

FORM No.4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: _____

Respondents _____

Advocates for the Applicant _____

Advocates of the Respondents _____

Notes of the Registry _____

Date _____

Order of the Tribunal _____

21.02.2005

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

Issue notice to show cause as to why contempt proceedings shall not be initiated.

List on 31.3.2005 for orders.

[Signature]
Member (A)

Ms. U. Das, learned Addl C.G.S.C. for the respondents was present.
Post on 12.4.2005.

[Signature]
Vice-Chairman

mb
31.3.2005

mb

12.4.05.

Ms. U. Das, Addl C.G.S.C. submits that she has filed 'Vakalatnama' on behalf of Respondent and she seeks four weeks time to file written statement. Time is allowed. Post the matter on 13.5.05.

[Signature]
Member

[Signature]
Vice-Chairman

This Contempt petition has been filed by the petitioner u/s 23 of the Contempt of Court Act, 1971 read with Section 17 of the CAT Act, 1985, against for wilful disobedience of the order dated 5.8.2004, passed by this Hon'ble Tribunal in O.A 245/03.

Laid before the Hon'ble Court for further orders.

[Signature]
for Section Officer

13.5.2005

Since time for implementation is extended upto 24.8.2005 in M.P. No. 92/2005, post on 31.8.2005.

Notice & order sent to D/section for issuing to resp. Nos. 1 & 2, by regd. A/D post.

K. Ahmed
Member

V. Das
Vice-Chairman

mb

31.8.2005

The applicant is appeared in person. Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents sub

31.8.2005

The applicant is appeared in person. Mr. M.U. Ahmed, learned Addl. C.G.S.C. appearing on behalf of Ms. U. Das, learned Addl. C.G.S.C. for the respondents submits that order has already been complied with and that respondents will file compliance report. Post on 22.9.2005.

V. Das
Vice-Chairman

mb

22.9.05

This Contempt Petition has been filed by the applicant alleging non compliance of the direction issued in the final order passed in O.A.No. 245 of 2002. The applicant has filed this application in absentia. Ms. U. Das learned Addl. C.G.S.C. appearing on behalf of the Respondents has placed before the Tribunal an order dated 29.8.05 passed by the Chief, Post Master General. The said order shows that all disputed proceedings against the applicant who retired on 31.01.05 has been advised to ^{be} dropped the proceedings. It is further stated that in view of the above the disciplinary proceedings against the applicant ^{will be dropped} and the pension and other consequential payments admissible to the Ex-official will be released

contd/-

Class
28/2/05.

Notice duly served on resp. No-2

Class
22/3.

28.3.05

An application submitted by the petitioner to withdraw the case which may seen at flag 'A'.

Ani

30-3-05

5/12-2005

6.5.05

Show cause reply filed by Respdt. No. 2.

Ani

14.7.05

The petitioner ~~by~~ submits an application on 14.7.05 which may be seen at flag 'B'.

Ani

Rephs filed by the respondents 22/31.8.05

Received copy

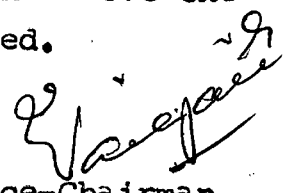
C.P.9 of 2005

3

Alloha Das
Addl Cse.
7/10/05

22.9.05

immediately. In view of the above the
Contempt Petition is closed.


Vice-Chairman

25.10.05

lm

Copy of the order
has been sent to
the office for reply
the line to the
applicant by post.
sh

2 MAR 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUWAHATI BENCH

Title of the case;

Contempt Petition No. 9/2005

Original Application No. 245/2003

Decided on 5-8-04

Sri Debal Majumder

Retired ASP

.....Petitioner

-VS-

Union of India

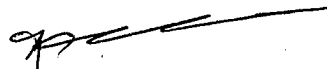
& others

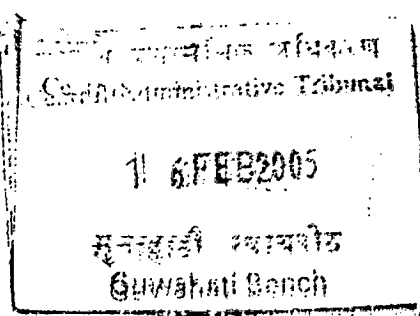
..... Respondents

The humble petitioner most respectfully submits as follows.

