

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 79/2003

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. O.A- 79/03.....Pg. 1.....to 3.....
2. Judgment/Order dtd. 26/02/2004.....Pg. 1.....to 4..... Dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. 79/03.....Pg. 1.....to 47.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S. Submitted by the Respondent Pg. 1.....to 27.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

(RULE - 4)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
.....

ORDER SHEET

Original Application No. 79/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Britenson Dean

- Vs. -

Respondent (s) H.O.D. Joms

Advocate for the applicant (s) P.D. Gogoi, P.K. Bannoch

Advocate for the respondent (s) Cafe

Notes of the Registry	Date	Order of the Tribunal
<p>The application is in form but not in time</p> <p>Condonation Petition is filed / not filed C.F. for Rs. 50/ deposited vide IPO/30 No <u>29602786</u> Dated <u>2.4.03</u>.....</p> <p><i>Spore</i> Dy. Registrar <i>App.</i></p>	<p>29.4.2003</p> <p>bb</p> <p>28.5.2003</p>	<p>The application is admitted, call for the records.</p> <p>List the case on 28.5.2003 for order.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Await service report. Put up again on 20.6.2003 for orders.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i> Member</p>

Steps along with envelope taken

pl verify the nomenclature there is OA NO 286/02 mentioned by the applicant.

mb

OA No. is corrected

[Signature]
Advocate

Notice reformed and sent to D/S for entry the respondent No 1 to 4
P. Regd. A.D.
DINo 8975899 dtd 6/5/03
61516.

① Service report are
still awaited.

20.6.2003

Put up again on 5.8.2003 to
enable the respondents to file written
statement, on the prayer of Mr. A. Deb
Roy, learned Sr. C.G.S.C. for the
respondents.

20

19.6.03

No written statement
has been filed.

21

15.03

Ch. B. Roy

Member

[Signature]

Vice-Chairman

mb

5.8.2003

Put up again on 8.9.2003 to enable
the respondents to file written state-
ment. This order is passed in presence of
Mr. A. Deb Roy, learned Sr. C.G.S.C. for
the respondents.

No. W/S has been
filed.

22

5.9.03

7
Member

[Signature]
Vice-Chairman

mb

15.9.03

O/S Submitted

by the Respondents.

8.9.2003 Present : The Hon'ble Mr. K.V. Prahaladan
Administrative Member.

Par.

List again on 22.10.2003 for
orders.

K.V. Prahaladan
Member

mb

No rejoinder has
been filed.

23

24.2.04

22.10.2003

It has been stated that written sta-
tement has been filed by the respondents.
The case is ready for hearing.

List the case for hearing on 28.11.
2003. The applicant may file rejoinder,
if any, within two weeks from today.

[Signature]

Vice-Chairman

bb

25.2.04

List on 26.2.04 for hearing.

m

Member(A)

Member(J)


26.2.2004 Present: The Hon'ble Shri Shanker Raju
Judicial Member.

The Hon'ble Shir K.V.PRAhladan
Administrative Member.

Heard learned counsel for the parties

The application is dismissed for
reasons recorded separately.


Member (A)


Member (J)

17.3.04

Copy of the order
has been sent to
the D/Sec. for issuing
the fine to the applicant
as well as to the
Mr. C.G. Sec. for the
resp. in

vs

27/3/04

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./XXX No. 1111 79 of 2003.

DATE OF DECISION 26.2.2004.

.....Shri. Biteswar. Deori.....APPLICANT(S).

.....Mr. P. D. Gogoi. & Mr. P. K. Baruah.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

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

.....Mr. A. Deb Roy, Sr. C. G. S. C.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. SHANKER RAJU, JUDICIAL MEMBER.

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

1. Whether Reporters of local papers may be allowed to see the judgment ? ☒
 2. To be referred to the Reporter or not? ☒
 3. Whether their Lordships wish to see the fair copy of the Judgment ? ☒
 4. Whether the judgment is to be circulated to the other Benches ?
- h Judgment delivered by Hon'ble Member (J). ☒

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.79 of 2003.

Date of Order : This, the 26th Day of February, 2004.

THE HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER.

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

Shri Biteswar Deori
S/o Shri Tupidhar Deori
Ex-Postal Assistant, Daprijo
Resident of Mahadevpur, P.O: Mahadevpur
District of Lohit, Arunachal Pradesh. . . . Applicant.

By Advocates Mr:P.D.Gogoi & Mr.P.K.Baruah.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Department of Posts, New Delhi.
2. Chief Postmaster General
N.E.Circle, Shillong (Meghalaya).
3. Director of Postal Services
Arunachal Pradesh Division
Itanagar - 791111. . . . Respondents.

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

O R D E R (ORAL)

SHANKER RAJU, MEMBER(J):

We have heard Mr.P.K.Baruah, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

2. The applicant impugns removal order dated 22.4.2002 as well appellate order dated 17.9.2002 upholding the punishment.

3. While working as Postal Assistant, a proceeding was drawn against the applicant undr Rule 14 of the CCS (CC&A) Rules, 1965 on the charges that while during the period 6.1.1992 to 4.1.1997 he misappropriated postal cash amounting to Rs.18.550/- as well as on the charge that he failed to pay Money Order No.2620 dated 23.5.1996 of Rs.1,500/- to Smt. Yaring Nelo.

4. In response to the memorandum the applicant in equivocal term admitted the charge levelled against him in Article I in so far as misappropriation is concerned, by contending that misappropriation occurred due to mistake or error not deliberate as this had happened due to ignorance of rule and regulation. In so far as the SPM had been summoned by the Manipur Court and he proceeded, the applicant has taken the charge as acting SPM. He requested the authorities to change him, but to no avail. It is further stated that the amounts has already been refunded to the department as per the direction.

5. In the Enquiry Report the applicant was held guilty of Article of charge I and charge II was not proved. The finding of guilt has been arrived on examination of relevant documents as the recurring deposits were recorded in the respective Pass Books, but not credited to the Govt. ^{that applicant had} and the fact admitted the charges.

6. On representation to the Enquiry Report punishment of removal was upheld by order dated 17.9.2002 passed by the appellate authority, as the charges levelled against the applicant, had been found to be grave showing lack of integrity and devotion to duty. On appeal the punishment was found to be commensurate with the charges.

7. The learned counsel for the applicant, Mr.P.K.Baruah has not pointed out any ~~illegal~~ infirmity in the procedure adopted, but only raised contentions that misconduct is not made out as, admission is not absolute and the applicant had due to inadvertence admitted, which had caused due to compelling circumstances.

8. A lenient view has been prayed to be taken keeping in mind the short tenure and the short age of the applicant. On the otherhand, Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents, vehemently opposed the contention and stated that the applicant had admitted not to have credited the

amount to the Govt. Despite adequate opportunity and following the Rules the applicant's misconduct had been proved not only with reference to his admission but on documentary evidence as well. He felt that the applicant subsequently depositing the amount is a conclusive fact to prove his misconduct. In so far as ignorance is concerned, it is stated that the same is not a valid plea and even a Peon of the department knows that any amount deposited in the Govt and entered in the Pass Books is to be credited to the Govt. account and not to be retained in the pocket for personal use.

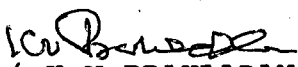
9. We have carefully considered rival contentions of the parties and perused the materials on record. As upheld by the Hon'ble Apex Court in Jagdish Prasad Saxena vs. State of Madhya Bharat reported in AIR (1961) SC 1074 an admission which is not absolute and unconditional and unequivocal cannot be relied upon to punish a Govt. employee. However, on perusal of the written statement we find that the applicant had admitted his guilt in absolute term and unequivocally. Moreover, the aforesaid charges was proved from the fact that though entry of the money deposited was made in the Pass Books, but the amount had not been credited to the Govt. account. A misappropriation when in breach of trust the amount is used illegally by any person being a custodian of Govt. money an act of civil servant's ignorance of Rules cannot be a plausible defence. The applicant, who had been appointed on 13.12.1991, applying the ^{test} of prudent reasonable man in common parlance should know that an amount entrusted by the public shall be deposited and credited to the Govt. account. Retaining it for personal use and not depositing it coupled with the fact that the amount was later on deposited by the applicant leaves no room for taking a different view other than taken by the respondents. We cannot sit in appeal over the findings of the Disciplinary Authority.

10. We do not find any infirmity and other procedural illegality in the action of the respondents, either in disciplinary proceeding or in the impugned orders passed. Proportionality of the punishment has already been taken into consideration.

11. Moral turpitude, dishonesty, which includes misappropriation of Govt. money are deadliest^{est} sins. A Govt. servant is supposed to maintain absolute integrity and devotion to duty. Misappropriating Govt. money would be an act of gravest misconduct which is conclusively proved in the disciplinary proceeding. The punishment imposed cannot be interfered as it does not shock our conscience.

In the results, for the forgoing reasons we find no merit in the O.A., the same is dismissed.

No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

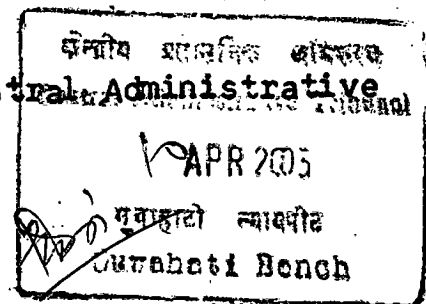

(SHANKER RAJU)
JUDICIAL MEMBER

bb

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BRANCH
GUWAHATI.

(An application U/S 10 of the Central Administrative
Tribunal Act, 1985)
Original Application No.



O.A 79/03

Shri Biteswar Deori

..... Applicant

- Versus -

Union of India & others.

..... Respondents.

I N D E X

Sl.No.	Description of documents relied upon	Page No
1.	Application	... 1 - 11
2.	Verification	... 12
3.	Annexure -I	... 13 - 21
4.	Annexure -II	... 22 - 25
5.	Annexure -III	... 26 - 31
6.	Annexure- IV	... 32 - 39
7.	Annexure -V	... 40 - 42
8.	Annexure -VI	... 43 -45
9.	Annexure -VII	... 46 - 47
10.	Vakalatnama	...

For use in Tribunal Office

Date of filing -

Registration No.

Registrar.

Synopsis

1. The application was earlier admitted on 4-9-2002 and notice was issued to the Respondents. But the Hon'ble Chairman asked the counsel for the applicant to withdraw the application on 8-1-03 as the result of the departmental appeal was awaited. As a result the application was shown as withdrawn with the liberty to resubmit it after disposal of the departmental appeal (vide Annexure-VII, Page- 46). The departmental appeal was by then dismissed by the appellate authority which was then not communicated to the counsel for the applicant. The application is resubmitted with due deference to the direction of the Hon'ble Tribunal.

2. The applicant joined as postal Assistant at ~~Ex~~ Daporijo ~~Exponjo~~, Arunachal Pradesh on 13-12-1991.

3. ~~At~~ Daporijo during the period from 6-1-92 & 4-1-97, the applicant, being an inexperienced land, had to look after the work of the Sub Post Office single-handedly. As a result, some error in accounting of cash cropped up and he was placed under suspension.

4. That a memorandum of articles of charge was framed against the applicant vide Memo No.F-2/RD/97-98/Daporijo

dtd. 12-2-2001 for alleged misappropriation of Rs.18,550/- *and Rs.1500/- respectively* (Annexure- I - P.13). However, subsequently total misappropriated amount was calculated as Rs.14,580.45.

12

5. Thereafter the applicant was asked to deposit the said short cash of Rs.14,580.45 by the department which he deposited in two instalments, one being Rs.2230.45 on 6-2-1999 and another being Rs.12,350.00 on 12-4-1999.

6. Inspite of depositing the above short cash the applicant was removed from service by Respondent No.3 vide No.F-2/RD/97-98/Daporijo dtd. 22-4-2002 (Annexure-IV - P.32)

7. The applicant preferred an appeal to the Respondent No.2 which was dismissed by his order dated 17-9-2002 (Annexure- VI).

P.43,

The applicant prays for setting aside and quashing the impugned order bearing No.F-2/RD/97-98/Daporijo dated 22-4-2002 and appellate impugned order dated 17-9-2002, on the grounds set out in the application.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH
GUWAHATI

Original Application No. 79 of 2003

Shri Biteswar Deori,
son of Shri Tupidhar Deori,
Ex-Postal Assistant, Daporijo,
Resident of Mahadevpur, P.O. Mahadevpur,
District of Lohit, Arunachal Pradesh

..... Applicant

-Vs-

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Communication,
Department of Posts, New Delhi .
2. Chief Postmaster General,
N.E. Circle, Shillong (Meghalaya)
3. Director of Postal Services,
Arunachal Pradesh Division, Itanagar-
- 791 111 .

