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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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2
SECTION OFFICER (Judl.)

(SEE RULE -4)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 27 /2003

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant (s) Asil Km. Srixia Sarkar

-Vs-

Respondent (s) MoI & ONS.

Advocate for the Applicant (s) Mr B.P. Kataki &

Mr N. Barah.

Advocate for the Respondent(s) Adv. Csec A.K. Chandram

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time Petition is filed / not filed C.P. for Rs. 50/- deposited Adv IPO/BG No <u>20F 057265</u> Date <u>132 E 457266</u> <u>4/12/02.</u>	17.2.03	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Member (A). Heard Mr. B.P. Kataki learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks. Also, issue notice to show cause as to why further proceedings initiated dated ^{vide memo} 23.3.2001, 5.11.2001, 5.12.2001, 10.12.2001 and 28.12.2001 shall not be stayed. Returnable by four weeks. In the meantime, further proceedings pursuant to
Slips Callers : <u>N. Barah</u> <u>14/2/03</u> One Copy Served. Notice Received & sent to D/o for writing the Notice Order No 1 to 4 by Regd. Ad. <u>20/12</u> DINo. <u>3064310</u> <u>11/24/2003</u>		

Contd/-

Contd/-

17.2.2003

(2) the aforementioned notices shall remain suspended, till the returnable date.

List the matter on 17.3.2003 for admission and further orders.

S. Basu

Member

Vice-Chairman

mb

17.3.2003

Heard Mr. N. Borah, learned counsel for the applicant and also Mr. A.K. Choudhury, learned counsel for the respondents.

The application is admitted. Call for the records. The respondents may file written statement if any within four weeks from today.

List on 21.4.2003 for orders. In the meantime, interim order dated 17.2.2003 shall continue.

No. WLS has been filed

Vice-Chairman

mb

21/4/2003 Court did not sit today. The case is adjourned to 24.4.2003.

Mo

24.4.2003

No written statement has been filed.

23.5.2003

No written statement so far filed by the respondents. Further four weeks time is allowed to the respondents to file written statement on the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents. List on 26.5.2003 for orders.

Vice-Chairman

mb

(8)

O.A. 27/2003

26.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra, Member (A).

No written statement so far filed by the respondents. Further four weeks time is allowed to the respondents to file written statement, if any. List on 24.6.2003 for written statement.

No written statement
has been filed.

23.6.03

Member

Vice-Chairman

24.6.2003 Mr. A.K. Choudhury, learned Addl. C.G.S.C. appearing on behalf of the respondents prays for time for filing written statement. Prayer is allowed. Put up again on 25.7.2003 for orders.

Vice-Chairman

mb

25.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Member (A).

No written statement so far filed by the respondents though number of time was granted. Further four weeks time is allowed to the respondents to file written statement as a last chance.

Put up again on 25.8.2003 for orders.

Member

Vice-Chairman

mb

(u)

O.A. 27/2003

25.8.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahaladan
Administrative Member.

Statement

No written so far filed by
the respondents though time granted.

Post the case for hearing on
30.9.2003. In the meantime, the respo-
ndents may file written statement, if
any.

K.V. Prahaladan
Member

Vice-Chairman

mb

20.10.2003

No written statement is forth-
coming though time granted. Mr.A.K.
Chaudhuri, learned Addl.C.G.S.C. again
prayed for time to file written state-
ment.

Considering the facts and also
our order dated 25.8.2003, the respon-
dents are allowed further three weeks
time to file written statement on pay-
ment of cost of Rs.200/- No further time
shall thereafter be allowed to the res-
pondents for the same.

List the case on 12.11.2003 for
further order.

Vice-Chairman

bb

330
12.11.03 No Bench today.
Adjudged to 19.11.03.

330
19

19.11.2003 present : The Hon'ble Smt. Lakshmi
Swaminathan, Vice-Chairman
The Hon'ble Shri S.K.Naik
Administrative Member.

None for the applicant.
Mr.A.K.Chaudhuri, learned Addl.C.G.
S.C. for the respondents.

Reply has not been filed yet. List
the case on 12.1.2004 for order as we
note that the applicant has not appeared
even today. In ~~the~~ circumstances, last oppor-
tunity is granted to the respondents to
file reply with copy to the opposite side
within three weeks from today subject to
payment of cost as already ordered by
order dated 20.10.2003. Two weeks ~~time~~
thereafter is granted to the applicant
to file rejoinder.

List on 12.1.2004.

Member
Member

VS
Vice-Chairman

bb

2.4.04

12.1.04 There is no D/B.
Add on 27.2.04.

5.4.04

W/S Submitted
by the Respondent
Nos. 1, 2, 3, 4 & 5.

Ranji

28.5.04

Rejoinder Submitted
by the applicant.

Ranji

mb

5.4.2004 Written statement has been filed
by the respondents. Heard Mr. N. Borah,
learned counsel for the applicant and
also Mr. A.K. Chaudhury, learned Addl.
C.G.S.C. for the respondents.

Mr. Borah, learned counsel for
the applicant stated that the respond-
ents ^{has} conducted an inquiry and the
applicant was exonerated from the all
charges.

List again on 8.4.2004 for furth-
er orders.

D.S. Naik
Member (A)

22.7.2004 present: The Hon'ble Shri K.V.Sachidanand, Member (J).

The Hon'ble Shri K.V.Prahladan Member (A).

When the matter came up for hearing, there was representation on behalf of Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. that due to his personal difficulties he could not come today and prayed for adjournment. Let it be done. Post the matter before the next Division Bench for hearing.

(The case is ready)

For hearing

Notified by
N. S. S. P. M.

K. V. Prahladan
Member (A)

Member (J)

bb

23.8.2004 present: The Hon'ble Shri D.C.Verma, Vice-Chairman (J).

The Hon'ble Shri K.V.Prahladan, Member (A).

Mr.B.P.Kakati, learned counsel for the applicant and also Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents were present.

During the course of argument, learned counsel for the applicant submitted that- on the basis of first Charge Sheet dated 26.12.2000 (Annexure-C) departmental enquiry was made and the applicant has been exonerated. The first Charge Sheet was in respect of recommendation made by a Committee including the applicant of 221 persons. The submission of the learned counsel for the applicant is that the subsequent five Charge Sheets are in respect of different persons but all of them are from 221 persons, who were recommended for temporary status by the Committee and for which the applicant has already been exonerated.

The learned Addl.C.G.S.C. for the respondents, on enquiry whether the names of other recommended persons, for which the other five Charge Sheets have been issued, are included in the first Charge Sheet dated 26.12.2000, has sought one day's time-

X

Contd.

23.8.2004 to confirm the same from the department.

As prayed, one day's time is granted. List the matter on 25.8.2004 for hearing.

K. P. Balachandran
Member (A)

J
Vice-Chairman

bb

25.8.2004 Present: Hon'ble Shri D.C. Verma,
Vice-Chairman

Hon'ble Shri K.V. Prahladan,
Administrative Member.

Mr. M. Khatoniar, learned counsel for the applicant and Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. have been heard at length. As per order passed separately the O.A. has been decided.

K. P. Balachandran
Member

J
Vice-Chairman

nkm

Recd by Mr. K. P. Balachandran

6/8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXX No. 111 27 of 2003

DATE OF DECISION 25.8.2004

Shri Ajit Kumar SarkarAPPLICANT(S).

Mr B.P. Kataki, Mr M. Khatoniar and
Mr N. BoraADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

Union of India and othersRESPONDENT(S)

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

THE HON'BLE MR. D.C. VERMA, 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 Member Vice-Chairman



10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.27 of 2003

Date of decision: This the 25th day of August 2004

The Hon'ble Shri D.C. Verma, Vice-Chairman

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

Shri Ajit Kumar Sarkar
S/o Late Rajkrishna Sarkar,
Sub-Divisional Officer, Telegraph,
Dhekiajuli, Sonitpur,
Assam.

.....Applicant

By Advocates Mr B.P. Kataki,
Mr M. Khatoniar and Mr N. Bora.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Communication,
Department of Telecommunication,
New Delhi.

2. The Chairman-cum-Managing Director,
B.S.N.L., Statement House,
Barabhanba Road, New Delhi.

3. The Chief General Manager,
B.S.N.L., Assam Telecom Circle,
Ulubari, Guwahati.

4. The Gelecom District Engineer,
Tezpur, P.O.- Tezpur,
Sonitpur, Assam.

5. The Inquiry Officer, D.I.O.,
Office of the Chief General Manager, Telecom,
Assam Circule,
Guwahati.

.....Respondents

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

.....

O R D E R (ORAL)

D.C. VERMA, VICE-CHAIRMAN

By this O.A. the applicant has prayed for the following reliefs:

"8.1 That, the disciplinary proceedings initiated by issuing memorandum No.Vig./Assam/Disc-VIII/2000-01/6, dated 26-12-2000 (vide ANNEXURE-C); No.Vig./Assam/Disc-IX/00-01/3, dated 23-03-2001 (vide ANNEXURE-E); No.Vig./Assam/43(C)/6, dated 05-11-2001 (vide ANNEXURE-F); No.Vig./Assam/Disc-XV/11,

(Signature)

dated 05-12-2001 (vide ANNEXURE-G); No.Vig./Assam/Disc-XII/6, dated 10-12-2001 (vide ANNEXURE-H) and No.Vig./Assam/Disc-XIV/5, dated 28-12-2001 (vide ANNEXURE-I) be declared illegal and bad in law and the same be set aside and quashed.

8.2 That, the respondent authority be directed not to harass the applicant by initiating him to participate in all the 6(six) Departmental proceedings initiated on the same allegations.

8.3 That, the respondent authority be directed to proceed with only one disciplinary proceeding and declare the other 5(five) disciplinary proceedings as illegal.

8.4 That, the Hon'ble Tribunal may be pleased to grant any other relief or relieves as itdeem fit and proper."

Consequential relief has also been claimed.

2. When the O.A. was filed, the Tribunal passed an interim order on 17.2.2003 by which proceedings on the Charge Memorandum dated 23.3.2001, 5.11.2001, 5.12.2001, 10.12.2001 and 28.12.2001 were stayed. Thus the first Charge Memorandum issued on 26.12.2000 was to proceed. The rest remained stayed. During the pendency of this O.A. the enquiry in the Charge Memorandum dated 26.12.2000 has been completed and as appears from the documents filed with rejoinder the Inquiry Officer exonerated the applicant. Consequently, the Disciplinary Authority has passed order dated 20/24.11.2003 by observing as below:

"Taking into account the findings of the Inquiring Authority, records of the case and on an objective assessment of the facts and circumstances of the case in its entirety, I, P.K. Chanda, Member (Services), Telecom Commission, hereby order to 'exonerate' Shri A.K. Sarkar, SDOT of the charges levelled against him, vide aforesaid Memorandum."

3. The submission of Mr M. Khatoniar, learned counsel for the applicant is that the first Charge Memorandum was issued to the applicant with the imputation that the applicant while working as SDE, Tezpur failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of his position inasmuch as he as a


member.....

member of the selection committee for regularization of eligible casual labourers as temporary status Mazdoors under TDE, Tezpur during 1996, in collusion with other members of the selection committee without verifying the genuineness of recommendation of different JTOs/SDEs and certificates were issued by JTOs/Lineman etc, recommended with malafide intention names of 221 Nos of casual labourers, consequent upon which posts of 221 casual labourers were regularised, although none of them were eligible for such regularisation and thereby the applicant put the department to huge financial loss. With these allegations the applicant has been served with Charge Memorandum for contravention of Rule 3(1)(i)(ii) and (iii) of the CCS(Conduct)Rules, 1964.

4. Subsequent to the issued of aforesaid Charge Memorandum the applicant was served with five other Charge Memorandums as below:

- i) Memorandum dated 23.3.2001 in respect of same 221 persons
- ii) Memorandum dated 5.11.2001 in respect of 7 Nos. casual labourers of Tezpur
- iii) Memorandum dated 5.12.2001 in respect of 15 Nos. casual labourers of Tezpur
- iv) Memorandum dated 10.12.2001 in respect of 22 Nos. casual labourers of Dhemaji Sub-Division
- v) Memorandum dated 28.12.2001 in respect of 21 Nos. casual labourers of Udaguri Sub-Division.

5. The learned counsel for the applicant has taken us through the statement of imputation of misconduct in respect of these Charge Memorandums and also the documents by which the article of charges are to be proved by the respondents.. He has pointed out that the names of these

 persons.....

persons given in the five Charge Memorandums is amongst the 221 for which the enquiry has already been completed and the applicant has been exonerated. The learned counsel submitted that these Charge Memorandums cannot stand and have to be quashed.

6. When the case was taken up for hearing on the previous date we granted time to the learned counsel for the respondents to enquire whether the names of the other recommended persons for which the five Charge Memorandums have been issued are included in the first Charge Memorandum dated 26.12.2000. Learned counsel for the respondents, Mr A.K. Chaudhuri, however submitted that though he tried to confirm the same but the same has not been confirmed because the concerned file has been sent to CVC, Delhi and the local office could not verify the same.

7. In view of the above we have ourselves gone through the list of documents and the names of persons given in the various Charge Memorandums and have tallied the same with the list of 221 casual labourers who were granted Temporary Status on 27 May 1996 and in respect of whom Charge Memorandum dated 26.12.2000 was issued.

8. In the light of the above we would discuss the details of the subsequent Charge Memorandums separately as below:

Charge Memorandum dated 23.3.2001

This Charge Memorandum which was issued in respect of 221 persons is exactly the same which was issued vide the Charge Memorandum dated 26.12.2000. Annexure-I attached with the Charge Memorandum dated 23.3.2001 and the Annexure-I attached with the Charge Memorandum dated 26.12.2000 appears to be photocopies of the same so far the contents therein are concerned. The list of 221 persons annexed with Charge Memorandum dated 26.12.2000 includes

W

all the names of casual labourers which are contained in Annexure-III, i.e. list of documents furnished with the Charge Memorandum dated 23.3.2001. Thus the enquiry which is proposed to be undertaken in pursuance to Charge Memorandum dated 23.3.2001 is in all respect in the matter which has been already concluded while making enquiry on the Charge Memorandum dated 26.12.2000. Consequently, no enquiry can be allowed to proceed on the basis of Charge Memorandum dated 23.3.2001.

Charge Memorandum dated 5.11.2001

This Charge Memorandum has been served with regard to 7 Nos. of Mazdoors of Tezpur for appointment as temporary status Mazdoors. The list of 7 Nos. is contained in Annexure-III to this Charge Memorandum. They are:

1. Certificate issued in favour of Sri Dandadhar Das, S/o Lt. Mahendra Nath Haloi, the then Cable Splicer, O/o the SDEO, Tezpur
2. Certificate issued in favour of Sri Nagen Saikia, S/o Sri Chandra Kt. Saikia by Sri Sarat Nath, thethen Line Inspector O/O the SDEO, Tezpur
3. Certificate issued in favour of Sri Mridul Kr. Das, S/o Manik Das by Sri Sarat Nath, L.l of the O/o the SDEO, Tezpur
4. Certificate issued in favour of Sri Naba Kr. Sarmah, S/o Lt Dharani Sarmah by Sri Sukan Roy, S.I. O/o SDEO, Tezpur
5. Certificate issued in favour of Sri Dharani Swargiary by Sri Sukan Roy, S.I O/o the SDEO, Tezpur



6. Certificate issued in favour of Sri Rajib Gogoi, S/o Sri Nilakanta Gogoi by Sri Sukan Roy, S.I. O/o the SDEO, Tezpur
7. Certificate issued in favour of Sri Avani Cha. Talukdar, S/o Sri Upen Ch. Talukdar by Sri Mohan Prasad Roy, S.I. O/O the SDEO, Tezpur.

All these 7 names appear in the list of 22lunder heading SDE(Computer),Tezpur which were recommended by the applicant and for which the enquiry has already been completed in pursuance to the Charge Memorandum dated 26.12.2000. For the reasons mentioned above this Charge Memorandum too cannot proceed once, on same allegation the applicant has already been exonerated earlier.

Charge Memorandum dated 5.12.2001

This Charge Memorandum is in respect of 15 Nos. casual labourers of Tezpur. All these 15 names are given in Annexure-III to the Cahrge Memorandum. They are:

1. Experience Certificate of Smt Paramita Dey. D/O Late Narayan Chandra Dey issued by Shri A.C. Dutta (LI)
2. Experience Certificate of Shri Atul Chandra Deka S/o Late Madan Deka issued by Shri N.C. Boro
3. Experience Certificate of Shri Biswajit Malakar S/o Sachin Malakar issued by Shri A.C. Dutta, LI
4. Experience Certificate of Shri Dina Kanta Ghatowal S/o Phagum Ghatowal issued by Shri A.C. Dutta Li
5. Experience Certificate of Shri Anup Dutta S/o Amal Chandra Dutta issued by Shri A.C. Dutta LI
6. Experience Certificate of Shri Dukhan Roy S/o Shankar Roy issued by Shri A.C. Dutta LI
7. Experience Certificate of Smt Mina Das D/o Jamini Das issued by Shri A.C. Dutta LI



8. Experience Certificate of Shri Parimal Sarkar
S/o Ranjan Sarkar issued by Shri A.C. Dutta LI

9. Experience Certificate of Shri Phulena Basphar
S/o S. Basphor by Shri A.C. Dutta LI

10. Experience Certificate of Shri Rupen Das, S/o
Sarat Das issued by Shri N.C. Paul SI

11. Experience Certificate of Shri Sanjay Kumar
Deb S/o Nani Gopal Deb issued by N C Paul, SI

12. Experience Certificate of Shri Karuna Lahkar
S/o Dasrath Lahkar issued by Shri N.C. Paul, SI

13. Experience Certificate of Shri Sakiram Majhi,
S/o Durga Majhi issued by Shri A.C. Dutta LI

14. Experience Certificate of Shri Duijan Baishya
S/o H.N. Baishya issued by Shri N.C. Paul

15. Experience Certificate of Smt Dipali Hazarika
issued by Shri Ramesh Ch. Haloi.

All these 15 names are in the list of 221 under heading SDO(T), Tezpur. From this list one name Mazibur Rahman whose name is at serial 4 is not in Annexure-III. Thus for all the 15 persons in respect of whom this charge Memorandum has been issued has already been enquired into under the Charge Memorandum dated 26.12.2000 for which the applicant has been exonerated. The applicant, therefore, cannot be enquired second time for the same misconduct.

Charge Memorandum dated 10.12.2001

This Charge Memorandum has been issued to the applicant as he allegedly recommended names of 22 Nos. of casual Mazdoors of Dhemaji Sub-Division. The names of these 22 Nos. are in Annexure-III to the Charge Memorandum. Their names are in the list of 221 candidates contained under head SDE (Phones), Dhemaji. Thus in respect of all these persons also enquiry has been already completed under the Charge Memorandum dated 26.12.2000.

[Signature]

Charge Memorandum dated 28.12.2001

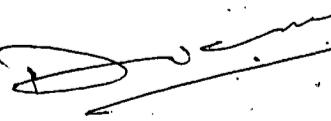
This Charge Memorandum is for recommending 21 Nos. casual labourers for appointment as temporary status Mazdoors in Udaguri Sub-Division. Their names are mentioned in Annexure-III of this Charge Memorandum and their names are contained under head SDE (Phones), Udaguri in the list of 221 persons for which enquiry has been already completed in pursuance to Charge Memorandum dated 26.12.2000.

9. From all the materials which have been found on record it is noticed that the first Memorandum dated 26.12.2000 was issued for the recommendations made in respect of 221 Mazdoors and after due enquiry the applicant has been exonerated. In the same matter the second Charge Memorandum also issued in respect of same 221 persons, by Charge Memorandum dated 23.3.2001 cannot be allowed to proceed second time. By Other Charge Memorandum dated 5.11.2001, 5.12.2001, 10.12.2001 and 28.12.2001 are also found in respect of persons whose names are already included in the list of 221 persons. Thus though a joint enquiry was conducted earlier, separate Charge Memorandums have been filed for different groups of persons on the same allegations. Once the applicant has been exonerated he cannot be tried the second time. Consequently, none of the five Charge Memorandums can stand and they are to be quashed.

10. In view of the discussions made above, the Charge Memorandums dated 23.3.2001, 5.11.2001, 5.12.2001, 10.12.2001 and 28.12.2001 are quashed.

The O.A. is allowed to that extent. No costs.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(D. C. VERMA)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH : GUWAHATI.

IN THE MATTER OF :

O.A.NO. 27 of 2003.

Sri Ajit Kumar Sarkar

... Applicant

- Versus -

Union of India & Ors.

... Respondents.

LIST OF DATES & SYNOPSIS

The petitioner above named respectfully submits that this Original Application seeking a direction upon the respondents for converting/treating 6 (six) numbers of charge sheets into a single charge sheet under Rule 14 of CCS (CCA) Rules 1968.

That some of the relevant dates with brief facts leading to filing of the present application are as under :

25-3-96 : That while the applicant was holding the post of Sub-Divisional Engineer (HRD) at Tezpur, he with three other officials of the Division were appointed as Member of a Committee to recommend for confirming eligible to casual Mazdoor to Temporary Status Mazdoor on 25.3.96 issued by Divisional Engineer, Tezpur
(Annexure-A Page 20).

Under the Telecom District Engineer, Tezpur, there were 12 units. The Telecom District Engineer, Tezpur was the controlling office of all the units. That the Committee examined all the documents of the casual workers under the 12 units and recommended a total number of 221 casual workers for conferring temporary status.

14-2-02

File No. 1
Nirman Banik
Advocate

27.5.96 : That an order was passed by Telecom District Engineer, Tezpur approved the recommendation made by the selection committee indicating inter alia the names, units and ~~xx~~ date of entry in the department of Casual Mazdoors.

(Annexure-B Page 21 to 27).

26.12.2000 : That all of a sudden applicant received a memorandum dated 26.12.00 together with article of charge framed against him and statement of imputation of misconduct in support of article of charge framed against him in connection with the recommendation made by the Selection Committee constituting of four members including the applicant, directing the applicant to submit within 10 days of the receipt of the memorandum a written statement of his defence.

(Annexures C, C1 and C2 Page 28 to 35)

22.1.2001 : Submitted by the applicant in the written statement in his defence on 22.1.2001 denying the allegations levelled against him.

(Annexure D, Page 36)

23.3.2001 : That the applicant received another memorandum issued by the respondent No.3 (Chief General Manager, Assam Telecom Circle, Guwahati) directing him to submit the written statement within 10 days from the date of receipt of the memorandum of his defence on the same allegations as incorporated in the Memorandum dated 26.12.2000(vide Annexure-C).

(Annexure E, E1 and E2 Page 37 to 45

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Immediately thereafter applicant submitted ~~in~~ his written statement of defence.

5.11.2001 : That respondent authority thereafter on 5.11.01 issued another memorandum to the applicant on the same allegations(vide Annexures C & E) and directed the applicant to submit written statement of his defence within 10 days.

