage of materials such as cement and steel:

1. Carriage of 50 MT Cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar go-down, (vide Work Order No.EE/SLC/WO/83/1883-85 dated 1.6.93);
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala go-down (vide Agreement No.EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar to Telecom Civil Division, Guwahati (vide Agreement No.EE/SLC/25/93-94).

The above three works were awarded in the name of M/s.Sunco Trade and Enterprises which was falsely represented by Shri Uttam Choudhary. Even though Shri B. Chakraborty is the sole proprietor of the said firm, Shri Uttam Choudhary falsely represented the said firm and entered into contracts with the department in connivance with departmental officials Shri Mukhopadhyay and Shri Ashutosh Rai, the then Assistant Engineer (C). Before entering into contract with the department in the name of M/s.Sunco Trade and Enterprises, Shri Uttam Choudhary was holding the power of attorney of M/s.North East Roadways and well known to the departmental officials including Shri Mukhopadhyay.

Similary, Shri A. Sahani was working with M/s.Arunachal Carrying Corporation but the tender papers were issued to him on behalf of M/s.North East Roadways. This fact has been admitted by Shri Mukhopadhyay. The contract was awarded by Shri Mukhopadhyay without scrutinising the documents properly. This is evident from the fact that the signature on different documents by Shri Uttam Choudhary and Shri A. Sahani are found varying and the question of authenticity and correctness of the documents produced by them to the department seems to be forged.

After E
8/12/2002
Parole

... contd..

While entrusting the carriage work to the agency the Executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilferage, while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol.II, Bank Guarantee amounting to 10% of the contract amount in addition to the security deposit has to be obtained from the conveyance agencies before commencement of work. Shri Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By his above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE - II

That the said Shri A.K. Mukhopadhyay issued the work No. EE/SLC/WO/83/1983-85 dated 1.6.93 for conveyance of 50 MT of Cement from Silchar to Shillong in the month of June, 1993. In the month of August, '93, 150 MT of Cement was re-transported to Silchar from Agartala by separate contract, vide Agreement No. EE/SLC/24/93-94. This improper management by Shri Mukhopadhyay caused infructuous expenses to the exchequer in the carriage of material. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid re-transportation to Silchar.

The rate adopted to justify the rates of transport is also found varying in different justification. The rate of hiring of truck per day has been found @Rs.750/- for the work of carrying Cement from Silchar to Shillong and for the other works of carrying materials from Silchar to Guwahati and Agartala to Silchar, the rate was taken @Rs.1500/- per day. This shows that the justification was inflated by Shri Mukhopadhyay and the concerned Assistant Engineer (C) in-charge of work.

By his above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE - III

That the said Shri Mukhopadhyay had awarded works on work orders in the financial year of 1993-94 for an amount of Rs.11.79 lakhs, exceeding the limit of Rs.5 lakhs prescribed for Executive Engineer (C) in the CPWD Manual Vol.II 1990 para 5, Section 16.

By his above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE - IV

That the said Shri A.K. Mukhopadhyay disobeyed the instructions of his superior, i.e., the Superintending Engineer (C), Guwahati, vide his circular No. AIR/CCW/SE-GH/CONF-4/93/695-704 dated 11.1.93 that no work should be awarded to Shri Uttam Choudhary who had falsely represented the firm M/s. Sunco Trade and Enterprises. Shri Mukhopadhyay continued to award different works to Shri Uttam Choudhary by defying the orders of the Superintendent Engineer.

Sub
A. H. C.
Sub
W. A. S.

By his above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.

WHEREAS Shri A.K. Mukhopadhyay denied the allegations levelled against him vide his written statement of defence dated 13/14.9.2000 and Shri A.P. Divakaran, Superintending Engineer (Civil), CCW, AIR, Guwahati was appointed as Inquiring Authority to inquire into the charges levelled against Shri A.K. Mukhopadhyay, vide this Ministry's Order dated 10.4.2001.