..... Respondents

DETAILS OF APPLICATION :-

1. Particulars of order :- (1) Order dated 22.4.2002, passed
against which the by the Director of Postal Services,
application is made Arunachal Pradesh Division, Itanagar
removing the applicant from service,
communicated in his Memo No. F-2/RD/
97 -98/Daporijo dtd. 22.4.2002 .

File by
Name
Advocate
Shri Biteswar Deori

14
Bede Snas Dean

:: 2 ::

:- ii) order Dated 17.9.2002, passed by the Chief Post-Master General, Shillong, dismissing the departmental appeal and upholding the order of the Director of Postal services, Arunachal Pradesh Itanagar .

2. Jurisdiction of the Court :- The applicant declares that the subject matter of the order against which redressal is sought is within the jurisdiction of the Tribunal

3. Limitation :- The applicant further declares that the application is within the limitation period provided in section 21 of the Central administrative Tribunal Act, 1985 .

4. Facts of the case :- That the applicant joined as Postal Assistant (in short PA) at RR Daporijo on 13.12.1991 and was placed at counter

No. III of Daporijo Post Office in Arunachal Pradesh for dealing in work connected with Registration VPL, VPP, Parcel etc. while he was working as such, the sub Post Master, Shri L. Singh of the Post Office had to go to Manipur in compliance with the summons of a court. No substitute was provided in his place. As shri Singh assured to return within a few days, he asked the applicant to keep all the Postings in the relevant accounts books pending . But a shri

:: 3 ::

✓
Beke Swar Deon

Singh did not return . His substitutes were inexperienced hands and could not do the job of the S.P.M. Daporijo, the accounting of cash and Postings in the Registers piled up for a month . Having no other alternative, the applicant though a new hand being the seniormost P.A. in the Post Office, entire responsibility of the S.P.M. in the absence of shri Singh lay on him . The applicant had to do the job of the S.P.M. Daporijo, besides clearing the pending work for one month . As a result there cropped up some error and the applicant was placed under suspension. Thereafter, he was asked to deposit an amount of Rs. 14,580.45, being the shortage detected . Against this demand, the applicant deposited Rs. 2230.45 on 6.2.1999 at Roing and Rs. 12,350.00 on 12.4.1999, at Pasighat . Even after payment of the alleged shortage of Rs. 14,580.45 in full as stated above, the Department had served on the applicant 2(two) articles of charges, enclosed to a Memorandum bearing No. F-2/RD/97-98/Daporijo dated 19.2.2001 . The Article No.1 alleged misappropriation of Rs. 18,550.00 and Article No.2 Rs. 1500.00 .

A copy of the said Memorandum and the articles of charges is annexed hereto as Annexure -1 .

The applicant submitted his written statement of defence, explaining how the work piled up in the absence of shri L. Singh , the S.P.M. and the substitutes of

contd...4/p

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B. S. Deori

:: 4 ::

Shri Singh being inexperienced hands, how the applicant had to do the job of the S.P.M. including clearing of one month's arrear work without his past experience and training as S.P.M.

The error in accounting and posting in relevant account books by the applicant for being totally new to the job thrust on him by the authorities under the circumstances is not unlikely. Taking it to be true that there might be shortage, the applicant deposited an amount of Rs. 14,580.45 as the shortage detected. The subsequent inflated amount of Rs. 18,550/- however, did not stand, as it would appear from the last but 3rd para of the impugned order of punishment dated 24.22.4.02 which runs as under :-

" It is seen that shri B.S. Deori has credited Rs. 2230.45 and Rs. 12,350.00 vide ACG - 67 R No. 49 dated 6.2.1999 at Roing and ACG -67 R No. 89 dated 12.4.1999 at Pasighat so respectively out of the total Government loss of Rs. 14,580.45 only "

The above statement of the Disciplinary authority clearly shows that the amount of Rs. 18,550.00 shown as shortage and misappropriated was wrong.

A copy of the written statement of defence is annexed hereto as Annexure -2.

ii) That the Respondents examined one Shri D. Mazumdar, AS of Posts, (C) before the Inquiry officer in connection with the charges. The said witness stated before the Inquiry officer "that in the absence of paid voucher he is not in a position

to say anything in support of the Payee's complaint. The witness did not say anything about the misappropriation of money and violation of conduct Rules as alleged in the charges in Article I. The respondents by oral evidence or by exhibiting documentary evidence through this lone ~~have~~ witness have not established the charge of misappropriation of Government money or violation of conduct Rules. The enquiry officer acted malafide in holding that charge in Article -I stands ~~Proved~~.

That the presenting officer who can be equated to an Advocate is a committed person wedded to the successful conduct of his case aims at securing punishment against the delinquent Officer. The enquiry officer was biased against the applicant in allowing the presenting officer who has not been examined as a witness to present documents and testify their genuineness before the Inquiry officer, To rely on his statements as to the correctness and genuineness of the documents relied upon by the Respondents is against the Principle of natural justice and against all forms of quasi judicial proceedings like the instant one. The genuineness and correctness of the documents relied upon by the Respondents have not been established by ^{independent} an independent witness.

That the Respondents have not brought before the Inquiry officer the fact that the applicant deposited a total amount of Rs. 14,580.45 on 6.2.1999 and 12.4.1999 at Roing and pasighat and that the applicant thereby ~~made~~ made up the entire shortages detected by them. The enquiry Report is totally silent on this

17
in Brief Source

fact though it found its place in the impugned punishment order dated 22.4.2002 (Vide Annexure- 4)

(iii) The Enquiry Report (Vide Annexure- 3) suffers from bias, irregularity, arbitrariness besides being illegal and violative of the principle of natural justice.

A copy of the Enquiry report with findings is annexed as ANNEXURE - 3.

(iv) That the Disciplinary Authority has examined document behind the back of the applicant which he was not supposed to do. He acted illegally, arbitrarily and violated the principle of natural justice in so doing. In last but 3rd paragraph of his order (vide Annexure - 4, Page) the Disciplinary Authority admitted that the applicant made up the total Govt. loss. The said paragraph runs as follows :-

" It is seen that Shri B.S. Deori has credited Rs. 2230.45 and Rs. 12,350.00 vide AOG-67 R.No. 49 dated 06.02.99 at Roing and AOG-67 R. No. 89 dated 12.04.99 at Pasighat ~~80~~ respectively out of the total Govt. loss totalling Rs. 14,580.45 only".

(V) That as stated above, the applicant made up the entire shortages of money by 12.04.1999, leaving no scope for the Respondents to bring charge of misappropriation of Government money in February, 2001 (Vide Annexure- 1).

18.
In Brief & War Deori

The charge No. 1 was based on wrong facts and not sustainable. The charge No. 1 is also not established as per procedure followed in Departmental proceedings and not established beyond reasonable doubt. Charge No. 2 has been disproved. The Disciplinary Authority by his impugned order dated 22.4.2002 has illegally and arbitrarily awarded the applicant the highest punishment of removal from service.

A copy of the said impugned order dated 22.4.2002 is annexed hereto as Annexure- 4.

(vi) That the applicant preferred a Departmental appeal before the Postmaster General, N.E. Circle, Shillong (Respondent No. 2), but the said departmental appeal was dismissed by the appellate authority and upheld the order of removal, passed by the Director of Postal Services.

A copy of the said appeal dated 22.05.2002 is annexed hereto as Annexure- 5.

A copy of the order of the Chief Post Master General dated 17.9.2002 is Annexed hereto as Annexure- 6.

(vii) That the applicant is a tribal person from Assam Arunachal Pradesh berder and he has nothing to fall back upon after he has been removed from service. He deserves to be ~~X~~ leniently dealt with in the instant case.

(contd.....7)

19
in Reference

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Bela Swar Dain
in

5. Ground for relief with legal provisions :-

The applicant prefers this application among others on the following grounds :-

(i) For that the impugned punishment order dated 22.4.2002 and the impugned appellate order dated 17.9.2002 are arbitrary and biased and violative of Articles 14 and 21 of the Constitution of India and are liable to be set aside and quashed.

(ii) For that the Inquiry officer and the Disciplinary Authority examined documents, relied upon by the Respondents behind the back of the applicant and thereby violated the principle of natural justice and as such the impugned punishment order (vide Annexure- 4) is liable to be set aside and quashed.

(iii) For that on 19.2.2001 - the day the two charges have been served on the applicant, there was no ground for charge No. 1 on account of alleged misappropriation of Government money as the shortage of money detected was fully paid by the applicant on 6.2.1999 and 12.4.1999 as per demand. The charge No. 1 being baseless and without merit and charge No. 2 having not been provided, the impugned punishment order is liable to be set aside and quashed.

(iv) For that the applicant never admitted misappropriation of Government money though he accepted shortage of money which occurred under compelling situations and circumstances as outlined by him in his written statement

(contd.....)

of defence (vide Annexure- 2). The Inquiry officer and the Disciplinary Authority have wrongly stated that the applicant unequivocally admitted misappropriation of Govt. money. The Inquiry officer and the Disciplinary Authority have wrongly stated that the applicant unequivocally admitted misappropriation of Govt. money. The Inquiry report and the findings of the Inquiry officer are biased. The impugned punishment order based on such biased findings is liable to be set aside and quashed.

(v) For that the Disciplinary Authority examined and considered documents at his own instance and relied upon such documents to arrive at his final decision to remove the applicant from service against the principle of natural justice. The impugned punishment order is, ~~is~~ therefore, illegal, biased and arbitrary and liable to be set aside and quashed.

(VI) For that the inspection of documents should have been allowed before submission of written statement of defence. But the Respondents have given this opportunity after submission of written statement of defence which served no purpose to the applicant. This had prejudiced the applicant as he could not see for himself whether the alleged shortage of Govt. money was correctly stated and whether or not the documents relied upon by the respondents were genuine.

(viii) For that in any view of the matter, the impugned punishment order is bad in law and liable to be set aside and quashed.

21.
Defendant's Denial

(ix) For that in any view of the matter, the impugned punishment order and the appellate order are bad in law and these are liable to be set aside and quashed.

(x) For that the applicant being a tribal person from Assam- Arunachal Pradesh Border and having nothing to fall back upon for his maintenance and the maintenance of his wife and children after his removal from service deserves to be leniently dealt with by awarding a lesser punishment, if at all he is to be punished.

6. Details of remedies exhausted :

The applicant declares that he has filed an application before the Hon'ble Tribunal which was numbered as OA 286 of 2002 . The application was admitted on 4.9.2002 and records were called for and was awaiting for written statement of the Respondents.

On 8.1.2003 when the application came up for orders, the application was withdrawn by the applicant's advocate (vide Annexure- 7 to the application) on the direction of the Hon'ble Chairman of the Central Administrative Tribunal who came on circuit and was the Presiding Officer of the Tribunal at Guwahati on that date to resubmit the application after the disposal of the Departmental appeal, which was then pending as ^{per} records. The results of the departmental appeal which was received by the applicant by then was not passed on to the applicant's advocate on the day the application was withdrawn. The departmental appeal being dismissed by the Respondent No. 2, the applicant

22
Sh. B. S. S. S. S. S.

is submitting this original application afresh.

7. Matters not previously filed or pending
with any other Court.

The applicant further declares that he had not previously filed any application except the one stated above, Writ petition or suit regarding the matter in respect of which the application has been made, before any Court, or any ~~such xxxxx~~ other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them -

8. Relief sought :-

In view of the facts stated in paragraphs 4 and 5 above, the applicant prays for the following reliefs:-

(i) To set aside and quash the impugned order bearing No. F - 2/RD/97-98/Daporijo dated 22.4.2002 (Vide Annexure- 4), passed by the Disciplinary Authority, removing the applicant from service, and to set aside and quash the appellate order bearing Memo. No. STAFF/11xx.109-12/2002 dtd. 17.9.2002 dismissing the departmental appeal.

(ii) To reinstate the applicant in service with effect from the date of removal from

(contd...11)=

23
in Brief Summary of Des

service without loss of pay and services.

(iii) Any other benefit the applicant is entitled under the law and the service rules.

9. Interim relief :- No interim relief is prayed for.

10. Particulars of I.P.O. :-

- (i) I.P.O. No. 76 607784
- (ii) Date of issue :- 24.2003
- (iii) Payable :- at Guwahati.

12. List of enclosures :-

- (1) F-2/RD/97-98/Daporijo dated 19.2.2001.
(Vide Annexure- 1)
- (2) Written statement of defence
(Vide Annexure- 2)
- (3) Report and findings of the Inquiry Officer.
(vide Annexure - 3)
- (4) F-2/RD/97-98/Daporijo dated 22.4.2002.
(vide Annexure- 4)
- (5) Departmental appeal before the Chief Post
Master General, N.E. Circle, Shillong dated
23.5.2002.

(vide Annexure- 5)

(6) Impugned order dated 17.9.2002 (Annexure-6)

(7) Order of the Hon'ble Tribunal (Annexure-7)
dated 8.1.2003.

