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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 111/2004.....

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SECTION OFFICER (Judl.)

*Gahri*  
09/11/17

Central Administrative Tribunal  
Guwahati Bench  
**GUWAHATI**

~~1995(6) SCC 749~~

① AIR 1971 SC 40

② " 1979 SC 193

③ " 1976 SC 1841

④ " 1977 SC 193

⑤ " 1980 SC 169

⑥ 1995) 5 SCC (L&S) 375

⑦ AIR 1996 SC 2030

⑧ AIR 1965 SC 280

⑨ 1984(1) SLR 723

~~1995) 6 SC~~

⑩ AIR 1994 SC 1261

FORM NO. 4  
(SEE RULE 12)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

111/04.....

Org. App. / M/s Petn / Cont. Petn / Rev. Appl. ....

In O.A. ....

Name of the Applicant(s) ... Dinish Kumar Deori .....

Name of the Respondent(s) .... M.C.I. GOM .....

Advocate for the Applicant ... Mr. P.D. Gogoi .....

Counsel for the Railway/CGSC.....

ORDER OF THE TRIBUNAL

OFFICE NOTE

DATE

14.5.2004 present: The Hon'ble Shri Mukesh Kumar Gupta, Member (J).

The Hon'ble Shri K.V. Prahладan, Member (A).

Heard Mr. P.D. Gogoi, learned counsel for the applicant.

The applicant has challenged the impugned penalty imposed by order dated 15.4.2003 as well as the impugned penalty imposed vide order dated 20.5.2003.

prima facie <sup>under</sup> Rule 10 of the C.A.T. (procedure) Rules, 1987, we find that the present application is not maintainable seeking two reliefs.

Learned counsel for the applicant states that he would confine to relief relating to compulsory retirement passed vide order dated 20.5.2003 and will not press the relief as prayed in para 8.(i) of the application.

Accordingly, issue notice to the respondents. List on 16.6.2004.

K.V. Prahладan  
Member (A)

Mukesh Kumar Gupta  
Member (J)

bb

postal A/D card  
return brough  
respondent Nos - 2, 3

14/5/04  
9/6/04

11/6/04

letter received by T.M.Y.  
regarding vide NO. NIL  
dated 7.6.04 within a  
frame for 30 days  
extension time from  
submitting W/S in  
OA no. 11/04.

NJS  
11/6/04

16.6.2004 Present: The Hon'ble Smt. Bharati Roy  
Member (J).

The Hon'ble Shri K.V.Prahladan  
Member (A).

No representation. Post on 22x6x28

17.6.2004.

*KV Prahladan*

Member (A)

*J*

Member (J)

bb

17.6.04.

Present: The Hon'ble Mrs. Bharati  
Roy,

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

There is no representa-  
tion. Let this case be listed  
on 18.6.04 for Admission.

*KV Prahladan*

Member (A)

*J*

Member (J)

lm

18.6.2004

Heard Mr.P.D.Gogoi, learned Coun-  
sel for the applicant as well as Mr.  
A.Deb Roy, learned Sr.C.G.S.C. for the  
respondents.

The O.A. is admitted. Counter  
reply to be filed within four weeks.

List before next Division Bench

*KV Prahladan*

Member (A)

*J*

Member (J)

bb

20.6.04.

Present: Hon'ble Mr.K.V.Sachidanan-  
dan, Judicial Member  
Hon'ble Mr.K.V.Prahladan,  
Administrative Member.

*J/KV*  
When the matter came up for  
hearing the learned counsel for the  
Respondents prays for time to file  
counter affidavit. Four weeks time  
is allowed to file reply. The appli-  
cant may file rejoinder if any, withi  
two weeks. Post the matter on 27.8.04.

3  
29.7.04. Present: Hon'ble Mr.K.V.Sachidanandan  
Judicial Member,  
Hon'ble Mr.K.V.Prahladan, Administrative  
Member.

When the matter came up for hearing the learned counsel for the Respondents prays for time to file counter affidavit. Four weeks time is allowed to file reply. The applicant may file rejoinder if any, within two weeks. Post the matter on 27.8.04. for orders.

26-8-04  
No Rejoinder has  
been filed

Member (A)

Member (J)

lm

27.8.2004 Present : The Hon'ble Sri D.C. Verma,  
Vice-Chairman (J).

The Hon'ble Sri K.V. Prahla-  
dan, Member (A)

Mr. P.D. Gogoi, learned counsel for the applicant is present.

List on 28.9.2004 for orders.

27-8-04  
1) NO NIS has been filed.  
2) NO Rejoinder has  
been filed.

Member (A)

Vice-Chairman

lm

28.9.04. Present: Hon'ble Mr.Justice R.K.Batta  
Vice-Chairman.  
Hon'ble Mr.K.V.Prahladan, Administra-  
tive Member.

The learned counsel for the Respondents seeks last final opportunity to file written statement. For that purpose he seeks 8 weeks time to file written statement. We grant 8 weeks time on the condition that if on the next date written statement is not filed and the matter is to be adjourned for filing reply, the respondents shall have to pay costs, and the costs shall be recovered from personal pocket of the officer who is required to file the written statement. Stand over to 30.11.04.

1) Notice duly served on A.MS & I.  
2) S/R is awaited for R.Ms 1.  
3) NO NIS has been filed.

Member

Vice-Chairman

NO 29/1104

lm

30.11.04. Written statement has not been filed. The applicant if so desires, may file rejoinder within four weeks with advance copy to learned Addl. C.G. S.C. Mr. BC. Pathak. List on 18th January. for hearing

KV Prahadan  
Member

R  
Vice-Chairman

lm

18.1.05

Written Statement has been filed on behalf of Respondents No. all.....

Learned Advocate for the applicant is not able to place before us the ~~relevant~~ important documents including High Court order and the order by which the applicant was asked to make payment of the amount of Rs.9132/- In view of this the matter has to be adjourned and the Advocate for the applicant shall place before us the relevant documents for the purpose of consideration of the application.

Stand over to 23.2.2005 for hearing.

4.1.05  
Counter reply submitted to the petitioner.

KV Prahadan  
Member

R  
Vice-Chairman

pg

23.2.2005

No Division Bench is available.  
Adjourned to 4.3.2005.

KV Prahadan  
Member (A)

4.3.2005

Present: Hon'ble Justice Shri G. Sivarajan, Vice-Chairman  
Hon'ble Shri K.V. Prahadan, Administrative Member.

Heard Mr P.D. Gogoi, learned counsel for the applicant and Mr A.K. Chaudhuri, learned counsel for the respondents. Hearing concluded. Order reserved.

KV Prahadan  
Member

R  
Vice-Chairman

nkm

13.4.2005 Judgment delivered in open  
Court, kept in separate sheets. The  
application is ~~disallowed~~ dismissed.

Received by  
Vice-Chairman  
10/5/05

Verdict  
Member (A)

*E. S. J. S.*  
Vice-Chairman

mb

10.5.05  
Copy of the  
Judgment has been  
sent to the Office  
for issuing the same  
to the app. holder  
by Posts.

*E.S.J.S.*

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / 114 No. 111/2004

DATE OF DECISION 13.04.2005

Sri Dinesh Kumar Deori ..... APPLICANT(S)

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

-VERSUS -

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

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

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S. Jaiswar

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**CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH**

Original Application No. 111 of 2004.

Date of Order: This, the 13th day of April, 2005.

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

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

Sri Dinesh Kumar Deori,  
Son of late Lokendra Deori  
Postal Assistant (since compulsorily retired),  
Resident of Silapathar, P.O. - Silapathar,  
District - Dhemaji.

... Applicant.

By Advocate P.D. Gogoi.

- Versus -

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

... Respondents.

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

**O R D E R**

**SIVARAJAN, J. (V.C.):**

Shri Dinesh Kumar Deori, Postal Assistant, who was compulsorily retired from service is the applicant. He has challenged the order Memo No.B-2/D.K. Deori/Rule-14 dated 20.5.2003 (Annexure-4) compulsorily retiring him from service in exercise of the powers conferred on the

*Gp*

Director, Postal Services, Arunachal Pradesh Division, Itanagar (Disciplinary Authority) under Rule 12(2)(a) of CCS (CCA) Rules, 1965 with immediate effect. He has also challenged the orders Memo No.F-2/D.K. Deori/99-2000 dated 15.4.2003 reducing his pay by two stages from Rs.4900 to Rs.4700 without cumulative effect (Annexure-2) and also the order Memo No.F-2/D.K. Deori/9-2000 dated 13.5.2003 modifying the punishment to cumulative effect (Annexure-3). He has also sought for reinstatement in service from the date of compulsorily retirement without loss of pay and service. Here it must be noted that the applicant filed a consolidated appeal dated 2.6.2003 to the Chief Postmaster General, N.E. Circle, Shillong – respondent No.2 against the orders impugned in this application. The respondent No.2 issued a communication intimating that the applicant, if he is aggrieved by the orders mentioned, has to file separate appeals before the Appellate Authority. The applicant did not comply with the said direction. It would appear that there was some correspondence between the applicant and other authorities in regard to the justifiability of the directions regarding filing of separate appeals. The fact remains that the consolidated appeal filed by the applicant before the respondent No.2 has not been entertained nor disposed of. It is without exhausting the statutory remedy the applicant has filed the present application before this Tribunal. In this context it is pertinent to note that the very question regarding the maintainability of a consolidated application against the three orders impugned in this application was raised. It is seen from the proceedings dated 14.5.2004 recorded in the order sheet that the counsel for the applicant stated before the Tribunal that

*Spt*

the applicant would confine to relief relating to compulsory retirement passed vide order dated 20.5.2003 and will not press the relief as prayed for in para 8.(3) of the application. It is on this basis that the application was entertained and noticed issued to the respondents. The relief sought for in this application has already been noted which includes the challenge against two orders (Annexures 2 and 3) reducing the pay of the applicant by two stages without cumulative effect in the original order and its modification with cumulative effect in the subsequent order. In view of the submission of the counsel for the applicant recorded in the order dated 14.5.2004 mentioned above the only relief sought for in this application is against the order dated 20.5.2003 compulsorily retiring the applicant from service with immediate effect.

2. Before dealing with the present application and the challenge against the order of compulsory retirement it is necessary to mention about the previous proceedings which culminated in the orders Annexures 2 and 3. The applicant while working as Sub Postmaster at Roing Sub Post Office had misappropriated Government money. After conducting enquiry and disciplinary proceedings the applicant was dismissed from service by an order dated 30.4.2002 with effect from 14.11.2000. The appeal filed therefrom was also dismissed. The applicant then took up the matter before this Tribunal by filing O.A.No.147 of 2001 and the Tribunal by order dated 3.1.2002 allowed the application and set aside the order dated 30.4.2002 and the appellate order dated 13.3.2001 by holding that the said orders are not sustainable in law and the respondents were directed to reinstate the applicant in service forthwith without any back wages, but the applicant

*SPB*

| will be given all other benefits including seniority other than back wages.

Being aggrieved by the said orders, the respondents took up the matter before the Hon'ble Gauhati High Court by filing W.P.(C) No.1084 of 2002. The said Writ Petition was disposed of at the admission stage itself by upholding the order passed by holding that no interference is called for against the order passed by the Tribunal. However, the High Court observed that since there is no mention in the judgment regarding imposition of punishment the matter was left to the Disciplinary Authority to consider and impose any punishment permissible under the law other than the punishment of dismissal. The respondents accordingly set aside the order of dismissal and passed orders reinstating the applicant without back wages. However, the respondents, in view of the observations made by the High Court, decided to hold further enquiry under the provisions of CCS (CCA) Rules, 1965 against the applicant, then SPM, Roing, on the allegations which led to his dismissal from service. It was further ordered that the applicant would be deemed to have been placed under suspension with effect from the date of reinstatement and shall remain under suspension until further orders.

3. Pursuant to this order a fresh enquiry was conducted in accordance with the provisions of the CCS (Conduct) Rules, 1964 and after considering the order dated 3.1.2002 passed by the Tribunal and the judgment dated 8.4.2002 passed in W.P.(C) No.1084/2002 as also the gravity of the case and the moral turpitude on the part of the applicant and taking a lenient view of the matter, modifying the punishment of dismissal, a lesser punishment of reduction of pay by two stages in the scale of pay Rs.4000-100-6000 from

8pt/

Rs.4900 to Rs.4700 without cumulative effect was passed. However, by another order dated 13.5.2003 (Annexure-3) this order was modified to the effect that the reduction in the scale of pay was with cumulative effect. Thus the disciplinary proceedings initiated for the irregularities committed by the applicant while working as SPM, Roing S.O., Itanagar came to an end by the order passed on 15.4.2003 and on 13.5.2003 (Annexures 2 and 3). We say so because by virtue of the order passed by the Tribunal on 14.5.2004 mentioned earlier this is not the subject matter of this application.

4. The case of the applicant in the present application, as already noted, is against the order of compulsory retirement passed by the Director of Postal Services, Arunachal Pradesh Division, Itanagar on 20.5.2003 (Annexure-4). This order happened to be passed with reference to certain misappropriation of Government money by the applicant while he was working at Naharlagun S.O. The main charge against him was that the applicant "while working as Parcel and Registration Clerk of Naharlagun SO during April/1995 to December 1997 misappropriated govt. cash amounting to Rs.9132/- (Rupees Nine Thousand One Hundred Thirty Two) only in respect of VP articles. He delivered 31 Nos. of VP articles involving aforesaid amount but failed to credit the amount so realized to Government cash and thus failed to maintain devotion to duty as well as integrity and contravened the provision of rule 227(1) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964". There is another charge that the applicant "while working as the parcel and registration clerk at Naharlagun SO during June 1997 to November 1997 did not maintain departmental rules

9pt

and regulation properly. He made entry in the VP register regarding receipt of the articles but did not note the disposal particulars against the VP articles and thus violated the provision of rule 219 (5) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS conduct Rules". The applicant was served with copy of the charge memo, statement of imputation of misconduct or misbehaviour in support of the articles of charge. The applicant was also supplied with the documents by which the articles of charges were framed were proposed to be sustained. The applicant was also given sufficient opportunities at every stage of the enquiry proceeding. Shri G.G. Singha, Deputy S.P.O.s P.O.s Arunachal Pradesh Division was appointed as the Inquiry Authority vide Office Memo dated 26.9.2002 and Shri B.K. Rai, Inspector Posts (W) Sub Division, Itanagar was appointed as the Presenting Officer to present the case on behalf of the Department vide order dated 26.9.2002. Two persons, Shri D.K. Dey, the then CI Arunachal Division, Itanagar and Shri E.K. Rajan, SPM Naharlagun SO were examined. The Inquiry Authority completed the hearing on 11.1.2003 and submitted the report on the said date. The Inquiry Officer based on the documentary evidences and the oral evidences of the witnesses as also the unequivocal admission of the charges brought against the applicant made by the applicant held that the charges levelled against the applicant are proved beyond any reasonable doubt.

5. The Disciplinary Authority to whom the enquiry report was submitted supplied the same to the applicant and called for his remarks. The applicant made representation against the Inquiry Officer's report denying the charges and findings of the enquiry on the basis that shortage

9/1

of cash caused by him was only due to mistake and that the amount was immediately recovered from him. The Disciplinary Authority after considering the enquiry report and the representation filed by the applicant observed that the claim made by the applicant that he made a mistake is far from truth particularly in view of the fact that this is not an isolated event and that the applicant was working in the department since 21.9. 1983. It is further observed that the applicant cannot pretend that he did not know the rules particularly in view of the fact that the department has from time to time enabled the official to avail refresher courses to update himself with the rules and operational aspect to ensure his efficiency in performance. The Disciplinary Authority further observed that in this case the charged official has intentionally misappropriated the entire amount in respect of VP articles delivered not once but over a period of time and thereby failed to maintain devotion to duty as well as integrity and contravened the provisions of Rule 227(1) of Postal Manual Volume VI and violated the provision of Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964. The Disciplinary Authority has also noted the submission of the applicant in his representation that he may be let off from the charges and that he will leave no stone unturned in future on his part. The Disciplinary Authority thereafter observed that the applicant on his own admission confirmed that he made good the amount short-credited by him, but the chronology was not provided by him to confirm the facts. It is also observed that the actual charge against him was that he failed to note the disposal particulars against the VP articles delivered; as Parcel and Registration Clerk, Naharlagun during June 1997 to November 1997, he failed to maintain the

Ept

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Departmental Rules and thus violated the provisions of Rule 219(5) of Postal Manual Volume VI and also violated the provisions of Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964. It is also noted that he failed to avail the opportunity provided to him. With reference to para 3.9 of the Inquiry Officer's report it is stated that "the CO was given the opportunity to submit his final defence either in writing or verbally instantly during the inquiry or taking reasonable time for the purpose of preparations of his final defence in writing or verbally, CO stated that he did not wish to take time for submission of his final defence. He submitted verbatim that he admits that he had committed guilt and it was a matter of ill luck on his part. The CO added to submit his prayer to the authorities of the Department for consideration of his case with promise that he will not commit any such offence in future. The CO stated, "I have my family to support with children in college to be supported, I do not hail from a rich family". At this stage the inquiry concluded." The Disciplinary Authority considered all the aforesaid circumstances and held that the charges against the applicant are fully proved and that there is no reason for him to disagree with the Inquiry Officer's findings. The Disciplinary Authority made the following further observations:

"The CO was a habitual offender and his claim to leave no stone unturn gives me no idea as to his motive.

Considering the gravity of the case, the CO deserves stringent actions since his continuance in the Department cannot be considered in view of his repeated commission and misappropriation.

The image of the Deptt. was badly tarnished due to fraudulent activities committed by certain employees, including the charged official. The faith of the public has been badly shaken on the

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honesty and integrity of the Department with this bad image already suffered by the Department it will be a great liability to retain such person of fraudulent nature, hence to meet the ends of justice."

6. It is based upon the aforesaid findings that the respondent No.3 exercised the power vested in him under Rule 12(2)(a) of CCS (CCA) Rules, 1965 and ordered that the applicant be compulsorily retired from service with immediate effect. The applicant as already noted, has filed appeal dated 2.6.2003 against this order also before the respondent No.2 which could not be considered by the said authority in view of the defects in the appeal mentioned earlier in this order.

7. Mr P.D. Gogoi, learned counsel for the applicant, submitted that in respect of the irregularities committed by the applicant while working as SPM, Roing SO, Itanagar, the matter culminated in the order dated 15.4.2003 as modified by order dated 13.5.2003 imposing the punishment of reduction of pay by two stages in the scale of pay Rs.4000-6000 from Rs.4900 to Rs.4700 with cumulative effect. The counsel submitted that in view of the order dated 14.5.2002 passed by this Tribunal at the time of admission of the application no submission is being made regarding the correctness of the said order in this application. The counsel further submitted that in this case a chargesheet was issued against the applicant in a closed matter, in respect of the present charge an enquiry was conducted earlier and on finding that the applicant had remitted the amount of short deposit, on coming to know of the non-remittance then and there the enquiry was closed. The counsel further submitted that the Disciplinary Authority is biased against the applicant and the enquiry on a closed

*G.P.*

matter relating to the year 1996 -1997 was instituted with a predetermination to remove the applicant from service. The counsel submitted that the charge against the applicant will not lie since there was no loss of Government money as the applicant had deposited the money in 1997 itself when the shortage was found. The counsel also submitted that the departmental enquiry on a very old closed matter has been the outcome of a sense of despair, defeat and revenge on the part of the respondent No.3 and not for violation of Rule 227(1) of the Postal Manual Volume VI or any other rules. The counsel further submitted that there is inordinate delay on the part of the respondents in initiating the disciplinary proceedings against the applicant in respect of the alleged misappropriation committed by the applicant during 1996-97. The counsel also submitted that the respondent No.3 has brought in new allegations, namely that the applicant is a habitual offender and extraneous facts which were not enquired into by any authority was also brought in to the prejudice of the applicant. The counsel further submitted that the order of compulsory retirement passed by the respondent No.3 is unjust, arbitrary, discriminatory and violative of articles 14 and 21 of the Constitution. The counsel also submitted that the punishment awarded to the applicant is highly disproportionate to the charges alleged to have been established.

8. The respondents have filed a written statement and stated that the earlier proceedings which culminated in the orders Annexures 2 and 3 were in respect of the misappropriation committed by the applicant while he was working as Sub Postmaster at Roing SO and that the present proceedings which culminated in the order of compulsory retirement

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(Annexure-4) is with respect to misappropriation of Government money made by the applicant while working in the Sub Post Office, Naharlagun. It is stated that the applicant had repeatedly committed mistakes which resulted in misappropriation of Government money by not accounting the money of value payable articles at Naharlagun and thus the image of the department was tarnished in the eye of the senders of the VP articles. The respondents further stated that since the gravity of the lapses was so serious and due to repeated commission of fraud he deserved stringent action, but taking a lenient view he was awarded with a lesser punishment with full benefit. It is further stated that in order to impose any penalty on the officer suspension is to be revoked first and after revocation the official has to be posted in an office and thus only in view of the above Annexure-5 order had been issued.

