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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- 2120041

Mise Petition No: 1000

Contempt Petition No: 10

Review application No:

Name of the Applicant(s): J S L Varanasi

Name of the Respondant(s): Mr. 98 am.

Advocate for the Appellant:- Mr. D. C. Dau, Mrs. R. S. Chaudhary,

Advocate for the Respondat:- C.G.S.C. ~~S. S. S. S. S.~~

Notes of the Registry	date	Order of the Tribunal
1. Application No. S(A)27/2001/64 dated 25.07.2003 2. Date of hearing 07.01.2004 3. Petitioner No. 387732 4. Date 07.01.04	07.01.2004	Heard Mr. D.K. Das, learned counsel assisted by Mrs. R.S. Chowdhury, learned counsel for the applicant and also Mrs. M. Das, learned Govt. Advocate for the State of Assam for the Respondent Nos. 1, 2 and 3.
1. Application No. S(A)27/2001/64 dated 25.07.2003 2. Date of hearing 07.01.2004 3. Petitioner No. 387732 4. Date 07.01.04	07.01.2004	The application is admitted, call for the records. Issue notice to the respondents.
1. Application No. S(A)27/2001/64 dated 25.07.2003 2. Date of hearing 07.01.2004 3. Petitioner No. 387732 4. Date 07.01.04	07.01.2004	Meanwhile, the respondents are directed to get hold the arrear Bills from the BSNL and calculate the amount and start process of deduction. Before deduction, hearing may be given to petitioner.
1. Application No. S(A)27/2001/64 dated 25.07.2003 2. Date of hearing 07.01.2004 3. Petitioner No. 387732 4. Date 07.01.04	07.01.2004	In the meanwhile, the Order under Memo No. S(A)27/2001/64 dated 25.07.2003 and Order No. S(A)27/2001/72 dated

Contd/-

Contd/-

07.01.2004

Order dt. 07/01/04
Sent to D/Section
for issuing to
respondent No -
1 to 5.

D/ No -

Dt. -

(as)
27/1/04.

02.12.2003 shall be stayed. The
Accountant General, Assam also to
take note for compliance.

List on 03.03.2004 for
orders.

LCV Bishnudh
Member (A)

mb

3.3.2004

order dt - 3/3/04
Sent to D/Section
for issuing to
both the parties.

(as)
3/3/04.

Four weeks time is granted to the
respondents to file written statement.
List the case on 5.4.2004 for
order.

Interim order dated 7.1.2004 shall
continue.

LCV Bishnudh
Member (A)

bb

5.4.2004

No. Wb has been
billed.

2/2/04

Four weeks time is given to the
respondents to file written statement.

List on 7.5.2004 for orders.

Interim order dated 7.1.2004 shall
continue.

6.4.04

Wb submitted
by the Respondent
No. 1 & 3.

mb

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8xxkhexpikxxkxxfxMxxkxxDxxkxxRxxkxx

edxx8kxxQx3x8xQxxfxkxxkxxkxxkxxkxxkxx

7.5.2004

Mr. A. Deb Roy, learned Sr. C.G.
appearing on behalf of the respondent
prays for time for filing written stat-
ment. Prayer is allowed. List on 8.6.
for orders. Interim order dated 7.1.
shall continue.

Notice issued vide D.N.O.
168 to 172 dated 27.1.04.

N³
2/4/04

Wb filed on behalf
of R.NG- 1 & 3

mb

2/2/04

LCV Bishnudh
Member (A)

8.6.04

Four weeks time is allowed for filing of written statement. List on 12.7.04 for filing of written statement and further orders.

[Signature]
Member (A)

lm

4-8-04

~~W/S- have been filed
by the Respondent Nos. 1 & 3.~~

5.8.2004

On the prayer of learned counsel for the applicant four weeks time is given to the applicant to file rejoinder. List on 9.9.2004 for orders.

[Signature]
Member (A)

mb

23.9.04

22.09.2004 Present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

~~Rejoinder submitted
by the applicant.~~

Mr. G. Rahul, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents were present.

Mr. G. Rahul, learned counsel for the applicant states that he is going to file rejoinder today. List the matter for hearing on 10.11.2004.

R

Vice-Chairman

[Signature]

mb

9-11-04

*The case is ready
for hearing.*

[Signature]

10.11.2004 Present: Hon'ble Justice Shri R.K. Batta, Vice-Chairman

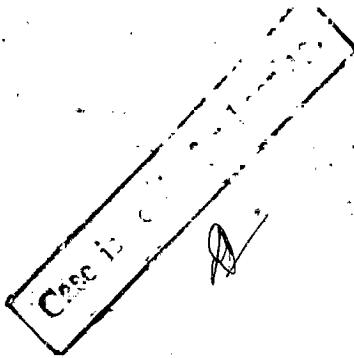
Mr D.K. Das, learned counsel for the applicant has filed letter of absence and request for adjournment on his behalf is made by Ms S. Das, learned Advocate. S.O. to 12.1.2005.

R

Vice-Chairman

nkm

10.01.2005 Letter of absence by the learned counsel for the applicant
None for the respondents.
Stand over to 18.2.2005.



R

Vice-Chairman

pg

18.2.2005 Heard Mr. D.K. Das, learned counsel for the applicant and also Mr. Y.K. Phukan, learned Govt. Advocate for the state of Assam.
List on 18.3.2005 for hearing.

K. D. Das
Member (A)

mb

18.3.05 On the prayer of the learned counsel for the respondents as well as applicant list on 6.5.05 for hearing

K. D. Das
Member

Member

X. M. Shrikhande

pg

6.5.2005 Prayer is made by Ms. U. Das, learned counsel on behalf of Mr. D. K. Das, learned counsel for the applicant for adjournment of the case. Hence adjourned to 13.5.2005.

K. D. Das
Member

bb

13.5.2005 Mr. G. Rahul, learned counsel appearing on behalf of Mr. D.K. Das, learned counsel for the applicant submits that Mr. D.K. Das, learned counsel is not well. List on 27.5.2005.

K. D. Das
Member (A)

mb

Office Notes	Date	Order of the Tribunal
order dt. 27/5/05 issuing to learned advocate for both the parties. <i>(cc) SOS</i>	27.5.05	<p>The learned counsel for the parties are present. Post the matter for hearing on 10.6.05.</p> <p>The interim order dated 7.01.04 shall continue.</p> <p><i>Dr. B. Balakrishnan</i> Member</p>
Case is ready for hearing. <i>g</i>	10.5.05.	<p>lm</p> <p>Heard learned counsel for the parties. Hearing concluded. Judgment reserved.</p> <p><i>R. Venkateswaran</i> Vice-Chairman</p>
<u>30.6.05</u> Copy of the Judgment has been sent to the Society for saving the same to the applicant as well as to the Govt. Adv. SOS and CGSC from the Regd. <i>DR. B. Balakrishnan</i>	22.6.2005	<p>lm</p> <p>Judgment delivered in open Court, kept in separate sheets. The applica- tion is disposed of in terms of the order passed in separate sheets.</p> <p><i>R. Venkateswaran</i> Vice-Chairman</p>
<i>Reed copy M. N. Chari 1/7/05</i>	mb	

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXX. No. 2 of 2004

DATE OF DECISION 22.6.2005

Shri Jagat Singh Laljibhai VasavaAPPLICANT(S)

Mr D.K. Das and Mrs R.S. ChowdhuryADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India and othersRESPONDENT(S)

Mr A.K. Chaudhuri, Addl.C.G.S.C.

Dr Y.K. Phukan, Sr. Government Advocate, Assam
...and Mrs. M. Das, Government Advocate, AssamADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE G. SIVARAJAN, 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

G.S.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 2/2004

Date of Order : This the 22nd day of June, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

Sri Jagat Singh Laljibhai Vasava
S/o of Laljibhai Vasava
Commissioner & Secretary to the Govt. of Assam
Public Enterprise Department, Dispur, Guwahati - 6.

... Applicant

By Advocates Mr. D.K. Das, Mrs. R.S. Chowdhury.

- Versus -

1. The State of Assam;
Represented by the Chief Secretary to the Govt. of Assam
2. Secretary to the Govt. of Assam,
Secretariat Administration (Accounts) Department, Dispur,
Guwahati - 6.
3. Secretary to the Govt. of Assam
General Administration (B) Department, Dispur, Guwahati - 6.
4. The Accountant General (A & E), Assam,
Maidamgaon, Beltola, Guwahati .
5. The Union of India
Represented by the Secretary to the
Govt. of India,
Ministry of Personnel & Training
New Delhi.

... Respondents

By Advocates Dr Y.K. Phukan, Sr. Government Advocate, Assam
and Mrs. M. Das, Government Advocate, Assam for Respondent Nos. 1
to 4.

Mr. A.K. Chaudhuri, Addl. C.G.S.C. for Respondent No. 5.

ORDERSIVARAJAN. J. (V.C.)

A senior Indian Administrative Service officer of 1982 batch, presently working as Commissioner and Secretary to the Government of Assam is the applicant.

2. The applicant is aggrieved by the demand and recovery of huge amounts by way of telephone charges for private calls alleged to have been made by him from telephone No.GHT 560149 (260149) for the period from 31.01.1999 to 05.04.2000 and from telephone No.JRT 321190 for the period from 16.03.1998 to 12.07.1998 (According to the applicant he had remitted the call charges in respect of all private calls made by him from the aforesaid two telephones). The respondent No.3 had issued a communication dated 8.9.2000 (Annexure-A) stating that a large number of private calls were made from the aforesaid two telephones during the periods mentioned above as per the bill statement procured from the Telecom Department of Guwahati and Jorhat. The applicant was requested to make payments against those private calls which amount may be deposited with Secretariat Administration (Accounts) Department and Commissioner, Upper Assam Division's Office to enable them to make full payment against those telephone bills. The applicant, on receipt of the said communication, issued letters to the Commissioner, Upper Assam Division, Jorhat on 6.11.2000 (Annexure-B) and to respondent No.3 by letter dated 23.2.2001 (Annexure-C) requesting them to intimate the exact amount to be paid by him. But, the respondents had not so far intimated the amount of private calls made by him for payment as

[Handwritten signature]

requested in Annexure-A. It is stated that the applicant's wife, Smt I.J. Vasava in the meantime had sent a Demand Draft of Rs.50,000/- alongwith covering letter dated 22.5.2001 (Annexure-D) towards private call charges in respect of telephone No. 260149 pursuant to a letter dated 22.5.2001 addressed to the applicant and further payment to the tune of Rs.15,000/- was effected by the applicant's wife as per Demand Draft which was intimated by the applicant as per letter dated 31.10.2002 to the respondent No.1. The applicant had also stated that when the respondent No.2 failed to specify the exact amount to be paid regarding private calls the applicant personally approached the BSNL and after getting the correct amount of charges for private calls out of the total bill amount of bill dated 1.3.1999 in respect of telephone No.560149 (2260249) which came to Rs.11,730/- the applicant's wife through a Demand Draft No.061654 dated 7.2.2003 paid the said amount and the said fact was intimated to the Deputy Secretary to the Government of Assam by letter dated 11.2.2003. It is further stated that Mrs Vasava, the wife of the applicant vide Demand Draft dated 7.2.2003, 22.2.2004 and 8.5.2003 paid a total amount of Rs.48,138/- against different bills with respect to the said telephone No.2260149. Thus, according to the applicant a total sum of Rs.1,13,138/- was paid by the applicant's wife, Mrs Vasava towards the demand.

