

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 127/2003

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SECTION OFFICER (Judl.)

Kalita
76/11/17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 127 /2003

Mise Petition No:

Contempt Petition No:

Applicants: - Sri Debal Mazumder

Respondants:- 4.0.12012s.

Advocate for the Appellants:- To be heard in absentia

Advocate for the Respondents:- *CWSG*

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condemnation Petition is filed / not filed C.R. for Rs 150/- deposited vide file No. 480075	20.6.2003	Perused the application. The application is admitted. Call for the records. List again on 8.8.2003 for orders.
Dated..... 9.6.03 <i>1/CD, Registrar</i> <i>My</i>	mb	<i>Vice-Chairman</i>
	8.8.2003	Put up again on 9.9.2003 to enable the respondents to file written statement.
Steps taken <i>My</i> 11.6.03. Notice served & Rent to Rs for using the possession lent No 1 to 4 by legd. 11A. DINo 1368/w 1371 Dtd 30/6/03 Emoluments not Bemahised. 25/6	mb	<i>Vice-Chairman</i>

(2)

No written statement
has been filed.

3/3
8.9.03.

9.9.2003 Present : The Hon'ble Mr. K.V. Prahala dan, Member (A).

List again on 24.10.2003 to enable the Respondents to file written statement.

I.C.V. Prahala dan
Member

mb

12-12-03

24.10.03 Ad'ed to 21.11.03.

no wfs filed.

21.11.03

no wfs today. Ad'ed to 15.12.03.

3/3

2/2

?

28x8x

16.12.2003 List on 19.1.2004 to enable the respondents to file written statement.

No wfs has been filed.

2/2
27.2.04.

No wfs has been filed.

2/2
22.3.04

19.3.04

mb

I.C.V. Prahala dan
Member (A)

1.3.2004 Two weeks further time allowed to the respondents for filing written statement. List for orders on 23.3.04.

The applicant has submitted an application dt. 19.3.04 and prays for early dispose the O.A No. 127/63, which may kindly be seen at flag 'A'

laid before the Hon'ble Court for further orders.

Normal
see on 16/3/04

nkm

23.3.2004 Written statement has been filed. List the matter for hearing on 12.04.2004.

I.C.V. Prahala dan
Member (A)

mb

(3)

O.A/27/03

Notes of the Registry

Date

Orders of the Tribunal

5.4.04

WTS submitted
by the Respondent Nos.
1, 2, 3 & 4.

Ans.

21.7.04

Rejoinder submitted
by the Petitioner.

Ans.

24-8-04

Order of Registry dated
24-8-04

Ans.

(4)

Notes of the Registry

Date

Orders of the Tribunal

200

200

24.1.2005 List before the next Division Bench.

K. Prahada
Member (A)

mb

09.03.2005 Present : The Hon'ble Justice Sri G. Sivarajan, ~~Vice-Chairman~~
Vice-Chairman.

The Hon'ble Mr. K.V. Prahada
Administrative Member.

16.3.05

Copy of the order
has been sent to
the office for
issuing the same
to the applicant
as well as a
copy of the same
handed over to the
ADD. C.G.S.C. for
the Respn.

Hearing concluded. Judgment
delivered in open Court, kept in
separate sheets. The application is
dismissed. Office will forward a
copy of this order to the applicant
by *Express*.
K. Prahada
Member (A)

K. Prahada
Vice-Chairman

mb.

Received copy

28/3/05

Applicant

28/3/05

19.05.2004 List on 15.6.2004 for hearing before the Division Bench on the plea of counsel for the respondents.

KV Prahadan

Member (A)

mb

15.6.2004 present: The Hon'ble Smt. Bharati Roy
Member (J).

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

None appears for the applicant. It appears from the order sheet that the applicant was not present on 1.3.2004. The applicant is appearing in person in this matter. It is seen that counter reply was filed on 23.3.2004. However, Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. submits that he could not serve the copy of the same upon the applicant as he is not attending the Court. That being the position, learned counsel for the respondents is directed to serve the copy of the counter reply to the applicant by Registered post.

List the matter on 28.7.2004 for hearing. Applicant shall file rejoinder, if any, before the next date and if the applicant is not present on ~~that~~ that day the matter would be decided *ex parte*.

Registry is also directed to send a copy of this order to the applicant by Registered post.

KV Prahadan
Member (A)

BB
Member (J)

bb

25.8.2004 Present : The Hon'ble Sri D.C. Verma,
Vice-Chairman (J).

The Hon'ble Sri K.V. Prahadan, Member (A).

List before the next Division Bench.

KV Prahadan
Member (A)

BB
Vice-Chairman (J)

nkm

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CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No.127 of 2003.

DATE OF DECISION 09.03.2005

ShriDebal Mazumdar

APPLICANT(S)

None present for the applicant.

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

The 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.

ND

1/25

9

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

Original Application No. 127 of 2003.

Date of Order : This the 9th Day of March, 2005.

THE HON'BLE MR JUSTICE G.SIVARAJAN, VICE CHAIRMAN

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

Shri Debal Majumdar,
Son of late N.K.Majumdar,
Asstt. Superintendent of Post Offices, HQ,
O/o the Director Postal Services,
Agartala – 799001.

...Applicant

None present for the applicant.

- Versus -

1. Union of India,
represented by the Secretary
to the Govt. of India,
Ministry of Communications,
New Delhi.
2. The Member Personnel,
O/o the Director General,
Department of Posts, India,
New Delhi.
3. The Chief Postmaster General,
N.E.Circle, Shillong.
4. The Director Postal Services,
Arunachal Pradesh Division,
Itanagar. ... Respondents

By Shri A.K.Choudhury, Addl.C.G.S.C.

ORDER (ORAL)

SIVARAJAN J. (V.C)

The applicant Shri Debal Majumdar was an Assistant Superintendent of Post Offices (HQ) under the Director of postal Services, Agartala. On 2.9.2000

YPS

while the applicant was working as ASP(C) Itanagar he was directed to proceed to A.P.Sectt.S.O and reopen the office after taking inventory of the office including cash & stamps since Shri Koj Tana officiating S.P.M of the said post office absented from duty without handing over the charge of office. The applicant instead complying with the said direction issued by the Director of Postal Services, Arunachal Pradesh Division, Itanagar in the communication dated 2.8.2000 (Annexure-A) had issued a communication on the same date directing one Shri S.N.Gogoi O/S Mail, Itanagar who was managing the work of BPM Donyipolo to maintain the skeleton service of SPM A.P.Sectt. vice Shri K.Tana relinquished charge and the said Gogoi was directed to continue as such till the SPM turned up. It was further directed that the work of BPM Donyipolo will remain kept in abeyance for some days and the EDDA will sell stamps in addition to his own duty. It is stated that this communication was issued on verbal approval of the DPS, Itanagar. The Director of Postal Services issued another communication dated 10.8.2000 (vide Annexure-C) to the applicant stating that there was no approval verbal or otherwise to keep the post of BPM, Donyipolo in abeyance and the applicant was asked to explain the misstatement. The applicant gave his explanation. However, as per communication dated 21.9.2000 (Annexure-E) the Director of Postal Services asked the applicant to submit a detailed report and statement of the staff regarding the closure or otherwise of the A.P.Sectt. BO. The applicant submitted explanation (Annexure F & G). Later the Director of Postal Services issued a memorandum of charges and statement of the imputations of misconduct or misbehaviour (Annexure-H) and asked the applicant to file his objection, if any, in the matter. The main charge against the applicant was that the applicant was directed to proceed to A.P.Sectt.S.O. and re-open the office after taking inventory of the office including cash and stamps and he will



remain in-charge of the office till such an alternative arrangement is made vide office memo dated 2.8.2000. Shri Koj Tana was not absent on 2nd 8.2000 and the applicant relieved Shri Koj Tana on 2.8.2000 without any proper leave from authority. The applicant also did not carry out the investigation on the closure of A.P.Sectt. S.O on the previous day and attempted to cover it up in collusion with Shri Koj Tana or on own initiative. The applicant did not carry out the order of the DPS and relieved Shri Koj Tana without authority and handed over charge to an unauthorized person. The applicant did not maintain devotion to duty and violated the provisions of Rule 3(1) (H) of CCS Conduct Rules, 1964. An enquiry was conducted and later the disciplinary authority after complying with the procedural requirements had issued memo No.B-370 dated 10.12.2001 imposing the punishment of stoppage of one increment for one year when it next fall due to the applicant. It was also ordered that this will not have the effect of postponing his future increment. Aggrieved by the said order the applicant submitted an appeal before the Chief Postmaster General, N.E. Circle, Shillong. The said appeal was disposed of by the order dated 1.10.2002 (Annexure-P). The appellate authority found that the charges against the applicant has been established. He also observed that the allegation that the applicant was not given sufficient opportunity to access the relevant records is not convincing and that even if excess is given to peruse the personal file of Shri Koj Tana that would not help the applicant in any way to bring further evidence against the charges. The appellate authority however observed that going by the applicant's past records his service was not unsatisfactory. Accordingly the appellate authority took a lenient view in the matter and reduced the punishment of stoppage of one increment for one year to stoppage of one increment for 6 (six) months without any cumulative effect. The applicant has impugned these two orders (Annexure N & P) in this application.

YB/

2. The respondents have filed their written statement supporting the stand taken by the authorities. Though this case was posted on many occasions the applicant did not appear for personal hearing. He wanted the matter to be disposed of on merits. Probably this is for the reason that the pecuniary interest involved is very small i.e. six months increment without cumulative effect. It appears that the applicant has also retired from service in January 2005.

3. We have heard Miss Usha Das, learned Addl.C.G.S.C appearing on behalf of Mr A.K.Choudhury, Addl.C.G.S.C. for the respondents. We have also given our anxious consideration in the matter with reference to the records. Admittedly the Director of Postal Services, Arunachal Pradesh Division, Itanagar vide Annexure-A had requested the applicant to proceed to A.P.Sectt. S.O. and re-open the office after taking inventory of the office including cash & stamps and to remain in charge of that office till alternative arrangement is made. He instead of complying with the said direction, on the pretext that there was verbal approval of the DPS, Itanagar, directed one Shri S.N.Gogoi, O/S Mail Itanagar who was managing the work of BPM Donyipolo to maintain the skeleton service of SPM A.P.Sectt. vice Shri K.Tana relinquished charge and also asked him to continue as such till the SPM turned up. He had further ordered that the work of BPM Donyipolo will remain kept in abeyance for some days. This act of the applicant according to the respondents was totally unauthorized. Admittedly the applicant did not strictly comply with the direction issued by the higher authority particularly with regard to the taking of inventory of the office including cash and stamps. There was no direction from the higher authority for keeping the work of BPM Donyipolo in abeyance. Non-compliance of the direction issued by higher authority and issuing direction to his subordinate contrary to the direction issued by the higher authority is a clear dereliction of duty. This will tantamount to non

devotion to duty attracting the provisions of Rule 3(1) (II) of the CCS (Conduct) Rules, 1964. In the instant case both the disciplinary authority and the appellate authority after considering all the relevant records found that the charges levelled against the applicant has been proved. In the background of what we have already stated we do not think that we will be justified in interfering with the findings of the authorities with regard to the charges levelled against the applicant. Though the disciplinary authority had imposed the punishment of stoppage of one increment but it was made clear that this will not have the effect of postponing his future increment, we find that the appellate authority has taken a very lenient view considering his past service and reduced the punishment to stoppage of one increment for six months without cumulative effect. We do not find that the punishment imposed by the appellate authority is in any way disproportionate to the charges established or that it has got any impact on his pensionary benefits.

In the circumstances we do not find any merit in the application and accordingly this application is dismissed.


 (K.V.PRAHLADAN)
 ADMINISTRATIVE MEMBER


 (G.SIVARAJAN)
 VICE CHAIRMAN

केन्द्रीय अधिकारी विधिकरण
Central Administrative Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

111/ नृपत्रीय विधिकरण

An application under Section 19 of Administrative Tribunal Act, 1985

Title of the case.-

OA No 127 of 2003

Sri Debal Majumder

Vs

Union of India and others

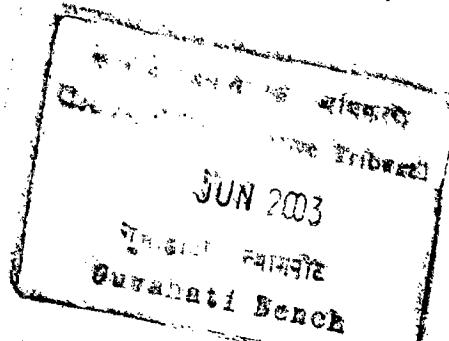
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For office use in Tribunal

Date of filing:-
Registration No :-

REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

An application U/S 19 of AT Act, 1985

OA No.127..../03

Shri Debal Majumder,
S/O.Late N.K.Majumder,
Asstt. Supdt. of Post Offices, HQ,
O/O the Director Postal Services,
Agartala - 799001.



- Applicant

-VS-

1. Union of India,
represented by the Secretary
to the Ministry of Communications.
2. The Member Personal,
O/O the Director General,
Department of Posts, India,
New Delhi.
3. The Chief Postmaster General,
N.E. Circle, Shillong.
4. The Director Postal Services,
Arunachal Pradesh Division,
Itanagar.

- Respondent

PARTICULARS OF THE APPLICATION

1. Particulars of the orders against which this application is made.

This application is made against the punishment order issued by the respondent No. 4 and upheld partially by the respondent No. 3.

2. Limitation

The application is filed within the limitation period prescribed under Section No. 4 limitation Act.

Contd.....

APPLICANT

Sri Debal Majumder

Filled by

3. Jurisdiction

This Hon'ble Tribunal has got jurisdiction in this matter.

4. Facts

4.1. The applicant served as ASP Central Sub-Divn. Itanagar since 28-8-97 to 12-4-01 in the Scale of 6500-200-10500. Thereafter his HQ. was shifted to Pasighat where he served upto 19-8-02. Then he was transferred and posted in the present post. The scale 6500-200-10500 afforded gazetted status to many posts in the Central Govt. The post of ASP in the department of Posts is regarded as Gr. 'B' non gazetted but its status is much higher than that of P.A. cadre in the same department.

4.2. Sri Koj Tana was working as SPM A.P. Secretariate, Itanagar. His wife was at advanced stage and was staying at home town Ziro, 200 K.M. away from Itanagar. Doctor gave the expected date of delivery on 4-8-00 and that very day she gave birth of a baby. A.P. Secretariate is a Single handed P.O. He applied for 15 days paternity leave which was refused. He fell sick on 2-8-00, submitted M/C on that day. He visited DPS Office as well as H.O. for his relief, but that was refused. So he stopped work on that day.

4.3. I was asked vide DPS, Itanagar Memo No. B-370 dated 2.8.00 that the office was closed and I was directed to reopen the office, make inventory of office cash etc. and remain as Incharge of the office.

