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

(DESTRUCTION OF RECORD RULES, 1990)

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office not page-1

SECTION OFFICER (Judl.)

Kalita
16.11.07

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 81/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) K. Chandling

- Vs. -

Respondent (s) H.O.I. Jans

Advocate for the applicant (s) M. Chand, G.N. Chakraborty, S Chandling

Advocate for the respondent (s) case.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time. Contempt petition is filed / not filed for Ps. 30 admitted vide LPO/13 No. 2660789 Dated 2.4.03</p> <p><i>[Signature]</i> By, Registrar.</p>	29.4.2003	<p>Heard Mr.M.Chanda, learned counsel for the applicant.</p> <p>The application is admitted, call for the records.</p> <p>List the case for order on 27.5.2003</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Steps taken along with envelopes</p> <p><i>[Signature]</i></p>	27.5.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. S.K. Hajra, Member (A).</p> <p>On the prayer of Mr. B.C. Pathak, learned Addl. G.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement. List again on 25.6.2003 for written statement.</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notice prepared and sent to BLS for viz the respondent No 1 to be by Legal Aid. *[Signature]* BLS

DINo 903/906 dtd 8/5/03

25.6.2003 On the prayer of Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement.

List again on 29.7.2003 for orders.

No written statement has been filed.

23/24.6.03

Vice-Chairman

mb

No. ltr has been filed.

29.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Administrative Member.

23/28.7.03

The respondents are yet to file written statement. Further four weeks time is allowed to the respondents to file written statement on the prayer of Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

List on 26.8.2003 for orders.

Member

Vice-Chairman

mb

26.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahaladan, Member (A).

19/9/03

No written statement has been filed by Addl. C.G.S.C.

23/19/9/03

No written statement is forthcoming, Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents prayed for three weeks time for filing written statement. Prayer is allowed. List again on 22.9.2003 for written statement.

K.V. Prahaladan
Member

Vice-Chairman

mb

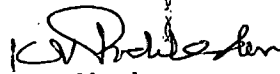
Office Note	Date	Tribunal's Order
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22.9.2003

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

The Respondents are yet to file written statement though time granted. Further four weeks time is granted to the Respondents to file written statement as last chance.

Put up again on 21.10.2003 for written statement.


Member


Vice-Chairman

mb

21.10.2003

Mr.B.C.Pathak, learned Addl.C.G.&C for the respondents has stated that he is filing written statement in course of the day. The matter may now be listed for hearing and the applicant may file rejoinder, if any, within two weeks from receipt of the written statement.

List the case for hearing on 24.11.2003.


Vice-Chairman

bb

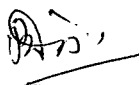
24-11-03

no Bench today. Adjourn to 12.12.03


370
h

10.12.03

Rejoinder submitted by the applicant



No. Wks has been filed.


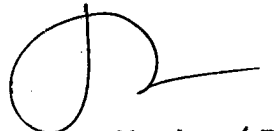
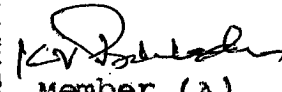
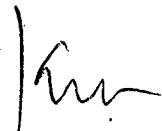
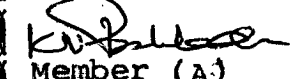
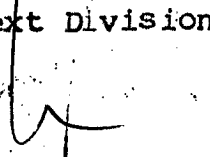

20.10.03

21.10.03

Reply on behalf of the Respondent Nos. 1 to 3 has been submitted.



O.A.81/2003

Office Note	Date	Tribunal's Order
<p>The case is ready for hearing.</p> <p><u>29.3.04</u></p>	<p>19.1.2004</p> <p>bb</p>	<p>Present: The Hon'ble Shri Bharat Bhushan Judicial Member</p> <p>The Hon'ble Shri K.V.Prahladan Administrative Member.</p> <p>Mr.G.N.Chakraborty, learned counsel for the applicant and Mr.A.Deb Roy, learned Sr.C.G.S.C proxy counsel on behalf of Mr.B.C.Pathak, learned Addl.C.G.S.C. were present.</p> <p>The learned proxy counsel for the respondents seeks for adjournment. Accordingly list the case on 10.2.2004 for hearing.</p> <p> Member(A)</p> <p> Member(J)</p>
	<p>30.3.2004</p> <p>bb</p>	<p>Present: The Hon'ble Shri Kuldip Singh Judicial Member.</p> <p>The Hon'ble Shri K. V. prahladan, Member(A).</p> <p>Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents seeks adjournment. Let the matter come before the next Division Bench.</p> <p> Member (A)</p> <p> Member (J)</p>
<p><u>22-7-04</u></p> <p>The case is ready for hearing</p>	<p>23.7.2004</p> <p>bb</p>	<p>Present: The Hon'ble Shri K.V.Sachidanandan, Member (J).</p> <p>The Hon'ble Shri K.V.Prahladan Member (A).</p> <p>When the matter came up for hearing, learned counsel for the respondents, submitted that he is not ready in the matter and sought for adjournment post before the next Division Bench.</p> <p> Member (A)</p> <p> Member (J)</p>
<p><u>24-8-04</u></p> <p>The case is ready for hearing</p>	<p>bb</p>	

14.9.2004 Present: Hon'ble Justice Shri R.K. Batta, Vice-Chairman
Hon'ble Shri K.V. Prahladan, Administrative Member.

Heard Mr M. Chanda, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. List for judgment on 20.9.04.

K.V. Prahladan
Member

R.K. Batta
Vice-Chairman

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20.9.2004 Learned counsel for the parties are present. The application is dismissed with no order as to costs. Detailed order contained in separate sheets.

K.V. Prahladan
Member

R.K. Batta
Vice-Chairman

nkm

*Recd
Postmark
9/11/04*

*7.11.04
Copy of the order
has been sent to
the office for
issuing the same
to the applicant
by post.*

HS

PUC →

Memo No. HC XXI/10/197-50 KM JH S.G. 09
received from The Assn Registry (B), Hon'ble
Gauhati High Court, Gauhati.


The PUC may kindly be seen.

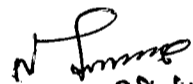
The above mentioned Memo has been
received from The Registry of The Hon'ble
Gauhati High Court with the case record
of OA No 51/03 which was called by in
place of OA No. 81/03. But it is seen
from the Judgment & order dated 14.5.2009
passed in NP(c) No. 6794/2005 that Shri
Kanakeswar Choudhury applicant in OA
81/03 filed the above mentioned NP(c)
before The Hon'ble High Court against
Judgment/order dtd 20.9.04 of This Hon'ble
Tribunal.

The Hon'ble High Court has been
pleased to dismiss the NP(c) No
6794/2005 on 14.5.2009 by upholding
the Judgment/order passed in OA No. 81/03.

The matter may be placed before
The Hon'ble Vice-Chairman for His
Lordship's kind perusal.

23/6/09


S.C.S.


29.6.09

D.R.

Hon'ble V.C.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 81 of 2003

DATE OF DECISION 20.9.2004

Shri Kanakeswar ChoudhuryAPPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty and
Mr S. ChaudhuryADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

The Union of India and othersRESPONDENT(S)

Mr B.C. Pathak, Addl. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other benches.?

Judgment delivered by Hon'ble Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.81 of 2003

Date of decision: This the 20th day of September 2004

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

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

Shri Kanakeswar Choudhury
S/o Late R. Choudhury
Resident of College Road,
Opposite Buddha Mandir,
P.O.- Tinsukia, District- Tinsukia,
Assam.

.....Applicant

By Advocates Mr M. Chanda,
Mr G.N. Chakraborty and Mr S. Chaudhury.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi.
2. The Chairman, Central Board of Workers Education, Near V.R.C.E. Gate, North Ambazari Road, Nagpur.
3. The Director, Central Board of Workers Education, Near V.R.C.E. Gate, North Ambazari Road, Nagpur.
4. Shri M.A. Siddiqui, C/o Rizwan Assan Engineering Consultancy Services, 38, Satya Niketan, New Delhi.

.....Respondents

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

.....

O R D E R (ORAL)

BATTA. J. (VICE-CHAIRMAN)

The applicant was appointed as Education Officer in 1978 in the Central Board for Workers' Education (CBWE), Government of India, Ministry of Labour and was posted at Tinsukia. He was later promoted to the rank of Selection Grade Education Officer in 1995. The applicant was ~~was~~

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served with show cause notice dated 17.8.1999 while he was working as Education Officer (SG) alleging financial irregularities including that he had obtained personal gratifications and was guilty of dereliction of duty while working as Education Officer (SG) during the year 1997-98. On 1.9.1999 the applicant filed his reply to the show cause notice wherein he did not deny the contents ~~and~~ ^{of} show cause notice, but stated that there were compelling circumstances under which he was forced to receive money. The applicant proposed to deposit the amount involved unauthorisedly received by him and he also sought a chance to talk personally to explain the matter. Thereafter, the applicant received chargesheet dated 6.1.2000 and he filed his reply dated 21.1.2000 wherein he again reiterated that he had admitted all the charges in his letter dated 1.9.1999 and that he again admits all the charges under articles of charge and had nothing to say. However, he placed the circumstances under which he was forced and poressurised by others to join the money earning culture at Tinsukia centre. Thereafter, departmental enquiry was initiated under Rule 14 of the CCS (CCA) Rules, 1965 read with para 2 of the Third Schedule to the CBWE (Staff and Conditions of Service) Regulations, 1962. The Inquiry Officer vide letter dated 7.4.2000 fixed the date of preliminary hearing on 28.4.2000. According to the applicant, during the preliminary enquiry on 28.4.2000 he was asked to admit the charges and was assured that his case would be looked into leniently. After that he was asked to sign a paper which was prepared and kept ready beforehand which was signed by him. Thereafter the applicant received the impugned order of dismissal dated 4.9.2000. He submitted representation on 13.10.2000, but

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was.....

was asked to file appeal. He accordingly filed appeal on 8.1.2001. In appeal directions for payment of compassionate allowance not exceeding two-thirds of pension and gratuity were sanctioned in lieu of forfeiture of his pension and gratuity. He filed another appeal for reconsideration, but no further relief was granted to him. The applicant has approached this Tribunal challenging order dated 4.9.2000. The applicant blames the Regional Director of the Centre, M.A. Siddiqui and Dr P.K. Talukdar who had introduced him and forced him to join them in the money earning culture. It may be mentioned here that the said Regional Director, M.A. Siddiqui and Dr P.K. Talukdar had already been dismissed from service.

2. Mr M. Chanda, learned counsel for the applicant, urged before us that the admission of guilt of the applicant was not unequivocal but conditional because the applicant right from the beginning placed the circumstances under which he was forced to accept money by Regional Director, M.A. Siddiqui and Dr P.K. Talukdar. In view of this, he argued that conducting enquiry under Rule 14(5) was mandatory and as no such enquiry was conducted, the departmental proceedings are required to be set aside. He has relied upon authorities which we shall refer to when we shall elaborately deal with the arguments placed by him. The second point which the learned counsel for the applicant has submitted is that the applicant was not provided with a copy of the enquiry report and since furnishing of the enquiry report was mandatory, the departmental proceedings are required to be quashed. In support of his contention he has placed reliance upon some authorities. Thirdly, it is urged that the applicant was not given any opportunity for personal hearing during
R- enquiry.....

enquiry. It was further contended that the disciplinary authority and appellate authority did not apply their mind. He further argued that Rules 14, 15 and 16 have not been followed and in any case the punishment imposed is shockingly disproportionate and as such the punishment calls for interference.

3. Mr B.C. Pathak, learned Addl. C.G.S.C., appearing on behalf of the respondents has submitted before us that admission of guilt is unequivocal in respect of which no further enquiry was required to be conducted and that he did not avail of the opportunity which was available to him for leading any evidence on his behalf. On the question of non-furnishing of the report of the Inquiry Officer, it is urged that what was to be seen is prejudice, if any, caused to the applicant on account of non-supply of the report, but in the facts and circumstances no prejudice has been caused to the applicant on account of non-furnishing of the report of the Inquiry Officer since the enquiry report was based upon admission of guilt of applicant himself. Learned counsel for the respondents also placed reliance upon authorities which we will discuss later. According to him, all the relevant rules have been followed and the punishment under no circumstances can be said to be disproportionate so as to call for interference by this Tribunal.

4. The first issue which is required to be determined in this application is whether any further enquiry was necessary after the applicant had admitted the articles of charge. Rule 14 (5) (a), (9) and (10) of the CCS (CCA) Rules, 1965 on which the decision on the question under consideration rests, reads as under:

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"On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

"(9) If the Government servant who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the Government servant therein.

(10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the Government servant pleads guilty."

5. In order to appreciate the question under consideration, it is necessary to refer to various replies filed by the applicant. By Memorandum dated 17.8.1999 the applicant was asked to show cause as to why disciplinary action should not be taken against him. The applicant had filed reply dated 1.9.1999 in which he had categorically and unequivocally stated that he did not want to deny the contents of Memorandum dated 17.8.1999, but would like to place certain facts to give an idea of what was going on at C.B.W.E., Tinsukia. According to him, when he joined Tinsukia Centre in the month of January 1996 from Tezpur Centre, he came to know that people were accepting money for conducting programme. He was also insisted to join hands with them but he decided not to be involved in that circle. This statement would clearly show that the applicant very well knew that what was going on was not only illegal, but wrong and that is why according to him he decided not to be involved in that circle.

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Nevertheless,.....

Nevertheless, according to the applicant he accepted the amount as guest talk fees on being asked by the Regional Director. He further states that once he got involved in the money accepting machinery, he had to obey the controlling officer and as a result he wrote to the organisation requesting them to pay some amount as faculty fees. The guidelines were given to him by the Regional Director himself. He also referred to certain negative approaches of the Headquarter and submitted that the amount received by him was spent by him for various purposes for the benefit of the department. Thereafter, Memorandum dated 6.1.2000 was issued ordering departmental enquiry against the applicant and the applicant filed his reply dated 21.1.2000 in which he stated that he had already admitted all the charges raised against him vide his letter dated 1.9.1999 and he was again admitting the charges and again placed the circumstances under which he got into the circle of money accepting machinery. The Inquiry Officer was appointed and vide order dated 7.4.2000 the matter was fixed on 28.4.2000. In this letter it was specifically mentioned that no witnesses will be examined on that day and the purpose of the enquiry was to sort out the preliminaries to lay down a time schedule for inspection of the listed documents, submission of the lists of additional documents, defence witnesses and to record defence statement. On 28.4.2000 the applicant once again accepted the charges unconditionally and the statement in this respect reads as under:

"I accept all the charges unconditionally. However, I, with folded hands, say that whatever I did, I had to do alongwith Dr P.K. Talukdar, Education Officer, my then colleague at Tinsukia under compulsion from Shri M.A. Siddiqui, the then Regional Director. I assure that I will not repeat such act in future and pray for mercy. I am making this statement on my own free will without any duress with full understanding and realisation of the consequences."



6. The proceedings further show that consequent upon the unconditional acceptance of the charges by the charged official during the preliminary hearing the enquiry was closed. This document was signed by the applicant as also the Presenting Officer and the Inquiring Authority. This was apparently done under Rule 14 (9 & 10) of Rules quoted above. It appears that though the applicant had admitted the charges in letter dated 17.8.1990 and 21.1.2000, the Disciplinary Authority acting upon Rule 14 (5)(a) thought fit to give opportunity to the applicant to put up his case before the Inquiry Officer inasmuch as the applicant had asked for personal hearing. The Inquiry Officer submitted report on the basis of admission of charges and the Disciplinary Authority imposed the punishment of dismissal from service and in appeal the applicant was granted compassionate allowance not exceeding two thirds of pension and gratuity in lieu of forfeiture of pension and gratuity. The contention of the learned counsel for the applicant is that the admission was not unconditional and that the applicant was forced to sign the minutes of the preliminary enquiry accepting the charges. It was also urged before us that the document was in fact prepared on 26.4.2000 and the applicant was merely asked to sign the same on 28.4.2000. In this connection our attention has been drawn to the date '26th April, 2000' figuring in Annexure-VI. The applicant for the first time raised the issue that he was forced to sign the minutes of the preliminary hearing only after the imposition of the penalty and prior to that there was no whisper on his part that he was forced to sign on already prepared statement. In fact, the applicant had earlier in his reply, i.e. 1.9.1999 and 21.1.2000 had also in unequivocal terms admitted.....

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admitted the charges and the theory of being forced to sign the preliminary enquiry minutes on 28.4.2000 is nothing but an afterthought. It is clear from the plea of the applicant dated 28.4.2000 that the plea was unconditional, unequivocal and made out of free will and without any outside force.

7. The learned counsel for the applicant has urged before us that the applicant wanted to place facts referred to in his applications dated 1.9.1999 and 21.1.2000 before the Inquiry Officer, but no opportunity was given to him and in order to illustrate his point he drew our attention to para 2 of the order dated 4.9.2000 of the Disciplinary Authority. This para is merely a narration wherein it is stated that the applicant admitted all the charges levelled against him but also desired that he should be given a chance to appear before the Inquiry committee or to explain all the happenings personally besides showing preparedness to deposit the amount he received in the Board's Account through his letter dated 21.1.2000. The applicant, in fact, had ample opportunity, in case he so desired, to place whatever facts he desired before the Inquiring Authority on 28.4.2000 and in fact he did state in statement to be Inquiring Authority that whatever he did, he had to do alongwith Dr P.K.Talukdar, Education Officer, who was then his colleague and under compulsion from Shri M.A.Siddiqui, the then Regional Director. The applicant was categorical in his statement that he accepted all the charges unconditionally and that he was making statement on account of his own free will without any duress and with full understanding of the consequences. Thus, the applicant had placed his stand before the Inquiring Authority. But, can anyone accept

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this stand taken by the applicant? Can anyone be forced against his will to accept illegal gratification? The applicant was fully aware that what was going on was money accepting machinery and money making culture and in spite of that he joined the company of the said officers who have been dismissed.

8. In view of the above, we are of the considered opinion that the applicant had accepted the charges unconditionally and unequivocally. The question to be decided, therefore, is whether any further enquiry is required to be conducted, once the applicant had unconditionally and unequivocally accepted the charges. Learned counsel for the applicant has relied upon a number of judgments of this Tribunal.

9. Rulings upon which reliance has been placed by learned Advocate for the applicant cannot be applied since facts therein are totally different. In Mam Chand Bajoria Vs. Union of India and others, 2001 (3) ATJ 296, the services of the applicant therein were terminated on the basis of admission of guilt and no Inquiry Officer was appointed, no enquiry of any kind was conducted, and no evidence was recorded. It was also found that the letter purporting to be admission of the applicant did not establish the fact that it was plain, unequivocal and unambiguous admission of the applicant. In this case reliance was placed on Jagdish Prasad Saxena Vs. State of Madhya Pradesh, AIR-1961 SC 1070 and some other judgments of the Tribunal. The Apex Court in Jagdish Prasad's case has held that if statement made by the delinquent official did not amount to clear or unambiguous admission of his guilt, failure to hold a formal enquiry constituted a serious infirmity in the order of dismissal passed against.....

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against him, as the delinquent official had no opportunity at all of showing cause against the charge. On the facts of the said case it was further held that even if the appellant had made some statements which amounted to admission, it was open to doubt whether he could be removed from service on the strength of the said alleged admissions without holding a formal enquiry as required by the rules.

10. In T. Narayanan Vs. Deputy Chief Mechanical Engineer Carriage and Wagon Works, Madras and others, 1999 (1) ATJ 403 which was relied upon in Mam Chand Bajoria Vs. Union of India and others (Supra), it was laid down that even if an employee has admitted the charge it is incumbent on the part of the authorities to prove the charge by placing a material before the enquiry officer and examine the witness on their part. The relevant rule which was under consideration in this case was Rule 9(17) of the Railway Servants (Discipline & Appeal) Rules, 1968 which is not paramateria to Rule 14 (5)(a) to which we are concerned. In that case, the Inquiry Officer had merely questioned the delinquent official orally on the basis of which order of removal was passed. Thus, this case also does not help the applicant.


11. Reliance is also placed on K. Bhaskar Vs. The C.O. HQ Training Command (Unit), Air Force, Bangalore and others, 2002 (1) ATJ 434, wherein it was held that the admission of the delinquent officer must be in specific, clear and unambiguous terms. In that case it was found that the applicant had only signed on the dotted lines, but the relevant documents including the so called letter of confession and appeal of mercy appeared to have been

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typed on one typewriter only leaving the space to put his signature and as such on the facts of the said case it was held that the same were not voluntary, specific, clear and in unambiguous terms.

12. Learned counsel for the applicant has placed reliance on Dharam Singh Vs. Union of India and others, 1994 (1) SLJ 425. In this case, the Tribunal held that under Rule 14 (5)(a) of the CCS/CCA Rules it was required to record its findings on every charge after taking such evidence as it may think fit and shall set in the manner laid down in Rule 15 of CCS (CCA) Rules which provides that even for imposing minor penalty which is likely to affect the amount of pension adversely, the enquiry shall be held in the manner laid down in Sub Rule (3-b)(23) of Rule 14 before making the order imposing such penalty.

13. The learned counsel for the applicant has also placed before us a judgment of the Division Bench of the Hon'ble Gauhati High Court, Agartala Bench in Manindra Chandra Dhar Vs. Tripura Road Transport Corporation and others, 2002 (1) GLT 518. In this judgment it has been laid down that Sub-rule 5 of Rule 14 of the CCS (CCA) Rules, 1965 makes it abundantly clear that if the Government servant admits the articles of charges in his written statement of defence, no enquiry need be conducted into the articles of charges as are admitted, but if the Government servant does not admit all or any of the articles of charges in the written statement of defence, an enquiry is to be conducted in terms of the rules. In that case no written statement of defence was filed by the applicant, but he had admitted the guilt in his preliminary statement after which no enquiry was held by the Inquiry Officer into the articles of charge. In the

 circumstances.....

circumstances it was held that the report of the Inquiry Officer holding the applicant guilty of the charges stood vitiated.

14. Another ruling upon which reliance has been placed by the learned counsel for the applicant is in a Division Bench ruling of the Hon'ble Gauhati High Court in Farhad Ali Vs. Secretary, Assam State Agriculture Marketing Board and others, 2004 (2) GLT 586. In this case there was denial of allegations by the officer in his written statement. The enquiry was held ex parte and the report of the Inquiry Officer was also not furnished to the official concerned. It was in this set of facts that it was held that the admission of guilt, if any, was inconsequential in view of specific denial of allegations in written statement and the conduct of enquiry as ex parte and non furnishing of the enquiry report was held to have caused prejudice to the charged official.

15. At this stage we shall refer to a judgment of the Supreme Court in Dharmarathmakara Rajbahadur Arcot Ramaswamy Mudaliar Educational Institution Vs. Educational Appellate Tribunal and another, (1999) 7 SCC 332. In this case the appellant had admitted the charges and no enquiry had been held in terms of Section 6 of the Karnataka Private Educational Institutions (Discipline and Control) Act, 1975. The Apex Court has observed that what is the enquiry to be made when one admits violation. In that case the facts were almost admitted and it was apparent on the face of record and in spite of opportunity no worthwhile explanation was forthcoming. Even before the Apex Court, when respondent 2 was given opportunity to give any prima facie or plausible explanations on records to defend her actions, nothing could be produced by her. The Apex Court

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further observed that giving of opportunity is a check and balance concept that no one's right is taken away without giving him/her right of opportunity or without enquiry in a given case or where the statute requires, but his cannot be a case where allegations and charges are admitted and no possible defence is placed before the authority concerned.

16. Learned counsel for the respondents has placed reliance on a Division Bench Judgment of the Madhya Pradesh High Court in Mahadeo Prasad Gautam Vs. Regional Manager Food Corporation of India and others, 1986 (1) SLR 306. In this case it was found that misconduct had been admitted by the applicant and therefore, no enquiry was required to be made into those admitted facts and, Regulation 58 (5)(a) itself contemplated an enquiry only about matters which are not admitted and indicated, for obvious reason, that admitted facts require no enquiry to be made.

17. In the case before us also we had given opportunity to explain the conduct of the applicant, but no plausible explanation was coming forth. Can it be a justification that when looting was going on and when others were looting the establishment the person charged for looting could be said to say that he looted because others were looting. The case of the applicant is that he was forced into the acceptance of money culture by the Regional Director, M.A. Siddiqui and Dr P.K. Talukdar. The services of both of them have already been terminated. We had asked the learned counsel for the applicant as to whether Regional Director, M.A. Siddiqui and Dr P.K. Talukdar would come before the authority or the Court to say that they had forced the applicant into the unethical practice

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of accepting money. Learned counsel for the applicant categorically stated that they would not obviously come forward.

18. Therefore, we have absolutely no hesitation in stating that where the admission is clear, unambiguous, unequivocal, no enquiry need be conducted under Rule 14 (5)(a) or Rule 14 (9 & 10) ~~when enquiry is held~~. Rule 14 (5)(a) clearly enjoins that on receipt of the written statement of defence, the disciplinary authority may itself enquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15. Thus, where articles of charge are admitted there is a discretion with the authority and the conducting of enquiry in all cases is not necessary. In the case before us we are of the opinion that in view of the clear, unequivocal and unconditional admission of the charges by the applicant not only in the written statement filed on 21.1.2000 but even prior to that vide letter dated 1.9.1999 as also statement before the Inquiry Officer on 28.4.2000, there was no need to hold any further enquiry. We are not able to accept the contention of the applicant that the statement on 28.4.2000 was recorded forcefully or under pressure. No plausible explanation at all could be offered for the stand taken by the applicant that he was forced and initiated into the culture of earning money by Regional Director, M.A.



Siddiqui.....

Siddiqui and Dr P.K. Talukdar. It is surprising that the applicant calls the taking of illegal gratification as culture. We do not, therefore, find any merit whatsoever in the contentions advanced by the learned counsel for the applicant.

199. Coming now to the next contention of the learned counsel for the applicant relating to non furnishing of enquiry report, the question boils down to prejudice, if any, caused to the applicant on account of non furnishing of the enquiry report. The Apex Court in Managing Director, ECIL, Hyderabad Vs. B. Karunakar, 1993 (3) SLJ 193, has laid down that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the inquiry report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. The Apex Court examined the question as to what is the effect of the order of punishment when the report of the Inquiry Officer is not furnished to the employee and what relief should be granted to the employee in such cases. It has been laid down that when the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely, while in other cases it may have made no difference to the ultimate punishment awarded to him. It is further laid down that the theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights and they are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether

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in fact, prejudice has been caused to the employee or not on account of the denial of the report has to be considered on the facts and circumstances of each case. Therefore, where even after furnishing of the report no different consequences would have followed, it would be a perversion of justice to permit the employee to resume duty and get all consequential benefits. This amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits.

