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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

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O.A/T.A No. 43/2003

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SECTION OFFICER (Judl.)

15/11/07

5005\EA .A.O

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

. . . . .

ORDER SHEET

Original Application No. 93/03
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) A.K. Chaudhury

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time Condonation Petition is filed / not filed C. F. for Rs. 50/- deposited vide IPO/B 246070 Dated 7.3.03 By. Registrar	21.3.2003	Heard Mr. J. Purkayastha, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. List on 22.4.2003 for admission. Vice-Chairman
Steps taken already. mb	22.4.	Case did not call today. The case is adjourned to 24.4.2003. mb
Notice prepared and sent to D/S for issuing the respondent No 1 to 5 by Regd. A/D. D/No 595 to 599 dtd 28/3/03	24.4.2003	Put up again on 13.5.2003 for admission. Vice-Chairman mb

(2)

O.A. 43/2003

29.4.03

Parawise Comments/~~s~~ submitted by the Respondents one copy only.

13.5.2003 Heard Mr. J. Purkayastha, 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

mb

24.6.03

Para wise Comments submitted.

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

Mr. A. Deb Roy, learned Sr. 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

mb

8.7.03

W/S submitted by the Respondents Nos. 1 to 5.

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

No rejoinder has been filed.

12.8.03.

mb

(3)

O.A. 43/2003

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

No rejoinder has been filed

28.8.03.

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.

Member Vice-Chairman

lm

19.9.03 List for Admission on 24.10.03.

Member

lm

14.11.03

WJS filed by the respdt. No rejoinder filed.

24.10.03 There is no Bench today. Adjourned to 17-11-03.

lm

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

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

Adjourned. List for admission on 19.11.2003.

Member Vice-Chairman

nkm

O.A. 43/2003

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.K. Choudhury, learned Addl. C.G.S.C. for the Respondents.

5.12.03
Rejoinder submitted by the Applicant.

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

mb

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

Member

Vice-Chairman

pg

The case is ready for hearing.

30.3.04

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 this item before the next Division Bench.

Member(A)

Member(J)

bb

O.A. 43 of 2003

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

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

List the case before the next 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 D.B. for hearing.

By order.

27.9.04. Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.

Member Vice-Chairman

lm

15.10.04

Copy of the order dtd 27.9.04 has been sent to the Office for issuing to the applicant as well as to the L/Advs for the Respdts.

15/10/04

O.A.43/2003

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)

The case is ready for hearing.
NS 20/8/04.

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. The learned counsel for the applicant prays for adjournment. Prayer is allowed. List on 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, Administrative Member.

List before the next Division Bench.

Member (A) Vice-Chairman (J)

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

nkm

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~R.A.~~/~~C.P.~~ No. 43 of 2003.

DATE OF DECISION 27-9-2004.

Suresh Pal Singh Yadav .....APPLICANT(S)

Sri P.K.Tiwari .....ADVOCATE FOR THE APPLICANT(S).

-VERSUS -

Union of India & Ors. .....RESPONDENT(S)

Sri A.K.Choudhuri, Addl.C.G.S.C. .....ADVOCATE FOR THE RESPONDENT(S).

THE HON'BLE MR. JUSTICE R.K.BATTA, VICE CHAIRMAN

THE HON'BLE MR. K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Yes.
judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the Judgment ?

4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 43 of 2003.

Date of Order : This the 27th Day of September, 2004.

The Hon'ble Mr Justice R.K.Batta, Vice-Chairman

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

Suresh Pal Singh Yadav,
R.G.Baruah Road, Sundarpur,
Guwahati-781005. ...Applicant

By Advocate Shri P.K.Tiwari.

- 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 (NE Region)
Guwahati.

5. K C Kanungo,
Deputy Inspector General,
Multi Disciplinary Monitoring Agency,
Central Bureau of Investigation,
1/10 Jamnagar House,
Hutments, Akbar Road,
New Delhi-110011. ... Respondents

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

O R D E R (ORAL)

R.K.BATTA, J (V.C)

The applicant has approached this Tribunal for expunging adverse remarks in the ACR for the year 2000, which

was communicated to him by Memorandum dated 13.10.2001 (Annexure A/4). Against the communication of adverse remarks, the applicant had made a detailed representation dated 14.4.2002 to the Director, CBI, which is at Annexure A/7. While hearing the matter, it transpired that the said detailed representation of the applicant has not been disposed of by the department on account of which the applicant had to approach this Tribunal. In the light of the nature of controversy and the detailed representation filed by the applicant, it is considered appropriate that directions be given to the appropriate authority in the CBI to consider the representation and pass reasoned speaking order in the matter.

2. We, therefore, direct the appropriate authority in the CBI to examine the representation and pass appropriate reasoned order within a period of two months from the date of receipt copy of this order. A copy of this order be sent to Director, Central Bureau of Investigation, CGO Complex, Lodhi Road, New Delhi, so that the appropriate authority complies with the order of this Tribunal. It goes without saying that if the applicant is still aggrieved after the decision on the representation, he shall be free to take up appropriate proceedings in accordance with law.

The application stands disposed of in aforesaid terms.

(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

(R.K.BATTA)
VICE CHAIRMAN

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
10 MAR 2003
गुवाहाटी न्यायपीठ
Guwahati Bench

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. 43 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: 10/3/03

Registration No. OA 43/03

REGISTRAR

Filed by the Applicant
through the Advocate
Jaideep Purkayastha
10/8/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 43 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**

DETAILS OF APPLICATION

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

The present application is directed against the adverse remarks in the Annual Confidential Report (ACR) of the applicant for the year 2000 communicated vide Memorandum No. 2829/47/CBI/NER/2001 dated 13th October, 2001.

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 this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that he had vide letter dated 29.10.2001 requested for certain clarification pertaining to the adverse remarks communicated to him vide Memorandum dated 13th October, 2001 so as to enable him to submit an effective representation. This was followed by a reminder dated 30.12.2001. However, when there was no response the applicant submitted his representation dated 14.4.2002 on the basis of whatever materials were available with him. However, after submission of representation dated 14.4.2002 the applicant has not heard anything 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.

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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 2000. Apart from assailing the legality of these remarks on grounds like remarks being vague, general and sweeping, the applicant is also alleging malafide exercise of power on the part of Respondent No.4/5 (Reviewing Authority). Applicant has come to know that reporting authority had given positive remarks to the applicant but the then Reviewing Authority Respondent No.4/5 out of malice and grudge against the applicant substituted the same by adverse comments. These adverse remarks against the applicant are also contrary to the instructions which are required to be complied with while preparing the ACR. In the instant application the then Reveiwing 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 exemplary 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 also 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 Application and quashed the impugned Memorandum containing Adverse remarks.

A copy of the order dated 11th September, 2002 passed in O.A No. 127/2002 is annexed herewith as **ANNAEUXRE-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 piqued the respondent 4/5. Since during the period the aforesaid OA No.338/99 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 with necessary documents/ medical papers with the request for granting him 28 days medical leave. However, 28 days medical leave was not granted and salary of the applicant for the month of October 1999 was also withheld.

4.6. That such was the degree of animus bore by the Respondent No.4/5 against the applicant that some time in November/December 1999 in File No.153/99/Vol. II/NFR, the Respondent No.4/5 in his note to the S.P. CBI, wrote that *rewards should not be given to person like SP Singh Yadav who is using the reward money for fighting CAT Cases against CBI* (emphasis added). 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, a 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 a complaint to the Director of CBI and to Assam Human Rights Commission 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.

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 particulars and it only stated that in view of gross misconduct of the applicant, it has 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 the 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 angered the respondent No.4/5 resulting in issue of order of suspension dated 26.4.2000 pending disciplinary proceeding.

4.13. That after the order of suspension, the applicant was served with three different charge sheet 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 Ho'ble Tribunal instead of quashing the charge sheetx 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 Tribunal 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 applicant on the basis of the Medical Certificate furnished by him. In its order the Hon'ble Tribunal described the stand of the Respondents as "obdurate" and observed 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.

4.17. That it was in the above backdrop that the circumstances under which the adverse remarks made against the applicant in his ACR for the period 2000 have to be appreciated.

4.18. That it was vide Memorandum dated 13th October, 2001 issued by the Deputy Inspector General of Police (Respondent No.4/5) the applicant was communicated with the adverse remarks in his ACR for the year 2000, which meant the whole calendar year i.e. from 1.1.2000 to 31.12.2000. In the aforesaid Memorandum the following remarks were made.

> " He is not reliable and dependable, is in the habit of making false and motivated complaint against Superior Officers and Staff. He has been served charge sheets in several cases and the Departmental proceedings are in progress. He filed charge sheet against an innocent persons (sic) against HO Order in RC 15/93-SHG"

A copy of the Memorandum dated 13th October, 2001 is annexed herewith and marked as **ANNEXURE-A/4.**

4.19. That in connection with the aforesaid adverse remarks it is pertinent to mention 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 1.1.2000 to 31.12.2000 the applicant was graded "Below Average". Therefore, it is understood that the adverse remarks made in the ACR of the applicant for the period 1.1.2000 to 31.12.2000 resulted in his being graded as "Below 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. However, 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. The document in the written statement of the respondents filed in OA No. 154/2002 showed the grading "Average" in the ACR of the applicant for the year 1999. The aforesaid "Average" grading was also the result of certain adverse remarks which are the subject matter of challenge in a separate Original Application.

Document filed by the Respondent in the written statement of OA No.154/2002 showing the grading in the ACRs of the applicant from the year 1997 to 2000 is annexed as **ANNEXURE – A/5**

4.20. That since the remarks communicated to the applicant pertaining to his ACR for the year 2000 were vague, sweeping , general and subjective in nature, the applicant deemed it fit to seek clarification vide his letter dated 29.10.2001 and requested that the material particulars be furnished to him to enable him to submit an effective representation. This was necessary because the adverse remarks like "He is not reliable and dependable, is in the habit of making false complaint against superior officers and staff" could have been replied only after acquiring the knowledge of those incidents which enabled the Competent Authority to come to such conclusion. In the absence of such particulars, the applicant could do little, but to write a plain denial. The clarification was also necessary because the applicant was placed under suspension by his Reviewing Authority (Respondent No.4) vide order dated 26.4.2000 and the applicant wanted to know as to whether the adverse remarks communicated to him for the year 2000 are for the whole year 2000 or

they were for the period from 1.1.2000 to 25.4.2000. This clarification was also necessary because due to the order of suspension dated 26.4.2000 the applicant could not discharge his official duties and there was no occasion for the respondents to judge the performance of the applicant in the whole year of 2000. When the letter of the applicant dated 29th October, 2001 did not evoke any response the applicant also sent a reminder letter dated 31.12.2001.

A copy of the letter and reminder dated 29th October, 2001 and 31st December, 2001 are annexed herewith and marked as **ANNEXURE-A/6** colly.

4.21. That when even the reminder dated 31.12.2001 could not yield any response from the respondents, therefore, being left with no other alternative the applicant decided to submit a representation dated 14.4.2002 on the basis of whatever information was available to the applicant. In his representation dated 14.4.2002 the applicant dealt elaborately with the adverse remarks made in his ACR and he also alleged *malafide* against the Reviewing authority (Respondent No.4).

A copy of the representation dated 14.4.2002 is annexed and marked as **ANNEXURE/A7**.

4.22. That the adverse remarks communicated to the applicant vide impugned memorandum dated 13.10.2001 are shown to be pertaining to the whole year 2000 i.e. 1.1.2000 to 31.12.2000. However, the said assessment of the work performance and conduct of the applicant in confidential report could not be for a period longer than 1.1.2000 to 26.4.2000 as the applicant was placed under suspension by the same Reviewing Authority by his CBI ID No. 1191/12/COMP/SLC/NER/99 dated 26.4.2000 and, therefore, the adverse

entry in the ACR of the applicant cannot be treated for the whole calendar year 2000 and the same can only be for a small period of less than four months. I.e. with effect from 1.1.2000 to 26.4.2000 during which the applicant was allowed to discharge his official duties.

4.23. That the adverse entries made in the applicant's ACR for the year 2000 are unwarranted , unreasonable and apart from being perverse the same are actuated with *mala fide*. Such adverse entries could not have been made while undertaking performance appraisal of the applicant for the period of less than four months than prescribed optimum period of full calendar year. Particularly the adverse remarks that "His performance is below average" could not be sustained by any reasonable argument as the applicant was not allowed to display his full performance for the optimum period of one year prescribed in Rules for appraisal of the work performance for writing Annual Confidential Report. Hence the Reviewing Authority could not take advantage of one year his and *malafide* action of cutting short applicant's prescribed period for the appraisal of his work performance to a period less than four months by way of suspension and then pass adverse remarks that the applicant's "performance is below average".

4.24. That the Rules prescribe that comment and observations in the ACR should relate to the period of report. And not extraneous to it, and therefore, in the instant case any subject matter of adverse remarks should relate to the period from 1.1.2000 to 26.4.2000 only. However, the subject matter of adverse remarks for the year 2000 pertains to the period extraneous to the period of ACR i.e. 1.1.2000 to 26.4.2000. Thus, in the three Disciplinary proceedings, the charge memorandum vide No.(i) 1378/12/COMP/SLC/NER/99 Pt(1) dated 11.5.2000 (ii) 1479/12/COMP/SLC/NER/99 Pt (11) dated 17.5.2000, & (iii)

1516/12/COMP/SLC/NER/99 Pt (11) dated 22.5.2000, were issued in the month of May 2000 and, therefore, cannot be the subject matter for Adverse Remark during the said period of appraisal which is up to 26.4.2000 only. Similarly, the subject matter of CBI case No.RC-15(A)/93-SHG pertains to the period 1997. It is pertinent to mention that the competent authority which is a much superior officer than the Reviewing Authority, i.e. Joint Director, CBI, East Zone, Kolkata vide his UO No.3823/3/1515/93-SHG dated 16.6.97 ordered for closure of the aforesaid matter. It is noteworthy that the order for closure of the aforesaid matter was made on 16.6.97, whereas the Reviewing Authority Shri KC Kanungo was posted in Guwahati only in the year July 1999. Therefore, raking up the aforesaid matter vide impugned adverse remarks in the year 2000, which was set at rest after administrative finality of the decision in the matter and as per order of the competent authority in the year 1997 itself is not only malafide but also extraneous to the period of ACR in question i.e. 1.1.2000 to 26.4.2000. The adverse entry of such a nature cannot be said to be serving either the objective of ACR writing or any public interest. It is obvious that the matter pertaining to RC-15(A)/93-SHG was dug up by the Reviewing Authority out of malice and spite towards the applicant for settling his personal vendetta.

4.25. That the impugned adverse remarks are perverse being based on no evidence at all. The applicant was never warned in the past, he was never advised in the past and the short comings that have been indicated in the form of Adverse Remarks were never pointed out to the applicant at any point of time in the past. It is further submitted that if the reporting authority disagrees with the self appraisal report of the applicant and Reviewing authority disagrees with the assessment of the Reporting Authority, it must support its assessment with material particulars. Since it has been learnt by the applicant that the reporting

authority had given positive remarks in the ACR of the applicant for the year 2000 and the Adverse Remarks were brought in by the Reviewing authority, therefore, the Reviewing authority is expected to support its assessment with material particulars. The impugned adverse remarks made by the Reviewing authority are not sustainable in law as they are not supported by any material particulars.

4.26. That reference is made to the various clauses in the form for confidential report. Clause 18 of Part-IV of the Form which contains a heading - "Do you agree with the remarks of the Reporting Officer ? If not, indicate briefly the reason for disagreeing with Reporting Officer and the extent of disagreement against the respective column. (Explanation) : Officers are expected to clearly mention whether or not they agree with the remarks of the Reporting Officer against various items. Their own personal/general remarks also be added here". Similarly, clause 19 contains a heading "Overall assessment of performance and qualities" and clause 20 deals with "Comments on the grading of the Reporting Officer."

All the aforesaid clauses are in Part -IV of the Form which is required to be filled up by the Reviewing Officer. From the perusal of the various columns in Part -IV of the Form, it is clear that the Reviewing Officer is required to act objectively while assessing the remarks of Reporting Officer made about the Officer reported upon. In the present case, from the nature of remarks made by the Reviewing Authority it is clear that the reviewing Authority did not act objectively and instead he acted maliciously with the prejudiced mind to malign and tarnish the service career of the applicant.

Sample copy of the Form for Confidential Report containing the required instruction is annexed herewith as **ANNEXURE -A/8.**

4.27. That the applicant would now deal with the adverse remarks made in his ACR in the light of his performance in the Central Bureau of Investigation. The adverse remark No.1 contains the following adverse entry:

Adverse Remark No.1.

"He is not reliable and dependable"

It is stated that the aforesaid remark is vague, general, sweeping and subjective. The applicant during the period under review i.,e. 1.1.2000 to 26.4.2000 was never told or warned as regards the nature, character, amplitude and context in which the said reliability and dependability in discharge of official function was found wanting. The applicant requested in his letter dated 29.10.2001 and reminder dated 31.12.2001 to the Reviewing Authority for furnishing better particulars in this regard but the same did not evoke any response. It is stated that in the prescribed form of ACR no such columns are provided for being filled up by the Reporting Authority or Reviewing Authority and therefore, adverse remarks in this regard are extraneous and unwarranted. While making such remarks the Reviewing Authority deviated from the prescribed administrative instruction. The remarks are perverse and based on no evidence at all.

4.28. That the adverse Remark No.2 contained the following adverse entry:

Adverse Remark No.2

"He is in the habit of making false and motivated complaint against Superior Officers and Staff."

It is stated that the Applicant is duty bound to submit information collected from the source informants pertaining to financial irregularities

and leakage of Government revenue for verification and registration of cases against Central Government employees to concerned authorities of CBI. The Controlling Authority in CBI at the beginning of calendar year while entrusting the task to the Investigating Officers for the year also ordered in writing to collect at least four viable source information which could finally culminate into registration of at least two cases. Such SIR/Complaints are to be disposed as per relevant Guidelines contained in Chapter (IV) of CBI Crime Manual and other Circulars and Instructions contained in Chapter (III) of DCBI Circulars/Standing Instruction within 1955 to 1996. The applicant in view of the above had also submitted Source Information Reports for verification and registration of PE/RC against the delinquent officials including that of CBI and the same was in the discharge of his statutory duties. Be that as it may, the applicant was never confronted in the past with the fact that any of the Source Information Report submitted by him was found false and motivated after verification. It is also stated that the Applicant vide his letter dated 29.10.2001 and 31.12.2001 to the Reviewing Authority, requested for providing him detailed particulars in this regard so that an effective, reasonable and comprehensive representation in the matter could be submitted. However, no such information was supplied. It is. therefore, submitted that the adverse remarks are without any basis and the same are perverse being based on no evidence at all.

4.29 That the adverse remarks No.3 contained the following entry :

Adverse Remark No.3

"He has been served charge sheets in several cases, and the departmental proceedings are in progress."

It is stated that mentioning of the aforesaid fact as adverse entry in appellant's ACR shows lack of bona-fide of the Reviewing

Authority inasmuch as it pertains to the period extraneous to the period under Review i.e. 1.1.200 to 26.4.2000 as the aforesaid three charge Memorandum initiating three separate disciplinary proceedings were issued on 11.5.2000, 17.5.2000 and 22.5.2000 respectively. Moreover, the maintainability of the aforesaid three Charge Memorandum was the subject matter of the challenge before this Hon'ble Tribunal in three separate Original Applications, vide No. 30, 31 and 61 of 2001. As stated earlier, this Hon'ble Tribunal in its common order dated 4th May, 2001 observed that the aforesaid three Disciplinary Proceedings are legally unsustainable, but in the facts and circumstances it deemed it fit to direct the Director CBI to recuse the Reviewing Authority Sri KC Kanungo (Respondent No.5) from acting as Disciplinary Authority and to appoint a different person as Disciplinary Authority to look into the matters connected with three separate disciplinary proceedings. Thereafter, Shri Vijaya Kumar, IPS, DIG, CBI, Kolkata Region, was appointed as Disciplinary Authority, who vide his letter dated 18.10.2001 dropped the charges contained in Charge Memorandum dated 11.5.2000 and closed the said charge sheet. However, no initiative was taken to proceed with the enquiry in connection with the other two charge memorandums. The applicant also submitted his written statements in the other two charge memorandums wherein he questioned the maintainability of the charges. It is noteworthy that after submission of the written statements no further action was taken on the same by the newly appointed Disciplinary Authority. Since in this connection, the applicant has referred to the relevant documents and annexed the same in the preceding paragraphs of the instant application, therefore, to avoid repetition, the applicant craves leave of this Hon'ble Tribunal to rely on the same at the time of hearing of this case. It is also worthwhile to mention that the Reviewing Authority acting maliciously for extraneous reasons, in collusion with a CBI charge

sheeted person in case No.RC-(7A)/96-SHG, issued charge memo No. DPSHL/2000/0021/A/20/157/93 dated 10.1.2000 against the applicant for minor penalty, but passed order for major penalty without giving any opportunity of hearing. The matter was appealed to the Additional Director, CBI, East Zone, Kolkata vide representation dated 13.4.2001 and the Additional Director, CBI was pleased to suspend the aforesaid order of penalty of the Reviewing Authority communicated to applicant vide letter No. DPSHL/2001/22290-91/DA/20/157/93 dated 2.8.2001 of SP,CBI, Gauhati. It is stated that the appeal of the applicant is pending disposal.

Copy of the letter dated 2.8.2001 is annexed as **ANNEXURE/A-9.**

4.30. That the adverse remarks No.4 contained the following entry :

Adverse Remark No.4

"He filed charge sheet against an innocent person against HO Order in RC-15(A)/93-SHG".

It is stated that the aforesaid remarks are extraneous having related to the year 1997. Apart from being extraneous the remarks are also false and misleading, being the result of deliberate manipulation on the part of the Reviewing Authority to harm the service career of the applicant. In the preceding paragraphs of this application it has already been shown as to how the subject matter of the aforesaid remarks was related to the year 1997 when the respondent No.5(Reviewing Authority) was not even posted to Guwahati as a Reviewing Authority of the applicant. The respondent No.5 was posted to Guwahati only in July 1999 and the aforementioned CBI case was closed by the order of the Competent Authority-an Officer much superior to the Respondent no.5 i.e. Joint Director, CBI, East Zone vide his UO No.3823/3/15/93-SHG dated

16.6.97. The relevant facts in regard to the aforesaid matter are given herein below :

(i) The case No.RC-15(A)/93-SHG was registered on 30.6.93 and after investigation by Deputy Superintendent of Police Sri S.A. H. Naquvi, followed by this applicant, , charge sheet was filed through crime section on 23.8.95 in the Court of Special Judge, Assam, Guwahati after following due procedure as prescribed in CBI Crime Manual, i.e. after proper scrutiny and approval of concerned Administrative Authority and Legal Officer of the Branch as well as vetting of the charge sheet by the then Sr PP and now DLA/CBI,Kolkata Sri JS Terang. In this case cognizance was taken on 14.11.95 and charges were framed on 26.3.97 against five accused persons, sent up for trial under Sections 120B, 420, 468, 471 IPC and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988. The names of the five accused were mentioned in column No.1 of the charge sheet, meant for accused sent up for trial.

(ii) That against a public servant named Bakdul Ali, Extension Officer, Lumbajan Development Block, Diphu, Karbi Anglong, Assam only such action as deemed fit by department was recommended for various omissions and commission of irregularities and as such no charge sheet was filed against him, nor for obvious reasons, required prosecution sanction order was obtained, which is a mandatory precondition for filing charge sheet therewith, and for court to take any cognizance. However, under the circumstances his name was mentioned in the column 2 of the charge sheet, meant for persons not sent for trial and this decision was taken bona-fide and consciously after proper discussion and advise of the then Sr PP and now DLA Shri JS Terang , who vetted not only the draft charge sheet but also scrutinized the typed charge sheet. The Sr PP Shri Terang, thus clearly mentioned in the note sheet of the file vide No.45 dated 5.7.95 that 'draft charge sheet is put up to me for vetting followed by noting dated 1.8.95 to the effect that "I have vetted the charge sheet".

Thereafter, charge sheet was filed in the Court, through crime section and the then Crime Clerk Shri UC Razak appended note vide Note No.46 dated 23.8.95 to the effect that the charge sheet was filed in the Court of Special Judge, Assam. It is also significant that the same Senior PP who vetted the charge sheet was entrusted to conduct the case in the Court of Special Judge, Assam.

(iii) That as the said Bakdul Ali, who was neither sent for trial nor any prosecution sanction was obtained, a precondition for taking cognizance on the charges by the Court, but only his name was mentioned in column No.2 of the Charge Sheet as per advice of Sr PP, the Court in its own discretion called said Bakdul Ali at the time of hearing for framing of charges and accordingly charges were framed against other five accused sent up for trial and said Shri Bakdul Ali was let go for the obvious reason and the fact that the charge sheet was not filed against him and the court also did not make any observation in this regard against anybody.

(iv) The matter was duly apprised to the then SP Sri MK Jha, and DIG Shri Netai Mullick, IPS, who was satisfied with the bonafide of IO and Sr PP and though the DIG Shri N Mullick himself was competent to take final decision in the matter, however, he in the order to steer clear any controversy in future referred the matter to the then JD/CBI/EZ Kolkata Dr UN Biswas, IPS vide UO No.3823/3/15/93/SHG dated 16.6.97 and the learned JD/EZ/Kolkata passed final order agreeing to close the matter which was communicated to the DIG Shri N Mullick vide CBI ID No.137/3/15/93-SHG/EZ dated 21.7.97 by the staff officer of JD/EZ Shri RC Choudhury and the matter was clearly reflected in the crime file as "JD(EZ) agrees to close the case". As per the order of the competent authority, i.e. JD/EZ/Kolkata , the SP/CBI/GHY at NS 59 dated 11.8.97 made his endorsement in the file closing the case.

4.31. That the adverse remarks No.5 contained the following entry :

Adverse Remark No.5

"His performance is below average"

(I) It is stated that there could be no justification for appending said remark when the prescribed period of appraisal, as regards the work performance and conduct of the applicant fixed as one year as per rule, was cut short to less than four months by placing the applicant under suspension with effect from 26.4.2000. Further the applicant has information that the Reporting Authority, i.e. Shri Om Prakash, the then SP,CBI, Anti Corruption Branch, Guwahati wrote good remarks for the actual period under review i.e. from 1.1.2000 to 26.4.2000 on the basis of self appraisal statement of the applicant enclosed with the ACR form which shows law Court conviction for five years RI and Rs.10,000/- fine against accused in CBI Case No. RC-32(A)/94-SHG investigated exclusively by the applicant; three convictions in Departmental Proceedings presented by the applicant; registration of five cases viz. (I) PE-5(A)/2000-SHG, (II) RC-14(A)/2000-SHG, (III) PE-15(A)/99-SHG, (IV) RC-1(A)/2000-SHG and (V) PE-10(A)/2001-SHG, on the basis of surprise check conducted by the applicant; finalization of SP's Report in High Court referred and monitored case No.RC-34(A)/96-SHG wherein only charge sheet was to be filed after receipt of prosecution sanction order, and almost complete investigation in RC-5(A)/98-SHG. Thus performance of the applicant as "Good" was rightly reported by the Reporting Authority as per Self appraisal statement of the applicant enclosed with the ACR form.

Copy of the appraisal statement for the period from 1.1.2000 to 26.4.200 is annexed as **ANNEXURE-A/10.**

(II) It is stated that there was no reasonable justification for appending the aforesaid adverse remarks by the Reviewing Authority in the ACR of the applicant for actual period under review from 1.1.2000 to 26.4.2000, more so, when the Reporting Authority had rated the applicant's performance as "**Good**" for the said period. It is stated that the Reviewing Authority had made up his mind for appending these adverse remarks as far back in 1999 when he passed an order for compliance by the SP, CBI, Guwahati at page No.104 of the Branch Inspection Report to the effect that - " SP should stop giving reward indiscriminately which some times puts the Branch in awkward position as in the case of Shri SP Singh Yadav, who is using it to his advantage in fighting his case in CAT, Guwahati." It is stated that ever since the aforesaid direction was given by the Reviewing Authority the applicant was deliberately and maliciously discriminated against by not recognizing his good work and Rewards and Commendation certificates were not conferred upon him for his good performances such as, securing conviction in Court cases and Departmental proceedings and registration of cases following surprise checks etc even though, as per DCBI Standing order No.32 dated 27.12.96 the applicant was to be conferred with Reward and Commendation Certificates for his aforesaid performances.

(III) It is also significant to mention that the Reviewing Authority Sri KC Kanungo himself vide his circular No.2219/120/97/NER dated 18.11.99 endorsed by name to the applicant, ordered for organizing at least one surprise check which may end in actionable result of registration of case. The circular further exhorted that the action taken by each IO would be reviewed after a fortnight for making assessment of his performance in this regard and sincere efforts will be suitably rewarded. The applicant in pursuance of the aforesaid conducted

as many as three surprise checks leading to registration of five cases, viz. (i) PE-5(A)/2000-SHG, (ii) RC-14(A)/2000-SHG, (iii) PE-15(A)/99-SHG, (iv) RC-1(A)/2000-SHG and (v) PE-10(A)/2001-SHG. However, the Reviewing authority did not follow its own circular in so far as the present applicant is concerned. Despite, the efficient performance of the applicant in carrying out surprise checks ending in actionable result of registration of case, his performance was berated and reward and commendation certificates were not given to him.

4.32. 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. The facts and circumstances of the case clearly show that the Reviewing Authority had his own personal agenda to settle 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. 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.

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

5. <u>GROUND FOR RELIEF WITH LEGAL PROVISIONS</u>:

5.1 Because the adverse remarks are sweeping, vague and general. These remarks are perverse in the sense that there is no material to support these remarks.

5.2. Because the Reviewing Authority (Respondent No.5) made the adverse remarks out of malice with the intention to humiliate and

harass the applicant. The remarks were made with the prejudiced mind and as such, the same have no legal sanctity.

5.3. Because the Reviewing Authority made the adverse remarks acting contrary to the remarks given by the Reporting Authority. While deviating from the remarks given by the Reporting Authority, the Reviewing Authority did not give reasons justifying making of adverse remarks. Moreover, the remarks were made in contravention of the instructions contained in the Annexure in ACR form.

5.4. Because the Reviewing Authority while making the adverse remarks took into consideration those very materials which it was not entitled to take. The Reviewing Authority did not confine itself to the performance of the applicant during the period of the ACR and travelled far beyond it.

5.5. Because the Accepting Authority acted with total non application of mind and mechanically affirmed the Adverse remarks of the Reviewing Authority.

5.6. 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. <u>DETAILS OF REMEDIES EXHAUSTED</u> :

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. Expunge the adverse remarks in the ACR of the Applicant for the year 2000 as communicated vide Memorandum dated 13th October, 2001 **ANNEXURE-A/3.**

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

8.3. 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 607047

(II) Date: 7.3.2003

(III) Payable at : Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

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-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 4.1,4.2,4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.16, 4.17, 4.22, 4.23, 4.24, 4.25, 4.27, 4.28, 4.29, 4.30, 4.31, 4.32 and 4.33 are true to my knowledge, those made in paragraphs 4.3, 4.14, 4.15, 4.18, 4.19, 4.20, 4.21, and 4.26 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.

Signature of the applicant.

Suresh Pal Singh Yaadav.

ANNEXURE-A/1

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Applcation 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.

By Advocate Mr. P.K.Tiwari. ...Applicant

-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.

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

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Certified to be true copy

Jhurkayastha 10/8/03

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 Investigtion,
North Eastern Region,
Guwahati, Assam.

Certified to be true copy
10/3/03
Advocate

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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 the applicant 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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Certified to be true copy
Jhurkayastha 10/3/03
Advocate

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respondents stated that the adverse remarks in the ACR of the applicant was lawfuly 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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Jhurhayeshka
10/3/03
Advocate

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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 semingly 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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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 ther 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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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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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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J Purkayastha 10/3/03

Advocate

ANNEXURE-A/2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

47

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. 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 precesdings 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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Section Officer (J)

Central Administrative Tribunal

Guwahati Bench

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Ghurkayastha 10/3/03

Advocate

ANNEXURE-50 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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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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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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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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Advocate

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ANNEXURE- A/4

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No. 2829 /47/CBI/NER/2001, CONFIDENTIAL.
Government of India,
Central Bureau of Investigation,
N.E.Region, Guwahati -781 003.

Dated 12th October, 2001.

MEMORANDUM.

The following adverse entry in the ACR of Shri S.P.Singh Yadav, Inspector has been made for the year, 2000.

"He is not reliable and dependable, is in the habit 1
of making false and motivated complaint against Superior 2
Officers and staff. He has been served charge sheets in 3
several cases and the Departmental procedings are in progress.
He filed charge sheet against an innocent persons against 4
H.O. orders in Rc. 15/93-SHG.

His performance is below average". 5

The following observations, interalia have also been recorded in your ACR which may be read vis-a-vis your overall performance, character and conduct, mentioned above.

1. His attendance is punctual.
2. His state of health is good.
3. He is intelligent.
4. He considers relevant details.
5. Judgement : Takes a reasonable view. etc.

In case, Shri S.P.Singh Yadav, Inspector (Under suspension), CBI, ACB, Guwahati wishes to make any representation against the adverse entry in his ACR he can do so within one month of the receipt of this communication.

12.10.2001

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

To
Shri S.P.Singh Yadav,
Inspector (Under suspension),
CBI, ACB, Guwahati.
Through SP CBI ACB, Guwahati.

-oOo-

Received
Orig.
12/10/2001
(Yadav)

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Advocate

ANNEXURE-A/5

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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 1.1.1998 to 31.12.1998 1.1.1999 to 31.12.1999 1.1.2000 to 31.12.2000	Outstanding. 10 Good. 5 Average. 3 Below Average 0 18	

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Advocate

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ANNEXURE-A/6 Colly

To

Shri KC KANUNGO,
DY. INSPECTOR OF POLICE,
CBI, NE REGION, GUWAHATI.

THROUGH THE SUPDT OF POLICE, CBI/ACB/SPE,GUWHATI.

SUB: Regarding adverse observation in ACR for the year 2000. Communicated vide Memo No.2829/47/ CBI/ NER/ 2001 dated 13.10.2001 of DIG/CBI/NER Shri KC Kanungo.

REF: My letter dated 29.x.2001 Seeking certain clarifications in the matter.

Sir,

Kindly ref as above. Required clarification are yet to be provided.

It is requested once again that required clarifications as per my aforesaid letter may be availed tome so that I may submit an effective representation at the earliest.

Yours faithfully,
Sd/- 31.12.2001
SURESH PAL SINGH YADAV,
INSPRT/CBI/ACB (U/S)
GUWAHATI.

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Jharmayesha
10/3/03
Advocate

ANNEXURE

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To
Shri K.C. Kanungo
Dy. Inspector General of Police
CBI, NE Region, Guwahati

Through The Supdt. of Police
CBI, ACP SPE Guwahati.

Sub : Regarding adverse observation in ACR for the year 2000.

Ref : Memo No 2829/47/CBI/NER/2001 dt. 13/10/2001 of DIG/CBI/NER Sri K.C. Kanungo (Reviewing Authority of ACR) as received on 22/10/2001 at 1700 hrs.

Sir,

May please refer as above whereby the undersigned was communicated to make representation, if any, against the observations made in the ACR for the year 2000. However the undersigned is at a loss as how to respond you in this regard quickly and in time. Particularly in view of your order communicated by Sri Shekhar Chakraborty and other staff of CBI Office that the undersigned has no purpose to meet any of them and visit office and in pursuance of which the undersigned on 28/9/2001 was physically restrained from entering into the O/o SP/CBI/ACB/GHY and misbehaved by the armed guard and Duty Officer even in view of the known fact that I was summoned by Inquiry Authority Sri Tanmay Behra, Dy. SP, CBI, Shillong to render defence assistance to Sri Mukut Das CA to SP/CBI in disciplinary proceedings fixed for hearing against him. Therefore the Inquiry Authority was requested to adjourn the day's proceedings and fixing any other venue than O/o SP, CBI, Guwahati for the purpose. The matter was reported to Branch SP as well as respected AD CBI/EZ/Calcutta and Inquiry Authority in writing.

In view of the above the undersigned is apprehensive and afraid that if he goes again to the office in person to hand over this letter or any other letter, or to receive even salary / subsistence allowance, the undersigned would be misbehaved and would not be allowed ingress in the office. The undersigned is also apprehensive that if he goes to the office he might be implicated in any uncalled for and unsavoury incident of their making as the undersigned was implicated by DIG/CBI/NER by calling Sri A.K. Barua, a dismissed bank clerk and CBI chargesheeted under trial accused against whom the undersigned had some pending civil disputes, to O/o the DIG at Chenikuthi Hill Side, and also the undersigned at the same time and thereafter a charge sheet was issued on false and cooked up charges for minor penalty against undersigned but an illegal and perverse order for major penalty punishment was issued without conducting any required regular enquiry. The said perverse order is now suspended by AD CBI/EZ/Calcutta on appeal.

Therefore the undersigned is compelled to forward this letter by post, instead of submitting it personally and obviously quickly with further request that the concerned may also please be directed to arrange for the payment of the subsistence allowance of the undersigned regularly without visiting the branch office for collecting the same on pay day, so that the undersigned may not have an occasion to violate your esteemed direction and be a possible victim of misbehaviour at the hands of armed sentry guard and others.

2. So far the subject matter as abovesaid is concerned. It is submitted.

That in the memorandum above said it has been shown that the adverse observation pertains to the year 2000. However the undersigned was placed under suspension by Sri K.C. Kanungo DIG/CBI/NER/99 vide his CBI ID No. 1191/12/COMP/SLC/NER/99 dt. 26/4/2000 and the undersigned is still continuing under suspension since than. It may therefore please be clarified as to whether said ACR pertains to the entire calendar year 2000 or for the period from 1/1/2000 to 25/4/2000 while the normal and routine duties were discharged.

3. That the adverse observations to the effect that (i) he is not reliable and dependable, are vague sweeping and general. The undersigned is not aware of any incident from which it could be inferred that he is not reliable and dependable. The undersigned was also not informed or

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forewarned in this regard. Therefore, the material / report that formed the basis for such remark may be supplied so that a reasonable and effective representation against it could be submitted.

Similarly the adverse observation against the undersigned that (i) he is in the habit of making false and motivated complaint against superior officers and staff, is also vague, general and sweeping. It may be specified as to which complaints made by me were false and motivated so that I may be in an effective position to represent against said adverse remark.

Further the remark to the effect that the undersigned filed chargesheet against an innocent person against HO order in RC-15(A)/93-SHG is concerned, the undersigned as far as could remember, the chargesheet in the case was filed in 1995 and the trial in the case was going on smoothly since than, and until April 2000 when undersigned was placed under suspension it is confirmed that Hon'ble Court of Special Judge, Assam has passed no observation in this regard since 1995 and until now. If there are any such observation / report or complaint of the court it may kindly be supplied so that an effective comments / representation against the said remark could be forwarded.

4. That as per relevant Confidential Rolls rules and Principle of Natural Justice, it is provided that such adverse remarks "shall be communicated" to the officer in writing together with the substance of the entire confidential report. However in this memorandum remarks of Reporting Officer against column 2(i), 3, 4(i)(ii) and 11 of Part III were only furnished and entire confidential report containing comments / observations against other columns, mandated to be filled up by reporting officer / controlling authority in Part III of the prescribed form for confidential report of inspectors of Police of CBI were not furnished. Therefore remarks of reporting officer under following columns of Part III of ACR form may please also be made available to enable the undersigned submit an effective and reasonable representation against said remarks, as quality of remarks of reporting officer against following columns have inextricable nexus with materials to be submitted in representation against impugned remarks :

1. Does the reporting officer agree with the self assessment made in Part II? If not the extent of disagreement and reason thereof.

2(ii) Personality and manners

4(iii) Presentation of cases and expression
- (i) Oral expression
- (ii) Written expression

5. Knowledge of law and procedures
6. Zeal and Industry
7. Initiative
8. Investigative ability
9. Ability to collect intelligence / information
10. Supervision and control
    - (i) Maintenance of order and discipline
    - (ii) Ability to inspire confidence, assume responsibility and get the best of staff.
    - (iii) Capacity to train, help and advice the staff and ability to handle sub-ordinate.

    (a) In the columns 6 to 10 an officer is to be categorised as 'Exceptional', 'Very Good', 'Good' 'Average', 'Below Average'
    (b) The reporting authority should write the basis of his categorization.

11. Aptitude and Potential

(Please indicate two fields of work from amongst the following for possible specialization and career development of this officer)

- (i) General Administration
- (ii) Personnel Administration
- (iii) Training
- (iv) Co-ordination
- (v) Vigilance & Anti-corruption work
- (vi) Special crime
  - (a) Conventional
  - (b) Economic offences
- (vii) Any other field of work (Please specify)

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Advocate

12. Traits / Special Ability

(i) General bearing and personality
(ii) Sociability
(iii) Dedication to duty
(iv) Appreciation of situation and quickness of response
(v) Alteration of details.
(vi) Ability to with stand pressure / stress
(vii) Ability to take principled stand
(viii) Any other traits / special abilities of the officer other than those mentioned above.

13. Other observations

14. Grading

15. Integrity

5. That the instructions contained in the ACR form provide that ACR writing is the basic and vital input for assessing the performance of an officer and for his further advancement in his career and therefore concerned Authorities should under take the duty of filling out form with high sense of responsibility. It also lays down that performance appraisal through ACR is to be used as Human Resource Development and its objective is to develop an officer to realize his true potential, and that ACR is not meant to be a fault finding process but developmental one. Said Instructions further prescribe that if the Reviewing Officer Is satisfied that the Reporting Authority had made the report without due care and attention, he shall record a remark to that effect in Part IV column-2 of the ACR Form and the Govt. should enter the remarks in the confidential roll of the Reporting Authority. In view of aforesaid mandatory rule Interalia others, contained in the Form emphasizing on the need of objective assessment by the Reporting Officer in writing the confidential Report, it has not only become essential to be supplied the observations of Reporting Officer as asked for in preceding Para, but also the reasons cited by the Reviewing Officer and extent of his disagreement against the remarks in respective columns as aforesaid filled by the Reporting Officer in Part III of ACR Form. It is more so essential in view of the hostile and inimical attitude of reporting officer against the undersigned from the beginning of his tenure as DIG/CBI/NER which is known to one and all in the CBI. Thus the required information as aforesaid may be supplied so that an effective objective and reasonable representation against the remarks could be submitted after ascertaining the fact that if the reviewing officer i.e. DIG/CBI/NER Sri K.C. Kanungo has indeed given reasonable and objective remarks against undersigned as per requirement of rules and guidelines of ACR writing and not led by his consistent policy of hostility, animosity, malafied, bias & fault finding for extraneous reasons and collateral purposes.

6. It is therefore requested that aforesaid clarification / Reports which are basis for impugned remarks / substance of entire confidential report made by Reporting Officer in Part III of ACR Form / Reasons for disagreement of reviewing officer from the remarks of Reporting Officer in different columns in Part III as made entry in column No. 2 of Part IV of the Form, may please be supplied so that an effective representation and comments against said adverse remarks could be submitted.

Recd 24.X.2001

SURESH PAL SINGH YADAV
INSP/CBI/ACB (U/S)
Guwahati

Copy to :

AD CBI/EZ/Calcutta : With humble request to recuse Sri K C. Kanungo DIG/CBI/NER from taking any decision in the matter pertaining to the undersigned, as has also been directed by the Hon'ble Gauhati Bench of CAT in OA No. 30, 31, 61 of 2001, recusing him from being disciplinary authority. Any complaint if Sri K.C. Kanungo has against undersigned can be

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referred to new Disciplinary Authority, Sri Vijay Kumar, IPS for inquiry/action as per his discretion.

It is no secret a fact that Sri Kanungo is extremely hostile and inimical towards undersigned from the beginning and there are series of unfortunate incidents proving his malafied, bias and animus in his all administrative actions against undersigned which has also been observed by CAT in OA No. 137/2000, in as much as that he is "obdurate" and "instead of engaging himself to other important issues was more confined to some irrelevant and extraneous issues" and therefore ordered as allowed the application prayed for, imposing further a cost of Rs. 1000/- against his conduct in the proceedings in the said OA as respondent. ⊗ IT COMMENTED

The undersigned is forced to make this humble request in view of the fact that Sri K.C. Kanungo, DIG/CBI/NER in Annual Branch Inspection Report of CBI, Guwahati branch for the year 1999 at page no. 104 Sl. No. XV under his signature (Annexure A) has made an unreasonable, arbitrary, uncalled for and perverse remark to the effect that "SP should stop giving reward indiscriminatingly which sometime 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". The said direction to Branch SP reeks his deep seated malice, hostility and animosity against undersigned which obviously translated into all his administrative actions culminating into issuance of numerous frivolous chargesheets against which Hon'ble Tribunal rightly commented and imposed cost as aforesaid besides removing him from being disciplinary authority, adverse comments in ACR, and stoppage of rewards deliberately and with bias and malafied despite good work put up by undersigned as highlighted in self appraisal report enclosed with ACR etc., so that to convenience Sri Kanungo condemn undersigned to the liking of his animus and hostility easily.

Be that as it may the matter was reflected in the original application No. 30/2001, 31/2001 and 61/2001 filed in Gauhati Bench of CAT for quashing the said charges and removal of biased disciplinary authority. The Hon'ble Tribunal recused the disciplinary authority Sri K.C. Kanungo in the matter pertaining to the undersigned and observed interalia that "said disciplinary proceedings are legally unsustainable" and directing Director CBI to appoint new disciplinary authority who will look into the matter regarding sustainability of the charges.

It is unfortunate, however, to bring to your kind notice that Sri K.C. Kanungo, DIG/CBI/NER under coercion obtained a false statement (Annexure B) from Sri Manoj Kumar Deb countering the aforesaid impugned direction contained in Annexure A and filing the same in written statement in opposition to the aforesaid three OA's, which is out and out illegal, attracting relevant provision of IPC for filing false and forged statement on oath / solemn affirmation in judicial proceedings.

In view of aforesaid deliberate manipulation, forgery of relevant documents by the DIG/CBI/NER Sri K.C. Kanungo obtaining them from his subordinates under administrative duress and coercion, it is humbly requested that he may please be recused from having access to any record and administrative matter pertaining to the undersigned, as has also been directed by Hon'ble Tribunal in OA No. 30, 31 and 61 of 2001, so that unnecessary uncalled for and manipulated administrative action for collateral purposes could be stopped and consequent litigation in Court / Tribunal could be avoided.

Wed/29.7.2001

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INSP/CBI/ACB (U/S)
Guwahati

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ANNEXURE- A/7

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To

The Director, CBI
CBI Head Office
CGO Complex,
Lodhi Road, New Delhi.

Through :

The Supdt. of Police
CBI/ACB/SPE
Guwahati.

Sub : Adverse remark in the ACR of the Appellant for the year 2000.

Ref : Memo No. 2829/47/CBI/NER/2001 dtd. 13/10/2001 of DIG/CBI/NER Sri K.C. Kanungo.

Sir,

(1) Kindly ref as above whereby I was communicated to make representation, if any, against the observation made in my ACR for the year/period 2000 (Actual period 1.1.2000 to 26.4.2000 owing to period of suspension w.e.f. 26.4.2000) as reproduced hereunder Ad-verbatim :

(ii) "He is not reliable and dependable, is in the habit of making false and motivated complaint against superior officers and staff. He has been served charge sheets in several cases and the departmental proceedings are in progress. He filed charge sheet against an innocent person against H.O. orders in RC - 15(A)/93 - SHG. His performance is below average".

(iii) The following observations, inter-alia have also been recorded in your ACR which may be read vis-à-vis your overall performance, character and conduct, mentioned above.

1. His attendance is punctual
2. His State of health is good
3. He is intelligent
4. He considers relevant details
5. Judgement : takes a reasonable view etc.

[Copy of the Memo Dt. 13.10.2001 is annexed hereto as Annexure - 1]

(2) As the aforesaid adverse remarks were vague, sweeping general, subjective in nature and appended with malafide by said Sri K.C. Kanungo DIG/CBI/NER for the whole year 2000, though the fact is that this appellant was placed under suspension by him only, vide his CBI ID No. 1191/121/Comp/SLC/NER/99 dtd. 26.04.2000, therefore representation

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dtd. 29/10/2001 and reminder dtd. 31/12/2001 were submitted to the concerned for supplying better particulars and clarifications etc. on the subject matter, in order to enable the appellant submit a reasonable and effective representation against the said Adverse remarks. However the said representation and reminder failed to evoke any response from the concerned, in this regard, and therefore this representation is being submitted on the assumption and presumption of the available knowledge in this regard, with the reservation of right, to submit further representation as and when better particulars and clarifications as regards said adverse remarks as requested for, vide aforesaid letters dtd. 29/10/2001 & 31.12.2001, are made available.

[Copy of the suspension order dt. 26.04.200, representation dt. 29/10/2001 and reminder dtd. 31.12.2001 are annexed hereto as Annexure 2, 3, 4 respectively]

(3) So far as said Adverse remarks are concerned this appellant has a reason to believe that it was made in his ACR not by the reporting authority but by the reviewing authority Sri K.C. kanungo DIG/CBI/NER. Ever since posting of the reviewing authority as DIG/CBI/NER in July 1999 in North East Region from Jammu, there were series of incidents for which appellant has a reason to believe that the reviewing authority not only lacks proper psychological & mental balance in general in the discharge of his supervisory function but also he has a strong inimical disposition towards appellant for the reasons which have no nexus with this appellants official duties. Said adverse remarks could therefore be assailed under following heads in order to present an over view of the facts and circumstances which culminated into appendage of said adverse remarks by the reviewing authority in appellant's ACR for the year 2000.

A. Submission against the adverse remarks.
B. Submission as regards strong personal bias against the appellant, and
C. Submission as regards conduct and behaviour of Reviewing Authority vis-à-vis his sub-ordinates, in general.

However for the sake of brevity the appellant confines his submissions to the first head only as above, i.e. submission against the adverse remarks with the liberty to file further submissions against remaining heads in detail and with records, if asked for.