(Xerox copy enclosed as Annexure - A)

4.4. That time, my daughter took admission in College at Silchar but became helpless due to non getting of residential accommodation there and decided to leave the college. I asked her to wait for a few days. I applied for 5 days EL which was duly granted. But the order of the DPS embarrassed me. So I told him that I will utilise my O/S Mail which he agreed to. I proceeded on leave as usual.

Agreed

Contd.....

(X)

-: (3) :-

4.5. In pursuance of DPS's Memo cited above I issued one Memo No. B2/Staff dated 2.8.00 arranging in the post of SPM, A.P.Sectt. by O/S Mail.

(Copy enclosed as Annexure-B)

4.6. The DPS, Itanagar vide his letter No. B-370 dated 10.8.90, with reference to my memo cited above called for my explanation, regarding keeping the post of BPM Denyipole in abeyance. He however did not deny about his verbal approval of utilising the O/S Mail.

(Xerox copy enclosed as Annexure-C)

4.7. I submitted my explanation vide letter No. B2/Staff dtd. 1.9.00, that it was a stop gap arrangement and the work of BPM Denyipole was negligible. However other works were carried out as usual.

(Copy enclosed as Annexure-D)

4.8. The DPS, Itanagar vide his letter No. B-380 dated 21.9.00, asked me to submit enquiry report regarding closure of the office obtaining statement of the staff.

(Xerox copy enclosed as Annexure-E)

4.9. I submitted enquiry report vide my letter No. B2/Staff dated 27.9.2K and 23.10.2K.

(Copy enclosed as Annexure-F & G)

4.10. The DPS charge-sheeted me under Rule-16 of C.C.S. (CCA) Rules, 65 vide his Memo No. B-370 dated 9.10.00 which was received by me on 25.10.00.

(Xerox copy enclosed as Annexure-H)

Contd.....

4.11. Though the memorandum was signed, but the imputation was not. So I refused to give reply.

4.12. The DPS vide his Memo No. B-370 dated 6.11.00, again charge-sheeted me under Rule-16, on the same ground making slight change of the earlier charge-sheet but did not drop the earlier memo.

(Xerox copy enclosed as Annexure-I)

4.13. I wanted examination of File B-370, the PF of Sri Koj Tana vide my letter dated 3.11.00, for preparation of my defence, ^{in terms of GOI(2) below Rule-16 of C.C.S. (CCA) Rules, 65} as it was a vital document. The DPS denied examination of the same vide his letter No. B-370 dated 20.11.00.

(Xerox copy enclosed as Annexure-J)

4.14. I wanted enquiry of the case as per GOI instruction ⁴ below Rule-16 in C.C.S. (CCA) Rules, 65, vide my letter dated 2.2.01.

(Copy enclosed as Annexure-K)

4.15. I wanted extension of time for submission of defence vide my letter dated 2.12.01, as the month of December is the busiest month for Inspecting Officers, but the DPS did not allow.

(Copy enclosed as Annexure-L)

4.16. I submitted my defence statement dated 8.12.01, with legal arguments.

(Xerox copy enclosed as Annexure-M)

4.17. The DPS awarded the penalty of stoppage of one increment vide Memo No. B-370 dated 10.12.01.

(Xerox copy enclosed as Annexure-N)

Contd.....

4.18. I appealed against the punishment to the OPMG N.E. Circle, Shillong on 4.1.02 refuting the arguments put by DPS.

(Xerox copy enclosed as Annexure-0)

4.19. The appellate authority passed order vide his No. STAFF/109-4/02 dated 1.10.2002 reducing the punishment.

(Copy enclosed as Annexure-P)

4.20. I submitted petition against the appellate order to the Member (P) O/O the Director General, Deptt. of Posts, New Delhi (through proper channel) vide my petition dated 6.11.02.

(Copy enclosed as Annexure-Q)

4.21. As the petition was not disposed of, I submitted a reminder to the Member (P) on 20.1.03, alongwith the copy of the petition dated 6.11.02. But even then the same was not disposed of.

(Copy enclosed as Annexure-R)

4.22. The disciplinary authority maintained personal grudge upon me due to the reasons mentioned in para 20(a) (b) of the appeal. (Annex-0). For that it was always trying to find out excuse, and threatened me many times to take action.

4.23. By denying exhibition of the PF of Shri Kej Tana, the disciplinary authority denied the reasonable opportunity and thereby the principle of natural justice. The appellate authority also did not feel necessity of examination of that document. But it contained the documents so submitted by Sri Kej Tana and also the statements of him and of Sri Sushil Rai, EDP recorded by me in course of enquiry. It was necessary on my part to consult these statements for recollection and also if the documents submitted by him while he left office, bears my signature. So the PF was a very vital documents, having

Contd.....

much relation with the defence.

4.24. Both the disciplinary and the appellate authority asserted that I relieved Sri Koj Tana. But it is far from the truth. He stopped work submitting M/C. He admitted in his written statement that he would leave for his home town whether his leave was granted or not and he had no other alternative. I could not drag him by force to work. I did not sign the documents which he deposited to the DPS office while he left for his home town. He left on his own.

4.25. The disciplinary authority alleged that I engaged unauthorised person i.e O/S Mail but his prior approval was obtained and the use of O/S Mail was in practice there. Prior to that he worked as SPM in three Sub Offices. He was frequently put in case of shortage of P.A staff at Itanagar and Naharlagun Even the Extra Departmental employees were utilised when there was short of P.A staff even in the office of the DPS and he never found any fault with that. Rather he asked the SPMs to manage the work, by utilising EDs / Postman in case of shortage of Postal Assistant (P.A). So that time also his verbal approval was obtained. He did not deny it in his letter dated 10-8-00 (Annexure-C). Rather he admitted in the charge-sheet dated 9-10-00 (Annexure - H)

(Xerox copy of O/S Mail diary for Feb/01 enclosed as Annexure-S which proves he worked as P.A)

4.26. To engage O/S Mail as SPM, is still in practice in Arunachal Pradesh. Shri N.K. Bania, O/S Mail, Along was posted as SPM Meechuka in West Siang District of Arunachal Pradesh in Oct/02 and continued upto May/03, so far last information was received. He is likely continuing still now.

4.27. The DPS who charge-sheeted me, is now serving in Manipur Division, Imphal. Still now he is following the practice of posting of O/S Mail in Sub Post Offices. He posted Sri K. Vaiphai, O/S Mail Churachandpur as SPM Thanlon.

Contd.....

in Manipur Division.

(Xerox copy of DPS HQ D.O. letter No. Est (Plg),
6-4165 dated 4.3.03 to Sri R.K.B.Singh DPS, Imphal
enclosed as Annexure-5. T)

4.28. I wanted enquiry of the case in terms of COI instruction (1) below Rule 16 of C.C.S. (CCA) Rules,65. To reveal truth, it was necessary. But the DPS did not agree. The enquiry in Rule-16 is compulsory, if the punishment affects pension. I am on the verge of retirement and if I go on retirement now, it will affect my pension.

4.29. The post of ASP is a dignified one in the Department of Posts. It's four stair higher than P.A. Post. The SPM A.P. Secretariate belongs to P.A. Cadre. The Post of Postmaster Itanagar was manned by HSG-II Cadre which was two stair lower than the Post of ASP. The DPS asked me to work in a post manned by PA cadre and under a HSG-II in the same station. But I did not refuse for that. To discharge fatherly duty to my helpless daughter, I was to leave the Station, on pro-sanc-tioned leave. Therefore, I utilised the service of O/S Mail, on verbal approval of the DPS, the practice of which is in vogue there. Though verbal, but it was an approval. Many works are carried out on verbal order in the service exigency. The DPS did not deny the verbal approval in subsequent papers.

4.30. The ASP is a Sub-Divisional head. Immense responsibilities is shouldered by him. He holds non-executive post. He is a very busy man with his various types of jobs. So he should not be engaged otherwise. Also it was not necessary to engage him as SPM as the staff position in PA cadre was satisfactory. The DPS Office was full staffed. So he could have directed one PA from his office itself to go with me for re-opening the office in my presence.

4.31. The DPS issued punishment order only on the point that I did not enquire about closure of the office by Shri Koj Tana stated to have been asked vide his Memo dated 2.8.00 (Annexure-A). But nothing was asked about enquiry there. However, the necessary verification of cash, stamp,

Contd....

Certificates, IPOs and others were made and a *suo moto* report was sent on that very day itself (Annexure-B) which was quite sufficient for the purpose. It was not a case of fraud, embezzlement or deciety. So a big report was not necessary. The enquiry was asked for only on 21.9.00 (Annexure-E) which was made by me and I submitted enquiry report on 27.9.00 and 23.10.00 (Annexure F & G). So it is not correct that I did not enquire the case.

4.32. Sri Kej Tana left the office, submitted the leave application, with medical certificate and relinquish charge report, personally to the DPS Office and returned after 25 days. But the DPS took no action against him.

4.33. The appellate authority did not decide the case impartially and judicially. He discussed that I concealed the fact that Sri Kej Tana was *absent* from duty upto 1500 hours of 2.8.00 during the working hours from 0900 hrs. to 1400 hours that I relieved him and shielded him. But the fact is different. In my enquiry report dated 27.9.00 and 23.10.00 (Annexure-F&G), I clearly mentioned that Sri Kej Tana appeared at the P.O. at 3 P.M. shortly before I reached there. That Sri Kej Tana in his written statement stated that he requested the Postmaster, Itanagar to send some body and if otherwise, he had no alternative but to leave the office, whether his leave was granted or not. That he submitted M/C on 2.8.00 and was mentally and physically unable to continue further. I could not drag him by force to duty. There is no documentary evidence that I relieved him. If I had accepted his leave application, charge report and M/C and forwarded to DPS Office countersigned by me, then it could have been stated that I relieved him. He went ~~on~~ his own and submitted these documents direct to DPS Office. The appellate authority overlooked these points.

Contd.

11-6-030

5. Grounds.

5.1. For that the respondent acted illegally and arbitrarily in non-consideration of the cause of the applicant.

5.2. For that the respondent denied reasonable opportunity by refusing to examine the vital documents in the custody of him.

5.3. For that the respondent did not agree to enquiry of the case as per COI instruction (1) below Rule 16 of C.C.S. (CCA) Rules, 65 to reveal the fact.

5.4. For that no action was taken against the official who remained absent, but imputed fabricated charge against me.

5.5. For that the applicant exhausted all the channels to get justice.

6. Matters not previously filed or pending.

7. Details of remedies exhausted.

7.1. Appeal was submitted to the appellate authority in due time.

7.2. Petition was submitted to the higher authority through the appellate authority with copy to the higher authority in due time.

7.3. Again copy of the petition was submitted to the higher authority with request for speedy disposal of the case.

Contd.....

24

-: (10) :-

7.4. The higher authority did not dispose of the case within the reasonable time.

8. Relief.

8.1. To direct the authority to restore the increment stopped.

8.2. Any other relief as deemed fit by Hon'ble CAT.

9. Interim Order.

9.1. To direct the authority to draw the increment right from now.

10. The Case may be decided on its merit.

11. IPO

IPO No. 86.4.8.0075.

Dated ... 7.6.03.....

Payable at GPO Guwahati

12. Enclosures

As stated above.

VERIFICATION

I, Sri Dabul Majumder, S/O. Late N.K. Majumder, aged 58 Years 5 months, resident of Agartala, previously employed as ASP Central Sub-Divn. now working as ASP (HQ), O/O the Director Postal Services, Agartala do hereby verify that the contents in the application are true to my personal knowledge derived from records and belief and that I have not suppressed any material facts.

Signed on the 11th day of June
two thousand three


APPLICANT

DEPARTMENT OF POST:INDIA
 O/O THE DIRECTOR POSTAL SERVICES:ARUNACHAL PRADESH DIVN.
 ITANAGAR - 791 111.

NO:B-370

Dated at Itanagar the 02.8.2000.

1. It is reported that Shri.Koj Tana officiating S.P.M., of A.P.Sectt.S.O. is absent from duty without handing over the charge of office and the office is closed.
2. Shri.D.Majumder , ASP(C), Itanagar is directed to proceed to A.P.Sectt.S.O. and re-open the office after taking inventory of the office including cash & stamps. He will remain incharge of the office till such alternative arrangement is made. And requested to submit compliance report.

(R.K.B.SINGH)

Director of Postal Services
 Arunachal Pradesh Divn.
 Itanagar - 791 111.

copy to :-

1. The P.M.,Itanagar H.O. for information
- 2.The S.P.M., A.P.Sectt.S.O.

Director of Postal Services
 Arunachal Pradesh Division
 Itanagar-791 111.

copy
 21/6/03
 Postmaster,
 Kartala-791111.

(12)

ANSWER - B

Asst. Supdt. of Post Office
Central Sub-Division
Itanagar-791111

No. B2/Staff

Dated at Itanagar the 2-8-2000

On verbal approval of the DPS Itanagar the following orders are issued to have effect from 3-8-2000.

Sri S.N. Gogoi O/S Mail Itanagar who is managing the work of HPM Donyipolo will maintain the skoliton service of SPM A. P. Sectt. vice Sri K. Tana relinquished charge. Sri Gogoi will continue as such till the SPM turns up.

The work of BPM Donyipolo will remain kept in abeyance for some days. The EDDA will sell stamps in addition to his own duty.

SD/-

Asst. Supdt. of Post Office
Central Sub-Division
Itanagar-791111

Copy to :-

1. The DPS Itanagar w/r to his Memo No B-370 dated 2-8-2000, Sri Koj Tana was not absent today but he expressed his inability to continue from 3-8-00. The cash/stamp/MO form stock and certificates stock are correct.
2. The Postmaster Itanagar.
3. Sri S.N. Gogoi O/S Mail Itanagar.
4. The BPM Donyipola.

84/—

Asst. Supdt. of Post Office
Central Sub-Division
Itanagar-791111

Postnasal
Aitata-700001.

DEPARTMENT OF POST:INDIA
O/O THE DIRECTOR OF POSTAL SERVICES: ARUNACHAL PRADESH
ITANAGAR - 791 111.

NO:B-370

Dated at Itanagar the 10.8.2000

TO

✓ ASP (C), Sub Division,
Itanagar - 791 111.

Sub:- Keeping the post of BPM Donyipolo in abeyance.

Ref:- Your No. B2/Staff Dt. 02.8.2000

No approval, verbal or otherwise was given to you to keep the post of BPM, Donyipolo in abeyance. In fact no mention of Donyipolo was made.

Therefore you are hereby asked to explain for the misstatement. Hence submit your explanation within 7 (seven) days of receipt of this letter, otherwise action deemed fit to the case should be taken.



(R.K.B.SINGH)
Director of Postal Services
Arunachal Pradesh Division
Itanagar - 791 111

Afterwards
CWL
21/6/03
Postmaster,
Acartala-791111.

(14)

OFFICE OF THE ASST. SUPDT. OF POST OFFICES
CENTRAL SUB-DIVISION : ITANAGAR- 791 111

ANNX. ->

NO B2/Staff

Dated at Itanagar the 1-9-00

9

To
The DPS
Itanagar

Sub.- Keeping the post of BPM Donyipole in abeyance

Reff:- Your letter No. B-370 dt. 10-8-2000

The regular EDDA Donyipole was put off duty for refusal to take the due charge of BPM and temporary arrangement was made in his place and the officiating EDDA was not assigned the duty of BPM. It was a stop gap arrangement and the work of BPM is also not much. However the sale of stamp was made by EDDA.