9. Mr A. K. Chaudhuri, learned counsel for the respondents submitted that it is not correct to say that the charges which led to the passing of Annexure-4 order was issued on a closed matter. Counsel stated that the applicant was chargesheeted under Rule 14 of CCS (CCA) Rules, 1965 due to his involvement in two separate cases of fraud, namely (i) fraud case at Roing SO and (ii) fraud case at Naharlagun Sub Post Office; The orders Annexures 2 and 3 related to fraud committed while at Roing; Annexure-4 order related to the fraud committed by him while working at Naharlagun Sub Post Office. The counsel also submitted that Annexure-3 order dated 20.5.2003 produced alongwith the written statement would clearly show that with respect to charges with which we are presently concerned, charge memo was served on the applicant; enquiry was conducted and



preliminary hearings were also held on 29.4.2000; however, the case was ordered to be closed as the applicant was dismissed from service in connection with the fraud case at Roing S.O. and the present case was reopened when CCS (CCA) Rules, 1965 became applicable to the applicant. The counsel further submitted that the applicant had clearly admitted the charges throughout the enquiry proceedings and he did not even crossexamine the witnesses. The counsel further submitted that the Disciplinary Authority was right in his observations that the applicant is a habitual offender in that the applicant had delivered 31VP articles for the period from 11.4.1997 to 2.5.1997, the value of which is Rs.9132/-, but he did not credit the amount to the Government account until it was detected by the authorities. The counsel submitted that the fact that the applicant had subsequently remitted the amount will not absolve the applicant of the charges levelled against him. The counsel further submitted that this is not an isolated incident. The applicant was following this practice for over a period and in the aforesaid circumstances the Disciplinary Authority held that the applicant is a habitual offender. The counsel also submitted that the previous case which culminated in Annexures 2 and 3 orders would also show that the applicant had been practicing misappropriation during other periods also. The counsel further submitted that the officers like the applicant were entrusted with the onerous responsibility of receiving money belonging to the customers, that these officers are in the position of trustees and therefore, if any misappropriation is made by such persons certainly it would adversely affect the image of the Postal Department and the customers would loose confidence on such Government institutions.



The counsel further submitted that the Inquiry Officer on evidence has clearly found that the applicant had committed the charges levelled against him and that the applicant did not raise any objection to the charges either by filing a reply with supporting materials or by crossexamining the witnesses in spite of affording a reasonable opportunity. The counsel submitted that the only case of the applicant was that he committed a mistake in not remitting the amount received by way of VP charges, that his wife was suffering from illness for which substantial amounts were required, that he had remitted the shortage immediately on detection and further that he will not repeat the same again. These admissions of the applicant, Standing counsel submits, are sufficient enough to establish the charges levelled against him. The counsel further submitted that though the applicant deserved severe punishment of dismissal from service the Disciplinary Authority has taken a very lenient view and passed an order of compulsory retirement without causing any financial loss which, in fact is not at all a punishment.

10. We have considered the rival submissions with reference to the charge memo, reply submitted by the applicant, the evidence let in before the Inquiry Officer, the findings on the charges in the enquiry report, the reply to the show cause notice on the enquiry report, the orders passed by the Disciplinary and the pleadings in the case. We find that the enquiry was conducted strictly in accordance with the procedure prescribed therefor under the Rules; the Inquiry Officer afforded all opportunities to the applicant to defend his case; the applicant was asked whether he requires

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to engage defence assistant but he personally participated in the enquiry; the statements of two witnesses, Shri D.K. Dey, the then CI, Arunachal Division, Itanagar and Shri E.K. Rajan, SPM, Naharlagun S.O. were taken and they were also examined; though the applicant was given opportunity to cross examine them the applicant said he has nothing to ask; the Inquiry Officer, after concluding the evidence afforded an opportunity to the applicant to submit his final defence after perusing all the documents. The enquiry report shows that the applicant has stated "that he admits he had committed the guilt and it was a matter of ill luck on his part" and further stated that "his prayer to the authorities of the department his case may be considered and that he promised that he will not commit any such offence in future and also stated "I have my family to support with children in college to be supported; I do not hail from a rich family".

11. It is on a consideration of the oral and documentary evidence as well as the categoric admission of the applicant the Inquiry Officer had held that the charges levelled against the applicant is proved beyond doubt. The Disciplinary Authority had considered the said findings of the Inquiry Officer as also the objection to the enquiry report filed by the applicant where also the stand of the applicant was that shortage was caused due to mistake and that the amount was immediately recovered from him. The Disciplinary Authority did not believe the case of mistake as a bonafides one. He also observed that making good the non remittance of VP amount after detection is not a virtue but only shows that he had committed default. The Disciplinary Authority thereafter came to the definite finding

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that the applicant had willfully misappropriated the entire amount in respect of VP articles delivered not once but over a period of time thereby failed to maintain devotion to duty as well as integrity and contravened the provisions of Rule 227(1) of the Postal Manual Vol.VI and violated provisions of Rule 3(1)(i)(ii) of the CCS (Conduct) Rules, 1964.

12. The contention of the applicant in regard to the finding on the charges are:

- (1) Charge No.1 has no merit and Charge No.2 has no independent existence.
- (2) The enquiry on a closed matter in relation to the year 1996 and 1997 was instituted with the ultimate motive to remove the applicant from service vindictively.
- (3) Charge No.1 has no application since there was no loss to the Government, for the shortage was made good in 1999 as soon as it was detected in 1997 leaving no scope to dig it up in 2002.

13. All the above aspects have been dealt with elaborately in the enquiry report and order (Annexure-4) besides Annexure 3 to the written statement. The disciplinary enquiry in respect of the charges in this case started in 2000 and it was closed earlier since the applicant was dismissed from service for the offence committed at Roing. Since, by virtue of the orders of the Tribunal passed in the earlier O.A., the applicant was reinstated in service and since a lesser punishment (vide Annexures-1 and 2) was awarded after fresh enquiry pursuant to the judgment of the High Court, enquiry proceedings in respect of the alleged misappropriation made while working at Naharlagun was revived and proceeded with from

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where it was stopped. There is absolutely no infirmity in doing so. The applicant did not also raise any such objection before the Enquiry Officer or before the Disciplinary Authority earlier. Hence there is no merit in the contentions stated above.

14. We do not find any reason to interfere with the concurrent finding of fact entered by the Inquiry Officer and by the Disciplinary Authority on the basis of evidence. We fully endorse the finding of both the authorities and hold that the charges against the applicant stood proved.

15. Now, we will consider the justifiability of awarding the punishment of compulsory retirement. The disciplinary authority observed that the applicant was a habitual offender and considering the gravity of the case, the applicant deserves stringent actions since his continuance in the department cannot be considered in view of his repeated commission and misappropriations. It is also stated that the image of the department is badly tarnished due to fraudulent activities committed by certain employees including the charged official. It was further observed that the faith of the public had been badly shaken on the honesty and integrity of the department, with this bad image already suffered by the department it will be a great liability to retain such person of fraudulent nature. It is in view of the above the applicant was compulsorily retired from service with immediate effect. The grievance projected by the applicant in his pleadings and highlighted by his counsel before us against the punishment imposed are (1) the applicant was branded as 'habitual offender' for which there was no charge nor was he given an opportunity to defend himself against the

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said allegations, (2) brought in extraneous facts which have not been enquired into which had influenced the decision to compulsorily retire the applicant, (3) the applicant was not afforded any opportunity to show cause against such observations and (4) the punishment imposed is highly disproportionate to the charges found. We do not find any merit in any of the said contentions.

16. The statement of imputation in respect of Charge-I shows that the applicant while working as the parcel and registration clerk at Naharlagun SO had delivered 31 V. P. articles to the addresses from 11.4.1997 to 2.3.1997 the value of which came to Rs.9132/-. He however did not remit the said amount to the credit of the Government. This was admitted by the applicant also but the defence was that it occurred due to a bonafides mistake which was not accepted. Thus it is clear that it was not an isolated event but spread over a period of 22 days. This apart, the defalcation/misappropriations made by the applicant while working as SPM Roing SO under Itanagar which initially led to the dismissal of the applicant and later to reduction of pay by two stages in the scale of pay of Rs.4000-10-6000 from Rs.4900/- to Rs.4700/- with cumulative effect (Annexures 2 and 3) was also with the Disciplinary Authority. The charges were pertaining to shortage in post office cash and large scale misappropriation of post office cash by intentionally entering false entries as MO payment and remittance to bank which are of very serious nature. The said charges were found in the enquiry and now concluded by Annexure 2 and 3 orders. The Disciplinary Authority, with this much

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established materials had observed that the applicant is a habitual offender. It is not a new charge, much less a charge. It is an undisputable fact which has already been established by conducting enquiries. No question of granting any opportunity for rebutting the same. The other contention is that extraneous matters influenced the decision to compulsorily retire the applicant. Though the Disciplinary Authority had made the observations "the image of the department was badly tarnished due to fraudulent activities committed by certain employees" which is general in nature it was observed "including the charged official" and that "the faith of the public has been badly shaken on the honesty and integrity of the department with the bad image already suffered by the department" there is no doubt that the devise adopted by the applicant which culminated in Annexure 2 and 3 orders and the misappropriation committed by the applicant which is the subject matter of the present application lead one to definitely say that the image of the department has been tarnished by the applicant and the faith of the public has been badly shaken. This cannot be said to be an extraneous fact for which enquiry is required to be conducted or opportunity to be given to the applicant. All these facts are borne out by the proceedings which culminated in the order dated 15.4.2003 (Annexure-2) and order dated 20.5.2003 (Annexure-4).

17. As already noted, by order dated 20.5.2003 the Disciplinary Authority in exercise of the power vested in him under Rule 12(2)(a) of CCS (CCA) Rules 1965 has compulsorily retired the applicant from service with immediate effect.

*[Signature]*

18. Rule 12(1) of the Rules provides that the President may impose any of the penalties specified in Rule 11 on any Government servant. Sub-rule (2) provides that without prejudice to the provisions of Sub-rule (1) subject to the provisions of sub-rule (4) any of the penalties specified in Rule 11 may be imposed on a member of a Central Civil Service other than the General Central Services, by the appointing authority. Rule 11 provides for imposition of penalties both Minor penalties and Major penalties for good and sufficient reasons on a Government Servant. Rule 11 (vii) compulsory retirement is one of the major penalties. Explanations (vii) to Rule 11 provides that compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement shall not amount to a penalty within the meaning of this rule. This is for the reason that compulsory retirement simplicitor does not amount to dismissal or removal or reductions in rank under Article 311 of the Constitution of India or any other Service rules. It does not cause any stigma or any implication of misbehaviour or incapacity. Compulsory retirement is not a punishment because the officer does not loose the terminal benefits already earned by him. (See Tara Singh Vs State of Rajasthan, AIR 1975 SC 1487; Union of India Vs J.N. Sarma, AIR 1971 SC 40).

19. The Scope and facet of compulsory retirement was explained by the Hon'ble Supreme Court in Allahabad Bank Officers Association Vs Allahabad Bank, AIR 1996 SC 2030 at page 2032 para 5 thus:

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"The power to compulsorily retire a Government servant is one of the facets of doctrine of pleasure incorporated in Article 310 of the Constitution. The object of compulsory retirement is to weed out the dead wood in order to maintain efficiency and initiative in the service and also to dispense with the services of those whose integrity is doubtful so as to preserve purity in the administration. Generally speaking, Service Rules provide for compulsory retirement of a Government servant on his completing certain number of years of service or attaining the prescribed age. His service record is reviewed at that stage and a decision is taken whether he should be compulsorily retired or continued further in service. There is no leveling of a charge or imputation requiring an explanation from the Government servant. While misconduct and inefficiency are factors that enter into the account where the order is one of the dismissal or removal or of retirement, there is these difference that while in the case of retirement they merely furnish the background and the enquiry, if held- and there is no duty to hold an enquiry - is only for the satisfaction of the authorities who have to take action, in the case of dismissal or removal they form the very basis on which the order is made, as pointed out by this Court in *Shyamal v. State of U.P.*, (1955) 1 SCR 26: (AIR 1954 SC 369) and *State of Bombay v. S.M.Doshi*, AIR 1957 SC 892. Thus, by its very nature the power to compulsorily retire a Government servant is distinct and separate from the power to punish him by way of removal, dismissal etc. for misconduct. A Government servant who is compulsorily retired does not lose any part of the benefit that he has earned during service. Thus, compulsory retirement differs both from dismissal and removal as it involves no penal consequences. Though compulsory retirement deprives a Government servant of the chance of serving and getting his pay till he attains the age of superannuation and thereafter to get pension that cannot be regarded in the eye of law as punishment as pointed out in the case of *Shyamal* (supra) and *Union of India v. M.E.Reddy*, (1980) 2 SCC 15; (AIR 1980 SC 563). Thus, compulsory retirement differs from dismissal and removal both in its nature and incidence or effects. Therefore, compulsory

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retirement is not considered *prima facie* and per se a punishment and does not attract the provisions of Article 311. This Court in a series of decisions starting with Shyamlal's case (AIR 1954 SC 369) (*supra*) has held that compulsory retirement is neither a punishment nor a stigma; and, that can now well be regarded as settled legal position. But, if any stigma is attached in the order of compulsory retirement then it may be treated as an order of punishment in reality. So also, if a formal enquiry is made on an allegation of misconduct and a finding holding him guilty is recorded and thereafter the order of compulsory retirement is passed then such an order even when it does not contain any allegation or a stigmatic statement may be regarded as an order of punishment attracting provisions of Article 311. The reason is that the court would infer in such cases that the real intention of the Government was not to compulsorily retire its employee but to punish him."

20. The Supreme Court in *Collector, Allahabad Vs Chhota Lal* 1995 SCC (L&S) 375 considered a case where the High Court in that case came to the conclusion that the order of compulsory retirement is in the nature of punishment which conclusion was based on the fact that in the counter affidavit filed on behalf of the State Government it was mentioned that the incumbent was involved in irregularities in 1977 resulting in financial loss to the Government. In regard to that incident, a departmental enquiry was held against the incumbent and punishment was imposed. The High Court in the above circumstances held that since the order of compulsory retirement is based on that very incident, it is in the nature of punishment. The Supreme Court held that the entry in the confidential record was the basis for taking the view that he needs to be compulsorily retired in public interest and that if the record of the incumbent is not up to the mark and if

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it betrays lack of integrity etc. it is open to the State to compulsorily retire such an employee and the High Court was wrong in the view it took.

21. In Union of India Vs V.P. Seth, AIR 1994 SC 1261 the Supreme Court after referring to the five principles evolved regarding compulsory retirement in the earlier decision in Baikunta Nath Das Vs. Chief District Medical Officer, Balipara observed that it would, therefore, seem that an order of compulsory retirement can be made subject to judicial review only on grounds of mala fide, arbitrariness or perversity and that rule of audi alteram has no application since the order of compulsory retirement in such a situation is not penal in nature."

22. In the present case the applicant has been compulsorily retired from service by way of punishment in disciplinary proceedings for serious irregularities committed by him viz; misappropriation of Government money. Had the compulsory retirement of the applicant not by way of punishment and if it was a compulsory retirement simplicitor the applicant could have contended that the order of compulsory retirement is bad for the reason that he did not complete 25 years of service or did not complete 50 years of age which is one of the essential conditions for invoking the said power. The applicant had only 20 years of service and had completed only 42 years of age on the date of compulsory retirement. Since the compulsory retirement of the applicant was by way of punishment after conducting due enquiry and after finding that the charges against the applicant are clearly established the condition mentioned above does not apply. The irregularities committed by the applicant viz. a pattern of

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misappropriation of Government money and also forging the records while in the discharge of official duties surely casts reflection upon his reputation, integrity or devotion to duty as a public servant which is a grave misconduct also.

23. As observed by the Supreme Court in Allahabad Bank case (supra) the object of compulsory retirement is to weed out the dead wood in order to maintain efficiency and initiative in the service and also to dispense with the services of those whose integrity is doubtful so as to preserve purity in the administration. In the domestic enquiry it was clearly found that the applicant had misappropriated Government money. The previous proceedings which culminated in the order dated 15.4.2003 is also to the above effect. These clinching materials would conclusively establish that the applicant is a person of doubtful integrity and if he is retained in service it will adversely affect the purity in the administration.

24. In this context it is pertinent to note that the Postal Department, apart from its normal function of dealing with postal articles, is also engaged in services akin to Banking business – such as savings bank account, various money deposit schemes *inter alia* entailing benefits to income tax assessees. That apart, having regard to the fact that rate of interest on bank deposits are slashed down, various deposits schemes for senior citizens and pensioners to get more interest are evolved by the Central Government which is implemented mostly by making deposits in the post offices. Senior citizens and pensioners for deriving income from their past savings for their livelihood during old age, taking benefit of the said schemes deposit

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their entire savings in the post offices. Postal department being part of the Central Government they believe that, their money is safe in the hands of the Government. If the trust reposed by the public on the postal department is shaken the entire image of the department will be at stake. Thus the Postmasters and other persons in the Postal Department dealing with public money hold a pivotal position in the implementation of the schemes. If those persons divert the money belonging to the depositors either by forging the records or otherwise, can such persons be let off on the ground that such persons have remitted the defalcated amount immediately on detection or for the reason that money was urgently required for treatment of his wife or for the education of his children? The Government in the circumstances owes a duty to the public to ensure that persons with reputation, integrity and devotion to duty are appointed and posted as Post Masters and persons dealing with money and accounts of the depositing public. If they fail to do so and if something happens to the detriment of the Government and the public certainly it will tell upon the purity in the administration.

25. The last contention of the applicant that the penalty of compulsory retirement imposed is highly disproportionate to the charge found has to be considered in the above background. Now it is settled by a plethora of decisions of the Hon'ble Supreme Court that it is for the disciplinary authority to pass appropriate punishment; the tribunal or the civil court cannot substitute its own view to that of the disciplinary authority as well as appellate authority on the nature of the punishment to be imposed upon

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the delinquent officer. Though it is possible to take another view in this matter that will not be a ground for interference with the orders passed in the disciplinary proceedings (See State of Punjab Vs. Bakshish Singh (1997) 6 SCC 381; Shivji Vidyalaya Vs. Patel Anil Kumar Lallubhai, 1998 (9) SCC 561, State of Karnataka Vs. H. Nagraj, 1998 (9) SCC 671, Anil Kapoor Vs Union of India, 1998 (9) SCC 47, only a few of them).

26. Exceptional circumstances in which Court/Tribunal can interfere with the quantum of punishment imposed by the disciplinary authority is considered by the Hon'ble Supreme Court in B.C. Chaturvedi Vs. Union of India and others, (1995) 6 SCC 749. In that case Mr B.C. Chaturvedi, an Income Tax Officer was dismissed from service after conducting enquiry into the charge that he was in possession of assets disproportionate to his known sources of income. The Tribunal after appreciating the evidences, upheld all the charges as having been proved but converted the order of dismissal into one of compulsory retirement. The delinquent officer and the Union of India filed appeals against the order of the Tribunal. Union of India canvassed the jurisdiction of the Tribunal to interfere with the punishment imposed by it. Dealing with the jurisdictional aspect the Supreme Court in para 12 of the judgment at P 759 observed thus:

"Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an enquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to

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determine whether the enquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding and mould the relief so as to make it appropriate to the facts of each case."

27. The Supreme Court thereafter considered the question whether the Tribunal was justified in interfering with the punishment imposed by the disciplinary authority and after a review of the earlier decisions of that court held in para 18 at P 762 thus:

"A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of

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judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

28. Thus the power of the High Court or the Tribunal to interfere with the punishment imposed by the Disciplinary Authority and upheld by the Appellate Authority is confined to cases where the punishment imposed by the said authority shocks the conscience of the High Court/Tribunal (underlining supplied). In that case it is open to the High Court/Tribunal, to mould the relief, either directing the Disciplinary/ Appellate Authority to reconsider the penalty imposed or to shorten the litigation, it may itself, in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof.

29. A Division Bench of this Tribunal in its order dated 30.9.2004 in O.A.No.285 of 2003 relying on the aforesaid decision had upheld an order of removal of an Extra Departmental Branch Post Master from service in similar circumstances.

30. Further, a recent decision of the Hon'ble Supreme Court in Division Controller, KSRTC(NWKRTC) Vs A.T. Mane, 2005(1)SLJ 227 rendered in the context of the dismissal of a Conductor of the State Transport Corporation, *inter alia* considered the validity of an order passed by the Labour Court and sustained by the High Court holding that the punishment was

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disproportionate compared with the smallness of the amount misappropriated. In that case when the bus in which he was on duty returned back to the depot after its trip on a surprise check up the respondent Conductor was found to be in possession of Rs.93/- over and above the amount equivalent to the tickets issued. Departmental enquiry was conducted, he was found guilty of the charge of misconduct and he was dismissed from service. The Supreme Court in paras 11 and 12 at page 231 observed thus:

“Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration. In our opinion, when a person is found guilty of misappropriating corporation funds, there is nothing wrong in the corporation loosing confidence or faith in such person and awarding a punishment of dismissal.

This court in the case of B.S. Hallikatti (supra) held in similar circumstances that the act was either dishonest or was so grossly negligent that the respondent therein was not fit to be retained as a Conductor. It also held that in such cases there is no place for generosity or misplaced sympathy on the part of the judicial forums and thereby interfere with the quantum of punishment.”

The above observations aptly apply to the case of the applicant also.

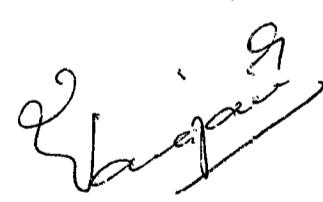
31. None of the procedure or other irregularities pointed by the Supreme Court in the B.C. Chaturvedi's case (Supra), particularly in para 12 extracted above are present in the case. On the other hand the proceedings would show that the order was passed after complying with all the

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procedural formalities contemplated under the Rules. The applicant was afforded enough opportunities at all stages. Hence, in view of the limited scope of jurisdiction of the Tribunal to interfere with the concurrent findings of fact entered by the Inquiry Officer and the disciplinary authority and that too on evidence there is no scope for interference with the order in that regard. If the contention of the applicant in regard to the quantum of punishment imposed is considered in the light of the decision in B.C. Chaturvedi's case, para 18 extracted above the punishment imposed cannot be characterized as shocking to the conscience of the Tribunal. On the other hand if the disciplinary authority had imposed a more stringent punishment viz; removal or dismissal from service even then the case would not come within the purview of the exception pointed out by the Supreme Court. Here the Disciplinary Authority has clearly stated that a lenient view was taken and instead of removing/dismissing the applicant from service he was only compulsorily retired from service. This entailed the applicant to get all the monetary benefits already earned by him including pension.