20. In this case, the report of the Inquiring Authority was filed by the respondents, copy of which has been furnished to the applicant. The enquiry report proceeded on the basis of admission of charges unconditionally by the applicant and the stand taken by the applicant in relation to the Regional Director, M.A. Siddiqui and Dr P.K. Talukdar has been referred to in the enquiry report. We have already come to the conclusion that no plausible explanation has come forth nor possibly it could have offered since one cannot be said to say in his defence that since others were doing so he also did so. Therefore, the non-furnishing of the report would not, in fact, cause any prejudice to the applicant. We had also asked learned counsel for the applicant to show us as to what prejudice had been caused to the applicant, but he was also not able to show prejudice, if any, caused to the applicant in the circumstances of the case. Therefore, the non-furnishing of the enquiry report which has not caused any prejudice to the applicant has absolutely no effect in the matter. Ruling of Apex Court in S.K. Singh Vs. Central Bank of India, (1996) 6 SCC 415 also supports this proposition.

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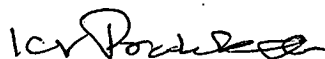
21. In so far as argument relating to non-application of mind by the Disciplinary Authority and Appellate Authority is concerned, in the light of admission of guilt, we do not find any merit in this argument.

22. We find that the rules have been complied with and in our view the punishment imposed can by no stretch of imagination be said to be shocking or disproportionate to the charges levelled against the applicant. The principles in this respect are laid down by the Apex Court in B.C. Chaaturvedi Vs. Union of India and others, AIR 1996 SC 484 in para 18 which reads as under:

"A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

The applicant has already been shown compassion in appeal filed by him, inasmuch as two-thirds compassionate allowance of pension and gratuity was sanctioned in lieu of forfeiture of pension and gratuity.

For the aforesaid reasons, we find no merit in this application and the application is hereby dismissed with no order as to costs.



(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER



(R. K. BATTA)
VICE-CHAIRMAN

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)

WRIT PETITION NO.6794 OF 2005

Shri Kanakeswar Choudhury,
S/o Late R. Choudhury,
Resident of College Road,
Opposite Buddha Mandir,
P.O. Tinsukia,
Assam.

.....PETITIONER

-VERSUS-

1. The Union of India,
Represented by the Secretary to the
Govt. of India,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 1.

2. The Chairman,
Central Board of Worker's Education
Near V.R.C.E. Gate,
North Ambari Road,
Nagpur - 440010.

3. The Director,
Central Board of Worker's Education,
Near V.R.C.E. Gate,
North Ambazari Road,
Nagpur -440010.

4. Shri M.A. Siddiqui,
C/o Rizwan Assam Engineering,
Consultancy Services,
38, Satya Niketan,
New Delhi.

.....RESPONDENTS

P R E S E N T

THE HON'BLE MR. JUSTICE RANJAN GOGOI
THE HON'BLE MR. JUSTICE HRISHIKESH ROY

For the appellant

: Mr. S. Dutta,
Advocate.

12

For the respondent : Mr.DC Chakraborty,
Central Govt. Counsel

Date of hearing : 14.05.2009

Date of Judgment and Order : 14.05.2009

JUDGMENT AND ORDER
(ORAL)

(Ranjan Gogoi, J).

This writ petition is directed against an order dated 20.9.2004 passed by the learned Central Administrative Tribunal, Guwahati Bench in a proceeding registered and numbered as O.A. No.81/2003. By the aforesaid order, the application filed by the writ petitioner before the learned Tribunal challenging his dismissal from service was rejected by the learned Tribunal and the punishment of dismissal was upheld. Aggrieved this writ petition has been filed.

2. The facts relevant to the present adjudication may be briefly set-out at this stage.

The writ petitioner, at the relevant point of time, was working as an Education Officer in the Central Board for Workers Education and was posted at Tinsukia. By a memorandum dated 17th August, 1999, the petitioner was asked to show cause as to why disciplinary action should not be taken against him for writing to certain organizations for payment of course fees which courses were to be conducted by the by the Tinsukia Centre of the Board without charging any fees. In the memorandum dated 17th August, 2009, in para-2, details of the five(5) payments received in the aforesaid manner had also been indicated.

The petitioner, on receipt of the aforesaid memorandum dated 17th August, 2009, submitted his reply dated 1.9.1999 admitting the contents of the memorandum, but contending that though initially he had tried to resist the pressures on him to accept

money in such a manner, eventually, he was persuaded by the Regional Director of the Centre and his immediate superior one Dr. P.K. Talukdar to so act.

4. On receipt of the aforesaid reply of the petitioner, a memo of charge dated 6th January, 2000 was issued to the petitioner containing the details of the charges levelled on the broad allegations noticed above. Such details were enclosed along with the charge memo by separate enclosures to the same.

5. On receipt of the aforesaid charge memo dated 6th January, 2000, the petitioner submitted his reply dated 21.1.2000 taking a stand similar to what was reflected in his earlier letter dated 1.9.1999. In short, the petitioner admitted the charges levelled against him, but pointed out that the same had occurred in certain circumstances, to prove which circumstances the petitioner desired that an enquiry should be held.

6. Considering the request of the petitioner for holding an enquiry, the disciplinary authority appointed an Inquiry Officer who issued a notice to the petitioner dated 7th April, 2000 requiring his presence at a preliminary enquiry to be held on 28th April, 2000. In the preliminary enquiry, a statement made by the petitioner to the following effect was recorded :-

"I accept all the charges unconditionally. However, I, with folded hands, say that whatever I did, I had to do alongwith Dr. P.K. Talukdar, Education Officer, my the then colleague at Tinsukia under compulsion from Shri M.A. Siddique, the then Regional Director. I assure that I will not repeat such act in future and pray for mercy. I am making this statement on my own free will without any duress with full understanding and realization of the consequences".

7. The preliminary enquiry concluded on the basis of the aforesaid statement, whereafter a report of enquiry dated 28th April,

2000 was submitted holding the charges levelled against the petitioner to be proved on the basis of his admission of the same. The disciplinary authority, thereafter, took the view that as the report of the enquiry was based on the admission of the charges by the petitioner, it was not necessary to furnish a copy of the said report to the charged official. Thereafter, by the order dated 4th September, 2000, the punishment of dismissal from service was imposed which has been unsuccessfully challenged by the petitioner, firstly, in a appeal proceeding and thereafter before the learned Tribunal, giving rise to the present writ petition.

8. We have heard Shri S.Dutta, learned counsel for the petitioner and Shri D.C. Chakraborty, learned Central Government Counsel for the respondents.

9. Rule 14(5)(a) of the CCS (CCA) Rules, 1965, which Rules are admittedly applicable to the proceedings held against the petitioner, charges which are admitted by the delinquent need not be enquired into. In the present case though a dispute has been raised on behalf of the petitioner that the statement/admission allegedly made by him in the course of the preliminary enquiry was obtained under duress and the petitioner was made to sign on an already prepared statement, even if the said fact is to be believed and the statement recorded is to be excluded, what transpires from the letters dated 1.9.1999 and 21.1.2000 of the petitioner is that the petitioner had unambiguously and unequivocally admitted the charges levelled against him. In-fact, what was really desired by the petitioner is that he should be given an opportunity to prove the circumstances in which the acts alleged were committed by him which, according to the petitioner was refused. The petitioner having admitted the charges levelled against him, proof of the circumstances, as claimed, even if assumed in favour of the petitioner cannot exonerate the petitioner of the charges but the same may have some connection with the quantum of punishment

that may be imposed on him. According to the petitioner, the practice of acceptance of money for lectures delivered in training courses, though not permissible, was an ongoing practice indulged in by his seniors who eventually persuaded the petitioner to adopt a similar course of action. The enquiry which was not held, as claimed by the petitioner, at best, could have established the aforesaid facts. Even if the Court is to proceed on the basis that the aforesaid facts and circumstances are proved and established, the question that has to be answered is whether the said facts would justify imposition of any lesser punishment on the petitioner.

10. In this regard, the Court has noticed that the Regional Director one Mr. M.A. Siddique and the immediate superior of the petitioner one Dr. P.K. Talukdar who were indulging in similar acts had already been dismissed from service. The petitioner as a Government official was responsible for writing unauthorized letters demanding course fees when no such course fee was payable. The course fees paid was appropriated by the petitioner to his own funds. Even assuming that the circumstances in which such acts were committed, as claimed by the petitioner, stands established, it is the considered opinion of the Court that such circumstances cannot be a relevant factor for imposition of a lesser punishment on the petitioner. The punishment of dismissal in the light of the charges brought against the petitioner which had been admitted by him, in our considered view, is just and adequate and does not require any interference.

11. An issue has been raised on behalf of the petitioner that the copy of the enquiry report was not furnished to him and, therefore, the Court must understand that the punishment imposed is vitiated. In the case of Managing Director, ECIL -Vs. - V. Karunakaran, reported in 1993(3) SLJ 193, the Apex Court has laid down the law that non-furnishing of the copy of the enquiry report, by itself, will not vitiate the punishment unless prejudice is shown

to have been caused to the charged official. In the present case we have read and considered the report of the enquiry which is solely based on the admission of the petitioner to the charges levelled. If that be so, non-furnishing of the report of the enquiry to the petitioner cannot be understood to have caused any prejudice to him so as to warrant our interference.

12. Learned counsel for the petitioner in the course of his argument has also raised a question that the order of punishment was passed by the In-charge Director of the Central Board for Workers Education though the appointing authority of the petitioner is the Deputy Secretary of the Department. Not only the point had not been taken before the learned Tribunal or in the pleadings before this Court, we also do not find any material on record to indicate as to which authority in the Government was the appointing authority of the petitioner so as to determine the authority who could be the disciplinary authority of the petitioner.

13. In view of the foregoing discussion and for the reasons recorded, we do not find any merit whatsoever in the writ petition. The writ petition is consequently dismissed. However, in the facts and circumstances of the case, we leave the parties to bear their own costs.

Sd/- HRISHIKESH ROY
JUDGE

Sd/- RANJAN GOGOI
JUDGE

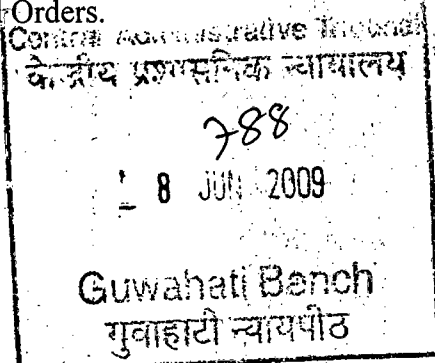
Memo No. HC XXI. 10/147-50 R.M. Dtd. 5/6/09

Copy forwarded for information and necessary action to :-

1. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi-1.
2. The Chairman, Central Board of Worker's Education Near V.R.C.E. Gate, North Ambari Road, Nagpur- 440010.
3. The Director, Central Board of Worker's Education, Near V.R.C.E. Gate, North Ambazari Road, Nagpur- 440010.
4. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati- 781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No.16-3/02-JA/132 Dated 21.2.2006

Encl:-

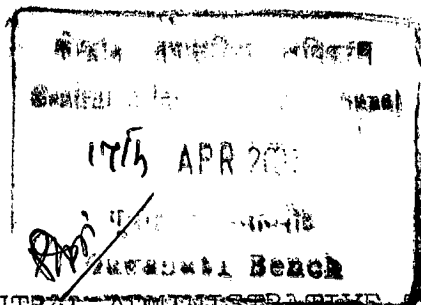
1. O.A. 51/2008 Part 'A' with judgement and Orders.



By order

Asstt. Registrar (B)
Gauhati High Court, Guwahati.

5/6/09



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

O.A. NO. 81 /2003

Shri Kanakeswar Choudhury

- Versus -

Union of India & Ors.

Filed by the Applicant
through Sarjit Choudhury
Advocate
17/4/03

Dates	Synopsis
29.07.'78	- Applicant initially appointed as Education Officer in the Respondent Department i.e. Central Board of Workers' Education (CBWE)
29.12.95	- Applicant promoted to the rank of selection Grade Education Officer (SG) and thereafter transferred and posted at different places. Joined at Workers Education Centre, Tinsukia in 1996 and worked there until he was eventually transferred and posted at Barrackpore (W.B.)
17.08.99	- While working at Barrackpore, a memorandum dated <u>17.8.99</u> was served to the applicant alleging that the applicant committed some <u>financial irregularities and dereliction of duty</u> while he was serving as Education Officer at Tinsukia during 1997-98 for which he was asked to show cause.
01.09.99	- Applicant submitted <u>his reply</u> against the said memorandum making an <u>honest confession</u> of the allegations levelled against him and described under what <u>circumstances he was forced and compelled to commit the offences</u> as alleged.

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- 06.01.2000 - A Memorandum of chargesheet issued against the applicant framing some charges and a departmental inquiry was proposed to be conducted. Applicant asked to submit written statement in his defence, if any.
- 21.01.2000 - Applicant submitted his statement of defence in the same line as he submitted earlier on 04.09.99.
- 28.04.2000 - First preliminary hearing held and the applicant participated in the hearing as instructed. Applicant was asked to sign a sheet of paper admitting the charges which was already prepared on 26.04.2000 and kept ready. No reasonable opportunity of being heard was provided to the applicant and applicant was induced to sign under a false promise that the applicants case would be considered sympathetically and leniently.
- 04.09.2000 - Order issued, dismissing the applicant from service and forfeiting his pension and gratuity as penalty.
- 13.10.2000 - Applicant submitted representation against the order of penalty to the Chairman, CBWE, praying for reconsideration of the order and exoneration of him.
- 27.12.2000 - Representation returned to the applicant stating that his appeal can lie with the Govt. of India only.

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- 08.01.2000 - Applicant preferred appeal to the Secretary, Ministry of Labour, Govt. of India against the order of penalty and thereafter submitted further representations on 07.07.2001 and 27.12.2001.
- 08.03.2002 - Order issued by the Govt. rejecting the appeal, but a compassionate allowance not exceeding two thirds of pension and gratuity only was sanctioned in lieu forfeiture of pension and gratuity of the applicant.
- 20.09.2002 - Applicant submitted another appeal to the Secretary, Ministry of Labour, Govt. of India, but to no avail.

RELIEFS SOUGHT FOR

- 8.1. - That the Hon'ble Tribunal be pleased to quash the impugned order of dismissal dtd. 04.09.2000 and orders of rejection of appeal dated 27.12.2000 and 08.03.2002.
- 8.2. - That the Respondents be directed to reinstate the applicant in service with all consequential service benefits.
- 8.3. - Costs of application.
- 8.4. - Any other relief(s) to which the applicant is entitled, as the Hon'ble Tribunal may deem fit and proper.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

(An Application Under Section 19 of the Administrative
Tribunals Act, 1985)

Original Application No. 81 /2003

BETWEEN

Shri Kanakeswar Choudhury ... Applicant

- And -

The Union of India & Others ... Respondents

I N D E X

<u>Sl.No.</u>	<u>ANNEXURE NO.</u>	<u>Particulars</u>	<u>Page Nos.</u>
01	-	Original Application	1 to 17
02	-	Verification	18
03	I	Memorandum dated 17.8.1999	19-20
04	II	Representation dated 1.9.99	21-23
05	III	Memorandum dated 07.04.2000 Memorandum dtd. 06.01.2000	24-41
06	IV	Representation dtd.21.1.2000	42-44
07	V	Letter dated 07.04.2000	45-48
08	VI	Paper signed on 28.4.2000	49
* 09	<u>VII</u>	Order of dismissal dtd. 04.09.2000	<u>50-53</u>
10	VIII	Representation dtd.13.10.2000	54-58
* 11	<u>IX</u>	Letter dtd. 27.12.2000	<u>59-60</u>
12	X Series	Representations dated 8.1.2001 07.07.2001 and 27.12.2001	61-64
* 13	<u>XI</u>	Order dated 08.03.2002	<u>65-67</u>
14	XII	Representation dtd.20.09.2002	68-69
15	XIII Series	Letters dated 17.10.96 and 27.7.98	70-77

Filed on :

Filed by

Advocate
Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

(An Application Under Section 19 of the Administrative
Tribunals Act, 1985)

Original Application NO. /2003

BETWEEN

Shri Kanakeswar Choudhury
S/O Late R. Choudhury
Resident of College Road,
Opposite Buddha Mandir
P.O.: Tinsukia,
District : Tinsukia
Assam - 786125

..... Applicant

-AND-

- 1) The Union of India
Represented by the Secretary to
the Government of India,
Ministry of Labour,
Shram Shakti Bhawan
Rafi Marg, New Delhi - 1.
- 2) The Chairman,
Central Board of Workers Education
Near V.R.C.E. Gate
North Ambazari Road,
Nagpur - 440 010

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Kanakeswar Choudhury

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(2)

3) The Director

Central Board of Workers Education
Near V.R.C.E. Gate,
North Ambazari Road,
Nagpur - 440 010

4) Shri M.A. Siddiqui

C/O Rizwan Assan Engineering
Consultancy Services,
38, Satya Niketan,
New Delhi - 21

.... Respondents

DETAILS OF THE APPLICATION :

1. Particulars of Order against which this application is made

This application is made against the impugned order No.C-14012/25/99/11951 dated 04.09.2000, issued by the Respondent No.3 whereby the services of the applicant were terminated and the subsequent appellate order No.C- 14012/25/99/14007 dated 27.12.2000 and Government order No.C-16011/4/2000-ESA(WE) dated 08.03.2002 rejecting the appeal preferred by the Applicant.

2. Jurisdiction of the Tribunal

The Applicant declares that the subject matter of this application is well within jurisdiction of this Hon'ble Tribunal.

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Madhusudan Choudhary,

3. Limitation

The Applicant further declares that this application is filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2. That the applicant was initially appointed as Education Officer in 1978, in the Central Board for Workers' Education (CBWE), Govt. of India, Ministry of Labour and initially posted at Tinsukia. His post was a Group-B Gazetted post. Subsequently, he was promoted to the rank of Selection Grade Education Officer in 1995. He was transferred and posted at different places, joining at Tezpur in 1992 and at Tinsukia in 1996 prior to his transfer to Barrackpore in West Bengal.

4.3. That while working as Education Officer (SG) at CBWE, Barrackpore, the applicant was served with a Memorandum of Show cause issued by the Respondent No.3 under No. C- 31011/35/Gen/95/II/15245 dated 17.8.99 alleging that the applicant committed some financial irregularities, obtained personal gratifications and showed dereliction to duty while he was working as Education Officer (SG) at CBWE, Tinsukia during the year 1997-98. The alleged charges levelled against

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Ramakrishna Choudhury,

the applicant are as follows :-

" Shri K. Choudhury, Education Officer (SG), while working at CBWE, Tinsukia during the year 1997-98 wrote letters to the following managements signing as " Regional Director Incharge " / " For Regional Director % informing them that the Faculty will charge course Fee in cash to meet the expenses for conducting programmes whereas the CBWE Conducts all programmes free of cost except in case of programmes conducted under the Scheme of Self Generation of Fund (in latter case the money is payable directly to the Board's account and as it cannot be described as course fee chargeable by the Faculty).

(1) Letter No.WEC/TSK/59 dtd. 16.4.1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Dist. Sibsagar for conducting one-day Special programme for Garden Sirdar and chowkidars on 'Absenteeism, Social evils and Quality of ~~xxxx~~ Life' on 28-04-1997 and informing them that a course fee of Rs. 2000/- will be charged in cash.

(2) Letter No.WEC/TSK/712-13 dated 19.8.1998 addressed to the Regional Director, Oil and Natural Gas Commission, Nazira, Dist. Sibsagar regarding programme calender for the year 1998-99 for three members of 3 days Joint Educational programmes informing them that Rs. 1000/- per faculty per day will be charged.

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Kanakeswar Choudhury.

(3) Letter No. WEC/TSK/1466 dated 23.1.1998 addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh regarding 2 days training programme mentioning therein that " We encourage only cash payment against our fees towards technical problems like Bank Exchange, delay in Encashment etc. "

(4) Letter No. WEC/TSK/23/1063 dtd. 14.10.1998 addressed to Manager, Bokel Tea Estate, P.O. Lahoal, District : Dibrugarh regarding 2 days joint educational programme mentioning our requirement of " Rs. 3000/- as course fee in cash for the said programme. "

2. Besides, said Shri K. Choudhury also received equal share out of the total amount received from the Management as Faculty fees as per details given below in spite of the fact that the programme were conducted as part of duty by drawing TA & DA from the CBME for official tour.

Sr. No.	Date of Prog.	Name of Management	Amount received	Programme conducted by S/Shri
01	10 Dec. 1996	North Eastern Coal fields, Coal India Ltd. Margherita	Rs. 500/-	K. Choudhury
02	02 Jan. 1997	-do-	Rs. 500/-	K. Choudhury
03	7-8 July, 1998	Rosell Industries Ltd. Panitola	Rs. 3000/-	K. Choudhury & P.K. Talukdar
04	17-18 July 1998	AFT Industries Ltd., Hokanguri Division	Rs. 2000/-	K. Choudhury & P.K. Talukdar
05	23-24 July 1998	AFT Industries Ltd. Kharjan Division	Rs. 2000/-	K. Choudhury & P.K. Talukdar
06	08 August 1998	AFT Industries Ltd. Hilika Division	Rs. 2000/-	K. Choudhury & P.K. Talukdar

contd...p/6

K. Choudhury

3. Through the above acts Shri K. Choudhury has (a) obtained personal gratification, and (b) showed dereliction to duty.

4. Shri K. Choudhury by the above acts has violated Rule 3(1) (1) , (ii) and (iii) of the CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

5. Shri K. Choudhury, Education Officer (SG), CBWE, Barrackpore is hereby called upon to show cause within 10 days from the date of receipt of this Memorandum ~~of~~ as to why disciplinary action should not be taken against him for violation of the CCS (Conduct) Rules as mentioned above. In case Shri Choudhury fails to reply within the stipulated time, it will be presumed that Shri Choudhury has nothing to say in this regard and the matter will be proceeded against him as per rules. "

Sd/- Director

(Copy of Memorandum dated 17.8.1999 is annexed hereto as Annexure- I).

4.4. That the applicant submitted his reply ~~through~~ through proper channel on 1.9.99 describing therein the compelling circumstances under which he was forced to receive money as alleged, in the existing system under practice at Tinsukia Centre of the CBWE even prior to his joining there, and made an honest confession of the

contd...p/7.

Kanakeswar Choudhury.

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(7)

charges levelled against him with a prayer for giving him an opportunity of being heard in person and further prayed to be exonerate from the charges levelled against him. He also proposed to deposit the entire amount which he received unlawfully in the Board's accounts.

(Copy of representation dated 1.9.99 is annexed hereto as Annexure- II)

4.5. That thereafter the applicant received one memorandum of chargesheet bearing No.C-14012/25/99/263 dated 06.01.2000 issued by the Respondent No.3 framing the same charges as stated in para 4.3 above and directing the applicant to submit written statement of his defence within 10 days of the receipt of the memorandum.

(Copy of the memorandum dated 06.01.2000 alongwith all enclosures is annexed hereto as Annexure- III).

4.6. That the applicant submitted his reply vide his representation dated 21.1.2000 describing again as to the circumstances under which he was compelled to receive the money as alleged and reiterating his same prayers as stated in his earlier representation dated 1.9.99 (Annexure- IV) .

4.7. That thereafter a departmental inquiry was initiated against the applicant under Rule 14 of the CCS(CCA) Rules, 1965 read with Para 2 of the ~~Third~~ Third Schedule to the CBWE (Staff and conditions of service) Regulations, 1962 and the Inquiry Officer vide his

contd....p/8

Harakeswar Choudhary,

letter No. C-14012/25/99/5988 dated 07.04.2000 fixed the date of Preliminary hearing on 28.04.2000 and directed the applicant to attend the hearing in his chamber at 11 AM on 28.04.2000.

(Copy of letter dated 07.04.2000 is annexed hereto as Annexure- V).

4.8. That the applicant attended the preliminary inquiry on 28.04.2000 as directed when he was asked to admit the charges and was assured that his case would be looked into most leniently and he was not provided any opportunity of being heard. He was then asked to sign a paper which was prepared and kept ready beforehand and accordingly he had put his ~~signature~~ signature therein as directed.

(Copy of the paper signed on 28.04.2000 is annexed hereto as Annexure- VI).

4.9. That when the applicant had been anxiously waiting for a favourable order as promised, most surprisingly, he received the impugned order No.C-14012/25/99/11951 dated 04.09.2000 issued by the Respondent No.3 whereby the applicant was dismissed from the services of the CBWE from the date of service of the order to him and further forfeited his pension and gratuity as well.

(Copy of the order of dismissal dated 04.09.2000 is annexed hereto as Annexure-VII).

contd...p/9

Handeshwar Choudhary

4.10. That the applicant thereafter submitted one representation on 13.10.2000 to the Respondent No.2 against the order of dismissal dated 04.09.2000 narrating therein all the facts and circumstances of the case and prayed for reconsideration of the order of penalty and dropping of the disciplinary proceeding and to exonerate him from the charges levelled against him.

(Copy of the representation dated 13.10.2000 is annexed hereto as Annexure- VIII).

4.11. That the aforesaid representation dated 13.10,2000 of the applicant was returned to the applicant by the Respondents vide letter No.C-14012/25/99/14007 dated 27.12.2000 informing him that his appeal can lie with the Government of India only as per Regulation 17 of the CBWE (Staff and Conditions of Service) Regulations,1962 and cannot lie with the Chairman, CBWE since the order of dismissal was passed by the Chairman.

(Copy of letter dated 27.12.2000 is annexed hereto as Annexure- IX).

4.12. That thereafter, the applicant preferred his appeal against the impugned order of dismissal to the Govt. of India vide his representation dated 8.1.2001 addressed to the Secretary, Ministry of Labour, Govt. of India, New Delhi. Having failed to get any reply, the applicant sent subsequent representations to the aforesaid authority on 07.07.2001 and 27.12.2001,praying for reconsideration of his case and his reinstatement in service.

(Copy of representations dated 8.1.2001, 07.07.2001 and 27.12.2001 are annexed hereto as Annexure- X Series)

4.13. That the Government rejected the appeal preferred by the applicant and did not consider the order of dismissal excepting only to the extent that a compassionate allowances not exceeding two thirds of Pension and gratuity was sanctioned to the applicant in lieu of forfeiture of his Pension and gratuity. The rejection of appeal was communicated to the applicant by Deputy Secretary to the Government of India, Ministry of Labour vide Order No. C- 16011/4/2000-ESA (WE) dated 08.03.2002.

(Copy of order dated 08.03.2002 is annexed hereto as Annexure- XI).

4.14 That the applicant thereafter made the last effort for his survival and submitted another appeal to the Secretary, Ministry of Labour, Govt. of India vide his representation dated 20.09.2002 for reconsideration of his case but to no avail.

~~xxx~~ (Copy of representation dated 20.09.2002 is annexed hereto as Annexure- XII).

4.15 That the applicant begs to state that after his joining at Workers' Education Centre , Tinsukia in 1996, he found that it was an ongoing practice to receive money from the trainee organisations as the fees of Faculties against the official training conducted from time to time. The applicant was insisted on time and again by the then Regional Director of the Centre Shri M.A. Siddiqui to the

contd...p/11

Uddeevar Choudhry.