Sd/-

Asst. Supdt. of Post Offices
Central sub-dn. Itanagar-791 111

*afforded
etc
21/8/03
Postmaster
Maitala-791 111*

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

NO:B-370

Dated at Itanagar the 21.9.2000

TO

✓ ASP (C), Sub Divn,
 Itanagar-791 111.

Sub:- Submission of detailed enquiry report of A.P.Sectt.S.O.

Please refer this office letter of even No. dtd 02.8.2000, wherein you were asked to submit the compliance report, but the same has still not been submitted.

Therefore a detailed enquiry report and statement of the staff regarding the closure or otherwise submit immediately.

You are again asked to explain the reason for handing over charge to O/S Mail from Shri.Koj Tana who has been refused leave by this office.

(R.K.B.SINGH)
 Director of Postal Services
 Arunachal Pradesh Division
 Itanagar-791 111.

*Afterword
 with
 21/6/03
 Postmaster,
 Agartala-793001.*

पत्र-स्वाक्षर-22
Cc. No. 22Assistt
CWL
7/16/03Postmaster,
Agartala-799001.

30

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIAFrom
प्रेषक

सेवा में

To

Asst. Supdt. of Post Office
Central Sub-Division
Itanagar-791111The Director Postal Services
Arunachal Pradesh Divisionउम संख्या
No.

B-2/Staff

दिनांक
Itanagar

Dated at Itanagar the 27-09-2K

विषय
SubjectDetailed report about absence
of Sri Koj Tana, then SPM A.P. Socctt.

Ref:- Your letter No. B-370 dt. 21-9-00

Sri D. Deka, SPM, AP Socctt was granted EL plus paternity leave due to his wife giving birth of baby. Sri Koj Tana was deputed to relieve Sri Deka. Sri Deka was due to resume on 01-8-2K. While taking over charge Sri Tana told Sri Deka that he came to his rescue during his bad time and requested him to turn up positively on 01-8-2K as his wife was also at advanced stage and the doctor gave the EDD on 4-8-2K. Sri Deka came to Itanagar at the end of July/2000 and Sri Tana again requested Sri Deka to relieve him so that he could be present during his wife's hard times, but Sri Deka did not agree. This put Sri Tana in frustration and perplexity. He applied for leave earlier w.e.f. 01-8-2K on that ground. He earnestly requested for granting of leave in time but it was not granted. This fell him into immense anxiety. He has none at home to look ~~after~~ after his wife during her danger period. So he was nervous and in tension and he requested Postmaster Itanagar to send some body to rescue him, otherwise he ~~would~~ would have no alternative but to leave the office key with the Postmaster and go home. Out of tension he fell ill and submitted m/c on 02-08-2K. He was mentally and physically ~~unable~~ unable to continue further.

The post was reported v-i-de this office memo of even number dated 2-8-2K.

A statement has been obtained from Sri Koj Tana, which is enclosed herewith.

Sri Tana stated that his wife gave ~~born~~ birth of a daughter on 04-08-2K.

Enclo:-
(As stated)

Sd/-
Asst. Supdt. of Post Office
Central Sub-Division
Itanagar 791111

पत्र-संस्कार-22
Corr.-22

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

प्रधान
From Asst. Supdt. of Post Office To संवाद में
Central Sub-Division
Itanagar-791111

The DPS
Itanagar

Answered
Parb
7/16/03
Postmaster,
Azartala-790001

क्रम संख्या
/No. B2/Staff

दिनांक
Dated at Itanagar the 23-10-2K

विषय
Subject Closure of AP Secrtt. PO by Sri
Koj Tana.

Ref:- Your letter No. B-370 dt . 21-9-00

Further enquiry revealed that Sri Koj Tana was absent from duty on 2-8-2K. As the source of information was not mentioned in your memo of even number dated 2-8-2000, enquiry about its closure was not made. Later on it was ~~known~~ learnt that the telephonic information was made by Sri Sushil Rai, EDP. So he was asked about the matter and he stated that Sri Tana did not attend on that day. He (Rai) opened the office with one key having with him. As the SPM was absent, the customers at the counter were annoyed and asked him several questions. So he reported the matter to Itanagar H.O., by whom he was advised to inform your office. So he did so. Sri ^{Tana} appeared at ~~the~~ the PO at about 3 PM, shortly before I reached there. A statement in this regard has been obtained from Sri Rai and is enclosed herewith.

I examined the SO Account of AP Secretariate SO and found that there was no transaction on 2-8-2K. Sri Rai sold stamps from the advance given to him. So the statement of Sri Rai is authentic.

It may be mentioned here that Sri Tana 's wife is not residing at his HQ Itanagar but at his home town Zirra. -

SLF
Asstt. Supdt. of Post Offices
Central Sub-Division
Itanagar-791111

Enclos:
As stated)

(18)

(18)

SV

DEPARTMENT OF POST ; INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
ARUNACHAL PRADESH DIVISION
ITANAGAR - 791 111.

STANDARD FORM OF MEMORANDUM OF CHARGE FOR MINOR
PENALTIES.

(Rule - 16 of CCS (CCA) Rules-1965)

MEMO. NO. B-370

Dated at Itanagar the 09.10.2000

Shri. Debal Majumder ASP(C) Sub Division, Itanagar is hereby informed that it is proposed to take action against him under Rule-16 of CCS (CCA), Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri. Debal Majumder ASP(C), Sub Divn. Itanagar is hereby given an opportunity to take such representation as he may wish to make against the proposal.

3. If Shri. Debal Majumder fails to submit his representation within 10 (ten) days of receipt of this memorandum it will be presumed that he has no representation to make and orders will be liable to be passed against Shri. Debal Majumder ex-parte.

4. Receipt of this memorandum should be acknowledged by Shri. Debal Majumder ASP(C), Itanagar.

Enclo:- As above.

(R.K.B.SINGH)
Director of Postal Services
Arunachal Pradesh Division
Itanagar-791 111.

TO

Shri. Debal Majumder
ASP(C), Itanagar-791 111.

R.K.B.Singh
w/w
7/10/03
Postmaster,
Apatala-799001.

STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR
IN SUPPORT OF THE CHARGES FRAMED AGAINST SHRI DEBAL MAJU-
MDER ASP(C), SUB DIVISION, ITANAGAR, ARUNACHAL PRADESH DIVN.

1. Shri. Debal Majumder ASP(C), Sub Divn. Itanagar was directed to proceed to A.P. Sectt. S.O. and re-open the office after taking inventory of the office including cash and stamps and he will remain in-charge of the office till such an alternative arrangement is made vide this office memo. No. B-370 Dt. 02.8.2000, as this arrangement was made on receipt of telephonic information from EDDA, A.P. Sectt. S.O. Shri. Sushil Roy, at about 11.15 a.m. on 02.8.2000 that Shri. Koj Tana SPM A.P. Sectt. S.O. not attend duty on 02.8.2000.
2. But Shri. D. Majumder on verbal approval of DPS/Itanagar ordered Shri. S.N. Gogoi, O/S, Mail, Itanagar, who is managing the work of BPM, Donyipolo to maintain the skeleton service of SPM A.P. Sectt. S.O. till the SPM turns up vide his memo. No. B2/Staff dt. 02.8.2000 and also mentioned in the same memo that Shri. Koj Tana was not absent on 02.8.2000, but he expressed his inability to continue from 03.8.2000.
3. As such Shri. Debal Majumder ASP(C), Itanagar did not carry out the order of this office and relieve Shri. Koj Tana SPM A.P. Sectt. S.O. without authority and handing over charge of A.P. Sectt. S.O. to an unauthorised person.
4. Shri. Debal Majumder ASP(C), Itanagar did not maintain devotion to duty and violated the provision of Rule- 3 (1) (ii) of CCS Conduct Rules 1964.

(R.K.B.SINGH)
Director of Postal Services
Arunachal Pradesh Division
Itanagar-791 111.

Actual
20/8/03
Postmaster,
Agartala-799001

DEPARTMENT OF POST, INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SERVICES
 ARUNACHAL PRADESH DIVISION
 ITANAGAR - 791 111.

STANDARD FORM OF MEMORANDUM OF CHARGE FOR MINOR PENALTIES.

(Rule - 16 of CCS (CCA) Rules-1965)

MEMO.NO. B-370

Dated at Itanagar the 06.11.2000

Shri. Debal Majumder ASP(C) Sub Division, Itanagar is hereby informed that it is proposed to take action against him under Rule-16 of CCS (CCA), Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri. Debal Majumder ASP(C), Sub Divn. Itanagar is hereby given an opportunity to take such representation as he may wish to make against the proposal.
3. If Shri. Debal Majumder fails to submit his representation within 10 (ten) days of receipt of this memorandum it will be presumed that he has no representation to make and orders will be liable to be passed against Shri. Debal Majumder ex-parte.
4. Receipt of this memorandum should be acknowledged by Shri. Debal Majumder ASP(C), Itanagar.

Enclo:- As above.

(RJS)
 (R.K.B.SINGH)
 Director of Postal Services
 Arunachal Pradesh Division
 Itanagar-791 111.

TO

Shri Debal Majumder
 ASP(C), Itanagar-791 111.

Ansawork
W/L
21/11/03
Postmaster,
Martala-791110

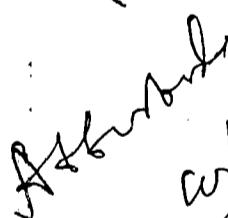
95

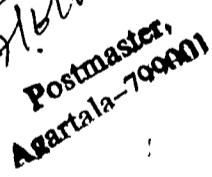
STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE CHARGES FRAMED AGAINST SHRI DEBAL MAJUMDER ASP(C), ITANAGAR ARUNACHAL PRADESH DIVISION

1. Shri. Debal Majumder ASP(C), Sub Division, Itanagar was directed to proceed to A.P. Sectt. S.O. and re-open the office after taking inventory of the office including cash and stamps and he will remain in charge of the office till such an alternative arrangement is made vide this office Memo. NO. B-370 Dt. 02.8.2000 as this arrangement was made on receipt of telephonic information from EDDA, A.P. Sectt. S.O. Shri. Sushil Roy, at about 11.15 a.m. on 02.8.2000 that Shri. Koj Tana, SPM, A.P. Sectt. S.O. not attend duty on 02.8.2000.
2. Shri. Koj Tana was not absent on 02.8.2000 and Shri. Debal Majumder, ASP(C), Itanagar relieved Shri. Koj Tana on 02.8.2000 without any proper leave from authority. He also did not carry out the investigation on the closure of A.P. Sectt. S.O. on the previous day and attempted to cover it up in collusion with Shri. Koj Tana or on his own initiative.
3. As such Shri. Debal Majumder ASP(C), Sub Division, Itanagar did not carry out the order of this office and relieve Shri. Koj Tana S.P.M.A.P. Sectt. S.O. without authority and handed over charge of A.P. Sectt. S.O. to an unauthorised person.
4. Shri. Debal Majumder ASP(C), Itanagar did not maintain devotion to duty and violated the provision of Rule-3(1)(ii) of CCS Conduct Rules 1964.

(R.K.B.SINGH)

Director of Postal Services
Arunachal Pradesh Division
Itanagar-791 111.





 21.6.03
 Postmaster
 Agartala-799001

(22)

Regrt

36

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

NO.B-370

Dated at Itanagar the 20.11.2000

TO

ASP (C), Sub Divn,
Itanagar- 791 111.

Sub:- Examination of File NO.B-370 of this office.

Ref:- Your L.NO.NIL Dtd. 03.11.2000

Examination of Files under Rule-16 of CCS (CCA) Rules 1965 procedure is not prescribed.

Therefore your request to examine the said file is not acceded to;


(R.K.B.SINGH)
Director of Postal Services
Arunachal Pradesh Division
Itanagar-791 111.

Afterword
L.W.
21/11/03
Postmaster
Agartala-799001

(23)

ANNA - K

7
8

To
The DPS
Itanagar

In the matter of alleged violation of conduct
rules.

Ref:- Your Memo No. B-370 dt. 9-10-00 and 6-11-00

I want hearing of the case in terms of the provisions
laid down in CCS (CCA) Rules/65.

Sd/-

D. Majumder
ASP (C) on leave

Dt. at Agartala
the 02-02-01

*As per my
Clerk
26/03
Postage
Agartala - 700001*

To,

The Director Postal Services
Arunachal Pradesh Division
Itanagar.

Sub: Extension of time for submission of defence statement.

Ref: Your memo No. B-370 dt 6-11-00.

Sir,

The month of December is the busiest month for inspecting officers. As such, there may be delay in preparation of defence statement. As such, I would request you to give me time upto 15th Jan/01 for submission of defence statement.

Yours faithfully,
sd/-

(D.MAZUMDAR)
ASP C
Itanagar

True copy, attested
Dated 9/12/03
Sunder Fernando
Subbing S.P.O.

To

The Director Postal Services
Arunachal Pradesh Division
Itanagar

Attachment
Date
7/1/03
Postmaster
Agartala-700011

In the matter of alleged violation of
provision of Rule 3 (i) (ii) of CCS Conduct
Rules, 1964.

With reference to your Memo. No. B-370 dated 9-10-2000 and
dated 6-11-2000 I like to submit my defence as under.

1. I wanted to examine the PF of Sri Koj Tana for preparation of defence statement as it is a vital document especially when the charge is collusion with Sri Koj Tana. Enquiry reports with statement of Sri Koj Tana and that of Sri Sushil Rai were submitted which were necessary to examine for recollection. As the statements were in single copies there is no chance to find those in other places except in his PF. Also it relates to his leave case and the allegation is that he was relieved by me. So it is necessary to examine the documents submitted by him while leaving the office. Therefore it was necessary to examine his PF. But you refused to examine the PF by me. I also wanted extension of time upto the middle of January/2001 for well preparation of defence as the month of December is the busiest month for inspecting officers. But that also you did not grant. So I am submitting my defence without the opportunity of examining the PF of Sri Koj Tana and within the stipulated period.
2. In the charge sheet, it was stated that Sri Koj Tana was not granted leave, but in the order dated 2-8-00 no mention was made about the fact, but only that the office was closed and the order was to reopen the office.
3. However Sri Tana was found available when I reached there. Though he was available but he did not work on that day. Whole day he was absent from the office. He appeared just before my arrival. He stated that his wife was in advanced stage at his home town Ziro and that her delivery date was 4-8-00 and there was none to look after her at home. Also that he fell sick and had submitted M/C on that very day itself and would not continue and would leave for his home town whether his leave was granted or not.
4. It is not the fact that Sri Koj Tana was relieved by me. He went of his own

Atturthi
l/r/ 7/10/03
Utkarsh
Partala-700010

5. Though he was available at the station it does not mean the office was open. Merely door remaining open does not mean the office was open. He did no work that day. The door was opened by the EDP. Sri Tana was not absent from the station but was absent from duty. The corroborative statement of EDP and my resultant report of examination of the SO Account authenticate the fact. So in fact the office was closed.