3. The respondent No.3 has, by a communication dated 29.1.2003, intimated the Chief General Manager, BSNL, Ulubari, Guwahati, that the telephone Nos.2260149 (Guwahati) and 2321190 (Jorhat) have huge outstanding arrears against each of them, that after examining the bills it was found that large number of private calls were made from these two telephones and Government had

Spb

decided that the officer concerned will have to pay for the private calls made from these two telephones and that now the officer concerned is insisting that he may be intimated of the amount that is incurred on private calls. The respondent No.3 accordingly informed the Chief General Manager that as per Government decision those calls were treated as private calls against telephone No.2260149 (Guwahati) for the period from 16.12.1998 to till date where STD Code used other than 011 and in case of telephone No.2321190 (Jorhat) for the period from 16.8.1997 to 15.6.1998 where STD Code used other than 0361 and inside the State of Assam and requested to instruct the concerned official in the BSNL to calculate the amount for private calls and intimate the same to the respondent No.3 so that the said department can intimate the amount to the concerned officer to make the payment. A copy of this letter was sent to the applicant also alongwith a covering letter dated 15.2.2003 (Annexure-I). The applicant waited for the intimation of the amount so calculated. However, before intimating the figure the applicant came to know that a communication dated 25.7.2003 (Annexure-J) had been sent from the State Government to the Accountant General (A&E), Assam, stating that a sum of Rs.9,61,436/- had been disbursed to the BSNL, Guwahati, being the telephone bills of the applicant at his specific written order and that the drawal and disbursement of the said amount was irregular and in violation of the established rules and procedures. It is further stated that the Governor of Assam has, therefore, decided to realize the amount from the applicant. The Accountant General was requested to issue retrenchment slip against the applicant to realize the entire amount of Rs.9,61,436/- from his pay by deducting the amount at the rate of Rs.7000/- per mansion. A

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copy of the said communication was also marked to the applicant. The applicant, with reference to the said communication addressed a letter to the respondent No.2 justifying the payment of telephone bills and also requested for furnishing the exact amount of private telephone calls. However, the applicant again received an Office Order dated 2.12.2003 (Annexure-M) stating that the Government of Assam has decided to recover Rs.9,61.436/- at the rate of Rs.7000/- per mansion with effect from December 2003 from the pay of the applicant which was unauthorizedly made payment of the telephone bills by the applicant. The applicant has impugned the orders dated 25.7.2003 (Annexure-J) and 2.12.2003 (Annexure-M) in this O.A.

4. The case of the applicant is that he had paid the amount of private calls which according to him was made by him and his wife and that the respondents, when they insisted for payment of the private call charges in respect of the two telephones, they are bound to intimate the correct amount of the private calls, particularly when the applicant had sought for furnishing the exact amount. The stand of the applicant is that the exact amount of private calls from the aforesaid two telephones has not been furnished to the applicant so far. The decision to recover the sum of Rs.9,61,436/- towards arrear bill amounts in respect of the two telephones without furnishing the exact amount of private calls sought for by the applicant and without affording an opportunity of being heard to the applicant is high handed, arbitrary and illegal.

5. The respondents have filed a written statement. It is stated therein that there are outstanding amount of Rs.12,26,674/- for payment against the official residence telephone No.2260149 of the applicant with effect from 1.6.1997 and another amount of

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Rs.6,01,887/- against telephone No.JRT. 2321190 for the period from 16.8.1997 to 15.6.1998 when the applicant was Commissioner of Upper Assam Division, Jorhat. It is stated that the bill amount against the said two telephones is extraordinarily high for making any number of telephone calls by one officer for official purpose and therefore, the matter was placed before the higher authority, that the respondent No.1 also examined and considered the application made by the applicant and thereafter the Government came to a decision that user of the telephone No.2260149 is required to pay the outstanding bills against private calls made from this telephone and that it was also decided that the STD calls made from the said telephone to destinations other than Delhi will be treated as private calls and STD calls made to Delhi will be treated as official calls. In respect of telephone No.JRT. 2321190, it is stated that the applicant is to pay for all calls except those made under STD Code 0361 and accordingly the General Administration Department vide their order dated 13.12.2002 communicated the Government's decision to the applicant and further the respondent No.3. by letter dated 29.1.2003 requested The BSNL to calculate the amount for private calls and intimate the same to the respondent No.3 to enable him to intimate the amount to the applicant. The respondents admitted that the ex wife of the applicant had submitted two Drafts amounting to Rs.65,000/- (Rs.50,000 + Rs.15,000) which had been credited to the Government account. Regarding the payment of a sum of Rs.48,138/- made by Smt Vasava, it is stated that the concerned Department (General Administration Department) is not aware of such payment. The procedure for drawal of ceiling amount and instructions required for payment are mentioned and it is stated that no such instructions have

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been issued by the General Administration Department to clear the outstanding telephone bills. It is stated that the drawal and disbursement of a sum of Rs.9,61,436/- by the applicant was irregular and in violation of established rules and procedures which resulted in the decision to recover the entire amount from the applicant.

6. The applicant had filed a rejoinder traversing the allegations regarding the unauthorized payment of telephone charges by stating that the respondents did not point out any rules, which had been violated.

7. Mr D.K. Das, learned counsel for the applicant, submitted that the applicant did not dispute the bill amount in respect of the two telephones provided in his official residence during the relevant period. The counsel submitted that the applicant on receipt of the earliest communication dated 8.9.2000 had immediately written to the Commissioner, Upper Assam Division, Jorhat and the respondent No.3 for intimating the specific amount of private call charges, but the respondents have not, so far, furnished the said details to the applicant. The counsel pointed out that this Tribunal at the time of admission of this application, i.e. 7.1.2004, after hearing the counsel for the applicant and the Government Pleader for the State of Assam had issued a direction to the respondents to get hold of the arrear bills from the BSNL and calculate the amount and start the process of deduction after affording an opportunity to the applicant. He also submitted that the recovery was also stayed on finding that there was a strong *prima facie* case in favour of the applicant. Counsel submitted that the respondents did not comply with the aforesaid directions, so far, and further though the respondent No.3 had written a letter to the BSNL for calculating the amount of private call charges



and intimating the same to the respondent No.3 to enable him to furnish it to the applicant no such effort had been made by the respondent No.3 for obtaining the calculation and intimating the same to the applicant. Counsel submitted that the respondents unilaterally decided that all STD calls made from 2260149 to destinations other than Delhi will be treated as private calls and in respect of telephone No.JRT 2321190 only the calls made under STD Code 0361 shall be treated as official calls and all other calls made to outside Assam shall be treated as private calls and shall have to be paid by the user. Counsel submitted that the aforesaid decision alleged to have been taken by the respondents is against the interim direction issued by the Tribunal and also against all principles of fairness in action. Counsel pointed out that substantial amount to the tune of Rs.1,13,138/- had been paid by the applicant's ex wife towards private call charges against the said two telephones, that out of the said amount a sum of Rs.48,138/- has not been given credit to. The counsel further submitted that the impugned orders were passed without furnishing the exact amount of private calls and without affording an opportunity to the applicant of being heard.

8. Mrs M. Das, learned Government Advocate, Government of Assam, appearing for respondent Nos.1 to 4 submitted that the applicant as a Senior IAS officer had made a large number of private calls from the two telephones installed in his residential premises while employed as Commissioner, Upper Assam Division, Jorhat and as Commissioner and Secretary to the Government of Assam during the period from 16.3.1998 to 12.7.1998 and from 31.1.1999 to 5.4.2000 respectively, that having regard to the huge number of private calls made by him, the Government had decided to recover

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from him the private call charges for the said period. The counsel further submitted that the applicant as a responsible officer was bound to remit the private call charges to the Government account as directed in the letter dated 8.9.2000, but he failed to remit the said dues. The Government Advocate further submitted that the Government had decided to treat all the calls made from telephone No.2260149 for the period from 16.12.1998 to till date where the STD Code used is other than 011 and in the case of telephone No.2321190 (Jorhat) the calls for the period from 16.8.1997 to 15.6.1998 where the STD Code used is other than 0361 and inside the State of Assam as private calls and therefore, the applicant should have got the bifurcation from the BSNL and remit the entire amount of such private calls. The Government Advocate further submitted that without remitting the charges for the private calls made by him from the aforesaid two telephones the applicant unauthorisedly and without following the normal rules and procedure had withdrawn amounts from the Government Account and paid the telephone bills in respect of the said two telephones. The Government Advocate submitted that it is in view of this unauthorized payment effected by the applicant that the Government had decided to recover the entire sum of Rs.9,61,436/- from the applicant, that too, at the rate of Rs.7000/- p.m. from his salary. The Government Advocate, in short, submitted that the impugned orders are unassailable.

9. I have considered the rival submissions. At the end, I feel that the impugned orders are the result of a hide and seek policy adopted by the Government and the applicant. The matter was in a very narrow campus. The applicant was employed as Commissioner, Upper Assam Division, Jorhat during the period from 16.3.1998 to

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12.7.1998. Telephone No.2321190 belonging to the Government was installed in the official residence of the applicant. Calls were made from the said telephone during the period from 16.3.1998 to 12.7.1998 ranging a period of approximately four months. The telephone calls made from the said telephone may be for official purpose and for private purpose. Similarly, telephone No.560149 (2260149) was installed in the official residence of the applicant during the period 31.1.1999 to 5.4.2000 when the applicant was working as Commissioner and Secretary to the Government of Assam at Guwahati. From that telephone also the applicant might have made official calls as well as private calls. The terms and conditions under which a Government telephone is installed in the official residence of the applicant have not been specified in the pleadings - application and the written statement. Since the aforesaid two telephones belonged to the Government, the liability to pay the telephone bills is that of the Government. Then the liability, if any, of the applicant to make payment to the Government for the private calls made by him will depend on the terms and conditions or the executive orders issued by the Government in that regard.

