50/100

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

(DESTRUCTION OF RECORD RULES,1990)

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SECTION OFFICER (Judl.)
Kalita
15.11.17

( RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 42/03
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant (S) S.P Singh Yadav

- Vs. -

Respondent (s) U.O.I Ors

Advocate for the applicant (s) P.K Tiwari, J. Purkayastha

Advocate for the respondent (s) Case M.U. Ahmed

| Notes of the Registry | Date | Order of the Tribunal |
|---|---|---|
| This application is in form but not in time Condonation Petition is filed / not filed for Rs. vide IPO/7H607047 Dated 7.3.03 Dy. Registrar | 21.3.2003 | Heard Mr. J. Purkayastha, learned counsel for the applicant. Issue notice to show cause to why the application shall not be admitted. List on 22.4.2003 for admission. Vice-Chairman |

mb

Steps taken alongwith envelops

22.4. Counsel not present today. The case is adjourned to 24/4/2003.

24.4.2003 Put up again on 13.5.2003 for admission.

Vice-Chairman

Notice prepared and sent to D/S for issuing the Respondent No 1 to 5 by Regd. A/D. vide D.No. 600 to 604 dt 28/4/03

mb

(2)

**O.A. 42/2003**

29.4.03
Reply to Para wise comments submitted by the Respondents (one copy)

13.5.2003 **Heard Mr. J. Purkayasthaya, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.**

**Put up again on 20.6.2003 to enable the respondents to file reply, if any.**

**Vice-Chairman**

29.9.03
Reply to parawise comments submitted by the Respondent No. 5 (one copy)

mb

20.6.2003 Office note dated 29.4.2003 did not give the correct picture. The respondents are yet to file reply.

Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents prayed for time for filing reply. Prayer is allowed. List again on 18.7.2003 for reply.

Vice-Chairman

28.6.03
Para wise comments submitted by the Respondent No. 5.

mb

18.7.2003 Written statement has been filed by the respondents. Mr. P.K. Tiwari, learned counsel appearing on behalf of the applicant prayed for time for filing rejoinder. Prayer is allowed. List again on 13.8.2003 for further orders.

Vice-Chairman

8.7.03
Reply on behalf of Respondent Nos. 1 to 5 has been submitted.

mb

O.A. 42/2003

13.8.2003 No rejoinder so far filed by the apolicant though time granted. Put up on 29.8.2003 for admission. The apolicant may file rejoinder, if any.

Vice-Chairman

mb

29.8.03 On the prayer of Mr.P.K. Tiwari learned counsel for the applicant case is adjourned to 19.9.03 for Admission.

Vice-Chairman

lm

19.9.03 List for Admission on 24.10.03.

Member

lm

24.10.03 There is no Bench today. Adjourned to 17.11.03.

17.11.2003 Present: Hon'ble Smt Lakshmi Swaminathan, Vice-Chairma

Hon'ble Shri S.K. Naik, Administrative Member.

Adjourned. List for admission on 19.11.2003.

Member

Vice-Chairman

nkm

O.A. 42/2003

19.11.2003 Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman.

The Hon'ble Sri S.K. Naik, Administrative Member.

Mr. J. Purkayastha, learned counsel through proxy counsel Mr. P.K. Tiwari. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.

Written statement on behalf of the Respondents has been filed in July, 2003 is on record. No rejoinder filed yet. Last opportunity of one week time is granted to the applicant to file rejoinder, failing which pleadings shall be treated as complete.

Admit subject to the legal pleas. List when the Division Bench is available.

Member

Vice-Chairman

5.12.03

Rejoinder not submitted by the applicant.

mb

26.12.03 Mr P.K.Tiwari, learned counsel appearing for the applicant is stated to have been indisposed. Accordingly the matter may appear before the next available Bench.

Member

Vice-Chairman

The case is ready for hearing.

20.2.04

pg

23.2.2004 Present: The Hon'ble Shri Shanker Raju Judicial Member.

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

It is reported that Mr.P.K.Tiwari, learned counsel for the applicant, is indisposed. List the item before the next Division Bench.

(5)

O.A. 42 of 2003

31.3.2004

Present: The Hon'ble Mr.Kuldip Singh,Member(J)
The Hon'ble Mr.K.V.Prahaladan, Member(A)

Mr.J.Purukayastha, learned proxy counsel submits that Mr.P.K.Tiwary learned counsel for the applicant is not available, and the matter be listed for hearing before the next Division Bench.

List the case before Division Bench.

Member(A) Member(J)

bb

15.6.04.

Present: The Hon'ble Mrs. Bharati Roy, Judicial Member and Mr.K.V.Prahladan, Administrative Member.

On the prayer of learned counsel for the applicant case is adjourned to 18.6.04 for hearing.

Member(A) Member(J)

lm

18.6.04

Adjourned. List on next Division Bench.

By order.

22.7.2004 Present: The Hon'ble Shri K.V.Sachidanandan, Member (J).

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

Mr.P.K.Tiwari, learned counsel for the applicant, is reported to be sick and therefore, prayer has been made for adjournment on his behalf. Let it be done.

post before the next Division Bench

Member (A) Member (J)

bb

23.8.04. Present: Hon'ble Mr.D.C.Verma Vice-Chairman.

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

Heard learned counsel for the parties.

On the prayer of learned counsel for the applicant case is adjourned to 25.8.04 for hearing.

Member Vice-Chairman

lm

25.8.2004 Present : The Hon'ble Sri D.C. Verma, Vice-Chairman,(J).

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

The case is ready for hearing. 23/9/04.

List before the next Division Bench.

Member (A) Vice-Chairman(J)

nkm

27.9.04. Present: Hon'ble Mr.Justice R.K. Batta, Vice-Chairman

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

O.A. 42 of 2003

| Notes of the Registry | Date | Order of the Tribunal |
|---|---|---|
| 21-12-04. compliance order submitted by the Respondents. | 27.9.04. | Present: Hon'ble Mr.Justice R.K.Batta, Vice-Chairman. Hon'ble Mr.K.V.Prahladan, Administrative Member. . . None is present for the Respondents. The argument of learned counsel for the applicant is partly heard. Case is adjourned to 30.9.04 . as part heard. Member Vice-Chairman |
| | lm 30.9.2004 | Mr.P.K.Tiwari, learned Advocate for the applicant as well as Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents are present. Stand over to 9.11.2004. Member (A) Vice-Chairman |
| | bb 9.11.2004 | Mr P.K. Tiwari, learned counsel fro the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. are present. Stand over to 16.12.04. Member Vice-Chairman |
| | nkm 16.12.04. | Mr.A.Deb Roy, Sr.C.G.S.C. is present for the applicant. This is a Division Bench matter. To-day Division Bench is not available. The learned counsel for the applicant prays that the matter be adjourned to 7th February, 2005, since another matter of the applicant is fixed on the same date. Stand over to 7th Feb. 2005. |

O.A.42/2003

07.02.2005 present: The Hon'ble Mr.M.K.Gupta,
Judicial Member.

This being a Division Bench matter is to be listed on 14.2.2005 before the Division Bench.

Member (J)

bb

14.2.2005 None appears. List on 16.2.2005.

Member (J)

mb

16.2.3005 List this matter on 6.4.05 alongwith O.A.No.186/2004.

Member (A) Member (J)

nkm

**6.4.2005 List this matter on 11.4.2005 alongwith O.A.186/2004.**

**Vice-Chairman**

**bb**

**xxxxx05. xxxx

| Office Notes | Date | Order of the Tribunal |
|---|---|---|
| The case is ready for hearing as regard W/s and Rejoinder.<br>My<br>20.6.05 | 08.06.2005 | On behalf of Mr.P.K.Tiwari, learned counsel for the applicant a representation is made that since the counsel is out of station the case must be adjourned. Hence post on 21.6.2005 for hearing. No further adjournment.<br>Member<br>Vice-Chairman<br>bb |
| | 21.06.2005 | Post on 22.8.2005.<br>Member<br>Vice-Chairman<br>bb |
| 30.9.05<br>The case is ready for hearing.<br>lm | 22.8.05. | Post the matter before the next available Division Bench.<br>Vice-Chairman<br>lm |
| | 3.10.05. | Post the matter before the next available Division Bench after hearing<br>Member<br>Vice-Chairman |
| 4-1-06<br>The case is ready for hearing.<br>My<br>lm | 5.1.06 | Mr P.K.Tiwari, learned counsel for the applicant submits that the matter has to be argued at length in view of the important ~~facts~~ issues involved in the matter. Due to paucity of time the matter is adjourned.<br>Post the matter before the next available Division Bench.<br>Member<br>Vice-Chairman |

pg

O.A. 42/2003

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16.03.2006 None for the applicant. The case xis posted for hearing on 21.3.2006.

Vice-Chairman

mb

21.3.06. The counsel for the applicant has prayedfifor time to file rejoinder. The learned counsel for the Respondents also has prayed for time to file written statement. Let it be done. Post the2matter.before the next available Division Bench.

Case is ready for hearing.
25.4.06

Vice-Chairman

lm

~~26.4.2006~~

26.4.2006 Learned counsel for the parties submitted that it is ready for hearing. Since being a Division Bench matter let the case be posted on 29.5.2006.

The case is ready for hearing
26.5.06

Vice-Chairman

mb

29.05.2006 Post on 13.06.2006.

Vice-Chairman

mb

13.06.2006 Post on 05.07.2006.

Vice-Chairman

mb

O.A. 42/2003

01.08.2006 Post on 03.08.2006 at 3 P.M.

Member Vice-Chairman

mb

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O.A.42/2003

27.10.2006 Judgment pronounced in open Court, kept in separate sheets.

The O.A. is allowed in terms of the order. No order as to costs.

Vice-Chairman

/bb/

Received
now.
30/10/2006
(S.P. Sinha)
31/10/06

~~Mary~~ to
25.4.07

Mr application on behalf of the Respondent Nos. 2, 3 & 4 regarding the Compliance order dated 27-10.06 passed by this Hon'ble Tribunal in O.A 42/03 received by this Registry on 25.4.07 from S.P.(CBI: ACB) Guwahati. Which may kindly be seen at flag 'A' Compliance order.

Laid before the Hon'ble Court for information and further order.

Rano.

for Section officer.

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# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
# GUWAHATI BENCH, GUWAHATI

.....

O.A. No. 42 of 2003.

DATE OF DECISION 27.10.2006

Suresh Pal Singh Yadav

..... Applicant/s

Mr P.K. Tiwari and Mr J. Purkayastha

..... Advocate for the Applicant/s.

- Versus -

Union of India & Others

..... Respondent/s

Mr M.U. Ahmed, Addl. C.G.S.C.

..... Advocate for the Respondents

CORAM

THE HON'BLE SRI K.V. SACHIDANANDAN, VICE CHAIRMAN.
THE HON'BLE SRI GAUTAM RAY, ADMINISTRATIVE MEMBER.

1. Whether reporters of local newspapers may be allowed to see the Judgment ? Yes/No

2. Whether to be referred to the Reporter or not ? Yes/No

3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench ? Yes/No

4. Whether their Lordships wish to see the fair copy of the Judgment ? Yes/No

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 42 of 2003.

Date of Order: This the 27th day of October, 2006.

**The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.**
**The Hon'ble Sri Gautam Ray, Administrative Member.**

Suresh Pal Singh Yadav
R.G. Baruah Road, Sundarpur
Guwahati – 871 005.

. . . Applicant.

By Advocates Mr P.K. Tiwari and Mr J. Purkayastha.

- Versus –

1. Union of India,
Through the Secretary,
Ministry of Personnel and Training,
Government of India,
New Delhi.

2. The Director,
Central Bureau of Investigation,
CGO Complex, Lodhi Road,
New Delhi.

3. Joint Director,
Central Bureau of Investigation (East Zone),
MSO Building, Nizam Palace,
A.J.C. Bose Road, Kolkata.

4. The Deputy Inspector General of Police,
Central Bureau of Investigation (N.E. Region),
Guwahati.

5. KC Kanungo,
Deputy Inspector General,
Multi Disciplinary Monitoring Agency,
Central Bureau of Investigation,
1/10 Jamnagar House, Hutments, Akbar Road,
New Delhi – 110 011.

. . . Respondents.

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

. . . . . .

**O R D E R**

**K.V. SACHIDANANDAN, (V.C.)**

The Applicant was appointed as Inspector of Police in the Central Bureau of Investigation (CBI in short) on being sent on deputation by the Uttar Pradesh Police. He joined as Inspector of CBI (Anti-corruption Branch) in the office of the Superintendent of Police, CBI, Shillong in the year 1993. According to the Applicant, the performance of the Applicant in the CBI was exemplary and he was given seventeen (17) rewards and eight (8) commendation certificates for his excellent investigation in various cases. The Applicant also handled certain highly sensitive cases as well.

2. The Applicant is seeking expunction of adverse remarks in his Annual Confidence Report (ACR in short) for the year 1999. The Applicant has not been formally communicated about the adverse remarks, however, in a document annexed in the written statement filed in O.A. No. 154 of 2002 the Respondents had shown the grading 'average' for the period from 01.01.1999 to 31.12.1999. In view of the fact that the Applicant was graded 'outstanding' in the year 1997 and 'good' given in the year 1998 contained certain adverse remarks which were expunged by this Tribunal vide order dated 11.09.2002 passed in O.A. 127 of 2002, the Applicant has reasons to believe that the grading 'average' in the year 1999 is the result of certain un-communicated adverse remarks, which reflects the sharp decline in the performance of the Applicant in comparison to his past record in CBI. Therefore, the same has to be treated as adverse. It should have been communicated to the Applicant in view of the fact that he was graded 'outstanding' in his ACRs from 1993 to 1997. The relationship

between the Respondent Nos. 4 and 5 was not cordial and they were bad blood and even salary was withheld for the month of October 1999 and he filed O.A. No. 137 of 2000 for regularisation of the period of absence for granting medical leave and consequently payment of salary was made for the month of October 1999. The filing of the said O.A. angered the Respondent Nos. 4 and 5 resulting the issue of order of suspension dated 26.04.2000. Different charge sheets were issued on 11.05.2000, 17.05.2000 and 22.05.2000. The charge sheet dated 11.05.2000 was with regard to the absence of the Applicant from 01.10.1999 to 28.10.1999. This was the same period for which the Applicant had filed O.A. No. 137 of 2000 for regularisation of the period of absence by granting medical leave for the payment of salary for October 1999. Assailing the maintainability of three different charge sheets dated 11.05.2000, 17.05.2000 and 22.05.2000, the Applicant filed three Original Application Nos. 30/2001, 31/2001 and 61/2001 for quashing the aforesaid charge sheets. This Tribunal vide order dated May 2001 directed the Respondent No. 5 to restrain himself from the enquiry and not to act as the Disciplinary Authority in all the aforesaid three cases against the Applicant. The O.A. No. 137 of 2005 which was filed by the Applicant for regularisation of the period of absence for 28 days by granting him medical leave, was allowed at the cost of Rs. 1000/- and the Respondents were directed to pay the salary for the month of October 1999 to the Applicant on the basis of medical certificate furnished by him. Hence, recording the ACR of the Applicant for the year 1999 as 'average' which has adversely affected the service career of the Applicant, the same has to be treated as adverse and the Applicant has filed this Application seeking the following the reliefs: -

"8.1 Quash the 'average' grading in the ACR of the applicant for the year 1999.

8.2 Direct the respondents to review the ACR of the applicant for the year 1999 by taking into consideration the relevant materials reflecting upon the work performance of the applicant during the period 1.1.99 to 31.12.99.

8.3 Pas such other order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

8.4 Award cost of the application."

3. The Respondents have filed a detailed reply statement contending that down grading of the Applicant in his ACR was done on the basis of unsatisfactory performance and unbecoming conduct of the Applicant during the year 1999. The target that has been mentioned was not achieved and he was unable to finalize some cases, which were registered on 15.10.1996 and did not work after 01.09.19998. No case diary (CD for short) was submitted by the Applicant after 01.09.1996. The Applicant on account of tardy and unmethodical investigation was unable to complete investigation of any of the regular cases within the prescribed time limit of six months and dragging the investigation of all his cases for years together. The draft article of charges had not been correctly prepared by the Applicant and, therefore, there was delay in dispatch of the SP's report. No CD was submitted by the Applicant after 01.09.1998. The instructions issued by the department have not been followed by the Applicant. It was the case of deliberate and willful delaying tactics adopted by the Applicant and, therefore, some cases had to be transferred to other Officer due to importance attached to the case and following his suspension. There was no animus or malicious

doubt of the Respondent Nos. 4 and 5 towards the Applicant and, on the other hand, the Applicant developed enmity and malice towards the Respondent Nos. 4 and 5 after actions were initiated against him. The work and conduct of the Applicant deteriorated sharply from 1998 and adverse remark report was recorded in his ACR by the DIG, CBI, Guwahati and it was accepted by the Accepting Authority. The allegation that the Respondent Nos. 4 and 5 developed an animus against the Applicant is thoroughly malicious and mischievous. Had it been so, the Respondent Nos. 4 and 5 would not have recommended in favour of the Applicant for extending his deputation period in CBI. The absence from duty from 01.10.1999 to 20.10.1999 on medical ground was found to be highly dubious and because of inaction, it was recommended of minor penalty against the Applicant for committing grate misconduct. The Applicant shown act of indiscipline and insubordination. Therefore, he was graded 'average' and 'below average'. The allegation made by the Applicant that the Reviewing Authority acted maliciously and deliberately to systematically downgrade the Applicant had no force. The Reviewing Authority had taken all the relevant facts into consideration before reviewing the performance of the Applicant and did not act on extraneous consideration while down grading the Applicant to 'average/below average' in the ACR as alleged by the Applicant without any basis. The remarks in the ACR of the Applicant are in consonance with the performance of the Applicant and his work and conduct during the period under review and there has been no violation of any established principles/rules/guidelines in this regard. Therefore, the O.A. is to be dismissed.

4. The Applicant has also filed rejoinder containing 101 pages along with documents reiterating the pleadings made in the O.A. and further submitted that the Reviewing Authority downgraded the ACR of the Applicant as 'below average' and the Accepting Authority mechanically without application of mind accepted the downgraded category suggested by the Respondent No. 5.

5. We have heard Mr P.K. Tiwari, learned Counsel for the Applicant and Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents. The learned Counsel for the parties have taken us various pleadings, materials and evidence placed on record. Mr Tiwari, learned Counsel for the Applicant argued that the Reviewing Authority failed to act objectively and dispassionately in writing the ACR of the Applicant for the year 1999 with an intention of destroying the service career of the Applicant. The Reporting Authority had graded the Applicant higher than the average then the Reviewing Authority while down grading the Applicant from the higher grading of the Reporting Authority ought to have given reasons for doing so. The Reviewing Authority acted maliciously in total non-application of mind while giving 'average' grading to the Applicant in the ACR for the year 1999. The Reviewing Authority acted on extraneous consideration while down grading the Applicant to 'average' in the ACR for the year 1999. Therefore, it has to be quashed and set aside. Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents, on the other hand, persuasively argued that there was steep decline in the performance of the Applicant from yester-years and the work entrusted to him was not able to finalize in time and resulted the 'below average' grading, since it is given according to the performance in the relevant period. Therefore, it cannot be faulted.

6. We have given due consideration to the pleadings, arguments and evidence placed on record by the learned Counsel for the parties. Learned Counsel for the Respondents also submitted the file pertaining to annual confidential report of the Applicant. Both the learned Counsel for the parties elaborately argued for a length of time. On going through the materials, we find that the dispute with the regard to the ACR for the period from 01.01.1999 to 31.12.1999 and it is the case of the Applicant that it is not communicated to him and when another O.A. 154 of 2002 was filed by him challenging the order of repatriation and for his absorption in CBI, the Respondents filed reply statement in which it was revealed that for the period from 01.01.1999 to 31.12.1999, the Applicant was graded 'average' in the ACR and this was the reason for not absorption in CBI. This was un-communicated remarks and the Applicant was not given to know about the factum of his grading being 'average' in the ACR for the year 1999 that point of time. The Applicant made representation narrating the works performed by him in the year 1999 and demonstrated that objective assessment of the work performed by him in the year 1999 could not have resulted in his grading being 'average' for the said year. In the representation, the Applicant also dealt with the circulars and executive instructions, which had provided for specific grading and conferment of awards in the event of performance of certain works during the said period. The Applicant also explained the DCBI Standing order No. 32 dated 27.12.1996 which prescribed that "one reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any." Therefore, in view of the regards and commendation certificate

during two quarters of the year 1999 under review, acknowledging outstanding performance on his part in expressed terms as per DCBI standing order itself and for the obvious reasons the same could not culminate into assessment of ACR and grading for the year under review as 'average' only by any yardstick of supposed objective assessment of ACR. The Applicant also narrated four good works performed during the period under review. But the said representation was not answered to by the Respondents.

7. It is an admitted fact that 'average' grading so far as the Applicant is concerned is the below bench mark. The question to be considered on the fact is whether it should have been communicated or not. Before going into such deliberation, it will be pertinent to mention that the Applicant was graded 'very good' in the year 1996, 'outstanding' in the year 1997, 'very good' in 1998. According to the Applicant, the Reporting Officer had graded the Applicant higher than the average then the Reviewing Authority while down grading the Applicant from the higher grading of the Reporting Authority should have given reasons for doing so. Prior to 1999, we find from the record that the grading of the Applicant was 'outstanding', 'good' and 'very good', etc. In 1999, the Reporting Officer has graded as 'good' and on perusal of the personal data column, we find that Reporting Officer has given all columns, like State of Health, Personality and manners, intelligence and understanding, presentation of cases and expression, knowledge of law and procedures, zeal and industry, initiative, investigative ability, ability to collect intelligence/ information, supervision and control, punctuality in attendance and traits/special ability, 'good' and therefore, the grading was given 'good'. The Reviewing Officer graded as 'below average'. The

Accepting Authority upgraded the grading as 'average'. The length of service under the Reviewing Officer was from 14.07.1999 to 31.12.1999 and it appears that except mentioning some cases that were handled badly, the Reviewing Officer has not made his detailed disagreement. Therefore, the Accepting Authority did not agree with the grading of Reviewing Officer and graded as 'average'. It is clear that neither the Reviewing Officer nor the Accepting Authority was given due application of mind in making the grading.

7. In the decisions reported in **S. Ramachandra Raju Vs. State of Orrissa – JT 1994 (5) SC page 459, Moti Ram Dekha vs. General Manager – (1964) SCR 683, Delhi Transport Corporation vs. D.T.C. Mazdoor Congress and Others – 1991 Supp. (1) SCC 600 at 739, State Bank of India and Others vs. Kashinath Kher & Ors. – 1996 (8) SCC 762, U.P. Jal Nigam vs. Others vs. Prabhat Chandra Jain and Ors. - (1996) 2 SCC 363 and Sukhdev vs. Commissioner Amravati Division, Amaravati and Ors. - (1996) 5 SCC 103**, in which the Apex Court clarified that the objective of writing of confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence.

8. Article 51-A(i) of the Constitution of India enjoins upon every citizen the primary duty to constantly endeavour to prove excellence individually and collectively, as member of the group. Given an opportunity the individual employees strive to improve excellence and thereby efficiency of administration would be augmented. The Officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential

reports objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon the facts or circumstances. Though sometimes, it may not be part of record, but the conduct, reputation and character acquire public knowledge or notoriety and may be within his knowledge. Before forming an opinion to be adverse, the Reporting Officer writing confidential reports should share the information which is not a part of the record with the officer concerned, have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, behaviour, integrity or conduct. It is equally well settled that the material on the basis of which the adverse remarks have been recorded should be discussed to the employees and his version should be noticed.

9. On going through the ACRs of the Applicant, We also find that the Applicant has been graded as 'outstanding' for many years for his commendable service, which cannot be thrown out or ignored in forming an opinion. It is needless to emphasis that the career prospects of a subordinate officer/employee largely depends upon the work and character assessment by the Reporting Officer. The Reporting Officer should adopt fair, objective, dispassionate and constructive approach in estimating or assessing character ability, integrity and the responsibility displaced by the concerned officer/employee during the relevant period. If an honest assessment is not done, the prospect and career of the subordinate officer would be put to great jeopardy. The result will be the Reporting Officer is bound to loose his credibility in the eye of a subordinate and fail to

command respect and take work from them. The writing of the confidential report is contributing to make the subordinates work atleast to some extent. In **P.K. Shastri vs. State of M.P., 1994 (4) RSJ Page 83,** the Hon'ble Supreme Court observed that the confidential reports of an officer (employee) are basically the performance appraisal and go to constitute vital service record in relation to his career advancement. Any adverse remarks in the confidential report could mark the entire career of the officer/employee. Therefore, it is necessary that in the event of a remark being called for in the confidential records, the Authority directing such remark must first come to the conclusion that the fact situation is such that it is imperative to make such remarks to set right the wrong committed by the officer concerned. A decision in this regard must be taken objectively after careful consideration of all the materials, which are before the Authority directing the remarks being entered in the confidential reports. On scrutiny, we find that no such material was available on record.

10. Learned Counsel for the Applicant has also taken our attention to the decisions reported in **(1) (1997) 4 SCC 7 - *State of U.P. v. Yamuna Shanker Misra and Ors.*, (2) AIR 1979 SC 1622 – *Gurdilal Singh Fiji v. State of Punjab and Others*, (3) AIR 1989 SC 2218 – *Baidyanath Mahapatra v. State of Orissa and Another*, (4) 1999 (3) ATJ 580 – *Sri Dharam Pal v. Union of India and Ors.*, (5) (1996) 33 ATC 802 – *Udai Krishna v. Union of India*, (6) (1993) 23 ATC 680 – *Gangadhar Rao v. Union of India & Ors.*, (7) (1996) 2 SCC 363 - U.P. Jal Nigam and Others v. Prabhat Chandra Jain and Others and (8) (1995) 30 ATC 752 – *N.K. Bhanot v. Union of India and Others*** and canvassed the

objectivity of writing the confidential reports and making entries in them is to give an opportunity to a public servant to improve excellence.

11. Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents, on the other hand, submitted that 'average' remark was not communicated as it was not treated as 'average' and canvassed that entry below bench mark is not average, only steep fall in the grading in the particular year down graded by the Reviewing Authority and Accepting Authority is to be communicated. Learned Standing Counsel has also taken our attention to the decisions reported in **AIR 1992 SC 1020/(1992) 2 SCC 299 Baikunth Nath Das and Another v. Chief District Medical Officer, Baripada and Another** and submitted that mere non communication cannot itself be basis for interfering with the action taken by the employee. Learned Standing Counsel further taken our attention to the decision reported in **AIR 1990 SC 1132 – Ratilal B. Soni and others v. State of Gujarat and others** and submitted that question of granting 'outstanding', 'very good', 'good', etc. does not arise since being on deputation does not confer any right to be absorbed in the deputation post. It is further submitted that this Application has been filed by the Applicant after seven (7) years and adverse entry lose its significance if the facts and circumstances of a case suggests that the employer has by its conduct treated it to be a consequential, practical purpose deemed to be wiped off. Actually it is legitimately in the field of assessment, when one's promotion is under examination. Taking attention to the decision reported in **AIR 1987 SC 948/(1987) 2 SCC 188 – Brij Mohan Singh Chopra v. State of Punjab**, learned Standing Counsel submitted that it is well settled that adverse entry,

if any, awarded to an employee, lose their significance on/or after his promotion.

12. The legal position being so, we asked the present status of the Applicant. Learned Counsel for the parties submitted that the Applicant has been repatriated to Uttar Pradesh, i.e., his parent department and subsequent to 1999 he has received promotion. Therefore, taking into confidence of the above decisions so far as the career of the Applicant is concerned, this adverse remark probably may not be of any consequence. But the learned Counsel for the Applicant submitted that it is the expectation and ambition of an employee to get it. Therefore, proper assessment is required so that it is not clouded in the career prospect of the Applicant. We are in full agreement to the legal positions cited by the learned Counsel for the parties and also agree with the decisions of the Hon'ble Supreme Court that if an employee gets promotion subsequent to the adverse remarks, the adverse become insignificance. But the submission of the Applicant that the adverse remark may be a decisive factor for higher promotion of the Applicant has got some force. Therefore, from the factual and legal positions discussed above, the O.A. to be allowed.

13. In the conspectus of facts and circumstances of the case, we allow the Original Application and direct the Respondents to review the ACR of the Applicant taking into performance of the Applicant during the period from 01.01.1999 to 31.12.1999 and remit back to the Respondents for fresh assessment with open mind. For that purpose, we set aside the 'average' grading made in the ACR for the year 1999. We made it further clear that if the said officers are not in service the present incumbents can do the assessment from the

available records. The entire exercise shall be carried out within four (4) months from the date of receipt of copy of this order.

In the conspectus of facts and circumstances, the Original Application is allowed to the above extent as to no costs.

( G. RAY )
ADMINISTRATIVE MEMBER

( K.V. SACHIDANANDAN )
VICE-CHAIRMAN

/mb/

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,GUWAHATI

( An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : **OA No. 42 of 2003**

Suresh Pal Singh Yadav — Applicant

-Versus-

Union of India & Ors — Respondents

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For use in Tribunal's Office

Date of filing:

Registration No.

**REGISTRAR**

29

Filed by the Applicant
through the Advocate
Jaideep Purkayastha
10/3/2003

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
# GUWAHATI BENCH, GUWAHATI

O.A. No. 42 of 2003

**BETWEEN**

Suresh Pal Singh Yadav,
R.G. Baruah Road, Sundarpur,
Guwahati-781 005.

**..Applicant**

-AND-

1. Union of India,
through the Secretary,
Ministry of Personnel and Training,
Government of India,
New Delhi.

2. The Director,
Central Bureau of Investigation,
CGO Complex, Lodhi Road,
New Delhi.

3. Joint Director,
Central Bureau of Investigation,(East Zone)
MSO Building, Nizam Palace,
A.J.C. Bose Road, Kolkata.

4. The Deputy Inspector General of Police,
Central Bureau of Investigation (NE Region)
Guwahati.

5. KC Kanungo,
Deputy Inspector General,
Multi Disciplinary Monitoring Agency,
Central Bureau of Investigation,
1/10 Jamnagar House,Hutments, Akbar Road,
New Delhi-110 011

**.. Respondents**

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## *DETAILS OF APPLICATION*

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

The present application is directed against the un-communicated adverse remarks in the Annual Confidential Report (ACR) of the applicant for the year 1999 (1.1.99 to 31.12.99). The application was graded "Average" in the year 1999. The aforesaid grading came to the knowledge of the applicant when the respondent annexed a document in their written statement filed in OA No.154/2002. The document annexed by the respondents showed the grading of the applicant in the ACRs from 1997 to 2000.

**2. JURISDICTION OF THE TRIBUNAL:**

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

**3. LIMITATION :**

The applicant further declares that he had vide representation dated 24.6.2002 requested for review of the un-communicated adverse remarks due to which he was graded "Average" in the year 1999, however, there was no response from the respondents. The present application is, therefore, filed within the statutory period of limitation as prescribed under Section 21 of the Administrative Tribunal Act, 1985.

**4. FACTS OF THE CASE :**

**4.1** That in the present case applicant is seeking expunction of adverse remarks in his ACR for the year 1999. The applicant has not been formally communicated about the adverse remarks, however, in a document annexed in the written statement filed in OA No.154/2002 the respondents have shown the grading "average" for the applicant in the year 1999(1.1.99 to 31.12.1999) . In view of the fact that the applicant was graded "Outstanding" in the year 1997 and the grading "Good" given to him in the year 1998 contained certain adverse remarks which were expunged by this Hon'ble Tribunal vide its order dated 11th September,2002 passed in OA No.127/2002, the applicant has reasons to believe that the grading "average" in the year 1999 is the result of certain un-communicated adverse remarks. Since the grading "Average" in the year 1999 reflects the sharp decline in the performance of the applicant in comparison to his past record in CBI, therefore the same is to be treated as adverse. It was, therefore, incumbent on the parts of the respondents to communicate to the applicant the adverse remarks made in his ACR for the year 1999. It is noteworthy that the applicant was graded outstanding in his ACRs from 1993 to 1997. As stated earlier, the grading "Good" given to him in the year 1998 was due to certain adverse remarks which were the subject matter of challenge in OA No. 127/2002, and this Hon'ble Tribunal vide order dated 11th September, 2002 expunged those adverse remarks. Hence the grading "Average" given to the applicant in the year 1999 has the adverse effect on the service career of the applicant and as such the same should be treated as an adverse entry. It is also learnt by the applicant that the Reporting Authority had given positive remarks in the ACR of the applicant for the year 1999 and had given him graded far higher than Average. However, the Reviewing Authority, Respondent No.4/5 deliberately brought down the grading with malicious intent. In the instant application the then Reviewing

Authority against whom malice is alleged is arrayed as Respondent No.5. The Reviewing Authority in his official capacity is Respondent No.4. The Accepting Authority is Respondent No.3.

**4.2.** That the applicant was appointed as Inspector of Police in the Central Bureau of Investigation on being sent on deputation by the Uttar Pradesh Police. After his appointment on deputation the applicant joined as Inspector of CBI(Anti Corruption Branch), in the Office of the Superintendent of Police, CBI, Shillong in September, 1993. The performance of the applicant in the CBI was exemplarary and he was given 17 rewards and 8 commendation certificates for his excellent investigation in various cases. The applicant also handled certain highly sensitive cases, like the case relating to fraudulent withdrawal of advance TA against the Judges of the Hon'ble Gauhati High Court as well as the staff of the Gauhati High Court from Kamrup Treasury. In this case also the applicant was given commendation certificate as well as cash reward for his effective investigation.

The applicant craves leave of this Hon'ble Tribunal to produce the relevant documents showing the conferring of reward on the applicant for his competence and effective investigation.

**4.3.** That to the best of knowledge of the applicant he was given "Outstanding" grading in his ACR from 1993 to 1997. So far the year 1997 is concerned the respondents themselves in the written statement filed in OA No.154/2002 showed the grading "Outstanding" in the ACR of the applicant for the period from 1.1.97 to 31.12.97. For the period from 1.1.98 to 31.12.98 the applicant was graded as only "Good" in his ACR because the said ACR contained certain adverse remarks. The applicant preferred OA No.127/2002 before this Hon'ble Tribunal, which

vide its order dated 11th September, 2002 allowed the Original Appl... and quashed the impugned Memorandum containing Adverse remarks in the ACR of the applicant for the year 1998. 33

A copy of the order dated 11th September, 2002 passed in O.A No. 127/2002 is annexed herewith as **ANNEXURE-A/1.**

**4.4.** That the difficulties of the Applicant started from October 1999 onwards when the Respondent No.4/5( the then Reviewing Authority) developed an animus against the applicant. The respondent No.5 came to Guwahati in July 1999. The official difficulties of the applicant started with the Applicant filing OA No.338/99 (admitted on 15.10.99) before the Guiwahati Bench of the Hon'ble Central Administrative Tribunal assailing the order of repatriation from CBI and seeking his absorption in the said organization. The Hon'ble Tribunal admitted the said OA and passed the interim order in favour of the applicant on 15.10.99.

**4.5.** That the filing of the aforesaid Original Application pique... the respondent 4/5. Since during the period the aforesaid OA No.338... was filed and moved before the Hon'ble Tribunal, the Applicant was convalescing on medical advice having suffered from severe chest pain on 30.9.99. Consequently, the applicant absented from duty from 1.10.99 to 28.10.99 (Total for 28 days). Applicant reported for duty on 29.10.99 along necessary documents/ medical papers with the request for granting him 28 days medical leave. However, 28 days medical leave has not granted and salary of the applicant for the month of October 199... was also withheld.

**4.6.** That such was the degree of animus Respondent No.4/5 against the applicant that

November/December 1999 in File No.153/99/Vol. II/NFR, the Respon No.4/5 in his note to the S.P. CBI, wrote that "SP should stop giving reward indiscriminately which some time puts the Branch in awkward position as in case of Shri S.P. Singh Yadav who is using it to his advantage in fighting his case in CAT, Guwahati". It is due to this observation, that since 1999 reward and commendation certificates have not been conferred on the applicant on many occasions when as per the CBI Manual, he was entitled to get such rewards and commendation certificates.

**4.7.** That the respondent No.4/5 apart from withholding the salary of the applicant for the month of October 1999 and refusing to sanction him medical leave for the aforesaid period, exercised police powers which he did not possess. In exercise of police powers, CBI personnel were sent to the Gauhati Medical College to interrogate the Doctor, who had issued Medical Certificate to the Applicant. Phone calls were made at the residence of the concerned Doctor. Even the Superintendent of Gauhati Medical College was contacted by the CBI personnel and intimidated. The authority of Dr. (Mrs) Rupali Barua, MBBS MD, who is an Associate Professor in Gauhati Medical College and had issued sickness and fitness certificate to the Applicant, was questioned.

**4.8.** That it was under these circumstances that the applicant made a complaint to the Director, CBI on 23.12.99. Immediately after this on 10.1.2000 when the applicant was in Office, few CBI Personnel were sent to the applicant's residence where his wife and a grown up daughter were alone at home. The CBI personnel indulged in an improper behaviour at the residence of the applicant and tried to intimidate his wife and daughter as a result of this, wife of the applicant sent complaint to the Director of CBI and to Assam Human Rights Commiss

on 13.1.2000 and 8.2.2000 respectively. An appeal was also made to the Joint Director, CBI on 27.3.2000.

**4.9.** That pursuant to these complaints, the Joint Director, CBI also came to Guwahati and verbally told the Respondent No.4/5 to behave in a proper manner. The bad blood between the applicant and the Respondent 4/5 showed its effect in Respondent No.4/5 even recommending minor penalties against the applicant in different files, viz. official notings dated 29.2.2000 in three different files i.e. File No. SA/SHG/99/20, SA/SHG/99/21 and SA/SHG/99/22 respectively for no cogent reason.

**4.10.** That thereafter the Respondent No.4/5 served on the applicant an order dated 28.3.2000 wherein unsubstantiated allegations of gross misconduct, lack of devotion of duty and integrity etc. were made against the applicant. The aforesaid order was silent on material particula and it only stated that in view of gross misconduct of the applicant, it h been decided to issue charge sheet on him for major penalty and that the applicant should forthwith handover charge of all cases with him to th Deputy Superintendent of Police.

**4.11.** That since the salary of the applicant for the month of October 1999 was withheld the applicant filed OA No. 137/2000 for regularisation of the period of absence by granting medical leave, and consequently for payment of salary for the month of October 1999. The aforesaid OA was admitted on 18.4.2000 by this Hon'ble Tribunal.

**4.12.** That filing of the OA No.137/2000 further ange respondent No.4/5 resulting in issue of order of suspensio 26.4.2000 pending disciplinary proceeding.

**4.13.** That after the order of suspension, the applicant was served with three different charge sheets dated 11.5.2000, 17.5.2000 and 22.5.2000. Charge Sheet dated 11.5.2000 was with regard to the absence of the applicant from 1.10.99 to 28.10.99. This was the same period for which the applicant had filed OA No.137/2000 for regularisation of the period of absence by granting medical leave and for payment of salary for October 1999.

**4.14.** That assailing the maintainability of three different charge sheets dated 11.5.2000, 17.5.2000, 22.5.2000, the applicant filed three Original Applications, viz. OA Nos. 30, 31 and 61 of 2001 for quashing the aforesaid charge sheets. This Hon'ble Tribunal vide its order dated May 2001 disposed of the aforesaid three Original Applications with an observation that "....these are the cases where the impugned departmental proceedings can be said to be legally unsustainable". However the Hon'ble Tribunal instead of quashing the charge sheet directed the Respondent No.5 to recuse himself from the enquiry and not to act as the Disciplinary Authority in all the aforesaid three cases against the applicant.

Copy of the common order dated May 2001 passed in OA Nos. 30, 31 and 61 of 2001 is annexed as **ANNEXURE-A/2.**

**4.15.** That in OA No.137/2000 which was filed by this applicant for regularisation of period of absence of 28 days by granting him medical leave and for payment of salary for October 1999 this Hon'ble vide its order dated 9th July, 2001 allowed the Original Application with cost of Rs. 1000/- and directed the Respondents to pay the salary of the month of October 1999 to the petitioner on the basis of the Medal

Certificate furnished by him. In its order the Hon'ble Tribunal described the stand of the Respondents as "obdurate" and observe that -"the Respondents instead of engaging themselves to other important issues were more confined to some irrelevant and extraneous issues".

Copy of the order dated 9th July, 2001 passed in OA No.137/2000 is annexed as **ANNEXURE-A/3**.

**4.16.** That pursuant to the common order of this Hon'ble Tribunal dated May 2001 passed in OA Nos. 30, 31 and 61 of 2001, the Respondent No. 5 was removed as a Disciplinary Authority of the applicant and Shri Vijaya Kumar, IPS, DIG/CBI, Kolkata was appointed as New Disciplinary Authority, who in view of the order of this Hon'ble Tribunal dated 9th July, 2001 passed in OA No.137/2001 closed the charge sheet dated 11.5.2000 vide his letter dated 18.10.2001. It is pertinent to mention that in other two charge sheets the applicant submitted his written statements raising preliminary objections in regard to the maintainability of the charge sheets. No action was taken in the other two charge sheets and no further enquiry took place. It has come to the knowledge of the applicant that the files pertaining to the aforesaid two charge sheets dated 17.5.2000 and 22.5.2000 were sent for legal opinion and the recommendation was for closing the cases. However, neither the cases have been closed nor the same have been pursued to logical conclusion. It is further learnt by the applicant that after his repatriation to his Parent Department in the State of Uttar Pradesh the concerned files have also been sent to the State of U.P. for appropriate action.

**4.17.** That it was in the above backdrop that the circumstances under which the applicant was graded as "Average" in his ACR for the period 1999 has to be appreciated.

**4.18.** That in OA No.154/2002 which was filed by this applicant for challenging the order of his repatriation and for his absorption in CBI, the Respondents in their written statement annexed a document from which it was revealed that for the period from 1.1.1999 to 31.12.1999 the applicant was graded "Average". This was in sharp contrast to the outstanding grading received by the applicant in his ACRS from 1993 to 1997. Even the grading "Good" in the ACR of the applicant for the year 1998 was the result of certain adverse remarks. Consequently, the Hon'ble Tribunal on appreciation of the facts and circumstances vide its order dated 11th September, 2002 allowed OA No.127/2002, which was filed by this applicant seeking expunction of the adverse remarks made in his ACR for the period from 1.1.98 to 31.12.98, and quashed the Memorandum containing the adverse remarks in the ACR of the applicant for the year 1998. Hence. the document in the written statement of the respondents filed in OA No. 154/2002 which showed the grading "Average" in the ACR of the applicant for the year 1999 was the result of certain adverse remarks which have not been communicated to the applicant. Since the grading "Average" has adversely affected the service career of the applicant, therefore, the same is to be treated as adverse.

Document filed by the Respondent in the written statement of OA No.154/2002 showing the gradings in the ACRs of the Applicant from the year 1997 to 2000 is annexed as **ANNEXURE – A/4**

**4.19.** That since the grading average in the ACR of the application for the year 1999 is the subject matter of challenge in the

present application therefore, it would be apposite to refer to the performance of the applicant in the year 1999.

During the year 1999 the following two rewards were conferred on the applicant :

(a) Commendation Certificate vide Office order No. 23 dated 22.1.99 in High Court referred and monitored case RC-34(A)/96-SHG.

(b) Reward of Rs.1000/- vide office order No.116 dated 22.6.99 by JD/CBI/E2 Kolkata acknowledging keen interest in investigation, surprise check, searches and achieving branch target etc.

Copy of the Commendation Certificate dated 22.1.99 and reward dated 22.6.99 are annexed as **ANNEXURE- A/5 Colly.**

**4.20.** That as per Standing Order of Director, CBI, No.32 dated 27th August, 1996 it is prescribed that "one reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any. Therefore, in view of the aforesaid two rewards and commendation certificate during two quarters of the year 1999 under review, acknowledging outstanding performance on the part of the applicant, therefore, as per DCBI Standing order itself the grading of applicant in the year 1999 could not have been "average".

**4.21.** That further during the period 1999 the following good works were performed by the applicant, which seems to be deliberately and consciously overlooked by the Respondent No.4 /Respondent No.5in order to bring down the grading as "average".

(i) During the period under review reward/CC were conferred vide Office order No. 117 dated 25.6.98 and office orderNo.23 dated

22.1.99 for the two cases viz. RC 5(A)98 -SHG & RC-34 (A)/96-SHG for good investigation.

(ii) Secured conviction in following four cases presented as Presenting Officer on behalf of CBI before CVC and other Inquiring Authority during departmental inquiries.

| | | |
|---|---|---|
| (a) | RC 6(A)/91 SHG- | 30% cut in the pension of CO |
| (b) | RC 37(A)/91 SHG- | Reduction of basic pay by 5 stages of charged official, |
| (c) | RC 29(A)/92-SHG- | Reduction of one increment of charged official. |
| (d) | RC-12(A)/93 SHG | Reduction of 4 increments with cumulative effect form pay of charged official, |

(iii) Four cases were registered on the basis of surprise checks conducted during period under review.

(a) PE-3(A)/99- SHG

(b) PE-2(A)/99-SHG

(c) PE-15(A)/99-SHG converted to RC-I(A)/2000 SHG.

(d) Case to be registered against surprise check in SIR No.SI/SHG/99/30 dated 6.12.99 which finally registered as PE 5(A)/2000-SHG and later on converted and registered as RC-14(A)/2000-SHG u/s 120 B, 420, 477-A of IPC and 13(2) r/w 13(1)(d) of PC Act, 1988 for causing pecuniary loss to the exchequer to the tune of Rs.67 lacs.

(iv) The details of other works performed are given in self appraisal report annexed with ACR Form.

**4.22.** That it is pertinent to mention that the respondent No.4/5 vide his endorsement No.229/120/97/NER dated 18.11.99 himself exhorted all Investigating officers for conducting surprise checks in order to fulfil aims and objectives of Special drive for surprise checks launched as per

order of CBI Head Office. The respondent No.4/5 also promised that sincere efforts of the Investigating Officers leading to registration of Preliminary Enquiry /Registration of Case will he suitably rewarded. However, no Reward was given to the applicant despite registration of aforesaid cases on surprise checks while Shri KM Das, Inspector was given reward of Rs.1500 for conducting only one surprise check in RC-18(A)/99-SHG, wherein applicant was also participated but he was deliberately overlooked.

**4.23.** That in view of aforesaid work and performance the applicant was expecting the grading of "Outstanding" in his ACR for the year 1999. Since he was given the grading "average" therefore, he has a reason to believe that the grading average" is the result of malafide exercise of power by the respondent No.4/5, who was the Reviewing Authority of the applicant at the relevant point of time. The malicious intent of respondent No.4/5 towards the applicant is reflected in the order passed by the aforesaid respondent on 14.1.2000. The same is quoted herein-below:

"BRANCH INSPECTION REPORT FOR THE YEAR 1999

PAGE NO.104 DATED 14.1.2000

"SP should stop giving reward indiscriminatingly which some time puts the branch in awkward position as in case of Sri SP Singh Yadav who is using it to his advantage in fighting his case in CAT, Guwahati."

**4.24.** That It has come to the knowledge of the applicant that he was graded far higher than the 'Average" by his Reporting Authority. However, the Reviewing Authority, Respondent No.4/5 deliberately brought down the grading with malicious intent. When the Reporting Authority had given positive remarks in the ACR of the applicant and had graded him quite highly then the Reviewing Authority without any just

and sufficient reason ought not to have brought down the grading. The Reviewing Authority failed to act objectively and acted in malafide exercise of power while writing the ACR of the applicant for the year 1999.

**4.25.** That after Respondents filing the document in the Written Statement of OA No.154/2002, the applicant came to know about the factum of his grading being "average" in the ACR for the year 1999, he submitted a Representation dated 24th June, 2002 for review of uncommunicated remarks made in his ACR for the period 1.1.99 to 31.12.99. In his representation the applicant dealt with the work performed by him in the year 1999 and demonstrated that objective assessment of the work performed by him in the year 1999 could not have resulted in his grading being "average" for the said year. In his representation the applicant also dealt with the circulars and Executive Instructions which had provided for specific grading and conferment of awards in the event of performance of certain works by the Government Servant. It was showed by the applicant that since he performed certain specific works for which he was to be conferred with Awards and Commendation Certificates, therefore, his grading for the said year could not have been average.

Copy of the representation dated 24.6.2002 along with enclosures is annexed as **ANNEXURE -A/6.**

**4.26.** That in the present case, the Reporting Officer acted fairly and made an objective assessment of the applicant in writing the confidential report. Unfortunately, it was the Reviewing and the Accepting Authority which failed to act objectively and dispassionately. The facts and circumstances of the case clearly show that the Reviewing Authority had his own personal agenda to settle score with the applicant and primarily

for the purpose of maligning and tarnishing the service career of the applicant, the Reviewing Authority deviated from the remarks of the Reporting Authority and graded the applicant as "average" in his ACR for the year 1999. Moreover, the Reviewing Authority was clearly prejudiced against the applicant and as a result, it failed to be objective in his assessment of the applicant.

**4.27.** That the grading "average" in the ACR of the applicant for the year 1999 has caused him serious prejudice. Due to this average grading the prospects of the applicant of being absorbed in the CBI were also ruined. Moreover, the impugned average grading is a sharp decline in comparison to the "outstanding" gradings received by the applicant in the past. As stated earlier the applicant was graded "Outstanding" in his ACRS from 1993 to 1997 continuously. For the first time in the year 1998 he was graded "Good" because of certain adverse remarks made by the Reviewing Authority. However, those adverse remarks were expunged by this Hon'ble Tribunal. It is reasonable to presume that had those adverse remarks not been there in the ACR of the applicant for the year 1998 then the grading of the applicant for the said year would have been higher than the "Good". The grading "average" given to the applicant in the year 1999 has to be seen in the aforesaid perspective. The Reviewing Authority acted maliciously and deliberately to systematically down grade the applicant from "Outstanding" to "Good" and then to "Average" followed by "Below Average". Hence, the "average" grading of the applicant for the year 1999 is required to be reviewed by this Hon'ble Tribunal.

**4.28.** That the applicant files this application bonafide for securing ends of justice.

**5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:**

**5.1.** Because when the Reporting Authority had graded the applicant higher than the average then the Reviewing Authority while down grading the applicant from the higher grading of the Reporting Authority ought to have given reasons for doing so. However the Reviewing Authority acted maliciously in total non-application of mind while giving "average" grading to the applicant in his ACR for the year 1999.

**5.2.** Because the Reviewing Authority failed to act objectively and dispassionately in writing the ACR of the applicant for the year 1999. It acted maliciously to systematically down grade the applicant with the intention of destroying his service career.

**5.3.** Because the Reviewing Authority failed to act in conformity with the instructions which are required to be scrupulously followed by the Authority in preparing the ACR of the Government Servant. The Reviewing Authority down graded the applicant while giving him the grading "average" in contravention of the Instructions which are required to be followed in writing the ACRs of the Government Servant.

**5.4.** Because the Reviewing Authority did not take relevant materials into consideration which reflected upon the performance of the applicant during the year 1999. It acted on extraneous considerations while down grading the applicant to "average" in his ACR for the year 1999.

**5.5.** Because the adverse remarks in the ACR of the applicant have been made in violation of the established principles of law which are required to be followed by the Reviewing and the Accepting Authorities.

**6. DETAILS OF REMEDIES EXHAUSTED :**

That the applicant states that in the facts and circumstances of the case, the applicant has no other alternative efficacious remedy except approaching this Hon'ble Tribunal.

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

The applicant further declares that he has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

**8. RELIEFS SOUGHT FOR:**

8.1 Quash the 'average' grading in the ACR of the applicant for the year 1999.

8.2. Direct the respondents to review the ACR of the applicant for the year 1999 by taking into consideration the relevant materials reflecting upon the work performance of the applicant during the period 1.1.99 to 31.12.99.

8.3 Pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

8.4. Award cost of the application.

**9. INTERIM ORDER PRAYED FOR:**

In the facts and circumstances of the case, the applicant does not pray for an interim order.

**10.** The application is filed through Advocate.

**11.** **PARTICULARS OF THE IPO**:

(I) IPO No. 7G 607046

(II) Date: 7.3.2003

(III) Payable at : Guwahati

**12.** **LIST OF ENCLOSURES**:

As stated in the Index.

## -VERIFICATION-

I, Suresh Pal Singh Yaadav, son of late Netra Pal Singh Yadav, aged about 49 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.1, 4.2, 4.5, 4.7, 4.8, 4.9, 4.16, 4.20, 4.24, 4.25, 4.26, 4.27 are true to my knowledge, those made in paragraphs 4.3, 4.4, 4.6, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.18, 4.19, 4.21, 4.22, 4.23 being matters of records are true to my information derived therefrom and the grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the day of 10th March ~~January~~, 2003 at Guwahati.

Singnature of the applicant.

Suresh Pal Singh Yadav.

ANNEXURE- A/1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 127 of 2002.

Date of decision : This the 11th day of ~~August~~ September, 2002.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Suresh Pal Singh Yadav,
Inspector, Central Bureau of
Investigation, Office of the
Superintendent of Police, Central
Bureau of Inveswtigation,
R.G.Baruah Road,
Sundarpur, Guwahati-781005.

...Applicant

By Advocate Mr. P.K.Tiwari.

-versus-

1. N.R.Roy, Special Inspector General of Police (Operations) Criminal Investigation Department, West Bengal, Bhawani Bhawan, Kolkata-700 027.

2. Dr. U.N. Biswas, Addl. Director, Central Bureau of Investigation (Retired), C/oJoint Director, CBI (East Zone), MSOBuilding, Nizam Palace, A.J.C. Bose Road, Kolkata.

3. The Director, Central Bureau of Investigation, CGO Complex, Lodhi Road, New Delhi.

4. The Union of India, through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.

...Respondents

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

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Jhumiyadhia
10/3/03
Advocate

O R D E R

CHOWDHURY J. (V.C.).

The propriety and validiy in registering the Annual Confidential Report is the subject matter of dispute in this proceeding. By a Memorandum No. 511/CON/94(Pt)/98-GHY dated 29th September, 1999, the applicant was communicated as follows :

> "He has a tendency to finalise cases without collecting evidence.
>
> He is an indiscipline officer and exhibits insubordination occasionally."

The applicant submitted his representation dated 29.10.199 questioning the correctness as well as legality of the adverse entries so far made against the appicant in his Annual Confidential Report in a detailed manner. In his representation the applicant mentioned that he was sent on deputation from U.P. Police in the year 1993 in CBI, Anti Corruption Branch, Shillong and during the term prior to the issuance of the adverse entry the appicant was rewarded and also obtained commendation certificates. The applicant contended that the adverse entries are per se, malicious and perversity writ large. The applicant also alleged mala fide against the Reviewing Officer. By a Memo dated 4.3.2002 the Superintendent of Police, CBI, Guwahati two letters, one by the Reviewing Officer in a communication dated 21.1.2002 as well as communication sent by the Regional Director CBI dated 28.2.2002. The full text of the aforementioned two communications are reproduced below :

To
Shri K.C. Kangoongo,
Deputy Inspector General of Police,
Central Bureau of Investigation,
North Eastern Region,
Guwahati, Assam.

Certified to be true copy
10/3/03
Advocate

Please refer to your CBI ID No. 1401/47/CBI/NER/99 dated (eligible) 2000 regarding adverse remarks on the ACR of Shri S.P.Singh Yadav, Inspector, CBI, ACB, Guwahati for the year 1998. During discussion of cases, it was found that cases handled by him lacked in investigation on medical points and when pointed out the same he behaved in an indisciplined manner in one of such meeting with officers, in Guwahati, he behaved in such an indisciplined manner that I was compelled to ask him to go out of the meeting.

I stand by the comments made by me. This type of officers must not be retained in CBI.

Sd/- Illegible
Special Inspector General of
Police (Operations)
Criminal Investigation Department,
West Bengal"

"2. Comments of the Additional Director, CBI EZ Kol. on the letter dated 21.1.2002 of Shri N.R.Roy, IPS, Former DIG, CBI, NER on the adverse remarks in the ACR of Shri S.P.Singh Yadav, Inspector, CBI, Guwahati for 1998.

"I do agree to the comments of the then DIG, CBI, NER Shri N.R. Ray."

Sd/- Illegible
28.2.2002
AD, CBI (Retd./Kolkata)

Finally, by a communication dated 4.4.2002 the Deputy Director (Admn),, CBI, New Delhi informed theapplicant that Director, CBI being the head of department considered all the grounds/justifications explained in the representation/appeal dated 29.10.1999 with reference to the adverse remarks of the Reviewing and accepting authority recorded in the ACR for the year 1998 and the same was finally rejected. Being aggrieved by the action of the respondents the applicant moved this Tribunal assailing the legitimacy of the adverse remarks made in the ACR against the applicant for the year 1998.

2. The respondents submitted its written statement denying and disputing the claim of the aplicant on behalf of the respondents No. 1 to 4. In the written statement the

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Gurkayastha
10/3/03
Advocate

respondents stated that the adverse remarks in the ACR of the applicant was lawfully recorded by the concerned authority on due application of mind and the competent authority also duly considered the representation of the applicant for expunging the adverse remarks in his ACR for the year 1998 and on proper consideration of the representation, the same was turned down.

3. The applicant in his application also incidentally referred other matters relating to his absorption in the CBI. Since we have not called upon to adjudicate the said issue in the said O.A., we would refrain from making any comment thereon, that strictly confine as to the rightness of the adverse remarks.

4. Mr. P.K.Tiwari, learned counsel appearing on behalf of the applicant took us through maze of documents and contended that the adverse entries recorded against the applicant lacked of objectivity, impartiality and fair assessment. The learned counsel submitted that the Reviewing authority taking not of an isolated incident in a most unfair manner recorded the adverse entry against the applicant. The learned counsel submitted that all throughout the applicant as an officer earned commendation and good record. The Reviewing Officer did not have the opportunity to assess the performance of the applicant. The learned counsel referred to the pleadings including the representation and stated that the Reviewing Officer took over the charge of DIG/CBI/NER/Guwahati on 8th March 1998 and worked up to March 1999 and in his short visit the Reviewing Officer was not fully acquainted with the task of the officer and with an oblique motive entered those adverse remarks against the applicant. The learned counsel also referred to the encounter met on 8.9.1998 on his first visit to office of the SP, CBI. On being totally upset with

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Jhumjayastha 10/3/03
Advocate

the behaviour of the said Officer the applicant in fact submitted application for repatriation, though later on withdrawn. The learned counsel also questioned the authority of N.R.Roy as a Reviewing Authority to deal with his representation on 21.1.2002 as well as on the authority of U.N.Biswas on attainment on superannuation on 28.2.2002. The aforesaid contention of the learned counsel assailing the action of the said two officer for dealing with his representation after their superannuation is not of much credence. The respondents did not commit any wrong by asking for the comment of those officers on the representation submitted by the applicant. Sri N.R.Roy Special Inspector General of Police (Operations) was the person who was the Reviewing Authority and made those two adverse remarks. There is no infirmity in the action of the authority in seeking the options from the concerned officer before deciding the representation. Similarly the other Officer Sri N. Biswas, Additional Director, CBI was the accepting authority. The said officer attained superannuated on 30.1.2002. An officer who attains superannuation even after demiting the office is permitted to give his report on his subordinate within one month of his retirement or demission of his office as per the Executive instruction issued by the Ministry of Personnel Public Grievances, Department of Personnel and Training dated January, 1993.

5. We have already indicated in details as to the adverse remarks made against the applicant. In the first instance it was noted to the effect that the officer finalises the case without collecting clinching evidence. The observation is seemingly very comprehensive and indiscriminate one. The comments forwarded by the said officer in his communication dated 28.1.02, on the other hand stated that those comments

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10/3/03
Advocate

were the outcome of discussion of cases with the officer and where it was found that the cases handled by the officer lacked investigation on medical points in his final comments. The Reviewing Authority stated that the cases handled by the concerned officer was wanting investigation on medical points whereas in the remark he mentioned that the officer had a tendency to finalise the cases without collecting clinching evidence. Needless to state that the comments appears to us too sweeping to meet the requirement of ACR. Needless to state that the ACR is the document of significance, it offers primary and credential information on officer. It also carries essential datas for career advancement of officers. Such task is to be undertaken with high degree of responsibility. It is not to be used as a vehicle of punishment. It may also be mentioned that the report of the Investigating Officer need to go through different channels or different authorities and thereafter only cases are finalised. The comments must be made on objective assessment of the available materials. Such remarks must be founderd upon facts and circumstances. It must be free from subjectivity, Indiscriminate, over drawing sludgy comments will not come to assist the officer correct his errors sought to be remedied. An Omnibus remarks of this fashion also deprives the officer to assail the remark before the higher authority.

6. From the comments of the officer it clearly indicated that the said remark to the effect that the officer seemingly behaved in an indisciplined manner, drawn from one isolated incident could not be taken as an input for recording the ACR.

7. The confidential rolls and character rolls are to be prepared to provide the input of the officer concerned. Writing of the Confidential Report on the one hand provides the officer concerned to make up his deficiency and to

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Jhumayastha
10/3/03
Advocate

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inculcate discipline and the other one is to improve the quality and excellence in the efficiency of public servant. In recording ACR of an officer the higher officer requires to show objectively. The Supreme Court in its decision in the case of State Bank of India Vs. Kashinath Kher reported in (1996) 8 SCC 762 held as follows:

> "The officer should show objectively, impartiality and fair assessment without any prejudices whatsoever with the highest sense of responsibility alone to inculcate devotion to duty, honesty and integrity to improve excellence of the individual officer. Lest the officers get demoralised which would be deleterious to the efficacy and efficiency in public service, they should be written by a superior officer of high rank."

8. The object of making adverse remarks is to assess competence of an officer on merits and performance of an officer concerned so as to grade him in various categories as outstanding, very good, good, satisfactory and average etc. The competent authority and the reviewing authority have to act fairly or objectively in assessing the character, integrity and performance of the incumbent.

9. As was mentioned earlier, the adverse entry is the result of the encounter against the applicant and the Reviewing Authority which took place on 8.9.1998. From the records it also appears that in hot haste the applicant also submitted an application to the authority requesting for being relieved to join to his parent department. The impugned adverse entry is based on a solitary incident. Where the subordinate officer faultered in his disposition towards the superior, the higher officer had also a public responsibility to invite attention of his subordinate, by advising him to correct his behaviour. If despite such opportunity the said officer failed to take corrective measure, in that event the superior officer was free to record his displeasure in the Annual Confidential Report furnishing a copy to the officer. In this context it

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Jhunjhunjayantha
10/8/13
Advocate

would be appropriate to refer the following decision of the Supreme Court reported in 1997 4 SCC 7 in the case of State of U.P. Vs. Yamuna Shanker Mishra held as follows :

> "The object of writing the confidential reports and making entries in them is to give an opportunity to a public servant to improve excellence. Article 51-A (j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency of administration would be augmented. The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential report objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an over all assessment of performance of the subordinate officer. It should be founded upon facts and circumstances. Though sometimes, it may not be part of the record, but the conduct, reputation and character acquire public knowledge to notoriety and may be within the knowledge of such officer. Before forming an opinio to make adverse entries in confidential reports, the reporting/reviewing officers should share the information which is not a part of the record, with the officer concerned. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, conduct, behaviour, integrity or corrupt proclivity. If, despite giving such an opportunity, the officer fails to perform the duty or correct his conduct or improve himself, necessarily the same is to be recorded in the confidential report and a copy thereof supplied to the affected officer so that he will have an opportunity to know the remarks made against him. If he fells aggrieved, it would be open to him to have it corrected by appropriate representation to the higher authorities or any appropriate judicial forum for redressal. Thereby, honesty, integrity, good conduct and efficiency get improved in the performance of public duties and standards of excellence in services constantly rises to higher levels and it becomes a successful tool to manage the services with officers of integrity, honesty, efficiency and devotion."

10. The whole exercise of preparing characeter roll is also to provide an opportunity to a Government Servant to overcome inadequacy and shortcomings. Recording of ACR is of far reaching consequence which is to be done with objectivity and careful consideration on the materials before the authority. An adverse remarks in the character rolls can

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Advocate

obviously spoil the entire career of an officer. Before making adverse entry against an officer one must address himself as to whether it was at all imperative to make such remark to set right the wrong committed by the concerned officer. The applicant submitted his representation before the Director, CBI for expunging the recorded adverse entry in his ACR. On 4.4.2002 the applicant was informed that the same was finally rejected by the authority. The applicant was not informed about the actual order passed by the Director, the communication at least did not assign any reasons for rejection of the representation submitted by the applicant in detail. The Hon'ble Gauhati High Court in its judgement dated 5.2.2002 in W.P.(C) 3420/2001 also directed the authority to consider the representation of applicant submitted against the adverse remark for the year 1998 has so far not decided by the authority. In deciding the represeentation of the applciant it was expected from the authority after the High Court's order for assigning some reasons for rejection of the representation. Giving reasons are of utmost important. Reasons contains the link between the materials considered to reach at the conclusion and the end result. On consideration of all the aspects of the matter, we are of the opinion that the impugned adverse remarks recorded against the applicant for the year 1998 is unsustainable in law and therefore it is liable to be set aside. We accordingly set aside and qush the impugned Memorandum.

11. The application is accordingly allowed. There shall however, be no order as to costs.

Sd/VICE CHAIRMAN

Sd/ MEMBER (Adm)

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Advocate

ANNEXURE-A/2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos.30,31 & 61 of 2001

Date of Order: This is the Day of May 2001.

HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER

Suresh Pal Singh Yadav, Inspector
(Under suspension),
Central Bureau of Investigation,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.G.Baruah Road, Sundarpur,
Guwahati - 781 005. ... ... Applicant

By Advocate Mr. B.K.Sharma, Mr. P.K. Tiwari
Mr. U.K.Goswami

-Vs-

1. K.C. Kemungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3

2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3

3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2. ... ... Respondents

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

O R D E R

CHOWDHURY J. (V.C.)

O.A. 30,31 & 61 of 2001 are taken up for consideration together since all these Applications embrace self same issues arising out of like situations appertaining to the propriety of initiation of the three departmental proceedings. The applicant assailed the legitimacy of the aforesaid actions of the respondents as well as the continuance of the departmental proceedings against him, in these O.A.s.

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Jhumayoshi
10/3/2
Advocate

2. We have heard learned counsel for the parties at length. After going through the materials on records and upon considering the submission on behalf of the parties, we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable. The article of charges are framed against the applicant. He has already submitted his written statements denying and disputing the allegations. All things considered, we are not inclined to intervene and we are of the view that the departmental proceedings in question should proceed and come to its logical end as per law.

3. Enquiry Officer has already been appointed and from the conduct of Enquiry Officer and also from the materials on records, we do not perceive any disability in the Enquiry Officer and to debilitate him from the Enquiry. Considering all aspects of the matter we, however, feel that the respondent no.1 Shri K.C. Kanungo, Deputy Inspector General of Police should not act as a disciplinary authority. The applicant has specifically expressed his apprehension that he is not expecting to get treatment in hand of Respondnent No.1 as the disciplinary authority.

4. Mr. B.K. Sharma, learned Senior counsel for the applicant particularly referred to us to the observations made by the aforementioned Officer of Police, in his order deciding to hold a formal enquiry after receipt of the written statement. Considering the findings and observations made in the aforesaid order read with the

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Ghurkaiyashq
10/3/03
Advocate

written statement filed, we feel that it would not be appropriate for the said respondent to act as disciplinary authority and therefore he should be recused. We have adopted this course to recuse the Respondent No.1 to act as a disciplinary authority to avoid all misgivings. Justice not should only be done, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence. The concerned authorities including the Director, CBI, are ordered to act accordingly. The enquiry shall now proceed as per law. We expect that the enquiry shall be conducted with utmost expedition. We, however, make it clear that the applicant should entitled to raise all the legal issues those are raised in the O.A.s including the maintainibility or the departmental proceedings before enquiry as well as the disciplinary authorities.

With the observation made above, the applications stand disposed of. There shall,, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

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प्रमाणित प्रतिलिपि

6/5/2004

Section Officer (J)
आसाम प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ, गुवाहाटी
Guwahati Bench, Guwahati

6/5/2004

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Jhinkayastha
10/5/04
Advocate

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ANNEXURE- A/3

IN THE CENTRAL ADMINSTRATIVE TRIBUNAL

GUWAHATI BENCH

Original ApplicationNo.137 of 2000

Date of decision: This the 9th day of July 2001

**The Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman**
**The Hon'ble Mr. K.K. Sharma, Administrative Member**

Shri Suresh Pal Singh Yadav,
Inspector,
Central Bureau of Investigation,
Office of the Superintendent of Police,
Central Bureau of Investigation,
Guwahati.

..... Applicant

By Advocates - Mr.B.K.Sharma, Mr. P.K. Tiwari and Mr. S. Sarma.

- versus -

1. The Union of India,
through the Secretary to the
Government of India, Ministry of
Personnel and Training, New Delhi.

2. The Director,
Central Bureau of Investigation,
New Delhi.

3. The Deputy Inspector General,
Central Bureau of Investigation, Guwahati.

4. The Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Guwahati.

5. The Administrative Officer (E),
Central Bureau of Investigation,
Government of India,
Administrative Division,
New Delhi.

..... Respondents.

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

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10/3/03
Advocate

O R D E R (ORAL)

CHOWDHURY. J.(V.C.)

The only controversy involved in this application pertains to the payment of salary of the applicant for the month of October 1999. The applicant served as an Inspector of Police under the respondents on deputation. On completion of his deputation the applicant was repatriated to his parent department, which was a subject matter of a separate O.A., since disposed of. By this application the applicant has moved this Tribunal for a direction for payment of his salary for the period from 1.10.1999 to 28.10.1999. In the application it was, inter alia, stated that on 30.9.1999, at late night, the applicant felt severe chest pain and irritation. The nearest CGHS Dispensary from the applicant's residence at Guwahati, was located at a distance of 7 to 8 Kilometres. It has also been stated that the applicant was not registered in any of the CGHS Dispensary, and therefore, he was taken to the nearest available Doctor of Gauhati Medical College who stayed very close to the applicant's residence. The applicant continued to be under treatment and on being declared medically fit, he joined duty on 29.10.1999. He submitted his joining report on 29.10.1999 along with necessary documents and medical papers requesting the respondent authority to grant him twenty-eight days medical leave. Since the respondents did not respond to it and salary for the aforesaid period was not paid the applicant moved this OA for appropriate remedy.

2. The respondents contested the case and disputed the claim of the applicant. According to the respondents the leave of the applicant was unauthorised, and therefore, the respondents did not

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Jhumayantha
10/3/13
Advocate

commit any irregularity. The respondents also contested the admissibility of medical leave for the aforesaid period. We thought that this matter could be sorted out by the authority, more so, in view of the fact that the applicant is now repatriated to his parent department and the matter should have been amicably resolved by the department. The respondents, on the other hand, took a very obdurate stand and stated that the claim for medical leave was not permissible since the applicant did not submit any authorised medical certificate. According to the respondents the leave was not permissible under the CCS (Leave) Rules, 1972. Admittedly, these rules are not applicable so far a deputionist is concerned and deputionists are guided by the rules of the parent department. The very CCS Leave Rules, on which the respondents relied upon also indicate that leave can be granted on medical certificate made by a non gazetted Government servant accompanied by a medical certificate in Form 4 given by an authorised Medical Attendant or a registered medical practitioner. Admittedly, the applicant was examined and treated in the Gauhati Medical College Hospital and also by one Doctor (Mrs) Rupali Baurah, Assistant Professor, Comm. Medicine, Gauhati Medical College. Instead of relying on the medical certificate issued by the aforesaid Assistant Professor, who treated the applicant, the respondents made certain queries and took time investigating the matter and obtaining a report form Dr BK Barah, Superintendent Guahati Medical College as to the credentials of Dr (Mrs) Rupali Baruah. The communication dated 4.5.2000 sent by Dr VK Baruah, Superintendent, Guahati Medical College to the Superintendent of Police, CBI, also indicated that Dr (Mrs) Rupali Baruah , MD was an Officer in the rank of Assistant professor of Gauhati Medical College and therefore, the medical certificate issued by her to the applicant was not related with the

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10/3/13
Advocate

Gauhati Medical College Hospital. The respondents mainly emphasised on the fact that the certificate issued by the aforesaid Doctor to the applicant was not related with the Gauhati Medical College Hospital. The report, however, did not indicate that the Doctor(Mrs) Rupali Bauah was not a registered practitioner. The respondents instead of engaging themselves to other important issues were more confined to some irrelevant and extraneous issues.

3. On hearing Mr PK Tiwari, learned counsel for the applicant and Mr BC Pathak, learned Addl CGSC, the respondents are directed to take necessary steps for payment of salary of the applicant on the basis of the medical certificate submitted by the applicant without insisting for any other certificate from CGHS. The respondents are directed to take necessary steps for payment of salary of the applicant for the aforesaid period within two weeks from the date of receipt of the order.

4. The application is accordingly allowed and the respondents are directed to pay cost of Rs.1000/- (Rupees one thousand only) to the applicant.

Sd/- VICE CHAIRMAN

Sd/- MEMBER(ADM)

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10/3/03
Advocate

ANNEXURE-A/4

*Proposal of Absorption of Sh. S.P. Singh Yadav, Inspector(U/S), CBI, ACB Guwahati as per direction of the Hon'ble High Court, Guwahati.*

| S. No | Name of the Inspector with place of posting. | Date of joining in CBI with rank. | Period of the ACR. | Assessment of the ACR. | Remarks. |
|---|---|---|---|---|---|
| 1 | Shri S.P. Singh Yadav, Inspr., CBI, ACB, Guwahati. | 24.09.1993 as Inspector of Police from U.P. Armed Police. | 1.1.1997 to 31.12.1997<br>1.1.1998 to 31.12.1998 – 12/00<br>1.1.1999 to 31.12.1999 42/05<br>1.1.2000 to 31.12.2000 194/05 | Outstanding. 10<br>Good. 5<br>Average. 3<br>Below Average 0<br>18 | |

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Jhunjhunjwala
10/3/13
Advocate

ANNEXURE- A/5 Colly

CENTRAL BUREAU OF INVESTIGATION

# GOVERNMENT OF INDIA
# MINISTRY OF PERSONNEL, P. G. & PENSIONS
# COMENDATION CERTIFICATE

Granted to Shri S.P.SINGH YADAV,INSPR. IS HIGHLY COMMENDED FOR HIS GOOD WORK DONE IN CASE NO.RC.34(A)/96-SHG.

for .....

22/11/99

DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati.

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10/3/03
Advocate

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Office order No. 23 Dated :- 22/01/99

Sanction is hereby accorded for the grant of C. C. to the following Executive staff for his good work done in Case No. RC 34(A)/96-SHG as detailed below :-

| Sl. No. | Name & Designation | Amount Sanctioned | Commendation Certificate |
|---|---|---|---|
| 1. | Shri S.P. Singh Yadav, Inspr. | ----- | C. C. |

Superiendent of Police,
CBI, ACB, Guwahati.

Memo No. E/24/ 66-67 Dated :- 22-1-99

Copy to :-

1. The S.B. Clk alongwith C. C. for necessary entry in his Service Book.

2. Person concerned.

22/1/99

Superiendent of Police,
CBI, ACB, Guwahati.

Certified to be true copy
10/8/13
Advocate

OFFICE ORDER NO. 116 / DATED:- 22/6/ '99.

Joint Director(EZ)CBI/Calcutta vide his order dtd 04.06.99 is pleased to sanctioned a cash reward to the following Executive staff of CBI/ACB/Guwahati for they have taken keen interest for all round development of the branch smooth functioning as well as shown interest investigation searches,surprise checks etc. as detailed below:-

| Sl.No. | Name & Designation | Amount Reward. |
|---|---|---|
| 1 | 2 | 3 |
| 1. | Sh.R.P.Bose,Inspr. | Rs. 1000/- |
| 2 | Sh.S.P.Singh Yadav ,Inspr | Rs. 1000/- |
| 3. | Sh.L.Hangshing,Inspr. | Rs. 1000/- |
| 4. | Sh.N.G.Khamrang,Inspr. | Rs. 1000/- |
| 5. | Sh.N.R.Dey,Inspr. | Rs. 1000/- |
| | | 5000/- |

(Rupees five thousand)only

It is certified that the amount prescribed in H.O. letter No.29/1/81-AD III dtd.1/8/90 has not been exceeded in this regard.

Superintendent of Police,
CBI/ACB/Guwahati.

Memo No.E/24/98/6760-64 Dated:- 22/6/ '99.

Copy to :-

1. A/C Section in duplicate for n/a.

2. Person concerned.

Superintendent of Police,

CBI/ACB/Guwahati

Certified to be true copy
Jhumayastha 10/3/03
Advocate

**ANNEXURE-A/ 6**

To

THE DIRECTOR, CBI,
CGO COMPLEX,LODHI ROAD,
NEW DELHI.