6. The order was to reopen the closed PO which was carried out. Before proceeding, the verbal approval of you for utilisation of O/S Mail was obtained. So the question of engaging unauthorised person does not arise at all. That was not the first time his service was utilised in a SO. Prior to that he was allowed to run three SOs viz. Sejusa, Rupa and Kalaktang on emergent basis, of course not by me. Not only that. When there was acute shortage of PA staff at Naharlagun in March-April/2000 during my leave period, he was relieved from Donyipolo under intimation to you and was engaged as PA Naharlagun and continued as such for long. No objection was raised then. If he was then not unauthorised now also he may not be so. Not only that. Even now in case of shortage of PA staff at HO, his service is utilised. Not only that. Still now the PA's duty is being managed by postman, ED official and even by the nominees of the EDs. It is within your knowledge also.

7. You also asked the SPMs to manage the work of PAs by utilising the EDs in case of shortage of staff. I don't like to mention the name of the SO and the SPM now. If the EDs and their nominees are not unauthorised persons, then definitely an overseer cannot be an unauthorised person.

8. During the time I had also a serious problem. My daughter who took admission in B. Ed. college, Silchar, was helpless there due to lack of accommodation and as such decided to quit. Huge expenditure was incurred in connection with her admission. I directed her to remain there for a week by any means, that my leave had been granted and I would be going just after the visit of CPMG. In such a situation, I was not in a position ^{to go and arrange} but to go and arrange for her accommodation. As such your verbal to utilised the service of O/S Mail was obtained.

9. I am serving for the family and the children. I could not ask my daughter to leave the college and go home;

Postmaster
Asartala-799001 *U/1*
21/1/03
Ans - A

10. It is not the fact that the investigation report was not submitted. Also it is not true that the PO was closed on the previous day. The investigation report about closure of PO on 2-8-00 and Tana's leaving away was submitted vide my office letter No. B2/Staff dated 27-9-00 and despatched vide Invoice No 46 dated 29-9-00 entered at serial 2/22. Further report was also submitted subsequently.

11. Sri Tana's ~~XXX~~ case was genuine. His wife is not staying with him, but staying at his home town Ziro. She was on advanced stage and the doctor gave the EDD on 4-8-00 and that day itself she gave birth of a baby. There is none to look after his wife at home. He stated that he could not ask his wife to defer giving birth of the child. Out of tension he himself fell sick and submitted M/C on that day. So it was not right to refuse his leave. May be there was shortage of staff, Always there is shortage and the staff position was worse in the past. But the divisional office was full staffed then including O/S Plg. In the past in case of acute shortage of staff the service of O/S Plg was utilised. So one could have been deputed from the divisional office itself. I was unnecessarily made involved in the case. My office is also an important one and having heavy load. Even then I did not refuse ~~the~~ the order but executed it. But I did not relieve Sri Koj Tana. He went of his own. The provision of Rule 3 (I) (II) of CCM Conduct Rules, 1964 Was not violated.

12. Your order was to reopen the closed PO which was executed. Alast I have been charged for that. Perhaps it is because of some reasons which I don't like to mention now. I know you are displeased with me and so want to harm me. This is why you have contemplated this. I know I will be charge sheeted further in future again and again, so long I will be here and will be punished by hook or crook. This charge sheet has been issued only with this motive.

13. From the above discussion it is crystal clear that the charge is entirely baseless, fabricated, motivated and frivolous and deserves to be summarily dismissed

(D. MAJUMDER)

ASP-Central Sub Division

Itanagar- 791 111

Luted at Itanagar
the 21/1/03

Reqd

19

DEPARTMENT OF POST : INDIA
 OFFICE OF THE DIRECTOR OF POSTAL SERVICES
 ARUNACHAL PRADESH DIVISION
 ITANAGAR-791 111

MEMO NO.B-370

Dated: 10.12.2001

Afterward
W/
7/12/03
Postmaster,
Agartala-700011

Shri.Debal Majumder ASP(Central) Sub Division Arunachal Pradesh Division was chargesheeted vide this office Memo.NO.B-370 dated 6.11.2000. It is imputed that, Shri.Debal Majumder ASP(Central) Sub Division Itanagar was directed to proceed to A.P.Secretariate SO and re-open the office after taking inventory of the office including cash and stamps and he will remain in charge of the office till such an alternative arrangement is made vide this office Memo.No.B-370 Dt. 2.8.2000 as this arrangement was made on receipt of telephonic information from EDDA A.P.Secretariate SO Shri.Sushil Roy at about 11.15 am on 2.8.2000 that Shri.Koj Tana SPM A.P.Secretariate SO not attend duty on 2.8.2000.

2. Shri.Koj Tana was not absent on 2.8.2000 and Shri.Debal Majumder ASP(C) Sub Dn. Itanagar relieved Shri.Koj Tana on 2.8.2000 without any proper leave from authority. He also did not carry out the investigation on the closure of A.P.Secretariate SO on the previous day and attempted to cover it up in collusion with Shri.Koj Tana or on his own initiative.

3. As such Shri.Debal Majumder ASP(C) Sub Dn. Itanagar did not carry out the order of this office and relieve Shri.Koj Tana SPM A.P.Secretariate SO without authority and handed over charge of A.P.Secretariate SO to an unauthorised person.

4. Shri.Debal Majumder ASP(C) Sub Dn. Itanagar did not maintain devotion to duty and violated the provision of Rule-3 (1)(ii) of CCS (Conduct) Rules 1964.

5. Shri.Debal Majumder submitted his defence statement against the above charges vide his letter No. nil dtd 8.12.2000.

6. I have checked the case in detail. Shri.Debal Majumder ASP(C) Itanagar was directed vide this office L.NO.B-370 dated 2.8.2000 to proceed to A.P.Sectt. SO and to reopen the office after taking inventory of the office including cash and stamps, as Shri.Koj Tana officiating SPM A.P.Sectt. SO was reportedly absent from duty without handing over charge of the office and the office was reportedly closed. Shri.Debal Majumder was also directed to remain incharge of the office till such alternative arrangement is made.

7. Shri.Debal Majumder vide his memo no. B 2 Staff dated 2.8.2000 directed Shri.S.N.Gogoi O/S Mail Itanagar to maintain skeleton service of A.P.Sectt.SO vice Shri.Koj Tana relinquished charge. He has further stated that Shri.Koj Tana was not absent today, but that Shri.Koj Tana expressed his inability to continue from 3.8.2000. The Cash/Stamp/MG Forms stock and certificates stock are correct. Shri.Debal Majumder was reminded vide this office letter no. B-370 dated 21.9.2000 to submit a detailed enquiry report, along with the statement of the staff regarding the closure or otherwise of A.P.Sectt.SO. Shri.Debal Majumder submitted a report vide his letter no. B 2/Staff dated 27.9.2000 enclosing a

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Affidavit No. 2/2000
Postmaster,
Partala-700001
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statement of Shri.Koj Tana collected /recorded by him. In the said report Shri.D.Majumder has stated that Shri.Koj Tana requested Postmaster Itanagar HO to send somebody to relieve him otherwise he (Shri.Koj Tana) will have no alternative but to leave the office key with the Postmaster and go home. Out of tension Shri.Koj Tana fell ill and submitted M/C on 2.8.2000. Shri.D.Majumder has not enquired into the closure of the office. Shri.Koj Tana in his statement, has also stated that no report about the closure of the office was sent, but that he requested Postmaster Itanagar HO to send somebody to take charge of the office otherwise he will be compelled to go.

Shri.D.Majumder was asked vide this office letter no. 14-370 dated 9.10.2000 to collect the statement of Shri.Sushil Roy I-DDA A.P.Sectt.SO who is purported to have reported over phone to Divisional Office at about 11.15 AM on 2.8.2000 that Shri.Koj Tana SPM A.P.Sectt.SO did not attend duty on 2.8.2000.

Shri.D.Majumder submitted a report vide his L.NO.B 2/Staff dated 23.10.2000. In it he has at last stated that " Further enquiry revealed that Shri.Koj Tana was absent from duty on 2.8.2000. As the source of information was not mentioned in your memo of even no. dated 2.8.2000, enquiry about its closure was not made". Alongwith the letter, he has forwarded the statement of Shri.Sushil Rai recorded by him. Shri.Sushil Rai has stated that Shri.Koj Tana did not come to office. He has further stated that Shri.Koj Tana came to post office at about 3 PM before arrival of ASP.

In his defence statement Shri.D.Majumder has contended that he did not relieve Shri.Koj Tana, but that he went on his own. He has also further stated that it was not right to cause the leave of Shri.Koj Tana and that someone could have been deputed from Divisional Office itself. His opinion is that he was unnecessarily involved in the case, and though his office was also an important one and having heavy load, he executed the order.

From the above discussion, the facts which emerges in brief are as follows.

1. Shri.D.Majumder was directed to enquire into a case of closure of A.P.Sectt.SO on 2.8.2000 and reopen it.
2. Shri.Koj Tana officiating SPM A.P.Sectt.SO was absent from duty on 2.8.2000.
3. Shri.Koj Tana turned up at A.P.Sectt.SO at ~~at~~ 3 PM on 2.8.2000 just before the arrival of Shri.D.Majumder.
4. Shri.D.Majumder allows Shri.S.N.Gogoi O/S Mail Itanagar to "assume" charge of A.P.Sectt.SO.
5. Shri.D.Majumder submits a report on 2.8.2000 that Shri.Koj Tana was not absent on that day.
6. Shri.D.Majumder was asked on 21.9.2000 to submit a report and statement of staff regarding the closure or otherwise of A.P.Sectt.SO on 2.8.2000.

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7. Shri.D.Majumder submits a report on 27.9.2000, stating that Shri.Koj Tana had requested PM Itanagar HO to send somebody to relieve him, otherwise he will have no alternative but to leave the office key with the Postmaster and go home. He has enclosed a statement of Shri.Koj Tana stating that no report about the closure of office was sent. Shri.D.Majumder has not mentioned about the closure of office on that day. He has also not submitted the statement of the ED Packer of the office on that day.

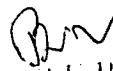
8. Shri.D.Majumder was asked vide this office letter no. B-370 dated 9.10.2000 to submit the statement of Shri.Sushil Roy EDDA A.P.Sectt.SO on that day.

9. Shri.D.Majumder vide his L.NO. B 2/Staff dated 23.10.2000 submits a report that Shri.Koj Tana was absent from duty on 2.8.2000. He claims that enquiry about the closure of office was not made, as the source of information was not made to him.

From the above sequence of events it is clear that A.P.Sectt.SO was not functioning on 2.8.2000 and that Shri.D.Majumder tried to cover it up in collusion with Shri.Koj Tana. Shri.Koj Tana turned up at the office just before the arrival of Shri.D.Majumder & Shri.Majumder allowed the O/S Mail to assume charge without following the procedure for reopening of a closed office. He claims to have not carried out the investigation of the closure of the office as the source of information was not disclosed to him. This argument is untenable, as a clear written direction was issued to him, and the office consists of one SPM and one ED Packer, whose statement were recorded only after repeated written directions from Divisional Office.

12. Shri.D.Majumder in his defence statement has stated that this office order was to reopen the closed PO which he carried out and he is being charged for that. The charge against Shri.D.Majumder pertains to his acts of omission in the reopening of the office and trying to cover up the non functioning of Post Office. This is a very serious lapse for an administrative officer and I find no ground for leniency.

13. It is amply clear that the charge against Shri.D.Majumder stands proved, and that he has not shown devotion to duty thereby violating the provisions of Rule 3(1)(ii) of CCS (Conduct) Rules 1964. I do hereby award the punishment of stoppage of one increment for one year when it next fall due to Shri.D.Majumder ASP(C) Itanagar. It is further ordered that this will not have the effect of postponing his future increment.


(R.K.B. SINGH)
Director Postal Services
Itanagar-791 111

Copy To:-

Shri Debal Majumder
ASP (Central) Sub Divn.
Pasighat.

SL-5329
10/10/02
45

JKK/AB
Wali
21/10/03
Postmaster
Ariatala-700001

To
The Chief Postmaster General
H.E. Circle, Shillong-793 001

Sub:- Appeal against punishment order

Respected Sir,

With due respect and humble submission, I beg to state that, the DPS Itanagar being seated on a highly dignified chair, has done a great injustice to me. As such, I am submitting the following appeal with the pray and hope that I will get right justice from your goodself.

2. The DPS Itanagar charge sheeted me under Rule-16 of CCS(CCA) Rules/65 vide his Memo. No. B-370 dated 9-10-00, a copy of which is enclosed as annexure- A 1 and A2. As it was ~~impure~~ not signed, I refused to submit defence statement. He then supplied the same which is enclosed as annexure B.
3. He again served a fresh charge sheet on the same matter making some change from the previous one, but did not drop the earlier charge sheet. The Xerox copy of the same is enclosed as annexure-C1 & C2.
4. For preparation of my defence statement I wanted to examine the PF of Sri Koj Tana, as per GOI instruction (2) below Rule- 16 of CCS(CCA) Rules/65, as that was a vital document because the charge was about collusion with him. So it was necessary to examine the documents submitted by him and also to examine his statement and that of the EDP, obtained during the time of enquiry, for recollection. But the learned DPS refused it vide his letter NO. B-370 dated 20-11-00, the Xerox copy of which is enclosed as annexure -D. By such refusal he denied reasonable opportunity of self defence and thereby natural justice was deprived of.
5. I wanted extension of time upto middle of Jan/01 for submission of defence statement as the month of December is the busiest month for the inspecting officers. That also, the learned DPS did not accceed to.
6. I submitted combined defence statement dated 8-12-2K, covering both the memos. which is enclosed as annexure-E. But the learned DPS did not refute the arguments raised by me, for his conclusion to the decision.

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Affidavit
W/ 718603
Postmaster
Asartala-790601

7. I wanted hearing of the case in terms of GOI instruction below rule 16 vide my letter dated 2-2-01, the Xerox copy of which is enclosed as annexure-F. But the learned DPS though did not refuse in writing but did also not agree to that. Perhaps he feared that if enquiry was held, the charges would not be proved.

8. The learned DPS Itanagar vide his Memo. No. B-370 dated 10-12-01 awarded me the punishment of stoppage of one increment for one year which is enclosed as annexure-G. In the said memo. he did not include charge sheets and my defence statement which ought to have found place in the same. Also he did not refute the arguments raised by me. However the Xerox copy of the charge sheets and defence statement have been produced by me as annexure-A to E.

9. The charges are:-
 (i) that I did not carry out the official order but relieved Sri Koj Tana, SPM A.P. Sectt.
 (ii) that I engaged an unauthorised person in his place.
 (iii) that I did not investigate on the closure of A.P. Sectt. SO on the previous day.