1. That the Inquiring Authority submitted final report to the Disciplinary Authority who served notice to the petitioner.
2. The petitioner has submitted defence representation to the Disciplinary Authority.
3. The petitioner retired on 31-1-05 A/N. and he has been given an understanding that the disciplinary case would be finalised soon and the period of unjustified suspension would be decided soon after.
4. Under this circumstances, the petitioner does not want to pursue the case and as such prays to the Hon'ble CAT to drop ^{withdraw} it. ^{to file a fresh} the case and liberty may be given if any adverse order passed by the authority against me.

Signed on the 28th day of March two
thousand four.


PETITIONER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case Contempt Petition No...9.../2005
~~5666~~
Original Application/ No.245/2003

Decided on 5-8-04

Sri Debal Majumder Petitioner
-VS-
Union of India & others... ... Respondents

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For use in the Tribunal Office

Date of filing :

Registration No:

REGISTRAR

28-105
Debal Majumder 6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of

Contempt Petition No.....9...../2005

Original Application No. 245/2003

Decided on 5-8-2004

Sri Debal Majumder
S/O Late N.K. Majumder
ASP HQ
O/O the Director Postal Services
Agartala Petitioner

-VS-

1. The Union of India
Represented by the Secretary
to the Ministry of Communication
2. Shri G. Mohanakumar
Member (Personnel)
O/O the Director General
Department of Posts, India
New Delhi
... .. Respondents

-AND-

In the matter of

A petition U/S 23 of the Contempt of Courts 1971 /
(Act of 1971) read with sec 17 of the CAT (Act of 1985) and
further read with Rule 3 of CAT (Contempt of Courts) Rule
992 for wilful disobedience of the orders of Hon'ble CAT
dated 5-8-2004 in OA NO. 245/2003.

That the petitioner most humbly and respectfully begs
to state that the contempt petition has arisen in the
following facts and circumstances.

- 1.1 That the petitioner filed an application to the Hon'ble
CAT against the unjustified order of suspension.
- 1.2 That the Hon'ble CAT passed an order on 5-8-04
directing the CPMG N.E. Circle Shillong and the Member
(Personnel) Department of Posts New Delhi to give a
reasoned and well meaning reply to the applicant within
four weeks from the date of receipt of the order and also
to complete the disciplinary proceedings within five months.

(The Xerox copy of the order is enclosed
as annexure-A)

28-105
Devala Rajender

1.3 That the petitioner submitted a representation to the respondent No. 2 on 17-12-04 for immediate decision on unjustified order of suspension in compliance of the order dated 5-8-04 from the Hon'ble CAT. The representation was received by him on 31-12-04, but even then the respondent No. 2 is adamant and did not give reply uptill now.

(The Xerox copies are enclosed as annexure- B & C)

1.4 That the case was submitted to the respondent No. 2 for final disposal due to non decision by the respondent No. 3 of the case OA NO 245/03, and, therefore, the later has not been made party this time.

1.5 That by not complying with the direction given by the CAT the contemptners have disobeyed and disregarded order of the Hon'ble CAT. By such wilfull disregard of the order of the CAT, respondents have committed contempt of the Hon'ble CAT and lowered the prestige, authority and dignity of the CAT.

GROUND

2.1 That the disobedience of court's order strikes at very root of the rule of law on which the system of Govt. is based in our country. Punishment of contempt of court is necessary for the maintenance of legal system and prevent perversion of the course of justice.

2.2 That the order of the Hon'ble Tribunal dated 5-8-04 has neither been appealed against nor any review or revision petition has been filed against.

NATURE OF ORDERS SOUGHT FROM THE TRIBUNAL

3.1 That the ⁴petitioner humbly prays to the Hon'ble CAT

(a) An order directing the compliance of the Tribunal order dated 5-8-04 within fifteen days.

(b) That an order punishing the respondents under contempt of courts Act 1971 for wilfull disobedience of Hon'ble CAT's order dated 5-8-04.

(c) That an order allowing the petitioner the cause of the petition as deemed fit by the Hon'ble CAT.

4. The case may be decided on its merit.

DRAFT CHARGES

5. That the draft charges against respondents are furnished in a separate sheet attached to the petition as annexure-D
6. That the petition is made bonafide and for the end of justice.

In the premises it is most humbly prayed that the petition may kindly be admitted and notice may be issued to the respondent No. 2 to appear in person or through a duly authorised advocate and upon hearing, further be pleaded to pass necessary order as prayed for and for this act of kindness the petitioner as on duty bound shall ever pray.