THROUGH
THE SUPDT OF POLICE, CBI/ACB/SPE, GUWAHATI

SUBJECT: REVIEW OF UNCOMMUNICATED REMARK FOR THE PERIOD 1.1.99 TO 31.12.99, AND NECESSARY RACTIFICATION THEREIN IN THE LIGHT OF ESTABLISHED PRINCIPLES OF ACR WRITING.

Sir,

Kindly refer proceedings of the screening committee filed with the written statement in OA No.154/2002 before Gauhati Bench of Central Administrative Tribunal.

2. In the said proceedings against assessment of ACR for the period 1.1.99 to 31.12.99 "Average" Grading has been shown but without communication of any adverse entry thereof to me for the said year. It is important to mention that after "Outstanding" and "Good" grading in the year 1997 and 1998 respectively the down grading as "Average" during 1999 could not be considered otherwise than Adverse, which is untenable with the actual work, performance and conduct etc. on my part available on records during the year 1999. It is significant to mention that during the year 1999 following two rewards (in the said proceeding maliciously shown as one only), and commendation certificates were conferred on me expressing acknowledgment by superior officers themselves of outstanding performance put up by me.

(a) Commendation Certificate vide Office Order No.23 dated 22.1.99 in High Court referred and monitored case RC-34(A)/96-SHG.

(b) Reward of Rs.1000/- vide office Order No. 116 dated 22.6.99 by JD/CBI/E2 Kolkata acknowledging keen interest in investigation, Surprise check, searches and achieving branch target etc.

(Copy of the CC dated 22.1.99 and reward dated 21.6.99 annexed as Annexure-1 & 2 respectively)

3. It is pertinent to mention herein that as per the DCBI Standing order No.32 dated 27.12.96 it is prescribed that "one reward to an individual officer per quarter would be sufficient to acknowledge his

Certified to be true copy
Jhumariyasha
10/3/13
Advocate

outstanding contribution, if any. "Therefore, in view of the aforesaid two rewards and commendation certificate during two quarters of the year 1999 under review, acknowledging outstanding performance on my part in expressed terms as per DCBI standing order itself and for the obvious reasons the same could not culminate into assessment of ACR and grading for the year under review as "Average" only by any yardstick of supposed objective assessment of ACR.

4. Further during the period under review following good works were performed which seems to be deliberately and consciously overlooked by concerned in order to bring down the grading as 'average' .

(i) During the period under review reward/CC were conferred vide Office order No. 117 dated 25.6.98 and office orderNo.23 dated 22.1.99 for the two cases viz. RC 5(A)98 -SHG & RC-34 (A)/96-SHG for good investigation.

(ii) Secured conviction in following four cases presented as Presenting Officer on behalf of CBI before CVC and other Inquiring Authority during departmental inquiries.

| | | |
|---|---|---|
| (a) | RC 6(A)/91 SHG- | 30% cut in the pension of CO |
| (b) | RC 37(A)/91 SHG- | Reduction of basic pay by 5 stages of charged official, |
| (c) | RC 29(A)/92-SHG- | Reduction of one increment of charged official. |
| (d) | RC-12(A)/93 SHG | Reduction of 4 increments with cumulative effect from pay of charged official, |

(iii) Four cases were registered on the basis of surprise checks conducted during period under review.

(a) PE-3(A)/99- SHG

(b) PE-2(A)/99-SHG

(c) PE-15(A)/99-SHG converted to RC-I(A)/2000 SHG.

(d) Case to be registered against surprise check in SIR No.SI/SHG/99/30 dated 6.12.99 which finally registered as PE 5(A)/2000-SHG and later on converted and registered as RC-14(A)/2000-SHG u/s 120 B, 420, 477-A of IPC and 13(2)

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10/3/03
Advocate

r/w 13(1)(d) of PC Act, 1988 for causing pecuniary loss to the exchequer to the tune of Rs.67 lacs.

(iv) The details of other works performed are given in self appraisal report annexed with ACR Form.

5. It is also significant to mention herein that DIG/CBI/NER Shri KC Kanungo vide his endorsement No.229/120/97/NER dated 18.11.99 himself exhorted all Inquiry Officers for conducting surprise checks in order to fulfil aims and objectives of Special drive launched as per order of CBI Headquarter. The DIG Sri Kanungo also promised that sincere efforts of the Inquiry Officer's leading to registration of PE/RC will he suitably rewarded. However, no reward was given tome despite registration of aforesaid cases on surprise checks while Shri KM Das, Insp. Was given reward of Rs.1500 for conducting only one surprise check in RC-18(A)/99-SHG wherein I also participated, but again deliberately overlooked me in acknowledging my contribution in surprise check and for reward by DIG/CBI Sri KC Kanungo.

(Copy of letter dated 18.11.99 of DIG/CBI/MER Sri KC Kanungo is annexed as Annexure-3)

6. Thus in view of aforesaid work and performance and consequent expected outstanding ACR for the year 1999, I have a reason to believe that DIG/CBI/NER Sri KC Kanungo deliberately, consciously and with malafide down graded the performance on my part which could be read in his malicious order given herein below:

**BRANCH INSPECTION REPORT FOR THE YEAR 1999**

**PAGE NO.104 DTD 14.1.2000**

"SP should stop giving reward indiscriminatingly which some time puts the branch in awkward position as in case of Sri SP Singh Yadav who is using it to his advantage in fighting his case in CAT Guwahati. "

**BRANCH INSPECTION REPORT FOR THE YEAR 2000**

**PAGE NO.23, PARA NO.17 VIDE CBI ID DTD 11.1.2000.**

" The last but not the least is gross partiality and harassment of departmental staff by deputationist officers whose career prospectus are systematically damaged/destroyed in well planned manner crating situation of internal infighting in organisation. They are adopting the policy of divide

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10/3/13
Advocate

and rule which has caused thorough demoralisation among the departmental staff."

In view of such mental disposition and subjectivity of reviewing authority towards me a deputationist officer, it could not be said that Reviewing Authority had assessed my work, conduct and performance by adopting principles of fair, honest, dispassionate, objective and constructive approach.

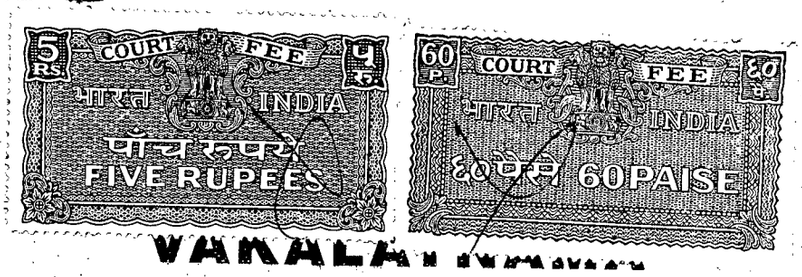
7. It is requested therefore, that evil and malicious order as aforesaid of DIG/CBI/NER Shri KC Kanungo be cast aside by ordering their expungement from the said Inspection Report for the year 1999 and 2000 and be pleased further to order for re-assessment of my work and performance for the suitability of reward and commendation certificate in the light of DCBI Standing order No.32 dated 27.12.96 holding the field in the matter.

It is also humbly requested that after undertaking aforesaid exercise the innocuous looking un-communicated remark for the year 1999 be please reviewed as per established principles of ACR writing and necessary rectification may please be made accordingly in my ACR within two months, where after I shall approach appropriate forum of law for the redressal of my grievances.

Yours faithfully,
**Sd/ 24.6.2002**
Suresh Pal Singh Yadav,
INSP/CBI/ACB/GHY(U/S)

Enclosure: As above.

Certified to be true copy
Ghurdayashka
10/3/03
Advocate




Dist.

**VAKALATNAMA**

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH**

**IN THE COURT OF** ....., **AT GUWAHATI**

O.A. No..... **OF** 2003

Suresh Pal Singh Yadav — ~~Applicant~~
~~Plaintiff/ Petitioner~~

VERSUS

Union of India and Others. — Respondents
~~Defendant / Opposite Party~~

Know all men by these presents that the above named ..... Applicant

do hereby nominate, constitute and appoint Sri P.K. Tiwari & J. Purkayastha

Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/ our true and lawful Advocate to appear and act for me/ us in the matter noted above and in connection there with and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filling in or taking out papers, deeds of composition, etc. for me/ us and my/our behalf and I/We agree to ratify and confirm all acts so done by the said advocates as mine/ ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear or act on my/ our behalf.

In witnesses whereof I/ We hereunto set my/ our hand this 10th day of March 2003

| | | |
|---|---|---|
| (1) Mr. P. K. Goswami | (9) Mr. M. K. Choudhury | (17) Mr. P. C. Kalita |
| (2) Mr. P.C. Deka | (10) Mr. B. M. Sarma | (18) Mr. K. Paul |
| (3) Mr. J. M. Choudhury | (11) Mr. G. K. Thakuria | (19) Mr. U. K. Nair |
| (4) Mr. A. K. Bhattacharyya | (12) Mr. M. Chanda | (20) Mr. D. K. Sarmah |
| (5) Mr. B.K. Sharma | (13) Mr. B.K. Baishya | (21) Mrs. N. S. Thakuria |
| (6) Mr. L. Talukdar | (14) Mr. D. S. Bhattacharyya | (22) Mr. U. K. Goswami |
| ✓(7) Mr. P.K. Tiwari | (15) Mrs. S. D. Baruah | (23) Mr. A. Rahman |
| (8) Mr. T. N. Srinivasan | (16) Mr. Siddhartha Sarma | (24) Mr. M. Dutta |

JAIDEEP PURKAYASTHA

Sri..... Senior Advocate, leads me/ us in this case.

Received from the executant, satisfied and accepted.
Jaideep Purkayastha
Advocate 10/3/03

Accepted
Advocate

Accepted
P. K. Tiwari
Advocate

Suresh Pal Singh Yadav
2/12/2002

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# NOTICE

From:

**P.K. Tiwari, Advocate,**
**Guwahati.**

To:

The Central Govt Standing Counsel,
Central Administrative Tribunal,
Guwahati.

In Re: **OA No. /2003**

Suresh Pal Singh Yadav.. Applicant

-versus-

Union of India and others. Respondents

Sir,

Receive herewith copy of an Original Application being filed in the case noted above on behalf of the petitioner namedabove before the Hon'ble Tribunal.

Kindly acknowledge receipt thereof.

Yours sincerely,

P.K. Tiwari

**(P.K. Tiwari)**

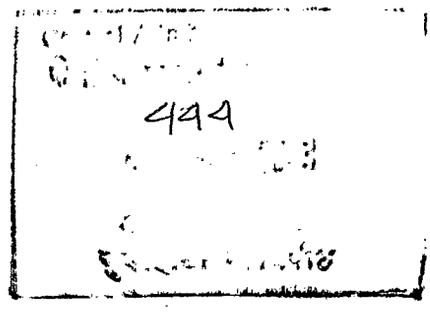
Advocate for the Applicant

Received copy-

11/3/03

CENTRAL GOVT STANDING COUNSEL

94



SPEED POST
No. 50 /1/DIG/KCK/CBI/MDMA/2002
Central Bureau of Investigation
Multi Disciplinary Monitoring agency
8/10 Jam Nagar House Hutments
Akbar Road, New Delhi 110 011

Dated: 21/04/2003

To

The Registrar,
Central Administrative Tribunal,
Guwahati Branch,
GUWAHATI.

Sub: **OA No.42/03/604 dated 28.03.2003.**

Sir,

Kindly refer to your letter dated 28.03.2003 in the above matter, which was received by the undersigned on 7.4.2003 only.

2. As the relevant records/documents pertaining to the subject matter are available with SP, CBI, Guwahati and Head Office of CBI and the undersigned has since been transferred from Guwahati to New Delhi , it has not been possible to take complete action within such short period. Hence, parawise comments with Annexure A is enclosed (in triplicate) for necessary action, one copy being for the applicant/his lawyer.

24.4.03

Yours faithfully,

21.04.03

(K.C. KANUNGO)
DY. INSPR. GENL. OF POLICE
CBI/MDMA/NEW DELHI

Mr Dutta
Pl. take action
NS 25/4/03

Copy to: The SP, CBI, Guwahati for necessary action. The copy of the above letter with parawise comments may please be submitted before the Hon'ble Tribunal immediately today, with a copy to CBI counsel and a copy to the applicant/his lawyer, as the hearing is fixed on 22.04.2003 for admission.

(K.C. KANUNGO)
DIG/CBI/MDMA/NEW DELHI

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Sub: **Reply to parawise comments in OA No.42/03/604 dated 28.3.2003 S.P.S. Jadav (Applicant) vs. Union of India and Others (Respondents).**

Para No.4.3 It is a matter of record, which does not concern the Respondent No.5 (R.5). No comments.

Para No.4.4 The allegation of animus of R.5 against the applicant is false, baseless and done motivatedly by the applicant and hence denied.

Para No.4.5 The applicant absented from duty immediately after coming to know that the order for his repatriation had been received from the Head Office in the Guwahati branch office. Thereafter, he unauthorisedly absented from duty and even left his residence to some unknown place in order to prevent service of the aforesaid repatriation order and other important communications.

Para No.4.6 Giving indiscriminate rewards to staff in violation of CBI guidelines were uncalled for and hence directions were issued by R.5 to stop the said unhealthy practice. This was applicable to one and all and not only for the applicant. The allegation of animus is, therefore, false and baseless.

Para No.4.7 It is a matter of record and does not concern R.5. No comments.

Para No.4.8
Para No.4.9 The allegations made by the applicant are totally false and motivated. This should be borne from the D.O. letter dated 6.3.2000 from the Special Director, CBI to R.5 (enclosed as Annexure I), the relevant portion of which is quoted below:-

**"In a recent report submitted by Joint Director (East) pertaining to a complaint filed by one Mrs. Jonali Baruah w/o Shri S.P. Singh Yadav, Inspector, CBI, Guwahati, the Joint**

**Director has not found any substance in the allegations against you. The Head Office has, therefore, not taken note of the complaint.**"

Para 4.10 No. The allegations against the applicant were grave and serious, on account of which disciplinary proceedings were initiated against him and the applicant was kept under suspension. Even the Hon'ble Tribunal did not allow these chargesheets against the applicant to be quashed and allowed the departmental proceedings against him to continue.

Para 4.11 No. It is a matter of record and does not concern R.5. No comments.

Para No.4.12 to Para No.4.16 The allegation are false and hence denied. No comments.

Para No.4.17 The applicant was graded 'Average' on the basis of his over-all performance and conduct within the period he had worked under R.5.

Para No.4.18 No comments.

Para No.4.19 The rewards given to the applicant as mentioned by him were not given to him during the incumbency of R.5 and as such were not taken into account while reviewing his performance during the period he worked under R.5 at Guwahati.

Para No.4.20 The applicant had got no reward during the incumbency of R.5 as DIG, CBI, Guwahati region.

Para No.4.21 No comments can be offered without verifying the relevant records, which are not available with R.5. If these were

highlighted by the applicant in the resume to his ACR given by him, these must have been taken into account.

Para No.4.22 Reward is not a matter of right. Rewards are given subject to over-all good conduct of the official. In case of the applicant, his conduct was deplorable and hence no reward could be given to him.

Para No.4.23 The allegation of malice attributed to R.5 is false and motivated. The applicant has not deliberately quoted the relevant portion in the inspection report concerning him, which would speak volume about his work and conduct. His explanation must have been called for by the SP, CBI, Guwahati in this regard, but the applicant, in spite of reminders, possibly did not submit any reply to this effect and for obvious reasons has been silent on the same.

Para No.4.24
Para No.4.25 No comment, as the concerned CR of the applicant is not available with R.5. The grading given to the applicant was done properly, by the reviewing officer (R.5), which was also upheld by the accepting authority.

Para No.4.26 It is not a fact that the reviewing authority and accepting authority had malice towards the applicant on account of which he was down-graded. The assessment was made objectively and dispassionately without any malice or rancour against him.

Para 4.27 It is not a fact that down-grading of the applicant was on account of any ill-motive towards him, which was based purely on his work and conduct.

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In view of the above, there is no ground in the application, which is liable to be rejected on the threshold.

(K.C. KANUNGO)
DY. INSPR. GENL. OF POLICE
CBI/MDMA/NEW DELHI

Dy. 718
Date 7/3/2000
C/O Guwahati

केन्द्रीय अन्वेषण ब्यूरो
भारत सरकार
सी0 जी0 ओ0 कम्पलैक्स
खण्ड – 3 लोदी रोड
नई दिल्ली – 110003

CENTRAL BUREAU OF INVESTIGATION
GOVERNMENT OF INDIA
C.G.O. COMPLEX, BLOCK NO.3
LODHI ROAD,
NEW DELHI - 110003

P. C. SHARMA
SPECIAL DIRECTOR

Dated:- 6-03-2000

DO No.DYSDE200000329L/0079

My dear Kanungo,

Please recall that I had an occasion to discuss with you some time back the affairs of Guwahati Branch, which also included the work environment prevailing there.

2. In a recent report submitted by Joint Director (East) pertaining to a complaint filed by one Mrs. Jonali Baruah w/o Shri S.P. Singh Yadav, Inspector, CBI Guwahati, the Joint Director has not found any substance in the allegations against you. The Head Office has, therefore, not taken note of the complaint." However, I would like to take this opportunity to impress upon you that being the leader of the Region and an experienced officer, you would motivate your staff in a manner that they give their best performance. They should also not be afraid of looking up to you for advice and guidance.

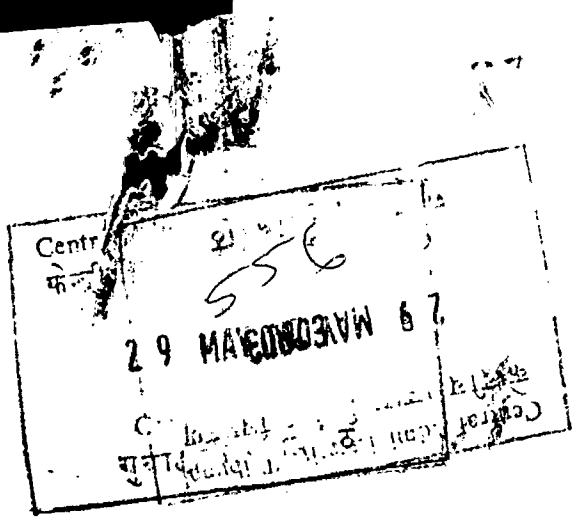
3. I appreciate the correctives that you are applying to the branch in spite of the constraints that the branches under you are suffering from in terms of staff, etc. I am sure, you would take advice in the right spirit and do all that is possible within the limited resources to get the best out of every one serving under you.

Yours sincerely,

Best wishes

(P.C. SHARMA)

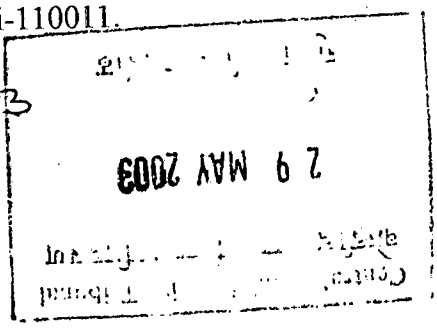
Shri K.C. Kanungo,
Dy. Inspector-General of Police, CBI,
Guwahati Region,
GUWAHATI.



**SPEED POST**
**MOST IMMEDIATE**

No. 1/DIG/KCK/CBI/MDMA/2002/83
Central Bureau of Investigation
Multi Disciplinary Monitoring Agency
8/10, Jamnagar House Hutments,
Akbar Road, New Delhi-110011.

Dated: 27.5.2003



To

The Registrar,
Central Administrative Tribunal,
Guwahati Branch,
GUWAHATI

Sub: OA No. 42/03/604, dated 28.03.2003 in respect of S.P.Singh Yadav Vs. U.O.I. & others.

Sir,

Kindly refer to my letter No. 50/1/DIG/KCK/CBI/MDMA/2002, dated 21.4.2003, in the above matter along with which the parawise comments on the above OA was forwarded to you for necessary action.

2. The parawise comments sent earlier had not been prepared on the basis of the records which were available with the Office of SP, CBI, Guwahati and DIG, CBI, Guwahati. Due to paucity of time, these could not be perused/made available to the undersigned.

3. The undersigned has now, after perusing the records made available by the Office of SP, CBI, Guwahati, has prepared detailed parawise comments on the above OA which is enclosed herewith (in triplicate) along with Annexures 1 to 10 for necessary action, one copy being for the applicant/his lawyer. This is in supersession of the earlier parawise comments sent vide letter No. 50/1/DIG/KCK/CBI/MDMA/2002, dated 21.4.2003.

Yours faithfully,

23.05.03
(K.C. KANUNGO)
DY.INSPR.GENL.OF POLICE
CBI:MDMA:NEW DELHI

Encl: as above

For Hon'ble Judge 48 to 81

**PARAWISE COMMENTS ON OA No. 42/03/604 dated 28.03.2003**

**S.P.S. YADAV VS. U.O.I. AND Ors. (Respondents)**

**Para 4 :- Fact of the Case**

**4.1(1)** The allegation made by the applicant that the reviewing authority had down graded the ACR with malicious intent is totally false and baseless and as such is denied.

**4.1(2)** The down grading of the applicant in his ACR was done on the basis of the performance and conduct of the applicant during the year in review, which was far from satisfactory. In the resume given by the applicant in the ACR for the year 1999, the applicant had shown under Col. 3(a) "Please specify 8 - 10 targets/objectives that are set for yourself and or you set for yourself in order of priority", as under:-

(i) The investigation of three cases, (ii) collection of three SIRs, (iii) disposal of two cases in RDA, (iv) at least one surprise check, (v) disposal of RC 34(A)/96-SHG, (vi) quality investigation in RC 5(A)/98-SHG and (vii) trial to frustrate the evil design of the accused.

**4.1(3)** In column 5(a), of part 2 of the ACR, the applicant had shown that the targets mentioned above were achieved.

**4.1(4)** The applicant was required to finalise at least three cases during the year about which there was no specific mention. The applicant was unable to finalise RC 34(A)/96-SHG which was registered on 15.10.96 and did no work after 01.09.98, as no C.D. was submitted by him after CD No. 146 dated 01.09.96..

**4.1(5)** All IOs in the CBI are required to get their cases finalised as expeditiously as possible and preferably within a period

of six months (in case Regular Case i.e. R.C.) and 4 months (in case of PEs). The relevant instructions in this regard are incorporated in para 36/244 of CBI (Crime) Manual 1991, page 68 which are quoted below:-

**"The SP should emphasise the necessity of prompt investigation by the IOs. The IOs and the SSP will be responsible for the completion of investigation within the prescribed time limit, i.e. 4 months in case of PEs (Preliminary Enquiries) and six months in case of RCs (Regular Cases)".**

**4.1(6)** But the applicant on account of tardy and unmethodical investigation was unable to complete investigation of any of the Regular cases within the prescribed time limit of six months. The applicant was dragging investigation of all his Regular Cases for years together.

**4.1(7)** In RC 34(A)/96-SHG, the applicant was unable to complete investigation even by December 1999 which had crossed more than three years by then. A case is deemed to be finalized only when SP's Report is despatched to the department recommending Regular Departmental Action (RDA) or when charge sheet is filed in the competent court whichever is applicable. But in RC 34(A)/96-SHG in which prosecution had been decided, the SP's Report could only be forwarded to the department seeking for prosecution sanction on 31.12.99 and the charge sheet was submitted only on 15.09.2000. Thus the investigation of this case was dragging for almost four years which brought bad name to the Branch.

**4.1(8)** It is also on record that the draft articles of charges in RC 34(A)/96-SHG had not been correctly prepared by the applicant, resulting in a delay in despatch of the SP's Report. The applicant also did not come and extend the requisite cooperation in the

preparation of correct enclosures to the SP's Report as expected from him, which contributed to further delay. Therefore, this case was shown pending at the end of 31.12.1999. Moreover, the applicant had not conducted any investigation in this case after 01.09.98, as the last case diary (C.D.) submitted by him was CD No. 146 dated 01.09.98.

**4.1(8.1)** The applicant in order to exaggerate his performance had included Misc. Case 206/98 as a case investigated by him though it was part of RC 34(A)/96-SHG in which no case diary was submitted by the applicant after 01.09.98. Again the applicant had shown this Misc. case 206/98 both during 1999 and 2000 in order to mislead the respondent, without doing any work in 1999/2000.

**4.1(9)** In RC 5(A)/98-SHG also, the investigation done by the I.O (applicant) was highly perfunctory. Various instructions issued by the supervisory officers were not being attended to by him. The Respondent No. 4/5 had reviewed the investigation of the case and had issued exhaustive instructions to the I.O. and the SP, vide memo No. 747-748 dated 22.03.2000. In the instructions issued to the I.O vide No. 811 dated 25.03.2000 specific instructions were issued by the DIG covering Case Diaries starting from Case Diary (CD) No. 1 dated 17.02.98 highlighting serious lapses on the part of the I.O and as many as 37 instructions were issued to the I.O indicated by tick mark **(copy enclosed as Annexure - 1).** But hardly any of these instructions were attended to by the I.O. From the above, it would also be seen that

(i) The I.O did not not enclose the plan of investigation along with CD No. 1 dated 17.02.98.

(ii) The I.O did not incorporate in the CD the list of documents seized by him nor had enclosed a copy of seizure list along with CD.

(iii) The I.O. was in the habit of not scrutinizing the seized documents and did not incorporate the scrutiny report in the CD.

(iv) As per observations made in CD No. 128 dated 30.11.99, the I.O. had taken the specimen writings and signature of the accused K. Ganesh on 04.02.99, vide CD No. 17 dated 04.02.99. But he did not send the same for GEQD opinion till end of 1999 for which he was called upon to explain why disciplinary action should not be taken against him. But the I.O. did not submit any reply.

(v) **It was also observed that I.O was not taking proper interest in the case and he was making all out efforts to sabotage the investigation.**

(vi) In CD No. 124, it was further observed that the I.O was only making remarks in the CD without taking any concrete action on the instructions issued to him and also on the plan chalked out by the I.O himself **which showed his lack of sincerity**.

**4.1(10)** When the I.O did not deliberately comply with the instructions of the supervisory officers and willfully delayed the investigation and made unwarranted digressions in the investigation into other channels without approval of the superior authority which contributed to further delay, there was no choice left with the higher authority than to transfer the case from him to some other I.O, due to importance attached to the case and following his suspension.

**4.1(11)** Thus as against minimum requirement of finalisation of 3.5 cases, the I.O. finalised only PE 2(A)/99-SHG during the year 1999 (which was equivalent to 0.5 case) and was a petty case. The

above PE was registered on the basis of joint surprise check showing shortage of stock of food grains of FCI stocks. **Surprisingly, in this case also, the I.O. did not submit a single case diary though only three witnesses were shown to have been examined.**

**4.1(12)** As per para 15/147 of CBI (Crime) Manual (Page 47) , the I.O. was required to submit case diary in the usual prescribed form to the Supervising Officer (SP) whose duty was to peruse these CDs and issue necessary instructions. As SP (the reporting officer) did not perform his basic duties of perusing CDs and issuing instructions, he, therefore, ignored the lapses of the I.O. which was improper and unjustified.

**4.1(13)** **Collection of SIRs** :- Collection of Source Information Reports (SIRs) is one of the important tasks of the I.O and the applicant being the senior inspector should have collected quality information, such as information relating to trap, disproportionate assets, and information against other senior officers on corruption leading to registration of Regular Cases (RCs) which are considered as quality cases. However, the applicant did not collect a single information of trap or disproportionate assets or any quality information leading to registration of R.C. during the year 1999, and also during his entire tenure in CBI.

**4.1(14)** During the year 1999, three PEs were registered on the basis of surprise checks but not a single RC was registered during 1999 on the basis of information collected by the applicant, although 22 Regular cases were registered by the Guwahati Branch during the year 1999, on the basis of information/complaints collected/verified by other IOs. It may be mentioned here that in the CBI IGP Circular letter No. 71 dated 20.2.60, it had been emphasised that

**"it is the quality of information that matters and not mere numbers" (Page 37 of CBI circulars/Standing Instructions) (enclosed as Annexure - 2).**

**4.1(15)** Regarding cases under departmental action, the applicant had shown to his credit 4 cases i,e **RC 6(A)/91-SHG**, (2) **RC 37(A)/91-SHG**, (3) **RC 29(A)/92-SHG** and (4) **RC 12(A)/93-SHG,** although none of these cases had been investigated by the applicant. Moreover, in these cases also, the presentations before the Inquiry Officers by the applicant were not done during 1999.

**4.1(16) Again (i) RC 6(A)/91 and (ii) RC 12(A)/93 have been shown by the applicant both during 1999 and 2000 which are indications of his duplicitous conduct. This was done by the applicant obviously in in an attempt to mislead the respondents.**

**4.1(17)** RC 6(A)/91-SHG was presented by the applicant before the CVC during 1997 and the applicant had submitted the written brief on 03.11.97. Thus, the applicant did nothing in this case during 1999.

**4.1(18)** In RC 37(A)/91-SHG, RDA major penalties were recommended against three officers of Government of Assam and the enquiry against Shri S.K. Dutta was only completed on 02.11.96 and he was punished with reduction of pay by one stage whereas case relating to the remaining two accused are still pending. Thus, this case was also not fully disposed of by the applicant during the year 1999.

**4.1(19)** In RC 29(A)/92-SHG, though departmental enquiry was completed and written brief was submitted by the applicant on 30.03.98, but the final decision of the disciplinary authority was passed vide order dated 16.12.99, reducing one increment which was

a minor penalty although major penalty was recommended against the charged officer .

**4.1(20)** In RC 12(A)/93-SHG, only one out of six accused were punished with stoppage of increment without cumulative effect, though RDA major penalty was recommend against all of them. In this case also the applicant, who was the PO from the beginning, **had submitted written brief on 16.07.99** and the result of RDA in respect of Shri M.C. Goyari was communicated vide order dated 07.02.2000. The departmental proceeding against the remaining accuseds are still pending. Thus RDA in this case was incomplete.

**4.1(21)** Moreover, presentation of cases in departmental enquiries are the routine duties of the I.Os and no special credit is given for punishment with minor penalties when major penalties against the COs are recommended by the CBI, unless dismissal from service or compulsory retirement are visited upon the charged officials..

**4.1(22)** It is not a fact that the Respondent No. 4/5 out of animus or malicious intent towards the applicant had downgraded him in his ACR for the year 1999. The applicant has produced any evidence to show that the respondent No. 4/5 had developed enmity towards him. On the contrary, the applicant developed enmity and malice towards the respondent No. 4/5 after actions were initiated against him on account of various misconducts on his part.

**4.1(23)** On the contrary, **it was the Respondent No. 4/5 who as DIG, CBI, NER, Guwahati had recommended to the Head Office, CBI in favour of the applicant vide letter No. 1444/142/99/NER dated 16.09.99 not recommending the immediate repatriation of the applicant as suggested by the Head Office**. Had the respondent No. 4/5 **bore any grudge or animus**

**towards the applicant, he would not have done so in favour of the applicant**. (The office copy of the aforesaid letter is marked as **Annexure-3).**

**Para 4.2** :-

**4.2(1)** It is not a fact that the performance of the applicant in CBI was exemplary. The applicant has made much of the fact that he had been given 17 rewards and 18 commendation certificates (CC) during his tenfure in the CBI. These rewards and commendations by themselves would not by themselves testify the high capability or superior investigating ability or outstanding capacity of the applicant in view of the fact that these rewards were given in routine course by the controlling officers or other senior officers during their visit to the Branch **in order to motivate the staff for achieving better performance**.

**4.2(2)** **But sadly, in case of the applicant this had had the 0pposite effects**, in as much as the work and conduct of the applicant deteriorated sharply from 1998 onwards on account of which adverse report was recorded in his ACR by the then DIG, CBI, Guwahati Shri N.R. Ray and upheld by the accepting authority.

**Para 4.3** :-

**4.3(1)** It is not known on what basis, the applicant has averred that in his ACR during 1993-1997, he was graded "Outstanding". From the Annexure A-5, enclosed by the applicant with his OA No. 43/2003, it is apparent that it does not mention about the gradings given to the applicant during 1993-1996. Hence it is presumptuous on the part of the applicant to have mentioned about his ACR gradings during 1993-1996 which are confidential documents and were not communicated to the applicant.

**4.3(2)** Though the adverse remarks mentioned in the ACR of the applicant for the year 1998 was expunged on the order of the Hon'ble Tribunal, it does not mean that the adverse remarks communicated to him were not correct. The reason for expunction of the adverse remarks recorded in the ACR was that the applicant had not been forewarned of his deficiencies/misconduct/bad performance before making entry of these adverse remarks in his ACR.

**Para 4.4** :-

**4.4(1)** The assertion made by the applicant that his difficulties with the respondent No. 4/5 started from October, 1999 onwards when the respondent No. 4/5 developed an animus against the applicant is thoroughly malicious and mischievous. The applicant has produced no proof in support of the above assertions. **Had it been so, the respondent No. 4/5 would not have recommended in favour of the applicant for extending his deputation period in CBI.**

**4.4(2)** The unworthy conduct of the applicant came to the notice of the respondent No. 4/5 in clear and focused manner when the applicant physically assaulted the complainant (Shri A.K. Baruah) in front of the office chamber of the respondent in broad day light on 30.11.99 when the complainant (Shri A.K. Baruah) had been summoned by the DIG, NER to ascertain the detail facts from him regarding conduct of the applicant against whom Shri Baruha had lodged a complaint to the Director, CBI and the respondent No. 4/5 had been asked to get the complaint verified and submit report urgently.

**4.4(3)** The applicant not only had physically assaulted the complainant on 30.11.99 but also abused him filthily in presence of office staff of Regional Office namely (i) Shri Mukul Deka,

Constable, (ii) Shri Mukut Barua, Constable, (iii) Shri Ganga Ram Das, Constable (Dvr.) and (iv) Shri Bhupen Das, PSO, besides others. The report of Shri K.C. Choudhury, DSP who was then posted in the RO and present on the said date along with the statements of the above persons recorded by him are enclosed as **Annexure - 4.**

**4.4(4)** It was also revealed from the said complaint against the applicant that the latter had threatened the complainant (Shri A.K. Baruah) to shoot him with his service revolver/pistol on 17.11.98 and 20.11.98. During verification, it was found that the applicant had requisitioned to SP, CBI, Guwahati for issuing a revolver to him on the specious ground of carrying out investigation and other government duties without fear and favour in view of threat and deteriorating situation in law and order. Accordingly, **a revolver with 6 cartridge was issued to the applicant on 27.10.98** on the order of the SP, which the applicant had returned on 30.11.98. It was therefore, clear that the applicant had used the office revolver for unlawful purpose. As a result of these grave misconducts on the part of the applicant, and other serious misdemeanours, a number of charge sheets were issued against him. The applicant, with the approval of the Director, CBI, was also kept under suspension w.e.f. 26.4.2000. It is therefore incorrect and motivated on the part of the applicant to allege that the filing of OA NO. 338/99 before the Guwahati Bench of the Hon'ble CAT was because of the enmity of the respondent towards him.

**Para 4.5** :-

**4.5(1)** The claim of the applicant that he was suffering from severe chest pain on 30.09.99 and absented from duty from 1.10.99 to 20.10.99 on medical ground was found to be highly dubious. In fact the applicant attended office on 30.09.99 but as soon as he came

to know that a fax message of the DD(A) dated 30.11.99 had been received by the SP, CBI, Guwahati Branch vide which the applicant was asked to be repatriated immediately, i.e. AN of 31.09.99, he left the office without permission of the SP. As a result, the above order of H.O. regarding his immediate repatriation could not be delivered. Thereafter, the applicant was nowhere to be found and his residential house where he was normally residing was found locked. Thus the applicant purposefully avoided the service of the H.O. order of his repatriation and other important correspondences.

**4.5(2)** It was also found that the applicant submitted a certificate dated 30.9.99 of **Dr. Rupali Barua, MD, Asstt. Professor, Communicative Medicine, Guwahati Medical College**, to prove that he was under her treatment during the period of his absence. Mrs. Rupali Barua had issued the certificates even though she had not been authorised to treat patients privately. In other words, though Mrs. Rupali Barua was a registered doctor but she was not a **registered medical practitioner**. This was subsequently clarified by Dr. M.M. Deka, Principal-cum-Chief Supdt., Guwahati Medical College Hospital vide letter No. MCP/1/84/347 dated 3rd May 2000, stating that Dr. Rupali Barua, MD, Asstt. Professor, Community Medical Department was not competent to issue any official medical certificate, although any registered MBBS doctor is competent to issue certificate of ailment. It was further clarified that Mrs. (Dr.) Rupali Barua, MD, had issued the said certificate in her private capacity although she was not authorised to do private practice.

**Para 4.6** :-

**4.6(1)** The observation made by the respondent No. 4/5 that, "SP should stop giving reward indiscriminately, etc." was perfectly justified in view of the DCBI Standing Order No. 32 dated 27.12.96

which has been referred to by the applicant **(enclosed as Annexure -5).**

**4.6(2)** Vide para 13 of the above Standing Order, all DIGs and JDs were required to comment upon the grant of reward/honorarium during their inspection of the Branches with a view to ensuring compliance of the instructions in the above circular/Standing order. During inspection, the respondent No. 4/5 found that the rewards had been sanctioned indiscriminately without observing the guidelines laid down in the above S.O. According to the above Standing Order No. 32 dated 27.12.96 rewards can be sanctioned under any of the following circumstances only:-

**(i) When extra ordinary initiative is shown in collection of important clue to work out a case.**

**(ii) When notable efforts are made resulting in break through of a difficult and blank case.**

**(iii) In the detection of a case in a short span due to pain stacking efforts.**

**(iv) When conviction of accused charge sheeted, without adverse comments by the court.**

**(v) Arresting of absconding accused.**

**(vi) Successful laying of trap and registration of quality case.**

**(vii) disposal of long pending trial cases and tracing absconding accused.**

**4.6(3)** Thus, it was found that the rewards / commendation given to the applicant were given when none of the above conditions mentioned in Standing Order No. 32 dated 27.12.96 were fulfilled and were therefore inadmissible.

**4.6(4)** Again, as per **H.O. circular No. 29/1/85-AD.III, dated 10.1.85, it was pointed out that rewards should not be**

**sanctioned indiscriminately and in routine manner** (The above circular is enclosed as **Annexure - 6**)

**Para 4.7** :-

**4.7(1)** The insinuations made by the applicant regarding exercise of police powers in the matter of verification of his medical certificate are ill conceived and without basis.

**4.7(2)** The applicant had obtained certificates from Mrs. Rupali Baruah, MBBS (MD) regarding his sickness and Mrs. Rupali Baruah was found to have issued the certificate not in her official capacity; rather the said certificates were issued in her private capacity although she was debarred from indulging any private practice.

**4.7(3)** Thus, in effect **Mrs. Rupali Baruah though, was a registered doctor but she was not a registered medical practitioner**.

**4.7(4)** The applicant had gone to Guwahati medical college and was examined by the doctor but no rest was recommended to the applicant. The applicant was advised to come again but he did not report there and obtained medical certificate in dubious manner which was inadmissible and as such was rejected by the Competent Authority.

**Paras 4.8 & 4.9** :-

**4.8(1)** The applicant had made false complaints to the Director, CBI and had also lodged complaints through his wife to the Director, CBI and others pursuant to which Director, CBI had deputed Dr. U.N. Biswas, the then JD (EZ) for conducting enquiry pertaining to the said complaints.

**4.9(1)** During verification of the allegation made by the applicant through his wife by Dr. Biswas, the complaint was found to be false. The letter of Shri P.C. Sharma, the then Special Director, CBI written to respondent No. 4/5 vide DO dated 06.03.2000 in this regard is enclosed herewith **(as Annexure - 7)**, the relevant portion of which is reproduced below.

> **"In a recent report submitted by JD (EZ) pertaining to a complaint filed by one Mrs. Jonali Baruah, w/o Shri S.P. Singh Yadav, Inspector, CBI, the JD has not found any substance in the allegation against him. H.O has therefore, not taken any note of the complaint."**

**4.9(2)** The files referred to by the applicant, namely, (i) **SA/SHG/99/20,** (ii) **SA/SHG/99/21,** (iii) **SA/SHG/99/22,** would show clearly that the applicant had conducted verifications of information in a highly perfunctory manner. The observations dated 1.11.2000 of DIG, CBI, NER, Guwahati (Respondent No. 4/5) recorded in the file No. SA/SHG/99/21 vide 28/N to 38/N would clearly show that

(i) The I.O (applicant) **had recommended registration of a case against a person i,e Shri M. Chakrabroty who had already expired.**

(ii) He **had recommended registration of a PE against one Shri A.C. De who had retired from service.**

(iii) He **had recommended registration of a case against as many as six firms who were not involved in any manner.**

(iv) On the contrary, the applicant **had not recommended registration of cases against the accused persons who were really involved like (a) Shri K. Ganesh, (b) Gyash Uddin Ahmed etc.**

(The relevant extract of file No. SA/SHG/99/21 vide paras 28/N to 38/N is marked as **Annexure - 8).**

**4.9(3)** Again in file No. SA/SHG/99/20, the SP vide para 15/N was asked by the DIG for issuing chargesheet for minor penalty against the applicant vide observations dated 29.02.2002, for conducting verifications of fresh allegations without specific order of the competent authority, in violation of the H.O. guidelines but no chargesheet was issued by the SP (the reporting officer) for reasons best known to him. (The relevant extract of file No. SA/SHG/99/20 is marked as **Annexure - 9).**

**4.9(4)** Again in file No. SA/SHG/99/20, the respondent No. 4/5 vide his observations dated 29.02.2000 recorded at para 15/N had sought explanations of the applicant about his lapses and had also pointed out in the above mentioned note that instead of following H.O. guidelines, i.e. instead of submitting separate SIRs and seeking permissions for verification, the applicant on his own had conducted investigation and was making false accusations. When this was shown to the applicant, the latter vide his noting dated 24.4.2000, recorded at para 17/N, mentioned, inter alia, as under:-

**"Regarding other points I have to state nothing as the same are allegations against me."**

**4.9(5)** The above mentioned lapses were serious misconduct on the part of the applicant who was in the habit of doing such perfunctory and motivated work and when called upon to explain was making false allegations against the concerned officer.

**4.9(6)** No Supervisory Officer worth his salt would have overlooked such serious misconduct/malfeasance on the part of an I.O. as mentioned above under sub paras 4.9(1) to 4.9(4). In view of the above lapses on the part of the applicant, DIG, NER

recommended for issuing charge sheet for minor penalty against him. But surprisingly, for reasons best known, the Reporting Officer (SP) took no action against the applicant.

**Para 4.10** :-

**4.10(1)** The charges against the applicant were not unsubstantiated as alleged by the applicant which were based on concrete evidence regarding which explanations of the applicant were sought for before issuing chargesheets but the applicant either did not give any reply to the memo or had denied the charge.

**Para 4.11** :- No Comments.

**Para 4.12** :-

**4.12(1)** As mentioned above the suspension of the applicant was ordered not for filing of OA No. 137/2000 but for other grave misconduct as enumerated under para 4.4.

**Para 4.13** :-

**4.13(1)** As repeatedly mentioned above, the charge sheets served on the applicant had no bearing on the filing of OA No. 137/2000. The grave misconducts on the part of the applicant including physical assault of the complainant on 30.11.99 were responsible for issuing chargesheets against him.

**Para 4.14** :-

**4.14(1)** This relates to observation of Hon'ble CAT - No Comment.

**Para 4.15** :-

**4.15(1)** It is humbly submitted that the above observation of the Hon'ble Tribunal was made due to inadequate presentation of

facts in proper perspective. Moreover the Hon'ble Tribunal did not specify what were the important issues which were not attended to by the respondent and what were the irrelevant issues to which the respondent had been confined to.

**Para 4.16** :-

**4.16(1)** This relates to the observation of the Hon'ble Tribunal and action taken thereon - No Comments.

**Para 4.17** :-

**4.17(1)** The grading of the applicant as 'average' was based on his performance and conduct and had no bearings with the facts stated by the applicant earlier.

**Para 4.18** :-

**4.18(1)** This relates to expunction of adverse remarks made in the ACR of the applicant pertaining to the period 1.1.98 to 31.12.98 by the Hon'ble Tribunal - No Comments.

**Para 4.19 & Para 4.20** :-

**4.19(1)** The applicant has challenged the average grading given to him in his ACR for the year 1999. He has stated that he received one Commendation certificate vide **office order No. 23 dated 22.1.99** in the matter of good investigation done in RC 34(A)/96-SHG. He has also pointed out that reward of Rs. 1,000.00 was sanctioned to him vide **office order No. 116 dated 22.6.99**.

**4.19(2)** The above Commendation Certificate/reward were given to the applicant routinely, with a view to motivate him for doing his best but woefully the applicant fell short of the expectations. These had nothing to do with his investigating capabilities in the cases mentioned above.

**4.20(1)** The commendation certificate vide office order No. 23 was issued on 22.1.99 for doing good work in RC 34(A)/96-SHG although the purported good work had not been specified by the SP (Reporting Officer) which should have been done. Obviously this was not for any good work done in 1999, as the applicant had submitted the last CD vide No. 146 dated 1.9.98 in the above case, after which no CD was issued by the applicant. Thus no investigation was done by the applicant in RC 34(A)/96-SHG after 1.9.98. Hence the commendation certificate issued was, prima facie, not justified and the good work referred to in the said certificates might pertain to the earlier periods and not for the year 1999. Therefore, the applicant cannot claim credit for 1999 on account of this Commendation Certificate.

**4.20(2)** Similarly, reward of Rs. 1,000.00 was given to the applicant by the JD(E) during inspection of the Guwahati Branch on the recommendation of the SP (Reporting Officer). Such rewards are sanctioned routinely and in this case, **vide Office Order No. 116 dated 22.6.99**, not only the applicant but four other Inspectors were rewarded, each for Rs. 1000/-, purportedly for taking keen interest for all round development of the Branch, its smooth functioning as well as purportedly showing keen interest in investigation, searches, surprise checks etc. without explict specifications of the good work and **this reward was, therefore, sanctioned routinely and not in the light of the DCBI Standing Order No. 32 dated 27.12.96 to which the applicant has referred to**. None of the 7 conditions under which rewards should have been sanctioned as per said Standing Order as discussed under para 4.6(2) was applicable in this case. Therefore, the applicant can not utilize the reward and Commendation Certificate given to him for making claim to superior quality of work of investigation etc. or any other such matters during any year and in particular during 1999. **In fact, these should go to**

**the discredit of the applicant in as much as in spite of the reward and Commendation Certificate, the applicant did not show better performance, whose work and conduct deteriorated sharply since 1998.**

**4.20(3)** **It is also mentioned in para 1 of the Standing Order No. 32 dated 27.12.96 that reward cannot be claimed as matter of right**. (The DCBI Standing Order No. 32 dated 27.12.96 is enclosed as **Annexure - 5**).

**Para 4.21** :-

**4.21(1)** Thus as discussed above, reward given to the applicant vide office order No. 117 dated 25.6.99 and commendation issued vide office order No. 23 dated 22.1.99 do not relate to his performance for the year in question i,e 1999 as during 1999 till the date of sanction of reward/commendation, the applicant had not finalised any case, did not submit any quality information leading to registration of RC nor had secured any good conviction, nor had apprehended any absconder, nor had worked out any case which was blind, etc. On the contrary, the quality of investigation done by the applicant in RC 5(A)/98-SHG was so poor that the applicant should have been punished and not rewarded as clearly highlighted in the observation of DIG, NER and as mandated in IGP circular No. 2 dated 27.8.55 as quoted below:-

"These old cases are bringing a bad name to the SPE. I would like you to examine in detail all those cases which have been pending enquiry or investigation for over six months and to take effective steps to get them expedited. You should give clear and definite instructions in each old case and ensure that the Investigating Officers comply with them. **You should not hesitate in punishing those Investigating Officers who delay work unnecessarily**".

**4.21(1.1)** This is further supported by the fact that the respondent No. 3 who had initially sanctioned the reward on the

recommendation of the reporting officer himself finally graded the applicant as 'average' during 1999 and 'below average' during 2000.

**Para 4.21(2)** The cases referred to by the applicant in para 4.21(ii) are the cases in which the applicant made presentation of those cases mostly during the earlier period and not during 1999. Moreover, none of those cases were investigated by the applicant. In all those cases, against the charged officials, major penalty had been recommended against the charged officials (COs) whereas COs were punished mostly with minor penalty. None of the charged officials had been visited with dismissal or compulsory retirement and such deserved no special recognition.

**4.21(3)** Likewise, the cases registered during the year 1999 on the basis of information given by the applicant i.e. (a) PE 2(A)/99-SHG, (b) PE 3(A)/99-SHG, and (c) PE 15(A)/99-SHG were petty cases resulting in registration of Preliminary Enquiry (PE). No Regular Case (RC) was registered on the basis of information of the applicant. The applicant did not submit any quality information. The quality informations are those which lead to registration of cases of disproportionate assets and traps and cases of corruption against very senior officers/officers of the rank of Joint Secretary or equivalent and the applicant during this period did not submit any such information. On the contrary his conduct was found to be disgraceful and unbecoming of a CBI officer who had shown streaks of indiscipline and insubordination; therefore, he was graded average/below average.

**4.21(4)** The other works performed by the applicant as mentioned by him under (iv) were routine day to day duties which every I.O has to perform and deserve no special recognition.

**4.21(5)** Moreover, in the CBI Circular No. 29/1/96-AD-III dated 26.12.97, the following instructions were issued for compliance:-

**"Rewards and commendation letters must not be given for performing routine duties and normal tasks expected from an officer".**

"While sanctioning the reward the officer should bear in mind that the executive officer from the rank of constable to Inspector are being given one month extra salary for work beyond office hours and on holidays".

**4.21(6)** **Again as per HO letter No. 29/1/85-AD.III dated 10.01.85 "rewards should not be granted indiscriminately and in routine manner".** While as per DCBI Standing Order No. 32 dated 27.12.96, first para, **reward cannot be claimed as matter of right.**

**Para 4.22** :-

**4.22(1)** As per Head Office guidelines, **rewards can be sanctioned only on account of exceptional good work done by the officer**. Reward was sanctioned in RC 18(A)/99-SHG as Regular Case was registered against a senior officer (Executive Engineer and others) of Telecom Department who after getting store materials issued on bogus indent had utilising the said stores in the construction of his own house. Whereas the information submitted by the applicant were very petty in nature against non gazetted staff in PE 2(A)/99 and other in which only Preliminary Enquiry (PE) were registered during the year 1999. Moreover, the credit for convertion of a PE into RC cannot be rightfully claimed by the applicant as for such work credit given to the I.O. who had enquired into the PE which was subsequently converted into a Regular Case (R.C.).

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**Para 4.23** :-

**4.23(1)** Thus, as explained above, the work of the applicant during the year was dismal, highly unsatisfactory, who conducted perfunctory investigation, was careless and ham handed in the verification of source information showing thereby that he was not dependable and reliable.

**4.23(2)** The applicant also did not collect any quality information such as information relating to trap and disproportionate assets and information against senior officers leading to registration of RC during 1999 which was one of the most important duties of I.Os.

**4.23(3)** The applicant even could not finalize the minimum number of cases, i.e. three and half during the year who had only finalized PE 2(A)/99-SHG which was a petty case in which he did not even submit a single case diary.

**4.23(4)** Observation made by the DIG, CBI, NER that SP should stop giving reward indiscriminately was made in the light of the HO guideline issued vide letter No. 29/1/85-AD.III dated 10.01.85 **(copy enclosed as Annexure - 6 ),** according to which granting of rewards indiscriminately and routine manner was strictly forbidden.

**4.23(5)** It had also been directed in the above circular that **each case will have to be judged on merit and there can not be any uniformity and finally it should be ensured that the sanction of rewards is in consonant with the reports given in respect of the rewardee in his ACR.**

**4.23(6)** Moreover, in the standing order No. 32 of the DCBI dtd. 27.12.96 all DIGs and JDs during their inspection were required

to verify if the rewards sanctioned etc. were in conformity with the guidelines mentioned in the above Standing Order (S.O.) which were found not to have been followed in case of the applicant as well as of others.

**Para 4.24** :-

**4.24(1)** The ACR of the applicant was recorded by the reporting officer without any application of mind. This is clear from the fact that in spite of inherent contraditions and exaggeration in the resume of work annexed to the ACR by the applicant as pointed out above in paras 4 to 4.9, the reporting officer had mentioned in his comment that he agreed with the facts given by the officer reported upon in the resume.

**4.24(2)** As mentioned above, the applicant had only finalised one case i.e. PE in which there was no CD whereas he had claimed to have finalised/investigated 3 cases, although in RC 34(A)/96, the applicant did not submit any CD after CD No. 146 dated 1.9.98. The Reporting Officer had issued/got issued Commendation Certificate in favour of the applicant purportedly for doing good work in RC 34(A)/96-SHG which was unwarranted as no investigation was done by the applicant in the above case during the year 1999.

**4.24(3)** Again the reward sanctioned to the applicant was in violation of the H.O guidelines i.e. Standing Order No. 32 dated 27.12.96 as mentioned above which was done by the respondent No. 3 on the report/recommendation of the reporting officer.

**4.24(4)** Again the SP (the Reporting Officer) had himself issued charge sheet for minor penalty to the applicant vide No. DPSHL/1999/0021/A/20/157/93 dated 10.01.2000 for committing gross misconduct for having physically assaulted and abused the complainant Shri A.K. Baruah. Before issuing chargesheet to the

applicant, the explanation of the applicant was also called for vide No. DP/SHL/1999/05805/A/20/157/ 93 dated 07.12.99 but the applicant while denying the charges vide letter dated 15.12.99 made false and malicious allegations against the respondent No. 4/5.

**4.24(5)** All the above facts and conduct of the applicant were within the knowledge of the Reporting Officer who ignored them for reasons best known to him. One of the reasons for this may be that the reporting officer (SP) was also responsible, along with the applicant, for causing delay in the investigation and had failed in his duty to study the CD, and guide and supervise the applicant who did not submit any case diary in PE 2(A)/99 which the SP (reporting officer) had ignored. No chargesheet for minor penalty was served on the applicant in file No. SA/SHG/99/20, by the reporting officer ignoring the order of the DIG.

**4.24(6)** Thus, the Reporting Officer did not assess the work and conduct of the applicant properly and unduly protected him in order to avoid the backlash. Therefore, the allegation made by the applicant against the reviewing authority that he had failed to act objectively and acted in malafide exercise while writing the ACR is thoroughly motivated and malicious and without basis.

**Para 4.25** :-

**4.25(1)** The specific work mentioned by the applicant on account of which he claimed higher grading has already been discussed in previous paras which do not justify higher grading than actually given to the applicant.

**Para 4.26** :-

**4.26(1)** The reviewing and accepting authority are expected not to act mechanically. They cannot accept the assessment of the reporting officer without verification and without application of

mind. On the contrary, the Reporting officer was found to have acted mechanically, without any application of mind and without verifying the facts mentioned by the applicant in his resume to the ACR had agreed with him mechanically and therefore the assessment of the applicant by the Reporting Officer was unsustainable.

**4.26(2)** Again during inspection of the Branch by the DIG, NER the applicant did not report to the DIG for personal interview though he was present in the office. This was an act of indiscipline and insubordination. As per H.O.'s instructions issued regarding inspection, the Inspecting Officers are required to interview the Investigating Officers and other staff to check the quality of their work and their suitability for continued retention in the Specail Police Establishment or in that branch (Ref. Page 25 of CBI Circulars/Standing Orders).

**4.26(3)** During inspection, the applicant was found unsuitable for being retained in the CBI. He was found to have closed the investigation of RC 27(A)/96-SHG without conducting thorough and proper investigation which finally led to issuance of charge sheet against him. This exercise was required to be undertaken by the Inspecting Officer in terms of **CBI circular No. 21/2/76-PD dated 20.9.89** (enclosed as **Annexure - 10**) which says, inter alia:-

**"All cases resulting in suitable action or closure deserve thorough scrutiny by senior officers to ascertain causes of failure and whether it was on account of inadequate verification or due to improper and inefficient investigation" (Ref. Para 3)**

**"If during scrutiny lapses are noticed, the officer conducting the scrutiny will take appropriate action against the officer responsible for inefficient investigation and inadequate verification". (Ref. Para 5)**

**4.26(4)** The applicant was dilatory in habit and was delaying investigation of all Regular Cases including investigation of RC 34(A)/96-SHG. In RC 5(A)/98-SHG, he did not comply with the instructions of DIG and made unwarranted digressions in investigation without approval of the higher authority.

**4.26(5)** The applicant made false allegations of drawing double HRA by the SP and DIG which is perfectly admissible for the officers posted in N.E. Region from outside. He made many such false complaints/allegations against the respondents and assaulted and abused the complainant. In view of the above mentioned work and misconduct of the applicant, the reviewing officer had graded the applicant as 'below average'. But the accepting authority i.e. the respondent No. 3 disagreed with the respondent No. 4/5 and graded the applicant as 'average'.

**Para 4.27** :-

**4.27(1)** The allegation made by the applicant that the reviewing authority acted maliciously and deliberately to systematically downgrade the applicant is totally denied on account of reason mentioned above and also due to the fact that the final grading was made by the accepting authority i.e. respondent No. 3. No valid reason has also been given by the applicant as to why the final grading given by the accepting authority should not be accepted upon.

**Para 4.28** :-

**4.28(1)** No injustice has been caused to the applicant in the matter of assessment in his ACR for the year 1999.

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**Para 5** :- **Grounds for Relief**

**Para 5.1** :-

**5.1(1)** The reason for which the applicant was down graded by the reviewing authority/accepting authority have been explained elaborately in the preceding paras which can be summarized as under:-

(i) The quality of investigation of the applicant in RC 5(A)/98-SHG was very poor and the applicant was not complying with instructions of the higher officers as apparent from the **Annexure - 1.**

(ii) The yardstick laid down for finalisation of cases by each I.O. in the CBI during a year is 3.5 cases (one PE is treated as 0.5 case). As against the above requirement, the applicant did finalise investigation of PE 2(A)/99-SHG only as equivalent to 0.5 case in which also he did not submit any case diary.

(iii) He did not submit any quality information and no R.C. was registered during 1999 on the basis of information submitted by the applicant.

(iv) He showed gross indiscipline and insubordination by not presenting himself before the DIG during inspection though he was present in the office.

(v) The conduct of the applicant was highly unbecoming of a CBI officer in as much as he physically assaulted and abused the complainant Shri A.K. Baruah on 30.11.99 in the CBI office and when asked to explain made false allegations against the Respondent No.4/5 and others.

(vi) He got issued a revolver with six cartridges in his favour on 27.10.98 with the approval of the SP purportedly for using the same in discharge of official duty on account of deteriorating law and order situation in the North East Region but actually used the same by threatening the complainant to shoot him on 17.11.98 and 19.11.98 and returned the revolver to the office on 30.11.98.

(vii) He was in the habit of making false, malicious and motivated allegations against the SP and the DIG.

(viii) He did not submit his weekly/monthly diary in spite of repeated reminders and had shown work/investigation to have done falsely without doing so.

(ix) He was in the habit of finalising cases without collecting clinching evidence as in RC 27(A)/96-SHG.

(x) He was dilatory and negligent and did not prepare the draft enclosures to SP's Report in RC 34(A)/96-SHG properly, resulting in avoidable delay. He delayed investigation of all Regular Cases which he had investigated without adequate justifications.

(xi) He left his residence and did not intimate office about his whereabouts in order to evade the service of his repatriation order with immediate effect.

**Para 5.2** :-

**5.2(1)** In view of what are stated in para 5.1 above, there is no ground to justify the claim of the applicant that the respondent No. 4/5 had not acted objectively and dispassionately in writing the ACR of the applicant for the year 1999.

**Para 5.3** :-

**5.3(1)** The allegation made by the applicant there was contravention of the instructions by the respondent No. 4/5 while reviewing the ACR of the applicant for the year 1999 is false and baseless and therefore denied.

**Para 5.4** :-

**5.4(1)** The reviewing authority had taken all the relevant facts into consideration before reviewing the performance of the applicant and did not act on extraneous considerations while down grading the applicant to average / below average in his ACR, as alleged by the applicant, without any basis.

**Para 5.6** :-

**5.6(1)** The remarks in the ACR of the applicant are in consonance with the performance of the applicant and his work and conduct during the period under review and there has been no violation of any established principles/rules/guidelines in this regard.

In view of the above there is no merit in the application which is liable to be rejected in limine.

## VERIFICATION

I, Shri K.C. Kanungo, S/O Late Shri B.R. Pattanaik, aged about 58 years, resident of 52-F, Nivedita Kunj, R.K. Puram, New Delhi-110022, do hereby solemnly affirm and verify that the statements made in the paragraphs above are true to my knowledge and/or based on information derived from official records and my honest opinion of law etc. and I have not suppressed any material fact.

And I sign this verification on this the day of 23rd May, 2003.

(K.C. KANUNGO)
DIG/CBI/MDMA
8/10, Jamnagar House Hutments,
Akbar Road, New Delhi-110011.

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## LIST OF ANNEXURES IN OA NO. 42/03/604

| Sl. No. | Subject | Annexure |
|---|---|---|
| 1 | Instructions issued to the I.O.by the DIG in RC 5(A)/98-SHG (Ref. para 4.1(9)) | 1 |
| 2 | CBI IGP circular No. 71 dated 20.2.60 (Page 37 of CBI Circular/Standing Instructions) (Ref. para 4.1(14) | 2 |
| 3 | Letter No. 1444/142/99/NER dated 16.9.99 of DIG, CBI, Guwahati to Head Office, CBI, along with H.O. FAX No. DPADI199903447/A/20014/1609/ 93, dated 30.9.99 of Dy.Director (A), CBI. (Ref. para 4.1(23) | 3 |
| 4 | Report of Shri K.C. Choudhary, DSP along with statements of officials of Regional Office, CBI, Guwahati recorded by him. (Ref. para 4.4(3)) | 4 |
| 5 | DCBI's Standing Order No. 32 dated 27.12.96 (Ref. Para 4.6(1) | 5 |
| 6 | H.O. circular No. 29/1/85-AD.III dated 10.1.85 (Ref. para 4.6(4) | 6 |
| 7 | Copy of the D.O. letter dated 6.3.2000 of Shri P.C. Sharma, Special Director, CBI to DIG, CBI, Guwahati (Ref. para 4.9(1) | 7 |
| 8 | Relevant extracts of file No. SA/SHG/99/21 vide para 28/N to 38/N. (Ref. para 4.9(2) | 8 |
| 9 | Relevant extract of fileNo. SA/SHG/99/20 (Ref. para 4.9(3) | 9 |
| 10 | CBI circular No. 21/2/76-PD, dated 20.9.89 (Ref. para 4.26(3) | 10 |

Annx. 1

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION ::: GUWAHATI.

Sub: Summary of Case Diary in RC. 5(A)/98-SHG.

Ref: Important instruction issued to I.O. and SP vide this office No.747-748/3/5(A)/98-SHG dt.22.3.2000.

Accused: Shri K.R.Ganesh, CGM Telecom,Task Force.

I.O. Shri S.P.Singh Yadav,Inspector,CBI,ACB, Guwahati.

Office of the Supdt. of P. No. 0629 Dt. 27/3 C.B.I., A.C.B, Guwahati

REF: CD No.1 dt. 17.2.98.

No plan of investigation submitted by the I.O.

REF: CD No.3 dt. 27.2.98.

164 Cr.P.C. statement of Shri Abid Hussain has been recorded in Assamese languagewhich should be got translated into English and a copy sent to R.O. for perusal.

REF: CD No.5 dt. 30.3.98.

I.O. proposes to conduct investigation to find out actual source of money in the light of the petition filed by Shri N.T.Khrime. This should be done immediately.

REF: CD No.7 dt.1.4.98.

But neither list of documents seized by the I.O. is mentioned in the CD nor a copy of seizure Memo enclosed. This should be done.

REF: CD No.11 dt.13.4.98.

Though I.O. has stated that detailed statement of Shri K.Ganesh(accused) is enclosed with the CD but no such statement is found enclosed with the CD.

REF: CD No.12 dt.16.4.98.

(i) I.O. should find out since when the bills of Shri Abid Hussain is pending and the reasons thereof and the amount of the bills etc.

(ii) Statement of Abid Hussain @ Mintu shows that his statement U/s.164 Cr.P.C. which was recorded by Judicial Magistrate on 18.9.97 was under duress but I.O.has not got clarified from him what type of duress he was subjected to and by whom.

(iii) From the statement of Shri Giashuddin Ahmed it is found that he admitted to have signed one letter addressed to CGM Task Force and he confirmed that the contents of the letter was written by Mahatab Ali of Ambari in front of A.A.P. Office.

(iv) He is maintaining Bank Account with Central Bank of India,Panbazar Branch vide A/C. No.2243.

(v) The letter referred to above which was signed by Giashuddin Ahmed should be shown to the undersigned, the details of which are not clear.

Contd..02.

(vi) I.O. should also find out whether Giashuddin Ahmed had drawn any amount from Central Bank of India, Panbazar Branch and whether any bundle of currency note of the said bank was seized which was withdrawn from the said Bank.

REF: CD No.15 dt.23.4.98:

From the statement of Shri Harish Ch.Jha it is found that Shri Das one Casual employee had carried the big Rexin bag/Suit case containing the seized cash. Said Shri Das should be identified and examined in detail including the Driver Shri Jha once again to find out the persons/ Contractor / Parties who used to visit the accused in this regard.

REF:CD No.20 dt. 1.5.98:

(i) I.O. should find out details of works given to Assam Concrete Pipe Industries to Bongaigaon Concrete Industries and to Pragjyotishpur Construction Pvt. Ltd., by Shri K.R.Ganesh and details of work which were pending at the relevant time for execution.

(ii) He should find out Bank account of Shri M.K.Agarwal and their firms including sister concerns and obtain certified copy of these Bank Accounts and make efforts to link with withdrawal of money by all these ~~firms~~ firms or by Shri M.K.Agarwal with the seized cash.

(iii) Statement of Shri M.K.Agarwal is also not been found enclosed with the CD.

REF: CD No.38 Dt.17.8.98:

Present position of the Crl.Rev.,petition filed by Shri N.T.Khrime in the Guwahati High Court may be intimated immediately.

REF: CD No.40 dt.24.8.98:

I.O. visited Court of Spl. Judge and submitted petition for obtaining (i) Certified copy of Original petition of N.T.Khrime, (ii) Estimate dt. 7.6.97 of Shri S.Visheswar and (iii) Money receipt dt. 4.9.97 tendered by Shri K.R.Ganesh to Shri N.T.Khrime receiving Rs. 29 lakhs from him. Has I.O. obtained these documents from the Court ? If so, what actions have been taken thereon.

REF: CD NO.43 dt. 2.9.98.

I.O. should seize the above D.O. dt. 4.9.97 to find out circumstances under which this letter was issued (ii) Find out it from bank account of Pradip Nath and his firm's withdrawal of money on or before 6.9.97 were made and if bundle of currency containing Bank Slip could be

Contd..03.

linked with the A/C. of Pradip Nath Or the firm.

REF: CD NO.48 dt.5.10.98.

I.O. came to know from source that bribe money was given to Shri K.Ganesh by Calcutta based firm in the morning of 6.9.97 who had travelled with him to the Airport. Accordingly I.O. has requisitioned the certified copy of the list of Passengers who travelled by IC-230 on 6.9.97.

REF:CD NO.52 dt. 15.10.98.

I.O. examined Md. Quasim, Managing Director, Agarwal Pip.es Pvt. Ltd., Calcutta. M/s.Agarwal Pipes Ltd. were given supply order for supplying 100 Km HDPE pipes on 4.9.97 i.e. just 2 days prior to the incident, I.O. has found out that 2 Registered letters covers, addressed to (i) Mrs. Feroz Jahan W/O. Md. Quasim and (ii) Md.Nizamul Haque brother-in-law of Md. Qasim were sent at his address i.e. 12/1A, Pemunite Street,Calcutta but these envelopes were seized from the possession of the accused contained currency bundles. It is one of the incriminating piece of evidence which Md.Quasim has failed to explain. These registered envelopes which purportedly contained Annual Report of 1996-97 were sent to the addresses from the following places.

(i) B.S.L.Ltd., 26,Industrial Area, Post Box No.17, Gandhinagar,Bhilwara-311 001 and

(ii) Raymond L:td., Near Industrial House, Murarjee Marg, Balard Estate, Bombay -400 001.

(iii) I.O. should find out when these Registered Book Posts were sent and received, addresses should be examined i.e. (1) Mrs. Feroz Jahan W/O. Md. Quasim and (2) Md. Nizamul Haque to find out how these reached accused K.Ganesh.

(iv) Md.Quasim says that they are maintaining the Bank Account with ANZ Bank, 69,Ganesh Chandra Avenue, Calcutta vide A/C.No.69. I.O. should report if any bundles of currency note of this bank was seized and try to link this with any of the Account of Md.Quasim or their Company/ firm.

(v) It should be found out if bundlesof currency notes of 100x500 and 5x100x100, drawn from ANZ Grindlays on or after 2.9.97 from any of their accounts whose certified copy should be obtained.

Contd...04.

REF: CD NO.54 DT.22.10.98.

(i) I.O. should sent a copy of this list to the R.O. immediately.

(ii) Was there any Passenger of any of those firm favoured , who travelled to Calcutta from Guwahati on 6.9.97 by IC-230 ? Did the name of Md.Quasim figure in the List ?

(iii) I.O. should find out who purchased the Air Ticket for the accused i.e. Air Ticket No.0582/6187532.

(iv) The result of scrutiny of the T.A.Bills of accused K.Ganesh should be reported immediately.

REF: CD No.55 DT. 27.10.98.

I.O. has reported that out of the seized Cash of Rs. 29,32,200/- only Bank slips are found in respect of Rs. 13,70,000/- relating to 47 Banks of entire North East,Calcutta and Bombay.

REF: CD No.64 dt. 25.12.98.

This file should be scrutinised and scrutiny reported if not done.

REF: CD No.76 dt.17.2.99.

(i) I.O. should report the result of scrutiny of documents collected from Bongaigaon Concrete Industries and

(ii) The net pay drawn by the accused during his posting period.

REF: CD No.78 Dt. 19.2.99.

I.O. proposes to take investigation to find out if Shri Ganesh used to carry currency notes bundles every month to his home town in similar fashion.

REF: CD No.103 dt. 24.5.99.

I.O.seized documents from Ramniwas Sharma, Prop. M/s.Steel Co Carriers, 23/A, Netaji Subash Road, Calcutta i.e. 2 consignment Note Book . He also seized 22 Challans from Monohar Lal Tibrewal, Partner of M/s. Barabazar Transport Co., 3A, D.N.Tagore Street, Calcutta-16.

I.O. should explain why these documents have been seized. What is the relevancy of these documents ? What the I.O.proposes to do with these documents.

REF: CD No.108 Dt. 25.6.99.

What is the relevancy of the statement of these witnesses in the present case ?

REF: CD No.110 Dt. 29.7.99.

I.O. should explain what is the relevancy with the statement of S.K.Roy Choudhury in this case.

Contd...05.

REF: CD No.118 dt. 1.9.99.

On 17.8.99 I.O. had issued 46 letters to different Banks, out of which 37 Banks had sent their representatives to identify the respective currency bundles containing Bank Slips and have been examined. It is therefore clear that the following Banks did not send their representative.

Page-188 Bank of Barodm Dharmatala Branch,Calcutta.

Page-189 State Bank of Hyderabad,Barabazar, Calcutta.

Page-195 Greater Bombay Co-Op.Bank Ltd.,Andheri West, Bombay -55.

Page-196 Bank of India,Barabazar Branch,Shillong.

Page-199 Punjab National Bank, Tezpur.

Page-203 State Bank of India, Kohima.

Page-206 Allahabad Bank, Guwahati.

Page-209 SBI West Guwahati Branch.

Page-216 Canara Bank, Guwahati.

Page-222 Canara Bank, Dispur Branch.

Page-224 Guwahati Co-Op.Urban Bank Ltd.,Chetribari, Guwahati.

Page-225 Co-Op.City Bank Ltd., Silpukhuri Branch,Guwahati.

REF: CD No.119 Dt. 2.9.99.

I.O. examined Shri Pradip Kumar Nath S/O. Upendra Nath Nath, Contractor, A.T.Road, Nagaon. His statement is enclosed with the CD. In his case, Shri K.Ganesh approved rate of 500% enhancement in each item over the Schedule rate of CSR-87. After completing the work the firm submitted 2 bills dt. 27.3.98 for Rs.7,49,560/- and Rs.12,05,340/-.

I.O. should find out why these bills are pending. It is very much likely that Shri Pradip Kumar Nath might have paid the bribe to the accused for clearing these pending bills. But there is no mention of the Bank account No. etc. in the statement of Shri Pradip Kumar Nath. I.O. should explain why ?

The Bank account of Shri Pradip Kumar Nath, Civil Contractor should be found out and certified copy of the account obtained to verify if corresponding withdrawls from the Bank was made and whether any currency notes of that Bank were found in possession of the accused on 6.9.97.

Contd...6.

REF: CD No.122 dt.22.9.99.

But the I.O. has not disclosed name of the 2 persons and their Account Nos. to whom this currency bundle of Rs.50,000/- could have been paid on 26.5.97. I.O. should clarify whether any of these persons is having any dealing with the accused.

REF: CD No.124 dt.29.10.99.

Has any action been taken in this regard by I.O. I find that he be merely been writing these in CDs without any concrete action being taken in this regard, which shows lack of his sincerity.

REF: CD No.127 dt. 25.11.99.

I.O. should immediately verify if the said certificate purportedly given by CGMT Shri K.Padmanava was genuine or forged.

REF: CD No.128 dt.30.11.99.

I.O. should explain why he had made so much delay in sending these documents to GEQD. Whereas he took specimen writing and signature of K.Ganesh on 4.2.99 vide CD No.70 dated 4.2.99 i.e. after about 9 months. He should also explain why disciplinary action should not be taken against him for such abnormal and unjustifiable delay. His explanation should reach within 5 days.

REF: CD No.131 dt.9.12.99.

(i) Has it been found out if the said currency bundle was issued by Andhra Bank to Assam Agro Tech which is not clear.

(ii) I.O. should examine the persons who are operating A/C. No.CA-393 of M/s. Assam Agro Tech and find out what for this amount was utilised.

(iii) What are the bill amounts of M/s. Assam Agro Tech pending in the office of the CGM Task Force at the relevant time, should be found out.

REF: CD No.133 dt.13.12.99.

I.O. has shown he has visited (1) UBI A.T.Road, (2) Central Bank of India, Fancy Bazar (3) Industrial Co-Op.Bank (4) Central Bank of India, Pan Market and meeting with the Manageres.

He further examined Shri Ramesh Chandra Sharma, in continuation of his statement dt. 30.8.99, who proved that 2 Packets of 2x100x500 = Rs.1,00,000/- bearing dated 2.9.97, note slips of UBI A.T.Road was actually issued by Bank in exchange on 4.9.97. I.O. also found that neither Shri N.T.Khrime nor K.Ganesh are maintaining any Bank account with this bank i.e. UBI, A.T.Road.

I.O. should find out who are the parties if any maintaining A/C. with UBI A.T.Road, Branch.

REF: CD No.139 Dt. 7.1.2000.

It is seen that I.O. is not taking proper interest in the case and seem to be making all ourt efforts to sabotage the investigation.

REF: CD No.140 dt. 9.1.2000.

I.O. should find out whether Kalpajyoti Neog is still alive and residing at the given address intimated by Shri Deka. he should examine him and confirm the version of Shri Deka, to explain how the bundle reached K.Ganesh.

I.O. has also not put any question to Shri Deka why he had given this money to Shri Neog and when and what relation he was having with said Shri Neog, why he had link with ULFA leader. it seems I.O. is not interested in bringing out the actual truth.

24.03.

(K.C.Kanungo)
Dy.Inspector General of Police,
CBI, N.E.Region,
Guwahati.

To Supdt. of Police,CBI,ACB, Guwahati.

No. 812 /3/5(A)/98-SHG Dated 25 March,2000.

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actions are directed into proper channel and time and effort are not wasted. If action is taken on the lines mentioned above, I feel sure the S.P.E. Branches will be able to deal with a large number of cases in shorter time.

Sd./- (D.P. KOHLI)

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***18. IGP's Circular Letter No. 71, dt. 20-2-60***

SUBJECT : **Analysis of work done by S.P.E.**

An analysis of the work done last year has brought up a number of points which require attention.

2. Collection of information about corruption is one of the important functions of the S.P.E. This requires positive effort and planning. In this connection, please refer to my Circular Letters No. 20, dated 1st June, 1956, No. 35, dated 4th May, 1957, No. 56, dated 14th July, 1958, No. 64, dated 28th January, 1959, No. 66, dated 30th April, 1959 and No. 68, dated 17th December, 1959. It might be emphasised that it is the quality of information that matters and not mere numbers. It is no use wasting time over rumours and gossips. More attention needs to be paid to collection of information about cases of actual bribery or illegal gratification.

3. It has been noticed that the time taken in checking up the information received is sometimes too long. This is not correct or proper. Such checking of information should not be allowed to become a Pre-Preliminary Enquiry.