(11)

adopt the same practice since they all had been charging and receiving the personal fees for the faculties from the trainee organisations. Shri Siddique also informed the applicant that the same practice is going on in all other places after 1992 since introduction of Self Generation Fund (SGF) Scheme prior to which only the trainings were imparted by CBWE free of cost and after 1992 such fees are being received by the faculties. The Regional Director himself used to write letters to the trainee organisations charging fees of faculties and one such letter dated 17.10.96 written by him to Manager, A.R.T. Industries, Margherita is appended herewith. The Regional Director also instructed me to be careful not to disclose such financial matters to anyone else other than the faculty members and gave similar instructions to other faculty members also which is evident from his personal letter dated 27.7.98 addressed to the faculty Dr. P.K. Talukdar (Copy enclosed).

On his refusal to subscribe to such practice, the Regional Director threatened the applicant of recording adverse comments in the ACR of the applicant and of spoiling his service prospects in whatever way possible including transfer to remote places by sending confidential letter to the higher authorities. It could be understood that Shri Siddique was in the habit of sending confidential letters to higher authorities giving adverse reports and a copy of one such letter dated Nil is enclosed herewith for perusal.

contd....p/12

Handwritten Signature

(Copy of letter dated 17.10.96, personal letter dated 27.7.98 and letter dated nil are annexed hereto as Annexure- XIII Series).

4.16 That the applicant most humbly submits that under the constant pressure and duress as stated above, the applicant had to yield ultimately and adopted the existing practice ~~which he honestly confessed~~ as instructed which he honestly confessed. Eventually, due to personal displeasure of the Regional Director seemingly, the applicant has been trapped and disciplinary proceedings aforesaid have been initiated against the applicant which culminated into the imposition of the penalty of dismissal of the applicant from service in a ~~planned~~ planned manner.

4.17. That it is stated that the departmental inquiry was conducted with a pre-set mind and no reasonable opportunity was given to the applicant of being heard of whatsoever. During the preliminary inquiry held on 28.4.2000, the applicant was asked to admit the charges and he was assured that his case would be viewed very leniently and he was asked to sign on a statement which was prepared earlier on 26.4.2000 appended herewith as Annexure- VI.

Further in-quiry was not made and the Inquiry Officer submitted his report without proper investigation of facts and no copy of the Inquiry report was made available to the applicant, which is a violation of the principle of natural justice,

contd....p/13

inconsistent with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 and disregard to the procedures established by a law.

4.18 That the applicant most humbly submits that while the Disciplinary proceedings were initiated against the applicant, other persons were not associated in the inquiry although they were also practising the same thing and were receiving money as their personal fees against the training and thus giving a discriminatory treatment which is opposed to Article 14 and 16 of the Constitution of India. The inquiry was made in a pre-determined manner and report submitted accordingly and the Disciplinary Authority as well as the Appellate authority acted ~~on the basis of the report~~ on the enquiry report without any application of mind whatsoever which is arbitrary, capricious, unfair and malafide leading to miscarriage of justice.

4.19. That the applicant begs to state that he has got two school going daughter and one school going son in addition to other members and his dismissal from service at this stage has made his family completely destitute and the applicant is now facing a situation of starvation and not to speak of continuing the education of his children.

It will not be out of place to mention that the applicant, during his long 22 years of service in the Respondent Department had shouldered many ~~responsibilities~~ responsibilities and did many good works which earned appreciation from his superior authorities.

contd...p/14

Kanduswar Choudhary,

The applicant was honest enough to confess his charges and assuming but not admitting that the applicant was guilty of the charges levelled against him, the penalty of dismissal from service is disproportionate to the gravity of the offences alleged.

4.20. That the applicant most humbly submits that under the facts and circumstances stated above, and finding no other alternative, the applicant is approaching this Hon'ble Tribunal and this is a fit case for the Hon'ble Tribunal to interfere with, and quash the impugned order of dismissal, directing the Respondents to reinstate the applicant in service forthwith with all consequential service benefits.

4.21. That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions

5.1 For that the applicant committed the offence as accused under constant pressure, threat and duress from his Controlling Officer i.e. the Regional Director of the Centre which was the existing system practised in Tinsukia Centre.

5.2. For that the applicant made an honest confession of the charges framed against him and stated the facts and circumstances leading to such of his acts.

contd...p/15

5.3. For that similar acts were being done by the other officers including the Regional Director himself but the Disciplinary proceedings were initiated against the applicant only which is discriminatory and violation of Article 14 and 16 of the Constitution of India.

5.4. For that the preliminary inquiry was held in an unfair manner and with a pre-determined mind and no reasonable opportunity whatsoever was given to the applicant. The inquiry was held on 28.4.2000 whereas the statement was prepared on 26.4.2000 itself and kept ready for signature. This is in violation of the principles of natural justice and disregard to the procedures established by law.

5.5. For that the copy of the inquiry report was not supplied to the applicant, thus inconsistent with the provisions of Rule 14 of the CCS (CCA) Rules, 1965.

5.6. For that the penalty of dismissal from service inflicted on the applicant is disproportionate to the gravity of the offences alleged.

5.7. For that the Disciplinary authority as well as the appellate authority acted in an arbitrary, unfair, capricious and unjust manner and without any appreciation of mind.

5.8. For that the dismissal of the applicant from service has made his entire family destitute and thrown them into a stage of starvation, thus depriving them of their right to live, a fundamental right guaranteed under the Constitution, for no fault of them.

contd..p/16

Kanakeswar Choudhary

(16)

6. Details of Remedies exhausted :

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. All his representations and efforts could not yield any result whatsoever.

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

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

8. Reliefs Sought for :

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the Respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that ~~may~~ may be shown, be pleased to grant the following relief(s) :-

8.1. That the Hon'ble Tribunal be pleased to quash and set aside the impugned order of dismissal issued under No. C- 14012/25/99/11951 dated 04.09.2000

contd....p/17

Manohar Chandra

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(17)

and the subsequent appellate orders issued under No. C-14012/25/99/14007 dated 27.12.2000 and No. C-16011/4/2000-E & A (WE) dated 08.03.2002.

8.2. That the Respondents be directed to reinstate the applicant in service with all consequential service benefits.

8.3. Costs of the application.

8.4. Any other relief (s) to which the applicant is entitled, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for :

During the pendency of this application, the applicant prays for the following reliefs :

9.1. That the Hon'ble Tribunal be pleased to direct the Respondents that the pendency of this application shall not be a bar in considering the prayer of the applicant for his reinstatement. The applicant further prays that the instant application be disposed of expeditiously.

10. This application is filed through Advocate.

11. Particulars of IPO :

i) I.P.O. No. : 76 607889
ii) Date of Issue : 1-4-2003
iii) Issued from : G.P.O., Guwahati
iv) Payable at : G.P.O., Guwahati

12. List of Enclosures :

As stated in the Index.

Verification

Kandeeswar Choudhury

(18)

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

I, Shri Kanakeswar Choudhury, Son of Late R. Choudhury, aged about 51 years, Resident of College Road Opposite Buddha Mandir, P.O. & District : Tinsukia, Assam do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this Verification on this the 17th day of April 2003.

Kanakeswar Choudhury

Signature

CENTRAL BOARD FOR WORKERS EDUCATION : NAGPUR

No.C-31011/35/Gen/95/IT/ 15.4.98

17th August, 1999.

MEMORANDUM

Shri K. Choudhury, Education Officer(SG), while working at CBWE, Tinsukia during the year 1997-98 wrote letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" informing them that the faculty will charge course fee in cash to meet the expenses for conducting programmes, whereas the CBWE conducts all programmes free of cost except in case of programmes conducted under the scheme of Self Generation of Fund (in latter case the money is payable directly to the Board's account and as it can not be described as course fee chargeable by the faculty).

- (1) Letter No.WEC/TSK/59 dated 16-4-1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Dist. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 'Absenteeism, Social Evils and Quality of Life' on 28-04-1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (2) Letter No.WEC/TSK/712-13 dated 19-8-1998 addressed to the Regional Director, Oil & Natural Gas Commission, Nazira, Distt-Sibsagar regarding programme calendar for the year 1998-99 for three numbers of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (3) Letter No.WEC/TSK/1466 dated 23-1-1998 addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh regarding 2-days training programme mentioning therein that "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc".
- (4) Letter No.WEC/TSK/33/1063 dated 14-10-1998 addressed to Manager, Bokel Tea Estate, PO Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of "Rs.3000/- as course fee in cash for the said programme".

2. Besides, said Shri K. Choudhury also received equal share out of the total amount received from the management as faculty fees as per details given below in spite of the fact that the programmes were conducted as part of duty by drawing TA & DA from the CBWE for official tour.

Sr. No.	Date of prog.	Name of management.	Amount received by	Programme conducted by
01	10 Dec. 1996	North Eastern Coal fields Coal India Ltd., Margherita.	Rs.500/-	K. Choudhury
02.	02 Jan. 1997	- do -	Rs.500/-	K. Choudhury
03.	7-8 July, 1998	Rosell Industries Ltd., Panitola.	Rs.3000/-	K. Choudhury & P.K. Talukdar
04.	17-18 July, 1998	AFT Industries Ltd, Hkonguri Division.	Rs.2000/-	K. Choudhury & P.K. Talukdar
05.	23-24 July, 1998	AFT Industries Ltd, Kharjan Division.	Rs.2000/-	K. Choudhury & P.K. Talukdar
06.	08 Aug. 1998	AFT Industries Ltd, Hilika Division..	Rs.2000/-	K. Choudhury & P.K. Talukdar


Attested
Sujit Choudhury
Advocate
17/1/04

(2)

3. Through the above acts Shri K. Choudhury has (a) obtained personal gratification, and (b) showed dereliction to duty.

4. Shri K. Choudhury by the above acts has violated Rule 3(1)(i), (ii) and (iii) of the CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

5. Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore is hereby called upon to show cause within 10 days from the date of receipt of this memorandum as to why disciplinary action should not be taken against him for violation of the CCS (Conduct) Rules as mentioned above. In case Shri Choudhury fails to reply within the stipulated time, it will be presumed that Shri Choudhury has nothing to say in this regard and the matter will be proceeded against him as per Rules.


(B.A. Chavan)
Director

✓
Shri K. Choudhury,
Education Officer(SG),
CBWE,
Barrackpore.

Copy to:-

- 1) The Regional Director, CBWE, Barrackpore. He is requested to handover the original memorandum to Shri K. Choudhury, Education Officer(SG), obtain his acknowledgement on the second copy and send the same to Head Office.
- 2) The Zonal Director(EZ), CBWE, Calcutta.

sc/—

(B.A. Chavan)
Director

Purohit/

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To,
The Director,
Central Board For Workers Education,
North Ambazari Rd.
Near V.R.C.E. Gate,
Nagpur-10

(Through Proper Channel)

Sub : Memorandum No.15245 dated 17th August '99.

Sir,

With due respect and humble submission I am to state the following facts for favour of your kind consideration and sympathetic action.

That Sir, I do not want to deny the Content of the above but to state the facts only so that you will be able to have an idea on what was going on there at C.B.W.E., Tinsukia by that time.

who? whole reported

Sir, I have joined Tinsukia Centre in the month of January '98 on transfer from Tezpur Centre and came to know that people are accepting money for conducting programmes. I was also insisted to join hands with them. But I decided not to be involved in that circle. I was conducting programmes alone in public sector organisations like Assam Gas Co., Assam Petro Chemicals Ltd, Hindustan Fertiliser Ltd, Oil India Ltd, etc where no programme were conducted for quite a long period.

But all of a sudden I had to give company to the then Regional Director of the Centre for conducting programmes at North Eastern Coal Field Ltd, Marghereta in the month of Dec '96 and had to accept an amount as guest talk fees. Because the Regional Director gave me an idea that it is as good as fees offered by All India Radio / Doordarshan for delivering talk.

Once I got involve in the money accepting machinery, I have obey the controlling officer for so many reasons. As a result I wrote letter to organisation requesting them to pay some amount as faculty fees. The guidelines were given by the Regional Director himself. But I did not conduct any programmes till 1998 because I have to save both the Centre and myself.

But there were some negative approaches from H.O. on the following matters.

- 1) I was the Hostel Superintendent and I had to look the Hostel affairs. The hostel tubewell was to repair as the motor of water supply machine went out of order. By that time there were trainee of L.D.Course I did it and approached the H.O. for sanction. H.O. turned it down on the ground that prior permission was not taken by the office.
- 2) The Electric Meter in the hostel was totally burn when there were trainee in the hostel. I talk to the State Electricity Board immediately. They have given the direct connection to the hostel building with a request to purchase a new meter for our hostel. I approached the H.O. for purchasing a new meter. Since then the hostel is running with direct electric connection on average consumption basis for want of sanction

Attested
Surya K. Choudhary
Advocate

17/8/09

Contd..2

- 3) There was no pay bill form in the office. I again wrote to H.O. for sanction for printing of pay bill form after following the normal office procedure. Once again the H.O. turned it down with a suggestion to purchase from Swamy Publications as when such type of things are required by the Centre. The Pay bill forms were printed by the press and supplied us on the presumption that our H.O. will give us sanction.

The Regional Director of the Centre took the advantages of these approaches and gave me an idea that because of this we have to act some time against rules. After that I started to write to different managements for faculty fees in cash so that we can utilise them as and when it will be required to do so. The amount I received has been utilised on the following matters.

- a) There is a culvert on the diversion point of the road leading to our office from the College Road. It was not possible even for small vehicle to cross over the culvert because it was totally damaged. I approached the PWD & Municipality Board for repairing but no one has got ability to repair the same. I got the culvert repaired.
- b) The office vehicle was supplied in 1986 to Tinsukia Centre. Since then the body of the vehicle was not repaired. It produces lot of sound and one cannot undertake journey peacefully. I got it repaired. The repairing was done in respect of door alignment, door channel, window glass channel, engine bonnet channel etc.
- c) The cost of printing of pay bill form was met by me as in press was imposing constant pressure for payment.
- d) The way from road to the office building was not at all usable for the office employees particularly during the summer the way was dressed and made it useful for office employees.
- e) The office compound was full of jungle and became a subject for guest to talk. The members of R.A.C. were also talking about the office compound as well as the urinal and lavatory of the office. Practically there is no urinal and lavatory at Tinsukia office. I was cleaning both office compound and the urinal etc from time to time specially at the time of any course and Workers Education Day Celebration. I have mentioned these activities in my ACR 1998-99.

Sir, I know that the way of doing all these work is not at all proper as they are against rules, but I do not have any option considering the need of the Centre. I did all of them and utilised the amount that I received from outside.

Sir, I am really lucky enough that you have given me a chance to explain the circumstances under what I was writing to different managements for paying us faculty fees.

: - 3 : -


~~I have~~ would have been much convenient if you would have gave me a chance to talk personally to you to explain you better in th's regards.

Further, I am ready to deposite the amount that a received unauthoritatively in to the Board accounts with a promise that I shall not act like this even if I am posted somewhere ~~in~~ in Assam in furture.

With th's I would like to request you most fervently to consider~~ing~~ my case favourably and drop the matter believing me that I shall not allow any circumstances to occur in my life for all that I did during my time at CBWE, Tinsukia.

Thanking You.

Yours faithfully,


(K. Choudhury)
Educator, (S.G.)



केन्द्रीय श्रमिक शिक्षा बोर्ड

(श्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)

वी. आर. सी. ई. गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440010.

CENTRAL BOARD FOR WORKERS EDUCATION
(SPONSORED BY THE MINISTRY OF LABOUR, GOVT. OF INDIA)
Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010

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तार : श्रमशिक्षा
GRAM : SHRAMSHIKSHA
Phones : 233313
232275
232314
EPABX : } 231155
232462
Fax : 0712-233313

No.C-14012/25/99/263

6 JAN 2000

MEMORANDUM

It is proposed to hold an inquiry against Shri P. Choudhury, Education Officer(SG), CBWE, Barrackpore under Rule 14 of the CCS (CCA) Rules, 1965 read with para 2 of the Third Schedule to the CBWE (Staff and Conditions of Service) Regulations, 1962. 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 Article of charge (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of the article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the article of charge is proposed to be sustained are also enclosed (Annexure-III & IV).

2. Shri K. Choudhury 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. Shri K. Choudhury is informed that an inquiry will be held only in respect of the article of charge which is not admitted. He should therefore specifically admit or deny the article of charge.

4. Shri K. Choudhury is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 read with para 2 of the Third Schedule of CBWE (Staff and Conditions of Service) Regulations, 1962 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex-parte.

Attested
Savajit Choudhury,
Advocate
17/1/04

5. Attention of Shri K. Choudhury is also invited to Rule 20 of CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962 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 CBWE. 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 Choudhury 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.

The receipt of the Memorandum may be acknowledged.

By order of the Chairman, CBWE


(B.A. Chavan)
Director

✓
Shri K. Choudhury,
Education Officer(SG),
CBWE,
Barrackpore.

Statement of Article of Charge framed against Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore.

ARTICLE-I

Shri K. Choudhury while working as Education Officer(SG), CBWE, Tinsukia during the year 1996-98 misused his official position (a) by writing letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" to wrongfully gain personal financial benefit as detailed below:

- (1) Letter No.WEC/TSK/59 dated 16-4-1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Dist. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 28-4-1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (2) Letter No.WEC/TSK/712-13 dated 19-8-1998 addressed to the Regional Director, Oil and Natural Gas Commission, Nazira, Distt-Sibsagar regarding programme calendar for the year 1998-99 for three numbers of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (3) Letter No.WEC/TSK/1466 dated 23-1-1998 addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh regarding 2-days training programme mentioning therein that "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc".
- (4) Letter No.WEC/TSK/33/1063 dated 14-10-1998 addressed to Manager, Bokel Tea Estate, PO Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of "Rs.3000/- as course fee in cash for the said programme".

(b) and also wrongfully received various amount as detailed below for the programmes conducted in official capacity:

- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10-12-1996 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N.

Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 02-1-1997 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (3) Equal share out of Rs.3000/- paid to Shri P.K. Talukdar, Education Officer for conducting jointly with Shri K. Choudhury 2-days Educational Programme on 7th & 8th July, 1998 (Ref. Certificate dated 11-3-99 from Manager, Panitola Tea Estate, Rossell Industries Ltd.)
- (4) Equal share out of Rs.2000/- paid to Shri K. Choudhury and Shri P.K. Talukdar as faculty charges for conducting programme on 08-8-98 by AFT Industries Ltd., Hilika Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hilika Tea Estate, PO Barahapjan).
- (5) Equal share out of Rs.2000/- paid to S/Shri K. Choudhury and P.K. Talukdar for conducting 2-days JEP on 17 and 18th July, 1998 by AFT Industries Ltd., Hokonguri Division, PO Barahapjan (Ref. certificate dated 08-3-1999 from Manager, Hokonguri Tea Estate).
- (6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, PO Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref. certificate dated 11-3-99 from Shri A. Nath, Actg. Manager, AFT Industries Ltd.).

It appears that said Shri K. Choudhury by his above actions has violated Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

By order of the Chairman, CBWE


(B.A. Chavan)
Director

Statement of imputations of misconduct in support of Articles of Charge against Shri K. Choudhuri, Education Officer(SG), CBWE, Barrackpore.

ARTICLE

Shri K. Choudhuri, present Education Officer(SG), CBWE, Barrackpore while working at CBWE, Tinsukia during the period 1996-98 wrote letters to the following managements in his capacity as Regional Director Incharge/for Regional Director informing them that - "course fee of Rs.2000/- will be charged in cash" - "Rs.1000/- per faculty per day will be charged", - "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc.", and - "our requirement of Rs.3000/- as course fee in cash for the said programmes" etc. ostensibly to meet the expenses of the faculty from the managements whenever training programmes were conducted, whereas the CBWE conducts all programmes free of cost except in case of programmes conducted under the scheme of Self Generation of Fund (in the latter case the money is payable to Board's Account and it cannot be described as course fee chargeable by the faculty):

- (1) Letter No.WEC/TSK/59 dated 16-4-1997 to Manager Moran Tea Estate, P.O. Moran, Dist. Sibsagar.
- (2) Letter No.WEC/TSK/712-13 dated 19-8-1998 to Regional Director, Oil & Natural Gas Commission, Nazira, Dist. Sibsagar.
- (3) Letter No.WEC/TSK/1466 dated 23-1-1998 to Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh.
- (4) Letter No.WEC/TSK/33/1063 dated 14-10-1998 to Manager, Bokel Tea Estate, P.O. Lahoal, Dist. Dibrugarh.

2. Shri Choudhuri, Education Officer(SG) not only did write above letters but also personally received following amounts towards course fee from the managements for conducting the training programmes as a part of his duty:

- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10-12-1996 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 02-1-1997 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (3) Equal share out of Rs.3000/- paid to Shri P.K. Talukdar, Education Officer for conducting jointly with Shri K. Choudhury 2-days Educational Programme on 7th & 8th July, 1998 (Ref. Certificate dated 11-3-99 from Manager, Panitola Tea Estate, Rossell Industries Ltd.)
- (4) Equal share out of Rs.2000/- paid to Shri K. Choudhury and Shri P.K. Talukdar as faculty charges for conducting programme on 08-8-98 by AFT Industries Ltd., Hilika Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hilika Tea Estate, PO Barahapjan).
- (5) Equal share out of Rs.2000/- paid to S/Shri K. Choudhury and P.K. Talukdar for conducting 2-days JEP on 17 and 18th July, 1998 by AFT Industries Ltd., Hokonguri Division, PO Barahapjan (Ref. certificate dated 08-3-1999 from Manager, Hokonguri Tea Estate).
- (6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, PO Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref. certificate dated 11-3-99 from Shri A. Nath, Actg. Manager, AFT Industries Ltd.).

3. Shri K. Choudhury also claimed TA/DA for the tours undertaken officially for conducting the programmes in the above organisations in addition to free lodging and boarding from the management.

4. Through the above acts Shri K. Choudhury, Education Officer(SG), (a) resorted to corruption (b) obtained personal gratification and (c) showed dereliction to duty.

5. Thus Shri K. Choudhury was asked to show cause as to why disciplinary action need not be taken against him for violation of the CCS (Conduct) Rules as mentioned above vide memorandum No.C-31011/35/Gen./95/II/15245 dated 17-8-1999.

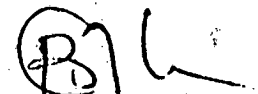
6. Said Shri K. Choudhury vide his letter dated 01-9-99 has not denied the contents of the memorandum but at the same time held the Regional Director and Head Office responsible to some extent. He however showed his willingness to deposit the amount which was received by him unauthorisedly into the Board's account, promised not to act like this even if he is posted somewhere in Assam in future, and thus requested to drop the matter.

5

(3)

7. It appears that said Shri K. Choudhury by his above actions has violated Rule 3(1)(i), (ii) and (iii) of the CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

By order of the Chairman, CBWE



(B.A. Chavan)
Director

P/

ANNEXURE-III

A list of documents by which the Article of charge is proposed to be sustained.

1. Letter No.WEC/TSK/59 dated 16-4-97 from Shri K. Choudhury, addressed to the Manager, Moran Tea Estate, P.O. Moran, Distt. Sibsagar.
2. Letter No.WEC/TSK/712-13 dated 19-8-1998 from Shri K. Choudhury, addressed to the Regional Director, Oil and Natural Gas Commission, Nazira, Dist. Sibsagar.
3. Letter No.WEC/TSK/1466 dated 23-1-1998 from Shri K. Choudhury, addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh.
4. Letter No.WEC/TSK/33/1063 dated 14-10-1998 addressed to the Manager, Bokel Tea Estate, P.O. Lahoal, Dist. Dibrugarh.
5. Letter No.14/PIR/416 dated 25/29-3-1999 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita.
6. Letter dated 11-3-1999 from Manager, Panitola Tea Estate, Rossell Industries Ltd., Panitola.
7. Letter dated 08-3-1999 from Manager, Hilika Tea Estate, P.O. Barahapjan.
8. Letter dated 08-3-1999 from Manager, Hokonguri Tea Estate, Talup.
9. Letter dated 11-3-1999 from Shri A. Nath, Acty. Manager, Kharjan Tea Estate, P.O. Panitola.

By order of the Chairman, CBWE


(B.A. Chavan)
Director

ANNEXURE-IV

List of witnesses by whom the Article of Charge is proposed to be sustained.

1. Shri M.A. Siddiqui,
Regional Director,
CBWE,
Shimla.

2. Shri P.N. Goala,
Personnel Manager,
North Eastern Coalfields,
Coal India Ltd.,
Margherita.

3. Shri P.S. Grewal,
Manager,
Panitola Tea Estate,
Rossell Industries Ltd.,
P.O. Panitola-786 183

4. Shri A. Nath,
Acting Manager,
Kharjan Tea Estate,
AFT Industries Ltd.,
Panitola.

By order of the Chairman, CBWE


(B.A. Chavan)
Director

P/

ANEX-127

16-4-97.

WEC/TSK/ 37

To,
The Manager,
Moran Tea Estate,
P.O. Moran,
Dist-Sibsagar.

Subjects- One day special programme on Absenteeism, Social Evils and Quality of life for garden Sirdar and Chowkidar.

Sir,

Kindly refer the discussion between Shri K. Phukan, Welfare Officer of your tea Estate and Dr. P.K. Talukdar, Education Officer of this organisation on 8th April/97 on the above mentioned subject.

During the discussion it was decided that an one day special programme for Garden Sirdar and Chowkidar on Absentism, Social Evils and Quality of life will be organised in the month of April/97 conveniently.

We have decided to organised the same on 28th April/97 right from 9-30 a.m. to 3-30 p.m. We will be arriving there on 28th itself.

Further, you are requested kindly to make arrangement of community lunch for the participants alongwith class room accommodation. We will be charging a fees of Rs. 2,000/- (Rupees two thousand) as course fees in cash.

Thanking you,

Yours faithfully,

K. CHOUDHURY
FOR REGIONAL DIRECTOR.

CENTRAL BOARD FOR WORKERS' EDUCATION

MINISTRY OF LABOUR: GOVT. OF INDIA.

Office of the Regional Director of
Workers' Education Centre, Tinsukia.

Ref.No. WEC/TSR/7.12-15.../

dated 19-8-90.

To,
The Regional Director,
Oil & Natural Gas Commission, Nazira
Dist: Sibsagar.

Subject: Programme calendar for the year 1990-99.

Sir,

While thanking you for the cooperation you had
been extending for implementation of Workers' Education
scheme in your organisation, we propose to organise atleast
three Nos of 3-day Joint Educational Programme for the
employees of your organisation during 1998-99.

~~The theme of the~~

The theme of the programme would be :-

1. Productivity, Quality and work ethics in changing global scenario.
2. Workers' Participation in management-Role of workers and management.
3. Dynamics of Leadership- and team building.

To start with we propose to organise the first
of the programme in the 2nd week of October/98 (14th to 16th
October/98). This programme will be as per pattern of the
previous programme. i.e. Rs.1000/- (Rupees one thousand) per
faculty per day.