VERIFICATION

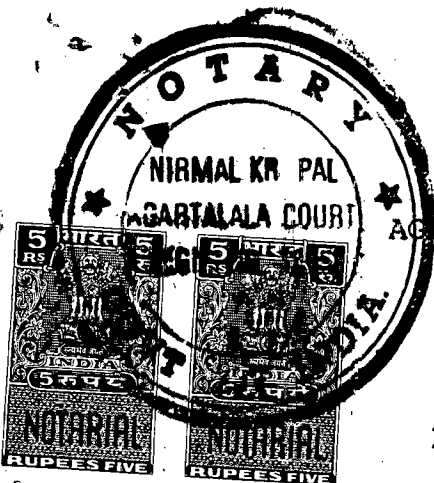
I, Sri Debaj Majumder, S/O Late N.K. Majumder, aged 59 years 11 months, resident of Agartala, previously employed as ASP Central Sub-division, Pasighat, now working as ASP HQ, O/O the Director Postal Services, Agartala, do hereby verify that the contents in the application are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signed on the ...~~28~~... day of January two thousand five.

28-1-05
PETITIONER

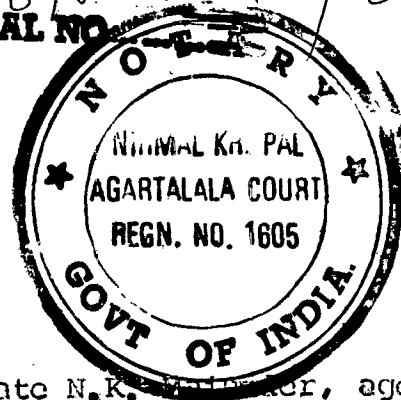
Debaj Majumder

348/January 05
SERIAL NO.



BEFORE THE NOTARY
AGARTALA, WEST TRIPURA.

AFFIDAVIT




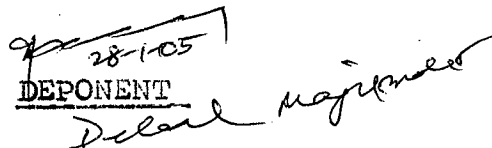
I, Sri Debal Majumder, S/O Late N.K. Majumder, aged

59 years 11 months, by profession service in C/O the Director Postal Services, Agartala, Ps- Agartala West, District- West Tripura do hereby solemnly affirm and declare as follows :-

1. That I am petitioner in the instant petition and as such I am acquainted with the facts and circumstances of the case and hence competent to swear this affidavit.
2. That the statements made in this affidavit and in paragraphs 1.1 to 1.5 are true to the best of my knowledge and those made in paras 2.1 to 2.2 and 3.1 to 6 are matters of records and are true to my information and the rest are my humble submission before the Hon'ble Tribunal.

And I sign this affidavit on the 28th day of January two thousand five at Agartala.


NIRMAL KUMAR PAL
NOTARY 28/01/2005
APPOINTED BY THE GOVT. OF INDIA
Regn. No-1605
AGARTALA COURT,
AGARTALA.


28-1-05
DEPONENT
Debal Majumder

Solemnly affirm and declared before me by the deponent who is identified by Smt. Mitali Nandi on this 28th day of January two thousand five.

Identified by me

Mitali Nandi,
Advocate/Appriser

28-1-05 -

MAGISTRATE/JA/COMMISSIONER/
ANY AUTHORITY EMPOWERED TO TAKE
OATH.

28-1-05
Debal Majumder

AFFIDAVIT

SOLENNLY, AFFIRMED & DECLARED BEFORE ME

OF Mr. Babat Maharaj

IDENTIFIED BY Mr. Nandi Adv.

THIS DAY OF 28.1.05

AT AGARTALA 2.20 AM. P.M.

NIRMAL KUMAR PAI

NOTARY, Agartala

Appointed by Govt. of India

REGN. NO. 1605

28.1.05
Deputy Magistrate

Identified by me and
signed in my presence.

Mitali Nandi
Adv.

28-1-05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.245 of 2003

Date of decision: This the 5th day of August 2004

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

Shri Dobal Majumder
S/o Late N.K. Majumder,
Asstt. Superintendent of Post Offices,
O/o The Director Postal Services,
Agartala.

.....Applicant

In absentia

- versus -

1. Union of India, represented by the
Secretary to the Ministry of Communication.
 2. The Member Personnel,
O/o The Director General
Department of Posts,
New Delhi.
 3. The Chief Postmaster General,
N.E. Circle,
Shillong.
 4. The Director Postal Services,
Arunachal Pradesh Division,
Itanagar.
-Respondents
- By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

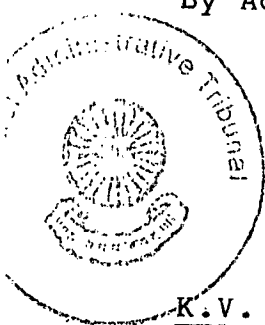
.....