4. The considerations which should guide registration of Preliminary Enquiries and Regular Cases and the conversion of PEs into RCs do not appear to have been fully grasped in some Branches. This is a matter of great importance and it would be worthwhile studying once again the instructions issued on this subject in my Circular Letters No. 28, dated 18th September, 1956, No. 57, dated 14th July, 1958 and No. 60, dated 29th September, 1958. Much time and labour will be saved if a decision is taken as early as possible whether a case is to be finalised as a P.E. or as R.C.

5. Delay is still noticed in some Branches in completing enquiries and investigations. In my Circular Letters No. 1, dated 5th August, 1955, No. 2, dated 27th August, 1955, No. 23, dated 19th June, 1956, No. 43, dated 10th October, 1957, No. 61, dated 17th October, 1958, No. 62, dated 24th November, 1958 and No. 63, dated 23rd December, 1958. I have been drawing your attention to this and emphasising the need for early finalisation of S.P.E. cases. It has been found that cases are dealt with promptly in those Branches where supervision, direction and control are thorough and effective. For the great majority of our cases the time-limits allotted are quite sufficient and, with will and determination, it should be possible to finalise almost all the cases in time.

6. In several instances, it has been found that Investigating Officers have made prolonged halts for conducting enquiries and investigation. This tendency has to be curbed. The quantum of work done in every tour by your officers should be reviewed by you and their journeys and halts controlled adequately.

From inspections made by DIsG they have gathered the impression that some Supervising fficers (SsP & Dy. SP) do not read or scrutinise Case Diaries. I am surprised to know this. For roper supervision and control of investigations it is necessary for Supervising Officers to go rough the Case Diaries and to make proper notes in Crime Digests about the progress of vestigations and about the instructions issued by them. Experience has shown that the closer e supervision the quicker and better the investigation. In important cases, it would be useful r Supervising Officers to go out to the places concerned for local verification and supervision enquiries and investigations. About such spot checks notes should be prepared and sent to ead Office as laid down in my Circular Order No. 31, dated 14th November, 1956.

SP's Reports are not well prepared in some Branches. As these are the only reports that to the authorities concerned outside the S.P.E., it is important that they are prepared with re and attention. They should set out the case clearly, give the evidence available in sufficient tail and bring out the reasons for the proposed action convincingly. In this connection, please e my Circular Orders No. 21, dated 5th June, 1956 and No. 38, dated 10th September, 1957.

It is necessary for you to watch the progress of cases in courts and departmental roceedings also. Whenever a case fails you should look carefully into the reasons and take rther necessary action vide my Circular Orders No. 17, dated 23rd May, 1956 and No. 40, ated 4th October, 1957.

0. It has also been noticed that in some Branches inspections by SsP have not been thorough r at proper intervals. Please refer to my Circular Orders No. 15, dated 23rd May, 1956 and No. 1, dated 5th October, 1957 in this connection and ensure timely and detailed inspections.

1. Those of you who are new to the S.P.E. will do well in studying the circular orders and structions which have been issued from time to time. Needless to remind you, in the S.P.E., upervision and control of crime are the main tasks and they must receive your full and constant ttention.

Sd/- (D.P. KOHLI)

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***9. IGP's Circular No. 75, dt. 1-9-61***

SUBJECT : **Trap cases.**

A recent analysis of trap cases shows that the success achieved has not been good enough. There has also been delay in completing the investigation in several cases. In this connection, your ttention is drawn to the instructions issued in my Circular No. 44, dated 19-10-57. Some of the oints mentioned therein need to be re-emphasised.

2. Traps should be organised and laid with proper thought and care. The story given by the complainant should be fully sifted and evaluated before planning a trap. As far as possible the place where the trap is to be laid should be carefully selected. An open public thoroughfare is obviously not a suitable place for this purpose. Witnesses for the trap should be independent and reliable and they must not be arranged for through the complainant. They should be so deployed as to be able to see the transaction and to overhear the conversation between the decoy and the accused person at the time the bribe is paid. In effecting the recovery of the amount paid as bribe defects should be avoided and the legal formalities should be fully complied with.

Annx. 3

(12) (11)

**CENTRAL BUREAU OF INVESTIGATION,**
**N.E.REGION, GUWAHATI.**

**Sub:** Repatriation of Shri S.P.Singh Yadav, Inspector CBI,ACB, Guwahati.

**Ref:** H.Q. No. DPADI 1999/00898/A-20014/1609/93 dt. dated 18.2.99.

Repatriation of Shri S.P.Singh Yadav, Inspector, CBI,ACB, Guwahati Branch, at the moment is not recommended.

16.9.99

( K.C.Kanungo)
Dy.Inspector General of Police,
C.B.I., N.E.Region,
Guwahati.

Dr. Tarsem Chand, Administrative Officer(E),CBI,New Delhi.

No. 1444/142/99-NER Dated 16th Sept'1999.

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Dy. No. 2233
Date 01/10/99
O/O. DIG CBI. Guwahati

KIND ATTN: K.C. KAUNGO, DIG.

PA
by 30/9/99

# FAX MESSAGE

TO :- DIG CBI N.E. REGION/GUWAHATI

INFO. :- SP CBI/GUWAHATI

FROM :- DEPUTY DIRECTOR (Admn.)/CBI NEW DELHI

NO. DPAD1999/03447/A. 20014/1609/93 DATED :- 30.9.99

PP-IIIC

REFER YOUR ID NO. 1444-142/99-NER DATED 16.9.99 (). YOUR RECOMMENDATION TO ALLOW SH. SURESH PAL SINGH YADAV INSPR/CBI/ACB/GUWAHATI TO CONTINUE IN CBI IS NOT ACCEPTED SINCE DCBI HAS ALREADY TAKEN A DECISION TO REPATRIATE HIM (THE MAY BE RELIEVED ON REPATRIATION BY 30.9.99 (AN) POSITIVELY WITHOUT FAIL AND COMPLIANCE BE REPORTED TO HEAD OFFICE BY RETURN FAX ()

copy for DIG

30/9/99

(VIVEK DUBE)
DEPUTY DIRECTOR (Admn.)
CBI/NEW DELHI

~90~ Annx.4 (21)

To

The Dy. Inspector General of Police,
CBI, NER, Guwahati.

Sub : Complaint against Shri S.P.Singh Yadav, Inspector, CBI, ACB, Guwahati Branch.

Sir,

I have the honour to state that as ordered, I have examined Shri A.K.Baruah, Managing Director, M/s Purbanchal Housing Developers and Consultancy Services Pvt. Ltd, Guwahati, Complainant of the above mentioned complaint.

During examination it reveals that Smti Jonali Baruah wife of Inspector S.P.Singh Yadav had purchased a ground floor flat from the complainant at Dorothi Apartment, Tarun Nagar, Guwahati. In the month of Nov'98 the complainant started making some construction in the grournd floor of the apartment, to which Shri Yadav and his wife raised objection to the said construction works, as according to them the said constructions were in violation to the terms and conditions of sale. They obtained an ex-parte injunction from the court for stopping the said construction works, but the complainant obtained a stay order from the court against the said order and started the incomplete construction works. On 17.11.98, while the work was in progress, Shri S.P.Singh Yadav alongwith his wife and brother in law tried to stop the works and as a result some hot altercation of words took place and Shri Yadav and his family members damaged the construction works and assaulted the complainant and his labourers, as stated by the complainant. Thereafter, Shri Baruah lodged a FIR at Dispur P.S. vide case No. 1751/98 u/s. 447/506/34 IPC, which is still under investigation

Further, the complainant stated that Inspector S.P.Singh Yadav with a view to harrassing him had lodged several complaints with the Municipal and Income Tax authority, but he could not say the real reason behind such harrassments.

In my view, it appears that the complainant, being the promoter building of the said Apartment had some grudges against Inspector S.P.Singh Yadav, which resulted to the above mentioned incident.

Submitted.

Yours faithfully,

22/11/98

*( K.C. CHOUDHURY )*
DY. SUPDT. OF POLICE (R)
CBI NER GUWAHATI.

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## STATEMENT OF SHRI GANGARAM DAS ,CONSTABLE,.CBI,RO,GUWAHATI

I am as above,To-day @ 11.45 AM, while I was sanding in the Office Verandah, I saw Dy. SP(R) alongwith one person, later on, I came to know his name as Shri Arun Baruah came out from DIG's chamber after discussing something.While they came out, Inspector S.P. Singh Yadav of Guwahati Branch, who came to Regional Office for some official works and was sittifng in Dy. S.P.(R)'s room, suddenly came out and chaarged Shri Baruah with foul language for coming to Regional Office and caught hold of his collar and tried to assault him by Dy.S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting, the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from the Office.

Recorded by me

30/11/88

**(K.C. Choudhury)**
DY.SUPDT. OF POLICE (R)
CBI NER GUWAHATI

-92-

(26)

125

## STATEMENT OF SHRI Mukut Baruah,CONSTABLE,.CBI,RO,GUWAHATI

I am as above,To-day @ 11.45 AM, while I was sanding in the Office Verandah, I saw Dy. SP(R) alongwith one person, later on, I came to know his name as Shri Arun Baruah came out from DIG's chamber after discussing something.While they came out, Inspector S.P. Singh Yadav of Guwahati Branch, who came to Regional Office for some official works and was sittifng in Dy. S.P.(R)'s room, suddenly came out and chaarged Shri Baruah with foul language for coming to Regional Office and caught hold of his collar and tried to assault him by Dy.S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting, the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from the Office.

Recorded by me.

30/11/98

(K. C. Choudhury)

DY.SUPDT. OF POLICE (R)

CBI NER GUWAHATI

(93)

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126

## STATEMENT OF SHRI BHUPEN DAS,CONSTABLE,(P.S.O.CBI,RO,GUWAHATI

I am as above,To-day @ 11.45 AM, while I was standing in the Office Verandah, I saw Dy. SP(R) alongwith one person, later on, I came to know his name as Shri Arun Baruah came out from DIG's chamber after discussing something.While they came out, Inspector S.P. Singh Yadav of Guwahati Branch, who came to Regional Office for some official works and was sitting in Dy. S.P.(R)'s room, suddenly came out and charged Shri Baruah with foul language for coming to Regional Office and caught hold of his collar and tried to assault him by Dy.S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting, the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from the Office.

Recorded by me

30/11/11

(K. C. Choudhury)
DY.SUPDT. OF POLICE (R)
CBI NER GUWAHATI

# STATEMENT OF SHRI MUKUT DEKA, CONSTABLE,CBI,R.O.,GUWAHATI

I am as above. To-day @ 11.15 AM, one person identifying himself as Shri Arun Baruah came to Regional Office and wanted to meet Dy. S.P. (R), as he was called by him.Then I took him to Dy. S.P's room .At about 11.30 AM, Dy. S.P. took the said man to DIG's chamber and at that time I was standing in the Verandah in front of DIG's Chamber.At about 11.35 AM, Inspector S.P. Singh Yadav came to Regional Office for some official works. At about 11.45 AM, I saw the said Shri Baruah alongwith Dy. S.P. (R) came out from DIG's chamber and in the meantime, I saw Inspector S.P. Singh Yadav, who was sitting in Dy. S.P(R)'s room, came out and shouted at Shri Baruah for coming to Regional Office and caught hold of his collar and tried to assault him but Dy. S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from office.

Recorded by me

30/11/88

DY.SUPDT. OF POLICE (R)
CBI RO GUWAHATI

Besides attending to the above work, all the above three officers will be responsible for vetting of all court matters concerning their Zones/Regions/Branches.

Administration Division, Special Units, Legal Division, CFSL and Training Academy will function directly under the supervision of Director, CBI. Files related to CFSL, Legal Division and Training Academy will be put up to Director, CBI through Dy. Director (Admn.)/Joint Director (Admn.).

All officers of the rank of SP and above can tour within the jurisdiction of Special Director/ Addl. Director with the permission of Special Director/Addl. Director. But for tours beyond the jurisdiction of Special Directors or Addl. Directors they will need prior permission of the Director. No non-entitled officer will be permitted to travel by air unless there is extreme emergency and which cannot be anticipated. In this case, Special Directors and Addl. Directors may permit them to travel by air and then obtain *ex-post-facto* sanction from DCBI. No Jt. Director or other officers are permitted to allow anybody's journey by air.

It is also made clear that all Central Branches are the responsibility of the Addl. Directors/ Special Directors within the respective area. But for the sake of uniformity all the cases of Central Branches will be referred to DCBI for his approval/confirmation with the recommendations of Spl. Director/Addl. Director by the respective JDs.

Sd/- (JOGINDER SINGH)
*Director, CBI*

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***60. DCBI Standing Order No. 30, dt. 12-12-96***

It has been brought to my notice that some Suprintendents of Police in the Branches are conducting direct recruitments to the posts of Constables. This practice should be stopped forthwith and recruitment should be done only centrally. Please indicate the total number of vacancies that are lying in your Branches. No appointments should be made to this cadre unless Hqrs approval is obtained.

Sd/- (JOGINDER SINGH)
*Director, CBI*

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***61. DCBI Standing Order No. 32, dt. 27-12-96***

SUBJECT : **Sanction of Rewards and Honorarium.**

The rewards and honorarium are given to the CBI Officers and the Ministerial staff as a recognition of extraordinary efforts made by them and for acts of conspicuous initiative to accomplish special tasks assigned to them. These incentives are also intended to motivate the officers and staff to put in their best and achieve excellence and perfection in their task. Therefore, the rewards and honorarium cannot be given for performing routine work and also cannot be claimed as a matter of right. The grant of rewards/honorarium has been regulated by H.O. orders issued from time to time in tune with the provisions of FR-48, FR-46(b), SR-9, FR-11.

2. Vide H.O. Letter No. 29/3/1970-Ad. III, dated 21-5-86, a comprehensive and consolidated Brochure containing up-to-date instruction for sanction of rewards has been issued to all the Branches/Regions. Following circulars were also issued by H.O. after the issue of this consolidated Brochure to make certain changes in the instructions :—

| Sl. No. | Circular No. & Date | Subject |
|---|---|---|
| 1. | No. 29/4/81-Ad. III, dated 3-2-87 | Enhancement of powers with regard to grant of rewards—Control of Budget. |
| 2. | No. 8/2/84-Ad. IV, dated 18-3-87 | Re-delegation of powers in the field of honorarium. |
| 3. | No. 29/4/86-Ad. III, dated 23-6-87 | Enhancement of powers to grant rewards—Clarification. |
| 4. | No. 46/2/89-PD, dated 25-1-89 | Guidelines for grant of rewards to informants and Government servants in respect of disproportionate assets cases. |
| 5. | No. 29/4/81-Ad. III, dated 1-8-90 | Enhancement of powers with regard to grant of rewards—Control of Budget. |
| 6. | No. 8/1/90-Ad. IV, dated 21-9-90 | Re-delegation of powers in the field of honorarium. |
| 7. | No. 29/2/90-Ad. III, dated 1-11-90 | Grant of rewards for accident-free driving to CBI Constables (Drivers). |
| 8. | No. 29/4/81-Ad. III, dated 27-11-90 | Sanction of rewards/honorarium. |
| 9. | No. 8/1/90-Ad. IV, dated 21-9-90 | Re-delegation of powers in the field of honorarium. |
| 10. | No. 29/2/90-Ad. III, dated 4-12-90 | Grant of rewards for accident-free driving to CBI Constables (Drivers). |
| 11. | No. 8/1/90-Ad. IV, dated 20-12-90 | Re-delegation of powers in the field of honorarium. |
| 12. | No. 8/1/90-Ad. IV, dated 1-1-91 | Regarding partial modification of H.O. Order No. 11023/90(U.O. No. 8/1/90-Ad. IV, dated 21-9-90). |

3. In supersession of all the orders quoted above, following instructions are issued for issue of rewards, commendations and honorarium :—

(a) **Cases generally fit for sanction of reward**

(i) Where the officer has shown more than ordinary initiative to accomplish result which is instrumental to or very helpful for the detection of an offence/collection of very important clue to work out the case.

(ii) Notable efforts of the officer/officers resulting in a breakthrough in a very difficult and blind case.

(iii) Detection of the case in a very short span of time owing to painstaking efforts made by the officer or team of officers.

(iv) Conviction of accused charge-sheeted without any adverse comments by the court against the investigation by CBI.

(v) Arrest of absconding accused vital to the trial of the case filed by the CBI in the court etc.

(vi) Successful traps of quality soon after the event.

(vii) Disposal of long pending trial cases, tracing of absconding accused etc. apart from other cases mentioned above.

**Cases generally not fit for reward**

(i) Routine work by an officer in the investigation of the case in the field or in the office.

(ii) Ordinary performance vis-a-vis investigation of cases.

(iii) Cases where such action has been recommended against the accused persons in anti-corruption cases.

(iv) Cases where investigation has led to closure for want of any breakthrough in the investigation.

(v) Cases where conviction has been accompanied by adverse stricture against CBI investigation etc.

**Guiding instructions for sanction of reward**

(i) Recommendation for rewards to the officers be submitted within one week from the date of completion of the task for the timely and prompt recognition of the commendable work done by the individual concerned.

(ii) Rewards and commendation certificates should normally not be granted to the officers of the rank of SP and above as a matter of principle. However, appreciation letter may be issued to SsP/DLAs in appropriate cases by Director, CBI as Head of the Department. Therefore, cases deserving conspicuous recognition of the efforts made by the officers of the rank of SP and above can be submitted to Director. CBI.

(iii) DIsG/SsP are not competent to sanction rewards to Gazetted Executive, prosecuting and officers of other Departments. These will be sanctioned by Director/Special Director/Addl. Director.

(iv) Rewards should not be sanctioned by officer to the staff/officer working/posted under the administrative control of another officer. However, recommendation may be sent to their Controlling Officer under whose jurisdiction they are posted.

(v) No commendation certificate/letter of appreciation will find place in Service Book/ ACR of Gazetted Officer except it has been permitted by Director, CBI. However, for Non-Gazetted Officers entries for CC, appreciation letters, cash rewards should be made in Service Book which will be subject to rigid annual verification and certification.

(vi) Appreciation letters issued by other Departments to the Officers of CBI generally are not to be placed in the Personal File/Service Book except when it is so approved by Director, CBI.

(vii) Commendation certificate to Govt. servants other than that of CBI will be approved by Director/Special Director/Addl. Director, CBI.

(viii) The decision to issue commendation certificate/letter of thanks to private persons will be considered in Head Office by Director, CBI only in cases involving Gazetted Officers after conviction of the case.

(ix) Cash rewards to the outsiders will be sanctioned from SS Fund only and not from regular allowances and Honorarium Head. This reward is to be sanctioned by CBI Officers as per limit laid down for the sanction of rewards in respect of CBI Officers.

(x) Ministerial staff will not be sanctioned cash rewards.

The above guidelines for grant of rewards are only illustrative and not exhaustive. The sanctioning authorities should consider each case on merits.

4. **Powers of CBI Officers to sanction rewards**

| | | |
|---|---|---|
| SP/AD/AIG | Rs. 1000/-* | Maximum amount of reward that can be given to an employee on a single occasion. |
| DIG/DD | Rs. 3000/-* | |
| Joint Director | Rs. 5000/-* | |
| Spl./Addl. Director | Rs. 6000/-* | |

*However, in the event of giving reward to the same employee beyond these limits on second and subsequent occasion, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

5. **Normal ceiling for sanction of cash rewards**

The ceiling within which rewards should normally be given to individual employees in different ranks are suggested as below :-

| Designation of the Officer | Maximum amount of reward to be given to an employee on a single occasion |
|---|---|
| Deputy Supdt. of Police | Rs. 1000/- |
| Inspector | Rs. 750/- |
| Sub-Inspector | Rs. 650/- |
| Asstt. Sub-Inspector | Rs. 600/- |
| Head Constable | Rs. 500/- |
| Constable | Rs. 400/- |

One reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any. However, in overall one individual officer should not be getting reward exceeding Rs. 5000/- per year per case unless it is approved by the Director/Special Director/Addl. Director, CBI. Any exception to it will have to be clearly justified by cogent and adequate grounds in support thereof. This will require approval of Division Head, viz. Director/ Special Director/Addl. Director, as the case may be.

6. **Reward for accident-free driving**

In supersession of Order No. 29/2/90-Ad. III, dated 1-11-90, the following rewards will be admissible to the drivers for the accident-free driving :—

(a) *Hilly Areas*

For every 10,000 kms. accident-free driving (Silchar, Shillong, Shimla, Imphal, Itanagar, Agartala, Aizwal, Dehradun etc.) — Rs. 700/-

(b) *Plain Areas*

For every 15,000 kms. accident-free driving — Rs. 1,200/-

7. **Accounting & budget control of reward**

(a) SsP will restrict the rewards to average of last three years in this account.

(b) Amount of rewards exceeding three years average will be sent to H.O. for sanction with full justification thereof.

(c) Quarterly Returns will be sent to H.O. to limit the expenditure under this head to proportionate limits.

(c) Reward is to be shown separately in Budget estimates.

8. **Honorarium**

Honorarium is sanctioned to Ministerial staff of CBI as provision of FR-46(b) r/w Decision No. 13 of Govt. of India on the subject and SR-9. Honorarium is a recurring or non-recurring payment granted to the Govt. servant as remuneration for special work of an occasional and intermittent character. The following guidelines are to be kept in view by the Administrative authority in deciding each case for sanction of honorarium to the staff :—

(i) No honorarium is admissible for temporary increases in work, which are normal incidents of Government work and form part of the legitimate duties of Government servants according to general principle, enunciated in FR-11.

(ii) Honorarium should not be granted to officers engaged in work which forms part of their normal duties, even if they work after the office hours, vide Order (4) above.

(iii) No honorarium should be given when a Government servant performs duties on another sanctioned post in addition to the normal duties attached to his own post, vide Order (6) above.

(iv) No honorarium should be granted in cases where overtime allowance has been paid to the staff in connection with the same work.

**Limit for sanction of honorarium by CBI Officers**

| | | |
|---|---|---|
| SP/AD/AO/AIG | Rs. 400/-* | Maximum amount of honorarium that can be given to an employee on a single occasion |
| DIG/DD | Rs. 500/-* | |
| Joint Director | Rs. 1000/-* | |
| Spl./Addl. Director | Rs. 1500/-* | |
| Director, CBI | Rs. 2500/- | |

*However, in the event of giving honorarium to the same employee beyond these limits on second and subsequent occasion, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

10. Maximum honorarium that can be sanctioned by the Head of Deptt. is Rs. 2500/- in each case. In the case of recurring honorarium this limit applies to the total of recurring payment made to an individual in a year. Thus, upper ceiling of the total honorarium is Rs. 2500/- per year per case for individual employee/officer.

11. It has been observed that the Govt. instructions on the sanction of rewards and honorarium to the officers and staff are not being complied with by some officers properly. This may have serious repercussion in terms of audit objection and recovery of excess amount paid. Therefore, in order to ensure compliance with the Govt.'s instructions it is reiterated that all officers of the CBI should refer to these instructions while sanctioning reward and honorarium.

12. In addition to the existing instructions prescribed for grant of reward or honorarium as mentioned above, the sanctioning authorities while sanctioning reward/honorarium should also bear in mind the following guidelines :—

(i) The sanctioning authorities should use the powers of sanction of rewards only in respect of officers/staff working under their administrative control.

(ii) If any authority intends to grant reward or honorarium to any officer or staff not working under his administrative control the proposal with full justification should be sent to concerned competent authority or Admn. Divn. of Head Office, as the case may be, for consideration and orders in regard to sanction of reward/honorarium to such officers.

(iii) Drawing and Disbursing Officers should ensure whether the reward or honorarium to the concerned officer has been sanctioned by the competent authority. The DDO concerned will also maintain separate register for the honorarium/reward in respect of each staff/employee. Bills should be passed or presented to P&AO only when the DDO is fully justified about this.

(iv) Whenever honorarium is sanctioned to an employee/officer, the amount of honorarium already granted to him/her on earlier occasions during the same financial year, may also be indicated clearly. As the sanctioning authority is not in a position to know these details, the officers initiating the proposal for sanction of honorarium should indicate it.

(v) No officer shall sanction honorarium/reward to any individual in excess of his delegated financial powers as mentioned at paras 4 & 6. It shall be submitted to the competent authority through the Controlling Officer.

13. As laid down above budget for Reward and Honorarium shall be shown separately for each Branch. The budget amount for this purpose will be restricted to the average of last three years. Any departure from the budget limits shall be with prior sanction of the Head Office. Quarterly Return shall be sent to H.O. for monitoring of expenditure under the Heads : Honorarium & Rewards. All the DIsG and JDs shall comment upon grant of reward/honorarium during their inspection of Branches with a view to ensuring compliance of relevant instructions in their proper spirit.

Receipt of this circular may be acknowledged to DD(A)/CBI.

Sd/- (JOGINDER SINGH)
*Director, CBI*

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to be examined by a Departmental Promotion Committee, which has no independent means to know the capabilities of the individual, they are to form judgement only on the material as reflected in the ACRs.

I am to request you that these instructions may kindly be noted for guidance.

...

30. COPY of letter No.29/1/85-AD.III dated 10.1.1985 from Shri E.N. Renison, Additional Director, CBI addressed to All Supdts. of Police, CBI and copy to All DIGs, CBI for necessary action.

Sub:- Grant of Annual Rewards.

Rewards are generally being granted annually for the good work to various members of the CBI executive staff. It has been found in the past that such rewards are being sanctioned indiscriminately and in a routine manner. The Director desires that such rewards should be granted on to those members of the CBI staff who normally have no opportunity to earn rewards because they work in office etc and further they should be granted to only those persons wh have really done very good work during the year. The amoun sanctioned should also be such that it is commensurate with the good work done by them and thus there cannot be any uniformity in this matter as each case will have to be judg on merits. Finally, it should be ensured that sanction of rewards is consonant with the reports given in respect of t rewardee in his annual confidential report.

...

31. COPY of circular letter No.29/4/86-AD.III dated 3.2.19 from Shri P.N. Arya, Administrative Officer(A), CBI addres to All Supdts. of Police, CBI Branches located in Delhi an outside Delhi and copy to P.S. to Director, CBI, Sr.PAs to Addl.Director, CBI, JD(A), JD(E) and JD(G), CBI, All DIsG/ in Head Office & DIsG of Metropolitan Branches., AO(A)/AO( SP(Hqrs), CBI, H.O., AIsG, ADs, CBI, H.O. All Sections/Zon Units in CBI H.O. Budget Assistant (Ad-IV),

Sub:- Enhancement of powers with regard to the grant rewards - control of budget - regarding.

.-.-.-

I am directed to refer to the Ministry of Home Af letter No.11011/12/81-Finance-II dated 20th May,1981 on th above subject, and to convey the sanction of Director, CBI Inspector General of Police, Special Police Establishment Rule 13(3) of the Delegation of Financial Powers Rules, 19 for the enhancement of the powers to grant rewards to Poli Officers, other Govt. Servants, and members of public, as below :-

Contd...21

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Dy. 718
Date 7/8/2000
Op Guwahati

केन्द्रीय अन्वेषण ब्यूरो
भारत सरकार
सी0 जी0 ओ0 कम्पलैक्स
खण्ड – 3 लोदी रोड
नई दिल्ली – 110003

CENTRAL BUREAU OF INVESTIGATION
GOVERNMENT OF INDIA
C.G.O. COMPLEX, BLOCK NO.3
LODHI ROAD,
NEW DELHI - 110003

P.C. SHARMA
SPECIAL DIRECTOR

DO No.DYSDE200000329L/079

Dated:- 6-03-2000

My dear Kanungo,

Please recall that I had an occasion to discuss with you some time back the affairs of Guwahati Branch, which also included the work environment prevailing there.

2. In a recent report submitted by Joint Director (East) pertaining to a complaint filed by one Mrs. Jonali Baruah w/o Shri S.P. Singh Yadav, Inspector, CBI Guwahati, the Joint Director has not found any substance in the allegations against you. The Head Office has, therefore, not taken note of the complaint. However, I would like to take this opportunity to impress upon you that being the leader of the Region and an experienced officer, you would motivate your staff in a manner that they give their best performance. They should also not be afraid of looking up to you for advice and guidance.

3. I appreciate the correctives that you are applying to the branch in spite of the constraints that the branches under you are suffering from in terms of staff, etc. I am sure, you would take advice in the right spirit and do all that is possible within the limited resources to get the best out of every one serving under you.

Yours sincerely,

Best wishes

(P.C. SHARMA)

**Shri K.C. Kanungo,**
Dy. Inspector-General of Police, CBI,
Guwahati Region,
GUWAHATI.

EXTRACT OF N/S OF SHG/99/21

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Annx. 8

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*May please refer to para 11 of Note Sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for submitting verified source information which is available at page 29 to 31 of the file. He has stated that these informations have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary orders.*

Received at ... on 24.8.2000 15:45 P.M.

**DIGP, NER** — **SUPDT. OF POLICE**

15. (1) When did the accd. disclose the name of these two private persons Abed Hussain & Giyasuddin Ahmed as having contributed money which were part of the said cash? Did the I.O examine these persons to verify this? Their Accts. and report this in the Court when the accd. made volte face?

(2) If he availed to render details which he should immediately submit a separate SIR for registration and verification. Instead of that he is making false accusations against the said officer to be dealt severely for his misconduct as per CBI Crime Manual. (3) He has given CBI Crime Manual. What is that he intends to refer?

for compliance submit 29/8/2000

16.

17. Seen. Necessary explanation covering all the points were already given from page no (29) to (31). Though the matter leading to ...

4.104

during course of investigation. Moreover SIR was also registered vide No SA/SHG/97 /11/ dt 8.9.97. Regarding other points I have to state nothing as the same are allegations against me. So far as decision regarding registration of PE is concerned competent officer may be asked.

sd/

NW.
24/4/2000

18. In response to the Note at Para 15/N of DIG, NER, the noting of I.O Shri S.P. Singh Yadav, Inspector may be perused at para 17/N. In this regard my comments dated 30.12.99 at page 28 of the file may also be referred to. If deem fit necessary permission may be accorded from JD (E) for registration of a P.E which may be registered at Silchar Branch since Kohima falls under the jurisdiction of CBI, Silchar Branch.

DIG, NER

SUPDT. OF POLICE

file received at RO on 26/5/2000 at 1-30 P.M.

26/5.

19. What is the proposal, for recommendation / registration of PE?

file received on 9/6/2000 at 2.45 pm

SP

14/6.

20. With reference to para 19/N above it is stated that the I.O Inspector S.P. Singh Yadav has submitted the verified SIR directly available at pages 01 to 26 of the file consequent upon the facts revealed during the investigation of RC 6(A)/98-SHG and the I.O has recommended for registration of PE on this verified SIR. Further on this SIR and as agreed by the PP vide his comments at page 27/F SP has forwarded the same with his comments at page 28/F for registration of the PE. Again after compliance of the further queries of DIG. SP has recommended the same vide para 18/N. Put up for perusal & necessary order please.

22/6/2K

Ans slip on 22.6.2000 at 11:10 pm

22. It is a matter of regret that SP does not try to apply his mind to the matter and pays scant respect to the instructions of DIG. What was required vide my observation dt 7.6 was to put up a self contained proposal by SP as to proposing registration of FE, as well as feeds registration of a DE is furnished. Instead of doing that the file has again been sent back to me. I do not know the reason why? I Comp 9/6

SP
10/7.

CA
22.

My kindly see my comments placed herewith for orders.

DIG

File received at RO on 20/9/2000 at 1-00 P.M. 29/9.

23. Put up — suitable draft

28/9

IG 4/10

CA

5/10.

24. Draft letter to be signed by DIG, NCB to ASCB&T, Cal is put up for o/a please.

10.10.00

25. My kindly see for Appointment

File received at RO on 10/10/2000 at 2.0 P.M.

T89

106

6. Who is competent / Authority
to order registration for officers
in the pay scale of Rs 10,000 to Rs 15,200/-?

IG Comp
4/XI

SA

27. As per the chart showing power of registration of SR/RC. including power for taking decision, in respect Pay Scale of Rs. 10,000/- to 15,200/- is within the Competency of DIG, put up for information pl.

4/11
1.11.2000.

DIG

28. Since DIG is competent to order registration of SIR involving officers in the Pay Scale of Rs.10,000/- to Rs.15,200/-, the registration of SIR against S-2 is approved.

29. However, while going through the verified SIR submitted by Shri S.P.Singh Yadav, Inspector I find the following defecets:-

30. (i) The I.O. has recommended the name of M.Chakraborty (S-4) who has already expired.

(ii) Likewise, the name of Shri A.C.De, who has already retired from service figures in the SIR as S-1.

31. In Col.4, names of the 14 Contractors are shown. But in the verified SIR I do not find involvement of the following contractors:-

(i) Shri T.Murry-(4.2) for his alleged involvement in Sub Section 24,

(ii) Shri B.S.P.Barma,(4.8), for his alleged involvement in Sub Section 35,

(iii) A.N.M.Saleh,(4.9) for his alleged involvement in Subsection 37,

(iv) M.S.Deol,(4.10) for his alleged involvement in Subsection,38 to 41,

(v) Yabne Lotha,(4.11) for alleged involvement in Subsection 42,

(vi) K.Saha,(4.12) for alleged involvement in Subsection-44,

32. I.O. has explained that the verification was neecessiated as accused K.Ganesh, had disclosed the names of contractors like Abid Husain and Gyasuddin Ahmed who had allegedly paid bribes to him, which were seized from his possession on 6.9.97 at Air port. But I do not find any of thse contractors having been named as ~~suspect~~ in the SIR which should be explained.

33. Rather, name of Gyasuddin Ahmed seems to have been deliberately left out while naming his firm N.E.Construction, Dimapur only.

34. The name of Charlie Sekhose, Midland, Kohima is not shown though mentioned at page-13, relating to Subsection-42.

35. Are the contractors named by K.Ganesh not involved

in any of these works/ Or did they not have any official dealings with the accused K.Ganesh ? This needs to be clarified.

36. It may also be clarified by Shri S.P.Singh Yadav why he has not included the name of Shri K.Ganesh in the SIR. Although he conducted verification of the information during the investigaion of RC.5(A)/98-SHG, whose accused is Shri K.Ganesh, only. He should also clarify the date of seizure of the relevant documents in these two SIR submitted by him and the persons examined in this regard.

37. I would like to have a thorough discussion of this SIR. It is therefore necessary that the SIR may first be got registered and marked to some I.O. who after thorough verification and discussion with previous I.O. can come up for discussion of SIR as early as possible. The role played by suspected public servants i.e. various acts of commissions and ommissions should be highlighted. Similar actions be taken for suspected Contractors.

38. It may also be clarified whether the relevant documents were collected by Shri S.P.Singh Yadav and whether the facts referred in the verified SIR have been confirmed through scrutiny of relevant documents by a technical hand.

1.XI.2K
(K.C.Kanungo)
DIG CBI NER GHY.

S.P.

39. S.P. may kindly endorse it to some IO. for further verification.

3/XI

SP

40. Mr. N.G. Khamrao 6/11. verify and report.

41. for reporting vbl.

28/11

42. Page-46:-

CBI I.D. No: 5617 dt: 30/11/2K of RO. SP may kindly peruse the same & pass o/o please.

4/12

108 Extract of N/S of SA/SHG/98/2000

Annx.9

9

141

14. *May please refer to para 11 of Note Sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for submitting verified source information which is available at page 24 to 26 of the file. He has stated that these informations have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary orders.*

**DIGP, NER** **SUPDT.OF POLICE**

File received at AO on 24.2.2000 at 5.45 P.M.

15. Charge sheet may be served on him for minor penalties for digression of investigation and inquiry and also allegation of conducting unofficial activities following raid done in presence of ~~bring to the notice of~~ IC 25/2

16. Public witness is ordered by DIG

6/3

17. CA to please put up with relevant file

CA

6/3

18. Please transfer the relevant papers to his personal file. alongwith photocopy of the Note Sheet so that action can be taken from Estt. Section.

CA/~~HA~~

8/3

19. Estt. Issue copies & update 8/3/2000

20. As per para 18/N above action has been taken & file is put up for further order please.

21/3/2K

M2

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21. Charge sheet is being dealt with for
issue of suspension.

22. Now, the fate of the S.I.R. is to
be decided.

31/3

SP

1/4

23. SP may please refer to para 21 & 22/N. above
and pass suitable orders as the SIR is pending
since then i.e 31-3-2000.

09/6/2K

SP

24.

25. Put up after SP's return from tour.

27/7

26. The matter may be got examined
by legal branch if it is worth
registration S.I.R. before obtaining permission
from competent authority.

SP

27. May kindly see my comments
placed herewith for M.A.P.

20/7

FIR received at PS
on 29/9/2000 at 1-10 P.M.
29/9/2K.

28. put up — draft

4/10

Extract of N/S Cy.
SA/SHG/99/22

110

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-5-

28. Draft letter to be signed by MS, NER to ADEAS, Col is put up for perusal and n/a please.

MSD
10.10.2000

29. My initials are for approval pl.

DIG

10/10

30. Today (4.1.2001) the Hon'ble Director called me to keep all the files of SPS years after deep discharge. While carrying the file I could locate this file in the bundle of other file. Hence the file is put up late. The delay is not intentional.

4.1.2001

31. Why this file was not put up to me. Let the explanation of the concerned persons be called for.

32. Let this information be registered first in Sikkim Area given to an Officer of Sikkim Branch for initials. Now shall do the action as instructed

4.1.2001

SP

33. SIR be registered & verification as ordered by DIG/NER.

Mr Ashok Kumar SI, be directed to verify and report.

CA/SK

34. With reference to para 33/N, above photo copy of SIR may be recvd. for n/a pse.

A Kumar. SI

15/01/2001

35. Recd. photocopy verified report of SR/SIL/2001/01 dt. 15/01/2001.

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-6- 111

36. Page- 43

SI Ashok Kumar has submitted a report dated 05.2.2001 requesting to take up the matter with CGM(TF), Guwahati for handing over the documents for scrutiny. Put up for perusal and further orders please.

Sd/-
06/2/2001

1/c SP

37. Before I resume leave let the speech to DIG be

6/2

38. I discussed the development with worthy DIG. He desires that photocopies of documents be collected and scrutinised at Br. Office. Let him attend q/l or casual leave.

7/2.

39. Seen

40. Page- 48

A letter dated 16.2.2001 has been received from DET, Telecom Project, Task Force, BSNL, Dimapur intimating regarding handing over of xerox copy of documents to SI J.K Nath & remainings ~~xxx~~ to will be handed over by 3rd week of March, 2001. This is in response to our letter dated 09.2.2001 at page 47/F issued to him. Put up for perusal if deem fit I.O may be directed to do the needful.

Sd/-
20/2/2001

41. I/c SP Let Sh Ashok Kum Sg. Submit a security report & the documents collected from Dr. inform

20/2

1/0

Annx. 10

-112-

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Ref.. Chapter III of CBI circulars / Standing Instructions on SIRs and Complaints



*10. No. 21/2/76-PD, dt. 20-9-89*

Attention is invited to para 8 of Policy Division Office Order No. 21/2/76-PD, dated 1-5-89, in which it was stated that if any RC/PE registered on SU information is proposed to be closed or referred for RDA, the decision taken on the FRs should be intimated to DIG/SU before sending SP's Report in such cases.

2. The intention behind the instructions was that SU should produce quality informations and further that the Branch to which the case is entrusted for investigation should conduct thorough and meticulous investigation. Similar standards for registration and verification of their own informations are expected from all the Branches and all cases investigated by Branches should be thorough and meticulous.

3. CBI on its own should take up only those cases which result in prosecution or RDA for major penalty and, therefore, it has been emphasised time and again that proper verification of information should be done before taking up a case followed by thorough and meticulous investigation. All cases resulting in suitable action or closure deserve thorough scrutiny by senior officers. During scrutiny, efforts should be made to ascertain causes of failure to prosecute or recommend RDA for major penalty, i.e. whether it was on account of inadequate verification or due to improper and inefficient investigation.

4. DCBI has, therefore, decided that all cases registered on SU information, which result in RDA/closure, should be intimated to DIG/SU along with FR-I and FR-II. As the Special Unit reports to DCBI and cases registered on informations developed by SU are taken up after orders are passed by DCBI, observations of the Special Unit duly approved by DCBI will be communicated to the concerned officer. Therefore, no officer should feel that the Special Unit is sitting in judgement over the findings of other officers whether equivalent in rank or superior. Likewise, cases registered on the information developed by a Branch, if result in suitable action or closure should be scrutinized by the Regional DIG if the decision was taken by the Branch SP and by the Joint Director if the decision was taken by the Regional DIG. Needless to say, if the case falls within the powers of Joint Directors and above, they will scrutinize the FRs in the light of these instructions before passing final orders.

5. If during scrutiny lapses are noticed, the officer conducting the scrutiny will take appropriate action against the officer responsible for inadequate verification or improper and inefficient investigation.

6. As the SP's Report is withheld, pending scrutiny and clearance to be given by the competent authority, it should be ensured by the concerned officers that disposal of cases is not incordinately delayed. As soon as the case is referred to the competent officer for conducting scrutiny, it should be ensured that it is conducted on priority basis and orders are communicated to the Branch within 15 days.

Sd/- (DIVAKAR PRASAD)
*DIG (P), CBI*

Central Administrative Tribunal
Guwahati Bench
146
Filed by
(A. DEBROY)
Sr. C. G. S. C.
C. A. T. Guwahati Bench

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
# GUWAHATI BENCH, GUWAHATI

Reply on behalf of Respondents (1 to 5) to the **OA No. 42 of 2003**

**Suresh Pal Singh Yadav** ..... **Applicant**

**Versus**

**U.O.I. and others** ..... **Respondents**

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5/7/03

**(K.C. KANUNGO)**
**RESPONDENT NO. 5**
**for & behalf of Respondent Nos. 1 to 5**

**Place:** **Guwahati**

**Dated:** /07/2003

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# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
# GUWAHATI BENCH, GUWAHATI

## O.A. NO. 42 OF 2003

**IN THE MATTER OF**

**SURESH PAL SINGH YADAV** **PETITIONER**
**VERSUS**
**UNION OF INDIA & OTHERS** **RESPONDENTS**

## SHORT REPLY ON BEHALF OF THE RESPONDENT NOS. 1 TO 5

**Respondents (1 to 5) craves leave of this Hon'ble Tribunal to place the following salient facts in parawise reply to the OA as under:-**

**Para 4 :- Fact of the Case**

**4.1(1)** The allegation made by the applicant that the reviewing authority had down graded the ACR with malicious intent is totally false and baseless and as such is denied.

**4.1(2)** The down grading of the applicant in his ACR was done on the basis of unsatisfactory performance and unbecoming conduct of the applicant during the year 1999.

**4.1(3)** In column 5(a), of part 2 of the ACR, the applicant had shown that the targets mentioned above were achieved which was thoroughly incorrect.

**4.1(4)** All IOs are required to finalise at least 3/3.5 cases during the year about which there was no specific mention by the applicant. The applicant was unable to finalise RC 34(A)/96-SHG which was registered on 15.10.96 and did no work after 01.09.98, as no C.D. was submitted by him after CD No. 146 dated 01.09.96.

**4.1(5)** All IOs are required to conduct investigation promptly. The emphasis on prompt investigation is laid down in para 36/244 of CBI (Crime) Manual, page 68 which is quoted below:-

**"The SP should emphasise the necessity of prompt investigation by the IOs. The IOs and the SSP will be responsible for the completion of investigation within the prescribed time limit, i.e. 4 months in case of PEs (Preliminary Enquiries) and six months in case of RCs (Regular Cases)".**

**4.1(6)** But the applicant on account of tardy and unmethodical investigation was unable to complete investigation of any of the Regular cases within the prescribed time limit of six months. The applicant was dragging investigation of all his Regular Cases for years together.

**4.1(7)** In RC 34(A)/96-SHG, the applicant was unable to complete investigation even by December 1999 which had crossed more than three years by then. A case is deemed to be finalized only when SP's Report is despatched to the department recommending Regular Departmental Action (RDA) or when charge sheet is filed in the competent court. But in RC 34(A)/96-SHG, the SP's Report could be forwarded to the department seeking for prosecution sanction only on 31.12.99 and the charge sheet was submitted on 15.09.2000. Thus the investigation of this case was dragging for almost four years which brought bad name to the Branch.

**4.1(8)** It is also on record that the draft articles of charges in RC 34(A)/96-SHG had not been correctly prepared by the applicant, resulting in a delay in despatch of the SP's Report. The applicant also did not come and extend the requisite cooperation in the preparation of correct enclosures to the SP's Report as expected from him, which contributed to further delay. Therefore, this case was

shown pending at the end of 31.12.1999. The applicant also did not submit any case diary after **CD No. 146 dated 01.09.98**.

**4.1(8.1)** The applicant in order to exaggerate his performance had included Misc. Case 206/98 as a case investigated by him though it was part of RC 34(A)/96-SHG in which no case diary was submitted by the applicant after 01.09.98. Again the applicant had shown this Misc. case 206/98 both during 1999 and 2000 in order to mislead the respondent, without doing any work during 1999/2000.

**4.1(9)** In RC 5(A)/98-SHG also, the investigation done by the I.O (applicant) was highly perfunctory. Various instructions issued by the supervisory officers were not being attended to by him. The Respondent No. 4/5 had reviewed the investigation of the case and had issued exhaustive instructions to the I.O. and the SP, vide memo No. 747-748 dated 22.03.2000. In the instructions issued to the I.O vide No. 811 dated 25.03.2000 specific instructions were issued by the DIG covering Case Diaries starting from Case Diary (CD) No. 1 dated 17.02.98 highlighting serious lapses on the part of the I.O and as many as 37 instructions were issued to the I.O indicated by tick mark **(copy enclosed as Annexure - 1).** But hardly any of these instructions were attended to by the I.O. From the above, it would also be seen that

(i) The I.O did not not enclose the plan of investigation along with CD No. 1 dated 17.02.98.

(ii) The I.O did not incorporate in the CD the list of documents seized by him nor had enclosed a copy of seizure list along with CD.

(iii) The I.O. was in the habit of not scrutinizing the seized documents and did not incorporate the scrutiny report in the CD.

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(ii) The I.O did not incorporate in the CD the list of documents seized by him nor had enclosed a copy of seizure list along with CD.

(iii) The I.O. was in the habit of not scrutinizing the seized documents and did not incorporate the scrutiny report in the CD.

(iv) As per observations made in CD No. 128 dated 30.11.99, the I.O. had taken the specimen writings and signature of the accused K. Ganesh on 04.02.99, vide CD No. 17 dated 04.02.99. But he did not send the same for GEQD opinion till end of 1999 for which he was called upon to explain why disciplinary action should not be taken against him. But the I.O. did not submit any reply.

(v) **It was also observed that I.O was not taking proper interest in the case and he was making all out efforts to sabotage the investigation.**

(vi) In CD No. 124, it was further observed that the I.O was only making remarks in the CD without taking any concrete action on the instructions issued to him and also on the plan chalked out by the I.O himself **which showed his lack of sincerity**.

**4.1(10)** When the I.O did not deliberately comply with the instructions of the supervisory officers and willfully delayed the investigation and made unwarranted digressions in the investigation into other channels without approval of the superior authority which contributed to further delay, there was no choice left with the higher authority than to transfer the case from him to some other I.O, due to importance attached to the case and following his suspension.

**4.1(11)** Thus as against minimum requirement of finalisation of 3.5 cases, the I.O. finalised only PE 2(A)/99-SHG during the year 1999 (which was equivalent to 0.5 case) and was a petty case. The above PE was registered on the basis of joint surprise check showing shortage of stock of food grains of FCI stocks. **Surprisingly, in this case also, the I.O. did not submit a single case diary though only three witnesses were shown to have been examined.**

**4.1(12)** As per para 15/147 of CBI (Crime) Manual (Page 47) , the I.O. was required to submit case diary in the usual prescribed

form to the Supervising Officer (SP) whose duty was to peruse these CDs and issue necessary instructions. As SP (the reporting officer) did not perform his basic duties of perusing CDs and issuing instructions, he, therefore, ignored the lapses of the I.O. which was improper and unjustified.

**4.1(13)** **Collection of SIRs** :- Collection of Source Information Reports (SIRs) is one of the important tasks of the I.O and the applicant being the senior inspector should have collected quality information, such as information relating to trap, disproportionate assets, and information against other senior officers on corruption leading to registration of Regular Cases (RCs) which are considered as quality cases. However, the applicant did not collect a single information of trap or disproportionate assets or any quality information leading to registration of R.C. during the year 1999, and also during his entire tenure in CBI.

**4.1(14)** During the year 1999, three PEs were registered on the basis of surprise checks but not a single RC was registered during 1999 on the basis of information collected by the applicant, although 22 Regular cases were registered by the Guwahati Branch during the year 1999, on the basis of information/complaints collected/verified by other IOs. It may be mentioned here that in the CBI IGP Circular letter No. 71 dated 20.2.60, it had been emphasised that

**"it is the quality of information that matters and not mere numbers" (Page 37 of CBI circulars/Standing Instructions) (enclosed as Annexure - 2).**

**4.1(15)** Regarding cases under departmental action, the applicant had shown to his credit 4 cases i,e **RC 6(A)/91-SHG**, (2) **RC 37(A)/91-SHG**, (3) **RC 29(A)/92-SHG** and (4) **RC 12(A)/93-SHG,** although none of these cases had been investigated

by the applicant. Moreover, in these cases also, the presentations before the Inquiry Officers by the applicant were not done during 1999.

**4.1(16) Again (i) RC 6(A)/91 and (ii) RC 12(A)/93 have been shown by the applicant both during 1999 and 2000 which are indications of his duplicitous conduct. This was done by the applicant obviously in in an attempt to mislead the respondents.**

**4.1(17)** RC 6(A)/91-SHG was presented by the applicant before the CVC during 1997 and the applicant had submitted the written brief on 03.11.97. Thus, the applicant did nothing in this case during 1999.

**4.1(18)** In RC 37(A)/91-SHG, RDA major penalties were recommended against three officers of Government of Assam and the enquiry against Shri S.K. Dutta was only completed on 02.11.96 and he was punished with reduction of pay by one stage whereas case relating to the remaining two accused are still pending. Thus, this case was also not fully disposed of by the applicant during the year 1999.

**4.1(19)** In RC 29(A)/92-SHG, though departmental enquiry was completed and written brief was submitted by the applicant on 30.03.98, but the final decision of the disciplinary authority was passed vide order dated 16.12.99, reducing one increment which was a minor penalty although major penalty was recommended against the charged officer .

**4.1(20)** In RC 12(A)/93-SHG, only one out of six accused were punished with stoppage of increment without cumulative effect, though RDA major penalty was recommend against all of them. In this case also the applicant, who was the PO from the beginning, **had submitted written brief on 16.07.99** and the result of RDA in

respect of Shri M.C. Goyari was communicated vide order dated 07.02.2000. The departmental proceeding against the remaining accuseds are still pending. Thus RDA in this case was incomplete.

**4.1(21)** Moreover, presentation of cases in departmental enquiries are the routine duties of the I.Os and no special credit is given for punishment with minor penalties when major penalties against the COs are recommended by the CBI, unless dismissal from service or compulsory retirement are visited upon the charged officials..

**4.1(22)** It is not a fact that the Respondent No. 4/5 out of animus or malicious intent towards the applicant had downgraded him in his ACR for the year 1999. The applicant has produced any evidence to show that the respondent No. 4/5 had developed enmity towards him. On the contrary, the applicant developed enmity and malice towards the respondent No. 4/5 after actions were initiated against him on account of various misconducts on his part.

**4.1(23)** On the contrary, **it was the Respondent No. 4/5 who as DIG, CBI, NER, Guwahati had recommended to the Head Office, CBI in favour of the applicant vide letter No. 1444/142/99/NER dated 16.09.99 not recommending the immediate repatriation of the applicant as suggested by the Head Office**. Had the respondent No. 4/5 **bore any grudge or animus towards the applicant, he would not have done so in favour of the applicant**. (The office copy of the aforesaid letter is marked as **Annexure-3).**

**Para 4.2** :-

**4.2(1)** It is not a fact that the performance of the applicant in CBI was exemplary. The applicant has made much of the fact that he had been given 17 rewards and 18 commendation certificates

(CC) during his tenfure in the CBI. These rewards and commendations by themselves would not by themselves testify the high capability or superior investigating ability or outstanding capacity of the applicant in view of the fact that these rewards were given in routine course by the controlling officers or other senior officers during their visit to the Branch **in order to motivate the staff for achieving better performance**.

**4.2(2)** **But sadly, in case of the applicant this had had the 0pposite effects**, in as much as the work and conduct of the applicant deteriorated sharply from 1998 onwards on account of which adverse report was recorded in his ACR by the then DIG, CBI, Guwahati Shri N.R. Ray and upheld by the accepting authority.

**Para 4.3** :-

**4.3(1)** It is not known on what basis, the applicant has averred that in his ACR during 1993-1997, he was graded "Outstanding". From the Annexure A-5, enclosed by the applicant with his OA No. 43/2003, it is apparent that it does not mention about the gradings given to the applicant during 1993-1996. Hence it is presumptuous on the part of the applicant to have mentioned about his ACR gradings during 1993-1996 which are confidential documents and were not communicated to the applicant.

**4.3(2)** Though the adverse remarks mentioned in the ACR of the applicant for the year 1998 was expunged on the order of the Hon'ble Tribunal, it does not mean that the adverse remarks communicated to him were not correct. The reason for expunction of the adverse remarks recorded in the ACR was that the applicant had not been forewarned of his deficiencies/misconduct/bad performance before making entry of these adverse remarks in his ACR.

**Para 4.4** :-

**4.4(1)** The assertion made by the applicant that his difficulties with the respondent No. 4/5 started from October, 1999 onwards when the respondent No. 4/5 developed an animus against the applicant is thoroughly malicious and mischievous. The applicant has produced no proof in support of the above assertions. **Had it been so, the respondent No. 4/5 would not have recommended in favour of the applicant for extending his deputation period in CBI.**

**4.4(2)** The unworthy conduct of the applicant came to the notice of the respondent No. 4/5 in clear and focused manner when the applicant physically assaulted the complainant (Shri A.K. Baruah) in front of the office chamber of the respondent in broad day light on 30.11.99 when the complainant (Shri A.K. Baruah) had been summoned by the DIG, NER to ascertain the detail facts from him regarding conduct of the applicant against whom Shri Baruha had lodged a complaint to the Director, CBI and the respondent No. 4/5 had been asked to get the complaint verified and submit report urgently.

**4.4(3)** The applicant not only had physically assaulted the complainant on 30.11.99 but also abused him filthily in presence of office staff of Regional Office namely (i) Shri Mukul Deka, Constable, (ii) Shri Mukut Barua, Constable, (iii) Shri Ganga Ram Das, Constable (Dvr.) and (iv) Shri Bhupen Das, PSO, besides others. The report of Shri K.C. Choudhury, DSP who was then posted in the RO and present on the said date along with the statements of the above persons recorded by him are enclosed as **Annexure - 4.**

**4.4(4)** It was also revealed from the said complaint against the applicant that the latter had threatened the complainant (Shri

A.K. Baruah) to shoot him with his service revolver/pistol on 17.11.98 and 20.11.98. During verification, it was found that the applicant had requisitioned to SP, CBI, Guwahati for issuing a revolver to him on the specious ground of carrying out investigation and other government duties without fear and favour in view of threat and deteriorating situation in law and order. Accordingly, **a revolver with 6 cartridge was issued to the applicant on 27.10.98** on the order of the SP, which the applicant had returned on 30.11.98. It was therefore, clear that the applicant had used the office revolver for unlawful purpose. As a result of these grave misconducts on the part of the applicant, and other serious misdemeanours, a number of charge sheets were issued against him. The applicant, with the approval of the Director, CBI, was also kept under suspension w.e.f. 26.4.2000. It is therefore incorrect and motivated on the part of the applicant to allege that the filing of OA NO. 338/99 before the Guwahati Bench of the Hon'ble CAT was because of the enmity of the respondent towards him.

**Para 4.5** :-

**4.5(1)** The claim of the applicant that he was suffering from severe chest pain on 30.09.99 and absented from duty from 1.10.99 to 20.10.99 on medical ground was found to be highly dubious. In fact the applicant attended office on 30.09.99 but as soon as he came to know that a fax message of the DD(A) dated 30.11.99 had been received by the SP, CBI, Guwahati Branch vide which the applicant was asked to be repatriated immediately, i.e. AN of 31.09.99, he left the office without permission of the SP. As a result, the above order of H.O. regarding his immediate repatriation could not be delivered. Thereafter, the applicant was nowhere to be found and his residential house where he was normally residing was found locked. Thus the applicant purposefully avoided the service of the H.O. order of his repatriation and other important correspondences.

**4.5(2)** It was also found that the applicant submitted a certificate dated 30.9.99 of **Dr. Rupali Barua, MD, Asstt. Professor, Communicative Medicine, Guwahati Medical College**, to prove that he was under her treatment during the period of his absence. Mrs. Rupali Barua had issued the certificates even though she had not been authorised to treat patients privately. In other words, though Mrs. Rupali Barua was a registered doctor but she was not a **registered medical practitioner**. This was subsequently clarified by Dr. M.M. Deka, Principal-cum-Chief Supdt., Guwahati Medical College Hospital vide letter No. MCP/1/84/347 dated 3rd May 2000, stating that Dr. Rupali Barua, MD, Asstt. Professor, Community Medical Department was not competent to issue any official medical certificate, although any registered MBBS doctor is competent to issue certificate of ailment. It was further clarified that Mrs. (Dr.) Rupali Barua, MD, had issued the said certificate in her private capacity although she was not authorised to do private practice.

**Para 4.6** :-

**4.6(1)** The observation made by the respondent No. 4/5 that, "SP should stop giving reward indiscriminately, etc." was perfectly justified in view of the DCBI Standing Order No. 32 dated 27.12.96 which has been referred to by the applicant **(enclosed as Annexure -5)**.

**4.6(2)** Vide para 13 of the above Standing Order, all DIGs and JDs were required to comment upon the grant of reward/honorarium during their inspection of the Branches with a view to ensuring compliance of the instructions in the above circular/Standing order. During inspection, the respondent No. 4/5 found that the rewards had been sanctioned indiscriminately without observing the guidelines laid down in the above S.O. According to

the above Standing Order No. 32 dated 27.12.96 rewards can be sanctioned under any of the following circumstances only:-

(i) **When extra ordinary initiative is shown in collection of important clue to work out a case.**

(ii) **When notable efforts are made resulting in break through of a difficult and blank case.**

(iii) **In the detection of a case in a short span due to pain stacking efforts.**

(iv) **When conviction of accused charge sheeted, without adverse comments by the court.**

(v) **Arresting of absconding accused.**

(vi) **Successful laying of trap and registration of quality case.**

(vii) **disposal of long pending trial cases and tracing absconding accused.**

**4.6(3)** Thus, it was found that the rewards / commendation given to the applicant were given when none of the above conditions mentioned in Standing Order No. 32 dated 27.12.96 were fulfilled and were therefore inadmissible.

**4.6(4)** Again, as per **H.O. circular No. 29/1/85-AD.III, dated 10.1.85, it was pointed out that rewards should not be sanctioned indiscriminately and in routine manner** (The above circular is enclosed as **Annexure - 6**)

**Para 4.7** :-

**4.7(1)** The insinuations made by the applicant regarding exercise of police powers in the matter of verification of his medical certificate are ill conceived and without basis.

**4.7(2)** The applicant had obtained certificates from Mrs. Rupali Baruah, MBBS (MD) regarding his sickness and Mrs. Rupali

Baruah was found to have issued the certificate not in her official capacity; rather the said certificates were issued in her private capacity although she was debarred from indulging any private practice.

**4.7(3)** Thus, in effect **Mrs. Rupali Baruah though, was a registered doctor but she was not a registered medical practitioner**.

**4.7(4)** The applicant had gone to Guwahati medical college and was examined by the doctor but no rest was recommended to the applicant. The applicant was advised to come again but he did not report there and obtained medical certificate in dubious manner which was inadmissible and as such was rejected by the Competent Authority.

**Paras 4.8 & 4.9** :-

**4.8(1)** The applicant had made false complaints to the Director, CBI and had also lodged complaints through his wife to the Director, CBI and others pursuant to which Director, CBI had deputed Dr. U.N. Biswas, the then JD (EZ) for conducting enquiry pertaining to the said complaints.

**4.9(1)** During verification of the allegation made by the applicant through his wife by Dr. Biswas, the complaint was found to be false. The letter of Shri P.C. Sharma, the then Special Director, CBI written to respondent No. 4/5 vide DO dated 06.03.2000 in this regard is enclosed herewith **(as Annexure - 7)**, the relevant portion of which is reproduced below.

> **"In a recent report submitted by JD (EZ) pertaining to a complaint filed by one Mrs. Jonali Baruah, w/o Shri S.P. Singh Yadav, Inspector, CBI, the JD has not found any substance in the allegation**

**against him. H.O has therefore, not taken any note of the complaint."**

**4.9(2)** The files referred to by the applicant, namely, (i) **SA/SHG/99/20,** (ii) **SA/SHG/99/21,** (iii) **SA/SHG/99/22,** would show clearly that the applicant had conducted verifications of information in a highly perfunctory manner. The observations dated 1.11.2000 of DIG, CBI, NER, Guwahati (Respondent No. 4/5) recorded in the file No. SA/SHG/99/21 vide 28/N to 38/N would clearly show that

(i) The I.O (applicant) **had recommended registration of a case against a person i,e Shri M. Chakrabroty who had already expired.**

(ii) He **had recommended registration of a PE against one Shri A.C. De who had retired from service.**

(iii) He **had recommended registration of a case against as many as six firms who were not involved in any manner.**

(iv) On the contrary, the applicant **had not recommended registration of cases against the accused persons who were really involved like (a) Shri K. Ganesh, (b) Gyash Uddin Ahmed etc.** (The relevant extract of file No. SA/SHG/99/21 vide paras 28/N to 38/N is marked as **Annexure - 8).**

**4.9(3)** Again in file No. SA/SHG/99/20, the SP vide para 15/N was asked by the DIG for issuing chargesheet for minor penalty against the applicant vide observations dated 29.02.2002, for conducting verifications of fresh allegations without specific order of the competent authority, in violation of the H.O. guidelines but no chargesheet was issued by the SP (the reporting officer) for reasons best known to him. (The relevant extract of file No. SA/SHG/99/20 is marked as **Annexure - 9).**

**4.9(4)** Again in file No. SA/SHG/99/20, the respondent No. 4/5 vide his observations dated 29.02.2000 recorded at para 15/N had sought explanations of the applicant about his lapses and had also pointed out in the above mentioned note that instead of following H.O. guidelines, i.e. instead of submitting separate SIRs and seeking permissions for verification, the applicant on his own had conducted investigation and was making false accusations. When this was shown to the applicant, the latter vide his noting dated 24.4.2000, recorded at para 17/N, mentioned, inter alia, as under:-

**"Regarding other points I have to state nothing as the same are allegations against me."**

**4.9(5)** The above mentioned lapses were serious misconduct on the part of the applicant who was in the habit of doing such perfunctory and motivated work and when called upon to explain was making false allegations against the concerned officer.

**4.9(6)** No Supervisory Officer worth his salt would have overlooked such serious misconduct/malfeasance on the part of an I.O. as mentioned above under sub paras 4.9(1) to 4.9(4). In view of the above lapses on the part of the applicant, DIG, NER recommended for issuing charge sheet for minor penalty against him. But surprisingly, for reasons best known, the Reporting Officer (SP) took no action against the applicant.

**Para 4.10** :-

**4.10(1)** The charges against the applicant were not unsubstantiated as alleged by the applicant which were based on concrete evidence regarding which explanations of the applicant were sought for before issuing chargesheets but the applicant either did not give any reply to the memo or had denied the charge.

**Para 4.11** :- No Comments.

**Para 4.12** :-

**4.12(1)** As mentioned above the suspension of the applicant was ordered not for filing of OA No. 137/2000 but for other grave misconduct as enumerated under para 4.4.

**Para 4.13** :-

**4.13(1)** As repeatedly mentioned above, the charge sheets served on the applicant had no bearing on the filing of OA No. 137/2000. The grave misconducts on the part of the applicant including physical assault of the complainant on 30.11.99 were responsible for issuing chargesheets against him.

**Para 4.14** :-

**4.14(1)** This relates to observation of Hon'ble CAT - No Comment.

**Para 4.15** :-

**4.15(1)** It is humbly submitted that the above observation of the Hon'ble Tribunal was made due to inadequate presentation of facts in proper perspective. Moreover the Hon'ble Tribunal did not specify what were the important issues which were not attended to by the respondent and what were the irrelevant issues to which the respondent had been confined to.

**Para 4.16** :-

**4.16(1)** This relates to the observation of the Hon'ble Tribunal and action taken thereon - No Comments.

**Para 4.17** :-

**4.17(1)** The grading of the applicant as 'average' was based on his performance and conduct and had no bearings with the facts stated by the applicant earlier.

**Para 4.18** :-

**4.18(1)** This relates to expunction of adverse remarks made in the ACR of the applicant pertaining to the period 1.1.98 to 31.12.98 by the Hon'ble Tribunal - No Comments.

**Para 4.19 & Para 4.20** :-

**4.19(1)** The applicant has challenged the average grading given to him in his ACR for the year 1999. He has stated that he received one Commendation certificate vide **office order No. 23 dated 22.1.99** in the matter of good investigation done in RC 34(A)/96-SHG. He has also pointed out that reward of Rs. 1,000.00 was sanctioned to him vide **office order No. 116 dated 22.6.99**.

**4.19(2)** The above Commendation Certificate/reward were given to the applicant routinely, with a view to motivate him for doing his best but woefully the applicant fell short of the expectations. These had nothing to do with his investigating capabilities in the cases mentioned above.

**4.20(1)** The commendation certificate vide office order No. 23 was issued on 22.1.99 for doing good work in RC 34(A)/96-SHG although the purported good work had not been specified by the SP (Reporting Officer) which should have been done. Obviously this was not for any good work done in 1999, as the applicant had submitted the last CD vide No. 146 dated 1.9.98 in the above case, after which no CD was issued by the applicant. Thus no investigation was done by the applicant in RC 34(A)/96-SHG after 1.9.98. Hence the commendation certificate issued was, prima facie, not justified and the good work referred to in the said certificates

might pertain to the earlier periods and not for the year 1999. Therefore, the applicant cannot claim credit for 1999 on account of this Commendation Certificate.

**4.20(2)** Similarly, reward of Rs. 1,000.00 was given to the applicant by the JD(E) during inspection of the Guwahati Branch on the recommendation of the SP (Reporting Officer). Such rewards are sanctioned routinely and in this case, **vide Office Order No. 116 dated 22.6.99**, not only the applicant but four other Inspectors were rewarded, each for Rs. 1000/-, purportedly for taking keen interest for all round development of the Branch, its smooth functioning as well as purportedly showing keen interest in investigation, searches, surprise checks etc. without explict specifications of the good work and **this reward was, therefore, sanctioned routinely and not in the light of the DCBI Standing Order No. 32 dated 27.12.96 to which the applicant has referred to**. None of the 7 conditions under which rewards should have been sanctioned as per said Standing Order as discussed under para 4.6(2) was applicable in this case. Therefore, the applicant can not utilize the reward and Commendation Certificate given to him for making claim to superior quality of work of investigation etc. or any other such matters during any year and in particular during 1999. **In fact, these should go to the discredit of the applicant in as much as in spite of the reward and Commendation Certificate, the applicant did not show better performance, whose work and conduct deteriorated sharply since 1998.**

**4.20(3)** **It is also mentioned in para 1 of the Standing Order No. 32 dated 27.12.96 that reward cannot be claimed as matter of right**. (The DCBI Standing Order No. 32 dated 27.12.96 is enclosed as **Annexure - 5)**.

**Para 4.21** :-

**4.21(1)** Thus as discussed above, reward given to the applicant vide office order No. 117 dated 25.6.99 and commendation issued vide office order No. 23 dated 22.1.99 do not relate to his performance for the year in question i,e 1999 as during 1999 till the date of sanction of reward/commendation, the applicant had not finalised any case, did not submit any quality information leading to registration of RC nor had secured any good conviction, nor had apprehended any absconder, nor had worked out any case which was blind, etc. On the contrary, the quality of investigation done by the applicant in RC 5(A)/98-SHG was so poor that the applicant should have been punished and not rewarded as clearly highlighted in the observation of DIG, NER and as mandated in IGP circular No. 2 dated 27.8.55 as quoted below:-

> "These old cases are bringing a bad name to the SPE. I would like you to examine in detail all those cases which have been pending enquiry or investigation for over six months and to take effective steps to get them expedited. You should give clear and definite instructions in each old case and ensure that the Investigating Officers comply with them. **You should not hesitate in punishing those Investigating Officers who delay work unnecessarily**".

**4.21(1.1)** This is further supported by the fact that the respondent No. 3 who had initially sanctioned the reward on the recommendation of the reporting officer himself finally graded the applicant as 'average' during 1999 and 'below average' during 2000.

**Para 4.21(2)** The cases referred to by the applicant in para 4.21(ii) are the cases in which the applicant made presentation of those cases mostly during the earlier period and not during 1999. Moreover, none of those cases were investigated by the applicant. In all those cases, against the charged officials, major penalty had been recommended against the charged officials (COs) whereas COs were

punished mostly with minor penalty. None of the charged officials had been visited with dismissal or compulsory retirement and such deserved no special recognition.

**4.21(3)** Likewise, the cases registered during the year 1999 on the basis of information given by the applicant i.e. (a) PE 2(A)/99-SHG, (b) PE 3(A)/99-SHG, and (c) PE 15(A)/99-SHG were petty cases resulting in registration of Preliminary Enquiry (PE). No Regular Case (RC) was registered on the basis of information of the applicant. The applicant did not submit any quality information. The quality informations are those which lead to registration of cases of disproportionate assets and traps and cases of corruption against very senior officers/officers of the rank of Joint Secretary or equivalent and the applicant during this period did not submit any such information. On the contrary his conduct was found to be disgraceful and unbecoming of a CBI officer who had shown streaks of indiscipline and insubordination; therefore, he was graded average/below average.

**4.21(4)** The other works performed by the applicant as mentioned by him under (iv) were routine day to day duties which every I.O has to perform and deserve no special recognition.

**4.21(5)** Moreover, in the CBI Circular No. 29/1/96-AD-III dated 26.12.97, the following instructions were issued for compliance:-

**"Rewards and commendation letters must not be given for performing routine duties and normal tasks expected from an officer".**

"While sanctioning the reward the officer should bear in mind that the executive officer from the rank of constable to Inspector are being given one month extra salary for work beyond office hours and on holidays".

**4.21(6)** **Again as per HO letter No. 29/1/85-AD.III dated 10.01.85 "rewards should not be granted indiscriminately and in routine manner"**. While as per DCBI Standing Order No. 32 dated 27.12.96, first para, **reward cannot be claimed as matter of right.**

**Para 4.22** :-

**4.22(1)** As per Head Office guidelines, **rewards can be sanctioned only on account of exceptional good work done by the officer**. Reward was sanctioned in RC 18(A)/99-SHG as Regular Case was registered against a senior officer (Executive Engineer and others) of Telecom Department who after getting store materials issued on bogus indent had utilising the said stores in the construction of his own house. Whereas the information submitted by the applicant were very petty in nature against non gazetted staff in PE 2(A)/99 and other in which only Preliminary Enquiry (PE) were registered during the year 1999. Moreover, the credit for convertion of a PE into RC cannot be rightfully claimed by the applicant as for such work credit given to the I.O. who had enquired into the PE which was subsequently converted into a Regular Case (R.C.).

**Para 4.23** :-

**4.23(1)** Thus, as explained above, the work of the applicant during the year was dismal, highly unsatisfactory, who conducted perfunctory investigation, was careless and ham handed in the verification of source information showing thereby that he was not dependable and reliable.

**4.23(2)** The applicant also did not collect any quality information such as information relating to trap and disproportionate assets and information against senior officers leading to registration

of RC during 1999 which was one of the most important duties of I.Os.

**4.23(3)** The applicant even could not finalize the minimum number of cases, i.e. three and half during the year who had only finalized PE 2(A)/99-SHG which was a petty case in which he did not even submit a single case diary.

**4.23(4)** Observation made by the DIG, CBI, NER that SP should stop giving reward indiscriminately was made in the light of the HO guideline issued vide letter No. 29/1/85-AD.III dated 10.01.85 (**copy enclosed as Annexure - 6 ),** according to which granting of rewards indiscriminately and routine manner was strictly forbidden.

**4.23(5)** It had also been directed in the above circular that **each case will have to be judged on merit and there can not be any uniformity and finally it should be ensured that the sanction of rewards is in consonant with the reports given in respect of the rewardee in his ACR.**

**4.23(6)** Moreover, in the standing order No. 32 of the DCBI dtd. 27.12.96 all DIGs and JDs during their inspection were required to verify if the rewards sanctioned etc. were in conformity with the guidelines mentioned in the above Standing Order (S.O.) which were found not to have been followed in case of the applicant as well as of others.

**Para 4.24** :-

**4.24(1)** The ACR of the applicant was recorded by the reporting officer without any application of mind. This is clear from the fact that in spite of inherent contraditions and exaggeration in the resume of work annexed to the ACR by the applicant as pointed out

above in paras 4 to 4.9, the reporting officer had mentioned in his comment that he agreed with the facts given by the officer reported upon in the resume.

**4.24(2)** As mentioned above, the applicant had only finalised one case i.e. PE in which there was no CD whereas he had claimed to have finalised/investigated 3 cases, although in RC 34(A)/96, the applicant did not submit any CD after CD No. 146 dated 1.9.98. The Reporting Officer had issued/got issued Commendation Certificate in favour of the applicant purportedly for doing good work in RC 34(A)/96-SHG which was unwarranted as no investigation was done by the applicant in the above case during the year 1999.

**4.24(3)** Again the reward sanctioned to the applicant was in violation of the H.O guidelines i.e. Standing Order No. 32 dated 27.12.96 as mentioned above which was done by the respondent No. 3 on the report/recommendation of the reporting officer.

**4.24(4)** Again the SP (the Reporting Officer) had himself issued charge sheet for minor penalty to the applicant vide No. DPSHL/1999/0021/A/20/157/93 dated 10.01.2000 for committing gross misconduct for having physically assaulted and abused the complainant Shri A.K. Baruah. Before issuing chargesheet to the applicant, the explanation of the applicant was also called for vide No. DP/SHL/1999/05805/A/20/157/ 93 dated 07.12.99 but the applicant while denying the charges vide letter dated 15.12.99 made false and malicious allegations against the respondent No. 4/5.

**4.24(5)** All the above facts and conduct of the applicant were within the knowledge of the Reporting Officer who ignored them for reasons best known to him. One of the reasons for this may be that the reporting officer (SP) was also responsible, along with the applicant, for causing delay in the investigation and had failed in his

duty to study the CD, and guide and supervise the applicant who did not submit any case diary in PE 2(A)/99 which the SP (reporting officer) had ignored. No chargesheet for minor penalty was served on the applicant in file No. SA/SHG/99/20, by the reporting officer ignoring the order of the DIG.

**4.24(6)** Thus, the Reporting Officer did not assess the work and conduct of the applicant properly and unduly protected him in order to avoid the backlash. Therefore, the allegation made by the applicant against the reviewing authority that he had failed to act objectively and acted in malafide exercise while writing the ACR is thoroughly motivated and malicious and without basis.

**Para 4.25** :-

**4.25(1)** The specific work mentioned by the applicant on account of which he claimed higher grading has already been discussed in previous paras which do not justify higher grading than actually given to the applicant.

**Para 4.26** :-

**4.26(1)** The reviewing and accepting authority are expected not to act mechanically. They cannot accept the assessment of the reporting officer without verification and without application of mind. On the contrary, the Reporting officer was found to have acted mechanically, without any application of mind and without verifying the facts mentioned by the applicant in his resume to the ACR had agreed with him mechanically and therefore the assessment of the applicant by the Reporting Officer was unsustainable.

**4.26(2)** Again during inspection of the Branch by the DIG, NER the applicant did not report to the DIG for personal interview though he was present in the office. This was an act of indiscipline

and insubordination. As per H.O.'s instructions issued regarding inspection, the Inspecting Officers are required to interview the Investigating Officers and other staff to check the quality of their work and their suitability for continued retention in the Specail Police Establishment or in that branch (Ref. Page 25 of CBI Circulars/Standing Orders).

**4.26(3)** During inspection, the applicant was found unsuitable for being retained in the CBI. He was found to have closed the investigation of RC 27(A)/96-SHG without conducting thorough and proper investigation which finally led to issuance of charge sheet against him. This exercise was required to be undertaken by the Inspecting Officer in terms of **CBI circular No. 21/2/76-PD dated 20.9.89** (enclosed as **Annexure - 10**) which says, inter alia:-

**"All cases resulting in suitable action or closure deserve thorough scrutiny by senior officers to ascertain causes of failure and whether it was on account of inadequate verification or due to improper and inefficient investigation" (Ref. Para 3)**

**"If during scrutiny lapses are noticed, the officer conducting the scrutiny will take appropriate action against the officer responsible for inefficient investigation and inadequate verification". (Ref. Para 5)**

**4.26(4)** The applicant was dilatory in habit and was delaying investigation of all Regular Cases including investigation of RC 34(A)/96-SHG. In RC 5(A)/98-SHG, he did not comply with the instructions of DIG and made unwarranted digressions in investigation without approval of the higher authority.