This may kindly be approved from your end and
necessary arrangement for conducting the programme
smoothly may be made.

The proposed date may kindly be confirmed to
enable us to chalkout a detail programme.

Thanking you,

Yours faithfully,

Neel
(K. CHOUHURY) 19/8/98
REGIONAL DIRECTOR I/C.

OK

Copy to : The Training Manager, R.T.I. ONGC, Sibsagar for
information and necessary confirmation.

Neel
(K. CHOUHURY) 19/8/98
REGIONAL DIRECTOR I/C.

WIC/TSK/ 14.5 C. /

195-1-97

To:
The Manager,
Hapian Tea Estate,
P.O. Nilgiri,
Dist. Nilgiri.

Subject :- 2 days Training Programme on Administration, Productivity
and Quality of Life for Managers

Dear Sir,

Perhaps, you are in receipt of a letter on the above mentioned subject from your General Manager S.P.T. Co. Ltd, Talap Shorale. This request for you to attend your co-establn in our 2 day and 1 night programme in your Tea Estate during the period 20-21-22/1/57.

We have already conducted a similar programme at Talap Tea Estate and all members of staff have benefited from the programme.

Therefore, you are requested, kindly to organise a 2 days training programme for your staff on Administration, Productivity and Quality of Life starting in the month of Feb/March/57 at your convenience.

It is needless to mention that for convenience only cash payment against our fees to avoid technical problems like bank exchange, delay in cashment etc.

You are requested to confirm the programme with the date convenient to you at an early date.

Thanking you,

Yours Faithfully,
(K. CROSBY)
REGIONAL DIRECTOR I/C

134 71 4

**CENTRAL BOARD FOR WORKERS' EDUCATION
MINISTRY OF LABOUR, GOVT. OF INDIA**

**Office of the Regional Director of
Workers' Education, Tinsukia (Assam)**

Ref. No. WEC/TSK/33/ 1063 / dt- 14-10-98

To
The Manager,
Bokel T.P.
P.O. LAHOAL
DIST. Dibrugarh

Sub :- 2-day Joint Educational Programme
on Productivity, Absenteeism, Social
Evils and Quality of Life

Dear Sir,

You will be pleased to know that this Regional Directorate is willing to conduct a 2-day Joint Educational Programme on the above mentioned subject in your Tea Garden sometime in the month of November/98 preferably in the first fortnight.

For conducting the said programme our requirement is as follows :-

1. 25 Nos. of participants.
2. Working lunch for the participants and 2 Nos. officials of this Directorate.
3. Rs. 3000/- as course fee in cash.

You are requested kindly to confirm the programme. Mr. K. Talukdar, Education Officer will talk to you in this regard.

Thanking you,

Yours faithfully,

K. Choudhury
(K. CHOUDHURY) 16/10/98
REGIONAL DIRECTOR I.C.

NORTH EASTERN CHALKFIELDS
COAL FIELD OFFICE
DARGHULIA

(140) S

U. 14/PIR/496

Date: 25.03.99

CONFIDENTIAL

A.F.O.

Ref: attached.

Subj: Training Programme.

Kindly refer to letter No. STC/FSK/Com./02-
Dtd.19.03.99 issued by Regional Director, Workers'
Education Centre, Tinsukia regarding above mentioned
subject.

We have already paid Rs.4,000/- to following
personnel-

<u>Date</u>	<u>Name of Persons</u>	<u>Sessions detail.</u>	<u>Amount</u>
09.12.96	Dr.P.K.Talukdar Education Officer, WEC, FSK.	2 sessions on 9.12.96	Rs. 500.00
10.12.96	Mr.M.A.Siddique Regional Director, WEC, FSK	2 sessions on 9.12.96	Rs. 500.00
10.12.96	Mr.M.A.Siddique, Regional Director, WEC, FSK.	2 sessions on 10.12.96	Rs. 500.00
10.12.96	Mr.K.Choudhury E.O., WEC, FSK.	2 sessions on 10.12.96	Rs. 500.00
02.01.97	Mr. K.Choudhury E.O., WEC, FSK.	2 sessions on 2.1.97	Rs. 500.00
03.01.97	Dr.P.K.Talukdar E.O., WEC, FSK.	2 sessions on 3.1.97	Rs. 500.00
03.01.97	Mr. H.A.Siddique R.D., WEC, FSK.	4 sessions on 2.1.97 and 04.01.97.	Rs. 1000.00

Kindly send a suitable reply to Regional Director,
WEC, Tinsukia as per his attached letter from your end.

(P. N. Ganta)
Personnel Manager.

(enclo: as above).



ROSSELL INDUSTRIES LIMITED

100, Park Road, Calcutta 700019

TO: THE DIRECTOR, UOKAI

This is to certify that a two days educational programme was organized on 7th & 8th July, 1977 and was conducted by Dr. K. Choudhury M.O. (M.A.) and Dr. A. K. Talukder M.A. of Indian Education Centre, Tinsukia.

The course fee of Rs. 5,000/- (Rupees Five thousand) only, was paid to Dr. A. K. Talukder M.A.

MANAGER
Manager
Panitola T.E.

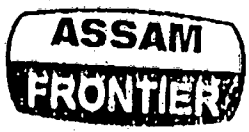


PANITOLA TEA ESTATE

PO PANITOLA PIN 786103 (ASSAM) TELEPHONE PANITOLA 435 TELEGRAPH OFFICE & RAILWAY STATION PANITOLA
REGISTERED OFFICE BALLYGUNGSE PARK ROAD CALCUTTA 700019

Y K M
Holdings

A NE J - V 24



AFT INDUSTRIES LIMITED

Formerly

Assam Frontier Tea Limited

7 6

Telegraph Office.....Barabojan.....

Telephone No.(s) 77-552

HILIKA

DIVISION

P.O. Barabojan.....

Dist. Tinsukia - Assam.

Ref. No.....

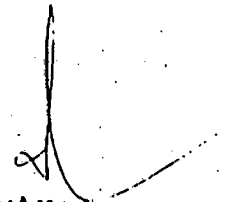
Date.....08/03/99.....19

TO WHOM IT MAY CONCERN.

This is to certify that two days joint education programme on absenteeism was organised in our organisation on 08/08/98 by Sri K. Chowdury and Sri P.K. Talukdar, Education Officer, Tinsukia agri at the proposal of dkt L/No. WEC/TSK/329 dated 28/5/98 written by Sri K. Chowdhury.

A sum of Rs.2000/- (Rupees two thousand) only were paid to them as faculty charges.

ds.


MANAGER.
Manager
HILIKA TEA ESTATE
AFT Industries Ltd.
P. O. Barabojan - 786158

5
8/3/99

ANEX-11



AFT INDUSTRIES LIMITED

Formerly

Assam Frontier Tea Limited

8 (67)

Telegraph Office.....BARAHACHAN.

HOKONGURI DIVISION

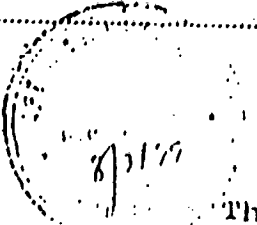
Telephone No.(s).....

P.O.....BARAHACHAN.

DIST : TINSUKIA, ASSAM.

Ref. No.....

Date.....8th March.....1999.



TO WHOM IT MAY CONCERN

This is to certify that a two days joint Education programme on Absenteeism was organised in our organisation by Sri K. Chowdhuri and Sri P.K. Talukdar, Education Officer, Tinsukia, against the proposal of dated 31-07-97 written by Sri K. Chowdhuri. Rs. 2,000/- were paid to them as the Faculty charges.

✓ on 17th & 18th July 1998

MANAGER
TINSUKIA



AFT INDUSTRIES LIMITED

Formerly
Assam Frontier Tea Ltd.

Telegraph Office: PANITOLA

Telephone No.(s) 055447

KHARJAN Division

P. O. PANITOLA

Assam

Ref. No.

Date 11.03.99 15

To Whom It May Concern

This is to Certify that a 2 (Two) days Educational Programme on Productivity & Social Evils was Organised on 23rd & 24th July'98 at Kharjan T.E. in response to the proposal of Mr. K. Choudhury, Education Officer, vide his letter No. 464 dtd. 18.06.98.

The Course fees of Rs. 2000/- (Rupees Two thousand only) was paid to the Regional Director, In-Charge. The Programme was conducted by Mr. K. Choudhury & Dr. P. K. Talukdar.

A. Nath

(A. Nath)
Actg. MANAGER
Manager
KHARJAN T. E.
Date.....

Dated = 21-1-2000

To
The Director,
Central Board for Workers Education
Nagpur

Subj: Reference No. C-14012/25/99/263 dated 6th January, 2000.

Respected Sir,

With due respect and humble submission I beg to comply with your above mentioned memorandum for favours of your kind consideration and sympathetic action.

That Sir, I have admitted all the charges raised against me on the subject cited above vide my Compliances dated 1-9-99.

However, I am again admitting all allegations that are mentioned in article No-1 and II as I have nothing to say against any of them that are mentioned in both the articles.

But Sir, as I mentioned in my earlier compliances regarding my involvement in these charges was not because of my own but because of the then Regional Director who had developed the money earning culture at Insulia Centre much before my joining over there in January '76. On transfer from Insulia Centre I was at Jaspur Centre since 1992 to March and was leaving after the Centre as Regional Director in-charge for no. of occasions. Sri H.C. Patil, one time Regional Director of Jaspur Centre was on leave for quite a long time in 1992-93. I did not develop any such miscreant violating C.E.S. rules during these days. Because, I do not have any such idea of violating C.E.S. rules in my mind. But, I fell into ditch when I could not save myself from the cruel grip of the then Regional Director of Insulia Centre who was motivating me every now and then to join hands with him for earning money by conducting programmes at different organisations. He had also put pressure on me telling that I get transfer from Insulia to Ahmednagar in 1990 for co-operation with the then Regional Director in M. Sangapur. He convinced me that if I do not cooperate with him, he will not hesitate to give adverse entry in my ACR leading to my transfer. Ultimately, I had to join hands with him and work at his will.

Sir, I did ~~not~~ not object to work under the circumstances stated above and in my earlier compliances I have stated that I would not have been fit at all for being awarded if I would have done this at my will and style. But, as I did all these things by coming under pressure from some other person, will you not be good enough to consider my case favourably for the first time and this time and drop the matter giving me benefit of doubt.

Sir, I have rendered service to the Board for long years at 4 different Centres. I did lot of exceptional works which I would like to attract here for your kindly reference to have consider about my service and dedication for the cause of the Board as in my defence under Annexure - I.

For this I shall consider myself happy enough if I should get a chance to appear before any Enquiry Committee or to be explained all these happenings personally and allow me to deposit the amount I received, into the Board's Account.

I remain, Sir, your

Yours faithfully,
S. K. Chhabily
(S. K. Chhabily) R. (Sd), B.K.P.

Attested
S. K. Chhabily
Advocate
17/04/04

Annexure - I

During my long 22 years of service in the Board I have done some important work at different centres. They are as follows:

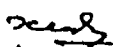
1. The first Functional Adult Literacy class was conducted by me at Dajapan T.E. in 1978 on behalf of the 3 units centre where 3 other senior officers were working.
2. The Board decided to conduct programmes for unorganised workers in 1980. The subjects included in the syllabus for unorganised workers were quite different to other training programmes. No body was entrusted to take the responsibility to organise unorganised workers programme. I shouldered the responsibility and conducted all allied programmes single handedly at the request of the Regional Director (D. Saikia) and had to prepare study materials suitably adapted. It was very difficult to get release of workers for this programme as managements do not want to let their workers to know about Trade Union. I did it creditably and managed to procure managements like tea milk, Cinema hall, Hotel, shops and commercial establishments, stone quarry, contractors, etc.
3. Brought unorganised industries under the map of workers education where my senior officers failed earlier. They are Hindustan Paper Corporation, Jajir road, Newgaon Co-operative Sugar Mill, Kampani, Kit jaly, Marghat, ONGC, Skitchur; Nagaland Paper and Pulp Inds. in Auli; Apeh, Rongia; Amtren, Guwahati; Namligand Refinery, Englaus Brax Ltd, Dibrui; etc.
4. A record of opening 3 unit level classes at Assam Co-operative Milk, Sighat simultaneously with MTC. Management paid incentives to workers Teachers and the participants for conducting class and attending class respectively.
5. The ILC-UNFPA programmes for organized and unorganised workers on population education was entrusted to me at 2 units centre. I did both the jobs happily and successfully in 1982 and in 1986.
6. The 2 units centre decided to organize a 3 months workers Teachers Training course in 1985. I obtained all the participants released from different managements. The education officers were entrusted to lead them on study tour outside Assam. I led them (18) and conducted the study tour successfully.
7. I conducted 3 day joint educational programmes exclusively for SC/ST workers employed at oil wells Ltd, Dulingjan and Moran. The management approved the centre for this programme when they were consulted by the higher authority for conducting any programme for SC/ST workers. I took it as a challenge and conducted a no. of programmes after being prepared myself with suitable study materials for them.
8. Did translation work in Assamese language from English in respect of Board's price publications and was well received. Also wrote articles in Assamese on some of ways.
9. Organized and conducted 3 day programmes on workers participation in Management in 1997-98 and 1998-99 at Dulingjan covering oil wells Ltd, Assam Gas Company, Hindustan Fertilizer Corporation and Assam Petro-chemicals Ltd and at Sibsoga with ONGC also. Prepared all study materials single handedly.
10. There was a 3 months workers Teachers training course at Dajapan Centre in 1984. It was finished by only 2 towns. On completion of the 1st week the Regional Director (T.C.D.) entrusted me with the work of release of candidates within 2 days where my colleagues were failed. I went out and returned with another 9 candidates and thus kept the no. to 11. The course would have been postponed if I would not have been entrusted for release work.
11. The first Staff Programme of Dajapan Centre was organized by me and conducted at Apeh, Rongia in 1988.
12. I was entrusted with the work of arrangements for Education officers' Interview at Guwahati in 1993 by the Regional Director in-charge Sri Boro. I did job creditably by arranging accommodation for interview at Cotton College and Circuit House for some of officers of the Board whom I am remembering. At that time you being the Director of the Board promised both Sri Boro and myself at Guwahati. At first before you left for the from Guwahati for our work in connection with the interview of Education officers held in 1993.

- 13. In 1975 there was an earthquake in Assam and the duration of it was about 20 seconds. It was 4th August and the time was 6 o'clock morning. The Hostel of Jorasilin Centre was beset with tremors of 30 minutes under Teachers Training Centre. The condition of the Hostel building was so poor that anything may happen due to the earthquake. Therefore I went out of my home leaving my wife and my only child alone under the brack of earthquake and then to the Hostel to give my services as Hostel Super. The people around the Hostel and the Hostel Boarder was astonished to have me amidst them at the time of their need.
- 14. One Mr. Netra Prasad Bhunia guestly Hostel Attendant, Jorasilin was suffering with throat problem because he had his dinner with meat. A piece of bone was also taken by him unknowingly, for which he came to me at about 11:30 pm. for help. I went out with him in search of doctor. It was raining (heavy) that day. First, I went to civil hospital and then to door to door of doctor. No body was ready to come out during surgery problem in Assam. At last one Dr. B. C. Pholom who knows me came out of his residence recognizing my call and give him treatment. His life could ^{not be} saved as the treatment was given in the night time. The time was 3 Am (early morning). I was moving ^{around} the doctor for the whole night. Next morning I was praised by all sections for my service even after heavy rainfall in the night.
- 15. 5 unions were formed after my training programmes. They are 1) Assam Hotel workers union, 2) Assam Cinema hall workers union, 3) Assam shops and Commercial establishment workers union, 4) Nampal Contractors workers union, and 5) Assam Printing press workers union. The first 3 unions are affiliated to BMS and 1 head office about Jorasilin. The 5th is an independent union and the 5th is affiliated to IITUC at Guwahati. These are the significant impacts of my programmes.
- 16. Prior to my joining Tezpur Centre in 1972 and Jorasilin Centre in 1976 the centres were conducting only ~~and low level training programmes with a very poor staff cadre.~~ I managed ~~to~~ ^{to} my personal efforts and contacts with Hargey and ~~to~~ ^{to} trade unions.

- 17. I have organized workers education through both at Tezpur and Jorasilin Centres obtaining co-operation from Managements and Trade Unions. All the celebrations were quite successful and fruitful work.
- 18. I involved State Ministers in no. of training programmes both at Tezpur and Jorasilin Centres.
- 19. So far my individual target is concern I never lagging behind and achieved the allotted targets every year. Moreover, I encourage ^{help to} my other colleagues in achieving targets through contacts and correspondence.

These are a few instances which I mention out of my memory for your ready reference to speak about me rather you will be able to know what type of services I rendered to the Board since my joining in 1978. you will certainly consider it that a man with ~~the~~ quality stated above can not violate the rules unless there is some pressure from other. I am retaining these facts with a view to give a least a favourable consideration at your end in regarding the content of the memorandum issued to me. I am really a very poor man because I shall consider the blame of violation of CC's rules for misconduct even after rendering sincere services to the Board as stated above.

With Regards


 (Sri K. Chakraborty) 21/12/2021
~~Joint~~ Education Officer, (S.G.)
 C.B.W.F., Guwahati etc.



केन्द्रीय श्रमिक शिक्षा बोर्ड

ANNEXURE - V

(श्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)

वी आर सी ई गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440 010

CENTRAL BOARD FOR WORKERS EDUCATION
 (SPONSORED BY THE MINISTRY OF LABOUR, GOVT. OF INDIA)
 Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010

तार : श्रमशिक्षा
 GRAM : SHRAMSHIKSHA
 Phones : 2 3 3 3 1 3
 2 3 2 2 7 5
 2 3 2 3 1 4
 EPABX : 2 3 1 1 5 5
 2 3 2 4 8 2
 Fax : 0712-2 3 3 3 1 3

No.C-14012/25/99/ 6,154

7th April, 2000

Shri K. Choudhury,
 Education Officer (SG),
 CBWE,
 Barrackpore.

Sub:- Departmental Inquiry into the charges framed against
 Shri K. Choudhury, Education Officer (SG).

Sir,

I have been appointed as Inquiring Authority to conduct inquiry in the case above cited, vide order No.C-14012/25/99/5966 dated 6th April, 2000 issued by Chairman, CBWE, a copy of which has been endorsed to you.

2. Accordingly, a preliminary hearing of the case will be held by me in my chamber on Friday the 28th April, 2000 at 11 AM at CBWE Headquarter, Nagpur. You are required to attend the hearing alongwith your Defence Assistant, if any, and wait until further directions. In case you fail to appear at the appointed date and time, proceedings will be taken ex-parte.

3. It may be noted that no witnesses will be examined on the said date. The purpose of the preliminary hearing is to sort out the preliminaries to lay down a time schedule for inspection of the listed documents, submission of the lists of additional documents, defence witnesses and to record your defence statement.

4. Your presence will be required for a day.

5. Receipt of this notice may please be acknowledged.

Yours faithfully,

J.N. Ghoda
 J.N. Ghoda)
 Inquiring Authority &
 Dy. Director (Admn)

Attested
 Suresh Choudhury,
 Advocate
 17/4/09

Copy forwarded to:-

1. Shri J.C. Soni, Presenting Officer & Asstt. Director; CBWE, Nagpur. He is also requested to attend the preliminary hearing at the appointed date and timing alongwith all listed documents, in original.
2. The Zonal Director (EZ), CBWE, Calcutta.
3. The Regional Director, CBWE, Barrackpore.

Soll
(J.N. Ghoda)
Inquiring Authority &
Dy. Director (Admn)

Purohit/

CENTRAL BOARD FOR WORKERS EDUCATION : NAGPUR

No. C-14012/25/99/ 53165

Dated/- 6.4.2000

O R D E R

WHEREAS an inquiry under para-2 of the Third Schedule to Central Board for Workers Education (Staff and Conditions of Service) Regulations 1962 is being held against Shri K. Choudhury, Education Officer (SG), CBWE, Barrackpore.

2. AND WHEREAS the Chairman, CBWE, considers it necessary to nominate a Presenting Officer to present the case in support of the charges before the Inquiry Officer.

3. NOW THEREFORE the Chairman, CBWE, in exercise of the powers conferred by sub para (5) of para-2 of the said Schedule, nominates Shri J. G. Soni, Assistant Director, Central Board for Workers Education, Nagpur as Presenting Officer.

By order of the Chairman, CBWE

(B.A. Chavan)
Director

Copy to:-

- (1) Shri J.G. Soni, Assistant Director, CBWE, Nagpur.
- (2) Shri J.N. Ghoda, Dy. Director (Admn.), CBWE, Nagpur.
- ✓ (3) Shri K. Choudhury, Education Officer (SG), CBWE, ~~Nagpur~~ Barrackpore
- (4) Shri T.C.Das, Zonal Director (East), CBWE, Calcutta.
- (5) The Regional Director, CBWE, Barrackpore alongwith three copies of Order. He is requested to handover the original to Shri K. Choudhury, Education Officer (SG), after obtaining his acknowledgement on both the copies. The second copy may be sent to H.O. and another may be retained for record at Regional Directorate.

(B.A. Chavan)

CENTRAL BOARD FOR WORKERS EDUCATION : NAGPUR

No. C-14012/25/99/5966

Date/- 6.4.2000

O R D E R

WHEREAS an inquiry under para 2 of the Third Schedule to the Central Board for Workers Education (Staff and Conditions of Service) Regulations, 1962 is being held against Shri K. Choudhury, Education Officer (SG), CBWE, Barrackpore.

2. AND WHEREAS the Chairman, CBWE, considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri K. Choudhury, Education Officer (SG).

3. NOW THEREFORE the Chairman, CBWE, in exercise of the powers conferred by sub-para(2) of para-2 of the said Schedule, hereby appoints Shri J. N. Ghoda, Dy. Director (Admn), CBWE, Nagpur as the Inquiring Authority to inquire into the charges framed against the said Shri K. Choudhury, Education Officer (SG).

By order of the Chairman, CBWE

(B.A. Chavan)
Director

Copy to:-

- (1) Shri J.N.Ghoda, Dy. Director (Admn.), CBWE, Nagpur.
- ✓(2) Shri K. Choudhury, Education Officer (SG), CBWE, Barrackpore.
- (3) Shri T.C.Das, Zonal Director (East), CBWE, Calcutta.
- (4) The Regional Director, CBWE, Barrackpore alongwith three copies of Order. He is requested to handover the original to Shri K. Choudhury, Education Officer (SG), after obtaining his acknowledgement on both the copies. The second copy may be sent to H.O. and another may be retained for record at Regional Directorate.
- (5) Shri J.G.Soni, Asstt. Director, CBWE, Nagpur.

(B.A. Chavan)
Director

Daily Order Sheet of Preliminary Hearing in Disciplinary Proceedings against Shri K. Choudhury, Education Officer(SG) at present working at Regional Directorate, Barrackpore on 26th April, 2000.

The hearing started at 11 sharp in the chamber of Dy. Director(Admn) and Inquiring Authority at CBWE Headquarters, Nagpur.

Present:

1. Shri J.M. Ghoda, Inquiring Authority.
2. Shri J.G. Soni, Presenting Officer
3. Shri K. Choudhury, Charged Officer.

The Charged Officer admits of the receipt of the Chargesheet and accepts all the charges. He also makes the following statement:-

Q1

✓ "I accept all the charges unconditionally. However I, with folded hands, say that whatever I did, I had to do alongwith Dr. P.K. Talukdar, Education Officer, my then then colleague at Tinsukia under compulsion from Shri M.A. Siddiqui, the then Regional Director. I assure that I will not repeat such act in future and pray for mercy. I am making this statement on my own free will without any duress with full understanding and realisation of the consequences".

Consequent upon unconditional acceptance of the charges by the Charged Officer during this first preliminary hearing, the inquiry stands concluded.

K. Choudhury
 28/4/2000
 (K. Choudhury)
 Charged Officer

J.G. Soni
 (J.G. Soni)
 Presenting Officer

J.M. Ghoda
 28/07/2000
 (J.M. Ghoda)
 Dy. Director(Admn)
 & Inquiring Authority.

NAGPUR

Dated 28th April, 2000..

Attested
Sirajit Choudhury
 Advocate
 17/9/09

केन्द्रीय श्रमिक शिक्षा बोर्ड

ANNEXURE-VII

तार : श्रमशिक्षा

GRAM : SHRAMSHIKSHA

Phones : 2 3 3 3 1 3

2 3 2 2 7 5

2 3 2 3 1 4

EPABX : 2 3 1 1 5 5

2 3 2 4 6 2

Fax : 0712-2 3 3 3 1 3

(श्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)

पी. ३०० सी ई, गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440 010.

CENTRAL BOARD FOR WORKERS EDUCATION

[SPONSORED BY THE MINISTRY OF LABOUR, GOVT. OF INDIA]

Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010.

No.C-14012/25/99/1195/

4th September, 2000

ORDER

WHEREAS disciplinary proceedings under Rule 14 of the CCS (CCA) Rules, 1965 as applicable to the employees of the Board by virtue of Regulation 25 of the CBWE (Staff & Conditions of Service) Regulations, 1962 and Regulation 13 ibid were instituted against Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore vide this office memorandum No.C-14012/25/99/263 dated 06-1-2000 on the following Articles of Charges:-

ARTICLE-I

Shri K. Choudhury while working as Education Officer(SG) at Regional Directorate, Tinsukia during the period 1996 to 1998 misused his official position -

(a) by writing letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" to wrongfully gain personal financial benefit as detailed below:-

- (1) No.WEC/TSK/59 dated 16-4-1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Distt. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 28-4-1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (2) No.WEC/TSK/712-13 dated 19-8-1998 addressed to the Regional Director, Oil & Natural Gas Commission, Nazira, Distt. Sibsagar regarding programme calendar for the year 1998-99 for three numbers of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (3) No.WEC/TSK/1466 dated 23-1-1998 addressed to the Manager, Hapjan Tea Estate, P.O. Mahum, Distt. Dibrugarh regarding 2-days training programme mentioning therein that "We encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc."

Attested
Surgjit Choudhury
Advocate
17/9/09

(4) No.WEC/TSK/33/1063 dated 14-10-1998 addressed to Manager, Bokel Tea Estate, P.O. Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of "Rs.3000/- as course fee in cash for the said programme".

(b) and also wrongfully received various amounts as detailed below for the programmes conducted in official capacity:-

- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10-12-1996 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 02-1-1997 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (3) Equal share out of Rs.3000/- paid to Shri P.K. Talukdar, Education Officer for conducting jointly with Shri K. Choudhury 2-days Educational Programme on 7th & 8th July, 1998 (Ref. Certificate dated 11-3-99 from Manager, Panitola Tea Estate, Rossell Industries Limited).
- (4) Equal share out of Rs.2000/- paid to Shri K. Choudhury and Shri P.K. Talukdar as faculty charges for conducting programme on 08-8-98 by AFT Industries Ltd., Hilika Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hilika Tea Estate, PO Barahapjan).
- (5) Equal share out of Rs.2000/- paid to S/Shri K. Choudhury and P.K. Talukdar for conducting 2-days Joint Educational Programme on 17th & 18th July, 1998 by AFT Industries Ltd., Hokonguri Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hokonguri Tea Estate).
- (6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, PO Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref. certificate dated 11-3-99 from Shri A. Nath, Actg. Manager, AFT Industries Limited).