O R D E R (ORAL)

K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

The applicant is working as an Assistant Superintendent of Post Offices at the Central Sub Division, Itanagar. Thereafter, he was posted as Assistant Superintendent of Post Offices Central Sub Division, Pasighat. The Director of Postal Services, Arunachal Pradesh Division, Itanagar issued an Office Order dated 15.11.2001 transferring one of the Group 'D' Night Guard from Roing SO to Itanagar HO. The applicant

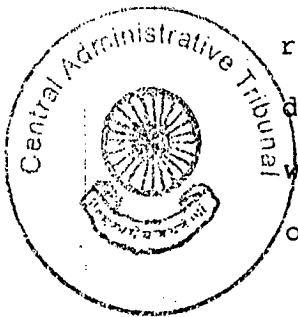
Noted
K.V. Prahladan
Member



did not carry out this transfer order. The applicant was also ordered by the respondents vide letter dated 10.5.2001 to collect the Iron Chest from Divisional Office, Itanagar and transport to Along SO for the security of the cash of Along. There was some delay in getting the Iron Chest embedded at Along SO. Therefore, the Director of Postal Services, Arunachal Pradesh, placed him under suspension vide Office Order dated 18.12.2001. This order was revoked vide order dated 5.2.2002.

2. I have heard Mr A. Deb Roy, learned Sr. C.G.S.C. and have also gone through the materials placed before me. The respondents are directed to give a reasoned and well meaning reply on the representation of the applicant submitted before the Chief Postmaster General, N.E. Circle, Shillong dated 29.12.2001 and the other representation addressed to the Member (Personnel), Department of Posts, New Delhi dated 19.8.2003. The resply to these two representations may be given within four weeks from the date of receipt of this order. The respondents are also directed to complete the disciplinary proceedings initiated against the applicant within five months from the date of receipt of this order.

The O.A. is accordingly disposed. There shall be no order as to costs.



TRUE COPY
प्रतिनिधि

Sd/MEMBER(ADM)

nkm

Section Officer (I)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

20/8/04

20/8/04
79900

To
The Member (Personnel)
O/O the Director General
Department of Posts, India
New Delhi

- 7 -

ANNX-B

12

Subj:- Decision of unjustified order of
suspension.

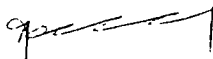
Respected Sir,

With due respect and humble submission I beg to
state that I filed a case in the Hon'ble CAT Guwahati under
OA NO. 245/2004. The Hon'ble CAT issued order on 9-9-04
directing the respondents to give a reasoned and well
meaning reply to the representation of the applicant within
four weeks and to complete the disciplinary proceedings
within five months. The period of five months is nearing
completion but even though the period of four weeks was
over long before I did not receive any thing from the
respondents.

As such, I earnestly pray to you to decide the case
immediately and give me a reasoned and well meaningful
reply in compliance of the order of the Hon'ble CAT.

With regards,

Yours faithfully,


(D. MAJUMDER)

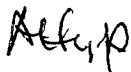

ASP HQ

O/O the DPS

Agartala

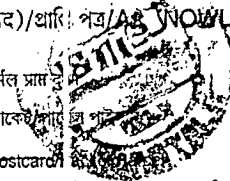
directing the respondents

Dated at Agartala
the 17-12-04



Postmaster
Agartala M. C.
700001

पाति-स्वीकृति (रसीद)/आति पत्र/ACKNOWLEDGEMENT

- * एक रजिस्ट्री पत्र/पोस्टकार्ड/चिकेट/पार्सल प्राप्त हुआ
- * रेजिस्ट्रीकृत/वीनाकृत पत्र/पे ड कार्ड/पार्सल/आति पत्र
- * Received a Registered Letter/Postcard Insured



12038
22-12-1998

पाने वाले का नाम
आपका नाम ठिकाना
Addressed to (name)
● बीमे का मूल्य (रूपयों में)
● बीनाकृत आर्थर परनिमान
● Insured for Rupees
वतःण तारीख
दिनि अतिथि
Date of delivery

The Member (Personal)
of the DG
Department of Post India
New Delhi

पाने वाले के हस्ताक्षर/आपके नदि/Signature of addressee

* आकरदक भी काट दिना पाये/अनुरोजनीय अ न केटे निन /Score out the matter not required.
* केवल बीमा यदुहो के लि/केल बीनर केटे थेका /For insured articles only.