**4.26(5)** The applicant made false allegations of drawing double HRA by the SP and DIG which is perfectly admissible for the officers posted in N.E. Region from outside. He made many such false complaints/allegations against the respondents and assaulted and abused the complainant. In view of the above mentioned work

and misconduct of the applicant, the reviewing officer had graded the applicant as 'below average'. But the accepting authority i.e. the respondent No. 3 disagreed with the respondent No. 4/5 and graded the applicant as 'average'.

**Para 4.27** :-

**4.27(1)** The allegation made by the applicant that the reviewing authority acted maliciously and deliberately to systematically downgrade the applicant is totally denied on account of reason mentioned above and also due to the fact that the final grading was made by the accepting authority i.e. respondent No. 3. No valid reason has also been given by the applicant as to why the final grading given by the accepting authority should not be accepted upon.

**Para 4.28** :-

**4.28(1)** No injustice has been caused to the applicant in the matter of assessment in his ACR for the year 1999.

**Para 5** :- **Grounds for Relief**

**Para 5.1** :-

**5.1(1)** The reason for which the applicant was down graded by the reviewing authority/accepting authority have been explained elaborately in the preceding paras which can be summarized as under:-

(i) The quality of investigation of the applicant in RC 5(A)/98-SHG was very poor and the applicant was not complying with instructions of the higher officers as apparent from the **Annexure - 1**

(ii) The yardstick laid down for finalisation of cases by each I.O. in the CBI during a year is 3.5 cases (one PE is treated as 0.5 case). As against the above requirement, the applicant did finalise investigation of PE 2(A)/99-SHG only as equivalent to 0.5 case in which also he did not submit any case diary.

(iii) He did not submit any quality information and no R.C. was registered during 1999 on the basis of information submitted by the applicant.

(iv) He showed gross indiscipline and insubordination by not presenting himself before the DIG during inspection though he was present in the office.

(v) The conduct of the applicant was highly unbecoming of a CBI officer in as much as he physically assaulted and abused the complainant Shri A.K. Baruah on 30.11.99 in the CBI office and when asked to explain made false allegations against the Respondent No.4/5 and others.

(vi) He got issued a revolver with six cartridges in his favour on 27.10.98 with the approval of the SP purportedly for using the same in discharge of official duty on account of deteriorating law and order situation in the North East Region but actually used the same by threatening the complainant to shoot him on 17.11.98 and 19.11.98 and returned the revolver to the office on 30.11.98.

(vii) He was in the habit of making false, malicious and motivated allegations against the SP and the DIG.

(viii) He did not submit his weekly/monthly diary in spite of repeated reminders and had shown work/investigation to have done falsely without doing so.

(ix) He was in the habit of finalising cases without collecting clinching evidence as in RC 27(A)/96-SHG.

(x) He was dilatory and negligent and did not prepare the draft enclosures to SP's Report in RC 34(A)/96-SHG properly, resulting in avoidable delay. He delayed investigation of all Regular Cases which he had investigated without adequate justifications.

(xi) He left his residence and did not intimate office about his whereabouts in order to evade the service of his repatriation order with immediate effect.

**Para 5.2** :-

**5.2(1)** In view of what are stated in para 5.1 above, there is no ground to justify the claim of the applicant that the respondent No. 4/5 had not acted objectively and dispassionately in writing the ACR of the applicant for the year 1999.

**Para 5.3** :-

**5.3(1)** The allegation made by the applicant there was contravention of the instructions by the respondent No. 4/5 while reviewing the ACR of the applicant for the year 1999 is false and baseless and therefore denied.

**Para 5.4** :-

**5.4(1)** The reviewing authority had taken all the relevant facts into consideration before reviewing the performance of the applicant and did not act on extraneous considerations while down grading the applicant to average / below average in his ACR, as alleged by the applicant, without any basis.

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**Para 5.6** :-

**5.6(1)** The remarks in the ACR of the applicant are in consonance with the performance of the applicant and his work and conduct during the period under review and there has been no violation of any established principles/rules/guidelines in this regard.

In view of the above there is no merit in the application which is liable to be rejected in limine.

## VERIFICATION

I, Shri K.C. Kanungo, S/O Late Shri B.R. Pattanaik, aged about 58 years, resident of 52-F, Nivedita Kunj, R.K. Puram, New Delhi-110022, do hereby solemnly affirm and verify that the statements made in the paragraphs above are true to my knowledge and/or based on information derived from official records and my honest opinion of law etc. and I have not suppressed any material fact.

And I sign this verification on this the day of July, 2003.

17/7/03

(K.C. KANUNGO)
RESPONDENT NO. 5
for & on behalf of Respondent Nos. 1 to 5

Amx. 1

CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION ::: GUWAHATI.

Sub: Summary of Case Diary in RC. 5(A)/98-SHG.

Ref: Important instruction issued to I.O. and SP vide this office No.747-748/3/5(A)/98-SHG dt.22.3.2000.

Accused: Shri K.R.Ganesh, CGM Telecom,Task Force.

I.O.: Shri S.P.Singh Yadav,Inspector,CBI,ACB, Guwahati.

REF: CD No.1 dt. 17.2.98.

No plan of investigation submitted by the I.O.

REF: CD No.3 dt. 27.2.98.

164 Cr.P.C. statement of Shri Abid Hussain has been recorded in Assamese languagewhich should be got translated into English and a copy sent to R.O. for perusal.

REF: CD No.5 dt. 30.3.98.

I.O. proposes to conduct investigation to find out actual source of money in the light of the petition filed by Shri N.T.Khrime. This should be done immediately.

REF: CD No.7 dt.1.4.98.

But neither list of documents seized by the I.O. is mentioned in the CD nor a copy of seizure Memo enclosed. This should be done.

REF: CD No.11 dt.13.4.98.

Though I.O. has stated that detailed statement of Shri K.Ganesh(accused) is enclosed with the CD but no such statement is found enclosed with the CD.

REF: CD No.12 dt.16.4.98.

(i) I.O. should find out since when the bills of Shri Abid Hussain is pending and the reasons thereof and the amount of the bills etc.

(ii) Statement of Abid Hussain @ Mintu shows that his statement U/s.164 Cr.P.C. which was recorded by Judicial Magistrate on 18.9.97 was under duress but I.O.has not got clarified from him what type of duress he was subjected to and by whom.

(iii) From the statement of Shri Giashuddin Ahmed it is found that he admitted to have signed one letter addressed to CGM Task Force and he confirmed that the contents of the letter was written by Mahatab Ali of Ambari in front of A.A.P. Office.

(iv) He is maintaining Bank Account with Central Bank of India,Panbazar Branch vide A/C. No.2243.

(v) The letter referred to above which was signed by Giashuddin Ahmed should be shown to the undersigned, the details of which are not clear.

Contd..02.

Office of the Supdt. of Police
No. 0629
Dt. 27/3
C.B.I, A.C.B, Guwahati

(vi) I.O. should also find out whether Giashuddin Ahmed had drawn any amount from Central Bank of India, Panbazar Branch and whether any bundle of currency note of the said bank was seized which was withdrawn from the said Bank.

REF: CD No.15 dt.23.4.98:

From the statement of Shri Harish Ch.Jha it is found that Shri Das one Casual employee had carried the big Rexin bag/Suit case containing the seized cash. Said Shri Das should be identified and examined in detail including the Driver Shri Jha once again to find out the persons/ Contractor / Parties who used to visit the accused in this regard.

REF:CD No.20 dt. 1.5.98:

(i) I.O. should find out details of works given to Assam Concrete Pipe Industries to Bongaigaon Concrete Industries and to Pragjyotishpur Construction Pvt. Ltd., by Shri K.R.Ganesh and details of work which were pending at the relevant time for execution.

(ii) He should find out Bank account of Shri M.K.Agarwal and their firms including sister concerns and obtain certified copy of these Bank Accounts and make efforts to link with withdrawal of money by all these ~~firms~~ firms or by Shri M.K.Agarwal with the seized cash.

(iii) Statement of Shri M.K.Agarwal is also not been found enclosed with the CD.

REF: CD No.38 Dt.17.8.98:

Present position of the Crl.Rev.,petition filed by Shri N.T.Khrime in the Guwahati High Court may be intimated immediately.

REF: CD No.40 dt.24.8.98:

I.O. visited Court of Spl. Judge and submitted petition for obtaining (i) Certified copy of Original petition of N.T.Khrime, (ii) Estimate dt. 7.6.97 of Shri S.Visheswar and (iii) Money receipt dt. 4.9.97 tendered by Shri K.R.Ganesh to Shri N.T.Khrime receiving Rs. 29 lakhs from him. Has I.O. obtained these documents from the Court ? If so, what actions have been taken thereon.

REF: CD No.43 dt. 2.9.98.

I.O. should seize the above D.O. dt. 4.9.97 to find out circumstances under which this letter was issued (ii) Find out it from bank account of Pradip Nath and his firm's withdrawal of money on or before 6.9.97 were made and if bundle of currency containing Bank Slip could be

Contd..03.

linked with the A/C. of Pradip Nath Or the firm.

REF: CD NO.48 dt.5.10.98.

I.O. came to know from source that bribe money was given to Shri K.Ganesh by Calcutta based firm in the morning of 6.9.97 who had travelled with him to the Airport. Accordingly I.O. has requisitioned the certified copy of the list of Passengers who travelled by IC-230 on 6.9.97.

REF:CD NO.52 dt. 15.10.98.

I.O. examined Md. Quasim, Managing Director, Agarwal Pip..es Pvt. Ltd., Calcutta. M/s.Agarwal Pipes Ltd. were given supply order for supplying 100 Km HDPE pipes on 4.9.97 i.e. just 2 days prior to the incident, I.O. has found out that 2 Registered letters covers, addressed to (i) Mrs. Feroz Jahan W/O. Md. Quasim and (ii) Md.Nizamul Haque brother-in-law of Md. Qasim were sent at his address i.e. 12/1A, Pemunite Street,Calcutta but these envelopes were seized from the possession of the accused contained currency bundles. It is one of the incriminating piece of evidence which Md.Quasim has failed to explain. These registered envelopes which purportedly contained Annual Report of 1996-97 were sent to the addresses from the following places.

(i) B.S.L.Ltd., 26,Industrial Area, Post Box No.17, Gandhinagar,Bhilwara-311 001 and

(ii) Raymond L:td., Near Industrial House, Murarjee Marg, Balard Estate, Bombay -400 001.

(iii) I.O. should find out when these Registered Book Posts were sent and received, addresses should be examined i.e. (1) Mrs. Feroz Jahan W/O. Md. Quasim and (2) Md. Nizamul Haque to find out how these reached accused K.Ganesh.

(iv) Md.Quasim says that they are maintaining the Bank Account with ANZ Bank, 69,Ganesh Chandra Avenue, Calcutta vide A/C.No.69. I.O. should report if any bundles of currency note of this bank was seized and try to link this with any of the Account of Md.Quasim or their Company/ firm.

(v) It should be found out if bundlesof currency notes of 100x500 and 5x100x100, drawn from ANZ Grindlays on or after 2.9.97 from any of their accounts whose certified copy should be obtained.

Contd...04.

REF: CD NO.54 DT.22.10.98.

(i) I.O. should sent a copy of this list to the R.O. immediately.

(ii) Was there any Passenger of any of those firm favoured , who travelled to Calcutta from Guwahati on 6.9.97 by IC-230 ? Did the name of Md.Quasim figure in the List ?

(iii) I.O. should find out who purchased the Air Ticket for the accused i.e. Air Ticket No.0582/6187532.

(iv) The result of scrutiny of the T.A.Bills of accused K.Ganesh should be reported immediately.

REF: CD No.55 DT. 27.10.98.

I.O. has reported that out of the seized Cash of Rs. 29,32,200/- only Bank slips are found in respect of Rs. 13,70,000/- relating to 47 Banks of entire North East,Calcutta and Bombay.

REF: CD No.64 dt. 25.12.98.

This file should be scrutinised and scrutiny reported if not done.

REF: CD No.76 dt.17.2.99.

(i) I.O. should report the result of scrutiny of documents collected from Bongaigaon Concrete Industries and

(ii) The net pay drawn by the accused during his posting period.

REF: CD No.78 Dt. 19.2.99.

I.O. proposes to take investigation to find out if Shri Ganesh used to carry currency notes bundles every month to his home town in similar fashion.

REF: CD No.103 dt. 24.5.99.

I.O.seized documents from Ramniwas Sharma, Prop. M/s.Steel Co Carriers, 23/A, Netaji Subash Road, Calcutta i.e. 2 consignment Note Book . He also seized 22 Challans from Monohar Lal Tibrewal, Partner of M/s. Barabazar Transport Co., 3A, D.N.Tagore Street, Calcutta-16.

I.O. should explain why these documents have been seized. What is the relevancy of these documents ? What the I.O.proposes to do with these documents.

REF: CD No.108 Dt. 25.6.99.

What is the relevancy of the statement of these witnesses in the present case ?

REF: CD No.110 Dt. 29.7.99.

I.O. should explain what is the relevancy with the statement of S.K.Roy Choudhury in this case.

Contd...05.

(34)

REF: CD No.118 dt. 1.9.99.

On 17.8.99 I.O. had issued 46 letters to different Banks, out of which 37 Banks had sent their representatives to identify the respective currency bundles containing Bank Slips and have been examined. It is therefore clear that the following Banks did not send their representative.

Page-188 Bank of Barodm Dharmatala Branch,Calcutta.
Page-189 State Bank of Hyderabad,Barabazar, Calcutta.
Page-195 Greater Bombay Co-Op.Bank Ltd.,Andheri West, Bombay -55.
Page-196 Bank of India,Barabazar Branch,Shillong.
Page-199 Punjab National Bank, Tezpur.
Page-203 State Bank of India, Kohima.
Page-206 Allahabad Bank, Guwahati.
Page-209 SBI West Guwahati Branch.
Page-216 Canara Bank, Guwahati.
Page-222 Canara Bank, Dispur Branch.
Page-224 Guwahati Co-Op.Urban Bank Ltd.,Chetribari, Guwahati.
Page-225 Co-Op.City Bank Ltd., Silpukhuri Branch,Guwahati.

REF: CD No.119 Dt. 2.9.99.

I.O. examined Shri Pradip Kumar Nath S/O. Upendra Nath Nath, Contractor, A.T.Road, Nagaon. His statement is enclosed with the CD. In his case, Shri K.Ganesh approved rate of 500% enhancement in each item over the Schedule rate of CSR-87. After completing the work the firm submitted 2 bills dt. 27.3.98 for Rs.7,49,560/- and Rs.12,05,340/-.

I.O. should find out why these bills are pending. It is very much likely that Shri Pradip Kumar Nath might have paid the bribe to the accused for clearing these pending bills. But there is no mention of the Bank account No. etc. in the statement of Shri Pradip Kumar Nath. I.O. should explain why ?

The Bank account of Shri Pradip Kumar Nath, Civil Contractor should be found out and certified copy of the account obtained to verify if corresponding withdrawls from the Bank was made and whether any currency notes of that Bank were found in possession of the accused on 6.9.97.

Contd...6.

REF: CD No.122 dt.22.9.99.

But the I.O. has not disclosed name of the 2 persons and their Account Nos. to whom this currency bundle of Rs.50,000/- could have been paid on 26.5.97. I.O. should clarify whether any of these persons is having any dealing with the accused.

REF: CD No.124 dt.29.10.99.

Has any action been taken in this regard by I.O. I find that he be merely been writing these in CDs without any concrete action being taken in this regard, which shows lack of his sincerity.

REF: CD No.127 dt. 25.11.99.

I.O. should immediately verify if the said certificate purportedly given by CGMT Shri K.Padmanava was genuine or forged.

REF: CD No.128 dt.30.11.99.

I.O. should explain why he had made so much delay in sending these documents to GEQD. Whereas he took specimen writing and signature of K.Ganesh on 4.2.99 vide CD No.70 dated 4.2.99 i.e. after about 9 months. He should also explain why disciplinary action should not be taken against him for such abnormal and unjustifiable delay. His explanation should reach within 5 days.

REF: CD No.131 dt.9.12.99.

(i) Has it been found out if the said currency bundle was issued by Andhra Bank to Assam Agro Tech which is not clear.

(ii) I.O. should examine the persons who are operating A/C. No.CA-393 of M/s. Assam Agro Tech and find out what for this amount was utilised.

(iii) What are the bill amounts of M/s. Assam Agro Tech pending in the office of the CGM Task Force at the relevant time, should be found out.

REF: CD No.133 dt.13.12.99.

I.O. has shown he has visited (1) UBI A.T.Road, (2) Central Bank of India, Fancy Bazar (3) Industrial Co-Op.Bank (4) Central Bank of India, Pan Market and meeting with the Manageres.

He further examined Shri Ramesh Chandra Sharma, in continuation of his statement dt. 30.8.99, who proved that 2 Packets of 2x100x500 = Rs.1,00,000/- bearing dated 2.9.97, note slips of UBI A.T.Road was actually issued by Bank in exchange on 4.9.97. I.O. also found that neither Shri N.T.Khrime nor K.Ganesh are maintaining any Bank account with this bank i.e. UBI, A.T.Road.

I.O. should find out who are the parties if any maintaining A/C. with UBI A.T.Road, Branch.

REF: CD No.139 Dt. 7.1.2000.

It is seen that I.O. is not taking proper interest in the case and seem to be making all ourt efforts to sabotage the investigation.

REF: CD No.140 dt. 9.1.2000.

I.O. should find out whether Kalpajyoti Neog is still alive and residing at the given address intimated by Shri Deka. he should examine him and confirm the version of Shri Deka, to explain how the bundle reached K.Ganesh.

I.O. has also not put any question to Shri Deka why he had given this money to Shri Neog and when and what relation he was having with said Shri Neog, why he had link with ULFA leader. it seems I.O. is not interested in bringing out the actual truth.

24.03.

(K.C.Kanungo)
Dy.Inspector General of Police,
CBI, N.E.Region,
Guwahati.

To Supdt. of Police,CBI,ACB, Guwahati.

No. 812 /3/5(A)/98-SHG Dated 25 March,2000.

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actions are directed into proper channel and time and effort are not wasted. If action is taken on the lines mentioned above, I feel sure the S.P.E. Branches will be able to deal with a large number of cases in shorter time.

Sd./- (D.P. KOHLI)

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*18. IGP's Circular Letter No. 71, dt. 20-2-60*

SUBJECT : **Analysis of work done by S.P.E.**

An analysis of the work done last year has brought up a number of points which require attention.

2. Collection of information about corruption is one of the important functions of the S.P.E. This requires positive effort and planning. In this connection, please refer to my Circular Letters No. 20, dated 1st June, 1956, No. 35, dated 4th May, 1957, No. 56, dated 14th July, 1958, No. 64, dated 28th January, 1959, No. 66, dated 30th April, 1959 and No. 68, dated 17th December, 1959. It might be emphasised that it is the quality of information that matters and not mere numbers. It is no use wasting time over rumours and gossips. More attention needs to be paid to collection of information about cases of actual bribery or illegal gratification.

3. It has been noticed that the time taken in checking up the information received is sometimes too long. This is not correct or proper. Such checking of information should not be allowed to become a Pre-Preliminary Enquiry.

4. The considerations which should guide registration of Preliminary Enquiries and Regular Cases and the conversion of PEs into RCs do not appear to have been fully grasped in some Branches. This is a matter of great importance and it would be worthwhile studying once again the instructions issued on this subject in my Circular Letters No. 28, dated 18th September, 1956, No. 57, dated 14th July, 1958 and No. 60, dated 29th September, 1958. Much time and labour will be saved if a decision is taken as early as possible whether a case is to be finalised as a P.E. or as R.C.

5. Delay is still noticed in some Branches in completing enquiries and investigations. In my Circular Letters No. 1, dated 5th August, 1955, No. 2, dated 27th August, 1955, No. 23, dated 19th June, 1956, No. 43, dated 10th October, 1957, No. 61, dated 17th October, 1958, No. 62, dated 24th November, 1958 and No. 63, dated 23rd December, 1958. I have been drawing your attention to this and emphasising the need for early finalisation of S.P.E. cases. It has been found that cases are dealt with promptly in those Branches where supervision, direction and control are thorough and effective. For the great majority of our cases the time-limits allotted are quite sufficient and, with will and determination, it should be possible to finalise almost all the cases in time.

6. In several instances, it has been found that Investigating Officers have made prolonged halts for conducting enquiries and investigation. This tendency has to be curbed. The quantum of work done in every tour by your officers should be reviewed by you and their journeys and halts controlled adequately.

7. From inspections made by DIsG they have gathered the impression that some Supervising Officers (SsP & Dy. SP) do not read or scrutinise Case Diaries. I am surprised to know this. For proper supervision and control of investigations it is necessary for Supervising Officers to go through the Case Diaries and to make proper notes in Crime Digests about the progress of investigations and about the instructions issued by them. Experience has shown that the closer the supervision the quicker and better the investigation. In important cases, it would be useful for Supervising Officers to go out to the places concerned for local verification and supervision of enquiries and investigations. About such spot checks notes should be prepared and sent to Head Office as laid down in my Circular Order No. 31, dated 14th November, 1956.

8. SP's Reports are not well prepared in some Branches. As these are the only reports that go to the authorities concerned outside the S.P.E., it is important that they are prepared with care and attention. They should set out the case clearly, give the evidence available in sufficient detail and bring out the reasons for the proposed action convincingly. In this connection, please see my Circular Orders No. 21, dated 5th June, 1956 and No. 38, dated 10th September, 1957.

9. It is necessary for you to watch the progress of cases in courts and departmental proceedings also. Whenever a case fails you should look carefully into the reasons and take further necessary action vide my Circular Orders No. 17, dated 23rd May, 1956 and No. 40, dated 4th October, 1957.

10. It has also been noticed that in some Branches inspections by SsP have not been thorough or at proper intervals. Please refer to my Circular Orders No. 15, dated 23rd May, 1956 and No. 41, dated 5th October, 1957 in this connection and ensure timely and detailed inspections.

11. Those of you who are new to the S.P.E. will do well in studying the circular orders and instructions which have been issued from time to time. Needless to remind you, in the S.P.E., supervision and control of crime are the main tasks and they must receive your full and constant attention.

Sd/- (D.P. KOHLI)

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***19. IGP's Circular No. 75, dt. 1-9-61***

SUBJECT : **Trap cases.**

A recent analysis of trap cases shows that the success achieved has not been good enough. There has also been delay in completing the investigation in several cases. In this connection, your attention is drawn to the instructions issued in my Circular No. 44, dated 19-10-57. Some of the points mentioned therein need to be re-emphasised.

2. Traps should be organised and laid with proper thought and care. The story given by the complainant should be fully sifted and evaluated before planning a trap. As far as possible the place where the trap is to be laid should be carefully selected. An open public thoroughfare is obviously not a suitable place for this purpose. Witnesses for the trap should be independent and reliable and they must not be arranged for through the complainant. They should be so deployed as to be able to see the transaction and to overhear the conversation between the decoy and the accused person at the time the bribe is paid. In effecting the recovery of the amount paid as bribe defects should be avoided and the legal formalities should be fully complied with.

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CENTRAL BUREAU OF INVESTIGATION,
N.E.REGION, GUWAHATI.

Sub: Repatriation of Shri S.P.Singh Yadav, Inspector CBI,ACB, Guwahati.

Ref: H.O. No. DPADI 1999/00888/A-20014/1503/93 dt. dated 18.2.99.

Repatriation of Shri S.P.Singh Yadav, Inspector, CBI,ACB, Guwahati Branch, at the moment is not recommended.

16.9.99

( K.C.Kanungo)
Dy.Inspector General of Police,
C.B.I., N.E.Region,
Guwahati.

Dr. Tarsun Chand, Administrative Officer(E),CBI,New Delhi.

No. 1444/143/99-NER Dated 16th Sept'1999.

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mk:

Dy. No 2233
Date 01/10/99
O/O. DIG CBI. Guwahati

KIND ATTN: K.C. KOUNGA, DIG.

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PA
to
30/9/99

FAX MESSAGE

TO :- DIG CBI N.E. REGION/GUWAHATI

INFO :- SP CBI/GUWAHATI

FROM :- DEPUTY DIRECTOR (Admn.)/CBI NEW DELHI

NO. DPAD1999/03447 A. 20014/1609/93 DATED :- 30.9.99

PP-II/C

REFER YOUR ID NO. 1444-142 99-NFR DATED 16.9.99 (). YOUR RECOMMENDATION TO ALLOW SH. SURESH PAL SINGH YADAV INSPR./ CBI/ACB/ GUWAHATI TO CONTINUE IN CBI IS NOT ACCEPTED SINCE DOPT HAS ALREADY TAKEN A DECISION TO REPATRIATE HIM (HE MAY BE RELIEVED ON REPATRIATION BY 30.9.99 (AN) POSITIVELY WITHOUT FAIL AND COMPLIANCE BE REPORTED TO HEAD OFFICE BY RETURN FAX ()

copy for DIG

30/9/99
(VIVEK DUBE)
DEPUTY DIRECTOR (Admn.)
CBI/NEW DELHI

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To

The Dy. Inspector General of Police,
CBI, NER, Guwahati.

Sub : Complaint against Shri S.P.Singh Yadav, Inspector, CBI, ACB, Guwahati Branch.

Sir,

I have the honour to state that as ordered, I have examined Shri A.K.Baruah, Managing Director, M/s Purbanchal Housing Developers and Consultancy Services Pvt. Ltd, Guwahati, Complainant of the above mentioned complaint.

During examination it reveals that Smti Jonali Baruah wife of Inspector S.P.Singh Yadav had purchased a ground floor flat from the complainant at Dorothi Apartment, Tarun Nagar, Guwahati. In the month of Nov'98 the complainant started making some construction in the grourd floor of the apartment, to which Shri Yadav and his wife raised objection to the said construction works, as according to them the said constructions were in violation to the terms and conditions of sale. They obtained an ex-parte injunction from the court for stopping the said construction works, but the complainant obtained a stay order from the court against the said order and started the incomplete construction works. On 17.11.98, while the work was in progress, Shri S.P.Singh Yadav alongwith his wife and brother in law tried to stop the works and as a result some hot altercation of words took place and Shri Yadav and his family members damaged the construction works and assaulted the complainant and his labourers, as stated by the complainant. Thereafter, Shri Baruah lodged a FIR at Dispur P.S. vide case No. 1751/98 u/s. 447/506/34 IPC, which is still under investigation

Further, the complainant stated that Inspector S.P.Singh Yadav with a view to harrassing him had lodged several complaints with the Municipal and Income Tax authority, but he could not say the real reason behind such harrassments.

In my view, it appears that the complainant, being the promoter building of the said Apartment had some grudges against Inspector S.P.Singh Yadav, which resulted to the above mentioned incident.

Submitted.

Yours faithfully,

22/11/98

(K.C. CHOUDHURY)
DY. SUPDT. OF POLICE (R)
CBI NER GUWAHATI.

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(25) (42)

## STATEMENT OF SHRI GANGARAM DAS ,CONSTABLE,.CBI,RO,GUWAHATI

I am as above,To-day @ 11.45 AM, while I was sanding in the Office Verandah, I saw Dy. SP(R) alongwith one person, later on, I came to know his name as Shri Arun Baruah came out from DIG's chamber after discussing something.While they came out, Inspector S.P. Singh Yadav of Guwahati Branch, who came to Regional Office for some official works and was sittifng in Dy. S.P.(R)'s room, suddenly came out and chaarged Shri Baruah with foul language for coming to Regional Office and caught hold of his collar and tried to assault him by Dy.S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting, the DIG also came out from his chamber and warned Shri Yadav to behave properly.and asked Shri Baruah to go from the Office.

Recorded by me

30/11/88

**(K.C. Choudhury)**
DY.SUPDT. OF POLICE (R)
CBI NER GUWAHATI

189

(26) (43)

## STATEMENT OF SHRI Mukut Baruah,CONSTABLE,.CBI,RO,GUWAHATI

I am as above,To-day @ 11.45 AM, while I was sanding in the Office Verandah, I saw Dy. SP(R) alongwith one person, later on, I came to know his name as Shri Arun Baruah came out from DIG's chamber after discussing something.While they came out, Inspector S.P. Singh Yadav of Guwahati Branch, who came to Regional Office for some official works and was sittifng in Dy. S.P.(R)'s room, suddenly came out and chaarged Shri Baruah with foul language for coming to Regional Office and caught hold of his collar and tried to assault him by Dy.S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting, the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from the Office.

Recorded by me

30/11/88

(K. C. Choudhury)

DY.SUPDT. OF POLICE (R)

CBI NER GUWAHATI

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(44)

## STATEMENT OF SHRI BHUPEN DAS,CONSTABLE,(P.S.O.CBI,RO,GUWAHATI

I am as above,To-day @ 11.45 AM, while I was standing in the Office Verandah, I saw Dy. SP(R) alongwith one person, later on, I came to know his name as Shri Arun Baruah came out from DIG's chamber after discussing something.While they came out, Inspector S.P. Singh Yadav of Guwahati Branch, who came to Regional Office for some official works and was sitting in Dy. S.P.(R)'s room, suddenly came out and chaarged Shri Baruah with foul language for coming to Regional Office and caught hold of his collar and tried to assault him by Dy.S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting, the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from the Office.

Recorded by me

30/11/18

(K.C. Choudhury)
DY.SUPDT. OF POLICE (R)
CBI NER GUWAHATI

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# STATEMENT OF SHRI MUKUT DEKA, CONSTABLE,CBI,R.O.,GUWAHATI

I am as above. To-day @ 11.15 AM, one person identifying himself as Shri Arun Baruah came to Regional Office and wanted to meet Dy. S.P. (R), as he was called by him.Then I took him to Dy. S.P's room .At about 11.30 AM, Dy. S.P. took the said man to DIG's chamber and at that time I was standing in the Verandah in front of DIG's Chamber.At about 11.35 AM, Inspector S.P. Singh Yadav came to Regional Office for some official works. At about 11.45 AM, I saw the said Shri Baruah alongwith Dy. S.P. (R) came out from DIG's chamber and in the meantime, I saw Inspector S.P. Singh Yadav, who was sitting in Dy. S.P(R)'s room, came out and shouted at Shri Baruah for coming to Regional Office and caught hold of his collar and tried to assault him but Dy. S.P.(R) and I alongwith other staffs managed to prevent him from assaulting Shri Baruah.Hearing the shouting the DIG also came out from his chamber and warned Shri Yadav to behave properly and asked Shri Baruah to go from office.

Recorded by me

30/11/88

DY.SUPDT. OF POLICE (R)
CBI..RO GUWAHATI

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Besides attending to the above work, all the above three officers will be responsible for vetting of all court matters concerning their Zones/Regions/Branches.

Administration Division, Special Units, Legal Division, CFSL and Training Academy will function directly under the supervision of Director, CBI. Files related to CFSL, Legal Division and Training Academy will be put up to Director, CBI through Dy. Director (Admn.)/Joint Director (Admn.).

All officers of the rank of SP and above can tour within the jurisdiction of Special Director/ Addl. Director with the permission of Special Director/Addl. Director. But for tours beyond the jurisdiction of Special Directors or Addl. Directors they will need prior permission of the Director. No non-entitled officer will be permitted to travel by air unless there is extreme emergency and which cannot be anticipated. In this case, Special Directors and Addl. Directors may permit them to travel by air and then obtain *ex-post-facto* sanction from DCBI. No Jt. Director or other officers are permitted to allow anybody's journey by air.

It is also made clear that all Central Branches are the responsibility of the Addl. Directors/ Special Directors within the respective area. But for the sake of uniformity all the cases of Central Branches will be referred to DCBI for his approval/confirmation with the recommendations of Spl. Director/Addl. Director by the respective JDs.

Sd/- (JOGINDER SINGH)
*Director, CBI*

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***60. DCBI Standing Order No. 30, dt. 12-12-96***

It has been brought to my notice that some Suprintendents of Police in the Branches are conducting direct recruitments to the posts of Constables. This practice should be stopped forthwith and recruitment should be done only centrally. Please indicate the total number of vacancies that are lying in your Branches. No appointments should be made to this cadre unless Hqrs approval is obtained.

Sd/- (JOGINDER SINGH)
*Director, CBI*

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***61. DCBI Standing Order No. 32, dt. 27-12-96***

SUBJECT : **Sanction of Rewards and Honorarium.**

The rewards and honorarium are given to the CBI Officers and the Ministerial staff as a recognition of extraordinary efforts made by them and for acts of conspicuous initiative to accomplish special tasks assigned to them. These incentives are also intended to motivate the officers and staff to put in their best and achieve excellence and perfection in their task. Therefore, the rewards and honorarium cannot be given for performing routine work and also cannot be claimed as a matter of right. The grant of rewards/honorarium has been regulated by H.O. orders issued from time to time in tune with the provisions of FR-48, FR-46(b), SR-9, FR-11.

2. Vide H.O. Letter No. 29/3/1970-Ad. III, dated 21-5-86, a comprehensive and consolidated Brochure containing up-to-date instruction for sanction of rewards has been issued to all the Branches/Regions. Following circulars were also issued by H.O. after the issue of this consolidated Brochure to make certain changes in the instructions :—

| Sl. No. | Circular No. & Date | Subject |
|---|---|---|
| 1. | No. 29/4/81-Ad. III, dated 3-2-87 | Enhancement of powers with regard to grant of rewards—Control of Budget. |
| 2. | No. 8/2/84-Ad. IV, dated 18-3-87 | Re-delegation of powers in the field of honorarium. |
| 3. | No. 29/4/86-Ad. III, dated 23-6-87 | Enhancement of powers to grant rewards—Clarification. |
| 4. | No. 46/2/89-PD, dated 25-1-89 | Guidelines for grant of rewards to informants and Government servants in respect of disproportionate assets cases. |
| 5. | No. 29/4/81-Ad. III, dated 1-8-90 | Enhancement of powers with regard to grant of rewards—Control of Budget. |
| 6. | No. 8/1/90-Ad. IV, dated 21-9-90 | Re-delegation of powers in the field of honorarium. |
| 7. | No. 29/2/90-Ad. III, dated 1-11-90 | Grant of rewards for accident-free driving to CBI Constables (Drivers). |
| 8. | No. 29/4/81-Ad. III, dated 27-11-90 | Sanction of rewards/honorarium. |
| 9. | No. 8/1/90-Ad. IV, dated 21-9-90 | Re-delegation of powers in the field of honorarium. |
| 10. | No. 29/2/90-Ad. III, dated 4-12-90 | Grant of rewards for accident-free driving to CBI Constables (Drivers). |
| 11. | No. 8/1/90-Ad. IV, dated 20-12-90 | Re-delegation of powers in the field of honorarium. |
| 12. | No. 8/1/90-Ad. IV, dated 1-1-91 | Regarding partial modification of H.O. Order No. 11023/90(U.O. No. 8/1/90-Ad. IV, dated 21-9-90). |

3. In supersession of all the orders quoted above, following instructions are issued for issue of rewards, commendations and honorarium :—

(a) Cases generally fit for sanction of reward

(i) Where the officer has shown more than ordinary initiative to accomplish result which is instrumental to or very helpful for the detection of an offence/collection of very important clue to work out the case.

(ii) Notable efforts of the officer/officers resulting in a breakthrough in a very difficult and blind case.

(iii) Detection of the case in a very short span of time owing to painstaking efforts made by the officer or team of officers.

(iv) Conviction of accused charge-sheeted without any adverse comments by the court against the investigation by CBI.

(v) Arrest of absconding accused vital to the trial of the case filed by the CBI in the court etc.

(vi) Successful traps of quality soon after the event.

(vii) Disposal of long pending trial cases, tracing of absconding accused etc. apart from other cases mentioned above.

(b) **Cases generally not fit for reward**

(i) Routine work by an officer in the investigation of the case in the field or in the office.

(ii) Ordinary performance vis-a-vis investigation of cases.

(iii) Cases where such action has been recommended against the accused persons in anti-corruption cases.

(iv) Cases where investigation has led to closure for want of any breakthrough in the investigation.

(v) Cases where conviction has been accompanied by adverse stricture against CBI investigation etc.

(c) **Guiding instructions for sanction of reward**

(i) Recommendation for rewards to the officers be submitted within one week from the date of completion of the task for the timely and prompt recognition of the commendable work done by the individual concerned.

(ii) Rewards and commendation certificates should normally not be granted to the officers of the rank of SP and above as a matter of principle. However, appreciation letter may be issued to SsP/DLAs in appropriate cases by Director, CBI as Head of the Department. Therefore, cases deserving conspicuous recognition of the efforts made by the officers of the rank of SP and above can be submitted to Director. CBI.

(iii) DIsG/SsP are not competent to sanction rewards to Gazetted Executive, prosecuting and officers of other Departments. These will be sanctioned by Director/Special Director/Addl. Director.

(iv) Rewards should not be sanctioned by officer to the staff/officer working/posted under the administrative control of another officer. However, recommendation may be sent to their Controlling Officer under whose jurisdiction they are posted.

(v) No commendation certificate/letter of appreciation will find place in Service Book/ ACR of Gazetted Officer except it has been permitted by Director, CBI. However, for Non-Gazetted Officers entries for CC, appreciation letters, cash rewards should be made in Service Book which will be subject to rigid annual verification and certification.

(vi) Appreciation letters issued by other Departments to the Officers of CBI generally are not to be placed in the Personal File/Service Book except when it is so approved by Director, CBI.

(vii) Commendation certificate to Govt. servants other than that of CBI will be approved by Director/Special Director/Addl. Director, CBI.

(viii) The decision to issue commendation certificate/letter of thanks to private persons will be considered in Head Office by Director, CBI only in cases involving Gazetted Officers after conviction of the case.

(ix) Cash rewards to the outsiders will be sanctioned from SS Fund only and not from regular allowances and Honorarium Head. This reward is to be sanctioned by CBI Officers as per limit laid down for the sanction of rewards in respect of CBI Officers.

(x) Ministerial staff will not be sanctioned cash rewards.

The above guidelines for grant of rewards are only illustrative and not exhaustive. The sanctioning authorities should consider each case on merits.

4. Powers of CBI Officers to sanction rewards

| | | |
|---|---|---|
| SP/AD/AIG | Rs. 1000/-* | Maximum amount of reward that can be given to an employee on a single occasion. |
| DIG/DD | Rs. 3000/-* | |
| Joint Director | Rs. 5000/-* | |
| Spl./Addl. Director | Rs. 6000/-* | |

*However, in the event of giving reward to the same employee beyond these limits on second and subsequent occasion, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

5. Normal ceiling for sanction of cash rewards

The ceiling within which rewards should normally be given to individual employees in different ranks are suggested as below :—

| Designation of the Officer | Maximum amount of reward to be given to an employee on a single occasion |
|---|---|
| Deputy Supdt. of Police | Rs. 1000/- |
| Inspector | Rs. 750/- |
| Sub-Inspector | Rs. 650/- |
| Asstt. Sub-Inspector | Rs. 600/- |
| Head Constable | Rs. 500/- |
| Constable | Rs. 400/- |

One reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any. However, in overall one individual officer should not be getting reward exceeding Rs. 5000/- per year per case unless it is approved by the Director/Special Director/Addl. Director, CBI. Any exception to it will have to be clearly justified by cogent and adequate grounds in support thereof. This will require approval of Division Head, viz. Director/ Special Director/Addl. Director, as the case may be.

**Reward for accident-free driving**

In supersession of Order No. 29/2/90-Ad. III, dated 1-11-90, the following rewards will be admissible to the drivers for the accident-free driving :—

(a) *Hilly Areas*

For every 10,000 kms. accident-free driving (Silchar, Shillong, Shimla, Imphal, Itanagar, Agartala, Aizwal, Dehradun etc.) Rs. 700/-

(b) *Plain Areas*

For every 15,000 kms. accident-free driving Rs. 1,200/-

**Accounting & budget control of reward**

(a) SsP will restrict the rewards to average of last three years in this account.

(b) Amount of rewards exceeding three years average will be sent to H.O. for sanction with full justification thereof.

(c) Quarterly Returns will be sent to H.O. to limit the expenditure under this head to proportionate limits.

(c) Reward is to be shown separately in Budget estimates.

**Honorarium**

Honorarium is sanctioned to Ministerial staff of CBI as provision of FR-46(b) r/w Decision No. 13 of Govt. of India on the subject and SR-9. Honorarium is a recurring or non-recurring payment granted to the Govt. servant as remuneration for special work of an occasional and intermittent character. The following guidelines are to be kept in view by the Administrative authority in deciding each case for sanction of honorarium to the staff :—

(i) No honorarium is admissible for temporary increases in work, which are normal incidents of Government work and form part of the legitimate duties of Government servants according to general principle, enunciated in FR-11.

(ii) Honorarium should not be granted to officers engaged in work which forms part of their normal duties, even if they work after the office hours, vide Order (4) above.

(iii) No honorarium should be given when a Government servant performs duties on another sanctioned post in addition to the normal duties attached to his own post, vide Order (6) above.

(iv) No honorarium should be granted in cases where overtime allowance has been paid to the staff in connection with the same work.

**Limit for sanction of honorarium by CBI Officers**

| | | |
|---|---|---|
| SP/AD/AO/AIG | Rs. 400/-* | Maximum amount of honorarium that can be given to an employee on a single occasion |
| DIG/DD | Rs. 500/-* | |
| Joint Director | Rs. 1000/-* | |
| Spl./Addl. Director | Rs. 1500/-* | |
| Director, CBI | Rs. 2500/- | |

*However, in the event of giving honorarium to the same employee beyond these limits on second and subsequent occasion, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

**Reward for accident-free driving**

In supersession of Order No. 29/2/90-Ad. III, dated 1-11-90, the following rewards will be sible to the drivers for the accident-free driving :—

(a) *Hilly Areas*

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(b) *Plain Areas*

For every 15,000 kms. accident-free driving — Rs. 1,200/-

**Accounting & budget control of reward**

(a) SsP will restrict the rewards to average of last three years in this account.

(b) Amount of rewards exceeding three years average will be sent to H.O. for sanction with full justification thereof.

(c) Quarterly Returns will be sent to H.O. to limit the expenditure under this head to proportionate limits.

(c) Reward is to be shown separately in Budget estimates.

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Honorarium is sanctioned to Ministerial staff of CBI as provision of FR-46(b) r/w Decision 3 of Govt. of India on the subject and SR-9. Honorarium is a recurring or non-recurring nent granted to the Govt. servant as remuneration for special work of an occasional and mittent character. The following guidelines are to be kept in view by the Administrative ority in deciding each case for sanction of honorarium to the staff :—

(i) No honorarium is admissible for temporary increases in work, which are normal incidents of Government work and form part of the legitimate duties of Government servants according to general principle, enunciated in FR-11.

(ii) Honorarium should not be granted to officers engaged in work which forms part of their normal duties, even if they work after the office hours, vide Order (4) above.

(iii) No honorarium should be given when a Government servant performs duties on another sanctioned post in addition to the normal duties attached to his own post, vide Order (6) above.

(iv) No honorarium should be granted in cases where overtime allowance has been paid to the staff in connection with the same work.

**Limit for sanction of honorarium by CBI Officers**

| | | |
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| SP/AD/AO/AIG | Rs. 400/-* | Maximum amount of honorarium that can be given to an employee on a single occasion |
| DIG/DD | Rs. 500/-* | |
| Joint Director | Rs. 1000/-* | |
| Spl./Addl. Director | Rs. 1500/-* | |
| Director, CBI | Rs. 2500/- | |

* However, in the event of giving honorarium to the same employee beyond these limits on second and subsequent occasion, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

10. Maximum honorarium that can be sanctioned by the Head of Deptt. is Rs. 2500/- in each case. In the case of recurring honorarium this limit applies to the total of recurring payment made to an individual in a year. Thus, upper ceiling of the total honorarium is Rs. 2500/- per year per case for individual employee/officer.

11. It has been observed that the Govt. instructions on the sanction of rewards and honorarium to the officers and staff are not being complied with by some officers properly. This may have serious repercussion in terms of audit objection and recovery of excess amount paid. Therefore, in order to ensure compliance with the Govt.'s instructions it is reiterated that all officers of the CBI should refer to these instructions while sanctioning reward and honorarium.

12. In addition to the existing instructions prescribed for grant of reward or honorarium as mentioned above, the sanctioning authorities while sanctioning reward/honorarium should also bear in mind the following guidelines :—

(i) The sanctioning authorities should use the powers of sanction of rewards only in respect of officers/staff working under their administrative control.

(ii) If any authority intends to grant reward or honorarium to any officer or staff not working under his administrative control the proposal with full justification should be sent to concerned competent authority or Admn. Divn. of Head Office, as the case may be, for consideration and orders in regard to sanction of reward/honorarium to such officers.

(iii) Drawing and Disbursing Officers should ensure whether the reward or honorarium to the concerned officer has been sanctioned by the competent authority. The DDO concerned will also maintain separate register for the honorarium/reward in respect of each staff/employee. Bills should be passed or presented to P&AO only when the DDO is fully justified about this.

(iv) Whenever honorarium is sanctioned to an employee/officer, the amount of honorarium already granted to him/her on earlier occasions during the same financial year, may also be indicated clearly. As the sanctioning authority is not in a position to know these details, the officers initiating the proposal for sanction of honorarium should indicate it.

(v) No officer shall sanction honorarium/reward to any individual in excess of his delegated financial powers as mentioned at paras 4 & 6. It shall be submitted to the competent authority through the Controlling Officer.

13. As laid down above budget for Reward and Honorarium shall be shown separately for each Branch. The budget amount for this purpose will be restricted to the average of last three years. Any departure from the budget limits shall be with prior sanction of the Head Office. Quarterly Return shall be sent to H.O. for monitoring of expenditure under the Heads Honorarium & Rewards. All the DIsG and JDs shall comment upon grant of reward/honorarium during their inspection of Branches with a view to ensuring compliance of relevant instructions in their proper spirit.

Receipt of this circular may be acknowledged to DD(A)/CBI.

Sd/- (JOGINDER SINGH
*Director, C*

Annx. 6 (52)



to be examined by a Departmental Promotion Committee, which has no independent means to know the capabilities of the individual, they are to form judgement only on the material as reflected in the ACRs.

I am to request you that these instructions may kindly be noted for guidance.

...

30. COPY of letter No.29/1/85-AD.III dated 10.1.1985 from Shri E.N. Renison, Additional Director, CBI addressed to All Supdts. of Police, CBI and copy to All DIGs, CBI for necessary action.

Sub:- Grant of Annual Rewards.

Rewards are generally being granted annually for the good work to various members of the CBI executive staff. It has been found in the past that such rewards are being sanctioned indiscriminately and in a routine manner. The Director desires that such rewards should be granted on to those members of the CBI staff who normally have no opportunity to earn rewards because they work in office etc and further they should be granted to only those persons wh have really done very good work during the year. The amoun sanctioned should also be such that it is commensurate with the good work done by them and thus there cannot be any uniformity in this matter as each case will have to be judg on merits. Finally, it should be ensured that sanction of rewards is consonant with the reports given in respect of rewardee in his annual confidential report.

...

31. COPY of circular letter No.29/4/86-AD.III dated 3.2.19 from Shri P.N. Arya, Administrative Officer(A), CBI addres to All Supdts. of Police, CBI Branches located in Delhi an outside Delhi and copy to P.S. to Director, CBI, Sr.PAs to Addl.Director, CBI, JD(A), JD(E) and JD(G), CBI, All DIsG/ in Head Office & DIsG of Metropolitan Branches., AO(A)/AO( SP(Hqrs), CDI, H.O., AIsG, ADs, CBI, H.O. All Sections/Zon Units in CDI H.O. Budget Assistant (Ad-IV).

Sub:- Enhancement of powers with regard to the grant rewards - control of budget - regarding.

I am directed to refer to the Ministry of Home Af letter No.11011/12/81-Finance-II dated 20th May,1981 on th above subject, and to convey the sanction of Director, CBI Inspector General of Police, Special Police Establishment Rule 13(3) of the Delegation of Financial Powers Rules, 19 for the enhancement of the powers to grant rewards to Poli Officers, other Govt. Servants, and members of public, as below :-

Contd...21

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Dy. 718
Date 7/3/2000
Cy. Guwati

केन्द्रीय अन्वेषण ब्यूरो
भारत सरकार
सी0 जी0 ओ0 कम्पलैक्स
खण्ड – 3 लोदी रोड
नई दिल्ली – 110003

P.C. SHARMA
SPECIAL DIRECTOR

CENTRAL BUREAU OF INVESTIGATION
GOVERNMENT OF INDIA
C.G.O. COMPLEX, BLOCK NO.3
LODHI ROAD.
NEW DELHI - 110003

DO No.DYSDE200000329L/079 Dated:- 6-03-2000

My dear Kanungo,

Please recall that I had an occasion to discuss with you some time back the affairs of Guwahati Branch, which also included the work environment prevailing there.

2. In a recent report submitted by Joint Director (East) pertaining to a complaint filed by one Mrs. Jonali Baruah w/o Shri S.P. Singh Yadav, Inspector, CBI Guwahati, the Joint Director has not found any substance in the allegations against you. The Head Office has, therefore, not taken note of the complaint. However, I would like to take this opportunity to impress upon you that being the leader of the Region and an experienced officer, you would motivate your staff in a manner that they give their best performance. They should also not be afraid of looking up to you for advice and guidance.

3. I appreciate the correctives that you are applying to the branch in spite of the constraints that the branches under you are suffering from in terms of staff, etc. I am sure, you would take advice in the right spirit and do all that is possible within the limited resources to get the best out of every one serving under you.

Yours sincerely,

Best wishes

(P.C. SHARMA)

Shri K.C. Kanungo,
Dy. Inspector-General of Police, CBI,
Guwahati Region,
GUWAHATI.

EXTRACT OF N/S OF SHG/99/21

Annx. 8

8

(54)

*May please refer to para 11 of Note Sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for submitting verified source information which is available at page 29 to 31 of the file. He has stated that these informations have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary orders.*

DIGP, NER

SUPDT. OF POLICE

(1) When did the accd. disclose the name of these two private persons Abed Hussain & Giyasuddin Ahmed as having contributed money which were part of the said cash? Did he give reasons to verify with them. Accds. and reject this in the Court when the accd made voluntary.

(2) If he wanted to record details which, he should immediately submit a separate SIR for registration and verification. Instead of that he is making false accusations against the said persons to be dealt seriously for his misconduct. (3) He has guilty Bal. crime Manual. What is that he is called to explain.

per complete report leave 29/10/98

SP 30.

29/10

Seen. Necessary explanation covering all the points were already given from page no (29) to (31). Though the matter leading to [illegible]

(55)

during course of investigation. Moreover SIR was also registered vide No SA/SHG/97 /11/ dt- 8.9.97. Regarding allegations I have to state nothing as the same are allegations against me. So far as decision regarding registration of PE is concerned competent officer may be asked.

sd/

24/4/2000

18. In response to the Note at Para 15/N of DIG, NER, the noting of I.O Shri S.P. Singh Yadav, Inspector may be perused at para 17/N. In this regard my comments dated 30.12.99 at page 28 of the file may also be referred to. If deem fit necessary permission may be accorded from JD (E) for registration of a P.E which may be registered at Silchar Branch since Kohima falls under the jurisdiction of CBI, Silchar Branch.

DIG NER

SUPDT. OF POLICE

19. [illegible] proposal, for recommending registration of PE?

20. With reference to para 19/N. above it is stated that the I.O Inspector S.P. Singh Yadav has submitted the verified SIR directly available at pages 01 to 26 of the file consequent upon the facts revealed during the investigation of RC 6(A)/98-SHG and the I.O has recommended for registration of PE on this verified SIR. Further on this SIR duly agreed by the PP vide his comments at page 27/F SP has forwarded the same with his comments at page 28/F for registration of the PE. Again after compliance of the further queries of DIG. SP has recommended the same vide para 18/N. Put up for perusal & necessary orders please.

22/6/2K

(5-1)

who is competent Authority
order registration for pre
in the pay scale of Rs 10,000 to Rs 15,200/-
Comp
4/11

As per the chart showing power of registration of SR/RC. including power for taking decision, in respect Pay Scale of Rs. 10,000/- to 15,200/- is within the competency of DIG, Int. is for information pl.

1.11.2000

DIG

28. Since DIG is competent to order registration of SIR involving officers in the Pay Scale of Rs.10,000/- to Rs.15,200/-, the registration of SIR against S-2 is approved.

29. However, while going through the verified SIR submitted by Shri S.P.Singh Yadav, Inspector I find the following defecets:-

30. (i) The I.O. has recommended the name of M.Chakraborty (S-4) who has already expired.

(ii) Likewise, the name of Shri A.C.De, who has already retired from service figures in the SIR as S-1.

31. In Col.4, names of the 14 Contractors are shown. But in the verified SIR I do not find involvement of the following contractors:-

(i) Shri T.Murry-(4.2) for his alleged involvement in Sub Section 24,

(ii) Shri B.S.P.Barma,(4.8), for his alleged involvement in Sub Section 35,

(iii) A.N.M.Saleh,(4.9) for his alleged involvement in Subsection 37,

(iv) M.S.Deol,(4.10) for his alleged involvement in Subsection,38 to 41,

(v) Yabne Lotha,(4.11) for alleged involvement in Subsection 42,

(vi) K.Saha,(4.12) for alleged involvement in Subsection-44,

32. I.O. has explained that the verification was neecessiated as accused K.Ganesh, had disclosed the names of contractors like Abid Husain and Gyasuddin Ahmed who had allegedly paid bribes to him, which were seized from his possession on 6.9.97 at Air port. But I do not find any of the contractors having been named as ~~suspect~~ in the SIR which should be explained.

33. Rather, name of Gyasuddin Ahmed seems to have been deliberately left out while naming his firm N.E.Construction, Dimapur only.

34. The name of Charlie Sekhose, Midland, Kohima is not shown though mentioned at page-13, relating to Subsection-42.

35. Are the contractors named by K.Ganesh not involved

22. It is a matter of regret that SP does not try to apply his mind in the matter and pays scant respect to the instructions of DLC.

What was required while giving observation at 7.6 was to put up self contained proposal by SP proposing registration - i.e., as per rules registration is granted. Instead of doing that the file was again sent back to me. I do not know the reason why? I cannot help.

SP
10/7.

CA
22.

My humble submission is placed before Hon'ble for order.

The record received at RD on 20/9/2022 at 1:00 P.M.
20/9.

23. Put up with suitable draft

4/10

CA
7/10.

24. Draft letter to be signed by DLC, DGR to ADGRO, Cal is put up for o/a please.

10.10.22

File received at RD on 10/10/2022 at 2:30 P.M.

25. My humble submission is for Approval pl

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(58)

in any of these works/ Or did they not have any official dealings with the accused K.Ganesh ? This needs to be clarified.

36. It may also be clarified by Shri S.P.Singh Yadav why he has not included the name of Shri K.Ganesh in the SIR. Although he conducted verification of the information during the investigaion of RC.5(A)/98-SHG, whose accused is Shri K.Ganesh, only. He should also clarify the date of seizure of the relevant documents in these two SIR submitted by him and the persons examined in this regard.

37. I would like to have a thorough discussion of this SIR. It is therefore necessary that the SIR may first be got registered and marked to some I.O. who after thorough verification and discussion with previous I.O. can come up for discussion of SIR as early as possible. The role played by suspected public servants i.e. various acts of commissions and ommissions should be highlighted. Similar actions be taken for suspected Contractors.

38. It may also be clarified whether the relevant documents were collected by Shri S.P.Singh Yadav and whether the facts referred in the verified SIR have been confirmed through scrutiny of relevant documents by a technical hand.

received 1.XI.2K

(K.C.Kanungo)
DIG CBI NER GHY.

S.P.

39. S.P. may kindly endorse it to some IO. for further verification.

3/XI

SP

40. Mr. N.G. Khamrao 6/11. verify and report.

41. [illegible]

28/11

42. Page-46 -

CBI I.D. No. 5617 dt. 30/11/2K of RO. SP may kindly peruse the some of para 6(a) please.

4/12

wd dt. 1.12

Extract of N/S 01:
SA/SIT(L)/98/200

**Annx.9**

206 9

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14. *May please refer to para 11 of Note Sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for submitting verified source information which is available at page 24 to 26 of the file. He has stated that these informations have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary orders.*

**DIGP, NER** **SUPDT.OF POLICE**

15. Charge sheet may be served on him for minor penalties for digression of investigation and laxity and also allegation of conducting unofficial activities following raid done in presence of [illegible]

16. Public Prosecutor is advised by DIG

17. CA to please put up with relevant file

CA

18. Please transfer the relevant papers to his personal file. alongwith photocopy of the Note Sheet so that action can be taken from Estt. Section.

CA/~~IIA~~

19. Estt. Section copies [illegible] 8/3/2000

20. As per para 18/N above action has been taken & file is put up for further orders please.

21/3/2K

(60) 204

21. Charge sheet is being dealt with the
in P.F. of the Yadav.

22. Now, the fate of the S.I.R. is to
be decided.

SP

23. SP may please advise to pass it a RR/N. above
and pass suitable orders as the SIR is pending
since then i.e 31.3.2000.

09/6/2K

SP

24. Put up after SP's return file.

25.

26. The matter may be got examined
by legal branch if it is worth
registering S.I.R. before obtaining permission
from competent authority.

27. My kindly see my remarks
placed herewith for perusal.

28. put up draft

Ex received at R1
on 29/9/2000 at 1-10 P.M.
29/9/2K.

Extract of N/S Of.
SA/CHA/99/22

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-5-

28. Draft letter to be signed by MG, NER to ADEN, Cal is put up for perusal and orders please.

10.10.

29. My initials are for approval pl.

10/10

30. Today (4.1.2001) the [illegible] me to keep all the files of SPS relative after decided proceedings. While arranging the file I could locate this file in the bundle of other file. Hence the file is put up for [illegible]

4.1.2001

31. Why this file was not put up to me. Let the explanation of the concerned person be called for.

32. Let this intimation be registered first in Sikkim Area given to a Peon for delivery of the concerned officer & first report.

4.1.2001

33. SIR be supplied & verification as advised by DIG/NER.

Mr Ashok Kumar SI. be informed verify and report.

10/1

34. With reference to para 33/N, above photo copy of SIR ~~[illegible]~~ may be received. for NA pse.

15/01/2001

35. Rcvd. photocopy verified report of SR/SIL/2001/01 dt. 15/01/2001.

(62)

-6-

36. Page. 43

SI Ashok Kumar has submitted a report dated 09.2.2001 requesting to take up the matter with CSM.(TF), Guwahati for handing over the documents for scrutiny. Put up for perusal and further orders please.

SP

06/2/2001

I/C

37. Before I issue letter let me speak to DIG

6/2

38. I discussed the development with worthy DIG. He desires that photocopies of documents be collected and sealed at our office. Let him allow 4/4 casual leave.

7/2.

39.

40. Page. 48

A letter dated 16.2.2001 has been received from DET, Telecom Project, Task Force, BSNL, Dibrugarh intimating regarding handing over of xerox copy of documents to SI J.K Nath & accordingly same to will be handed over by 3rd week of March, 2001. This is in response to our letter dated 09.2.2001 at page 47/F issued to him. Put up for perusal if deem fit I.O may be directed to do the needful.

20/2/2001

SP

I/C

41. Let Sh Ashok Kumar Sr. Subordt a security officer of this Deptt collected from Dr office

20/2

I/C

Annx. 10

Ref. Chapter III of CBI circulars / Standing Instructions on SIRs and Complaints

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*10. No. 21/2/76-PD, dt. 20-9-89*

Attention is invited to para 8 of Policy Division Office Order No. 21/2/76-PD, dated 1-5-89, in which it was stated that if any RC/PE registered on SU information is proposed to be closed or referred for RDA, the decision taken on the FRs should be intimated to DIG/SU before sending SP's Report in such cases.

2. The intention behind the instructions was that SU should produce quality informations and further that the Branch to which the case is entrusted for investigation should conduct thorough and meticulous investigation. Similar standards for registration and verification of their own informations are expected from all the Branches and all cases investigated by Branches should be thorough and meticulous.

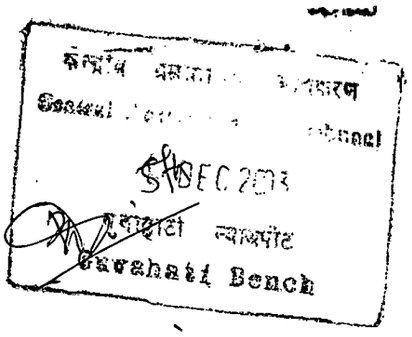
3. CBI on its own should take up only those cases which result in prosecution or RDA for major penalty and, therefore, it has been emphasised time and again that proper verification of information should be done before taking up a case followed by thorough and meticulous investigation. All cases resulting in suitable action or closure deserve thorough scrutiny by senior officers. During scrutiny, efforts should be made to ascertain causes of failure to prosecute or recommend RDA for major penalty, i.e. whether it was on account of inadequate verification or due to improper and inefficient investigation.

4. DCBI has, therefore, decided that all cases registered on SU information, which result in RDA/closure, should be intimated to DIG/SU along with FR-I and FR-II. As the Special Unit reports to DCBI and cases registered on informations developed by SU are taken up after orders are passed by DCBI, observations of the Special Unit duly approved by DCBI will be communicated to the concerned officer. Therefore, no officer should feel that the Special Unit is sitting in judgement over the findings of other officers whether equivalent in rank or superior. Likewise, cases registered on the information developed by a Branch, if result in suitable action or closure should be scrutinized by the Regional DIG if the decision was taken by the Branch SP and by the Joint Director if the decision was taken by the Regional DIG. Needless to say, if the case falls within the powers of Joint Directors and above, they will scrutinize the FRs in the light of these instructions before passing final orders.

5. If during scrutiny lapses are noticed, the officer conducting the scrutiny will take appropriate action against the officer responsible for inadequate verification or improper and inefficient investigation.

6. As the SP's Report is withheld, pending scrutiny and clearance to be given by the competent authority, it should be ensured by the concerned officers that disposal of cases is not incordinately delayed. As soon as the case is referred to the competent officer for conducting scrutiny, it should be ensured that it is conducted on priority basis and orders are communicated to the Branch within 15 days.

Sd/- (DIVAKAR PRASAD)
*DIG (P), CBI*



Filed by the applicant through his advocate Pawan Kr Tiwari

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 42/2003

S.P. Singh Yadav

- versus -

Union of India & Ors.

REJOINDER OF THE APPLICANT TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS NO.1 TO 5

The Applicant in the above mentioned O.A. begs to state as follows :

1. That the Applicant has gone through the copy of the W.S. filed by the Respondents No.1 to 5 and has understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the W.S. are denied. Further, the statements which are not borne on records are also denied and the said Respondents are put to the strictest proof thereof.

2. That the Applicant denies the statements made in paragraph 4.1(1) of the W.S. It is stated that the reporting authority has graded the Applicant "Good" in the ACR for the period under review i.e. 1.1.2000 to 31.12.2000, while R/5, the Reviewing authority downgraded it as "Below average" and R/3 the Accepting Authority mechanically without application of mind accepted the downgraded category suggested by R/5. There are no cogent reasons for such inconsistent

remarks appended by Reporting and Reviewing Officer. Similarly there could be no valid reason for Reviewing Officer for drastic down-gradation of Applicant's category "good" reported by Reporting Officer to "Below average", then malafide on the part of R/5 against the Applicant for approaching Tribunal in O.A. No. 338/99 and O.A. No. 137/2000 and Applicant's wife forwarding complaint dated 13.1.2000 to Director CBI and National Human Rights Commission. Said complaint dated 13.1.2000 resulted into Inquiry by R/3 and registration of NHRC Case No. 19/3/2000-2001 against R/5. These were the reasons for hostile biasness of R/5 against Applicant culminating into suspension , issuance of various charge memorandum for major and minor penalty as well as drastic down-gradation of the Applicant's category and adverse remarks against the Applicant in ACR for the year 2000.

Complaint dated 13.01.2000 to Director, CBI and comments in opposition to the report of R/5 vide letter dated 15.12.2001 are annexed as ANNEXURE-RJ/1 colly.

3. That the Applicant denies the statement made in paragraph 4.1(2) of the WS. It is stated that the R/3 downgraded Applicant's ACRS for the year 2000 on the basis of alleged conduct and performance of the Applicant during the year 1999. Such down-gradation of category as well as adverse remarks in the year 2000 become invalid as it reflects consideration of alleged

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shortcomings prior to the period of report. Further period of review for the present ACR being 1.1.2000 to 31.12.2000 which cannot encompass work, conduct and performance of the Applicant for previous year i.e. 1.1.1999 to 31.12.99 as admitted by R/5.

4. That the Applicant denies the statement made in paragraph 4.1(3) of the WS. It is stated that during period under review, the Applicant was put under suspension by R/5 w.e.f. 26.4.2000 which has been mentioned in the self appraisal report of the Applicant. Thus given the fact of cutting short normal period of review for ACR writing which is one year to 1/4 year the targets are achieved, the details thereof are reflected in self-appraisal report of the Applicant.

5. That the Applicant denies the statements made in paragraph 4.1(4) of the WS.

(i) It is stated that the averments made in this paragraph as consideration for downgrading Applicant's category from "Good" reported by Reporting Authority to "Below average" given by R/5 along with other adverse remarks are incorrect, based on blatant falsehood in fact and invalid in law as the period for review of ACR writing being a unit year or shorter if the same is cutshort on account of suspension. Further remarks made in the period under review becomes invalid to the one based on events falling outside period under review. The CBI Case No. RC-34(A)/96 SHG was finalised and SP's

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report sent to competent authorities after investigation on 31.12.99 therefore any consideration of events concerning said case for writing ACR during 2000 being outside period under review and hence said remarks and downgrading of category being invalid.

(ii) The statement not only relates to consideration of events outside the period under review but the same are also incorrect and blatant falsehood. In this connection the following important aspects should be noted :-

(a) R/5 has not shown the authority and source wherefrom the figure of 3.5 cases of disposal per year is taken. During period under review i.e. 1.1.2000 to 26.4.2000 the Applicant had only one case viz. RC-5(A)/98-SHG under investigation, therefore, question does not arise at all to dispose of 3.5 cases during said period. Further this statement is also misleading as the CBI, Guwahati branch among 2 Dy. SP's 12 Inspectors and 3 Sub-Inspectors yearly target of registration and investigation are 25 cases only.

Therefore it could not be said that all the IO's are required to finalise 3.5 cases in an year.

(b) Finalisation of case is not investigation alone but involves analysis of GEQD opinion, submission of investigation report in FR(1), legal opinion by public prosecutors in FR(II), SP/DIG/JD/DLA, SD CBI comments and order, preparation of SP's report, draft sanction

order, calander of evidence, article of charges, statement of imputation, photocopying of statements of witnesses and other documents for being supplied to the Court/accused persons etc. and discussion with aforesaid officials etc. in decision making process for filing charge sheet etc. are required to be done by the I.O. and these matters are not reflected in CDs provision under para 6/195 at page 57 also prescribe that these works are not reflected in CDs, though the aforesaid works are intricate part of finalization process of the case. It is therefore erroneous and misleading to assess work performance of an IO on the basis of CDs alone.

(c) It is also pertinent to mention that after completion of investigation in RC-34(A)/96-SHG, the IO submitted his report in FR(1) vide NS 168 dated 4.1.99 of the crime file. Thereafter PP/SP/DIG/DLA/JD/SD, CBI etc. took their own time in giving their comments and final order therein were given on 28.9.99. Thereafter draft SP's report etc. were prepared and submitted on 24.1.99 followed by vetting by DLA on 27.11.99 and the case was shown finally disposed on 31.12.99 by dispatching SP's report to departmental authorities for granting prosecution sanction order.

Further Applicant was directed to hand over charge of all the documents/CD file etc. of cases under investigation to Shri A.K. Saha, Dy. SP vide CBI, ID dated 28.3.2000 followed by suspension dated

26.4.2000. The new I.O. filed only charge sheet in the Court on 20.11.2001 i.e. after more than two years of finalisation of case on 31.2.99. It is therefore apparent that after submission of FR(1) by I.O. on 4.1.99 the time taken by superior officer giving comments and filing of charge sheet by new I.O. took more than 3 years and Applicant could not be faulted for alleged delay.

(d) This case is High Court referred and monitored case. However, neither the Hon'ble High Court nor any superior officer during periodic appraisal of the investigation carried under statutory supervision of branch SP ever pointed out any alleged shortcoming/delay etc. as being pointed out by R/5 against Applicant. Investigation in this case is a matter of record which may kindly be called for perusal.

6. That the statements made in paragraph 4.1.(5) of the WS are denied. It is stated that R/5 by stating truncated provision under para 36/244 of CBI Crime Manual page 68 and suppressing the full fact has misled the tribunal. The said para first had to be read in conjunction with another para 37/120 at page 42 of CBI Crime Manual which provide 18 months time for disproportionate assets case and 1 year for other complicated cases " provided all the documents are available before registration of FIR". It is pertinent to mention that both the cases with Applicant viz. RC-34(i)/96-SHG and RC-5(A)/98-SHG were disproportionate

Asset Cases as well as involving other complicated investigation. further said para 35/244 referred to by R/5, after submission of FR (Pt.1) by the I.O. also prescribe following time limits for comments of various authorities.

Comments of Prosecution branch
in FR.II on FR.I submitted by I.O. ... 7 days in simple cases/15 days in complicated cases

SP's comments - 5 days
DIG's comments - 5 days
HO order - 15 days
Preparation of SP/s report - 10 days in simple cases/ 15 days in complicated cases

At the DIG level/HO level, time to be taken to send SP's report to department concerned. ... 7 days

Filing of charge sheet after receipt of prosecution sanction order ... 7 days.

As mentioned in the preceding paragraph, Applicant submitted FR.I in RC-34(A)/96-SHG on 4.1.99. However, superior officer including Law Officer took full one year in giving their comments and despatch of SP's report until 31.12.99 in violation of the provision of aforesaid paragraphs but R/5 has not whispered any thing in this regard, but unreasonably apportioned

blame on Applicant for alleged delay in finalisation of the case.

Further after registration of the case on 15.10.96, the then DIG/CBI/NER Shri Netai Mallick vide NS 93, 94, 95 dated 10.7.97 has appended note in the Crime file as regards non-receipt of necessary documents. It is, therefore, apparent that more than 14 months were taken by AG, Assam in parting with the required documents alone while Applicant submitted reports after investigation on 4.1.99. Therefore there was no delay in investigation.

7. That the Applicant denies the statements made in paragraph 4.1(6) of the WS. In this connection following aspects are noteworthy :-

(a) Investigations are carried out under statutory supervision of branch SP who is required to send monthly progress reports to superior authority and also file periodic reports of investigation before Hon'ble Gauhati High Court, monitoring the case. However, none of the superior officer or the Hon'ble High Court ever pointed out any such alleged delay being pointed out now or any shortcomings whatsoever in connection with the investigation at any point of time. In view of above R/5 is incompetent to make any such statement on behalf of his predecessor as well as supervising officer when he was neither at the scene nor any fact in this regard coming to the notice from records. Any conjecture and surmises drawn on the basis of any

mathematical limits but without taking care facts and circumstances of the case under investigation in totality is unreasonable.

(b) It is also pertinent that para 8/216 at page 63 of CBI Crime Manual lays down that "All clues should be carefully followed up. Enquiry should be made from everyone who is likely to be connected with the events which preceded or which may in course of things be presumed to have preceded, accompanied or followed the Crime." It is therefore apparent that it is the fact and circumstances of the case which determine primarily the time period in finalisation of case after following all clues carefully to bring out unvarnished truth in the investigation which is the prime duty of the investigating officer and main objective of investigation. It is not the mathematical time limit alone, transgression of which in disregard to other facts and circumstances of the case would entail visitation of such harsh penalty as down grading of category "Good" given by Reporting Authority to "Below average" by R/5 being upheld mechanically by R/3.

(c) Further consideration of mathematical time limit as aforesaid for finalisation of case for down grading Applicant's category from "Good" to "Below Average" was applied selectively, malafidely and perversely by R/5 against Applicant alone, and not others which is the common feature among all I.Os. for the reason mentioned afore. Thus CBI case No. RC-22(A)/97-SHG, RC-23(A)/97-

SHG, RC-24(A)/97-SHG and RC-25(A)/97-SHG were all registered under identical sections of law in the year 1997 and investigated by Inspector Ng. Khamrang under very disciplinary control of R/5, however, charge sheets in the said cases are field in August 2003 after 6 years of investigations. Further no investigation were conducted in the cases to ascertain as to whether finished material i.e. Cast Iron, Railway sleepers were actually supplied by the manufacturing firms to the various CPWI scattered under jurisdictions of N.F. Rly. The fact however is that no such materials worth crores of rupees were supplied and no investigation in this regard were carried under disciplinary control of R/5 despite availability of clues on records itself.

Be that as it may, the performance of Ng. Khamrang, Inspector was never rated as "Below Average" during said years despite his clear inability to finalise said cases even after lapse of 6 years.

(d) Further RC-6(S)/97-SHG, was registered by CBI, Guwahati branch on 20.2.97 and charge sheet in the case was presented in the court on 30.9.2002 i.e. after more than five and half years, even when there was no requirement for prosecution sanction orders which could be reasoned for delay. All this delay took place under very disciplinary control of R/5, but none of the IOs in said cases were rated "Below average" in their ACRs during these years.

(e) Similarly CBI case No. RC-17(A)/96-SHG was registered under Section 120B, 409, 471 IPC and Sec. 13(2) r/w 13(1)(d) of PC Act, 1988 against the accused and charge sheet in the said case was field by Inspector Ng. Khamrang on 8.6.2001 i.e. after more than 5 years under very disciplinary control of R/5, but performance appraisal of Ng. Khamrang was not rated "Below average" by same Reviewing authority i.e. R/5. Similarly RC-7(A)/98-SHG was registered in March 1998 but said case was disposed after December 2002 in departmental action to which CVC did not agree, but R/5 did not take any action against I.O. Shri A.K. SAha, Dy. SP for delay in finalisation of the case which remained under investigation alone for four years, 9 months, even when there was no requirement of prosecution sanction order etc. for which delay could be attributed, nor his performance was ever rated as "Below Average" during said years on this count. It is therefore stated that selective application of Rule against the Applicant in down grading category rating of Applicant in ACR for his period under review from "Good" to "Below average" but disregarding other similarly circumstanced is discriminatory, unreasonable and malafide and such down grading is therefore unsustainable in law.

8. That the statements made in paragraph 4.1(7) of the WS are denied. It is stated that the statements made in this paragraph are misleading and incorrect. It is stated that the statements made in the aforesaid

paragraph are related to the events outside the period under review. It is stated that any remark made by R/5 in the ACR of Applicant for period under review but basing on certain consideration which relate to the events outside period under review, are invalid and as such unsustainable in law. The fact however is that Applicant contrary to the statement completed his investigation and submitted report in the typed form containing more than 300 pages on 4.1.99 itself vide Applicant's note at NS/68 dated 4.1.99 in Crime file. It was not the investigation but comments of PP/SP/DIG/DLA/JD/ALA/SDCBI etc. and then R/5 who took more than 1 year in giving their comments and despatch of SP's report to Departmental authorities as referred in their respective notes in CBI crime file. The job of sending SP's report is that of R/5 who has shown to have dispatched SP's report on 31.12.99. Further, as R/5 himself ordered for handing over of the charge of investigation documents/CD files etc. to new I.O. Sri A.K. Saha, Dy. SP as per R/5's order dated 28.3.2000 followed by suspension order dated 26.4.2000 and thereafter chargesheet is filed by the new I.O. on 15.9.2000 then Applicant could not be faulted, for he was neither in his office nor I.O. of the case. Following suspension dated 26.4.2000.