(A) <u>SUBMISSION AGAINST SAID ADVERSE REMARK</u>

<u>GENERAL SUBMISSIONS</u>

(4) These adverse remarks vide aforesaid memorandum dt. 13/10/2001 of the reviewing authority Stri K.C. Kanungo DIG/CBI/NER (Annexure - 1) is shown to be pertaining to the whole year 2000.

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However said assessment of the work performance and conduct of the appellant in confidential report could not be for a period, greater than 1.1.2000 to 26.4.2000, as the appellant was placed under suspension by same reviewing authority vide his CBI ID No. 1191/12/COMP/SLC/NER/99 dtd. 26.4.2000 (Annexure - 2) and therefore this adverse entry in the ACR of the appellant could not hold good for the whole calender year 2000, but only for a small period of less than 4 months, w.e.f. 1.1.2000 to 26.4.2000, during which the appellant was allowed to discharge his normal duties.

(5) The adverse entry as aforesaid made in the appellant's ACR for the year 2000, are unwarranted, unreasonable and actuated with caprice, perversity, revengeful ness and malafide only, and do not deserved to be passed while undertaking performance appraisal of the appellant for the period less than 4 months than prescribed optimum period of full calendar year. Particularly the adverse remark that " His performance is below average" could not be sustained by any reasonable argument as the appellant was not allowed to display his full performance for the optimum period of one year prescribed in rules for appraisal of the work performance for writing Annual Confidential Remark. Thus the reviewing authority could not take advantage of his own perverse, capricious & malafide Act of cutting short appellant's prescribed period for the appraisal of his work performance to a period less than four months by way of suspension, and than pass adverse remark that the "Appellant's performance is below average ".

(6) Rules prescribe that comment and observations in the Annual Confidential Remark ought to relate to the period of report and not extraneous to it, and therefore in the instant case any subject matter of adverse remarks should pertain to the period from 1.1.2000 to 26.4.2000 only. However the subject matter of adverse remarks as aforesaid communicated to the appellant pertains to the period extraneous to aforesaid period of report i.e. 1.1.2000 to 26.4.2000.

Thus in the three disciplinary proceedings charge memorandum vide No. (i) 1378/12/COMP/SLC/NER/99 Pt(I) dtd. 11/5/2000 (ii) 1479/12/COMP/SLC/NER/99 Pt (II) dtd. 17/5/2000 & (iii) 1516/12/COMP/SLC/NER/99 Pt (II) dtd. 22/5/2000, were issued in the month of May 2000 and therefore cannot be the subject matter for Adverse remark during the said period of appraisal which is upto 26.4.2000 only.

Similarly the subject matter of CBI case No RC - 15(A)/93 - SHG pertains to the period 1997. When competant authority and much superior officer than the reviewing authority i.e. Joint Director CBI/EZ/Kolkata vide his UO No 3823/3/15/93 - SHG dtd. 16.6.97, much prior to the posting of the Reviewing Authority Sri K.C.

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Kanungo DIG/CBI/NER at Guwahati in the year July 1999, ordered for the closure of the matter in the year 1997 itself. Therefore raking up the matter vide said adverse remark by the Reviewing Authority in the year 2000 which was set at rest after Administrative finality of the decision in the matter, and as per order of the competent authority in the year 1997 itself, being not only a remark without competence by the reviewing authority as well as being stale and extraneous to the period of report i.e. 1.1.2000 to 26.4.2000, but also cannot be said to be serving either the objective of ACR writing or any public interest. Obviously the said matter was dug up by the Reviewing Authority with bad motive and even without administrative competence, for reason of personal and pecuniary bias against the appellant as stated afore, for setting his personal vendetta against the appellant in mind, not to miss any opportunity in so called Administrative supervision to inflict harm harassment and injury to the appellant.

(7) The above said adverse remark being vague sweeping, general in nature and subjective in purport and therefore appellant vide his letter dated 29.10.2001 addressed to the Reviewing Authority and copy of the same to the DCBI, EZ, Kolkata, requested them to furnish better particulars as regard said adverse remarks so that an effective reasonable and comprehensive representation against the said adverse remarks could be submitted. However this request remained unheeded even after reminder dtd. 31/12/2001 in this regards.

Be that as it may, it is submitted that the adverse remarks made against me are perverse, being based on no evidence at all. I was never warned in the past, I was never advised in the past. The shortcomings that have been indicated in the form of adverse remarks, were never pointed out to the appellant at any point of time in the past. It is also submitted that if the Reporting Authority disagrees with the self appraisal report of the appellant, and reviewing authority disagree with the assesment of the reporting authority it must support its assessment with material particulars. The adverse remarks made by the reviewing authority are not sustainable in law for the simple reason that they are not supported by any materials particulars which can substantiate those adverse remarks.

(8) The instructions that are contained in the form for confidential report clearly indicates that the Reviewing Authority should undertake the duty of filling out the form with the high sense of responsibility. Instructions state that the confidential report is not meant to be a fault finding process but a developmental one and the reviewing authority must make report with due care and attention. It is submitted that the Reviewing Authority while deviating from the

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assessment made by the Reporting Authority not only failed to exercise due care and caution but also made the adverse remarks without any supporting materials.

SUBMISSION IN REGARD TO ADVERSE REMARKS

(9) He is not Reliable and Dependable :

(i) This remark is vague, general, sweeping in nature. The appellant during the actual period under review i.e. from 1.1.2000 to 26.4.2000, was never told/cautioned/forewarned as regards nature, character, amplitude and context in which said reliability and dependability in discharge of official function is desired by the Reviewing Authority or for that matter any superior authority. The appellants request vide his letter dtd. 29.10.2001 and reminder dtd. 31.12.2001 to the Reviewing Auhtority for making over better particulars in this regard also failed to evoke any response from their end.

(ii) In the prescribed form for Annual Confidential Report, no such column has been provided for being filled up by the reporting authority or reviewing authority and therefore Adverse Remarks in this regards are extraneous and unwarranted subject matter, besides being a clear case of deviation from prescribed administrative instructions without any rational & justifiable grounds. Thus the said remark being arbitrary, unreasonable without any basis or justification, lacking specificity, being unsustainable in the eye of law and hence deserved to be expunged.

(10) Is in the habit of making false and motivated complaint against superior officers and staff :-

i) It is submitted that the appellant is duty bound to submit information collected from source informants pertaining to financial irregularities and leakage of Govt. Revenues for verification and registration of cases against central Govt. employees to concerned authorities of CBI. The controlling authority in CBI at the beginning of calendar year while entrusting the task to the IO's for the year also orders in writing to collect atleast 4 viable source information which could finally culminate into Registration of at least two cases. The said SIR/complaints are to be disposed as per relevant guidelines contained in Chapter (IV) of CBI crime manual and other circulars and instruction contained in Chapter (III) of DCBI circulars/standing instruction (1955 to 1996). The appellant in view of it also submitted source information reports for verification and registration of PE/RC against delinquent officials including that of CBI and the same was in the discharge of his statutory duties.

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Be that as it may the appellant was never confronted in the past with the fact that any of the source information report submitted by him was found false and motivated after verification.

ii) It is also submitted that appellant vide his letter dtd. 29.10.2001 and 31.12.2001 to the reviewing authority, requested for providing him detailed particulars in this regard so that an effective, reasonable and comprehensive representation in the matter could be submitted. However no such information were supplied. Therefore said remarks casting slur on the character and conduct of the appellant dehors of any concrete instance pose a serious impediment to the appellant to counter adverse remarks effectively, and submit a proper representation, and therefore said remarks being unfounded , unreasonable, lacking any justification and made without conformity to the principles of natural justice and therefore should be expunged.

(11) He has been served chargesheets in several cases, and the departmental proceedings are in progress

three charges'

i. It is submitted that firstly aforesaid is a plain factual statement and lacks maturity to assume the colour of adverse remarks and the mentioning of the fact as adverse remark is unreasonable, unwarranted, unjustified and perverse. Further the reviewing authority seems to be oblivious of this basic principle of civilised jurisprudence that an accused cannot be condemned until his guilt is proved. Be that as it may the mentioning of the matter as adverse entry in appellants ACR lacks bonafide of the reviewing authority for the fact that it pertains to the period extraneous to the period under review i.e. 1/1/2000 to 26/4/2000, as the said three charge memorandums initiating three disciplinary proceedings were issued on 11/5/2000, 17/5/2000 and 22/5/2000. therefore said remark deserve to be expunged as the matter does not relate to the actual period of report.

ii. That so far as the fate of the said disciplinary proceedings are concerned suffice is to state that the matter was challenged in the Gauhati bench of Central Administrative Tribunal by filing three original applications vide no. 30, 31 & 61 of 2001 alleging malafide on the part of reviewing authority as well as regarding unmaintainability of the charges. The Hon'ble Tribunal in its common order dated 4th May 2001 observed that in their opinion these proceedings are legally unsustainable directing further DCBI to recuse the Reviewing Authority Sri S.K. Kanungo DIG(CBI) NER as Disciplinary Authority and appoint new one, who will look into the matter and pass reasoned order as regards maintainability of the charges. Since than Sri Vijay Kumar, IPS, DIG/CBI/Kolkata region is appointed as new Disciplinary Authority who has dropped charges vide Charge Memorandum dated 11/5/2000 vide his letter dtd. 18/10/2001 and his reasoned order as regards maintainability in the matter of other two charge memorandums are yet to be communicated to this appellant. [Copy

one — 2 pending

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of the common order dtd. May 2001 in OA No. 30, 31 and 61 of 2001, order dtd. 18/10/2001 of new disciplinary authority dropping the charges in memo dtd. 11/5/2001 are annexed hereto as Annexure 5&6 respectively].

iii. It is also pertinent to mention that the subject matter which formed the basis for initiation of disciplinary proceedings vide charge memo dtd. 11/5/2000 by the Reviewing Authority, was earlier challenged in Guwahati bench of Hon'ble CAT by filing OA No. 137/2000. The Hon'ble CAT after hearing, allowed the application vide its order dtd. 9/7/2001 directing the Reviewing Authority to grant medical leave and release unlawfully withheld salary of the appellant for the month of October 1999. the Hon'ble CAT was also pleased to pass severe strictures against Reviewing Authority as "obdurate in not settling a triffle matter" and as "instead of engaging himself in other important issues was more confined to irrelevant and extraneous issues" and therefore imposed a penal cost of Rs. 1000/- against him.

As said in sub-para (ii) afore hereto, the new disciplinary authority dropped the charge memo dtd. 11/5/2000 on the basis of the order of Hon'ble CAT dtd. 9/7/2001 in the OA No. 137/2000.

[Copy of the Hon'ble CAT order dated 9/7/2001 is annexed hereto as Annexure 7].

iv. The Reviewing Authority for extraneous reasons and in collusion with a bank dismissed and CBI chargesheeted person in case no. RC-(7A)/96-SHG, issued charge memo no. DPSHL/2000/0021/A/20/157/93 dtd. 10/01/2000 against the appellant for minor penalty, but passed order for major penalty punishment unlawfully, without giving any opportunity for hearing. The matter was appealed to the ADCBI, EZ, Kolkata vide representation dtd. 13/4/2001 and the ADCBI was pleased to suspend the said penalty order of the Reviewing Authority communicated to the appellant vide order no. DPSHL/2001/22290-91/DA/20/157/93 dtd. 2/8/2001 of SP/CBI/Ghy.

[Copy of the order dated 2/8/2001 is annexed hereto as Annexure 8].

Therefore, the aforesaid adverse remark not only being premature, unwarranted, unrelated to the actual period of report, but also are unreasonable, capricious and perverse in as much as the Hon'ble Tribunal as well as the competent authority held the subject matter of said chargesheets legally sustainabie and thus the said remark also deserves expunction from the ACR of the appellant.

(12) He filed chargesheet against an innocent person against HO order in RC-15(A)/93-SHG

i. So far as this statement is concerned it is submitted that the same being not only extraneous matter pertaining to the year 1997, and as such

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not related to the actual period under review i.e. 1/1/2000 to 26/4/2000, but also the statement is false. Misleading, malafide and deliberate manipulation on the part of the Reviewing Authority to cause harm, harassment and injury only to the appellant by importing the matter in the ACR for the year 2000 without competence.

ii. That the fact in this regard is that the case no. RC-15(A)/93-SHG was registered on 30/6/93 and after investigation by Dy.SP Shri S.A.H. Naquvi, followed by this appellant, chargesheet was filed through crime section on 23/8/95 in the Court of Special Judge, Assam, Guwahati after following due procedure as prescribed in CBI Crime Manual, i.e. after proper scrutiny and approval of concerned Administrative authority and legal officer of the branch as well as vetting of the chargesheet by the then Sr.PP and now DLA/CBI/Kolkata Sri JS Terang. In this case cognisance was taken on 14/11/95 and charges were framed on 26/3/97 against five accused persons sent up for trial under section 120B, 420, 468 471 IPC and 13(1)(d)r/w 13(2) of PC Act 1988. The names of the five accused were mentioned in column no. 1 of the chargesheet, meant for accused sent up for trial.

iii. That against a public servant named Bakdul Ali, Extension Officer, Lumbaian Development Block, Diphu, Karbi Anglong, Assam only such action as deemed fit by department was recommended for various omissions & commission of irregularities and as such no chargesheet was filed against him, nor for obvious reasons, required prosecution sanction was obtained, which is a mandatory precondition for filing chargesheet therewith, and for court to take any cognisance. However under the circumstances his name was mentioned in the column 2 of the chargesheet, meant for persons not sent for trial and this decision was taken bonafide and consciously after proper discussion and advise of the then Sr.PP and now DLA Shri J.S. Terang who vetted not only the draft chargesheet but also scrutinised the typed chargesheet. The Sr.PP Shri Terang, thus clearly mentioned in the note sheet of the file vide no. 45 dtd. 5/7/95 that 'draft chargesheet is put up to me for vetting followed by noting dtd. 1/8/95 to the effect that "I have vetted the chargesheet".

Thereafter chargesheet was filed in the court, through crime section and the then crime clerk Shri U.C. Razak appended note vide note no. 46 dtd. 23/8/95 to the effect that the chargesheet was filed in the court of Special Judge, Assam. It is also significant that the same Senior PP who vetted the chargesheet was entrusted to conduct the case in court of Special Judge, Assam.

iv. That as the said Bakdul Ali who was neither sent for trial nor any prosecution sanction was obtained, a precondition for taking cognisance on the charges by the court, but only his name was mentioned in column no. 2 of the chargesheet as per advice of Sr.PP, the court in its own discretion called said Bakdul Ali at the time of hearing for framing of charges and accordingly charges were framed against other five accused sent up for trial and said Shri Bakdul Ali was let go for the obvious reason

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and the fact that the chargesheet was not filed against him and the court also not made any observation in this regard against anybody.

v. May as that be the matter was duly apprised to the then SP Shri M.K. Jha, and DIG Shri Netai Mullick IPS who was satisfied with the bonafide of IO and Sr.PP, and though the DIG Shri N. Mullick himself was competent to take final decision in the matter, however he in the order to steer clear any controversy in future referred the matter to the then JD/CBI/EZ Kolkata Dr. U.N. Biswas, IPS vide UO No. 3823/3/15/93/SHG dtd. 16/6/97 and the Hon'ble JD/EZ/Kolkata passed final order agreeing to close the case which was communicated to the DIG Shri N. Mullick vide CBI ID No. 137/3/15/93-SHG/EZ dtd. 21/7/97 by the staff officer of JD/EZ Shri R.C. Choudhury and the matter was clearly reflected in the crime file as "JD(EZ) agrees to close the case". As per the order of the competent authority, i.e. JD/EZ/Kolkata, the SP/CBI/Ghy at NS 59 dtd. 11/8/97 made his endorsement in the file closing the case.

vi. In view of above the said adverse remark is not only stale pertaining to 1997, extraneous to the actual period under review i.e. from 1/1/2000 to 26/4/2000 but also being malafide, capricious and perverse for the reason and fact that the Reviewing Authority Sri Kanungo dug up the matter without competence, and in violation of rules, as the said matter was closed and set at rest by none other than his own superior officer giving administrative fanality to the decision, much prior to the posting of the Reviewing Authority as DIG/CBI/NER. The aforesaid malafide conduct and administrative indiscipline on the part of the Reviewing Authority in as much as violation of his senior's order in writing amply evidences his bad faith and over zealous attempt to project appellant in bad light by any means and this fact alone renders him unfit to act as Reviewing Authority, and therefore all adverse remark made by him deserves expunction.

(13) His performance is below average

i. it is submitted that there could be no justification and reasonable basis for appending said remark when the prescribed period of appraisal, as regards work performance and conduct of the appellant fixed as one year as per rule, was cut short to less than 4 months by placing this appellant under suspension w.e.f. 26/4/2000 vide Reviewing Authority's CBI ID No. 1191/12/Comp/SLC/NER/99. Therefore it is unreasonable, capricious and perverse to append said remark under the circumstances.

ii. Further the appellant has informtion that the Reporting Authority i.e. Shri Omprakash, SP/CBI/ACB/Ghy wrote good remarks for the actual period under review i.e. from 1/1/2000 to 26/1/2000 on the basis of self appraisal statement of the appellant enclosed with the ACR Form which shows law court conviction for 5 years RI & Rs. 10000/- fine against accused in CBI Case No. RC-32(A)/94-SHG investigated exclusively by appellant, three convictions in departmental proceedings presented by the appellant, registration of 5 cases viz. (i) PE-5(A)/2000-SHG (ii) RC-

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14(A)/2000-SHG (iii) PE-15(A)/99-SHG (iv) RC-1(A)/2000-SHG and (v) PE-10(A)/2001-SHG on the basis of surprise check conducted by the appellant, finalisation of SP's report in High Court referred and monitored case no. RC-34(A)/96-SHG wherein only chargesheet was to be filed after receipt of prosecution sanction order, and almost completion of investigation in RC-5(A)/98-SHG. Thus performance of the appellant was 'good' as rightly reported by the Reporting Authority as per self appraisal statement of the appellant enclosed with ACR form.

[Copy of self appraisal statement for the period 1/12000 to 26/4/2000 is annexed hereto as Annexure 9].

However seeing the said remark the Reviewing Authority who had an inimical and hostile mental disposition towards the appellant, observed in raze before an IO "This is his ACR, he is under suspension, it is not mentioned when he is suspended, for what he is suspended. For the 4 months of service before his suspension SP has given good comments. Once again he showed lack of courage and shadow misdeeds and attempting to hush up the case. I will not leave SP". Aforesaid hysterics on the part of the Reviewing Authority clearly shows his strong biasness in assessment of the work conduct and performance of the appellant in as much as that he swears not to leave even the Reporting Authority for his good comments to the appellant. This hostile attitude of the Reviewing Authority against the appellant makes him unfit to review the performance of appellant and therefore all adverse entry made by the Reviewing Authority in his ACR for the year 2000 must be expunged.

iii. It is further submitted that though there was no reasonable justification for appending these adverse remarks by the Reviewing Authority in the annual confedential report of the appellant, for actual period under review from 1/1/2000 to 26/4/2000, when the Reporting Authority has rated the performance as 'good'. In fact the Reviewing Authority has made up his mind for appending this adverse remarks as far back in time as in 1999 while conducting branch inspection and therefore in accordance with his malafide design and in order to harm the service career of this appellant systematically and consciously, he appended an out and out arbitrary, malicious and perverse order for compliance by the SP/CBI/Ghy at page No. 104 of the said inspection report that "SP should stop giving reward indiscriminatingly which sometimes puts the branch in awkward position as in the case of Shri S.P. Singh Yadav who is using to his advantage while fighting his case in CAT Guwahati.

Thus ever since aforesaid order was passed by the Reviewing Authority, the appellant was deliberately and malafidely discriminated by not recognising his good works and confer reward and commendation certificate accordingly for his good performance such as securing conviction in court cases and departmental proceedings and registration of cases following surprise checks etc. as per self appraisal report enclosed with ACR which merits rewards and commendation certificate even if it is

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tested from the strictest guidelines as per DCBI standing order No. 32 dtd. 27/12/96 in this regard.

iv. It is also significant to mention that Reviewing Authority Shri K.C. Kanungo DIG/CBI/NER himself vide his circular No. 2219/120/97/NER dtd. 18/11/99, endorsed by name to the appellant, ordered for organising at least one surprise check which may be viable ending in actionable result of registration IN PE/RC etc. The circular further exhorted that action taken by each IO would be reviewed after a fortnight for making assessment of his performance in this regard, while sincere efforts will be suitably rewarded, any slackness will have the opposite consequences. The appellant in pursuance of aforesaid conducted as many as three surprise checks leading to registration of 5 cases viz. (i) PE-5(A)/2000-SHG (ii) RC-14(A)/2000-SHG (iii) PE-15(A)/99-SHG (iv) RC-1(A)/2000-SHG and (v) PE-10(A)/2001-SHG. However the Reviewing Authority in violation of bonafide discharge of his public duty, and his own contractual obligation to reward suitably for conducting surprise check leading to registration of PE/RC's, with the predetermined mind, not only discriminated and disregarded the better performance of the appellant for reward and commendation certificate vis-à-vis his other brother IO's, but on the contrary with malafide be-rated the performance of appellant as below average in his ACR. The aforesaid discrimination is the part of consistent, conscious and deliberate policy on the part of Reviewing Authority to knock down even good performance of the appellant anyhow and the annual confidential report of appellant for 2000 is just one casualty of his various service related interest which statute has unfortunately placed for administrative disposal in the hands of Reviewing Authority who has every thing in mind but just, fair, honest and bonafide discharge of public duty in office.

[Copy of the circular of the Reviewing Authority dtd. 18/11/99 is annexed hereto as Annexure 10].

v. The psychological hatred of the Reviewing Authority i.e. DIG/CBI/NER Shri K.C. Kanungo a promotee departmental officer of CBI towards deputationist officers, the category to which this appellant unfortunately belongs to, is also responsible for said adverse entries in his ACR. The said psychological aberrations on the part of the Reviewing Authority could be evidenced from his observation at Page no. 23, para 17, in Guwahati Branch Inspection Report for the year 2000 forwarded to SP/CBI/Ghy vide his CBI ID No. 0088/215/2000/NER dtd. 11/1/2001.

"The last but not the least is gross partiality and harassment of departmental staff, by deputationist officers, whose career prospects are systematically damaged / destroyed in well planned manner creating situation of internal infighting in organisation. They are adopting the policy of divide and rule which has caused thorough demoralisation among the departmental staff".

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From the place, time, tone tenor and purport of the said observation that too from none other than the head of the CBI department in North East Region i.e. the Reviewing Authority, it can be gathered amply and clearly that Reviewing Authority is giving vent of his ire towards senior IPS officers by couching his hatred towards them in aforesaid doctriner verbiage. He is attempting to create scheism between departmental and deputationist officers and in reactionary vein himself systematically and deliberately damaging the career prospects of deputationists officers subordinate to him. A passionate reactionary as the Reviewing Authority, is unfit to undertake such job of responsibility as ACR reviewing / writing of the subordinates, as he could not be expected to have any honest, dispassionate and objective assessment of the work conduct and performance of his imaginary opponents under seize of his aforesaid mental shackles and therefore said remarks deserves outright expunction.

(14) Legal Submission

i. The Hon'ble Supreme Court in S. Ramachandra Raju Vs. State of Orissa, 1994, Supp(3) SCC 424 emphasized on the need of objectivity in writing of a confidential report. The Court pointed out that the career prospects of a subordinate officer largely depends upon the work and character assessment made by the competent authority and the latter should adopt fair, objective, dispassionate approach in estimating or assessing the character ability, integrity and responsibility displayed by the concerned officer during the relevant period.

ii. In the State of UP Vs. Yamuna Shankar Mishra (1997) 4 SCC 7, the Hon'ble Supreme Court has recognised the application of the Natural Justice Rule where the assessment were not based on the materials on record. In the said case the Court observed that sometimes the assessment may not be based on the records and in such circumstances the officer concerned should be taken into confidence. The Court stated that before framing an adverse opinion the Authority writing confidentials should share the informations which are not the part of the record, with the officer concerned and have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring officer to correct the errors of the judgement, conduct, behaviour etc. The Court further observed that if despite being given such an opportunity the officer fails to perform the duty, correct his conduct or improve himself necessarily, the same may be recorded in the confidential reports and the copy thereof supplied to the effected officer so that he will have an opportunity to know his remarks against him.

iii. It is submitted that at no point of time this appellant was ever told of the context and subject matter of remark that he being not reliable and dependable, or confronted with any said false and motivated complaint, least to say those false complaints which could justifiably form habit on the part of appellant. Further during the short period under review i.e. from 1/1/2000 to 26/4/2000, the appellant was never warned, as regards

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shortfall of his performance, or rendered advise to the appellant to strive for improvement in this regard. It is submitted that observation in this regard in appellant's confidential report are without any basis and the entry of the same in his confidential report is contrary to the principle laid down by the Hon'ble Supreme Court in the case of Yamuna Shankar Mishra (Supra).

(15) The aforesaid adverse remark made against the appellant are liable to be expunged. They are vague, sweeping, unreasonable, unjustified, unwarranted, extraneous to the actual period under review, malicious, perverse and capricious and appended for the reason of strong personal bias against the appellant, in as much as it would be euphamism to say that same have been made without any objectivity or non application of mind.

In the premises aforesaid the appellant prays with utmost humility that the adverse remarks made against him may kindly be expunged for which he would remain ever obliged.

Thanking you

ANNEXURES; AS STATED ABOVE

Yours faithfully,

14/4/2002

Suresh Pal Singh Yadav
Insp/CBI/ACB (U/S)
Guwahati

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Advocate

63 ANNEXURE – A/8

पुलिस उपाधीक्षकों/निरीक्षकों तथा उप-निरीक्षकों की गोपनीय रिपोर्ट का फार्म

केन्द्रीय अन्वेषण ब्यूरो

FORM FOR CONFIDENTIAL REPORT ON DY. SUPDTS. OF POLICE/INSPECTORS AND SUB-INSPECTORS.

CENTRAL BUREAU OF INVESTIGATION

वैयक्तिक ब्योरे

PERSONAL DATA

(जिस अधिकारी की रिपोर्ट लिखी जा रही है, उसके द्वारा भरे जाने के लिए)

(To be filled by the Officer reported upon)

----------को समाप्त अवधि/वर्ष के लिए गोपनीय रिपोर्ट

Confidential Report for the Year/Period Ending.....

1. अधिकारी का नाम
   Name of the Officer.

2. जन्म की तारीख
   Date of Birth

3. कद — वजन
   Height — Weight
   छाती — कमर
   Chest — Waist

4. क्या अधिकारी अनुसूचित जाति/ अनुसूचित जनजाति का है — हां/नहीं
   Whether the Officer belongs to Scheduled Caste/Scheduled Tribe. — Yes/No

5. पदनाम/रैंक/धारित पद
   Desination/Rank/Post held

6. वर्तमान ग्रेड में लगातार नियुक्ति की तारीख
   Date of continuous appointment to the present grade viz

7. क्या सीधी भर्ती पर नियुक्ति या प्रतिनियुक्ति पर
   Whether direct recruit or deputationist
   (यदि प्रतिनियुक्त है तो उस राज्य का नाम लिखें जहां से प्रतिनियुक्ति पर आए हैं)
   (In case of deputationist, name of State from which on deputation).

8. क्या स्थाई/अर्धस्थाई/अस्थाई है
   Whether permanent/quasi-permanent/temporary.

9. शाखा/यूनिट/कार्यालय जहां रिपोर्ट की अवधि/वर्ष के दौरान सेवा की और प्रत्येक में सेवा की अवधि
   Branches/Units/Offices in which served during the year/period under report and the period of service in each.

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10. वर्ष/रिपोर्ट अवधि के दौरान ड्यूटी/प्रशिक्षण पर अनुपस्थिति की अवधि
Period of absence from duty on leave/training during the year/period report.

11. (क) शैक्षणिक योग्यताएं
(a) Educational Qualifications :
(ख) तकनीकी परीक्षा/प्रशिक्षण पाठ्यक्रम में उत्तीर्ण/अर्हता प्राप्त
(b) Technical Examination/Training Courses Passed/qualified.
(ग) भाषा ज्ञान
(c) Knowledge of Languages ;
(i) पढ़ और लिख सकते हैं
(i) Able to read and write.
(ii) बोल सकते हैं :
(ii) Able to speak :

भाग II
PART-II

(जिस अधिकारी की रिपोर्ट लिखी जा रही है उसके द्वारा भरे जाने के लिए)
(To be filled in by the Officer Reported upon)

1. ड्यूटियों का संक्षिप्त विवरण
Brief description of duties.

2. वर्ष के दौरान प्राप्त प्रशिक्षण पाठ्यक्रमों का विवरण
Particulars of training courses undergone during the year.

3. वर्ष के दौरान प्राप्त पदक और प्रशंसा पत्र
Medals or commendations received during the year.

4. (क) कृपया प्राथमिकता के आधार पर उन 8 से 10 लक्ष्यों/उद्देश्यों का उल्लेख करें जो आपके लिए निर्धारित किए गए थे और/अथवा आपने स्वयं अपने लिए निर्धारित किये हैं।
(a) Please specify 8 to 10 targets/goals/objectives that were set for you and/or you set for yourself in order of priority.

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4. (क) यदि लक्ष्य निर्धारित किए गए हैं तो उनमें किस हद तक सफलता मिली है, विशेष कर अपराध संबंधी मामलों में सूचना एकत्र करने, सतर्कता कार्य, पंजीकरण, अन्वेषण, निपटान तथा पर्यवेक्षण के संदर्भ में। आप अपने कार्य क्षेत्र में लाए किये गए किसी प्रमुख सुधार/नव प्रवर्तन का भी उल्लेख कर सकते हैं।

(b) Wherever targets have been fixed how far have they been achieved particularly in regard to collection of information, vigilance work, registration, investigation, disposal and supervision of crime. You can also highlight any major improvements/innovation introduced in your area of work.

5 (क) कृपया कालम 4 में बताए गए लक्ष्यों/उद्देश्यों की प्राप्ति में रही कमियों का संक्षेप में उल्लेख करें । यदि लक्ष्य की प्राप्ति में कोई बाधाकारिताएं रही हों तो वे बताएं।

(a) Please state, briefly, the shortfalls with reference to the targets/objectives/goals referred to in Col. 4. Please specify the constraints, if any.

5 (ख) कृपया उन कार्यमदों का भी उल्लेख करें जिनमें निर्धारित लक्ष्य से काफी अधिक उपलब्धियां रही हैं और उनमें अपने योगदान का भी उल्लेख करें ।

(b) Please indicate items under which there have been significantly better/higher achievements compared to targets and your contribution thereto.

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भाग - III
PART-III

रिपोर्टिंग प्राधिकारी द्वारा भरा जाए
TO BE FILLED IN BY THE REPORTING AUTHORITY

1. क्या रिपोर्टिंग प्राधिकारी भाग II में किये गये स्व-मूल्यांकन से सहमत है? यदि नहीं, तो किस सीमा तक और क्यों :
Does the Reporting Authority agree with the Self Essessment made in Part II ? If not, the extent of disagreement and reasons there of :

2. स्वास्थ्य :
State of Health

(i) कृपया बताएँ कि अधिकारी का स्वास्थ्य
(i) Please indicate whether the Officer's state of health is

(क) अच्छा
(a) Good
(ख) साधारण
(b) Indifferent
(ग) खराब
(c) Bad

(ii) व्यक्तित्व तथा आचरण
(ii) Personality and manners :

(क) अच्छा
(a) Good
(ख) औसत
(b) Average
(ग) खराब
(c) Poor

3. बुद्धिमत्ता और सूझबूझ
Intelligence and Understanding

(क) विशिष्ट तथा किसी भी मामले को, चाहे कितना भी जटिल हो, जल्दी जाँच समझने की क्षमता है।
(a) Exceptional and has clear grasp of any matter, however, complicated.
(ख) बुद्धिमान तथा बिना समय गंवाए ठीक प्रकार से समझ सकते हैं।
(b) Intelligent and can grasp a point correctly with reasonable speed.
(ग) पर्याप्त समझबूझ
(c) Shows adequate grasp.
(घ) धीमा/अथवा बिंदु से अक्सर भटक जाते हैं।
(d) Very Slow and/or often misses the point.

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Advocate

4. कार्य की कोटि
Quality of Work

(i) तफसील पर ध्यान, तथ्यों को प्रस्तुत करने में सटीकता तथा जांच पड़ताल में सम्पूर्णता
(i) Attention to details, accuracy in presentation of facts and thoroughness in examination

(क) अत्यधिक विश्वसनीय तथा व्यापकपूर्ण
(a) Most reliable and comprehensive.
(ख) सभी संगत ब्यौरों पर विचार करते हैं।
(b) Considers all relevant details.
(ग) महत्वपूर्ण बातों पर ध्यान नहीं दे पाते और मूल विषय से भटक जाता।
(c) Is unable to concentrate on vital details and loses perspective.
(घ) गंभीरता का अभाव।
(d) Inclined to be superficial.

(ii) निर्णय
(ii) Judgement

(क) इनके प्रस्ताव ठोस तथा सुविचारित होते हैं।
(a) His proposals are consistently sound and well thought of
(ख) विश्वसनीय
(b) Reliable
(ग) उचित दृष्टिकोण अपनाते है
(c) Takes a reasonable view
(घ) अविश्वसनीय, अनिर्णीत, कठोर, सतही अथवा अनियमित।
(d) Unreliable, undecided, rigid, superficial or erratic.

(iii) मामलों का प्रस्तुतीकरण और अभिव्यक्ति
(iii) Presentation of Cases and Expression

(i) मौखिक अभिव्यक्ति
(i) Oral expression
(ii) लिखित अभिव्यक्ति
(ii) Written expression
(क) पूर्णतया स्पष्ट, सशक्त और तर्कसंगत।
(a) Extremely clear, cogent and logical
(ख) काफ़ी अच्छा तथा अपनी बात को स्पष्टतया और संक्षेप में अभिव्यक्त करते हैं।
(b) Very good and expresses himself clearly and concisely.
(ग) अभिव्यक्ति में अच्छा।
(c) Good in expression.
(घ) सामान्य और काम चलाऊ
(d) Just good and enough.
(ङ) मामलों को उचित ढंग से प्रस्तुत करने की सामर्थ्य नहीं रखते है।
(e) Does not have ability to present cases properly.

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5. विधि तथा प्रक्रिया संबंधी जानकारी
Knowledge of Law and Procedures

(क) विधि तथा प्रक्रिया की विशेष जानकारी रखते हैं।
(a) Does possess exceptionally good knowledge of law and procedure.
(ख) विधि तथा प्रक्रिया की अच्छी जानकारी रखते हैं।
(b) His knowledge of law and procedure is good.
(ग) विधि तथा प्रक्रिया की जानकारी संतोषजनक है।
(c) His knowledge of law and procedure is satisfactory.
(घ) विधि तथा प्रक्रिया की पर्याप्त जानकारी नहीं रखते हैं।
(d) His knowledge of law and procedure is poor.

6. उत्साही तथा परिश्रमी
Zeal and Industry

7. पहलशक्ति
Initiative

8. अन्वेषण योग्यता
Investigative Ability.

9. आसूचना/जानकारी एकत्र करने की योग्यता
Ability to Collect Intelligence/Information.

10. पर्यवेक्षण तथा नियंत्रण
Supervision and Control

(i) स्थिति और अनुशासन बनाए रखना।
(i) Maintenance of order and discipline.
(ii) विश्वास और उत्तरदायित्व की भावना पैदा करना तथा स्टाफ की क्षमताओं का पूरा-पूरा उपयोग।
(ii) Ability to inspire confidence, assume responsibility and get the best out of staff.
(iii) स्टाफ को प्रशिक्षण, सहायता तथा सलाह देने की क्षमता और अधीनस्थ कर्मचारियों को नियंत्रण में रखना।
(iii) Capacity to train, help and advise the staff and ability to handle subordinates

विशेष नोट :- (क) उक्त कालम 6 से 10 में अधिकारी को 'उत्कृष्ट', 'बहुत अच्छा', 'अच्छा', 'औसत' और 'औसत से कम' में वर्गीकृत किया जाए।
PS : (a) In the Cols. 6 to 10 an Officer may be categorised as "Exceptional", "Very Good", "Good", "Average", "Below Average".
(ख) रिपोर्टिंग प्राधिकारी को उस आधार का उल्लेख करना चाहिए जिस कारण उसने उस प्रकार का वर्गीकरण किया।
(b) The Reporting Authority should write the basis of his cetegarization.

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Advocate

11. उपस्थिति में समय का पाबंद
Punctuality in Attendance

12. अभिक्षमता और सम्भाव्यता
Aptitude and Potential.

(कृपया निम्नलिखित में से दो ऐसे कार्यक्षेत्रों का उल्लेख करें जिनमें भविष्य में अधिकारी के विशिष्टता तथा संतुलित रूप से विकास की संभावना हो।)
(Please indicate two fields of work from amongst the following for possible specialisation and career development of the Officer.)

(i) सामान्य प्रशासन
(i) General Administration.
(ii) कार्मिक प्रशासन
(ii) Personnel Administration.
(iii) प्रशिक्षण
(iii) Training.
(iv) समन्वय
(iv) Co-ordination.
(v) सतर्कता और भ्रष्टाचार निवारण संबंधी कार्य
(v) Vigilance and Anti-Corruption Work.
(vi) विशेष अपराध :
(vi) Special Crime :
(क) पारंपरिक अपराध
(a) Conventional
(ख) आर्थिक अपराध
(b) Economic Offences.
(vii) कोई अन्य कार्यक्षेत्र (कृपया विनिर्दिष्ट करें)
(vii) Any other field of work (Please Specify).

13. विशेष गुण/विशेष योग्यता
Traits/Special Abilities.

(i) सामान्य आचरण और व्यक्तित्व
(i) General bearing and personality.
(ii) सामाजिकता
(ii) Sociability.
(iii) कर्त्तव्य के प्रति समर्पण
(iii) Dedication to duty.
(iv) स्थिति की समझ और तत्परतापूर्वक कार्रवाई करने की क्षमता
(iv) Appreciation of situation and quickness of response.
(v) ब्यौरों पर ध्यान देना
(v) Attention to detail.
(iv) कार्यभार/दबाव से निपटने की योग्यता
(iv) Ability to withstand pressure/stress.

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(vii) सैद्धांतिक निर्णय लेने की योग्यता
(vii) Ability to take a principled stand.
(viii) उपर्युक्त के अलावा अधिकारी का कोई अन्य विशेष गुण/विशेष योग्यता
(viii) Any other traits/special abilities of the Officers other than those mentioned above.

14. अन्य अभिमत
Other Observations.

(इस स्थान का उपयोग उन टिप्पणियों के लिए किया जाना चाहिए जिससे जो कुछ ऊपर कहा गया है, उसमें संगति, पुष्टि अथवा पूर्ति होती हो। जो कुछ पहले कहा गया है, उसे घुमाफिरा कर न दोहराएं बल्कि विशेष बातों का उल्लेख करें, जैसे रिपोर्ट की अवधि के दौरान कोई विशिष्ट उपलब्धि तथा ऐसा कोई अन्य पहलू जिसका उल्लेख उपर्युक्त प्रोफार्मा में न किया लेकिन रिपोर्टिंग अधिकारी विशेषरूप से उल्लेख करना चाहता हो।)
(This space may be utilised for remarks which complete, corroborate or supplement what has been indicated above. This should not, however, be used for merely repeating in vague terms what has already been stated, specific points such as special accomplishments during the period under report and any other aspects not covered in the proforma given above which the reporting Officer considers specially worth mentioning may also be indicated here).

15. कोटि निर्धारण
Grading

(उत्कृष्ट/बहुत अच्छा/अच्छा/औसत/ औसत से कम)
किसी अधिकारी को तब तक उत्कृष्ट कोटि नहीं दी जानी चाहिए जब तक कि उसमें विशिष्ट गुण तथा कार्य निष्पादन देखने में न आया हो। ऐसे कोटि निर्धारण के लिए कारणों का स्पष्ट उल्लेख किया जाना चाहिए।
(Outstanding/Very Good/Good/Average/Below Average).
An Officer should not be graded outstanding unless exceptional qualities and performance have been noticed; grounds for giving such a grading should be clearly brought out).

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16. सत्यनिष्ठा
Integrity

(गृह मंत्रालय के का. ज्ञा. सं. 51/64-स्था. (क) दिनांक 21.6.85. में निहित अनुदेशों को ध्यान में रखा जाए।)
(Instructions contained in MHA OM No. 51/64-Estt(A) dated 21.6.85 should be kept in mind).

रिपोर्टिंग अधिकारी के हस्ताक्षर.....
Signature of Reporting Officer.....
नाम साफ अक्षरों में.....
Name in block letters.....
पदनाम.....
Designation.....
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख.....
Date.....

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भाग- IV

PART - IV

पुनरीक्षण अधिकारी की अभ्युक्तियां

REMARKS OF THE REVIEWING OFFICER

17. पुनरीक्षण अधिकारी के अधीन की गई सेवा की अवधि :-
Length of service under the Reviewing Officer.

18. क्या आप रिपोर्टिंग अधिकारी की अभ्युक्तियों से सहमत है ? यदि नहीं तो रिपोर्टिंग अधिकारी से इस असहमति के कारण संक्षेप में उल्लेख करें तथा यह बताएं कि तत्संबंधी कालम से आप कहां तक असहमत है।
Do you agree with the remarks of the Reporting Officer ? If not, indicate briefly the reason for disagreeing with Reporting Officer and the extent of your disagreement against the respective column.
(स्पष्टीकरण) : अधिकारी स्पष्ट रूप से यह बताए कि विभिन्न मदों के संबंध में वह रिपोर्टिंग अधिकारी की अभ्युक्तियों से सहमत है अथवा नहीं। अपनी व्यक्तिगत/सामान्य अभ्युक्तियां का भी यहां उल्लेख करें।)
(Explanation) : Officers are expected to clearly mention whether or not they agree with the remarks of the Reporting Officer against various items. Their own personal/general remarks also be added here).

19. निष्पादन तथा गुणों का समग्र मूल्यांकन।
Overall Assessment of Performance and Qualities.

20. रिपोर्टिंग अधिकारी के कोटि निर्धारण पर टिप्पणियां।
Comments on the Grading of the Reporting Officer.

पुनरीक्षण अधिकारी के हस्ताक्षर.....
Signature of the Reviewing Officer .....
नाम (साफ अक्षरों में).....
Name in block letters .....
पदनाम.....
Designation .....
(रिपोर्ट की अवधि के दौरान)
(During the period under report)
तारीख .....
Date .....

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भाग-v

Part-V

स्वीकार करने वाले प्राधिकारी की अभ्युक्तियां
Remarks of the Accepting Authority

स्वीकार करने वाले प्राधिकारी के हस्ताक्षर.....

Signature of the Accepting Authority .....

नाम (साफ अक्षरों में).....

Name in block letters .....

पदनाम.....

Designation .....

(रिपोर्ट की अवधि के दौरान)

(During the period under report)

तारीख.....

Date .....

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अनुदेश
INSTRUCTIONS

1. गोपनीय रिपोर्ट एक महत्त्वपूर्ण दस्तावेज है। इससे किसी अधिकारी के निष्पादन का मूल्यांकन करने तथा भविष्य में उसके और आगे बढ़ने की संभावना का पता लगाने के लिए बुनियादी तथा महत्त्वपूर्ण जानकारी मिलती है। अतः जिस अधिकारी के बारे में रिपोर्ट भरी जानी है, रिपोर्टिंग अधिकारी, पुनरीक्षण अधिकारी तथा स्वीकार करने वाले अधिकारी को यह फार्म पूरी जिम्मेदारी से भरना चाहिए।

The Confidential Report is an important document. It provides the basic and vital inputs for assessing the performance of an officer and for his/her further advancement in his/her career.The officer reported upon, the Reporting Authority, the Reviewing Authority and the Accepting Authority should, therefore, undertake the duty of filling out the form with a high sense of responsibility.

2. गोपनीय रिपोर्ट के जरिए निष्पादन संबंधी इस मूल्यांकन का उपयोग मानव संसाधन विकास के लिए किया जाना चाहिए। रिपोर्टिंग अधिकारियों को यह समझना चाहिए कि इसका उद्देश्य अधिकारी का इस प्रकार से विकास करना है कि वह अपनी वास्तविक क्षमताओं को समझ सके। यह कोई दोष निकालने की प्रक्रिया नहीं है बल्कि एक विकासात्मक प्रक्रिया है। इसलिए रिपोर्टिंग अधिकारी तथा पुनरीक्षण अधिकारी को उस अधिकारी की जिसकी रिपोर्ट लिखी जानी है, उसके निष्पादन, अभिवृत्ति अथवा समग्र व्यक्तित्व संबंधी कमियों का उल्लेख करने में किसी प्रकार का संकोच नहीं करना चाहिए।

Performance appraisal through Confidential Reports should be used as a tool for human resource development. Reporting Officers should realise that the objective is to develop an officer so that he/she realises his/her true potential.It is not meant to be a fault-finding process but a developmental one. The Reporting Officer and the Reviewing Officer should not shy away from reporting shortcomings in performance, attitudes or overall personality of the officer reported upon.

3. सभी कालम ध्यानपूर्वक तथा सावधानीपूर्वक भरे जाने चाहिए और इन्हें भरने के लिए पर्याप्त समय दिया जाना चाहिए। यदि रिपोर्ट लापरवाही अथवा असावधानी से भरी जाएगी तो इसका पता उच्च अधिकारियों को बड़ी आसानी से लग जाएगा।

The columns should be filled with due care and attention and after devoting adequate time. Any attempt to fill the report in a casual or superficial manner will be easily discernible to the higher authorities.

4. यदि किसी अधीनस्थ कर्मचारी के रोजमर्रा के काम का सीधा संबंध वरिष्ठ अधिकारी से न हो तो रिपोर्टिंग अधिकारी को उसके निष्पादन का मूल्यांकन उसके काम का कम-से-कम एक बार विस्तृत निरीक्षण करने के बाद ही किया जाना चाहिए।

Performance evaluation by the reporting officer must not be done without having conducted at least one detailed inspection of the work of the subordinate unless the subordinate is one with whom his senior is inter-acting almost daily.

5. यदि पुनरीक्षण अधिकारी यह समझता है कि रिपोर्टिंग अधिकारी ने यह रिपोर्ट बिना उचित सावधानी अथवा ध्यान दिए बिना लिखी है तो उसे अपनी अभ्युक्ति का उल्लेख भाग IV के कालम 2 में करना होगा। सरकार इस अभ्युक्ति को रिपोर्टिंग अधिकारी की गोपनीय पंजी में दर्ज करेगी।

If the Reviewing Authority is satisfied that the Reporting Authority had made the report without due care and attention he shall record a remark to that effect in Part IV Column 2. The Government shall enter the remarks in the Confidential Roll of the Reporting Authority

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Advocate

6. प्रत्येक उत्तर निस्तार से दिया जाना चाहिए। खाली छोड़े गए स्थान से इस बात का संकेत मिलेगा कि उत्तर कितना लम्बा होना चाहिए। शब्दों तथा वाक्यों का चयन सावधानीपूर्वक किया जाना चाहिए और उससे उत्तर लिखने वाले अधिकारी के अभिप्राय का सही-सही पता लगना चाहिए। कृपया सुस्पष्ट तथा सरल भाषा का प्रयोग करें। किसी भी गुण पर टिप्पणी करते समय "उत्कृष्ट", "बहुत अच्छा", "अच्छा", "औसत", औसत से कम", जैसे बहुपाची शब्दों का प्रयोग नहीं करना चाहिए।

Every answer shall be given in a narrative form. The space provided indicates the desired length of the answers. Words and phrases should be chosen carefully and should accurately reflect the intention of the authority recording the answers. Please use unambiguous and simple language. Please do not use omnibus expressions like 'outstanding', 'very good', 'good', 'average', 'below average', while giving your comments against any of the attributes.

7. रिपोर्टिंग अधिकारी को वर्ष के आरम्भ में ही उस अधिकारी के परामर्श से, जिसके बारे में रिपोर्ट लिखी जानी है, मात्रात्मक/भौतिक/वित्तीय लक्ष्य निर्धारित करने होंगे। निष्पादन संबंधी मूल्यांकन उस अधिकारी, जिसकी रिपोर्ट लिखी जानी है तथा रिपोर्टिंग अधिकारी का एक संयुक्त काम है। पुलिस उपाधीक्षकों, निरीक्षकों तथा उप-निरीक्षकों के संबंध में रिपोर्टिंग वर्ष के आरम्भ में अर्थात दिसम्बर में ही लक्ष्य/उद्देश्य निर्धारित कर दिए जाएं। रिपोर्टिंग वर्ष के दौरान कार्यभार ग्रहण करने वाले नए अधिकारी के मामले में यह लक्ष्य/उद्देश्य उसके कार्यभार ग्रहण करने के समय निर्धारित किए जाएं।

The Reporting Officer, shall in the begining of the year set quantitative/Physical/financial targets in consultation with each of the Officers with respects to whom he is required to report upon, Performance appraisal should be a joint exercise between the officer reported upon and the Reporting Officer. The Targets/Goals/Objectives be set at the commencement of the reporting year i.e. December in respect of Dy. Supdts. of Police, Inspectors and Sub-Inspectors. In case of an Officer taking up a new assignment in the course of reporting year, such Targets/Goals/Objectives shall be set at the time of assumption of new assignment.

8. दोनों ही संबंधित अधिकारियों को इन लक्ष्यों/उद्देश्यों को भली-भांति जान और समझ लेना चाहिए। उपलब्धि संबंधी लक्ष्य का निर्धारण करते समय महत्वपूर्ण प्राथमिकता, कार्य की प्रकृति और कार्य क्षेत्र को ध्यान में रखकर तथा उस विशिष्ट जानकारी को ध्यान में रखकर निर्धारित की जानी चाहिए जो उस अधिकारी के कार्य की प्रकृति से जुड़े हो जिसके संबंध में रिपोर्ट लिखी जानी है।

The Targets/Objectives/Goals should be clearly known and understood by both the officers concerned. While fixing the targets for achievments, priority should be assigned item-wise, taking into consideration the nature and the area of work and any special features that may be specific to nature of the work of the officer to be reported upon.