(Annexure F, F1 & F2 Page 46 to 52).

Immediately thereafter applicant submitted ~~in~~ his written statement of his defence within the time stipulated.

5.12.2001 : Thereafter applicant received another memorandum dated 5.12.2001 on the same allegations as incorporated in the memorandum dated 26.12.01 (vide Annexure-C) Memorandum dated 23.3.2001 and 5.11.2001 (Vide Annexure E & F).

(Annexures G, G1 & G2 Page 53 to 59).

10.12.2001 : After five days of the receipt of memorandum dated 5.12.01 another memorandum dated 10.12.01 was issued to the applicant on the same allegations as incorporated in memorandum dated 26.12.00, 23.3.01, 5.11.01 and 5.12.01 (vide Annexures C, E, F & G).

(Annexures H, H1 & H2 Page 60 to 66).

Applicant again submitted written statement in his defence denying the allegations within the time stipulated.

28.12.2001 : The respondent No.3 (Chief General Manager, Assam Telecom Circle,Guwahati) again issued another memorandum dated 28.12.2001 on the same allegations and the same subject matter.

(Annexures I, I1 and I2 Page 67 to 73)

26xx2002

1.6.2002 : Applicant submitted a representation dated 1.6.2002 to the respondent No.3 through proper channel requesting him for converting/treating 6(six) numbers of charge sheets into a single charge sheet under Rule 14 of CCA(CCS) Rules 1965.

(Annexure J Page 74).

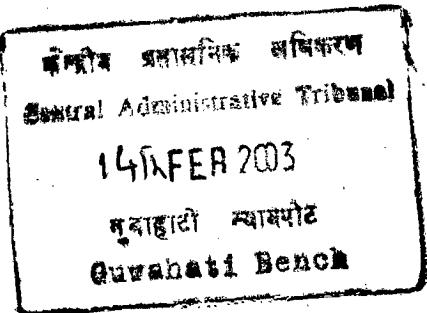
11.9.2002 : Applicant submitted further representation, requesting him for converting and treating 6(six) numbers of charge sheets into a single charge sheet.

(Annexure K & L Page 74 & 75)

07-01-2003 : That Enquiry Officer has issued a notice dated 7.1.2003 for regular hearing of the departmental enquiry in respect of ~~xxx~~ only the first charge sheet dated 26.12.2000(vide Annexure C) fixing 24.2.2003, 25.2.2003 and 26.2.2003 as the date of hearing.

(Annexures M & M1 Page 77 to 79)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH



O.A NO. 27/2003

BETWEEN
Sri Ajit Kr. Sarkar.

...Applicant.

... Versus -

The Union of India and others.

... Respondents.

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(NIRAN BORAH)

Signature of the Advocate.

For use in the Tribunals' Office.

Date of filling:

Registration No.:

Signature.

Contd..

DISTRICT: SONITPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI.

O.A. 27 1/2003

BETWEEN

Sri Ajit Kumar Sarkar.

S/O- late Rajkrishna Sarkar.

Sub-Divisional Officer, Telegraph,

Dhekiajuli, Sonitpur, Assam.

...Applicant.

-AND-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Department of Telecommunications, New Delhi-1.
2. The Chairman - Cum - Managing Director, B.S.N.L, Statement House, Barabhanba Road, New Delhi-1.
3. The Chief General Manager, B.S.N.L., Assam Telecom Circle, Ulubari, Guwahati-7.
4. The Telecom District Engineer, Tezpur, P.O.- Tezpur, Sonitpur, Assam, PIN- 784001.

Contd..

5. The Inquiry Officer, D.I.O.,
office of the Chief General
Manager Telecom, Assam Circle,
Guwahati.

... Respondents.

Ajil-Kumar Sankar

DETAILS OF APPLICATION:

1. Particulars of the order against which the application is made:-

This application is made against memorandum No.Vig./Assam/Disc-VIII/2000-01/6, dated 26-12-2000; No.Vig./Assam/Disc-IX/00-01/3, dated 23-03-2001; No.Vig./Assam/43(C)/6, dated 05-11-2001; No.Vig./Assam/Disc-XV/11, dated 05-12-2001; No.Vig./Assam/Disc-XII/6, dated 10-12-2001 and No.Vig./Assam/Disc-XIV/5, dated 28-12-2001 issued under the signature of the Chief General Manager Assam Telecom Circle, Guwahati-7 on the same allegations and the same subject matters directing the applicant to submit Written Statements individually and initiating 6(six) disciplinary proceedings against the applicant.

(ANNEXURES- C, E, F, G, H & I: Page -)

2. Jurisdiction:-

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

3. Limitation:-

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act, 1983.

4. FACTS OF THE CASE: -

4. A. That, the applicant is a citizen of India and a resident of Dhekiajuli in Sonitpur District. The applicant as such is entitled to all the rights and privileges guaranteed under the Constitution of India and the law framed thereunder.

4. B. That, the applicant initially was appointed as Jr. Telecom Officer and posted at Shillong in the month of December, 1974. The applicant was transferred to the Sub-Divisional Telecom Office, Tezpur in the year 1978. Thereafter, the applicant was promoted to the post of Sub-Divisional Engineer (HRD) and posted at the office of the Telecom Divisional Engineer, Tezpur in December, 1993.

4. C. That, the applicant respectfully states that while the applicant was holding the post of Sub-Divisional Engineer (HRD) at Tezpur, he with three other officials of the Division were appointed as member of a Committee to recommend for conferring eligible to Casual Mazdoor to Temporary status Mazdoor by the order No.X-1/C:P/95-96/ Confdi/1, dated 25-03-96

Ajeet Kumar Sankar

issued under the signature of Telecom Divisional Engineer, Tezpur.

A copy of the aforesaid order dated 25-03-96 is annexed hereto and marked as ANNEXURE - A.

4. D. That, the applicant respectfully states that under the Telecom District Manager, Tezpur there were 12 (Twelve) units which are as follows:-

1. SDE (Cable), Tezpur.
2. SDE (Computer), Tezpur.
3. SDE (Construction), Tezpur.
4. SDE (Phones), Chariali.
5. SDE (Phones), Dhemaji.
6. SDE (Phones), Tezpur.
7. SDE (Phones), Udalgori.
8. SDO (Phones), Tezpur.
9. SDO (T), Mangaldoi.
10. SDO (T), North Lakhimpur.
11. SDO (T), Tezpur.
12. TDE, Tezpur.

The Telecom District Manager, Tezpur was the controlling officer of all the units and all the service matters were looked after from the office of the Telecom District Engineer, Tezpur.

Afzil Kumar Sarkar

4. E. That, the applicant respectfully states that in terms of the order No.X-1/CMPT/95-96/Confdl/1, dated 25-03-96 the selection committee of the four members started their functions to recommend for conferring the eligible Casual Mazdoor to Temporary Status Mazdoor immediately after the constitution of the Selection Committee.

4. F. That, the applicant respectfully states that the Committee constituted by the order dated 25-03-96 (vide ANNEXURE - A) examine all the documents of the casual workers under the 12 (Twelve) units and recommended a total number of 221 (Two hundred twenty one) casual workers for conferring temporary status.

4. G. That, the applicant respectfully states that the Selection Committee constituted of four members namely Sri D. Payeng, SDOP(Tezpur); Sri P. Das, SDE(Phones), Tezpur; U. Swargiang, AO (Const.) O/O TDE, Tezpur and the applicant collectively recommended for temporary status in the aforesaid 221 (Two hundred twenty one) nos. of casual workers in the 12 (Twelve) units under the Telecom District Engineer, Tezpur. The applicant prays for the indulgence of the Hon'ble Tribunal to allow them to produce the papers of scrutiny of the casual workers for conferring the Temporary Status as and when required by this Hon'ble Tribunal.

Ajit Kumar Sankar

Ajit Kumar Sarkar

Ajit

4. H. That, the applicant respectfully states that the recommendation made by the Committee constituting of four members was sent to the Telecom District Engineer, Tezpur in compliance with the order dated 25-03-96 (vide ANNEXURE - A).

4. I. That, the applicant respectfully states that by the order No.X-1/Compt./96-97/Con-7, dated 27-05-1996, the Telecom District Engineer, Tezpur approved the recommendations made by the Selection Committee constituted vide order dated 25-03-96 (vide ANNEXURE - A) indicating interalia the names, units and date of entry in the Department of the Casual Mazdoor.

A copy of the aforesaid order dated 27-05-96 is annexed herewith and marked as ANNEXURE - B.

4. J. That, the applicant respectfully states that all of a sudden he received a memorandum vide Memo No.Vig/Assam/Disc-VII/2000-01-6, dated 26-12-2000 together with article of charges framed against him and statement of imputation of misconduct in support or article of charge framed against him in connection with the recommendation made by the Selection Committee constituting of four members including the applicant, directing the applicant to submit within 10 (ten) days of the receipt of the memorandum a Written Statement of his defense.

Copies of the aforesaid memorandum dated 26-12-2000 together with article of charges and statement of imputation of misconduct are annexed herewith and marked as ANNEXURE - C, C1 & C2 respectively.

4. K. That, the applicant respectfully states that in the right earnest he respondent to the memorandum dated 26-12-2000 and submitted his Written Statement in his defense on 22-01-2001 denying the allegations leveled against him.

A copy of the Written Statement dated 22-01-2001 is annexed herewith and marked as ANNEXURE - D.

4. L. That, the applicant respectfully states that he received another memorandum vide No.Vig/Assam/Disc-IX/00-01/3, dated 23-03-2001 issued under the signature of the Chief General Manager, Assam Telecom Circle, Guwahati directing him to submit within 10 days of the receipt of the Memorandum a Written Statement of his defense on the same allegation as incorporated in the memorandum dated 26-12-2000 (vide ANNEXURE - C).

Copies of the Memorandum dated 23-03-2001, Statement of Article of

charge and Statement of imputation of misconduct in support of article of charge are annexed herewith and marked as ANNEXURE - E, E1 & E2 respectively.

4. M. That, the applicant respectfully states that on receipt of the aforesaid Memorandum dated 23-03-2001 (vide ANNEXURE-E), the applicant submitted his Written Statement in his defense as directed denying the allegations leveled against him.

4. N. That, the applicant respectfully states that the respondent authority thereafter vide No.Vig/Assam/43(C)/6, dated 05-11-2001 issued another Memorandum to the applicant on the same allegations (vide ANNEXURE- C & E) and directed the applicant to submit Written Statement of his defense within 10 days from the date of receipt of the Memorandum.

Copies of the aforesaid Memorandum dated 05-11-2001, Statement of Articles of charges and statement of imputation of misconduct are annexed herewith and marked as ANNEXURE - F, F1 & F2 respectively.

4. O. That, the applicant respectfully states that on receipt of the aforesaid Memorandum dated 05-11-2001

(vide ANNEXURE-F) the applicant submitted the Written Statement in his defense denying the allegations leveled against him within the stipulated period.

4. P. That, the applicant respectfully states that thereafter ~~only after five days~~ he received another Memorandum vide No.Vig/Assam/Disc-XV/11, dated 05-12-2001 issued under the signature of the Chief General Manager, Assam Telecom Circle, Guwahati on the same allegations as incorporated in the Memorandum dated 26-12-01 (vide ANNEXURE-C), Memorandum dated 23-03-2001 (ANNEXURE-E), Memorandum dated 05-11-2001 (ANNEXURE-F), Memorandum dated 05-12-01 (ANNEXURE-G).

Copies of the aforesaid Memorandum dated 05-12-2001, Statement of Article of charge and Statement of imputation of misconduct are annexed herewith and marked as ANNEXURE - G, G1 & G2 respectively.

4. Q. That, the applicant respectfully states that only after 5 days of the Memorandum dated 05-12-2001 another Memorandum No.Vig/Assam/Disc-XV/11, dated 10-12-2001 under the signature of the Chief General Manager, Assam Telecom Circle, Guwahati was issued to the applicant on the same allegations as incorporated in the Memorandum dated 26-12-2000 (vide ANNEXURE-C), Memorandum dated 23-03-2001 (ANNEXURE-E), Memorandum

dated 05-11-2001 (ANNEXURE-F), Memorandum dated 05-12-01 (ANNEXURE-G) on the same subject matter directing the applicant to submit Written Statement of his defense within 10 days from the date of receipt of the Memorandum.

Copies of the aforesaid Memorandum dated 10-12-2001, Statement of Article of charge and Statement of imputation of misconduct are annexed herewith and marked as ANNEXURE - H, H1 & H2 respectively.

4. R. That, the applicant again submitted the Written Statement in his defense denying the allegations within the stipulated period.

4. S. That, the applicant respectfully states that much to his charges the Chief General Manager, Assam Telecom Circle, Guwahati again issued another Memorandum No.Vig/Assam/Disc-XIV/5, dated 28-12-2001 on the same allegations of subject matter to the applicant directing him to submit a Written Statement in his defense within 10 days from the date of receipt of the aforesaid Memorandum dated 28-12-01.

Copies of the aforesaid Memorandum dated 28-12-2001, Statement of Article of charge and Statement of

Kumar Sarker

Ajl

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imputation of misconduct are annexed herewith and marked as ANNEXURE - I, II & II respectively.

Ajit Kumar Sarkar

4. T. That, the applicant again submitted the Written Statement in his defense denying the allegations within the stipulated period.

4. U. That, the applicant respectfully states that though 6 (six) Memorandum (vide ANNEXURES- C, E, F, G, H & I) were issued to the applicant and though the applicant has submitted Written Statement against all the Memorandum the respondent authority has initiated Department inquiry only in respect of the Memorandum dated 26-12-2000 (vide ANNEXURE-C).

4. V. That, the applicant respectfully states that the respondent authority has violated all the principles of service jurisprudence by issuing memorandum one after another on the same allegations and on the same subject matter.

4. W. That, the applicant respectfully states that in view of the above the applicant submitted a representation dated 01-06-2002 to the Chief General Manager, Telecom, Assam Telecom Circle, Ulubari through proper channel requesting him for converting/treating 6 (Six) nos. of charge sheets into a single charge sheet under Rule 14 of the C.C.S(CCA) Rules 1965.

A copy of the aforesaid representation dated 01-06-2002 is annexed herewith and marked as ANNEXURE - J.

4. X. That, the applicant respectfully states that he submitted further representation dated 09-08-2002 and 11-09-2002 to the Chief General Manager, BSNL, Assam Telecom Circle, Guwahati through proper channel requesting converting/treating 6 nos. of charge sheet into a single charge sheet under Rule 14 of the C.C.S (CCA) Rules 1965 in as much as the respondent authority did not taken any action on his reputation dated 01-06-2002.

Copies of the aforesaid representations dated 09-08-2002 and 11-09-2002 is annexed herewith and marked as ANNEXURE - K & L respectively.

4. Y. That, the applicant respectfully states that despite his representation dated 01-06-2002 (ANNEXURE-J), representation dated 09-08-2002 (ANNEXURE-K) and the representation dated 11-09-2002 (ANNEXURE-L) the enquiry officer has issued a notice vide No. DE(D1)/Disc-5/AKS/ 2001-02, dated 07-01-2003 for regular hearing of the Department enquiry in respect of only the first charge sheet dated 26-12-2000 (vide

Afik Kumar Sar Kar

ANNEXURE-C) fixing 24-02-2003, 25-03-2003 and 26-02-2003 as the date of hearing.

A copy of the aforesaid Notice dated 07-01-03 is annexed herewith and marked as ANNEXURE - M.

4. Z. That, the applicant respectfully states that instead of converting/treating 6 nos. of charge sheets into a single charge sheet under Rule 14 of the C.C.S (CCA) Rules 1965 the Disciplinary authority started proceedings in respect of only the charge sheet issued under Memorandum dated 26-12-2000 (vide ANNEXURE-C). This has caused unnecessary harassment to the applicant. Moreover, it is a settled law of Service jurisprudence that multiplication or slipping up of charges on the facts of the same allegations is bad in law.

4. A-A. That, the applicant respectfully states that the allegations in all the aforesaid 6 (six) memorandum dated 26-12-2000, 23-03-2001, 05-11-2001, 05-12-01, 05-12-2001, 10-12-2001 (vide ANNEXURES- C, E, F, G, H & I) are the same in all respects, the respondent authority ought not have issued 6 (six) different charge sheets on different dates in the matter of recommendations made by the Selection Committee consisting of four members constituted vide office order dated 25-03-96 (vide ANNEXURE-A). Be it stated here that though the

Ajeet Kumar Sainkar

applicant was one of the four members of the Selection Committee, the other three members of the Selection Committee have not yet been issued any charge sheet. The action of the respondent authority is arbitrary, whimsical, capricious and illegal.

4. A-B. That, the applicant respectfully states that the Selection Committee recommended only 221 (Two hundred twenty one) Nos. of Casual Workers for conferring Temporary Status out of huge number of Casual Mazdoor and the recommendation was based on proper execution of the documents and records. The applicant is infact did his duty with utmost sincerity in order to find out the actual persons among the Casual Mazdoor with other members of the Selection Committee. The applicant has been made a victim of malafide of the Chief General Manager, Assam Telecom Circle, Guwahati.

5. GROUND FOR RELIEF:

5.1. For that, the action of the respondent authority in initiating 6(six) disciplinary proceedings against the applicant for the same allegations and the same subject matter are arbitrary, illegal and violative of the settled principles of service jurisprudence.

5.2. For that, the action of the respondent authority is violative of Article 14 and 21 of the Constitution of India.

5.3. For that, the initiation of proceedings against the applicant one after another without any just cause on the same allegations is nothing but a calculated design of the respondent authority to harass him and to deprive him of his legitimate service benefits and therefore, the multiplicity of disciplinary proceedings on the same allegations does not stand on scrutiny of law and is liable to set aside and quash.

5.4. For that, the disciplinary having initiated the disciplinary proceedings by issuing charge sheet dated 26-12-2000 relating to recommendation of 221 Nos. of Casual Mazdoors for regularisation cannot under the law initiates subsequent disciplinary proceedings by issuing charge sheets dated 23-03-2001, 05-11-2001, 05-12-2001, 10-12-2001 and 28-12-2001 (vide ANNEXURES- E, F, G, H & I) relating to the same allegations or part of the allegation contained in Memorandum dated 26-12-2000 as the same shall amount to double jeopardy and violative of the Fundamental Rights guaranteed to the applicant under Article 20 of the Constitution of India and as such the Memorandum/charge sheets dated 23-03-2001, 05-11-2001, 05-12-2001, 10-12-2001 and 28-12-2001 (vide ANNEXURES- E, F, G, H & I) are bad in law and liable to be set aside.

5.5. For that, under the Rule 14 of C.C.S(CCA) Rules 1965 multiplication of charges on the basis of the same allegations is bad in law.

5.6. For that, the respondent ought not to have initiated 6(six) different disciplinary proceedings at different times on the same allegations to harass the applicant.

5.7. For that, the respondent authority adopted a pick and choose method and though there were 4(four) members including the applicant in the Selection Committee constituted under office order dated 25-03-96 (vide ANNEXURE-A), the disciplinary proceeding has been drawn only against the applicant despite the fact that all the members of the Selection Committee were equally responsible for any omission and commission in the matter of recommendation of the Casual Mazdoor for Temporary Status.

5.8. For that, in any view of the matter the 6 (six) disciplinary proceedings initiated by issuing memorandum dated 26-12-2000; 23-03-2001; 05-11-2001; 05-12-2001; 10-12-2001 and 28-12-2001 (ANNEXURES - C, E, F, G, H & I respectively) are illegal, arbitrary and malafide and the same are liable to be set aside and quash in the interest of justice.

6. DETAILS OF REMEDIES EXHAUSTED:

There is no remedy under any Rule and this Hon'ble Tribunal is the only forum for redressal of the grievances of the applicant.

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

The applicant declares that he had not filed any other case in any Tribunal, Court or any other forum against the impugned order.

8. RELIEF SOUGHT FOR:

Under the above facts and circumstances of the case, the applicant prays for following reliefs :-

8.1. That, the disciplinary proceedings initiated by issuing memorandum No.Vig./Assam/Disc-VIII/2000-01/6, dated 26-12-2000 (vide ANNEXURE-C); No.Vig./Assam/Disc-IX/00-01/3, dated 23-03-2001 (vide ANNEXURE-E); No.Vig./Assam/43(C)/6, dated 05-11-2001 (vide ANNEXURE-F); No.Vig./Assam/Disc-XV/11, dated 05-12-2001 (vide ANNEXURE-G); No.Vig./Assam/Disc-XII/6, dated 10-12-2001 (vide ANNEXURE-H) and No.Vig./Assam/Disc-XIV/5, dated 28-12-2001 (vide ANNEXURE-I) be declared illegal and bad in law and the same be set aside and quashed.

8.2. That, the respondent authority be directed not to harass the applicant by initiating him to participate

in all the 6(six) Departmental proceedings initiated on the same allegations.

8.3. That, the respondent authority be directed to proceed with only one disciplinary proceeding and declare the other 5(five) disciplinary proceedings as illegal.

8.3. That, the Hon'ble Tribunal may be pleased to grant any other relief or relieves as it deem fit and proper.

9. INTERIM RELIEF PRAYED FOR:

In the interim pending this application the Hon'ble Tribunal may be pleased to stay the order No. DE(DI)/Disc-5/AKS/2001-2002 dated 07-01-2003 (vide ANNEXURE-M) issued under the signature of the inquiry officer and to stay the disciplinary proceedings initiated (vide memorandum dated 26-12-2000 (vide ANNEXURE-C); dated 23-03-2001 (vide ANNEXURE-E); dated 05-11-2001 (vide ANNEXURE-F); dated 05-12-2001 (vide ANNEXURE-G); dated 10-12-2001 (vide ANNEXURE-H) and dated 28-12-2001 (vide ANNEXURE-I).

10. This application has been filed through Advocate.

11. PARTICULARS OF POSTAL ORDER:

1. I.P.O. No.: - 20F057266
2. DATE : - 20F057265 32E786199 dated 4-12-02
3. PAYABLE AT: - GUWAHATI.

12. LIST OF ENCLOSURE:

As stated in the 'INDEX'.

VERIFICATION:

I, Sri Ajit Kumar Sarkar, aged about 53 years, Sub-Divisional Officer, Telegraph, Dhekiajuli, Sonitpur, Assam do hereby verify the contents of paragraphs 4(A, B, E, F, G, H, M, O, R) are true to my knowledge, and paragraphs 4(C, D, I, J, K, L, N) ^{P, Q, S} belief to be true on legal advice and that I have not suppressed any material facts.

And I set my hand on this verification today the
14 th February 2003, at Guwahati.

Ajit Kumar Sarkar

Signature of the applicant.

- 20 -

u2

X-1/CNST/T/2/95-96/Com1d1/1

Dated at Tezpur, the 25/
03/96.