9. That the statements made in paragraph 4.1(8) of the WS are denied. It is stated that incident of preparation of the draft articles of charges in RC-34(A)/96-SHG relates to period outside under review and

therefore adverse remarks appended or down grading of category made in the ACR for the period under review i.e. 1.1.2000 to 26.4.2000 makes them invalid as said remarks were based on events/considerations outside period under review. Further statement made is also incorrect, misleading and manipulated in fact also, as preparation of draft articles of charges etc. vide para 10/638, page 197 of CBI Crime Manual is that of Sr. P.P. and NOT applicant. However draft S.P.'s report containing article of charges etc. was prepared and submitted vide NS 217, 218, 219, 220, 221 dated 24.11.99 which was duly vetted by DLA/CBI/EZ, Kolkata Sri J.S. Terong vide NS. 225 dated 27.11.99 and finally report has been admitted by R/5 in para 7:1(7) to have been despatched on 31.12.99, than where is the question of alleged delay or not preparing draft article of charge correctly? Further all the allegations of non-extension of requisite cooperation in the preparation of correct enclosures contributing in further delay, is also baseless and made up story on the part of R/5 as no record has been cited by R/5 to show that Applicant did not abide by any of the superior's lawful order "verbal" or in "writing" until suspension dated 26.4.2000. Further Applicant worked under branch SP wherefrom after preparation of SP's report is despatched in office of R/5, situated about 8 KM from branch office followed by vetting of SP's report by DLA/CBI/EZ, Kolkata Sri J.S. Terong on 27.11.99, than where the question comes of extending requisite cooperation in preparation of correct enclosures even

without directing branch SP to spare Applicant in writing for whatsoever official purpose. R/5 is again misleading Hon'ble Tribunal by making contradictory statement regarding despatch of SP's report, thus while in paragraph 4.1(7), R/5 state that SP's report could be forwarded to the department seeking for prosecution sanction only on 31.12.99, however, in this para he states to have shown pending said report on 31.12.99, whatever be the status of said report on 31.12.99 it has nothing to do with Applicant as despatch of said report to concerned authorities is the responsibility of R/5 himself and Applicant could not be made accountable for fault of R/5 or his office in despatch of the report. Further after submission of FR (Part-I) by Applicant on 4.1.99 after Field investigation further time in finalisation of case was taken in obtaining comments etc. of PP/SP/DLA/DIG/JD/ALA/SD, CBI etc. discussion with aforesaid officers, preparations of SP's report, vetting etc. and these events are not reflected in CD's as per provision under para 6/195 page 57 of CBI Crime Manual and therefore no CD's are submitted after field investigation.

**10.** That the Applicant denies the statements made in paragraph 4.1(8.1) of the WS. It is stated that the Misc Case 206/98 relates to pretrial attachment of movable and immovable properties of accused and his twelve other close relatives under provision of Criminal Amendment Ordinance, 1944. As a result all the thirteen persons were to file objections in court of

District Judge, Kamrup and therefore hearing in the matter was on, requiring constant attention and time of Applicant in this matter on the date of hearing every month. The matter is known to Reporting Authority and by its mere nomenclature it is apparent that it is a court case and not typical CBI case under investigation which is invariably prefixed by RC/PE. Further it is the Reporting Authority who is the statutory authority for endorsing and supervising the case under investigation and he knew it that it was a case arising out of RC-34(A)/96-SHG and the fact has been mentioned in the performance appraisal report itself and therefore no question arises even to intend any one mislead in this regard. It is however different if any person like R/5 hypercritically perceive it so.

11. That the Applicant denies the statements made in paragraph 4.1(9) of the WS. In this connection the following facts may be noted :-

(a) All the instructions issued by the immediate controlling and investigation supervising officer i.e. SP were duly followed and no instance was shown by R/5 when the instructions of various supervisory officers viz. Shri M.K. Jha, Shri B.N. Mishra and Shri Om Prakash, the then branch SP were not followed by the Applicant. In fact, investigation was being followed as per approved plan of action and instructions given by R/5 himself after discussion vide CD No. 112 dated 6.8.99 and detailed instruction issued by R/5 vide his

discussion note No. 1236/126/99-NER dated 22.8.99, however said instructions were suppressed and not whispered about in the paragraph.

(b) Further, there was no occasion for following so called instructions of R/5 vide memo No. 747, 748 dated 22.3..2000 or vide memo No. 811 dated 25.3.2000 for said memos did not contain instructions of R/5 as guidance, and advice in aid to the investigation but were in nature of charge sheet for explanation from CD No.1 dated 17.2.98 to CD No. 144 dated 19.1.2000 thereby derailing whole investigation undertaken under supervision of all aforesaid supervisory officers rendering it infructuous and non-entity.

(c) Be that as it may, the so called instructions were itself unreasonable, vexatious and disclose malafide of R/5 as it was not in the aid advice and guidance of investigation. Accordingly Applicant was asked not only to explain memorandum annexed as Annexure-1 of the W.S. being received in the office of the SP/CBI/ACB/Ghy on 27.3.2000 itself and obviously must have been handed over to the Applicant thereafter only, but Applicant was also served upon another explanation vide memo No. 747/3/5(A)/98-SHG dated 22.3.2000 containing 29 pages of another observations as in earlier memorandum from CD No. 1 to CD No. 144. The Applicant was also served upon two another explanations vide No. 751/COMP/SLC/NER dated 22.3.2000 for submitting explanation within 10 days and another explanation vide letter No. 753/12/COMP/SLC/NER dated 22.3.2000 for immediate

explanation. However, no reasonable time could be said to be afforded by R/5 to the Applicant for reply in aforesaid four memorandums, as R/5 vide his CBI ID No. 821/12/COMP/SLC/NER dated 28.3.2000 itself ordered for handing over all the documents and case files etc. to Dy. SP Sri A.K. Saha followed by repeated verbal and telephonic messages to hand over said records to Shri A.K. Saha immediately, and as soon as this process of handing over charge was completed, it was followed by suspension order dated 26.4.2000 by R/5 placing Applicant under suspension. It is therefore unreasonable, perverse and malafide to state that Applicant did not attend to those instructions when Applicant was deliberately and consciously denied any opportunity to attend even those so called instructions, which R/5 was also aware that said explanations were unattendable given the fact of issuance of series of charge memorandums and immediate order dated 28.3.2000 for handing over charge of all case files under investigation to Sri Saha followed by suspension order dated 26.4.2000. It is apparent that so called instructions were farce in the name of instructions and R/5 never intended for being followed by Applicant, but to create confusion only with malafide intent. In fact R/5 had already made his mind to put the Applicant under punitive suspension which is still continuing even after more than three years.

Regarding averments made in sub paragraphs (i) to (vi) of para 4.1(9) of the WS it is stated that : -

(i) Plan of investigation in detail is enclosed with CD No. 4 dated 26.3.98 duly discussed and approved by Shri M.K. Jha the then SP/CBI/ACB/Ghy and it is incorrect to state that no plan of action was enclosed with The CDs by Applicant.

(ii) Seizure list of documents seized are duly enclosed with respective CDs and are available in CD file of the I.O. and it is incorrect therefore to state that seizure list of documents are not enclosed with the CD file.

(iii) The contents in the documents seized are self-explanatory and discussed with the Branch SP while submitting monthly progress report to the CBI Head Office. Scrutiny report if required by the experts are taken for which study note from Shri M.C. Sarma, CAO/Telecom/Assam, and study note of Shri M.K. Chawla, SS.W(C) office of the Chief Engineer, Civil Telecom, Guwahati are enclosed at CD No. 84 dated 16.3.99 and CD No. 91 dated 6.4.99, and it is incorrect and malicious therefore to aver that the IO was in the habit of not scrutinising the seized documents and did not incorporate the scrutiny report in the CD.

(iv) Against CD No. 128 dated 30.11.99, questionnaire for GEQD opinion on specimen hand-writing and questioned document of one of the suspects Mr. M.K. Agarwalla was sent and not of the accused Shri K. Ganesh which was not at all required under given fact and circumstances of the case, as it was not forgery

case against CJM Shri K. Ganesh. Vide CD No. 17 Court order was received for scrutiny of seized currency and is enclosed with it. No explanation was called in this connection. Further all explanations were duly attended to by Applicant until and unless no reasonable time was afforded for response as in aforesaid cases. Instead of finding fault with the investigation instructions should have been issued for guidance, advice, suggestions etc. in lawful aid of investigation violation of which only renders Applicant liable for disciplinary action and not for professional difference of opinion or on the basis of manipulation of facts as reflected in the aforesaid explanations meant only for causing derailment of investigation carried out under able supervision of competent officer or on the basis of boggy of falsehood of alleged perfunctory tardy and unmethodical investigation alone under guise of review/supervision to settle personal score of vendetta against the Applicant.

(v) & (vi). The statement by R/5 is baseless and malafide. In fact it was the investigation by the Applicant as IO which stood test of judicial scrutiny in the matter of Misc. Case No. 2/98 wherein petition filed by the suspect N.T. Kharme in collusion with the main accused Shri K. Ganesh claiming said seized money amounting to Rs.27,00,000/- from the possession of Shri K. Ganesh at the Borjhar Airport on 6.9.97 leading to registration of instant case, as having been given by him to Shri K. Ganesh vide receipt dated 4.9.97 for

purchasing diamond jewelry from Madras and said amount accordingly belonging to him which were pleaded to be returned was dismissed by the learned Special Judge vide its order dated 25.5.98.

Copy of the Special Judge, Assam's order dated 25.5.98 is annexed as ANNEXURE-RJ/2.

Further, criminal revision petition vide No. 264/98 filed by the said accused was also dismissed by the Hon'ble Gauhati High Court on the basis of the affidavit in opposition filed by the Applicant on the basis of investigation in the case, thereby rebutting all the pleas taken by the accused thoroughly. For the good investigation leading to the dismissal of collusive petitions aforesaid both the time by the Court the then SP/CBI, Guwahati granted a cash reward and commendation certificate to the Applicant vide office order No. 117 dated 25.6.98. (Copy of the reward and commendation certificate dated 25.6.98 is annexed as ANNEXURE-RJ/3.

12. That the statements made in paragraph 4.1(10) of the WS are denied. The statement made in this paragraph is a blatant falsehood made without any basis whatsoever. It was not shown by R/5 as to which instructions issued by any contemporary authority or of even R/5 were deliberately not complied with by the Applicant, and how he wilfully delayed investigation which is conducted under the direct supervisory control

of Branch SP who statutorily forward monthly progress report to the concerned higher authorities i.e. SDCBI through DIG/JD/CBI etc. There was no digression as alleged in the investigation which in fact and circumstances of the case was to establish offences under Section 13(1)(a) (habitual bribe taking), 13(1)(d) (misuse and abuse of official position and illegal and corrupt practices to obtain pecuniary benefit), Section 13(1)(e) (possession of disproportionate asset to the known source of income), Section 11 (public servant obtaining valuable thing without consideration from concerned in proceeding or business transacted by such public servant) r/w Sec.12 of Prevention of Corruption Act, 1988 as well as other Sections of IPC. Investigation carried so far was in tune with the offences disclosed in FIR/complaint approved plan of action and also as per discussion and instruction issued by the Branch SP Shri M.K. Jha, Shri B.N. Mishra, Shri Om Prakash who never pointed out anything as alleged by R/5 who is not supervisory officer of the Applicant. Investigation carried by the Applicant is vindicated in the Misc. Case No. 2/98 and Criminal Revision No. 264/98 filed by the accused in the Court of the Special Judge, Assam, Guwahati and Hon'ble Gauhati High Court respectively which dismissed said petitions of the accused. The supervisory officer of investigation i.e. SP, CBI Shri B.N. Mishra granted reward of Rs.600/- and commendation certificate to the Applicant for excellent investigation in the case

leading to dismissal of said petitions vide office order No. 117 dated 25.6.98 besides "very good" category grading in ACR in the year 1998 and "very good" and "good" grading by Shri Om Prakash the then SP in the ACRs for the year 1999 and 2000 respectively. The satisfaction of both the supervisory officers rating Applicant as very good in ACR are testimony to the fact that there was nothing wrong with the investigation carried by the Applicant and all statements made by R/5 in the matter of RC-5(A)/98-SHG and suspension etc. are made on the basis of malafide distortion of facts. The competent authority i.e. JD/CBI/EZ. Kolkata (R/3) was also aware of quantum of investigation to be carried in the case and that is why R/3 after proper discussion with the Applicant about investigation of two cases during his branch inspection in June 1999 fixed the December 1999 for disposal of RC-34(A)/96-SHG alone, as communicated to the Applicant vide letter No. 1730 dated 15.10.99 of Dy. SP, CBI, NER, Guwahati with the approval of R/5 himself and accordingly, the CBI Case No. RC-34(A)/98-SHG was disposed of. The instructions of R/3 issued through the office of R/5 with his approval itself testifies that R/5 was aware of the fact of likely disposal of RC-34(A)/96-SHG and not RC-5(A)/98-SHG during 1999.

Copy of order No. 1730 dated 15.10.99 is annexed as ANNEXURE-RJ/4.

13. That the statements made in paragraph 4.1(11) of the WS are denied. It is stated that the statements

made in the said paragraph pertain to the events prior to the period under review which is 1.1.2000 to 26.4.2000 and therefore consideration of events outside period under review and appending of adverse remarks basing on said considerations renders the remarks invalid and hence unsustainable in law. Further, the statement is incorrect and misleading in fact also as there is no statutory instruction in CBI Crime Manual prescribing minimum disposal of 3.5 cases in investigation by every IO. Disposal of case in investigation depends on the fact and circumstances of the case and quantum of investigation to be carried out therein. The endorsement of cases is prerogative of Branch SP and number of cases to an IO depend upon the nature of case, extent and volume of investigation to be carried etc. Given the nature of the two cases viz. RC-34(A)/96-SHG AND RC-5(A)/98-SHG, the Branch SP rightly did not endorse further cases except the case No. PE-99/SHG registered on surprise checks and disposed of within a week's time. It is, therefore, misleading to state that Applicant is required to dispose of 3.5 cases in investigation when Applicant was not endorsed with more than four simple cases per year.

So far as matter of PE-2(A)/99-SHG is concerned, it was registered on the basis of surprise checks of the stocks of FCI godown, joint memorandum was prepared in presence of the independent witnesses as well as suspect officials and on the basis of shortage/excess

of food grains worth Rs.1.50 lacs than current stock as per ledger were arrived at and accordingly, departmental actions were recommended. Since then, departmental action took place against three suspect officials and on the basis of regular enquiry, said officials were punished with demotion of grade and loss of five increments each and the files stand closed. As the action against officials were initiated on the basis of joint memorandum and surprise check requiring no further open enquiry/investigation and as such, question of submission of case diary does not arise.

**14** That the statements made in paragraph 4.1(12) of the WS are denied. It is stated that if the statements made by R/5 in the said paragraph are taken to be correct then the same would mean that number of SPs who were the statutory supervisory officers of the investigation conducted by the Applicant which included SPs like Sri S.K. Saikia, Sri M.K Jha, Sri B.N. Mishra and Sri Om Prakash, failed to discharge their duty of perusing the CDs and issuing the instruction and they ignored the lapses of the investigation officer i.e. the present Applicant. It is stated that it is not only unreasonable but also ridiculous to make such a suggestion. It is further stated that all the SPs of the Applicant are responsible senior officers who are not only required to supervise the investigation carried out in the branch under their control but also

required to forward statutory monthly progress report as per provisions under para 9/198 at page 58 of CBI Crime Manual. It is therefore perverse and unreasonable now to allege that said supervisory officers abdicated their statutory duties of supervision of investigation.

15 That the statements made in paragraph 4.13 and 4.14 of the WS are denied. It is stated that the statement that no regular cases were registered on the source information report submitted by the Applicant are misleading and incorrect statement. The fact however is that two surprise checks were conducted on 6.12.99 by the Applicant which led to the registration of PE-15(A)/99-SHG and PE-5(A)/2000-SHG. Both of them were registered as PE and converted to regular case vide No. RC-1(A)/2000-SHG and RC-14(A)/2000-SHG respectively under various sections of IPC and Prevention of Corruption Act, 1988 for cheating and misappropriation of Government stores to the tune of Rs.12.00 lacs and Rs.67.00 lacs respectively, and given the facts and circumstances of the cases which led to the detection of wrongful loss to the Government for an amount of Rs.79.00 lacs are indeed quality information. So far as SIR of disproportionate assets cases are concerned, these are mostly registered against public servant by jugglery of mathematical calculations and unreasonable and arbitrary inflation of assets while disregarding genuine and declared income in collusion with certain unconscientious IOs and complainants to settle personal and private scores against the public servants. As

example in this regard, two FIRs vide (1) RCGWH/2002/A/0015 dated 12.6.2002 and (2) RC-27(A)/96-SHG dated 12.7.96 are cited wherein illegality and glaring error in arriving to the conclusion of possession of disproportionate assets on the part of suspect public servant are apparent on face of FIR itself.

16. That the statements made in paragraph 4.1(15) of the WS are denied. It is stated that the presenting Officer could never be an investigating officer. Further, it is not the year of presentation of case, but final disposal by awarding punishment etc. that credit is given to the presenting officer of the case. Further, if that be the argument, then how R/5 gave credit of the conviction in RC-32(A)/94-SHG exclusively investigated by the Applicant to Public Prosecutor who presented the case in court of the Special Judge, Assam as per his branch inspection report for the year 2000 ? In this case also, conviction was awarded by the Court during the period under review i.e. the year 2000 but Applicant was not given credit and no reward was given even when the CBI standing order No. 32 dated 27.12.96 provides for reward in such cases.

17. That the statements made in paragraph 4.1(16) of the WS are denied. It is stated that in RC-6(A)/98-SHG, the punishment order came in December 1999 and accordingly, it was shown in the performance appraisal report for the year 1999. However, when the R/5 himself shown the disposal of the matter for convenience of

departmental statistics he highlighted it as achievement in his branch inspection report for the year 2000 at page 37 and therefore Applicant shown the case accordingly in the performance appraisal for the year 2000 and no malice could be attached for a simple and bonafide act. Further in RC-12(A)/93-SHG two cases were presented by the Applicant. In one case, against Shri M.C. Gayari, punishment order of competent authority came in 1999 and in another case against Shri Damodar Sarma, Sub-Inspector, Phones, punishment order came in the year 2000 and accordingly, it was highlighted in the year 1999 and 2000 against same case No. but different names of charged officials. All the Respondents including the Hon'ble Tribunal are being misled by R/5 who is bent upon misrepresenting as simple facts as aforesaid which is apparent on the face of records itself.

18. That in regard to the statements made in paragraph 4.1(17) of the WS, it is stated that the credit of securing conviction/punishment etc. goes to the presenting officer in the year of disposal of the case and not in the year of presentation.

19. That in regard to the statements made in paragraph 4.1(18) of the WS, it is stated that the Applicant is entitled to highlight those matters in which he contributed as presenting officer and result thereof is announced. Applicant has no control over competent authority of other departments if the result of regular

enquiry are not announced but kept pending for long time after enquiry.

20. That in regard to the statements made in paragraph 4.1(19) of the WS, it is stated that the job of the Applicant as presenting officer is to present the case well and the Disciplinary Authority, while acting as quasi judicial authority, is within its prerogative to award punishment as is deemed fit and proper under the circumstances of the case on record and Applicant has evidently no control over the decision of the Disciplinary Authority. It is the duty of R/5 to take up the matter with the concerned departmental authorities, which he did not, if the punishment awarded was inadequate in his opinion. It is unreasonable and over jealousness on the part of R/5 to apportion blame on this account also on Applicant.

21. That the statements made in paragraph 4.1(20) of the WS are denied. It is stated that instead of one, three charged officials viz. Shri M.C. Gayari, JTO, Shri Damodar Sarma, SI (Phones), Shri S.P. Deb, SDE (Phones) are already punished in the case.so far as pendency of departmental proceeding against remaining accused are concerned, Applicant is not liable for the same as he was put under suspension malafidely by the same R/5 who is now unreasonably apportioning even blame for the pendency of disciplinary proceeding upon Applicant.

22. That the statements made in paragraph 4.1(21) of

the WS are denied. It is stated that awarding of punishment or quantum thereof is a judicial act performed by quasi judicial authority depending upon the fact circumstances and evidences available on the records of the proceeding. The job of the CBI under law is to investigate and prosecute and not to decide the quantum of punishment of dismissal and compulsory retirement in every case recommended for regular departmental action for major penalty.

23. That in regard to the statements made in paragraph 4.1(22) and 4.1(23) of the WS, it is stated that as admitted by R/5 himself there was nothing on record against the Applicant upto 16.9.99. However, filing of O.A. No. 398/99 and grant of stay order dated 15.10.99 followed by complaint of Applicant's wife dated 13.1.2000 to NHRC and DCBI, New Delhi leading to registration of NHRC Case No. 19/3/2000-2001 and immediate enquiry therein that R/5 set out with hostile animosity in finding out the fault with the whole record of Applicant and all administrative actions subsequent to aforesaid incidents are results of manipulation and misrepresentation of facts without any basis and iota of truth.

24. That the statements made in paragraph 4.2(1) of the WS are denied and it is stated that rewards and commendation certificates are given post facto event in recognition of good work and they are indeed testimony of high capability and superior investigating ability

and outstanding capacity of the Applicant as recognised in the better wisdom of reward giving superior officer. Reward and commendation certificates are no charity given at mere pleasure of the reward giving officer. It is unfortunate that R/5 under his over jealous and hypercritical attitude against the Applicant is obstinately bent upon running down even the importance of reward and commendation certificates given under guidelines of DCBI standing order No. 32 dated 27.12.96 annexed by R/5 himself as Annexure-5 of his written statement. The said standing order at para 5 states that "one reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any" and accordingly, it is incorrect and misleading to state that rewards and commendation certificates are merit less and given in routine course.

25. That in regard to the statements made in paragraph 4.2(2) of the WS, it is stated that it is illegal and improper to consider adverse remarks of the year 1998 recorded by the then Reviewing Authority Shri N.R. Roy by Respondent No. 5 as a basis for down grading Applicant's category from 'very good' and 'good' reported by Reporting Authority in the ACRs of the Applicant during 1999 and 2000 respectively to 'below average'. Such adverse reporting is malafide, invalid and hence unsustainable in law for it is not only based upon opinion of another reviewing officer outside the

period under review i.e. 1.1.2000 to 26.4.2000, but also said remarks could not be said to be objective, dispassionate and reformatory in purpose as admittedly it is based on adverse remarks of 1998. The malice on the part of R/5 is apparent that he ignored long list of officials who gave outstanding/very good remarks during preceding 15 years of service of the Applicant, but considered solitary adverse remark of 1998 for appending adverse remarks in the ACR for the period 1999 and 2000. Further, neither during 1998 or thereafter Applicant was ever given any prior opportunity for explanation of those considerations which led the concerned reviewing officer append said adverse remarks. Be that as it may, the said adverse remarks for the year 1998 were heard in detail by the Hon'ble Tribunal in O.A. No. 127/2002 and the same were set aside and quashed and it is obligatory on the part of R/5 to gracefully accept the judgment of the Hon'ble Tribunal instead of harping the matter again and again or finding fault with the judgment committing contempt of court's order.

26. That the statements made in paragraph 4.3(1) of the WS are denied. The Applicant seeks indulgence of the Hon'ble Tribunal for directing the Respondents to produce the ACRs of the Applicant for perusal and confirm the fact made out by Applicant in his Original Application. Annexure A/5 annexed with the application shows the grading as "outstanding" which was reported by the then SP Shri M.K. Jha reviewed by Shri Netai

Mallick and accepted by R/3 himself i.e. Dr. U.N. Biswas, JD/CBI/EZ, Kolkata.

27. That in regard to the statements made in paragraph 4.3(2) of the WS, it is stated that mention of ACR for the year 1998 by R/5 is unwarranted as the matter is set at rest by the judgment of Hon'ble Tribunal in O.A. No. 127/2002 whereby said remarks were set aside and quashed. Criticism of the said judgment by R/5 is undesirable and unbecoming on his part. R/5 instead of finding fault in the judgment and reading between the lines to buttress his unreasonable arguments is obligated to accept the judgment of Tribunal gracefully. Further, consideration of 1998 remarks for appending adverse remarks in the year 1999 and 2000 renders them invalid unlawful and hence unsustainable, for these are based on considerations/events outside period under review.

28. That while denying the averments made in paragraph 4.4(1) to 4.4(4) of the WS, it is stated that if adverse remarks for the period under review i.e. 1.1.2000 to 26.4.2000 are based on the considerations adverted to in this paragraph, then said remarks are invalid as these alleged events were not established in action under relevant disciplinary and appeal rules by than. The fact however in the matter are that after filing O.A. No. 338/99 in the Guwahati Bench of the Central Administrative Tribunal and grant of stay order dated 15.10.99, R/5 set out to dig fault with the

Applicant and accordingly, he called the said Shri A.K. Baruah, a dismissed bank employee and CBI charge sheeted under trial accused in CBI Case No. RC-7(A)/96-SHG under Section 120(B), 420, 468, 471, 477A of IPC and Section 13(2) r/w 13(1)(b) of P.C. Act, 1988, and PS Dispur, Assam Police charge sheeted person under Section 324/307/498A of IPC against FIR No. 696/95, and against whom Applicant also had filed FIR vide No. 1165 dated 20.11.98 itself under Section 147/148/447/325 IPC in P.S., Dispur, Guwahati in order to use him as a tool and settle their common scores of vendetta against the Applicant. As Shri Baruah was also in civil dispute in T.S. No. 214/98 and Misc. Case No. 119/98 in Court of Civil Judge (Senior Division), Kamrup and vide CPF No. 38/2000 before District Consumer Redressal Forum, Kamrup, Guwahati on property matter with the Applicant's wife and other flat owners, R/5 in conspiracy with said Shri Baruah issued a charge sheet for minor penalty against the Applicant on false charge as stated and ordered for major penalty punishment of stoppage of three increments with cumulative effect vide order No. 357/A/20/157/93 dated 2.2.2001 without holding any enquiry, without parting with the said statements, photocopies thereof annexed with written statement of R/5, or producing said witnesses in the enquiry against the Applicant and without giving notice of proposed punishment etc. and eliciting representation of Applicant against proposed punishment. Be that as it may, an statutory appeal was preferred to the ADCBI at Kolkata in the matter who

suspended the said punishment as communicated to the Applicant vide office order No. 214 dated 2.8.01 of SP, CBI, Guwahati. Therefore, no penalty stands against the Applicant even as on today and least during period under review i.e. 1.1.2000 to 26.4.2000. In view of above, the consideration of this matter for appending adverse remarks during period under review is premature rendering said adverse remarks as invalid and unsustainable. Central Service OM No. 51/5/72-ESTS(A) dated 28.5.72 para 3.3 and 5.1 also mention that an entry relating to a penalty should be recorded in the report for the year in which the punishment order is issued. Therefore, consideration of the matter inadmittedly down-grading Applicant's category from 'good' reported by Reporting Authority to 'below average' alongwith other remarks are invalid and unlawful and hence liable to be set aside and quashed as the same are appended in the ACR without completing proceedings under disciplinary rules.

29. That in regard to the statements made in paragraph 4.5 (1) and 4.5 (2) of the WS, it is stated that the statements made in the aforesaid paragraphs pertain to events outside period under review which is 1.1.2000 to 26.4.2000 and therefore could not be considered as the basis for down grading Applicant's category from 'good' reported by Reporting Authority to 'below average' by R/5 together with other adverse remarks which are invalid and unlawful for these are based on

consideration outside period under review. Further the matter was judiciously examined by the Hon'ble Central Administrative Tribunal in O.A. 137/2000 and was pleased to allow the application by passing order for release of the Applicant's withheld salary and ordering for grant of medical leave for the period. The Hon'ble Tribunal also passed stricture of condemnation against R/5 and also ordered for payment of cost of Rs.1,000/- to this Applicant. Since then, leave is granted and salary released and R/5 is obligated to respect the Court's order instead of finding fault with the judgment.

Order dated 9.7.2001 of Hon'ble Tribunal in O.A. No. 137/2000 and office order No. 204 dated 24.7.2001 of SP/CBI/Guwahati granting medical leave are annexed as ANNEXURES-RJ/5.

**30.** That in regard to the statements made in paragraph 4.6(1) of the WS, it is stated that the observation made by R/5 is not so innocuous and bonafide as is made to appear in the written statement. The malice, purport, meaning and objective of the said remark could be understood after reading its full text which reads "SP should stop giving reward indiscriminatingly which sometime puts the branch in awkward position as in case of Shri S.P. Singh Yadav who is using to his advantage in fighting his cases in CAT, Guwahati". The specific reference of case of Applicant in Administrative Tribunal its plain meaning and conveyance of

instructions/directions to the Branch SP, what makes it malafide and unjustified, for after passing of this order, the Applicant was not rewarded even for securing court conviction in RC-32(A)/94-SHG, exclusively investigated by Applicant wherein Court of Special Judge, Assam passed sentence of punishment for five years RI and Rs.10,000/- as fine against accused during period under review, even though it qualified for reward as per provision IV of DCBI standing order No. 32 dated 27.12.96 annexed by R/5 as Annexure-5 at page 54 of the written statement. It is pertinent to mention that out of more than 10 disposals in court, it was the only case wherein Court of Special Judge passed conviction order and the rest of the case filed by other IOs turned out in acquittal. Similarly, no reward was given for conducting surprise check on the own source information of Applicant leading to registration of PE-5(A)/2000-SHG and PE-15(A)/99-SHG which after enquiry were converted to regular case No. RC-14(A)/2000-SHG and RC-1(A)/2000-SHG respectively against Telecom officials for causing defalcation of public stores to the tune of Rs.75.00 lacs approximately. Both the cases were quality cases and qualified for reward under guidelines (1) for reward by DCBI standing order 32 dated 27.12.96 mentioned by R/5 in his written statement and also as per his instructions vide order No. 2219/120/97/NER dated 18.11.99 which prescribed criteria for reward as actionable results leading to registration of PE/RC for surprise check and no other conditions. Thus on the one

hand, better claims of reward and commendation certificate to the Applicant were deliberately ignored, on the other hand same R/5 granted reward and commendation certificate for surprise check resulted into registration of PE/RC against shortage/excess of Rs.9,000/- approximate worth of store materials only. However, IO of the case (Shri K.M. Das) was given reward of Rs.1500/- despite the tale tell fact that the Enquiry Officer Shri P.K. Deb Kanoongo, Dy. SP indicated said Shri Das and another Inspector Shri D. Dutta for lack of integrity in CBI case No. RC-5(A)/2000-SHG in which a tape recorded conversation to this effect was also recovered. Thus the action of R/5 were not governed by any principled stand but purely personal and private interest and vendetta against the Applicant which resulted into issuance of said impugned order directing even SP not to give any reward/ commendation certificates to Applicant even if Applicant performs exemplary work so that Applicant's ACR could be down graded conveniently.

**31.** That in regard to the statements made in paragraph 4.6(2) of the WS, it is stated that the Branch inspection of JD/DIG is a regular feature and conducted invariably at least once in a year. Therefore, JD/DIG is entitled to observe all the matters pertaining to the period of inspection i.e. one year alone and not against the period which is covered by his predecessor. Therefore, it is entirely malafide and unwarranted to aver that all the rewards and commendations

certificates numbering 17 rewards and 9 commendation certificates during past seven years of Applicant's service in CBI did not fulfill the guidelines and were inadmissible. Further there could be no reason for R/5 to specifically name Applicant in his observation in the Branch inspection report for the year 1999 as during 1999 only one commendation certificate vide office order No. 23 dated 22.1.99 for good work in RC-34(A)/96-SHG and another cash reward of Rs.1000/- by JD/EZ, CBI, Kolkata vide office order No. 116 dated 22.6.99 were given which could not be called excessive or indiscriminate reward by any standard warranting R/5 to comment by specifically naming Applicant and justify his observation under cover of said standing order. The fact however is that in contrast to pretentious principled stand R/5 did not comment anything in this regard during his branch inspection for the year 2002 when rewards were given to the CBI personnel indiscriminately on his inspection, ADCBI visits and for as routine duties as searches during investigation etc. as shown in annexed list of rewards given to CBI personnels from Constables to Inspectors upwards, forwarded by Branch SP to DD(A) CBI, New Delhi vide E-mail dated 4.7.03. Perusal of the said list reveals that unlike Applicant who was rewarded only on two occasions during 1999 all the Inspectors/Sub-Inspectors were rewarded from 3 to 6 occasions and good work shown in the reward list apparently does not conform to the guidelines shown in bold letters by R/5 in para 4.6(2).

quoting vide DCBI standing order. It is, therefore, apparent that said observation of R/5 was malafide and directed against the Applicant and there were no bonafide reason for R/5 to append such remarks. Further, R/5 is incompetent to comment upon discretion of other senior officers who granted rewards to the Applicant.

(Reward list for the year 2002 forwarded by Branch SP to DD(A) vide his letter dated 4..7.03 is annexed as ANNEXURE-RJ/6).

32. That while denying the statements made in paragraph 4.6(3) of the WS, it is stated that in preceding paragraph it is shown that rewards were given to the Applicant as per extant practice, convention and guidelines and there are no reason to conclude that rewards were given indiscriminately to the Applicant. Rewards and commendation certificates were given under discretionary powers and subject to satisfaction of the reward giving authority for the work and conduct of the Applicant and R/5 is now incompetent to comment that rewards and commendations certificates given to the Applicant by so many superior officers in distant past were in violation of the guidelines.

33. That in regard to the statements made in paragraph 4.6(4) of the WS, it is stated that the statements made in this paragraphs are misleading inasmuch as DCBI standing order No. 32 dated 27.12.96 is insupersession of any previous order in this regard and that said

instructions in HO circular No. 29/1/85-AD.III dated 10.1.85 pertains to grant of annual rewards and not "incidental rewards" given for outstanding achievements during investigation etc. In said annexure, all SPs are exhorted to grant annual rewards to those members of CBI also who work in office and obviously not engaged in investigation works and have therefore no opportunity to earn rewards as they work in office. It is thus obvious that said instructions are not applicable herein. Further, said instructions does not exhort SP/DIG to discriminate deserving cases as aforesaid in the matter of Applicant and give it indiscriminately to other CBI personnel as shown in Annexure-RJ/6 For as routine duties as searches during investigation, during visit of R/5 for branch inspection, during visit of AD/CBI to branch etc. The rewards and commendation certificate in the said annexure shows as to how far R/5 has applied same yardstick of said DCBI standing order and HO Circular in granting rewards to CBI personnel under his own command which he is quoting herein to justify denial of rewards to the Applicant.

34. That in regard to the statements made in paragraphs 4.7(1) to 4.7(4) of the WS, it is stated that R/5 has advanced unreasonable and hair splitting arguments by differentiating between a registered doctor and registered medical doctor. They are one and the same so far as their registration on the register of Indian

Medical Association is concerned. The said doctor is MBBS MD,WHO Fellow (USA), PGC Health & Family Welfare Management (NSHW, Delhi) and the consultant physician, with registration No. 9936 as registered medical practitioner. This matter is judicially examined under O.A. No. 137/2000 by this Hon'ble Tribunal allowing the application, ordering Respondents including R/5 to grant medical leave and releasing withheld salary of the Applicant, imposing further penal cost of Rs.1000/- against Respondents and passing stricture of condemnation against R/5 on his obdurate conduct. The charge sheet issued by R/5 malafidely against the Applicant was also examined by the new Disciplinary Authority Shri Vijay Kumar and DLA/CBI/EZ/Kolkata, who dropped the charge memorandum No. 1378/12/COMP/SLC/NER/Part I dated 11..5.2000 in the matter vide his order No. 833/13/3/2001/CRO dated 18.10.2001. Further the matter of charge sheet could not be considered for ACR writing in the year 1999 or 2000 for the same could at all be mentioned in the year of punishment and that too after legal proceeding and not otherwise. Therefore, the matter could not be considered for recording ACR during period under review.

Order dated 18.10.2001 of New Disciplinary Authority dropping the charge vide charge memorandum dated 11.5.2000 is annexed as ANNEXURE-RJ/7.

35. That in regard to the statements made in paragraph

4.8 and 4.9 of the WS, it is stated that the complaint filed by Applicant's wife is registered in NHRC, New Delhi vide case No. 19/3/2000-2001 and detailed and exhaustive comments in opposition to the reports of R/5 is filed and the said case is not disposed of as yet. (Applicant craves leave of this Hon'ble Tribunal to produce the copy of the aforesaid comments at the time of hearing of this case.) Further no result of any said enquiry was confronted with the Applicant that complaint was false and lodged by Applicant through his wife, who is a responsible officer under Government of Assam and a person of maturity and independent judgment to judge herself the events which led her to file said complaint. The Applicant also on his own part most humbly wants to assert that even though he is a small functionary in the Government, but is a man of self-respect and ever conscious of dignity and sanctity of family and would never like to use family members as alleged to advance his own cause. Be that as it may, this matter could not be considered for writing adverse remarks or down grade Applicant's over all category from 'good' reported by reporting officer to 'below average' in the ACR of the Applicant for period under review i.e. 1.1.2000 to 26.4.2000 until and unless allegations against the Applicant are established through legal proceedings.

Similarly the matter also could not be considered for down grading Applicant's category rating from "very good" reported by reporting officer to "below average"

by R/5 in the ACR of the Applicant for the year 1999 as the event whatsoever is outside period under review i.e. 1.1.99 to 31.12.99. Said event could not be considered even if it happens at the time of ACR writing and until and unless alleged event is established against officer reported upon through legal proceedings only.

Further R/5 has a public responsibility to assess the Applicant for reviewing ACR of the Applicant reported by reporting officer dispassionately and through objectivity and R/5 under given facts and circumstances could not be said to be objective and dispassionate in the matter involving his own cause.

**36.** That the statements made by R/5 in paragraphs 4.9(2) and 4.9(3) of the WS are all falsehood and subsequent manipulation inasmuch as the said observations dated 1.11.2000 vide 28/N to 40/N dated 20.2.2001 in file No. SA/SHG/99/20 are all outside period under review which is 1.1.2000 to 26.4.2000 (1.1.99 to 31.12.99 in O.A. No. 42/2003). Further Applicant was placed under suspension w.e.f. 26.4.2000 and he was never confronted with any alleged discrepancies as are being pointed out now. All subsequent observations are appended with single objective of fault finding with the Applicant instead of preserving public interest by registering PEs against delinquents who cheated the exchequer to the tune of more than Rs.5.00 crores, as per prevalent

practice in CBI in cases reported other than by Applicant. Further, in the verified report dated 21.9.99 Applicant recommended at least six Telecom officials in each of the three SIRs and other contractors numbering more than 12 in each case for preliminary enquiry only on the prima facie satisfaction of the matter against them and clear facts in the case would have emerged during open enquiry, and subsequently on establishment of violation of provisions of IPC and PC Act 1988 PEs could have been converted into regular cases and therefore objections raised vide points (i), (ii), (iii), (iv) in the para of written statement are irrelevant. The fact however, in this regard is that these source information report arose while investigating CBI case No. RC-5(A)/98-SHG and the matter was discussed in details with SP, the reporting officer of the Applicant as well as R/5 also on 6.8.99 and accordingly 3 SIRs were submitted. These SIRs were submitted in pursuance of Memo No. CBI/99-SHG/03256-7 dated 30.7.99 issued by Branch SP to all the IOs communicating observations of R/5 that the branch is lagging behind miserably in the achievement of target under the head "registration and finalisation of cases"from investigation and therefore requesting all the IOs to explore the possibilities so that cases could be registered and disposed of immediately to meet the shortfall in the achievement of targets under the heads of registration and disposal from investigation immediately.

Memo dated 30.7.99 annexed as ANNEXURE-RJ/8.

In these cases, the accused persons in conspiracy with the Telecom officials cheated the exchequer by an amount of more than Rs.5.00 crores by awarding contracts of optical fibre cable laying works at exorbitant rate than prevailing market and approved departmental rates on Jorhat-Dimapur-Kohima, Imphal-Moreh and Imphal-Churachandpur routes. All the three SIRs were verified discreetly from the records only and submitted for registration of preliminary enquiry only so that full facts of cheating and defalcation of public money could be known before registration of regular cases. This care was undertaken so that full facts are known during preliminary enquiry against the accused without using police powers of search/seizure/arrest etc. and when the offences committed under penal code and prevention of Corruption Act are confirmed, then convert preliminary enquiry in regular cases. This is the prevalent practice in CBI which ensures avoidance of any possible harassment of suspect public servant etc. on account of investigation on half baked charges, besides this practice also help CBI in registration and disposal of cases quickly by showing conversion of preliminary enquiry into regular cases and thereby branch target is also achieved conveniently and quickly.

All the three aforesaid verified SIRs were examined by the Branch PP Shri A.K. Deb vide his comments dated 3.12.99 and branch SP vide his comments

dated 30.12.99 and both of them recommended for registration of preliminary enquiry and forwarded the matter to R/5 for necessary action. R/5 however did not have public interest in mind, but personal and private agenda before him to settle his score against the Applicant for reasons stated in the preceding paragraphs, he therefore asked unreasonable explanation on baseless and flimsy ground as to how Applicant verified source information, even though the matter was fully discussed with Branch SP as well as with R/5 himself and on whose instructions alone, the SIRs were submitted so that Branch may achieve its target of registration of cases. Be that as it may, explanation was submitted vide NS/13 dated 3.2.2000 and Branch SP vide NS/14 dated 15.2.2000 satisfied with the explanation of the Applicant forwarded the matter to R/5. However, as R/5 was working with hostile biasness against the Applicant again appended unreasonably note vide NS/15 dated 29.2.2000 for minor penalty against the Applicant. As the Branch SP knew the malafide of R/5 and his open hostility against Applicant, besides Branch SP was satisfied with the work and conduct of Applicant with the aforesaid matter, therefore, he did not issue charge sheet at the unlawful and unreasonable dictate of R/5.

Three note sheets of the said file and explanation of Applicant dated 2.2.2000 are annexed as ANNEXURE-RJ/9.

Be that as it may, the matter being outside period under review for ACR writing for the year 1999, and further the matter pertains to alleged minor penalty which could also not be considered for appending adverse remarks for writing ACR for the period 1.1.2000 to 26.4.2000 without undertaking and establishing the alleged charge under legal proceeding. Hence any remarks made in consideration of said malice being invalid and unsustainable in law liable to be set aside and quashed.

37. That the statements made in paragraph 4.9(4) of the WS are denied. It is stated that the R/5 suppressed detailed explanation dated 2.2.2000 submitted by Applicant vide NS/13 dated 3.2.2000 disclosing in detail the circumstances of submission of verified SIR that too in full knowledge and after thorough discussion with Branch SP and R/5 himself and on his instructions said SIRs were submitted. Matter in this regard is dilated in detail in preceding paragraph. R/5 is misleading the Hon'ble Tribunal by falsely stating that Applicant without submitting SIR and seeking permission for verification on his own conducted investigation. The fact however is that as explained by the Applicant in his explanation dated 2.2.2000, the Branch SP has endorsed Applicant for verification of SIR/complaint submitted by another Inspector Shri K. Barman vide SA/SHG/97/11 dated 8.9.97 in the matter. The SIR was closed and matter reported to Branch SP that as the subject matter of SIR submitted by K.

Barman is covered in the investigation of CBI case No. RC-5(A)/98-SHG , therefore subject matter of SIR will be looked after in the case. Therefore, it is misleading to state that no SIR was registered and no permission were taken before submission of verified SIR. Further, verification is conducted discreetly and no question arises for conducting investigation which is undertaken as per provision under Chapter 12 of Cr.P.C. Even after submission of explanation dated 2.2.2000, R/5 malafidely and unreasonably indulged in raising hypothetical queries knowing it fully well that in the very FIR dated 6.9.97 filed against Shri K. Ganesh in PS Azara, District Kamrup by Executive Magistrate, Kamrup names of Giasuddin Ahmed and Abid Hussain besides few others were pointed out as contributory of cash currency amounting to Rs.24.00 lacs approximately seized from Shri K. Ganesh at Borjhar Airport on 6.9.97. This fact was also mentioned by Applicant in his explanation dated 2.2.2000 submitted vide NS/30 dated 3.2.2000. However, R/5 unreasonably again appended his comments vide NS/15 dated 29.2.2000 asking "when did the accused disclose the names of those two private accused Abid Hussain and Giasuddin Ahmed as contributed..... etc. and (2) that he (Applicant) should be dealt severely for misconduct (3) he had quoted CBI crime manual, what is that ? etc. " In view of above comments, Applicant again drawn attention of R/5 towards Applicant's explanation dated 2.2.2000 and accordingly appended his comments NS/17 dated 24.4.2000 and there is nothing

wrong as such in said notings.

FIR dated 6.9.97 filed by Executive Magistrate, Kamrup dated 6.9.97 in PS Azara, Kamrup is annexed as ANNEXURE-RJ/10.

38. That the statements made in paragraph 4.9(5) of the WS are denied. It is stated that the verified SIR were submitted after full discussion and on the instruction of the R/5 and Branch SP, duly vetted by Branch SP and Branch PP. Further SIR and its verification is discreet and has inherent restriction of eliciting full facts of any case lest information will be disclosed to the suspects alerting them to destroy evidences likely to emerge during investigation of regular case. During verification, prima facie irregularities and wrongful loss apparent on face of record is seen. It is followed by registration of PE where facts are confirmed during open enquiry, but without using police powers under Chapter 12 of Cr.P.C. and on confirmation prima facie offences under provision of IPC and Prevention of Corruption Act, 1988 preliminary enquiry is converted to regular case for investigation to be carried under provisions of Chapter 12 of Cr.P.C. It is, therefore, premature to find fault with the verification by the Applicant which could not be equated with open enquiry or investigation under the Code of Criminal Procedure. R/5 however did not show as to how submission of mere source information report by Applicant disclosing wrongful loss to the exchequer to the tune of over

Rs.5.00 crores by public servants in conspiracy with private contractors for registration of preliminary enquiry would become serious misconduct/malfeasance (a duty cast upon every person under provision of Section 39 of Cr.P.C. to file complaint) and obviously suppression of said facts, came across during investigation in another case would have been otherwise a good conduct. This was the malicious, unreasonable and irrational mind set of R/5 that he was bent upon finding fault and create unnecessary controversy with the work of the Applicant bypassing Applicant's controlling authority i.e. Branch SP and in the venture R/5 goes to the extent of apportioning blame on SP also.

39. That in regard to the statements made in paragraph 4.9(6) of the WS, it is stated that the immediate supervising officer and controlling officer of the Applicant is Branch SP who is also the Reporting Authority of the Applicant, however, R/5 with a view to settle his personal score of vendetta against Applicant bypassed Branch SP, the statutory supervisory and controlling authority of the Applicant and thereby misusing and abusing his official position appended all these comments wherein irrationality, unreasonableness and perversity is writ large. As the Branch SP was aware of personal character of R/5 besides his hostile animosity against Applicant and as Branch SP was satisfied more than enough with the work and conduct of Applicant in aforesaid matters wherein not even an iota

of alleged misconduct/malfeasance is discernible and hence Branch SP did not issue said charge sheet for minor penalty against the Applicant at the dictate of R/5. Further, the matter could not be considered for writing ACR for the period 1.1.99 to 31.12.99 as the events are outside period under review and also for the ACR writing for the period under review i.e. 1.1.2000 to 26.4.2000 as the events as alleged were not confronted with the Applicant and hence same could not be considered for writing of ACR until and unless allegations are established in action under legal proceedings.

Be that as it may, R/5 by admitting considerations referred to under sub-para 4.9(1) to 4.9(4) in appending adverse remarks and bringing down Applicant's category rating from "very good" to "below average" both the time while reviewing ACRs for the year 1999 and 2000 has admittedly adjudicated in the matter pertaining to his own cause and hence it cannot be said that R/5 reviewed the ACR of the Applicant with objectivity, dispassionately and without malafide and humane subjectivity. Such act of R/5 in down grading Applicant's category from very good to below average is against Rule of law which excludes arbitrariness and postulates intelligence without passion and reason free from desire. Arbitrariness and unreasonableness in administrative action is denial of rule of law. Quasi judicial act are not the act to show valour or courage to prove their worth in salt and that too on the annual

confidential report of a poor subordinate functionary. Courage is shown under face of greatest danger to one's life to save and preserve supreme values of human lives which are based on justice, reason and fairness as against caprice, arbitrariness, unreasonableness to stoke one's own blotted and bruised ego.

40. That the statements made in paragraph 4.10(1) of the WS are denied. It is stated that no explanations were asked from the Applicant before suspension and charge sheet. Further, after issuance of charge memorandum dated 11.5.2000, 17.5.2000, 22.5.2000 detailed written statement were submitted disproving the alleged charges in said charged memorandum. These charges were also held to be legally unsustainable by Central Administrative Tribunal, Guwahati in its common order dated 4.5.2001 in O.A. No. 30, 31 and 61 of 2001 and directed the DCBI to recuse R/5 from acting as Disciplinary Authority and conclude the enquiry to its logical end expeditiously by appointing new Disciplinary Authority. Hon'ble Tribunal also maintained that Applicant will be at liberty to file all objections including against maintainability of charge memorandums before Enquiry Officer/Disciplinary Authority. Accordingly, R/3 appointed Shri Vijay Kumar, IPS, DIG, CBI, Kolkata Region as new Disciplinary Authority before whom Applicant filed two representations dated 10.9.2001 and 26.11.2001 for passing order as regard maintainability of charges. Though the new Disciplinary Authority vide its order

No. 833/13/3/2001/CRO dated 18.10.2001 intimated Applicant closure of the charge memorandum dated 11.5.2000 in view of the decision of Hon'ble Tribunal in O.A. No. 137/2000. However, no order was passed even as yet by the new Disciplinary Authority as regards maintainability of charges in other two memorandums dated 17.5.2000 and 22.5.2000. This Applicant has however reason to believe that matter was referred to the Regional Law Officer for comments in this regard and accordingly, DLA/CBI/EZ/Kolkata Shri J.S. Teran has also opined that no charges are maintainable in said two charge memorandum. R/3 may accordingly be directed to produce said file for perusal and clarification in the matter.

Be that as it may, relevant rule in this regard clearly mentions that any event or incident which is the subject matter of penalty in any disciplinary proceeding cannot be mentioned until and unless proceedings conclude legally culminating into award of penalty. The aforesaid charged memorandum could not be considered for down grading Applicant's category grading from very "good" reported by Reporting Authority to "below average" during 1999, and from good reported by Reporting Authority to again below average in the ACR for the period 1.1.2000 to 26.4.2000. Further, the matter of charge sheet could also not be considered for writing ACR for the period 1999 or 1.1.2000 to 26.4.2000 as the event of charged memorandum dated 11.5.2000, 17.5.2000 and 22.5.2000

being outside period under review.

R/5 is habitual of acting malafide which has been proved in departmental proceedings initiated by R/5 only against Shri Mukut Das, SCS, in office of SP, CBI, Guwahati that enquiry authority Shri Tanmay Behera, Dy. SP acquitted the charged official from alleged charges and instead recommended registration of criminal case against R/5 and his office Assistant for commission of offences under Section 167, 191, 192, 193, 465, 471, 477A, 120(B) of IPC and Section 13(2) r/w 13(1)(d) of PC Act, 1988 and sought permission from competent authority for filing complaint case in appropriate court of law.

41. That the statements made in paragraph 4.12(1) of the WS are incorrect and as such the same are denied. It is stated that the suspension order dated 26.4.2000 does not whisper anything in this regard. Moreover, object of suspension could also not said to be achieved by aforesaid order dated 26.4.2000 for the alleged incident dated 2.12.99 and charged memorandum dated 10.1.2000 is for minor penalty proceeding only and suspension is not required for minor penalty proceedings. In this matter also, no regular hearing took place, no evidence were deposed by the said witnesses, no statements of the witnesses were given to the Applicant, no opportunity whatsoever was given to the Applicant to defend himself, no notice for intended penalty was given, However, major penalty, punishment

for stoppage of three increments with cumulative effect was passed by R/5 on minor penalty charges. On appeal, this punishment was suspended by R/3. In view of aforesaid, suspension order so passed by R/5, could not be justiciable for meeting any reasonable or bonafide objective of placing Applicant under suspension which is still continuing for more than three years without upward revision of subsistence allowance from 50% to 75% and release of the Applicant from CBI unlawfully during state of suspension without settling his financial dues and other pending service matters, represented vide letter dated 22.2.2002, 7.4.2003 and 10.6.2003 but without avail as yet. Thus suspension and the repatriation of the Applicant too was punitive and stigmatic and ordered by R/5 to settle his personal score of vendetta against Applicant only.

**42.** That the statements made in paragraph 4.13 of the WS are incorrect and misleading. In this connection following facts should be noted :

(i) Charge sheet dated 10.1.2000 is for minor penalty. The illegal punishment order passed in the matter vide order No. 357/A/20/157/93 dated 2.2.2001 by R/5 too is suspended by R/3 as communicated to Applicant vide office order No. 214 dated 2.8.2001 by SP/CBI, Guwahati.

(ii) In the matter of charge memorandum dated 11.5.2000, 17.5.2000 and 22.5.2000, the Hon'ble Tribunal vide its order dated 4.5.2001 maintained that

said charge memorandum were legally unsustainable.

(iii) O.A. No. 137/2000 involving same subject matter as in charge memorandum dated 11.5.2000 was allowed by the Tribunal vide its order dated 9.7.2001 with the strictures of condemnation against R/5. This charge memorandum is dropped by new Disciplinary Authority Shri Vijay Kumar, IPS, DIG/CBI/Kolkata Region, Kolkata vide his order No. 833/13/3/2001/CRO dated 18.10.2001.

(iv) Charge memorandum dated 17.5.2001 is regarding alleged non-submission of weekly diaries for the period 1997 when R/5 was not even present on the scene as Disciplinary Authority. Said weekly diaries was indeed submitted and if R/5 wanted in any matter of public interest, he could have been provided photocopies thereof from the carbon copies thereof kept in personal record of the Applicant. This matter could also not be grave misconduct in any event which is so exaggerated by R/5. The charge memorandum dated 22.5.2000 was in connection with filing of final report under Section 173 Cr.P.C. closing the case and action in this regard was taken after proper scrutiny of records/CD files/ detailed discussion with legal officer as well as concerned supervisory officers and unanimous recommendation of senior PP/SP/DIG/DLA/JD/ADCBI in writing in 1998 itself and Court of special Judge, Assam also accepting the report vide its speaking order dated 14.2.2000. The matter could not be grave and against public interest as R/5 has not filed any revision for reinvestigation/further investigation on

the basis of his observation in alleged charge memorandum.

(v) Further, following common order of Tribunal in O.A. No. 30, 31 and 61 of 2000, the DCBI appointed Shri Vijay Kumar, IPS, DIG/CBI/Kolkata Region as new Disciplinary Authority who was submitted with the representation dated 10.9.2001 and 26.11.2001 for passing order on maintainability of charges in the memorandum dated 17.5.2000 and 22.5.2000. This Applicant has reason to believe that the said matter were legally examined by DLA Shri J.S. Terong who after considering the fact evidences and law under matter, recommended for dropping of the alleged charges being without any merit and hence not maintainable. The file in this regard and action taken on representation dated 10.9.2001 and 26.11.2001 may kindly be called for perusal.

**43.** That in regard to the statements made in paragraph 4.15 of the WS, it is stated that the order dated 9.7.2001 in O.A. No. 137/2000 is clear in the matter that R/5 unnecessarily harped on the certificates of CGHS doctor when CCS Leave Rules has specifically mentioned that in case of NGO proceeding on medical leave, certificate issued by registered medical practitioner is admissible. However, R/5 in violation of express provision of law and submission of medical certificate to that effect, issued by registered medical practitioner Dr. Mrs. Rupali Barua, MBBS MD, was not accepted and stopped the salary of the

Applicant for the period and issued charge memorandum dated 11.5.2001 malafidely to harass the Applicant. Even the Hon'ble Tribunal's advice to settle the matter being termed as "trifling one" was obstinately refused by R/5 personally but remained bent upon passing punishment order. This conduct of R/5 was observed by Tribunal and therefore it passed said stricture of condemnation against R/5 including ordering for payment of penal cost to the Applicant.

**44.** That the statements made in paragraph 4.17 of the WS are denied. It is stated that the grading of the Applicant for the period under review i.e. for the year 2000 as communicated vide memorandum No. 2829/47/CBI/NER/2001 dated 13.10.2001 of R/5, it is 'below average' and not 'average'. Further, in the ACR for aforesaid period Reporting Authority graded Applicant as ' good' but R/5 as Reviewing Authority malafidely down graded it to 'below average' and Accepting Authority without proper application of mind and without citing reason accepted it as 'below average'. There could be no bonafide reason for such drastic difference of perception as regards Applicant's category grading as aforesaid between Reporting Authority and Reviewing Authority whose malafide acts are dilated upon in detail in preceding paragraphs.

**45.** That while denying the statements made in paragraph 4.19(1) and 4.19(2) of the WS, it is stated that the Applicant was not given two rewards and commendation

certificates dated 22.1.99 and 22.6.99 as a matter of routine. It is an admitted and recognised fact that reward is given in recognition of good work post facto. Further, DCBI standing order No. 32 dated 27.12.96 (Annexure-5 of written statement) at para 5 provides that "one reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any." In view of it, it cannot be stated that rewards are given in routine manner. In fact, R./5 has also given reward similarly in the year 2002 to the officers and personnel of the branch during his annual inspection. Further, the main job of the Applicant is investigation and said rewards were conferred recognising good work in CBI case No. RC-34(A)/96-SHG as well as RC-5(A)/98-SHG and therefore, it will be unreasonable and obstinacy not to admit recognised fact, and to state that these rewards had nothing to do with the investigating capabilities of the Applicant in cases mentioned above.

**46.** That in regard to the statements made in paragraph 4.20(1) and 4.20(2) of the WS, it is stated that so far as good work done in said cases are concerned, it is specified in detail in the citation which is available in the file. The commendation certificate and office orders conferring rewards shows in brief the commendable work in particular case and this is the same practice in all the CBI branches through out the country since very inception of CBI itself. R/5 is deliberately misleading the Tribunal by equating good

work with CDs. It is a fact that after investigation detailed report in prescribed format of CBI called FR (Part-I), consisting of more than 400 pages were submitted on 4.1.99 and against said report. Senior PP gave his report in FR (Part-II) on 23.1.99, DLA/CBI/EZ/Kolkata gave his comments on 15.2.99 and 20.3.99, SP/CBI gave comments on 22.4.99, DIG/CBI/NER gave his comments on 24.5.99, JD/EZ/CBI/Kolkata gave his comments on 4.6.99, ALA/CBI Head Office, New Delhi gave his comments on 13.7.99 and final order of SD/CBI/New Delhi in the matter were passed on 28.9.99. Subsequently in this case, SP's report was submitted on 24.11.99 which was vetted by DLA/CBI/Kolkata on 27.11.99 and accordingly, SP's report was finally submitted on 31.12.99. All aforesaid comments and reports are integral part of the finalisation of case before charge sheet. Further, during the aforesaid process of discussion and scrutiny of the records/CD file/documents/GEQD report etc. the quality and quantity of investigation by Applicant or for that matter any other I.Os. comes to the notice of superior Law Officer and other authorities to comment upon the investigation carried out in the case. This was the acceptance by all aforesaid superior officers unanimously, the recommendation made by the I.O. including first time attachment of accused's property equivalent to defalcated amount under Criminal Law Amendment Ordinance, 1944 vide Misc. Case No. 206/98 in the entire history of CBI, Guwahati Branch, that Applicant was conferred commendation certificate for

the disposal of the case for charge sheeting in Court, and therefore it cannot be said that no work was done in the case in 1999 and reward was not given for any work in 1999. It is also recognised fact that it is the year of reward and commendation certificate in which credit for good work is given and not the year of actual good work in which said good work is attaining maturity for its recognition.

Further, all these aforesaid decision making process in the finalisation of the case is not reflected in CD File and instructions in this regard are available in para 6/195 at page 57 of CBI Crime Manual. Thus R/5 is deliberately misleading the Tribunal by suppression and misrepresentation of facts. Furthermore, contrary to allegations rewards were conferred upon the Applicant by reporting authority as well as JD(E)/CBI during branch inspection and were indeed given in the light of the DCBI standing order No. 32 dated 27.11.96 and no fact is shown by R/5 that it was not given in conformity with the said standing order.

**47.** That in regard to the statements made in paragraph 4.20(3) of the WS is concerned it is stated that the provision that reward cannot be claimed as a matter of right does not confer arbitrary power upon supervisory officer working in public interest to treat equals unequally and discriminate one under same set of parameters/circumstances. R/5 has clearly discriminated

Applicant by not conferring rewards/commendation certificate on securing court conviction in RC-32(A)/94-SHG for five years RI and Rs.10,000/- fine against accused Bank officials during 2000, conviction for major penalty, punishment in departmental actions in RC-6(A)/91-SHG, RC-12(A)/93-SHG, RC-5(A)/94-SHG, RC-37(A)/91-SHG, RC-29(A)/92-SHG against charged officials, and for conducting surprise checks which led to registration of PE-5(A)/2000-SHG, RC-14(A)/2000-SHG, PE-15(A)/99-SHG, RC-1(A)/2000-SHG and PE-2(A)/99-SHG leading to the detection of defalcation of telecom stores and FCI food grains to the tune of Rs.75.00 lacs approximately. Said events fully meet the prescribed guidelines in DCBI standing order No. 32 dated 27.11.96 for reward to the Applicant however it were deni ed deliberately and maliciously, though R/5 and Branch SP Shri Narayan Jha has given reward to other CBI officials for as routine matter of investigation as for conducting house search and mass reward on Branch inspection by R/5 which do not conform to DCBI standing order being pointed out by R/5.

**48.** That in regard to the statements made in paragraph 4.21(1) of the WS, it is stated that the rewards so mentioned indeed relate to the performance of Applicant for the year 1999. Commendation certificate/reward dated 22.1.99 was given for commendable work done in RC-34(A)/96-SHG and reward dated 25.6.99 was given by JD/EZ/CBI during his branch inspection on 4.6.99 after holding discussion in the cases investigated by the

Applicant besides for his overall performance in other field of duties. Averments in respect of investigation in RC-5(A)/98-SHG by Applicant are incorrect inasmuch as - (1) Investigation of Applicant was vindicated in judicial scrutiny by the Special Court as well as in Criminal Revision before Gauhati High Court in Misc. Case No. 2/98 and Crl. Revn. No. 264/98 respectively and on the basis of investigation by the Applicant, the petitions of accused's were dismissed by the Hon'ble Court. (2) Investigation was highly commended and Branch SP conferred reward and commendation certificate vide office order No. 117 dated 25.6.98. (3) Investigation in the case was carried on under full supervision of Branch SP who apprised the superior officers regularly the investigation in the case vide their monthly progress report. (4) The line of investigation in the fact and circumstances of the case required investigation to be carried and charge sheet to be filed under Section 13(1)(a) (habitual bribe taking), 13(1)(d) (criminal misconduct by public servant), 13(1)(e) (possession of disproportionate asset beyond known source of income) and Section 12 (abatement for bribery etc.) of Prevention of Corruption Act, 1988 and accordingly investigation was carried on.

On the contrary, the fact however is that it was the personal and private interest and unlawful interference by R/5 in the investigation that after withdrawal of investigation of the case from the

Applicant, defective charge sheet containing following infirmities were filed by the new I.O. Shri B. Chandu, Dy. SP on the instruction of R/5 and consequently even charges are not going to be framed in the Court against the accused. The reasons for the same are as follows :

(i) Charge sheet is filed under Section 191, 193, 465, 511, 120B of IPC and Section 13(1)(e) read with 13(2) of PC Act, 1988 though Police cannot file charge sheet under Section 191, 193 as it is barred by provision of Section 195 of Cr.P.C.

(ii) Under Section 13(1)(e) r/w Section 13(2) of PC Act, 1988 only public servants should be charge sheeted and not his wife or children along with him under Section 120B. Thus invocation of Section 120B against wife of the accused in this case is undesirable and misuse of the said provision.

(iii) The check period of assets and income was undesirably and unreasonably taken only a week which do not conform to the facts and circumstances of the case and is also against the law laid down by the Apex Court that check period under disproportionate cases should not be unreasonably short period.

(iv) Evidence available on the record file evidences multiple source of bribe money amounting to Rs.27.00 lacs recovered from the main accused Shri K. Ganesh, CGM Telecom Task Force, Guwahati at Borjhar Airport on 6.9.97 while he was proceeding to his home town at

Chennai and obviously requires investigation and charge sheet to be filed under Section 13(1)(a) of PC Act, 1988, which was deliberately ignored.

(v) Investigation as regards criminal misconduct on the part of Shri K. Ganesh, CGM Task Force while posted and functioning in said capacity that culminated into obtainment of bribe from large number of sources leading to recovery of said amount and registration of instant case was not completed. All aforesaid facts besides many other will prove to be fatal for prosecution during trial.

(vi) Investigation work is a dynamic process guided by the peculiar fact and circumstances of individual case and invariably include ascertainment, verification and corroboration of facts and clues emerging during course of investigation untill a well knit and flawless prosecution story as per principles of Evidence Act is made out. The job of the IO is to bring out unvarnished truth and this process of investigation ought to be brought to its logical conclusion, and putting up of any unreasonable time limit in completion of the case is against law and public interest. R/5 citing IGP circular No. 2 dated 27.8.55 is mere a guideline for ordinary cases. It does not state that a case is to be disposed of even if a bad charge sheet is to be filed without completing investigation. Further, R/5 did not take any action against Inspector NG Khamrang who could file charge sheet in even older cases viz. RC-22(A)/97-

SHG, RC-23(A)/97-SHG, RC-24(A)/97-SHG, RC-25(A)/95-SHG in July 2003 only, after investigation for more than 6 years though the Applicant was put under suspension on 26.4.2000 itself for admittedly delay in investigation or CBI case No. RC-5(A)/98-SHG making it up a grave misconduct. It is pertinent to mention that in CBI, Guwahati Branch, normally it takes 3 to 6 years between registration of case, investigation and filing of chargesheet etc.

**49.** That in regard to the statements made in paragraph 4.21(1.1) of the WS, it is stated that the Respondent No. 3 acted mechanically and with closed mind and awarded the grading on the basis of biased and prejudicial communication made by R/5 to R/3 at the time of ACR writing and not on the basis of any cogent reason during period under review i.e. 1.1.99 to 31.12.99. The reward given by R/5 is testimony of the fact that when R/3 had discussion of the cases investigated by Applicant during his branch inspection at Guwahati on 4.6.99, he was satisfied with the investigation and other work and conduct of the Applicant and accordingly he gave reward to the Applicant vide office order dated 22.6.99. It is significant that R/5 was not even posted in Guwahati at that time. It was following the posting of R/5 in July 1999 that situation changed with further development and R/5 sat on with hostile biasness to prove everything wrong with the Applicant.

**50.** That while denying the statements made in paragraph 4.21(2) of the WS, it is stated that R/5 deliberately

suppressed facts relating to good work of the Applicant viz. court conviction in RC-32(A)/94-SHG, 33% cut in the salary of charged official in RC-6(A)/91-SHG, reduction of four increments of charged official with cumulative effect in RC-29(A)/92-SHG, reduction of five stages in pay scale of charged official in RC-37(A)/91-SHG, stoppage of two increments with cumulative effect of two charged officials in RC-5(A)/94-SHG which are court conviction and all major penalty punishment in departmental proceeding. Further, in CBI the competent authority closes the file when he is satisfied with the adequacy of punishment awarded by the Disciplinary Authority and CBI authority has not agitated the matter with the concerned Disciplinary Authority. It is a known fact that credit of conviction goes to the Presenting Officer in the year of disposal of the case and not in the year of presentation. Further, investigating officer cannot act as a Presenting Officer and as such, it is meaningless and misleading to state that said cases were not investigated by the Applicant.

**51.** That while denying the statements made in paragraph 4.21(3) of WS, it is stated that in the three cases total defalcation of Rs.75.00 lacs approximately was detected. Further PE-5(a)/99-SHG and PE-15(A)-SHG were finally converted and registered as regular cases vide No. RC-14(A)/2000-SHG under Sections 120B, 420, 477A IPC and 13(2) r/w Section 13(1)(d) of PC Act, 1988 and RC-1(A)/2000-SHG respectively u/s 120B, 409 and Section

13(2) r/w Section 13(1)(c) of PC Act, 1988. Moreover had these been routine duty not deserving for special mention/reward, R/5 himself would not have issued letter No. 2219/120/97/NER dated 18.11.99 for conducting surprise checks and assuring that such surprise checks resulting into actionable claims/leading to registration of PE/RC will be suitably rewarded. It was only the Applicant whose check only resulted into registration of cases in the year 1999, but as per assurance of R/5 no special credit was given to Applicant. there are no charges against Applicant which even prima facie would disclose omission and commission involving moral turpitude or defalcation of govt. money or forgery or lack of integrity etc. The charge sheet issued against Applicant are for trifling administrative matter which were manipulated by R/5 for settling his personal scores against Applicant and as such it is incorrect to state that conduct of Applicant was found to be disgraceful and unbecoming of CBI officials. On the contrary, it is the R/5 whose conduct is found to be disgraceful and unbecoming for compelling subordinates to direct Applicant's wife of the main accused in RC-5(A)/98-SHG for his purported interrogation at Coal India Guest House where he was staying illegally and receiving house rent allowance also and later implicate her and charge sheeted without any basis of law and evidence. Register FIR against Govt. officials and their wives for possession of disproportionate assets

cases by manipulating the facts and law for setting his personal scores as in the case of RC-GUW/2002/A/0015 against Sri Biren Borgohain, Director (Security)-cum-CVO, NEEPCO Ltd., Shillong and his wife working as Professor, Head of the Department, Political Science, NEHU, Shillong (Copy of the FIR enclosed). This case is now closed, but this registration of case followed by house searches etc. on the second day of the interview of said Sri Borgohain for promotion as Chairman-cum-Managing Director cost him lose the coveted post. This case was registered by one Dy. SP Shri V. Chandu unlawfully by manipulating the facts disclosed in the FIR under direct instructions of R/5. Complaint in this regard is being enquired by CVC, New Delhi.

**52.** That in regard to the statements made in paragraph 4.21(5) of the WS, the Applicant has no comment to make. However, he admit nothing which is not based on record.

**53.** That in regard to the statements made in paragraph 4.21(6) of the WS, it is stated that the statement of R/5 is contradictory inasmuch as he himself has granted mass rewards to the CBI personnel on his branch inspection/visit and for conducting searches etc. which are undoubtedly routine duty but ignored consistently the better performance of Applicant. So far as the letter No. 29/1/85-AD.III dated 10.01.85 is concerned, it is superseded following issuance of DCBI standing order No. 32 dated 27.12.96. further, said HO letter

emphasises the fact that as because Executive Staff doing field duties has more opportunities to earn reward because of their nature of job and consequently those CBI personnel performing office duties get neglected and therefore need be given proper consideration for reward. Be that as it may, this letter does not hold the field as DCBI standing order No. 32 dated 27.11.96 provides grant of reward/honorarium in tune with the provisions of FR 46(b) SR 9, FR-11 i.e. for the work in connection with the administration of justice and not for office duties etc. as provided in said letter. Further, in the matters, where public has an interest equals could not be treated unequally and discriminated unreasonably by stating that reward cannot be claimed as mater of right. As granting and non-granting of rewards involves civil consequence in the matter of public servant's career interest in service therefore confirmation of reward and commendations certificate are to be made in public interest, as against private and personal interest, reasonably, on merit and without discrimination among equals.

Statement of rewards granted by R/5 and branch SP during 2002 are annexed as Annexure-RJ/11

**54.** That while denying the statements made in paragraph 4.22(1) of the WS, it is stated that in the said surprise check leading to registration of RC-18(A)/99-SHG, Applicant also was member of surprise team and

store incharge was a lineman and not said Executive Engineer (actual designation SDE) as reflected. During said check, shortage of G.I. pipes amounting to Rs.7000/- to Rs.8000/- was found and there was no evidence to show that said stores were used in construction of own house by the suspect SDE who is not the store incharge but merely supervising officer only and therefore no such direct responsibility of alleged shortage could be fixed upon suspect SDE and accordingly charges could not be proved against him in departmental action. Further in the said case no charges could be framed against suspect. Be that as it may Applicant was ignored deliberately for being given reward though Applicant was also member of the surprise team led by Shri K.M. Das, Inspector against whom charges for demand of Rs. 5 lacs from suspect in RC-5(A)/2000-SHG was pending and a tape recorded conversation in this regard was also taken on record by Dy. SP Shri P.K. Deb Kanungo during preliminary inquiry.

On the contrary surprise check conducted by Applicant led to detection of wrongful loss to the public exchequer to the tune of Rs. 75 lacs and consequently three cases were registered viz. (1) PE-3(A)/99-SHG for defalcation of food grains worth approximately Rs.2.00 lacs, (2) PE-5(A)/2000-SHG converted to RC-14(A)/2000-SHG u/s 120B, 420, 477A IPC and 13(2) r/w 13(1)(d) of PC Act, 1988 for causing pecuniary loss to the tune of Rs.67 lacs to the

exchequer by suspect Telecom officials and (3) PE-15(A)/99-SHG converted to RC-1(A)/2000-SHG u/s 120B, 409 IPC and Sec. 13(2) r/w 13(1)(c) and (d) of PC Act, 1988 for causing pecuniary loss of Rs 12.45 lacs (approx.) to the exchequer. Thus the performance put up by the Applicant qualitatively and quantitatively vis-a-vis Shri K.M. Das, Inspector could not be termed as very petty in nature and deserved for reward in view of the first guidelines of DCBI standing order dated 27.12.96 prescribing "reward to be given to the officer showing more than ordinary initiative to accomplish result which is instrumental for the detection of an offence." Reward is prescribed for detection of important clues which is revealed during surprise check and not for conversion of PE into RC by IO which generally involves routine duty. Moreover officer conducting surprise check as per rule is not endorsed investigation. Obviously had the surprise check not been conducted, the said economic crime would have remained undetected.

**55.** That the statements made in paragraph 4.23(1) of the WS are denied as the same are incorrect. It is stated that work of Applicant was exemplary in as much as investigation in RC-5(A)/98-SHG by Applicant was vindicated in judicial scrutiny before Hon'ble Special Judge, Assam, Guwahati in Misc. CAse No. 2/98 as well as in criminal revision petition No. 264 of 1998 before Hon'ble Gauhati High Court which dismissed the collusive petition filed by Ex Arunachal Pradesh MLA, a

tribal businessman and husband of Mrs. Anila Khrime, now Joint Secretary, Ministry of Home, Govt. of India, New Delhi, Shri N.T. Khrime, claiming the seized money amounting to Rs. 27 lacs, from the possession of Shri K. Ganesh on 6.9.97 as having been given by him to said Sri K. Ganesh for purchasing diamond jewellery from Madras. Further the then SP Shri B.N. Mishra gave reward and commendation certificate TO APPLICANT in the same case for excellent investigation on the basis of which affidavit-in-opposition was filed in the matter and Hon'ble Courts aforesaid dismissed the said petitions filed by the accused both the time.

Further investigation in RC-34(A)/96-SHG not only stood the test of constant monitoring of Division Bench of the Gauhati High Court but also Sr.PP, SP, DIG, DLA, JD, ALA, SDCBI who, after detailed discussion with Applicant as IO, scrutiny of CD files and other documents, unanimously accepted recommendation of IO, and ordered for filing of charge sheet in the Court and thereby disposing the case in 1999. Besides Applicant for the first time in CBI, Guwahati attached the immovable properties of the accused person worth Rs. 38 lacs equivalent to defalcated mount in the Misc. Case No. 206/98 under provision of Criminal Amendment Ordinance 1944 and thereby preserved the public money/property from being disposed of.

In CBI Case No. RC-34(A)/96-SHG also, Applicant was conferred with commendation certificate for excellent investigation which proves that there could

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be no wrong with the investigation in the said case.

In the CBI Case No. PE-2(A)/99-SHG, registered following surprise check conducted by the Applicant as IO in the FCI godown led to the detection of defalcation of food grains worth approximately Rs.2 lacs. In the said case departmental action for major penalty was recommended against three charged officials who were punished by imposition of penalty of demotion and loss of five increments.

In view of aforesaid, it is incorrect to state that investigation by Applicant was perfunctory and not dependable and reliable. On the contrary, the fact however is that due to undesirable private and personal interest of R/5 in CBI CAse No. RC-5(A)/98-SHG after investigation was withdrawn from Applicant, a charge sheet was filed which neither confirms to procedural and substantive provision of law under IPC and Cr.P.C. nor the said charge sheet discloses prima facie charges against the accused and consequently, the accused are set to be discharged.

**56.** That the statement made by R/5 under para 4.23(2) of his W.S. is incorrect. It is stated that most important duty of IO is investigation and not collection of information which is subsidiary duty. During 1999 no trap was conducted by any of the IO of the branch as no genuine information was received in this regard. Even no SIR was submitted by any of the IO. No information for disproportionate asset was also

submitted by any IO of the branch. The R/5 who has no work of investigation, but wide net work to interact with all the departmental heads submitted a false and baseless information vide SIR No. 51/SHG/99/31 dated 14.12.99 against Shri K. Ram Chandra Pillai, Director BRPL on the information that he got appointed himself as Director, BRPL by submitting false/bogus certificate in Personnel Management and prior to that he also got appointed himself as Director, Hindustan Latex Ltd., Kerala by producing false certificate and acquiring huge wealth by illegal means which was closed following verification. A disproportionate asset case vide No. RC-GWH-2002/A-0015 registered on the basis of false and manipulated facts on the personal interest and instruction of R/5 to settle his personal scores of vendetta against suspect official Biren Borgohain, Executive Director, Security & CVO, NEEPCO, Shillong and his professor wife is : Now closed For inability to substantiate charges, but after deliberate harassment of suspect couple on the instruction and personal interest of R/5. Such SIRs and regular cases which are based on rumours and wild expectations that searches might lead clues to the establishment of disproportionate asset case are illegal acts and accordingly Applicant did not give any such SIR which are based on wild rumour but without prima facie evidences.