9. यद्यपि कार्य निष्पादन संबंधी मूल्यांकन वर्ष के अन्त में किया जाता है, तथापि इस बात को ध्यान में रखते हुए कि यह मानव संसाधन विकास का माध्यम है, रिपोर्टिंग अधिकारी तथा उस अधिकारी को जिसकी रिपोर्ट लिखी जानी है, वर्ष के दौरान नियमित अन्तराल पर कार्य-निष्पादन की समीक्षा करनी चाहिए और इसमें सुधार के लिए आवश्यक कदम उठाने चाहिए।

Although, performance appraisal is a year end exercise, in order that it may be a tool for human resource development, the Reporting Officers and the Officer report upon should meet during the course of the year at regular intervals to review the performance and to take necessary corrective steps.

10. मूल्यांकन करने वाले प्रत्येक अधिकारी को उस अधिकारी के, जिसका मूल्यांकन किया जाना है, कार्य-निष्पादन, आचरण, व्यवहार तथा क्षमताओं के संबंध में यथासम्भव सही स्थिति का उल्लेख करना चाहिए।

It should be the endeavour of each appraiser to present the truest possible picture of the appraisee in regard to his/her performance, conduct, behaviour and potential.

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11. एक ही रैंक के कुछेक पदों पर अन्यों की अपेक्षा अधिक काम होता है। किसी एक पद पर कार्यभार और दबाव में भी समय-समय पर अन्तर होता है। मूल्यांकन करते समय इन तथ्यों को भी ध्यान में रखना चाहिए और इसके संबंध में समुचित रूप से टिप्पणी की जानी चाहिए।

Some posts of the same rank may be more exacting than others. The degree of stress and strain in any post may also vary from time to time. These facts should be borne in mind during appraisal and should be commented upon appropriately.

12. गुणों संबंधी जिन पहलुओं पर अधिकारी को मूल्यांकन किया जाना है उनका उल्लेख प्रत्येक कालम में किया गया है। मूल्यांकक को इससे संबंधित तथा अन्य संगत पहलुओं के संबंध में उत्तर देना चाहिए।

Aspects on which and appraisee is to be evaluated on different attributes are delineated below each column. The appraiser should deal with these and other aspect relevant to the attributes

टिप्पणी : *सत्यनिष्ठा से संबंधित कालम को भरते समय निम्नलिखित प्रक्रिया अपनाई जानी चाहिए :-*

NOTE : *The following procedure should be followed in filling up the column relating to integrity:*

(i) यदि अधिकारी की सत्यनिष्ठा में कोई सन्देह न हो तो इसका स्पष्ट उल्लेख किया जाना चाहिए।

(i) If the Officer's integrity is beyond Joubt, it may be so stated.

(ii) *यदि कोई संदेह अथवा शंका हो तो कालम को खाली छोड़ देना चाहिए और निम्नानुसार कार्यवाई की जानी चाहिए*

(ii) If there is any doubt or suspicion, the column should be left blank and action taken as under.

(क) *एक अलग गुप्त नोट लिखकर अनुवर्ती कार्रवाई की जाए। इस नोट की एक प्रति गोपनीय रिपोर्ट सहित अगले वरिष्ठ अधिकारी को भी भेजी जाए जो यह सुनिश्चित करेगा कि अनुवर्ती कार्रवाई अतिशीघ्रता से की जाए। जहां सत्यनिष्ठा प्रमाणित करना अथवा गुप्त नोट लिखना सम्भव न हो उन मामलों में रिपोर्टिंग अधिकारी को स्थिति के अनुसार या तो यह लिखना चाहिए कि उसने उस अधिकारी के काम को पर्याप्त समय तक नहीं देखा है जिससे कि वह निश्चित निर्णय दे सके अथवा यह कि उसने अधिकारी के विरूद्ध कोई प्रतिकूल बात नहीं सुनी है।*

(a) A separate secret note should be recorded and followed up. A copy of the note should also be sent together with the Confidential Report to the next superior Officer who will ensure that the follow up action is taken expeditiously. Where it is not possible either to certify the integrity or to record the secret note, the Reporting Officer should state either that he has not watched the officer's work for sufficient time to form a definite judgement or that he has heard nothing against the officer, as the case may be.

(ख) यदि अनुवर्ती कार्रवाई के फलस्वरूप संदेह या शंकाएं दूर हो जाती है तो उस अधिकारी की सत्यनिष्ठा प्रमाणित की जानी चाहिए और गोपनीय रिपोर्ट में तद्नुसार प्रविष्टि की जाए।

(b) If, as a result of the follow up action, the doubts or suspicions are cleared, the officer's integrity should be certified and an entry made accordingly in the Confidential Report.

(ग) यदि संदेह या शंकाओं की पुष्टि हो जाती है तो इस तथ्य का भी उल्लेख किया जाना चाहिए और इसे संबंधित अधिकारी को बता दिया जाना चाहिए।

(c) If the doubts or suspicions are confirmed, this fact should also be recorded and duly communicated to the officer concerned.

(घ) यदि अनुवर्ती कार्रवाई के फलस्वरूप, संदेह या शंकाएं न तो दूर होती है और न ही उनकी पुष्टि होती है तो कुछ और समय तक अधिकारी के आचरण पर नज़र रखी जानी चाहिए और उसके बाद ऊपर 'ख' और 'ग' में बताए गए अनुसार कार्रवाई करनी चाहिए।

(d) If, as a reusit of the follow up action, the doubts or suspicions are neither cleared nor confirmed, the officer's conduct should be watched for a further period and thereafter action taken as indicated at (b) and (c) above.

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Dhananjaya
10/3/13
Advocate

77 ANNEXURE- A/9 88

OFFICE ORDER NO. 214 DATE 2/8/01

Extract of the letter No. CBI.ID.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.

2RF90-91

Memo No.DPSHL2001/ /EA/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.

&&&&

Received
2/8/2001

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

ANNEXURE-A/10

SELF APPRAISAL STATEMENT OF S.P. SINGH INSP/CBI/ACB UNDER SUSPENSION FOR THE YEAR 2000

NORMAL DUTIES :- 1.1.2000 to 25.4.2000

SUSPENSION PERIOD :- 26.4.2000 to till now.

(1) CONVICTION SECURED IN COURT OF SPECIAL JUDGE ASSAM :

(A) Case No :- Rc 32(A)/94-SHG U/S 420, 409 IPc & 13(2) r/w 13(1)C of P.C. Act - 1988.

Particulars of Accused : - Sri Kushal Chandra Deka Indian Bank, Digboi Branch, Tinsukia Assam.

Conviction awarded by the Court :

5 years rigrous imprisonment and Rs. 10,000/- fine vide judgement dated 18.7.2000 of Special Judge Assam.

This case was exclusively investigated by me and after investigation chargesheet was submitted in court, assisted all along the PPS in conducting the case and briefing the witnesses before being examined in the court of law during trial.

(2) CONVICTION SECURED IN RDA :

(A) Case no RC-6(A)/91-SHG :- RDA major penalty against Sri S.R. Arvind I.T.S. the than TDM/G.M. Telecom dehradun. The President awarded penalty of 30% cut in the pension of Sri Arvind for all time.

(B) Case No. RC-12(A)/93-SHG :- RDA major penalty against Sri Damodar Sarma, Sub-inspector Phones, O/o the G.M. Telecom Kamrup Assam. The disciplinary authority vide order no X-4/2000-2001/01 dt. 23.06.2000 reduced two increments for two years in the pay scale of Rs.4000 - 100 - 6000.

(C) Case No RC-5(A)/94-SHG :- RDA major penalty against Basudeo Kalita and Radha Kalita both Const. GRP Assam Police vide letter no G.R.O./GRP/DP 96/2000/3928 dt. 01.06.2000, disciplinary authority stopped two increments with cummulative effect.

Contd.... p/2.

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10/3/13
Advocate

3) CASES REGISTERED ON SURPRISE CHECK CONDUCTED

(A) PE-5(A)/2000-SHG / RC-14(A)/2000-SHG — Against Sri A.K. Dutta JTO Stores/ N.E. TELECOM Circle Dharapur Guwahati U/S 120B, 420, 477A, IPC & 13(2) r/w 13(1)id of PC Act, 1988, for causing pecuniary loss of Rs. 67 lakhs (approx.) to Exchequer.

(B) PE-15(A)/99-SHG / RC-1(A)/2000-SHG — against Sri R.K. Das, JTO Stores/ Lokhara/ N.E. Telecom Circle, U/S 120B, 409 IPC & SEC 13(2) r/w 13(1) (C) & (D) of PC Act 1988, for causing pecuniary loss of Rs. 2.45 lakhs to exchequer.

In both the above cases SIR submitted by me, surprise checks were also conducted by me leading to the registration of said cases.

4. CASES ORDERED FOR REGISTRATION OF CASES/SIR PENDING VERIFICATION.

(A) SI/SHG/99/19
(B) SI/SHG/99/20
(C) SI/SHG/99/21

For cheating, misappropriation etc of crores of Rs of Govt. money by Class I Officers of Telecom Department in CRL conspiracy with Pvt. contractors for causing gross irregularites in OFC laying work on Imphal-Moreh, Imphal-churchanpur, Jorhat - Kohima - Dimapur route.

(D) SR/2000/07 — against Gazetted officers of Telecom deptt. for causing pecuniary loss of Rs. 19 Lakhs (approx.) to exchequer.

Contd 3

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Jhunjhunwala 10/8/13
Advocate

CASES INVESTIGATED

1) RC-34(A)/96-SHG : This is a high court referred and monitored case involving fraudulent drawl of Rs. 38 lakhs approximately from Kamrup Treasury against advance TA bills of the Establishment Staff and Hon'ble Judges of Gauhati High Court from 1985 to 1993. In this case investigation was complete and therefore from 1.1.2000 to 25.4.2000, i.e. before suspension, prepared SPs Report alongwith enclosures etc. against 33 accused persons belonging to Gauhati High Court, Kamrup Treasury, AG Accounts and AG Audit for prosecution and departmental proceeding which were sent to Deptt. concerned for initiating department proceedings, obtaining prosecution sanction order etc. In this case only chargesheet was to be filed following receipt of prosecution sanction order.

2) Misc case 206/98 : This misc case arose out of the aforesaid case RC-34(A)/96-SHG, vide this case Investigation conducted & property worth Rs. 38 lakhs of main accused & his family members were seized under the provision of criminal law amendment ordinance 1944 in order to preserve Financial Interest of state. In this case attended time to time the District & Session Judge Court Guwahati during course of hearing and rendering assistance to conducting PP.

3) RC-5(A)/98-SHG : This case was registered following seizure of Rs. 29 lakhs from the CGM Telecom (T/F) at Guwahati Airport u/s 7, 13(1)(e) of PC Act 1988 & 120B of IPC. However one businessman of Arunachal Pradesh in connivance with main accused filed a petition in the Special Judge Court Assam, Guwahati claiming the ownership of seized money stating that said money was given by him to the accused for purchasing diamond Jwellery from Madras. This petition though was dismissed on being contested in Court by submitting evidences collected during course of investigation. But a CRL Revn. Petition is pending before high court. From 1.1.2000 to 25.4.2000 i.e. before suspension further collected irrefutable evidences contrari to the claim of Sri Khirme, the above said businessman, and was successfully heading towards collecting evidences U/s

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Advocate

13(1)(a), 13(1)(d) & 13(1)(e) of PC Act and sec 120B of IPC but my all effort in this regard were frustrated by the impugued suspension order of DIG/CBI/NER Sri K.C. Kanungo who was all along insisting for filing chargesheet u/s 13(1)(e) of PC Act and FR(1) within 10 days only. I have come to know that my successor I.O. is now submitting FR(1) u/s 13(1)(e) only even after 10 months of handing over the case without labouring to appreciate existing evidence and collecting further evidence of PC Act aforesiad.

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Jhurkayastha
4/3/13
Advocate

Sub: **Reply to parawise comments in OA No.43/03/599 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 No. 4.10	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 No. 4.11	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	Relates to communication of adverse remarks in the ACR of the applicant for the year 2000. No comment.
Para No.4.19	Relates to grading of the applicant for the year 1.1.2000 to 31.12.2000 as 'Below Average.' There was sharp decline in the grading of the applicant from the previous years due to sharp fall in his quality of work, indisciplined conduct and unwarranted and unbecoming behaviour about which the applicant was communicated from time to time.
Para No.4.20	The remarks recorded in the ACR of the applicant were not vague but quite specific and objective in nature.

Para No.4.21 Relates to the representation of the applicant dated 14.4.2002 against adverse remarks in his ACR – no comment.

Para No.4.22 Even though the applicant was kept under suspension w.e.f.26.4.2000, yet his conduct was under watch for the whole year and subsistence allowance being given to the applicant during the period of his suspension at the rate of 50% which could be increased to 75% if the conduct of the applicant was satisfactory. But due to his unsatisfactory conduct, of which the applicant was well aware of, the subsistence allowance were not allowed to be increased and the detailed reasons of which were communicated to the applicant through relevant office order which the applicant may kindly be asked to produce during hearing. One of the reasons for not enhancing the subsistence allowance was that the applicant's conduct was deplorable and he had taken away the case diary file of a particular case from the Crime Assistant of the office of SP, CBI, Guwahati and did not return the same inspite of specific directions/reminders to do so. This was a serious misconduct on the part of the applicant.

Para No.4.23 The performance of the applicant for the aforementioned period of within 4 months was positively 'Below Average'. The quality of investigation was very poor and the instructions given to him by the superior officers were not being complied with. The Crime file and case diary file containing running note sheets will amply prove this.

Para No.4.24 The ACR being for the whole year 2000, the observation made therein related to the entire calendar year. Respondent 5 (R-5) did not dig up the case RC 15(A)/93 as alleged by the applicant out of malice towards him. But this came to the notice of R-5 in the usual course of discharging official duty. Moreover, it was the bounden

duty of R-5 to have made thorough review of the work of the applicant to find out his suitability of being continued in CBI.

Para No.4.25 On certain things like lacking of moral character and integrity for which adverse warning is not necessary. As an illustration, an officer embezzling office cash or like thing or aiding or abetting such acts cannot escape from his responsibility by pleading that he had not been previously warned not to do so. Likewise, the applicant was deliberately making false and malicious complaints against one and all who, according to him, were responsible for his sorry state of affairs, although the applicant himself was responsible for his own act and conduct. The applicant had charge sheeted an innocent person and no fore-warning was necessary for not doing so. Moreover, the applicant had also been warned by way of making adverse entry in his ACR in the previous year i.e., 1999. Yet the applicant did not mend himself and did not desist from his misconduct, negligence and lack of devotion to duty.

Para No.4.26 The remarks made against the applicant in his ACR were purely objective, based on facts and figures.

Para No.4.27 The applicant who was making false and baseless complaints cannot be said to be anything other than unreliable and undependable. Likewise, the applicant who had charge sheeted an innocent person can only be deemed to be unreliable and undependable officer. He was not complying with the instructions issued by the superior officers during investigation and as such his conduct could only be termed as unreliable and undependable.

Para No.4.28 It is based on records and as such incontrovertible. The applicant was required to submit Source Information against corrupt and high ranking officers and not against officers of his own department for

petty matters which were false, baseless and made with malice purely to defame and denigrate them as an act of sheer vendetta.

Para No.4.29 It is a statement of fact and hence no comments.

Para No.4.30 The charge sheet filed by the applicant in RC 15(A)/93, a copy of which could be available with the SP, CBI, Guwahati would prove beyond doubt that the applicant had implicated an innocent person. The comments given by DIG, CBI, Guwahati on the representation of the applicant in this regard may kindly be referred to.

Para No.4.31 If the applicant had conducted surprise checks, which had resulted in registration of cases, though not qualitative ones, proper weightage for the same were given in his ACR against the relevant Column relating to work namely 'Collection of Information.' The applicant has deliberately withheld the letter in which the adverse communication in his ACR was made besides highlighting the points mentioned therein in his favour. His quality of investigation was much below expected level. So also his conduct. As a result of which, the applicant was graded 'Below Average."

Para No.4.32 It is not a fact that adverse entries in his ACR had been recorded out of malice or animus. There is no ground for being prejudiced against the applicant as the R-5 joined Guwahati region only in July 1999 and did not know the respondent before hand.

Thus, there is no merit in the application of the applicant, which may kindly be rejected at the threshold.

21.04.03

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

Copy for Hon'ble Judge

(87)

98

PARAWISE COMMENTS ON OA No. 43/03/599

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/99/21, 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) It contains the adverse entries made in the ACR of the applicant for the year 2000 communicated vide memo dated 13.10.2001 - No Comments.

Para 4.19 :-

4.19(1) The expunction of adverse remarks recorded in the ACR of the applicant for the period 01.01.98 to 31.12.98 by the Hon'ble Tribunal does not mean that the said adverse entries were not valid and genuine. These were expunged because the applicant had not been forewarned about his bad performance and misconduct before making entries in his ACR.

Para 4.20 :-

4.20(1) It is not a fact as alleged by the applicant that the adverse remarks communicated to him which were recorded in his ACR for the year 2000 were vague, sweeping, general and subjective in nature. These were specific observations based on the work and conduct of the applicant about which the applicant had been forwarned during 1998/1999/2000.

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Para 4.21 :-

4.21(1) The applicant's allegation of malafide against the respondent No. 4/5 is without any basis. The allegations have been made in a highly irresponsible manner actuated with malicious intention as a convenient ploy for his defence.

Para 4.22 :-

4.22(1) Even though the applicant was kept under suspension w.e.f 26.4.2000, yet his conduct was kept under watch for the whole year. Based on the good conduct of the applicant, the subsistence allowance granted to the applicant at the time of his suspension at the rate of 50% could have been increased to 75%. But due to his unsatisfactory conduct and deplorable behaviour, the subsistence allowance was not increased. This was communicated to the applicant through office order dated 24.10.2000 **(Annexure - 10)**

4.22(2) The reasons for not enhancing the subsistence allowance were that the applicant's conduct in making false allegations against the respondents, especially respondent No. 4/5 and against other CBI officers including the CBI were primarily responsible; he also did not extend the desired cooperation in preparation of SP's Report in RC 34(A)/96, took away the case diary of RC 24(A)/96-SHG and did not return to the office even after being asked to do so, etc..

Para 4.23 :-

4.23(1) As mentioned under para 4.22 the ACR of the applicant pertains to the entire year i,e 01.01.2000 to 31.12.2000 as because the applicant's conduct was also kept under observation after he was kept under suspension w.e.f 26.04.2000, based on which subsistence allowance is granted to him.

Moreover, in the ACR Part-I, filled up by the applicant, he has mentioned that the ACR covered from 1.1.2000 to 31.12.2000.

Para 4.24 :-

4.24(1) Since the assessment of the applicant relate to the entire period from 01.01.2000 to 31.12.2000 the issuance of all the charge sheets which were done under the above period could properly be taken into account while assessing his conduct. Moreover, before issuing chargesheets, explanations of the applicant were called for during the period prior to the suspension.

4.24(2) In RC 15(A)/93-SHG, the applicant had charge sheeted one Shri Bakdul Ali against whom no charge sheet had been recommended by the HO. He was also not named in the FIR. Yet the applicant had chargesheeted him obviously with malafide intention or with gross carelessness. This fact is clear from the copy of the charge sheet filed by him and the observation of the then DIG, CBI, NER, Guwahati Shri N. Mallick dated 02.06.97, the relevant portion of which is mentioned below :-

"Due to mistake committed by the I.O, one innocent person had to suffer in the court. As such SP, CBI, ACB, Guwahati has been asked to obtain the explanation of the concerned officials and send the same with his comments at the earliest for taking appropriate action."

4.24(3) In RC 15(A)/93-SHG the Head Office had approved of filing charge sheet against five accused persons but Shri S.P. Singh Yadav, Inspector added the name of Shri Bakdul Ali, S/o Shri Ali Bauksh, Extension Officer, Lumbajong Development Block, Manjha, Karbi Anglong as accused No. 6, in the charge sheet as would be clear from a copy of the charge sheet dtd. 14.8.95 filed by Inspector S.P. Singh Yadav.

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4.24(4) It is also not correct that the applicant had filed charge sheet against 5 accused only. From the court diary No. 1 to 11 submitted by Shri J.S. Terang, the then Sr.PP. it would be clear that the number of accused persons being shown all along in these court diaries was 6 (six). In the court diary No. 11 dtd. 26.3.97 **(Annexure - 11),** it was clearly mentioned that all the six accused persons were in attendance but charges could be framed against 5 accused persons only while accused Bakdul Ali was discharged by the Ld. Judge as there was no sufficient evidence against him. Thus, Shri Bakdul Ali who should not have been charge sheeted was unnecessarily harassed by Shri S.P. Singh Yadav from the date of filing of charge sheet i,e from 14.8.95 till he was discharged on 26.3.97.

4.24(5) Further, from the observation of the then DIG, CBI Shri N. Mallik dtd. 02.06.97 in the above case it is clear that Shri S.P. Singh Yadav caused unnecessary harassment to Shri Bakdul Ali, the then Extension Officer, Lumbajing Development Block by filing charge sheet for which the DIG, Shri N. Malik, had asked the then SP Shri M.K. Jha to call for the explanation of the I.O (S.P. Singh Yadav) and forward the same to him with his comments for taking appropriate action. But Shri M.K. Jha, the then SP, CBI, ACB, Guwahati did not call for the explanation of Shri S.P. Singh Yadav, Inspector for reasons best known to him.

4.24(6) In the last para, the DIG recommended that no further action was required against the order of the trial court who had discharged the accused No. 6 Bakdul Ali who had been wrongly charge sheeted and therefore, Shri N. Mallick, DIG, requested the JD (EZ) to allow the matter to rest and accordingly the JD (EZ) agreed to close the case. Obviously JD (EZ) had never stated that action recommended by the DIG should not be

taken, as no senior officer could say that charge sheeting an innocent person was justified. **(The copy of the observation of Shri N. Mallick, the then DIG, CBI, NER is enclosed as Annexure - 12).**

4.24(7) Although, SP, CBI, ACB, Guwahati was asked to call for the explanation of the I.O vide observation dated 02.06.97 of Shri N. Malik, DIG, the SP did not take any action. When the matter came to the notice of the respondent No. 4/5, he called for the explanation of the SP, vide observation dtd. 20.11.2000 to explain why action had not been taken against the I.O and others. It is only then that the SP, CBI, Guwahati sought the explanation of the applicant vide Endst. No. 07572/3(15(A)/93, dated 06.12.2000 (The Endst. dated 6.12.2000 is marked as **Annexure - 13**). The applicant vide his letter dated 14.12.2000 (marked as **Annexure - 14**) addressed to SP, CBI, Guwahati requested to allow him to peruse the case records including the CD files in order to enable him to give his explanation as required which was permitted to him by the SP, vide Endst. No. 07890, dated 22.12.2000. (This letter is marked as **Annexure - 15**). But the applicant after perusing the records did not submit any explanation as required of him meaning thereby that he had no explanation to offer. Therefore, the plea of the applicant that the matter relates to 1997 is an after thought and is not sustainable.

Para 4.25 :-

4.25(1) The applicant has alleged that impugned average remarks recorded in his ACR are not sustainable due to the following reasons:-

(i) These are not based on facts/evidence.

(ii) The applicant was never advised in the past and shortcoming were not pointed out to him earlier.

(iii) The disagreement of Reviewing authority with the Reporting authority is not based on facts/material particulars.

4.25(2) None of the above plea of the applicant is tenable in as much as:-

(i) The adverse entry had already been recorded in the ACR of the applicant in the previous year, i.e. 1998 and communicated to him in 1999 vide letter No. 511/Con/1/94(PE)/98/GHY dated 29th Sept.1999 to the following effect:-

(a) "He has tendency to finalise cases without collecting clinching evidence.

(b) He is an indisciplined officer and exhibits insubordination occassionally."

(ii) The lapses and misconduct on the part of the applicant were highlighted in the Inspection note for the year 1999 and communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000 (marked as **Annexure - 16**).

(iii) The lapses/misconduct on the part of the applicant were pointed out/brought to his notice vide office order dated 24.10.2000 issued by the respondent No. 4/5 while not allowing him increase in subsistence allowance on account of his various misconduct against which the applicant had filed no appeal making thereby the observations against him is final.

4.25(2) In RC 15(A)/93, the explanation of the applicant was called by the SP vide endst. No. 07572/3/15(A)/93-SHG, dated 6.12.2000 and the applicant vide his letter dated 14.12.2000 requested to peruse the case records including the CD files and

crime files which were provided to him by the SP vide No. 07890/3/15(A)/93-SHG, dated 22.12.2000. But after perusing the case records, the applicant did not submit any explanation showing thereby that he had nothing to explain and hence adverse entries were made in his ACR.

(i) Chargesheet for minor penalty served on him vide No. DPSHL/2000/A/20/157/93, dated 10.1.2000 for assaulting the conmplainant and abusing him in filthy language and for making false allegations against the DIG.

(ii) He took office revolver with 6 cartridges on 27.10.98 allegedly for using it for discharging official duty but used it illegally in threatening the complainant to shoot him.

(iii) He conducted perfunctory verification of SIRs in files No. (i) SA/SHG/99/20, (ii) SA/SHG/99/21 and (iii) SA/SHG/99/22.

4.25(3) The applicant did not submit his weekly diaries regularly even after being reminded to do so. He was finally asked vide letter No. 754/12/Comp/SLC/NER, dated 22.3.2000 (marked as **Annexure - 17**) to explain why disciplinary action should not be taken but he did not reply. Finally, chargesheet was served on him vide No. 1447 dated 17.5.2000.

4.25(4) On certain allegations involving moral turpitude and lack of integrity forewarning is not necessary/warranted. As an illustration, if an officer embezzles office cash or like thing or aids or abets in such acts he can not escape from his responsibility by pleading that he had not been previously warned not to do so. The applicant was deliberately making false and malicious complaints against one and all who, according to him, were responsible for his sorry state of affairs, although the

applicant himself was responsible for his own act and conduct. The applicant had charge sheeted an innocent person and no forewarning was necessary for not doing so. Yet when his explanation was called, he submitted none, leading to adverse entry in the ACR. As mentioned above, applicant had also been warned repeatedly before making adverse entry in his ACR, including adverse entry in his previous year i,e 1998. Yet the applicant did not mend himself and did not desist from his misconduct, negligence and lack of devotion to duty.

Para 4.26 :-

4.26(1) It is not a fact, as alleged by the applicant that the reviewing authority while reviewing the work of the applicant had failed to act objectively and instead had acted maliciously with a prejudiced mind to malign and tarnish the service career of the applicant. The above allegations have been made by the applicant without any supporting evidence/facts/circumstances and are denied.

4.26(2) The very fact that the respondent No. 4/5, i.e. the reviewing authority himself had recommended in favour of the applicant for his continuation in CBI would clearly show that the respondent No. 4/5 had no prejudice or bias against the applicant.

Para 4.27 :-

4.27(1) The applicant was found to be neither reliable nor dependable in view of the following facts and circumstances :-

(i) That in the year 1998 adverse observations were made about the work and conduct of the applicant that (a) he was an indisciplined office and exhibited insubordination occasionally. (b) He had a tendency to finalise the case without clinching evidence. The above observations recorded in his ACR

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were communicated to him vide letter No. 511/Con/1/94(Pt.)/98/GHY, dated 29.09.99. These observations, though valid against the applicant, had to be expunged from his ACR subsequently on the order of the Hon'ble Tribunal because of the fact that the applicant had come to adverse notice for the first time and had not been given the opportunity to improve upon.

(ii) The applicant assaulted complainant Shri A.K. Baruah on 30.11.99 in presence of staff of the Regional Office, CBI, Guwahati and in front of the office chamber of the DIG, CBI, NER. When his explanation was called for vide No. DPSHL/1999/05805-06/A/20/157/93, dated 7.12.99, the applicant made wild allegations against the DIG and others alleging falsely that the DIG had colluded with the complainant etc. and was trying to protect him from the consequences of criminal case lodged against him which were thoroughly mischievous, false and motivated. This fact was highlighted in the chargesheet issued to the applicant vide No. DPSHL/199/0021/A/157/93 dated 10.1.2000 (marked as **Annexure - 18**).

(iii) During inspection of the Guwahati Branch by DIG, NER in 1999, the applicant was found to have committed the following lapses/misconduct which were communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000:-

(a) He had closed the case RC 27(A)/97-SHG against a high placed officer of ONGC without conducting proper investigation and had committed as many as 26 (twenty six) number of lapses while conducting investigation in the above case.

(b) The applicant, though present in the office during inspection, did not report to the DIG for personal interview after being summoned.

(c) The applicant was taking undue long period in finalising the cases due to dilatoriness and conducting investigation perfunctorily.

(d) The applicant was paying no heed to the instructions of the superior officers.

(e) The applicant did not submit weekly/monthly diaries for the year 1997 in spite of several reminders issued during 1997 and 1998 and finally when he was called upon to explain vide No. 753/12/Comp/SLC/NER, dated 22.3.2000, why disciplinary action should not be taken against him sand why he should not be kept under suspension for his indisciplined conduct and insubordination, the applicant did not submit any reply which finally led to the issuance of chargesheet against him vide No. 1477, dated 17.5.2000.

(f) In the weekly diary submitted by the applicant for the year 1999, he was showing false work done in the investigation of various cases and in particular in RC 5(A)/98, he had shown such false instances of having conducted investigation on as many as on 35 days though there was no corresponding case diary issued by the applicant. When his explanation was called by the DIG vide Memo No. 752/12/Comp/SLC/NER, dated 22.3.2000 (marked as **Annexure - 19**), the applicant did not reply to the above memo which led to make adverse entries in his ACRs, issuance of chargesheet and keeping him under suspension.

(g) The applicant, after he was called upon to explain why he physically assaulted and abused Shri A.K. Barua (complainant),

made false complaints against the DIG to the Director, CBI, vide complaint dated 23.12.99 and also to the Chairman, Human Rights Commission, following which DCBI had deputed the Joint Director (EZ) to verify the complaint which the Joint Director (EZ) found to be false and baseless. Therefore, the complainants also made several false and baseless complaint against SP and DIG out of animosity and vendetta for actions being taken against him on account of his misdemeanours.

(h) The applicant had charge sheeted one innocent person namely Bakdul Ali in RC 15(A)/93-SHG as mentioned above and when his explanation was called by SP, CBI, Guwahati vide endst. No. 07573/3/15(A)/93-SHG, dated 6.12.2000, the applicant wanted to peruse the relevant records before submitting his explanation which was allowed but the applicant vide letter No. 07890/3/15(A)/93-SHG dated 22.12.2000 but he submitted no explanation which led to the adverse entry in his ACR.

(i) The applicant's request for enhancing the subsistance allowance was turned down by the respondent No. 4/5 vide **order dated 24.10.2000 issued to the applicant against which the applicant had filed no appeal, meaning thereby that the ground mentioned in the said order were finally accepted by the applicant which are as under.**

(a) Instead of giving straight forward replies to the charges against him, the applicant was deliberately making false, baseless and malicious accusations against the DIG.

(b) There were reasons to believe that the applicant was the facade behind filing of PIL in the Hon'ble High Court in which unwarranted allegations had been made against the CBI for not taking any action by the CBI for alleged printing forged /

duplicate notes by the Reserve Bank of India which were found to be false and baseless during verification and the PIL was dismissed by the Hon'ble High Court. The applicant himself also submitted an SIR on this subject and it was also alleged in the PIL that the applicant was repatriated / the case transferred from him when he pursued the matter.

(c) The applicant was instrumental in publication of defamatory allegations in the newspaper against the DIG.

(d) In the replies given to the chargesheets served on him, the applicant was making false allegation against the DIG with a view to defame, demoralize and lower his dignity.

(e) The applicant was making false allegations against SP, CBI, Guwahati also.

(f) All the above conducts on the part of the applicant showed his mischievous tendency and dilatoriness with a view of prolonging the enquiry.

(g) The applicant did not return the original case diary file in RC 27(A)/96-SHG inspite of reminders issued to him.

(h) The applicant did not correctly prepare the enclosures in RC 34(A)/96-SHG leading to delay in the despatch of SP's Report and did not extend any cooperation, even after being called upon by the SP to do so.

Para 4.28

4.28(1) The above para refers to the adverse entry made in the ACR of the applicant to the following effect:-

"He is in the habit of making false and motivated complaint against superior officers and staff".

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4.28(2) The applicent used to make false and motivated complaint against the staff of office, SP and Regional DIG and particularly against respondentNo. 4/5. In his defence, the applicant has stated that these complaints were nothing but source information pertaining to financial irregularities and leakage of Govt. revenue for verification and registration of cases against Central Govt. servants and concerned authorities of the CBI which he is, duty boundi.e. submit as source information which are required to be disposed of as per relevant guidelines contained in Chapter IV of CBI (Crime) Manual and other circulars and instructions contained in Chapter (III) of DCBI circular/Standing Instructions with 1955 to 1996. The above stand of the applicant is false, motivated and misguided and purely an after thought on account of the following reasons:-

4.28(3) The source information is required to be submitted to the Controlling Officer, i.e. SP, CBI, Guwahati only whereas the applicant made various false complaints against SP, DIG and other staff to Joint Director/Director, CBI, Central Vigilance Commission and Chairman, Human Rights Commission, New Delhi.

4.28(4) The applicant, in terms of IGP circular No. 71 dated 20.2.60 was debarred to collect information based on rumours and gosspis and was required to collect information on corruption, actual bribery and illegal gratification.

4.28(5) Again in terms of para 32/124 of CBI (Crime) Manual 1991 (marked as **Annexure - 20**), the applicant should not have collected source information relating to irregularities or misconduct.

4.28(6) In terms of instructions issued in Apendix to Chapter V and para 125 of CBI (Crime) Manual 1991 (Page 50) petty cases are not allowed to be registered by the CBI which specify various types of petty cases including the following types of cases:-

(a) cases relating to false TA, fake LTC claims unless preferred repeatedly,

(b) cases relating to negligence to which loss caused to Govt. is less than Rs. 50,000/-,

(c) cases of Govt. Deptt. relating to fraud, misappropriation, etc. of amount of which is below Rs. 50,000/-.

The copies of above circulars and extract of CBI Manual are marked collectively as **Annexure - 21**). In view of the above instructions, the applicant cannot take cover under false pretext that he had collected source information against SP/DIG, etc.

4.28(7) Yet inspite of these instructions and inspite of warning being given both verbally and in writing, the applicant continued to make false and baseless allegations against senior officers including respondent No. 4/5.

4.28(8) The applicant has further mentioned that at no point of time, he was being warned that he had made false complaints which again is false on account of the undermentioned facts:-

(a) The conduct of the applicant regarding making false complaints against SP/DIG, etc. was mentioned in the Inspection report and communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000.

(b) Again vide Office Order No. 24.10.2000, issued to the applicant several misbehaviour on the part of the applicant including making of false complaints against CBI, Senior Officers like SP, DIG, etc.

(c) In the chargesheet for minor penalty served on the applicant vide memo No. DPSHL/199/0021/A/20/157/93 dated 10.1.2000, it was also pointed out that the applicant was making false complaint against the Regional DIG.

Para 4.29 :-

4.29(1) The applicant has alleged that the chargesheets were served after he was kept under suspension and as such the adverse entries made in his ACR relating to these chargesheets are uncalled for. The above plea of the applicant has no validity in view of the following facts:-

(a) The ACR for the year 2000 covered for the entire year from 1.1.2000 to 31.12.2000 which the applicant had himself mentioned in Part-I of the ACR filled by him (enclosed as **Annexure - 22**).

(b) The entire period, i.e. 1.1.2000 to 31.12.2000 is relevant as mentioned above due to the fact that the applicant's conduct was also subject matter of writing the ACR for the said period and the applicant's subsistence allowance was being governed on account of his good or bad conduct depending upon which the subsistence allowance could have been increased/decreased.

(c) Before issuing chargesheets, the explanation of the applicant were called. These explanations were called for during the period prior to his suspension, while in one chargesheet for minor penalty, it was served before 26.4.2000.

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(d) In view of the Hon'ble Supreme Court decision in State of UP (Appellant) Vs. Yamuna Shanker Misra and another (AIR 1997 Supreme Court 3671) which the applicant had himself referred to, the Apex Court had been observed clearly in para 8 of the judgement, inter alia, as under:-

"The counter comments made against him (respondent) by the Secretary were warranted in view of the material on record. He brought to our notice that as on date when the entries were made, the vigilance enquiry was pending against the respondent and, therefore, the adverse remarks came to be made. The findings recorded by the Tribunal of malice and arbitrariness on the part of the Secretary as affirm by the High Court are not warranted..... since the vigilance enquiry was pending. Unless the office was exonerated and cleared from the cloud, necessarily the Secretary could not clear the conduct and integrity of the office. Therefore, the adverse remarks cannot be said to be smack of arbitrariness".

4.29(2) In view of the above observations of the Hon'ble Supreme Court, it cannot be said that the remarks made by the reviewing authority were not justified/uncalled for.

Para 4.30 :-

4.30(1) This relates to the adverse remarks, **"he filed chargesheet against an innocent person against HO order in RC 15(A)/93-SHG."**

4.30(2) The circumstances under which the above remark was made have been explained in detail under para 4.24 (2) to 4.24(7).

Para 4.31 :-

4.31(1) This relates to adverse remarks, **"his performance is below average."**

4.31(2) Since the applicant was not able to finalise any case and did not conduct investigation properly, did not comply with the instructions of the senior officers, did not submit any quality source information, conducted investigation/inquiry in a highly perfunctory manner and made false complaints and accusations against the SP/DIG and other staff, when his explanations were called for his various misdemeanors. His work and conduct was found to be highly deplorable and uncalled for and, therefore, he was graded below average.

4.31(3) The reporting officer (SP) had not objectively assessed the work and conduct of the applicant and agreed with his observation in a mechanical manner, which was highly exaggerated and false. The applicant had shown falsely disposal of RC 6(A)/91-SHG and RC 12(A)/93-SHG, both during 1999 and 2000, though he did not present any of these cases during the above period. Likewise, the applicant had shown to have conducted investigation of RC 34(A)/96-SHG but during 1999 and 2000 though no investigation was done by the applicant during any of the year. The applicant had shown misc. case No. 206/96 both during 1999 and 2000, though it was not an independent case and part of RC 36(A)/96-SHG, in which no investigation was done during the above period as mentioned above. He could not dispose of RC 5(A)/98-SHG as well and allowed all his Regular Cases to be dragged unnecessarily. All these shortcomings and manipulations were loverlooked by the reporting officer. The reporting officer also for reasons best known overlooked the deplorable conduct of the applicant as highlighted in paras 4.24(1) to 4.24(7) and paras 4.26 and 4.27, etc. Moreover, the rewards and commendation given to the applicant were not based on his actual performance and not warranted under the existing guidelines for giving such

rewards/commendations, as explained under paras 4.6(1) to 4.6(4) and paras 4.20(1) and 4.20(2). (The copies of self appraisal statements of the applicant for the year 1999 and 2000, submitted along with Part-I of the ACRs, are enclosed as **Annexure - 23**).

4.31(4) The charge made by the applicant that the Reviewing Authority had made up his mind to give the adverse comments in his ACR as the reviewing authority had directed the SP (Reporting Officer) in the inspection note for stopping the rewards indiscriminately, etc. is thoroughly perverse and unwarranted on account of the reasons explained in paras mentioned above.

4.31(5) As mentioned under para 4.6(2), the rewards should have been sanctioned only for exceptionally good work. Further, the information submitted by the applicant were not of the nature warranting granting rewards to him which were petty in nature. Moreover, the reward is not a matter of right as pointed out under Standing Order No. 32 dated 27.12.96 which could be given subject to the applicant's overall good conduct and behaviour. Since the performance of conduct of the applicant left much to be desired, the question of granting reward to him did not arise.

Para 4.32

4.32(1) As already pointed out in para 4.31(3) above, the reporting officer did not act objectively while assessing the work and conduct of the applicant. The shortcoming/defect in the assessment of the reporting officer were rectified by the Reviewing and Accepting Authorities based on cogent and valid reasons. It is also not a fact that the reviewing authority was prejudiced against the applicant. The applicant has also not mentioned any valid reason for such prejudice. Moreover, the view of the applicant by the reviewing authority was also

accepted by the accepting authority (respondent No. 3) against whom the applicant has not made any charge of prejudice.

Para 5 :- Grounds for relief with legal provisions

5.1 As mentioned in paras 4.27 to 4.30 above, the remarks are not sweeping vague and general or perverse.

5.2 It is also not a fact that the reviewing authority made the adverse remarks out of malice. Furthermore, the remarks of the reviewing authority were agreed upon by the accepting authority.

5.3 The remarks were made by the reviewing authority not in contravention of any instruction. The remarks recorded in the ACR of the applicant were not actuated with malice but were made in order to correct and reform the applicant after it was found that the applicant in spite of several warnings even in the past and in spite of adverse entries recorded in the ACR during 1998, was unable to correct himself and mend his ways and behaviour.

5.4 The reviewing authority while making the remarks had taken into account the conduct of the applicant both during the period under review and also his past conduct.

5.5 There is no ground to believe that the accepting authority had acted without application of mind because it was the same accepting authority who had disagreed with the reviewing authority while recording the remark in the ACR of the applicant for the year 1999.

5.6 It is not a fact that the adverse entries were made in violation of the established principles of law.

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In view of the above, it is fervently prayed that there is no merit in the application which may kindly be dismissed by the Hon'ble Tribunal at the threshhold.

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 OF OA NO. 43/03/599

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	Office Order dated 24.10.2000 issued by DIG, CBI, NER, Guwahati regarding subsistence allowance for the applicant. (Ref. para 4.22(1)	10
11	Court Diary No. 11 dated 26.3.97 in RC 15(A)/93-SHG submitted by Shri J.S. Tarang, Sr.PP (Ref. para 4.24(4)	11
12	Copy of the observation of Shri N. Malick, the then DIG, CBI, NER, Guwahati dated 2.6.97, along with copy of chargesheet filed in RC 15(A)/93-SHG (Ref. para 4.24(6)	12
13	The explanation of applicant sought by SP, CBI, Guwahati vide Endst. dated 6.12.2000 (Ref. para 4.24(7)	13

14	Letter of applicant dated 14.12.2000 addressed to SP, CBI, Guwahati requesting him to allow to peruse the case records, etc. for giving the reply as called for in RC 15(A)/93-SHG (Ref. para 4.24(7)	14
15	Letter of SP, CBI, Guwahati vide Endst. dated 22.12.2000 to the applicant allowing him to peruse the relevant case records (Ref. para 4.24(7)	15
16	The extract of the inspection note of DIG, CBI, NER, Guwahati containing observation relating to lapses of the applicant as observed during the inspection conducted in the year 1999 and communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000. (Ref. para 4.25(2)	16
17	Copy of the memo/letter No. 754/12/COMP/SLC/NER, dated 22.3.2000 along with the copy of reminders for submitting weekly diaries issued to the applicant. (Ref. para 4.25(3)	17
18	Copy of the chargesheet issued to the applicant vide No. DPSHL/199/0021/A/157/93, dated 10.1.2000 (Ref. para 4.27(1)(ii)	18
19	Copy of the memo issued to the applicant by DIG vide memo No. 75/12/COMP/SLC/NER, dated 22.3.2000. (Ref. para 4.27(1)(iii)(f)	19
20	Extract of para 32/124 of CBI (Crime) Manual 1991 (Ref. para 4.28(5)	20
21	Copy of appendix 2 chapter V and para 125 of CBI (Crime) Manual 1991 page 50 (Ref. para 4.28(6)	21
22	Copy of the Part-I of the ACR of the applicant for the year 2000. (Ref. para 4.29(1)(a)	22
23	The copies of self appraisal statements of the applicant for the year 1999 and 2000 (Ref. para 4.31(3)	23

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

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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 Police C.B.I, A.C.B, Guwahati No. 0689 Dt. 27/3

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.

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(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 if 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

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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 Pipes 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.

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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.

Annx. 3

132 (11)

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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 1999/00598/A-20014/1608/93 dt. dated 18.2.99.

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

Received 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.

9C

mk:

(12) (133)

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

KING ATTN: K.C. KAUNGO, DIG.

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. DPAD/1999/03447/A. 20014/1609/93 DATED :- 30.9.99

PP-III/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 (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

Annx. 4 (2) 134

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,

22/1/98

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

149
25
135

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

30/11/98

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

150 (26) (136

STATEMENT OF SHRI Mukut Baruah,CONSTABLE,.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 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

151 (27) 137

STATEMENT OF SHRI BHUPEN DAS,CONSTABLE,(P.S.O.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 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

30/11/11

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

152 (138

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

Amx. 5 153 139 5

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.

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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

Annx. 6 (1426)

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 amour 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), 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

Annx. 7

143

160

202

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

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/0079 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
5

Annx. 8

8
144
161

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 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**

Received at 15-45 P.M. on 24.2.2000

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

(2) If he availed to render details verified, he shd immediately submit a separate SIR for registration and verification. Instead of that he is making false accusations against the shd to be dealt severely for his misconduct & he has guilty CBI crime record. What is that he intends to report?

per compliance report 29/02

16.

17. Seen. Necessary explanation covering all the points were already given from pages 29 to 31. Though the matter leading to N.....

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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 decided.

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 recommend registration of PE ?

16/6.

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 orders please.

22/6/2K

(145 163)

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, Proposing registration of FIR, as he feels registration of a DE is justified. Instead of doing that the file has again been sent back to me. I do not know the reason why? I can only say

SP
Nil

10/7.

CA

22.

My kindly see my comments placed herewith for orders.

File received at RO on 29/9/2008 at 1.00 P.M. 29/9.

23. Nil. put up suitable draft

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.

10.10.08

25. My kindly see for APPROVAL pl

File received at RO on 10/10/2008 at 2.15 P.M.

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

DA

27. As per the chart showing power of registration of PR/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.

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

(146)
165

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.

S.P.

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

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 submit.

41.

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

Extract of N/S of SA/SHG/99/20

Annx. 9

1409

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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**

File received at AO on 24.2.2000 at 5.45 p.m.

15. Chargesheet may be served on him for minor penalties for digression of investigation in this way and also allegation of conducting unofficial activities following Raid Zoom Procedure etc ~~bring to his notice~~.

16. Public duty-cf. as already 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/Estt.

19. Typed copy

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

21/3/2K

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21. Charge sheet is being dealt with for in PF of Mr Yadav.

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 order as the SIR is pending since then i,e 31.3.2000.

09/6/2K

SP

24. Mr Shivam

2/6

25. Put up after SP's Return from

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. My kindly see my earlier placed herewith for M.A.P.

20/7

28. Yes put up draft

4/10

FIR received at RI on 10/8/2000 at 1-10 P.M.

28/8/2K.

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

148

168

-5-

28. Draft letter to be signed by DIG, NER to ADEGP, Coh is put up for perusal and o/a please.

10.10.00

29. May kindly see the above/noted file.

Dy 10/10

DIG

file received at RO on 15/10/2000 at 5.20 PM

15/10/24.

30. Today (4.1.2001) the undersigned directed me to keep all the files of SPS Yadav IPS (Retd) Proceedings. While arranging 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 person be called for.

32. Let this information be registered first in Sikkim and given to an Officer of Sikkim Branch for enquiry. He shall do the enquiry either a first hand

4.1.2001

SP

33. SIR be registered & verification on receipt of DIG/NER.

Mr Ashok Kumar SI. to do the verification and report.

4.1.2001

file received on 9/1/2001 at 03.50 pm

9/1/2001

CA/SIK

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

10/1

A Kumar. SI

15/01/2001

35. Record photocopy verified report of SR/SIL/2001/01 dt. 15/01/2001.

3

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.

I/C SP

06/2/2001

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 scrutinised at Bar. Office. Let him attend office/ grant 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 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.

I/C SP

20/2/2001

41. Let Sh Ashok Kumar Sr. Subordt a security report & the documents collected from Bar enclosed

20/2

I/O

Amx. 10 (149)

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SPSINGH

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

ORDER

Shri S.P. Singh Yadav, Inspector, CBI was kept under suspension with effect from 26.4.2000.Since then, he has been drawing subsistence allowance at the rate of an amount equal to his leave salary on half pay, with appropriate Dearness and compensatory Allowance (FR 53(1).

2. The undersigned, as suspending Authority has reviewed the question of increase or decrease of his subsistence allowance. It has been observed that Shri S.P. Singh Yadav, instead of giving straight forward replies to various charge sheets served ~~issued~~ on him, has been deliberately making false , baseless and malicious accusations against the undersigned .There are reason to believe that he is behind the PIL filed in the Hon'ble Guwahati High Court in which unwarranted allegations have been made against CBI for not taking any actions by CBI for printing forged/ duplicate notes by RBI which on verification was found to be baseless. He is also believed to be instrumental in publishing defamatory allegations in news papers against the undersigned.In the replies given to charge sheets, instead of making factual representation, he has been making false allegations against the DIG with a view to defame , demoralize and lower his dignity. He has also making allegations in his reply against the SP,CBI Guwahati.Such conduct on the part of the charged official shows his mischievous tendency and dilatory ,conduct with a view to prolonging the inquiries.

SPSINGH

(814)

3. Shri S.P.Singh Yadav is found not to have returned the original CDs in RC 27(A)/96-SHG though he was directed to do so by SP,CBI,Guwahati vide memo no. 05638/3/27(A)/96-SHG Dated 8.9.2000.

4. Shri S.P. Singh Yadav was found to have mentioned wrong facts in the article of charge/statements of imputation in RC. 34(A)/96-SHG (enclosures of S.P's report) and when his assistance was sought by DSP, Guwahati Branch for giving comments to the Registrar, Guwahati High Court, in this regard, he did not extend any cooperation nor reported in the CBI office.

5. The above conduct of the charged official are firm indication of his unco-operative and mischievous attitude

6. In view of the above there is need to decrease the subsistence allowances from 50% to a lower amount.However, after a sympathetic view, the undersigned is of the opinion that at this stage, the subsistence allowance drawn by Shri S.P. Singh Yadav may not be decreased which will continue as before.This will be reviewed after a few months during which Shri S.P.Singh Yadav is directed to mend his ways and conduct.

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To
S.P. Singh Yadav
(Thtrough SP,CBI,Guwahati)

Copy to:

ADCBI, Calcutta for favour of information.

Annx.II (151)

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परिशिष्ट-15 XV
SCHEDULE XV
अनुबन्ध-I
ANNEXURE-I

न्यायालय दैनिकी
COURT DIARY

न्यायालय का नाम Name of Court: Spl. Judge (CBI) Guwahati / S. K. K. Das.