In pursuance of CGMT, Assam Circle, Guwahati
R.G.C.M. minute forwarded under A/C(ST/2/Vol-VI/58 dtd. 22/8/95,
A selection committee with the following members has formed,

- 1) D.Payeng, SDOP(Tezpur)
- 2) R.Das, SOE(Phonon) Tezpur
- 3) A.Gorkar, SDG(IRD) O/o TDE/Tezpur
- 4) U.Singhary, AO(Cash) O/o T.D.E./Tezpur

to recommend for conferring eligible casual Mazdoor to Tongoray
status mazdoor. Committee to meet on 9/04/96 at 11-00 hrs. in
the chamber of the S.O.E(IRD) TZ.

O/C (M.K.Gogoi)
Telecom District Engineer,
Tezpur-784001.

Copy to -
24) All the members.

Telecom Dist. Engineer,
Tezpur-784001.

*PKS
Lukya
A.D.I. (PKS)
C/o Mr. C.M.T. Arora Chakraborty*

Certified to be True Copy

DK
Advocate.

Annexure - B

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DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TUE, TEZPUR
TEZPUR-784001.

No. X-1/CMPT/96-97/Con-Z

Dated at Tezpur the 27th May '96.

With reference to the CGMT, Assam Circle, Guwahati RJCM Minute & C.O. forwarded under GMST/2/Vol-VI/58 dtd. 29/8/95 the under-mentioned Casual Mazdoors/Part Time Casual Mazdoors are hereby conferred Temporary Status under the scheme "Casual Labours (Grant of Temporary Status & Regularisation) with immediate effect.

The term and conditions are as under:-

(i) Conferment of Temporary Status to the Casual Labours would not involve any change in their duties & responsibilities. The engagement will be on daily rate of pay on a need basis. They may be deployed anywhere within the recruitment unit/territorial circles on the basis of availability of work.

(ii) Such Casual Labourers who acquire Temporary Status will not, however, be brought on the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

(iii) Temporary Status would entitle the Casual Labourers to the following benefits:-

(a) Wages at daily rate with reference to the minimum of the scale of pay for a regular Gr. 'D' official including DA, HRA & CCA.

(b) Benefit in respect of increments in the pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days in a year.

(c) Leave entitlement will be on a pro-rata basis, one day for every 10 days off work. Casual leave or any other kind of leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of service for any reason or their quieting service.

(d) Counting of 50% of service rendered under Temporary Status for the purpose of retirement benefits after their regularisation.

(e) After rendering three years continuous service on attainment of Temporary Status the Casual Labourers would be treated at par with temporary Gr. 'D' employees for the purpose of contribution of G.P.F. & would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as per applicable to temporary Gr. 'D' employees, provided they furnish two sureties from permanent Govt. servant of this department.

(f) Until they are regularised, they would be entitled to productivity linked bonus only at rates as applicable to casual labourers.

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Advocate.

(g) Despite conferment of temporary status, the service of a casual labourer may be dispensed with in accordance with the relevant provisions of the industrial disputes Act, 1947 on the ground of non availability of work. A casual labourer with temporary status can quit service by giving one month's notice.

(h) If a casual labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with, they will not be entitled to the benefit of encasement of leave on termination of services.

(i) The payments will be given w.e.f. joining date.

(j) N.B.—Their names are not being arranged in order of seniority.

LIST OF CASUAL MAZDOORS/PART TIME MAZDOORS SELECTED FOR CONFERRING TEMPORARY STATUS

SI.NO	NAME OF THE CASUAL MAZDOOR	WORKING UNDER	DT ENTRY IN DEPT.
-------	----------------------------	---------------	-------------------

SDE (CABLE), TEZPUR

1.	Arabinda Halai	SDECABL	03/02/88
2.	Pulin Bora	SPECABL	05/03/88
3.	Prasanta Koch	SDECABL	05/03/88
4.	Digambar Das	SDECABL	08/03/88
5.	Babul Bhuyan	SDECABL	11/03/88
6.	Jitu Talukdar	SDECABL	11/03/88
7.	Basanta Bijoy Mahanta	SDECABL	15/03/88
8.	Rana Sur	SDECABL	15/03/88
9.	Sankar Ghatak	SDFCABL	15/03/88
10.	Uttam Salia	SDECABL	20/03/88
11.	Ranjit Das	SDECABL	26/03/88
12.	Maheesh Deka	SDECABL	26/03/88
13.	Ghanashyam Lahkar	SDECABL	26/03/88
14.	Kamal Ch Das	SDECABL	26/03/88
15.	Nripen Ch Haloi	SDECABL	26/03/88
16.	Balin Das	SDFCABL	26/03/88
17.	Nipul Chaudhury	SDECABL	26/03/88
18.	Pulak Haloi	SDECABL	26/03/88
19.	Bipul Nath	SDECABL	28/03/88
20.	Babul Saikia	SPECABL	28/03/88
21.	Bijit Bora	SDECABL	28/03/88
22.	Smt Kalpana Saikia	SDECABL	28/03/88
23.	Ramesh Ch Nath	SPECABL	28/03/88
24.	Pankaj Chetri	SDECABL	28/03/88
25.	Bhaben Ch Saikia	SDECABL	28/03/88
26.	Anil Thakur	SPECABL	28/03/88
27.	Mridul Deka	SDECABL	30/03/88
28.	Burna Ch Nath	SDECABL	30/03/88
29.	Balin Bawaliary	SPECABL	30/03/88
30.	Bhagya Gangma	SDECABL	30/03/88

Certified to be true copy

SD

Advocate.

SDE (COMPUTER), TEZPUR

1.	Rajib Gogoi	SDECOM	01/01/88	3
2.	Dharani Swargiary	SDECOM	01/01/88	3
3.	Naba kumar Sarma	SDECOM	01/01/88	3
4.	Arani Ch talukdar	SDECOM	01/01/88	3
5.	Mridul Kr Das	SDECOM	01/02/88	3
6.	Nagen Saikia	SDECOM	01/02/88	3
7.	Dandhar Das	SDECOM	01/02/88	3

SDE (CONSTRUCTION), TEZPUR

1.	Jiten Kr Sut	SDECONS	19/04/88
2.	Prasanna Sarania	SDECONS	20/04/88
3.	Indreswar Bhuyan	SDECONS	21/04/88
4.	Kandarpa Saikia	SDECONS	22/04/88
5.	Ranaprasad Bodo	SDECONS	23/04/88
6.	Pankaj Sutradhar	SDECONS	25/04/88

SDE (PHONE6), CHARIALI

1.	Jitu Garmah	SDEPCLI	01/01/88
2.	Jyoti Prasad Saikia	SDEPCLI	01/01/88
3.	Dhanpad Swargiary	SDEPCLI	01/01/88
4.	Juri Sarma	SDEPCLI	01/01/88
5.	Kishore Kr Pathak	SDEPCLI	01/01/88
6.	Maina Borah/Khargeswar Bora	SDEFCLI	01/01/88
7.	Babul Saikia	SDEPCLI	01/01/88
8.	Faban Kataki	SDEPCLI	01/01/88
9.	Gobinda Bhuyan	SDEPCLI	01/01/88
10.	Biren Das	SDEPCLI	01/01/88
11.	Gagan Bhuyan	SDEPCLI	01/01/88
12.	Jiten Sarma	SDEPCLI	01/01/88 >*Held
13.	Gobinda Borah	SDCPCLI	01/01/88 UP
14.	Ceniram Sarman	SDEPCLI	01/01/88
15.	Prabhat Sarman	SDEPCLI	01/01/88
16.	Ramdeb Bhakat	SDEPCLI	01/01/88 >*Held
17.	Tilak Bora	SDEPCLI	01/02/88 Up
18.	Pranjali Kataki	SDEPCLI	01/02/88
19.	Abani Baruah	SDEPCLI	01/02/88
20.	Tunmoni Saikia	SDEPCLI	01/02/88
21.	Biren Bora	SDEPCLI	01/02/88
22.	Basanta Bhuyan	SDEPCLI	01/02/88
23.	Dharmendra Kr Rai	SDEPCLI	01/03/88
24.	Pulin Borah	SDEPCLI	01/03/88
25.	Amika Barman	SDEPCLI	01/03/88
26.	Prabhat Kalita	SDEPCLI	15/02/88
27.	Dwepen Bhuyan	SDEPCLI	15/02/88

* Held up due to non submission of Employment Exchange Card

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A. S. Maitra

SDE (PHONES), DHEMAJI

1.	Bharat Basphore	SDEPDMJ	01/01/00
2.	Javanta Phulbari	SDEPDMJ	01/01/00
3.	Kalyan Mech	SDEPDMJ	01/02/00
4.	Umanil K. Payeng	SDEPDMJ	01/04/00
5.	Biren Dugarah	SDEPDMJ	01/04/00
6.	Lila Ram Panyang	SDEPDMJ	01/04/00
7.	Sunanda Sonowal	SDEPDMJ	01/04/00
8.	Ananda Sonowal	SDEPDMJ	01/04/00
9.	Mohan Sonowal	SDEPDMJ	01/04/00
10.	Nabin Sonowal	SDEPDMJ	01/04/00
11.	Lolit Sonowal	SDEPDMJ	01/04/00
12.	Prafulla Sonowal	SDEPDMJ	01/05/00
13.	Cheni Ram Bora	SDEPDMJ	01/05/00
14.	Robin Doley	SDEPDMJ	01/05/00
15.	Khemachand Pegu	SDEPDMJ	01/05/00
16.	Dinesh Pegu	SDEPDMJ	01/05/00
17.	Komal Ch. Nath	SDEPDMJ	04/04/00
18.	Babul Bora	SDEPDMJ	23/03/00
19.	Kalipada Bora	SDEPDMJ	23/03/00
20.	Thagi Ram Taye	SDEPDMJ	25/03/00
21.	Bibekananda Pegu	SDEPDMJ	26/03/00
22.	Gagan Deka	SDEPDMJ	

CS. - 5

SDE (PHONES), TEZPUR

1.	Anil Kumar Das	SDEPTZ	01/01/00
2.	Ranjan Adhikari	SDEPTZ	01/01/00
3.	Shivjyoti Majumder	SDEPTZ	01/01/00
4.	Ujjal Mahanta	SDEPTZ	01/02/00
5.	Abdul Karim	SDEPTZ	01/02/00
6.	Dipak Deka	SDEPTZ	01/02/00
7.	Satya Ranjan Kalita	SDEPTZ	01/02/00
8.	Mahesh Baroi	SDEPTZ	01/02/00
9.	Resmi Acharjee	SDEPTZ	01/02/00
10.	Swadesh Seal	SDEPTZ	01/02/00
11.	Debasis Das	SDEPTZ	01/02/00
12.	Ajit Das	SDEPTZ	01/02/00
13.	Abdul Jabbar	SDEPTZ	01/02/00
14.	Chintumoni Borah	SDEPTZ	01/04/00
15.	Siba Pd Sarmah	SDEPTZ	01/05/00
16.	Nabajyoti Deka	SDEPTZ	01/05/00
17.	Jadav Deka	SDEPTZ	01/06/00
18.	Nanki Devi	SDEPTZ	01/06/00
19.	Nayan Kalita	SDEPTZ	01/06/00
20.	Reba Kanta Saikia	SDEPTZ	01/06/00
21.	Dinen Ch Deka	SDEPTZ	21/07/00
22.	Phulena Basphore	SDEPTZ	

SDE (PHONLS), UDALGURI

1.	Rahini Kanta Basumatary	SDEPUDL	01/05/00
2.	Bhupen Herman	SDEPUDL	01/05/00
3.	Moinul Haque	SDEPUDL	01/05/00
4.	Mozamil Haque	SDEPUDL	01/05/00

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5.	Rajat Bhattacharjee	SDEPUDL	01/05/88
6.	Jatin Saloi ✓	SDEPUDL	01/05/88
7.	Miran Daimary	SDEPUDL	02/05/88
8.	Nabin Rava	SDEPUDL	02/05/88
9.	Dayaram Bodo	SDEPUDL	03/05/88
10.	Durlab Baruah	SDEPUDL	16/04/88
11.	Binendra Basumatary	SDEPUDL	18/04/88
12.	Rajin Kr. Bodo	SDEPUDL	24/04/88
13.	Baneswar Bodo	SDEPUDL	25/04/88
14.	Nigam Swangiary	SDEPUDL	26/04/88
15.	Sanjoy Dutta	SDEPUDL	26/04/88
16.	Narendra Basumatary ✓	SDEPUDL	27/04/88
17.	Kamaleswar Narzary	SDEPUDL	28/04/88
18.	Yama Kt Chamlagain	SDEPUDL	28/04/88
19.	Piar Ali ✓	SDEPUDL	28/04/88
20.	Biran Rava	SDEPUDL	30/04/88
21.	Tanuram Bodo	SDEPUDL	30/04/88

SDO (PHONES), TEZPLUR

1.	Bhaba Kt. Sarma	SDOPTZ	01/01/88
2.	Rajkumar Kataki	SDOPTZ	01/01/88
3.	Pradip Sut	SDOPTZ	01/01/88
4.	Pulak Ch. Mahanta	SDOPTZ	01/01/88
5.	Pradip Kr. Bora	SDOPTZ	01/01/88
6.	Babul Ch. Das	SDOPTZ	01/01/88
7.	Pradip Borah	SDOPTZ	01/01/88
8.	Manendra Kataki	SDOPTZ	01/01/88
9.	Ganesh Das	SDOPTZ	01/01/88
10.	Nagina Ray	SDOPTZ	01/01/88
11.	Ramesh Kated	SDOPTZ	01/01/88
12.	Gautam Kr. Paul	SDOPTZ	01/01/88

SDO (T), MANGALDOOI

1.	Swapan Kr. Saha	SDOTMLD	01/01/88
2.	Indira Borah	SDOTMLD	01/01/88
3.	Inarmal Gowali	SDOTMLD	01/01/88 → Held
4.	Gajen Baruah	SDOTMLD	01/01/88 UP
5.	Samshad Alam	SDOTMLD	01/01/88
6.	Binod Ch. Bodo	SDOTMLD	01/01/88
7.	Mazibur Rahman	SDOTMLD	01/01/88
8.	Tafzuddin Ahmed	SDOTMLD	01/01/88
9.	Pabin Ch. Bodo	SDOTMLD	01/01/88
10.	Khagendra Nath Deka	SDOTMLD	01/01/88
11.	Sartaz Ahmed	SDOTMLD	01/01/88
12.	Sadhi Ram Deka	SDOTMLD	01/01/88
13.	Maznur Ali	SDOTMLD	01/01/88
14.	Babul Ch. Kalita	SDOTMLD	01/01/88

* Held Up due to non subission of
Employment Exchange Card

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SDO(T), NORTH LAKHIMPUR

1.	Balo Saikia	SDOTNMP	01/01/88
2.	Ratneswar Sonowal	SDOTNMP	01/01/88
3.	Rohit Sonowal	SDOTNMP	01/01/88
4.	Dambaru Chutia	SDOTNMP	01/01/88
5.	Dilip Neog	SDOTNMP	01/01/88
6.	Maina Sonowal	SDOTNMP	01/01/88
7.	Jogeswar Borah	SDOTNMP	01/01/88
8.	Gahin Sonowal	SDOTNMP	01/01/88
9.	Dimbeswar Sonowal	SDOTNMP	01/01/88
10.	Jiten Thengal	SDOTNMP	01/01/88
11.	Mahendra Chellengal	SDOTNMP	01/01/88
12.	Dhaniram Basumatary	SDOTNMP	01/01/88
13.	Rabat Sonowal	SDOTNMP	01/01/88
14.	Dimbeswar Saikia	SDOTNMP	01/01/88
15.	Motilal Mili	SDOTNMP	01/01/88
16.	Gobin Sonowal	SDOTNMP	01/01/88
17.	Lohit Borah	SDOTNMP	01/01/88
18.	Ghana Sonowal	SDOTNMP	01/01/88
19.	Lokeswar Sonowal	SDOTNMP	01/01/88
20.	Niju hazarika	SDOTNMP	01/01/88
21.	Dibya Sonowal	SDOTNMP	01/01/88
22.	Atul Sonowal	SDOTNMP	01/01/88
23.	Prafulla Sonowal	SDOTNMP	01/01/88
24.	Giridhar Saikia	SDOTNMP	01/01/88
25.	Upendra Nath Saikia	SDOTNMP	01/01/88
26.	Siba Gogoi	SDOTNMP	01/01/88
27.	Nicmail Pawe	SDOTNMP	01/01/88
28.	Rekra Thengal	SDOTNMP	01/01/88
29.	Tulan Thengal	SDOTNMP	01/01/88
30.	Khargeswar Sonowal	SDOTNMP	01/01/88
31.	Anil Nath	SDOTNMP	01/01/88
32.	Ghana Kt Sonowal	SDOTNMP	01/01/88
33.	Maheswar Saikia	SDOTNMP	01/01/88
34.	Jogen Sonowal	SDOTNMP	01/10/88

SDO(T), TEZPUR

1.	Dipali Hazarika	SDOTTZ	01/01/88
2.	Dwijen Baishya	SDOTTZ	01/05/88
3.	Atul Ch Deka	SDOTTZ	01/05/88
4.	Mazibur Rahman	SDOTTZ	01/05/88 >Held
5.	Phulena(Golapmani) Basphore	SDOTTZ	10/05/88 Up'
6.	Parimal Barkar	SDOTTZ	15/05/88
7.	Sakiram Mazhi	SDOTTZ	15/05/88
8.	Karuna Ch Lahkar	SDOTTZ	15/05/88
9.	Biswajit Malakar	SDOTTZ	15/05/88
10.	Mina Das	SDOTTZ	15/05/88
11.	Paramita Dey	SDOTTZ	20/05/88
12.	Rupen Ch Das	SDOTTZ	21/05/88
13.	Sanjoy Kr Deb	SDOTTZ	21/05/88
14.	Dukhan Ray	SDOTTZ	21/05/88
15.	Anup kr Dutta	SDOTTZ	30/05/71
16.	Dina Kanta Ghatowal	SDOTTZ	01/06/88 UP

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Page 2 of 2

TDE, TEZPUR

1.	Manjula Das	TDETZ	01/01/88
2.	Sekhar Chetia	TDETZ	05/05/88
3.	Ranjan Das	TDETZ	05/05/88
4.	Aloke Shome	TDETZ	05/05/88
5.	Prasanta Das	TDETZ	05/05/88
6.	Sabitri Dasgupta	TDETZ	07/05/88
7.	Ananda Ray	TDETZ	07/05/88
8.	Biswa Das	TDETZ	07/05/88
9.	Baneswar Baishya	TDETZ	07/05/88
10.	Rumuk Kalita	TDETZ	07/05/88

Sett
TDE, Tezpur

Copy for information to :

1. CGMT/GH w.r.f to his letter no
2. ADT(S&E), O/O CGMT, GH
3. AMT/GH
4. All Gr. 'B' Officers of Tezpur SSA
5. JAO's, SSS (Construction, Staff & General) // TDE, TZ
6. Spares
7. File NO E-38/CMPT/TZ

A. K. Sarkar -

SDOT /T2

Mejogul

TDE, Tezpur

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SK

Advocate

Bharat Sanchar Nigam Ltd
(A Govt. of India Enterprise)
O/O the Chief General Manager,
Assam Telecom Circle, Ulubari,
Guwahati- 781007.

No : Vig/Assam/Disc-VIII/2000-01/6

Dated the 26-12-2000

MEMORANDUM

1. Shri A.K. Sarkar, SDOT/Tezpur formerly SDE(HRD)/ Tezpur is hereby informed that it is proposed to hold an inquiry under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the Inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed(Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).
2. Sri A. K. Sarkar is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specially admit or deny each articles of charge.
4. Sri A. K. Sarkar 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 provision of Rule-14 of the CCS(CCA) Rules 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.
5. Attention of Sri A.K. Sarkar 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 Sri A. K. Sarkar is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.
6. The receipt of the Memorandum may be acknowledged.

To

Sri A. K. Sarkar,
SDOT/ Tezpur.

(Through TDM/Tezpur)

Copy forwarded to :

- 1) The Telecom District Manager, Tezpur. The enclosed Memorandum may be served to Sri A.K. Sarkar and his dated acknowledgement may be sent to this office. His defence statement in triplicate in original may be forwarded to this office immediately on its receipt. Service particulars of Sri A.K. Sarkar may be furnished in the enclosed proforma please.

(J.K.CHHABRA)

Chief General Manager Telecom,
Assam Telecom Circle, Guwahati-7.

(J. K. CHHABRA)

Chief General Manager Telecom,
Assam Telecom Circle, Guwahati-7.

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ANNEXURE - I

ARTICLE OF CHARGE FRAMED AGAINST SHRI A.K. SARKAR, SDOT/
TEZPUR THE THEN SDE(IIRD), TEZPUR, ASSAM,

That Shri A. K. Sarkar while working as SDE, Tezpur failed to maintain absolute integrity and devotion to duty and acted in a manner unbefitting of his position in as much as he as a member of the selection committee constituted by Sri M.K.Gogoi, the then TDE/Tezpur for regularization of eligible Casual Labours as Temporary Status Mazdoors under TDE/Tezpur during 1996, in collusion with other members of the Selection Committee without verifying the genuineness of recommendation of different JTOs/SDEs and certificates were issued by JTOs/ Lineman etc. recommended with malafide intention by abusing his official position. The names of 221 Nos of casual labours under TDE/Tezpur and consequent upon while, Sri M.K.Gogoi, the then TDE/Tezpur issued letter No. X/CMPT/96-97 dtd 27-5-96 regularising those 221 Nos of Casual Labours as Temporary Status Mazdoors, although none of them was eligible for such regularization and thereby putting the Dept. to huge financial loss, which he caused by his above acts and abuse of his official position with dishonest intention and thereby contravened Rule 3(1)(i)(ii) & (iii) of CCS Conduct Rule 1964.


(J. K. CHHABRA)
Chief General Manager Telecom,
Assam Telecom Circle, Ghy-7

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Advocate.

Impulation

STATEMENT OF MISCONDUCT IN SUPPORT OF ARTICLE OF CHARGE
FRAMED AGAINST SRI A.K.SARKAR, SDOT/TEZPUR, THE THEN
SDE(HRD)/TEZPUR.