10. In the instant case the applicant and the members of his family had made private calls also from the aforesaid two telephones is not in dispute. According to the applicant he had made private calls to a very limited extent for which, if there is any executive order providing for payment by the applicant, he is prepared to pay the charges. He wanted only the details of private calls made by him and the amount due on that count to be intimated to him. In fact, the applicant, on receipt of the communication dated 8.9.2000 (Annexure-A), requested for the details (vide Annexures- B and C). The applicant

[Signature]

through his wife had also effected certain payments towards private calls from the aforesaid two telephones (Demand Draft for Rs.50,000/- enclosed vide letter dated 22.5.2001, Annexure-D and Rs.15,000/- vide reference Annexure-E, Rs.11,730/- as per Demand Draft No.061654 dated 7.2.2003 vide letter dated 11.2.2003 and another sum of Rs.48,138/- as per Demand Draft dated 7.2.2003, 22.2.2004 and 8.5.2003). Thus according to the applicant a total sum of Rs.1,13,138/- has been paid towards the private calls from the aforesaid two telephones. The respondents in their written statement had admitted only the receipt of a total sum of Rs.65,000/- and stated that the concerned department (GAD) is not aware about the payment of Rs.48,138/- made by Smt Vasava. In the rejoinder filed by the applicant it is stated that his ex wife, Smt Vasava had paid a sum of Rs.1,13,138/- against different telephone bills with respect to telephone No.2260149 and Annexure- D to G series are relied. It is stated that the GAD is the custodian of Government payments and the department must be well aware of payments made by the applicant's ex wife, Smt Vasava.

11. I have stated in the preceding paragraph that the impugned orders are the result of a hide and seek policy adopted by the Government and the applicant.

12. The applicant is a very responsible IAS officer of the State Government and in that respect he is the Head of Department also. When a telephone is installed in the official residence of the applicant he should have ascertained as to whether any limitation is imposed in respect of the calls made from the said telephones and if so, to what extent. In the instant case the applicant has no case that he had not made any private calls from the aforesaid two telephones. His case is

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only that he must be informed of the number of private calls made by him from the said two telephones and the call charges due on that count. The Government also wanted to realize only the private call charges as per the bills for the said period. When this was the only area of dispute (if any), it was for the applicant to get the details of private calls and the call charges therefor from the concerned BSNL office and to remit the private call charges subject to any free calls allowed by the Government under any executive orders or otherwise. It was equally for the Government, when they had demanded for the private call charges from the applicant, to get ascertained from the BSNL office the number of private calls made by the applicant from the said two telephones for the period mentioned above and to intimate the number of calls and the call charges to the applicant to enable him to remit the said amount. It is here the hide and seek policy mentioned earlier would come into play. The applicant says that he had contacted the BSNL and got the number of private calls verified and had remitted the amount to the Government. The Government in spite of the request made by the applicant as early as on 6.11.2000 and 23.2.2001 did not choose to intimate the exact amount of private calls to the applicant. On the other hand they have taken a decision to treat all calls made from telephone No.2260149 (Guwahati) to destinations other than New Delhi with STD Code 011 as private calls and similarly all calls made from telephone No.2321190 (Jorhat) to destinations other than Guwahati with STD Code 0361 and inside the State of Assam as private calls. Of course, the same was intimated to the applicant. Though the Secretary to the Government in the GAD had written a letter dated 29.1.2003 to the Chief General Manager, BSNL for calculating the call charges on the

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aforesaid basis it is not clear as to whether the details had been obtained and the same had been furnished to the applicant. The applicant reiterated that it has not been furnished to him, so far.

13. It is interesting in this context to refer to the Government communication dated 25.7.2003 (Annexure-J). It says that a sum of Rs.9,61,436/- being the outstanding telephone bills of the applicant had been disbursed with the BSNL by the applicant which act of the applicant was irregular and in violation of established rules and procedures and that on account of that the Government had decided to realize the said sum of Rs.9,61,436/- from the applicant. The Accountant General was requested to issue retrenchment slip against the applicant to realize the said amount from his pay by deducting the amount at the rate of Rs.7000/- p.m. When the applicant had made a request for withdrawal of the order (Annexure-J) stating that the payment to the BSNL was effected under the Delegation of Financial Rules, 1990 and that this impugned order was passed without affording an opportunity to the applicant and further that the exact amount of private telephone calls from the two telephones which has to be paid by the applicant's wife, Mrs I. Vasava in the capacity of President of the Zerpan Masarpur Vivhag Kulvani Mondal, Vodi and not from the applicant's salary, the respondents by Office Order dated 2.12.2003 only reiterated that the Government of Assam had decided to recover Rs.9, 61,436/- at the rate of Rs.7000/- p.m. which was unauthorizedly made payment of by the applicant.

14. If, as a matter of fact, the Government had made an effort to ascertain by segregating the private calls made from the said two telephones during the relevant period through the BSNL and if the applicant had also cooperated with the Government for that, since the

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applicant was prepared to remit the private call charges alleged to have been made by the applicant's wife, this untoward situation would not have arisen. Both the Government and the applicant should be held responsible for this situation, which according to me could have been avoided.

15. As already stated, the two telephones with respect to which private call charges are demanded from the applicant, belong to the Government. Needless to say that irrespective of the dispute between the Government and the applicant regarding the liability for private calls, the Government is bound to pay the telephone bills of the two telephones to the BSNL. The delay in remittance of the bills on the due dates will only entail further liability by way of penal interest etc. So the payment of the bill amount by the applicant by itself cannot be a ground for recovering the entire bill amount from the applicant. Probably, if there is any violation of rules and practice in regard to incurring of the expenditure particularly of huge amounts, certainly it is a matter for considering initiation of appropriate disciplinary proceeding, if the Government so desires. But to take a decision to realize the bill amount from the applicant will be a severe punishment which can be done, if at all, only after disciplinary proceeding. In the instant case the respondents have no case that the decision taken in the impugned order is the result of any disciplinary proceeding.

16. As already noted, the only case of the respondents is that since a large number of private calls have been made from the two telephones installed in the official residence of the applicant, the applicant must pay the charges for such private calls. In such a situation, it is for the Government to get segregation of the official



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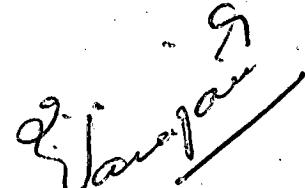
calls and private calls as per the bills for the relevant period with the help of the BSNL, get the call charges calculated as was requested in the letter dated 29.1.2003 (Annexure-H), intimate the same to the applicant so that the applicant could have remitted the said amount if he had no objection to the calculation. Admittedly, no such calculation has been made and intimated to the applicant. The decision of the Government to treat all calls made to places other than Delhi under STD Code 011 and all calls made to places other than Assam from Jorhat will be treated as private calls, it is not clear as to the basis of such a decision. As already noted, the applicant had made some effort for ascertainment of the amount of private calls from the two telephone Nos. and had remitted substantial amount through his wife.

17. In sum, what remains is a segregation of the calls made from the two telephones for the period referred/concerned with the help of the BSNL. In fact, this was directed by the Tribunal even at the time of admission of this case on 7.1.2004. Once the official calls and the private calls are segregated from the bills for the relevant periods with the help of the BSNL it will be easy to calculate the private call charges by the BSNL. This exercise, if it has not already been done, will be done within a period of two months from the date of receipt of this order. The exact amount for private calls effected from the said two telephones during the relevant periods with the details as obtained from the BSNL will be intimated to the applicant. The entire payment effected by the applicant's wife, Mrs I.J. Vasava towards private call charges, towards the two telephone bills will have to be adjusted before intimation of the dues, if any. It is open to the applicant to raise objections, if any, to the amount so intimated within a period of one month thereafter. The State Government in the GAD

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will consider the objection, if any, taken by the applicant as directed hereinabove and take a final decision thereon within one month thereafter. Needless to say that if the applicant has no objection to the amount of private calls ascertained and intimated as directed, he must remit the balance due after adjusting the payment already made within two months thereafter. It is also open to the applicant to seek for installment facility to the Government. The applicant will produce this order before the Secretary to the Government of Assam, General Administration Department, within ten days for compliance. I am sure that the matter will be settled amicably. The interim order dated 7.1.2004 staying recovery of the demand under the impugned orders will continue till a decision is taken as directed.

18. The O.A. is disposed of as above. No costs.


(G. SIVARAJAN)
VICE-CHAIRMAN

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JAN 2004

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 2 OF 2004

Filed by
The Applicant

29
R.S. CHOWDHURY
Advocate

Sri Jagat Singh Laljibhai Vasava ... Applicant

Versus –

State of Assam & Ors. ... Respondents.

SYNOPSIS/LIST OF DATES

1. Annexure - A A copy of the letter dated 08.09.2000 of the Respondent No. 3, requesting applicant to make payment against telephone bills.
2. Annexures – B & C Copies of the letter dated 06.11.2000 and 23.02.2001 of the applicant requesting segregation of Private phone calls.
3. Annexures –D, D1 & E Copies of the letter dated 22.05.2001 of the applicant's ex-wife alongwith a copy of the Demand Draft and letter dated 31.10.2002 of the applicant informing the Respondent No. 1 about payment of Rs. 65,000/- against the said Bills.
4. Annexures – F & G Copies of the segregation of Bills by BSNL, letter dated 11.02.2003 and Demand Drafts dated 07.02.2003, 07.02.2003, 22.02.2003 and 08.05.2003 totaling payment of an amount of Rs. 48,138/-.
5. Annexure - H Copy of the letter dated 29.01.2003 of the Respondent No. 3 to the C.G.M., BSNL for segregation of Bills.
6. Annexure – I Copy of the letter dated 15.02.2003 of the Respondent No. 3 to the applicant informing him about such aforesaid communication.
7. Annexure – J Copy of the impugned letter dated 25.07.2003 of the Respondent No. 2 stating that recovery of Rs. 9,61,436/- shall be made from the pay of the applicant.

MR. R.S. CHOWDHURY
ADVOCATE - OCT/01/04

8. Annexure - K Copy of the representation dated 12.08.2003 of the applicant before the Respondent No. 2.

9. Annexure - L Copy of the letter dated 18.08.2003 of the Respondent No. 4 for deducting the said amount.

10. Annexure - M Copy of the impugned order under Memo No. S (A) 27/2001/72 dated 02.12.2003 issued by the Respondent No. 2, deducting the said amount of Rs. 7,000/- p.m. from the pay of the applicant.

File by

(D.K. Das)
Advocate

6 JAN 2004

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI-BENCH, GUWAHATI

O.A. No. 2 of 2004

Filed by

The Applicant
Trong
Mrs. R.S. Chakraborty
Advocate
O.A. No. 2

Shri. J.L. Vasava

-Versus-

The State of Assam & Ors.

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Filed by

(Mr. D.K. Das)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. ✓ OF 2004

BETWEEN

Sri Jagat Singh Laljibhai Vasava
S/O of Laljibhai Vasava
Commissioner & Secretary to the Govt. of Assam,
Public Enterprise Department, Dispur, Guwahati – 6.

