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

6

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No. 26/2006
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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Ord.App/ Misc. Petn/Cont.Petn/ Rev.Appl. 17/04

In O.A. _____

Name of the Applicant(s) Kh. Jibon Singh

Name of the Respondent(s) H.O.T Gous

Advocate for the Applicant S. Sarona, U.K. Karir Min U. Das

Counsel for the Railway/ C.G.S. Miss B. Devi
A.K. Chaudhary

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
<p>his application is in form but not in time order. The marks of the applicant are not available. F. for 2003. Sited vide H.O. No. 96704218 Dated 2.11.03. <u>Shree</u> Regist. <u>PAI</u></p>	19.2.04	<p>Heard Miss U.Das, learned counsel for the applicant. Issue notice to the respondents to show cause as to why this appli- cation shall not be admitted. Return- able by four weeks. List on 24.3.04 for filing reply to show cause and admission.</p>

Steps taken along with
envelops. No symo.
has been filed.

Shree
21/2/04

Synopsis is required
Shree
9/2/04

Notice & order dt. 19/2/04
sent to D/Section for
issuing to respondent
No. 1 of 3.

13/04- No reply has been filed.
23.3.04

K.P. Bhalala
Member

24.3.2004
Heard Ms.U.Das, learned counsel
for the applicant. The O.A. is admitted,
issue notice to the parties, returnable
by four weeks. List the case for order
on 26.4.2004.

K.P. Bhalala
Member (A)

bb

(2)

O.A. 17/2004

26.4.2004

On the plea of Mr. A.K. Chaudhuri learned Addl.C.G.S.C. four weeks time is allowed to the respondents to file written statement.

List on 25.5.2004 for order.

K. D. Datta
Member (A)

✓
Notices issued vide
D. No - 446 to 448
Dtd - 19-3-04.

bb

3rd
12.4.04

25.5.2004

On the plea of counsel for the respondents four weeks time is given to the respondents to file written statement. List on 28.6.2004 for orders.

K. D. Datta
Member (A)

No written statement
has been filed.

3rd
24.5.04

mb

27.7.2004

On the prayer made by Mr. A.K. Chaudhuri, learned Addl.C.G.S.C., four weeks time is granted to the respondents to file written statement.

List on 31.8.2004 for orders.

K. D. Datta
Member (A)

26-7-2004

Written statement
has not been filed

Ans.

12.8.04

bb

W/s submitted
by the respondents
Nos. 1, 2 and 3.

31.8.2004

Written statement has been filed. Four weeks time is allowed to the applicant to file rejoinder as prayed by Ms. U. Das, learned counsel for the applicant.

List on 29.9.2004 for orders.

K. D. Datta
Member (A)

28.9.04

bb

W/s filed by the
respondents.

no rejoinder has been
filed.

Ans.

Notes of the Registry Date Order of the Tribunal

29.9.04

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

The learned counsel for the applicant states that rejoinder, if any, will be filed within four weeks and the matter be listed for final hearing on 16th Nov., 2004.

K.V. Prahladan
Member

R.K. Batta
Vice-Chairman

lm

1.12.04.

Mr. A.K. Choudhury, learned Addl. C.G.S.C. states that copy of the rejoinder has been filed to-day and he prays for adjournment. The learned counsel for the applicant states that records of enquiry be called. Respondents shall keep records for perusal if necessary. Stand over to 19th January.

A.K. Choudhury
Member

R.K. Batta
Vice-Chairman

lm

19.1.2005

Ms. U. Das, learned counsel for the applicant, states that the records in relation to the enquiry will be required in this matter. None present for the respondents. Matter is accordingly adjourned to four weeks. Respondents shall place the entire enquiry records before the Tribunal on the next date.

Adjourned to 18.2.2005.

K.V. Prahladan
Member

R.K. Batta
Vice-Chairman

bb

18.2.05

MKG/KVP.

Adjourned to 15th March 05

K.V. Prahladan
Member (A)

A.K. Choudhury
Member (J)

30/11/04
W/s has been filed on behalf of the respondent.

NO rejoinder has been filed

30/11/04

3.12.04

Rejoinder submitted by the Applicant.

Das

ready for hearing.

15.03.2005 Present : The Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman

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

At the request of Mr. S. Sarma, learned counsel for the applicant, the case is adjourned. List on 22.03.2005 for hearing.

Case is ready for hearing.

K.V. Prahladan
Member (A)

G. Sivaraman
Vice-Chairman

mb

22.3.2005 Present : The Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman.

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

At the request of Mr. S. Sarma, learned counsel for the applicant the case is adjourned. List on 11.4.2005 for hearing.

K.V. Prahladan
Member (A)

G. Sivaraman
Vice-Chairman

mb

11.4.05 At the request of learned counsel for the applicant case is adjourned to 10.5.05.

Case is ready for hearing.

K.V. Prahladan
Member

G. Sivaraman
Vice-Chairman

lm

10.5.2005 Learned counsel for the applicant Ms. B. Devi, ~~has~~ submitted that she may be permitted to peruse the original records of the case placed before this Tribunal. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. submits that there is ^{no} objection ~~that~~ in learned counsel's perusal ^{of} the said record in presence of the officer of this Tribunal. Accordingly learned counsel for the applicant is permitted to peruse the said records. post on 18.5.2005.

Received
M. Chaudhuri
11/5/05

Received
11/5/05

17-5-05

Records perused on 17-4-05 by the the KSP/11.

K.V. Prahladan
Member

G. Sivaraman
Vice-Chairman

bb

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Office Notes	Date	Order of the Tribunal
<p><u>31-5-05</u> The case is ready for hearing. <i>[Signature]</i></p>	18.5.2005	<p>At the request of counsel for the applicant, the case is adjourned to 1.6.2005.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Received Domenico Dini Advocate 7-6-05</p>	1.6.2005	<p>Heard counsel for the parties. Judgment delivered in open Court, kept in separate sheets.</p> <p>The O.A. is disposed of in terms of the order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p><i>[Signature]</i> Advocate 7/6/05</p>		
<p><u>7.6.05</u> Copy of the Judgment handed over to the Advocates for the parties. <i>[Signature]</i></p>		

mb

bb

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 17 of 2004.

DATE OF DECISION: 01.06.2005

Sri Kh. Jibon Singh

APPLICANT(S)

Ms. B. Devi

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & 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 judgments?
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.

B

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 17 of 2004.

Date of Order: This, the 1st Day of June, 2005.

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

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

Sh. Kh. Jibon Singh
S/o Lt. Kh. Achou Singh
Vill: Irengbom, P.O. Nambol
Dist: Bishnupur, Manipur.

..... Applicant.

By Advocate S/Shri S.Sarma, U.K.Nair & B.Devi.

- Versus -

1. The Union of India
Represented by Secretary
to the Government of India
Ministry of Communication
Dak Bhawan
New Delhi - 1.
2. The Post Master General
North-Eastern Circle
Shillong - 793 001
Meghalaya.
3. The Director
Postal Services
Manipur, Imphal - 795 001.

... Respondents.

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

ORDER (ORAL)

SIVARAJAN, I.(V.C.):

The applicant was originally appointed as Postal Assistant under the respondents on 30.9.1984. He was later on promoted to the post of Sub-Divisional Inspector w.e.f. 21.7.1998. He also worked as LG PA at Imphal H.O. While working as such the applicant was on leave from July, 2001. He continued on leave upto October, 2001. While so

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respondents initiated disciplinary action against the applicant on 6.8.2001. The Enquiry Officer and Presenting Officer were appointed. The notice regarding the enquiry was issued to the delinquent official. However, it could not be served on the delinquent either for the reason that he did not accept it or for the reason that his house was closed. The enquiry was concluded ex-parte and the Disciplinary Authority has passed the impugned order dated 11.4.2002 (Annexure-1) imposing the penalty of removal from service. Alleging gross procedural irregularities the applicant filed appeal (Annexure-2) before the second respondent. The same happened to be dismissed by order dated 3.2.2003 (Annexure-3). The applicant challenges the said two orders in this Original Application.

2. We have heard Ms. B. Devi, learned counsel for the applicant and also Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. As already stated the applicant was on leave w.e.f. 25.7.2001 till 20.11.2001. It is the case of the respondents that the leave for the period from 21.9.2001 to 20.10.2001 and from 21.10.2001 to 20.11.2001 was not granted since the applicant did not produce medical certificate. The respondents had attempted to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 by sending registered notice to the applicant in the address furnished by the applicant. It is stated in the written statement that one of the notices sent by registered post was returned with the endorsement "refused". Another notice sent was returned with the remark "door closed". It is admitted fact that the applicant made a request dated 29.11.2001 to which date the enquiry was posted to defer the enquiry till he returns from leave. No orders have been passed on the said request. The Enquiry Officer proceeded with the enquiry and

gpr

Disciplinary Authority on the basis of the enquiry report had passed the impugned order dated 11.4.2002. In the written statement filed by the respondents it is stated that the request for deferment of the proceedings was not granted for the reason that the respondents have not sanctioned the leave applied for by the applicants.

3. Thus it is clear that the enquiry and the impugned orders happened to be passed ex-parte and without hearing the applicant. Though the applicant had narrated the procedural irregularities in the disciplinary proceedings in the appeal memorandum all those were rejected by the Appellate Authority stating that the applicant was very much aware of the enquiry proceedings and that he had willfully refrained from participating in the enquiry proceedings. The Appellate Authority had clearly noted in the appellate order that "it is also a fact that the appellant had sent through a messenger, a request to the Inquiry Officer for postponement of the oral inquiry till his return from leave." The Appellate Authority has relied on this to state that the charged officials had been aware of the Rule 14 enquiry proceedings but had chosen not to appear personally in the oral enquiry. The Appellate Authority had endorsed the views of the Disciplinary Authority and rejected the appeal.

4. On a consideration of the facts and circumstances of the case we are of the view that an opportunity has to be given to the applicant to defend his case in the disciplinary enquiry. It is true that the respondents sought to comply with the procedural provisions contained in Rule 14 of the Rules by sending registered notices and by hand delivery. Though notices were not received by the applicant, coming to know of the enquiry proceedings commenced during the period of leave, he had sent his brother to watch the proceedings and

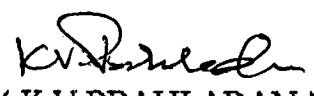
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it is on getting information regarding the next posting date, i.e. 29.11.2001 since he was on leave he sent a request dated 29.11.2001 to the Enquiry Officer through his brother seeking for deferring the departmental proceedings till he resumes duty after leave. If, as a matter of fact, the Enquiry Officer was not inclined to grant the request, he should have set out the reasons for rejecting the request by passing an order and should have communicated to the applicant through his brother who was before the Enquiry Officer. This could have been done by the Enquiry Officer since this request was brought by the brother of the applicant on the date fixed for enquiry. If an order was passed rejecting the request, the same could have been served on the brother of the applicant so that the applicant would have known about the rejection. In this case no such orders have been passed on the said request. This, according to us, has resulted in failure of justice. Though the action of the applicant in not participating in the enquiry even after coming to know about the pending proceedings against him cannot be fully justified, the action of the respondents in not considering the request for deferment of the proceeding and in proceeding with the enquiry also cannot be justified. Taking into account the fact that the applicant had been condemned unheard as stated above, we are of the view that an opportunity must be afforded to the applicant before imposing any penalty for the alleged misconduct. We make it clear that this indulgence of us may not be understood as justifying the conduct of the applicant. For the limited purpose we set aside the impugned orders dated 11.4.2002 (Annexure-1) and 3.2.2003 (Annexure-3) and direct the third respondent to conduct a fresh enquiry against the applicant as contemplated under the Rules. The applicant must be

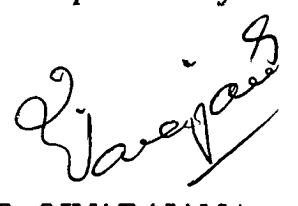
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furnished with the memorandum of charges and the statement of imputation within one month. The enquiry proceedings will have to be completed thereafter within a period of three months from the date of service of the memo of charges and the statement of imputation receipt of the order. Learned counsel for the applicant Ms. B. Devi submits that the applicant will participate in the enquiry without fail. This is recorded. If the applicant absents himself on the date of enquiry to be fixed by the Enquiry Officer without sufficient cause, certainly the respondents are free to proceed with the matter. The question of re-instatement of the applicant as a result of this only will be considered by the appointing/Disciplinary authority independently.

The Original Application is disposed of as above.



(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER



(G. SIVARAMAN)
VICE CHAIRMAN

BB

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 17 of 2003

Sri. Kh. Jibon Singh

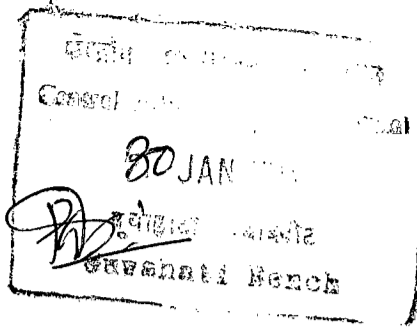
-VS-

Union of India & Ors.

SYNOPSIS

The applicant in the instant application is aggrieved by the impugned order of removal issued by the Director, Postal Services, Manipur, pursuant to an enquiry made in a departmental proceeding initiated vide memo dated 6.8.2001, and the order dated 3.2.2003 issued by the Appellate authority (Post Master General, N.E.Region Shillong) confirming/upholding the aforesaid order dated 11.4.2002. The applicant at that relevant point of time was holding the post on officiating basis against the vacancy of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division. The applicant was on leave w.e.f. 25.7.2001 to 16.8.2001 and extended the leave on medical ground from time to time intimating the concerned authority. During his such period of leave he got the intimation that some proceeding have been initiated against him and immediately on receipt of such information he duly intimated the said authority to postpone the proceeding till his resumption of duty from the medical leave but his request was never acted upon and the proceeding concluded ex-party without disposing of his request for postponement of enquiry. Enquiry was conducted behind the back of the applicant and without serving him the copy of chargesheet, enquiry report etc. he was only served

with the order passed by the disciplinary authority dated 11.4.2002. The applicant immediately preferred an appeal indicating the procedural irregularities committed by the respondents along with other grounds but same yielded no result in positive and the appellate authority vide impugned communication dated 3.2.2003 rejected his appeal confirming the order of the disciplinary authority dated 11.4.2002. Hence this OA praying setting aside of the proceeding initiated against the applicant pursuant to the chargesheet dated 6.8.2001 along with the impugned order dated 11.4.2002 passed by the disciplinary authority and the order of the appellate authority dated 3.2.2003 confirming the said order of removal with a further direction towards the respondents to reinstate him in his service with full back wages and with all consequential service benefits.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 17 of 2003

BETWEEN

Shri Kh. Jibon Singh Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : *Alsha Das*

Regn.No.:

File : c:\WS7\KHJIBON

Date :

Filed by
the applicant through
Alaha Das .6
Advocate
22/1/2004

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No.17..... of 2003

BETWEEN

1. Sri. Kh. Jibon Singh
S/o, Lt. Kh. Achou Singh
Vill-Irengbom, P.O.-Nambol
Dist. -Bishnupur, Manipur

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Communication
Dak Bhawan
New Delhi-1.

2. The Post Master General
North-Eastern Circle
Shillong-793001
Meghalaya

3. The Director
Postal Services
Manipur, Imphal-795001

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION

IS MADE:

This application is directed against the order dated 3.2.2003 passed by the Post Master General, N.E.Region, Shillong and the order dated 11.4.2002 issued by the Director, Postal Services, Manipur imposing the penalty of removal from service to the applicant.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant in the instant application is aggrieved by the impugned order of removal issued by the Director, Postal Services, Manipur, pursuant to an enquiry made in a departmental proceeding initiated vide memo dated 6.8.2001, and the order dated 3.2.2003 issued by the Appellate authority (Post Master General, N.E.Region Shillong) confirming/upholding the aforesaid order dated 11.4.2002. The applicant at that relevant point of time was holding the post on officiating basis against the vacancy of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division. The applicant was on leave w.e.f. 25.7.2001 to 16.8.2001 and extended the leave on medical ground from time to time intimating the concerned authority. During his such period of leave he got the intimation that some proceeding have been initiated against him and immediately on receipt of such information he duly intimated the said authority to postpone the proceeding till his resumption of duty from the

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medical leave but his request was never acted upon and the proceeding concluded ex-party without disposing of his request for postponement of enquiry. Enquiry was conducted behind the back of the applicant and without serving him the copy of chargesheet, enquiry report etc. he was only served with the order passed by the disciplinary authority dated 11.4.2002. The applicant immediately preferred an appeal indicating the procedural irregularities committed by the respondents along with other grounds but same yielded no result in positive and the appellate authority vide impugned communication dated 3.2.2003 rejected his appeal confirming the order of the disciplinary authority dated 11.4.2002. Hence this OA praying setting aside of the proceeding initiated against the applicant pursuant to the chargesheet dated 6.8.2001 along with the impugned order dated 11.4.2002 passed by the disciplinary authority and the order of the appellate authority dated 3.2.2003 confirming the said order of removal with a further direction towards the respondents to reinstate him in his service with full back wages and with all consequential service benefits.

This is the crux of the matter for which the applicant has filed the instant application seeking redressal of his grievances.

Detailed facts are given below.