A statement of imputations of misconduct on which the articles of charge were based together with a list of documents by which and a list of witnesses by whom the charges were proposed to be sustained were also forwarded to him alongwith the above said memorandum dated 06-1-2000.

Memorandum
of
P23
p42

2. Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore, the Charged Officer admitted all the charges levelled against him but also desired that he should be given a chance to appear before Inquiry Committee or to explain all the happenings personally besides showing preparedness to deposit the amount he received in the Board's Account through his letter dated 20-1-2000. Accordingly, Shri J.N. Ghoda, Dy. Director(Admn), CBWE, Nagpur was appointed as the Inquiry Officer to inquire into the charges vide Order No.C-14012/25/99/5966 dated 06-4-2000.

3. AND WHEREAS the Inuiiry Officer vide his report dated 28-4-2000 gave a finding that in the light of the admission of the charges by the Charged Officer, the Charged Officer is held guilty of the charges.

4. AND WHEREAS Shri K. Choudhury, Education Officer(SG), Barrackpore had admitted the charges, forwarding of the report of the Inquiry Officer to the Charged Officer was not considered necessary by the Chairman, CBWE.

5. AND WHEREAS on careful consideration of the report of the Inquiry Officer and other records of the case and in the light of the submissions made by Shri K. Choudhury, Education Officer(SG), the Chairman, CBWE has decided to accept the findings of the Inquiry Officer and has held that these charges stand proved.

6. Therefore, after considering the report of the Inquiry and the facts and circumstances of the case, the Chairman, CBWE has come to the conclusion that Shri K. Choudhury, Education Officer(SG) has indulged in the acts of wrongfully gaining personal financial benefit and the charges of very grave nature having been proved against Shri K. Choudhury, Education Officer(SG) working in CBWE which cherishes, preaches and strives to inculcate among the workers the ideals of model work culture and work ethics AND WHEREAS Shri Choudhury, Education Officer(SG) was expected to uphold these ideals as a senior officer but did the alleged highly abominable and unbecoming acts of collecting money from managements, whereas potential tendency for indulging in such nefarious acts at Regional Directorate, Tinsukia as well as rest of the Regional Directorates needs to be discouraged and whereas admission of the guilt by Shri K. Choudhury, Education Officer(SG) does in no way wash-away or dilute the seriousness and gravity of the misconduct committed by him, Shri Choudhury needs to be awarded severe and exemplary punishment. The Chairman, CBWE

is of the view that ends of justice will be met if penalty of dismissal from the services of the Board, entailing forfeiture of his past service under Rule 24 of CCS (Pension) Rules, 1972 as applicable to the employees of the Board by virtue of Regulation 7 as well as Regulation 25 of the CBWE (Staff & Conditions of Service) Regulations, 1962 is imposed on Shri K. Choudhury by the Chairman, CBWE in accordance with Regulation 12 of the CBWE (Staff & Conditions of Service) Regulations, 1962. Accordingly, the above said penalty, as ordered by the Chairman, CBWE is hereby imposed on Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore with immediate effect.

7. As such Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore stands dismissed from the services of the Central Board for Workers Education from the date of service of this memorandum to him.

(S.V. Vora)
I/c Director

Shri K. Choudhury,
Education Officer(SG),
CBWE,
Barrackpore.

Copy to:-

1. Hon'ble Shri Hasubhai Dave, Chairman, Central Board for Workers Education, Rajkot.
2. Shri V. Parameswaran, Joint Director, Govt. of India, Ministry of Labour, New Delhi.
- ✓ 3. The Regional Director, CBWE, Barrackpore alongwith three copies of the memorandum. He is requested to handover the original memorandum to Shri K. Choudhury, Education Officer(SG), obtain his acknowledgement on second and third copy, send the second copy to HO; the third copy may be retained at Regional Directorate for record.
4. Shri R.S. Gulhane, Zonal Director(EZ), CBWE, Calcutta for information and necessary action.
5. The Financial Adviser, CBWE, Nagpur.
6. Personal File of Shri K. Chourhudy.
7. Personnel Branch.
8. Confidential Section.
9. Zonal Director(S), (N) and (W)

RT. अ. अ. अ.

(S.V. Vora)
I/c Director

Purohit/

To
The Chairman
Chairman

To
The Chairman
Central Board for Workers' Education
"Shram Shadhana"
Rajkot

Date 13-10-2000

Sub : Prayer for reconsideration of disciplinary proceedings against Sri K. Choudhury, EO (SO)

Ref: H.O. letter No. C-14012/25/99/11951 dt. 4.9.2000

Respected Sir,

With due respect and humble submission I beg to state the followings for favour of your kind consideration and sympathetic action.

7

That Sir, I have admitted charges levelled against me as mentioned in No.C-31011/35/Gen/95/II/15245 dated 17-8-1999 conditionally because I stated that I was involved by the then Regional Director of C.B.W.E., Tinsukia, Sri M.A.Siddiqui only. I was requesting the Director, CBWE, Nagpur to give a chance to express my views clearly personally before him or any other person selected by him. Accordingly I was given a chance to appear before an Inquiry Committee headed by Sri J.N.Ghoda, Dy. Director (Admn), C.B.W.E., Nagpur. It was an inquiry only in name because I was given no chance to express my views by the Inquiry Officer Shri J.N.Ghoda and Sri Soni, presenting officer. They have prepared a statement of inquiry and told me to put my signature. I did accordingly because I was given assurance by both of them that the Committee will consider my case in my favour taking into account my past carrier. They also told me that they know it that I was involved in the case by Sri Siddiqui, the then Regional director, C.B.W.E., Tinsukia.

Had I been given chance to express my opinion I would have told the Inquiry Committee as follows :

1. The collection of money from management by conducting programme was going on at Tinsukia Centre prior to my joining at Tinsukia on transfer from CBWE, Tespur in the month of January, 1996. It was done by Sri M. A.Siddiqui, Regional Director, Tinsukia. (Copy of one of the letter is enclosed which will speak for itself - Annexure -I)
2. Sri Siddiqui was trying to get me involved in this practice right from my joining at Tinsukia Centre. He threatened me with a confidential letter received from Head Office which was in connection with my performance after transfer from Tespur Centre. He was telling me that he will not hesitate to give adverse entry in my ACR if I donot obey him and co-operate with him. This letter was written by Sri K.H.Kartha, Additional Director, CBWE, Nagpur. It was utilised by Sri Siddiqui as weapon to get me involved in the practice of money collection and was repeated it from time to time. I was keeping myself away from the cruel grip of Sri Siddiqui till November, 96 even after his repeated threatening. But one day he told me that he will write a letter (confidential) against me unless I co-operate with him in conducting programme and writing letter to

Attested
Suryajit Choudhury,
Advocate
17/10/04

management requesting for programme in his absence (when he will be away from the HQ) giving terms and conditions of programme as he was doing so far. (copy enclosed-Annexure-II)

3. Sri Siddiqui also motivated me that Central Board for Workers Education has got no right to conduct Self Generation of Fund programme in terms of money as the Ministry of Finance had turn down its proposal of collecting one Rupee levy from organised workers during the time of Sri G.Ramanujam as Chairman of Central Board for Workers Education. It was happened in early Eighty's. He also told me that Central Board for Workers Education was run by the Govt. of India totally on Grants-in-Aid on which plea the Finance Ministry had turn down the proposal of Governing Body, CBWE of collecting one Rupee levy from organised workers. On the other hand proposal for conducting Self Generation of Fund programme in different organisations is also a proposal of Governing Body, CBWE without Finance Ministry's approval. When the Central Board for Workers Education is totally financed by the Govt. of India by granting Grants-in-Aid how it can conduct programmes in terms of money. It has puzzled me and had joined my hands with Sri Siddiqui in conducting programmes in terms of money.
4. Regarding acceptance of guest talk fees in Coal India Ltd., Margherita for delivering talk, justification was given to me that the Board officials are accepting fees for delivering talk in All India Radio and Doordarsan officially. There is no objection from/side of Board even after there is a clear cut circular asking the talker to deposit 50% of the amount received by this way. Nobody is depositing any amount received from All India Radio and Doordarshan.
5. Shri P.K. Talukdar, E.O. had shown me a draft of confidential letter made by Sri M.A. Siddiqui against him (Talukdar) to send to Head Office wherein some bad remarks were passed about the Assamese community, which is very much objectionable. It was written in the letter that Assamese people are lazy and having link with the militant group of Assam. He also wrote that Assam Jatiyatabadi Juba Chatra Parishad is a wing of militant group. Jatiyatabadi Juba Chatra Parishad is a non-political body of youth of Assam. On receipt of this letter the Director, CBWE had taken no action against Sri Siddiqui even after such serious comments made against a community of our country rather got protection as representative of the Board. At this I was very much annoyed and decided to co-operate with Sri Siddiqui the Regional Director of CBWE/Tinsukia as obedient subordinate from then onward (copy of draft of confidential letter enclosed- Annexure-III)
6. I was transferred to CBWE, Asansol in 1990. because there was an adverse report on me from the Regional Director Sri M. Sengupta with whom I had a difference of opinion regarding non payment of H.R.A. to Sri M.N. Salam, E.O. and misuse of office vehicle. Sri Salam was residing in the official quarter alongwith Sri M. Sengupta and Dr. S.S. Choudhury, E.O. Sri Sengupta, R.D. was not paying H.R.A. to Sri Salam, E.O. on the plea that the office quarter was allotted in the name of Sri Salam whereas Sri Sengupta and Dr. S.S. Choudhury were drawing the H.R.A. although they were in the same quarter. I objected to it and became unhappy cause of the Regional Director Sri Sengupta. Sri Sengupta had also misuse the office vehicle during his time from 1987 to 1989 by visiting Guwahati, Silchar, Imphal, Kohima, Lunding etc. by office vehicle. These places are far off from Tinsukia. Silchar is more than 700 Kms. from Tinsukia. I raised my objection to it showing justification of utilisation of office vehicle in and around Tinsukia only.

He was very much angry with me and managed to obtain petition from the office employees against me for which I was transferred to CBWE, Asansol in 1990 where I suffered a lot as my family was not with me by that time. For this I was really afraid of being transferred again from Tinsukia where my family is staying as my wife is also working in the Board. This is the fact of co-operating with the Regional Director Sri M.A.Siddiqui to make him pleased.

7. Sir, So far violation of CCS Rule by writing letters to different management for conducting programmes is concerned, I have to say that it is not a new practice at all in the history of Central Board for Workers Education. Regional Directors are generally gave instructions to Education Officer either to write letters or to go on contact for collection of money for different occasions. Out of which Celebration of Workers Education Day, organisation of seminar and visit of dignitaries etc. can be cited as example. I have collected money for celebration of Workers Education Day in 1994 and 1995. By that time Sri T.C.Das, now Dy. Director(Hq), CBWE, Nagpur was the Regional Director at WEC/Tezpur. Sri Das had instructed me to do so. You may get information from WEC, Tezpur and A.B.I.T.A., Zone-III, Tezpur in this regard. I did it because successful celebration will help Education Officer to keep good relation with the Regional Director.
8. Regarding CCS Rules I am to say that I am not aware about CCS Rule because I have not undergone any training programme on it and the Head Office have provided any Education Officer with any literatures on CCS Rule so far like in other departments. I heard that no education is given to Education Officers and Regional Directors during administrative training even in Central Board for Workers Education. Therefore, one cannot be held responsible of being not aware about CCS Rules and violation of the same.
9. CCS Rules are not violated only by Education Officer or the Regional Directors alone. The same violations are generally found among the top officials of the Board. For example, I was called for explanation in connection with translation of Board's price publication into assamese. I could not complete the job in time due to my health problems. As such, I got an warning letter from Addl. Director, Sri S.V.Vora. But I was called for explanations by the Director, CBWE only. In this case Sri Vora has violated the rules which is a normal practice in Central Board for Workers' Education. (Copy of warning letter enclosed - Annexure -IV)
10. Coming to the most important point, I am to say that I was dismissed from service by Sri S.V.Vora, Director Incharge on 4th September/2000 vide H.O.letter No.C-14012/25/99/11951. Sri Vora as Director incharge cannot dismiss me as the Director, CBWE was not my Appointing Authority. I was appointed by the Dy. Secretary, Ministry of Labour, Govt. of India in 1978. Sri Vora is presently holding the post of Addl. Director, a very responsible post of the Board. Obviously his violation of CCS rules is much more serious than an Education Officer like me.
11. In the dismissed letter it is stated that I was acting against the work culture and work ethics of workers while I was at Tinsukia. This is totally wrong and baseless. Because I was conducting maximum no. of programmes of all sorts to boost up the morale of workers of the region. Organisations and Trade Unions says that Workers Education Centre, Tinsukia minus Sri K.Choudhury has no existence at all. I have covered a no. of new industries and revived Workers Education Scheme in almost all the organisations after my transfer from Tezpur to Tinsukia. In this regard I wrote very clearly how

2

I have promoted the scheme in Assam with devotion and sincerity. In Barrackpore also, I have some outstanding coverages. Perhaps you have heard about Sunderban area where a lot of obstructions are prevailing. I went there and conducted a 5-day programme for unorganised Bidi workers. In this regard you may get informations from the Regional Director, CBWE/Barrackpore. Sunderban was not covered since the inception of Barrackpore Centre. I was the only Education Officer to visit Sunderban and conduct programme. As such, allegation of ruining work culture and work ~~ethics~~ ethics of workers is totally false and baseless.

12. I was conducting programmes under ILO-JNFPA project on Population Education while I was at Tinsukia for organised and unorganised workers. It was told in Head Office Circular that special entry will be given in ACR for conducting programmes under this project. Similar circular was given by Head Office in regards of Self Generation of Fund Programmes. /whether I have got doubt ~~whether~~ any special entry was given in ACR or not because I was dismissed without any hesitation even after such outstanding carrier prior to 1996.

13. Central Board for Workers Education is collecting money by conducting Self Generation of Fund programme from various organisations throughout the Country as the Grants-in-Aid provided by the Govt. of India is not sufficient to meet its required expenditures. Tinsukia Centre is functioning in a building owned by the State Government since its inception. This building was maintained by the State P.W.D. department till 1990. After that the State P.W.D. Department was expressing their inability to do any repairing works owing to their financial crisis. The building was deteriorating day by day owing to lack of maintenance for long time. In this regard I wrote a letter to the Director, CBWE, Nagpur seeking his sanction for repairing works. No reply was received by the Centre till I was at Tinsukia. But, problems are to be faced by the officials of the Centre. I was incurring expenditures in repairing office building and hostel building from time to time to solve the problems of the Centre as well as the trainee residing in the hostel. In this regard you may go through my compliance dated 21-1-2000 addressed to Director, CBWE, Nagpur.

Sir, considering the above facts I would like to request you most fervently to reconsider my case once again to give justice to me taking into account the following points :-

- a) I was not the architect of the case.
- b) Whatever I did it was under the pressure of Regional Director
- c) I was misled by the Regional Director.
- d) No opportunity was given to me to visit CBWE/Tinsukia to examine the actual situation whether I actually wrote the letter and received the amount as shown in the statement of allegation levelled against me. Because all xerox copies were supplied to me which has no authenticity unless I see personally the original typed letters and receipt of cash as mentioned.
- e) No inquiry was held at CBWE/Nagpur in April/2000 rather a stereo-typed statement made by the Inquiry Officer. I

may be supplied the proceedings of Inquiry if really it was held where my signature may be attached.

- f) Inappropriate punishment is given to me even after I admit haphazardly as I was suffering from mental tension by that time at Barrackpore, Calcutta. By that time I was humiliated by the Head Office with one after another confidential letter on different matters minimally.
- g) I got assurance from you at IWS, Bombay and CBWE/Barrackpore, Calcutta wherein you have told me that you will consider my case favourably if I work hard for the cause of the Workers Education in future.
- h) As I did not utilise the amount received for personal gain rather I utilised for the cause of the CBWE/Tinsukia. This has been stated in my earlier compliances.
- i) Till date I have not gone to the people of Assam and Assam Jatiyatabadi Yoba Chatra Parishad with the two remarks made by Sri Siddiqui who has protected by the Director, CBWE, Nagpur as he did not take any action against Sri Siddiqui. Because you know that both the remarks will surely make a great harm to the Board if I go to the people of Assam and the Yoba Chatra Parishad.
- j) Sri S.V.Vora, Director Incharge, CBWE, has violated the CGS Rules being the Director Incharge in issuing the dismissal order that too by a confidential letter whereas he does not have the authority to do so. Only the Chairman can issue a dismissal order of Education Officer since delegation of power has been shifted to him.
- k) Violation of Government guidelines of posting both husband and wife in the same station or at the nearest station is happened in my case twice in 1990 and 1999 when I was transferred to Asansol and Barrackpore alone. This guidelines were given by the Parliamentarian of our Country when Late Rajiv Gandhi was the Prime Minister of the Country. But the Director of CBWE has violated this guidelines twice showing no respect to the Hon'ble Parliamentarian of the Nation.

Therefore, I would like to request you to reconsider my dismissal case once again by dropping all charges levelled against me as mentioned in statement of allegation and to reinstate me in service with an immediate effect so that I may be able to devote in promoting Workers' Education Scheme in those places where my service will be urgently required.

Thanking you,

Yours faithfully,

K. Choudhury
(K. Choudhury) 13/11/2009
College Road (In front
of Buddha Mandir, Tinsukia
PIN-785125

Encl:- Four as above

Copy to: Hon'ble Sri V. Parameswaran, Ministry of Labour, Govt. of India for his kind information and necessary action.

K. Choudhury
(K. CHOUDEHURY) 13/11/2009
TINSUKIA.



केन्द्रीय श्रमिक शिक्षा बोर्ड

ANNEXURE-IX

(श्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)

वी. आर. सी. ई. गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440 010.

CENTRAL BOARD FOR WORKERS EDUCATION

[SPONSORED BY THE MINISTRY OF LABOUR, GOVT. OF INDIA]

Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010.

तार : श्रमशिक्षा
GRAM : SHRAMSHIKSHA
Phones : 2 3 3 3 1 3
 2 3 2 2 7 5
 2 3 2 3 1 4
EPABX : } 2 3 1 1 5 5
 2 3 2 4 6 2
Fax : 0712-2 3 3 3 1 3

No.C-14012/25/99/14007

27th December, 2000

Shri K. Choudhury,
College Road,
In front of Buddha Mandir,
Tinsukia.

Sub:- Prayer for reconsideration of disciplinary proceedings
against Shri K. Choudhury, Education Officer(SG).

Sir,

Kindly refer to your prayer/appeal dated 13-10-2000
alongwith its enclosures preferred by you to the Chairman,
CBWE over the order passed by the Chairman, CBWE imposing on
you the penalty of dismissal from service of the Board.

In this connection please note that:-

As per Regulation 17 of the CBWE (Staff and Conditions
of Service) Regulations, 1962 (extract enclosed for
ready reference) where any order is passed imposing any
of the penalties specified in Regulation 11 by the
Appointing Authority subordinate to Chairman, the appeal
against such order shall lie to the Chairman, and to the
Govt. of India if the order is passed by the Chairman.

Thus in the instant case the appeal can lie with the
Govt. of India.

Accordingly your appeal is returned herewith.

Yours faithfully,

S.V. Vora

(S.V. Vora)
Addl. Director

Encl: As above.

Purohit/

*Attested
Surgit Choudhury
Advocate
17/1/09*

EXTRACT OF REGULATION 17 OF THE CBWE (STAFF & CONDITIONS OF SERVICE) REGULATIONS, 1962

17. Appeals against Orders Imposing Penalties:

- (1) Where any order is passed imposing any of the penalties specified in Regulation 11 by the appointing authority subordinate to Chairman, the appeal against such order shall lie to the Chairman, and to the Government of India if the order is passed by the Chairman.
- (2) Notwithstanding anything contained in Sub-regulation (1) where an order is passed imposing a penalty specified in Regulation 11, by an authority subordinate to the Appointing Authority the appeal against such order shall lie to the Appointing Authority.

To
The Secretary
Ministry of Labour
Govt. of India
Shram Shakti Bhawan
Rafi Marg
New Delhi-110 001

Date - 8-1-2001

sub :- Prayer for reconsideration of disciplinary proceedings against shri K. Choudhary, Education Officer (SO) under Central Board for Workers' Education, Barrackpore

Respected Sir,

With due respect and humble submission I am to state the followings in reference to disciplinary proceedings against me for favour of your kind consideration and sympathetic action.

Sir, I was working as Education Officer (SO) in Central Board for Workers Education, Barrackpore, Calcutta-59. But on 7th September/2000 I was dismissed from service vide H.O. confidential letter No. C/31001/38/Gen/95/II/15245 dated 4th September/2000 without notice and was not given any copy of the final report of inquiry held on 28th April, 2000.

L Addl.

I sent a prayer to the Chairman, Central Board for Workers Education on 13-10-2000 for reconsideration of the disciplinary proceedings with a copy endorsed to Sri Y. Parameswaran, Jt. Director, Ministry of Labour, Govt. of India, New Delhi as the dismissal letter was signed by the Director Incharge, Central Board for Workers Education, Nagpur. But, I get it back on 3rd January/2001 from the Addl. Director, Central Board for Workers Education, Nagpur asking me to appeal you for reconsideration of disciplinary proceedings against me. Copy enclosed (Annexure-I) for ready reference.

I was not aware about the appropriate authority to whom I should appeal to give me the justice against the disciplinary proceedings of the Director Incharge, Central Board for Workers Education, Nagpur. Perhaps, the Addl. Director, Central Board for Workers Education is also not aware of the same as he took nearly two months to return the letter to me for appealing to the appropriate authority. I am enclosing herewith the copy of my earlier prayer addressed to the Chairman, Central Board for Workers Education for your ready reference (Annexure-II)

Sir, my humble submission is that I am having three minor children of age ranging from 7 years to 15 years only. I have to give them education and other necessary facilities so that they will not be deprived of and misled in future. I was supposed to go on superannuation on 31-12-2011. If I would have got one more chance to be in service honestly and sincerely till my superannuation my children would have been rightly placed. But because of this unfortunate happenings the fate of my children becomes uncertain and their future is in deep darkness now.

Sir, under the above mentioned circumstances, I would like to appeal you with folded hands to reconsider my case and reinstate me in service giving posting somewhere in Assam by dropping all charges levelled against me

...2.

Attested
Suryajit Choudhary
Advocate

17/9/09

-2-

at an early date for which act of your kindness I alongwith my family members will remain ever grateful to you.

Waiting for a favourable order from your kindness.

Yours faithfully,

[Handwritten Signature]
08/01/2001

(K. CHODHURY)
Ex-Education Officer
College Road,
Opp. Buidhe Mandir
P.O. Tingakia-786126

Encls:- as above

Copies:- 1. as above

- 1. Sri Keshvabhai Jitthakker, Chairman, Central Board for Workers Education, B.M.S. Office, Ram Warsh Bhaman, Tikli Galli, Paharganj, New Delhi-110 075, for information and necessary action, if any.
- 2. Sri V. Paraswaran, Jt. Director, Ministry of Labour, Govt. of India, Shram Shakti Bhaman, New Delhi-110 001 for information and necessary action, if any.

[Handwritten Signature]
08/01/2001

(K. CHODHURY)
Ex-Education Officer/CBWE

To Secretary Labour
Ministry of Labour

Govt. of India
Shram Shakti Bhawan
Rafi Marg, New Delhi.

Da - 07-07-2001

Sub :- Prayer for reconsideration of disciplinary proceedings against Sr. K. Choudhary, Assistant Officer (90) under Central Board for Workers Education, BARRACKPORE.

Respected Sir,

With due respect and humble submission I am to draw your kind attention to my earlier letter dated 8-1-2001 on the subject cited above once again.

Sir, I represented my prayer for reconsideration of the disciplinary proceedings taken against me by the Head Office, Central Board for Workers Education, Nagpur on 7th Sept/2000 and to reinstate me in service giving me one more chance to serve the Board sincerely and honestly. I repeated in each and every letter that whatever wrong I did all those were done because of my ignorance and pressure imposed on me by the then Regional Director, Workers Education Centre, Tinsukia.

Sir, my daughter Miss Chisantana Choudhary has come out successfully this year in C.B.S.E. Xth Standard Examination with 88.8% marks securing star marks in all subjects. Her ambition is to go for medical service after completion of XIIth Standard by 2003. (Xerox copy of marksheet is enclosed for your kind perusal).

Sir, it will not be possible for me to fulfil the ambition of my daughter without your blessings in this regard. I shall be able to give financial support to my daughter only when I may be reinstated in service once again. Sir, if at all it is not possible to consider my case for reinstating me in service once again I donot have anything to say if I get the benefit of Gratuity, leave encashment, pension and other benefit which were forfeited by the Board in the name of severe and exemplary punishment.

Under the above mentioned circumstances, I would like to appeal you with folded hands to consider my case fervently and sympathetically so that I may get justice at your end at an early date for which act of your kindness I alongwith my family members will remain ever grateful to you.

Waiting for y a favourable order from your kindness.

Yours Faithfully

(K. Choudhary) 7/7/01
Sr. Education Officer
C.B.W.E./Barrackpore
College Road, Tinsukia

Copy forwarded to :-

1. Shri Keshavbhai J. Thakur, Chairman, Central Board for Workers' Education for information and necessary action;
2. Shri V. Furamdasaran, Jr. Director, Ministry of Labour, Govt. of India, Shram Shakti Bhawan, New Delhi & Director, Central Board for Workers Education for information and kind necessary action.

Encl :- XEROX COPY OF MARKSHEET

(K. Choudhary) 7/7/01
Sr. Education Officer

Attested
Surgjit Choudhary
Advocate

17/9/09

To
The Secretary
Ministry of Labour
Govt. of India
Shram Shakti Bhawan,
Rafi Marg, New Delhi-1

Date - 27-12-2001

Sub :- Prayer for reconsideration of disciplinary action taken against Shri K.Choudhury, Education Officer under Central Board for Workers Education, Barrackpore, West Bengal.

Respected Sir,

With due respect and humble submission I beg to state the following few lines for favour of your kind consideration and sympathetic action please.

That Sir, I have already requested your honour vide my letter dated 8-1-2001 and subsequent reminder dated 7-7-2001 on the above cited subject.

In my first letter I have requested your goodself humbly to reconsider my case and reinstate me as Education Officer under Central Board for Workers Education as early as possible. The second option I gave was to enable me to look after my daughter's education who had come out successfully in her Class Xth standard examination under C.B.S.E. in 2001. I got my daughter admitted into Cotton College, Guwahati in Higher Secondary 1st year (Science).