.....APPLICANT.

-AND-

1. The State of Assam,
Represented by the Chief Secretary to the Govt. of Assam.
2. Secretary to the Govt. of Assam,
Secretariat Administration (Accounts) Department, Dispur, Guwahati –6.
3. Secretary to the Govt. of Assam,
General Administration (B) Department, Dispur, Guwahati – 6.
4. The Accountant General (A & E), Assam,
Maidamgaon, Beltola, Guwahati.
5. The Union of India
Represented by the Secretary to the
Govt. of India.
Ministry of Personnel & Training
New Delhi.

.....RESPONDENTS

DETAILS OF APPLICATION:

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

The instant application is directed against the Order under Memo No. S(A)27/2001/02/(A) dated 25.07.2003 issued by the Respondent No.2 and the Order under Memo No. S(A)27/2001/72 dated 02.12.2003 also issued by the Respondent No. 2, by virtue of which a sum of Rs. 9,61,436/- (Rupees Nine Lakhs Sixty One Thousand Four Hundred Thirty Six only) is proposed to be realized from the pay of the applicant by deducting an amount at the rate of Rs. 7,000/- per month and any other subsequent orders passed thereto by the Respondent No. 3.

2. JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

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

4. FACTS OF THE CASE :

- 4.1 That the Applicant is a citizen of India and as such, is entitled to all the rights, protections and privileges guaranteed to the citizens of India under the Constitution of India and the laws framed thereunder.
- 4.2 That the applicant is the member of the Indian Administrative Services (IAS) and is currently holding the post and serving as Commissioner and Secretary to the Govt. of Assam, Public Enterprise Department. The applicant has been selected to the Indian Administrative Service under the Assam Cadre in the year 1982 and since then he has been serving under the Govt. of Assam.
- 4.3 That the applicant states that after getting selection to the said Indian Administrative Services the applicant has been holding different posts under the Govt. of Assam. Particularly during the period of 1997-98 the applicant was posted as Commissioner Upper Divisions at Jorhat.

Thereafter, in June, 1998 the applicant was transferred and posted as Commissioner and Secretary to the Govt. of Assam, Social Welfare Department, Dispur. In July, 2001 the applicant was again transferred and posted as Commissioner and Secretary to the Govt. of Assam WPT and B.C. (Welfare of Plains Tribes and Backward Classes). In the month of July, 2002 the applicant was posted as Commissioner and Secretary to the Govt. of Assam, Secretariat Administration Department and thereafter since 8.10.2003 the applicant is holding the post of Commissioner and Secretary to the Govt. of Assam, Public Enterprises Department till date.

4.4 That the applicant states that the applicant being a Government Officer is entitled to telephone connection in his Office as well as at his residence with STD facilities and the bills/charges in respect of those telephone facilities are to be paid by the State Government.

4.5 That the applicant states that during his service tenure as Commissioner Upper Division at Jorhat the applicant was provided with telephone connection bearing No. 321190. After the applicant being transferred to the post of Commissioner & Secretary, Govt. of Assam, Social Welfare Department, Dispur he has been provided with telephone connection bearing No. 560149. Later on the said telephone number has been changed to 260149 and the present number is 2260149.

4.6 That in the month of September, 2000 the applicant was served with a letter No. GPT.6/97/1/97 dated 08.09.2000, issued by the Respondent No. 2 by which the applicant was asked to make payment against the private calls in respect of the telephone No. GHT 560149 (260149 w.e.f. 31.01.99 to 05.04.2000) and telephone No. JMT 321190 (w.e.f. 16.03.1998 to 12.07.1998). During the relevant period the applicant was serving as Commissioner, Social Welfare Department, Dispur.

A copy of the said letter dated 08.09.2000 of the Respondent No. 3 is annexed herewith and marked as **ANNEXURE - A.**

4.7 That the applicant states that as the amount to be paid in respect of the alleged private calls in respect of those telephone Nos. was not specified the applicant time and again requested the Respondent No. 2 to specify

the said amount. The Respondent No. 2 having failed to specify the amount to be paid for the alleged private calls the applicant vide his letter dated 06.11.2000 requested the Commissioner, Upper Assam Division, Jorhat to intimate the applicant regarding amount to be paid against the telephone No. 321190. However, the applicant has not been intimated regarding the same from that end till date. Thereafter, on 23.02.2001, the applicant vide letter No. COM/SWD/1/2K again requested the Respondent No. 3 to inform the applicant about the exact amount to be paid in respect of aforesaid telephone Nos. However, no response was forthcoming.

Copies of the letters dated 06.11.2000 and 23.02.2001 of the applicant are annexed herewith and marked as ANNEXURE B & C respectively.

4.8 That the applicant states that finding no alternative, Smt. I.J Vasava, ex-wife of the applicant vide letter and demand draft dated 22.05.2001 paid a lum-sum amount of Rs. 50,000/- against the private calls in respect of telephone No. 260149. Thereafter, the applicant's ex-wife also paid another amount of Rs. 15,000/- in respect of the private calls of alleged outstanding telephone bills. The applicant vide letter dated 31.10.2002 duly intimated the Chief Secretary to the Govt. of Assam regarding payment of aforesaid amount of Rs. 65,000/- towards private calls of said outstanding telephone bills.

Copies of the letter dated 22.05.2001 of the applicant's ex-wife alongwith a copy of the Demand Draft and letter dated 31.10.2002 of the applicant are annexed herewith and marked as ANNEXURE D, D1 & E respectively.

4.9 That the applicant states that the Respondent No. 2 having failed to specify the exact amount to be paid regarding private calls, the applicant personally approached the Bharat Sanchar Nigam Ltd. (BSNL) to that effect. Accordingly, the BSNL segregated the amount charges for private calls out of the total Bill amount of Bill dated 01.03.1999 in respect of telephone No. 560149 (2260249) which came to the tune to Rs. 11,730.00 (Eleven Thousand Seven Hundred Thirty Only). The said amount of Rs. 11,370/- was duly paid by the ex-wife of the applicant vide Demand Draft No. 061654 dated 07.02.2003 and the same was duly forwarded to the

Deputy Secretary to the Govt. of Assam, Secretariat Administration Department by letter dated 11.02.2003. It is further pertinent to mention herein that Smt. Vasava vide demand draft dated 07.02.2003, 22.02.2004 and 08.05.2003 paid a total amount of Rs. 48,138/- (Rupees forty Eight Thousand one Hundred thirty eight only) against the different telephone bills with respect to the said telephone No. 2260149 and hence the total amount paid by Smt. Vasava is Rs. 1,13,138/- (Rupees one lakhs thirteen thousand one hundred thirty eight only) (Rs. 65,000 + 48,138).

Copies of the segregation of Bills by BSNL, letter dated 11.02.2003 and Demand Drafts dated 07.02.2003, 22.02.2003 and 08.05.2003 are annexed herewith and marked as ANNEXURES – F & G Series respectively.

4.10 That the applicant states that in the meantime, the respondent No. 3 vide its letter dated 29.01.2003 asked the Chief General Manager, BSNL for bifurcation of official and Private calls of the applicant and to calculate the amount for Private calls in respect of telephone No. 2260149 (Guwahati) and 2321190 (Jorhat). The Deputy Secretary to the Govt. of Assam, General Administration (B) Department vide its letter dated 15.02.2003 informed the applicant regarding said communication made with the BSNL. The applicant states that vide letter dated 29.01.2003 the Respondent No. 3 asked the Chief General Manager, BSNL to calculate the Private Calls against telephone No. "2260149 (for the period w.e.f. 16.12.1998 to till date where STD code used other than 011 (Delhi) and in case of telephone No. 2321190 (for the period 'from 16.08.1998 to 15.06.1998) where STD code used other than 0361 (Guwahati) and inside the State of Assam." The applicant states that the decisions intimated to the BSNL for treating all STD Calls other than STD Code 011 and 0361, as Private Calls is highly illegal and arbitrary. Further the period specified for calculating the calls as mentioned in the said letter are also self contradictory. The applicant states that the applicant has not been intimated and informed till date about the exact amount to be paid for private calls in respect of those telephone.

Copies of the said letters dated 29.01.2003 and 15.02.2003 are annexed herewith and marked as ANNEXURES – H & I respectively.

4.11 That the applicant vide letter dated 10.03.2003 again requested the Deputy Secretary to the Govt. of Assam, General Administration (B) Department to submit the original/duplicate bills to the applicant so that the bills can be paid in respect of telephone No. 2260149. But no bills either in original or duplicate, have been furnished by the Respondents till date, as requested by the applicant. Moreover, it has not been intimated to the applicant till date whether the amount paid by Smt. Vasava was adjusted against the said Bills.

4.12 That the applicant states that the Respondent Nos. 2 and 3 without intimating the applicant about the exact amount to be paid for private calls of respective telephone, vide impugned letter under Memo No. S(A) 27/2001/64 dated 25.07.2003 directed the Account General (A & E), Assam, the Respondent No. 3 to issue retrenchment slip against the applicant to realise an amount to Rs. 9,61,436/- (Rupees Nine Lakhs Sixty One thousand Four Hundred Thirty Six Only) from the pay of the applicant deducting an amount of Rs. 7,000/- (Rupees Seven Thousand Only) per month. Copy of the said letter was sent to the applicant intimating an option to refund the entire amount of Rs. 9,61,436/- in one instalment by depositing into Government Account by Challan. Having come to know about the said decisions of the Respondents the applicant was astonished and shocked. The applicant states that prior to taking any decisions to the aforesaid effect the Respondents did not give any opportunity to the applicant to clarify the same.

A copy of the impugned letter dated 25.07.2003 is annexed herewith and marked as ANNEXURE – J.

4.13 That the applicant further states that there having been no segregations of bill amount regarding private calls and official calls till date and the official calls, which are to be paid from the Govt. Account, having been included in the said amount, the decision of deduction of the entire amount from the salary of the applicant is highly illegal and arbitrary. Further, the decisions having been taken behind the back of the applicant,

which amounts to a penalty, that too have been taken without following the procedures of natural justice and without giving any opportunity to the applicant to clarify the same, as aforesaid, the same is highly illegal, arbitrary and violative of the Principles of Natural Justice and as such the same is liable to be interfered with by this Hon'ble Tribunal. The applicant states that the Respondents in a highhanded and arbitrary manner and with the biased attitude have decided to consider all the STD calls other than Delhi and Guwahati as private calls and as such, the said arbitrary and biased actions of the Respondents are liable to interfered with by this Hon'ble Tribunal.

4.14 That being highly aggrieved by such impugned recovery of the said amount from his pay, the applicant preferred a representation before the Respondent No. 2 dated 12.08.2003 with a copy of the same to the Respondent Nos. 3 and 4 as well.