केन्द्रीय ब्यूरो CBI: A.C.B.

न्यायालय मामला सं० Court Case No.: 16(c)98

संस्थित करने की तारीख Date of Institution: 14-8-98

शाखा Branch: Guwahati

शाखा मामला सं० Branch Case No.: R.C. 15/93

न्यायालय दैनिकी सं० Court Diary No.: 11

कानून की धारा Section of Law: 120B/420/468/109/471 of IPC and u/s 13(2) r/w 13(1)(d) of P.C. Act, 1988

सुनवाई की वर्तमान तारीख Present date of hearing: 26-2-21

सुनवाई की अगली तारीख Next date of hearing: 16-5-22

अभियुक्त के नाम एवं पदनाम Name(s) & Designation(s) of the accused: 1. [illegible] 2. P/F

1. मुकदमे की अवस्था Trial Stage	आरोपपूर्व Precharge	आरोप Charge	अभियोजन Prosecution	बचाव Defence	अन्तिम बहस Final Arguments
	F.C.		Closed		

2. साक्ष्यों का विवरण Details of witnesses

साक्ष्यों का स्वरूप Type of witnesses	कुल सं० Total No.	पेश किया गए Cited	कुल परीक्षित Total Examined	शेष बचे साक्ष्यों की कुल सं० Total number of remaining
	29		NIL	29

3) तकनीकी साक्ष्य Technical witnesses

तथ्यात्मक साक्ष्य Factual witnesses

11

173 (152)

(22)

3. तारीख पर बुलाए गए गवाहों का विवरण:
Details of witnesses summoned for date :

बुलाए गए गवाहों के नाम Name of witness summoned	सम्मन भेजने की प्रक्रिया Process served	उपस्थित हुए Apeared	पूर्णतया समर्थन किया Fully support-ted	अंशत: समर्थन किया Partly support-ted	अभियोजन पक्ष का समर्थन नहीं किया Did not support Pros.	परीक्षण नहीं किया गया तथा परीक्षण न किए जाने का कारण Not Examined and reasons thereof
NIL						

(i) _____

(ii) _____

(iii) _____

(iv) _____

(v) _____

All the six accused persons are in all the charges against 5 accused persons but accused Bakul Ali is discharged by the Court.

4. गवाह(हों) के पक्षद्रोही होने, यदि कोई हो, सहित कार्यवाही का संक्षिप्त विवरण:
Brief description of proceedings including hostility of witness (es) if any

5. यदि मामले पर कोई प्रतिकूल असर पड़ा हो तो लोक अभियोजक द्वारा सुझाए गए उपाय
Remedies suggested by PP if damage caused to the case NIL

6. पैरवी अधिकारी का नाम और रैंक
Pairvi Officer's name & rank Sri S.P.Singh Yadav, Inspector

7. अभियोजक का नाम तथा रैंक
Prosecutor's name & rank

8. पुलिस अधीक्षक की टिप्पणी
SP's comments

9. आवश्यकतानुसार पुलिस उप-महानिरीक्षक की टिप्पणी
DIG's comments where necessary

अभियोजक के हस्ताक्षर
Signature of the Prosecutor
20-3-97

KGIPKRND—1395 C.B. 95—IX -19-10 —1,00,000

Annx. 12

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COMMENTS OF DIG CBI NER GUWAHATI IN CASE NO.RC.15/93-SHG.

In this case, prosecution was recommended against 5 accused persons viz. (1) Renodip Das, Manager (Agri), (2) N.G. Palit, Field Officer, both of SBI, Diphu Branch, (3) K. S. Rang-hang (Pvt.), (4) S. N. Barman, Gram Sevak, Lambajong Dev. Block & (5) D. Rongpi, Village Headman, Deoci Rongpi village and such action as deemed fit against Bakdul Ali, the then Extension Officer, Lumbajong Dev. Block, Manjha, Karbi - Anglong. However at the time of filing the Charge sheet, the I.O. included the name of Bakdul Ali alongwith the 5 other accused persons and sent him up for trial. The draft chasg sheet was vetted by the Sr.PP of the branch. During framing of Charge the Ld. Spl. Judge, Assam, Guwahati vide his order dated 26/3/97 while framing charges against the other 5 accused persons discharged Bakdul Ali as there was no materials against him.

Due to the mistake committed by the I.O., one inno-cent person had to suffer harrassment in the Court and as such SP CBI Guwahati has been asked to obtain the explanation of the concerned Officials and to send the same with his comments at the earliest for taking appropriate action.

The Branch Unanimously recommended that there is no need to agitate against the order of the trial Court and the matter may be allowed to rest. The matter was examined by DLA CBI Calcutta and he also accepted the recommendation of the Branch. I endorse the unanimous recommendation of the Branch.

Copies of order sheet, comments of SP, Sr.PP and DLA are enclosed herewith.

H.O's decision may kindly be communicated in due Course.

Encls: As stated above.

02/6/97

(N. Mallik)
Dy.Inspector General of Police,
CBI/N.E.REGION/GUWAHATI.

JD/HZ/CBI/Calcutta.
U.O.No. 5825 /3/15/93-SHG.

Dated/ 16/6/97/

E/C

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the borrowers. It is [illegible] the suspects dishonestly [illegible]

[illegible] IRDP loan to different supplier on 12.4.88 for the supply of pineapple and banana sampling without any supplies being actually made by the said suppliers who received the amounts from Bank. The following facts emerged during investigation.

During investigation it was found that Sri Ronodip Das and Sri Nani Gopal Palit were posted and functioning as Manager(Agril) and ~~Asstt~~ Field Officer at SBI,Diphu Kathi Anglong from March'1987 to 31st Oct'1989 and from Nov'1987 to 31st December 1989 respectively. Sri Ronadip Das in the above ~~capacity~~ capacity was responsible for the actual implementation of the IRDP schems as per extent instructions of the bank in this regard, and as such was authorised to sanction loans to the beneficiaries on the recommendation of Field Officer Sri Nani Gopal Palit. Similarly Sri Nani Gopal Palit as Field Officer was interalia responsible for making preliminary enquiries about the identified beneficiaries for the disbursement of loan under IRDP scheme. Sri Nani Gopal Palit was also responsible to play more purposive role as regards verification of assets with in a reasonable period of time after disbursement of loans and exercise continued supervision over maintenance of the assets and keep closer and frequent contacts with borrowers.

During investigation it was found that during 1989 Sri R.Das entered into criminal conspiracy with Sri Nani Gopal Palit, Field Officer, SBI, Diphu and in pursuant to it dishonestly and with a intent to defraud sanctioned 87 fisheries term loans in gross violation of the codified circulars of Agricultural Banking on the latter impersonating against non-existent and fictitious names and thereby cheated the bank for an amount of Rs.[illegible]

Investigation further found that in order to accomplish this nefarious design of cheating the bank Sri R.Das and Sri N.G.Palit also entered into criminal conspiracy with Sri Sudhir Burman, a Gram Sewak in Lumbajong Development Block, Manjha, Karbi Anglong, who removed original application bearing signatures of the genuine person from the set of their application papers forwarded by Block/DRDA to Bank for sanction of loan and inserted new set of application in his (Sudhir Burman) hand writing bearing forged signatures/thumb impressions obtained from fictitious person. Shri Sudhir Burman also managed to secure photographs of some persons from the rejected applications in Block/DRDA office and conveniently got them affixed on the arrangement letter and control card in presence of Sri R.Das and Nani Gopal Palit who then attested the forged photographs. Hence the two Bank officials dishonestly also certified the forged thumb impressions and signatures as well as photographs as that of genuine beneficiaries in the Arrangement letter and control card respectively. The finger print expert and GEQD opinion however confirmed that these attested /certified signatures/thumb impressions reflected in Arrangement letter, control card, withdrawal slip etc. neither belong to the photographed persons nor with the borrower as reflected in control card/arrangement letter but with some fictitious third person. The finger print expert and GEQD confirmed that two such persons who put forged thumb impressions/signatures on control card, withdrawal slip, Arrangement letter etc. against various A/C No. and which were certified by Sri R.Das and Sri N.G.Palit as that of genuine borrower belongs to Shri Sudhir Burman as Lumbajong Dev. Block Manjha, Karbi Anglong and Sri Khor Sing Ronghang (Pvt person) R/O Dergi Rongpi Village Diphu, Karbi Anglong, Assam.

Investigation further found that Sri R.Das, Manager(Agri) SBI Diphu and Sri N.G.Palit, Field officer, SBI Diphu also entered into criminal conspiracy Sri Khor Singh Ronghang and Sri Dergi Rongpi, Village Headman of Dergi Rongpi village in 1988 and in pursuance thereof prepared forged documents dishonestly and fraudulently against the disbursement of second dose to the IRDP beneficiaries of Dergi Rongpi village for the supply of live stock and as such issued 40 banker cheques in favour of non existent and fictitious suppliers but without any supply of live stock being effected and thereby defrauded the Bank with another clean amount of Rs.2,76,850/-.

The aforesaid facts circumstances and evidence established that Sri Ronodip Das and Sri Nani Gopal Palit committed the offences of cheating forgery, impersonation and of criminal misconduct of abusing his official position and in active conspiracy with Sri Sudhir Nath Burman, Gram Sewak Lumbajong Dev. Block, Manjha, Sri Khorsing Ronghang and Dergi Rongpi both private persons and thereby by they committed the offences punishable

Police Station :- CBI(SPE)Shillong District :- Kamrup Charge sheet No.
at Gauhati.

Name, address & occupation of complainant :- 'Source' F.I.R. No. SC.15(A)/93-SHG 30/06/93

Names and addresses of accused persons sent up for trial		Names and addresses of accused persons not sent up for trial whether arrested or not arrested, including absconders (show absconders in red ink)	Property (including weapons found with particulars) of where, when and by whom found and whether forwarded to Magistrate	Names and addresses of witnesses	Charge or information, nature of offence and circumstances connected with it, in concise details, and under what section of law charged
Custody	On bail or recognizance				
1		2	3	4	5
1.Sri Ramodip Das, S/o.Lt.R.M.Das, the then Manager, Agricultural Banking Division, State Bank of India, Diphu Karbi Anglong. HOME ADDRESS:- C/o.L.C.Das, Transb Vidya Peeth, Dimapur, Nagaland, and C/o.Sri Rajendra Mohan Das, Railway Station, Dimapur, Nagaland. 2.Sri Nani Gopal Palit, S/o.Kamal Mohan Palit, Field Officer, SBI Diphu Karbi Anglong. PRESENT ADDRESS:- C/o.Kamal Mohan Palit, Near Railway Station, Golaghat, Assam. 3.Sri Khar Singh Ronghang, S/o.Kehui Ronghang(Pvt. person) Vill:-Dorai Ronggoi P/O:-Dalooli, P.S:-Diphu, Distt:-Karbi Anglong, Assam. 4.Sri Sudhir Nath Barman, S/o.Lt.Thakurdas Barman, Gram Sevak Lumbajong, Dev Block, Manjha, Dimapur Road, Karbi Anglong, Assam HOME ADDRESS:- Habagaphar, P.O:-Kawai Pur, Karbi Anglong, Assam. 5.Sri Dengi Rongpi, S/o.Nooi Rongpi(Pvt) Village Headman, Vill:-Dorai Rongpi, P.O.Dalooli, P.S:-Diphu, District:-Karbi Anglong.		6 Sri Hakdul Ali, S/o.Ali Hakash Ali, the then Extension officer, Lumbajong Dev. Block, Manjha, Karbi Anglong, A/P:- Extension officer, Kwalpur Dev.Block, P.O:-Boihata, Distt:- Kamrup, Assam. HOME ADDRESS:- Vill:- Hachakuchi, P.O.Kerara Boihata Chariali, Distt:- Kamrup, Assam.	As per list enclosed.	As per list enclosed.	A case RC.15(A)/93-SHG was registered against Sri Ramodip Das, the then Manager, Agricultural Banking Division, SBI, Diphu, Karbi Anglong and Sri Nani Gopal Palit, the then F.O., SBI Diphu, Karbi Anglong, Assam on 30.6.93 at SPE/CBI/ACB, Shillong on the basis of a source information on the allegation that S/Sri R.Das and N.G.Palit while posted and functioning as the then Manager (Agri) and Field officer respectively in SBI Diphu Branch during the period from Feb' 1989 to May '1989 entered into criminal conspiracy with each other and in pursuance thereof Sri R.Das sanctioned a total of 89 Fishery loan under IRDP schemes on the recommendation of Sri N.G.Palit in the name of non existent and fictitious borrowers. The suspects therefrom disbursed only the subsidy amount totalling Rs.1,95,000/- by issuing bank drafts but no debit confirmations were obtained from

U/s. 120B/420/468 r/w 109/47. IPC and Sec. 13(2) r/w Sec.13(1)(d)of P.C.Act, 1988.

The prosectuion sanction order of competent authority as required U/s. 19 of P.C.Act, 1988 in respect of accused Sri Monodip Das, and Nani Gopal Palit is enclosed herewith for taking cognizance against him. The list of witnesses and documents are also enclosed herewith. The accused persons were not arrested during the investigation and it is therefore prayed that the processes may kindly be issued to inforce their attendance before the Hon'ble Court and they may be tried. Additional oral and documentary evidences if necessary will be arduced in course of Trial.

Submitted :-

(S. P. Singh)
Inspector of Police
CB(ACB)Shillong
& Guwahati

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GOVT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT OF POLICE
:GUWAHATI:

Sub :- RC. 15(A)/93-SHG.

Charge sheet was filed by you in above referred case to the Special Judge, Assam, Guwahati by you on 23/8/95 against 5 accd persons. Whereas one Bakdul Ali, the then Extension officer, Lumbajong Development Block, Manjha, Karbi Anglong included alongwith 5 other accused persons whereas such action as deemed fit was recommended against him. As a result of which an innocent person had to suffer harassment in the Court.

You are hereby directed to submit your written explanation with your comments thereon to the undersigned immediately for forwarding the same to DIG/NER/Guwahati.

Superintendent of Police
CBI(ACB)Guwahati.
Dated :- 6/12/2K

Endst No. 07572/3/15(A)/93-HG.
To

Sri S.P. Singh Yadav
Inspr. of Police
CBI(ACB)Guwahati.
To send to his home address.

.....

BN/*

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14/157

To

THE SUPDT of POLICE
CBI/ACB/SPE
GUWAHATI



Sub: RC-15(A)/93-SHG

Sir,

Kindly ref your Endst No 07572/3/15(A)/93-SHG Dtd 6/12/2K on the above subject.

In this context I would like to mention that the charge sheet in this case was filed on 23/8/95 (as revealed from your aforesaid letter) in the court of Special Judge Assam Guwahati. Since it was the matter of 1995 I am not in a position to recollect the details thereof.

In view of above it is requested to allow me to peruse the case records including the CD files, crime files and to take necessary notes in order to give my written explanation as called in your aforesaid letter.

Yours faithfully

14/12/2K

SOHAN PAL SINGH ADDN
SP/CBI/ACB (4/S)
GUWAHATI

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GOVT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT OF POLICE
GUWAHATI.

==_ooOoo_==

No 07890 /3/15(A)/93-SHG. Dated 22/12/2000

To

Sri S.P. Singh Yadav
Inspector(U/S)
Guwahati.

Sub :- RC. 15(A)/93-SHG - Seeking approval for Crime and CDs files for offering your explanation from SP-- reg.

Ref :- Your letter dtd. 14.12.2000.

Refer your above letter dtd. 14.12.2000 on the above noted subject. The DIG/CBI/NER/Guwahati allowed to peruse the above files. Hence you are directed to offer your written explanation at the earliest as desired by DIG.

Superintendent of Police
CBI(ACB)Guwahati.

BN* ==_ooOoo_==

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Extract of the inspection note of DIG, CBI, NER, GHY communicated to Sh. S.P. Singh Yadav vide No. 228/153/99/Vol.II/NER, dt. 24.1.2000.

i) SI/SHG/99/16 : This SIR was entruested to him on 23/9/99. It is pending verification. IO should submit verification report at an early date.

ii) SI/SHG/98/11 : I.O. has already submitted his report which has been sent to JD(E) on 4/11/99.

(iv)(11)(47) COMPLAINT :

i) CO/SHG/99/28 : This was marked to IO on 13/12/99 which is under verification and should be completed early.

(iv)(11)(48) INSPECTOR S. P. SINGH YADAV :

During inspection of ACB, Guwahati Branch all IO.s were called for interview by the undersigned. Inspector S. P. Singh Yadav though he was called to report to the DIG at RO for discussion of his cases he did not report.

From his personal file it is seen that he joined CBI on deputation from U. P. Police on 24/9/93. During his entire tenure in CBI since his joining he had finalised 10 cases out of which the following two cases ended in closure.

i) RC 20(A)/96-SHG
ii) RC 27(A)/96-SHG

None of his cases which have been disposed of finally. These are all pending under RDA or Trial, as given below :

i)	RC 15(A)/93-SHG	Pending Trial
ii)	RC 16(A)/93-SHG	Pending Trial
iii)	RC 27(A)/93-SHG	Pending Trial
iv)	RC 3(A)/96-SHG	Pending Trial
v)	RC 5(A)/96-SHG	Pending Trial
vi)	RC 5(A)/94-SHG	Pending Trial/RDA

CASES PENDING IN RDA :

i)	PE 7(A)/94-SHG	Pending RDA
ii)	PE 12(A)/95-SHG	Otherwise disposed of

CASES CLOSED DURING INVESTIGATION :

i) RC 27(A0/96-SHG : This case was registered against Shri P. I. Borah, Supdt. Engineer, ONGC, Nazira who reportedly an officer in the Agreed List.

(iv)(11)(50) In the FIR registered on 12/7/96, it was alleged that the SO during 1986 to 1994, had total income of Rs. 4,68,286.00 while his assets wee to the tune of Rs. 4,74,313.00. The SO had incurred expenditure during the above period to the tune of Rs. 1,56,000/- (calculated as one third of income)

and as such he was alleged to have acquired assets disproportionate to his known sources of income , punishable u/s 13(2) r/w 13(1)(e) of PC Act, 1988.

(iv)(11)(51) During investigation searches were conducted on 10/10/96 at various places including residence and office of SO. Inventories of House hold goods were also prepared.

The perusal of CD file and FR(I) shows that the I.O. either .did not know how to conduct investigation of a DA case or he had deliberately made a total mess of investigation. He had taken an extended check period beyond what was mentioned in the FIR. The check period should have been selected making it as short as possible, keeping in view acquisition of major assets by the SO. which in this case was confined to a period of 8 years (approx) from 1986 to March, 1994 as given in the FIR. It should have been reduced but was unnecessarily extended to December, 1977. Though on papers, I.O. had shown check period from 23/08/80 to 10/10/86, he virtually extended it up to 13/12/77. A comparision of movable asstes of SO in the FIR and what was actually found by IO as mentioned in his FR(i) is given below .

Item	Value shown in FIR	Final calculation
NSC	Rs. 80,000.00	Rs. 55,000.00
NSS	Rs. 20,000.00	NIL
UTI	Rs. 10,000.00	Rs. 20,000.00
Jevandhara	Rs. 14,800.00	Rs. 14,800.00
Bank Balance	Rs. 44,013.00(2 accounts) A/c No. 443 & 838	Rs. 58,095.00 (5 A/cs
Motor Cycle	Rs. 31,500.00	Rs. 31,000.00
Car	Rs. 1,00,000.00	Rs. 1,50,000.00
Farm Equipments	Rs. 12,000.00	Rs. 12,000.00
	Total Rs. 3,12,313.00	Rs.3,30,895.00

(iv)(11)(52) Movable assets which were not shown in the FIR, but found out during investigation and included in the Final calculation of Assets by IO are as under :

Share	Rs. 40,500.00
Onida TV	Rs. 22,700.00
Refigerator	Rs. 13,000.00
Booking of Fiat UNO	Rs. 2,300.00
Cash	Rs. 17,000.00
IDBI Bond	Rs. 5,300.00
	Rs.1,00,800

(iv)(11)(53) Thus there has been increase in movable assets by 1,19,382.

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upto 4,02,000.00 , on account of booking of a flat by S.O's wife at Delhi for which a sum of Rs, 2,28,000.00 was paid to the housing Co-operative society at Delhi , during the check period .

It is therefore apparent from above that the S.O. had deliberately conceled the above payments and assets acquired by him in the name of his wife , which he did not disclose it in his proforma property returns submitted on 3/3/97 to his Department during investigation of this case.This gross misdeclaration on the part of the S.O. would have made him liable for prosecution or atleast he should have faced regular Deptt. action, but I.O. in stead recommended closure of the case.

Apart from the above , a number of gross misconducts have been comitted by the I.O. during investigation of the above case , as mentioned below .

(i) I.O. did not scrutinised the seized documents nor did he submit any scrutiny report . The CD does not indicate any such action on the part of the I.O.

(ii) He did not collect proper evidence to prove each item of income, assets, and expenditure of the S.O. As a matter fact, the I.O. did not examine a single witness during investigation of this case and as such did not submit calernder of evidence (oral) and Calender of evidence (documentary), alongwith the FR.(i) submitted by him.

(iii) The I.O. wrote a few letters to some authorities /Bodies etc.. for verifying expenditure and assets of the S.O. but without waiting for their replies or without showing the result of the replies so obtained in the case diary or FR(I) , hurriedly submitted Final Report ,part:I without collecting any evidence, being in league with S.P. Shri M.K. Jha .

(iv) The I.O. did not consider various expenditures incurred by the S.O. during the check period , even though documentary evidence were available to proof such expenditure , in order to make out a case for closure .

(v) The I.O. did not calculate premium paid by the S.O. on account of five LICI policy to the tune of 5.15 lakhs ,the annual premium of the these policies being to the tune of Rs 30,328.00 and did not include these amounts in the expenditure of the S.O. during the check period .

(vi) Likewise , the I.O. ,did not include expenditures of the S.O. on many other heads like (i)educational expenditure of the childrens.(ii)payments of house rent made by S.O.(iii)expenditures incured on conveyances,including paymenst made towards road tax, insurance , POL and maintainance , as the S.O was having one car and one motor cycle during the check period ,which would have been quite substantial.

(vii) The I.O. allowed a lost of benefit to the S.O. on account of his income without any shred of evidence and without any logic , merely on statement of the S.O.

(viii) The I.O did not disclose about the proforma property return submitted by the S.O. dated 3/3/97 , collected during investigation of this case in order to allow various benefits to the S.O. which the S.O. himself did not show in his profroma property return dtd. 3/3/97, obviously with malafide intention .

(ix) Like wise , IO allowed income to the tune of 2,16,695.00 on account of matured values of NSCs etc. without collecting proper evidence and giving benefit of the entire mautured sum of NSCs and other such investment as the income of the S.O. during the check period , whereas only interest earned by the S.O. against this investments should have been considered as his income during the check period , provided he had declared /shown these incomes in his Tax returns and property statements .

(x) Thel.O. allowed benefit agricultural income to the tune of 86,700.00 to the S.O. during the check period , all thouth the S.O. in his property return dtd. 3/8/90 had shown income of Rs 21,000.00 on the said, which had accordingly been taken into account in the allegation against the S.O. in the F.I.R.

(xi) The I.O. has shown an amount of Rs. 2,300.00 as booking amount for booking Fiat UNO car thought the S.O. had actually deposited a sum of Rs. 23,300.00 against the said booking .

(xii) The I.O. again allowed benefit of income to the S.O. to the tune of Rs, 97,350.00 towards alleged profit made by the S.O. in the purchase and sales of shares during 1992 to 1994, allthough this was not shown by the S.O. in the proforma property return dtd. 3/3/97 nor in the income tax return filed by the S.O. The IO also did not conduct any verification in this regard and gave the entire benefit to the S.O. obviously with fraudulent intention .The I.O did not recommend any action against the S.O. for concealment of this income of the S.O. said to have been derived from the sale/purchase of shares, .The speculation in purchase /sale of shares is itself a misconduct generaly prohibited in the conduct rule .The I.O. did not requisition the services of Technical Officer for scrutinising the seized documents in this case which mandatorily required to be done obviously with dishonest intention,for closure of the case .

(xiii) Shri M.K. Jha, SP who supervise the investigation of this case winked to all these gross misconduct of the I.O. and did not point out at any time any of these lapses and directed the I.O. to submit FR(I) hurriedly as is clear from the Case Diary No.24 dated 8/9/97 submitted by the I.O. in which the following facts were recorded

" During the discussion, the worthy S.P. averred that as there are no evidence of substantial assets against the suspect , therefore it would be extemly difficult to initiate a law prosectuion case against the suspect.However, he advised to expedite the investigation and give FR(I) soon , discussion note is enclosed herewith for perusal ."

Thereafter the I.O. submitted FR(I) after examinint the accused and taking into account what the accused stated as the absolute truth.

There are other factors to show that both the I.O. and SP Shri M.K. Jha were responsible for closure of the case with the Malafide Intention on account of which and RC may be registered against them.

(1)RC.34(A)/96-SHG:This is High Court referred case. The allegation relates to misappropriation of about Rs. 38 Lakhs by some employees Guwahati High Court, such as Record Arranger(Class-IV). Upper Division Asstt, Treasury Officials, Audit officials etc. the main

accused is Shri Wahid Ali , a Class-IV employees who has already been dismissed from service. The orders of Special Director on the F.Rs in this case was received in the Branch in the month of Aug/Sept but. lot of delay took place in the preparation of SP's report. The articles of charges statements of imputations, draft sanction orders were also not properly prepared and checked as a result of which the SP's report had to be returned by the Regional Office again and again. The I.O. did not collect the relevant conduct rules applicable to the officials against whom RDA was recommended by him. As a result the SP's report could not be forwarded to the Registrar, Guwahati High Court which could be done only 31/12/1999. The explanaltion of the IO has also been called for by the undersigned and he has been directed to get the draft charge sheet prepared vetted and keep ready which would be filed after s anction for prosecutions are received. This should be expedited by the IO through personal contact. The Sanctioning Authority should be examined before issuing sanction order with reference to original documents and statements of witnesses recorded by the Io relevant to the charge. This procedure should be followed in all cases where sanctions are required to be issued.

(2) RC. 5(A)/98-SHG Dt.11/2/98: The above case was registered on 11/2/98 under section 7 and 13(i)(e) of PC Act, 1988 jand Section 120B IPC against Shri K.R. Ganesh and others, pjursuant to seizure of Rs 25,31,200/- from his possession at Guwahati Air Port on 6/9/97 , followed by seizure of another Rs 4 lakhs during search of his house at Guwahati. Shri K.R. Ganesh also confessed before Shri Dinesh Sharma, Executive Magistrate, Kamrup, Guwahati that seized Cash were paid to him by different contractors/parties whom he had favoured by issuing various types of work orders but subsequent alleged that his statement was extracted under coercion.Thereafter he has been taking different stands at different times.

I have found that the I.O. is unnecessarily delaying in investigation in this case and not taking prompt action on the instruction issued by the undersigned.As jhuge amount of cash was recovered from the possession of the accused who is under suspension, the I.O. should have confined the investigation to a small period, say about 1 year or so on the allegation of D.A but instead of so doing he has unnecessarily expanded the investigation in different directions as a result of which the investigation is dragging unnecessarily.

In this case though, seized cash recovered from the possession of the accused consisted of a number of bundles of currency note of Rs. 100/- and Rs. 500/- denominations bearing bank slips , of different bank.The I.O. was asked out to whom these bundles of cash were issued. But though he has examined the Bank Officials, but he has not found out so far, to whom

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these bundles had been issued, who should all be examined. This excercise is important to rebut the plea of the accused and other persons who are colluding with him in creating false defence the I.O. has been asked to complete the excercise by end of January, 2000 and submit FR--I failing which actions would be taken against him.

The conduct of this I.O. is worth mentioning here.After his order for repatriation was issued by HO the I.O. did not attend office. His jwhereabouts could be traced after many days , he submitted medical certificate showing that he was seek. But actually, he was trying to obtain a stay order from the CAT/ High Court.After his petition was dismissed by Hon'ble Guwahati High Court , he has filed another petition in the CAT., Guwahati Bench against the order of repatriation which is yet to be decided.

There were complaints against him and the complainant Shri A.K. Baruah was called to the Regional Office by Dy. S.P. , Shri K.C. Choudhury on the instruction of undersigned and after he was examined Shri S.P. Singh Yadav findifng the complainant in the Regional Office llast his tempder and began assaulting the complainant abused him in unparliamentary language in front of the room of DIG.When his explanation was called for, he has started making false allegations against DIG and other staff concerned alleging that this is a conspiracy made against him to defame him. The SP has been asked to initiate RDA against the inspector and report the matter to CAT about his aforesaid conduct and unworthiness of the Inspector to continue in CBI any longer.

ADANI MAQ, INSPECTOR:No personal inverview could be held with him during inspection as he is posted at Shillong Unit, at Shillong. Hówever , he is having the following cases with him under investigation:

(1) RC. 31(A)/96-SHG Dated 13.9.96:**This case was registered against (i) Lt. Col. V. K. Mahajan(@ MGAR)(A-1), (ii)Maj. I.S. Basnet(@ MGAR)(A-2),(iii)Maj. Pwan Wahi of 3 MGAR(A-3) (iv) Nb/sub. P.S. Verma, (A-4) (v) LNK Mjukund Das (A-5) and (vi) M/s Kapcon (A-6),** on the allegation that the accused person conspired among themselves pursuant to which 20 thousand Gorkha Hats were purchased from M/s Kjapcon (A-6) at exorbitant rates and 100% payments were made to the supplier even though the accused firm had supplied Gorkha Hats much less in quantity and quality causifng loss of several lakhs to the Govt. of India etc. This case was transferred to the present I.O. jon 11.12.98 from the previous I.O. Shri D.B. Singh, pursuant to his transfer to Bombay. The previous I.O. had examined 12 witnesses and the present IO has more or less examined the same number of witnesses but so far no evidence has been collected

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GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: GUWAHATI

Sub; Gross misconduct in non submission of Weekly Diaries during 1999

Perusal of your weekly diary file shows that you have not submitted any weekly/monthly diary during the whole year of 1997, though several reminders were issued as by the S.P, as detailed below:

(i) No./SPsy/4155 Dt. 30.6.97(Reminder No. 1)
(ii) No.MD/SPSy/97/5028 Dt. 11.8.97(Reminder No. 2)
(iii) No. MD/SPSy/97/5870 Dt. 24.9.97(Reminder No.3)
(iv) No.MD/SPSy/97/907 Dt. 9.2.98(Reminder No. 4)

2. Apparently this is a gross and serious misconduct on your part for not having submitted weekly diary for a year in spite of having been directed/reminded to do so through several reminders as mentioned above, which shows this could be with ulterior and/ malafide intention.

3. You should therefore report immediately why departmental proceedings should not be started against you and you should not be kept under suspension for such serious misconduct on your part.

4. Your explanation should be submitted through SP,CBI, Guwahati, with a copy to the Regional DIG, failing which action as deemed fit would be taken against you.

(K.C. Kanungo)
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To
S.P. Singh Yadav, Inspector
CBI,ACB,Guwahati

754/12/Comp/SIC/NER Dt 22.3.2000

Copy to:

Supdt. of Police, CBI, ACB, Guwahati

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

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(341) 18 163

Office of the Supdt. of Police,
Central Bureau Of Investigation,
Anti-Corruption Branch,
Sundarpur, Guwahati-5.

No. DPS/1999/0021/A/20/157/93 Date: 10/1/2000

MEMORANDUM

Under Rule 9 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal) Rules, 1961 an action is proposed to be taken against Shri S. P. Singh Yadav, Inspector, CBI, Guwahati Branch.

The statement of imputation of misconduct against Shri S.P. Singh Yadav, Inspector is enclosed herewith.

Inspector, S. P. Singh Yadav is hereby directed to submit his written explanation/defence within 5(five) days of receipt of this Memo and also he should say whether he wants to be heard in person. If the written explanation/defence is not received within the specified time, as mentioned above, the undersigned will presume that he has nothing to explain on his behalf and further action would be taken against him as deemed proper.

Shri S. P. Singh Yadav, Inspector should acknowledge receipt of this memo.

(Om Prakash)
Supdt. of Police,
CBI, ACB, Guwahati.

Encl: Statement of imputation against
Inspector S. P. Singh Yeadav.

No. DPS/1999/0022/A/20/157/93 Date: 10/1/2000

Copy forwarded to:
The Inspector General of Police, CBI, NER, Guwahati for favour of information please.

Supdt. of Police,
CBI, ACB, Guwahati.

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STATEMENT OF IMPUTATION OF MISCONDUCT AGAINST SHRI S. P. SINGH YADAV, INSPECTOR, CBI, GUWAHATI BRANCH.

[illegible] the deportment of [illegible] S. P. Singh [illegible]

[illegible] Shri S. P. Singh Yadav had criminally assaulted one Shri A. K. Baruah [illegible] threatened him with a revolver on account of various property dispute between them [illegible] purchase of a flat by Smt. Jonali Baruah, said to be wife of Shri S. P. Singh [illegible] Dom's Apartment, 4th Bye Lane, Tarun Nagar, Guwahati-5 and said Shri A. K. [illegible] complaint against Shri Yadav to the Director, CBI, which has been [illegible] DIG, CBI, NER for causing verification and reporting the matter to HQ. In [illegible] which Shri K. C. Choudhury, Dy. SP, Regional Office was asked by the [illegible] examine the complainant when DIG, CBI, NER was present at HQ, so that he could also talk to him.

[illegible] the DIG came.

[illegible] accordingly, Shri Choudhury, Dy. SP called Shri Baruah to Regional Office on 30/11/99 who came and reported to him at about 11.15 am. As per instruction of the DIG, Shri Choudhury, Dy. SP after discussing the matter with the complainant and enquiring from him about the origin of the allegation etc., produced the complainant Shri Baruah before the DIG, as desired, in the DIG's chamber at about 11.30 am. and DIG after discussing the matter in presence of Shri Choudhury, Dy. SP allowed the complainant to go.

[illegible] Thereafter Shri S. P. Singh Yadav, Inspector had also been called to Regional office to report to DIG for discussing his case No. RC 34(A)/96-SHG for finding out the delay in preparation of SP's report and its enclosures, which have been going on since 16/6/99, as revealed from the weekly diary of Shri Yadav. But said Shri Yadav, instead [illegible] allegations [illegible]

of reporting at Regional office at 10.00 am. reported at about 11.30/11.35 am for reason best known to him. There is no entry also in the local movement register of I.O.'s maintained in the DO section, about the departure of Shri S. P. Singh Yadav on 30/11/99 from the office.

4. That when the complainant, Shri A. K. Baruah was about to leave the office, Inspector, S. P. Singh Yadav, who was sitting in the room of Dy. SP, suddenly came out to the verandah and started shouting at Shri Baruah, uttering *" Tu Chor", " Yaha Kaise Aaya", Tujhko Nahin Chorunga", "You Cheat "*. Inspector S. P. Singh Yadav also caught hold of his collar and tried to assault him but was prevented upon with great difficulty by Shri Chaudhury, Dy. SP and other staff of Regional Office.

5. That hearing the loud shouting of Shri Yadav, the DIG came out from office chamber and asked Shri Yadav to let Shri Baruah, go as he was called by the DIG and not come on his own accord and expressed his serious displeasure at the unbecoming behaviour of Inspector, S. P. Singh Yadav.

6. The explanation of Shri Yadav was called for by the undersigned vide endst. No. DPSHL/1999/05805-06/A/20/157/93 dtd. 7/12/99, which was issued under signature of Dy. SP, Sh. K. C. Choudhury, who was holding the charge of the branch, under my order, to explain his conduct and also to explain as to why disciplinary action should not be taken against him for such behaviour and conduct.

7. But said Shri Yadav instead of giving proper explanation of his misconduct and misbehaviour, which was not only uncivilized and high-handed, has made false malicious allegations against all the staff of Regional office, who had seen the incident and also

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Shri K. C. Choudhury, Dy. S.P. who had called Shri Baruah and DIG, alleging false, baseless allegations of having conspired against him without stating any reasons for such conspiracy and thereby, further misbehaving, misconducting and showing gross insubordination just for the sake of creating false defence in his favour.

8. That said Shri Yadav has made further false allegation against DIG for conspiring with Shri A. K. Baruah to save him from the criminal case filed against him by CBI, without any basis and made similar false, wild, baseless allegations without any evidence, circumstances for making such allegations.

9. That said Shri S. P. Singh Yadav in manner aforesaid has committed gross misconduct and behaved in unbecoming manner showing gross insubordination and has lowered the dignity and prestige of CBI and Senior officers by his aforesaid misconduct and subsequent false and malicious accusations and has shown by such misconduct on his part, that he is unfit for working in an organisation like CBI any longer and has contravened Rule 3(1)(i)(ii) and (iii) of CCS(Conduct) Rules, 1964.

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GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: :: GUWAHATI

C.B.I., A.C.B., Guwahati

Sub: False submission of weekly diary/non-submission of case diary in RC. 5(A)/98-SHG by Shri S.P. Singh Yadav, Inspector.

Perusal of your weekly diaries for the year 1999 shows that during this year you have shown, in your weekly diary for having remained busy in conducting investigation of RC 5(A)/98-SHG on different dates but while checking the CD file of RC. 5(A)/98-SHG it was found that no C.Ds were submitted on those dates.It shows therefore that either you have falsely shown to have remained engaged on those dates for investigation of RC5(A)/98-SHG or did not submit any CDs on those dates which is a serious misconduct on your part.

2.It appears that on the following dates no CDs in RC. 5(A)/98-SHG was submitted by you though in your W.Ds you had shown to have remained engaged in the investigation on those dates.

(i)	25.2.99	6.7.99
(ii)	10.3.99	8.7.99
(iii)	17.3.99	12.7.99
(iv)	19.3.99	13.7.99
(v)	24.3.99	3.8.99
(vi)	3.4.99	4.8.99
(vii)	30.4.99	24.8.99
(viii)	7.5.99	27.8.99
(ix)	13.5.99	8.9.99
(x)	29.5.99	9.9.99
(xi)	4.6.99	21.9.99
(xii)	8.6.99	27.9.99
(xiii)	11.6.99	02.11.99
(xiv)	14.6.99	26.11.99
(xv)	15.6.99	28.12.99
(xvi)	17.6.99	2.7.99
(xvii)	24.6.99	5.7.99
(xviii)	3.7.99	

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You should therefore explain immediately why disciplinary action should not be taken against you and why then those dates mentioned should be treated as dies non .Your explanation should reach to the undersigned within 10 days of receipt of this memo failing which action as deemed proper would be taken against you.

(K.C. Kanungo)
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To,
S.P. Singh Yadav, Inspector
CBI, ACB, Guwahati
No 752/2/Comp/ELC/NER Dt. 22.3.2000
Copy to:
SP, CBI, ACB, Guwahati

Received 22.03

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

Ref - Page - 41 (Chapter IV) - of CBI CRIME Manual 1991

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Source Information

31/123 While there is no bar to the development of information through a source, verification should start only after registration of the SIR. All requisitions, including requisition of records should be invariably singed by the SP. When a written complaint is received by the SP from a department, it should not be converted into an SIR, unless so warranted in special circumstances as laid down vide Policy Divn. Circular No. 21/8/62-PD dated 24.2.84. Such conversion should, however, be done only with HO approval. If, after verification of the SIR, the verifying officer concludes that the allegations in the SIR are not corroborated, he should consult the officer who had submitted the SIR before closing the case.

32/124 Care should be taken to avoid collection of source information relating to irregularities or misconduct of a departmental nature, especially with regard to public sector undertakings. The SP should pay special attention to ensure that in respect of Public Sector Banks cases relating to transgress of discretionary powers and violation of Bank norms are not taken up for verification. Only such source information should be taken up for verification in which there is a clear criminal or corruption angle and the case, if registered, is likely to end in prosecution in a court of law.

33/125 Information should not remain pending in the branches for very long periods for verification and disposal. In this regard instructions issued by the Policy Division from time to time should be strictly adhered to. Where two or more Branches are involved in the verification of an information, the information should be transferred to the place where the officer is

is posted so that the verification of the information by the Branch concerned can be monitored by the DIG.

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CBI CRIME MANUAL 1991

APPENDIX

(Reference Chapter V and Para 125)

GUIDELINES FOR REGISTRATION OF CASES—PETTY CASES TO BE AVOIDED

1. Cases of the following types shall not be registered, except where there are special reasons warranting a C.B.I. Enquiry/Investigation.

(i) Cases relating to Railway Claims, movements or delivery of consignments without Railway Receipts etc. except when bribe is involved and a trap can be laid.

(ii) Cases relating to minor thefts or loss of stores.

(iii) Cases relating to promotions or similar departmental matters where no element of corruption is involed.

(iv) Cases relating to misuse of Railway Passes or obtaining passes on false pretexts.

(v) Cases relating to Life Insurance involving non-medical test or non-accounting of premia, unless the amount involved is very large or there are a number of instances over a prolonged period.

(vi) Cases relating to false TA including LTC unless false calims of this nature have been preferred repeatedly.

(vii) Cases (covered by CBI Charter) registered and investigated by local Police unless they are handed over very soon after registration.

(viii) Cases relating to departmental irregularities where the department itself is conducting an enquiry or taking necessary action against the delinquent.

(ix) Cases relating to misuse of staff-cars or Govt. vehicles or orderlies unless such misuse is extensive or repeated.

(x) Cases relating to shortage of stores unless stores found short are of considerable value i.e. Rs. 1 lakh and above and a criminal offence is suspected.

(xi) Cases relating to recommendations in favour of a firm when no malafides are involved.

(xii) Cases relating to failure to report property or monetary transactions or similar violations of conduct rules.

(xiii) Cases relating to the issues of certificates to passport applicants without knowing them but not involving malafides.

(xiv) Cases relating to shortage or losses where it is not possible to fix responsibility due to defects in procedure.

(xv) Cases relating to acceptance of contributions for any religions or social purposes, when the contributors have no official delaings with the officer concerned.

(xvi) Cases relating to non-observance of the formalities for making purchases when neither malafides nor corruption nor any serious irregularities are involved.

(xvii) Cases relating to negligence due to which the loss caused to Government is less than Rs. 50,000/-.

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पुलिस निरीक्षकों और उप-निरीक्षकों की गोपनीय रिपोर्ट का फार्म

केन्द्रीय अन्वेषण ब्यूरो

FORM FOR CONFIDENTIAL REPORT ON INSPECTORS OF POLICE
AND SUB-INSPECTORS OF POLICE
CENTRAL BUREAU OF INVESTIGATION

भाग–I

PART-I

वैयक्तिक ब्यौरे

PERSONAL DATA

(जिस अधिकारी की रिपोर्ट लिखी जा रही है, उसके द्वारा भरे जाने के लिए)
(To be filled by the Officer reported upon)

.....को समाप्त अवधि/वर्ष के लिए गोपनीय रिपोर्ट
Confidential Report for the Year/Period Ending 1.1.2000 To 31.12.2000
(SUSPENSION PERIOD WEF-26.4.2000 TO TILL DATE)

1. अधिकारी का नाम और कर्मचारी कोड संख्या
Name of the Officer & Employee Code Number S.P.SINGH YADAV

2. जन्म की तारीख
Date of Birth 1.7.1952

3. कद Height 6'3" वजन Weight 96 kg
सीना Chest 39" – 46" कमर Waist 37"

4. क्या अधिकारी अनुसूचित जाति/अनुसूचित जनजाति का है हां/नहीं
Whether the Officer belongs to Scheduled Caste/Scheduled Tribe. Yes/No. ✓

5. पदनाम/रैंक/धारित पद
Designation/Rank/Post held INSPECTOR of POLICE

6. वर्तमान ग्रेड में लगातार नियुक्ति की तारीख
Date of continuous appointment to the present grade viz 24.9.93

7. क्या सीधी भर्ती पर नियुक्ति या प्रतिनियुक्ति पर
Whether direct recruit or deputationist
(यदि प्रतिनियुक्त है तो उस राज्य/विभाग का नाम और पता लिखें जहां से प्रतिनियुक्ति पर आए हैं)
(In case of deputationist, name and address of State/Department from which on deputation)
(ON DEPUTATION FROM UTTAR PRADESH POLICE)

8. क्या स्थाई/स्थाईकृत/अस्थाई है
Whether permanent/quasi-permanent/temporary. PERMANENT

9. शाखा/यूनिट/कार्यालय जहां रिपोर्ट की अवधि/वर्ष के दौरान सेवा की और प्रत्येक में सेवा की अवधि
Branches/Units/Offices in which served during the year/period under report and the period of service in each. OFFICE OF THE SP/CBI/AEB GUWAHATI

10. वर्ष/रिपोर्ट अवधि के दौरान छुट्टी/प्रशिक्षण पर अनुपस्थिति की अवधि
Period of absence from duty on leave/training during the year/period of report. NIL

11. (क) शैक्षणिक योग्यताएं
(a) Educational Qualifications : M.Sc (CHEMISTRY)
(ख) तकनीकी परीक्षा/प्रशिक्षण पाठ्यक्रम में उत्तीर्ण/अर्हता प्राप्त
(b) Technical Examination/Training Courses Passed/qualified.
(ग) भाषा ज्ञान
(c) Knowledge of Languages
(i) पढ़ और लिख सकते है
(i) Able to read and write : HINDI, ENGLISH
(ii) बोल सकते है
(ii) Able to speak : HINDI, ENGLISH & ASSAMESE

भाग–II
PART-II

(जिस अधिकारी की रिपोर्ट लिखी जा रही है, उसके द्वारा भरे जाने के लिए)
(To be filled by the Officer reported upon)

1. ड्यूटियों का संक्षिप्त विवरण
Brief description of duties. (I) INVESTIGATION OF CASES ENDORSED (II) SUBMISSION & VERIFICATION OF COMPLTS/SIR (III) ASSISTANCE TO PP'S IN COURT AS PAIRVY OFFICER (IV) PRESENT CASES IN DEPARTMENTAL PROCEEDINGS (V) COLLECTION OF INFORMATION/INTELLIGENCE FOR REGISTRATION OF CASES (VI) CONDUCT SEARCH/PART INVESTIGATION/SURPRISE CHECKS & OTHER DUTIES ENDORSED.

2. वर्ष के दौरान प्राप्त प्रशिक्षण पाठ्यक्रमों का विवरण
Particulars of training courses undergone during the year. NIL

3. वर्ष के दौरान प्राप्त पदक और प्रशंसा पत्र
Medals or commendations received during the year.

RC WORKS & COMMENDATION CERTIFICATE WERE NOT GIVEN BY THE COMPETENT AUTHORITIES DURING 1999 & 2000 IN VIEW OF THE DIG/CBI/NER SRI K.C KANUNGO'S OBSERVATION IN HIS BRANCH INSPECTION REPORT VIDE FILE NO 153/99/NER VOL I & II That "REWARD SHOULD NOT BE GIVEN TO PERSON LIKE S.P SINGH WHO IS USING REWARD MONEY FOR FIGHTING CASES AGAINST CBI" DESITE MY GOOD WORK AND ACHIEVEMENT IN SECURING COURT CONVICTIONS, 7 CONVICTIONS IN RDA PROCEEDINGS, CONDUCTANCE OF SURPRISE CHECKS, SUBMISSION OF SOURCE INFORMATION REPORTS & REGISTRATION OF PE/REGULAR CASES etc VIDE MY SELF APPRAISAL STATEMENT FOR THE YEAR 2000 & 1999 AS ENCLOSED HEREWITH, THOUGH THE SAME ARE GOOD GROUNDS FOR SANCTION OF REWARDS & NON RARIUM VIDE DCBI STANDING ORDER NO-32 DT 29/12/76 AND, INDEED OTHER OFFICERS IN CBI IN BRANCH & ELSEWHERE WERE GIVEN REWARDS & COMMENDATION CERTIFICATE ON THE SAME GROUND. IT IS ALSO PERTINENT TO MENTION THAT BEFORE APPOINTMENT OF OUR WORTHY DIG SRI K.C KANUNGO IN NER, I WAS GRANTED 17 CASH REWARDS & RECOMMENDATION CERTIFICATE FOR GOODWORK DURING 24.9.93 TO 30.6.99.

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SELF APPRAISAL STATEMENT OF S.P. SINGH INSP/CBI/ACB UNDER SUSPENSION FOR THE YEAR 2000

NORMAL DUTIES :- 1.1.2000 to 25.4.2000

SUSPENSION PERIOD :- 26.4.2000 to till now.

(1) CONVICTION SECURED IN COURT OF SPECIAL JUDGE ASSAM :

(A) Case No :- Rc 32(A)/94-SHG U/S 420, 409 IPc & 13(2) r/w 13(1)C of P.C. Act - 1988.

Particulars of Accused : - Sri Kushal Chandra Deka Indian Bank, Digboi Branch, Tinsukia Assam.

Conviction awarded by the Court :

5 years rigrous imprisonment and Rs. 10,000/- fine vide judgement dated 18.7.2000 of Special Judge Assam.

This case was exclusively investigated by me and after investigation chargesheet was submitted in court, assisted all along the PPS in conducting the case and briefing the witnesses before being examined in the court of law during trial.

(2) CONVICTION SECURED IN RDA :

(A) Case no RC-6(A)/91-SHG :- RDA major penalty against Sri S.R. Arvind I.T.S. the than TDM/G.M. Telecom dehradun. The President awarded penalty of 30% cut in the pension of Sri Arvind for all time..

Shown in 1999 also

(B) Case No. RC-12(A)/93-SHG :- RDA major penalty against Sri Damodar Sarma, Sub-inspector Phones, O/o the G.M. Telecom Kamrup Assam. The disciplinary authority vide order no X-4/2000-2001/01 dt. 23.06.2000 reduced two increments for two years in the pay scale of Rs.4000 - 100 - 6000.

Shown in 1999 also

(C) Case No RC-5(A)/94-SHG :- RDA major penalty against Basudeo Kalita and Radha Kalita both Const. GRP Assam Police vide letter no G.R.O./GRP/DP 96/2000/3928 dt. 01.06.2000, disciplinary authority stopped two increments with cummulative effect.