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1. That Sri A.K.Sarkar was working as SDE(HRD)/Tezpur during 1996.
2. That the Directorate of Telecom vide letter No: 270/6/84-STN, New Delhi dtd 30-3-85 had banned the engagement of Casual Labours in the Telecom Dept. w.e.f. 30-3-85. However, the Directorate of Telecom issued another circular, vide No. 269/4/93-STN dtd 17-12-93 for regularization of casual labours engaged in different Telecom Circles, in violation of the earlier Circular dtd 30-3-85, upto 22-6-88, wherein the following conditions were laid down for the eligibility criteria for conferring on them the Temporary Status as under :
 - (i) It is extended the temporary status to all those casual mazdoors who were engaged by the Project Circle/ Electrification Circle, during the period from 31-3-85 to 22-6-88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days continuing from the date of issue of the said order dtd 17-12-93.
 - (ii) The matter has further been examined and it is decided that all those casual mazdoors who were engaged by the Circles during the period from 31-3-85 to 22-6-88 and who are still continuing for such works in the circles where they were initially engaged and who are not absent for the last more than 365 days continuing from the date of issue of this order, be brought under the said scheme.
 - (iii) The engagement of casual mazdoors after 30-3-85 in violation of instruction of the Head Quarter, has been viewed seriously and it is decided that all post cases wherein recruitment has been made in violation of instructions of the Head Quarter should also be analysed and disciplinary action be initiated against defaulting officers.
 - (iv) It has also been decided that engagement of any Casual Mazdoor after the issue of the order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be personal responsibility of the Heads of Circles concerned/ Class II Officers and amount paid to such casual mazdoors as wages should be recovered from the person who has recruited/ engaged casual mazdoors in violation of these instructions.
 - (v) It is further stated that the services of all the casual mazdoors who had not rendered at least 240 days (206 days in case of Administrative Officers observing 5 days a week) of service in a year on the date of issue of those orders, should be terminated after following the conditions as laid down in ID Act, 1947 under Sec25 F.G.P.H.

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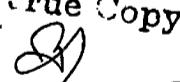
Advocate.

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(vi) These orders are issued with concurrence of member(Finance) vide U.O. No. 3811/93-FB-1 dtd 1-12-93.

3. That the above said circular/order dtd 17-12-93 was issued to all Heads of Circles/ Metro. Telecom Dist. etc. for necessary action. The copy of the said circular/order was sent to all Telecom Divisions including Tezpur division under CGMT, Assam Telecom Circle, Guwahati by KSKP Sarma, the then ADG(E&R) for CGMT/Guwahati vide No. Recd-3/10/Part-II dtd 4-1-94 for information, guidance and necessary action.
4. That the field staff such as S.I.s, Line Inss, Pls C/S etc. of all Sub-Divns in collusion with about 221 persons, JTOs and SDOs/SDEs issued false and fabricated experience certificates in favour of about 221 ingenuine persons as Casual Labours and the said certificates were got countersigned by respective JTOs and SDOs/SDEs of Sub-Divisions without being based on any material evidence and the said certificates were sent to M.K.Gogoi, the then TDE/Tezpur for regularization of the casual labours as Temporary Status Mazoors (TSM).
5. That Sh. M.K.Gogoi, the then TDE/Tezpur in collusion with Prantosh Das and others constituted a selection committee with four members including Sh. Prantosh Das for recommendation/selection of eligible casual mazdoors as TSM vide letter No: X-1/CMPT/TZ/95-96/Confld-I dtd 25-3-96. The other members of the selection committee are (1) Sh. D. Payeng, the then SDO(P), Tezpur (2) Sh. U.C.Swargiary, AO(Cash) and (3) Sh. A.K.Sarkar, the then SDE(HRD), O/O the TDE/Tezpur.
6. That Sri A.K.Sarkar in collusion with other members of the selection committee prepared bogus gradation lists of casual labours Sub-Division-wise and recommended 221 persons on 9-4-96 for appointment/regularization as TSM without verifying the genuineness of the certificates issued by the field staff and recommended by concerned JTOs and SDOs/SDEs. On the basis of the recommendation of the selection committee, Sh. M.K.Gogoi passed order vide No. X-1/CMPT/96-97/Con-7 dtd 27-5-96 and regularized about 221 casual labours as TSMs, although none of them was eligible for such regularization/appointment.
7. By the above acts and abuse of his official position with dishonest intention, Sri A.K.Sarkar put the Telecom Deptt. To huge financial loss and thereby contravened Rule 3(1) (i) (ii) (iii) of CCS (Conduct) Rule, 1964.

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LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SRI A.K.SARKAR, SDOT, TEZPUR THE THEN SDE(HRD), TEZPUR
ARE PROPOSED TO BE SUSTAINED

1. Gradation list of casual labours under SDO(T), North Lakshimpur recommended for regularization (Three pages).
2. Letter No. A-20/96-97/88 dtd 1-5-96 of SDO(T), North Lakshimpur addressed to TDE/Tezpur alongwith proforma of 34 Nos. of casual labours for consideration as TSM (Total - 4 pages).
3. Attested copy of School certificate No: 21 dtd 23-8-91 of Gagaldubi Janajati high School, Gogaldubi of Sh. Gohin Sonowal, S/o Khatiram Sonowal (Attested copy).
4. HSLC passed School Certificate of Miss Niju Hazarika, D/o Suren Hazarika passed from Badhakara High School vide Sl. No. 48 dtd 2-5-96 (Attested copy).
5. School Leaving Certificate No. 44 dtd 10-2-91 (attested copy) of Ruddhar Tengal, S/o Haliram Tengal of Bhurbandha Jalbhari M.E. School, Gerek.
6. Attested copy of transfer cerficate No. 433 dtd Nil of Gagamukh Nagar High School, Moinapara of Sh. Anil Nath.
7. List of 33 casual mazdoors under SDOT/ North Lakshimpur duly recommended for conferring the status of TSM by selection committee (Total - 7 sheets).
8. Letter No. A-20/95-96/87 dtd 15-3-96 of ADOT, North Lakshimpur addressed to TDE/Tezpur in r/o casual labours engaged after 30-3-85 to 22-6-88 (Carbon copy).
9. Certificate to Ghanakanta Sonowal issued by G.Das, S.I.
10. Certificate to Maheswar Saikia issued by G. Das, S.I.
11. Certificate to Bolo saikia issued by G.Das, S.I.
12. Certificate dtd 11-3-96 to Ratneswar Sonowal issued by G. Das, S.I.
13. Certificate dtd 11-3-96 issued to Rohit Sonowal issued by G. Das, S.I.
14. Certificate dtd 11-3-96 to Dambru Chetia by G. Das, S.I.
15. Certificate dtd 11-3-96 to Dilip Neog by G. Das, S.I.
16. Certificate dtd 11-3-96 to Maina Sonowal by G. Das, S.I.
17. Certificate dtd 11-3-96 to Jogeswar Borah by G. Das, S.I.
18. Certificate dtd 11-3-96 to Gohin Sonowal by G. Das, S.I.
19. Certificate dtd 11-3-96 to Dimbeswar Sonowal by Maheswar Ray, S.I.
20. Certificate dtd 11-3-96 to Jiten Thengal by Maheswar Ray, S.I.
21. Certificate dtd 11-3-96 to Mahendra Chelleng by Maheswar Ray, S.I.
22. Certificate dtd 11-3-96 to Dhaniram Basumatary by Maheswar Ray, S.I.
23. Certificate dtd 11-3-96 to Rebot Sonowal by Maheswar Ray, S.I.
24. Certificate dtd 11-3-96 to Dimeswar Saikia by G. Das, S.I.
25. - do - -do- to Motilal Mili by G. Das, S.I.
26. -do- -do- to Gobin Sonowal by G. Das, S.I.
27. -do- -do- to Lohit Bara (Sonowal) by G. Das, S.I.
28. -do- -do- to Ghana Sonowal by G. Das, S.I.
29. -do- -do- to Lokeswar Sonowal by G. Das, S.I.
30. -do- -do- to Miss Niju Hazarika by G. Das, S.I.

Contd....2..

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31. Certificate dtd 11-3-96 to Dibya Sonowal by Md. Taslim. 33 -
 32. -do- -do- to Atul Sonowal by Md. Taslim.
 33. -do- -do- to Prafulla Sonowal by Md. Taslim.
 34. -do- -do- to Giridhar Saikia by Md. Taslim.
 35. -do- -do- to Upendra Nath Saikia by Md. Taslim.
 36. -do- -do- to Siba Gogoi by Md. Taslim.
 37. -do- -do- to Nirmal Pawel by Md. Taslim.
 38. -do- -do- to Jogen Sonowal by Md. Taslim.
 39. -do- -do- to Radha Thengal by G. Das, S.I.
 40. -do- -do- to Tulon Thengal by G. Das, S.I.
 41. -do- -do- to Khargeswar Sonowal by G. Das, S.I.
 42. --do-- -do- to Babul Nath (a), Anil Nath by M. Ray, S.I.
 43. Absentee statement of TSM under SDO(T), North Lakshimpur for the month
 Of June'96 to October'97 (Total - 17 sheets)
 44. Absentee statement of TSM under SDO(P), N/L for the month of Sept'96 to
 Oct'97 (Total - 15 sheets).
 45. Statement of salary of TSM under SDO(P), North Lakshimpur for June, July
 & August, 1996. (Total - 08 sheets).
 46. Attendence Register of TSM under SDO(T), North Lakshimpur (04 Nos).
 47. Joining Reports of TSMs (34 Nos).
 48. Promotion order of Sh. Guneswar Das and Md. Taslim order No. E-
 198/OTBP/88-89/149 dtd 20-7-88 of TDE/Tezpur.
 49. Promotion order of Sh. Guneswar Das and Md. Taslim as Lineman vide order
 No-E-198/OTBP/III.dtd 24-3-97 of TDE, Tezpur.
 50. Promotion order of Sh. Maheswar Ray as Sub-Inspr. Vide order No. E-
 198/OTBP/90-91/15 dtd 7-6-90 of TDE/Tezpur.
 51. Joining Report dtd 22-4-89, 26-6-90 & 23-2-97 Earned Leave Application dtd
 30-12-89, 6-9-90, 1-6-96 & C.L. application dtd 2-1-96 of Sh. Maheswar
 Ray, S.I under SDOT, North Lakshimpur.
 52. Joining Report dtd 21-1-81 and E/L application for 5 days w.e.f. 5-3-95 dtd
 Nil. & dtd 27-2-86 of Sh. Guneswar Das, SI under SDOT, N/Lakshimpur.
 53. Joining Order dtd 5-12-90 & E/L applications dtd 6-12-89, 26-10-90, 15-5-97
 & 23-1-98 of Md. Taslim the then SI under SDOT, N/Lakshimpur.
 54. Seizure Memo dtd 20-11-97.
 55. -do- dtd 6-6-98.
 56. -do- dtd 23-7-98.
 57. -do- dtd 8-9-98.
 58. -do- dtd 16-11-98.
 59. Order No. X-1/CMPT/96-97/Con-7 dtd 27-5-96 of TDE, Tezpur in r/o
 regularization of casual labours under SDOT, N/Lakshimpur as TSM. (Total
 page-7, relevant page-6).
 60. L/No. E-38/CMPT/Vol-III/96-97/15 dtd 30-8-96 of TDE, Tezpur add to Dy.
 G.M.(Admn), O/O CGMT, Assam Circle, Guwahati regarding engagement of
 casual labours (File No. X-1/CMPT/Tz/Confld 1996-relevant page-72).

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61. L/No. X-1/CMPT/TZ/95-96/confd/1 dtd 25-3-96 of TDE, Tezpur.

62. L/No. E-38/CMPT/94-95/168 dtd 17-2-95 of TDE, Tezpur.

63. L/No. E-38/CMPT/Vol-II/123 dtd 7-12-93 of TDE/Tezpur.

64. Original Letter No. 269-14/93-STN.II dtd 17-12-93 of Asstt. Director General (STN), NGO-Delhi.

65. Letter No. 289-8/93-STN dtd 29-7-93 of Asstt. Director General (STN) New Delhi.

66. Letter No. Rectt. 3/10/Part.III/3 dtd 26-8-93 of Asstt. Director Telecom(E&R O/O the CGMT, GHY

67. Letter No. TDM/Tez/1005/CBI dtd 11-8-98 of Sh. B.K. Goswami, TDM/Tz.

68. Letter No. 270/6/84-STN, New Delhi dtd 30-3-1985 of Sh. S. Krishnan, Director(STN), Posts & Telegraph.

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**LIST OF WITNESS BY WHOM THE ARTICLES OF CHARGE FRAMED
AGAINST SRI A. K. SARKAR, SDOT, TEZPUR THE THEN SDE(HRD),
TEZPUR ARE PROPOSED TO BE SUSTAINED.**

1. Md. Islam Ahmed; S/o Late Basiruddin Ahmed, Chief Accounts Officer, O/o the TDM/Tezpur.
2. Sh. B.K. Goswami, TDM/Tezpur, R/O 100/5, JESSORE Road, Dumdum, Bhagabati Park, Calcutta-74.
3. Sh. M.K. Gogoi, the then TDE/Tezpur now DGM/Siliguri.
4. Sh. Upen Swargeswary, Sr. Accts Officer, o/o the TDM/Tezpur, R/o Indira Nagar, PS & PO- Dhekiajuli, Ward No:5, Dist: Sonitpur.
5. Sh. Ajit Kr. Sarkar the then SDE(HRD) now SDO(T), Tezpur R/O Vill & PO - Dhekiajuli, Ward No:5, Dist: Sonitpur.
6. Sh. Dharmeswar Payeng, the then SDO(P)/Tezpur now DE(Phones), Jorhat R/O Town Bantu, North Lakshimpur, Ward No:14.
7. Sh. P. Das the then SDE(Phones), Tezpur.
8. Sh. R.C. Pal, Asstt. Director Telecom (E&R), o/o CGMT, Guwahati.
9. Sh. Gajanan Deuri, Sr. Section Supervisor(S.S.S.) under SDOT, North Lakshimpur S/O late Maya Singh Deuri R/O Nakari Nagar, Baptist Mission Path, PO & PS : N/Lakshimpur.
10. Sh. N.C. Kakati, JSO under SDOT, North Lakshimpur.
11. Sh. K. Barman, I.O. of the case.
12. Sh. Gunja Ram Deuri, Sr. Telecom Supervisor, O/O the SDO(P), N/Lakshimpur.
13. Sh. H.S. Debnath, JAO, O/O TDM/Tezpur.

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From : A.K.SARKAR,
SDOT, TEZPUR
DTD. AT TEZPUR, THE 22nd JAN'2001

Annexure - D

To
The Chief General Manager Telecom,
Assam Circle, Ulibari,
Guwahati - 781007

Sub: Statement of Defence and Prayer for dropping the articles of charges.
Ref: Memorandum No.Vig/Assam/Disc-VIII/2000-01/6 dated 26.12.2000

Respected Sir,

With reference to the MEMORANDUM No.cited above, I beg to state the following few lines in my defence for favour of your kind and sympathetic consideration. I also state that I desire to be heard in person. I shall not bring any political or outside influence which is against Rule 20 of the CCS (Conduct) Rules 1964.

ANNEXURE - I

That Sir, while working as SDE(HRD) Office of the TDE, Tezpur (from 29.12.93 to 15.5.96) I maintained absolute integrity and devotion to my duties by obeying the instructions of higher authorities with full responsibility. I was selected one of the four members of selection committee vide TDE, Tezpur letter No.X-1/CMPT/95-96/Confld-I dtd.25.3.96 under the Chairmanship of Sri M.K.Gogoi, the then TDE, Tezpur for recommending casual labours for absorption as TSM after verifying the documents / certificates presented to the selection committee. Being a member of the Selection Committee, I have scrutinized the available documents / certificates and recommended the cases to the Chairman for his necessary action. The cases which were detected to be faulty were not recommended. All the cases were sent to the Chairman for favour of necessary action. The Chairman after applying his mind approved only some cases and rejected others even after recommendation of selection committee. I have done my duties sincerely with full devotion and integrity. Therefore, I deny the articles of charges framed against me and state that I have not contravened Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rule 1964 in any manner.

ANNEXURE - II

As a member of selection committee, I have scrutinized all the available documents / certificates issued by competent authorities before recommending the cases. The recommended cases as well as the cases which were not recommended were sent to the Chairman for favour of his necessary action. The Chairman after applying his mind approved only some of the recommended cases and rejected some recommended cases also. I have scrutinized the available documents / certificates honestly and sincerely. Therefore, I have not contravened Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rule 1964.

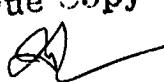
Under the circumstances you are requested to drop all the articles of charges framed against me and do the justice to me.

Thanking you,

Yours faithfully

✓ 22/01/2001
(A.K.SARKAR)
SDOT, TEZPUR

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Annexure - E
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Bharat Sanchar Nigam Ltd.
(a Govt. of India Enterprise)
O/O The Chief General Manager,
Assam Telecom Circle,
Guwahati-781007.

No : Vig/Assam/Disc-IX/00-01/3

March 23, 2001

MEMORANDUM

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

To

Sri A.K.Sarkar,
SDOT, Tezpur,
under TDM, Tezpur.

(J.K.CHHABRA)
Chief General Manager
Assam Telecom Circle
Guwahati

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Annexure - I

Statement of Article of Charge framed against Sri A.K.Sarkar, SDOT, Tezpur the
then SDE(HRD), Tezpur

That Sri A.K.Srakar while working as SDE(HRD),Tezpur failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of his position in as much as he as a member of the selection committee constituted by Sri M.K.Gogoi, the then TDE,Tezpur for regularization of eligible casual labourers as Temporary Status Mazdoors under TDE,Tezpur during 1996, in collusion with the other members of the selection committee, without verifying the genuineness of recommendation of different JTOs/SDEs and certificates issued by ,SIs/Lineman,etc., recommended with malafide intention by abusing his official position, the names of 221 Nos. of casual labourers under TDE,Tezpur and consequent upon that, the then TDE,Tezpur issued letter No: X-CMPT/96-97 dtd 27-5-96 regularising those 221 Nos. of casual labourers as Temporary Status Mazdoors, although none of them was eligible for such regularization and thereby putting the Dept. to a huge financial loss, which he caused by his above acts and abuse of his official position with dishonest intention and thereby contravened Rule 3(1) (i) (ii) & (iii) of CCS Conduct Rule, 1964.

CHIEF GENERAL MANAGER TELECOM
ASSAM TELECOM CIRCLE, GH-7

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Annexure -II

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF
ARTICLE OF CHARGE FRAMED AGAINST SHRI
A.K.SARKAR,SDOT,TEZPUR THE THEN SDE(HRD),TEZPUR.

1. That Shri A.K. Sarkar was working as SDE(HRD), Tezpur during 1996.
2. That the Directorate of Telecom vide letter No. 270/6/84-STN, New Delhi dtd 30-3-85 had banned the engagement of Casual Labourers in the Telecom Dept. w.e.f. 30-3-85. However, the Directorate of Telecom issued another circular, vide No. 269/4/93-STN dtd 17-12-93 for regularization of casual labourers engaged in different Telecom Circles, upto 22-6-88 wherein the following conditions were laid down for the eligibility criteria for conferring on them the Temporary Status as under :
 - (i) The scheme for absorption of Casual labours into the temporary status was extended to all those casual mazdoors who were engaged by the Project Circles/Electrification Circle during the period from 31-3-85 to 22-6-88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days continuing from the date of issue of the said order dtd 17-12-93.
 - (ii) It was decided that all those casual mazdoors who were engaged by the circles during the period from 31-3-85 to 22-6-88 and who were still continuing for such works in the circles where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of this order, be brought under the said scheme.
 - (iii) The engagement of casual mazdoors after 30-3-85 in violation of instruction of the Head Quarter, had been viewed seriously and it was decided that all past cases wherein recruitment had been made in violation of instructions of the Head Quarter should also be analysed and disciplinary action be initiated against defaulting officers.
 - (iv) It was also been decided that engagement of any casual mazdoor after the issue order dtd. 17-12-93 should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action.
 - (v) It was further stated that the services of all the casual mazdoors who had not rendered at least 240 days (206 days in case of Administrative Offices observing 5 days a week) of service in a year on the date of issue of the order dtd. 17-12-93 should be terminated after following the conditions as laid down in I.D.Act.

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3. That the above said circular/order dtd 17-12-93 was issued to all Heads of Circles/Metro Telecom Dist etc. for necessary action. The copy of the said circular/order was sent to all Telecom Divisions including Tezpur division under CGMT, Assam Telecom Circle, Guwahati by KSKP Sarma, the then ADG(E&R) O/O CGMT/Guwahati vide No. Recd-3/10/Part-II dtd 4-1-94 for information, guidance and necessary action. The copy of the said circular was also sent to all Sub-Divisional Heads of Tezpur Telecom Division for similar action.
4. That Sh. A.K.Sarkar in collusion with other members of the selection Committee constituted by the TDE Tezpur, prepared bogus gradation lists of casual labourers Sub-division-wise and recommended 221 persons on 9-4-96 for appointment/regularization as TSM without verifying the genuineness of the certificates, issued by field staff and recommended by JTOs and SDOs/SDEs. On the basis of the recommendation of the selection committee, TDE Tezpur passed order vide No. X-1/MPT/96-97/Con-7 dtd 27-5-96 and regularized 221 casual labourers as TSMs, although none of them was eligible for such regularization/appointment.
5. By the above acts and abuse of his official position with dishonest intention, Sh. A.K.Sarkar put the Telecom Deptt. to huge financial loss and thereby contravened Rule 3(1) (i)(ii) & (iii) of CCS Conduct Rule, 1964.

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Annexure - III

List of documents by which the Articles of Charge framed against Sri A.K.Sarkar, SDOT Tezpur, the then SDE(HRD),Tezpur are proposed to be sustained.

1. Certificates issued in favour of Smt. Chintamoni Bora, D/O Purna Bora by A.B.Dutta, P.I.
2. Certificate issued in favour of Sh. Nayan Kalita, S/O Lt. Dhaniram Kalita by Jiten Barua, L.M.
3. Certificate issued in favour of Abdul Jabbar S/O Lt. Equsuf Ali by Baiju Rai C/S.
4. Certificate issued in favour of Nanki Devi D/O Bharat Ray by Medini Baruah, Tech.
5. Certificate issued in favour of Dinen Ch. Deka S/O Lt. Surya Deka by Jiten Baruah L.M.
6. Certificate issued in favour of Ranjan Adhikary S/O C.Adhikary by A.B.Dutta, P.I. for 1988,1989
7. Certificate issued in favour of Ranjan Adhikary by Medini Baruah, Tech from 1989 to 1996.
8. Certificate issued in favour of Ajit Das S/O Jogen Ch. Das by Jogen Ch. Baruah , S.I. for 1988 to 1995.
9. Certificate issued in favour of Ajit Baruah by D.Saha , JTO for 1996.
10. Certificate issued in favour of Shivjyoti Mazumdar S/O Lt. Arun Kr. Mazumdar by A.B.Dutta, P.I. for 1988 to 1991.
11. Certificate issued in favour of Shivjyoti Mazumdar by D.Saha,JTO from 1991 to 1996.
12. Certificate issued in favour of Dipak Deka S/O Rupkanta Deka by A.B.Dutta, P.I for 1988 to 1991.
13. Certificate issued in favour of Dipak Deka by D.Saha, JTO for 1991 to 1996.
14. Certificate issued in favour of Satya Ranjan Kalita S/O Lt. Rupeswar Kalita by Jogen Ch. Baruah S.I. for 1988 to 1996.
15. Certificate issued in favour of Debasis Das S/O A.K.Das by Jogen Ch. Baruah for 1988 to 1993.
16. Certificate issued in favour of Debasis Das for 1993 to 1996.
17. Certificate issued in favour of Shadess Seal S/O Lt. Paresh Seal by Jogen Ch. Baruah, S.I. for 1988 to 1992.
18. Certificate issued in favour of Shadess Seal by Hemanta Bora for 1992 to 1996.
19. Certificate issued in favour of Reba Kanta Saikia S/O Lt. Hari Kanta Saikia by Shukan Ray, S.I. for 1988 to 1996.
20. Certificate issued in favour of Abdul Karim S/O Lt. Equsuf Ali by A.B.Dutta, P.I for 1988 to 1991.
21. Certificate issued in favour of Abdul Karim by Hemanta Bora, TTA (PRX) for 1991 to 1996.
22. Certificate issued in favour of Jadav Deka S/O Jagnu Deka by Baiju Rai C/S for 1988 to 1996.