**57.** That the statements made in paragraph 4.23(3) of the WS are incorrect. It is stated that the Applicant

had only two cases at hand viz. RC-34(A)/96-SHG and no case was endorsed by branch SP during the year 1999. PE-2(A)/99-SHG was registered on the basis of surprise check conducted by the Applicant and was disposed off in departmental action. Therefore how could 3.5 cases could be finalised when only one case was endorsed during 1999 to the Applicant for investigation/enquiry. It is known fact to the R/5 that between submission of FR-I by Applicant on 4.1.99 after investigation and submission of SP's report on 31.12.99, full one year was taken by PP, SP, DIG, DLA, JD, ALA, SDCBI etc. in giving their comments and preparation of SP's report etc. and Applicant has no control over it. The consideration of investigation and comments therein by aforesaid officials are integral part of finalisation process in the case and SP's report could not be sent to departmental Heads for giving prosecution sanction order against suspect/accused until and unless aforesaid process is completed and final order is received from the competent authority of CBI.

**58.** That in regard to the statements made in paragraph 4.23(4) of the WS, it is stated that the Applicant is claiming reward in the light of DCBI standing order No. 32 dated 27.12.96 and Applicant could not be discriminated for securing court conviction in RC-31(A)/94-SHG for five years RI and Rs.10,000/- fine against the accused in the matter of which even R/5 has not whispered anything against in his written

statement, For securing conviction in 6 departmental proceeding wherein he presented the case, and for registration of 3 PEs, out of which two cases converted and registered as regular cases disclosing defalcation of about Rs.75 lacs worth of public property. Applicant's claim cannot be brushed aside on the basis of said HO guidelines dated 10.1.85 having been superseded following issuance of DCBI standing order dated 27.12.96 and also for the fact that R/5 and SP/CBI himself gave reward for even such routine duties as conducting searches during investigation and mass reward on branch inspection by R/5. However, R/5 is in the frontline to ignore even the better claim of the Applicant for reward which testify palpably outstanding contribution on the part of Applicant towards achievement of branch target. Deliberate denial of this fact from being acknowledged obviously affects overall grading of Applicant in his ACR for the year 1999.

**59.** That in regard to the statements made in paragraph 4.23(5) of the WS, it is stated that the two rewards and commendation certificates sanctioned vide office order No. 23 dated 21.1.99 and vide office order No. 116 dated 21.6.99 were indeed granted on merit under bonafide consideration of facts and satisfaction by branch SP as well as JD/CBI/EZ who is a superior officer of R/5 himself and it cannot be said that the officers have not judged the merit of the case. The circular though is superseded in view of the DCBI standing order No. 32 dated 27.12.96, does prescribe

bonafide consideration of case on merit for reward and not malafide to discriminate Applicant's better claim for reward as a matter of policy so that Applicant may not highlight his achievement before the Court/CAT in fighting his cases, and with this malice in view R/5 is set on to discredit even the Applicant's past performance acknowledged by a line of superior officers over the years at stretch during Applicant's posting in CBI. R/5 is unable to show as to how court conviction in RC-32(A)/94-SHG investigated exclusively by the Applicant and fulfilling the condition of DCBI standing order 32 dated 27.12.96 is not worthy for reward. R/5 is unable to show as to how conviction in 5 cases presented by Applicant before CVC and other authorities are not suitable for reward, whereas annexed list of rewards for the year 2002 shows that R/5 himself has granted mass rewards to all branch personnel on the occasion of branch inspection which cannot be said to be given after due consideration of each case for reward. Moreover said list also shows rewards being given for as ordinary jobs and routine duties as for conducting searches also but Applicant is discriminated. Further, whereas surprise check conducted by Applicant leading to detection of wrongful loss to the exchequer and defalcation of Govt. stores to the tune of rs.75 lacs and registration of three actionable cases including two regular cases, were not found worth being reward, but in case of Shri K.M. Das, mere shortage of stores material worth Rs.8000-9000/-

was found befitting for reward and this fact lacks any bonafide and reasonable explanation from R/5.

Further it is unreasonable and irrational to state that "it should be ensured that the sanction of rewards is in consonance with the reports given in respect of the rewardee in his ACR." The fact is that reverse of this statement is reasonable and accordingly, DCBI Standing Order No. 32 dated 27.12.96 at para 5 explicitly declares that "one reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any." Thus it is the annual confidential report which ought to be written in consonance with the rewards given during the four quarters of the year. It is the reporting officer who after considering overall performance as well as reward granted to the Applicant in 1st and 3rd quarter of the year under review that he gave overall grading as 'very good', but it was the Reviewing Authority who in view of the pending cases of Applicant in CAT and also complaint dated 13.1.2000 of the Applicant's wife to Director, CBI/Chairman, NHRC, New Delhi against unbecoming conduct of R/5, which made R/5 to down grade over all grading of Applicant as "below average", under hostile biasness to secure his personal scores against Applicant. It was this vengeance and hostile biasness that R/5 set on to find fault even with old records pertaining to the Applicant and manipulating the trifling matter or even settled matter, he issued numerous charge sheets and also suspension order

against Applicant and now finding fault with the bonafide decision of superiors who granted reward to the Applicant long past.

**60.** That while denying the statements made in paragraph 4.23(6) of the WS, it is stated that the rewards to the Applicant was given in perfect tune with DCBI standing order No. 32 dated 27.12.96. It was R/5 himself, whose grant of mass reward to all CBI personnel on his branch inspection and other rewards for as routine matter as searches during the investigation, as reflected in the annexed LIST of rewardees for the year 2002, which are in drastic violation of said guidelines, which R/5 is putting across for denial of reward to the Applicant. However, R/5 is unable to make a whisper in his written statement as to how the claim of Applicant in case of CBI case No. RC(A)/94-SHG exclusively investigated by Applicant, does not deserve for being granted reward even after securing law Court conviction and which is also in consonance with IVth guideline of said DCBI standing order dated 27.12.96.

Be that as it may even selective justice is also injustice and selective enforcement of law and rule is arbitrariness.

**61.** That in regard to the statements made in paragraph 4.24(1) of the WS, it is stated that the Reporting Authority with bonafide application of mind had agreed with the facts given by the Applicant in the resume and rated grading of the Applicant as "very good", but R/5

malafidely underrated "below average" for the fact that R/5 had hostile biasness against Applicant for going to court for redressal of his grievances as well as Applicant's wife submitting a complaint dated 13.1.2000 against the R/5 to DCBI and NHRC for the highhandedness on the part of R/5 in sending the CBI personnel for intimidating family members while Applicant was very much on duty. It is the accepting authority who without application of mind and giving reasons made it "average" which though looks innocuous but still is in drastic variance of the "very good" grading given by reporting authority.

62. That the statements made in paragraph 4.24(2) of the WS are misleading. It is stated that the case RC-34(A)/96-SHG was indeed finalised during the year 1999 when detailed investigation report consisting of more than 300 pages and enclosures were prepared in long hand and got typed without any assistance and thereafter held discussions with PP/SP/DLA/DIG/JD/ALA/SDCBI etc. and thereafter prepared SP's report as reflected in para 4.1(4). As aforesaid process involves no investigation and therefore no CDs are issued which is as per relevant instructions in CBI crime manual, however, it is an integral and unavoidable part in finalisation of the case consuming full time of the IO, therefore, it will be perverse to state that investigation alone is to be carried in finalisation of the case. The reward and commendation certificate was conferred by the then branch SP for

securing attachment of properties of the accused worth Rs. 38 lacs under provision of Criminal Law Amendment Ordinance, 1944 vide Misc. Case No. 206/98 for the first time in CBI, Guwahati branch and thereby for preserving and preventing the defalcated public property from being disposed off by the accused persons. As it takes time for processing of citation and for order for reward, therefore, it is the date of reward, which is important one and not the dates of good work which obviously spreads through considerable latitude of time. The same spirit of recognition of reward is contained in para 5 of said DCBI standing order that "one reward to an individual officer per quarter would be sufficient to acknowledge outstanding contribution, if any" and therefore it is perverse and malafide to state that reward/commendation certificate by reporting authority to Applicant was unwarranted as no investigation was done by the Applicant in the case during 1999. When R/5 himself granted mass rewards to CBI personnel on the occasion of his branch inspection and for as routine work as searches during investigation as reflected in list of awardees of CBI, Guwahati branch during 2002.

**63.** That in regard to the statements made in paragraph 4.24(3) and 4.24(4) of the WS, it is stated that rewards conferred upon Applicant was in conformity with the DCBI standing order. Commendation certificate vide office order No. 117 dated 25.6.98 in RC-5(A)/98-SHG was given by SP Shri B.N. Mishra for excellent working

RC-5(A)/98-SHG. The commendation certificate in RC-34(A)/96-SHG was also ordered for conferment by Shri B.N. Mishra vide office order No. 23 dated 22.1.99. Cash reward of Rs.1000/- was given by JD/EZ/CBI/Kolkata on his visit to Guwahati on 4.6.99 who discussed the aforesaid case in detail and thereafter in recognition of good work in investigation of aforesaid cases JD/EZ/CBI gave reward which was communicated by reporting authority vide office order No. 116 dated 22.6.99. Conferment of reward and commendation certificate are the subjective satisfaction of aforesaid senior, experienced and responsible officers of CBi under their discretionary power as per guidelines laid down in the said DCBI standing order and it is malicious on the part of R/5 to find fault with the reward by reporting/reward giving authority now, when R/5 was not present at the scene then. contrary to his objection, during his term, mass rewards were being given on his branch inspection and for as routine duties as searches during investigation but better claim of Applicant in securing law court conviction, conviction in cases presented during departmental enquiries and surprise checks leading to registration of regular cases. were ignored Moreover, the chargesheet dated 10.1.2000 for minor penalty is outside period under review which is 1.1.99 to 31.12.99. further said charge sheet was issued by reporting authority on the order of R/5 and not out of his own satisfaction. Moreover, in this matter, no enquiry was held. On the basis of the said chargesheet

R/5 passed an unlawful and illegal order for punishment of stoppage of 3 increments with cumulative effect, a major penalty punishment, on charge sheet for minor penalty. Be that as it may, a detailed representation against said penalty was submitted to ADCBI/EZ/Kolkata who suspended the order, communicated to the Applicant vide office order No. 214 dated 2.8.01 of SP/CBI/GHY.

So far as alleged false and malicious allegations by Applicant against Respondents No. 4/5 are concerned, it was not shown who, where and how they were found to be false. Moreover for making such allegations R/5 cannot down grade overall grading of the Applicant from "very good" to "below average" in the ACR of the Applicant.

Copy of the aforesaid order dated 2.8.01 is annexed as ANNEXURE-RJ/12.

**64.** That in regard to the statements made in paragraph 4.24(5) of the WS, it is stated that the reporting officer being responsible, experienced and senior officer of the CBI who after bonafide application of mind assessed the work and conduct of the Applicant and granted him "very good" and it would be malicious now to impute motive for causing alleged delay in investigation on the reporting authority too along with Applicant for alleged failing in duty to study the CD and guide and supervise the Applicant. During the course of investigation of cases referred by R/5 i.e. RC-

34(A)/96-SHG and RC-5(A)/98-SHG, it was not the only reporting officer Shri Om Prakash who supervised the cases during period under review and gave "very good" rating, but there were other two reporting officers also viz. Shri M.K. Jha and Shri B.N. Mishra who supervised the same cases during the year 1997 and 1998 and both of them graded the category of the Applicant as "outstanding" and "very good" in the ACRs for the respective years. Further the reporting officer being branch SP and statutory supervisory officer of the case is required to send monthly progress reports in the investigation to the competent superior officers, through which the superior officer also monitor the progress of investigation of case and issue suitable instruction to branch SP in the matter besides all branch in CBI has a fixed target of cases for disposal in investigation in the year and therefore it will be unreasonable and malicious to impute motive on all the reporting authorities for abdicating their responsibility and cause deliberate delay in investigation for no apparent reason other than the interest of the case. Regarding non-submission of CD in PE-2(A)/99-SHG it is stated that said case was SP level case wherein enquiries of irregularities of departmental nature were made and in said cases no registration report is sent to court. In this case, as stated earlier, surprise check was ordered in the FCI godown which led to the detection of shortage/Excess of food grain as compared to the declaration of stock in the relevant records. Accordingly, than and there a joint

memorandum was drawn stating the facts of the surprise check and obtaining signatures of the stock holders of the stores and witnesses. As there was no further enquiry/investigations to be made as such, there is no requirement for CDs also. Further, it was not shown by the R/5 as to how non-submission of CDs were fatal to the departmental action proposed against the charged officials as after regular departmental proceedings against the charged officials punishment of down gradation as well as loss of five increments was already awarded against them and the FIR too stands closed.

As regards allegations of non-submission of minor penalty charge sheet on Applicant in the file No. SA/SHG/99/20 by reporting authority by allegedly ignoring the order of R/5, it is stated that firstly said order dated 29.2.2000 is outside period under review for ACR writing which is 1.1.99 to 31.12.99 only. Besides said matter could not be considered for writing of ACR until misconduct is established and proved on record through appropriate proceedings. Further said order does not disclose any misconduct, more so, for the fact also that reporting of wrongful loss to the Government in pursuance to criminal conspiracy of the public servants and private persons, coming to light during scrutiny of relevant documents during course of investigation of the case could not reasonably be said any misconduct. Further facts in this regard were discussed with R/5 on 6.8.99 in the

light of R/5's memo dated 30.7.99 observing that "the branch is lagging behind miserably in the achievement of target under the head registration and finalisation from investigation and that possibilities be explored for organising surprise check so that cases could be registered and disposed of immediately and shortfall in achievement and targets under the heads registration and disposal from investigation could be achieved immediately." In view of aforesaid, three verified SIRs were submitted for registration of PEs, open enquiries therein could have led to registration of regular cases and thereby the branch could have make up said shortfall in registration and disposal of cases in shortest period. The PP Shri A.K. Deb vide his comment dated 3.12.99 and branch SP vide his comment dated 30.12.99 also agreed for registration of PEs giving full fats of the matter in their said comments. In view of aforesaid, there could be no reasonable cause for alleged misconduct on the part of Applicant against whom R/5 under hostile biasness would not let any matter concerning Applicant go without adverse comments and administrative actions by manipulation and misrepresentation of facts abusing and misusing his official position. As the reporting authority was convinced of biasness of R/5 against Applicant and as there was no misconduct at all therefore he deemed it right not to issue charge sheet under dictation from R/5.

65. That in regard to the statements made in paragraph 4.24(6) of the WS, it is stated that the malafide on the part of R/5 is writ large in his series of administrative action as established afore. There could not be any reason for reporting authority during the period under review i.e. 1.1.99 to 31.12.99 to unduly protect Applicant and not assess the work and conduct properly which were same in case of all the IOs of the branch. It is also pertinent to mention that it is not only the reporting authority during period under review who rated Applicant "very good" but also the earlier reporting authorities who rated Applicant "outstanding" and "very good" during 1998 and 1998 respectively besides earlier authority in CBI who all along rated the Applicant outstanding/very good. It is the R/5 alone who drastically reduced rating to "below average" as he wanted to avenge and settle his score against the Applicant as his wife complained against the R/5 to DCBI and NHRC, New Delhi against his highhanded and unbecoming conduct. thus hostile bias of the R/5 is writ large in the face and circumstances of the matter aforesaid.

66. That in regard to the statements made in paragraph 4.25(1) of the WS, it is stated that the malice and hostile biasness on the part of R/5 against Applicant is established conclusively in the aforesaid paragraphs which made him to bring down grading from 'very good" reported by reviewing authority to "below average" and

this cannot be said to be any reasonable and objective assessment of the work and conduct of the Applicant. The Applicant deserves to be rated as 'very good" as assessed and reported by reporting authority in view of instructions for the purpose vide CS, OM No. 51/5/72 ESTS (A) dated 20th May 1972, Para 7, in the said OM it is provided that in order to minimize the operation of the subjective human element and conscious or unconscious bias, the confidential report of every employee should contain the assessment of more than one officer. The confidential report should be written by the immediate superior and should be submitted by the reporting officer to his own superior i.e. Reviewing authority. The object and purpose of incorporating reviewing authority in ACR writing was to moderate and eliminate biasness conscious or unconscious in the judgment of the reporting authority even though later being completely fair in its intent but might sometimes be too narrow and subjective to do justice to the officer reported upon. The reviewing officer, therefore, consider it his duty to personally know and form his own judgment of the work and conduct of the officer reported upon. Reviewing officer should accordingly exercise positive and independent judgment on the remarks of the reporting officer under his various detailed headings in the form of the report as well as on the general assessment, and express clearly his agreement or disagreement with those remarks. this is particularly necessary in regard to adverse remarks (if any) where the opinion of the higher officer shall

be construed as the correct assessment. Thus departure by reviewing authority from the assessment of reporting officer is permissible if remark of reporting authority suffers from subjectivity and biasness leading to appendage of adverse remarks against the officer reported upon and not otherwise. In the case of Applicant, reporting officer has assessed Applicant as "very good" which does not reflect any biasness and subjectivity on the part of reporting authority against Applicant nor the same is "adverse". Therefore, intervention of reviewing officer in the matter of Applicant is uncalled for, unjustified and malafide in downgrading the "very good" category reported by reporting officer to drastic low at "below average" and the said act of reviewing officer does not conform to the object and purpose of eliminating mischief of human subjectivity and biasness from performance appraisal by reporting officer. In the matter of Applicant reviewing officer rather caused mischief and substituted himself in the place of reporting officer which is unlawful and illegal.

**67.** That the averments made in paragraph 4.26(1) of the WS are erroneous inasmuch as the primacy of reporting authority in ACR writing is unquestionable and invaluable as it is the reporting authority to whom the officer reported upon is answerable for his performance. Reporting officer is the direct witness to work performance, general conduct, efficiency and other special abilities and traits etc. of the officer

reported upon as latter have occasion to daily interact with the reporting authority during course of official business. Reporting authority too in turn has numerous occasion formal and informal for assessment of the work, conduct and performance of the officer reported upon and therefore reporting authority is the best judge for assessment of work, conduct and performance of the officer reported upon until and unless said assessment is NOT fair and objective and does suffer from human subjectivity and biasness. It is this grey area where intervention of reviewing authority and accepting authority is called for to moderate and eliminate mischief of biasness conscious or unconscious in the judgment of reporting authority and exercise their positive and independent judgment. Intervention of reviewing and accepting authorities are uncalled for when fair and unbiased judgment of reporting authority is substituted by their negative, biased and malafide judgment and thereby planting mischief of human subjectivity and hostile biasness instead of eliminating it which was the very purpose of aforesaid office memo. Further, the reporting authority interacts daily with the Applicant in connection with the official business as well as during monthly crime meetings and other monthly interviews while sending statutory monthly progress reports in the cases pending investigation with Applicant, besides many other reports such as DCBI folder etc. to the superior officers. Therefore, in view of this fact, reporting

officer had many occasions for formal and informal assessment of the work conduct and performance of the Applicant during period under review. Further as hardly 10-15 Dy. SP/INSP/Sub-Inspectors/works under him as investigating officers who are required to achieve target of hardly 25 cases of registration and disposal, therefore, reporting officer has personal knowledge of the work conduct and performance of each IO working under him and he would not require even the self assessment resume for formation of his own judgment regarding work, conduct and performance of Applicant working under him and in view of the facts and circumstances allegations of R/5 is unreasonable and misleading that reporting officer was found to have acted mechanically without any application of mind and without verifying the facts mentioned by the Applicant in his resume to the ACR and agreed with him mechanically and there for assessment of the Applicant by the reporting officer as 'very good" was unsustainable. The fact however is that R/5 under hostile biasness against the Applicant for the reasons stated above has brought down "very good" rating given by the reporting officer to "below average" rating maliciously which unreasonably is being sought to be justified by fault finding and exaggerating trifling and trivial matters . . even to the extent of charging reporting authority to have acted mechanically and without application of mind in writing ACR of the Applicant.

**68.** That the statements made in paragraph 4.26(2) of the WS are incorrect and as such the same are denied. It is stated that it is inconceivable that R/5 in presence of branch SP carrying inspection at the branch and Applicant not turning up for personal interview on being called by the DIG but remaining present in the office. It is equally surprising that R/5 himself or through branch SP not caring to ask for any explanation from Applicant for alleged indiscipline and insubordination. The fact in this regard is that as per general circular issued for intimation to all for said branch inspection by R/5, the Applicant was very much present in the office, but R/5 never called this Applicant for said personal interview. As the R/5 was working in bad faith against the Applicant and therefore he manipulated and misrepresented even unintentional trivial matters into alleged acts of insubordination and indiscipline.

**69.** That in regard to the statements made in paragraph 4.26(3) of the WS, it is stated that the averments by R/5 regarding investigation of CBI case No. RC-27(A)/96-SHG herein are irrelevant and unwarranted as this matter is outside period under review besides the same being false, baseless and incorrect. The facts in this regard is that FIR in this case was registered on 12.7.96 on the basis of sources information report (SIR submitted and verified by other IOs than Applicant) for possession of disproportionate asset against the

accused. As Per endorsement of branch SP investigation was conducted by the Applicant as per law and submitted investigation report in FR (Part-I) to the supervisory officer i.e. branch SP disclosing the facts circumstances and evidences collected during open investigation which are available on the record do not establish allegations in the FIR as the suspect official was found to have instead surplus income than his assets and expenditures during check period. The case was scrutinised and examined in detail after holding discussions with the Applicant and perusal of records and appreciation of available evidence on records by Sr.PP/SP/DLA/DIG and Joint Director who unanimously concurred with the Applicant vide their comments dated 25.3.98, 2.4.98, 12.5.98, 20.11.98 and 3.12.98. As per final order of JD/CBI/EZ dated 3.12.98 communicated to branch SP, final report was filed in court under cover of letter No. 3/27/(A)/96-SHG/09573 dated 17.6.99 of branch SP which was accepted by the court of Special Judge, Assam after considering the matters on record vide his speaking order dated 14.2.2000. The investigation in this case is transparent and facts circumstances and evidence therein were thoroughly appreciated as per law by all aforesaid legal and administrative authorities and it is a blatant instance of misuse and abuse of official position by R/5 which resulted in issuance of said unlawful, illegal and malafide charge sheet dated 22.5.2000, against the Applicant by manipulation and misrepresentation of the facts but without taking any

action as per law for seeking permission of the competent court for reinvestigation or filing any petition for criminal revision in higher court or forwarding any report for departmental action against the suspect/accused if in the opinion of R/5, allegation in said FIR are established. This matter was considered by the Hon'ble Tribunal in O.A. No. 30, 31 and 61 of 2001 wherein vide its common orders dated May 2001 Tribunal observed that said proceedings are legally unsustainable and ordered the R/2 to recuse R/5 from acting as Disciplinary Authority and appoint another Disciplinary Authority who will conduct the proceedings expeditiously as per law after considering the fact of maintainability of charges for which liberty was given to Applicant to file representation. Since then new Disciplinary Authority was appointed by Additional Director, CBI vide his order dated 16.7.2001 and new Disciplinary Authority vide his order No. 233/13/3/2001/CRO dated 18.10.2001 appointed Enquiry Officer, however no enquiry were conducted as yet nor the new Disciplinary Authority disposed of two representations dated 10.9.2001 and 26.11.2001 as yet though the Applicant has reason to believe that matter was legally examined by DLA/CBI/EZ/Kolkata who observed in concerned file that charge sheet is unsustainable in fact and law.

So far as mention of provisions of CBI circular No. 21/2/76-PD dated 20.9.89 (enclose as Annexure-10 of WS) by R/5 for initiating action against Applicant is

concerned, it is stated that this very action also discloses hostile biasness of R/5 against Applicant and malafide application of said provision in the instant case inasmuch as that the matter of said case in light of the said provision was already considered by competent authority i.e. ADCBI/EZ/Kolkata, who while ordering for closure of the case vide order dated 3.12.98 did not append any remark against the Applicant and investigation in this case, but clearly and categorically observed "who submitted this source information ? Please ask his explanation, close the case". Thus R/5 inspite of clear cut order of his superior, as aforesaid, instead of seeking explanation and further action against IO who submitted SIR and conducted verification set out to find maliciously fault in investigation conducted by Applicant and issued said charge sheet. It is a fact also which is available on the record that two IOs who conducted the independent verification of source information before registration of FIR in the instant case reported in writing that verification of the information does not disclose commission of the offence of possession of disproportionate assets on the part of suspect and hence opined for closure of the SIR. Even then, this case was registered under the best wisdom of competent authorities and endorsed incidentally to Applicant for investigation which was closed in the aforesaid circumstances. Be that as it may the matter was considered by competent authority that is why

ADCBI/EZ/Kolkata ordered for asking the explanation of the IO who submitted SIR and not Applicant who investigated the case.

Copy of FIR dated 12.9.96, Sr.PP comment dated 25.3.98, SP's comment dated 2.4.98, DLA comment dated 12.5.98, DIG comment dated 20.11.98, JD's order for closure dated 31.12.98, court of Special Judge order dated 14.2.2000, order of Hon'ble Tribunal dated May 2001 in O.A. No. 30,31 and 61 of 2001 and New Disciplinary Authority order dated 18.10.2001 are annexed as ANNEXURE-RJ/13 Colly

**70.** That the statements made in paragraph 4.26(4) of the WS are incorrect as such the same are denied. It is stated that the investigation in RC-34(A)/96-SHG and RC-5(A)/98-SHG were carried as per provision 8/2 16 of CBI Crime Manual and approved plan of action under close supervision of SP/CBI, and Hon'ble Division Bench of the High Court and said authorities never commented anything adverse against Applicant or investigation on any count. All lawful instructions issued through supervisory officer responsible for proper conduct of investigation were complied with. Supervisory officer i.e. SP/CBI/ACB, Guwahati never observed in any memo as regards alleged unwarranted digression in investigation without approval of higher authority or non-compliance of any lawful instructions issued by him on behalf of DIG. It is, pertinent to mention that it is SP/CBI who is the statutory supervisory officer to whom Applicant is answerable for proper conduct of investigation of

the case and not R/5.

71. That the statements made in paragraph 4.26(5) of the WS are incorrect and as such the same are denied. It is stated that the source information submitted by Applicant against R/5 is not related to drawing of double HRA which he knows is admissible for Govt. officials posted in N.E.Region, but for illegally drawing HRA while staying in well furnished air conditioned guest house of Public Sector undertaking and while retaining Govt. accommodation at the last place of posting and for drawing transportation allowance on the basis of false and forged receipt of Container Corporation of India obtained by misuse and abuse of official position purportedly showing transportation of luggage while the fact is that neither said luggage was transported by any other means as R/5 was staying in said guest house for more than a year nor availing services of said corporation as no such transport service exists even on today between Jammu to Guwahati. The R/5 also caused wrongful loss to exchequer by not disclosing his income through unspent transfer allowance and availing facilities of furniture etc. of the air conditioned guest house as he was living in said public sector undertaking guest house during his posting at Guwahati and evaded payment of income tax under provision of Section 10(14) and 17(2)(1) of Income Tax Act. Said SIR was verified by an officer of Special Unit, Kolkata and fouhd the information as correct and accordingly, the matter is

apprised to R/2. In the said matter the court of Special Judge Assam has ordered for investigation and submission of police report by R/2. Even R/3 has ordered for recovery of payments fraudulently secured by R/5. Similarly, the allegation against Applicant of making false complaint/allegations against the Respondents and assault and abuse to the complainant are incorrect and in this regard detailed discussion is made in preceding paragraph. Be that as it may, all these matters are outside the scope of period under review and unlawful on the part of R/5 to consider the matter and downgrade Applicant from "very good" category to "below average" on the basis of alleged complaints/allegations/incidents etc. until the same attains maturity and established against the Applicant under due process of law. It was the malafide gradation of Applicant by R/5 as "below average" which was considered by R/3 mechanically and upgraded as "average" but still it is drastically downgrade than "very good" graded by the reporting authority.

72. That the statements made in paragraph 4.27(1) of the WS are incorrect and as such the same are denied. In the writ petition as well as in the rejoinder the Petitioner has shown with the help of documentary evidence the malice of reviewing authority in writing the ACR of the Petitioner. In consequence of this malice the Petitioner was down graded. Sufficient factors and reasons have been given by the Petitioner for such action of the reviewing authority. In this

connection Petitioner craves leave of this Hon'ble Tribunal to reaffirm and reiterate the averments made in the preceding paragraphs of this rejoinder including the writ petition.

73. That in regard to the statements made in paragraph 4.28(1) of the WS, it is stated that the injustice caused to the Petitioner in the matter of assessment of his ACR for the year 1999 is writ large.

Verification.....

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

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 49 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statement made in paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 32, 33, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54 To 62, 64 To 68, ~~70 To 73~~ are true to my knowledge ; those made in paragraphs 2, 11, 12, 29, 31, 34, 36, 37, 53, 63, 69 being matters of records are true to my informations derived therefrom and the rests are my humble submissions. I have not suppressed any material fact. The annexures are true copies of their original.

And I sign this verification on this 5th day of December, 2003 at Guwahati.

Suresh Pal Singh Yadav

Deponent

ANNEXURE RJ/1 COLLY

भारतीय डाक
INDIA POST
GUWAHATI G.P.O. (781001)
SP EE781414052IN
Counter No:2,OP-Code:SANKU
To:R K RAGHAVAN,
NEW DELHI, PIN:110
From:J BARUA , GHY
Wt:20grams,
Amt:45.00 , 13/01/2000 , 12:54
312
SHIPRA PH: 0674-719196

To,

The Director, CBI
Block No :- 3, CGO Complex,
Lodhi Road,
New Delhi.

Sub :- Mental torture and harrasment by DIG/CBI/NER Sri K.C. Kanungo and violation of my privacy at my home by two CBI personnels sent by SP/CBI/Ghy when my husband was on duty in Special Judge Court Assam, Guwahati.

Sir,

With deep pain and anguish your kind attention is drawn and benign intervention solicited towards the illegal action, overzealous and high handed approach of the DIG Sri K.C. Kanungo who is harrasing and torturing mentally not only my husband S.P. Singh Insp/CBI/ACB Guwahati, at the behest of one dismissed Bank Employee and CBI Charge Sheeted person Sri A.K. Baruah, against whom few civil & criminal complaints filed by me are lying before various administrative authorities as well as civil & criminal courts on some property dispute. As all the said authorities civil courts as well as hon'ble Guwahati High Court so far passed orders in my favour, therefore Mr.Arun kanti Baruah in order to avenge his defeats in aforesaid forums and with a view to harras my husband and secure his transfer/repatriation, preferred a malicious complaint to you which after proper inquiry was closed by Joint Director CBI/E2/Calcutta.

However DIG/CBI Sri K.C. Kanungo maliciously and in cospiracy with Sri A.K. Baruah issued the charge sheet to my husband on the basis of said complaint, illegally and without obtaining permission from competant authority as the matter was closed by his superior officer.

Though the said act of DIG/CBI is illegal and blatant intervention in the dispute to be decided by other forums of law, however my indignation is not so much against the charge sheet which is the departmental matter, but the manner with which it was attempted to serve.

Contd .... 2

# 2 #

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It was most indignat shock of my life when on 10/1/2000, while my husband was on official duty to court of special Judge Assam in C/W the case investigated by him, two persons whom I could recognize on seeing came to my house in afternoon when I and my High School appearing daughter were alone at home. Those CBI personnelspressed the call bell and on my opening the door, both of them entered in my house impudenty and without my permission saying that they were from CBI and one of them while slumped in sofa in drawing room the other straight way went further inside and removing the curtain entered into the room where my daughter was studying. Seeing a strange person all of a sudden inside her room, she screamed in shock and fear and started crying. Then I asked sternly the said CBI personnel to go out of my house as my husband is out on duty and asked for their purpose of arrival. Thereafter he told that he is searching my husband, S.P. Singh to hand over a closed envelop marked secret and then insisted me to receive, which I refused to accept and told them that my husband has gone to the office so why they have come to my house and whatever be the official letter / envelop, it could be given to him in office.

There-upon one of them said to other that in the morning he sawmy husband in special Judge Court briefing case to Sr. PP Sri Chakraborty so let us now go there. When I asked that why than they have come to my house when my husband is already away on duty, they told that DIG, has phoned to SP from Shillong and that SP has instructed then to search and locate my husband immediately and handover this envelope and receive my husbands acknowledgement and therefore they have come.

Since this incident my daughter is extremely disturbed and shocked beyond imagination at the high handed behaviour of said CBI Officer and Personnels and therefore unable to concentrate on her studies for examination to be held in March, such acts of CBI officers are also disturbing me immensely as I am not connected with Administrative matter between Department and my husband.

Contd ..... 3

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# 3 #

It is requested therefore that an inquiry be caused into the whole matter, by an independent IPS officer and the erring Officials / personnel be punished for their high handedness, impudency indecency & misbehaviour which caused extreme mental pain, agony & shock to me and my daughter.

Yours Sincerely,

Jonali Baruah
Tourist Information Officer
Govt. of Assam, Ghy.
W/o. Sri S.P. Singh Yadav
Insp/CBI/ACB Ghy.
R/O Flat 01D, Gr.Floor
Dorothy Apartment
4th Bye-Lane
ABC, Tarun Nagar
G.S. Road, Guwahati

Copy to :-

1) Assam State Commission For Women, Guwahati.

2) National Commission for Women, New Delhi.

3) Assam Human Rights Commission, Guwahati.

4) National Human Rights Commission, New Delhi.

Dtd. 13.12.2007

Certified to be true copy
Advocate

-105-

Dtd 15.12.2001

GUWAHATI GENERAL POST OFFICE

Counter No:1,OP-Code:DILIP

NEW DELHI, PIN:000

Wt:770grams,

Have a nice day

भारतीय डाक INDIA POST

To,

Sri E.I. Malekar
Asstt. Registrar Law
National Human Rights Commission
Sardar Patel Bhawan
Sansad Marg,
New Delhi - 110 001.

Sub : **Comments in opposition to the reports of Sri K.C. Kanungo, DIG/CBI/NER Guwahati in NHRC Case No. 19/3/2000-2001.**

Ref : i) Your letter No. 19/3/2000-0/GIST dtd. 28/09/2001.

ii) My Fax message dtd. 16/11/2001 seeking extension of time by one month for filing my comments in the above matter.

Sir,

As desired the comments in the matter referred hereinabove are being forwarded alongwith annexures for further necessary action please.

Smti Jonali Baruah

Smt. Jonali Baruah
Asstt. Tourist Officer
R/O - Flat No 1 Ground floor
Dorothy Apartments,
4th Bye Lane,
ABC Tarun Nagar,
P.O. - Christian Basti,
G.S. Road, Guwahati - 5.

Enclosed : As stated.

Certified to be true
copy
Advocate

316

Ref : No. 19/3/2000-01/GIST, NATIONAL HUMAN RIGHTS COMMISSION

Sub : Comments in opposition to the report sent by Sri K.C. Kanungo, Dy. Inspector General of Police, CBI, NE Region, Guwahati in above referred case.

I have gone through the report submitted by Sri K.C. Kanungo in NHRC case referred to herein above and understood the contents thereof and state that the said report is totally false, malicious, manipulative, misleading and mischievous in as much as that the said administrative action as alleged to have been taken by Sri Kanungo against my husband Sri S.P. Singh Yadav, Inspector CBI, ACB, Guwahati is not the cause of my complaint but consequence of my bonafide complaint. However as the said Sri K.C. Kanungo has made certain baseless and unfounded insinuations against the professional conduct of my husband Sri S.P. Singh Yadav and thereby imputed motive in preferring my complaint dated 13/1/2000 and thus saddled me with the responsibility of touching upon those administrative matters in connection with my husband , which I am not supposed to comment upon effectively for want of proper and concrete knowledge, though I will have to do in order to clear deliberate haze created by Sri Kanungo and bring the facts to the notice of Hon'ble NHRC in its sublime purity. In view of it propriety and fair play demands that my husband Sri S.P. Singh Yadav may be allowed to be joined in the complaint to explain the facts and circumstances pertaining to alleged administrative action against him initiated by Sri Kanungo as referred to in his report.

2. That my husband Sri S.P. Singh Yadav is a Police Officer from Uttar Pradesh Police and joined CBI on deputation initially for a period of three years w.e.f. 24/9/93. The period of deputation was further increased on the demand of CBI authorities itself vide letter dated 16/10/1997 for another three years, i.e. upto 23/9/99 stating inter alia to the DIG, UP Police (HQ), Allahabad, that services of Sri S.P. Singh Yadav, who has been working as Inspector of Police on deputation basis since 24/9/93 are still required by the department and it is not possible to relieve him at present. It is requested therefore that necessary sanction extending the period of his deputation for three years more i.e. upto 23/9/99 may be given. (Copy of letter dated 16/10/97 enclosed as Annexure - 1). Obviously it was in the interest of CBI that Sri S.P. Singh Yadav was retained and not repatriated. It also shows that there was nothing as alleged against Sri S.P. Singh Yadav until at least 16/10/97, and subsequent action as mentioned to have been taken by Sri K.C. Kanungo for the period prior to 16/10/97 are all malafied, frivolous, fabricated making of him.

3. That consequent upon the promotion of Sri S.P. Singh Yadav in his parent department as Coy Commander the CBI also issued office order no. 193 dt. 17/11/98 granting him proforma promotion (copy of

the Promotion order enclosed as Annexure - 2). Obviously CBI would not have allowed and granted promotion had there been any allegations / insinuations against Sri S.P. Singh Yadav as alleged by Sri Kanungo at least upto 17/11/98.

4. That Sri S.P. Singh Yadav vide his letter dated 8/9/98 (Copy enclosed as Annexure - 3) represented for premature repatriation which was processed and repatriation ordered. While processing this application the Branch SP Sri B.N. Mishra while stating inter alia the factual position vide his letter dt. 11/9/98 to DIG/CBI/NER (copy of letter dt. 11/9/98 enclosed as Annexure - 4)as regards deputation period of Sri S.P. Singh Yadav being upto 23/9/99, further stated that "As Sri S.P. Singh Yadav, Inspr. has submitted for his repatriation to his parent department, I recommend that he may be repatriated". Obviously the Branch SP also did not mention anything adverse against Sri S.P. Singh Yadav until then. However, the Hon'ble Division Bench of the Gauhati High Court, which was monitoring the investigation of a case referred by it to CBI vide Civil Rule 3104/96, The State of Assam Vs. Wahed Ali, being investigated by Sri S.P. Singh Yadav, on coming to know that Sri S.P. Singh Yadav's likely repatriation, suo-moto taken up the matter of his repatriation on 18/12/98 and called for the personal appearance of SP/CBI Sri B.N. Mishra in connection with the progress of the investigation in RC-34(A)/96-SHG registered on the basis of direction in the aforesaid Civil Rule, on 19/12/98 when SP/CBI/Guwahati Branch appeared before the Hon'ble Court. The Branch SP informed to the Hon'ble High Court that as Sri S.P. Singh Yadav has sought for premature repatriation therefore the matter was processed and repatriation ordered. The Hon'ble High Court directed him to ensure that till the investigation is complete in RC-34(A)/96-SHG and the chargesheet is filed Sri S.P. Singh Yadav should not be repatriated. Therefore pursuant to this development, the SP/CBI/Guwahati vide his ID No. 817/CA/GEN/DO/25/28-Ghy dated 21/12/98 wrote to DIG/CBI/NER as regards this direction of the Division Bench of Hon'ble High Court. It was under these circumstances that Sri S.P. Singh Yadav had to continue unwillingly in CBI in Public Interest. It is obvious that there was no professional incompetence or any allegations of misconduct on the part of Sri S.P. Singh Yadav, as alleged by Sri K.C. Kanungo, otherwise the Hon'ble Division bench of the Gauhati High Court monitoring the investigation of case no. RC-34(A)/96-SHG would not have directed CBI for cancellation of repatriation order.

5. That some time after March 1999, the CBI, HO, New Delhi asked DIG, CBI, NER, Guwahati for re-examination of the repatriation case of Sri S.P. Singh Yadav. In response to it the DIG/CBI/NER Sri K.C. Kanungo himself vide his letter no. 1444/142/99-NER dt. 19/9/99 addressed to Administrative Officer (E), CBI, New Delhi stated that Sri S.P. Singh Yadav is handling a number of cases and his repatriation at this stage would not be appropriate. It is nothing gain

saying that the DIG/CBI/NER Sri K.C. Kanungo would have informed the HO had there been any professional incompetence or misconduct on the part of Sri S.P. Singh Yadav and get rid of him. Obviously there was none as such as alleged by Sri K.C. Kanungo against Sri S.P. Singh Yadav by 16/9/99 and all subsequent Administrative action as mentioned by Sri K.C. Kanungo in his report, and incidentally all pertaining to the period prior to 16/9/99, are evidently false, fabricated and deliberate makings by Sri K.C. Kanungo in order to harass, humiliate and injure him for extraneous purposes.

6. That Sri S.P. Singh Yadav during his six years of service until 1999 was conferred with rewards on 17 occasions and conferred with commendation certificate on nine occasions for his excellent investigation and effective handling of cases as mentioned herein below :

| Sl.No. | Office Order No. | Dated | Amount of Reward | Commendation Certificate |
|---|---|---|---|---|
| 1 | 116 | 22/6/99 | Rs. 1000.00 | - |
| 2 | 23 | 22/1/99 | - | C.C |
| 3 | 91 | 13/5/98 | Rs. 1000.00 | C.C |
| 4 | 177 | 26/6/98 | Rs. 600.00 | C.C |
| 5 | 91 | 13/5/98 | Rs. 1000.00 | C.C |
| 6 | - | 30/12/97 | Rs. 300.00 | C.C |
| 7 | 195 | 24/10/97 | Rs. 1500.00 | - |
| 8 | 68 | 13/3/97 | Rs. 1200.00 | - |
| 9 | 45 | 7/2/97 | Rs. 500.00 | - |
| 10 | 215 | 7/11/96 | Rs. 200.00 | C.C |
| 11 | 211 | 7/11/96 | Rs. 200.00 | C.C |
| 12 | 213 | 7/11/96 | Rs. 300.00 | C.C |
| 13 | 164 | 28/8/96 | Rs. 500.00 | - |
| 14 | 138 | 30/7/96 | Rs. 250.00 | C.C |
| 15 | 8 | 12/1/96 | Rs. 500.00 | - |
| 16 | 157 | 27/9/95 | Rs. 250.00 | - |
| 17 | 23 | 24/1/95 | Rs. 500.00 | - |

The aforesaid granting of reward and conferment of commendation certificate by various authorities of CBI consistently to Sri S.P. Singh Yadav since beginning of his stint in CBI w.e.f. 24/09/93 and upto later part of 1999 itself speaks volume, the fact of Sri S.P. Singh Yadav's impeccable professional competence and conduct as Police Officer, deserving to be rewarded and conferred upon with commendation certificates and non existence of any such allegations of misconduct, misdemeanour, insubordination etc. against Sri S.P. Singh Yadav, as rewards and commendation certificates and alleged misconduct being sworn enemies do not exist together. It is thus obvious that said allegations and grounds

for said administrative actions are manufactured, manipulated and invented by abuse and misuse of administrative power by DIG, Sri K.C. Kanungo to settle his personal scores, obviously against Sri S.P. Singh Yadav, in the wake of my bonafide complaint dt. 13/1/2000 and stay order granted by Hon'ble Gauhati bench of CAT to Sri S.P. Singh Yadav against his repatriation vide order dated 15/10/99 in OA No. 338/99.(Coy enclosed as Annexure - 5)

7. That the reward winning streak of Sri S.P. Singh Yadav was halted by Sri K.C. Kanungo, DIG/CBI/NER in most unreasonable arbitrary and perverse manner with a view to injure professional career of Sri S.P. Singh Yadav by issuing the direction to SP/CBI/ACB Guwahati vide Branch Inspection Report dt. 14/1/2000, subsequent to stay order of CAT dt. 15/10/99 in OA No. 338/99 to the effect that "SP should stop giving reward indiscriminating which some time puts the branch in awkward position as in case of Sri S.P. Singh Yadav who is using it to his advantage while fighting his case in CAT, Guwahati". (Copy enclosed as Annexure - 6)

It is obvious from aforesaid direction that it was this filing of OA No. 338/99 by Sri S.P. Singh Yadav in October 1999 and granting of stay by Hon'ble Tribunal on the merit of his case vide its order dt. 15/10/99 which piqued the CBI authorities particularly Sri K.C. Kanungo DIG/CBI/NER resulting into invention of cause for said administrative actions, fabrication and manufacturing of evidence with malafide and digging up the settled matters in order to harm and harass Sri S.P. Singh Yadav. In pursuant to this malafide intent the settled matter of the said complaint dt. 17/11/98 of Sri A.K. Baruah was dug up from hybernation after more than one year culminating into issuance of chargesheet which was attempted to serve upon me in the manner and circumstances of incident dt. 10/1/2000 resulting into my complaint dt. 13/1/2000 to Director, CBI and National Human Rights Commission. As is evident from above, there were no cause or reason for me for having said administrative actions as motive for my complaint dt. 13/1/2000 which was preferred for bonafide ends of justice.

Be as that may, it is surprising that what has happened within 3 months i.e. in between 16/9/99 and 14/1/2000 that same DIG/CBI/NER Sri K.C. Kanungo had to write aforesaid two contradictory letters, one dt. 16/9/99 to retain Sri S.P. Singh Yadav in CBI as he is handling number of important cases and therefore not recommending his repatriation and another perverse and capricious direction dt. 14/1/2000 to SP not to sanction reward to Sri S.P. Singh Yadav as he is using it to his advantage fighting CAT cases against CBI. Evidently the only incident of significance during this intervening period was filing of OA No. 338/99 in CAT, Guwahati in October 1999 by Sri S.P. Singh Yadav, in pursuant to his constitutional right to seek judicial remedies, which was the cause of victimisation, highhandedness and harassment of Sri S.P.

Singh Yadav, which even transgressed the official precincts and this official arrogance when even invaded the sacred precincts of the family in the manner of the incident dt. 10/1/2000 that the matter was complained to Director, CBI vide complaint dt. 13/1/2000 and when it was not heard the complaint dt. 8/2/2000 was forwarded to Assam Human Rights Commission culminating into registration of present complaint case. All alleged administrative actions against Sri S.P. Singh Yadav were initiated after my complaint dt. 13/1/2000 and therefore it is out and out baseless to allege that my complaint dt. 13/1/2000 is the result of said administrative actions against Sri S.P. Singh Yadav.

Thus after the perverse and capricious direction dt. 14/1/2000 of Sri K.C. Kanungo, as aforesaid, Sri S.P. Singh Yadav was not granted reward and commendation certificate deliberately and with malafide only, with a view to discredit Sri S.P. Singh Yadav professionally, despite his commendable work thereafter and even when securing court conviction in RC-32(A)/94-SHG u/s 420, 409 IPC & 13(2) r/w 13(1)(C) of PC Act 1988 for 5 years of RI and fine of Rs. 10,000.00 vide judgement dt. 18/7/2000 of Special Judge, Assam, Guwahati, besides conviction in Regular Departmental cases in as many as seven cases during the relevant period and registration of many cases on the basis of source-information and surprise check's conducted by Sri S.P. Singh Yadav. It is pertinent to mention that guidelines of Director, CBI, New Delhi vide his standing order No. 32 dt. 27/12/96 prescribes grant of reward and commendation certificates to IO's in all aforesaid matter.

However the aforesaid perverse and malafide direction when was reflected in subsequent OA No. 30/2001, 31/2001 and 61/2001 filed in Guwahati Bench of CAT challenging said order of DIG, Sri K.C. Kanungo, he by misusing and abusing his official position under coercion obtained a statement from his CA, Sri Manoj Deb thereby denying and contradicting the said direction as having been given by DIG (Copy of the statement of Sri Manoj Deb enclosed as Annexure - 7). The ~~second~~ said false statement of Sri Manoj Deb amounting to perjury was than filed on solemn affirmation in aforesaid all the three OA's by DIG deliberately in full knowledge as regards falsity of said fact in the statement. This fact shows that Sri K.C. Kanungo is manipulative, lacks professional integrity and his conduct unbecoming of a senior police officer in as much as that he indulges in blatant falsehood by submitting false affidavits and statements even before Superior Judicial Forum with impunity and therefore this Hon'ble Commission is prayed for caution that statements made by Sri K.C. Kanungo in his report may be verified in detail after granting proper hearing in detail from Sri S.P. Singh Yadav and should not be accepted on face value of an statement from senior officer.

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8. That the statement made by Sri K.C. Kanungo in Para-2 of his report is admitted to the extent that Sri S.P. Singh Yadav was suspended vide his order No. 1192/12/COMP/SLC/NER/99 dt. 26/4/2000, and four chargesheets were issued vide memorandum No. (i) 1378/12/COMP/SLC/NER PT(I) dtd. 11/5/2000, (ii) 1477/12/COMP/SLC/NER PT(III) dtd. 17/5/2000, (iii) 1516/12/COMP/SLC/NER PT(II) dtd. 22/5/2000 and (iv) DPSHL/2000/0021/A/20/157/93 dtd. 10/1/2000.

It is obvious from the dates of said suspension order and said four chargesheets that all but four chargesheet are subsequent to my complaint dt. 13/1/2000 against incident dt. 10/1/2000, and fourth chargesheet dt. 10/1/2000 was the subject matter of the incident dated 10/1/2000 and was the result, as discussed afore, of grouse on the part of Sri K.C. Kanungo against Sri S.P. Singh Yadav for emphasising his right of judicial remedies by filing OA No. 338/99 in the CAT Guwahati and being granted stay order by the Tribunal. It is thus evident that all said administrative actions were initiated subsequent to my complaint dt. 13/1/2000 and cannot be said in any way my motivation to prefer said complaint as alleged to be engineered by Sri S.P. Singh Yadav in retaliation to the aforesaid administrative actions. Further though the reason shown by Sri K.C. Kanungo in suspension order, and as also alleged in his report, are various acts of misconduct, misdemeanour, insubordination and for making false allegation against superior officers, but subject matter of chargesheets have no such nexus with alleged reasons.

It is another story of highhandedness, misuse and abuse of administrative power by Sri K.C. Kanungo that subordinate officer who by later's admission vide letter dt. 16/9/99 request CBI HO not to repatriate Sri S.P. Singh Yadav as well as by granting of so many rewards and conferment of commendation certificate themselves prove his professional competence, but within a span of two months only becomes worthy of so many chargesheets and suspension order. What a great investigative skill of CBI and officers like Sri K.C. Kanungo that they can turn efficiency into inefficiency, discipline into indiscipline, good conduct into misconduct and of course hero into not zero but a villian?

Be that as it may the result of malafide and abusive power of Sri K.C. Kanungo, DIG resulting into administrative action could worth be seen from the following :

<u>OA No. 137/2000</u> : This original application was filed by Sri S.P. Singh Yadav in the Guwahati bench of CAT on 17/4/2000 against the perverse malafide and arbitrary action of Sri K.C. Kanungo stopping the salary of Sri S.P. Singh Yadav for the month of October 1999 while he was on medical leave for 28 days. The application was filed praying for the release of salary and sanction 28 days medical leave. The Hon'ble Tribunal in its final order termed the

conduct of Sri K.C. Kanungo, DIG/CBI/NER as 'obdurate' and passed the stricture against him that "he instead of engaging himself in other important issues, is more confined to some irrelevant and extraneous issues", and therefore allowed the appeal directing DIG for granting medical leave without asking for any other certificate except as already submitted and ordering him to release salary within two weeks, further imposing a cost of Rs. 1000.00 against respondent's for being paid to Sri S.P. Singh Yadav (Copy of the order of the Tribunal enclosed as Annexure - 8).

OA No. 30/2001, 31/2001 and 61/2001 : These three original applications were filed in the Guwahati Bench of CAT on 25/1/2001 against the aforesaid three chargesheets vide No. (i) 1378/12/COMP/SLC/NER PT(I) dtd. 11/5/2000, (ii) 1477/12/COMP/SLC/NER PT(III) dtd. 17/5/2000 and (iii) 1516/12/COMP/SLC/NER PT(II) dtd. 22/5/2000, interalia praying for quashing of the chargesheets and removal of DIG/CBI/NER Sri K.C. Kanungo doing all deliberate mischief in the grab of administrative supervision from acting as disciplinary authority. The Hon'ble Tribunal vide its order dated 8/5/2001 (Copy enclosed as Annexure-9) observed that "we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable". Thus the Tribunal though did not interfered in the matter of admitting the applications for quashing but directed Sri K.C. Kanungo, DIG/CBI/NER to recuse himself from disciplinary authority and ordered Director, CBI, New Delhi to appoint new disciplinary authority who will look into the matter of maintainability of the charges and pass reasonable orders.

Since then charge sheet vide Memo No. 1378/12/COMP/SLC/NER PT(I) dt. 11/5/2000 is dropped without hearing vide letter No. 833/13/3/2001/CRO Dtd. 18/10/2001 of New Disciplinary authority and maintainability of other two chargesheets are under consideration.

The dropping of the charge by new disciplinary authority Sri Vijay Kumar, IPS, DIG/CBI, Kolkata region shows, animus, frivolity, perversity and misuse and abuse of administrative power on the part of Sri K.C. Kanungo in issuing chargesheets with malafide and without any cogent reason which was also adversely observed by Hon'ble Tribunal that he is 'obdurate' and instead of engaging himself to other important issues was more confined to some irrelevant and extraneous issues.

It is pertinent to mention that none of the aforesaid charge memorandum issued by Sri K.C. Kanungo relates to alleged misdemeanours , false complaints against superiors or for indiscipline and insubordination on the part of Sri S.P. Singh Yadav. In view of the allegations it will be worth while to touch upon in brief the nature and contents of the chargesheet.

Charge Memo No. 1378/12/COMP/SLC/NER PT(I) dtd. 11/5/2000 : This relates to alleged unauthorised absence of Sri S.P. Singh Yadav for 28 days in October 1999 and consequent stoppage of salary for the month. The chargesheet is dropped since than pursuant to observation of the Tribunal as aforesaid and imposing a penal cost of Rs. 1000.00 against respondents and order for grant of Medical Leave without asking for any other certificate and ordering them to release the salary in OA No. 137/2000.

Charge Memo No. 1477/12/COMP/SLC/NER/99 PT(III) dt. 17/5/2000: This charge memorandum relates to alleged non submission of 'weekly diaries' for the year 1997. The weekly dairies are the statement of works performed daily which is submitted on week-end to SP for his appraisal of work performed by subordinates. It is obvious that the said appraisal, if any, is to be done weekly, and was done indeed by the than Branch SP at the relevant time. Further no acknowledgement of the receipt of the said weekly dairies is given by Branch SP or concerned clerk and is a trivial matter. The weekly dairies were indeed submitted and carbon copies thereof are still with Sri S.P. Singh Yadav for record and if it was so necessary it could have been asked for photocopies even now. However three SP's and three DIGs passed by since 1997, but in May 2000, after my complaint dated 13/1/2000, the matter was manipulated, by misuse and abuse of the administrative power by Sri K.C. Kanungo, resulting into issuance of this frivolous chargesheet with mischief and malafide after lapse of more than three years of alleged incident. This evidences malafide on the part of the concerned in as much as that the inconsequential matter was manipulated by removing weekly dairies duly submitted by Sri S.P. Singh Yadav at the relevant time from office file after my complaint dt. 13/1/2000 and the fact distorted in order to issue chargesheet.

Charge memo No. 1516/12/COMP/SLC/NER PT(II) dt. 22/5/2000 : This chargesheet was issued for allegedly not causing investigation properly in CBI Case No. RC-27(A)/96-SHG (Copy of FIR enclosed as Annuxure - 10) registered u/s 13(1)(e) of PC Act 1988 for possession of disproportionate assets than known source of income by accused public servant of ONGC, Nazira, Assam. In this case the investigation was conducted bonafide and in usual course of business and as per fair procedure prescribed by law, and CBI Crime Manual, and the final report was filed on the order of SP and other senior supervising officers as investigation did not disclose possession of disproportionate assets by the suspect as alleged in the FIR.

As per CBI Manual it is not the IO, i.e. Sri S.P. Singh Yadav to decide finally for filing the closure report / chargesheet in the case after investigation but all concerned i.e. Sr. PP Sri J.S. Terang, now DLA/CBI/Kolkata vide his FR II dt. 25/3/98 (Copy enclosed as

Annexure - 11). SP's report of Sri M.K. Jha vide his comments dt. 2/4/98 (Copy enclosed as Annexure-12), DLA Sri D.C. Sarkar, now ALA/CBI/New Delhi vide his comments dated 13/5/98 (Copy enclosed as Annexure-13), DIG Sri N.R. Roy vide his comments dated 22/11/98 (Copy enclosed as Annexure-14) and Final Order of Dr. U.N. Biswas, IPS, Joint Director CBI/EZ/Kolkata vide his comments dt. 3/12/98 (Copy enclosed as Annexure-15) finally ordering Branch SP for closure of the case, and on the order of Branch SP Sri Om Prakash the Final Report for his closure in the case was filed which was forwarded vide his letter No. 3/27(A)/96-SHG/07573 dtd. 17/6/99 to the Court of Special Judge , Assam, Guwahati, which also after satisfying itself after perusing the case dairies and other case records closed the case passing the Judicial Order dt. 14/2/2000 (Copy enclosed as Annexure-16).

The perusal of aforesaid comments / reports of all senior administrative and law officers who had seen the case records and given their comments in details recommending unanimously for the closure of the case and arriving to the 'Administrative Finality' in decision by Joint Director/CBI/EZ Kolkata ordering for closure of the case with seal of 'Judicial Finality' by Special Judge, Assam, Guwahati in this matter, than how come the fault could be found with IO as regards investigation which was fairly conducted and properly supervised by all superiors as per procedure established by law. It is also pertinent to mention that as per CBI Manual and Cr. - PC, supervision by aforesaid administrative officers and law officers is also part of investigation which is a team work and as such fault cannot be found (which in fact does not exist at all but smoke screen created by Sri K.C. Kanungo irresponsibly without any good reason but with malafide and for collateral purposes) with IO.

It is also pertinent to mention that no preliminary inquiry was conducted in the matter, nor any discussion undertaken with IO Sri S.P. Singh Yadav and not even case diary was consulted, as could be seen from the letter dated 9/2/2001 (Copy enclosed in Annexure-17) of Branch SP inquiring about case dairy itself one year after issuance of impugned Charge Memo dt. 22/5/2000, for arriving to good reason for issuance of charge memorandum in the matter. Further any person of common sense after going through the FIR dt. 12/7/96 (Copy enclosed in Annexure-10) could find out that this FIR itself was registered without good reason, and in violation of the provision in Section 17 of PC Act 1988 in as much as that there were following infirmities and inconsistencies apparent on the face of records in calculation for arriving to this alleged disproportionate assets of Rs. 1,62,000.00

(a) Whereas the net income of the suspect on page 2 of said FIR was taken up for the period 1986 to March 1994 however the FIR itself shows that he was working in ONGC as Asstt. Engineer (C) since 23/8/80 (investigation disclosed that he was working with

Govt. of Assam since 1978). Thus the legitimate likely savings of Public Servant for 6 years from August 1980 to 1986, i.e. prior to alleged check period was not taken into account (besides for another two years for working with Govt. of Assam) thereby causing serious prejudice to Public Servant and had it been duly taken into account by the concerned verifying officer and Brach SP before registration of the case, this FIR would not have been registered and that is why JD/CBI/EZ/Kolkata in his order for closure (Annexure - 15) ordered for calling explanation who submitted S.I.R.

(b) Further, whereas the net income of the accused was taken for the period from 1986 to March 1994 for arriving to the conclusion of disproportionate asset in possession of suspect public servant, but as FIR was registered after much delay i.e. on 12/7/96. Thus the suspects likely savings up to date i.e. his legitimate income from 1994 to July 1996 was not taken into account and as such calculation of disproportionate assets is seriously flawed and perilously prejudiced him by registration of this case but for proper calculation of income from 1994 to July 1996 the case would not have been registered at all.

(c) Further the expenditure side of the public servant shows his investment of Rs. 80,000.00 during 1986-94 (investigation disclosed it from 1985 to 1989) but the case was registered on 12/7/96 and searches were conducted in November 1996. Obviously the investment during 1985 to 1989 would fetch him a take home income of Rs. 1,60,000.00 after six years of maturity period i.e. well in time prior to 1996, the last check period thus wiping out even entire alleged disproportionate assets of Rs. 1,62,000.00 against suspect. Thus even if this fact was properly accounted for before registration of FIR as per provision of Sec. 17 of PC Act than it alone would have nullified the alleged disproportionate assets.

It is pertinent to mention that this case was registered by CBI on the complaint of department just after the suspect public servant was granted stay order on his transfer by Gauhati High Court in the wake of his prayer that his father is suffering from cancer requiring his constant presence to look after his ailing father. The said prayer was though allowed by the Hon'ble High Court by granting him stay for six months but in bonus this suspect also got this unregistrable case registered under most doubtful circumstances and possibly in unholy understanding with the CBI officers and ONGC administration. It therefore seems that right to judicial remedies granted under Article 32 and 226 of the constitution are illusory at least to the public servants, because what judiciary gives them, the all pervasive power of executive takes away clandestinely and indirectly by abuse of administrative power under facade of administrative action.

Further the daily order sheet dt. 10/2/2001 (Copy enclosed in Annexure-18) issued by Inquiring authority Sri Vaibhav Agashe Dy.SP/CBI/ACB/Shillong (The perverse and capricious inquiry was later on stayed, and combined order in OA No. 30, 31, 61 of 2001 passed by CAT observing that these proceedings are legally unsustainable and ordered for removal of disciplinary authority Sri K.C. Kanungo and for looking into maintainability of charges by new disciplinary authority to be appointed by Director, CBI) reveal that even Sri K.C. Kanungo DIG/CBI/NER is satisfied that there is no flaw in the investigation against the accused lest he should have gone for reinvestigation as per law after obtaining permission of the Court and thereafter gone for filing fresh chargesheet if possible, but he desist from reopening the investigation by filing prayer in Court of Special Judge, Assam as per legal procedure, however he without resorting to proper legal procedure is after IO Sri S.P. Singh Yadav for settling his personal scores by initiating disciplinary action on the basis of false and manipulated chargesheet. The malafide, perversity and capriciousness on the part of Sri K.C. Kanungo in applying pressure on Inquiry Authority in order to meet his depraved objective could be seen from the latter's observation in the daily order sheet whereby the disciplinary authority was sternly asked to desist from advising him in the matter.

The aforesaid reveal loud and clear his deep malice, abuse of administrative power, illegality, perversity, arbitrariness and violation of basic human rights of the subordinate public servants by the manipulative, unscrupulous and mischievous superior administrative authorities as Sri K.C. Kanungo, DIG.

Chargememo vide No. DPSHL/2000/0021/A/20/157/93 dt. 10/1/2000: This chargememo for minor penalty punishment was issued against Sri S.P. Singh Yadav by DIG Sri K.C. Kanungo as a result of an unholy alliance with one bank dismissed and CBI as well as Assam Police chargesheeted under trial accused Sri Arun Kanti Baruahin Case No. RC-7(A)/96-SHG u/s 420, 468, 471 & 477(A) IPC and 13(2) r/w 13(1)(c) of PC Act 1988 for defrauding bank to the tune of Rs. 10 lakh and in case no. 696/95 u/s 324/307/498(A) of IPC for attempting to murder his wife, respectively whose name was mentioned by me in my complaint dt. 13/1/2000. Sri K.C. Kanungo though issued this chargesheet for minor penalty without any regular inquiry as asked for, imposed illegally, arbitrarily and perversely a major penalty punishment of stoppage of three increments with cummulative effect vide order dt. 15/2/2001 subsequent to my complaint dated 13/1/2001. Against said illegal and perverse order appeal was made to Joint Director CBI/EZ/Kolkata who was pleased to suspend the impugned punishment order (Copy of office order No. 217 dt. 2/8/2001 enclosed as Annexure-19).

From aforesaid impugned administrative action it can be gathered that none of the chargesheets are for alleged serious allegations of gross misconduct, lack of devotion to duty and integrity, defiance of the order of superior officers (Copy of the order dated 28/3/2000 and suspension order dated 25/4/2000 enclosed as Annexure-20 & 21).

It is thus obvious that the said administrative action against Sri S.P. Singh Yadav were the perverse and capricious result of abuse of administrative powers consequent to my bonafide complaint against Sri K.C. Kanungo DIG/CBI/NER to DCBI, New Delhi and NHRC.

9. As regards the statement made by Sri K.C. Kanungo DIG in Para 3, 4 and 5 of his report I am to state that he has tried to mask his real motive in raking up this old complaint dt. 20/11/98 of Sri A.K. Baruah after more than an year and only after Sri S.P. Singh Yadav approached the Gauhati Bench of the Central Administrative Tribunal vide his original application No. 338/99 whereby the Hon'ble CAT granted him stay on his repatriation vide its order dated 15/10/99. It is strange indeed that the same DIG who issued aforesaid three chargesheets for major penalty dt. 11/5/2000, 17/5/2000 and 22/5/2000 in a week but no action was taken on said complaint of Sri A.K. Baruah for more than a year. The fact in this regard is that the then SP/CBI Sri B.N. Mishra submitted the closure report in 1998 itself as it was found to contain false and baseless allegations. Moreover the said complaint has no nexus with the official function or charges of corruption etc. against Sri S.P. Singh Yadav worthy to be probed by CBI. In fact as discussed in detail the said complaint of Sri A.K. Baruah was taken out from hibernation to cause injury to Sri S.P. Singh Yadav and subvert the judicial order dt. 15/10/99 of the CAT by administrative arrogance and contempt.

The detailed fact and background of the said complaint of Sri A.K. Baruah as well as his conduct can be seen from the following:

The fact in this regard is that it was my misfortune that I booked a flat in Dorothy Apartments, constructed by Purbanchal Housing Promotion Development Co-operative Society, a Registered Co-operative Society in 1995, by entering in to a Registered agreement for purchase of a two room flat, with Mrs. Jayanti Baruah, the chair person of the said society. Sri A.K. Baruah is the husband of Mrs. Jayanti Baruah. In July 1998 after payment of full amount as to the cost of the flat we were given No-objection Certificate / No dues Certificate (copy enclosed as Annexure - 22) and we were given possession of the said booked flat. However after occupying the flat it was found to our chargin that though we were charged @ Rs. 460/Sq.ft for 808 Sq.ft built-up Area, but the actual built up area was found to be only 600 Sq.ft. (approx) and thus we were cheated by an amount of Rs. 92,000/- approx. equivalent to unprovided built up area of 200 Sq.ft. @ Rs. 460/- Sq,ft. Besides it, he also charged Rs.

23,000/- for electricity meter, mutation of municipality no. and Registration deed etc. However till date he did not provide the same. Further in the said flat it was found that certain constructions were made in the ground floor which was shown as parking area in Guwahati Metropolitan Development Authority approved map design on the basis of which registered agreement was made. Therefore all the Flat owners submitted a complaint under the collective signature on behalf of the flat owners association under Presidentship of Mr. Kallolkar and ME as Secretary of the said association (copy enclosed as Annexure - 23) to concerned authority and in response to which concerned GMDA authority demolished the unauthorised construction in Sept/Oct 1998. This incident of demolition of unauthorised construction by concerned authority enraged Sri A.K. Baruah who intimidated few of the said signatories of the complaint particularly Mr. Kallolkar who was under obligation of personal loan from Mr. A.K. Baruah and thus he secured a letter under coercion from Sri Kar disassociating with the said association.

In November 1998 Sri A.K. Baruah again started illegal construction at the same parking place and as such we moved to the court and secured an Ad-interim Injunction against said illegal construction vide title suit No. 214/98 & Misc case No. 199/98 from Civil Judge Senior Divisional - 1 Guwahati (copy enclosed as Annexure - 24). However Sri A.K. Baruah instead of showing cause on the date fixed in said injunction. Obtained stay from District Court but without any direction to resume construction; and than again started construction. Thus we moved to the Hon'ble Guwahati High Court which set aside said illegal & unlawful stay of the District Court vide order in Civil Revn No. 392/1998 and referred the matter to original court of Civil Judge Senior Division - 1 to dispose off the matter within 10 days after hearing both the parties. Accordingly the Civil Judge Sr. Division - 1 Guwahati after hearing both the parties gave judgement in our favour making the said injunction as absolute (copy enclosed as annexure -25 ).

During aforesaid period we also filed complaint dtd. 23/09/98, 30/09/98, 30/10/99 and 16/11/98 and a case was also registered against Sri A.K. Baruah vide F.I.R. No. 1165 dtd. 20/11/98 U/S 147/148/447/325 I.P.C. against cognizable offence (copy enclosed as Annexure - 26).

The aforesaid series of defeats at all the forum of law further enraged him and than though he gave no-objection certificate for separate electricity meter to other flat owners but he declined to give it to us, although he has already realised charges for the same. Thus we approached concerned authorities of electricity board and obtained separate electric connection of our own incurring our own expenditures but the charges realised for the said service by Sri A.K. Baruah remained unreturned.

Further Sri A.K. baruah with a view to harass us would not give N.O.C. for mutation of Municipality number, though he had charged money for the same. Thus we were again forced to petition the Commissioner Gauhati Municipal Corporation who also after hearing both the parties and seeing other legal documents passed Mutation order in our favour.

Further Sri A.K. Baruah gave final resgistration deed of the flat to other individual flat owner but he would not give it to us to harass us only, though he had already realised charges, registration fee etc. already, and as such we were once again forced to move to the District Consumer Grievances Redresal Forum, Guwahati vide complaint No. CPF 38/2000 for realization of excess charges by Sri Baruah for 200 Sq.ft @ Rs. 460/Sq.ft for providing 200 Sq.ft built-up area less than 808 Sq.ft agreed as per registered agreement, deficiency in service and for giving registration/title deed etc. which is pending in the Hon'ble Forum for disposal.

During this period he also obtained a permission for construction of Flat in Parking Area by misrepresenting the facts from Guwahati Municipality. When the facts were brought to their notice, their team of town planner visited the site and after full measurement they cancelled the said permission so obtained fraudulently by Sri A.K. Baruah (Copy enclosed as Annexure - 27).

In the aforesaid back ground Sri Baruah forwarded complaint against me to NHRC/AHRC, Director CBI etc. The complaint by NHRC/AHRC was inquired into vide AHRC Case No. 2451/98/2 dtd. 17.03.99 (Copy enclosed as Annexure - 28) through S.P. City Guwahati and was found to be false and baseless on the inquiry report of Assam Police Dy. SP/Dispur Circle Sri S.K. Das Gupta. The complaint to Director CBI was forwarded to SP/CBI/ACB Guwahati, Sri B.N. Mishra who asked Dy. SP CBI/ACB Sri P.K. Deb kanungo to inquire and submit report. The matter was apprised to him which was communicated to JD/CBI/Calcutta to his satisfaction and the matter was set to rest in 1998 itself.

However in 1999, after arrival of Sri K.C. Kanungo, DIG/CBI/NER after grant of stay on the repatriation order by CAT Guwahati the complaint was again dug up and entrusted to Sri D.S. Mann Dy. SP/CBI/Agartala unit, who also recommended for closure and accordingly in agreement with SP/CBI/Silchar branch the JD/CBI/EZ Calcutta Dr. U.N. Biswas ordered for the closure of the complaint on 10.01.200°during his branch inspection of Silchar.

In October 1999 after grant of stay order over my repatriation by Hon'ble Guwahati Bench of CAT in OA No. 338/99, piqued Sri K.C. Kanungo, the DIG/CBI/NER who started digging up the matter thereafter with sole object to harass and injure Sri S.P. Singh Yadav. Thus this closed matter, besides many other, were once

again dug up and given to Sri K.C. Choudhury, Dy.SP/R.O. to inquire and report. However Dy.SP/CBI/R.O. Sri K.C. Choudhury also gave the same report as aforesaid but much to the discomfort of Sri K.C. Kanungo DIG/CBI/NER the later would not agree with it as he was only interested to find out ways and means to cause injury to Sri S.P Singh Yadav and therefore he himself decided to inquire and as such he called Sri A.K. Baruah to his office from latter's residence and surprisingly Sri S.P. Singh Yadav was also called by the DIG at the same time on the pretext of discussion in RC-34(A)/96-SHG and accordingly when he reached unsuspectingly to DIG/CBI/NER office, the two highly hostile and revengeful person, i.e. Sri K.C. Kanungo & Sri A.K. Baruah in conspiracy and with common bad motive implicated Sri S.P. Singh Yadav into alleged incident and issued charge sheet vide Memo No. DPSHL/1999/05805/F/20/157/93 dtd. 10/1/2000. It is pertinent to mention here that had the alleged incident been really occurred on 30/11/1999, Sri Baruah would have lodged the complaint on 30/11/1999 itself in PS Latasil Guwahati i.e. on the same day, but he in conspiracy with DIG/CBI/NER Sri K.C. Kanungo and on being egged on by him lodged complaint three days later i.e. on 02/12/99 with a sole motive of giving credence to the alleged incident. It is pertinent to mention however that no inquiry from police has been made as yet as no. offence is disclosed from the complaint. Further Sri K.C. Kanungo also obtained from him complaint dt. 04/12/99 addressed to him and Sri Baruah was egged on to forward the copy to the same to Dy SP/CBI/Agartala Unit. Sri D.S. Mann with the sole motive to extract a prejudicial and tailor made report against S.P. Singh Yadav otherwise how could an outsider knew that Sri D.S. Mann is entrusted with the said inquiry against Sri S.P. Singh Yadav and any complaint addressed to DIG could be marked by him to the concerned.

It is also pertinent & interesting to point out that Memo No. DP SHL/1999/05805/A/20/157/93 dtd. 07/12/99 by Dy. SP Sri K.C. Choudhury did not show the happening of the alleged incident on 30/11/99 but on 02/12/99 when Sri S.P. Singh Yadav was not at all present in DIG/CBI/NER office. The DIG CBI/NER also endorsed the matter vide his endost. No. 2347/CR/SIL/99/06 dtd. 02/12/99. It could thus be seen that complaint against Sri S.P. Singh Yadav was filed to Latasil P.S. & DIG/CBI/NER only after evil interest shown by DIG/CBI/NER to take action against him on the complaint by Sri A.K. Baruah. It is also evident therefore that Sri A.K. Baruah after his usual and normal departure on 30/11/99 from DIG/CBI/NER office was contacted at the instruction of Sri K.C. Kanungo and than he was egged on to file complaint which was filed on 02/12/99 in Latasil P.S. Guwahati and thereafter under conspiracy of the aforesaid the said charge sheet was issued with common motive of aforesaid to harm and injure Sri S.P. Singh Yadav which the DIG/CBI/NER has used to the hilt on misuing & abusing his official position. Not only that Sri Arun Kanti Baruah is a person of criminal

nature and dubious character and a case was registered against him on 29/09/95 with P.S. Dispur, Guwahati u/s 324/307/498-A of IPC vide FIR No. 696/95 for attempting to murder his wife by his personal revolver and the charge sheet is filed in court of competent jurisdiction.

Further he was also charge sheet by CBI/ACB/Ghy branch u/s 420, 468, 471 & 477-A of IPC and section 13(2) r/w 13(1)(d)of PC Act 1988 in CBI Case No. RC-7(A)/96-SHG for defrauding New Bank of India (Now Punjab National Bank, Fancy Bazar, Guwahati) to the tune of Rs. 10,00,000 (approx.) and for the said criminal misconduct the authorities of the PNB dismissed Sri Baruah from service and the charges against him are framed in court of Special Judge Assam, Guwahati and further trial is on. The case was investigated by Inspector Sri B.R. Roy, now with CBI/ACB Calcutta branch (copy of the FIR and charge sheet annexed as Annexure- 29 & 30).

It is important to apprise herein that I was totally unaware of the antecedents of Sri Baruah as he came in our contact as purely a builder and as such in 1995 flat was booked after making payment of Rs. 20,000 and Rs. 25,000 in two instalments. However in 1996, subsequent to the payment, when a case was registered and Sri Baruah was brought arrested to CBI branch by I.O Sri B.R. Roy, it was found that he was involved in aforesaid case. His wife Mrs. Joyanti Baruah also visited my house with the request to Sri S.P. Singh Yadav to use his influence in saving Sri A.K. Baruah. Obviously being a sub-ordinate CBI functionary he did not have the scope, ways & means to indulge in luxury of having helped him. Further his nature as a professional Police Officer innately prohibits him to have any dealings with such character and invite any controversy.

However as the Booking amount was already paid and as per registered agreement for sale the said amount would stand forfeited, if the purchaser withdraws from the contract. As such we proceeded ahead with the conditions of said contract agreement, chiefly in view of the fact also that agreement for sale was between me as a purchaser and Sri A.K. Baruah's wife as chairperson of the said co-operative society as promoter/builder of the said apartments and also in view of the fact that Sri S.P. Singh Yadav i.e. my husband had no official dealings whatsoever with Sri A.K. Baruah.