10. Regarding charge (i) above, I strongly hold that I did not relieve Sri Koj Tana. I did not countersign the charge reports nor submitted any document to that effect. There is no documentary evidence that I relieved Sri Koj Tana. Sri Tana in his written statement admitted that he had no alternative but to go whether his leave was granted or not. He went of his own. The order was to reopen the closed office (annexure-H) which was executed. So it can't be said that I did not carry out the official order and relieved Sri Koj Tana. So the charge does not sustain.
 As regards charge (ii) above it is also not fact. Before departure his verbal approval was obtained which he also did not deny in the discussion of ^{judgement} order (annexure-G). Rather he clearly admitted in para 2 of imputation of charge sheet dated 9-10-2K (annexure-B) that his verbal approval was obtained. So this charge also does not sustain.
 As regards charge (iii), it is not based on material facts. It is the fancied statement of the learned DPS. His manifestation as if everything has been ruined. But the story is different. It is not understood what does he mean to investigate on the closure of the A.P. Sectt. SO on the previous day. The incident happened on 2-8-00. So the question of investigation on closure on previous day i.e. 1-8-00 does not arise.
 It is also not true that I did not enquire the case. It was asked officially only on 21-9-00 to enquire and submit detailed report (annexure-I2). The detailed report was submitted on 27-9-00 and 23-10-00 vide annexure I & J. In the order dated 2-8-00 (annexure-H) it was asked to reopen the closed PO and nothing was asked about en.

Addl. Postmaster,
Dibrugarh
Assam
786003
ANNEX-C
Postala-700001

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The annexure H1 clearly speaks for itself. His order was copied with and the necessary report intimating the factual events was submitted on that very day itself which was sufficient for the purpose.. only the statement of S/Sri Koj Tana and S. Rai were left which were submitted later on 27-9-00 and 23-10-00. It was not a case of abstraction/robbery / burglary/fraud. So a big report did not come up. It was a case of desertion. The report about physical verification of cash stamp etc, and the circumstances on which Sri Koj Tana closed the office was submitted on that very day itself i.e. 2-8-00 which was quite sufficient for the purpose. So it can't be said that no enquiry was made. The learned DPS strongly claims that it was asked clearly in the order (annexure-H1) to hold enquiry. But the said order bears no such instruction. Also nothing was mentioned who reported about closure of the office. So it was not possible to contact that reporter on the first day. That is what I meant to say the source of information. The learned DPS holds that it was a serious lapse, but how. Though not asked the sou moto report covering the required aspects was submitted on the first day itself. Thus the attribution that no enquiry was made does not stand, firstly, because the report with necessary information was submitted on the same day of the incident and secondly detailed reports were submitted on 27-9-00 and 23-10-00 (annexure- I & J) The learned DPS stands on that no enquiry was made, but the documentary evidence (annexure- I & J) proves to the contrary. His contention that no enquiry was made with staff has also no base. AP Sectt. is a single handed no delivery PO having staff strength SPM 1 and EDP 1. He goes to show that as if enquiry was incomplete for want of contact with so many members of staff. Besides Sri Koj Tana the statement of only EDP staff was also obtained. He tried to establish his stand on fancied story and punish by any means which reflected in my defence statement. So this charge also does not stand and all the charges are disproved.

11. It was mentioned in the defence statement as to the circumstances why I had to obtain verbal approval of DPS to utilise the service of O/S Mail.
12. Now I will make para wise comments on the judgement order dated 10-12-01 (annexure- G). In para 7 of the same it was stated that Sri Koj Tana did not report about closure of the office. But the closure report was informed to me by the DPS himself vide letter dated 2-8-00 (annexure-H1). So it is necessary to discuss.
13. As regards para 8 of judgement order, the statement of Sri Sushil Rai (nominee) EDP, was obtained and submitted on 23-10-00 but it could not be obtained on 27-9-00 perhaps his appointment was terminated on return of regular, Sri Anil Borah.

Affidavit
7/10/07
Postmaster
Agartala-7990048

14. As regards para 9 of judgement order (annexure- A) ~~the statement~~ it is admitted that Sri Koj Tana was absent from duty on 2-8-00. No enquiry was asked for in the order dated 2-8-00 (annexure-H1) His absent report was submitted on that very day itself along with other facts which was sufficient for the purpose. When asked for vide annexure-H2 detailed enquiry report was submitted on 27-9-00 and 23-10-00 with statement of S/Sri Koj Tana and S. Rat (annexure I & J).

15. As regards para 10(1) it is not true that I was directed to enquiry into the case of closure of AP Sectt. SO on 2-8-00, but only to reopen it (annexure-H1). Item (2) and (3) are admitted. Item (4) Sri S.N. Gogoi was allowed on obtaining verbal approval of DPS. Item (5) Report was that Sri Tana was not absent from the station but was absent from office. Item (6) is admitted. Item (7), The ~~SO~~ statement of Sri Koj Tana was obtained and sent. It was mentioned in report dated 23-10-00 that the SO did not function on 2-8-00. Item (8) is admitted. Item (9). No enquiry was made as not asked for in the order dated 2-8-00 and also it was not mentioned who was the first reporter. However report with factual events was submitted on that day itself which was sufficient for the purpose.

16. As regards para 11 of judgement order, it is admitted that AP Sectt. PO did not function on 2-8-00 but the allegation about trying to cover up with Sri Koj Tana is not true. Koj Tanna arrived just before my arrival and went away soon after. The O/S Mail was engaged on the following day. It is not fact that procedure for reopening of a closed office was not followed. The O/S Mail was quite satisfied with the office cash stamp etc. The learned DPS emphasised on the point that no investigation was made. According to him as if every thing was wasted due to non submission of detailed report on the first day. But the first day report was submitted & was sufficient for the purpose. In the order also (annexure-H1) it was not asked for SO I can't be blamed. However elaborate report was submitted on 27-9-00 ~~so~~ and 23-10-00 (annexure -I & J) So it can't be said that no enquiry was made. The AP Sectt. PO is a single handed no delivery office.

The regular EDP. He was working as nominee of Sri Anil Borah. In the ~~order~~ order (annexure-H1) it is clear that no mention was made who reported closure of the SO. and also it was not asked to enquire into on the same day itself. The annexure H1 speaks for itself. The order was to reopen the SO and no enquiry which the annexure H1 clearly manifests. The factual events were furnished on that very day itself which was quite sufficient. When asked later on about detailed enquiry, the statement of S/Sri Koj Tana and of S. Rat were obtained and forwarded (annexure-I & J). So it is not true that no investigation was made. So the charge of non performing investigation does not sustain. The claim that argument is untenable is not sufficient to blame a person.

Postmaster
W/ 21/00
Annex-0
Aman 700001
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My untenable has not been logically discussed. It was the Postmaster to make me guilty by any means whether or not covered by factual events.

17. As regards para 12 of judgement order(annexure-C) it is stated that the order to reopen the closed SO was carried out. There was no cover up to the non functioning of the office. It actually did not function as revealed from my enquiry report.

18. The learned DPS once charged under Rule-16 vide Memo No. B-370 dated 9-10-00 (annexure 41) Again he charged for the same charges on 9-11-00 (annexure C1) without dropping the earlier charge sheet. It took long one year to come to a ~~conclu~~ conclusion. He did not give me reasonable opportunity for examination of vital document. He did not allow extension of time. Also he did not accede to the request for hearing of the case. He did not refute the ~~charge~~ the paras raised by me in the defence statement. He concluded not on material facts & also not on logical discussion and counter arguments on the, raised by me. He simply nullified my arguments as untenable but why untenable no reason could be stated. for that. It is clear that he came to the conclusion on obstinacy and on fancied story. The entire process is whimsical and vitiated. So it may be charged for that.

19. The story in brief is as follows.

- a) Sri Koj Tana applied for 15 days paternity leave on the ground of his wife's advanced stage, who was at home town Ziro, far away from Itanagar.
- b) Doctor gave the expected date of delivery on 4-8-00 and on the very day itself she gave birth of a daughter.
- c) There was none to look after her at the home town.
- d) Sri Tana's leave was refused and he fell ill and submitted m/ on 2-8-00.
- e) The staff position was better than the past. The Divisional office was full staffed then. So one could have deputed from that office itself to relieve.
- f) Sri Koj Tana closed the office on 2-8-00.
- g) I was asked to work as SPW though it was not necessary.
- h) I was in compulsion to go to Silchar to arrange accommodation of my daughter to enable her to continue study.
- i) I obtained the verbal approval of the learned DPS to utilise the service of O/S Mail. Report with factual events was sent to DPS on the same day, j/
- j) I was asked officially on 21-9-00 to submit detailed enquiry report with statement of the both the officials.

After Writ
Postmaster, 26/10/03
Agartala-799001

k) I submitted the same on 27-9-00 and 23-10-00

l) The O/S Mail worked as SPN thrice before that viz. at Sejusa Rupa and Kalaktang.

m) His service was frequently utilised in case of shortage of PA staff at HO and Naharlagun SO.

n) KK and ED nominees are assigned full fledged PA duty at HO and SOs. In HO they work in bill branch, registration and speed post counter, MO compilation, registration receipt and despatch and in VP receipt, within full knowledge of the learned DPS. But no objection is raised.

o) Sri Koj Tana deserted the office on 2-8-00 and returned after one month. But surprisingly no action was taken against him. This goes to prove immense biasness of the learned DPS.

p) I was charge sheeted though I followd the order of reopening of the closed office.

q) I wanted to examine the vital documents for preparation of defence statement.

r) The learned DPS refused to show that vital documents.

s) ~~Exerted DPS~~ I submitted defence statement on 8-12-2K.

t) The learned DPS could not refute the arguments put by me in my defence statement. But he punished by force and not on the basis of natural justice.

20. I mentioned in my defence statement that the DPS Itanagar is displeased upon me for some reasons. These are:-

a) At the time of honourable CPMG's inspection in the year 2000, I frankly confessed about some non-functioning BOs in course of discussion. At this the honourable CPMG was very much surprised and vigorously pursued with reopening of those BOs. The learned DPS blamed me for inviting unnecessary problems. He was very much annoyed with me. Since that incident he is giving me troubles and harrasing me in many ways misusing his official power. He threatened me many times to place me under suspension.

b) Sri Kento Ete Honourable Minister, Personal Administration and Training, Govt. of Arunachal Pradesh called at the residence of the learned DPS on one night and charged him for giving him some false official information. Then I was at Itanagar. I was called at his residence at late hours of that night. Had I wanted I could have avoided that, But I did not do so as I thought if I would not go then the DPS might be in trouble. So I attended. He succumbed to the Honourable Minister and apologised.

Affectionately yours, *John B. Adams*
and passed whole postmaster,
Unted. I could ~~post~~ realize that
you are

I left his residence at about mid night and passed whole postmas-
ter's office night. The problem was solved but he felt humiliated. I could realize that
night that revenge of it would be taken upon me. 16

21. The following shortcomings prevail in the judgement proceedings

- i) Charge sheeted on the same matter second time without dropping the earlier charge sheet.
- ii) Denial of reasonable opportunity-
- iii) Denial of hearing without showing valid reason
- iv) Failure to refute the defence arguments para wise.
- v) Conclusion on fancied statement,

22. That sir, the punishment order was completely on personal grudge, anger, hatred and enmity and not on the basis of natural justice. As such I would pray to your honour that you would be kind enough to judge the charges with reference to the documentary evidence, arguments and counter arguments with due care and regard to natural justice and set aside the arbitrary order of the DPS and for such an ~~merit~~ act of your kindness the humble appellant shall ever pray.

With profound regards,

Kneale.

As stated

Dated at Pasighat
the 4-01-02

Yours faithfully

(D. MAJUMDER)

**ASP Central Sub-division
Pasighat, Arunachal Pradesh
791 102**

Copy to :-

Copy to :- The Director Postal Services, Itanagar in duplicate with request to dispose of at the earliest.

(D. MAJUMDER)
ASP Central Sub-division
Pasighat-791 102

Assist. Postm. 62
Postm. 21503
Agartala-799011.

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

NO. STAFF/109-4/02,

Dated at Shillong, the 01.10.2002.

OR D E R**Sub:-**

Appeal preferred by Shri Debal Majumder formerly ASPOs, Itanagar, now ASP (HO), Agartala against the order of punishment issued by DPS, Itanagar vide Memo No.B-307 dated 10.12.2000 stopping one increment of the official for one year from the date it next falls due.

Shri Debal Majumder was earlier proceeded against under Rule-16 of CCS (CCA) Rules, 1965 vide Memo No.B-307 dated 6.11.2000. The charges levelled against Shri Debal Majumdar are as follows :-

- (i) Shri Debal Majumder, ASP(C), Sub-Division, Itanagar was directed to proceed to A.P. Sectt. S.O. and re-open the office after taking inventory of the office including cash and stamps and to remain in charge of the office till an alternative arrangement was made vide this office Memo No.B-307 dated 02.8.2000. This arrangement was made on receipt of telephonic information from EDDA, A.P. Sectt. S.O. Shri Sushil Roy, at about 11.15 a.m. on 02.8.2000 that Shri Koj Tana, SPM, A.P. Sectt. S.O did not attend duty on 02.8.2000.
- (ii) Shri Koj Tana was not absent on 02.8.2000 and Shri Debal Majumder, ASP (C), Itanagar relieved Shri Koj Tana on 02.8.2000 without any proper leave from authority. He also did not carry out the investigation on the closure of A.P. Sectt. S.O. on the previous day and attempted to cover it up in collusion with Shri Koj Tana or on his own initiative.
- (iii) As such Shri Debal Majumder, ASP (C), Sub-Division, Itanagar did not carry out the order of this office and relieve Shri Koj Tana, SPM, A.P. Sectt. S.O. without authority and handed over charge of A.P. Sectt. S.O. to an unauthorised person.
- (iv) Shri Debal Majumder, ASP (C), Itanagar did not maintain devotion to duty and violated the provision of Rule-3(I)(ii) of CCS Conduct Rules, 1964.

Assisted by
Date 21/6/03Postmaster,
Agartala-799891.

The Disciplinary Authority i.e. DPS, Itanagar, on going through the defense submitted by Shri Majumder and with due regard of all relevant facts of the case issued the order of punishment against Shri Majumder of stoppage of one increment of the official for one year from the date it next fell due vide Memo No.B-307 dated 10.12.2000.