WHEREAS the Inquiry Officer submitted his inquiry report dated 24.1.2002 and for the reasons mentioned therein, held that only Article of Charge-III levelled against the said Shri Mukhopadhyay as 'partly proved'.

WHEREAS in the light of the charges framed against Shri A.K. Mukhopadhyay, and on the basis of the documentary evidences, the disciplinary authority agreed with the findings of the Inquiry Officer and a copy of the inquiry report along with a copy of CVC's advice dated 8.4.2002 was forwarded to Shri Mukhopadhyay, vide this Ministry's O.M. dated 23.4.2002, to enable him to make representation/ submission, if any, on the said report.

WHEREAS the said Shri A.K. Mukhopadhyay, vide his letter dated 20.5.2002, submitted his representation in which he contended that the case was initiated against him by the SE(C) basically to harass him for so many reasons inviting his personal interest. Under this circumstances, the SE(C) would not have accepted EE's proposal regarding award of works (as charged under Article-III) through different works amounting to Rs. 11.78 lakhs during financial year 1993-94, which was beyond the delegated financial power of Rs. 5 lakhs of an EE. Considering urgency and time bound nature of the projects and keeping in view of the utilisation of budgetary provisions within the financial year, all the works were carried out during the end of financial year.

WHEREAS the said representation of Shri A.K. Mukhopadhyay was duly considered by the disciplinary authority. The comments of the disciplinary authority on the said representation of Shri A.K. Mukhopadhyay are as under:

(i) It is a fact that the then SE(C), Guwahati, vide his letters dated 17.5.94 and 20.6.94, addressed to CCW HQrs, New Delhi, recommended for transfer of Shri Mukhopadhyay from CCW, Silchar to planning department after receiving three complaints against Shri Mukhopadhyay regarding issue of tender to contractors without verifying credentials. From this, it cannot be construed that the SE(C) was intended to harass him for any personal interest. The subject matters of those three complaints were incorporated in the charge-sheet issued to Shri Mukhopadhyay. After the inquiry, all the charges were dropped against him which were raised initially through those complaints and forwarded by his SE(C) to CCW HQrs.

(ii) The Article of Charge (No.III) regarding violation of delegated financial power by Shri Mukhopadhyay, which is partly proved after the enquiry, came to light during the preliminary enquiry conducted after receiving the above mentioned three complaints. Therefore, it cannot be said that the Article of Charge (No.III) is the fall out of personal enmity of the then SE(C), Guwahati against Shri Mukhopadhyay. Shri Mukhopadhyay should have brought to the notice of his SE(C), in writing, regarding urgency and volume of pending works and the unspent budget grant before the ending of the financial year, without going directly exhausting the budget grant in his own capacity, thus violating the delegated financial powers. Hence the contention raised by Shri Mukhopadhyay in his representation has been rejected.

S.W.A.

After 1st
July
Anu. Is contd..

WHEREAS a tentative view was taken by the Disciplinary Authority to impose one of the minor penalties on Shri Mukhopadhyay and the case was referred to Union Public Service Commission, vide this Ministry's letter dated 17.7.2002, for their advice.

WHEREAS vide their letter No.F.3/153/2002-S.I dated 9.10.2002 (copy enclosed), the UPSC tendered their advice and, for the reasons mentioned therein, advised this Ministry that the ends of justice would be met in this case, if the penalty of 'Censure' is imposed upon Shri A.K. Mukhopadhyay.

AND, WHEREAS the Disciplinary Authority has, after taking careful consideration of the relevant records, the advice tendered by UPSC, and keeping in view the facts and circumstances of the case, come to the conclusion that the advice dated 9.10.2002, tendered by UPSC is appropriate and therefore, the ends of justice would be met in this case if the aforesaid advice of UPSC is accepted and the penalty of 'Censure' is imposed on the said Shri A.K. Mukhopadhyay.

NOW, THEREFORE, the Disciplinary Authority orders accordingly.