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(3) CASES REGISTERED ON SURPRISE CHECK CONDUCTED

(A) PE-5(A)/2000-SHG / RC-14(A)/2000-SHG	Against Sri A.K. Dutta JTO Stores/ N.E. TELECOM Circle Dharapur Guwahati U/S 120B, 420, 477A, IPC & 13(2) r/w 13(1)d of PC Act, 1988, for causing pecuniary loss of Rs. 67 lakhs (approx.) to Exchequer.
(B) PE-15(A)/99-SHG / RC-1(A)/2000-SHG	against Sri R.K. Das, JTO Stores/ Lokhara/ N.E. Telecom Circle, U/S 120B, 409 IPC & SEC 13(2) r/w 13(1) (C) & (D) of PC Act 1988, for causing pecuniary loss of Rs. 2.45 lakhs to exchequer.

In both the above cases SIR submitted by me, surprise checks were also conducted by me leading to the registration of said cases.

4. CASES ORDERED FOR REGISTRATION OF CASES/SIR PENDING VERIFICATION.

(A) SI/SHG/99/19 (B) SI/SHG/99/20 (C) SI/SHG/99/21	For cheating, misappropriation etc of crores of Rs of Govt. money by Class I Officers of Telecom Department in CRL conspiracy with Pvt. contractors for causing gross irregularites in OFC laying work on Imphal-Moreh, Imphal-churchanpur, Jorhat - Kohima - Dimapur route.
(D) SR/2000/07	against Gazetted officers of Telecom deptt. for causing pecuniary loss of Rs. 19 Lakhs (approx.) to exchequer.

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CASES INVESTIGATED

1) RC-34(A)/96-SHG : This is a high court referred and monitored case involving fraudulent drawl of Rs. 38 lakhs approximately from Kamrup Treasury against advance TA bills of the Establishment Staff and Hon'ble Judges of Gauhati High Court from 1985 to 1993. In this case investigation was complete and therefore from 1.1.2000 to 25.4.2000, i.e. before suspension, prepared SPs Report alongwith enclosures etc. against 33 accused persons belonging to Gauhati High Court, Kamrup Treasury, AG Accounts and AG Audit for prosecution and departmental proceeding which were sent to Deptt. concerned for initiating department proceedings, obtaining prosecution sanction order etc. In this case only chargesheet was to be filed following receipt of prosecution sanction order.

2) Misc case 206/98 : This misc case arose out of the aforesaid case RC-34(A)/96-SHG, vide this case Investigation conducted & property worth Rs. 38 lakhs of main accused & his family members were seized under the provision of criminal law amendment ordinance 1944 in order to preserve Financial Interest of state. In this case attended time to time the District & Session Judge Court Guwahati during course of hearing and rendering assistance to conducting PP.

3) RC-5(A)/98-SHG : This case was registered following seizure of Rs. 29 lakhs from the CGM Telecom (T/F) at Guwahati Airport u/s 7, 13(1)(e) of PC Act 1988 & 120B of IPC. However one businessman of Arunachal Pradesh in connivance with main accused filed a petition in the Special Judge Court Assam, Guwahati claiming the ownership of seized money stating that said money was given by him to the accused for purchasing diamond Jwellery from Madras. This petition though was dismissed on being contested in Court by submitting evidences collected during course of investigation. But a CRL Revn. Petition is pending before high court From 1.1.2000 to 25.4.2000 i.e. before suspension further collected irrefutable evidences contrari to the claim of Sri Khirme, the above said businessman, and was successfully heading towards collecting evidences U/s

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13(1)(a), 13(1)(d) & 13(1)(e) of PC Act and sec 120B of IPC but my all effort in this regard were frustrated by the impugued suspension order of DIG/CBI/NER Sri K.C. Kanungo who was all along insisting for filing chargesheet u/s 13(1)(e) of PC Act and . FR(1) within 10 days only.I have come to know that my successor I.O. is now submitting FR(1) u/s 13(1)(e) only even after 10 months of handing over the case without labouring to appreciate existing evidence and collecting further evidence of PC Act aforesiad.

18.1.2001

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SELF APRAISAL STATEMENT OF S.P. SINGH INSP/CBI/ACB FOR THE YEAR 1999

CASES INVESTIGATED :

1) RC-34(A)/96-SHG : This is a High Court referred and monitored case involving fraudulent drawl of Rs. 38 lakhs approximately from Kamrup Treasury against Advanced TA Bills of the Establishment Staff and Hon'ble Judges of Guwahati High Court from 1985 to 1993. During period under review Investigation completed and held discussion with Senior officers and assisted them in preparation of their comments. Also prepared draft SP's report alongwith enclosures etc. against 33 accused persons belonging to Guwahati High Court, Kamrup Treasury, AG Accounts and AC Audit for prosecution & departmental proceedings which were sent to Deptt. concerned for initiating departmental proceedings, giving prosecution sanction order etc.

ii) Misc Case 206/98 : This misc case arose out of aforesaid case RC-34A/96-SHG. Vide this case investigation conducted and property worth Rs. 38 lakhs of main accused and his family members in order to preserve Financial interests of State under Criminal Law Amendment Ordinance 1944 were attached in District and Session Judge Court, Guwahati. Attended attachment hearings in Hon'ble Court as a result one respondent deposited Rs. 38,000 in the Court. Petitions were also filed in the Court for disposal of other movable property worth Rs. 3 Lakhs approximately to preserve interest of the State. Hearing is on in this connection.

iii) RC-5(A)/98-SHG : This case registered following seizure of Rs. 29 lakhs from the CGM Telecom T/F at the Guwahati Airport. U/S 7, 13.1(C) of PC Act, 1988 & 120 B of IPC. However one businessman of Arunachal Pradesh in connivance with main accused by, Filing Petition in the Special Judge Court Assam, Guwahati claimed the ownership of seized money stating that said money was given by him to the accused for

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purchasing diamond jewellery from Madras.

This petition was contested in the Court by collecting evidence which resulted in the dismissal and disallowance of said petition and thereby the dishonest designs of accused were frustrated. However the accused & the businessman have filed petition for quashing FIR & Criminal revision in Guwahati High Court. Investigation in this regard were also made and affidavit in opposition were filed. Sufficient evidances were collected to file charyesheet against the accused as well as the said businessman Nimma Tsering Khrime. Investigation is also on to locate and collect evidences against the bribe givers who contributed to the said seized amount.

iv) PE 2(A)/99-SHG : In this case submitted SIR, conducted surprise check leading to registration of PE against the suspect officials of FCI for the loss of Rs. 1.50 lakhs (approx) of Food Grains. The case was investigated by me and dispossed off by the branch recommending RDA for major penalty against all aforesaid three officials and thereby contributed branch in achieving annual branch target.

CONVICTION SECURED IN THE CASES PRESENTED AS PRESENTING OFFICER IN DEPARTMENTAL PROCEEDINGS : During period under review four results came against cases presented and all resulted into exemplary punishment to charged officials in the following cases.

i) 30% cut in pension of Sri S.R Arvind I.T.S., the than TDM Ghy/GM Telecom Dehradun for all time by President in concurrence of UPSC on the inquiry report of CDI & IO/CVC Sri Geeta Ram in CBI case No. RC-6(A)/91-SHG.

ii) Reduction of basic pay by 5 stages of charged official Sri Hare Krishna Dutta, Rural Development Officer, U.B.I North Lakhimpur, in CBI case No. RC-37(A)/91-SHG.

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iii) Reduction of 1 increment of Sri S.P. Singh AGM/Telecom in CBI Case No. RC-29(A)/92-SHG.

iv) Reduction of 4 increments with cummulative effect from Pay Scale of Sri M.C. Goyari, JTO in CBI case No. RC-12(A)/93-SHG.

SIR submitted : Total 7 in nos.

i) 3 SIR submitted on Imphal - Moreh, Imphal Churchandpur, Jorhat, Dimapur, Kohima, Optical Fibre Cable route against Telecom Officers of NE Telecom Task Force including Class I Officer for causing fraudulently and dishonestly, loss of the Govt. Exchequer amounting to crores of rupees.

ii) 2 nos. of SIR against Telecom officials of N.E. Telecom Circle for misappropriating Rs. 20 lakhs worth of Telecom materials in CTSD Stores Lokhara & Dharapur Guwahati.

iii) 1 no of SIR for conducting surprise check in FCI Godown, New Guwahati.

iv) 1 no SIR against Railway official of the name at Class I Gazetted.

CASES REGISTERED ON SIR SUBMITTED

1) PE-3(A)/99-SHG against SIR NO SI/SHG/98/08 against class I Railway official.

2. PE-2(A)/99 against 3 FCI officials for causing Loss/Theft/Misappropriation of Rs. 1.50 lakh worth of Foodgrains.

iii) PE-15(A)/99-SHG on SIR NO SI/SUG/99/29 dt. 06.12.99, for causing loss/misappropriation of Rs. 7 lakhs worth of Telecom Material. This case is since then converted into Regular Case. As such contributed to branch achieve its annual

17/12/2000

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target.

iv) Case to be registered in year 2000 on surprise check against SIR No SI/SHG/99/30 dt 6.12.99 which resulted into detection of Rs. 12 lakhs (approx) worth shortage of Telecom material in Dharapur store, Guwahati.

ASSISTANCE IN S/CHECK

i) Assistance in S/Check to Sri K.M. Das, inspector which resulted into Registration of PE against Telecom Official of Assam Circle and finally conversion of Regular case RC-18(A)/99-SHG.

ii) Assistance in S/Check to Sri D. Dutta Inspr. which resulted into registration of PE/15(A)/99-SHG against Telecom Official of CTSD Store, Lokhra, NE Telecom Cirle and which finally resulted into conversion into regular case.

SIR/COMPLT. VERIFIED : Total 5 nos.

i) 3 nos. of verified SIR arising during investigation of RC-5(A)/98-SHG.

ii) OFC complaint submitted by Sri K. Barman Inspr.

iii) CA/SHG/98/34 dt. 6.4.98 against Sri M.K. Sarkar Commissioner Income Tax, Guwahati.

RDA CASES PRESENTED

i) Against S.P. Deb, JTO/SDO Telecom and Sri Madan Chandra Goyari JTO in CBI case RC-12(A)/93-SHG.

ii) Assisted Dy. SP Sri P.K. Deb Kanungo by Assisting him in presenting case in Departmental inquiry against the GRP personnels of Assam Police in RC-5(A)/94-SHG.

13/11/2000

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OTHER DUTIES PERFORMED : (1) Assisted Prosecuting Officer of the Branch as Pairvi Officer in cases endorsed such as RC-27(A)/93-SHG, RC-15(A)/93-SHG, RC-16(A)/93-SHG, RC-5(A)/94-SHG, RC-32(A)/94-SHG, RC-5(A)/96-SHG, RC-3(A)/96-SHG, Misc case 206/98.

(2) Also assisted branch SP in preparing reports regularly submitted in High Court in RC-34(A)/96-SHG and also assisted Retainer Counsel in Hon'ble Ghy High Court while presenting report before montoring bench.

(3) Also submitted Final reports U/S 173 CrPc in RC-27(A)/96-SHG and two other cases.

(4) Also studied File of RC-12(A)/96-SHG and prepared & filed affidavit in opposition in Hon'ble Ghy High Court.

(5) Conducted searches in RC-2(A)/99-SHG, RC-18(A)/98-SHG.

(6) Assistance and discussion with prosecuting Officers/SP/DIG/DLA/ALA etc. in preparation of FR1/Comments and also preparation of Draft SP's report along with all enclosures of SP's report.

(7) Worked as hindi officer of the branch and as such translated Hindi letters into English and vice-versa.

(8) Also performed other duties time to time as per order of Branch SP and DIG.

REWARD COMMENDATION CERTIFICATE

i) CC vide office order No. 23 dt. 22/1/99 for good work done in RC-34(A)/96-SHG.

ii) Cash Reward of Rs. 1000/- by JD/EZ/CBI/Calcutta vide office order No. 116 dt. 22/6/99.

Submitted

17/12/99

S.P. SINGH

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ANNEXURE : C

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4a. i) Conduct unique investigation in RC-5(A)/98-SHG and File charge sheet U/s 13(1)(a),13(1)(c)&13(1)(e)ofPc Act & 120 B of IPC, instead of U/s 13(1)(e) only, a short cut for the disposal of case as pressurized by DIG/NER, but such move having in-herent danger of even. The accused being discharged, if the CRL.Revn. Petition of one Sri N.T. Khrime, Ex. MLA of Arunachal Pradesh claiming the seized money of Rs. 29 lakhs from the accused K. Ganesh, CGMT (T/F) N.E. Region as having been given to him for purcahsing diamond jwellery from Madras, is allowed by the Hon'ble Guwahati High Court.

ii) Improve knowledge of Law.

iii) Collect 5 quality SIRs against Class I Officer.

iv) Organise 2 traps atleast leading to registration of cases against public servent.

v) Conduct 3 surprise Chocks leading to registration of cases.

vi) Not to feel let down in the event of DIG using his chiosest sweeping remark like "All officers in CBI in NER are in the pocket of ISI". "All I.O's are hand in glove with accused". "All deputationists are chor and ruining CBI"etc during discussion of the cases.

vii) Conduct quality investigation in cases endorsed.

viii) To leave the concept of 'Human Dignity' 'honour' 'convictions' 'self discipline' etc like shoes outside, but have the skin of a one horned Kaziranga Rhino while entering the office of worthy DIG, as the aforesaid concepts are for me to observe against others and not to expect from other in true Gandhinian way.

ix) To leave the unhappy & bitter experiences of service in office only & crave for other constructive activities for more health & happiness of personal body & mind, and that of family as well.

ANNEXURE - D

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5(a) The targets and highest standard of investigation could not be achieved basically in view of the reactionary circumstances, prejudicial, arbitrary & discriminatory treatment meted out to me vide observation of DIG/CBI/NER Sri K.C. Kanungo in his branch inspection for the year 1999 & 2000 that "Reward should not be given to person like S.P. Singh who is using reward money for fighting cases against CBI" and "The last but not the least is gross partiality and harassment of departmental staff, by deputationist officers, whose carrier prospects are being systematically damaged/destroyed in well planned manner and creating situation of internal infighting in organisation. They are adopting the policy of divide & rule which has caused thorough demorlization among the departmental staff". Thus the truth is not far to seek and surmise that the worthy DIG who is a departmental promottee is echoing his, grouse against the deputationist IPS officer through the mouth of lower staff though none of them harbours or feed to such dangerous feelings in this organisation. Whatever may as that be, it is chilling and mortifying to learn that an officer of such an exalted position believes, harbours and propogate such cancerous feelings using the Inspection report of the branch as his tool airing his real or imaginary perception of the state of affairs in CBI. In view of it I have a reason to believe that the worthy proponent & discoverer of thisphilosophy himself is acting in reactionary vein as a counter balance to systematically damage/destory the carrier prospects of me like deputationist in a well planned manner by initiating as many as 7 chargesheets for major & minor penalty in a short span of 3 months on false flimsy & non existent grounds against which replies were given & appeal is pending under Rule-14 before ADCBI Calcutta, putting me under suspension for more than 9 months until now without enhancing subsistence allowance, stopping salary, ordering for not granting rewards as per observation in Inspection Report of 1999, not granting

leave encashment for E.L. despite clear cut provision, and not granting deputation duty allowance at enhanced rate applicable since 1997 August, re-opening those matters without competence, which were closed either by Hon'ble Court or his superviors like ADCBI Calcutta, to find fault only targetting the superior IPS officers but making me like poor souls, the lower staff as a tool for settling his career scars & scores as is echoed by him in his aforesaid observations. Under the circumstances if ACR instead of being a tool for Human Resource development. Stultify to Human error exageration tool than this poor soul will be least surprised.

It is this very mental background which force the worthy DIG to hide my achievement in securing the convictions in court in RC-32(a)/94-Shg as I.O & pairvy officer and aportioning the aclaim to PP in his inspection report of the branch for 2000 for conducting the case but if somehow the case fails than crying for the blood of the I.O. leaving aside all factors. Similary on page 37 of the DIG inspection report of the branch, highligt was made by incorporating the instance of S.R. Arvind TDM/GM Telecom (Rtd.) who was punished with 30% cut in his pension in RC-6A/91/SHG the case which was presented by me in Central Vigilance Commission but without any commendation/Sepcial mention etc. favouring me for ably presenting the case leading to said punishment by President of India.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Reply on behalf of Respondents (1 to 5) to the **OA No. 43 of 2003**

Suresh Pal Singh Yadav ..... Applicant

Versus

U.O.I. and others ..... Respondents

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(K.C. KANUNGO)
RESPONDENT NO. 5
for & behalf of Respondent Nos. 1 to 5

Place: Guwahati

Dated: /07/2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. NO. 43 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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(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) **<u>Collection of SIRs</u> :-** 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/99/21, 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.

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Para 4.18 :-

4.18(1) It contains the adverse entries made in the ACR of the applicant for the year 2000 communicated vide memo dated 13.10.2001 - No Comments.

Para 4.19 :-

4.19(1) The expunction of adverse remarks recorded in the ACR of the applicant for the period 01.01.98 to 31.12.98 by the Hon'ble Tribunal does not mean that the said adverse entries were not valid and genuine. These were expunged because the applicant had not been forewarned about his bad performance and misconduct before making entries in his ACR.

Para 4.20 :-

4.20(1) It is not a fact as alleged by the applicant that the adverse remarks communicated to him which were recorded in his ACR for the year 2000 were vague, sweeping, general and subjective in nature. These were specific observations based on the work and conduct of the applicant about which the applicant had been forwarned during 1998/1999/2000.

Para 4.21 :-

4.21(1) The applicant's allegation of malafide against the respondent No. 4/5 is without any basis. The allegations have been made in a highly irresponsible manner actuated with malicious intention as a convenient ploy for his defence.

Para 4.22 :-

4.22(1) Even though the applicant was kept under suspension w.e.f 26.4.2000, yet his conduct was kept under watch for the whole year. Based on the good conduct of the applicant, the subsistence allowance granted to the applicant at the time of his suspension at the

rate of 50% could have been increased to 75%. But due to his unsatisfactory conduct and deplorable behaviour, the subsistence allowance was not increased. This was communicated to the applicant through office order dated 24.10.2000 **(Annexure - 10)**

4.22(2) The reasons for not enhancing the subsistence allowance were that the applicant's conduct in making false allegations against the respondents, especially respondent No. 4/5 and against other CBI officers including the CBI were primarily responsible; he also did not extend the desired cooperation in preparation of SP's Report in RC 34(A)/96, took away the case diary of RC 24(A)/96-SHG and did not return to the office even after being asked to do so, etc..

Para 4.23 :-

4.23(1) As mentioned under para 4.22 the ACR of the applicant pertains to the entire year i,e 01.01.2000 to 31.12.2000 as because the applicant's conduct was also kept under observation after he was kept under suspension w.e.f 26.04.2000, based on which subsistence allowance is granted to him. Moreover, in the ACR Part-I, filled up by the applicant, he has mentioned that the ACR covered from 1.1.2000 to 31.12.2000.

Para 4.24 :-

4.24(1) Since the assessment of the applicant relate to the entire period from 01.01.2000 to 31.12.2000 the issuance of all the charge sheets which were done under the above period could properly be taken into account while assessing his conduct. Moreover, before issuing chargesheets, explanations of the applicant were called for during the period prior to the suspension.

4.24(2) In RC 15(A)/93-SHG, the applicant had charge sheeted one Shri Bakdul Ali against whom no charge sheet had been

recommended by the HO. He was also not named in the FIR. Yet the applicant had chargesheeted him obviously with malafide intention or with gross carelessness. This fact is clear from the copy of the charge sheet filed by him and the observation of the then DIG, CBI, NER, Guwahati Shri N. Mallick dated 02.06.97, the relevant portion of which is mentioned below :-

"Due to mistake committed by the I.O, one innocent person had to suffer in the court. As such SP, CBI, ACB, Guwahati has been asked to obtain the explanation of the concerned officials and send the same with his comments at the earliest for taking appropriate action."

4.24(3) In RC 15(A)/93-SHG the Head Office had approved of filing charge sheet against five accused persons but Shri S.P. Singh Yadav, Inspector added the name of Shri Bakdul Ali, S/o Shri Ali Bauksh, Extension Officer, Lumbajong Development Block, Manjha, Karbi Anglong as accused No. 6, in the charge sheet as would be clear from a copy of the charge sheet dtd. 14.8.95 filed by Inspector S.P. Singh Yadav.

4.24(4) It is also not correct that the applicant had filed charge sheet against 5 accused only. From the court diary No. 1 to 11 submitted by Shri J.S. Terang, the then Sr.PP it would be clear that the number of accused persons being shown all along in these court diaries was 6 (six). In the court diary No. 11 dtd. 26.3.97 **(Annexure - 11),** it was clearly mentioned that all the six accused persons were in attendance but charges could be framed against 5 accused persons only while accused Bakdul Ali was discharged by the Ld. Judge as there was no sufficient evidence against him. Thus, Shri Bakdul Ali who should not have been charge sheeted was unnecessarily harassed by Shri S.P. Singh Yadav from the date of filing of charge sheet i,e from 14.8.95 till he was discharged on 26.3.97.

4.24(5) Further, from the observation of the then DIG, CBI Shri N. Mallik dtd. 02.06.97 in the above case it is clear that Shri S.P. Singh Yadav caused unnecessary harassment to Shri Bakdul Ali, the then Extension Officer, Lumbajing Development Block by filing charge sheet for which the DIG, Shri N. Malik, had asked the then SP Shri M.K. Jha to call for the explanation of the I.O (S.P. Singh Yadav) and forward the same to him with his comments for taking appropriate action. But Shri M.K. Jha, the then SP, CBI, ACB, Guwahati did not call for the explanation of Shri S.P. Singh Yadav, Inspector for reasons best known to him.

4.24(6) In the last para, the DIG recommended that no further action was required against the order of the trial court who had discharged the accused No. 6 Bakdul Ali who had been wrongly charge sheeted and therefore, Shri N. Mallick, DIG, requested the JD (EZ) to allow the matter to rest and accordingly the JD (EZ) agreed to close the case. Obviously JD (EZ) had never stated that action recommended by the DIG should not be taken, as no senior officer could say that charge sheeting an innocent person was justified. **(The copy of the observation of Shri N. Mallick, the then DIG, CBI, NER is enclosed as Annexure - 12).**

4.24(7) Although, SP, CBI, ACB, Guwahati was asked to call for the explanation of the I.O vide observation dated 02.06.97 of Shri N. Malik, DIG, the SP did not take any action. When the matter came to the notice of the respondent No. 4/5, he called for the explanation of the SP, vide observation dtd. 20.11.2000 to explain why action had not been taken against the I.O and others. It is only then that the SP, CBI, Guwahati sought the explanation of the applicant vide Endst. No. 07572/3(15(A)/93, dated 06.12.2000 (The Endst. dated 6.12.2000 is marked as **Annexure - 13**). The applicant vide his letter dated 14.12.2000 (marked as **Annexure - 14**) addressed to SP, CBI, Guwahati requested to allow him to peruse the

case records including the CD files in order to enable him to give his explanation as required which was permitted to him by the SP, vide Endst. No. 07890, dated 22.12.2000. (This letter is marked as **Annexure - 15**). But the applicant after perusing the records did not submit any explanation as required of him meaning thereby that he had no explanation to offer. Therefore, the plea of the applicant that the matter relates to 1997 is an after thought and is not sustainable.

Para 4.25 :-

4.25(1) The applicant has alleged that impugned average remarks recorded in his ACR are not sustainable due to the following reasons:-

(i) These are not based on facts/evidence.

(ii) The applicant was never advised in the past and shortcoming were not pointed out to him earlier.

(iii) The disagreement of Reviewing authority with the Reporting authority is not based on facts/material particulars.

4.25(2) None of the above plea of the applicant is tenable in as much as:-

(i) The adverse entry had already been recorded in the ACR of the applicant in the previous year, i.e. 1998 and communicated to him in 1999 vide letter No. 511/Con/1/94(PE)/98/GHY dated 29th Sept.1999 to the following effect:-

(a) "He has tendency to finalise cases without collecting clinching evidence.

(b) He is an indisciplined officer and exhibits insubordination occassionally."

(ii) The lapses and misconduct on the part of the applicant were highlighted in the Inspection note for the year 1999 and communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000 (marked as **Annexure - 16**).

(iii) The lapses/misconduct on the part of the applicant were pointed out/brought to his notice vide office order dated 24.10.2000 issued by the respondent No. 4/5 while not allowing him increase in subsistence allowance on account of his various misconduct against which the applicant had filed no appeal making thereby the observations against him is final.

4.25(2) In RC 15(A)/93, the explanation of the applicant was called by the SP vide endst. No. 07572/3/15(A)/93-SHG, dated 6.12.2000 and the applicant vide his letter dated 14.12.2000 requested to peruse the case records including the CD files and crime files which were provided to him by the SP vide No. 07890/3/15(A)/93-SHG, dated 22.12.2000. But after perusing the case records, the applicant did not submit any explanation showing thereby that he had nothing to explain and hence adverse entries were made in his ACR.

(i) Chargesheet for minor penalty served on him vide No. DPSHL/2000/A/20/157/93, dated 10.1.2000 for assaulting the conmplainant and abusing him in filthy language and for making false allegations against the DIG.

(ii) He took office revolver with 6 cartridges on 27.10.98 allegedly for using it for discharging official duty but used it illegally in threatening the complainant to shoot him.

(iii) He conducted perfunctory verification of SIRs in files No. (i) SA/SHG/99/20, (ii) SA/SHG/99/21 and (iii) SA/SHG/99/22.

4.25(3) The applicant did not submit his weekly diaries regularly even after being reminded to do so. He was finally asked vide letter No. 754/12/Comp/SLC/NER, dated 22.3.2000 (marked as **Annexure - 17**) to explain why disciplinary action should not be taken but he did not reply. Finally, chargesheet was served on him vide No. 1447 dated 17.5.2000.

4.25(4) On certain allegations involving moral turpitude and lack of integrity forewarning is not necessary/warranted. As an illustration, if an officer embezzles office cash or like thing or aids or abets in such acts he can not escape from his responsibility by pleading that he had not been previously warned not to do so. The applicant was deliberately making false and malicious complaints against one and all who, according to him, were responsible for his sorry state of affairs, although the applicant himself was responsible for his own act and conduct. The applicant had charge sheeted an innocent person and no forewarning was necessary for not doing so. Yet when his explanation was called, he submitted none, leading to adverse entry in the ACR. As mentioned above, applicant had also been warned repeatedly before making adverse entry in his ACR, including adverse entry in his previous year i,e 1998. Yet the applicant did not mend himself and did not desist from his misconduct, negligence and lack of devotion to duty.

Para 4.26 :-

4.26(1) It is not a fact, as alleged by the applicant that the reviewing authority while reviewing the work of the applicant had failed to act objectively and instead had acted maliciously with a prejudiced mind to malign and tarnish the service career of the applicant. The above allegations have been made by the applicant without any supporting evidence/facts/circumstances and are denied.

4.26(2) The very fact that the respondent No. 4/5, i.e. the reviewing authority himself had recommended in favour of the applicant for his continuation in CBI would clearly show that the respondent No. 4/5 had no prejudice or bias against the applicant.

Para 4.27 :-

4.27(1) The applicant was found to be neither reliable nor dependable in view of the following facts and circumstances :-

(i) That in the year 1998 adverse observations were made about the work and conduct of the applicant that (a) he was an indisciplined office and exhibited insubordination occasionally. (b) He had a tendency to finalise the case without clinching evidence. The above observations recorded in his ACR were communicated to him vide letter No. 511/Con/1/94(Pt.)/98/GHY, dated 29.09.99. These observations, though valid against the applicant, had to be expunged from his ACR subsequently on the order of the Hon'ble Tribunal because of the fact that the applicant had come to adverse notice for the first time and had not been given the opportunity to improve upon.

(ii) The applicant assaulted complainant Shri A.K. Baruah on 30.11.99 in presence of staff of the Regional Office, CBI, Guwahati and in front of the office chamber of the DIG, CBI, NER. When his explanation was called for vide No. DPSHL/1999/05805-06/A/20/157/93, dated 7.12.99, the applicant made wild allegations against the DIG and others alleging falsely that the DIG had colluded with the complainant etc. and was trying to protect him from the consequences of criminal case lodged against him which were thoroughly mischievous, false and motivated. This fact was highlighted in the chargesheet issued to the applicant vide No. DPSHL/199/0021/A/157/93 dated 10.1.2000 (marked as **Annexure - 18**).

(iii) During inspection of the Guwahati Branch by DIG, NER in 1999, the applicant was found to have committed the following lapses/misconduct which were communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000:-

(a) He had closed the case RC 27(A)/97-SHG against a high placed officer of ONGC without conducting proper investigation and had committed as many as 26 (twenty six) number of lapses while conducting investigation in the above case.

(b) The applicant, though present in the office during inspection, did not report to the DIG for personal interview after being summoned.

(c) The applicant was taking undue long period in finalising the cases due to dilatoriness and conducting investigation perfunctorily.

(d) The applicant was paying no heed to the instructions of the superior officers.

(e) The applicant did not submit weekly/monthly diaries for the year 1997 in spite of several reminders issued during 1997 and 1998 and finally when he was called upon to explain vide No. 753/12/Comp/SLC/NER, dated 22.3.2000, why disciplinary action should not be taken against him sand why he should not be kept under suspension for his indisciplined conduct and insubordination, the applicant did not submit any reply which finally led to the issuance of chargesheet against him vide No. 1477, dated 17.5.2000.

(f) In the weekly diary submitted by the applicant for the year 1999, he was showing false work done in the investigation of various cases and in particular in RC 5(A)/98, he had shown such false instances of having conducted investigation on as many as on 35

days though there was no corresponding case diary issued by the applicant. When his explanation was called by the DIG vide Memo No. 752/12/Comp/SLC/NER, dated 22.3.2000 (marked as **Annexure - 19**), the applicant did not reply to the above memo which led to make adverse entries in his ACRs, issuance of chargesheet and keeping him under suspension.

(g) The applicant, after he was called upon to explain why he physically assaulted and abused Shri A.K. Barua (complainant), made false complaints against the DIG to the Director, CBI, vide complaint dated 23.12.99 and also to the Chairman, Human Rights Commission, following which DCBI had deputed the Joint Director (EZ) to verify the complaint which the Joint Director (EZ) found to be false and baseless. Therefore, the complainants also made several false and baseless complaint against SP and DIG out of animosity and vendetta for actions being taken against him on account of his misdemeanours.

(h) The applicant had charge sheeted one innocent person namely Bakdul Ali in RC 15(A)/93-SHG as mentioned above and when his explanation was called by SP, CBI, Guwahati vide endst. No. 07573/3/15(A)/93-SHG, dated 6.12.2000, the applicant wanted to peruse the relevant records before submitting his explanation which was allowed but the applicant vide letter No. 07890/3/15(A)/93-SHG dated 22.12.2000 but he submitted no explanation which led to the adverse entry in his ACR.

(i) The applicant's request for enhancing the subsistance allowance was turned down by the respondent No. 4/5 vide **order dated 24.10.2000 issued to the applicant against which the applicant had filed no appeal, meaning thereby that the ground mentioned in the said order were finally accepted by the applicant which are as under.**

(a) Instead of giving straight forward replies to the charges against him, the applicant was deliberately making false, baseless and malicious accusations against the DIG.

(b) There were reasons to believe that the applicant was the facade behind filing of PIL in the Hon'ble High Court in which unwarranted allegations had been made against the CBI for not taking any action by the CBI for alleged printing forged / duplicate notes by the Reserve Bank of India which were found to be false and baseless during verification and the PIL was dismissed by the Hon'ble High Court. The applicant himself also submitted an SIR on this subject and it was also alleged in the PIL that the applicant was repatriated / the case transferred from him when he pursued the matter.

(c) The applicant was instrumental in publication of defamatory allegations in the newspaper against the DIG.

(d) In the replies given to the chargesheets served on him, the applicant was making false allegation against the DIG with a view to defame, demoralize and lower his dignity.

(e) The applicant was making false allegations against SP, CBI, Guwahati also.

(f) All the above conducts on the part of the applicant showed his mischievous tendency and dilatoriness with a view of prolonging the enquiry.

(g) The applicant did not return the original case diary file in RC 27(A)/96-SHG inspite of reminders issued to him.

(h) The applicant did not correctly prepare the enclosures in RC 34(A)/96-SHG leading to delay in the despatch of SP's Report

and did not extend any cooperation, even after being called upon by the SP to do so.

Para 4.28

4.28(1) The above para refers to the adverse entry made in the ACR of the applicant to the following effect:-

"He is in the habit of making false and motivated complaint against superior officers and staff".

4.28(2) The applicent used to make false and motivated complaint against the staff of office, SP and Regional DIG and particularly against respondentNo. 4/5. In his defence, the applicant has stated that these complaints were nothing but source information pertaining to financial irregularities and leakage of Govt. revenue for verification and registration of cases against Central Govt. servants and concerned authorities of the CBI which he is, duty boundi.e. submit as source information which are required to be disposed of as per relevant guidelines contained in Chapter IV of CBI (Crime) Manual and other circulars and instructions contained in Chapter (III) of DCBI circular/Standing Instructions with 1955 to 1996. The above stand of the applicant is false, motivated and misguided and purely an after thought on account of the following reasons:-

4.28(3) The source information is required to be submitted to the Controlling Officer, i.e. SP, CBI, Guwahati only whereas the applicant made various false complaints against SP, DIG and other staff to Joint Director/Director, CBI, Central Vigilance Commission and Chairman, Human Rights Commission, New Delhi.

4.28(4) The applicant, in terms of IGP circular No. 71 dated 20.2.60 was debarred to collect information based on rumours and gosspis and was required to collect information on corruption, actual bribery and illegal gratification.

4.28(5) Again in terms of para 32/124 of CBI (Crime) Manual 1991 (marked as **Annexure - 20**), the applicant should not have collected source information relating to irregularities or misconduct.

4.28(6) In terms of instructions issued in Apendix to Chapter V and para 125 of CBI (Crime) Manual 1991 (Page 50) petty cases are not allowed to be registered by the CBI which specify various types of petty cases including the following types of cases:-

(a) cases relating to false TA, fake LTC claims unless preferred repeatedly,

(b) cases relating to negligence to which loss caused to Govt. is less than Rs. 50,000/-,

(c) cases of Govt. Deptt. relating to fraud, misappropriation, etc. of amount of which is below Rs. 50,000/-.

The copies of above circulars and extract of CBI Manual are marked collectively as **Annexure - 21**). In view of the above instructions, the applicant cannot take cover under false pretext that he had collected source information against SP/DIG, etc.

4.28(7) Yet inspite of these instructions and inspite of warning being given both verbally and in writing, the applicant continued to make false and baseless allegations against senior officers including respondent No. 4/5.

4.28(8) The applicant has further mentioned that at no point of time, he was being warned that he had made false complaints which again is false on account of the undermentioned facts:-

(a) The conduct of the applicant regarding making false complaints against SP/DIG, etc. was mentioned in the Inspection

report and communicated to him vide No. 228/153/99/Vol.II/NER, dated 24.1.2000.

(b) Again vide Office Order No. 24.10.2000, issued to the applicant several misbehaviour on the part of the applicant including making of false complaints against CBI, Senior Officers like SP, DIG, etc.

(c) In the chargesheet for minor penalty served on the applicant vide memo No. DPSHL/199/0021/A/20/157/93 dated 10.1.2000, it was also pointed out that the applicant was making false complaint against the Regional DIG.

Para 4.29 :-

4.29(1) The applicant has alleged that the chargesheets were served after he was kept under suspension and as such the adverse entries made in his ACR relating to these chargesheets are uncalled for. The above plea of the applicant has no validity in view of the following facts:-

(a) The ACR for the year 2000 covered for the entire year from 1.1.2000 to 31.12.2000 which the applicant had himself mentioned in Part-I of the ACR filled by him (enclosed as **Annexure - 22**).

(b) The entire period, i.e. 1.1.2000 to 31.12.2000 is relevant as mentioned above due to the fact that the applicant's conduct was also subject matter of writing the ACR for the said period and the applicant's subsistence allowance was being governed on account of his good or bad conduct depending upon which the subsistence allowance could have been increased/decreased.

(c) Before issuing chargesheets, the explanation of the applicant were called. These explanations were called for during the

period prior to his suspension, while in one chargesheet for minor penalty, it was served before 26.4.2000.

(d) In view of the Hon'ble Supreme Court decision in State of UP (Appellant) Vs. Yamuna Shanker Misra and another (AIR 1997 Supreme Court 3671) which the applicant had himself referred to, the Apex Court had been observed clearly in para 8 of the judgement, inter alia, as under:-

"The counter comments made against him (respondent) by the Secretary were warranted in view of the material on record. He brought to our notice that as on date when the entries were made, the vigilance enquiry was pending against the respondent and, therefore, the adverse remarks came to be made. The findings recorded by the Tribunal of malice and arbitrariness on the part of the Secretary as affirm by the High Court are not warranted..... since the vigilance enquiry was pending. Unless the office was exonerated and cleared from the cloud, necessarily the Secretary could not clear the conduct and integrity of the office. Therefore, the adverse remarks cannot be said to be smack of arbitrariness".

4.29(2) In view of the above observations of the Hon'ble Supreme Court, it cannot be said that the remarks made by the reviewing authority were not justified/uncalled for.

Para 4.30 :-

4.30(1) This relates to the adverse remarks, **"he filed chargesheet against an innocent person against HO order in RC 15(A)/93-SHG."**

4.30(2) The circumstances under which the above remark was made have been explained in detail under para 4.24 (2) to 4.24(7).

Para 4.31 :-

4.31(1) This relates to adverse remarks, **"his performance is below average."**

4.31(2) Since the applicant was not able to finalise any case and did not conduct investigation properly, did not comply with the instructions of the senior officers, did not submit any quality source information, conducted investigation/inquiry in a highly perfunctory manner and made false complaints and accusations against the SP/DIG and other staff, when his explanations were called for his various misdemeanors. His work and conduct was found to be highly deplorable and uncalled for and, therefore, he was graded below average.

4.31(3) The reporting officer (SP) had not objectively assessed the work and conduct of the applicant and agreed with his observation in a mechanical manner, which was highly exaggerated and false. The applicant had shown falsely disposal of RC 6(A)/91-SHG and RC 12(A)/93-SHG, both during 1999 and 2000, though he did not present any of these cases during the above period. Likewise, the applicant had shown to have conducted investigation of RC 34(A)/96-SHG but during 1999 and 2000 though no investigation was done by the applicant during any of the year. The applicant had shown misc. case No. 206/96 both during 1999 and 2000, though it was not an independent case and part of RC 36(A)/96-SHG, in which no investigation was done during the above period as mentioned above. He could not dispose of RC 5(A)/98-SHG as well and allowed all his Regular Cases to be dragged unnecessarily. All these shortcomings and manipulations were loverlooked by the reporting officer. The reporting officer also for reasons best known overlooked the deplorable conduct of the applicant as highlighted in paras 4.24(1) to 4.24(7) and paras 4.26 and 4.27, etc. Moreover, the rewards and commendation given to the applicant were not based on his actual performance and not warranted under the existing guidelines for giving such rewards/commendations, as explained under paras 4.6(1) to 4.6(4)

and paras 4.20(1) and 4.20(2). (The copies of self appraisal statements of the applicant for the year 1999 and 2000, submitted along with Part-I of the ACRs, are enclosed as **Annexure - 23**).

4.31(4) The charge made by the applicant that the Reviewing Authority had made up his mind to give the adverse comments in his ACR as the reviewing authority had directed the SP (Reporting Officer) in the inspection note for stopping the rewards indiscriminately, etc. is thoroughly perverse and unwarranted on account of the reasons explained in paras mentioned above.

4.31(5) As mentioned under para 4.6(2), the rewards should have been sanctioned only for exceptionally good work. Further, the information submitted by the applicant were not of the nature warranting granting rewards to him which were petty in nature. Moreover, the reward is not a matter of right as pointed out under Standing Order No. 32 dated 27.12.96 which could be given subject to the applicant's overall good conduct and behaviour. Since the performance of conduct of the applicant left much to be desired, the question of granting reward to him did not arise.

Para 4.32

4.32(1) As already pointed out in para 4.31(3) above, the reporting officer did not act objectively while assessing the work and conduct of the applicant. The shortcoming/defect in the assessment of the reporting officer were rectified by the Reviewing and Accepting Authorities based on cogent and valid reasons. It is also not a fact that the reviewing authority was prejudiced against the applicant. The applicant has also not mentioned any valid reason for such prejudice. Moreover, the view of the applicant by the reviewing authority was also accepted by the accepting authority (respondent No. 3) against whom the applicant has not made any charge of prejudice.

Para 5 :- Grounds for relief with legal provisions

5.1 As mentioned in paras 4.27 to 4.30 above, the remarks are not sweeping vague and general or perverse.

5.2 It is also not a fact that the reviewing authority made the adverse remarks out of malice. Furthermore, the remarks of the reviewing authority were agreed upon by the accepting authority.

5.3 The remarks were made by the reviewing authority not in contravention of any instruction. The remarks recorded in the ACR of the applicant were not actuated with malice but were made in order to correct and reform the applicant after it was found that the applicant in spite of several warnings even in the past and in spite of adverse entries recorded in the ACR during 1998, was unable to correct himself and mend his ways and behaviour.

5.4 The reviewing authority while making the remarks had taken into account the conduct of the applicant both during the period under review and also his past conduct.

5.5 There is no ground to believe that the accepting authority had acted without application of mind because it was the same accepting authority who had disagreed with the reviewing authority while recording the remark in the ACR of the applicant for the year 1999.

5.6 It is not a fact that the adverse entries were made in violation of the established principles of law.

In view of the above, it is fervently prayed that there is no merit in the application which may kindly be dismissed by the Hon'ble Tribunal at the threshhold.

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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.

17/07

(K.C. KANUNGO)
RESPONDENT NO. 5
for & on behalf of Respondent Nos. 1 to 5

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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 Police
No. 806-29
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 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 inclosed with the CD. In his case, Shri K.Ganesh approved rate of 500% enhancement in each item over the Schdule rate of CSR-87. After completing the work the firm submitted 2 bills dt. 27.3.98 for Rs.7,49,560/- and Rs.12,05340/-.

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 N. etc. in the statement of Shri Pradip Kumar Nath. I.O should explain why ?

The Bank account of Shri Pradip Kumar Nath, Civil Cotractor should be found out and certified copy of the accont obtained to verify if corresponding withdrawls from th Bank was made and whether any currency notes of that Ink 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 persons and their Account Nos. to whom this currency bundle of Rs.50,000/- could have been paid on I.O. should clarify whether any of these persons is 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 anount 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 Maket and meeting with the Manageres.

He further examined Shri RameshChandra 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 tat neither Shri N.T.Khrime nor K.Ganesh are maintaining my 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

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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 ifficers (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 f 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 o to the authorities concerned outside the S.P.E., it is important that they are prepared with are and attention. They should set out the case clearly, give the evidence available in sufficient etail and bring out the reasons for the proposed action convincingly. In this connection, please ee 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 urther 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 nstructions 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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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 1999/00898/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.

Received 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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mk:

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

KIND ATTN: K.C. KAUNGO, DIG. 28(12)

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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-IIC

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 CBI 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

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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.

48

(25-25A)

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

30/11/98

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

49

(26) 259

STATEMENT OF SHRI Mukut Baruah,CONSTABLE,.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 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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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

30/11/98

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

51

(51)
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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.Q. 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.

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(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.

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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.

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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

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
D... 7/3/2000
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

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

-60-

Annx.-8

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 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

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

(ii) If he wanted to produce plea in verification, he should have immediately submitted a separate SI for verification & instead of that he is making false accusations against the I.O. for this misconduct he should be dealt severely for this misconduct under Disciplinary Rules. Crime Manual.

(iii) He has given that he is willing to refund what is that he is willing to refund.

for confirmation report please

16.

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

4

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 decide.

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.

SUPDT. OF POLICE

DIG, NER

received at RO 16/5/2000 at 8.30 P.M.

24/5.

19. [illegible] proposal, [illegible] registration of PE?

received on 9/6/2000 at 2:15 pm

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 orders please.

received back on at 11:10 am

22/6/2K

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 DHC.

What was required vide my observation dt 7.6 was to put up a self contained proposal by SP proposing registration of DE, as he feels registration of a DE is justified. Instead of doing that the file has again been sent back to me. I do not know the reason why? I can only guess.

SP
10/7.

CA
22.

My middle name is my comb please. Thanks for order.

File received at HQ on 29/8/2003 at 1-00 P.M.
29/8.

23. Put up suitable draft

4/10

CA

24. Draft letter to be signed by DIG, NCB to ASCB01, Cal is put up for o/a please.

10.10.03

File received at HQ on 10/10/2003 at 2 P.M.

25. My middle name is Appeal pl

273

7. As per the chart showing power of registration of PR/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.

1.1.2000.

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 invalvement 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 8.9.97 as A&E Port. But I do not find any of these 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. 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.

S.P.

(K.C.Kanungo)
DIG CBI NER GHY.

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

SP

40. Mr. N.G. Khamrao to be verify and report.

41.

28/11

42. Page-46'-

CBI I.D. No. 5617 dt. 30/11/2K of R.O. SP may kindly peruse the some & pass O/O please.

4/12

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

Annx. 9

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.

SUPDT.OF POLICE

DIGP, NER

15. Chargesheet may be served on [illegible] for misbehaving in the dispensation of his duty and also for [illegible] allegation of cowardice while [illegible] following Raid Team's procedure [illegible] bring to its notice.

Public Grievance is advised by DIG.

16.

17. CA to please put up with relevant file

CA

18. Please transfer the relevant papers to this personal file. Alongwith photocopy of the N.O.te Sheet so that action can be taken from Estt. Section.

CA/Estt.

19. Xerox copy [illegible]

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

21. Charge sheet is being dealt with from
in P.F. of Mr Yadav.

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

SP

1/4

23. SP may please refer to para 21 & 22 in/n. above
and pass suitable orders as the SIR is pending
since then i.e 31.3.2000.

09/6/2K

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.

27. My kindly see my comments
placed herewith for kind perusal.

28. Put up - draft

4/10

File received at R.I
on 28/9/2000 at 1-10 P.M.
28/9/2K.

28. Draft letter to be signed by MLA, NER to ADEAS, Cal is put up for perusal and m/a please.

10.10.00

29. My initials are for official.

10/10

30. Today (4.1.2001) the ~~Hon'ble~~ directed me to keep all the files of SPS regarding MPP depot proceedings. While carrying the file I could locate this file ~~to keep~~ in the bundle of other file. Hence the file is put up ~~to~~. The draft ~~of~~ is put up.

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 information be registered first in Sikkim and given to a Diary of Sikkim Branch for which now shall be written a footnote

4.1.2001

33. SIR be registered & verification as ordered 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 served. for MA pl.

15/01/2001

35. Recd. photocopy of verified report of SR/SIL/2001/01 dt. 15/01/2001.

36. Page. 43

SI Ashok Kumar has submitted a report dated 09.2.2001 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.

06/2/2001

I/C SP

37. Before I sign the letter let the speak to DIG

DIG

38. I discussed the development with worthy DIG. He desires that photocopies of documents be collected and sealed at Br. office. Let him attend o/c granting leave.

7/2.

39. Seen

SP

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 Deka & assistants who 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

41. I/C SP Let Sh Ashok Kumar Sr. Inspector a security report & the documents collected from Dr report

20/2

I/O

Annx. 10

SP:SINGH

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

ORDER

Shri S.P. Singh Yadav, Inspector, CBI was kept under suspension with effect from 26.4.2000.Since then, he has been drawing subsistence allowance at the rate of an amount equal to his leave salary on half pay, with appropriate Dearness and compensatory Allowance (FR 53(1).

2. The undersigned, as suspending Authority has reviewed the question of increase or decrease of his subsistence allowance. It has been observed that Shri S.P. Singh Yadav, instead of giving straight forward replies to various charge sheets served ~~iscued~~ on him, has been deliberately making false , baseless and malicious accusations against the undersigned .There are reason to believe that he is behind the PIL filed in the Hon'ble Guwahati High Court in which unwarranted allegations have been made against CBI for not taking any actions by CBI for printing forged/ duplicate notes by RBI which on verification was found to be baseless. He is also believed to be instrumental in publishing defamatory allegations in news papers against the undersigned.In the replies given to charge sheets, instead of making factual representation, he has been making false allegations against the DIG with a view to defame , demoralize and lower his dignity. He has also making allegations in his reply against the SP,CBI Guwahati.Such conduct on the part of the charged official shows his mischievous tendency and dilatory ,conduct with a view to prolonging the inquiries.

SPSINGH

3. Shri S.P.Singh Yadav is found not to have returned the original CDs in RC 27(A)/96-SHG though he was directed to do so by SP,CBI,Guwahati vide memo no. 05638/3/27(A)/96-SHG Dated 8.9.2000.

4. Shri S.P. Singh Yadav was found to have mentioned wrong facts in the article of charge/statements of imputation in RC. 34(A)/96-SHG (enclosures of S.P's report) and when his assistance was sought by DSP, Guwahati Branch for giving comments to the Registrar, Guwahati High Court, in this regard, he did not extend any cooperation nor reported in the CBI office.

5. The above conduct of the charged official are firm indication of his unco-operative and mischievous attitude

6. In view of the above there is need to decrease the subsistence allowances from 50% to a lower amount.However, after a sympathetic view, the undersigned is of the opinion that at this stage, the subsistence allowance drawn by Shri S.P. Singh Yadav may not be decreased which will continue as before.This will be reviewed after a few months during which Shri S.P.Singh Yadav is directed to mend his ways and conduct.

24-X-96

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To
S.P. Singh Yadav
(Thtrough SP,CBI,Guwahati)

Copy to:
ADCBI, Calcutta for favour of information.

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(22)

3. तारीख पर बुलाए गए गवाहों का विवरण :
Details of witnesses summoned for date :

बुलाए गए गवाहों के नाम Name of witness summoned	सम्मन भेजने की प्रक्रिया Process served	उपस्थित हुए Apeared	पूर्णतया समर्थन किया Fully supported	अंशत: समर्थन किया Partly supported	अभियोजन पक्ष का समर्थन नहीं किया Did not support Pros.	परीक्षण नहीं किया गया तथा परीक्षण न किए जाने का कारण Not Examined and reasons thereof
NIL						

(i) _____

(ii) _____

(iii) _____

(iv) _____

(v) _____

All the six accused persons are in attendance. The jail staff charges against 5 accused persons but accused Bakul Ali is discharged by the Judge.