(contd.....12)

24
for Director

V E R I F I C A T I O N

I, Shri Biteswar Deori, son of Shri Tupidhar Deori, aged about 32 years, Ex- Postal Assistant, Daporijo, Arunachal Pradesh, resident of Mahadevpur, P.O. - Mahadevpur, District- Lohit, Arunachal Pradesh do hereby verify that the contents of Paragraphs 1, 2, 3, 4(i), 4(iki) , 4(iii) , 4(iv), 4(v) , 4(vi), 4(vii), 6 and 7 are true to my personal knowledge and paragraphs 5(i), 5(ii), 5(iii), 5(~~iv~~) , 5(v), 5(vi), 6(vii) 5(viii) and ~~5(x)~~ 5(ix) believed to be true on legal advice and that I have not suppressed any material facts.

And I sign this v-erification on this

.....10th day of.....April.....2003 at Guwahati.

Biteswar Deori

Signature of applicant.

ANNEXURE - I

NO. P-2/RD/97-98/Daporijo dated Itanagar, the 19.2.2001.

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri B.S. Deori under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure 1). A statement of the imputations of misconduct or misbehaviour, in respect of each article of charge is enclosed (Annexure 1). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed.

2. Shri B.S. Deori is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. It is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri B.S. Deori is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise ~~def~~ fails or refuses to comply with the provisions

(contd....)

*Attested
By
Advocate*

of rule 14 of the CCS (CCA), Rules, 1965, or the orders/ directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry ex-parte.

5. Attention of Shri B.S. Deori is invited to Rule 20 of the Central Civil Services (Conduct), Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri B.S. Deori is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule. 20 of the CCS (conduct), Rules, 1964.

6. The receipt of the memorandum may be acknowledged.

Sd/- Illegible

Name and designation of Competent Authority

Shri B.S. Deori
PA(Now under suspension),
P.O. Pasighat SO

Attested
By
Advocate

ANNEXURE I

ANNEXURE

Statement of articles of charge framed against Shri B.S. Deori, the then PA, Daporijo SO

Article - 1

Shri B.S. Deori while working as the Postal state-
ment in Daporijo SO during 6.1.92 to 4.1.97 misappropriated
postal cash amounting to Rs. 18,550/- in respect of RD deposit.
He received the amount from the depositors and entered the
amount in their respective pass books, but he did not credit
the amount in Govt. account. Thus he violated the provisi-
on of rule 523/3 and 496 of P&T Savings Bank manual and
also violated the provision of Rule 3(1) (i)(ii)(iii) of
CCS(Conduct) Rule, 1964.

Article- II

Said Shri B.S. Deori, during his working at
Daporijo SO received 816 FPO MO no. 2620 dated 23.05.96
for Rs. 1500/- payable to Smti. Yaring Nelo, C/O Shri
Yanam Nale, O/O the EE, PWD, Daporijo. On 12.06.96 Shri
B.S. Deori showed it as window payment to payee but he did
not pay the same MO to Smti. Y.Nale but wrongly paid to
some one else. Thus he violated the provision of rule 33
of P&T Manual Vol VI Part II and also violated the provi-
sions of rule 3(i)(ii) of CCS (Conduct) rule, 1964,

*Amstr
Doran
Admission*

Annex -

Statement of imputation of misconduct or misbehaviours
i/r/o Shri B.S. Deori, the then PA, Daporijo SO

Contd.....

ANNEXURE - I

Shri B.S. Deori, while working as the PA, Daperijo, misappropriated Rs. 18,550/- from a large nos. of RD accounts of Daperijo SO including PRSS of the office of DAO, Daperijo as shown below.

SL No.	Daperijo RD A/C No.	Date of Deposit	Amount
1)	21156	20.04.95	200.00
2)	21158	-do-	200.00
3)	21159	-do-	200.00
4)	21160	-do-	200.00
5)	21161	-do-	200.00
6)	21163	-do-	200.00
7)	21164	-do-	100.00
8)	21165	-do-	200.00
9)	21166	-do-	100.00
10)	21169	-do-	200.00
11)	21169	-do-	200.00
12)	21172	-do-	200.00
13)	21173	-do-	100.00
14)	21175	-do-	400.00
15)	21176	-do-	200.00
16)	21177 21216	-do-	200.00
17)	21216	-do-	100.00
18)	21217	-do-	200.00
19)	21218	-do-	100.00
20)	21219	-do-	100.00
21)	21220	-do-	200.00
22)	21229	-do-	200.00
23)	21230	-do-	300.00

Amrta
Dome
Advocate

(contd.....)

Sl.no.	Daperijo RD A/C no.	Date of Deposit	Amount
24)	21249	-do-	150.00
25)	21250	-do-	200.00
26)	21251	-do-	500.00
27)	21261	-do-	300.00
28)	21262	-do-	500.00
29)	21286	-do-	400.00
30)	21287	-do-	300.00
31)	21299	-do-	200.00
32)	21300	-do-	100.00
33)	21301	-do-	200.00
34)	21317	-do-	200.00
35)	21243	-do-	100.00
36)	21344	-do-	100.00
37)	21345	-do-	200.00
38)	21346	-do-	200.00
39)	21347	-do-	300.00
40)	21354	-do-	500.00
41)	21355	-do-	500.00
42)	21386	-do-	200.00
43)	21387	-do-	100.00
44)	21473	-do-	500.00
45)	21474	-do-	100.00
46)	21498	-do-	300.00
47)	21499	-do-	500.00
48)	21500	-do-	500.00
49)	21552	21.11.95	3600.00
50)	21635	30.4.96	200.00
51)	21635	24.5.96	200.00

(contd.....)

ATTESTED
 By
 Advocate

Annexure I

31

Sl.No.	Daporijo RD A/C no.	Date of Deposit	Amount
52)	21635	27.4.96	200.00
53)	21117	11.9.96	200.00
54)	21120	11.9.96	400.00
55)	21685	11.9.96	600.00

R.18,550.00

Shri B.S. Deori received the amount as shown above against each RD account on the respective date. He entered the amount in the pass books but did not credit the amount in the Government account. Thus he violated the provision of rule 523/3 and 496 of P & T Savings Bank Manual and also violated the provision of Rule 1(i)(ii)(iii) of CCS (Conduct) rule 1964.

Article - II

Said Shri B.S. Deori, during his working at Daporijo SO during June'96 received 816 FPO MO no. 2620 dated 23.05.96 for Rs. 1500/- payable to Smti. Yaring Nalo, o/o Shri Tanam Nalo, o/o EE, PWD, Daporijo. On 12.06.96 Shri B.S. Deori showed it as ~~xxx~~ window payment to payee on 14.06.96, but he did not paid the same MO to Smti. Y. Nalo but wrongly paid to some one else other than actual payee. Thus he violated the provision of rule 33 of P & T Manual Vol VI Part II and also violated the provision of rule 3(i)(ii) of CCS(Conduct) rule 1964.

Handwritten notes:
 1. 11.9.96
 2. 11.9.96
 3. 11.9.96

ANNEX- III

List of documents by which the articles of charge framed against Shri B.S. Deori, the then PA, Daporijo SO are proposed to be sustained.

(contd...)

- 1) Copy of RD account no. 21163 .
- 2) Ledger card of A/C No. 21169
- 3) LOT of Daporijo dated 20.04.95.
- 4) PRSS List of DMO office and DC office Daporijo.
- 5) D/A dated 20.04.95 of Daporijo SO.
- 6) Letter no. DPJ/SB/98 dated 30.07.98.
- 7) letter No. SMS- 1/93-94 dated 30.07.98 . from District Agri. officer.
- 8) DSS/GE IV/COP/96-97/327 dated 2/11/98 from the Director of Small Savings, Naharlagun.
- 9) List of RD accounts of PRSS of Daporijo office.
- 10) Letter no. SMS-1/93/94/1838-41 dt. 10.3.99 from DAO, Daporijo.
- 11) ACG -67 receipt no. 89 dt. 11.5.99 for Rs. 12350/-
- 12) Letter No. RD/Fraud/98-99 dt. 5.12.98 from ASM (SB) Itanagar HO.
- 13) RD account no. 2 1552/Page of P/Book containing deposit dated 22.11.95.
- 14) Ledger card of RD Account no. 21552 .
- 15) Complaint from the holder of RD account no. 21552 Shri A.Z Byaliang.
- 16) Letter no. SE/RD/98-99 dt. 15.4.99 from APM(SB), Itanagar HO.
- 17) Report of SPOs, Itanagar i/r/o DPJRD account no. 21685.
- 18) Letter no. Fraud/RD/97-98 dt. 16.7.97 from APM(SB), Itanagar HO.
- 19) Complaint from the holder of DPJRD a/c No. 21685.
- 20) RD account no. 21685 (containing entry dt. 14.9.96.
- 21) LOT dt. 14.9.96.
- 22) Ledger card of RD account no. 21685.

Atty to
D.M.O.
Daporijo

SkrNo.

- 23) Statement of Shri P.K. Roy, SPM, Daporijo SO.
- 24) SB-7 i/r/o RD account no. 21685.
- 25) SB-7 i/r/o RD account No. 21867.
- 26) SB-7 i/r/o RD account no. 21119.
- 27) SB-7 i/r/o RD account no. 21120.
- 28) LOT dt. 11.4.96.
- 29) Claim application from MAGO Naji, holder of RD account No. 21187, 21119, 21120.
- 30) Letter no. DPJ/MO/97 dt. 26.5.98 from the SPM, Daporijo SO.
- 31) Letter dt. 14.8.97 from Yaring Nalo.
- 32) DPJRD account no. 21173 21500, 21249, 21300, 21160, 21346, 21286, 21173, 21387, 21474, 21498, 21250, 21473, 21317, 21175, 21301, 21156.
- 33) DPJRD journal w.e.f. 20.10.94 to 29.7.96.
-do- 1.8.95 to 17.4.96.
-do- 18.4.96 to 9.10.96.
- 34) MO paid register wef 29.12.95 to 24.9.97.
- 35) MO paid return for the month of June/96.
- 36) DEJSD account wef 23.12.94 to 29.7.95.
-do- 1.8.95 to Jan/96.

Annex - IV

List of witnesses by whom the articles of charge framed against Shri B.S. Deori, the then PA, Daporijo SO are proposed to be sustained.

(contd.....)

- 1) Shri D.Majumder, ASPOs(C), Itanagar.

Director Postal Services
Arunachal Pradesh Divn.
Itanagar- 791111.

To

The Director of Postal Service,
Govt. of India,
Arunachal Pradesh Division,
Itanagar 791 111. A.P.

Sub:- Departmental enquiry under Rule 14 of CCS(CCA),
Rule, 1965 against Shri B.S. Deori, then PA at
Daporijo, Sub-Post office, now under suspension.

~~xxx~~

Ref:- Your letter No. F-2/RD/97-98/Daporijo dated Itanagar,
the 19/2/2001.

Sir,

Most respectfully, I Sri B.S. Deori, then PA, now
under suspension, beg to lay down the following few lines
for favour of your kind consideration and sympathetic
and lenient view of action regarding the matter mentioned
in the subject.

(1) That Sir, I joined as P.A. at Daporijo on
13.12.91 after completion of refresher training from
Hihar and working in Counter No. III doing the work of
registration, VPL, VPP, and parcel etc. while Shri L.B.
S. Singh was S.P.M. at Daporijo, I was doing the same
work upto 3(three years. During that period we were only
three official staff- self, Sri B.N. Dey P.A. and Shri
L.P.S. Singh, SEM. Between we I was senior to Sri B.N.
Dey.

(contd.....)

*Amu Km
Dey
Hihar*

Attorney
Barrister
Advocate

(3) That Sir, after this Sri A.R. Deori has been on deputation to Daporijo. But he is also not perfect in doing the daily account. As if we sending the daily account by doing roughly with difference of Rs. 18250/- (Eighteen thousand two hundred fifty) As because that amount has not been handed over to me by the previous Post Master. We keep that account in his own custody. I hope that daily account summary was seized by C.I. (Nirde). That way the cash balance of M.O. and S.O. was vast difference till the credits of cash by S.P.M., Sri L.B.S. Singh.

(4) That sir, after few months, our A.S.I (C) (Sri N. Das) was have to visit and check all the necessary documents and doing the daily account with consulting S.A. P.A. Dre. while she was sit as S.A. P.A over telephone. After doing the S.O. account he found No. 4286/- (four thousand two hundred eighty six only) excess. He himself showing that amount in U.C.R. I think this till lying as it.

(5) That sir, once again I humbly and respectfully informd you that which was citing on above same case may be happened on me which is already in your knowledge vide your letter No. SB/Corr/79 dated It_a - 21/8/98.