ALLP
22/12/98
20000

14

DRAFT CHARGES AGAINST THE RESPONDENT

1. That the delay is deliberate on the part of the respondent. On receipt of the Hon'ble CAT's order dated 5-8-04, the respondent attempted nothing for implimentation of the same.
2. That the respondents on not a single occasion neither considered single of the representation of the petitioner not communicated with their intention thereof.
3. That the delayed justice is no justice on the last stage of service and the petitioner has been suffering a lot for negligence of the respondents.
4. That the wilful delay in implimenting the Hon'ble CAT's order clearly indicates the disobedience of the Tribunal's order by the respondents.
5. That the complete silence of the respondents on the Hon'ble Tribunal's order proves misuse of executive powers and contempt of court.

28-1-05
PETITIONER

Shial Rajender

15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No...../2005

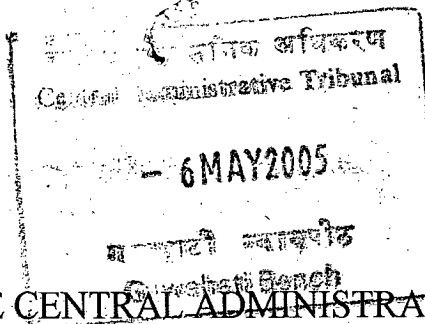
Original Application No. 245/2003

Decided on 5-8-04

SYNOPSIS/LIST DATE

- 29-10-03- The petitioner filed a case in the Hon'ble CAT Guwahati against the unjustified order of suspension made by the DPS Itanagar and non decision of the appeal and petition by the CPMG N.E. Circle Shillong and Member (Personnel) Department of Posts New Delhi respectively. The case was registered under OANO.245/2003.
- 5-8-04- The Hon'ble CAT disposed of the case directing the respondents to give a reasoned and well meaning reply to the representation of the applicant within four weeks from the date of receipt of the order and also to complete the disciplinary proceedings within five months from the date of receipt. Of the order.
- 17-12-04- The petitioner submitted a representation to the Member (Personnel) Department of Posts New Delhi for immediate disposal of the case of unjustified order of suspension.

Debal Majumder
28-1-05
PETITIONER



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CP No. 9/05
IN OA No. 245/03

SHRI DEBAL MAZUMDAR
S/o Late Shri N.K. Mazumdar
ASP HQ
O/o The Director Postal Services
Agartala

.....Petitioner

-Versus-

1) The Union of India
Represented by the Secretary to
The Ministry of Communications

2) Shri G. Mohanakumar
Member (Personnel)
O/o Director General
Department of Posts, India
New Delhi

.....Respondents

IN THE MATTER OF
Show cause reply filed by the respondent No. 2

I, Shri G. Mohanakumar, aged about 59 years, son of Late Shri N. Gopinathan Nair, at present working as Member (Personnel), O/o the Director General, Department of Posts, New Delhi, do hereby solemnly affirm and state as follows :-


18
Filed by
the Respondent No. 2
through
Shri Das,
Advocate
(G. MOHANAKUMAR)
Member (Personnel) Postal Service Board
New Delhi - 110 001
5/5/05

- 1) That I am the respondent No. 2 in the above noted Contempt Petition (CP) and I have been served with a copy of the Contempt Petition filed by the petitioner. I have gone through the copy of CP and have understood the contentions made therein. Save and except the statements, which are specifically admitted herein below, other statements made in this Contempt Petition may be treated as total denial.
- 2) That your humble respondent begs to state that the petitioner, as applicant in the OA No. 245/03 approached this Hon'ble Tribunal against the suspension order dated 18.12.2001. The Hon'ble Tribunal after hearing and after going through the materials placed before the Hon'ble Tribunal, the Hon'ble Tribunal was pleased to give direction to give a reasoned and well meaning reply on the representation dated 29.12.2001 submitted before the Chief Postmaster General, N.E. Circle, Shillong and the representation dated 19.08.2003 submitted before me. The Hon'ble Tribunal further pleased to give direction to complete the disciplinary proceeding initiated against the applicant within five months from the date of receipt of the order.
- 3) That your humble respondent begs to state that after receipt of the order from the Hon'ble Central Administrative Tribunal, both the representations have been disposed of vide order dated 18.03.2005 and 23.03.2005 as per direction contained in the order.