Sir, I failed measurably to look after the education of my other two minor children who are studying in Class IX and Class IV standard under C.B.S.E. course. At present I am maintaining my family from hand to mouth as I did not get anything from the Central Board for Workers Education in the name of Gratuity, Leave encashment and Pension etc. against my service tenure of 22 years.

Sir, I came to know that Shri M.A.Siddiqui, one time Regional Director, C.B.W.E., Shimla who was also placed under disciplinary action like me has got all the benefits (Retirement) because of your blessings and kind consideration.

Sir, I do not have any intention and capacity to approach the Central Administrative Tribunal (CAT) to take up my case as I have got full faith on you that you will come out with a consideration in my favour wherein you will drop all allegations raised against me and will either reinstate me in the department or will make arrangement to make payment of all retirement benefits to me which will make my hand strong for maintenance of my family and childrens' education as well.

Waiting for a favourable order from your kindness.

Yours faithfully,

K. Choudhury

(K.CHOUDHURY) 27/12/01
Ex- Education Officer
C.B.W.E./ Barrackpore.
College Road, Tinsukia
P.O. TINSUKIA - PIN-786125

Copy forwarded to :

1. Shri Keshavbhai J. Thakkar, Chairman, Central Board for Workers Education for information and necessary action.
2. Shri V. Parameswaran, Jt. Director, Ministry of Labour, Govt. of India & Director, Central Board for Workers Education for information and kind necessary action.

Attested
Sujit Choudhury
Advocate

17/1/09

K. Choudhury
(K.CHOUDHURY)
Ex-Education Officer

No.C 16011/4/2000-EA(WF)
Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya

Shram-Shakti Bhawan, Rafi Marg,
New Delhi, dated 8th March, 2002.

ORDER

Whereas disciplinary proceedings were instituted against Shri K.Choudhury, Ex. Education Officer (Selection Grade), Central Board for Workers Education posted at Barrackpore vide Memorandum No C-14012/25/99/263 dated 6.1.2000 on the following Article of Charge :-

- (a) Shri K. Choudhury while working as Education Officer (SG) at Tinsukia during the period 1996 to 1998 misused his official position by writing letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" to wrongfully gain personal financial benefits as detailed below :-
- (i) No.WEC/TSK/59 dated 16.4.1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Distt. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 28.4.1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (ii) No.WEC/TSK/712-13 dated 19.8.1998 addressed to the Regional Director, Oil & Natural Gas Commission, Nazira, Distt. Sibsagar regarding programme calendar for the year 1998-99 for three number of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (iii) No.WEC/TSK/1466 dated 23.1.1998 addressed to the Manager, Hapjan Tea Estate, P.O.Makum, Distt. Dibrugarh regarding 2-days training programme mentioning therein that "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc.
- (iv) No.WEC/TSK/33/1063 dated 14.10.1998 addressed to Manager, Bokel Tea Estate, P.O. Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of Rs.3000/- as course fee in cash for the said programme.
- (b) And.also wrongfully received various amounts as detailed below for the programmes conducted in official capacity :-
- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10.12.1996 (Ref.letter No.14/PIR/496 dated 25/29.3.99 From Shri P.N.Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 2.1.1997 (Ref. Letter No.14/PIR/496 dated 25/29.3.1999 from Shri P.N.Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

Attested
Suryajit Choudhury
Advocate

17/1/09

- 66- 101
- ✓(3) Equal share out of Rs.3000/- paid to Shri P.K.Talukdar, Education Officer for conducting jointly with Shri K.Choudhury 2-days Educational Programme on 7th & 8th July,1998 (Ref.Certificate dated 11.3.99 for Manager, Panitola Tea Estate, Rossel Industries Limited).
 - ✓(4) Equal Share out of Rs.2000/- paid to Shri K.Choudhury and Shri P.K.Talukdar as faculty charges for conducting programme on 8.8.98 by AFT Industries Ltd., Hilika Division, P.O. Barhapjan (Ref. Certificate dated 8.3.99 from Manager, Hilika Tea Estate, P.O.Barhapajan).
 - ✓(5) Equal share out of Rs.2000/- paid to S/Shri K.Choudhury and P.K.Talukdar for conducting 2-days Joint Education programme on 17th & 18th July,1998 by AFT Industries Ltd., Hokonguri Division, P.O.Barhapjan (Ref.Certificate dated 8.3.99 from Manager, Hokonguri Tea Estate).
 - ✓(6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, P.O.Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref.Certificate dated 11.3.99 from Shri A. Nath, Actg. Manager, AFT Industries Limited).

Shri K.Choudhury also claimed TA/DA for the tours undertaken officially for conducting the programmes in the above organizations whereas he asked for free lodging and boarding from the management ✓

Whereas said Shri Choudhury was directed to submit his written statement of defence on the article of charge communicated to him vide Memorandum dated 6-1-2000.

Whereas the oral inquiry was instituted to enquire into the charge framed against said Shri Choudhury and Shri J.N.Ghoda, Dy.Director (Adm) Central Board for Workers Education was appointed as Inquiry Officer.

Whereas at preliminary hearing held on 26th April,2000 the said Shri Choudhury admitted the charges. The Inquiry Officer accordingly held the charges as proved and submitted his report vide letter dated 28.4.2000.

Whereas the Disciplinary Authority after taking into account the proceedings of the enquiry and submissions of said Shri Choudhury and after considering all the facts and circumstances of the case arrived at the conclusion that Shri K.Choudhury has indulged in the acts of wrongfully gaining personal financial benefit and the charges of very grave nature having been proved against Shri K. Choudhury, Ex. Education Officer (SG) working in CBWE which cherishes, preaches and strives to inculcate among the workers the ideals of model work culture and work ethics and WHEREAS said Shri Choudhury was expected to uphold these ideals as a senior officer but did the alleged highly abominable and unbecoming acts of collecting money from managements, whereas potential tendency for indulging in such nefarious acts at Regional Directorate, Tinsukia as well as rest of the Regional Directorates needed to be discouraged and WHEREAS admission of the guilt by said Shri Choudhury did in no way wash-away or dilute the seriousness and gravity of the misconduct committed by him, said Shri Choudhury needed to be awarded severe and exemplary punishment. Accordingly the Disciplinary Authority ordered dismissal of said Shri Choudhury from the services of the Board with immediate effect by an order dated 4.9.2000.

Whereas said Shri Choudhury preferred a mere appeal to the Government of India and requested that the Order of dismissal may be withdrawn and he may be reinstated into services of the Central Board for Workers Education. The grounds of appeal are as under :-

- (i) that he has served the Board for more than 22 years with all sincerity, devotion and loyalty. He has followed rules and regulations and has served the cause of Workers Education Scheme wherever he has been posted;
- (ii) while functioning as Education Officer, Tinsukia some mistakes were committed by him unintentionally for which a very harsh punishment of dismissal has been awarded;
- (iii) that he has three minor children of age ranging from 7-15 years. The dismissal order will deprive him of all the retirement benefits and put him and his family to dishonours/harassment and financial loss.

Whereas the President has after considering the facts and circumstances of the case come to the conclusion that it does seem unfair that the family of said Shri Choudhury should be penalised twice, once because of the dishonour that accompanies dismissal and secondly the financial loss because of the forfeiture of his pension and gratuity. The family is innocent and the grave misdemeanour committed by said Shri Choudhury for some paltry amounts that he claimed at different occasions seems to have exacted too great a price in financial terms so far as they are concerned. Denial of both gratuity and pension to an employee who has served 22 years of service in the Board is bound to leave the family destitute. Said Shri Choudhury may, therefore, be sanctioned a compassionate allowance not exceeding two thirds of pension and gratuity which would have been admissible to him if he had retired on compensation pension in terms of Rule 41 of CCS (Pension) Rules, 1972.

Now, therefore, having regard to the position explained above and in exercise of the powers conferred by Rule 17(1) of the Central Board for Workers Education (Staff and conditions of Service) Regulations, 1962, the President is pleased to sanction a compassionate allowance not exceeding two thirds of pension and gratuity which would have been admissible to him if he had retired on compensation pension in terms of Rule 41 of CCS (Pension) Rules, 1972 and order accordingly.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

H.C. Gupta
(H.C. Gupta)

Deputy Secretary to the Government of India

To

1. Shri K. Choudhury,
Ex. Education Officer CBWE, Barrackpore,
College Road, Tinsukia,
P.O. TINSUKIA - 786125.

2. The Chairman,
Central Board for Workers Education,
Nagpur-440010

3. The Director,
Central Board for Workers Education,
Nagpur-400020.

To
The Secretary,
Ministry of Labour,
Government of India,
Rofi Marg,
NEW DELHI-110001.

Date-20th September, 2002.

Sub:- Disciplinary proceedings against Shri K.Choudhury, E.O. (SG) Workers Education Centre, Barrackpore, followed by dismissal from services-Review and re-consideration prayed for.

Sir,

With due respect and humble submission I beg leave of you to submit the following few lines for favour of your kind consideration and sympathetic action.

That Sir, I joined Central Board for Workers Education as Education Officer in 1978 and put 22 years of service at different centres viz. Tinsukia, Asansol, Tezpur, Tinsukia and Barrackpore as Education Officer and Education Officer(SG).

That Sir, I had stated all the facts while submitting my compliance against the charge that of Head Office prior to my dismissal in September, 2000.

That Sir, I got a letter No.C-16011/4/200 (SACWE) dated 8.3.2002 from the Deputy Secretary, Ministry of Labour, Govt. of India, New Delhi and found that the Ministry was convinced that there was an enquiry at Central Board for Workers Education, Head Office, Nagpur on 26th April, 2000 on charges levelled against me.

That Sir, I attended the preliminary inquiry on 28th April, 2000 at C.B.W.E. Hd. qrs. as directed by the inquiry Officer, Shri J.N.Ghoda. (Copy enclosed)

That Sir, there was however, no inquiry on 26th April, 2000 and that the presenting and inquiry Officer did on 28th April, 2000 was to ask me to put my signature on the paper ~~in~~ in the form of ~~daily~~ daily sheet of inquiry dated 26th April, 2000.

That Sir, the presenting and Inquiry Officer assured me that my case would be considered favourably keeping in mind my past service records and if at all any punishment was imposed then it would be a minor only.

That Sir, I believed them and their assurances and put my signature on the earlier typed daily sheet of inquiry dated 26th April, 2000 in good faith on 28th April, 2000.

That Sir, to my utter surprise and astonishment, I received the dismissal order from the service of the Board and it was signed by Shri S.V.Hora in the capacity of Director In-charge on 4th Sept. 2000 shattering all my belief and faith upon the assurance of inquiry Officer as given on 28th April, 2000.

That Sir, the practice of offering guest talk fees and faculty member's fees by the management is going on all over the country in different ways. Education Officer including Regional Directors are accepting it without accounts for. I was the only exception that I did the accounts for at the request of the management honestly. I expressed my willingness to deposit the amount I received from different managements in the Board's account while complying with the Head Office Charge Sheet. As such I feel that I got major punishment for minor fault I did at Tinsukia Centre by coming under the influence of the then Regional Director of the Centre.

contd.....2.

Attested
Suryjit Choudhury
Advocate

17/9/09

-2-

That Sir, Central Board for Workers Education organised an orientation programme on administrative and computer training for the prospective promotees to the post of Regional Directors in the middle of 1999 wherein the Central Board for Workers Education authority did not include my name as because they have already decided to keep me out of the services of the Board and this fact had been corroborated with the inquiry process subsequently held against me.

That Sir, this inquiry was on eyewatch to dismiss me as revealed from the very preliminary inquiry daily order sheet prepared in advance on 26th April, 2000 while I was called to appear the inquiry at Nagpur on 28th April, 2000.

In view of the facts stated herein above, I would fervently request the kind favour of your goodself to review and reconsider my prayer, de-novo for the sake of natural justice and reinstate me in the services of the Board and for this act of your kindness, I alongwith my family member shall remain grateful to you.

Yours faithfully,

K. Choudhury
(K. CHOUDHURY)
EX-EDUCATION OFFICER (SG)
College Road, Opp: Buddha Mandir,
Tinsukia-786125 (Assam)

Encls-As above

- Copy to:-
- 1) The Chairman, Central Board for Workers Education, for his kind information and necessary action if any.
 - 2) Shri V. Parameswaran, Director, Central Board for Workers Education, Nagpur for his kind information and necessary action if any.
 - 3) Shri S.B. Patel, Additional Director, Central Board for Workers Education, Nagpur for his kind information and necessary action if any.

K. Choudhury
(K. CHOUDHURY)
EX-EDUCATION OFFICER (SG)

ANNEXURE - XIII (Series) *105*

CENTRAL BOARD FOR WORKERS' EDUCATION
MINISTRY OF LABOUR
GOVT. OF INDIA

Office of the Regional Director of
Workers' Education Centre, Tinsukia.

Ref.No. WEC/TSK/ 2614 /

dt. 17 10 96.

To,
Mr. T.P. Sharma,
Manager, A.R.T. (Flywood Industries)
Margherita.

Dear Sir,

Kindly refer to your discussion held with
Dr. P.K. Talukdar, Education Officer of this centre on
26.10.96 regarding one day training course for the employees
of your organisation.

We proposed to organise the said training course
on 23.10.96. During the course topics like Productivity,
Dynamic of new work culture, Discipline and quality of life
etc. will be discussed. It will be a full time course and
20-25 workers will be required to attend the course. ~~A A course~~
~~fees of Rs. 2,000/- would be charge to meet the expenses~~
of faculties.

This may kindly be considered and the programme
may please be confirmed.

Thanking you,

Yours faithfully,

(Signature)
(MAA. Siddiqui)
REGIONAL DIRECTOR.

Recd on 31/10.
M.T. Goswami
31/10

*** KITPLY INDUSTRIES LTD
RECORDED
NO. 40,692
31/10/96

Attested
Surajit Choudhary
Advocate
17/09/09

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MASIDHUL
SHUKLA
27.7.95

Dear Tallikhar,

How are you? Hope

This will find you in good health.
Timing of Shri Shastri is not very
well delayed for some time, as
he is trying for another place.

If he joins, always be
careful of him. He is in habit
of writing to the agent everyone
even for small matters. See
that no financial lapses occur
in his eyes. He should not know
that management is paying any
money for program. Be
always alert.

Your remembrance is
always with me. I am
missing you all of you. You
keep me informed of every new
thing. Make programme to this

Annexure II

ANNEXURE - XIII (Series)

be the one who is in
advance.

Convey my good wishes
to all the staff and
Remember me when you write
to those your post.

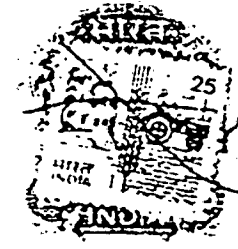
Keep writing

Yours
S. S. S.

Attested
Sewjit Choudhary
Advocate
17/1/09

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अन्तर्देशीय पत्र कार्ड
INLAND LETTER CARD



to

Mr. P.K. Talukdar
Workers Education Centre,
Parbatpur - Tinsukia

Tinsukia पिन PIN

7	8	6	1	2	5
---	---	---	---	---	---

Assam

पत्र का पहला मोड़

पत्र का दूसरा मोड़

NO ENCLOSURES ALLOWED
WRITE PIN CODE IN ADDRESS
SENDER'S NAME AND ADDRESS :-

पिन PIN

--	--	--	--	--	--

The Director
A.P.O., Nagpur

Subject: Anomaly in appointment of full time Hostel
Attendant at your Centre, Deprivation of Local
People.

This has a reference to your letter No. ~~4300/1/13~~
15/22261 of 27-12-56 on the above subject.

1. In this connection, I have to inform you that
there has not been any anomaly whatsoever
in appointment of full time Hostel attendant at
this Centre, as alleged by Ashou Talejkar and
Yubacharya Pansari, Tinsukia.

2. The prescribed procedure was followed
in appointment of Sri Neta Pansari as
full time hostel attendant.

3. The name of Neta Pansari was forwarded
to this office by employment exchange
along with the names of other candidates.
The list of candidates was sent to
all the candidates. Only three
candidates appeared and turned up
for interview. The other two candidates

were neither physically nor mentally
fit for the job. Only one candidate
was selected. As such
Sri Neta Pansari was found fit for
the job, and he is appointed
for the post.

4. That Sri Neta Pansari is very much
a local candidate. As he has been
born here and brought up at Tinsukia,
had been dealing with local school
he, father, TB Jaisi has been

sis in
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orship, in
mbodin
and s
influence
yis
re.

Attached
Suryit Choudhary
Advocate
17/9/09

in the hostel of this Centre for last
 and has naturally settled
 in Tirunelveli. Naturally he would
 be regarded as local people

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6. That the Selection Committee consisted
 of three officials including the
 who two were in K. Chinty Bose and
 A. K. Kallia, Eo. Both are
 and are champions of the Assamese
 people. It was on the recommendation
 of both the members that
 was selected for the post. Had there
 been any irregularity in the selection
 procedure they could have
 objected to it. They themselves
 found the motives and conduct
 fitted for the post.

7. Sri Nataraj Das, IAS, who was
 in the office for two years and
 was not a partake at all in the
 work and still and was very much
 acquainted with the nature of the

8. Naturally he resigned the job.
 That the hostel is in operation
 with 20 Cardinals of out of 100
 and it was not possible for him
 to handle the work
 single handed. Hence
 which is
 is any
 not in

for
 Jeeana who
 us

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person, though the person did not appear in the interviews, and ~~as due to~~ ^{this} ~~his~~ ~~interest~~ he took the matter before the Panchayat and provoked ~~it~~ ^{us} to write the letter. "The said person is one of the members of the militant group of Assam. Mr. Talukdar has some close association with this militant group." He had indirectly such a tone that if his ~~it is very~~ ^{it is very} ~~difficulties in~~ ^{difficulties in} work ~~precautions~~ ^{precautions} from

... ^{to} ~~the~~ ^{the} ~~man, who~~ ^{man, who} ~~it is requested, official~~ ^{it is requested, official} ~~as a~~ ^{as a} ~~holders, who~~ ^{holders, who} ~~create~~ ^{create} ~~these~~ ^{these} ~~type of trouble~~ ^{type of trouble}.
 You may also conclude that it is the man from this office, who could have supplied all the information to the Panchayat, otherwise where they could find the exact address of ~~the~~ ^{the} ~~person~~ ^{person}, the continuance of ~~the~~ ^{the} ~~Talukdar in this office~~ ^{Talukdar in this office}.

may bring more trouble
infrastructure and smooth
functioning of this center
will be disturbed. Hence

his medals should be
this center in recognition for
services rendered for
I had apprehension of

this trouble which has arisen
involving to you the

group 2517 of 24.9.96. It
hinted that

Cardinal is not appropriate
reads some trouble and

and once of the - thereby
other courses for I have
know that - he is the

supplies, each of the - the
approved for the approval
may be accorded at the

earlier work his work during his for
recognition and status this info you
necessary action

1/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

O.A. No. 81/2003

Filed by :-
Prabhat
11/1/2003

Sri K Choudhury ... Applicant

Union of India & Others ... Respondents

[REPLY ON BEHALF OF THE RESPONDENT No. 1 to 3]

The Reply on behalf of the above-mentioned respondents are as follows:

1. That the copies of the above noted O.A. No. 81/2003 (hereinafter referred to as the "**application**") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the answering respondents (1 to 3) being common and similar, the reply is to be treated as common to all of them.

sd/-

2. That the averments made in the application which are not specifically admitted by the respondents are hereby denied. The respondents crave the leave of this Hon'ble Tribunal to allow them to rely upon and produce any such records which may be required at the time of hearing of the case.

3. That with regard to the averments made in **para 1** of the application, the answering respondents state that the subject matter contained in the orders dated 4.9.2000, 27.12.2000 and 8.3.2002 relates to the matter pertaining to sanction of compassionate allowance not exceeding two-third of pension and gratuity which would have been applicable to the applicant if he would have retired on compensation pension in terms of Rule 41 of CCS (Pension) Rules, 1972. Hence, there is no cause of action to challenge the legality and validity of the said orders as the same are discretionary in nature.

In this connection the answering respondents state that the subject matter of the impugned order and the subject matter in the application with the prayer of the applicant are different ones and the same are not allied matters to each other. Hence the application is hit by the provisions of Rule 10 of the CAT (Procedure) Rules, 1987 and the application is liable to be dismissed.

4. That with regard to the statements made in **para 2, 3, 4.1, 4.2 and 4.3** of the application, the answering respondents have no comments to offer as the said statements pertain to records. In this connection, it is also stated that the applicant was appointed to the post of Education Officer which is a non-gazetted post.

5. That with regard to the statements made in **para 4.4 and 4.6** of the application, the answering respondents state that the Board conducts the self generation of funds programmes (referred to as the **SGF**), and the managements remit the fee by way of cross-cheque/ demand draft drawn in the name of the Director, CBWE. Whereas the applicant, signing as Regional Director, I/C, wrote letter to the managements stating that the Faculty will charge fee in cash. In this connection, it is categorically stated that the CBWE conducts all its training programmes free of cost except the self-generation of fund programme and that too the Faculty In-Charge, the Education Officers are not permitted to accept the faculty fee in cash. Accepting of Faculty Fees in cash is a clear violation of the principles/ policy of the Board as contained in the Circular No.EDN/SGF/80/16912 dt.12.10.99, No.RWEP/RPF/95/6118 dt. 23.5.2001 and No.Trg.-VI/NL-TU-Journ/4841 dt. 22.9.2002. The copies of the said circulars *are may permitted to be produced and* annexed as ANNEXURE-R1, R2 and R3 respectively *at the time of hearing*

The Faculty, i.e., the Education Officers, are Government Servants and are not expected to charge faculty fee. Thus, informing the management of the ONGC that fee at the rate of Rs.1000/- per day per Faculty will be charged, is highly unjust and illegal as stated above. The action of informing the Management of Hapjan Tea Estate that "we encourage cash payment only for technical problems like Bank-exchange, delay in encashment etc" is not in accordance with the policy of the Board. It shows the malafide intention of the person to mint money through illegal means by giving false information. The respondents invariably insist on payment through cheques/ Demand drafts in the name of the Director, CBWE, and charging fee in cash is a serious violation of the Rules and Regulations of the Board. The act

of charging the fees from the managements is not at all provided in the principles adopted by the Board and hence charging various amounts as Faculty Fees from different managements detailed in this para is a serious lapse on the part of the applicant, ^{as} ~~and~~ he is ~~not~~ ^{only} entitled to TA/DA. The compelling circumstances under which the applicant was allegedly forced to receive money is hereby denied. If the applicant was compelled to receive money, he could have brought this fact to the notice of the higher authorities. Therefore, the allegations are false and the same are denied by the respondents.

6. That with regard to the statements made in **para 4.5** of the application, the answering respondents state that the respondents, vide their Memo No. C-31011/35/Gen/95/11/15245 dated 17.8.1999, issued the show cause notice and called upon as to why disciplinary proceeding should not be initiated against the applicant. The applicant submitted his reply and on the basis of his reply being not found satisfactory, the Disciplinary Authority has decided to issue charge-sheet to the applicant and directed him to file his written statement in his defence.

The copies of the Memorandum dated 17.8.1999 and the copy of the appellate order dated 8.3.2002 are annexed as ANNEXURE-R4 and R5 respectively.

7. That with regard to the statements made in **para 4.7** of the application, the answering respondents state that these being matter of records, nothing is admitted which is not supported by such records.

8. That with regard to the statements made in **para 4.8** of the application, the answering respondents state that the allegations made in this paragraph are false and are concocted ones. Hence, the same are denied by the respondents. The allegations that the applicant was forced to admit the charges and that the statement as prepared beforehand are nothing but false and baseless allegation. The applicant was never assured that a lenient view would be taken in the matter. The applicant had signed the Daily Order-sheet on his free will and without any duress and with full understanding and realization of the consequences after going through it carefully which was prepared on that day itself.
9. That with regard to the statements made in **para 4.9** of the application, the answering respondents state that the statements in this paragraph has been made with an ulterior motive to mislead this Hon'ble Court. In this connection, the respondents state that the applicant had committed gross financial indiscipline as categorically mentioned in the show cause notice dt. 17.8.99 and charge memo. dt. 6.1.2000 and hence he was dismissed from service with the due process of law and by holding an enquiry under the law. This was done to maintain the cherished ideal maintained by the CBWE. The respondents also relied upon documentary proof of such financial indiscipline as indicative from the letters written by the applicant himself and the letters written by the various organizations for such matter. The charge of financial indiscipline is also admitted by the applicant unconditionally in the course of disciplinary proceeding and the charges are proved in that way.

The copies of the letter dated 19.8.98, 14.10.98, letters written by the other organization dt. 6.3.99, 8.3.99, 11.3.99 and 29.3.99, charge memo. Dt. 6.1.2000, daily order sheet dt. 26.4.2000, enquiry report dt. 28.4.2000, order passed by the Disciplinary authority dt. 4.9.2000 and the appellate order dt. 8.3.2002 are annexed as ANNEXURE- 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 respectively.

10. That with regard to the statements made in **para 4.10** of the application, the answering respondents state that the action taken against the applicant were carried out as per procedure laid down in law. Therefore, it was open for the applicant to resort to the procedures which were available to him after the stage of award of penalty. The misappropriation of public-money by misusing the official position is a serious misconduct on the part of the applicant and as such the question of dropping the disciplinary proceeding and exonerating him from the charges did not arise at all. It is clearly proved on the basis of the finding of the disciplinary proceeding that the applicant misappropriated public money as stated above and accordingly he was found guilty for violation of the provisions of the CCS(conduct)Rules, 1964.

11. That with regard to the statements made in **para 4.11** of the application, the answering respondents state that the applicant committed wrong in submitting his appeal to the disciplinary authority which should have been made to the Government of India, the appellate authority. Therefore, the respondents returned the appeal to the applicant for submission of the same to the appropriate appellate authority.

12. That with regard to the statements made in **para 4.12, 4.13 and 4.14** of the application, the answering respondents state that all these being matter of records, nothing is admitted which are not supported by such record.

13. That with regard to the statements made in **para 4.15** of the application, the answering respondents state that the allegation raised in this paragraph are not correct or based on facts. The practice to receive money as alleged is not prevalent in the Tinisukia Centre. However, if the applicant had ever come across any such practice of receiving money, it was his bounden duty to inform the higher authorities like the Zonal Director (Eastern Zone) and the Officers at the Head Office about the so called nefarious tactics adopted by Sri M.A. Siddiqui, the then Regional Director. The applicant kept silent as he was in hand and glove with the then Regional Director. When the things came to light, the applicant is now trying to colour the issue and trying to shift his guilt to others which is not permissible in law.

14. That with regard to the statements made in **para 4.16** of the application, the answering respondents state that the allegation that the applicant was trapped and dismissed from service in a planned manner is baseless and therefore the same is denied.