4.2. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

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4.3. That the applicant got his initial appointment as Postal Assistant (Postal Clerk) Imphal, Head Post Office on 30.9.84. Thereafter during his service tenure he had occasions to serve various station viz. Moirang, Locktak project, Thanlon (as Sub-Post Master), Lamshang (as Sub-Post Master), Imphal Head Office and finally he was given the officiating charge of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division w.e.f. 21.7.1998. It is pertinent to mention here that the applicant was elected as Divisional Secretary General of all India Postal Employees Union, Manipur Division w.e.f. March 1997. The applicant who has an unblemished service career was also active participant in sports especially Volleyball and Badminton and by dint of his sincerity, he was nominated as Member of N.E.Circle Postal Sports Control Board and again the applicant was also nominated as Manager of N.E. Circle for All India Postal Volleyball tournament held at Guwahati 1997-98.

4.4. That the applicant during his service tenure as officiating Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division and then join as LG PA at Imphal H.O. availed leave w.e.f. July 2001 and said leave was further extended on medical ground. During his leave period the applicant through his colleagues got the information that departmental proceeding has been initiated against him. Since the applicant did not know about the stage of the enquiry, sent his brother as he was sick to get the information regarding the stage of such proceeding and to collect the relevant papers on 16.11.2001. The enquiry officer intimated his brother that the hearing which was scheduled on 16.11.2001

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has been refixed on 29.11.2001 taking into consideration the fact that the applicant was on medical leave. On 29.11.2001 the applicant who was on medical leave submitted an application dated 29.11.2001 requesting the authority to adjourn the hearing till he became fit for duty. The applicant also made a request for furnishing the relevant document, charge-sheet etc as those were never furnished to him, but the authority concerned without supplying the documents, even the chargesheet rejected his prayer for adjournment of hearing and concluded the proceeding ex-parte. It is pertinent to mention here that subsequently even after 29.11.2001 proceeding continued but nothing was intimated to the applicant as required under the rules guiding the field. Witnesses were examined behind the back of the applicant and by an order dated 18.12.2001 the presenting officer submitted his written brief without giving such opportunity to the applicant. The copy of the said written brief has also never been furnished to the applicant enabling him to place his defence by submitting written brief. The enquiry officer thereafter submitted the enquiry report without furnishing the copy of the same to the present applicant. The applicant as such could not defend his case and he was under the bonafide impression that the proceeding has been adjourned acting on his request made through his representation dated 29.11.2001.

4.5 That the applicant was socked when he received an order bearing no. B-2/Kh.Jibon Singh dated 11.4.2002 issued by the Director of Postal Services in the capacity of disciplinary authority imposing the highest penalty of removal of service. In the said impugned order dated 11.4.2002 the authority concerned while discussing the case

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indicated the fact that by a charge sheet dated 6.8.2001, a proceeding was initiated against him and it was also stated that attempt was made to supply him with the copy of the chargesheet dated 6.8.2001.

A copy of the said order dated 11.4.2002 is annexed herewith and marked as Annexure-1.

4.6. That immediately on receipt of 11.4.2002 order the applicant visited the office of the respondents to get hold of the copies of the relevant document including the charge-sheet, enquiry report etc. but he was not given any such document. The applicant situated thus preferred an appeal before the concerned authority dated 10.5.2002 to the appellate authority (The Post Master General, N.E.Circle, Shillong) indicating his case as reflected in the order dated 11.4.2002. The applicant in his appeal while highlighting his case raised a grievance against the proceeding initiated pursuant to the charge sheet dated 6.8.2001 indicating the fact that apart from the order dated 11.4.2002 nothing was communicated to him offering reasonable opportunity of hearing.

The applicant craves leave of this Hon'ble Court to rely and refer upon the statements made in his appeal dated 10.5.2002 at the time of hearing this case.

A copy of the appeal dated 10.5.2002 is annexed herewith and marked as Annexure-2.

4.7. That the applicant begs to state that apart from the order of disciplinary authority nothing was communicated

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to him in respect of the proceeding initiated by issuance of the charge-sheet dated 6.8.2001. The applicant who got the information during the currency of the proceeding intimated the authority regarding his medical leave and he also made a prayer for adjournment/postponement of the proceeding but no order was issued rejecting his such prayer and as such he was under the bonafide belief that the matter would be adjourned till he resume his duty. But the authority concern whimsically proceeded with the matter and passed the impugned order. The applicant highlighting the above facts preferred the Annexure-2 appeal dated 10.5.2002 but the Appellate authority without taking into consideration any of his such contention passed the order issued vide memo no. staff/109/15/2002 dated 3.2.2003 rejecting his appeal.

A copy of the said impugned order dated 3.2.2003 is annexed herewith and marked as Annexure-3.

4.8. That the applicant begs to state that the authority concern knew very well the fact regarding his medical leave and knowing fully well about the said fact resorted to the impugned proceeding rejecting his prayer for adjournment of the proceeding. The concern authority on 16.11.2001 ought to have handed over the copy of the charge sheet dated 6.8.2001 to his brother enabling him to prefer suitable defence. However the respondents with an intention to penalise the applicant, concluded the proceeding behind his back, knowing fully well about his medical leave. This shows the malafide intention on the part of the respondents in harassing him without any rhymes and reason.

4.9. That the applicant begs to state that although in the impugned order dated 11.4.2002 and 3.2.2003 there has been mention regarding offering reasonable opportunity to him but in reality no such opportunity was given to him. Not to speak about furnishing the connected documents like enquiry report etc., the respondents even did not supply him with the copy of the chargesheet enabling him to place his defence. The applicant through his application dated 29.11.2001 prayed for refixing the enquiry but same was rejected without any reason and no such rejection order was issued to the applicant. Although in the impugned orders dated 11.4.2003 and 3.2.2003 there has been mention regarding fulfillment of the ingredients as required for ex parte proceeding but in reality nothing has been done. The respondents in fact never made any attempt to furnish the information as well as the chargesheet etc. to the applicant only with the sole purpose to penalise him without any reason.

The applicant in these facts and circumstances prays before this Hon'ble Tribunal for an appropriate order for production of relevant records at the time of hearing of this case.

4.10. That the applicant begs to state that the disciplinary authority while passing the impugned order dated 11.4.2002 briefly indicated the charges contained in the charge sheet dated 6.8.2001 and from which it reveals that the charges are vague, indefinite and same are not at all sustainable. Apart from that the disciplinary authority while discussing the case abruptly came to the conclusion,

without there being any independent application of mind, and removed him from service. The said authority while passing the impugned order dated 11.4.2002 failed to take into consideration the rules guiding the field for holding of an ex-party proceeding and as such same is not sustainable and liable to be set aside and quashed.

4.11. That the Appellate authority while passing the impugned order dated 3.2.2003 acted mechanically without there being any independent analysis of the fact. The said authority also failed to take into consideration the appeal preferred by the applicant by placing his helplessness which is contrary to the settled proposition of law and as such same is not sustainable. The said Appellate authority instead of placing his helplessness ought to have quashed the order dated 11.4.2002 and ought to have directed for de-novo proceeding from the stage of furnishing the copy of the chargesheet but having not done so the said authority acted contrary to the rules guiding the field and as such same is not sustainable and liable to be set aside and quashed.

4.12. That the applicant begs to state that the impugned orders dated 11.4.2002 and 3.2.2003 have been passed illegally by the respondents without offering him even the minimum of opportunity of hearing and as such same is not sustainable and interference from this Hon'ble Tribunal is called for. The said authority with a malafide intention proceeded against the applicant knowing fully well about the leave availed by the applicant. The applicant while made a prayer for adjournment of the proceeding by

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submitting application on 29.11.2001, his such prayer was rejected which was also not communicate to him and as such the entire proceeding can be treated as an illegal one. Even assuming but not admitting the charges leveled against the applicant to be true, the punishment imposed on him is shockingly disproportionate and interference of this Hon'ble Tribunal is called for even in the matter of quantum of the punishment.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the respondents have acted illegally in issuing the impugned orders dated 11.4.2002 and 3.2.2003 without following the procedure prescribed under CCS (CCA) Rules 1965 and as such entire proceeding as well as the impugned orders are not sustainable in the eye of law and liable to be set aside and quashed.

5.2 For that the respondents have acted contrary to the provision of law as well as the rules guiding the field in proceeding with the matter ex-party pursuant to the chargesheet dated 6.8.2001 and as such same is not sustainable and liable to be set aside and quashed.

5.3. For that the respondents have acted contrary to the settled proposition of law in issuing the impugned orders removing him from service and as such same is not sustainable and liable to be set aside and quashed.

5.4. For that the disciplinary authority while passing the impugned order dated 11.4.2002 failed to take into consideration the charges to be vague and indefinite and

proceeded in the matter with a closed mind and punished the applicant with the maximum punishment of removal which is not sustainable as same depicts total non application of mind and hence same is liable to be set aside and quashed.

5.5 For that the respondents have acted contrary to the settled proposition of law while passing the impugned order dated 3.2.2003. The said Appellate authority while passing the order dated 3.2.2003 failed to take into consideration the appeal and rejected the same. The said authority could have set aside the order dated 11.4.2002 and could have ordered for de-novo enquiry from the stage of furnishing the copy of the chargesheet which could have provided reasonable opportunity to the applicant.

5.6. For that the respondents have acted with a malafide intention in proceeding against the applicant and as such same is not sustainable and liable to be set aside and quashed.

5.7. For that in any view of the above the action/inaction on the part of the respondents in passing the impugned orders are not sustainable and liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Court to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no

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alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned orders dated 11.4.2002 and 3.2.2003 with a further direction to the respondents reinstate the applicant with full back wages providing all consequential service benefits and arrear salary etc.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

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9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays for an interim order directing the respondents to reinstate him in the post of LSG P.A. of Post Offices, Ukhrul Sub-Division and to pay him the current salary.

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11. PARTICULARS OF THE I.P.O.:

- 1. I.P.O. No. : 96 704218
- 2. Date : 3/11/2003
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Sri Kh. Jibon Singh, aged about 42 years, son of Lt. Kh. Achou Singh, resident of Irengbom, Manipur, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 & 13 are true to my knowledge and those made in paragraphs 14, 15, 16, 17 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 20th day of Jan. of 2006

Kh. Jibon Singh
Signature.

NORTH EASTERN POSTAL CIRCLE

Director, Postal Services,
Manipur State.

No. B-2/Kh. Jibon Singh

Imphal

April 2002

ORDER

1. Disciplinary proceedings were initiated against Shri. Kh. Jibon Singh, Postal Assistant, Imphal HO under Rule-14 of CCS (CCA) Rules, 1965 vide Memo. No. B-2/Jibon Singh dated 6th Aug 2001. Shri. Kh. Jibon Singh [here-in-after called the Charged Official (ie. C.O)] was charged sheeted for certain offences/irregularities committed by him when he was officiating as Sub Divisional Inspector of Post Offices, Ukhrul Sub-Div in Manipur during the period from 22.07.1998 to 01.08.1999, and the articles of charges drawn out against the C.O, in brief, are as under:

1.1. The C.O violated Rule-3(1)(ii) & 3(1)(iii) of CCS (Conduct) Rules, 1964 by taking the possession of acquittance rolls No. 185, 198 & 282 for agents of Hulning BO, Pushing BO and Maokot BO which were sent to the Sub Postmaster, Ukhrul SO by Imphal HO through S.O-Slip No. 83 dated 26.02.99. (Article-I).

1.2. The C.O violated Rule-3(1)(ii) & 3(1)(iii) of CCS (Conduct) Rules, 1964 by standing as witness to the payment of arrears of allowances for the period from Jan 96 to Dec 98 to a person who by C.O's own admission had ceased to be an agent in April 98.

1.3. The C.O violated Rule-3(1)(ii) & Rule-3(1)(iii) of CCS (Conduct) Rules, 1964 by identifying some ED-agents to be actual persons to the treasurer for receiving the payment of arrears of allowances for the period from Jan 96 to Dec 98 while the signatures of the persons identified by the C.O as actual persons are not the signatures of the ED-Agents available on the acquittances rolls pertaining to earlier period.

1.4. The C.O violated Rule-3(1)(ii) & Rule-3(1)(iii) of CCS (Conduct) Rules, 1964 as he falsely reported that he helped the ED-agents to take payment of arrears of allowances by standing as identifier and facilitated correct payment of the bills while in fact he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22nd March 99 and asked

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the Assistant Treasurer to hand over the amount pertaining to the bills to him for distribution.

2. The Charged Official had applied for Earned Leave during the period from 25.07.2001 to 16.08.2001 duly stating in his leave application dated 02.07.01 that he would be at his village while on leave. So, the letter containing the charge sheet memorandum was sent to the village address of the C.O. by Registered Post with A.D. vide Imphal HPO RL.No.5195 dated 07.08.2001, but the letter was received back undelivered with the remark of the EDDA/ Irengbam EDBO, "Refuse(d) - Returned to sender from Irengbam EDBO". Another attempt, for delivering the letter containing the charge sheet memorandum to the C.O. was made through Shri.Th.Jugindra Singh, Overseer (Mails), 3rd Sub-Division, Imphal. Shri.Th.Jogindro Singh, Overseer (Mails), 3rd Sub Division visited the residence of the C.O. at Irengbam village on 31.08.2001, but he could not deliver the letter as the C.O. was absent and the younger brother of the C.O. who was available refused to receive the letter on behalf of the Charged Official. Shri.Th.Jogindro Singh also visited the postal quarters of the Charged Official on the same day i.e.31.08.2001, but the C.O. was not found available there too.

2.1. It has been held in the court of law in *Jadish Sekhri Vs. Union of India, 1970 SLR 571 (Delhi)*; *Union of India Vs. H.C. Sarin, 1967 DIT 567* that all that is required in departmental enquiry is to give reasonable opportunity and try to serve the Charged Official by Registered Post with A.D. and if the charged official chose to refuse the service he must pay for the consequences. Similar view has been held by the Hon'ble Supreme Court of India in "*Gujarat Electricity Board Vs Atmaram, AIR 1989 SC 1433*", in which it has been ruled "If the Charge-sheet is sent to the correct residential address of the charged official by Regd.post, it would be deemed to be sufficient service if the charged official refused or omits to receive it". As the legal requirements have been fulfilled in the service of charge sheet memorandum to Shri.Kh.Jibon Singh, the Charged Official and as the charged official who chose to refuse the service of Imphal HPO RL.No.5195 dated 07.08.2001 containing the charge sheet memorandum cannot be said to have been aggrieved of non-service which was attributable to him, the appointment of I.O and P.O was proceeded with.

3. Shri.B.Rajbangshi, SDIPOs, Churachandpur was appointed as Inquiry Officer to inquire into the charges leveled against the C.O. vide Memo.No.B-2/Kh.Jibon Singh dated 03.09.2001 and Shri.L.Tiken Singh, SDIPOs, Ukhrul were appointed as Presenting

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Officer to present the case on behalf of the disciplinary authority.

4. Despite several opportunities, the C.O did not turn up to the inquiry and the inquiry, therefore, was held ex-parte in accordance with Rule-14(20) of CCS(CCA) Rules, 1965 with due compliance to other provisions of Rule-14 ibid. The requirements of departmental rules and instructions have been complied with for holding the inquiry ex-parte, as the charged official had been served with the notices of all hearings.

5. After completion of inquiry, the Inquiry Officer viz. SDIPOs/Churachandpur, forwarded his report vide No.A-1/ Inquiry/Rule-14/13/Ccp dated 12.02.2002 in which it was held by the Inquiry officer that all the 4(Four) charges set out against the C.O were proved beyond any doubt.

6. A copy each of the report of the Inquiry Officer was forwarded to the C.O both on his village address and on his postal colony address vide letter No.B-2/Kh.Jibon Singh dated 15.02.02 duly affording an opportunity to the C.O to submit his written representation or submission as he might wish to submit to the undersigned within fifteen days from the date of receipt of the said letter. The Imphal HO RL.No.1546 dated 18.02.02 containing the above letter and I.O's report, addressed to the postal staff quarters address of the Charged Official, was received back undelivered with the remark of the delivery Post office "Door closed". The attempt for delivery had been made on 7(Seven) days between 19.02.2002 to 28.02.2002, but as the attempts failed, due to the fact that the quarters of the C.O was found closed, the letter was received back at the office of the undersigned on 04.03.2002.

6.1. The letter addressed to the village address of the C.O had been delivered at the village residence of the C.O as confirmed by the BPM Irengbam.

7. No written representation or submission from the Charged official has been received yet, even after the lapse of a fortnight from the expiry of stipulated fifteen days time. Therefore, the case is decided on the basis of materials and evidences on record.

8.1. In the article-1, the C.O has been charged of violation of Rule-3(1)(ii) & 3(1)(iii) of CCS(Conduct) Rules, 1965 as he has taken possession of acquittance rolls No.185, 198 & 282 for agents of Huining BO, Pushing BO and Maokot BO which were sent

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[Signature]
Advocate.

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to the Sub Postmaster, Ukhrul SO by Imphal HO through S.O-Slip No.83 dated 26.02.99.

8.1.1. The following components are required to be satisfied for holding the charge as proved:

- (i). The A.Rolls No.185, 198 & 282 were sent to the Sub-Postmaster, Ukhrul SO; and
- (ii). The C.O took possession of those acquittance rolls.

8.1.2. As per the written statement of Shri.R.K. Thuingaleng, the then Sub Postmaster, Ukhrul SO (Now SPM/Somdal SO) dated 27.02.2001, acquittance rolls bearing No.P-185, P-198 and P-282 were received by him at Ukhrul SO on 02.03.99, through Imphal HO S.O.Slip dated 26.02.99 and those acquittance rolls were forcefully taken away from his possession by Shri.Kh.Jibon Singh, the then SDIPOs, Ukhrul on 09.03.99. The written statement of the said Shri.R.K.Thuingaleng is on record as Stat Exhibit marked as Exhibit No.S-1.