32. For all these reasons there is no merit in this application and the same is accordingly dismissed.

  
 ( K.V.PRAHLADAN )  
 ADMINISTRATIVE MEMBER

  
 ( G.SIVARAJAN )  
 VICE CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI.  
( An application u/s 19 of the Central Administrative Tribunal  
Act, 1985 )

Original Application No. 111 of 2004.

Shri Dinesh Kumar Deori.

... ... Applicant

- versus -

Union of India and others.

... ... Respondents

Synopsis

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sri Dinesh Kumar Deori  
Advocate

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FOR USE IN TRIBUNAL'S OFFICE

Date of filing 10.5.04

Registration No 6A 111/04

0/07/2004  
(P.D. Deori)  
Advocate

IN THE CENTRAL ADMINISTRATIVE tribunal ; GUWAHATI BENCH :

GUWAHATI

original Application No. 111 of 2004.

Shri Dinesh Kumar Deori,  
son of late Lokendra Deori,  
Postal Assistant(since compulsorily retired),  
Resident of Silapathar, P.O. - Silapathar,  
District - Dhemaji.

... ... ... Applicant

- versus -

1. Union of India,

represented by the Secretary to the  
Government of India, Ministry of  
Communication, Department of Posts,  
New Delhi.

2. Chief Postmaster General,

N.E.Circle, Shillong, Meghalaya.

3. Director of Postal Services,

Arunachal Pradesh Division,

Itanagar - 791 111.

... ... ... Respondents

DETAILS OF APPLICATION :

1. particulars of order (i) order issued under Memo.  
against which the application is made : No. B-2/D.K.Deori/Rule -14  
dated 20.5.2003, compulsorily retiring the applicant from  
service.  
(ii) Order issued under Memo. No. F-2/D.K.Deori/99-2000 dated  
15.04.2003, reducing the pay

of the applicant from Rs. 4900/- to Rs. 4700/- without cumulative effect. <sup>and</sup>

(iii) Order issued under Memo. No.F-2/D.K.Deori 1/9-2000 dated 13.05.2003, modifying the punishment of reduction of pay from one without cumulative effect to one with cumulative effect.

2. Jurisdiction of the Court : The applicant declares that the subject matter of the orders against which redressals are sought are within the jurisdiction of the tribunal.

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

4. Facts of the Case : That the Respondent No.3 initiated a departmental inquiry against the applicant for alleged misappropriation of Government money during the year 1999 while working as SPM, Roing, Arunachal Pradesh. On completion of the Departmental inquiry the applicant was dismissed from service by the Respondent No.3. The applicant appealed against the said order of his dismissal from service to the Chief Postmaster General, N.E.Circle, Shillong but the appeal was dismissed. The applicant preferred an application against both these orders, dismissing him from service before the Central Administrative Tribunal which was registered as O.A. No.147 of 2001. The Tribunal set aside the order of dismissal from service and the

appellate order, upholding the punishment and directed the respondents to reinstate the applicant in service. The Department in the name of the Union of India and others preferred a writ application before the Hon'ble Gauhati High Court against the order of the Central Administrative Tribunal which was registered as W.P.(C) No.1084 of 2002. The Honble High Court modified the order of the Tribunal and directed that the applicant be awarded a punishment other than dismissal from service. With this direction the writ petition was disposed of at the admission stage.

(2) That defying the orders of the Hon'ble High Court the Respondent No.3 reinstated the applicant in service but placed the applicant under suspension from the date of reinstatement in service and thereafter started the departmental inquiry on a closed matter denovo.

A copy of the order bearing Memo. No.F-2/D.K.Deori/99-2000 dated 30.4.2002, reinstating the applicant in service and placing him under suspension and ordering denovo inquiry is annexed as Annexure -1.

(3) That on conclusion of the departmental inquiry made denovo, the Respondent No.3 issued the impugned order bearing Memo. No.F-2/D.K.Deori/99-2000 dated 15.4.2003 by which the Respondent reduced pay of the applicant by two stages, from Rs.4900/- to Rs.4700/- without cumulative effect. But surprisingly enough the respondent No.3 did not revoke the suspension order though the departmental inquiry made denovo has been concluded and final order passed by the said order of punishment.

A copy of the order bearing No.F-2/D.K. Deori/99-2000 dated 15.4.2003 is annexed as Annexure -2.

(4) That without notice to the applicant the respondent as the disciplinary authority by his order bearing No.F-2/D.K. Deori/9-2000 dated 23.5.2003 modified the punishment order of reduction of pay by two stages from one without cumulative effect to one with cumulative effect. This modification of punishment to a heavier one is illegal. Because, the disciplinary authority acting in a quasi-judicial capacity cannot alter its own punishment order, that too to a heavier one. This is illegal.

A copy of the order bearing Memo. No.F-2/D.K. Deori/9-2000 dated 13.5.2003 is annexed as Annexure -3.

(5) That the Respondent No.3 being unable to maintain his punishment order, dismissing the applicant from service due to interference by ~~W~~ the courts, initiated yet another departmental inquiry on a closed matter relating to the years 1996 and 1997 to find a way out to remove the applicant from service. This alleged offence was committed four years before the commission of the offence for which the applicant was dismissed from service. Had there been any merit, the inquiry would have been made earlier to the inquiry instituted on 12.4.2000 or at least the alleged offence, committed in 1996 and 1997 would or could have been included in the inquiry instituted on 12.4.2000 as these alleged offences were detected in 1997. The applicant never admitted the offence and never pleaded guilty as stated in the impugned order passed by the Respondent No.3, compulsorily retiring the applicant from service. The amount of Rs.9132/- alleged

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K. Deori  
Copy  
Date

to have been misappropriated was found short due to some mistake which was then accepted by the Respondent No.3 and the said amount was fully recovered from the applicant, first Rs.7000/- and the balance of Rs.2132/- shortly thereafter. The Disciplinary authority at para 3.4 of his impugned order(vide Annexure - ) recorded that Rs.7000/- was deposited by the charged officer on 19.11.1997. The claim made by the applicant that he credited the balance amount of Rs.2132/- has been recorded in para 3.5 of the impugned order of compulsory retirement dated 30.5.2003. The Disciplinary Authority(Respondent No.3) has not denied this credit by the applicant. If the Respondents were sincere to their avowed enforcement of Rules, action would have been taken soon after detection in 1997 itself or immediately thereafter and not in the year 2002, as is done in the instant case. Digging out the matter in 2002 once it was shelved and thereby the applicant was apparently excused has been the outcome of a sense of despair, defeat and revenge on the part of the Respondents. There was no case or inquiry against the applicant on these charges in 1997 or soon thereafter as stated in para 3.2 of the impugned order bearing No.B-2/D.K.Deori/Rule -14 dated 20.5.2003.

A copy of the order bearing No.B-2/D.K.Deori/Rule-14 dated 20.5.2003 is annexed as Annexure -4.

(6) That the Disciplinary authority brought in new charges against the applicant when he recorded in the impugned order that the C.O. (i.e., the applicant) is a habitual offender. This charge of habitual offender is a very serious offence and the disciplinary authority acted on the findings ~~findings~~ of habitual offender to compulsorily retire the applicant from service. This offence of 'habitual offender' being not one of the charges framed against the applicant was not inquired into. The applicant was not given an opportunity

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Deo  
Disciplinary  
Order  
Date

to defend himself against such a serious allegation. The disciplinary authority has, therefore, violated the principles of natural justice and also Articles 14 and 21 of the Constitution of India.

(7) That the Disciplinary authority has also brought in extraneous facts in the impugned order (vide Annexure - 4) which of punishment and these facts/have not been inquired into have strongly and prejudicially influenced his decision to compulsorily retire the applicant from service. The relevant paragraph containing the extraneous facts, not inquired into and not given the applicant an opportunity to defend himself is reproduced below :-

" The image of the Department was badly tarnished due to fraudulent activities committed by certain employees including the charged official. The faith of the public has been badly shaken on the honesty and integrity of the Department with this bad image already suffered by the Department it will be a great liability to retain such persons of fraudulent nature, hence to meet the ends of justice."

Without inquiring into these allegations and without giving the applicant an opportunity to defend himself the disciplinary authority (Respondent No.3) formed his opinion to retire the applicant compulsorily from service. In doing so, the disciplinary authority violated the principles of natural justice and violated Articles 14 and 21 of the Constitution of India.

(8) That though the final orders in the departmental inquiry made denovo was passed on 15.4.2003, reducing the applicant's basic pay by two stages, the applicant was not allowed to work but still kept under suspension as the other inquiry initiated on a closed matter to ~~die~~ ✓

dispense with the applicant's services was then not ready for final orders. The final order compulsorily retiring the applicant from service was passed one month later on 20.5.2003, coinciding with the order of ~~revocation of suspension~~ ~~compulsory retirement~~ from service. On the same day on 20.5.2003, the applicant was posted as P.A. , Itanagar H.O. Once the applicant has been compulsorily retired from service there is no point in posting him as P.A., Itanagar H.O.. The Respondent No.3 by holding denovo inquiry on a closed departmental inquiry and keeping the applicant under suspension through out the inquiry period and by instituting yet another inquiry with the object of shunting the applicant out of service avoided implementation of the orders of the Hon'ble central Administrative Tribunal and the Hon'ble High Court.

annexed as Annexure - 5.

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

(1) For that the Disciplinary authority erred both in law and in facts in compulsorily retiring the applicant from service and as such the impugned order bearing Memo. No. E-2/D.K.Deori/Rule -14 dated 20.5.2003(vide Annexure -4) is liable to be set aside and quashed.

(2) For that the articles of charge No.II in the other  
✓ inquiry (vide Annexure -4) arose out of the articles

✓ The articles of charge No.1 having no merit , the articles of charge No.II pales into insignificance and the same is liable to be dropped.

(3) For that the disciplinary authority in his final impaneled order (vide Annexure - 4) arbitrarily

held that the ~~applicant~~ is a habitual offender. The applicant was not given an opportunity to defend himself against this serious allegation of 'habitual offender' which strongly and prejudicially influenced the Disciplinary authority's decision to compulsorily retire the ~~applicant~~ from service. The Disciplinary authority has thereby violated the principles of natural justice and Articles 14 and 21 of the Constitution of India and as such the impugned order (vide Annexure - 4), compulsorily retiring the applicant from service is liable to be set aside and quashed.

(4) For that the Disciplinary authority in his impugned order (vide Annexure-4) has brought in extraneous facts, not inquired into by the Inquiry Officer or by himself dominantly and to the prejudice of the appellant influenced ~~his~~ decision to compulsorily retire the ~~applicant~~ from service. This is violative of the principles of natural justice and Articles 14 and 21 of the Constitution of India.

(5) For that to punish the applicant for the sum total of fraudulent tactics committed by certain employees of the Department is unjust, arbitrary, and unfair and discriminatory and violative of the principles of natural justice and Articles 14 and 21 of the Constitution of India. The impugned order (vide Annexure - 4) is, therefore, liable to be set aside and quashed.

(6) For that the Disciplinary authority is biased against the applicant and the inquiry on a closed matter relating to the year 1996 and 1997 was instituted with a pre determination to remove the applicant from

Smt. Geeta  
Khandekar  
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service even by compulsory retirement and as such the impugned order (vide Annexure - 4) is bad in law and liable to be set aside and quashed.

(7) For that the charge of misappropriation of Govt. money is not applicable to the applicant as there was no loss of Govt. money. What ever money was found short was made up by the applicant no sooner it was detected in the year 1997, leaving no scope to dig it up in the year 2002, and that too after the appellant was once dismissed from service for offences alleged to have been committed much later. As such the impugned punishment order (vide Annexure - 4) is bad in law and liable to be set aside and quashed.

(8) For that the instant departmental inquiry (vide Annexure - 4) on a very old closed matter has been the outcome of a sense of despair, defeat and revenge on the part of the Respondent No.3 and not for violation of Rule 227(1) of the Postal Manual, Volume IV VI or any other Rules. Had it been so, the instant departmental inquiry would have been initiated in the year 1997 itself when the alleged offence was detected and money recovered from the applicant. The impugned punishment order bearing Memo. No.B-2/D.K.Deori/Rule -14 dated 20.5.2003, compulsorily retiring the applicant from service (vide Annexure - 4) is bad in law and liable to be set aside and quashed.

(9) For that the punishment of compulsory retirement awarded to the applicant in an inquiry instituted on a closed matter so belatedly is too harsh and quite disproportionate to the alleged offence and as such the same is liable to be set aside and quashed.

Subj:   
K. Deori

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(10) For that denovo inquiry on a completed and closed departmental inquiry is illegal, unjust and unfair and as such the punishment order (vide Annexure-2), reducing the pay of the applicant by two stages from Rs. 4900/- to Rs. 4700/- without cumulative effect, conveyed in Memo. No.F-2/D.K.Deori/99-2000 dated 15.4.2003 ~~XXXXXX~~ (vide Annexure - 2) is liable to be set aside and quashed.

(11) For that the impugned order bearing Memo. No. F-2/D.K.Deori/9-2000 dated 13.5.2003 (vide Annexure - 3), modifying the punishment to a higher one by the Disciplinary authority unilaterally is illegal and as such the same is liable to be set aside and quashed.

(12) For that in any view of the matter the impugned punishment orders bearing Memo. No.B-2/D.K. Deori/Rule-14 dated 20.5.2003(vide Annexure - 4), Memo. No.F-2/D.K.Deori/99-2000 dated 15.4.2003 ~~XXX~~ (vide Annexure-2) and Memo. No.F-2/D.K.Deori/9-2000 dated 13.5.2003 (vide Annexure - 3) are bad in law and these are liable to be set aside and quashed.

6. Details of remedies exhausted :

The applicant preffered an appeal before the  
✓ Chief Postmaster General, N.E.Circle, Shillong  
against all the three impunged punishment orders in  
~~XXXXXXXXXXXXXX~~ one appeal as all the three  
orders are related to each other. One Shri N.C.Halder,  
Supdt. of Posts, Office of the Director of Postal  
Services, Arunachal Pradesh Division by a Memo.  
bearing No.B-2D.K.Deori/Rule-14 dated 8.7.2003

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informed the applicant that as desired by the chief Postmaster General, N.E.Circle, Shillong vide his letter No. Staff/109-4/2003 dated 1/3.7.2003 the applicant should prefer separate appeal against each punishment order. The applicant personally approached the authorities at Itanagar and requested to consider the applicant's appeal but they insisted on the compliance of the chief P.M.G's direction. The applicant tried to contact the appellate authority over phone but he could talk to the Staff Officer only who bluntly stated that the applicant should follow the chief P.M.G's direction in the matter. Thereafter, the appellant served a pleader's notice on the chief Postmaster General, N.E. Circle drawing his attention to Rule 26 of the CCS (CC & A) Rules, 1965 which provides for separate appeals by persons and stating that these Rules made no provision for separate appeal against each punishment order. Applicant's advocate further pointed out that there is no legal or procedural flaw in submitting an appeal against three punishment orders which are co-related and inter-related and that the main punishment order is the compulsory retirement from service. On receipt of the pleader's notice the chief Postmaster General sent the following communication to the Director of Postal Services, Arunachal Pradesh Division, Itanagar, marking a copy thereof to the applicant's advocate. The communication runs as under :-

" Subject :- Appeal dated 2.6.03 - case of Sri D.K. Deori, Ex. P.A., A.P. Division.

Kindly refer to this office letter of even No. dtd. 21.8.03 & you are requested to send all documents on the appeal as called for earlier.

Sd/- B.R.Halder

Asst. Director(Staff),

For chief Postmaster General,  
NE Circle, Shillong.

Contd. - P/12

Copy to :-

Sri P.D.Gogoi, Advocate, Gauhati High Court, Basistha Lane No.4 (Near Wireless), Beltola, Guwahati -28.

Sd/- Illigible

For Chief Postmaster General  
N.E.Circle, Shillong. "

That even on receipt of the above communication by the Director of Postal Services, Arunachal Pradesh, Itanagar the records of the appeal case have not been sent to the appellate authority. The Director of Postal Services still insisting on separate appeals against each punishment order as the Chief Postmaster General has not altered in clear words his earlier direction for separate appeal against each punishment order. Thus, the appellate authority is unnecessarily holding up disposal of the appeal, thereby forcing the applicant to prefer this application before the Hon'ble Tribunal for the ends of justice.

The Hon'ble Tribunal may be pleased to take up and dispose of this Original Application without disposal of the appeal arbitrarily held up by the Chief Postmaster General, N.E.Circle, Shillong.

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

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

8. Relief sought :

In view of the facts stated hereinabove, the applicant prays for the following reliefs :-

(1) To set aside and quash the impugned order bearing Memo. No. B-2/D.K.Deori/Rule -14 dated 20.5.2003(vide Annexure -4), compulsorily retiring the applicant from service.

(2) To reinstate the applicant in service from the date of compulsory retirement without loss of pay and service.

(3) To set aside and quash the order bearing Memo. No.F-2/D.K.Deori/99-2000 dated 15.4.2003, reducing the pay of the applicant by two stages from Rs. 4900/- to Rs. 4700/- without cumulative effect(vide Annexure-2).

(4) To set aside and quash the order bearing Memo. No.F-2/D.K.Deori/99-2000 dated 20.5.2003, modifying the punishment to one with cumulative effect (vide Annexure -3).

(5) To set aside and quash any order that the appellate authority may pass before or after filing of this application , upholding or modifying to the disadvantage of the applicant any or all orders of punishment mentioned at sub-para (1), (3) and (4) above of this para.

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

10. Particulars of IPO.

(1) IPO NO. 116389304 for R.5/-

(2) Date of issue - 6-5-2004

(3) Payable

Sri D. K. Deori

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12. List of enclosures :-

(1) F-2/D.K.Deori/99-2000 dated 30.4.02

(Annexure -1)

(2) Memo No.F-2/D.K.Depri/99-2000 dated 15.4.03.

(Annexure- 2)

(3) Memo No.F-2/D.K.Deori/9-2000 dated 13.5.03

(vide Annexure -3)

(4) Memo. No.B-2/D.K.Deori/Rule-14 dated 20.5.2003.

(vide Annexure-4)

(5) No.B-2D.K.Deori/Rule-14 dated 8.7.2003 from Supdt. of Posts, Itanagar.

(6) No. Staff/109-4/03 dated 18.2.2004 from Asstt. Director (Staff) for Chief Postmaster General, N.E. Circle, Shillong.

(7) Memo No. B-2/42-3/V dated 20-5-2003

(Annexure-5)

(8) No.F-2/D.K.Deori/99-2000 dated 20-5-2003

(9) Departmental appeal dated 2-6-2003

(10) Memo No. B-2 D.K.Deori/Rule-14

Dated 8-7-2003

(11) Pleader's Notice dated 27-01-2004

(12) Memo No. Staff/109-4/03 dated 18-2-2003

(verification at page 15)

VERIFICATION

I, Shri Dinesh Kumar Deori, son of late Lokendra Deori, aged about 43 years, Ex. Postal Assistant, Itanagar H.O., resident of Silapathar, P.O. and P.S. Silapathar, District - Dhemaji, Assam do hereby verify that the contents of paras 1, 2, 3, 4(1), 4(20), 4(3), 4(4), 4(5), 4(8), 6 and 7 are true to my personal knowledge and paras 4(6), 4(7), 5(1), 5(2), 5(3), 5(4), 5(5), 5(6), 5(7), 5(8), 5(9), 5(10), 5(11) and 5(12) believed to be true on legal advice and that I have not suppressed any material fact.

Date : 9/5/04

Place : Guwahati.

Sri Dinesh K. Deori

Signature of the Applicant.

DEPARTMENT OF POSTS

Office of the Director Postal Services: Arunachal Pradesh  
division Itanagar- 791111

NO.F-2D.K.Deori/99-2000 dated at Itanagar the 30/04/02

WHEREAS Shri D.K.Deori, the then SPM Roing was dismissed from service with effect from 14/11/2000(A/N) on the ground of allegations which led to his punishment.

AND WHEREAS the Central Administration Tribunal, Guwahati Bench vide order OA No. 147 of 2001 dated 03/01/02 has held that "the impugned order dated. 14/11/2000 dismissing the applicant from service passed by the Director of postal Services, Arunachal Pradesh Division, Itanagar as well as the appellate order dated 13/03/2001 are not sustainable in law and accordingly both the orders are set aside and quashed. The respondents are directed to reinstate the applicant in service forthwith. He shall, however, not be entitled to the back wages. The applicant shall, however, be given all other service benefits including seniority other than the back wages". The Hon'ble High Court Gauhati in WP(C) 1084 of 2002 has held that " the impugned judgment passed by the learned Tribunal directing re-instatement of the respondent without back wages call for no interference. Since there is no mention in the judgement regarding imposition of punishment, we leave the matter to the disciplinary authority to consider and impose any punishment permissible under the law other than the penalty of dismissal!"

certified to be  
true copy

29/4/2004  
(P.D. Dang)  
Advocate

AND WHEREAS in consequence of such judgment the undersigned has decided that the said order of dismissal should be set aside.

....contd.

AND WHEREAS the undersigned on a consideration of the circumstances of the case has also decided that a further inquiry should be held under the provisions of CCS(CCA) Rules 1965, against the said Shri D.K.Deori the then SPM Roing on the allegations which led to his dismissal.

NOW, THEREFORE, the undersigned hereby:-

- i) Sets aside the said order of dismissal and re-instate Shri D.K.Deori as per order passed by the Hon'ble High court Guwahati for re-instatement of Shri D.K.Deori without back wages.
- ii) Directs that a further inquiry should be held under the provisions of the CCS(CCA) Rules 1965, against Shri D.K.Deori, the then SPM Roing on the allegations which led to his dismissal from service.
- iii) Directs that the said Shri D.K.Deori the then SPM Roing so shall, under Sub-Rule (4) of Rule (10) of the CCA(CCA) Rules 1965 be deemed to have been placed under suspension with effect from the date of reinstatement and shall remain under suspension until further orders.

Sd/-

To,

Shri D.K.Deori

Postal Colony

Itanagar.

Director of Postal service

Arunachal Pradesh,

Itanagar-791111.