Further it was found that Sri A.K. Baruah is so dare devil that he intimidated & assaulted a public servant Smt. Anjali Goswami during discharge of her official duties on 23/09/98 and as such the CEO, GMDA Sri Ashutosh Sengupta, IAS also lodged a complaint with P.S. Dispur, Guwahati vide letter No. GMDA/6/94-95/27 dtd. 24/09/98.

Thus in view of the facts and circumstances narrated above, the moot questions that stare any person of ordinary intelligence & prudence are :-

i) Why and how the DIG/CBI/NER opened the said complaint closed by his superior i.e. JD/CBI/EZ Calcutta.

ii) Why the same complaint repeatedly given to different authorities for inquiry and what was the reason for opening the said complaint closed by his predecessor & his senior i.e. JD/CBI on the second occasion.

iii) Why the DIG/CBI/NER called Mr. A.K. Baruah a CBI charge sheet person for personal hearing on the said complaint. Whether he calls other complainant for personal hearing; or for examination by the concerned I.O in his presence. If yes where is his report of examination and why it was not supplied to Sri S.P. Singh Yadav to defend reasonably and why he was not given opportunity to explain the matter before directing evil Civil Consequences to visit upon him.

iv) When there was any complaint against Sri S.P. Singh Yadav which discloses in no way about his official dealings or any corrupt or illegal acts than why and how the DIG/CBI/NER Sri K.C. Kanungo entertained the said complaint and called the complainant for personal hearing and why no explanation was asked from him regarding said allegations but again and again the complaint was marked to different Dy. SP's to give their report. So that tailor made report could be obtained ?

v) In CBI various types of complaints are received from public but only those complaints are taken up for inquiry which involves official corruption or misuse and abuse of official position involving Central Govt. Employee, and other frivolous complaints are discarded and filed or forwarded to appropriate authorities for action. In this regard the detailed instructions are given in CBI crime manual. However the said complaint of Sri A.K. Baruah did not complained Sri S.P. Singh Yadav for such acts and the said complaint was a private complaint, which has no nexus with his official position or misuse or abuse of official power than why the said complaint was entertained for inquiry again & again and made the same basis for punishment.

Thus whether the CBI has power & authority to entertain any or every complaint. If not, than why this particular complaints as regards to private dispute, and for what extra interest and considerations was endorsed to aforesaid Dy. SP's again & again by DIG/CBI/NER Sri K.C. Kanungo for inquiry.

vi) Under what provision of law or moral decency Sri K.C. kanungo gave indulgence to such a CBI charge sheeted accused person & entertained complaint dt 4/12/1999 of said Sri Baruah using most indecent, defamatory & profane language by the complaint against the respected wife of his own sub-ordinate and with what authority he obtained report in this regard from Dy. SP Sri D.S. Mann, which is out-rageous by any standard of ethics and moral conscience,

trespass of official power & limit and violation of most sacred privacy and basic human rights.

vii) how the DIG/CBI/NER Sri K.C. Kanungo misused and abused his official position in medalling a civil dispute between two parties, and subvert the Judicial verdict through unauthorised & private justice which was settled by the Hon'ble courts of law and how & for what consideration the DIG/CBI/NER Sri K.C. Kanungo asked the complainant as stated in the complaint of Sri A.K.Baruah dtd. 04/12/99 as to how could he help him and why DIG's heart was bleeding profusely to help a builder, civil contractor and CBI accused person in his civil disputes outside court.

viii) Under what provision of law the DIG/CBI/NER has got the power to seek a police report after the inquiry by said Dy. SP's when the complaint does not relate to Sri S.P. Singh Yadav's indulgence in any corrupt or illegal act in official capacity and whatever the power and jurisdiction of any authority that might arise in the said complaint was that of local police & civil courts. Thus how the DIG/CBI/NER transgressed his limited police power as CBI official vested in him as per DSPE Act and consent of Govt. of Assam in this regard.

ix) Being a public servant at how many forums and for how many authorities Sri S.P. Singh Yadav is liable for the same complaint. The Civil court, Criminal Court, CBI, Local Police, NHRC/AHRC and than department ? Further whether he is liable collectively to CBI hierarchy as a whole or severally to SP/DLA/DIG/JD/Addl Director & DCBI ? and thus when the report was closed by branch SP and thereafter by JD/CBI/Kolkata giving Administrative finality to the decision than with what power DIG Sri kanungo a Junior to JD/CBI again opened the matter.

10. That as regards statement of Sri K.C. Kanungo in Para 5 of his report that on the basis of the report of Dy. SP Sri K.C. Chaudhury regarding alleged incident dt. 30/11/99 between Sri S.P. Singh & Sri A.K. Baruah, the branch SP was asked to take action against S.P. Singh Yadav and as such it is stated that though the charge memorandum was issued by him at the dictation of K.C. Kanungo DIG, but Sri Om Prakash branch SP refused to award punishment and on being pressurised by DIG instead appended Note in File : "This matter was closed at the branch level however DIG/CBI/NER has taken up this matter of his own calling for the records from branch and issuing chargesheet etc. Though SP is also competent to award punishment but as I am not aware of the facts and circumstances of the case therefore DIG himself may pass the order as he is aware of it". It is pertinent to mention herein that the complaint of Sri A.K. Baruah was closed by JD/CBI/EZ Dr. U.N. Biswas on 10/1/2000 during his visit for the branch inspection at Silchar on the report of Dy. SP/CBI/Agartala Unit Sri D.S. Mann.

Thus despite the notings of branch SP, closure report of Dy. SP Sri D.S. Mann and Final order of the Joint Director CBI/EZ/Kolkata, the DIG Sri K.C. Kanungo, arbitrarily perversely & illegally passed major penalty punishment of stopping three increment with cumulative effect on the chargesheet for minor penalty which on appeal was suspended by JD/CBI/EZ Kolkata vide his order communicated to Sri S.P. Singh Yadav vide office order No. 214 dtd. 2/8/01 of SP/CBI/Ghy.

As regard mention by DIG Sri Kanungo that S.P. Singh Yadav obtained stay order from CAT against the office order No. 211 dtd. 20/10/99 communicated to him vide memo No. A/20/157/93/04774-80 dtd. 20/10/99, I crave leave of the Hon'ble Commission to draw its attention towards arrogant averments as aforesaid made towards Hon'ble Tribunal by Sri K.C. Kanungo. Stay order are not obtained by applicant but granted by the Hon'ble Courts on the merit of the case under their discretionary power. As the stay was granted by Hon'ble Tribunal it is derogatory to the majesty of the Courts & Tribunal to use such corrupt language that stay was obtained . Sri K.C. Kanungo must learn that he is not law unto himself and it is better late than never to learn and bow before law, courts and other Judicial forum instead of busying himself in criticise, condemn & find fault with Judicial orders and find ways and means to subvert, corrode and corrupt the spirit of judicial orders by abuse and misuse of administrative power; as no civilized administration could be conceived, realised and carried out without concept of judicial finality and obedience to its verdict without criticism under desire and passion.

Further what is the power in his said repatriation order dtd. 20/11/99 when the Hon'ble Tribunal had granted stay on imminent and malafide repatriation vide its order dtd. 15/10/99 itself. (Copy enclosed as Annexure- 5). Is it not contempt of Hon'ble Tribunal order to knowingly and deliberately issue repatriation order after granting of stay by the Superior Judicial Forum ? but Sri Kanungo expects Sri S.P. Singh Yadav to obey his order for repatriation ignoring Judicial order. The aforesaid also shows that when Sri Kanungo could display such arrogating contempt against Superior Forum of Judicial, than his arrogance & abuse of Power against subordinates could well be imagined.

11. That the statements made by Sri K.C. Kanungo in para 6 of his report are imaginary, manipulative and misleading in as much as that while in para 5 he says that repatriation order no. A/20/157/93/04774-80 dtd 20/10/99 was communicated to Sri S.P. Singh Yadav, in para 6 he states that Sri S.P. Singh Yadav unauthorisedly absented from duty to evade receipt of his repatriation order which is self contradictory. Further there was no question of evading the repatriation order dt. 20/10/99, which an ordinary citizen of the country knows that it is powerless ineffectual

and illegal as it is issued subsequent to the granting of stay order dt. 15/10/99 itself by Hon'ble Tribunal. Besides right to approach judicial forum for remedies is every one's fundamental right and DIG Mr. Kanungo has no authority to comment upon superior wisdom of judicial forum. So far as stay is concerned it was not only granted by CAT as aforesaid also but by Division Bench of Hon'ble Guwahati High Court vide its order dated 16.05.2001 )Copy enclosed as Annexure - 31 ). Interalia directing CBI to complete all pending departmental proceedings before repatriation and also consider meanwhile the matter of Petitioner's absorption. Such judicial orders are given on merit of the case and it is undesirable and contemptuous to find fault with and criticise it.

So far as the other imputation made in para are concerned the DIG Sri Kanungo arbitrarily and with malafide stopped the salary of Sri S.P. Singh Yadav for the month of October 1999 and did not granted Medical leave on the basis of lawful Medical Certificates submitted for the period of medical leave. The matter was challenged in CAT Guwahati vide OA No. 137/2000. The Tribunal after full hearing finally passed the order for the payment of salary and granting of Medical leave without asking for any other certificate within 2 weeks time, passing strictures against DIG as 'obdurate' and that he instead of engaging himself in other important issues, he is confining himself to irrelevant and extraneous issues" and therefore further imposed as a cost of Rs. 1000/- against him which was paid to Sri S.P. Singh Yadav. (Copy of the order enclosed as annexure - 8).

The DIG Sri Kanungo by manipulating the facts & circumstances of Medical Leave of Sri S.P. Singh Yadav had issued chargesheet for major penalty vide No. 1378/12/Comp/SLC/NER/99 Pt (I) dtd. 11/5/2000 which was also challenged in CAT vide OA No. 30/2001 along with OA 31/2001 & OA 61/2001 against two other chargesheet, wherein the Tribunal observed vide common order dt. That these proceedings are legally unsustainable ordering further Director CBI to recuse Sri Kanungo as disciplinary authority and appoint another officer in place who will look into the matter of maintainability of the charges. Consequent upon the order, new disciplinary authority has considered the matter and ordered for dropping of charge memo dt. 11/5/2000, (Copy of the order the Tribunal enclosed as Annexure - 9)

12) That statements made in Para 7 of the report of Sri K.C. Kanungo are false, baseless and misleading. Source information/complaints (Copy enclosed as Annexure - 32) were indeed made by Sri S.P. Singh Yadav in his official capacity against Sri K.C. Kanungo to the competent authority for his criminal misconduct of drawing HRA while staying in Public Sector undertaking guest house of Coal India Ltd. and, for misappropriating Govt. money by keeping Transportation allowance advance of Rs. 88,000 for more than one

year without utilising it and submitting T.A. claims or paying any penal interest as per Law thereafter claiming transportation allowance on the basis of false and forged receipt of container Corporation of India, showing to have carried luggage from Jammu to Guwahati, though the fact is that container Corporation of India has no such service from Jammu to Guwahati and no such luggage was ever brought. The complaints are registered by CBI/ACB Guwahati branch in its SIR Register on Merit by branch SP Sri Om Prakash and Inquiry was also conducted by CBI special unit Kolkata, which found said complaints as true and the Regular case u/s 420, 406, 468, 477 A/PC and 13(I) r/w 13(1)(C ) of PC Act 1988 are to be registered against Sri K.C. Kanungo. However all such complaints were submitted during official course of business subsequent only to my complaint dt. 13/1/2000 which was forwarded bonafide and have no nexus with aforesaid complaints as alleged by Sri Kanungo.

Further as alleged, does the administrative action against Govt. servant empower and entitles the administrative authority intimidate family members and outrage sanctity of Family Privacy by sending Police personnel in the guise of delivering confidential letter to the residence of Govt. Servant when admittedly the Govt. servant is present on duty. Further if the manner fact and circumstances of the incident dt. 10/1/2000 culminating into my complaint dtd. 13/1/2000 are unexceptionable, unobnoxious, unoutrageous and result of Mere Grouse of Sri S.P. Singh Yadav against superiors than should it be deemed to entitle S.P. Singh Yadav also to send official communication and letters addressed to his superior, through private/police personnel to be handed over to the respected wives of the superiors at their respective residence in the like manner and further writing the name of their respective wives in the official letters with suffix as "said to be wife" of said superior officer, and also the name of superior officer together with wife's name as C/O. It is indeed height of incivility and boorishness on the part of such a superior officer of a so called premier investigation organization that and even a village man of common morality wisdom and sense would proclaim it as insulting & extremes of incivility deserved for condemnation. It also reflects that obnoxious, nauceating and depraved feudal mindset of such so called superior officer who under over intoxicating influence of official power think it his divine right to insult and intimidate family members and when such depravity is complained of by any sub-ordinate's self respectful lady than all of them joine up in line stating it the result of official action against her husband or deprivation of some other small benefits to her husband. <u>The moot question is</u>:

i) When Sri S.P. Singh Yadav was admittedly on duty than why those CBI personnels were sent to his residence for what so ever purpose by DIG K.C. Kanungo by Telephoning from Shillong on 10/1/2000 for whatsoever reason and why said CBI personnels conducted

themselves in such an unbecoming manner under orders from K.C. Kanungo DIG.

ii) When the Govt. servant is on duty and not on suspension and the said chargesheet itself was signed on 10/1/2000 itself by the competent authority than what was the reason for so extraordinary and overzealous hurry to serve the said chargesheet on S.P. Singh Yadav on 10/1/2000 and if he is out, admittedly on official purposes than without reasonably waiting for his return, forcing the said CBI personnel to serve upon said chargesheet on Family members by any means and manner on 10/1/2000 itself.

13) That the facts and circumstances discussed by Sri K.C. Kanungo DIG in Para 8 & 9 of his report are an attempt to distort and mislead the facts in issue, which are the complaint itself and not whether S.P. Singh Yadav has submitted case dairy on that day or not, or whether or not he mentioned his return in movement register of the branch. His official conduct has no nexus with the incident.

Admittedly attendance register of the branch shows his attendence on 10/1/2000 on duty and subsequently his departure in connection with certain investigation is also admittedly reflected in movement Register. As stated in my complaint dt. 13/1/2000 that on 10/1/2000 Sri S.P. Singh Yadav was present in Court of Special Judge in order to render assistance to Sri Shekhar Chakraborty Sr. PP in one of his case (Precisely RC-15(A)193-SHG) as also admitted by one of the CBI personnel who came to my residence on 10/1/2000, as having seen Sri S.P. Singh Yadav in Special Judge Court. Admittedly Sri S.P. Singh Yadav had shown his departure to Central Bank of India, Adabari and Pan Market branch and Punjab National Bank Mahabir Market branch, in connection with Investigation of RC-5(A)/98-SHG. The facts are true as originally Sri S.P. Singh Yadav set out to said Banks, wherefrom the documents were to be collected in RC-5(A)/98-SHG Interalia from 50 other Banks also. Adabari branch is about 15 KM from CBI branch office. In the way is situated Special Judge Assam Court where the Sr. PP Sri Shekhar Chakraborty conducting trial of a case investigated by Sri S.P. Singh Yadav, requested him to assist in the said case by sorting out documents etc. as it was scheduled for hearing on 10/1/2000. Obviously in view of the urgency and priority of court matter he rendered assistance to him and in the evening proceeded to said Banks. However as the required documents/statements were not ready, it were not handed over by bank authority and therefore no need to mention it in CD for the work was unproductive and meaningless for the purpose of investigation point of view. In the movement Register, practice was to report departure only and not return as in small office consisting of 8/9 Inspectors presence is seen by everyone and only out side movement need be known to SP.

All said and done, when admittedly Sri S.P. Singh Yadav left for Central Bank of India, Adabari and Pan Market Branch and PNB

Mahabari Market Branch as per movement Register of CBI on 10/1/2000 than why those CBI personnels landed at my residence instead of going to said bank branches to locate Sri S.P. Singh Yadav or to Special Judge Court where one of the CBI personnel had admittedly seen him. Even the Annexed photocopy of car diary dt. 10/1/2000 does not show any journey to aforesaid Banks or Court of Spl. Judge prior or subsequent to visitation by said CBI personnels to my residence showing their bonafide of any reasonable search for S.P. Singh Yadav to serve upon said confidential letter and how they presumed that S.P. Singh Yadav will be at residence and not at the places aforesaid where for he had reported his departure in movement register. It is all alibi of Sri Kanungo, the said personnel were sent under telephonic instruction of DIG to immediately serve upon said chargesheet on me in such intimidating insulting and unbecoming manner and not on Sri S.P. Singh Yadav as no evidences are disclosed of having conducted any reasonable search as per car diary to locate Sri S.P. Singh Yadav on the reported places to hand over impugned confidential letter.

Moreover even if the chargesheet was to be served upon immediately, could any Govt. servant evade it deliberately. If not, what was so hurry to serve it upon him by running after him even while admittedly he had gone out in connection with official business as per movement register, and whether the CBI personnel were directed to catch hold of Sri S.P. Singh Yadav and thrust upon him the said chargesheet even during the supposed meeting with Bank official or else the world will doom, was not there any civilised way of serving chargesheet. It was not the fact that those CBI personnel did not know the manners of delivering letter but they were instructed by K.C. Kanungo telephonically from Shillong through concerned branch officer to act in such outrageous, unbecoming and atrocious manner against family members of Sri S.P. Singh Yadav by lending at latter's residence under the façade of searching Sri S.P. Singh Yadav for serving upon him impugned confidential letter which was contained in open envelope.

That the said statement made by DIG Sri K.C. Kanungo in Para-9, that Inspector S.P. Singh Yadav is in the habit of doing such things regularly for which a separate chargesheet has been issued to him and therefore the allegation of Smt. Jonali Baruah made against two CBI personnel sent to her residence for serving confidential letter on 10/1/2000 is utterly false and malicious, is deliberate act of manipulation and admitted act of vendetta, arrogance and abuse of power in issuing chargesheet on false, fabricated and criminally manipulated issues pertaining to period of 1997 and is nothing but consequence of my bonafide complaint dt. 13/1/2000 in order to haze real issues involved in the matter. It is pertinent to question as to :-

a) How DIG K.C. Kanungo arrived to the good conclusion that S.P. Singh Yadav is in the habit of False reporting in movement register when no reasonable search was made at the places reported by him in movement register as no such mention is made in the annexed photocopy of log book/car diary.

b) When in the complaint itself the name of Sr. PP Shekhar Chakraborty having been assisted by Sri S.P. Singh Yadav in CBI case No. RC-15(a)/93-SHG is mentioned than why it was not confirmed from him and instead wild allegations vague conjenetures & surmises were being drawn to harm and harass S.P. Singh Yadav in order to buttress the abusive action of Sri Kanungo as right.

c) Why the CBI officers waited for so long in discovering the alleged habit of false reporting in movement register by Sri S.P. Singh Yadav and issuing charge sheet for the period of 1997 in this regard but only after my complaint dtd 13/01/2000 aginst incident dtd. 10/01/2000.

d) Whether Sri K.C Kanungo or any other superior officer has called any explanation as regards alleged regular habit of Sri S.P. Singh of doing such things, or warned him ever prior to my complaint dtd. 13/01/2000 and why they remained silent for so long and all of a sudden they waked up from deep slumber in discovering alleged habit while travelling in past in back gear until they landed up in the year 1997 for finding the material for issuance of charge sheet but why such sudden activities for taking up administrative actions in multiplicity against S.P. Singh Yadav but only after my complaint dtd. 13/01/2000.

Be that as it may on being challenged in said charge memo in CAT, the Tribunal observed that these proceedings are such as could be said to be legally unsustainable and therefore the Hon'ble Tribunal directed Director CBI to remove Sri K.C. Kanungo as disciplinary Authority and appoint new one who will look into the matter of maintainability of said charge sheet (Copy of CAT order dtd 8/5/2001 enclosed as Annexure 9).

14. That the averments made by DIG Sri K.C. Kanungo in para 10 are false fabricated and imaginary and is deliberate manipulation to blur the real issues of my complaint. The said charge sheet itself was an out come of DIG Sri K.C. Kanungo having an unholy alliance with complainant, a bank dismissed and CBI charge sheeted, under trial person named A.K. Baruah who is an accused in CBI case No. RC-7(A)/96-SHG U/S 420, 468, 471 & 477 - A of IPC and Sec 13(2) V/W 13(1)(d) of PC Act 1988 for defrauding Bank to an amount of Rs. 10 Lacs approx. and also Assam Police charge sheeted U/S 324/307/498A of IPC vide PS Dispur, Guwahati case no. 6596/95 for attempting to murder his wife Smt. Jayanti Baruah by his personal

revolver / pistol and against whom we had certain civil disputes and had also filed FIR no. 1165 dt. 20/11/98, u/s 147/148/447/325 of IPC in PS Dispur, Guwahati besides other complaints dtd. 23/09/98, 30/09/98, 30/10/98 and 16/1/98, the reason for his animus.

Be that as it may representation/appeal against the said charge sheet & consequent perverse and illegal punishment was preferred before competent authority i.e. ADCBI/EZ/Kolkata who was pleased to suspend the said punishment.

15. The averments made by Sri K.C. Kanungo DIG/CBI in Para - 11 are totally false, fabricated and criminal manipulation and manufacturing of relevant evidences in as much as the car diary cited too is manufactured subsequently by the concerned in Criminal conspiracy with Sri K.C. Kanungo DIG which is his hall mark of conduct (more examples will be cited hereinafter). In this connection it is worth while to mention that the time of said incident on 10/1/2000 was in afternoon and not the time in between 4.50 to 5.30 as has been shown in the relevant entry by the concerned in respect of their visit to my residence in car diary as because as per local time in Guwahati, it becomes dark in between 4.50 to 5.30 PM during winter in January month and the deliberate manufacture of evidence by change of time etc. in car diary itself shows the malafide of the concerned. Further even if it is taken as correct time than what was so hurry in serving the chargesheet which could not have been postponed to next day when the office was to be over in another 15 minute time by 5.45 PM. only.

Further the first entry in car diary showing places travelled for picking up DLA Sri J.S. Terang from Guwahati Airport seems to be correct and it is also in consistency with the statement of one of the CBI personnel mentioned in my complaint admitted as having seen Sri S.P. Singh Yadav in Court of Special Judge Assam in morning as the way to Airport invariably goes via Special Judge Assam Court where Sr. PP/PP and court Naib, HIO etc. are dropped in the morning and thereafter the staff car proceeds to Airport for picking up any officer arriving thereof or for any other official business in the city. Thus one staff car invariably leaves office in the morning to Court to drop Sr. PP/PP for Court business. However the second entry in car diary is false and fabricated because the Journey was not authenticated by Sri J.S.Terang DLA by his signature in the relevant column in car diary but by duty officer. Sri H.C. Kalita, ASI, who usually remains in the office only, by drawing bracket covering two entries. Further the said journey for my residence was performed just after the telephonic direction of DIG Sri K.C. Kanungo from Shillong to Sri Om Prakash branch SP in the matter. The said timing of telephone by Sri K.C. Kanungo and timings shown in car diary at Third entry in respect of purported Journey to my residence is totally inconsistent. For further comments DIG Sri K.C. Kanungo may be directed to produce detailed Telephone call bills of

office telephone of CBI Shillong Unit. Further as the said Annexure is a photocopy of car diary and full comments as regards said fabrication and manipulation can not be offered until car diary Log book. Movement Register and Rough car diary in original are produced. The commission is requested to kindly direct DIG Sri K.C. Kanungo produce aforesaid documents in original. Further it is also wrong to say that distance from office to my residence and back is 10 KM, the fact however is that it is hardly 3 to 3.5 KM.

So far as calling the presence of Sri S.P. Singh Yadav in Court of Special Judge Guwahati in connection with his court case as Fabricated by DIG Sri K.C. Kanungo is concerned, he must have better checked it with Shekhar Chakraborty Sr. PP who was assisted by Sri S.P. Singh Yadav in RC-15(A)/93-SHG as is also mentioned in my complaint dtd. 13/1/2000, than rebutting the facts by hypothesis, presumption and vague surmises. The fact however is that the matter was inquired from Sri Shekhar Chakraborty Sr. PP and since he admitted the fact and refused to retract even under coercion he is being harassed, victimised & humiliated by stoppage of his salary by DIG for two months on False and Flimsy ground of unauthorised absence from duty, though the fact was that he was on medical leave and submitted all due medical papers in this regards. The misuse and abuse of official position for personal benefits official arrogance, manipulation and manufacturing of evidences, harassment humiliation and victimisation of sub-ordinate for extraneous reasons and collateral purposes, as described afore are not the solitary incident, in case of S.P. Singh Yadav infact, it is habit and hallmark of conduct of Sri K.C. Kanungo as could be evidenced from following examples

(i) Kailash Barman, Inspector CBI : He was on deputation to CBI from department of customs & Central Excise and now returned to his parent cadre in protest against the arrogant and abusive behaviour of DIG Sri K.C. Kanungo (copy of his application to DCBI seeking premature repatriation enclosed as Annexure 33).

(ii) Hari Kishan Yadav, Constable : He was on deputation for three years in CBI from Arunachal Pradesh Police but he was enlisted by DIG by misusing and abusing his official position at the hired residence of Sri K.C. Kanungo to perform domestic works like cooking, cleaning of utensils, sweeping of floor, washing of clothes etc. of DIG from 7 AM to 9 PM daily thereby totally disrupting his meal timings and other personal works. Unable to bear the abusive behaviour of DIG he resigned from his job and proceeded to his native place in Haryana. But the DIG Sri K.C. Kanungo by abusing & misusing his administrative power manipulated the facts and manufactured false evidence and awarded major penalty punishment against him of stoppage of two increments with cumulative effect on Minor Penalty chargesheet issued in Sri Yadav's absen only to cover up his (K.C. Kanungo) misdeeds of

misusing Sri Yadav as domestic servant. (copy of Sri Hari Kishan Yadav's letter of resignation enclosed as Annexure 34).

(iii) Sri M.V. Ramanaiah (Public Prosecutor) :- He is public prosecutor in CBI/ACB Guwahati branch. His salary was stopped on false & flimsy ground and is being humiliated harassed and being abused for extraneous reason. It is significant that he is conducting case No. RC-7(A)/96-SHG in Spl. Judge Court Guwahati against the bank dismissed clerk Sri Arun Kumar Baruah whose cause is being espoused by Sri K.C. Kanungo through the report in the instant matter. (Copy of the complaint of Sri M.V. Ramaniah to AD CBI/EZ/Kolkata enclosed as Annexure 35).

(iv) Sri Shekhar Chakraborty (Sr. Public Prosecutor) :- He is being abused, harassed and victimised by DIG for extraneous reason in as much as his salary for two months was stopped on false and flimsy ground for the last one year and not released as yet. Though the fact is that he was on medical leave on account of sickness and submitted all due medical papers in support of his claim. It is significant to mention that he is being harassed for appending lawful notings in the relevant file in connection with alleged unauthorised absence of Sri S.P. Singh Yadav favouring to release his salary which later on became subject matter of OA 137/2000 and chargesheet dt. 11/5/2000 as described afore in detail. It is pertinent to mention that as regards this nexus of desired legal notings of Sri PP, the animus of DIG against Sri S.P. Singh Yadav, and non release of Sr. PP salary was sounded to Sri Shekhar Chakraborty by non other than branch SP Sri Om Prakesh.

(v) Sri Mukut Das, CA to SP, CBI : Sri Mukut Das was put under suspension and charge sheet for major penalty issued on the charges that on 13/1/2000 while he visited O/o DIG/CBI, NER he unauthorisedly sat on the computer on the pretext of typing some urgent matter at about 4:30 o' clock in the evening and than deliberately and mischievously deleted the entire inspection report of Guwahati Branch containing 104 number of pages wherein many adverse comments of DIG against Branch officials were reflected. The fact in this regard are that as many as four such reports were duly taken out from the computer on 13/1/2000 itself and signed by DIG K.C. Kanungo on 14/1/2000 (Copy of 1st and last page of said inspection report enclosed as Annexure-36). The said report was duly despatched to Branch SP on 14/1/2000 as could be evident from forwarding letter of the report on 15/1/2000. Another copy of the report was despatched on 15/1/2000 to JD/CBI/EZ Kolkata vide despatch register for postal dak of O/o DIG/CBI/NER Sri K.C. Kanungo (Copy of despatch Register enclosed as Annexure-37). The other two copies are available with the DIG himself and his CA Manoj Deb.

(a) It is obvious that had Sri Mukut Das in fact deleted said inspection report containing 104 pages at around 4:30 PM on 13/1/2000 such a large report could not have been retyped again so as to be able to be signed by DIG himself on 14/1/2000 and be despatched to Branch SP on 14/1/2000 and to JD/CBI/EZ on 15/1/2000.

(b) The computer properties card (Copy enclosed as Annexure-38) against said inspection report under file name inspection Ghy allegedly having been deleted by Sri Mukut Das mischievously, surprisingly reveal that the file was created at 2:33 PM on 13/1/2000 itself and last edited at 4:18Pm on 13/1/2000 i.e. the time of alleged deletion by Sri Mukut Das. It is thus obvious that no person could type 104 pages of report in less than two hours on computer which could have been deleted mischievously by Sri Mukut Das whereas the fact disclosed that as many as 4 such reports were duly taken out from computer on 13/1/2000 and signed by K.C. Kanungo on 14/1/2000 and despatched on the same date to the concerned, and certainly these reports could not be possibly taken out from file of which properties are enclosed as Annexure for the simple reason that the file itself was created at 2:33 PM on 13/1/2000 itself.

(c) On consideration of entire facts, evidences and circumstances the only safe inference could be drawn that there was no such alleged deletion of the said inspection report containing 104 pages by Mukut Das on 13/1/2000 for what ever reason, for as many as four copies of the said reports were duly taken out from the computer on 13/1/2000 itself and signed by K.C. Kanungo on 14/1/2000 and despatched to SP/CBI/GHY on 14/1/2000 and to JD/CBI/EZ Kolkata on 15/1/2000. The said report was obtained from the computer under the same file name Inspection Ghy and was deleted earlier by Mukut Das, CA, whose name was cited as a witness on the complaint of Sri Kailash Barman (Annexure-33) against DIG K.C. Kanungo and for the said reason Sri K.C. Kanungo was having animus against Mukut Das, who was called by DIG to regional office on the pretext of some official job from office of SP CBI which is about 8 KM from DIG's Office and then in criminal conspiracy with another LDA Sri Biswajeet Das of DIG's Office, Sri Mukut Das was falsely implicated into alleged charges to settle animus and personal scores of DIG against Sri Mukut Das by manufacturing the false & forged electronic evidence of alleged deletion of inspection report by creating new file at 2.33 PM on 13/1/2000 but under the same file name as 'Inspection ghy' as PERTAINS TO allegedly deleted report and thereafter with criminal intent to cause injury to Mukut Das deleted the meagre content in file around at 4.18 PM and foisted the charge on Sri Mukut Das as having deleted entire report containing 104 pages mischievously. It is pertinent to mention that size of the content in said file is only 8232 bytes (copy of the properties enclosed as Annexure-38) which can produce only half page and not 104 pages which could be deleted by Mukut Das.

The facts were high lighted by Sri S.P. Singh Yadav who is defending Sri Mukut Das in departmental inquiry against him. It is indeed monumental criminality and abuse of power on the part of K.C. Kanungo who is abusing his administrative power in harming, harassing and victimising his sub-ordinate under mental imbalance and aberration to satisfy his depraved ego and Hon'ble commission is requested to kindly order for detailed Inquiry in this regard and punish those who are abusing official poewer and its instruments for collateral purposes.

(vi) Sri Rajendra Sinha (Head constable) : He was issued chargesheet purportedly for not obeying the order of DIG Sri K.C. Kanungo at New Delhi to proceed back to Guwahati immediately. However the fact in this regard is that he was sent to New Delhi to bring the T.V. Set of DIG but apparently for official business to render assistance to Dy. S.P. Sri Vaibhav Agashe in investigation at New Delhi, even though Sri Agashe did not asked for, but was instructed by DIG to take H.C. Rajendra Sinha with him on official duty and instructing Rajendra Sinha to meet him (K.C. Kanungo) at New Delhi where he was to proceed by Air. After reaching New Delhi Sri Rajendra Sinha visited residence of Sri Kanungo as per prior instruction. Sri K.C. Kanungo asked him to take his T.V. Set to Guwahati. Obviously their was no problem but Sri Rajendra Sinha requested that as he has to distribute notices u/s 161 to some witnesses as per direction of Vaibrav Agashe in connection with his investigation and it is not desirable to take right now the delicate T.V. as he has no proper place to stay and keep valuable Article in safe custody. Therefore he promised to take the said T.V. while he returns to Guwahati and DIG too agreed. In the meanwhile DIG returned from New Delhi to Guwahati but later on when Rajendra Sinha reached residence of Sri K.C. Kanungo to collect T.V. set while returning to Guwahati the son and daughter of DIG refused to handover the T.V. and therefore Sri Rajendra Sinha had to return Guwahati empty handed. However seeing the Rejandra Sinha returned empty handed he was issued chargesheet on false and flimsy ground that he did not returned immediately from New Delhi as directed by DIG but unauthorisedly stayed back at New Delhi thereby showing gross misconduct of defiance of superiors order, indiscipline and insubordination and thereafter punished him arbitrarily with penalty of 'censure'.

(vii) INSPECTOR ADANIMAO & INSPECTOR NG. KHAMRANG : They were issued chargesheet for having not received Sri K.C. Kanungo DIG at New Delhi Airport while they were at New Delhi in connection with investigation and then DIG could not discuss the cases in car while coming from Airport to guest house. Though the fact was they were not instructed to receive Dig at Airport.

(viii) SRI OM PRAKASH BRANCH SP, CBI : He was purportedly issued recorded warning by DIG for ineffective supervision of a case against accused acquitted by court of Special Judge Guwahati, the fact however is that he was not at all posted at Guwahati branch while evidences were being deposed. The reason for such arbitrary action was that the branch SP refused to abide his arbitrary instruction of awarding punishment to Sri S.P. Singh Yadav against chargesheet No. DPSHL/2000/0021/A/20/157/93 dtd. 10/1/2000 as the matter was closed by the JD/CBI/EZ (in this case though DIG awarded punishment but was suspended on appeal by ADCBI/EZ/Kolkata). The recorded warning on appeal by branch SP to competent authority was expunjed.

Later on he started writing all adverse comments against SP under garb of administrative supervision but in fact under dictate of schizophrenic & depraved animus as could be seen from following notings appended in Inspection report of Guwahati branch for the year 2000 sent by DIG to Ghy branch vide his CBI ID no. 0088/215/2000/NER dtd. 11/1/2001.

Page 95 : SP is unable to discipline the staff and take appropriate disciplinary actions as a result indiscipline is on the rise. On the contrary he has made common cause with the staff to unite them against DIG (present).

Page 97 : Since SP has failed to perform his statutory duties of conducting proper supervision of cases, and has shown gross negligence, dereliction of duties as mentioned above and further has failed to improve or change in his attitude and has started behaving in defiant manner. It is recommended that disciplinary action may be taken against him.

Further his depraved mindset against deputationist officer in general and IPS Officers in particular (Sri Kanungo is a departmental promoted officer) and his malicious motive to create dissension and disaffection in the rank and file of CBI could be seen from the following notings in same INSPECTION report for the year 2000.

Page 23 : The last but not the least gross partiality and harassment of departmental staff by deputationist officers, whose career prospects are being systematically damaged / destroyed in well planned manner and creating situations of internal infighting in organisation. They are adopting the policy of divide and rule which has caused thorough demoralisation among the departmental staff.

The truth is not far to seek from above notings that branch inspection is no place for such type of notings but the occasion has been used by the DIG Sri Kanungo to ventilate

his depraved mental animus against the departmental IPS Officers and have tried to unionise the departmental officers in causing disaffection against the IPS officers. For the cause of illusory ill-treatment being meted out to departmental officers at the hands of deputationist IPS Officers.

16. That the statements and allegations made by Sri K.C. Kanungo, DIG/CBI in Para 12, 13, 14 and 15 in advocating the cause of said complainant Sri Arun Kanti Baruah @ A.K. Baruah by mentioning his complaint dated 20/11/98 by over zealously underlining the passages, so far as, is concerned, I have to raise few questions before dealing on the allegations of Sri Kanungo (a) What the whole CBI was doing since 17/11/98 after receipt of said complaint? (b) Why no inquiry was conducted since 17/11/98 and if conducted any, whether Sri S.P. Singh Yadav was given any opportunity of stating the facts of his own as per natural justice. The statement of Sri S.P. Singh Yadav may be produced or else how the DIG Sri K.C. Kanungo scandalously filed this statement in this August Forum without verifying truths? (c) Why the inquiries in this matter if any and for what motive and considerations were conducted behind the back of Sri S.P. Singh Yadav by again and again entrusting to different Dy. SP's even after the fact that it was closed by JD/CBI/EZ Kolkata? (d) Why the CBI was sleeping over the said complaint since 17/11/98 and what were those circumstances that it became so important to be probed only after Sri S.P. Singh Yadav approached CAT in October 1999 vide OA No. 338/99 praying for stay on repatriation which was granted on 15/10/98?.

So far the allegation of a bank dismissed and CBI chargesheeted person Sri Arun Kanti Baruah undergoing trial in Special Judge, Assam Court in CBI regular case No. RC-7(A)/96-SHG u/s 420, 468, 471, 477A of IPC and Sec 13(2) r/w 13(1)(d) of PC Act 1988 for defrauding Punjab National Bank to the tune of Rs. 10 Lacs (approx.), as well as PS Dispur, Assam Police chargesheeted vide case No. 696/95 u/s 324/307/498A -- IPC for attempting to murder his wife by the personal Licensed Pistol / Revolver being over zealously advocated by none other than but Sri K.C. Kanungo DIG/CBI, a proud senior officer of the so called Premier Investigation Agency, is concerned, the facts circumstances and evidences culminating into preference of impugned complaint are given in detail in Para 9 of this statement of my comments.

As regards allegations in Para 12 and 13 I am to state that they are all false and baseless and hence denied. The fact in this regard is that Sri A.K. Baruah who attempted illegal construction in violation of the terms of Agreement and GMDA permission and approved Plan Map and also in violation of the Ad-Interim Injunction dt. 30/10/98 granted by Civil Judge Senior Division No. 1 Kamrup, Guwahati in my favour restraining Sri A.K. Baruah from any construction at disputed site, which was finally made absolute

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injunction by same Court after full hearing and thereafter vide its judgement dt. 5/12/98, that Sri A.K. Baruah is restrained to undertake unlawful and illegal construction under order of the Court (Copy of both the order and judgement of the Court enclosed as Annexure-24&25). On being Restrained Sri A.K. Baruah in pursuit of said construction which was illegal and unlawful abinito Sri A.K. Baruah filed FIR in PS Dispur but it was u/s 447/325/506/427/34 IPC i.e. all non cognizable sections which was closed in view of unlawful construction by Sri A.K. Baruah and instead the FIR filed by me vide No. 1165 dtd. 20/11/98 in PS Dispur against Sri A.K. Baruah u/s 147/148/447/325 IPC under cognizable offences is being pursued (Copy of FIR enclosed as Annexure-26). The statement made by Sri K.C. Kanungo in Para 14 of his statement are false, baseless and mischievous reflecting bankruptcy of even common sense in him leave apart special care that an officer of an premier investigation agency ought to display while borrowing such rackless allegations as proof. In this connection I have to state that in my two room flat I, a govt. servant, stay with my husband Sri S.P. Singh Yadav and daughter under the majesty of all powerful shelter of law. It is only Sri K.C. Kanungo a senior officer of such a premier investigation organisation who have to explain the reason and consideration for his conduct of having an alliance with none other than but a CBI undertrial criminal Sri A.K. Baruah whose civil contract, interests and cause are being furthered and advocated to latter's benefit, so assiduously and with vehemence by him, through private justice under garb of administrative power, against Sri Baruah's adversery govt. servant under him, in as much as, that he is jumping upon to grab with gusto even the most vague rackless and baseless allegations by underlining them and attempting to give it colour of proof. It is false and have no reason and basis to state that any action on the part of Sri S.P. Singh Yadav had created fear psychosis among the residents of the said building and the locality. The fact however is that it is all the residents of building who joined together with me vide complaint dated 19/8/98 addressed to concerned authority against the illegal and unlawful construction undertaken by Sri A.K. Baruah in the building (Copy of complaint of all the residents enclosed as Annexure-23). Further as regards the said allegations I have to state only that Sri K.C. Kanungo, DIG/CBI must learn, better late than never, the limited power granted by law under Sec 3 & 6 of DPSE Act and CBI Manual determining his jurisdiction of police power and should not interfere with the jurisdiction of local police who are competent enough to deal with such allegation concerning law and order. Transgression of power and jurisdiction is not only against rule of law but also termed as administrative incivicity and an officer of such a stature should avoid to be seen with criminals and civil contractors for mutual benefit. The allegations made by Sri K.C. Kanungo in Para 15 of his report are false and baseless, and presumption, assumption, conjecture and surmises are attempted to be given shape of proof by learned Advocate Sri K.C. Kanungo DIG/CBI on behalf of his eminent client,

bank dismissed and CBI chargesheeted person for defrauding bank and PS Dispur Assam Police chargesheeted person for attempting to murder his own wife by his personal revolver/pistol, i.e. Sri A.K. Baruah. However, in this connection suffice is to state that the construction by Sri A.K. Baruah on 17/11/98 was illegal and unlawful abinitio in view of the terms and conditions of the agreement with flat owners as well as GMDA approved plan map and also in view of the Court injunction against said construction. The said complaint of Sri A.K. Baruah as pursued by his present Advocate Sri K.C. Kanungo DIG/CBI/NER was already investigated by the Assam Police vide his FIR No. 1151 dtd. 17/11/98 u/s 447/325/506/427/34 IPC, all non cognizable sections and found to be false and baseless and hence closed. Sri A.K. Baruah's aforesaid complaint was also investigated by Assam Human Rights Commission vide AHRC Case No. 2451/98/2 dtd. 17/3/99 and was also closed as the matter was found to be false, baseless and motivated.

So far as mention of service revolver has been made it is stated that revolver issued as stated with the approval of Brach SP on 27/10/98 in view of the sensitivity of official duties in view of the insurgency prone NE Region and in view of investigation of CBI case No. RC-5(A)/98-SHG involving ULFA/SULFA contractors and it was returned on 30/11/98 as it was required by other IO. It is indeed height of insensivity on the part of the DIG/CBI/NER Sri K.C. Kanungo the learned advocate of Sri A.K. Baruah, who in view of the law and order situation in North East considers himself so insecure as to require two mounted LMG on his gate of the office and a stengun wielding CRPF Commando by the side of the chair in the office together with two sections of CRPF personnel in adjacent room to care for his security but the subordinates who have to perform field investigation in real unsafe, insecure and hostile environment, mere issuance of arms to them with the approval of Branch SP and even, admittedly, safe return of it becomes a proof of allegation.

17. That the mention of Dr. U.N. Biswas, Addl. Director CBI in Para 16 of the statement has been made by Sri K.C. Kanungo without making me available the said report and as such I am unable to comment there-on and until it is provided I reserve the right to further comment thereon. However only thing I have to state now in this regard is that during inquiry he expressed his shock and dismay on the incident and conduct of DIG/CBI/NER Sri K.C. Kanungo and in view of the general reputation of Sri K.C. Kanungo in CBI as an arrogant, rackless and mischief monger CBI officer for which he was transferred from Jammu to Guwahati also as entire Jammu Branch virtually revolted against his abusive behaviour, Dr. Biswas observed that at least he (Sri K.C. Kanungo) should have treated the family members of the subordinate with respect.

So far as the placing of Sri S.P. Singh Yadav in suspension w.e.f. 26/4/20000 and initiation of departmental proceedings and approval

thereof with the Director CBI is concerned, neither the said impugned report sent by Sri K.C. Kanungo to Director CBI for obtaining his approval was made available to either Sri S.P. Singh Yadav nor to me and therefore I reserve my right to further comment thereon. I crave leave of the Commission to direct Director CBI and DIG Sri K.C. Kanungo to make available said report to me or Sri S.P. Singh Yadav so that I may file my further comments. At this moment I have to state only that suspension is an administrative decision and has no legal significance except the fact that it is used to display administrative arrogance to heap upon all the evil civil consequences on the hapless subordinate but without any legal administrative accountability on the part of authority and thus though he is suspended w.e.f. 26/4/2000 the department has not enhanced his subsistence allowance from 50% to 75% even after lapse of 20 months since than, though as per FR/SR Rule it has to be done after 3 months of suspension only. For the last three years he is not allowed to go even to his home at Agra by citing the reason that he cannot leave HQ during suspension and pending inquiry thereby virtually subjecting Sri S.P. Singh Yadav to confinement but without completing the inquiry proceedings in the light of CAT observation enclosed herewith as yet.

So far as initiation of so many inquiries are concerned with the approval of DCBI are concerned the matter has been dwelt at length in preceeding paragraphs. In police, CBI and Para miltary forces the regimented mindset of the seniors prohibit them to apply mind openly and judiciously and what ever reports are sent against subordinate police functionaries are accepted blindly and approval made without confronting the said impugned report to subordinate officer reported upon and therefore said reports and approval by Director CBI has no legal sanctity and value as the said reports were sent to superior officers by DIG/CBI/NER Sri K.C. Kanungo after preparing them behind the back of Sri S.P. Singh Yadav without observing the principles of natural justice.

As to how far the said administrative actions were taken with due care, responsibility and bonafide in public interest, could be seen from the observation of cat in original application No. 137/2000 that the respondents are obdurate and they instead of engaging themselves to other important issues, were more confined to some irrelevant and extraneous issues and therefore allowed the prayer imposing penal cast of Rs. 1000 against the respondents.

Further the original applications No. 30/2001, 31/2001 and 61/2001, vide common order the CAT observed that these proceedings are such which can be said to be legally unsustainable and ordered Director CBI to recuse Sri K.C. Kanungo from being Disciplinary authority and appointing new disciplinary authority who will look into the maintainability of charges. Since then the new disciplinary authority has dropped one charge memorandum closing the

proceeding finding it unmerrited. The other charge memorandum are being under consideration before new disciplinary authority in the light of CAT observation.

Further the punishment awarded arbitrarily and malafidely by Sri K.C. Kanungo in Memo No. DPSHL/2000/0021/A/20/157/93 dtd. 10/1/2000 has been suspended by AD CBI/EZ/Kolkata after consideration of representation in this regard.

ANNEXURE— RJ/2

IN THE COURT OF THE SPECIA JUDGE ::: ASSAM ::: GUWAHATI. 351

Misc Case No. 2/98

Present :

Shri K. K. Das,
Special Judge, Assam,
Guwahati.

O R D E R

25.5.98

The petitioner Nima Tsering Khrime in his petition No.180/98 stated that he is a resident of Itangar doing business of timber, hotel and apple orchard. He is also a member of Bharatiya Janata Party. In the month of April 1997 he met K. Ganesh (the opposite party No.2), the Chief General Manager, Telcom (TASK FORCE), Guwahati, in his hotel at Bomdila and thereafter a fridendly relation-ship developed between them. In the month of May, 1997 he met Ganesh and his wife in his resi-dence. He came to know that the father-in-law of Ganesh is a Diamond Merchant and Jeweller of Channai. He saw the diamond earings and finger rings worn by the wife of Ganesh which was made by her father and desired to produre good quality of diamond jewellery.

The petitioner requested Sri Ganesh to inform him about the price of some diamond jewellery as mentioned in para 7(i) to 7(v) of his petition. In the mid of June, 1997 he received an intimation dtd 7.6.97 from Ganesh about the price and terms and conditions for purchasing the articles. The condition was that 90% of the total costs of the jewellery is to be paid in advance in cash at Chennai. Thereafter it was decided that Mr Ganesh would take the money to Che-nnai. Later on the petitioner received an information that Mr. Ganesh is going to Chennai on 6.9.97.

The petitioner decided to purchase the diamond jewellery as mentioned in para 10(i) to 10(iv) of his petition valued Rs.33.2 lakhs. He paid Rs.29 lakhs in cash

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Advocate

to Mr Ganesh being the 90% advance payment of the total value of the ornaments. After receiving the money Mr Ganesh gave one receipt for the said amount to the petitioner on behalf of his father-in-law.

In the first week of November, 1997 the petitioner received an information over telephone from Mr Ganesh that while when he was proceeding to Chennai the advance amount of Rs.29 lakhs paid to him was seized by the police. As he was busy due to the Lok Shova Election held in the month of December 19997 so he could not come to Guwahati to release his money. He came to Guwahati in the second week of March, 1998 after the election result of Arunachal Pradesh was declared and filed the present petition before the court to release Rs.29 lakhs in his favour.

After receving the said petition a Misc case was registered and notice was issued to the opposite parties the State of Assam and K. Ganesh. On 30.3.98 the learned Sr PP for the CBI Mr J.S. Terang filed a petition before the court stating that the original Ajra PS Case No.74/97 was handed over to CBI for investigation and one RC case No.5(A)98 was registered by the CBI against the accused oppoiste party No.2 Mr K. Ganesh. Therefore, he prayed to make them opposite party in this case and prayed for time to file their written objection. This petition was allowed and the CBI is made party in this case.

On 17.4.98 the Inspector of CBI, the IO of the RC Case No.5(A)98 submitted their written objection. The opposite party No.2 K. Ganesh did not file any written objection though his advocate appeared before the court on his behalf.

In his written obhection, the IO stated that Sri K. Ganesh in his statement nowhere stated that the seized money belonged to the petitioner. That during the investigation of the case the accused Ganesh produced one certificate to the IO issued by M/s Pragjyotish Construction Private Ltd in respect of Rs 5 Lakhs. At another time he stated before the

IO that the seized money was paid to him by different contractors and suppliers. On 7.9.97 a sum of Rs.4 lakhs was also recovered from the residence of the accused. That 90% of the total value of the jewellery comes to Rs.29,88,000/- That is not believable that a person will carry such a huge amount in cash while travelling instead of taking it by easier means like bank drafts. That is not believable that the petitioner would hand over such a huge amount to purchase diamond jewellery without looking into the quality and design of the jewelleries. That the wife of the petitioner is an IAS Officer presently posted at New Delhi. New Delhi and Jaipur are the two biggest markets of jewellery in the country. Therefore, a prudent person would prefer to purchase jewellery either from New Delhi or from Jaipur and not from Chennai. That the petitioner being a business man would not keep such a huge amount in his house and he must have drawn that amount from the bank. But he did not state from where he got this amount. That Rs.25,31,200/- were seized at the Airport though the petitioner stated that he gave Rs.29 lakhs to the accused for purchasing diamond jewellery. That the investigation of the case is not completed and if the prayer of the petitioner is allowed then it will amount of taking a decision of the whole case. Therefore, he prayed to reject the prayer of the petitioner.

J.S. Terang

I have heard the learned Sr PP for the CBI/and the learned advocate Sri J.M. Choudhury for opposite party No.2 K. Ganesh and the learned advocate Sri K. Agarwal for the petitioner. I have also gone very carefully through the Case Diary.

The facts leading to file this petition in brief is that on 6.9.97 Sri K. Ganesh (opposite party No.2) went to Borjhar Airport to catch flight No.230 scheduled to leave at 12-30 hours from Guwahati to Chennai via Calcutta. A sum of Rs.25,31,200/- was recovered from the possession of the accused K. Ganesh while his bags and luggages were checked

by the Security officer of the Airport. As Mr Ganesh has failed to give any satisfactory explanation from where he collected those huge amount so a complaint was filed against him by Sri D. Sharma Executive Magistrate, Kamrup Guwahati before the O/C, Azara Police Station. During the investigation of the case the IO searched the official residence of the accused and a sum of Rs. 4 lakhs was also recovered. The entire money was seized by the police and producedbefore the Learned CJM , Kamrup Guwahati.who directed to keep the said money in the Kamrup Treasury for safe custody. Later on the Azara PS case was handed over to CBI for investigation. The petitioner claimed the seized money and therefore he filed the present petition on the grounds as referred above.

According to the petitioner out of the total amount of Rs.2931200/- seized by the police from the accused Ganesh Rs.29 lakhs belonged to him which he gave him to purchase diamond jewellery from Chennai. But there is no material to show that the money paid by the petitioner was seized from the possession ofthe accused Ganesh. According to the petitioner the adcused to carry Rs.29 lakhs to deliver it to his father-in-law at Chennai. But from the seizure list it is seen that Rs. 25,31,200/- was seized from the possession of the accused at the Airport and not Rs.29 lakhs. Therefore, it cannot be held that the accused carried Rs.29 lakhs given to him by the petitioner. Later on a sum of Rs.4 lakhs was also seized from the residence of the accused. But from this it cannot be held that this 4 lakhs is a part of the total amount of Rs. 29 lakhs paid by the petitioner to the accused. There is also no explanation either from the petitioner or from the accused why he took Rs.25,31,200/- instead of Rs. 29 lakhs as was alleged to be paid to him by the petitioner for purchasing diamond jewellery.

The petitioner stated that he gave Rs.29 lakhs to the accused in denomination of five hundred rupees notes and one hundred rupees notes. But from the seizure list it is seen that police seized some amount more in the denomination of 50-rupees

and 10-rupees notes besides ~~xxx~~ 500-rupees note and 100-rupees note. This shows that the accused did not carry the amount alleged to be paid to him by the petitioner. This also leads to presume that that the accused carried his own money. There is also nothing to show that there was any special mark ~~x~~ on ~~xx~~ the notes given by the petitioner to the accused. He has also stated nothing about the number of the notes. Therefore, it cannot be held that the IO seized the money given by the petitioner to the accused.

In his petition the petitioner did not state anything from where he collected Rs.29 lakhs to hand over it to the accused. It is not believable that he would keep such a huge amount in his house. Therefore, it is the burden of the petitioner to state from where he collected the money and ~~xxxxx~~ how he carried the same to Guwahati to give it to the accused. But the petitioner did not state anything about this. In his petition he stated that he received ~~the~~ information from Ganesh in the first week of September ~~from the accused~~ that he is going to Chennai on 6.9.97. He failed to state exact date of which he got the information. The money receipt alleged to be given by the accused to the petitioner was dtd 4.9.97. This shows that the petitioner must get the information within 1.9.97 to 3.9.97. But he has failed to state from where he collected his huge amount of Rs.29 lakhs within 3 days. He failed to produce any bank account to show that he had suhh an amount in his credit in the bank. He also did not state that he ~~got~~ kept the said amount in his house. Therefore, I find it doubtful to believe that the petitioner paid Rs.29 lakhs to the accused on 4.9.97.

It is surprising to note that the accused nowhere stated either before the IO or before the Executive Engineer or before the Income Tax Authority that the seized money belonged to the petitioner. On the other hand, he stated that before the IO that this amount was given to him by the contractors. Before the Income tax authority he stated that he collected the amount

fpr charitable purpose. Thus he gave contradictory statemat about the sources of getting the money. He did not state that the petitioner gave him the said money. Even in this case also he did not file any petition stating that the money was given to him by the petitioner, though the learned advocate for the accused submitted that the accused has no objection in releasing the money in favour of the petitioner. I find no reason or prevented the accused to state that the seized money was given to him by the petitioner. The accused could have easily stated this before the IO to save himself from facing a criminal proceeding. I do not think that any person will take the risk of facing a criminal trial or will prefer to go to the judicial custody for carrying the money belonging to some other person.

The petitioner stated that in the first week of November, 1997 he received the information from the accused thatwhile he was proceeding to Chennai the advance amount of Rs.29 lakhs given to him has been seized by the police. But this is not correct. Because from the seizure list it is seen that police seized Rs.25,81,200/- from the accused at the Airport. Therefore, it cannot be held that the accused carried Rs.29 lakhs to chennai. The accused also did not state anything why he did not carry the entire amount of Rs.29 lakhs as was given to him by the petitioner. Therefore, the failure of the accused to state that the money belonged tothe petitioner caused cash a doubt to believe that the petitioner gave Rs.29 lakhs to the accused to carry it to Chennai for purchasing diamond jewellery.

Though a sum of Rs.29 lakhs was alleged to be seized belonging to the petitioner ~~as alleged~~ yet he did not care for this and waited for about 5 months to take steps to release the money which is doubtful to believe. The explanation given by the petitioner for the delay to move the petition before the court that due to his engagement in the Loka Shabha Election he could not come to take steps to reelease the money in his favour is not acceptable and believable. It is also not believable

that from the month of Novemver, 1997 till the first week of March, 1998 he did not get time to come to Guwahati to take steps for releasing his seized money.

In his petition the petitioner did not state from whom he is going to purchase 16 pairs of diamond ear drops and earings and 9 diamond rings. He failed to state anything about the design of the earings and the size of the wings. I do not think that any person will purchase diamond ornaments with Rs.33.2 lakhs without selecting the design and without giving the measurement of the rings. Therefore, this story of the petitioner that he gave the said amount for purchasing diamond jewellery is also doubtful to believe.

The condition imposed by the vendor that 90 % of the value of the diamond jewellery is to be paid in advance and many too encashed is itself doubtful to believe. The petitioner has failed to state anything why he did not purchase the bank draft for Rs29 lakhs - the easier mode of carrying the money to Chennai. The bank drafts could have been encashed at Chennai by the accused and he could have easily paid the cash amount to the diamond jewellery as per his condition. But instead of that the petitioner took the risk of sending the entire money in cash which it is not believable.

The estimated costs of the diamond jewellery was calcutted at Rs.33.2 lakhs by the petitioner. According to him this 29 lakhs is the 90% advance amount of the total costs of the jewellery. But this is not correct. Because 90% of Rs.33.2 lakhs comes to Rs.29,88,000/- and not Rs.29 lakhs. If actually the petitioner had to pay Rs.90% of the total costs of the jewellery as advance then he had to pay Rs.29,88,000/- and not Rs.29 lakhs as stated by him. Moreover, the accused carried only Rs.25,31,200/- and not Rs.29 lakhs as alleged to pay by the petitioner. Therefore, there arises a doubt to believe the fact that the petitioner paid Rs.29 lakhs to the accused as 90% advance of the toal costs of the ornaments.

I find no reason what prevented the accused to state before the IO or before the Income tax Authority that the seized money was paid to him by the accused though at one time he stated before the IO that this money was paid to him by the contractors and another time he stated before the Income Tax Authority that he collected the money for some charitable purpose. The accused is the best person to state from where he got the money seized from him. But the claim made by the petitioner is not supported by the accused.

The investigation of the case is not yet completed. If the prayer of the petitioner is allowed then it must be held that the seized money belongs to the petitioner and in that case it will amount to a final decision of the case before the investigation of the case is completed and for this reason also the petitioner is not entitled to get the money.

Even if it is accepted that the money seized from the possession of the accused was given to the petitioner then also the petitioner is not entitled to get back the same at this stage of investigation of the case. The money was not seized from the petitioner. At this stage of the case it is also not possible to decide who is the actual owner of the seized money. Therefore, if there was any transactions regarding the seized money between them petitioner and the accused then it must be decided by them. Moreover, U/S 451, CrPC the question of possession of money is to be decided and not the question of ownership of the money. As the money was seized in course of investigation of a criminal proceeding so at this state of the investigation of the case the petitioner is not entitled to get back the money as claimed by him.

Thus considering all the discussions made above and after carefully going through the materials on record and the CD I hold that the plea of the petitioner that he gave Rs.29 lakhs to the accused as 90% advance for purchasing diamond jewellery worth Rs.33.2 lakhs from Chennai is not believable at all.

Therefore, I find no merit in the petitione filed by the petitioner prayeing to release the seized money in his favour and as such his petition is liable to be dismissed.

Accordingly the petition filed by the petitioner is dismissed. The Misc Case is disposed of accordingly. Send down the Case Diary.

Special Judge, Assam,
GUWAHATI.

Typed at my dictation
and corrected by me.

Special Judge, Assam,
Guwahati.

Certified to be true
copy. ble
Advocate

ANNEXURE - RJ/3

360

OFFICE ORDER NO. 117 / Dated:- 25th June'98.

Sanction is hereby accorded for the grant of reward and C.C. to the following officer of CBI/ACB/Guwahati for his good work done in Case No. RC.5(A)/98-SHG as detailed below:-

| Sl. No. | Name & Designation | Amount rewarded. |
|---|---|---|
| 1. | Sh.BiP.Singh Yadav,Inspr. | Rs. 600/- + C.C. |

/

Rs. 600/-

(Rupees Six hundred )only

It is certified that the amount prescribed in H.O. letter No.39/4/81-AD.III dated 1/8/90 has not been exceeded in this regard.

( B.N.Mishra )
Superintendent of Police,
C.B.I./A.C.B./Guwahati.

Memo No.B/24/4602-04 Dated:- 25th June'98.

Copy to :-

1. S.B.Clerk alongwith Commendation Certificate for necessary entry in the Service Book.
2. The P/C section in duplicate for n/a.
3. Person concerned.

Superintendent of Police,
CBI/ACB/Guwahati.

Certified to be True copy

Sd/-
Advocate

####

# CENTRAL BUREAU OF INVESTIGATION

## GOVERNMENT OF INDIA
## MINISTRY OF PERSONNEL, P. G. & PENSIONS
## COMENDATION CERTIFICATE

Granted to Shri SURESH PAL SINGH YADAV, INSPECTOR

IS HIGHLY COMMENDED FOR HIS GOOD WORK DONE IN CASE NO.

for R.C.5(A)/98-SHG.

DATED :
GUWAHATI

SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati.

Certified to be true copy
Advocate.

ANNEXURE – RJ/4

No 3|34(A)|96-SHG 1729

GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
O/O THE DY.INSPECTOR GENERAL OF POLICE
N.E.REGION,GUWAHATI:-781 003

Dated...15/10/99

To,

The Supdt. of Police
CBI, ACB, Guwahati

Sub; **TARGETED CASE FOR DISPOSAL DURING THE YEAR 1999.CASE No** RC. 34(A)|96-SHG

Sir,

During JD(EZ)'s inspection of Guwahati Branch on 4.6.99, the above noted case was targeted for disposal during the year 1999.

2. Please ensure disposal of this case by 1999.

3. This issues with the approval of DIG,CBI, NER, Guwahati.

Yours faithfully,

DY. SUPDT. OF POLICE (R)
CBI NER GUWAHATI

Copy to:- ~~1730~~ ~~Dt 15/10/99~~

Shri S.P.S. YADAV DSP/Inspector/~~SI~~ for information and immediate compliance.

DY.SUPDT. OF POLICE (R)
CBI NER GUWAHATI

Endst No:3/34(A)/96-Shg 05295 Dtd :- 15/11/99
Copy to :-

Sri S.P. Singh Yadav, Inspr CBI ACB Guwahati for compliance.

Supdt of Police
CBI ACB Guwahati.

..oOo..

Certified to be true copy
Advocate

ANNEXURE-RJ/5

363

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.137 of 2000

Date of dedision: This the 9th day of July 2001

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

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

Shri Suresh Pal Singh Yadav,
Inspector,
Central Bureau of Investigation,
Office of the Superintendent of Police,
Central Bureau of Investigation,
Guwahati. .....Applicant

By Advocates Mr B.K. Sharma, Mr P.K. Tiwari and Mr S. Sarma.

- versus -

1. The Union of India, through the Secretary to the Government of India, Ministry of Personnel and Training, New Delhi.
2. The Director, Central Bureau of Investigation, New Delhi.
3. The Deputy Inspector General, Central Bureau of Investigation, Guwahati.
4. The Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Guwahati.
5. The Administrative Officer (E), Central Bureau of Investigation, Government of India, Administrative Division, New Delhi. .....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The only controversy involved in this application pertains to the payment of salary of the applicant for the month of October 1999. The applicant served as an Inspector of Police under the respondents on deputation. On

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Advocate

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completion of his deputation the applicant was repatriated to his parent department, which was a subject matter of a separate O.A., since disposed of. By this application the applicant has moved this Tribunal for a direction for payment of his salary for the period from 1.10.1999 to 28.10.1999. In the application it was, inter alia, stated that on 30.9.1999, at late night, the applicant felt severe chest pain and irritation. The nearest CGHS Dispensary from the applicant's residence at Guwahati, was located at a distance of 7 to 8 kilometres. It has also been stated that the applicant was not registered in any of the CGHS Dispensary, and therefore, he was taken to the nearest available Doctor of Gauhati Medical College who stayed very close to the applicant's residence. The applicant continued to be under treatment and on being declared medically fit, he joined duty on 29.10.1999. He submitted his joining report on 29.10.1999 alongwith necessary documents and medical papers requesting the respondent authority to grant him twentyeight days medical leave. Since the respondents did not respond to it and salary for the aforesaid period was not paid the applicant moved this O.A. for appropriate remedy.

2. The respondents contested the case and disputed the claim of the applicant. According to the respondents, the leave of the applicant was unauthorised, and therefore, the respondents did not commit any irregularity. The respondents also contested the admissibility of medical leave for the aforesaid period. We thought that this matter could be sorted out by the authority, more so, in view of the fact that the applicant is now repatriated to his parent department and the matter should have been amicably resolved by the department. The respondents, on the other hand, took a very obdurate stand and stated that the claim

for.....

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for medical leave was not permissible since the applicant did not submit any authorised medical certificate. According to the respondents the leave was not permissible under the CCS (Leave) Rules, 1972. Admittedly, these rules are not applicable so far a deputationist is concerned and deputationists are guided by the rules of the parent department. The very CCS Leave Rules, on which the respondents relied upon also indicate that leave can be granted on medical certificate made by a non-gazetted Government servant accompanied by a medical certificate in Form 4 given by an Authorised Medical Attendant or a registered medical practitioner. Admittedly, the applicant was examined and treated in the Gauhati Medical College Hospital and also by one Doctor (Mrs) Rupali Baruah, Assistant Professor, Comm. Medicine, Gauhati Medical College. Instead of relying on the medical certificate issued by the aforesaid Assistant Professor, who treated the applicant, the respondents made certain queries and took time investigating the matter and obtaining a report from the Dr B.K. Barah, Superintendent, Gauhati Medical College as to the credentials of Dr (Mrs) Rupali Baruah. The communication dated 4.5.2000 sent by Dr B.K. Barah, Superintendent, Gauhati Medical College to the Superintendent of Police, CBI, also indicated that Dr (Mrs) Rupali Baruah, M.D., was an officer in the rank of Assistant Professor of Gauhati Medical College and therefore, the medical certificate issued by her to the applicant was not related with the Gauhati Medical College Hospital. The respondents mainly emphasised on the fact that the certificate issued by the aforesaid Doctor to the applicant was not related with the Gauhati Medical College Hospital. The report, however, did not indicate that the

Dr.....

: 4 :

Doctor (MCH) Rupali Nakunh was not a registered practitioner. The respondents instead of engaging themselves to other important issues, were more confined to some irrelevant and extraneous issues.

3. On hearing Mr P.K. Tiwari, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C., the respondents are directed to take necessary steps for payment of salary of the applicant on the basis of the medical certificate submitted by the applicant without [illegible] certificate from Govt. The respondents are directed to take necessary steps for payment of salary of the applicant for the aforesaid period within two weeks from the date of receipt of the order.

4. The application is accordingly allowed and the respondents are directed to pay cost of Rs.1000/- (Rupees one thousand only) to the applicant.

Sd/VICE CHAIRMAN
Sd/MEMBER (Adm)

Certified to be true Copy

Section Officer (J)
Central Administrative Tribunal
Guwahati Bench, Guwahati-5
11/7/2001

ukm

Certified to be true Copy
Advocate

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OFFICE ORDER NO. 204 DATE 24/7/2001

In pursuance of Hon'ble CAT's order dated 9/7/2001 in O.A. No. 137/2000 filed by Shri S.P. Singh Yadav, Inspector (U/S). Shri S.P. Singh Yadav, Inspector(U/S) has been granted commuted leave as detailed shown below:-

| Name & Designation | Period From | to | No of days | Kind of Leave | Purpose of leave | Date of return |
|---|---|---|---|---|---|---|
| 1.Sh.S.P.Singh Yadav, Insps(U/S) | 1.10.99 to 28.10.99 | | 28 | Commuted leave i.e.56 days ½ pay leave= 28 days full pay. | Illness on M.C. | 29.10.99 |

Certified that the officer had resumed his duty on the date shown above.

Superintendent of Police
CBI/ACB/Guwahati.

Memo No.137/2000/2052-55 date 24/7/01

Copy to:-

1. The Dy. Inspector General of Police, CBI, NER, Guwahati.
2. Account section CBI, ACB, Guwahati for necessary action.
3. Person concerned.
4. Office copy.

24/7/2001

Superintendent of Police
CBI/ACB/Guwahati.

Certified to be true copy
Advocate.

Received
25/7/2001
17.50 hrs
O/o SP/CBI/A-B
Guy.

ANNEXURE RJ/6

Computer-I/C-drive/Lotus . /e-mailsending

E-mail

TO :- DD(A) CBI NEW DELHI

FROM :- SP CBI ACB GUWAHATI
E/24/2002_____/ Dated_____

With reference to your E-Mail dated 04.07.03 I am forwarding herewith the details of rewards given to CBI personnel from Constable to Inspector upwards for the year 2002 as under :-

DETAILS OF REWARDS GIVEN TO CBI PERONNEL FROM CONSTABLE TO INSPECTOR FOR THE YEAR 2002

| Sl. No. | Name & Designation | Amount of Reward | Date of Sanction | Reason for Reward | Individual wise Total Reward |
|---|---|---|---|---|---|
| 1 | Sh.B.S. Jha, Inspr. | 800 | 9/1/2002 | For laying of successful trap at Guwahati Railway Station. | 5,200 |
| | | 3,500 | 30/01/02 | For achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 900 | 23/4/02 | For his good work in RC6/2002. | |
| 2 | Sh. L. Hangshing, Inspr. | 800 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 2,800 |
| | | 1,000 | 30/01/02 | For achieving annual target for the year 2001. | |
| | | 1,000 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 3 | Sh. M.S. Dhundla, R.S.O. | 800 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 5,600 |
| | | 3,300 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 1,500 | 20/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 4 | Sh. Monojit Dey, ASI. | 500 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 4,450 |
| | | 2,700 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & | |

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Advocate

| | | | | | |
|---|---|---|---|---|---|
| | | | | for his good work done during ADCBI's visit. | |
| | | 500 | 20/11/02 | For arresting absconder in RC9/96. | |
| | | 750 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 5 | Sh. Biren Suri, Const | 400 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 3,100 |
| | | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 400 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 300 | 25/9/02 | For laying trap in RC 14(A)/2002. | |
| 6 | Sh. Jitu Deka, Const | 400 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 3,700 |
| | | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 500 | 30/8/02 | For excellent performance in search operations. | |
| | | 300 | 25/9/02 | For his good work done in RC 15(A)/2001 | |
| | | 500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 7 | Sh. Sankar Dey, Const. | 400 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 4,150 |
| | | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 400 | 15/10/02 | For the good work done by him. | |
| | | 750 | 7/11/02 | For his accident free driving. | |
| | | 600 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 8 | Sh. R.P. Bose, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 3,500 |

| | | | | | |
|---|---|---|---|---|---|
| 9 | Sh. B. Das, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 7,400 |
| | | 900 | 23/4/02 | For his good work done in connection with trap case RC 6/2002. | |
| | | 600 | 25/9/02 | For his good work in search operation in RC 17(A)/2002. | |
| | | 900 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 500 | 25/9/02 | For conducting search in RC 14(A)/2002. | |
| | | 1,000 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 10 | Sh. N.R. Dey, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 6,400 |
| | | 900 | 25/9/02 | For his good work in search operation in RC 17(A)/2002. | |
| | | 1,000 | 25/9/02 | For his good work for conducting search in RC 14(A)/2002. | |
| | | 1,000 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati | |
| 11 | Sh. V.L. Hriata, Inspr. | 3,200 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 4,700 |
| | | 700 | 25/9/02 | For his good work in RC 6(S)/97-Shg. | |
| | | 800 | 25/9/02 | For his good work for conducting search in RC 9(A)/2002. | |
| 12 | Sh. M. Sharma, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 6,600 |
| | | 700 | 23/4/02 | For his good work done in connection with trap case RC 6/2002. | |
| | | 900 | 25/9/02 | For conducting search in RC 14(A)/2002. | |
| | | 1,500 | 20/11/02 | For his good work during | |

Computer-1/C-drive/Lotus /e-mailsending

| | | | | | |
|---|---|---|---|---|---|
| | | | | inspection of DIG/CBI/NER/Guwahati. | |
| 13 | Sh. A. Mao, Inspr. | 3,200 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 3,700 |
| | | 500 | 12/3/02 | For his good work in PE 5(A)/2001 & 7(A)/2001. | |
| 14 | Sh. N.G. Khamrang, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 5,000 |
| | | 1,500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 15 | Sh. K.M. Das, Inspr. | 1,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 1,000 |
| 16 | Sh. Jivan Ch. Singh, Inspr. | 2,500 | 30/1/02 | For his good work done during ADCBI's visit. | 2,500 |
| 17 | Sh. P. Shadang, S.I. | 2,250 | 30/1/02 | For his good work done during ADCBI's visit. | 3,250 |
| | | 1,000 | 20/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 18 | Sh. M. Banerjee, Inspr. | 800 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 5,700 |
| | | 800 | 30/8/02 | For his contribution in search operation in RC 17(A)/2002 | |
| | | 900 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 900 | 25/9/02 | For conducting search in RC 14(A)/2002. | |
| | | 800 | 25/9/02 | For the good work done in RC 15(A)/2001. | |
| | | 1,500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 19 | Sh. K.R. Kabui, S.I. | 3,050 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 4,150 |
| | | 600 | 25/9/02 | For his good work in RC | |

| | | | | | |
|---|---|---|---|---|---|
| | | | | 17(A)/2002. | |
| | | 500 | 25/9/02 | For his good work in RC 15(A)/2001. | |
| 20 | Sh. H.C. Klita, ASI. | 2,700 | 30//1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 2,700 |
| 21 | Sh. S. Chakraborty, H.C. | 2,250 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 2,550 |
| | | ✱ 300 | 12/3/02 | For his good work in PE 5(A)/2001 & 7(A)/2001. | |
| 22 | Sh. S. Kharkongon, H.C. | 2,350 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 4,050 |
| | | 500 | 6/6/02 | For his good work in RC 12(A)/2000. | |
| | | 600 | 20/11/02 | Managing the working of Malkhana without regular Assistant. | |
| | | 600 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 23 | Sh. M. Ram H.C. | 2,250 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 2,650 |
| | | 400 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 24 | Sh. A. Borthakur, H.C. | 1,750 | 30/1/02 | For his good work done during ADCBI's visit. | 2,550 |
| | | 800 | 20/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 25 | Sh. P.K. Sharma, H.C. | 500 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 1,100 |
| | | 600 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 26 | Sh. B. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & | 2,000 |

Computer-I/C drive/Logus /e-mailsending

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| | | | | | |
|---|---|---|---|---|---|
| | Baruah, Const. | | | for his good work done during ADCBI's visit. | |
| 27 | Sh. Anil Kr. Singh, Const. | 1,500 | 30/1/02 | For his good work done during ADCBI's visit. | 3,600 |
| | | 400 | 26/3/2002 | For rendering assistance to Crime In-charge. | |
| | | 300 | 22/7/02 | For rendering assistance to Crime In-charge. | |
| | | 500 | 30/8/02 | For rendering assistance to Crime In-charge. | |
| | | 400 | 25/9/02 | For his good work in RC 14(A)/2002. | |
| | | 500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 28 | Sh. S.L. Gogoi, Const. | 1,500 | 30/1/02 | For his good work done during ADCBI's visit. | 2,250 |
| | | 750 | 10/7/02 | For accident free driving. | |
| 29 | Sh. S. Kumar, Const. | 2,000 | 30/1/02 | For achieving annual target for the year 2001 and good work done during ADCBI's visit. | 3,000 |
| | | 500 | 20.2.02 | For completing the assigned job successfully, | |
| | | 300 | 19.7.02 | For his good work done in RC 9(S)Calcutta. | |
| | | 200 | 25.9.02 | For his good work in RC 14(A)2002. | |
| 30 | Sh. B.K.Pegu, Const | 2,000 | 30.1.02 | For achieving annual target for the year 2001 and his good work during ADCBI'visit. | 2,300 |
| | | 300 | 21.11.02 | For his good work during DIG's inspection. | |
| 31 | Sh. S. Ghimere, Const | 2,000 | 30.01.02 | For achieving annual target for the year 2001 and for his good work during ADCBI's visit. | 3,300 |
| | | 400 | 23.4.02 | For his good work done in trap case in RC 6/2002 | |
| | | 400 | 25.9.02 | For laying trap on 14.09.02 successfully. | |
| | | 500 | 21.11.02 | For his good work during DIG's inspection. | |
| 32 | Sh. A.K. Basak,Const | 2,000 | 30.1.02 | For achieving annual target for the year 2001 and for his good work done during ADCBI's visit. | 5,600 |

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| | | | | | |
|---|---|---|---|---|---|
| | | 500 | 26.03.02 | For performing duties sincerely and satisfactorily. | |
| | | 400 | 23/4/02 | For his good work done in Trap Case RC6/2002. | |
| | | 500 | 15/5/02 | For his sincere and hard work in discharging dutiesn assigned to him. | |
| | | 300 | 22.7.02 | For his sincere devotion to duties | |
| | | 500 | 30.08.02 | For his dedication to his duties. | |
| | | 500 | 25/9/02 | For good work in RC 17(A)/2002 | |
| | | 400 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 500 | 21.11.02 | For his sincerity during DIG's inspection. | |
| 33 | Sh. S.K.Baruah, Const | 2,500 | 30.01.02 | For achieving the annual target for the year 2001. For his good work done during ADCBI's visit and also rendering assistance to Crime section. | 4,400 |
| | | 500 | 23/4/02 | For his good work done. | |
| | | 300 | 22/7/02 | For rendering assistance to Crime In-charge. | |
| | | 500 | 30/8/02 | For rendering assistance to Crime In-charge. | |
| | | 600 | 21/11/02 | For his good work during DIG's inspection. | |
| 34 | Sh. Bipul Kumar, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 3,000 |
| | | 500 | 13/6/02 | For his sincere works in the Court. | |
| | | 500 | 21/11/02 | For his good work during DIG's inspection | |
| 35 | Sh.Sarjeet Singh, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 12,300 |
| | | 300 | 12/3/02 | For his good work in PE 5(A)/2001 & 7(A)/2001. | |
| | | 10,000 | 26/7/02 | For his excellent performance in RC 7/2002. | |
| 36 | Sh John David, Const | 2,000 | 30/01/02 | For his contribution in achieving annual target for the year 2001 | 2,300 |

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|---|---|---|---|---|---|
| | | | | and good work done during DCBI's visit. | |
| | | 300 | 12/03/02 | For good workdone in PEs 5 & 7(A)/2001 | |
| 37 | Sh. E. Lyngdoh, Const | 2,000 | 30/01/02 | For good workdone in PEs 5 & 7(A)/2001 | 2,300 |
| | | 300 | 12/03/02 | For good workdone in PEs 5 & 7(A)/2001 | |
| 38 | Sh Arup Bhuyan, Const | 2,000 | 30/01/02 | For his contribution in achieving annual target for the year 2001 and good work done during DCBI's visit. | 2,600 |
| | | 300 | 30/8/02 | For completing typing in RC 12(A)/2001. | |
| | | 300 | 21/11/02 | For his good work during DIG's inspection | |
| 39 | Sh. Sukumar Saha, Const | 500 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 2,650 |
| | | 400 | 23/4/02 | For his good work in Trap Case RC 6/2002. | |
| | | 400 | 25/9/02 | For laying Trap on 14/9/02. | |
| | | 450 | 25/9/02 | For his good work in RC 15(A)/2001. | |
| | | 400 | 15/10/02 | For his good work. | |
| | | 500 | 21/11/02 | For his good work during DIG's inspection. | |
| 40 | Sh. Michi Tamang, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,300 |
| | | 300 | 21/11/02 | For his good work during DIG's inspection. | |
| 41 | Sh. Digen Sarkar, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,300 |
| | | 300 | 20/11/02 | Arrested the absconder in RC 9/96. | |
| 42 | Sh. Tashi Monpa, Const | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,000 |
| 43 | Sh. Gyom Teri, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 | 2,000 |

| | | | | | |
|---|---|---|---|---|---|
| | | | | and good work done during ADCBI's visit. | |
| 44 | Sh. Indreswar Borah, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 3,500 |
| | | 400 | 25/9/02 | For his good work in RC 6/97. | |
| | | 300 | 25/9/02 | For his good work in RC 15(A)/2001. | |
| | | 300 | 25/9/02 | For his good work in RC 9(A)/2002. | |
| | | 500 | 21/11/02 | For his good work during DIG's inspection. | |
| 45 | Sh. J. P. Pathari, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,500 |
| | | 500 | 19/7/02 | For his sincere work in execution of NBWA. | |
| 46 | Sh. K. Samlagai, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 3,100 |
| | | 400 | 25/9/02 | For his good work in RC 6/97. | |
| | | 300 | 25/9/02 | For his good work in RC 9(A)/2002. | |
| | | 400 | 21/11/02 | For his good work during DIG's inspection. | |
| 47 | Sh. Gauridhar Das, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,600 |
| | | 200 | 12/9/02 | For good work in PE 11 (A)/2001. | |
| | | 400 | 21/11/02 | For his good work during DIG's inspection. | |
| 48 | Sh. Tilak Kafle, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,400 |
| | | 400 | 21/11/02 | For his good work during DIG's inspection. | |

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| | | | | | |
|---|---|---|---|---|---|
| 49 | Sh. G.K. Borah, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,500 |
| | | 500 | 21/11/02 | For his good work during DIG's inspection. | |
| 50 | Sh. Mintu Borah, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 51 | Sh. Gangaram Das, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,950 |
| | | 750 | 10/7/02 | For his accident free driving. | |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 52 | Sh. T. Sharma, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 53 | Sh. A. Alam, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 54 | Sh. Mukut Boruah, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 55 | Sh. Mukul Ch. Deka, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 56 | Sh. K.L. Moses, Inspr. | 600 | 25/9/02 | For good work in RC 17(A)/2002 | 1,600 |
| | | 1,000 | 21/11/02 | For his good & sincere work during DIG's inspection. | |
| 57 | Sh. Prafulla Baruah, H.C. | 400 | 21/11/02 | For his good & sincere work during DIG's inspection. | 400 |
| | | **191,250** | | | **191,250** |

(One Lakh Ninety One Thousand Two Hundred Fifty) only

Superintendent of Police
CBI(ACB)Guwahati

certified to be true copy
the Advocate

ANNEXURE-RJ/7

378

No. 833 /13/3/2001/CRO

Central Bureau of Investigation,
Government of India,
Kolkata Region,
Nizam Palace,
2nd MSO Building (14th Floor),
234/4, A.J.C. Bose Road,
Kolkata-20.
Dated:- 18/10/2001.