8.1.3. The P.O has submitted the copy of S.O.Slip No.83 dated 26.02.99 to the I.O along-with his written brief dated 18.12.2001. The S.O.Slip No.83 dated 26.02.99 just has a noting that an A.roll bundle enclosed. As the S.O-Slip does not bear the A.Roll Nos. in the A.Roll bundle forwarded to Ukhrul S.O on 26.02.99, the S.O-Slip cannot have an independent say about the acquittance rolls No.185, 198 and 282 for the agents of Haining BO, Pushing BO and Maokot BO mentioned in the article of charge I. Therefore, the said document is not specifically relied to draw any conclusion in respect of the charges framed against the C.O.

8.1.4. As per Exhibit No.S-1, the A.Rolls No.185, 198 and 282 pertaining to the payment of arrears of pay and allowances to the ED-Staff in the EDBOs under Ukhrul S.O was received by the then SPM, Ukhrul on 02.03.99 through Imphal HO S.O-Slip dated 26.02.99 with entry as "A.Roll bundle-1(One)". The Exhibit No.S-1 also clearly states that the A.Rolls bearing No.185, 198 and 282 were not paid at Ukhrul S.O as because the then SDIPOs, Ukhrul Shri.Kh.Jibon Singh forcefully took those A.rolls from the possession of Shri.R.K.Thuingaleng, the then SPM., Ukhrul before their payment on 09.03.99.

8.1.5. The corroborative evidences to this fact are the written statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO

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Advocate.

dated 13.07.2001 and his deposition dated 03.12.2001. As per the written statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO dated 13.07.2001, Shri.Kh.Jibon Singh, the then SDIPOs, Ukhrul presented 3 (Three) pre-receipted arrears payment bills pertaining to Huining BO, Puishing BO and Maokot BO at Imphal HEO treasury on 22.03.99 and the said Shri.Th. Bhubol Singh who was working as Asstt.Treasurer, Imphal HQ during the period from 06.02.97 to 07.09.99 made over the payments of those bills to the C.O. The written statement of the said Shri.Th.Bhubol Singh is on record as State Exhibit, marked as Exhibit No.S-5.

Shri.Th.Bhubol Singh was Asstt. Treasurer (Cash), Imphal HO during the period from 06.02.97 to 07.09.99 and the Asstt. Treasurer (Cash), Imphal HO was effecting the payment bills pertaining to the pay and allowances of postal employees presented at Imphal HO. Therefore, the veracity of the statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO dated 13.07.2001 supports the written statement of Shri.R.K.Thuingaleng, the then SPM., Ukhrul S.O dated 27.02.2001. Shri.Th. Bhubol Singh, Treasurer, Imphal HO who appeared in the inquiry as S.W-1 has confirmed the facts stated in his written statement dated 13.07.2001 in his deposition dated 03.12.2001. The charge is very clear that the C.O while functioning as SDIPOs, Ukhrul Sub-Division during the period from 22.07.98 to 01.08.99 took possession of acquittance rolls numbers 185, 198 and 282 for agents of Huining BO, Puishing BO and Maokot BO respectively and violated Rule-3(1)(ii) and Rule-3(1)(iii) of CCS (Conduct) Rules, 1964.

8.1.6. Therefore, Exhibit No.S-1 and Exhibit No.5 corroborated by the deposition of S.W-1 dated 03.12.2001 are sufficient enough to hold that the C.O took the possession of acquittance rolls No.185, 198 and 282 from Shri.R.K.Thuingaleng, the then SPM, Ukhrul SO on 09.03.99 and presented those acquittance rolls at Imphal HO on 22.03.99.

8.1.7. As per the last and the penultimate paragraph of the C.O's report dated 25.11.2K addressed to the Director Postal Services, Manipur Division, Imphal on record as Exhibit No.S-2, the C.O helped the ED-agents to take the payment of arrears at Imphal Head Post Office under the purview of rules. I have gone through the rules regulating the duties and responsibilities of Inspectors of Post Offices in sub-divisions and found no provision necessitating a Sub-Divisional Inspector of Post Offices to stand as Identifier for any payment either to the staff and agents working in the department or to any outsider. Neither the custody nor the possession of acquittance rolls by a Sub-Divisional Inspector of Post Offices is prescribed in any of

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the departmental rules and government instructions, nor a Sub-Divisional Inspector of Post Office is required to stand as identifier to the payments made to the ED-agents under any departmental rule or instruction. Therefore, the violation of Rule-3(1)(ii) and Rule-3(1)(iii) by the C.O is very clear as the possession of acquittance rolls numbers 185, 198 and 282 for the ED-agents of Huining BO, Pushing BO and Mackot BO by the C.O has been proved beyond any doubt.

8.1.8. I therefore fully agree to the analysis and findings of the Inquiry Officer and incline to agree the article of charge-I as proved beyond any doubt.

8.2. In article-II the C.O has been charged for violation of Rule-3(1)(ii) & 3(1)(iii) of CCS (Conduct) Rules, 1964 as he stood witness to the payment of arrears of allowances for the period from Jan 96 to Dec 98 to a person who by C.O's own admission had ceased to be an agent in April 98.

8.2.1. The only component required to be satisfied to hold the charge as proved is that the C.O was fully knowing, as Shri A.S. Sakho, the then EDMC, Huining EDBO was no more in service after April/98, when the C.O stood as witness in the payment of arrears of allowances for the period from Jan/96 to Dec/98.

8.2.2. The Charged Official had been working as SDIPOs, Ukhrol Sub-Div., during the period from 22.07.98 to 1.8.99 and by virtue of officiating as SDIPOs, Ukhrol the C.O was the appointing authority to the ED-Agents in EDMC-category, which the said Shri A.S. Sakho belonged. The C.O, as appointing authority to the category of ED-Agents appointed by the Sub-Divisional Inspector of Post Offices, Ukhrol Sub-Division, is responsible for the maintenance of a personal file in respect of every ED-Agent appointed by the SDIPOs, Ukhrol in addition to maintenance of "Record of Service" in a prescribed form in respect of ED-Agents who have completed 15 (Fifteen) years of service. Maintenance of the service records of ED-Agents is essential for the purpose of determining their eligibility for recruitment, grant of ex-gratia gratuity, etc., and its requirement has been reiterated in D.G. Posts, Lr.No.18/20/94-ED & Trg, dated 6th Feb 1995 read with Lr.No.18-41/91-ED & Trg dated 13.03.1992. The C.O, in item-5 of his reported dated 19.03.2001 [Exhibit No.S-3], himself has stated that Shri A.S. Sakho joined the department with effect from 05.03.1979. Therefore, if the said Shri A.S. Sakho was still in service by the time the C.O took over the charge of Ukhrol Sub-

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On, then the "Record of Service" of the said official in prescribed form, should have been maintained by the C.O as the said Shri.A.S.Sakho had already completed 15(Fifteen) years of service by the time the C.O assumed the charge of SDIPOs/Ukhrul. But, the said Shri.A.S.Sakho was not in service by the time the C.O assumed the charge of SDIPOs/Ukhrul on 22.07.1998 and the C.O did not maintain any record of service or personal file in respect of Shri.A.S.Sakho. So, the C.O cannot take the shelter of any excuse to say that he had no opportunity to know about the discontinuance of service of Shri.A.S.Sakho as EDMC/Huining EDBO after April/98.

8.2.3. The C.O, in his report dated 25.11.2000 [Exhibit No.S-2], himself has stated that he helped Shri.A.S.Sakho, Ex-EDMC, Huining EDBO to take the payment of the arrear allowances and stood as identifier for the said payment.

8.2.4. The C.O, in item-5 of his report-dated 19.03.01 [Exhibit No.S-3], himself has confirmed that the date of birth of Shri.A.S.Sakho, Ex-EDMC, Huining EDBO is 21.04.1933 and the said ED-agent joined the department on 05.03.79. As the C.O could state these facts after over one year from the date he relinquished the charge of SDIPOs, Ukhrul Sub-Division, it would not be reasonable to presume that the C.O was not aware, remembered the fact at the time when he stood as witness to the payment of arrears of allowances for the period from Jan/96 to Dec/98 on 22.03.99 at Imphal H.P.O. Therefore, there is no doubt to hold that the C.O was fully aware, knew that Shri.A.S.Sakho, Ex-EDMC, Huining to whom the arrears of allowances were drawn for the period from 01.01.96 to 31.12.98 vide A.Roll No.185 [Exhibit No.S-1(i)] was actually entitled to receive the arrears of allowances only for the period from 01.01.96 to 30.04.98.

8.2.5. As per the report of the C.O dated 25.11.2000 [Exhibit No.S-2], the C.O stood as identifier for helping the ED-Agents to receive the payments correctly. The C.O, when knowing that Shri.A.S.Sakho, Ex-EDMC, Huining EDBO was not in service after April/98 and when knowing that the arrears payment bill was prepared for the period from Jan/96 to Dec/98, cannot claim to have stood as identifier/ witness for correct payment. The Exhibit No.S-1(i), A.Roll No.185 prepared by Imphal HPO for the arrears payment of allowances to the ED-staff of Huining EDBO bears the dated signature of the C.O(dated 22/3/99) at the bottom-right under a superscription "Identified by SDI(P) Ukhrul". Therefore, the act of the C.O to witness the payment of arrears of allowances, to an Ex-EDA who was fully known to be

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out of service, for a noted period inclusive of the period the Ex-EDA was not in service, certainly attracted violation of Rule-3(1)(ii) & Rule-3(1)(iii) of CCS (Conduct) Rules, 1964.

8.2.7. The Inquiry Officer's analysis is objective and logical and I fully agree with the findings of the I.O holding that the article of charge-II is proved beyond any doubt.

8.3. In article-III, the C.O has been alleged for violation of Rule-3(1)(ii) & Rule-3(1)(iii) of CCS (Conduct) Rules, 1964 as he identified some ED-agents to be actual persons, to the treasurer for receiving the payment of arrears of allowances for the period from Jan 96 to Dec 98 while the signatures of the persons identified by the C.O as actual persons are not the signatures of the ED-Agents available on the acquittances rolls pertaining to earlier period.

8.3.1. The only component required to be satisfied to hold the charge as proved is that the signatures appearing on the arrears payment A.Rolls are not the signatures of the actual persons/employees to whom the arrears of allowances were actually payable.

8.3.2. The documents on record are the acquittance rolls in respect of monthly allowances paid to the ED-Agents of Muining BO in Jan/98 & Feb/98, Pulshing BO in Feb/98, March/98, May/98, June/98 & July/98 and Maokot BO in July/98, May/98 and Feb/98, and the arrears payment acquittance rolls of the above B.Os bearing No.185, 198 and 282 respectively whose payments were made at Imphal HO on 22.03.99 under the interest/initiative of the Charged Official. Comparison of signatures available on Exhibit No.S-1(i) with Exhibits No.S-4(ix) & S-4(x), Exhibit No.S-1(ii) with Exhibits No.S-4(i) to S-4(v) and Exhibit No.S-1(iii) with Exhibits No.S-4(vi) to S-4(viii) clearly show that the signatures of the payees on the A.Rolls No.185, 198 & 282 do not match the signatures of the payees available on the comparative documents referred to above.

8.3.3. The bills pertaining to the monthly allowances had been paid to the ED-Agents by the SPM/Ukhrul and payments have been duly certified by the SPM/Ukhrul SO. Therefore the comparative documents are self-authenticating and sufficient enough to hold that the signatures of the agents available on the A.Rolls No.185, 198 & 282 [Exhibits No.S-1(i) to S-1(iii)] are not the

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signatures of the actual agents to whom the A.Rolls were actually payable.

In his deposition dated 03.10.2000, Shri. Ch. Anand Singh, the Treasurer/Imphal HO, and S.W-4, has clearly stated that the arrears payment A.Rolls were tendered personally by the C.O and not by the agents. The deposition of the S.W-1 also clearly states that the agents neither attended in person before the S.W-1 nor signed in front of the S.W-1 who effected the payment on 22.03.99. The bills, rather, when presented by the C.O, were found pre-receipted.

8.3.5. Non-production of the ED-Agents as witness by the State have also been explained by the Presenting Officer in the departmental inquiry as appearing in Para-6.14 of I.O's report.

8.3.6. I fully agree to the analysis and findings of the I.O and hold that the article of Charge-III is also proved beyond any doubt.

8.4. In article-IV, the C.O has been alleged for violation Rule-3(1)(ii) & Rule-3(1)(iii) of CCS (Conduct) Rules, 1964 as he falsely reported that he helped the ED-agents to take payment of arrears of allowances by standing as identifier and facilitated correct payment of the bills while in fact he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22nd March 99 and asked the Assistant Treasurer to hand over the amount pertaining to the bills to him for distribution.

8.4.1. The following components are required to be satisfied to hold the charge as proved:

(i) The C.O did not help the ED-agents to take payment of arrears of allowances but he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22.03.99 and asked the Assistant Treasurer to hand over the amount of the bills to him for distribution; and

(ii) The C.O falsely reported that he helped by standing as identifier and facilitated the correct payment of bills.

8.4.2. As per para-3 & 4 of Exhibit No.S-2, i.e. the report of the C.O dated 25.11.2000, the C.O himself has stated that he identified some ED-Staff who expressed financial difficulties to

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Advocate.

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take payment of their arrear bills from Imphal H.P.O as he was working as Inspector of Post Offices. The written statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO dated 13.07.01 [Exhibit No.S-5], the C.O personally handed over the arrear bills to the said Shri.Th.Bhubol Singh and asked him to hand over the amount of bills to him for distribution to ED-Staff.

8.4.3. Shri.Th.Bhubol Singh, Treasurer, Imphal HO who appeared in the departmental inquiry, as S.W-1 has reiterated the facts stated in his written statement dated 13.07.2001, in his deposition dated 03.12.2001.

8.4.4. As there is no departmental rule requiring any authority including the appointing authority to identify a recipient/payee of any bill payable to the departmental staff and extra departmental agents employed in the department, the C.O had no business to identify the payees of A.Rolls No.185, 198 & 282 pertaining to the ED-agents of Huining BO, Pushing BO and Maokot BO paid at Imphal HO on 22.03.99. So, the suo-motu approach of the C.O to sign on the bills as identifier and asking the Asstt.Treasurer (Cash) to hand over the amount of the bills to him for distribution to the ED-Agents clearly show that the C.O did not actually help the ED-agents to take payment of their arrears of allowances but he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22.03.99 and asked the Assistant Treasurer to hand over the amount of the bills to him for distribution.

8.4.5. The reports of the C.O dated 25.11.2000 [Exhibit No.S-2] and dated 19.03.2001 [Exhibit No.S-3] clearly shows that the C.O falsely reported he helped the ED-agents to receive the payment of their respective arrear allowances by standing as identifier which facilitated the correct payment of bills. Articles of charge-II & III clearly shows that the payments were not correctly made and the C.Os interference has rather resulted in excess payment of arrears of allowances payable to Shri.A.S.Sakho, Ex-EDMC, Huining EDBO and all the payments of arrears of allowances in respect of A.Rolls No.185, 198 and 282 for the agents of Huining BO, Pushing BO and Maokot BO respectively made at Imphal H.P.O, at the instance of the C.O on 22.03.99, were not paid to the actual recipients/payees.

8.4.6. I therefore fully agree with the analysis and findings of the I.O that the C.O by his act of identification of payees as well as false reporting violated Rule-3(1)(ii) & Rule-

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3(1)(iii) of CCS (Conduct) Rules 1954 and hold the article of Charge-IV as proved beyond any doubt.

9.1. The official is borne in the cadre of Postal Assistants which man over 90% of departmental post offices in Manipur as Time-Scale Sub Postmasters, vested financial functions including 'Paying Official'. The post of Sub Divisional Inspector of Post Offices in which the charged official officiated is an administrative post having no paying and monetary responsibility. An SDIPOs is to ensure the proper custody and possession of all office materials whenever the problems relating to their custody and possession are brought to his notice. An SPM is personally responsible for the correct payment and maintenance of financial probity. The charged official, who is borne in a cadre manning the posts responsible for correct payment of acquittance rolls to all the employees attached to the office including the ED-agents placed under the accounts jurisdiction, has committed serious irregularities which do not deserve any lenient consideration. If the Charged Official could create havoc while working in a post which has no business with the custody and possession of acquittance rolls and without any payment responsibility, the extent of menace the charged official could cause if allowed to work in a post borne in the cadre of Postal Assistants vested with paying powers is to be considered seriously. Barring few, all the Postal Assistants in the department are to handle money as Sub Postmasters including Time-Scale Sub Postmasters, V.P-Delivery Assistant, M.O-Payment Assistant, S.B-P.A, and Counter Assistants etc. So, retention of officials with proved record of delinquency is totally against the departmental interests.