Contd.....

Certified to be true  
copy.

Over  
29/4/2004  
(P. D. Singh)  
Advocate

DEPARTMENT OF POSTS : INDIA

Office of the Director Postal Services : Arunachal Pradesh

Division, ITANAGAR- 791111

Memo no. F-2/D.K.Deori/99-2000

Date: 15-04-03

Shri D.K.Deori the then SPM Roing Sounder Itanagar HO was chargesheeted under Rule-14 of the CCS (CC&A) Rules, 1965 and the memorandum of charges along with substance of the imputation of misconduct or misbehaviour in respect of which the inquiry was proposed to be held, the statement of the imputation of misconduct or misbehaviour in respect of each article of charge, the list of documents by which, and the list of witness by whom, the articles of charges were proposed to be sustained was sent to Shri D.K.Deori, the charged official vide this office memo. no. of even. Dated 12-04-2000. It is imputed that

1. The said Shri D.K.Deori, while working as the SPM, Roing SO during the period w.e.f. 03-08-99 to 17-09-99 misappropriated postal cash amounting to Rs. 3000.00 (three thousand only) from the SO A/C of Roing SO and thus violated the provision of Rule - 23(2) of P&T Man. Vol VI partI and Rule 3(1)(i)(iii) of CCS (conduct) Rules 1964.
2. Said Shri D.K.Deori, while working as SPM, Roing SO has shown Rs. 1628.00 twice as MO paid. Once on 06-08-99 and again on 07-08-99 whereas the MO was actually paid on 07-08-99. Thus Shri Deori misappropriated Rs. 1628.00 shown as MO payment on 06-08-99 and violated the provision of Rule-29 and 38 of P&T Man. Vol VI partIII also the provision of Rule 3(I)(i)(iii) of CCS(Conduct) Rules 1964.

*Certified to be  
true copy,*

*29/4/2004  
(P.D.Goga)*

*Contd.....*

3. Said Shri D.K.Deori while working as the SPM Roing SO misappropriated Rs. 30000.00 by showing the amount fraudulently as bank remittance on 08-09-99 and thus violated the provision of Rule - 38 and 104 of P&T Man. Vol VI Part III and also the provision of Rule-3(I)(i)(ii)(iii) of CCS (conduct) Rules 1964.
4. Said Shri D.K.Deori while working as the SPM Roing SO has lost one 6yrs. NSC having No. 1900-116100 for Rs. 5000.00 and thus violated the provision of Rule- 23(2) of P&T MAN.Vol VI Part I and Rule-3(I)(i)(ii)(iii) of CCS(conduct) Rules 1964.
5. Said Shri D.K.Deori while working as SPM Roing SO took Rs. 600.00 excess over the pay drawn i/r/o him for the month of Aug'99 on ACG - 17 and violated the provision of Rule - 16 of FHB vol.1 and Rule-3 (I)(i)(ii)(iii) of CCS(conduct ) Rule 1964.
6. Said Shri D.K.Deori during his working as SPM Roing SO received Rs. 1500.00 as BO remittance from Koronu BO on 18-08-99. He did not acknowledge the remittance ~~XXXXXX~~ over and above showed a sum of Rs. 1500.00 as remittance to Koronu BO from Roing SO. on 18-08-99 in the transit column of BO summary and thus the discrepancy with the Koronu BO A/C amounted to Rs. 3000.00 which was misappropriated by him violating the provision of Rule 67 & 74 of P & T Man. Vol VI Part III And Rule -3(1)(i)(ii)(iii) of CCS (conduct) Rules 1964.
7. Said Shri D.K.Deori during his working as the SPM Roing SO burnt some important office records. He also delayed issuance of BO MO ~~XXXXXX~~ which is unbecoming of a Govt. Servant and

Contd.....

XXXX thus violated the provision of Rule-69(4)of P&T Man.Vol VI Part III and Rule-3(I)(i)(ii)(iii) of CCS(Conduct)Rules 1964.

8. Said Shri D.K.Deori during his working as SPM Roing SO received Rs. 4200.00 from 2 nos. of BOs under Roing SO on 30-08-99 but acknowledged the receipt on 12-09-99 and thus he temporarily misappropriated the amount violating the provision of Rule-66&67 P&T Man. Vol. VI Part III and also the provision of Rule 3(I)(i) (ii) (iii) of CCS(Conduct)Rules 1964.

The Said Shri D.K.Deori was asked to submit within 10 (ten) days of receipt of the memorandum, a written statement of his defence and also to state whether he desire to be heard in person. The said CO was also informed that an inquiry would be held only in respect of those articles of charge as were not admitted. The CO was further informed to admit or deny each article of charge XXX specifically. The said Shri D.K.Deori submitted his written statement of his defence vide his letter no. nil dated 20-04-2000. In it, Shri D.K.Deori XXX admitted the charges and gave particulars of amount credited by him. He denied the Article no.7 of Annexure I of having burnt office records. It was proposed to hold an inquiry into the charges and Shri D. Majumder, ASP(C), Itanagar and Shri M.A.Malai, SDI(W), Itanagar were appointed as Inquiry Authority and Presenting Officer respectfully vide this office memo no of even no. dated 05-05-2000/ 05-05-2000 to inquire into the said case.

5. Disciplinary Proceedings:-

Shri D. Majumdar was appointed as IO to inquire into the charges framed under Rule-14 of CCS(CCA) Rule 1965 against Shri D.K.Deori the then SPM Roing SO under suspension XXX vide DPS, Itanagar

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Memo No. F-2/D.K.Deori/99-2000 dated 05-05-2000, Shri D. Majumdar ~~xx~~ submitted his Inquiry report vide his Letter no. Inq/D.K.Deori dated 06-09-2000.

In brief -

preliminary hearing was fixed on 31-08-2000. Shri Deori was asked to intimate in writing about the name and other particulars of his Defence Assistant and his controlling authority along with the willingness of his Defence Assistant if he so desired to defend the case on his behalf. But Shri D.K.Deori attended the hearing without defence Assistant. He was again asked before starting of the hearing if he wanted to nominate defence Assistant but he did not so desire.

The CO was asked if he had received the ~~charge~~ charge sheet and submitted defence statement. He stated to have received the same and submitted a reply. The charge sheet was read out and explained to him line by line. He was then asked ~~xx~~ if he had understood the charges fully. He admitted to have understood completely. He was then asked if he admitted all the charges or any of them. He admitted the charges from 1 to 6 and 8 fully and unequivocally. In respect of article of charge no. 7, he stated that he did not burn any office records. But he admitted that he made delay in reissue of BO MOs. Thus he partially admitted charge No. 7.

The CO stated that he credited the whole amount involved in the instant charges and produced ACG-67 receipt No. 89 (dated 10-02-2000, 92 dated 14-02-2000, 20 dated 25-03-2000, 38 dated 29-04-2000 and receipt no. 40 dated 03-05-2000 of Itanagar HO. The total amount so credited was Rs. 43228.00. In his defence statement also he admitted that he had credited Rs. 35000.00 and gave assurance to credit the balance Rs. 8,228.00 soon.

Contd.....

The Inquiry officer has held that the charge of burning of important office documents in article VII is not specific and can not be proved. As shri D.K. Deori has unequivocally admitted the charges in Article I to vi and viii, the Inquiry Officer decided not to proceed further and the case was closed. The IO has held that charges framed against the charged official stands proved.

6. The said shri D.K. Deori was finally given an opportunity to submit his representation if any on his defence within 15(fifteen) days of receipt by endorsing the final report of the IO before passing final order by the Disciplinary Authority vide this office letter of even ~~xxx~~ no dated 28-09-2000. Shri D.K. Deori submitted his representation vide his letter no nil dated nil which was received at this office on 09-10-2000. In it he confessed to have misappropriated some amount while working as SPM Roing SO due to his foolishness.

FINDINGS

The findings of the then ~~xxx~~ DPS Itanagar, the disciplinary authority runs as under

" I have gone through the whole case carefully along with the final report of the IO, daily order sheet and the list of documents in support of the charges.

I Have read the Letter no. Roing/A/C/99 dated 15-11-99 of SPM Roing SO wherein he had reported ~~xxx~~ that Rs. 3000.00 was found short in cash when Shri D.K. Deori handed over the charge to him and was reflected in the charge report. I have also checked the SO account for 15-11-99 wherein an amount of Rs. 3000.00 has been charged to UCP. It is clearly established that Shri D.K. Deori misappropriated the SO cash found short and Article I of the charge stands proved.

I have checked the Roing SO daily account dated 06-08-99

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XXX and 07-08-99 wherein an amount of Rs. 1628.00 has been shown as MO paid on both days. The MO ~~xxx~~ paid list of 06-08-99 and 07-08-99 both ~~xxx~~ shows MO No. 408 for Rs. 1628.00 but only one paid voucher of Itanagar HO MO No. 408 for Rs. 1628.00 found. It is clearly established that Shri D.K.Deori has shown the same MO as paid on two days in the SO account and misappropriated ~~xxx~~ an amount of Rs. 1628.00. the Article II of the charge stands proved.

In the SO account dated 08-09-2000 and the SO daily account of the same date, it is seen an amount of Rs. 30,000 has been shown as remittance to SBI. But in the ACG-8 register for bank remittance there is no remittance entered for 08-09-99. on 06-09-99, a remittance of Rs. 82,000.00 to SBI is entered and on 10-09-99 another ~~xxx~~ remittance of Rs. 2000.00 is entered. Thus Shri D.K.Deori ~~xxx~~ has misappropriated the amount of Rs. 30,000.00 by showing a false remittance. The Article III of charge stands proved.

The other article of charges are also proved by the reports of Shri K.Pandit SDI(E) Jairampur and Postmaster Itanagar HO, the officials who perform checks on the working of the SPM Roing SO, as well as corroborative documents on ~~xxxxxx~~ record.

The first three articles of charge stands proved beyond reasonable doubt by the admission of Shri D.K.Deori as well as office records maintained by Shri D.K.Deori. The charges pertaining to shortage in post office cash, and misappropriating post office office cash by intentionally entering false post office records as ~~xxx~~ MO payment and remittance to bank are of a ~~xxxxxx~~ sufficiently serious nature, and Shri D.K.Deori has failed to maintain absolute integrity and has shown lack of devotion to duty thereby violating the provisions of Rule 3(I)(i) and Rule 3(I)(ii) of CCS(Conduct) Rules 1964.

5. As regards the quantum of punishment, Shri D.K.Deori has not

Contd.....

brought any extenuating circumstances in mitigation. Shri D.K.Deori has stated that he committed the mistakes due to his foolishness. He has ~~xx~~ asked for leniency on the pledge that he shall not commit such mistakes in future. The charge against Shri D.K.Deori includes intentionally showing wrong entries in post office records and misappropriating the resultant amount himself. The charge is of a serious nature and misusing a position of trust. I find no reason for any leniency."

I have personally gone through the whole case thoroughly and I ~~xxxxx~~ do not find any point to disagree with the findings of the previous disciplinary authority. It was also observed that the CO, Shri DK Deori did not avail the facility of appealing to the appropriate higher authority, but directly approached Hon'ble CAT for redressal of his grievances, against the order of the Disciplinary authority, thus deviating from the prescribed rules and regulations of the Department.

ORDER

I Smti M. Iawphnias, Director of Postal services, Arunachal Pradesh division, Itanagar have taken into consideration the orders of the Hon'ble CAT Guwahati passed vide decision dated 3rd day of January 2002 in the matter of OA No. 147 of 2001 and also the orders of the ~~xx~~ Hon'ble High Court Guwahati vide order dated 08-04-2002 in the matter of WP (C) NO. 1084 of 2002 ordering that Shri D.K.Deori may be awarded any punishment other than dismissal.

Considering the gravity of the case and the moral turpitude on the part of Shri D.K.Deori, a lesser punishment of removal from service would justify, But I have taken a lenient view, hence I Smti M.Iawphnias, Director of Postal Services Itanagar hereby modify the punishment of dismissal and award Shri ~~xxxxx~~ D.K.Deori

Contd.....

the punishment of reduction of pay by two stages in the scale of pay 4000-100-6000 from Rs. 4900/- to Rs. 4700/- without cumulative effect.

Sd/-

(M. Lawphnial)

Director of Postal Services

Copy to :

1. Shri D.K. Deori, PA, Itanagar HO (U/S)
2. The CPMG (Inv)
3. punishment Register
4. personal file of Shri D.K. Deori
5. C.R. file Shri D.K. Deori
6. The PM Itanagar HO
7. The PAO Kolkata, O/O DA(P) Kolkata  
through PM ~~XXXXXXXXXX~~ Itanagar HO
8. O/C

Sd/-

Director Postal services.

Certified to be true

Copy

④  
29/4/2004  
( P.D. Singh)  
Adulali

DEPARTMENT OF POSTS : INDIA

Office of the Director Postal Services, Arunachal Pradesh  
Division, ITANAGAR - 791111

Corrigendum

Memo No. F-2/D.K.Deori/9-2000

date: 13-05-03

In partial modification of this office memo of even no dt 15/16-04-03 read the 11th line of the last paragraphs "the scale of pay- 4000-100-6000 from Rs. 4900 to Rs. 4700 with cumulative effect with immediate effect instead of "the scale of pay 4000-100-6000 from Rs. 4900 to Rs. 4700 without cumulative effect.

All concerned are requested to correct the ~~xx~~ previous order accordingly.

sd/-

(M. Iawphniaw)

Director Postal Services

Copy to :

1. Shri D.K.DEORI
2. The CPMG(Inv)
3. Punishment file of Shri D.K.Deori
4. Personal file of Shri D.K.Deori
5. C.R.file Shri D.K.Deori
6. The PM Itanagar HO
7. The ~~PAO~~ PAO Kolkata, O/oDA(P) Kolkata through PM Itanagar HO
8. O/c

sd/-

(M. Iawphniaw)

Director Postal Services

Certified to be  
true copy.

Contd.....

29/4/2004  
(P. D. Lohani)  
Advocate

Office of the Director Postal Services  
Arunachal Pradesh Division  
ITANAGAR-791111

Memo. No. B-2/D.K.DEORI/Rule-14

Dated : 20.5.2003

Shri D.K.Deori the the PA Naharlagun SO now working as PA under suspension Itanagar HO Arunachal Pradesh Division was proceeded against under Rule -14 of the CCS(CCA) Rules ,1965 vide this office MemoNo. The ~~X~~ articles of charge levelled against Shri D.K.Deori runs as under.

ANNEXURE - I

Statement of Article of charge framed ~~xxxxxx~~ against Shri D.K. Deori, PA Naharlagun SO with Itanagar HO.

ARTICLE - I

Shri D.K.Deori , while working as the parcel and Registration clerk of Naharlagun SO during April/1995 to December 1997 misappropriated govt. cash amounting to Rs. 9132/- (Rs. Nine Thousand One Hundred Thirty Two) only in respect of VP articles. He delivered 31 No.s of VP articles involving aforesaid amount but failed to credit the amount so realised to Govt. cash and thus failed to maintain devotion to duty as well as ~~xxxxxx~~ integrity and contravened the provision of rule 227(1) of Postal Manual Volume VI and at the same ~~X~~ time violated the provision of rule3(1)(i) (ii) of CCS conduct Rules 1964.

ARTICLE - II

The said SHRI D.K.Deori while working as the parcel and registration clerk at Naharlagun SO during June 1997 to November 1997 did not maintain departmental rules and regulation properly. He made entry in the vp register regarding receipt of the articles

Contd.....

Certified to be  
true copy.

~~See~~  
29th/2001  
(P.D.Gogoi)  
Advocate.

~~XXX~~ but did not note the disposal particulars against the VP article and thus violated the provision of rule 219 (5) of Postal Manual volume VI and the ~~X~~ same time violated the provision of ~~X~~ rule 3(1) (i)(ii) of CCS Conduct Rules.

ANNEXURE - II

Statement of imputation of misconduct or misbehaviours in support of the articles of charge framed ~~XXXXXX~~ against Shri D.K.Deori the then PA at Naharlagun SO in a/c with Itanagar HO.

ARTICLE - I

That said Shri D.K.Deori during his working as the parcel and registration clerks at Naharlagun SO delivered following VP articles to the addressee but did not credit the money received to the Govt. account.

<u>SRL.</u>	<u>VP NO</u>	<u>DATE</u>	<u>VALUE</u>	<u>COMMISSION</u>
<u>NO.</u>				
01	41334	11.4.97	650.00	33.00
2	41293	11.4.97	650.00	33.00
3	879	2.4.97	100.00	5.00
4	4322	26.4.97	252.00	13.00
5	1241	8.5.97	299.00	15.00
6	107	1.5.97	333.00	17.00
7	1899	1.5.97	100.00	5.00
8	219	3.5.97	280.00	14.00
9	102	3.5.97	267.00	14.00
10	4463	24.5.97	252.00	13.00
11	695	2.6.97	70.00	4.00
12	2888	3.4.97	225.00	12.00
13	247	2.5.97	100.00	5.00
14.	1687	2.5.97	56.00	3.00
15	367	2.5.97	350.00	18.00
16.	653	26.4.97	112.00	6.00

17	704	26.4.97	150.000	8.00
18	1307	16.5.97	90.00	5.00
19	1693	2.5.97	56.00	3.00
20	248	2.5.97	100.00	5.00
21	F 3846	15.4.97	245.00	13.00
22.	F 3845	15.4.97	245.00	13.00
23	F 3843.97	15.4.97	245.00	13.00
24	9389	7.4.97	325.00	17.00
25	1205	21.3.97	55.00	3.00
26	56	15.3.97	350.00	18.00
27	51204	19.5.97	650.00	33.00
28	33	2.5.97	520.00	26.00
29	32	2.5.97	520.00	26.00
30	34	2.5.97	520.00	26.00
31	35	2.5.97	520.00	26.00

8687/- + 445.00 = 9132/-

The said Shri D.K. Deori infringed the provisions of Rule 227(1) of Postal Manual Volume VI and at the same time violated the provisions of rule 3(1)(i) & (ii) of CCS (Conduct) Rules 1964.

ARTICLE - II

The said Shri D.K. Deori while working as the parcel and Registration clerk at Naharlagun SO made entries in the V.P. Register regarding receipt of the following articles.

Srl No.	VP NO	AMOUNT	DATE OF RECEIPT
1	1479	658.00	10.1.96
2	0191	213.00	4.1.96
3.	101	241.00	4.1.96
4.	4296	210.00	24.1.96
5.	6362	249.00	24.1.96
6.	0353	280.00	24.1.96

Contd.....

7.	1989	300.00	25.1.96
8.	268	1098.00	25.1.96
9.	266	1248.00	25.1.96
10.	260	1053.00	25.1.96
11.	267	554.00	25.1.96
12.	12377	108.00	25.1.96
13.	7337	92.00	25.1.96
14.	2095	288.00	27.1.96
15.	35	330.00	30.1.96
16.	455	750.00 XXXXXX	31.1.96
17.	1837	611.00	3.2.96
18.	56374	170.00	15.2.96
19.	345	140.00	15.2.96
20.	1830	636.00	15.2.96
21.	3385	270.00	24.2.96
22.	4065	210.00	24.2.96
23.	1413	245.00	26.2.96
24.	307	295.00	27.2.96
25.	936	60.00	1.3.96
26.	46185	50.00	1.3.96
27.	39	330.00	13.3.96
28.	1616	600.00	14.3.96
29.	1633	20.00	15.3.96
30.	40775	252.00	16.3.96
31.	40772	252.00	16.3.96
32.	1249	300.00	18.3.96
33.	2339	300.00	20.3.96
34.	55056	245.00	20.3.96

Contd.....

35.	559	138.00	22.3.96
36.	66	345.00	25.3.96
37.	113	360.00	25.3.96
38.	1881	50.00	27.3.96
39.	1695	295.00	2.4.96
40.	2723	365	2.4.96
41.	389	320.00	3.4.96
42.	969	450.00	4.4.96
43.	1794	319.00	4.4.96
44.	2724	160.00	4.4.96
45.	1838	679.00	6.4.96
46.	1837	604.00	6.4.96
47.	556	245.00	6.4.96
48.	64174	50.00	11.4.96
49	983	365.00	24.2.96

The original entries of the number of the articles had not been encircled when the articles were finally disposed of. The final disposal of the articles viz. the particulars of ~~XXXXX~~ money order issued in lieu of VP articles/redirected to /unclaimed or refund had not been noted against the entries appearing in the register. Thus the said Shri. D.K. Deori by doing so violated the provision of Rule 219(5) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS Conduct Rules 1964.

ANNEXURE - III

List of documents by which the articles of charge framed ~~XXXXXX~~

Contd.....

~~XXXXXX~~ against Shri D.K.Deori PA Naharlagun SO are proposed to be sustained .

1. Reports of the ~~XXXXXX~~ then complaint Inspector.
2. Reports of the SPM Naharlagun
3. VP register.

ANNEXURE -IV

List of witness by whom the articles of charge framed against Shri D.K.Deori the then PA Naharlagun SO

1. Shri D.K.Dey the then CI Arunachal Division Itanagar
2. Shri E.K.Rajan SPM Naharlagun SO

FINDINGS BY THE INQUIRY AUTHORITY

Article of Charge I

Shri D.K.Deori , while working as the parcel and Registration clerk of Naharlagun SO during April 1995 to December 1997 misappropriated Govt. Cash amounting to Rs. 9132/- (Rupees Nine thousand one hundred thirtytwo ) only in respect of VP articles. He delivered 31 Nos of VP articles involving aforesaid amount but failed to credit the amount so realised to Govt. cash and thus failed to maintain devotion to duty as well as integrity and contravened the provision of rule 227(1) of Postal Manual Vol.VI and at the same time violated the provision of rule 31(i)(ii) of CCS (conduct) Rules 1964.