Copies of the order dated 18.03.2005 and
23.03.2005 are annexed herewith and marked as
Annexure-1 & 2 respectively
- 4) That the respondent most humbly begs to state that immediately after receipt of the order of the Hon'ble Tribunal disciplinary proceeding has been started and it will be completed within one month. The respondent further begs to submit that the disciplinary proceeding could not complete within the time given by the Hon'ble Tribunal, because the copy of the order was received by me on 10.03.2005, annexed with the copy of contempt petition No. 9/2005 (in OA No. 245/03).
- 5) That the respondent begs to state that the delay caused in completing the disciplinary proceeding is not intentional but due to not received the same in time. The present respondent begs to give assurance that the disciplinary proceeding will be completed within one month without any fail.

✓
(G. MOHANAKUMAR)
Member (personnel)
Postal Services Board
New Delhi - 110 001

- 6) That the respondent begs to state that in view of the above facts and circumstances of the case, there is no wilful and deliberate violation of this Hon'ble Tribunal's order. It is further stated that the respondent being responsible officer never violated any judgement/direction of this Hon'ble Tribunal wilfully. The present respondent having highest regard to the Hon'ble Tribunal cannot even think of violation of any direction of the same deliberately. It is also most respectfully submitted that even if there is any violation occurred due to ignorance or unwillingly, the respondent places unconditional apology with an assurance not to repeat the same in future.
- 7) That the respondent begs to state that since among three directions, two directions have already complied with, hence there is no contempt on the part of the respondent. It is further stated that the disciplinary proceeding will be completed within one month from today. Hence, the Hon'ble Tribunal may be pleased to dismiss the Contempt Petition as because there is no wilful and deliberate violation of the Hon'ble Tribunal's order.
- 8) That the statements in this Show Cause reply in paragraph 1 is true to my knowledge and those made in paragraphs 2, 3 and 4 are matter of records, which I believe to be true and rests are my humble submission before this Hon'ble Tribunal.


(G. MOHANAKUMAR)
member (Personnel)
Postal Services Board
New Delhi - 110 001

DEPARTMENT OF POSTS: INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL NORTH EAST CIRCLE
SHUILLONG-793001

Memo no. Vig/LC-23/03 (CAT)

Dated at Shillong the 18-03-05

This is regarding the appeal dated 29.12.2001 submitted by Shri Debal Majumdar, the then ASPOs, Central Sub-division, Arunachal Pradesh, Pashighat against the order of the then DPS, Itanagar placing him under suspension vide DPS, Itanagar's memo No.B-2//48-3/IV, dated 18.12.2001.

2. Brief History of the case is that:

(a) DPS, Itanagar issued an order under his memo No.B-2/48-3/IV(G-D), dated 15.11.2001 diverting the post of Night Guard Roing SO along with the incumbent to Itanagar HO with immediate effect but the said Shri Majumdar instead of implementation of the order, himself, issued an order under his No.B2/Staff, dated 7.12.01 keeping in abeyance the diversion/transfer of Night Guard post/ incumbent from Roing to Itanagar which was ordered by DPS in the interest of service and asked the DPS as to how the work of Night Guard Roing would be managed. On previous occasion, Shri Debal Majumdar was ordered under DPS Itanagar letter no.F2/Theft/Along2000-01, dated 10.5.2001 to arrange conveyance of one iron chest from Divisional Office, Itanagar to Along SO and get it embedded there for safety and security of Govt. cash of that Office. He was reminded on 6.7.2001. Shri Debal Majumdar vide his letter dated 11.7.01 reported that the Mail Overseer had collected the iron chest and he had no role in it. He further added that completion certificate will be given by the SPM.

(b) DPS treated those acts as tantamount to disobedience of official orders and therefore placed him under suspension for insubordination. Therefore, this appeal.

3. Shri Debal Majumdar in his representation of appeal while prayed for revocation of suspension mostly relied on the following points.

- i) It was not a case of bribery or corruption.
- ii) He did not refuse any written order.
- iii) That the incumbent of Night Guard post was relieved by the SPM on telephonic instruction from DPS Itanagar and sought for arrangement.
- iv) That he apprehended he would not be paid subsistence allowances for 4/5 months as it was mentioned in the order of suspension that appropriate order for subsistence allowance would be issued separately.

4. I have gone through the appeal along with the relevant records of the case placed before me and find that:

(I) The contention of Shri Majumdar that suspension can be resorted to only in bribery or corruption cases, is not correct. The rules state that an official can be placed under suspension if the competent authority finds it necessary to do so and can also contemplate Rule-14 case against the official. In the instant case, a Rule-14 case was contemplated and some immediate steps were necessary for enforcing discipline to deal with the situation caused by non-implementation of the order of competent authority by the said Shri D. Majumdar. Hence, there was nothing wrong in placing Shri Majumdar under suspension.