15. That with regard to the statements made in **para 4.17, 4.18 and 4.19** of the application, the answering respondents state the

allegations are nothing but after-thought statements. It is not at all correct that the departmental enquiry was conducted with a pre-set mind. The applicant was never forced to admit the charges. The statements (Daily Order-sheet) was prepared on 28.4.2000 itself and not on 26.4.2000 as alleged by the applicant. The applicant had signed the statements after fully knowing and understanding its contents that the same may be used against himself. The further contention that the enquiry officer submitted his report without proper investigation of the facts is not correct. Hence, the same is denied. As explained, the allegations are flimsy and baseless and without support of any evidence on record. Confession of charges on commission of offence never mean to exonerate an accused in law. Granting of two-third pension & gratuity to the accused vide order No.C-16011/4/2000-ESA(WE) dt. 6.3.2002 indicates that the authority has taken some lenient view. No further mercy is warranted in case of such dismissed employee on account of malafide intension to mint money through illegal means by giving false information and confessing the charges in writing. Such records may be permitted to be produced at the time of hearing of the case.

16. That with regard to the statements made in **para 4.20 and 4.21** of the application, the answering respondents state prior to dismissal of the applicant, the then Regional Director, Sri M.S. Siddiqui of Tinisukia Centre was charge-sheeted on the similar charges and after accepting the charges at the preliminary hearing, he was dismissed from service. Another Officer, Sri P.K. Talukdar, who was involved in a similar case was also charge-sheeted and he was also dismissed from service recently. Thus, the question of the applicant being reinstated in the service of the Board does not arise.

17. That with regard to the statements made in **para 5.1 to 5.8** of the application, the answering respondents state that in view of the above facts and circumstances of the case and the provisions of law, there is nothing to show on record that the respondents had ever committed any error or that there had been any infirmity or illegality in passing the order of dismissal of the applicant from service and also the impugned orders in the application. Therefore, the application is liable to be dismissed with cost as being devoid of any merit. As it is a case of confession of charges by admitting and accepting the charges unconditionally, the charges were established and the applicant was dismissed from service by completing the disciplinary proceedings.
18. That the respondents have no comments to make with regard to the statements made in **para 6 and 7** of the application.
19. That with regard to the statements made in **para 8 and 9** of the application, the answering respondents state that in any view of the matter and the provisions of law, the applicant is not entitled to any relief, whatsoever, as prayed for and the application is liable to be dismissed with cost.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall be pleased to dismiss the application with cost.

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Verification

I, Shri *Debenbra Nath Boro*, at present
 working as *Regional Director* in the office of
 the *Central Board for workers Education*, Guwahati,
 being competent and duly authorized to sign this verification do hereby
 solemnly affirm and state that the statements made in para
1, 2, 3, 5, 7, 8, 10 to 16 are true to my knowledge
 and belief, those made in para *4, 6 and 9*
 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 fact.

And I sign this verification on this 21st day of October, 2003 at Guwahati.



DEPONENT
Regional Director
 Central Board for Workers Education
 Regional Directorate, Guwahati.
 Housefed Complex,
 Natbama, Guwahati-781038

CENTRAL BOARD FOR WORKERS EDUCATION : NAGPUR

No.C-31011/35/Gen/95/11/ 15/1998

17th August, 1999.

MEMORANDUM

Shri K. Choudhury, Education Officer(SG), while working at CBWE, Tinsukia during the year 1997-98 wrote letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" informing them that the faculty will charge course fee in cash to meet the expenses for conducting programmes, whereas the CBWE conducts all programmes free of cost except in case of programmes conducted under the scheme of Self Generation of Fund (in latter case the money is payable directly to the Board's account and as it can not be described as course fee chargeable by the faculty).

- (1) Letter No.WEC/TSK/59 dated 16-4-1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Dist. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 'Absenteeism, Social Evils and Quality of Life' on 28-04-1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (2) Letter No.WEC/TSK/712-13 dated 19-8-1998 addressed to the Regional Director, Oil & Natural Gas Commission, Nazira, Distt-Sibsagar regarding programme calendar for the year 1998-99 for three numbers of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (3) Letter No.WEC/TSK/1466 dated 23-1-1998 addressed to the Manager, Napjan Tea Estate, P.O. Nakum, Dist. Dibrugarh regarding 2-days training programme mentioned therein that "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc".
- (4) Letter No.WEC/TSK/33/1063 dated 14-10-1998 addressed to Manager, Bokel Tea Estate, PO Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of "Rs.3000/- as course fee in cash for the said programme".

2. Besides, said Shri K. Choudhury also received equal share out of the total amount received from the management as faculty fees as per details given below in spite of the fact that the programmes were conducted as part of duty by drawing TA & DA from the CBWE for official tour.

Sr. No.	Date of prog.	Name of management.	Amount received by S/Shri	Programme conducted
01	10 Dec. 1996	North Eastern Coal Fields Coal India Ltd., Margherita.	Rs.500/-	K. Choudhury
02.	02 Jan. 1997	- do -	Rs.500/-	K. Choudhury
03.	7-8 July, 1998	Rosell Industries Ltd., Panitola.	Rs.3000/-	K. Choudhury & P.K. Talukdar
04.	17-18 July, 1998	AFT Industries Ltd, Hokeguri Division.	Rs.2000/-	K. Choudhury & P.K. Talukdar
05.	23-24 July, 1998	AFT Industries Ltd, Kharjan Division.	Rs.2000/-	K. Choudhury & P.K. Talukdar
06.	08 Aug. 1998	AFT Industries Ltd, Hilika Division.	Rs.2000/-	K. Choudhury & P.K. Talukdar

Attested
Sujit Choudhury
Advocate

3. Through the above acts Shri K. Choudhury has (a) obtained personal gratification, and (b) showed dereliction to duty.

4. Shri K. Choudhury by the above acts has violated Rule 3(1)(i), (ii) and (iii) of the CCS (Conduct) Rules, 1954 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

5. Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore is hereby called upon to show cause within 10 days from the date of receipt of this memorandum as to why disciplinary action should not be taken against him for violation of the CCS (Conduct) Rules as mentioned above. In case Shri Choudhury fails to reply within the stipulated time, it will be presumed that Shri Choudhury has nothing to say in this regard and the matter will be proceeded against him as per Rules.

(B.A. Chavan)
Director

✓
Shri K. Choudhury,
Education Officer(SG),
CBWE,
Barrackpore.

Copy to:-

- 1) The Regional Director, CBWE, Barrackpore. He is requested to handover the original memorandum to Shri K. Choudhury, Education Officer(SG), obtain his acknowledgement on the second copy and send the same to Head Office.
- 2) The Zonal Director(EZ), CBWE, Calcutta.

sc/

(B.A. Chavan)
Director

Purohit/

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-65-

Annexure - 5
ANNEXURE - XI
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No.C.16011/4/2000-ESA(WE)
Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya

Shram-Shakti Bhawan, Rafi Marg,
New Delhi, dated 8th March, 2002.

ORDER

Whereas disciplinary proceedings were instituted against Shri K.Choudhury, Ex. Education Officer (Selection Grade), Central Board for Workers Education posted at Barrackpore vide Memorandum No. C-14012/25/99/263 dated 6.1.2000 on the following Article of Charge :-

- (a) Shri K. Choudhury while working as Education Officer (SG) at Tinsukia during the period 1996 to 1998 misused his official position by writing letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" to wrongfully gain personal financial benefits as detailed below.
- (i) No.WEC/TSK/59 dated 16.4.1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Distt. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 28.4.1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (ii) No.WEC/TSK/712-13 dated 19.8.1998 addressed to the Regional Director, Oil & Natural Gas Commission, Nazira, Distt. Sibsagar regarding programme calendar for the year 1998-99 for three number of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (iii) No.WEC/TSK/1466 dated 23.1.1998 addressed to the Manager, Hapjan Tea Estate, P.O.Makum, Distt. Dibrugarh regarding 2-days training programme mentioning therein that "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc.
- (iv) No.WEC/TSK/33/1063 dated 14.10.1998 addressed to Manager, Bokel Tea Estate; P.O. Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of Rs.3000/- as course fee in cash for the said programme.
- (b) And.also wrongfully received various amounts as detailed below for the programmes conducted in official capacity :-
- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10.12.1996 (Ref.letter No.14/PIR/496 dated 25/29.3.99 From Shri P.N.Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 2.1.1997 (Ref. Letter No.14/PIR/496 dated 25/29.3.1999 from Shri P.N.Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

Attended
Sanjit Choudhury
Advocate

- (3) Equal share out of Rs.3000/- paid to Shri P.K.Talukdar, Education Officer for conducting jointly with Shri K.Choudhury 2-days Educational Programme on 7th & 8th July,1998 (Ref.Certificate dated 11.3.99 for Manager, Panitola Tea Estate, Rossel Industries Limited).
- (4) Equal Share out of Rs.2000/- paid to Shri K.Choudhury and Shri P.K.Talukdar as faculty charges for conducting programme on 8.8.98 by AFT Industries Ltd., Hilika Division, P.O. Barhapan (Ref. Certificate dated 8.3.99 from Manager, Hilika Tea Estate, P.O.Barhapan).
- (5) Equal share out of Rs.2000/- paid to S/Shri K.Choudhury and P.K.Talukdar for conducting 2-days Joint Education programme on 17th & 18th July,1998 by AFT Industries Ltd., Hokonguri Division, P.O.Barhapan (Ref.Certificate dated 8.3.99 from Manager, Hokonguri Tea Estate).
- (6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, P.O.Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref.Certificate dated 11.3.99 from Shri A. Nath, Actg. Manager, AFT Industries Limited).

Shri K.Choudhury also claimed TA/DA for the tours undertaken officially for conducting the programmes in the above organizations whereas he asked for free lodging and boarding from the management

Whereas said Shri Choudhury was directed to submit his written statement of defence on the article of charge communicated to him vide Memorandum dated 6-1-2000.

Whereas the oral inquiry was instituted to enquire into the charge framed against said Shri Choudhury and Shri J.N.Ghoda, Dy.Director (Adm) Central Board for Workers Education was appointed as Inquiry Officer.

Whereas at preliminary hearing held on 26th April,2000 the said Shri Choudhury admitted the charges. The Inquiry Officer accordingly held the charges as proved and submitted his report vide letter dated 28.4.2000.

Whereas the Disciplinary Authority after taking into account the proceedings of the enquiry and submissions of said Shri Choudhury and after considering all the facts and circumstances of the case arrived at the conclusion that Shri K.Choudhury has indulged in the acts of wrongfully gaining personal financial benefit and the charges of very grave nature having been proved against Shri K. Choudhury, Ex. Education Officer (SG) working in CBWE which cherishes, preaches and strives to inculcate among the workers the ideals of model work culture and work ethics and WHEREAS said Shri Choudhury was expected to uphold these ideals as a senior officer but did the alleged highly abominable and unbecoming acts of collecting money from managements, whereas potential tendency for indulging in such nefarious acts at Regional Directorate, Tinsukia as well as rest of the Regional Directorates needed to be discouraged and WHEREAS admission of the guilt by said Shri Choudhury did in no way wash-away or dilute the seriousness and gravity of the misconduct committed by him, said Shri Choudhury needed to be awarded severe and exemplary punishment. Accordingly the Disciplinary Authority ordered dismissal of said Shri Choudhury from the services of the Board with immediate effect by an order dated 4.9.2000.

Whereas said Shri Choudhury preferred a mercy appeal to the Government of India and requested that the Order of dismissal may be withdrawn and he may be reinstated into services of the Central Board for Workers Education. The grounds of appeal are as under :-

- (i) that he has served the Board for more than 22 years with all sincerity, devotion and loyalty. He has followed rules and regulations and has served the cause of Workers Education Scheme wherever he has been posted;
- (ii) while functioning as Education Officer, Tinsukia some mistakes were committed by him unintentionally for which a very harsh punishment of dismissal has been awarded;
- (iii) that he has three minor children of age ranging from 7-15 years. The dismissal order will deprive him of all the retirement benefits and put him and his family to dishonours/harassment and financial loss.

Whereas the President has after considering the facts and circumstances of the case come to the conclusion that it does seem unfair that the family of said Shri Choudhury should be penalised twice, once because of the dishonour that accompanies dismissal and secondly the financial loss because of the forfeiture of his pension and gratuity. The family is innocent and the grave misdemeanour committed by said Shri Choudhury for some paltry amounts that he claimed at different occasions seems to have exacted too great a price in financial terms so far as they are concerned. Denial of both gratuity and pension to an employee who has served 22 years of service in the Board is bound to leave the family destitute. Said Shri Choudhury may, therefore, be sanctioned a compassionate allowance not exceeding two thirds of pension and gratuity which would have been admissible to him if he had retired on compensation pension in terms of Rule 41 of CCS (Pension) Rules, 1972.

Now, therefore, having regard to the position explained above and in exercise of the powers conferred by Rule 17(1) of the Central Board for Workers Education (Staff and conditions of Service) Regulations, 1962, the President is pleased to sanction a compassionate allowance not exceeding two thirds of pension and gratuity which would have been admissible to him if he had retired on compensation pension in terms of Rule 41 of CCS (Pension) Rules, 1972 and order accordingly.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

H. Gupta
(H.C. Gupta)
Deputy Secretary to the Government of India.

To

1. Shri K. Choudhury,
Ex. Education Officer CBWE, Barrackpore,
College Road, Tinsukia,
P.O. TINSUKIA - 786125.

2. The Chairman,
Central Board for Workers Education,
Nagpur-440010

3. The Director,
Central Board for Workers Education,
Nagpur-400020.

16
Annexure-6
6
122
CENTRAL BOARD FOR WORKERS' EDUCATION
MINISTRY OF LABOUR:GOVT. OF INDIA.

Office of the Regional Director of
Workers' Education Centre, Tinsukia.

Ref.No. WEC/TSK/7.12-13/...../

dated 19-8-98.

To,

The Regional Director,

Oil & Natural Gas Commission, Nazira

Dist: Sibsagar.

Subject : Programme calendar for the year 1998-99.

Sir,

While thanking you for the cooperation you had been extending for implementation of Workers' Education scheme in your organisation, we propose to organise atleast three Nos of 3-day Joint Educational Programme for the employees of your organisation during 1998-99.

~~The theme of the~~
The theme of the programme would be :-

1. Productivity, Quality and work ethics in changing global scenario.
2. Workers' Participation in management-Role of workers and management.
3. Dynamics of Leadership- and tea building.

To start with we propose to organise the first of the programme in the 2nd week of October/98 (14th to 16th October/98). This programme will be as per pattern of the previous programme.

i.e. Rs.1000/- (Rupees one thousand) per faculty perday.

This may kindly be approved from your end and necessary arrangement for conducting the programme smoothly may be made.

The proposed date may kindly be confirmed to enable us to chalkout a detail programme.

Thanking you,

Yours faithfully,

K.C.
Kech
(K. CHOUDHURY) 19/8/98
REGIONAL DIRECTOR I/C.

Copy to : The Training Manager, R.T.I. ONGC, Sibsagar for information and necessary confirmation.

Kech
(K. CHOUDHURY) 19/8/98
REGIONAL DIRECTOR I/C

**CENTRAL BOARD FOR WORKERS' EDUCATION
MINISTRY OF LABOUR, GOVT. OF INDIA**

**Office of the Regional Director of
Workers' Education, Tinsukia (Assam)**

Ref. No. WEC/TSK/33/ 1063 / dt- 14-10-98

To
The Manager,
Bokel T.F.
P.O. LAHOAL
DIST. Dibrugarh

**Sib :- 2-day Joint Educational Programme
on Productivity, Absenteeism, Social
Evils and Quality of Life**

Dear Sir,

You will be pleased to know that this Regional Directorate is willing to conduct a 2-day Joint Educational Programme on the above mentioned subject in your Tea Garden sometime in the month of November/98 preferably in the first fortnight.

For conducting the said programme our requirement is as follows :-

1. 25 Nos. of participants.
2. Working lunch for the participants and 2 Nos. officials of this Directorate.
3. Rs. 3000/- as course fee in cash.

You are requested kindly to confirm the programme. Dr. P.K. Talukdar, Education Officer will talk to you in this regard.

Thanking you,

Yours faithfully,

K. Choudhury
(K. CHOUDHURY) 16/10/98
REGIONAL DIRECTOR I.C.

18

95 Annexure - 8

130

8



AFT INDUSTRIES LIMITED

Formerly

Assam Frontier Tea Limited

ANEX-V
Appendix IX
6

Telegraph Office.....Barahapjan.....

Telephone No.(s).....77-552.....

HILIKA.....DIVISION

P. O. Barahapjan.....

Dist. Tinsukia- Assam.....

Ref. No.....

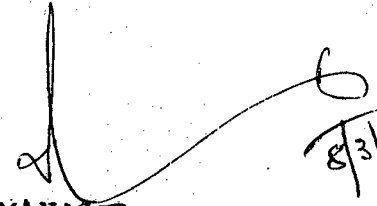
Date.....08/03/99.....19

TO WHOM IT MAY CONCERN.

This is to certify that a two days joint education programme on absenteeism was organised in our organisation on 08/08/98 by Sri K. Chowdury and Sri P.K. Talukdar, Education Officer, Tinsukia against the proposal of ~~dated~~ L/No. WEC/TSK/329 dated 28/5/98 written by Sri K. Chowdhury.

A sum of Rs.2000/- (Rupees two thousand) only were paid to them as faculty charges.

ds.


8/3/99
MANAGER.
Manager
HILIKA TEA ESTATE
AFT Industries Ltd.
P. O. Borahapjan - 786150

Letter dt. 11.3.99 from Shri A. Nath, Actg. Manager
AFT Industries, Kharjam Div.
P. S. remained for PK Talukdar case

19

96

Annexure-9

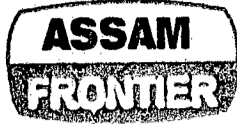
9

5

ANEX-III

121

7



AFT INDUSTRIES LIMITED

Formerly

Assam Frontier Tea Limited

68

HOKONGURI DIVISION

Telegraph Office..... BARAHAPJAN.

P. O..... BARAHAPJAN.

Telephone No.(s).....

DIST : TINSUKIA, ASSAM.

Ref. No.....

Date..... 8th March 19 99.



TO WHOM IT MAY CONCERN

This is to certify that a two days joint Education programme on Absenteeism was organised in our organisation by Sri K. Chowdhuri and Sri P.K. Talukdar, Education Officer, Tinsukia against the proposal of dated 31-07-97 written by Sri K. Chowdhuri. Rs. 2,000/- were paid to them as the Faculty charges.

on 17th & 18th July 1998

[Signature]
MANAGER
 HOKONGURI T.E.

20

Annexure - 10

97 132

10



ROSSELL INDUSTRIES LIMITED

The 11th March, 1999

TO WHOM IT MAY CONCERN

This is to certify that a two days Educational programme was organised on 7th & 8th July, 1998 and was conducted by Sri K. Choudhury E.O. (SG) and Dr. P. K. Talukder M.C. of Workers Education Centre, Tinsukia.

The course fee of Rs. 3,000/- (Rupees Three thousand) only, was paid to Dr. P. K. Talukder E.O.

M A N A G E R

Manager
Panitola T.E.



PANITOLA TEA ESTATE

P.O. PANITOLA PIN-786183 (ASSAM) TELEPHONE: PANITOLA 435 TELEGRAPH OFFICE & RAILWAY STATION: PANITOLA
REGISTERED OFFICE: BALLYHIGH, 1ST FLOOR 1BALLYGUNGE PARK ROAD, CALCUTTA- 700 019

Y K M
Holdings

21

Annexure - 11 9
98
LSS
6

NORTH EASTERN COALFIELDS
COAL INDIA LIMITED
MARGHERITA

No.14/PIR/496

Date: 25.03.99
24

CONFIDENTIAL

A.T.O.

Ref: attached.

Sub:- Training Programme.

Kindly refer to letter No.WEC/TSK/Com./42 Dtd.19.03.99 issued by Regional Director, Workers' Education Centre, Tinsukia regarding above mentioned subject.

We have already paid Rs.4,000/- to following persons:-

Date	Name of Persons	Sessions details.	Amount
09.12.96	Dr.P.K.Talukdar Education Officer,WEC,TSK.	2 sessions on 9.12.96	Rs.500.00
10.12.96	Mr.M.A.Siddique Regional Director,WEC,TSK	2 sessions on 9.12.96	Rs.500.00
10.12.96	Mr.M.A.Siddique, Regional Director, WEC, TSK.	2 sessions on 10.12.96	Rs.500.00
10.12.96	Mr.K.Choudhury E.O., WEC, TSK.	2 sessions on 10.12.96	Rs.500.00
02.01.97	Mr. K.Chowdhury E.O., WEC, TSK.	2 sessions on 2.1.97	Rs.500.00
03.01.97	Dr.P.K.Talukdar E.U., WEC, TSK.	2 sessions on 3.1.97	Rs.500.00
03.01.97	Mr. M.A.Siddique R.D., WEC, TSK.	4 sessions on 2.1.97 and 03.01.97.	Rs.1000.00

Kindly send a suitable reply to Regional Director, WEC, Tinsukia as per his attached letter from your end.

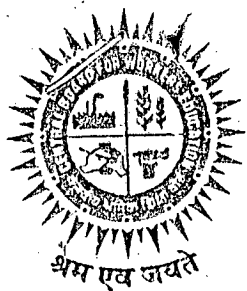
(P. N. Goala)
Personnel Manager.

(enclo: as above).

PKT

Place 133
Page No. 11

PKT
copy
on
request
to
M.A.S.



केन्द्रीय श्रमिक शिक्षा बोर्ड

अति जलद
SPEED POST

तार CONFIDENTIAL (61)
GRAM : SHRAMSHIKSHA
Phones : 2 3 3 3 1 3
2 3 2 2 7 5
2 3 2 3 1 4
EPABX : } 2 3 1 1 5 5
2 3 2 4 6 2
Fax : 0712-2 3 3 3 1 3

(श्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)
वी. आर. सी. ई. गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440 010.

CENTRAL BOARD FOR WORKERS EDUCATION
[SPONSORED BY THE MINISTRY OF LABOUR, GOVT. OF INDIA]
Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010

No.C-14012/25/99/ 263

D 5 JAN 2000

M E M O R A N D U M

It is proposed to hold an inquiry against Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore under Rule 14 of the CCS (CCA) Rules, 1965 read with para 2 of the Third Schedule to the CBWE (Staff and Conditions of Service) Regulations, 1962. 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 Article of charge (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of the article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the article of charge is proposed to be sustained are also enclosed (Annexure-III & IV).

2. Shri K. Choudhury 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. Shri K. Choudhury is informed that an inquiry will be held only in respect of the article of charge which is not admitted. He should therefore specifically admit or deny the article of charge.

4. Shri K. Choudhury is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 read with para 2 of the Third Schedule of CBWE (Staff and Conditions of Service) Regulations, 1962 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex-parte.

Copy to : The Training Manager, R.T.I. ONGC, Sibsagar for information and necessary confirmation.

(K CHOUDHURY) 12/1/98
REGIONAL DIRECTOR IIC

(2)

5. Attention of Shri K. Choudhury is also invited to Rule 20 of CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962 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 CBWE. 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 Choudhury 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.

The receipt of the Memorandum may be acknowledged.

By order of the Chairman, CBWE

of/c

B.A. Chavan

(B.A. Chavan)
Director

Shri K. Choudhury,
Education Officer(SG),
CBWE,
Barrackpore.

Copy to:-

264

1. The Regional Director, CBWE, Barrackpore alongwith two copies of the memorandum. The original may be handed over to Shri K. Choudhury, Education Officer(SG), obtain his acknowledgement on the second copy and send the same to Head Office.
2. The Zonal Director(EZ), CBWE, Calcutta.

of/c

B.A. Chavan

(B.A. Chavan)
Director

P/

b/ 5/1

Statement of Article of Charge framed against Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore.

ARTICLE-I

Shri K. Choudhury while working as Education Officer(SG), CBWE, Tinsukia during the year 1996-98 misused his official position (a) by writing letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" to wrongfully gain personal financial benefit as detailed below:

- (1) Letter No.WEC/TSK/59 dated 16-4-1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Dist. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 28-4-1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (2) Letter No.WEC/TSK/712-13 dated 19-8-1998 addressed to the Regional Director, Oil and Natural Gas Commission, Nazira, Distt-Sibsagar regarding programme calendar for the year 1998-99 for three numbers of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (3) Letter No.WEC/TSK/1466 dated 23-1-1998 addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh regarding 2-days training programme mentioning therein that "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc".
- (4) Letter No.WEC/TSK/33/1063 dated 14-10-1998 addressed to Manager, Bokel Tea Estate, PO Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of "Rs.3000/- as course fee in cash for the said programme".

(b) and also wrongfully received various amount as detailed below for the programmes conducted in official capacity:

- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10-12-1996 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N.

52/c

51/c

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49/c

48/c

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file to
Barrackpore
have copy
12/2001

Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

①
H8/c

(2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 02-1-1997 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

H7/c

(3) Equal share out of Rs.3000/- paid to Shri P.K. Talukdar, Education Officer for conducting jointly with Shri K. Choudhury 2-days Educational Programme on 7th & 8th July, 1998 (Ref. Certificate dated 11-3-99 from Manager, Panitola Tea Estate, Rossell Industries Ltd.)

H6/c

(4) Equal share out of Rs.2000/- paid to Shri K. Choudhury and Shri P.K. Talukdar as faculty charges for conducting programme on 08-8-98 by AFT Industries Ltd., Hilika Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hilika Tea Estate, PO Barahapjan).

H5/c

(5) Equal share out of Rs.2000/- paid to S/Shri K. Choudhury and P.K. Talukdar for conducting 2-days JEP on 17 and 18th July, 1998 by AFT Industries Ltd., Hokonguri Division, PO Barahapjan (Ref. certificate dated 08-3-1999 from Manager, Hokonguri Tea Estate).

H4/c

(6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, PO Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref. certificate dated 11-3-99 from Shri A. Nath, Actg. Manager, AFT Industries Ltd.).

It appears that said Shri K. Choudhury by his above actions has violated Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

By order of the Chairman, CBWE

① Place
amount
a 500/-
T. K. Choudhury
1/2/99

H/c
S/1

BA 6112000
(B.A. Chavan)
Director

ANNEXURE-II

Statement of imputations of misconduct in support of
Articles of Charge against Shri K. Choudhuri,
Education Officer(SG), CBWE, Barrackpore.