9.2. The Post of Sub-Divisional Inspector of Post Offices, in which the charged official officiated during the period from 22.07.98 to 01.08.99, was not a mere operational post requiring the incumbent of the post to fulfill the operational necessities to manage the day to day functioning of the office but a post that is vested with considerable administrative powers requiring the incumbent to ensure that his subordinates maintain integrity and devotion to duty. Here, in this instant case, it is seen that the Govt. servant who is responsible to ensure that his subordinates maintain absolute integrity, devotion to duty and do nothing which is unbecoming of a Govt. servant has himself committed serious irregularities and failed to maintain devotion to duty and acted in a manner which is highly unbecoming of a Govt. Servant. The charged official, in addition to commission of gross irregularities, has resorted to false reporting to the higher authorities as proved in article of charge-IV, which

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Advocate.

clearly shows his dishonest motive. Forceful possession of acquittance rolls from the custody of Sub Postmaster/ Ukhru, falsely identifying a person to receive payment from govt. funds inclusive of the period during which the person concerned was not in service, witnessing to the payments which were not actually made to the persons to whom the payments were due and submitting false report to the higher authority are not minor offences which may be let off with a ray of lenience. Painful to note here that a Govt. servant who had been officiating as Inspector of Post Offices and, by virtue of his incumbency, was responsible for ensuring the proper custody and possession of the acquittance rolls, by the SPM, pertaining to the EEPOR has rather taken into his own possession the acquittance rolls from the custody of Sub Postmaster/Ukhru on 09.03.99 and after personally receiving the payments of the acquittance rolls at Imphal HPO on 22.03.99, has falsely reported on 25.11.2000 that he helped the ED-agents to receive the correct payments when one of the payments included the period during which the person was not in service. The case of this charged official is analogous to 'a fence eating up the crops'. As retention of official who have committed offences involving moral turpitude will have a serious effect of demoralizing the entire work force of the department, the charged official's retention in service will have a negative impact on the spirit and morale of the employees of the department. But, keeping in mind that a quasi-judicial order should not lose its human face and approach, I am inclined to take a lenient view and award less than the most severe punishment.

10. I, Shri. G. Ninan, Director Postal Services, Manipur, Imphal do hereby impose the penalty of removal from service on Shri. Kh. Jibon Singh, Postal Assistant, Imphal HO (now SPM-designate/ Senapati, SO).

G. Ninan
 (G. Ninan) 11.4.02
 Director Postal Services,
 Manipur, Imphal-795001.

- Copy to:
1. Shri. Kh. Jibon Singh, P.A., Imphal HO - now SPM designate Senapati, SO (Postal Assistant, Manipur Division), VIII, Irengbam Awang Lokai, BPO-1 Irengbam, P.O-1 Hamboi S.O.
 2. The Postmaster, Imphal HO.
 3. The C.R-Folder of the official.
 4. The P.F of the official.
 5. Vigilance Statement.
 6. Office copy.

Wan
 4/7/02

To

The Postmaster General,
North Eastern Circle,
Shillong - 793 001.

16/5/02

(Through Proper Channel)

Sub: Appeal under Rule-23 of CCS (CCA) Rules, 1965 against the arbitrary order of penalty issued vide DPS/Manipur Memo.No.B-2/Kh.Jibon Singh dated 11th April 2002.

Respected Sir,

1. The appellant is your humble subordinate working in the cadre of Postal Assistants in Manipur Postal Division until his services were arbitrarily terminated vide a whimsical order of penalty issued vide DPS/Manipur Memo.No.B-2/Kh.Jibon Singh dated 11th April 2002.

- A Photostat copy of punishment order issued vide DPS/Manipur Memo.No.B-2/Kh.Jibon Singh dated 11th April 2002 is enclosed as ANNEXURE-A/1.

2. The appellant, while working as Postal Assistant at Imphal HPO, got an officiating chance to work against the temporary vacancy of Sub Divisional Inspector of Post Offices, Ukhrul Sub-Division, Ukhrul during the period from 22.07.1998 to 01.08.1999. The appellant discharged his duties as Sub Divisional Inspector of Post Offices, Ukhrul Sub-Division, Ukhrul, during the period from 22.07.1998 to 01.08.1999, most satisfactorily to the better satisfaction of the higher authorities including the then Director Postal Services, Manipur, Imphal.

3. The appellant, either at the time of his officiating period as SDIPOs, Ukhrul Sub-Division, Ukhrul or for more than 1(One) year after the expiry of his officiating appointment, did not receive any complaint regarding non-receipt of arrear pay and allowances payable to any of the ED-Staff under Ukhrul Sub-Division.

4. The appellant, in the month of November 2000, received a notice from the Hon'ble CAT/Guwahati in respect of O.A No.356/2000 filed by Shri.A.S.Sakho, Ex-EDMC,

Attested

[Signature]
Advocate.

Huining EDBO and others against the department of posts. Immediately on receipt of the said notice, the appellant clarified his position in his representation dated 25.11.2000 and requested the department to defend the case.

- A Photostat copy of representation dated 25.11.2000 addressed to the DPS/Imphal is enclosed as ANNEXURE-A/2.

5. The appellant did not get any response to his representation dated 25.11.2000 from the Director Postal Services, Manipur, Imphal for more than 3 (Three) months and as such he further clarified his position vide another representation dated 19.03.2001 that he, as a humble government servant and responsible official, assisted the ED-Agents who came to him for help to draw the arrears of allowances payable to few ED-Agents including Shri.A.S.Sakho at Imphal HPO on 22.03.99.

- A Photostat copy of representation dated 19.03.2001 submitted to the DPS/Imphal is enclosed as ANNEXURE-A/3.

6. The appellant, thereafter, applied for Earned leave with effect from 25.07.2001 to 16.08.2001 and extended the leave from time to time on medical grounds as because the appellant was advised to take complete rest by the treating physician.

7. The appellant, while on medical leave, heard that a departmental inquiry under Rule-14 of CCS (CCA) Rules, 1965 has been initiated against him and even though the appellant was not in receipt of the charge sheet memorandum and notice of preliminary hearings etc., immediately on hearing that the departmental inquiry against him is under progress sent information through a messenger that the departmental inquiry may be postponed till the appellant returns from medical leave. But, both the inquiry officer as well as the disciplinary authority turned a deaf ear to the request of the appellant and simply proceeded with the inquiry with biased motive.

8. The appellant, ultimately, has been served with an order of punishment of removal from service issued vide DPS/Manipur Memo.No.B-2/Kh.Jibon Singh dated 11th April 2002.

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Advocate.

9. Now, therefore, the appellant submit his humble appeal on the following grounds: and the direct subordinates to the disciplinary authority and they did not work

(1). The charge sheet was not served on the appellant and the departmental inquiry was conducted without providing any reasonable opportunity to the appellant. Therefore, the order of punishment is arbitrary and illegal. I am responsible for violation of departmental rules alleged in the charge

(2). As per Para-2 of the punishment order, the charge sheet memorandum was served on the village address of the appellant vide Imphal HPO RL No. 5195 dated 07.08.2001. The disciplinary authority himself has admitted that the appellant had applied for Earned Leave during the period from 25.07.2001 to

(3). 16.08.2001. But, the disciplinary authority has not given any proof that the appellant actually refused to take delivery of charge sheet memorandum sent vide Imphal HPO RL No. 5195 dated 07.08.2001. In fact, the appellant did not refuse to take delivery of any letter from any higher authorities. Therefore, the contention of the disciplinary authority is not supported by any proof and as such not acceptable in the eye of law. I sue the charge sheet memorandum in August, 2001 with the pro

(4). The principles of natural justice and reasonable opportunity are based on the actual awarding of a reasonable opportunity to the charged official in a departmental inquiry. These principles have been pronounced by various courts of law including the apex court of the country. Therefore, the HPO and disciplinary authority has tried to cover up his own faults that he failed to award a reasonable appellant opportunity to defend the case by the appellant by mentioning some irrelevant case laws. When the appellant came to know about the holding of inquiry, he immediately sent information to the I.O that the departmental inquiry may be postponed until the end of the appellant returns to duty after complete recovery of his illness. But the appellant's request that he was on medical leave and his willingness to attend the enquiry after complete recovery from ill-health were not considered by the I.O and the departmental inquiry was continued without providing reasonable opportunity to the appellant. Therefore, both the departmental inquiry as well as the order of penalty is totally arbitrary and illegal.

(5)

W.D.

- (4) Both the I.O and the P.O are the direct subordinates to the disciplinary authority and they did not work independently to conduct the enquiry. The departmental inquiry was conducted as per the direction and wishes of the disciplinary authority and without any concrete documentary proof or witness that the appellant was responsible for violation of conduct rules alleged in the charge sheet memorandum, the I.O simply held the charges as proved beyond any doubt in the same lines dictated by the disciplinary authority. Therefore, both the departmental inquiry and the order of punishment are highly arbitrary and illegal.
- (5) The appellant, well before the issue of charge sheet memorandum [ie. on 25.11.2000], explained his position regarding the arrear payments to some of the ED-Agents of ukhrul sub-division on 22.03.99 at Imphal HPO. Therefore, the disciplinary authority instead of conducting a contradictory enquiry with the ED-Agents and the treasurer in the presence of the appellant, kept mum for more than 8 (Eight) months up to July/2001 and suddenly issued the charge sheet memorandum in August/2001 with the pre-determined motive to penalize the appellant for his no faults. Therefore, the charge sheet itself was ill conceived and void of iota of truth.
- (6) The ED-Staff of Ukhrul Sub-Division is not known to the Treasurer and Asstt. Treasurer of Imphal HPO and only to help them to receive the payment of arrears of pay and allowances at Imphal HPO the appellant acted as identifier. The act of the appellant was an act of good faith, for which the appellant cannot be fixed responsible. Therefore, an act done in good faith during the course of discharge of official duties cannot be said as misconduct and the appellant cannot be awarded an extreme penalty for an act which is done in good faith during the course of discharge of his official duties. Hence, the order of punishment is highly arbitrary and liable to be set aside.

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Advocate.

- (7) It is the appellant who brought the fact that Shri.A.S.Sakho, Ex-EDMC, Huining EDBO resigned from service with effect from 30.04.1998 (A/N). If the appellant did not bring the above fact to the notice of the disciplinary authority, the disciplinary authority had no chance to come to know that Shri.A.S.Sakho, Ex-EDMC, Huining EDBO ceased to be in service after April/1998. Preparation of pay and allowances including the arrears of pay and allowances is the duty of accounts branch of Imphal Head Post Office and the appellant as SDIPOs, Ukhrul Sub-Division did not know about the period for which the arrears of pay and allowances have been prepared to Shri.A.S.Sakho, Ex-EDMC, Huining EDBO. Therefore, it is wrong to allege that the appellant stood as witness to the payment of arrears of allowances for the period from Jan/1996 to Dec/1998 to an ED-Agent with the knowledge that the ED-Agent was ceased to be in service after April/1998. The appellant had submitted the facts to the notice of the disciplinary authority duly stating that the pay and allowances of the aforementioned ED-Agent was irregularly drawn and enjoyed by the Sub Postmaster, Ukhrul SO for more than 8 (Eight) months even after the ED-Agent quit the service in April/1998. But, the disciplinary authority instead of initiating action against the actual defaulter ie. Sub Postmaster, Ukhrul SO, fixed responsibility on the appellant and issued an arbitrary and illegal order of removal from service vide his Memo.No.B-2/Kh.Jibon Singh dated 11th April 2002. Therefore, the order of punishment is whimsical and not acceptable in the eyes of law.
- (8) The disciplinary authority did not verify the facts through a detailed enquiry in respect of the information submitted in the appellant's representation dated 25.11.2000 and 19.03.2001. Without verifying the facts mentioned in the representations mentioned above, the appellant has been made scapegoat and the order of punishment has been issued at the personal whims of the disciplinary authority.
- (9) The practice of drawal of pay and allowances and arrears payments from Imphal HPO in respect of departmental as well as ED-Staff working in Sub Post

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Advocate.

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Offices and Branch Post Offices in Manipur Postal Division is not a new one introduced by the appellant. This practice is continuing in Manipur Postal Division for many decades. Whenever the bills of postal employees working in other S.Os and B.Os want to take payment of their pay and allowances and arrears payments at Imphal HO, they are identified by the ASPOs/ SDIPOs concerned to avoid wrong payments. The appellant was working as SDIPOs/Ukhrul during the period from 22.07.1998 to 01.08.1999 and the bills of few ED-Agents were paid at Imphal HPO on 22.03.1999 by the Asstt. Treasurer (Cash) of Imphal HO after they were identified by the appellant. If the Asstt. Treasurer (Cash), Imphal HO was not willing to pay the arrears to those ED-Agents of ukhrul sub division on 22.03.1999, there was no necessity in the part of the appellant to identify them in the presence of the Asstt. Treasurer (Cash), Imphal HO. Therefore, the appellant, as SDIPOs of Ukhrul Sub-Division, was duty bound to identify the ED-Agents to the Asstt. Treasurer (Cash), Imphal HO to ensure correct payment to the genuine ED-Agents. As the appellant only discharged his duties as SDIPOs, Ukhrul sub division while identifying the ED-Agents on 22.03.1999 to receive their payments correctly at Imphal HO, it is highly irregular to fix him responsible for violation of any conduct rules. Therefore, the charge sheet itself is a planned conspiracy to trap the appellant for his no faults. Hence, the punishment order is not acceptable in the eyes of law.

- (10) The departmental enquiry was held in closed door without any reasonable opportunity to the appellant. The appellant at no point of time denied to appear before the departmental enquiry and as such holding of ex-parte enquiry in this instant case was highly irregular and only to deny reasonable opportunity to the appellant. Therefore, the order of punishment is highly irregular in the eyes of law.
- (11) The appellant has rendered more than 17 (Seventeen) years of blameless service and is the lone earning member of the family consisting of 3 (Three) school-

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 Advocate.

going children. Therefore, the order of punishment is lacking humanitarian approach.

Now, therefore, the appellant most fervently prays before your kind honour that:

1. The order of penalty of removal from service issued vide DPS/Manipur Memo.No.B-2/Kh.Jibon Singh dated 11th April 2002 may be quashed and set aside; and
2. The period from the date of removal to the date of reinstatement may be treated as duty for all purposes.

For the act of your kindness, I shall ever be grateful to you.

Yours faithfully,

(Kh.Jibon Singh)
 Postal Assistant,
 (Since Removed)
 Manipur Postal Division,
 Now at: Vill: Irengbam,
 BPO : Irengbam,
 PO : Nambol SO.
 (Manipur State).

Copy to:

1. An advance copy to the Postmaster General, N.E.Circle, Shillong for information and necessary action.
 2. The Director Postal Services, Manipur, Imphal for information.
- (Kh.Jibon Singh)
 Postal Assistant,
 (Since Removed)
 Manipur Postal Division,
 Now at: Vill: Irengbam,
 BPO : Irengbam,
 PO : Nambol SO.
 (Manipur State).

Attested
 WAM
 Advocate

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Staff ANNEXURE - 3

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



Memo No. Staff/109/15/2002,

Dated at Shillong, the 03.02.2003.

Read the following :

- i) Appeal dated 10.5.2002 of Shri Kh. Jibon Singh, officiating IPOs, Ukhrul Sub-Division and regular PA (since removed), Manipur Postal Division.
- ii) DPS, Manipur order No.B-2/Kh. Jibon Singh dated 11.4.02.
- iii) DPS, Manipur Memo No.B2/Jibon Singh dated 6.8.2001.
- iv) Other connected records.

Shri Kh. Jibon Singh, PA, Imphal H.O. and officiating IPOs, Ukhrul Sub-Division was charge sheeted vide reference (iii) above for violation of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964 vide reference (iii) above. After following the due process laid down in CCS (CCA) Rules, 1965, he was removed from Government service vide DPS, Manipur Division Memo vide at (ii) above. Against the punishment of removal from service Shri Kh. Jibon Singh, ex-PA, Manipur Division has submitted this appeal.

In his appeal dated 19.5.2002 Shri Kh. Jibon Singh, the appellant, submitted that he had been removed arbitrarily from service by DPS, Manipur Division, that departmental inquiry under Rule-14 had been initiated against him even though he had not been in receipt of the charge sheet memo and notices about the disciplinary hearings etc., that immediately on hearing about the departmental inquiry against him he sent a request for postponement of the departmental inquiry, through messenger, till he returned from medical leave, which was not acceded to with biased motive.

The appellant further submitted that he had not been provided reasonable opportunity for defending himself, that the disciplinary authority had not proved that the appellant had refused to take delivery of the charge sheet sent vide Imphal IPO registered letter No. 5195 dated 7.8.01, that the Inquiry Officer and the Presenting Officer were the direct subordinates of the disciplinary authority and that they both did not work independently to conduct the inquiry, that the disciplinary authority did not conduct "contradictory (sic) inquiry" with the Extra Departmental Agents and the treasurer in his presence, that the appellant had acted in good faith by acting as identifier of Extra Departmental Agents for taking payment of pay and allowances at Imphal H.O. which could not be taken as misconduct, that the disciplinary authority did not verify the facts through detailed inquiry in respect of information submitted in the appellant's representation dated 25.11.2000 and 19.3.2001 and that he had been punished in a highly irregular fashion.

Attested
W. S. D. S.
Advocate.

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The appellant submitted also that the departmental inquiry, without giving any reasonable opportunity to him, was highly biased and motivated and prayed that the punishment order might be quashed and set aside.

I have gone through all the records connected with the case including the papers relating to the Rule-14 inquiry. It is a fact that though the intimation about issue of charge sheet and also about the sittings for the oral enquiry in the Rule-14 inquiry case were sent to the charged official Shri Kh. Jibon Singh both to his village address given as Leave address in his leave application form and to his official address at Imphal, they were not received by him since he had not made any arrangement for receiving his mail when he was on leave. Repeated efforts to deliver the registered letters containing the above communications by hand, were not also successful and the Inquiry Officer was compelled to proceed with the Rule-14 inquiry ex-parte. It is also a fact that the appellant had sent through a messenger, a request to the Inquiry Officer for postponement of the oral inquiry till his return from leave. This goes to show that the charged official, the present appellant had been aware of the Rule-14 inquiry proceedings but had chosen not to appear personally in the oral inquiry. I find that the Inquiry Officer had continued with the oral inquiry as per rules since the request of the charged official for postponement of the sittings could not be acceded to since his application for leave had not been entertained by the competent leave sanctioning authority and the leave requested for had not been granted. This shows that the charged official was unauthorisedly absent from duty and did not choose to participate in the Rule-14 proceedings.