A copy of the said representation is annexed herewith and marked as ANNEXURE - K.

4.15 That after receipt of the said letter dated 25.07.2003, from the Respondent No. 2, the Respondent No. 4 vide its letter No. GE Cell/IAS/Rs/161 dated 18.08.2003 intimated the applicant regarding instructions given to the Treasury Officer Dispur/Sonitpur to deduct the said amount of Rs. 7,000/- p.m. from the pay of the applicant. The applicant states that as the applicant was on leave, therefore, the said letter was delivered to the applicant very recently. Having come to know about said instruction of Respondent No. 4, the applicant again personally approached the Respondent Nos. 2 and 3 to know about the fate of his appeal/application/representation submitted before the respondents on 12.08.2003. However, no positive response has been forthcoming from the Respondents.

A copy of the said letter dated 18.08.2003 of the Respondent No. 4 is annexed herewith and marked as ANNEXURE - L.

4.16 That subsequently the Respondent No. 2 vide impugned under Memo No. S(A)27/2001/72 dated 02.12.2003, had issued an order for recovery of the said amount of Rs.9,61,436/- from the pay of the applicant @ Rs.7000/- p.m.

A copy of the impugned Order dated 02.12.2003 of the Respondent No.2 is annexed herewith and marked as ANNEXURE - M.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the entire disbursed amount to the tune of Rs. 9,61,436/- being not the bills of private calls, the entire amount can not be realised from the applicant without segregating the same from official calls. Further as the amount already paid to the Respondents i.e. Rs. 1,13,138/- has not been adjusted till date, the action of the Respondents in issuing the impugned letter dated 25.07.2003 ^{and 2.12.03} is highly illegal and arbitrary. The same deserves interference of the Court of law in the matter.

5.2 For that the Respondents by their aforesaid whimsical, illegal action and directions have denied the right of the applicant guaranteed by the Constitution of India as well as other laws of land.

5.3 For that the impugned action of the Respondent authorities of pay cut without even waiting for any reply from the BSNL regarding segregation for Bill is highly illegal, arbitrary and whimsical. The same has been done without application of mind to the relevant factors. As such, this Hon'ble Tribunal will set aside/quash the impugned Order dated 25.07.2003 ^{and 2.12.03}.

5.4 For that the impugned action of the Respondent authorities of deduction of Pay of the applicant @ 7,000/- p.m., has been taken completely and in gross violation of the Principles of Natural Justice inasmuch as no opportunity of show cause was given to the applicant and neither was any enquiry conducted to go into the veracity of the allegations made.

5.5 For that the impugned action of the Respondent authorities in seeking to recover the entire amount of Rs. 9,61,436/- from the salary of the applicant without taking into consideration the relevant fact that the ex-wife of the applicant had made a total payment to the tune of Rs. 1,13,138/- against private calls in the said Bills. The said impugned action therefore, suffers from irrationality, non-application of mind and colourable exercise of power. As such, the impugned Order dated 25.07.2003 ^{and 2.12.03} is liable to be set aside and quashed.

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- 5.6 For that the arbitrary fixing and direction to consider all STD calls other than those made to Delhi or Guwahati, as private calls adversely affected the applicants rights and is irrational in nature.
- 5.7 For that if the impugned Order/Letter is not set aside/quashed, there is every likelihood that the applicant shall suffer gross financial losses, despite the fact that payment to the tune of Rs. 1, 13,438/- have already been made by the applicants ex-wife against private calls, as segregated by the BSNL.
- 5.8 For that the applicant did not violate any procedure or norm while disbursing the amount of Rs. 9,61,436/- and the said action was taken in accordance with the delegation of financial Rules 1990. As such the impugned action of recovering the said amount from the applicant is illegal, arbitrary and not sustainable in law.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy available to him except by way of this instant application.

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

The Applicant further declares that although a Civil Suit for declaration was filed before the Court of Civil Judge (Junior Division No. 2) Kamrup, Guwahati praying for an Injunction in the matter, the same has since been withdrawn by the applicant and as on date no other application, writ petition or suit in respect of the subject matter of the instant application is pending before any other Court, Authority or any other Bench of the Hon'ble Tribunal.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

- 8.1 To set aside/quash the impugned letter under Memo No. S(A)27/2001/64 and Order Under Memo No. S(A)27/2001/72 dated 25.07.2003 issued by the Respondent No. 2 as well as any other consequential orders passed by the Respondent No. 3 in the said connection.
- 8.2 Cost of the application.
- 8.3 Any other relief(s) that the applicant may be entitled to under the facts and circumstances of the case and/or as may deem fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Pending final decision on the application, the applicant seeks the following interim relief :

- 9.1 Your Lordships may be pleased to direct the Respondents not to issue retrenchment slip against the applicant to realise the entire amounts of Rs. 9,61,436/- from his pay by deducting an amount of Rs. 7,000/- p.m.
- 9.2 Your Lordships may be pleased to stay/suspend the impugned order/letter under memo No. S(A)27/2001/64 dated 25.07.2003 and Order Under Memo No. S(A)27/2001/72 dated 2.12.03 and any consequential orders thereto.
- 9.3 Any other interim relief(s) that the applicant may be entitled to under the facts and circumstances of the case and/or as may deem fit and proper considering the facts and circumstances of the case.

The application is filed through Advocate.

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10. PARTICULARS OF THE I.P.O :

(i) I.P.O No. : 11 G 3877 32

(ii) Date : 05.01.04

(iii) Payable at : Guwahati.

11. LIST OF ENCLOSURES :

As stated in the index.

VERIFICATION

I Shri Jagat Singh Laljibhai Vasava, son of Shri Laljibhai Vasava, aged about 51 years, at present working as Commissioner & Secretary to the Govt. of Assam, Department of Public Enterprise, Dispur, Guwahati - 6, do hereby solemnly affirm and verify that I am the Applicant in the instant application and as such I am fully conversant with the facts and circumstances of the case. The statements made in paragraphs 1, 2, 3, 4 to 4.6 4.7 (p^c), 4.8 (p^c), 4.9 (p^c), 4.10 (p^c), 4.11, 4.12 (p^c), 4.13, 4.14, 4.15 (p^c), 4.16 (p^c), 5 to 11. those made in paragraphs 4.7 (p^c), 4.8 (p^c), 4.9 (p^c), 4.10 (p^c), 4.12 (p^c), 4.15 (p^c), 4.16 are true to my knowledge and true to my information derived from records, which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 16th day of January, 2004 at Guwahati.

Jagat Singh Laljibhai Vasava

SIGNATURE OF THE APPLICANT.

GOVERNMENT OF ASSAM
GENERAL ADMINISTRATION (B) DEPARTMENT
DISPUR :: GUWAHATI

NO.OPT.6/97/139

Dtd. Dispur, the 8th Sept. 2000

From : Dr. B.K. Gohain, IAS
Secretary to the Govt. of Assam,
General Administration Department.

To : The Commissioner & Secy. to the Govt. of Assam,
Social Welfare Department, Dispur

Subject : Payment of telephone bills against Telephone
Nos. GHT. 560149 (new 260149) JKT. 321190.

Sir,

With reference to the above I am directed to
State that a large number of private calls were made
from these two numbers Viz GHT. 560149 (260149 w.e.f.

31-01-99 to 05-04-2000) and JKT. 321190 (w.e.f. 16-03-98 //
to 12-07-98) as shown in the bill statement (copy
enclosed) procured from Telecom Department of Guwahati
and Jorhat respectively.

You are therefore, requested to make the
payment against these private calls and this may be
deposited with Secretariat Administration (Accounts)
Dept. and Commissioner, Upper Assam Division's office
so that full payment against these telephone bills can
be made at an early date.

Yours faithfully,

DR. B.K. GOHAIN

Secretary to the Govt. of Assam,
General Administration Department.
*for
8/9/2000*

Rebha Sankha Chowdhury
Certified to be true Copy
Rebha Sankha Chowdhury
ADVOCATE

J. S. L. Vasava, I.A.S.
Chairman & Secretary to the Govt. of Assam

Social Welfare Department
Dispur, Guwahati - 781 006
Phone 561815 (O), 560149 (R)

D O. No COM/SWD/I/2K/198
Date 6th November, 2000.

To

The Commissioner,
Upper Assam Division,
Jorhat.

Subject :- detailed Statement of Telephone
No. 32II90.

Ref :- Your letter No.CUA/PA.64/89/264,
dated 9th October, 2000.

Madam,

With reference to above I would like to say that I
had already requested specific amount to be paid against the in my earlier letter.
Telephone numbers already mentioned/ District Telecom
Manager, Jorhat may be requested accordingly.

Yours faithfully,

(J.S.L. Vasava) 11/11/00

Certified to be true Copy

Rakhee Sreuthia Chowdhury
ADVOCATE

Social Welfare Department
Dispur, Guwahati 781 006
Phone : 561815 (O), 560149 (R)

J. S. L. Vasava, I.A.S
Chairman & Secretary to the Govt. of Assam

D.O. No : COM/GWD/1/2k
Date : 23.2.2001.....

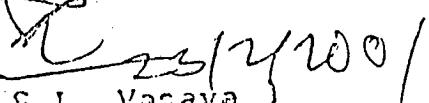
To

Dr. B.K. Gehain, IAS,
Commissioner and Secretary,
Government of Assam,
General Administration Department,
Dispur.

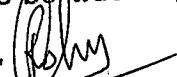
Subject :- Payment of Telephone No. 260149
and 321190.

Sir, With reference to above and my letter
dated 14th September, 2000 in this regard may be
referred to. It is requested that the exact amount
to be paid by the undersigned may be informed
earily.

Yours faithfully,


(J.S.L. Vasava
Commissioner and Secretary,
Social Welfare Department,
Government of Assam.

Certified to be true Copy


Rakhee Srautma Chowdhury
ADVOCATE

Mrs. I. J. Vasava
At Post Vadi, Ta : Umarpada
Dist. Surat, Gujarat.
22.5.2001

To

The Commissioner & Secretary to the Govt. of Assam.

G.A (B) Deptt.

Subject : Payment of Private Calls (Phone No. 260149).

Reference : Your letter No. GPT. 6/97/191/ dated 22nd February, 2001.

Sir,

With reference to above I would like to send a Demand Draft of Rs. 50,000/- against the payment of Private calls which may be accepted and receipt may be issued.

Yours faithfully,

I. J. Vasava

○ (I. J. Vasava.)

Copy to : The Deputy Secretary Govt. of Assam
Secretariat Administration Deptt. Dispur.

I. J. Vasava
(I. J. Vasava)

Sworn to be true Copy

Rakesh Srivastava Chowdhury
ADVOCATE

22/05/2016

Secretary S. A. D. (Accounts) Govt. of ASSAM, DISPUR.