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23. Certificate issued in favour of Mahesh Baroi by Hemanta Bora for 1992 to 1996.

24. Certificate issued in favour of Mahesh Baroi by Hemanta Bora for 1992 to 1996.

25. Certificate issued in favour of Rashmi Acharjee D/O Sushil Acharjee by A.B.Dutta, PI for 1988 1989.

26. Certificate issued in favour of Reshma Acharjee by Sarat Hazarika, S.S(O) for 1990 to 1996.

27. Certificate issued in favour of Anil Kumar Das S/O Kanak Ch Das by A.B.Dutta, PI for 1988 to 1991.

28. Certificate issued in favour of Anil Kr. Das by Hemanta Bora, TTA(PRX) for 1991 to 1996.

29. Certificate issued in favour of Nabajyoti Deka S/O Kamalaswar Deka for 1988 to 1996 by Baiju Rai, C/S.

30. Certificate issued in favour of Shiva Prasad Sharma, S/O Lt. Hari Prasad Sharma by A.B.Dutta, PI for 1988 to 1996.

31. Recommendation sheet of Selection Committee in respect of casual labourers of 22 Nos.

32. SDO(Phones) letter No. E-27/DRM/95-96/9 dtd 1-3-96.

33. Request letter of Sri Siba Prasad Sharma for temporary status mazdoor with No. of days he worked yearwise from 1988 to 1996, duly certified and recommended by Sh. Prantosh Das, SDE(Phones), Tezpur.

34. Letter No. E-27/CM/96-97/2 dated 13-5-96 of P. Das, SDE(Phones), Tezpur.

35. Gradation list of 22 Nos. of casual labourers duly recommended by Selection Committee.

36. Proforma of 22 Nos. casual labourers submitted by P. Das, SDE(Phones), Tezpur.

37. H.S.L.C. Examination passed certificate of Sh. Ajit Das, passed in 1992 from Vivekananda Vidyapeeth H.S. School, Tezpur(attested copy).

38. H.S.L.C. Exam. Passed certificate of Abdul Jabbar passed in 1989 from Barmi High School, Barmi, Kamrup, now Dist. Nalbari(Attested copy).

39. ADMIT Card to HSLC Exam - 1995 of Chintamani Bora of SEBA No. 62573 (attested copy).

40. ADMIT Card No. 128702 and certificate to HSLC Exam. In 1991 of Nayan Kalita (2 Nos. attested copy).

41. HSLC passed certificate of Sh. Navajyoti Deka passed in 1990 as a regular candidate from Tezpur Govt. H.S. School (attested copy).

42. Certificate No. 480 dtd 12-3-96 of HSLC Exam. 1991 passed certificate of Sh. Jadav Deka.

43. Promotion/Posting order of Sh. Sarat Ch. Hazarika w.e.f. 20-4-88 vide order No. E-148/OTBP/90-91/45 dtd 25-9-90 of TDE, Tezpur.

44. Joining report dtd 17-7-96 of Sh. Hemanta Bora as TTA (PRX), Tezpur.

45. Posting order No. E-4/PI/TFR/83-84/218 dtd 30-7-83 of DET, Tezpur in r/o posting of Sh. Ashim Bijoy Dutta, as Phone Inspector (PI) w.e.f. 9-7-83.

46. Joining report dtd 9-7-83 of Sh. Ashim Bijoy Dutta, as P.I.

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47. Posting order No. E-12/LM/84-85/223 dtd 18-10-84 of Sri Jiten Barma as Lineman at Tezpur.

48. Letter No. X-1/CMPT/96-97/CON-7 dtd 27-5-96 of TDE, Tezpur in r/o order for regularization of casual labourers under SDE(P), Tezpur as TSM.

49. Joining report of Sh. Shibjyoti Mazumdar dtd 30-5-96 as TSM.

50. Joining report of Sh. Nanki Devi dtd 30-5-96 as TSM.

51. Joining report of Sh. Ujal Mahanta dtd 30-5-96 as TSM.

52. Joining report of Sh. Ajit Das dtd 30-5-97 as TSM.

53. Joining report of Sh. Shades Shil dtd 30-5-96 as TSM.

54. Joining report of Smt. Reshma Acharjee dtd 30-5-96 as TSM.

55. Joining report of Miss Chintamoni Bora dtd 30-5-96 as TSM.

56. Joining report of Debasis Das dtd 30-5-96 as TSM.

57. Joining report of Reba Kanta Saikia dtd 30-5-96 as TSM.

58. Joining report of Jadav Deka dtd 30-5-96 as TSM.

59. Joining report of Abdul Jabbar dtd 30-5-96 as TSM.

60. Joining report of Dinen Deka dtd 30-5-96 as TSM.

61. Joining report of Nayan Kalita dtd 30-5-96 as TSM.

62. Joining report of Ranjan Adhikary dtd 30-5-96 as TSM.

63. Joining report of Mahesh Baroi dtd 30-5-96 as TSM.

64. Joining report of Satya Ranjan Kalita dtd 30-5-96 as TSM.

65. Joining report of Abdul Karim dtd 30-5-96 as TSM.

66. Joining report of Dipak Deka dtd 30-5-96 as TSM.

67. Joining report of P. Basphare dtd 30-5-96 as TSM.

68. Joining report of Anil Kr. Das dtd 30-5-96 as TSM.

69. Joining report of Nabajyoti Deka dtd 30-5-96 as TSM.

70. Acquittance Roll in r/o TSM under SDE(Phones), Tezpur for June, July and August, 1996.

71. Attendance Register of TSM under SDE(P), Tezpur for June'96 to Nov'97 in r/o Tezpur Telephone TK Exge.

72. Attendance Register of TSM under SDE(P), Tezpur for June'96 to Feb'98 in r/o Tezpur Telephone Exge.

73. Attendance Register of TSM under SDE(P) Tezpur for June'96 to Nov'97 in r/o O/O SDE(P), Tezpur.

74. Letter No. E-38/CMPT/VOL-III/96-97/15 dtd 30-8-96 of TDE, Tezpur.

75. Letter No. X-1/CMPT/TZ/95-96/Confld/1 dtd 25-8-96 of TDE, Tezpur.

76. Letter No. E-38/CMPT/94-95/168 dtd 17-2-95 of TDE, Tezpur.

77. Letter No. E-38/CMPT/Vol-III/123 dtd 7-12-93 of TDE, Tezpur.

78. Original letter No. 269-4/93-STN-II dtd 17-12-93 of Asstt. Director General (STN), New Delhi.

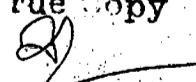
79. Letter No. 289-8/43-STN dtd 29-7-93 of Asstt. Director General (STN), New Delhi

80. L/No. rectt.3/10/Part-III/3 dated 26-8-93 of Asstt. Director Telecomm(E&R), O/O CGMT, Guwahati.

81. Letter No. E-38/CMPT/VOL-III/96-97/15 dtd 30-8-96 of TDE/Tezpur.

82. L/No. TDM/TEZ/1005/CBI dtd 11-8-98 of Sri B.K.Goswami, TDM, Tezpur in r/o non-availability of ACG-17 documents.

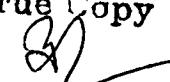
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83. L/No. 270/6/84-STN, New Delhi dtd 30-3-85.
84. Seizure Memo dtd 16-11-98.
85. Seizure Memo dtd 6-11-98.

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Advocate

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Annexure - IV

List of witness by whom the Articles of Charge framed against Sri A.K.Sarkar,
SDOT Tezpur the then SDE(HRD), Tezpur are proposed to be sustained.

1. Md. Islam Ahmed S/O Lt. Basiruddin Ahmed, Chief Accounts Officer, O/O TDM/Tezpur.
2. Sri B.K.Goswami, TDM, Tezpur, Resident of 100/5, Jessore Road, Duni Dum, Bhagabati Park, Calcutta-74.
3. Sri B.C.Paul, Asstt. Director Telecom(E&R), O/O CGMT, Assam Circle, Guwahati.
4. Sri Babul Ch. Nath, S/o Lt. Upen Ch. Nath, Telecom Office Asstt. (TDA) O/O TDM, Tezpur
5. Sri Badal Saha, SS(O) O/O the TDM/Tezpur, S/O Radha Raman Saha, Tengabari, P.O & P.S: Mangaldai, Dist: Darang(Assam).
6. Sri K.Barman, Inspector,CBI,ACB,Guwahati.

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Advocate-

- 46 -
Bharat Sanchar Nigam Ltd
(A Govt. of India Enterprise)
O/O the Chief General Manager,
Assam Telecom Circle, Ulubari,
Guwahati- 781007.

No : Vig/Assam/43(C)/6

Dated the November 5, 2001

MEMORANDUM

1. Sri A.K Sarkar, SDOT, Tezpur formerly SDE(HRD), Tezpur is hereby informed that it is proposed to hold an Inquiry against him under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the Inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed(Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).
2. Sri A.K. Sarkar is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specially admit or deny each articles of charge.
4. Sri A.K. Sarkar 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 provision of Rule-14 of the CCS(CCA) Rules 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.
5. Attention of A.K.Sarkar 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 Sri A.K. Sarkar is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.
6. The receipt of the Memorandum may be acknowledged.

To

Sri A.K. Sarkar,
SDOT, Tezpur

(J.K.CHHABRA)
Chief General Manager
Assam Telecom Circle,
Guwahati

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Advocate

ANNEXURE - I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI A.K. SARKAR, FORMERLY SDE(HRD), TEZPUR AND NOW SDOT, TEZPUR

That the said Sri A.K.Sarkar while functioning as SDE(HRD), Tezpur during 1996 committed serious irregularities in as much as he recommended 7 numbers of Casual Mazdoors of Tezpur for appointment as Temporary Status Mazdoors of Tezpur in the capacity of a Member of Departmental Promotion Committee with malafide intention although none of them was eligible for such appointment that too without verifying the genuineness of the recommendations of JTO(Computer)/SDE(Computer), Tezpur and experience certificates issued by Line Inspectors/Cable Splicers/Sub-Inspectors etc and thus putting the department to a huge financial loss.

Thus, by his above acts, the said Sri A.K.Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner of unbecoming a Government Servant, thereby contravening the provisions of Rule 3(1)(i),(ii) & (iii) of CCS(Conduct) Rules, 1964.


(J.K.Chabba)
Chief General Manager
Assam Telecom Circle, Guwahati

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Advocate

ANNEXURE - II

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**STATEMENT OF IMPUTATION OF MISCONDUCT/MISBEHAVIOUR
IN SUPPORT OF ARTICLE OF CHARGE AGAINST SHRI
A.K.SARKAR, FORMERLY SDE(HRD) IN THE O/O THE TDE,
TEZPUR NOW SDOT, TEZPUR**

The said Shri A.K.Sarkar was functioning as SDE(HRD) in the o/o the TDE/Tezpur during 1996.

Whereas, TSM scheme was introduced by the Department of Telecom to regularize Casual Mazdoors engaged between 30-3-85 and 15-6-88 and it was circulated to different circles vide letter No. 264-4/93-STN-II dtd 17-12-93. As per the scheme, a Casual Mazdoor should complete at least 240 days when engaged in the field work or 206 days when engaged in office and he should not absent from his duties for last 365 days from the date of issuance of the circular. The casual mazdoors should also be engaged on Muster Roll basis.

Whereas Shri K. Balasubramaniam, TDE, Tezpur had submitted a report vide his letter No. E-38/CMPT/Vol.II/123 dtd 7-12-93 stating that no casual mazdoor was recruited in Tezpur division after 31-3-85.

Whereas, S/Sh Sukan Ray, the then Sub-Inspector, Sarat Chandra Nath, Line Inspector, M.P.Ray the then Sub-Inspector, H.N.Haloi, the then Cable Splicer issued 7 Nos. of false and fabricated experience certificates in favour of 7 persons showing them as Casual Mazdoors working since 1988 February 1996 in the o/o the SDE(Comp), Tezpur and Md. Bazlur Rahman, the then SDE(Comp), Tezpur and Sri Pitambar Sarma, JTO countersigned these false experience certificates and forwarded them to Sri M.K.Gogoi, the then TDE, Tezpur without verifying the records.

The said Shri A.K.Sarkar was nominated as a member of Departmental Promotion Committee constituted by Shri M.K.Gogoi the then TDE, Tezpur for recommending the eligible Casual Mazdoors for appointment as Temporary Status Mazdoors vide letter No. X-1/CMPT/TZ/95-96/confd/1. dtd. Tezpur 25-3-96. The other members of the DPC were 1) S/Sh D.Payeng the then SDE(P), Tezpur 2) Shri P.Das, the then SDOP, Tezpur, 3) Shri U. Swargiary, the then AO(Cash), Tezpur.

Whereas, the DPC had recommended 221 persons including 7 Casuals Mazdoors in the o/o the SDE(Comp), Tezpur for appointment as TSM. Sri A.K.Sarkar along with other members of DPC signed on the proforma sheet of selected and rejected candidates.

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Advocate

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The said Shri A.K.Sarkar did not verified the genuineness of the experience certificates before recommending the Casual Mazdoors as Temporary Status Mazdoors. Though the Muster Roll Register is stored in the office of the TDE, the place where the DPC met, Shri A.K.Sarkar did not checked the Muster Roll Register. He also did not verified the ACG-17 payment vouchers. Thus he recommended the names of casual mazdoors for appointment as Temporary Status Mazdoors without verifying the experience certificates.

Whereas, the casual mazdoors can be engaged by SDO/SDE office on Muster Roll basis as per rule 150-170 given in Postal & Telegraph Financial Hand Book-III Part-I. However, the engagement on Muster Roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the office of TDE. The casual mazdoors can also be engaged on the basis of ACG-17 payment vouchers. No attendance register maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the o/o the SDE. Thus no permanent records regarding the Nos of working days against particular orders for the casual mazdoors are available in the o/o the SDE/SDO or with the field staff as such Line Man, Line Inspector, Sub Inspector and Cable Splicer < - .

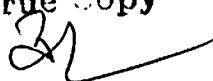
The said Shri A.K.Sarkar had worked as a field officer and as such knew that no records for the engagement of casual mazdoors are available with the SDE/SDO office and the field staff. He also knew that these casual mazdoors were not appointed on Muster Roll basis and had he any doubt in his mind, he could have easily verified the Muster Roll Register maintained in the TDE Office. Thus he falsely recommended 221 persons including Casual Mazdoors of SDE(Comp),O/O the TDE,Tezpur for appointment as TSM knowing well that they did not fulfill the conditions for their appointment and as such they were not eligible.

Sri M.K.Gogoi, the then TDE,Tezpur appointed these 7 persons as Temporary Status Mazdoors on the basis of the recommendations of the members of the Departmental Promotion Committee viz. S/Sh D.Payeng, SDE(P), Tezpur, P. Das, the then SDO(P), Tezpur, A.K.Sarkar, the then SDO(HRD), U.Swargiary, the then AO(Cash). Though the records for the engagement of casual mazdoors are stored permanantly in the o/o the TDE, neither the DPC members nor the TDE, Tezpur verified these records.

Thus, by his above acts, the said Sri A.K.Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening the provisions of Rule 3 (1),(i),(ii) & (iii) of CCS (Conduct) Rules, 1964.

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ANNEXURE - III

List of documents by which the Articles of Charge framed against Sri A.K.Sarkar, formerly SDE(HRD), Tezpur now SDOT, Tezpur are proposed to be sustained.

1. Certificate issued in favour of Sri Dandadhar Das, S/o Lt. Mahendra Nath Haloi, the then Cable Splicer, O/o the SDEO, Tezpur.
2. Certificate issued in favour of Sri Nagen Saikia, S/o Sri Chandra Kt. Saikia by Sri Sarat Nath, the then Line Inspector O/O the SDEO, Tezpur.
3. Certificate issued in favour of Sri Mridul Kr. Das, S/o Manik Das by Sri Sarat Nath, L.I. of the O/o the SDEO, Tezpur.
4. Certificate issued in favour of Sri Naba Kr. Sarmah, S/o Lt. Dharani Sarmah by Sri Sukan Roy, S.I. O/o SDEO, Tezpur.
5. Certificate issued in favour of Sri Dharani Swargiary by Sri Sukan Roy, S.I O/o the SDEO, Tezpur.
6. Certificate issued in favour of Sri Rajib Gogoi, S/o Sri Nilakanta Gogoi by Sri Sukan Roy, S.I. O/o the SDEO, Tezpur.
7. Certificate issued in favour of Sri Avani Ch. Talukdar, S/o Sri Upen Ch. Talukdar by Sri Mohan Prasad Roy, S.I. O/O the SDEO, Tezpur.
8. Letter No. E-8/Casual/95-96/1 td 12-3-96 addressed to TDE, Tezpur.
9. Recommendation sheets of Selection Committee in favour of 6 Nos. of Casual Mazdoor.
10. Proforma of 7 Casual Mazdoor submitted by Sri B.Rahman, the then SDE(Comp), Tezpur.
11. Forwarding letter No. E-8/CL/96-97/1 dtd 10-5-96 by Sri B. Rahman, the then SDE(Comp), Tezpur addressed to TDE, Tezpur.
12. Draft Gradation List of 7 Nos. of Casual Mazdoor submitted/duly recommended by Selection Committee.

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13. Letter No. E-38/CMPT/94-95/168, Tezpur dtd 17-2-1995 written by Sri M.K.Gogoi, TDE, Tezpur to ADT(E&R).

14. Letter No. E-38/CMPT/VOL.II/167, Tezpur dtd 8-12-1994 written by Sri D.Payeng, SDO(P) I/c O/O TDE, Tezpur.

15. Letter No. AMT-GH/Corr./96 dtd 28-6-96 written by Sri S.K.Kayal, Area Director, Telecom, Guwahati to Sri M.K.Gogoi, TDE, Tezpur.

16. Letter No. X-1/CMPT/96-97/21 dtd Tezpur, 7-7-96 written by Sri M.K.Gogoi, TDE(Tezpur) to Sri S.K.Kayal, Area Director, Telecom, Guwahati.

17. X-1/CMPT/TZ/95-96/Confd/1 dtd Tezpur, 25-3-96 by Sri M.K.Gogoi, TDE, Tezpur regarding constitution of DPC.

18. Minutes of Meeting of RJCM item No. 38.

19. E-38/CMPT/Vol-II/123, Tezpur dtd 9-12-93 written by Sri K. Balasubramaniyam, TE, Tezpur addressed to Sri S.C.Choudhury, Asstt. Director Telecom, O/O the CGMT/Guwahati.

20. Original letter No. 269-4/93-STN-11 dtd 17-12-93 of ADG(STN), New Delhi.

21. Attested copy of letter No. 270/6/84-STN, New Delhi dtd 30-3-85 of Sri Krishan, Director(STN), P&T in respect of banning of engagement of casual labourers.

22. Joining reports of the Casual Labourers.

23. Letter No. Estt-9/12 dtd 30/6/2000 written by Sri A.K.Chelleng, Asstt. G.M. in the o/o the CGMT/Guwahati to Dy. SP/CBI/SHG

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ANNEXURE - IV

List of witnesses by whom the Articles of Charge framed against Sri A.K.sarkar, SDOT, Tezpur, formerly SDE(HRD), Tezpur and now SDOT, Tezpur are proposed to be sustained.

1. Sri A.K.Chelleng, AGM(Admn), O/O the CGMT, Guwahati.
2. Sri Dilip Kumar Rai Barman, AO(Cash) in the O/o the TDE,Tezpur
3. Sri Rajiv Yadav, the then TDM, Tezpur, Vill: Vedi,PO:Ramaipatty Dist:Varanasi, UP.
4. Sri M.K.Bhattacharjee, SDE in the O/O the TDM,Tezpur.
5. Sri Bishnu Kr. Paul, Asstt. AO in the o/o the TDM,Tezpur.
6. Sri Sarbeswar Nath, ISO in the o/o the TDE(FRs).
7. Sri Biren Ch. Das, TOA in o/o the SDE(FRs).
8. Md. Islam Mansoorie, Sr. TOA(O), O/O the SDE(FRS), Tezpur.
9. Sri S.K.Kayal, Area Manager, Howrah, Calcutta Telephones.
10. Sri K.Barman, Inspector, CBI, Guwahati.
11. Sri D.Dutta, Inspector, CBI, Guwahati.
12. Sri Vaibhav Agashe, CBI, Guwahati.

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Advocate.

Bharat Sanchar Nigam Ltd.
(a Govt. of India Enterprise)
O/O The Chief General Manager,
Assam Telecom Circle,
Guwahati-781007.

No : Vig/Assam/Disc-XV/11

Dated, 5th Dec '01.

MEMORANDUM

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

To
Sri A.K.Sarkar
SDOT Tezpur

CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE
GUWAHATI

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Advocate.

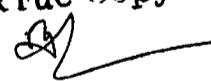
ANNEXURE-I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI
A.K.SARKAR, FORMERLY SDE(HRD), TEZPUR AND NOW SDOT TEZPUR.

That the said Sri A.K.Sarkar, while functioning as SDE(HRD), Tezpur during 1996 committed serious irregularities in as much as he recommended 15 numbers of Casual Mazdoors of Tezpur for appointment as Temporary Status Mazdoors of Tezpur in the capacity of a Member of Departmental Promotion committee with malafide intention although none of them was eligible for such appointment that too without verifying the genuineness of the recommendations of SDOT, Tezpur and experience certificates issued by JTO/Line Inspector/Line man /Sub-Inspector etc and thus putting the department to a huge financial loss.

Thus, by his above acts, the said Sri A.K.Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner of unbecoming a government Servant thereby contravening the provisions of Rule 3(1)(i)(ii) and (iii) of CCS(Conduct) Rules, 1964.


CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE
GUWAHATI.