The submission of the appellant that the Inquiry Officer and Presenting Officer were the direct subordinates of the Disciplinary Authority and that both did not work independently to conduct the inquiry is not acceptable since this is the case in almost all Rule-14 departmental inquiry proceedings. Though the Inquiry Officer and Presenting Officer were officials of the Manipur Postal Division, I find from the inquiry records that the inquiry has been conducted in a fair manner as per CCS (CCA) Rules, 1965 and affording reasonable opportunity to the charged official to defend himself. Although reasonable opportunity was granted, the appellant did not avail the same but had remained outside the Rule-14 inquiry process. The averment of the appellant that the Disciplinary Authority did not conduct "contradictory (sic) inquiry with the Extra Departmental Agents and the Treasurer, Imphal H.O. in his presence" cannot be given any credence since he would have got the opportunity to examine/cross-examine the witnesses cited in the charge sheet as well as to produce defence witnesses on his behalf, if he had taken part in the Rule-14 inquiry. Instead the appellant is raising this point during the appeal stage and this is not tenable.

The submission of the appellant that he had acted in good faith by acting as identifier of Extra Departmental Agents for taking payment of arrears of allowances at Imphal H.O. and that should not be taken as misconduct, does not absolve him of his responsibility in committing an act which is not supported by rules. For making payment of allowances to Extra Departmental Agents working

Attested
W. A. S.
Advocate.

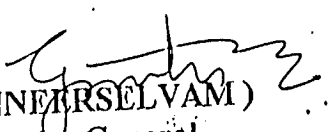
- 36 -

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under Ukhrul S.O., the Postmaster, Imphal H.O. was the drawing officer and SPM, Ukhrul S.O. the disbursing officer and the payment had to be made at Ukhrul S.O. Instead the appellant had personally presented the Acquittance Rolls at the treasury of Imphal H.O. and had taken payment of the entire amount covered by the Acquittance Rolls, without the Extra Departmental Agents to whom the payment is due, being present. Later developments like filing of an application by the affected Extra Departmental Agents before the Hon'ble Central Administrative Tribunal, Guwahati Bench complaining that the payment of the arrears had not been made to them, go to show that the amount taken payment of by the appellant had not in fact been disbursed among the above Extra Departmental Agents.

Listed documents at serial No.2 & 3 mentioned in Annexure-III of the charge sheet, against the appellant are the representations dated 25.11.2000 and 19.3.2001 submitted by the appellant to DPS, Imphal. The submission of the appellant that the contents of these representations were not enquired into by the Disciplinary Authority cannot be accepted since the charge sheet against the appellant as well as the contents of the oral inquiry proceedings cover all the points mentioned in his two representations. The appellant should have also participated in the oral inquiry to raise his points about his representations, but instead he is raising these points at this late stage when his submissions become irrelevant.

After careful scrutiny of the contents of the appeal and also the entire record of Rule-14 CCS (CCA) Rules, 1965 proceedings in the case, I find that the appellant had been charge sheeted for good and sufficient reasons, that the due process of law as laid-down in CCS (CCA) Rules, 1965 has been followed scrupulously, that the appellant had been provided reasonable opportunity based on the principle of natural justice to defend himself and that the Disciplinary Authority had considered all the facts on record before pronouncing to the final decision in this disciplinary case. I also find that the punishment awarded to the appellant is commensurate with the gravity of the offence and I did not find any grounds whatsoever to intercede on behalf of the appellant. Under these circumstances, the prayer of the appellant that the punishment might be quashed and set aside cannot be acceded to. Accordingly, I, T. Panneerselvam, Postmaster General, North-Eastern Region, Shillong, reject the appeal.


(T. PANNEERSELVAM)
Postmaster General,
N.E. Region, Shillong-793 001.

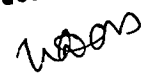
Shri Kh. Jibon Singh,
Ex. PA, Imphal H.O.
through DPS, Imphal.

Copy to:-

1. Shri Kh. Jibon Singh, Ex.PA, Manipur Division through DPS, Imphal, Acknowledgement, in original, for receipt of this order should be sent to DPS(HQ), C.O., Shillong immediately.
- 2-3. The Director Postal Services, Manipur Division, Imphal.
4. Office copy.

(T. PANNEERSELVAM)

Attested


Advocate.

- 37 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

17 AUG 2004

Subject: Para 14
Guwahati Bench

Union of India & Ors.
- Respondent
through
Ajay Kumar Choudhary
Addl. Central Govt. Standing Counsel
C. A. T. 12/8/04
Guwahati

IN THE MATTER OF :

O.A. No. 17 of 2004.

K.H. Jibon Singh

. . . Applicant.

- VERSUS -

Union of India & Ors.

. . . Respondents.

Written Statement for and on behalf of the
Respondent Nos. 1, 2 and 3.

I, Sri M.C. Das, Superintendent of Post Offices, Manipur, Imphal, do hereby solemnly affirm and say as follows:-

1. That I am the Superintendent of Post Offices, Manipur, Imphal and as such, I am fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and 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 am authorised to file this written statement on behalf of all the respondents.

2. That with regard to the statements made in paragraphs 1, 2 and 3 of the application, the deponent has no comments to offer.

3. That with regard to the statement made in paragraph 4.1 of the application, the deponent states that Disciplinary proceedings were initiated against the applicant under Rule 14 of the C.C.S. (C.C.A.) Rules, 1965 vide Director of Postal

Contd...2

Services, Manipur, Imphal Memo No. B-2/Jibon Singh dated 06.08.2001. The applicant was charge-sheeted for certain offences/irregularities committed by him when the applicant was officiating as Sub-Divisional Inspector of Post Offices Ukhrul Sub-Division, Ukhrul during the period from 22.07.1998 to 01.08.1999. Shri B. Rajbangshi, SDIPO's Churachandpur was appointed as Inquiry Officer to inquire into the charges leveled against the applicant vide Memo No. B-2/KH Jibon Singh dated 03.09.2001 and Shri L. Tiken Singh SDIPO's Ukhrul was appointed as Presenting Officer to present the case on behalf of the Disciplinary Authority.

Despite several opportunities, the applicant did not turn up at the inquiry and the inquiry therefore, was held ex-parte in accordance with Rule 14(20) of the CCS (CCA) Rules 1965 with due compliance to other provisions of Rule 14 ibid. The requirements of Departmental Rules and instructions have been complied with, for holding the inquiry ex-parte, as the applicant had been served with the notices of all hearings. On completion of the inquiry the Inquiry Officer submitted his report proving all the charges setout against the applicant beyond doubt and accordingly as the applicant was found guilty he was removed from service vide D.P.S. Manipur, Imphal Order No. B-2/Kh Jibon Singh dated 11.04.2002.

The applicant preferred an appeal to the next Higher Authority viz, to the Post Master General, North Eastern Circle, Shillong, but his appeal was considered and rejected vide P.M.G., Shillong Memo No. Staff/109/15/2002 dated

03.02.2003.

The applicant applied for earned leave during the period from 25.07.2001 to 16.08.2001 on the ground for "House construction" (Repairng) and thereafter also extended leave by applying on the same ground. Hence, the applicant now stating that he was leave on Medical ground is completely false and beseless.

The applicant applied for earned leave during the period from 25.07.2001 to 16.08.2001 on the ground of house construction (Repairing) and was not on Medical Ground as the applicant stated in his leave application (SR-1) dated 02.07.2001. The applicant also stated in his leave application that while on leave his address will be at village Irengbam, under Nambol Sub-Post Office and hence, the charge sheet containing the Memorandum as stated in para (i) of Para 4.1 above, was sent to the applicant's village adress by registered post with acknowledgement due vide Imphal Head Post Office Registered letter No. 5195 dated 07.08.2001. The said registered letter was received back as undelivered with the remark of the EDDA of Irengbam Branch Post Office "Refused returned to the sender from Irengbam Branch Post Office."

Another attempt was made for delivery of the letter containing the Chargesheet Memorandum to the applicant through Shri Th. Jugindra Singh, Overseer Mail of 3rd Sub-Division, Imphal who visited the residence of the

applicant at Irengbam village on 31.08.2001, but he could not deliver the said letter containing the chargesheet as the applicant was absent and as such the younger brother of the applicant who was available at that time refused to receive the letter on behalf of the applicant. Shri Jugindra Singh also visited the Postal quarters of the applicant holded by him at Imphal on the same day i.e., 31.08.2001 but the applicant was not found available there too.

It has been held in the Court of law in Jagdish Sekhri Vs. Union of India, (1970) SLR 571 (Delhi), Union of India Vs. H.C. Sarin, (1967) DLT 567 that all that is required in Departmental inquiry is to give reasonable opportunity and try to serve the charged official by registered Post with A/D, and if the charged official chose to refuse the service he must pay for the consequences. Similar view has been held by the Hon'ble Supreme Court of India in "Gujarat Electricity Board Vs. Atmaram, AIR (1989) SC 1433" in which it has been ruled "if the charge sheet is sent to the correct residential address of the charged official by registered post it would be deemed to be sufficient service, if the charged official refused or omits to receive it." As the legal requirements have been fulfilled in the service of the charge sheet Memorandum to the applicant and as the applicant chose to refuse the service of Imphal HPO registered letter No. 5195 dated 07.08.2001 containing the charge sheet Memorandum cannot be said to have been aggrieved of non-service which was attributable to him, the appointment of

Inquiry Officer and Presenting Officer was proceeded with.

4. That with regard to the statements made in paragraph 4.2 of the applicant, the deponent has no comments to offer.

5. That with regard to the statements made in paragraph 4.3 of the application, the deponent states that self appraisal doesnot condone the offence committed by anybody. The applicant also stated in this paragraph that he has got an unblemish service career. In this connection, it may be mentioned herein that the said applicant was punished in previous occassions also. The applicant was punished with the penalty of "Censure" vide the Post Master General, N.E. Circle, Shillong Memo No. Vig/6/9/85Pt.II dated 08.06.1998. Hence, the statements so deposed by the applicant in this paragraph is false and misleading.

6. That with regard to the statements made in paragraph 4.4. of the application, the deponent states that the applicant applied for leave on the following occassions with the following grounds :-

- | | <u>On the ground</u> |
|---|---------------------------------|
| (a) Application (SR-1) for earned leave w.e.f. 25.07.01 to 16.08.2001 | House Construction |
| (b) Application (SR-1) for earned leave w.e.f. 17.08.2001 to 20.09.2001 | House Repairing |
| (c) Application for earned leave on M.C. from 21.09.2001 to 20.10.2001 | But without Medical Certificate |

(d) Extension for earned leave with M.C. or E.O.L. 21.10.2001 to 20.11.2001 But Medical certificate not attached with application.

It is evident from the above pictures that the applicant on the first two occasions viz., (a) and (b) above dated 25.07.2001 to 16.08.2001 and 17.08.2001 to 20.09.2001 applied for earned leave on the ground for house construction cum repairing and never applied for leave on medical ground. Similarly, on the other two occasions also i.e., (c) and (d) above dated 21.09.2001 to 20.10.2001 and 21.10.2001 to 20.11.2001, though applications were submitted and applied for earned leave on medical grounds, the applicant did not submit/enclosed the requisite medical certificate regarding his illness from the Authorised Medical Attendant. In this connection, it may be mentioned herein that the then Superintendent of Post Offices, Manipur, Imphal vide his office letter No. B-2/Kh Jibon Singh dated 22.10.2001 intimated the applicant that his leave w.e.f. 21.09.2001 to 20.10.2001 cannot be granted without supporting Medical Certificate. Therefore, the said period will be treated as absent from duty without permission. The said letter was sent to the applicant by registered post from Imphal Head Post Office vide Registered letter No. 4215 dated 27.10.2001 and thus the applicant stated in this paragraph that he was on leave on medical ground is completely false and try to mislead this Hon'ble Tribunal.

The applicant further stated that during his leave period he came to know through his colleagues that Departmental proceeding has been initiated against the him and since the applicant didnot know about the stage of enquiry sent his brother as he was sick to get the information regarding the stage of such proceeing and the Inquiry Officer intimated him that the hearing has been refixed on 29.11.2001 taking into consideration that the

applicant was on medical leave and on 29.11.2001, the applicant who was on medical leave submitted an application dated 29.11.2001 requesting the authority to adjourn the hearing till became fit for duty.

The above submission of the applicant goes to show that the applicant had been aware of the Rule 14 enquiry proceedings but chosen not to appear personally in the oral enquiry. The applicant's brother of the applicant attended the inquiry and reported that his brother, i.e., the applicant is sick, so he could not attend the hearing today i.e., on 16.11.2001. But the applicant's brother did not submit any application to the Inquiry Officer nor to the Presenting Officer for postponement of the enquiry. Further, the applicant did not submit any application for leave that the applicant is sick supporting by medical certificate which is explained in the above paragraphs. The Inquiry Officer also cleared that the matter in his daily order sheet that "The Presenting Officer who was also officiating as Assistant Superintendent of Post Offices (Hqrs) in the office of the Director, Postal Services, Imphal has explained satisfactorily that the applicant had not applied for any leave for 29.11.2001 or covering the said date and therefore, the plea of the applicant could not be acceded to."

The applicant neither present himself in the enquiry held on 29.11.2001 nor he submitted any kind of leave application or any letter to the Inquiry Officer for adjournment of the enquiry and hence, it was decided by the Inquiry Officer to continue hearing.

The inquiry under 14 of the CCS (CCA) Rules, 1965 against the applicant was concluded on 03.12.2001 and the Presenting Officer of the case was asked to by the Inquiry Officer to submit his written brief within 15 days. Accordingly, the Presenting Officer submitted his written brief on 18.12.2001 vide letter No. A-1/PO/Rule-14/Corr dated

18.12.2001 with a copy endorsed to the applicant.

The Inquiry Officer forwarded a copy of the inquiry report to the applicant vide letter No. B-2/Kh Jibon Singh dated 15.02.2002 addressed to the Postal Staff quarters Imphal vide Imphal Head Post Office registered letter No. 1546 dated 18.02.2002 to submit his written representation or submission as he might wish within 15 days from the date of receipt of the letter. But the said letter was received back as undelivered with the remark of the delivery post Officer "Door closed". The attempt for delivery had been made on 7 (seven) days between 19.02.2002 to 28.02.2002, but as the attempts failed, due to the fact that the quarters of the applicant was found closed and the letter was received back. Another attempt was made to deliver the said letter to the village address of the applicant and the said letter had been delivered to the village address of the applicant as confirmed by the Branch Postmaster of the Irengbam Branch Post Office. Hence, the statement of the applicant that he could not defend his case for non furnishing the copy of the inquiry report does not sustain.

7. That with regard to the statements made in paragraph 4.5 of the application, the deponent has no comments to offer as the same is discussed elaborately in paragraph 3 above.

8. That with regard to the statements made in paragraph 4.6 of the application, the deponent states that no such attempt was made by the applicant and if such attempt was made also, it was after inflicting of the punishment when there is nothing to be done by the Disciplinary Authority. The applicant submitted an appeal to the Appellate Authority i.e., the Post Master General, N.E. Circle, Shillong vide his Appeal dated 19.05.2002 and not dated 10.05.2002 as stated by the applicant. This is also a misleading information.

9. That with regard to the statements made in paragraph 4.7 of the application, the deponent begs to state that the applicant was never on medical leave nor he submitted any kind of application to the Inquiry Officer for adjournment of hearings. All the matter has been elaborately discussed in the preceeding paragraphs.

10. That with regard to the statements made in paragraph 4.8 of the application the deponent begs to state that regarding non delivery of the chargesheet the matter discussed elaborately in paragraph 3 of this written statement. Further, the applicant was never on medical leave. Matter has been also been discussed in paragraph 4 of this written statement.

11. That with regard to the statements made in paragraph 4.9 of the application, the deponent begs to state that the applicant did not submit neither kind of application on 29.11.2001. If it was so happened, where is the receipted copy/authenticity ? Only mere submission does not indicate the authenticity of any claim. Regarding non furnishing of the inquiry report the matter is discussed in paragraph 4 of this written statement and regarding non furnishing of charge sheet, the matter is elaborately discussed in paragraph 3 of this written statement.

12. That with regard to the statements made in paragraph 4.10 of the application, the deponent begs to state that all the charges framed in the charge sheet are proved beyond doubt in the inquiry. The same is detailed in the punishment order vide No. B-2/Kh Jibon Singh dated 11.04.2002.

A copy of the said order dated 11.04.2002 is annexed herewith and marked as ANNEXURE - 1.

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13. That with regard to the statements made in paragraph 4.11 of the application, the deponent states that it has proved in the preceding paragraphs that the applicant submitted some false and misleading informations. The applicant did not direct the Appellate Authority for conduction of de-novo trial.

14. That with regard to the statements made in paragraph 4.12 of the application, the deponent states that regarding leave of the applicant, the matter has been discussed in paragraph 6 above and no application received either by the Inquiring Authority/Disciplinary Authority for adjournment of the proceedings dated 29.11.2001, which is also elaborately discussed in paragraph 6 above.

15. That with regard to the statements made in paragraph 5.1 of the application, the deponent begs to state that all the provisions of Rules prescribed under CCS (CCA) Rules, 1965 followed scrupulously, while the applicant submitted false and misleading informations.

16. That with regard to the statements made in paragraph 5.2 of the application, the deponent states that the applicant has given several opportunities by the respondents, but the applicant did not turn up to the inquiry and hence the inquiry was held ex-parte in accordance with Rule 14 (20) of the CCS (CCA) Rules 1965 with due compliance to other provisions of Rule 14 ibid.