या धारक को OR BEARER

FEEES Fifty Thousand Only.

₹.Rs. 50,000/-

अदा कर्ते

B.P.
LF.E.G.
INTL.

ऑप्पर बड़ीदा Bank of Baroda

गाला, गुवाहाटी - 781 001.
GUWAHATI BRANCH, GUWAHATI - 781 001.

VCR GAUHATI

द्वारा देक चान्दू बड़ीदा / For BANK OF BARODA

रिफ़र्म गवाहाटी/Sr. Manager गवाहाटी बैंक/II Manager
गवाहाटी गुवा शाखा / Guwahati Main Branch

433473 2810120020

11

Certified to be true Copy

Rakhee Srauthia Chowdhury
ADVOCATE

NO. COM/SAD/1/2002

Dated 31/10/2002

To

The Chief Secretary to the Government of Assam,
Dispur.

Subject : Payment of bill of Tel No. 260149, and 321190 (JRT)

Ref : (1) Letter No. GPT.6/97/191, dated 22nd February, 2001 from GAD.
(2) My DO letter No. COM/SWD/1/2000, dated 23rd February, 2001 addressed to
then Commissioner and secretary, GAD.

Sir,

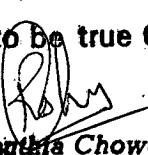
I would like to state that the GAD requested the undersigned to make payment of private calls for the period from 31.01.1999 to 5.4.2000 against Telephone No. 260149 and from 16.03.98 to 12.07.98 against Telephone No. 321190(Jorhat). Accordingly, the undersigned requested then commissioner and Secretary, GAD to intimate the exact amount to be paid by my family as the private calls were made by members of the family. However, till date no information has been given to the undersigned. Due to non-information the undersigned is not in a position to ask my members of family to make payment against these private telephone calls. The GAD may be asked to intimate the undersigned for taking necessary action in this regard.

It may be noted that my wife sent two Drafts amounting to Rs. 65000/- in May 2001. However these were not credited against such private telephone bills till date.

Yours faithfully,


JSL Vasava 31/10/2002
Commissioner and secretary,
Secretariat Administration Department.

Certified to be true Copy


Rabhee Sankha Chowdhury
ADVOCATE

Corr-22

भारत संचार निगम लिमिटेड
 BHARAT SANCHAR NIGAM LIMITED
 (A Government of India Enterprise)

प्रेषण
Fromरेखा में
Toफॉर्म संख्या
No.दिनांक
Dated atविषय :
Subject

P3 / date - 1.3.29/

P3 / date 77701 Private calls 6619

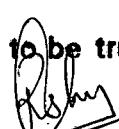
Gort calls
73022

$$\begin{aligned}
 1.80 \times 350 &= 280.00 \\
 1.00 \times 500 &= 500.00 \\
 1.25 \times 1000 &= 1250.00 \\
 1.40 \times 71232 &= 99724.80
 \end{aligned}$$

RT	275.00
LC	101754.80
SL/C	600.00
ST.	5131.49
<hr/> Total 107761.00	

P3 Amt. 119491.00
 Pmt. CR. 11,730.00

Certified to be true Copy


 Rathee Siraithia Chowdhury
 ADVOCATE

From : Srimati I J Vasava
AT : PO : Vadi
Camp-Dispur.

Dated 11.2.2003.

To :

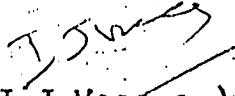
The Deputy Secretary,
Secretariat Administration Department,
Government of Assam, Dispur.

Subject :-- Payment of private calls against
Tel No.560149 (2260149-New).

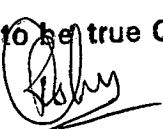
Ref : My letter dated 22.5.2002.

Sir,
I am enclosing herewith the Demand Draft
No. 061654, dated 7.2.2003 of Rs. 11,730.00 in favour
of BSNL, Guwahati to be adjusted against the bill
dated 1.3.1999.

Yours faithfully,


(I J Vasava)

Certified to be true Copy


Rabhee Sirauthia Chowdhury
ADVOCATE

Certified ~~160~~ true Copy

Rakhee Sirautia Chowdhury
ADVOCATE

Certified to be true Copy

Rakhee Srangthia Chowdhury
ADVOCATE

- 23 -

NOT NEGOTIABLE
A/C PAYEE ONLY

मात्रा किए जाने की तारीख से छं. महीने तक वैध है।
VALID FOR SIX MONTHS FROM THE DATE OF ISSUE

एक	दो	तीन	दोहरा	बाहुदाहा
ONE	TWO	THREE	DUPLICATE	ALIQUOT
OT	TT	CC		

बैंक बॉक्स दृश्यमा BANK OF BARODA

बैंकर के चेक BANKER'S CHEQUE

Code

DISPUR

दिनांक
Date 09.05.2003

PAY He cash, BSNL, CTO, Guwahati

को या उनके आदेश पर/ OR ORDER

रुपये RUPEES Ten Thousand Eight

Rs 10890.00

Hundred Ninety Only

क्रते बैंक बॉक्स दृश्यमा

For BANK OF BARODA

देरदूर, गुवाहाटी - 781 006

DISPUR, GUWAHATI - 781 006

SC/2001/FA

DISPUR, GUWAHATI - 781 006

027501 7810120040

12

Certified to be true Copy

Rakhee Suman Chowdhury
ADVOCATE

GOVERNMENT OF ASSAM
GENERAL ADMINISTRATION (B) DEPARTMENT
DISPUR : SECRETARIAL

OPT.6/97/213

Dated Dispur, the 29th Jan/2003.

From:

Shri D. N. Saikia, IAS,
Secretary to the Govt. of Assam,
General Administration Department.

To:

The Chief General Manager,
BSNL, Ulubari, Guwahati-7.

Sub:

Payment of outstanding bills against phone
NO.2260149 (Guwahati) and 2321190 (Jorhat).
Bifurcation of official and private calls
thereof.

Ref:

BSNL letters NO.X-I/CAO-TR/KTD/43 dt.11-09-02
and TRA/MISC/2002-2003/101 dt.24-10-2002
Our letter NO.OPT 6/97/213 dt.22-08-2002.

Sir,

With reference to the subject cited above and
letters under reference I am directed to inform you that afores-
mentioned telephones do have huge outstanding arrears against
each of them. After examining the bills it was found that large
number of private calls were made from these two numbers and
Govt. has decided that the officer concerned will have to pay
for the private calls made from these two telephones. Now officer
concerned is insisting that he may be intimated of the amount
that is incurred on private calls. As per Govt. decision those
calls were treated as private calls against telephone NO.2260149
(for the period with effect from 16-12-98 to till date) where
STD code used other than 011 and inside of telephone NO.2321190
(Jorhat) (for the period from 16-8-98 to 15-6-98) STD code used
other than 0361 and inside the state of Assam.

Now, I therefore, request you to kindly instruct
the concerned official in your department to calculate the
amount for private calls and intimate the same to this Deptt.
so that Gen. Admin. Department can intimate the amount to the
concerned officer to make the payment.

An early response to this will be highly
appreciated.

Yours faithfully

Secretary to the Govt. of Assam,
General Administration Department

Certified to be true Copy

Rakhee Srautia Chowdhary
ADVOCATE

GOVERNMENT OF ASSAM
GENERAL ADMINISTRATION(B)DEPARTMENT
DISPUR: YGUWAHATI-6.

NO.GPT.6/97/223, Dated Dispur, the 15th Feb./2003.

From :- Shri S. Gohain Barua, ACS.
Deputy Secy. to the Govt. of Assam.

To :- Sri J.S.L. Vasava, IAS.
Commissioner & Secy. to the Govt. of Assam.
Secretariat Administration Department.

Sub. :- Regarding outstanding telephone bill of
Telephone NO.260149 and Jorhat NO.2321190.

Ref. :- NO.COM/SAD/1/2002 Dt.13-11-02.

Sir,

With reference to the letter cited above on
the subject, I am directed to inform you that Communication
to BSNL has been made with BSNL for calculation of the
amount for private calls made from the above two telephones.

A copy of which is enclosed for your kind
information.

Yours faithfully,

Deputy Secy. to the Govt. of Assam,
General Administration(B)Department.

Memo NO.GPT.6/97/223, Dtd. Dispur, the 15th Feb./2003.
Copy to :-

The Deputy Secy. to the Govt. of Assam,
S.A. (A) Department for information and necessary
action.

By order etc.

Deputy Secy. to the Govt. of Assam,
General Administration(B)Department.

Certified to be true Copy


Rakhee Sirautia Chowdhury
ADVOCATE

CONFIDENTIAL

GOVERNMENT OF ASSAM
SECRETARIAT ADMINISTRATION (ACCOUNTS) DEPARTMENT
DISPUR

S(A) 27/2001/64

Dated Dispur the July 25, 2003

From : Shri D.N.Saikia, IAS
Secretary to the Government of Assam

To : The Accountant General (A&E), Assam
Maidanigaon, Beltola, Guwahati.

Sub : Drawal of contingent Bills - retrenchment order thereof.

Sir,

I am directed to say that a sum of Rs. 9,61,436.00 (Rupees nine lakhs sixty-one thousand four hundred and thirty-six) only has been disbursed to the BSNL, Guwahati being the outstanding Telephone Bills of Shri J.S.L.Vasava, IAS, Commissioner & Secretary, SA(A) Department at the specific written order of the officer concerned. The drawal and disbursement of the said amount was irregular and in violation of established Rules & Procedures.

The Governor of Assam has therefore decided to realize the amount from Shri J.S.L. Vasava, IAS, Commissioner & Secretary, Secretariat Administration (Accounts) Department now transferred as North Assam Division, Tezpur.

The pay and allowances of Shri Vasava, IAS is as follows :

1. Basic Pay - Rs. 21,900/-
2. Total monthly deduction - Rs. 3,658/-

You are, therefore, requested to issue retrenchment slip against Shri J.S.L.Vasava, IAS to realize the entire amount of Rs. 9,61,436/- from the pay by deducting the amount @Rs. 7000/- pm.

Yours faithfully,

Secretary to the Government of Assam
Secretariat Administration Department

Memo No. S(A)27/2001/62(A)
Copy to :

Dated Dispur the July 25, 2003

Shri J.S.L. Vasava, IAS, Commissioner & Secretary to the Government of Assam (on leave). The entire amount may also be refunded in one installment by depositing in to Government Account by Challan.

By order etc.,

Shri D.N.Saikia
Secretary to the Government of Assam
Secretariat Administration Department

Certified to be true Copy

Rakhee Srautia Chowdhury
ADVOCATE

Sava, I.A.S.
& Secretary to the Govt. of Assam.