While sir, I was working at Roing S.O. I received an order which was sent by our Department and directed me to credit the sum amounting No.13.500 + 200 = Rs. 13700. But the same was found correct after proper verification and through enquiry. Same copy was enclosed herewith.

(6) That Sir, after careful ~~care~~ observation, I write to let you know that so called misappropriation mainly occurred due to my ignorance of rule and regulation of the Department. It is fact that for the few mistake and misconduct and misappropriation may be held responsible but in no case I have misappropriated such a vast R/D deliberately. It will be illegal to mention that the inquiry was not beyond reasonable doubt. Though I have made good total amount of Rs. 12,350/- (Twelve thousand three hundred fifty) only. As you directed to me vide your letter No.P-2/RD/97-98 dtd. 21.4.99.

(Contd.....)

Amot
Dy
Affairs

(7) That sir, regarding P.P.O. Non. ND 2620 dtd. 28x 23.5.95 for Rs. 1500/- payable to Sueti Yaring Nale, c/o Sri Talam Nale o/o the E.E., P.W.D., Daporijo I write to recall the original documents, so that I have already submitted my view of application.

(8) That sir, I was unwarrently suspended from duties and punishing me and my family members into deep sorrow, agony and starvation for no fault of mine. Moreover, I put only 8(eight) years of service in the PA Cadre. So I am fully unaware of departmental rule and regulation. On receipt of allegation about fraud of such a big amount of R/C which suspected on me, I voluntarily credited the entire amount and subsequently charge levelled against me. Unequivocally due to ignorance in departmental rules and regulation.

(9) That sir, I once again humbly and respectfully intimated you that for no fault of mine I have been placed under suspension and also rule 14 of CCS(CCA) Rule 1965 case. Now my wife and my two children are in starvation and no proper livelihood.

Therefore, sir, I with folded hand kneel before you to pray excuse pardon of my mistake if any done unknowingly and retain me in service to render my best performance in duties and serve the public as well as my poor and starving family and children education. I hope you take the further necessary action as early as possible.

(10) That sir, I desire to be heard in person.

(contd...)

ANNEXURE-3

Report of Inquiry under Rule 14 of CCS(CCA) Rules, 1965
against Shri B.S. Deori, formerly Postal Assistant,
Daporijo SO.

The undersigned was appointed the Inquiry Authority to inquire into the charges framed against Shri B.S. Deori formerly Postal Assistant, Daporijo SO by the Director, Postal Services, Arunachal Pradesh Division, Itanagar in his memo No. F-2/RD/97-98 Daporijo dated 17.05.01. Shri M.A. Malai, SD of Post (E), Itanagar was appointed the Presenting Officer (cited as PO hereafter) in the case.

The Articles of charges framed against Shri B.S. Deori, the charged officer (cited as ~~PO~~ hereafter) are as follows :

Article-I

Shri B.S. Deori while working as the Postal Assistant in Daporijo SO during 06.01.97 to 04.01.97 misappropriated postal cash amounting to Rs. 18,550/- in respect of RD Deposit. He received the amount from the depositor and entered the amount in their respective Pass Books but he did not credit the amount in the Govt. amount. Thus he violated the provision of Rule 523/3 and 4% of P & T Savings Bank ^{manual} Central and also violated the provision of Rule 3(i)(i) (ii)(iii) of CCS(Conduct) Rules, 1964.

Article-II

Shri B.S. Deori during his working at Daporijo SO received 816 PPO No. 2620 dated 23.05.96 for Rs. 1500/- payable

ANNEXURE - III

to Smt. Yaring Nalo C/O Shri Yanam Nalo O/O the EE, PWD, Daporijo. On 12.06.96 Shri B.S. Deori showed it as window payment to payee but he did not pay the same MO to Smt. Y. Nalo but wrongly paid to someone else. Thus he violated the provision of Rule 33 of P. & T Man. Vol. VI Pt. II and also violated the provision of Rule 3(i)(ii) of CCS(Conduct) Rules, 1964.

The statement of Imputation of Misconduct or Misbehaviour in respect of Shri B.S. Deori, formerly PA Daporijo is attached as Annexure- A to this report.

2. The preliminary hearing in the case was held on 11.09.01. The articles of charges framed against the CO was read out and explained. The CO was given the opportunity to understand the charges framed against him. On being asked the CO stated that he has understood the charges against him contained in the two articles of charge.

2.1. The CO was given the opportunity to state clearly whether he admitted the charge contained in Article-I, The CO stated that he admitted the charge contained in Article-I unequivocally.

2.22 The CO was given the opportunity to state clearly whether he admitted the charge contained in Article-II. The CO stated that he denied the charge contained in Article-II.

3. The XO was then given the opportunity to nominate Defence assistant to assist him in presenting

(contd....)

AVS
Deori
Affidavit

him in presenting his defence, if so desired. The CO stated that he does not wish to nominate a defence assistant and that he will plead his case by himself.

4. The PO was then given to produce the documents listed in Annexure III of the charge sheet. The list of documents is attached to this report as Annexure-B.

4.1 Article : Examination of the documents listed at serials 1), 2), 3), 4), 5), 9), 11), 13), 14), 20), 21), 22), 24), 25), 26), 27), 28) reveal that the amounts of deposits made against each one of the 56 RD accounts in Annexure-A were received by the CO as evidenced by the entries in the Pass Books of the respective RD Accounts but the amounts of deposits were not credited to the Govt. account as evidenced in the related documents of the RD Accounts. This is supported by the documents listed at serials 6), 7), 8), 12), 15), 16), 17), 18), 19), 23), 29).

4.2 Article-II : Examination of the document listed at serial 30) indicates that the FPO 816 MO No. 2620 dated 23.05.96 for Rs. 1500/- was paid on - 12.6.96 but not to the actual payee. This is supported by the letter from the payee listed as document at serial 31).

5. The PO was then given to present the witness listed in Annexure IV to the charge sheet.

(contd....)

Atty Gen
Dy Atty Gen
Advocate

5.1.

The next hearing was held on 11.10.01. The P.O Examined the witness Shri D. Majumdar, A.S. of Posts (C) Pasighat. The witness stated that there was a complaint from the payee of the MO No. 2620 regarding non-payment of the MO. The witness further stated that in absence of the paid voucher he is not in a position to say anything in support of the payee's complaint.

5.2 The PO at the outset of the day's hearing stated that paid voucher of the FPO 816 MO No. 2620 dt. 23.05.96 has been destroyed by the Audit as the period of preservation has expired.

6. At this stage the hearing of the day concluded and the PO was given to prepare and submit his brief within the stipulated time.

6.2 At his brief the PO pointed out that the ~~the~~ relevant listed documents were produced given for examination by the CO and that the CO examined the documents and stated that the documents were genuine. The PO further pointed out that the documents bear adequate proof that the amounts of MO deposits were received by the CO but failed to credit in Govt. account.

6.3 A copy of the brief received from the PO was served to the CO for preparation and submission of his representation. In his representation the CO stated that he accepted the charge in Article-I directly adding that he wrongs in RD account on his part happened at a

(contd...)

Atty Gen
Oman
Advocate

2620 dt. 23.05.96 for Rs. 1500/- was not paid to the actual payee having not been found adequate. Further, the material documentary evidence - the paid voucher - could not be produced by the presenting officer as it has been already destroyed by the Audit on expiry of preservation time. In absence of the said voucher the witness could not state anything concrete in support of the charge, and hence the charge in Article-II is not proved.

(C. G. Singha)
Inquiry Authority.

Amesure
From
Associate

ANNEXURE - IV

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES : ARUNACHAL PRADESH
ITANAGAR - 791 111.

Dt at Itanagar the 22/4/2002 .

F-2/RD/98-98/Daporijo

Shri Biteswar Deori, the then PA Daporijo SO in Arunachal Pradesh Postal Division was proceeded against under Rule 14 of CCS(CCA) Rules 1965 under this office Memo No. F-2/RD/97-98/Daporijo dated 19.02.2001.

The substance of imputations of misconduct or misbehaviour in support of the charges in Article-I and Article- II framed against Shri Biteswar Deori runs as under:-

Article-1

Shri Biteswar Deori while working as PA Daporijo SO misappropriated Rs. 18550/- from a large number of RD Accounts of ~~Shri~~ Daporijo SO including PRSS of the office of DAO, Daporijo as shown below :

Sl. No.	HO A/C No.	Date of Deposit	Amount(Rs.)
1.	RD A/C No. 21155	20.04.95	200.00
2.	21158	20.04.95	200.00
3.	21158	21158 20.04.95	200.00
4.	21158/	21160 20.04.95	200.00
5.	21161	20.04.95	200.00
6.	21163	20.04.95	200.00
7.	21164	20.04.95	200.00
8.	21165	20.04.95	200.00
9.	21166	20.04.95	100.00

(contd...)

Amrinder
Dhoni
Advocate

10	21163	20.04.95	200.00
11.	21169	20.04.95	200.00
12.	21172 20.04.95	20.04.95	200.00
13.	21173	20.04.95	100.00
14.	21174	20.04.95	400.00
15.	21175	20.04.95	300.00
16.	21176	20.04.95	200.00
17.	21216	20.04.95	100.00
18.	21217	20.04.95	200.00
19.	21218	20.04.95	100.00
20.	21219	20.04.95	100.00
21	21220	20.04.95	200.00
22.	21229	20.04.95	200.00
23.	21230	20.04.95	300.00
24.	21249	20.04.95	150.00
25.	21250	20.04.95	200.00
26.	21251	20.04.95	500.00
27.	21261	20.04.95	300.00
28.	21262	20.04.95	500.00
29.	21236	20.04.95	400.00
30.	21287	20.04.95	300.00
31	21299	20.04.95	200.00
32.	21300	20.04.95	100.00
33.	21301	20.04.95	200.00
34.	21317	20.04.95	200.00

Mrs. In
D. S. S.
Associate

(contd.....)

35.	21343	20.04.95	100.00
36.	21344	20.04.95	100.00
37.	21345	20.04.95	200.00
38.	21347	20.04.95	200.00
39.	21347	20.04.95.	300.00
40.	21354	20.04.95	500.00
41.	21355	20.04.95	500.00
42.	21386	20.04.95	200.00
43.	21387	20.04.95	100.00
44.	21473	20.04.95	500.00
45.	21474	20.04.95	1000.00
46.	21498	20.04.95	300.00
47.	21499	20.04.95	500.00
48.	21500	20.04.95	500.00
49.	21552	22.11.95	3600.00
50.	21635	30.04.96	200.00
51.	21635	24.05.96	2000.00
52.	21635	24.05.96	2000.00
53.	21119	11.04.96	200.00
54.	21120	11.04.96	400.00
55.	21187	13.04.96	800.00
56.	21685	14.09.96	600.00
<hr/> Total -			18550.00

Auto
Drawn
Associate

ANNEXURE - IV

Shri Biteswar Deori received the amounts shown above against each RD account on the respective dates. He entered the amount in the Pass book but did not credit the amount in the Govt. account. Thus he violated the provision of Rule 523/3 and 496 of P&T Saving Bank Manual and also violated the provision of Rule 523/3 and 496 of P & T Saving Banks Manual and also violated the provisions of Rule 3(i)(ii)(iii) of CCS(Conduct Rules 1964.

Article II

Said Shri Biteswar Deori, during his working at Daporijo SD, during June 1996 received 815 MO No. 2620 dated 23.5.96 for Rs. 1500.00 payable to Smti. Yaring Nale, C/O Shri Tunam Nale, O/O the E.E. PWD, Daporijo. On 14.06.96 Shri Biteswar Deori showed it as window payment to payee on 14.06-96, but he did not paid the same amount to Smti. Y. Nale but wrongly paid to someone else other than the actual payee. Thus he violated the provision of Rule 33 of P & T Manual Vol. VI Pt. II and also violated the provision of Rule 3(i)(ii) of CCS (Conduct) Rule 1964.

Shri Biteswar Deori submitted his defence statement under his letter No. NIL dated NIL, which was received at this office on 15.03.2001. It was proposed to hold an inquiry into the charges framed against Shri Biteswar Deori under this office Memo of even letter dated 9.02.2001. In this regard Shri G.G. Singha, Dy. Supdt. of Post, Itanagar was appointed as Inquiring Authority to inquire into the charges under this office letter of even No. dated 17.05.01. Shri M.A. Malai,

(contd....)

*Amrinder
Chand
Advocate*

SDI(W) Sub-Division, Itanagar was appointed as the Presenting Officer to present the case on behalf of the Department.

The Inquiry officer held hearings on 11.09.01 and 11.10.01, and concluded the hearings.