17. That with regard to the statements made in paragraph 5.3 of the application, the deponent begs to state that the respondents i.e., the Disciplinary Authority and the Appellate Authority set up the punishment order with their views correctly under what circumstances and on the ground the punishment had been imposed.

18. That with regard to the statements made in paragraph 5.4 of the application, the deponent states that all the

charges levelled against the applicant were proved beyond doubt. The charges were so serious due to which Maximum punishment has been awarded and the same has been discussed in last paragraph in the order of the Disciplinary Authority vide No. B-2/Kh Jibon singh dated 11.04.2002.

19. That with regard to the statements made in paragraph 5.5 of the application, the deponent has no comments to offer as the same has been discussed in paragraph 13 above in this written statement.

20. That with regard to the statements made in paragraph 5.6 of the application, the deponent begs to state that the respondents scrupulously followed the Rules and procedures and acted accordingly.

21. That with regard to the statements made in paragraph 5.7 of the application, the deponent states that there are no ground for which the actions of the Respondents may be termed as malafide. The respondents acted following the procedures of Rules and Regulations. On the contrary the applicant has submitted false and misleading informations.

22. That with regard to the statements made in paragraphs 6 and 7 of the application, the deponent has no comments to offer.

23. That with regard to the statements made in paragraph 8.1 of the application, the deponent begs to state that the applicant's prayer to set aside and for quashing the order of punishment should not be entertained on the ground of serious nature of offences committed by the applicant. Moreover, the applicant has also submitted some false and misleading informations.

24. That with regard to the statements made in paragraphs 8.2 and 8.3 of the application, the deponent has no comments to offer.

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25. That with regard to the statements made in paragraph 9 of the application, the deponent begs to state that no interim order should be given to the applicant. As because the nature of the offences was so serious and hence the applicant has been removed from service. At this juncture also the applicant furnishes some false and misleading informations as discussed in the preceeding paragraphs.


26. That with regard to the statements made in paragraphs 11 and 12 of the application, the deponent has no comments to offer.

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

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

I, Shri M.C. Das, presently working as Superintendent of Post Offices, Manipur, Imphal being duly authorised and competent to sign this verification, do hereby soemlnly affirm and state that the statements made in this paragraph and in paragraphs 1, 2 + 24 of this written statement are true to my knowledge and belief, those made in paragraphs 3 - 23, 25 + 26 being matter of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 29th day of July, 2004.


(M.C. Das)
D E P O N E N T (M.C. Das)
अधिक्षक डाकधर, मणिपुर मण्डल इम्फाल
Superintendent of Post Offices
Manipur Division, Imphal-795001.

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Annexure T of 12

NORTH EASTERN POSTAL CIRCLE

Director Postal Services,
Manipur State.

No.B-2/Kh.Jibon Singh

Imphal 11 April 2002

ORDER

1. Disciplinary proceedings were initiated against Shri.Kh.Jibon Singh, Postal Assistant, Imphal HO under Rule-14 of CCS(CCA) Rules, 1965 vide Memo.No.B-2/Jibon Singh dated 6th Aug 2001. Shri.Kh.Jibon Singh [here-in-after called the Charged Official (ie. C.O)] was charged sheeted for certain offences/irregularities committed by him when he was officiating as Sub Divisional Inspector of Post Offices, Ukhrul Sub-Dn in Manipur during the period from 22.07.1998 to 01.08.1999, and the articles of charges drawn out against the C.O, in brief, are as under:

1.1. The C.O violated Rule-3(1)(ii) & 3(1)(iii) of CCS (Conduct) Rules, 1964 by taking the possession of acquittance rolls No.185, 198 & 282 for agents of Huining BO, Pushing BO and Maokot BO which were sent to the Sub Postmaster, Ukhrul SO by Imphal HO through S.O-SI [r No.83 dated 26.02.99. (Article-I).

1.2. The C.O violated Rule-3(1)(ii) & 3(1)(iii) of CCS (Conduct) Rules, 1964 by standing as witness to the payment of arrears of allowances for the period from Jan 96 to Dec 98 to a person who by C.O's own admission had ceased to be an agent in April 98.

1.3. The C.O violated Rule-3(1)(ii) & Rule-3(1)(iii) of CCS(Conduct) Rules, 1964 by identifying some ED-agents to be actual persons to the Treasurer for receiving the payment of arrears of allowances for the period from Jan 96 to Dec 98 while the signatures of the persons identified by the C.O as actual persons are not the signatures of the ED-Agents available on the acquittances rolls pertaining to earlier period.

1.4. The C.O violated Rule-3(1)(ii) & Rule-3(1)(iii) of CCS(Conduct) Rules, 1964 as he falsely reported that he helped the ED-agents to take payment of arrears of allowances by standing as identifier and facilitated correct payment of the bills while in fact he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22nd March 99 and asked

the Assistant Treasurer to hand over the amount pertaining to the bills to him for distribution.

2. The Charged Official had applied for Earned Leave during the period from 25.07.2001 to 16.08.2001 duly stating in his leave application dated 02.07.01 that he would be at his village while on leave. So, the letter containing the charge sheet memorandum was sent to the village address of the C.O by Registered Post with A.D vide Imphal HPO RL.No.5195 dated 07.08.2001, but the letter was received back undelivered with the remark of the EDDA/ Irengbam EDBO, "Refuse(d) - Returned to sender from Irengbam EDBO". Another attempt, for delivering the letter containing the charge sheet memorandum to the C.O, was made through Shri.Th.Jugindra Singh, Overseer(Mails), 3rd Sub-Division, Imphal. Shri.Th.Jogindro Singh, Overseer(Mails), 3rd Sub Division visited the residence of the C.O at Irengbam village on 31.08.2001, but he could not deliver the letter as the C.O was absent and the younger brother of the C.O who was available refused to receive the letter on behalf of the Charged Official. Shri.Th.Jugindro Singh also visited the postal quarters of the Charged Official on the same day i.e.31.08.2001, but the C.O was not found available there too.

2.1. It has been held in the court of law in *Jadish Sekhri Vs. Union of India*, 1970 SLR 571(Delhi); *Union of India Vs. H.C.Sarin*, 1967 DLT 567 that all that is required in departmental enquiry is to give reasonable opportunity and try to serve the Charged Official by Registered Post with A.D and if the charged official chose to refuse the service he must pay for the consequences. Similar view has been held by the Hon'ble Supreme Court of India in *Gujarat Electricity Board Vs Atmaram*, AIR 1989 SC 1433, in which it has been ruled "If the Charge-sheet is sent to the correct residential address of the charged official by Regd.post, it would be deemed to be sufficient service if the charged official refused or omits to receive it". As the legal requirements have been fulfilled in the service of charge sheet memorandum to Shri.Kh.Jibon Singh, the Charged Official and as the charged official who chose to refuse the service of Imphal HPO RL.No.5195 dated 07.08.2001 containing the charge sheet memorandum cannot be said to have been aggrieved of non-service which was attributable to him, the appointment of I.O and P.O was proceeded with.

3. Shri.B.Rajbangshi, SDIPOs, Churachandpur was appointed as Inquiry Officer to inquire into the charges leveled against the C.O vide Memo.No.B-2/Kh.Jibon Singh dated 03.09.2001 and Shri.L.Tiken Singh, SDIPOs, Ukhrul were appointed as Presenting

Officer to present the case on behalf of the disciplinary authority.

4. Despite several opportunities, the C.O did not turn up to the inquiry and the inquiry, therefore, was held ex-parte in accordance with Rule-14(20) of CCS(CCA) Rules, 1965 with due compliance to other provisions of Rule-14 ibid. The requirements of departmental rules and instructions have been complied with for holding the inquiry ex-parte, as the charged official had been served with the notices of all hearings.

5. After completion of inquiry, the Inquiry Officer viz. SDIPOs/Churachandpur, forwarded his report vide No.A-1/ Inquiry/Rule-14/13/Ccp dated 12.02.2002 in which it was held by the Inquiry officer that all the 4(Four) charges, set out against the C.O were proved beyond any doubt.

6. A copy each of the report of the Inquiry Officer was forwarded to the C.O both on his village address and on his postal colony address vide letter No.B-2/Kh.Jibon Singh dated 15.02.02 duly affording an opportunity to the C.O to submit his written representation or submission as he might wish to submit to the undersigned within fifteen days from the date of receipt of the said letter. The Imphal HO RL.No.1546 dated 18.02.02 containing the above letter and I.O's report, addressed to the postal staff quarters address of the Charged Official, was received back undelivered with the remark of the delivery Post office "Door closed". The attempt for delivery had been made on 7(Seven) days between 19.02.2002 to 28.02.2002, but as the attempts failed, due to the fact that the quarters of the C.O was found closed, the letter was received back at the office of the undersigned on 04.03.2002.

6.1. The letter addressed to the village address of the C.O had been delivered at the village residence of the C.O as confirmed by the BPM Irengbam.

7. No written representation or submission from the Charged official has been received yet, even after the lapse of a fortnight from the expiry of stipulated fifteen days time. Therefore, the case is decided on the basis of materials and evidences on record.

8.1. In the article-I, the C.O has been charged of violation of Rule-3(1)(ii) & 3(1)(iii) of CCS(Conduct) Rules, 1965 as he as he took possession of acquittance rolls No.185, 198 & 282 for agents of Huining BO, Pushing BO and Maokot BO which were sent

to the Sub Postmaster, Ukhrul SO by Imphal HO through S.O-Slip No.83 dated 26.02.99.

8.1.1. The following components are required to be satisfied for holding the charge as proved:

- (i). The A.Rolls No.185, 198 & 282 were sent to the Sub Postmaster, Ukhrul SO; and
- (ii). The C.O took possession of those acquittance rolls.

8.1.2. As per the written statement of Shri.R.K. Thuingaleng, the then Sub Postmaster, Ukhrul SO (Now SPM/Somdal SO) dated 27.02.2001, acquittance rolls bearing No.P-185, P-198 and P-282 were received by him at Ukhrul SO on 02.03.99 through Imphal HO S.O.Slip dated 26.02.99 and those acquittance rolls were forcefully taken away from his possession by Shri.Kh.Jibon Singh, the then SDIPOs, Ukhrul on 09.03.99. The written statement of the-said Shri:R.K.Thuingaleng is on record as State Exhibit marked as Exhibit No.S-1.

8.1.3. The P.O has submitted the copy of S.O.Slip No.83 dated 26.02.99 to the I.O along-with his written brief dated 18.12.2001. The S.O.Slip No.83 dated 26.02.99 just has a noting that an A.roll bundle enclosed. As the S.O-Slip does not bear the A.Roll Nos. in the A.Roll bundle forwarded to Ukhrul S.O on 26.02.99, the S.O-Slip cannot have an independent say about the acquittance rolls No.185, 198 and 282 for the agents of Huining BO, Pushing BO and Maokot BO mentioned in the article of charge-I. Therefore, the said document is not specifically relied to draw any conclusion in respect of the charges framed against the C.O.

8.1.4. As per Exhibit No.S-1, the A.Rolls No.185, 198 and 282 pertaining to the payment of arrears of pay and allowances to the ED-Staff in the EDBOs under Ukhrul S.O was received by the then SPM, Ukhrul on 02.03.99 through Imphal HO S.O-Slip dated 26.02.99 with entry as "A.Roll bundle-1(One)". The Exhibit No.S-1 also clearly states that the A.Rolls bearing No.185, 198 and 282 were not paid at Ukhrul S.O as because the then SDIPOs, Ukhrul Shri.Kh.Jibon Singh forcefully took those A.rolls from the possession of Shri.R.K.Thuingaleng, the then SPM., Ukhrul before their payment on 09.03.99.

8.1.5. The corroborative evidences to this fact are the written statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO

dated 13.07.2001 and his deposition dated 03.12.2001. As per the written statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO dated 13.07.2001, Shri.Kh.Jibon Singh, the then SDIPOs, Ukhrul presented 3(Three) pre-receipted arrears payment bills pertaining to Huining BO, Puishing BO and Maokot BO at Imphal HPO treasury on 22.03.99 and the said Shri.Th. Bhubol Singh who was working as Asstt.Treasurer, Imphal HO during the period from 06.02.97 to 07.09.99 made over the payments of those bills to the C.O. The written statement of the said Shri.Th.Bhubol Singh is on record as State Exhibit, marked as Exhibit No.S-5. Shri.Th.Bhubol Singh was Asstt. Treasurer (Cash), Imphal HO during the period from 06.02.97 to 07.09.99 and the Asstt.Treasurer(Cash), Imphal HO was effecting the payment bills pertaining to the pay and allowances of postal employees presented at Imphal HO. Therefore, the veracity of the statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO dated 13.07.2001 supports the written statement of Shri.R.K.Thuingaleng, the then SPM., Ukhrul S.O dated 27.02.2001. Shri. Th. Bhubol Singh, Treasurer, Imphal HO who appeared in the inquiry as S.W-1 has confirmed the facts stated in his written statement dated 13.07.2001 in his deposition dated 03.12.2001. The charge is very clear that the C.O while functioning as SDIPOs, Ukhrul Sub-Division during the period from 22.07.98 to 01.08.99 took possession of acquittance rolls numbers 185, 198 and 282 for agents of Huining BO, Puishing BO and Maokot BO respectively and violated Rule-3(1)(ii) and Rule-3(1)(iii) of CCS(Conduct) Rules,1964.

8.1.6. Therefore, Exhibit No.S-1 and Exhibit No.5 corroborated by the deposition of S.W-1 dated 03.12.2001 are sufficient enough to hold that the C.O took the possession of acquittance rolls No.185, 198 and 282 from Shri.R.K.Thuingaleng, the then SPM, Ukhrul SO on 09.03.99 and presented those acquittance rolls at Imphal HO on 22.03.99.

8.1.7. As per the last and the penultimate paragraph of the C.O's report dated 25.11.2K addressed to the Director Postal Services, Manipur Division, Imphal on record as Exhibit No.S-2, the C.O helped the ED-agents to take the payment of arrears at Imphal Head Post Office under the purview of rules. I have gone through the rules regulating the duties and responsibilities of Inspectors of Post Offices in sub-divisions and found no provision necessitating a Sub-Divisional Inspector of Post Offices to stand as identifier for any payment either to the staff and agents working in the department or to any outsider. Neither the custody nor the possession of acquittance rolls by a Sub-Divisional Inspector of Post Offices is prescribed in any of

the departmental rules and government instructions, nor a Sub-Divisional Inspector of Post Office is required to stand as identifier to the payments made to the ED-agents under any departmental rule or instruction. Therefore, the violation of Rule-3(1)(ii) and Rule-3(1)(iii) by the C.O is very clear as the possession of acquittance rolls numbers 185, 198 and 202 for the ED-agents of Huining BO, Pushing BO and Maokot BO by the C.O has been proved beyond any doubt.

8.1.8. I therefore fully agree to the analysis and findings of the Inquiry Officer and incline to agree the article of charge-I as proved beyond any doubt.

8.2. In article-II the C.O has been charged for violation of Rule-3(1)(ii) & 3(1)(iii) of CCS(Conduct) Rules, 1964 as he stood witness to the payment of arrears of allowances for the period from Jan 96 to Dec 98 to a person who by C.O's own admission had ceased to be an agent in April 98.

8.2.1. The only component required to be satisfied to hold the charge as proved is that the C.O was fully knowing, as Shri.A.S.Sakho, the then EDMC, Huining EDBO was no more in service after April/98, when the C.O stood as witness in the payment of arrears of allowances for the period from Jan/96 to Dec/98.

8.2.2. The Charged Official had been working as SDIPOs, Ukhrul Sub-Dn., during the period from 22.07.98 to 1.8.99 and by virtue of officiating as SDIPOs, Ukhrul the C.O was the appointing authority to the ED-Agents in EDMC-category, which the said Shri.A.S.Sakho belonged. The C.O, as appointing authority to the category of ED-Agents appointed by the Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division, is responsible for the maintenance of a personal file in respect of ever ED-Agent appointed by the SDIPOs, Ukhrul in addition to maintenance of "Record of Service" in a prescribed form in respect of ED-Agents who have completed 15(Fifteen) years of service. Maintenance of the service records of ED-Agents is essential for the purpose of determining their eligibility for recruitment, grant of ex-gratia gratuity, etc., and its requirement has been reiterated in D.G.Posts, Lr.No.18/20/94-ED & Trg., dated 6th Feb 1995 read-with Lr.No.18-41/91-ED & Trg dated 13.03.1992. The C.O, in item-5 of his reported dated 19.03.2001[Exhibit No.S-3], himself has stated that Shri.A.S.Sakho joined the department with effect from 05.03.1979. Therefore, if the said Shri.A.S.Sakho was still in service by the time the C.O took over the charge of Ukhrul Sub-

Dn., then the "Record of Service" of the said official in prescribed form should have been maintained by the C.O as the said Shri.A.S.Sakho had already completed 15(Fifteen) years of service by the time the C.O assumed the charge of SDIPOS/Ukhrul. But, the said Shri.A.S.Sakho was not in service by the time the C.O assumed the charge of SDIPOS/Ukhrul on 22.07.1998 and the C.O did not maintain any record of service or personal file in respect of Shri.A.S.Sakho. So, the C.O cannot take the shelter of any excuse to say that he had no opportunity to know about the discontinuance of service of Shri.A.S.Sakho as EDMC/Huining EDBO after April/98.

8.2.3. The C.O, in his report dated 25.11.'00 [Exhibit No.S-2], himself has stated that he helped Shri.A.S.Sakho, Ex-EDMC, Huining EDBO to take the payment of the arrear allowances and stood as identifier for the said payment.