ANEXURE-K
Finance Department
Dispur, Guwahati - 781 006
Phone : (O) 561815, (R) 560149
Fax : (O) 561815

D.O. No.
Date 12.8.03

90C-24

To,

The Secretary to the Govt. of Assam, Secretariat Admin.
(Accounts) Department, Dispur.

Subject : - Drawal of contingent bills - remittance
order there of.

Reference No. : - S (A) 27/2001/64 dated 25 th July 2003.

Sir,

With reference to above I would like to say that the telephone bills of telephone No. 0361- 2260149 were mentioned and disbursed to the BSNL, Guwahati under the Delegation of Financial Rules 1990. Hence, it is not irregular and there is no violation of established rules and procedures of Govt. of Assam. The Govt. can not issue order to the Accountant General (A&E), Assam, Guwahati, without giving reasonable opportunity to the undersigned. It may be mentioned that I had already ~~not~~ written to the General Administration Department to intimate me the exact amount to be paid by the private party, aggregating officials calls of the above referred telephone numbers. You are therefore requested to let me know the exact amount of private telephone calls of the above referred telephone which is to be paid by my wife Smti. Indira Vasava in the capacity of the president of the Zerpan Nagarpur Vibhag Kuvoni Mondal, Vedi.

Contd.

14/08/03
13-8-2003

Certified to be true Copy

Rakhee Siraithia Chowdhury
ADVOCATE

a, I.A.S.
Secretary to the Govt. of Assam.

2000 U. T. Assam
Social Welfare Department
Dispur, Guwahati - 781006
Phone : (O) 561815, (R) 560149
Fax : (O) 561815

D.O. No.
Date 28.07.03

and not from my salary.

You are, therefore, requested to withdraw your letter number S (A) 27/2001/64 dated 25 th July 2003 addressed to the Accountant General (A & E), Assam.

Thanking you

Yours faithfully,

JK
(J.S.L. Venkava)

Copy to.

1. The Accountant General (A & E), Assam, Moidamgara, Beltola, Guwahati, with request to wait for Govt. response of my above letter & not to issue retrenchment order.
2. The Commissioner & Secretary to the Govt. of Assam, General Administration Department, Dispur, for information.

JK
(J.S.L. Venkava)

H. No. G.R. 644/115/RS/

प्रति यात्रा अधिकारी को यूनान और आवश्यक कार्यालय के लिए जाती है। इस राशि की व्युती उसने प्रस्तुत किए जाने वाले घरेलू यात्रा भत्ता/कंटिङेंट बिल में से करनी चाहीए। यह दूसरी बीज में कोई अधिकेदग प्राप्त हो गया और यह निर्णय किया गया था कि प्रतीती प्रादेश यात्रा से लिया गया तो उसकी उपर्युक्त यूनान भेज दी जायेगी।

Copy to the Treasury Officer..... Dispt. P.W. / Secy. P.W. for information and necessary action. The amount should be recovered from the next Pay/Travelling Allowance/Contingent bill presented to him. If, in the meantime, any representation is received and if it is decided to withdraw the Retirement Order, he will be advised suitably.

प्राप्ति प्रस्ताक में दर्ज कर दिया गया।

Noted in the objection Book.

लेखाकार Accountant.

लेखाकार अधिकारी Ass'tt. Accountant-General

लेखा अधिकारी Accounts Officer

58/2

GOVERNMENT OF ASSAM
SECRETARIAT ADMINISTRATION (ACCOUNTS) DEPARTMENT
DISPUR

No. S(A)27/2001/72

Dated Dispur the 2nd. December, 2003

OFFICE ORDER

The Government of Assam has decided to recover Rs. 9,61,436=00 (Rupees nine lakhs sixty one thousand four hundred and thirty six) only @ Rs. 7000/- p.m. w.c.f. December, 2003 from the pay of Shri JSL Vasava, IAS the then Commissioner & Secretary, SA(A) Department which was unauthorisedly made payment of the telephone bills by Shri JSL Vasava, IAS now Commissioner & Secretary, Public Enterprises Department.

sd/-

Secretary to the Government of Assam
Secretariat Administration Department

Memo No. S(A)27/2001/72 - 1 -

Dated Dispur the 2nd. December, 2003

Copy to :-

1. Shri JSL Vasava, IAS, Commissioner & Secretary to the Government of Assam, Public Enterprises Department.
2. The Private Secretary to Chief Secretary, Assam
3. The Treasury Officer, Dispur, Guwahati-6 for information and necessary action.
4. Personnel (A) Department for information.
5. Secretariat Administration (Accounts) Department for information and necessary action. Copy of AG's letter No. GE Cell/IAS/2003-04/236, dt. 7-11-03 enclosed.
6. General Administration (B) Department for information.
7. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29 with reference to the letter No. GE Cell/IAS/2003-04/236, dt. 7-11-03 information.

By order etc.,


Secretary to the Government of Assam
Secretariat Administration Department

5404
Master

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO. 2/2004.

IN THE MATTER OF :

O.A. 2/2004

J.S.L. Vasava,

.....Applicant

-VS-

The State of Assam & Ors.

.....Respondents

- AND -

IN THE MATTER OF :

Written statement on behalf
of the Respondent NO.1 (State
of Assam represented by the
Chief Secretary to the Govt.
of Assam) and NO.3 (Secretary
to the Govt. of Assam, General
Administration Deptt. Dispur
in the above case.

(Written statement on behalf of the Respondent

NO.1 and 3 to the application filed by the
applicant).

I, shri D.N.Saikia, S/o Late Troilokya
Saikia presently working as Secretary to the
Govt. of Assam, General Administration Department
Dispur Guwahati-6, do hereby solemnly affirm and
state as follows:

1. That I am the Secretary to the Govt. of
Assam, General Administration Department, Dispur
Guwahati-6. I have been made as a respondent NO.3
in the instant application and accordingly a copy
has been served upon me. I have gone through the
same and have under stood the contents thereof.
I have also been authorised to file this written
statement on behalf of the Respondent NO.1 and 2.
I do not admit any of the overments which do not
Contd..2.

specifically admitted herein after and the same are to be deemed as denied.

2. That the statements made in paragraphs 4.1 to 4.5 of the application the answering respondent has nothing to make comment on it, He, however does not admit any statement which are contrary to records.

3. That with regard to the statement made in paragraph 4.6 of the application, it is stated that there are outstanding amount of Rs. 12,26,674/- for payment against the official residence telephone NO.2260149 of the applicant with effect from 1-6-97 and amounting
Rs. 6,01,887/- against telephone NO.JRT.2321190 (R) for the period from 16-8-97 to 15.6.98 when the applicant was the Commissioner of Upper Assam Division. Jorhat.

4. That with regard to the statements made in paragraph 4.7 of the application, the humble answering respondent begs to state that the bill amount against the above telephone numbers is extra ordinarily high for making any numbers of telephone calls by one officer for official purpose. Hence, the matter placed before the higher authority. The Respondent No.1 also examined and considered the application made by the applicant. Thereafter the Govt. came to a decision that user of the Telephone NO. 2260149 is required to pay the outstanding bills against the private calls

- 3 -

made from this telephone. It was also decided that STD calls made from the said telephone to destinations other than Delhi will be treated as private calls and the STD calls made to Delhi will be treated as official calls. Further in respect of the JRT. NO. 2321190 the applicant is to pay for all calls except those made under STD code 0361. Accordingly, the General Administration department vide their letter dtd. 13-12-02 communicated the Govt's decision to the applicant. Further the respondent NO.3 also informed the Chief General Manager BSNL, about the Govt.'s above decision vide his letter dtd. 29-1-2003 and requested the BSNL to calculate the amount for private calls and intimate the same to the respondent NO.3 so as to enable him to intimate the amount to the applicant.

Copies of letters dtd. 13-12-2002 and 29-1-2003 are annexed herewith and marked as Annexure -A and B.

5. That with regard to the statements made in paragraphs 4.8 of the application the answering respondent states that the ex-wife of the applicant has submitted 2 drafts amounting to Rs. 65,000/- (Rs. 50,000/- + 15,000/-) which have been credited in the Govt. account.

Contd...4.

6. That with regard to the statements made in paragraph 4.9 of the application it is stated that the concerned department (GAD) is not aware about the payment of Rs. 48,138/- if any, made by the Smti Vasava as stated by the applicant.

7. That with regard to the statements made in paragraph 4.10 of the application the answering respondent reiterate and reaffirmed the statements made in paragraph 4 of this written statement .

8. That with regard to the statement made in paragraph 4.11 of the application the answering respondent does not have make any comment .He however does not admit any statements which are contrary to records.

9. That with regard to the statements made in paragraph 4.12 of the application, the answering respondent respectfully begs to ~~state~~ that on receipt of Fixation of ceiling from Finance Department. the General Administration Department is required to issue instruction to Secretariat Administra-

tion (A) Department for drawal of ceiling amount and instructions are also required for payment against specific bills approved by general Adminn. Deptt. In the instant case no such instructions have been issued by General Administration Deptt. to clear the

outstanding telephone bills. Secretariat Administration Deptt. (R2) has made payment of outstanding bill for Rs. 9,61,436/- of the applicant under specific order of the applicant when he was the Commissioner and Secretary, Sectt. Admn. (Accounts) Deptt. The answering respondent begs to state that said drawal and disbursement of the said amount was irregular and in violation of established Rules, & procedures. Hence the Govt. decided to recover the entire amount of Rs. 9,61,436/- from the pay by deducting the amount Rs. 7000/- p.m.

10. That with regard to the statements made in paragraph 4.13 of the application, it is stated that the applicant knowingly violated the established procedure and administrative rules of the Govt. and in irregular manner passed the order for payment of the telephone bill amounting to Rs. 9,61,436/- when he was the Commissioner and Secretary Sectt. Admn. Deptt. and that too without approval of the General Administration Deptt. which is the appropriate authority for giving approval for payment of bills. Thus, there is no question of violation natural justice as regards to the recovery of payment. Further no illegality has been done by the Govt.

11. That with regard to the statements made in paragraphs 4.14 to 4.16 the answering respondent has nothing to make comment on it. He, however does not admit any statements which are contrary to records.

12. That the answering respondent respectfully submits that none of the grounds set forth in the application are good ground and valid in law.

13. That it is submitted that the instant application has no case and the statements are also enforceable under the law and the application shall be liable to be dismissed.

VERIFICATION

I Shri D.N.Saikia, S/O Late Troilukya
Saikia Secretary to the Government of Assam,
General Administration Deptt. Dispur Guwahati-6
do hereby state that the statement made in
paragraphs 1, 2, 5, 6, 8 & 11 are true to my knowledge
those made in paragraph 3, 4 and 7 are being matter
of records of the case are true to my informa-
tion which I believe to be true and the rests
are humble submission before this Hon'ble Tribunal

I have not suppressed any material fact
and I have signed this verification on this
the day of 5th April 2004

Dinendra Nath Saikia
Signature.