4. गवाह(हों) के पक्षद्रोही होने, यदि कोई हो, सहित कार्यवाही का संक्षिप्त विवरण
Brief description of proceedings including hostility of witness (es) if any

5. यदि मामले पर कोई प्रतिकूल असर पड़ा हो तो लोक अभियोजक द्वारा सुझाए गए उपाय
Remedies suggested by PP if damage caused to the case NIL

6. पैरवी अधिकारी का नाम और रैंक
Pairvi Officer's name & rank Sri S.P. Singh Yadav, Inspector

7. अभियोजक का नाम तथा रैंक
Prosecutor's name & rank

8. पुलिस अधीक्षक की टिप्पणी
SP's comments

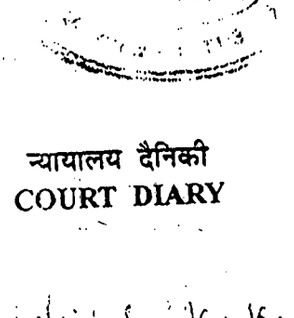
9. आवश्यकतानुसार पु० उप-महानिरीक्षक की टिप्पणी
DIG's comments where necessary

अभियोजक के हस्ताक्षर
Signature of the Prosecutor
26-3-97

IGIPRS/D-1397/CIS/95-1X-19-[illegible] 60,000

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अनुबन्ध-I
ANNEXURE-I

न्यायालय दैनिकी
COURT DIARY

न्यायालय का नाम
Name of Court Spl. Judge (Cases) C.B.I. K.K. Das.

शाखा
Branch Guwahati

केंअ॰ ब्यूरो
CBI A.B.

शाखा मामला सं॰
Branch Case No. R-15/93

न्यायालय मामला सं॰
Court Case No. 16(c)95

न्यायालय दैनिकी सं॰
Court Diary No. 11

संस्थित करने की तारीख
Date of Institution 14-8-95

कानून की धारा
Section of Law 120B/420/468/109/471 of IPC and u/s 13(2) r/w 13(1)(d) of P.C. Act, 1988

सुनवाई की वर्तमान तारीख
Present date of hearing 26-2-97

सुनवाई की अगली तारीख
Next date of hearing 16-5-97

अभियुक्त के नाम एवं पदनाम
Name(s) & Designation(s) of the accused
1. P.F.

1. मुकदमे की अवस्था Trial Stage	आरोपपूर्व Precharge	आरोप Charge	अभियोजन Prosecution	बचाव Defence	अन्तिम बहस Final Arguments
	Framed				

2. साक्ष्यों का विवरण
Details of witnesses

साक्ष्यों का स्वरूप Type of witnesses	कुल सं॰ Total No	पेश किया गए Cited	कुल परीक्षित Total Examined	शेष बचे साक्ष्यों की कुल सं॰ Total number of remaining
			NIL	

क) तकनीकी साक्ष्य
Technical witnesses

तथ्यात्मक साक्ष्य
Factual witnesses

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COMMENTS OF DIG CBI NER GUWAHATI IN CASE NO.RC.15/93-SHG.

In this case, prosecution was recommended against 6 accused persons viz. (1) Renodip Das, Manager (Agri), (2) N.G. Baitha, Field Officer, both of SBI, Diphu Branch, (3) K. S. Ranghang (Pvt.), (4) S. N. Barman, Gram Sevak, Lumbajong Dev. Block & (5) D. Rongpi, Village Headman, Dosei Rongpi village and such action as deemed fit against Bakdul Ali, the then Extension Officer, Lumbajong Dev. Block, Manjha, Karbi - Anglong. However at the time of filing the Charge sheet, the I.O. included the name of Bakdul Ali alongwith the 5 other accused persons and sent him up for trial. The draft chage sheet was vetted by the Sr.PP of the branch. During framing of Charge the Ld. Spl. Judge, Assam, Guwahati vide his order dated 26/3/97 while framing charges against the other 5 accused persons discharged Bakdul Ali as there was no materials against him.

Due to the mistake committed by the I.O., one innocent person had to suffer harrasament in the Court and as such SP CBI Guwahati has been asked to obtain the explanation of the concerned Officials and to send the same with his comments at the earliest for taking appropriate action.

The Branch Unanimously recommended that there is no need to agitate against the order of the trial Court and the matter may be allowed to rest. The matter was examined by DLA CBI Calcutta and he also accepted the recommendation of the Branch. I endorse the unanimous recommendation of the Branch.

Copies of order sheet, comments of SP, Sr.PP and DLA are enclosed herewith.

H.O's decision may kindly be communicated in due Course.

02/6/97

Encls: As stated above.

(N. Mallik)
Dy.Inspector General of Police,
CBI/N.E.REGION/GUWAHATI.

JD/EZ/CBI/Calcutta.
U.O.No. 5825 /3/15/93-SHG.

Dated/16/6/97

c/c

...Loan in different Supple... ...12.4.69 for the supply of Pineapple and banana suckers without any supplies being actually made by the said suppliers who received the amounts from Bank. The following facts emerged ...investigation:

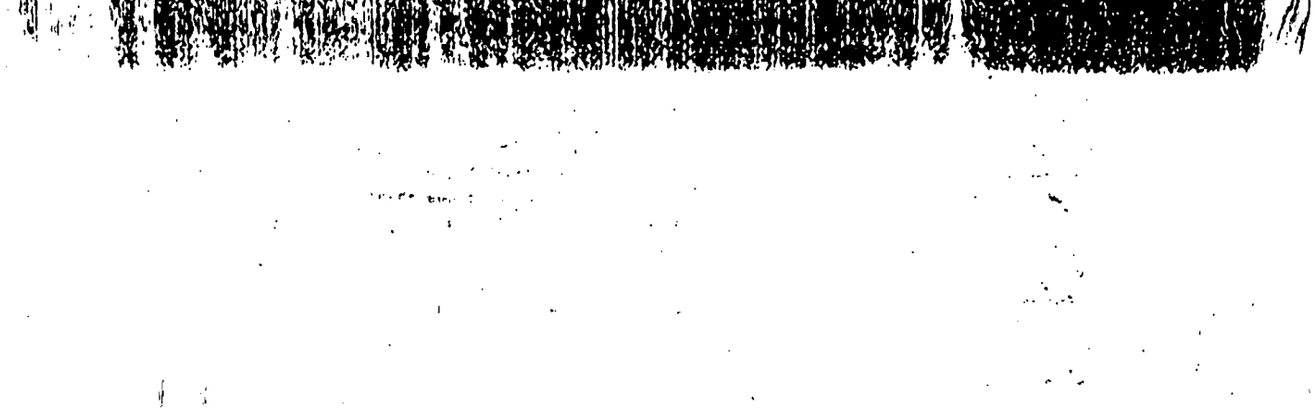
...investigation it was found that Sri Ronodip Das and Sri Nani Gopal Palit were posted and functioning ... Field Officer at SBI,Diphu Kabri Anglong from March'1967 to 31st Oct'1969 and from ... 1969 respectively.Sri Ronodip Das in the above capacity was responsible ... implementation of the IRDP scheme as per extent instructions of the bank in this regard, and ... sanction loans to the beneficiaries on the recommendation of Field Officer Sri Nani ... Sri Nani Gopal Palit as Field Officer was interalia responsible for making preliminary ... about the identified beneficiaries for the disbursement of loan under IRDP scheme.Sri Nani Gopal Palit was also responsible to play more purposive role as regards verification of assets with in a reasonable period of time after disbursement of loans and exercise continued supervision over maintenance of the assets ... frequent contacts with borrowers.

... investigation it was found that during 1969 Sri R.Das entered into criminal conspiracy with ... Field Officer,SBI,Diphu and in pursuant to it dishonestly and with a intent to defraud ... loans in gross violation of the codified circulars of Agricultural Banking on the ... against non-existent and fictitious names and thereby cheated the bank for an amount of ...

... investigation further found that in order to accomplish this nefarious design of cheating the bank ... and Sri N.G.Palit also entered into criminal conspiracy with Sri Sudhir Burman, ... Sewak in Lumbajong Development Block,Manjha,Karbi Anglong, who removed original application bearing signatures of the genuine person ... their application papers forwarded by Block/DRDA to Bank for sanction of loan and inserted new ... applications in his (Sudhir Burman) hand writing bearing forged signatures/thumb impressions obtained from ... Sudhir Burman also managed to secure photographs of some persons from the rejected ... in Block/DRDA office and conveniently got them affixed on the arrangement letter and control card ... of Sri R.Das and Nani Gopal Palit who then attested the forged photographs.Hence the two Bank officials ... certified the forged thumb impressions and signatures as well as photographs as that of genuine ... in the Arrangement letter and control card respectively.The finger print expert and CBCID opinion ... that these attested /certified signatures/thumb impressions reflected in Arrangement letter, ... withdrawal slip etc. neither belong to the photographed persons nor with the borrower as reflected ... Arrangement letter but with some fictitious third person.The finger print expert and CBCID confirmed that two such persons one put forged thumb impressions/signatures on control card ,withdrawal slip,Arrangement ... etc against various A/C No. and which were certified by Sri R.Das and Sri N.G.Palit as that of genuine borrower belongs to Shri Sudhir Burman as Lumbajong Dev.Block Manjha,Karbi Anglong and Sri Khor Sing Rongphang (Pvt person) R/O Dorai Rongpi Village Diphu, Karbi Anglong,Assam.

... investigation further found that Sri R.Das,Manager(Agri) SBI Diphu and Sri N.G.Palit, Field officer,SBI Diphu also entered into criminal conspiracy Sri Khor Singh Rongphang and Sri Dorai Rongpi,Village Headman of Dorai Rongpi village in 1968 and in pursuance thereof prepared forged documents dishonestly and fraudulently against the disbursement of second dose to the IRDP beneficiaries of Dorai Rongpi village for the supply of live stock and in such favour 10 banker cheques in favour of non existent and fictitious supuliers but without any supply of live stock being effected and thereby defrauded the Bank with another clean amount of Rs.2,76,850/-.

The aforesaid facts circumstances and evidence established that Sri Ronodip Das and Sri Nani Gopal Palit committed the offences of cheating forgery,impersonation and of criminal misconduct of abusing his official position and in active conspiracy with Sri Sudhir Nath Burman,Gram Sewak Lumbajong Dev;Block,Manjha,Sri Khorsing Rongphang and Dorai ... with both private persons and thereby by they committed the offences punishable



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Police Station :- CBI(SPE)Shillong at Guwahati. District :- Kamrup Charge sheet No. 5 Date

Name & occupation of complainant or informant :- 'Source' F.I.R. No. RC.15(A)/93-SHG Dt. 30.06.93

Names and addresses of accused persons sent up for trial	Names and addresses of accused persons not sent up for trial whether arrested or not arrested, including absconders (show absconders in red ink)	Property (including weapons found with particulars) of where, when and by whom found and whether forwarded to Magistrate	Names and addresses of witnesses	Charge or information in respect of offence and circumstances connected with it in concise details, and under what section of law charged
1	2	3	4	5
1. Sri Romedip Das, S/o.Late P.Das, the then Manager, Agricultural Banking Division, State Bank of India, Diphu Karbi Anglong. HOME ADDRESS :- C/o.Late Das, Pranab Vidya Peeth, Dimapur, Nagaland and 2. Sri Rajendra Mohan Das, Railway Station, Dimapur, Nagaland. 3. Sri Dhani Gopal Palit, S/o.Late Mohan Palit, Field Officer, SBI Diphu Karbi Anglong. PRESENT ADDRESS :- C/o.Late Mohan Palit, Near Railway Station, Golaghat, Assam. 4. Sri Khar Singh Hanghang, S/o.Late Mohai Hanghang (Late person) Vill-Dangi Rongpi P.O.-Dalodi, P.S.-Diphu, District-Karbi Anglong, Assam. 5. Sri Sushil Kalo Barman, S/o.Late Dakendra Barman, Gram Sewak Umphajang, Dev.Block, Mangha, Dimapur Road, Karbi Anglong, Assam HOME ADDRESS :- Hibugaon, P.O.Kawai Pur, Karbi Anglong, Assam. 6. Sri Dangi Rongpi, S/o.Mosoi Rongpi (Late) Village Headman, Vill-Dangi Rongpi, P.O.Dalodi, P.S.-Diphu, District-Karbi Anglong.	As per list enclosed.	As per list enclosed.	A case RC.15(A)/93-SHG was registered against Sri Romedip Das, the then Manager, Agricultural Banking Division, SBI, Diphu, Karbi Anglong and Sri Mani Gopal Palit, the then F.O., SBI Diphu, Karbi Anglong, Assam on 30.6.93 at SPE/CBI/ACB, Shillong on the basis of source information to the effect allegation that S/Sri [illegible] and M.G.Palit while posted and functioning as the then Manager (Agri) and Field officer, respectively in SBI Diphu Main during the period from Feb. 1989 to May '1989 entered into criminal conspiracy with each other and in pursuance thereof Sri R.Das sanctioned a total of 89 Fishery loan under IRDP schemes on the recommendation of Sri M.G.Palit in the name of non existent and fictitious borrowers. The suspects thereafter disbursed only the subsidy amount totalling Rs.1,95,000/- by issuing bank drafts but no debit confirmations were obtained from

7. Sri Nakoul Ali, S/o.Ali Nakash Ali, the then Extension office, Lumbajong Dev. Block, Manja, Karbi Anglong.
8. Sri [illegible] Extension officer, Kusalpur Dev. Block, P.O.Diphu, Distt- Kamrup, Assam.
9. [illegible] Vill:- Nachakuchi, P.O.Kareng Dihato Charigli, Distt- Kamrup, Assam.

U/s. 120B/420/468 r/w 109/47. IPC and Sec. 13(2) r/w Sec.13(1)(c)of P.C.Act, 1988.

The prosectuion sanction order of competent authority as required U/s. 19 of P.C. Act, 1988 in respect of accused Sri Ronodip Das, and Nani Gopal Palit is enclosed herewith for taking cognizance against him. The list of witnesses and documents are also enclosed herewith. The accused persons were not arrested during the investigation and it is therefore prayed that the processes may kindly be issued to ensure their attendance before the Hon'ble Court and they may be tried. Additional oral and documentary evidences if necessary will be adduced in course of Trial.

Submitted :-

(S. P. Singh)
Inspector of Police
CB(ACB)Shillong
& Guwahati

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GOVT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT OF POLICE
GUWAHATI:

Sub :- RC. 15(A)/93-SHG.

Charge sheet was filed by you in above referred case to the Special Judge, Assam, Guwahati by you on 23/8/95 against 5 accd persons. Whereas one Bakdul Ali, the then Extension officer, Lumbajong Development Block, Manjha, Karbi Anglong included alongwith 5 other accused persons whereas such action as deemed fit was recommended against him. As a result of which an innocent person had to suffer harassment in the Court.

You are hereby directed to submit your written explanation with your comments thereon to the undersigned immediately for forwarding the same to DIG/NER/Guwahati.

Superintendent of Police
CBI(ACB)Guwahati.
Dated :- 6/12/2K

Endst No. 07572/3/15(A)/93-HG.

To

Sri S.P. Singh Yadav
Inspr. of Police
CBI(ACB)Guwahati.
To send to his home address.

.....

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The Supdt of Police
CBI/ACB/SPE
Guwahati

Office of the Supdt. of Police
02894
14/12
C.B.I., A.C.B., Guwahati

Sub: RC-15(A)/93-SHG

Sir,

Kindly refer your Endst No 07572/3/15(A)/93-SHG Dtd 6/12/2K on the above subject.

In this context I would like to mention that the charge sheet in this case was filed on 23/8/95 (as revealed from your aforesaid letter) in the Court of Special Judge Assam Guwahati. Since it was the matter of 1995 I am not in a position to recollect the details thereof.

In view of above it is requested to allow me to peruse the case records including the CD files, crime files and to take necessary notes in order to give my written explanation as called in your aforesaid letter.

Yours faithfully

14/12/2K

SOHAN PAL SINGH ADEN
INSP/CBI/ACB (4/S)
GUWAHATI

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GOVT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
OFFICE OF THE SUPDT OF POLICE
GUWAHATI.

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No 07890 /3/15(A)/93-SHG. Dated 22/12/2000

To

Sri S.P. Singh Yadav
Inspector(U/S)
Guwahati.

Sub :- RC. 15(A)/93-SHG - Seeking approval for Crime and CDs files for offering your explanation from SP-- reg.

Ref :- Your letter dtd. 14.12.2000.

Refer your above letter dtd. 14.12.2000 on the above noted subject. The DIG/CBI/NER/Guwahati allowed to peruse the above files. Hence you are directed to offer your written explanation at the earliest as desired by DIG.

Superintendent of Police
CBI(ACB)Guwahati.

BN*

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Extract of the inspection note of DIG, CBI, NER, GHY communicated to Sh. S.P. Singh Yadav vide No. 228/153/99/Vol.II/NER, dt. 24.1.2000 (15) Annx. 16 43

i) SI/SHG/99/16 : This SIR was entruested to him on 23/9/99. It is pending verification. IO should submit verification report at an early date.

ii) SI/SHG/98/11 : I.O. has already submitted his report which has been sent to JD(E) on 4/11/99.

(iv)(11)(47) COMPLAINT :

i) CO/SHG/99/28 : This was marked to IO on 13/12/99 which is under verification and should be completed early.

(iv)(11)(48) INSPECTOR S. P. SINGH YADAV :

During inspection of ACB, Guwahati Branch all IO.s were called for interview by the undersigned. Inspector S. P. Singh Yadav though he was called to report to the DIG at RO for discussion of his cases he did not report.

From his personal file it is seen that he joined CBI on deputation from U. P. Police on 24/9/93. During his entire tenure in CBI since his joining he had finalised 10 cases out of which the following two cases ended in closure.

i) RC 20(A)/96-SHG
ii) RC 27(A)/96-SHG

None of his cases which have been disposed of finally. These are all pending under RDA or Trial, as given below :

i)	RC 15(A)/93-SHG	Pending Trial
ii)	RC 16(A)/93-SHG	Pending Trial
iii)	RC 27(A)/93-SHG	Pending Trial
iv)	RC 3(A)/96-SHG	Pending Trial
v)	RC 5(A)/96-SHG	Pending Trial
vi)	RC 5(A)/94-SHG	Pending Trial/RDA

CASES PENDING IN RDA :

i)	PE 7(A)/94-SHG	Pending RDA
ii)	PE 12(A)/95-SHG	Otherwise disposed of

CASES CLOSED DURING INVESTIGATION :

i) RC 27(A0/96-SHG : This case was registered against Shri P. I. Borah, Supdt. Engineer, ONGC, Nazira who reportedly an officer in the Agreed List.

(iv)(11)(50) In the FIR registered on 12/7/96, it was alleged that the SO during 1986 to 1994, had total income of Rs. 4,68,286.00 while his assets wee to the tune of Rs. 4,74,313.00. The SO had incurred expenditure during the above period to the tune of Rs. 1,56,000/- (calculated as one third of income)

and as such he was alleged to have acquired assets disproportionate to his known sources of income , punishable u/s 13(2) r/w 13(1)(e) of PC Act, 1988.

(iv)(11)(51) During investigation searches were conducted on 10/10/96 at various places including residence and office of SO. Inventories of House hold goods were also prepared.

The perusal of CD file and FR(I) shows that the I.O. either .did not know how to conduct investigation of a DA case or he had deliberately made a total mess of investigation. He had taken an extended check period beyond what was mentioned in the FIR. The check period should have been selected making it as short as possible, keeping in view acquisition of major assets by the SO. which in this case was confined to a period of 8 years (approx) from 1986 to March, 1994 as given in the FIR. It should have been reduced but was unnecessarily extended to December, 1977. Though on papers, I.O. had shown check period from 23/08/80 to 10/10/86, he virtually extended it up to 13/12/77. A comparision of movable asstes of SO in the FIR and what was actually found by IO as mentioned in his FR(I) is given below .

Item	Value shown in FIR	Final calculation
NSC	Rs. 80,000.00	Rs. 55,000.00
NSS	Rs. 20,000.00	NIL
UTI	Rs. 10,000.00	Rs. 20,000.00
Jevandhara	Rs. 14,800.00	Rs. 14,800.00
Bank Balance	Rs. 44,013.00(2 accounts) A/c No. 443 & 838	Rs. 58,095.00 (5 A/cs
Motor Cycle	Rs. 31,500.00	Rs. 31,000.00
Car	Rs. 1,00,000.00	Rs. 1,50,000.00
Farm Equipments	Rs. 12,000.00	Rs. 12,000.00
	Total Rs. 3,12,313.00	Rs.3,30,895.00

(iv)(11)(52) Movable assets which were not shown in the FIR, but found out during investigation and included in the Final calculation of Assets by IO are as under :

Share	Rs. 40,500.00
Onida TV	Rs. 22,700.00
Refigerator	Rs. 13,000.00
Booking of Fiat UNO	Rs. 2,300.00
Cash	Rs. 17,000.00
IDBI Bond	Rs. 5,300.00
	Rs.1,00,800

(iv)(11)(53) Thus there has been increase in movable assets by 1,19,382.

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upto 4,02,000.00 , on account of booking of a flat by S.O's wife at Delhi for which a sum of Rs, 2,28,000.00 was paid to the housing Co-operative society at Delhi , during the check period .

It is therefore apparent from above that the S.O. had deliberately conceled the above payments and assets acquired by him in the name of his wife , which he did not disclose it in his proforma property returns submitted on 3/3/97 to his Department during investigation of this case.This gross misdeclaration on the part of the S.O. would have made him liable for prosecution or atleast he should have faced regular Deptt. action, but I.O. in stead recommended closure of the case.

Apart from the above , a number of gross misconducts have been comitted by the I.O. during investigation of the above case , as mentioned below .

(i) I.O. did not scrutinised the seized documents nor did he submit any scrutiny report . The CD does not indicate any such action on the part of the I.O.

(ii) He did not collect proper evidence to prove each item of income, assets, and expenditure of the S.O. As a matter fact, the I.O. did not examine a single witness during investigation of this case and as such did not submit calernder of evidence (oral) and Calender of evidence (documentary), alongwith the FR.(I) submitted by him.

(iii) The I.O. wrote a few letters to some authorities /Bodies etc. for verifying expenditure and assets of the S.O. but without waiting for their replies or without showing the result of the replies so obtained in the case diary or FR(I) , hurriedly submitted Final Report ,part:I without collecting any evidence, being in league with S.P. Shri M.K. Jha .

(iv) The I.O. did not consider various expenditures incurred by the S.O. during the check period , even though documentary evidence were available to proof such expenditure , in order to make out a case for closure .

(v) The I.O. did not calculate premium paid by the S.O. on account of five LICI policy to the tune of 5.15 lakhs ,the annual premium of the these policies being to the tune of Rs 30,328.00 and did not include these amounts in the expenditure of the S.O. during the check period .

(vi) Likewise , the I.O. ,did not include expenditures of the S.O. on many other heads like (I)educational expenditure of the childrens.(ii)payments of house rent made by S.O.(iii)expenditures incured on conveyances,including paymenst made towards road tax, insurance , POL and maintainance , as the S.O was having one car and one motor cycle during the check period ,which would have been quite substantial.

(vii) The I.O. allowed a lost of benefit to the S.O. on account of his income without any shred of evidence and without any logic , merely on statement of the S.O.

(viii) The I.O did not disclose about the proforma property return submitted by the S.O. dated 3/3/97 , collected during investigation of this case in order to allow various benefits to the S.O. which the S.O. himself did not show in his profroma property return dtd. 3/3/97, obviously with malafide intention .

(ix) Like wise , IO allowed income to the tune of ,16,695.00 on account of matured values of NSCs etc. without collecting proper vidence and giving benefit of the entire mautured sum of NSCs and other such ıvestment as the income of the S.O. during the check period , whereas only nterest earned by the S.O. against this investments should have been considered as ıls income during the check period , provided he had declared /shown these ncomes in his Tax returns and property statements .

(x) Thel.O. allowed benefit agricultural income to the tune of 86,700.00 to the S.O. during the check period , all thouth the S.O. in his property return dtd. 3/8/90 had shown income of Rs 21,000.00 on the said, which had accordingly been taken into account in the allegation against the S.O. in the F.I.R.

(xi) The I.O. has shown an amount of Rs. 2,300.00 as booking amount for booking Fiat UNO car thought the S.O. had actually deposited a sum of Rs. 23,300.00 against the said booking .

(xii) The I.O. again allowed benefit of income to the S.O. to the tune of Rs, 97,350.00 towards alleged profit made by the S.O. in the purchase and sales of shares during 1992 to 1994, allthough this was not shown by the S.O. in the proforma property return dtd. 3/3/97 nor in the income tax return filed by the S.O. The IO also did not conduct any verification in this regard and gave the entire benefit to the S.O. obviously with fraudulent intention .The I.O did not recommend any action against the S.O. for concealment of this income of the S.O. said to have been derived from the sale/purchase of shares .The speculation in purchase /sale of shares is itself a misconduct generaly prohibited in the conduct rule .The I.O. did not requisition the services of Technical Officer for scrutinising the seized documents in this case which mandatorily required to be , done obviously with dishonest intention,for closure of the case .

(xiii) Shri M.K. Jha, SP who supervise the investigation of this case winked to all these gross misconduct of the I.O. and did not point out at any time any of these lapses and directed the I.O. to submit FR(I) hurriedly as is clear from the Case Diary No.24 dated 8/9/97 submitted by the I.O. in which the following facts were recorded

" During the discussion, the worthy S.P. averred that as there are no evidence of substantial assets against the suspect , therefore it would be extemly difficult to initiate a law prosectuion case against the suspect.However, he advised to expedite the investigation and give FR(I) soon , discussion note is enclosed herewith for perusal ."

Thereafter the I.O. submitted FR(I) after examinint the accused and taking into account what the accused stated as the absolute truth.

There are other factors to show that both the I.O. and SP Shri M.K. Jha were responsible for closure of the case with the Malafide intention on account of which and RC may be registered against them.

(1)RC.34(A)/96-SHG:This is High Court referred case. The allegation relates to misappropriation of about Rs. 38 Lakhs by some employees Guwahati High Court, such as Record Arranger(Class-IV). Upper Division Asstt, Treasury Officials, Audit officials etc. the main

accused is Shri Wahid Ali , a Class-IV employees who has already been dismissed from service. The orders of Special Director on the F.Rs in this case was received in the Branch in the month of Aug/Sept but. lot of delay took place in the preparation of SP's report. The articles of charges statements of imputations, draft sanction orders were also not properly prepared and checked as a result of which the SP's report had to be returned by the Regional Office again and again. The I.O. did not collect the relevant conduct rules applicable to the officials against whom RDA was recommended by him. As a result the SP's report could not be forwarded to the Registrar, Guwahati High Court which could be done only 31/12/1999. The explanaltion of the IO has also been called for by the undersigned and he has been directed to get the draft charge sheet prepared vetted and keep ready which would be filed after s anction for prosecutions are received. This should be expedited by the IO through personal contact. The Sanctioning Authority should be examined before issuing sanction order with reference to original documents and statements of witnesses recorded by the Io relevant to the charge. This procedure should be followed in all cases where sanctions are required to be issued.

(2) RC. 5(A)/98-SHG Dt.11/2/98: The above case was registered on 11/2/98 under section 7 and 13(i)(e) of PC Act, 1988 jand Section 120B IPC against Shri K.R. Ganesh and others, pjursuant to seizure of Rs 25,31,200/- from his possession at Guwahati Air Port on 6/9/97 , followed by seizure of another Rs 4 lakhs during search of his house at Guwahati. Shri K.R. Ganesh also confessed before Shri Dinesh Sharma, Executive Magistrate, Kamrup, Guwahati that seized Cash were paid to him by different contractors/parties whom he had favoured by issuing various types of work orders but subsequent alleged that his statement was extracted under coercion.Thereafter he has been taking different stands at different times.

I have found that the I.O. is unnecessarily delaying in investigation in this case and not taking prompt action on the instruction issued by the undersigned.As jhuge amount of cash was recovered from the possession of the accused who is under suspension, the I.O. should have confined the investigation to a small period, say about 1 year or so on the allegation of D.A but instead of so doing he has unnecessarily expanded the investigation in different directions as a result of which the investigation is dragging unnecessarily.

In this case though, seized cash recovered from the possession of the accused consisted of a number of bundles of currency note of Rs. 100/- and Rs. 500/- denominations bearing bank slips , of different bank.The I.O. was asked out to whom these bundles of cash were issued. But though he has examined the Bank Officials, but he has not found out so far, to whom

these bundles had been issued, who should all be examined. This excercise is important to rebut the plea of the accused and other persons who are colluding with him in creating false defence. the I.O. has been asked to complete the excercise by end of January, 2000 and submit FR-I falling which actions would be taken against him.

The conduct of this I.O. is worth mentioning here.After his order for repatriation was issued by HO the I.O. did not attend office. His jwhereabouts could be traced after many days , he submitted medical certificate showing that he was seek. But actually, he was trying to obtain a stay order from the CAT/ High Court.After his petition was dismissed by Hon'ble Guwahati High Court , he has filed another petition in the CAT., Guwahati Bench against the order of repatriation which is yet to be decided.

There were complaints against him and the complainant Shri A.K. Baruah was called to the Regional Office by Dy. S.P. , Shri K.C. Choudhury on the instruction of undersigned and after he was examined Shri S.P. Singh Yadav findifng the complainant in the Regional Office llast his tempder and began assaulting the complainant abused him in unparliamentary language in front of the room of DIG.When his explanation was called for, he has started making false allegations against DIG and other staff concerned alleging that this is a conspiracy made against him to defame him. The SP has been asked to initiate RDA against the inspector and report the matter to CAT about his aforesaid conduct and unworthiness of the Inspector to continue in CBI any longer.

ADANI MAO, INSPECTOR:No personal inverview could be held with him during inspection as he is posted at Shillong Unit, at Shillong. However , he is having the following cases with him under investigation:

(1) RC. 31(A)/96-SHG Dated 13.9.96:This case was registered against (i) Lt. Col. V. K. Mahajan(@ MGAR)(A-1), (ii)Maj. I.S. Basnet(@ MGAR)(A-2),(iii)Maj. Pwan Wahi of 3 MGAR(A-3) (iv) Nb/sub. P.S. Verma, (A-4) (v) LNK Mjukund Das (A-5) and (vi) M/s Kapcon (A-6), on the allegation that the accused person conspired among themselves pursuant to which 20 thousand Gorkha Hats were purchased from M/s Kjapcon (A-6) at exorbitant rates and 100% payments were made to the supplier even though the accused firm had supplied Gorkha Hats much less in quantity and quality causifng loss of several lakhs to the Govt. of India etc. This case was transferred to the present I.O. jon 11.12.98 from the previous I.O. Shri D.B. Singh, pursuant to his transfer to Bombay. The previous I.O. had examined 12 witnesses and the present IO has more or less examined the same number of witnesses but so far no evidence has been collected

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GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: GUWAHATI

Sub; Gross misconduct in non submission of Weekly Diaries during ~~1999~~

Perusal of your weekly diary file shows that you have not submitted any weekly/monthly diary during the whole year of 1997, though several reminders were issued as by the S.P, as detailed below:

(i) No./SPsy/4155 Dt. 30.6.97(Reminder No. 1)
(ii) No.MD/SPSy/97/5028 Dt. 11.8.97(Reminder No. 2)
(iii) No. MD/SPSy/97/5870 Dt. 24.9.97(Reminder No.3)
(iv) No.MD/SPSy/97/907 Dt. 9.2.98(Reminder No. 4)

2. Apparently this is a gross and serious misconduct on your part for not having submitted weekly diary for a year in spite of having been directed/reminded to do so through several reminders as mentioned above, which shows this could be with ulterior and/ malafide intention.

3. You should therefore report immediately why departmental proceedings should not be started against you and you should not be kept under suspension for such serious misconduct on your part.

4. Your explanation should be submitted through SP,CBI, Guwahati, with a copy to the Regional DIG, failing which action as deemed fit would be taken against you.

(K.C. Kanungo)
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To
S.P. Singh Yadav, Inspector
CBI,ACB,Guwahati

7547/12/Comp/SIC/NER Dt 22.3.2000

Copy to:
Supdt. of Police, CBI, ACB, Guwahati

22.03.2000

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

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Office of the Supdt. of Police, SCR
Central Bureau Of Investigation,
Anti-Corruption Branch,
Sundarpur, Guwahati-5.

No. DPS-CBI/1999/0021 /A/20/157/93 Date: 10/1/2000

MEMORANDUM

Under Rule 9 of the Delhi Special Police Establishment (Subordinate Ranks) (Discipline and Appeal) Rules, 1961 an action is proposed to be taken against Shri S. P. Singh Yadav, Inspector, CBI, Guwahati Branch.

The statement of imputation of misconduct against Shri S. P. Singh Yadav, Inspector is enclosed herewith.

Inspector, S. P. Singh Yadav is hereby directed to submit his written explanation/defence within 5(five) days of receipt of this Memo and also he should say whether he wants to be heard in person. If the written explanation/defence is not received within the specified time, as mentioned above, the undersigned will presume that he has nothing to explain on his behalf and further action would be taken against him as deemed proper.

Shri S. P. Singh Yadav, Inspector should acknowledge receipt of this memo.

(Om Prakash)
Supdt. of Police,
CBI, ACB, Guwahati.

Encl: Statement of imputation against
Inspector S. P. Singh Yeadav.

No. DPS-CBI/1999/0022 /A/20/157/93 Date: 10/1/2000

Copy forwarded to:
The Dy. Inspector General of Police, CBI, NER, Guwahati for favour of information please.

Supdt. of Police,
CBI, ACB, Guwahati.

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STATEMENT OF IMPUTATION OF M[illegible]NDUCT AGAINST SHRI S. P. SINGH YADAV, INSPECTOR, CBI, GUWAHATI BRANCH.

[illegible] the departure of Shri S.P. Singh

1. That Shri S. P. Singh Yadav had criminally assaulted one Shri A. K. Baruah and threatened him with a revolver on account of various property disputes between them relating to purchase of a flat by Smt. Jonali Baruah, said to be wife of Shri S. P. Singh Yadav at Donchi Apartment, 4th Bye Lane, Tarun Nagar, Guwahati-5 and said Shri A. K. Baruah made complaint against Shri Yadav to the Director, CBI, which has been [illegible] to DIG, CBI, NER for causing verification and reporting the matter to HQ. In connection with which Shri K. C. Choudhury, Dy. SP, Regional Office was asked by the DIG, NER to examine the complainant when DIG, CBI, NER was present at HQ, so that he could also talk to him.

[illegible] the DIG

2. Accordingly, Shri Choudhury, Dy. SP called Shri Baruah to Regional Office on 30/11/99 who came and reported to him at about 11.15 am. As per instruction of the DIG, Shri Choudhury, Dy. SP after discussing the matter with the complainant and enquiring from him about the origin of the allegation etc., produced the complainant Shri Baruah before the DIG, as desired, in the DIG's chamber at about 11.30 am. and DIG after discussing the matter in presence of Shri Choudhury, Dy. SP allowed the complainant to go.

[illegible] of the

3. That said Shri S. P. Singh Yadav, Inspector had also been called to Regional office to report to DIG for discussing his case No. RC 34(A)/96-SHG for finding out the delay in preparation of SP's report and its enclosures, which have been going on since 16/6/99, as revealed from the weekly diary of Shri Yadav. But said Shri Yadav, instead

allegations of

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reporting at Regional office at 10.00 am. reported at about 11.30/11.35 am for reason known to him. There is no entry also in the local movement register of I.O.'s maintained in the DO section, about the departure of Shri S. P. Singh Yadav on 30/11/99 from the office.

4. That when the complainant, Shri A. K. Baruah was about to leave the office, Inspector, S. P. Singh Yadav, who was sitting in the room of Dy. SP, suddenly came out to the verandah and started shouting at Shri Baruah, uttering "*Tu Chor*", "*Yaha Kaise Aaye? Tujhko Nahin Chorunga*", "*You Cheat*". Inspector S. P. Singh Yadav also caught hold of his collar and tried to assault him but was prevented upon with great difficulty by Shri Choudhury, Dy. SP and other staff of Regional Office.

5. That hearing the loud shouting of Shri Yadav, the DIG came out from office chamber and asked Shri Yadav to let Shri Baruah, go as he was called by the DIG and not came on his own accord and expressed his serious displeasure at the unbecoming behaviour of Inspector, S. P. Singh Yadav.

6. The explanation of Shri Yadav was called for by the undersigned vide endst. No. DPSHL/1999/00805-06/A/20/157/93 dtd. 7/12/99, which was issued under signature of Dy. SP, Sh. K. C. Choudhury, who was holding the charge of the branch, under my order, to explain his conduct and also to explain as to why disciplinary action should not be taken against him for such behaviour and conduct.

7. But said Shri Yadav instead of giving proper explanation of his misconduct and misbehaviour, which was not only uncivilized and high-handed, has made false malicious allegations against all the staff of Regional office, who had seen the incident and also

(328) 300

Shri K. C. Choudhury, Dy. S.P. who had called Shri Baruah and DIG, alleging false, baseless allegations of having conspired against him without stating any reasons for such conspiracy and thereby, further misbehaving, misconducting and showing gross insubordination just for the sake of creating false defence in his favour.

8. That said Shri Yadav has made further false allegation against DIG for conspiring with Shri A. K. Baruah to save him from the criminal case filed against him by CBI, without any basis and made similar false, wild, baseless allegations without any evidence, circumstances for making such allegations.

9. That said Shri S. P. Singh Yadav in manner aforesaid has committed gross misconduct and behaved in unbecoming manner showing gross insubordination and has lowered the dignity and prestige of CBI and Senior officers by his aforesaid misconduct and subsequent false and malicious accusations and has shown by such misconduct on his part that he is unfit for working in an organisation like CBI any longer and has contravened Rule 3(1)(i)(ii) and (iii) of CCS(Conduct) Rules, 1964.

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GOVERNMENT OF INDIA
CENTRAL BUREAU OF INVESTIGATION
N.E.REGION :: :: GUWAHATI

C.B.I, A.C.B, Guwahati

Sub: False submission of weekly diary/non-submission of case diary in RC. 5(A)/98-SHG by Shri S.P. Singh Yadav, Inspector.

Perusal of your weekly diaries for the year 1999 shows that during this year you have shown, in your weekly diary for having remained busy in conducting investigation of RC 5(A)/98-SHG on different dates but while checking the CD file of RC. 5(A)/98-SHG it was found that no C.Ds were submitted on those dates.It shows therefore that either you have falsely shown to have remained engaged on those dates for investigation of RC5(A)/98-SHG or did not submit any CDs on those dates which is a serious misconduct on your part.

2.It appears that on the following dates no CDs in RC. 5(A)/98-SHG was submitted by you though in your W.Ds you had shown to have remained engaged in the investigation on those dates.

(i)	25.2.99	6.7.99
(ii)	10.3.99	8.7.99
(iii)	17.3.99	12.7.99
(iv)	19.3.99	13.7.99
(v)	24.3.99	3.8.99
(vi)	3.4.99	4.8.99
(vii)	30.4.99	24.8.99
(viii)	7.5.99	27.8.99
(ix)	13.5.99	8.9.99
(x)	29.5.99	9.9.99
(xi)	4.6.99	21.9.99
(xii)	8.6.99	27.9.99
(xiii)	11.6.99	02.11.99
(xiv)	14.6.99	26.11.99
(xv)	15.6.99	28.12.99
(xvi)	17.6.99	2.7.99
(xvii)	24.6.99	5.7.99
(xviii)	3.7.99	

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You should therefore explain immediately why disciplinary action should not be taken against you and why then those dates mentioned should be treated as dies non .Your explanation should reach to the undersigned within 10 days of receipt of this memo failing which action as deemed proper would be taken against you.

(K.C. Kanungo)
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To,
S.P. Singh Yadav, Inspector
CBI, ACB, Guwahati
No 752/2/Comp/ECL/NER Dt. 22.3.2000

Copy to:
SP, CBI, ACB, Guwahati

22.03.00

DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

Ref - Page 41 (Chapter IV) - of CBI CRIME Manual 1991

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Source Information

31/123 While there is no bar to the development of information through a source, verification should start only after registration of the SIR. All requisitions, including requisition of records should be invariably singed by the SP. When a written complaint is received by the SP from a department, it should not be converted into an SIR, unless so warranted in special circumstances as laid down vide Policy Divn. Circular No. 21/8/62-PD dated 24.2.84. Such conversion should, however, be done only with HO approval. If, after verification of the SIR, the verifying officer concludes that the allegations in the SIR are not corroborated, he should consult the officer who had submitted the SIR before closing the case.

32/124 Care should be taken to avoid collection of source information relating to irregularities or misconduct of a departmental nature, especially with regard to public sector undertakings. The SP should pay special attention to ensure that in respect of Public Sector Banks cases relating to transgress of discretionary powers and violation of Bank norms are not taken up for verification. Only such source information should be taken up for verification in which there is a clear criminal or corruption angle and the case, if registered, is likely to end in prosecution in a court of law.

33/125 Information should not remain pending in the branches for very long periods for verification and disposal. In this regard instructions issued by the Policy Division from time to time should be strictly adhered to. Where two or more Branches are involved in the verification of an information, the information should be transferred to the place where the officer is

is posted so that the verification of the information by the Branch concerned can be monitored by the DIG.

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CBI CRIME MANUAL 1991.

APPENDIX

(Reference Chapter V and Para 125)

GUIDELINES FOR REGISTRATION OF CASES—PETTY CASES TO BE AVOIDED

Cases of the following types shall not be registered, except where there are special reasons arranting a C.B.I. Enquiry/Investigation.

(i) **Cases relating to Railway Claims, movements or delivery of consignments without Railway Receipts etc. except when bribe is involved and a trap can be laid.**

(ii) **Cases relating to minor thefts or loss of stores.**

(iii) **Cases relating to promotions or similar departmental matters where no element of corruption is involed.**

(iv) **Cases relating to misuse of Railway Passes or obtaining passes on false pretexts.**

(v) **Cases relating to Life Insurance involving non-medical test or non-accounting of premia, unless the amount involved is very large or there are a number of instances over a prolonged period.**

(vi) **Cases relating to false TA including LTC unless false calims of this nature have been preferred repeatedly.**

(vii) **Cases (covered by CBI Charter) registered and Investigated by local Police unless they are handed over very soon after registration.**

(viii) **Cases relating to departmental irregularities where the department itself is conducting an enquiry or taking necessary action against the delinquent.**

(ix) **Cases relating to misuse of staff-cars or Govt. vehicles or orderlies unless such misuse is extensive or repeated.**

(x) **Cases relating to shortage of stores unless stores found short are of considerable value i.e. Rs. 1 lakh and above and a criminal offence is suspected.**

(xi) **Cases relating to recommendations in favour of a firm when no malafides are involved.**

(xii) **Cases relating to failure to report property or monetary transactions or similar violations of conduct rules.**

(xiii) **Cases relating to the issues of certificates to passport applicants without knowing them but not involving malafides.**

(xiv) **Cases relating to shortage or losses where it is not possible to fix responsibility due to defects in procedure.**

(xv) **Cases relating to acceptance of contributions for any religions or social purposes, when the contributors have no official delaings with the officer concerned.**

(xvi) **Cases relating to non-observance of the formalities for making purchases when neither malafides nor corruption nor any serious irregularities are involved.**

(xvii) **Cases relating to negligence due to which the loss caused to Government is less than Rs. 50,000/-.**

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पुलिस निरीक्षकों और उप-निरीक्षकों की गोपनीय रिपोर्ट का फार्म

केन्द्रीय अन्वेषण ब्यूरो

FORM FOR CONFIDENTIAL REPORT ON INSPECTORS OF POLICE
AND SUB-INSPECTORS OF POLICE
CENTRAL BUREAU OF INVESTIGATION

भाग–I

PART-I

वैयक्तिक ब्यौरे

PERSONAL DATA

(जिस अधिकारी की रिपोर्ट लिखी जा रही है, उसके द्वारा भरे जाने के लिए)
(To be filled by the Officer reported upon)

.....को समाप्त अवधि/वर्ष के लिए गोपनीय रिपोर्ट

Confidential Report for the Year/Period Ending 1.1.2000 To 31.12.2000
(SUSPENSION PERIOD WEF-26.4.2000 TO TILL DATE)

1. अधिकारी का नाम और कर्मचारी कोड संख्या
Name of the Officer & Employee Code Number S.P.SINGH YADAV

2. जन्म की तारीख
Date of Birth 1.7.1952

3. कद / भार
Height 6.3 Weight 86 Kg
सीना / घेराव
Chest 39"-46" Waist 37"

4. क्या अधिकारी अनुसूचित जाति/अनुसूचित जनजाति का है — हां/नहीं
Whether the Officer belongs to Scheduled Caste/Scheduled Tribe. — Yes/No. ✓

5. पदनाम/रैंक/पारित पद
Designation/Rank/Post held INSPECTOR of POLICE

6. वर्तमान ग्रेड में लगातार नियुक्ति की तारीख
Date of continuous appointment to the present grade viz 24.9.93

7. क्या सीधी भर्ती पर नियुक्ति या प्रतिनियुक्ति पर
Whether direct recruit or deputationist
(यदि प्रतिनियुक्त है तो उस राज्य/विभाग का नाम और पता लिखें जहां से प्रतिनियुक्ति पर आए हैं)
(In case of deputationist, name and address of State/Department from which on deputation)
(ON DEPUTATION FROM UTTAR PRADESH POLICE)

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8. स्थायी/अर्द्ध-स्थायी/अस्थायी है
Whether permanent/quasi-permanent/temporary. PERMANENT

9. शाखा/यूनिट/कार्यालय जहां रिपोर्ट की अवधि/वर्ष के दौरान सेवा की और प्रत्येक में सेवा की अवधि
Branches/Units/Offices in which served during the year/period under report and the period of service in each. OFFICE OF THE SP/CBI/ACB GUWAHATI

10. वर्ष/रिपोर्ट अवधि के दौरान छुट्टी/प्रशिक्षण पर अनुपस्थिति की अवधि
Period of absence from duty on leave/training during the year/period of report. NIL

11. (क) शैक्षणिक योग्यताएं
(a) Educational Qualifications : M.Sc (CHEMISTRY)
(ख) तकनीकी परीक्षा/प्रशिक्षण पाठ्यक्रम में उत्तीर्ण/अर्हता प्राप्त
(b) Technical Examination/Training Courses Passed/qualified.
(ग) भाषा ज्ञान
(c) Knowledge of Languages :
(i) पढ़ और लिख सकते है
(i) Able to read and write : HINDI, ENGLISH
(ii) बोल सकते है
(ii) Able to speak : HINDI, ENGLISH & ASSAMESE

भाग–II
PART-II

(जिस अधिकारी की रिपोर्ट लिखी जा रही है, उसके द्वारा भरे जाने के लिए)
(To be filled by the Officer reported upon)

1. डयूटियों का संक्षिप्त विवरण
Brief description of duties. (I) INVESTIGATION OF CASES ENDORSED (II) SUBMISSION & VERIFICATION OF COMPLTS/SIR (III) ASSISTANCE TO PP'S IN COURT AS PAIRVY OFFICER (IV) PRESENT CASES IN DEPARTMENTAL PROCEEDINGS (V) COLLECTION OF INFORMATION/INTELLIGENCE FOR REGISTRATION OF CASES. (VI) CONDUCT SEARCH/PART INVESTIGATION/SURPRISE CHECKS & OTHER DUTIES ENDORSED.

2. वर्ष के दौरान प्राप्त प्रशिक्षण पाठ्यक्रमों का विवरण
Particulars of training courses undergone during the year. NIL

3. वर्ष के दौरान प्राप्त पदक और प्रशंसा पत्र
Medals or commendations received during the year.

REWARDS & COMMENDATION CERTIFICATE WERE NOT GIVEN BY THE COMPETENT AUTHORITIES DURING 1994 & 2000 IN VIEW OF THE DIG/CBI/NER SRI K.C KANUNGO'S OBSERVATION IN HIS BRANCH INSPECTION REPORT VIDE FILE NO 153/99/NER VOL II "That REWARD SHOULD NOT BE GIVEN TO PERSON LIKE S.P SINGH WHO IS USING REWARD MONEY FOR FIGHTING CASES AGAINST CBI" DESPITE MY GOOD WORK AND ACHIEVEMENT IN SECURING COURT CONVICTIONS, CONVICTIONS IN RDA PROCEEDINGS, CONDUCTANCE OF SURPRISE CHECKS, SUBMISSION OF SOURCE INFORMATION REPORTS & REGISTRATION OF RE/REGULAR CASES etc VIDE MYSELF APPRAISAL STATEMENT FOR THE YEAR 2000 & 1999 AS ENCLOSED HEREWITH, THOUGH THE SAME ARE GOOD GROUNDS FOR SANCTION OF REWARDS & HONARIUM VIDE DCBI STANDING ORDER NO-32 DT 29/12/96 AND, INDEED OTHER OFFICERS INCBI IN BRANCH & ELSEWHERE WERE GIVEN REWARDS & COMMENDATION CERTIFICATE ON THE SAME GROUND. IT IS ALSO PERTINENT TO MENTION THAT BEFORE APPOINTMENT OF OUR WORTHY DIG SRI K.C KANUNGO IN NER, I WAS GRANTED 14 CASH REWARDS & RECOMMENDATION CERTIFICATE FOR GOODWORK DURING 24.9.93 TO 30.6.99.

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SELF APPRAISAL STATEMENT OF S.P. SINGH INSP/CBI/ACB UNDER SUSPENSION FOR THE YEAR 2000

NORMAL DUTIES :- 1.1.2000 to 25.4.2000

SUSPENSION PERIOD :- 26.4.2000 to till now.

(1) CONVICTION SECURED IN COURT OF SPECIAL JUDGE ASSAM :

A) Case No :- Rc 32(A)/94-SHG U/S 420, 409 IPc & 13(2) r/w 13(1)C of P.C. Act - 1988.

Particulars of Accused : - Sri Kushal Chandra Deka Indian Bank, Digboi Branch, Tinsukia Assam.