ARTICLE

Shri K. Choudhuri, present Education Officer(SG), CBWE, Barrackpore while working at CBWE, Tinsukia during the period 1996-98 wrote letters to the following managements in his capacity as Regional Director Incharge/for Regional Director informing them that - "course fee of Rs.2000/- will be charged in cash" - "Rs.1000/- per faculty per day will be charged", - "we encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc.", and - "our requirement of Rs.3000/- as course fee in cash for the said programmes" etc. ostensibly to meet the expenses of the faculty from the managements whenever training programmes were conducted, whereas the CBWE conducts all programmes free of cost except in case of programmes conducted under the scheme of Self Generation of Fund (in the latter case the money is payable to Board's Account and it cannot be described as course fee chargeable by the faculty):

- (1) Letter No.WEC/TSK/59 dated 16-4-1997 to Manager Moran Tea Estate, P.O. Moran, Dist. Sibsagar.
- (2) Letter No.WEC/TSK/712-13 dated 19-8-1998 to Regional Director, Oil & Natural Gas Commission, Nazira, Dist. Sibsagar.
- (3) Letter No.WEC/TSK/1466 dated 23-1-1998 to Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh.
- (4) Letter No.WEC/TSK/33/1063 dated 14-10-1998 to Manager, Bokel Tea Estate, P.O. Lahoal, Dist. Dibrugarh.

2. Shri Choudhuri, Education Officer(SG) not only did write above letters but also personally received following amounts towards course fee from the managements for conducting the training programmes as a part of his duty:

- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10-12-1996 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).

- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 02-1-1997 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (3) Equal share out of Rs.3000/- paid to Shri P.K. Talukdar, Education Officer for conducting jointly with Shri K. Choudhury 2-days Educational Programme on 7th & 8th July, 1998 (Ref. Certificate dated 11-3-99 from Manager, Panitola Tea Estate, Rossell Industries Ltd.)
- (4) Equal share out of Rs.2000/- paid to Shri K. Choudhury and Shri P.K. Talukdar as faculty charges for conducting programme on 08-8-98 by AFT Industries Ltd., Hilika Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hilika Tea Estate, PO Barahapjan).
- (5) Equal share out of Rs.2000/- paid to S/Shri K. Choudhury and P.K. Talukdar for conducting 2-days JEP on 17 and 18th July, 1998 by AFT Industries Ltd., Hokonguri Division, PO Barahapjan (Ref. certificate dated 08-3-1999 from Manager, Hokonguri Tea Estate).
- (6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, PO Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref. certificate dated 11-3-99 from Shri A. Nath, Actg. Manager, AFT Industries Ltd.).

3. Shri K. Choudhury also claimed TA/DA for the tours undertaken officially for conducting the programmes in the above organisations in addition to free lodging and boarding from the management.

4. Through the above acts Shri K. Choudhury, Education Officer(SG), (a) resorted to corruption (b) obtained personal gratification and (c) showed dereliction to duty.

5. Thus Shri K. Choudhury was asked to show cause as to why disciplinary action need not be taken against him for violation of the CCS (Conduct) Rules as mentioned above vide memorandum No.C-31011/35/Gen./95/II/15245 dated 17-8-1999.

6. Said Shri K. Choudhury vide his letter dated 01-9-99 has not denied the contents of the memorandum but at the same time held the Regional Director and Head Office responsible to some extent. He however showed his willingness to deposit the amount which was received by him unauthorisedly into the Board's account, promised not to act like this even if he is posted somewhere in Assam in future, and thus requested to drop the matter.

(3)

7. It appears that said Shri K. Choudhury by his above actions has violated Rule 3(1)(i), (ii) and (iii) of the CCS (Conduct) Rules, 1964 as applicable to the employees of the CBWE by virtue of Regulations 24 and 25 of the CBWE (Staff and Conditions of Service) Regulations, 1962.

By order of the Chairman, CBWE

D/c

B.A. Chavan
(B.A. Chavan)
Director

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ANNEXURE-III

A list of documents by which the Article of charge is proposed to be sustained.

1. Letter No.WEC/TSK/59 dated 16-4-97 from Shri K. Choudhury, addressed to the Manager, Moran Tea Estate, P.O. Moran, Distt. Sibsagar. 136/c
2. Letter No.WEC/TSK/712-13 dated 19-8-1998 from Shri K. Choudhury, addressed to the Regional Director, Oil and Natural Gas Commission, Nazira, Dist. Sibsagar. 55
3. Letter No.WEC/TSK/1466 dated 23-1-1998 from Shri K. Choudhury, addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Dist. Dibrugarh. 56
4. Letter No.WEC/TSK/33/1063 dated 14-10-1998 addressed to the Manager, Bokel Tea Estate, P.O. Lahoal, Dist. Dibrugarh. 134/c
5. Letter No.14/PIR/496 dated 25/29-3-1999 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita. 140/c
6. Letter dated 11-3-1999 from Manager, Panitola Tea Estate, Rossell Industries Ltd., Panitola. 86/c
7. Letter dated 08-3-1999 from Manager, Hilika Tea Estate, P.O. Barahapjan. 66/c
8. Letter dated 08-3-1999 from Manager, Hokonguri Tea Estate, Talup. 68
9. Letter dated 11-3-1999 from Shri A. Nath, Actg. Manager, Kharjan Tea Estate, P.O. Panitola. 64/c

By order of the Chairman, CBWE

[Signature]

[Signature] 61120000
(B.A. Chavan)
Director

[Signature]

P/

[Handwritten note]
P.5-212

ANNEXURE-IV

List of witnesses by whom the Article of Charge is proposed to be sustained.

1. Shri M.A. Siddiqui,
Regional Director, //
CBWE,
Shimla.
2. Shri P.N. Goala,
Personnel Manager,
North Eastern Coalfields,
Coal India Ltd.,
Margherita.
3. Shri P.S. Grewal,
Manager,
Panitola Tea Estate,
Rossell Industries Ltd.,
P.O. Panitola-786 183
4. Shri A. Nath,
Acting Manager,
Kharjan Tea Estate,
AFT Industries Ltd.,
Panitola.

By order of the Chairman, CBWE

d/c


(B.A. Chavan)
Director.

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5/1

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13

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148

Daily Order Sheet of Preliminary Hearing in Disciplinary Proceedings against Shri K. Choudhury, Education Officer(SG) at present working at Regional Directorate, Barrackpore on 26th April, 2000.

The hearing started at 11 sharp in the chamber of Dy. Director(Admn) and Inquiring Authority at CBWE Headquarters, Nagpur.

Present:

- 1. Shri J.N. Ghoda, Inquiring Authority.
- 2. Shri J.G. Soni, Presenting Officer
- 3. Shri K. Choudhury, Charged Officer.

The Charged Officer admits of the receipt of the Chargesheet and accepts all the charges. He also makes the following statement:-

"I accept all the charges unconditionally. However, I, with folded hands, say that whatever I did, I had to do alongwith Dr. P.K. Talukdar, Education Officer, my the then colleague at Tinsukia under compulsion from Shri M.A. Siddiqui, the then Regional Director. I assure that I will not repeat such act in future and pray for mercy. I am making this statement on my own free will without any duress with full understanding and realisation of the consequences".

Consequent upon unconditional acceptance of the charges by the Charged Officer during this first preliminary hearing, the inquiry stands concluded.

K. Choudhury
(K. Choudhury)
Charged Officer

J.G. Soni (J.G. Soni)
J.N. Ghoda (J.N. Ghoda)
Presenting Officer Dy. Director(Admn)
& Inquiring Authority

NAGPUR
Dated 28th April, 2000.

Recd & copy
28/4/2000
KTO

Recd
J.G. Soni
28/4/2000

28th April, 2000

To,
The Director,
CBWE,
Nagpur.

Sub:- Report of the inquiry in respect of Shri K. Choudhury, Education Officer(SG), Regional Directorate, Barrackpore.

Sir,

Please find enclosed herewith a report of inquiry into the charges against Shri K. Choudhury, Education Officer(SG), Regional Directorate, Barrackpore for your information and necessary action.

Yours faithfully,

(J.N. Ghoda)
Inquiring Authority

p/

Report of the Inquiry into the charges against Shri K. Choudhury, Education Officer(SG), Regional Directorate, Barrackpore.

The charge framed against Shri K. Choudhury, Education Officer(SG) ~~at Regional Directorate, Tinsukia~~ and presently Education Officer(SG) at Regional Directorate, Barrackpore as per the chargesheet issued by the Director, CBWE on 6th January, 2000 while functioning as Education Officer(SG) at Regional Directorate, Tinsukia.

Inquiry:

The undersigned, Shri J.N. Ghoda, Dy. Director(Admn) is appointed as Inquiry Officer.

Preliminary Inquiry:

The Preliminary Inquiry was held at the chamber of Dy. Director(Admn) at CBWE Headquarter, Nagpur on 28th April, 2000.

Proceedings:

In preliminary inquiry itself Shri K. Choudhury, Charged Officer admits and accepted all the charges unconditionally. He also while accepting the charges unconditionally, stated that whatever he had to do alongwith Dr. P.K. Talukdar, Education Officer under compulsion from Shri M.A. Siddiqui, the then Regional Director. He also assured that he will not repeat such act in future and with folded hands he prayed for mercy.

In the light of the above admission of the charges by the Charged Officer, he is held guilty of the charges.

Consequent upon unconditional acceptance by the Charged Officer during the first preliminary hearing on 28th April, 2000, the inquiry stands concluded.

(J.N. Ghoda)
Inquiring Authority

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Annexure -15

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SPEED POST (145) 146



केन्द्रीय श्रमिक शिक्षा बोर्ड
 (श्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)
 वी. आर. सी. ई. गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440 010.

CENTRAL BOARD FOR WORKERS EDUCATION
 [SPONSORED BY THE MINISTRY OF LABOUR, GOVT. OF INDIA]
 Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010.

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 EPABX : } 2 3 1 1 5 5
 2 3 2 4 6 2
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No.C-14012/25/99/11951

4th September, 2000

ORDER

WHEREAS disciplinary proceedings under Rule 14 of the CCS (CCA) Rules, 1965 as applicable to the employees of the Board by virtue of Regulation 25 of the CBWE (Staff & Conditions of Service) Regulations, 1962 and Regulation 13 ibid were instituted against Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore vide this office memorandum No.C-14012/25/99/263 dated 06-1-2000 on the following Articles of Charges:-

ARTICLE-I

Shri K. Choudhury while working as Education Officer(SG) at Regional Directorate, Tinsukia during the period 1996 to 1998 misused his official position -

(a) by writing letters to the following managements signing as "Regional Director Incharge"/"For Regional Director" to wrongfully gain personal financial benefit as detailed below:-

- (1) No.WEC/TSK/59 dated 16-4-1997 addressed to Manager, Moran Tea Estate, P.O. Moran, Distt. Sibsagar for conducting one-day special programme for Garden Sirdar and Chowkidars on 28-4-1997 and informing them that a course fee of Rs.2000/- will be charged in cash.
- (2) No.WEC/TSK/712-13 dated 19-8-1998 addressed to the Regional Director, Oil & Natural Gas Commission, Nazira, Distt. Sibsagar regarding programme calendar for the year 1998-99 for three numbers of 3-days Joint Educational Programmes informing them that Rs.1000/- per faculty per day will be charged.
- (3) No.WEC/TSK/1466 dated 23-1-1998 addressed to the Manager, Hapjan Tea Estate, P.O. Makum, Distt. Dibrugarh regarding 2-days training programme mentioning therein that "We encourage only cash payment against our fees towards technical problems like bank exchange, delay in encashment etc."

(4) No.WEC/TSK/33/1063 dated 14-10-1998 addressed to Manager, Bokel Tea Estate, P.O. Lahoal, Distt. Dibrugarh regarding 2-days Joint Educational Programme mentioning our requirement of "Rs.3000/- as course fee in cash for the said programme".

(b) and also wrongfully received various amounts as detailed below for the programmes conducted in official capacity:-

- (1) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 10-12-1996 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (2) Rs.500/- paid by North Eastern Coalfields, Coal India Ltd., Margherita for conducting two sessions on 02-1-1997 (Ref. letter No.14/PIR/496 dated 25/29-3-99 from Shri P.N. Goala, Personnel Manager, North Eastern Coalfields, Coal India Ltd., Margherita).
- (3) Equal share out of Rs.3000/- paid to Shri P.K. Talukdar, Education Officer for conducting jointly with Shri K. Choudhury 2-days Educational Programme on 7th & 8th July, 1998 (Ref. Certificate dated 11-3-99 from Manager, Panitola Tea Estate, Rossell Industries Limited).
- (4) Equal share out of Rs.2000/- paid to Shri K. Choudhury and Shri P.K. Talukdar as faculty charges for conducting programme on 08-8-98 by AFT Industries Ltd., Hilika Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hilika Tea Estate, PO Barahapjan).
- (5) Equal share out of Rs.2000/- paid to S/Shri K. Choudhury and P.K. Talukdar for conducting 2-days Joint Educational Programme on 17th & 18th July, 1998 by AFT Industries Ltd., Hokonguri Division, PO Barahapjan (Ref. certificate dated 08-3-99 from Manager, Hokonguri Tea Estate).
- (6) Rs.2000/- paid by AFT Industries Ltd., Kharjan Division, PO Panitola for conducting 2-days Educational Programme on 23rd & 24th July, 1998 (Ref. certificate dated 11-3-99 from Shri A. Nath, Actg. Manager, AFT Industries Limited).

A statement of imputations of misconduct on which the articles of charge were based together with a list of documents by which and a list of witnesses by whom the charges were proposed to be sustained were also forwarded to him alongwith the above said memorandum dated 06-1-2000.

2. Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore, the Charged Officer admitted all the charges levelled against him but also desired that he should be given a chance to appear before Inquiry Committee or to explain all the happenings personally besides showing preparedness to deposit the amount he received in the Board's Account through his letter dated 20-1-2000. Accordingly, Shri J.N. Ghoda, Dy. Director(Admn), CBWE, Nagpur was appointed as the Inquiry Officer to inquire into the charges vide Order No.C-14012/25/99/5966 dated 06-4-2000.

3. AND WHEREAS the Inquiry Officer vide his report dated 28-4-2000 gave a finding that in the light of the admission of the charges by the Charged Officer, the Charged Officer is held guilty of the charges.

4. AND WHEREAS Shri K. Choudhury, Education Officer(SG), Barrackpore had admitted the charges, forwarding of the report of the Inquiry Officer to the Charged Officer was not considered necessary by the Chairman, CBWE.

5. AND WHEREAS on careful consideration of the report of the Inquiry Officer and other records of the case and in the light of the submissions made by Shri K. Choudhury, Education Officer(SG), the Chairman, CBWE has decided to accept the findings of the Inquiry Officer and has held that these charges stand proved.

6. Therefore, after considering the report of the Inquiry and the facts and circumstances of the case, the Chairman, CBWE has come to the conclusion that Shri K. Choudhury, Education Officer(SG) has indulged in the acts of wrongfully gaining personal financial benefit and the charges of very grave nature having been proved against Shri K. Choudhury, Education Officer(SG) working in CBWE which cherishes, preaches and strives to inculcate among the workers the ideals of model work culture and work ethics AND WHEREAS Shri Choudhury, Education Officer(SG) was expected to uphold these ideals as a senior officer but did the alleged highly abominable and unbecoming acts of collecting money from managements, whereas potential tendency for indulging in such nefarious acts at Regional Directorate, Tinsukia as well as rest of the Regional Directorates needs to be discouraged and whereas admission of the guilt by Shri K. Choudhury, Education Officer(SG) does in no way wash-away or dilute the seriousness and gravity of the misconduct committed by him, Shri Choudhury needs to be awarded severe and exemplary punishment. The Chairman, CBWE

is of the view that ends of justice will be met if penalty of dismissal from the services of the Board, entailing forfeiture of his past service under Rule 24 of CCS (Pension) Rules, 1972 as applicable to the employees of the Board by virtue of Regulation 7 as well as Regulation 25 of the CBWE (Staff & Conditions of Service) Regulations, 1962 is imposed on Shri K. Choudhury by the Chairman, CBWE in accordance with Regulation 12 of the CBWE (Staff & Conditions of Service) Regulations, 1962. Accordingly, the above said penalty, as ordered by the Chairman, CBWE is hereby imposed on Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore with immediate effect.

7. As such Shri K. Choudhury, Education Officer(SG), CBWE, Barrackpore stands dismissed from the services of the Central Board for Workers Education from the date of service of this memorandum to him.

of *RT*
(S.V. Vora)
I/c Director

Shri K. Choudhury,
Education Officer(SG),
CBWE,
Barrackpore.

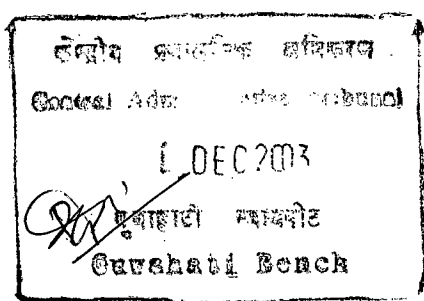
Copy to:-

1. Hon'ble Shri Hasubhai Dave, Chairman, Central Board for Workers Education, Rajkot.
2. Shri V. Parameswaran, Joint Director, Govt. of India, Ministry of Labour, New Delhi.
3. The Regional Director, CBWE, Barrackpore alongwith three copies of the memorandum. He is requested to handover the original memorandum to Shri K. Choudhury, Education Officer(SG), obtain his acknowledgement on second and third copy, send the second copy to HO; the third copy may be retained at Regional Directorate for record.
4. Shri R.S. Gulhane, Zonal Director(EZ), CBWE, Calcutta for information and necessary action.
5. The Financial Adviser, CBWE, Nagpur.
6. Personal File of Shri K. Chourhudy.
7. Personnel Branch.
8. Confidential Section.
9. Zonal Director(S), (N) and (W) and ~~all~~ Regional Directors, CBWE for information.

of *RT*
(S.V. Vora)
I/c Director

Purohit/

4/9 *for* *AVS*



Filed by the Applicant -
through -
Subrata Nath
Advocate
10.12.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. No. 81 / 2003

Shri Kanakeswar Choudhury.

.... Applicant

-VS-

Union of India and others

... Respondents

-AND-

IN THE MATTER OF:

Rejoinder submitted by the applicant to the written statement filed by the respondents.

The applicant above named most respectfully begs to state as follows: -

1. That the applicant categorically denies the statements made in para 3 of the written statement and further states that the order dated. 04.09.2000 relates to dismissal of the applicant from the service and orders dated. 27.12.2000 and dated. 08.03.2002 relates to rejection of appeal preferred by the applicant, which are the issues in the instant O.A, and the cause of action.
2. That the applicant categorically denies the statement made

Kanakeswar Choudhury.

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in para 5 and 13 of the written statement and begs to submit that the applicant simply followed the procedure which was already in existence at Tinsukia Centre of CBWE even since prior to his joining there. He had to follow the practice of receiving fees under compelling circumstances only since even the Regional director who was the Head of office at that time was doing the same and it was not possible for the applicant to deviate from the procedure set by his HOD or to inform the higher authorities, going against the threat from the HOD who was his controlling officer.

It is pertinent to mention here that the Ministry of Labour, Govt. of India also made the provision of the incentive/remuneration to the education officers and training Officers, workers education @ Rs 500/- per training programme up to a limit of Rs 5000/- per annum under Self Generation of Fund (SGF) scheme which is evident from the letter No.C-13012/1/99-ESA (WE) dtd.01.01.2001, circulated by the CBWE vide its letter No. EDN/SGF/98/80 dtd.05.01.2001.

(Copy of the letter dated 05.01.2001 and letter dtd. 01.01.2001 is annexed hereto as **Annexure-A**)

3. That the applicant categorically denies the statements made in para 6,9,10,11 and 14 of the Written statement and begs to submit that the entire disciplinary proceeding was conducted in an unfair and malafide manner with a pre-determined plan to trap the applicant into unfounded charges. The statement that the applicant admitted the

Hanuleswar Choudhary

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charges unconditionally is totally mis-concieved, mis-
construed and contrary to records since the applicant
simply admitted the circumstances under which he was
forced to receive fees as alleged and did not admit
anything else. The applicant was dismissed in an
arbitrary, unfair, unjust and illegal manner without
following any procedure established by law or following
the provisions laid down in the CCS (CCA) Rules, 1965.

It is pertinent to mention here that during the
departmental inquiry, none of the listed documents or
witnesses were examined by the Inquiry Officer nor the
same were discussed/reasoned by the Inquiry Officer which
is evident from the inquiry report dated 28.04.2000
annexed by the respondents with the written statement as
Annexure-14. The statement of defence submitted by the
applicant and the facts narrated therein were neither
examined by the inquiry officer nor the applicant was
given the opportunity of being heard in the inquiry which
is beyond all cannons of law and utter violation of the
principles of natural justice. The Inquiry Officer reached
the conclusion arbitrarily although the charges could not
be proved. As such the findings of the Inquiry Officer
were not based on facts or records. This apart, the copy
of the inquiry report was also not supplied to the
applicant, which is mandatory as per law.

Surprisingly, the Disciplinary Authority lost sight of
the above mentioned facts and acted under the whims of the
Inquiry Officer, eventually imposing the punishment of
dismissal on the applicant, without any application of

Narakeswar Chauthy.

~~1. That the respondent has not taken into~~
mind and without discussing the evidences of inquiry in the order of penalty, or taking the facts or records into consideration.

The appellate authority also failed to appreciate the infirmities aforesaid and rejected the appeal most mechanically without paying any regard to the procedure established by law.

4. That with regard to the statements made in para 8 and 15 of the written statement, the applicant begs to submit that it is quite evident from the so called Daily order sheet annexed by the Respondent to their written statement as Annexure-13 that the hearing has been stated to have been held on 26.04.2000 but in fact the same was held on 28.04.2000 when the applicant was forced to sign the said order sheet which was already prepared earlier and as such the signatures were taken on 28.04.2000 only whereas the daily sheet was prepared on 26.04.2000 itself i.e. before the actual hearing was held.

5. That the applicant denies the statement made in para 16 of the written statement and begs to assert that the statements so made are not relating to para 4.20 and 4.21 of the instant O.A and as such are irrelevant.

6. That the applicant categorically denies the statements made in para 17 and 19 of the written statement and begs to submit that the respondents not only committed illegality

Kanakeswar Choudhary

in imposing the punishment of dismissal upon the applicant, which is disproportionate even in the event of the charges being proved and ^{not} to speak of in the instant case where the respondents failed to even prove the charges but acted arbitrarily, capriciously, and malafide violating the due process of law and all the principles of justice known in the service jurisprudence. As such the applicant is entitled to all the reliefs as prayed for and the application deserves to be allowed with costs.

VERIFICATION

I, Shri Kanakeswar Choudhury, Son of Late R.Choudhury, aged about 51 years, Resident of College Road, Opposite Buddha Mandir, P.O & District: Tinsukia, Assam do hereby verify the statements made in paragraphs 1 to 6 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on 29th November, 2003.

Kanakeswar Choudhury,



केन्द्रीय श्रमिक शिक्षा बोर्ड

(भ्रम मंत्रालय, भारत सरकार द्वारा प्रायोजित)

वी. आर. सी. ई. गेट के पास, उत्तर अंबाझरी मार्ग, नागपुर - 440 010

CENTRAL BOARD FOR WORKERS EDUCATION
(SPONSORED BY THE MINISTRY OF LABOUR, GOVT OF INDIA)
Near V.R.C.E. Gate, North Ambazari Road, Nagpur-440 010.

No. EDH/SGE/98/80/

5th January, 2001

The Dy. Director (Trg.),
Indian Institute of Workers Education,
MUMBAI

The Regional Director,
Central Board for Workers Education,
ALL

Subject: Incentive/Remuneration to Education
Officers/Training Officers for conducting
S.G.F. Programmes.

Sir/Madam,

I am to enclose herewith letter
No.C-13012/1/99-ESA(WE) dated 1st January, 2001 for
information and compliance.

It may please be seen that the
achievement of targets should in no way suffer as a
result of introduction of incentive remuneration
against conduct of programme under Self Generation
of Fund scheme.

Please acknowledge the receipt of this
letter.

Yours faithfully,

(Vishram Ram)
Dy. Director (Edn.)

Copy for information and necessary action to:-

- {1} The Financial Adviser, CBWE, Nagpur.
- {2} The Zonal Director, C.B.W.E., Delhi/ Mumbai/
Calcutta/Chennai.

(Vishram Ram)
Dy. Director (Edn.)

*Certificate to be attached
Affected
Date
Advocate
10/12/03*

By: [Signature]

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No.C-13012/1/99-E.SA(WF)
Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya

New Delhi, dated: 16/1/2001.

To

The Director,
Central Board for Workers Education,
Nagpur.

Subject: Programmes conducted by Central Board for Workers Education under SGF Scheme.

Sir,

In order to make Central Board for Workers Education to become a self-reliant organisation, to prevent complaints and malpractices in programmes where fee is charged by Board and with an objective to motivate Education Officers to excel, it has been decided to grant incentive/commutation to Education Officers and Training Officers @ Rs.500/- per programme and to Regional Directors concerned and Dy. Director, HWE, Mumbai @ Rs.300/- per programme conducted under Self-Generation of Funds Scheme subject to a maximum of Rs.5,000/- per annum.

2. In order to give a boost to generation of funds by the Board, it is desirable that competent faculty is deputed for these programmes. These programmes being performance oriented a pragmatic approach may be adopted by the Board in deputing the faculty either from within the center or even from outside the Centre both for conducting and getting SGF programmes. In order to cover all categories of establishments, flexible approach with regard to fee and number of participants may be adopted. Wherever there is deviation from the prescribed procedure, such cases may be referred by the Regional Directors to Director, CBWE, who may consider such case favourably in order to enable the Board to generate more funds.

3. Wherever possible managements may be persuaded to meet expenditure on stationery/study material/guest speaker etc. so as to boost income of the Board through SGF programme.

4. This issues in consultation with Integrated Finance Division vide their Dy. No.2832/Fin./2000 dated 4.12.2000

Yours faithfully,

[Signature]
(Rajesh R Sharma)
Under Secretary
Tele:3001412

12/01/01 (F1)
35/1/01 (2/31)
12/01/01
01-01-2001
Echlin

Attested
[Signature]
10/2/03

Copy to :-
Fini. Dr.

By - fox

LSA

No.C-1301/1/99-ESA(WE)
Government of India/Bharat Sarkar
Ministry of Labour/Sram Mantralaya

New Delhi, dated 13/ Jan. 2001

To
The Director,
Central Board for Workers Education,
Nagpur.

Subject : Programmes conducted by Central Board for Workers Education under SGF Scheme.

Sir,

In order to enable Central Board for Workers Education to become a self-reliant organisation, to prevent complaints and malpractices in programmes where fee is charged by Board and with an objective to motivate Education Officers to excel, it has been decided to grant incentive/remuneration to Education Officers and Training Officers @ Rs.500/- per programme and to Regional Directors concerned and Dy. Director, HWE, Mumbai @ Rs.300/- per programme conducted under Self Generation of Funds Scheme subject to a maximum of Rs.5,000/- per annum.

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3. Wherever possible managements may be persuaded to meet expenditure on stationery/study material/guest speaker etc. so as to boost income of the Board through SGF programmes.

4. This issues in consultation with Integrated Finance Division vide their Dy. No.2832/Fin./2000 dated 4.12.2000

Yours faithfully,
Rajesh R Sharma
(Rajesh R Sharma)
Under Secretary
Tele:3001412

*MSA
Advocate
10.12.07*