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Advocate.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT/MISBEHAVIOUR IN SUPPORT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI A.K.SARKAR FORMERLY SDE(HRD) IN THE O/O TDE TEZPUR & NOW SDOT TEZPUR.

The said Shri A.K.Sarkar, was functioning as SDE(HRD) in the O/O TDE Tezpur during 1996.

Whereas, TSM scheme was introduced by the Department of Telecom to regularize Casual Mazdoors engaged between 30-3-85 and 15-6-88 and it was circulated to different Circles vide letter No. 269-4/93-STN-II dtd. 17-12-93. As per the scheme, a Casual Mazdoor should complete at least 240 days when engaged in the field work or 206 days when engaged in office and he should not absent from his duties for last 365 days from the date of issuance of the circular. The casual mazdoors should also be engaged on Muster Roll basis.

Whereas Shri K.Balasubramaniam, TDE Tezpur has submitted a report vide his letter No. E-38/CMPT/Vol.II/123 dtd. 7-12-93 stating that no casual mazdoor was recruited in Tezpur division after 31-3-85.

Whereas, Shri N.C.Paul, SI Rangapara, A.C.Dutta, LI Dhekiajuli, N.C.Boro, LM Masbat, Sri Ramesh Ch.Haloi, JTO issued in toto 15 Nos. of false and fabricated experience certificates in favour of 15 persons showing them as Casual labourers working since 1988 to Feb'1996 in the office of SDOT Tezpur. These false certificates were countersigned by Sri P Deka, JTO, Sri B.B.Nath, AE, Sri D.K.Ghosh, JTO and Shri Khiren Choudhury the then SDOT Tezpur countersigned these experience certificates and forwarded them to Sri M.K.Gogoi the then TDE Tezpur without verifying the records.

That said Shri A.K.Sarkar was nominated as a member of Departmental Promotion Committee constituted by Shri M.K.Gogoi the then TDE Tezpur, for recommending the eligible Casual Mazdoors for appointment as Temporary Status Mazdoors vide letter NO X-1/CMPT/TZ/95-96/Confsl/1 dtd. Tezpur 25-3-96. The other members of the DPC were 1) S/Sh D.Payeng, the then SDE(P) Tezpur 2) Shri P.Das, the then SDOP Tezpur 3) Shri U.Swargiary, the then AO (Cash) Tezpur.

Whereas, the DPC had recommended 221 persons including 15 Casuals Mazdoors in the O/O SDE(Comp), Tezpur for appointment as TSM. Shri A.K.Sarkar alongwith other members of DPC signed on the proforma sheet of selected and rejected candidates.

The Said Shri A.K.Sarkar did not verify the genuineness of the experience certificates before recommending the Casual Mazdoors as Temporary Status Mazdoors. Though the Muster Roll Register is stored in the office of the TDE, the place where the DPC met, Shri A.K.Sarkar did not checked the Muster Roll Register. He also did not verify the ACG-17 payment vouchers. Thus he recommended the names of casual mazdoors, for appointment as Temporary Status Mazdoors without verifying the experience certificates.

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Advocate

Whereas, the casual mazdoors can be engaged by SDO/SDE office on Muster Roll basis as per rule 170 given in Postal and Telegraph Financial Hand Book-III Part-I. However, the engagement on Muster roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the office of TDE. The casual mazdoors can also be engaged on the basis of ACG-17 payment vouchers. No attendance register maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the O/O SDE. Thus no permanent records regarding the No. of working days against particular orders for the casual mazdoors are available in the O/O SDE/SDO or with the field staff as such Line Man, Line Inspector, Sub Inspector and JTO etc.

The said Shri A.K.Sarkar had worked as a field officer and as such knew that no records for the engagement of Casual Mazdoors are available with the SDE/SDO office and the field staff. He also knew that these casual mazdoors were not appointed on Muster Roll basis and had he any doubt in his mind, he could have easily verified the Muster roll Register maintained in the TDE office. Thus he falsely recommended 221 persons including the said 15 Casual Mazdoors of SDOT Tezpur for appointment as TSM knowing well that they did not fulfill the conditions for their appointment and as such they were not eligible.

Shri M.K.Gogoi, the then TDE Tezpur appointed these 15 persons as Temporary Status Mazdoors on the basis of the recommendations of the members of the Departmental Promotion Committee viz. S/Sh D.Payeng, SDE(P), Tezpur, P.Das, the then SDOP Tezpur, A.K.Sarkar, the then SDE(HRD), U.Swargiary, the then AO (Cash). Though the records for the engagement of casual mazdoors are stored permanently in the O/O TDE neither the DPC members nor the TDE, Tezpur verified these records.

Thus, by his above acts, the said Shri A.K.Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening the provisions of Rule-3 (1)(i)(ii) & (iii) of CCS (Conduc) Rules, 1964.

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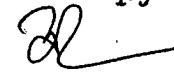

Advocate

ANNEXURE-II

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI A.K.SARKAR, SDOT, TEZPUR FORMERLY SDE(HRD)
TEZPUR ARE PROPOSED TO BE SUSTAINED.

1. Experience Certificate of Smt. Paramita Dey, D/O Late Narayan Chandra Dey issued by Shri A.C.Dutta (LI)
2. Experience Certificate of Shri Atul Chandra Deka S/o Late Madan Deka issued by Shri N.C.Boro.
3. Experience Certificate of Shri Biswajit Malakar S/o Sachin Malakar issued by Shri A.C.Dutta, LI
4. Experience Certificate of Shri Dina Kanta Ghatowal S/o Phagum Ghatowal issued by Shri A.C.Dutta, LI
5. Experience Certificate of Shri Anup Dutta S/o Amal Chandra Dutta issued by Shri A.C.Dutta, LI
6. Experience Certificate of Shri Dukhan Roy S/o Shankar Ray issued by Shri A.C.Dutta, LI
7. Experience certificate of Smt. Mina Das D/o Jamini Das issued by Shri A.C.Dutta, LI
8. Experience Certificate of Shri Parimal Sarkar S/o Rati Ranjan Sarkar issued by Shri A.C.Dutta, LI
9. Experience Certificate of Shri Phulena Basphor S/o S.Basphor by Shri A.C.Dutta, LI
10. Experience Certificate of shri Rupen Das, S/o Sarat Das issued by Shri N.C.Paul, SI
11. Experience Certificate of Shri Sanjay Kumar Deb S/o Nani Gopal Deb issued by N.C.Paul, SI
12. Experience Certificate of Shri Karuna Lahkar S/o Dasrath Lahkar issued by Shri N.C.Paul, SI
13. Experience Certificate of Shri Sakiram Majhi S/o Durga Majhi issued by Shri A.C.Dutta, LI
14. Experience Certificate of Shri Duijan Baishya S/o H.N.Baishya issued by Shri N.C.Paul
15. Letter No. E-14/Pl.II dtd. 11-3-96 by SDOT Tezpur to TDE Tezpur to forward the names of 15 casual labourers.
16. Proforma which contain the names of 16 nos. of casual labourers and their particulars such as date of birth, community, date of entry in department, educational qualification, no. of duty days worked: it contains the signature of the TSM's.
17. Recommendation sheets of DPC in favour of 15 nos. of casual labourers. It contains the signatures of the DPC Members.
18. Experience certificate of Smt. Dipali-Hazarika issued by shri Ramesh Ch. Haloi.
19. Draft Gradation List of 16 persons prepared by DPC Members.
20. Letter No. E-38/CMPT/94-95/168 Tezpur dtd. 17-02-95 written by Shri M.K.Gogoi, TDE Tezpur to ADT(E&R) giving details of TSM's employed after 1989

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21. Letter NO. E- CMP/Vol II/167 Tezpur dtd 8-12-1994 written by Shri D Payeng SDOT in charge of O/O TDE Tezpur.

22. Letter No. AMI GHI/Corr/96 dtd 28-6-96 written by Shri S.K.Kayal, Area Director Telecom Guwahati to Shri M.K.Gogoi, TDE Tezpur

23. Letter No. X-1/CMPT/96-97/21 dtd. Tezpur 7-7-96 written by Shri M.K.Gogoi, TDE Tezpur to Shri S.K.S.K.Kayal, Area Director Telecom, Guwahati.

24. Letter No. X-1/CMPT/TZ/95-96/Confsl/1 dtd Tezpur 25-3-96 by Shri M.K.Gogoi, TDE Tezpur in respect of confirmation of departmental promotion Committee.

25. Minutes of the R/CM Meeting item No. 38.

26. Letter No. E-38 CMPT/Vol.II/123 Tezpur dtd. 9-12-93 written by Shri K.Balasubramaniam, TDE Tezpur to Shri S.C.Choudhury, Asstt Director Telecom in the O/O CGMT Guwahati.

27. Original letter No 269-4/93-STN 11 dtd. 17-12-93 of ADG(STN) New Delhi in respect of regularisation of casual labourers engaged in circle after 30-3-85 upto 15-6-88.

28. Attested copy of letter no. 270/6/84-STN, New Dehi dtd. 30-3-85 of Shri Krishnan Director (STN) P&T in respect of ban of engagement of casual labourers

29. Letter /DO No Recit.3/10/Pl.V dtd 25-7-97 written by Shri K.Padmanavan, CGMT Assam Circle to Shri G.D.Gaiba, Dy. GM(Tel) in respect of violation of norm of muster roll and sponsorship from Employment Exchange

30. Post and Telegraph Financial Handbook III Part.1

31. Letter No. Estt 9/12 dtd. 30-6-00 written by Shri A.K.Choudhury, Asstt GM(Admn) O/O CGMT Guwahati to Dy.SP/CBNI/Shillong in r/o TDE's responsibility to implement TSM Scheme.

32. Seizure Memo dtd. 28-10-99.

33. Seizure Memo dtd 13-9-99.

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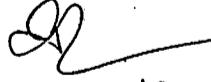
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ANNEXURE -IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI A.K.SARKAR, SDOT, TEZPUR, THE THEN SDE(HRD)
TEZPUR, ARE PROPOSED TO BE SUSTAINED.

1. Shri A.K.Challeng, AGM(Admn) O/O CGMT Assam Telecom Circle Guwahati.
2. Shri Dilip Kumar Rai Barman, AO(Cash) in the O/O TDM Tezpur.
3. Shri Rajiv Yadav, the then TDM Tezpur.
4. Shri S.K.Kayal, the then Area Director (T).
5. Shri M.K.Bhattacharjee, SDE in the O/O TDM Tezpur.
6. Shri Bishnu Kumar Paul, Asstt. Accounts Officer in the O/O TDM Tezpur.
7. Shri Bhaban Kumar Talukdar, Sr.ToA in the O/O TDM/Tezpur.
8. Shri Niranjan Hazarika, Sr.Clerk in the O/O SDOT Tezpur.
9. Shri Ashim Chakraborty, Sr.ToA in the O/O SDOT Tezpur.
10. Shri K.Barman, Inspector/CBI.
11. Shri D.Dutta, Inspector/CBI.
12. Shri Vaibhav Agashe, DSP/CBI Shillong Unit.

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Advocate.

Bharat Sanchar Nigam Ltd.
(A Govt. of India Enterprise)
O/O The Chief General Manager,
Assam Telecom Circle,
Guwahati-781007.

Dated, 10th Dec'01.

No : Vig/Assam/Encl-XII/6

MEMORANDUM

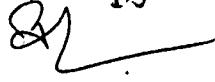
- 1) Shri A.K.Sarkar, SDOT Tezpur, formerly SDE(HRD) Tezpur, is hereby informed that it is proposed to hold an inquiry against him under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of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

To

Sri A.K.Sarkar,
SDOT Tezpur

CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE
GUWAHATI

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ANNEXURE-I

STATEMENT OF ARTICLE OF CHARGE, FRAMED AGAINST SRI
A.K.SARKAR, FORMERLY SDE(HRD), TEZPUR AND NOW SDOT, TEZPUR

That the said Sri A.K.Sarkar, while functioning as SDE(HRD), Tezpur during 1996 committed serious irregularities in as much as he recommended 22 numbers of Casual Mazdoors of Dhemaji Sub- Division for appointment as Temporary Status Mazdoors in the capacity of a Member of Departmental Promotion committee with malafide intention although none of them was eligible for such appointment that too without verifying the genuineness of the recommendations of SDE(P), Dhemaji and experience certificates issued by Line Inspector /Sub-Inspector/Phone Inspector etc and thus putting the department to a huge financial loss.

Thus, by his above acts, the said Sri A K Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner of unbecoming a government Servant thereby contravening the provisions of Rule 3(1)(i)(ii) and (iii) of CCS(Conduct) Rules, 1964.


CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE
GUWAHATI.

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ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF
ARTICLE OF CHARGE FRAMED AGAINST SHRI A.K.SARKAR, FORMERLY
SDE(HRD) IN THE O/O TDE TEZPUR AND NOW SDOT TEZPUR.

1) The said, Shri A.K.Sarkar, was functioning as SDE(HRD), Tezpur during 1996.

2) Whereas, TSM scheme was introduced by the Department of Telecom to regularize Casual Mazdoors engaged between 30-3-85 and 15-6-88 and it was circulated to different Circles vide letter No. 269-4/93-STN-II dtd. 17-12-93. As per the scheme, a Casual labourer should complete at least 240 days when engaged in the field work or 206 days when engaged in office and he should not absent from his duties for last 365 days from the date of issuance of the circular. The casual mazdoors should also be engaged on Muster Roll basis.

3) Whereas Shri K.Balasubramaniam, TDE Tezpur has submitted a report vide his letter No. E-38/CMPT/Vol.II/123 dtd 7-12-93 stating that no casual mazdoor was recruited in Tezpur division after 31-3-85.

4) Whereas, Shri B.K.Payeng, the then PI, Shri P.C.Doyrah, the then SI, Shri Indreswar Baruah, the then SI, Shri Baijnath Prasad, the then LI issued in toto 22 Nos. of false and fabricated experience certificates in favour of 22 persons showing them as Casual Labourers working since 1988 to Feb'1996 in the office of SDE(P) Dhemaji. Shri M.N.Pegu was functioning as SDE(P) Dhemaji Sub-Division till 24-1-1996 and countersigned 10 Nos. of false and fabricated experience certificates and forwarded 15 Nos. of experience certificates to the TDE Office. Shri B.D.Pegu took the charge of SDE(P) office Dhemaji on 25-1-1996 and countersigned 5 Nos. of experience certificates which were not countersigned by Shri M.N.Pegu earlier SDE(P), Dhemaji and were rejected by the DPC on 25-3-96. He further added 7 Nos. of Casual Mazdoors in this list and forwarded 22 Nos. of Casual Mazdoors in toto to the TDE Tezpur for regularizing/appointing them as Temporary status Mazdoors.

That said Shri A.K.Sarkar was nominated as a member of Departmental Promotion Committee constituted by Shri M.K.Gogoi the then TDE Tezpur, for recommending the eligible Casual Mazdoors for appointment as Temporary Status Mazdoors vide letter No. X-1/CMPT/TZ/95-96/Confld/1 dtd. Tezpur 25-3-96. The other members of the DPC were 1) S/Sh D.Payeng, the then SDE(P) Tezpur 2) Shri N.P.Das, the then SDOP Tezpur 3) Shri U.Swargiary, the then AO(Cash) Tezpur.

Whereas, the DPC had recommended 22 persons including 22 Casual Mazdoors in the O/O SDE(P) Dhemaji for appointment as TSM. Shri A.K.Sarkar alongwith other members of DPC signed on the proforma sheet of selected and rejected candidates.

The said Shri A.K.Sarkar did not verify the genuineness of the experience certificates before recommending the Casual Mazdoors as Temporary Status Mazdoors. Though the Muster Roll Register is stored in the office of the TDE, the place where the DPC met, Shri A.K.Sarkar did not checked the Muster Roll Register. He also did not verified the ACG-17 payment vouchers. Thus he recommended the names of casual

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... mazdoors for appointment as Temporary Status Mazdoors without verifying the experience certificates.

Whereas, the Casual Mazdoors can be engaged by SDO/SDE office on Muster Roll basis as per rule 150-170 given in Postal and Telegraph Financial Hand Book-III Part-i. However, the engagement of Muster Roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the office of TDE. The casual mazdoors can also be engaged on the basis of ACG-17 payment vouchers. No attendance register maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-21 account is maintained in the O/O SDE. Thus no permanent records regarding the NO. of working days against particular orders for the casual mazdoors are available in the O/O SDE/SDO or with the field staff as such Phone-Inspector, Line-Inspector, Sub-Inspector.

The said Shri A.K.Sarkar had worked as a field officer and as such knew that no records for the engagement of Casual Mazdoors are available with the SDE/SHO office and the field staff. He also knew that these casual mazdoors were not registered on Muster Roll basis and had he any doubt in his mind, he could have easily verified the Muster roll Register maintained in the TDE office. Thus he falsely recommended 221 persons including the said 22 Casual Mazdoors of SDE(P) Dhemaji for appointment as TSM knowing well that they did not fulfill the condition for their appointment and as such they were not eligible.

Shri M.K.Gogoi, the then TDE Tezpur appointed these 22 persons as Temporary Status Mazdoors on the basis of the recommendations of the members of the Departmental Promotion Committee viz. S/Sh D.Payeng, SDE(P) Tezpur, P.Das, the SDOP Tezpur, A.K.Sarkar, the then SDE(HRD), U.Swargiary, the then AO (Cash). Though the records for the engagement of casual mazdoors are stored permanently in the O/C TDE neither the DPC members nor the TDE Tezpur verified these records.

Thus, by his above acts, the said shri A.K.Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening the provisions of Rule-3(1)(i)(ii) and (iii) of CCS(Conduct) Rules,1964.

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**LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED
AGAINST SHRI A.K.SARKAR SDOT TEZPUR FORMERLY SDE(HRD)
TEZPUR ARE PROPOSED TO BE SUSTAINED.**

- 1) Letter No. E-38/CMPT/94-95/168, Tezpur dtd. 17-2-1995 written by Shri M.K.Gogoi, TDE, Tezpur to ADT(E&R), giving details of TSMs employed after 1989.
- 2) Letter No. E-38/CMPT/Vol.II/167, Tezpur dtd. 8-12-1994 written by D.Payeng SDOP i.e. O/O TDE, Tezpur.
- 3) Letter No. AMT-GH/Corr/96 dt. 28-6-96 written by Shri S.K.Kayal, Area Director Telecom, Guwahati to Shri M.K.Gogoi, TDE Tezpur (Page 50).
- 4) Letter No. X-1/CMPT/96-97/21 dtd. Tezpur, 7-7-96 written by Shri M.K.Gogoi, TDE(Tezpur) to shri S.K.Kayal, Area Director, Telecom, Guwahati.
- 5) X-1/CMPT/TZ/95-96/Confld/1 dtd. Tezpur 25-3-96 by Shri M.K.Gogoi, TDE Tezpur regarding constitution of DPC.
- 6) Minutes of the meeting of RJCM item No. 38.
- 7) E-38/CMPT/Vol.II/123, Tezpur dtd. 9-12-93 written by Shri K.Balasubramaniam, TDE Tezpur add. to Sri S.C.Choudhury, Asstt. Director Telecom O/O CGMT/GII.
- 8) Original letter No. 269-4/93-STN-II dtd. 7-12-93 of ADG(STN) New Delhi in respect of regularisation of Casual labours engaged in Circle after 30-3-85 upto 22-6-88.
- 9) Attested copy of letter No. 270/6/84-STN New Delhi dtd. 30-3-85 of Sri Krishnan, Director (STN), P&T in respect of barring of engagement of Casual labourers.
- 10) Letter No. D.O. No. Recd.3/10/Pt.V dtd. 25-7-97 written by Sri K.Padmanabhan, CGMT, Assam Circle to Sri G.D.Gaiha, Dy. DG(Tel) in respect of violation of name of Muster Roll and sponsorship form employment exchange.
- 11) Post and Telegraph Financial Hand Book(III) Part-I
- 12) Post and Telegraph Manual, Vol-X.
- 13) Letter No. Estt.9/12 dtd. 30-6-2000 written by Shri A.K.Challenge, Asstt GM(Admn) O/O CGMT to the Dy. SO CBI, Shillong in respect of TDE's responsibility to implement TSM scheme.
- 14) No. X-1/CMPT/96-97/CON-7, Tezpur dtd. 27-5-96 order by TDE Sri M.K.Gogoi giving TSM Status to 221 Casual Labours.
- 15) No. X-1/DMJ/96-97, DMJ dtd. 1-4-5-97 forwarding letter by Sri B.D.Pegu, SDE(P) to TDE, Tezpur to forward a list of 22 Casual Labours.
- 16) Certificate in favour of Sri Prafulla Sonowal, S/o Lakhsheswar Sonowal issued by Sri Indreshwar Borua, SI.
- 17) Certificate in favour of Sri Sunanda Sonowal, S/o Raheswar Sonowal issued by Sri P.C.Dowrah, SI.
- 18) Certificate in favour of Anana Sonowal, S/o Lt. Dimbeswar Sonowal issued by Sri P.C.Dowrah, SI.
- 19) Certificate in favour of Mohan sonowal S/o Ltd.Lila sonowal issued by Shri P.C.Dowrah, SI.
- 20) Certificate in favour of Sri Nabin Sonowal, S/o Rajani sonowal issued by Sri P.C.Dowrah, SI.

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21) Certificate in favour of sri Lalit Sonowal, S/o Sri Dayaram Sonowal issued by Sri P.C.Dowrah, SI

22) Certificate in favour of Sri Khemson Pegu, S/o Lt. Sri Gam Pegu issued by Sri Indeswar Baurah.

23) Certificate in favour of Shri Babul Bora, S/O Lt. Rakeshwar Bora issued by Sri Indreshwar Boruah.

24) Certificate in favour of Shri Dinesh Pegu, S/o Sri Gam Pegu issued by Sri Indreshwar Baruah, SI.

25) Certificate in favour of Sri Hayant Phuka, S/o Sri Gangadhar Phukan issued by Sri P.C.Dowrah.

26) Certificate in favour of Sri Kamal Ch.Nath, S/o Sri Pelan Ch.Nath issued by Sri P.C.Dowrah, SI

27) Certificate given to Sri Kalyan Mech, S/o Nayán Singh Mech by Sri B.K.Payeng, PI.

28) Proforma of selected and rejected candidates prepared and signed by DPC members.

29) Letter No. A-21/95-96/06 Dhemaji dtd. 24-1-96 written by Sri M.N.Pegu, SDEP, Dhemaji in respect of forwarding the documents of 15 Nos. of Casual labourers.

30) Certificate given to Sri Kalipada Bora, S/o Tilleswar Bora by Sri B.K.Payeng, PI

31) Certificate given to Sri Thagiram Taye, S/o Lt. Phukan Taye by Sri B.K.Payeng, PI

32) Certificate given to Bibekananda Pegu, S/O Padmadhar Pegu by B.N.Prasad, PI

33) Certificate given to Sri Bharat Basphore, S/o Jamuna Basphore by B.K.Payang, PI

34) Certificate given to Sri cheniram Bora, S/o Sri Prafulla Bora by Sri I.Baruah, SI

35) Certificate given to Sri Biman Kr.Panyeng S/o Lt. Nandeswar Panyeng by Sri B.K.Panyeng, PI.