38 (S)
Annexure - A
4

7

GOVERNMENT OF ASSAM
GENERAL ADMINISTRATION (B) DEPARTMENT
DISPUR :::::::GUWAHATI.

No. GPT. 6/97/221

Dated Dispur, the 13th December, 2002.

From : Shri S.Thakuria, ACS,
Deputy Secretary to the Govt. of Assam.

To : Shri J.SL.Vasava, IAS,
Commissioner & Secretary to the Govt. of Assam,
Secretariat Administration Dept.

Sub : PAYMENT OF OUTSTANDING BILLS AGAINST TELEPHONE
NO. 2260149 (EARLIER 560149 & 260149) & Tel. No.JRT- 321190

Ref : Your letter No. COM/SAD/1/2002, dated 31.10.02.

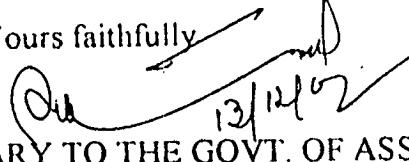
Sir,

With reference to the subject cited above and letter under reference I am directed to state that your application submitted to the Chief Secretary was duly considered and examined and Govt. has come to a decision that user of the Telephone No. 2260149 is required to pay the outstanding bills against the private calls made from this telephone. It was also decided that STD calls made from Telephone No. 2260149 to destinations other than Delhi will be treated as private calls and STD calls made to Delhi will be treated as official calls (A copy of the statement submitted by BSNL is enclosed herewith for your ready reference.). I am further to add that there is another outstanding bill amounting to Rs. 6,01,887/- pertaining to telephone No. JRT- 321190 for the period from 16.8.97 to 15.6.98 while you were holding charge of the Commissioner of UAD. Govt. has decided that only the calls made under STD Code 0361 shall be treated as official calls and all other calls made outside Assam will be treated as private calls and shall have to be paid by the user.

The earlier draft amounting to Rs. 65,000/- submitted by Mrs. Vasava will be credited against earlier dues. S.A.(Accts.) Dept. is being requested to do the needful

This has the approval of Chief Minister.

Yours faithfully


Shri S.Thakuria
13/12/02
DEPUTY SECRETARY TO THE GOVT. OF ASSAM
GENERAL ADMINISTRATION (B) DEPARTMENT.

39/29/03
Ansreich-B
15

GOVERNMENT OF ASSAM
GENERAL ADMINISTRATION (B) DEPARTMENT
DISPUR :: GUWAHATI-6

NO.GPT.6/97/222

Dated: Dispur, the 29th Jan/2003.

From :

Shri D. N. Saikia, IAS,
Secretary to the Govt. of Assam,
General Administration Department.

To :

The Chief General Manager,
BSNL, Ulubari, Guwahati-7.

Sub :

Payment of outstanding bills against phone
NO.2260149 (Guwahati) and 2321190 (Jorhat)-
bifurcation of official and private calls
thereof.

Ref :

BSNL letters NO.X-I/CAO-TR/KTD/43 dt. 11-09-19
and TRA/MISC/2002-2003/101 dt. 24-10-2002
Our letter NO.GPT 6/97/213 dt. 22-08-2002.

Sir,

With reference to the subject cited above
letters under reference I am directed to inform you that
mentioned telephones do have huge outstanding arrears in
each of them. After examining the bills it was found that
number of private calls were made from these two numbers.
Govt. has decided that the officer concerned will be
held responsible for the private calls made from these two telephones.
Concerned is insisting that he may be intimated of the
amount that is incurred on private calls. As per Govt. decision
calls were treated as private calls against telephone NO.2260149
(for the period with effect from 16-12-98 to till date) and
STD code used other than 011 and in case of telephone NO.2321190
(Jorhat) (for the period from 16-8-98 to 15-6-98) STD code other
than 0361 and inside the state of Assam.

Now, I therefore, request you to kindly instruct
the concerned official in your department to calculate the
amount for private calls and intimate the same to this Dep'tt.
so that General Admn. Department can intimate the amount to the
concerned officer to make the payment.

An early response to this will be highly
appreciated.

Yours faithfully


Shri D. N. Saikia
Secretary to the Govt. of Assam,
General Administration Department

005 00A (

22 SEP 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 2 of 2004.

Filed by Q. M.
The Applicant
through
HRS. R. S. CROWDHURY
ADVOCATE
56 22/09/04

IN THE MATTER OF:

O.A. No. 2 of 2004.

Shri J.S.L. Vasava

... Applicant.

- VERSUS -

The State of Assam & Ors.

... Respondents.

- AND -

IN THE MATTER OF:

Rejoinder submitted by the Applicant
against the written statement submitted by
the Respondent Nos. 1, 2 and 3.

The applicant abovenamed most humbly and respectfully begs to state as
under:

1. That the applicant has gone through the written statement so filed by the Respondent Nos. 1, 2 and 3 and has understood the contents thereof. The statements and averments made in the written statement which are not specifically admitted herein below shall be deemed to be denied by the deponent/applicant.
2. That with regard to the statements made in paragraphs 1 and 2 of the written statement, the applicant has no comments to offer.
3. That the applicant categorically denies the statements made in paragraph 3 of the written statement and begs to state that the outstanding amount of Rs.12,26,674/- (Rupees Twelve Lakhs Twenty Six Thousand Six Hundred Seventy Four Only) and Rs.6,01,887/- against the respective Telephone Nos. are inclusive of official calls and exclusively does not pertain to private calls. The applicant further reiterates the statements made in paragraphs 4.8 and 4.9

of the Original Application where it is specifically stated that Smti. I.J. Vasava, ex-wife of the applicant has paid a total amount of Rs.1,13,138/- vide Demand Drafts dated 07.02.2003, 22.02.2003 and 08.05.2003. A statement showing payments made by the applicant's ex-wife has been prepared for the convenience of this Hon'ble Tribunal.

A copy of the 'said statement of payment made the applicant's ex-wife is annexed herewith and marked as ANNEXURE – N.

4. That with regard to the statements made in paragraph 4 of the written statement, the deponent reiterates the statements made in paragraphs 3 hereinabove and categorically denies the statements, which are not borne of records. Further, the decision of the Government to treat all STD calls made to destinations other than Delhi as 'Private Calls' is highly arbitrary and has prejudicially affected the applicant. It may also be pertinent to mention herein that the telephone bills of many IAS/ACS officers are extremely high but the same have not been looked into and the applicant has been singled out and has been meted with a discriminatory treatment.
5. That with regard to the statements made in paragraphs 5 and 6 of the written statement, the applicant states that as per the records available, the applicant's ex-wife i.e., Smti. Vasava vide Demand drafts dated 07.02.2003, 22.02.2003 and 08.05.2003 has paid a total amount of Rs. (65,000 + 43,138) = Rs.1,13,138/- against different telephone bills with respect to the said telephone No. 2260149 which have been duly annexed in the O.A. (Annexure – D to G Series). It is pertinent to mention herein that there may be other payments made by the applicant, which may be available in the Secretariat Administration Department. The General Administration Department (GAD) is the custodian of all the government payments. Therefore, the Departments must be well aware of the payments made by the applicant's ex-wife i.e., Smti. Vasava. As such the statements made contrary thereto are categorically denied by the applicant.

The deponent/applicant craves leave of this Hon'ble Tribunal to refer to and rely upon a copy of the payments made by the applicant at the time of hearing of the instant case.

6. That with regard to the statements made in paragraph 7 of the written statement, the deponent/applicant reiterates the statements made in paragraph 3 hereinabove and relies on the statements and averments made in paragraph 4.10 of the Original Application.
7. That with regard to the statements made in paragraph 8 of the written statement, the deponent/applicant begs to state that he has made several representations, both verbal and written before the concerned Departments to submit the original/duplicate bills. However, till date no bills either in original or duplicate have been furnished by the Respondents to the deponent/applicant. Moreover, till date the deponent/applicant has not been intimated whether the amount paid by Smti. Vasava was adjusted against the said bills.
8. That with regard to the statements made in paragraphs 9 and 10, the deponent/applicant begs to state that while working in the capacity of Commissioner, Upper Division, Jorhat he has never come across any specific instructions of General Administration Department for payment of specific telephone bills. However, GAD issues FOC (Fixation of Ceiling) to Secretariat Administration Department to clear telephone bills and accordingly, telephone bills are cleared. However, the deponent/applicant deems it pertinent to mention herein that there were no specific bills mentioned in the fixation of ceiling. The respondents have also not deemed it pertinent to show which rules have been violated. As such, the decision to recover the entire amount of Rs.9,61,436/- (which included Govt. calls, rents, taxes, surcharges etc.) from the deponent/applicant amounts to penalizing the deponent/applicant. Besides, the decision of recovering the entire amount from the deponent/applicant without giving reasonable opportunity of being heard is violative of the principles of Natural Justice and the All India Service Conduct Rules.
9. That with regard to the statements made in paragraphs 11, 12 and 13 of the written statement, the deponent/applicant reiterates the statements made in paragraph 8 hereinabove and further relies on the statements and averments made in the Original Application.
10. In the facts and circumstances stated above, the applicant humbly submits that he is entitled to the reliefs prayed for and the Original Application deserves to be allowed with costs.

VERIFICATION

I, Shri Jagat Singh Laljibhai Vasava, son of Shri Laljibhai Vasava, aged about 51 years, at present working as Commissioner & Secretary to the Govt. of Assam, Department of Public Enterprise, Dispur, Guwahati - 6, do hereby solemnly affirm and verify that I am the Applicant in the instant application and as such I am fully conversant with the facts and circumstances of the case. The statements made in paragraphs 1, 2, 1 (party), 5 (party) & fo 10 (party) are true to my knowledge and those made in paragraphs 3, 4 (party), 5 (party), 6 & fo 10 (party) are true to my information derived from records, which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 22nd day of September, 2004 at Guwahati.

Jagat Singh Laljibhai Vasava

SIGNATURE OF THE APPLICANT.

Payment by Mrs. Vesava of Private Telephone bills

1. Rs. 25518.00 - on 22-2-2003 Cheque No. 06170

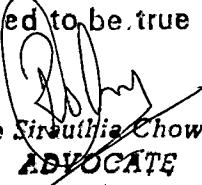
2. Rs. 61730.00 - 12-11-2002 (B/cheque No.061215) Rs.50,000
& 7-2-2003 (B/cheque No.061654) Rs.11790/
Rs.61790/-

3. Rs. 10890.00 B/cheque No. 027501 dt. 8-5-2003

4. Rs. 15000.00 D.D. No. 320056 to Commissioner UAD, Jorhat
dt. 8-6-2001 (for telephone)

Rs. 1,13,138.00

Certified to be true Copy


Rakhee Sirculia Chowdhury
ADVOCATE