2. Shri Debal Majumder preferred the appeal against the order of punishment issued by the Disciplinary Authority. I, the Appellate Authority, having gone through the appeal as well as all other relevant records of the case have arrived at the following decision:

- a) It has come out clean from the defense statement as well as the order of the Disciplinary Authority which has cited the statements of the other important witness in this case i.e. the EDDA, that Shri Majumder had helped Shri Koj Tana, SPM, A.P. Sectt. S.O. to relinquish charge on 2.8.2000 concealing the fact that Shri Tana was absent from duty on the day upto 1500 hrs. Shri Tana had already absented himself from his office on the day during its working hours from 0900 hrs. upto 1400 hrs. While Shri Majumder was despatched by the Divisional Office to make an inquiry into the case, he deviated from the responsibility entrusted to him and instead tried to shield the SPM from the consequence of unauthorised absence.
- b) While this is itself a serious offence Shri Debal Majumder further added to his lapses by directing the O/S Mails Shri S.N. Gogoi, Itanagar to take charge of A.P. Sectt. S.O. during absence of the regular Postmaster. This order was in contravention of his authority and in clear contradiction of directive issued to him by the DPS, Itanagar. It is quite clear that Shri Majumder exceeded the mandate given to him by the DPS and tried to belittle the lapses of the Postmaster in leaving his duty without authorisation. The case was handled casually by Shri Majumder ignoring the fact that sudden absence of official from duty might have caused serious public grievance.
- c) Shri Debal Majumder concealed the fact of the absence of Shri Koj Tana from duty on 2.8.2000 without authorisation in his

Afterward
whi
31/10/03
Postmaster
Agartala-793001

first report: However, it became evident that Shri Majumder sent a misleading report to shield the SPM as he was again directed to make an inquiry by the DPS. The report submitted by Shri Majumder dated 23.10.2000 with the statement of the EDDA cleared all the confusion created by Shri Majumder himself and established beyond doubt the unauthorised absence of Shri Koj Tana.

3. I, therefore, have no doubt that the charge against Shri Debal Majumder has been established allegation that the charged official was not given adequate opportunity to access the relevant documents is also not convincing to me. I am confident that by giving access to the personal file of Shri Koj Tana would not have helped Shri Majumder in any way to bring further evidence against the charges.

4. However, I have also gone through the past records and noted that the service was not un-satisfactory. With this reason, I would like to take a lenient view and give him further chance to improve his performance. With this objective in view I reduce the punishment of stoppage of one increment for one year to stoppage of one increment for 6 (six) months without any cumulative effect.


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

**Shri Debal Majumder
 ASPOs
 (Through DPS, Agartala)**

Copy to:-

**1. Shri Debal Majumder, ASPOs (HQ) O/O the Director Postal Services,
 Agartala Division, Agartala.**

2. The Director Postal Services, Agartala Division, Agartala.

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

4. Office copy.

Attached
and
Postmaster
Agartala-79903

To
 The Member Personal
 O/O the Director General
 Department of Posts, India
 New Delhi.

(Through proper channel)

Sub:- Petition against decision of the appellate authority.

Respected Sir,

With due respect and humble submission, I beg to state that I have been the victim of a great injustice. To get justice, I appealed against that injustice to the appellate authority with discussion of full facts with documentary evidences, but that authority, though mitigated the injustice, but did not give weightage to the arguments and documents produced by me. As such, I am submitting this petition before your goodself with the pray and hope that I will get justice now.

2. In stead of illuborate discussion, I am submitting copy of the appellate order dated 1-10-02 with copy of my appeal dated 4-2-02 along with the enclosures. The charges were:-
 - (i) that I did not carry out the official order but relieved Sri Koj Tana, SPM A.P. Sectt.
 - (ii) that I engaged an unauthorised person in his place.
 - (iii) that I did not investigate on the closure of AP Sectt. S.O. on the previous day.
3. As regards charge (i) the appellate authority came to conclusion that I relieved Sri Koj Tana concealing the fact that Sri Tana was absent from duty upto 1500 hours and that I shielded the SPM. But the actual fact is different. In my report dated 2-8-00, I clearly mentioned that Sri Tana was not absent but expressed his inability

*Ans. to
W.L.*
21/10/03
Postmaster,
Aptala-100001
52

to continue, the copy off which is enclosed herewith as annex-K. He was asked to return to duty but he was unwilling. In his written statement he admitted that he had no other alternative, but to go whether his leave was granted or not. He went on his own. I could not drag him to duty by force. What the EDP stated in his written statement I also mentioned in my report dated 23-10-00 (annex-J). He was absent from duty but not from the station. He was moving from SO ~~xx~~ to HO and Divisional Office, deserting from duty. I verified cash, stamp certificates etc. on 2-8-00. The SO account will reveal that there was no work on 2-8-00. Sri Koj Tana did not submit relinquishing charge reports to me, but he submitted direct to DPS office and HO. on his own. He did not submit to me for countersignature as he understood that I would not countersign.

4. The O/S Mail was engaged on verbal approval of the DPS. In the memo. dated 2-8-00 (annex-K) it was also mentioned clearly. Some times we are to act on verbal instructions without waiting for written confirmation in case of emergency and in the service exigency. The DPS did not deny it in his discussion (annex-G). Rather in his charge sheet dated 9-10-00 (annex-A1) he clearly admitted in para 2 of the imputation (annex-A2). The O/S Mail was utilised frequently at Itanagar and Nanarlagun in case of shortage of PA staff. The DPS had full knowledge of the fact. I am submitting copy of his diaries for the month of Dec/2k and Feb/01 as annex-L which will prove the fact. He worked as SPM earlier also in 3 SOs. Even the ED staff were utilised in shortage of PA staff at Itanagar within the full knowledge of the DPS. Even in his office ~~xx~~ itself, the EDs are performing the duties of PAs and still now this practice is going on. The appellate authority overlooked this point. I am submitting copy of DPS Itanagar Memo No. B-370 dated 10-8-00 as an additional document as annex-M, in response to my Memo dt. 2-8-00 (annex-K) which also does not deny that verbal approval to utilise O/S Mail was not obtained. However it claims that there was no approval to ~~keep~~ keep the post of Donyipolo in abeyance, but ~~it~~ it is different issue and not in the charge sheet.

5. The disciplinary authority awarded penalty ~~xx~~ only on the point that I did not ~~enquiry~~ enquire the case. But it is not true. I submitted enquiry report on 27-9-00 and 23-10-00 (annex-I & J) when asked to do so on 21- (annex-H2) but the appellate authority overlooked these.

Abulwali *INX-9*
3/8/03
Postmaster,
Agartala-799001, Sikkim

6. It was necessary to examine the written statement of Sri Koj Tana and of Sri S. Rai, for recollection to prepare my defence. Also it was necessary to examine the documents such as charge reports, leave applications and M/C submitted by Sri Koj Tana as to whether those were countersigned and forwarded by me. All those were available in PP of Sri Koj Tana, because the case was processed from that file. By denying examination, reasonable opportunity and thereby natural justice was denied. The appellate authority overlooked this point.

7. I wanted enquiry of the case as per GOI instructions below Rule-16. The DPS did not allow it. The truth could have been revealed, if it had been done. The appellate authority overlooked this point also.

8. If I was at fault, Sri Koj Tana was also an offender. But the DPS took no action against him. This point was overlooked by the appellate authority.

9. Only two days were left for wife of Sri Koj Tana, to give birth of a baby. She was at ~~his~~ home town, far away from his HQ and there was none to look after her. But paternity leave was refused. He fell sick and submitted M/C. Even then the DPS showed no least humanity. The appellate authority did not consider this point.

10. The DPS could have ordered for one hand to go with me for taking over the charge of the SC in my presence. But instead he asked me to work as SPM ~~though~~ though it was not necessary. He ordered me to work under a MSG-II in the same station. But that I did not refuse. To perform my fatherly duty to my helpless daughter at other station, I obtained 5 days EL duly sanctioned at that time but an obstacle came on the way. Therefore his verbal approval to utilise the service of O/S Mail was obtained. The appellate authority did not consider this point.

11. That sir, I am pulsing my head at your door for justice with the pray that your honour would be kind enough to examine deeply the documents and arguments laid by me and would order a proper judgement and for that the humble petitioner shall ever pray.

With warm regards,

Dated at Agartala
6-11-02

Yours faithfully,
D. MAJUMDER
 ASP HQ, Agartala

To
 The Member Personnel
 O/D the Director General
 Department of Posts
 New Delhi.

1/9
 A. K. D.
 21/11/03
 Postmaster
 Agartala-700001

Sub:- Petition against decision of the appellate authority.

Venerated Sir,

With due respect and humble submission, I beg to state that I preferred a petition to your goodself on 6-11-02 against the appellate decision of CPMG N.E. Circle Shillong order No. STAFF/109-4/02 dated 1-10-02. To speed up settlement of the case, I submitted the case through proper channel, which was forwarded to CPMG N.E. Circle, Shillong via DPS Agartala letter No. B2/D. Majumder dated 13-11-02.

That sir, I am on the verge of retirement and may not continue upto maximum superannuation. The punishment was under Rule-16 and no enquiry was conducted though I wanted. Now if I go on voluntary retirement, this will effect pension which against the principle of Rule-16 for conducting enquiry.

That sir, I have ascertained from O/D that the petition has not yet been forwarded to your goodself. As such, I am submitting a copy of the same with the pray for expeditious settlement.

That sir, my service book is moving in connection with my appeal case and as such I am unable to take leave before my retirement. As such I want expeditious settlement of the case.

With profound regards,

Yours faithfully,

(D. MAJUMDER)
 ASP HQ
 O/D the DPS
 Agartala

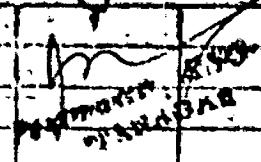
Encl:
 (48 enccl)

? Dated at Agartala
 the 20-1-03

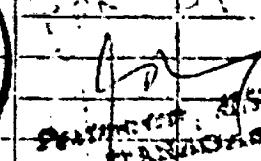
ANNEX-S
Duty of P/S Mac's Hancgar Feb/2001

218103
Postmaster,
Agartala-799001

1 2/01 Afternoon duty - A.P.O.



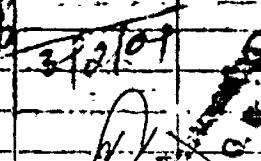
2 8/01 Afternoon duty - A.P.O.



3 2/01 visit A.P.S.T office
Ganga



4 2/01 Sunday -



5 8/01 Afternoon duty - virologist



6 8/01 - do -



7 8/01 Afternoon Feed Guard -



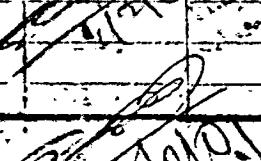
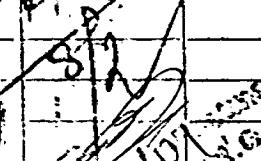
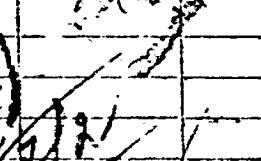
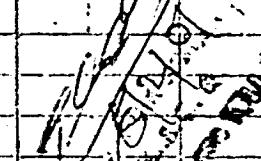
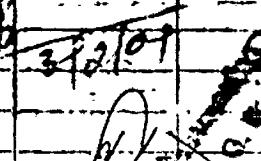
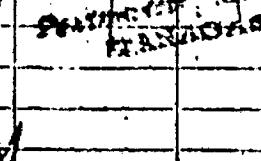
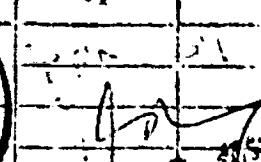
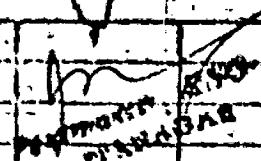
8 8/01 - do -



9 8/01 - do -



10 8/01 - do -



PA duty - Service Regd
Speed post

(E.G.)

13V
CP

Attorney's Office - Waller Logar - 100 - Post - Broneh -

5 21

to 10 21

Attorney's Office - P/A Waller Logar - Post - Broneh -
Special Post - Broneh -

60

500
10/21/01

MAILS

12111

Afford

C.O.D.

21/11/23

Postmaster,
Anantala-799601

16.11.1923
 16.11.1923
 Afforded date - A/T - ~~quarantine~~ ~~Regd & Spec'd~~
 Post Bramemli re - anchor to far

(94)

~~6.00~~
 19/11/23

OVERSIGHTS
 19/11/23

OVERSEER MAILED
Jumogar 79111

10²¹
01 Almond Peely P.A. NLG

11²¹
01 Sam & Hg -

12²¹
01 Almond P/A daily NLG

13²¹
01 Almond daily 8-12 170

14²¹
01 do

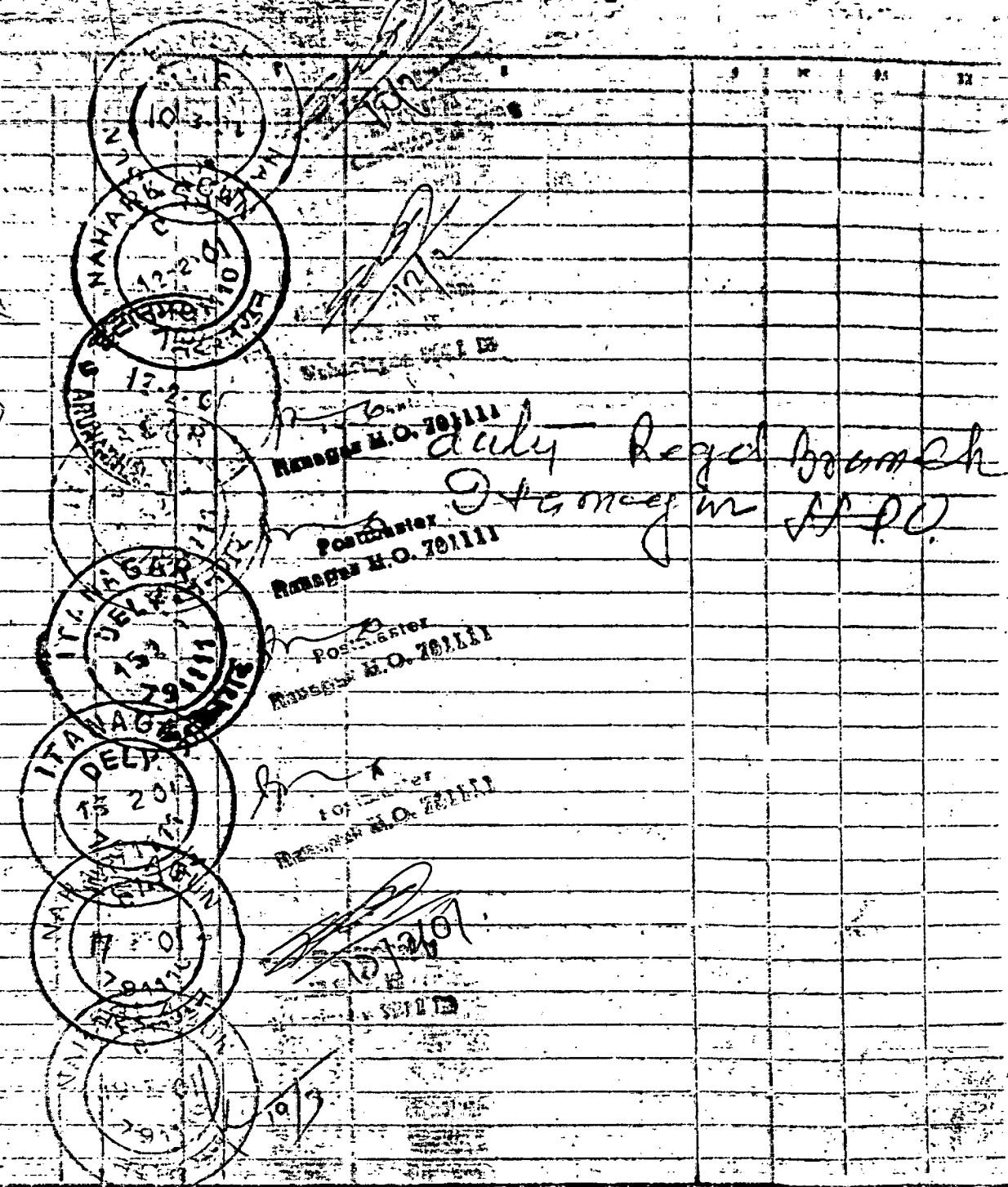
15²¹
01 do

16²¹
01 do

17²¹
01 do

18²¹
01 Sam & Hg -

19²¹
01 Almond P/A daily NLG



OVERSEEN MAILS
• Itanagar 781 111

ANXR-S

20/01

A stamp P/A clearly visible on



21/01

c

22/01

c

23/01

c

24/01

c

25/01

SENTRY



26/01

A stamp clearly visible on



27/01/01

c



28/01

c



A stamp P/A clearly visible

on Special Post Branch

at Itanagar



Certified letter on S.N. Gogoi Dms with
unattached letters of free for boarding
new articles are to undergo if
staff with 17/01/2001 to 28/01/2001