36) Certificate given to Rabin Doley S/O M.Jaduk Doley by Sri I.Baruah, SI

37) Certificate given to Sri Lilaram Panyeng, S/o Sri Narayan Panyeng by Sri B.K.Panyeng, PI.

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ANNEXURE - II

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE IS NAMED
AGAINST SHRI A.K.SARKAR, SDOT TEZPUR, THE THEN SDE (MRD)
TEZPUR, ARE PROPOSED TO BE SUSTAINED.

1. Shri A.K.Challeng, AGM(Admin) O/O CGMT Assam Telecom Circle Guwahati.
2. Shri Dilip Kumar Rai Barman, AO(Cash) in the O/O TDM Tezpur.
3. Shri Rajiv Yadav, the then TDM Tezpur.
4. Shri S.K.Kayal, the then Area Director (T).
5. Shri M.K.Battacharjee, SDE in the O/O TDM Tezpur.
6. Shri Bishnu Kumar Paul, Asstt. Accounts Officer in the O/O TDM Tezpur.
7. Shri Devalal Lazhon, Section Supervisor in the O/O SDEAP Dhemaji.
8. Shri Lakshminath Saikia, Telecom office Asstt. in the O/O SDEP Dhemaji.
9. Shri Vaibhav Agashe, DSP/CBI Shillong Unit.

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Bharat Sanchar Nigam Ltd
(A Govt. of India Enterprise)
O/O the Chief General Manager,
Assam Telecom Circle, Ulubari,
Guwahati- 781007.

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No : Vig / Assam / Disc- XIV / 5

Dated the 28-12-2001

MEMORANDUM

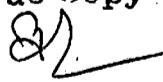
1. Sri Ajit Kumar Sarkar, SDO(T), Tezpur formerly SDO(HRD), Tezpur is hereby informed that it is proposed to hold an Inquiry against him under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the Inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed(Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).
2. Sri A.K.Sarkar is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specially admit or deny each articles of charge.
4. Sri A. K. Sarkar 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 provision of Rule-14 of the CCS(CCA) Rules 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.
5. Attention of Sri A. K. Sarkar 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 Sri A. K. Sarkar is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.
6. The receipt of the Memorandum may be acknowledged.

To

Sri A. K. Sarkar
SDOT, Tezpur


Chief General Manager
Assam Telecom Circle
Ulubari, Guwahati

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ANNEXURE - I

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Statement of Article of Charge framed against Sri A.K.sarkar, formerly SDE(HRD),Tezpur and now SDOT, Tezpur.

That the said A.K.Sarkar, while functioning as SDE(HRD), Tezpur during 1996 committed serious irregularities in as much as he recommended 21 Casual Labourers for appointment as Temporary Status Mazdoors in Udaguri Sub-Division in the capacity of a Member of Departmental Promotion Committee without verifying the genuineness of the experience certificates and thus putting the department to a huge financial loss.

Thus by his above acts, the said Sri A.K.sarkar failed to maintain absolute integrity and utmost devotion to duty and acted in an unbecoming manner of a Government Servant thereby contravening the provision of 3(1)(i)(ii) & (iii) of CCS(CCA) Conduct Rules 1964.

Chief General Manager
Assam Telecom Circle
Guwahati

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ANNEXURE - II

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SHRI A.K.SARKAR, THE THEN SDO(HRD) IN THE O/O THE TDE, TEZPUR

The said Sh. A.K.Sarkar was functioning as SDE(HRD) in the o/o the TDE, Tezpur during 1996.

Whereas TSM scheme was introduced by the Department of Telecommunications to regularize casual labourers engaged between 30-3-85 and 21-6-88 and it was circulated to different circles vide letter No 264-4/93-STN-II dtd 17-12-93. As per the scheme, a Casual Labourer should complete at least 240 days when engaged in field work or 206 days when engaged in office and he should not absent from his duties for at last 365 days from the date of issuance of the circular. The casual labourers should also be engaged on Muster Roll basis.

Whereas, Sh. K. Balasubramaniam, TDE, Tezpur had submitted, a report through his letter No. E-38/CMPT/Vol.II/123 dtd 7-12-93 stating that no casual labourer was recruited in Tezpur Division after 31-3-85.

Whereas, Sri A.K.Sarkar was nominated as a Member of Departmental Promotion Committee constituted by Sh. M.K.Gogoi the then TDE, Tezpur for recommending the eligible Casual Labourers for appointment as TSM through letter No. X-1/CMPT/TZ/95-96/Confld dtd 25-3-96. The other members of the DPC were S/Sh D.Payeng the then SDE(P), Tezpur, P.Das, the then SDE(P), U.Swargiary, the then AO(Cash).

Whereas, Casual Labourer can be engaged by SDE/SDO office on Muster Roll basis as per rule 150-170 given in Post & Telegraph Financial Hand Book-III Part-I. However, the engagement on Muster Roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the office of TDE. The casual labourer can also be engaged on the basis of ACG-17 payment vouchers. No attendance register is maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the office of the SDE. Thus no permanent records regarding the No. of working days against particular orders for the casual labourers are available in the o/o the SDE/SDO or with the field staff as such Line Man, Line Inspector, Sub-Inspector and Phone Inspector.

Whereas, S/Sh. R.K.Das, the then JTO, Sailendra Swargiary, JTO, S.K.Dutta, the then Sub-Inspector, S.Bhattacharjee, Sub-Inspector, Gopal Singh, the then Sub-Inspector, Lankeswar Rava, Lineman, N.C.Boro, Lineman, K.B.Chetri, Lineman issued 21 Nos. of false and fabricated experience certificates in favour of 21 casual labourers showing them as casual labourers working since 1988 to February 1996 in the o/o the SDE(P), Udaguri and Sh. J.N.Deori, the then SDE(P), Udaguri countersigned the experience certificates without verifying the records and knowing

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that no records exists for the same and forwarded them to Sh. M.K.Gogoi, the then TDE, Tezpur.

Whereas the DPC held its meeting in the chamber of Sh. A.K.Sarkar, SDO(HRD) on 9-4-96 and recommended 221 persons including 21 in Udalgori Sub-Division for appointment as TSM. Sh. A.K.Sarker along with other members of DPC signed on the pro forma sheet of selected and rejected candidates and Sh. A.K.Sarkar did not verify the genuineness of the experience certificates before appointing the casual labours as TSMs. Though the Muster Roll Register is stored in the office TDE the place where the DPC met, Sh. A.K.Sarkar did not check the Muster Roll Register. He also did not verify the ACG-17 payment vouchers before passing the order of appointment of TSMs. Thus he recommended the names of Casual Labourers for appointment as TSM without verifying the experience certificates.

Whereas Sh. A.K.Sarkar had worked as a field officer and as such knew that no records for the engagement of casual labourers are available with the SDE/SDO office and the field staff. He also knew that these casual labourers were not appointed on Muster Roll basis and had he any doubt in his mind, he could have easily verified the Muster Roll Register maintained in the TDE office. Thus he falsely recommended 221 persons including the said 21 persons of Udalgori Sub-Division for appointment as TSM knowing well that they did not fulfill the conditions for their appointment and as such they were not eligible.

Sh. M.K.Gogoi, the then TDE, Tezpur appointed these 21 persons as Temporary Status Mazdoors(TSM) on the basis of the recommendations of the members of the Departmental Promotion Committee(DPC). Though the records for the engagement of casual labourers are stored permanently in the o/o the TDE, neither the DPC members nor the TDE verified these records.

Thus, by his above acts, the said Sri A.K.Sarkar failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Govt. servant thereby contravening the provisions of Rule 3 (1)(i),(ii) &(iii) of CCS(conduct) Rules 1964.

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ANNEXURE - III

List of Documents by which the Articles of Charge framed against Sri A.K.Sarkar
formerly SDO(HRD), O/O the TDE, Tezpur now SDOT, Tezpur.

- 1). Letter No. E-38/CMPT/94-95/168, Tezpur dtd 17/2/95 written by Sri M.K.Gogoi, TDE, Tezpur to ADT(E&R), giving details of TSM, employed after 1989.
- 2) Letter No. E-38/CMPT/94-95/167, Tezpur dtd 8-12-94 written by Chief Accounts Officer to Head of Division and Accounts Officer.
- 3) Letter No. AMT-GH Corr/96 dated 28-6-96 written by Sri S.K.Kayal, Area Director, Telecom Guwahati to Sri M.K.Gogoi, TDE, Tezpur.
- 4) Letter No. ZX-1/CMPT/96-97/21 dtd Tezpur 7/7/96 written by M.K.Gogoi, TDE(Tez) to Sh. S.K.Kayal, Area Director, Telecom Guwahati.
- 5) X-1/CMPT/TZ/95-96/Confld/1 dated Tezpur 25/3/96 by Sh. M.K.Gogoi, TDE(Tez) regarding constitution of DPC.
- 6) Minutes of the meeting of RJCM : Item No. 38.
- 7) E-38/CMPT/Col.II/123 dtd 9-12-93 written by Sh. Balasubramaniam, TDE, Tezpur addressed to Sri S.C.Choudhury, Asstt. Director, Telecom,O/O the CGMT listed in RC 10(A)97: Sl. No. 29.
- 8) Original letter No. 269-4/95-STN-II dtd 17-12-93 of ADG(STN), New Delhi in respect of regularisation of CLs engaged in Circle after 30-3-85 upto 21-6-88.
- 9) Attested copy of the letter No. 270/6/84-STN New Delhi dtd 30-3-1985 of Sh. Krishnan, Director(STN), P&T in respect of barring of engagement of Casual Labourers.
- 10) Letter No. D.O. No. Recit-3/10/Pt.V dtd 25-7-97 written by Sh. K. Padmanabhan, CGMT, Assam Circle to Sh. G.D.Gaiha, Dy. D.G.(Tel) in respect of violation of name of Muster Roll and sponsorship from employment exchange.
- 11) Post & Telegraph Financial Hand Book(III)Part(I).
- 12) Posts and Telegraph Manual, Vol.X.
- 13) Letter No. Estt.-9/12 dtd 36-6-2000 written by Sri A.K.Chelleng, Asstt. G.M.(Admn) O/O CGMT to the Dy. SP, CBI, Shillong in respect of TDEs responsibility to implement TSM scheme.
- 14) Proforma in which names of 21 Nos. of Casual Labourers and details were prepared, signed and recommended by DPC members.
- 15) Letter No. Misc. UDL/95-96/41 dated Udaguri the 18-3-96 written by Sh. J.N.Deori, SDO(P), Udaguri to forward a list of 19 CLs.
- 16) Certificate issued to Sri Jatin Saloi, S/o Late Padma Ram Saloi by Sh. R.K.Das, JTO.
- 17) Certificate issued to Sh. Piar Ali, S/o Sri Mahasin Ali by Sh. Sailendra Swargiary, JTO.
- 18) Certificate issued to Sh. Durlabh Barua, S/o Baddheswar Baruah by Sh. R.K.das, JTO.

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SJ
Advocate

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- 19) Certificate issued to Mainul Haque, S/o Syed Ayub Ali by Sh.R.K.Das, JTO.
- 20) Certificate issued to Sh. Mozamil Hussain, S/o Sh. Mumtaz Ali by Sri R.K.das, JTO.
- 21) Certificate issued to Sri Yamkanta Chamla Gai, S/o Bhara Nandu Gai by Sh. Gopal Singh, S.I.
- 22) Certificate issued to Sri Miran Daimary, S/o Sri Chiran Daimary by Sh. Sankar Bhattacharjee, SI.
- 23) Certificate issued to Sri Bhupen Barman, S/o Sh. Suresh Barman by Sh. K.B.Chetri, SI.
- 24) Certificate issued to Sri Rajat Bhattacharjee, S/o of Sh. Rajendra Bhattacharjee by S.K.Dutta, SI.
- 25) Certificate issued to Sri Kameswar Narzary, S/o Sh Upen Narzary issued by N.C.Boro, L/M.
- 26) Certificate issued to Sri Biran Rabha, S/o Sri Rabindra Rabha by Sri Gopal Singh, SI.
- 27) Certificate issued to Sri Tanuram Boro, S/o Late Badung Boro by Sri S.K.Dutta, SI.
- 28) Certificate issued to Sri Nabin Rabha, S/o Sh. Ratiram Rabha by Sh. S.K.Dutta, SI.
- 29) Certificate issued to Sri Sanjay Dutta, S/O Sri Sudhendra Kr. Dutta, SI.
- 30) Certificate issued to Sri Dayaram Boro, S/o Sri Bayan Boro by Sri Sankar Bhattacharjee, SI.
- 31) Certificate issued to Sri Nigam Swargiary, S/o Sri Raghu Nath Swargiary by Sankar Bhattacharjee, SI.
- 32) Certificate issued to Sh. Binanda Basumatary, S/o of Sri Late Ramendra Basumatary by Sh. Gopal Singh.
- 33) Certificate issued to Sri Rohini Kanta Basumatary, S/o Sri Guni Ram Basumatary by Sri Lankeswar Rava.
- 34) Certificate issued to Sri Baneswar Boro, S/o of Late Golap Ch. Boro by Sri S.K.Dutta, SI.
- 35) Certificate issued to Sri Rajendra Boro, S/o Sh Dandi Ram Boro by Sri Gopal Singh, SI.
- 36) Certificate issued to Sri Narendra Basumatary, S/O Sri Abhiram Basumatary by Sri Gopal Singh, SI.
- 37) Seizure Memo dtd 13-9-99.
- 38) Seizure Memo dtd 11-10-99.
- 39) Letter No. E-1/96-97/7 Udalgori dtd 6-5-97 by Sh J.N.Deori, SDE(P), Udalgori in r/o forwarding names of 21 C.L.s.
- 40) Joining reports of all the casual labourers in Udalgori.

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Advocate.

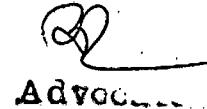
ANNEXURE - IV

List of witnesses by whom the Articles of Charge framed against Sri A.K.Sarkar
formerly SDO(HRD), O/O the TDE, Tezpur now SDO(T), Tezpur,

1. Sh. A.K.Chelleng, A.G.M.(Admn) , O/O the CGMT, Assam Telecom Circle, Guwahati.
2. Sh. Dilip Kr. Rai Barman, AO(Cash) in the o/o the TDE, Tezpur, LS Type-III/7/6 Baishnabghata Palebi Telecom Complex, Calcutta.
3. Sh. Rajiv Yadav, TDM, Tezpur, Vill:Vedi, P.O: Ramaipatty, Dist:Barasani, UP.
4. Sh. S.K.Kayal, Area Manager, Howrah, Kolkata Telephones. R/o 23/3/2A, Rup Narayan Nanda Lane, Kolkata- 25.
5. Sh M.K.Bhattacharjee, SDE in O/O the TDM, Tezpur.
6. Sh. Bishnu Kr. Paul, Asstt. Accounts Officer, in the o/o the TDM, Tezpur.
7. Sh. Biraj Mohan Basumatary, Sr. TA, O/O the SDE, Udaguri.
8. Sh. H.S.Debnath, JAO, O/o the TDM, Tezpur
9. Sh. R.N.Choudhury, SDE(P), Udaguri.
10. Sh. K.Barman, Inspector, the then I.O of the case.
11. Sh. D.Dutta, Inspector the then I.O. of the case .
12. Sh. Vaibhab Agashe, DSP/CBI, Shillong.

K.C.

Certified to be true copy



Advocate

From :- A. K. Sarkar,
SDOT, Dhekiajuli
Dhekiajuli-784110

Dated at Dhekiajuli the 1st June 2002.

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

(Through proper Channel)

Sub :- Request for Converting/ treating 6 (six) nos of charge sheets into a single charge sheet under Rule-14 of CCS (CCA) Rules, 1965.

Respected Sir,

I beg most respectfully to submit before you that I have received in total 6 (six) nos of charge sheets under Rule – 14 issued by your seal and signature. List of charge sheets received so far is furnished below.

<u>Sl. No.</u>	<u>Memorandum No.</u>	<u>Date of issue</u>
1.	No: Vig./Assam/Disc-VIII/2000-01/6	26-12-2000
2.	No: Vig./Assam/Disc-IX/00-01/3	23/3/2001
3.	No: Vig./Assam/43©/6	5/11/2001
4.	No: Vig./Assam/Disc-XV/11	5/12/2001
5.	No: Vig./Assam/Disc-XII/6	10/12/2001
6.	No: Vig./Assam/Disc-XIV/5	28/12/2001

That in all the 6 (six) charge sheets, there are similar allegation of recommendation by 4 members selection committee of which I was one of the member. The 4 number s selection Committee was Constituted by the then TDE Tezpur vide his letter No. X-1/CMPT/TZ/95-96/Confld/ 1 dated 25/3/96 for recommending the eligible candidates for regularization as TSM.

That I was only once appointed as one member of the 4 member selection committee and if there was any lapse on the part of the selection committee that was made in only once. But unfortunately I have received 6 (six) nos of charge sheets so far on the same allegation which vitiate the proceeding under rule-14 of CCS (CCA) Rules 1965. It is also mentioned that there is instruction that multiplication or splitting up of charges on the basis of the same allegation is desired to be avoided. (Xerox copy of Swamy's CCS (CCA) Rules, 23rd addition – 1997 page No. 287 enclosed).

Under the circumstances, I most cordially request you to go into the cases in details and request you to convert or treat all 6 (six) nos of charge sheets as mentioned above into a single charge sheet under rule-14 of CCS (CCA) Rules 1965 if charges are not dropped.

Thanking you,

Yours faithfully,

Certified to be True Copy


A.K. Sarkar
Advocate

(A.K. Sarkar)
SDOT, Dhekiajuli-784110

From :- Sri A.K.Sarkar,
SDOT, Dhekiajuli,
Dhekiajuli-784110.

Dated at Dhekiajuli the 9th Aug. '2002.

To, The Chief General Manager, BSNL,
Assam Telecom Circle,
Ulubari, Guwahati - 781 007.

(Through proper channel)

Sub:- Request for converting/treating 6(six) nos. of charge sheets into
a single charge-sheet under Rule-14 of CCS(CCA)Rules,1965.

Ref:- My petition dated 01-06-2002 to you in this respect.

Respected Sir,

It is humbly submitted that, no reply has yet been received from you in this regard. As the inquiry has already started for charge sheet No. Vig/Assam/Disc-VIII/2000-01/6 dated 26-12-2000, I once again pray to you to take necessary action as appealed in my original petition for the sake of natural justice to me.

Thanking you,

Yours faithfully,

Sarkar 09/08/02
(A. K. Sarkar)

Certified to be True Copy SDOT, Dhekiajuli-784110.

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*Received
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S. T. C. A. S.
al/9/02*

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From:- Sri. A.K. Sarkar,
SDOT, Dhekiajuli
Dhekiajuli-784001.

Dated at Dhekiajuli the 11th. September, 2002.

To

The Chief General Manager, BSNL.
Assam Telecom Circle,
Ulubari, Guwahati-781 007.

(Through proper channel)

Sub:- Request for converting/treating 6 (six) nos. of charge sheets into a single charge-sheet under Rule-14 of CCS (CCA) Rules, 1965

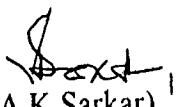
Ref:- 1. My petition dated 01-06-2002 to you in his respect.
2. My petition dated 09-08-2002 to you in this respect.

Respected Sir,

It is humbly submitted that, no reply has yet been received from you in this regard 'As the inquiry has already started for charge-sheet No. Vig/Assam/Disc-VIII/2000-01/6 dated 26-12-2000, I once again pray to you look into the matter at your earliest for the sake of natural justice to me.

Thanking you,

Yours faithfully,


11/9/02
(A.K. Sarkar)

SDOT/Dhekiajuli-784110

Received
Kaw
CSS 11/9/02

Certified to be True Copy


Advocate

— 78 — 11
ANNEXURE - M

Ajit
Kumar
Sarkar

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)
O/O the Divisional Engineer (Dept. Inquiry)
2nd Floor, Telephone Exchange Building, Dispur
Assam Telecom Circle, Guwahati-781006

No.:DE(DI)/Disc-5/AKS/2001-2003

Dated at Dispur, the 7th of Jan'2003.

Subject: Notice for Regular Hearing of the Departmental Inquiry under Ruls-14 of CCS(CCA) Rules, 1965 against Sri Ajit Kr. Sarkar, SDOT, Tezpur.

Notice is, hereby, given to all concerned that the Regular Hearing of the said case will be held on 24-02-2003, 25-02-2003 and 26-02-2003 at 11.00 Hrs. in the chamber of DE(DI), Telephone Exchange Building, 2nd Floor, Dispur, Guwahati-6. Please note that on 24-02-2003, 25-02-2003 and 26-02-2003 evidence on behalf of the Disciplinary Authority as well as evidence on behalf of the Defense shall be adduced, respectively. Summoning of the remaining State Witness is also issued accordingly.

All are, hereby, requested kindly to attend the aforesaid Regular Hearing on the appointed date, time and place.

Kindly acknowledge receipt of this notice.

Sd/- Illegible.

(B. PEGU)

Inquiry Officer.

Copy to:

1. Sri Ajit Kr. Sarkar, SDOT, Dhekiajuli-784110, the C.O.
2. Sri T.C. Paul, SDE(M/C), O/o the DE(R-10B), Panbazar, Guwahati-1, the P.O.

Copy
Certified by *[Signature]*

Advocate

Contd

Abul Kumar Sarkar

3. The DE(Mtce), O/o the Telecom District Manager, Tezpur-784001 with the request to relieve the officer at Sl. No.(1) to attend the Regular Hearing on the appointed date, time and place.
4. The DE(E-10B), Panbazar, Guwahati-1 with request to relieve the officer at Sl. No.(2) to attend the Regular Hearing on the appointed date, time and place.
5. Sri Santosh Chakraborty, SDE(HRD & VIG), O/o the TDM, Tezpur-784001, the D.A.
6. The DE(P&A), O/o the Telecom District Manager, Tezpur-784001 with the request to relieve the officer at Sl.No.(5) to attend the Regular Hearing on the appointed date, time and place.

Sd/- Illegible.

(B. PEGU)

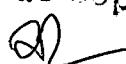
Inquiry Officer.

D.I.O.

O/o the CGMT

Assam Circle, Guwahati.

Certified to be True Copy



Advocate.

Mr. At Sanchal Nigam Limited
(A Start. of India Enterprises)
O/o the Divisional Engineer (Dept. Inquiry)
2nd Floor, Telephone Exchange Building, Dispur
Assam Telecom Circle, Guwahati-781006

No : DE(DI) / Disc-S / AES / 2001-2002

Dated at Dispur, the 7th of Jan 2003

Subject : Notice for Regular Hearing of the Departmental Inquiry under Article 14 of CCS (CCA) Rules, 1965 against Sri Ajit Kr. Sarkar, SDOT, Tezpur.