(II) Contention of Shri Majumdar that he did not refuse any written order also does not stand. He himself stated that the SPM duly relieved the official on telephonic instructions from DPS Itanagar. He also issued an order for release of the night guard but himself kept it in abeyance by a subsequent order. Thus he stayed an order of his superior and controlling authority. It is, in other words, disobedience of order.

(III) He further stated that the SPM actually relieved the Night Guard on instruction of DPS and sought for arrangement but this does not justify keeping abeyance of the order after the release of the official. The arrangement, if any was needed, could be done subsequently also. Moreover, since the post was diverted from Roing to Itanagar, no arrangement at Roing against the post was called for. Hence, action of Shri Majumdar in stalling the diversion of post and transfer of its incumbent to Itanagar which was an immediate necessity in the interest of service, was irregular.

Shri Majumdar further apprehended that DPS would not issue order for subsistence allowance for 4/5 months in view of fact that, in suspension order it was stipulated "Appropriate order for subsistence allowance would be issued separately" but such apprehension was not supported with any evidence. Subsequent acts of the then DPS rather shows that his apprehension was totally baseless.

(IV) As the records show, suspension order was issued on 18.12.01. Shri D. Majumdar preferred his appeal on 29.12.01 but the suspension order was implemented on 7.01.02 only. This shows that Shri Majumdar delayed the implementation of his suspension order also and preferred his appeal for revocation before the suspension actually took place.

(V) Even his appeal was sent to the undersigned direct instead of sending it through proper channel, which, nonetheless has been considered.

(VI) The manner in which, Shri Mazumder acted on the issue of (I) Transportation & embedding an Iron chest at Along SO (II) Diversion of Night guard Post from Roing to Itanagar conclusively demonstrate that he had a very negative approach towards the issues.

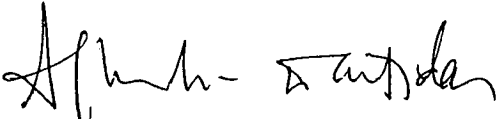
(VII) It is also seen that Shri Mazumder instead of relying on substantive facts, relies mostly on conjecture and speculation. Hence, he could wrongly presume that it will take couple of months to issue orders for subsistence allowance to him after suspension and then he will be left to suffer financially. However, the facts inform that his subsistence allowance was duly paid.

(VIII) The suspension order was revoked under DPS Itanagar memo no. B2/48-3/IV dated 05-02-02 i.e. within one month from the date of effect of the suspension is on 07-01-02. Consequently the appeal for revocation of suspension has become ineffective w.e.f 05-02-02

As regards to the justification of suspension it can be decided only on completion of the Rule-14 case initialized against the official for alleged mis-conduct & mis-behaviour, which is in its final stage.

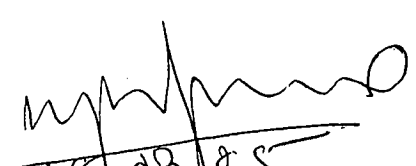
I, therefore, for the facts and reasons discussed in the foregoing paras, do not find any ground to interfere in the suspension order.

The appeal therefore is rejected.


(A. Ghosh Dastidar)
Chief Postmaster General
North East Circle
Shillong 793001

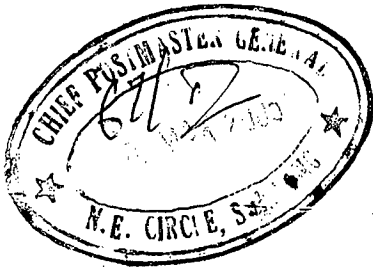
Copy to:

1. Shri Debal Majumdar, Retired ASPOs, through Director of Postal Services, Agartala 799001
2. Director of Postal Services, Agartala 799001
3. Postmaster, Agartala HO 799001
4. Director of Postal Services, Arunachal Pradesh, Itanagar 791111
5. Postmaster, Itanagar HO 791111
6. CR file of the official
7. AD(STAFF), C.O. Shillong (in appeal file)


For Chief Postmaster General
North East Circle
Shillong 793001

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ANNEXURE - 2

No. C-17015/15/2003-VP (CAT)
Government of India
Ministry of Communications & IT
Department of Posts



Dak Bhawan, Sansad Marg,
New Delhi-110 001

Dated : 23.03.2005

ORDER

A representation dated 19.08.2003 has been submitted (not through proper channel) by Shri Debal Majumdar, ex-ASP (HQ), Agartala Division addressed to Member (P) against the suspension order dated 18.12.2001 issued by DPS, Itanagar. Shri Majumdar has requested for issue of order for payment of the difference of the subsistence allowance and treatment of the period of suspension as duty for all purpose.