8.2.4. The C.O, in item-5 of his report-dated 19.03.01 [Exhibit No.S-3], himself has confirmed that the date of birth of Shri.A.S.Sakho, Ex-EDMC, Huining EDBO is 21.04.1933 and the said ED-agent joined the department on 05.03.79. As the C.O could state these facts after over one year from the date he relinquished the charge of SDIPOS, Ukhrul Sub-Division, it would not be reasonable to presume that the C.O was not aware, remembered the fact at the time when he stood as witness to the payment of arrears of allowances for the period from Jan/96 to Dec/98 on 22.03.99 at Imphal H.P.O. Therefore, there is no doubt to hold that the C.O was fully aware, knew that Shri.A.S.Sakho, Ex-EDMC, Huining to whom the arrears of allowances were drawn for the period from 01.01.96 to 31.12.98 vide A.Roll No.185 [Exhibit No.S-1(i)] was actually entitled to receive the arrears of allowances only for the period from 01.01.96 to 30.04.98.

8.2.5. As per the report of the C.O dated 25.11.2000 [Exhibit No.S-2], the C.O stood as identifier for helping the ED-Agents to receive the payments correctly. The C.O, when knowing that Shri.A.S.Sakho, Ex-EDMC, Huining EDBO was not in service after April/98 and when knowing that the arrears payment bill was prepared for the period from Jan/96 to Dec/98, cannot claim to have stood as identifier/ witness for **correct payment**. The Exhibit No.S-1(i), A.Roll No.185 prepared by Imphal HPO for the arrears payment of allowances to the ED-staff of Huining EDBO bears the dated signature of the C.O(dated 22/3/99) at the bottom-right under a superscription "Identified by SDI(P) Ukhrul". Therefore, the act of the C.O to witness the payment of arrears of allowances, to an Ex-EDA who was fully known to be

out of service, for a noted period inclusive of the period the Ex-EDA was not in service, certainly attracted violation of Rule-3(1)(ii) & Rule-3(1)(iii) of CCS(Conduct) Rules, 1964.

8.2.7. The Inquiry Officer's analysis is objective and logical and I fully agree with the findings of the I.O holding that the article of charge-II is proved beyond any doubt.

8.3. In article-III, the C.O has been alleged for violation of Rule-3(1)(ii) & Rule-3(1)(iii) of CCS(Conduct) Rules, 1964 as he identified some ED-agents to be actual persons to the treasurer for receiving the payment of arrears of allowances for the period from Jan 96 to Dec 98 while the signatures of the persons identified by the C.O as actual persons are not the signatures of the ED-Agents available on the acquittances rolls pertaining to earlier period.

8.3.1. The only component required to be satisfied to hold the charge as proved is that the signatures appearing on the arrears payment A.Rolls are not the signatures of the actual persons/employees to whom the arrears of allowances were actually payable.

8.3.2. The documents on record are the acquittance rolls in respect of monthly allowances paid to the ED-Agents of Huining BO in Jan/98 & Feb/98, Puishing BO in Feb/98, March/98, May/98, June/98 & July/98 and Maokot BO in July/98, May/98 and Feb/98, and the arrears payment acquittance rolls of the above B.Os bearing No.185, 198 and 282 respectively whose payments were made at Imphal HO on 22.03.99 under the interest/initiative of the Charged Official. Comparison of signatures available on Exhibit No.S-1(i) with Exhibits No.S-4(ix) & S-4(x), Exhibit No.S-1(ii) with Exhibits No.S-4(i) to S-4(v) and Exhibit No.S-1(iii) with Exhibits No.S-4(vi) to S-4(viii) clearly show that the signatures of the payees on the A.Rolls No.185, 198 & 282 do not match the signatures of the payees available on the comparative documents referred to above.

8.3.3. The bills pertaining to the monthly allowances had been paid to the ED-Agents by the SPM/UKhrul and payments have been duly certified by the SPM/UKhrul SO. Therefore the comparative documents are self-authenticating and sufficient enough to hold that the signatures of the agents available on the A.Rolls No.185, 198 & 282 [Exhibits No.S-1(i) to S-1(iii)] are not the

signatures of the actual agents to whom the A.Rolls were actually payable.

8.3.4. In his deposition dated 03.12.2001, Shri.Th.Bhubol Singh, the Treasurer/Imphal HO and S.W-1, has clearly stated that the arrears payment A.Rolls were tendered personally by the C.O and not by the agents. The deposition of the S.W-1 also clearly states that the agents neither attended in person before the S.W-1 nor signed in front of the S.W-1 who effected the payment on 22.03.99. The bills, rather, when presented by the C.O, were found pre-receipted.

8.3.5. Non-production of the ED-Agents as witness by the State have also been explained by the Presenting Officer in the departmental inquiry as appearing in Para-6.14 of I.O's report.

8.3.6. I fully agree to the analysis and findings of the I.O and hold that the article of Charge-III is also proved beyond any doubt.

8.4. In article-IV, the C.O has been alleged for violation Rule-3(1)(ii) & Rule-3(1)(iii) of CCS (Conduct) Rules, 1964 as he falsely reported that he helped the ED-agents to take payment of arrears of allowances by standing as identifier and facilitated correct payment of the bills while in fact he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22nd March 99 and asked the Assistant Treasurer to hand over the amount pertaining to the bills to him for distribution.

8.4.1. The following components are required to be satisfied to hold the charge as proved:

- (i). The C.O did not help the ED-agents to take payment of arrears of allowances but he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22.03.99 and asked the Assistant Treasurer to hand over the amount of the bills to him for distribution; and
- (ii). The C.O falsely reported that he helped by standing as identifier and facilitated the correct payment of bills.

8.4.2. As per para-3 & 4 of Exhibit No.S-2, i.e. the report of the C.O dated 25.11.2000, the C.O himself has stated that he identified some ED-Staff who expressed financial difficulties to

take payment of their arrear bills from Imphal H.P.O as he was working as Inspector of Post Offices. The written statement of Shri.Th.Bhubol Singh, Treasurer, Imphal HO dated 13.07.01 [Exhibit No.S-5], the C.O personally handed over the arrear bills to the said Shri.Th.Bhubol Singh and asked him to hand over the amount of bills to him for distribution to ED-Staff.

8.4.3. Shri.Th.Bhubol Singh, Treasurer, Imphal HO who appeared in the departmental inquiry as S.W-1 has reiterated the facts stated in his written statement dated 13.07.2001, in his deposition dated 03.12.2001.

8.4.4. As there is no departmental rule requiring any authority including the appointing authority to identify a recipient/payee of any bill payable to the departmental staff and extra departmental agents employed in the department, the C.O had no business to identify the payees of A.Rolls No.185, 198 & 282 pertaining to the ED-agents of Huining BO, Pushing BO and Maokot BO paid at Imphal HO on 22.03.99. So, the suo-motu approach of the C.O to sign on the bills as identifier and asking the Asstt.Treasurer (Cash) to hand over the amount of the bills to him for distribution to the ED-Agents clearly show that the C.O did not actually help the ED-agents to take payment of their arrears of allowances but he himself presented the acquittance rolls to the Assistant Treasurer, Imphal HO on 22.03.99 and asked the Assistant Treasurer to hand over the amount of the bills to him for distribution.

8.4.5. The reports of the C.O dated 25.11.2000 [Exhibit No.S-2] and dated 19.03.2001 [Exhibit No.S-3] clearly shows that the C.O falsely reported he helped the ED-agents to receive the payment of their respective arrear allowances by standing as identifier which facilitated the correct payment of bills. Articles of charge-II & III clearly shows that the payments were not correctly made and the C.Os interference has rather resulted in excess payment of arrears of allowances payable to Shri.A.S.Sakho, Ex-EDMC, Huining EDBO and all the payments of arrears of allowances in respect of A.Rolls No.185, 198 and 282 for the agents of Huining BO, Pushing BO and Maokot BO respectively made at Imphal H.P.O, at the instance of the C.O on 22.03.99, were not paid to the actual recipients/payees.

8.4.6. I therefore fully agree with the analysis and findings of the I.O that the C.O by his act of identification of payees as well as false reporting violated Rule-3(1)(ii) & Rule-

3(1)(iii) of CCS(Conduct) Rules, 1964 and hold the article of Charge-IV as proved beyond any doubt.

9.1. The official is borne in the cadre of Postal Assistants which man over 90% of departmental post offices in Manipur as Time-Scale Sub Postmasters, vested financial functions including 'Faying Official'. The post of Sub Divisional Inspector of Post Offices in which the charged official officiated is an administrative post having no paying and monetary responsibility. An SDIPOs is to ensure the proper custody and possession of all office materials whenever the problems relating to their custody and possession are brought to his notice. An SPM is personally responsible for the correct payment and maintenance of financial probity. The charged official, who is borne in a cadre manning the posts responsible for correct payment of acquittance rolls to all the employees attached to the office including the ED-agents placed under the accounts jurisdiction, has committed serious irregularities which do not deserve any lenient consideration. If the Charged Official could create havoc while working in a post which has no business with the custody and possession of acquittance rolls and without any payment responsibility, the extent of menace the charged official could cause if allowed to work in a post borne in the cadre of Postal Assistants vested with paying powers is to be considered seriously. Barring few, all the Postal Assistants in the department are to handle money as Sub Postmasters including Time-Scale Sub Postmasters, V.P-Delivery Assistant, M.O-Payment Assistant, S.B-P.A, and Counter Assistants etc. So, retention of officials with proved record of delinquency is totally against the departmental interests.

9.2. The Post of Sub-Divisional Inspector of Post Offices, in which the charged official officiated during the period from 22.07.98 to 01.08.99, was not a mere operational post requiring the incumbent of the post to fulfill the operational necessities to manage the day to day functioning of the office but a post that is vested with considerable administrative powers requiring the incumbent to ensure that his subordinates maintain integrity and devotion to duty. Here, in this instant case, it is seen that the Govt. servant who is responsible to ensure that his subordinates maintain absolute integrity, devotion to duty and do nothing which is unbecoming of a Govt. servant has himself committed serious irregularities and failed to maintain devotion to duty and acted in a manner which is highly unbecoming of a Govt. Servant. The charged official, in addition to commission of gross irregularities, has resorted to false reporting to the higher authorities as proved in article of charge-IV, which

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clearly shows his dishonest motive. Forceful possession of acquittance rolls from the custody of Sub Postmaster/ Ukhru, falsely identifying a person to receive payment from govt. funds inclusive of the period during which the person concerned was not in service, witnessing to the payments which were not actually made to the persons to whom the payments were due and submitting false report to the higher authority are not minor offences which may be let off with a ray of lenience. Painful to note here that a Govt. servant who had been officiating as Inspector of Post Offices - and, by virtue of his incumbency, was responsible for ensuring the proper custody and possession of the acquittance rolls, by the SPM, pertaining to the EDBOs has rather taken into his own possession the acquittance rolls from the custody of Sub Postmaster/Ukhru on 09.03.99 and after personally receiving the payments of the acquittance rolls at Imphal HPO on 22.03.99 has falsely reported on 25.11.2000 that he helped the ED-agents to receive the correct payments when one of the payments included the period during which the person was not in service. The case of this charged official is analogous to 'a fence eating up the crops'. As retention of officials who have committed offences involving moral turpitude will have a serious effect of demoralizing the entire work force of the department, the charged official's retention in service will have a negative impact on the spirit and morale of the employees of the department. But, keeping in mind that a quasi-judicial order should not lose its human face and approach, I am inclined to take a lenient view and award less than the most severe punishment.

10. I, Shri.G.Ninan, Director Postal Services, Manipur, Imphal do hereby impose the penalty of removal from service on Shri.Kh.Jibon Singh, Postal Assistant, Imphal HO(now SPM-designate, Senapati SO).

G. Ninan

(G.Ninan) 11.4.02
 Director Postal Services,
 Manipur, Imphal-795001.

Copy to:

1. Shri.Kh.Jibon Singh, [P.A., Imphal HO - now SPM designate Senapati SO] (Postal Assistant, Manipur Division), Villi Lengbam Awang Leikai, BPO : Jrengbam, P.O : Nambol S.O.
2. The Postmaster, Imphal HO.
3. The C.R-Folder of the official.
4. The P.F of the official.
5. Vigilance Statement.
6. Office copy.

Attested
[Signature]
 Add. C. O. S. O.

25 Staff
Annexure II - 55 -
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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE
SHILLONG-793 001.

Memo No. Staff/109/15/2002,

Dated at Shillong, the 03.02.2003.

Read the following :

- i) Appeal dated 10.5.2002 of Shri Kh. Jibon Singh, officiating IPOs, Ukhrul Sub-Division and regular PA (since removed), Manipur Postal Division.
- ii) DPS, Manipur order No.B-2/Kh. Jibon Singh dated 11.4.02.
- iii) DPS, Manipur Memo No.B2/Jibon Singh dated 6.8.2001.
- iv) Other connected records.

Shri Kh. Jibon Singh, PA, Imphal H.O. and officiating IPOs, Ukhrul Sub-Division was charge sheeted vide reference (iii) above for violation of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964 vide reference (iii) above. After following the due process laid down in CCS (CCA) Rules, 1965, he was removed from Government service vide DPS, Manipur Division Memo vide at (ii) above. Against the punishment of removal from service Shri Kh. Jibon Singh, ex-PA, Manipur Division has submitted this appeal.

In his appeal dated 19.5.2002 Shri Kh. Jibon Singh, the appellant, submitted that he had been removed arbitrarily from service by DPS, Manipur Division, that departmental inquiry under Rule-14 had been initiated against him even though he had not been in receipt of the charge sheet memo and notices about the disciplinary hearings etc., that immediately on hearing about the departmental inquiry against him he sent a request for postponement of the departmental inquiry, through messenger, till he returned from medical leave, which was not acceded to with biased motive.

The appellant further submitted that he had not been provided reasonable opportunity for defending himself, that the disciplinary authority had not proved that the appellant had refused to take delivery of the charge sheet sent vide Imphal HPO registered letter No. 5195 dated 7.8.01, that the Inquiry Officer and the Presenting Officer were the direct subordinates of the disciplinary authority and that they both did not work independently to conduct the inquiry, that the disciplinary authority did not conduct "contradictory (sic) inquiry" with the Extra Departmental Agents and the treasurer in his presence, that the appellant had acted in good faith by acting as identifier of Extra Departmental Agents for taking payment of pay and allowances at Imphal H.O. which could not be taken as misconduct, that the disciplinary authority did not verify the facts through detailed inquiry in respect of information submitted in the appellant's representation dated 25.11.2000 and 19.3.2001 and that he had been punished in a highly irregular fashion.

The appellant submitted also that the departmental inquiry, without giving any reasonable opportunity to him, was highly biased and motivated and prayed that the punishment order might be quashed and set aside.

I have gone through all the records connected with the case including the papers relating to the Rule-14 inquiry. It is a fact that though the intimation about issue of charge sheet and also about the sittings for the oral enquiry in the Rule-14 inquiry case were sent to the charged official Shri Kh. Jibon Singh both to his village address given as Leave address in his leave application form and to his official address at Imphal, they were not received by him since he had not made any arrangement for receiving his mail when he was on leave. Repeated efforts to deliver the registered letters containing the above communications by hand, were not also successful and the Inquiry Officer was compelled to proceed with the Rule-14 inquiry ex-parte. It is also a fact that the appellant had sent through a messenger, a request to the Inquiry Officer for postponement of the oral inquiry till his return from leave. This goes to show that the charged official, the present appellant had been aware of the Rule-14 inquiry proceedings but had chosen not to appear personally in the oral inquiry. I find that the Inquiry Officer had continued with the oral inquiry as per rules since the request of the charged official for postponement of the sittings could not be acceded to since his application for leave had not been entertained by the competent leave sanctioning authority and the leave requested for had not been granted. This shows that the charged official was unauthorisedly absent from duty and did not choose to participate in the Rule-14 proceedings.

The submission of the appellant that the Inquiry Officer and Presenting Officer were the direct subordinates of the Disciplinary Authority and that both did not work independently to conduct the inquiry is not acceptable since this is the case in almost all Rule-14 departmental inquiry proceedings. Though the Inquiry Officer and Presenting Officer were officials of the Manipur Postal Division, I find from the inquiry records that the inquiry has been conducted in a fair manner as per CCS (CCA) Rules, 1965 and affording reasonable opportunity to the charged official to defend himself. Although reasonable opportunity was granted, the appellant did not avail the same but had remained outside the Rule-14 inquiry process. The averment of the appellant that the Disciplinary Authority did not conduct "contradictory (sic) inquiry with the Extra Departmental Agents and the Treasurer, Imphal H.O. in his presence" cannot be given any credence since he would have got the opportunity to examine/cross-examine the witnesses cited in the charge sheet as well as to produce defence witnesses on his behalf, if he had taken part in the Rule-14 inquiry. Instead the appellant is raising this point during the appeal stage and this is not tenable.

The submission of the appellant that he had acted in good faith by acting as identifier of Extra Departmental Agents for taking payment of arrears of allowances at Imphal H.O. and that should not be taken as misconduct, does not absolve him of his responsibility in committing an act which is not supported by rules. For making payment of allowances to Extra Departmental Agents working

under Ukhrul S.O., the Postmaster, Imphal H.O. was the drawing officer and SPM, Ukhrul S.O. the disbursing officer and the payment had to be made at Ukhrul S.O. Instead the appellant had personally presented the Acquittance Rolls at the treasury of Imphal H.O. and had taken payment of the entire amount covered by the Acquittance Rolls, without the Extra Departmental Agents to whom the payment is due, being present. Later developments like filing of an application by the affected Extra Departmental Agents before the Hon'ble Central Administrative Tribunal, Guwahati Bench complaining that the payment of the arrears had not been made to them, go to show that the amount taken payment of by the appellant had not in fact been disbursed among the above Extra Departmental Agents.