Notice is, hereby, given to all concerned that the Regular Hearing of the said case will be held on 24-02-2003, 25-02-2003 & 26-02-2003 at 11.00 hrs. in the chamber of DE (DI), Telephone Exchange Building, 2nd Floor, Tezpur, Guwahati-6. Please note that on 24-02-2003, 25-02-2003 & 26-02-2003 evidence on behalf of the Disciplinary Authority as well as evidence on behalf of the Defence shall be adduced, respectively. Summoning of the remaining Side Witness is also issued accordingly.

All are, hereby, requested kindly to attend the aforesaid Regular Hearing on the appointed date, time and place.

Kindly acknowledge receipt of this notice.

B. L. m

(B. PEGU)
Inquiry Officer

Copy to :

- 1) Sri Ajit Kr. Sarkar, SDOT, Dhekiajuli-784110, the C.O.
- 2) Sri T. C. Paul, SDI (M/C), O/o the DE (E-10B), Panbazar, Guwahati-1, the E.O.
- 3) The DE (M/C), O/o the Telecom District Manager, Tezpur-784001 with the request to relieve the officer at Sl. No. (1) to attend the Regular Hearing on the appointed date, time and place.
- 4) The DE (E-10B), Panbazar, Guwahati-1 with request to relieve the officer at Sl. No. (2) to attend the Regular Hearing on the appointed date, time and place.
- 5) Sri Santosh Chakraborty, SDI (HRD & VIG), O/o the TDM, Tezpur-784001, the D.A.
- 6) The DE (P&A), O/o the Telecom District Manager, Tezpur-784001 with the request to relieve the officer at Sl. No. (5) to attend the Regular Hearing on the appointed date, time and place.

B. L. m

Certified to be True Copy


Advocate.

(B. PEGU)
Inquiry Officer
D. I. O.
O/o the CGMT
Assam Circle, Guwahati.

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~~DR~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A. No. 27 of 2003

Shri A.K. Sarkar

- Versus -

Union of India & Ors.

... Respondents

... Applicant

WRITTEN STATEMENTS FOR AND ON BEHALF OF RESPONDENTS
NOS. 1, 2, 3, 4 and 5.

I, S.C. Das, Asstt. Director Telecom(Legal), Office of the Chief General Manager Telecom, Assam Telecom Circle, Ulubari, Guwahati-781007, do hereby solemnly affirm and say as follows ;-

1. That I am the Asstt. Director Telecom(Legal), Office of the Chief General Manager Telecom, Assam Telecom Circle, Ulubari, Guwahati-7 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 statements the other contentions and statement may be deemed to have been denied. I am authorised to file the written statements on behalf of all the respondents.

2. That with regard to the statements made in paragraph 1 of the application, the respondents beg to state that the impugned Memorandum of charges numbering six were issued at different point of time as per the advice of CVC in different cases based on the Inquiry Report submitted by C.B.I. in each case. Though the broad subject matter of all the Memorandums

related to irregular engagement of casual labourers, the pertaining documents and modus operandi of each case varies and the place of occurrence also differ from case to case, For better appreciation of each case on merit and for the purpose of fair enquiry of each of the cases, separate memorandum of charges have been prepared and served on the applicants.

Chairman of India + other
Respondents
through
Amrit Kumar Choudhury
Addl. Commr. Standing Committee S.4.04
Guwahati

This will ensure that each case will be decided independent of the other depending on the documents/evidences adduced during the enquiry of the particular case. The applicant will also get adequate opportunity to defend himself in each case separately. The amalgamation of all charges in to a single charge will create avoidable complexity and involve innumerable documents/evidences. In the result one case may influence the outcome of the other.

3. That the respondents have no comments to the statements made in paragraph 2,3 and 4(A) & 4(B) of the application.

4. That with regard to the statements made in paragraph 4(C) of the application, the respondents beg to state that a fact-finding committee was formed with the applicant and 3 other officers of the Tezpur Telecom District to verify the engagement particulars of the claimant casual mazdoors on the basis of authentic records and to assess their eligibility for grant of temporary status as per the provision of the scheme.

5. That with regard to the statements made in paragraph 4(D) of the application, the respondents beg to state that at the relevant period, the Tezpur SSA was headed by a DET and it was with his power to form the commit to examine the claim of the so called casual labourers in order to take a final decision about the eligibility of the person for grant of Ty. status.

6. That with regard to the statements made in paragraph 4(E) of the application, the respondents beg to state that the committee members including the applicant committed gross irregularities and failed to carry out the required verification in order to excess the eligibility of the casual labourers. They deliberately ignored the due process of verification and displayed utter negligence of duty.

7. That with regard to the statements made in paragraph 4(F) of the application, the respondents beg to state that the applicant and other committee members falsely recommended all the 221 persons for grant of temporary status without verifying their eligibility with reference to the departmental records such as paid vouchers Muster Roll etc. about the actual engagement and length thereof.

8. That with regard to the statements made in paragraph 4(G) of the application, the respondents beg to state that the applicant omitted to verify the reliable records like paid vouchers, Muster Rolls maintained in the divisional office and recommended all the 221 persons for grant of Temporary status with full knowledge that the person do not qualify for the benefit. The applicant urgently neglected his assigned duty and mis-used his position at the cost of the department.

9. That with regard to the statements made in paragraph 4(H) of the application, the respondents beg to state that the applicants and other committee members submitted the false report to the Telecom District Engineer recommending the grant of Temporary Status even though they were not eligible for such benefits.

10. That with regard to the statements made in paragraph 4(I) of the application, the respondents beg to state that the T.D.E. acting on the report of committee took follow-up action to grant the benefit to the person recommended by the committee without further cross verification. The committee members jointly created false report and misled the TDE to act on it.

11. That with regard to the statements made in paragraph 4(J) of the application, the respondents beg to state that the gross irregularity in engagement of casual labourers and conferment of Temporary Status on the basis of the recommendation of the committee created furo among staff members and the local public. The CBI enquired into the matter and registered a number of Regular cases to facilitate proper investigation. The reports submitted by the CBI in each case was examined by the CVC and the commission advised initiation of major penalty proceedings against the specific officers including the applicant for the apparent lapses obvious in the report. The evidences collected by the CBI during enquiry prima-facie reveals that the applicant had committed gross irregularity in recommending the person for grant of temporary status who did not satisfy the eligibility conditions.

Based on the evidences on records, CBI enquiry report and the advice of the CVC, the prescribed Disciplinary Authority is of the firm opinion that it is a fit case for initiating departmental proceedings against the applicant under the provision of CCS(CCA) Rules. Each of the CBI cases was examined on merit separately before initiating departmental proceedings.

The competent disciplinary authority took conscious independent decision on each case and proceeded accordingly. In the process, memorandum of charges was issued in conformity with the CBI cases concluded at different point of time. The first memorandum was issued on 26-12-2000 by which the specific charges framed against the applicant was communicated to him together with the list of evidences and witness bases on which the charges are proposed to be established. The charged officers was also given an opportunity to submit his written statement of his defence within specific time.

12. That with regard to the statements made in paragraph 4(K) of the application, the respondents beg to state that the applicant denied the charges framed against him. In the situation departmental enquiry as prescribed under Rule-14 of CCS(CCA) will have to be concluded to probe the charges.

13. That with regard to the statements made in paragraph 4(L) to 4(T) of the application, the respondents beg to state that the prescribed Disciplinary Authority examined each case on merit taking into consideration the CBI report, evcadvice and the materials available on records. Prima-facie it appeared that there is enough grant to initiate Departmental proceedings against the applicant under the provision of CCS (CCA) Rules. Accordingly case-wise memorandum of charges dated 23-3-2001, 5-11-2001, 5-12-2001, 10-12-2001 and 28-12-2001 were issued to the applicant. The charge sheets were issued in accordance with the result of the enquiry in the corresponding CBI case.

The specific charges against the affidavit have been communicated to the applicant and he was advised to submit written statement either admitting or denying the charges. Formal departmental inquiry will be held in respect of the charges, which are denied by the charge officer. Inquiry will be conducted strictly according to the provision of Rule 14 of CCS (CCA) Rules. The applicant will be afforded all the opportunity prescribed in Rules to defend himself against the charges. The charges will ultimately stand or fall on the basis of the documents/witness adduced before the departmental enquiry authority during the course of enquiry.

14. That with regard to the statements made in paragraph 4(U) of the application, the respondents beg to state that the charge issuing authority is taking appropriate action to appoint I.O. in each case for fair enquiry. The process has been delayed as the applicant has been filed the present OA and the interim order of

the Hon'ble Tribunal dated 17-2-2003. Once the interim order is revoked, the authority will take all-out effort for speedy inquiry in a cases separately.

15. That with regard to the statements made in paragraph 4(v) of the application, the respondents beg to state that the respondent authority is well within the provision of CCS (CCA) Rules in issuing the memorandum of charges following the revelation in CBI cases.

16. That with regard to the statements made in paragraph 4(w) of the application, the respondents beg to state that as already submitted in forgoing para that the chargesheets were issued according the findings of the Inquiry by the CBI in each case. The amalgamation of the charges is not feasible as the person involved in the cases apart from the applicant is altogether different. The evidence/witness to be relied upon differs from case to case. The modus-operandi and the place of occurrence of the alleged misconduct is also different in each case. Separate charge-sheet on specific charges will ensure free and fair enquiry in each charge and the charged officer will also have fair opportunity to produce his defence in each case separately.

17. That with reference to the statements made in paragraph 4(y) of the application, the respondents beg to state that as submitted in earlier para, Inquiry authority was appointed to enquiry into the charge as in memo dated 26-12-2000. The I.O. prepared to hold regular hearing and issued necessary notice to all concern including the applicant. The applicant instead of appearing before the I.O. on the appointed dated choose to file the present OA and stall the proceeding.

18. That with regard to the statements made in paragraph 4(z) of the application, the respondents beg to state that the separate charge-sheets on separate charges does not amount to splitting of charge. Even though the charges broadly relates to irregular engagement of casual labourer, the alleged offence was committed at different places in connivance with different person in respect of different so called mazdoors. The related documents and evidences in support of each charge is altogether different. The issuance of separate charge sheets in the fact and circumstances of the present case, is justified for ensuring fair enquiry.

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The applicant has been charge sheeted for the irregularities on his point which was transpired on CBI enquiry. He is responsible for his action/inaction irrespective of why the other person has done or omitted to do. The department is examining the role of other members of the committee and will proceed against them if it appears at any time that such member is also guilty of any misconduct.

19. That with regard to the statements made in paragraph 4(A) and 4(A)(B) of the application, the respondents beg to state that the records available with the authority transpires that the applicant had recommended the names of person for grant of Temporary status without proper verification of their engagement particulars. He made such recommendation without consulting the departmental records and with full knowledge that the person did not satisfy the eligibility criteria for such benefit. He has done so on extraneous condition with malafied intention to extend undue benefit to the person causing huge financial loss to the department. He has failed to discharge his responsibility honestly and sincerely Instead, the applicant reduced the responsibility assigned to him to an opportunity to bestow undue favour on the so called mazdoors by paving the way for their absorption in the department by fraudulent means. It prima-facie appears that the applicant has deliberately indulged in foul play by abusing the power vested on him as a member of the selection committee.

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

VERIFICATION

I, S.C. Das, presently working as Asstt. Director Telecom (Legal), Office of the Chief General Manager Telecom, Assam Telecom Circle, Guwahati-7 being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statement made in paragraphs 1 of the application are true to my knowledge and belief, those made in paragraphs 2 - 19 being matter of record are true to my information derived there from and those made in the rest are a humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

AND I sign this verification on this the 31st day of March 2004

S. C. Das
S. C. Das

DEPONENT: S. C. Das (Legal)
Asstt. Director Telecom (Legal)
Chief General Manager, Telecom
to the Office of the
Assam Telecom Circle, Guwahati-7
Assam Telecom Circle, Guwahati-7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI.

IN THE MATTER OF :

Sri Ajit Kumar Sarkar.

...Applicant.

-Versus-

Union of India & Ors.

...Respondents.

-AND-

IN THE MATTER OF :

Rejoinder-in-Opposition filed by the applicant Sri Ajit Kumar Sarkar against the Written Statement in O.A. No.27 of 2003.

(Rejoinder-in-Opposition)

I, Sri Ajit Kumar Sarkar, son of late Rajkrishna Sarkar, by profession Sub-Divisional Officer, Telegraph, Dhekiajuli, Sonitpur, Assam, do hereby solemnly affirm and state as follows:-

1. That I am the applicant in the O.A.No.27/2003. A copy of the Written Statement was served on me by the Respondents on 24th day of March '04. I have gone through the said Written Statement and understood the contents thereof. The statement and averments of the Written Statement which are not specifically admitted by me are to be taken as denied.

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Filed by the applicant
through Sub-Divisional Officer
Khowali
(O.A. No. 27/2003)

2. That as regards the contents of paragraph 1 of the Written Statement, the deponent offers no comment thereon.

3. That as regards the contents of paragraph 2 of the Written Statement, the deponent begs to state that it was a matter of regularisation of 221 Casual Mazdoor to T.S.M out of huge casual Mazdoor services – the then T.D.C., Tezpur. The applicant was one of the four members of the Selection Committee which recommended 221 cases out of huge casual labours and placed before the then TDE, Tezpur for his necessary action after observing all Departmental formalities. As admitted vide paragraph-2 that subject matter of all the 6 memorandums are retained to irregular engagement of casual labourers and the whole case was a matter of recommendations of 221 casual Mazdoors out of a few numbers of Mazdoors by this Selection Committee as per single order of the T.D.E., Tezpur vide his letter No.X-1/CMPT/PZ/95-96/Confld./1 dated at Tezpur on 25-03-1996. Had there been any lapses in the part of the Selection Committee it was done once only as the Committee recommended the cases on 09-04-1996 as per letter dated 25-03-1996 issued by the T.D.E., Tezpur. So the question of separate charge sheet could be avoided from the letter No.X-1/CMPT/96-97/CON-7 dated at Tezpur 27-05-1996. It is seen that 221 casual Mazdoors was conferred temporary status consisting of 12 units as follows:-

<u>Name of the Units</u>	<u>Total No. of CM to TSM</u>
1. SDE (Cable), Tezpur	30
2. SDE (Computer), Tezpur	7
3. SDE (Construction), Tezpur	6
4. SDE (Phones), Chariali	27

5. SDE (Phones), Dhemaji	22
6. SDE (Phones), Tezpur	22
7. SDE (Phones), Udaguri	26
8. SDO (Phones), Tezpur	12
9. SDO (T), Mangaldoi	14
10. SDO (T), North Lakhimpur	34
11. SDO (T), Tezpur	16
12. TDE, Tezpur	<u>10</u>

Total = 221

But as per memorandum No. A, C, E, F, G, H & I it is seen as follows:-

<u>Memorandum No.</u>	<u>Date</u>	<u>No. of Mazdoor conferred TSM</u>
C) No. Vig./Assam/Disc-VIII/ 2000-01/6	26-12-2000	221 Page-29
E) No. Vig./Assam/Disc-IX/00- 01/3	23-03-2001	221 Page-38
F) No. Vig./Assam/43(C)/6	05-11-2001	7 Page-47
G) No. Vig./Assam/Disc-XV/11	05-12-2001	15 Page-54
H) No. Vig./Assam/Disc-XII/6	10-12-2001	22 Page-61
I) No. Vig./Assam/Disc-XIV/5	28-12-2001	21 Page-68

The whole cases was of 221 Mazdoors whereas the charge-sheets issued for 507 cases by splitting the same cases. The first case of memorandum of charge dated 26-12-2000 covers the whole matter of 221 Mazdoors vide Memo No. Vig./Assam/Disc-VIII/ 2000-01/6 and other memorandum of charges vide Annexures - E, F, G, H & I of the Original Application are one part of it. Therefore, other memorandum of charges vide Annexures - E, F, G, H & I of the Original Application is liable to set aside and quash for the sake of natural justice. The

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memorandum No.Vig./Assam/Disc-VIII/2000-01/6 vide Annexure - C of the Original Application has been completed by the Departmental enquiry and exoneration order has been issued by the competent authority as per Order No.8-163/2000-VIG II dated 20-11-2003.

A copy of the exoneration order dated 20-11-2003 is annexed herewith and marked as ANNEXURE - A.

4. That as regards the contents of paragraph 4 of the Written Statement, the deponent begs to state that the application with other 3 members of the Committee verified the authentic records and illegality before recommendation from all documents supplied to them. some cases were recommended and some cases were not recommended for not fulfilling the criteria as required by the scheme.

5. That as regard the contents of paragraph 5 of the Written Statement, the deponent begs to state that out of huge number of Mazdoors, the said Committee recommended only 221 cases of Mazdoor and same is placed before the T.D.E., Tezpur for his final decision after observing the Departmental formalities.

6. That as regards the contents of paragraph 6 of the Written Statement, the deponent begs to state that the applicant along with other members carried out verifications as required by the scheme.

7. That as regards the contents of paragraph 7 of the Written Statement, the deponent begs to state it is not correct that the applicant

with other members sincerely verified, paid vouchers and other relevant documents supplied to them for eligibility.

8. That as regards the contents of paragraph 8 of the Written Statement, the deponent begs to state that the applicant did not commit any mistake while verifying the relevant records. The applicant did not neglect his assigned duty and did not misuse his position at the cost of the department.

9. That as regards the contents of paragraph 9 of the Written Statement, the deponent begs to state that the applicant deny the charges levelled against him.

10. That as regards the contents of paragraph 10 of the Written Statement, the deponent begs to state that the Committee members submitted this report after proper scrutiny and did not mislead the then T.D.E., Tezpur. After observing all Departmental formalities the then T.D.E., Tezpur completed his duties.

11. That as regards the contents of paragraph 11 of the Written Statement, the deponent begs to state that the applicant denies the charges levelled against him in total. And it is to be mentioned that first memorandum 'C' which is of 221 Mazdoor cases covers the whole matter and the remaining E, F, G, H & I are part of it or whole of it.

12. That as regards the contents of paragraph 12 of the Written Statement, the deponent begs to state that concluded and charges have been exonerated by the competent authority (copy enclosed).

13. That as regards the contents of paragraph 13 of the Written Statement, the deponent begs to state that as the first memorandum dated 26-12-2000 vide Annexure - C of the Original Application which covers all other five memorandums (vide Annexures - E, F, G, H & I) and the said memorandum has already exonerated by the competent authority. Thereby the other same charges are to be quashed accordingly.

14. That as regards the contents of paragraph 14 of the Written Statement, the deponent offers no comment thereon.

15. That as regards the contents of paragraph 15 of the Written Statement, the deponent offers no comment thereon.

16. That as regards the contents of paragraph 16 of the Written Statement, the deponent offers no comment thereon.

17. That as regards the contents of paragraph 17 of the Written Statement, the deponent begs to state that he is vehemently opposed in this contents, that the applicant was regularly attend this case and conclude with exonerate of charges levelled against the applicant.

18. That as regards the contents of paragraph 18 of the Written Statement, the deponent begs to state that the Selection Committee recommended the cases of 221 Mazdoors in the same place after scrutinizing huge number of Mazdoors. This has done as per X-1/CMPT/Tezpur/95-96/Confld/1 dated 25-03-96 (copy enclosed).

19. That as regards the contents of paragraph 19 of the Written Statement, the deponent begs to state that the applicant did proper verification of all the relevant documents/records required by the Department.

20. That as regards the contents of paragraph 20 of the Written Statement, the deponent begs to state that request to quash all other five memorandum as those are the part of the first memorandum 'C' which has been exonerated by the competent authority (copy enclosed).

21. That, the statement made in this rejoinder and in paragraphs are true to my knowledge, there made in paragraphs are matters of records and the rest are my respectful submission before this Hon'ble Tribunal.

And I set my hand on this Re-joinder on behalf of all the applicants, today the th day of May, 2004 at Guwahati.

Identified by:

Advocate.

Abi Kumar Sarkar

DEPONENT

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No.8-163/2000-Vig.II
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
(VIGILANCE II SECTION)

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West Block No.1, Wing No.2,
Ground Floor, R.K. Puram,
New Delhi - 110 066.

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Dated the 24 Nov. 2003

ORDER

Shri A.K. Sarkar, SDOT, Assam Circle, has been proceeded against under Rule 14 of the CCS(CCA) Rules, 1965, vide Memorandum No. Vig/Assam/Disc-VIII/2000-01/6 dated 26.12.2000 for the following charge :

ARTICLE

That Shri A.K. Sarkar while working as SDE, Tezpur failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of his position in as much as he as a member of the selection committee constituted by Sri M.K. Gogoi, the then TDE/Tezpur for regularization of eligible casual labours as Temporary status Mazdoors under TDE/Tezpur during 1996, in collusion with other members of the Selection Committee without verifying the genuineness of recommendation of different JTCs/SDEs and certificates were issued by JTOs/Lineman etc recommended with malafide intention by abusing his official position. The names of 221 Nos. of casual labours under TDE/Tezpur and consequent upon while, Sri M.K. Gogoi, the then TDE/Tezpur issued letter No.X/CMPT/96-97 dt.d.27.5.97 regularizing those 221 Nos. of Casual Labours as Temporary Status Mazdoors, although none of them was eligible for such regularization and thereby putting the department to huge financial loss, which he caused by his above acts and abuse of his official position with dishonest intention and thereby contravened Rule 3.1(i), (ii) and (iii) of CCS(Conduct) Rules, 1964.

Shri A.K. Sarkar denied the charge, therefore, an oral inquiry was ordered to be held by Shri B. Pegu, DE(DI) as Inquiring Authority. The Inquiring Authority submitted his report dated 28.8.2003, concluding in his findings that charge is not proved. Copy of which is attached herewith.

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The Central Vigilance Commission was consulted who furnished their advice, vide I.D. Note No.00C/P&T/070 dated 10th Nov, 2003, copy of which is also attached herewith.

Taking into account the findings of the Inquiring Authority, records of the case and on an objective assessment of the facts and circumstances of the case in its entirety, I, P.K. Chanda, Member(Services), Telecom Commission, hereby order to 'exonerate' Shri A.K. Sarkar, SDOT of the charges levelled against him, vide aforesaid Memorandum.

The receipt of this order shall be acknowledged by Shri A.K. Sarkar, SDOT.

Encl : 1. Copy of IO's report.
2. CVC's advice dtd. 18.3.2003

✓ Shri A.K. Sarkar,
SDOT
BSNL, Assam Circle
GUWAHATI.

(Through CGM, BSNL, Assam Circle, Guwahati).

Chanda 20/10/03
(P.K. CHANDA)
Member(Services)
Telecom Commission