2. Shri Debal Majumdar has submitted that an order was issued by DPS, Itanagar dated 15.11.2001, transferring the post of Group 'D' Night Guard of Roing SO to Itanagar HO. Shri Budhim Bura was transferred and posted on this post and it was directed that he may be relieved under office arrangement. Shri Majumdar had stated to have complied with the said order vide memo dated 26.11.2001. Thereafter, he received a telephonic message on behalf of DPS, not to make arrangement in the vacant post. Also SPM, Roing informed him that he had referred to DPS, Itanagar vide letter dated 26.11.2001 for ultimate arrangement as the SO is not provided with attached SPM's quarter. Hence, Shri Majumdar was said to have issued memo dated 07.12.2001, keeping the transfer of Shri Budhim Bura to Itanagar HO in abeyance.

3. On this he was placed under suspension by DPS vide memo dated 18.12.2001, against which he appealed to the CPMG, North East Circle on 29.12.2001, but no reply was received. He has alleged that before resorting to suspension in his case, the Government of India's instructions 1&2 below Rule 10(1) were not followed as his case was not that of bribery, corruption or denial of written order.

4. He was charge sheeted under Rule 14 of CCS (CCA) Rules, 1965 vide memo dated 25.01.2002. In the meanwhile, he got transferred to Agartala Division and the inquiry could not be commenced as long as he served there. That he was not provided with the copy of the letter in which the proposal to divert the post of night guard Roing to Itanagar was rejected by the Circle office, which would have been a strong defence in his favour.

ASP(V)

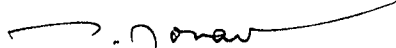
23/03/05

23-3-05

5. On examination of the representation of Shri Majumdar vis-à-vis records of the case, it is found that Shri Majumdar did not implement the order of DPS, Itanagar dated 15.11.2001 where the post of night guard Roing SO alongwith the incumbent was diverted to Itanagar HO. Instead he issued an order dated 07.12.2001 keeping in abeyance the diversion/transfer of the post and asked the DPS as to how the work of Night Guard Roing would be managed. On one of the earlier occasions, Shri Majumdar was ordered under DPS, Itanagar letter dated 10.05.2001 to arrange conveyance of one iron chest from Divisional Office, Itanagar to Along SO and get it embedded there for safety and security of government cash of that office. He was reminded on 06.07.2001. Shri Majumdar vide letter dated 11.07.2001 reported that the Mail Overseer had collected the iron chest and he had no role in it. Also that the completion certificate would be given by the SPM.

6. The above acts were treated as disobedience of official orders and Shri Majumdar was therefore placed under suspension. Though Shri Majumdar was not involved in bribery or corruption case, he was placed under suspension as a disciplinary case under Rule 14 ibid was contemplated against him, and some immediate steps were necessary for enforcement of discipline to deal with the situation caused by non-implementation of the orders of competent authority. Shri Majumdar stayed an order of his superior and controlling authority which tantamounts to disobedience of the orders. Therefore, placing Shri Majumdar under suspension was justified and within the ambit of the instructions on the subject. As such, there is no question of payment of the difference of the subsistence allowance to Shri Majumdar. As regards treating the period of suspension as duty for all purpose, the period of suspension of Shri Majumdar would be regularised by the competent authority after the disciplinary case is concluded.

7. This issues in compliance with the order dated 05.08.2004 passed by Hon'ble Central Administrative Tribunal, Guwahati Bench on OA No. 245 of 2003.

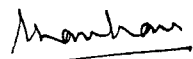

(G. Mohanakumar)
Member (Personnel)
Postal Services Board

Shri Debal Majumdar
Ex-ASP (HQ)
Agartala Division

(Through the Chief Postmaster General, North East Circle, Shillong-793 001)

Copy to :- ✓ The Chief Postmaster General, North East Circle, Shillong-793 001 with reference to his office letter No. Vig/LC-23/03(CAT) dated 18.03.2005. Enclosed copy for Shri Debal Majumdar may be handed over to him under acquaintance.

2. Guard File.


(Sushma Chauhan)
Desk Officer (Vigilance Petition)