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Listed documents at serial No.2 & 3 mentioned in Annexure-III of the charge sheet, against the appellant are the representations dated 25.11.2000 and 19.3.2001 submitted by the appellant to DPS, Imphal. The submission of the appellant that the contents of these representations were not enquired into by the Disciplinary Authority cannot be accepted since the charge sheet against the appellant as well as the contents of the oral inquiry proceedings cover all the points mentioned in his two representations. The appellant should have also participated in the oral inquiry to raise his points about his representations, but instead he is raising these points at this late stage when his submissions become irrelevant.

After careful scrutiny of the contents of the appeal and also the entire record of Rule-14 CCS (CCA) Rules, 1965 proceedings in the case, I find that the appellant had been charge sheeted for good and sufficient reasons, that the due process of law as laid down in CCS (CCA) Rules, 1965 has been followed scrupulously, that the appellant had been provided reasonable opportunity based on the principle of natural justice to defend himself and that the Disciplinary Authority had considered all the facts on record before pronouncing to the final decision in this disciplinary case. I also find that the punishment awarded to the appellant is commensurate with the gravity of the offence and I did not find any grounds whatsoever to intercede on behalf of the appellant. Under these circumstances, the prayer of the appellant that the punishment might be quashed and set aside cannot be acceded to. Accordingly, I, T. Panneerselvam, Postmaster General, North-Eastern Region, Shillong, reject the appeal.

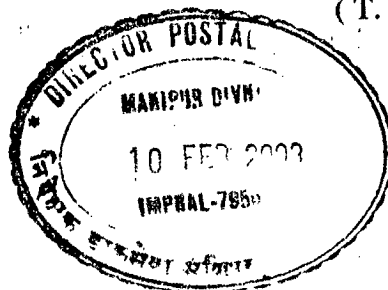
(Signature)
 (T. PANNEERSELVAM)
 Postmaster General,
 N.E. Region, Shillong-793 001.

Shri Kh. Jibon Singh,
 Ex. PA, Imphal H.O.
 through DPS, Imphal.

Copy to:-

1. Shri Kh. Jibon Singh, Ex.PA, Manipur Division through DPS, Imphal. Acknowledgement, in original, for receipt of this order should be sent to DPS(HQ), C.O., Shillong immediately.
2. The Director Postal Services, Manipur Division, Imphal.
3. Office copy.

(Signature)
 (T. PANNEERSELVAM) 3



(Signature)
 201. G. S. O.

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केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
2 DEC 2004
पुस्तिका क्रमांक १७
Guwahati Bench

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APPENDIX A
FORM I
[see Rule 4]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF :
O.A No.17 of 2004

REJOINDER OF THE APPLICANT
AGAINST THE WRITTEN STATEMENT OF THE RESPONDENTS

Shri. Kh. Jibon Singh
..... Applicant

- Versus -

Union of India & Others
..... Respondents

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Kh Jibon Singh
(Kh Jibon Singh)
Signature of the Applicant.

For use in Tribunal's Office

Date of filing : 30.11.04.
Or
Date of Receipt by Post :
Registration No. :

Signature
for Registrar

Filed by:
Usha Das
Advocate/Counsel for the applicant.

*Filed by -
The Applicant
through
Urba Das
Advocate
30.11.04*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF :
O.A No.17 of 2004

Shri. Kh. Jibon Singh
..... Applicant

- Versus -

Union of India & Others
..... Respondents

REJOINDER OF THE APPLICANT
AGAINST THE WRITTEN STATEMENT OF THE RESPONDENTS

The humble applicant submits that:

1. The contention of the Respondent in Para-3 of the written statement that the applicant did not turn up at the inquiry despite several opportunities is not only false but misleading. Because, as per the own statement of the Respondents in Para-3 of the written statement, the charge sheet was issued vide Director Postal Services, Manipur, Imphal Memo. No.B-2/ Jibon Singh dated 06.08.2001 and the Inquiry Officer and the Presenting Officer were appointed vide Director Postal Services, Manipur, Imphal Memo. No.B-2/ Kh. Jibon Singh dated 03.09.2001. Further, The Respondents themselves have admitted in clear terms in Para-3 [in page-3 of the written statement] that the applicant was on earned leave during the period from 25.07.2001 to 16.08.2001 on the ground of house construction (Repairing) and the leave application was submitted by the applicant on 02.07.2001. This proves the following facts that:

- (i) The applicant applied for Earned Leave from 25.07.2001 to 16.08.2001 on the ground of house construction; and the leave application was submitted well in advance on 02.07.2001. The charge sheet memorandum was issued on 06.08.2001, while the applicant was on leave for house construction. Since the applicant was on leave during the period from 25.07.2001 to 16.08.2001

for [on the ground of] house construction, the applicant was busy moving around for purchase of house construction materials during the period; and the applicant did not authorize any of his family members to receive any Regd letter from anybody including the Department. It is the existing rule of the Postal Department that a Regd letter cannot be delivered to a person other than the addressee without the written authorization of the addressee concerned. The applicant did not authorize anybody in his residence to receive any Regd letter without any motive as because he did not expect any letter from the Department as his leave for the period from 25.07.2001 to 16.08.2001 had duly been granted by the competent authority. Therefore, this cannot be faulted to say or construe that the applicant refused the delivery of Regd letter containing the charge sheet memorandum or the family members of the applicant refused to receive a Regd letter in the absence of the applicant by virtue of the fact that the applicant did not authorize any of his family members to receive any Regd letter. In fact, the refusal of the applicant's family members to receive a Regd letter addressed to the applicant without the written authorization of the applicant was fully in consonance with the rule of the Postal Department regarding the delivery of registered letters. Hence, the Respondents are trying to mislead the Hon'ble Tribunal by stating concocted facts. Because, the Respondents have not submitted any documentary evidence such as the written statement of the Delivery Agent of Irengbam EDBO [Branch Post Office] to show that the Regd letter containing the charge sheet memorandum was ever offered to the applicant for delivery and the applicant had refused to take the delivery of the letter. So, in the absence of substantiating proof that the applicant actually and factually refused the delivery of the Regd letter containing the charge sheet memorandum, the

Respondent's claim that the applicant refused the delivery of charge sheet memorandum is not only vague but totally unsustainable in the eyes of law;

The Respondents have also admitted in the same Para-3 [Page-3 of the written statement continuing to Page-4] that Shri.Th.Jugindra Singh, Overseer Mail of 3rd Sub Division, Imphal visited the residence of the applicant at Irengbam village on 31.08.2001 but he could not deliver the said letter containing the charge sheet memorandum 'as the applicant was absent; and the younger brother of the applicant who was available at that time refused to receive the letter on behalf of the applicant'. This contention of the Respondents is totally against the prescribed Postal Rule, which clearly states that if the addressee of a Regd Postal article is not available at home and has not authorized any of his family members to receive the Postal article, an intimation regarding the postal article has to be delivered at the residence of the addressee to require the addressee to take window delivery at the P.O counter. The Respondents have not explained before the Hon'ble Tribunal as to why the intimation regarding the Regd letter was not delivered at the residence of the applicant to require the applicant to attend the Post Office for taking the delivery of the registered letter when the Postal Officials attended the residence of the applicant found the applicant absent from his residence and the applicant had not authorized any of his family members to receive any Regd letter on his behalf. The Respondents, being the higher authorities in the Postal Department, are well aware of the rules and procedures regarding the delivery of Regd Postal articles to the addressees and therefore, a willful attempt have been made by the Respondents to mislead the Hon'ble Tribunal by concocted facts.

The applicant was never offered the Regd letter containing the charge sheet memorandum for delivery to him at any point of time by any body and as such the applicant cannot be

said to have either refused or omitted to receive the Regd letter containing the charge sheet memorandum.

2. The Respondents have not submitted the full facts regarding the alleged punishment of censure mentioned in Para-5 of the written statement. The Post Master General, N.E.Circle, Shillong was not the disciplinary authority to the applicant at any point of time. The original final order passed by the disciplinary authority viz. The Director Postal Services, Manipur, Imphal was 'Total Exoneration of charges framed against the applicant'. Therefore, the applicant did not submit any false or misleading information before the Hon'ble Tribunal. The applicant was promoted to the next higher grade with effect from 14.06.2000 on his due date of promotion. This would clearly show that the applicant maintained a satisfactory service record to get his promotion to the next higher grade after completion of 16-Years of satisfactory service in due time. Therefore, the contention of the Respondents that the statements of the applicant in Para-4.3 of the O.A was false and misleading, is totally false and intended to mislead the Hon'ble Tribunal with concocted facts.

3. The Respondents have clearly admitted in Para-6 of the written statement that the applicant had applied for leave on Medical Certificate from 21.09.2001 to 20.10.2001 and applied for extension of Earned Leave with M.C [Medical Certificate] or E.O.L on M.C [Medical Certificate] from 21.10.2001 to 20.11.2001. The Respondents have also admitted in the same paragraph that the applicant was intimated vide Supdt of Post Offices, Manipur, Imphal letter No.B-2/Kh Jibon Singh dated 22.10.2001 that his leave w.e.f 21.09.2001 to 20.10.2001 cannot be granted. The Respondents have not explained as to why they had sent such intimation after the expiry of the period of leave applied. The leave was applied for w.e.f 21.09.2001 to 20.10.2001 and the intimation that the leave cannot be granted was issued vide letter dated 22.10.2001. The Respondents have

not explained as to why they did not intimate the applicant immediately on receipt of leave application requesting leave from 21.09.2001 to 20.10.2001 that his leave cannot be granted.

It is further contended by the Respondents in the same Para-6 [Page-7] that 'The applicant neither present himself in the enquiry held on 29.11.2001 nor he submitted any kind of leave application or any letter to the Inquiry Officer for adjournment of the enquiry and hence it was decided by the Inquiry Officer to continue the hearing. This statement of the Respondents is totally contrary to the fact that the applicant sent written intimation to the Inquiry Officer that the applicant was ill and unable to attend the enquiry due to his ill-health. With ill motive and evil design, the Respondents have not submitted the copy of the Daily order sheet maintained by the Inquiry Officer for the proceedings held on 29.11.2001. If the daily order sheet dated 29.11.2001 is produced by the Respondents, it will be clear before the Hon'ble Tribunal as to whether the applicant had actually and factually sent a written representation to the Inquiry Officer wherein he had requested the Inquiry Officer to adjourn the hearing on the ground that the applicant was ill/unwell. Hence, the Respondents may be directed to produce the daily order sheet dated 29.11.2001 to confirm the facts.

The Respondents have also confirmed in the same Para-6[Page-8] that the I.O's Report could not be delivered to the applicant as the letter was received back as undelivered with remark of the delivery post office "Door Closed". This clearly strengthen the submission of the applicant that the applicant had never refused or omitted to receive the delivery of any letter sent by the Department in connection with the Rule-14 enquiry held against him. The applicant was not available in his residence during the period from 21.09.2001 to 19.04.2004 as he was under Medical Treatment for 'Dissociative disorder with

obsessive features' in the Department of Clinical Psychology in the Regional Institute of Medical Sciences, Imphal.

- A copy of Medical Certificate issued by the Dept of Clinical Psychology, Regional Institute of Medical Sciences, Imphal vide No.CP/PR/02 dated 25th Apr 2002 is enclosed as ANNEXUE-AA/1 for ready reference.

4. The Applicant had submitted repeatedly before the relevant departmental authorities including the appellate authority that he had acted in good faith by acting as identifier of Extra Departmental Agents for taking payment of arrears of allowances at Imphal HPO; and such act cannot be construed as misconduct of a serious nature. But, the Respondents have contended in Para-17 and 18 of the written statement that the orders of the Disciplinary authority and the Appellate Authority contain the correct set up of the views of the authorities concerned to impose the maximum punishment as the charges were so serious. The Respondents have not explained as to how identification of a payee by the applicant became a serious offence of such a nature that he should be awarded the maximum punishment. Because, it is up to the paying officer/official to accept the identification endorsed by the applicant for effecting the payment of arrears allowances bill; and if the departmental rules do not permit the applicant to identify the payees, the paying officer/paying official should have rejected the identification endorsed by the applicant and also the paying officer/official should have refused the payment of the bill. The applicant was not the paying officer/official who identified the payee and effected the payment to the payee. It was the paying officer/official viz. The Asstt Treasurer(Cash), Imphal HPO who effected the payment of the bill. Therefore, the Respondents have not explained before the Hon'ble Tribunal as to how the Respondent was responsible for any serious irregularity pertaining to the payment of bills whose payments were made by the paying officer/official at his own will, after identification of

payees by the applicant. Had the paying officer/official refused to pay the bills despite identification by the applicant, the applicant could not have done anything. Therefore, the applicant cannot be falsely or erroneously fixed responsible for a no-misconduct with malafide intention.

5. The Respondents have contended in Para-21 of the written statement that there are no ground for which the actions of the Respondents may be termed as mala-fide. But, this contention of the Respondents is not only false, but totally concocted as because: -

- (i) The Respondents conducted the Departmental Enquiry against the applicant between the period from 03.10.2001 to 12.02.2002; and the final order was passed vide order dated 11.04.2002, during the period under which the applicant was under medical treatment for 'Disassociative disorder with obsessive features' in the Department of Clinical Psychology in the Regional Institute of Medical Sciences, Imphal. The Respondents although have stated to have intimated the applicant that the leave of the applicant for the period from 21.09.2001 to 20.10.2001 cannot be granted vide a letter dated 22.10.2001, the Respondents have not explained the logic behind denying the leave on one or other ground after the period of leave applied for was already over. The applicant applied for adjournment of hearing by a written representation dated 29.11.2001 to the Inquiry Officer on the ground of his medical treatment/illness, but the adjournment of hearing was not allowed by the Inquiry officer on concocted grounds. Neither the charge sheet memorandum nor the daily order sheets pertaining to the enquiry proceedings, nor the I.O's Report was served upon the applicant to provide him a reasonable opportunity under the principles of natural justice.

- (ii) As per the Respondents, the Asstt Treasurer(Cash), Imphal HPO effected the payment of bills when the payees were identified by the applicant. If the Asstt Treasurer(Cash), Imphal HPO was not satisfied with the identity of the payees, he ought not to have effected the payment. But, the Asstt Treasure(Cash), Imphal HPO was neither charge sheeted, nor was even issued with show-cause notice for his serious lapse; and the applicant has been victimized for the fault of others.
- (iii) The appellate authority, which is duty bound to look into these lapses in the part of the Disciplinary Authority, Inquiry Officer etc simply turned a blind eye towards the applicant while the appellate authority disposed of the appeal submitted by the applicant.

Therefore, there was serious violation of the principles of natural justice and reasonable opportunity in the departmental enquiry held against the applicant; and the submissions in (i) to (iii) above will satisfy the Hon'ble Tribunal that the Respondents resorted to malafide exercise of powers conferred upon them as Disciplinary Authority, Inquiry Officer and Appellate Authority in their respective roll in the present case filed by the applicant.

6. The applicant further submits that the applicant has no specific comment against other paragraphs of the written statement for that the submission of the applicant in the preceding paragraphs sufficiently explains the applicant's position as regards the averments of the Respondents in the remaining paragraphs.

7. The applicant therefore most fervently submits and prays before the Hon'ble Tribunal that the Respondents may be directed to submit the daily order sheet maintained by the Inquiry Officer for the hearing held on 29.11.2001; and decide the case in the light

of the fact that the applicant was under Medical Treatment for 'Dissociative disorder with obsessive features' in the Department of Clinical Psychology in the Regional Institute of Medical Sciences, Imphal in support of which the applicant has already submitted a Medical Certificate issued by the Dept of Clinical Psychology, Regional Institute of Medical Sciences, Imphal vide No.CP/PR/02 dated 25th Apr 2002 ANNEXUE-AA/1 with this Rejoinder.


(Kh. Jibon Singh)

Signature of the applicant.

Filed By: -

Advocate.

VERIFICATION

I, Shri Kh Jibon Singh, son of Late Shri Kh *Achou Singh*, aged about 39 years, the then Postal Assistant, Imphal HPO [since removed] and resident of Irengbam village, PO & P.S : Nambol Distt: Bishenpur State: Manipur, hereby verify that the contents of Paragraphs 1 to 6 are true to my personal knowledge and the Paragraph-7 is prayer before the Hon'ble Tribunal; and that I have not suppressed any material facts.


(Kh. Jibon Singh)

Signature of the applicant

Date :

Place:

To

The Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Guwahati - 781 005.

Filed by:

Advocate.

DEPARTMENT OF CLINICAL PSYCHOLOGY
REGIONAL INSTITUTE OF MEDICAL SCIENCES: IMPHAL

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No. CP/TR/02.

Imphal, the 25th April 2002.

" TO WHOM IT MAY CONCERN "

This is to certify that Sri.Kh.Jibon Singh, aged 39, Male S/O = (Late) Kh. Achou Singh of Irengbam P.O. & P.S. Nambol was suffering from Dissociative Disorder with obsessive features. He was under my treatment with effect from 21.9.2001 to 19.4.2002. He attended the Behavioural Therapy and counselling. He is now recovered from his ailment and recommended fit to attend his normal duty.

M. Akshayakumar Singh
(M. Akshayakumar Singh)
RCI-A03939

Associate Professor,
Clinical Psychology,
Regional Institute of Medical Sciences,
Imphal.
Associate Professor & Head
Department of Clinical Psychology
Regional Institute of Medical Sciences,
Imphal.

*Attested
was
Advocate*