(BY ORDER AND IN THE NAME OF THE PRESIDENT)

S. K. Arora
(S.K. ARORA)

UNDER SECRETARY TO THE GOVT. OF INDIA

✓ Shri A.K. Mukhopadhyay)
Executive Engineer (Civil))
Civil Construction Wing) (Through DG: AIR)
All India Radio)
Guwahati.)
(along with UPSC's letter)
No.F.3/153/2002-S.I dtd.9.10.2002))

Attn: S
Q.D. *Attn: S*
Adm. Officer

तार

—UNISERGOM
GramTelex : 031-62677
Fax : 011-3385345संख्या F.3/153/2002-S.I
(CONFIDENTIAL)

संघ लोक सेवा आयोग

धौलपुर हाऊस, शाहजहां रोड

UNION PUBLIC SERVICE COMMISSION

(SANGH LOK SEVA AYOG)

DHOLPUR HOUSE, SHAHJAHAN ROAD

सेवा में

To

नई दिल्ली-110011

New Delhi-110011

9-10-2002

10/10
SOL/VI
The Secretary to the Govt. of India,
M/o. Information and Broadcasting,
Shastri Bhavan, 'A' Wing,
New Delhi-110001

(Attention: Shri S. K. Arora, Under Secretary).

Sub: Disciplinary proceedings against Shri A.K. Mukhopadhyay, E.E. (C), CCW,
AIR, Guwahati.

Vide No. 2899
Date 10/10/02

Sir,

I am directed to refer to your letter No. C-13011/31/96-Vig dated 17.7.2002 on the subject mentioned above and to communicate the advice of the Commission as follows:

2. The Commission note that the Disciplinary Authority issued a Memo vide Memo No. C-13011/31/96-Vig dated 7.8.2000 under Rule 14 of CCS(CCA) rules, 1965 in which Shri A.K. Mukhopadhyay, was called upon to answer the following Articles of charge.

ARTICLE OF CHARGE:

That the said Shri A.K. Mukhopadhyay, Surveyor of works (C), CCW, AIR, O/o SSW-I, New Delhi while working as Executive Engineer (C) CCW, AIR, Silchar during the year 1993-94 had

Admto
Admto

8, 10, 2002

awarded the following works of carriage of materials such as cement and steel.

1. Carriage of 50 MT cement from Silchar to Shillong by mechanical transport and restacking of cement at Silchar godown. (Work order no. EE/SLC/WO/83-1983-85 dated 1.6.93).
2. Carriage of cement from Agartala to Silchar by mechanical transport and restacking of cement at Agartala godown. (Agreement no. EE/SLC/24/93-94).
3. Carriage of steel from CCW, AIR, Silchar telecom civil division, Guwahati. (Agreement no. EE/SLC/25/93-94).

The above three works were awarded in the name of M/s. Sunco Trade and Enterprises which was falsely represented by Shri Uttam Choudhary. Even though, Shri B. Chakraborty is the sole proprietor of the said firm, Shri Uttam Choudhary falsely represented the said firm and entered in to contracts with the department in connivance with departmental officials Shri Mukhopadhyay and Shri Ashoutosh Rai the then Assistant Engineer (C). Before entering in to contract with the department in the name of M/s. Sunco Trade and Enterprises, Shri Uttam Choudhary was holding the power of attorney of M/s. North East Roadways and well known to the departmental officials including Shri Mukhopadhyay.

Similarly, Shri A. Sahani was working with M/s. Arunachal Carrying Corporation but the tender papers were issued to him on behalf of M/s. North East Roadways. This fact has been admitted by Shri Mukhopadhyay. The contract was awarded by Shri Mukhopadhyay without scrutinizing the documents properly. This is evident from the fact that the signature on different documents by Shri Uttam Choudhary and Shri A. Sahani are found varying and the question of authenticity and correctness of the documents produced by them to the department seems to be forged.