Sub Postmaster
E.S.C.I.
Itanagar 781 111

63

लालहुना
निदेशक डाकसंग्रह
मुख्य डाक महाद्याप का कार्यालय
उत्तर पूर्वी परिमण्डल
शिलांग - 793 001

(48)
LALHLUNA
Director of Postal Services (HQ)
Office of the Chief Postmaster General
North Eastern Circle
Shillong - 793 001



10 MAR 2003

Dated Shillong, the 10-3-2003

D.O. No. Est(Ptg)/6-4165

Dear Shri Singh,

It appears from your letter No. A4-49/Thanlon SO dated 13-1-2003 that Shri K.V. Ranga, P.A., Churachandpur was posted as SPM Thanlon SO with further order that Shri K. Vaiphei, O/S (Mail) Churachandpur would hold the charge of SPM Thanlon till joining of Shri K.V. Ranga. Further, it has been reported vide your letter No. A.4-49/Thanlon SO dated 7-2-03 that Thanlon SO was re-opened on 16-1-2003 but nothing has been mentioned about the date of joining of a regular SPM which may kindly be confirmed.

2. The practice of Mail Overseer holding charge as SPM is highly irregular. Please review and terminate such existing arrangements immediately and ensure not to make any such arrangement in future.

With regards,

Yours sincerely,



(LALHLUNA)

Shri R.K.L. Singh,
Director of Postal Services,
Imphal.

Copy to :-

✓
The D.P.S., Agartala/Aizawl/Kohima/Itanagar.
The S.S.P.Os, Shillong and S.P.Os, Dharmangar.

For information and necessary action as mentioned at para-2 above.

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

Telephone : 224922 (O) / 224500 (R)

23 MAR 2004

मा. नं. १५२३/३
Guwahati Bench

66

Union of India & Ors
- Respondent
through:-
Adv. Chandra Choudhury
23. 3. 04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

In the matter of :-

OA NO.127 of 2003

Debal Mazumdar Applicant

Verses

Union of India & Ors.

... Respondent.

WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENT NO.1,2,3 & 4.

I, M. Lawphnaw, Director Postal Services, Arunachal Pradesh Itanagar-791111 do hereby solemnly affirm and say as follows :

1. That I am the Director Postal Services Arunachal Pradesh, Itanagar and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I authorised to file the written statement on behalf of all the respondents.

2. That with regard to the statement made in paragraph 4.1 of the application, the respondent beg to state that the applicant served in the capacity of Asstt. Supdt of Post Offices, Central Sub-division Itanagar from 28-08-1997 to 18-08-2002. The Central Sub-Division includes the district of East Siang, West Siang, Upper Subansiri, Papumpare, parts of Dibang Valley, Pasighat being the ideal place for headquarter due to its central location. In order to carry out the work of inspection and others the headquarter was shifted to Pasighat from Itanagar and he was accordingly posted at Pasighat. The pay scale of Postal Assistant is Rs,4000/- and that of Asstt. supdt of Post Offices is Rs,6500/- and hence, the status is undoubtedly higher.

M. Lawphnaw

M. Lawphnaw

निदेशक, डाक सेवा

अरुणाचल प्रदेश, इटानगर

Director Postal Services
Arunachal Pradesh,
ITANAGAR-791111

2

3. That with regard to the statement made in paragraph 4.2 of the application, the respondent beg to state that Shri Koj Tana was holding the charge of Sub-Postmaster A.P.Secretariate Sub post Office w.e.f.1-7-2000 (A/F) to 1-8-2000. He applied for 10 days Earned Leave from 02-08-2000 on the ground of his wife's delivery confinement. The expected date of delivery was 04-08-2000 who was at Ziro. His leave was not granted due to acute shortage of staffs at Itanagar HO. As his leave was not granted and his wife was in delivery confinement, he got frustrated and in anxiety he was reported to fall sick. So, on 02-08-2000 he got relieved from the office closing the important office of A.P.Secretariate. The fact was reported to the Divisional Office Itanagar on 02-08-2000 (ANNEXURE).

4. That with regard to the statements made in paragraph 4.3 of the application, the respondent beg to state that the Asstt. Supdt of Post Offices(Central) Itanagar was directed to proceed to A.P.Secretariate Sub Post Office and re-open the office after taking inventory of the office including cash and postage stamps. He was further instructed to hold the charge of the office till alternative arrangement is made. (ANNEXURE).

5. That with regard to the statements made in paragraph 4.4 of the application the respondent beg to state that Earned Leave for 5(five) days was granted to the applicant vide memo N.O.B-383 dtd 26-07-2000. He extended his leave for 7(seven) days. There was no record showing the permission from the Division Office for utilizing the service of Over Seer (mail) for running the office during his leave period.

6. That with regard to the statement made in paragraph 4.5 of the application, the respondent beg to state that without written approval from the authority, the applicant, Asstt. Post Offices engaged the Over Seer(mail) to run the Post Office by issuing the order himself. Actually he should have hold the charge as per direction. (ANNEXURE-II).

7. That with regard to the statement made in paragraph 4.6 of the application, the respondent beg to state that since no any written order was issued from the division Office for engaging Over Seer(mail) to run the A.P.Secretariate post Office for explanation was called from the applicant for his act. The Branch Postmaster, Donyi Polo Vidya Bhavan was ordered by the applicant by himself to run the work of A.P.Secretariate Sub Post Office stopping the work of the said Branch Office is irregular, when there

M. Jampalinaw
M. Jampalinaw
निदेशक, आक सेवा

प्रस्तावित मंडल, इतानगर
Director Postal Services
Administrative Division
ITANAGAR-791111

orders of the Director Postal Services, the question of denial or approval does not arise. (~~ANEXURE 2~~)

8. That with regard to the statements made in paragraph 4.7 of the application, the respondent beg to state that the work of a Branch Office cannot be ignored on the point of negligibility unless the Branch office is closed down. The statement that other works were carried out as usual is not true, when the Branch Postmaster is not in the office how could the work be carried out?

9. That with regard to the statement made in paragraph 4.8 of the application, the respondent beg to state that the applicant was asked to submit his inquiry report along with statement of other staffs for closing the Post Office on 02-08-2000 vide this office memo NO.B-370, dtd 21-09-2000. (~~ANEXURE 3~~)

10. That with regard to the statement made in paragraph 4.9 of the application, the respondent beg to state that the applicant submitted his inquiry report stating that Shri Koj Tana requested postmaster Itanagar HO to send somebody to relieve him otherwise he (Shri Koj Tana) will have no alternative but to leave the office key with the Postmaster and go home. Out of tension Shri Koj Tana fell ill and submit Medical certificate on 02-08-2000. The applicant has not inquired into the closure of the office. Shri Koj Tana in his statement has also stated no report about the closure of the office was sent, but that he requested Postmaster, Itanagar HO to send somebody to take charge of the office otherwise he will be compelled to go. (~~ANEXURE 4, 5, 6~~)

11. That with regard to the statement made in paragraph 4.10 of the application, the respondent beg to state that the applicant was charged sheeted vide memo. NO.B-370 dtd 09-10-2000 for not carrying out the order of the Director Postal Services and relieved shi Koj Tana, Sub-postmaster A.P. Secretariate Sub post office without authority and handed over the charge of A.P. Secretariate Sub-Post Office to an unauthorized person. Hence, the applicant did not maintained devotion to duty. (~~ANEXURE 7~~)

12. That with regard to the statement made in paragraph 4.11 of the application, the respondent beg to state that the memorandum and statement of imputation duly singed on similar charges were issued on 06-11-2000. (~~ANEXURE 8~~)

13. That with regard to the statement made in paragraph 4.12

M. Jauhri
M. Jauhri

निदेशक, खाक सेवा

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

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of the application, the respondent beg to state that the official was not charge sheeted on new cases but copy of the same old charge sheet was provided after his letter wherein it was mentioned that the statement of imputations was not singed.

14. That with regard to the statement made in paragraph 4.13 of the application, the respondent beg to state that no procedure is prescribed for examination of files under Rule-16 of CCA9CCA) Rules, 1965. Moreover, the charged official wanted to examine Personal File N.O.B-370 of Shri Koj Tana. The charged official never wanted to examine any documents or records and since examination of whole Personal File of an official is not covered by Rules, his request was not acceded. (ANEXURE-21).

15. That with regard to the statement made in paragraph 4.14, the respondent beg to state that no procedure is prescribed for examination of files under Rule-16 of CCA9CCA) Rules, 1965.

16. That with regard to the statement made in paragraph 4.15 of the application, the respondent beg to state that considering his request extension of time from submission of defence statement was given to the charged official vide memo nol.B-370, dtd 4-12-2000.

17. That with regard to the statement made in paragraph 4.16 of the application, the respondent beg to state that he submitted his defense against the charges framed, vide NO. nil dtd 8-12-2000 and received on 20-12-2000 wherein he has contended that he did not relieved Shri Koj Tana, but he went on his own. He has further stated that it was not right to refuse the leave of Koj Tana and that someone could have been deputed from Divisional office itself. His opinion is that he was unnecessarily involved in the case and though his office was also in an important one and having heavy load, he executed the order. The charge against the applicant pertain to his acts of omission in the re-opening of the office and trying to cover up the non-functioning of Post Office which is a serious lapse for an administrative officer. (ANEXURE-21).

18. That with regard to the statement made in paragraph 4.17 of the application, the respondent beg to state that after careful examination of defense statement in detail it becomes clear that the charges against the applicant stand proves and that he has not shown devotion to duty. In view of the proved charges against the applicant the punishment of stoppage of one increment for one year was awarded without cumulative effect.

M. Lawphniam
M. Lawphniam

निदेशक, खाक सेवा

अरुणाचल मण्डल, इटानगर

Director Postal Service

Arunachal Prvcty
ITANAGAR-791111

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18. That with regard to the statement made in paragraph 4.18 and 4.19 of the application, the respondent beg to state that the Appellate Authority, the Chief Postmaster General, NE Circle, Shillong vide memo.no.Staff/109-4/02, dtd 01-10-2002 has expressed the opinion that by giving access to the Personal File of Shri Koj Tana would not helped the applicant in any way to being evidence against the charges.

Further the Appellate Authority has observed that :-

(i) It has come out clean from the defense statement as well as the order of the Disciplinary Authority which has cited the statement of the other important witness in this case i.e. the Extra Departmental Delivery Agent, that the applicant had helped Shri Koj Tana, Sub-postmaster, A.P.Secretariate Sup-Post Office to relinquished charge on 02-08-2000 concealing the fact that Shri Koj Tana was absent from duty on the day upto 1500 hrs. Shri Koj Tana had already absent himself from 0900 hrs up to 1400 hrs while the applicant was directed by the Divisional Office to make an inquiry into the case, he deviated from the responsibility entrusted to him and instead tried to shield the Sub Postmaster from the consequences of unauthorized absence.

(ii) While this is itself a serious offence the applicant further added to his lapses by directing the Over Seer (Mails) Shri S.N.Gogoi Itanagar to take charge of A.P.Secretariate Sub Post Office during absence of the regular Postmaster. This order was in contravention of his authority and in clear contradiction of directive issued to him by the Director Postal Services, Itanagar. It is quite clear that the applicant exceeded the mandate given to him by the Director postal Services and tried to belittle the lapses of the Postmaster in leaving his duty without authorization. The applicant ignoring the fact that sudden absence of official from duty might have caused serious public grievance handled the case casually. Particularly in an important Post Office located in the state Secretariat.

(iii) The applicant concealed the fact of the absence of Shri Koj Tana from duty on 02-08-2000 without authorization in his first report. However, it become evident that the applicant sent a misleading report to shield the sub-Postmaster as he was again directed to make an inquiry by the director Postal Services. The report submitted by the applicant dtd 23-10-2000 with the statement of the Extra Departmental Delivery Agent cleared all the confusion created by the applicant himself and established beyond doubt the

unauthorized absence of Shri Koj Tana. And hence, the Appellate Authority keeping in view the past records took a lenient view and gave him further chance to improve his performance uphold the orders of the Disciplinary Authority though reduced the punishment of stoppage of one increment for one year to stoppage of one increment for 6(six) months without cumulative effect.

19. That the respondent have no comments to the statements made in paragraph 4.20 and 4.21 of the application.

20. That with regard to the statement made in paragraph 4.22 of the application, the respondent beg to state that the allegation that the Disciplinary Authority maintained personal grudge upon the Charged Official is not true. The charges framed against the charged official are proved and consequent punishment was awarded.

21. That with regard to the statement made in paragraph 4.23 of the application, the respondent reiterate the statement made in paragraph 14 of this written statement. Further, the statement of Extra Departmental Delivery Agent reveals that Shri Koj Tana actually attended office at 3 p.m. The statement of Shri Koj Tana itself reveals that he had an opinion to leave office at any cost.

22. That with regard to the statement made in paragraph 4.24 of the application, the respondent beg to state that the charge Shri Koj Tana was relieved by the applicant has been established. This was done without the authority and handed over the charge to an Over Seer (mail). He did not carry out the investigation on the closure of A.P.Secretariate Sub-Post Office and attempted to cover the case in collusion with Shri Koj Tana on his own. So, his claim that it is far from truth is not true.

23. That with regard to the statement made in paragraph 4.25 of the application, the respondent beg to state that the charged official was actually instructed to proceed to A.P.Secretariate Sub-Post Office and re-open the office after taking inventory of the office including cash and stamps and he will remain in charge till such an alternative arrangement is made. This instruction was issued after received of telephonic information from the Extra Departmental Delivery Agent of A.P.Secretariate Sub-Post Office. Instead of carrying out the order, the charged official handed over the charge to Over Seer (mail) in turn of which the work of Branch Office hampered. At the time of extreme necessity and with

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M. Lawphnialaw

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डाकाचल मंडल, इटानगर

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Arunachal Pradesh

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approval an Over Seer may be engaged to look after the work of an office. But in above case no approval was given.