Article of Charge II

The said Shri D.K.Deori while working as the Parcel and registration clerk at Naharlagun SO during June 1997 to November 1997 did not maintain departmental rules and regulation properly. He made entry in the VP register regarding receipt of the ~~XX~~

Contd.....

articles but did not note the disposal particulars against the VP articles and thus violated the provision of rule 219(5) of Postal Manual Volume VI and at the same time violated the provision of Rule 3(1)(i)(ii) of CCS (conduct) Rules, 1964.

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri D.K. Deori the then PA at Naharlagun SO in a/c with Itanagar HO.

Attached as Annexure "A"

3. The preliminary hearing in the case was held on 29.4.2000. The two articles of charges were read out to the CO and explained to him. The CO stated that he understood the charges framed against him. The CO was given to state clearly whether he admitted the charges framed against him. The CO stated that he pleaded guilty in both the articles of charge framed against him unequivocally. The CO was given the reasonable opportunity to appoint his defence assistant but he stated that he did not wish to appoint a defence assistant.

3.1 On the day of preliminary hearing on 29.4.2000 the examination of the documents listed in Annexure III of the charge sheet commenced. The CO was given to examine all the listed documents. He examined all the listed documents and authenticated as genuine.

3.2. The case was ordered to be closed as the CO was dismissed from service in connection with another case. The present case was reopened when the CCS (CCA) Rules 1965 became applicable to the CO.

3.3. The next hearing was held on 02.8.2002. Examination of the documents continued. Examination of the Report of the complaints Inspector revealed that the C.I. visited the Naharlagun SO on

Contd. ....

28.8.97 and verified the VP register covering the period from 20.12.1995 to 11.7.1997 in which he found record of as many as 70 Nos of VP articles received but no record of disposal of VP articles were found. The value of the VP articles was to the tune of Rs. 22,863.00. Evidently, the value of the VP articles realised from the public were not duly accounted for in the Govt. Account.

3.4 Examination of the reports of the SPM ~~XXX~~ Naharlagun revealed that (a) seven(7) VP articles received in the SO had been delivered to the ~~to~~ public addressees but the VPMOs being the value of the articles were not remitted to the concerned senders: (b) Seven(7) more articles were recorded received in the VP register but no record of disposal of the articles could be found; (c) a number of complaints were received at Naharlagun SO in connection with VP articles; (d) Rs.7000/- was deposited by the CO on 19.11.97 against 26 numbers of VP articles delivered to the public and value realised along with 31(thirtyone) numbers of original VPMO ~~XXX~~ forms and 26 VP Money Orders out of 31 were issued on 19.11.97.

3.5 The next hearing was held on 03.8.2002. The CO was given the opportunity to state his defence on the revelations during examination of the listed documents. The CO stated that he had nothing to say on the documents examined. The CO stated that he failed to credit the amount of the VP articles delivered on different dates on the date of delivery. He further stated that he credited the amount of the VP articles on later date at ~~XXX~~ Naharlagun PO and the ~~VPMOs~~ VPMOs were also issued. But he stated that he did not remember the date of credit of the amount and date of issue of the VPMOs.

3.6 Examination of the listed witnesses were carried out on

Contd.....

XXX 3.8.2022. During examination, the witness Shri E.K.Rajan the SPM Naharlagun SO, stated that he checked the VP Register with the VP articles shown in deposit were not found and the VPMOs were not issued. On enquiry with the PA VP Branch Shri. D.K. Deori he noticed that the VP articles were delivered to the addresses on different dates but the VPMOs were not issued on the date of delivery of the VP articles. The witness further added to state that the CO misused the VP delivered amount for his own purpose and did not make good the amount timely. The witness further stated that he consulted with the VP complaints received at the office (Naharlagun), actually verified with all relevant records in the office and submitted report to the XXX DPS Itanagar. The CO was given the opportunity to cross-examine the witness Shri. XXX E.K.Rajan, the SPM but he XXX stated that he has nothing to cross-examine the witness.

3.7 The next hearing was held on 11.1.2003. At the outset the CO was given the opportunity to refresh himself on the points discussed in the earlier sessions of hearing. Then the PO was given to examine the witness Shri.D.K.Dey, the then Complaints Inspector. During examination the witness stated that during his investigative visit in Naharlagun SO on 28.8.97 he found the VP Register not maintained properly. The particulars of the VP articles cited in his report as Annexure 'A' were actually found in other records of the SO viz. Registered List, Parcel List etc. The witness further stated that the disposal particulars of XXXXXXXXXX XXX the articles were not recorded in the related VP register nor were the relevant VPMO forms found on record. Examination of the witness being over the CO was given to cross the witness Shri D.K.Dey. The CO stated that he had nothing to examine the witness.

Contd. ....

XXX 3.8 At this stage the sessions of examination of the documents and witness were over. The PO was given to officer his brief in the house of inquiry in presence of the CO. In his brief the PO stated that the two articles of charges were read out to the CO and explained to him. The CO stated that he understood the contents of the articles of charge. The CO was given to state clearly whether he admitted the articles of charges framed against him. The charged officer Shri. Deori pleaded guilty in all charges levelled against him and admitted the charges unequivocally. ~~XXX~~ The CO was given the reasonable opportunity to appoint his defence assistant but he did not avail the facility. The documents listed in Annexure III of the charge sheet were produced for examination of the CO. Shri. D.K. Deori examined the documents and authenticated them as genuine and they were taken into exhibits. The witness Shri. E.K. Rajan the SPM the SPM Naharlagun was examined and the witness stated that he checked the VP registers with the VP articles in deposit and many VP articles shown in deposit were not found and the VPMOs were not issued. The witness further stated that on his enquiry with the VP Branch Shri. D.K. Deori the CO he noticed that the VP articles were delivered to the addresses on different dates but the VPMOs were not issued on the date of delivery of the VP articles and the CO misused the VP delivered amounts for his own purpose. The witness further stated that the value of another 23 Nos. of VP articles were not remitted by Naharlagun SO as per complaints received from the senders of the VP articles. The other witness Shri. D.K. Dey the then Complaints Inspector during examination stated that during his investigate visit to Naharlagun SO he found that the VP register was not maintained properly and that the list of VPs mentioned in the report were actually collected from other records of the SO viz, Registered Lists, Parcel Lists, Etc. The PO concluded his brief stating that on the basis

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of the result of the examination of the documentary evidences as also the result of the examination of witness it is established that both the articles charges leveled against Shri.D.K.Deori stand proved.

~~XXX~~ 3.9 At this stage, the CO was given the opportunity to submit his final defence either in writing or verbally instantly during the inquiry or taking reasonable time for the purpose of preparation of his final defence in writing or verbally. The CO stated that he did not wish to take time for submission of his final defence. He submitted verbatim that he admits that he had committed guilt and it was a matter of ill luck on his part. The CO added to submit his prayer to the authorities of the Department for consideration of his case with promise that he will not commit any such offence in future. The CO stated, " I have my family to support with children in college to be supported; I ~~do~~ do not hail from a rich family". At this stage the inquiry concluded.

The charged officer Shri.D.K.Deori was given all the reasonable opportunity ~~xx~~ embodied in Rule-14 of the CCS(CCA) Rules 1965. He was given the opportunity to understand the charges framed against him and state his defence. He was given the opportunity to ~~xxxxxx~~ appoint his defence assistant to assist him to present his defence. All the documentary evidences cited in the charge sheet were examined. All the witness cited in the ~~xxxxxx~~ charge sheet were examined. The Charged officer Shri. D.K.Deori was given opportunities at every stage to examine and cross-examine any documentary evidence or witness. When given to offer his final defence he only admitted his guilt and prayed for sympathy.

Based on the revelations during examination of the documentary evidences, revelations during examination of the witness and by the charged officer's own unequivocal admission of the

Contd.....

charges brought against him, the Article of Charge I and the Article of Charge II framed against Shri.D.K.Deori, the Postal Assistant (under suspension), Itanagar HO are proved beyond any reasonable doubt.

FINDINGS BY THE DISCIPLINARY AUTHORITY

ARTICLE -II

Statement of imputation of misconduct ~~xxx~~ or misbehaviour in support of the articles of charge framed against Shri D.K.Deori the then PA at Naharlagun SO in a/c with Itanagar HO.

ARTICLE -I

That said Shri.D.K.Deori during his working as the parcel and registration clerks at Naharlagun SO delivered following VP articles to the addressee but did not credit the money received to the Govt. account.

SRL. NO.	VP NO.	DATE	VALUE	COMMISSION
01	41334	11.4.97	650.00	33.00
2	41293	11.4.97	650.00	33.00
3	879	2.4.97	100.00	5.00
4	4322	26.4.97	252.00	<del>13.00</del> 13.00
5	1241	8.5.97	299.00	15.00
6	107	1.5.97	333.00	17.00
7	1699	1.5.97	100.00	5.00
8	219	7.5.97	280.00	14.00
9	102	3.5.97	267.00	14.00
10	4463	24.5.97	252.00	13.00
11	695	2.6.97	70.00	4.00
12	2888	3.4.97	225.00	12.00

Contd. ....

13	247	2.5.97	100.00	5.00
14	1687	2.5.97	56.00	3.00
15	367	2.5.97	350.00	18.00
16	653	26.4.97	112.00	6.00
17	704	26.4.97	150.00	8.00
18	1307	16.5.97	90.00	5.00
19	1693	2.5.97	56.00	3.00
20	248	2.5.97	100.00	5.00
21	F 3846	15.4.97	245.00	13.00
22	F 3845	15.4.97	245.00	13.00
23	F 3843	15.4.97	245.00	13.00
24	9389	7.4.97	325.00	17.00
25	1205	21.3.97	55.00	3.00
26	56	15.3.97	356.00	18.00
27	51204	19.5.97	650.00	33.00
28	33	2.5.97	520.00	26.00
29	32	2.5.97	520.00	26.00
30	34	2.5.97	520.00	26.00
31	35	2.5.97	520.00	26.00

8687/- 445.00=9132/-

Thus said Shri D.K.Deori infringed the provision of Rule 227(1) of Postal Manual volume VI and at the same time violated the provision of rule 3(1)(i) & (ii) of CCS (Conduct) Rules 1964.

Article -II

That said Shri D.K.Deori while working as the Parcel and Registration clerk at Naharlagun SO made entries in the VP register regarding receipt of the following articles:-

<u>Srl.No.</u>	<u>VP NO</u>	<u>AMOUNT</u>	<u>DATE OF RECEIPT</u>
1	1479	658.00	10.1.96
2	0191	213.00	4.1.96

Contd.....

3	101	241.00	4.1.96
4	4296	210.00	24.1.96
5	6362	249.00	24.1.96
6	0353	280.00	24.1.96
7	1989	300.00	25.1.96
8	268	1098.00	25.1.96
9	266	1248.00	25.1.96
10	260	1053.00	25.1.96
11	267	554.00	25.1.96
12	12377	108.00	25.1.96
13	7337	92.00	25.1.96
14	2095	288.00	27.1.96
15	35	330.00	30.1.96
16	455	750.00	31.1.96
17	1837	611.00	3.2.96
18	56374	170.00	15.2.96
19	345	140.00	15.2.96
20	1830	636.00	15.2.96
21	3385	270.00	24.2.96
22	4065	210.00	24.2.96
23	1413	245.00	26.2.96
24	307	295.00	27.2.96
25	936	60.00	1.3.96
26	46185	50.00	1.3.96
27	39	330.00	13.3.96
28	1616	600.00	14.3.96
29	1633	20.00	15.3.96
30	40775	252.00	16.3.96
31	40772	252.00	16.3.96
32	1249	300.00	18.3.96

Contd.....

33.	2339	300.00	20.3.96
34.	55056	245.00	20.3.96
35.	559	138.00	22.3.96
36.	66	345.00	25.3.96
37.	113	360.00	25.3.96
38.	1881	50.00	27.3.96
39.	1695	295.00	2.4.96
40.	2723	365.00	2.4.96
41.	389	320.00	3.4.96
42.	969	450.00	4.4.96
43.	1794	319.00	4.4.96
44.	2724	160.00	4.4.96
45.	1838	679.00	6.4.96
46.	1837	604.00	6.4.96
47.	556	245.00	6.4.96
48.	64174	50.00	11.4.96
49.	983	365.00	24.2.96

The original entries of the number of the articles had not been encircled when the articles were finally disposed of. The final disposal of the articles viz. the particulars of money order issued in lieu of VP articles/ redirected to/unclaimed or refund had not been noted against the entries appearing in the register. Thus the said Shri D.K.Deori by doing so violated the provision of Rule 219(5) of Postal Manual Volume VI ~~XXX~~ and at the same time violated the provision of rule 3(1)(i)(ii) of CCS Conduct Rules 1964

#### ANNEXURE -III

List of documents bywhich the articles of charge framed against Shri. D.K.Deori PA Naharlagun SO are proposed to be sustained.

4. Reports of the then complaint Inspector
5. Reports of the SPM Naharlagun
6. VP register.

Contd.....

ANNEXURE - IV

List of witness by whom the articles of charge framed against Shri. D.K.Deori the then PA Naharlagun SO

1. SHRI. D.K.Dey, the then CI Arunachal Divn. Itanagar.
2. Shri. E.K.Rajan SPM Naharlagun SO

✓ Shri G.G.Singha Dy. S.P.Os P.Os Arunachal Pradesh Division was appointed as the Inquiry Authority to inquire ~~XXXX~~ ~~XXXX~~ into the charges vide this office Memo. No. B-2/D.K.Deori dtd 26.9.2002. Shri B.K.Rai Inspector Posts(W) Sub Division Itanagar was appointed as presenting Officer to present the case on behalf of the department vide this office Memo of even No. dtd ~~26.9.2002~~ 26.9.2002. The Inquiring Authority held hearings on 29.4.2000 and 2.8.2002 and 3.8.2002 and completed hearing on 11.1.2003. The Inquiry Authority Shri G.G.Singha submitted his Inquiry Report under his letter No. B-107/DKD dtd 20.1.2003.

FINAL ORDER BY THE DISCIPLINARY AUTHORITY

The representation submitted by the CO in respect of Inquiry Officer's report has been examined ~~XXXX~~ thoroughly by me and it is observed that the charged official has simply denied the charges and findings of the inquiry on the basis that the shortage of cash caused by him was only due to mistake and that the amount ~~XXXX~~ was immediately recovered from him. The short amount of Rs. 9132/- against 26 VP articles delivered by him during April/97 to August/97 (list furnished by CO) was credited by him on 13.11.97 on receipt of order.

The claim made by the charged official that he made a mistake is far from truth. If it was a bona-fide mistake, it can be understood if he was a new hand and the incident took place once or twice, but in this case the charged official was working in the Department since 21.9.1983. Further he cannot claim to

Contd. ....

~~XXXX~~ pretend he did not know the rules, since the ignorance on his part cannot be condoned. Further the Department has time to time enabled the official to avail refresher courses to update himself with the rules and operational aspect to ensure his efficiency in performance. In this case the charged official has intentionally misappropriated the entire amount in respect of VP articles delivered not once, but over a period of time thereby failed to maintain devotion to duty as well as integrity and contravened the provisions of Rule 227(1) of Postal Manual volume VI and violated provisions of Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964.

This second claim is that he paid the amount of Rs. 2132/- for the remaining 5vp articles in the same month, through another PA and another 70 NOS of VPL and VP MO issued ~~EX~~ by MOPCA.

Further he requested that the charges against him be left off and that he will leave no stone unturned in future on his part.

The charged official in this case, on his own admission confirmed that he ~~XXXX~~ made good the amount short credited by him, but the chronology was not provided by him to confirm the facts.

The Actual charge against him was that he failed to note the disposal particulars against the VP articles delivered. As PA Parcel and Registration clerk Naharlagun PO during ~~JUNE~~ June/97 to NOV/97 he failed to maintain the ~~EX~~ Departmental rules and thus violated the provision of Rule 219(5) of Postal Manual volume VI and also violated the provision of Rule 3(1)(i)(ii) of CCS(Conduct) Rules, 1964.

His claim that the charges and findings are baseless only indicated his negative attitude towards his own duty and responsibility as a government servant.

Further during the prolonged personal hearings he was given adequate opportunity ~~to~~ to defend his case, but he failed to do so.

Contd.....

From para 3.9 of the IOs report the CO was given the opportunity to submit his final defence either in writing or verbally instantly during the inquiry or taking reasonable time for the purpose of preparation of his final defence in writing or verbally. The CO stated that he did not wish to take time for submission of his final defence. He submitted verbatim that he admits that he had committed guilt and it was a matter of ill luck on his part. The CO added to submit his prayer to the authorities of the Department for consideration of his case with promise that he will not commit any such offence in future. The CO stated, " I have my family to support with children in college to be supported; I do not hail from a rich family" At this stage the inquiry concluded.

Considering the facts of the case I find the charges fully proved and I have no reason to disagree with the IO's findings

The CO was a habitual offender and his claim to leave no stone unturn gives me no idea as to his motive.

Considering the gravity of the case, the CO deserves stringent actions since his continuance in the Department cannot be considered in view of his repeated commission and misappropriation.

The image of the Deptt. was badly tarnished due to fraudulent activities committed by certain employees, including the charged official. The faith of the public has been badly shaken on the honesty and integrity of the Department with this bad image already suffered by the Department it will be a great liability to retain such person of fraudulent nature, hence to meet the ends of justice.

I Smt. M.Iawphnias Director Postal Services Arunachal Pradesh Division Itanagar in exercise of the provision conferred on me vide Rule 12(2)(a) of CCS(cca) RULES 1965 hereby order that

Contd.....

shri D.K.Deori PA Itanagar HO be ~~expelled~~ compulsorily retired from service with immediate effect.

Sd/-

(M.Iawphniaw)

Director Postal Services

Copy to :-

1. The CPMG(Vig)N.E. Circle, Shillong- 793001
2. The P.M. Itanagar HO
3. The PAO Kolkata, O/O DA(P) Kolkata through P.M. Itanagar HO
4. Shri D.K.Deori PA Itanagar HO.
5. The punishment Register
6. The I & V Br. O/O DPS ~~XXXIX~~ Itanagar
7. P/F of the official concerned.
8. The memo of service file of the official
9. Bdgt. Br. Divl. Office Itanagar
10. O/C.

(M.Iawphniaw)

Director of Postal Services

Certified to be true

Copy.

①-  
29/4/2004  
(P.D. Engd)

Advocate.

Office of the Director Postal Services, Arunachal Pradesh Division  
Itanagar - 79111

MEMO. NO . B-2/42-3/V

Dated 20.5.2003

The following order is issued to have immediate effect in the interest of service.

1. Shri.D.K.Deori on revocation of suspension order is hereby posted as PA Itanagar HO

(MS M. Iawphniah)

Director Postal Services

Copy. to :-

1. The P.M. Itanagar HO
2. The officials concerned
3. P/F of officials
4. O/C

Sd/-

( Ms. M. Iawphniah)

Director Postal Services

certified to be  
true copy,

29th May  
( P-D Gogoi)  
Advocate.

DEPARTMENT OF POSTS : INDIA

Office of the Director Postal Services : Arunachal Pradesh  
Division, Itanagar-791111

NO.F-2/D.K.Deori/99-2000

Date : 20-05-03

Whereas an order placing Shri D.K.Deori, the then SPM Roing SO (name and designation of the Government Servant) under suspension was made/ was deemed to have been by the DPS Itanagar on 30/04/02 vide no.F-2/D.K.Deori/99-2000.

Now, therefore, the undersigned in exercise of the powers conferred by clause(c) of sub rule(5) of the Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby revokes the said order of suspension with immediate effect.

Sd/-

(M.Iawphniam)

Director Postal Services  
Arunachal Pradesh Division  
ITANAGAR -791111

*Certified to be  
true copy*

*Over  
29/4/2004  
(P.D.Gow)  
Advocati*

Dated 2-6-2003

To The Chief Postmaster General,  
N.E. Circle, Shillong.

In the matter of :

An appeal under Rule 24, read with Rule 26 of the C.C.S. (C.C. & A) Rules, 1965 against the order of compulsory retirement from service as a measure of punishment :

- AND -

In the matter of :

Denovo inquiry on a matter which was duly enquired into:

- AND -

In the matter of :

Suomotto modification of punishment order to a higher one by the Disciplinary Authority illegally :

- AND -

In the matter of :-

Order issued under (i) Memo. No. B-2/D.K. Deori/Rule 14 dated 20.5.2003, compulsorily retiring the appellant from service and (ii) Memo. NO.F-2/D.K. Deori/15  
99-2000 dated - 04.2003, reducing the 16  
pay of the appellant from Rs. 4900/- to  
Rs. 4700/- without cumulative effect and

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true copy.

29/4/2004  
(P.D. Sengupta)  
Advocate

Contd.....

Sri Dinesh Deori 87

and (iii) Memo. No. F-2/D.K. Deori/9-2000

13

dated 05.05.2003, modifying the punish-

14

ment of deduction of pay from one without cummulative effect to one with cummulative effect;

AND

In the matter of :-

Shri D.K. Deori,

Postal Assistant (Since compulsorily  
retired) Itanagar, Arunachal Pradesh.

... . . . . Appellant.

versus -

The Director of Postal Services,

Arunachal Pradesh Division,

Itanagar- 79111.

... . . . . Respondent.

The humble appeal of

the appellant abovenamed

MOST RESPECTFULLY SHEWETH:

1. That the Respondent initiated a departmental inquiry against the appellant for alleged misappropriation of Government money during the year 1999 while working as SPM, Arunachal Pradesh. On completion of the departmental inquiry the appellant was dismissed from service by the Respondent. The appellant appealed against the said order of his dismissal from service to the Chief Postmaster General, N.E. Circle, Shillong but the appeal was dismissed. The appellant preferred an application against both these orders, dismissing him from service before the

Contd.....

49

central Administrative Tribunal which was registered as O.A. NO. 147 of 2001. The Tribunal set aside the order of dismissal from service and the appellate order, upholding the punishment and directed the Respondent to reinstate the appellant in service. The Department in the name of the Union of India and others preferred a writ application before the Hon'ble Gauhati High Court against the order of the central Administrative Tribunal which was registered as W.P. (C) No. 1084 of 2002. The Hon'ble High Court modified the order of the Tribunal and directed that the appellant be awarded a punishment other than dismissal from service. With this direction the writ petition was disposed of at the motion and admission stage.