While entrusting the carriage work to the agency the executive Engineer (C) has not insisted for the bank guarantee on the cost of material to be transported to avoid any pilferage, while taking up the carriage works. As per Section 28 para 4 of CPWD Manual Vol. II 1990 (Khanna's Compilation) Bank Guarantee amounting to 10% of the contract amount in addition to the security deposit has to be obtained from the conveyance agencies before commencement of

~~1000~~ 1000

8.10.2021

44 -

work. Shri Mukhopadhyay had totally ignored the Govt. interest before taking up the carriage work.

By the above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1)(ii) and 3 (1) (iii) of Central Civil Services Conduct Rules, 1964.

ARTICLE : II

That the said Shri A.K. Mukhopadhyay, issued the work order no EE/SLC/WO/83-1983-85 dated 1.6.93 for conveyance of 50 MT of cement from Silchar to Shillong in the month of June, 1993. In the month of August, 1993, 150 MT of cement was re-transported to Silchar from Agartala by separate contract vide agreement no. EE/SLC/24/93-94. This is improper management by Shri Mukhopadhyay causing infructuous expense to the exchequer in the carriage of material. The cement should have been transported directly from Agartala to Shillong instead of from Silchar to Shillong in the first instance itself to avoid re-transportation to Silchar.

The rate adopted to justify the rates of transport is also found varying in different justification. The rate of hiring of truck per day has been found @ Rs. 750/- for the work of carrying cement from Silchar to Shillong and for the other works of carrying materials from Silchar to Guwahati and Agartala to Silchar, the rate was taken @ Rs. 1500/- per day. This shows that the justification was inflated by Shri Mukhopadhyay and the concerned Assistant Engineer (C) in charge of work.

By the above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1)(ii) and 3 (1) (iii) of Central Civil Services Conduct Rules, 1964.

+ARTICLE : III

That the said Shri A.K. Mukhopadhyay, the then Executive Engineer (C), CCW, AIR, Silchar had awarded the work on work orders in the financial year of 1993-94 for an amount of Rs. 11.79 lakhs, exceeding the limit of Rs. 5 lakhs prescribed for Executive Engineer(C) in the CPWD Manual and thus violated the guidelines as

A.K. Mukhopadhyay
J.D. Bawali

D. D. Bawali
8.10.2001

per CPWD Manual Vol. II 1990 (Khanna's Compilation) para 5,
Section 16.

By the above act, Shri A.K. Mukhopadhyay has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(1) (i), 3(1)(ii) and 3 (1) (iii) of Central Civil Services Conduct Rules, 1964.

ARTICLE : IV

That the said Shri A.K. Mukhopadhyay the then Executive Engineer (C), CCW, AIR, Silchar disobeyed the instructions of his superior i.e. the Supdt. Engineer (C) Guwahati vide his circular no. AIR/CCW/SE-GH/CONF-4/93/695-704 dated 11.11.93 that no work should be awarded to Shri Uttam Choudhary who had falsely represented the firm M/s. Sunco Trade and Enterprises. Shri A.K. Mukhopadhyay continued to award different works to Shri Uttam Choudhary by defying the orders of the Superintending Engineer.

By the above act, Shri A.K. Mukhopadhyay had shown willful insubordination and disobedience and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thus violated Rules 3(25), 3(1) (i), 3(1)(ii) and 3 (1) (iii) of Central Civil Services Conduct Rules, 1964.

3. A statement of imputations of misconduct/mis-behaviour, a list of document and a list of witnesses were also annexed to the charge memo. The CO denied the charges. An oral enquiry was ordered. The IO submitted the report on 24.1.2002. The Inquiry Officer in his report has held the Article-I, II & IV as not proved and only Article-III of the charge has been held as proved. The IO has also pointed out that this is a technical mistake and no malafide on the part of the CO can be assumed. The DA has agreed with the findings of the IO and has tentatively decided to impose one of the minor penalties on the Charged Officer. A copy of the IO's report was furnished to CO on 23.4.2002 and he was directed to submit representation, if any. CO submitted his representation on 20.5.2002. After considering the facts of the case, the DA i.e. the President, has taken a tentative view to impose one of the minor penalties on the CO. Accordingly the case records have been referred to Commission for their advice.