Conviction awarded by the Court :

5 years rigrous imprisonment and Rs. 10,000/- fine vide judgement dated 18.7.2000 of Special Judge Assam.

This case was exclusively investigated by me and after investigation chargesheet was submitted in court, assisted all along the PPS in conducting the case and briefing the witnesses before being examined in the court of law during trial.

(2) CONVICTION SECURED IN RDA :

(A) Case no RC-6(A)/91-SHG :- RDA major penalty against Sri S.R. Arvind I.T.S. the than TDM/G.M. Telecom dehradun. The President awarded penalty of 30% cut in the pension of Sri Arvind for all time.

(B) Case No. RC-12(A)/93-SHG :- RDA major penalty against Sri Damodar Sarma, Sub-inspector Phones, O/o the G.M. Telecom Kamrup Assam. The disciplinary authority vide order no X-4/2000-2001/01 dt. 23.06.2000 reduced two increments for two years in the pay scale of Rs.4000 - 100 - 6000.

(C) Case No RC-5(A)/94-SHG :- RDA major penalty against Basudeo Kalita and Radha Kalita both Const. GRP Assam Police vide letter no G.R.O./GRP/DP 96/2000/3928 dt. 01.06.2000, disciplinary authority stopped two increments with cummulative effect.

Contd.... p/2.

(3) CASES REGISTERED ON SURPRISE CHECK CONDUCTED

(A) PE-5(A)/2000-SHG / RC-14(A)/2000-SHG — Against Sri A.K. Dutta JTO Stores/ N.E. TELECOM Circle Dharapur Guwahati U/S 120B, 420, 477A, IPC & 13(2) r/w 13(1)d of PC Act, 1988, for causing pecuniary loss of Rs. 67 lakhs (approx.) to Exchequer.

(B) PE-15(A)/99-SHG / RC-1(A)/2000-SHG — against Sri R.K. Das, JTO Stores/ Lokhara/ N.E. Telecom Circle, U/S 120B, 409 IPC & SEC 13(2) r/w 13(1) (C) & (D) of PC Act 1988, for causing pecuniary loss of Rs. 2.45 lakhs to exchequer.

In both the above cases SIR submitted by me, surprise checks were also conducted by me leading to the registration of said cases.

4. CASES ORDERED FOR REGISTRATION OF CASES/SIR PENDING VERIFICATION.

(A) SI/SHG/99/19 (B) SI/SHG/99/20 (C) SI/SHG/99/21	For cheating, misappropriation etc of crores of Rs of Govt. money by Class I Officers of Telecom Department in CRL conspiracy with Pvt. contractors for causing gross irregularites in OFC laying work on Imphal-Moreh, Imphal-churchanpur, Jorhat - Kohima - Dimapur route.
(D) SR/2000/07	against Gazetted officers of Telecom deptt. for causing pecuniary loss of Rs. 19 Lakhs (approx.) to exchequer.

Contd 3

CASES INVESTIGATED

1) RC-34(A)/96-SHG : This is a high court referred and monitored case involving fraudulent drawl of Rs. 38 lakhs approximately from Kamrup Treasury against advance TA bills of the Establishment Staff and Hon'ble Judges of Gauhati High Court from 1985 to 1993. In this case investigation was complete and therefore from 1.1.2000 to 25.4.2000, i.e. before suspension, prepared SPs Report alongwith enclosures etc. against 33 accused persons belonging to Gauhati High Court, Kamrup Treasury, AG Accounts and AG Audit for prosecution and departmental proceeding which were sent to Deptt. concerned for initiating department proceedings, obtaining prosecution sanction order etc. In this case only chargesheet was to be filed following receipt of prosecution sanction order.

2) Misc case 206/98 : This misc case arose out of the aforesaid case RC-34(A)/96-SHG, vide this case Investigation conducted & property worth Rs. 38 lakhs of main accused & his family members were seized under the provision of criminal law amendment ordinance 1944 in order to preserve Financial Interest of state. In this case attended time to time the District & Session Judge Court Guwahati during course of hearing and rendering assistance to conducting PP.

3) RC-5(A)/98-SHG : This case was registered following seizure of Rs. 29 lakhs from the CGM Telecom (T/F) at Guwahati Airport u/s 7, 13(1)(e) of PC Act 1988 & 120B of IPC. However one businessman of Arunachal Pradesh in connivance with main accused filed a petition in the Special Judge Court Assam, Guwahati claiming the ownership of seized money stating that said money was given by him to the accused for purchasing diamond Jwellery from Madras. This petition though was dismissed on being contested in Court by submitting evidences collected during course of investigation. But a CRL Revn. Petition is pending before high court From 1.1.2000 to 25.4.2000 i.e. before suspension further collected irrefutable evidences contrari to the claim of Sri Khirme, the above said businessman, and was successfully heading towards collecting evidences U/s

13(1)(a), 13(1)(d) & 13(1)(e) of PC Act and sec 120B of IPC but my all effort in this regard were frustrated by the impugued suspension order of DIG/CBI/NER Sri K.C. Kanungo who was all along insisting for filing chargesheet u/s 13(1)(e) of PC Act and . FR(1) within 10 days only.I have come to know that my successor I.O. is now submitting FR(1) u/s 13(1)(e) only even after 10 months of handing over the case without labouring to appreciate existing evidence and collecting further evidence of PC Act aforesiad.

SELF APRAISAL STATEMENT OF S.P. SINGH INSP/CBI/ACB FOR THE YEAR 1999

CASES INVESTIGATED :

1) RC-34(A)/96-SHG : This is a High Court referred and monitored case involving fraudulent drawl of Rs. 38 lakhs approximately from Kamrup Treasury against Advanced TA Bills of the Establishment Staff and Hon'ble Judges of Guwahati High Court from 1985 to 1993. During period under review Investigation completed and held discussion with Senior officers and assisted them in preparation of their comments. Also prepared draft SP's report alongwith enclosures etc. against 33 accused persons belonging to Guwahati High Court, Kamrup Treasury, AG Accounts and AC Audit for prosecution & departmental proceedings which were sent to Deptt. concerned for initiating departmental proceedings, giving prosecution sanction order etc.

ii) Misc Case 206/98 : This misc case arose out of aforesaid case RC-34A/96-SHG. Vide this case investigation conducted and property worth Rs. 38 lakhs of main accused and his family members in order to preserve Financial interests of State under Criminal Law Amendment Ordinance 1944 were attached in District and Session Judge Court, Guwahati. Attended attachment hearings in Hon'ble Court as a result one respondent deposited Rs. 38,000 in the Court. Petitions were also filed in the Court for disposal of other movable property worth Rs. 3 Lakhs approximately to preserve interest of the State. Hearing is on in this connection.

iii) RC-5(A)/98-SHG : This case registered following seizure of Rs. 29 lakhs from the CGM Telecom T/F at the Guwahati Airport. U/S 7, 13.1(C) of PC Act, 1988 & 120 B of IPC. However one businessman of Arunachal Pradesh in connivance with main accused by, Filing Petition in the Special Judge Court Assam, Guwahati claimed the ownership of seized money stating that said money was given by him to the accused for

Contd...p/2

purchasing diamond jewellery from Madras.

This petition was contested in the Court by collecting evidence which resulted in the dismissal and disallowance of said petition and thereby the dishonest designs of accused were frustrated. However the accused & the businessman have filed petition for quashing FIR & Criminal revision in Guwahati High Court. Investigation in this regard were also made and affidavit in opposition were filed. Sufficient evidances were collected to file charyesheet against the accused as well as the said businessman Nimma Tsering Khrime. Investigation is also on to locate and collect evidences against the bribe givers who contributed to the said seized amount.

iv) PE 2(A)/99-SHG : In this case submitted SIR, conducted surprise check leading to registration of PE against the suspect officials of FCI for the loss of Rs. 1.50 lakhs (approx) of Food Grains. The case was investigated by me and dispossed off by the branch recommending RDA for major penalty against all aforesaid three officials and thereby contributed branch in achieving annual branch target.

CONVICTION SECURED IN THE CASES PRESENTED AS PRESENTING OFFICER IN DEPARTMENTAL PROCEEDINGS : During period under review four results came against cases presented and all resulted into exemplary punishment to charged officials in the following cases.

i) 30% cut in pension of Sri S.R Arvind I.T.S., the than TDM Ghy/GM Telecom Dehradun for all time by President in concurrence of UPSC on the inquiry report of CDI & IO/CVC Sri Geeta Ram in CBI case No. RC-6(A)/91-SHG.

ii) Reduction of basic pay by 5 stages of charged official Sri Hare Krishna Dutta, Rural Development Officer, U.B.I North Lakhimpur, in CBI case No. RC-37(A)/91-SHG.

Contd...p/3

iii) Reduction of 1 increment of Sri S.P. Singh AGM/Telecom in CBI Case No. RC-29(A)/92-SHG.

iv) Reduction of 4 increments with cummulative effect from Pay Scale of Sri M.C. Goyari, JTO in CBI case No. RC-12(A)/93-SHG.

SIR submitted : Total 7 in nos.

i) 3 SIR submitted on Imphal - Moreh, Imphal Churchandpur, Jorhat, Dimapur, Kohima, Optical Fibre Cable route against Telecom Officers of NE Telecom Task Force including Class I Officer for causing fraudulently and dishonestly, loss of the Govt. Exchequer amounting to crores of rupees.

ii) 2 nos. of SIR against Telecom officials of N.E. Telecom Circle for misappropriating Rs. 20 lakhs worth of Telecom materials in CTSD Stores Lokhara & Dharapur Guwahati.

iii) 1 no of SIR for conducting surprise check in FCI Godown, New Guwahati.

iv) 1 no SIR against Railway official of the name at Class I Gazetted.

CASES REGISTERED ON SIR SUBMITTED

1) PE-3(A)/99-SHG against SIR NO SI/SHG/98/08 against class I Railway official.

2. PE-2(A)/99 against 3 FCI officials for causing Loss/Theft/Misappropriation of Rs. 1.50 lakh worth of Foodgrains.

iii) PE-15(A)/99-SHG on SIR NO SI/SUG/99/29 dt. 06.12.99, for causing loss/misappropriation of Rs. 7 lakhs worth of Telecom Material. This case is since then converted into Regular Case. As such contributed to branch achieve its annual

Contd...p/4

target.

iv) Case to be registered in year 2000 on surprise check against SIR No SI/SHG/99/30 dt 6.12.99 which resulted into detection of Rs. 12 lakhs (approx) worth shortage of Telecom material in Dharapur store, Guwahati.

ASSISTANCE IN S/CHECK

i) Assistance in S/Check to Sri K.M. Das, inspector which resulted into Registration of PE against Telecom Official of Assam Circle and finally conversion of Regular case RC-18(A)/99-SHG.

ii) Assistance in S/Check to Sri D. Dutta Inspr. which resulted into registration of PE/15(A)/99-SHG against Telecom Official of CTSD Store, Lokhra, NE Telecom Cirle and which finally resulted into conversion into regular case.

SIR/COMPLT. VERIFIED : Total 5 nos.

i) 3 nos. of verified SIR arising during investigation of RC-5(A)/98-SHG.

ii) OFC complaint submitted by Sri K. Barman Inspr.

iii) CA/SHG/98/34 dt. 6.4.98 against Sri M.K. Sarkar Commissioner Income Tax, Guwahati.

RDA CASES PRESENTED

i) Against S.P. Deb, JTO/SDO Telecom and Sri Madan Chandra Goyari JTO in CBI case RC-12(A)/93-SHG.

ii) Assisted Dy. SP Sri P.K. Deb Kanungo by Assisting him in presenting case in Departmental inquiry against the GRP personnels of Assam Police in RC-5(A)/94-SHG.

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OTHER DUTIES PERFORMED : (1) Assisted Prosecuting Officer of the Branch as Pairvi Officer in cases endorsed such as RC-27(A)/93-SHG, RC-15(A)/93-SHG, RC-16(A)/93-SHG, RC-5(A)/94-SHG, RC-32(A)/94-SHG, RC-5(A)/96-SHG, RC-3(A)/96-SHG, Misc case 206/98.

(2) Also assisted branch SP in preparing reports regularly submitted in High Court in RC-34(A)/96-SHG and also assisted Retainer Counsel in Hon'ble Ghy High Court while presenting report before montoring bench.

(3) Also submitted Final, reports U/S 173 CrPc in RC-27(A)/96-SHG and two other cases.

(4) Also studied File of RC-12(A)/96-SHG and prepared & filed affidavit in opposition in Hon'ble Ghy High Court.

(5) Conducted searches in RC-2(A)/99-SHG, RC-18(A)/98-SHG.

(6) Assistance and discussion with prosecuting Officers/SP/DIG/DLA/ALA etc. in preparation of FR1/Comments and also preparation of Draft SP's report along with all enclosures of SP's report.

(7) Worked as hindi officer of the branch and as such translated Hindi letters into English and vice-versa.

(8) Also performed other duties time to time as per order of Branch SP and DIG.

REWARD COMMENDATION CERTIFICATE

i) CC vide office order No. 23 dt. 22/1/99 for good work done in RC-34(A)/96-SHG.

ii) Cash Reward of Rs. 1000/- by JD/EZ/CBI/Calcutta vide office order No. 116 dt. 22/6/99.

Submitted

17/12/2002

S.P. SHILLONG

(31/C6

ANNEXURE : C

4.a. i) Conduct unique investigation in RC-5(A)/98-SHG and File charge sheet U/s 13(1)(a),13(1)(c)&13(1)(e)ofPc Act & 120 B of IPC, instead of U/s 13(1)(e) only, a short cut for the disposal of case as pressurized by DIG/NER, but such move having in-herent danger of even. The accused being discharged, if the CRL.Revn. Petition of one Sri N.T. Khrime, Ex. MLA of Arunachal Pradesh claiming the seized money of Rs. 29 lakhs from the accused K. Ganesh, CGMT (T/F) N.E. Region as having been given to him for purcahsing diamond jwellery from Madras, is allowed by the Hon'ble Guwahati High Court.

ii) Improve knowledge of Law.

iii) Collect 5 quality SIRs against Class I Officer.

iv) Organise 2 traps atleast leading to registration of cases against public servent.

v) Conduct 3 surprise Chocks leading to registration of cases.

vi) Not to feel let down in the event of DIG using his chiosest sweeping remark like "All officers in CBI in NER are in the pocket of ISI". "All I.O's are hand in glove with accused". "All deputationists are chor and ruining CBI"etc during discussion of the cases.

vii) Conduct quality investigation in cases endorsed.

viii) To leave the concept of 'Human Dignity' 'honour' 'convictions' self discipline' etc like shoes outside, but have the skin of a one horned Kaziranga Rhino while entering the office of worthy DIG, as the aforesaid concepts are for me to observe against others and not to expect from other in true Gandhinian way.

ix) To leave the unhappy & bitter experiences of service in office only & crave for other constructive activities for more health & happiness of personal body & mind, and that of family as well.

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ANNEXURE - D

5(a) The targets and highest standard of investigation could not be achieved basically in view of the reactionary circumstances, prejudicial, arbitrary & discriminatory treatment meted out to me vide observation of DIG/CBI/NER Sri K.C. Kanungo in his branch inspection for the year 1999 & 2000 that "Reward should not be given to person like S.P. Singh who is using reward money for fighting cases against CBI" and "The last but not the least is gross partiality and harassment of departmental staff, by deputationist officers, whose carrier prospects are being systematically damaged/destroyed in well planned manner and creating situation of internal infighting in organisation. They are adopting the policy of divide & rule which has caused thorough demorlization among the departmental staff". Thus the truth is not far to seek and surmise that the worthy DIG who is a departmental promottee is echoing his, grouse against the deputationist IPS officer through the mouth of lower staff though none of them harbours or feed to such dangerous feelings in this organisation. Whatever may as that be, it is chilling and mortifying to learn that an officer of such an exalted position believes, harbours and propogate such cancerous feelings using the Inspection report of the branch as his tool airing his real or imaginary perception of the state of affairs in CBI. In view of it I have a reason to believe that the worthy proponent & discoverer of thisphilosophy himself is acting in reactionary vein as a counter balance to systematically damage/destory the carrier prospects of me like deputationist in a well planned manner by initiating as many as 7 chargesheets for major & minor penalty in a short span of 3 months on false flimsy & non existent grounds against which replies were given & appeal is pending under Rule-14 before ADCBI Calcutta, putting me under suspension for more than 9 months until now without enhancing subsistence allowance, stopping salary, ordering for not granting rewards as per observation in Inspection Report of 1999, not granting

leave encashment for E.L. despite clear cut provision, and not granting deputation duty allowance at enhanced rate applicable since 1997 August, re-opening those matters without competence, which were closed either by Hon'ble Court or his superviors like ADCBI Calcutta, to find fault only targetting the superior IPS officers but making me like poor souls, the lower staff as a tool for settling his career scars & scores as is echoed by him in his aforesaid observations. Under the circumstances if ACR instead of being a tool for Human Resource development. Stultify to Human error exageration tool than this poor soul will be least surprised.

It is this very mental background which force the worthy DIG to hide my achievement in securing the convictions in court in RC-32(a)/94-Shg as I.O & pairvy officer and aportioning the aclaim to PP in his inspection report of the branch for 2000 for conducting the case but if somehow the case fails than crying for the blood of the I.O. leaving aside all factors. Similary on page 37 of the DIG inspection report of the branch, highligt was made by incorporating the instance of S.R. Arvind TDM/GM Telecom (Rtd.) who was punished with 30% cut in his pension in RC-6A/91/SHG the case which was presented by me in Central Vigilance Commission but without any commendation/Sepcial mention etc. favouring me for ably presenting the case leading to said punishment by President of India.

5/DEC 2003
गुवाहाटी न्यायपीठ
Guwahati Bench

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Filed by the applicant through the advocate Pavan Kr. Tiwari 5.12.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 43/2003

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

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

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 Fi d 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

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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(i) 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, prematured 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 human 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. Tarang 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 charge 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 as 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 were 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 'very 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 the statements made in paragraph 4.19 of the WS are incorrect and as such the same are denied. The statements made in this paragraph of the WS shows obduracy on part of R/5 not to even accept the judgment of Court/Tribunal gracefully and respectfully but continue to show defiance and find fault with the

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judgment. The statement of R/5, that said remarks in ACR for the year 1.1.98 to 31.12.98 were expunged by the Tribunal because the Applicant had not been forewarned about his bad performance and misconduct before making entries in the ACR, are baseless, hypothetical and preposterous for there were no reasons for forewarning and no existence of alleged misconduct. The Applicant's work conduct and performance were closely watched and accordingly was graded 'outstanding' in 1997, 'very good' even in 1998 with said malicious remarks expunged by Hon'ble Tribunal. Further, during 1999 and 2000 (actual period 1.1.2000 to 26.4.2000) the Reporting Authority graded Applicant work, conduct and performance as 'very good' and 'good' respectively which testifies that there was nothing wrong as such with the Applicant and malice is writ large on the part of R/5 in down grading Applicant's category both the times to 'below average'.

46. That in regard to the statements made in paragraph 4.20(1) of the WS, it is stated that the statement of R/5 that adverse remarks made by him were specific observations based on the work and conduct of the Applicant about which the Applicant had been forewarned during 1998/1999/2000 is baseless and incorrect inasmuch as neither there were any reason for forewarning nor any said warning were issued in said years. Further, for the purpose of writing ACR, calendar year is a unit and recording of any remark based on consideration of events outside period under

review i.e. for the year 1998, 1999 are invalid and unsustainable in law. Further, as stated in detail in para 4.1(9) herein, neither the said observations made by R/5 vide his memo No. (i) 747/3/5(A)/98-SHG dated 23.3,2000 containing 29 pages (ii) 812/3/5(A)/98-SHG dated 25.3.2000 containing 7 pages of observations (Annexure-1) of written statement filed by Respondent). (iii) 751/12/COMP/SLC/NER dated 22.3.2000 and (iv) 753/12/COMP/SLC/NER dated 23.3.2000 , were neither in the nature of observations as forewarning or in aid advice and guide to investigation of cases, nor any reasonable time was given to reply them as Applicant was immediately directed to hand over charge of the case under investigation by R/.5 vide his CBI ID no. 821/12/COMP/SLC/NER dated 28.3.2000 followed by suspension order dated 26.4.2000. In view of above, it is perverse and unreasonable to state that Applicant was adequately forewarned during period under review i.e. 1.1.2000to 26.4.2000.

47. That the statements made in paragraph 4.21 of the WS are denied. It is stated that the reason for malafide action on the part of R/5 against Applicant is detailed in para 4.1(1) herein and other preceding paragraphs. Malafide of R/5 against Applicant is writ large in various administrative action by R/5 such as suspension for more than three years without completing enquiry, non-revision of subsistence allowance from 50% to 75% after three months as per law, release of

Applicant during state of suspension and without clearing financial dues, award of major penalty punishment on minor penalty charge sheet without due process of law, instructions in Branch inspection report to SP for not granting reward to Applicant, non-payment of three years increment, extra salary, bonus, medical reimbursement bill, transfer allowance , non-completion of disciplinary proceedings, despite tribunal order dated 4.5.2001 in O.A. No. 30.31 and 61 of 2000, repeated down grading of Applicant's category from 'very good' reported by Reporting Authority to 'below average' during 1999 and 2000, and cap it all deliberate non disposal of representation/memorials etc. submitted by Applicant thus forcing him again and again to seek protection of Hon'ble Court/Tribunal for redressal of his grievances relating to service matter. It is unfortunate that representation dated 14.4.2002 in the matter of ACR for the period under review is not disposed of as yet by R/3. Further, what could be better testimony of malafide on part of R/5 against Applicant than apparent from the fact of his criticism against reporting officer vide para 4.31(3) on assessment of Applicant's category 'very good' as well as finding fault with Hon'ble Tribunal/Court's judgment in favour of Applicant.

48. That in regard to the statements made in paragraph 4.22(1) of the WS, it is stated that in the aforesaid paragraph specific pleadings are made that the Applicant was kept under suspension w.e.f. 26.4.2000

therefore assessment of work, performance and conduct of the Applicant could not be for a longer period than 1.1.2000 to 26.4.2000 which has been clearly mentioned in ACR for the year 2000 as well as self-appraisal report enclosed therewith. However, R/5 instead of replying in this regard harped on the matter subsequent to suspension inasmuch as that the statement made is extremely perverse and malafide and also reflective of the fact as to how R/5 could arbitrarily distort the laws and create his own personal and private laws to inflict punishment and injury against the Applicant. The revision of subsistence allowance is governed by FR 53 of fundamental rules subsequent to the period of first three months and there is no provision which empowers R/5 to put Applicant under suspension with effect from 26.4.2000 and watch the conduct of Applicant for whole year and decide not to enhance subsistence allowance from 50% to 75% on the ground that Applicant was found to be of unsatisfactory conduct and deplorable behaviour. There was also no review after his said order dated 24.10.2000 (Annexure-10 of written statement) and all representations in this regard too were without any avail. No proceedings initiated or completed until Applicant was released under state of suspension on 12.5.2002 from CBI without payment of balance 50% salary as well as other financial dues as yet.

49. That in regard to the statements made in paragraph 4.22(2) of the WS, it is stated that the reasons cited

for non-revision of subsistence allowance are unlawful, baseless and false. The object and duration of suspension as per rule is pending enquiry or in contemplation of enquiry. The condition for upward revision of subsistence allowance from 50% to 75% subsequent to three months as per FR 53 is that the period of suspension is prolonged for reasons to be recorded in writing not directly attributable to the Government servant. In the instant case of Applicant, no enquiry was completed even as yet instead R/5 admittedly without any basis of law kept watch over conduct of the Applicant for whole year to determine that subsistence allowance of Applicant is not to be increased as he was found wanting in desired conduct. Further there are no law empowering R/5 not to increase subsistence allowance for any other reason than as mentioned under provisions of FR 53. There was no delay in enquiry on the part of Applicant which could be seen from the daily order sheet dated 10.2.2001 issued by Enquiry Officer stating that complete charge memorandum was not given until 5.2.2001. Therefore any delay in enquiry and prolongation of suspension could not be attributable on the part of the Applicant. Further, Enquiry Officer Shri Vaibhav Agashe, Dy. SP, CBI, Shillong also admonished R/5 to refrain from interference and rendering advice to the EO as regards conduct of Applicant during regular hearing etc.

Daily order sheet dated 10.2.2001 is annexed as ANNEXURE-RJ/11.

Further, as shown by R/5 himself in para 4.1(7) of his written statement that SP's report in RC-34(A)/96-SHG was forwarded to department seeking for prosecution sanction order on 31.12.99. Therefore, question does not arise for extension of cooperation in preparation of SP's report in RC-34(A)/96-SHG subsequent to three months of suspension of Applicant with effect from 26.4.2000 so that this matter could be considered, as alleged, for not increasing subsistence allowance from 50% to 75%. Further no case as RC-24(A)/96-SHG was investigated by Applicant and no such case diary is with him. The allegations are therefore baseless, false and malicious. Be that as it may, these matters whatsoever are subsequent to suspension w.e.f. 26.4.2000 and therefore outside legitimate period under review which could be only from 1.1.2000 to 26.4.2000 for performance appraisal of Applicant and not whole calendar year 2000.

50. That in regard to the statements made in paragraph 4.23 of the WS, it is stated that it is an undisputed fact that ACR is basically performance oriented and accordingly ACR form is designed for an objective assessment of the performance of the officer reported upon. As Applicant's expected performance during the whole calendar year is cut short by the suspension order dated 26.4.2000, therefore, annual confidential report of the Applicant could not be for the period more than 1.1.2000 to 26.4.2000 and any remark therefore based on consideration of any event outside

period from 1.1.2000 to 26.4.2000, will be invalid and unlawful and hence unsustainable in law. R/5 exceeded his authority under law for his admission that the Applicant's conduct was kept under observation for whole year even after suspension w.e.f. 26.4.2000 for determining revision of subsistence allowance and hence Applicant's ACR pertains to the entire year i.e. 1.1.2000 to 31.12.2000. The grant of subsistence allowance and its revision is governed by provision under FR 53 and not private and personal law created by R/5 for his own satisfaction. Similarly, the period of ACR writing too being performance oriented and hence it ought to be based on the consideration of performance and conduct of the Applicant while he was allowed to perform his normal and routine duties prior to the suspension and not on consideration of any event whatsoever during period under suspension. R/5 also cannot plead that it was the Applicant who mentioned in the ACR that it covered from 1.1.2000 to 31.12.2000 as not only in ACR but also in the performance appraisal report enclosed therewith, it has been clearly mentioned that normal duty period is from 1.1.2000 to 26.4.2000.

51. That the statements made in paragraph 4.24(1) of the WS are denied. As stated in para 4.23, period under review for writing ACR of the Applicant could not be more than 1.1.2000 to 26.4.2000 during which Applicant was allowed to perform his normal duties. Any consideration of events in general, and matter of

issuance of charge sheet dated 11.5.2000, 17.5.2000 and 22.5.2000, as well as matter of CBI case No. RC-15(A)/93-SHG pertaining to the year 1997, are apparently outside aforesaid lawful period under review and hence said matters could not be made a basis for writing adverse remarks during period under review. Unlawful extension of aforesaid legitimate period to encompass aforesaid events could not afford validity and legitimacy to said invalid and unlawful remarks. Further, any remarks in connection with aforesaid matter of charge sheet could not be made until and unless charges are established in action under a valid legal proceeding.

52. That the statements made in paragraphs 4.24(2) and 4.24(3) of the WS are denied. It is stated that R/5 by making those averments is raking up the matter without competence, as the matter was closed and set at rest by competent authority during 1997 itself. Further, the matter pertains to year 1997 which is clearly outside period under review and as such, said matter could not form basis for consideration in appending adverse remarks for the period under review i.e. 1.1.2000 to 26.4.2000, or even calendar year 2000 until and unless the allegation whatsoever is established inaction through due legal proceeding and as such, the remarks so appended in the matter of RC-15(A)/93-SHG are invalid and unlawful.

So far as the fact of the matter is concerned, it is detailed at para 12, page 56 of the representation

dated 14.4.2000 submitted by Applicant against adverse remarks as annexed vide Annexure-A/7 of the application and are not being reproduced herein for brevity.

53. That in regard to the statements made in paragraph 4.24(4) of the WS, it is stated that the fact of charge sheeting of only five accused and mentioning of Shri Bakdul Ali, Extension Officer, Lumbajan Development Block, Manjha, Karbi Anglong in given facts and circumstances of the case in column No. 2, pertaining to persons not sent up for trial, is a matter of record in FR-I which may be kindly called for perusal. Further, the same senior PP Shri J.S. Terang, who vetted the said charge sheet vide his noting NS 45 dated 5.7.95 and 1.8.95, was entrusted to conduct the case in court of the Special Judge, Assam and if he shows 5/6 accused in his court diary, the Applicant is not aware of the fact as court diaries are not shown to the Applicant. Further, it is a fact apparent from charge sheet that neither Bakdul Ali was sent up for trial nor essential prosecution sanction order was taken or enclosed with the charge sheet which is essential under provisions of Section 19 of P.C. Act, 1988 for even taking cognizance on charge sheet itself. It was therefore under judicial discretion of the Court as to how said Shri Bakdul Ali was called.

54. That the statements made in paragraph 4.24(5) of the WS are denied. It is stated that the then SP asked verbally and the matter was explained. Similarly during

discussion the matter was also explained to DIG, Shri Netai Mallick and both of the superior officers were satisfied with the explanation of the Applicant and therefore there was no reason to pursue the matter further.

55. That the statements made in paragraph 4.24(6) of the WS are denied. It is stated that until and unless comments of senior PP/SP/DLA in the matter is seen which have been malafidely suppressed by R/.5, the falsity of the statements made by R/5 cannot be appreciated. It is stated that by sending the comments dated 2.6.97 enclosed therewith comments of Sr.PP/SP/DLA to JD/EZ/CBI/Kolkata vide Annexure-12 of W.S. the matter was left to HO for communication of decision in the matter and JD/CBI vide his CBI ID No. 137/3/15/93-SHG-EZ dated 21.7.97 communicated his decision that "JD/EZ agrees to close the case". The matter was, accordingly closed by the then SP/CBI/Guwahati by appending his endorsement at NS 59 dated 11.8.97 in Crime file closing the matter as per order of the competent authority i.e. JD/CBI/EZ/Kolkata. R/5 has also admitted this fact that on the recommendation of the DIG Shri N. Mallick JD/EZ closed the case allowing the matter to rest and therefore it is over jealousness and unlawful and malafide on the part of R/5 to review the matter which has attained administrative finality by proper application of mind and consideration of facts by

competent authorities. Further, order for closure of the matter by competent authority goes to the root of the matter and all issues including incidental to main issue also are set at rest. Therefore, it is preposterous and hypothetical on the part of R/5 to conclude that JD/EZ had never stated that action recommended by the DIG should not be taken, more so in the wake of the fact that there were no such existence of said recommendation as the then DIG himself was competent for any action deemed fit and proper to take against the Applicant.

56. That the statements made in paragraph 4.24(7) of the WS are denied. It is stated that the matter was explained verbally to then DIG as well as SP and they were satisfied with the explanation and the matter was finally closed with the final order of JD/EZ/CBI, Kolkata. As the matter was set at rest and closed in 1997, but R/5 under hostile biasness against Applicant dug up the matter unlawfully and without competence and again asked for explanation recommending for RDA minor penalty in the concerned crime file. The explanation was duly submitted vide letter dated 12.6.2001 duly received and acknowledged by Despatch Clerk affixing office seal and therefore it is incorrect and false statement that Applicant did not submit explanation as required.

The explanation dated 12.6.2001 is annexed as ANNEXURE-RJ/12.

Be that as it may, the matter pertains to the period

1997 and mentioning of the event without establishing the allegations of inaction through proper proceeding under law rendered said adverse remarks invalid and unlawful deserving to be expunged.

57. That while reiterating the averments made in paragraph 4.25 of the O.A., it is stated that the averments made by the R/5 in paragraph 4.25(2) (i) to (iii) of the WS are incorrect and misleading inasmuch as it is unlawful to consider remarks of calendar year 1998 for appending again adverse remarks during the year 1999 and 2000. It is equally malafide exercise on the part of R/5 that he considered solitary adverse remarks but not outstanding/very good remarks of Applicant for previous years. Further, said remarks were already quashed and set aside by Hon'ble Tribunal in O.A. No. 127/2002. Moreover, any event/lapse/misconduct as alleged could not form consideration for appending adverse remarks until and unless alleged misconduct is established inaction through proper legal proceeding. The observations in the said Annexure-16 of written statement are false, incorrect, manipulated and maliciously not presented in scientific and logical form of calculation under disproportionate asset cases to show that result derived in this calculation are different than unanimously recommended closed case of RC-27(A)/96-SHG. Further, it is false statement that Annexure-16 was ever communicated to Applicant during period under review. However, it was subject matter of charge

memorandum dated 22.5.2000 and the proceedings in the matter is not yet competed. Be that as it may the matter is not only outside period under review i.e. 1.1.2000 to 26.4.2000 but also said matter could not be reflected in the ACR until it is established inaction through proper, legal proceeding. Further, even alleged misconduct requires their establishment through legal proceedings alone and not otherwise. One sided allegation as in office order dtd 24.10.2000 (Annexure-10 of written statement) made as pretext for not revising subsistence allowance of Applicant from 50% to 75% disregarding relevant provisions under FR 53 could not be clothed with the term judicial/quasi judicial proceeding under law. Further, period under suspension cannot be taken into account for performance appraisal of the Applicant and ACR writing, as during suspension Applicant is not allowed to work and as also, Applicant could not lawfully be asked to work during period under suspension.

58. That the statements made in paragraph 4.25(2) of the WS are denied as the same are incorrect and misleading inasmuch as explanation dated 12.6.2001 is very much submitted. Further matter being outside period under review and allegations not established under legal proceeding for action and reviewing officer therefor could not short circuit the matter and append adverse remarks in this fashion without establishing the allegations under due process of law. In regard to the statements made in paragraph 4.25 (2) (i) it is

stated that the charge sheet could be considered for appending adverse remarks only if allegations are established in a legal proceeding and not otherwise and that too could be done in the year in which penalty if any is awarded. In this matter, an illegal order of punishment was passed by R/5 vide his order No. 357/A/20/157/93 dated 2.2.2001 without holding due enquiry, without producing witnesses, without parting with statements of witnesses so enclosed with written statement, without notice of punishment and calling for representation but passing a major penalty punishment on minor penalty charge sheet. This order was appealed against and R/3 suspended the said order as communicated to Applicant vide office order No. 214 dated 2.8.01 and in view of it, matter of this charge memo could not be mentioned in ACR for the period 1.1.2000 to 26.4.2000.

While denying the statements made in paragraph 4.25 (2) (ii) it is stated that no such threatening ever took place. No such enquiry or finding in the matter ever confronted with the Applicant. No explanation was ever called by any authority from Applicant. Reviewing authority is advised to forward any such complaint to competent authority i.e. police for proper action instead of creating baseless controversy. Be that as it may, the matter allegedly pertains to the year 1998 which could not be considered for writing ACR for the period 1.1.2000 to 26.4.2000 until and unless the charge allegations are

established under a valid legal proceeding.

The statements made by R/5 in paragraph 4.25(2) (iii) of the WS are incorrect and as such the same are denied. It is stated that the verification of SIR is not open investigation, but discreet verification of fact to determine whether it discloses cognizable offence worth registerable a case or not. Facts regarding the case assumes more concrete form in preliminary enquiry and open investigation of regular case conducted under provision of chapter 12 of Cr.P.C. Be that as it may, the details in the matter of 3 SIRs are given at para 4.9(2) to 4.9(6) which pertains to the period outside period under review. Moreover, there are no shortcomings as alleged and the said matter could not be taken into account for writing adverse ACR until and unless it is established under a valid judicial proceedings.

59. That in regard to the statements made in paragraph 4.25(3) of the WS, it is stated that the subject matter of said explanation vide letter No. 754/12/COMP/SLC/NER dated 22.3.2000 marked as Annexure-17 of written statement (received in office of SP, CBI, Guwahati on 29.3.2000 after Applicant was ordered vide order dated 28.3.2000 for handing over charge of investigation etc. followed by suspension order dated 26.4.2000) pertains to matter for the year 1997 and as admitted by R/5, is subject matter of charge memorandum dated 17.5.2000 for major penalty. Therefore this matter could neither be

considered for appending adverse remarks during period under review i.e. 1.1.2000 to 26.4.2000 as the subject matter for adverse remarks under consideration is not only outside period under review but also the allegation are not established under a valid legal proceeding so that it could be mentioned in ACR.

60. That in regard to the statements made in paragraph 4.25(4) of the WS, it is stated that the allegation made by R/5 against the Applicant prima facie does not disclose facts of moral turpitude and lack of integrity and therefore example of R/5 in this regard is misplaced and unwarranted. Applicant was never confronted as to which of the complaint/SIR made by him were false and malicious. The SIR against R/5 was duly verified by a senior official of Special Unit and found the information of fraudulent drawal of transportation allowance on the basis of false and forged receipt showing transportation of luggage of R/5 from Jammu to Guwahati by availing services of Container Corporation of India th ough no such service exist between Jammu to Guwahati. Similarly, R/5 was drawing illegally house rent allowance at Guwahati though staying in air condition guest house of Coal India Ltd. a public sector undertaking without declaring this fact to the department and thereby causing wrongful loss to the exchequer etc., are in turn indeed facts disclosing moral turpitude and lack of integrity on the part of R/5. Further, recommendation of Shri Tanmay Behera, Dy. SP in the matter of proceeding against Shri Mukut

Das for registration of criminal case against R/5 and his Assistant under Section 167, 191, 192, 193, 465, 471, 477A, 120(B) and Section 13(2) r/w 13(1)(d) of PC Act, 1988 for falsely implicating Mukut Das by creating false electronic records and issuing charge memorandum thereafter to cause injury to said Mukut Das is a fact disclosing moral turpitude. It is admonition by another Dy. SP Shri Vaibhav Agashe, requesting R/5 to refrain from interfering in enquiry proceeding by daily order sheet in the matter of charge memorandum dated 22.5.2000, to obtain tailor made enquiry report from Enquiry Officer against the interest of justice, is what comes under moral turpitude and lack of integrity, unbecoming conduct and lack of devotion to duty on the part of R/5.

It is false and incorrect statement that Applicant did not submit explanation in the matter of RC-15(A)/93-SHG when asked for. The fact however is explanation dated 12.6.2001 was submitted which is duly received in office of the SP, CBI, ACB, Guwahati. The event being outside period under review and no adverse remarks in consideration of the said event could be appended during period under review without establishing allegation under a valid proceedings in law.

61. That in regard to the statements made in paragraph 4.26 of the WS, it is stated that malice of the R/5 is writ large in his action in down grading Applicant's category from 'very good' to 'below average' in the ACR

for the year 1999 and again from 'good' to 'below average' during 1.1.2000 to 26.4.2000 and various other administrative action taken against the Applicant by manipulation of facts and distortion of law regarding which details have been given in preceding paragraphs. The reason for hostile biasness of R/5 against Applicant is mentioned in para 4.1(1).

62. That in regard to the statements made in paragraph 4.27(1)(i) of the WS, it is stated that adverse remarks appended during period under review i.e. 1.1.2000 to 26.4.2000 that "he is not responsible and dependable" could not be based on comments or events outside period under review and much less on the basis of adverse comments in ACR for the year 1998. Admittedly R/5 has appended said remarks in the ACR for the year 2000 on the basis of adverse remarks of Reviewing Authorities for the period 1998 communicated vide letter No. 511/CON/1/94(Pt)/98/GHY dated 29.9.99. It ia apparent that R/5 appended said remarks prejudicially and being influenced by the remarks of 1998 alone and not on the basis of work, conduct and performance of the Applicant for the period under review i.e. 1999 or 1.4.2000 to 26.4.2000 and hence said adverse remarks are invalid and unsustainable.

63. That in regard to the statements made in paragraph 4.27 (1) (ii) of the WS, it is stated that the allegations as admitted by R/5 are subject matter of charge sheet for penalty and therefore it cannot be considered for appending adverse remarks in

the ACR for the period 1.1.2000 to 26.4.2000 until and unless charges are established after a valid proceeding under law. It is a matter of record that in this matter, no regular hearing took place, no statement as enclosed of the purported witnesses were given, no witnesses were produced and no opportunity for cross examination was given, no notice for punishment was given, no representation against proposed punishment was called for, however, penalty of stoppage of 3 increments with cumulative effect, a major penalty punishment was given on minor penalty charge sheet vide order No. 357/A/20/157/93 dated 2.2.2001 of R/5. The appeal was submitted against this perverse order and competent authority suspended the said penalty which was communicated to the applicant vide office order No. 214 dated 2.8.01 of SP/CBI/GHY.

From aforesaid it is apparent that adverse comments were appended admittedly by R/5 without establishment of charges in a valid legal proceeding and brought down Applicant;s grading from 'very good' reported by Reporting Authority to 'below average' even by considering the matter, as a quasi judicial authority, involving his own cause against Applicant which is against fairness and principles of natural justice. Further, remarks in ACR and disciplinary proceeding on the same subject matter tantamounts to double jeopardy. Therefore, said remarks are invalid, unlawful, perverse and malafide and also against principles of natural justice and hence remarks are

unsustainable in law.

64. That the statements made in paragraph 4.27(1) (iii) of the WS are incorrect and as such the same are denied. It is stated that no such alleged lapses/misconduct were communicated to the Applicant. The allegations are also false, baseless and malafide and Respondents are evading establishment of said allegations in a fair and valid legal proceeding.

65. That the statements made in paragraph 4.27(1) (iii) (a) of the WS are incorrect and the same are blatant falsehood. It is stated that there are no lapses in the investigation. The case was indeed closed after investigation as no evidence were available to launch lawful proceeding against suspect for possession of disproportionate asset than known source of income. Applicant submitted his investigation report in FR-I. The investigation in this case was properly discussed, documents seized during searche and collected during investigation and CD file/Crime file , personal file of the suspect were duly scrutinised by Senior PP/SP/DLA/DIG/JD who vide their comments in writing dated 25.3.98 , 2.4.98, 12.,5.98, 20.11.98 and 3.12.98 gave their unanimous recommendation for closing the case. Accordingly, JD/CBI/EZ at Kolkata, the competent authority, ordered for closure of the case and accordingly, final report was filed in Court on 17.6.99 by the then SP/CBI Shri Om Prakash and Court of the Special Judge, vide its order dated 14.2.2000 accepted the report & discharged the accused. Therefore, there are

no reason to state that proper investigation was not conducted. Further R/5 neither sought any permission from the Court nor filed any report so far proving the case otherwise. The R/5 placed the Applicant under suspension w.e.f. 26.4.2000 pending inquiry into the matter including others, but Respondents evaded to conduct enquiry to establish charges as yet even after keeping the Applicant under suspension for more than three years.

66. That the statements made in paragraph 4.27(1) (iii) (b) of the WS are incorrect and as such the same are denied. It is stated that the inspection is conducted obviously in presence of branch SP. During said inspection neither R/5 nor branch SP ever called the Applicant for any interview whatsoever.

67. That the statements made in paragraph 4.27(1) (iii) (c) of the WS are incorrect and the same have been made maliciously inasmuch as comparative statement of cases dealt with by other IOs of the branch in the investigation shows that all the IOs took on an average 3 to 6 years in finalisation of cases until filing of charge sheet. But in none of their cases, R/5 appended any such adverse remarks for alleged dilatoriness. Further, the two case mentioned by R/5 in the matter of investigation are RC-34(A)/96-SHG and RC-5(A)/98-SHG. The investigation in RC-34(A)/96-SHG was monitored by none other than the Division Bench of the Hon'ble Gauhati High Court. In the matter, investigation was

scrutinised by Sr.PP/SP/DLA/DIG/JD/ALA and SDCBI and gave their comments in writing but none pointed out any such alleged lapses and accepted unanimous recommendation of Applicant as IO. Therefore, there are no valid and objective reason for such allegation. Similarly in RC-5(A)/98-SHG also, the investigation of the Applicant is vindicated under judicial scrutiny before Court of the Special Judge, Assam as well as Gauhati High Court where collusive petitions of suspect were dismissed on the basis of investigation of the Applicant as IO. In both of the aforesaid cases, Applicant was granted reward and commendation certificate. Further there could also be no scope in CBI for filing of charge sheet without clinching evidence as alleged or final report etc. on alleged perfunctory investigation given the elaborate procedure of scrutiny of each and every investigation by a battery of law officers as well as other police officers viz. senior PP/DLA/ALA, SP/DIG/JD/SDCBI/DCBI etc. Therefore, there could be no valid, reasonable and objective basis for the allegation of dilatoriness and perfunctory investigation against Applicant.

68. That the statements made in paragraph 4.27(1)(iii)(d) of the WS is incorrect and malicious. While reiterating the averments made in paragraph 11 of this Rejoinder it is stated that no instruction was given by R.5 as aid, advice, guidance etc. in the investigation of the case. The so called instructions vide five memos/letters issued were nothing but explanations in

more than 40 pages received by Applicant on 28.3.2000 followed by another letter dated 28.3.2000 of R/5 directing the Applicant to hand over charge of investigation to another IO. Therefore, no reasonable time could be said to be given for following so called instructions, or give proper and reasonable explanation in the matter.

69. That in regard to the statements made in paragraph 4.27(1)(iii) (e) of the WS, it is stated that the whole matter of non-submission of weekly diaries is fraught with malafide. R/5 was conducting inspection for the year 1999 and not 1997 or 1998, for which same exercise were undertaken by his predecessor and found no such remissness in said years. R/5 also while undertaking branch inspection found no remissness in this regard as he found submission of weekly diaries upto date. R/5 however malafidely scanned the past record and issued memorandum and charge sheet on the basis of earlier memos issued by Branch SP at the relevant time subsequent to which weekly diaries were submitted. R/5 collected whole record and removed weekly diaries so submitted and thereafter issued charge memorandum with a view to cause harm and injury to the Applicant.

Further, the weekly diaries were very much submitted in the year 1998 itself and carbon copies thereof are available with the Applicant as his personal records and could have been parted in the public interest if so desired. The said explanation vide No. 753/12/COMP/SLC/NER dated 22.3.2000 (Annexure-

17 of the written statement) was received in the office of SP/CBI/ACB, Guwahati on 29.3.2000 alongwith four other explanations in 40 pages approximately preceded by letter dated 28.3.2000 of R/5 directing Applicant to hand over case records of investigation etc. to Shri A.K. Saha, Dy. SP, and as soon as the handing over exercise was over, Applicant was suspended vide order dated 26.4.2000 as such, there could not be said to have been given any reasonable time for explanation. Further, this matter which pertains to the year 1997 could not be so grave and gross misconduct or indiscipline and insubordination warranting suspension after more than two years of said event. Moreover there could be no reasonable nexus between the event and objective of suspension excepting suspension being ordered as punitive measure, for if the matter of non-submission of weekly diaries were so serious and grave, then Inspector Khamrang, Inspector Hansingh and Inspector N.R. Dey who also did not submit weekly dairies for period ranging from 6 months to one year as per observations of R/5 himself in Branch inspection note for the year 2000 at page No. 95, 96 and 97 should also have been suspended, but no action was taken against them. Be that as it may, these event pertains to period outside review and is also subject matter of penalty under charge memorandum dated 17.5.2000 and hence said remarks being invalid and unsustainable until and unless the allegations under charge memorandum are established under a legally valid

proceeding only, and not otherwise.

70. That the statements made in paragraph 4.27(1)(iii)(f) of the WS are denied as the same are incorrect and malicious. It is stated that no false work was shown in the investigation of various cases. Showing to have been remained busy with the investigation of cases in weekly/daily diaries and non-issuance of CDs does not mean false statement as regards investigation. The investigation of CBI running normally to more than 2/3 years require ascertainment of facts, corroboration of facts and meeting with various technical officials to clarify points in investigation, requiring extensive and frequent visits outside office, as also study and scrutiny of large number of documents, submission of reports/progress reports, typing work etc. and countless incidental work. However, as per provision 2/191 of CBI Crime manual only those facts are mentioned which have bearing on the case and futile investigation is not mentioned in CDs and as such, for appraising supervisory officer i.e. Branch SP engagement of the day in connection with the case is shown, but without issuing CDs. This procedure is observed by one and all IO in CBI, however, the R/5 with malafide manipulated the issue and misrepresented facts in issuing said explanation and charge sheet to cause harm and injury to the Applicant selectively. There are no other example in CBI who might have been issued charge sheet in such manner calling it grave misconduct, aggravating the issue hypothetically. Be that as it may, this explanation was issued on

29.3.2000 as apparent from the fascimile seal of SP/CBI, Guwahati in said Annexure-19 of written statement. As stated in preceding paragraph, this explanation is received along with four other explanations containing 40 pages and the same were preceded by order dated 28.3.2000 of R/5 directing Applicant to hand over all case records to Dy.SP Shri A.K. Saha, and as soon as, this handing over exercise was completed, suspension order dated 26.4.2000 followed. Therefore, no reasonable time was afforded to the Applicant to explain the matter reasonably and effectively. The suspension order was followed immediately by charge memorandum dated 17.5.2000 and said enquiry is not completed as yet even after lapse of more than three years under suspension.

Further , the event pertaining to year 1997 is outside period under review which is 1.1.2000 to 26.4.2000 and therefore could not form a basis for appending adverse remarks in the ACR for the period under review. Further, this matter is admittedly also subject matter of charge memorandum dated 17.5.2000 and therefore, this matter could not form a basis for appending any adverse remarks for the period under review i.e. 1.1.2000 to 26.4.2000 until and unless charges are established under a legally valid proceeding, and as such, adverse remarks are invalid, unlawful and unsustainable.

71. That the statements made in paragraphs 4.27(1)(iii) (g) (h) and (i) of the WS are incorrect and misleading.

The replies of the Applicant against these statements are given hereinbelow in seriatim under the heading (g), (h) and (i) respectively corresponding to paragraph 4.27(i)(g), (h) and (i).