~~XXXX~~ The Inquiring Authority Shri G.G. Singha submitted his inquiry report under his letter No. NIL dated Nil, which was received by this office on 22.02.02. I have gone through the inquiry report. The inquiry has been held in a free and fair manner. The charges were read out to the charged official and explained to him in his vernacular. He was given every opportunity to examine the documents listed in Annexure- III of the charge sheet. He was also informed of the provisions of Rules facilitating him to engage a Defence assistant to assist him in prosecuting the defence in his case. Shri Biteswar Deori desired to plead himself without engaging any defence assistant. The Inquiring Authority served the charged official with the copy of written brief submitted by the Presenting Officer of the case for submission of his defence written representation. The I.A. has taken into account the representation dated 02.02.02 received from the charged official Shri Biteswar Deori, while preparing his final inquiry Report.

Att. Gen.
D. M.
Advocate

The Inquiring Authority, based on all listed documentary evidences and also the admittance of charge

(contd.....)

in Article- I fully and unequivocally by Shri Biteswar Deori, has found the charge under Article- I stands proved, whereas, he has held the charge in Article-II is not proved.

A copy of the inquiry report was forwarded to Shri Biteswar Deori vide this office letter of even No. dated 01.03.02 for submission of his representation vide his letter No. nil dated 16.03.02, which was received at this office on 21.03.02.

Findings by the Disciplinary Authority :-

I have examined the records of the case in detail and carefully with the listed documents in Annexure- III, minutes of the proceedings into the case, final Inquiry Report of the IA, written brief submitted by the PO and three representations ibid received from the charged official.

Further examination of documents viz,

- 1) Copy of the RD deposit in account No. 21169
- i) Daporijo SO RD List of Transaction dated 20.04.95.
- iii) Daporijo SO Daily Account dated 20.04.95.
- iv) Pass Deposit from DAO Office Daporijo in respect of 48 RD Accounts for the month of April, 1995 amounting to Rs. 12350.00 on 20.04.95 list.
- v) Copy of RD Deposits in Pass book account No. 21552 containing the deposit of 23.11.95.

xxxx

(contd.....)

- vi) Copy of RD deposit in Pass book account No. 21685 containing deposit on 14.09.96.
- vii) Daporijo SO RD List of Transaction dated 14.09.96.
- viii) Daporijo SO RD List of Transaction dated 11.04.96-
- iv) Daporijo SO RD Journals for the period from a) 20.10.94 to 29.07.95, b) 01.08.95 to 17.04.96 and c) 18.04.96 to 09.10.96 reveals that Shri Biteswar Deori received the deposits amounting to Rs. 18559.00 in different RD Accounts on different dates including ~~P&T~~/PRSS group deposit of DAO Daporijo and failed to credit the amount in Govt. account thus Shri Biteswar Deori misappropriated the receipt of RD deposits to the tune of Rs. 15550.00 and thereby violated the provision of Rule 523/3 and 496 of P & T Saving Banks Manual and also ~~xxx~~ violated the provisions of Rule 3(i)(ii) and (iii) of CCS(Conduct) Rules 1964 and hence the charge in Article- I is proved on the basis of documentary evidences.

As regards charge under Article 11 a complaint from Smt. Yaring Nalo c/o Sri T. Nalo, Duftry PWD Daporijo Dn. dated 14.7.1997 is on record. A prima facie case exists. But it is found that the MO paid voucher in respect of S.16 FPO MO no. 2620 dated 23.05.96 for Rs. 1500.00 payable to Smti. Y. Nalo c/o T. Nalo c/o E.E. PWD, Daporijo which was actually paid and shown in Daporijo SO Account on 14.06.96 as window payment, could not be procured from DA (P) Kolkata. As it is a vital

(contd....)

Missed
From
Daporijo

document to prove that the MO was not paid to the real payee on 14.06-96 the charge in Article- II is cannot be conclusively proved.

It is seen that Shri B.S. Deori has credited ;. 2230.45 and Rs. 12350.00 vide ACG- 67 No. 49 dated 06-02.99 at Roing SO and ACG- 67 R No. 89 dated 12.04.99 at Pasighat SO respectively out of the total CO vt. loss totalling Rs. 14,580.45 only.

The charge against Shri B.S. Deori are of a serious nature involving misappropriation of money thereby showing lack of integrity and lack of devotion to duty. No ground for lenience has been brought out by him in his defence representation for such serious charges.

I, Shri R.K. B. Singh, DPS Itanagar do hereby award the punishment of removal from service with immediate effect to Shri B.S. Deori, the then PA, Daporijo SO.

(R.K. B. Singh)
DPS Itanagar,
Itanagar- 791111.

To

Shri B.S. Deori,
PA (now U/S)
Pasighat SO.

*Amrinder
Dhawan
Advocate*

ANNEXURE - V

Registered

To

The Chief Post Master General,
North East Circle,
Shillong - 1, Meghalaya.

Sub:- Reinstatement in service- appeal regarding.

Dtd. 23.5.02.

Sir,

Most Respectfully I beg to state that the following few lines for favour of your kind consideration and sympathetic order :

1. That I joined as Postal Assistant at Daporijo SO on 13.12.91.
2. That during my posting at Daporijo S.O. between the period from April, 1995 to September, 1996 an amount of Rs. 18,550.00 (Rupees eighteen thousand five hundred fifty) only was alleged to be misappropriated by me and a disciplinary proceeding was initiated against me by the Director, Postal Services, Itanagar vide his Memo.No. F-2/RD/97-98/ Daporijo dated 19.2.2001 and I was placed under suspension.
3. That the aforesaid amount was not misappropriated by me, but it was a short credit inadvertantly caused due to my lack of experience.

*Attested
Dated
Affirmed*

(contd.....)

4. That out of above Rs. 18,550.00 I deposited back an amount of Rs. 14,580.45 only (Rs. 2280.45 and Rs. 12350.00 vide ACC-67 R No. 49 dtd. 06.2.99 at Roing S.O. and ACC-67 R. No. 89 dtd. 12.4.99 at Passighat S.O. respectively which was a clear less deposit in RD account.
5. That the aforesaid discrepancy occurred solely due to my inexperience, as at the time of incident I completed only 3 years in my service.
6. That I prayed to the Director, Postal Services, Itanagar go forgive my unintentional mistake and assured him of not repeating such mistake again.
7. That in spite of my request and recouping the loss amount, the Director of Postal Services, Itanagar took a drastic step by removing me from service vide his Memo.No.- F-2 RD/97-98/Daperijo dtd. 22.4.2002.
8. That I am the only earning member of my family having my wife and two minor children and in the absence of my service my whole family has been pushed to street.
9. That I further assure your honour that I shall be very cautious and shall not give any chance of future loss of the Postal department if I am given a change to serve the Postal Department again.

(contd.....)

*Amish Kumar
Dewan
Advocate*

I, therefore, earnestly request your honour kindly to consider my prayer for re-instatement in service in order to save a poor family of four members.

Yours faithfully,

(Biteswar Deori)

C/O S.P.K. Deori, SPM,

Mahadeopur, PO & PS Mahadeopur.

District Lohit, Arunachal Pradesh.

Dated 23.5.02.

*Mustin
Dron
Arunachal*

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, N. E. CIRCLE
SHILLONG- 793 001.

MEMO NO. STAFF/109-14/02,

Dated at Shillong, the
17th September, 2002.

ORDER

Sub:- Decision of the Appellate Authority on the appeal by Shri Biteswar Deori formerly Postal Assistant, Arunachal Pradesh Division against the punishment order of removal from service issued by the Director Postal Services, Arunachal Pradesh Division, Itanagar.

Shri Biteswar Deori was proceeded against under Rule- 14 of C.C.S. (CCA) Rules 1965 vide DPS, Arunachal Pradesh Division, Itanagar Memo No. F-2/RD/97-98/Daperiye dated 19.2.2001. The charges against Shri Biteswar Deori were the following :-

- 1) Shri B.S. Deori, while working as the Postal Assistant in Daperiye S.O. during 6.1.92 to 4.1.97 misappropriated Postal cash amounting to Rs. 18,550/- in respect of RD deposit. He received the amount from the depositors and entered the amount in their respective pass books, but he did not credit the amount in the Government account. Thus he violated the provision of rule 523/3 and 496 of P&T Savings Bank Manual and also violated the provision of rule-3 (I)(i)(ii) (iii) of CCS (Conduct) Rules, 1964.

(contd.....2)

Shri Biteswar Deori

Attested
By
Adm

ii) Said Shri B.S. Deori, during his working at Daperijo S.O. received 816 FPO MO No. 2620 dt 23.5.96 for Rs. 1500/- payable to Smt. Yaring Nalo, O/O the EE, PWD, Daperijo. On 12.06.96 Shri B.S. Deori showed it as window payment to payee but he did not pay the same M.O. to Smt. Y. Nalo, but wrongly paid to someone else. Thus he violated the provision of Rule-33 of P & T Manual Vol. VI Part-II and also violated the provision of rule 3(I)(ii) of CCS (Conduct) Rules, 1964.

2. As required for Rule-14 of C.C.S. (CCA) Rules, 1965, an inquiry was conducted into the charges against Shri Biteswar Deori. The Inquiry Officer Shri G.G. Sinha, having gone through the process of inquiry in which adequate opportunity was given to the charged official to defend himself, came to the conclusion that the charged official was found guilty of the charges of misappropriation of RD deposits as mentioned in (i) above of charges. It is also recorded in the report of the Inquiry Officer that Shri Deori unequivocally admitted the charges levelled against him.

3. The Disciplinary Authority i.e. Director Postal Services, Arunachal Pradesh Division, Itanagar, having gone through the report of Inquiry Officer and also other related facts issued the order of removal of Shri Biteswar Deori from service with immediate effect vide Memo No. F-2/RD/97-98/Daperijo dated 22.4.2002.

(contd.....3)

Atty. Gen.
D. N. Singh
Advocate

for Director's Order

- 45 -

4. Shri Biteswar Deori has preferred an appeal against the order of removal from service issued by DPS, Itanagar as mentioned above. I, the Appellate Authority, have gone through the appeal as well as other relevant records of the case and have arrived at the following decision :-

- a) The appeal made by Shri Biteswar Deori does not ^{throw} through any further light on the case. It is simply repetition of his earlier plea that the mistake was committed due to inadv-ertency and inexperience. However, I do not agree with this plea for the reason that crediting deposits of investors to the Government account is a basic requirement the knowledge of which has not to be acquired by experience. The worker knows it from day one of his service as one of the fundamental conditions governing his job. It is also a matter of principle and moral which every worker must possess and without which the interest of Government and investors will be at stake. I have no doubt that not adhering to this basic rule is an instance of moral turpitude of which Shri Deori is found guilty beyond doubt.

- b) I agree with the findings of the Inquiry Officer as well as the Disciplinary Authority. The appeal is rejected.

(P.K. Chatterjee)
Chief Postmaster General,
N.E. Circle, Shillong-793 001.

Shri Biteswar Deori,
Ex-Postal Assistant,
Arunachal Pradesh Division,
(Through DPS, Itanagar)

Copy to:-

2. The Director Postal Services, Arunachal Pradesh Division, Itanagar.

3. Office copy.

Approved
for
Director

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO.

286/02 OF 1997

Applicant(s)

B. Deori

Respondent(s)

W.O.I. Dors

Advocate for Applicant(s)

P.K. Baruah, P. Jagon

Mr. B.C. Pathak

Advocate for Respondent(s)

Addl. C.G.S.C.

8.1.2003

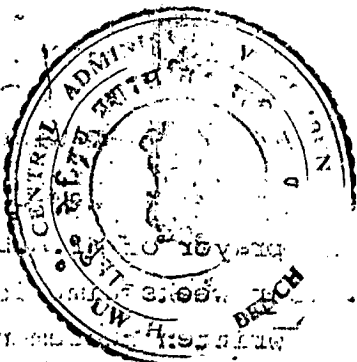
Present:- The Hon'ble Mr. Justice
V.S. Aggarwal, Chairman.The Hon'ble Mr. K.K. Sharma
Member (A).

We have heard Mr. P.K. Baruah, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

During the course of submission it was submitted that the Departmental Appeal has already been preferred to the Chief Post Master General, N.E. Circle, Shillong-1, Meghalaya on 23.5.2002 which is still pending.

Keeping in view of the said facts the learned counsel for the applicant does not press the present Original Application but pressed that the concerned authority viz. Chief Post Master General, N.E. Circle, Shillong-1, Meghalaya may be directed to decide the Departmental Appeal within a stipulated period. To this there is no objection on either end.

Contd..



O.A.286/2002

Notes of the Registry

Date

Order of the Tribunal

Contd..

8.1.2003

Accordingly, the present Original Application is dismissed as withdrawn. The respondent No.2 i.e. Chief Post Master General, N.E.Circle, Shillong-1, Meghalaya is directed to decide the Departmental Appeal dated 23.5.2002 preferably within a period of four months from the date of receipt of the certified copy of the present order. It should be a speaking order and should be conveyed to the applicant.