4. The case has been examined by the Commission thoroughly as under:

Alfred
Ghosh
A. K. Mukhopadhyay

D. 28
8-10. 2002

4.1 The Commission observe that IO and DA have held articles of charge I, II and IV as not proved. These charges have not been addressed by the Commission.

✓ ARTICLE : III

4.2 The Commission observe that the charge against the CO is that he has awarded the work orders in the Financial Year 1993-94 for an amount of Rs.11.79 lakhs which is beyond the financial limits delegated to Executive Engineer to award work through work order. As per CPWD Manual Vol.II 1990 (Khanna's Compilation) para 5, Section 16, the maximum financial limit of award of work through work orders by the Executive Engineer in charge of construction and maintenance division should not exceed beyond Rs.5,000 lakh per annum.

4.3 The Commission observe that the CO in his defence has stated that permission was asked from Superintending Engineer (C) through a letter. Therefore it is not his fault to exceed the limit. Moreover, the SE(C) should have exercised the total value of works issued under work orders for that particular year of all the divisions under his circles, which is also mentioned under same Manual, Vol.II.

4.4 The Commission observe that asking for the permission cannot be taken as a proof for grant of permission. The CO has not produced anything to prove that the SE(C) has accepted his proposal; simply writing to the SE would not empower him to transcend his financial limit having mandatory manual provisions. Hence, he has not completed the required procedure and as per records the charge is partly proved. If there was some urgency and time bound ness of the project existed, the CO should have brought it to the notice of his SE in writing regarding that urgency, volume of pending works and the unspent budget grants before the end of the Financial Year without directly exceeding the budget grant in his own capacity and thus exceeding the delegated power.

4.5 The Commission further observe that it is clearly mentioned that if a work is to be given on work order without call of regular tender in excess of above limits, sanction of the SE should be obtained in individual case, and sanction does not mean merely asking to cross the delegated financial boundaries. Though, the CO has tried to regularise the lapses by requesting the SE to approve his proposal, the mandatory requirement of getting approval from SE has not been met with. Hence, the Commission hold article -III of the charge as proved to the extent held proved by the disciplinary authority.

5. In the light of their findings as discussed above and after taking into account all aspects relevant to the case, the Commission consider that the ends of justice

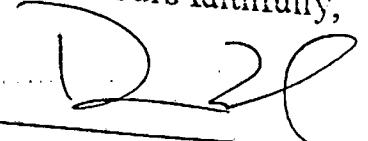
8-10-2002

would be met in this case, if the penalty of 'Censure' is imposed on Shri A.K. Mukhopadhyay, E.E. (C), CCW, AIR, Guwahati. They advise accordingly.

6. The case records are returned herewith. Their receipt may kindly be acknowledged.

7. A copy of the orders passed by the Ministry in this case may please be endorsed for Commission's perusal and records.

Yours faithfully,


 (RAJENDRA BISTI) ^{8/10/20}
 DEPUTY SECRETARY

Encl: Case records as per list attached.

Attn
 Jh
 Attn

48

Government of India
Office of the Executive Engineer (Civil)
Civil Construction Wing, All India Radio,
Silchar

ANNEXURE - E
60

No. EE/SLC/Mo/83/4796/

Date : 30-12-93

To
The Superintending Engineer (Civil),
Civil Construction Wing,
All India Radio,
Zoo-Narengi Tinali,
Guwahati - 21.

Subject :- Award of works through Work orders.

Sir,

With reference to above, it is for your kind information that, this Division is having so many minor works of emergent nature and it has a large stock in store having so many emergent type of works to be carried out. Moreover so many buildings are going to be taken over this year i.e. in the year of 1993-94. Therefore a possibility of having works through calling quotations/work orders being emergency in nature may be called for. It is apprehended that around 12.00 lakhs of works may come to be awarded during this financial year on such emergent works which are to be awarded through calling quotations and by issuing work orders.