**O R D E R**

**WHEREAS** an enquiry under Rule 8 of Delhi Special Police Establishment (Subordinate Ranks) ( Discipline and Appeal) Rules 1961 against Shri Suresh Pal Singh Yadav, Inspector(Under Suspension), CBI, ACB, Guwahati is in progressas as per Memorandum issued vide No. 1478/12/Comp./SLC/NER/PT(III) dt. 17.5.2001 and No. 1516/12/Comp./SLC/NER/Pt.(II) dt. 22.5.2000. The other memorandum No. 1378/12/Comp./SLC/NER/PT (I) dt. 11.5.2000 has already been decided in the Hon'ble CAT, Gauhati Bench by releasing the salary for the peeriod 1.10.99 to 28.10.99.

**WHEREAS** the undersigned has been appointed as the Disciplinary Authority in the matter pending against Shri Suresh Pal Singh Yadav as per order of the Additional Director, CBI, Kolkata dated 16.7.2001.

Now, therefore, the undersigned, in exercise of the power conferred by Sub-rule(2) of the said rule hereby appoints Shri A.Prasad, SP, CBI, Silchar as Enquiry Officer to enquire into two charges as mentioned at para 1 above framed against the said Shri Suresh Pal Singh Yadav.

This supercedes this Office Order No. 645/13/3/2001/CRO dt.24.8.2001

Sd/-
( Vijoy Kumar )
Dy. Inspr. Genl. of Police
CBI/ Kolkata Region/Kolkata

Despatch No- 833 Dt:- 18/10/01.

Copy to:-

1. Sh. A.Prasad, SP, CBI, Silchar.
2. Staff Officer to the Additional Director, CBI, Kolkata
3. DIG, CBI, NER Gauhati. for information w.r.t. his I.D. No. 2511/08/30/2001 dated 10.9.2001.
4. Sh. Suresh Pal Singh Yadav, Inspr. CBI, Guwahati through SP, CBI, ACB, Guwahati.
5. Sh. Manoj Banerjee, S.I, CBI, Gauhati (P.O.) for information and necessary action.

18/10/2001
( Vijoy Kumar )
Dy. Inspr. Genl. of Police
CBI/ Kolkata Region/Kolkata

Received
20/11/2001

Certified to be true
Copy
Advocate

ANNEXURE - RJ/

579

Govt. of India
Central Bureau of Investigation
Anti Corruption Branch
Guwahati-5.

No. CP/99/SHL/CB256-7 Date : 25.7.95

M E M O

DIG,NER observed that the Branch is lagging behind miserably in the achievement of target under the head registration and finalisation from investigation.

DIG desires that all the I.O's must submit the identity Nos. of cases which they expected to finalise within 2 months by today poaitively.

Further all the I.O's are requested to explore the possibility of organising surprise checks in different Central Govt. Organisations within one week, so that the surprise checks could be organised and cases registered and disposed of immediately to meet the shortfalls in the achievement of targets under the heads registration and disposal from investigation immediately.

30/7/95

Superintendent of Police
CBI,ACB,Guwahati.

Copy told to : (1) DIG,CBI,NER,Camp- Calcutta for favour of information please.

(2) AllI.O's immediate for compliance please..

Sh. S. P. Singh, Yadav, Hqrs

Certified to be True Copy

Advocate

Superintendent of Police
CBI,ACB,Guwahati.

*****

ANNEXURE-RJ/9

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TYPE COPY

NOTE SHEET

1. Page - 1 to 26

Inspector S.P. Singh Yadav has submitted a verified SIR against (1) Sri A.C. Dey (retired) the then Director, OFC Project, Guwahati, (2) B.R. Atri, DE (OFC), O/o of the Director, OFC Project, Guwahati, (3) Sri P.P. Nandi, SDE (OFC) Jorhat - Dimapur - Kohima Project (4) Sri M. Chakraborty, SDE (Expired), (5) Sri Mrinmoy Bhuyan, JTO (6) Sri Tarachand Dehotia, JTO, O/o the Director, OFC, Guwahati and other 12 private contractors for awarding contract for laying optical fiber cable on Jorhat-Dimapur-Kohima route at exorbitant rate violating the norms for their personal gain. Also showed the completion of work by the JTO, Site Engineers though the same has not been performed practically. The IO has submitted the verified SIR for registration of PE against the SOs prior to that no unverified was submitted by the IO. Put up for perusal and further order please as deem fit.

SD/- CA to SP
27.9.99

2. Wait till finalisation of CAT suit, and the IO joins duty.

Sd/- Om Prakash
SP, CBI, Guwahati.
27.10.99

3. Refer para 2/N, since IO has joined n/o be given.

Sd/- CA to SP
2.11.99

4. Sr. PP, Pl. offer your comment.

Sd/- Om Prakash
SP, CBI, Guwahati.
4.11.99

certified to be
True copy
DLR
Advocate

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5. This file was marked to Sr. PP on 4.11.99 for his comments. But till date he has not joined. This is put up for further orders Pl.

Sd/- M. Das
CA to SP

6. Illegible

7. Para 27:

Pl. refer para 6/N at prepare. Sri A.K. Deb PP has submitted his comments and separate sheet at page 27 is put up for perusal and further order Pl. It may please be noted that this SIR has not yet been registered as verified SIR.

Sd/- M. Das
CA to SP
3.12.99

8. Pl. put up to SP on return from tour for necessary order. File put up to me today.

Sd/-KC Choudhury
I/C SP Dt. 13.12.99

9. Pl. refer para 7/8. This is put up for N/O Pl.

Sd/- M. Das
CA to SP
3.12.99

10. My comments alongwith the comments of the PP are placed for perusal and N/O Pl.

DIG
---

Sd/- Om Prakash
SP, CBI, Guwahati.
30.12.99

11. Pl. speak why did he undertaken verification without registration and permission ---- Illegible

SP
---

Sd/- KC Kanongo
DIG Dt. 13.1.2000

12. Pl. explaine

IO

Sd/- Om Prakash
SP, CBI, Guwahati.
20.1.2000

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13. File received on 2.2.2000 required explanation. Put up from page serial No. 29 to 31 for kind perusal.

Sd/- Applicant
3.2.2000

14. May please refer to para 11 of Note sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for furnishing verified source information which is available at page 29 to 31 of the file. He has stated that this information have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary order.

DIGP, NER

Sd/- Om Prakash
SP, CBI, Guwahati.
15.2.2000

(I). When did the accused disclose the name of the two private persons Abid Hussain and Giasuddin Ahmed as having contributed money which were part of the seized cash ? Did IO examine these two persons to verify this ----- Illegible

(II). If he wanted to make detailed verification, he should have immediately submit a separate SIR for registration and verification. Instead of that he is making false accu sation. He should be dealt severely for his misconduct.

(III) He has quoted CBI crime manual what is that he -- -- Illegible

SP

Sd/- KC Kanongo
DIG, Dt. 29.2.2000

15. For compliance report.

IO

Sd/- Om Prakash
SP, CBI, Guwahati.

(23) 383

**COMMENTS OF SUPERINTENDENT OF POLICE ON THE SIR SUBMITTED BY INSPECTOR S.P. SINGH YADAV VIDE NO. SA/SIIG/99/21**

^^^^^^^^^^^^^

DIG, NER may like to peruse the SIR submitted by Shri S.P. Singh Yadav, Inspector of the Branch **available at page 1 to 26 of the file** recommending for registration of a P.E against (1) Shri A.C. De ( Retired), the than Director, OFC Project, Guwahati under CGM (T/F), Guwahati (OFC), ( 2) Shri B.R. Atri, DE (OFC), O/o the Director, OFC Project, Guwahati and four others of telecom department ( one expired ) including numbers of contractors on the allegation that while the aforesaid officials posted and functioning in their respective capacities collated with private contractors and got executed Optical Fiber Cable (OFC) on Jorhat-Dimapur-Kohima Route at exorbitant rate i,e 200% to 500% and thereby caused wrongful loss to the public exchquor and corresponding gain to the private persons/contractors.

It may be noted that the SIR has not at all registered for formal verification and the I.O has submitted the verified SIR which has developed during the investigation of CBI case No. RC 5(A)/98-SHG against Shri K. Ganesh.

This verified SIR of the I.O has been examined by Shri A.K. Deb, PP of the branch whose comments are **available at page 27/F** and also agreed with the recommendation of the I.O.

Though the SIR was not registered earlier for formal verification but since this the out come of development during investigation of RC 5(A)/98-SHG and as recommended by I.O and PP a PE may be registered against the suspect officials after registration of the SIR. Since the S.O is in the pay scale of Rs. 10,000/= to 15,000/= as such JD (E) is competent to pass order in this regard.

**( OM PRAKASH )**
Superintendent of Police
**CBI ::: ACB ::: Guwahati**

Certified to be true
Cal
Advocate

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Perused the verified report of Sh.S.P.Singh Yadav, Inspector against Sh. A.C.De (Retired) the then Director, OFC Project, GHY under CGMT (T/F) N.E. Telecom Region,GHY ; Sh.B.R.Atri, DE(OFC) O/o the Director, OFC Project Guwahati ; Sh.P.P.Nandi, SDE (OFC), Jorhat-Dimapur-Kohima Project ; Sh.M.Chakraborty, SDE (Expired); Sh.Minmoy Bhuyan., JTO; Sh.Tara Chand Dchotia, JAO, O/o the Director, OFC Project, Guwahati and contractors OFC Project on Jorhat-Dimapur-Kohima Route. Discussed the report with the Investigating Officer Sh.S.P.Singh Yadav.

The allegation in brief is that the aforesaid officials while posted and functioning in their respective capacities colluted with private contractors and got executed Optical Fibre Cable(OFC) on Jorhat-Dimapur-Kohima Route at exhorbitant rate i.e. 200% to 500% and thereby caused wrongful loss to the Public Exchequer to the tune of Rs.1 crore 70 lakhs 17 thousand and caused corresponding gain to the private persons/contractors.

Shri S.P.Singh Yadav has stated that during investigation of a case in RC.5(A)/98-SHG against Shri Ganeshan the then CGMT, N.E.Region. Though the I.O. has not made available relevant documents but he has given a detailed report which was annexed in the report of I.O. The I.O. has not discussed the role played by each suspect in his report. However, he has stated that it will come to the light only if a detailed probe is made. The report prima-facie discloses that the suspects by abusing their position during relevant period got executed the works i.e. laying of Optical Fibre Cable at Jorhat-Dimapur-Kohima Route at exhorbitant rates.

I, therefore, suggest that the PE may be registered against the aforesaid suspect officers as suggested by the I.O. Sh.S.P.Singh Yadav.

21/12/99

(A.K.DEB) PP
CBI :: ACB :: Guwahati.

Certified to be true copy
Advocate

Note Sheet

1. Page - 1 to 21

Inspector S.P. Singh Yadav has submitted a verified SIR for PE against (1) Sri M.L. Sarma the then DE (OFC), Engineer I/C, O/O of the Director, OFC Project, Guwahati, (2) P.K. Bagchi, the then SDE (OFC), (3) Sri D. Sundarmurty, the then SDE (OFC) (4) Sri AC Dey, the then Director, OFC Project, Guwahati (now retired) and private contractor for awarding contract for laying optical fiber cable on Imphal-Moreh route at exorbitant rate violating the norms for their personal gain. Also the JTO and Site Engineer has given certificate for completion of the works though the same has not bene done practically. Put up for perusal and further order please. He has not submitted any unverified SIR/proposal earlier in this regard. Jurisdiction ground may also be taken into consideration.

SP

SD/- CA to SP
27.9.99

2. Wait till finalisation of CAT suit, and the IO joins duty.

Sd/- Om Prakash
SP, CBI, Guwahati.
27.10.99

3. Refer para 2/N, since Inspector Singh joined duty n/o be given.

Sd/- CA to SP
2.11.99

4. Pl. offer your comments.

Sr. PP

Sd/- Om Prakash
SP, CBI, Guwahati.
4.11.99

Certified to be True Copy
Advocate

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5. SP may Pl. refer para 4/N. this file was marked to Sr. PP on 4.11.99 but he has not join till date. This is put up for further order Pl.

SP

Sd/- M. Das
CA to SP
1.12.99

6. Sr. PP on long leave, Pl. offer your comments

PP/AK Deb

Sd/- Om Prakash
1.12.99

7. Para 27:

Pl. refer to para 6/N at prepage. Sri A.K. Dey PP has submitted his comments and separate sheet is put up at page 22 for kind perusal and further order Pl. It may be noted that this SIR has not yet been registered.

SP

Sd/- M. Das
CA to SP
3.12.99

8. File put up to me today. This may be put up to SP on return from tour for N/order.

CA

Sd/-KC Choudhury
I/C SP Dt. 13.12.99

9. Pl. refer above para 7/8. This is put up for N/A Pl.

SP

Sd/- M. Das
CA to SP
14.12.99

10. My comments alongwith the comments of the PP are placed for perusal and N/O Pl.

DIG
---

Sd/- Om Prakash
SP, CBI, Guwahati.
30.12.99

11. Why did he verified without authority ?

SP
---

Sd/- KC Kanongo
DIG Dt. 13.1.2000

12. Pl. explaine

IO
---

Sd/- Om Prakash
SP, CBI, Guwahati.
24.1.2000

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13. Received file on 2.2.2000 the required explanation is put up from page serial No. 24 to 26 for kind perusal.

Sd/- Applicant
3.2.2000

14. May please refer to para 11 of Note sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for submitting verified source information which is available at page 24 to 26 of the file. He has stated that this information have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary orders.

DIGP, NER

Sd/- Om Prakash
SP, CBI, Guwahati.
15.2.2000

15. Chargesheet may be served on him for minor penalties for digression of ---- Illegible

SP

Sd/- KC Kanongo
DIG, Dt. 29.2.2000

16. Put up draft CS as ordered by DIG.

DSP

Sd/- Om Prakash
SP, CBI, Guwahati.
6.3.2000

17. CA to Pl. put up with relevant file

CA

Sd/- AK Saha
DSP, CBI, Guwahati.
6.3.2000

18. Pl. transfer the relevant papers to his personal file alongwith photocopy of the note sheet so that action can be taken for Estt. Section.

CA/Head Asstt.

Sd/- AK Saha
DSP, CBI, Guwahati.
8.3.2000

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## COMMENTS OF SUPERINTENDENT OF POLICE ON THE SIR SUBMITTED BY INSPECTOR S.P. SINGH YADAV VIDE NO. SA/SHG/99/20

^^^^^^^^^^^^^

DIG, NER may like to peruse the SIR submitted by Shri S.P. Singh Yadav, Inspector of the Branch **available at page 1 to 21 of the file** recommending for registration of a P.E against (1) Shri M.L. Sarma, the than DE (OFC), Engineer in-charge, O/o the Director OFC, Project, Guwahati and three others of telecom department including contractors, OFC Project on Imphal Morch Route, 1995 - 98 on the allegation that while the aforesaid officials posted and functioning in their respective capacities colluted with private contractors and got executed Optical Fiber Cable (OFC) on Imphal Morch Route at exorbitant rate i,e 200% to 500% and thereby caused wrongful loss to the public exchequer and corresponding gain to the private persons/contractors.

It may be noted that the SIR has not at all registered for formal verification and the I.O has submitted the verified SIR which has developed during the investigation of CBI case No. RC 5(A)/98-SHG against Shri K. Ganesh.

This verified SIR of the I.O has been examined by Shri A.K. Deb, PP of the branch whose comments are **available at page 22/F** and also agreed with the recommendation of the I.O.

Though the SIR was not registered earlier for formal verification but since this the out come of development during investigation of RC 5(A)/98-SHG and as recommended by I.O and PP a PE may be registered against the suspect officials after registration of the SIR. Since the S.O is in the pay scale of Rs. 10,000/= to 15,000/= as such JD (E) is competent to pass order in this regard. Further, since execution of work was at Imphal, the case may be registered at Silchar Branch as Imphal comes under the jurisdiction of Silchar Branch.

**( OM PRAKASH )**
Superintendent of Police
**CBI ::: ACB ::: Guwahati**

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Advocate

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Note Sheet

1. Page - 1 to 31

Inspector S.P. Singh Yadav has submitted a verified SIR for registration of a PE against (1) Sri M.L. Sarma the then DE (OFC), Engineer I/C, Imphal Churchandpur, O/O of the Director, OFC Project, Guwahati, (2) Sri P.K. Bagchi, the then SDE (OFC), O/O of the Director, OFC Project, Guwahati, (3) Sri P. Sundarmurty, the then SDE (OFC) (4) Sri AC Dey, the then Director, OFC Project, Guwahati (now retired) and private contractors of Imphal. The allegation is regarding sowing undue favour to the contractors for their personal gain in awarding contract for laying optical fiber cable on Imphal-Churchandpur route at exorbitant rate and showing the completion of the works by the JTO and Site Engineer which not at all performed. Put up for perusal and further order please as deem fit. Posting place of the SO, place of occurrence etc. may be taken into consideration as Imphal do falls under the jurisdiction of Guwahati Branch of CBI.

SP

SD/- CA to SP
27.9.99

2. Under whose order the verification of SIR has been conducted. What are the documents collected during verification and from whom. Whether the all such documents collected and ------ Illegible -- are relevant to our case RC 5(A) 98 SH. Pl. report. Also submit similar explanation in SIR 99/20 and 99/21 Pl.

IO

Sd/- Om Prakash
SP, CBI, Guwahati.
25.10.99

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3. SP may refer to para 2/N above, since SP Singh, Inspector has already been released on repatriation. The matter is put up for n/order Pl. alongwith other two SIRs i.e. SA/99/21 and SA/99/20.

SP

Sd/- CA to SP
27.10.99

4. Wait till final order on his case by CAT suit.

Sr. PP

Sd/- Om Prakash
SP, CBI, Guwahati.
27.10.99

5. Refer para 4/N. Since SP Singh, Inspector joined, N/order may be given Pl.

SP

CA to SP
2.11.99

6. Pl. offer your comments.

Sr. PP

Sd/- Om Prakash
4.11.99

7. This file was marked to Sr. PP on 4.11.99. But he has not joined till date. This is put up for further order Pl.

PP/MV Ramanaih

Sd/- M. Das
CA to SP
1.12.99

8. Sr. PP on long leave. Pl. offer your comments.

Sd/-Om Prakash
SP CBI Dt. 1.12.99

PP/MV Ramanair

9. Sir, perused the verified report of Sri SP Singh Yadav, Inspector. The report discloses that the suspect officials committed irregularities in awarding contracts and executing works relating to lying to optical fiber cable in Imphal Churchandpur Sector and

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payments were made at exorbitant rates. The act of the public servant caused wrongful loss of Rs. 59 lakhs (approximately) to the department and corresponding wrongful gain to the private parties.

It is a fit case to register a PE against the suspect as given in the report of the IO.

Sd/- MV Ramanaih
PP, CBI
14.12.99

SP

10. My comments placed herewith for perusal and N/A Pl.

Sd/- Om Prakash
SP, CBI, Guwahati.
30.12.99

DIG
---

11. Why did he conduct verification without registration and permission of competent authority ?

Sd/- KC Kanongo
DIG Dt. 13.1.2000

SP
---

12. Pl. explaine .

Sd/- Om Prakash
SP, CBI, Guwahati.
24.1.2000

IO
---

13. File received on 2.2.2000. Required explanation is put up for kind perusal.

Sd/- Applicant
3.2.2000

14. May please refer to para 11 of Note sheet. The explanation has been submitted by Inspector S.P. Singh Yadav for submitting verified source information which is available at page 33 to 35 of the file. He has stated that this information have been developed during the investigation of RC 5(A)/98-SHG. May kindly see for further necessary orders.

Sd/- Om Prakash
SP, CBI, Guwahati.
15.2.2000

DIGP, NER

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15. This I think has already been dealt in some other file

SP

Sd/- KC Kanongo
DIG, Dt. 3.3.2000

16. Pl. see the other file No. SA/SHG/99/20 and submit draft chargesheet as desired by DIG.

DSP

Sd/- Om Prakash
SP, CBI, Guwahati.
6.3.2000

17. CA to Pl. put up with relevant file.

CA

Sd/- AK Saha
DSP, CBI, Guwahati.
6.3.2000

18. Pl. see endorsement on file No. SA/SHG/99/20 and take action accordingly.

CA/Head Asstt.

Sd/- AK Saha
DSP, CBI, Guwahati.
8.3.2000

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Advocate

(33) 393

**COMMENTS OF SUPERINTENDENT OF POLICE ON THE SIR SUBMITTED BY INSPECTOR S.P. SINGH YADAV VIDE NO. SA/SHG/99/22**

**********

DIG, NER may like to peruse the SIR submitted by Shri S.P. Singh Yadav, Inspector of the Branch **available at page 1 to 31 of the file** recommending for registration of a P.E against (1) Shri M.L. Sarma, the then DE (OFC), Engineer in-charge, O/o the Director OFC, Project, Guwahati and three others of telecom department including contractor of Imphal Churachanpur OFC Project, on the allegation that while the aforesaid officials posted and functioning in their respective capacities indulged into irregularities in awarding of contract and executing works relating to laying of Optical Fiber Cables in Imphal Churachandpur Sector and payments were made at exorbitant rate.

It may be noted that the SIR has not at all registered for formal verification and the I.O has submitted the verified SIR which has developed during the investigation of CBI case No. RC 5(A)/98-SHG against Shri K. Ganesh.

This verified SIR of the I.O has been examined by Shri A.K. Deb, PP of the branch whose comments are **available at 9 of the Note Sheet** and also agreed with the recommendation of the I.O.

Though the SIR was not registered earlier for formal verification but since this the out come of development during investigation of RC 5(A)/98-SHG and as recommended by I.O and PP a PE may be registered against the suspect officials after registration of the SIR. Since the S.O is in the pay scale of Rs. 10,000/= to 15,000/= as such JD (E) is competent to pass order in this regard. Further, since execution of work was at Imphal, the case may be registered at Silchar Branch as Imphal comes under the jurisdiction of Silchar Branch.

**( OM PRAKASH )**
Superintendent of Police
**CBI ::: ACB ::: Guwahati**

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Advocate

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Supdt of Police
CBI/ACB/SDE
Guwahati
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May kindly ref the note of learned DIG at SL No. 11 in the notesheet.

In this connection I have to submit as follows :-

(1) This verified report is the outcome of Investigation in RC-5(A)/98-Shg, as names of few contractors, viz. Abed Hussain and Giasuddin Ahmed were disclosed by the accused Sri K. Ganesh, among others in the complaint/FIR, who had contributed to the said cash currency seized from Sri K. ganesh on 6.9.97 at Airport. These contractors were given contract for OFC laying work on Imphal-Moreh, Jorhat-Dimapur-Kohima, Imphal-Churchandpur Route and as such detailed investigation was undertaken to find out as to what irregularities in the said contracts causing wrongful loss to the exchequer, prompted the contractors offer bribes to the accused Sri K. Ganesh CGM Telecom (I/F) Ghy. The irregularities and wrongful loss to the exchequer are very much reflected in my said reports. Further investigation in this regards, was felt to be conducted thoroughly and also separately therefore in view of the instruction in CBI crime manual detailed report were given for registration of separate cases. In this similar fasion RC-5A/96 & RC 3A/96 were registered as an outcome of RC 5A/94-Shg.

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Advocate

2. Further, SP may please see complaint/SIR file, wherein the SIR/complaint submitted by Inspr K. Barman was endorsed tome for verification, and as the subject matter of SIR/complaint was same as investigation of RC-5(A)/98-Shg, as such the sad SIR was closed. Thus it is incorrect to say that no SIR at all been registered for formal verification.

3. Further, in August/September 1999 when the Annual Target Position of Branch/Region regarding disposal of case were very acute, the learned DIG himself had called every IO for discussion at RO and pressurised to give cases so that the same could be disposed off in minimum time and thereby the Branch/Region could achieve its Annual Target.

During said meeting I discussed this matter in detail and thereafter prepared the reports showing it to learned DIG himself and thereafter as per his instruction submitted the same for registration of PE which were bound to be converted to RC and in this way Branch could also had progressed in achieving Annual Target.

With the same view and help branch achieve its annual target I had submitted Two SIRs for surprise checks, out of them after conductance of surprise check, one resulted into registration of PE 15(A)/99-Shg and lateron converted to Regular case in 1999. The other case out of another Surprise check is being registered in the year 2000.

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4. It is however shocking to learn that said reports, which were not only part of my investigation in RC-5(A)/98-Shg but also were submitted after thoroughly discussing the subject matter with learned DIG and on his instruction, has become subject matter of controversy and undesirable comment. It seems "supervision" has become a tool for finding fault and cause harassment and mental agony.

It is also pertinent to mention herein that such problems are outcome of the fact that learned DIG is directly calling the IOs to regional Office over phone and giving them instructions without notice to branch SP and such disregard of protocol, hierarchy and proper channel results in to confusion and such unsavory remarks, which destroys the working spirit of the IOs and create demoralising and un congenial atmosphere of working.

Submitted.

Sd/-

SP Singh Yadav
Guwahati.

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Copy
Adv
Advocate

ANNEXURE - RJ/10



(20) 3

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To,

The O.C, Azara Police Station.

Sub:- F.I.R.

On 6.9.97 Shri K.R. Ganesh S/O Lt. K. Raman of Parthe Sarathi Puram, T.Nagar-Chennai-17 & the Chief General Manager of Tele Communication Deptt (Task Force) Guwahati, and he was going from Guwahati-Calcutta-Chennai by IAC flight No. 230 scheduled to leave at 1200 Hrs. He went to book his luggage. I.A.C. security man put the baggage in the X-ray machine which revealed something fishy. The security supervisor wanted Shri K. Ganesh to open up and show what the baggage contained. As Shri K. Ganesh refused to open the baggage on the plea that he was not having the key with him. The security supervisor Shri Jitendra Baishya informed the matter to Police security. Mr. K. Ganesh was brought to Police security enclosure. He was found also carrying hand baggage. At this point Mr. K. Ganesh took out one letter reportedly issued from M/s Pragjyotish Construction and enterprise(Pvt) Ltd. a certificate that cash of five lakhs are sent for cost of materials to be purchased. Airport security incharge police Inspector Bhabon Das, informed the matter to S.P. and D.C, D.C. Kamrup detailed me Executive Magistrate, City Shri D. Barua to enquire into the matter.

On arrival at Borjhar Airport at the police Security enclosure found Mr. K. Ganesh with I.A.C. Security Supervisor and Police. On enquiry Mr. Ganesh identified himself as above and identified his luggage to me including one locked suitcase and one locked hand bag. In presence of witness the key of the suitcase and hand bag were taken from him and was asked to open ~~xxxxxx~~ and show the articles by opening the bag and the suitcase. On opening the bag, suitcase and luggage found Mr. K. Ganesh carrying currency amounting to Rupees 25,31,200/- of different denominations of Rupees 500/-, 100/-, 50/-, 10/-.

Contd--p/2

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On enquiry Mr. K. Ganesh admitted that the money belonged to him. The money was given to him by the contractors, suppliers who were working under him. They are viz. M/s Assami Concrete Guwahati, Mr. M.K. Agarwalla of Guwhati, Mr. N.K. Maheswari, Mr. Abid Hussain, Giasuddin Ahmed and others. These contractors, suppliers were given works by him. They earn profits and gave him share of their profit. Thus the money along with the connected documents were seized.

Mr. K. Ganesh also revealed that he is living at Guwahati alone. His family is at Chennai. Every after 2/3 months he visits Chennai and every time he

ANNEXURE-RJ/11

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E-mail

TO :- DD(A) CBI NEW DELHI

FROM :- SP CBI ACB GUWAHATI
E/24/2002_____/ Dated_____

With reference to your E-Mail dated 04.07.03,I am forwarding herewith the details of rewards given to CBI personnel from Constable to Inspector upwards for the year 2002 as under :-

DETAILS OF REWARDS GIVEN TO CBI PERONNEL FROM CONSTABLE TO INSPECTOR FOR THE YEAR 2002

| Sl. No. | Name & Designation | Amount of Reward | Date of Sanction | Reason for Reward | Individual wise Total Reward |
|---|---|---|---|---|---|
| 1 | Sh.B.S. Jha, Inspr. | 800 | 9/1/2002 | For laying of successful trap at Guwahati Railway Station. | 5,200 |
| | | 3,500 | 30/01/02 | For achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 900 | 23/4/02 | For his good work in RC6/2002. | |
| 2 | Sh. L. Hangshing, Inspr. | 800 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 2,800 |
| | | 1,000 | 30/01/02 | For achieving annual target for the year 2001. | |
| | | 1,000 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 3 | Sh. M.S. Dhundia, R.S.O. | 800 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 5,600 |
| | | 3,300 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 1,500 | 20/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 4 | Sh. Monojit Dey, ASI. | 500 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 4,450 |
| | | 2,700 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & | |

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Advocate

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|---|---|---|---|---|---|
| | | | | for his good work done during ADCBI's visit. | |
| | | 500 | 20/11/02 | For arresting absconder in RC9/96. | |
| | | 750 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 5 | Sh. Biren Suri, Const | 400 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 3,100 |
| | | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 400 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 300 | 25/9/02 | For laying trap in RC 14(A)/2002. | |
| 6 | Sh. Jitu Deka, Const | 400 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 3,700 |
| | | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 500 | 30/8/02 | For excellent performance in search operations. | |
| | | 300 | 25/9/02 | For his good work done in RC 15(A)/2001 | |
| | | 500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 7 | Sh. Sankar Dey, Const. | 400 | 9/1/02 | For laying of successful trap at Guwahati Railway Station. | 4,150 |
| | | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | |
| | | 400 | 15/10/02 | For the good work done by him. | |
| | | 750 | 7/11/02 | For his accident free driving. | |
| | | 600 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 8 | Sh. R.P. Bose, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 3,500 |

| | | | | | |
|---|---|---|---|---|---|
| 9 | Sh. B. Das, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 7,400 |
| | | 900 | 23/4/02 | For his good work done in connection with trap case RC 6/2002. | |
| | | 600 | 25/9/02 | For his good work in search operation in RC 17(A)/2002. | |
| | | 900 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 500 | 25/9/02 | For conducting search in RC 14(A)/2002. | |
| | | 1,000 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 10 | Sh. N.R. Dey, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 6,400 |
| | | 900 | 25/9/02 | For his good work in search operation in RC 17(A)/2002. | |
| | | 1,000 | 25/9/02 | For his good work for conducting search in RC 14(A)/2002. | |
| | | 1,000 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati | |
| 11 | Sh. V.L. Hriata, Inspr. | 3,200 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 4,700 |
| | | 700 | 25/9/02 | For his good work in RC 6(S)/97-Shg. | |
| | | 800 | 25/9/02 | For his good work for conducting search in RC 9(A)/2002. | |
| 12 | Sh. M. Sharma, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 6,600 |
| | | 700 | 23/4/02 | For his good work done in connection with trap case RC 6/2002. | |
| | | 900 | 25/9/02 | For conducting search in RC 14(A)/2002. | |
| | | 1,500 | 20/11/02 | For his good work during | |

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| | | | | inspection of DIG/CBI/NER/Guwahati. | |
| 13 | Sh. A. Mao, Inspr. | 3,200 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 3,700 |
| | | 500 | 12/3/02 | For his good work in PE 5(A)/2001 & 7(A)/2001. | |
| 14 | Sh. N.G. Khamrang, Inspr. | 3,500 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 5,000 |
| | | 1,500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 15 | Sh. K.M. Das, Inspr. | 1,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 1,000 |
| 16 | Sh. Jivan Ch. Singh, Inspr. | 2,500 | 30/1/02 | For his good work done during ADCBI's visit. | 2,500 |
| 17 | Sh. P. Shadang, S.I. | 2,250 | 30/1/02 | For his good work done during ADCBI's visit. | 3,250 |
| | | 1,000 | 20/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 18 | Sh. M. Banerjee, Inspr. | 800 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 5,700 |
| | | 800 | 30/8/02 | For his contribution in search operation in RC 17(A)/2002 | |
| | | 900 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 800 | 25/9/02 | For conducting search in RC 14(A)/2002. | |
| | | 800 | 25/9/02 | For the good work done in RC 15(A)/2001. | |
| | | 1,500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 19 | Sh. K.R. Kabui, S.I. | 3,050 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 4,150 |
| | | 600 | 25/9/02 | For his good work in RC | |

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| | | | | 17(A)/2002. | |
| | | 500 | 25/9/02 | For his good work in RC 15(A)/2001. | |
| 20 | Sh. H.C. Klita, ASI. | 2,700 | 30//1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 2,700 |
| 21 | Sh. S. Chakraborty, H.C. | 2,250 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 2,550 |
| | | 300 | 12/3/02 | For his good work in PE 5(A)/2001 & 7(A)/2001. | |
| 22 | Sh. S. Kharkongon, H.C. | 2,350 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 4,050 |
| | | 500 | 6/6/02 | For his good work in RC 12(A)/2000. | |
| | | 600 | 20/11/02 | Managing the working of Malkhana without regular Assistant. | |
| | | 600 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 23. | Sh. M. Ram H.C. | 2,250 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 2,650 |
| | | 400 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 24 | Sh. A. Borthakur, H.C. | 1,750 | 30/1/02 | For his good work done during ADCBI's visit. | 2,550 |
| | | 800 | 20/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 25 | Sh. P.K. Sharma, H.C. | 500 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 1,100 |
| | | 600 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 26 | Sh. B. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & | 2,000 |

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| | | | | | |
|---|---|---|---|---|---|
| | Baruah, Const. | | | for his good work done during ADCBI's visit. | |
| 27 | Sh. Anil Kr. Singh, Const. | 1,500 | 30/1/02 | For his good work done during ADCBI's visit. | 3,600 |
| | | 400 | 26/3/2002 | For rendering assistance to Crime In-charge. | |
| | | 300 | 22/7/02 | For rendering assistance to Crime In-charge. | |
| | | 500 | 30/8/02 | For rendering assistance to Crime In-charge. | |
| | | 400 | 25/9/02 | For his good work in RC 14(A)/2002. | |
| | | 500 | 21/11/02 | For his good work during inspection of DIG/CBI/NER/Guwahati. | |
| 28 | Sh. S.L. Gogoi, Const. | 1,500 | 30/1/02 | For his good work done during ADCBI's visit. | 2,250 |
| | | 750 | 10/7/02 | For accident free driving. | |
| 29 | Sh. S. Kumar, Const. | 2,000 | 30/1/02 | For achieving annual target for the year 2001 and good work done during ADCBI's visit. | 3,000 |
| | | 500 | 20.2.02 | For completing the assigned job successfully. | |
| | | 300 | 19.7.02 | For his good work done in RC 9(S)Calcutta. | |
| | | 200 | 25.9.02 | For his good work in RC 14(A)2002. | |
| 30 | Sh. B.K.Pegu, Const | 2,000 | 30.1.02 | For achieving annual target for the year 2001 and his good work during ADCBI'visit. | 2,300 |
| | | 300 | 21.11.02 | For his good work during DIG's inspection. | |
| 31 | Sh. S. Ghimere, Const | 2,000 | 30.01.02 | For achieving annual target for the year 2001 and for his good work during ADCBI's visit. | 3,300 |
| | | 400 | 23.4.02 | For his good work done in trap case in RC 6/2002 | |
| | | 400 | 25.9.02 | For laying trap on 14.09.02 successfully. | |
| | | 500 | 21.11.02 | For his good work during DIG's inspection. | |
| 32 | Sh. A.K. Basak,Const | 2,000 | 30.1.02 | For achieving annual target for the year 2001 and for his good work done during ADCBI's visit. | 5,600 |

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| | | | | | |
|---|---|---|---|---|---|
| | | 500 | 26.03.02 | For performing duties sincerely and satisfactorily. | |
| | | 400 | 23/4/02 | For his good work done in Trap Case RC6/2002. | |
| | | 500 | 15/5/02 | For his sincere and hard work in discharging dutiesn assigned to him. | |
| | | 300 | 22.7.02 | For his sincere devotion to duties | |
| | | 500 | 30.08.02 | For his dedication to his duties. | |
| | | 500 | 25/9/02 | For good work in RC 17(A)/2002 | |
| | | 400 | 25/9/02 | For laying trap on 14/9/02. | |
| | | 500 | 21.11.02 | For his sincerity during DIG's inspection. | |
| 33 | Sh. S.K.Baruah, Const | 2,500 | 30.01.02 | For achieving the annual target for the year 2001. For his good work done during ADCBI's visit and also rendering assistance to Crime section. | 4,400 |
| | | 500 | 23/4/02 | For his good work done. | |
| | | 300 | 22/7/02 | For rendering assistance to Crime In-charge. | |
| | | 500 | 30/8/02 | For rendering assistance to Crime In-charge. | |
| | | 600 | 21/11/02 | For his good work during DIG's inspection. | |
| 34 | Sh. Bipul Kumar, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 3,000 |
| | | 500 | 13/6/02 | For his sincere works in the Court. | |
| | | 500 | 21/11/02 | For his good work during DIG's inspection | |
| 35 | Sh.Sarjeet Singh, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 & for his good work done during ADCBI's visit. | 12,300 |
| | | 300 | 12/3/02 | For his good work in PE 5(A)/2001 & 7(A)/2001. | |
| | | 10,000 | 26/7/02 | For his excellent performance in RC 7/2002. | |
| 36 | Sh John David, Const | 2,000 | 30/01/02 | For his contribution in achieving annual target for the year 2001 | 2,300 |

| | | | | | |
|---|---|---|---|---|---|
| | | | | and good work done during DCBI's visit. | |
| | | 300 | 12/03/02 | For good workdone in PEs 5 & 7(A)/2001 | |
| 37 | Sh. E. Lyngdoh, Const | 2,000 | 30/01/02 | For good workdone in PEs 5 & 7(A)/2001 | 2,300 |
| | | 300 | 12/03/02 | For good workdone in PEs 5 & 7(A)/2001 | |
| 38 | Sh Arup Bhuyan, Const | 2,000 | 30/01/02 | For his contribution in achieving annual target for the year 2001 and good work done during DCBI's visit. | 2,600 |
| | | 300 | 30/8/02 | For completing typing in RC 12(A)/2001. | |
| | | 300 | 21/11/02 | For his good work during DIG's inspection | |
| 39 | Sh. Sukumar Saha, Const | 500 | 30/1/02 | For his contribution in achieving annual target for the year 2001. | 2,650 |
| | | 400 | 23/4/02 | For his good work in Trap Case RC 6/2002. | |
| | | 400 | 25/9/02 | For laying Trap on 14/9/02. | |
| | | 450 | 25/9/02 | For his good work in RC 15(A)/2001. | |
| | | 400 | 15/10/02 | For his good work. | |
| | | 500 | 21/11/02 | For his good work during DIG's inspection. | |
| 40 | Sh. Michi Tamang, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,300 |
| | | 300 | 21/11/02 | For his good work during DIG's inspection. | |
| 41 | Sh. Digen Sarkar, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,300 |
| | | 300 | 20/11/02 | Arrested the absconder in RC 9/96. | |
| 42 | Sh. Tashi Monpa, Const | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,000 |
| 43 | Sh. Gyom Teri, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 | 2,000 |

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| | | | | and good work done during ADCBI's visit. | |
| 44 | Sh. Indreswar Borah, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 3,500 |
| | | 400 | 25/9/02 | For his good work in RC 6/97. | |
| | | 300 | 25/9/02 | For his good work in RC 15(A)/2001. | |
| | | 300 | 25/9/02 | For his good work in RC 9(A)/2002. | |
| | | 500 | 21/11/02 | For his good work during DIG's inspection. | |
| 45 | Sh. J. P. Pathari, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,500 |
| | | 500 | 19/7/02 | For his sincere work in execution of NBWA. | |
| 46 | Sh. K. Samlagai, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 3,100 |
| | | 400 | 25/9/02 | For his good work in RC 6/97. | |
| | | 300 | 25/9/02 | For his good work in RC 9(A)/2002. | |
| | | 400 | 21/11/02 | For his good work during DIG's inspection. | |
| 47 | Sh. Gauridhar Das, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,600 |
| | | 200 | 12/9/02 | For good work in PE 11 (A)/2001. | |
| | | 400 | 21/11/02 | For his good work during DIG's inspection. | |
| 48 | Sh. Tilak Kafle, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,400 |
| | | 400 | 21/11/02 | For his good work during DIG's inspection. | |

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|---|---|---|---|---|---|
| 49 | Sh. G.K. Borah, Const. | 2,000 | 30/1/02 | For his contribution in achieving annual target for the year 2001 and good work done during ADCBI's visit. | 2,500 |
| | | 500 | 21/11/02 | For his good work during DIG's inspection. | |
| 50 | Sh. Mintu Borah, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 51 | Sh. Gangaram Das, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,950 |
| | | 750 | 10/7/02 | For his accident free driving. | |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 52 | Sh. T. Sharma, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 53 | Sh. A. Alam, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 54 | Sh. Mukut Boruah, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 55 | Sh. Mukul Ch. Deka, Const. | 1,500 | 30/1/02 | For his good work during ADCBI's visit. | 2,200 |
| | | 700 | 20/11/02 | For his good & sincere work during DIG's inspection. | |
| 56 | Sh. K.L. Moses, Inspr. | 600 | 25/9/02 | For good work in RC 17(A)/2002 | 1,600 |
| | | 1,000 | 21/11/02 | For his good & sincere work during DIG's inspection. | |
| 57 | Sh. Prafulla Baruah, H.C. | 400 | 21/11/02 | For his good & sincere work during DIG's inspection. | 400 |
| | | 191,250 | | | 191,250 |

(One Lakh Ninety One Thousand Two Hundred Fifty) only

Superintendent of Police
CBI(ACB)Guwahati

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Advocate

ANNEXURE-RJ/12

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OFFICE ORDER NO. 214 DATE 2/8/01

Extract of the letter No. CBI.II.No.2045/A/20/157/93-NER of DIG,CBI,NER,Guwahati is reproduced below:-

" Shri S.P. Singh Yadav,Inspector,CBI,Guwahati(under suspension) was punished with stoppage of 3(Three)increments with cumulative effect vide office order No.39 dated 15.2.2001 communicated vide No.A/20/157/93/01066-70 dated 15.2.2001 of SP CBI,Guwahati. He has appealed before Addl. Director, CBI, Kolkata against the said order and ADCBI has ordered that punishment imposed be kept suspended till further orders."

Superintendent of Police
CBI/ACB/Guwahati.

QRPG 0-91

Memo No.DPSHL2001/ /GH/20/157/93 date 2/8/01

Copy to:-

1. Account Section,CBI,ACB,Guwahati for necessary action.
2. Person concernd.

Superintendent of Police
CBI/ACB/Guwahati.

Certified to be true copy
Advocate

Received
21/8/2001
15/8 b/s
90/SB/CBI/Hqrs/Guwahati

ANNEXURE-RJ/13 COLLY

-200-

दिल्ली विशेष पुलिस स्थापना..... शाखा

DELHI SPECIAL POLICE ESTABLISHMENT.....SCU-II..... .....BRANCH

# प्रथम सूचना
# FIRST INFORMATION REPORT

(दं० प्र० संहिता की धारा 154 के अधीन)
(Recorded u/s 154 Cr. P.C.)

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अपराध संख्या
Crime No. BC.27(A)/96-SIG..... रिपोर्ट करने का समय और तारीख
Date and time of Report..12.7.96 at 11.30 hrs.

| | |
|---|---|
| घटना-स्थल और राज्य का नाम<br>Place of occurrence with State | Nagpur (Maha) |
| घटना का समय और तारीख<br>Date and time of occurrence | During 1992-96 |
| शिकायती या सूचना देने वाले का नाम और पता<br>Name of complainant or informant with address | Source |
| अपराध का विवरण<br>Offence | U/Ss 13(2) r/w 13(1)(c) of PC Act, 1988. |
| अभियुक्त का नाम और पता<br>Name and address of the accused | (1) Shri [illegible]<br>Superintending Engineer,<br>CPWD, Central Govt. Colony,<br>Nagpur.<br>(2) [illegible]<br>Engineer at Koradi Project,<br>Nagpur.<br>(3)..... |

कार्रवाई का विवरण
Action taken BC.27(A)/96-SIG is registered.

तफ्तीश अधिकारी
Investigating Officer S.P. Singh, Dy. Supdt.
CBI, ACB, Mumbai.

## सूचना
## INFORMATION

Information about the Case Diary [illegible]

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Advocate

Information fusther exist that during 1986 to March 1994 Borah earned following income from Pay & Agriculture :-

| | | | |
|---|---|---|---|
| 1. | Pay(net) | :Rs | 4,47,386/- |
| 2. | Agricultural income | :Rs | 21,000/- |
| | | Rs | 4,68,386/- |
| 3. | Minus 1/3rd as Expenditure | : Rs | 3,12,258(Net income) |

However, information also exist that Sri Purna Kant Borah acquired the following assets during 1986 -1994.

| | | | |
|---|---|---|---|
| 1. | N.S.C. | :Rs | 80,000/- |
| 2. | N.S.S. | ;Rs | 20,000/- |
| 3. | UTI | :Rs | 10,000/- |
| 4. | Jeevan Dhara | :Rs | 14,800/- |
| 5. | SB A/C No. 443/C | :Rs | 42,776/- |
| 6. | SB A/C No. 838 | :Rs | 1,237/- |
| 7. | Plot of land measuring 2 Katha at Jorhat/No. 6 Dag No. 5242. / PP | :Rs | 42,000/- |
| 8. | Plot of land PP No. 175 Dag No. 5250 at Jorhat | ;Rs | 1,20,000/- |
| 9. | Motor Cycle | :Rs | 31,500/- |
| 10. | Car | :Rs | 1,00,000/- |
| 11. | Farm Equipments | :Rs | 12,000/- |
| | Total | :Rs | 4,74,313/- |

Whereas Sri Purna Kant Borah's net income from aforesaid known sources comes out to be Rs 3,12,258/- only, he is found to have acquired assets worth Rs 4,74,313/- during 1986-94. Sri Borah is thus found to be in possesion of assets to the tune of Rs 1,62,155/- beyond his known source of income.

The aforesaid facts discloses the commission of offences punishable U/S: 13(2) r/w 13(1)(e) of P.C. Act' 1988, on the part of Sri Purna Kant Borah. A regular case is therefore registered [illegible] against him and endorsed to Sri Suresh Singh Yadav, Inspr. CBI, ACB, Guwahati for investigation.

Supdt. of Police, CBI, ACB,
Guwahati.

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Central Bureau of Investigation
Guwahati
Final Report - II

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| | | | |
|---|---|---|---|
| 1. | Case No. & date | : | RC. 27(A)/96-SHG dt. 12/7/96. |
| 2. | Section of Law | : | U/s. 13(2) R/w 13(i)(e) of P.C.Act. 1988. |
| 3. | Name ~~of~~ and design. of Prosecutor, preparing comments | : | Sh.J.S.Terang, Sr.PP. |
| 4. | Date when FR-I was received | : | 23-03-98. |
| 5. | Date when FR-II was prepared | : | 25-03-98. |
| 6. | Date when FRs were forwarded to H.O. | : | |
| 7. | Name & Design. of accused | : | Sh.Purna Kanta Borah Superintending Engineer/ Class-I Gazetted. |

8. Brief story of the case :

The suspect officer(S.O.) entered in the service of Industrial Development Association, Education Project, Assam Agricultural University on 13-12-1977, then he has changed ~~the~~ his service by joining the Assam State PWD service from July'79 onwards and again he has changed his service by joining in the O.N.G.C. service on 23-8-1980 as Assistant Executive Engineer(Civil) and he is continuing his service with the ONGC till the date of registration of this case on 12-07-96.

The instant case was registered on the basis of source information with the allegation that Sh.Purna Kanta Borah is having possession of assets which are disproportionate to his known sources of income.

Investigation has revealed that Sh.P.K.Borah is the ~~[illegible]~~ eldest child of his parent, his father Lt.Ganesh Chandra Borah was ~~[illegible]~~ blessed with the other children who are Chandra Kanta Borah(son) Nirmala Kumari(daughter), Krishna Kanta Borah (son) and Bishwa Kanta Borah(son), Nirmala Kumari was married to Shri Chandiath of Jorhat [illegible]. She is employed as Private Secretary to the General Manager, Geo-Physicist, D.V.B., ONGC Project.

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[illegible]
Advocate

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Jorhat. Shri Chandra Kanta Borah, Sh. Krishna Kanta Borah and Shri Bishwa Kanta Borah are all employed in ~~xx~~ Oil-Paid services.

Shri Purna Kanta Borah was married in Jan/1983 with Smt.Nayanjyoti Borah. And the, were blessed with three children they are Upasana Borah(daughter), 11 years of age and studying in Class-V by now and Smt.Uddipanna Borah(daughter) 7 years of age and studying in Class-II by now, and Sh.Neet Borah(son) 3 years 6 months of age by now. Smt.Nayanjyoti Borah was from a well-do-do family.

For the purpose of investigation of this instant case the check period is taken from 23-8-80 the dt. on which Sh.P.K.Borah joined as Asstt.Executive Engineer in ONGC,Sibsagar,Nazira to 10-10-96 the date on which the I.O. equipped with ~~x~~ the search warrant from Hon'ble Court conducted searches in the house and premises of Sh.P.K.Borah at Village Tilikim ,Distt. Jorhat at his resident,premises, Nizara, Sibsagar and at ONGC Housing Complex Mehsana, ~~xxx~~ Gujrat .

The I.O. has obtained the statement of pay-particulars from Dy.Manager (F & A) T.B.G. (PCS) ERBC,ONGC Ltd. Sibsagar which was forwarded to SP, CBI, Guwahati by Sh.S.K.L.Kureel vide his letter dtd. 20/10/97 for the period from 1985-86 to 1993-94 and for the remaining subsequent period till Feb/1997. The I.O. has obtained the pay-particulars from Dy.Manager(F & A) T.B.G.,ONGC, Mehsana vide his statement dtd. 8/9/97 which was forwarded to CBI/Guwahati by Manager(Vig.) vide his letter dtd. 30/9/97 [illegible]

In course of investigation the I.O. Sh.S.P.Singh Yadav, Inspr. has examined the suspect officer and tried to asceftain the other probable sources of inceme of the accused. And accordingly the I.O. has collected documents from Agricultural Extension Officer, Dhotia Circle, Titabor Agriculture Sub-Division Distt. Jorhat which supports the contention of the accused. And also ascertain the other sources of income as follows :-

i) Divident and Interest Rs. 3,000/-

ii) Income Tax Refund Rs 38,380/-

iii) Matuirity valueReceipt on NSC and others Rs. 2116,695/-

iv) Profit of Rs. 23,000/- by sale of Car Registration No. AMS- 1698 and profit of Rs. 8,000/- by sale of a Car Registration No. WMW-291.

v) Share Profit earned Rs. 97,350/-.

On the likely expenditure side the I.O. has made the calculations by deducting 1/3 of the gross income of the accused all from known sources of income . Thus, the I.O. has worked out the likely saving of the accused person for the whole check period as follows :

A) Rs. 15,52,662 gross pay and allowances

B) Other sources of inceme which were detailed above comes to Rs. 4,73,125/- the combination of both the figures make Rs. 20,25,788/- and the assets which the accused was likely to have in possession earlier to the check period ascertained by the I.O. was Rs. 19,200/-. Therefore, on the date on whibh the check period ends the accused can be said to nave a total earning of Rs. 20,44,988/- the 1/3rd of this figure makes Rs. 6,81,662.66 and Rs. 20,44,988 - Rs. 6,81,662.66 makes Rs. 13,63,325.34.

On the occassion of conducting the [illegible] the I.O. has made the inventory of the goods and [illegible] found which makes the total value of Rs. [illegible] which [illegible] ascertained and calculated on the basis of [illegible] and [illegible] by the I.O. during the [illegible] tion

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The accused has made the payment of Rs. 2,28,000/- till the ending ~~xxxxxx~~ date of check period for purchase of a flat at New Delhi in the name of Smt.Nayanjyoti Borah. ~~xxxxxxxxx~~ and one plot of land at Jorhat covered by DAC No. 5242 was purchased by the accused during the year 1988-89 for Rs.42,000/- and another plot of land at Jorhat covered by DAC No. 5250 was purchased by the accused in the year 1993-94 for Rs.1,32,000/- only, thus, for the acquisition of land and landed property the accused has made the expenditure of Rs. ~~x,02,000~~ 4,02,000/- only from his ~~xxxxxx~~ known sources of income.

9. Analysis :

The FIR allegations are not substantiated by the evidences collected during investigation and the evidences so collected are not sufficient to rebut the likely defences of the accused person .

The I.O. has collected the personal file of the suspect in respect of his service in the ONGC.

10. Difficulties : NIL.

11. Suggesstions : NIL

12. Opinion :

I agree with the opinion of the I.O. recommending closure of the instant case as it is appearing from the evidences collected that in place of FIR allegations being substantiated the case is going otherwise favouring the [illegible]

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Advocate

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## COMMENTS OF SP IN CASE NO 27(A)/96-SHG

1) Case No. & date of registration : RC 27(A)/96-SHG Dt. 12.7.96.

2) i) Recommendation of I.O. :

I.O. in his FR-I has recommended that case may be closed as the allegation could not be established.

ii) Recommendation of Sr. P.P. :

Sr. P.P. in FR-II has also recommended to close the case.

3) Comments of SP(Allegationwise) :

i) Allegation :

This case was registered on the basis of Source information. It was alleged that the accused Sh. P. K. Borah was found to be in possession of assets disproportionate to his known sources of income.

On the basis of the SIR, verifying officer had worked out that Sh. P. K. Borah had received total income for the period from 1986 to 1994 at Rs. 3,12,258/- whereas during the said period he was found in possession of assets worth Rs. 4,74,313/- thus he was found in possession of assets excess to his known sources of income to the tune of Rs. 1,62,055/-. The case was having a very weak footing right from the beginning because Sh. P. K. Borah has been working as Superintending Engineer in ONGC and has been getting very fat salary. However the case was registered since he was already processed and orders were obtained from the competent authority.

Soon after the registration of the case, searches were conducted on 10.10.96 at the native place of Sh. P. K. Borah as well as at the place of his posting at Mehsana(Gujarat). Thus for the purpose to calculate the income, expenditure and assets the check period has finally been taken from 23.8.80 to 10.10.96 i.e. the date of searches.

Sh. P. K. Borah joined ONGC as Asstt. Engineer(Civil) on 23.8.80 at Sibsagar project of ONGC and thereafter he was transferred to ONGC project at Mehsana in May 1993 as Superintending Engineer. In between he got promotion as an Executive engineer on 1.1.85. He also got promotion as Dy. Superintending Engineer on 1.1.88 and as Supdtng. Engineer he was promoted on 1.1.92. Prior to joining ONGC, Sh. Borah was working as Asstt. Engineer in Assam Agricultural University, Jorhat. From Agricultural University he joined the service as Asstt. Engineer in PWD. Sh. Borah is basically a Civil Engineer from Jorhat Engineering college in the year 1979. It is worth mentioning here

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that though he passed Engineering in 1979 but during his study he had joined Agricultural University under IDA project right from 1977.

Sh. Borah was married to Smt. Nayanjyoti Borah D/O Monoranjan Chetia of Sibsagar in January, 1985. He has got 2(two) daughters namely Upasana Borah and Uddipana Borah aged about 11 years and 7 years respectively and one son namely Sh. Neet Borah aged about 4 years. His both daughters are school going. Mrs. N. Borah was working as a teacher in an English medium school namely Holy Name School at Sibsagar from the period 1988 to 1998.

Prior to the check period i.e. 13.12.77 to 23.8.80 i.e. while Sh. Borah was working in the state services his total income was Rs.28,800/-. The details of which has been calculated by the I.O. in his FR-I in the column " Income before the check period" and I.O. has taken 1/3 as his expenditure during that period thus his total saving was Rs. 19,200/-.

During the check period, the investigation has disclosed the total income of Sh. Borah, the accused the details of which are as under :

| | | | |
|---|---|---|---|
| 1) | Net Income from Salary | | Rs. 10,17,531.00 |
| 2) | Dividend received by him during 95-96. | | Rs. 3,000.00 |
| 3) | <u>Agriculture Income</u> : Sh. Borah has claimed Agricultural Income right from 1980-81 to 1995-96 i.e. 1.4.81 to 10.10.96 The benefit of this income has been given because he has been informing his department from time to time regarding the income he has been getting from his Agricultural land and the matter has also been investigated. | | Rs. 86,700.00 |
| 4) | <u>Income Tax refund</u> : He has claimed income towards income tax refund which are as under : | | |
| | i) 1995-96 | Rs. 20,580.00 | |
| | ii) 1995-96 | Rs. 18,000.00 | |
| | | Rs. 38,580.00 | Rs. 38,580.00 |

Contd.....

5) The maturity value received by Sh. Borah from NSC/NSS/CDS for the period from 1992-96 comes to Rs. 2,16,695/- Yearwise details are given in the column under category "g" of FR-I. Rs.2,16,695.00

6) Profit on Sell of assets :

i) In 1984 he had purchased a car vide No. AUS-1688 after taking loan from department and the same was sold at Rs.28,000/- which sold in 87-88 for Rs. 51,000/- thus he had earned Rs. 23,000/-

ii) In 1987 he purchased a car No. UNO-291 at Rs. 1,12,000.00 which he disposed off and sold in 1992 at Rs. 1,20,000.00 thus he earned profit of Rs. 8,000.00

total Rs. 31,000.00

7) Profit from Share :

In 1992 he had purchased shares worth Rs. 26,100/- and in 95 he disposed off for Rs. 1,25,450.00. This point has been investigated into and the shares were disposed of through brokers The certificate of the brokers has been collected by the I.O. Thus under this head he earned a profit of Rs. 97,350/- Rs. 97,350.00

8) Income from interest from the different banks, Post offices etc.: Rs. 52,014.00

Thus the total income of Sh. P. K. Borah comes to Rs. 15,42,670.00

From the salary during the check period his total income comes to Rs. 10,17,531.00. 1/3 of the same has been calculated as expenditure as such it comes to Rs. 3,39,177.00 thus the net income from salary during the check period comes to Rs. 6,78,354.00.

Besides, the benefit of the savings of Sh. P. K. Borah prior to the check period has already discussed above i.e. Rs. 19,200.00 is added to the net likely saving during the check period of Sh. P. K. Borah come to Rs.(15,42,670.00-3,39,177.00)+19,200.00=Rs.12,22,693.00.

As against the likely saving of Sh. P. K. Borah, investigation has disclosed that he has acquired the assets worth Rs. 8,78,306.00. Itemwise details are given in FR-I under the heading "Movable and immovable assets acquired during the check period".

Contd.....

From the above, it can be seen that Sh. P. K. Borah has got surplus saving to the tune of Rs. 3,32,207.00

Total Income : Rs. 12,22,693.00

(-) Assets acquired: Rs. 8,78,506.00

∴Surplus saving : Rs. 3,44,387.00

Thus, it can be construed that the allegation against the accused Sh. P. K. Borah has not been able to be established.

The investigation has also disclosed that during the period from 1988 to 1993 Mrs. Borah was working as an Asstt. teacher in Holy Name School at Sibsagar and she had received salary to the tune of Rs. 93,600.00.

Apart from the above, Sh. Borah had claimed a gift of Rs. 40,402.00 as detailed below:

Gift during 1992-93:

i) Krishna Kanta Borah his brother has given him gift of Rs. 20,201/- Rs. 20,201.00

ii) Mrs. Pravabati Borah his mother has given him gift of Rs. 20,201/- Rs. 20,201.00

Rs. 40,402.00

I. O. has not given benefit of this amount as the gift show receipt has not been supported by any documents. Moreover, he has not informed the department about the expenses of gift by him. In view of the above fact I am of the opinion that I.O. has rightly denied this benefit to the accused.

ii) Recommendation : In view of the facts as discussed above, I am constrained to agree with the recommendation of the I.O. and Sr. P.P. and recommend that the case may be closed as the allegation against the accused could not be substantiated.

( M. K. Jha )
Supdt. of Police,
CBI, ACB, Guwahati.

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Advocate

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## Comments of DLA, CBI, Calcutta Region in c/w RC No. 27(A)/96-SHG.

I have carefully gone through the Final Report Part I & II as well as SP's comments thereon. This case was registered on the basis of source information against Shri Purna Kanta Borah, Superintending Engineer, ONGC, Nazira, Assam u/s 13(2) r/w 13(1)(e) of P.C. Act, 1988 on the allegation that the accused officer while posted and functioning in various capacities in the ONGC, during 1986-1994 had amassed huge assets, both movable and immovable, by corrupt and illegal means which was grossly disproportionate to his known sources of income to the tune of Rs. 1,62,155/-.

2. In this case, there has been an unanimous recommendations of the branch officers viz. I.O., Sr.PP and S.P. for closure of the case since evidence collected during investigation does not support the allegations made in the FIR.

3. Investigation conducted has collected evidence, both oral and documentary, to establish the following figures of income during the check period from 23.8.80 (i.e. the date of joining ONGC) to 10.10.1996 ( i.e. the date of search).

| | |
|---|---|
| a) Assets during pre-check period | Rs. 19,200/-. |
| b) Income during the Check period | Rs.15,42,670/-. |
| c) Expenditure during C.P. (1/3rd of salary Income Rs.10,17,531 during C.P) | Rs. 3,39,177/-. |
| d) Likely Savings during C.P. | Rs.12,03,493/-. |
| e) Assets during C.P. | Rs. 8,78,306/-. |
| f) Likely saving plus Assets during the pre-check period. | Rs.12,22,693/-. |
| g) Surplus Likely Savings during C.P. | Rs. 3,44,387/-. |

4. Investigation has also revealed that Mrs. Borah was working as an Asstt. Teacher in a school at Sibsagar during the period from 1988 to 1993 and she received salary to the tune of Rs. 93,600/-. Besides, the accused officer also claimed a gift of Rs. 40,402.00, but the I.O. had not taken into account such gift as no cogent evidence could be produced by the accused officer.The fact of receipt of such gift has also not been intimated to his department.

5. Sr.PP has mentioned in his FR.II that no witness has been examined by the I.O. and so, statement of witnesses are not available in this case. This is highly unsatisfactory on the performance of the I.O. who needs to be reprimanded by the supervisory officer.

6. In view of the facts and circumstances of the case, as indicated above, I am also inclined to be in agreement with the unanimous recommendations of the branch officers that the case should be closed since the allegations of possessions of disproportionate assets by the accused officer do not hold good; and on the other hand, a surplus savings of Rs.3,44,387/- has come on record.

(D.C. Saikar)
Deputy Legal Adviser,
CBI/Calcutta Region.

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Advocate

CENTRAL BUREAU OF INVESTIGATION
REGIONAL OFFICE : CALCUTTA

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Subt:- Comments of DIG,CBI,E.R. Region in CBI, Guwhati Branch case No. RC 27(A)/96-SHG.

I have gone through F.Rs. and comments of branch SP and the DLA thereon, copies of which are forwarded to the Jt. Director(East) for kind perusal and orders.

This is a Disproportionate Assets case registered against Shri P.K.Borah, Supdtg. Engineer, ONGC, Nazira, Assam.

During the course of investigation the allegation of possession of D.A. by the accused has not been established beyond doubt. Investigation was also made to see if the accused had failed to intimate his deptt. regarding receipt of gift and purchase of land. Investigation revealed that in both the instances the accused had duly intimated to his deptt.

The branch officers and DLA have unanimously recommended for closure of the case. I find that there is no D.A., rather there is a surplus income of Rs.3,44,387/-. I, therefore, in agreeing with the branch and DLA recommend for closure of the case.

Submitted to the JD(East) for kind orders. This is a JD level case.

28/11/98

(N.K.Ray)
Dy. Inspr. Genl. of Police,
CBI, Calcutta Region.
Holding Addl.charge of DIG/NER.

Encls:- As above.

Jt.Director(East),CBI,Cal.
ID No. 2-648 /3/27(A)/96-SHG. Dated:- 28/11/98

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the
Advocate

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CENTRAL BUREAU OF INVESTIGATION
EAST ZONE : CALCUTTA

Subject: Observation of SP(East) in RC 27(A)/96-SHG.

May kindly refer to ID / Letter / Fax No.(s)

dated on the above noted subject.

Observations / comments of ~~DCBI / SIB/CBI~~ / JD(IS) is / are reproduced below / enclosed for information and necessary action.

CC

Who submitted the source information? Please ask his explanation. Case is old case."

Dy.Supdt.of Police 3/12/98
Eastern Zone / CBI
Calcutta

DIG/CBI/N.E.Region Guwahati Camp Calcutta
CBI/ID No. 392/98 / 3/27(A)/96-SHG/52 dated: 3.12.98
Fax

Copy to SP, CBI, Guwahati for information and necessary action.

Dy.Supdt.of Police
Eastern Zone / CBI
Calcutta

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Adv. Advocate

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IN THE COURT OF THE SPECIAL JUDGE :: ASSAM :: GUWAHATI

SPECIAL CASE NO.1/2000

State

Vs.

Purna Kant Borah

Present:

Shri K. A. Das, M.A., LL.B.,
Special Judge, Assam,
Guwahati.

DATE

14.2.2000

ORDER

Seen the F.I.R. of R.C.27(A)96- SHG. forwarded by the Supdt. of Police CBI/ACB/ Shillong vide his No. RC.27(A)96-SHG/4251 dated 12.7.96 alleging an offence U/s 13(2) r/w 13(1)(c) of P.C. Act against the accused Purna Kant Borah.

The case is registered. Also seen the Final report submitted by Supdt. of Police CBI/ACB/Guwahati vide his letter No. 3/27(A)96-SHG/07573 dated 17.6.99. The final report has been submitted.

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| प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios. | तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant. |
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| | | | | |



14.2.2000
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Seen the charge report. Considering the materials on record the final report submitted by the I.O. is accepted. The accused is discharged.

Return the seized articles from whom it was seized in due course of time.

Sd/- K. K. Das,
Special Judge, Assam,
GUWAHATI.

COURT OF SPECIAL JUDGE ASSAM GUWAHATI

TYPED BY } :
READ BY } : 14-3-2000
COMPARED BY : B.Bhatta 14-3-2000

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Shri Khasnabis Adv.
14/3/2000
Advocate

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Advocate

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos.30,31 & 61 of 2001

Date of Order: This is the Day of May 2001.

HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER

Suresh Pal Singh Yadav, Inspector
(Under suspension),
Central Bureau of Investigation,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.G.Barua Road, Sundarpur,
Guwahati - 781 005. ... ... Applicant

By Advocate Mr. B.K.Sharma, Mr. P.K. Tiwari
Mr. U.K.Goswami

-Vs-

1. K.C. Kamungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3

2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3

3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2. ... ... Respondents

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

O R D E R

CHOWDHURY J. (V.C.)

O.A. 30,31 & 61 of 2001 are taken up for consideration together since all these Applications embrace self same issues arising out of like situations appertaining to the propriety of initiation of the three departmental proceedings. The applicant assailed the legitimacy of the aforesaid actions of the respondents as well as the continuance of the departmental proceedings against him, in these O.A.s.

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2. We have heard learned counsel for the parties at length. After going through the materials on records and upon considering the submission on behalf of the parties, we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable. The article of charges are framed against the applicant. He has already submitted his written statements denying and disputing the allegations. All things considered, we are not inclined to intervene and we are of the view that the departmental proceedings in question should proceed and come to its logical end as per law.

3. Enquiry Officer has already been appointed and from the conduct of Enquiry Officer and also from the materials on records, we do not perceive any disability in the Enquiry Officer and to debilitate him from the Enquiry. Considering all aspects of the matter we, however, feel that the respondent no.1 Shri K.C. Kanungo, Deputy Inspector General of Police should not act as a disciplinary authority. The applicant has specifically expressed his apprehension that he is not expecting to get treatment in hand of Respondnent No.1 as the disciplinary authority.

4. Mr. B.K. Sharma, learned Senior counsel for the applicant particularly referred to us to the observations made by the aforementioned Officer of Police, in his order deciding to hold a formal enquiry after receipt of the written statement. Considering the findings and observations made in the aforesaid order read with the

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written statement filed, we feel that it would not be appropriate for the said respondent to act as disciplinary authority and therefore he should be recused. We have adopted this course to recuse the Respondent No.1 to act as a disciplinary authority to avoid all misgivings. Justice not should only be done, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence. The concerned authorities including the Director, CBI, are ordered to act accordingly. The enquiry shall now proceed as per law. We expect that the enquiry shall be conducted with utmost expedition. We, however, make it clear that the applicant should entitled to raise all the legal issues those are raised in the O.A.s including the maintainibility of the departmental proceedings before enquiry as well as the disciplinary authorities.

With the observation made above, the applications stand disposed of. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

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6/5/2002

Section Officer (J)

Central Administrative Tribunal

6/5/2002

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Advocate

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No. 833 /13/3/2001/CRO

Central Bureau of Investigation,
Government of India,
Kolkata Region,
Nizam Palace,
2nd MSO Building (14th Floor),
234/4, A.J.C. Bose Road,
Kolkata-20.
Dated:- 18/10/2001.

## O R D E R

**WHEREAS** an enquiry under Rule 8 of Delhi Special Police Establishment (Subordinate Ranks) ( Discipline and Appeal) Rules 1961 against Shri Suresh Pal Singh Yadav, Inspector(Under Suspension), CBI, ACB, Guwahati is in progressas as per Memorandum issued vide No. 1478/12/Comp./SLC/NER/PT(III) dt. 17.5.2001 and No. 1516/12/Comp./SLC/NER/Pt.(II) dt. 22.5.2000. The other memorandum No. 1378/12/Comp./SLC/NER/PT (I) dt. 11.5.2000 has already been decided in the Hon'ble CAT, Gauhati Bench by releasing the salary for the peeriod 1.10.99 to 28.10.99.

**WHEREAS** the undersigned has been appointed as the Disciplinary Authority in the matter pending against Shri Suresh Pal Singh Yadav as per order of the Additional Director, CBI, Kolkata dated 16.7.2001.

Now, therefore, the undersigned, in exercise of the power conferred by Sub-rule(2) of the said rule hereby appoints Shri A.Prasad, SP, CBI, Silchar as Enquiry Officer to enquire into two charges as mentioned at para 1 above framed against the said Shri Suresh Pal Singh Yadav.

This supercedes this Office Order No. 645/13/3/2001/CRO dt.24.8.2001

Sd/-
( Vijoy Kumar )
Dy. Inspr. Genl. of Police
CBI/ Kolkata Region/Kolkata

Memorandum No - 833 dt.- 18/10/01.

Copy to:-

1. Sh. A.Prasad, SP, CBI, Silchar.
2. Staff Officer to the Additional Director, CBI, Kolkata
3. DIG, CBI, NER Gauhati, for information w.r.t. his I.D. No. 251/08/30/2001 dated 10.9.2001.
4. Sh. Suresh Pal Singh Yadav, Inspr. CBI, Guwahati through SP, CBI, ACB, Guwahati.
5. Sh. Manoj Banerjee, S.I, CBI, Gauhati (P.O.) for information and necessary action.

18/10/2001
( Vijoy Kumar )
Dy. Inspr. Genl. of Police
CBI/ Kolkata Region/Kolkata

Received
now 29/11/2001

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Advocate