By way of abundant caution it is made clear that nothing is an expression of opinion on the merits of the case which may cause prejudice to either side.

With this observations, the present Original Application is dismissed as withdrawn.

Sd/ VICE CHAIRMAN

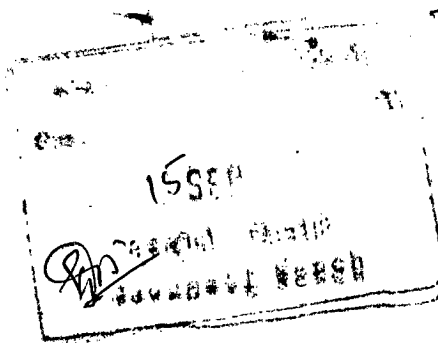
Sd/ MEMBER (ADM)

Certified to be true Copy
 प्रमाणित प्रतिलिपि

Section Officer (J)
 C.A.T. GUWAHATI RANCH
 Guwahati-781005

7/3/03
 18/3/2003





Filed by
15/9/03
(A. DEBROY)
Sr. C. G. C.
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUAHATI BENCH ::: GUAHATI

O.A. NO. 79 OF 2003

Shri B.S. Deori

..... Applicant.
- Vs -

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written statement submitted by the
respondents

The respondents beg to submit
back ground of the case, before
submitting para-wise written
statements, which may be treated
as part of the written statement.

(BACK GROUND OF THE CASE)

1 (A). Shri B.S. Deori worked as Postal Assistant during
the period 06.01.1992 to 04.01.1997, during the said period

Shri B.S. Deori received Rs. 18550/- from the depositors of

56 Recurring Accounts. He entered the amount received by

him in the respective pass books but did not credit the

M. Jangphru

M. Jangphru

निदेशक, डाक सेवा

अरुणाचल प्रदेश, इटानगर

Director Postal Services

Arunachal Pradesh

ITANAGAR-791111

-2-

amount in the Govt. account. During the said period Shri B.S. Deori received FPO 816 Family allotment Money Order No. 2620 dated 23.05.1996 for Rs. 1500/- Shri B.S. Deori showed the Money Order as window payment to the payee on 14.06.1995 but he did not pay the amount to the actual payee but wrongly paid to someone else other than the actual payee. Accordingly charge sheet was issued to Shri B.S.-Deori vide Memo No. F-2/RD/97-98/Daporijo, dated 19.02.2001.

Copy of M.O. dated 19.2.2001 is annexed herewith and marked as Annexure - 1.

Inquiry under Rule-14 of CCS(CCA) Rules-1965 was instituted against him. During the inquiry Article-I was documentarily proved and also admitted by Shri B.S. Deori himself. The Money Order paid voucher of the Money Order cited in Article-II could not be produced during inquiry as it has already been destroyed by the Audit on expiry of preservation period time. The charge in Article-II was not proved. The Disciplinary Authority, the then Director Postal Services, Arunachal Pradesh Division, Itanagar duly examined the charges against Shri B.S. Deori, keeping in view the report of the Inquiry Officer. The Disciplinary Authority found that the charge against Shri B.S. Deori are of a serious nature involving misappropriation of Govt. money thereby, showing lack of integrity and lack of devotion to duty. The Disciplinary Authority awarded the punishment

of removal from service to Shri B.S. Deori.

M. Jangphian

M. Jangphian

निदेशक, डाक सेवा

अरुणाचल प्रदेश, इटानगर

Director Postal Services

Arunachal Pradesh

ITANAGAR-791111

Shri B.S. Deori preferred an appeal against the orders of the Disciplinary Authority to the Appellate Authority, the Chief Postmaster General, N.E. Circle, Shillong. The Appellate Authority observed that the Inquiry Officer having gone through the process of inquiry in which adequate opportunity was given to the charged official to defend himself came to the conclusion that the charged official was found guilty of the charges of misappropriation of Recurring Deposits and that Shri B.S.-Deori unequivocally admitted the charge leveled against him. The Appellate Authority further light on the case and that it was simply repetition of his earlier plea that the mistake was committed due to inadvertency and inexperience. The Appellate Authority did not agree with this plea for the reasons that crediting deposits of investors to the Govt. Account is a basic requirement the knowledge of which has not to be acquired by experience which is rather the fundamental condition governing his job. It is also a matter of principle and moral which every worker must possess and without which the work system of the Govt. will be at stake. Failure to adhere to this basic rules is an instance moral turpitude of which Shri B.S. Deori was found guilty beyond doubt and hence his appeal was rejected.

Para-wise Comments :

1. That with regard to para 1, 2 and 3 of the application the respondents beg to offer no comments.

M. Singh
M. Singh
निदेशक, डाक सेवा
अरुणाचल प्रदेश, इटानगर
Director Postal Services
Arunachal Division
ITANAGAR-791111

2. That with regard to the statement made in para 4(i), of the application the respondents beg to state that the applicant worked as Postal Assistant at Daporijo Sub Post-Office under Itanagar Head Post Office during period 06.01.1991 to 04.01.1997. During the period the applicant received the amount of deposits made by the public investors in the Recurring Deposits Accounts as given below :-

<u>Sl.No.</u>	<u>HO A/C No.</u>	<u>Date of Deposit</u>	<u>Amount</u>
1.	RD A/c No. 21156	20.04.95	200.00
2.	RD/ A/c No. 21158	20.04.95	200.00
3.	RD A/C No. 21159	-do-	200.00
4.	RD A/C No. 21160	-do-	200.00
5.	RD A/C No. 21161	-do-	200.00
6.	RD A/C No. 21163	-do-	200.00
7.	RD A/C No. 21164	-do-	100.00
8.	RD A/C No. 21165	-do-	200.00
9.	RD A/C No. 21166	-do-	100.00
10.	RD A/C No. 21168	-do-	200.00
11.	RD A/C No. 21169	-do-	200.00
12.	RD A/C No. 21172	-do-	200.00
13.	RD A/C No. 21173	-do-	100.00
14.	RD A/C No. 21174	-do-	400.00
15.	RD A/C No. 21175	-do-	200.00
16.	RD A/C No. 21176	-do-	200.00
17.	RD A/C No. 21216	-do-	100.00
18.	RD A/C No. 21217	-do-	200.00

M. Langphraw
M. Langphraw

निदेशक, डाक सेवा

अरुणाचल प्रदेश, इटानगर

Director Postal Services

Attached Division

ITANAGAR-791111

-5-

19.	RD A/C No. 21218	20.04.95	100.00
20.	RD A/C No. 21219	-do-	100.00
21.	RD A/C No. 21220	-do-	200.00
22.	RD A/C No. 21229	-do-	200.00
23.	RD A/C No. 21230	-do-	300.00
24.	RD A/C No. 21249	-do-	150.00
25.	RD A/C No. 21250	-do-	200.00
26.	RD A/C No. 21251	-do-	500.00
27.	RD A/C No. 21261	-do-	300.00
28.	RD A/C No. 21262	-do-	500.00
29.	RD A/C No. 21286	-do-	400.00
30.	RD A/C No. 21287	-do-	300.00
31.	RD A/C No. 21299	-do-	200.00
32.	RD A/C No. 21300	-do-	100.00
33.	RD A/C No. 21301	-do-	200.00
34.	RD A/C No. 21317	-do-	200.00
35.	RD A/C No. 21343	-do-	100.00
36.	RD A/C No. 21344	-do-	100.00
37.	RD A/C No. 21345	-do-	200.00
38.	RD A/C No. 21346	-do-	200.00
39.	RD A/C No. 21347	-do-	300.00
40.	RD A/C No. 21354	-do-	500.00
41.	RD A/C No. 21355	-do-	500.00
42.	RD A/C No. 21386	-do-	200.00
43.	RD A/C No. 21387	-do-	100.00
44.	RD A/C No. 21473	-do-	500.00
45.	RD A/C No. 21474	-do-	100.00 100-
46.	RD A/C No. 21498	-do-	200.00 200

M. Loughran
M. Lawphnang

निदेशक, डाक सेवा

अरुणाचल प्रदेश, इमानगर
Director Postal Services

-6-

47.	M 21499	20.04.95	500.00
48.	21500	-do-	500.00
49.	21552	22.11.95	3600.00
50.	21635	30.04.96	200.00
51.	21635	24.04.96	200.00
52.	21635	27.06.96	200.00
53.	21119	11.04.96	200.00
54.	21120	11.04.96	400.00
55.	21187	11.04.96	800.00
56.	21685	14.09.96	600.00

Total 18550.00

He entered the amount of deposits in the respective pass books but he wrongfully omitted to account the Govt. receipts in the relevant records of the Post Office thereby, short credit of Rs. 18,550/- . He committed the fraud from April' 1995 to till date of September 1996 as can be seen above. His plea of some error cropping up as he was a new hand being the senior most Postal Assistant in the Post Office it is not tenable in that crediting of deposits of investors to the Govt. account is a basic requiremntn of his job the simple knowledge of which needs no experience. Had it been the case that he could not properly account for and channelised the Govt. money, the accounts showed have remained excess in the cash balance which did not occur. Evidently the applicant misappropriated the whole amount. Later, on 06.02.1999 Shri A.B. Deori made

M. Singh

M. Singh

निदेशक, डाक सेवा

पुणे जिल्हा पोस्टल सेवा

Director Postal Services

Branchal Division

ITANAGAR-791111

a partial deposits at Roing Sub Post Office and again on 12.04.1999 he made another partial deposits at Pasighat Sub Post Office in recoupment of the misappropriated Govt. money . Recouping the misappropriated Govt. money at a later date cannot be a ground for exoneration. If the entire amount of loss incurred to the Govt. was credited at a later dated by the charged official, it was a bounding duty on his part to do so. In fact, he enjoyed the use of the non-credited Govt. money since 1995 onwards till the date of last deposits on 06.02.1999 and on 12.04.1999 that too not made at his own.

The applicant during his tenure at Daporijo Sub Post Office, misappropriated Rs. 1500.00 in respect of one Family Allotment Money Order payable to the resident of Daporijo (Smti Yaring Nalo) to which he had shown as window payment on 12.06.1996.

3. That with regard to the statement made in para 4(ii), of the application the respondents beg to state that during the inquiry the Inquiry Officer found that the sum of deposits against the recurring accounts amounting to Rs. 18,550/- were received by the applicant and recorded in the respective pass books but did not credit the amount in the Govt account resulting misappropriation of the entire amount. Apart from the documentary evidences this fact supported by the statement of the applicant unequivocally admitting the charge in Article-I Charges in Article-II related to non-payment of FPO 816 Money

Order No. 2620 dated for Rs. 1500/- to the actual payee by the applicant but the charge was not proved as the material

M. Singhania
M. Singhania
निदेशक, उच्च सेवा
असम प्रशासन मंत्रालय, डिब्रुगढ़
Director, High Services
Assam Administration
ITM

documentary evidences, the paid voucher could not be produced during the inquiry.

4. That with regard to the statement made in para 4(iii), of the application the respondents beg to state that the Inquiry made by the duly appointed Inquiry Officer was concluded extending all the reasonable opportunity to the charged Officer, the applicant as per provisions of CCS (CCA) Rule-1965 and there has no instance of violation of principle of natural justice.

5. That with regard to the statement made in para 4(iv), of the application the respondents beg to state that the disciplinary Authority, the Director Postal Services, Itanagar Arunachal Pradesh division awarded the punishment basing on the merit of the case of charge against the applicant keeping in view the findings of the Inquiry Officer.

6. That with regard to the statement made in para 4(v), of the application the respondents beg to state that recouping the misappropriated Govt. money at a later date cannot be a ground for exoneration. If the entire amount of loss incurred to the Govt. was credited at a later date by the charged official, it was a bounding duty on his part to do so. In fact he had already enjoyed the use of the non-credited Govt. money since 1991 onwards till the date of deposit on 06.02.1999 and on 12.04.1999, that too not made on his own accord.

7. That with regard to the statement made in para 4(vi), of the application the respondents beg to state that the applicant

M. Lawphthaw
निदेशक, डाक सेवा
धरुणाचल मंडल, ईटानगर
Director Postal Services
Arunachal Division
ITANAGAR-791114

-9-

preferred an appeal against the orders of the Disciplinary Authority to the Appellate Authority, the Chief Postmaster General, NE Circle, Shillong. The Appellate Authority observed that the Inquiry Officer having gone through the process of inquiry in which adequate opportunity was given to the charged official to defend himself came to the conclusion that the charged official was found guilty of the charges of misappropriation of Recurring Deposits and that the applicant unequivocally admitted the charge leveled against him. The Appellate Authority further observed that the appeal made by the applicant does not throw any further light on the case and that it was simply repetition of his earlier plea that the mistake was committed due to inadvertency and inexperience. The Appellate Authority did not agree with this plea for the reasons that crediting deposits of investors to the Govt. account is a basic requirement the knowledge of which has not to be acquired by experience which is rather the fundamental condition governing his job. It is also a matter of principle and moral which every worker must possess and without which the work system of the Govt. will be at stake. Failure to adhere to this basic rules is an instance moral turpitude of which the applicant was found guilty beyond doubt and hence is appeal was rejected.