On doing so, it is quite possible to exceed the power of financial limit deleted to Executive Engineer(C) as per CPWD manual Vol.II Section-16.

Considering the emergency and the requirement of works approval may kindly be communicated for awarding such works beyond the financial power deleted. However as per telephonic discussion the awards of works are being carried out awaiting necessary approval.

Yours faithfully

(A.K.Mukhupadhyaya)
Executive Engineer (Civil)
All India Radio, Silchar.

-000-

*A.K. Mukhupadhyaya
J. B. Datta*

General / Administrative Tribunal

28 OCT 2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A. NO. 105 of 2003

Shri A.K.Mukhopadhyay

- Applicant

- Versus -

Union of India & others.

- Respondents

WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENTS NO. 1,2,3,4,5 & 6 :-

I, K.Ponniah, Superintending Engineer(Civil), Prasar Bharati, Civil Construction Wing, All India Radio, Guwahati, do hereby solemnly affirm and say as follows :-

1. That I am the Superintending Engineer(Civil), Prasar Bharati, Civil Construction Wing, All India Radio, 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 have been authorized to file the written statements on behalf of all the Respondents.
2. That the respondents beg to state that the statements made in paragraph 1 of the application are matters of record.
3. That the respondents have no comments to the statements made in paragraph 2,3 & 4.1 of the application.
4. That the respondents beg to state that the statements made in para 4.2 of the application have no bearing on the Memorandum dtd.7-8-2000 issued to the applicant initiating the disciplinary proceedings as well as Order dtd.14-11-2000 imposing a penalty of 'Censure' on the applicant. The disciplinary proceedings were initiated after prima facie case of irregularities was established against the applicant and the penalty order dtd.14-11-2002 was issued after due process of disciplinary proceedings, as per rules.



Union of India & others
- Respondents
through:-
Shri K. Ponniah
Guwahati
27/10/03
Mr. Central Civil
Engineering Committee

5. That the respondents beg to state that the statements made in paragraph 4.3 of the application are being matter of record, the respondents have no comment.

6. That with regard to Para 4.4 of the application, the respondents beg to state that three complaints were received against the applicant in 1994. In the preliminary enquiry, the allegations of irregularities were prima-facie established against the applicant. The findings of the preliminary enquiry were again examined by CCW, DG:AIr, Ministry of I&B and finally the Central Vigilance Commission. Since the charges were serious in nature, it was decided to initiate disciplinary proceedings for major penalty against the applicant. As the disciplinary proceedings are quasi-judicial in nature, therefore, it was initiated against the applicant after due scrutiny and there was no undue loss of time to initiate the departmental enquiry against the applicant.

7. That the respondents beg to state that the statements made in paragraphs 4.5 to 4.6 of the application are being matter of record, the respondents have no comment.

8. That with regard to the statements made in paragraph 4.7 of the application, the respondents beg to state that Hon'ble Tribunal, vide its Order dtd.21.8.2001 in the O.A. No.283/2000, filed by the Applicant, directed to conclude the disciplinary proceedings initiated against the Applicant, vide this Ministry's O.M. No.C-13011/31/96-Vig. dtd.07.08.2000, within three months from the date of receipt of the written statement of the applicant by providing him a reasonable opportunity to defend the matter. Subsequently, the Hon'ble Tribunal, vide its Order dated 14.2.2002, had granted time upto 30.4.2002 to complete the proceedings. It is admitted that the disciplinary proceedings could not be concluded within the stipulated time period fixed by Hon'ble Tribunal. Since several statutory steps were required to be completed before concluding disciplinary proceedings. In the matter, the Inquiring Authority was requested to take necessary steps to complete the inquiry well within the time of three months granted by the Hon'ble Tribunal. The Inquiring Authority submitted his report on



24.1.2002. The matter was examined in the Ministry and the advice of Central Vigilance Commission was sought. In view of the facts and circumstances of the case, CVC, vide their U.O. dtd. 08.04.2002, concurred with the proposal of the disciplinary authority for acceptance of the findings of the Inquiring Authority and advised for imposition of one of the minor penalty on the Applicant.