(g) The statement is false, baseless and incorrect inasmuch as no such incident took place. Said complainant himself is a bank dismissed and CBI charge sheeted under trial with whom Applicant had some civil disputes over property matter which were decided by the Courts in favour of the Applicant. The complaint pertains to the year 1998 and the then SP Shri B.N. Mishra appraised the fact in matter to concerned superiors and accordingly matter was set at rest. However, R/5 after filing of O.A. No. 338/99 and grant of the stay in the matter by the Hon'ble Tribunal, in order to harm and harass the Applicant, again dug up the matter and gave it for enquiry to Dy. SP, CBI, Agartala unit Shri D.S. Mann who gave factual report in the matter that the complaint is preferred as Shri A.K. Barua has property dispute with the Applicant. However, R/5 was unrelenting in his pursuit to harm and harass Applicant again gave this enquiry to Dy.SP Shri K.C. Choudhury who also gave the report dated 22.11.99 vide Annexure-4 of written statement but without taking any statement of Applicant, or without disclosing the complaint by R/5 to Applicant, or calling for his explanation on the complaint. All the enquiries aforesaid were carried behind the back of the Applicant. Even the said report in its conclusion state

"That in my opinion, the complainant being the promoter builder of the said apartment had some grudges with Mr. S.P. Singh Yadav which resulted to the above mentioned incident." However, R/.5 instead of closing the matter called the complainant in his office and at the same time called Applicant also on the pretext of discussion in CBI Case No. RC-34(A)/96-SHG and manipulated and misrepresented the presence of Applicant into alleged incident which is the subject matter of said charge sheet. The complaint to NHRC was filed by the Applicant's wife and the case is registered vide No. 1913/2000-2001 and in the matter comments in opposition to the reports of R/5 are filed on 15.12.2001 and the case is not disposed as yet. Be that as it may, the allegations are subject matter of proceeding for penalty and therefore, could not form consideration for appending adverse remarks until and unless charges are established in a valid legal proceeding. Appending of adverse remarks is also unlawful and against the principles of natural justice as R/5 adjudicated upon the matter involving admittedly his own cause. Such adverse remarks are biased and malafide and hence unsustainable in law. Further, the allegations were also subject matter of a penalty therefore it cannot be considered for appending adverse remarks as it tantamounts to double jeopardy.

(h) The matter of RC-15(A)/93-SHG pertains to the year 1997 duly closed and set at rest by the competent authority i.e. R/3 and accordingly, there was no reason

to rake it up. Besides R/5 was incompetent to review any mater which has been given finality by competent authority that too by an authority superior to R/5. The explanation dated 12.6.2001 was indeed submitted which is duly received in the office of SP/CBI/Guwahati and it is incorrect on the part of R/5 to state that no explanation was submitted by Applicant on being asked to do so.

Be that as it may, not only the event but also said explanation etc. are outside period under review which is 1.1.2000 to 26.4.2000 and as such, it cannot be considered as a basis for appending adverse remarks in the ACR for the period under review. Further, in the file R/.5 has also made it the subject matter of minor penalty. Therefore, it could not be considered for appending adverse remarks during period under review until and unless allegations are established inaction during a legally valid processing.

(i) The statement is false, perverse and malafide inasmuch as the ACR writing is basically performance oriented during period under review which is 1.1.2000 to 26.4.2000 only, owing to the issuance of suspension order dated 26.4.2000 by R/5 against the Applicant and therefore any consideration of event outside aforesaid period under review for appending adverse remarks make them invalid and unlawful.

So far as revision of subsistence allowance during period of suspension is concerned, it is governed by

provisions under FR 53 depending upon the fact as to whether the suspension is prolonged due to reasons, to be recorded in writing, directly attributable to Government servant under suspension and this order has to be made sufficiently prior to the date of a lapse of three months from the date of suspension. Given the fact that object of suspension is completion of enquiry expeditiously. In case of the Applicant, he was suspended on 26.4.2000 and as such, subsistence allowance had to be revised with effect from 27.7.2000 as it was the department which failed to complete pending enquiries until then and Applicant is not directly responsible for delay in enquiry, and therefore not liable for prolongation of suspension period. This fact is also fortified by the observation of the Inquiring Authority Vaibhav Agashe, Dy. SP in daily order sheet dated 10.2.2001 that even until then full charge memorandum were not supplied to the Enquiry Authority and that it is prematured and hypothetical to state that Applicant is not cooperating with the enquiry. Enquiry Officer also snubbed R/5 to desist from interfering with the enquiry in the interest of justice. Therefore, it is apparent that there was nothing which could attribute direct responsibility upon Applicant in delaying enquiry and therefore Applicant could not be held responsible for prolongation of suspension and hence denial of upward revision from 50% to 75% salary to Applicant during suspension by R/5 was perverse and malafide act. The order dated 24.10.2000 issued after six months of

suspension refusing upward revision of subsistence allowance by R/5, is unlawful and based on all false and baseless events which had no nexus with the suspension of Applicant pending enquiries. Further many representations were submitted to the competent authorities for upward revision of subsistance allowance and it is incorrect on the part of R/5 to state that no representation was submitted by Applicant against said order dated 24.10.2000.

Be that as it may, the alleged ground mentioned in the order also pertains to events outside period under review i.e. 1.1.2000 to 26.4.2000 and hence could not form consideration for appending adverse remarks during period under review. Further, said events allegations etc. could not be considered for appending adverse remarks until and unless these are established in a legally valid proceeding.

72. That in regard to the statements in page 27 of the WS which has been strangely and peculiarly numbered in various sub-paragraphs marked as (a) to (h), the Applicant in order to maintain system and order in his rejoinder, is giving replies of the same under the following sub-paragraphs marked as para (a) to (h) respectively corresponding to the statements marked under the said paragraphs in the written statements.

(a) Allegations could be established in the proceedings only and R/5 could not decide in his own cause that Applicant was making false, baseless and malicious

observations against the DIG (R/5).

(b) Statements is false and baseless that Applicant is behind the said PIL. Applicant indeed submitted an SIR regarding printing of duplicate genuine currency after double verification of fact and circumstances of the information from competent authority and records of RBI, Guwahati. The SIR stands unimpeachable even today and no result or verification in this regards were confronted with the Applicant proving the fact otherwise.

(c) Allegations are false, baseless and incorrect. No findings/enquiry is confronted with this Applicant that he is behind publication of allegations against DIG.

(d) The statement is false, baseless and incorrect that Applicant made false allegation against the DIG. Allegation of malice and bias against R/5 in written statement is not false allegations and are privileged. No enquiry/finding was confronted with the Applicant that allegations whatsoever made by Applicant was false. R/5 is incompetent to adjudicate and decide the matter which involved his own cause and therefore this mater could not be basis for consideration for appending adverse remarks.

(e) Statement is false, baseless and incorrect inasmuch as R/5 has not shown which of the allegations made by Applicant against SP was found false. Applicant too was not confronted any such report/findings etc. in this

regard. Be that as it may, branch SP has gave good remarks assessing the category of Applicant as "very good" and "good" during 1999 and 2000 respectively which was maliciously brought down to "below average" by R/5.

(f) The statement is incorrect, baseless, perverse and malafide. Even the alleged conduct which are nothing but baseless, false and malafide allegations have no nexus with the prolongation of enquiry. The Enquiry Officer Shri Vaibhav Agashe, Dy.SP vide his daily order sheet dated 10.2.01 has observed that even full charge memorandum was not supplied to Enquiry Officer and that it is premature and hypothetical that Applicant is not cooperating with enquiry and therefore it should be conducted ex-parte. Enquiry authority, also snubbed R/5 to desist from interfering in the enquiry. Therefore, allegation of R/5 is malafide and baseless that Applicant showed his mischievious tendency and dilatoriness with a view of prolonging enquiry.

(g) The statement is false, baseless and incorrect inasmuch as if vide said memo No. 05638/3/27(A)/95\6-SHG dated 8.9.2000, CD file of RC-7(A)/96-SHG was asked for return, much after order dated 28.3.2000 of R/5 directing Applicant to hand over case records/CD files etc. followed by suspension order dated 26.4.2000 and issuance of charge memorandum dated 22.5.20000 in the matter of closure of the case in RC-27(A)/96-SHG, then how R/5 has issued said charge sheet dated 22.5.2000 reflecting all alleged irregularities without

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seeing original CD file containing many documents received and seized during investigation. This is an admission on the part of R/5 which Applicant is alleging all along that R/5 has issued the charge memorandum dated 22.5.2000 by manipulating and misrepresenting the facts malafidely and there are no infirmities with investigation of the case which was closed after due procedure of law and after proper scrutiny and written comments/order unanimously by Sr.PP/SP/DIG/DLA/JD/CBI and accepted by Court of Special Judge, Assam also.

(h) The statement is baseless, false and incorrect. As is apparent from the fact that the investigation report was duly scrutinised and comments thereon were given by Sr.PP/SP/DIG/DLA/JD/ALA/SDCBI and after unanimous recommendation and order of SDCBI, SP's report was prepared for obtaining sanction order for prosecution etc. The SP's report in full was duly scrutinised by DLA Shri J.S. Terang on 27.11.99 and thereafter SP's report was shown to have been despatched to competent authorities of his department on 31.12.99 and therefore it is incorrect and malafide allegation that enclosures were not prepared correctly. It was never confronted to the Applicant as to which enclosure was not prepared correctly which caused alleged delay in despatch of SP's report a nd also that who and how that correction were made.

73. That in regard to the statements made in paragraph

4.28(1) and (2) of the WS, it is stated that R/5 has not shown as to which of the alleged complaint made by Applicant was false. No enquiry/findings or even any fact finding enquiry so far confronted the Applicant as to which of the complaint/SIR submitted by him are found to be false and motivated. Impugned remarks could not be appended unless the allegations/charges are established during course of a legally valid proceeding. R/5 is also incompetent to adjudicate the matter involving himself and determine that SIR/complaint made against R/5 of corrupt practices of securing transportation allowance on the basis of false and forged receipt of Container Corporation of India, securing house rent allowance in violation of FR/SR rule while staying in public sector undertaking air conditioned and well furnished guest house and thereby cheating the public exchequer and suppression of fair income and thereby evading due income tax etc. were false.

74. That in regard to the statements made in paragraph 4.28(3) of the WS, it is stated that the SIRs were indeed submitted to branch SP and one such information regarding unauthorised stay of High Govt./Public Sector undertaking guest house without paying rent or nominal rent, but securing HRA in violation of FR/SR rules, and thereby cheating public exchequer was registered as SA/SHG/99/03 dated 6.5.99 when even R/5 was not posted in North East. However later on in July 99 after his posting at Guwahati. R/5 too occupied air conditioned

fully furnished guest house in Coal India Ltd. at G.S. Road, Guwahati. However, no action was taken on the SIR as DIG himself occupied guest house by misusing and abusing his official position. Therefore it cannot be said that SIR was not submitted through Branch SP. Further as per CVC manual there is no bar for subordinate to submit complaint of corruption against their superior also.

75. That in regard to the statements made in paragraph 4.28(4) of the WS, it is stated that the SIR abovesaid was indeed information on corrupt practices against CBI officials incurring wrongful loss to the exchequer, and was in conformity to IGP circular No. 71 dated 20.2.60. In CBI, SIRs as per practice are submitted in the same way. Even R/5 submitted source information vide SI/SHG/99/31 dated 14.12.99 against Director, BRPL Sri K. Ramchandra Pillai which reads "Getting appointment as Director, BRPL by submitting false/bogus certificate as Personnel Manager. Prior to that he also get himself appointed as Director, Hindustan Latex Ltd., Kerala by producing false educational certificate and acquiring huge wealth by illegal means etc." This information is also based on rumour and does not meet provision of said circular. Similarly R/5 submitted source information against Mr. Biren Borgohain, E.D./NEEPCO for possession of disproportionate assets as R/5 had verbal tiff with said Sri Borgohain in departmental matter, even after express report by Dy SP Shri D.S. Mann of Agartala,

CBI Unit that verification does not disclose a case of disproportionate asset against Shri Borgohain. Shri K.C. Kanoongo then obtained a tailor made enquiry from one Inspector Sinha of CBI, Agartala Unit by manipulating the figures of income and expenditure and registered case against said Sri Borgohain and his wife who is a professor and Head of the department, NEHU, Shillong, u/s 120B of IPC and Sec. 13(2) r/w 13(1)(e) of PC Act, 1988 without any basis of law and fact for possession of disproportionate asset. The case is going to be closed after search, seizure etc. but at the cost of loss of promotion to Mr. Borgohain for the post of CMD and loss of prestige and dignity of Dr. (Mrs.) Borgohain before her students and educational fraternity.

Similarly R/5 on the basis of an anonymous complaint ordered for registration of CBI Case No. PE-3(A)/2000 against Group General Manger, ONGC Shri Gyan Singh which was converted to regular case vide No. RC-12(A)/2001-SHG without any cogent evidences and secured recommendation for prosecution from IO/SP and R/5 also recommended for prosecution as he was interested in the case. The case was recommended for closure by Sr.PP and JD/EZ/CBI/Kolkata as there were no evidences. Thus in view of aforesaid, it could not be said that information of Applicant against CBI high officials was not as per IGP circular No. 71 dated 20.2.60.

76. That in regard to the statements made in paragraph

4.28(5) of the WS, it is stated that R/5 has not confronted Applicant as to which of the SIR submitted is only relating to irregularities or misconduct. Further as per practice in CBI, all cases on preliminary enquiry as aforesaid are registered on the basis of irregularities and palpable misconduct and thereafter converted to regular case after enquiry if commission of offence under IPC and Prevention of Corruption Act, 1988 are disclosed. thus if charges are established in regular case, then charge sheet is filed otherwise departmental action is recommended and it is as per established practice of CBI and it is wrong to state that source information relating to irregularities and misconduct should not have been collected.

Be that as it may, all source information submitted by Applicant pertains to criminal misconduct, forgery, cheating and misappropriation of Govt. money meriting registration of regular cases against R/5 and other CBI officials and accordingly DCBI has ordered for registration of cases against the concerned.

77. That in regard to the statements made in paragraph 4.28(6) of the WS, it is stated that R/5 could not take cover under said instructions of CBI Crime manual. Cheating/forgery/misappropriation for whatever amount is, a criminal misconduct and all Govt. official including R/5 is liable for punishment as per law of the land. R/5 could not evade the liability under the law by stating that cheating/misappropriation of public

exchequer by them is less than Rs.50,000/- and therefore cases are not registerable against them. In such a situation the cases of such nature can always be transferred to Assam Police for registration and investigation etc.

78. That in regard to the statements made in paragraph 4.28(7) of the WS, it is stated that neither any warning (verbal) or in writing was given. Nor the question of giving warning arise until and unless it is proved after a valid legal proceeding that said SIRs were false. Further even if any SIR submitted turns out to be not true after verification, then it does not call for punishment or adverse remark in ACR, because the very purpose of submission of SIR is to seek permission for verification and determine its truthfulness. Further in CBI the very basis for registration of all cases are SIR or complaint, and verification determines as to whether a preliminary enquiry or regular case has to be registered or not for further inquiry/investigation.

79. That the statements made in paragraph 4.28(8) of the WS is incorrect and malicious. Since this paragraph is divided into three sub-paragraphs viz. (a), (b) and (c) therefore replies against each of the sub-paragraphs is given in seriatim as (a) (b) and (c) respectively corresponding to sub-paragraphs of even number under the para 4.28 (8) of the WS.

(a) No such matter was ever mentioned and communicated

vide letter No. 228/153/99/Vol.II/NER dated 24.1.2000. Further R/5 could not determine and adjudicate in the matter involving his own case.

(b) Order dated 24.10.2000 is issued in clear violation of expresse law denying upward revision of subsistence allowance to Applicant. the allegations made in the order are false , baseless, incorrect, perverse and malafide and the same has not been determined true in any legally valid proceeding, nor Applicant was confronted as to which fact mentioned by him in any of his complaint/SIR found to be false.

(c) The matter of charge sheet could only be established after a legally valid proceeding and in this matter no such proceeding was conducted, no statement were given, no witnesses were produced and submitted them for cross-examination, no legally valid finding was given to the Applicant, no notice for proposed punishment was given nor any representation against proposed punishment sought but final order for major penalty punishment on minor penalty charge sheet vide order dated 2.2.2001 was passed. The impugned order was appealed against and ADCBI/EZ/Kolkata suspended the order, as communicated vide office order No. 214 dated 2.8.01 of SP/CBI/Guwahati. In view of aforesaid, it could not be said that allegations of false complaint against Applicant are proved during period under review i.e. 1.1.2000 to 26.4.2000 in a legally valid proceeding. The order was also perverse

and malafide as R/5 was adjudicating subject matter involving his own interests.

80. That in regard to the statements made in paragraph 4.29(1) of the WS, it is stated that it is an established principle of law that ACR being basically performance oriented and evidently when period of performance is cut short by way of suspension than considerations which formed basis for writing ACR could not be more than period 1.1.2000 to 26.4.2000 owing to invocation of order for suspension w.e.f. 26.4.2000. This period could not be stretched to incorporate events for writing adverse remarks. Moreover subject matter which is matter of penalty in any proceeding could not be mentioned in ACR until and unless established in a legally valid proceeding. As the condition is not fulfilled therefore mentioning of issuance of charge sheets so issued could not be mentioned during 1.1.2000 to 26.4.2000 or during whole calendar year for the matter of charge sheet were not established during period under review through legally valid proceedings.

81. That in so far as sub-paragraphs (a), (b), (c) and (d) of paragraph 4.29(1) of the WS are concerned the replies against the same is given in seriatim by sub-paragraphs of even number marked as (a), (b), (c) and (d) respectively corresponding to such sub-paragraphs under para 4.29(1) of the WS.

(a) The period of SUSPENSION/NORMAL DUTIES WERE MENTIONED INDEED IN THE ACR FORM ASWELL AS PERFORMANCE APPRAISAL REPORT AND

It is incorrect to state that Applicant shown whole year of 2000 for writing ACR.

(b) the averments made by R/5 are unlawful, perverse and malafide. There are no law which empowers R/5 to keep watch over the conduct of Applicant. Objective of suspension is completion of enquiry without tampering of evidence and not as a measure of punishment for want in good conduct. The revision of subsistence allowance is governed by FR-53 and not on good or bad conduct to be determined by R/5 in the matter involving his own case of grudge against Applicant.

(c) Any matter which is subject matter of any penalty in any proceeding, it cannot be mentioned in ACR until and, unless the charges are established in a legally valid proceeding. Further on the same subject matter, adverse ACR and departmental proceedings could not be initiated as it tantamounts to double jeopardy.

(d) The reliance placed on the judgment of the Supreme Court in the State of UP -vs- Yamuna Sankar Mishra is misplaced and the Applicant reserves his right to given appropriate reply of the same at the time of hearing of the case.

82. That in regard to the statements made in paragraph 4.31(2) of the WS, the Applicant while reiterating the statements made in paragraph 4.31 of the OA also reiterates and reaffirms the averments made in the earlier part of this Rejoinder in order to avoid repetition. The Applicant craves leave of this Hon'ble

Tribunal to refer to the relevant paragraphs of this Rejoinder in order to rebut and controvert the averments made in para 4.31 (2) of the WS.

83. That in regard to the statements made in paragraph 4.31(3) of the WS, it is stated that there is no basis and reason for R/5 to conclude that reporting officer (SP) has not objectively assessed the work and conduct of the Applicant and has agreed with Applicant's self-appraisal report in mechanical manner which was allegedly highly exaggerated and false. In this connection the following aspects are noteworthy :

(a) Reporting Authority is the direct controlling authority who interacts with the Applicant daily and frequently, formally and informally during official conduct of business. Given the only 25 numbers of cases in registration and disposal of case during a year and hardly 15 numbers of investigating officers in the Branch, Reporting Authority has total grip over not only investigation but other allied works also as he is required to forward various reports to higher authorities as regards monthly progress in investigation, achievement of monthly/quarterly/half yearly/yearly targets in registration, disposal in investigation, court disposal, disposal in departmental action, registration and disposal of SIR in verification etc. Therefore, it could not be said that he gave his observation mechanically. Further, if that be so, the same is applicable with all the IOs, but in none of the case, adverse remarks were appended

or category rating shown as "below average".

(b) In RC-6(A)/91-SHG and RC-12(A)/93-SHG conviction order were received during period under review and the same fact is reported in self-appraisal report vide Annexure-23 of the written statement and there are no basis for any alleged false reporting by Applicant.

(c) So far as CBI CAse No. RC-34(A)/94-SHG is concerned, after submission of investigation report on 4.1.99, PP/SP/DIG/DLA/JD/ALA/SDCBI etc. took their own time in discussion with the Applicant as IO and scrutiny of investigation report etc. and thereafter final order were given on 28.9.99, thereafter draft SP's report was prepared and submitted on 24.11.99 followed by vetting by DLA on 27.11.99 and the case was disposed of from investigation on 31.12.99. However, typing work, scrutiny of SP's report, correction of typographical mistakes etc. are all part of finalisation process shown under investigation of the case and same fact is given in narration in self-appraisal report.

Misc. Case No. 206/98 is apparent from its nomenclature itself that it is not an independent case and the fact is also shown in self appraisal report and the Reporting Authority is aware of the case. In this case, objections etc. were being filed by 13 persons whose property were attached and therefore on Court dates objections etc. were received and replies etc. had to be prepared and filed to rebut objections etc.

against said attachment objections filed by parties. Further, this was a pre-trial attachment of property in the CBI case No. RC-34(A)/96-SHG for which District Court is empowered to adjudicate and accordingly, separate case number is given and not original CBI case No. as because District & Sessions Judge has only competent jurisdiction for pre-trail attachment and not trial of the case for which Special Judge has the competent jurisdiction. After filing of charge sheet in Court of Special Judge, the proceeding before District Judge is transferred to Special Judge and then it is also taken on the records of the proceedings under same case. In view of it, said proceeding before District Judge was shown under Misc. Court case and the Reporting Authority was aware of it and same fact was also shown under the heading in the self-appraisal report and therefore no question arise for alleged misleading by Applicant to anyone.

(d) In CBI cases normally it takes 3 to 6 years in finalisation excepting trap cases etc. which are disposed of in short period. In RC-5(A)/98-SHG investigation was required and was being carried as per approved plan of action and direction of Reporting Authority as well as R/5 himself, and there is no reason to append that investigation was being dragged unnecessarily. The difficulties in this regard were made in CD No. 139 dated 7.1.2000 and CD No. 156 dated 12.2.2000 and Reporting Authority never advised Applicant to curtail investigation and not follow all

clues and file charge sheet on half done investigation. The case is in fact spoilt by R/5 himself by putting the Applicant under suspension and getting a charge sheet filed that too on 29.11.2001 i.e. almost after one year eight months after the Applicant handed over charge vide letter of R/5 dated 28.3.2000. to Dy. SP Shri A.K. Saha, under section 120B, 192, 193, 465, 511 IPC and Section 13(2) r/w 13(1)(e) of PC Act, 1988 against shri K. Ganesh, his wife Muthulaksmi Ganesh and two other private persons. This charge sheet had inherent defect that police could not file charge sheet under Section 192, 193, 465 and 511 IPC as it is barred by Section 195 of Cr.P.C. and Court is only empowered to file complaint in the matter in respect of provision under Section 192, 193 IPC. Further, wife of Shri K. Ganesh is unlawfully implicated under Section 120B as Section 13(2) of P.C. Act 1988 prescribes punishment to public servant and not private person such as wife, children, parents, third person etc. even though they may be found to retain property on behalf of public servant. Further, there could be no reason for invoking Sec. 120B of IPC in implicating wife of the main accused Shri K. Ganesh as she was at Chennai when Shri K. Ganesh was apprehended at Guwahati Air Port while carrying Rs.27.00 lacs. Further, in this case, check period for income and assets were taken as one week only which is unreasonably short, and is against law laid down by Supreme Court in this regard. Further, no searches were conducted at the residential premises of

Shri K. Ganesh at Madras, neither his bank accounts were scrutinised nor the investigation were conducted to determine the source of Rs.27 lacs seized from Shri K. Ganesh at Guwahati Airport on 6.9.97 while Shri Ganesh was leaving to his home at Chennai. For this lacunae, in law and fact, the other private persons are going to be discharged at the initial stage only.

Therefore it is baseless and unreasonable to state that investigation in the case was being dragged unnecessarily. The fact and circumstances of the case required thorough investigation and verification of all clues before submission of FR(1) otherwise it could again have boomeranged on Applicant for conducting investigation perfunctorily. time is no substitute for proper and thorough investigation. Further, Applicant, vide CD No. 156 dated 12.2.2000, appraised branch SP the amount of investigation yet to be conducted and also sought direction that if worthy SP deem it fit to submit FR(1) for offences under Section 13(2) r/w 13(1)(e) of PC Act, 1988, avoiding all other investigation as per approved plan of investigation and other clues emerged during course of investigation then necessary direction may be given in writing. However, branch SP agreed with the Applicant, and directed him to conduct investigation and bring it out to its logical conclusion. It is, therefore, unreasonable and perverse on the part of R/5 to state that investigations were unnecessarily dragged by the Applicant whereas the fact is that it was supervisory

officer, answerable for investigation to superiors directed the Applicant to bring it to logical conclusion. Further, it is a fact that despite all directions in CBI normally it takes three to six years in finalisation of cases and even CBI Crime Manual prescribes minimum 18 months for finalisation of disproportionate case and other complicated cases and therefore it is not only incompetent but also unreasonable and perverse on the part of R/5 to state that Applicant dragged cases unnecessarily and all these shortcomings etc. were overlooked by the Reporting Authority.

(e) Further, there could be no reason for not being aware of the fact, as stated by R/5 under para 4.24(1) to 4.24(7), on the part of the Reporting Authority, but not being impressed by the said facts for writing ACR for the period under review, as the subject matter of said facts not only being outside period under review but also were the subject matter of pending disciplinary proceeding and therefore same could not have been considered for appending remarks until and unless charges are established during a legally valid proceeding. Moreover, initiating disciplinary proceedings and adverse remarks in the ACR on same subject matter tantamount to double jeopardy. Besides as dilated in detail at para 4.24(1) to 4.24(7) in this rejoinder, reporting officer was aware that matter raked up by R/5 after closure by competent authorities are unwarranted, unlawful, perverse and malafide and as

such, Reporting Authority is not bound to perceive malice which R/5 unreasonably and obdurately forcing down in Reporting Authority to see post facto.

(f) So far rewards are concerned, rewards and commendation certificates were given to the Applicant by competent authorities as per guidelines in the CBI standing order, and extant practice, and it is unreasonable on the part of R/5 to run down the scheme of reward and commendation certificates etc. given in recognition for good work to officers and personnel in CBI. For the facts and reasons stated in para 4.6(1) to 4.6(4), it is unreasonable for R/5 not to recognise good work of Applicant and give rewards and commendation certificates, but having given mass rewards on his branch inspection and rewards for as routine job as search and seizure during investigation as is reflected in the annexed list of rewardees during 2002 in which none of them met the guidelines of the DCBI standing order so assiduously being projected by R/5 for confirmation of guidelines. Perusal of the list shows that all IOs were rewarded 3 to 6 times during the year. However, in case of Applicant only two rewards during 1999 prompted R/5 to append instruction to SP in Branch inspection report not to give rewards to the Applicant indiscriminatingly for he is using rewards in fighting CAT cases successfully. In view of above, it is entirely false and misleading on the part of R/5 to state vide para 4.6(2) of his written statement that he gave instructions for the compliance

of guidelines for sanctioning of rewards, while he himself is liable more in breach of the guidelines he is giving instruction to, which is apparent by grant of mass rewards to one and all of CBI personnel on inspection of the Guwahati Branch of CBI. It is, therefore, apparent that rewards and commendation certificates were deliberately and malafidely denied to the Applicant so that Applicant's work, conduct and performance could be put in bad light arbitrarily and unreasonably and Applicant's category rating could be brought down "below average" as against "very good" given by Reporting Authority.

84. That in regard to the statements made in paragraph 4.31(4) of the WS, it is stated that as mentioned in previous paragraph indiscriminate reward to all IOs ranging from 3 to 6 times in year 2002, but naming Applicant specifically in the inspection note for the year 1999 for not giving reward when Applicant was given reward/commendation certificate only on two occasions in 1999, then it could not be said that said instruction in inspection note was not malafide.

85. That in regard to the statements made in paragraph 4.31(5) of the WS, it is stated that perusal of list of CBI officials/personnel of CBI, Guwahati branch for the year 2002 clearly shows that none of the awardees conformed to guidelines of the CBI standing order No. 32 dated 27.11.96. The rewards according to said list were given for as routine job as search/branch inspection by R/5 etc. and therefore it is misleading

on the part of R/5 that rewards should have been given for exceptionally good work. Had the SIRs submitted by Applicant and surprise check conducted leading to registration of two regular cases involving offences of cheating/misappropriation and wrongful loss of the Government properties to the tune of Rs.70 lacs approx. were petty in nature, it ought not to have been registered as regular cases by R/5 in view of the Annexure-21 of written statement. However, cases registered on the basis of surprise check conducted by Applicant does not fall in the list of cases mentioned vide Annexure-21 of written statement and therefore are indeed quality cases. Further, if detection of Rs.70.00 lacs worth of wrongful loss to the exchequer is not worth reward, than how come another surprise check wherein only Rs. 8 to 9 thousand worth GI pipes were found short/excess and accordingly, registration of CBI Case No. RC-18(A)/99- SHG could be found worth reward to Shri K.M. Das, Inspector. Further, Applicant exclusively investigated CBI case No. RC-32(A)/94-SHG and in this case, Court passed conviction order of five years RI and Rs.10,000/- fine as punishment during the year 2000 but Applicant was not given reward though it clearly meets the guideline No. 4 of said DCBI standing order at page 54 of the written statement.

Further the statement that reward is not a matter of right as pointed out under Standing Order No. 32 dated 27.12.96 and that it is subject to the Applicant's over all good conduct and behaviour is also

unreasonable, false and misleading as no public authority could claim unfettered and arbitrary power in public matters to declare that reward is not a matter of right and discriminate palpable better performance for public recognition and select inferior performance instead for recognition under cover of instruction. All laws rules and instructions has to qualify test of reasonableness, non-disminatoriness and rationality in its content and non-arbitrariness in its application, and in view of it, it is apparent that action of R/5 in not granting rewards, commendation certificates etc. for Applicant's performance, is arbitrary, discriminatory, unreasonable, perverse and malafide.

86. That the statements made by the Respondent No. 5 in paragraph 4.32(1) of the WS are incorrect. It is stated that reporting authority has indeed assessed the conduct and performance of the Applicant objectively and dispassionately and did not make any adverse remarks and gave category rating as "good" to the Applicant during period under review. The Reviewing Authority is incompetent to append adverse remarks and down grade Applicant's category to "below average" for all the facts and reasons stated in preceding paragraphs and also for the reason that he could not assume the role of Reporting Authority and append adverse remarks. The role of Reviewing Authority as envisaged in relevant rule, is to eliminate malice and human subjectivity in writing of ACR by Reporting

Authority, but not to plant malice and human subjectivity instead in the guise of review. The hostile biasness of Reviewing Authority against the Applicant is known to one and all in CBI and is writ large in all the administrative actions/orders concerning Applicant's service matters. Appending of adverse remarks and deliberate downgrading of Applicant's category from "very good" and "good" reported by Reporting Authority to "below average" during 1999 and 2000 by R/5 could not be said to be remediatory or reformatory in public interest but malafide and punitive in nature to settle personal scores of vendetta against the Applicant. It was unfortunate on the part of R/5 who accepted the remarks mechanically without application of mind or citing reasons or calling explanations of Reporting Authority or Applicant in this regard.

Verification.....

V E R=I 1#2I=C A T I O N

43

VERIFICATION

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 to 10, 13 to 28, 32, 33, 35, 38 to 48, 50 to 55 and 57 to 86 are true to my knowledge ; those made in paragraphs 2, 11, 12, 29, 31, 34, 36, 37, 49, 56, 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

ANNEXURE RJ/1 COLLY

-113-

भारतीय डाक
INDIA P...
GUWAHATI G.P.O. (7810001)
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
SHIPRA PH: 0575-712185 XS

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.

Certified to be
True copy
Adv.
Advocate

Contd 2

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 them 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 connectedwith Administrative matter between Department and my husband.

Contd 3

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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.

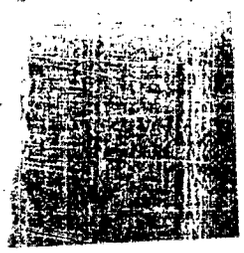
2) National Commission for Women, New Delhi.

3) Assam Human Rights Commission, Guwahati.

4) National Human Rights Commission, New Delhi.

Dtd. 13.12.2011.

Certified to be True copy
Pic.
Advocate



DTd 15.12.2001 GUWAHATI GENERAL PO : 434

Counter No:1,OP-Code:DILIP

NEW DELHI, PIN:000

Wt:770grams,

Have a nice day

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

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.

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 fourth 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 is 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 alieged 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 :-

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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 against 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 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.

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(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

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 incivility 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

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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.

Misc Case No. 2/98

Present :

Shri K. K. Das,
Special Judge, Assam,
Guwahati.

ORDER

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(1) to 10(iv) of his petition valued Rs.33.2 lakhs. He paid Rs.29 lakhs in cash

Certified to be True copy
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 ~~khuxxx~~ 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 it 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 accusedwhile 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 ~~xxxx~~ 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 this huge amount of Rs.29 lakhs within 3 days. He failed to produce any bank account to show that he had subh 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 saized 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 casts 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 allegedly seized belonging to the petitioner ~~as alleged~~ yet he didhot 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 rings. 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 may 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 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~~ petitioner 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 cheritable 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 hald 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 in 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 ple.
Advocate.

ANNEXURE-RJ/3

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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.Bir.Singh Yadav,Inspr.	Rs. 600/- + C.C.
		Rs. 600/-

(Rupees Six hundred)only

It is certified that the amount prescribed in M.O. letter No.29/4/81-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/24/6602-04 Dated:- 25th June'98.

Copy to :-

1. S.S.Clerk alongwith Commendation Certificate for necessary entry in the Service Book.
2. The f/c Section in duplicate for n/a.
3. Person concerned.

Certified to be True Copy
Advocate.

Superintendent of Police,
CBI/ACB/Guwahati.

25/6/98

ol/-

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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. R.C.5(A)/98-SHG.

for

SUPERINTENDENT OF POLICE
CBI/ACB/Guwahati.

DATED :
GUWAHATI

Certified to be true copy
Advocate

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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

Office of the Supdt. No 2173 Dated 15/10/99 C.B.I. A.C.B. Guwahati

To,

The Supdt. of Police
CBI, ACB, Guwahati

Sub; **TARGETED CASE FOR DISPOSAL DURING THE YEAR 1999.CASE No** R.C. 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 6529 Dtd :- 15/11/99
Copy to :-

Sri S.P. Singh Yadav, Inspr CBI ACB Guwahati for compliance.

Supdt of Police
CBI ACB Guwahati.

Certified to be true copy
Advocate

..oOo..

ANNEXURE-RJ/5

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.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.

.....

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

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 Guwhati, 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.....

Doctor (Mrs) Rupali Baruah 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 GAUM. 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)

nkm

Certified to be true Copy

Section Officer (J)
Central Administrative Tribunal
Guwahati Bench, Guwahati-5

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,Inspr(U/S)	1.10.99	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. 137/2000/2205-55 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

&&&&

ANNEXURE - RJ/6

er-1/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	

				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

	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

		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

				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.	

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
Advocate

ANNEXURE - RJ/7

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/8

Govt. of India
Central Bureau of Investigation
Anti Corruption Branch
Guwahati-5.

No. CBI/GHY/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.

25/7/95

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

Superintendent of Police
CBI,ACB,Guwahati.

Certified to be true copy
Adv.

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ANNEXURE- RJ/9

495

= 106 =

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 of 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
Advocate

496

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.

Sd/- Om Prakash
SP, CBI, Guwahati.
30.12.99

DIG
---

11. Pl. speak why did he undertaken verification without registration and permission ---- Illegible

Sd/- KC Kanongo
DIG Dt. 13.1.2000

SP
---

12. Pl. explained

Sd/- Om Prakash
SP, CBI, Guwahati.
20.1.2000

IO

497

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 accusation. 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)

498

COMMENTS OF SUPERINTENDENT OF POLICE ON THE SIR SUBMITTED BY INSPECTOR S.P. SINGH YADAV VIDE NO. SA/SHG/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 copy
Advocate

27

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

58

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
Adv
Advocate

501

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. explained

IO

Sd/- Om Prakash
SP, CBI, Guwahati.
24.1.2000

502

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

503

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

certified to be true copy
Advocate

50H

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.
5.10.99

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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.

PP/MV Ramanair

Sd/-Om Prakash
SP CBI Dt. 1.12.99

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 laying of 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 wrong ~~loss~~ full 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
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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
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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.

DIGP, NER

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15. This I think has already been dealt in some other place.

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

(568)

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

Supdt of Police
CBI/ACB/SDE
Guwahati

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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2. Further, SP may please see complaint/SIR file, wherein the SIR/complaint submitted by Inspr K. Barman was endorsed time 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 meetings 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 sad 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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Advocate

ANNEXURE-RJ/10

To,

The O.C, Azara Police Station.

Sub:- Fulda.

On 6.9.97 Shri K.R. Ganesh S/O Lt. K. Raman of Partha 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 seek 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 Saikhya 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 Mrabon 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 ~~them~~ 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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Advocate

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-2-

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- Mr. Mitta of M/s Assam 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 alon 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 [illegible]

ANNEXURE-RJ/11

11

Goverment of India
Central Bureau of Investigation
Anti Corruption Branch
Guwahati.

Disc/3/_____

Dt.10/2/2001

(Daily Order Sheet)

In the matter of Memo no 1516/12/COMP/SLC/NER/(PT. II) Dt.22/5/2000

In responce to the letter no.Disc/3/00821 dt.8/2/2001 sent to the D.A., the E.O. received a fax message Orgn no. 478/12/COMP/SLC/NER/(Pt. II) dT. 8/2/2001 From the D.A; in which the D.A. has observed that " there is no provision in the DSPE(Subordinate Rank) (Discipline and Appeal Rule), 1961 for obtaining legal opinion on the subject.". the E.O. was asked to discuss the matter with the D.A.

Subsequent to the discussion on 9/2/2001, the D.A. has issued a letter no. 506/12/COMP/SLC/NER/99(PT. II) DT. 9/2/2001 which was faxed to the Branch Office/ACB/CBI the same day. I have received the copy of this letter today. In this letter, the D.A. has given out the procedure for reopening of investigation and the power of the superior Police Officerfor doing the same; after the submission of the Closure report before the Hon'ble Court.The D.A. , however, has mentioned here that there is no need to take any permission from the Court for taking departmental action against the C.O. for his various lapses committed while conducting investigation. The D.A. has also clarified that the case against the accused is not being reopened and that no need for reinvestigation is being felt now nor the case has been reinvestigated another I.O.

In the same letter, the D. A. has rendered advise to the E.O. which is reproduced here

" Inquiry Officer to proceed ahead with the Departmental Inquiry against Sh. S.P.Singh Yadav, Inspector without unnecessary delay and fix up regular hearing urgently. He may proceed with the inquiry ex-parte, in case the C.O. fails to cooperate with the Enquiry"

On the comments of the D.A., a separate letter would be sent to the D.A. on this point. Once the E.O. has been appointed to enquire into the charges framed as per the instant memorandum, the D.A. is requested not to issue any orders or render advise to the E.O. regarding the conduct of the enquiry as to fixing up the regular hearing or proceed with the enquiry ex parte. It is the sole prerogative of the E.O. to conduct the enquiry in a fair, just and reasonable manner ,adhering to the principles of the natural justice.

Further it mentioned here that

✓ 1.there is no unnecessary delay in the conduct of the enquiry as mentioned by the D.A. in its observations dated 9/2/2001 as the complete charge memorandum including the list of the witnesses and documents has been given only on 5/2/2001 and that the clarification has been given on 8/2/2001.

✓ 2.It can not be assumed that the C.O. is not cooperating with the enquiry at this point of time as he had not received the complete charge memorandum till 5/2/2001.

✓ 3.At this point of time, the situations such as the C.O. not attending the P.H. and then the Regular Hearing and conducting the enquiry ex parte are purely speculative in nature. A reasonable oppurtunity will be given to the C.O. to defend himself.

✓ Therefore it is requested to the D.A. to refrain from rendering advice to the E.O. regarding the mode of conduct of the enquiry in the interest of Justice.

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Advocate

ANNEXURE - RJ/12

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To,

The Supdt of Police
CBI/ACB/SPE
Guwahati.

Sub : **RC – 15 (A) / 93 – SHG**

Ref : **Endorst. No 07572/3/15(A)/93-SHG dtd. 06/12/2000**
00545/3/15(A)/93-SHG dtd 23/01/2001

Sir,

In reference to the above, I have to submit as follows :

2. That the case no RC-15(A)/93-SHG was registered on 30.06.93 and after investigation by the then Dy.SP Shri S.A.H. Naqvi followed by me charge sheet was forwarded and filed through crime section on 23.08.95 in the court of Special Judge Assam, Guwahati after following due procedure as prescribed in the CBI Crime manual, i.e. after proper scrutiny and approval of concerned administrative authorities and legal officer of the branch as well as vetting of the charge sheet by the then Senior P.P. and now DLA Shri J.S. Terang. In this case cognizance was taken on 14.11.95 and charges were framed on 26.3.97 against the five accused person sent up for trail under section 120 B, 420, 468, 471 IPC and 13(1)(D) r/w 13(2) of PC act 1988. The names of these five accused were mentioned in column no. 1 of the charge sheet.

3. That said Shri Bakdul Ali, Extension Officer, Lumbajan Development Block, Diphu, Karbi Anglong was not sent for trial and only such action as deemed fit by the department was recommended against him. However under the circumstances his name was mentioned in column no. 2 of the charge sheet meant for "Persons not sent for Trial" and this decision was taken bonafide and consciously after proper discussion and advise of the then Senior P.P. and now DLA Shri J.S. Terang who vetted not only the draft charge sheet but also scrutinized typed charge sheet. Thus clearly mentioning in the note sheet vide no. 45 dated 5.7.95 that "draft charge sheet is put up to me for vetting" followed by noting dated 1.8.95 to the effect that "I have vetted the charge sheet" . Thereafter charge sheet was filed in the court through crime section and the then crime clerk Shri U.C. Razak appended note vide N.S. 46 dated 23.8.95 to the effect the charge sheet was filed in the court. It is also significant that same senior PP who vetted the charge sheet was entrusted to conduct the case in Court of Special Judge Assam.

4. That the said Shri Bakdul Ali who significantly being a public servant, as was not sent for trial and as such his prosecution sanction order, which is a must for taking even the cognizance on the charge sheet in the Court under the circumstances, was neither obtained nor enclosed with the charge sheet to enable Court take cognizance. Further in the closing paragraph of the charge sheet also the name of Bakdul Ali was even not mentioned along with other accused as sent up for trial before the court, least to say mentioning his name in the recital of the charge sheet. However as aforesaid, after proper discussion and advise by the then Senior P.P. his name was mention in column no. 2 of the charge sheet for

16/2001
DESPATCHER,
S.P.E. : A.C.B. : Guwahati

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sake of bonafied only which was duly vetted by the said senior P.P. and the names of other accused person actually sent up for trial were usually mentioned in column no. 1 of the charge sheet.

5. That it was error only on the part of the Hon'ble court to have over looked the fact and taken cognizance against Bakdul Ali whose name was mentioned in column no. 2 of charge sheet which the Hon'ble court ought not to have taken in any circumstances as Shri Ali being a Public servant and law in such circumstances is straight clear that no cognizance by the court in the matter against the public servant for his conduct during discharge of his official function could be taken until a prosecution sanction order of the competent authority authorises to do so, and the said order is actually enclosed with the charge sheet by the prosecution. Further it was also the responsibilities of the senior P.P. who gave his legal opinion in the matter, prepared FR II, scrutinized SP's report, charge sheet etc. and vetted it also, to have apprised the court of its error at the time of taking cognizance on the charge sheet or even subsequently till framing of charges as the facts were fully known to him and the case was being conducted by him.

6. That at the time of hearing for framing of charges on 26.397 obviously the court rectified its error of taking cognizance of said Shri Bakdul Ali without essential prosecution sanction order and therefore as the cognizance was already taken, how-so-ever erroneously the court discharged him. Significantly no adverse observation was made by the court against either of the I.O. or Senior P.P. Thus the said Shri Bakdul Ali was called by the court itself under its discretion and for which no liability lies on me as the job of the I.O. is outside the court and that of the P.P. inside it. It is better the court is asked for alleged harassment. As an I.O. I have indeed called said Shri Bakdul Ali during course of investigation for interrogation and I invoked that right of mine as an I.O. as per relevant provision of Cr P.C. and such interrogation cannot be termed as harassment.

7. That the matter as that be, was duly apprised to the then SP Shri M.K.Jha and DIG Shri N. Mullick who were fully satisfied with the bonafied of I.O. and senior P.P. and though the DIG Sri N. Mullick himself was competent to take final decision in the matter however he in order to steer clear any controversy in future referred the matter to the then J.D. / EZ Clacutta vide U.O. No. 3823/3/15/93-SHG dtd 16.6.97 and the Hon'ble J.D./EZ Calcutta passed final order agreeing to close the case which was communicated to the DIG Shri N. Mullick vide CBI ID No. 137/3/15/93-SHG/Ez dtd. 21.7.97 by the staff officer of J.D./EZ Sri R.C, Choudhury, DSP.

The order of the JD/EZ Cal agreeing to close the case was communicated by DIG Shri Mullick to the Branch SP, Shri B.N. Mishra who accordingly passed the order in the said file on 11.8.97 to the effect that "Case may be closed".

8. That it is depressing, frustrating and disgusting indeed to know that the trifle matter for which I am no where liable and in any case it is the error on the part of the Court and that too was set at rest and closed by bonafied and proper application of mind by none other than the then JD/EZ Cal and now ADCBI Calcutta Dr. U.N. Biswas IPS long four years

ago in 1997, is now being dug up in the process of fault finding to settle his personal scores by the present DIG/ CBI/NER Shri K.C. Kanungo in order to harass and make life some how miserable and there by satisfy his belligerent, sadistic and insane mental disposition towards me.

This attitude resulted during last two years of posting of DIG Shri Kanungo in NE Region into issuance of innumerable explanations, suspension for more than last 14 months without review and enhancement of even subsistence allowance from 50% to 75% as per rule, order for stoppage of three increments with cumulative effect, a major penalty on minor penalty charge sheet at the behest and in cahoots with the bank dismissed clerk and builder named A.K. Barua under going trial on count of as heinous crime as rape and cheating and misappropriation of public money in RC 7(A)/96-SHG by none other than CBI itself and against whom my several civil and criminal cases are pending and against said penalty appeal is pending with ADCBI Calcutta. Further issuance of three charge sheet for major penalty which were challenged in the Guwahati Bench of CAT vide three separate OA No. 30/2001, 31/2001, & 61/2001 leading to passing of the order by the CAT to the effect that these charges are legally unsustainable and that DCBI should recuse Shri K.C. Kanungo DIG/CBI/NER from acting as disciplinary authority thereby vindicating my stand that Sri Kanungo has a malafied disposition towards me in discharge of his duty. Further ordering in three other crime files for minor penalties unreasonably which speaks volume of his deep seated animus towards me. Then stoppage of salary for the month of October, 1999 while I was on medical leave and thus forcing me to file OA No. 137/2000 in CAT, non disbursement of leave encashment so far as per admissibility and despite direction by the CAT to this effect in OA No. 33/2001, non disbursement of deputation duty allowance as per admissibility and thus forcing me to approach CAT vide OA No. 32/2001. Non grant of increment w.e.f. 1.9.2000 without any due order, non disbursement of due 13 months salary as per admissibility, non grant of leave/permission to leave Head Quarter for the last two years, misbehaviour with family member etc. are the action of DIG Shri Kanungo which clearly depicts his belligerent and utterly malafied disposition towards me causing harassment .

9. That the matter has been set at rest and ordered for closure by the then JD/Ez Cal and now ADCBI Calcutta Dr. U.N. Biswas IPS in 1997 and thus the matter is time barred and the present DIG Shri K.C. Kanungo is acting in bad faith and with malafied, beyond his jurisdiction, competency and authority in raking up the issue afresh without corresponding order from the competent authority of CBI.

It is indeed strange that Shri Kanungo do not have even a slightest of administrative discipline, propriety and regard to the bonafied decision taken by his superior, leave aside decision of his equivalent ranking official holding the post in the long past. Therefore what is the credibility of asking such explanations and so called doctrine of administrative continuity when he flout the orders of his superior with impunity and disdain, and what is the guarantee that any explanation and enquiry in this regard satisfying even the present DIG would not evoke similar administrative indiscipline in the future SI/INSP/DYSP/SP, and that they would not rake up the issue afresh the matter set at rest by the present DIG now.

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10. That in view of my past experience and total collapse of administrative discipline in NER since the posting of present DIG Shri Kanungo in the NE Region and his hostile and insane mental disposition towards me, no pleadings or arguments would suffice to satisfy him and he is bound to harm and harass me by process of fault finding, imputing imaginary motive therein , distorting the facts in issue which his hallmark of his conduct and therefore I appeal that a thorough and impartial enquiry by an independent authority may be ordered to arrive at fair and judicious decision in this regard before taking any unilateral decision of passing order for penalty at the behest or dictate of Shri Kanungo.

11. That it is pleaded therefore that the administrative sanctity of the bonafied order of the present ADCBI Calcutta and earlier DIG/CBI taken in 1997 may kindly be restored and the same may not be allowed to be defiled by the out and out malafied decision of present DIG Shri Kanungo, and if at all the said orders are to be treated with disdain and worthlessness then full fledged enquiry by an independent authority dehorse of the malicious over shadow of Shri K,C, Kanungo's personae may be conducted to enable me to defend properly and steer clear of alleged charge in the explanation.

As I was compelled to attend the various urgent matters pertaining to disciplinary action monetary matters in court, tribunal etc. which was the result of frivolous, vexatious and malafied action of DIG/CBI/NER and as such I could not tender explanation earlier, and therefore the delay may please be condoned.

Yours faithfully,

12/6/2000

Suresh Pal Singh Yadav
INSP/CBI/ACB/ (U/S)
Guwahati.

Copy to :
1. Director General Police, UP
2. Director CBI, New Delhi
3. Addl. Director, General, PAC, UP
4. Addl. Director, CBI, Calcutta