2. That defying the orders of the Hon'ble High Court the Respondent though allowed the appellant to resume his duties placed him under suspension immediately thereafter and started the departmental Inquiry on a closed matter *denovo*. On conclusion of the departmental inquiry made *denovo*, the respondent issued the impugned order bearing Memo. No. F-2/D.K.Deori/99-2000 dated 15.04.2003 by which the respondent reduced pay of the appellant 16 by two stages, from Rs. 4900/- to Rs. 4700 without cumulative effect. But Surprisingly enough, the respondent did not revoke the suspension order though the departmental inquiry made *denovo* has been concluded by the said order of punishment.

3. That without notice to the appellant the respondent as the disciplinary authority by its order bearing Memo. No. F-2/D.K.Deori/9-2000 dated 13.5.2003 modified the punishment order of 14 reduction of pay by two stages from one without cumulative effect to one with cumulative effect. This modification of

CoHtd. ....

punishment to a heavier one is illegal. Because, the disciplinary authority acting in a quasi-judicial capacity cannot alter its own punishment order, that too to a heavier one. This is illegal.

4. That the Respondent being unable to maintain his punishment order, dismissing the appellant from service due to interference by the courts, initiated yet another departmental inquiry on a closed matter relating to the year 1995 to find a way out to remove the appellant from service. This alleged offence was committed four years before the commission of the offence for which the appellant was dismissed from service. Had there been any merit, the inquiry would have been made earlier to the last one or at least with the earlier one as the offence was detected in the same year in which it was committed. The appellant never admitted the offence and never pleaded guilty as stated in the impugned order passed by the Respondent, compulsorily retiring the appellant from service. The amount of Rs.9132/- alleged to have been misappropriated was found short due to some mistake which was then accepted by the respondent and the said amount was fully recovered from the appellant, first Rs.7000/- (Rupees seven thousand only) in 1997 and the balance of Rs.2132/- (Rupees two thousand one hundred and thirty two) shortly thereafter. The appellant brought this fact to the notice of the Respondent who is the disciplinary authority in reply to his Memo. No. B-107/DKD dated ~~XXXXXX~~ 5.2.2003, fully denying the two articles of charges. But the Respondent did not consider this fact while passing the impugned order. Once the money was recovered in full in the year 1997 itself and did not consider it necessary to initiate departmental action then, there cannot be any charge of misappropriation when

contd.....

money has been paid and accepted and that too long after five years of the occurrence and detection. Initiation of the instant departmental inquiry in the present circumstances and so belatedly when the appellant was already dismissed from service but returned to service through the intervention of the Courts is definitely ~~xx~~ intended to avoid the courts' directions to keep the appellant in service.

5. That the disciplinary authority brought in new charge against the appellant when he recorded in the impugned order that the c.o.(i.e., the appellant) is a habitual offender. This charge of habitual offender is a very serious offence and the disciplinary authority acted on this findings of habitual offender to compulsorily retire the appellant from service. This offence of 'habitual offender' being not one of the charges was not inquired into against the appellant. The appellant was not given an opportunity to defend himself against such serious allegation. The disciplinary authority ~~xxxx~~ has, therefore, violated the principles of natural justice and acted illegally.

6. That the disciplinary authority has also brought in extraneous facts in the impugned order of punishment and these facts which were not inquired into have strongly and prejudicially influenced his decision to compulsorily retire the appellant from service. The relevant paragraph containing these extraneous facts, not inquired into and not given the appellant an opportunity to defend himself is reproduced below:-

"The image of the Deptt. was badly tarnished due to fraudulent activities committed by certain employees including the charged official. The faith of the public has been

Contd.....

badly shaken on the honesty and integrity of the Department with this bad image already suffered by the Department it will be a great liability to retain such persons of fraudulent nature, hence to meet the ends of justice." without inquiring into these allegations and without giving the appellant an opportunity to defend himself the disciplinary authority formed his opinion to retire the appellant compulsorily from service in doing so, the disciplinary authority violated the principles of natural justice and acted illegally.

7. That the disciplinary authority on the day of passing the impugned order, compulsorily retiring the appellant from service revoked the order of suspension on 20.5.2003, 1(one) month after the final order passed on the earlier departmental inquiry to coincide with the order of compulsory retirement in the instant departmental inquiry. On the same day he posted the appellant as P.A. Itanagar H.O. by his order conveyed in MEMO.No.B-2/42-3/V dated 20.5.2003. Once the appellant has been compulsorily retired from service there is no point in posting the appellant as P.A., Itanagar HO.

The appellant being highly aggrieved by the 3(three) impugned orders ~~XXXXXX~~ aforementioned passed by the Respondent as Disciplinary Authority begs to prefer this combined appeal among others on the following grounds.

G R O U N D S

(1) For that the Disciplinary authority erred both in law and in facts in compulsorily retiring the appellant from service and as such the impugned orders bearing Memo.No.B-2/D.k.Deori/ Rule-14 dated 20.5.2003 is liable to be set aside and quashed.

contd.....

(2) For that the articles of charge No. II arose out of the articles of charge No. I and it has no independent existence. The articles of charge No. I having no merit, the articles of charge No. I pales into insignificance and liable to be dropped.

(3) For that the disciplinary authority in his final order (impugned order) arbitrarily held that the appellant is a habitual offender. The appellant was not given an opportunity to defend himself against this serious allegation of 'habitual offender' which strongly and prejudicially influenced the Disciplinary Authority's <sup>decision</sup> to compulsorily retire the appellant from service. The Disciplinary Authority ~~xxxx~~ has, therefore, violated the principles of natural justice and as such the impugned ~~xxxx~~ order, compulsorily retiring the appellant from service is liable to be set aside and quashed.

(4) For that the Disciplinary Authority in his impugned order has brought in extraneous facts as quoted in paragraph 6 at page 52 and 53.

(5) of this memo of appeal, not inquired into by the Inquiry officer or by himself dominantly and to the prejudice of the appellant influenced his decision to compulsorily retire the appellant from service.

To punish the appellant for the sum total of fraudulent tactics committed by certain employees of the Department is unjust, arbitrary and unfair. The impugned order is, therefore, liable to be set aside and quashed.

(5) For that the disciplinary authority is bias against the appellant.

(6) For that the charge of misappropriation of Govt. money is not applicable to the appellant as there was no loss of Govt. money.

Contd.....

whatever money was found short was made up by the appellant no sooner it was detected in the year 1997, leaving no scope to dig it up in the year 2002.

(7) For that the instant departmental inquiry on a very old closed matter has been the outcome of a sense of despair, defeat and revenge on the part of the Respondent and not for violation of Rule 227(1) of Postal Manual volume VI and provision of Rule 3(I)(i)(ii) of CCS Conduct Rules, 1964. Had it been so, the instant departmental inquiry would have been initiated in the year 1997 itself when the alleged offence was detected and money recovered from the appellant. The impugned punishment order bearing Memo No. B-2/D.K.Deori/Rule-14 dated 20.5.2003 is liable to be set aside and quashed.

(8) For that denovo inquiry on a completed and closed departmental inquiry is illegal and against the principles of justice and fairness and as such the punishment order, reducing the pay of the appellant by two stages from Rs. 4900/- to Rs. 4700/- without cumulative effect, conveyed in Memo. No.F-2 D.K.Deori/99-2000 dated 15.04.03 is liable to be set aside and quashed.

~~(9)~~ For that impugned order bearing Memo. No.F-2/D.K. Deori/9-2000 dated 13.05.03, modifying the punishment to a higher one by the disciplinary authority is illegal and as such the same is liable to be set aside and quashed.

In the premises aforesaid, the appellant humbly prays that your honour would be pleased to admit the combined ~~X~~

Contd.....

29/4/2004  
Sri Dinesh  
K.D. Deori  
as

appeal, call for the records of the matter, hear the appellant and after perusal of records and hearing the appellant set aside and quash the following impugned orders, viz.:-

(i) order bearing Memo. No. B-2/D.K. Deori/Rule-14 dated 20.5.2003, compulsorily retiring the appellant from service.

(ii) order bearing Memo. No. F-2/D.K. Deori/99-2000 dated 16.04.2003, reducing the pay of the appellant by two stages from Rs. 4900/- to Rs. 4700/- without cumulative effect.

(iii) order bearing Memo. No. F-2/D.K. Deori/99-2000 dated 20.05.2003, modifying the punishment to a higher one.

And for this act of your kindness, the humble appellant as in duty bound shall ever pray.

Documents enclosed :-

1. Xerox Copy of order bearing Memo. No. B-2/D.K. Deori/ Rule 14 dated 20.5.2003 (16 Sheets).
2. Xerox Copy of Order bearing Memo. No. F-2/D.K. Deori/ 99-2000 dated 16.04.03 (4 Sheets).
3. Xerox copy of Order bearing Memo. No. F-2/D.K. Deori/ 9-2000 dated 13.05.03 (one sheet).

Certified to be  
true copy.

29/4/2004  
(P. Dinesh)  
Advocate

Office of the Director Postal Service

Arunachal Pradesh Division

ITANAGAR- 79111

XXXXXX NO:B- 2D.K.Deori/Rule-14

Dated: 8.7.2003

TO,

Shri.D.K.Deori

EX-PA Itanagar HO

(Now on compulsory retirement)

Sub:- Combined Appleal dtd 4.6.2003 addressed to Chief.P.M.G,  
Shillong preferred. by Sri.D.K.Deori.

please prefer and submit your above combined appeal  
against each punishment order seperately as desired by  
Chief P.M.G, N.E.Circle, Shillong vide his letter No.  
Staff/ 1094/2003 dtd 1/3.7.2003

Sd/-

(N.C. HALDER)

Supdt. of Posts.

Certified to be  
true copy.

Open  
29/6/2004  
(P.D. Dugar)  
Advocate

From :- Shri P.D.Gogoi, I.P.S. (Retd.),  
Advocate, Guahati High Court.

Telephone No. :- 2263324  
Basistha Lane No. 4  
(Near Wireless), Beltola,  
Guwahati-781028.

27.01.2004

To  
The Chief Postmaster General,  
N.E., Circle, Shillong.

LEGAL NOTICE

Subject : Disposal of appeal filed by Shri D.K.Deori against the order of his compulsory retirement from service and other related matters.

Sir,

I have been advised by my client, Shri D.K.DEORI, postal Assistant, Itanagar H.O. (since retired from service w.e.f. 20.5.2003) to address you as under :-

1. That my client has filed an appeal before you under Rule 24, read with Rule 26 of the C.C.S(C.C.&A) Rules, ~~1965~~ 1965 against the following orders of the Director of Postal Services, Itanagar who was the Disciplinary Authority:-

(1) Order dated 20.5.2003, compulsorily retiring him from service from that date :

(2) Denovo Inquiry in a matter which was duly enquired into earlier.

(3) Reducing his pay by two stages from Rs. 4900/- to Rs 4700/- without cumulative effect ~~in denovo~~ in inquiry made denovo by an order dated 16-4-2003.

(4) Suomotto enhancement of the above punishment order from one of without cumulative effect to ~~one~~ one with cumulative effect without notice and without hearing by an

*Certified to  
be true copy.*

*29/4/2004  
(P.D.Gogoi)  
Advocate.*

order dated 14.5.2003.

2. That my client has received a letter from Shri N.C.Halder, Supdt. of Posts, Itanagar bearing NO.B-2D.K.Deori/Rule-14 dated 8.7.2003 in connection with his aforesaid appeal the text of which is <sup>as</sup> under:-

"please prefer and submit your above combined appeal against each punishment order separately as desired by chief P.M.G., N.E. circle, Shillong vide his letter No. Staff/109-4/2003 dtd 1/3-7-2003".

No ground has been given in the said letter why my client is required to file separate appeal against each punishment order but simply communicated your desire in the matter.

3. That in ~~xx~~ reply to the above letter my client has immediately sent his reply directly to you that the appeal cannot be made against each punishment order separately as all punishment orders are the outcome of one cause of action, i.e., alleged misappropriation and violation of CCS(Conduct) Rules, 1964 and he requested you to dispose of the appeal in its ~~xxxx~~ present form and content. Thereafter he rang your office up from Itanagar to request you to dispose of the appeal. But your staff who attended replied that the appeal should be submitted against each punishment order separately.

4. That my client now wants to state that soon after he was reinstated in service following the order of the High Court he was placed under suspension and a fresh inquiry was ordered <sup>and</sup> initiated in a matter which was duly enquired ~~xxxx~~ into earlier. Such fresh inquiry is not permissible under the law. Thereafter another inquiry was started during the pendency of the fresh inquiry already commenced on matters which could have been included in the earlier inquiry or in the fresh inquiry. All these are related matters and cannot be separated.

5. That my client ~~xxxx~~ further wants to state that by order ~~xxxx~~ dated 20.5.2003, his suspension order was revoked. On the same day i.e., 20.5.2003 he was posted to Itanagar and on the same day he was compulsorily retired from service. These orders have

been passed on the same day, ending his service in the prime of his life. Revocation of suspension order and his posting at Itanagar, awarding him punishment by an order dated 16.4.2003 and later enhancing the punishment suomotto by another order ~~XXXXXX~~ dated 14.5.2003 are the outcome of the fresh inquiry illegally made and the punishment of ~~XXXX~~ compulsory retirement from service w.e.f. 20.5.2003 is the outcome of the other inquiry, initiated and conducted during the pendency of the fresh inquiry. As such, the matters being co-related and with the intention of removing my client from service, even by compulsory retirement when the earlier order of dismissal from service failed due to intervention by the tribunal and the High Court, separate 3(three) appeals against three punishment orders are unnecessary.

6. That my client further wants to refer to Rule 26 of the CCS ~~XXXX~~ (CC & A) Rules 1965 which provides for preferring separate ~~XX~~ appeals by persons. These Rules made no provision for separate appeal against each punishment order. For your ready reference and as instructed by my client I am reproducing Rule 26 of the CCS(CC & A) Rules ,1965 below:-

"Rule 26. Form and content of appeal,-(1) Every person preferring an appeal shall do so separately and in his own name. (2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material~~x~~ statements and arguments on which the appeal lies, shall not contain~~XX XX~~ any disrespectful or improper ~~XX~~ language, and shall be complete in itself.

, (3) The authority which made the order appealed against shall, on receipt of a copy of the appeal forward the same with its comment thereon together with the relevant records to the appellate authority without any avoidable delay, and without waiting for any direction from the appellate authority."

In view of the above Rules, when records of Inquiry and comments, if any of the Disciplinary Authority are already with you, there is no difficulty in disposing of the appeal.

7. That there is no legal or procedural flaw in submitting an appeal against three punishment orders which are co-related and interrelated. The main punishment order is the compulsory retirement from service w.e.f. 20.5.2003. If that is rejected, appeal against the other punishment orders would be infructuous. Even if his appeal against these other punishment orders are allowed by you, these would have no meaning to him when he is no longer in service to enjoy the fruits of these favourable orders. In the absence of provisions in the CCS(CC & A) Rules, 1965 or in any other law for separate appeal against each punishment order, ~~xxxxx~~ your desire for separate appeals and holding up my client's appeal is unjust, discriminatory and putting on my client unnecessary financial burden which he cannot afford at this juncture. After his compulsory retirement from service on 20.5.2003 he has no means of livelihood and he is virtually starving at Itanagar with his wife and children, eagerly waiting for the results of the departmental appeal, presently pending with you since 4.7.2003. He cannot, at this juncture bear separate appeal drafting charges, typing expenses ~~xx~~ of these ~~xx~~ appeals and the postal charges for sending these appeals to satisfy ~~xx~~ the desire of the ~~xxxxxxxx~~ appellate authority. As instructed by my client, I would request you kindly to consider these aspects of the matter and dispose of the appeal without further insisting on separate appeal for each punishment orders.

As instructed ~~xxxx~~ by my client, Shri D.K.Deori, I once again request you kindly to dispose of his appeal at an early date and not later than 15(fifteen) days from the date of receipt of this legal notice, failing which my client shall be compelled to approach the next higher forum to vindicate justice.

And for this act of your kindness, I on ~~xxxx~~ behalf of my

client, shall remain ever grateful.

Dated, Guwahati,

the 27th January,

2004

Yours faithfully,

sd/-

(P.D.Gogoi)

Advocate

101

Sri Debenkrishna  
Debbarma

Certified to be  
true copy.

29/4/2004  
(P D Gogoi)  
Advocate

DEPARTMENT OF POSTS : INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL N.E.CIRCLE : SHILLONG - 1.

No. Staff/109-4/03

Dated at Shillong, the 18-2-2004

To

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

Sub:- Appeal dtd. 2-6-03 - case of Sri D.K. Deori, Ex-PA, A.P. Division.

Kindly refer to this office letter of even No. dtd. 21-8-03 & you are requested to send all related documents on the appeal as called for earlier.

Sd/-

(B.R. Halder)

Asst. Director (Staff)

For Chief Postmaster General,  
N.E. Circle, Shillong.

Copy to :-

Sri P.D. GOGOI, Advocate, Guwahati High Court, Basistha Lane No. 4 (Near Wireless) Beltola, Guwahati-28

Sd/-

For Chief Postmaster General  
N.E. Circle, Shillong.

certified to be  
true copy.

~~29/1/2004~~  
29/1/2004  
(P D Gogoi)  
Advocate

Sri Deori for Deori

- 64 -

केन्द्रीय प्रशासनिक Central Admin. Tribunal
Guwahati
31 DEC 2004
मुख्यमंत्री Guwahati

File No. 29/11/04  
Sri. C.G. S.C. 103

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 111 OF 2004

Shri D.K. Deori

- Vs -

Union of India & Ors.

In the matter of :

Written Statement submitted by  
the respondents.

The respondents beg to submit  
a brief history of the case which  
may be treated as a part of the  
written statement.

( BRIEF HISTORY OF THE CASE )

I(A) Shri D.K. Deori while working as Sub-Postmaster  
at Roing Sub-Post Office misappropriated Government money.  
After conducting an inquiry and disciplinary proceeding the  
official was awarded with punishment of dismissal from service.  
The official filed a case in the Court of Hon'ble Tribunal  
against the order. The Hon'ble Tribunal set aside the order  
of dismissal and the appellate order, upholding the punishment  
and directed the department to reinstate the appellant in

-2-

service. The department preferred a Writ Application in the Hon'ble High Court Guwahati challenging the order of Hon'ble CAT. The Hon'ble High Court modified the order of the Tribunal and directed that the appellant be award a punishment other than dismissal from service. As per the direction of the High Court the official was reinstated in the service and posted as PA Itanagar HO and initiated an departmental inquiry in respect of misappropriation of Govt. money at Naharlagun Sub-Post Office.

After the inquiry and disciplinary proceedings he was awarded the punishment of compulsory retirement from service.

Para-Wise Comments :

1. That with regard to the statement made in para 4(1) and 4(2) of the application, the respondents beg to state that Shri D.K. Deori while working as Sub-Postmaster Roing misappropriated the Govt. money which has been established after an inquiry conducted by the Inquiry Officer. After completion of departmental inquiry the charges framed against him were proved. Inquiry report annexed in Annexure-I. After the findings the Disciplinary Authority imposed penalty of dismissal from service taking into account the gravity of irregularity committed by him which was a serious nature and misusing a position of trust.

Copy of Inquiry Report is annexed herewith and marked as Annexure -I.

-3-

The charged official preferred an appeal to the Appellate Authority against the order of dismissal of the Disciplinary Authority. But the appeal was upheld by the Appellate Authority. Later, he moved to Central Administrative Tribunal and the Hon'ble CAT set aside the impugned order of the Disciplinary Authority with direction to reinstate the applicant in service.

The Department preferred a Writ Application before the Hon'ble Gauhati High Court against the order of Hon'ble CAT. The Hon'ble High Court modified the order of the Tribunal with direction that the applicant be awarded a punishment other than dismissal from service. Accordingly, the official was allowed to join in his duty as per the direction of the Hon'ble CAT and the Hon'ble High Court Guwahati. Memo allowing him to join in the service vide F2/D.K. Deori/99-2000 dated 30.4.2002 vide Memo No. F2/D.K. Deori/99-2000 dt. 30.4.2002

Copy of Memo dated 30.4.2002 is annexed herewith and marked as Annexure-II.

That with regard to the statement made in para 5, of the application, the respondents beg to state that the charged official was charge sheeted under Rule-14 of CCS(CCA) 1965 due to his involvement in two(2) separate cases of fraud viz... (i) Fraud case at Roing SO (ii) Fraud case of Naharlagun Sub-Post Office. The above case in particular was related to Roing and since the Hon'ble Tribunal has issued direction to reinstate the official the applicant was

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reinstated, thus obeying the order of the Hon'ble CAT. But, another case of fraud committed by him was pending the departmental inquiry was initiated after placing him under suspense.

Hence, the statement that "started departmental inquiry on a closer matter", is not true. Memo for reinstatement is annexed in Annexure-II. Initiating the departmental inquiry in respect of fraud related to Naharlagun Sub-Post Office with statement of articles of charges and the IO's report are annexed in Annexure-III.

2. That with regard to the statement made in para 4(3) to 4(5) of the application, the respondents beg to state that "departmental inquiry made denevo", is not true. The departmental inquiry in respect of fraud case committed by the charge official pertain to Naharlagun Sub-Post Office was initiated as reflected in Annexure-III.

4. That with regard to the statement made in para 7, of the application, the respondents beg to state that the Hon'ble CAT and the Hon'ble High Court directed to alter the impugned order of dismissal so the modification in the order of punishment of reduction of pay by two stages with cumulative effect was issued.

5. That with regard to the statement made in para 8, of the application, the respondents beg to state that the closed case has been digged out is not true. Because the

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✓ official was punished with dismissal from service after the disciplinary proceedings in another case of misappropriation of Govt. money was pending, the official was placed under suspension and initiated the disciplinary proceedings. So, the arguments made by the applicant are unreasonable. The moment the charged official was reinstated CCS(CCA) Rules-1965 became applicable and thus, the case of fraud committed by him was initiated.