9. That the respondents beg to state that the statements made in paragraphs 4.8 of the application are being matter of record, the respondents have no comment.

10. That with regard to the statements made in paragraphs 4.9 and 4.10 of the application, the respondents beg to state that the contention of the applicant that the penalty of 'Censure' imposed on him by the Disciplinary Authority (the Respondents) is unfair and illegal is denied. The applicant was charge-sheeted for major penalty proceedings under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965, with four Articles of Charges. During the departmental enquiry, the applicant was given all opportunities, as stipulated under the above Rules. After the departmental enquiry, the Inquiring Authority observed that two Articles of Charges were not proved and one charge was not conclusively proved and another charge was partly proved. After due consideration, the disciplinary authority accepted the findings of the Inquiring Authority. As the Applicant is a Group 'A' Officer and consultations with CVC and UPSC are must before concluding the enquiry. Accordingly, the advice of UPSC was sought in the matter on the basis of the facts and circumstances of the case as well as on the basis of the findings of the Inquiring Authority. UPSC, after a thorough judicious and independent consideration of all the relevant facts and circumstances of the case, representation of the charged officer etc., tendered its advice, vide their letter dtd. 9.10.2002, for imposition of a penalty of 'Censure' on the applicant, in accordance with the requirement of consultation with them as laid down in Article 20(3)(c) of the UPSC (Exemption from Consultation) Regulations, 1958. Regarding the charge

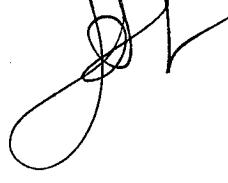


framed in Article III of the charge-sheet issued to the applicant, which was found 'partly proved' during the departmental enquiry, it is stated that the contention of the applicant raised on the matter in this O.A. (in para 4.10) is not based on manual provision and are incorrect. As per CPWD Manual Vol.II Ii 1990 (Khanna's Compilation) para 5, Section 16 - "if a work is to be given on a work order without call of regular tender in excess of (above) limits, sanction of the Superintending Engineer should be obtained in individual cases". As per this para, the annual limit fixed for award of work by work orders are :-

Maintenance Division - Rs.5.0 lacs
Construction Division - Rs.3.0 lacs

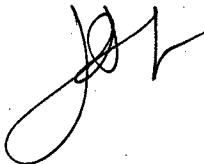
However, during the enquiry, it was revealed that the applicant exceeded the limit of 5 lacs and awarded work order amounting to Rs.11.78 lacs, in anticipation of the regularization of the excess expenditure over the permissible limit by the Superintending Engineer. The mandatory prior approval of Superintending Engineer was not taken by the applicant, prior to the excess expenditure. As it was the technical mistake of violation of the mandatory guidelines of CPWD Manual and did not appear to be done out of any conspiracy or malafide, it was considered by the disciplinary authority that it was not a fit case of imposition of a major penalty and a minor penalty was imposed on the applicant, vide this Ministry's Order dtd.14.11.2002.

11. That the respondents deny the statement made in para 4.11 of the application. The final order imposing the penalty of Censure was passed by the Respondent, after a thorough judicious and independent consideration of all the relevant facts and circumstances of the case, representation of the charged officer etc. and after following all the statutory norms for disciplinary proceedings under CCS (CC&A) Rules, 1965. Every opportunity was given to the applicant to defend himself.