8. That with regard to the statement made in para 4(vii), of the application the respondents beg to state that the caste creed of any official is not taken into consideration in the matter of disciplinary action. The dismissed official

M. Sangphraw
M. Jawphnia

निदेशक, डाक सेवा

अरुणाचल प्रदेश, ईटानगर

Director Postal Services

Arundel House

ITANAGAR-791111

-10-

has brought in the caste discrimination factor with an ill motive to discredit the Disciplinary Authority.

9. That with regard to the statement made in para 5(i), of the application the respondents beg to state that the Appellate Authority, the Chief Postmaster General, NE Circle, Shillong duly examined and upheld the orders of the Disciplinary Authority considering the seriousness of the lapses. Hence, the allegation that the punishment orders of the Disciplinary Authority and the Appellate orders of the Appellate Authority are arbitrary, ~~biased~~ biased and volatile of Article-14 and 21 of the Constitution of India is not true.

10. That with regard to the statement made in para 5(ii), of the application the respondents beg to state that in the personal hearing that the Presenting Officer produced the list of documents and stated that the documents were genuine. Hence, the allegation in the OA that the Inquiry Officer and the Disciplinary Authority examined the documents behind the back of the applicant and thereby violated the natural justice is not true.

11. That with regard to the statement made in para 5(iii) & (iv), of the application the respondents beg to state that in his representation the charged official stated that he accepted the charge in Article-I directly. Hence, the misappropriation of Govt. money stands proved.

M. Laxphnaw
M. Laxphnaw

निदेशक, डाक सेवा

अरुणाचल प्रदेश, इटानगर

Director Postal Services

ITAN-GAR-791111

12. That with regard to the statement made in para 5(v), of the application the respondents beg to state that the Disciplinary Authority examined the records of the case in detail and carefully with listed documents in the Article, minutes of the proceedings into the case, final inquiry report of Inquiry Officer, written brief submitted by the Presenting Officer and the representation received from the charged official. The Disciplinary Authority observed that the charged against the applicant are of a serious nature involving misappropriation of Govt. money thereby showing lack of integrity and lack of devotion to duty. Hence, the punishment of removal from service was issued. The allegation that punishment order is illegal, biased and arbitrary is not true.

13. That with regard to the statement made in para 5(vi), of the application the respondents beg to state that the charged official was given reasonable opportunity to examine the listed documents by the Presenting Officer and the charged official after examination stated that the documents are genuine. Procedurally, a copy of the brief of the proceeding was served to the charged official for submission of his representation. Hence, his claim that inspection of documents should have been allowed before submission of written statement is not true.

14. That with regard to the statement made in para 5(vii) of the application the respondents beg to state that misappropriation of Govt. money by the charged official have been documentarily proved and the punishment awarded is justified as the Appellate Authority viewed.

M. Josephine
M. Josephine
निदेशक, डाक सेवा
प्रमुखादल मंडल, इटानगर
Director Postal Services
Pranchal Division
ITANAGAR-171111

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15. That with regard to para 5(viii), of the application the respondents beg to state that same as in para 5(vii) above .

16. That with regard to the statement made in para 5(x), of the application the respondents beg to state that the caste creed of any official is not taken into consideration in the matter of disciplinary action. The dismissed official has brought in the caste discrimination factor with an ill motive to discredit the Disciplinary Authority.

17. That with regard to para 6 to 9 and 10 and 12, of the application the respondents beg to offer no comments.

Verification.....

M. Lawphntaw

निदेशक, डाक सेवा

अरुणाचल मंडल, इटानगर

Director Postal Services

Arunachal Division

ITANAGAR-791111

-13-

VERIFICATION

I, Shri M. Lawphniau, presently working as Director Postal Services, A.P., Itanagar, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 3 to 17 are true to my knowledge and belief and those made in para 1(A), 2 being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 30th day of August 2003.

Deponent.

M. Lawphniau

M. Lawphniau

निदेशक, डाक सेवा

प्ररुणाचल मंडल, ईतानगर

Director Postal Services

A.P. Itanagar

ITANAGAR-791144

MEMORANDUM

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dt of Stavegon 19/10/2001

The president undersigned proposes to hold an inquiry against Shri B. S. Deori under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Shri B. S. Deori is directed to submit within ten days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri B. S. Deori is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or other wise fails or refuses to comply with the provisions of rule 14 of the CCS (CCA) rules 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him *ex parte*.

5. Attention of Shri B. S. Deori is invited to rule 20 of the Central Civil Services (Conduct) rules 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri B. S. Deori is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 20 of the CCS (Conduct) rules 1964.

6. The receipt of the Memorandum may be acknowledged.

()
Name and designation of Competent Authority

To

Shri B. S. Deori

PA (Now under suspension)

Po - Pasnigad SO

M. Lawphing
निदेशक, डाक सेवा

अरुणाचल मंडल, ईटानगर
Director Postal Services
Arunachal Division
ITANAGAR-791111

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- 61 -

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Annex - I

Statement of articles of charge framed against Shri B.S.Deori, the then PA, Daporijo SO

Article - I

Shri B.S.Deori, while working as the Postal Assistant in Daporijo SO denying ... to ... misappropriated Postal cash amounting to Rs. 18,550/- in respect of RD deposit. He received the amount from the depositors and entered the amount in their respective pass books, but he did not credit the amount in the Govt account, Thus he violated the provision of rule 523/3 and 496 of P&T Savings Bank manual and also violated the provision rule 3(I)(i)(ii)(iii) of CCS (conduct) rules 1964.

Article - II

Said Shri B.S.Deori, during his working at Daporijo SO received 816 FPO MO no. 2620 dated 23-05-96 for Rs. 1500/- payable to Smti Yaring Nalo, C/o Shri Yanam Nalo, o/o the EE, PWD, Daporijo. On 12-06-96 Shri B.S.Deori showed it as window payment to payee but he did not paid the same MO to Smti Y. Nalo, other than actual payee, but wrongly paid to someone else. Thus he violated the provision of Rule 33 of P&T Manual vol VI part II and also violated the provision of rule 3(I)(ii) of CCS (conduct) rule 1964.

Annex - II

Statement of imputation of misconduct or misbehaviours i/r/o Shri B.S.Deori, the then PA, Daporijo SO.

Shri B.S.Deori, while working as the PA, Daporijo misappropriated Rs. 18,550.00 from a large nos. of RD accounts of Daporijo SO including PRSS of the office of DAO, Daporijo as shown below.

S/no.	Daporijo RD A/c no.	Date of Deposit	Amount
1)	21156	20-04-95	200.00
2)	21158	do	200.00
3)	21159	do	200.00
4)	21160	do	200.00
5)	21161	do	200.00

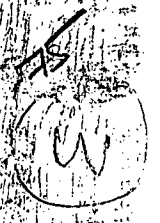
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Director Postal Services
Arunachal Pradesh
ITANAGAR-791111

16

- 62 -

P-II



6)	21163	do	200.00
7)	21164	do	100.00
8)	21165	do	200.00
9)	21166	do	100.00
10)	21168	do	200.00
11)	21169	do	200.00
12)	21172	do	200.00
13)	21173	do	100.00
14)	21174	do	400.00
15)	21175	do	200.00
16)	21176	do	200.00
17)	21216	do	100.00
18)	21217	do	200.00
19)	21218	do	100.00
20)	21219	do	100.00
21)	21220	do	200.00
22)	21229	do	200.00
23)	21230	do	300.00
24)	21249	do	150.00
25)	21250	do	200.00
26)	21251	do	500.00
27)	21261	do	300.00
28)	21262	do	500.00
29)	21286	do	400.00
30)	21287	do	300.00
31)	21299	do	200.00
32)	21300	do	100.00
33)	21301	do	200.00
34)	21317	do	200.00
35)	21343	do	100.00
36)	21344	do	100.00
37)	21345	do	200.00
38)	21346	do	200.00
39)	21347	do	300.00
40)	21354	do	500.00
41)	21355	do	500.00
42)	21386	do	200.00
43)	21387	do	100.00

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Attest by
M. Jawahar

निदेशक, डाक सेवा
अरुणाचल प्रदेश, इटानगर
Director Postal Services
Arunachal Pradesh
ITANAGAR-791111

P-III

44)	21473	do	500.00
45)	21474	do	1000.00
46)	21498	do	300.00
47)	21499	do	500.00
48)	21500	do	500.00
49)	21552	22-11-95	3600.00
50)	21635	30-04-96	200.00
51)	21635	24-05-96	200.00
52)	21635	27-06-96	200.00
53)	21117	11-04-96	200.00
54)	21120	11-04-96	400.00
55)	21187	11-04-96	800.00
56)	21685 (21685)	14-09-96	600.00

Total - 18,550.00

Shri B.S.Deori, received the amount as shown above against each RD account on the respective date. He entered the amount in the pass books but did not credit the amount in the Govt account. Thus he violated the provision of rule 523/3 and 496 of P&T Savings Bank Manual and also violated the provision of Rule 3(1)(i)(ii)(iii) of CCS (conduct) rule 1964.

Article - II

Said Shri B.S.Deori, during his working at Daporijo SO during June '96 received 816 FPO MO no. 2620 dated 23-05-96 for Rs. 1500/- payable to Smti Yaring Nalo, C/o Shri Tanam Nalo, o/o the EE, PWD, Daporijo. On 12-06-96 Shri B.S.Deori showed it as window payment to payee on 14-06-96, but he did not paid the same MO to Smti Y.Nalo but wrongly paid to some one else other than actual payee. Thus he violated the provision of rule 33 of P&T Manual Vol VI Part-II and also violated the provision of rule 3(1)(ii) of CCS (conduct) rule 1964.

M. Jawpharia
 निदेशक, डाक सेवा
 कुरुवाचल मंडल, इटानगर
 Director Postal Services
 Amnuchal Division
 ITANAGAR-791111

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18 Annex - III

64 - P-IV
List of documents by which the articles of charge framed against Shri B. S. Deori, the then PA, Daporijo SO are proposed to be sustained.

- 1) Copy of RD account no. 21169.
- 2) Ledger card of A/c no. 21169.
- 3) LOT of Daporijo SO dated 20-04-95.
- 4) PRSS list of DMO office & DC office Daporijo.
- 5) D/A dated 20-04-95 of Daporijo SO.
- 6) Letter no. DPI/SB/98 dated 30-07-98.
- 7) Letter no. SMS-1/93-94 dated 30-07-98 from District Agri. Officer.
- 8) DSS/GEIV/COR/96-97/327 dated 02-11-98 from the Director of Small Savings, Naharlagun.
- 9) List of RD accounts of PRSS of DAO office.
- 10) Letter no. SMS-1/93-94/1838-41 dated 10-03-99 from DAO, Daporijo.
- 11) ACG-67 receipt no. 89 dated 13-05-99 for Rs. 12350/-.
- 12) Letter no. RD/Fraud/98-99 dated 15-12-98 from APM(SB), Itanagar HO.
- 13) RD account no. 21552/Page of P/book containing deposit dated 22-11-95.
- 14) Ledger card of RD account no. 21552.
- 15) Complaint from the holder of RD account no. 21552 Shri A.Z. Byalang.
- 16) Letter no. SB/RD/98-99 dt 15-04-99 from APM(SB), Itanagar HO.
- 17) Report of SPOs, Itanagar i/r/o DPI RD account no. 21685.
- 18) Letter no. Fraud/RD/97-98 dt 16-07-97 from APM(SB), Itanagar HO.
- 19) Complaint from the holder of DPI RD a/c no. 21685.
- 20) RD account no. 21685 (containing entry dt 14-09-96)
- 21) LOT dt 14-09-96.
- 22) Ledger card of RD account no. 21685.
- 23) Statement of Shri P.K. Roy, SPM, Daporijo SO.
- 24) SB-7 i/r/o RD account no. 21685. (21685)
- 25) SB-7 i/r/o RD account no. 21187.
- 26) SB-7 i/r/o RD account no. 21119.
- 27) SB-7 i/r/o RD account no. 21120.
- 28) LOT dt 11-04-96.
- 29) Claim application from Mago Naji, holder of RD account 21187, 21119, 21120.
- 30) Letter no. DPI/MO/97 dt 26-05-98 from the SPM, Daporijo SO.
- 31) Letter dt 14-08-97 & 12-11-97 from Yaring nalo.