3. That with regard to the statement made in para 4(6) and 4(7) of the application, the respondents beg to state that the allegation that the charged official was not given opportunity to defend himself is not true. He was given reasonable opportunity to appoint his Defence Assistant to examine the listed documents to cross examine the witnesses etc. as reflected in the inquiry report ( Annexure-I ). Therefore, there is no question of violation of natural justice.

4. That with regard to the statement made in para 10, of the application, the respondents beg to state that the fix fraudulent nature of the charged official already proved vide the inquiry report. He took <sup>place</sup> ~~place~~ that mistake occurred. He was not a new hand in the department rather he have been working since 1983. He repeatedly committed mistakes which result in misappropriation of Govt. money by not accounting the money of value payable articles at Naharlagun. Thus, the image of the department tranished in the eye of the

-6-

senders of the value payable articles to whom the money of the value payable articles was supposed to remit to the sender.

Further, the allegation that the applicant was not given opportunity to defend himself is not at all true. He was given reasonable opportunity in all aspects.

Thus, the disciplinary authority never violated the natural justice, article 14 and 21 of the Constitution of India.

¶. That with regard to the statement made in para 14(8) of the application, the respondents beg to state that as per the direction of Hon'ble CAT and the Hon'ble High Court Guwahati the applicant was awarded with punishment other than dismissal from service, his pay was reduced by two stages in the pay scale from Rs. 4900/- to Rs. 4700/-. The order issued on 15.04.2003. An inquiry was initiated for misappropriation of Govt. money at Naharlagun Sub-Post Office and he was suspended. After the inquiry made in the above case his revocation order was issued and accordingly posted as Postal Assistant Itanagar HO. Since, the gravity of lapses was so serious and due to repeated commission of fraud and that he deserved stringent action but taking a lenient view he was awarded with punishment of compulsory retirement with full benefit. In order to impose any penalty an official under suspension should be revoked first and after revocation the official has to be posted in an office.

Thus, the chronological order of the Memos are as follows :-  
a) Revocation order    b) Posting order and  
c) Final punishment order.

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

I, Shri NAKUL CHANDRA HALDER, Supdt. of Post Offices, Arunachal Pradesh Division, Itanagar, do hereby verify that the statements made in paragraph 1(A), 2, 3, 4 of the written statement ~~u~~ are true to my knowledge, those made in paragraphs 1, ~~2~~ being matter of records are true to my information derived from therefrom which I believe to be true and those made in the rest are humble submissions before the Hon'ble Tribunal. I have not suppressed any material facts.

And I signed this verification on this 10<sup>th</sup> day of April 2004.

*N.C. Halder*  
Deponent  
N.C. HALDER  
Superintendent of Post Office  
Arunachal Pradesh Division  
Itanagar-781 111

## ANNEXURE - I - 71 -

## Daily Order Sheet

Departmental Inquiry under Rule-14 of C.M.O. (A.P.R.D.)s, 1968 against  
Shri D.K. Deori, the then SPM, Roing SO, now under Suspension.

O R D E R No. 01

15/12/2000

31-08-2000.

Both the PO and the Charged Official were present in the today's hearing hearing. The CO was asked by the I.O. whether he had received the memorandum of charges alongwith the charge-sheet or not. But the CO replied affirmatively. The CO further stated that he had already submitted his Defence representation to D.P.I/Itanagar. The charge-sheet was read out and explained to him. He stated to have understood the charges fully.

2. The notice for the Preliminary hearing was sent to the CO vide this office letter of even No. dated 23-7-2000, wherein he was asked to nominate his Defence Assistant if he so wishes and intimate the full particulars of his defence Assistant along with his willingness application and his Controlling Authority to the I.O. on or before 19-08-2000. But the CO himself attended the hearing without his any Defence Assistant. Again the CO was asked verbally whether he wants to avail the facility of his Defence Ass't., but he replied that he wants to plead by himself on his behalf and not willing to avail the facility of his Defence Ass't.

3. The CO after reading and explaining the charges line by line, was asked whether he admits the charge(s) from 01(one) to 08(eight) severally/evenly/fully or not. The CO pleaded guilty in respect of charges Nos 01 to 06 and 08 fully and admitted these charges unequivocally. The CO pleaded that he did not burn any official documents of Roing SO during his incumbency, but said that he made delay in corresponding issue of B.o.s' Money-orders at SO. He pleaded guilty partially in respect of charge No. 07.

4. The CO stated that he had credited the whole amount involved in the instant charges and produced A.O.G-67 Receipt No. 89/10-2-00 No. 92/14-2-00, No. 20/25-3-00, No. 33/29-06-00 and No. 40/3-5-00 of Itanagar I.P.O and the total amount so credited was Rs. 43,228.00. In his defence statement also, he admitted that he had credited Rs. 35,000/- and assured to credit the rest amount of Rs. 8,228.00 soon.

5. The charge of burning of office important documents of Roing SO in article No. 07 is not specific and can not be proved. As all other charges have been admitted fully and unequivocally, I do not think to proceed further. The hearing is hereby closed and no any further hearing is necessary.

(M.A. Malai)  
PO and S.D.I.(W),  
Itanagar.

(D.K. Deori)  
C.O and the then  
SPM, Roing SO

(D. Majumdar)  
Inquiry Officer,  
I/S. A.S.P.(C), Itanagar.

DEPARTMENT OF POSTS :: INDIA

Office of the Director Postal services:: Arunachal Pradesh division.  
Itanagar-791111.

No.F-2/D.K.Deori/99-2000

dated at Itanagar the 30/04/02.

WHEREAS Shri D.K.Deori, the then SPM Roing was dismissed from service with effect from 14/11/2000(A/N) on the ground of allegations which led to his punishment.

AND WHEREAS the Central Administrative Tribunal, Guwahati Bench vide order OA No.147 of 2001 dated 03/01/02 has held that "the impugned order dated. 14/11/2000 dismissing the applicant from service passed by the Director of Postal Services, Arunachal Pradesh Division, Itanagar as well as the appellate order dated 13/03/2001 are not sustainable in law and accordingly both the orders are set aside and quashed. The respondents are directed to reinstate the applicant in service forthwith. He shall, however, not be entitled to the back wages. The applicant shall, however, be given all other service benefits including seniority other than the back wages". The Hon'ble High Court Gauhati in WP(C) 1084 of 2002 has held that "the impugned judgement passed by the learned Tribunal directing re-instatement of the respondent without back wages call for no interference. Since there is no mention in the judgement regarding imposition of punishment, we leave the matter to the disciplinary authority to consider and impose any punishment permissible under the law other than the penalty of dismissal".

AND WHEREAS in consequence of such judgement the undersigned has decided that the said order of dismissal should be set aside.

AND WHEREAS the undersigned on a consideration of the circumstances of the case has also decided that a further inquiry should be held under the provisions of CCS(CCA) Rules 1965, against the said Shri D.K. Deori the then SPM Roing on the allegations which led to his dismissal.

NOW, THEREFORE, the undersigned hereby:-

- i) Sets aside the said order of dismissal and re-instate Shri D.K. Deori as per order passed by the Hon'ble High Court Guwahati for re-instatement of Shri D.K. Deori without back wages.
- ii) Directs that a further inquiry should be held under the provisions of the CCS(CCA) Rules 1965, against Shri D.K. Deori, the then SPM Roing on the allegations which led to his dismissal from service.
- iii) Directs that the said Shri D.K.Deori the then SPM Roing So shall, under Sub-Rule (4) of Rule (10) of the CCS(CCA) Rules 1965 be deemed to have been placed under suspension with effect from the date of reinstatement and shall remain under suspension until further orders.

*(Signature)*  
Director of Postal Services  
Arunachal Pradesh  
Itanagar-791111

Annexure = 111

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Indiapost

Office of the Director Postal Services  
Arunachal Pradesh Division  
ITANAGAR - 79111

Memo.No.B-2/D.K.Deori/Rule-14

Dated: 20.5.2003

Shri.D.K.Deori the then PA Naharlagun SO now working as PA under suspension Itanagar HO Arunachal Pradesh Division was proceeded against under Rule-14 of the CCS(CCA) Rules, 1965 vide this office Memo No. The articles of charge levelled against Shri.D.K.Deori runs as under.

#### ANNEXURE-I

Statement of Article of charge framed against Shri.D.K.Deori, PA Naharlagun SO with Itanagar HO.

#### ARTICLE-I

Shri.D.K.Deori, while working as the Parcel and Registration clerk of Naharlagun SO during April/1995 to December 1997 misappropriated govt. cash amounting to Rs.9132/- (Rs.Nine Thousand One Hundred Thirty Two) only in respect of VP articles. He delivered 31 No.s of VP articles involving aforesaid amount but failed to credit the amount so realised to Govt. cash and thus failed to maintain devotion to duty as well as integrity and contravened the provision of rule 227(1) of Postal Mannual Volume VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS conduct Rules 1964.

#### ARTICLE-II

The said Shri.D.K.Deori while working as the Parcel and registration clerk at Naharlagun SO during June 1997 to November 1997 did not maintain departmental rules and regulation properly. He made entry in the VP register regarding receipt of the articles but did not note the disposal particulars against the VP article and thus violated the provision of rule 219 (5) of Postal Manual Volume VI and the same time violated the provision of rule 3(1) (i) (ii) of CCS Conduct Rules.

ANNEXURE-II

Statement of imputation of misconduct or misbehaviours in support of the articles of charge framed against Shri.D.K.Deori the then PA at Naharlagun SO in a/c with Itanagar HO.

ARTICLE-I

That said Shri.D.K.Deori during his working as the parcel and registration clerks at Naharlagun SO delivered following VP articles to the addressee but did not credit the money received to the Govt. account.

SRL.NO.	VP NO	DATE	VALUE	COMMISSION
01	41334	11.4.97	650.00	33.00
2	41293	11.4.97	650.00	33.00
3	879	2.4.97	100.00	5.00
4	4322	26.4.97	252.00	13.00
5	1241	8.5.97	299.00	15.00
6	107	1.5.97	333.00	17.00
7	1699	1.5.97	100.00	5.00
8	219	7.5.97	280.00	14.00
9	102	3.5.97	267.00	14.00
10	4463	24.5.97	252.00	13.00
11	695	2.6.97	70.00	4.00
12	2888	3.4.97	225.00	12.00
13	247	2.5.97	100.00	5.00
14	1687	2.5.97	56.00	3.00
15	367	2.5.97	350.00	18.00
16	653	26.4.97	112.00	6.00
17	704	26.4.97	150.00	8.00
18	1307	16.5.97	90.00	5.00
19	1693	2.5.97	56.00	3.00
20	248	2.5.97	100.00	5.00
21	F 3846	15.4.97	245.00	13.00
22	F 3845	15.4.97	245.00	13.00
23	F 3843	15.4.97	245.00	13.00
24	9389	7.4.97	325.00	17.00
25	1205	21.3.97	55.00	3.00
26	56	15.3.97	350.00	18.00
27	51204	19.5.97	650.00	33.00

28	33	2.5.97	520.00	26.00
29	32	2.5.97	520.00	26.00
30	34	2.5.97	520.00	26.00
31	35	2.5.97	520.00	26.00
8687/-			+ 445.00	= 9132/-

Thus said Shri.D.K.Deori infringed the provision of Rule 227(1) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)&(ii) of CCS (Conduct) Rules 1964.

#### ARTICLE-II

That said Shri.D.K.Deori while working as the Parcel and Registration clerk at Naharlagun SO made entries in the VP register regarding receipt of the following articles:-

Srl.No.	VP NO	AMOUNT	DATE OF RECEIPT
1	1479	658.00	10.1.96
2	0191	213.00	4.1.96
3	101	241.00	4.1.96
4	4296	210.00	24.1.96
5	6362	249.00	24.1.96
6	0353	280.00	24.1.96
7	1989	300.00	25.1.96
8	268	1098.00	25.1.96
9	266	1248.00	25.1.96
10	260	1053.00	25.1.96
11	267	554.00	25.1.96
12	12377	108.00	25.1.96
13	7337	92.00	25.1.96
14	2095	288.00	27.1.96
15	35	330.00	30.1.96
16	455	750.00	31.1.96
17	1837	611.00	3.2.96
18	56374	170.00	15.2.96
19	345	140.00	15.2.96
20	1830	636.00	15.2.96
21	3385	270.00	24.2.96

22	4065	210.00	24.2.96
23	1413	245.00	26.2.96
24	307	295.00	27.2.96
25	936	60.00	1.3.96
26	46185	50.00	1.3.96
27	39	330.00	13.3.96
28	1616	600.00	14.3.96
29	1633	20.00	15.3.96
30	40775	252.00	16.3.96
31	40772	252.00	16.3.96
32	1249	300.00	18.3.96
33	2339	300.00	20.3.96
34	55056	245.00	20.3.96
35	559	138.00	22.3.96
36	66	345.00	25.3.96
37	113	360.00	25.3.96
38	1881	50.00	27.3.96
39	1695	295.00	2.4.96
40	2723	365	2.4.96
41	389	320.00	3.4.96
42	969	450.00	4.4.96
43	1794	319.00	4.4.96
44	2724	160.00	4.4.96
45	1838	679.00	6.4.96
46	1837	604.00	6.4.96
47	556	245.00	6.4.96
48	64174	50.00	11.4.96
49	983	365.00	24.2.96

The original entries of the number of the articles had not been encircled when the articles were finally disposed of. The final disposal of the articles viz the particulars of money order issued in lieu of VP articles/redirected to/unclaimed or refund had not been noted against the entries appearing in the register. Thus the said Shri.D.K.Deori by doing so violated the provision of Rule 219(5) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS Conduct Rules 1964.

### ANNEXURE-III

List of documents by which the articles of charge framed against Shri.D.K.Deori PA Naharlagun SO are proposed to be sustained.

1. Reports of the then complaint Inspector
2. Reports of the SPM Naharlagun
3. VP register.

### ANNEXURE-IV

List of witness by whom the articles of charge framed against Shri.D.K.Deori the then PA Naharlagun SO.

1. Shri.D.K.Dey the then CI Arunachal Division Itanagar
2. Shri.E.K.Rajan SPM Naharlagun SO.

### FINDINGS BY THE INQUIRY AUTHORITY

#### Article of Charge I

Shri. D.K.Deori, while working as the Parcel and Registration clerk of Naharlagun SO during April 1995 to December 1997 misappropriated Govt.Cash amounting to Rs.9132/- (Rupees Nine thousand one hundred thirty two) only in respect of VP articles. He delivered 31 Nos of VP articles involving aforesaid amount but failed to credit the amount so realised to Govt. cash and thus failed to maintain devotion to duty as well as integrity and contravened the provision of rule 227(1) of Postal Manual Vol. VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS (Conduct) Rules 1964.

#### Article of Charge II

The said Shri.D.K.Deori while working as the Parcel and registration clerk at Naharlagun SO during June 1997 to November 1997 did not maintain departmental rules and regulation properly. He made entry in the VP register regarding receipt of the articles but did not note the disposal particulars against the VP articles and thus violated the provision of rule 219(5) of Postal Manual Volume VI and at the same time violated the provision of Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964.

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri.D.K.Deori the then PA at Naharlagun SO in a/c with Itanagar HO.

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Attached as Annexure "A"

3. The preliminary hearing in the case was held on 29.4.2000. The two articles of charges were read out to the CO and explained to him. The CO stated that he understood the charges framed against him. The CO was given to state clearly whether he admitted the charges framed against him. The CO stated that he pleaded guilty in both the articles of charge framed against him unequivocally. The CO was given the reasonable opportunity to appoint his defence assistant but he stated that he did not wish to appoint a defence assistant.

3.1 On the day of preliminary hearing on 29.4.2000 the examination of the documents listed in Annexure III of the charge sheet commenced. The CO was given to examine all the listed documents. He examined the documents and authenticated as genuine.

3.2 The case was ordered to be closed as the CO was dismissed from service in connection with another case. The present case was reopened when the CCS (CCA) Rules 1965 became applicable to the CO.

3.3 The next hearing was held on 02.8.2002. Examination of the documents continued. Examination of the Report of the complainants Inspector revealed that the C.I visited the Naharlagun SO on 28.8.97 and verified the VP register covering the period from 20.12.1995 to 11.7.1997 in which he found record of as many as 70 Nos of VP articles received but no record of disposal of VP articles were found. The value of the VP articles was to the tune of Rs.22,863.00 . Evidently, the value of the VP articles realised from the public were not duly accounted for in the Govt. account.

3.4 Examination of the reports of the SPM Naharlagun revealed that (a) seven (7) VP articles received in the SO had been delivered to the public addressees but the VPMOs being the value of the articles were not remitted to the concerned senders; (b) Seven(7) more articles were recorded received in the VP register but no record of disposal of the articles could be found; (c) a number of complaints were received at Naharlagun SO in connection with VP articles; (d) Rs.7000/- was deposited by the CO on 19.11.97 against 26 numbers of VP articles delivered to the public and value realised along with 31 (thirtyone) numbers of original VPMO forms and 26 VP Money Orders out of 31 were issued on 19.11.97.

3.5 The next hearing was held on 03.8.2002. The CO was given the opportunity to state his defence on the revelations during examination of the listed documents. The CO stated that he had nothing to say on the documents examined. The CO stated that he failed to credit the amount of the VP articles delivered on different dates on the date of delivery. He further stated that he credited the amount of the VP articles on later date at Naharlagun PO and the VPMOs were also issued. But he stated that he did not remember the date of credit of the amount and date of issue of the VPMOs.

3.6 Examination of the listed witnesses were carried out on 3.8.2002. During examination, the witness Shri.E.K.Rajan the SPM Naharlagun SO, stated that he checked the VP Register with the VP articles shown in deposit were not found and the VPMOs were not issued. On enquiry with the PA VP Branch Shri.D.K.Deori he noticed that the VP articles were delivered to the addressees on different dates but the VPMOs were not issued on the date of delivery of the VP articles. The witness further added to state that the CO misused the VP delivered amount for his own purpose and did not make good the amount timely. The witness further stated that he consulted with the VP complaints received at the office (Naharlagun SO), actually verified with all relevant records in the office and submitted report to the DPS Itanagar. The CO was given the opportunity to cross-examine the witness Shri.E.K.Rajan, the SPM but he stated that he has nothing to cross-examine the witness.

3.7 The next hearing was held on 11.1.2003. At the outset the CO was given the opportunity to refresh himself on the points discussed in the earlier sessions of hearing. Then the PO was given to examine the witness Shri.D.K.Dey, the then Complaints Inspector. During examination the witness stated that during his investigative visit in Naharlagun SO on 28.8.97 he found the VP Register not maintained properly. The particulars of the VP articles cited in his report as Annexure 'A' were actually found in other records of the SO Viz. Registered List, Parcel List etc. The witness further stated that the disposal particulars of the articles were not recorded in the related VP register nor were the relevant VPMO forms found on record. Examination of the witness being over the CO was given to cross the witness Shri. D.K.Dey. The CO stated that he had nothing to examine the witness.

3.8 At this stage the sessions of examination of the documents and witness were over. The PO was given to officer his brief in the house of

inquiry in presence of the CO. In his brief the PO stated that the two articles of charges were read out to the CO and explained to him. The CO stated that he understood the contents of the articles of charge. The CO was given to state clearly whether he admitted the articles of charges framed against him. The charged officer Shri.Deori pleaded guilty in all charges levelled against him and admitted the charges unequivocally. The CO was given the reasonable opportunity to appoint his defence assistant but he did not avail the facility. The documents listed in Annexure III of the Charge Sheet were produced for examination of the CO. Shri.D.K.Deori examined the documents and authenticated them as genuine and they were taken into exhibits. The witness Shri.E.K.Rajan the SPM the SPM Naharlagun was examined and the witness stated that he checked the VP registers with the VP articles in deposit and many VP articles shown in deposit were not found and the VPMOs were not issued. The witness further stated that on his enquiry with the VP Branch Shri.D.K.Deori the CO he noticed that the VP articles were delivered to the addressees on different dates but the VPMOs were not issued on the date of delivery of the VP articles and the CO misused the VP delivered amounts for his own purpose. The witness further stated that the value of another 23 Nos. of VP articles were not remitted by Naharlagun SO, as per complaints received from the senders of the VP articles. The other witness Shri.D.K.Dey the then Complaints Inspector during examination stated that during his investigative visit to Naharlagun SO he found that the VP register was not maintained properly and that the list of VPs mentioned in the report were actually collected from other records of the SO VIZ, Registered Lists, Parcel Lists, Etc. The PO concluded his brief stating that on the basis of the result of the examination of the documentary evidences as also the result of the examination of witness it is established that both the articles charges leveled against Shri.D.K.Deori stand proved.

3.9 At this stage, the CO was given the opportunity to submit his final defence either in writing or verbally instantly during the inquiry or taking reasonable time for the purpose of preparation of his final defence in writing or verbally. The CO stated that he did not wish to take time for submission of his final defence. He submitted verbatim that he admits that he had committed guilt and it was a matter of ill luck on his part. The CO added to submit his prayer to the authorities of the Department for consideration of his case with promise that he will not commit any such offence in future. The CO stated, "I have my family to support with children in college to be

supported; I do not hail from a rich family". At this stage the inquiry concluded.

The charged officer Shri.D.K.Deori was given all the reasonable opportunity embodied in Rule-14 of the CCS(CCA) Rules 1965. He was given the opportunity to understand the charges framed against him and state his defence. He was given the opportunity to appoint his defence assistant to assist him to present his defence. All the documentary evidences cited in the charge sheet were examined. All the witness cited in the charge sheet were examined. The charged officer Shri.D.K.Deori was given opportunities at every stage to examine and cross-examine the evidences. Shri.D.K.Deori, the charged officer admitted the charges framed against him unequivocally and expressed unwillingness to examine or cross-examine any documentary evidence or witness. When given to offer his final defence he only admitted his guilt and prayed for sympathy.