12. That with regard to the statements made in paragraphs 4.12 to 4.14 of the application, the respondents beg to state that there was no undue loss of time to conclude the departmental enquiry against the applicant. The Hon'ble Tribunal directed, vide its order dtd.21.8.2001 passed in O.A.No.283/2000, to conclude the enquiry within three months after receiving the statement of defence of the applicant. The Inquiry Officer in the matter submitted his report on 24.1.2002. After considering the case in the Ministry, the advice of CVC was sought. CVC tendered their advice on 8.4.2002. Thereafter, the applicant was asked to furnish his submission on the findings of the IO's report as well as on the decision of the disciplinary authority regarding acceptance of the IO's report, vide this Ministry's O.M. dtd.23.4.2002. The applicant furnished his submission on 20.5.2002. Thereafter, the case was again examined in the Ministry and the disciplinary authority tentatively decided to impose one of the minor penalties, as provided in Rule 11 of CCS (CC&A) Rules, 1965, on the applicant and the matter was referred to UPSC for advice, vide this Ministry's letter dtd.17.7.2002. Since the applicant is a Group 'A' Officer, consultation with UPSC is mandatory. The UPSC, vide their letter dtd.9.10.2002, tendered their advice on the above. Thereafter, the matter was re-examined by the disciplinary authority and the penalty of 'Censure' was imposed on the applicant, vide this Ministry's Order dtd.14.11.2002. From the above, it may be observed that the time taken for completion of the disciplinary proceedings has been to meet the statutory/ mandatory steps as per CCS (CC&A) Rules and due to the involvement of a number of independent agency such as CVC and UPSC and there has been no delay on the part of the disciplinary authority. The applicant has been given all opportunity to defend himself as per Rules and there is no violation of principle of natural justice and any violation of fundamental rights of the applicant, as claimed by the applicant in these paras.

13. That with regard to the statement made in para 4.15 of the application, the respondents beg to state that the filing of the present O.A. by the applicant is a blatant misuse of legal proceedings and wastage of



valuable time of Hon'ble Tribunal. He has every right to file a petition before the President for review/revision of the order of penalty imposed on him, as envisaged in Rule 29 of CCS (CC&A) Rules, 1965. However, the applicant did not avail the said remedial measure.

14. That with regard to the statements made in paragraphs 5 of the application, the respondents beg to state that the applicant was provided every opportunity to defend himself during the regular hearing of the enquiry initiated against him and also after conclusion of the enquiry before imposition of penalty on him. The final order, imposing a penalty of Censure, was passed by the Respondents, after a thorough judicious and independent consideration of all the relevant facts and circumstances of the case, representation of the charged officer etc. The filing of the present O.A. by the applicant is a blatant misuse of legal proceedings and wastage of valuable time of Hon'ble Tribunal. He has every right to file a petition before the President for review/revision of the order of penalty imposed on him, as envisaged in Rule 29 of CCS (CC&A) Rules, 1965. However, the applicant did not avail the said remedial measure and filed this O.A., which is liable to be dismissed by the Tribunal, being premature.

15. That the respondents deny the statement made in paragraph 6 of the application. The applicant is trying to mislead the Hon'ble Tribunal by stating that, there is no other alternative and efficacious invoking the jurisdiction of the Hon'ble Tribunal. As stated hereinabove, the applicant has not availed of the facility of review/revision of the order of penalty imposed on him, as per Rule 29 of CCS(CC&A) Rules, 1965.

16. That the respondents have no comment to the statements made in paragraph 7 of the application.

17. That with regard to the statement made in paragraph 8 of the application, the respondents beg to state that in view of the facts and circumstances of the case, as stated hereinabove, the O.A. filed by the applicant is premature and derived of any merit and may be dismissed.



55-
6X
7

18. That with regard to the statement made in paragraph 9 of the application, the respondents beg to state that in view of the facts and circumstances of the case, as stated hereinabove, the O.A. filed by the applicant may be dismissed as premature.

VERIFICATION

I, K. Ponniah, Superintending Engineer (Civil), Prasar Bharati, Civil Construction Wing, All India Radio, Guwahati, being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 2 + 3 of the application are true to my knowledge and belief, those made in paragraphs 4 - 17 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

AND I sign this verification on this the 17th day of Oct, 2003.

DEPONENT.

That with regard to the



Superintending Engineer (c)
C.C.W. All India Radio,
Guwahati