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Attested
M. Langphai


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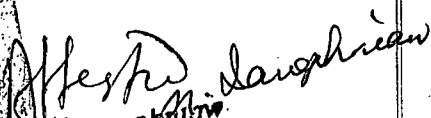
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H/O
- 32) DPJ RD account no. 21173, 21500, 21249, 21300, 21160, 21346, 21286, 21172, 21387, 21474, 21498, 21250, 21473, 21317, 21175, 21301, 21156.
33) DPJ RD journal wef 20-10-94 to 29-07-95.
do 01-08-95 to 17-04-96.
do 18-04-96 to 09-10-96.
34) MO paid register wef 29-12-95 to 24-09-97.
35) MO paid return for the month of June/96.
36) DPJ SO account wef 23-12-94 to 29-07-95.
do 01-08-95 to Jan/96.

Annex - IV

List of Witness by whom the articles of charge framed against Shri B.S.Deori, the then PA, Daporijo SO are proposed to be sustained.

- 1) Shri D.Majumder, ASPOs(C), Itanagar.


Director Postal Services,
Arunachal Pradesh Div,
Itanagar-791111.


M. Jawphritw
निदेशक. डाक सेवा
अरुणाचल प्रदेश, इटानगर
Director Postal Services
Arunachal Pradesh
ITANAGAR-791111

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2. The preliminary hearing in the case was held on 11-09-01. The articles of charges framed against the CO was read out and explained. The CO was given the opportunity to understand the charges framed against him. On being asked the CO stated that he has understood the charges against him contained in the two articles of charge.

2. The CO was given the opportunity to state clearly whether he admitted the charge contained in Article-I. The CO stated that he admitted the charge contained in Article-I unequivocally.

2.2 The CO was given the opportunity to state clearly whether he admitted the charge contained in Article-II. The CO stated that he denied the charge contained in Article-II.

3. The CO was then given the opportunity to nominate Defence Assistant to assist him in presenting his defence, if so desired. The CO stated that does not wish to nominate Defence Assistant and that he will plead his case by himself.

4. The PO was then given to produce the documents listed in Annexure-II of the charge Sheet. The List of Documents is attached to this report as Annexure-B.

4.1 Article-I :: Examination of the documents listed at serials 1), 2), 3), 4), 5), 9), 10), 13), 14), 20), 21), 22), 24), 25), 26), 27), 28) reveal that the amounts of deposits made against each one of the 56 RD Accounts in Annexure-A were received by the CO as evidenced by the entries in the Pass Books of the respective RD Accounts but the amounts of deposits were not credited to the govt. account as evidenced in the related documents of the RD Accounts. This is supported by the documents listed at serials 6), 7), 8), 10), 12), 15), 16), 17), 18), 19), 23), 29).

4.2 Article-II :: Examination of the document listed at serial 30) indicates that the FPO 816 MO No 2620 dated 23-05-96 for Rs. 1500/- was issued on 12-06-96 but not to the actual payee. This is supported by the letter from the payee listed as document at serial 31).

5. The PO was then given to present the witness listed in Annexure-III of the Charge Sheet.

M. S. Singh
M. S. Singh
निदेशक, डाक सेवा
बस्तीमाल मंडल, इलाहाबाद
Director Postal Services
Aligarh Division
ITANAGAR-791111

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5.1 The next hearing was held on 11.10.01. The PO examined the witness Shri D. Majumdar, AS of Posts (C), Pasighat. The witness stated that there was a complaint from the payer of the MO No. 2620 regarding non payment of the MO. The witness further stated that in absence of the paid voucher he is not in a position to say anything in support of the payee's complaint.

5.2 The PO at the outset of the day's hearing stated that Paid Voucher of the FPO 816 MO No. 2620 dt. 23.05.96 has been destroyed by the Auditor as the period of preservation has expired.

6. At this stage the hearing of the day concluded and the PO was given to prepare and submit his brief within the stipulated time.

6.2 In his brief the PO pointed out that the relevant listed documents were produced and given for examination by the CO and that the CO examined the documents and stated that the documents were genuine. The PO further pointed out that the documents bear adequate proof that the amounts of R.D. deposits were received by the CO but failed to credit in govt. account.

6.3 A copy of the brief received from the PO was served to the CO for preparation and submission of his representation. In his representation the CO stated that he accepted the charge in Article-I directly adding that the wrongs in RD Account on his part happened at a time when he was under great mental pressure due to the death of his wife and also that he was not conversant with the operative rules and regulations. Further he maintained that he paid the MO to the actual payee rightly. In his representation the CO prays for giving him one chance. No new points in defence has been cited in his representation by the CO.

7. FINDINGS:

Article-I:

The examination of the listed relevant documents of RD Accounts is clear that the sums of deposits against the RD Accounts amounting to Rs. 18,550/- were received by Shri B.S. Deori on the dates mentioned against each and recorded in the respective RD Pass Books accordingly. Further examination of the relevant documents reveals that the said sums of deposits were not credited to the govt. account resulting in misappropriation.

Office of
M. Jawaharlaw
निदेशक, डाक सेवा
अरुणचल मंडल, ईटांग
Director Postal Services
Arunachal Pradesh
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of the entire amount of Rs. 18,550/-. This fact is supported by the statement of Shri B.S. Deori unequivocally admitting the charge in Article I. And hence the charge in Article I stands proved.

Article-II:

The charge framed in Article-II has been denied by Shri B.S. Deori stating that the payee Smt. Yaring Nalo is personally known to him and that he made the payment to the actual payee. The listed documents purported to support the charge that the FPO 816 MO No. 2620 dt. 23-05-96 for Rs. 1500/- was not paid to the actual payee have not been found adequate. Further, the material documentary evidence the Paid Voucher could not be produced by the Presenting Officer as it had been already destroyed by the Audit on expiry of preservation time. In absence of the Paid Voucher the witness could not state anything concrete in support of the charge. Hence, the charge in Article-II is not proved.

(G.G. Singh)
Inquiry Authority

Attended
M. Lawphntaw
निदेशक, डाक सेवा
वरुणाचल मंडल, ईटानगर
Director Postal Services
Assam Division
ITAN G.R-791111

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Report of Inquiry under Rule 14 of CCS (CCA) Rules, 1965 against Shri B.S. Deori, formerly Postal Assistant, Daporijo SO.

The undersigned was appointed the Inquiry Authority to inquire into the charges framed against Shri B.S. Deori, formerly Postal Assistant, Daporijo SO by the Director Postal Services, Arunachal Pradesh Division, Itanagar in his memo. No. P-2/RD/97-98/Daporijo dated 17-05-01. Shri A.A. Malai, SOI of Posts (E), Itanagar was appointed the Presenting Officer (cited as PO hereafter) in the case.

The Articles of Charges framed against Shri B.S. Deori, the Charged Officer (cited as CO hereafter) are as follows.

Article-I

Shri B.S. Deori while working as the Postal Assistant in Daporijo SO during 06-01-92 to 04-01-97 misappropriated postal cash amounting to Rs. 18,550/- in respect of RD Deposit. He received the amount from the depositors and entered the amount in their respective Pass Books but he did not credit the amount in the govt. account. Thus he violated the provision of Rule 523/3 and 496 of P&T Savings Bank Manual and also violated the provision of Rule 3(I)(i)(ii)(iii) of CCS (Conduct) Rules, 1964.

Article-II

Shri B.S. Deori during his working at Daporijo SO received 816 FPO No. 2620 dated 23-05-96 for Rs. 1500/- payable to Smt. Yaring Nalo C/o Shri Yaram Nalo O/o the EE, PWD, Daporijo. On 12-06-96 Shri B.S. Deori showed it as window payment to payee but he did not pay the same MO to Smt. Y. Nalo but wrongly paid to someone else. Thus he violated the provision of Rule 31 of P&T Man Vol VI PC II and also violated the provision of Rule 3(I)(ii) of CCS (Conduct) Rules, 1964.

The Statement of Imputation of Misconduct or Misbehaviour in respect of Shri B.S. Deori formerly PA Daporijo is attached as Annexure

to this report.

Mr. Jawphmiaw
निदेशक, डाक सेवा

प्रमुख, डाक सेवा
Director, Postal Services
Itanagar
ARUNACHAL PRADESH
INDIA

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2. The preliminary hearing in the case was held on 11-09-01. The articles of charges framed against the CO was read out and explained. The CO was given the opportunity to understand the charges framed against him. On being asked the CO stated that he has understood the charges against him contained in the two articles of charge.

2. The CO was given the opportunity to state clearly whether he admitted the charge contained in Article-I. The CO stated that he admitted the charge contained in Article-I unequivocally.

2.2 The CO was given the opportunity to state clearly whether he admitted the charge contained in Article-II. The CO stated that he denied the charge contained in Article-II.

The CO was then given the opportunity to nominate Defence Assistant to assist him in presenting his defence, if so desired. The CO stated that does not wish to nominate Defence Assistant and that he will plead his case by himself.

The PO was then given to produce the documents listed in Annexure-B of the charge Sheet. The List of Documents is attached to this report as Annexure-B.

4.1 Article-I :: Examination of the documents listed at serials 1), 2), 3), 4), 5), 9), 10), 13), 14), 20), 21), 22), 24), 25), 26), 27), 28) reveal that the amounts of deposits made against each one of the 56 RD Accounts in Annexure-A were received by the CO as evidenced by the entries in the Pass Books of the respective RD Accounts but the amounts of deposits were not credited to the govt. account as evidenced in the related documents of the RD Accounts. This is supported by the documents listed at serials 6), 7), 8), 10), 12), 15), 16), 17), 18), 19), 23), 29).

4.2 Article-II :: Examination of the document listed at serial 30) indicates that the FPO 816 MO No 2620 dated 23-05-96 for Rs. 1500/- was issued on 12-06-96 but not to the actual payee. This is supported by the letter from the payee listed as document at serial 31).

5. The PO was then given to present the witness listed in Annexure-C of the Charge Sheet.

M. Jangphim
M. Jangphim
निदेशक, डाक सेवा
अरुणाचल प्रदेश, ईटानगर
Director Postal Services
Arunachal Pradesh
ITANAGAR-791111

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- 72 -

79

5.1 The next hearing was held on 11.10.01. The PO examined the witness Shri D. Majumdar, AS of Post. (C), Pasighat. The witness stated that there was a complaint from the payee of the MO No. 2620 regarding non-payment of the MO. The witness further stated that in absence of the paid voucher he is not in a position to say anything in support of the payee's complaint.

5.2 The PO at the outset of the day's hearing stated that Paid Voucher of the FPO 816 MO No. 2620 dt. 23.05.96 has been destroyed by the Audit as the period of preservation has expired.

6. At this stage the hearing of the day concluded and the PO was given to prepare and submit his brief within the stipulated time.

6.2 In his brief the PO pointed out that the relevant listed documents were produced and given for examination by the CO and that the CO examined the documents and stated that the documents were genuine. The PO further pointed out that the documents bear adequate proof that the amounts of deposits were received by the CO but failed to credit in govt. account.

6.3 A copy of the brief received from the PO was served to the CO for preparation and submission of his representation. In his representation the CO stated that he accepted the charge in Article-I directly adding that the wrongs in RD Account on his part happened at a time when he was under great mental pressure due to the death of his wife and also that he was not conversant with the operative rules and regulations. Further he maintained that he paid the MO to the actual payee rightly. In his representation the CO prays for giving him one chance. No new points in defence has been cited in his representation by the CO.

7 FINDINGS:

Article-I:

The examination of the listed relevant documents of RD Accounts is clear that the sums of deposits against the RD Accounts amounting to Rs. 18,550/- were received by Shri B.S. Deori on the dates mentioned against each and recorded in the respective RD Pass Books accordingly. Further examination of the relevant documents reveals that the said sums of deposits were not credited to the govt. account resulting in misappropriation.

Office of the
M. Lavphnia
निदेशक, डाक सेवा
प्रबन्धन मंडल ईटानगर
Director, Post Office
Administration
ITANAGAR-791111

24
- 73-96
of the entire amount of Rs. 18,550/-. This fact is supported by the statement of Shri B.S. Deori unequivocally admitting the charge in Article-I. And hence the charge in Article-I stands proved.

Article-II:

The charge framed in Article-II has been denied by Shri B.S. Deori stating that the payee Smt. Yaring Nalo is personally known to him and that he made the payment to the actual payee. The listed documents purported to support the charge that the FPO 816 MO No. 2620 dt. 23-05-96 for Rs. 1500/- was not paid to the actual payee have not been found adequate. Further, the material documentary evidence the Paid Voucher could not be produced by the Presenting Officer as it had been already destroyed in the Audit on expiry of preservation time. In absence of the Paid Voucher witness could not state anything concrete in support of the charge. Hence, the charge in Article-II is not proved.

(G.G.Singh)
Inquiry Officer

M. Jawphriaw
श्री M. Jawphriaw
निदेशक, डाक सेवा
बुरुगचल मंडल, ईटानगर
Director Postal Service
Arunachal Pradesh
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