Based on the revelations during examination of the documentary evidences, revelations during examination of the witness and by the charged officer's own unequivocal admission of the charges brought against him, the Article of Charge I and the Article of Charge II framed against Shri.D.K.Deori, the Postal Assistant (under suspension), Itanagar HO are proved beyond any reasonable doubt.

#### FINDINGS BY THE DISCIPLINARY AUTHORITY

##### ARTICLE-II

Statement of imputation of misconduct or misbehaviours in support of the articles of charge framed against Shri.D.K.Deori the then PA at Naharlagun SO in a/c with Itanagar HO.

##### ARTICLE-I

That said Shri.D.K.Deori during his working as the parcel and registration clerks at Naharlagun SO delivered following VP articles to the addressee but did not credit the money received to the Govt. account.

SRL.NO.	VP NO	DATE	VALUE	COMMISSION
01	41334	11.4.97	650.00	33.00
2	41293	11.4.97	650.00	33.00
3	879	2.4.97	100.00	5.00
4	4322	26.4.97	252.00	13.00
5	1241	8.5.97	299.00	15.00

6	107	1.5.97	333.00	17.00
7	1699	1.5.97	100.00	5.00
8	219	7.5.97	280.00	14.00
9	102	3.5.97	267.00	14.00
10	4463	24.5.97	252.00	13.00
11	695	2.6.97	70.00	4.00
12	2888	3.4.97	225.00	12.00
13	247	2.5.97	100.00	5.00
14	1687	2.5.97	56.00	3.00
15	367	2.5.97	350.00	18.00
16	653	26.4.97	112.00	6.00
17	704	26.4.97	150.00	8.00
18	1307	16.5.97	90.00	5.00
19	1693	2.5.97	56.00	3.00
20	248	2.5.97	100.00	5.00
21	F 3846	15.4.97	245.00	13.00
22	F 3845	15.4.97	245.00	13.00
23	F 3843	15.4.97	245.00	13.00
24	9389	7.4.97	325.00	17.00
25	1205	21.3.97	55.00	3.00
26	56	15.3.97	350.00	18.00
27	51204	19.5.97	650.00	33.00
28	33	2.5.97	520.00	26.00
29	32	2.5.97	520.00	26.00
30	34	2.5.97	520.00	26.00
31	35	2.5.97	520.00	26.00

8687/- 445.00=9132/-

Thus said Shri.D.K.Deori infringed the provision of Rule 227(1) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)&(ii) of CCS (Conduct) Rules 1964.

#### Article-II

That said Shri.D.K.Deori while working as the Parcel and Registration clerk at Naharlagun SO made entries in the VP register regarding receipt of the following articles:-

Sl.No.	VP NO	AMOUNT	DATE OF RECEIPT
1	1479	658.00	10.1.96
2	0191	213.00	4.1.96
3	101	241.00	4.1.96
4	4296	210.00	24.1.96
5	6362	249.00	24.1.96
6	0353	280.00	24.1.96
7	1989	300.00	25.1.96
8	268	1098.00	25.1.96
9	266	1248.00	25.1.96
10	260	1053.00	25.1.96
11	267	554.00	25.1.96
12	12377	108.00	25.1.96
13	7337	92.00	25.1.96
14	2095	288.00	27.1.96
15	35	330.00	30.1.96
16	455	750.00	31.1.96
17	1837	611.00	3.2.96
18	56374	170.00	15.2.96
19	345	140.00	15.2.96
20	1830	636.00	15.2.96
21	3385	270.00	24.2.96
22	4065	210.00	24.2.96
23	1413	245.00	26.2.96
24	307	295.00	27.2.96
25	936	60.00	1.3.96
26	46185	50.00	1.3.96
27	39	330.00	13.3.96
28	1616	600.00	14.3.96
29	1633	20.00	15.3.96
30	40775	252.00	16.3.96
31	40772	252.00	16.3.96
32	1249	300.00	18.3.96
33	2339	300.00	20.3.96
34	55056	245.00	20.3.96
35	559	138.00	22.3.96
36	66	345.00	25.3.96
37	113	360.00	25.3.96

38	1881	50.00	27.3.96
39	1695	295.00	2.4.96
40	2723	365	2.4.96
41	389	320.00	3.4.96
42	969	450.00	4.4.96
43	1794	319.00	4.4.96
44	2724	160.00	4.4.96
45	1838	679.00	6.4.96
46	1837	604.00	6.4.96
47	556	245.00	6.4.96
48	64174	50.00	11.4.96
49	983	365.00	24.2.96

The original entries of the number of the articles had not been encircled when the articles were finally disposed of. The final disposal of the articles viz the particulars of money order issued in lieu of VP articles/redirected to/unclaimed or refund had not been noted against the entries appearing in the register. Thus the said Shri.D.K.Deori by doing so violated the provision of Rule 219(5) of Postal Manual Volume VI and at the same time violated the provision of rule 3(1)(i)(ii) of CCS Conduct Rules 1964.

### ANNEXURE-III

List of documents by which the articles of charge framed against Shri.D.K.Deori PA Naharlagun SO are proposed to be sustained.

4. Reports of the then complaint Inspector
5. Reports of the SPM Naharlagun
6. VP register.

### ANNEXURE-IV

List of witness by whom the articles of charge framed against Shri.D.K.Deori the then PA Naharlagun SO

1. Shri.D.K.Dey, the then CI Arunachal Divn. Itanagar.
2. Shri.E.K.Rajan SPM Naharlagun SO

Shri.G.G.Singh Dy.S.P.O.s P.O.s Arunachal Pradesh Division was appointed as the Inquiry Authority to inquire into the charges vide this office

Memo.No.B-2/D.K.Deori dtd 26.9.2002. Shri.B.K.Rai Inspector Posts(W) Sub Division Itanagar was appointed as Presenting Officer to present the case on behalf of the Department vide this office Memo of even No. dtd 26.9.2002. The Inquiring Authority held hearings on 29.4.2000 and 2.8.2002 and 3.8.2002 and completed hearing on 11.1.2003. The Inquiry Authority Shri.G.G.Singha submitted his Inquiry Report under his letter No.B-107/DKD dtd 20.1.2003.

#### FINAL ORDER BY THE DISCIPLINARY AUTHORITY

The representation submitted by the CO in respect of Inquiry Officer's report has been examined thoroughly by me and it is observed that the charged official has simply denied the charges and findings of the inquiry on the basis that the shortage of cash caused by him was only due to mistake and that the amount was immediately recovered from him. The short amount of Rs.9132/- against 26 VP articles delivered by him during April/97 to August/97 ( list furnished by CO ) was credited by him on 13.11.97 on receipt of order.

The claim made by the charged official that he made a mistake is far from truth. If it was a bona-fide mistake, it can be understood if he was a new hand and the incident took place once or twice, but in this case the charged official was working in the Department since 21.9.1983. Further he cannot claim to pretend he did not know the rules, since the ignorance on his part cannot be condoned. Further the Department has time to time enabled the official to avail refresher courses to update himself with the rules and operational aspects to ensure his efficiency in performance. In this case the charged official has intentionally misappropriated the entire amount in respect of VP articles delivered not once, but over a period of time thereby failed to maintain devotion to duty as well as integrity and contravened the provisions of Rule 227(1) of Postal Manual Volume VI and violated provision of Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964.

This second claim is that he paid the amount of Rs.2132/- for the remaining 5 VP articles in the same month, through another PA and another 70 Nos of VPL and VP MO issued by MOC PA.

Further he requested that the charges against him be let off and that he will leave no stone unturned in future on his part.

The charged official in this case, on his admission confirmed that he made good the amount short credited by him, but the chronology was not provided by him to confirm the facts.

The actual charge against him was that he failed to note the disposal particulars against the VP articles delivered. As PA Parcel and Registration clerk Naharlagun PO during June/97 to Nov/97 he failed to maintain the Departmental rules and thus violated the provision of Rule 219(5) of Postal Manual Volume VI and also violated the provision of Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964.

His claim that the charges and findings are baseless only indicated his negative attitude towards his own duty and responsibility as a government servant.

Further during the prolonged personal hearings he was given adequate opportunity to defend his case, but he failed to do so.

From para 3.9 of the IOs report the CO was given the opportunity to submit his final defence either in writing or verbally instantly during the inquiry or taking reasonable time for the purpose of preparation of his final defence in writing or verbally. The CO stated that he did not wish to take time for submission of his final defence. He submitted verbatim that he admits that he had committed guilt and it was a matter of ill luck on his part. The CO added to submit his prayer to the authorities of the Department for consideration of his case with promise that he will not commit any such offence in future. The CO stated, "I have my family to support with children in college to be supported; I do not hail from a rich family" At this stage the inquiry concluded.

Considering the facts of the case I find the charges fully proved and I have no reason to disagree with the IO's findings.

The CO was a habitual offender and his claim to leave no stone unturn gives me no idea as to his motive.

Considering the gravity of the case, the CO deserves stringent actions since his continuance in the Department cannot be considered in view of his repeated comission of frauds and misappropriation.

Annexure = IV

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Proceedings of the hearing in the case of Rule 14 of CCS (CCA) Rules, 1965  
against Shri D.K. Deori, PA (u/s) Itanagar HO.

Held on: 11-01-03  
At: Itanagar  
In the: DPS's office premises:

Present:	1. Shri D.K. Deori, 2. Shri D.K. Dey, 3. Shri B.K. Rai,	Charged Official SDI of Posts Dimapur Witness SDI of Posts Itanagar Presenting Officer
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At the outset, the Charged Official Shri D.K. Deori was enlightened on the points discussed in the earlier sessions of hearing. Then the Presenting Officer was given to examine the witness Shri D.K. Dey.

2. The PO produced the report dated 28-08-97 made by the witness a listed document in the charge sheet. During examination the witness stated that during his investigative visit in Naharlagun SO on 28-08-97 he found the VP Register not maintained properly. The particulars of the VP articles cited in his report as annexure 'A' were actually found in other records of the SO viz. Registered List, Parcel List etc. The witness further stated that the disposal particulars of the articles were not recorded in the related VP register nor were the relevant VPMO forms on record. The witness further stated that the SPM Naharlagun SO was asked to preserve all the relevant records. The witness stated that the list of articles in the Annexure 'A' were on the basis of the said relevant records of the SO. At this stage the presenting officer declared he had not more points to examine the witness.

3. Then the CO Shri D.K. Deori was given to examine the witness Shri D.K. Dey. The CO stated that he had nothing to examine the witness.

At this stage, the Presenting Officer was requested to offer his brief.

BRIEF of PRESENTING OFFICER::

Deori  
11-1-03  
(Witness)  
11/1/03  
D K Deori

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SRIEF of PRESENTING OFFICER:

The first hearing in the case against Shri D.K. Deori, PA (u/s) Itanagar HO was held on 29-04-2000. Shri K. Pandit was the Presenting Officer in the case. The two articles of charges were read out to him and explained to him. Shri Deori stated that he understood the contents of the articles of charge. Shri Deori was given to state clearly whether he admitted the articles of charges framed against him. The charged officer Shri Deori pleaded guilty in all charges leveled against him and admitted the charges unequivocally. The CO was given to reasonable opportunity appoint his defence assistant but he did not avail the facility. The documents listed in Annexure III of the Charge Sheet were produced for examination of the charged officer Shri D.K. Deori. Shri Deori examined the documents and authenticated them as genuine and they were taken into exhibits.

2. Meanwhile, Shri D.K. Deori was awarded the punishment of dismissal from service by the disciplinary authority in connection with another case and so the proceedings in the present case was ordered to be closed on the ground that the provisions of CCS (CCA) Rules, 1965 was no longer applicable to him with the order that the order to close the present was without prejudice to the proceedings being reopened if and when the provision of CCS (CCA) Rules, 1965 become application to Shri D.K. Deori.
3. The case was reopened and I was appointed the Presenting Officer in the case vide DPS Itanagar memo. No. F-2/VPL/NLG/97-98 dated 23-07-02. The next hearing in the case was held on 02-08-02. The CO was again given the opportunity to nominate his defense assistant if he so wished but he expressed his desire to plead his case by himself. The documentary evidences in the cases were examined on 02-08-02. The CO admitted the charges fully and unequivocally after examination of the documentary evidences listed in the charge sheet in Annexure III.
4. The next hearing was held on 03-08-02. The witness Shri E.K. Raja, the SPM was examined on the day. During examination the witness SPM stated that on assuming charge of SPM of Naharlagun SO he checked the VP registers with the VP articles in deposit and found many VP articles shown in deposit were not found and the VP MOs were not issued. The witness SPM further stated that on his enquiry with the VP Branch Shri D.K. Deori he noticed that these VP articles were delivered to the addressees on different dates but the Vamps were not issued on the date of delivery of the VP articles and Shri Deori misused the VP delivered amounts for his own purpose. The SPM witness further stated that the

D. Rajan

11-1-03

Govindaraj

value of another 23 nos. VP articles was not remitted by Naharlagun SO as per complaints from the senders of the VP articles received by Naharlagun SO.

5. The next hearing was held on this day the 11<sup>th</sup> of January, 2003. The witness Shri D.K. Dey, SDI of Posts Dimapur, the then C.I. of Arunachal Pradesh Postal Division was examined. Shri Dey stated that during his investigative visit to Naharlagun SO he found that the VP register was not maintained properly and that the list of VPs mentioned in the report were actually collected from other records of the SO viz. Registered Lists, Parcel Lists etc.

On the basis of the result of the examination of the documentary evidences as also the result of the examinations of the witnesses it is established that both the articles of charges leveled against Shri D.K. Deori stand proved.

6. At this stage Shri Deori the charged official was given the reasonable opportunity to submit his final defence either in writing or verbally instantly at this stage and taking reasonable time for the purpose of preparation of his final defence in writing or verbally. The charged official Shri D.K. Deori stated that he does not wish to take time for submission of his final defence. He submitted verbatim that he admits he had committed guilt and it was a matter of ill luck on his part. Shri Deori submitted his prayer to the authorities of the Department his case may be considered and that he promised that he will not commit any such offence in future. Shri Deori submitted, "I have my family to support with children in college to be supported; I do not hail from a rich family."

At this stage the inquiry in the case concludes.

11/1/03  
(D.K. Deori)  
Charged Official

11/1/03  
(B.K. Rai)  
Presenting Officer

Dulipura  
11-01-03  
(D.K. Dey)  
Witness

(G.G. Singha)  
Inquiry Authority  
11-01-03

3 JAN 2005

गुवाहाटी बैच  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH : GUWAHATI.

Filed by  
Deori  
(P.D. Deori)  
Advocate

Dinesh Kumar  
Deori

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O.A. NO.111 OF 2004

Shri Dinesh Kumar Deori

... ... Applicant.

- versus -

Union of India & ors.

... ... Respondents.

In the matter of :-

Counter to the written statements submitted by the Respondents :

-AND -

In the matter of :-

Shri Dinesh Kumar Deori,

... ... Applicant.

- versus -

Union of India & ors.

... ... Respondents.

I, Shri Dinesh Kumar Deori, applicant of O.A. No.111 of 2004 beg to state that I have received a copy of the written statement filed by the Respondents and have gone through the same and understood the contents thereof and beg to submit my counter to the said written statements as follows :-

Dinush  
Verma

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1. That with regard to the statements made in paragraph 1(A) of the written statement, the applicant begs to state that though the applicant was reinstated in service as P.A., Itanagar H.O. as per the direction of the Hon'ble High Court, he was placed under suspension in the same order of reinstatement in service ( vide ANNEXURE - 1 to the O.A. No.111 of 2004) and not allowed to work. The High Court's direction was to award a punishment short of dismissal from service and not to hold fresh inquiry (fresh inquiry is not permissible as per the Supreme Court decision reported in AIR 1971 SC 1447). Besides, the applicant was not awarded the punishment of compulsory retirement from service in the fresh inquiry so initiated but in another new inquiry initiated on 20.5.2003 on a matter closed as far back as in November, 1997(13.11.1997).

2. The Respondents in their written statements at page 4 under paragraph 1 of the Parawise Comments made the following statement :-

" But, another case of fraud committed by him was pending the departmental inquiry was initiated after placing him under suspension.

Hence, the statement that 'started departmental inquiry on a closed matter' is not true."

In this context, the applicant begs to state that it was a new inquiry on a closed matter. The Disciplinary Authority in his order under heading FINAL ORDER BY THE DISCIPLINARY AUTHORITY at page 42 of Annexure - 4 of the original Application recorded as follows :-

"The short amount of Rs.9132/- against 26 VP articles delivered by him during April/97 to August/97(list furnished by CO) was credited by him on 13.11.97 on receipt of orders".

Direct  
Address  
to  
the  
Chairman

Shortage of Rs.9132/- which was the basis of Article 1 (vide Annexure -4, page 27 of the original Application) was deducted prior to 13.11.1997 and on deposit of the entire amount on 13.11.1997, the matter was apparently closed since no action was initiated till the dismissal of the applicant from service on 14.11.2000. If disciplinary action ~~action~~ was necessary, it should have been taken soon after the occurrence of the cause of action in November, 1997. Initiating departmental inquiry in May, 2003(20.5.2003) on a matter closed as far back as in November, 1997(13.11.1997) and punishing the applicant with compulsory retirement from service, adding in the final order fresh allegations of habitual offender and tarnishing the image of the department due to the fraudulent activities committed by certain employees, including the applicant and that too after the applicant was dismissed from service on 14.11.2000 but reinstated on courts' intervention has to be taken as arbitrary, discriminatory, vindictive and a determination of the Respondents to remove the applicant from service in whatever form it was possible.

1. These fresh allegations of habitual offender and tarnishing the image of the department were not part of the charges and not inquired into and the applicant not given an opportunity to defend himself. The Disciplinary authority punishing the applicant on these charges without hearing the applicant and without giving an opportunity to defend is a violation of natural justice and the impugned punishment order is liable to be set aside and quashed.

3. That with regard to the statements made in paragraphs 2 and 3 of the written statement, the applicant begs to reiterate the statements made in paragraphs 1 and 2 above.

Deori  
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4. That with regard to the statements made in paragraph 4 of the written statement, the applicant begs to state that the contents of the paragraph being matter of records offers no comment.

VERIFICATION

I, Shri Dinesh Kumar Deori, son of late Lokendra Deori, aged about 43 years, Ex-Postal Assistant, Itanagar H.O., resident of Silapather, P.O. and P.S. Silapather, District Dhemaji, Assam do hereby verify that the contents of paragraphs 1, 2, 3 and 4 above of the counter to the written statements filed by the Respondents are true to my personal knowledge and that I have not suppressed any material fact.

Date - 31/10/05

Place - Guwahati.

Dinesh Kumar Deori  
( Dinesh Kumar Deori )

APPLICANT

21 FEB 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
Guwahati Bench.

Filed by:  
Phani Kumar Deori  
Advocate  
21/02/05

Original Application No.111 of 2004

Shri Dinesh Kumar Deori

... ... ... Applicant

- versus -

Union of India and others

... ... ... Respondents

ADDITIONAL STATEMENT BY THE APPLICANT

IN THE ABOVE O.A.NO.111 OF 2004.

1. That the above O.A.No.111 of 2004 came up for hearing on 18.01.2005.
2. That the articles of charge No.1 was levelled against the applicant for alleged misappropriation of Rs.9132/- during the period from April, 1995 to December, 1997 (vide Annexure - 4, page 27 of the original Application). The Disciplinary Authority in his final order recorded that "the short amount of Rs.9132/- against 26 V.P. Articles delivered by him during April/97 to August/97 (list furnished by CO) was credited by him on 13.11.97 on receipt of order".
3. That in regard to the refund of the whole amount of the Articles of charge No.1 which was Rs.9132/-, the Hon'ble Tribunal during hearing on 18.01.2005 wanted to see the vouchers under which the applicant paid Rs.9132/- and also wanted to see the order given to the applicant to pay the said amount and orally directed to furnished these records and adjourned the hearing till 23.02.2005.

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Dinner  
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4. That when the shortage of Rs.9132/- was detected at Naharlagun S.O. in early November, 1997, the postmaster, Naharlagun S.O. verbally asked the applicant to make good the shortage. Accordingly, Rs.7000/- was paid to the Postmaster, Naharlagun S.O. on 13.11.1997 which has been duly reflected in para 3.4 of the report of the Inquiry Officer (vide Annexure - 4, page 34 of the original Application). The remaining amount of Rs.2132/- was paid soon thereafter. In both the cases of payment, no official receipt was furnished to the applicant. The Postmaster being the senior officer, the applicant relied on him and did not demand official receipt. At para 3.6 of the Inquiry Officer's report (vide Annexure - 4, page 35 of the original Application), P.W. Shri E.K. Rajan stated that the CO misused the V.P. delivered amount for his own purpose and did not make good the amount timely. The evidence of Shri E.K. Rajan is indicative of payment of the amount in question though belatedly. Had the amount been not paid soon after detection in 1997, the authorities would not have waited to take action so belatedly in 2003. The shortage having been made good, the authorities, the authorities did not consider it necessary to take departmental action. Holding departmental inquiry in the year 2003 for the offence detected in 1997 and compulsorily retiring the applicant from service and that too after the applicant was once dismissed from service on 14.11.2000 for alleged subsequent offences but reinstated in service on Court's order is tainted with bias and vindictiveness.

(Verification at page 3)

VERIFICATION

I, Shri Dinesh Kumar Deori, son of late Lokendra Deori, aged about 43 years, Ex-Postal Assistant, Itanagar H.O., resident of Silapathar, P.O. and P.S. Silapathar, District Dhemaji, Assam do hereby verify that the statements made in paragraphs 1, 2, 3 and 4 of the Additional statements are true to my knowledge and belief and I sign this verification on this 20 th day of February, 2005 at Guwahati.

Date - 20.02.2005

Place - Guwahati

*Sri Dinesh Kumar Deori*  
Signature of the applicant.