24. That with regard to the statement made in paragraph 4.26 of the application, the respondent beg to state that Over Seer may be engage to hold the charge of an office with prior approval in extreme need.

25. That the respondent have no comments to the statement made in paragraph 4.27 of the application.

26. That with regard to the statement made in paragraph 4.28 of the application, the respondent reiterate that statements made in paragraph 14 of this written statement.

27. That with regard to the statement made in paragraph 4.29 of the application, the respondent beg to state that there was no approval given to engage an Over Seer (mail) to hold the charge of A.P.Secretariate Sub Post Office. The Charge Official did what he liked at his own will.

28. That with regard to the statement made in paragraph 4.30 of the application, the respondent beg to state that A.P.Secretariate Sub-Post Office was under the Sub-Divisional jurisdiction of Asstt.Supdt of Post Offices and being the inspecting officer of the office, he was instructed to conduct inquiry for non-functioning of office on 02-08-2000. This is a part of his scheduled duty. As the applicant himself stated immense responsibility is shouldered, so, being a responsible officer he was directed for the responsible job pertaining to non-functioning of A.P.Secretariate Post Office.

29. That with regard to the statement made in paragraph 4.31 of the application, the respondent beg to state that in the inquiry report of this applicant it is stated that Shri Koj Tana did not attended office which is not true. The statement of Shri Koj Tana was recorded on 02-08-2000 itself. Infact the charge official did not inquire regarding the closure of office but concentrated on point of presence and absence of Koj Tana. The charge report singed by Koj Tana and Over Seer on 02-08-2000 proves that the Asstt.Supdt of

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M. Lawphnaw PO's, the applicant, relieved Shri Koj Tana and made Over Seer to assumed the charge of office.(ANNEXURE-IX).

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अरुणाचल मंडल, ईतानगर

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30. That with regard to the statement made in paragraph 4.32 of the application, the respondent beg to state that there is no records indicating the visit of Shri Koj Tana to Divisional Office and handed over the relinquished charge reports.

31. That with regard to the statement made in paragraph 4.33 of the application, the respondent beg to state that after careful examination of the case, both the Disciplinary Authority and the Appellate Authority acted as per rules on the subject in connection of Disciplinary and Appellate decision based on findings. Hence, the allegation that the Appellate Authority did not decided the case impartially and judicially is not true.

32. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, Ms.M.Jawphniaw, Director Postal Services Arunachal Pradesh Itanagar being duly authorised and competent to signed this verification do hereby solemnly affirm and state that the statement made in paragraph 1 of the application are true to my knowledge and belief, those made in paragraph 2-3 being matter of record are true to my imformation derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I singed this verification on this the 8 day of September, 2003

M. Jawphniaw
DEPONENT *M. Jawphniaw*
निदेशक, डाक सेवा
अरुणाचल मंडल, इतानगर
Director Postal Services
Arunachal Division
ITANAGAR-791111

19 JUL 2004

15/7/04

GUWAHATI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,

O.A.No.127/2003

Sri Debal Majumder,
S/o.Late N.K.Majumder,
ASP(HQ)
O/O the Director Postal Services,
Agartala.

.....Applicant

-Vrs-

Union of India & Others

.....Respondents

The humble applicant submits the rejoinder as follows.

1. The applicant begs to state that he received the counter reply on 8.7.04. Mention has been made about many annexures with ^{the} same, but no copy of the same was annexed with the copy received by the applicant. On scrutiny it appeared that those were not referred to the annexures submitted with the OA of the applicant.
2. That with regard to the statements made in paragraph 1 of the counter reply, the applicant begs to state that he has no comments except that denial of statements should be based on logical arguments.
3. That with regard to the statements made in para 2 of the counter reply applicant begs to state that he agrees with the admission of the, the

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respondents that the status of ASP is much higher than that of Postal Assistant(PA).

4. That with regard to the statements made in paragraphs 3 of the counter reply, the applicant begs to state that he admits the statements of the respondents, except that leave was not granted due to acute shortage of staff. The DPS Office was full staffed then.
5. That with regard to the statements made in paragraph 4 of the counter reply, the applicant begs to state that he received an order from DPS Itanagar on 2.8.00 to reopen the PO make inventory of cash etc. and remain as in charge of the office. As his journey to Silchar was inevitable, he obtained verbal approval for engaging O/S Mail.
6. That with regard to the statements made in paragraphs 5 of the counter reply the applicant begs to state that he admits that the DPS Itanagar granted him 5 days EL from 7-8-00 prefixing 5-8-00 to 6-8-00, further he extended leave for 7 days. As his journey to Silchar was inevitable in connection with the study of his daughter, he was not in a position to work as Sub-Postmaster A .P. Sectt. PO (to be manned by PA cadre).As such he obtained verbal approval of the DPS. The DPS did

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not deny it (Annexure-C). Further he admitted in the charge sheet dated 9.10.00 (Annexure H of OA).

7. That with regard to the statements made in paragraph 6 of the counter reply, the applicant begs to state that he received the order just before 3 P.M. of 2.8.00. There was no time to obtain formal approval. So he obtained verbal approval which is supported by Annexure C and H. Sometimes on the exigencies of service, we are to act on verbal order.

8. That with regard to the statements made in paragraph 7 of the counter reply, the applicant reiterates the statement in paragraph 7 above. He further adds that the work of Donyi Polo B.O. was not stopped. There are two officials working in the said B.O. The O/S Mail was holding the charge of BPM. In his absence the B.O. work was performed by the other staff (EDDA). In case of leave granted to one hand in B.O. having two or more hands, the B.O. work is managed by the remaining hand(s).

9. That with regard to the statements made in paragraph 8 of the counter reply, the applicant reiterates the statements in paragraph 8 above.

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10. That with regard to the statements made in paragraph 9 of the counter reply, the applicant admits the statement of the respondents. That was the first time that the DPS asked for enquiry vide his letter dated 21.9.00.

11. That with regard to the statements made in para 10 of the counter reply, the applicant begs to state that he enquired the case as directed by the DPS on 21.9.00. He submitted report on 27.9.00 and 23.10.00 with written statements of Sri Koj Tana and of Sri S. Rai, the only postal staff of the PO(Annexure F & G of OA). The circumstances under which Sri Koj Tana closed the office was discussed in the report. The report about cash, stamp and other valuables was furnished on the 2.8.00 itself. The report about closure of office was received by the D.P.S. who in term intimated me.

12. That with regard to the statements in paragraph 11 of the counter reply, the applicant begs to state that he admits that he received the charge sheet dated 9.10.00. The circumstances under which charge was assigned

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to O/S Mails has been discussed in other paragraphs. In the charge sheet the DPS admitted that verbal approval was obtained. The applicant does not admit that he did not maintain devotion to duty.

13. That with regard to the statements in paragraph 12 of the counter reply, the applicant begs to state that he received another charge sheet dated 6.11.00, with some changes of that dated 9.10.00, but the earlier charge sheet was not dropped.

14. That with regard to the statements in paragraph 13 of the counter reply, the applicant begs to state that he denies that the same old charge sheet was provided (Annexure H & I of the OA).

15. That with regard to the statements in paragraph 14 of the counter reply, the applicant begs to state that he requisitioned for the P/F of Sri Koj Tana, as a document. His leave application, charge reports, his written statement and that of Sri S.Rai at the time of enquiry were filed in

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his P/F. So it was a vital document to examine for the purpose of defence. It was necessary to examine their statements for recollection. Also to see if the leave application and charge reports were forwarded by me and if were countersigned by me. The DPS denied examination stating that there's no provision in Rule-16 for examination of documents which is not correct (Annexure-I of OA). Here the P/F was requisitioned for as document.

16. That with regard to the statements in paragraph 15 of the OA-
counter reply, the applicant begs to state that the statement is misleading.
The punishment order was issued on 10.12.2001 (Annexure N of OA)
while the DPS states to have appointed IO & PO vide Memo No.B-383
dated 11.4.02. That relates to other case, which is still pending.

17. That with regard to the statements in paragraph 16 of the counter
reply, the applicant begs to state that he wanted extension of time upto 15-
1-2001(Annexure L of OA) as the month of December is the busiest
month for inspecting officers. But that was not received before I submitted
defence statement on 8.12.00.

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18. That with regard to the statements in paragraph 17 of the counter reply, the applicant begs to state that he submitted defence statement with logical arguments(Annexure M of OA). It is fact that he did not relieve Sri Koj Tana who went on his own submitting leave application with M/C and relinquishing charge report direct to the DPS Office. When doctor gave the expected date of delivery by his wife on 4.8.00 so the DPS should not have refused 10 days EL to him as his wife was at the home town far away from his station of posting and there was none to look after her. He was perplexed and out of tension he fell ill and reported sick on 2.8.00 and stopped work. He stated that he had no alternative but to go whether his leave was granted or not. He could not be dragged by force to his chair, but he went on his own. The applicant re-opened the office by making a temporary arrangement utilizing his O/S Mail. The PO started functioning from 3.8.00. The applicant reached the PO immediately after receipt of order on 2.8.00 but the counter business of that day was closed by that time.

19. That with regard to the statements in paragraphs 18 of counter reply, the applicant begs to state that the arguments raised in the defence statement were not refuted with logical discussion but the punishment

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order was issued arbitrarily. The DPS came to conclusion on the points that no enquiry about closure of the office on 2.8.00 was made, that Sri Koj Tana turned up at 3 P.M. and he was relieved by the applicant assigning charge to O/S Mail. But it is not the fact. Sri Koj Tana reported sick on that day and stopped work. He was moving from A.P.Sectt. P.O. to Itanagar H.O. And DPS Office. This way he turned up again at 3 P.M. but he could not be dragged to duty. He stated that he would go to his home town whether his leave was granted or not. So the applicant verified cash, stamp etc. and made inventory, reported the matter on the same day about correct balance of cash etc. which was quite sufficient for the purpose. He made a memo on the same day asking O/S Mail to take charge who took over charge on the following day i.e. 3.8.00. No other report was necessary. When asked for enquiry by the DPS vide his letter dated 21.9.00 (Annexure E of OA) the same was submitted with written statements of both S/Sri Koj Tana and S. Rai (Annexure F & G of OA).

20. That with regard to the statement in paragraph 19 of counter reply the applicant begs to state that findings of the appellate authority is not judicious. His contention that P/F of Sri Koj Tana would not have been helpful is not justified. The P/F was having the written statement of S/Sri

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Koj Tana and S.Rai, obtained at the time of enquiry which were necessary to consult for recollection to prepare defence. That was also having the leave application and charge reports. It was necessary to examine if those were forwarded by the applicant with his counter signature. So it was requisitioned for as a document. The appellate authority further opined that the applicant concealed the fact that Sri Koj Tana was absent upto 3 P.M. of 2.8.00. But this is not fact. The applicant reported the fact in his enquiry report dated 23.10.00(Annexure G of OA) that Sri Koj Tana was not absent from station but absent from duty. In the same report (Annexure G) it was mentioned that there was no transaction on 2.8.00 except petty amount of stamp sale by Sri S.Rai. The O/S Mail was engaged on verbal approval of the DPS, which is in practice in Arunachal Pradesh.

21. That with regard to para 20 of counter reply, the applicant has no comments.
22. That with regard to para 21 of counter reply, the applicant begs to state that the counter reply has been submitted by Smt. M. Iaphniaw the present DPS Itanagar. But the incidents happened during the time of Sri R.K.B.Singh then DPS who had personal grudge on the applicant due to

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reason mentioned in OA. For that he harassed the applicant in many ways abusing his official power.

23. That with regard to para 22 of counter reply, the applicant reiterates the statements in paragraph 20 above.

24. That with regard to para 23 of counter reply, the applicant reiterates the statement in paragraph 20 above.

25. That with regard to para 24 of counter reply the applicant begs to state that the circumstances under which he was unable to hold the charge has been explained in para 4.4. of the OA. There was extreme necessity to engage O/S Mail there and for that his verbal approval was obtained, which the DPS did not deny. The B.O. work was not hampered due to engagement of O/S Mails. The B.O. work was managed by other staff (EDDA) of the B.O.

26. That with regard to paragraph 25 of counter reply the applicant begs to state that Sri N.K.Bania, O/S Mail worked as SPM Mechuka for more than a year. When there was extreme need to engage him for more than a year, so it was in case of A.P. Sectt. P.O. also only for a short time.

27. That with regard to paragraph 26 of the counter reply, the applicant begs to state that it is fact that O/S Mail was engaged as SPM/PA many times (Annexure -S of OA). Same practice was adopted in Manipur (Annexure T of OA).

28. That with regard to paragraphs 27 of counter reply the applicant begs to state that the reply of the respondent is not to the point of para 4.28 of OA which relates to enquiry under CCS (CCA) Rules while respondent states about denial of examination of documents.

29. That with regard to para 28 of counter reply, the applicant begs to state that he engaged O/S Mail on verbal approval of the DPS which he did not deny in subsequent papers, rather admitted (Annexure C & H of OA). The respondent did not touch all the points in para 4.29 of OA.

30. That with regard to para 29 of counter reply, the applicant begs to state that the reply of the respondent is not to the points. As inspecting officer, the applicant is to inspect the PO and not work as SPM to be manned from PA cadre. The enquiry report for non-functioning of the PO was furnished vide Annexure F & G of OA.

31. That with regard to para 30 of counter reply, the applicant begs to state that the reply of the respondent is not to the point. Further it is not fact that the statement of Sri Koj Tana was recorded on 2.8.00. His statement was recorded at the time of enquiry after receipt of order dated 21.9.00 (Annexure E of OA). Also it is not the fact that charge report was signed by Sri Koj Tana and O/S Mail. The O/S Mail came on 3.8.00, Sri Koj Tana submitted relinquishing charge report singly. Also it is not the fact that the applicant did not enquire the closure of the office. The reports submitted vide Annexure B,F & G are quite sufficient.

32. That with regard to paragraph 31 of counter reply, the applicant begs to state that Sri Koj Tana himself deposited the charge reports and leave application with M/C to the receive and despatch branch of the DPS Office. No record is maintained for personal appearance. No action was taken against him for his absence from duty for 25 days.

33. That with regard to paragraph 32 of counter reply, the applicant begs to state that the reply of the respondent is not to the point. Both the disciplinary and the appellate authority did not take into consideration the

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Annexure B,C,F,G and H of OA. Also that Sri Koj Tana could not be dragged to chair. In his written statement he admitted that he had no alternative but to leave for his home town

34. That with regard to paragraph 33 of the counter reply, the applicant begs to state that he may be granted the relief sought for.

VERIFICATION

I, Sri Debal Majumder, S/o. Late N. K. Majumder aged 59 years 6 months, resident of Agartala previously employed as ASP Central Sub-Division, Itanagar now working as ASP (HQ), O/O the DPS, Agartala, do hereby verify that the contents of the rejoinder are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signed on the15th.....day of July
two thousand four.



APPLICANT